

1  
2  
3 **IN THE CIRCUIT COURT OF THE STATE OF OREGON**  
4 **FOR THE COUNTY OF MULTNOMAH**

5 WILLIAM C. DISS,

6 Plaintiff,

7 v.

8 PORTLAND PUBLIC SCHOOLS, a  
9 public entity; CAROLE SMITH,  
10 superintendent of Portland Public  
11 Schools; CAROL CAMPBELL;  
12 JEANDRE CARBONE; BARRY  
13 PHILLIPS; FRANK SCOTTO; PAM  
14 KNOWLES, Co-Chair of the Board of  
15 Education of Portland Public Schools;  
16 GREG BELISLE, Co-Chair of the  
17 Board of Education of Portland Public  
18 Schools; RUTH ADKINS, an  
19 individual member of the Board of  
20 Education of Portland Public Schools;  
21 MATT MORTON, an individual  
22 member of the Board of Education of  
23 Portland Public Schools; TOM  
24 KOEHLER, an individual member of  
25 the Board of Education of Portland  
26 Public Schools; BOBBIE REGAN, an  
individual member of the Board of  
Education of Portland Public Schools;

Defendants.

CIVIL ACTION NO.: \_\_\_\_\_

COMPLAINT FOR STATUTORY AND  
CIVIL RIGHTS VIOLATION

(42 U.S.C. §1983, Free Speech, Freedom  
of Association, Free Exercise, Equal  
protection, Due Process; Title VII  
Employment Discrimination, Oregon  
Employment Discrimination; Retaliatory  
Harassment, Retaliation; Wrongful  
Discharge)

CLAIM \$390,000 (NOT SUBJECT TO  
MANDATORY ARBITRATION)

(JURY TRIAL REQUESTED)

21 **INTRODUCTION**

22 1.

23 Plaintiff, William C. Diss, brings this action for damages and other relief against the  
24 defendants, Portland Public Schools, six individual members of the Board of Education, the  
25 Superintendent of Portland Public Schools, a Human Resources Regional Director, and  
26

1 three individual administrators of Benson High School. Plaintiff alleges that he was treated  
2 unlawfully and ultimately terminated from his employment because of his exercise of his  
3 civil and statutory rights including the right to free speech and free exercise of religion.

4 2.

5 Defendants' discriminatory conduct violated the plaintiff's rights secured to him by  
6 the U.S. and Oregon constitutions as well as state and federal statutes and Oregon common  
7 law.

8 3.

9 This action is brought pursuant to 42 U.S.C. §§1983 and 1988; 42 U.S.C. §2000e-2 *et*  
10 *seq.*; ORS 659A.885 *et seq.*, and Oregon common law.

#### 11 JURISDICTION

12 4.

13 This court has jurisdiction over the plaintiff's claims for monetary and other relief  
14 under Article VII, section 9 of the Oregon Constitution. This court also has jurisdiction over  
15 plaintiff's employment-related claims and federal constitutional claims under federal law  
16 granting concurrent jurisdiction pursuant to 42 U.S.C. §2000e-5 and 42 U.S.C. §1983. The  
17 facts underlying each cause of action arise from the same transactions and occurrences.  
18 This court has authority to award attorney fees pursuant to ORS 659A.885, ORS 20.107,  
19 and 42 U.S.C. §1988.

20 5.

21 Plaintiff sent a tort claims notice to Defendants on November 26, 2013, and an  
22 amended tort claims notice to Defendants on April 25, 2014; together these notices satisfy  
23 the requirements of ORS 30.275.

24 6.

25 Plaintiff filed a complaint with the Oregon Bureau of Labor and Industries ("BOLI")  
26 on or about December 23, 2013. The complaint was simultaneously filed with the Equal

1 Employment Opportunity Commission pursuant to a work share agreement. Plaintiff  
2 received a Notice of Right to Sue from BOLI on July 31, 2014. A request for a right to sue  
3 was filed with the Equal Employment Opportunity Commission. This complaint has been  
4 filed within 90 days of the issuance of the Notice of Right to Sue. Thus the jurisdictional  
5 requirements for pursuit of the plaintiff's state and federal claims have been met.

6 7.

7 All of the acts alleged herein were done by defendants, or their agents and employees,  
8 under color and pretense of the laws, policies, regulations, practices customs and usages of  
9 Portland Public Schools, and all events giving rise to these claims occurred within this  
10 district.

#### 11 **VENUE**

12 8.

13 Venue is proper in the County of Multnomah in that the events giving rise to the claim  
14 occurred within this jurisdiction.

#### 15 **IDENTIFICATION OF PARTIES**

16 9.

17 The plaintiff, William Diss, is a natural person, a resident of Beaverton in Washington  
18 County, Oregon, and a citizen of the United States. He was actively employed by defendant  
19 Portland Public Schools from August 2002 through March 19, 2013 when he was placed on  
20 leave, with his contract being terminated in December 2013.

21 10.

22 Defendant, Portland Public Schools, is a public school district organized and operating  
23 pursuant to Oregon law, ORS Chapter 332. Portland Public Schools owns and operates a  
24 system of public elementary and secondary schools in Portland, Multnomah County,  
25 Oregon. Defendant has formally adopted and implemented the policies, practices and  
26 customs complained of herein under color of law and granted decision-making authority to

1 certain individuals as alleged herein. At all relevant times, Portland Public Schools was the  
2 plaintiff's employer.

3 11.

4 Defendant Carol Smith is a natural person, who is the Superintendent of Portland  
5 Public Schools, and was acting in whole or in part within the course and scope of her  
6 employment with the defendant District. Defendant Smith currently holds the position of  
7 Superintendent and held this position at all relevant times referenced herein. She is sued  
8 individually and in her official capacity.

9 12.

10 Defendant Carole Campbell was at all relevant times the principal of Benson High  
11 School in the Portland Public School District, and was acting in whole or in part within the  
12 course and scope of her employment with defendant District. Defendant Campbell is sued in  
13 her individual and official capacity.

14 13.

15 Defendant Jeandre Carbone was at all relevant times one of the vice-principals of  
16 Benson High School in the Portland Public School District, and was acting in whole or in  
17 part within the course and scope of her employment with defendant District. Defendant  
18 Carbone is sued in her individual and official capacity.

19 14.

20 Defendant Barry Phillips was at all relevant times a vice-principal of Benson High  
21 School in the Portland Public School District, and was acting in whole or in part within the  
22 course and scope of his employment with defendant District. Defendant Phillips is sued in  
23 his individual and official capacity.

24 15.

25 Defendant Frank Scotto is a natural person, who was at all relevant times a Regional  
26 Director in the Human Resources Department at Portland Public Schools and was acting in

1 whole or in part within the course and scope of his employment with defendant District.  
2 Defendant Scotto is sued in his individual and official capacity.

3 16.

4 Defendant Pam Knowles is a natural person and is the Co-Chair if the board of  
5 education for defendant Portland Public Schools and held this position at all relevant times  
6 referenced herein. She is sued individually and in her official capacity.

7 17.

8 Defendant Greg Belisle is a natural person and is the Co-Chair if the board of  
9 education for defendant Portland Public Schools and held this position at all relevant times  
10 referenced herein. He is sued individually and in his official capacity.

11 18.

