

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SETH TAYLOR; JACOB COBOS, by and through his)
 parents, Ralph and Adrienne Cobos; KYRAH GRAHAM)
 and MIKAYLAH GRAHAM, by and through their)
 parent, Damon Graham; COURTNEY RENTERIA, by)
 and through her parent, Cynthia Salmon;)
 LACY CORMAN, by and through her parents, Gary)
 and Ladonna Corman; ARIELLE GREEN, by and)
 through her parents, Joseph and Socorro Green; and)
 REED MAY, by and through his parents, Bruce and)
 April May,)
)
 Plaintiffs,) Case No.
)
 v.)
)
)
)
 ROSWELL INDEPENDENT SCHOOL DISTRICT)
 and MICHAEL GOTTLIEB, in his capacity as)
 Superintendent of Schools for)
 Roswell Independent School District,)
)
)
 Defendants.)
 _____)

COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES

Plaintiffs, SETH TAYLOR; JACOB COBOS, by and through his parents, Ralph and Adrienne Cobos; KYRAH and MIKAYLAH GRAHAM, by and through their parent, Damon Graham; COURTNEY RENTERIA, by and through her parent, Cynthia Salmon; LACY CORMAN, by and through her parents, Gary and Ladonna Corman; ARIELLE GREEN, by and through her parents, Joseph and Socorro Green; and REED MAY, by and through his parents, Bruce and April May, hereby allege as follows:

1. This is a civil action whereby Plaintiffs seek a declaratory judgment, preliminary, and permanent injunctive relief enjoining Defendants, Roswell Independent School District, and

Michael Gottlieb in his official capacity as Superintendent (collectively “Defendants”), from prohibiting Plaintiffs from exercising their constitutional rights. Defendants have twice suspended one Plaintiff for exercising his constitutional rights, and have violated all Plaintiffs’ rights to freedom of speech, free exercise of religion and equal protection, guaranteed under the First and Fourteenth Amendments to the United States Constitution, and have violated the Establishment Clause of the First Amendment to the United States Constitution.

2. Plaintiffs also pray for a declaratory judgment to determine the constitutionality of Defendants’ policies governing the distribution of documents, including but not limited to Policy 7110 (“the Policy”), and of Defendants’ actions in denying Plaintiffs the opportunity to exercise their rights to disseminate their message, which is a direct violation of Plaintiffs’ rights and a violation of the freedoms protected by the First, Fourth and Fourteenth Amendments to the United States Constitution, and for an award of such damages as are directly and proximately caused by Defendants’ violations of Plaintiffs’ rights.

3. An actual controversy exists between the parties involving substantial constitutional issues, in that Defendants’ Policy is unconstitutional on its face and as applied, violates Plaintiffs’ rights to freedom of speech, freedom of assembly, equal protection and free exercise of religion, and also violates the restriction on unreasonable seizures in the Fourth Amendment. Plaintiffs have also been disciplined pursuant to the Policy.

JURISDICTION AND VENUE

4. This action arises under the First and Fourteenth Amendments to the United Constitution, 42 U.S.C. §1983.

5. This Court has jurisdiction of this claim under, and by virtue of, 28 U.S.C. §§1331 and 1343.

6. Venue is proper under 28 U.S.C. §1391(b). Each and all of the acts alleged herein were done by Defendants under the color and pretense of the statutes, ordinances, regulations, practices, customs, and uses of the Roswell Independent School District and/or the State of New Mexico.

7. This Court is authorized to grant declaratory judgment under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-02, implemented through Rule 57 of the Federal Rules of Civil Procedure, and to issue the preliminary and permanent injunctive relief requested by Plaintiffs under Rule 65 of the Federal Rules of Civil Procedure.

8. This Court is authorized to grant Plaintiffs' prayer for relief regarding costs, including a reasonable attorney's fee, under 42 U.S.C. §1988.

PARTIES

9. Plaintiff SETH TAYLOR is not a minor, is and was at all times relevant herein, a resident of Roswell, New Mexico, and is a recent graduate of Goddard High School, under the jurisdiction of the Roswell Independent School District.

