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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

ALIANZA TRANSLATINX; C.A., a minor by and
through his Guardian ad Litem, E.S.; H.P., a minor,
by and through her Guardian ad Litem C.W.; and
ERIN SPIVEY, as taxpayer,

Petitioners and Plaintiffs,

v.

CITY OF HUNTINGTON BEACH, a municipal
corporation; HUNTINGTON BEACH CITY
COUNCIL, as the governing body of the
Huntington Beach Public Library; ASHLEY
WYSOCKI, in her official capacity as the Director
of Community and Library Services for Huntington
Beach; and DOES 1-50, inclusive,

Respondents and Defendants.

Case No. 30-2025-01462835-CU-WM-CJC
[UNLIMITED CIVIL CASE]

Assigned for All Purposes: Judge David A. Hoffer

**VERIFIED PETITION FOR
WRIT OF MANDATE AND
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

**[Code Civ. Proc., §§ 1085;
526(a); Cal. Const. art 1 §§ 1 and
2.]**

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I. INTRODUCTION

1. “The freedom to read is essential to our democracy. It is continuously under attack.”¹ This lawsuit challenges unlawful censorship efforts by the City of Huntington Beach (the “City” or “Huntington Beach”) that harm patrons of all ages who wish to access information at any of the five branches of the Huntington Beach Public Library (the “Library System”). Beginning in 2023, Huntington Beach adopted policies and enacted a resolution and ordinance (the “Library Measures”)² that (1) restrict minors’ access to certain library materials in the absence of parent/guardian consent, and (2) vest a community review board with unappealable power to impose an arbitrary, subjective, and never-ending censorial process over the library’s extensive and diverse collection. The Library Measures specifically target any materials deemed to have “sexual content,” an overbroad term paving the way for sweeping censorship efforts that could cover beloved literary classics such as *1984*, *Romeo and Juliet*, and *The Great Gatsby*; science and health books that educate minors about the changes they experience during puberty; youth Bibles and other religious texts; and stories about the lived experiences of the LGBTQ+ community, such as the children’s picture book *Grandad’s Pride*.

2. The Library Measures go further still: Through the use of terms with an overbroad sweep, the Library Measures provide the Parent/Guardian Community Review Board (the “Review Board”) the unfettered power to restrict books for nearly any conceivable reason—or no reason at all. The Library Measures violate the recently enacted California Freedom to Read Act and the California Constitution.

3. Petitioners and Plaintiffs Alianza Translatinx, C.A., H.P., and Erin Spivey (collectively the “Plaintiffs”) are a coalition of a nonprofit organization devoted to creating and promoting inclusiveness for transgender and gender non-conforming community members in

¹ American Library Association, *The Freedom To Read Statement*, <<https://www.ala.org/advocacy/intfreedom/freedomreadstatement>> (last accessed Feb. 19, 2025).

² The Library Measures comprise Huntington Beach Resolution No. 2023-41 and Huntington Beach Ordinance No. 4318, which, taken together, announce and implement the library policies and practices Plaintiffs challenge via this petition and complaint. The Resolution is a statement of City policy and the Ordinance further implements that policy.

1 Orange County, young library patrons, and concerned taxpayers. Plaintiffs bring this Petition for
2 Writ of Mandate and Complaint for Declaratory and Injunctive Relief (the “Petition”) (1) to
3 enforce the City’s mandatory, ministerial state law duties under the California Freedom to Read
4 Act, (2) to remedy the Defendants’ deprivation of Plaintiffs’ state constitutional and statutory
5 rights, and (3) to prevent the City from violating Plaintiffs’ rights in the future.

6 4. The City’s Resolution No. 2023-41 prohibits the Library System from allowing
7 minors to access or check out library materials “that contain any content of [a] sexual nature”—
8 unless they first obtain parent/guardian consent. (Huntington Beach Res. No. 2023-41.) The
9 Resolution further requires that library materials containing “sexual content” be placed in “adult
10 section(s)” of the library, i.e., “those areas/shelves that are designated for [patrons] 18-years or
11 older.” (*Ibid.*) The Resolution does not distinguish between minors of varying ages (e.g., a grade
12 school child versus a high school teenager) for purposes of restricting patron access. Nor does
13 the Resolution contain a definition of what constitutes “sexual content” or “content of [a] sexual
14 nature.”

15 5. Ordinance No. 4318, codified at Chapter 2.66 of the Huntington Beach Municipal
16 Code (hereafter “HBMC”), establishes the Review Board and vests it with the unfettered,
17 unappealable power to block library procurement and to reclassify—and thereby restrict or
18 remove—existing library materials based on an arbitrary, subjective, and never-ending
19 censorial process. Additionally, the Ordinance defines terms in an overbroad manner in
20 violation of the California Constitution.

21 6. Neither the Resolution nor the Ordinance are limited to materials defined by
22 law as “obscene” and therefore unprotected speech as to adults or minors.

23 7. As detailed in Section IV(E), *infra*, the Library Measures and Review Board
24 expressly violate the California Freedom to Read Act (Assembly Bill 1825 of 2024), codified at
25 Education Code sections 19800-19802. The Act prohibits the City’s Review Board from making
26 circulation or procurement decisions based on the “views, ideas, or opinions” contained in
27 library materials. (Ed. Code, § 19802, subd. (b)(1).) The Act also specifies that library materials
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1 cannot be excluded or have their access restricted solely because they may include non-obscene
2 sexual content. (*Id.* at subd. (b)(2)(A)(iii).) The Act applies to charter cities like Huntington
3 Beach. (*Id.* at subd. (e).)

4 8. The Library Measures violate the Liberty of Speech Clause of Article I, Section 2
5 of the California Constitution by infringing on library patrons' right to receive information. The
6 Measures are impermissibly overbroad restrictions on protected speech that are not narrowly
7 tailored to serve a compelling state interest. The definitions of "sexual content," "sexual
8 reference," and "community standards," as set forth in the Library Measures are impermissibly
9 overbroad, circular, and far exceed established legal standards for what constitutes obscenity or
10 material that is harmful to minors.

11 9. The Library Measures violate minor patrons' right to privacy guaranteed by
12 Article I, Section 1 of the California Constitution. Because the Library Measures condition a
13 minor's access to library materials on making their library records available to their parent or
14 guardian, the Library Measures force patrons younger than age 18 to sacrifice the legally
15 protected confidentiality of their patron records and violate their state constitutional right to
16 privacy.

17 10. Plaintiffs respectfully ask this Court to issue orders granting writ, injunctive, and
18 declaratory relief that will: compel Defendants to comply with the requirements of the California
19 Freedom to Read Act and prohibit them from implementing or enforcing the Library Measures;
20 enjoin the City from implementing or enforcing the Library Measures or expending any funds to
21 do so; order and declare that Defendants' Library Measures violate and threaten to continue to
22 violate the rights of Plaintiffs under the California Constitution and the California Freedom to
23 Read Act; and enjoin Defendants from restricting access for minors who are 13 years of age or
24 older to all materials in City libraries without parental notification or permission.

25 II. JURISDICTION AND VENUE

26 11. Plaintiffs' claims arise under California statutory law and the California
27 Constitution. This Court has jurisdiction under Code of Civil Procedure sections 410.10; 526a;
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1 and 1085.

2 12. Venue in this Court is proper under Code of Civil Procedure section 394 because
3 the City is located in Orange County, funds distributed by the City were expended by the City in
4 Orange County, and the facts giving rise to the causes of action in this Petition arose in Orange
5 County.

