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13
14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF LOS ANGELES

16 JANE DOE, a minor, by John Doe, her guardian
ad litem; and JASON ROE, a minor, by David
17 Roe, his guardian ad litem, on behalf of themselves
and similarly situated public school students in the
18 State of California,

19 Plaintiffs,

20 v.

21 THE STATE OF CALIFORNIA; ARNOLD
SCHWARZENEGGER, in his official capacity as
22 the Governor of the State of California; and
DOES 1 through 100 inclusive,

23 Defendants.
24

Case No.

[CLASS ACTION]

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

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INTRODUCTION

1
2 1. Our nation’s public schools represent the highest and most revolutionary ideal of
3 American democracy — that through education open on an equal basis to all, every child can
4 achieve his or her full potential as consequence of merit and hard work. The California
5 Constitution, like the constitutions of every state in the Union, accordingly entitles the children of
6 this State to a free and equal education. But there is no system of free public education in
7 California: public schools throughout the State unabashedly trample upon this constitutional right
8 by requiring students to pay fees and purchase assigned materials for courses for academic credit.
9 Plaintiffs Jane Doe and Jason Roe are just two of thousands of public school students whose
10 constitutionally guaranteed education has been and is being improperly conditioned upon the
11 payment of fees. Despite its clear constitutional duty to provide free and equal education, the
12 State has stood idly by in the face of this rampant and blatant charging of illegal fees. The State
13 instead operates by winks and nods, failing completely to monitor and ensure its public school
14 districts’ compliance with the free education guarantee.

15 2. As early as 1879, the People of this State recognized that “[a] general diffusion of
16 knowledge and intelligence [is] essential to the preservation of the rights and liberties of the
17 people.” Cal. Const. art IX, § 1. Accordingly, they amended the California Constitution to
18 require the State to “provide for a system of common schools by which a *free school* shall be kept
19 up and supported in each district.” Cal. Const. art. IX, § 5 (emphasis added). As our
20 Supreme Court has unequivocally pronounced: “This provision entitles ‘the youth of the
21 State . . . to be educated at the public expense.’” *Hartzell v. Connell*, 35 Cal. 3d 899, 905 (1984)
22 (quoting *Ward v. Flood*, 48 Cal. 36, 51 (1874)). “A school which [sic] conditions a student’s
23 participation in educational activities upon the payment of a fee clearly is *not* a ‘free school.’” *Id.*
24 at 911. Thus, the right to a free public education in California was established well over a century
25 ago.

26 3. Despite the right’s venerable vintage, the State has done nothing as its public
27 school districts blatantly violate the free school guarantee by requiring students to pay fees and
28 purchase assigned materials for credit courses. For example, Plaintiff Jane Doe’s public high

1 school requires students to purchase textbooks, workbooks and assigned novels for credit courses.
2 Her school also charges students to take an Advanced Placement (“AP”) exam, even though
3 completing the exam is a course requirement and affects the student’s grade. Likewise, Plaintiff
4 Jason Roe’s public high school requires students to purchase workbooks, lab manuals, and
5 physical education uniforms for credit courses and also requires students to purchase locks and
6 student agendas as a general requirement for enrollment at the school.

7 4. Students who are unable to pay the fees or purchase the materials are
8 disadvantaged academically and overtly humiliated by teachers and school officials. For
9 example, Jane’s Spanish teacher wrote her name on the class whiteboard because she could not
10 pay for assigned workbooks. Her English teacher instructed her not to highlight or take notes in
11 borrowed books that Jane could not afford to purchase. And in the middle of taking her AP
12 United States History exam, the proctor approached Jane, indentified her by name and asked if
13 she had a check for the exam fee, stating that the person at the school charged with collecting
14 money wanted to see her immediately after the exam. Jason was required to purchase an English
15 workbook, a Chemistry lab manual, a Spanish language workbook, and a student agenda. Jason’s
16 mother was informed by a school official that, if Jason did not purchase an English workbook, the
17 only way he could access a school-provided copy to complete homework assignments was by
18 going to the school library after school. Because Jason’s family could afford to pay only a
19 portion of the fees for these required materials, Jason was compelled to start school without his
20 Chemistry manual and Spanish workbook.

21 5. The State’s failure to uphold the free school guarantee is not even remotely
22 isolated to Jane’s and Jason’s public high schools; it is systemic and widespread throughout
23 California. Countless public schools throughout California baldly publicize on their websites that
24 they require students to pay fees for courses and educational activities. Schools list fees they
25 charge students for credit courses in not less than 32 school districts, including Anaheim Union
26 High School District, Anderson Union High School District, Arcadia Unified School District,
27 Berkeley Unified School District, Beverly Hills Unified School District, Bonita Unified School
28 District, Burbank Unified School District, Cabrillo Unified School District, Calaveras Unified

1 School District, Capistrano Unified School District, Chaffey Joint Union High School District,
2 Conejo Valley Unified School District, Davis Joint Unified School District, Firebaugh-Las Deltas
3 Unified School District, Folsom Cordova Unified School District, Irvine Unified School District,
4 Long Beach Unified School District, Los Alamitos Unified School District, Mountain View/Los
5 Altos Union School District, Napa Valley Unified School District, New Haven Unified School
6 District, Orange Unified School District, Palo Alto Unified School District, Petaluma Joint Union
7 High School District, Sacramento City Unified School District, San Ramon Valley Unified
8 School District, Santa Monica-Malibu Unified School District, Sierra Sands Unified School
9 District, Temecula Valley Unified School District, Tustin Unified School District, and Walnut
10 Valley Unified School District. It is the State’s failure to monitor and ensure its public school
11 districts’ compliance with the free school guarantee that has allowed — indeed, encouraged —
12 this brazen constitutional violation to proliferate.

