

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

KRISTA L. BAUGHMAN (SBN: 264600)  
[kbaughman@dhillonlaw.com](mailto:kbaughman@dhillonlaw.com)  
KARIN M. SWEIGART (SBN: 247462)  
[KSweigart@dhillonlaw.com](mailto:KSweigart@dhillonlaw.com)  
DHILLON LAW GROUP INC.  
177 Post Street, Suite 700  
San Francisco, California 94108  
Telephone: (415) 433-1700  
Facsimile: (415) 520-6593

Harmeet K. Dhillon  
[harmeet@libertycenter.org](mailto:harmeet@libertycenter.org)  
CENTER FOR AMERICAN LIBERTY  
26 1311 S. Main Street, Suite 207  
Mount Airy, MD 21771

Attorneys for Plaintiff J.A.

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**  
**SAN DIEGO DIVISION**

J.A., a minor, by and through his legal guardians, D.A., an individual, and J.A. an individual,

Plaintiff,

vs.

JEFF LUNA, in his personal and official capacity as Principal of Muirlands Middle School; DR. LAMONT JACKSON, in his official capacity as Superintendent of San Diego Unified School District; DOES 1-10, in their personal capacity,

Defendants.

Case Number:

**VERIFIED COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE RELIEF  
AND DAMAGES**

**Jury Trial Demanded**

1 Plaintiff J.A., a minor, through his legal guardians, D.A. (“J.A.’s Father”), an individual, and  
2 J.A. (“J.A.’s Mother”), an individual, for claims against Defendants Principal Jeff Luna (“Luna”) in his  
3 personal and official capacities, Superintendent Lamont Jackson in his official capacity, and Does 1-10  
4 in their personal capacities (together “Defendants”) for actions taken affirming the unconstitutional  
5 suspension decision of Principal Luna through the San Diego Unified School District (“SDUSD”) office  
6 of placement and appeals, alleges as follows:

7 **INTRODUCTION**

8 1. Muirlands Middle School (“Muirlands”) student J.A., along with around one hundred  
9 other fans, wore face paint at a high school football game to show spirit for the team. J.A.’s eye black  
10 design—commonly referred to as Warrior eye black—is well known and regularly worn by professional  
11 athletes and fans in a wide variety of sports. Yet for this innocently-intentioned and protected expressive  
12 conduct, Luna suspended J.A. for committing the “hate crime”—threatening violence to another person  
13 with the purpose of intentionally invading legally protected interests—of wearing blackface. Luna  
14 offered no evidence to support this outlandish allegation, yet his decision was then rubber stamped by  
15 the Doe Defendants in the SDUSD office of placement and appeals, again without providing any  
16 evidence to back up the incendiary claims that J.A. engaged in racist activity. By these acts, Luna and  
17 Doe Defendants violated J.A.’s clearly established First and Fourteenth amendment rights.

18 **JURISDICTION AND VENUE**

19 2. This Action arises under 42 U.S.C. § 1983 in relation to Defendants’ violation of J.A.’s  
20 Constitutional rights. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331 and 1343.  
21 This Court has authority to award the requested declaratory relief under 28 U.S.C. § 2201; the requested  
22 injunctive relief and damages under 28 U.S.C. § 1343(a); and attorneys’ fees and costs under 42 U.S.C.  
23 § 1988.

24 3. Venue is proper in this Court pursuant to 29 U.S.C. § 1391(b), because the events giving  
25 rise to the claims made herein occurred in this Judicial District, and Defendants have their principal  
26 places of business within this District.

27 //

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**INTRADISTRICT ASSIGNMENT**

4. This Action is properly assigned to the San Diego Division of the Court, as Plaintiff lives within this division and Defendants have their principal places of business in San Diego County, California.

**PARTIES**

5. Plaintiff J.A., who brings this lawsuit through his legal guardians D.A. and J.A., is a minor who resides in San Diego County, California.

6. Jeff Luna is the Principal of Muirlands within the San Diego Unified School District. On information and belief, Luna resides and works in San Diego County, California. Luna is sued in his personal and official capacity.

7. Dr. Lamont Jackson is Superintendent of the San Diego Unified School District. Superintendent Jackson is sued in his official capacity.

8. Does 1-10 are members of the SDUSD office of placement and appeals who reviewed and issued the decision affirming Principal Luna’s decision to suspend J.A. Does 1-10 are sued in their personal capacity.

**BACKGROUND**

9. Eye black has long been used by athletes of all races to reduce glare from lights on the field of play. However, in recent decades its function has enlarged beyond mere glare reduction to be used by

//  
//  
//  
//  
//  
//  
//  
//  
//  
//

1 athletes<sup>1, 2, 3</sup>,



9 coaches<sup>4, 5</sup>,



20 <sup>1</sup> <https://s.hdnux.com/photos/42/20/16/8979375/3/920x920.jpg> (last visited January 12, 2024).

