

1 Tracy L. Henderson, Esq
2 Law Offices of Tracy L. Henderson, Esq
3 P.O. Box 221562
4 Carmel CA 93922
5 831.917.1583
6 tracyhendersonlaw@gmail.com
7 Attorneys for Plaintiff

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
08/25/2022 at 09:05:23 AM
Clerk of the Superior Court
By Marfil Estrada, Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN DIEGO
10 UNLIMITED CIVIL

11 G. W., a minor, by her Parent Nicole Ward,
12 and Nicole Ward, an individual,

13 Plaintiffs,

14 vs.

15 CORONADO UNIFIED SCHOOL
16 DISTRICT, a school district, Esther Valdes-
17 Clayton as an individual and in her official
18 capacity as a board of trustees member of
19 Coronado Unified School District , Helen
20 Anderson-Cruz as an individual and in her
21 official capacity as a board of trustees member
22 of Coronado Unified School District, Whitney
23 Antrim as an individual and in her official
24 capacity as a board of trustees member of
25 Coronado Unified School District, Lee Pontes
26 as an individual and in her official capacity as
27 a board of trustees member of Coronado
28 Unified School District, Bruce Sheperd as an
individual and in his official capacity as a
board of trustees member of Coronado Unified
School District, Karl Meuller in his official
capacity as superintendent for Coronado
Unified School District, Donnie Salamanca in
his official capacity as assistant superintendent
for Coronado Unified School District, Niamh
Foley in her official capacity of Director of
Student Services at Coronado Unified School
District, Karin Mellina as her official capacity
of principal of Coronado High School, Shane
Bavis in his official capacity as teacher at
Coronado High School, Joshua Dean in his
official capacity as teacher at Coronado High
School, Michelle Walker in her official
capacity as teacher at Coronado High School,

) Case No. 37-2022-00034758-CU-NP-CTL

) **COMPLAINT FOR**

-) **1) VIOLATION OF CIVIL**
) **RIGHTS: 42 USC 1983, U.S.**
) **Const., amends. I, XIV; Cal.**
) **Const., art. I, § 2(a); Educ. Code**
) **§ 48907(a)**
) **2) VIOLATION OF CIVIL RIGHTS**
) **Civil Code §52;**
) **3) NEGLIGENCE;**
) **4) INTENTIONAL INFLICTION**
) **OF EMOTIONAL DISTRESS**

1 William Lemei in his official capacity as
2 teacher at Coronado High School, Shane
3 Schneichel in his official capacity as teacher at
4 Coronado High School, Barbara Wolf in her
5 official capacity as teacher at Coronado High
6 School, Kimberly Strassburger in her official
7 capacity as teacher at Coronado High School,
8 David McBean in his official capacity as
9 teacher at Coronado High School, Katie
10 Sapper in her official capacity as teacher at
11 Coronado High School, Donny Gersonde in his
12 official capacity as teacher at Coronado High
13 School, Chelsea Zeffiro in her official capacity
14 as teacher at Coronado High School and DOES
15 1-50,

16
17
18
19
20
21
22
23
24
25
26
27
28
Defendants.

Plaintiff G. W. a minor, through her Parent Nicole Ward and Nicole Ward allege:

PARTIES

1. Plaintiff G. W. is, and at all times herein mentioned in this complaint an individual with her principal place of residence located in San Diego County, California, and a pupil who was duly enrolled in Coronado Unified School District (“CUSD”).

2. Plaintiff NICOLE WARD is, and at all times herein mentioned in this complaint an individual with her principal place of residence located in San Diego County, California, and mother of G.W., who was duly enrolled in Coronado Unified School District (“CUSD”).

3. Defendant CORONADO UNIFIED SCHOOL DISTRICT (“CUSD”) is, and at all times herein mentioned in this complaint, a school district in the County of San Diego and local education agency (LEA) responsible for the implementation of punitive enforcement of illegal school policies purportedly based on non-binding California Department of Public Health’s K-12 Guidance. CUSD is governed by elected officials that serve as Members of its Board of Trustees.

4. Defendant Esther Valdes-Clayton is a duly qualified, elected, and acting Member of the Governing Board of CUSD.

1 5. Defendant Helen Anderson-Cruz is a duly qualified, elected, and acting Member of the
2 Governing Board of CUSD.

3 6. Defendant Whitney Antrim is a duly qualified, elected, and acting Member of the Governing
4 Board of CUSD.

5 7. Defendant Lee Pontes is a duly qualified, elected, and acting Member of the Governing Board
6 of CUSD.

7 8. Bruce Sheperd is a duly qualified, elected, and acting Member of the Governing Board of
8 CUSD

9 9. Defendant Karl Meuller is Superintendent of CUSD.

10 10. Defendant Donnie Salamanca is Deputy Superintendent of CUSD.

11 11. Defendant Niamh Foley is Director of Student Services of CUSD.

12 12. Defendant Karin Mellina is the Principal of Coronado High School (“CHS”) and an employee
13 of Defendant CUSD.

14 13. Defendant Shane Bavis is an Assistant Principal at CHS and an employee of defendant
15 CUSD.

16 14. Defendant Joshua Dean is a teacher at CHS and an employee of defendant CUSD.

17 15. Defendant Michelle Walker is a teacher at CHS and an employee of defendant CUSD.

18 16. Defendant William Lemei is a teacher at CHS and an employee of defendant CUSD.

19 17. Defendant Barbara Wolf is a teacher at CHS in its CoSA department and an employee of
20 defendant CUSD.

21 18. Defendant Kimberly Strassburger is a teacher at CHS in its CoSA department and an
22 employee of defendant CUSD.
23
24
25
26
27
28

1 19. Defendant David McBean is a teacher at CHS in its CoSA department and an employee of
2 defendant CUSD.

3 20. Defendant Katie Sapper is a teacher at CHS in its CoSA department and an employee of
4 defendant CUSD.

5 21. Defendant Donny Gersonde is a teacher at CHS in its CoSA department and an employee of
6 defendant CUSD.

7 22. Defendant Chelsea Zeffiro is a teacher at CHS in its CoSA department and an employee of
8 defendant CUSD.

9 23. Plaintiffs are informed and believe and thereon allege that, at all times herein mentioned,
10 Defendants listed in paragraphs 4 – 22 herein, in doing the things hereinafter alleged, were employed
11 by CUSD or are Members of the Board of Trustees for CUSD and are therefore agents, and were
12 acting within the course and scope of such agency and with the permission and consent of
13 codefendant CUSD.

14 24. In doing the things hereinafter mentioned, these Defendants acted under color of their
15 authority and under the color of the customs and usages of Defendant CUSD and pursuant to the
16 official policies of Defendant CUSD as enacted and adopted by it's the Governing Board acting
17 under color of its authority as such.

18 25. Plaintiff is informed and believes, and thereon alleges, that each of the fictitiously named
19 defendants proximately caused damages to Plaintiff as alleged herein and/or are responsible for the
20 acts complained of herein. Plaintiff will seek leave of Court to amend this Complaint when the true
21 identities of such DOE defendants have been ascertained. Plaintiff is informed and believes, and
22 thereon alleges that defendants named as DOES 1 through 50 were the agents, servants and/or
23 employees of their defendants, and in doing or failing to do the acts alleged herein were acting in the
24
25
26
27
28

1 course and scope of their authority and with the permission and consent of their defendants, and each
2 of them.

3 **JURISDICTION AND VENUE**

4 26. Venue is proper as the tortious conduct that is the subject of this action occurred in in San
5 Diego County and Plaintiff is informed and believe defendants, each of them, reside in San Diego
6 County.

7
8 27. Venue is proper in the county in which “the cause, or some part of the cause, arose,” for a suit
9 against a public officer’s act. (Cal. Code of Civ. Proc. § 393(b).) This Court is the proper venue for
10 this action because the Defendants either reside in or maintain executive offices in this County, a
11 substantial portion of the transactions and wrongs complained of herein took place in this County,
12 including Defendants’ primary participation in the acts detailed herein, and Plaintiff’s injuries
13 occurred in this County.

14
15 28. This Court has personal jurisdiction over Defendants. They are governmental actors that
16 conduct business in and maintain operations in San Diego County on behalf of Defendant CUSD.

17
18 **GENERAL ALLEGATIONS**

19 29. On March 4, 2020, California Governor Gavin Newsom declared a state of emergency in
20 response to the COVID-19 pandemic. On March 13, 2020, Governor Newsom signed Executive
21 Order N-26-2-0, initiating the closure of school districts throughout California and the beginning of
22 online learning for most students.

23
24 30. On April 1, 2020, Governor Newsom announced that schools across California would remain
25 closed through the end of the school year. Most public schools in California, including those within
26 CUSD, provided exclusively online instruction throughout 2020.

1 31. On July 17, 2020, CDPH issued its first set of “Guidelines” specifically addressing schools
2 entitled *COVID 19 INDUSTRY GUIDANCE: Schools and School Based Programs*.¹ In effect,
3 Governor Newsom ordered schools in counties on a “watchlist” to operate via distance learning.

4 32. On August 18, 2020, San Diego County came off Governor Newsom’s “watchlist.”

