

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

**J.A., by and through her next friend,
JODIE ANDERSON**

Plaintiff,

v.

DIXON R-1 SCHOOL DISTRICT

Defendant.

Case No. _____

VERIFIED COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Now comes Plaintiff, J.A.,¹ by and through her next friend, Jodie Anderson, 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 Missouri Religious Freedom Restoration Act brought to remedy a violation of the constitutional rights of Plaintiff J.A., a student at Dixon High School in Dixon, Missouri.
2. Plaintiff brings this action challenging Defendant Dixon R-1 School District's ("District") censorship of Plaintiff's religious, pro-life flyers and Plaintiff's public announcement over the intercom inviting students to participate in the annual Pro-Life Day of Silent Solidarity, and other similar events.
3. The District prohibited Plaintiff's religious, pro-life flyer and public announcement

¹ Pursuant to the Administrative Procedures Manual and Users Guide, J.A. is identified by her initials, rather than her full name.

pursuant to its policies.

4. The District, by policy and practice, permits students, student groups, and community organizations to post flyers, drawings, and other materials “in areas of the school which are generally frequented by students,” including the school hallways, windows around the school entrance, and other common areas.
5. The District has previously allowed the posting of materials, including: posters for the Day of Silence in support of students who feel bullied based upon their sexual orientation, posters for a memorial event for a student who died the previous year, drawings of zombies made by students, posters for other student events and activities, political posters, anti-drug posters, breast cancer awareness posters, youth safety posters, advertisements for community events such as a “Hard-Core Sports Trivia” competition, etc.
6. The District, by policy and practice, also permits students to make announcements over the school intercom during designated times of the school day. Such announcements concern various events that may be of interest to students, scholarship opportunities, student club activities, etc.
7. The District has, by policy and practice, prohibited the Plaintiff from posting her religious, pro-life flyers at Dixon High School or from making announcements over the public intercom.
8. District Policy 2170, entitled “Distribution of Noncurricular Publications by Students” states that “[t]he District recognizes that student expression regarding a variety of topics may be beneficial to the District’s educational mission. Discussion and debate regarding serious issues can engender tolerance for diverse viewpoints.”

9. District Regulation 2170 further provides that “[s]tudents may distribute, at reasonable times and places, unofficial written materials, petitions, buttons, badges, and other insignia....”
10. District Policy 2170 also prohibits student literature which is not “consistent with the District’s educational mission” or with the “District’s educational goals.”
11. Plaintiff challenges District Policy 2170 facially and challenges both Policy 2170 and Regulation 2170 (collectively the “Policies”) as-applied to her religious, pro-life literature and announcements.
12. The District’s censorship of Plaintiff’s religious, pro-life speech, and the Policies on which that censorship was based, violate the First and Fourteenth Amendments to the United States Constitution, and the Missouri Religious Freedom Restoration 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, and 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 Western District of Missouri because this claim arose there and because the Defendant is located within the Western District of Missouri.

III. IDENTIFICATION OF THE PLAINTIFF

20. Plaintiff J.A., a minor, is a 12th grade student at Dixon High School, and at all times relevant to this Complaint, a resident of Dixon, Missouri.
21. J.A. is an adherent of the Christian faith and desires to share her religious views with her classmates.
22. J.A., pursuant to her sincerely held religious beliefs, desires to post religious, pro-life flyers, including flyers inviting students to participate in the Pro-Life Day of Silent Solidarity, at Defendant's schools without facing censorship or punishment.
23. In addition, pursuant to her sincerely held religious beliefs, J.A. desires to make announcements over the school's intercom regarding religious and/or pro-life events for students at Dixon High School.
24. J.A. desires to post religious, pro-life flyers and to make announcements over the intercom for the same reason other students desire to post flyers and make announcements—to inform their classmates about activities and events in which the students may desire to participate.

IV. IDENTIFICATION OF THE DEFENDANT

25. Defendant Dixon R-1 School District ("District") is organized under the laws of the State of Missouri and may sue and be sued. *E.E.O.C. v. Hickman Mills Consol. Sch. Dist. No. 1*, 99 F. Supp. 2d 1070, 1080 (W.D. Mo. 2000).