13 6. The State’s failure has also deprived students who are unable to pay mandatory
14 fees of their “fundamental right” to “basic educational equality” under the California
15 Constitution. *Butt v. California*, 4 Cal. 4th 668, 685-86 (1992); Cal. Const. art. I, § 7(a) & art. IV,
16 § 16(a). “The State itself bears the ultimate authority and responsibility to ensure that its district-
17 based system of common schools provides basic equality of educational opportunity.” *Butt*,
18 4 Cal. 4th at 685. By allowing its public school districts to condition access to educational
19 services and the quality of educational services offered to students dependent upon payment of
20 student fees, the State has failed to perform its constitutional duty of ensuring basic educational
21 equality irrespective of economic status. It thereby sanctions a dual school system which
22 deliberately favors students from families of means over students from disadvantaged households.

23 7. Although the State may currently be operating under difficult budgetary
24 constraints, “financial hardship is no defense to a violation of the free school guarantee.”
25 *Hartzell*, 35 Cal. 3d at 912. The California Constitution’s guarantee to a free and equal public
26 education is absolute and cannot be qualified by the finances of either the State or the students’
27 families.

VENUE

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2 16. Los Angeles County is a proper venue for this action under California Code of
3 Civil Procedure section 401, which provides that an action against the State of California (or its
4 departments, boards, or officers) that may be brought in Sacramento County may be brought
5 instead in any county of this State in which the State Attorney General has an office.

6 17. This action may be brought in Sacramento County under Code of Civil Procedure
7 section 395 because at least some of the Defendants, if not all of them, reside there.

8 18. The State Attorney General has an office in Los Angeles County.

9 19. Because this action may be brought in Sacramento County and the State Attorney
10 General has an office in Los Angeles County, this action may be brought in Los Angeles County
11 under Code of Civil Procedure section 401.

THE CALIFORNIA CONSTITUTION GUARANTEES

FREE AND EQUAL EDUCATION

12
13
14 20. Well over a century ago in 1879, the People of this State officially recognized in
15 the California Constitution that “[a] general diffusion of knowledge and intelligence [is] essential
16 to the preservation of the rights and liberties of the people.” Cal. Const. art IX, § 1. Accordingly,
17 they amended the California Constitution to require the State to “provide for a system of common
18 schools by which a *free school* shall be kept up and supported in each district.” Cal. Const. art.
19 IX, § 5 (emphasis added). “This provision entitles ‘the youth of the State . . . to be educated at
20 the public expense.’” *Hartzell*, 35 Cal. 3d at 905 (quoting *Ward*, 48 Cal. at 51). In short, this
21 section mandates that when it comes to public education, “free” means “free.”

22 21. “Once the community has decided that a particular educational program is
23 important enough to be offered by its public schools, a student’s participation in that program
24 cannot be made to depend upon his or her family’s decision whether to pay a fee” *Id.* at 912.
25 Thus, under the California Constitution, public education cannot be made contingent upon the
26 payment of students fees: “A school which [sic] conditions a student’s participation in
27 educational activities upon the payment of a fee clearly is *not* a ‘free school.’” *Id.* at 911.

1 22. A fee-waiver policy for student fees does not satisfy the requirements of the free
2 school guarantee. *Hartzell*, 35 Cal. 3d at 911-13. “The constitutional defect in [student] fees
3 cannot be corrected by providing waivers to indigent students.” *Id.* at 913. “In guaranteeing
4 ‘free’ public schools, article IX, section 5 [of the California Constitution] fixes the precise extent
5 of the financial burden which may be imposed on the right to an education — none.” *Id.* at 911.
6 Moreover, a system of fee waivers for “needy” students is undeniably stigmatizing and degrading.
7 *Id.* at 912.

8 23. Nor do the financial constraints of the State or its school districts license the
9 charging of illegal student fees. *Hartzell*, 35 Cal. 3d at 912. “[F]inancial hardship is no defense
10 to a violation of the free school guarantee.” *Id.* The California Constitution’s guarantee to a free
11 and equal public education is absolute and cannot be qualified by the finances of either the State
12 or the students’ families.

13 24. The equal protection clauses of the California Constitution (Cal. Const. art. I,
14 § 7(a) & art. IV, § 16(a)) also prohibit conditioning public education on the payment of student
15 fees. “Basic educational equality” is a “fundamental right” under the California Constitution, and
16 any disparate treatment having a real and appreciable impact on it is subject to “strict and
17 searching judicial scrutiny.” *Butt*, 4 Cal. 4th at 683-86 (quoting *Serrano v. Priest (Serrano II)*,
18 18 Cal. 3d 728, 767-68 (1976)). Moreover, disparate treatment based on “wealth,” at least in the
19 context of public education, is subject to strict scrutiny as a “suspect classification.” *See Serrano*
20 *II*, 18 Cal. 3d at 765-66. Thus, the California Constitution forbids conditioning access to
21 educational activities or varying the quality of public education opportunities offered to students
22 based on students’ ability to pay fees.

