

1 JOHN EICHHORST (No. 139598)
EDWARD B. MULLEN III (No. 194868)
2 KATHLEEN S. MORRIS (No. 196672)
KEVIN H. LEWIS (No. 197421)
3 HOWARD, RICE, NEMEROVSKI, CANADY,
FALK & RABKIN
4 A Professional Corporation
Three Embarcadero Center, 7th Floor
5 San Francisco, California 94111-4065
Telephone: 415/434-1600
6 Facsimile: 415/217-5910

7 ANN BRICK (No. 65296)
AMERICAN CIVIL LIBERTIES UNION
8 FOUNDATION OF NORTHERN CALIFORNIA, INC.
1663 Mission Street, Suite 460
9 San Francisco, California 94103
Telephone: 415/621-2493
10 Facsimile: 415/255-8437

11 Attorneys for Plaintiffs
GAY-STRAIGHT ALLIANCE NETWORK and
12 GEORGE LOOMIS

13 UNITED STATES DISTRICT COURT
14 EASTERN DISTRICT OF CALIFORNIA
15

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RABKIN
A Professional Corporation

16 GAY STRAIGHT ALLIANCE NETWORK
17 and GEORGE LOOMIS,

18 Plaintiffs,

19 v.

20 VISALIA UNIFIED SCHOOL DISTRICT,
by and through its Board of Education;
21 CARLYN LAMBERT, Superintendent;
LINDA GONZALES, former
22 Superintendent; BOB CESENA, Principal;
GIG STEVENS, Assistant Principal, JUAN
23 GARCIA; and Does 1-25, inclusive,

24 Defendants.
25
26
27
28

FILED

2002 AUG 15 P 2:01

CLERK, US DIST. COURT
EASTERN DIST. OF CALIF
AT FRESNO

BY DEPUTY

No. Civ. F-00-6616 OWW/LJO

Action Filed: September 29, 2000

CONSENT DECREE AND ORDER;
STIPULATION OF DISMISSAL

1 On January 24, 2001, Plaintiff Gay-Straight Alliance Network (“GSA Network”)
2 joined this action and, together with Plaintiff George Loomis, filed a First Amended
3 Complaint asserting federal equal protection and due process claims as well as statutory
4 claims under the California Education and Civil Codes.

5 Defendant Visalia Unified School District (“VUSD”) denies the allegations in the First
6 Amended Complaint. The parties desire to avoid further costly and protracted litigation and
7 have voluntarily agreed, as indicated by the signatures below, to resolve Plaintiffs’ claims
8 against Defendant without the necessity of a trial by entering into this Consent Order. After
9 reviewing the terms of this Consent Order, the Court concludes that the entry of this Consent
10 Order comports with federal law and is appropriate under all the circumstances.

11 Therefore, it is ORDERED, ADJUDGED and DECREED as follows:

12 **I. Mandatory Staff Training Program**

13 A. *Retention Of Intergroup Clearinghouse.* Within thirty (30) calendar days from
14 the date of entry of this Consent Order, VUSD will retain the Intergroup Clearinghouse to
15 prepare and implement all aspects of the mandatory Fall semester 2002 staff training
16 programs for certain administrators, teachers and other staff within the VUSD (“Qualified
17 Staff” as defined in Paragraph I.B), as more fully described below.

18 B. *Qualified Staff.* This Mandatory Staff Training Program will be mandatory for all
19 certificated employees, administrators, and non-certificated staff who are responsible for
20 monitoring student behavior (collectively referred to in this Consent Order as “Qualified
21 Staff”). Notwithstanding the foregoing, Qualified Staff specifically does not include school
22 bus drivers.

23 C. *Initial Staff Trainings.*

24 1. The Intergroup Clearinghouse will prepare, implement, and conduct initial
25 staff trainings (hereinafter referred to as “Initial Staff Trainings”) for Qualified Staff at all
26 VUSD schools (including elementary schools, middle schools, high schools, and
27 continuation schools), during the Fall 2002 semester. During the Fall 2003 semester and the
28 Fall 2004 semester, the VUSD will offer at least one Initial Staff Training, with the aid of

1 the Intergroup Clearinghouse (or another similarly-qualified trainer whom the parties
2 mutually agree upon), for any Qualified Staff whom the VUSD has hired since the previous
3 Initial Staff Training was conducted and for any Qualified Staff who have not yet been
4 trained because they did not attend prior Initial Staff Trainings.