26. The District is charged, inter alia, with the administration, operation, and supervision of Dixon High School, a public secondary 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 literature and flyer posting by students and public announcements over the school intercom by students.
31. The District prohibited J.A. from posting flyers at Dixon High School promoting the Pro-Life Day of Silent Solidarity pursuant to its Policies and practice.
32. The District likewise prohibited J.A. from making a public announcement regarding the Pro-Life Day of Silent Solidarity over the school intercom pursuant to its Policies and practice.
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 the posting of written materials by students and access to the public intercom system for announcements.
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 posting of flyers by students, announcements over the public intercom by students, and for the denial of Plaintiff's religious, pro-life flyers and announcement.

V. ALLEGATIONS OF FACT

**THE DISTRICT'S POLICIES AND PRACTICE
REGARDING STUDENT EXPRESSION ON CAMPUS**

35. Dixon High School is a public secondary school located in Dixon, Missouri.
36. Dixon High School is under the direction of the District and includes ninth through twelfth grade.
37. The District is the official policy maker and as such has enacted the Policies challenged herein.
38. Pursuant to its Policies and practice, the District permits students to post literature and materials "in areas of the school which are generally frequented by students" at Dixon High School, including along the hallways, on windows, and in common areas.
39. However, District Policy 2170 prohibits student literature which is not "consistent with the District's educational mission" or with the "District's educational goals."
40. District Regulation 2170 states that:

Students may distribute, at reasonable times and places, unofficial written materials, petitions, buttons, badges, or other insignia, except expressions which:

1. Are obscene to minors.
2. Are libelous.
3. Are pervasively indecent or vulgar (secondary schools)/contain any indecent or vulgar language (elementary schools).
4. Advertise any product or service not permitted to minors by law.
5. Constitute insulting, hateful or fighting words, the very expression of which injures or harasses other people (e.g. threats of violence, defamation of character or of a person's race, religion, or ethnic origin).
6. Present a clear and present likelihood that, either because of their content or their manner of distribution, will cause a material and substantial disruption of the proper and orderly operation and discipline of the school or school activities, or will cause the commission of unlawful acts or the violation of lawful school regulations.

Distribution on school premises of material in above categories to any student is prohibited.

41. Regulation 2170 defines “unofficial written materials...as all written material except school publications funded and/or sponsored or authorized by the school. Examples include leaflets, brochures, flyers, petitions, placards and underground newspapers, whether written by students or others.”
42. Regulation 2170 defines the term “distribution” as “circulation or dissemination of written material by means of handing out free copies, selling or offering copies for sale and accepting donations for copies. It includes displaying written materials in areas of the school which are generally frequented by students.”
43. Pursuant to the District’s Discipline Handbook, J.A. or any other student violating the District’s Policies can be subject to disciplinary action, including Friday night detention or one day out-of-school suspension.
44. Pursuant to Policy 2170’s express recognition that “student expression regarding a variety of topics may be beneficial to the District’s educational mission,” including “[d]iscussion and debate regarding serious issues,” the District has permitted the posting of flyers and literature with various types of messages including a student memorial service, a fall festival, a “Hard-Core Sports Trivia” competition, the Pulaski County Teen Age Republicans, anti-drug posters, breast cancer awareness, Zombie pictures, etc.
45. For example, in 2010, a group of students not affiliated with a student club were permitted to put up posters for the national Day of Silence where, according to the Day of Silence website, students nationwide take a vow of silence to bring attention to anti-LGBT name-calling, bullying and harassment in their schools.
46. And in October 2011, a student organizing a memorial service for a senior that died the

previous year was permitted to display flyers promoting the service and soliciting monetary contributions for a balloon release in the student's honor.

