

1 DANIEL M. ORTNER (California State Bar No. 329866)
2 dortner@pacificlegal.org
3 555 Capitol Mall, Suite 1290
4 Sacramento, CA 95814
5 Telephone: (916) 419-7111
6 Facsimile: (916) 419-7747

7 GABRIEL Z. WALTERS (District of Columbia Bar No. 1019272)*
8 gabe.walters@thefire.org
9 JEFFREY D. ZEMAN (Pennsylvania Bar No. 328570)*
10 jeff.zeman@thefire.org
11 FOUNDATION FOR INDIVIDUAL RIGHTS AND EXPRESSION
12 510 Walnut Street, Suite 1250
13 Philadelphia, PA 19106
14 Telephone: (215) 717-3473

15 *Attorneys for Plaintiffs*
16 **Pro Hac Vice* Motions Forthcoming

17 UNITED STATES DISTRICT COURT
18 EASTERN DISTRICT OF CALIFORNIA

19 ALEJANDRO FLORES;
20 DANIEL FLORES;
21 JULIETTE COLUNGA; and
22 YOUNG AMERICANS FOR FREEDOM AT
23 CLOVIS COMMUNITY COLLEGE,

24 Plaintiffs,

25 v.

26 DR. LORI BENNETT, in her individual and
27 official capacities as President of Clovis
28 Community College;

MARCO J. DE LA GARZA, in his individual
and official capacities as Vice President of
Student Services at Clovis Community
College;

GURDEEP HÉBERT, in her individual and
official capacities as Dean of Student Services
at Clovis Community College; and

Civil Action No.

**VERIFIED COMPLAINT
FOR CIVIL RIGHTS VIOLATIONS**

JURY TRIAL DEMANDED

Date: T.B.D.
Time: T.B.D.
Judge: T.B.D.

1
2 PATRICK STUMPF, in his individual and
3 official capacities as Senior Program Specialist
4 at Clovis Community College,

5
6 Defendants.

7 INTRODUCTION

8 1. Administrators of public colleges cannot ban a student group’s flyers because
9 some found the message inappropriate or offensive. “If there is a bedrock principle underlying the
10 First Amendment, it is that the government may not prohibit the expression of an idea simply
11 because society finds the idea itself offensive or disagreeable.” *Texas v. Johnson*, 491 U.S. 397,
12 414 (1989).

13 2. Yet that is exactly what administrators of Clovis Community College did when
14 they ordered Plaintiffs’ flyers to be taken down and relegated others to a remote part of campus
15 students rarely visit. Plaintiffs—students and founding members of Clovis’s chapter of
16 conservative student organization Young Americans for Freedom (YAF-Clovis)—bring this civil
17 rights lawsuit to hold Clovis administrators accountable for their blatant viewpoint discrimination
18 and to enjoin enforcement of Clovis’s policy requiring prior administrative approval for flyers.

19 3. In November 2021, Plaintiffs Alejandro Flores, Daniel Flores, and Juliette
20 Colunga obtained approval to post anti-communist flyers (the Freedom Week Flyers) to bulletin
21 boards inside campus buildings. After receiving complaints that the flyers made “several
22 people . . . uncomfortable,” Clovis President Dr. Lori Bennett directed other administrators to
23 take down the Freedom Week Flyers and fabricated a pretext, saying, “If you need a reason, you
24 can let [the students] know that [Vice President of Student Services] Marco [De La Garza] and I
25 agreed they aren’t club announcements.”

26 4. Dean of Student Services Gurdeep Hébert later used the same pretext to reject
27 Plaintiffs’ application to post flyers advocating a pro-life viewpoint (the Pro-Life Flyers) on the
28 day the Supreme Court heard oral argument in *Dobbs v. Jackson Women’s Health Organization*.
Instead of permitting Plaintiffs to use the highly trafficked bulletin boards inside campus

1 buildings, Defendants banished them to a remote, infrequently visited location outdoors, the so-
2 called “Free Speech Kiosk.” The Kiosk, a small box covered in rotting wood planks, sits at the
3 edge of a walkway students virtually never use because it does not lead to any building entrances
4 or parking lots.



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14 5. Clovis Community College maintains a “Poster/Flyer Instructions” Policy (the
15 Flyer Policy) that unconstitutionally prohibits flyers “with inappropriate or offense [sic] language
16 or themes.” But contrary to President Bennett’s pretextual reason for removing Plaintiffs’ flyers,
17 neither the Flyer Policy nor Clovis’s standard practice requires that student flyers must announce
18 club meetings or events.

19 6. The Flyer Policy is facially unconstitutional for four reasons. *First*, it operates as a
20 prior restraint against protected student speech. *Second*, it bans speech on the basis of subjective
21 “offense” and unreasonably fails to define or provide any objective standards as to what
22 constitutes “inappropriate or offens[ive] language or themes.” *Third*, it is unconstitutionally vague
23 because a person of ordinary intelligence is left to guess at what is meant by “posters that contain
24 inappropriate or offens[ive] language or themes” and leaves such determinations to the arbitrary
25 enforcement of Defendants in their unfettered discretion. *Fourth*, it is unconstitutionally
26 overbroad because a substantial number of its applications—like the censorship of Plaintiffs’
27 flyers—violate the First Amendment.

1 Defendants in their individual capacities for knowingly and willfully violating Plaintiffs' clearly
2 established rights.

3 15. This Court has original jurisdiction over these federal claims under 28 U.S.C.
4 §§ 1331 and 1343.

5 **VENUE**

6 16. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(1) and Local
7 Civil Rule 120(d) because at least one Defendant resides within the Fresno Division of the
8 Eastern District of California and all Defendants reside in the state of California.

9 17. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(2) and Local
10 Civil Rule 120(d) because a substantial part of the events giving rise to Plaintiffs' claims occurred
11 within the Fresno Division of the Eastern District of California.

12 **THE PARTIES**

13 **Plaintiffs**

14 18. Plaintiff Alejandro Flores is a resident of Fresno, California. He is a student at
15 Clovis Community College who founded YAF-Clovis. As then-president of YAF-Clovis,
16 Alejandro obtained approval to post the Freedom Week Flyers on the bulletin boards inside the
17 Academic Centers. He, along with Juliette, created the Pro-Life Flyers and was denied approval
18 to post them on the bulletin boards inside the Academic Centers.

19 19. Plaintiff Daniel Flores is a resident of Fresno, California. He is a student at Clovis
20 Community College and an officer of YAF-Clovis. Daniel was an active member of YAF-Clovis
21 when Defendants removed the Freedom Week Flyers from the bulletin boards inside the
22 Academic Centers. He and Alejandro waited on campus for hours seeking approval to post the
23 Pro-Life Flyers on the bulletin boards inside the Academic Centers.