12 Defendants Ruth Adkins, Matt Morton, Tom Koehler, and Bobbie Regan, are natural  
13 persons, and elected members of the board of education for defendant Portland Public  
14 Schools, and held these positions at all relevant times referenced herein. They are sued  
15 individually and in their official capacities.

### 16 **GENERAL FACTUAL ALLEGATIONS**

17 19.

18 Plaintiff, Bill Diss, was hired by the defendants in August, 2002, as a teacher at Benson  
19 High School, which is a technical secondary school within the Portland Public School system.  
20 In his more than ten years at Benson, plaintiff taught classes in math, computer technology,  
21 computer science, drafting, electricity and electronics. The plaintiff was actively involved with  
22 extracurricular activities at Benson including assisting with numerous clubs, teams, and other  
23 events. He has further taught mathematics at the community college level within the last  
24 several years in addition to teaching and tutoring a variety of subjects. Plaintiff is also a  
25 member of the Knights of Columbus, a Catholic charitable organization that helps millions  
26 around the world with various humanitarian needs such as prenatal care, education, medical

1 assistance, war relief, basic nutrition and housing. Most recently, the plaintiff served the  
2 Knights as the state director for the Culture of Life. Plaintiff is also a member and leader of a  
3 group known as Precious Children of Portland, a nonprofit organization with promotes the  
4 sanctity of human life, chastity and opposes abortion.

5 20.

6 For the first five years of his teaching career at Benson High, the plaintiff was rated as  
7 proficient or better, with numerous positive compliments in his evaluations. For example, in  
8 the plaintiff's evaluation completed on February 22, 2007, he not only met minimum  
9 standards, but was commended for consistently exceeding minimum standards in many areas  
10 including professional preparedness, and planning. He was judged exceptional in helping  
11 students set achievement expectations, as well as making it clear to students what they are  
12 learning and why. Numerous positive comments were given for having sound instructional  
13 methods and subject knowledge and for volunteering to provide extra tutoring for students,  
14 both for those who were struggling and for those who were over-achieving. The plaintiff's  
15 methodology and teaching style has remained substantially the same in all his years of  
teaching.

16 21.

17 The plaintiff is a sincere and deeply religious person, and an adherent of the Catholic  
18 faith. He attends mass daily and has taught religious education for 25 years to children and  
19 adults. An important tenet of his faith is the belief that all life is sacred and worthy of  
20 protection from the moment of conception until natural death. Another tenet is the belief that  
21 sexuality is sacred and that every sexual act should be open to life and should be reserved for  
22 marriage. These beliefs in life and purity have motivated plaintiff to be involved in his  
community in activism and educational outreach for decades.

23 22.

24 In furtherance of his religious beliefs, the plaintiff joined with a coalition of religious and  
25 community organizations, including the Knights of Columbus, to educate the public and  
26

1 actively protest the building of a new Planned Parenthood facility in northeast Portland  
2 beginning in February, 2007. The plaintiff's opposition to Planned Parenthood was specifically  
3 rooted in his religious convictions, which holds as grave moral evils many of the services  
4 Planned Parenthood provides and promotes, as well as its educational programs and other  
5 public messaging concerning sexuality. The plaintiff had specific knowledge of Planned  
6 Parenthood initiatives and educational resources that promote sexual behaviors which his  
7 religious tenets characterized as deviant. Many of the outreach and educational activities in  
8 which the plaintiff was involved were religious in nature, such as church services and prayer  
9 vigils. Other events were political in nature and involved public rallies and marches.

23.

10 The plaintiff's activities in opposition to Planned Parenthood became well known in the  
11 community and at his school. On occasion, reporters called Benson High School looking for  
12 the plaintiff, and supporters of Planned Parenthood contacted the school about the plaintiff's  
13 activities. Further, the plaintiff was interviewed on television and radio stations, and his  
14 activities were reported in local newspapers. As the attention mounted, the plaintiff was  
15 summoned for questioning by Benson High School administrators. He was interrogated about  
16 his activities by the principal and by an attorney for the District. The activities in question  
17 occurred on his own time, not at school, nonetheless he was specifically instructed not to  
18 mention the fact that he was a teacher or where he worked when making public statements.

24.

19 When the plaintiff continued to actively pursue his public protest activities, his teaching  
20 came under strict review, and he was subjected to systematic harassment from school  
21 administrators. Between 2007 and 2008, the plaintiff was subjected to an unusual and  
22 unreasonable number of disciplinary meetings. As long as the plaintiff continued to engage in  
23 public activities in furtherance of his religious beliefs in the sanctity of life and marriage, the  
24 administrators at Benson High School harassed the plaintiff through additional, unwarranted  
25 scrutiny of his job performance. In 2009, he was given an evaluation that so egregiously

1 misstated his work, it was subjected to grievance, and ultimately removed from the plaintiff's  
2 employment record.

3 25.

4 Despite the harassment he was undergoing from school administrators, the plaintiff  
5 worked tirelessly to mitigate the situation and conscientiously followed directives he received  
6 regarding his teaching. He continued to volunteer for extra duties at school and to personally  
7 invest in students. During this time, the plaintiff started a very successful credit recovery  
8 program and received an award for his efforts in 2010. The plaintiff further accepted work  
9 assignments to benefit the school and other teachers.

10 26.

11 In the Spring of 2011, the plaintiff was evaluated pursuant to the two year evaluation  
12 cycle in use at the District. He was found to meet or exceed minimum standards in all areas.

13 27.

14 Despite his previously demonstrated efficiency as a teacher, the plaintiff was again  
15 subjected to an out-of-cycle evaluation the very next year. Defendant Campbell became the  
16 principal at Benson High School in 2011, and during the 2011-12 school year, placed the  
17 plaintiff on a special evaluation cycle. The plaintiff was able to defeat the unwarranted  
18 scrutiny, but he continued to experience hostility from administrators at school. This hostility  
19 took various forms, including such things as defendant Campbell's refusal to sign off on a  
20 grant awarded to the plaintiff which would have allowed him to purchase computers for  
21 student use, attend further educational courses and earn income for research. The plaintiff's  
22 teaching assignments were changed so that they did not include electronic classes, and instead  
23 included classes that were not part of his regular duties as a math or computer science teacher.

24 28.

25 Notwithstanding the discriminatory, harassing behavior to which he was subjected, the  
26 Plaintiff continued to perform his job duties satisfactorily and consistently volunteered for  
extra duties designed to help students and improve Benson High School. He attended sports  
events to support his students. He actively sought for donations of equipment and supplies for



1 use in class. He pursued outside grants, successfully contending for several. He consistently  
2 donated his time to any student who needed teaching or assistance outside of regular class  
3 hours. He further achieved certification for the State's dual-credit program which allowed high  
4 school students to receive college credit for computer science classes. In May of 2012 he was  
5 notified that he was the only teacher in the state to be approved to teach computer science for  
6 dual credit.

7 29.

8 Defendants Campbell, Carbone, Scotto and Phillips knew or should have known of the  
9 plaintiff's beliefs. His activities in opposition to Planned Parenthood were public, and were  
10 well-publicized in local media. Many staff members at Benson High School knew of the  
11 plaintiff's activities and actions, including defendant Phillips who was vice principal at Benson  
12 High School when he initially came under review for his outside activities.

13 30.

