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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO**
10 **CENTRAL DIVISION**

11 STEPHEN SEDLOCK, JENNIFER) Case No.:
12 SEDLOCK, WILLIAM FREDERICK)
13 BENTZ, as guardian ad litem, for minors) **VERIFIED PETITION FOR WRIT OF**
14 J.S. and F.S.,) **MANDAMUS; COMPLAINT FOR**
15) **INJUNCTIVE & DECLARATORY**
16) **RELIEF**
17 Petitioners & Plaintiffs,)
18) **[IMAGED FILE]**
19 v.)
20)
21 TIMOTHY BAIRD,)
22 SUPERINTENDENT, in his official)
23 capacity; EMILY ANDRADE,)
24 TRUSTEE, in her official capacity;)
25 MARLA STRICH, TRUSTEE, in her)
26 official capacity; GREGG SONKEN,)
27 TRUSTEE, in his official capacity;)
28 CAROL SKILJAN, TRUSTEE, in her)
official capacity; and MAUREEN MUIR)
TRUSTEE, in her official capacity,)
Respondents & Defendants.)

1. Petitioners and Plaintiffs Stephen and Jennifer Sedlock, individually, and William Frederick Bentz, as guardian ad litem for minor children J.S. and F.S., apply for an issuance of a writ of mandate under the California Code of Civil Procedure (“CCP”) §1085 to require Respondents and Defendants Timothy Baird (hereinafter “BAIRD”), Emily

1 Andrade, Marla Strich, Gregg Sonken, Carol Skiljan, and Maureen Muir (hereinafter
2 collectively “TRUSTEES”) as Trustees of the Encinitas Unified School District (hereinafter
3 EUSD) to comply with the religious freedom provisions of article I, §4, article XVI, § 5,
4 and article IX, §8 of the California Constitution and comply with the mandatory minimum
5 physical education requirements of California Education Code §51210(g) for public schools.

6 2. Plaintiffs also bring this action for injunctive and declaratory relief pursuant to
7 California Code of Civil Procedure §§525, 526 and 1060 to stop EUSD from using state
8 resources to prefer and endorse Ashtanga yoga, which unlawfully promotes religious
9 beliefs, while disfavoring and discriminating against other religions pursuant to the above
10 referenced constitutional provisions and article I, §7 (equal protection of the law) and
11 California Education Code, §§ 200, 201 & 220 (anti-harassment/discrimination provisions),
12 and allege as follows:
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14 I. INTRODUCTION

15 3. This is a civil rights action seeking relief against the EUSD Superintendent,
16 EUSD Trustees, and the EUSD district itself for depriving Petitioners and Plaintiffs J.S. and
17 F.S. of established California constitutional and statutory rights by approving,
18 implementing, expanding, and refusing to suspend an inherently and pervasively religious
19 Ashtanga Yoga curriculum to replace the majority of EUSD’s physical education program
20 during the 2012-2013 school year. EUSD’s Ashtanga yoga program unlawfully promotes
21 and advances religion, including Hinduism, Buddhism, Taoism, and Western metaphysics¹.
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26 ¹See attached **Exhibit 1**, declaration of Candy Gunther Brown, Ph.D., Harvard University B.A. (1992), Harvard
27 University M.A. (1995), and Harvard University Ph.D. (2000), which is attached hereto and is incorporated
28 herein by reference

1 4. The K P Jois Foundation’s (hereinafter “FOUNDATION”) goal is to spread the
2 “gospel” of religious Ashtanga yoga to school children nationwide and worldwide. The
3 FOUNDATION paid EUSD \$533,000, purchasing access to the district’s young and
4 impressionable (kindergarten through sixth grade) students in all nine EUSD schools in
5 order to conduct a “scientific study” on EUSD’s captive student audience to prove the
6 efficacy of Ashtanga yoga for children and to develop a model Ashtanga yoga curriculum.
7 The FOUNDATION desires to capitalize on the results of this religious experiment,
8 including the EUSD/FOUNDATION Ashtanga yoga curriculum, by promoting Ashtanga
9 yoga to all public schools nationwide.
10

11 5. Petitioners and Plaintiffs J.S. and F.S. attend El Camino Creek Elementary
12 School which is controlled and managed by EUSD. In spite of receiving complaints from
13 Plaintiffs parents, and other similarly situated parents, about the inherently and pervasively
14 religious nature of the EUSD-FOUNDATION Ashtanga Yoga program, and the lack of
15 alternative physical education programs to meet mandatory state P.E. minimum standards,
16 Respondents and Defendants BAIRD and the EUSD TRUSTEES have failed to suspend the
17 Ashtanga yoga program and have failed to offer a physical education program that would
18 meet constitutional and statutory standards. Respondents and Defendants, who had the
19 authority to institute corrective measures, were aware of the significant legal problems with
20 the Ashtanga yoga program, and yet repeatedly and intentionally failed to take appropriate
21 or necessary measures to suspend the unlawful program and stop the resulting religious
22 discrimination and harassment suffered by Petitioners and Plaintiffs and other EUSD
23 parents and students who are similarly situated.
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6. Specifically, this action challenges Respondents’ and Defendants’ custom, practice, and policy of implementing a religiously based government program (in violation of Cal. Const., Art. I, § 4, Art. XVI § 5, Art. IX § 8), and religiously discriminatory (in violation of Art. I § 7 (equal protection) Art. I, § 4 and Cal. Educ. Code, §§ 200, 201 & 220) physical education program which denies Petitioners’ and Plaintiffs’ right to mandatory minimum physical education minutes under state law (in violation of Cal. Ed. Code §51210(g)).

7. At all times relevant to this action, Plaintiffs J.S. and F.S. were adherents of a religious faith other than Hinduism, Buddhism, Taoism, and Western metaphysics attending school in the EUSD district, San Diego County, State of California. As the complaint details, Petitioners and Plaintiffs have been subjected to harassment, discrimination, and segregation based on their religious beliefs as a result of the EUSD Ashtanga yoga program.

8. EUSD controls and operates El Camino Creek Elementary School. A portion of the funding of this school comes from the state and federal governments.

II. JURISDICTION AND VENUE

9. This Court has jurisdiction to grant a writ of mandate on behalf of plaintiffs pursuant to Cal. Civ. Proc. Code §1084.

10. This Court has jurisdiction to grant injunctive relief on behalf of plaintiffs pursuant to Code of Civil Procedure §§ 525 and 526.

11. This Court has jurisdiction to grant declaratory relief on behalf of plaintiffs pursuant to Code of Civil Procedure §1060.

1 staff and facilities, including decisions concerning the budget, staff deployment,
2 programming, staff training, and ensuring that EUSD complies with all applicable
3 constitutional and statutory law, all of which directly affect the expenditure of funds on
4 behalf of students in EUSD schools.

