

## **APPENDIX TABLE OF CONTENTS**

### **OPINIONS AND ORDERS**

Memorandum Opinion, U.S. Court of Appeals  
for the Ninth Circuit (November 20, 2024) ..... 1a

Order, U.S. District Court for the  
District of Arizona (September 2, 2021) ..... 7a

### **REHEARING ORDER**

Order Denying Petition for Rehearing,  
U.S. Court of Appeals for the Ninth Circuit  
(January 3, 2025)..... 21a

### **OTHER DOCUMENTS**

First Amended Complaints (and Attached  
Exhibits) (December 29, 2020)..... 23a

Exhibit A  
ALA American Library Association  
(June 18, 2019)..... 40a

Exhibit B  
Ms. Canzoneri's Speech to PUSD Board  
Meeting (April 2, 2019) ..... 43a

Exhibit C  
Newspaper Article re: PUSD Approves  
Budget (April 3, 2019)..... 45a

Exhibit D  
Email (March 21, 2019) ..... 46a

Exhibit E  
Letter from Mardi Reed re: Placed on  
Administrative Leave (April 3, 2019)..... 48a

## **APPENDIX TABLE OF CONTENTS (Cont.)**

### **Exhibit F**

Memo from Denise Canzoneri to Joe Howard, Superintendent (April 4, 2019) .....	51a
--	-----

### **Exhibit G**

Letter from Joe Howard to Denise Canzoneri (April 11, 2019) .....	57a
--	-----

### **Exhibit H**

Letter of Direction from Simmons, HR, to Canzoneri (April 15, 2019).....	59a
---	-----

### **Exhibit I**

PUSD Policies .....	62a
---------------------	-----

### **Exhibit J**

GBA-E – Equal Employment Opportunity Complaint Form (February 20, 2020) .....	76a
--	-----

### **Exhibit K**

April 3, 2019 Letter from Joe Howard to Canzoneri/Non-Renewal .....	78a
--	-----

### **Exhibit L**

PUSD – Mission, Vision, and Goals .....	79a
---	-----

### **Exhibit M**

April 15, 2019 Letter to Canzoneri from Christa Simmons .....	81a
--	-----

### **Exhibit N**

April 12, 2019 Memo from Canzoneri to Christa Simmons .....	83a
--	-----

### **Exhibit O**

April 11, 2019 Memo from Christa Simmons to Canzoneri.....	85a
---	-----

## **APPENDIX TABLE OF CONTENTS (Cont.)**

### **Exhibit P**

Notice of Indefinite Term Appointment.... 88a

### **Exhibit Q**

April 3, 2019 – Email from Mark Goligoski  
No Reference ..... 92a

**MEMORANDUM OPINION, U.S. COURT OF  
APPEALS FOR THE NINTH CIRCUIT  
(NOVEMBER 20, 2024)**

---

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

---

DENISE A. CANZONERI,

*Plaintiff-Appellant,*

v.

PRESCOTT UNIFIED SCHOOL DISTRICT; et al.,

*Defendants-Appellees,*  
and

ARIZONA DEPARTMENT OF EDUCATION,

*Defendant.*

---

No. 21-16615

D.C. No. 3:20-cv-08033-SMB

Appeal from the United States District Court  
for the District of Arizona  
Susan M. Brnovich, District Judge, Presiding

Before: HAWKINS, TASHIMA, and  
OWENS, Circuit Judges.

---

## **MEMORANDUM\***

Appellant Denise Canzoneri (“Canzoneri”) appeals the dismissal of her First Amended Complaint (“FAC”) against Appellees Prescott Unified School District (“PUSD”) and several of its employees. We have jurisdiction under 28 U.S.C. § 1291. For the reasons that follow, we affirm in part and reverse and remand in part.

### **BACKGROUND**

Canzoneri is a former school librarian who was informed that her position was being eliminated due to budget constraints. Upon learning this, Canzoneri began speaking to other employees at work about forming a committee to address the library’s future. Canzoneri then attended a school board meeting after hours in her personal capacity to voice concerns about changes to the library. The next day she was placed on administrative leave and told her employment would not be renewed.

Canzoneri subsequently filed a FAC against PUSD and several of its employees, alleging violations of her First Amendment rights under 42 U.S.C. § 1983. The district court found that Canzoneri pled insufficient facts to state a claim against PUSD for municipal liability under *Monell v. Department of Social Services of City of New York*, 436 U.S. 658, 694 (1978) (“*Monell*”), and that the individual defendants were entitled to qualified immunity. Canzoneri timely appealed.

---

\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

## DISCUSSION

1. The district court erred in dismissing Canzoneri’s § 1983 claim against PUSD. Dismissal pursuant to Federal Rule of Civil Procedure 12(b)(6) is reviewed de novo. *Thompson v. Davis*, 295 F.3d 890, 895 (9th Cir. 2002).

Government entities may be subject to liability under § 1983 when “a policy, practice, or custom of the entity can be shown to be a moving force behind a violation of constitutional rights.” *Dougherty v. City of Covina*, 654 F.3d 892, 900 (9th Cir. 2011) (citing *Monell*, 436 U.S. at 694). Though proof of a single incident is insufficient to establish an unconstitutional custom, *see City of Oklahoma City v. Tuttle*, 471 U.S. 808, 823–24 (1985), liability may be predicated on a single violation if it was the result of an unconstitutional policy. *See Pembaur v. City of Cincinnati*, 475 U.S. 469, 480–81 (1986); *see also Lowry v. City of San Diego*, 818 F.3d 840, 855 (9th Cir. 2016) (distinguishing “official municipal policy” from “custom”), *rev’d on other grounds*, 858 F.3d 1248 (2017) (en banc). In such instances, the municipal policy “need only cause a constitutional violation; it need not be unconstitutional *per se*.” *Jackson v. Gates*, 975 F.2d 648, 654 (9th Cir. 1992).

Here, the FAC states that PUSD “had a policy to deprive Plaintiff explicitly of free speech . . . .” Specifically, Canzoneri alleges that she was placed on administrative leave and ultimately not re-hired in retaliation for her participation in the school board meeting. The FAC also alleges that PUSD justified this adverse employment action under Policy GBEA. Indeed, the letters from PUSD to Canzoneri cite Policy

GBEA. Therefore, the FAC plausibly alleges that Policy GBEA was the “moving force” behind the adverse employment action which Canzoneri experienced. *Dougherty*, 654 F.3d at 900. This is sufficient to state a claim for municipal liability under *Monell*. 436 U.S. at 708 (a local government may be held liable “when implementation of its official policies or established customs inflicts the constitutional injury”). Whether Canzoneri was disciplined because of her participation in the school board meeting, or due to her conversations at work, is a disputed question of fact inappropriately resolved at the pleadings stage.

2. Dismissal of the individual defendants under the doctrine of qualified immunity was appropriate. Reviewing the grant of qualified immunity *de novo*, *Thompson v. Mahre*, 110 F.3d 716, 721 (9th Cir. 1997), our task is to determine: “(1) whether the alleged misconduct violated a [constitutional] right and (2) whether the right was clearly established at the time of the alleged misconduct.” *Maxwell v. City of San Diego*, 708 F.3d 1075, 1082 (9th Cir. 2013) (citing *Pearson v. Callahan*, 555 U.S. 223, 232 (2009)). “As the *Pickering*<sup>1</sup> analysis ‘requires a fact-sensitive, context-specific balancing of competing interests, the law regarding public-employee free speech claims will rarely, if ever, be sufficiently clearly established to preclude qualified immunity.’” *Dodge v. Evergreen Sch. Dist. #114*, 56 F.4th 767, 784 (9th Cir. 2022) (quoting *Brewster v. Bd. of Educ. of Lynwood Unified Sch. Dist.*, 149 F.3d 971, 980 (9th Cir. 1998)).

---

<sup>1</sup> *Pickering v. Bd. of Ed. of Twp. High Sch. Dist. 205, Will Cnty., Ill.*, 391 U.S. 563 (1968) (“*Pickering*”).

Canzoneri has not demonstrated that her right to be free from retaliation was clearly established in this instance. The FAC alleges several facts which indicate that the individual Appellees may have taken the same adverse employment action even if the protected speech had not occurred. For example, the FAC states that Canzoneri was told she was being placed on administrative leave for soliciting teachers to join her committee. A subsequent letter to Canzoneri states that she violated Policy GBEA by “trying to form a committee to continue operating the library” during work hours. Given this alternative justification, it cannot be said that “the outcome of the *Pickering* balance so clearly favors [Canzoneri] that it would have been unreasonable for the [Appellees] to believe that their actions were lawful.” *Lytle v. Wondrash*, 182 F.3d 1083, 1089 (9th Cir. 1999). Canzoneri points to no case which clearly establishes that government employees must disregard a valid motive for disciplinary action given the presence of outside protected speech.