47. The District also has enacted policies mandating the inclusion of such "serious issues" as human sexuality, abstinence, and adoption in its health curriculum. Pursuant to District Policy 6116, in any courses or instruction related to human sexuality, the District must, among other requirements:
- A. "Present abstinence from sexual activity as the preferred choice of behavior;"
 - B. "Advise students that teenage sexual activity places them at a higher risk of dropping out of school;"
 - C. "Present students with the latest factually accurate information regarding the possible side effects and benefits of all forms of contraception;"
 - D. "Include discussions of the possible emotional and psychological consequences of preadolescent and adolescent sexual activity. Such discussions will include the consequences of adolescent pregnancy, the advantages of adoption, the adoption of special needs children, and the process involved in making an adoption plan."
48. Furthermore, under Policy 6116, the District "will not permit any individual or organization, that provides abortion services, to offer, sponsor, or furnish course materials related to human sexuality or sexually transmitted diseases."

J.A.'s PAST DISTRIBUTION OF RELIGIOUS, PRO-LIFE MATERIALS AT SCHOOL

49. In the fall of 2010, J.A. decided to organize students at Dixon High School to participate in the annual Pro-Life Day of Silent Solidarity.
50. The Pro-Life Day of Silent Solidarity is an opportunity for students nationwide to join together in remaining silent at school to show solidarity with the millions of babies killed

by abortion each year. Participants wear a red arm band or piece of duct tape and carry fliers to explain why they are silent and to educate others about the pro-life cause.

51. J.A. desired to organize the event based upon her religious, pro-life beliefs.
52. Pursuant to the requirements of the Policies, J.A. requested permission from Dixon High School Principal Jerry Braschler to organize the event, to put up posters in the school hallways, and to make an announcement over the intercom.
53. Principal Braschler granted her request, and she posted several flyers and made announcements inviting students to participate in the event.
54. One poster stated:

Pro-Life Day of Silence
This Tuesday – October 19th

- Get Permission from All of your teachers to be quiet.
- Wear a red piece of duct tape w/ “LIFE” written on it.

Life is at conception.
Any questions, see [J.A.]

55. Another of J.A.’s posters stated:

Terrorists have killed 3,000 Americans since the ‘90s.
Abortionists have killed 4,000 American babies since yesterday.
More than 50 million babies have been silenced.
~ Be Their Voice ~
Be Silent

56. There were no disruptions caused by the event itself, the flyers and posters promoting it, or the announcements.
57. In 2010, a group of students not affiliated with any student group decided to organize a Day of Silence to bring attention to anti-LGBT name-calling, bullying and harassment in their school.
58. This group was permitted to post flyers and make announcements over the intercom as well.

THE DENIAL OF J.A.'S RELIGIOUS, PRO-LIFE FLYERS BY THE DISTRICT

59. During the fall of 2011, J.A. again decided to organize students to participate in the national Pro-Life Day of Silent Solidarity.
60. The event was scheduled for October 18, 2011.
61. Prior to the event, J.A. again met with Principal Braschler to request permission to organize the event, post flyers, and make announcements over the school's intercom.
62. Principal Braschler approved J.A.'s request.
63. On October 11, 2011, a week before the event, J.A. hung several posters throughout the hallways of Dixon High School similar to the posters she had displayed the previous year as described above.
64. On October 13, 2011, a friend brought J.A. one of the posters that a teacher was about to take down. J.A. discovered that one of her posters had been removed from the hallway.
65. The friend told J.A. that a teacher was about to take down J.A.'s posters because it was "offensive."
66. J.A. took the poster from her friend and re-posted it in the hallway.
67. A few hours later, J.A. discovered that all of her posters had been taken down.
68. J.A. was informed by a teacher that Superintendent Dawna Burrow had ordered all of the posters to be taken down and thrown away.¹
69. Thereafter, J.A. went to meet with Superintendent Burrow.
70. Superintendent Burrow informed J.A. that because the posters for the Pro-Life Day of Silent Solidarity were not part of the school curriculum and were not promoting a school function, they could not be placed in school hallways.

¹ As a result of the destruction of the posters by the District officials, there are no copies of J.A.'s handmade posters to present to this Court.

