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14 UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF CALIFORNIA

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17
18 GAY-STRAIGHT ALLIANCE NETWORK
and GEORGE LOOMIS,

19 Plaintiffs,

20 v.

21 VISALIA UNIFIED SCHOOL DISTRICT,
by and through its Board of Education;
22 CARLYN LAMBERT, Superintendent;
LINDA GONZALES, former
23 Superintendent; BOB CESENA, Principal;
GIG STEVENS, Assistant Principal; JUAN
24 GARCIA; and Does 1-25, inclusive,

25 Defendants.
26
27
28

No. Civ. F-00-6616 OWW/LJO

FIRST AMENDED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF AND FOR COMPENSATORY
AND PUNITIVE DAMAGES

DEMAND FOR JURY

INTRODUCTION

1
2 1. This is a civil rights action demanding declaratory and injunctive relief and
3 monetary damages from the Visalia Unified School District (“VUSD”) and its agents and
4 employees for depriving students who are gay or lesbian or who are perceived to be gay or
5 lesbian of a safe and equal educational environment in violation of their established
6 constitutional and statutory rights. By bringing this action, Plaintiffs Gay-Straight Alliance
7 Network (“GSA Network”) and George Loomis seek to eliminate the hostile and intolerant
8 climate within the VUSD through reforms to change the policies and practices within VUSD
9 schools and to compel VUSD officials to respond appropriately to complaints of harassment
10 by students who are gay or lesbian or who are perceived to be gay or lesbian. Plaintiff
11 George Loomis also seeks monetary damages for the discrimination he has suffered.

12 2. Students experience pervasive, severe, and unwelcome harassment and
13 discrimination at VUSD schools, including but not limited to Golden West High School
14 (“Golden West”), based on their actual or perceived sexual orientation. Students who are gay
15 or who are perceived to be gay are verbally harassed by their classmates, who refer to them in
16 the classrooms and the hallways as “faggots,” “fags,” “queers,” and “homos.” Some students
17 are physically assaulted or intimidated by other students based on their sexual orientation, and
18 others are even taunted and harassed by school administrators and teachers.

19 3. What is worse, complaints by student victims to administrators and teachers
20 are met with deliberate indifference and institutionalized ostracism. When students who have
21 been harassed have sought assistance from administrators at VUSD, instead of taking steps to
22 ensure a safe and equal educational environment for all students, VUSD and its agents and/or
23 employees either ignore these complaints or encourage, convince, or allow these students to
24 leave full-time classroom instruction and transfer into independent study programs or other
25 alternative educational programs. Such programs are designed for students with severe
26 problems such as extremely limiting physical or other disabilities, substance abuse problems,
27 or for students who need to work full time to help support their families.

28 4. These alternative educational programs were not and are not designed as a
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1 depository for ordinary students who just happen to be gay or who are perceived as gay.
2 Defendants’ use of these alternative educational programs to isolate these students irreparably
3 harms them physically, mentally, and emotionally, and greatly limits their ability to pursue
4 higher education. Moreover, segregating students perceived to be gay in this manner enables
5 harassing students to continue tormenting other students and frees teachers and administrators
6 from any responsibility to change these dreadful conditions within the VUSD.

7 5. Even more shockingly, teachers and administrators at Golden West have not
8 only ignored and been deliberately indifferent to the concerns of victims of anti-gay
9 harassment, but in some cases have directly harassed students, referring to them as “faggot”
10 and mocking them, and have contributed to and exacerbated the hostile environment at
11 Golden West and other VUSD schools.

12 6. The harassment suffered by Plaintiff George Loomis while he attended
13 Golden West High School from 1998 until 2000 is a deplorable, yet typical, illustration of
14 this severe harassment and discrimination. George Loomis is not alone; in recent years many
15 other students who are gay or lesbian or who are perceived as gay or lesbian have been
16 harassed within VUSD schools.

17 **PARTIES**

18 7. Plaintiff Gay-Straight Alliance Network (“GSA Network”) is a youth-led
19 nonprofit organization made up of gay, lesbian, bisexual, transgender and heterosexual
20 students and supportive adults who are dedicated to eliminating homophobia and intolerance
21 in schools. GSA Network is a project of the Tides Center in San Francisco, a 501(c)3 non-
22 profit organization. GSA Network is headquartered in San Francisco and has an office in
23 Fresno, California through which it monitors homophobia and intolerance in schools
24 throughout the Central Valley, including the VUSD.

25 8. GSA Network primarily fights homophobia and intolerance in schools by
26 empowering gay, lesbian, bisexual, transgender and heterosexual members in high schools to
27 form and maintain local, school-based, student-run clubs, called “GSAs,” in high schools
28 throughout California. In order to foster its mission, GSA Network also encourages members

1 in rural communities to form community-based GSAs made up of students and supportive
2 community members. At present, 150 GSA clubs in Northern California and the Central
3 Valley are registered with GSA Network. The staff in the regional offices of GSA Network
4 connect these school- and community-based GSAs to each other and to community resources
5 in order to foster safe environments for student members; educate the student members and
6 the school community about homophobia, gender identity, and sexual orientation issues; and
7 fight intolerance, discrimination, harassment, and violence in schools.

8 9. Plaintiff GSA Network has members who are current and prospective
9 students at Golden West High School and other schools within the VUSD. Some of these
10 students would like to form a school-based GSA at Golden West and/or another VUSD
11 campus, but have not done so due to the current environment of homophobia in the VUSD.
12 GSA Network's members also include adults in the Visalia community, including parents of
13 children who attend or plan to attend VUSD schools, who have an interest in eliminating the
14 hostile environment that exists at the schools. As the organization's name indicates, GSA
15 Network includes heterosexual youth and adult members who fervently believe that the entire
16 community, not just those who are gay or lesbian or who are perceived to be gay or lesbian,
17 are harmed by this discrimination, harassment, and hostility against students attending VUSD
18 schools.

19 10. Members of GSA Network in the Fresno and Visalia communities have
20 formed a community-based GSA club in the Fresno area as a first step in the fight against
21 intolerance in the Central Valley schools. The Fresno GSA has held meetings, and its youth
22 members have attended youth leadership training meetings sponsored by the San Francisco
23 headquarters of GSA Network. GSA Network has devoted significant monetary and staffing
24 resources to addressing the problems of discrimination, harassment, and homophobia in the
25 VUSD schools through its Fresno office.

26 11. Plaintiff GSA Network's organizational purpose is to remedy the very
27 homophobic climate now present in VUSD schools. Surveys conducted in California schools
28 by GSA Network during the 1999-2000 school year show alarming data about anti-gay

1 harassment at high schools. Fifty-three percent (53%) of students at public and private high
2 schools surveyed indicated that each day they hear homophobic comments at school. Sixty-
3 seven percent (67%) of students surveyed said that they frequently or occasionally make such
4 comments themselves.

5 12. These same surveys show that eighty-four percent (84%) of students
6 surveyed indicated that teachers or administrators never or rarely intervene when anti-gay
7 comments are made. And forty-eight percent (48%) of students surveyed said that they do
8 not think that their campus is safe for gay lesbian, bisexual, and transgender students. These
9 problems are particularly acute in the VUSD.

10 13. Plaintiff George Loomis was a student enrolled in schools within the VUSD,
11 including Golden West High School, until on or about January 2000.

12 14. Defendant Visalia Unified School District (“VUSD”) is a public school
13 district organized and operating under the laws of the State of California. VUSD controls and
14 operates Golden West High School and other public schools in the Visalia area. A portion of
15 the funding for each of these schools comes from the state and federal governments.

16 15. Defendants Linda Gonzales, former VUSD Superintendent of Schools;
17 Carlyn Lambert, Acting VUSD Superintendent of Schools; Bob Cesena, Principal, Golden
18 West High School; Gig Stevens, Assistant Principal, Golden West High School; and Juan
19 Garcia, Teacher, Golden West High School are or were, at all relevant times, individuals
20 working as employees, teachers, agents and/or administrators of the VUSD.

21 16. The VUSD by and through its Board of Education and the Defendants sued
22 individually in this lawsuit, were and are responsible for creating and maintaining an
23 educational environment that is free from discrimination and harassment. These Defendants
24 were and are also responsible for making policy and/or for implementing disciplinary, anti-
25 harassment, and anti-discrimination policies. Further, these Defendants were and are
26 responsible for enforcing and ensuring that their subordinates, agents, and employees were
27 and are enforcing such laws and policies by taking prompt remedial action in response to
28 incidents of inappropriate behavior, harassment and/or discrimination against students.