Contrary to Canzoneri’s assertions, *Greisen v. Hanken*, 925 F.3d 1097 (9th Cir. 2019), does not address the *Pickering* balancing analysis. Canzoneri’s blanket appeal to *Pickering* also fails as any asserted First Amendment right in the public employment context must be “defined at a more specific level tied to the factual and legal context of a given case.” *Riley’s Am. Heritage Farms v. Elsasser*, 32 F.4th 707, 729 (9th Cir. 2022). Thus, Canzoneri has failed to point to “existing precedent” that would have placed this specific “constitutional question beyond debate” for the individual Appellees. *Kisela v. Hughes*, 584 U.S. 100, 104 (2018) (citation omitted). Additionally, we may affirm the

grant of qualified immunity at the motion to dismiss stage having determined “based on the complaint itself, that qualified immunity applies.” *Polanco v. Diaz*, 76 F.4th 918, 925 (9th Cir. 2023) (citation omitted). Doing so at the motion to dismiss stage reflects “the importance of resolving immunity questions at the earliest possible stage in litigation.” *Pearson*, 555 U.S. at 232 (citation omitted).

3. We choose not to consider Canzoneri’s argument that the district court erred by dismissing her claims for equitable relief against the individual Appellees as this issue has been waived. *See In re Mortg. Elec. Registration Sys., Inc.*, 754 F.3d 772, 780 (9th Cir. 2014) (“[A]rguments not raised in the district court will not be considered for the first time on appeal.”).

The matter is remanded to the district court for proceedings consistent with this disposition.

**AFFIRMED IN PART AND REVERSED AND REMANDED IN PART.**

**Each party shall bear its own costs on appeal.**  
**Fed. R. App. P. 39(a)(4).**

**ORDER, U.S. DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA  
(SEPTEMBER 2, 2021)**

---

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

---

DENISE A CANZONERI,

*Plaintiff,*

v.

PREScott UNIFIED SCHOOL DISTRICT, ET AL.,

*Defendants.*

---

No. CV-20-08033-PCT-SMB

Before: Honorable Susan M. BRNOVICH,  
United States District Judge.

---

**ORDER**

Pending before the Court is Defendants' Motion to Dismiss First Amended Complaint. (Doc. 30.) Plaintiff responded, (Doc. 33), and Defendants replied. (Doc. 34.) Defendants requested oral argument, but the Court declines to hold oral argument, finding that it is unnecessary. *See* LRCiv 7.2(f). Having considered the First Amended Complaint ("FAC"), pleadings, and applicable law, the motion will be granted.

## I. BACKGROUND

Plaintiff, Denise Canzoneri, is a former librarian specialist who worked at Prescott United School District (“PUSD”) for twenty-two years. Plaintiff brought this suit after being terminated from her position as a librarian for PUSD and for actions taken by PUSD employees during the process of her termination. The allegations in Plaintiff’s original Complaint are more fully set forth in the Court’s order on Defendants first motion to dismiss. (Doc. 24.) The Court previously dismissed all of Plaintiffs claims pursuant to Rule 12(b)(6) and gave Plaintiff leave to file an amended complaint. The Court now turns to Plaintiff’s FAC.

Plaintiff’s FAC alleges as follows: Plaintiff began working for PUSD in 1996 as a library specialist and a permanent employee. (Doc. 27 ¶ 13.) On March 20, 2019, Plaintiff was told that her position as a high school librarian had been eliminated due to budget cuts. (*Id.* ¶¶ 15, 16.) She was not terminated at this time, and it was expected that another position would be found for her. (*Id.* ¶ 15.) On April 2, 2019, Plaintiff alleges that she publicly offered, at a school board meeting, to create a committee/focus group with the specific intention of addressing the funding shortfall affecting the school library system. (Doc. 27 ¶ 19.) She also addressed the potential misuse of public funds. (Doc. 27 ¶ 19.) The FAC alleges that Plaintiff spoke at the school board meeting as a private citizen who signed in to speak. (Doc. 27 ¶ 19.) Plaintiff alleges that she attended the school board meeting after regular hours, that her job duties did not require her to appear, not did her duties concern funding shortfalls at PUSD. (Doc. 27 ¶¶ 39-40.) Instead,

she alleges that she was there as a concerned citizen. (Doc. 27 ¶ 40.)

On April 3, 2019, PUSD gave Plaintiff a letter to her informing her that she was on administrative leave for a potential violation of PUSD policy GBEA. (Doc. 27 ¶ 31.) The letter instructed Plaintiff that while she was on paid administrative leave, she was not to have any contact by any means with any PUSD employees, students, or parents of the district unless allowed to do so by the superintendent or director of HR. (Doc. 27-1 at 12.) The same day, she was given a letter that stated that her employment with PUSD would end on May 24, 2019 — the end of the school year — due to a reduction in the number of staff members because of declining enrollment at the school. (Doc. 27-1 at 39.) On April 15, 2019, Plaintiff received another letter from PUSD which informed her that she violated the GBEA with her actions on April 3, 2019 of soliciting teachers to form a committee. (Doc. 27-1 at 21.) Accordingly, she was directed that, while she was clocked in at PUSD, she was not to discuss the operation of district libraries and she was not to form or attempt to form a committee to discuss library operations. (*Id.*) On the same date, PUSD informed her that she would remain on paid administrative leave the rest of the year. (Doc. 27-1 at 45.)

The FAC alleges claims under 42 U.S.C. § 1983 against PUSD and several individual employees of the school district. The FAC alleges PUSD violated Plaintiff's First Amendment rights by retaliating against her and wrongfully terminating her employment due to PUSD's retaliation and wrongful termination of her

employment after she spoke out at the school board meeting.<sup>1</sup>

## II. LEGAL STANDARD

To survive a Rule 12(b)(6) motion for failure to state a claim, a complaint must meet the requirements of Rule 8(a)(2). Fed. R. Civ. P. 12(b)(6). Rule 8(a)(2) requires a “short and plain statement of the claim showing that the pleader is entitled to relief,” so that the defendant has “fair notice of what the . . . claim is and the grounds upon which it rests.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). Dismissal under Rule 12(b)(6) “can be based on the lack of a cognizable legal theory or the absence of sufficient facts alleged under a cognizable legal theory.” *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1988). A complaint that sets forth a cognizable legal theory will survive a motion to dismiss if it contains sufficient factual matter, which, if accepted as true, states a claim to relief that is “plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 570). In ruling on a Rule 12(b)(6) motion to dismiss, the well-pled factual allegations are taken as true and construed in the light most favorable to the nonmoving party. *Cousins v. Lockyer*, 568 F.3d 1063, 1067 (9th Cir. 2009). Facial plausibility only exists if the pleader sets forth “factual content that allows the court to draw the reasonable inference that

---

<sup>1</sup> Plaintiff also brought an equal protection claim, a liberty interest claim, and a property interest claim. However, she notes in her response to the motion that she is withdrawing, without prejudice, her equal protection claim, her liberty interest claim, and her property interest claim. (Doc. 33 at 2 n.2.)

the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678. “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Id.* Plausibility does not equal “probability,” but requires “more than a sheer possibility that a defendant has acted unlawfully.” *Id.* “Where a complaint pleads facts that are ‘merely consistent’ with a defendant’s liability, it ‘stops short of the line between possibility and plausibility of entitlement to relief.’” *Id.* (quoting *Twombly*, 550 U.S. at 557). However, legal conclusions couched as factual allegations are not given a presumption of truthfulness, and “conclusory allegations of law and unwarranted inferences are not sufficient to defeat a motion to dismiss.” *Pareto v. FDIC*, 139 F.3d 696, 699 (9th Cir. 1998).

### III. DISCUSSION

In their latest Motion to Dismiss, Defendants argue that Plaintiff’s FAC still does not state a valid § 1983 claim against PUSD, does not state a valid First Amendment claim, does not state a valid wrongful termination claim, and does not state a valid claim against the individual Defendants. (Doc. 30.)

#### A. § 1983 Claims Against PUSD

“[A] local government may not be sued under § 1983 for an injury inflicted solely by its employees or agents.” *Monell v. Dep’t of Soc. Servs. of City of New York*, 436 U.S. 658, 694 (1978). In enacting § 1983, “Congress did not intend municipalities to be held liable unless action pursuant to official municipal policy of some nature caused a constitutional tort.” *Id.* Additionally, § 1983 liability may arise against a

municipality for acts caused by someone whose acts may be said to represent official policy. *Id.*

### **1. GBEA Policy**

Defendants first argues that Plaintiff's § 1983 claims against PUSD fail because the claims do not arise from an unconstitutional policy. Defendants argue that the policy complained of, Board Policy GBEA, is not unconstitutional on its face. (Doc. 30 at 2.) Further, Defendants argue that Plaintiff's conclusory references to Board Policy GBEA do not adequately state a constitutional violation necessary to bring a § 1983 claim.<sup>2</sup>

After examining the allegations in the FAC, the Court finds that Plaintiff has not stated a valid claim for § 1983 liability against PUSD based on the GBEA policy. The FAC alleges that GBEA section E puts a restraint on free speech. (Doc. 27 ¶ 2.) Section E of the GBEA policy states that school employees are to “[d]irect[] any criticism of other staff members or of any department of the school system toward improving the District. Such constructive criticism is to be made directly to the school administrator who has the responsibility for improving the situation.” (*Id.*) Plaintiff also notes the end of the policy, which states, “In the performance of duties, employees shall keep in confidence such information as they may secure