24 20. Plaintiff Juliette Colunga is a resident of Clovis, California. She is a student at
25 Clovis Community College and the incoming president of YAF-Clovis. Juliette was an active
26 member of YAF-Clovis when Defendants removed the Freedom Week Flyers from the bulletin
27 boards inside the Academic Centers. She, along with Alejandro, created the Pro-Life Flyers.
28

1 21. Plaintiff YAF-Clovis has been a recognized student organization at Clovis
2 Community College since 2019.

3 **Defendants**

4 22. Defendant Dr. Lori Bennett is the President of Clovis Community College. She
5 has been President since July 2016. In this role, President Bennett is responsible for generally
6 overseeing the operation and policies of Clovis Community College, including the maintenance
7 and enforcement of the Flyer Policy. President Bennett made the decision to remove the Freedom
8 Week Flyers in violation of Plaintiffs' clearly established First Amendment rights to free speech.
9 She also supplied Vice President De La Garza and Dean Hébert a pretext to hide their viewpoint-
10 based decision to remove the Freedom Week Flyers, which Hébert later used to deny Plaintiffs'
11 application to post their Pro-Life Flyers. She is sued in her official capacity for declaratory and
12 prospective injunctive relief and in her individual capacity for money damages, including punitive
13 damages.

14 23. Defendant Marco J. De La Garza is the Vice President of Student Services at
15 Clovis Community College. In this role, Vice President De La Garza is responsible for overseeing
16 the operation of the Student Services Division at Clovis and ensuring regulatory and legal
17 compliance. His duties include maintaining and enforcing student organization policies, including
18 the Flyer Policy. He participated in the decision to remove the Freedom Week Flyers in violation
19 of Plaintiffs' clearly established First Amendment rights to free speech. He suggested that
20 Defendants should amend the Flyer Policy because its current language permitted Plaintiffs to
21 express a viewpoint that made others "uncomfortable." He is sued in his official capacity for
22 declaratory and prospective injunctive relief and in his individual capacity for money damages,
23 including punitive damages.

24 24. Defendant Gurdeep Hébert is the Dean of Student Services at Clovis Community
25 College. In this role, Dean Hébert is responsible for overseeing outreach, student success, and
26 student activities within Student Services, including enforcement of the unconstitutional Flyer
27 Policy. Dean Hébert participated in the decision to remove the Freedom Week Flyers. She
28 effectuated President Bennett's decision to remove Plaintiffs' Freedom Week Flyers by ordering

1 Defendant Stumpf to take the flyers down and used the pretext President Bennett provided her to
2 deny Plaintiffs' application to post the Pro-Life Flyers on the indoor bulletin boards of the
3 Academic Centers. She is sued in her official capacity for declaratory and prospective injunctive
4 relief and in her individual capacity for money damages, including punitive damages.

5 25. Defendant Patrick Stumpf is a Senior Program Specialist for Student Activities at
6 Clovis Community College. In this role, Defendant Stumpf is responsible for enforcing the Flyer
7 Policy, and is in charge of the Student Center flyer approval process. He initially approved the
8 Freedom Week Flyers before suggesting to other administrators that the Flyer Policy's ban on
9 "inappropriate" or "offens[ive]" speech could serve as a justification for their removal. After
10 indicating that he would "gladly" remove the Freedom Week Flyers because they made "several
11 people . . . uncomfortable," Stumpf directed Student Center staff to remove all of Plaintiffs' flyers
12 upon receiving President Bennett's order from Dean Hébert. He is sued in his official capacity for
13 declaratory and prospective injunctive relief and in his individual capacity for money damages,
14 including punitive damages.

15 26. President Bennett supervises Vice President De La Garza, who in turn supervises
16 Dean Hébert, who in turn supervises Specialist Stumpf.

17 27. President Bennett ordered the removal of the Freedom Week Flyers in consultation
18 and agreement with Vice President De La Garza. President Bennett ordered Dean Hébert to
19 remove the flyers, and Dean Hébert, in turn, ordered Specialist Stumpf to remove them. Stumpf
20 then ordered student workers to remove the flyers.

21 28. Each Defendant is personally responsible for the constitutional violations alleged.

22 29. At all relevant times, Defendants were acting under the color of state law.

23 **FACTUAL ALLEGATIONS**

24 ***Plaintiffs Created a Student Chapter of Young Americans for Freedom at Clovis to Express*** 25 ***Their Conservative Views.***

26 30. Plaintiff Alejandro Flores grew up in Fresno, California. He attends Clovis
27 Community College and is planning to pursue a law degree from an accredited law school.

1 31. Alejandro developed his conservative political beliefs through the lens of his
2 family's faith. Alejandro's parents were always involved in the local Catholic diocese and they
3 helped found the first local, Spanish-language, Catholic radio station in the Fresno area.

4 32. Alejandro's faith drew him to the conservative values of Young Americans for
5 Freedom.

6 33. Alejandro founded YAF-Clovis both to find like-minded students on a campus that
7 he believes is dominated by liberal political views and to promote his own conservative political
8 views to his peers.

9 34. Plaintiff Daniel Flores is a cousin of Plaintiff Alejandro Flores.

10 35. Daniel was born in Fresno, California, and lived there until he was seven years old
11 before returning for college.

12 36. Daniel is pursuing a major in business administration at Clovis Community
13 College in pursuit of a bachelor's degree from an accredited university.

14 37. Daniel supports YAF-Clovis because of his belief in the free market and his belief
15 that success is the result of hard work.

16 38. At the suggestion of Alejandro, Daniel first joined YAF-Clovis to work on the
17 Young America's Foundation 9/11 Never Forget Project.

18 39. Plaintiff Juliette Colunga grew up in the Fresno area.

19 40. Juliette attends Clovis Community College to earn credits toward a bachelor's
20 degree from an accredited university.

21 41. Juliette was the president of a Young Americans for Freedom chapter at her high
22 school, Buchanan High School, which led her to joining YAF-Clovis.

23 42. Juliette believes in what she identifies as YAF-Clovis's ideological commitments:
24 free speech, free markets, and a strong national defense.

25 43. In order to promote their conservative viewpoints and recruit new members to
26 YAF-Clovis, Plaintiffs create and post flyers on campus for other students to see.

1 44. YAF-Clovis is a student chapter of Young Americans for Freedom, which is a
2 project of the national advocacy group Young America’s Foundation. According to the Young
3 America’s Foundation mission statement, it advocates for “individual freedom, a strong national
4 defense, free enterprise, and traditional values.” Young Americans for Freedom chapters are
5 present at colleges and high schools across the country. YAF-Clovis promotes these same values
6 by hosting conservative speakers on campus and participating in outreach initiatives among
7 fellow students on campus.