1 17. Plaintiffs allege upon information and belief that each of the Defendants,
2 including Defendants Does 1 through 25 inclusive, performed, participated in, aided and/or
3 abetted, or were deliberately indifferent to the acts averred herein, proximately caused the
4 damages averred below, and are liable to Plaintiffs for the damages and other relief sought
5 herein. The true names and official capacities of Defendants designated as Does 1 through
6 25, inclusive are unknown to Plaintiffs, who therefore sue these Defendants by such fictitious
7 names. Plaintiffs will seek leave of Court to amend their complaint to show the true names
8 and capacities of these Defendants when they have been ascertained.

9 18. Plaintiffs allege upon information and belief that at all relevant times, each
10 and every Defendant was the agent and employee of each and every other Defendant, was
11 acting within the scope of such agency or employment, and was acting with the consent,
12 permission and authorization of the remaining Defendants. All actions of each Defendant
13 were ratified and approved by every other Defendant. Plaintiffs further allege on information
14 and belief that all of the actions alleged in this First Amended Complaint were taken pursuant
15 to the customs, policies, and practices of the VUSD and that Defendants have been, are
16 presently and will be acting under the color and authority of the laws of the United States and
17 the state of California.

18 JURISDICTION

19 19. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §§1331 and
20 1343 because the matters in controversy arise under the Constitution and laws of the United
21 States. Declaratory relief is authorized under 28 U.S.C. §§2201 and 2202. This Court has
22 supplemental jurisdiction to hear Plaintiffs' state claims under 28 U.S.C. §1367(a).

23 20. Plaintiffs are exempt from the California Tort Claims Act because
24 Defendants have failed to comply substantially with Sections 946.4 and 53051 of the
25 California Government Code. Further, Plaintiff George Loomis provided notice of his claims
26 to VUSD in January 2000.

27 VENUE

28 21. Venue is proper in this Court under 28 U.S.C. §§1391(b) and 1392 because
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1 the events which give rise to Plaintiffs' claims took place within the Eastern District of
2 California in Visalia, California.

3 4 **FACTS COMMON TO ALL CLAIMS**

5 **I. STUDENTS AT VUSD SCHOOLS ARE PERSISTENTLY HARASSED ON THE** 6 **BASIS OF THEIR ACTUAL OR PERCEIVED SEXUAL ORIENTATION.**

7 **A. Students Are Being Verbally Harassed And Physically Assaulted And Intimidated** 8 **By Other Students At VUSD Schools.**

9 22. Harassment and discrimination is a fact of life for students who are gay or
10 lesbian or who are perceived as gay or lesbian attending schools within the VUSD, including
11 but not limited to Golden West High School. Students have been taunted and harassed by
12 students, teachers, and administrators at VUSD for being gay or lesbian or for being
13 perceived as gay or lesbian. These students have been repeatedly called "faggot," "queer,"
14 and other derogatory terms on campus and in the classrooms, sometimes in the presence of
15 teachers. In some instances, this harassment is so severe that students are forced to quit
attending their classes because of the constant abuse.

16 23. Plaintiffs are informed and believe that a number of teachers at Golden West
17 have listened to students openly make derogatory comments about gays and lesbians without
18 making any attempts to stop them. When one gay student confronted his teacher after class
19 about students who made loud, derogatory, anti-gay comments in class, the teacher merely
20 told the student that he did not even hear the comments—despite the fact that it was obvious
21 that he did—and refused to do anything about them.

22 24. Plaintiff George Loomis ("George") endured this pervasive harassment while
23 he was at Golden West from 1996 to on or about January 2000. Once students at Golden
24 West began to suspect that George might be gay, they began to taunt and harass him. In the
25 spring semester of George's junior year (1998-99), some of his classmates in A.P. biology
26 class taunted George by calling him "faggot" and "queer" in front of the entire class. Instead
27 of reprimanding these students for these inappropriate comments, George's teacher would
28 often laugh along with the students who were harassing George.

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1 25. George Loomis also was taunted by Golden West students in his choir class.
2 Students would yell “fag,” “queer,” “homo” and “joto” (which is Spanish for “homo”) at him.
3 One male student taunted George and rubbed his leg in a sexually suggestive manner. This
4 unwanted touching and harassment embarrassed George greatly and made him extremely
5 uncomfortable. These same students also threatened and harassed other students by calling
6 them “fag” or “faggot.” George’s choir teacher, who observed these activities, failed to take
7 any action to stop or prevent this behavior.

8 26. George Loomis was also harassed by students in his student leadership class.
9 One student accused George of having an affair with the male teacher of the class who was
10 perceived by many students to be gay.

11 27. This harassment that students who are gay or lesbian or perceived as gay or
12 lesbian suffer is not limited to verbal harassment, but has often escalated to physical assault
13 and intimidation both on and off campus. Students who are gay or lesbian or who are
14 perceived as gay or lesbian have been spit upon by other students on the campus of Golden
15 West while these same students hurl anti-gay epithets at them. Plaintiffs are informed and
16 believe that former students who were perceived to be gay have had food, pencils, erasers,
17 and textbooks and other objects thrown at them. While in the parking lot at Golden West,
18 one gay student was almost hit by a car driven by another student who was actively trying to
19 run him down. As another example, Plaintiffs are informed and believe that a student
20 directed a death threat to a gay student at Golden West. On or about November 2000,
21 Plaintiffs are informed and believe that students at Golden West spray painted “Fag” on a
22 pickup truck driven by another student.

23 28. Plaintiffs are informed and believe that one gay student at Golden West was
24 attacked on campus by students yelling “fag,” “queer,” and other derogatory terms. When
25 this gay student fought back, administrators at Golden West broke up the fight and led the
26 gay student away in handcuffs. This gay student was never again seen on the Golden West
27 campus.

28 29. Because of the hostile climate within the VUSD, students are afraid to even
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1 associate themselves with any openly gay students on campus for fear of being verbally and
2 physically assaulted. Students who are gay or lesbian experience chronic psychological
3 injury from the conditions they must endure at school each day. They suffer from extremely
4 low self-esteem as a result of their feelings of alienation, isolation, and fear. Their friends
5 stop speaking to them and begin to taunt and harass them. Often, they suffer from bouts of
6 severe depression, withdraw from their friends and family, turn to drugs and alcohol in an
7 attempt to escape, and may even contemplate or attempt suicide. One gay student stated that
8 he suffers from insomnia while he lies awake at night reviewing the harassment he suffered
9 during the day and worrying about what might happen tomorrow. Students skip classes in
10 order to avoid the harassment. Often, their grades suffer, they fail classes, and they
11 contemplate dropping out of school altogether.

12
13 **B. Students Are Being Harassed By Their Own Teachers And Administrators.**

14 30. This hostile climate for students who are gay or lesbian or who are perceived
15 as gay or lesbian is perpetuated by the teachers and administrators at schools within the
16 VUSD, including but not limited to Golden West.

17 31. Plaintiffs are informed and believe that teachers and administrators have
18 participated in the taunting and harassment of gay or lesbian students. At least one teacher
19 has made anti-gay comments in class. Administrators have mocked or ignored students who
20 have come to them pleading for relief from the anti-gay harassment. Plaintiffs are informed
21 and believe that one school office worker at Golden West even posts anti-gay comments on a
22 bulletin board in the school office.

23 32. Plaintiffs are informed and believe that teachers and classes of students
24 openly discussed their assumptions that George Loomis was gay during a science class and an
25 English class in spring of 1999. At this point, George had never revealed to anyone at
26 Golden West that he was gay much less to these particular teachers from whom George had
27 never even taken a class.

28 33. One teacher at Golden West, Defendant Juan Garcia, actually singled out
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1 George Loomis for abuse because he suspected he might be gay. On a day in early October
2 1999 in George’s Spanish II class, Garcia noticed the earring that George was wearing and
3 stated to George in Spanish in front of the entire class:

4 “There are only two types of guys who wear earrings—pirates and
5 faggots—and there isn’t any water around here.”

6 The entire class burst out laughing at George. George was shocked, angry, and upset by
7 Garcia’s behavior and was even more upset and embarrassed when the entire class continued
8 to laugh at him as Garcia made the derogatory comment again in English to make sure that
9 everyone in the class could understand it. The students at Golden West stepped up their
10 harassment of George in October 1999 after Garcia made his anti-gay slur. George was spit
11 on by other students, and repeatedly called “pirate,” “fag,” and “faggot.”

12 34. Plaintiffs are informed and believe that other incidents may have occurred
13 where teachers and administrators within the VUSD have harassed gay students.

14 C. Defendants Have Failed To Provide Any Support Mechanisms For Gays And
15 Lesbians And Have Failed To Enact Policies To Ensure That Its Schools Are Safe
16 From Anti-Gay Harassment.