23 25. Consistent with these constitutional mandates, several California statutes and
24 regulations independently prohibit charging fees for public education. Enacted in 1976,
25 California Education Code section 51004 reiterates that a state-provided “educational
26 opportunity” is “a right to be enjoyed without regard to . . . economic status.” Enacted
27 concurrently with section 51004, Education Code section 60070 provides that “[n]o school
28 official shall require any pupil . . . to purchase any instructional material for the pupils’ use in

1 school.” And Title 5, section 350 of the California Code of Regulations provides more broadly
2 that “[a] pupil enrolled in a school shall not be required to pay any fee, deposit, or other charge
3 not specifically authorized by law.”

4 26. Finally, the responsibility to provide a free and equal education lies squarely with
5 the State. *Butt*, 4 Cal. 4th at 680-81. “Public education is an obligation which the State assumed
6 by the adoption of the Constitution.” *Butt*, 4 Cal. 4th at 680. “Local districts are the State’s
7 agents for local operation of the common school system, and the State’s ultimate responsibility
8 for public education cannot be delegated to any other entity.” *Id.* at 681. “The State itself bears
9 the ultimate authority and responsibility to ensure that its district-based system of common
10 schools provides basic equality of educational opportunity.” *Id.* at 685.

11 **PLAINTIFF JANE DOE’S PUBLIC HIGH SCHOOL CHARGES**

12 **STUDENTS NUMEROUS ILLEGAL FEES**

13 27. Plaintiff Jane Doe is a sixteen-year-old student attending a public high school in
14 Orange County. She finished her freshman and sophomore years at the school, and intends to
15 complete her junior and senior years there. Jane fully intends on pursuing a college education
16 after graduating from high school.

17 28. Jane’s high school violates her constitutional right to a free and equal public
18 education by charging numerous illegal fees. Even before her enrollment as a freshman, the
19 school required that Jane pay a mandatory fee to be eligible to enroll in any class. She was again
20 required to pay this enrollment fee before her sophomore year. The school also requires students
21 to pay fees and purchase assigned materials for credit courses.

22 29. Jane’s family, however, has been unable to pay these fees and purchase the
23 required course materials. This has caused both Jane and her family much hardship and
24 heartache. Jane’s father (“Mr. Doe”) has discussed the unconstitutionality of the student fees
25 with both the school’s principal and assistant principal on multiple occasions. During these
26 discussions, both school officials acknowledged that the student fees charged by the school are
27 illegal.

1 30. The school's principal told Mr. Doe that Jane will not have to pay the illegal fees
2 that other students are required to pay, essentially creating an informal fee waiver for her. He has
3 assured Mr. Doe that Jane will not have to purchase school books, and that the school will
4 provide the books to Jane in a discreet and timely manner so as not to disadvantage or embarrass
5 her. But a fee waiver for students who are unable to pay required fees or purchase assigned
6 materials does not remedy the constitutional defect of such fees. *Hartzell*, 35 Cal. 3d at 913.
7 Regardless of the principal's informal fee-waiver arrangement with Mr. Doe, the fees that the
8 school charges Jane and her schoolmates are unconstitutional.

9 31. Moreover, despite this informal prospective fee-waiver arrangement, Jane's high
10 school has required her on several occasions to pay for course registration, textbooks, workbooks,
11 assigned novels and AP exams. These illegal fees harmed Jane both academically and
12 emotionally.

13 32. Jane took Spanish as a freshman and sophomore. In both years, the Spanish
14 teacher required that students purchase workbooks. In her freshman year, Jane had to tell the
15 teacher that she could not afford to buy the workbook and that the principal had told her father
16 that she did not have to pay for school books. Jane did not receive her workbook until two days
17 after the rest of the class.

18 33. Jane's experience in her sophomore Spanish class was even worse. Because her
19 family again could not afford to buy the workbook, Jane did not have the book for the first several
20 weeks of the class. During that time, the Spanish teacher wrote the names of students who had
21 not yet purchased workbooks on the class whiteboard for the entire class to see. Jane's name was
22 initially one of four on the whiteboard, but later one of only two. She was humiliated in front of
23 the entire class. After suffering two or three weeks without the workbook, Jane went to the
24 school library and had to explain yet again that she could not afford to buy the book. Jane was
25 the last student in the entire class to receive the workbook.

26 34. Jane took Honors English, a prerequisite for AP English, as a freshman and
27 sophomore. On the first day of class in both years, the English teacher distributed order forms for
28 students to purchase assigned books from the school library. The teacher also required that

1 students buy a grammar book. In her freshman year, Jane had no choice but to ask, during class
2 and in front of her classmates, how she could get the books given that her family could not afford
3 to buy them. She told the teacher that the principal had told her father that she did not have to
4 pay for school books. The teacher responded that Jane could borrow the books, but that she could
5 not highlight or take notes in them because they were school property. During exams, the teacher
6 allowed students to use their books to cite passages. Not being able to mark her borrowed books
7 disadvantaged Jane relative to her classmates, who were able to use the highlighting and notes in
8 their purchased books to find the relevant passages more quickly.

