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8 **UNITED STATES DISTRICT COURT**
9 **WESTERN DISTRICT OF WASHINGTON**
10 **AT SEATTLE**

11 JONATHAN H., on his own behalf and on)
12 behalf of his minor child, J.H.,)

13 Plaintiffs,)

14 v.)

Civil Action No.: 2:26-cv-02388

15 HIGHLINE PUBLIC SCHOOLS;)
16 LORI McEWEN, in her individual and)
17 official capacity as a Vice Principal)
18 at Sylvester Middle School,)

19 Defendants.)

REPLY IN SUPPORT OF MOTION FOR A
PRELIMINARY INJUNCTION

ORAL ARGUMENT REQUESTED

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21 **PLAINTIFFS' REPLY IN SUPPORT OF MOTION FOR A PRELIMINARY**
22 **INJUNCTION**

23 This reply turns on two straightforward points. First, Defendants' factual disputes do not
24 change the facts that matter for preliminary injunctive relief. Defendants admit that the District held
25 a school-sponsored Inclusion Assembly, that the assembly included LGBTQIA+ content and
26 instruction on "allyship," that J.H. became visibly upset, that she told school staff she did not believe
27 in the material being presented, and that Jonathan H. received no advance notice of the Assembly

1 and no opportunity to opt his daughter out. Whatever Defendants now say about the hallway
2 conversation, those undisputed facts establish the constitutional injury: the District presented
3 religiously objectionable material to J.H. without informing her father beforehand and without giving
4 him a meaningful opt-out opportunity. That failure occurred against the backdrop of repeated
5 religious animus against J.H.'s religious expression, including backpack searches, confiscation of
6 religious materials, and extra-policy burdens on a proposed Christian club.

7 Second, Defendants' *post hoc* assurances do not moot the urgent need for relief. The District
8 has not adopted a written policy requiring advance, content-specific notice and a meaningful opt-out
9 opportunity; has not repudiated the prior interference with J.H.'s religious expression; and has not
10 instructed staff to treat her religious speech on equal terms with comparable secular expression.
11 Instead, Defendants continue to defend the conduct challenged here while pointing to informal,
12 discretionary practices that were never communicated to Jonathan H. or J.H. before the violation
13 occurred.

14 ARGUMENT

15 Defendants' "mandatory injunction" argument is misplaced. A mandatory injunction "orders
16 a responsible party to 'take action.'" *Meghrig v. KFC Western, Inc.*, 516 U.S. 479, 484 (1996).
17 Plaintiffs do not ask the Court to dictate District policy; they ask only that Defendants refrain from
18 violating Plaintiffs' First Amendment rights by denying notice, opt-out, and equal treatment of
19 religious expression.

20 I. Defendants' Declarations Admit the District's Unconstitutional Conduct.

21 Defendants admit the key material facts. Defendants admit that an "Inclusion Assembly" was
22 conducted that featured, among other things, LGBTQIA+ material. McEwen Declaration, ECF 18,
23 ¶¶ 11–13. Defendants also admit that they "saw J.H. crying," Holme Declaration, ECF 22, ¶ 6, and
24 that J.H. "might have had tears on her face" and was "trying to get away[.]" Edwards Declaration,
25 ECF 19, ¶ 7. Most importantly, Defendants admit that J.H. told school officials "that she does not
26 believe" in the content being expressed in that assembly. *Id.* ¶ 16. It is also undisputed that parents

1 received no advance notice or opportunity to opt their children out. The very evidence Defendants
2 offer to defeat Plaintiffs' motion instead confirms that Plaintiffs' rights were violated.