17 35. No support mechanism exists on VUSD campuses for students who are gay
18 or lesbian or who are supportive of gay or lesbians. Plaintiffs are informed and believe that
19 the VUSD does not fund, sponsor, endorse, or promote any organization, support group, or
20 program within the district to provide support to students who are the victims of anti-gay
21 harassment at Golden West and other schools. As a result, no gay student group or school-
22 based organization comprised of gay and straight members designed to alleviate the climate
23 of intolerance exists at Golden West or any other school within the VUSD. VUSD’s failure
24 to support any organization or program to assist students who are victimized by anti-gay
25 harassment at Golden West promotes and perpetuates anti-gay harassment at VUSD schools
26 and exacerbates the damage such harassment causes to VUSD students.

27 36. In fact, Plaintiffs are informed and believe that VUSD may have explicit or
28 unwritten policies designed to deter gay or lesbian students from being open about their

1 sexual orientation and freely associating with one another. These policies promote and
2 perpetuate anti-gay harassment at VUSD schools.

3 37. Further, Plaintiffs are informed and believe that the VUSD has no formal or
4 informal policy to ensure that its schools are safe for students who are gay or lesbian or who
5 are perceived as gay or lesbian. The VUSD has no adequate policy in place to prevent or
6 deter students from taunting, harassing, and assaulting other students who are gay or lesbian
7 or who are perceived as gay or lesbian. The absence of such a policy promotes and
8 perpetuates anti-gay harassment at VUSD schools.

9 38. Teachers, counselors, and administrators at VUSD schools are not trained
10 how to assist students who are victims of anti-gay harassment at VUSD schools. Guidance
11 counselors provide no meaningful assistance to students dealing with issues relating to sexual
12 orientation and/or harassment relating to perceived sexual orientation. Instead, it has been
13 VUSD's practice to ignore harassment based on actual or perceived sexual orientation and to
14 refuse to make any attempts to stop students and teachers from perpetrating any further acts
15 of harassment.

16 39. In fact, teachers, counselors, and administrators are completely insensitive
17 and/or oblivious to the needs, confidences, and dignity of gay or lesbian students. For
18 example, on or about November 1999, while Plaintiff George Loomis was working at his
19 part-time job in a camera store, Sarah Karam Sproles, a Golden West school counselor,
20 entered the store with a friend. While in the store, Sproles turned to her friend and said "That
21 boy is a faggot." When George realized Sproles had made this statement, he was outraged,
22 stunned, and hurt by the remark. When George went to Sproles' office at Golden West later
23 and asked her why she had made the statement, Sproles initially denied making the statement
24 at all. Later, in a complete reversal, she admitted making the statement, but claimed that she
25 was not talking about George. Instead, Sproles claimed that her derogatory remark was
26 directed at another Golden West student—a student whom Sproles was counseling—who also
27 happened to be in the camera store at the same time as George.

28 40. Administrators and teachers at VUSD schools have further fueled the anti-
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1 gay hostile environment by promoting discussion designed to refute or explain away
2 complaints of anti-gay harassment and reveal other extremely private facts about student
3 victims of harassment. This anti-gay hostility engendered by VUSD was fully evident in
4 May 2000 when the Fresno Bee published an article about George Loomis and how he had
5 been harassed at Golden West. Teachers at Golden West photocopied this article and
6 distributed it to students in classes. One teachers made a remark to a class to the effect that,
7 “Well, we can’t talk about religion, but we can talk about this faggot boy.” Throughout the
8 Spring 2000 semester, other teachers revealed private facts about George’s life in an effort to
9 explain why he might be “troubled.” All of these intentional and deliberately indifferent
10 actions exacerbated the anti-gay harassment that George suffered.

11
12 **II. DEFENDANTS IGNORE AND EXACERBATES THIS HARASSMENT WHEN STUDENTS SEEK HELP FROM TEACHERS AND ADMINISTRATORS.**

13 **A. Teachers And Administrators Routinely Ignore Student Complaints About**
14 **Harassment.**

15 41. This climate of homophobia and harassment has severely harmed gay or
16 lesbian students who have attended VUSD schools, including Plaintiff George Loomis.
17 Some gay students are afraid to even approach the administration and ask for help for fear
18 that they may face retaliation. Other students who are gay or lesbian have complained
19 repeatedly to Golden West teachers and administrators about the hostile climate for them on
20 campus. Teachers and administrators have taken no action to remedy the harassment and
21 hostile climate and have not attempted to enact formal or informal policies on how to prevent
22 such harassment.

23 42. Even when parents have attempted to intervene with teachers and
24 administrators, the VUSD does nothing to stop the harassment. Indeed, some Visalia parents
25 are outraged that the administration at Golden West has done nothing in the face of these
26 problems.

27 43. Plaintiff George Loomis tried to get the administrators at Golden West to
28 stop the students and teachers from harassing him. In October 1999, George went to the

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1 principal of Golden West, Defendant Robert Cesena and told him exactly what Garcia said to
2 him in the Spanish II class about “pirates” and “faggots.” George asked Cesena to take some
3 action to reprimand Garcia for this behavior or to intervene to protect George from this kind
4 of abuse. Cesena not only refused to take any action, but instead told George that it was
5 “inappropriate” for George to “go over Garcia’s head” and that he should talk to Garcia
6 himself.

7 44. George took Cesena’s suggestions and went to Garcia and told him how his
8 “pirates and faggots” comments made him feel, and asked Garcia not to make any more
9 similar anti-gay comments in Spanish II class. Instead of taking any steps to apologize for his
10 treatment of George or to remedy the hostile environment he had fostered, Garcia merely
11 laughed at George. The following week in Spanish II class, Mr. Garcia repeatedly called
12 George “pirate” and on at least two more occasions made the same derogatory slur that
13 George asked him not to repeat (“There are only two types of guys who wear earrings—
14 pirates and faggots—and there isn’t any water around here.”).

15 45. George Loomis attempted to contact then-VUSD Superintendent Linda
16 Gonzales numerous times between October and December 1999 to discuss the constant
17 discrimination that he had been suffering which eventually led to his leaving Golden West.
18 Although George called Gonzales several times, she never returned any of his calls. In
19 December 1999, George actually went to Gonzales’ office but he was informed that she was
20 not in the office that afternoon. George told Gonzales’ assistant the entire story about the
21 harassment that he was facing at Golden West, and the assistant typed notes to give to
22 Gonzales and promised to pass these notes on to her. George never received any response
23 from Gonzales and to his knowledge she never intervened to try to make Golden West safe
24 for George or other students.

25 **B. Defendants Encourage Gay And Lesbian Students To Discontinue Their**
26 **Education In Favor Of “Alternative Education” Programs That Are Neither**
27 **Designed For, Nor Appropriate, For These Students.**

28 46. Despite the failure and refusal of VUSD to take any steps to remedy anti-gay

1 hostility at Golden West, Defendants provide no educationally-appropriate alternative to the
2 current environment on campus. Instead, Plaintiffs are informed and believe that
3 administrators and counselors at VUSD schools, including but not limited to Golden West,
4 force victims of anti-gay harassment into independent study programs, adult schools, or some
5 other alternative educational program in order to isolate these students from the rest of their
6 peers. Other times, these administrators and counselors deliberately encourage, convince, or
7 allow gay or lesbian students or those perceived as gay or lesbian to leave school altogether
8 or to enroll themselves into independent study or similar programs on the pretext that they are
9 “assisting” these students.

10 47. Under independent study programs (“ISP”), students review their
11 educational materials and study independently, and only meet with a teacher for a one-hour
12 class once a week. The ISP is a non-college preparatory academic track that was designed for
13 students who have extremely difficult home lives that affect their in-class performance, who
14 are seriously disabled, who have substance abuse problems, or who need to work full-time
15 because of dire financial need. While in ISP, students are ineligible for participation in
16 extracurricular activities. The ISP is not educationally equivalent to classroom education at
17 Golden West and it was not designed to, and does not, address any of the needs of otherwise
18 ordinary victims of anti-gay harassment who meet none of the traditional criteria for
19 admission to the program.

20 48. Some gay and lesbian students have actually sought entrance to the ISP as a
21 survival mechanism to avoid the constant taunting and harassment by their peers and teachers
22 at Golden West, and these students have been deliberately encouraged to do so by school
23 officials. The students are sometimes promised by their guidance counselors that the
24 independent study program will help end their harassment, although such promises are not
25 kept. One former guidance counselor advised a gay student to get a job so that she could
26 place him in independent study to “get him out” of Golden West.

27 49. In fact, teachers and administrators intentionally steer youth toward the
28 decision to end their formal high school education. They recommend the ISP to students

1 despite knowing that ISP was not designed for ordinary students facing anti-gay harassment.
2 This happened to Plaintiff George Loomis. In October 1999, after Garcia repeatedly aired his
3 “pirates and faggots” remark at Golden West, George went to the school psychologist at
4 Golden West, and spoke with her about how the harassment was making him feel, and
5 informed her that such harassment was negatively affecting his ability to learn and function at
6 Golden West. The Golden West psychologist suggested that things might be better for
7 George if he removed himself from full-time attendance at Golden West and attend the ISP.