5 2. Each Initial Staff Training will last three hours and will be focused
6 exclusively on issues pertaining to sexual orientation harassment and discrimination. The
7 VUSD will cooperate with the trainer in conducting reasonably limited preparatory activities
8 in advance of Initial Staff Trainings.

9 3. The requirements of this paragraph will only apply to any newly-hired
10 Qualified Staff who become employed with the VUSD after the completion of the three hour
11 Initial Staff Trainings for that academic year. If the VUSD, as part of the normal orientation
12 of newly-hired Qualified Staff, provides training as to any VUSD policies relating to
13 harassment, discrimination, or sexual harassment, the VUSD must include within that
14 training an appropriate discussion and treatment of VUSD policies and prohibitions on
15 harassment and discrimination on the basis of sexual orientation. The trainer who conducts
16 Initial Staff Trainings will not be required to conduct any of the instruction or training for
17 newly-hired Qualified Staff described in this paragraph. Regardless of whether or not newly-
18 hired Qualified Staff receive information or training provided by the VUSD immediately
19 following their hire, the newly-hired Qualified Staff must attend Initial Staff Trainings in the
20 fall semester of the subsequent academic year.

21 4. While not a mandatory requirement of this Consent Order, the VUSD and
22 the trainer will encourage principals and other administrators to brief or otherwise discuss
23 the content of the Initial Staff Trainings with other VUSD staff who are not required to
24 attend the Initial Staff Trainings but who have contact with students (such as clerical and
25 support staff). The VUSD will not be required to document or report to Plaintiffs any efforts
26 that it undertakes pursuant to this paragraph.

27 *D. Annual Staff Training Updates.*

28 1. Beginning with the Fall 2003 semester and continuing for the duration of

1 the Consent Order, the VUSD will conduct annual staff trainings of approximately thirty
2 (30) minutes in length in the Fall semester of each year (hereinafter referred to as “Annual
3 Staff Training Updates”) for each Qualified Staff member who has already received an
4 Initial Staff Training. The VUSD may integrate the Annual Staff Training Updates into
5 other training or inservice programs that it conducts in the Fall semester provided that
6 approximately thirty (30) minutes of time is spent training staff on preventing harassment
7 and discrimination on the basis of actual or perceived sexual orientation.

8 2. The VUSD shall use the Intergroup Clearinghouse (or another similarly
9 qualified trainer whom the parties mutually agree upon) as the trainer for designing and
10 implementing the Annual Staff Training Updates. While the VUSD will have flexibility in
11 determining whether to employ the Intergroup Clearinghouse or other trainer to conduct all
12 aspects of the Annual Staff Training Updates, at a minimum, the trainer must be physically
13 present at all Annual Staff Training Updates in order to allow VUSD staff the opportunity to
14 discuss and ask questions about (i) how they have handled incidents of harassment and
15 discrimination reported by students during the previous year; and (ii) the development of
16 site-specific strategies for preventing such incidents.

17 E. *Content Of The Mandatory Staff Training Program.*

18 1. The goal of the Initial Staff Trainings and the Annual Staff Training
19 Updates is to increase safety, promote a safe learning environment, and prevent harassment
20 and discrimination on the basis of actual or perceived sexual orientation. The Intergroup
21 Clearinghouse and/or other trainer will have flexibility in designing and implementing the
22 Initial Staff Trainings; however, the Initial Staff Trainings should include most or all of the
23 following: (1) a discussion of terminology to be used in the training; (2) use of appropriate
24 audiovisual and written materials; (3) small-group discussions and exercises on how to
25 investigate, report, and remedy incidents of harassment and discrimination; (4) discussion of
26 VUSD policies and state and federal laws regarding sexual orientation harassment and
27 discrimination; (5) discussion of the legal obligations of VUSD employees; (6) discussion on
28 how to develop a school site plan for preventing harassment and discrimination; (7)

1 discussion of community resources to aid victims of harassment and discrimination; and (8)
2 time for questions and answers.

