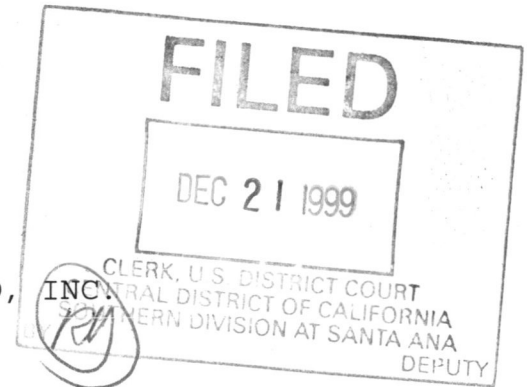


- 1 IRELL & MANELLA LLP  
Bruce A. Wessel (SBN 116734)
- 2 Andra Barmash Greene (SBN 123931)  
Elliot Brown (SBN 150802)
- 3 Laura W. Brill (SBN 195889)  
David C. Codell (SBN 200965)
- 4 Robert N. Klieger (SBN 192962)  
1800 Avenue of the Stars, Suite 900
- 5 Los Angeles, California 90067-4276  
Telephone: (310) 277-1010
- 6 Facsimile: (310) 203-7199
- 7 LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC.  
Jon W. Davidson (SBN 89301)
- 8 Myron Dean Quon (SBN 166076)  
6030 Wilshire Boulevard, Suite 200
- 9 Los Angeles, California 90036  
Telephone: (323) 937-2728
- 10 Facsimile: (323) 937-0601
- 11 PEOPLE FOR THE AMERICAN WAY FOUNDATION  
Elliot M. Minberg (admitted pro hac vice)
- 12 Judith E. Schaeffer (admitted pro hac vice)  
2000 M Street, N.W., Suite 400
- 13 Washington, DC 20036  
Telephone: (202) 467-4999
- 14 Facsimile: (202) 293-2672



15 Attorneys for Plaintiffs

**LODGED**

17  
DEC 21 1999

18

CLERK, U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION AT SANTA ANA

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

20 ANTHONY COLIN, by and through )	Case No. SA CV 99-1461 DOC(ANx)
his mother and guardian, JESSIE )	
21 COLIN; HEATHER ZETIN, by and )	FIRST AMENDED COMPLAINT FOR
through her mother and )	VIOLATIONS OF THE FEDERAL EQUAL
22 guardian, JUDY ANDERSON; and )	ACCESS ACT, 20 U.S.C. §§ 4071-
GAY-STRAIGHT ALLIANCE CLUB OF )	4074; THE CIVIL RIGHTS ACT OF
23 EL MODENA HIGH SCHOOL, an )	1871, 42 U.S.C. § 1983; AND THE
unincorporated association, )	DUE PROCESS AND EQUAL
24 )	PROTECTION CLAUSES OF THE
Plaintiffs, )	FOURTEENTH AMENDMENT TO THE
25 )	UNITED STATES CONSTITUTION; AND
v. )	FOR DECLARATORY RELIEF PURSUANT
26 )	TO 28 U.S.C. §§ 2201-2202
ORANGE UNIFIED SCHOOL DISTRICT; )	
27 ORANGE UNIFIED SCHOOL DISTRICT )	
BOARD OF EDUCATION; LINDA )	
28 DAVIS, in her official capacity )	
as President of the Orange )	

DEC 23 1999  
ENTERED ON ICMS

1 Unified School District Board )  
 of Education; MARTIN JACOBSON, )  
 2 in his official capacity as )  
 Vice President of the Orange )  
 3 Unified School District Board )  
 of Education; KATHY WARD, in )  
 4 her official capacity as Member )  
 and Clerk of the Orange Unified )  
 5 School District Board of )  
 Education; and MAUREEN ASCHOFF, )  
 6 WILLIAM LEWIS, TERRI SARGEANT, )  
 and ROBERT VIVIANO, in their )  
 7 official capacities as Members )  
 of the Orange Unified School )  
 8 District Board of Education; )  
 BARBARA VAN OTTERLOO, in her )  
 9 official capacity as )  
 Superintendent of the Orange )  
 10 Unified School District; and )  
 NANCY MURRAY, in her official )  
 11 capacity as Principal of El )  
 Modena High School, )  
 12 )  
 Defendants. )  
 13 )