3 Defendants' declarations do not justify their conduct. Instead, they confirm religious
4 discrimination. Principal Kimberly Jones acknowledges that the District acted after parents had
5 complained about J.H. asking "other students if they believe in Jesus," giving classmates cross
6 necklaces, and sending home "a religious pamphlet." Jones Declaration, ECF 20, ¶¶ 6–7. Jones then
7 admits to searching J.H.'s bag for religious materials, *id.* ¶ 8, and doing so because of the content of
8 her message. She admits to religious discrimination: "I had checked her bag because I had been
9 receiving complaints from students and parents about the materials she was passing out." *Id.* She
10 then admits to repeating this: "I checked J.H.'s bag a few more times as she continued to bring
11 materials that caused disruption." *Id.* That explanation locates the disruption in the religious
12 materials themselves, not in any conduct.

13 Defendant McEwen's Declaration contradicts the letter the District sent to Plaintiffs'
14 counsel. In that response letter, ECF 1-1 at 21, the District stated that "J.H. was distributing religious
15 tracts before school in the cafeteria, which is permitted." *Id.* It claimed that the reason McEwen
16 spoke with her was specifically "to confirm that J.H. knew that distribution during class is not
17 permitted." *Id.* McEwen now claims something very different: that "she had received a complaint
18 from a student that J.H. had forced her to take a religious tract" and that she "pulled J.H. briefly out
19 of her math class that morning to discuss it with her." McEwen Declaration, ECF 18, ¶ 4. The letter
20 stated the opposite, acknowledging that J.H. "asks other students for their permission and does not
21 engage further if a student indicates that they do not wish to receive her information." ECF 1-1 at
22 21. These are two radically different justifications. The letter never mentions a "forced" complaint
23 at all; the declaration never mentions a rule against in-class distribution.

24 McEwen also admits that she told J.H. "that she would need a teacher to serve as the Advisor"
25 for a Christian club. McEwen Declaration, ECF 18, ¶ 7. That statement contradicts District Policy
26 2153, which places responsibility on the principal—not the student—to assign a staff member: "The
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principal shall be responsible for the assignment of a room and for the approval and/or assignment of a staff member to monitor the meeting.”¹ McEwen makes no attempt to reconcile her conduct with District Policy, and Defendants’ briefing does not attempt to do so either. Defendants’ own evidence shows that District officials did not merely misunderstand the facts; they imposed extra-policy burdens on J.H.’s religious expression.

Defendants argue that the Assembly’s final slides on being supportive or an “ally” were not limited to LGBTQIA+ issues. But that misses the point. That “allyship” may encompass other groups does not mean it excluded LGBTQIA+ people—particularly when the instruction occurred during an Inclusion Assembly addressing LGBTQIA+ identities. In a mandatory, school-sponsored assembly, the District moved beyond describing those subjects and gave moral instruction about what students should affirm, support, oppose, and treat as unacceptable. “Allyship” itself carries that normative meaning. That is also consistent with common usage of the term in the LGBTQIA+ context: an “LGBTQIA+ ally is someone who supports and educates themselves about and speaks out and advocates for LGBTQIA+ people and/or community[.]” TEXAS CHRISTIAN UNIVERSITY, *Pride Month: What Does it Mean to be an Ally?* (May 27, 2022), <https://www.tcu.edu/news/2022/what-does-it-mean-to-be-an-ally.php>; see also HUMAN RIGHTS CAMPAIGN, *Glossary of Terms*, <https://www.hrc.org/resources/glossary-of-terms> (defining “Ally” as “someone who is actively supportive of LGBTQ+ people”).

Under *Mahmoud*, such school-sponsored moral instruction is precisely why parents with religious objections must receive advance notice and a meaningful opt-out—indisputably absent here.

McEwen admits that “Ms. Edwards shared that J.H. had been upset and said that she did not believe in the material that was being shown.” McEwen Declaration, ECF 18, ¶ 16. Other teachers acknowledge witnessing J.H.’s distress. “I saw J.H. crying.” Holme Declaration, ECF 22, ¶ 6.

