

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

K.A. a minor, by and through her next friend, Michael Ayers,

Plaintiff,

v.

POCONO MOUNTAIN SCHOOL DISTRICT,

Defendant.

Case No.

VERIFIED COMPLAINT FOR
INJUNCTIVE AND
DECLARATORY RELIEF

Now comes Plaintiff, K.A.,¹ by and through her next friend, Michael Ayers, pursuant to the Federal Rules of Civil Procedure, and for her causes of action against Defendant avers the following:

I. INTRODUCTION

1. This is a civil rights action under 42 U.S.C. § 1983, the First Amendment, the Fourteenth Amendment, and the Pennsylvania Religious Freedom Protection Act brought to remedy a violation of the constitutional rights of K.A., a student at Barrett Elementary Center in Cresco, Pennsylvania.
2. Plaintiff brings this action challenging Defendant Pocono Mountain School District's ("District") censorship of Plaintiff's religious flyer inviting students

¹Pursuant to Local Rule 5.2, K.A. is identified by her initials, rather than her full name.

- to a Christmas party, and other similar events, sponsored by Plaintiff's church.
3. The District prohibited Plaintiff's flyer solely because of the religious nature of the message pursuant to its unconstitutional policies.
 4. The District, by policy and practice, permits students to distribute flyers which include invitations to, among other things, birthday parties, Halloween parties, Valentine's dances, etc.
 5. The District, by policy and practice, permits individuals and community groups to distribute flyers through a take-home flyer forum, in which flyers are sent home with students, and through a literature distribution table at the school.
 6. The flyers distributed by individuals and community groups include information concerning, among other things, Upward Sports, a Bowling Club, and Horizons Classes for Tots to Teens.
 7. The District has, by policy and practice, prohibited the Plaintiff from distributing her religious flyers at Barrett Elementary Center through either student-to-student distribution during non-instructional time or through the take-home flyer forum and the literature distribution table.
 8. First, "Policy 220: Student Expression," prohibits speech which "seek[s] to establish the supremacy of a particular religious denomination, sect, or point of view."
 9. Second, "Policy 913: Relations With Special Interest Groups" states that "Any

requests from civic organizations or special interest groups which involve such activities as ... sending promotional materials home with students ... must be examined to insure that such activities promote student interests primarily, rather than the special interests of any particular group.”

10. Policy 913 further states that “No Individual, firm or corporation shall be permitted to engage in commercial advertising, promotion, solicitation or sales with regard to the student body, faculty, staff or the public on school district property or at any school sponsored activities unless the same shall have been previously approved in writing by the District.”
11. Plaintiff challenges the previously cited sections of Policies 220 and 913 (the “Policies”) both facially and as-applied to her invitation distribution.
12. The District’s censorship of Plaintiff’s religious speech, and the Policies on which that censorship was based, violate the First and Fourteenth Amendments to the United States Constitution and the Pennsylvania Religious Freedom Protection Act.

II. JURISDICTION AND VENUE

13. This action arises under the United States Constitution, particularly the First and Fourteenth Amendments, under federal law, particularly 28 U.S.C. §§ 2201, 2202, 42 U.S.C. §§ 1983 and 1988.
14. This Court possesses original jurisdiction over Plaintiff’s claims by operation

of 28 U.S.C. §§ 1331 and 1343, and supplemental jurisdiction over Plaintiff's state claim pursuant to §1367.

15. This Court is vested with authority to issue the requested declaratory relief under 28 U.S.C. § 2201 and 2202, and pursuant to Rule 57 of the Federal Rules of Civil Procedure.
16. This Court has authority to award the requested injunctive relief under Rule 65 of the Federal Rules of Civil Procedure and under 28 U.S.C. § 1343(a)(3).
17. This Court is authorized to award nominal damages under 28 U.S.C. § 1343(a)(4).
18. This Court is authorized to award attorneys' fees under 42 U.S.C. § 1988.
19. Venue is proper under 28 U.S.C. § 1391 in the Middle District of Pennsylvania because this claim arose there and because, upon information and belief, the Defendant is located within the Middle District of Pennsylvania.