14  
 15 Plaintiffs Anthony Colin, by and through his mother and  
 16 guardian, Jessie Colin; Heather Zetin, by and through her mother  
 17 and guardian, Judy Anderson; and Gay-Straight Alliance Club of El  
 18 Modena High School allege as follows:

19 JURISDICTION AND PRELIMINARY STATEMENT

20 1. This action is based on, and seeks to redress  
 21 violations of, the federal Equal Access Act, 20 U.S.C. §§ 4071-  
 22 4074, the Civil Rights Act of 1871, 42 U.S.C. §§ 1983, and the  
 23 Fourteenth Amendment to the United States Constitution.  
 24 Accordingly, this Court has jurisdiction over this action  
 25 pursuant to 28 U.S.C. § 1331, in that this action arises under  
 26 the Constitution and laws of the United States. In addition,  
 27 declaratory relief is appropriate in this Court pursuant to 28  
 28 U.S.C. §§ 2201-2202.

1           2.     The plaintiffs seek a declaration that defendants'  
2 discrimination against plaintiffs and denial to them of equal  
3 access and a fair opportunity to meet on El Modena High School  
4 premises during noninstructional time on the basis of the content  
5 of the speech of the Gay-Straight Alliance Club of El Modena High  
6 School and the speech of its members violate the Equal Access  
7 Act, the Civil Rights Act of 1871, and the Due Process and Equal  
8 Protection Clauses of the Fourteenth Amendment to the United  
9 States Constitution and that plaintiffs are entitled to have  
10 access to school facilities for the purpose of conducting  
11 meetings and other purposes on a basis equal to that accorded  
12 other student groups. The plaintiffs further seek an injunction  
13 restraining and enjoining defendants from directly or indirectly  
14 preventing the plaintiffs from meeting on the premises of El  
15 Modena High School during noninstructional time, and from  
16 directly or indirectly denying plaintiffs access to or use of the  
17 facilities at the El Modena High School on a basis equal to that  
18 accorded other student groups. The plaintiffs also seek costs  
19 and attorneys' fees.

20                               VENUE

21           3.     On information and belief, all of the parties reside in  
22 Orange County, California and within the Southern Division of  
23 this Judicial District. Furthermore, all or substantially all of  
24 the events that give rise to the claims in this action occurred  
25 in the Southern Division of this Judicial District. Venue is  
26 therefore proper in this District pursuant to 28 U.S.C.  
27 § 1391(b)(1) and in this Division pursuant to General Order 349.

28



PARTIES

1  
2 4. Plaintiff Anthony Colin, a minor, is a natural person  
3 residing in Orange, California. He appears by and through his  
4 mother and guardian, Jessie Colin, a natural person residing in  
5 Orange, California. Anthony is a tenth-grade student at El  
6 Modena High School and the founding member of the Gay-Straight  
7 Alliance Club of El Modena High School ("GSAC").

8 5. Plaintiff Heather Zetin, a minor, is a natural person  
9 residing in Orange, California. She appears by and through her  
10 mother and guardian, Judy Anderson, a natural person residing in  
11 Orange, California. Heather is an eleventh-grade student at El  
12 Modena High School and a member of the GSAC.

13 6. Plaintiff Gay-Straight Alliance Club of El Modena High  
14 School is an unincorporated association of students enrolled at  
15 El Modena High School, a public secondary school located in  
16 Orange, California and within the Orange Unified School District.

17 7. Defendant Orange Unified School District ("District")  
18 is a public body corporate and politic in Orange, California,  
19 responsible for maintaining public schools serving grades  
20 kindergarten through twelve.

21 8. Defendant Orange Unified School District Board of  
22 Education ("Board") is the governing board of the Orange Unified  
23 School District in Orange, California.

24 9. Defendant Linda Davis is a natural person who resides,  
25 upon information and belief, in Villa Park, California.  
26 Defendant Davis is President of the Board and was acting under  
27 color of state law at all times relevant to this complaint.  
28 Defendant Davis is sued in her official capacity.



1           10. Defendant Martin Jacobson is a natural person who  
2 resides, upon information and belief, in Anaheim Hills,  
3 California. Defendant Jacobson is Vice President of the Board  
4 and was acting under color of state law at all times relevant to  
5 this complaint. Defendant Jacobson is sued in his official  
6 capacity.

7           11. Defendant Kathy Ward is a natural person who resides,  
8 upon information and belief, in Orange, California. Defendant  
9 Ward is a Member and Clerk of the Board and was acting under  
10 color of state law at all times relevant to this complaint.  
11 Defendant Ward is sued in her official capacity.