9 35. Because of the academic handicap that Jane experienced in her freshman Honors
10 English class, her family had no choice but to purchase, with great difficulty, all but one of the
11 books assigned in her sophomore honors English class.

12 36. Planning to attend college after high school, Jane took AP United States History as
13 a sophomore. On the first day of class, the history teacher informed the students that they were
14 required to purchase an expensive textbook. Jane once again had to tell the teacher that she could
15 not afford to buy the textbook and that the principal had told her father that she did not have to
16 pay for school books. It took about a week for Jane's school-provided textbook to arrive; in the
17 meanwhile, Jane was forced to ask classmates to borrow theirs so that she could keep up with
18 class assignments. When the textbook finally arrived, the teacher told Jane that she could not
19 highlight or take notes in the book because it was school property. Not being able to use
20 highlighting and margin notes as study aids put Jane at a disadvantage both in the class and the
21 AP exam.

22 37. Jane took the AP United States History exam at the end of her sophomore year.
23 Knowing that a good exam score would help her get into college, Jane studied intensely for
24 several weeks to prepare for the exam. Jane's school requires that students pay a fee to take an
25 AP exam. Jane had not yet been able to pay the fee at the time of her AP United States History
26 exam. While Jane was taking the time-intensive exam, the proctor approached Jane, identified
27 her by name, and asked if she had a check for the exam fee, stating that the person at the school
28 charged with collecting money wanted to see Jane immediately after the exam. The interruption

1 broke Jane's focus and cost her valuable exam time. After the exam, Jane went to see the person
2 at the school charged with collecting money only to find that she was not even in her office.

3 38. Jane's public high school knowingly violates students' right to a free and equal
4 education by requiring them to pay fees and purchase assigned materials for credit courses,
5 including even core academic courses necessary for class progression and ultimately graduation.¹

6 **PLAINTIFF JASON ROE'S PUBLIC HIGH SCHOOL CHARGES**

7 **STUDENTS NUMEROUS ILLEGAL FEES**

8 39. Plaintiff Jason Roe is a fourteen-year-old student attending a public high school in
9 Orange County. He completed eighth grade last year and has just begun his freshman year at the
10 school. Jason fully intends on pursuing a college education after graduating from high school.

11 40. Jason's high school also violates his constitutional right to a free and equal public
12 education by charging numerous illegal fees. The school provided Jason's family a registration
13 checklist that details assigned materials for credit courses that students must purchase, including a
14 workbook for 9th Grade English, foreign language workbooks, science lab manuals, a school-
15 issued agenda and organizer, and a physical education uniform.²

16 41. Jason, however, has been unable to purchase all of the required course materials,
17 and the school refused to waive the fees for Jason. This has forced Jason and his family to make
18 difficult choices about which educational items to prioritize. When Jason's family learned of the
19 fees that he would be required to pay prior to the start of the school year, his mother went to the
20 school to inquire about obtaining the materials without paying the fees. A school employee

21
22 ¹ Jane's public middle school similarly required her to pay illegal fees as a student there.
23 The school required that Jane pay more than \$440 annually in course and uniform fees for her
24 physical education class and musical instrument rental fees for her music class. In some classes,
25 teachers made class grades partially dependent on the students' payment of course fees or
26 awarded extra credit to students who bought \$20 t-shirts.

27 ² The school also requires students to purchase a school-issued lock for their lockers and
28 will not allow students to use less expensive locks from other sources. Jason did not have to
purchase a lock this year only because he was allowed to trade in a lock he had purchased the
previous year at his middle school. Jason did not have to purchase a physical education uniform
because he is a member of the football team.

1 provided her a fee waiver form, but only students who qualify for free-or-reduced-price lunch are
2 eligible under that fee-waiver process.

3 42. Because Jason was not eligible for the fee waiver, his mother asked the school
4 employee if Jason could use school-issued copies of the English workbook. Although school
5 copies are available to students in the school's library after school, the school does not allow
6 students to check out the English workbook and take it home to complete assigned homework.
7 The school employee told Jason's mother that if students cannot afford the workbook, they must
8 complete all homework assignments in the library after school. Because Jason plays football and
9 has afterschool practice that runs until the time that the school library closes, his mother
10 justifiably was concerned that he might have to choose between completing his homework and
11 attending practice.

12 43. Accordingly, when Jason's mother received a small bonus from her employer just
13 before the start of the school year, she immediately went to the school to purchase the workbook
14 and the school-issued agenda. Although Jason also needed to purchase a lab manual for his AP
15 Chemistry class and a workbook for his Honors Spanish class, his mother was not able to
16 purchase them at that time. Thus, Jason started school without required materials in two of his
17 classes because he could not afford to pay the mandated fees. Jason was able to purchase his lab
18 manual with money that his grandmother gave him as a present on the third day of school, but he
19 still has been unable to purchase his Spanish workbook.

20 44. Jason's public high school knowingly violates students' right to a free and equal
21 education by requiring them to pay fees and purchase assigned materials for credit courses,
22 including even core academic courses necessary for class progression and ultimately graduation.³

23 ³ Jason's public middle school similarly required him to purchase a student planner and a
24 school-issued uniform for physical education class. If he did not wear the uniform to physical
25 education class, he was docked points on his final grade. Additionally, he was docked points in
his Spanish class because his family could not afford to purchase the required materials to create
a class notebook.