---

<sup>2</sup> Defendants also point out that the GBEA policy on which Plaintiff relies was adopted on October 1, 2019, six months later than March and April 2019 when the conduct at issue took place. (Doc. 27-1 at 27.) However, that argument fails. Policy GBEA is cited by PUSD employees in an April 3, 2019 letter to Plaintiff. (Doc. 27-1 at 12.) Therefore, the policy was clearly in effect at that time.

unless disclosure serves District purposes or is required by law." (*Id.*) The FAC alleges that after Plaintiff spoke at the school board meeting on the evening of April 2, 2019, she received a letter on April 3, 2019 from the PUSD Assistant Superintendent placing her on administrative leave with pay while PUSD determined whether she engaged in unprofessional conduct pursuant to policy GBEA. (*Id.* ¶ 21, 28; Doc. 27-1 at 12.) The letter also directed she should "[n]ot have any contact, whether in person, by telephone, by letter, or otherwise, with any employee of the District, or any student or parent of the District, unless directed or permitted to do so by the Superintendent or by the Director of Human Resources." (Doc. 27-1 at 12.) Plaintiff alleges that this broad prohibition "was so overbroad that it is clearly unconstitutional, infringing on free speech and the right to association." (Doc. 27 ¶ 31.) Additionally, on April 3, 2019, Plaintiff received a letter terminating her position with the school at the end of the school year. Later, Plaintiff received a letter from the Director of Human Resources at PUSD determining that Plaintiff did violate PUSD policy GBEA section E by speaking to other employees at the high school and attempting to form a committee related to the library operations — not for her speech at the school board meeting. (Doc. 27-1 at 21.) As a result, Plaintiff was directed, while she was clocked in, to not discuss the operation of any district libraries and not to form nor attempt to form any type of committee whose purpose is to discuss library operations. (*Id.*)

Defendants argue that Plaintiff has not shown that the GBEA policy itself is unconstitutional. In *City of Oklahoma City v. Tuttle*, the Supreme Court

held that at the very least, “there must be an affirmative link between the policy and the particular constitutional violation alleged.” 471 U.S. 808, 823 (1985). The Court explained, “Proof of a single incident of unconstitutional activity is not sufficient to impose liability under *Monell*, unless proof of the incident includes proof that it was caused by an existing, unconstitutional municipal policy, which policy can be attributed to a municipal policymaker.” *Id.* at 824. Where the policy relied on is not itself unconstitutional, “considerably more proof than the single incident will be necessary in every case to establish both the requisite fault on the party of the municipality, and the causal connection between the ‘policy’ and the constitutional deprivation.” *Id.*

Defendants argue, “Policy GBEA plainly is not ‘unconstitutional’ on its face.” (Doc. 30 at 2.). Further, Plaintiff, in her response, does not explain how policy GBEA is unconstitutional. (Doc. 33 at 9.) The Court finds that the GBEA policy at issue is not unconstitutional on its face. The policy applies to employees in their “school relationships,” and nothing in the policy purports to regulate employee speech outside of their official duties. (Doc. 27-1 at 26.). Absent compelling arguments from either party about how the policy is unconstitutional under existing precedent, the Court cannot find the GBEA policy unconstitutional. This situation, as alleged, appears to be merely a single case where the application of the policy may have led to a potentially unconstitutional result. Further, the restriction of Plaintiff’s speech during her administrative leave was not applied pursuant to a PUSD policy, and therefore, PUSD cannot be held liable for that conduct unless it was taken by an official policymaker. (Doc. 27-1 at 21.) Even though Plaintiff

claims that the prohibition on her speaking is overbroad and violative of her right to free speech and association, that action was not taken pursuant to a PUSD policy. Therefore, Plaintiff's reliance on the GBEA policy and the prohibition on her association with district employees, students, and parents also does not allow Plaintiff to pursue *Monell* liability against PUSD.

## **2. Final Policymaker**

Defendants also argue that Plaintiff's § 1983 *Monell* claim fails because her injuries were not caused by someone with final policymaking authority. The identity of policymaking officials is a question of state law. *City of St. Louis v. Praprotnik*, 485 U.S. 112, 124 (1988). Under Arizona law, the governing board of a school district enacts all policies and procedures for schools. A.R.S. § 15-341; *D.G. v. Tucson Unified Sch. Dist.*, No. CV1800583TUCJGZMSA, 2020 WL 7041348, at \*6 (D. Ariz. Nov. 30, 2020) (finding that Tucson Unified School District, not the assistant superintendent, was responsible for prescribing and enforcing policies and procedures when determining § 1983 liability); *Long v. Humboldt Unified Sch. Dist.* No. 22, No. CV-09-8045-PHXFJM, 2009 WL 1868561, at \*2 (D. Ariz. June 29, 2009) (“Arizona law provides that final policymaking authority for governing schools and disciplining students for disorderly conduct rests with the Governing Board.”). Here, the PUSD governing board, not the superintendent or director of HR, was the final policymaker of the school district. Thus, acts of the superintendent and HR director do not constitute PUSD policy for § 1983 liability purposes as the FAC alleges. (Doc. 27 ¶ 48.) The superintendent or director of HR appear to be the parties who imposed the administrative leave restrictions on Plaintiff. As neither

is an official policymaker for PUSD, the district cannot be held liable for Plaintiff's claims under *Monell*.

## **B. Individual Defendants — Qualified Immunity**

Defendants also argue that the FAC does not state a valid claim against the individual Defendants. Specifically, Defendants argue that Plaintiff has not remedied the defects in the allegations against the individual Defendants from her last Complaint which the Court dismissed. (Doc. 24.)

“Public officials are ‘shielded from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.’” *Brewster v. Bd. of Educ. Of Lynwood Unified Sch. Dist.*, 149 F.3d 971, 977 (9th Cir. 1998) (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 818, 102 S.Ct. 2727 (1982), *cert. denied*, 143 L.Ed.2d 349 (1999)). Qualified immunity is “quite far-reaching” and safeguards “all but the plainly incompetent or those who knowingly violate the law.” *Id.* (quoting *Malley v. Briggs*, 475 U.S. 335, 341, 106 S.Ct. 1092 (1986)). If officers of reasonable competence could disagree on whether a course of conduct is constitutional, immunity should be recognized. *Id.* (citing *Malley*, 475 U.S. at 341.). The Ninth Circuit has stated that “[b]ecause *Pickering*'s analysis as to whether a public employee's expression is constitutionally protected requires a fact-intensive, context-specific balancing of competing interests, ‘the law regarding such claims will rarely, if ever, be sufficiently clearly established to preclude qualified immunity under *Harlow* and its progeny.’”

*Lytle v. Wondrash*, 182 F.3d 1083, 1088 (9th Cir. 1999) (quoting *Moran v. State of Washington*, 147 F.3d 839, 847 (9th Cir. 1998)) (internal quotation marks omitted). When determining whether a violation alleged was “clearly established” at the time of the alleged violation, federal courts look to controlling law in their circuit for guidance. *Reichle v. Howards*, 566 U.S. 658, 665-66 (2012) (considering Tenth Circuit precedent to determine whether the violation of First Amendment rights was clearly established at the time of the violation); *Sharp v. Cty. of Orange*, 871 F.3d 901, 911 (9th Cir. 2017) (“prior precedent must be ‘controlling’—from the Ninth Circuit or Supreme Court—or otherwise be embraced by a ‘consensus’ of courts outside the relevant jurisdiction.”).

Because qualified immunity is “an immunity from suit rather than a mere defense to liability,” the Supreme Court has “repeatedly stressed the importance of resolving immunity questions at the earliest possible stage in litigation.” *Pearson v. Callahan*, 555 U.S. 223, 231-32 (2009) (internal quotation marks omitted). Plaintiff’s position is that it is premature at this time for the Court to decide what the individual Defendants did or didn’t know and that those questions are more appropriate for a jury. (Doc. 33 at 11-12.) Plaintiff’s argument is incorrect. The Supreme Court has explained that courts need to determine immunity questions as early as possible in order to immunize officers from suit when necessary.

The Court finds that the individual Defendants are entitled to qualified immunity. In the Court’s previous order, the Court found, “Plaintiff’s allegations that the individual Defendants knew or should have known that their conduct violated Plaintiff’s rights is

conclusory without factual allegations to support the claim. Further, the Court finds that officers of reasonable competence could disagree on whether the facts alleged in the Complaint violated Plaintiff's constitutional rights." (Doc. 24 at 9.) Plaintiff's FAC fares no better. Plaintiff has simply added allegations that the individual Defendants are highly educated and "should possess superior knowledge of the rules governing the District and were assumed to be competent in their jobs and constitutional responsibilities." (Doc. 27 ¶¶ 8-9.) However, Plaintiff has provided no authority, either in her FAC or response, showing why the constitutional violations alleged were clearly established either for the alleged retaliation of her speech or for the prohibition on her speaking to PUSD employees, students, and parents while on administrative leave.<sup>3</sup> Instead, Plaintiff merely points to the five-factor test utilized in the Ninth Circuit to determine the constitutionality of the government's curtailment of government-employee speech and *Pickering*.<sup>4</sup>

---

<sup>3</sup> The plaintiff bears the burden of showing that the rights allegedly violated were clearly established. *Shafer v. Cty. of Santa Barbara*, 868 F.3d 1110, 1118 (9th Cir. 2017) (citation omitted).