¹ <https://www.highlineschools.org/about/board-policies/policy-details/~board/board-policies/post/policy-2153-non-curriculum-related-student-groups>

1 Edwards admits that “J.H. looked anxious and that she might have had tears on her face. . . . I did
2 not know why she was upset, but it looked like she might have been trying to get away from the girls
3 with whom she was sitting.” Edwards Declaration, ECF 19, ¶ 7. Those admissions corroborate
4 Plaintiffs’ account that J.H. was visibly upset, objected to the content, attempted to remove herself,
5 and was returned to the same assembly without parental contact. Defendants’ picayune factual
6 disputes do not change Defendants’ core admissions.

7 Most importantly, Edwards admits that when they spoke in the hallway, J.H. specifically
8 informed her of her conflicting beliefs and that “she does not believe in it.” *Id.* ¶ 9. Edwards
9 acknowledges that she disagreed with J.H. and told her “that these terms may define certain people
10 in our community.” *Id.* ¶ 10. Edwards thus had actual notice that J.H. objected to the material because
11 it conflicted with her beliefs, disagreed with that objection, and then sent her back into the assembly
12 without contacting Jonathan H. Defendants may dispute the exact words, but they cannot explain
13 away the objective reality that a visibly upset child, who had just said the material conflicted with
14 her beliefs and tried to leave, was returned to the same assembly without parental involvement.

15 While Defendants now claim that their assemblies are optional, the Student Handbook says
16 otherwise. It directs how students must proceed to, behave during, and leave assemblies: “Students
17 are expected to follow the directions of staff members directing the seating for the assembly. . . .
18 Students are expected to follow the PBIS assembly expectations. Students are expected to dismiss
19 as directed and in an orderly fashion.” ECF 14-2, at 60. That language is mandatory. It contains no
20 carve-out for religious objections, no notice that students may self-excuse, and no reference to an
21 alternative supervised location. Defendants’ declarations do not address this language. Nor do they
22 identify any handbook provision, written policy, pre-assembly announcement, or instruction to J.H.
23 or her parents that communicated the supposed opt-out option before the May 29 assembly began.
24 A hidden, unwritten option that contradicts student-facing rules and is never communicated to the
25 affected student or parent is not a meaningful opt-out. At minimum, the Handbook confirms that a
26 reasonable student in J.H.’s position would understand assembly attendance to be required.

1 Defendants' declarations do not change the Handbook's plain language. McEwen claims that
2 "Students who do not wish to attend any assembly at Sylvester may attend a study hall in an alternate
3 location." McEwen Declaration, ECF 18, ¶ 14. But she does not claim that students or parents
4 received notice of that option in any form. By contrast, Holme and Edwards described giving
5 students "expectations" for assemblies, with no suggestion that either told students attendance was
6 optional. Holme Declaration, ECF 22, ¶ 4; Edwards Declaration, ECF 19, ¶ 4.

7 Furthermore, Defendants' claim that J.H. voluntarily returned strains credulity. After asking
8 to leave, crying visibly, and telling Edwards that she "does not believe in it," Edwards Declaration,
9 ECF 19, ¶ 9, her return hardly suggests a change of heart; it demonstrates the practical compulsion
10 a sixth grader would feel when a school authority expected her to return.

11 **II. None of Defendants' Alleged Actions Moot This Case or Defeat Standing.**

12 First, the District argues that Plaintiffs lack Article III standing by characterizing this case
13 as if it were only a pre-enforcement challenge. But Plaintiffs allege completed constitutional
14 injuries and seek damages, including nominal damages, for those injuries. That is sufficient for
15 Article III standing. *Uzuegbunam v. Preczewski*, 592 U.S. 279, 285 (2021). Defendants' pre-
16 enforcement cases, Resp. Br. at 11, do not address a case arising from conduct that has already
17 occurred.