26 Finally, Jason has younger siblings who attend elementary school in his school district.
27 The elementary school requires parents to purchase materials and supplies, like tissue paper and
writing materials, to contribute to the class stocks.

1 **COUNTLESS PUBLIC SCHOOLS THROUGHOUT CALIFORNIA**
2 **OPENLY PUBLICIZE THEIR ILLEGAL STUDENT FEES**

3 45. Defendants' failure to guarantee a free and equal education is not limited to Jane's
4 and Jason's public high schools. The charging of illegal student fees is endemic throughout
5 California. Countless public schools throughout California list on their websites mandatory
6 student fees for courses and educational activities. The following are just a few examples of
7 illegal student fees posted on websites, as of August 27, 2010:

- 8 a. All public high schools in the Tustin Unified School District in Orange County
9 charge students fees for art courses, music courses, automotive technology, fashion
10 design, interior design, and website development (www.tustin.k12.ca.us);
- 11 b. Anderson Union High School (Anderson Union High Sch. Dist.) in Shasta County
12 charges students fees for a medical career course (www.andersoncubs.com);
- 13 c. Arcadia High School (Arcadia Unified Sch. Dist.) in Los Angeles County charges
14 students fees for art and music courses (ahs.ausd.net);
- 15 d. Berkeley High School (Berkeley Unified Sch. Dist.) in Alameda County charges
16 students fees for AP Chemistry, AP Environmental Science, and AP Biology and
17 requires students to purchase a graphing calculator for certain math classes
18 (www.bhs.berkeley.net);
- 19 e. Beverly Hills High School (Beverly Hills Unified Sch. Dist.) in Los Angeles
20 County charges students fees for art courses and home economics
21 (bhhs.bhusd.org);
- 22 f. Bonita High School (Bonita Unified Sch. Dist.) in Los Angeles County charges
23 students fees for video and fashion classes (www.bonita.k12.ca.us);
- 24 g. Burroughs High School (Sierra Sands Unified Sch. Dist.) in Kern County charges
25 students fees for art courses (burroughs.ssusdschools.org);
- 26 h. Calaveras High School (Calaveras Unified Sch. Dist.) in Calaveras County charges
27 students fees for AP calculus, AP biology, AP chemistry, anatomy & physiology,
28 art courses, music courses, agricultural technology, automotive technology,

1 architecture design, and mechanical engineering

2 (www.calaveras.k12.ca.us.07%20schools/chs/index.htm);

- 3 i. California Academy of Math & Science (Long Beach Unified Sch. Dist.) in Los
4 Angeles County charges students fees for PE uniforms that they are required to
5 wear (www.californiaacademy.org);
- 6 j. California High School (San Ramon Valley Unified Sch. Dist.) in Contra Costa
7 County requires students to purchase foreign language workbooks and a locker
8 lock from the school (www.calhigh.net);
- 9 k. Capistrano Valley High School (Capistrano Unified Sch. Dist.) in Orange County
10 requires students enrolled in the Academy of Technology, Math, and Science, a
11 program for college bound students, to complete geometry prior to ninth grade or
12 to enroll in a summer program at their own expense (www.cvhs.com);
- 13 l. Chaparral High School (Temecula Valley Unified Sch. Dist.) in Riverside County
14 requires students to pay AP exam fee in order to enroll in AP classes
15 (chs.tvusd.k12.ca.us);
- 16 m. C.K. McClatchy High School (Sacramento City Unified Sch. Dist.) in Sacramento
17 County charges students fees for art courses and requires students to purchase PE
18 uniforms (www.mcclatchyhs.net);
- 19 n. Colony High School (Chaffey Union High Sch. Dist.) in San Bernardino County
20 charges students fees for art, dance, drama, and music classes and requires students
21 enrolled in PE to purchase PE uniforms from the school (www.cjuhsd.k12.ca.us);
- 22 o. Creekside High School (Irvine Unified Sch. Dist.) in Orange County charges
23 students fees for art courses (www.iusd.org/chs/);
- 24 p. Dana Hills High School (Capistrano Unified Sch. Dist.) in Orange County requires
25 students to purchase books and a subscription to a news magazine for AP
26 Government (www.dhs.net);
- 27 q. Davis Senior High School (Davis Joint Unified Sch. Dist.) in Yolo County charges
28 students fees for art and home economics (dhs.djusd.k12.ca.us);