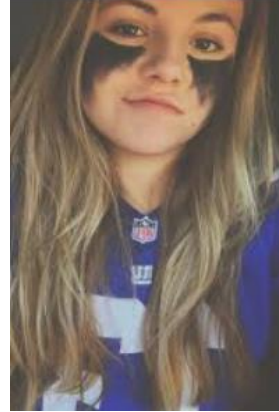
21 <sup>2</sup> Cardinals sign former Arizona State OL Cohl Cabral (2023),  
22 <https://arizonasports.com/story/3532331/cardinals-sign-former-arizona-state-cohl-cabral/> (last visited January  
23 12, 2024).

24 <sup>3</sup> Sydney Shaw, Kylie Ohlmiller Talks Stony Brook LAX and Her Signature Eye-Black (2020),  
25 <https://justwomenssports.com/reads/kylie-ohlmiller-talks-stony-brook-lax-and-her-signature-eye-black/>(last  
26 visited January 12, 2024).

27 <sup>4</sup> Brian Floyd, UCLA coaches are wearing war paint (2012), [https://www.sbnation.com/2012/11/4/3597450/ucla-  
28 coaches-war-paint-photos](https://www.sbnation.com/2012/11/4/3597450/ucla-coaches-war-paint-photos) (last visited January 12, 2024).

29 <sup>5</sup> Graham Watson, UCLA coaches sport war paint during blowout against Arizona (2012),  
30 [https://sports.yahoo.com/blogs/ncaaf-dr-saturday/ucla-coaches-sport-war-paint-during-blowout-against-  
31 160111168--  
32 ncaaf.html?utm\\_source=twitterfeed&utm\\_medium=twitter&guce\\_referrer=aHR0cHM6Ly93d3cuYmluZy5jb2  
33 0v&guce\\_referrer\\_sig=AQAAALDWVIAJhMqESE1EuNQvolfd-7XBZG-  
34 Tu14Bhkuyzj9CgUZ8FORjDLPgGwb97SpPoEos0DxDIW73xLKU4FScuDCZwKH9cX7Rtij4a2rXY-  
35 HrDUy52AL7-0oBnSift2UrVdemU\\_4qN911T\\_yogPIHKKpygXPK9TTGEiD5NLsL3cjT&guccounter=2](https://sports.yahoo.com/blogs/ncaaf-dr-saturday/ucla-coaches-sport-war-paint-during-blowout-against-160111168--ncaaf.html?utm_source=twitterfeed&utm_medium=twitter&guce_referrer=aHR0cHM6Ly93d3cuYmluZy5jb20v&guce_referrer_sig=AQAAALDWVIAJhMqESE1EuNQvolfd-7XBZG-Tu14Bhkuyzj9CgUZ8FORjDLPgGwb97SpPoEos0DxDIW73xLKU4FScuDCZwKH9cX7Rtij4a2rXY-HrDUy52AL7-0oBnSift2UrVdemU_4qN911T_yogPIHKKpygXPK9TTGEiD5NLsL3cjT&guccounter=2) (last  
36 visited on January 12, 2024).

1 and fans <sup>6, 7, 8, 9</sup>



17 as a form of expression.

18 10. Far from just being limited to functional use by athletes on the field, eye black is a form  
19 of expression. As the website and product innovator eyeblack.com states, “eyeblack.com’s innovation  
20 isn’t just for athletes, but translates to the fan experience .... Fans can support their team and athletes  
21 from the stand using the same product on the field .... **Eyeblack and face paint have become a staple  
22 for athletes and fans alike.**”<sup>10</sup>

23 <sup>6</sup> Kenny DeJohn, A Deal’s a Deal: Beninati Sticks to His Word, Sport’s Ohlmiller’s Eye Black,  
24 <https://www.usalaxmagazine.com/pro/athletes-unlimited/a-deals-a-deal-beninati-sticks-to-his-word-sports-ohlmillers-eye-black> (last visited January 12, 2024).

25 <sup>7</sup> Football eye black, Football face paint, Eye black designs,  
26 <https://www.pinterest.com.mx/pin/489625790722304867/> (last visited January 12, 2024).

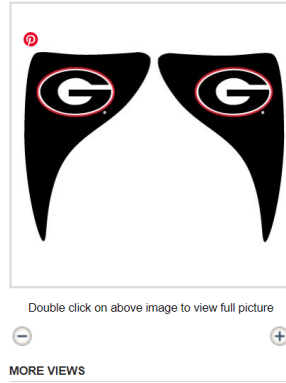
27 <sup>8</sup> Nature’s Paint, [https://www.naturespaint.org/store/p28/Sports\\_Eye\\_Black\\_Stick.html#/](https://www.naturespaint.org/store/p28/Sports_Eye_Black_Stick.html#/) (last visited January  
28 12, 2024).