10. Plaintiff JACOB COBOS, a minor, is and was at all times relevant herein, a resident of Roswell, New Mexico, and is currently enrolled as a rising sophomore at Goddard High School, under the jurisdiction of the Roswell Independent School District.

11. RAPH and ADRIENNE COBOS are and were at all times relevant herein, the parents of Randy and Jacob Cobos.

12. Plaintiff KYRAH GRAHAM, a minor, is and was at all times relevant herein, a resident of Roswell, New Mexico, and is currently enrolled as a rising senior at Roswell High School, under the jurisdiction of the Roswell Independent School District.

13. Plaintiff MIKAYLAH GRAHAM, a minor, is and was at all times relevant herein, a resident of Roswell, New Mexico, and is currently enrolled as a rising junior at Roswell High School, under the jurisdiction of the Roswell Independent School District.

14. DAMON GRAHAM is and was at all times relevant herein, the parent of Kyrah and Mikaylah Graham.

15. Plaintiff COURTNEY RENTERIA, a minor, is and was at all times relevant herein, a resident of Roswell, New Mexico, and is currently enrolled as a rising senior at Roswell High School, under the jurisdiction of the Roswell Independent School District.

16. CYNTHIA SALMON is and was at all times relevant herein, the parent of Courtney Renteria.

17. Plaintiff LACY CORMAN, a minor, is and was at all times relevant herein, a resident of Roswell, New Mexico, and is currently enrolled as a rising junior at Roswell High School, under the jurisdiction of the Roswell Independent School District.

18. GARY and LADONNA CORMAN are and were at all times relevant herein, the parents of Lacy Corman.

19. Plaintiff ARIELLE GREEN, a minor, is and was at all times relevant herein, a resident of Roswell, New Mexico, and is currently enrolled as a rising senior at Roswell High School, under the jurisdiction of the Roswell Independent School District.

20. JOSEPH and SOCORRO GREEN are and were at all times relevant herein, the parents of Arielle Green.

21. Plaintiff REED MAY, a minor, is and was at all times relevant herein, a resident of Roswell, New Mexico, and is currently enrolled as a rising senior at Goddard High School, under the jurisdiction of the Roswell Independent School District.

22. BRUCE and APRIL MAY are and were at all times relevant herein, the parents of Reed May.

23. Defendant ROSWELL INDEPENDENT SCHOOL DISTRICT is a public body corporate and politic established, organized, and authorized under and pursuant to the laws of New Mexico, with the authority to sue and be sued, and was at all times relevant herein, operating within the course and scope of its authority and under color of state law.

24. Defendant MICHAEL GOTTLIEB is the Superintendent of the Roswell Independent School District and acted at all time relevant herein within the course and scope of his authority as Superintendent and is sued herein in his official capacity as Superintendent.

STATEMENT OF FACTS

25. Plaintiffs belong to a group called Relentless in Roswell (hereafter “Relentless”).

26. Relentless is an area-wide religious youth group that participates in various local outreach projects in the community. Relentless is a ministry of Church on the Move in Roswell, New Mexico.

27. Relentless is not affiliated with any school.

28. Plaintiffs and other Relentless students have a sincerely held religious belief that God has called them to serve their fellow students, staff, faculty, and administrators by sharing the gospel

of Jesus Christ and demonstrating His love for the students, faculty and community of the District.

29. As a result of their deeply held convictions, Plaintiffs felt compelled to act on them and reach out to the school community.

30. On or about Friday, November 13, 2009, Plaintiffs distributed chicken salad lunches to the faculty at both Goddard High School and Roswell High School, free of charge. Plaintiffs neither sought nor received prior approval for such distributions, and were never disciplined or reprimanded.

31. On or about Friday, December 11, 2009, Plaintiffs distributed hot chocolate to both faculty and students, free of charge. Again, Plaintiffs neither sought nor received prior approval for such distributions, and were never disciplined or reprimanded.

32. On or about Friday, December 18, 2009, Plaintiffs distributed candy canes to both faculty and students, free of charge. Once again, they neither sought nor received prior approval for such distributions, and were never disciplined or reprimanded.