5
6 33. Defendant CUSD reopened for in-person instruction on February 2, 2021. As part of their
7 reopening plan all students, teachers, administrators, parents, and visitors were generally required to
8 wear facial coverings while on campus, even outdoors even though the CDPH guidance was merely a
9 recommendation schools were free to disregard.

10 34. Following an unexpected Board meeting on Saturday, August 7, 2021, defendants Valdes-
11 Clayton, Helen Anderson-Cruz, Whitney Antrim, and Lee Pontes, released a statement through
12 Defendant Karl Mueller, explaining that CUSD’s “collective focus and responsibility is safely
13 returning our students and staff, in person, to campus five days a week. The State and County
14 Department of Public Health direct public policy on mask wearing and we will comply with and
15 enforce their guidance.”²

16
17 35. A Coronado Times Article from August 12, 2021, provides multiple statements from
18 Defendant Mueller on CUSD’s mask policy for the start of the 2021-2022 school year.³ Speaking in
19 his capacity as Superintendent of Defendant CUSD, Defendant Mueller explained: “[w]e are a public
20 institution[,] so our mask policy will be whatever state and county health officials tell us it is. Right
21 now[,] that is *everyone indoors must be masked regardless of vaccination status*[.]” Furthermore, he
22 “expressed concern that refusing to adhere to health department regulations ‘may compromise state
23 funding, district insurance coverage and our ability to have all students return to campus safely.’”
24
25

26
27

² <https://www.smores.com/81kp9-cusd-newsletter>

28 ³ http://www.coronadonewsca.com/news/coronado_city_news/mask-policy-dominates-back-to-school-conversations-mask-choice-rally-planned/article_feec278-fbc0-11eb-b347-c7d712006f40.html

1 36. On August 26, 2021, another Coronado Times Article provides statements from Defendant
2 Salamanca, speaking in his capacity as Deputy Superintendent of Defendant CUSD, “the mask
3 mandate is issued by the California Department of Health and that [CUSD] received a letter from the
4 district’s insurance carrier, that defiance of the order could result in potential loss of coverage; which
5 would expose the district’s General Fund and potentially individual trustees to liability.”⁴
6

7 37. The CDPH K-12 guidance never went through the Administrative Procedures Act rulemaking
8 process rendering it non-binding and lacking any force and effect of law. Gov. Code §11370 et seq.
9 CDPH counsel has conceded as much. *See* “Exhibit A,” attached hereto and incorporated herein by
10 this reference.
11

12 38. From August 26, 2021, until CDPH changed the wording in its guidance and schools changed
13 their enforcement efforts on or about March 14, 2022, Defendants Esther Valdes-Clayton, Helen
14 Anderson-Cruz, Whitney Antrim, and Lee Pontes, acting in their capacities as Trustees of Defendant
15 CUSD refused to consider repeated pleas by Plaintiff’s mother, Mrs. NICOLE WARD, and other
16 community members for CUSD to respect parent wishes and not force mask children against those
17 wishes by adopting a mask choice resolution.
18

19 39. On November 12, 2021, San Diego County Superior Court Judge, the Honorable Cynthia A.
20 Freeland, Issued a Minute Order in Case Number 37–2021–00031385–CU–WM–NC. The Order
21 clearly established Governor Newsom and CDPH’s position on the issue of whether the Guidelines
22 were “mandatory” or merely “non-binding recommendations.” In court CDPH counsel conceded a
23 portion of the guidelines were non-binding recommendations schools were free to disregard. *See*
24 “Exhibit B,” attached hereto and incorporated herein by this reference. Later in *Santa Monica Malibu*
25 *Parents United vs. Santa Monica Malibu Unified School District* CDPH counsel conceded that the
26
27

28 ⁴ http://www.coronadonewsca.com/news/coronado_city_news/cusd-school-board-drops-district-wide-no-place-for-hate-implementation-issues-new-statement-on/article_1c1175f4-06e2-11ec-a956-d3d4eb50341a.html

1 CDPH guidance in its entirety did not go through the administrative procedures act and therefore was
2 only a recommendation. *See* “Exhibit A,” attached.

3 40. Defendant Bruce Sheperd joined CUSD’s board on February 17, 2022. From that moment
4 until March 14, 2022, he enforced CUSD’s mask policy in a supervisor capacity.

5 41. From February 2, 2021, until lifting the policy on March 14, 2022, Defendants collectively
6 chose to adopt and maintain an illegal indoor mask mandate for all students within CUSD’s
7 jurisdiction.

8 42. Surgical masks, typically worn by students and staff, displayed warnings from manufacturers
9 explaining that such products do not protect the user from contracting COVID-19.
10

11 43. On **January 31, 2022**, G. W. went to school without a mask on, intending to peacefully
12 protest CUSD’s mask mandate. After about thirty-minutes of sitting in her first period without a
13 mask, Defendant Dean handed one to G. W. At that time, G. W. told him that she was no longer
14 wearing masks.
15

16 44. Accordingly, G. W. was sent to see Defendant Bavis, who called G. W.’s mother, NICOLE
17 WARD, and demanded that she pick up her daughter. Mrs. W. refused.
18

19 45. A short time later, Defendant Bavis called Mrs. W. again and demanded that she pick up G.
20 W. Mrs. NICOLE WARD again refused and asked that Defendant Bavis not call again. Before
21 hanging up. Mrs. NICOLE WARD reminded Defendant Bavis that G. W. was legally entitled to an
22 in-person education, even without a mask pursuant to the California Constitution.
23

24 46. The remainder of January 31, G. W. was forced to sit outside, by herself, in the quad. She
25 froze and felt alienated and belittled due to the discrimination.

26 47. The high temperature that day on Coronado Island was sixty–one degrees.

27 48. She wanted to attend class; instead, G. W. was left outside, humiliated, in the miserable cold.
28

1 49. This day, G.W. was denied instruction for part of period one and for all of periods two, three,
2 and four.

3 50. Upon arriving on **February 1, 2022**, G. W. was advised by Defendant Bavis that she would
4 be sitting in the quad so long as she refused to adorn a face covering in violation of Education Code
5 §201.
6

7 51. After speaking with G. W., Defendant Bavis called Mrs. NICOLE WARD, demanding she
8 pick G. W. up from school. Mrs. NICOLE WARD again refused. G. W. accordingly remained on
9 campus.

10 52. Instead of permitting her in the classroom with her classmates, Defendants Bavis and Dean
11 forced G. W. to sit outside of her first-period class and listen in, through a doorway.
12

13 53. Before the start of second-period, Mr. Bavis met G. W. in the quad and ordered her to Zoom
14 into her next two classes.

15 54. Defendant Lemei, G. W.'s Physics teacher, met her in the quad to give her a textbook.
16 Defendant Lemei then placed the textbook on a table, a few feet away from G. W., and explained that
17 he did not want to get close to her while she was protesting the mask mandate because of his
18 advanced age. Notably, he explained that he didn't want G. W. to get too close to him as she might
19 get him sick. This caused G. W. to feel "like a leper" in violation of Education Code § 201. G. W.
20 exhibited no signs of illness to warrant such treatment.
21

22 55. G. W. was prevented from attending her fourth-period class (CoSA) with Defendants Wolf,
23 and Gersonde. Instead, she was forced by these individuals to sit outside, alone, during her
24 "directing" and "dance" classes.
25
26
27
28

1 56. Notably, it was especially cold outside that day; G. W. was forced to wear a heated (battery-
2 powered) jacket to stay warm. She felt alienated, humiliated, and belittled. She further felt that the
3 mask mandate was being enforced against her in a harassing and putative manner.

4 57. That day, Defendant Salamanca sent Mrs. NICOLE WARD a threatening email explaining
5 that, so long as G. W. refused to comply with CUSD’s mask policy, she would be “excluded” from
6 school. *See* “Exhibit C,” attached hereto and incorporated herein by this reference. Defendant
7 Salamanca further noted that continued defiance would result in forced enrollment in CUSD’s
8 independent study program in violation of Ed. Code § 51747(g)(8⁵). In this email, Defendant
9 Salamanca further claimed that continued noncompliance would result in unexcused absences for
10 each period for which G. W. refused to mask. Defendant Salamanca also noted that CUSD would
11 evaluate potential discipline for non-cooperative behavior and threatened to investigate whether G.
12 W.’s protest breached her Inter-district Transfer Agreement (issued in 2019).

13 58. This threatening email severely traumatized G. W. and Mrs. NICOLE WARD—as intended.

14 59. Upon arriving to school on **February 2, 2022**, G. W. was “excluded” and prevented from
15 attending her classes in-person as she desired.

16 60. For first period with Defendant Dean, she was forced to watch from outside of the room.
17 During this class, she was barred from entering the room for needed materials. This caused G. W. to
18 fall behind.

19 61. G. W. was forced to attend her following two classes with Defendants Walker and Lemei on
20 Zoom.

21 62. In CoSA, G. W. was not permitted to attend Defendant McBean’s class and was forced to sit
22 outside instead.

23
24
25
26
27
28

⁵ “Independent study is an optional educational alternative in which no pupil may be required to participate”.

