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DEREK R. HENKLE

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DEREK R. HENKLE,

Plaintiff,

v.

ROSS GREGORY, in his official and
individual capacity; DENISE
HAUSAUER, LORETTA RENDE, JOE
ANASTASIO, ROBERT FLOYD,
SERENA ROBB, ARNEL RAMILO,
and GLEN SELBY, in their individual
capacities; and the WASHOE COUNTY
SCHOOL DISTRICT, a political
subdivision of the State of Nevada,

Defendants.

Case No. CV-N-00-0050-HDM-RAM
FIRST AMENDED COMPLAINT
JURY DEMAND

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JURISDICTION AND VENUE

1
2 1. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C.
3 Sections 1331 and 1343 because the matters in controversy arise under the Constitution
4 and laws of the United States. This Court has supplemental jurisdiction to hear the state
5 claims of Plaintiff Derek R. Henkle ("Plaintiff") under 28 U.S.C. Section 1367(a).

6 2. Jurisdiction also is conferred upon this Court pursuant to 28 U.S.C.
7 Section 1332 because, as alleged below, there is complete diversity of citizenship between
8 the Plaintiff and all Defendants and the matter in controversy, exclusive of interest and
9 costs, exceeds the sum of seventy-five thousand dollars.

10 3. Plaintiff has complied with the requirements of Nevada law waiving
11 sovereign immunity, set forth in Nev. Rev. Stat. Ann. Sections 41.031 et seq.

12 4. Venue is proper in this Court under 28 U.S.C. Section 1391(b)
13 because a substantial part of the events that gave rise to Plaintiff's claims took place
14 within the Northern Division of the District of Nevada.

PRELIMINARY STATEMENT

15
16
17 5. This is a civil rights action against officials and employees of the
18 Washoe County School District (the "District") and the District itself for depriving
19 Plaintiff Derek R. Henkle of established constitutional, statutory and common law rights.

20 6. Plaintiff attended Galena High School, Washoe High School, and
21 Wooster High School, all of which are public high schools in the Washoe County School
22 District. While attending these schools, Plaintiff's classmates routinely subjected him to
23 severe and pervasive verbal and physical harassment on school grounds on the basis of
24 Plaintiff's sexual orientation and his sex. This harassment occurred on a near-daily basis
25 beginning in the Fall of 1995 and continued until he was forced to leave the public school
26 system in February of 1997. Plaintiff continually was harangued by his classmates, who
27 referred to him using terms such as "faggot," "queer," "fairy," "butt-pirate," "sissy," "ass
28 licker," "AIDS whore," and "fucking faggot" and threatened to assault, injure, or kill

1 Plaintiff. On more than one occasion, Plaintiff was physically assaulted by fellow
 2 students while on school property. Defendants were aware of the verbal and physical
 3 harassment and abuse, and had the authority to institute corrective and preventative
 4 measures, but Defendants repeatedly and intentionally failed to take reasonable measures
 5 to stop it. Rather than appropriately addressing the harmful behavior of other students,
 6 Defendants treated Plaintiff as if he were the problem and shifted Plaintiff from school to
 7 school throughout the District. Defendants failed to act, and took affirmative actions
 8 detrimental to Plaintiff, because of Plaintiff's sexual orientation, sex, and expression about
 9 his sexual orientation. Defendants deprived Plaintiff of the benefits of a high school
 10 education, and caused his transfer at the age of 16 out of the Washoe County School
 11 District to an adult education program that could not provide Plaintiff with a high school
 12 diploma.

13 7. Specifically, this action challenges Defendants' denial of Plaintiff's
 14 rights secured under the First and Fourteenth Amendments to the United States
 15 Constitution, 42 U.S.C. Section 1983, and Title IX of the Education Amendments of
 16 1972, 20 U.S.C. § 1681 et seq. ("Title IX"), and Defendants' tortious negligence,
 17 negligent supervision and training, intentional infliction of emotional distress, and
 18 negligent infliction of emotional distress under Nevada state law.

19 PARTIES

20
 21 8. From August 1994 until February 1997, Plaintiff DEREK R.
 22 HENKLE was a student attending public schools in the Washoe County School District,
 23 County of Washoe, State of Nevada. Plaintiff currently is a citizen of the State of
 24 Georgia. Plaintiff is a gay male.

25 9. Defendants ROSS GREGORY, Principal, Galena High School;
 26 DENISE HAUSAUER, Assistant Vice Principal, Galena High School; LORETTA
 27 RENDE, Teacher, Galena High School; JOE ANASTASIO, Washoe County School
 28 District Director of Student Services; ROBERT FLOYD, Principal, Washoe High

1 School; SERENA ROBB, Principal, Wooster High School, ARNEL RAMILO, Officer,
2 Washoe County School Police; and GLEN SELBY, Officer, Washoe County School
3 Police, are or were at all relevant times individuals working as employees and agents of
4 the Washoe County School District, a public school district organized and operated under
5 the laws of the State of Nevada. All Defendants currently are citizens of Nevada.