12           12. Defendants Maureen Aschoff, William Lewis, Terri  
13 Sargeant, and Robert Viviano are natural persons who reside, upon  
14 information and belief, in Orange, California. Defendants  
15 Aschoff, Lewis, Sargeant, and Viviano are Members of the Board,  
16 were acting under color of state law at all times relevant to  
17 this complaint, and are sued in their official capacities.

18           13. Defendant Barbara Van Otterloo is a natural person who  
19 resides, upon information and belief, in Orange County,  
20 California. Defendant Van Otterloo is Superintendent of the  
21 Orange Unified School District and was acting under color of  
22 state law at all times relevant to this complaint. Defendant Van  
23 Otterloo is sued in her official capacity.

24           14. Defendant Nancy Murray is a natural person who resides,  
25 upon information and belief, in Orange County, California.  
26 Defendant Murray is Principal of El Modena High School and was  
27 acting under color of state law at all times relevant to this  
28 complaint. Defendant Murray is sued in her official capacity.

GENERAL ALLEGATIONS

15. Plaintiff Anthony Colin ("Anthony") is fifteen years old and is a tenth-grade student at El Modena High School.

16. Plaintiff Heather Zetin ("Heather") is sixteen years old and is an eleventh-grade student at El Modena High School.

17. On information and belief, El Modena High School receives federal financial assistance.

18. It is the official policy of the Orange Unified School District that student groups are entitled to meet on school premises in accordance with the federal Equal Access Act, 20 U.S.C. §§ 4071-4074. Board Policy 6145.5(a) states: "Since the district allows schools to sponsor student groups not directly tied to the curriculum, student-initiated groups not sponsored by the school or district have the right to meet on school premises during times established for a limited open forum in accordance with provisions of the federal Equal Access Act, Board policies and administrative regulations." Board Policy 6145.5(a) further provides: "The [Orange Unified School District] Board [of Education] shall not discriminate or deny access to any student initiated group on the basis of religious, political, philosophical or any other content to be addressed at such meetings."

19. El Modena High School recognizes at least thirty-eight noncurricular and curricular student groups, including, without limitation, the following student groups, which, on information and belief, are noncurricular: Christian Club; Juggling Club; Gentlemen's Club; Girls' League; Asian Club; Black Student Union;

1 MECHA (Movimiento Estudiantil Chicano Aztlan); Eighties Club;  
2 Mountain Bike Club; Red Cross/Key Club; and Ski Club.

3 20. El Modena High School's student-initiated groups are  
4 permitted to meet on school premises during non-instructional  
5 time and enjoy numerous privileges. For example, on information  
6 and belief, these student groups take field trips, hold  
7 fundraisers, appear in the school yearbook, and use school  
8 facilities to inform other students of their activities.

9 21. In late August or early September 1999, shortly before  
10 the first day of the 1999-2000 school year, plaintiff Anthony  
11 Colin decided to start a noncurricular student group designed to  
12 promote peace, unity, and respect among gay and straight (i.e.,  
13 heterosexual) students at El Modena High School. Anthony spoke  
14 with Mr. James Veit, the teacher in charge of student activities  
15 at El Modena High School, about how to organize such a student  
16 group on campus. Mr. Veit informed Anthony of various school  
17 procedures that Anthony would have to follow in order to form a  
18 new student group, including finding a faculty advisor and  
19 writing a club constitution.

20 22. During or about the week of August 30, 1999, Anthony  
21 prepared an application for recognition of the Gay-Straight  
22 Alliance Club of El Modena High School. He wrote a club  
23 constitution, which included the name of the student group, its  
24 purpose of promoting interest in "a supportive community" among  
25 peers, and other information required under El Modena High  
26 School's written policies regarding procedures for obtaining  
27 authorization for a new student-initiated group to meet on  
28 campus.



1        23. In conjunction with the club constitution, Anthony also  
2 submitted a "Mission Statement" for the GSAC, which stated:

3                "Public schools have an obligation to provide an  
4 equal opportunity for all students to receive an  
5 education in a safe, nonhostile, nondiscriminatory  
6 environment. Our goal in this organization is to raise  
7 public awareness and promote tolerance by providing a  
8 safe forum for discussion of issues related to sexual  
9 orientation and homophobia. We wish to stress the need  
10 for people to put aside their personal prejudices and  
11 agree to treat everyone with respect when the situation  
12 calls for it. We invite ALL students, gay or straight,  
13 to join us in discussions, field trips, lectures, and  
14 social activities that will counterattack unfair  
15 treatment and prejudice. We respect privacy and  
16 require NO one to make disclosures regarding his or her  
17 own sexual orientation.