14 Shortly after the beginning of the 2012-2013 school year, the plaintiff was notified that  
15 the Teen Outreach Program (TOP) would come into his tutorial classes during two days that  
16 week, to give a presentation. He did not know and no information was provided to the plaintiff  
17 to inform him that TOP is a pregnancy prevention program in which, *inter alia*, adult  
18 facilitators enter into discussions with students about their sexual activities, and methods of  
19 contraception. Plaintiff was also not told that, in the instant case, the adult facilitators would be  
20 employees of Planned Parenthood Columbia-Willamette.

21 31.

22 On September 17, 2012, Planned Parenthood employees came into the tutorial class the  
23 plaintiff was overseeing to do a promotional presentation for their program. When presenters  
24 entered the tutorial, they immediately began to set up their presentation. The plaintiff was  
25 caught by surprise by the manner of their entry into the class, and asked for identification. He  
26 was handed a card that identified the presenters as employees of Planned Parenthood. This  
knowledge surprised the plaintiff and caused him serious emotional distress due to his personal  
religious convictions and his years of work to oppose the philosophy and methods of the

1 organization. After this discovery, the plaintiff respectfully asked the presenters to talk with  
2 him in the hallway outside of class.

3 32.

4 Defendant Campbell came and joined the discussion. The plaintiff expressed his dilemma  
5 to defendant Campbell explaining his sincere religious objection to facilitating a presentation  
6 by Planned Parenthood; he asked to be excused from being present for the presentation due to  
7 his religious convictions. His request was denied. He was told that he would be required to be  
8 present for Planned Parenthood's presentation and recruitment. Later on September 17, 2012,  
9 defendant Campbell wrote the plaintiff an email in which she repeated her denial of his request  
10 for accommodation, requiring him to be present.

11 33.

12 The next day, September 18, 2012, defendant Carbone dropped off a new schedule that  
13 indicated Planned Parenthood would be coming to the plaintiff's tutorial classes not just two  
14 days, but every day for the rest of the week. On the same day, defendant Barry Phillips  
15 observed plaintiff's tutorial class. No notice of this observation was provided, nor was the  
16 plaintiff given any observation notes following the observation. The plaintiff did eventually  
17 receive a copy of an email defendant Phillips sent to defendant Campbell in which defendant  
18 Phillips criticized the plaintiff's conduct in class.

19 34.

20 On September 19, 2012, the plaintiff was called in for a meeting with defendants  
21 Campbell, Carbone and Scotto. At this meeting, he again asked to be excused from  
22 participation with TOP for religious reasons and asked for an accommodation. He was again  
23 denied.

24 35.

25 The plaintiff returned to school on Monday, September 24, 2012, assuming the  
26 recruitment in his classroom by Planned Parenthood employees had been completed. The next  
day, without any prior notice, the Planned Parenthood employees were again in the plaintiff's  
classes. The purpose of the unexpected visit was not explained to the plaintiff. During the

1 remainder of the school year, the plaintiff continued to have to deal with Planned Parenthood  
2 and facilitate their interaction with students.

3 36.

4 From the first day that Planned Parenthood entered his class, the plaintiff observed they  
5 attempted to entice students to attend the TOP program through promises of food, gift  
6 certificates, and other rewards. The plaintiff observed Planned Parenthood employees offering  
7 students incentives, including up to \$30 cash if they would complete a survey on their sexual  
8 activities. Some students were confused by the presentation and thought that they were  
9 required to attend TOP. Others signed up to attend without their parents' notice or consent.  
10 These were all matters of concern to the plaintiff.

11 37.

12 From the first day they entered the plaintiff's class, the Planned Parenthood presenters  
13 distributed brochures and promotional materials to students to promote the TOP program. The  
14 plaintiff learned that one such promotion was a letter written in the Vietnamese language that  
15 specifically mentioned his name, and indicated he was in support of the TOP program. To the  
16 best of the plaintiff's knowledge, no other teacher at Benson High School was identified in this  
17 way as a supporter of the program. The plaintiff learned from contacts within the Vietnamese  
18 community with whom he had worked in opposing Planned Parenthood that this letter had  
19 been distributed, and many people were confused about the plaintiff's position. When the  
20 plaintiff, through his attorney, demanded corrective action, the defendants claimed that  
21 Planned Parenthood was solely responsible, even though the letters had been passed out during  
22 the regular school day in Benson's classrooms. The defendants refused to address most of the  
23 requested items for retraction.

24 38.

25 Because the plaintiff expressed his opposition to the activities of Planned Parenthood at  
26 Benson High School, he became a target of defendants Campbell, Carbone, Phillips and Scotto.  
They launched a full-scale assault on the plaintiff as a teacher. He was observed and evaluated  
on the most minute aspects of his teaching. He was called in for discipline meetings with

1 school administrators repeatedly over the course of the year. Whenever the plaintiff raised  
2 concerns about TOP or even asked questions to clarify his role with regard to the program, he  
3 faced administrative review or worse forms of discipline.

4 39.

5 On September 26, 2012, the plaintiff was sent an email memorandum from defendant  
6 Carbone, in which she peremptorily instructed him not to use religious expressions such as  
7 “God Bless” in communications with herself, school staff, students or parents. Also on  
8 September 26, 2012, the plaintiff was sent a letter of reprimand regarding his interaction with  
9 TOP presenters.

10 40.

11 On October 8, 2012, the plaintiff received a letter of reprimand and for his interaction  
12 with TOP presenters and his interactions with defendant Carbone.

13 41.

14 On October 16, 2012, the plaintiff received a directive by email from defendant  
15 Campbell which prohibited him from using video to record his teaching and other events  
16 within his classroom. This directive deprived the plaintiff of a meaningful opportunity to  
17 record his classroom interactions as a tool to develop his teaching style and methods. He was  
18 singled out in this regard as other teachers were not similarly denied the opportunity to use  
19 tools, such as video, to improve their teaching.

20 42.

21 On October 18, 2012, defendant Campbell issued a letter of reprimand and final  
22 warning, including a one-day suspension against the plaintiff. The letter and suspension related  
23 to events that had occurred earlier in the month, specifically (a) the plaintiff’s interaction with  
24 defendant Carbone at a football game where he believed he apologized to her if his conduct  
25 was of concern, and (b) the plaintiff’s interactions with TOP presenters. October 18, 2012 was  
26 also the date that defendant Campbell sent staff at Benson High School an email warning them  
about a community group’s film that was going to be shown in the school auditorium and

1 about the free speech activities, including leafleting, that was being done in promotion of the  
2 film—these activities were led, in part, by associates of the plaintiff.

3 43.

4 On December 3, 2012, the plaintiff appeared at public school board meeting, and voiced  
5 his concerns regarding Planned Parenthood as an organization. He spoke along with other  
6 community members, including a medical doctor, an educator, and a clergymen, urging the  
7 immorality and danger of an organization such as Planned Parenthood, and the District's  
8 association with that organization through TOP.

9 44.

10 The defendants issued a formal review of the plaintiff's job performance in January 2013,  
11 signed by defendants Campbell and Carbone, which was negative in almost every regard and  
12 recommended that his contract not be extended for another teaching year.

13 45.

14 From the beginning of the school year in September until February, the defendants  
15 subjected the plaintiff to more than 36 observations, drop-in visits and other reviews, of  
16 unprecedented number and intensity.