3 2. The trainer will have similar flexibility in assisting the VUSD with
4 designing and implementing the Annual Staff Training Updates. A mandatory component of
5 the Annual Staff Training Updates is allowing the staff to discuss and ask questions about (i)
6 how they have handled any incidents of harassment and discrimination reported by students
7 during the previous year; and (ii) the development of site-specific strategies for preventing
8 such incidents. In addition to this mandatory component, the Annual Staff Training Updates
9 should include many of the eight elements listed in Paragraph I.E.1.

10 3. Prior to the first trainings, the VUSD Board of Education will be provided
11 with materials to be used and the content of the Initial Staff Trainings and the Annual Staff
12 Training Updates for its approval with the understanding that the Board will not
13 unreasonably withhold its consent to materials and content that comport with the description
14 above.

15 **II. Mandatory Student Training Program**

16 A. *Scope Of The Mandatory Student Trainings In VUSD High Schools.*

17 1. Beginning in the Fall 2002 semester and repeating each year thereafter for
18 the duration of the Consent Order, VUSD will provide one training session of approximately
19 fifty (50) minutes in length to all students in one grade level in all VUSD high schools and
20 continuation schools on the subject of preventing harassment and discrimination on the basis
21 of actual or perceived sexual orientation (hereinafter referred to as the "Mandatory Student
22 Trainings"). The Mandatory Student Trainings will be conducted in courses in which the
23 VUSD already addresses other forms of harassment and discrimination, or otherwise
24 addresses school safety issues.

25 2. These Mandatory Student Trainings shall be conducted in VUSD high
26 schools by students in a peer-to-peer format. The VUSD and GSA Network will attempt to
27 integrate the Mandatory Student Training Program into any already existing VUSD peer
28 education and counseling programs.

1 3. For the 2002-2003 and 2003-2004 school years, the VUSD will contract
2 with GSA Network for designing and implementing the Mandatory Student Training
3 program in VUSD high schools, including training the peer trainers and preparing VUSD
4 teachers for integrating the Mandatory Student Training Program into its high school
5 curriculum for the 2004-2005 school year. The VUSD will pay GSA Network for services it
6 provides to the VUSD relating to the Mandatory Student Training Program up to a
7 maximum amount of \$12,000. GSA Network shall bill VUSD for these services as they are
8 provided.

9 4. For the 2004-2005 school year, the VUSD shall implement the Mandatory
10 Student Training Program into its high school curriculum and shall not be obligated to pay
11 GSA Network for providing any services.

12 5. Notwithstanding Paragraphs II.A.2-II.A.4 above, if as part of implementing
13 the peer-to-peer aspects of the Mandatory Student Trainings prior to the 2004-2005 school
14 year, the VUSD and GSA Network both agree that it is more efficient to have teachers
15 integrate some or all of the curriculum for the Mandatory Student Trainings into the already-
16 existing VUSD high school curriculum, GSA Network and the VUSD will cooperate and
17 agree upon a method for implementing teacher-conducted trainings as part of the Mandatory
18 Student Trainings. If GSA Network determines that such Mandatory Student Trainings have
19 been successfully integrated into the VUSD curriculum, the VUSD will be relieved of its
20 obligation to continue to retain GSA Network to provide student training-related services,
21 and such determination shall not be unreasonably withheld.

22 B. *Scope Of The Mandatory Student Training Program In Middle Schools*

23 1. Beginning in the Fall 2002 semester and continuing throughout the duration
24 of this Consent Order, the VUSD will provide an announcement about VUSD policies
25 prohibiting harassment and discrimination on the basis of actual or perceived sexual
26 orientation in fall student assemblies for middle schools students.

27 2. Beginning in the Fall 2002 semester and continuing throughout the duration
28 of this Consent Order, the VUSD will ensure that middle school students are taught, in the

1 appropriate middle school curriculum addressing harassment and discrimination, that
2 harassment and discrimination on the basis of actual or perceived sexual orientation is
3 prohibited.

4 C. *Content of the Mandatory Student Trainings*

5 1. The Mandatory Student Trainings will address topics related to harassment,
6 discrimination, and school safety, specifically focused on preventing harassment and
7 discrimination on the basis of actual or perceived sexual orientation. GSA Network will
8 provide the VUSD Board of Education, or any committee it may designate that regularly
9 reviews school safety or anti-discrimination matters, with materials to be used in the high
10 school student trainings for approval with the understanding that the VUSD will not
11 unreasonably withhold its consent to materials that comport with the general requirements
12 discussed in this Consent Order.