<sup>4</sup> The test is:

- (1) whether the plaintiff spoke on a matter of public concern; (2) whether the plaintiff spoke as a private citizen or public employee; (3) whether the plaintiff's protected speech was a substantial motivating factor in the adverse employment action; (4) whether the state had an adequate justification for treating the employee differently from other members of the general public; and (5) whether the state would have taken the adverse employment action even absent the protected speech.

*Johnson*, 658 F.3d at 960-61.

*Johnson v. Poway Unified Sch. Dist.*, 658 F.3d 954, 960-61 (9th Cir. 2011) (citing *Eng v. Cooley*, 552 F.3d 1062, 1070 (9th Cir. 2009)). However, as the Ninth Circuit has previously determined, such a complicated balancing of interests will rarely result in a clearly established violation of law. *See Lytle*, 182 F.3d at 1088. Examining the facts of the case, the Court confirms that this case indeed would be a close call under the multifactored test outlined by *Johnson*. Accordingly, the Court finds that the individual Defendants are entitled to qualified immunity and will dismiss the claims against the individual Defendants.<sup>5</sup>

#### **IV. CONCLUSION**

The Court declines to grant leave to file a second amended complaint because amendment would be futile. *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000) (en banc); *Chinatown Neighborhood Ass'n v. Harris*, 794 F.3d 1136, 1147 (9th Cir. 2015) (Reinhardt, J. dissenting). Accordingly,

---

<sup>5</sup> Having established that *Monell* liability against PUSD fails and that the individual Defendants are entitled to qualified immunity under the facts alleged, the Court need not analyze the sufficiency of Plaintiff's First Amendment allegations and the wrongful termination claim that goes along with the First Amendment retaliation claim. As the Supreme Court has stated, "In *Pearson v. Callahan*, 555 U.S. 223, 236, 129 S.Ct. 808, 172 L.Ed.2d 565 (2009), we held that courts may grant qualified immunity on the ground that a purported right was not 'clearly established' by prior case law, without resolving the often more difficult question of whether the purported right exists at all." *Reichle*, 566 U.S. at 664. "This approach comports with our usual reluctance to decide constitutional questions unnecessarily." *Id.* (citing *Pearson*, 555 U.S. at 241).

**IT IS ORDERED** granting Defendants' Motion to Dismiss First Amended Complaint and dismissing Plaintiff's claims with prejudice. (Doc. 30.)

Dated this 2nd day of September, 2021.

/s/ Honorable Susan M. Brnovich  
United States District Judge

**ORDER DENYING PETITION FOR  
REHEARING, U.S. COURT OF APPEALS  
FOR THE NINTH CIRCUIT  
(JANUARY 3, 2025)**

---

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

---

DENISE A. CANZONERI,

*Plaintiff-Appellant,*

v.

PRESCOTT UNIFIED SCHOOL DISTRICT; et al.,

*Defendants-Appellees,*  
and

ARIZONA DEPARTMENT OF EDUCATION,

*Defendant.*

---

No. 21-16615

D.C. No. 3:20-cv-08033-SMB  
District of Arizona, Prescott

Before: HAWKINS, TASHIMA, and  
OWENS, Circuit Judges.

---

**ORDER**

Judge Owens voted to deny Appellee's petition for rehearing en banc, and Judges Hawkins and Tashima

so recommend. The full court has been advised of the petition for rehearing en banc and no judge of the court has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 40.

Appellee's petition for rehearing en banc is denied.

**FIRST AMENDED COMPLAINTS  
(AND ATTACHED EXHIBITS)  
(DECEMBER 29, 2020)**

---

Cheri McCracken, Esq. SBN No. 006111  
705 E. Coronado road  
Phoenix, AZ 85006-2473  
602-231-0595  
602-231-0841 fax  
cherimccracken@gmail.com

Christopher R. Houk, Bar No. 020843  
Houk Law Firm  
1050 E Southern Avenue  
Suite A-3  
Tempe AZ 85282  
chouk@houklawfirm.com

*Attorneys for Plaintiff*

---

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

DENISE A. CANZONERI,

*Plaintiff,*

CV-20-8033-PCT-SMB  
v. FIRST AMENDED COMPLAINT

PREScott UNIFIED SCHOOL DISTRICT; JOE HOWARD,  
SUPERINTENDENT OF PREScott UNIFIED SCHOOL  
DISTRICT AND IN HIS INDIVIDUAL CAPACITY; MARDI  
READ, VICE SUPERINTENDENT AND IN HER INDIVIDUAL

CAPACITY; MARK GOLIGOSKI, PRINCIPAL OF THE HIGH SCHOOL OF PRESCOTT UNIFIED SCHOOL DISTRICT AND IN HIS INDIVIDUAL CAPACITY,

*Defendants.*

---

## **FIRST AMENDED COMPLAINT**

COMES NOW the Plaintiff, Denise A. Canzoneri, and make the following Complaint:

### **JURISDICTION**

1. Jurisdiction to decide all questions arising under 42 U.S.C. § 1983 lies in the United States District Court for the District of Arizona pursuant to 28 U.S.C. § 1331 (Federal Question) and § 1333 (3) and (4) (Civil Rights).
2. At all times material to this Complaint, Defendants have acted under the color of state law, ordinance, custom, or usage. Defendant Prescott United School District (hereinafter “PUSD”) has acted pursuant to the enactment of policy<sup>1</sup>, the use of practice, and policy. The policy is more specifically, GBAA-E which puts a restraint on free speech. Also, employees shall keep in confidence any information they may secure. (GBAA bottom paragraph, Exh. I). Defendant Prescott Unified School District (“PUSD”) had a policy to deprive Plaintiff explicitly of free speech and association as guaranteed by the First Amendment. (Exh. I). She was directed by Defendants to not form a committee

---

<sup>1</sup> PUSD’s policies are identified not numerically but alphabetically. As an example, the “Prohibited Personnel Practices” are found at GBP.

nor discuss these matters of public concern with her community and colleagues and to not speak to them. Defendants have acted in their official as well as their individual capacities in depriving Ms. Canzoneri of her constitutional rights under the U.S. Constitution. Plaintiff requests a jury trial.

### **THE PLAINTIFF**

3. Denise A. Canzoneri is an adult citizen of the United States and the State of Arizona, who resides at 303 East Gurley Street, #148, Prescott, Arizona 86301. Plaintiff, Denise A. Canzoneri, is a member of the female gender. Plaintiff worked for Prescott Unified School District (“PUSD”) for twenty-two (22) years as a Librarian Specialist.

### **THE DEFENDANTS**

4. Defendant PUSD is a political subdivision, organized under and existing pursuant to the laws of the State of Arizona. PUSD has offices at 300 East Gurley Street, Prescott, Arizona 86301. Defendant PUSD was, prior to May 2019, the employer of Plaintiff, Denise Canzoneri.

5. Defendant Joe Howard is an adult citizen of the United States and the State of Arizona, who is the Superintendent of PUSD, and was at all times pertinent.

6. Defendant Mardi Read, was and is Vice Superintendent of PUSD and an adult citizen of the State of Arizona, at all times pertinent herein.

7. Defendant Mark Goligoski is an adult citizen of the United States and the State of Arizona, who was and is the principal of the high school at all times pertinent to this Complaint.

8. The individual Defendants are all highly educated school District Administrators as required by the position of each of them.

9. Each of them should possess superior knowledge of the rules governing the District and were assumed to be competent in their jobs and constitutional responsibilities. Each abused power and authority (PUSD) in dealing with Canzoneri. More specifically, pursuant to PUSD policies GBEB-R-I (Exh. I). “Staff Conduct” an employee will not engage in conduct violating federal or state law. Further, GBED-R-A (Exh. I) staff members are to thoroughly acquaint themselves with these policies. (Exh. I).

10. GBP prohibits reprisal for disclosure of a matter of public concern.

11. At all times material to this Complaint, Defendant PUSD was an “employer” within the meaning of Title VII of the 1964 Civil Rights Act.

## **BACKGROUND**

12. Plaintiff repeats paragraphs 1-12 and incorporates all allegations herein by reference.

13. Plaintiff began employment working for Defendant PUSD in the fall of 1996 as a Library Specialist, a permanent employee. As such, Ms. Canzoneri had both a liberty and property interest in her position based on twenty-two years of renewal of her contract, her contract entitled Notice of Indefinite Term Appointment (Exh. P) and practices and policies of PUSD including discipline, and Reduction in Force. PUSD GDQA, (Exh. I).

14. PUSD did not provide any hearing nor was Ms. Canzoneri provided any due process.

15. Ms. Canzoneri was informed:

Your position has been eliminated due to budget cuts. She was not terminated at this time; it was expected another position would be found. *See* comments by Goligoski in paper (Exh. C). It promises she could move to a different position. And that her position in reality was not eliminated but has been continually filled by another employee.