17 46.

18 On February 27, 2013, the defendants determined not to extend the plaintiff's contract.  
19 Contrary to the procedure laid out by statute (ORS 342.895(4)(b)) and established District  
20 policy, the plaintiff was not placed on a plan of assistance or otherwise provided with remedial  
21 measures.

22 47.

23 On February 28, 2013, defendants Campbell and Scotto sent the plaintiff a notice of  
24 three-day suspension without pay. The suspension alleged various petty incidents involving his  
25 interaction with students.

26 48.

On March 4, 2013, defendant members of the Board of Education voted to non-extend  
the plaintiff's contract for the next two years. His contract was set to run through June 2014,

1 and a non-extension notice, consistent with the state law, would require initiation a Plan of  
2 Assistance for Improvement for the teacher involved to be carried out during the following  
3 school year (2013-14). The plaintiff was informed on March 5, 2013 of the non-extension, and  
4 was told that he would be placed on a plan of assistance to run through the next March.  
5 However, no plan of assistance was initiated for plaintiff.

6 49.

7 On March 19, 2013, the defendants Carbone and Campbell came to the plaintiff's  
8 classroom during school hours and peremptorily instructed him to leave the school. He was  
9 escorted off the premises by a police officer. He was handed a letter, signed by defendant  
10 Scotto, which placed the plaintiff on immediate paid leave, and in which he was specifically  
11 told not to return to the school for any reason.

12 50.

13 On May 28, 2013, the defendant Carole Smith, sent the plaintiff a letter in which she  
14 notified the plaintiff of her intent to recommend termination of his employment.

15 51.

16 On November, 14, 2013, the defendants held a hearing on the recommendation to dismiss  
17 the plaintiff. Despite the complicated nature of the case, the plaintiff was given only one hour  
18 to present his evidence. This time was entirely insufficient due to the numerous factual matters  
19 under consideration and the complex nature of his case. Following this inadequate hearing, the  
20 board's designated hearing officer, Mr. Alexander Perrins, submitted a recommendation to the  
21 defendant members of the Board of Education that the plaintiff's employment be terminated.

22 52.

23 On December 16, 2013, defendant members of the Board of Education for Portland  
24 Public Schools voted to terminate the plaintiff's contract. Only one member of the Board  
25 disagreed with this vote. The Board failed to present the items on the consent agenda  
26 separately. Thus, the one member who wished to vote against terminating the plaintiff's  
contract had to interrupt the process and was nearly denied the meaningful opportunity to do  
so.

1 53.

2 As a direct and proximate result of the defendants' decision to discriminate against the  
3 plaintiff based on his moral and religious objection to the TOP program, the plaintiff was  
4 deprived of his position as a teacher and therefore of his livelihood.

5 54.

6 As a direct and proximate result of the defendants' actions, the plaintiff sustained a loss  
7 of past income and benefits, in the amount of \$90,000.00, which amount is increasing each  
8 month he continues to be denied employment by defendants.

9 55.

10 As a direct and proximate result of the defendants' actions, the plaintiff suffered harm to  
11 his reputation and standing in his community.

12 56.

13 As a direct and proximate result of the actions of the defendants, the plaintiff was  
14 restrained, inhibited and chilled in the exercise of his fundamental constitutional rights.

15 57.

16 As a direct and proximate result of the defendants' actions, the plaintiff suffered  
17 emotional distress and anguish, including damage to his physical and emotional wellbeing, and  
18 incurred costs for counseling and medical treatment in the amount of \$300,000.00 or an  
19 amount to be proven at trial.

20 58.

21 In addition, plaintiff incurred costs and attorney fees in defending against the defendants'  
22 actions and in bringing this claim.

23 **GENERAL ALLEGATIONS OF LAW**

24 59.

25 The defendants, each of them, are "persons" for purposes of the claims of this complaint,  
26 as the term is used in 42. U.S. C. § 1983.

///

///

1 60.

2 The acts of the defendants were done by them in their official capacities under color of  
3 state law. Their actions constituted state action under 42 U.S.C. § 1983.

4 61.

5 Alternatively, defendants Smith, Campbell, Carbone, Phillips, Scotto, Knowles, Belisle,  
6 Adkins, Morton, Koehler, and Regan were acting in their individual capacities under color of  
7 state law.

8 62.

9 At all material times, the prohibitions against discrimination and retaliation based on  
10 religion, free speech, and association were well established under federal law. Defendants  
11 knew or reasonably should have known that their actions of subjecting plaintiff to  
12 discriminatory and retaliatory treatment based on his religious beliefs, his free speech and  
13 freedom of association was contrary to the law and deprived him of the rights guaranteed under  
14 the United States Constitution in violation of 42 USC §1983.

15 **FIRST CLAIM FOR RELIEF**

16 **(Free Speech Under 42. U.S. C. § 1983 against All Defendants)**

17 63.

18 Plaintiff realleges and incorporates by reference paragraphs 1-62 of this complaint as if  
19 fully restated here.

20 64.

21 Defendants took the following steps designed to chill and inhibit the plaintiff's exercise  
22 of his rights to free speech:

23 (a) issuing a September 26, 2012 letter of reprimand against the plaintiff for his  
24 expressions of opinion with regard to TOP;

25 (b) issuing an October 8, 2012 letter of reprimand for his expressions of opinion and  
26 speech directed at defendant Carbone;

(c) issuing an October 18, 2012 letter of reprimand and one-day suspension based on  
the plaintiff's verbal interaction with defendant Carbone;



1 (d) issuing an October 18 email to school staff in which she singled out the free-  
2 speech activities of community members, including the plaintiff;

3 (e) issuing a February 28, 2013 three-day suspension and final warning based on  
4 allegations of the plaintiff's communications with students.

5 65.

6 Defendant Carbone sent the plaintiff an email directive that specifically targeted his use  
7 of religious terminology. According to his information and belief, Plaintiff was singled out in  
8 this directive. Other teachers and staff members were allowed to use religious and other  
9 terminology in their communications.

10 66.

11 In targeting the plaintiff for his expression of his beliefs and opinions, and in taking  
12 adverse action against the plaintiff in his employment, including termination, because of the  
13 plaintiff's exercise of his right to speak freely and publically and in association with others, the  
14 defendants violated plaintiff's constitutional right to freedom of speech and assembly as  
15 guaranteed by the First and Fourteenth Amendment to the U.S. Constitution and protected by  
16 42. U.S. C. § 1983, and 42 U.S.C. §1988.

17 67.

18 As a direct and proximate result of the defendants' decision to target the plaintiff based  
19 on his free speech activities, the plaintiff was deprived of his position as a teacher and therefore  
20 of his livelihood.

21 68.

22 As a direct and proximate result of the defendants' actions, the plaintiff sustained a loss  
23 of past income and benefits, in the amount of \$90,000.00, exclusive of pre-judgment interest,  
24 which amount is increasing each month he continues to be denied employment by defendants.  
25 Plaintiff seeks full lost wages and benefits, plus pre-judgment interest, as well as a reasonable  
26 award of future losses of wages and benefits based on the proof presented at the time of trial.

///

///

1 69.

2 As a direct and proximate result of the defendants' actions, the plaintiff suffered harm to  
3 his reputation and standing in his community.