71. Superintendent Burrow further stated that the only way the posters could be displayed is if the Pro-Life Day of Silent Solidarity was sponsored by a school organization so that it would be considered a school function.
72. J.A. was also not allowed to make any announcements concerning the Pro-Life Day of Silent Solidarity for the same reasons.
73. According to Superintendent Burrow, the only way J.A. could promote the event was through student-to-student literature distribution during non-instructional time.
74. J.A. then contacted Tina Vrba, Treasurer of the Board of Education, to discuss the removal of her pro-life posters.
75. Mrs. Vrba stated that J.A. could be reimbursed for her destroyed posters, but the District never did so.
76. Next, J.A. contacted Mr. Craig Rivera, President of the Board of Education.
77. J.A. described the removal and destruction of her pro-life posters by school officials.
78. Mr. Rivera said he would contact Superintendent Burrow to discuss the situation and then call J.A. back.
79. After speaking with Superintendent Burrow, Mr. Rivera told J.A. that her religious, pro-life posters could not be displayed because they were not part of the school curriculum and they were not being posted by a club.
80. Mr. Rivera also said that Superintendent Burrow knew that some people might think it is against the First Amendment to tear down J.A.'s posters, but such action was in accordance with District policy.
81. J.A.'s mother then contacted the Missouri Department of Elementary and Secondary Education to discuss the removal of J.A.'s posters.

82. Officials from the Department did not offer any assistance to J.A. or her mother.
83. Pursuant to the District's Policy 2170 which allows for student literature to be displayed "in areas of the school which are generally frequented by students," the District permits other students, student groups, and even community organizations to continue to display posters in the hallways, windows, and other locations frequented by students of Dixon High School—even though the events are not sponsored by a school organization.
84. For example, in November 2011, after J.A.'s pro-life posters had been torn down and destroyed by the District, the following posters, none of which are from, or sponsored by, student organizations, were permitted to be displayed:
- A. A flyer from B.H., a student at Dixon High School, inviting students to attend a memorial service for I.B., a student at Dixon High School who died the previous year. The poster read:
- Students & Teachers
On November 2nd @ 7:30 a.m. there will be a remembrance service for [I.B.] There will be a sign-up sheet on Mrs. McCray's window to get a balloon to write a message for [I.B.].... We will start in the court yard for writing on the balloons and then we will go to the back of the school and watch [I.B.'s] older brother [J.] release them. Any further questions contact [B.P.]
- B. Several posters from unidentified students where students took photographs of themselves and edited them on the computer to transform themselves into zombie-like creatures. In the photographs, the students were shown with blood pouring from their eyes, the faces where partially or wholly replaced with human skulls, and bloody cuts and scrapes were added to their bodies.
- C. A poster for a "Hard-Core Sports Trivia" sponsored by StraTTrivia, Ink. and held at Redeem Lutheran Hall. The poster read in part:

So you think you know the score, the best, the year, the records?
Here's your chance to prove it.
Saturday, November 12, 2011
Redeemer Lutheran Hall
1701 St. Route 72, Rolla, MO
6:00 p.m. (Doors Open)
6:45 p.m. (Game begins)
Four person teams. \$100/team
[\$90 if prepaid by November 1.]
Bring your own card table.
Silent auction of sports-related items & memorabilia.
Soda and snacks provided.
Teams may bring food.

D. A poster for the Pulaski County Teen Age Republicans with a picture of their logo and the tagline "We're on The Right Side of Things."

E. An anti-drug poster entitled "Got Drugs?" that encourages students to:

Turn in your unused or expired medication for safe disposal
Saturday, October 29th
Countrymart 2PM-6PM

F. Another anti-drug poster from abovetheinfluence.com reading:

The fashion mags say what's hot this month, but they're checking me for what's hot next month. So what if everybody's wearing a perm? I'm going natural. When hip hop went futuristic, I kept it old school When everyone flipped the script, I was on the next page. Now, do I seem like I'm gonna let anything influence me.

G. Several posters regarding driving safely such as one warning that:

Spotting a motorcycle on the road can be just as hard as finding one in this picture. Watch out for motorcyclists.

And another showing a violently smashed car and the dire statement "Never Made It To 17" with the admonition to "Buckle UP! Arrive Alive"

A third one with the ominous warning that "In less than .002 seconds you'll hit the pavement. Just enough time for one regret."