8 45. YAF-Clovis regularly receives materials, including flyers, from Young America’s
9 Foundation for campus displays.

10 ***Defendants Require Preapproval of Student Flyers and Ban “Inappropriate” or “Offensive”***
11 ***Flyers.***

12 46. Clovis Community College is a community college located in Fresno, California,
13 with approximately 7,386 enrolled students as of the 2022 spring semester, according to its
14 website.

15 47. Clovis Community College’s campus has two main academic buildings in which
16 students attend class: Academic Center One and Academic Center Two (the Academic Centers).

17 48. Clovis Community College has mounted bulletin boards along certain hallways
18 inside both Academic Centers.

19 49. Clovis Community College requires preapproval of student flyers. Under this
20 process, students bring copies of flyers to the Student Center, where staff review the flyers and
21 stamp them for approval before students may hang them on indoor bulletin boards and outdoor
22 kiosks.

23 50. In Alejandro and Daniel’s experience, Student Center staff review and approve
24 flyers within minutes while students wait.

25 51. Alejandro, Daniel, and Juliette are not aware of the Student Center ever denying
26 any other student groups approval to post flyers on campus.

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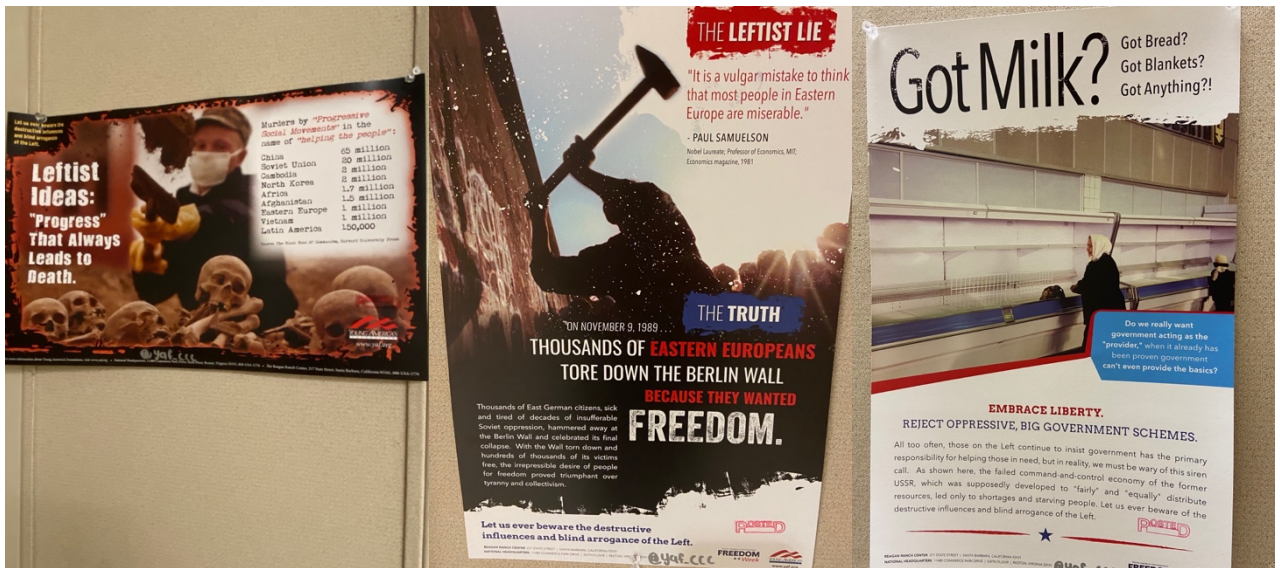
1 55. The Flyer Policy does not offer any definition of “inappropriate or offens[ive]
2 language or themes.”

3 56. Neither does the Flyer Policy provide any guidance whatsoever to administrators
4 to determine whether the “language or themes” of student flyers are “inappropriate or
5 offens[ive].”

6 57. The rule against “inappropriate or offens[ive] language or themes” is the only
7 enumerated basis upon which Student Center Staff may reject a student-submitted flyer.

8 ***Defendants Approved and Then Removed Plaintiffs’ Flyers Because of Their Viewpoint.***

9 58. In November 2021, Plaintiffs obtained three flyer designs from Young America’s
10 Foundation as part of an annual campaign to raise awareness about the harms caused by
11 communist regimes around the world, called Freedom Week (the Freedom Week Flyers).



21 59. Alejandro submitted the Freedom Week Flyers to Clovis Community College
22 Student Center Staff for approval.

23 60. Within minutes of Alejandro’s submission, Defendant Specialist Stumpf approved
24 the Freedom Week Flyers and granted Plaintiffs permission to post them on the indoor bulletin
25 boards of the Academic Centers.

26 61. Plaintiffs then posted the Freedom Week Flyers on the indoor bulletin boards of
27 the Academic Centers, where their peers would be able to see them while walking to and from
28 class.

1 62. Alejandro took photographs of some of the Freedom Week Flyers while they were
2 hanging on the bulletin boards in the Academic Centers. True and correct copies of his
3 photographs of the Freedom Week Flyers are attached as Exhibits A, B, and C to this Verified
4 Complaint.

5 63. On Monday, November 8, 2021, while the Freedom Week Flyers were still
6 hanging on the walls of the Academic Centers, President Bennett, Vice President De La Garza,
7 and Specialist Stumpf received an email from another staff member claiming that the Flyers made
8 “several people . . . very uncomfortable” and that one person said they would file a harassment
9 claim if Defendants didn’t take the flyers down.

10 64. This report of alleged complaints set off a flurry of emails that same day among
11 Defendants about how to remove the Freedom Week Flyers.

12 65. Despite acknowledging to another staff member that removing the flyers because
13 of their viewpoint implicated students’ free speech rights—which he unreasonably
14 mischaracterized as “a gray area”—Specialist Stumpf responded that he would “gladly” take
15 down the Freedom Week Flyers on further instructions from his superiors.

16 66. Vice President De La Garza responded by indicating that Defendants should
17 review the guidelines that permitted Plaintiffs to post the Freedom Week Flyers.

18 67. Specialist Stumpf agreed and then offered the Flyer Policy’s prohibition of
19 “inappropriate or offens[ive] language or themes” as a justification for removing the Freedom
20 Week Flyers. He suggested that, under that provision, the Freedom Week Flyers should not have
21 been approved in the first place. But he added: “Since it is a political club, we have allowed
22 political type posters from the club before.”

23 68. Late that day, Dean Hébert asked Specialist Stumpf about the Freedom Week
24 Flyers: “Did we approve these?”