18                "This is not a sexual issue, it is about gaining  
19 support and promoting tolerance and respect for all  
20 students."

21        24. In early September 1999, during or about the first week  
22 of the school year, Anthony asked Mrs. Maryina Herde, a drama and  
23 English teacher at El Modena High School, to serve as the faculty  
24 advisor to the GSAC. Mrs. Herde agreed to serve as the GSAC's  
25 faculty advisor.

26        25. In early September 1999, during or about the first week  
27 of the school year, Anthony submitted to Mr. Veit the completed  
28 application for recognition of the GSAC as a student club at El

1 Modena High School. Mr. Veit looked over the application, told  
2 Anthony that the form had been completed properly, and indicated  
3 that he would pass the application on to the Principal, defendant  
4 Nancy Murray, for approval.

5       26. Shortly thereafter, plaintiff Heather Zetin joined  
6 Anthony in planning for the GSAC's future. The students' plans  
7 for the GSAC include discussing issues of tolerance,  
8 participating in charitable causes such as the AIDS Walk and  
9 Breast Cancer Walk, and attending plays or other performances  
10 promoting tolerance among gay and straight people.

11       27. On or about the first week of October 1999, El Modena  
12 High School held a "Club Rush," a one-day informational fair  
13 about student groups that took place in the school quad. Various  
14 student groups, including new groups, set up tables at the "Club  
15 Rush" underneath banners their members designed. The mission  
16 statements of the participating student groups were available for  
17 review, and students were given the opportunity to sign up to  
18 join the student groups that were represented. El Modena High  
19 School promoted the "Club Rush" through posters and public  
20 address system announcements.

21       28. On or about the day before "Club Rush," and again on  
22 the day of "Club Rush," Anthony asked Mr. Veit whether the GSAC  
23 could set up a table at the event. Mr. Veit indicated that  
24 Anthony should speak with defendant Murray. When Anthony spoke  
25 with defendant Murray on the day of "Club Rush," she told him  
26 that she had passed the GSAC application along to the Orange  
27 Unified School District Board of Education and that she would  
28 talk to Anthony the following week. The GSAC was denied

1 permission to set up a table at "Club Rush." Beginning at least  
2 at that time, and through the present, the GSAC has been  
3 discriminated against and has been prevented from meeting at the  
4 high school on the same terms as other student groups. Indeed,  
5 the GSAC has not been permitted to meet on the premises of the  
6 high school at all.

7 29. During or about the second week of October 1999,  
8 Anthony approached defendant Murray on campus to inquire about  
9 the status of his application concerning the GSAC. Defendant  
10 Murray told him that she was too busy to speak with him and that  
11 she would get back in touch with him.

12 30. Defendant Murray met with Anthony during or about the  
13 third week of October 1999. During that meeting defendant Murray  
14 indicated that the Board had problems with the GSAC meeting on  
15 campus and with the name of the GSAC.

16 31. At a meeting on October 7, 1999, the Board decided to  
17 hold a public forum on the GSAC's application. The Board held  
18 the public forum on November 9, 1999. Hundreds of people  
19 attended, including Anthony and Heather. Two microphones were  
20 set up at the forum: one for speakers in favor of approving the  
21 GSAC application, another for speakers opposed to approving the  
22 GSAC application. Some speakers opposing the GSAC application  
23 made negative remarks about gays and lesbians.

24 32. Rather than decide upon the application at the  
25 November 9, 1999 public forum, the Board scheduled a vote on the  
26 GSAC application for November 18, 1999.

27 33. On November 18, 1999, the Board held a meeting that  
28 included the GSAC application on its agenda. Heather spoke at



1 the meeting and explained to the Board that the main purposes of  
2 the GSAC are to promote tolerance and to provide students with a  
3 forum to talk. She also explained to the Board that she believes  
4 in sexual abstinence and that the GSAC's purpose is not to  
5 discuss sex. She further explained to the Board that she has  
6 seen other students experience harassment at El Modena High  
7 School based on their sexual orientation and that the GSAC is  
8 necessary at El Modena High School because of this type of  
9 harassment.