6 10. Defendant WASHOE COUNTY SCHOOL DISTRICT is and was at
7 all relevant times a political subdivision of the State of Nevada with jurisdiction over
8 public schools in Washoe County, including Galena, Washoe and Wooster High Schools.

9 11. Plaintiff alleges that each of the Defendants performed, participated
10 in, aided and/or abetted in some manner the acts averred herein, proximately caused the
11 damages averred below, and is liable to Plaintiff for the damages and other relief sought
12 herein.

13 12. Based upon information and belief, Plaintiff alleges that Defendant
14 Gregory was responsible for the training and supervision of Defendants Hausauer and
15 Rende.

16 13. Based upon information and belief, Plaintiff alleges that Defendant
17 Hausauer was responsible for the training and supervision of Defendant Rende.

18 14. Based upon information and belief, Plaintiff alleges that Defendant
19 Robb was responsible for the training and supervision of Defendants Ramilo and Selby.
20

21 STATEMENT OF FACTS

22 15. Galena High School ("Galena"), Washoe High School ("Washoe"),
23 and Wooster High School ("Wooster") are public high schools in the District.
24

25 Galena High School

26 16. Plaintiff Derek R. Henkle attended Galena from August 1994 until
27 January 1996. During that time, Ross Gregory ("Gregory") was the Principal at Galena,
28 Denise Hausauer ("Hausauer") was the Assistant Vice Principal at Galena, and Loretta

1 Rende ("Rende") was a teacher at Galena.

2 17. Prior to attending Galena, Plaintiff was enrolled at Washoe County
3 School District's Pine Middle School, in a gifted and talented program. Due to Plaintiff's
4 intellectual abilities, Plaintiff skipped eighth grade and was enrolled at Galena in a special
5 program for gifted and talented students.

6 18. In the early Fall of 1995, Plaintiff appeared on a local public access
7 television program entitled "Set Free." On the show, he participated in a discussion on
8 the subject of gay students and their experiences in high school.

9 19. From that point on until he was forced to leave Galena, Plaintiff
10 experienced a constant barrage of harassment, assaults, intimidation, and discrimination
11 from Galena students based on the fact that Plaintiff is gay and a male.

12 20. The harassment, assaults, intimidation, and discrimination occurred
13 during school hours and on school grounds.

14 21. Plaintiff made repeated reports directly to Defendants Hausauer and
15 Rende about the incidents of harassment, assault, intimidation and discrimination.

16 22. Defendants Gregory, Hausauer and Rende were aware of the
17 harassment, assaults, intimidation, and discrimination suffered by Plaintiff.

18 23. Defendants Gregory, Hausauer, and Rende had the authority to take
19 corrective and preventative action to stop the harassment, assaults, intimidation, and
20 discrimination suffered by Plaintiff.

21 24. Defendants Gregory, Hausauer, and Rende deliberately, purposefully
22 and intentionally failed to take reasonable steps to end the harassment, assaults,
23 intimidation, and discrimination suffered by Plaintiff.

24 25. Defendants Gregory, Hausauer and Rende failed to take the steps
25 necessary to prevent future incidents of harm to Plaintiff that were foreseeable given the
26 past incidents of harassment, assault, intimidation and discrimination.

27 26. Based upon information and belief, this failure to take action
28 departed from school and district procedures for dealing with sexual harassment, violence,

1 abuse and/or discrimination.

2 27. The incidents at Galena included:

3 a. In the fall semester of 1995, Plaintiff was approached by several male
4 Galena students on school property who called him "fag," "butt pirate," "fairy" and
5 "homo." One of the students suggested that the group tie Plaintiff to the back of a truck
6 and drag him down a nearby road. While on school property, the students pursued Plaintiff
7 and succeeded in lassoing him around the neck with a rope three separate times. Plaintiff
8 finally was able to escape to a classroom and immediately used an internal phone to contact
9 Defendant Hausauer's office. Plaintiff waited almost two hours for anyone to come to the
10 classroom where he hid in fear. When Defendant Hausauer finally arrived, she responded
11 to Plaintiff's recounting of the incident with laughter. Defendant Gregory also was aware
12 of the incident. Instead of conducting an immediate investigation and punishing the
13 harassers, Defendants Gregory and Hausauer took no action against the students who
14 assaulted Plaintiff for several months, despite knowing the identities of some of the
15 students who were involved. Actions belatedly taken by Defendants Gregory and Hausauer
16 occurred only after Plaintiff had been driven from Galena.