33. The candy canes came with a detailed message attached to them that explained the religious significance of both the colors and the design of the cane. The message stated:

The Story of the Candy Cane is a myth, but what the myth represents is true---Jesus Christ did die for our sins.

It began with a stick of pure white hard candy to symbolize the Virgin Birth and sinless nature of Christ.

It's shape represents the staff of the "Good Shepherd" with which He reaches down into the ditches of the world to lift out the fallen lambs who, like all sheep, have gone astray.

The flavor of peppermint is similar to the herb Hyssop which symbolizes the purity of Jesus and the sacrifice He made.

Three small red stripes were added to represent the wounds Jesus suffered on His way to the cross. It also represents the Trinity: one

God, who is represented in three ways: the Father, the Son, and the Holy Spirit.

34. On or about Friday, January 22, 2010, Plaintiffs distributed painted affirmation rocks, free of charge. On one side the rocks had a short message such as “U are wonderful,” and on the other was painted, “Psalm 139.” Once again, they neither sought nor received prior approval for such distributions, and were never disciplined or reprimanded.

35. In addition to these distributions, Plaintiffs also engaged in various acts of charity and kindness at the schools. For example, they helped the janitors with trash after lunch, and they helped their fellow students by clearing lunch trays after lunch.

36. These activities occurred at both Roswell area high schools – Roswell and Goddard High Schools, typically on Fridays and without incident. At no time did any school official ever inform Plaintiffs that prior approval was required for any of these activities or distributions.

37. On Friday, January 29, 2010, Relentless students attempted to distribute rubber babies, which were approximately two inches in height. The rubber babies were the actual size and weight of a developing unborn child at twelve (12) weeks’ gestation. *See* Exhibit 1, attached, photo of rubber baby.

38. Attached to the rubber babies was a Scripture verse on one side and the contact information for the Chaves County Pregnancy Resource Center (hereafter referred to as “CCPRC”), on the other. *See* Ex. 2, attached, copy of attachment. CCPRC is also a ministry of Church on the Move in Roswell, New Mexico.

39. The Bible verse written on the card was Psalm 139:13-14 which states: “For you formed my inward parts; You wove me in my mother's womb. I will give thanks to You, for I am

fearfully and wonderfully made; Wonderful are your works.” *See* Ex. 2 (New American Standard Version).

40. The side with the CPC’s contact information stated:

If you have any questions or need
counseling please come by or call
Chaves County Pregnancy
Resource Center
2003 S. Main
(575) 623-1217
Or contact your school counselor
(actual size and weight of a 12 week old baby).

See Ex. 2.

41. Plaintiffs’ purpose in distributing the rubber babies and accompanying information was to communicate the pro-life and Christian message of hope for the hurting and of life rather than death for the unborn.

42. With a tangible and compelling communication medium, Plaintiffs sought to inform the other students of the truth about abortion, to point them to God, the Creator and protector of life in the womb, to encourage them to protect the life of the unborn, and to provide information concerning alternatives to abortion that would result in saving the babies instead of destroying them.

43. Plaintiffs and other Relentless students peacefully and respectfully distributed the rubber babies from large containers before classes started on January 29, 2010.

44. Prior to the start of any instructional time that morning, Brian Luck, an administrator at Goddard High School, approached Plaintiffs Seth Taylor, Reed May, and other Relentless students and told them, “It’s time to shut this down. . . . Some people are getting offended.”

45. Administrator Luck then confiscated containers holding hundreds of the rubber babies with the verses attached.

46. When asked why he was taking the rubber babies, Administrator Luck told the students that he was just trying to keep them out of trouble.

47. Sharee White, a teacher at Goddard, confiscated other rubber babies from Juan Rivera and another Relentless student while the students were walking in the hall not even trying to give them away.

48. Still another teacher took some of the babies from Jacob Cobos, who was not even trying to distribute them. When asked why, she gave no response.