5 16. Respondents and Defendants Emily Andrade, Marla Strich, Gregg Sonken,
6 Carol Skiljan, and Maureen Muir (hereinafter “TRUSTEES”) are, and at all time relevant
7 herein were, members of the board of Trustees of EUSD and are sued herein in that official
8 capacity. As Trustees they are responsible for overseeing the operation of all the EUSD
9 staff and facilities, including decisions concerning the budget, staff deployment,
10 programming, staff training, and ensuring that EUSD complies with all applicable
11 constitutional and statutory law, all of which directly affect the expenditure of funds on
12 behalf of students in EUSD schools.
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14 17. Defendant Encinitas Union School District (hereinafter “EUSD”), is a public
15 school district located in the county of San Diego, in the State of California. EUSD as a
16 public entity is responsible for overseeing the operation of all the staff and facilities,
17 including decisions concerning the budget, staff deployment, programming, staff training,
18 and ensuring that EUSD complies with all applicable constitutional and statutory law
19 including, but not limited to, California Educ. Code, §§ 200, 201 & 220, all of which
20 directly affect the expenditure of funds on behalf of students in the EUSD schools.
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22 18. Respondents and Defendants, and each of them, use tax revenues collected
23 from Petitioners and Plaintiffs Sedlocks and others by the State of California and the County
24 of San Diego to administer, operate, and maintain EUSD facilities including, but not limited
25 to, El Camino Creek Elementary School.
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1 19. The individual Respondents and Defendants were responsible for creating and
2 maintaining an educational environment in compliance with the California constitution and
3 state statutory law and which is safe and free from religious preference, religious
4 discrimination, or religious harassment. The EUSD and other Respondents and Defendants
5 were also responsible for making district policies and/or for implementing disciplinary,
6 harassment, and anti-discrimination laws and policies. Further, the EUSD and other
7 Respondents and Defendants were also responsible for enforcing, and ensuring that their
8 subordinates, agents, and employees enforced such laws and policies by taking prompt
9 remedial action following acts of inappropriate behavior, harassment or discrimination
10 against any students.
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12 20. Plaintiff alleges upon information and belief that each of the Respondents and
13 Defendants failed to make, implement, or enforce, and ensure that their subordinates,
14 agents, and employees enforced the above-described laws and policies or to take necessary
15 and prompt remedial action following reports of religious harassment and/or religious
16 discrimination.
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18 21. Plaintiff alleges upon information and belief that each of the Respondents and
19 Defendants, including other Defendants who are unknown at this time, performed,
20 participated in, aided and/or abetted in some manner the acts averred herein, proximately
21 caused the damages averred below, and is liable to Petitioners and Plaintiff for the damages
22 and other relief sought herein. The true names and official capacities of all Defendants are
23 unknown to the Plaintiff at this time and Plaintiff will seek leave of Court to amend this
24 complaint to show the true names and capacities of these Defendants when they have been
25 ascertained.
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22. Plaintiff alleges upon information and belief that all relevant times, each and every Defendant was the agent or employee of each and every other Defendant, was acting within the course and scope of such agency or employment, and was acting with the consent, permission and authorization of each of the remaining Defendants. All actions of each Defendant were ratified and approved by every other Defendant. Plaintiff further alleges on information and belief that all of the actions alleged in the complaint were taken pursuant to the customs, policies, and practices of EUSD.

IV. STATEMENT OF FACTS

A. The Jois Foundation offers the Encinitas Union School District \$533,000 to promote Ashtanga Yoga and help develop a religious curriculum for Jois.

23. On or about July 24, 2012, a grant proposal (hereinafter “Grant”) was submitted to the EUSD TRUSTEES by Superintendent BAIRD. According to the Grant, a “partnership” would be established between the FOUNDATION and EUSD in which the FOUNDATION would pay EUSD \$533,720 to gain access to all EUSD students and implement a district wide Ashtanga yoga curriculum. The EUSD TRUSTEES, on information and belief, approved the grant in a special meeting. The purpose of the Grant, which was confirmed and incorporated in a Memorandum of Understanding (hereinafter “MOU”) signed by Baird and a Jois representative, was to “deliver a world class mind/body wellness program at all nine Encinitas Elementary schools.” See attached Exhibit 2, a true and correct copy of the Grant and MOU which are incorporated herein by reference.

24. According to the Grant and MOU, the “core foundation of this program will be built around . . . **Ashtanga yoga** . . . including key **yoga life concepts** . . . and weekly **yoga sessions.**” *Id.* emphasis added. The “*comprehensive yoga program* for all students . . . will be taught by **certified yoga instructors**, selected and hired by **District Staff** and

1 *trained by Jois Foundation teachers.”* *Id.* emphasis added. EUSD will “hire a part-time
2 curricular development specialist” to “produce a K-6 curricular guide for health and
3 wellness” and will “[i]n future years expand this work to include a **comprehensive**
4 **guide** that incorporates a garden instructional program, a corresponding science program,
5 and a culinary program that all reinforce the focus of the health curriculum **built around**
6 **core themes found in yoga.”** *Id.* (emphasis added).
7

8 25. The Grant and MOU emphasize that “An important outcome of this project
9 will be that this project is **scalable and transferable to other settings.”** *Id.* (emphasis
10 added). “This final product will include a curriculum guide, units based on yoga themes,
11 sample activities” The outside design specialist will provide expertise in making the
12 project scalable **to other school systems.”** *Id.* (emphasis added).
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14 26. Ashtanga yoga is a very religious form of yoga that promotes and advances
15 religion, including Hinduism, Buddhism, Taoism, and Western metaphysics. *See* attached
16 Exhibit 1, declaration of Candy Gunther Brown, Ph.D., incorporated by reference
17 (hereinafter “Brown decl.”), ¶¶ 9-84. Yoga is based primarily in Hinduisim and the word
18 yoga literally means “yoked,” as in the Hindu religious goal of achieving union with the
19 Divine. *Id.* at ¶ 23. Ashtanga literally means “eight-limbed.” The eight limbs of Ashtanga
20 yoga are: (1) moral codes (Yama), (2) self-purification and study (Niyama), (3) posture
21 (Asana), (4) breath control (Pranayama), (5) withdrawing the mind from the senses
22 (Pratyahara), (6) concentration (Dharana), (7) deep meditation (Dhyana), and (8) absorption
23 into the Universal/Divine (Samadhi). *Id.* Ashtanga yoga, a modern day form of 2,500 year
24 old classical Indian yoga, was brought to the United States and popularized by K. Pattabhi
25 Jois, known to his devotees as Guru-ji. *Id.* at ¶¶ 23-27.
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1 27. After the death of K. Pattabhi Jois in 2009, the FOUNDATION was formed in
2 2011 in California, by a group of individuals including Sonia Tudor Jones, wife of
3 billionaire Paul Tudor Jones². *See* attached Exhibit 3, a true and correct copy of the C-ville
4 article which is incorporated by reference. Sonia Tudor Jones, who is an ardent devotee of
5 Guruji, desires to expand the reach of Ashtanga yoga worldwide. *Id.* On information and
6 belief, the impetus and seed money to form the FOUNDATION was provided by Sonia
7 Tudor Jones.

8
9 **B. John Campbell and the University of Virginia' Contemplative Sciences Center's**
10 **involvement with the FOUNDATION and the EUSD Ashtanga yoga program.**

11 28. Shortly after the formation of the FOUNDATION in late 2011, Sonia's
12 husband, billionaire Paul Tudor Jones, donated 12 million dollars to his alma mater the
13 University of Virginia in April of 2012 to form the Contemplative Sciences Center
14 (hereinafter "CSC") *See* Exhibit 3. A purpose of UVA's CSC is to promote Ashtanga yoga
15 and mindfulness meditation, rather than merely conduct scientific studies (promotional
16 materials indicate that the CSC will study the EUSD program). *Id.*

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18 29. The CSC's director, John Campbell, is a certified Ashtanga yoga instructor
19 who studied with Pattabhi Jois and previously established an Ashtanga yoga program for
20 Jones. *See* Exhibit 3. According to Campbell, the CSC approaches yoga and meditation
21 with a "scientific" program, but "**that's not to say that somehow you can avoid or strip**
22 **away elements that in other contexts you would call religious.**" *Id.* John Shorling,
23 director of UVA's Mindfulness Center (modeled on Jon Kabat-Zinn's Center for
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26 ²Jayson Whitehead, "Yoga U: Is the Contemplative Sciences Center the Answer to UVA's 'Reputation Gap,' or
27 an Expensive New Age Sideshow?" *C-Ville* (September 5, 2012), www.c-ville.com/yoga-u-is-the-contemplative-sciences-center-the-answer-to-uvas-reputation-gap-or-an-expensive-new-age-sideshow/#.UHNw0VFdATB
28 (accessed 1/22/13).