17 b. During the fall semester of the 1995-1996 school year, Plaintiff was
18 enrolled in a mandatory English class taught and supervised by Loretta Rende.
19 Throughout the semester, Plaintiff repeatedly was harassed, intimidated, and subjected to
20 discrimination by other students based upon Plaintiff's sexual orientation, sex, and
21 expression. Students in the class repeatedly wrote the word "fag" on the "white board"
22 and sent notes to Plaintiff calling him a "fag." Students also drew pictures of men
23 engaged in explicit sex acts on the "white board" and would call Plaintiff's attention to the
24 pictures in front of other students. Defendant Rende was fully aware of the harassment,
25 intimidation and discrimination as well as the identity of the harassers, but deliberately
26 and purposefully took no steps to end the harassment or to discipline the harassers.
27 Instead, Plaintiff was admonished by Defendant Rende that his sexuality was a private
28 matter and he should not discuss it with other students. Defendant Hausauer also was

1 aware of the incidents in Defendant Rende's English class and of Defendant Rende's acts
2 and omissions, but made no effort to stop the harassment or to correct Defendant Rende's
3 handling of the situation. Based on information and belief, Defendant Gregory also was
4 aware of the incidents in Defendant Rende's English class and was aware of and endorsed
5 Defendant Rende's acts and omissions, but made no effort to stop the harassment or to
6 correct Defendant Rende's handling of the situation.

7 c. On or around December 1995, Plaintiff was in the Galena discipline
8 office reporting another incident of harassment when several students ran by the office,
9 shouted anti-gay epithets at him, and threw a metal object at him that missed Plaintiff and
10 stuck in the wall. A school administrator witnessed the incident and filed a report.
11 Defendant Hausauer was aware of the incident and deliberately and intentionally made no
12 effort to investigate or discipline Plaintiff's attackers. This incident resulted in Plaintiff
13 having an emotional breakdown in Defendant Hausauer's office. Based upon information
14 and belief, Defendant Gregory also was aware of the incident and deliberately and
15 intentionally made no effort to investigate or discipline Plaintiff's attackers.

16 d. Plaintiff's attackers routinely stated that Plaintiff's sexual orientation
17 was disgusting and offensive because he was a male.

18 28. During the fall semester of 1995, Plaintiff expressed himself about
19 his gay sexual orientation. For example, he wore buttons on his backpack that stated "We
20 Are Everywhere" and "Out." Plaintiff also spoke about his pro-gay viewpoints on various
21 topics while at school.

22 29. Plaintiff's expression was fully protected by the First Amendment.

23 30. Defendants Gregory, Hausauer, and Rende were aware of the content
24 and viewpoint of Plaintiff's expressive activity.

25 31. On more than one occasion, Defendants Hausauer and Rende told
26 Plaintiff not to discuss his sexual orientation with other students.

27 32. Based upon information and belief, Defendant Gregory was aware of
28 and endorsed Defendant Hausauer's acts and omissions in response to Plaintiff's repeated

1 complaints of harassment, assault, intimidation, and discrimination, and to Plaintiff's
2 expression.

3 33. Because of Defendants Gregory, Hausauer and Rende's failure to
4 provide Plaintiff with an educational environment free from harassment and assaults and
5 Plaintiff's resulting fear of further harassment and assaults, Plaintiff was unable to attend
6 Galena any longer and Plaintiff asked to leave Galena at the end of the fall 1995 semester.

7
8 Washoe High School

9 34. Washoe High School is an alternative high school.

10 35. Washoe was not a suitable placement for Plaintiff.

11 36. Defendant Anastasio made the decision to transfer Plaintiff to
12 Washoe High.

13 37. As a condition for a transfer out of Galena, Plaintiff was told by
14 Defendant Anastasio that Plaintiff must treat his sexuality as a private matter and that he
15 must not discuss it with anyone at his next school.

16 38. As a result of Defendants' purposeful efforts to silence Plaintiff's
17 protected speech, Plaintiff was chilled and deterred from engaging in protected speech at
18 Washoe on the subject of his sexual orientation, and, among other things, removed the
19 buttons stating "We Are Everywhere" and "Out" from his backpack when he began
20 attending Washoe.

21 39. Plaintiff attended Washoe High School from January 1996 through
22 May of 1996. During that time, Defendant Bob Floyd was the principal at Washoe.

23 40. During his attendance at Washoe High, Defendant Floyd repeatedly
24 told Plaintiff not to discuss his sexual orientation with others. In addition, during a
25 meeting in Defendant Floyd's office, Defendant Floyd told Plaintiff to stop acting like a
26 "fag."

27 41. While Plaintiff diminished his expression about his sexual orientation
28 and of his pro-gay viewpoints, he did not totally succumb to Defendants' censorship

1 efforts and still expressed his identity and viewpoints on certain occasions.

2 42. Plaintiff's expression was fully protected by the First Amendment.

3 43. Defendant Floyd was aware of the content and viewpoint of
4 Plaintiff's expressive activity.

5 44. Frustrated by the lack of educational opportunity at Washoe, Plaintiff
6 requested a transfer to a traditional high school that would provide him with an education
7 suited to his intellectual abilities.

8 45. Plaintiff initially was told by Defendant Floyd that such a transfer
9 was not possible because he was an openly gay male and that a traditional high school
10 therefore would not be appropriate for him.

11

12

Wooster High School

13 46. Eventually, it was decided that Plaintiff would transfer to Wooster
14 High School for the Fall 1996 school year.

