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14
15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA
17 EASTERN DIVISION

18 UPNEET DHALIWAL AND JULIE
19 GEARY

20 Plaintiffs,

21 vs.

22 JOSEPH KOMROSKY, in his
official capacity as President of
23 TEMECULA VALLEY UNIFIED
SCHOOL DISTRICT BOARD OF
24 TRUSTEES, and in his individual
capacity, TEMECULA VALLEY
25 UNIFIED SCHOOL DISTRICT
BOARD OF TRUSTEES, and
26 TEMECULA VALLEY UNIFIED
SCHOOL DISTRICT

27 Defendants.
28

CASE NO. 5:23-CV-2605

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF AND
NOMINAL DAMAGES**

[Pursuant to 42 U.S.C. § 1983 for violation of the First Amendment; Cal. Const., Art. I, XIV §§ 2,3; Cal. Gov't Code §§ 54960, 54960.1, 54960.2 (the Ralph M. Brown Act)]

JURISDICTION AND VENUE

1
2 1. This action seeks declaratory and injunctive relief, as well as nominal
3 damages, to remedy the deprivation of Plaintiffs’ federal and state constitutional and
4 statutory rights and to prevent the Temecula Valley Unified School District Board of
5 Trustees (the “Board”) and its President, Defendant Joseph Komrosky, from
6 violating their rights in the future. This Court has jurisdiction over the federal civil
7 rights claims under 28 U.S.C. §§ 1331 and 1343. Declaratory and/or injunctive relief
8 is authorized under 28 U.S.C. §§ 2201 and 2202. This Court has supplemental
9 jurisdiction over the state law claims under 28 U.S.C. § 1367(a). The Court’s
10 exercise of supplemental jurisdiction over Plaintiffs’ claims under state law is
11 proper, as the state law claims “are so related to [Plaintiffs’ claims] that they form
12 part of the same case or controversy.” 28 U.S.C. § 1367(a).

13 2. Venue is proper in this Court under 28 U.S.C. § 1391(b) because Defendants
14 reside in, and all incidents, events, and occurrences giving rise to this action occurred
15 in, the County of Riverside, California.

16 3. Plaintiffs Upneet Dhaliwal and Julie Geary (collectively, “Plaintiffs”) allege
17 as follows:

INTRODUCTION

18
19 4. Defendant Komrosky has repeatedly ordered numerous members of the
20 public, including Plaintiffs, removed from Board meetings when they were not
21 engaged in disruptive conduct, and without adequate warning, in violation of the
22 public’s state and federal constitutional and statutory rights to petition government
23 and observe and/or participate in the conduct of the people’s business on matters of
24 great interest and importance, and of California’s open meetings law, the Ralph M.
25 Brown Act, California Government Code §§ 54950-54963 (the “Act” or the “Brown
26 Act”). Mr. Komrosky has implemented an expulsion process that ensures systemic
27 repetition of these violations, which will chill the ability of Plaintiffs and other
28 members of the public to participate in future board meetings.

1 5. Defendant Temecula Valley Unified School District ratified and encouraged
2 Mr. Komrosky’s actions by adopting as Board policy a set of unconstitutionally
3 vague and overbroad regulations that govern purportedly “disruptive” conduct at
4 Board meetings. This policy helps ensure Mr. Komrosky’s pattern and practice of
5 violating the public’s rights to free speech and access to government will continue
6 throughout his term in office and that there is a credible threat people will be
7 expelled from meetings for conduct that is not disruptive absent an injunction against
8 enforcement of the regulations.

9 6. Plaintiffs respectfully ask the Court to issue an order, *inter alia*, enjoining
10 Defendants from violating the public’s constitutional and statutory rights by ordering
11 members of the public expelled from Board meetings when they have not engaged in
12 disruptive conduct and when they have not been provided adequate warning, and
13 from enforcing any portion of the regulations that enables such expulsions.

14 PARTIES

15 STATEMENT OF FACTS

16 **A. Policies Implemented by Defendant Komrosky and the Board to Expel** 17 **Members of the Public from Board Meetings**

18 15. Mr. Komrosky has taken an innovative approach to expelling members of the
19 public from open Board meetings, relying on a penalty card system loosely borrowed
20 from soccer matches.