III. IDENTIFICATION OF THE PLAINTIFF

20. Plaintiff K.A., a minor, is a 5th grade student at Barrett Elementary Center, and at all times relevant to this Complaint, a resident of Cresco, Pennsylvania.
21. K.A. is an adherent of the Christian faith and desires to share her religious views with her classmates.
22. K.A., pursuant to her sincerely held religious beliefs, desires to distribute religious literature, including flyers inviting her friends and classmates to

community-wide events sponsored by Plaintiff's church, at Defendant's schools without facing censorship or punishment.

23. In addition, pursuant to her sincerely held religious beliefs, K.A. desires to send other flyers with a similar religious message home with students in Defendants' schools via full access to Defendants' take-home flyer forum and literature distribution table forum on behalf of herself and her church.
24. K.A. desires to distribute religious flyers and materials to students attending Defendant's schools for the same reason other students desire to distribute their flyers—to invite friends and classmates to upcoming church activities that K.A. believes her friends and classmates will enjoy and that will be beneficial.

IV. IDENTIFICATION OF THE DEFENDANT

25. Defendant Pocono Mountain School District ("District") is organized under the laws of the State of Pennsylvania and may sue and be sued.
26. The District is charged, inter alia, with the administration, operation, and supervision of Barrett Elementary Center, a public primary school.
27. The District is charged with the formulation, adoption, implementation, and enforcement of District policies, including the Policies challenged herein.
28. The District is responsible for the enforcement of its Policies by its employees.
29. The District is responsible for the enactment, enforcement, and existence of policies and practices related to student speech and student publications.

30. The District is responsible for the enactment, enforcement, and existence of policies and practices related to access by students, community groups, businesses, and public entities to the take-home flyer forum, in which elementary students take home approved flyers distributed by students, community groups, businesses, and public entities, and to the literature distribution table forum, in which flyers from students, community groups, business, and public entities are displayed on a table provided by the school.
31. The District prohibited K.A. from distributing flyers to her friends and classmates at school during non-instructional time pursuant to its Policies and practice.
32. The District likewise excluded K.A. from the take-home flyer forum and the literature distribution table forum pursuant to its Policies and practices.
33. The District is responsible for the implementation and application by the Superintendent, District officials, and local principals of its Policies and practices pertaining to distribution of written materials by students and access to its take-home flyer forum and literature distribution table forum.
34. The District is similarly responsible for delegating to the Superintendent, District officials, and local principals final authority as to the approval and denial of the distribution of flyers by students, community groups, businesses, and public entities, and for the denial of Plaintiff's flyers.

V. ALLEGATIONS OF FACT

35. Barrett Elementary Center (“Barrett”) is a public elementary school located in Cresco, Pennsylvania.
36. Barrett is under the direction of the District and includes kindergarten through fifth grade.
37. The District is the official policy maker and as such has enacted the Policies challenged herein.
38. The District permits students to distribute literature and materials pursuant to the Policies.
39. Students distribute literature and materials with various types of messages including birthday invitations, Halloween party invitations, Valentine’s dances, etc.
40. For example, in December 2010, K.A.’s younger sibling, who also attends Barrett Elementary Center, was permitted to distribute invitations to her birthday party held on December 11, 2010 at a local pizzeria to her friends and classmates at Barrett Elementary Center.
41. Pursuant to its Policies, the District permits a broad range of community groups, businesses and public entities to send home with students informational flyers about upcoming group meetings, activities or business advertisements through a take-home flyer forum and a literature distribution

table at the District's schools.