13 2. Plaintiffs and Defendants stipulate to, and the Court hereby orders that
14 Mandatory Student Trainings will cover topics related to harassment, discrimination, and
15 school safety, and will not cover topics listed in Education Code Sections 51201.5, 51550,
16 51554 or 51820 requiring parental notification.

17 **III. VUSD Policies**

18 A. *Revisions Of Policies And Handbooks.* No later than the first day of the Fall 2002
19 semester and continuing throughout the duration of this Consent Order, VUSD policies and
20 student handbooks shall be revised if necessary so that they expressly state in a conspicuous
21 manner that harassment and discrimination based on sexual orientation and gender, which
22 includes perceptions of a person's identity, appearance or behavior, is expressly prohibited
23 under VUSD policies and state law. *See* Education Code Section 220 and Penal Code
24 Sections 422.6 and 422.76.

25 B. *Description Of Complaint Resolution Procedures.* No later than the first day of
26 the Fall 2002 semester and continuing throughout the duration of this Consent Order, VUSD
27 policies and student handbooks shall be revised if necessary so that they clearly explain the
28 complaint procedures for reporting harassment and discrimination based on sexual

1 orientation and gender; how investigations involving allegations of harassment and
2 discrimination are to be conducted by the VUSD; what VUSD resources are available for
3 victims of harassment and discrimination, including the existence of and the role of
4 Compliance Coordinators (*see* Section IV, *infra*); and what remedies or responses the VUSD
5 makes available for victims of harassment and discrimination.

6 **IV. Compliance Coordinators**

7 **A. Selection Of Compliance Coordinators.**

8 1. No later than thirty (30) days after the Initial Staff Trainings are conducted
9 for the Fall 2002 semester, the VUSD will select two administrators, faculty, or staff (one
10 male and one female) to serve as “Compliance Coordinators” for each VUSD middle school,
11 high school, and continuation school. VUSD elementary schools shall only be required to
12 have one Compliance Coordinator, and the principal of each elementary school shall
13 automatically be designated to serve in that capacity. The VUSD may call the Compliance
14 Coordinators “school safety counselors” or another title of its choice. These Compliance
15 Coordinators are individuals who are identified as resources for VUSD students who feel
16 that they may have suffered harassment or discrimination based on sexual orientation, and
17 who are available at each school for monitoring and recording allegations of harassment or
18 discrimination on the basis of actual or perceived sexual orientation.

19 2. As VUSD faculty and staff are trained at the Fall 2002 Initial Staff
20 Trainings pursuant to Paragraph I.C. of this Consent Order, the Trainers will seek volunteers
21 to serve as Compliance Coordinators for individual middle schools, high schools, and
22 continuation schools. If at the Fall 2002 Initial Staff Trainings two Compliance
23 Coordinators for an individual school are not selected, within thirty (30) days of the Initial
24 Staff Training, the principal of that school will select appropriate Compliance Coordinators
25 whom he or she reasonably believes will have sensitivity to lesbian and gay students.

26 3. At the Initial Staff Trainings, the Trainers shall inform the Compliance
27 Coordinators of their role as resources for students, and while the Compliance Coordinators
28 need not receive any supplementary training to prepare them for their role, the VUSD must

1 ensure that they are familiar with (i) how to investigate and remedy allegations of sexual
2 orientation harassment or discrimination, (ii) how to track, record, and report such incidents
3 or complaints, and (iii) how to advise or work with other staff concerning incidents of
4 harassment or discrimination.

5 4. Subsequent to the initial designation of Compliance Coordinators described
6 in Paragraphs IV.A.1 and IV.A.2, each VUSD middle school, high school, and continuation
7 school shall have two Compliance Coordinators (one male and one female) throughout the
8 entire duration of the Consent Order. If any VUSD middle school, high school, and
9 continuation school does not have the required two Compliance Coordinators (whether
10 through staff attrition, resignation of Compliance Coordinators, or for other reasons), the
11 principal for that school must within thirty (30) calendar days select a new Compliance
12 Coordinator whom he or she reasonably believes will have sensitivity to lesbian and gay
13 students. While any newly chosen Compliance Coordinator need not receive any
14 supplementary training other than the Initial Staff Trainings to prepare them for their role,
15 VUSD principals must ensure that any new Compliance Coordinators are familiar with (i)
16 how to investigate and remedy allegations of sexual orientation harassment or
17 discrimination, (ii) how to track, record, and report such incidents or complaints, and (iii)
18 how to advise or work with other staff concerning incidents of harassment or discrimination.