16. On March 20, 2019, Ms. Canzoneri was told her “position at the High School has been eliminated.” due to budget cuts by PUSD. *See* Exh. D.

17. March 21, 2019, Plaintiff contacted Human Resources and asked what her options were now that she was made aware of the situation. The response was “The Board has yet to decide”.

18. In an effort to gain clarity based on the conflicting statements of the two Administrators, Plaintiff attempted to have a follow-up meeting with the Principal, however, he would not schedule a second meeting. Frustrated, Plaintiff contacted a PUSD Board Member to inquire into two areas of concern directly affecting Library funds. Specifically, the sudden disappearance of Tax Credit Donations as well as the ongoing, unanswered questions relating to significant payments made to a third-party vendor.

19. On April 2, 2019 Ms. Canzoneri publicly offered at a School Board meeting to create a committee /focus group with the specific intention of addressing the cash shortfall affecting the funding of the K-12 Library System, (which shortfall she had first been

informed of) by creating a Foundation specifically formed to assist the District, and potentially the entire State, to adequately fund a newly created K-12 Library Department. This was and is in the public interest. (Exh. B, a copy of what Ms. Canzoneri said to the Board). Ms. Canzoneri's speech was as a private citizen who signed in to speak. It further involved the possible misuse of public funds, wastefulness, inefficiency and the failure of best practices in managing PUSD.

20. The Principal also addressed the Board, and in a shocking reversal of the status of the Library and its' future, he told the Board a completely opposite version of the status at the Library than he had been telling Plaintiff and other staff. (Exh. C, "News Article re: Library Affected by Budget Cuts and Principals Conflicting Statements").

21. April 3, 2019 Ms. Canzoneri received a "Cease and Desist" letter demanding she cease her public protected free speech, concerning public matters, involving the Library, which was allegedly restricted pursuant to her Contract with PUSD. (Exh. P). She also was placed on Administrative Leave for an investigation into her speech. (Exh.G; Exh. E). She also was told at the same time she was terminated because of a reduction in force. She was also concurrently informed that the Board had decided to not fill a vacated Librarian position at Mile High Middle School. (Exh. E).

22. April 4, 2019 - Plaintiff wrote to the Principals immediate supervisor, the Superintendent. (Exhibit F, "Letter to PUSD Superintendent, Joe Howard; Request for Inclusion"). Mr. Howard had evidently delegated authority to deal with Ms. Canzoneri's employment to the principal.

23. April 11, 2019 - The Superintendent replied stating he empowered the Principal to “determine how the Library services will be provided” and endorsed both the Principals’ and the Assistant Superintendents’ handling of the situation. (Exhibit G, “Response to Request for Inclusion”).

24. April 15, 2019 - Letter extending the administrative leave thru May 26, 2019. (Exhibit H, “Letter of Direction”).

25. June 2019, in response to Ms. Canzoneri notifying the American Library Association (“ALA”) of the attempted reduction of funding and related de-staffing of two District Library’s, the ALA sent a letter to PUSD. One of the items the ALA cited was:

*In its strategic plan, PUSD commits to data-informed action.*

The letter also pointed out the studies that conclude the importance of a

*“...professionally staffed school Library”.*  
(Exhibit A).

These represent best practices.

26. The ALA and AASL are not alone in this position that school Librarians are essential in K-12 education. The National Parent Teacher Association (PTA) advocates for programs and policies that “maintain school Libraries and media centers in all public schools”. In addition, the American Association of Colleges and Universities establishes information literacy as one of its essential learning outcomes, a goal that is premised on a cohesive foundation in a student’s K-12 education. Again, this is reflective of best practices.

27. Upon information and belief, Teresa Smith, the Special Education Secretary, was immediately put in charge of managing the Library, and has been doing so since Ms. Canzoneri was placed on Administrative Leave, under the title Permanent Substitute. This leads to the conclusion Ms. Canzoneri's position was never legitimately eliminated, nor subjected to reduction-in-force process.

28. April 3, 2019 she was placed on administrative leave until further notice. This was for alleged on unprofessional conduct, pursuant to her contract "based on Board Policy (GBEA)". GBEA is the PUSD policy entitled "Staff Ethics". This is a direct quote from the letter. (Exh. E). She was ordered to turn in all keys and District property, banned from District Properties unless permitted by Superintendent or HR, banned from contact with all District employees.

29. By April 4, the Assistant Superintendent Mardi Read and High School Principal Mark Goligoski had demanded a meeting with Ms. Canzoneri. The meeting was abusive: they pointed fingers at her; told her she was not allowed to form a committee; and put her on administrative leave "because we believe you are soliciting teachers to join your committee." Further stating Mr. Goligoski is the only one authorized to form a committee. The HR Director states in Exhibit H that Ms. Canzoneri breached GBEA policy "Staff Ethics", E, L, K. (Exh. H).

30. Ms. Canzoneri felt threatened, intimidated, frightened, and brow beaten. The actions of Defendants were prohibited by PUSD Policy GBP Prohibited Personnel Practices and GBEB-R "Staff Conduct" A, E, H. (Exh. I).

31. She was directed to not have any contact, in person, by phone, or by letter with any employee of the District or any student or parent of the District unless directed or permitted to do so by the Superintendent or the Director of Human Resources. This was not limited by topic, person, nor worktime. Prescott is a small community in Northern Arizona. Its citizens shop at the same grocery stores, participate in the same churches, go to the same gyms, eat at the same restaurants, and see many others of their fellow citizens on a daily basis. This direction was so overbroad that it is clearly unconstitutional, infringing on free speech and the right to association. (Exh. E.).

32. By memorandum (Exh. F) April 4, 2019 Ms. Canzoneri explicitly ask Superintendent Howard to authorize her to:

- A. Contact any and all persons who may have had, currently has, or may have in the future, any stake in the outcome of any change in the school Library functions;
- B. Permit the afterschool hours use of the Library or gymnasium for public meetings regarding the fate of the Library and its attendance.;
- C. Direct Goligoski to retract in writing the statements made regarding the prohibition to engage in the formation of an independent focus group and to keep Goligoski and Read from harassing her;
- D. Provide access to any and all financial records relating to the District's financial affairs as they relate to the payments made to Yavapai Library Network, purportedly in the amount of \$1.2 Million over a ten-year period.

E. Any other information in your possession . . .  
For a thorough cost/benefit analysis . . . .

**FEDERAL CIVIL RIGHTS ACT (42 U.S.C. 1983):  
RETALIATION FOR EXERCISE OF FIRST  
AMENDMENT RIGHT OF FREE SPEECH  
RETALIATION BY ALL DEFENDANTS**

33. Plaintiff hereby incorporates and restates herein paragraphs 1-33 as if fully set forth herein, and further incorporates by reference each and every allegation set forth in all other paragraphs of this Complaint.

34. PUSD Policy regarding the treatment of Employees when a situation arises wherein the position and employment status are threatened exists in GBB and GDQA – “Staff Involvement in Decision Making” (See attached Exhibit I).

35. In part, GBB States: “ . . . the Superintendent may involve at the planning stage, whenever feasible, any employees who may be affected by such provisions.” Exh. I.

36. On March 22, prior to the written request to Mr. Howard, Ms. Canzoneri had had a conversation with School Board Member Jon Macken regarding about the possibility of obtaining a cost/benefit analysis of the contract with Yavapai Library Network to which the District had subscribed. All actions of the Defendants took place after this conversation. In several other instances throughout the year, Ms. Canzoneri had inquired with Mr. Goligoski’s assistant, Laurie Ann Frank, regarding the sudden disappearance of Tax Credit Donations that had regularly been available

in years prior, also with no response, these were questions about possible misuse or abuse of funds.

37. In her email to Christa Simmons dated April 12, 2019, Ms. Canzoneri made clear what her treatment had been by the Defendants. She once again complained about what she called the “gag order” she added “I live across the street from PUSD employees and PUSD students. Now I can’t talk to my neighbors? How embarrassing and humiliating!” She also points out that she is demanded to react in minutes while the Defendants have taken days. She demanded a civilized meeting which would have been part of any due process. This was publication to others that something was drastically wrong.

38. Further upon information and belief other school employees have been told to not interact or speak to Ms. Canzoneri. This places her in a false light and is defamatory, further impinging on her right to free speech, due process and liberty interest.

39. Plaintiff was a permanent hourly employee who attended a public meeting after regular hours.

40. Ms. Canzoneri’s job duties did not require her to appear, nor was it a part of her duties to address funding shortfalls at the District. She was there as a concerned citizen.

41. Ms. Canzoneri’s email at the PUSD was cut off when she replied to a fellow teacher on who had asked how she was.

42. Upon information and belief, talking to each other employees about the terms of employment is protected both constitutionally and under the National Labor Relations Act, as well as Board Policy.

43. Ms. Canzoneri's speech was further interfered with during the time she was directed as Librarian she was not to discuss the operation of any District Libraries and if asked was to direct all questions the District administration; she was directed that she could not form nor attempt to form any type of committee or group whose purpose was to discuss PHS Library operations. This violates both her right to free speech and association. Then she was as told not to use any school resources such as computers programs or supplies. Then she was told that she would be terminated possibly if these were violated.