<sup>9</sup> Danny Fox, Louisiana Sports Hall of Fame Online Auction (2012), <https://1130thetiger.com/louisiana-sports-hall-of-fame-online-auction/> (last visited January 12, 2024).

<sup>10</sup> EyeBlack, <https://www.eyeblack.com/> (last visited January 12, 2024).



1 11. As demonstrated above, eye black starting under the eyes and going in a triangle shape  
2 towards the chin is a common eye black design. It is specifically referred to, and marketed as, warrior  
3 eye black (hereinafter referred to as “Warrior eye black.”) <sup>11, 12</sup>.



**Georgia “G” Warrior EyeBlack**

*Item W1012*

**Description**

Georgia “G” Warrior Eyeblack

The Warrior EyeBlack is an EyeBlack shape that mimics the war/face paint used by warriors. It is larger in size and extends farther down the face. It is produced with medical grade tape, which is tested and safe. Worn by athletes on the field everywhere, it is proven in its effectiveness and durability. It is a great product for both athletes and their fans. It is perfect for any outdoor sport, team/fan spirit, or company branding.

12 12. Professional baseball player Bryce Harper gained notoriety for wearing Warrior eye  
13 black. A May 2, 2013, USA Today Article about Bryce Harper stated about the picture below, that  
14 “[l]ong before he made the Majors, Harper was known for wearing Ultimate Warrior-style eye black.”

15 <sup>13</sup>



23 13. In a January 11, 2013, promotional video for the official Major League Baseball video

25 <sup>11</sup> Ebay, Authentic Warrior EYEBLACK under eye stickers 2 Pair OU Sooner Sport Team Spirit, <https://www.ebay.com/itm/114181190362?var=0&mkevt=1&mkcid=1&mkrld=711-53200-19255-0&campid=5338590836&toolid=10044&customid=5d843783895b1607ddb752220cb323f0> (last visited January 12, 2024).

27 <sup>12</sup> EyeBlack, <https://www.eyebblack.com/collegiate/georgia-g-bulldogs-warrior-eyebblack.html> (last visited January 12, 2024).

28 <sup>13</sup> Ted Berg, All of Bryce Harper’s best looks in one terrifying image, <https://ftw.usatoday.com/2013/05/all-of-bryce-harpers-best-looks-in-one-terrifying-image> (last visited January 12, 2024).

1 game, Bryce Harper models “the warrior” style of eye black, which he says, “tells the pitcher you are  
2 ready for battle.”<sup>14</sup>

3 14. Fans have also posted YouTube videos teaching how to apply Bryce Harper “warrior”  
4 style eye black.<sup>15</sup>



12 15. J.A. is a thirteen-year-old middle school student at Muirlands. J.A. has long been a fan  
13 of Warrior eye black because it is frequently worn by professional athletes he admires, and he thinks it  
14 looks cool. Prior to the events at issue in this lawsuit, J.A. had worn Warrior eye black on many prior  
15 occasions, including at sporting events, playing paintball, and even at a birthday party to play nighttime  
16 capture the flag. J.A. and his friends refer to this style of eye black as wearing “spikes.” He has never  
17 received any complaints about his preferred eye black design until the events described below.

18 16. On October 13, 2023, Plaintiff J.A., along with friends and a trusted adult, attended a  
19 football game for La Jolla High School (hereinafter referred to as the “Game”).

20 17. The Game was not affiliated with or sponsored by Muirlands.

21 18. J.A. spent most of the Game with friends who happen to be racial minorities, including  
22 a friend who is Hispanic and another who is Black. J.A. did not have eye black on his face when he  
23 arrived at the Game. J.A. observed that about half the people in the stands, including several other  
24 Muirlands students, were wearing eye black or other face paint. Many fans were sharing it with one  
25 another and helping one another create styles on their faces.

26  
27 <sup>14</sup> Playstation, MLB 13 Cover Showdown | Bryce Harper “Game Faces,”  
<https://www.youtube.com/watch?app=desktop&v=5Ynje3LxEEM> (last visited January 12, 2024).

28 <sup>15</sup> Jayd3n, Eye Black / Bryce Harper Warrior Eyeblack Tutorial (2017),  
[https://www.youtube.com/watch?v=8T\\_ITLQzOyk](https://www.youtube.com/watch?v=8T_ITLQzOyk) (last visited January 12, 2024).

1           19.     SDUSD does not have any rules or policies prohibiting fans from wearing eye black or  
2 face paint at games.

3           20.     At around 8:30 p.m., one of J.A.’s friends, who happens to be Hispanic, painted Warrior  
4 eye black on J.A.’s face. When his friend had finished, J.A. asked a Black security guard at the Game  
5 how the spikes looked. The security guard said it looked good and complimented J.A. on his design.