1 Mindfulness), acknowledges that like meditation, yoga “has been practiced for thousands of
2 years in different religious traditions,” and “at their highest forms if you really want to go
3 deeply into them **it’s difficult to do them without practicing in a religious tradition.**”*Id.*
4 According to a FOUNDATION spokesman, Jois’ EUSD Ashtanga yoga curriculum, which
5 on information and belief is being developed by the FOUNDATION along with UVA’s
6 Campbell, is the subject of an “alpha test” on EUSD students in district schools.³

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8 30. UVA’s CSC, along with the University of San Diego (USD) locally, is part of
9 the research component of the EUSD Ashtanga yoga program. On information and belief,
10 this “study” of the purported benefits of Ashtanga yoga is also being paid for by the Jois
11 Foundation⁴. The study includes gathering bio-metric data from EUSD students to
12 determine whether Ashtanga yoga provides physical, mental, and emotional benefits to
13 public school children.

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15 **C. Ashtanga yoga replaces physical education in half of EUSD Schools in the Fall of 2012.**

16 31. Starting in September 2012, EUSD replaced approximately 60 minutes of the
17 100 minutes of weekly physical education in approximately one half of the district schools
18 with a religious Ashtanga Yoga curriculum. After parents started complaining, EUSD
19 permitted parents and children who had objections to Hindu religious beliefs and practices
20 to “opt-out” the children from the approximately 60 minutes of Ashtanga yoga per week.
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25 ³“Does Yoga have a Place in Public Schools?” AirTalk (December 17, 2012),
www.scpr.org/programs/airtalk/2012/12/17/29724/does-yoga-have-a-place-in-public-schools/ (accessed
1/30/13).

26 ⁴ While failing to mention the University of Virginia (or the Contemplative Sciences Center) and University of
27 San Diego by name, EUSD’s FAQ admits: “The Jois Foundation is supporting a rigorous research study by
28 these two world-class universities to research the health and wellness as well as the educational benefits of
yoga.”

1 32. Parents who observed EUSD yoga classes, and/or whose children participated
2 in these classes, attest to the inclusion and endorsement of religious elements including, but
3 not limited to:

- 4 • Depictions of the **Ashtanga** “eight limbed tree⁵” displayed on EUSD classroom walls
5 with the names of the eight limbs, which include explicitly religious goals for Hindus.
6 See Brown decl., ¶ 43 (emphasis added).
- 7 • Children were taught by a EUSD employed yoga teacher to put their hands in a
8 “praying hands” position and say “**Namaste**” to each other. Namaste” is often
9 translated as “I bow to the god within you” and represents the idea that there is
10 divinity in everyone⁶. See Brown decl., ¶ 45 (emphasis added).
- 11 • The children were instructed in a EUSD school to bow and say to each other “**I see the**
12 **light in you.**” Next, they were instructed to gesture to themselves and say “I see the
13 light in me.” Finally, they got in a circle and said “This light in all of us makes us
14 one.⁷” See Brown decl., ¶ 45 (emphasis added).
- 15 • The **Sun Salutation** (*Surya Namaskara*), which is a sequence of worshipful poses to
16 the Hindu solar deity Surya, is being taught to the children by EUSD employed
17 Ashtanga yoga teachers. See Brown Decl., ¶¶ 27, 44 (emphasis added).
- 18 • The **Warrior pose** (*Virabhadrasana*) was taught to children by EUSD employed
19 Ashtanga yoga teachers with a discussion of how this asana represents a Hindu god
20 (*Shiva*) slicing off someone’s head (*Daksha*) and replacing it with the head of a goat.
21 See Brown Decl., ¶ 44 (emphasis added).

25 ⁵One parents copied down the content of the poster as: “1. Yama—moral codes, 2. Niyama—self purification, 3.
26 Asana—posture, 4. Pranayama—breath control, 5. Pratyahara—sense control, 6. Dharana—concentration, 7.
Dhyana—meditation, 8. Samadhi—absorption into the universal—explicitly religious goals important for many
Hindus. See attached Declaration of Candice Brown, Ph.D., ¶ 43.

27 ⁶ This occurred in the 2011-2012 school year in a EUSD pilot yoga program.

28 ⁷ This occurred in the 2011-2012 school year in a EUSD pilot yoga program.

- 1 • The **Lotus** position, which is often used in Hindu, Buddhist, and Jain meditation, has
2 been taught children by EUSD yoga instructors. *See* Brown Decl., ¶ 44 (emphasis
3 added).
- 4 • Children were instructed by a EUSD employed Ashtanga yoga teacher to draw
5 **mandalas**, which are circular pictures considered sacred in Hindu and Buddhist
6 traditions⁸. *See* Brown Decl., ¶ 47 (emphasis added).
- 7 • The Ashtanga-influenced curriculum is being taught in **other EUSD courses**—not
8 only in PE class. *See* Brown Decl., ¶ 48 (emphasis added).

9 **D. The EUSD curriculum confirms the religious nature of the Ashtanga yoga program.**

10 33. The EUSD Ashtanga Yoga curriculum “K-1 On the Mat Study Guide,” which was
11 posted on EUSD’s website in November 2012, confirms and underscores the inherently
12 religious nature of the program. The EUSD Ashtanga yoga curriculum which is being
13 developed by the FOUNDATION to be able to package and sell to other school districts
14 promotes and endorses the following religious elements:
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- 16 • The EUSD curriculum teaches Ashtanga religious concepts of **yama** and
17 **niyama**. The curriculum includes not just physical but also religious goals.
18 For example, that students will “connect more deeply with their *inner selves*”
19 and **bring the “inner spirit of each child to the surface.”** The curriculum
20 teaches “key yoga life concepts.” The first session begins with the “character
21 connection”: “How do my actions affect myself and others?” (followed by the
22 question: “How can I show value for myself and those around me?)—allusions
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26 ⁸While drawing the mandalas, the children, including Plaintiff and Petitioner FS, were taught that **life is “cyclical**
27 **and every circle is unending, every circle has a center and humans too must find their center in their inner**
28 **elves,”** and the mandalas **helped to reach the “center of ourselves”**—language that alludes to religious
concepts, for instance *samsara*—the endless cycles of life, death, and rebirth or reincarnation. *See* Brown decl., ¶
47 (emphasis added).

- 1 to branches one and two of Ashtanga, *yama* and *niyama*⁹. See Brown decl., ¶
- 2 33 (emphasis added).
- 3 • The EUSD curriculum teaches children to **play act as yogis**¹⁰ (Hindu religious
- 4 specialists). See Brown decl., ¶ 36 (emphasis added).
- 5 • The EUSD curriculum teaches the **Sun Salutation**—which represents worship
- 6 of the Hindu solar deity¹¹. See Brown decl., ¶ 37 (emphasis added).
- 7 • The EUSD curriculum includes “**lotus**” and “**resting**” poses, which embody
- 8 religious symbolism¹². See Brown decl., ¶ 38 (emphasis added).
- 9 • EUSD yoga includes Hindu **pranayama**¹³ breathing—to prepare for **samadhi**
- 10 (absorption/uniting with Universal/Divine). See Brown decl., ¶ 39 (emphasis
- 11 added).
- 12 • The EUSD yoga includes Hindu **pratyahara**¹⁴ focused gaze, etc.—to prepare
- 13 for **Samadhi** (absorption/uniting with Universal/Divine). See Brown Decl., ¶
- 14 40.

16 ⁹An article “About Ashtanga” linked from the Ashtanga.com website—“the site of the Ashtanga community”—

17 defines these key yoga life concepts. The concepts of “yama and niyama - how I treat others and myself” include

18 conserving “our vital energies,” “purification,” study of “scriptural texts,” and “devotion or surrender to the

19 higher or creative force” (i.e., religious goals in Hindu traditions). See Brown decl., ¶ 33.

18 ¹⁰The curriculum specifies that children play a game of “Yogi Says.” Historically, yogis are Hindu religious

19 specialists who practiced asanas and pranayama for religious reasons. See Brown decl., ¶ 36.

19 ¹¹The curriculum specifies that children learn the “actual names of the poses” in “Opening Sequence A” (aka

20 *Surya Namaskara* or Sun Salutation), a series of poses that represents worship of the solar deity Surya. In the

21 curricular description of the “Mountain Pose,” students are instructed to “reach their arms way up high towards

22 the sun.” See Brown decl., ¶ 37.