44. Defendants violated 42 U.S.C. § 1983 when they retaliated against Plaintiff including by suspending and terminating her employment because Plaintiff complained of conduct she reasonably believed was possible misuse of public funds, wastefulness, inefficiency and the failure of best practices in managing PUSD.

45. Plaintiff was acting as a private citizen when she spoke at the April 2, 2019 School Board meeting because she spoke after hours, she was not being paid for her time, and speaking at the meeting was not part of her job description or job duties.

46. Plaintiff's complaint was expressive conduct that addressed a matter of public concern.

47. Defendants' adverse actions taken because of the expressive conduct chilled Plaintiff's exercise of First Amendment rights and to free speech and association.

48. Defendants were the final decision-making officials in the area of the decision in this case, or were delegated such authority or ratified the decision of a subordinate. Joseph Howard, Superintendent, has the authority to terminate. However, in Denise's case, he

delegated that authority to all of the individual school Principals as it relates to the staffing of the Libraries. (See April 11, 2019 letter from Howard).

49. As a direct and proximate result of the conduct by Defendants and the individual Defendant actors alleged herein, Plaintiff is entitled to compensatory damages including for pain, suffering, inconvenience, humiliation, outrage, discomfort, anxiety, sorrow, fear, depression, loss of sleep, loss of enjoyment of life.

50. Injunctive relief should be granted for Plaintiff against the Defendants to prevent further acts of retaliation and discrimination, particularly since these Defendants appear to be oblivious to their duties and liabilities under 42 U.S.C. § 1983.

51. The unlawful employment practices complained of were intentional.

52. The unlawful employment practices complained of were done with malice or with reckless indifference to Plaintiff's federally protected rights.

53. Plaintiff seeks a judgment for the following:

- A. Compensatory and general damages in an amount to be determined by the trier-of-fact;
- B. Punitive damages against Defendants in their individual capacities;
- C. Injunctive relief to prevent future similar violations of federal statutes and remedy harm done to Plaintiff, including a change to policies and practices.
- D. Her reasonable attorney's fees and expert fees incurred herein, pursuant to 42 U.S.C. § 1988 (b), (c), Federal Rule of Civil Proce-

dure 54(d)(2), and Local Rule of Civil Procedure 54.2; and

- E. Her taxable costs incurred herein, pursuant to Federal Rule of Civil Procedure 54(d)(1), Local Rule of Civil Procedure 54.1, and 28 U.S.C. § 1920.

### **DEPREVATION OF LIBERTY/PROPERTY RETALIATION**

54. Plaintiff Denise Canzoneri repeats paragraphs 11-44 and incorporates all allegations in this Complaint by reference.

55. The Board's action in retaliation to her attempt to suggest good policy alternatives in a public forum violate Ms. Canzoneri's constitutional right to free speech, free association and due process. It violates her liberty interest and her property interest in employment and is retaliatory.

56. PUSD had policies in place to protect permanent employee jobs from being terminated or displaces without due process, and warnings. These policies were not followed.

### **RETALIATION**

57. Plaintiff hereby incorporates and restates herein paragraphs 1-47 as if fully set forth herein, and further incorporates by reference each and every allegation set forth in all other paragraphs of this Complaint.

58. Plaintiff was placed on Administrative Leave for it merely being rumored and requesting to form a Committee aimed at helping the District's financial woes.

59. Plaintiff filed Complaint Form GBA-E addressed to the Board citing the fact that Defendants failed to comply with rule GBB.

60. None of the Defendants were placed on Administrative Leave for any investigation nor upon information and belief was there ever an investigation for their behavior.

61. Administrators and Teachers are treated differently when it comes to possible violations of District Policy and Practice.

62. In retaliation, the HR director Christa Simmons, at the direction of Ms. Read, threatened Ms. Canzoneri she would be insubordinate if she did not appear and there would be further disciplinary action. (Exh. M).

63. Ms. Canzoneri after twenty-two years was not given a reference. (Exh. Q).

64. Also, the placement on administrative leave for the rest of the school year was retaliatory. Ms. Canzoneri had to self-published the situation every time she applied for a position. She applied for one hundred (100) positions.

65. As a result of the actions of the Defendants PUSD, Defendant Joe Howard, Defendant Mardi Read, and Mark Goligoski, Plaintiff has been deprived of her rights to speak freely and to associate freely, she has been deprived of liberty and property without due process, under color of state law, ordinance, custom or usage, or policy in violation of the First and Fourteenth Amendments to the United States Constitution. They knew of her Constitutional rights.

66. At all times pertinent to this Complaint, the conduct of Defendants PUSD, Defendant Joe Howard, Defendant Mardi Read, and Defendant Mark Goligoski, were vindictive, oppressive, malicious, wanton, willful and reckless, all in knowing disregard of Plaintiff's rights to free speech, and equal protection guaranteed to her by the First and Fourteenth Amendment of the United States Constitution.

WHEREFORE, Plaintiff respectfully requests that the Honorable Court grant her the following relief:

1. The granting of injunctive relief requiring Defendants to restore Plaintiff's employment to the status quo ante.
2. The issuance of a judgment declaring that the termination or modification of Plaintiff's employment is violative of the right to equal protection guaranteed by the Fourteenth Amendment to the United States Constitution.
3. Compensatory damages including, but not necessarily limited to, back pay, front pay, and lost fringe benefits, and damages to compensate for emotional distress.
4. With respect to Defendants Read, Howard, and Goligoski only punitive damages.
5. The granting of attorney's fees and costs, and
6. Such other and further relief as the Honorable Court may deem proper to the nature of Plaintiff's cause.

7. All equitable remedies and relief including a degree for the proper functionary of PUSD in the future.

RESPECTFULLY SUBMITTED this 29th day of December 2020.

/s/ Cheri L. McCracken, Esq.  
Attorney for Plaintiff

Original of the foregoing e-filed and COPIES e-served/sent electronically this 29th day of December 2020 to:

Donald P. Johnsen  
Gallagher and Kennedy  
2575 East Camelback Road  
Phoenix, Arizona 85016  
dpj@gknet.com

Chris Houk  
chouk@houklawfirm.com

Denise Canzoneri  
dacanzoneri@gmail.com

/s/ Denise Adetokunbo

**EXHIBIT A**  
**ALA AMERICAN LIBRARY ASSOCIATION**  
**(JUNE 18, 2019)**

---

**ALA AMERICAN LIBRARY ASSOCIATION**

Joe Howard, Superintendent  
Governing Board Members  
Prescott Unified School District  
300 East Gurley Street  
Prescott, Arizona 86301

Dear Superintendent Howard, President Seeley,  
and Board Members:

Today, more than ever, students must learn to navigate an increasingly complex Information landscape to succeed in school, in the workplace, and as citizens. And so we were dismayed to hear that Prescott Unified School District is cutting school librarians, the information professionals who prepare them for this very endeavor.

In its strategic plan, PUSD commits to data-informed action. As Presidents of the American Library Association (ALA) and the American Association of School Librarians (AASL), we have reviewed years of research and visited scores of school libraries to see that research in action. More than 60 studies from across the country show that student achievement is higher across multiple measures in schools with a professionally staffed school library.<sup>1</sup>

---

<sup>1</sup> <https://www.baltimorelibraryproject.org/wp-content/uploads/downloads/2013/09/Library-Impact-Studies.pdf>

These findings are no accident. School librarians are the heart of their schools and central to their district's goals. *National School Library Standards for Learners, School Librarians, and School Libraries*<sup>2</sup> offer an Intentional framework upon which a school district's vision can be realized. School librarians offer equitable access to resources and embed information literacy across the curriculum for authentic, Inquiry-based, personalized learning experiences. The framework aligns with content area and technology standards and facilitates students' examination of diverse perspectives and experiences; collaboration towards individual and common goals; curation of resources for personal and academic growth; reflective practices that nurture empathy; exploration and innovation; and capable and ethical use of information technologies.

ALA and AASL are not alone in this position that school librarians are essential in K-12 education. The National Parent Teacher Association (PTA) advocates for programs and policies that "maintain school libraries and media centers in all public schools."<sup>3</sup> In addition, the American Association of Colleges and Universities establishes information literacy as one of its essential learning outcomes,<sup>4</sup> a goal that is premised on a cohesive foundation in a student's k-12 education.

Your school librarians are also key partners in school and district level initiatives such as technology

---

<sup>2</sup> <https://standards.aasl.org/>

<sup>3</sup> <https://www.pta.org/home/advocacy/pta's-positions/Individual-Position-Statements/Position-Statement-Libraries-and-Educational-Material>

<sup>4</sup> <https://www.aacu.org/leap/essential-learning-outcomes>

integration, differentiated learning, and positive school culture. We commend PUSD's stated commitment to preparing students who are "confident, lifelong-learners prepared to achieve their full potential in a complex, Interconnected world," and we urge you to provide them with the resources they need, including school librarians, so the district may realize that vision and students can achieve their full potential.