- 1 r. Dougherty Valley High School (San Ramon Unified Sch. Dist.) in Contra Costa
2 County requires students to purchase foreign language workbooks, PE uniforms,
3 and a locker lock from the school (doughertyvalleyhs.revtrak.net);
- 4 s. Firebaugh High School (Firebaugh-Las Deltas Unified Sch. Dist.) in Fresno
5 County charges students fees for PE uniforms (fhs-fldusd-ca.schoolloop.com);
- 6 t. Folsom High School (Folsom Cordova Unified Sch. Dist.) in Sacramento County
7 charges students fees for foreign language courses (e.g., AP French, AP German,
8 AP Spanish), art courses, television production, and home economics
9 (www.edline.net/pages/Folsom_HS);
- 10 u. Half Moon Bay High School (Cabrillo Unified Sch. Dist.) in San Mateo County
11 requires students enrolled in Physical Education to purchase a lock from the school
12 (www.cabrillo.k12.ca.us);
- 13 v. Irvine High School (Irvine Unified Sch. Dist.) in Orange County charges students
14 fees for AP biology, AP chemistry, AP physics, art courses, drama courses, and
15 music courses (www.irvinehigh.org);
- 16 w. John Burroughs High School (Burbank Unified Sch. Dist.) in Los Angeles County
17 charges students fees for art and music courses
18 (teachers.yourhomework.com/eurioste/);
- 19 x. Logan High School (New Haven Unified Sch. Dist.) in Alameda County charges
20 students fees for AP studio art and requires students to pay the AP examination
21 and complete the exam to receive additional credit on their GPA
22 (loganweb.nhusd.k12.ca.us);
- 23 y. Los Alamitos High School (Los Alamitos Unified Sch. Dist.) in Orange County
24 charges students fees for art courses and requires them to purchase foreign
25 language workbooks (www.losal.org/lahs/);
- 26 z. Los Altos High School (Mountain View/Los Altos Union Sch. Dist.) in Santa
27 Clara County charges students fees for art courses (www.mvla.net/lahs/);
- 28

- 1 aa. Malibu High School (Santa Monica-Malibu Unified Sch. Dist.) in Los Angeles
2 County charges students fees for AP studio art (www.malibuhigh.org);
- 3 bb. Mountain View High School (Mountain View/Los Altos Union Sch. Dist.) in
4 Santa Clara County charges students fees for art courses and requires them to
5 purchase PE uniforms (www.mvla.net/mvhs/);
- 6 cc. Northwood High School (Irvine Unified Sch. Dist.) in Orange County charges
7 students fees for AP biology, AP chemistry, AP environmental science, AP
8 physics, art courses, website development, accounting, and finance
9 (www.northwoodhigh.org);
- 10 dd. Oxford Academy (Anaheim Union Sch. Dist.) in Orange County requires students
11 to purchase a student ID, charges fees for physical education uniforms and lockers,
12 and requires students to purchase graphing calculators for certain math classes and
13 a USB flash drive from computer classes (www.oxfordacademy.us);
- 14 ee. Palo Alto High School (Palo Alto Unified Sch. Dist.) in San Mateo County
15 charges students fees for home economics courses (www.paly.net);
- 16 ff. Petaluma High School (Petaluma Joint Union High Sch. Dist.) in Sonoma County
17 charges students fees for art classes
18 (216.82.92.50/Visual_and_Performing_Arts_Catalog.asp);
- 19 gg. Rosemont High School (Sacramento City Unified Sch. Dist.) in Sacramento
20 County charges students fees for ceramics classes (schools.scusd.edu/rhs);
- 21 hh. San Clemente High School (Capistrano Unified Sch. Dist.) in Orange County
22 requires students to purchase books for English classes (www.scritons.com);
- 23 ii. University High School (Irvine Unified Sch. Dist.) in Orange County charges
24 students fees for AP biology, art courses, anatomy & physiology, automotive
25 technology, computer programming, and typing (www.iusd.k12.ca.us/uhs/);
- 26 jj. Villa Park High School (Orange Unified Sch. Dist.) in Orange County charges
27 students fees for art courses and science labs
28 (webstores.activenetwork.com/school-software/villa_park_hs_onlin/);

1 kk. Walnut High School (Walnut Valley Unified Sch. Dist.) in Los Angeles County
2 charges students fees for all AP classes, IB classes, and computer classes
3 (whs.wvusd.k12.ca.us);

4 ll. Westlake High School (Conejo Valley Unified Sch. Dist.) in Ventura County
5 requires all students to purchase a student ID and academic planner and charges
6 fees for physical education uniforms and locks (westlakehs.revtrak.net); and

7 mm. Woodbridge High School (Irvine United Sch. Dist.) in Orange County charges
8 students fees for art courses and automotive technology, and requires them to
9 purchase accounting working papers and algebra/geometry workbooks
10 (www.woodbridgehigh.org).

11 46. This list is only a small sample from those public schools that publish online at
12 least some of the illegal fees that they charge students for credit courses. It is just the proverbial
13 tip of the iceberg. The blame for this rampant constitutional deprivation lies squarely with
14 Defendants. Despite their constitutional mandate, Defendants have failed to monitor and ensure
15 public school districts' compliance with the free school guarantee.

16 CLASS ACTION ALLEGATIONS

17 47. This action may be maintained as a class action under California Code of Civil
18 Procedure section 382.

19 48. Plaintiffs Jane Doe and Jason Roe represent an ascertainable class of all current
20 and future students in California public schools who have been or will be required to pay fees or
21 purchase materials for courses for academic credit.