49. Raul Castro, a security guard at Roswell High School, likewise confiscated hundreds of the rubber babies from Relentless students, including Courtney Renteria and Stephanie Collier, informing the Relentless students that they could not distribute the rubber babies without prior approval.

50. Some Plaintiffs and other Relentless students, believing that they had both a constitutional right and a Christian duty, attempted to distribute the rubber babies a second time on February 11, 2010.

51. That morning, Michelle Edgett, Assistant Principal at Goddard High School, announced over the public address system: “Nothing is to be passed out that is not school related. This is school policy. Anything that is going to be passed out needs to be approved. This is your last warning. If this doesn’t stop now there will be disciplinary actions taken.”

52. Likewise, at the Roswell High School campus, Principal Ruben Bolaños sent the following e-mail to the faculty: “This email is to make you AWARE that some students could be

distributing rubber fetuses. These materials have NOT been approved from our central office for distribution. PLEASE if you see this action, confiscate the fetuses and then send those handing them out to Ms. Garnett and Mr. Tillman.”

53. Later that day, Mike Tillman, Assistant Principal at Roswell High, told the student body that students had no right to distribute anything without prior approval.

54. Since Plaintiffs and other Relentless students at Roswell High had attempted to distribute the rubber babies on February 11, 2010, they were called into the office of another assistant principal at Roswell High School, P.J. Garnett.

55. Assistant Principal Garnett asked the students, including Plaintiffs Lacy Corman, Mikaylah Graham, Kyrah Graham, Courtney Renteria, if they had any of the rubber babies with them, and the students replied that they did.

56. Assistant Principal Garnett then asked the students to turn the rubber babies over to her. The students politely and respectfully declined to turn them over, asserting their constitutional rights.

57. Lacy Corman, Mikaylah Graham, Kyrah Graham, Courtney Renteria and the other Relentless students were told to leave their personal property (backpacks, purses, etc.) in the office and then sent to detention/in school suspension for the remainder of the day and not permitted to return to or attend their classes.

58. In the afternoon, Principal Bolaños called the students into his office and explained that the reason why they could not distribute the rubber babies and why they needed prior approval before distributing them was that the rubber babies were offensive to some people and that offensiveness was their main concern.

59. Principal Bolaños further instructed the Relentless students to cease doing “Christian” acts because the students had made their point and the rubber babies story had gone “national.”

60. Principal Bolaños ended the conversation by telling the students he was still considering what, if any, additional punishment the students might receive beyond in school suspension. He told the Relentless students that they must remain in school for the remainder of the day but could not return to class.

61. Discussions ensued over the course of the next few weeks concerning whether the District representatives exercised any legitimate authority in blocking distribution or insisting on the students making applications for prior approval for distributions.

62. One meeting involved Superintendent Gottlieb, Assistant Superintendents Michael Kakuska and Susan Sanchez, Roswell Principal Bolaños, Goddard Principal Andrew Sweet, Troy Smotherman, Senior Pastor of Church on the Move in Roswell, New Mexico, Tim Aguilar and Jim Reeves, youth pastors of that church, and at least one parent of a Relentless student.

63. At that meeting, Superintendent Gottlieb suggested that the Relentless group change their pro-life message to a less controversial message of abstinence. Nothing was resolved about the prior approval issue, however.

64. In accordance with the Superintendent’s suggestion, the Relentless group secured wristbands with “I’m Worth Waiting For” imprinted upon them.

65. Pastor Smotherman and another Church on the Move pastor, Shawn Kelly, met with Superintendent Gottlieb in Santa Fe and discussed plans for distribution of the pro-abstinence-until-marriage wristbands. Superintendent Gottlieb stated that there would be no problem if the students did not organize a formal distribution at the entry points to the schools but rather

brought the wristbands to school in their individual backpacks and distributed them to fellow students they came across outside of class.

66. On Friday, February 26, 2010, Plaintiff Seth Taylor and other Relentless students distributed wristbands from their backpacks before the start of the school day at Goddard High School. This distribution method was consistent with the Superintendent's suggestions.