H. A poster showing several people in wheelchairs that states:

We'd like to crash your party.

Does this poster disturb you? Good
Our mission is to wake people up to the harsh realities of brain and
spinal cord injuries. They are preventable, so be alert.

Always wear your seatbelt. Always wear a helmet. And always
think first to protect your body.

85. J.A. is a Bible-believing Christian who desires to share her faith, beliefs, and pro-life viewpoint with other students and to invite them to participate in pro-life events.
86. J.A.'s sincerely held religious beliefs compel her to share her faith, beliefs, and pro-life viewpoint with her friends and classmates at school.
87. One way J.A. accomplishes this goal at school is through inviting her classmates to participate in pro-life events, including the Pro-Life Day of Silent Solidarity, and advocating on behalf of the pro-life movement.
88. J.A. immediately desires to engage in religious, pro-life speech through the display of pro-life literature absent fear of reprisal and without facing punishment or being prohibited from doing so.

VI. ALLEGATIONS OF LAW

89. Students do not shed their constitutional rights at the schoolhouse gate.
90. Non-disruptive, private student expression is protected by the First Amendment.
91. Private speakers are entitled to equal, viewpoint neutral access to public fora.
92. Religious speech is fully protected by the First Amendment.
93. Prior restraints on speech may not delegate overly broad discretion to government decision-makers, may not allow for content based restrictions, and must be narrowly tailored to serve a compelling governmental interest.
94. The government may not discriminate against speech based on its viewpoint, regardless

of the forum.

95. Content-based restrictions on speech in a public forum are presumptively unconstitutional and are subject to strict scrutiny.
96. 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.
97. 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 Missouri.
98. Plaintiff is suffering irreparable harm from the conduct of the District.
99. Plaintiff has no adequate or speedy remedy at law to correct or redress the deprivation of her rights by the District.
100. Unless the District's Policies are enjoined, Plaintiff will continue to suffer irreparable injury.
101. Plaintiff and other like-minded students continue to desire to post flyers and make announcements regarding religious, pro-life events and activities.

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

102. Plaintiff re-alleges and incorporates herein, as though fully set forth, Paragraphs 1 through 101 of this Complaint.
103. 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, pro-life expression.
104. The District's Policies and practice permit students, student groups, and even community

organizations to post flyers and literature in the hallways at Dixon High School and permits students to make announcements over the school intercom.

105. Pursuant to its Policy 2170, “[t]he District recognizes that student expression regarding a variety of topics may be beneficial to the District’s educational mission.”
106. Furthermore, under its Policy 2170, “[d]iscussion and debate regarding serious issues can engender tolerance for diverse viewpoints.”
107. Through its creation of these public fora and the attendant access given to the above mentioned students, student groups and others, the District permits the posting of flyers and literature at Dixon High School that promote recreational, community, charitable, political, and educational activities.
108. Plaintiff’s proposed flyers promote similar recreational, community, charitable, political, and educational activities, albeit from a religious, pro-life perspective, but Plaintiff is barred from posting her flyers in the school hallways.
109. The District permits the distribution of flyers by students, student groups, and community groups, covering “a variety of topics” and “[d]iscussion and debate regarding serious issues,” including the Day of Silence in support of students who feel bullied based upon their sexual orientation, a memorial event for a student who died the previous year, drawings of zombies made by a group of students, other student events and activities, political organizations, anti-drug initiatives, breast cancer awareness, youth safety, community events such as a “Hard-Core Sports Trivia” competition, etc.
110. The District also permits students to make announcements over the Dixon High School intercom promoting student and community events, scholarship opportunities, and school events.