25 69. Specialist Stumpf replied to Dean Hébert later that evening: “Yes . . . they are the
26 same ones we had approved a couple years ago. They come from the national student
27 organization and we were on the fence about it. I wish we would have held off and we sent to you
28 first.”

1 70. On Friday, November 12, 2021, four days after receiving the complaint about the
2 Freedom Week Flyers, President Bennett ordered Vice President De La Garza and Dean Hébert to
3 remove the Flyers from the indoor bulletin boards of the Academic Centers.

4 71. President Bennett provided De La Garza and Hébert a pretext to give Plaintiffs in
5 order to hide Defendants’ viewpoint discrimination: “If you need a reason, you can let them know
6 that Marco [De La Garza] and I agreed they aren’t club announcements.”

7 72. There is no rule or policy of Clovis Community College, including the Flyer
8 Policy, that requires student flyers to contain “club announcements.” Nor was there, before
9 Bennett’s order, any consistent pattern or practice at Clovis Community College to prohibit or
10 remove student flyers that “aren’t club announcements.”

11 73. On November 14, 2021, Dean Hébert ordered Specialist Stumpf to remove the
12 Freedom Week Flyers from the indoor bulletin boards of the Academic Centers.

13 74. The following morning Specialist Stumpf replied, indicating he would have
14 student workers take the Freedom Week Flyers down that day.

15 75. Defendants did not notify Plaintiffs of President Bennett’s decision to remove the
16 Freedom Week Flyers.

17 76. Plaintiffs only later discovered, when a faculty member asked them if YAF-Clovis
18 students had taken the Freedom Week Flyers down, that all of the Flyers had been removed from
19 the halls of the Academic Centers.

20 77. Dean Hébert sent President Bennett’s pretextual justification for removing the
21 Freedom Week Flyers to Specialist Stumpf and directed him to keep it a secret: “Between you
22 and me. Please don’t share this email. Flyers need to come down per administration.”

23 78. In summary, President Bennett’s November 12, 2021, decision to remove the
24 Freedom Week Flyers was the result of the discussion that started on November 8, 2021, when
25 Defendants received a viewpoint-based complaint about the content of Plaintiffs’ Freedom Week
26 Flyers. The reason Bennett offered Vice President De La Garza and Dean Hébert—that the flyers
27 “aren’t club announcements”—was a pretextual, post-hoc justification for the flyers’ removal.
28

1 ***Defendants Banished Additional Flyers to a “Free Speech Kiosk” Because of Their Viewpoint.***

2 79. This was not the only time Defendants used the pretextual justification of flyers
3 not being a “club announcement” to discriminate against Plaintiffs’ speech.

4 80. In late November of 2021, Plaintiffs Alejandro Flores, Daniel Flores, and Juliette
5 Colunga created a new set of five flyers, depicted below, conveying their pro-life viewpoint (the
6 Pro-Life Flyers), in anticipation of the highly controversial U.S. Supreme Court case of *Dobbs v.*
7 *Jackson Women’s Health Organization* on the constitutionality of Mississippi’s fifteen-week ban
8 on abortions.



15 81. Plaintiffs intended to promote their pro-life viewpoint to their peers on campus
16 contemporaneously with the news cycle around the Supreme Court’s oral argument in *Dobbs*,
17 scheduled for December 1, 2021.

18 82. The day of the oral argument, Plaintiffs sought approval from Specialist Stumpf
19 and Dean Hébert to post the Pro-Life Flyers on the indoor bulletin boards of the Academic
20 Centers.

21 83. Alejandro and Daniel brought copies of the Pro-Life Flyers to the Student Center
22 for approval.

23 84. Based on prior experience on multiple occasions, Alejandro and Daniel expected
24 that Student Center staff would approve student flyers within minutes while they waited.

25 85. However, on December 1, 2021, Alejandro and Daniel remained on campus for
26 nearly nine hours awaiting approval of the Pro-Life Flyers. Ultimately, they left campus without
27 receiving an approval or denial.

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1 86. That day, Alejandro emailed Dean Hébert to ask about the status of the Pro-Life
2 Flyers. He emphasized Plaintiffs’ intent to timely promote their viewpoint to their peers given
3 that the *Dobbs* oral argument had occurred earlier that day.

4 87. The next day, on December 2, 2021, Dean Hébert replied to Alejandro’s email,
5 denying Plaintiffs’ request to place the Pro-Life Flyers on the indoor bulletin boards of the
6 Academic Centers without explanation.

7 88. Dean Hébert advised Alejandro that she would not permit Plaintiffs to post the
8 Pro-Life Flyers inside the Academic Centers, but they could instead post the flyers on an outdoor
9 “Free Speech Kiosk.”

10 89. The Free Speech Kiosk is a four-sided rectangular box located on the edge of a
11 walkway seldom, if ever, used by Clovis Community College students.

12 90. Under Clovis Community College’s COVID-19 policies, students are permitted to
13 enter and exit both of the Academic Centers through only one door in each building.

14 91. Neither of the doors available to students to access the Academic Centers is
15 accessible via the walkway upon which the Free Speech Kiosk sits.

16 92. Students walking from the entrance of one Academic Center to the other do not
17 pass by the Free Speech Kiosk.

18 93. There are no other buildings in close proximity to the Free Speech Kiosk, and the
19 college’s parking lots are located at the other ends of campus.

20 94. Consequently, if the flyers were posted only on the Free Speech Kiosk, it would be
21 unlikely that students would ever see Plaintiffs’ flyers.

22 95. Because flyers on the Free Speech Kiosk are unlikely to reach an intended
23 audience, Clovis Community College students do not regularly use the Kiosk.

24 96. On December 3, 2021, Alejandro sent Dean Hébert an email asking why she had
25 denied Plaintiffs’ request to post the Pro-Life Flyers on the indoor bulletin boards of the
26 Academic Centers.

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1 97. Seven days later, on December 10, 2021, Dean Hébert finally replied that Clovis
2 Community College generally permits only the posting of announcements regarding groups,
3 events, and services on interior hallways.

4 98. In other words, Dean Hébert's December 10, 2021, email repeated the pretextual,
5 post-hoc justification President Bennett created on November 12, 2021, for removing the
6 Freedom Week flyers.

7 99. Other students and clubs regularly post flyers with political and social commentary
8 or themes on the indoor bulletin boards of the Academic Centers. Defendants do not require those
9 students or groups to take their flyers down and only post them to the Free Speech Kiosk.

10 ***Defendants Discussed Revising the Flyer Policy, But the Policy Remains in Place.***

11 100. During the course of their discussions regarding the Freedom Week Flyers,
12 Defendants proposed revising the Flyer Policy in response to the complaints they had received
13 about the flyers' content.

14 101. On November 8, 2021, Vice President De La Garza's immediate response to the
15 complaints was to suggest that he, Dean Hébert, and Specialist Stumpf meet to review the Flyer
16 Policy.