6 **III. PARTIES**

7 **Plaintiffs**

8 13. Plaintiff Alianza Translatinx (“ATL”) is a 501(c)(3) nonprofit public benefit
9 corporation based in Orange County, California. As the only TGI-led, bilingual organization in the
10 region, ATL is dedicated to advocating for the rights and needs of transgender, gender non-
11 conforming, and/or intersex (“TGI”) individuals, with an emphasis on TGI Latinx community
12 members. ATL provides direct services to primarily low-income community members in its
13 service population, including hot meals, grocery distribution, health care advocacy, rental
14 assistance, and educational outreach on issues affecting the TGI community. ATL has provided
15 services to community members residing in Huntington Beach. ATL regularly refers community
16 members to publicly available resources—including libraries—as a crucial means of accessing
17 information, education, and support. Library materials are a vital, free, and accessible resource that
18 ATL and other community-based organizations rely on to ensure TGI individuals can find
19 accurate, affirming information about their identities, healthcare, and legal rights. The Library
20 Measures restrict access to, or acquisition of, materials containing “sexual content,” a vaguely
21 defined term that could be used to limit access to books about gender identity, sexual health, and
22 other critical topics affecting the TGI community. ATL is concerned these restrictions will mean
23 that the Huntington Beach Library will become less inclusive and less useful to the individuals
24 ATL serves—creating yet another barrier to life-saving information for a historically marginalized
25 population. Beyond providing direct services, ATL seeks to foster a safe, welcoming, and
26 affirming environment for the TGI community throughout Orange County, including by
27 advocating for increased TGI representation in books and media. Members of ATL’s staff,
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1 leadership, and service population hold and use Huntington Beach Library cards and have paid
2 taxes in Huntington Beach within the last twelve (12) calendar months. ATL brings this Petition
3 on behalf of its members to challenge policies that further disenfranchise the TGI community and
4 limit access to essential public resources.

5 14. Plaintiff C.A. is a 15-year-old Huntington Beach resident who attends high school
6 in Huntington Beach and is in the ninth grade. C.A. has a Huntington Beach Library card for
7 minors. He has relied upon the library to access fiction books, including graphic novels (which
8 frequently involve kissing), and non-fiction library books that helped him understand bodily
9 changes as he experienced puberty. Such library materials contain “sexual content” as
10 contemplated and defined by the Library Measures. Now, as an older student, C.A. is concerned
11 that the Library Measures will affect his high school studies. For example, his United States history
12 honors class will address such topics as the sexual violence that is inherent to American slavery,
13 and C.A. is concerned that the Library Measures will impact his ability to obtain materials that
14 would be important for any research he might want to do in History or any other academic subject.
15 C.A.’s rights are infringed by the Library Measures because they deprive him of access to books
16 that he would like to skim, read, or check out that would be available to him but for the Measures.
17 The Library Measures infringe his privacy rights because he will be required to share access to his
18 patron record with his parents to obtain or even skim materials from the new “adults-only” section
19 of the Library. Before the Library Measures were enacted, C.A. was able to access such library
20 materials without first securing his parents’ knowledge or consent. It is important for C.A. to be
21 able to check out library materials without parental permission or notification because he values
22 his privacy.

23 15. Plaintiff H.P. is a 16-year-old Huntington Beach resident who attends Huntington
24 Beach High School and is in the eleventh grade. H.P. has a Huntington Beach Library card for
25 minors and uses the Library. Some of her favorite books include *Dune* and *The Kite Runner*. H.P.
26 is aware that books such as *The Catcher in the Rye*, *East of Eden*, and *1984*—which were
27 assigned reading and an important part of her education—have been subjected to censorship
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1 efforts across the country. She does not want to see such censorship happen in Huntington
2 Beach. Because several of H.P.'s favorite books and school-assigned reading, including *1984*
3 among others, contain "sexual content" as defined by the Library Measures, she understands that
4 access to these books could be restricted if the Library Measures are fully implemented. Until the
5 Library Measures took effect, she was able to access such materials without her parents'
6 knowledge or consent. H.P.'s rights are infringed by the Library Measures because they deprive
7 her of access to materials that she would like to skim, read, or check out that would be available
8 to her but for the Library Measures. Her privacy rights are also infringed because the Library
9 Measures will require her to share access to her patron record with her parents to obtain or even
10 browse materials from the new "adult-only" section of the Library. Before the Library Measures
11 were enacted, H.P. could access such materials without her parents' knowledge or consent, and
12 she valued this privacy.

13 16. Plaintiff Erin Spivey is a taxpaying Huntington Beach resident. She has worked as
14 the Adult Services Coordinator at the Newport Beach Public Library, as the Branch Manager for
15 the Huntington Beach Public Library, as the District Librarian for the Fountain Valley School
16 District, and in other positions at public libraries in Southern California. As a librarian, a parent,
17 and a community member, she is extremely concerned about the decision to remove materials
18 with any "sexual content" from the children's section of the library and prevent minors from
19 accessing such materials without parental knowledge and consent. She understands that when
20 implementing the Library Measures, Defendants are likely to interpret the term "sexual content"
21 as encompassing a broad spectrum of content—including anything from literary depictions of
22 flirting and kissing or sexual intercourse to scientific explanations of reproduction—and
23 therefore, full implementation of the Library Measures could prevent minors from accessing
24 great works of literature, books on history and art, and more. She fears that this will interfere
25 with minors' rights to access information that will help them grow into well-rounded adults
26 capable of fully participating in our diverse society.

27 17. The minor Plaintiffs in this action—C.A. and H.P.—make appearances by and
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1 through proposed Guardians ad Litem. Plaintiff C.A. appears in this action by and through his
2 mother and proposed Guardian ad Litem, E.S., who is contemporaneously filing an ex parte
3 application to appear under a fictitious name or initials. E.S. resides with C.A. in Huntington
4 Beach, and she is a competent and reasonable person who is dedicated to acting in C.A.'s best
5 interests and fairly and adequately representing him in this litigation. E.S. is willing to act as
6 C.A.'s Guardian ad Litem in this litigation and is sufficiently familiar with the facts of his
7 situation. H.P. appears in this action by and through her mother and proposed Guardian ad
8 Litem, C.W., who is contemporaneously filing an ex parte application to appear under a fictitious
9 name or initials. C.W. resides with H.P. in Huntington Beach, and she is a competent and
10 reasonable person who is dedicated to acting in H.P.'s best interests and fairly and adequately
11 representing her in this litigation. C.W. is willing to act as H.P.'s Guardian ad Litem in this
12 litigation and is sufficiently familiar with the facts of her situation.

13 **Defendants**

14 18. Respondent and Defendant City of Huntington Beach is a municipality organized
15 under the laws of the State of California. (Cal. Const., art. XI.) It oversees the Huntington Beach
16 Public Library.

17 19. Respondent and Defendant City Council of Huntington Beach is sued in its
18 capacity as the governing body of the Huntington Beach Library. Upon information and belief,
19 the City Council is the governing body of the Library System as contemplated by California
20 Law. (Ed. Code, §§ 19802, subd. (b)(1) [imposing duties on the governing bodies of public
21 libraries], 19802, subd. (e) [applying section to charter cities].) The City Council exercises direct
22 authority over the library and is the body that adopted and seeks to enforce the Library Measures
23 of which Plaintiffs complain herein.

24 20. Respondent and Defendant Ashley Wysocki is the Huntington Beach Director of
25 Community and Library Services and the Acting Library Director ("Director" or "Library
26 Director") and is sued in her official capacity. Appointed by the City Manager, the Director is
27 responsible for library policies, operations, programs, and general library services. (HBMC,
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§ 2.30.030.) The Director administers the library’s budget and controls budget expenditures. (*Ibid.*) The Director reviews and approves purchases for department operations, oversees the maintenance of library records, and evaluates library employees. (*Ibid.*)

IV. RELEVANT FACTUAL AND LEGAL BACKGROUND

A. Huntington Beach’s Longstanding Commitment to Public Libraries as a Safe Haven for Free Inquiry and Expression

21. Before 2023, the Huntington Beach Public Library demonstrated a commitment to maintaining an extensive, diverse library collection and preserving patrons’ right to read, regardless of age.