18 Moreover, Plaintiffs have identified an ongoing threat of enforcement. The Student
19 Handbook still requires students "to follow the directions of staff members directing the seating for
20 the assembly." ECF 14-2, at 60. That mandatory student-facing language remains in place.
21 Defendants continue to provide no content-specific notice to families whose religious beliefs may
22 conflict with school programming. Most importantly, Defendants' pattern and practice of targeting
23 J.H.'s religious expression remains unchanged. The risk of ongoing injury is not hypothetical; it is
24 grounded in actual, concrete infringements of Plaintiffs' rights.

25 Defendants take the position that "[t]he relief that Plaintiffs requested in their Motion for
26 Preliminary Injunction is already in place at Highline Public Schools." Ferguson Declaration, ECF

17, ¶ 14. This claim is false in multiple respects.

First, Defendants’ promised calendar does not provide the relief Plaintiffs seek and does not come close to mooted this dispute. Defendants state only, in general terms, that “Sylvester will post a calendar of all assemblies next year so that parents, students and staff are aware when assemblies will be occurring.” McEwen Declaration, ECF 18, ¶ 20. But that statement says nothing about what the calendar will disclose. It does not say that the calendar will identify the subject matter of each assembly, describe the content, flag topics likely to implicate religious objections, or provide any mechanism by which parents may request an accommodation beforehand. A calendar that merely tells families that an “assembly” will occur is not notice of the constitutionally relevant fact—what the school intends to teach, present, celebrate, or require students to sit through.

The record illustrates the problem. Defendants do not dispute that, before the Inclusion Assembly, J.H. and another student asked multiple teachers “what the assembly would be about,” and that “[n]one of them would tell us, or none of them seemed to know.” J.H. Declaration, ECF 14-3, ¶21. That is the notice failure Plaintiffs challenge. If trained school staff could not or would not identify the assembly’s content on the morning of the event, then a bare calendar notation would not have enabled Plaintiffs to exercise any meaningful opt-out right. The Constitution does not require parents or students to guess which assemblies may burden their religious exercise and then object in the dark.

At most, Defendants have promised to announce when assemblies will occur. They have not promised notice of content, a written opt-out procedure, staff instructions requiring accommodation of religious objections, or any binding policy change that would prevent the same violation from recurring.

Second, Defendants’ mootness argument fails because this was not a single isolated incident followed by a complete cure. The record reflects multiple constitutional violations across time, schools, and subject matters: the North Hill backpack searches and confiscation of religious

1 materials; McEwen's intervention at Sylvester over religious tracts while secular expression was
2 treated differently; and the Inclusion Assembly's lack of notice, opt-out, parental contact, and
3 accommodation after J.H. objected. Those repeated episodes defeat any claim that the challenged
4 conduct has been cured or is unlikely to recur.

5 Third, "[a] defendant's voluntary cessation of allegedly unlawful conduct ordinarily does
6 not suffice to moot a case." *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528
7 U.S. 167, 174 (2000). The standard is high: "voluntary cessation of allegedly illegal conduct does
8 not deprive the tribunal of power to hear and determine the case" unless "'there is no reasonable
9 expectation . . . ' that the alleged violation will recur" and "interim relief or events have completely
10 and irrevocably eradicated the effects of the alleged violation." *County of Los Angeles v. Davis*,
11 440 U.S. 625, 631 (1979) (citation omitted). This is to ensure courts are not "compelled to leave
12 the defendant free to return to his old ways." *Friends of the Earth*, 528 U.S. at 189.

13 That showing is impossible where the District has not adopted a binding policy, has not
14 repudiated the prior violations, has not instructed staff that religious objections must be
15 accommodated, and has continued to defend the challenged conduct as lawful. Far from
16 demonstrating a clean break with past practice, Defendants' own position confirms that the same
17 approach remains in place. Repeated violations are not evidence of cessation; they are evidence
18 that informal assurances are inadequate and that injunctive relief is necessary.