15 47. Plaintiff was told by Defendant Floyd not to disclose his sexual
16 orientation to others while at Wooster.

17 48. As a result of Defendant Floyd's purposeful effort to silence
18 Plaintiff's speech, Plaintiff was chilled and deterred from engaging in protected
19 expression related to his sexual orientation. He did not discuss his sexual orientation with
20 or express pro-gay viewpoints to other students at Wooster during his first months there.

21 49. Plaintiff attended Wooster High School from August 1996 to
22 February 1997. During that time, Defendant Serena Robb was principal of Wooster.

23 50. While at Wooster, Plaintiff experienced a constant barrage of anti-
24 gay harassment, assaults, intimidation, and discrimination from his classmates based on
25 the fact that he is gay and a male, which his classmates learned from students who
26 previously had attended Galena with Plaintiff.

27 51. The harassment, assaults, intimidation, and discrimination at Wooster
28 occurred during school hours and on school grounds.

1 52. Plaintiff made repeated reports to school administrators about the
2 incidents of harassment, assaults, intimidation and discrimination.

3 53. Defendant Robb was aware of the harassment, assaults, intimidation,
4 and discrimination suffered by Plaintiff.

5 54. Defendant Robb had the authority to take corrective and preventative
6 action to stop the harassment, assaults, intimidation, and discrimination suffered by
7 Plaintiff.

8 55. Defendant Robb deliberately, purposefully, and intentionally failed to
9 take reasonable steps to end the harassment, assaults, intimidation, and discrimination
10 suffered by Plaintiff.

11 56. Defendant Robb failed to take steps necessary to prevent future
12 incidents of harm to Plaintiff that were foreseeable given the past incidents of harassment,
13 assault, intimidation and discrimination.

14 57. Based upon information and belief, this failure to take action
15 departed from district and school procedures for dealing with harassment, violence, abuse,
16 and/or discrimination.

17 58. While at Wooster, Plaintiff was approached on school property by
18 several students who began laughing at him and barraging him with gay epithets directed
19 at Plaintiff's sexual orientation and his sex. One of the students approached Plaintiff and
20 began punching him in the face, calling him "bitch." The other students encouraged the
21 student punching Plaintiff to continue his attack. As a result of the attack, Plaintiff began
22 bleeding profusely from his lip, nose and head.

23 59. The attack on Plaintiff was witnessed by Defendants Ramilo and
24 Selby, who were present at the scene but deliberately, purposefully and intentionally took
25 no action to assist Plaintiff or discipline Plaintiff's harassers, despite having the authority
26 and ability to do so.

27 60. Subsequently, Defendants Ramilo and Selby deliberately,
28 purposefully and intentionally discouraged Plaintiff from filing a report and would not let

1 him file a complaint without his mother's permission.

2 61. Defendants Ramilo and Selby also deliberately, purposefully, and
3 intentionally discouraged Plaintiff from describing the incident as a hate crime and
4 discouraged him from calling the Reno Police Department to report the incident. They
5 further refused to arrest his attacker despite knowing the identity of the attacker.

6 62. Based upon information and belief, Defendant Robb was aware of
7 Defendants Ramilo and Selby's failure to take appropriate action in response to the attack
8 on Plaintiff.

9 63. Plaintiff was forced to seek medical attention and to miss days of
10 school as a result of the attack.

11 64. After his initial months of silence to other students, and in light of
12 others' attacks on him, Plaintiff expressed himself about his sexual orientation to other
13 students.

14 65. Plaintiff's expression was fully protected by the First Amendment.

15 66. Defendant Robb was aware of the content and viewpoint of
16 Plaintiff's expressive activity.

17 67. Defendant Robb failed to provide Plaintiff with a safe educational
18 environment free from constant harassment, discrimination and abuse.

19 68. Defendants Floyd and Anastasio agreed that Plaintiff should return to
20 Washoe High School for the spring 1997 semester.

21 69. Defendant Floyd later reversed himself and would not accept Plaintiff
22 at Washoe notwithstanding that there was space available at Washoe for Plaintiff at the
23 time.

24 70. In February 1997, systematically deprived of the benefits of a high
25 school education, 16 year-old Derek R. Henkle was placed in an adult education program
26 at Truckee Meadows Community College at the direction of Defendants Anastasio and
27 Floyd.

28 71. Because he was not enrolled in a public high school, Plaintiff was

1 rendered ineligible for a high school diploma.

2
3 General Factual Allegations

4 72. Defendants' discriminatory conduct, their intentional, reckless, and
5 negligent failure to take action to remedy the harassment and abuse of Plaintiff, and their
6 failure to provide Plaintiff with a safe education in a suitable environment caused Plaintiff
7 to suffer severe and extreme emotional distress and psychological damage, including but
8 not limited to, an inability to concentrate on his studies, depression, debilitating fear,
9 despair, anger, humiliation, and anxiety. Plaintiff also suffered bodily injury, including,
10 but not limited to, physical injury, disruption of sleep, insomnia, loss of appetite, and
11 suicide attempts. As a result of Defendants' actions, Plaintiff sought psychological
12 counseling, and has been diagnosed with post-traumatic stress disorder. Furthermore,
13 Plaintiff lost substantial amounts of school time as a result of Defendants' actions.