4 70.

5 As a direct and proximate result of the actions of the defendants, the plaintiff was  
6 restrained, inhibited and chilled in the exercise of his fundamental constitutional rights.

7 71.

8 As a direct and proximate result of the defendants' actions, the plaintiff suffered  
9 emotional distress and anguish, including damage to his physical and emotional wellbeing, and  
10 incurred costs for counseling and medical treatment.

11 72.

12 In addition, plaintiff incurred costs and attorney fees in defending against the defendants'  
13 actions and in bringing this claim.

14 73.

15 WHEREFORE, plaintiff respectfully requests that the Court grant the relief set forth in  
16 the Prayer for Relief, below.

17 **SECOND CLAIM FOR RELIEF**

18 **(Freedom of Association Under 42. U.S. C. § 1983 against All Defendants)**

19 74.

20 Plaintiff realleges and incorporates by reference paragraphs 1-62 of this complaint as if  
21 fully restated here.

22 75.

23 Defendants took steps designed to chill and inhibit the plaintiff's exercise of his right to  
24 freedom of association as protected by the First Amendment to the U.S. Constitution. They  
25 specifically targeted the plaintiff with discriminatory and harassing treatment because he chose  
26 to associate with a community group that opposed Planned Parenthood.

///

///

1 76.

2 In targeting the plaintiff for his associations, and in taking adverse action against the  
3 plaintiff in his employment, including termination, because of the plaintiff's exercise of his  
4 right to freely associate with others, the defendants violated plaintiff's constitutional right to  
5 freedom of speech and assembly as guaranteed by the First and Fourteenth Amendment to the  
6 U.S. Constitution and protected by 42 U.S.C. § 1983, and 42 U.S.C. § 1988.

7 77.

8 As a direct and proximate result of the defendants' decision to target the plaintiff for his  
9 association with others, the plaintiff was deprived of his position as a teacher and therefore of  
10 his livelihood.

11 78.

12 As a direct and proximate result of the defendants' actions, the plaintiff sustained a loss  
13 of past income and benefits, in the amount of \$90,000.00, exclusive of pre-judgment interest,  
14 which amount is increasing each month he continues to be denied employment by defendants.  
15 Plaintiff seeks full lost wages and benefits, plus pre-judgment interest, as well as a reasonable  
16 award of future losses of wages and benefits based on the proof presented at the time of trial.

17 79.

18 As a direct and proximate result of the defendants' actions, the plaintiff suffered harm to  
19 his reputation and standing in his community.

20 80.

21 As a direct and proximate result of the actions of the defendants, the plaintiff was  
22 restrained, inhibited and chilled in the exercise of his fundamental constitutional rights.

23 81.

24 As a direct and proximate result of the defendants' actions, the plaintiff suffered  
25 emotional distress and anguish, including damage to his physical and emotional wellbeing, and  
26 incurred costs for counseling and medical treatment.

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1 82.

2 In addition, plaintiff incurred costs and attorney fees in defending against the defendants'  
3 actions and in bringing this claim.

4 83.

5 WHEREFORE, plaintiff respectfully requests that the Court grant the relief set forth in  
6 the Prayer for Relief, below.

7 **THIRD CLAIM FOR RELIEF**

8 **(Free Exercise Under 42. U.S. C. § 1983 against All Defendants)**

9 84.

10 Plaintiff incorporates by reference paragraphs 1-62 of this complaint as if fully restated  
11 here.

12 85.

13 Defendants Campbell and Carbone refused to acknowledge or accommodate the  
14 plaintiff's sincere, deeply held religious convictions. The following actions by defendants  
15 contributed to this deprivation:

16 (a) Instead of taking steps to reasonably accommodate the plaintiff, defendants forced  
17 him to participate in activities that violated his most deeply cherished beliefs, including  
18 facilitating the TOP program;

19 (b) Defendant Carbone specifically targeted the plaintiff's use of religious terms in  
20 communications, singling him out for unequal treatment, and specifically prohibiting his use of  
21 terms such as "God bless";

22 (c) Defendants further created an environment where plaintiff's ability to exercise his  
23 religious beliefs was chilled through their actions in singling the plaintiff out for unreasonable  
24 scrutiny and unwarranted discipline.

25 86.

26 By their actions, the defendants manifested a desire to specifically target the plaintiff's  
religious beliefs, expressions, and practices, and thereby violate his right to free exercise of

1 religion as guaranteed by the First and Fourteenth Amendment to the U.S. Constitution and  
2 protected by 42. U.S. C. § 1983, and 42 U.S.C. §1988.

3 87.

4 As a direct and proximate result of the defendants' decision to target the plaintiff based  
5 on his moral and religious beliefs, the plaintiff was deprived of his position as a teacher and  
6 therefore of his livelihood.

7 88.

8 As a direct and proximate result of the defendants' actions, the plaintiff sustained a loss  
9 of past income and benefits, in the amount of \$90,000.00, exclusive of pre-judgment interest,  
10 which amount is increasing each month he continues to be denied employment by defendants.  
11 Plaintiff seeks full lost wages and benefits, plus pre-judgment interest, as well as a reasonable  
12 award of future losses of wages and benefits based on the proof presented at the time of trial.

13 89.

14 As a direct and proximate result of the defendants' actions, the plaintiff suffered harm to  
15 his reputation and standing in his community.

16 90.

17 As a direct and proximate result of the actions of the defendants, the plaintiff was  
18 restrained, inhibited and chilled in the exercise of his fundamental constitutional rights.

19 91.

20 As a direct and proximate result of the defendants' actions, the plaintiff suffered  
21 emotional distress and anguish, including damage to his physical and emotional wellbeing, and  
22 incurred costs for counseling and medical treatment.

23 92.

24 In addition, plaintiff incurred costs and attorney fees in defending against the defendants'  
25 actions and in bringing this claim.

26 93.

WHEREFORE, plaintiff respectfully requests that the Court grant the relief set forth in  
the Prayer for Relief, below.

1 **FOURTH CLAIM FOR RELIEF**

2 **(Equal Protection Under 42. U.S. C. § 1983 against All Defendants)**

3 94.

4 Plaintiff incorporates by reference paragraphs 1-62 of this complaint as if fully restated  
5 here.

6 95.

7 The plaintiff was singled-out by the defendants based on his religion. Other teachers and  
8 administrators were not similarly targeted when they expressed sincere religious convictions.

9 96.

10 In targeting the plaintiff with increased scrutiny, discipline, directives and prohibitions,  
11 and ultimately in terminating the plaintiff, all based on his moral and religious views, the  
12 defendants violated the plaintiff's constitutional right to equal protection of the laws as  
13 guaranteed by the Fourteenth Amendment to the U.S. Constitution and protected by 42. U.S. C.  
§ 1983.

14 97.

15 As a direct and proximate result of the defendants' decision to discriminate against the  
16 plaintiff based on his moral and religious objection to the TOP program, the plaintiff was  
17 deprived of his position as a teacher and therefore of his livelihood.

18 98.

19 As a direct and proximate result of the defendants' actions, the plaintiff sustained a loss  
20 of past income and benefits, in the amount of \$90,000.00, exclusive of pre-judgment interest,  
21 which amount is increasing each month he continues to be denied employment by defendants.  
22 Plaintiff seeks full lost wages and benefits, plus pre-judgment interest, as well as a reasonable  
award of future losses of wages and benefits based on the proof presented at the time of trial.