8 50. The decision to send George to ISP was presented to George as if it would be
9 best for his own future. Officials at Golden West never mentioned that switching to ISP
10 would have a harmful adverse impact on George’s extracurricular activities, his decision to
11 attend college, and his future overall. The psychologist who initially recommended ISP
12 simply described it as a way for George to escape from the constant harassment by studying
13 independently and only coming to school for a one-hour class once a week. According to the
14 psychologist, by attending ISP George could avoid the taunts from Garcia and the other
15 students. She told George that she was planning on meeting with Assistant Principal Gig
16 Stevens later that day, and that she would suggest to Stevens that the school transfer George
17 to ISP. The psychologist told George that, although she recommended ISP, school officials
18 would not protect him from being tormented even in that situation.

19 51. Later that day or the next day, George decided to meet with his guidance
20 counselor, Cuca Atherton, to discuss whether ISP was a good idea for him. Atherton
21 explained to George that she had already discussed the ISP program with George’s
22 psychologist, and that she also thought it was in George’s best interest to enroll in the ISP.
23 She explained that, although most ISP students were required to demonstrate to the school
24 administration that they had a financial need to work at least forty (40) hours a week and
25 demonstrate proof of employment, the school “wouldn’t worry about this requirement” in
26 George’s case. Instead, without any reference to the financial status of George or his family,
27 Atherton told George to go home and get his guardian to sign a form declaring that his family
28 had a “financial need” for him to enroll in the ISP, even though that wasn’t true.

1 52. On or about the same day that George spoke with Atherton about ISP, the
2 school's assistant principal, Defendant Gig Stevens, called George to his office and advised
3 George that he had spoken with George's guidance counselor and psychologist, and that they
4 all thought that it was best if George would enroll in the ISP.

5 53. George's guardian, Donna Wothe, did not think it was a good idea for
6 George to switch to the ISP, and was especially worried about how the program might look to
7 university admissions officers. George explained to her that all of the school officials at
8 Golden West were recommending it. George and his guardian officially signed the papers
9 enrolling him in the ISP sometime in the middle of October 1999. George believed, based in
10 part on conversations with the various Golden West administrators and staff, that ISP would
11 be the only way he could get away from the constant harassment from Garcia and his fellow
12 students.

13 54. VUSD officials knew that George was heavily involved in extracurricular
14 activities at Golden West and that George intended to pursue higher education. While he
15 attended Golden West, George was a member of the Gifted and Talented Education program
16 (GATE) and aspired to attend the University of California at Berkeley to study pre-medicine
17 and eventually go to medical school. George also was very involved in student activities at
18 Golden West. He was a member of the track and cross-country teams, sang in the school
19 choir, and was one of a select group of students who were chosen to enroll in an exclusive
20 student leadership class based on the recommendation of one of his teachers. In his junior
21 year, George was chosen by a committee of students, teachers and school administrators to be
22 the student representative on the Visalia Unified School District Board of Education ("School
23 Board Student Representative"). In that position, George represented the views of all Visalia
24 students to Visalia superintendent Linda Gonzales and the members of the Board of
25 Education at meetings twice each month. George thoroughly enjoyed his position as School
26 Board Student Representative and felt certain that it would enhance his chances to attend a
27 prominent university.

28 55. Despite the fact that Golden West teachers, counselors, and administrators
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1 knew of George's plans as well as the effects his transfer to ISP would have on these plans,
2 these officials never discussed with George any possible negative effects that the ISP might
3 have on George's ability to continue this extracurricular activities or his aspirations to attend
4 a prominent university. Indeed, when George asked about whether this decision would affect
5 his ability to serve as School Board Student Representative, Golden West guidance counselor
6 Cuca Atherton falsely promised George that he could continue to serve in that capacity while
7 attending ISP. When George attempted to attend a meeting of the Visalia Board, however, he
8 found that he had been replaced by another student. After George inquired as to why he had
9 been replaced, representatives of Golden West told George that ISP students simply cannot
10 serve on the Board.

11 56. Contrary to the representations made to him by VUSD officials, George's
12 transfer to the ISP resulted in the loss of his position as the School Board Student
13 Representative and the ability to participate in all of the other extracurricular programs in
14 which George previously had participated. George planned to interview with recruiters from
15 the University of California at Berkeley, but they refused to talk to him after they learned he
16 was in ISP.

17 C. [These Alternative Education Programs Provide Little Relief From The Pervasive](#)
18 [Anti-Gay Harassment At VUSD Schools.](#)

19 57. Defendants' policy of segregating gay students into alternative educational
20 programs does nothing to solve the problems of anti-gay harassment in the District. To the
21 contrary, it validates the actions and mind-sets of students who verbally harass, physically
22 assault, and/or intimidate students who are gay or lesbian or who are perceived as gay or
23 lesbian. Segregating gay students also allows the teachers and administrators at VUSD
24 schools to continue to ignore harassment within the schools instead of requiring them to make
25 the educational environment safe for these students. Moreover, placing students who are gay
26 or lesbian or who are perceived as gay or lesbian into a separate, one-hour-per-week program
27 with no formal instruction constitutes inherently unequal treatment for these students.

28 58. Even after students who complain of harassment are placed into the ISP,
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1 however, they continue to be harassed. In order for Plaintiff George Loomis to get to his ISP
2 class that met once a week, he had to travel across the entire Golden West Campus while
3 many students were watching. Each week while walking across campus to and from ISP,
4 many students called him “fag” and “faggot,” and on at least one occasion a student spit on
5 him.

6 59. Administrators at Golden West also mocked George Loomis and refused to
7 do anything to make the school environment safe for him while he attended ISP. One day in
8 November or December 1999 while George was in Golden West counselor Sarah Sproles’
9 office (confronting her about the derogatory “faggot” remark she had made in the camera
10 store), assistant principal Gig Stevens walked into her office. Without any authorization by
11 George and for no apparent reason, Sproles stated, “This is George Loomis and he is gay.”
12 Stevens mocked George in a high-pitched effeminate voice, “Well, George, why didn’t you
13 say that. Why didn’t you say, ‘My name is George and I am gay?’” George felt humiliated.
14 George told Stevens and Sproles that he did not feel safe attending Golden West High School,
15 and asked Stevens whether he would make some efforts to ease the harassment that George
16 was receiving from other students while he attended his ISP class. Stevens refused to help
17 George at all, and told him that if he did not feel safe then he should give up high school
18 altogether and attend adult school. Stevens then waved George’s ISP papers in front of his
19 face and told George that he was in breach of his ISP contract because he had missed two
20 days of ISP class.

21 60. George told Stevens that he would not come onto the Golden West campus
22 unless he was assured that he would be safe from harassment by teachers and students.
23 Stevens told George that he could not promise George that the school would be safe for him.

24 61. After George was told by Sproles and Stevens that Golden West would not
25 assure his safety on campus, he stopped attending ISP altogether. To the best of George’s
26 knowledge, he has not even been given credit for his ISP work during the fall of 1999.

27 62. By January 2000, when George had stopped attending the ISP because
28 Defendants had refused to promise his safety, George’s entire life was affected by the severe

1 and persistent discrimination he had suffered as a result of Defendants' intentional conduct,
2 failure to act, and deliberate indifference. George had developed chronic stress-related
3 illnesses, and was diagnosed as hypo-glycemic. He lost both of his jobs in January 2000
4 because he was missing work as a result of stress relating to the events at Golden West.

5 **III. THE HOSTILE ENVIRONMENT AT VUSD SCHOOLS CREATED AND**
6 **FOSTERED BY DEFENDANTS CAUSES SUBSTANTIAL INJURY TO GSA**
7 **NETWORK, ITS MEMBERS, PLAINTIFF GEORGE LOOMIS, AND STUDENTS**
8 **AND PARENTS.**

9 63. The hostile environment towards gays and lesbians at Golden West
10 discourages students from questioning or confronting their own sexual orientation or forming
11 or joining support groups such as GSAs for fear that doing so could subject them to verbal
12 and physical harassment. GSAs and other support groups have not yet organized in the
13 VUSD due to the fact that students may face retaliatory harassment in the event that they
14 would be discovered as participating in such an organization.

15 64. Students such as George Loomis who are openly gay at VUSD schools are
16 subjected to the types of severe verbal and physical harassment described herein and suffer
17 physical and emotional damage from this hostile environment. Further, once these students
18 have been effectively transferred from their classrooms into alternative education programs,
19 they lose the ability to participate in extracurricular activities, they receive an inadequate
20 education, and their college education opportunities are severely limited.

21 65. As a result of this environment, these students and others within the VUSD
22 are deprived of an open educational forum free from unlawful harassment and discrimination.