14 73. As a result of Defendants' actions, Plaintiff was deprived of a high
15 school diploma. The lack of a high school diploma has had a serious adverse impact on
16 Plaintiff's academic, economic, and professional future.

17 74. Absent Defendants' actions alleged herein, Plaintiff would have
18 received a high school diploma from Galena High School and the Washoe County School
19 District.

20 75. Based upon information and belief, Defendant District and/or
21 Defendant Gregory, in his official capacity as Principal of Galena High School, are
22 responsible for ensuring that all Galena students who are entitled to receive a Washoe
23 County School District diploma obtain one.

24 76. At all relevant times, Defendants Anastasio, Gregory, Hausauer,
25 Rende, Floyd, Robb, Ramilo and Selby were acting within the course and scope of their
26 employment and under color of state and local law.

27 77. The specific incidents of discrimination, harassment and failure to
28 take action alleged herein are merely representative, not exhaustive. A complete list of

1 the incidents suffered by Plaintiff during his high school years in the Washoe County
2 School District would be too lengthy to detail in this complaint.

3 78. On numerous occasions, Plaintiff reported the incidents of
4 harassment and abuse he suffered to individual Defendants.

5 79. Defendants failed to take steps to address or prevent the harm to
6 Plaintiff, including, but not limited to, fully investigating Plaintiff's complaints of
7 harassment; disciplining students who harassed Plaintiff; educating faculty and students
8 about District policies and procedures; and training faculty and students so as to prevent
9 discrimination or harassment in the future.

10 80. The acts and omissions of Defendants not only failed to remedy, but
11 also fostered and promoted, the harassment of Plaintiff by other students.

12 81. Defendants' direct actions in providing inappropriate educational
13 placements for Plaintiff and censoring Plaintiff further harmed him.

14 82. As a direct, legal, and proximate result of Defendants' violations of
15 Plaintiff's legal rights, Plaintiff has been damaged in an amount well in excess of seventy-
16 five thousand dollars.

17
18 Additional Allegations – Federal Constitutional and Statutory Claims

19 83. Upon information and belief, Defendants have policies and
20 procedures to prevent and remedy harassment, discrimination, and/or violence suffered by
21 all students, and take appropriate action to prevent and remedy such harms for female
22 students, yet did not do so for Plaintiff, because of his sexual orientation and his sex.

23 84. Defendant District received funds and financial assistance from the
24 United States federal government during the period when Plaintiff was enrolled as a
25 student in the District's school system.

26 85. The acts and omissions alleged above by Defendants were committed
27 with deliberate indifference towards the well-being and rights of Plaintiff.

28 86. All of the acts or omissions alleged above by Defendants were

1 committed intentionally and purposefully because of Plaintiff's sexual orientation.

2 87. The acts and omissions alleged above by Defendants were committed
3 intentionally and purposefully because of Plaintiff's sex.

4 88. The acts and omissions alleged above by Defendants were committed
5 intentionally and purposefully because of the content and viewpoint of Plaintiff's
6 expression about his sexual orientation.

7 89. All of the acts alleged above by Plaintiff's classmates at Galena,
8 Washoe and Wooster High Schools were committed on school grounds, during school
9 hours, under the operations or supervision of Defendants.

10
11 Additional Allegations – State Tort Claims

12 90. At all times relevant herein, Defendants were acting in a ministerial,
13 operational, and non-discretionary capacity and/or performing ministerial, operational,
14 and non-discretionary functions or duties.

15 91. Defendants owed Plaintiff a duty of care to ensure the safety and
16 well-being of Plaintiff and all students. This overall duty of care encompassed a duty to
17 supervise the conduct of all students, to enforce rules and regulations necessary for the
18 protection of students, and to take appropriate measures to protect students from the
19 misconduct of other students. Defendants, in the course and scope of their duties as
20 employees of District, had a duty to exercise due care to protect Plaintiff from harassment
21 and other misconduct by students and by other Defendants. Encompassed within
22 Defendants' duty to protect Plaintiff and other students was a duty to exercise due care in
23 investigating Plaintiff's complaints of assault, harassment, and discrimination by other
24 students; to take reasonable precautions to protect Plaintiff from harassment, assaults,
25 abuse and discrimination that reasonably could be anticipated; to make police reports of
26 the crimes; to take prompt and appropriate action to protect Plaintiff from further
27 harassment and fear; and to remove dangerous students from the school, if necessary.
28 Defendants owed every duty alleged in this paragraph to Plaintiff.