1 63. G. W. was also removed from her group project for Defendant Wolf’s class. This project was
2 due at the end of the year (in June). Instead of being a part of a group project (like all other student in
3 the class), G. W. was given an independent assignment. Defendant Wolf teaches “directing,” which is
4 necessarily a group activity involving at least a director and an actor. Because G. W. didn’t want to
5 wear a mask, she was assigned to “direct herself.”
6

7 64. Forcing G. W. to “direct herself” was coercive and caused G. W. and Mrs. NICOLE WARD
8 (upon learning of the situation) significant stress and anxiety—as intended.

9 65. G. W. was forced by Defendants McBean and Bavis to sit outside of her next CoSA class and
10 read sheet music.
11

12 66. She was then forcibly excluded her from ballet class with Defendant Zeffiro. Rather than
13 participating with her compliant classmates, G. W. was forced to watch ballet from the doorway.

14 67. The regional high on February 2, 2022, was sixty–four degrees.

15 68. On **February 3, 2022**, G. W. was “excluded” and forced to sit outside of her first period class
16 in a pattern consistent with the foregoing.
17

18 69. CHS held a scheduled emergency lockdown drill for all students and staff at the beginning of
19 second period, which Defendants Bavis and Walker prevented her from attending.

20 70. Prior to the drill, Mr. Bavis informed G. W. that CUSD’s plan for her was to lockdown in the
21 bathrooms in the 300 building—bathrooms that cannot be locked from the inside because the door
22 lacks an interior locking mechanism.
23

24 71. Upon entering the bathroom, G. W. abruptly realized her clear endangerment relative to other
25 students. Because she is highly intelligent, G. W. also realized that if the school had an emergency
26 situation—like an active-shooter—CUSD’s plan to protect her was to have her “lockdown” in a
27
28

1 bathroom without a lock. Unlike other all other students, G. W. was made to feel like a fish in a
2 barrel without a latch—just waiting to be shot.

3 72. This realization was particularly traumatic for G. W.; it still causes her severe anxiety and
4 emotional harm today—as intended by CUSD.

5
6 73. After a horrific start to her second period, things did not improve for G. W. as connectivity
7 issues with CHS’s internet precluded her from joining the remainder of her second period via Zoom.
8 In effect, G. W. was forcibly precluded from accessing class with the rest of her classmates—only
9 because she wanted to breathe normally.

10 74. G. W. was forced by Defendants Bavis and Lemei to attend her third period via Zoom
11 (luckily, it worked this time).

12
13 75. G. W. was prevented from attending her CoSA classes with Defendants Wolf, Strassburger,
14 and Sapper. Accordingly, she was forced sit outside and ask other students to copy their notes as they
15 left the room. This was humiliating for G. W.—as intended by CUSD.

16 76. CUSD and each of G. W.’s teachers herein named, intentionally isolated and belittled G. W.
17 by excluding her from the educational process. CUSD and each of G. W.’s teachers herein named
18 knew or should have known that she would be forced to beg other students for notes in order to
19 succeed.
20

21 77. When picking up her daughter, Mrs. NICOLE WARD observed that G. W.’s hands were red
22 and chapped from the cold. Her cheeks and lips were also observably bright red and dry.

23 78. G. W. was miserably cold all day.

24 79. The regional high on February 3, 2022, was sixty–four degrees.
25
26
27
28

1 80. Upon learning of her daughter's treatment during the lockdown drill, Mrs. NICOLE WARD
2 experienced severe anxiety and distress causing her to feel physically ill (shooting pains in her arms,
3 headaches, and intense physical discomfort).

4 81. On **February 4, 2022**, G. W. was "excluded" from participating in a manner consistent with
5 the foregoing and prevented from attending classes with Defendants Dean, Walker, Lemei, Sapper,
6 Gersonde, and McBean.

7 82. Instead of attending class with her classmates as she desired, G. W. was forced to sit outside
8 all day, alone, in the cold in violation of Penal Code § 273(a).

9 83. In CoSA, G. W. was especially excited for her assignment in Defendant McBean's class,
10 singing a duet with a partner. Unfortunately, Defendant McBean removed G. W. from her "duets
11 project" as a punishment for her refusal to comply with CUSD's masking policy. This discriminatory
12 action caused G. W. to feel abjectly alienated and anxious. Moreover, Defendant McBean did not
13 provide G. W. with an alternative assignment, causing G. W. even more anxiety.

14 84. The regional high on February 4, 2022, was in the mid-sixties.

15 85. On **February 7, 2022**, G. W. was "excluded" and, thereby, forcibly prevented from
16 participating in her classes with Defendants Dean, Walker, Lemei, McBean, Gersonde, and Zeffiro.
17 She was instead forced to sit outside in a manner consistent with the foregoing pattern in violation of
18 California Penal Code § 273(a).

19 86. Despite being on campus all day, G. W. was marked with an unexcused absence for period
20 three.

21 87. This day, Mrs. NICOLE WARD received an email from Defendant Salamanca indicating that
22 "[i]f [G. W.] shows up to school tomorrow and refuses to wear a mask again, she will be marked
23
24
25
26
27
28

1 unexcused and we will proceed with disciplinary action for her continuing non-cooperative
2 behavior.”

3 88. The email caused Mrs. NICOLE WARD to experience severe anxiety.

4 89. On **February 8, 2022**, G. W. was tardy. Upon arrival, she was denied entry to campus by a
5 CUSD’s administrative employees in the CHS office.
6

7 90. Scared, G. W. called Mrs. NICOLE WARD, who advised her to go inside anyway.

8 91. Alone, G. W. was too scared to enter campus.

9 92. Accordingly, Mrs. NICOLE WARD returned to campus and demanded that G. W. be
10 permitted to enter.
11

12 93. After a short discussion with CUSD’s office staff, G. W. was permitted to enter campus.

13 Unfortunately, G. W. was again “excluded” and barred from participating with her classmates for in-
14 person instruction by Defendants Dean, Walker, Lemei, Wolf, and Gersonde in a pattern consistent
15 with the foregoing.

16 94. While sitting outside during her CoSA classes (with Defendants Wolf and Gersonde), G. W.
17 realized that, even though she wasn’t allowed inside because she didn’t want to mask, her classmates
18 inside were permitted to play wind instruments. Obviously, such required G. W.’s classmates to
19 remove their masks.
20

21 95. This realization outraged G. W., who is passionate about participating in the CoSA program.
22 Notably, G. W. travels a significant distance just to attend CUSD’s CoSA program.
23

24 96. As a CoSA student, G. W. attends an additional two and a half hours of classes every day,
25 beyond what is required for CHS students not part of CoSA.

26 97. Despite being on campus all day, G. W. was marked with an unexcused absence for periods
27 two, three, and four.
28

1 98. On **February 9, 2022**, G. W. was “excluded” and, thereby, alienated from her first two class
2 periods with Defendants Dean and Walker in a manner consistent with the foregoing discriminatory
3 pattern in violation of Education Code § 201 and Penal Code § 273(a).

4 99. Prior to the start of her third period, G. W. learned from CUSD office staff that her teacher,
5 Defendant Lemei, would no longer use Zoom and that he had removed G. W. from the PowerSchool
6 page (an online software provided to students) for her refusing to mask in violation of Education
7 Code § 201.

9 100. Defendant Lemei confirmed the foregoing discriminatory action when confronted by G. W.

10 101. Intending to manipulate G. W. into compliance through guilt and coercion, Defendant Lemei
11 explained that he and his wife were both in their seventies with immunity issues, and that G. W.
12 couldn’t attend his class without a mask.

13 102. Mr. Lemei then asked G. W. to give up her protest for thirty–five minutes so she could take a
14 test, in-person, scheduled for the following Monday.

15 103. During this interaction, Mr. Lemei emphasized that G. W.’s compliance would protect Mr.
16 Lemei and his wife. Despite the unwelcomed pressure, G. W. remained resolute, continuing her
17 peaceful protest. Therefore, she was forced outside by Defendant Lemei.

18 104. G. W. was again “excluded” and prevented from attending her CoSA classes by Defendants
19 McBean, Wolf, and Zeffiro in a manner consistent with the foregoing pattern for her CoSA classes.

20 105. G. W. was marked with an unexcused absence for periods two, three, and four, five, and D.

21 106. On **February 10, 2022**, G. W. woke up feeling “exhausted” from the school’s constant
22 harassment and discrimination. She told Mrs. NICOLE WARD that “she hardly slept.” G. W.
23 expressed frustration regarding falling behind in her classes and felt increasingly alienated for simply
24
25
26
27
28

1 wanting to breathe normally—as public-school students had done in this country for more than a
2 century.

3 107. G. W. was especially frustrated by the fact that kids in California were some of the last in the
4 Nation to still be subject to mask mandates.

5 108. G. W. was anxious about the school’s unnecessary abuses in response to her protests and the
6 negative impact the school’s response was having on her grades.

7 109. With her parents’ consent, G. W. remained home for a “mental health day.”

8 110. On **February 11, 2022**, G. W. was “excluded” from her classes, and Defendant Dean forced
9 G. W. to take her history exam, outside.

10 111. During her second period, G. W. was precluded from entering Defendant Walker’s classroom
11 and accessing Zoom, barring her from taking an exam with her mask-complaint classmates.

12 112. Despite earning an A on every homework assignment thus far, G. W.’s grade fell to a D as a
13 result of Defendant Walker’s “exclusion.”

14 113. This caused G. W. significant anxiety—as intended by Defendant Walker and her superiors at
15 CUSD.