19 B. *Publicly Identifying Compliance Coordinators For Parents, Students, and VUSD*
20 *Employees.*

21 1. By no later than the Fall 2003 semester , all parents, students, and VUSD
22 employees shall be informed of the existence, role, and identity of Compliance Coordinators
23 through student handbooks or other guides.

24 2. By no later than the first day of the Spring 2003 semester , the existence,
25 role, and identity of the two Compliance Coordinators shall be posted in at least one
26 prominent and accessible location in each high school, middle school, and continuation
27 school. In addition, by no later than the first day of the Spring 2003 semester , the VUSD
28 website and any websites for individual VUSD schools shall, at a minimum, describe the

1 existence and role of the Compliance Coordinators and shall instruct students and parents
2 that they should check with principals or other administrators at their school for the identity
3 of site-specific Compliance Coordinators.

4 **V. Systems For Reporting Incidents Of Harassment And Discrimination**

5 **A. Incident Reports.**

6 1. For the duration of this Consent Order, the VUSD shall maintain a written
7 record (hereinafter referred to as an "Incident Report") of the following verbal or written
8 complaints made to VUSD agents and employees of harassment or discrimination of
9 students on the basis of actual or perceived sexual orientation: (1) each and every complaint
10 of physical harassment whether reported by a student complainant or person who witnessed
11 or learned of such harassment; (2) each and every complaint of verbal harassment or
12 discrimination reported by a student complainant; and (3) two or more incidents of verbal
13 harassment or discrimination reported by witnesses or persons who learned of such
14 harassment secondhand.

15 2. Each Incident Report shall, at a minimum, include (1) the name of the
16 person making the allegation, and, if different, the name of the alleged victim; (2) the nature
17 of the allegation and the date of alleged incident; (3) the names of all persons alleged to have
18 committed violations; (4) the names of all persons who may have relevant information about
19 the incident; (5) the written statements of the complainant, the victim (if different from the
20 complainant), the alleged perpetrator, and any witnesses; (6) the outcome of the
21 investigation; (7) any action taken by the VUSD; and (8) attached copies of any documents
22 supplied to the VUSD or created during the investigation or complaint process. The Incident
23 Report shall be completed no later than fifteen (15) calendar days after the date upon which
24 the complaint is first made.

25 **B. Computerized Reporting.** For its convenience, the VUSD may use its District-
26 wide computer system for tracking some or all of the information in the Incident Reports
27 relating to incidents of harassment or discrimination and the VUSD's response to them at
28 any or all school sites. VUSD will ensure that any computerized records are appropriately

1 stored and maintained so that any information that is stored solely in electronic form may be
2 provided to Plaintiffs in the Annual Reports to Plaintiffs (*see* Section X, herein).

3 **VI. Gay Straight Alliances And Other Clubs**

4 A. *High School Student Handbooks.* Beginning no later than the Fall 2002 semester,
5 the student handbooks at each VUSD high school shall include a listing of the types of clubs
6 that the VUSD encourages students to join, and this list shall include a specific mention of a
7 gay-straight alliance or some generic reference to a gay and lesbian student group.

8 B. *Faculty Advisors.* Because faculty advisors are required for non-curricular clubs,
9 if a student at a VUSD school indicates an interest in forming a gay-straight alliance or other
10 gay or lesbian student group to a Compliance Coordinator or an administrator at a VUSD
11 school during the duration of this Consent Order, the VUSD will attempt to make a faculty
12 advisor available for that club to the full extent that it would do so for any other club, and
13 shall protect any faculty advisor who serves from suffering any adverse employment
14 consequences as a result of his or her participation as a faculty advisor.

15 **VII. Community Advisory Group**

16 A. *Role Of Visalia Unified Educational Forum.* The Visalia Unified Educational
17 Forum, which currently is open to the community and serves as a public advisory body to
18 the VUSD, shall be charged with addressing and discussing issues pertaining to sexual
19 orientation discrimination and harassment, including issues of tolerance and diversity on a
20 broader scale. The Forum will begin discussing these issues within ninety (90) calendar
21 days of the entry of this Consent Order.