21 16. Mr. Komrosky inaugurated his penalty card system at the June 27, 2023
22 Board meeting, where he explained: “If you cause disruptions you will be removed.
23 What I’m gonna do tonight, we’ll do something new to save time. If I give you this
24 (holding yellow card up), from all my soccer buddies that’s your first warning. If I
25 give you a second one and this, (holding red card up), you’re out, you can see
26 yourself out. A disruption can be a loud outburst or even something like constant
27 talking in the rear that causes one of the board members and staff here to lose the
28 ability to concentrate and thus govern properly. Also, when people are commenting,

1 no yelling. There's going to be controversial comments coming from both sides. Be
2 respectful and let people talk. If you comment you're going to get yellow carded. If
3 you keep on talking, you're going to get red and you're going to get out. ... I expect
4 you to follow the rules of proper decorum and I reserve the right -- If I give you the
5 first warning, and it's so egregious, and it is a yellow card, you're going to be asked
6 to be removed. I've had very egregious instances where people just get up and start
7 yelling at the top of their lungs. I don't care who you are, it's just not gonna happen
8 tonight. This is fair notice that if you have a burning desire to cause disruption,
9 you'll be removed."

10 17. Starting with the June 27, 2023 Board meeting, Mr. Komrosky began to
11 regularly hold up a yellow card when he identified something he wanted to label as
12 disruptive conduct, telling the individual, or group of individuals, either that they had
13 received a yellow card or a warning, but failing to inform them that their behavior
14 was disrupting the meeting or that their failure to cease their behavior may result in
15 their removal.

16 18. Mr. Komrosky has continued to rely on his penalty card system in meetings
17 subsequent to the June 27, 2023 Board meeting, though the specific language of the
18 opening monologue he provides has changed in some ways over time.

19 19. Until at least late September 2023, the explanation that Mr. Komrosky
20 provided for his penalty card system did not state that people will be "yellow
21 flagged" or warned only when they are engaged in disruptive conduct, as required by
22 Cal. Gov't Code § 54957.95(a)(2). Nor does Defendant Komrosky's explanation
23 inform audience members about the requirement in the same statutory provision that
24 they cannot be removed if they are involved in genuinely disruptive conduct but
25 immediately cease that conduct, unless they are using force or make a true threat of
26 force.

27 20. At the October 17, 2023 Board meeting, Mr. Komrosky provided a new
28 explanation for his penalty card system. As he issued the revised warning, Mr.

1 Komrosky stated, in relevant part, that “hate speech, obscenity, or any other conduct
2 during public comment that does or is likely to disrupt the Board meeting from
3 proceeding is prohibited. Similarly, conduct by audience members that does or is
4 likely to disrupt public comment or any other aspect of the Board meeting from
5 proceeding is prohibited.” Then, as he displayed his yellow and red cards, Mr.
6 Komrosky stated that “if I use these cards, these are symbolic representations. I use
7 them to give warnings to save time. If you see me point to you and give you a yellow
8 card, it’s your first warning that you’re disrupting the Board meeting from
9 proceeding. If you receive a second yellow then it automatically turns into a red and
10 you will be asked to escort yourself out of the Board meeting. If your behavior is
11 egregious enough you will be given a red card and you will be asked to escort
12 yourself out. If asked to escort yourself out and if you don’t, I’ll ask security to help
13 escort you out.”

14 21. At the August 9, 2023 open meeting, the Board voted to pass its agenda item
15 K.1, adopting new regulations “related to board meeting disruptions pursuant to
16 Government Code Sections 54954.3 and 54957.95.” These regulations include a list
17 of types of conduct that are deemed “disruptive” and a requirement to “advise
18 attendees of the Board’s prohibitions of disruptions based on these and other forms
19 of conduct.” During the meeting, Komrosky indicated that this advisal would take
20 the form of posting a notice at Board meetings that would contain a list of the
21 varieties of purportedly “disruptive” conduct.

22 22. The types of conduct listed in the August 9, 2023 notice are: “Use of hate
23 speech, obscenity, and similar conduct”; “Loud, profane, and abusive language”;
24 “Speaking, whistling, clapping, stomping feet, and other conduct interrupting
25 recognized speaker(s)”; “Use of force and threats of force”; “Efforts to engage other
26 attendees for the purpose of creating a disruption”; “Display of signs or other large
27 objects designed to block attendees’ view or participation [in a] meeting”; and
28 “Refusal to comply with directives to comply with rules of conduct.”

1 23. The notice implied that each of these types of conduct would automatically
2 be deemed disruptive, regardless of whether they actually disrupt or impede the
3 Board meeting.

4 24. By October 31, 2023, the Board had revised its disruptive conduct
5 regulations, apparently in response to Ms. Geary's August 21, 2023 letter.

6 25. The regulations are included in a "Board Meeting Poster" that is displayed
7 for audience members to view at Board meetings, a copy of which was sent to
8 Plaintiffs' counsel on October 31, 2023, in response to a request for public records.

9 26. The revised regulations state that "Attendees who disrupt the meeting will be
10 removed by the Board President or designee in accordance with Government Code
11 section 54957.95."