42. Local community groups, businesses, and public entities regularly distribute literature and materials with various types of messages promoting events such as Upward Sports, a Bowling Club, and Horizons Classes for Tots to Teens.
43. In early December 2010, K.A. brought flyers to distribute to her friends and classmates during non-instructional time at school.
44. The flyers advertised a Christmas Party for grades K-6 on December 10, 2010 sponsored by Plaintiff's church.
45. The flyers provided a brief description of the event, the date, the time, and the location.
46. At the Christmas Party, children would participate in "Face Painting, Ping Pong, Foosball, Cup-Stacking, Games, Prizes, Puppets, Music, Snacks, and more!"
47. The flyers further stated that "Admission and all activities are free!"
48. K.A. attempted to distribute the flyers to her friends before class began.
49. K.A.'s teacher, Christina Sopko, saw K.A. attempt to hand out the flyers and told K.A. that her flyers had to be approved by Principal Heidi Donohue before K.A. could hand them out.
50. Thereafter, K.A. submitted the flyer to Principal Donohue for approval.
51. On December 7, 2010, Michael Ayers contacted Principal Donohue to inquire

as to whether K.A.'s flyer had been approved.

52. Principal Donohue responded that "All flyers that are non-school related must be approved by the Superintendent's office. We received a call today stating that it would not be permissible to distribute the flyers."
53. Mr. Ayers then asked Principal Donohue for a written explanation of why K.A.'s flyers were denied and for a "list of what is permissible and what is not permissible for school distribution."
54. On December 8, 2010, Principal Donohue responded to Mr. Ayers's request for a written explanation by stating that " District Policy 913 speaks to the questions you have regarding the flyer that [K.A.] wanted to distribute to classmates."
55. Mr. Ayers then requested more information as to why District Policy 913 supported the denial.
56. Mr. Ayers asked why invitations to a "personal Christmas party, Halloween party, birthday party or any other party ... would be handed out with no questions asked," but K.A.'s invitation to a Christmas Party at church was denied.
57. Principal Donohue did not respond to Mr. Ayers request for more information.
58. On December 9, 2010, the day before the Christmas Party, Mr. Ayers again contacted Principal Donohue and requested that the "Superintendent's office

re-review the [Christmas Party] flyer and reconsider overturning the decision to deny [K.A.'s flyer].”

59. Again, Mr. Ayers received no response from Principal Donohue.
60. On December 10, 2010, Superintendent Dwight Pfennig responded to Mr. Ayers and denied K.A.'s request to hand out the invitation to her friends and classmates.
61. Superintendent Pfennig stated that “all Board policies have some degree of discretion when implemented or enforced.”
62. He told Mr. Ayers that “I believe firmly that paragraph three of Policy #913 clearly allows me to make that decision on behalf of the district.”
63. Thus, the District prohibited K.A. from distributing her invitations through either student-to-student distribution during non-instructional time or through the take-home flyer forum and the literature distribution table.
64. K.A. is a Bible-believing Christian who desires to share her faith and beliefs with other students and to invite them to church events.
65. K.A.'s sincerely held religious beliefs compel her to share her faith and beliefs with her friends and classmates at school.
66. One way K.A. accomplishes this goal at school is through inviting her friends to events at her church and to other similar religious events.
67. In the future, K.A. desires to engage in religious speech through the

distribution of other similar religious literature, including flyers inviting her friends and classmates to community-wide events sponsored by her church, absent fear of reprisal and without facing punishment or being prohibited from doing so.

VI. ALLEGATIONS OF LAW

68. Students do not shed their constitutional rights at the schoolhouse gate.
69. Non-disruptive, private student expression is protected by the First Amendment.
70. Private speakers are entitled to equal, viewpoint neutral access to public fora.
71. Religious speech is fully protected by the First Amendment.
72. Prior restraints on speech may not delegate overly broad discretion to government decision-makers, may not allow for content based restrictions, must be narrowly tailored to serve a significant governmental interest, and must leave open ample alternatives for communication.
73. The government may not discriminate against speech based on its viewpoint, regardless of the forum.
74. Content-based restrictions on speech in a public forum are presumptively unconstitutional and are subject to strict scrutiny.
75. Time, place, and manner restrictions on speech must be content-neutral, narrowly tailored to serve a significant government interest, and leave open

ample alternative channels of communication.