23 99.

24 As a direct and proximate result of the defendants' actions, the plaintiff suffered harm to  
25 his reputation and standing in his community.

26 ///

1 100.

2 As a direct and proximate result of the actions of the defendants, the plaintiff was  
3 restrained, inhibited and chilled in the exercise of his fundamental constitutional rights.

4 101.

5 As a direct and proximate result of the defendants' actions, the plaintiff suffered  
6 emotional distress and anguish, including damage to his physical and emotional wellbeing, and  
7 incurred costs for counseling and medical treatment.

8 102.

9 In addition, plaintiff incurred costs and attorney fees in defending against the defendants'  
10 actions and in bringing this claim.

11 103.

12 WHEREFORE, plaintiff respectfully requests that the Court grant the relief set forth in  
13 the Prayer for Relief, below.

14 **FIFTH CLAIM FOR RELIEF**

15 **(Substantive Due Process Under 42. U.S. C. § 1983 against All Defendants)**

16 104.

17 Plaintiff incorporates by reference paragraphs 1-62 of this complaint as if fully restated  
18 here.

19 105.

20 The defendants deprived the plaintiff of his liberty interest in his good name and  
21 reputation in the community. These actions included by were not limited to the following:

22 (a) With the permission, authorization and aid of the defendants, employees of  
23 Planned Parenthood distributed a letter about the TOP program in the Vietnamese language on  
24 behalf of itself and the district. The letter falsely claimed the plaintiff supported the program.

25 (b) The defendants failed to adequately respond and rectify the injury to the  
26 plaintiff's reputation caused by the defamatory publication.

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106.

The statements disseminated by the defendants were false, and harmful to the plaintiff's reputation in the Vietnamese community (from which some of his students were drawn), and had the effect of injuring his reputation.

107.

As a direct and proximate result of the defendants' actions in the misuse of the plaintiff's name, the plaintiff was deprived of his liberty interest in his good reputation in the community.

108.

As a direct and proximate result of the defendants' actions, the plaintiff sustained a loss of past income and benefits, in the amount of \$90,000.00, exclusive of pre-judgment interest, which amount is increasing each month he continues to be denied employment by defendants. Plaintiff seeks full lost wages and benefits, plus pre-judgment interest, as well as a reasonable award of future losses of wages and benefits based on the proof presented at the time of trial.

109.

As a direct and proximate result of the actions of the defendants, the plaintiff was restrained, inhibited and chilled in the exercise of his fundamental constitutional rights.

110.

As a direct and proximate result of the defendants' actions, the plaintiff suffered emotional distress and anguish, including damage to his physical and emotional wellbeing, and incurred costs for counseling and medical treatment.

111.

In addition, plaintiff incurred costs and attorney fees in defending against the defendants' actions and in bringing this claim.

112.

WHEREFORE, plaintiff respectfully requests that the Court grant the relief set forth in the Prayer for Relief, below.



1 **SIXTH CLAIM FOR RELIEF**

2 **(Procedural Due Process Under 42. U.S. C. § 1983 against All Defendants)**

3 113.

4 Plaintiff incorporates by reference paragraphs 1-62 of this complaint as if fully restated  
5 here.

6 114.

7 The actions of the defendants failed to give the plaintiff adequate notice and the chance to  
8 be heard with regard to his property interest in continued employment in violation of his right  
9 to due process, as protected by the Fifth and Fourteenth Amendment to the U.S. Constitution.  
10 The defendants failed to provide due process in the following ways:

11 (a) Defendants Carbone and Campbell failed to give clear directives to the plaintiff  
12 regarding expected results from his teaching, and failing to acknowledge plaintiff's good-faith  
13 efforts to comply with specific directives;

14 (b) Defendants failed to put plaintiff on a plan of assistance to remedy any actual  
15 deficiencies in his teaching methods;

16 (c) Defendants failed to give plaintiff an adequate hearing on the recommendation for  
17 termination, November 14, 2013;

18 (d) Defendant members of the Board of education failed to present the plaintiff's  
19 termination as a separate item when the vote was held, thereby adding confusion and nearly  
20 defeating the ability of members of the Board of Education to vote against the  
21 recommendation.

22 115.

23 As a direct and proximate result of the defendants' actions in not providing adequate  
24 procedure and process the plaintiff was deprived of his position as a teacher and therefore of  
25 his livelihood.

26 116.

As a direct and proximate result of the defendants' actions, the plaintiff sustained a loss  
of past income and benefits, in the amount of \$90,000.00, exclusive of pre-judgment interest,

1 which amount is increasing each month he continues to be denied employment by defendants.  
2 Plaintiff seeks full lost wages and benefits, plus pre-judgment interest, as well as a reasonable  
3 award of future losses of wages and benefits based on the proof presented at the time of trial.

4 117.

5 As a direct and proximate result of the defendants' actions, the plaintiff suffered harm to  
6 his reputation and standing in his community.

7 118.

8 As a direct and proximate result of the actions of the defendants, the plaintiff was  
9 restrained, inhibited and chilled in the exercise of his fundamental constitutional rights.

10 119.

11 As a direct and proximate result of the defendants' actions, the plaintiff suffered  
12 emotional distress and anguish, including damage to his physical and emotional wellbeing, and  
13 incurred costs for counseling and medical treatment.

14 120.

15 In addition, plaintiff incurred costs and attorney fees in defending against the defendants'  
16 actions and in bringing this claim.

17 121.

18 WHEREFORE, plaintiff respectfully requests that the Court grant the relief set forth in  
19 the Prayer for Relief, below.

20 **SEVENTH CLAIM FOR RELIEF**

21 **(Religious Discrimination under Title VII - 42 U.S.C. §2000e- against Defendant**  
22 **Portland Public Schools)**

23 122.

24 Plaintiff incorporates by reference paragraphs 1-62 of this complaint as if fully restated  
25 here.

26 123.

The facts set forth above constitute employment discrimination prohibited by Title VII,  
42 U.S.C. §2000e-2(a)(1).

124.

1 Defendant Portland Public School District is an employer within the meaning of 42  
2 U.S.C. §2000e, in that it employs over 500 employees.

125.

3  
4 Plaintiff is a sincere Roman Catholic who conscientiously follows the Church's teaching.  
5 His beliefs include strict adherence to Catholic teaching on sexual purity in addition to  
6 teaching about the sanctity of life. Thus, his objection to an organization such as Planned  
7 Parenthood was founded on more than simple objection to abortion; his religious beliefs were  
8 at odds with the sexual teaching that was the heart of the TOP program. As such, the plaintiff is  
9 in a class protected by 42 U.S.C. §2000e(a)(1).

126.

10  
11 Defendants' actions in targeting the plaintiff based on his unwillingness to participate in a  
12 program that violated his sincere moral and religious convictions violates the plaintiff's rights  
13 under 42 U.S.C. §2000e. The plaintiff was subjected to discriminatory, retaliatory, and  
14 harassing behavior at the hands of defendants Campbell, Carbone, Scotto and Phillips, and  
15 ultimately to termination as recommended by defendant Smith, and voted upon by defendant  
16 members of the Board of Education. The conduct was pervasive and ongoing, representing a  
17 continuing course of conduct for defendants.