19 Defendants' arguments ultimately prove Plaintiffs' point. They fault J.H. and her family
20 for not informing Sylvester, before the Inclusion Assembly, that their religious beliefs conflicted
21 with the material to be presented. But that was impossible because Defendants gave them no notice
22 of what the assembly would contain. A religious opt-out right is meaningless if parents must object
23 to undisclosed content sight unseen. The Constitution does not require parents to guess, in advance,
24 which school programs may burden their faith; it requires the school to provide notice sufficient
25 to allow an informed decision. *Mahmoud v. Taylor*, 606 U.S. 522, 568 (2025).

26 Defendants have not carried their burden to show either that Plaintiffs lack standing or that
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1 this dispute is moot. Plaintiffs suffered completed constitutional injuries, seek damages for those
2 injuries, and remain subject to the District's authority. The challenged practice has not been
3 repealed, replaced, or repudiated; the Student Handbook still describes assemblies in mandatory
4 terms. Defendants' only proposed change—a calendar identifying when assemblies occur—does
5 not provide content-specific notice, a meaningful opt-out, or any assurance that staff will honor
6 religious objections.

7 **III. The District Fails to Address Plaintiffs' *Masterpiece* Religious Animus Argument.**

8 Defendants try to reduce the requested relief to merely the right to be free from mandatory
9 assemblies in conflict with Plaintiffs' faith and to distribute religious tracts. But J.H. seeks
10 something more fundamental: a right to be free from religious animus and targeting because of her
11 religious expression under *Masterpiece Cakeshop v. Colorado Civil Rights Comm'n*, 584 U.S. 617
12 (2018). Three times, Defendants have engaged in express religious animus against J.H. for her
13 religious expression. Three times, Plaintiffs have acted to defend their rights—only to be rebuffed
14 by Defendants.

15 Defendants ignore the broader pattern of religious hostility Plaintiffs have identified.
16 Plaintiffs do not seek merely a renewed assurance that J.H. may pass out Christian materials. They
17 seek relief from the District's recurring practice of treating J.H.'s religious expression as uniquely
18 suspect, burdensome, or disruptive because it is religious. That pattern began when District
19 officials searched J.H.'s backpack and confiscated religious material after objections to her
20 Christian message. It continued when McEwen pulled J.H. from class and told her she could not
21 distribute religious tracts, while distinguishing permissible secular "opinions" from impermissible
22 religious beliefs. And it culminated in the Inclusion Assembly, where staff concealed J.H.'s
23 religious objection, failed to notify her father, and returned her to content she had expressly
24 identified as conflicting with her faith. The requested injunction targets that unconstitutional
25 discrimination: official hostility toward her religious viewpoint and unequal treatment of religious
26 expression.

1 The District's shifting explanations for the tract incident support Plaintiffs' theory: in its
2 pre-suit letter, the District said McEwen spoke with J.H. only to confirm that distribution during
3 class was not permitted, but McEwen now claims she pulled J.H. from class because another
4 student complained that J.H. had forced her to take a tract. That inconsistency supports the
5 reasonable inference that Defendants' asserted justifications are *post hoc* rationalizations for
6 unequal treatment of religious speech.

7 The District's after-the-fact assurance that tract distribution is supposedly permitted also
8 does not repudiate what happened, does not withdraw McEwen's contrary instruction, and does
9 not address the discriminatory premise Plaintiffs challenge: that J.H.'s religious expression
10 repeatedly triggered official intervention because it was religious, while comparable secular
11 expression was tolerated or encouraged.

12 The Christian club statement reinforces the same point. As discussed above, McEwen
13 expressly contradicted the requirements of District Policy 2153. McEwen Declaration, ECF 18, ¶
14 7. Such conduct subjects J.H.'s religious activity to restrictions, scrutiny, and prerequisites not
15 found in the written rules. That is precisely the kind of unequal treatment and official religious
16 disfavor that *Masterpiece* forbids.