22 B. *Subcommittee On Sexual Orientation Issues.* Within ninety (90) days after the
23 entry of this Consent Order, the Visalia Unified Educational Forum will create a
24 subcommittee specifically charged with assessing the climate at VUSD schools with regard
25 to sexual orientation discrimination and harassment, including implementing this Consent
26 Order and implementing the goals of AB 537 (1999) (codified in Education Code Sections
27 200 *et seq.*).

28

1 **VIII. Prohibitory Injunction**

2 A. Throughout the duration of this Consent Order, VUSD, its agents, employees,
3 successors, and all persons in active concert or participation with it, are enjoined from:

4 1. Failing to respond promptly and appropriately in accordance with the
5 revised policies (referred to in Section III, *supra*) whenever VUSD receives complaints or
6 allegations of harassment or discrimination on the basis of actual or perceived sexual
7 orientation.

8 2. Engaging in, sanctioning, or allowing harassing conduct (whether on the
9 basis of actual or perceived sexual orientation) by failing to follow the revised policies
10 referred to in Section III, *supra*, including verbal conduct, that creates (or will certainly
11 create) a hostile environment by substantially interfering with a student's educational
12 benefits, opportunities, or performance or that is threatening or seriously intimidating.

13 3. Retaliating against, or taking any actions that have the impact of adversely
14 affecting, any student or employee because that student or employee has made allegations or
15 filed or participated in a complaint with the VUSD or any federal, state, local or non-
16 governmental entity concerning harassment or discrimination on the basis of actual or
17 perceived sexual orientation.

18 4. Coercing students who have complained of harassment or discrimination on
19 the basis of actual or perceived sexual orientation to enroll in alternative education or
20 independent study programs.. The mere fact that a student complains of harassment or
21 discrimination on the basis of actual or perceived sexual orientation does not justify that
22 student's placement into alternative education or independent study programs. Nothing in
23 this provision will prevent the VUSD from recommending its independent study program or
24 other alternative educational programs to students for reasons independent of their
25 harassment or discrimination complaints where the students otherwise meet the established
26 criteria for entrance into the alternative program. Nothing in this provision shall relieve the
27 VUSD of its obligation to respond promptly and appropriately in accordance with the
28 revised policies (referred to in Section III, *supra*), whenever the VUSD receives complaints

1 or allegations of harassment or discrimination on the basis of actual or perceived sexual
2 orientation.

3 **IX. Duration of Consent Order**

4 A. This Consent Order is effective immediately upon its entry by the Court and shall
5 remain in effect until June 30, 2005, or sixty (60) calendar days after the last report under
6 Section X is received, whichever date is later. The Consent Order may be extended for an
7 additional two years (to June 30, 2007), by order of this Court upon Plaintiffs' motion, if at
8 any time from entry of the Consent Order through June 30, 2005, or sixty (60) calendar days
9 after the last report under Section X is received, whichever date is later, the VUSD is found
10 to be in contempt of Court or in substantial non-compliance with the terms of the Consent
11 Order.

12 B. With the entry of this Consent Order, Plaintiffs and Defendants consent to and
13 this Court hereby orders that this action is dismissed with prejudice PROVIDED
14 HOWEVER, THAT the Court shall retain jurisdiction over this action for the period
15 specified in Paragraph IX.A above to ensure compliance with all provisions of this Consent
16 Order.

17 C. The parties agree that the time limits set forth throughout this Consent Order may
18 be expanded upon mutual consent of the parties.