127.

18 Plaintiff has been subjected to adverse employment action, including failure to  
19 accommodate, retaliation, harassment and hostile work environment, because of his religion.  
20 Following his request for accommodation with regard to the TOP program, the plaintiff was  
21 subjected to unprecedented censorial review of his teaching and methods at the hands of  
22 defendants Campbell, Carbone, Phillips and Scotto, including but not limited to the following:

23 (a) He received reprimands and suspensions of 1 and 3 days without pay,  
24 respectively.

25 (b) His contract was "non-extended" without triggering the usual plan of assistance.

26 (c) He was placed on paid administrative leave.

1 (d) His teaching contract was terminated.

2 128.

3 Prior to the conflict over his beliefs, the plaintiff was performing his job satisfactorily;  
4 he continued to adequately perform his job as a teacher, but was nonetheless subjected to  
5 targeted discipline that continued for the duration of his employment, and ended only with the  
6 termination of his employment.

7 129.

8 The plaintiff was treated differently than similarly situated employees who do not share  
9 his religious beliefs. The actions for which he received discipline were of the type and nature  
10 that other teachers regularly engaged in, without adverse consequences.

11 130.

12 As a direct and proximate result of the defendants' decision to discriminate against the  
13 plaintiff based on his moral and religious objection to the TOP program, the plaintiff was  
14 deprived of his position as a teacher and therefore of his livelihood.

15 131.

16 As a direct and proximate result of the defendants' actions, the plaintiff sustained a loss  
17 of past income and benefits, in the amount of \$90,000.00, exclusive of pre-judgment interest,  
18 which amount is increasing each month he continues to be denied employment by defendants.  
19 Plaintiff seeks full lost wages and benefits, plus pre-judgment interest, as well as a reasonable  
20 award of future losses of wages and benefits based on the proof presented at the time of trial.

21 132.

22 As a direct and proximate result of the defendants' actions, the plaintiff suffered harm to  
23 his reputation and standing in his community.

24 133.

25 As a direct and proximate result of the actions of the defendants, the plaintiff was  
26 restrained, inhibited and chilled in the exercise of his fundamental constitutional rights.

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1 134.

2 As a direct and proximate result of the defendants' actions, the plaintiff suffered  
3 emotional distress and anguish, including damage to his physical and emotional wellbeing, and  
4 incurred costs for counseling and medical treatment.

5 135.

6 In addition, plaintiff incurred costs and attorney fees in defending against the defendants'  
7 actions and in bringing this claim.

8 136.

9 WHEREFORE, plaintiff respectfully requests that the Court grant the relief set forth in  
10 the Prayer for Relief, below.

11 **EIGHTH CLAIM FOR RELIEF**  
12 **(Religious Discrimination Under ORS 659A.030**  
13 **against Defendant Portland Public Schools)**

14 137.

15 Plaintiff incorporates by reference paragraphs 1-62 of this complaint as if fully restated  
16 here.

17 138.

18 Plaintiff was treated adversely in his employment, including the following:

- 19 (a) he was forced to submit to unlawful working conditions;  
20 (b) he was subjected to unwarranted reprimand, discipline and suspensions; and  
21 (c) he was discharged from employment without just cause or reason.

22 139.

23 Defendants created a work environment in which there was palpable hostility toward the  
24 plaintiff based on the fact that his religious beliefs and values were different from the  
25 defendants' beliefs and values. Defendants Campbell, Carbone, Scotto and Phillips used their  
26 positions as school administrators to constantly demean and belittle the plaintiff while setting  
themselves up as judges of his actions, expressions, and attitudes whether or not they had any

1 bearing on his professional qualifications, in violation of the plaintiff's rights as protected by  
2 ORS 659A.030.

3 140.

4 The plaintiff was subjected to discriminatory, retaliatory, and harassing behavior at the  
5 hands of defendants Campbell, Carbone, Scotto and Phillips, and ultimately to termination as  
6 recommended by defendant Smith, and voted upon by defendant members of the Board of  
7 Education. The conduct was pervasive and ongoing, representing a continuing course of  
8 conduct for defendants Campbell, Carbone, Scotto and Phillips, who were acting in their  
9 official capacities as administrators of Benson High School.

10 141.

11 In all of these actions, plaintiff's religion was a substantial motivating factor, in violation  
12 of ORS 659A.030.

13 142.

14 As a direct and proximate result of the defendants' decision to discriminate against the  
15 plaintiff based on his moral and religious objection to the TOP program, the plaintiff was  
16 deprived of his position as a teacher and therefore of his livelihood.

17 143.

18 As a direct and proximate result of the defendants' actions, the plaintiff sustained a loss  
19 of past income and benefits, in the amount of \$90,000.00, exclusive of pre-judgment interest,  
20 which amount is increasing each month he continues to be denied employment by defendants.  
21 Plaintiff seeks full lost wages and benefits, plus pre-judgment interest, as well as a reasonable  
22 award of future losses of wages and benefits based on the proof presented at the time of trial.

23 144.

24 As a direct and proximate result of the defendants' actions, the plaintiff suffered harm to  
25 his reputation and standing in his community.

26 145.

As a direct and proximate result of the actions of the defendants, the plaintiff was  
restrained, inhibited and chilled in the exercise of his fundamental constitutional rights.

1 146.

2 As a direct and proximate result of the defendants' actions, the plaintiff suffered  
3 emotional distress and anguish, including damage to his physical and emotional wellbeing, and  
4 incurred costs for counseling and medical treatment.

5 147.

6 In addition, plaintiff incurred costs and attorney fees in defending against the defendants'  
7 actions and in bringing this claim.

8 148.

9 WHEREFORE, plaintiff respectfully requests that the Court grant the relief set forth in  
10 the Prayer for Relief, below.

11 **NINTH CLAIM FOR RELIEF**

12 **(Retaliation - ORS 659A.199 against Defendant Portland Public Schools)**

13 149.

14 Plaintiff incorporates by reference paragraphs 1-62 of this complaint as if fully restated  
15 here.

16 150.

17 When presenters from Planned Parenthood entered his class, the plaintiff observed  
18 actions and activities that raised serious questions of compliance with state and federal law,  
19 rules and regulations. Plaintiff, in good faith, brought these concerns to the attention of his  
20 employer both to the administrators at his school, as well as to the Board of Education through  
21 public testimony.

22 151.

23 Following his revelation of these concerns, the plaintiff was subjected to discipline,  
24 suspension, and ultimate discharge all in retaliation for reporting this information in violation  
25 of ORS 659A.199.

152.

1  
2 As a direct and proximate result of the defendants' decision to retaliate against the  
3 plaintiff because of his report regarding evidence of violations of law occurring in the  
4 administration of the TOP program, the plaintiff was deprived of his position as a teacher and  
5 therefore of his livelihood.  
6

153.

7  
8 As a direct and proximate result of the defendants' actions, the plaintiff sustained a loss  
9 of past income and benefits, in the amount of \$90,000.00, exclusive of pre-judgment interest,  
10 which amount is increasing each month he continues to be denied employment by defendants.  
11 Plaintiff seeks full lost wages and benefits, plus pre-judgment interest, as well as a reasonable  
12 award of future losses of wages and benefits based on the proof presented at the time of trial.  
13

154.