6           21.     Neither J.A.’s Hispanic friend who painted the design, nor his Black friend who he was  
7 with at the time, expressed offense to J.A.’s display of Warrior eye black. In fact, not a single person at  
8 the Game expressed to J.A. or his friends that they were offended by J.A.’s Warrior eye black. A picture  
9 of J.A. wearing the Warrior eye black at the Game is below.



20           22.     J.A.’s intent in having his friend paint Warrior eye black on his face was to show spirit  
21 for the football team along with the many other fans in attendance. He was not familiar with the concept  
22 of “blackface”<sup>16</sup> at the time he put on the Warrior eye black. He had no intent to mimic or mock anyone  
23 when he donned the Warrior eye black, nor did he engage in any behavior that could be characterized  
24 as mimicking or mocking Black people while wearing it. He and his friends enjoyed a fun and uneventful  
25 evening cheering at the Game, including for the approximately fifteen to thirty minutes J.A. was wearing

26 \_\_\_\_\_  
27 <sup>16</sup> Blackface is the act of intentionally darkening one’s face to mimic and mock Black people. *See blackface*,  
28 MERRIAM-WEBSTER.COM (accessed on January 16, 2024), [https://www.merriam-webster.com/dictionary/blackface?utm\\_campaign=sd&utm\\_medium=serp&utm\\_source=jsonld](https://www.merriam-webster.com/dictionary/blackface?utm_campaign=sd&utm_medium=serp&utm_source=jsonld). It originated in minstrel shows of the mid-19<sup>th</sup> century, where performers darkened their skin and depicted Black people in a derogatory manner. *Id.*



1 Warrior eye black before he left around 9:00 p.m. No one said anything negative to J.A. about his  
2 Warrior eye black. In fact, J.A. received compliments about his eye black design, including from other  
3 racial minorities in attendance.

4 23. J.A. was not involved in any fights at the Game and did not observe any violence  
5 whatsoever occur at the Game. J.A. did not use any racial slurs at the Game or make any comments  
6 regarding race, either before or after he put on the Warrior eye black. J.A. never threatened violence to  
7 anyone. Police were present, and, to J.A.'s knowledge, no one complained to police about his Warrior  
8 eye black or his conduct.

9 24. J.A. is small for his age, falling between the fifth and tenth percentile for height and  
10 weight. He is significantly smaller than the average middle schooler, let alone the average high schooler.  
11 His demure stature alone would have put him at extreme risk of harm if he had been mocking others,  
12 using racial slurs, or threatening violence around a group of high school football players and other fans.

13 25. When J.A. returned to Muirlands on Monday, no teachers, students, or administrators  
14 mentioned his attendance at the La Jolla football game the prior Friday night. There was no discussion,  
15 in classroom or out of classroom, about J.A.'s Warrior eye black. J.A. did not witness, and was not a  
16 part of, any disruptions on campus that day. On information and belief, no disruptions occurred on  
17 campus Monday to Wednesday of that week of school. School was normal and uneventful.

18 26. But on Wednesday, October 19, 2023, J.A. was removed from class during the last ten  
19 minutes of the school day and sent to Principal Luna's office.

20 27. Principal Luna told J.A. that the high school had received complaints that someone  
21 matching his description had worn blackface at the La Jolla football game on Friday night. Principal  
22 Luna asked, and J.A. confirmed, that he had been wearing a gray shirt and black pants at the Game.  
23 Principal Luna also told J.A. that there had been complaints that a group had been yelling "racial stuff"  
24 at the other team and their fans, but Principal Luna stopped short of accusing J.A. of having been the  
25 one who yelled racial comments.

26 28. J.A. vehemently denied having worn blackface or having made any racial comments. He  
27 told the principal he had worn "spikes" at the Game, the common warrior style face paint worn regularly  
28 by fans and players across numerous sports. Luna asked what J.A.'s face looked like, and J.A. drew a

1 picture of Warrior eye black. Principal Luna appeared not to know how J.A. was wearing his eye black  
2 at the Game until J.A. drew him the picture. J.A. also provided a written statement to the school.  
3 Principal Luna did not tell J.A. that he was at risk of being punished at all, let alone suspended.

4 29. California law specifically proscribes procedures that must be followed when a school  
5 suspends a student. Cal Educ. Code § 48911 (“Section 48911”). These procedures include (a) informing  
6 the pupil the reason for the disciplinary action, (b) informing the pupil of the other means of correction  
7 that were attempted before the suspension, (c) providing the evidence against the pupil, and (d) giving  
8 the pupil an opportunity to present evidence in his or her defense. *Id.*

9 30. Principal Luna failed to inform J.A. of the other means of correction that were attempted  
10 before the suspension, failed to provide J.A. with the evidence against him, and failed to give J.A. an  
11 opportunity to present evidence in his defense.