67. Plaintiff Seth Taylor and the other Relentless student distributed the wristbands in order to encourage their fellow students to wait for sex until marriage. This message was borne out of their sincerely held religious belief that sex outside of marriage is not only inconsistent with God's plan, but can also have devastating and life-long consequences. It was also in keeping with Superintendent Gottlieb's suggestions about acceptable messages for the group to distribute.

68. On the way to class, a security officer stopped Plaintiff Seth Taylor from making further distributions and ordered him to go the Principal's office. He and another Relentless student, Adam Ryan, were given a one day suspension ("Saturday school") as punishment for distributing the wristbands. Assistant Principal Edgett told Plaintiff Seth Taylor that he would not be able to return to class until he turned over all the wristbands in his backpack to her, which he reluctantly did.

69. On Plaintiff Seth Taylor's first day back to school after serving his suspension, he brought wristbands back to school in his backpack.

70. This time he only gave the wristbands to students who willingly asked for them and only distributed them before school.

71. Plaintiff Seth Taylor was again suspended, this time for one weekday.

72. As authority for the prior approval requirement, Defendants rely upon the Policy, which is entitled, “ADVERTISING, SOLICITATIONS, ETC.” The Policy states in part: “*Promotional* activities must be approved by the school principal.” See Ex. 3, attached, copy of Policy (emphasis added).

73. Neither the rubber babies nor the wristbands were “advertising” or “promotional” items in any commercial sense; they “promoted” only ideas (pro life and abstinence until marriage).

74. Plaintiffs’ counsel sent a letter to the Board Members of the School Board and Superintendent Gottlieb on February 26, 2010, demanding that Plaintiffs and other Relentless students be allowed to exercise their constitutional right of free speech, that the students’ records be expunged of any wrong doing, and that the confiscated materials be returned.

75. Defendants’ legal counsel responded to Plaintiffs’ letter on March 16, 2010.

76. The letter reaffirmed the District’s position that confiscating the rubber babies and Seth Taylor’s suspension were justifiable and appropriate responses, consistent with the Policy of the District.

77. Plaintiffs and other Relentless students desire to be able to distribute similar lawful materials expressing their religious messages to their fellow students during non instructional time but are intimidated and fearful of doing so. Plaintiffs and other Relentless students remain under threat of punishment for exercising their constitutional right of free speech, and have already suffered government sanctioned punishment for acting on their deeply held religious beliefs.

COUNT I – VIOLATION OF FREEDOM OF SPEECH UNDER THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

78. Plaintiffs hereby reiterate and adopt each and every allegation in the preceding paragraphs numbered 1 through 77.

79. Defendants violated Plaintiffs' First Amendment right to freedom of speech by preventing Plaintiffs from distributing the wristbands and rubber babies with written messages to fellow students during non-instructional time.

80. Defendants' actions and the Policy are unconstitutional prior restraints on Plaintiffs' speech.

81. Defendants have denied Plaintiffs' right to freedom of speech by discriminating against them on the basis of the content of their message.

82. Defendants have denied Plaintiffs' right to freedom of speech by discriminating against them on the basis of the religious viewpoint of their speech.

83. Defendants' actions and the Policy are not the least restrictive means to accomplish any permissible government purpose sought to be served by their actions and the Policy.

84. Defendants' actions and the Policy prohibiting all students from distributing anything without prior approval does not leave open ample alternative channels of communication for Plaintiffs.

85. Defendants' actions and the Policy are irrational and unreasonable, and impose unjustifiable restrictions on constitutionally-protected speech.

86. Defendants' actions and the Policy unconstitutionally chill and abridge the right of Plaintiffs to freely communicate with other students.

87. Defendants' violations of Plaintiffs' right of free speech have caused, and will continue to

cause Plaintiffs to suffer undue and actual hardship and irreparable injury.

88. Plaintiffs have no adequate remedy at law to correct the continuing deprivations of their constitutional liberties.

89. As a direct and proximate result of Defendants' continuing violations of Plaintiffs' rights, Plaintiffs have in the past and will continue to suffer in the future direct and consequential damages, including but not limited to, the loss of their ability to exercise their constitutional rights, the loss of reputation, embarrassment, and humiliation.