1 92. At all relevant times herein, Defendants Gregory, Hausauer, and
2 Robb owed a ministerial, operational, and non-discretionary duty to Plaintiff to take
3 reasonable care in training and supervising their employees and subordinates.
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FIRST CLAIM FOR RELIEF

U.S. Constit. Amend. XIV, Equal Protection on the Basis of Sexual Orientation

42 U.S.C. Section 1983

(Against Defendant Gregory in his official capacity and Defendants Anastasio, Gregory, Hausauer, Rende, Floyd, Robb, Ramilo and Selby in their individual capacities)

93. Plaintiff incorporates by reference and realleges paragraphs 1 to 89 of this complaint.

94. The above-described conduct by Defendants Anastasio, Gregory, Hausauer, Rende, Floyd, Robb, Ramilo, and Selby violated the right of Plaintiff not to be deprived of equal protection of the laws on the basis of sexual orientation under the Fourteenth Amendment to the United States Constitution.

95. Plaintiff requests that the Court issue an injunction ordering Defendant Gregory in his official capacity to ensure that Plaintiff is awarded a Washoe County School District diploma, and that the Court award compensatory and punitive damages in an amount to be determined according to proof by Plaintiff against Defendants Anastasio, Gregory, Hausauer, Rende, Floyd, Robb, Ramilo and Selby in their individual capacities.

SECOND CLAIM FOR RELIEF

U.S. Constit. Amend. XIV, Equal Protection on the Basis of Sex

42 U.S.C. Section 1983

(Against Defendant Gregory in his official capacity and Defendants Anastasio, Gregory, Hausauer, Rende, Floyd, Robb, Ramilo and Selby in their individual capacities)

96. Plaintiff incorporates by reference and realleges paragraphs 1 to 89 of this complaint.

97. The above-described conduct by Defendants Anastasio, Gregory, Hausauer, Rende, Floyd, Robb, Ramilo, and Selby violated the right of Plaintiff not to be deprived of equal protection of the laws on the basis of sex under the Fourteenth Amendment to the United States Constitution.

98. Plaintiff requests that the Court issue an injunction ordering Defendant Gregory in his official capacity to ensure that Plaintiff is awarded a Washoe County School District diploma, and that the Court award compensatory and punitive damages in an amount to be determined according to proof by Plaintiff against Defendants Anastasio, Gregory, Hausauer, Rende, Floyd, Robb, Ramilo and Selby in their individual capacities.

THIRD CLAIM FOR RELIEF

U.S. Constit. Amend. I, Freedom of Speech

42 U.S.C. Section 1983

(Against Defendant Gregory in his official capacity and Defendants Anastasio, Gregory, Hausauer, Rende, Floyd, Ramilo and Selby in their individual capacities)

99. Plaintiff incorporates by reference and realleges paragraphs 1 to 89 of this complaint.

100. The above-described conduct by Defendants Anastasio, Gregory, Hausauer, Rende, Floyd, Robb, Ramilo, and Selby violated Plaintiff's right to freedom of speech under the First Amendment of the United States Constitution by censoring and chilling Plaintiff's speech and deterring him from exercising his First Amendment rights.

101. Plaintiff requests that the Court issue an injunction ordering Defendant Gregory in his official capacity to ensure that Plaintiff is awarded a Washoe County School District diploma, and that the Court award compensatory and punitive damages in an amount to be determined according to proof by Plaintiff against Defendants Anastasio, Gregory, Hausauer, Rende, Floyd, Ramilo and Selby in their individual capacities.

FOURTH CLAIM FOR RELIEF

U.S. Constit. Amend. I, Freedom of Speech

42 U.S.C. Section 1983

(Against Defendant Gregory in his official capacity and Defendants Anastasio, Gregory, Hausauer, Rende, Floyd, Robb, Ramilo and Selby in their individual capacities)

102. Plaintiff incorporates by reference and realleges paragraphs 1 to 89 of this complaint.

103. The above-described conduct by Defendants Anastasio, Gregory, Hausauer, Rende, Floyd, Robb, Ramilo, and Selby violated the right of Plaintiff to be free from retaliatory treatment based upon the exercise of his freedom of speech under the First Amendment to the United States Constitution.

104. Plaintiff requests that the Court issue an injunction ordering Defendant Gregory in his official capacity to ensure that Plaintiff is awarded a Washoe County School District diploma, and that the Court award compensatory and punitive damages in an amount to be determined according to proof by Plaintiff against Defendants Anastasio, Gregory, Hausauer, Rende, Floyd, Robb, Ramilo and Selby in their individual capacities.

FIFTH CLAIM FOR RELIEF

Title IX of the Education Amendments of 1972, Sex Based Discrimination

20 U.S.C. Section 1681 et seq.

(Against Defendant Washoe County School District)

105. Plaintiff incorporates by reference and realleges paragraphs 1 to 89 of this complaint.

106. The above-described conduct by the District discriminated against and harassed Plaintiff on the basis of his sex, and such discriminatory conduct deprived Plaintiff of access to the educational opportunities and benefits of the District, including a high school education and diploma, in violation of Title IX.

107. Plaintiff requests that the Court issue an injunction ordering Defendant District to ensure that Plaintiff is awarded a Washoe County School District diploma, and that the Court award compensatory and punitive damages in an amount to be determined according to proof by Plaintiff against Defendant District.