23 66. In addition, heterosexual students are deprived of an environment that is free
24 from hostility directed toward students who are gay or lesbian or who are perceived to be gay
25 or lesbian. In fact the hostile environment at Golden West and VUSD's failure to correct that
26 environment or take appropriate steps to respond to specific instances of harassment actually
27 teaches all students that harassment of, and discrimination toward, individuals suspected to be
28 gay or lesbian is acceptable, if not commendable, behavior. Parents in the Visalia community
are concerned about the environment of hostility and discrimination in VUSD schools and do

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1 not want their own children, whether straight or gay, to be educated in such an intolerant
2 climate.

3 67. Despite its responsibility for these wrongs, VUSD has done nothing about
4 the injuries it has caused.

5 **CLAIMS FOR RELIEF**

6 **FIRST CLAIM FOR RELIEF**

7 (42 U.S.C. §1983; Equal Protection Under U.S. Constitution Amend. XIV)

8 [By Plaintiff GSA Network against Defendants VUSD by and through its Board of
9 Education and Carlyn Lambert, Bob Cesena, and Gig Stevens in their official
10 capacities]

11 68. Plaintiffs reallege and replead all the allegations of paragraphs 1-67 of this
12 Complaint and incorporate them herein by reference.

13 69. Students who are gay or lesbian, or who are perceived as gay or lesbian,
14 suffer pervasive and unwelcome harassment and discrimination at the hands of their peers
15 and from their teachers and administrators at VUSD schools, including but not limited to
16 Golden West High School. They are called “faggot,” “queer,” and other derogatory terms,
17 and some are physically assaulted by their peers. Defendants and other VUSD teachers and
18 administrators not only encourage but also perpetuate this discrimination by actively and
19 intentionally taking part in harassing students perceived to be gay and/or by being
20 deliberately indifferent to the anti-gay harassment occurring on VUSD campuses.

21 70. VUSD promotes and fosters this hostile environment. Defendants and other
22 VUSD officials do not fund, sponsor, endorse, or promote any organization within the district
23 to provide support to students who are the victims of anti-gay harassment. VUSD has no
24 formal or informal policy to ensure that its schools are safe for students who are gay or
25 lesbian or who are perceived as gay or lesbian. Teachers, counselors, and administrators are
26 not trained how to assist student victims of anti-gay harassment at VUSD schools. Further,
27 VUSD has no adequate formal or informal policy for preventing or responding to such
28 harassment; the absence of such a policy has the effect of promoting and perpetuating

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1 harassment.

2 71. Students who are gay and lesbian have complained repeatedly to VUSD
3 teachers and administrators about the hostile climate for them on VUSD campuses.
4 Defendants and other teachers and administrators have ignored their complaints, have taken
5 no effective actions, and have not attempted to enact formal or informal policies for how to
6 prevent such harassment.

7 72. Further exacerbating the anti-gay climate, Defendants and other
8 administrators and counselors at VUSD schools, including but not limited to Golden West,
9 force victims of anti-gay harassment into independent study programs, adult schools, or other
10 alternative educational programs in order to isolate these students from the rest of their peers.
11 Other times, these administrators and counselors encourage, convince, or allow gay or lesbian
12 students or those perceived as gay or lesbian to leave school or enroll in independent study or
13 similar programs on the pretext that Defendants and their agents are “assisting” these
14 students.

15 73. These alternative educational programs are non-college preparatory, and
16 were not designed for otherwise ordinary students who are gay or lesbian or who are
17 perceived to be gay or lesbian. Instead, they were designed for students who have special
18 physical or emotional needs, students who have substance abuse problems, and/or students
19 who need to work full-time because of dire financial needs. These programs are not
20 educationally equivalent to classroom education at Golden West and were not designed to,
21 and do not, address any of the needs of victims of anti-gay harassment who meet none of the
22 criteria for admission to the program. Further, these programs provide little relief from the
23 pervasive anti-gay harassment at VUSD schools.

24 74. The intentional discrimination, hostile environment, and deliberate
25 indifference towards VUSD students who are gay or lesbian or who are perceived as gay or
26 lesbian, including but not limited to students at Golden West, causes substantial injury to
27 GSA Network, its members, and Golden West students and parents, and violates the
28 Fourteenth Amendment to the United States Constitution and 42 U.S.C. §1983. At all times,

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1 Defendants have been, are presently and will be acting under the color and authority of the
2 laws of the United States and the State of California.

3 75. Plaintiffs seek a judgment declaring that the intentional acts and the acts of
4 deliberate indifference described above perpetrated by the VUSD and the Defendants are
5 prohibited by the Equal Protection Clause of the Fourteenth Amendment to the Unites States
6 Constitution and 42 U.S.C. §1983 and seek the injunctive relief set forth in the prayer for
7 relief.

8 **SECOND CLAIM FOR RELIEF**

9 (42 U.S.C. §1983; Equal Protection Under U.S. Constitution Amend. XIV)

10 [By Plaintiff George Loomis against Defendants Linda Gonzales, Bob Cesena, Gig
11 Stevens, and Juan Garcia in their individual capacities]

12 76. Plaintiffs reallege and replead all the allegations of paragraphs 1-75 of this
13 Complaint and incorporate them herein by reference.

14 77. Plaintiff George Loomis was a student at Golden West High School from
15 1996 to 2000. Beginning in 1998 and continuing until the time George stopped attending
16 Golden West in or about January 2000, George was taunted, harassed, and discriminated
17 against by students, teachers, and administrators at Golden West on the basis of his actual or
18 perceived sexual orientation. He was called “faggot,” “queer,” “homo,” and other derogatory
19 terms on the Golden West campus by students and by his teacher Defendant Juan Garcia.

20 78. VUSD had no formal or informal policy to ensure that Golden West was safe
21 for students who, like George, are gay or lesbian or who are perceived as gay or lesbian.
22 When George complained to Defendants Juan Garcia, Bob Cesena, Gig Stevens, and Linda
23 Gonzales, these Defendants were deliberately indifferent to George’s safety and none of them
24 took any action to stop the harassment and discrimination George was suffering.

25 79. Instead of addressing these actions by students and teachers, Defendants
26 encouraged, convinced, and/or allowed George to transfer into an alternative education
27 program—a one-hour-per-week independent study program—which was not designed for
28 ordinary students but instead was designed for students who have special physical or

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1 emotional needs, students who have substance abuse problems, and/or students who need to
2 work full-time because of dire financial needs. The independent study program was not
3 educationally equivalent to classroom education at Golden West and it was not designed to,
4 and did not, address any of George's specific needs who did not meet the traditional criteria
5 for admission to the program. Further, the independent study program provided little relief
6 from the pervasive anti-gay harassment and discrimination George suffered at Golden West at
7 the hands of other students and Defendants.

8 80. As a result of Defendants' actions, failure to act, and/or deliberate
9 indifference, George did not attend regular school for the majority of his senior year in high
10 school, did not receive enough credits to graduate high school with his class, did not receive a
11 diploma, and was deprived of undergraduate education opportunities. George has been
12 damaged emotionally and physically by the harassment and discrimination described above.
13 George has also been damaged to the extent that his expulsion from Golden West has
14 negatively affected, and will continue to negatively affect, his future educational and career
15 prospects.

16 81. Defendants' actions, failure to act, and/or deliberate indifference towards the
17 harassment and discrimination George suffered was carried out because of George's actual or
18 perceived sexual orientation in violation of the Equal Protection Clause of the Fourteenth
19 Amendment to the United States Constitution and 42 U.S.C. §1983. At all times, Defendants
20 have been, are presently and will be acting under the color and authority of the laws of the
21 United States and the State of California. As a result of this discrimination and harassment,
22 George suffered economic and non-economic damages in an amount to be more precisely
23 determined at trial.

24 **THIRD CLAIM FOR RELIEF**

25 (42 U.S.C. §1983; Procedural Due Process Under U.S. Constitution Amend. XIV)

26 [By Plaintiff GSA Network against VUSD by and through its Board of Education and
27 Defendants Carlyn Lambert, Bob Cesena, and Gig Stevens in their official capacities]

28 82. Plaintiffs reallege and replead all the allegations of paragraphs 1-81 of this
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1 Complaint and incorporate them herein by reference.

2 83. Students who are gay or lesbian or who are perceived to be gay or lesbian
3 have a protected liberty interest in a high school education, conferred by the California State
4 Constitution and Education Code. Article I, Section 28(c) recognizes that students in
5 California schools have an “inalienable right to attend campuses which are safe, secure and
6 peaceful,” and Article 9, Section 1 recognizes that “[a] general diffusion of knowledge and
7 intelligence [is] essential to the preservation of the rights and liberties of the people.” The
8 California Education Code, Sections 48200 et seq., recognizes the importance of education to
9 children through the age of eighteen. Further, Education Code Sections 200 et seq.
10 specifically prohibit discrimination on the basis of actual or perceived sexual orientation or
11 gender identity, and California regulations require the VUSD to implement policies to
12 prevent and/or respond to acts of harassment and discrimination in schools.