16 114. Defendant Lemei excluded G. W. from attending her third period class in person. He also
17 prevented from accessing her third-period class via Zoom as the link did not open.

18 115. Later that day, G. W. was again barred from attending her CoSA classes by Defendants
19 Sapper, Gersonde and McBean in a manner consistent with the foregoing pattern.

20 116. She was marked with an unexcused absence for periods two, three, and four.

21 117. On **February 14, 2022**, despite being on campus all day, G. W. was “excluded” by
22 Defendants Dean, Walker, Lemei, McBean, Gersonde, and Zeffiro from accessing an in-person
23 education.
24
25
26
27
28

1 118. Instead of learning with her classmates, G. W. was again forced to sit outside all day in the
2 cold.

3 119. Again, G. W. was marked with an unexcused absence for periods two, three, and four.

4 120. On **February 15, 2022**, G. W. was again “excluded” by Defendants Dean, Walker, Lemei,
5 Wolf and Gersonde from accessing an in-person education despite being on campus all day.
6

7 121. She was marked as unexcused absences for periods one, two, three, four, five, and D.

8 122. On **February 16, 2022**, G. W. attempted to acquire her in-person education, as she was
9 entitled by law.

10 123. Feeling determined, G. W. went to her first-period class taught by Defendant Dean in
11 contravention of CUSD’s mask mandate.
12

13 124. This day, G. W. respectfully protested CUSD’s mask requirement by declining to mask inside
14 of her first-period class, taught by Defendant Dean.

15 125. Defendant Dean ordered G. W. to leave the room, and she politely declined. Accordingly,
16 Defendant Dean sought the assistance of Defendant Bavis.
17

18 126. Inside and maskless, G. W. was confronted by Defendant Bavis, who asked G. W. to put on a
19 mask.

20 127. G. W. responded: “No thank you.”

21 128. When asked by Defendant Bavis to leave, G. W. politely declined.

22 129. At that time, Defendant Bavis ordered the class to move to another room.

23 130. By moving the class, Defendant Bavis disrupted G. W.’s learning and that of her classmates
24 by choosing to punish G. W. for her lawful protest.
25

26 131. G. W. followed her classmates into the other room, determined to attain an in-person
27 education.
28

1 132. Upon realizing that she had followed, Defendant Bavis ordered G. W. to leave the room and,
2 again, she politely refused.

3 133. In response, Defendant Bavis ordered the class to leave the room and, thereby, disrupted G.
4 W.'s education and that of her classmates.

5 134. Defendant Bavis then warned G. W. that she was violating school code and that further
6 disobedience could result in a suspension.

7 135. Bravely ignoring these illegitimate warnings, G. W. entered her second period class without
8 wearing a mask.

9 136. Prior to the start of class intending to avoid disruption, G. W. politely told Defendant Walker
10 that she would not mask and sat down with the intention of attending in-person.

11 137. In response to G. W.'s protest, Defendant Walker ordered the class to move outside thereby
12 intentionally disrupting the learning of each student in the room.

13 138. G. W. followed her classmates outside and attempted to attend the class, now held outdoors.

14 139. While outside, G. W. spent a few minutes filling out a worksheet as her classmates did the
15 same.

16 140. With approximately fifteen minutes remaining in this period, Defendant Bavis disrupted G.
17 W.'s work, informing her that she was "suspended."

18 141. G. W. felt embarrassed, alienated, and humiliated as the "suspension" was issued in front of
19 her classmates.

20 142. She had never before been "suspended," and the notification in front of her classmates was
21 shocking—bringing G. W. to tears and causing her to feel physically ill.

22 143. Mrs. NICOLE WARD refused to pick up G. W. from CHS, despite being informed of the
23 "suspension."
24
25
26
27
28

1 144. Irrespective of the “suspension,” G. W. politely refused to leave campus.

2 145. To avoid further harassment and bullying at the hands of CHS employees, however, G. W. did
3 not enter her third period class with Mr. Lemei and instead sat outside to attend online (via Zoom).

4 146. Around 11:30 a.m., G. W.’s capacity to access her class via Zoom was terminated by
5 Defendant Lemei.
6

7 147. Defendant Bavis later prevented G.W. from accessing her CoSA classes with Defendants
8 McBean, Wolf, and Zeffiro. Outside, Defendant Bavis cornered G. W. and told her about the
9 availability of school counselors with whom she could discuss her issues with masking.

10 148. G.W. politely declined the services, as she believed the offer was a guise to further harass her
11 into compliance.
12

13 149. Around 3:30 p.m., G. W.’s Parents, Mr. R. W. and Mrs. NICOLE WARD, visited Coronado
14 High School to ascertain the details of G. W.’s purported suspension.

15 150. The parents were informed that the alleged suspension was scheduled for the following day.

16 151. Prior to their arrival at 3:30 p.m., neither G. W. nor her Parents were provided written notice
17 explaining the terms of the suspension.
18

19 152. A copy of the suspension documentation was provided to the parents only upon demand.

20 153. Despite being on campus all day, G. W. was marked as an unexcused absence from periods
21 two and four.

22 154. G. W. left campus in tears.

23 155. On **February 17, 2022**, upon arriving at CHS, G. W. and Mrs. NICOLE WARD were greeted
24 by Defendants Mellina and Foley.
25

26 156. Defendants Mellina and Foley explained that G. W. was not permitted to enter any classrooms
27 as she was “excluded” pursuant to CUSD policy.
28

1 157. Mrs. NICOLE WARD told Defendants Mellina and Foley that they did not have the right to
2 keep G. W.’s education from her.

3 158. Defendants Mellina and Foley agreed, ignored the suspension, and offered instead to allow G.
4 W. to remain on campus and attend Zoom classes outside.

5 159. Mrs. NICOLE WARD and G. W. agreed to the compromise—noting that such was agreeable
6 only for that day.

7 160. Defendant Mellina offered to work with G. W.’s teachers to allow G. W. to take her missed
8 tests and quizzes.

9 161. G. W. left school early to attend the CUSD board meeting.

10 162. On **February 20, 2022**, Defendant Lemei called G. W. and offered a private test prep tutoring
11 session on February 21, at 1:00 p.m. to prepare her for the exam she was prevented from taking. The
12 test was scheduled for February 22.

13 163. Unlike her classmates, G. W. missed an hour of personal time during a school holiday on
14 **February 21, 2022**, because she needed to attend a tutoring session caused by Defendant Lemei’s
15 discriminatory actions.

16 164. G. W. returned to school on **February 22, 2022**. Upon arriving to school, she provided a
17 copy of the attached Ultimatum (attached as “Exhibit D” and incorporated herein by this reference) to
18 Mr. Dean.

19 165. The Ultimatum provided additional context to G. W.’s actions—further clarifying the plain
20 meaning of her already inherently expressive act, refusing to mask in protest.

21 166. Another copy of the Ultimatum was provided to Defendant Mellina and each of G. W.’s
22 teachers (Defendants Walker, Lemei, McBean, Gersonde, Zeffiro, Wolf, Sapper, and Strassburger via
23 email.
24
25
26
27
28

1 167. Despite wanting to attend class in-person—to avoid further embarrassment and harassment by
2 CUSD employees and consequent trauma—G. W. folded to the unbearable pressure and conceded to
3 the demands of Defendants Mellina and other CUSD staff members that she attend her morning
4 classes in the office conference room via Zoom.

5
6 168. Notably, G. W. did not mask while in the office—despite the presence of other students and
7 staff—some of whom also did not mask or wore their masks improperly (under their noses or chins)
8 in violation of CUSD’s indoor mask requirement.

9
10 169. For CoSA, G. W. was forced by Defendants Mellina, Wolf, and Gersonde to sit outside, in the
11 rain.

12 170. Despite being on campus all day, G. W. was issued unexcused absences for periods one, two
13 and three.

14 171. On **February 23, 2022**, G. W. went to her first-period class with Defendant Dean.

15 172. She refused to mask and was forced by Defendant Mellina to leave class around 8:05 a.m.

16 173. G. W. attended the remainder of her first-period on-campus via Zoom.

17
18 174. Mrs. NICOLE WARD arrived at CHS around 8:35 a.m. Upon arriving, she learned from
19 Defendant Mellina that G. W. had been removed from her first-period class.

20 175. Mrs. NICOLE WARD then explained to Defendant Mellina that G. W., should she choose to
21 do so, had her parents’ blessing to remain in class despite orders to leave.

22 176. At that time, Defendant Mellina agreed that she could not remove G. W. from class for
23 peacefully protesting.

24
25 177. Mrs. NICOLE WARD left campus at approximately 8:45 a.m.; Defendant Foley arrived
26 around the same time.

1 178. After speaking with Mrs. NICOLE WARD and getting her blessing, G. W. went to her second
2 period class with Mrs. Walker and refused to leave.

3 179. Upon G. W. taking her seat, Defendants Bavis and Mellina entered the room and ordered the
4 class go to another classroom. Defendants Bavis and Mellina thereby unnecessarily disrupted the
5 education of G. W. and each of her classmates.
6

7 180. Determined to get an education as she was entitled, G. W. followed.

8 181. Around 9:30 a.m., Mrs. NICOLE WARD called Ms. Mellina. She reached Defendant Foley
9 instead (who was apparently sitting at Ms. Mellina's desk).