10 34. Rather than vote on the GSAC application at the  
11 November 18, 1999 meeting, the Board decided to postpone until  
12 December 7, 1999 a vote on the GSAC application. By letter from  
13 counsel faxed to defendant Murray on November 19, 1999, the GSAC  
14 again specifically requested that it be permitted to meet on the  
15 premises of El Modena High School. The Board, responding through  
16 counsel on November 22, continued not to grant the GSAC  
17 permission to meet on campus.

18 35. At the December 7, 1999 Board meeting, the Board  
19 officially rejected the GSAC application. After twenty minutes  
20 of public comment, Defendant Kathy Ward, Member and Clerk of the  
21 Board, moved (a) "that the Board deny the application of the Gay  
22 Straight Alliance," and (b) that consideration of any subsequent  
23 application by plaintiffs for a "tolerance club" be conditioned  
24 on the club having "an appropriate name and a mission statement  
25 which clearly states that sex, sexuality, sex education, and  
26 other subjects regulated by the Education Code will not be the  
27 subject of discussion at club meetings." The Board voted  
28 unanimously in favor of defendant Ward's motion and thus to deny

1 the GSAC permission to meet on campus, as well as to have access  
2 to school facilities on the same basis as other student groups.

3 36. On or about December 16, 1999, defendants Murray and  
4 Superintendent Van Otterloo arranged for Anthony, Heather, and  
5 three other students to be pulled from their classes for a  
6 meeting in defendant Murray's office. During the meeting,  
7 defendants Murray and Van Otterloo made it clear that the only  
8 circumstances under which Anthony and Heather could reapply to  
9 form a student group promoting tolerance would be if the group's  
10 name were changed to remove the words "Gay" and "Straight,"  
11 topics related to sexual orientation were excluded from the  
12 group's mission statement, and the students promised not to  
13 discuss sex, sexuality, or sexual orientation at group meetings.

14 37. To date, Anthony has collected the names of more than  
15 fifty El Modena High School students who have expressed an  
16 interest in joining the GSAC and participating in its meetings  
17 and other activities.

18 38. The procedures that were followed by defendants with  
19 respect to the GSAC application are highly unusual. The written  
20 policy governing the "El Modena High School Procedure For Forming  
21 A New Club" instructs applicants to obtain approval from the El  
22 Modena High School Administration. Notwithstanding this written  
23 school policy that approval should be obtained from the El Modena  
24 High School Administration, defendant Murray refused to permit  
25 the GSAC to meet and instead referred the issue to the Board,  
26 which repeatedly delayed formal action on the GSAC application  
27 and then formally voted on December 7, 1999 to reject the GSAC  
28 application. Although Anthony submitted the GSAC application at

1 the beginning of the school year, defendants, by their delay and  
2 eventual formal rejection of the application, have denied  
3 plaintiffs the right for the GSAC to meet on campus for most of  
4 the first semester of the 1999-2000 school year.

5 39. By virtue of the unusual procedures followed by all  
6 defendants with respect to the GSAC application and the refusal  
7 of all defendants to grant the GSAC official club status and to  
8 permit it to meet on campus, defendants have discriminated  
9 against the plaintiffs, treating them unequally from other  
10 student groups at El Modena High School and from other El Modena  
11 High School students, and defendants have denied plaintiffs equal  
12 access to, and a fair opportunity to meet on, the premises of El  
13 Modena High School during noninstructional time.

14 40. On information and belief, the defendants are aware  
15 that they have treated the GSAC application differently from the  
16 manner in which other clubs' applications have been treated.  
17 According to an article published on October 27, 1999 in the  
18 Orange County Register ("Register"), Orange Unified School  
19 District spokeswoman Judy Frutig told the Register that the Board  
20 "normally doesn't hold hearings on clubs but decided to take a  
21 closer look at the gay-straight club because it would be a first  
22 for the district." According to a Register article dated October  
23 14, 1999, defendant Murray told the Register that the GSAC "is  
24 the first club in the school that has raised an emotional  
25 concern. The only other club that had to be brought for board  
26 approval was a skating club that raised safety concerns."  
27 According to a November 18, 1999 Register article, defendant  
28 Board Member Bill Lewis stated: "There are some issues that are



1 morally wrong," and "[t]he Bible says we're all sinners, but  
2 this, in my opinion, is asking us to legitimize a sin."