21 ¹²The curriculum specifies that every session should end with a series of three “Lotus” positions that “symbolize”

22 calm and “quiet the mind” and a final “resting pose [aka *Savasana* or “corpse” pose]” that allows the body time

23 to “understand the new information it has received through practicing yoga.” The lotus flower is a sacred symbol

24 of purity and enlightenment for many Hindus, Buddhists, and Jains; the lotus position is commonly used in

25 religious meditation. The corpse pose is sometimes explained as a way to “symbolically ‘die’ to our old ways of

26 thinking and doing” to “enter a state of blissful neutrality” that foreshadows final liberation from the cycle of life

27 and death. See Brown decl., ¶ 38.

24 ¹³The curriculum specifies that children learn “focusing on their breath,” “connecting breath with movement,”

25 and “connecting breath with sound,” because it creates a “means for rejuvenation and vitality,” and “once

26 students begin to gain control of their breath, they can begin to relate it into their daily lives.” The terms

27 rejuvenation and vitality invoke concepts of vital energy (*prana*), and the goal of connecting to “daily lives”

28 expresses the ideal that *pranayama* leads practitioners toward the remaining Ashtanga branches—ultimately

29 samadhi, uniting with the Universal. See Brown decl., ¶ 39.

27 ¹⁴The curriculum includes a guided meditation script that instructs students to “let go of the thoughts in your

28 mind.” The curriculum promises that “beyond the physical benefits” of the poses, the “repetitive nature” of the

- 1 • The EUSD curriculum includes Buddhist **mindfulness** meditation¹⁵. See
2 Brown decl., ¶ 41.

3 **E. The practice of the “physical” Ashtanga yoga positions (asanas), even if stripped**
4 **of spiritual language and instruction, promotes Hinduism.**

5 34. Sri K. Pattabhi Jois and his son Manju Jois both have said that what BAIRD and the
6 TRUSTEE say are the purportedly purely “physical” practice of the physical yoga postures
7 (asanas) leads to union with the Divine, whether or not the practitioner wants or intends that
8 result. See Brown decl. ¶¶ 57, 58, 59. Jois himself said: **“The reason we do yoga is to**
9 **become one with God** and to realize Him in our hearts. You can lecture, you can talk about
10 God, but when you practice correctly, you come to experience God inside. **Some people start**
11 **yoga and don’t even know of Him, don’t even want to know of Him. But for anyone who**
12 **practices yoga correctly, the love of God will develop.** And, after some time, a greater love
13 for God will be theirs, **whether they want it or not.”** See Brown Decl. ¶ 58 (emphasis added).
14 Manju echoes his father’s teaching when he declares that when teaching “Western students,”
15 his father did not discuss the “spiritual aspect” of yoga because **“Hinduism is very, very**
16 **hard to understand.”** That is why **“the yoga asanas are important - you just do.** Don’t
17 talk about the philosophy – **99% practice and 1% philosophy** that’s what he meant. You just
18 keep doing it, keep doing it, **keep doing it then slowly it will start opening up inside of**
19 **you,”** to **“automatically . . . draw you into the spiritual path.** See Brown decl. ¶ 59
20 (emphasis added).

21 35. There is empirical evidence to support the Jois’ belief that mere “physical” yoga
22 (asanas) leads to personal religious transformation. In fact, even “secularized” yoga promotes

24 sequence and “focused gaze” “helps to focus the mind,” control the “wandering tendency of the mind,” and
25 achieve a “more balanced state of mind.” This language alludes to religious ideas developed in Ashtanga
26 literature (e.g. *pratyahara* or withdrawal of the mind from the senses prepares one to unite with the Universal in
27 samadhi). See Brown decl., ¶ 40.

26 ¹⁵The *GLPD Gazette* describes the EUSD yoga program as teaching a “mindful approach to health through yoga,
27 meditation” in order to “balance the body.”¹⁵ The terms “mindfulness” and “balance” allude to religious concepts
28 important in Buddhism, Taoism, and Hinduism. See Brown decl., ¶ 41 (citing to the *GLPD Gazette*(September
2012), 1).

1 Hinduism and related religions, in that participants in “secularized” yoga often do come to
2 embrace religious yoga. *See* Brown decl. ¶¶ 79, 80, 81, 82, 83, 84. Religion scholars Sabine
3 Henrichsen-Schrembs and Peter Versteeg have noticed that regardless of why people begin
4 doing yoga, “a shift seems to take place,” leading people to “a whole new spiritual awareness
5 and totally identifying with the yoga philosophy.” *Id.* at ¶ 83.

6 **E. Students and Families who Opt Out of Ashtanga Yoga are Ignored, Harassed, and**
7 **bullied.**

8 36. Students who have opted out of the EUSD Ashtanga yoga sessions have not been
9 provided with any physical education alternative. Rather, EUSD students who opt out were
10 placed in other non physical education classes or asked to engage in non physical education
11 independent study. Several parents of EUSD students who opted out had to come to school to
12 supervise their children or take them off campus during the Ashtanga yoga classes.

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14 37. As a result, the Ashtanga yoga program has become very divisive in the EUSD
15 community. Several children who opted out of the EUSD program have been teased,
16 harassed, and bullied by children who participate in the Ashtanga yoga classes. Some
17 children were even told that they and their parents were “stupid” for believing that the
18 Ashtanga yoga program was religious and for deciding to opt out of the program.

19
20 **F. EUSD Trustees and Superintendent BAIRD are Notified of religious and practical**
21 **objections by concerned parents, but fail to act.**

22 38. During EUSD Trustee meetings in October, November and December of 2012, parents
23 of EUSD students, including Petitioner and Plaintiff Jennifer Sedlock, raised specific concerns
24 with the BAIRD and the TRUSTEES about the EUSD Ashtanga yoga program, including:

- 25 • Ashtanga yoga is based in Hindu religious beliefs and practices.
- 26 • Ashtanga yoga’s religious beliefs and practices conflict with religious
27 instruction their children are receiving at home and at church.

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- The Ashtanga yoga program is divisive.
- Children and families who opt out of Ashtanga yoga are feeling like outsiders.
- The EUSD of Ashtanga yoga program violates the state constitution, the U.S. constitution, and state statutory law.
- The program violates the separation of state and religion.

39. In addition, other non-religious related concerns regarding the Ashtanga yoga program were also raised to the Trustees and Baird including, but not limited to:

- The substitution of a less physically vigorous Ashtanga program for a more vigorous classical physical education program is improper. Several parents complain that their children are not getting enough exercise.
- The complete lack of physical education alternatives for children who opt out of the religiously based Ashtanga yoga program for 60 minutes per week.
- The fact that children who opt out of the Ashtanga yoga program are not getting the mandatory 200 minutes of physical education every two weeks (100 minutes per week).
- The lack of informed consent of parents to their children’s participation in the FOUNDATION’s Ashtanga Yoga study.
- The validity of the “study” of the Ashtanga program being completed by the UVA’s CSC because of the obvious financial and religious conflicts of interest involved.

40. Plaintiff and Petitioner Jennifer Sedlock personally addressed the board of trustees at two separate meetings in October and December and also sent the board of Trustees a letter expressing some of her concerns on December 3, 2012. In her oral and written communications with the board, she addressed the following concerns:

- 1 • The EUSD Ashtanga program is inherently religious.
- 2 • Ashtanga yoga conflicts with the Christian religious beliefs and practices she and
- 3 her husband are inculcating in her children at home, namely Plaintiffs and
- 4 petitioners J.S. and F.S.
- 5 • Ashtanga yoga crosses legal lines by promoting religious beliefs and practices.
- 6 • Her children J.S. and F.S. were opting out of the program.
- 7 • As a result of the EUSD Ashtanga yoga program, J.S. and F.S. will miss state
- 8 mandated physical education minutes.
- 9 • The district is not offering any alternative P.E. program that would allow J.S. and
- 10 F.S. to obtain those missing mandatory minutes.
- 11 • The EUSD district should suspend the religiously divisive Ashtanga yoga program.
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14 **G. Defendants Claim the Ashtanga Yoga Program is not Religious.**

15 41. In November of 2012, in response to growing public outcry, EUSD issued a FAQ. In
16 the FAQ the district admits receiving “a generous \$533,000 grant from the Jois Foundation”
17 requiring that Ashtanga¹⁶ yoga be taught in all 9 district schools by yoga instructors “certified
18 by Jois.” *See* attached Exhibit 4, EUSD’s Frequently Asked Questions which is incorporated
19 herein by reference. The district also admits that the grant requires EUSD to “develop an
20 integrated wellness program that includes components of physical fitness, *wellness*, and *life*
21 *skills*” (emphasis added). *Id.* The FAQ asserts that the district “is in charge of all aspects of
22 the program” including “writing the curriculum” and “training the teachers.” *Id.*

24 42. In the face of the overwhelming evidence to the contrary, Respondent and Defendant
25 BAIRD asserts that EUSD’s Ashtanga yoga program is not “religious,” or that religion has
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27 _____
28 ¹⁶ The term “Ashtanga” is noticeably absent from EUSD’s FAQ; only the term yoga is used.