12 31. Principal Luna did not provide or describe any of the evidence he allegedly had  
13 demonstrating that J.A. was wearing blackface at the Game. He offered no evidence to suggest that J.A.  
14 had an intent to mimic or mock Black people. Principal Luna did not catalogue any evidence against  
15 J.A. or provide J.A. with an explanation of why suspension was the appropriate level of discipline for  
16 this offense rather than lesser measures. Thus, J.A. had no opportunity to respond to or refute any of the  
17 evidence upon which Luna based his decision to suspend J.A.

18 32. Principal Luna did not claim or offer any evidence suggesting that J.A.’s Warrior eye  
19 black had caused a disruption or was threatening to cause a disruption at Muirlands.

20 33. Principal Luna did not provide any evidence by which one could infer from the facts and  
21 circumstances that J.A. wore the Warrior eye black because he had the specific intent, by means of  
22 threats of violence to another person, to invade an interest protected by state or federal law.

23 34. Principal Luna did not suggest that he had any firsthand knowledge of the alleged  
24 complaints, had personally reviewed the complaints, or had conducted *any* investigation into the  
25 veracity of the complaints. His information appeared to be entirely based on third-hand comments.

26 35. After J.A. left the meeting, J.A. called and told his father that Principal Luna had accused  
27 him of wearing blackface. That evening, J.A.’s Father was able to secure a photograph of J.A. (shown  
28 in Paragraph 20) as he appeared with the Warrior eye black at the Game. Later that evening, Principal

1 Luna left a message with J.A.'s parents, requesting a meeting with them the next morning.

2 36. Thursday morning, J.A.'s Father and Mother went to school for a meeting with Principal  
3 Luna. Principal Luna made clear that the sole purpose of the meeting was to inform J.A.'s parents that  
4 J.A. was being suspended. He had no intent of speaking with J.A.'s parents to gather information for an  
5 investigation.

6 37. J.A.'s Father provided Principal Luna with the photograph of J.A. at the Game. Luna  
7 appeared surprised when he saw the picture but did not back down. J.A.'s Father asked Principal Luna  
8 if that was a picture of blackface, and Principal Luna said yes. J.A.'s Father then showed Principal Luna  
9 numerous photos of professional athletes wearing Warrior eye black. In response, Principal Luna  
10 suggested that athletes wearing Warrior eye black was not blackface, but it was blackface when J.A.  
11 wore it because J.A. was not playing in the Game.

12 38. Principal Luna again suggested to J.A.'s parents that the high school had received  
13 complaints that a group of kids was wearing blackface and yelling racial slurs into the crowd. J.A.'s  
14 Father asked what evidence they had suggesting that J.A. had an intent to wear blackface or was a part  
15 of a group of kids yelling racial slurs. Principal Luna would not answer the questions and did not provide  
16 any evidence. J.A.'s Father asked Luna what evidence they had that J.A. had yelled anything into the  
17 crowd, and Luna, once again, refused to answer.

18 39. J.A.'s Father asked if there was any video evidence from the Game itself, and Principal  
19 Luna's answer suggested that he had not sought to obtain this evidence and had no interest in doing so.

20 40. During the meeting, Principal Luna failed to provide any evidence to suggest that J.A.'s  
21 Warrior eye black was actually an act of blackface—darkening one's face with the intent to mimic or  
22 mock Black people. Principal Luna did not suggest that he had personally spoken to any of the  
23 complainants or done any investigation into what happened at the Game. His knowledge appeared to be  
24 based entirely on third-hand accounts of the Game. Neither Principal Luna nor any other school official  
25 appeared to have interviewed any of the students J.A. was with at the Game to determine what had  
26 happened or the nature of J.A.'s intent in wearing the Warrior eye black.

27 41. Principal Luna did not suggest any other corrective measures short of suspension, nor  
28 did he provide an explanation of why suspension was the appropriate punishment for the offense.

1           42.     Principal Luna did not suggest that there had been any disruptions at Muirlands Middle  
2 School due to J.A.’s actions.

3           43.     Principal Luna also told J.A.’s parents that he could call “other agencies” in response to  
4 what J.A. did, but had not yet done so, which, it seemed to J.A.’s parents based on the tone and context  
5 in which this was mentioned, was a threat to call the police or child protective services on J.A. or his  
6 parents.

7           44.     Throughout the meeting, Principal Luna made clear to J.A.’s parents that he had no  
8 interest in either providing J.A.’s parents with any evidence that supported his decision or hearing any  
9 evidence from J.A.’s parents that might challenge his predetermined outcome.

10          45.     Due to Luna’s failure to present any evidence in support of these allegations, his failure  
11 to conduct even the most cursory investigation, and his failure to consider evidence demonstrating J.A.’s  
12 innocence, on information and belief, Luna’s motive for punishing J.A. was so that he could make  
13 himself look better by claiming he was taking a “tough stand” against racism. On information and belief,  
14 Luna punished an innocent child to advance his own reputation and career prospects.