12 27. The Poster states that "Disruptions include: 'Disturbing, impeding, or
13 preventing orderly conduct of meeting; Use of hate speech, obscenity, or similar
14 conduct that disrupts *or is likely to disrupt* [the] meeting; Use of loud, profane, or
15 abusive language that disrupts *or is likely to disrupt* [the] meeting; Speaking,
16 whistling, clapping, stomping feet, or other conducting [sic] interrupting recognized
17 speaker(s); Use of force or threats of force; Engaging other attendees for the purpose
18 of creating a disruption; Display of signs or other large objects designed to block
19 attendees' view or participation of meeting; Refusal to comply with directives to
20 comply with rules of conduct; and Any other conduct that disrupts the meeting.'"
21 (emphasis added).

22 28. Mr. Komrosky regularly refers to the Poster when informing members of the
23 public about his ability to order people removed from Board meetings. For example,
24 at the December 12, 2023 Board Meeting, as part of Mr. Komrosky's explanation of
25 the types of conduct that are prohibited at Board meetings and that can result in
26 expulsion, he pointed to copies of the Poster and stated that "we have posted our
27 objective expectations on each of the walls for the audience members to act civilly."

28 29. The revised regulations and Poster make clear that Mr. Komrosky or his

1 designee will order members of the public removed when they engage in conduct
2 they deem merely “likely to disrupt” the meeting, rather than ordering removal only
3 when an attendee engages in conduct that *actually* disrupts the meeting.

4 **B. Expulsions of Plaintiffs from Board Meetings**

5 30. Mr. Komrosky ordered Ms. Geary removed from three recent Board
6 meetings for quietly expressing concern about Board actions while she was seated in
7 the audience.

8 31. At the July 18, 2023 meeting, Ms. Geary was in the audience during the
9 public comment period when a man named Chauncey (“Slim”) Killens expressed a
10 series of hateful comments directed to members of the LGBTQ+ community and
11 their supporters, including the Governor of California, and seemed to be threatening
12 them.

13 32. Earlier in the meeting, Mr. Komrosky had ordered the expulsion of Temecula
14 Valley Unified School District teacher Jennee Scharf for calling Board Member
15 Danny Gonzalez a “homophobe” while she was providing public comment.

16 33. Just before Mr. Killens spoke, Mr. Komrosky ordered Pastor Tim Thompson
17 expelled for referring to another Board member as “probably a communist” during
18 his public comments.

19 34. Neither Ms. Scharf nor Pastor Thompson were disruptive in any way. They
20 were both clearly expelled for no reason other than the content of their comments.

21 35. Ms. Geary believed that Mr. Killens’ comments were far more heated and
22 inflammatory than the comments of either Ms. Scharf or Pastor Thompson. They
23 were openly insulting and derogatory, and, she thought, threatening. Yet, Mr.
24 Komrosky made no effort to dissuade him from insulting or threatening anyone and
25 did not order him removed.

26 36. Ms. Geary did not think that Ms. Scharf or Pastor Thompson should have
27 been expelled from the meeting because they were not disrupting it nor were their
28 comments threatening in any way – they were merely speaking their mind, albeit

1 using language that many people might find very critical. However, Ms. Geary also
2 thought that if Mr. Komrosky was going to order people removed from the meeting
3 because he thought their comments were insulting or derogatory, then it did not
4 make sense that Mr. Killens was permitted to remain in the room when Ms. Scharf
5 and Pastor Thompson were not.

6 37. Ms. Geary was so frustrated by what she perceived as a double standard
7 about what speakers are allowed to do or say based on whether they are supporting
8 the board majority or not supporting it, that she just held out her arms in dismay.

9 38. And, because Ms. Geary was sitting in the second row in direct eye contact
10 with the Mr. Komrosky, she said something to him in a conversational voice like
11 “What is this? I don’t understand. Are we allowed to threaten people?” as the next
12 speaker was approaching the podium.

13 39. Ms. Geary did not impede the progress of the new speaker or attempt to stop
14 him from speaking. Before the speaker reached the podium, Mr. Komrosky held up
15 his red card, ordering Ms. Geary expelled from the meeting without warning her that
16 she was being disruptive or that she would be expelled if she did not stop speaking.

17 40. Because the Board was waiting for that speaker to reach the podium and
18 begin his comments, there was no Board business occurring at the time Ms. Geary
19 spoke from the audience, and hence no business for her to disrupt.

20 41. As she gathered her belongings, and as three sheriff’s deputies approached
21 Ms. Geary to escort her out, Board Member Allison Barclay noted “She has a valid
22 point. That definitely sounded like a threat... I mean, am I wrong? Joe was that not a
23 threat?”

24 42. Ms. Geary’s expulsion was covered on the television news. Friends and
25 colleagues asked her about it and wanted to know if she had been arrested. She was
26 forced to explain what happened and to let people know that she was not trying to be
27 a troublemaker or to disrupt a meeting, but only felt a need to stand up when she sees
28 someone violating others’ constitutional rights.