13 84. VUSD and/or Defendants have a custom, policy, and/or they tolerate a
14 custom or policy that results in intentional discrimination and/or deliberate indifference to
15 Plaintiff’s legal rights. Students who are gay or lesbian or who are perceived to be gay or
16 lesbian at VUSD schools, including but not limited to Golden West, have been deprived of
17 their liberty interest in a safe, secure and peaceful education without due process of law.
18 They suffer pervasive and unwelcome harassment and discrimination at the hands of their
19 peers and from their teachers and administrators at VUSD schools, including but not limited
20 to Golden West High School. They are called “faggot,” “queer,” and other derogatory terms,
21 and some are physically assaulted by their peers. Defendants and other VUSD teachers and
22 administrators not only encourage but also perpetuate this discrimination by actively and
23 intentionally taking part in harassing students perceived to be gay and/or being deliberately
24 indifferent to the anti-gay harassment occurring on VUSD campuses.

25 85. VUSD has no formal or informal policy to ensure that its schools are safe for
26 students who are gay or lesbian or who are perceived as gay or lesbian. Teachers, counselors,
27 and administrators are not trained how to assist student victims of anti-gay harassment at
28 VUSD schools. Further, VUSD has no adequate formal or informal policy for preventing or

1 responding to such harassment; the absence of such a policy has the effect of promoting and
2 perpetuating harassment.

3 86. Students who are gay or lesbian repeatedly have complained to VUSD
4 teachers and administrators about the hostile climate for them on VUSD campuses.
5 Defendants and other teachers and administrators have ignored their complaints, have taken
6 no effective actions, and have not attempted to enact formal or informal policies on how to
7 prevent such harassment.

8 87. Further exacerbating the anti-gay climate, Defendants and other
9 administrators and counselors at VUSD schools, including but not limited to Golden West,
10 force victims of anti-gay harassment into independent study programs, adult schools, or other
11 alternative educational programs in order to isolate these students from the rest of their peers.
12 Other times, these administrators and counselors encourage, convince, or allow gay or lesbian
13 students or those perceived as gay or lesbian to leave school or enroll themselves into
14 independent study or similar programs on the pretext that Defendants and their agents are
15 “assisting” these students.

16 88. These alternative educational programs are non-college preparatory, and
17 were not designed for ordinary students who happen to be gay or lesbian or who are
18 perceived to be gay or lesbian. Instead they were designed for students who have special
19 physical or emotional needs, students who have substance abuse problems, and/or students
20 who need to work full-time because of dire financial needs. These programs are not
21 educationally equivalent to classroom education at Golden West and were not designed to,
22 and do not, address any of the needs of ordinary students who are victims of anti-gay
23 harassment, who meet none of the criteria for admission to the program. Further, these
24 programs provide little relief from the pervasive anti-gay harassment at VUSD schools.

25 89. Students who are gay or lesbian or who are perceived as gay or lesbian are
26 being constructively expelled from VUSD schools, including but not limited to Golden West,
27 because of the discrimination and harassment they have suffered at the hands of
28 administrators, counselors, and teachers and the pervasive discrimination they suffer at the

1 hands of other students as a result of the actions and deliberate indifference of Defendants.

2 90. Defendants did not follow VUSD procedures or the minimum procedures
3 required by the Constitution and state law in response to complaints of harassment and
4 discrimination made by students who are experiencing anti-gay harassment. As a result of
5 the foregoing actions, failures to act, and/or the deliberate indifference of Defendants, VUSD
6 students who are gay or lesbian or who are perceived as being gay or lesbian have stopped
7 attending classes full time, have transferred into alternative educational programs, and/or
8 have been otherwise constructively expelled by ceasing to attend VUSD schools altogether.

9 91. By failing to follow VUSD procedures or the minimum procedures required
10 by the Constitution and state law, Defendants deprived these students of their liberty interest
11 in a safe, secure and peaceful education in violation of the Due Process Clause of the
12 Fourteenth Amendment to the United States Constitution and 42 U.S.C. §1983. At all times,
13 Defendants have been, are presently and will be acting under the color and authority of the
14 laws of the United States and the State of California.

15 92. Plaintiffs therefore seek a judgment declaring that the intentional acts and the
16 acts of deliberate indifference described above perpetrated by the VUSD and the Defendants
17 are prohibited by the Due Process Clause of the Fourteenth Amendment to the United States
18 Constitution and 42 U.S.C. §1983, and seek the injunctive relief set forth in the prayer for
19 relief.

20 **FOURTH CLAIM FOR RELIEF**

21 (42 U.S.C. §1983; Procedural Due Process Under U.S. Constitution Amend. XIV)

22 [By Plaintiff George Loomis against Linda Gonzales, Bob Cesena, Gig Stevens, and
23 Juan Garcia in their individual capacities]

24 93. Plaintiffs reallege and replead all the allegations of paragraphs 1-92 of this
25 Complaint and incorporate them herein by reference.

26 94. Plaintiff George Loomis had a protected liberty interest in a high school
27 education, conferred by the California State Constitution and Education Code. Article I,
28 Section 28(c) recognizes that students in California schools have an “inalienable right to

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1 attend campuses which are safe, secure and peaceful,” and Article 9, Section 1 recognizes
2 that “[a] general diffusion of knowledge and intelligence [is] essential to the preservation of
3 the rights and liberties of the people.” The California Education Code, Sections 48200 et
4 seq., recognizes the importance of education to children through the age of eighteen. Further,
5 Education Code Sections 200 et seq. specifically prohibit discrimination on the basis of actual
6 or perceived sexual orientation or gender identity, and California regulations require the
7 VUSD to implement policies to prevent and/or respond to acts of harassment and
8 discrimination in schools.

9 95. VUSD and/or Defendants have a custom, policy, and/or they tolerate a
10 custom or policy that results in intentional discrimination and/or deliberate indifference to
11 Plaintiff’s legal rights. Plaintiff George Loomis was deprived of his liberty interest in a safe,
12 secure and peaceful education without due process of law. George was a student at Golden
13 West High School from 1996 to on or about January 2000. Beginning in 1998 and continuing
14 until the time George stopped attending Golden West on or about January 2000, George was
15 taunted, harassed, and discriminated against by students, teachers, and administrators at
16 Golden West on the basis of his actual or perceived sexual orientation. He was called
17 “faggot,” “queer,” “homo,” and other derogatory terms on the Golden West campus by
18 students and by his teacher Defendant Juan Garcia.

19 96. VUSD had no formal or informal policy to ensure that Golden West was safe
20 for students who, like George, are gay or lesbian or who are perceived as gay or lesbian.
21 When George complained to Defendants Juan Garcia, Bob Cesena, Gig Stevens, and Linda
22 Gonzales, these Defendants were deliberately indifferent to George’s safety and none of them
23 took any action to stop the harassment and discrimination George was suffering.

24 97. Instead of addressing these actions by students and teachers, Defendants
25 encouraged, convinced, and/or allowed George to transfer into an alternative education
26 program—a one-hour-per-week independent study program—which was not designed for
27 ordinary students but instead was designed for students who have special physical or
28 emotional needs, students who have substance abuse problems, and/or students who need to

1 work full-time because of dire financial needs. The independent study program was not
2 educationally equivalent to classroom education at Golden West and it was not designed to,
3 and did not, address any of George's specific needs, nor did he meet the criteria for admission
4 to the program. Further, the independent study program provided little relief from the
5 pervasive anti-gay harassment and discrimination George suffered at Golden West at the
6 hands of other students and Defendants.

7 98. As a result of Defendants' actions, failure to act, and/or deliberate
8 indifference, George Loomis was constructively expelled from Golden West. He did not
9 attend regular school for the majority of his senior year in high school, did not receive enough
10 credits to graduate high school with his class, did not receive a diploma, and was deprived of
11 undergraduate education opportunities. George has been damaged emotionally and
12 physically by the harassment and discrimination described above. George has also been
13 damaged to the extent that his expulsion from Golden West has negatively affected, and will
14 continue to negatively affect, his future educational and career prospects.

15 99. Defendants' actions, failure to act, and/or deliberate indifference toward the
16 harassment and discrimination George suffered was carried out because of George's actual or
17 perceived sexual orientation. George was constructively expelled because of the
18 discrimination and harassment he suffered at the hands of administrators, counselors, and
19 teachers and the pervasive discrimination he suffered at the hands of other students as a result
20 of the actions and deliberate indifference of Defendants and other VUSD administrators,
21 counselors, and teachers.