10 182. Mrs. NICOLE WARD told Defendant Foley that it was despicable to use children as pawns to
11 discriminate against and segregate a fellow student. Mrs. NICOLE WARD then questioned whether
12 G. W.'s classmates' parents' were asked permission to use these students in such a way.
13

14 183. No response was offered by Defendant Foley.

15 184. Mrs. NICOLE WARD further reiterated to Defendant Foley that the mask mandate was
16 illegal and that G. W. had the right to be in-class, peacefully, with or without a mask.
17

18 185. In response, Defendant Foley claimed that she was merely following CUSD policy. She
19 further explained that CUSD would not allow G. W., irrespective of her demeanor, to be in class
20 without a mask.

21 186. G. W. again attempted to attend her third-period class with Defendant Lemei without a mask.

22 187. Upon arriving, she explained her intentions to Defendant Lemei, who proceeded to piously
23 lecture G. W. about her decision to attend class mask-free.
24

25 188. In response to G. W.'s protest, the class was moved outside by Defendants Lemei, Foley, and
26 Mellina. Again, CUSD chose to punish G. W. for her legitimate peaceful protest and, thereby,
27 disrupted the learning of G. W. and her classmates.
28

1 189. Once outside, Mr. Lemei—an adult—openly mocked G. W.—a child—in front of her
2 classmates by repeatedly teasing her claiming that it was “[G. W.]’s ‘choice class!’”

3 190. At one point during class, Defendant Lemei realized that G. W. did not have the correct
4 calculator and mockingly asked if she wanted to get one.

5 191. In response, G. W. explained that she didn’t want to disrupt the learning of others to retrieve
6 one (consistent with her general intentions throughout her protests). Defendant Lemei retorted: “why
7 not? It’s already [G. W.]’s ‘choice class today!’”

8 192. This was an especially humiliating event for G. W. Not only did she feel humiliated, belittled,
9 and bullied, but she also felt further alienated from her classmates, whom G. W. now perceived as
10 holding animus against her because the school was punishing them for her lawful protest.

11 193. Heartbroken yet determined, G. W. entered Defendant McBean’s class. Defendant Mellina
12 followed G. W. into class and told Defendant McBean to hold the class outside.

13 194. Instead of taking the entire class outside, Defendant McBean permitted students to return to
14 the room. G. W. was forced to sit outside, alone, in violation of Education Code §201.

15 195. Defendants Wolf and Zeffiro also prevented G. W. from attending class in person.

16 196. Mrs. NICOLE WARD picked G. W. up from school around 3:30 p.m.

17 197. Upon arriving, Mrs. NICOLE WARD was directed to Defendant Mellina’s office to speak
18 with her and Defendant Foley, who told Mrs. NICOLE WARD that, due to G. W.’s “disruptions”
19 today, CUSD was issuing G. W. a two-day “suspension” starting the following day.

20 198. Mrs. NICOLE WARD disagreed, explaining that the suspension was unlawful and that G. W.
21 would return the following day should G. W. desire.

22 199. Defendant’s Foley and Mellina pushed back, threatening to call the police for trespassing if G.
23 W. returned to campus the following day.
24
25
26
27
28

1 200. The events from this day caused both G. W. and Mrs. NICOLE WARD severe trauma.

2 201. Despite being on campus all day, G. W. was marked with unexcused absences for periods
3 one, two, four, five, and D.

4 202. On **February 24, 2022**, G. W. arrived at Defendant Dean's classroom approximately ten
5 minutes earlier than normal, but she never made it inside.

6 203. Upon arriving, G. W. was greeted by Defendant Mellina, who was physically blocking the
7 entrance to the room.

8 204. Defendant Mellina then told G. W. that she would not move, and that if G. W. tried to enter
9 the room, she would call the Police to report G. W. for assault.

10 205. Around 8:15am, CPD Resource Officer, Officer Del Bagno, arrived at CHS and spoke to Mrs.
11 NICOLE WARD out front of the school for a few minutes.

12 206. Officer Del Bagno advised Mrs. NICOLE WARD that it was not her job to determine the
13 legal validity of the "suspension."

14 207. Officer Del Bagno then noted that G. W. was in violation of the suspension, given her
15 physical presence on campus.

16 208. Officer Del Bagno then left Mrs. NICOLE WARD and went inside the office to speak with
17 Defendants Mellina and Foley, who were waiting with G. W.

18 209. Around 8:30 a.m., Officer Del Bagno and G. W. came out to the front of the school to speak
19 with Mrs. NICOLE WARD

20 210. Officer Del Bagno explained that G. W. now had two trespassing incidents on file with the
21 Coronado Police Department ("CPD").

22 211. Officer Del Bagno claimed that the first incident stemmed from last week, when G. W. had a
23 one-day suspension (from February 17, 2022). This "suspension" was apparently issued even though
24
25
26
27
28

1 G. W. had been allowed on campus to attend class via Zoom per the express consent of multiple
2 CUSD employees.

3 212. Both G. W. and Mrs. NICOLE WARD were shocked to learn about the first incident of
4 reported trespassing—as neither had been notified of such prior to that moment.

5 213. A subsequent public records request for this purported report with CPD revealed no such
6 record for the date in question.

7 214. Perplexingly, Officer Del Bagno also referred to G. W.’s suspension from February 17, as an
8 “in-school suspension.”

9 215. This didn’t make sense to Mrs. NICOLE WARD, who noted that an in-school suspension
10 contradicted the factual basis for issuing a trespassing charge *See* “Exhibit E,” attached hereto and
11 incorporated herein by this reference.

12 216. Mrs. NICOLE WARD further noted that classifying the suspension as “in school”
13 contradicted the records regarding this incident that were mailed to her by CUSD via certified mail
14 on February 17, 2022.

15 217. Officer Del Bagno further advised G. W. that the school was willing to allow her back on
16 campus for the remainder of Thursday and the following day, to sit in the quad and attend classes via
17 Zoom.

18 218. G. W. left school—sobbing—having decided that she wanted to stay home instead of facing
19 continued humiliation and undue pressure from CUSD staff and, now, the police.

20 219. On **February 28, 2022**, pursuant to CUSD policy, G. W. refused to mask and was therefore
21 “excluded” from attending her classes in person with Defendants Dean, Walker, Lemei, McBean,
22 Gersonde, and Zeffiro.
23
24
25
26
27
28

1 220. During her first period, she experienced severe anxiety upon realizing she wouldn't be able to
2 turn in a homework assignment the following day because it was based off of an in-class assignment
3 requiring her physical participation that morning.

4 221. She sat outside, alone, for the entire period and forced to watch via Zoom.

5 222. She was also forced to attend her second-period class via Zoom.

6 223. Notably, G. W. was prevented from logging into Zoom for the first half of her third-period
7 class with Defendant Lemei because the class was taking a test—one she was not permitted to take.

8 224. During CoSA, G. W. was “excluded” and forced to sit outside and study sheet music.

9 225. G. W. left campus a bit early that day to attend her first counseling session—to help her deal
10 with the trauma caused by the outrageous actions of Defendants as described herein. G. W. has since
11 regularly attended counseling, and she expects to continue doing so for the foreseeable future.

12 226. Despite her presence and attendance via Zoom, G. W. was marked with unexcused absences
13 for periods two and three.

14 227. On **March 1, 2022**, G. W. went to school and, because she refused to mask, she was
15 “excluded” by Defendants Dean, Walker, Lemei, Wolf, and Gersonde in a manner consistent with the
16 foregoing.

17 228. Unfortunately, G. W. was not able to access Zoom for her second and third periods because
18 Defendants Walker and Lemei did not provide her with access.

19 229. G. W. was likewise prevented from participating in her CoSA classes. G. W. watched what
20 she could, alone, from outside of an open door.

21 230. Despite her presence and attempted attendance, G. W. was marked with unexcused absences
22 for periods two and three.

1 231. On **March 2, 2022**, G. W. was prevented from entering each of her classrooms because she
2 refused to mask.

3 232. G. W. was “excluded” by Defendants Dean, Walker, Lemei, McBean, Wolf, and Zeffiro and
4 forced to sit outside and attend all of her classes via Zoom.

5 233. Despite her physical presence and attendance via Zoom, G. W. was marked with unexcused
6 absences for periods one, two, three, four, five and D.

7 234. On **March 3, 2022**, G. W. was prevented from entering each of her classrooms because she
8 refused to mask.

9 235. This day, G. W. was again “excluded” by Defendants Dean, Walker, Lemei, Wolf,
10 Strassburger, and Sapper and forced to sit outside and attend Zoom classes.

11 236. Despite her presence, G. W. was marked with unexcused absences for periods one, two, three,
12 four, five and D.

13 237. That evening, Mrs. NICOLE WARD retrieved copies of the incident reports on file with CPD
14 concerning G. W.’s protests, which were all created a week prior.

15 238. Notably, the report authored by Officer Del Bagno on February 24 contains numerous details,
16 such as dates, that do not match the records provided by CUSD regarding the same incidents.

17 239. On **March 4, 2022**, G. W. was prevented from entering each of her classrooms because she
18 refused to mask.