1 43. Mr. Komrosky also ordered Ms. Geary removed from the August 9, 2023
2 Board meeting when the Board was discussing new disruptive conduct regulations.
3 Ms. Geary was speaking in a calm and low voice to people sitting around her in the
4 audience, to question the Board's understanding and definitions of "hate speech,"
5 and to say that the proposed regulations would violate the public's First Amendment
6 rights. Her comments are barely audible on the video of the meeting (see
7 <https://www.youtube.com/watch?v=r1zBmCTY7GI&t=3817s> at approximately
8 57:30), and she certainly did not speak over any board member. While she might
9 have told the Board President that he was wrong, she was not yelling, and Mr.
10 Komrosky never told or warned her she was being disruptive.

11 44. As Ms. Geary was expelled, Board Member Barclay told Mr. Komrosky that
12 it was ironic that he was kicking Ms. Geary out as the Board was discussing the
13 disruptive conduct regulations, because it was Mr. Komrosky who was actually
14 "delaying" and "disrupting the meeting."

15 45. When Ms. Geary attends Board meetings, it is easy for Board members,
16 including Mr. Komrosky, to recognize that she is there to oppose the policy agenda
17 of the Board majority. She usually sits with other people who are dressed in ways
18 that demonstrate that they are opposed to some of the Board's actions. Some of the
19 people she sits with often wear blue t-shirts. She occasionally wears a One Temecula
20 Valley Political Action Committee t-shirt with a circle logo containing a mountain
21 graphic that would be recognizable to Mr. Komrosky as a symbol of opposition to
22 his policies. The t-shirt is blue because it was designed to express solidarity with the
23 teachers' union t-shirts, which are also blue. People who attend the Board meetings
24 to support the Board's actions often sit on the other side of the room and often wear
25 red. This makes it easy for the most part to tell what side of the political aisle people
26 are on.

27 46. Mr. Komrosky also ordered Ms. Dhaliwal expelled from the September 1,
28 2023 special Board meeting when she was providing public comment.

1 47. The meeting had an agenda item to change the qualifications needed to hire a
2 Superintendent. The agenda item included a “rationale” section and a job description.

3 48. Ms. Dhaliwal wanted to provide public comment objecting to both the
4 “rationale” section and the job description, but Mr. Komrosky apparently determined
5 that her comments did not address the agenda item, and interrupted her, telling her,
6 in effect, to “stick to the agenda,” before instructing her to yield her time, and cutting
7 her microphone feed.

8 49. When Ms. Dhaliwal continued to speak, Mr. Komrosky ordered a sheriff’s
9 deputy to have her removed from the meeting. In order to avoid being escorted out
10 by law enforcement officers, Ms. Dhaliwal left the meeting on her own.

11 50. Throughout her comments, Ms. Dhaliwal spoke in an even tone. She did not
12 shout, scream, or engage in any conduct that disrupted the Board meeting. Mr.
13 Komrosky did not warn her that she was engaging in disruptive conduct, or provide
14 an opportunity for her to cease engaging in any allegedly disruptive conduct, before
15 ordering her expelled.

16 **C. Expulsions of Other Members of the Public from Board Meetings**

17 51. Mr. Komrosky ordered a woman named Monica Lacombe removed from the
18 May 16, 2023 meeting after pointing at a group of people sitting together in one part
19 of the room, and telling them “audience, this is a warning, this is a warning to this
20 group over here. First warning.” It is unclear what provoked Mr. Komrosky’s ire, but
21 Ms. Lacombe immediately agreed to leave, but told Mr. Komrosky not to point at
22 them in a soft but firm voice, as she pointed back at him. Mr. Komrosky continued to
23 point at Ms. Lacombe, telling her “you got the first warning.” Ms. Lacombe again
24 told Mr. Komrosky “don’t do that” in a fairly soft voice. She stopped speaking, but
25 Mr. Komrosky nevertheless told Ms. Lacombe “You’re outta here.” As she started to
26 leave, Mr. Komrosky ordered security to escort Ms. Lacombe out. Mr. Komrosky
27 never told Ms. Lacombe that she was engaged in disruptive conduct.