22. The Library System’s mission statement is: “Huntington Beach Public Library and Cultural Center welcomes, empowers, and enriches our community by providing innovative and traditional library services that inspire and encourage transformation and growth.” This mission statement has been in effect for more than a decade, and it is reflected in the Library’s Display Policy (dated June 2023), 2014-2016 Library Strategic Reality Check, and 2010-2013 Strategic Plan.

23. The Library’s core values include “Open Access and Intellectual Freedom” and “Knowledge.” These values were articulated more than a decade ago in the 2010-2013 Strategic Plan and 2014-2016 Library Strategic Reality Check.

24. The Library’s current Collection Development Policy, which was last updated in 2015, states that “[t]he Library supports the right of all individuals to read freely. With such a diverse community and so many points of view, disagreement about the collection can arise. Patrons are asked to respect the right of others to use materials one might not personally endorse.” Under this policy, the library collection “will be diverse and balanced enough to serve users of different ages, ethnicities and interests, with an array of religious, philosophical and political views.” The policy affirms that “[t]he library upholds the principles documented in the Library Bill of Rights and the Freedom to Read statement of the American Library Association.”

25. Additionally, the City incorporated by reference the American Library

Association’s (“ALA”) “Library Bill of Rights” at HBMC section 2.30.030, which provides that “[t]he Director of Community and Library Services ... shall have the following powers and duties: ... Preserve the Library Bill of Rights by challenging censorship and affirming that all libraries are forums for information and ideas, and that library resources be provided for the interest, information and enlightenment of the people.” Key tenets of the ALA Library Bill of Rights protect library access and “a right to privacy and confidentiality in [a patron’s] library use...” regardless of a patron’s age.

B. Huntington Beach Public Library’s Collection

26. As of October 2023, the Huntington Beach Public Library had approximately 290,189 items in its collection, of which approximately 134,630 were books. The children’s collection contains approximately 40,000–45,000 unique titles.

27. Children’s materials are frequently accessed by library patrons. Across fiscal years 2022 and 2023, a total of approximately 459,779 children’s materials were checked out from all Huntington Beach public library branches, by both minors and adults. From September 2022 to July 2023, teenagers (ages 13 to 17) checked out children’s materials more frequently than teen or adult materials; they accessed teen and adult materials at lower, but relatively equal rates. During that same time frame, children (ages 12 and under) almost exclusively checked out children’s materials.

28. The Library procures roughly 20,000 new materials each year.

C. Huntington Beach Adopts and Begins Implementing Resolution No. 2023-41

29. On June 20, 2023, the Huntington Beach City Council (hereafter “City Council”) passed a motion directing the City Manager to work with the City Attorney and return in September “with *options to establish safeguards that would prevent minor access to age-inappropriate, obscene, pornographic and/or sexually explicit materials in City libraries.*” (Emphasis in original.)

30. In support of Resolution No. 2023-41, Mayor Pro Tem Van Der Mark identified Maia Kobabe’s memoir *Gender Queer* and Harry Woodgate’s picture book *Grandad’s Pride*—

1 both of which are Stonewall Honor Books³—as age-inappropriate books that should be
2 unavailable to children. She also identified excerpts from sex education books as “examples of
3 obscene and/or pornographic children’s books” that should be unavailable to children.

4 31. On September 5, 2023, the City Council directed staff to return on October 17, 2023
5 with “actionable policy options regarding City library materials and safeguards.”

6 32. On October 17, 2023, the City Council adopted Resolution No. 2023-41 by a 4-3
7 vote, which “establish[ed] a policy for the review and recataloging [sic] of library materials
8 containing sexual content.”

9 33. On that same day, the First Amendment Coalition, the American Civil Liberties
10 Union of Southern California, and the Freedom to Read Foundation submitted a letter opposing
11 Resolution No. 2023-41. The letter urged the City Council to reject Resolution No. 2023-41
12 because it “would impose an unconstitutional censorship regime on the people’s right to access
13 library books and materials protected by the First Amendment.” The letter stated that “[t]he
14 Resolution’s sweep is breathtaking,” such that “it would cover ‘countless literary works,’ ...
15 including the Bible, *Romeo and Juliet*, *The Great Gatsby*, *1984*, *Beloved*, *I Know Why the Caged*
16 *Bird Sings*, and *Introduction to Plant Reproduction*.” The letter also cautioned that Resolution
17 No. 2023-41 would “impair access to educational materials on gender identity and expression,
18 sexual orientation, and reproductive health. Indeed, speech discussing gender identity and
19 expression or sexual orientation is often a prime target of measures such as the Resolution. . . .
20 Free access to these educational materials helps ensure that LGBTQ youth feel safe and
21 supported.”

22 **1. Resolution No. 2023-41 Restricts Minors’ Access to Library Materials**
23 **With Sexual Content**

24 34. Resolution No. 2023-41 states that “the City Council is concerned that some of the
25 children’s books and other materials ... in the City’s libraries contain sexual content that is
26 viewed by the community as obscene and/or pornographic.” (Huntington Beach Resolution No.

27 ³ The Stonewall Book Award is for materials of exceptional merit relating to the gay, lesbian,
28 bisexual, and transgender experience and is sponsored by the Rainbow Round Table of the ALA.

1 2023-41 at p.1.)

2 35. Resolution No. 2023-41 provides that “No City Library or other City facility
3 shall allow children ready access to books and other materials that contain any content of
4 sexual nature.” (*Id.* at ¶1.a.) “Books and other materials containing any sexual writings,
5 sexual references, explicit sexual images, and any other sexual content shall not be placed
6 in, or be present in, any section of any City Library or facility other than adult section(s),
7 i.e., those areas/shelves designated for 18- years or older.” (*Ibid.*) “Parental or guardian
8 consent will be required before accessing or checking out any book or other material that
9 contains any sexual writing, sexual references, sexual images, and/or other sexual content by
10 anyone under 18-years of age, whether the books or materials are intended for children or
11 adults.” (*Id.* at ¶1.b.)

12 36. Resolution No. 2023-41 does not contain a definition of “sexual content,”
13 “sexual writings,” “sexual references,” “explicit sexual images,” or “any content of [a]
14 sexual nature.”

15 **2. Resolution No. 2023-41 Provides for the Establishment of a Community**
16 **Parent/Guardian Review Board to Oversee the Library Collection**

17 37. Resolution 2023-41 calls for establishing the Review Board to oversee the
18 procurement of new library materials. (*Id.* at ¶2.) “No City Library or other City facility shall
19 procure (children’s) books or materials containing any sexual writing, sexual references,
20 sexual images, and/or other sexual content that are intended for children without first
21 receiving the approval of” the Review Board, which must “determine by majority vote if the
22 books and materials meet the community standards of acceptance for the City of Huntington
23 Beach.” (*Id.* at ¶2.a, c.)

24 38. Resolution 2023-41 also provides that the Review Board has the power to use
25 “the same review process on a case-by-case basis” to evaluate “books or other materials
26 currently in circulation at City Libraries.” (*Id.* at ¶2.d.) Should the Review Board “find a
27 book or material currently in circulation does not meet community standards, it shall be
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placed in the adult section and subject to parental and guardian consent before being checked out by anyone under the age of 18.” (*Ibid.*)

3. Huntington Beach Begins Implementing Resolution 2023-41

39. On or about January 11, 2024, the City issued a notice stating: “Notice is hereby given that on October 17, 2023, the City Council formed the Community Parent/Guardian Review Board by minute action. This Board will review all proposed or new children’s books and other materials procured by the City Libraries or City Librarians that may contain sexual content before the books or materials are placed in the City Libraries or facilities. ... The City is now accepting applications from U.S. citizens and residents/electors of the City of Huntington Beach. ... These positions serve for a four-year term.”