SIXTH CLAIM FOR RELIEF

Title IX of the Education Amendments of 1972, Sex Based Discrimination

20 U.S.C. Section 1681 et seq.

(Against Defendant Washoe County School District)

108. Plaintiff incorporates by reference and realleges paragraphs 1 to 89 of this complaint.

109. The above-described conduct by Plaintiff's classmates at Galena and Wooster High Schools harassed Plaintiff on the basis of his sex. Such harassment was pervasive, severe and objectively offensive, created a hostile climate based on sex, and deprived Plaintiff of access to the educational opportunities and benefits of the District, including a high school education and diploma. Defendant District had actual notice through its employees, including the individual Defendants named herein, of the harassment.

110. Defendant District acted unreasonably and with intentional indifference to the harassment of Plaintiff and the creation of a hostile climate based on sex and subjected Plaintiff to further harassment by his classmates on the basis of his sex, in violation of Title IX.

111. Plaintiff requests that the Court issue an injunction ordering Defendant District to ensure that Plaintiff is awarded a Washoe County School District diploma, and that the Court award compensatory and punitive damages in an amount to be determined according to proof by Plaintiff against Defendant District.

SEVENTH CLAIM FOR RELIEF

Title IX of the Education Amendments of 1972, Sex Based Discrimination

42 U.S.C. Section 1983

(Against Defendant Gregory in his official capacity and Defendants Anastasio, Gregory, Hausauer, Rende, Floyd, Robb, Ramilo and Selby in their individual capacities)

112. Plaintiff incorporates by reference and realleges paragraphs 1 to 89 of this complaint.

113. The above-described conduct by Defendants Anastasio, Gregory, Hausauer, Rende, Floyd, Robb, Ramilo, and Selby discriminated against and harassed Plaintiff on the basis of his sex, and such discriminatory conduct deprived Plaintiff of access to the educational opportunities and benefits of the District, including a high school education and diploma, in violation of Title IX and 42 U.S.C. Section 1983.

114. Plaintiff requests that the Court issue an injunction ordering Defendant Gregory in his official capacity to ensure that Plaintiff is awarded a Washoe County School District diploma, and that the Court award compensatory and punitive damages in an amount to be determined according to proof by Plaintiff against Defendants Anastasio, Gregory, Hausauer, Rende, Floyd, Robb, Ramilo and Selby in their individual capacities.

EIGHTH CLAIM FOR RELIEF

Title IX of the Education Amendments of 1972, Sex Based Discrimination

20 U.S.C. Section 1681 et seq.

(Against Defendant Gregory in his official capacity and Defendants Anastasio, Gregory, Hausauer, Rende, Floyd, Robb, Ramilo and Selby in their individual capacities)

115. Plaintiff incorporates by reference and realleges paragraphs 1 to 89 of this complaint.

116. The above-described conduct by Plaintiff's classmates at Galena and Wooster High Schools harassed Plaintiff on the basis of his sex. Such harassment was pervasive, severe and objectively offensive, created a hostile climate based on sex, and deprived Plaintiff of access to the educational opportunities and benefits of the District, including a high school education and diploma. Defendants had actual notice of the harassment.

117. Defendants Anastasio, Gregory, Hausauer, Rende, Floyd, Robb, Ramilo, and Selby acted unreasonably and with intentional indifference to the harassment of Plaintiff and the creation of a hostile climate based on sex and subjected Plaintiff to further harassment by his classmates on the basis of his sex, in violation of Title IX and 42 U.S.C. Section 1983.

118. Plaintiff requests that the Court issue an injunction ordering Defendant Gregory in his official capacity to ensure that Plaintiff is awarded a Washoe County School District diploma, and that the Court award compensatory and punitive damages in an amount to be determined according to proof by Plaintiff against Defendants Anastasio, Gregory, Hausauer, Rende, Floyd, Robb, Ramilo and Selby in their individual capacities.

NINTH CLAIM FOR RELIEF

State Common Law Claim for Negligence

(Against Defendant District and Defendants Gregory, Hausauer, Rende, Anastasio, Floyd, Robb, Ramilo and Selby in their individual capacities)

119. Plaintiff incorporates by reference and realleges paragraphs 1 to 82 and 90 to 92 of this complaint.

120. Defendants negligently failed to protect Plaintiff from harassment, abuse, assaults, and discrimination in violation of Defendants' duty. Defendants' negligent failure to protect Plaintiff from harassment, abuse, assaults, and discrimination was done in bad faith.

121. As a result of Defendants' negligence, Plaintiff was deprived of the benefits of a high school education and diploma, and suffered physical and emotional injuries alleged herein.

122. Plaintiff requests that the Court award compensatory damages in an amount to be determined according to proof by Plaintiff against Defendant District and Defendants Gregory, Hausauer, Rende, Anastasio, Floyd, Robb, Ramilo and Selby in their individual capacities.