22 100. Defendants did not follow VUSD procedures or the minimum procedures
23 required by the Constitution and state law in response to George's complaints of harassment
24 and discrimination. As a result of the foregoing actions, failure to act, and/or the deliberate
25 indifference of Defendants, George stopped attending classes full time, transferred into the
26 independent study program, and eventually stopped attending Golden West altogether.

27 101. By failing to follow VUSD procedures or the minimum procedures required
28 by the Constitution and state law, Defendants deprived George of his liberty interest in a safe,

1 secure and peaceful education in violation of the Due Process Clause of the Fourteenth
2 Amendment to the United States Constitution and 42 U.S.C. §1983. At all times, Defendants
3 have been, are presently, and will be acting under the color and authority of the laws of the
4 United States and the State of California. As a result, George suffered economic and non-
5 economic damages in an amount to be more precisely determined at trial.

6 **FIFTH CLAIM FOR RELIEF**

7 (42 U.S.C. §1983; Substantive Due Process Under U.S. Constitution Amend. XIV)

8 [By Plaintiff GSA Network against VUSD by and through its Board of Education
9 and Carlyn Lambert, Bob Cesena, and Gig Stevens in their official capacities]

10 102. Plaintiffs reallege and replead all the allegations of paragraphs 1-103 of this
11 Complaint and incorporate them herein by reference.

12 103. VUSD and/or Defendants have a custom, policy, and/or they tolerate a
13 custom or policy that results in intentional discrimination and/or deliberate indifference to
14 Plaintiff's legal rights. Defendants have interfered and are interfering with the liberty
15 interests of students who are gay or lesbian or who are perceived as gay or lesbian in VUSD
16 schools, including but not limited to Golden West. Students who are gay or lesbian or who
17 are perceived as gay or lesbian suffer pervasive and unwelcome harassment and
18 discrimination at the hands of their peers and from their teachers and administrators at VUSD
19 schools, including but not limited to Golden West High School. They are called "faggot,"
20 "queer," and other derogatory terms, and some are physically assaulted by their peers.
21 Defendants and other VUSD teachers and administrators even perpetuate this discrimination
22 by actively and intentionally taking part in harassing students perceived to be gay and/or
23 being deliberately indifferent to the anti-gay harassment occurring on VUSD campuses.

24 104. VUSD has no formal or informal policy to ensure that its schools are safe for
25 students who are gay or lesbian or who are perceived as gay or lesbian. Teachers, counselors,
26 and administrators are not trained how to assist student victims of anti-gay harassment at
27 VUSD schools. Further, VUSD has no adequate formal or informal policy for preventing or
28 responding to such harassment; the absence of such a policy has the effect of promoting and

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1 perpetuating harassment.

2 105. Students who are gay or lesbian have complained repeatedly to VUSD
3 teachers and administrators about the hostile climate they endure on VUSD campuses.
4 Defendants and other teachers and administrators have ignored their complaints, have taken
5 no actions, and failed to enact an adequate formal or informal policy for preventing or
6 responding to such harassment.

7 106. Further exacerbating the anti-gay climate, Defendants and other
8 administrators and counselors at VUSD schools, including but not limited to Golden West,
9 force victims of anti-gay harassment into independent study programs, adult schools, or other
10 alternative educational programs in order to isolate these students from the rest of their peers.
11 Other times, these administrators and counselors encourage, convince, or allow gay or lesbian
12 students or those perceived as gay or lesbian to leave school or enroll themselves into
13 independent study or similar programs on the pretext that Defendants and their agents are
14 “assisting” these students.

15 107. These alternative educational programs are non-college preparatory, and
16 were not designed for ordinary students who happen to be gay or lesbian or who are
17 perceived to be gay or lesbian. Instead they were designed for students who have special
18 physical or emotional needs, students who have substance abuse problems, and/or students
19 who need to work full-time because of dire financial need. These programs are not
20 educationally equivalent to classroom education at Golden West and were not designed to,
21 and do not, address any of the needs of otherwise ordinary student victims of anti-gay
22 harassment who meet none of the criteria for admission to the program. Further, these
23 programs provide little relief from the pervasive anti-gay harassment at VUSD schools.

24 108. Through the foregoing actions, failures to act, and deliberate indifference,
25 Defendants have interfered and continue to directly interfere with VUSD students’ liberty
26 interest in a safe, secure and peaceful education. Moreover, the acts of these school officials,
27 teachers and employees create a risk of physical and emotional harm to students who are gay
28 or lesbian or who are perceived as gay or lesbian, and further demonstrate their deliberate

1 indifference to the harassment and threats of harassment by rendering these students more
2 vulnerable to that danger. As a result, these students' substantive due process rights
3 guaranteed by the Fourteenth Amendment to the United States Constitution and 42 U.S.C.
4 §1983 have been and continue to be violated. At all times, Defendants have been, are
5 presently and will be acting under the color and authority of the laws of the United States and
6 the State of California.

7 109. Plaintiffs therefore seek a judgment declaring that the intentional acts and the
8 acts of deliberate indifference described above perpetrated by the VUSD and the Defendants
9 are prohibited by the Due Process Clause of the Fourteenth Amendment to the United States
10 Constitution and 42 U.S.C. §1983, and seek the injunctive relief set forth in the prayer for
11 relief.

12 **SIXTH CLAIM FOR RELIEF**

13 (42 U.S.C. §1983; Substantive Due Process Under U.S. Constitution Amend. XIV)

14 [By Plaintiff George Loomis against Linda Gonzales, Bob Cesena, Gig Stevens, and
15 Juan Garcia in their individual capacities]

16 110. Plaintiffs reallege and replead all the allegations of paragraphs 1-109 of this
17 Complaint and incorporate them herein by reference.

18 111. VUSD and/or Defendants have a custom, policy, and/or they tolerate a
19 custom or policy that results in intentional discrimination and/or deliberate indifference to
20 Plaintiff's legal rights. Defendants interfered with Plaintiff George Loomis' liberty interests
21 in violation of the Constitution of the United States. George was a student at Golden West
22 High School from 1996 to 2000. Beginning in 1998 and continuing until the time George
23 stopped attending Golden West in or about January 2000, George was taunted, harassed, and
24 discriminated against by students, teachers, and administrators at Golden West on the basis of
25 his actual or perceived sexual orientation. He was called "faggot," "queer," "homo," and
26 other derogatory terms on the Golden West campus by students and by his teacher Defendant
27 Juan Garcia.

28 112. VUSD had no formal or informal policy to ensure that Golden West was safe
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1 for students who, like George, are gay or lesbian or who are perceived as gay or lesbian.
2 When George complained to Defendants Juan Garcia, Bob Cesena, Gig Stevens, and Linda
3 Gonzales, these Defendants were deliberately indifferent to George’s safety and none of them
4 took any action to stop the harassment and discrimination George was suffering.

5 113. Instead of addressing these actions by students and teachers, Defendants
6 encouraged, convinced, and/or allowed George to transfer into an alternative education
7 program—a one-hour-per-week independent study program—which was not designed for
8 ordinary students who happen to be gay but instead was designed for students who have
9 special physical or emotional needs, students who have substance abuse problems, and/or
10 students who need to work full-time because of dire financial need. The independent study
11 program was not educationally equivalent to classroom education at Golden West and it was
12 not designed to, and did not, address any of George’s specific needs, nor did he meet the
13 traditional criteria for admission to the program. Further, the independent study program
14 provided little relief from the pervasive anti-gay harassment and discrimination George
15 suffered at Golden West at the hands of other students and Defendants.

16 114. As a result of Defendants’ actions, failures to act, and/or deliberate
17 indifference, George did not attend regular school for the majority of his senior year in high
18 school, did not receive enough credits to graduate high school with his class, did not receive a
19 diploma, and was deprived of undergraduate education opportunities. George has been
20 damaged emotionally and physically by the harassment and discrimination described above.
21 George has also been damaged to the extent that his expulsion from Golden West has
22 negatively affected, and will continue to negatively affect, his future educational and career
23 prospects.

24 115. Defendants’ actions, failures to act, and/or deliberate indifference towards
25 the harassment and discrimination George suffered were carried out because of George’s
26 actual or perceived sexual orientation. Through the foregoing actions, failure to act, and
27 deliberate indifference, Defendants interfered with George’s liberty interest in a safe, secure
28 and peaceful education. Moreover, Defendants’ actions, failure to act, and/or deliberate

1 indifference created a risk of physical and emotional harm to George and further
2 demonstrated their deliberate indifference to the harassment and threat of harassment by
3 rendering George more vulnerable to that danger. As a result, George’s substantive due
4 process rights guaranteed by the Fourteenth Amendment to the United States Constitution and
5 42 U.S.C. §1983 were violated. At all times, Defendants have been, are presently and will be
6 acting under the color and authority of the laws of the United States and the State of
7 California. As a result, George suffered economic and non-economic damages in an amount
8 to be more precisely determined at trial.