76. All of the acts of the District, its officers, agents, employees, and servants were executed and are continuing to be executed by the District under the color and pretense of the policies, statutes, ordinances, regulations, customs, and usages of the State of Pennsylvania.
77. Plaintiff is suffering irreparable harm from the conduct of the District.
78. Plaintiff has no adequate or speedy remedy at law to correct or redress the deprivation of her rights by the District.
79. Unless the District's Policies are enjoined, Plaintiff will continue to suffer irreparable injury.
80. Plaintiff's church continues to hold events and activities and Plaintiff desires to share this information, and information regarding other religious events, through flyers and literature distribution immediately.

FIRST CAUSE OF ACTION: VIOLATION OF THE FREE SPEECH CLAUSE OF THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

81. Plaintiff re-alleges and incorporates herein, as though fully set forth, Paragraphs 1 through 80 of this Complaint.
82. The First Amendment's Freedom of Speech Clause, incorporated and made applicable to the states by the Fourteenth Amendment to the United States Constitution, prohibits censorship of religious expression.

83. The District's Policies and practice permit students to distribute literature during non-instructional time and permit students, community groups, businesses, and public entities to distribute literature through a take-home flyer forum and a literature distribution table at Barrett.
84. Through its creation of these public fora and the attendant access given to the above mentioned groups and others, the District permits the distribution of flyers to students that promote recreational, community, charitable, and educational activities.
85. Plaintiff's proposed flyers promote similar recreational, charitable, community, and educational activities, albeit from a religious perspective, but Plaintiff is barred from distributing her flyers.
86. The District permits the distribution of flyers by students covering a wide range of topics including birthday invitations, Halloween parties, Valentine's dances, sports leagues, bowling clubs, and community classes.
87. In contrast, the District's Policies and practice prohibit K.A. from distributing a flyer for a religious event through either student-to-student distribution or through the District's take-home flyer forum or literature distribution table.
88. This unequal treatment of K.A.'s religious expression is a content-based restriction in otherwise open fora.
89. The District permitted K.A.'s younger sibling to distribute invitations to her

birthday party at a local pizzeria to her friends and classmates at Barrett, where the children would eat and play games.

90. However, the District's Policies and practice discriminate against K.A.'s religious viewpoint by prohibiting her from distributing a religious flyer inviting her friends and classmates to a Christmas party at K.A.'s church where the children would eat "snacks" and play games such as "Ping Pong, Foosball, Cup-Stacking," and others.
91. The District permits Upward Sport to distribute flyers advertising its children's basketball league, beginning November 20, 2010, which "provides a fun environment built around healthy competition for kids, teaching skills for the sports arena and values for life." Participants must pay a \$60 registration fee to participate, and awards are presented at the final event on March 19, 2011.
92. In contrast, the District's Policies and practice discriminate against K.A.'s religious viewpoint by prohibiting her from distributing a religious flyer about a community-wide Christmas Party sponsored by her church where participants engage in fun activities and competition such as ping pong, foosball, cup-stacking, and other games. There is no fee to attend or participate in any of the events, and prizes are given to children who attend the free event.
93. This denial of K.A.'s religious speech promoting a community-event for children while permitting similar speech from other organizations advertising

community-events for children, also constitutes viewpoint discrimination, which is unconstitutional in any type of forum.

94. The District's Policy 220, which prohibits speech which "seeks to establish the supremacy of a of particular religious denomination, sect, or point of view" is both content-based and viewpoint-based on its face due to its censorship of "religious" materials.
95. K.A.'s religious expression on campus does not materially and substantially interfere with the orderly conduct of educational activity within the school.
96. The District's Policies and practice additionally impose an unconstitutional prior restraint because they vest District officials with unbridled discretion to permit or refuse protected religious speech by students.
97. Superintendent Pfennig told Mr. Ayers that "Board policies have some degree of discretion when implemented or enforced."
98. The District's Policies and practice allow District officials to act with unbridled discretion when deciding if a student's speech "promote[s] student interests primarily, rather than the special interests of any particular group."
99. The District's Policies and practice also allow District officials to act with unbridled discretion when deciding if a student's speech "seeks to establish the supremacy of a particular religious denomination, sect, or point of view."
100. The District's Policies and practice allow District officials to act with

unbridled discretion when deciding whether to allow the distribution of materials from students.