19 240. Acting pursuant to CUSD policy, G. W. was “excluded” by Defendants Dean, Walker, Lemei,
20 Sapper, Gersonde, and McBean and forced to sit outside and attend all of her classes via Zoom.

21 241. Moreover, G. W. was barred from taking a test in her first-period—causing her significant
22 anxiety.

1 242. Despite her physical presence throughout the day and her attendance via Zoom, G. W. was
2 marked with unexcused absences for periods one, two, three and four.

3 243. On **March 7, 2022**, pursuant to CUSD’s “exclusion” policy, G. W. was prevented by
4 Defendants Dean, Walker, Lemei, McBean, Gersonde, and Zeffiro from entering each of her
5 classrooms because she refused to adorn a mask.
6

7 244. It was sunny outside. Because G. W. didn’t have access to shade, she was forced to attend
8 class from inside the office.

9 245. Ironically, G. W. refused to mask in the office in violation of CUSD’s indoor mask mandate.
10 Apparently, as G. W. realized, enforcement only applied in certain settings.
11

12 246. Despite her presence on campus and her forced attendance via Zoom, G. W. was marked with
13 unexcused absences for periods one, two, three and four.

14 247. On **March 8, 2022**, G. W. went to school and was prevented from entering her classrooms by
15 Defendants Dean, Walker, Lemei, Wolf, and Gersonde in a manner consistent with the foregoing.
16

17 248. Despite her presence on campus and her attendance via Zoom, G. W. was “excluded” from
18 each of her classes and marked with unexcused absences for periods one, two, three and four.

19 249. On **March 9, 2022**, G. W. was prevented from entering each of her classrooms because she
20 refused to mask.

21 250. Pursuant to CUSD policy, G. W. was “excluded” and forced by Defendants Dean, Walker,
22 Lemei, McBean, Wolf, and Zeffiro to sit outside and attend her core classes via Zoom.
23

24 251. Despite her presence on campus and her attendance via Zoom, G. W. was marked with
25 unexcused absences for periods one, three and four.

26 252. On **March 10, 2022**, G. W. was prevented from entering each of her classrooms because she
27 refused to mask.
28

1 253. This day, G. W. was, again, “excluded” and forced by Defendants Dean, Walker, Lemei,
2 Wolf, Strassburger, and Sapper to sit outside and attend Zoom classes.

3 254. Despite her presence on campus and her attendance via Zoom, G. W. was marked with
4 unexcused absences for periods one, two, three and five.

5 255. On **March 11, 2022**, despite her presence on campus and her attendance via Zoom, G. W.
6 was “excluded” by Defendants Dean, Walker, Lemei, Sapper, Gersonde, and McBean and marked
7 with unexcused absences for periods one, two, three, four, five and D.
8

9 256. At the end of the day on **March 11, 2022**, Mr. R. W. and Mrs. NICOLE WARD begrudgingly
10 disenrolled G. W. from CHS.

11 257. **On all dates and at all times listed above**, G. W. was lawfully on campus and entitled, by
12 law, to access an in-person education free of harassment and discrimination. G.W. was not ill at any
13 time.
14

15 258. As of March 11, 2022, G. W. was effectively forced to miss nearly six weeks (a total of
16 twenty–seven days) of in-person instruction because of Defendants’ joint unlawful actions.

17 259. As a result of being forced to sit outside and in order to keep warm, G. W. wore a battery-
18 operated-heated jacket to school on all but a few days during the period of her protest.
19

20 260. As a result of forced exposure to cold temperatures, G. W. repeatedly experienced red,
21 irritated and chapped skin on her hands and face.

22 261. On multiple occasions during the protest period, G. W. was sun-burnt as a result of forced
23 exposure to the elements.
24

25 262. G. W. did not learn anything from any of her classes during the subject period—as she was
26 not allowed to effectively participate in the learning experience.
27
28

1 263. In all, she missed nearly one-third of an academic year for the subjects of Math, Physics, and
2 United States History, all resulting from Defendants' unlawful discrimination and harassment in
3 response to her lawful protests.

4 264. Furthermore, as a result of Defendant's egregious and unlawful actions, Mr. R. W. and Mrs.
5 NICOLE WARD have incurred expenses for G. W. to attend counseling (therapy), which continues
6 as of the date of filing of this complaint and which is expected to continue far into the future.
7

8 265. As an additional result of Defendant's egregious and unlawful actions, Mrs. NICOLE WARD
9 has incurred expenses for her to attend counseling, which (therapy) continues as of the date of filing
10 of this complaint and which is expected to continue far into the future.

11 266. Mr. R. W. and Mrs. NICOLE WARD have also been forced to pay for private dance and
12 theater classes to supplement what CUSD provided to G. W. through its CoSA program.
13

14 267. Throughout the mandate period, the school failed to enforce its mask mandate for many of her
15 peers. Moreover, multiple employees of CUSD, including Defendant Dean, willfully defied CUSD's
16 indoor mask mandate—repeatedly in G. W.'s presence causing her significant trauma.
17

18 268. G. W. exhausted her administrative remedies by filing formal complaints with CUSD
19 pursuant to the California Tort Claims Act.

20 269. On or about February 21, 2022, plaintiff G. W. presented to CUSD, by mailing to CUSD
21 (attn Defendant Mueller), a written claim for the injuries, disability, losses, and damages suffered and
22 incurred by her by reason of the above-described events, all in compliance with the requirements of
23 §§ 900 through 915.4 of the Government Code. A copy of the claim is attached hereto as "Exhibit F"
24 and incorporated herein by this reference.
25

26 270. On or about March 10, 2022, CUSD rejected this claim in its entirety. A copy of the
27 rejection is attached hereto as "Exhibit G" and incorporated herein by this reference.
28

1 271. On or about May 20, 2022, Plaintiff G. W. presented to CUSD, by mailing to CUSD (attn
2 Defendant Mueller), a written claim for the injuries, disability, losses, and damages suffered and
3 incurred by her by reason of the above-described events, all in compliance with the requirements of
4 §§ 900 through 915.4 of the Government Code. A copy of the claim is attached hereto as “Exhibit H”
5 and incorporated herein by this reference.
6

7 272. On or about May 20, 2022, CUSD rejected the claim in its entirety. A copy of the claim is
8 attached hereto as “Exhibit I” and incorporated herein by this reference.

9 273. On or about June 14, 2022, Plaintiff Mrs. NICOLE WARD presented to CUSD, by mailing
10 to CUSD (attn Defendant Mueller), a written claim for the injuries, disability, losses, and damages
11 suffered and incurred by her by reason of the above-described events, all in compliance with the
12 requirements of §§ 900 through 915.4 of the Government Code. A copy of the claim is attached
13 hereto as “Exhibit J” and made a part hereof. CUSD failed to respond by July 29, 2022, and
14 therefore rejected the claim in its entirety pursuant to Government Code § 912.4.
15

16
17 **FIRST CAUSE OF ACTION**
18 **(Civil Rights Violations**
19 **U.S. Const., amends. I, XIV; 42 U.S.C. § 1983;**
20 **Cal. Const., art. I, § 2(a); Educ. Code § 48907**
21 **(Declaratory Relief)**

22 274. G. W. incorporates, by reference, all the foregoing paragraphs of this complaint as though
23 fully set forth herein.

24 275. On or about August 7, 2021, Defendants Valdes-Clayton, Anderson-Cruz, Antrim, and
25 Pontes, acting in their capacity as the governing board of Defendant School District, adopted and
26 promulgated a local school district mask policy⁶ which provides, in pertinent part, that all students of
27 CUSD are mandated to wear a face covering. These Defendants, acting under color of what they

28

⁶ <https://www.smores.com/81kp9-cusd-newsletter>

1 believed to be law, had no legal authority to enforce any health policies, which is expressly reserved
2 to “health officers” and based on “necessity” pursuant to California Health and Safety Code §120140.

3 This policy is attached hereto as “Exhibit K” and made a part hereof by this reference herein.

4
5 276. On or about dates listed herein in paragraphs 45 – 267 while lawfully on the premises of
6 CUSD for the purpose of attending classes therein, G. W., a healthy young girl without any signs of
7 illness, refused to wear a face covering as an act of expressive protest⁷. Thereafter, Defendants
8 Mueller, Salamanca, Foley, Mellina, Bavis, Dean, Walker, Wolf, Strassburger, McBean, Sapper,
9 Gersonde, and Zeffiro acting pursuant to the above-described school district board resolution ordered
10 plaintiff to wear a face covering, or in the alternative, be “excluded” until G. W. was willing to
11 comply. When plaintiff refused to do either, Defendants Bavis, Melinna, Salamanca, and Foley put
12 G. W. outside in the cold, the heat, and otherwise segregated her from her friends, attempted to force
13 her into independent study and threatened her with truancy by falsely recording absences when she
14 was not absent.
15

16 277. The above-described school district policy, which CUSD and its employees punitively
17 implemented, denied plaintiff her right of freedom of speech and expression as guaranteed by the
18 First and Fourteenth Amendments of the United States Constitution, Section 2 of Article I of the
19 California Constitution, and Section 48907 of the Education Code. The subject policy was
20 unconstitutionally vague and overbroad in that it had no rational relationship to any government
21 concern. Even if a rational relationship existed, the policy was more burdensome on G. W.’s right to
22 expression than essential to fulfil the purpose of the policy and was therefore unconstitutional on its
23
24

25
26 _____
27 ⁷ Conduct is protected by the First Amendment as free speech if, based on the surrounding context, a reasonable observer
28 would understand the actor’s intended meaning. *United States v. O'Brien*, 391 U.S. 367 (1968); *Spence v. Washington*,
418 U.S. 405 (1974); and *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943). Stated simply,
intentional conduct that is inherently communicative is protected speech.