3 41. On information and belief, defendants are aware that  
4 the law requires them to grant the GSAC access to school  
5 facilities on a basis equal to that accorded other student  
6 groups. According to the above-mentioned November 18, 1999  
7 Register article, then-Board Member (now Board President) Linda  
8 Davis said to the Register: "We know the law is on their side,  
9 but our community members don't want it."

10 CLAIMS FOR RELIEF

11 FIRST CLAIM FOR RELIEF AGAINST ALL DEFENDANTS

12 Violation Of Equal Access Act, 20 U.S.C. §§ 4071-4074, And

13 Violation Of 42 U.S.C. § 1983 Through Violation Of

14 Equal Access Act

15 42. Plaintiffs repeat and reallege the allegations of  
16 paragraphs 1 through 41 above, and incorporate those allegations  
17 herein by this reference.

18 43. All defendants have violated the Equal Access Act, 20  
19 U.S.C. §§ 4071-4074, in that:

20 a. El Modena High School is a public secondary school  
21 that receives federal financial assistance;

22 b. El Modena High School has a limited open forum in  
23 that it grants an offering to or opportunity for one or more  
24 noncurriculum related student groups to meet on school  
25 premises during noninstructional time; and

26 c. defendants have discriminated against plaintiffs,  
27 denied equal access to plaintiffs, and refused to offer  
28 plaintiffs a fair opportunity to conduct meetings within El

1 Modena High School's limited open forum on the basis of the  
2 religious, political, philosophical, or other content of the  
3 speech at such meetings.

4 44. The conduct of defendants Davis, Jacobson, Ward,  
5 Aschoff, Lewis, Sargeant, Viviano, Van Otterloo, and Murray  
6 (collectively, the "School District Officials"), acting under  
7 color of state law and as set forth in paragraphs 1-41 above, in  
8 addition to violating the Equal Access Act, 20 U.S.C. §§ 4071-  
9 4074, also violates 42 U.S.C. § 1983 and has deprived plaintiffs  
10 of the rights, privileges, or immunities secured by the Equal  
11 Access Act in that the School District Officials have  
12 discriminated against plaintiffs, denied equal access to  
13 plaintiffs, and refused to offer plaintiffs a fair opportunity to  
14 conduct meetings within El Modena High School's limited open  
15 forum on the basis of the religious, political, philosophical, or  
16 other content of the speech at such meetings.

17 SECOND CLAIM FOR RELIEF AGAINST SCHOOL DISTRICT OFFICIALS  
18 Violation Of 42 U.S.C. § 1983 Through Violation Of The Rights Of  
19 Expression And Association Protected By The Due Process Clause of  
20 The Fourteenth Amendment

21 45. Plaintiffs repeat and reallege the allegations of  
22 paragraphs 1 through 41 above, and incorporate those allegations  
23 herein by this reference.

24 46. The School District Officials, acting under color of  
25 state law and in violation of 42 U.S.C. § 1983, have deprived  
26 plaintiffs of the rights, privileges, or immunities secured by  
27 the First Amendment to the United States Constitution, made  
28

1 applicable to the States through the Due Process Clause of the  
2 Fourteenth Amendment, in that:

3 a. plaintiffs' expression and association activities  
4 are constitutionally protected under the First Amendment,  
5 made applicable to the States through the Due Process Clause  
6 of the Fourteenth Amendment;

7 b. El Modena High School has a designated public  
8 forum for student groups to meet on school premises during  
9 noninstructional time and to use school facilities for  
10 communicating about those groups' activities; and

11 c. the School District Officials have deprived  
12 plaintiffs of their rights to engage in constitutionally  
13 protected expression and association activities by  
14 preventing the GSAC from meeting in the existing designated  
15 public forum and from using school facilities, based on the  
16 content of speech the School District Officials purport to  
17 anticipate at GSAC meetings and/or the viewpoints the School  
18 District Officials expect to be expressed at such meetings.

19 THIRD CLAIM FOR RELIEF AGAINST SCHOOL DISTRICT OFFICIALS  
20 Violation Of 42 U.S.C. § 1983 Through Violation Of The Equal  
21 Protection Clause Of The Fourteenth Amendment

22 47. Plaintiffs repeat and reallege the allegations of  
23 paragraphs 1 through 41 above, and incorporate those allegations  
24 herein by this reference.

25 48. The School District Officials, acting under color of  
26 state law and in violation of 42 U.S.C. § 1983, have deprived  
27 plaintiffs of the rights, privileges, or immunities secured by  
28 the Equal Protection Clause of the Fourteenth Amendment of the