17 102. On November 12, 2021, when President Bennett ordered the removal of the
18 Freedom Week Flyers from the Academic Buildings, she also advised that she, Vice President De
19 La Garza, and Dean Hébert could discuss new rules the following week.

20 103. There is no evidence that Defendants intended to revise the Flyer Policy before
21 receiving complaints about Plaintiffs' Freedom Week Flyers.

22 104. Similarly, there is no evidence that Defendants intend to revise the Flyer Policy to
23 *permit* Plaintiffs' flyers.

24 105. To the contrary, the context in which Defendants discussed revising the Flyer
25 Policy suggests that, if anything, Defendants desired to craft a policy that would *prohibit*
26 Plaintiffs' Freedom Week Flyers.

27 106. The Flyer Policy is still in effect as of the date of this filing.
28

1 ***Defendants' Actions Deprived Plaintiffs of Their Rights and Their Injury Is Ongoing.***

2 107. As a direct and proximate cause of Defendants removing Plaintiffs' Freedom
3 Week Flyers from the bulletin boards and banishing Plaintiffs' Pro-Life Flyers to the isolated
4 Free Speech Kiosk, Plaintiffs have suffered and continue to suffer irreparable injury, including
5 being deprived of their constitutional rights to freedom of speech and due process.

6 108. Plaintiffs intend to post the Freedom Week Flyers during the fall semester's
7 Freedom Week from November 7–12, 2022 and beyond.

8 109. Plaintiffs intend to post the Pro-Life Flyers and flyers containing similar political
9 and social messages during the 2022 fall semester, which began on August 8, 2022, and beyond.

10 110. Although Plaintiffs originally intended to post the Pro-Life Flyers
11 contemporaneously with the news cycle surrounding the December 1, 2021, arguments in *Dobbs*
12 *v. Jackson Women's Health Organization*, the text and images of the Pro-Life Flyers are not
13 specific to that case or that oral argument date. The debate over abortion continues in public
14 discourse across the country, and Plaintiffs intend to post the Pro-Life Flyers on the indoor
15 bulletin boards of the Academic Centers in the future.

16 111. But for the Flyer Policy and Defendants' actions in removing such flyers and
17 denying approval to place them on the indoor bulletin boards of the Academic Centers, Plaintiffs
18 would post the Freedom Week Flyers, the Pro-Life Flyers, and flyers containing similar political
19 and social messages, during the 2022 fall semester and beyond.

20 112. The denial of constitutional rights is an irreparable injury *per se*, and Plaintiffs are
21 entitled to declaratory and prospective injunctive relief against all Defendants in their official
22 capacities.

23 113. Plaintiffs are entitled to an award of monetary damages against all Defendants in
24 their individual capacities in an amount to be determined at trial to compensate Plaintiffs for
25 Defendants' violation of their rights under the U.S. Constitution. In the alternative, Plaintiffs are
26 entitled to an award of nominal damages.

1 114. Plaintiffs designed the Pro-Life Flyers themselves, and spent \$5.00 printing 25
2 flyers, at \$0.20 per color page, but Defendants refused to approve and stamp them for posting in
3 Plaintiffs' intended venue, the Academic Centers, based on viewpoint.

4 115. No reasonable public college administrator would deny students the right to hang
5 flyers where other students are permitted to do so because of the political or social viewpoints the
6 flyers express.

7 116. Defendants knew or should have known, or recklessly disregarded, that their
8 actions violated Plaintiffs' First Amendment rights.

9 117. Plaintiffs are entitled to an award of punitive damages against Defendants in their
10 individual capacities for their knowing and willful violation of Plaintiffs' rights under the U.S.
11 Constitution.

12 **FIRST CAUSE OF ACTION**
13 **Facial First Amendment Challenge to the Flyer Policy Under 42 U.S.C. § 1983**
14 **Prior Restraint**
(Against all Defendants in their official capacities)

15 118. Plaintiffs re-allege and incorporate by reference each and every allegation set forth
16 in the preceding paragraphs of this Complaint.

17 119. The Flyer Policy is facially unconstitutional under the First Amendment because it
18 operates as a prior restraint on protected student expression.

19 120. The Flyer Policy requires that all flyers created by students, groups, and clubs
20 "must be approved and stamped by the Clovis Community College Student Center Staff" before
21 posting. The Flyer Policy states that flyers "with unapproved (post approval) writing will be
22 removed." Per the Flyer Policy, failure to obtain preapproval "will result in
23 unapproved/unstamped flyers being removed and thrown away." These provisions create a
24 permitting or licensing scheme requiring preapproval by Defendants before students may engage
25 in protected speech by posting on the indoor bulletin boards of the Academic Centers.

26 121. "[A]ny system of prior restraint comes to [the court] bearing a heavy presumption
27 against its constitutional validity." *Epona v. Cnty. of Ventura*, 876 F.3d 1214, 1222 (9th Cir.
28 2017) (quoting *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 225 (1990)).

1 130. The Flyer Policy is facially unconstitutional under the First Amendment because it
2 bans speech that the government deems offensive.

3 131. A public college cannot suppress student speech in a public forum because of the
4 viewpoint that the speech expresses. *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S.
5 819, 836 (1995); *Widmar v. Vincent*, 454 U.S. 263, 277 (1981).

6 132. A government regulation violates the First Amendment if it favors some
7 viewpoints and discriminates against others, including those messages that the government deems
8 offensive. *Matal v. Tam*, 137 S. Ct. 1744, 1757 (2017) (plurality). “[O]ffensive speech is, itself, a
9 viewpoint and . . . the government engages in viewpoint discrimination when it suppresses speech
10 on the ground that the speech offends.” *American Freedom Def. Initiative v. King Cnty.*, 904 F.3d
11 1126, 1131 (9th Cir. 2018). Nor may the government prohibit speech on the basis that it violates
12 notions of decency or propriety. *Papish v. Bd. of Curators of Univ. of Mo.*, 410 U.S. 667, 670
13 (1973) (“the mere dissemination of ideas—no matter how offensive to good taste—on a state
14 university campus may not be shut off in the name alone of ‘conventions of decency.’”).

15 133. Under the Flyer Policy, student flyers “with inappropriate or offens[ive] language
16 or themes are not permitted and will not be approved.”

17 134. By prohibiting “inappropriate or offens[ive] language or themes,” the Flyer Policy
18 facially discriminates on the basis of viewpoint in a public forum.

19 135. In a public forum, any restrictions on speech must also, at a minimum, be
20 reasonable and viewpoint neutral. *See, e.g., Minn. Voters Alliance v. Mansky*, 138 S. Ct. 1876,
21 1885 (2018).