40. On or about January 12, 2024, Community and Library Services Director Ashley Wysocki directed library staff at the Central Library Branch to begin implementing Resolution No. 2023-41. Because the Resolution does not define the term “sexual content,” Ms. Wysocki directed staff to use the Wikipedia definition. On or about that date, Wikipedia defined sexual content as “material depicting sexual behavior. The sexual behavior involved may be explicit, implicit sexual behavior such as flirting, or include sexual language and euphemisms.”⁴ She instructed library staff to remove any materials from the children’s section of the Central Library Branch that fit the Wikipedia definition.

41. Upon information and belief, the library materials slated to be removed from the children’s section included Disney DVDs and youth bibles.

42. Subsequently, Ms. Wysocki issued additional instructions to library staff to remove library materials from the children’s section that have images of uncovered body parts that would otherwise be covered by a bathing suit.

43. On or about February 7, 2024, library staff at the Central Library Branch began moving books from the children’s section on the first floor to the adult section on the fourth floor.

⁴ Wikipedia, *Sexual Content* <https://en.wikipedia.org/wiki/Sexual_content> (as of Dec. 10, 2024).

1 44. On February 23, 2024, the City issued a “Relocated Book List” reflecting which
2 books had been restricted to the fourth floor.

3 45. The list includes several children’s picture books:

- 4 a. *Everyone Poops* by Taro Gomi
- 5 b. *Once Upon a Potty* by Alona Frankel
- 6 c. *Your One and Only Heart* by Dr. Rajani LaRocca, MD, a Newbery Honor
7 Award-winning author

8 46. The list includes books on general science and health education:

- 9 a. *The Way We Work: Getting to Know the Amazing Human Body* by David
10 Macaulay, a Caldecott Medal-winning author
- 11 b. *The Care and Keeping of You 1: The Body Book for Younger Girls (American*
12 *Girl)* by Valorie Schaefer, a New York Times Bestseller
- 13 c. *The Care and Keeping of You 2: The Body Book for Older Girls (American*
14 *Girl)* by Dr. Cara Natterson, a New York Times Bestseller
- 15 d. *Is this Normal? (American Girl)* by Darcie Johnston
- 16 e. *Sick!: Diseases and Disorders, Injuries and Infections* by David Newton, Donna
17 Olendorf, Christine Jeryan, and Karen Boyden
- 18 f. *Human Reproduction and Development* by A. Cassan
- 19 g. *On Your Mark, Get Set, Grow: a “What’s Happening to My Body?” Book for*
20 *Younger Boys* by Lynda Madaras
- 21 h. *The Girl’s Body Book: Everything You Need to Know for a Healthy, Happy*
22 *You!* by Kelli Dunham, RN
- 23 i. *Girl to Girl: Honest Talk About Growing Up and Your Changing Body* by Sarah
24 O’Leary Burningham
- 25 j. *Guy Stuff: The Body Book for Boys (American Girl)* by Dr. Cara Natterson, a
26 New York Times best-selling author
- 27 k. *Own Your Period: A Fact-Filled Guide to Period Positivity* by Chella Quint

1. *Girl Talk: Growing Up* by Lizzie Cox
 - m. *Will Puberty Last My Whole Life?: REAL Answers to REAL Questions from Preteens About Body Changes, Sex, and Other Growing-Up Stuff* by Julie Metzger, RN & MN, and Robert Lehman, MD
 - n. *Human Body Systems: Maintaining the Body's Functions (Exploring Science)* by Sharon Katz Cooper
 - o. *Bunk 9's Guide to Growing Up: Secrets, Tips, and Expert Advice on the Good, the Bad, and the Awkward* by Adah Nuchi
 - p. *Puberty Is Gross but Also Really Awesome* by Gina Loveless
 - q. *Sex Is a Funny Word: A Book about Bodies, Feelings, and YOU* by Cory Silverberg and Fiona Smyth, a 2016 Stonewall Honor Book
 - r. *The Ultimate Guys' Body Book: Not-So-Stupid Questions About Your Body* by Dr. Walt Larimore
 - s. *It's So Amazing! A Book about Eggs, Sperm, Birth, Babies, and Families* by Robie H. Harris, a New York Times best-selling author, and Michael Emberley
 - t. *The Book of Blood: From Leeches and Legends to Vampires and Veins* by HP Newquist, winner of the Magnolia Prize
 - u. *It's Perfectly Normal: Changing Bodies, Growing Up, Sex, and Sexual Health* by Robie H. Harris, a New York Times best-selling author, and Michael Emberley
47. The list also includes books containing parenting advice:
- a. *The New Parent* by Dr. Miriam Stoppard
 - b. *Raising an American Girl: Parenting Advice for the Real World* by American Girl
 - c. *Mallko and Dad* by Gusti
 - d. *Talking to Your Kids About Sex: From Toddlers to Preteens* by Lauri Berkenkamp and Steven C. Atkins, Psy.D.

48. Library staff posted signs on the fourth floor stating: “**Youth Restricted Books** ... Books that were relocated from the Children’s Dept. can be found here. You must have an Adult card or a Youth Access Card to check out items on these shelves.” (Boldface in original.) Library staff also removed signage from the teen section, so that Library materials from the former teen section are now part of the adult section.

49. On January 30, 2025, the City issued an updated “Relocated Book List.” This list included eight titles, seven of which are health education books for minors that were previously identified on the February 23, 2024 list. This list includes an additional title, *What’s the Big Secret?: Talking About Sex with Girls and Boys* by Laurie Krasny Brown, Ed.D., and Marc Brown. Upon information and belief, some of the books listed on the February 23, 2024 list of relocated books but not on the January 30, 2025 list have been removed from circulation or otherwise been made unavailable to visitors and patrons to read at the library or check out.

4. Huntington Beach Makes Plans to Create New Library Cards for Minors

50. The current library policy establishes three types of library cards: adult, teen, and minor. As of October 2023, the Library had issued 82,813 adult cards, 2,434 teen cards, and 17,976 minor cards. Each library card affords different levels of access to collection materials. Patrons holding teen and minor cards can check out *any* printed materials. Minors under age 13 must be accompanied by a parent/guardian when they apply for a minor card. Minors ages 13 to 17 are only required to show a valid school ID, driver’s license, or government-issued ID to apply for a teen card; they are not required to obtain parent/guardian permission before accessing any library materials or to inform their parent/guardian about what library materials they have accessed.

51. Upon information and belief, the “teen card” was created approximately eight years ago, in collaboration with the Huntington Beach Unified School District and as part of a student success initiative. A primary objective for the teen card is to ensure that teenagers—including unhoused teens and teens in foster care—can obtain a library card without parental approval.

1 52. Upon information and belief, Library staff developed a plan to revise the
2 Huntington Beach Public Library card policy. If implemented, there will be two new library
3 cards under this new plan: a Youth Restricted card and an All-Access card. Youth Restricted
4 cards will allow minors to access *only* library materials in the children’s collection. All-Access
5 cards will allow minors to access all library materials in the entire collection.

6 53. Under the new plan, all current library cards issued to minors were to expire.
7 Under the new plan, if implemented, to get a new card, minors would have to go to the library
8 with their parent/guardian, who must be present to request either a Youth Restricted card or an
9 All-Access card for the minor. Upon information and belief, the new library cards would be
10 associated with a personal identification number (“PIN”) that would be shared with both the
11 minor and parent/guardian. The PIN would be the last four digits of a phone number provided by
12 the minor and the minor would not be able to change it. This PIN would allow the
13 parent/guardian to access the minor’s library patron record and see what materials the minor had
14 currently checked out.

15 54. Under the new plan, until a minor’s parent/guardian requests a new library card for
16 the minor, they will not be allowed to check out any library materials.

17 55. Upon information and belief, the City has delayed implementing the new library
18 card plan.