9
10 **SEVENTH CLAIM FOR RELIEF**

11 (California Education Code Sections 200, 220, 233.5, 262.4; Student Discrimination)

12 [By Plaintiff George Loomis against VUSD, and Linda Gonzales, Bob Cesena, Gig
Stevens, and Juan Garcia in their individual capacities]

13 116. Plaintiffs reallege and replead all the allegations of paragraphs 1-115 of this
14 Complaint and incorporate them herein by reference.

15 117. Plaintiff George Loomis was a student at Golden West High School from
16 1996 to 2000. Beginning in 1998 and continuing until the time George stopped attending
17 Golden West in or about January 2000, George was taunted, harassed, and discriminated
18 against by students, teachers, and administrators at Golden West on the basis of his actual or
19 perceived sexual orientation. He was called “faggot,” “queer,” “homo,” and other derogatory
20 terms on the Golden West campus by students and by his teacher Defendant Juan Garcia.

21 118. VUSD had no formal or informal policy to ensure that Golden West was safe
22 for students who, like George, are gay or lesbian or who are perceived as gay or lesbian.
23 When George complained to Defendants Juan Garcia, Bob Cesena, Gig Stevens, and Linda
24 Gonzales, these Defendants were deliberately indifferent to George’s safety and none of them
25 took any action to stop the harassment and discrimination George was suffering.

26 119. Instead of addressing these actions by students and teachers, Defendants
27 encouraged, convinced, and/or allowed George to transfer into an alternative education
28 program—a one-hour-per-week independent study program—which was not designed for

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1 ordinary students who happen to be gay but instead was designed for students who have
2 special physical or emotional needs, students who have substance abuse problems, and/or
3 students who need to work full-time because of dire financial need. The independent study
4 program was not educationally equivalent to classroom education at Golden West and it was
5 not designed to, and did not, address any of George's specific needs, nor did he meet the
6 criteria for admission to the program. Further, the independent study program provided little
7 relief from the pervasive anti-gay harassment and discrimination George suffered at Golden
8 West at the hands of other students and Defendants.

9 120. As a result of Defendants' actions, failure to act, and/or deliberate
10 indifference, George did not attend regular school for the majority of his senior year in high
11 school, did not receive enough credits to graduate high school with his class, did not receive a
12 diploma, and was deprived of undergraduate education opportunities. George has been
13 damaged emotionally and physically by the harassment and discrimination described above.
14 George has also been damaged to the extent that his expulsion from Golden West has
15 negatively affected, and will negatively affect, his future educational and career prospects.

16 121. Defendants' actions, failures to act, and/or deliberate indifference towards
17 the harassment and discrimination George suffered were carried out because of George's
18 actual or perceived sexual orientation. Through these intentional acts and the acts of
19 deliberate indifference, George was deprived of the equal rights and opportunities in a public
20 educational institution as guaranteed under the California Education Code Sections 200, 220,
21 233.5, and 262.4. As a result, George suffered economic and non-economic damages in an
22 amount to be more precisely determined at trial.

23 **EIGHTH CLAIM FOR RELIEF**

24 (California Civil Code Sections 51 & 52(a), Unruh Civil Rights Act)

25 [By Plaintiff George Loomis against Linda Gonzales, Bob Cesena, Gig Stevens, and
26 Juan Garcia in their individual capacities]

27 122. Plaintiffs reallege and replead all the allegations of paragraphs 1-121 of this
28 Complaint and incorporate them herein by reference.

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1 123. Defendants are engaged in the business of operating schools which are a
2 business and public accommodation as defined by Civil Code Section 51.

3 124. Plaintiff George Loomis was a student at Golden West High School from
4 1996 to 2000. Beginning in 1998 and continuing until the time George stopped attending
5 Golden West on or about January 2000, George was taunted, harassed, and discriminated
6 against by students, teachers, and administrators at Golden West on the basis of his actual or
7 perceived sexual orientation. He was called “faggot,” “queer,” “homo,” and other derogatory
8 terms on the Golden West campus by students and by his teacher Defendant Juan Garcia.

9 125. VUSD had no formal or informal policy to ensure that Golden West was safe
10 for students who, like George, are gay or lesbian or who are perceived as gay or lesbian.
11 When George complained to Defendants Juan Garcia, Bob Cesena, Gig Stevens, and Linda
12 Gonzales, these Defendants were deliberately indifferent to George’s safety, and none of
13 them took any action to stop the harassment and discrimination George was suffering.

14 126. Instead of addressing these actions by students and teachers, Defendants
15 encouraged, convinced, and/or allowed George to transfer into an alternative education
16 program—a one-hour-per-week independent study program—which was not designed for
17 ordinary students who happen to be gay but instead was designed for students who have
18 special physical or emotional needs, students who have substance abuse problems, and/or
19 students who need to work full-time because of dire financial need. The independent study
20 program was not educationally equivalent to classroom education at Golden West and it was
21 not designed to, and did not, address any of George’s specific needs, nor did who he meet the
22 criteria for admission to the program. Further, the independent study program provided little
23 relief from the pervasive anti-gay harassment and discrimination George suffered at Golden
24 West at the hands of other students and Defendants.

25 127. As a result of Defendants’ actions, failure to act, and/or deliberate
26 indifference, George did not attend regular school for the majority of his senior year in high
27 school, did not receive enough credits to graduate high school with his class, did not receive a
28 diploma, and was deprived of undergraduate education opportunities. George has been

1 damaged emotionally and physically by the harassment and discrimination described above.
2 George has also been damaged to the extent that his expulsion from Golden West has
3 negatively affected, and will negatively affect, his future educational and career prospects

4 128. Defendants' actions, failure to act, and/or deliberate indifference toward the
5 harassment and discrimination George suffered was carried out because of George's actual or
6 perceived sexual orientation. These actions, failures to act, and/or deliberate indifference
7 denied George the full and equal accommodations, advantages, facilities, privileges, and
8 services in a business and public accommodation under Civil Code Section 51 and 52(a). As
9 a result, George suffered economic and non-economic damages in an amount to be more
10 precisely determined at trial.

11
12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs pray for judgment as stated below:

14 1. Issue a judgment declaring that the acts of the Defendants described herein
15 violate the Fourteenth Amendment to the Constitution of the United States, California
16 Education Code Sections 200 et. seq, and Civil Code Sections 51 et seq; and further that said
17 constitutional and statutory rights so violated are present rights of GSA Network which must
18 immediately be respected and protected.

19 2. Issue an injunction ordering Defendants to stop engaging in such
20 unconstitutional and unlawful acts, and to develop policies and procedures for ending any
21 such unconstitutional and unlawful acts and the hostile and intolerant environment, including
22 but not limited to the following:

23 a. Stop Defendants from coercing or convincing ordinary students, who are
24 being harassed on the basis of their sexual orientation, to withdraw from full-
25 time classroom attendance and attend alternative educational programs such
26 as independent study programs.

27 b. Require Defendants to implement mandatory training programs for VUSD
28 faculty and staff on issues relating to diversity, homophobia, and methods to

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- 1 intervene to stop students from harassing other students who are gay or
2 lesbian or who are perceived to be gay or lesbian.
- 3 c. Require Defendants to adopt policies with specific guidelines for instructing
4 teachers and administrators about how to address complaints by students who
5 have been taunted, harassed, or discriminated against because of their actual
6 or perceived sexual orientation or gender.
- 7 d. Require teachers and administrators in VUSD high schools to conduct
8 assemblies for all students addressing issues of diversity, homophobia, and
9 tolerance, wherein students are instructed about laws prohibiting harassment
10 and discrimination based on actual or perceived sexual orientation or gender.
- 11 e. Require Defendants to maintain statistical data concerning each complaint of
12 anti-gay harassment made by a student, as well as the specific action VUSD
13 teachers and administrators took to resolve that complaint.
- 14 f. Require Defendants to facilitate formation of extracurricular clubs addressing
15 homophobia and intolerance at VUSD high schools, such as school-based
16 Gay-Straight Alliance organizations, when students approach them with a
17 request for such a club.
- 18 3. For compensatory damages and consequential damages to be awarded to
19 George Loomis according to proof at trial;
- 20 4. For exemplary and punitive damages to be awarded to George Loomis
21 according to proof at trial;
- 22 5. For interest;
- 23 6. For costs of suit and attorneys' fees; and
- 24 7. For such other and further relief as the Court may deem just, proper, and
25 appropriate.

26
27 **DEMAND FOR JURY**

28 Pursuant to Rule 38(b), Federal Rules of Civil Procedure, and Rule 38-201, Local
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1 Rules, United States District Court for the Eastern District of California, Plaintiffs demand
2 trial by jury for all the issues plead herein so triable.

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DATED: January __, 2001

Respectfully,

JOHN EICHHORST
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KATHLEEN S. MORRIS
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