15          46.     Ultimately, Luna suspended J.A. for two days and banned him from all District sporting  
16 events for the rest of the school year.

17          47.     J.A. and his parents were not provided the suspension report until the next Monday after  
18 J.A. had served his suspension. A true and correct copy of the suspension report, redacted to protect  
19 J.A.’s privacy, is attached to this complaint as Exhibit A (“Suspension Report”).

20          48.     The Suspension Report described the incident for which J.A. was being suspended as  
21 “painted his face black at a football game.”

22          49.     The Suspension Report included a section titled “previous intervention attempts,” yet  
23 Principal Luna did not identify *any* prior intervention attempts in either his meeting with J.A. or his  
24 meeting with J.A.’s parents. Further, it is unclear what these prior attempts refer to or how they relate  
25 to the allegations at hand.

26          50.     California law specifically details the offenses for which a student may be suspended.  
27 *See* Cal. Educ. Code §§ 48900–48900.7.

28          51.     The Suspension Report stated J.A. was being suspended for a “Hate Incident,” a

1 reference to the authority to suspend found in California Education Code § 48900.3 (“Section 48900.3”).

2         52. Section 48900.3 authorizes suspensions if it is determined that a pupil “has caused,  
3 attempted to cause, or participated in an act of, hate violence,” which are acts “punishable under Section  
4 422.6, 422.7, or 422.75 of the Penal Code.” These portions of the penal code are commonly referred to  
5 as Hate Crime statutes.

6         53. Hate Crimes are specific intent crimes, meaning the act punished must be “willful.” *In*  
7 *re M.S.* 896 P.2d 1365, 1372 (Cal. 1995). “[T]o violate the statute, one must specifically intend, by  
8 means of threats of violence to another person, to invade interests protected by constitutional or statutory  
9 authority.” *Id.* at 1373. “Both [Penal Code] sections 442.6 and 422.7 require that the defendant  
10 *specifically intend* to deprive the victim of protected rights ‘because of’ the victim’s protected  
11 characteristic.” *Id.* at 1375 (emphasis added).

12         54. Though the Suspension Report accuses J.A. of intentionally causing, attempting to cause,  
13 or participating in a threat of violence to deprive a victim of protected rights, Principal Luna never  
14 provided any evidence to suggest that J.A. perpetrated a threat or invaded the constitutional or statutory  
15 interests of another. Principal Luna never suggested or provided evidence that J.A. targeted anyone at  
16 all, let alone targeted someone because of a protected characteristic. And Principal Luna never provided  
17 any evidence that J.A.’s intent in wearing Warrior eye black was to mimic or mock Black people.

18         55. Simply put, Principal Luna declared J.A. guilty of committing a Hate Crime without any  
19 evidence, whatsoever, to support his outrageous contentions.

20         56. J.A., through his father, appealed his suspension to the District. A true and correct copy  
21 of the appeal email, redacted to protect the identity of J.A., is attached as Exhibit B.

22         57. The Doe Defendants on the SDUSD Office of Placement Appeals denied the appeal  
23 approximately three weeks later without any explanation of the related facts and circumstances they  
24 claimed were sufficient to uphold the suspension. Like Principal Luna, they provided no evidence in  
25 support of the suspension. A true and correct copy of the Suspension Appeal Decision, redacted to  
26 protect J.A.’s privacy, is attached to this Complaint as Exhibit C.

27         58. As a result, J.A. has suffered significant emotional distress. As a minor child, he was  
28 accused of having participated in a heinous racist act when all he did was attend a football game and



1 cheer for the team. He has been falsely and maliciously labeled a racist by adults he trusted and  
2 respected. And all this, without *any* supporting evidence.

3 59. J.A.'s suspension put him behind in his schoolwork. Even worse, he fears that his  
4 teachers believe the lie told by Principal Luna and SDUSD that his innocent acts were a Hate Crime  
5 intended, as the statute says, to cause an act of hate violence punishable by imprisonment.

6 60. J.A.'s suspension for a Hate Crime is also on his permanent school record. This  
7 suspension could impact his ability to gain acceptance to certain high schools (to which he will be  
8 applying in winter and spring 2024), colleges, and beyond. He would likely have to report it to state  
9 character and fitness committees should he ever wish to become an attorney. It could even impact his  
10 ability to obtain government clearances or pursue certain occupations later in life.

11 61. In addition, Luna told J.A. he was forbidden from attending any SDUSD sporting events  
12 for the rest of the school year. This inhibits J.A.'s ability to participate in District sports or socialize  
13 with friends and classmates, thereby fundamentally altering his educational experience at a formative  
14 time in his young life.