22 49. The numerous and substantial questions of law and fact common to the class
23 predominate over any questions that may affect individual class members. The only substantial
24 question of fact — whether there is a statewide practice of California public school districts
25 requiring students to pay fees and purchase materials for credit courses — is common to the class.
26 All of the substantial questions of law are common to the class and include, without limitation,
27 the following:
28

- 1 a. Whether Defendants' acts or omissions violate the free school clause of the
2 California Constitution (Cal. Const. art. IX, § 5);
- 3 b. Whether Defendants' acts or omissions violate the equal protection clauses of the
4 California Constitution (Cal. Const. art. I, § 7(a) & art. IV, § 16(a)), which
5 guarantee basic educational equality;
- 6 c. Whether Defendants' acts or omissions violate California Education Code
7 section 51004;
- 8 d. Whether Defendants' acts or omissions violate California Education Code
9 section 60070; and
- 10 e. Whether Defendants' acts or omissions violate title 5, section 350 of the California
11 Code of Regulations.

12 50. Plaintiffs Jane Doe and Jason Roe are members of the class that they seek to
13 represent, and their claims are typical of those of the class. Defendants' actions or omissions
14 result in Jane, Jason, and class members being denied a free and equal public education, in
15 violation of their constitutional and statutory rights.

16 51. Plaintiffs Jane Doe and Jason Roe can and will fairly and adequately represent the
17 class. They have retained counsel with substantial experience in prosecuting education reform
18 cases and class actions. Jane, Jason, and their counsel are committed to vigorously prosecuting
19 this action on behalf of the class and have the financial resources necessary to do so. Jane, Jason,
20 and their counsel have no interest adverse to those of the class.

21 52. Because the class is numerous and includes future students in California public
22 schools, it is impracticable (if not impossible) to bring them all before the Court. The expense
23 and burden of individual litigation would make it prohibitively difficult for individual class
24 members to redress the harm done to them. The burden on the courts from such individual
25 litigation would be substantial. Individual litigation would also present the potential for
26 inconsistent or contradictory judgments, which would magnify the delay and cost to the parties
27 and the courts. Accordingly, a class action presents fewer management difficulties, conserves the
28 resources of the parties and the courts, and better protects the rights of class members.

1 **SEPARATE CAUSES OF ACTION**

2 **First Cause of Action for Declaratory and Injunctive Relief Against All Defendants**

3 **(Free School Guarantee; Cal. Const. art. IX, § 5)**

4 53. Plaintiffs by this reference incorporate the foregoing paragraphs of this Complaint
5 as though fully set forth here.

6 54. The California Constitution requires that the State “provide for a system of
7 common schools by which a *free school* shall be kept up and supported in each district.” Cal.
8 Const. art. IX, § 5 (emphasis added). Under this provision, public education cannot be made
9 contingent upon the payment of student fees. *Hartzell*, 35 Cal. 3d at 911. A fee-waiver policy
10 does not satisfy the requirements of the free school guarantee. *Id.* at 911-13.

11 55. Defendants have violated and continue to violate Plaintiff Jane Doe’s, Plaintiff
12 Jason Roe’s, and class members’ right to a free education under the California Constitution by
13 failing to ensure that public school districts do not require students to pay fees or purchase
14 assigned materials for credit courses.

15 56. Unless enjoined, Defendants will continue to violate the right to a free education
16 under the California Constitution, and Plaintiff class members and the general public will suffer
17 irreparable harm.

18 57. Declaratory relief is proper here because Plaintiffs are informed and believe that
19 Defendants will deny that they have violated and continue to violate the right to a free education
20 under the California Constitution.

21 **Second Cause of Action for Declaratory and Injunctive Relief Against All Defendants**

22 **(Equal Educational Opportunity; Cal. Const. art. I, § 7(a) & art. IV, § 16(a))**

23 58. Plaintiffs by this reference incorporate the foregoing paragraphs of this Complaint
24 as though fully set forth here.

25 59. “Basic educational equality” is a “fundamental right” under the California
26 Constitution, and any disparate treatment having a real and appreciable impact on it is subject to
27 “strict and searching judicial scrutiny.” *Butt*, 4 Cal. 4th at 683-86 (quoting *Serrano II*, 18 Cal.
28 3d at 767-68). The equal protection clauses of the California Constitution (Cal. Const. art. I,

1 § 7(a) & art. IV, § 16(a)) prohibit varying the quality of public education based on students'
2 ability to pay fees or obtain waivers.

3 60. Defendants have violated and continue to violate Plaintiff Jane Doe's, Plaintiff
4 Jason Roe's, and class members' right to basic educational equality under the California
5 Constitution by failing to ensure that public school district do not vary the quality of public
6 education based on students' ability to pay fees or obtain waivers.

7 61. Unless enjoined, Defendants will continue to violate the right to basic educational
8 equality under the California Constitution, and Plaintiff class members and the general public will
9 suffer irreparable harm.

10 62. Declaratory relief is proper here because Plaintiffs are informed and believe that
11 Defendants will deny that they have violated and continue to violate the right to basic educational
12 equality under the California Constitution.

13 **Third Cause of Action for Declaratory and Injunctive Relief Against All Defendants**

14 **(Wealth Discrimination; Cal. Const. art. I, § 7(a) & art. IV, § 16(a))**

15 63. Plaintiffs by this reference incorporate the foregoing paragraphs of this Complaint
16 as though fully set forth here.