TENTH CLAIM FOR RELIEF

Common Law Claim for Negligent Training and Supervision
(Against Defendant District and Defendants Gregory, Hausauer, and Robb)

123. Plaintiff incorporates by reference and realleges paragraphs 1 to 82 and 90 to 92 of this complaint.

124. Defendants Gregory, Hausauer, and Robb were negligent in failing to adequately train and supervise their employees and subordinates in violation of Defendants' duty. Defendants' negligent failure to train and supervise was done in bad faith.

125. As a result of the negligence of Defendant District and Defendants Gregory, Hausauer, and Robb, Plaintiff was deprived of the benefits of a high school education and diploma, and suffered physical and emotional injuries alleged herein.

126. Plaintiff requests that the Court award compensatory damages in an amount to be determined according to proof by Plaintiff against Defendant District and Defendants Gregory, Hausauer, and Robb.

ELEVENTH CLAIM FOR RELIEF

State Common Law Claim for Intentional Infliction of Emotional Distress
(Against Defendant District and Defendants Gregory, Hausauer, Rende, Anastasio, Floyd,
Robb, Ramilo and Selby)

127. Plaintiff incorporates by reference and realleges paragraphs 1 to 82
and 90 to 92 of this complaint.

128. In the course of performing their ministerial, operational, and non-
discretionary job responsibilities, Defendants engaged in extreme or outrageous conduct
with the intention of, and with reckless disregard for, causing emotional distress to
Plaintiff.

129. As a result of Defendants' actions, Plaintiff suffered severe and
extreme emotional distress alleged herein.

130. Plaintiff requests that the Court award compensatory damages in an
amount to be determined according to proof by Plaintiff against Defendant District and
Defendants Gregory, Hausauer, Rende, Anastasio, Floyd, Robb, Ramilo and Selby in their
individual capacities.

TWELFTH CLAIM FOR RELIEF

State Common Law Claim for Negligent Infliction of Emotional Distress

(Against Defendant District and Defendants Gregory, Hausauer, Rende, Anastasio, Floyd, Robb, Ramilo and Selby)

131. Plaintiff incorporates by reference and realleges paragraphs 1 to 82 and 90 to 92 of this complaint.

132. Defendants owed Plaintiff a ministerial, operational, and non-discretionary duty to take reasonable precautions to protect Plaintiff from harassment, abuse, assaults and discrimination that can be reasonably anticipated.

133. Defendants negligently failed to protect Plaintiff from harassment, abuse, assaults, and discrimination based upon his sexual orientation and sex that could have been reasonably anticipated. Defendants' negligent failure to protect Plaintiff from harassment, abuse, assaults, and discrimination based upon his sexual orientation and sex was done in bad faith.

134. As a direct and proximate result of Defendants' negligence, Plaintiff experienced severe and extreme emotional distress that caused Plaintiff physical injury and illness as alleged herein.

135. Plaintiff requests that the Court award compensatory damages in an amount to be determined according to proof by Plaintiff against Defendant District and Defendants Gregory, Hausauer, Rende, Anastasio, Floyd, Robb, Ramilo and Selby in their individual capacities.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court:

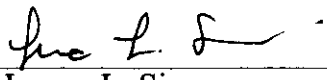
- (1) Issue an injunction ordering Defendant District and Defendant Gregory in his official capacity to ensure that Plaintiff is awarded a Washoe County School District diploma;
- (2) Award compensatory damages in an amount to be determined according to proof by Plaintiff against Defendant District and all other Defendants in their individual capacities;
- (3) Award punitive damages against Defendant District and all other Defendants in their individual capacities in such other amount as the jury may determine is sufficient to punish them for and deter others from committing the constitutional and statutory violations alleged herein;
- (4) Award Plaintiff his costs, expenses, and reasonable attorneys' fees pursuant to, inter alia, 42 U.S.C. § 1988 and other federal and state laws;
- (5) Grant such other and further relief as the Court may deem just and proper.

1 Dated: May 26, 2000

2 Respectfully submitted,

3 MICHAEL F. TUBACH
4 PETER OBSTLER
5 LUANN L. SIMMONS
6 O'MELVENY & MYERS LLP

7 JON W. DAVIDSON
8 DONI GEWIRTZMAN
9 LAMBDA LEGAL DEFENSE AND
10 EDUCATION FUND, INC.

11 By 
12 Luann L. Simmons
13 Attorneys for Plaintiff DEREK R.
14 HENKLE
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DEMAND FOR JURY TRIAL

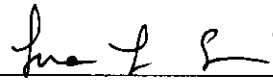
Pursuant to Rule 38(b), Federal Rules of Civil Procedure, and Rule 38-1, Local Rules, United States District Court, District of Nevada, Plaintiffs demand trial by jury for all of the issues pled herein so triable.

Dated: May 26, 2000

Respectfully submitted,

MICHAEL F. TUBACH
PETER OBSTLER
LUANN L. SIMMONS
O'MELVENY & MYERS LLP

JON W. DAVIDSON
DONI GEWIRTZMAN
LAMBDA LEGAL DEFENSE AND
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