Sincerely,

/s/ Loid Garcia-Febo, President

American Library Association

/s/ Kathryn Roots Lewis, President

American Association of School Librarians

cc: Michelle Simon, President, Arizona Library Association

**EXHIBIT B**  
**MS. CANZONERI'S SPEECH TO PUSD BOARD**  
**MEETING**  
**(APRIL 2, 2019)**

---

**PUSD BOARD MEETING**

RE: Budget Cuts and the Library

Thank you for the opportunity to address the Board.

First, I need to apologize for a flurry of misdirected emails. Today's Agenda was not posted until after Noon yesterday and we were working off verbal instructions regarding the Consent Agenda Items, and now that we have the facts, I have no comments regarding those items.

However, I would like to be on record regarding the future operations of both the Middle School and High School Libraries.

After working with the children and staff of PUSD for over 22 years, I have gained considerable insight as to both the specific needs of the student body as well as the needs of the teaching staff in support of those student needs.

I have been informed that there will be significant changes in the new protocol, most of which are not yet determined. Since there is not a clear plan in place as of today, I am requesting that the Board requires feedback from all stakeholders in the final decision process, prior to any administrative decisions that impact future operations. These stakeholders include myself, the remaining Librarians at the Elementary schools, the Teachers, and most importantly, the Students.

This feedback is vital to the Administrators and Board future actions as they decide the fate of centuries old learning environment.

Thank you for your consideration.

EXHIBIT C  
NEWSPAPER ARTICLE  
RE: PUSD APPROVES BUDGET  
(APRIL 3, 2019)

---

THE DAILY COURIER  
APRIL 3, 2019

# PUSD board approves budget proposal; \$700K must be cut

*High school, middle school library  
staff targeted as one of fallouts  
from required reductions*

By NANCY HUTSON

The Daily Courier

**EXHIBIT D**  
**EMAIL**  
**(MARCH 21, 2019)**

---



Denise Canzoneri  
<denise.canzoneri@prescottschools.com>

Re: news  
1 message

Thu, Mar 21, 2019 at 11:13 AM

Denise Stevens  
<Denise.Stevens@prescottschools.com>

To: Denise Canzoneri  
<Denise.Canzoneri@prescottschools.com>



Tough stuff this year! Sorry my friend. It has to be board approved before it's final though.

But good to get your ducks in a row.

ASRS phone number is 800-621-3778

On Thu, Mar 21, 2019 at 7:40 AM Denise Canzoneri <Denise.Canzoneri@prescottschools.com> wrote:

Well, my job has officially been eliminated. Not at all what I expected. Do you have a contact for ASRS? I need to find out my options.

Thank You,



Denise A. Canzoneri  
Librarian  
Prescott High School

**EXHIBIT E**  
**LETTER FROM MARDI REED RE: PLACED ON**  
**ADMINISTRATIVE LEAVE**  
**(APRIL 3, 2019)**

---



**PREScott UNIFIED SCHOOL DISTRICT No. 1**  
300 E. Gurley Street, Prescott, Arizona 86301  
(928) 445-5400 [www.prescottschools.com](http://www.prescottschools.com)

---

Dear Ms. Denise Canzoneri,

You are hereby placed on paid administrative leave until further notice. The need for this action is based upon a report given to me by Christi Simmons, Director of Human Resources, that alleges possible unprofessional conduct on your part (Board Policy GBEA).

**Your being placed on administrative leave with pay is not a disciplinary action.** The purpose of this administrative leave is to enable the District to review the facts and your record, to determine what action, if any, is appropriate. You will be notified of the District's conclusions and any proposed disciplinary action when the investigation has been completed.

During this period of administrative leave with pay, you are directed to:

- (1) Call the Director of Human Resources, Christa Simmons, before 10:00 am every work day (Monday through Friday, except on District

holidays). If the Director is not available when you call, you are expected to leave a message for the Director.

- (2) Turn in to the Director of Human Resources all keys that allow access to any District facilities, District cellular phones, District credit cards, and any other District property in your possession.
- (3) Refrain from coming onto any District properties unless directed or permitted to do so by the Superintendent or by the Director of Human Resources. While you are on administrative leave, you may attend District functions where members of the public are invited, in the same manner and on the same terms and conditions as other members of the public.
- (4) Not have any contact, whether in person, by telephone, by letter or otherwise, with any employee of the District, or any student or parent of the District unless directed or permitted to do so by the Superintendent or by the Director of Human Resources.
- (5) To be available by phone and be able to report as requested by the District during your normal working hours.

If You have any questions about this matter, you may call me or Christa Simmons, Director of Human Resources.

Sincerely,

/s/ Ms. Mardi Read

PUSD Assistant Superintendent

cc: Personnel File

I, Denise, Canzoneri, certify that I received this notice on April 3, 2019.

/s/ Denise, Canzoneri

**EXHIBIT F**  
**MEMO FROM DENISE CANZONERI TO JOE**  
**HOWARD, SUPERINTENDENT**  
**(APRIL 4, 2019)**

---

TO: Joe Howard, Superintendent, Prescott Unified School District

FROM: Denise A. Canzoneri, Librarian, Prescott High School

RE: Request for Inclusion; Documents as necessary

Dear Joe,

Somehow I find myself in a serious quandary that is spinning out of control all due to a series of unfortunate events.

I have to say, I was a bit taken aback after the public Board meeting April 2. After all of these years and all of the struggles that you and I, the teachers, students, staff, and the residents of Prescott have endured with the sole purpose of enriching young minds and instilling hope for the future, *within 24 hours of my public request for inclusion, you* personally sign my termination letter? Rather than a rant, I think it may be best for me to make my case to you before anything further transpires that is irreversible.

First, I need to inform you of a meeting that was held with Mark Goligoski, and Mardi Read. The two of them literally ganged up on me and handed me a notice placing me on Administrative Leave with explicit instructions from Read and Goligoski, pointing fingers at me stating:

*“You are not allowed to form a committee [to address the current transition of the Library]”.*

*You are being put on administrative leave because we believe you are soliciting teachers [fetal] to join your committee. Mr Goligoski is the only one authorized to form a committee [to deal with this issue.] We need to investigate what is going on and cannot do that with you here.”*

To say I felt threatened, intimidated and completely dismissed out-of-hand would be an understatement.

The Notice states in part:

*“During this period of administrative leave, you are directed to:*

*(4) Not have any contact, whether in person, by telephone, by letter or otherwise, with any employee of the District, or any student or parent of the District unless directed or permitted to do so by the Superintendent or by the Director of Human Resources.”*

Before I address this “mandate”, it may be a good idea to understand just how we have gotten to the point we now find ourselves.

On 3/20/2019, I met with Mark and he informed me that there was a decision made that will result in *“The Librarian’s positions at both Mile High Middle School and the High School are being eliminated”*.

When asked: *“How is that going to work?”* he replied, *“We are not certain yet. We will probably have to reconvene over the next several weeks”*.

Stunned, I returned to my office and began researching possible solutions to having what appeared to be an effort to offer some sort of unmanned Library?

I realize that automation is everywhere, but it was amply clear that since Mark did not yet have a cohesive program to implement, one was going to be needed, and soon!

To my dismay, I was repeatedly and erroneously, informed by multiple sources that the Consent Agenda, which referred to an attachment, entitled “Personnel Report”, contained the authority for the Board to advance the removal of the Librarians WITHOUT any conversation with the affected parties! More than one party opined: *“The decision is made and there is nothing that can be done”*.

The idea that “nothing” can be done did not seem appropriate, so I started looking into ways to intercept the vote and arrest that possibility, but that action was rendered moot when FINALLY, after several attempts to secure a copy of the attachment, we were able to see that that particular Report referred to last month’s actions. I publically apologized for any aggravation that my somewhat panicked emails may have caused, and I reiterate my apology, here . . . I am sorry.

On 4/2/2019, I approached Mark regarding the meeting that was going to be held that evening and asked if we could discuss the Library situation. In a somewhat hurried manor, we sat in his office and he said: *“I hear that you are speaking at the board meeting tonight”*. For starters, that statement caught me off guard since one of the reasons I wanted to talk to Mark was because Sarah Torres said that, at that time, there were no speakers scheduled and I wanted to be sure someone had the presence of mind to not allow such a sweeping change to go without appropriate input from all stakeholders.

Mark then offered his “solution” was to have “. . . eight (8) other *Classified Personnel* divide the *Librarians* duties amongst themselves . . . .” Subsequently, he additionally stated: “*We are also considering placing Advisement in that space.*” This was the first time I was given any indication that the Library was to remain open and staffed in this manner. Another uncomfortable moment ensued as both of us clearly were frustrated with the situation. I personally was very confused.

It was at this moment that Mark asked “*What are you going to say to the Board?*” and I responded with a somewhat boilerplate “*Not able to comment at this time*” response which seemed to enrage him. Returning to my office, and after I thought about what I had just said, I sent an email explaining my frustrations and apologized for upsetting him.

That evening I presented the Board my concerns fully expecting that we would all be adults and put of our ‘dysfunctional family’ issues aside and I requested to be a part of an outside team that would look thoroughly at the issues facing the Library Funding and assist in designing a comprehensive program to fix this issue once and for all!