19 **D. Huntington Beach Enacts Ordinance No. 4318, Codified at Chapter 2.66 of the**
20 **Municipal Code**

21 56. On March 19, 2024, the City Council approved introduction of Ordinance No.
22 4318, which would add a new chapter to the Huntington Beach Municipal Code entitled
23 “Community Parent-Guardian Review Board Procurement For Children’s Library Materials.”
24 The City Council adopted Ordinance No. 4318 on April 2, 2024, with the Ordinance taking
25 effect on May 2, 2024.

26 57. Pursuant to the Ordinance, Chapter 2.66 of the Huntington Beach Municipal Code
27 establishes a Community Parent-Guardian Review Board. (HBMC, § 2.66.010.) The Review
28

Board will comprise 21 members, with each city council member appointing up to three members. (HBMC, § 2.66.040.) The Review Board “shall be provided a budget and ability to procure advance copies of children’s books or children’s books reviews as required...” (HBMC, § 2.66.110.A.)

1. The Ordinance Vests the Review Board with Broad and Unaccountable Powers Over the Procurement of Library Materials

58. The Ordinance provides that the Review Board “shall serve as a decision-making authority to the City to ensure that books that children have access to in City Libraries meet the City’s community standards for material acceptable for children’s access, including books that may contain sexual content or sexual references, before such children’s books are purchased by the City prior to placement in circulation or made accessible to children without parental consent.” (HBMC, § 2.66.030.)

59. The Ordinance defines “Children’s books” as “any book, literary work, or other material, whether in hard copy or electronic, intended for anyone under the age of 18 or intended to be placed in the Children’s Section(s) within any of the City Libraries or intended for Children’s access.” (HBMC, § 2.66.020.) This definition covers a wide range of materials, including but not limited to children’s picture books, grade school level chapter books, children’s nonfiction encyclopedias, young adult novels, graphic novels, and literary classics from a high schooler’s English curriculum.

60. The Ordinance’s definitions are overbroad in their sweep, including by defining “Community Standards” as “the Board’s determinations regarding whether books are acceptable for Children’s access, including books that may contain Sexual Content or Sexual References,” which could encompass materials protected by the California Freedom to Read Act and the California Constitution. (HBMC, § 2.66.020.)

61. The Ordinance defines “Sexual Content” as “any content of a sexual nature, whether in the form of written text, or in the form of graphic depictions such as photos, drawings, cartoons, images, etc., for example, textual or graphic content including sex, sexual

organs, sex acts, relationships of sexual nature, or sexual relations in any form.” (HBMC, § 2.66.020.) The Ordinance’s definition of “Sexual Content” applies to non-obscene materials, such as young adult novels, religious texts, science books, and others.

62. The Ordinance defines “Sexual Reference” as “any reference of a sexual nature, whether in the form of written text, or in the form of graphic depictions such as photos, drawings, cartoons, images, etc., for example, textual or graphic references to sex, sexual organs, sex acts, relationships of sexual nature, or sexual relations in any form.” (HBMC, § 2.66.020.) The Ordinance’s definition of “Sexual Reference” applies to non-obscene materials, such as young adult novels, religious texts, science books, and others.

63. The Review Board’s duties include: “Review all Children’s Books proposed for procurement by the City to determine by majority vote, in the Board’s sole discretion, if such children’s books meet the community standards of acceptance for the City of Huntington Beach to be placed in City Libraries. Make recommendations for Children’s Books that meet the community standards of acceptance to be purchased by the City, and/or to be accessible to Children without parental consent.” (HBMC, § 2.66.110.A.)

64. The Ordinance outlines the review process as follows: The Director of Community & Library Services, or their designee, will provide a list of Children’s Books intended for purchase prior to each Board meeting. (HBMC, § 2.66.110.B.) “Any Board Member may nominate any number of Children’s Books from the list for review.” (*Ibid.*) Books nominated for review “shall not be purchased by the City for Library circulation unless first approved by the Board.” (*Ibid.*) “Once nominated, a Children’s Book must be reviewed within one year of nomination.” (*Ibid.*) “All Board members present must review the children’s book(s) before it may be subject to a Board vote.” (HBMC, § 2.66.110.D.) “The Board must vote whether a children’s book meets the community standards before the Board may vote on procurement/placement.” (HBMC, § 2.66.110.E.)

65. If a book “is reviewed and then rejected by the Board, the Board must place findings in the record and complete the Library Materials Review Form, which shall be placed in

1 the minutes by the Secretary in detail as to the reasons the Board determined the proposed
2 Children's Book did not meet the Community Standards or is unfit for placement in the Library."
3 (HBMC, § 2.66.110.F.) "After review, all efforts will be made to sell or donate non-approved
4 Children's Books to libraries outside the City of Huntington Beach." (HBMC, § 2.66.100.) "If a
5 Children's Book is not nominated for review within 90 days from the submittal of the intended
6 purchase list or reviewed by the Board within one year of nomination, it will be considered
7 approved for purchase by the Board." (HBMC, § 2.66.110.B.) "Any Children's Book may be
8 nominated to be reviewed again after one year has passed from a previous decision by the
9 Board." (HBMC, § 2.66.110.A.) This provision effectively subjects all books to the never-ending
10 possibility of review and censorship, even if previously deemed appropriate for circulation.

11 66. "All decisions by the Board are final and non-appealable." (HBMC, § 2.66.110.G.)

12 **2. The Ordinance Vests the Review Board with the Broad, Unaccountable**
13 **Power to Restrict Minors' Access to Library Materials Already in the**
14 **Collection**

15 67. Review Board members also have the authority to recommend that children's
16 books currently in the library be subject to the same Board review process on a case-by-case
17 basis. (HBMC, § 2.66.110.C.) If the Board finds that a book "does not meet Community
18 Standards for Children's access without parental notification, it shall be placed in the Adult
19 Section and subject to parental and/or guardian consent before either Children obtain access or
20 the book is checked out by anyone under the age of 18." (HBMC, § 2.66.110.C.)

21 68. Upon information and belief, the Library Measures have not yet been fully
22 implemented.

23 69. Upon information and belief, the City's policy is to implement and enforce the
24 Library Measures.

1 **E. California Law Prohibits Cities from Adopting and Implementing Policies**
2 **Like Huntington Beach’s Library Measures**

3 **1. The California Freedom To Read Act**

4 70. The California Freedom to Read Act (Assembly Bill 1825) is codified at Education
5 Code sections 19800-19802. This law prohibits the “governing board or body of a public library,
6 or any body or commission designated to review the procurement, retention, or circulation of, or
7 access to, library materials” from proscribing or prohibiting “the circulation or procurement of,
8 or access to, any library materials in a public library because of the topic addressed by the
9 materials or because of the views, ideas, or opinions contained in those materials.” (Ed. Code,
10 § 19802, subd. (b).) The law states that “materials in public libraries shall not be excluded, and
11 access to library materials shall not be limited, solely on the bases [that the] ... library materials
12 may include sexual content, unless that content qualifies as obscene under United States
13 Supreme Court precedent.” (*Ibid.*) This law expressly applies to charter cities like Huntington
14 Beach. (*Id.* at subd. (e).)

15 71. On November 5, 2024, after the Governor signed AB 1825, the First Amendment
16 Coalition, the American Civil Liberties Union of Southern California, and Community Legal Aid
17 SoCal sent another letter to the Huntington Beach City Council reiterating the concerns
18 expressed in the October 17, 2023 letter, while also informing the Council that the Library
19 Measures would violate AB 1825 when the new bill took effect on January 1, 2025. The letter
20 explained that, despite protestations made by the Huntington Beach City Attorney in the media,
21 AB 1825 does apply to charter cities. The City Council never responded to that letter.

22 **2. Existing Safeguards Prevent Minors from Accessing Obscene**
23 **Materials**

24 72. There are numerous safeguards—within the law, publishing industry standards,
25 librarian professional standards, and the City’s own policies—that protect minors from materials
26 that are obscene or that meet the legal definition of harmful to minors.