28 52. During the public comment period of the otherwise closed session of the June

1 13, 2023 Board meeting, Pastor Deon Hairston criticized the Board’s decision to
2 implement its purported “critical race theory” or “CRT” ban, addressing what he
3 considered poor leadership and racist decision making. At one point during his
4 comments, Mr. Komrosky interrupted Pastor Hairston, and told him to “be
5 respectful, Deon.” As part of his public comment in the open session of the same
6 meeting, Pastor Hairston addressed a history of Mr. Komrosky’s having targeted
7 Black members of the public for expulsion. He noted that he was the only Black
8 speaker at the public comment period of the closed session earlier that day, and that
9 even though other speakers had addressed the CRT ban during that session, he was
10 the only speaker Mr. Komrosky interrupted and told he was off topic. He also noted
11 that Mr. Komrosky had ejected three Black women in earlier meetings. He said that
12 even white community members had approached him, asking why Mr. Komrosky
13 was “targeting Black people in such an openly racist manner, with no shame?” Mr.
14 Hairston said that the community had noticed Mr. Komrosky’s “habit of kicking
15 Black people out,” and reminded the board that Mr. Komrosky had ordered him
16 removed from an earlier meeting after Pastor Hairston objected to a white woman’s
17 yelling that he should “go back to Africa.”

18 53. Later in the June 13, 2023 open session, Mr. Komrosky targeted two
19 audience members for ejection. If the people who were ejected were engaged in any
20 conversation, it was not loud enough to be captured in the recording, and clearly was
21 not genuinely disruptive. Nevertheless, Mr. Komrosky can be heard saying “That’s a
22 first warning for the person in the audience right there. Thank you. Thank you. Let
23 us conduct business. Thank you. Audience member. Second warning, both of you are
24 removed.” There was no time at all between Mr. Komrosky’s reference to a second
25 audience member and his decision to eject both people. Mr. Komrosky certainly
26 provided the second audience member no opportunity to cease the allegedly
27 disruptive conduct, or even to be clearly accused of having engaged in disruptive
28 conduct.

1 54. Mr. Komrosky ordered Temecula Valley Unified School District teacher
2 Jennee Scharf removed from the July 18, 2023 Board meeting after she called Board
3 member Danny Gonzalez a “homophobe” while she was providing public comment
4 and speaking in a calm and measured tone. As the *Los Angeles Times* reported, Mr.
5 Gonzalez had supported a decision to reject proposed instructional material that
6 mentioned “slain gay rights leader Harvey Milk” by baselessly claiming “[w]ithout
7 evidence... that [the] proposed instruction would promote pedophilia.”¹ Ms. Scharf’s
8 conduct was in no way disruptive, and Mr. Komrosky’s actions left Board member
9 Allison Barclay befuddled, forcing her to ask for an explanation and telling Mr.
10 Komrosky that she objected to the ejection.

11 55. In defense of his actions, Mr. Komrosky could only offer that “we’re gonna
12 conduct this meeting without name calling, racism, derogatory remarks to the board
13 members like what just occurred.”

14 56. At the August 9, 2023 Special Session Board meeting, Mr. Komrosky
15 suggested that the reason he ordered Ms. Scharf removed from the July 18 meeting
16 was that he considered her use of the word “homophobe” to be hate speech.

17 57. When he was interviewed for the August 28, 2023 episode of the “Point.
18 Blank. Truth.” podcast, Mr. Komrosky confirmed his belief that what he referred to
19 as “the conventional First Amendment” does not apply to Board meetings, where he
20 is “justified” in ordering people expelled when they say words that he considers
21 “hate speech,” including “homophobe, groomer, pedophile, you know, white
22 supremacist or, whatever” because such words “could elicit violence.”²

23 ///

24 _____
25 ¹ Mackenzie Mays, *Temecula School Board Outrage Over LGBTQ+ Lessons*
26 *Motivates Newsom to Rush New Textbook Law*, L.A. TIMES (July 19, 2023),
27 <https://www.latimes.com/california/story/2023-07-19/newsoms-push-for-textbook-regulation-defies-current-state-law>. Video of the incident can be viewed at
28 approximately 8 minutes and 45 seconds into the video of the meeting, found here:
https://www.youtube.com/watch?v=NN-Z_IcswqM.

² *Point.Blank.Truth. Podcast*, iHEART (Aug. 28, 2023),
<https://www.iheart.com/podcast/338-pointblanktruth-podcast-121908933/>.

1 58. Minutes after ordering Ms. Scharf removed from the July 18 meeting, Mr.
2 Komrosky ordered Pastor Tim Thompson expelled for referring to another Board
3 member as “probably a Communist” because he had expressed support for Governor
4 Newsom’s comments about the district. Like Ms. Scharf, Mr. Thompson was
5 speaking in a calm but deliberate and forceful tone during public comment and did
6 nothing more than criticize a Board member.

7 59. At the August 9, 2023 Special Session Board Meeting, after the Board
8 abruptly ended public comment about a motion to hire a law firm to represent it in a
9 challenge to the Board’s purported ban on “CRT,” some of the audience members on
10 one side of the room objected to the decision. There are audible boos on the
11 recording of the meeting, and one person yells out “Dictator, Dictator, kick me out, I
12 don’t care.” While that individual may have been engaged in disruptive conduct,
13 other members of the public who were sitting on that side of the room were not
14 engaged in disruptive conduct but were nevertheless ejected from the meeting.