1 been stripped¹⁷ from the program. *Id.* The EUSD FAQ states that the program includes “no
2 religious instruction” and that “there is no discussion of spiritualism, mysticism or religion in
3 any context” claiming that the children only perform the “physical components of movement
4 and breathing related to mainstream yoga.” *Id.*

5 43. Initially at the October EUSD meeting, the TRUSTEES expressed concern about the
6 religious aspects of the Ashtanga yoga program conveyed by the parents and the lack of any
7 physical education alternative for students who opt out. Concerned parents continued to
8 address the board of directors in November and December of 2012. In between these
9 meetings, many letters and emails were sent to BAIRD and the TRUSTEES complaining
10 about the inherently religious and divisive nature of Ashtanga yoga.
11

12 44. However, the EUSD TRUSTEES have never placed the Ashtanga yoga program as an
13 agenda item to vote on whether to remove this inherently and pervasively religious and
14 therefore divisive program from EUSD. Furthermore, no meaningful PE alternative was
15 developed or offered to children who opt out of the Ashtanga Yoga program including, but
16 not limited to Plaintiff and Petitioners J.S. and F.S.
17

18 45. Therefore, the EUSD inherently and pervasively religious Ashtanga yoga program was
19 expanded in all EUSD schools beginning in January 2013, including Plaintiff and Petitioners
20 J.S. and F.S. school, El Camino Creek Elementary School. Both J.S. and F.S. have opted out
21 of the Ashtanga yoga program, have not been offered alternative physical education courses,
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24

25 ¹⁷EUSD’s FAQ claims that: “The District has made many changes to the yoga program to make it more “kid
26 friendly” and to address some of the concerns voiced by a few of our parents. All cultural references in our yoga
27 program have been removed. We do not teach students Sanskrit phrases and all of the yoga poses have been
28 renamed into easy to remember words such as, “Gorilla,” or “Mountain.” Although the poses themselves are the
same physically demanding poses used in adult yoga, students have an easier time remembering our terminology.

1 and are therefore not receiving the minimum amount of physical education required by state
2 law.

3 **FIRST CAUSE OF ACTION**
4 **WRIT OF MANDATE**
5 **(Religious Freedom, California Constitution, Art. I, § 4, Art. XVI § 5, and Art. IX, § 8.**
6 **Against Respondents and Defendants TRUSTEES and BAIRD)**

7 46. Petitioners and Plaintiffs reallege and incorporate by reference herein all of the
8 allegations contained in paragraphs 1 through 45, inclusive, as though they were fully set forth
9 herein.

10 47. Petitioners and Plaintiffs Stephen Sedlock and Jennifer Sedlock are beneficially
11 interested as taxpayers in ensuring that Respondents and Defendants TRUSTEES and
12 BAIRD, and each of them, fully comply with the laws of the State of California including
13 provisions of the California Constitution. Petitioners are also beneficially interested in that
14 two of their children, Petitioners and Plaintiffs F.S. and J.S. are students in a EUSD School.
15 Petitioners and Plaintiffs J.S. and F.S., by and through their guardian litem William Frederick
16 Bentz, Ph.D., are beneficially interested as EUSD students. The object of seeking mandamus
17 is to procure the enforcement of Respondents' public duty. As such, Petitioners are interested
18 in having the laws in question enforced. Absent relief from this Court, the EUSD TRUSTEES
19 and BAIRD will continue to impair or defeat the purpose of state legal provisions protecting
20 against the state preference of religion or discrimination against religion, including in the use
21 of state funds and other resources, pursuant to California Constitution Art. I § 4, Art. XVI § 5,
22 and Art. IX, § 8.

23
24 48. Defendants TRUSTEES and BAIRD have expended tax moneys and threaten to and
25 will continue to expend tax moneys as alleged herein in violation of state laws, including but
26 not limited to the following:
27

1 49. **No Religious Preference or Discrimination:** The California Constitution’s No
2 Preference Clause reads: “Free exercise and enjoyment of religion without discrimination or
3 preference are guaranteed.” Art. I § 4.

4 50. EUSD’s Ashtanga yoga program violates Article I, § 4 by imposing an illegal
5 government preference for Ashtanga yoga which promotes and advances religion, including
6 Hinduism, Buddhism, Taoism, and Western metaphysics, as well as imposing illegal
7 government discrimination against the religious free exercise and enjoyment of Petitioners
8 and Plaintiffs J.S. and F.S. and others, including the right to not believe or practice religion.
9

10 51. **No State Resources for Religion:** The California Constitution also provides, in
11 pertinent part, that the government may not “make an appropriation, or pay from any public
12 fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian
13 purpose....” Art. XVI § 5.

14 52. EUSD’s Ashtanga yoga program also violates Art. XVI § 5 by paying from public
15 funds, or granting resources, or aiding religious sects or sectarian purposes, specifically
16 Hinduism, Buddhism, Taoism, and Western metaphysics, in violation of Petitioners and
17 Plaintiffs J.S. and F.S. and other’s constitutional rights.
18

19 53. **No Religious Instruction in Public Schools:** The California Constitution’s Art. IX, §
20 8 reads: “No public money shall ever be appropriated for the support of any sectarian or
21 denominational school, or any school not under the exclusive control of the officers of the
22 public schools; nor shall any sectarian or denominational doctrine be taught, or instruction
23 thereon be permitted, directly or indirectly, in any of the common schools of this State.”
24

25 54. EUSD’s Ashtanga yoga program violates Art. IX, § 8 by directly or indirectly
26 instructing California public school children, including Petitioners and Plaintiffs J.S. and F.S.
27

1 and others similarly situated, in religious beliefs and practices, including Hinduism,
2 Buddhism, Taoism, and Western metaphysics.

3 55. Respondents, Defendants, and each of them, have utilized or permitted the utilization
4 of EUSD schools, offices, classrooms, employees, instructional time, and other resources to
5 implement the Ashtanga yoga program in violation of Art. I, § 4, Art. XVI, § 5, and Art. IX, §
6 8 of the California Constitution.

7
8 56. Petitioners and other similarly situated parents have repeatedly brought to the attention
9 of respondents' BAIRD and the EUSD TRUSTEES that the EUSD Ashtanga program is in
10 violation of the above state constitutional provisions involving religious freedom and have
11 asked the TRUSTEES and BAIRD to comply with these constitutional provisions mandating
12 no state preference or discrimination against religion, but to no avail.

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14 57. Defendants have refused, and continue to refuse, to comply with Petitioners and other
15 similarly situated parents requests in violation of Art. I § 4, Art. XVI § 5 and Art. IX, § 8 of
16 the California Constitution. In spite of their knowledge of the religious nature of the
17 Ashtanga yoga program for more than three months, Superintendent BAIRD and the
18 TRUSTEES have failed to take any action to ensure that EUSD schools comply with the
19 California Constitution by suspending the Ashtanga yoga program and restoring to the district
20 a non-religiously based physical education program.