27 73. The California Freedom to Read Act allows for library materials to be excluded or
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1 for access to be limited, if they qualify as obscene under U.S. Supreme Court precedent. (See Ed.
2 Code, § 19802, subd. (b).)

3 74. Obscene material is not protected by the First Amendment and therefore may be
4 subject to state regulation.

5 75. Distribution of such material is prohibited in California. (See Pen. Code, §§ 311,
6 311.2.)

7 76. Distribution of material that is defined under Supreme Court precedent as obscene
8 and unprotected as to minors is also prohibited in California. (See Penal Code §§ 313, 313.1.)

9 77. With impermissibly overbroad terms such as “sexual content” and “sexual
10 reference,” the Library Measures sweep far beyond the Supreme Court’s definitions of obscenity
11 as to adults or minors and include a substantial amount of protected speech.

12 78. “[M]inors are entitled to a significant measure of First Amendment protection ...
13 and only in relatively narrow and well-defined circumstances may government bar public
14 dissemination of protected materials to them.” (*Erznoznik v. City of Jacksonville* (1975) 422
15 U.S. 205, 212-213, case citations omitted.) “Speech that is neither obscene as to youths nor
16 subject to some other legitimate proscription cannot be suppressed solely to protect the young
17 from ideas or images that a legislative body thinks unsuitable for them. (*Id.* at pp. 213-214
18 [noting also, “[c]learly all nudity cannot be deemed obscene even as to minors”].)

19 79. Within the publishing industry, there are “[r]igid requirements on how books are
20 published” and only “about 1-2%” of manuscripts are published as books.⁵ This “low rate of
21 manuscript acceptance acts as a quality control: publishers select only the best materials for
22 publication and perform the necessary fact-checking, verification, and legal evaluation for each
23 title published.”⁶ For example, Penguin Random House itself has a multi-level review process
24 that includes the editor, publicist, legal team, and subject matter experts. Their legal team reads

25
26 ⁵ See City of Huntington Beach, *Review of Councilmember Item 23-532* (Oct. 17, 2023), p. 6-9,
27 at
<[https://records.huntingtonbeachca.gov/WebLink/DocView.aspx?id=6481728&dbid=0&repo=C](https://records.huntingtonbeachca.gov/WebLink/DocView.aspx?id=6481728&dbid=0&repo=C OHB)
28 OHB> (as of Feb. 20, 2025).

⁶ *Id.* at p. 9.

1 an entire book in what it says is a “First Amendment protected” manner and reviews for “high
2 value.” Illustrations are also reviewed.⁷ According to Penguin Random House, “[n]othing is
3 published that will raise red flags on the *Miller* Test.”⁸ For children’s books, Penguin Random
4 House uses “[t]hird party companies ... to identify content levels based on child development
5 phases,” and there are “[p]re-publication reviews conducted by teachers, librarians, and subject
6 matter experts.”⁹

7 80. On information and belief, before the adoption of the Library Measures,
8 Huntington Beach Public Library curatorial decisions were based on careful consideration of
9 information provided by publishers, along with information in critical professional publications
10 including Booklist, School Library Journal, Kirkus, and Publishers Weekly, and on consideration
11 of factors including community interest and collection need. Each of these information sources
12 and factors serve as filters to ensure that the Library never obtained or circulated materials that
13 are obscene under Supreme Court precedent.

14 81. The City’s Collection Development Policy “provide[s] guidance ... for the
15 selection and evaluation of materials which anticipate and meet the needs of the community.”¹⁰
16 “Selections are guided by professional review sources, demand, sales charts, community input,
17 and prominent literary awards.”¹¹ In addition, “[s]election evaluation depends upon the library
18 staff’s professional expertise in assessing the needs of the community and the content of the
19 collection.”¹²

20 82. The Collection Development Policy provides for “constant re-evaluation by the
21 library staff [that] ensures its usefulness and relevancy to the community” in maintaining the
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23 ⁷ See City of Huntington Beach, *Review of Councilmember Item 23-532* (Oct. 17, 2023), p. 7, at
24 <[https://records.huntingtonbeachca.gov/WebLink/DocView.aspx?id=6481728&dbid=0&repo=C](https://records.huntingtonbeachca.gov/WebLink/DocView.aspx?id=6481728&dbid=0&repo=C OHB)
OHB> (as of Feb. 20, 2025).

25 ⁸ *Id.*

26 ⁹ *Id.* at p. 8.

27 ¹⁰ See City of Huntington Beach, *Collection Development Policy*, revised August 8, 2015, p. 1
<[https://cms3.revize.com/revize/huntingtonbeachca/Documents/Departments/Library/Contact%2](https://cms3.revize.com/revize/huntingtonbeachca/Documents/Departments/Library/Contact%20Us%20About/Library%20Policies/Collection-Development-Policy.pdf)
0Us%20About/Library%20Policies/Collection-Development-Policy.pdf> (as of Feb. 24, 2025).

28 ¹¹ *Ibid.*

¹² *Ibid.*

library's collection ¹³ "As new items are added, older ones may be removed due their condition, age, relevance, decline in demand, or need for space. ... The Library uses professional tools, resources and data from actual collection activity to make determinations on items in the collection. Last circulation date is not the sole criteria used to retire materials. Other factors such as adequacy of coverage and significance in the subject area, cost and availability, and popular interest will affect the decision."¹⁴

83. The Collection Development Policy provides that there is "a formal process for the review of materials" to address requests to remove materials from the collection. "Library users may initiate the formal review of any item in the collection by completing a Library Materials Evaluation form."¹⁵

84. Finally, the Collection Development Policy provides that "[t]he children's and youth collections emphasize the library's strategic goals, which are to encourage early literacy and provide homework assistance by offering resources on parenting, easy readers, picture books, award winners, read-aloud titles and more."¹⁶

3. Minors Have a Privacy Interest in their Patron Records

85. Library patrons, including minors, have a privacy interest in their patron records and ability to access library materials. This privacy interest finds social and legal substantiation across a variety of sources.

86. For example, the California Public Records Act mandates that "[a]ll patron use records of a library that is in whole or in part supported by public funds shall remain confidential." (Gov. Code, § 7927.105.)

87. The Library Bill of Rights provides that "[a]ll people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use."¹⁷

88. Additionally, in the Library Services Act, the State of California set forth that "it

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Id.*

1 is in the interest of the people of the state to ensure that all people have free and convenient
2 access to all library resources and services,” in light of “the recognition” that the “public library
3 is a primary source of information, recreation, and education to persons of all ages, any location,
4 or any economic circumstance.” (Ed. Code, § 18701.)

5 89. Similarly, professional librarian guidelines nationwide, as exemplified in the
6 American Library Association’s “Professional Ethics” and “Library Bill of Rights,” recognize a
7 norm of minors having privacy interests in their patron records. (See, e.g., ALA, *Library Bill of*
8 *Rights*, <<https://www.ala.org/advocacy/intfreedom/librarybill>> (as of March 1, 2024) [all users,
9 “regardless of origin, age, background, or views, possess a right to privacy and confidentiality in
10 their library use”].)

11 90. Minors also have recognized privacy interests in reproductive autonomy, sexual
12 privacy, and certain other medical matters. (*American Academy of Pediatrics v. Lungren* (1997)
13 16 Cal.4th 307, 317; *Planned Parenthood Affiliates v. Van de Kamp* (1986) 181 Cal.App.3d 245,
14 267-71, 277-78.) This privacy interest extends to the right to acquire information relating to
15 pregnancy, sexually transmitted infections, and certain other matters for which minors may
16 obtain treatment without notice to or consent of a parent or guardian. (See Fam. Code, § 6924;
17 Health & Saf. Code, § 124260.)