19 **X. Annual Reporting To Plaintiffs**

20 A. On or before June 30, 2003, June 30, 2004, and June 30, 2005, the VUSD shall
21 deliver to counsel for Plaintiffs, at the address set forth below, a detailed report covering the
22 preceding reporting period containing information about the VUSD compliance efforts with
23 this Consent Order, including but not limited to:

24 1. Copies of the VUSD's policies and procedures for preventing, identifying,
25 reporting and responding to harassment and discrimination on the basis of actual or
26 perceived sexual orientation, including any revisions since the previous report (if the policies
27 are unchanged from a previous year, the VUSD can so certify in lieu of providing copies of
28 the policies);

1 2. Copies of the specific language contained in student handbooks or any other
2 notices or materials sent to students, parents, or employees providing information about the
3 VUSD's policies and procedures for preventing, identifying, reporting and responding to
4 harassment and discrimination on the basis of actual or perceived sexual orientation, and a
5 narrative description of which documents contained these notices and when these notices
6 and materials were distributed;

7 3. A certification providing the following information concerning the
8 Mandatory Staff Training Program conducted during the preceding year: (1) the number of
9 VUSD staff members who attended the Mandatory Staff Training Program; (2) staff
10 members who were scheduled to attend Mandatory Staff Training Program but who failed to
11 attend; and (3) confirmation that the following persons attended the Mandatory Staff
12 Training Program: (a) all Compliance Coordinators; (b) all individual Defendants named in
13 this lawsuit employed by the VUSD; and (c) all teachers participating in the Mandatory
14 Student Training Program.

15 4. Narrative description of the VUSD's activities in implementing Paragraph
16 II.B. of this Consent Order, and, if applicable, a narrative description of the VUSD's
17 activities in conducting Mandatory Student Trainings pursuant to Paragraph II.A.5. For the
18 June 30, 2005 annual report, the VUSD shall also provide (1) a confirmation that the VUSD
19 conducted the Mandatory Student Training Program in all high schools during the 2004-
20 2005 school year; (2) a narrative description of the VUSD's activities in implementing that
21 program; and (3) a copy of a curriculum outline for the program.

22 5. A list of Compliance Coordinators for the middle schools, high schools, and
23 continuation schools, by sex, job title and school;

24 6. Statistical information showing the number of Incident Reports, as
25 described in Section V above, and a summary of the VUSD's investigation and resolution of
26 these incidents. After receiving this statistical information, VUSD shall provide copies of
27 actual incident reports upon request from Plaintiffs' counsel.

28 7. Copies of the specific language inserted in VUSD high school student

1 handbooks listing gay-straight alliances or other gay and lesbian groups as required by
2 Section VI, above; and

3 8. Narrative descriptions of activities undertaken by the Visalia Unified
4 Educational Forum, the Subcommittee on Sexual Orientation Issues, and/or any other group
5 affiliated with the VUSD relating to the prevention of harassment and discrimination based
6 on sexual orientation.

7 B. Within sixty (60) calendar days of receipt of any of the above reports, Plaintiffs
8 may request, in writing, clarifications of, or supplementation to, the report. In that event, the
9 VUSD shall provide such clarifications and/or permit the inspection and copying of
10 supplemental materials as the Plaintiffs may reasonably request.

11 **XI. Extension of Time**

12 The VUSD shall notify Plaintiffs at least thirty (30) days in advance if it reasonably
13 calculates that it will not be able to comply with submission of a report or implementation of
14 any portion of this Consent Order, specifying the reasons for anticipated non-compliance
15 and the date by which it reasonably calculates compliance will be achieved. Plaintiffs may
16 respond to the VUSD within fifteen (15) calendar days if they believe that the VUSD's
17 proposed timetable is unreasonable and suggest an alternative date. The VUSD shall take
18 steps to avoid non-compliance; repeated non-compliance will be grounds for Plaintiffs or
19 Plaintiffs' attorneys to move the Court to extend the duration of the Consent Order for
20 substantial noncompliance.

21 **XII. Miscellaneous**

22 A. This Consent Order does not constitute, nor shall it be construed as, an admission
23 of any liability or wrongdoing by any party.

24 B. The provisions of this Consent Order will be governed by the laws of the State of
25 California.

26 C. Nothing in this Consent Order will be construed to limit, any party's right to
27 enforce this Consent Order (or any other documentation delivered pursuant to or in
28 connection with it) according to its terms. If any court of competent jurisdiction determines

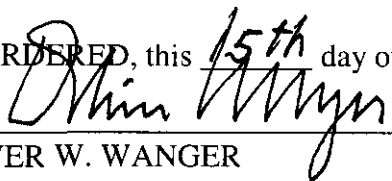
1 that any provision contained in this Consent Order, or any part thereof, cannot be enforced,
2 the parties agree that such determination shall not affect or invalidate the remainder of the
3 Consent Order.