15 **COUNT I**

16 **Violation of the First Amendment**

17 **(J.A. against all Defendants)**

18 62. Plaintiff incorporates by reference the allegations in the prior paragraphs as if fully  
19 contained herein.

20 63. The First Amendment, incorporated to States by way of the Fourteenth Amendment,  
21 prohibits government actors from restricting expression because of its message, its ideas, its subject  
22 matter, or its content.

23 64. The First Amendment applies to expressive conduct.

24 65. Students do not shed their constitutional rights to freedom of speech or expression at  
25 the schoolhouse gate.

26 66. Private student expression at public schools is protected by the First Amendment so  
27 long as it is not disruptive.

28 67. Muirlands is a public school.

1           68.    J.A. engaged in expressive speech when he wore Warrior eye black to show spirit at  
2 the Game.

3           69.    J.A.'s speech was protected by the First Amendment.

4           70.    J.A.'s speech was not indecent, lewd, or vulgar speech.

5           71.    J.A.'s speech did not promote illegal drug use.

6           72.    J.A.'s speech did not bear the imprimatur of Muirlands.

7           73.    The Game was not affiliated with Muirlands.

8           74.    The Game was not sponsored by Muirlands.

9           75.    J.A.'s speech did not relate to any Muirlands personnel or student.

10          76.    J.A.'s speech did not happen on Muirlands' grounds or during school hours.

11          77.    J.A.'s speech was not bullying.

12          78.    J.A.'s speech was not targeted at any group or any individual.

13          79.    J.A.'s speech did not cause a substantial disruption of any educational, extracurricular,  
14 or other events.

15          80.    J.A.'s speech did not create a foreseeable risk of reaching Muirlands property and  
16 causing a substantial disruption.

17          81.    Muirlands's abstract desire to avoid controversy provides no basis for restricting J.A.'s  
18 protected speech.

19          82.    There were no constitutionally valid reasons to restrict J.A.'s speech.

20          83.    Principal Luna violated J.A.'s constitutional rights when he punished J.A. for his speech  
21 without adequate constitutional justification.

22          84.    The Doe Defendants on the SDUSD Office of Placement Appeals violated J.A.'s  
23 constitutional rights when they denied J.A.'s suspension appeal of Luna's baseless suspension decision.

24          85.    In punishing J.A. for his protected speech, Principal Luna and the SDUSD Office of  
25 Placement and Appeals exhibited oppression, malice, gross negligence, willful or wanton misconduct,  
26 and/or a reckless disregard for J.A.'s civil rights.

27          86.    J.A. has no adequate remedy at law and will suffer serious and irreparable harm if school  
28 and district officials are not preliminarily and permanently enjoined from disseminating school records

1 stating that J.A. was suspended for committing a Hate Crime and from enforcing J.A.’s ban on attending  
2 or participating in District sporting events.

3 87. J.A. is entitled to preliminary and permanent injunctive relief expunging the suspension  
4 from J.A.’s student records and enjoining District personnel from enforcing the sports ban.

5 88. Superintendent Jackson, in his official capacity, has the power to implement Plaintiff’s  
6 requested injunctive relief as he has supervisory authority over all SDUSD employees.

7 89. Principal Luna, in his official capacity, has the power to implement Plaintiff’s requested  
8 injunctive relief as he has supervisory authority over all Muirlands Middle School employees.

9 90. J.A. found it necessary to engage the services of private counsel to vindicate his rights  
10 under the law. J.A. is therefore entitled to an award of attorneys’ fees pursuant to 42 U.S.C. § 1988.

11 **COUNT II**

12 **Violation of the Fourteenth Amendment**

13 **Right of Due Process**

14 **(J.A. against Defendant Luna and Doe Defendants, all in their individual capacities)**

15 91. Plaintiff incorporates by reference the allegations in the prior paragraphs as if fully  
16 contained herein.

17 92. J.A. has a due process right and a property interest in his education.

18 93. J.A. has a liberty interest in exercising his First Amendment rights at past and future  
19 District athletic events.

20 94. J.A. was not furnished with a description or provided an explanation of the evidence that  
21 Principal Luna had against him, or an opportunity to refute that evidence prior to being suspended and  
22 banned from District sporting events.

23 95. In failing to provide J.A. with even the most basic due process, Principal Luna and the  
24 SDUSD Office of Placement and Appeals exhibited oppression, malice, gross negligence, willful or  
25 wanton misconduct, or a reckless disregard for J.A.’s civil rights.

26 96. J.A. found it necessary to engage the services of private counsel to vindicate his rights  
27 under the law. J.A. is therefore entitled to an award of attorneys’ fees pursuant to 42 U.S.C. § 1988.

28 //

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**COUNT III**

**Violation of the Fourteenth Amendment**

**Equal Protection – Class of One**

**(J.A. against all Defendants)**

97. Plaintiff incorporates by reference the allegations in the prior paragraphs as if fully contained herein.

98. In suspending J.A. for wearing Warrior eye black, Principal Luna and Does 1-10 intentionally treated J.A. differently from other similarly situated football fans at the Game.