18 91. Prior to the enactment and implementation of the Library Measures, teenagers in
19 Huntington Beach could protect their privacy rights, even as against their parents or guardians,
20 by obtaining a “Teen” library card, knowing their parents or guardians would not have any
21 access to their patron records.

22 92. Teenagers in other communities in California have a similar reasonable
23 expectation of privacy, as the library systems they patronize take various measures to protect
24 their privacy interests.

25 93. For example, other library systems have expressly recognized that they are not
26 legally permitted to release minors’ patron records to their parents or guardians.

27 94. The San Francisco Public Library requires that minors under 13 have to have
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1 parental or guardian authorization to obtain a library card, and will disclose a minor's circulation
2 records upon request to the parent or guardian who "1) originally authorized the child to obtain a
3 library card or, 2) presents the child's card at the time of the request, or 3) is accompanied by the
4 child to whom the circulation records pertain" but *only* if the child is under 13. If the child is
5 "age 13 or over then the Library cannot disclose [the] child's circulation records without [the]
6 child's authorization."

7 95. The Santa Monica Public Library informs parents of its minor patrons that the
8 "Library is legally required to protect the confidentiality of all registration and circulation
9 records. (California Government Code, section 6267). Staff can only give information about
10 borrowing activity directly to the cardholder. This means that Library staff cannot tell you the
11 specific titles your child has checked out on his or her card." The library tells parents who want
12 to know what materials their children have checked out to "Please ask your child for this
13 information." That provision of the Government Code has been renumbered to Government
14 Code section 7927.105.

15 96. Similarly, the Sacramento Public Library requires parents or guardians of minor
16 patrons to sign their children's library card application form while acknowledging they are aware
17 that "All library cardholders are granted user confidentiality under the California Public Records
18 Act (Government Code 6267) which prohibits the release of circulation records of library users."

19 V. CAUSES OF ACTION

20 FIRST CAUSE OF ACTION

21 **Writ of Mandate for Failure to Comply with the California Freedom to Read Act**

22 **(Code Civ. Proc., § 1085)**

23 **[By All Plaintiffs Against All Defendants]**

24 97. Plaintiffs incorporate the preceding paragraphs of this Petition and Complaint as if
25 set forth in full herein.

26 98. Defendants have the clear and present, mandatory, ministerial state law duty to
27 comply with California's "Freedom to Read Act," codified at Education Code Section 19800 et
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1 seq. Defendants' duties include not prohibiting minors from accessing materials with non-
2 obscene sexual content, and refraining from excluding or limiting access to library materials
3 solely on the basis that they may include non-obscene sexual content.

4 99. Under the California Freedom to Read Act, Defendants have the clear and present,
5 mandatory, ministerial state law duty to refrain from engaging in viewpoint discrimination and to
6 refrain from "excluding access to library material solely on the basis of the race, nationality,
7 gender identity, sexual orientation, religion, disability, political affiliation, or any other
8 characteristic listed in Government Code section 12940, subd. (a), or the socioeconomic status of
9 a subject of the library materials, an author of the library materials, the source of the library
10 materials, or the perceived or intended audience for the library materials." (Ed. Code, § 19802,
11 subd. (b)(1), (b)(2).)

12 100. Defendants, as alleged herein, have failed and are failing to comply with these
13 duties. Moreover, Defendants have established policies, passed a resolution and ordinance, and
14 engage in practices in contravention of their duties under the California Freedom to Read Act.

15 101. The City is a "public library jurisdiction" as defined in the Freedom to Read Act.
16 (Ed. Code, § 19802, subd. (f)(2).)

17 102. At all times relevant to this action, Plaintiffs had a clear, present, direct, and
18 substantial beneficial interest in Defendants' performance of their mandatory duties under the
19 California Freedom to Read Act.

20 103. Plaintiffs have standing to pursue this Petition for Writ of Mandate, both due to
21 their beneficial interest and on behalf of the public interest because this lawsuit raises questions
22 of important public rights and seeks to enforce public duties.

23 104. The City's failure to act is arbitrary, capricious, entirely lacking in evidentiary
24 support, contrary to established public policy, unlawful, procedurally unfair, an abuse of
25 discretion, and a failure to act as required by law.

26 105. Plaintiffs have exhausted all required administrative remedies or are excused from
27 exhausting their remedies due to the futility of pursuing such remedies and the unavailability of
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1 such remedies, among other things.

2 106. As a result of Defendants' failure to comply with their statutory duties and
3 obligations, Plaintiffs have been and will be unable to exercise their statutory right to access
4 materials protected by the Freedom to Read Act and are denied the benefits of Defendants'
5 public obligations.

6 **Writ Relief is Necessary**

7 107. Plaintiffs have suffered and continue to suffer irreparable injury and are without a
8 plain, speedy, and adequate remedy in the ordinary course of the law to compel Defendants to
9 comply with the mandatory, ministerial legal obligations alleged in this Petition. At present,
10 Plaintiffs are unaware of any California court that has interpreted the California Freedom to Read
11 Act to include a private right of action for library users to bring a claim under its provisions,
12 which necessitates writ relief here to: (1) vindicate the important rights afforded to the public by
13 the Act, and (2) compel performance of the public duties the Act imposes on Defendants.

14 108. Plaintiffs seek a writ of mandate directing Defendants to perform ministerial acts
15 required by law, namely to direct Defendants to comply with the California Freedom to Read
16 Act.

17 **SECOND CAUSE OF ACTION**

18 **For Violation of the Liberty of Speech Clause of the California Constitution, Article I,**

19 **Section 2**

20 **(Right to Receive Information and Overbreadth)**

21 **[By All Plaintiffs Against All Defendants]**

22 109. Plaintiffs incorporate the preceding paragraphs of this Petition and Complaint as if
23 set forth in full herein.

24 **Right to Receive Information**

25 110. The Library Measures deprive Plaintiffs, and members of the general public who
26 wish to access non-obscene materials, including non-obscene materials with "sexual content,"
27 that would otherwise be obtained and circulated by the Huntington Beach Library but for the
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1 Measures, of the right to free speech and the right to receive information as guaranteed by
2 Article I, section 2 of the California Constitution.

3 111. The Library Measures impact all patrons or potential patrons of the Huntington
4 Beach Public Library, but the impact on minors is especially pronounced because the Measures
5 prevent them from accessing materials they would otherwise have access to that contain “content
6 of [a] sexual nature” without regard for differences in a patron’s age, developmental maturity, or
7 academic needs.

8 112. The Library Measures severely inhibit and effectively preclude access by older,
9 more mature, minors to material constitutionally protected as to them.

10 113. Defendants lack a compelling or substantial legitimate government interest in
11 preventing minor Plaintiffs (and minors generally) from accessing material that is not legally
12 obscene as to them.

13 114. Defendants similarly lack a compelling or substantial legitimate government
14 interest in restricting and burdening adults’ and adult Plaintiffs’ right to receive information by
15 accessing protected and non-obscene library materials.

16 115. The Library Measures are not sufficiently narrowly tailored to serve any
17 compelling or substantial legitimate government interest and are otherwise unreasonable in light
18 of the purposes served by the Huntington Beach Public Library.

19 **Overbreadth**

20 116. The Liberty of Speech Clause of the California Constitution prohibits laws that
21 punish or burden a substantial amount of protected speech even if they also burden some
22 unprotected speech. Such statutes and ordinances are unconstitutionally overbroad.

23 117. The Library Measures regulate substantially more speech than the Liberty of
24 Speech Clause permits.

25 118. The Resolution requires parental consent before minors can access or check out
26 books containing “any sexual writings, sexual references, explicit sexual images, and any other
27 sexual content”, but does not define these terms.

1 119. The Ordinance defines “sexual content” and “sexual reference” broadly and also
2 defines “community standards” so broadly that it provides the Review Board unfettered power to
3 make procurement and circulation decisions based on any content, including—but not limited
4 to—alleged sexual references in the materials.