15 **D. BROWN ACT PROCEDURAL HISTORY**

16 60. When it enacted the Brown Act, the California Legislature found and
17 declared that public agencies and boards exist to aid in the conduct of the people's
18 business, and their actions are intended to be taken openly and their deliberations be
19 conducted openly. *See* Cal. Gov't Code § 54950. Accordingly, “[a]ll meetings of the
20 legislative body of a local agency shall be open and public, and all persons shall be
21 permitted to attend any meeting of the legislative body of a local agency.” Cal. Gov't
22 Code § 54953(a). Additionally, “[e]very agenda for regular meetings shall provide an
23 opportunity for members of the public to directly address the legislative body on any
24 item of interest to the public, before or during the legislative body's consideration of
25 the item, that is within the subject matter jurisdiction of the legislative body”
26 Cal. Gov't Code § 54954.3(c).

27 61. “The legislative body of a local agency shall not prohibit public criticism of
28 the policies, procedures, programs, or services of the agency, or of the acts or

1 omissions of the legislative body." Cal. Gov't Code § 54954.3(c).

2 62. The Brown Act provides a private right of action and sets requirements for
3 "any interested person" to "commence an action by mandamus, injunction, or
4 declaratory relief for the purpose of stopping or preventing violations or threatened
5 violations of [the Act] by members of the legislative body of a local agency or to
6 determine the applicability of [the Act] to ongoing actions or threatened future
7 actions of the legislative body, or to determine the applicability of [the Act] to past
8 actions of the legislative body." Cal. Gov't Code § 54960.

9 63. Plaintiff Julie Geary complied with these requirements after she was
10 repeatedly ordered removed from Board meetings July 18, 2023 and August 9,
11 2023, when she was not engaged in disruptive conduct by timely sending a letter to
12 Board President, Mr. Komrosky, and all Board Members, on August 21, 2023,
13 informing them that Mr. Komrosky and the Board had violated the Brown Act and
14 the First Amendment and California constitution in numerous ways over the previous
15 several months, that the violations continued through the present, and that the Board
16 had enacted policies that would ensure continued violations in the future. The letter
17 demanded that the Board cease and desist its Brown Act violations.

18 64. The letter notified Mr. Komrosky and other Board members that Ms. Geary
19 and/or other interested parties could take legal action pursuant to Government Code
20 § 54960.2(b) if the Board did not respond to the letter within 30 days, providing its
21 unconditional commitment to cease, desist from, and not repeat the violations
22 described in the letter. Ms. Geary granted two extensions based on requests from the
23 Board's attorney, agreeing that the Board could have until October 18, 2023 to
24 provide an adequate response under § 54960.2(b).

25 65. While Ms. Geary was waiting for a response to her August 21, 2023 letter,
26 the Board met on August 17, 2023. During that meeting, Mr. Komrosky engaged in
27 further conduct that violated the Brown Act and First Amendment.

28 66. On October 18, 2023, Mr. Komrosky replied to the Ms. Geary's August 21,

1 2023 letter with a letter stating that the Board “unconditionally commits that it will
2 cease, desist from, and not repeat” the actions alleged in the August 21, 2023 letter.

3 67. On October 27, 2023 Plaintiffs’ counsel responded to Mr. Komrosky’s
4 October 18, 2023 letter, expressing concern about Mr. Komrosky’s conduct during
5 the October 17, 2023 Board meeting, and notifying him that violation of the terms of
6 an unconditional commitment to cease and desist from a Brown Act violation
7 constitutes an independent violation of the Brown Act.

8 Cal Gov’t Code § 54960.2(d). The letter advised Mr. Komrosky that future Brown
9 Act and First Amendment violations would expose the Board and the District to
10 additional potential liability. The letter also requested a copy of the Board’s current
11 disruptive conduct regulations pursuant to the California Public Records Act.

12 68. On October 31, 2023, the Board’s Director of Compliance for Human
13 Resources Development, Michael D. Marble, responded to the Public Records
14 request by providing a “Board Meeting Poster” including the new disruptive conduct
15 regulations.

16 69. Those regulations suffer from the same constitutional infirmities addressed in
17 Ms. Geary’s August 21, 2023 letter. The revised regulations state that “Disruptions
18 will not be tolerated” and that attendees who disrupt the meeting will be removed by
19 the Board President or designee. The Poster states that “Disruptions include” a
20 variety of forms of conduct, including “[u]se of hate speech, obscenity, or similar
21 conduct that disrupts *or is likely to disrupt* [the] meeting” and “[u]se of loud,
22 profane, or abusive language that disrupts *or is likely to disrupt* [the] meeting.”
23 (emphasis added).