101. The District's Policies and practice also give District officials, including the principal and superintendent, unbridled discretion to prohibit students and community groups from distributing flyers in the take-home flyer forum and literature distribution table forum while allowing other community groups to have access to these fora.
102. None of the policies contain any specific guidelines or restrictions as to when District officials may ban or prohibit literature distribution by students or community groups.
103. The District's Policies subject all flyer distribution by both students and community groups to the unbridled discretion of District officials and do not contain any guidelines or procedures to restrict the discretion of the District officials.
104. The District's Policies and practice are additionally overbroad because they sweep within their ambit protected First Amendment expression.
105. The overbreadth of the District's Policies and practice chill the speech of students who might seek to engage in private religious expression through the distribution of flyers during non-instructional time, through the take-home flyer forum, and through the literature distribution table forum.

106. The District's Policies and practice chill, deter, and restrict Plaintiff from freely expressing her religious beliefs.
107. The District's Policies, as interpreted and applied by District officials to prohibit religious speech, are not the least restrictive means necessary to serve any compelling interest which the District seeks thereby to secure.
108. The District's Policies and practice are not reasonably related to any legitimate pedagogical concerns.
109. Censoring students' religious speech per se is not and cannot be a legitimate pedagogical concern.
110. The District's Policies and practice, both facially and as applied, accordingly violate Plaintiff's right to Free Speech as guaranteed by the First Amendment to the United States Constitution.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the Prayer for Relief.

SECOND CAUSE OF ACTION: VIOLATION OF THE FREE EXERCISE CLAUSE OF THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

111. Plaintiff re-alleges and incorporates herein, as though fully set forth, Paragraphs 1 through 80 of this Complaint.
112. The District's Policies and practice, by expressly targeting K.A.'s private religious expression for special disabilities because it is religious, violate her

constitutional right to the free exercise of religion.

113. K.A. desires to engage in expressive activities described above on the basis of her sincerely held religious beliefs.
114. The District's Policies and practice explicitly exclude – and thus discriminate against – religious expression.
115. The District's Policies and practice substantially burden K.A.'s free exercise of religion by conditioning her ability to speak on foregoing her free exercise rights.
116. The District's Policies and practice force K.A. to choose between engaging in religious speech and being censored, or foregoing the free exercise of religion to be able to speak without censorship or punishment.
117. The District's Policies and practice substantially burden K.A.'s free exercise of religion by denying her the right to include private religious speech in the fora.
118. The District's Policies and practice constitute the imposition of special disabilities on K.A. due to her religion and her intent to include private religious expression in the fora.
119. These special disabilities placed on Plaintiff are neither neutral nor of general applicability.
120. The District's Policies and practice of banning K.A.'s religious flyer

selectively imposes a burden on expression based on the religious nature of the expression by singling out her expression for discriminatory treatment.

121. The District's Policies and practice cannot be justified by a compelling governmental interest and are not narrowly tailored to advance any such interest.
122. The District's interpretation and application of its Policies chill K.A.'s freedom of religious expression and exercise, both of which are fundamental rights guaranteed to Plaintiff by the First Amendment.
123. The District's Policies and practice, both facially and as applied, constitute an excessive burden on K.A.'s rights to freedom of exercise of her religion and have violated the Free Exercise Clause of the First Amendment to the United States Constitution.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the Prayer for Relief.

THIRD CAUSE OF ACTION: VIOLATION OF THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

124. Plaintiff re-alleges and incorporates herein, as though fully set forth, Paragraphs 1 through 80 of this Complaint.
125. The Due Process Clause of the Fourteenth Amendment prohibits the government from censoring speech pursuant to vague or overbroad standards

that grant unbridled discretion.