111. However, the District's Policies and practice prohibit J.A. from posting a flyer for a religious, pro-life event or from making an announcement over the school intercom inviting students to participate in the event.
112. J.A.'s religious, pro-life expression on campus does not materially and substantially interfere with the orderly conduct of educational activity within the school.
113. The District's Regulation 2170 only identifies six categories of student expression that may not be distributed on campus, including materials which:
 1. Are obscene to minors.
 2. Are libelous.
 3. Are pervasively indecent or vulgar (secondary schools)/contain any indecent or vulgar language (elementary schools).
 4. Advertise any product or service not permitted to minors by law.
 5. Constitute insulting, hateful or fighting words, the very expression of which injures or harasses other people (e.g. threats of violence, defamation of character or of a person's race, religion, or ethnic origin).
 6. Present a clear and present likelihood that, either because of their content or their manner of distribution, will cause a material and substantial disruption of the proper and orderly operation and discipline of the school or school activities, or will cause the commission of unlawful acts or the violation of lawful school regulations.
114. J.A.'s religious, pro-life flyers are not obscene to minors, libelous, pervasively indecent or vulgar, advertise any product or service not permitted to minors by law, insulting, hateful, or fighting words, or likely to create a material or substantial disruption to the operation of the school.
115. Even though J.A.'s religious, pro-life flyers comply with the express terms of the District's Policies governing student expression at school, they remain banned from campus while other students' materials are permitted.
116. This unequal treatment of J.A.'s religious, pro-life expression is a content-based restriction in an otherwise open fora.

117. The District permitted a group of students not affiliated with a student club or organization to display flyers and make announcements over the school intercom regarding a Day of Silence to support gay and lesbian students and to advocate for an end to bullying against gay and lesbian students.
118. However, the District's Policies and practice discriminate against J.A.'s religious, pro-life viewpoint by prohibiting her from posting religious, pro-life flyers or making announcements over the intercom inviting students to participate in the Pro-Life Day of Silent Solidarity to support the pro-life movement and to advocate for an end to abortion.
119. This denial of J.A.'s religious speech while permitting secular speech from other students constitutes viewpoint discrimination, which is unconstitutional in any type of forum.
120. J.A.'s religious, pro-life expression is consistent with the District's "educational mission" and its "educational goals" because it affirms the educational requirements contained in District Policy 6116 regarding promoting abstinence, discussing the consequences of adolescent pregnancy and the advantages of adoption.
121. The District's Policy 2170 is both content-based and viewpoint-based on its face due to its censorship of materials that do not comply with the "educational mission" or "educational goals" of the District.
122. The District's Policies and practice additionally impose an unconstitutional prior restraint because they vest District officials with unbridled discretion when deciding if a student's speech promotes the "District's educational mission" or the "District's educational goals."
123. The District's Policies and practice subjects all flyer postings by students, groups, and community members to the unbridled discretion of District officials.

124. Likewise, the District's Policies and practice subjects all student announcements over the school intercom to the unbridled discretion of District officials.
125. The District's Policies and practice give unbridled discretion to District officials by allowing them to exclude student expression that does not fall within Regulation 2170's six categories of student expression that are banned on campus based upon their determination that the expression is not consistent with the District's "educational mission" or its "educational goals."
126. The District's Policies and practice are additionally overbroad because they sweep within their ambit protected First Amendment expression.
127. The District's Policies are overbroad because they censors any private student expression that is not "consistent with the District's educational mission" or its "educational goal"—vague terms that can be interpreted to cover any private student expression not officially approved by the District.
128. The overbreadth of the District's Policies and practice chill the speech of students not before the Court who seek to engage in private religious, pro-life expression through the display of flyers in the school hallways and through making announcements over the school intercom.
129. The District's Policies and practice chill, deter, and restrict Plaintiff from freely expressing her religious, pro-life beliefs.
130. The District's Policies, as interpreted and applied by District officials to prohibit religious, pro-life speech, are not the least restrictive means necessary to serve any compelling interest which the District thereby seeks to secure.
131. The District's Policies and practice are not reasonably related to any legitimate

pedagogical concerns.