99. There was no rational basis for treating J.A. differently than the approximately one hundred other fans at the Game wearing eye black and face paint in their efforts to cheer for the team.

100. J.A. was similarly situated to other fans, among them Muirlands students, who were at the Game wearing eye black and face paint as their situations were directly comparable in all material respects.

101. J.A. was irrationally singled out for punishment.

102. In punishing J.A. for wearing Warrior eye black, Principal Luna and the SDUSD Office of Placement and Appeals exhibited oppression, malice, gross negligence, willful or wanton misconduct, or a reckless disregard for J.A.’s civil rights.

103. Superintendent Jackson, in his official capacity, has the power to implement Plaintiff’s requested injunctive relief as he has supervisory authority over all SDUSD employees.

104. Principal Luna, in his official capacity, has the power to implement Plaintiff’s requested injunctive relief as he has supervisory authority over all Muirlands Middle School employees.

105. J.A. found it necessary to engage the services of private counsel to vindicate his rights under the law. J.A. is therefore entitled to an award of attorneys’ fees pursuant to 42 U.S.C. § 1988.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment against Defendants as follows:

- 1. Preliminarily and permanently enjoin Defendants and their officers, agents, servants, employees, attorneys, and other persons who are in active concert with any of them from

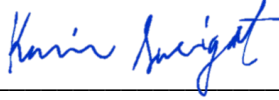
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

any continuing punishment or sanction against J.A. on account of his constitutionally protected speech, including removing J.A.’s sporting-event ban and expunging from J.A.’s school records all references to the incident at issue;

2. Declare that the disciplinary actions taken against J.A. for this incident violate J.A.’s rights under the First and Fourteenth Amendments of the United States Constitution;
3. Award Plaintiff damages in an amount to be determined at trial;
4. Award Plaintiff punitive damages in an amount to be determined at trial;
5. Award Plaintiff nominal damages in an amount to be determined at trial;
6. Award Plaintiff costs and reasonable attorneys’ fees pursuant to 42 U.S.C. § 1988;
7. Grant such other relief as this Court deems just and appropriate.

Date: January 16, 2024

Respectfully submitted,  
**DHILLON LAW GROUP INC.**

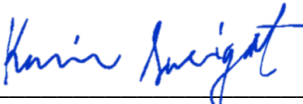
By:   
 KRISTA L. BAUGHMAN  
 KARIN M. SWEIGART  
**Attorneys for Plaintiff**

**REQUEST FOR JURY TRIAL**

The Plaintiff hereby demands a jury trial.

Date: January 16, 2024

**DHILLON LAW GROUP INC.**

By:   
 KRISTA L. BAUGHMAN  
 KARIN M. SWEIGART  
**Attorneys for Plaintiff**



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**VERIFICATION**

I, J.A., hereby affirm under penalty of Perjury:

- 1. I am a minor (under eighteen years old).
- 2. My Parents are D.A. and J.A., through whom I bring this lawsuit.
- 3. I am the Plaintiff in this Lawsuit.
- 4. I have read the factual allegations in the foregoing Verified Complaint.
- 5. The factual allegations are, to the best of my knowledge and belief, true and correct.
- 6. For all matters stated on information and belief, I do not have personal knowledge, but believe them to be true based on other facts and circumstances.

Executed on 1/16/2024, in Joseph Ameduri, California.

Joseph Ameduri  
J.A., Plaintiff

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**VERIFICATION**

I, D.A., hereby affirm under penalty of Perjury:

- 7. I am over the age of 18 and competent to testify.
- 8. I am the parent of J.A., the minor Plaintiff identified in the foregoing Verified Complaint.
- 9. I have read the factual allegations in the foregoing Verified Complaint.
- 10. The factual allegations are, to the best of my knowledge and belief, true and correct.
- 11. For all matters stated on information and belief, I do not have personal knowledge, but believe them to be true based on other facts and circumstances.

Executed on 1/16/2024, in La Jolla, California.

*Daniel Ameduri*

\_\_\_\_\_  
D.A., legal guardian for J.A.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**VERIFICATION**

I, J.A., hereby affirm under penalty of Perjury:

1. I am over the age of 18 and competent to testify.
2. I am the parent of J.A., the minor Plaintiff identified in the foregoing Verified Complaint.
3. I have read the factual allegations in the foregoing Verified Complaint.
4. The factual allegations are, to the best of my knowledge and belief, true and correct.
5. For all matters stated on information and belief, I do not have personal knowledge, but believe them to be true based on other facts and circumstances.

Executed on 1/16/2024, in Juliet Ameduri, California.

Juliet Ameduri  
J.A., legal guardian for J.A.