WHEREFORE, Plaintiffs respectfully pray that the Court grant the relief set forth herein and award such other relief to Plaintiffs as is reasonable, just and necessary.

COUNT II -- "HYBRID" VIOLATION OF THE RIGHTS TO THE FREE EXERCISE OF RELIGION AND FREE SPEECH UNDER THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION

90. Plaintiffs hereby reiterate and adopt each and every allegation in the preceding paragraphs numbered 1 through 77.

91. Defendants' actions violate both the Plaintiffs' right to the free exercise of religion and their right to free speech, as guaranteed by the First and Fourteenth Amendments to the United States Constitution.

92. Defendants' actions are not neutral or generally applicable in that Defendants allow other materials to be distributed, yet prohibit the handing out of the rubber babies with Scripture verses.

93. Plaintiffs' religious beliefs are sincerely and deeply held.

94. Defendants' actions substantially burden Plaintiffs' sincerely held religious beliefs.

95. There is no compelling government interest sufficient to justify Defendants' actions.

96. There is no significant government interest sufficient to justify Defendants' actions.

97. Defendants' actions are not the least restrictive means to accomplish any permissible government purpose sought to be served by the purported Policy and actions.

98. Defendants' actions are not narrowly-tailored restrictions on Plaintiffs' free speech and free exercise of religion, as guaranteed by the First Amendment to the United States Constitution.

99. Defendants have failed or refused to accommodate Plaintiffs' sincerely held religious beliefs.

WHEREFORE, Plaintiffs respectfully pray that the Court grant the relief set forth herein and award such other relief to Plaintiffs as is reasonable, just and necessary.

**COUNT III -- VIOLATION OF THE RIGHT TO EQUAL PROTECTION
OF THE LAWS UNDER THE FOURTEENTH AMENDMENT
TO THE UNITED STATES CONSTITUTION**

100. Plaintiffs hereby reiterate and adopt each and every allegation in the preceding paragraphs numbered 1 through 77.

101. Plaintiffs' right to equal protection under the laws is protected by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

102. Defendants' actions are unconstitutional abridgements of Plaintiffs' affirmative right to equal protection of the laws, and specifically target Plaintiffs' religious viewpoints and speech.

103. Defendants' actions are unconstitutional because they treat religious literature and speech differently than they treat secular literature and speech.

104. Defendants' actions are unconstitutional abridgements of Plaintiffs' right to equal protection of the law because Defendants treat Plaintiffs differently from other similarly situated individuals and groups on the basis of Plaintiffs' religious content, viewpoint and expression.

105. Defendants' actions are not supported by a compelling governmental interest sufficient to justify the discriminatory treatment of Plaintiffs.

106. Defendants' actions are not the least restrictive means to accomplish any permissible government purpose sought to be served by the actions.

107. Defendants' actions do not serve a significant government interest.

108. Defendants' actions in prohibiting anything from being distributed without prior approval do not leave open ample alternative channels of communication.

109. Defendants' actions are irrational and unreasonable, and impose irrational and unjustifiable restrictions on constitutionally protected speech.

110. Defendants, in violation of the Equal Protection Clause, have caused, and will continue to cause, Plaintiffs to suffer undue and actual hardship and irreparable injury. Plaintiffs have no adequate remedy at law to correct the continuing deprivations of Plaintiffs' most cherished constitutional liberties.

111. As a direct and proximate result of Defendants continuing violations of Plaintiffs' rights, Plaintiffs have in the past and will continue to suffer in the future direct and consequential damages, including but not limited to, the loss of the ability to exercise their constitutional rights.

WHEREFORE, Plaintiffs respectfully pray that the Court grant the relief set forth herein and award such other relief to Plaintiffs as is reasonable, just and necessary.

**COUNT IV -- VIOLATION OF THE FOURTH AMENDMENT
TO THE UNITED STATES CONSTITUTION**

112. Plaintiffs hereby reiterate and adopt each and every allegation in the preceding paragraphs numbered 1 through 77.

113. Defendants' taking of the rubber babies under threat of discipline constituted a seizure under the Fourth Amendment.