21
22 58. Petitioners and Plaintiffs allege therefore that there is no available administrative
23 remedy. Plaintiffs and others similarly situated have pursued any available remedy to no
24 avail, or that resort to the administrative remedy would be futile under the circumstances,
25 where Petitioners and others similarly situation alleged that they repeatedly asked BAIRD and
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1 the TRUSTEES to comply with the state law and EUSD has provided no specifics as to the
2 purported grievance procedures that are available to Plaintiffs, if any.

3 59. Respondents and Defendants, as the Superintendent and Trustees of EUSD have the
4 ability to comply with Petitioners' request.

5 60. Petitioners seek the issuance of Writ of Mandamus, compelling the Respondents to
6 comply with Art. I § 4, Art. XVI § 5, and Art. IX, § 8 of the California Constitution and
7 immediately suspend the Ashtanga yoga programs and restore a non-religious physical
8 education program to the district.

10 61. The issuance of the writ is indispensable to the enforcement of the Petitioners right in
11 that Petitioners have no plain, speedy, or adequate remedy in the ordinary course of law
12 whereby their rights can be upheld or whereby Respondents can be compelled to comply with
13 Art. I § 4, Art. XVI § 5, and Art. IX, § 8 of the California Constitution. If the relief sought by
14 this Petition is not granted, great and irreparable injury will be caused to Petitioners and others
15 similarly situated.

17 **SECOND CAUSE OF ACTION**
18 **WRIT OF MANDAMUS**
19 **(Minimum Physical Education Requirements, California Educ. Code, §51210(g),**
20 **Respondents and Defendants TRUSTEES and BAIRD)**

21 62. Petitioners and Plaintiffs reallege and incorporate by reference herein all of the
22 allegations contained in paragraphs 1 through 61, inclusive, as though they were fully set forth
23 herein.

24 63. Petitioners and Plaintiffs Stephen Sedlock and Jennifer Sedlock are beneficially
25 interested as taxpayers in ensuring that Respondents and Defendants TRUSTEES and
26 BAIRD, and each of them, fully comply with the laws of the State of California. Petitioners
27 are also beneficially interested in that two of their children, Petitioners and Plaintiffs F.S. and
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1 J.S. are attending students in a EUSD school. Petitioners and Plaintiffs J.S. and F.S., by and
2 through their guardian litem William Frederick Bentz, Ph.D., are beneficially interested as
3 EUSD students. The object of seeking mandamus is to procure the enforcement of
4 Respondents' public duty. As such, Petitioners are interested in having the laws in question
5 enforced. Absent relief from this Court, the EUSD TRUSTEES and BAIRD will continue to
6 impair or defeat the purpose of the mandatory minimum physical education requirements
7 embodied in §51210(g) of the California Education Code.
8

9 64. Defendants TRUSTEES and BAIRD have expended tax moneys and threatens to and
10 will continue to expend tax moneys as alleged herein in violation of state law, including but
11 not limited to the following:

12 65. California Education Code §51210 provides, in relevant part, "The adopted course of
13 study for grades 1 to 6, inclusive, **shall include instruction**, beginning in grade 1 and
14 continuing through grade 6, in the following areas of study: . . . (g) **Physical education**, with
15 emphasis upon the physical activities for the pupils that may be conducive to health and vigor
16 of body and mind, for a total period of time of **not less than 200 minutes each 10**
17 **schooldays**, exclusive of recesses and the lunch period (emphasis added)."
18

19 66. EUSD students including, but not limited to, Plaintiffs and Petitioners children FS and
20 J.S., who opt out of Ashtanga yoga for legitimate religious reasons are not provided with any
21 alternative non-religious physical education course. Therefore, EUSD schools are knowingly
22 failing to offer and students are not receiving the mandatory 200 minutes of physical
23 education. Specifically, Petitioner and Plaintiffs children and others similarly situated EUSD
24 students have a weekly physical education deficit of approximately 60 minutes (out of 120)
25 and an approximately 120 minute deficit every two weeks (out of 200).
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1 67. Petitioners and other similarly situated parents have repeatedly brought to the attention
2 of respondents' BAIRD and the EUSD TRUSTEES that EUSD students who opt out of the
3 Ashtanga yoga program are being provided less than 200 minutes of physical education each
4 10 school days, exclusive of recesses and lunch periods. Petitioners and other similarly
5 situated parents have asked Respondents and Defendants TRUSTEES and BAIRD to comply
6 with state law concerning minimum physical education requirements, but to no avail.
7

8 68. Defendants have refused, and continue to refuse, to comply with Petitioners and other
9 similarly situated parents requests in violation of §51210(g) of the California Education Code.

10 69. In spite of their knowledge of the physical education deficit for nearly three months,
11 Superintendent BAIRD and the TRUSTEES have failed to take any action to ensure that
12 EUSD schools comply with the mandatory requirements of California Education Code
13 §51210(g) by offering any non-religious physical education alternatives to students who opt
14 out of the approximately 60 minutes of Ashtanga yoga every week or the 120 minutes of
15 Ashtanga yoga every two weeks.
16

17 70. Plaintiffs allege therefore that there is no available administrative remedy. Plaintiffs
18 and others similarly situated have pursued any available remedy to no avail, or that resort to
19 the administrative remedy would be futile under the circumstances, where Plaintiffs and
20 others similarly situated allege that they repeatedly asked BAIRD and the TRUSTEES to
21 comply with state law and EUSD has provided no specifics as to the purported grievance
22 procedures that are available to Plaintiffs, if any.
23

24 71. Respondents and Defendants, as the Superintendent and Trustees of EUSD have the
25 ability to comply with Petitioners' request.
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1 72. Petitioner seeks the issuance of Writ of Mandamus, compelling the Respondents to
2 comply with California Education Code §51210(g) and offer a minimum of 200 minutes of
3 physical education to all EUSD students every 10 days.

4 73. The issuance of the writ is indispensable to the enforcement of the Petitioners right in
5 that Petitioners have no plain, speedy, or adequate remedy in the ordinary course of law
6 whereby their rights can be upheld or whereby Respondents can be compelled to comply with
7 California Education Code §51210(g). If the relief sought by this Petition is not granted, great
8 and irreparable injury will be caused to Petitioners and their children and others similarly
9 situated.
10

11 **THIRD CAUSE OF ACTION**
12 **INJUNCTIVE AND DECLARATORY RELIEF**
13 **(Religious Freedom, California Constitution, Art. I, § 4, Art. XVI § 5, and Art. IX, § 8.**
14 **Against Respondents and Defendants TRUSTEES and BAIRD)**

14 74. Plaintiffs reallege and incorporate by reference herein all of the allegations contained
15 in paragraphs 1 through 73, inclusive, as though they were fully set forth herein.

16 75. Defendants have expended tax moneys and threaten to and will continue to expend tax
17 moneys as alleged herein in violation of state law, including but not limited to the following:

18 76. **No Religious Preference or Discrimination:** The California Constitution's No
19 Preference Clause reads: "Free exercise and enjoyment of religion without discrimination or
20 preference are guaranteed." Art. I § 4.
21

22 77. EUSD's Ashtanga yoga program violates Article I, § 4 by imposing an illegal
23 government preference for Ashtanga yoga which promotes and advances religion, including
24 Hinduism, Buddhism, Taoism, and Western metaphysics, as well as imposing illegal
25 government discrimination against the religious free exercise and enjoyment of Plaintiffs J.S.
26 and F.S. and others, including the right to not believe or practice religion.
27

1 78. **No State Resources for Religion:** The California Constitution also provides that the
2 government may not “make an appropriation, or pay from any public fund whatever, or grant
3 anything to or in aid of any religious sect, church, creed, or sectarian purpose....” Art. XVI §
4 5.

5 79. EUSD’s Ashtanga yoga program violates Art. XVI § 5 by paying from public funds,
6 or granting resources, or aiding religious sects or sectarian purposes, specifically Hinduism,
7 Buddhism, Taoism, and Western metaphysics, in violation of Petitioners and Plaintiffs J.S.
8 and F.S. and other’s constitutional rights.