24 70. By continuing to violate the First Amendment and Brown Act even after
25 sending the October 18, 2023 unconditional cease and desist commitment letter, the
26 Board and Mr. Komrosky have voided their commitment to avoid future First
27 Amendment and Brown Act violations, making clear that their commitment was
28 hollow. Plaintiffs Geary and Dhaliwal therefore proceed with their claims for

1 declaratory and injunctive relief and damages.

2 **CAUSES OF ACTION**

3 **FIRST CLAIM FOR RELIEF**

4 [Against Defendant Komrosky]

5 (42 U.S.C. § 1983 - U.S. Const. Amend. I)

6 71. Plaintiffs allege and replead all the allegations of the preceding paragraphs of
7 this Complaint and incorporate them here by reference.

8 72. Defendants have deprived Plaintiffs of their rights guaranteed by the First
9 Amendment as incorporated by the Fourteenth Amendment of the United States
10 Constitution.

11 73. At all times, Defendants have been, are presently, and will be, acting under
12 the color and authority of the laws of the United States and the State of California.

13 74. The “regulations related to board meeting disruptions pursuant to
14 Government Code sections 54954.3 and 54957.95” that the Board adopted with the
15 passage of agenda item K.1 (“Item K.1”) at its August 9, 2023 Special Board
16 Meeting deem various forms of speech and expressive conduct inherently disruptive
17 regardless of whether they actually disrupt or impede a Board meeting, and they
18 grant Mr. Komrosky or his designee the authority to expel members of the public for
19 speech and conduct that does not actually disrupt the meeting. The revised
20 regulations sent to Plaintiffs’ counsel on October 31, 2023, and posted at Board
21 meetings after that date contain the same infirmities and grant Mr. Komrosky or his
22 designee the authority to expel members of the public for speech and conduct they
23 conclude is “likely to disrupt the meeting” regardless of whether it actually does.
24 These regulations, or the revised version sent to Plaintiffs’ counsel on October 31,
25 2023, are official Board policy under Government Code § 54954.3, and they ratify
26 Mr. Komrosky’s pattern and practice of ordering members of the public expelled
27 from Board meetings when they have not engaged in disruptive behavior.

28 ///

1 75. The regulations adopted by the passage of Item K.1 are not sufficiently
2 narrowly tailored to serve any appropriate government interest or are otherwise
3 unreasonable in light of the purposes served by the Board meetings.

4 76. The regulations adopted by the passage of Item K.1 are also unduly vague
5 and ambiguous. They fail to provide adequate notice because they fail to define key
6 terms, including “likely to be disruptive” and “hate speech” that would indicate what
7 speech and expressive conduct is prohibited or may be permitted.

8 77. By leaving in place, enforcing, and/or threatening to enforce Item K.1,
9 Defendants deprive Plaintiffs and others of rights guaranteed by the First and
10 Fourteenth Amendment of the United States Constitution. Additionally, Mr.
11 Komrosky ordered Ms. Geary expelled from the July 18, 2023 and August 9, 2023
12 Board meetings, and ordered Ms. Dhaliwal removed from the September 21, 2023
13 Board meeting, when they were not engaged in disruptive conduct, violating their
14 rights to free speech and free expression, and their right to petition the government
15 under the First Amendment to the United States Constitution.

16 78. Defendants continue to chill the constitutional rights of Plaintiffs, as well as
17 other people who wish to speak out and criticize the actions of Board members, by
18 enforcing or threatening to enforce a vague and overbroad set of “disruptive
19 conduct” regulations that restrict protected expression at open and public Board
20 meetings.

21 **SECOND CLAIM FOR RELIEF**

22 [Against All Defendants]

23 (Free Speech Under Cal. Const. art. I § 2))

24 79. Plaintiffs allege and replead all the allegations of the preceding paragraphs of
25 this Complaint and incorporate them here by reference.

26 80. Defendants' rules, policies, and actions, as alleged in this Complaint, deprive
27 Plaintiffs, and members of the general public desiring to speak at Board meetings, of
28 the right to free speech as guaranteed by Article I, section 2 of the California

1 Constitution.

2 **THIRD CLAIM FOR RELIEF**

3 [Against Defendant Komrosky]

4 (42 U.S.C. § 1983 - U.S. Const. Amend. I)

5 81. Plaintiffs allege and replead all the allegations of the preceding paragraphs of
6 this Complaint and incorporate them here by reference.

7 82. Mr. Komrosky employs his penalty card system to order people expelled
8 from Board meetings when they have not engaged in disruptive conduct.