126. The determination by the District officials of what is and is not forbidden religious speech violates this norm.
127. The District's Policies and practice are vague and allow for unbridled discretion in determining which student speech satisfies its Policies.
128. The District's Policies lack any guidelines or directives to guide the decisions of District officials when approving flyers and other literature sought to be distributed by students and community groups.
129. Superintendent Pfennig told Mr. Ayers that "Board policies have some degree of discretion when implemented or enforced."
130. The District's Policies and practice allow District officials to act with unbridled discretion when deciding if a student's speech "promote[s] student interests primarily, rather than the special interests of any particular group."
131. The District's Policies and practice also allow District officials to act with unbridled discretion when deciding if a student's speech "seeks to establish the supremacy of a particular religious denomination, sect, or point of view."
132. The discretion given to District officials in the District's Policies leave censorship of student speech to the whim of District officials.
133. The District's Policies and practice, both facially and as applied, accordingly violate Plaintiff's rights under the Due Process Clause of the Fourteenth

Amendment to the United States Constitution.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the Prayer for Relief.

FOURTH CAUSE OF ACTION: VIOLATION OF THE ESTABLISHMENT CLAUSE OF THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

134. Plaintiff re-alleges and incorporates herein, as though fully set forth, Paragraphs 1 through 80 of this Complaint.

135. The District's Policies and practice embody hostility toward religious expression and require excessive entanglement with religion, both forbidden under the First Amendment's Establishment Clause, incorporated and made applicable to the states by the Fourteenth Amendment to the United States Constitution.

136. The District's Policies and practice of banning K.A.'s religious expression evinces discriminatory suppression of private speech that is not neutral, but rather is hostile toward religion.

137. The District, pursuant to its Policies and practice of suppressing any private Christian religious expression sends the message to students that religious speakers such as K.A. are second-class citizens, outsiders, and not full members of the academic community.

138. The District sends the message that Christians like K.A. are outsiders by

excluding religious points of view and events while concurrently permitting all other points of view and events.

139. The District's Policies and practice compel District officials to classify private student speech according to its perceived religious-versus-nonreligious nature.
140. Drawing this distinction necessarily requires District officials to inquire into the significance of words and practices to different religious faiths.
141. Such inquiries by District officials entangle them with religion in a manner forbidden by the First Amendment.
142. Entanglement problems exist because District officials must attempt to discern which private student expression is too religious in nature to be permitted.
143. District officials must make theological interpretations in order to conclude that some student speech is religious, while other student speech is not.
144. The District denied K.A. the right to distribute her religious flyer because it contained a religious point of view, an action that represent the antithesis of neutrality.
145. No compelling state interest exists to justify the censorship of K.A.'s religious expression.
146. The District's Policies and practice therefore violate the Establishment Clause of the First Amendment to the United States Constitution.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set

forth hereinafter in the Prayer for Relief.

FIFTH CAUSE OF ACTION: VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

147. Plaintiff re-alleges and incorporates herein, as though fully set forth, Paragraphs 1 through 80 of this Complaint.

148. The Equal Protection Clause of the Fourteenth Amendment requires that the government treat similarly situated persons and groups equally.

149. Pursuant to their Policies and practice, the District has allowed other similarly situated students, and even private community groups, to access the fora with secular expression.

150. The District has treated K.A. disparately when compared to similarly situated students, and even private community groups, by banning only K.A.'s religious expression.

151. By discriminating against the content and viewpoint of K.A.'s speech, the District is treating K.A.'s religious speech differently than other similar situated public school students.

152. The District's Policies and practice violate various fundamental rights of K.A., such as rights of free speech and free exercise of religion.

153. When government regulations, like the District's Policies and practice challenged herein, infringe on fundamental rights, discriminatory intent is

presumed.