132. Censoring students' religious, pro-life speech *per se* is not and cannot be a legitimate pedagogical concern.
133. The District's Policy 2170, both facially and as applied, and its Regulation 2170, 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

134. Plaintiff re-alleges and incorporates herein, as though fully set forth, Paragraphs 1 through 101 of this Complaint.
135. The District's Policies and practice, by targeting J.A.'s private religious, pro-life expression for special disabilities because it is religious and pro-life, violate J.A.'s constitutional right to the free exercise of religion.
136. J.A. desires to engage in the expressive activities described above on the basis of her sincerely held religious beliefs.
137. The District's Policies and practice exclude – and thus discriminate against – religious expression.
138. The District's Policies and practice substantially burden J.A.'s free exercise of religion by conditioning her ability to speak on foregoing her free exercise rights.
139. The District's Policies and practice force J.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.

140. The District's Policies and practice substantially burden J.A.'s free exercise of religion by denying her the right to include private religious, pro-life speech in the fora.
141. The District's Policies and practice constitute the imposition of special disabilities on J.A. due to her religion and her intent to include private religious, pro-life expression in the fora.
142. The District's Policies and practice of banning J.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.
143. The District's Policies and practice cannot be justified by a compelling governmental interest and are not narrowly tailored to advance any such interest.
144. The District's interpretation and application of its Policies chill J.A.'s freedom of religious expression and exercise, both of which are fundamental rights guaranteed to Plaintiff by the First Amendment.
145. The District's Policies are neither neutral nor generally applicable.
146. The District's prohibition on student expression that is not consistent with the District's "educational mission" or its "educational goal" is not neutral because it permits District officials to arbitrarily decide what speech meets this standard and what speech does not.
147. Furthermore, the District's Policies and practice are likewise not generally applicable because they grants District's officials unbridled discretion, enforced via a policy of individualized assessment (since students must submit a copy of the materials they wish to distribute beforehand) to apply the "educational mission" and "educational goal" standard to J.A.'s religious pro-life speech while not applying it to other student expression, such as the Day of Silence in support of gay and lesbian students.

148. The District's Policy 2170, both facially and as applied, and its Regulation 2170, as applied, constitute an excessive burden on J.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

149. Plaintiff re-alleges and incorporates herein, as though fully set forth, Paragraphs 1 through 101 of this Complaint.

150. The Due Process Clause of the Fourteenth Amendment prohibits the government from censoring speech pursuant to vague or overbroad standards that grant unbridled discretion.

151. While District Regulation 2170 identifies six specific types of student expression that are prohibited at District schools, Policy 2170 also contains a provision allowing the District to restrict any student expression that is not "consistent with the District's educational mission" or its "educational goals."

152. As the District's restriction on J.A.'s religious, pro-life speech demonstrates, the District may restrict a student's expression because it is not "consistent with the District's educational mission" or its "educational goals," even when that expression does not fall within the six specific types of student expression banned by Regulation 2170.

153. Students of common intelligence must guess and will differ upon what expression is not "consistent with the District's educational mission" or its "educational goals."

154. There is no warning or notice as to what expression will be deemed to fall in the category

of speech that is not “consistent with the District’s educational mission” or its “educational goals.”

155. The terms “educational mission” and “educational goals” are vague and are not defined in the Policies, allowing the District officials to act with unbridled discretion when deciding if a student’s speech is “consistent with the District’s educational mission” or with the District’s “educational goals.”
156. The discretion given to District officials in the District’s Policies leaves censorship of student speech to the whim of District officials.
157. The District’s Policy 2170, both facially and as applied, and its Regulation 2170, 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 EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

158. Plaintiff re-alleges and incorporates herein, as though fully set forth, Paragraphs 1 through 101 of this Complaint.
159. The Equal Protection Clause of the Fourteenth Amendment requires that the government treat similarly situated persons and groups equally.
160. Pursuant to its Policies and practice, the District has allowed other similarly situated students, and even private community members, to post flyers in the school hallways with secular expression.
161. Pursuant to its Policies and practice, the District has also allowed other similarly situated

students to make announcements over the school intercom.