17 64. Under the equal protection clauses of the California Constitution (Cal. Const.
18 art. I, § 7(a) & art. IV, § 16(a)), disparate treatment based on "wealth," at least in the context of
19 public education, is subject to strict scrutiny as a "suspect classification." *Serrano II*, 18 Cal. 3d
20 at 765-66. The equal protection clauses prohibit, as impermissible wealth-based discrimination,
21 varying the quality of public education based on students' ability to pay fees or obtain waivers.

22 65. Defendants have violated and continue to violate Plaintiff Jane Doe's, Plaintiff
23 Jason Roe's, and class members' right to receive equal protection of the laws under the California
24 Constitution by failing to ensure that public school districts do not vary the quality of public
25 education based on students' ability to pay fees or obtain waivers, resulting in impermissible
26 wealth-based discrimination.

1 66. Unless enjoined, Defendants will continue to violate the right to receive equal
2 protection of the laws under the California Constitution, and Plaintiff class members and the
3 general public will suffer irreparable harm.

4 67. Declaratory relief is proper here because Plaintiffs are informed and believe that
5 Defendants will deny that they have violated and continue to violate the right to receive equal
6 protection of the laws under the California Constitution.

7 **Fourth Cause of Action for Declaratory and Injunctive Relief Against All Defendants**

8 **(Cal. Ed. Code § 51004)**

9 68. Plaintiffs by this reference incorporate the foregoing paragraphs of this Complaint
10 as though fully set forth here.

11 69. Section 51004 of the California Education Code states that a state-provided
12 “educational opportunity” is “a right to be enjoyed without regard to . . . economic status.”

13 70. Defendants have violated and continue to violate Plaintiff Jane Doe’s, Plaintiff
14 Jason Roe’s, and class members’ right to educational opportunity without regard to economic
15 status under section 51004 by failing to ensure that public school districts do not vary the quality
16 of public education based on students’ ability to pay fees or obtain waivers.

17 71. Unless enjoined, Defendants will continue to violate the right to educational
18 opportunity without regard to economic status under section 51004, and Plaintiff class members
19 and the general public will suffer irreparable harm.

20 72. Declaratory relief is proper here because Plaintiffs are informed and believe that
21 Defendants will deny that they have violated and continue to violate the right to educational
22 opportunity without regard to economic status under section 51004.

23 **Fifth Cause of Action for Declaratory and Injunctive Relief Against All Defendants**

24 **(Cal. Ed. Code § 60070)**

25 73. Plaintiffs by this reference incorporate the foregoing paragraphs of this Complaint
26 as though fully set forth here.

27 74. Section 60070 of the California Education code provides that “[n]o school official
28 shall require any pupil . . . to purchase any instructional material for the pupils’ use in school.”

1 75. Defendants have violated and continue to violate section 60070 by failing to
2 ensure that public school districts do not require Plaintiff Jane Doe, Plaintiff Jason Roe, and class
3 members to purchase instructional materials for use in school.

4 76. Unless enjoined, Defendants will continue to violate section 60070, and Plaintiff
5 class members and the general public will suffer irreparable harm.

6 77. Declaratory relief is proper here because Plaintiffs are informed and believe that
7 Defendants will deny that they have violated and continue to violate section 60070.

8 **Sixth Cause of Action for Declaratory and Injunctive Relief Against All Defendants**

9 **(Cal. Code. Regs. tit. 5, § 350)**

10 78. Plaintiffs by this reference incorporate the foregoing paragraphs of this Complaint
11 as though fully set forth here.

12 79. Title 5, section 350 of the California Code of Regulations provides that “[a] pupil
13 enrolled in a school shall not be required to pay any fee, deposit, or other charge not specifically
14 authorized by law.”

15 80. Defendants have violated and continue to violate title 5, section 350 by failing to
16 ensure that public school districts do not require Plaintiff Jane Doe, Plaintiff Jason Roe, and class
17 members to pay fees not specifically authorized by law.

18 81. Unless enjoined, Defendants will continue to violate title 5, section 350, and
19 Plaintiff class members and the general public will suffer irreparable harm.

20 82. Declaratory relief is proper here because Plaintiffs are informed and believe that
21 Defendants will deny that they have violated and continue to violate title 5, section 350.

22 **REQUEST FOR RELIEF**

23 Plaintiff Jane Doe, Plaintiff Jason Roe, and class members respectfully request the
24 following relief:

25 83. A determination that this action may be maintained as a class action;

26 84. A determination that this action may be maintained as a taxpayer action;

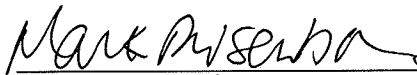
27 85. A declaratory judgment that Defendants’ conduct described in this Complaint
28 violate the following laws:

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- a. Article IX, section 5 of the California Constitution,
 - b. Article I, section 7(a) and article IV, section 16(a) of the California Constitution,
 - c. Section 51004 of the California Education Code,
 - d. Section 60070 of the California Education Code, and
 - e. Title 5, section 350 of the California Code of Regulations;
86. An injunction directing Defendants to promulgate and enforce regulations prohibiting the imposition of unconstitutional student fees for courses for academic credit;
87. An award of reasonable attorney fees to Plaintiffs' counsel;
88. Costs of suit; and
89. Any other equitable or legal relief that the Court deems just and proper.


Dated: September 9, 2010

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