17 Nor does Plaintiffs' *Masterpiece* theory hinge on resolving Defendants' preferred factual
18 disputes. The undisputed record still shows that District officials repeatedly intervened when J.H.'s
19 expression was religious, that the District's own correspondence acknowledged religious tract
20 distribution and later offered shifting explanations for McEwen's intervention, that McEwen
21 imposed an advisor requirement for a Christian club not found in the policy she invoked, and that
22 staff knew J.H. objected to the Inclusion Assembly's content on grounds of belief, yet no one
23 notified her father to allow for a religious accommodation.

24 **IV. *Mahmoud* Requires Advance Notice Adequate to Support an Informed Opt-Out.**

25 The core requirements of *Mahmoud* are twofold: first, parents possess the right to "have
26 their children opt out of a particular educational requirement that burdens their well-established
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1 right ‘to direct the religious upbringing of their children.’” *Mahmoud*, 606 U.S. at 568 (citation
2 omitted). Second, they possess the right to meaningful “notice when the books are going to be
3 used.” *Id.* at 530. It is that twofold right—to opt out of material that conflicts with fundamental
4 religious belief *and* to have notice of such materials—that Plaintiff Jonathan H. seeks to enforce.
5 Truly sufficient notice is “reasonably calculated, under all the circumstances, to apprise interested
6 parties” and provide “an opportunity to present their objections.” *Mullane v. Cent. Hanover Bank*
7 *& Trust Co.*, 339 U.S. 306, 314 (1950).

8 Defendants cannot satisfy *Mahmoud* by saying, after the fact, that students supposedly may
9 avoid assemblies if they somehow know to ask. Plaintiffs need an injunction because there is
10 currently no binding rule requiring the District to let J.H. opt out of future assemblies that include
11 LGBTQIA+ content or other content conflicting with the H. family’s religious beliefs, and no
12 binding rule requiring the District to tell Jonathan H. in advance that such content will be presented.
13 The right to opt out and the right to notice rise and fall together: without content-specific notice,
14 the parent cannot make an informed religious decision; without a guaranteed opt-out, the notice is
15 functionally useless. That problem is especially acute here because the District was already on
16 notice of the H. family’s objections. At North Hill Elementary, the family had previously opted
17 J.H. out of LGBT-related programming after receiving notice of the content. Jonathan H.
18 Declaration, ECF 14-2, ¶¶ 12–15. The District’s change of course closely parallels a similar change
19 of course in *Mahmoud*. *Mahmoud*, 606 U.S. at 538. Having previously provided the very notice
20 necessary for the family to exercise its rights, Defendants were required to do the same before the
21 Inclusion Assembly and must be required to do so going forward.

22 Defendants’ contrary assertion only highlights the defect in their position. They argue that
23 “[a]t no point prior to the Inclusion Assembly did J.H. or her family inform Sylvester that they had
24 religious beliefs that they believed conflicted with any material the school presented or may
25 present.” Resp. Br. at 8. But the District already knew of the H. family’s religious objections from
26 prior opt-outs at North Hill, Jonathan H. Declaration, ECF 14-2, ¶¶ 12–15. Defendants’ premise

1 would invert *Mahmoud*. Parents cannot be required to object in advance to *undisclosed* content.
2 The reason notice is constitutionally necessary is precisely so parents can know when religiously
3 objectionable material will be presented and decide whether to opt out. Even accepting
4 Defendants' framing, Edwards admits that once J.H. was finally exposed to the content, J.H. told
5 her that she "does not believe in it." Edwards Declaration, ECF 19, ¶ 9. The District had prior
6 institutional notice and actual notice in the moment; what it never gave was constitutionally
7 required notice to Jonathan H. and a meaningful opt-out before the burden occurred.