1 face and as applied to G. W. as herein alleged. *Tinker v. Des Moines Independent School District*,
2 393 U.S. 503 (1969). Defendants cannot meet their burden of demonstrating that a blanket mask
3 mandate on all students within their jurisdiction is less burdensome than essential to further any
4 legitimate State interest and, therefore, CUSD’s mandate is unconstitutional.

5
6 278. By reason of Defendants’ acts and conduct as herein alleged, the circumstances surrounding
7 Plaintiff’s refusal to mask in protest of CUSD’s mask mandate rendered her conduct sufficiently
8 expressive to fall within the scope of the First Amendment⁸.

9
10 279. G. W.’s protest, politely refusing to adorn mask, when she was perfectly healthy neither
11 disrupted learning nor violated the rights of other students.

12 280. CUSD’s mask mandate further violated Plaintiff’s First and Fourteenth Amendment rights by
13 seeking to compel orthodoxy on a matter of deep personal choice. *Barnette*, 319 U.S. 640 (1943)
14 (holding, that when it comes to matters of opinion, conscience, and personal choice, “no government
15 official, high or petty, may prescribe what shall be orthodox.”)⁹

16
17 281. By reason of Defendants’ acts and conduct as herein alleged, Plaintiff’s refusal to adorn a
18 mask in protest was, on each occasion (and taken together in the aggregate), protected student speech

19
20 ⁸ A reasonable observer of Plaintiff’s actions would have understood them as being inherently expressive—one of clear
21 protest. *Tinker*, 393 U.S. 503 (1969). Over a half century ago, The Supreme Court explained, “First Amendment rights,
22 applied in light of the special characteristics of the school environment, are available to teachers and students. *It can*
hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the
schoolhouse gate.” *Id.*, at 507. In the school context, expressive conduct is protected as speech so long as the action does
23 not materially disrupt school activities or violate the rights of other students. *Id.*, at 513–14.

24 ⁹ Defendants harassed, intimidated, alienated, and bullied G. W. by putting her in the freezing cold, refusing her in person
25 instruction with her peers, preventing her from learning or taking exams, and forcing her to “lock down” in a bathroom
26 without a lock—traumatizing and humiliating her in the process. As alleged above, CUSD did all that it could to coerce
27 G. W. into adorning an objectively useless mask that she was entitled to decline. The consequences of such coercive
28 measures are artfully explained by the Court in *Barnette*:

Struggles to coerce uniformity of sentiment in support of some end thought essential to their time and
country have been waged by many good as well as by evil men. Nationalism is a relatively recent
phenomenon but at other times and places the ends have been racial or territorial security, support of a
dynasty or regime, and particular plans for saving souls. As first and moderate methods to attain unity
have failed, those bent on its accomplishment must resort to an ever increasing severity. *Id.*

The Court concluded, “[t]hose who begin coercive elimination of dissent soon find themselves exterminating
dissenters. *Compulsory unification of opinion achieves only unanimity of the graveyard.”* *Id.*, at 641 (emphasis
added).

1 and amounted to a rejection of forced orthodoxy on a matter of opinion, conscience, and personal
2 choice.

3 282. An actual controversy has arisen and now exists between G. W. and Defendants concerning
4 their respective rights and duties in that G. W. contends that the above-described school district
5 regulation was constitutionally void, both on its face and as applied to plaintiff, because it deprived
6 Plaintiff of her rights of freedom of speech and expression under the First and Fourteenth
7 Amendments of the United States Constitution, Section 2(a) of Article I of the California
8 Constitution, and Section 48907 of the Education Code.

9
10 283. G. W. further contends that Defendants had no right, pursuant to the above-described
11 regulation or otherwise, to prevent Plaintiff from refusing to mask while attending school or to
12 harass, threaten, intimidate, discourage, discriminate against, discipline, or otherwise punish Plaintiff
13 for refusing to mask.

14
15 284. By reason of Defendants' acts and conduct as herein alleged, the punitive enforcement of
16 CDPH's non-binding recommendations as a mandate denied G. W. her right of freedom of speech
17 and expression as guaranteed by the First and Fourteenth Amendments of the United States
18 Constitution, Article 2(a) of Article I of the California Constitution, and Section 48907 of the
19 California Education Code and violation of Title 42 of the United States Code, Section 1983.

20
21 285. Plaintiff has no adequate remedy at law for the injuries suffered, and to be suffered in the
22 future, in that it is impossible for plaintiff to calculate a sum of money damages that will compensate
23 her for the loss of her rights to freedom of speech and expression.

24
25 286. Plaintiff desires a judicial determination of her rights and duties and a declaration as
26 to whether the above-described school district regulation is invalid and unenforceable as violative of
27 Plaintiff's rights of free speech and expression under the First and Fourteenth Amendments of the
28

1 United States Constitution, Section 2(a) of Article I of the California Constitution, and Section 48907
2 of the Education Code, either on its face or as applied to Plaintiff, or both.

3 287. A judicial declaration is necessary and appropriate at this time under the circumstances in
4 order that Plaintiff may ascertain her rights and duties with respect to her right to bodily autonomy
5 and freedom from compulsory mask wearing, testing and quarantining while attending classes on
6 school property in the state of California. CUSD has reinstated the compulsory masking and relaxed
7 it and reinstated it over and over. This causes fear, anxiety, and triggers G.W.'s mental trauma.

9 288. By reason of Defendants' acts and conduct as herein alleged, Plaintiff was deprived of her
10 rights, privileges, and immunities secured to her by the First Amendment of the Constitution of the
11 United States, all in violation of Title 42 of the United States Code, Section 1983.

13 289. The actions of Defendants were done with malice, fraud, or oppression, and in reckless
14 disregard of Plaintiff's rights which supports recovery of punitive damages.

15 **SECOND CAUSE OF ACTION**
16 **(Civil Rights Violations California Civil Code 52.1)**
17 **(Tom Bane Act)**

18 290. G. W. incorporates, by reference, all the foregoing paragraphs of this complaint as though
19 fully set forth herein.

20 291. Students in public schools have a fundamental right to in person instruction. California
21 Constitution Article IX § 5. All students are entitled to "equal rights and opportunities" in education
22 (Ed. Code § 200) and to participate fully in the educational process "free from discrimination and
23 harassment." (Ed. Code § 201, subd. (a).) All students possess the right of freedom of speech and
24 expression guaranteed by the First and Fourteenth Amendments of the United States Constitution,
25 Section 2(a) of Article I of the California Constitution, and Section 48907 of the Education Code.
26
27
28

1 292. Civil Code 52.1(c)¹⁰ provides for a private right of action for any individual whose exercise or
2 enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by
3 the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as
4 described in subdivision (b) of this statute which states: “If a person or persons, whether or not acting
5 under color of law, interferes by threat, intimidation, or coercion, or attempts to interfere by threat,
6 intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights
7 secured by the Constitution or laws of the United States, or of the rights secured by the Constitution
8 or laws of this state” he or she may bring a civil action for damages, including but not limited to,
9 damages under Civil Code 52 which are civil penalties of \$25,000 plus damages and attorney’s fees.
10

11 293. CUSD and its agents interfered with and attempted to interfere with G.W.’s constitutional and
12 statutory rights listed in paragraph 291 by threatening violence in the form of intimidation and
13 coercion in violation of Civil Code Section 51.7(b)(2). G.W. had the right to be on school grounds as
14 school is compulsory per Ed Code §42800 and the claim of assault as made by Defendant Mellina
15 was false.
16

17 294. As a result, G.W. reasonably believed that if she continued to exercise her rights to free
18 speech and to attend school free from discrimination and harassment, Defendants, each of them,
19 would continue to intimidate, pressure and coerce her.
20

21
22
23 ¹⁰ SECTION 1. (a) The Legislature hereby finds and declares all of the following:

24 (1) Section 52.1 of the Civil Code guarantees the exercise or enjoyment by any individual or individuals of rights
25 secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of
26 this state without regard to his or her membership in a protected class identified by its race, color, religion, or
27 sex, among other things.

28 (2) The decision in *Boccatto v. City of Hermosa Beach* (1994) 29 Cal.App.4th 1797 misconstrued Section 52.1 of
the Civil Code to require that an individual who brings an action, or on whose behalf an action is brought,
pursuant to that section, be a member of one of those specified protected classes.

(b) It is the intent of the Legislature in enacting this act to clarify that an action brought pursuant to Section 52.1
of the Civil Code does not require the individual whose rights are secured by the Constitution or laws of the
United States, or of the rights secured by the Constitution or laws of California to be a member of a protected
class identified by its race, color, religion, or sex, among other things. Cal Civ Code § 52.1

1 295. Defendants, each of them, injured G.W. by preventing her from exercising her constitutional
2 and statutory rights.