9 83. Mr. Komrosky lacks either a compelling or substantial legitimate government
10 interest in regulating speech and expression in the manner accomplished by use of
11 his penalty card system.

12 84. The penalty card system is not sufficiently narrowly tailored to serve any
13 appropriate government interest and is otherwise unreasonable.

14 85. In order to implement the penalty card system, Mr. Komrosky provides an
15 explanation of prohibited conduct that is unduly vague and ambiguous. It fails to
16 provide adequate notice because it fails to define key terms that would indicate what
17 speech and expressive conduct is prohibited or may be permitted.

18 **FOURTH CLAIM FOR RELIEF**

19 [Against All Defendants]

20 (Violations of the Ralph M. Brown Act, Cal. Gov't Code §§ 54960, 54960.1,
21 54960.2, 5497.95)

22 86. Plaintiffs allege and replead all the allegations of the preceding paragraphs of
23 this Complaint and incorporate them here by reference.

24 87. The TVUSD Board is a legislative body of a local agency and is thus subject
25 to the Brown Act. Cal. Gov't Code § 54952; *see also* Cal. Educ. Code § 35145.

26 88. As a local agency, Defendant TVUSD is subject to the Brown Act. Cal.
27 Gov't Code § 54951; *see also* Cal. Educ. Code § 35145.

28 89. The Brown Act vests the presiding member of Board meetings and their

1 designee with the authority to remove, or cause the removal of, an individual for
2 disrupting the meeting, but only if the individual is “engaging in behavior during a
3 meeting of a legislative body that actually disrupts, disturbs, impedes, or renders
4 infeasible the orderly conduct of the meeting” and only if he warns “the individual
5 that their behavior is disrupting the meeting and that their failure to cease their
6 behavior may result in their removal” and if “they do not promptly cease their
7 disruptive behavior.” Cal. Gov’t Code § 54957.95.

8 90. Mr. Komrosky’s decisions to expel Ms. Geary from the July 18, 2023 and
9 August 9, 2023 Board meetings, and to expel Ms. Dhaliwal from the September 21,
10 2023 Board meeting, when they were not engaged in disruptive conduct, and without
11 warning them that they were engaged in disruptive conduct, violated their rights to
12 observe and address the Board.

13 91. Plaintiffs demanded Defendants cure or correct/cease and desist those
14 violations.

15 92. While Defendants provided cease and desist assurances, they did so
16 immediately after repeating some of the violations alleged in Ms. Geary’s cease and
17 desist letter. Then, rather than curing and correcting the violations after providing
18 their cease and desist assurances, Defendants continued to violate the Brown Act.
19 This violation of the terms of an unconditional commitment to cease and desist from
20 a Brown Act violation constitutes an independent violation of the Brown Act under
21 Government Code Section 54960.2(d).

22 93. Consequently, Plaintiffs seek relief from this Court.

23 **REQUEST FOR RELIEF**

24 Wherefore, Plaintiffs respectfully request that the Court:

- 25 A. Issue a declaration that all Defendants violated and threaten to continue to
26 violate the First Amendment of the United States Constitution and Cal.
27 Const. art. I § 2 by enacting a vague and overbroad set of “disruptive
28 conduct” regulations that restrict protected expression at open and public

1 Board meetings, and that Mr. Komrosky violated the First and Fourteenth
2 Amendments to the United State Constitution and the Brown Act by
3 ordering Plaintiffs and members of the public expelled from Board
4 meetings when they were not engaged in disruptive conduct, and without
5 adequate warning;

6 B. Enjoin Defendants from committing Constitutional and Brown Act
7 violations detailed in this complaint;

8 C. Enjoin Defendants from continuing to enforce or refer the public to the
9 “disruptive conduct” regulations the District and Board adopted with the
10 passage of agenda item K.1 (“Item K.1”) at the August 9, 2023 Special
11 Board Meeting;

12 D. Order Defendants to provide an unconditional assurance per Government
13 Code § 54960.2 that Defendants will comply with the Brown Act;

14 E. Enter judgment for Plaintiffs for nominal damages of \$1 against Defendant
15 Komrosky in his individual capacity for violations of the First Amendment
16 and 42 U.S.C. § 1983;

17 F. Order Defendants to pay Plaintiffs’ attorneys’ fees and costs incurred in
18 this action under 42 U.S.C. § 1988, California Government Code §
19 54960.5, California Code of Civil Procedure § 1021.5, and any other
20 applicable provision of law; and

21 G. Grant such further and different relief as this Court may deem just and
22 proper.

23 Dated: December 21, 2023

24 ACLU FOUNDATION OF SOUTHERN
25 CALIFORNIA

26 By: s/Jonathan Markovitz
27 JONATHAN MARKOVITZ
28 Attorneys for Plaintiffs