8 Defendants concede that "the key issue in *Mahmoud* was that the parents did not have the
9 option to opt their students out of the material in question." Resp. Br. at 15. It is the same here.
10 Jonathan H. received neither notice of the assembly nor any opportunity to opt his daughter out of
11 its content. That failure to provide notice and an opt-out violates the First Amendment, *regardless*
12 *of the factual dispute over what was said to J.H. in the moment.*

13 Defendants' concession should end the merits inquiry at this stage. They acknowledge that
14 the decisive issue in *Mahmoud* was the absence of a parental opt-out from religiously objectionable
15 material, and Jonathan H. indisputably received no advance notice or opt-out opportunity here.
16 Defendants may contest precisely what was said to J.H. in the hallway and whether she was told
17 she could return to the assembly. But none of those factual disputes creates a dispute over the
18 constitutional failure that preceded it: Jonathan H. was never told that the Inclusion Assembly
19 would include LGBTQIA+ content, was never given advance notice sufficient to evaluate that
20 content in light of his family's religious beliefs, and was never afforded an opportunity to have
21 J.H. excused. The First Amendment injury follows from the undisputed denial of the very notice-
22 and-opt-out right *Mahmoud* protects.

23 *Mahmoud* requires a parental right that can be exercised in advance: content-specific notice
24 and a meaningful opportunity to opt out before instruction occurs. Defendants' asserted alternative
25 was never communicated to Jonathan H., never written into the handbook, and never tied to the
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1 content of the Inclusion Assembly. An informal possibility dependent on staff discretion in the
2 moment is not a parental opt-out right.

3 **V. The Remaining Factors Weigh in Favor of a Preliminary Injunction.**

4 Plaintiffs' injury is not limited to one possible future assembly. It is the ongoing harm from
5 Defendants' repeated interference with J.H.'s First Amendment rights and the continuing
6 likelihood that the District will again burden her religious exercise absent a court order. Before the
7 Inclusion Assembly, District officials twice forced J.H. to stop or curtail her religious expression:
8 by searching her bag and confiscating Christian materials, and by pulling her from class and telling
9 her she could not distribute religious tracts. The Inclusion Assembly was the third in a series of
10 First Amendment violations, and Defendants continue to defend each episode as lawful. Plaintiffs
11 face ongoing irreparable harm *now*.

12 The injunction Plaintiffs seek is also narrowly tailored to the pattern and practice the record
13 reveals. Plaintiffs ask only that Defendants stop the specific constitutional violations shown here:
14 failing to provide advance, content-specific notice before presenting material that burdens the H.
15 family's religious exercise; denying Jonathan H. a meaningful opportunity to opt J.H. out;
16 compelling J.H. to remain in or return to such programming after she raises a religious objection;
17 and treating J.H.'s religious expression less favorably than comparable secular expression. In
18 appropriate cases, courts enjoin patterns and practices of discrimination. *Kramer v. 4447 Prop.*,
19 *LLP*, No. 1:25-cv-00797, 2025 LX 504922, at *11 (N.D. Ohio Nov. 19, 2025); *United States v.*
20 *McCarthy*, 761 F. Supp. 3d 328, 343 (D. Mass. 2024). Because the requested injunction is limited
21 to the conduct that injured Plaintiffs and to the procedures necessary to protect their First
22 Amendment rights, it is appropriately narrow.

CONCLUSION

Plaintiffs respectfully request that this Court enter a preliminary injunction.

Dated: August 21, 2026.

Respectfully submitted,

**THE AMERICAN CENTER FOR
LAW AND JUSTICE**

ABIGAIL SOUTHERLAND**

AMERICAN CENTER FOR LAW & JUSTICE

/s/ Nathan J. Moelker

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/s/ Justin D. Park

JUSTIN D. PARK

COUNSEL FOR PLAINTIFFS

**Admitted Pro Hac Vice

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AMERICAN CENTER FOR LAW & JUSTICE

CERTIFICATE OF WORD COUNT

Pursuant to Local Rule 7(e)(6), I certify that this memorandum contains 4,191 words, in compliance with the Local Civil Rules.

Dated: August 21, 2026.

Respectfully submitted,

**THE AMERICAN CENTER FOR
LAW AND JUSTICE**

/s/ Nathan J. Moelker

NATHAN J. MOELKER**