22 136. In drawing a reasonable line, “the State must be able to articulate some sensible
23 basis for distinguishing what may come in from what must stay out.” *Id.* at 1888. In other words,
24 the restriction must be “capable of reasoned application.” *Id.* at 1892.

25 137. The terms “inappropriate” and “offens[ive]” as included in the Flyer Policy are not
26 facially viewpoint neutral.

27 138. The terms “inappropriate” and “offens[ive]” are incapable of reasoned application
28 and fail to articulate any “sensible basis for distinguishing what may come in from what must stay

1 out” and are therefore facially unreasonable. *See, e.g., Ogilvie v. Gordon*, 540 F. Supp. 3d 920,
2 930–31 (N.D. Cal. 2020) (applying *Mansky*: “Because there is no objective, workable standard of
3 what is ‘offensive to good taste and decency,’ different reviewers can reach opposing conclusions
4 on whether a certain configuration should be rejected based on their judgment of what might be
5 ‘offensive’ or not in ‘good taste.’”).

6 139. As a direct and proximate result of Defendants’ policies, Plaintiffs have suffered
7 irreparable injury, including being deprived of their constitutional right to free expression.

8 140. The denial of constitutional rights is an irreparable injury *per se*. *Elrod v. Burns*,
9 427 U.S. 347, 373 (1976).

10 141. Plaintiffs have no adequate legal, administrative, or other remedy by which to
11 prevent or minimize the continuing irreparable harm to their First Amendment rights.

12 142. Without declaratory and injunctive relief from this Court, Defendants’
13 unconstitutional policy and actions will continue and Plaintiffs will suffer irreparable harm
14 indefinitely.

15 **THIRD CAUSE OF ACTION**
16 **Facial First Amendment Challenge to the Flyer Policy Under 42 U.S.C. § 1983**
17 **Overbreadth**
(Against all Defendants in their official capacities)

18 143. Plaintiffs re-allege and incorporate by reference each and every allegation set forth
19 in the preceding paragraphs of this Complaint.

20 144. A regulation violates the First Amendment for overbreadth if “a substantial
21 number of its applications are unconstitutional, judged in relation to the statute’s plainly
22 legitimate sweep.” *United States v. Stevens*, 559 U.S. 460, 473 (2010) (quotations and citations
23 omitted).

24 145. The Flyer Policy is unconstitutional on its face because it results in a substantial
25 number of unconstitutional applications, allowing the College and its administrators to deny or
26 remove flyers like Plaintiffs’ that are protected by the First Amendment but express viewpoints
27 that the College wishes to suppress.

1 146. For example, a ban on “offensive” speech could block student flyers that say “Blue
2 Lives Matter” or “Black Lives Matter.” It could block student flyers that carry Pride flags or
3 flyers that exhort students to “Support Traditional Marriage.” Any flyer that expresses a
4 viewpoint on a matter of public concern or debate could be deemed offensive by adherents to the
5 opposing view.

6 147. The Flyer Policy has no legitimate sweep because it violates the Constitution on its
7 face. But assuming it does have some legitimate sweep, its potential unconstitutional applications
8 dwarf whatever that sweep is. The Flyer Policy not only makes unconstitutional a “substantial
9 number” of its applications; that number is effectively limitless because it encompasses
10 disfavored viewpoints on any political, social, or economic issue of public concern or debate.

11 148. As a direct and proximate result of the Flyer Policy, students at Clovis Community
12 College, including Plaintiffs, have suffered irreparable injuries, including being deprived of their
13 constitutional right to free expression.

14 149. Plaintiffs have no adequate legal, administrative, or other remedy by which to
15 prevent or minimize the continuing harm to their First Amendment rights.

16 150. Without declaratory and injunctive relief from this Court, Defendants’
17 unconstitutional policy and actions will continue and Plaintiffs will suffer irreparable harm
18 indefinitely.

19 **FOURTH CAUSE OF ACTION**
20 **Facial Fourteenth Amendment Challenge to the Flyer Policy Under 42 U.S.C. § 1983**
21 **Vagueness**
(Against all Defendants in their official capacities)

22 151. Plaintiffs re-allege and incorporate by reference each and every allegation set forth
23 in the preceding paragraphs of this Complaint.

24 152. A regulation violates the Due Process Clause of the Fourteenth Amendment for
25 vagueness if a person of ordinary intelligence cannot distinguish between permissible and
26 prohibited conduct, and when there are no explicit standards to prevent arbitrary application.
27 *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972).

1 153. A restriction on speech is void for vagueness if it fails to give “the person of
2 ordinary intelligence a reasonable opportunity to know what is prohibited.” *Id.*

3 154. The terms “inappropriate or offens[ive] language or themes” in the Flyer Policy do
4 not carry with them any reasonably objective plain meaning.

5 155. The Flyer Policy is unconstitutionally vague because it does not provide any fair
6 notice as to what speech is prohibited, and gives persons of ordinary intelligence no reasonable
7 opportunity to know whether student flyers contain “inappropriate or offens[ive] language or
8 themes.”

9 156. Additionally, a restriction on speech is void for vagueness when it fails to provide
10 “explicit standards” to prevent “arbitrary and discriminatory enforcement” by administrators. *Id.*
11 at 108–09.

12 157. The Flyer Policy provides no standards to guide Defendants’ application and
13 therefore invites arbitrary and discriminatory enforcement in determining whether student flyers
14 are “inappropriate” or “offens[ive].” It is therefore unconstitutional.

15 158. For example, Specialist Stumpf was “on the fence about” approving the Freedom
16 Week Flyers in November, 2021, but approved them. He admitted he previously approved those
17 same flyers. He later suggested that the flyers should be removed—and should not have been
18 approved in the first place—under the “inappropriate or offens[ive]” provision of the Flyer
19 Policy. Defendants invented a pretextual, post-hoc justification for the removal—“if you need a
20 reason, you can let [the students] know that [Vice President] Marco [De La Garza] and I agreed
21 they aren’t club announcements”—that does not appear in the text of the Flyer Policy and never
22 has been a practice of Clovis Community College. This is not clear and consistent application of
23 the Flyer Policy; it is arbitrary and discriminatory enforcement.

24 159. As a direct and proximate result of Defendants’ policies, Plaintiffs have suffered
25 irreparable injury, including being deprived of their constitutional rights to free expression.

26 160. The denial of constitutional rights is an irreparable injury *per se*. *Elrod*, 427 U.S.
27 at 373.

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1 161. Plaintiffs have no adequate legal, administrative, or other remedy by which to
2 prevent or minimize the continuing irreparable harm to their Fourteenth Amendment rights.

3 162. Without declaratory and injunctive relief from this Court, Defendants'
4 unconstitutional actions will continue and Plaintiffs will suffer irreparable harm indefinitely.