4 D. This Consent Order shall inure to the benefit of and be binding upon the parties
5 hereto and their respective heirs, successors, and assigns.

6 E. The parties to this Consent Order shall endeavor in good faith to resolve
7 informally any differences regarding interpretation of, and compliance with, this Order
8 before bringing such matters to the Court for resolution. However, in the event that the
9 VUSD either fails to perform in a timely manner any act required by this Order or acts in
10 violation of any provision of this Order, Plaintiffs or Plaintiffs' attorneys may move the
11 Court to impose any remedy authorized by law or equity, including, but not limited to, an
12 order requiring performance or non-performance of certain acts. In the event that any legal
13 action is necessary to enforce or interpret any provision of this Consent Order, the prevailing
14 party in any such action shall recover its costs and reasonable attorneys' fees.

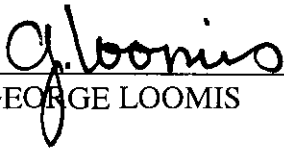
15 F. All documents or reports required to be submitted to Plaintiffs pursuant to this
16 Consent Order shall be addressed to: Ann Brick, ACLU Foundation of Northern California,
17 1663 Mission St., Suite 460, San Francisco, CA 94103.

18
19 SO ORDERED, this 15th day of AUGUST, 2002.

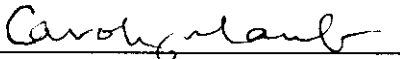
20 
21 OLIVER W. WANGER
22 United States District Judge
23
24
25
26
27
28


1 By their signatures on this and the following pages, the undersigned parties agree to,
2 and request the entry of, this Consent Order:

3
4 Plaintiff George Loomis:

5 
6 _____
7 GEORGE LOOMIS

8
9 Plaintiff Gay-Straight Alliance Network:

10
11 
12 _____
13 CAROLYN LAUB, Executive Director

14
15 
16 BY: Jane Levick, Tides Center

17 APPROVED AS TO FORM:

18 JOHN EICHHORST
19 EDWARD B. MULLEN III
20 KATHLEEN S. MORRIS
21 KEVIN H. LEWIS
22 HOWARD, RICE, NEMEROVSKI, CANADY,
23 FALK & RABKIN
24 A Professional Corporation

25 ANN BRICK
26 AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF NORTHERN
27 CALIFORNIA, INC.

28 Counsel for Plaintiffs George Loomis and Gay Straight Alliance Network

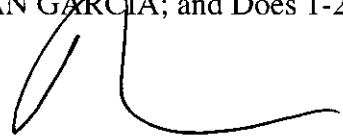


BY: ANN BRICK

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RABKIN
A Professional Corporation

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

VISALIA UNIFIED SCHOOL DISTRICT, by and through its Board of Education;
CARLYN LAMBERT, Superintendent; LINDA GONZALES, former
Superintendent; BOB CESENA, Principal; GIG STEVENS, Assistant Principal;
JUAN GARCIA; and Does 1-25, inclusive

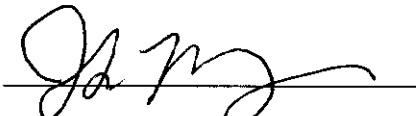


President
VUSD Board of Education



Secretary
VUSD Board of Education

APPROVED AS TO FORM:
NELSON, ROZIER, & BETTENCOURT
Counsel for Defendants



BY: JOHN ROZIER

WD 043002/1-1410501/964294/v9

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RAEBKIN
A Professional Corporation

United States District Court
for the
Eastern District of California
August 16, 2002

* * CERTIFICATE OF SERVICE * *

1:00-cv-06616

Loomis

v.

Visalia Unified Dist

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

That on August 16, 2002, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office, or, pursuant to prior authorization by counsel, via facsimile.

George S Loomis
1228 E Elizabeth
Fresno, CA 93728

OWW LJO

John Laurence Rozier
Nelson Rozier and Bettencourt
3924 West Caldwell Avenue
Suite A
Visalia, CA 93277

John Elliott Eichorst
Howard Rice Nemerovski Canady Falk and Rabkin
Three Embarcadero Center
Suite 700
San Francisco, CA 94111

Jack L. Wagner, Clerk

BY: 
Deputy Clerk