154. The District's Policies and practice have also been applied to intentionally discriminate against K.A.'s rights of free speech and free exercise of religion.
155. The District lacks a rational or compelling state interest for such disparate treatment of K.A.
156. The District's Policies and practice are not narrowly tailored as applied to K.A. because her speech does not implicate any of the interests the District might have.
157. The District's Policies and practice are overinclusive because they prohibit K.A.'s religious expression even though it is not disruptive.
158. The District's Policies and practice burden more of K.A.'s speech than necessary because she is foreclosed from using religious content and viewpoints in her speech even though it is not disruptive.
159. The Policies and practice of the District, both facially and as applied, thus violate K.A.'s right to equal protection of the laws as guaranteed by the Fourteenth Amendment to the United States Constitution.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the Prayer for Relief.

SIXTH CAUSE OF ACTION: VIOLATION OF THE RELIGIOUS FREEDOM PROTECTION ACT 71 PA. STAT. ANN. §§ 2401-2407

160. Plaintiff re-alleges and incorporates herein, as though fully set forth, Paragraphs 1 through 80 of this Complaint.
161. The District has substantially burdened and continues to substantially burden K.A.'s right to the free exercise of religion through its Policies and practice by preventing her from engaging in religious expression.
162. The District's Policies and practice substantially burden and conflict with K.A.'s sincerely held religious beliefs.
163. The District's Policies and practice force K.A. to choose between following her religious beliefs under the threat of punishment and censorship, and following the Policies to the neglect of her religious beliefs.
164. The District's Policies and practice substantially burden and conflict with K.A.'s sincerely held religious beliefs by significantly constraining and inhibiting conduct and expression mandated by K.A.'s sincerely held religious beliefs.
165. The District's Policies and practice substantially burden and conflict with K.A.'s sincerely held religious beliefs by significantly curtailing K.A.'s ability to express adherence to her religious faith.
166. The District's Policies and practice substantially burden and conflict with

K.A.'s sincerely held religious beliefs by denying K.A. a reasonable opportunity to engage in activities that are fundamental to her religion.

167. The District's imminent intent to continue to enforce the Policies threatens to substantially burden K.A.'s right to the free exercise of religion.
168. The District does not have a compelling, or even rational, governmental interest that could justify the restriction on K.A.'s religious speech and expressive activities.
169. The District's Policies and practice are not the least restrictive means of furthering any interest that the District seeks to secure.
170. The District's Policies and practice violate the Pennsylvania Religious Freedom Protection Act, 71 PA. STAT. ANN. §§ 2401-2407, on its face and as applied to Plaintiff.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the Prayer for Relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for judgement as follows:

- a. That this Court issue a Preliminary and Permanent Injunction, restraining the District, its officers, agents, employees, and all other persons acting in active concert with it, from enforcing the Policies challenged herein that violate K.A.'s constitutional rights by banning

religious expression;

- b. That this Court render a Declaratory Judgment, declaring as unconstitutional facially and as-applied the District's Policies and practice challenged herein that ban religious expression in violation of the First and Fourteenth Amendments to the United States Constitution, and the Pennsylvania Religious Freedom Protection Act;
- d. That this Court adjudge, decree, and declare the rights and other legal relations of the parties to the subject matter here in controversy, in order that such declarations shall have the force and effect of final judgment;
- e. That this Court retain jurisdiction of this matter for the purpose of enforcing any Orders;
- f. That the Court award K.A.'s costs and expenses of this action, including a reasonable attorneys' fees award, in accordance with 42 U.S.C. § 1988.
- g. That this Court award nominal damages for the violation of K.A.'s constitutional rights;
- h. That this Court issue the requested injunctive relief without a condition of bond or other security being required of K.A.; and
- i. That the Court grant such other and further relief as the Court deems equitable and just in the circumstances.

Dated this 3rd day of March, 2011.

s/ Randall L. Wenger
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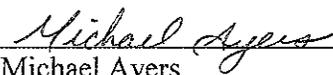
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Attorneys for Plaintiff K.A.

VERIFICATION

I, Michael Ayers, verify under penalty of perjury, pursuant to 28 U.S.C. § 1746, that I have reviewed the foregoing Complaint and the facts contained therein are true and correct.

Executed this 2 day of March, 2011, in Cresco, Pennsylvania.



Michael Ayers