5 **FIFTH CAUSE OF ACTION**
6 **As-Applied First Amendment Challenge to the Flyer Policy Under 42 U.S.C. § 1983**
7 **Viewpoint Discrimination**
8 **(Against all Defendants in their official and individual capacities)**

9 163. Plaintiffs re-allege and incorporate by reference each and every allegation set forth
10 in the preceding paragraphs of this Complaint.

11 164. It is clearly established under the First Amendment that “[v]iewpoint
12 discrimination is . . . an egregious form of content discrimination. The government must abstain
13 from regulating speech when the specific motivating ideology or the opinion or perspective of the
14 speaker is the rationale for the restriction.” *Rosenberger*, 515 U.S. at 829.

15 165. It is also clearly established under the First Amendment that any restrictions on
16 speech in a public forum, at a minimum, must be reasonable and viewpoint neutral. *See, e.g.,*
17 *Mansky*, 138 S. Ct. at 1885.

18 166. The terms “inappropriate” and “offens[ive]” as included in the Flyer Policy are not
19 viewpoint neutral as applied to Plaintiffs’ Freedom Week Flyers and Pro-Life Flyers. Defendants
20 singled out Plaintiffs’ flyers for disfavored treatment because the flyers express anti-communist
21 and pro-life viewpoints that Defendants deemed offensive. As described above, bans on offensive
22 speech are facially viewpoint discriminatory; they are also necessarily viewpoint discriminatory
23 as applied to Plaintiffs’ speech.

24 167. Defendants failed to apply any “objective, workable standard” in determining
25 whether Plaintiffs’ Freedom Week Flyers and Pro-Life Flyers were “inappropriate” or
26 “offens[ive].” *See, e.g., Ogilvie*, 540 F. Supp. 3d at 930–31 (applying *Mansky*).

27 168. By removing the Freedom Week Flyers, and denying Plaintiffs the use of indoor
28 bulletin boards for the Pro-Life Flyers, because the content of the flyers was “inappropriate” or
“offens[ive],” Defendants discriminated on the basis of viewpoint and deprived Plaintiffs of

1 access to a limited public forum that remains open to other students' viewpoints at Clovis
2 Community College.

3 169. That others may have been "uncomfortable" with the Freedom Week Flyers does
4 not create a constitutionally defensible reason for Defendants to remove Plaintiffs' protected
5 speech from the bulletin boards of the Academic Centers.

6 170. Likewise, that one person allegedly threatened to "file a harassment claim" does
7 not create a constitutionally defensible reason for Defendants to remove the Freedom Week
8 Flyers, which do not contain content that rises to the level of harassment. In *Davis v. Monroe*
9 *Cnty. Bd. of Educ.*, 526 U.S. 629 (1999), the U.S. Supreme Court held that speech rises to the
10 level of harassment only if it is "so severe, pervasive, and objectionably offensive, and that so
11 undermines and detracts from the victims' educational experience, that the victim-students are
12 effectively denied equal access to an institution's resources and opportunities."

13 171. Defendants gave effect to a heckler's veto by ordering the removal of the Freedom
14 Week Flyers because of the hostile reactions of others who viewed them. *See, e.g., Brown v.*
15 *Louisiana*, 383 U.S. 131, 133 n.1 (1966) (recognizing that the state must not allow a heckler's
16 veto to strip peaceful speakers of their speech rights).

17 172. Each Defendant was directly involved in an unconstitutional course of conduct.
18 President Bennett ordered the removal of the Freedom Week Flyers, and fabricated the pretext
19 that they had to be removed because they did not contain club announcements, in consultation
20 and agreement with Vice President De La Garza. President Bennett directed Dean Hébert to
21 remove the Freedom Week Flyers, telling her "if you need a reason you can let [the students]
22 know that [Vice President] Marco [De La Garza] and I agreed they aren't club announcements."
23 Dean Hébert in turn ordered Specialist Stumpf to remove them.

24 173. Specialist Stumpf identified the provision in the Flyer Policy prohibiting
25 "inappropriate or offens[ive] language or themes," determined he should have rejected the
26 Freedom Week Flyers on that viewpoint-discriminatory basis, and ultimately directed student
27 workers to remove the flyers, on President Bennett's, Vice President De La Garza's, and Dean
28 Hébert's orders.

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Telephone: (916) 419-7111
Facsimile: (916) 419-7747
dortner@pacificlegal.org

GABRIEL Z. WALTERS (District of Columbia Bar No. 1019272)*
gabe.walters@thefire.org
JEFFREY D. ZEMAN (Pennsylvania Bar No. 328570)*
jeff.zeman@thefire.org
FOUNDATION FOR INDIVIDUAL RIGHTS AND EXPRESSION
510 Walnut Street, Suite 1250
Philadelphia, PA 19106
Telephone: (215) 717-3473
Facsimile: (215) 717-3440

Attorneys for Plaintiffs
**Pro Hac Vice* Motions Forthcoming

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VERIFICATION

I, ALEJANDRO FLORES, declare as follows:

- 1. I am a student at Clovis Community College.
- 2. I am the founding President of Clovis’s student chapter of Young Americans for Freedom.
- 3. I have reviewed this Complaint.
- 4. For the allegations within my personal knowledge, I believe them all to be true.
- 5. For the allegations not within my personal knowledge, I believe them all to be true based on my review of the cited policies and documents.

6. I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

Executed on August 11, 2022

/s/ Alejandro Flores (original signature retained by attorney Jeffrey D. Zeman)

ALEJANDRO FLORES,
Plaintiff

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VERIFICATION

I, DANIEL FLORES, declare as follows:

- 1. I am a student at Clovis Community College.
- 2. I am a member of Clovis’s student chapter of Young Americans for Freedom.
- 3. I have reviewed this Complaint.
- 4. For the allegations within my personal knowledge, I believe them all to be true.
- 5. For the allegations not within my personal knowledge, I believe them all to be true based on my review of the cited policies and documents.

6. I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

Executed on August 11, 2022

/s/ Daniel Flores (original signature retained by attorney Jeffrey D. Zeman)

DANIEL FLORES,
Plaintiff

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VERIFICATION

I, JULIETTE COLUNGA, declare as follows:

- 1. I am a student at Clovis Community College.
- 2. I am a member of Clovis’s student chapter of Young Americans for Freedom.
- 3. I have reviewed this Complaint.
- 4. For the allegations within my personal knowledge, I believe them all to be true.
- 5. For the allegations not within my personal knowledge, I believe them all to be true based on my review of the cited policies and documents.