14 As a direct and proximate result of the defendants' actions, the plaintiff suffered harm to  
15 his reputation and standing in his community.  
16

155.

17 As a direct and proximate result of the actions of the defendants, the plaintiff was  
18 restrained, inhibited and chilled in the exercise of his fundamental constitutional rights.  
19

156.

20 As a direct and proximate result of the defendants' actions, the plaintiff suffered  
21 emotional distress and anguish, including damage to his physical and emotional wellbeing, and  
22 incurred costs for counseling and medical treatment.  
23

157.

24 In addition, plaintiff incurred costs and attorney fees in defending against the defendants'  
25 actions and in bringing this claim.  
26

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1 **TENTH CLAIM FOR RELIEF**

2 **(Retaliation - ORS 659A.203 against Defendant Portland Public Schools)**

3 158.

4 Plaintiff incorporates by reference paragraphs 1-62 of this complaint as if fully restated  
5 here.

6 159.

7 From the time that presenters from Planned Parenthood's TOP program entered his class,  
8 the plaintiff observed actions and activities that raised reasonable concern in his mind  
9 regarding compliance with state and federal law, and with regard to the health, safety and  
10 welfare of his students. These concerns included by were not limited to questions regarding the  
11 notice given to parents regarding the content of the TOP material and whether the presenters  
12 from Planned Parenthood were qualified to teach students in the absence of a licensed  
13 educator.

14 160.

15 Plaintiff, in good faith, brought these concerns to the attention of his employer both to the  
16 administrators at his school, as well as to the Board of Education through public testimony.

17 161.

18 Following his revelation of these concerns, the plaintiff was subjected to discipline,  
19 suspension, and ultimate discharge all in retaliation for reporting this information in violation  
20 of ORS 659A.203.  
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162.

As a direct and proximate result of the defendants' decision to subject the plaintiff to disciplinary action because of his report regarding evidence of violations of law occurring in the administration of the TOP program, the plaintiff was deprived of his position as a teacher and therefore of his livelihood.

163.

The plaintiff suffered the above described adverse employment actions because of his good faith disclosure of evidence of problems with the TOP program administered by Planned Parenthood, evidence which he sincerely believed raised issues of violation of law, mismanagement of authority, and danger to the health and safety of the public, and particularly students he taught at Benson High School.

164.

As a direct and proximate result of the defendants' actions, the plaintiff sustained a loss of past income and benefits, in the amount of \$90,000.00, exclusive of pre-judgment interest, which amount is increasing each month he continues to be denied employment by defendants. Plaintiff seeks full lost wages and benefits, plus pre-judgment interest, as well as a reasonable award of future losses of wages and benefits based on the proof presented at the time of trial.

165.

As a direct and proximate result of the defendants' actions, the plaintiff suffered harm to his reputation and standing in his community.

166.

As a direct and proximate result of the actions of the defendants, the plaintiff was restrained, inhibited and chilled in the exercise of his fundamental constitutional rights.

167.

As a direct and proximate result of the defendants' actions, the plaintiff suffered emotional distress and anguish, including damage to his physical and emotional wellbeing, and incurred costs for counseling and medical treatment.

168.

In addition, plaintiff incurred costs and attorney fees in defending against the defendants' actions and in bringing this claim.

169.

WHEREFORE, plaintiff respectfully requests that the Court grant the relief set forth in the Prayer for Relief, below.

**ELEVENTH CLAIM FOR RELIEF**

**(Wrongful Discharge – against Defendant Portland Public Schools)**

170.

Plaintiff incorporates by reference paragraphs 1-62 of this complaint as if fully restated here.

171.

On December 16, 2013, the defendant members of the board of Portland Public Schools, voted to terminate the plaintiff's teaching contract. A substantial factor in the plaintiff's discharge was his exercise of his right to object to the defendants' actions. He exercised his right to object to the defendants' TOP program and to ask for a religious accommodation, and was ultimately terminated for his stand.

172.

A further substantial factor in the decision to discharge was the plaintiff's fulfillment of his societal obligation to inform and educate regarding Planned Parenthood and their methods and activities.

173.

1 As a direct and proximate result of the defendants' decision to discharge the plaintiff  
2 based on his moral and religious objection to the TOP program, the plaintiff was deprived of  
3 his position as a teacher and therefore of his livelihood.

174.

4  
5 As a direct and proximate result of the defendants' actions, the plaintiff sustained a loss  
6 of past income and benefits, in the amount of \$90,000.00, exclusive of pre-judgment interest,  
7 which amount is increasing each month he continues to be denied employment by defendants.  
8 Plaintiff seeks full lost wages and benefits, plus pre-judgment interest, as well as a reasonable  
9 award of future losses of wages and benefits based on the proof presented at the time of trial.

175.

10  
11  
12 As a direct and proximate result of the defendants' actions, the plaintiff suffered harm to  
13 his reputation and standing in his community.

176.

14 As a direct and proximate result of the actions of the defendants, the plaintiff was  
15 restrained, inhibited and chilled in the exercise of his fundamental constitutional rights.

177.

16  
17 As a direct and proximate result of the defendants' actions, the plaintiff suffered  
18 emotional distress and anguish, including damage to his physical and emotional wellbeing, and  
19 incurred costs for counseling and medical treatment.

178.

20  
21 In addition, plaintiff incurred costs and attorney fees in defending against the defendants'  
22 actions and in bringing this claim.

23 ///

24 ///

25 ///

1 179.

2 WHEREFORE, plaintiff respectfully requests that the Court grant the relief set forth in  
3 the Prayer for Relief, below.

4 180.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, plaintiff prays that this Court:

7 (a) Enter judgment against the defendants on each of the claims set forth above;

8 (b) Enter a judgment for damages against the defendant on the first through eleventh  
9 claims in the amount suffered by plaintiff including the following:

10 \$90,000.00 or an amount to be proven at trial in actual damages representing his  
11 lost income and benefits;

12 \$300,000.00 in compensatory damages for his mental distress and anguish,  
13 including loss of reputation;

14 (c) Grant equitable relief to the plaintiff by entry of an order compelling  
15 reinstatement in his position as a teacher at Benson High School;

16 (d) Enter a declaratory judgment declaring the acts of the defendant to be a violation  
17 of plaintiff's constitutional rights to freedom of speech, association, free exercise of  
18 religion, equal protection, and due process on each of the claims set forth herein;

19 (e) Award plaintiff costs, and reasonable attorneys' fees for this action pursuant to  
20 ORS 659A.885, ORS 20.107, and 42 U.S.C. §1988;

21 ///

22 ///

23 ///

1 (f) Award pre-judgment interest on each claim for damages and other monetary  
2 losses from the date upon which the loss occurred and post-judgment interest to the full  
3 extent permitted by law; and,

4 (g) Order such other and further relief as the Court deems just and proper under the  
5 circumstances.

6  
7  
8 DATED: \_\_\_\_\_, 20\_\_\_\_.

9  
10 \_\_\_\_\_  
11 Rebekah Millard  
12 OSB no. 121199  
13 Life Legal Defense Foundation  
14 Law Offices of Rebekah Millard, LLC  
15 1390 Walnut Road  
16 Springfield, OR 97477  
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