162. The District has treated J.A. disparately when compared to similarly situated students, and even private community groups, by banning only J.A.'s religious, pro-life expression.
163. By discriminating against the content and viewpoint of J.A.'s speech, the District is treating J.A.'s religious, pro-life speech differently than other similarly situated public school students.
164. The District's Policies and practice violate various fundamental rights of J.A., such as rights of free speech and free exercise of religion.
165. When government regulations, like the District's Policies and practice challenged herein, infringe on fundamental rights, discriminatory intent is presumed.
166. The District's Policies and practice have been applied here to intentionally discriminate against J.A.'s rights of free speech and free exercise of religion.
167. The District lacks a rational or compelling state interest for such disparate treatment of J.A.
168. The District's Policies and practice are not narrowly tailored as applied to J.A. because her speech does not implicate any of the interests the District might have.
169. The District's Policies and practice are overinclusive because they prohibit J.A.'s religious expression even though it is not disruptive.
170. The District's Policies and practice burden more of J.A.'s speech than necessary because she is foreclosed from using religious, pro-life content and viewpoints in her speech even though it is not disruptive.
171. The District's Policy 2170, both facially and as applied, and its Regulation 2170, as applied, thus violate J.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.

FIFTH CAUSE OF ACTION: VIOLATION OF THE MISSOURI RELIGIOUS FREEDOM RESTORATION ACT, MO. ANN. STAT. § 1.302

172. Plaintiff re-alleges and incorporates herein, as though fully set forth, Paragraphs 1 through 101 of this Complaint.
173. The Missouri Religious Freedom Restoration Act, Mo. Ann. Stat. § 1.302, 1, prohibits a governmental authority from restricting a person's free exercise of religion, unless: (1) The restriction is in the form of a rule of general applicability, and does not discriminate against religion, or among religions; and (2) the governmental authority demonstrates that application of the restriction to the person is essential to further a compelling governmental interest, and is not unduly restrictive considering the relevant circumstances.
174. J.A., pursuant to her sincerely held religious beliefs, desires to post religious, pro-life flyers, including flyers and announcements inviting students to participate in the Pro-Life Day of Silent Solidarity, at the District's schools without facing censorship or punishment.
175. In addition, pursuant to her sincerely held religious beliefs, J.A. desires to make announcements over the school's intercom regarding religious and/or pro-life events for students at Dixon High School.
176. The District has restricted and continues to restrict J.A.'s right to the free exercise of religion through its Policies and practice by preventing her from engaging in religious pro-life expression.

177. The District's Policies and practice are not generally applicable because they target J.A.'s religious, pro-life expression for disfavored treatment as compared to other students, student groups, and community members.
178. The District's Policies and practice discriminate against religion because they prohibit J.A.'s religious, pro-life expression while permitting other non-religious expression by students, student groups, and community members.
179. The District does not have a compelling, or even rational, governmental interest that could justify the restriction on J.A.'s religious speech and expressive activities.
180. The District's Policies and practice are overly restrictive in light of the relevant circumstances because the District permits students, student groups, and community members to distribute flyers and posters and make announcements while prohibiting J.A.'s religious, pro-life expression.
181. The District's Policy 2170, both facially and as applied, and its Regulation 2170, as applied, violate the Missouri Religious Freedom Restoration Act, Mo. Ann. Stat. § 1.302.

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 judgment 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 Policy challenged herein that violates J.A.'s constitutional rights by banning religious, pro-life expression;
- b. That this Court render a Declaratory Judgment, declaring District Policy 2170's

prohibition against student literature that is not “consistent with the District’s educational mission” or “consistent with the District’s educational goals” unconstitutional both facially and as applied, and declaring District Regulation 2170 unconstitutional as applied to ban J.A.’s religious, pro-life expression in violation of the First and Fourteenth Amendments to the United States Constitution;

- 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 J.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 J.A.’s constitutional rights;
- h. That this Court issue the requested injunctive relief without a condition of bond or other security being required of J.A.; and
- i. That the Court grant such other and further relief as the Court deems equitable and just in the circumstances.

Dated this 14th day of February, 2012.

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Dated this 14th day of February, 2012.

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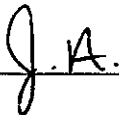
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VERIFICATION

I, J.A., a citizen of the United States and a resident of the State of Missouri, have read the foregoing Verified Complaint for Declaratory and Injunctive Relief and declare under the penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed this 13th day of February, 2011.

J.A.  _____