5 120. Prior to the enactment of the Library Measures, California law and the Library
6 System’s policies already prohibited the procurement or circulation of obscene materials.
7 Because the Library System does not seek to purchase or circulate obscene materials, the Library
8 Measures could apply only to constitutionally protected, non-obscene library materials currently
9 in the library's collection or to constitutionally protected, non-obscene materials the Library
10 System seeks to acquire.

11 121. Indeed, as alleged above, the City’s implementation of the Library Measures
12 included library staff moving to a segregated “adults only” section works on topics as varied as
13 scientific reference books on illness, reproduction, and development, and advice books on
14 parenting. None of these materials is obscene but the materials were all swept up under the
15 Library Measures’ censorship regime because they were deemed to reference sex in some
16 manner.

17 122. The Ordinance’s significant overbreadth unconstitutionally chills Plaintiffs and
18 others from engaging in protected expressive activity, including but not limited to exercising
19 their right to receive information.

20 **THIRD CAUSE OF ACTION**

21 **For Violation of the Privacy Clause of the California Constitution,**

22 **Article I, Section 1**

23 **[By Plaintiffs C.A. and H.P. Against All Defendants]**

24 123. Plaintiffs incorporate the preceding paragraphs of this Petition and Complaint as if
25 set forth in full herein.

26 124. Library patrons, including minors, have a reasonable expectation of privacy in the
27 confidentiality of their patron records and the ability to access library materials.

1 125. The right to such privacy is expressly protected by state law. (See, e.g., Ed. Code, §
2 19802, subd. (d).) [“All people, regardless of personal characteristics, age, background, or views,
3 possess a right to privacy and confidentiality in the materials they borrow from libraries.”].

4 126. By requiring “[p]arental or guardian consent” “before accessing or checking out
5 any book or other material that contains any sexual writing, sexual references, sexual images,
6 and/or other sexual content by anyone under 18-years of age, whether the books or materials are
7 intended for children or adults,” the Library Measures force minors to sacrifice their privacy as a
8 condition for exercising their right to receive information.

9 127. The Library Measures thus amount to a significant invasion of minors’ privacy
10 interests in accessing library materials.

11 128. Defendants have no legitimate interest in restricting minors’ access to non-
12 obscene, fully-protected library books and other materials or in forcing them to sacrifice their
13 privacy to obtain these materials. The Library Measures’ legally unsupported and definitionally
14 vague usage of the phrases “sexual nature” and “sexual content” further demonstrate the lack of
15 any legitimate and non-pretextual or non-censorial interest, as the Measures’ restrictions will
16 necessarily sweep in literature, art, health-related works, religious texts, encyclopedias,
17 dictionaries, and many other works.

18 **FOURTH CAUSE OF ACTION**

19 **Illegal Expenditure of Taxpayer Funds**

20 **(Code Civ. Proc., § 526(a))**

21 **[By Plaintiffs Alianza Translatinx and Erin Spivey Against All Defendants]**

22 129. Plaintiffs hereby re-allege and incorporate by reference the preceding paragraphs
23 of this Petition and Complaint as if set forth in full herein.

24 130. Members of Alianza Translatinx’s staff and the community it serves and
25 beneficially represents in this action, as well as Plaintiff Erin Spivey have, within the last year,
26 paid or been assessed for, and are liable to pay, taxes on their property, income, or other taxes in
27 the City, the county in which they reside, the State of California, and the United States of
28

1 America, some or all of which fund the City.

2 131. Defendant receives state and federal funds and is a “Public library jurisdiction”
3 under the definition of that term in Education Code section 19802, subdivision (f)(2).
4 Defendants’ expenditure of federal, state, county, and/or municipal funds to administer and
5 implement the Library Measures that prohibit minors from accessing materials with non-obscene
6 sexual content without parental consent, and that permit the Review Board to censor materials,
7 including by excluding and limiting access to library materials to all patrons solely on the basis
8 that they may include non-obscene sexual content, violates California’s “Freedom to Read Act”
9 (Assembly Bill No. 1825, codified at Ed. Code., §§ 19800-19802), and it is therefore unlawful.
10 Defendants, through the actions of their agents, have expended tax money and threaten to
11 continue and will continue to expend tax money in an illegal manner in violation of California
12 law and the California Constitution as alleged in this Petition and Complaint.

13 132. Plaintiffs Alianza Translatinx and Erin Spivey have an interest in enjoining the
14 unlawful expenditure of tax funds. Pursuant to Code of Civil Procedure section 526a and this
15 court’s equitable power, Plaintiffs Alianza Translatinx and Erin Spivey seek declaratory and
16 injunctive relief to prevent continued harm and future harm, and to protect themselves and the
17 public from Defendants’ unlawful policies and practices, as alleged herein.

18 133. There is an actual controversy between Plaintiffs Alianza Translatinx and Erin
19 Spivey and Defendants about their respective rights and duties both now and in the future.
20 Plaintiffs Alianza Translatinx and Erin Spivey contend that Defendants have unlawfully
21 administered Library Measures that violate California law and the California Constitution and
22 have failed to satisfy their duties to correct deficiencies, as alleged herein, whereas Defendants
23 contend in all respect to the contrary. Plaintiffs Alianza Translatinx and Erin Spivey seek a
24 judicial declaration of the rights and duties of the respective parties with respect to the instant
25 matter.

26 134. Plaintiffs contend that Defendants’ actions and inactions as described above have
27 violated and will continue to violate Education Code section 19800 et seq. and Article I, Sections
28

1 and 2 of the California Constitution; constitute an abuse of discretion and an illegal expenditure of taxpayer funds.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray as follows:

1. That this Court issue a Writ of Mandate compelling Defendants to comply with the requirements of the California Freedom to Read Act and prohibiting them from implementing or enforcing the Library Measures;
2. Enjoin Defendants from making any expenditures of public funds in support, implementation, or enforcement of the Library Measures;
3. Order and declare that Defendants' Library Measures violate and threaten to continue to violate the rights of Plaintiffs under the California Constitution and California Freedom to Read Act, Education Code Section 19800 et seq.;
4. Issue a declaration as to the future rights and duties of the Parties in this matter;
5. Enjoin Defendants and Defendants' officers, agents, employees and assigns, all persons acting in concert with them, and their successors in office, from enforcing or implementing the Library Measures;
6. Enjoin Defendants from making curatorial decisions that prevent library patrons from accessing protected materials in contravention of the California Freedom to Read Act and the California Constitution;
7. Enjoin Defendants from restricting access to minors who are 13 years of age or older to all materials in City libraries without parental notification or permission;
8. Order Defendants to pay Plaintiffs' attorneys' fees and costs incurred in this action pursuant to Code of Civil Procedure section 1021.5 and any other applicable provision of law;
9. For Plaintiffs' costs of suit; and
10. For other such relief as the Court deems just and proper.

//

1 Dated: February 26, 2025

Respectfully Submitted:

2 **COMMUNITY LEGAL AID SOCAL**

3 By: /s/ Ryan M. Kendall

4 Ryan M. Kendall
5 Sarah Reisman
6 Erica Embree Ettinger
7 Katelyn Rowe

Attorneys for Petitioner and Plaintiff Alianza Translatinx

8 **AMERICAN CIVIL LIBERTIES UNION**
9 **FOUNDATION OF**
10 **SOUTHERN CALIFORNIA**

11 By: /s/ Jonathan Markovitz

12 Jonathan Markovitz
13 Peter J. Eliasberg
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15 **AMERICAN CIVIL LIBERTIES UNION**
16 **FOUNDATION OF NORTHERN**
17 **CALIFORNIA**

18 By: /s/ Chessie Thacher
19 Chessie Thacher

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20 **FIRST AMENDMENT COALITION**

21 By: /s/ David Loy

22 David Loy
23 Ann Capetta

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9 *C.W.; and Erin Spivey*