10 80. **No Religious Instruction in Public Schools:** The California Constitution’s Art. IX, §
11 8 mandates that: “No public money shall ever be appropriated for the support of any
12 sectarian or denominational school, or any school not under the exclusive control of the
13 officers of the public schools; **nor shall any sectarian or denominational doctrine be**
14 **taught, or instruction thereon be permitted, directly or indirectly, in any of the common**
15 **schools of this State** (emphasis added).”

17 81. EUSD’s Ashtanga yoga program violates Art. IX, § 8 by directly or indirectly
18 instructing California public school children, including Plaintiffs J.S. and F.S. and others
19 similarly situated, in Hinduism, Buddhism, Taoism, and Western metaphysics.

21 82. Defendants, and each of them, have utilized and permitted others to utilize EUSD
22 schools, offices, classrooms, employees, instructional time, and other resources to implement
23 the Ashtanga yoga program in violation of Art. I, § 4, Art. XVI, § 5 and Art. IX, § 8 of the
24 California Constitution.

25 83. The expenditure of taxpayer funds and resources for the acts described above are an
26 illegal expenditure of, waste of, or injury to the estate, funds, or other property of EUSD and
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1 the State of California. Thus, petitioner brings this action under CCP §526a to obtain a
2 judgment to restrain and prevent the illegal expenditure of, waste of, or injury to, the estate,
3 funds, or other property of EUSD and the State of California. Absent relief from this Court,
4 Defendants BAIRD and the TRUSTEES will continue to engage in conduct in contravention
5 to the California Constitution.

6 84. Plaintiff s are without a plain, speedy and adequate remedy in the ordinary course of
7 the law to compel Defendant to enforce and comply with the legal requirements described
8 herein.
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10 85. Plaintiffs J.S. and F.S., and others similarly situated have suffered and will continue to
11 suffer irreparable injury unless and until this Court enjoins the Defendants from continuing
12 their illegal conduct.

13 86. Plaintiffs Stephen Sedlock and Jennifer Sedlock make this request for injunctive relief
14 based upon their standing as taxpayers pursuant to CCP §526a.
15

16 87. An actual controversy has arisen between Plaintiffs and Defendants in that Plaintiff
17 contends Defendants operates, establishes, manages, conducts or maintains EUSD facilities in
18 violation of the California constitution. Further, there is a disagreement between the parties as
19 to the interpretation Art. I, § 4, Art. XVI, § 5, and Art. IX, § 8. Plaintiffs believe that
20 Defendants' adoption and implementation of the Ashtanga Yoga program in the EUSD clearly
21 violates Art. I, § 4, Art. XVI § 5, and Art. IX, § 8 of the California Constitution. Defendants
22 BAIRD and TRUSTEES disagree, claiming that the EUSD Ashtanga yoga program is not
23 religious, does not violate state constitutional law, and have refused to suspend the program
24

25 88. A judicial declaration is necessary so that the parties may ascertain their rights in this
26 controversy.
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1 89. Absent declaratory relief from this Court, Defendants BAIRD and TRUSTEES will
2 continue to violate Art. I, § 4, Art. XVI, § 5, and Art. IX, § 8 of the California Constitution by
3 maintaining the Ashtanga yoga program.

4 90. As such, Plaintiffs and Petitioners request declaratory relief based upon their standing
5 as a taxpayers.

6
7 **FOURTH CAUSE OF ACTION**
8 **INJUNCTIVE AND DECLARATORY RELIEF**
9 **(Equal Protection, California Constitution, Art. I, § 7, Against Respondents and**
10 **Defendants TRUSTEES and BAIRD)**

11 91. Plaintiffs reallege and incorporate by reference herein all of the allegations contained
12 in paragraphs 1 through 90, inclusive, as though they were fully set forth herein.

13 92. Defendants have expended tax moneys and threaten to and will continue to expend tax
14 moneys as alleged herein in violation of Art. I, § 7 of the California Constitution that
15 provides: “A person may not be . . . **denied equal protection** of the laws . . . (emphasis
16 added).”

17 93. EUSD’s Ashtanga yoga program violates Art. I, § 7 by only offering Plaintiffs J.S. and
18 F.S., and others similarly situated, a physical education program that incorporates Hinduism,
19 Buddhism, Taoism, and Western metaphysics. Rather than treating similarly situated students
20 the same, EUSD’s Ashtanga yoga program treats similarly situated students differently based
21 on a suspect classification—Religion, offering physical education only to students who have
22 no religious objection to the practices and beliefs of Hinduism, Buddhism, Taoism, and
23 Western metaphysics and denying a physical education program to those who do object to
24 Ashtanga yoga. The program is religiously divisive and discriminatory and denies Plaintiff’s
25 J.S. and F.S., and others similarly situated the equal protection of the laws, including the right
26 to participate in physical education free from religious instruction pursuant to California
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1 Constitution, Art. I, § 4, Art. XVI, § 5, Art. IX, § 8 and the right receive the mandatory
2 minimum physical education minutes pursuant to §51210(g) of the California Education
3 Code.

4 94. Defendants, and each of them, have utilized EUSD schools, offices, classrooms,
5 employees, instructional time, and other resources to implement the Ashtanga yoga program
6 in violation of Art. I, § 7 of the California Constitution.

7 95. The expenditure of taxpayer funds and resources for the acts described above are an
8 illegal expenditure of, waste of, or injury to the estate, funds, or other property of EUSD and
9 the State of California. Thus, Petitioner brings this action under CCP §526a to obtain a
10 judgment to restrain and prevent the illegal expenditure of, waste of, or injury to, the estate,
11 funds, or other property of EUSD and the State of California. Absent relief from this Court,
12 Defendants will continue to engage in conduct in contravention to the California Constitution.

13 96. Plaintiff s are without a plain, speedy and adequate remedy in the ordinary course of
14 the law to compel Defendants BAIRD and the TRUSTEES to enforce and comply with the
15 legal requirements described herein.

16 97. Plaintiffs J.S. and F.S., and others similarly situated have suffered and will continue to
17 suffer irreparable injury unless and until this Court enjoins the Defendants BAIRD and the
18 TRUSTEES from continuing their illegal conduct.

19 98. Plaintiffs Stephen Sedlock and Jennifer Sedlock make this request for injunctive relief
20 based upon their standing as taxpayers pursuant to CCP §526a.

21 99. An actual controversy has arisen between Plaintiff s and Defendants in that Plaintiff
22 contends Defendants operates, establishes, manages, conducts or maintains EUSD facilities in
23 violation of state law. Further, there is a disagreement between the parties as to the
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1 interpretation Art. I, § 7 of the California Constitution. Plaintiffs believe that Defendants
2 adoption and implementation of the Ashtanga Yoga program clearly violates Art. I, § 7 of the
3 California Constitution. Defendants BAIRD and TRUSTEES disagree, claiming that the
4 Ashtanga yoga program is not religious and have refused to suspend the program.

5 100. A judicial declaration is necessary so that the parties may ascertain their rights in this
6 controversy.

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8 101. Absent declaratory relief from this Court, Defendants BAIRD and TRUSTEES will
9 continue to violate Art. I, § 7 of the California Constitution by maintaining the Ashtanga yoga
10 program.

11 102. As such, Plaintiffs requests declaratory relief based upon their standing as taxpayers.

12
13 **FIFTH CAUSE OF ACTION**
14 **INJUNCTIVE AND DECLARATORY RELIEF**
15 **(Religious Discrimination and Harassment, California Educ. Code, §§ 200, 201 & 220,**
16 **Against EUSD)**

17 103. Plaintiffs reallege and incorporate by reference herein all of the allegations contained
18 in paragraphs 1 through 102, inclusive, as though they were fully set forth herein.