3 296. As a direct and proximate cause as a result of the Defendant's and its agents malicious,
4 intentional and negligent actions described herein, G.W. has suffered great stress, annoyance,
5 emotional and mental trauma, and incurred attorney's fees in an amount to be proven at trial.
6

7 297. As a proximate result of the wrongful act of defendants, Plaintiff is entitled to recover
8 statutory damages of up to three times the amount of actual damages to be determined at trial no less
9 than \$4,000, plus attorney's fees, as provided in Civil Code §52.

10 298. As a proximate result of the wrongful act of Defendants, Plaintiff is in addition entitled to
11 recover statutory damages of \$25,000, per incident, as provided in Civil Code §51.7.
12

13 299. The actions of Defendants were done with malice, fraud, or oppression, and in reckless
14 disregard of Plaintiff's rights which supports recovery of punitive damages.

15 **THIRD CAUSE OF ACTION**
16 **(Negligence)**

17 300. Plaintiffs incorporate, by reference, all the foregoing paragraphs of this complaint as though
18 fully set forth herein.

19 301. A special relationship exists between students, like G. W., and each Defendant because of the
20 mandatory nature of school attendance and substantial degree of control that Defendants may
21 exercise over students in their care. CUSD and its agents, each of them, had a duty of ordinary care in
22 addition to statutory and constitutional duties to G.W. to provide an education free from
23 discrimination, harassment, bullying, and physical and mental injury. These CUSD agents, each of
24 them, had a duty to supervise at all times the conduct of staff and other children on the school
25 grounds and to enforce those rules and regulations necessary to ensure the protection of children in
26 their care—including G.W.
27
28

1 302. On or about January 31, 2022 to March 11, 2022 G. W. went to school in CUSD for the
2 purpose of attending classes there. While simply trying to attend school and learn, G. W., without any
3 signs of illness and while refusing to wear a mask in protest, was harassed, intimidated, bullied,
4 embarrassed, endangered by being put out in the cold and heat, and segregated by CUSD employees
5 as mentioned herein.
6

7 303. On the dates herein mention in the preceding paragraphs, the CUSD employees and agents
8 Defendants CUSD, the City of Coronado and Defendants Valdes-Clayton, Anderson-Cruz, Antrim,
9 Pontes, Sheperd, Mueller, Salamanca, Foley, Mellina, Bavis, Dean, Walker, Lemei, Wolf,
10 Strassburger, McBean, Sapper, Gersonde, Zeffiro, Del Bagno each of them breached their duty¹¹ to
11 G.W. by failing to exercise "that degree of care 'which a person of ordinary prudence, charged with
12 comparable duties, would exercise under the same circumstance" when they committed negligent and
13 intentional conduct of intentional intimidation, bullying, harassment, discrimination, humiliation,
14 isolation, and segregation of a healthy child.
15

16 304. Defendants CUSD, and Defendants Valdes-Clayton, Anderson-Cruz, Antrim, Pontes,
17 Sheperd, Mueller, Salamanca, Foley, Mellina, Bavis, Dean, Walker, Lemei, Wolf, Strassburger,
18 McBean, Sapper, Gersonde, Zeffiro, Del Bagno and each of them, were negligent and careless in they
19 failed to exercise ordinary care in ensuring that G. W. was not put outside in the fridged cold, in the
20 scorching heat, in a bathroom without a lock during a lockdown drill, harassed, bullied, intimidated
21 and coerced into wearing a mask she did not want or need to wear. Prior to occurrence of the injuries
22 herein alleged, Defendants had actual and constructive notice that the harassment and bullying as
23 herein had occurred before, and were likely to occur again, in the absence of adequate supervision.
24
25

26 _____
27 ¹¹ A school district is liable for injuries caused by inadequate supervision of students on school grounds. *Dailey v. Los*
28 *Angeles Unified Sch. Dist.* (1970) 2 Cal. 3d 741, 747–751; *Biggers v. Sacramento City Unified Sch. Dist.* (1972) 25 Cal.
App. 3d 269, 273–275.

1 Superintendent and Principal Defendants were negligent and careless in that, having such knowledge,
2 they nevertheless failed to use ordinary care in the supervision of G.W. and failed to provide
3 adequate supervision to ensure the conduct alleged herein did not continue.

4 305. By reason of Defendants' conduct as herein alleged, specifically in paragraphs 45 – 267,
5 Defendants breached this duty. Further, the conduct of Defendants fell below the standard of care that
6 a reasonably situated person would have exercised in the same or similar circumstances, therein
7 breaching such duty of care owed to G. W.
8

9 306. As a direct and proximate result of the negligence and carelessness of Defendants, and each of
10 them, Plaintiffs were hurt and injured in her health, strength, and activity, sustained injury to their
11 bodies, experienced shock, and injury to their nervous systems and persons, sustained severe
12 emotional and psychological damage, all of which injuries have caused, and continue to cause,
13 Plaintiffs great mental, physical, nervous, emotional, and psychological anguish, pain, and suffering.
14 As a result of such injuries, Plaintiffs have suffered general damages.
15

16 307. As a direct and proximate cause as a result of the Defendant's and its agents malicious,
17 intentional and negligent actions described herein in paragraphs 1-38, Plaintiff has suffered great
18 stress, annoyance, emotional trauma, incurred attorney's fees in an amount to be proven at trial.
19

20 **FOURTH CAUSE OF ACTION**
21 **(Intentional Infliction of Emotional Distress)**

22 308. Plaintiffs incorporate, by reference, all the foregoing paragraphs of this complaint as though
23 fully set forth herein.

24 309. The conduct of the Defendants CUSD's agents, and Defendants, Mueller, Salamanca, Foley,
25 Mellina, Bavis, Dean, Walker, Lemei, Wolf, Strassburger, McBean, Sapper, Gersonde, Zeffiro, Del
26 Bagno each of them, was so outrageous in character and so extreme in degree as to go beyond all
27 possible bounds of decency and are to be regarded as atrocious and utterly intolerable in a civilized
28

1 community. Defendants, each of them, who were in positions of power as school authorities put G.W.
2 outside in the fridged cold, in the scorching heat, in a bathroom without a lock during a lockdown
3 drill, harassed, bullied, intimidated and coerced her into wearing a mask she did not want or need to
4 wear—all to intentionally intimidate, pressure and coerce her into wearing a mask, get tested for
5 COVID, and make her so miserable so that she would beg her parents to get her “Vaccinated.”
6

7 310. The Defendant’s agents, each of them, intended to cause, and/or recklessly disregarded the
8 possibility of such actions causing G.W. and NICOLE WARD emotional distress.

9 311. Plaintiffs have suffered humiliation, great stress, mental anguish, substantial annoyance,
10 emotional trauma, severe and extreme emotional and physical distress and, thereby, have been
11 directly and proximately injured in mind and body.
12

13 312. Defendants conduct, each of them as herein alleged, was a substantial factor in causing
14 Plaintiffs’ severe emotional distress, resulting in suffering, anguish, fright, horror, nervousness, grief,
15 anxiety, worry, shock, humiliation and shame, more than an ordinary reasonable person would be
16 able to cope with, and with physical manifestations therein.
17

18 313. As a further proximate result of the acts alleged above, Plaintiffs were required to and did
19 employ professional counselors to examine, treat, and care for Plaintiffs, and incurred additional
20 incidental expenses related to this counseling. Plaintiffs are informed and believes and thereon
21 alleges that Plaintiffs will incur additional expenses for necessary counseling and therapy to cope
22 with the trauma caused by Defendants’ joint conduct, the exact amount of these expenses is
23 unknown.
24

25 314. By reason of the acts alleged above, G. W. was prevented from attending CoSA as a student
26 and thereby suffered great learning loss and extra-curricular activity loss and suffered the cost of
27 attending a private alternative program to supplement said losses.
28

1 315. The acts of Defendants, each of them, alleged above were willful, wanton, malicious, and
2 oppressive, and justify the awarding of exemplary and punitive damages.

3 **WHEREFORE**, Plaintiff prays judgement against defendants, and each of them, as follows:

- 4
- 5 1) For a judicial declaration that school district policy relating to forced masking is invalid and
6 unenforceable as violative of plaintiff's rights of free speech and expression;
 - 7 2) For general, compensatory and reliance damages in an amount to be determined at trial
 - 8 3) For medical expenses and related items of expense, according to proof
 - 9 4) For statutory damages in an amount to be determined at trial;
 - 10 5) For civil penalties pursuant to civil code §52, 51.7 and other applicable law;
 - 11 6) For attorney's fees per 42 U.S.C. § 1988(b) and any other applicable statute such as civil code
12 §52;
 - 13 7) For punitive damages, pursuant to Title 42 Section 1983 of the United States Code and
14 California Civil Code §3294 in an amount sufficient to punish Defendants for the wrongful
15 conduct alleged herein and to deter such conduct in the future; for costs of suit, attorneys'
16 fees, and expert witness fees pursuant to the Unruh Civil Rights Act, the California
17 Government Code, the California Civil Code, the California Education Code and/or any other
18 basis;
 - 19 8) For costs of suit incurred herein; and
 - 20 9) For such other and further relief as the court may deem just and proper.

21
22
23
24
25
26
27
28
Date: August 24, 2022.

By: _____ 

Tracy L. Henderson, Esq
Attorney for Plaintiff H.N., a minor