114. Defendants did not first obtain a warrant authorizing their seizure of the rubber babies.

115. Defendants' seizure was unreasonable.

116. Defendants' seizure was not justified at its inception.

117. Defendants' seizure was not reasonable in scope.

118. Defendants' seizure violated the Fourth Amendment rights of Plaintiffs.

WHEREFORE, Plaintiffs respectfully pray that the Court grant the relief set forth herein and award such other relief to Plaintiffs as is reasonable, just and necessary.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows:

A. That this Court immediately issue a preliminary injunction, and, after trial, a permanent injunction, enjoining Defendants, Defendants' agents, employees, and all persons in active concert or participation with them, from violating Plaintiffs' constitutional and statutory rights so that:

1. Defendants shall not prohibit Plaintiffs from distributing rubber babies with attached written pro life messages, the wristbands with written pro abstinence until marriage messages, or any other lawful item to fellow students during non-instructional time;

2. Defendants shall not impose a blanket prior restraint upon Plaintiffs' right

to distribute any and all materials to fellow students during non-instructional time by requiring advance approval;

3. Defendants shall not punish Plaintiffs for distributing such lawful items to fellow students during non-instructional time;

4. Defendants shall not construe the Policy in a manner that would infringe upon Plaintiffs' statutory and constitutional rights;

5. Defendants shall immediately return the confiscated rubber babies and wristbands to Plaintiffs; and

6. Defendants shall expunge any record of wrongdoing on the part of Plaintiffs in connection with the distribution of the rubber babies and wristbands.

B. That this Court render a declaratory judgment:

1. Declaring Defendants' actions in denying Plaintiffs' attempts to distribute rubber babies with written pro life messages and the wristbands with written abstinence until marriage messages to be in violation of the First and Fourteenth Amendments to the United States Constitution;

2. Declaring that Defendants and Defendants' employees unlawfully obstructed Plaintiffs from exercising Plaintiffs' constitutionally protected rights by:

a. Subjecting Plaintiffs to an unconstitutional prior restraint on expression of their religious and political views through distribution of materials;

b. Preventing Plaintiffs from distributing materials during non instructional time or expressing their views to fellow students during non instructional time based on the content or viewpoint of the materials or expression; and

c. Treating Plaintiffs' expressive messages unequally with secular or nonreligious materials and expression;

3. Declaring that Defendants' confiscation of rubber babies and wristbands was an unconstitutional prior restraint and otherwise violated the Plaintiffs' First Amendment rights to free speech and free exercise of religion, rights to equal protection, and freedom from unreasonable seizures; and

4. Declaring that Defendants' punishment of Plaintiffs for distribution of the rubber babies and wristbands violated the Plaintiffs' First Amendment rights to free speech and free exercise of religion, rights to equal protection, and the freedom from unreasonable seizures.

C. That this Court order the return of all property confiscated by Defendants, and award to Plaintiffs such damages as are reasonable and just under the circumstances as a direct and proximate result of the Defendants' violations of Plaintiffs' constitutional and statutory rights.

D. That this Court adjudge, decree, and declare the rights and other legal relations with the subject matter here in controversy, in order that such declaration shall have the force and effect of final judgment.

E. That this Court retain jurisdiction of this matter for the purpose of enforcing this Court's order.

F. That this Court award Plaintiffs the reasonable costs and expenses of this action, including attorney's fees, in accordance with 42 U.S.C. §1988.

G. That this Court grant such other and further relief as this Court deems equitable and just under the circumstances.

Dated this 23rd day of June, 2010.

Respectfully submitted,

/s/Stephen M. Crampton
Stephen M. Crampton
Matthew H. Krause* TX Bar No. 24060117
LIBERTY COUNSEL
PO Box 11108
Lynchburg, VA 24506-1108
100 Mountain View Road
Lynchburg, VA 24502
Telephone: (434) 592-7000
Facsimile: (434) 592- 7700
scrampton@lc.org
court@lc.org

Attorneys for Plaintiffs

*Pending admission pro hac vice