19 104. Defendant EUSD has expended tax moneys and threatens to and will continue to
20 expend tax moneys as alleged herein in violation of state law, including but not limited to the
21 following:

- 22 a. California Education Code §200 provides, in relevant part, “It is the policy of the
23 State of California to afford **all persons in public schools, regardless of their . . .**
24 **religion . . . equal rights and opportunities in the educational institutions of**
25 **the state** (emphasis added).”
- 26 b. California Education Code §201 provides, in relevant part, “**All pupils have the**
27 **right to participate fully in the educational process, free from discrimination**
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and harassment California's public schools have an affirmative obligation to combat . . . bias, and a responsibility to provide equal educational opportunity
Harassment on school grounds directed at an individual on the basis of personal characteristics or status creates a **hostile environment** and jeopardizes equal educational opportunity as guaranteed by the California Constitution and the United States Constitution It is the intent of the Legislature that each public school undertake educational activities to counter discriminatory incidents on school grounds and, within constitutional bounds, to minimize and eliminate a hostile environment on school grounds that impairs the access of pupils to equal educational opportunity (emphasis added).”

c. California Education Code §220 provides in relevant part. “**No person shall be subjected to discrimination on the basis of . . . religion . . . or any other characteristic that is contained in the definition of hate crimes . . .** of the Penal Code in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid (emphasis added).”

104. EUSD is an educational institution that receives or benefits from, state financial assistance and/or enrolls pupils who receive state financial aid.

105. EUSD’s Ashtanga yoga program is illegal and violates:

(1) California Education Code §200 by denying J.S. and F.S., and other similarly situated students, *equal educational opportunities* because of religion.

1 (2) California Education Code §201 by denying J.S. and F.S., and other similarly
2 situated students, their right to fully participate in the education process by subjecting them to
3 *harassment and a hostile educational environment* because of religion, and,

4 (3) California Education Code §220 by subjecting J.S. and F.S., and other similarly
5 situated students, to *discrimination on the basis of religion*, including those who have no
6 religious beliefs or practices.

7
8 106. Plaintiffs J.S. and F.S., and other similarly situated EUSD students, as a result of the
9 Ashtanga yoga program have suffered significant, pervasive and offensive religious
10 discrimination harassment, that has effectively deprived Plaintiffs of the right of equal access
11 to educational benefits and opportunities.

12 107. Defendants TRUSTEES and BAIRD and EUSD had actual knowledge of the religious
13 discrimination and harassment and loss of educational opportunities suffered by Plaintiffs J.S.
14 and F.S., and other similarly situated EUSD students, as a result of the Ashtanga yoga
15 program that they themselves had approved and refused to suspend.

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17 108. Defendants TRUSTEES and BAIRD and EUSD acted with deliberate indifference in
18 the face of such knowledge.

19 109. Defendants, and each of them, have utilized or permitted others to utilize EUSD
20 schools, offices, classrooms, employees, instructional time, and other resources to implement
21 the Ashtanga yoga program in violation of California Educ. Code, §§ 200, 201 & 220.

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23 110. Defendants' expenditure of taxpayer funds and resources for the acts described above
24 are an illegal expenditure of, waste of, or injury to the estate, funds, or other property of
25 EUSD and the State of California. Thus, Plaintiffs bring this action under CCP §526a to
26 obtain a judgment to restrain and prevent the illegal expenditure of, waste of, or injury to, the
27

1 estate, funds, or other property of EUSD and the State of California. Absent relief from this
2 Court, Defendants will continue to engage in conduct in contravention to the California
3 Education Code.

4 111. Plaintiffs are without a plain, speedy and adequate remedy in the ordinary course of
5 the law to compel defendant to enforce and comply with the legal requirements described
6 herein.

7 112. Plaintiffs J.S. and F.S. have suffered and will continue to suffer irreparable injury
8 unless and until this Court enjoins the defendant from continuing their illegal conduct.

9 113. Plaintiffs Stephen Sedlock and Jennifer Sedlock make this request for injunctive relief
10 based upon their standing as taxpayers pursuant to CCP §526a.

11 114. An actual controversy has arisen between Plaintiff s and Defendants in that Plaintiff
12 contends Defendants operates, establishes, manages, conducts or maintains EUSD facilities in
13 violation of state law. Specifically, there is a disagreement between the parties as to the
14 interpretation California of sections 200, 201 & 220 of the California Education Code.

15 Plaintiffs believe that Defendants' adoption, implementation, and refusal to suspend the
16 Ashtanga Yoga program clearly violates California Education Code sections 200, 201 & 220.
17 Defendants BAIRD and TRUSTEES, on behalf of EUSD, disagree, claiming that the
18 Ashtanga yoga program is not religious, have ignored Plaintiffs, and other similarly situated
19 parent's assertions of religious discrimination and harassment of their children, and have
20 refused to suspend the program.
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24 115. A judicial declaration is necessary so that the parties may ascertain their rights in this
25 controversy.
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1 116. Absent declaratory relief from this Court, Defendants will continue to violate
2 California Education Code sections 200, 201 & 220 by maintaining the religious Ashtanga
3 yoga program, which has resulted and will continue to result in student division, segregations,
4 discrimination, and harassment.

5 117. As such, Plaintiffs request declaratory relief based upon their standing as a taxpayers.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Petitioners and Plaintiffs therefore requests relief as follows:
8

9 **AS TO THE FIRST AND SECOND CAUSES OF ACTION:**

- 10 1. That the Court issue an Writ of Mandamus commanding Respondents to:
- 11 a. comply with the religious freedom provisions of article I, section 4, article
12 XVI, section 5, and, article IX, section 8 of the California Constitution within
13 thirty (30) days by suspending the Ashtanga yoga program, or any other time
14 the Court may set, or to show cause before this Court why they have not done
15 so and why a preemptory writ should not issue, and,
16
- 17 b. comply with the mandatory minimum physical education requirements of
18 California Education Code §51210(g) for public schools within thirty (30)
19 days, or any other time the Court may set, or to show cause before this Court
20 why they have not done so and why a preemptory writ should not issue.
21
- 22 2. For reasonable attorney fees;
- 23 3. For taxable costs of suit incurred herein;
- 24 4. For such other and further relief as the Court deems just and proper.
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1 **AS TO THE THIRD, FOURTH, AND FIFTH CAUSES OF ACTION:**

2 1. Adjudge and declare that the acts, omissions, policies, and conditions described above
3 including, but not limited to, EUSD’s Ashtanga yoga program, are unconstitutional and
4 unlawful;

5 2. Preliminarily and permanently enjoin Defendants, their agents, employees and all
6 persons acting in concert with them, from subjecting EUSD students to the unconstitutional
7 and unlawful acts, omissions, policies, and conditions described in the paragraphs above
8 including, but not limited to, the Ashtanga yoga program;

10 3. Award Plaintiffs the costs of this suit, and reasonable attorneys’ fees and litigation
11 expenses;

12 4. Retain jurisdiction of this case until Defendants have fully complied with the orders of
13 this Court, and there is a reason able assurance that Defendants will continue to comply in the
14 future absent continuing jurisdiction; and,

15 5. Award such other and further relief as the Court deems just and proper.
16
17

18 Dated: February 20, 2013

By _____

19 Dean R. Broyles, Esq.
20 **The National Center for Law & Policy**
21 539 West Grand Avenue
22 Escondido, CA 92025
23 Phone: 760/747-4529 • Fax: 760/747-4505
24 dbroyles@nclplaw.org
25 *Attorney for Petitioners and Plaintiffs*
26
27
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VERIFICATION

I, Stephen Sedlock, am the Petitioner in the above-captioned matter. I have read the VERIFIED PETITION FOR WRIT OF MANDAMUS and COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF and am familiar with same. The contents are true and accurate and known to me by personal knowledge, except as to allegations given on information and belief. I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed this 15th day of February, 2013, in the County of San Diego, City of Escondido, State of California.

Stephen Sedlock, Petitioner

VERIFICATION

I, Jennifer Sedlock, am the Petitioner in the above-captioned matter. I have read the VERIFIED PETITION FOR WRIT OF MANDAMUS and COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF and am familiar with same. The contents are true and accurate and known to me by personal knowledge, except as to allegations given on information and belief. I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed this 15th day of February, 2013, in the County of San Diego, City of Escondido, State of California.

Jennifer Sedlock, Petitioner