6. I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

Executed on August 11, 2022

/s/ Juliette Colunga (original signature retained by attorney Jeffrey D. Zeman)

JULIETTE COLUNGA,
Plaintiff

Flores et al. v. Bennett et al.,

**Exhibit A to
Verified Complaint for
Civil Rights Violations**

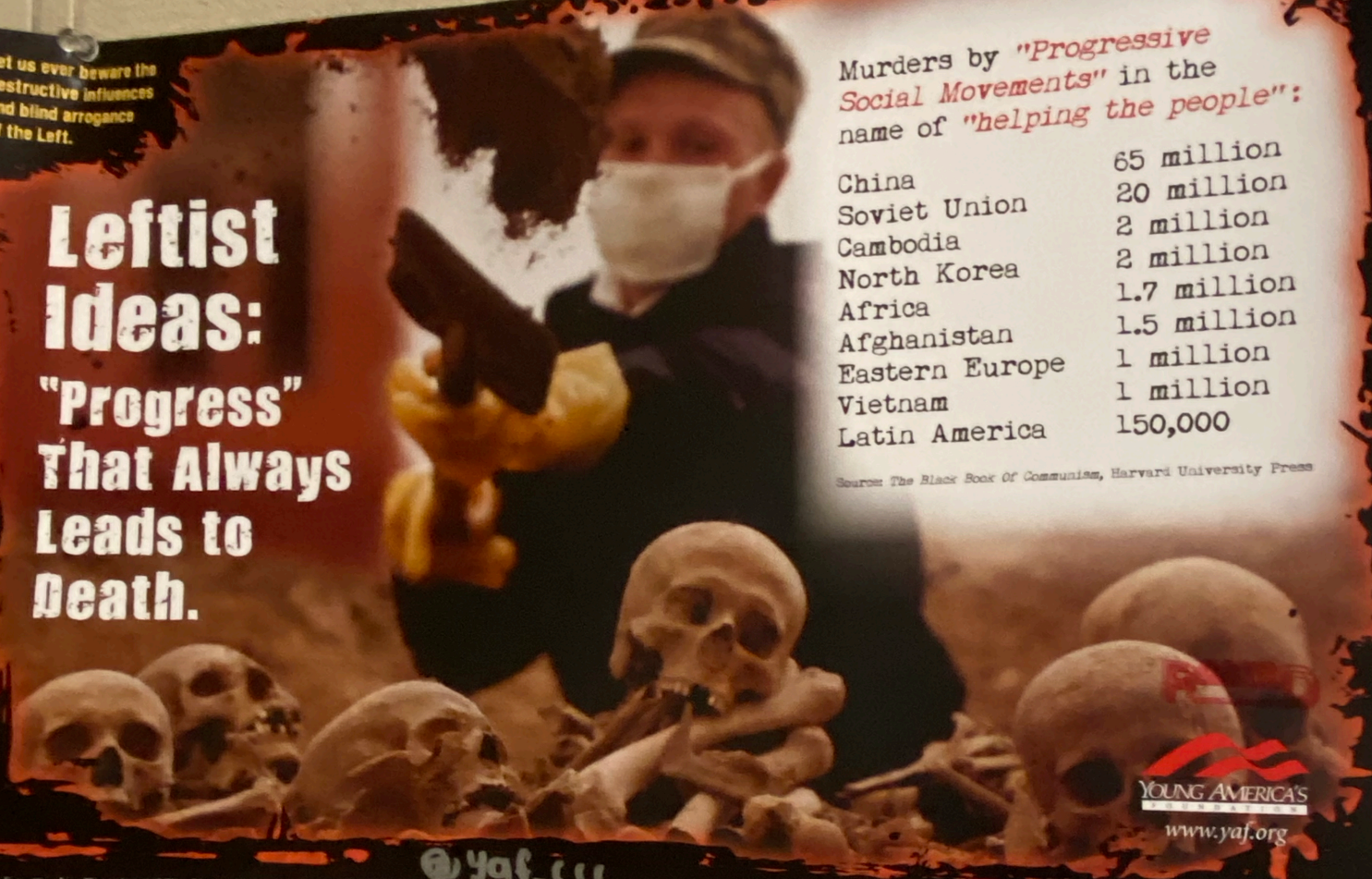
Let us ever beware the destructive influences and blind arrogance of the Left.

Leftist Ideas: "Progress" That Always Leads to Death.

Murders by "Progressive Social Movements" in the name of "helping the people":

China	65 million
Soviet Union	20 million
Cambodia	2 million
North Korea	2 million
Africa	1.7 million
Afghanistan	1.5 million
Eastern Europe	1 million
Vietnam	1 million
Latin America	150,000

Source: *The Black Book Of Communism*, Harvard University Press



YOUNG AMERICA'S
FOUNDATION
www.yaf.org

@yaf_ell

Flores et al. v. Bennett et al.,

**Exhibit B to
Verified Complaint for
Civil Rights Violations**

THE LEFTIST LIE

"It is a vulgar mistake to think that most people in Eastern Europe are miserable."

- PAUL SAMUELSON

Nobel Laureate; Professor of Economics, MIT; Economics magazine, 1981

THE TRUTH

ON NOVEMBER 9, 1989 ...

THOUSANDS OF **EASTERN EUROPEANS** TORE DOWN THE BERLIN WALL

BECAUSE THEY WANTED

FREEDOM.

Thousands of East German citizens, sick and tired of decades of insufferable Soviet oppression, hammered away at the Berlin Wall and celebrated its final collapse. With the Wall torn down and hundreds of thousands of its victims free, the irrepressible desire of people for freedom proved triumphant over tyranny and collectivism.

Let us ever beware the destructive influences and blind arrogance of the Left.

POSTED

REAGAN RANCH CENTER 217 STATE STREET | SANTA BARBARA, CALIFORNIA 93101
NATIONAL HEADQUARTERS 11480 COMMERCE PARK DRIVE | SIXTH FLOOR | RESTON, VIRGINIA 20191

@yaf.ccc

YOUNG AMERICA'S FREEDOM
**Week

YOUNG AMERICA'S
www.yaf.org

Flores et al. v. Bennett et al.,

**Exhibit C to
Verified Complaint for
Civil Rights Violations**

Got Milk?

Got Bread?
Got Blankets?
Got Anything?!



Do we really want government acting as the "provider," when it already has been proven government can't even provide the basics?

EMBRACE LIBERTY.

REJECT OPPRESSIVE, BIG GOVERNMENT SCHEMES.

All too often, those on the Left continue to insist government has the primary responsibility for helping those in need, but in reality, we must be wary of this siren call. As shown here, the failed command-and-control economy of the former USSR, which was supposedly developed to "fairly" and "equally" distribute resources, led only to shortages and starving people. Let us ever beware of the destructive influences and blind arrogance of the Left.

POSTED