Believing that this was a reasonable request, and fully expecting to start meeting with all of the directly affected participants asap, I returned to work the next day ready to “get the job done”.

April 4, 2019:

11:30 AM, Clark Tenny arrives at my office and states very clearly: “*You are not allowed to form your own committee. HR will call you shortly*” and a “. . . stop telling the staff that they will be assimilating your job duties . . . .”

What??? Mark just told me that *was* the plan. This circumstance has been a recurring theme where nearly every question is met with resistance, misinformation, or a sudden retraction and/or reversal of what I was just told within days of the “correction”. There is a high degree of frustration associated with directives and/or instructions that are not consistent between these two administrators.

1:30 PM, I was called to the office for the meeting outlined previously.

As a result of the events of the past 72 hours, and unless you agree with the “gag order”, please accept this letter as my formal request for you to expressly authorize me to do the following:

- A) Contact any and all persons who may have had, currently has, or may have in the future, any stake in the outcome of any change in School Library functions.
- B) Permit the after school hours use of the Library and/or Gymnasium for public meetings regarding the fate of the Library and its attendants.
- C) Direct Mark Goligski, Clark Tenny and Mardi Read to retract, in writing, the statements that they made regarding my “prohibition” to engage the formation of an independent Focus Group, separate from the current administrations’ efforts, and acknowledge my authority to do so without harassment from them.
- D) Provide access to any and all financial records relating to the District’s financial

affairs as they relate to payments made to the YLN over the past 10 years.

E) Any other information in your possession that would be considered material to a proper and thorough cost/benefit analysis necessary to determine the financial health of the segregated Library activities, including donations.

Awaiting your response,

/s/ Denise A. Canzoneri

**EXHIBIT G**  
**LETTER FROM JOE HOWARD TO**  
**DENISE CANZONERI**  
**(APRIL 11, 2019)**

---



**PRESCOTT UNIFIED SCHOOL DISTRICT No. 1**  
300 E. Gurley Street, Prescott, Arizona 86301  
(928) 445-5400 [www.prescottschools.com](http://www.prescottschools.com)

---

April 11, 2019 (handmarked as received April 16, 2019)

Dear Denise Canzoneri:  
Via delivery to Prescott High School  
Hello Denise,

I received your letter dated April 4, 2019. I am aware of the meeting held between you, Christa, Mardi, and Mark. Putting an employee on paid administrative leave is common when an investigation into possible policy violations is being investigated. My understanding is that you will be meeting again soon to discuss the findings of that investigation.

Due to budgetary restrictions, the district has made a decision to provide library services to students in a different format. The board voted on staffing for next year based on prioritized needs. Unfortunately, that means the two full-time library positions at Mile High and PHS have been eliminated. The principals will determine how the library services will be provided to students in the future.

The following is a response to your requests on the last page.

- a) You may not contact stakeholders during work hours regarding the library functions. This is not in your job description and not your role. It is the responsibility of the principal to determine how the library will function next year. You also may not use district resources to contact stakeholders such as PowerSchool, copiers, your computer, or other resources.
- b) You may rent district facilities just as any member of the public is allowed. Please contact Chris Larson for fees and insurance requirements.
- c) Mark, Clark, and Mardi did not violate policy or procedure by informing you that it is not your role to determine how the library will function next year.
- d) You may request district financial records as a member of the public. Please note standard fees for public records requests will apply. Please contact Brian Moore for further information.
- e) Same. as “d” above. Please be specific regarding which records you would like.

Sincerely.

/s/ Joseph W. Howard  
Superintendent

**EXHIBIT H**  
**LETTER OF DIRECTION**  
**FROM SIMMONS, HR, TO CANZONERI**  
**(APRIL 15, 2019)**

---



**PRESCOTT UNIFIED SCHOOL DISTRICT No. 1**  
300 E. Gurley Street, Prescott, Arizona 86301  
(928) 445-5400 [www.prescottschools.com](http://www.prescottschools.com)

---

Subject: Letter of Direction

Dear Ms. Canzoneri:

On April 3, 2019, I received a report that you approached several coworkers at Prescott High School regarding the high school library and the plans for it in the 2019/2020 school year. This report prompted a meeting on April 4, 2019, between you, Mr. Goligoski, Mardi Read, and myself. The purpose of the meeting was to hear your side of the story, and if necessary, begin an investigation on whether any district policies were violated.

During the meeting on April 4, 2019, you were asked if you had approached any coworker regarding plans for the PHS library, and you could think of only one person. When asked if you had spoken to any other employees at the high school regarding your intent to form a committee for any reason regarding the high school or the library, you answered, "No." Because your responses were in direct contrast to the reports Mr. Goligoski had received, I was instructed

to conduct an investigation, and you were placed on paid administrative leave.

After conducting my investigation, it is my opinion that your actions on April 3, 2019, did indeed violate district policy including:

Policy GBEA Staff Ethics:

E. Directs any criticism of other staff members or of any department of the school system toward improving the District. Such constructive criticism is to be made directly to the school administrator who has the responsibility of improving the situation.

I. Refrains from using school contacts and privileges to promote partisan politics, sectarian religious views, or selfish propaganda of any kind.

K. Avoids using position for personal gain through political, social, religious, economic, or other influence.

Therefore, you are directed as follows:

- During the time you are clocked in as the PHS librarian specialist, you are not to discuss the operation of any district libraries, and if asked, you are to direct the questions to district administration.
- During the time you are clocked In as the PHS librarian specialist, you are not to form nor attempt to form any type of committee or group whose purpose is to discuss PHS library operations. As you have been told, this is the responsibility of district admin-

istration. You also may not use any school resources such as computers, programs, or supplies to form a committee or conduct personal business.

Any violation of district policy including the directives in this letter may result in further discipline, up to and including termination.

Sincerely.

/s/ Christa Simmons

Director of Human Resources

Encl: PUSD Policy GBEA

Cc: Personnel File

## **EXHIBIT I PUSD POLICIES**

---

**ABA©**

### **COMMUNITY INVOLVEMENT IN EDUCATION**

The Board recognizes that the public has substantial resources of training and experience that could be useful to schools. The strength of the local District is in large measure determined by the manner and degree to which these resources are utilized in an advisory capacity and to the degree that these resources are involved in supporting the improvement of the local educational program.

The advice of the public will be given careful consideration. In the evaluation of such contributions, the first concern will be for the educational program as it affects the students. The final decision may depart from this advice when in the judgment of the staff and the Board such advice is not consistent with goals adopted by the Board, consistent with current educational practice, or within the reach of the financial resources available.

Adopted: date of Manual adoption

LEGAL REF.:

A.R.S.

15-321

15-327

CROSS REF.:

IJ - Instructional Resources and Materials

KB - Parental Involvement in Education

Adopted: October 01, 2019

LEGAL REF.:

A.A.C.

R7-2-205

**GBB<sup>©</sup>**

## **STAFF INVOLVEMENT IN DECISION MAKING**

It shall be the policy of the Board to encourage employee participation in the decision making for the District. The Superintendent is authorized to establish such committees as necessary to recommend policies and regulations that will enhance the operation of the District.

In recommending policies to the Board and in the development of regulations for the operation of the District, the Superintendent may involve at the planning stage, whenever feasible, any employees who may be affected by such provisions.

The Superintendent shall establish, with certificated and support staff employees, channels for the ready intercommunication of ideas and feelings regarding the operation of the schools. The Superintendent shall weigh with care the counsel given by employees and inform the Board of such counsel in presenting recommendations for Board action.

Adopted: date of Manual adoption

LEGAL REF.:

A.R,S.

15-321

**GBEA©**  
**STAFF ETHICS**  
**(Statement of Ethics for School Employees)**

All employees of the District are expected to maintain high standards in their school relationships. These standards must be idealistic and at the same time practical, so that they can apply reasonably to all staff members. The employees acknowledge that the schools belong to the public they serve for the purpose of providing educational opportunities to all. However, every employee assumes responsibility for providing leadership in the school and community. This responsibility requires the employee to maintain standards of exemplary conduct. It must be recognized that the employee's actions will be viewed and appraised by the community, associates, and students. To these ends, the Board adopts the following statements of standards.

The school employee:

- A. Makes the well-being of students the fundamental value of all decision making and actions.
- B. Maintains just, courteous, and proper relationships with students, parents, staff members, and others.
- C. Strives for the maintenance of efficiency and knowledge of developments in the employee's field of work.
- D. Fulfills job responsibilities with honesty and integrity.
- E. Directs any criticism of other staff members or of any department of *the* school system toward improving the District. Such con-

structive criticism is to be made directly to the school administrator who has the responsibility for improving the situation.

- F. Supports the principle of due process and protects the civil and human rights of all individuals.
- G. Obeys local, state, and national laws and does not knowingly join or support organizations that advocate, directly or indirectly, the overthrow of the government.
- H. Implements the Governing Board's policies and administrative rules and regulations.
- I. Refrains from using school contacts and privileges to promote political or sectarian religious views or personal agenda of any kind.
- J. Pursues appropriate measures to correct any laws, policies, or regulations that are not consistent with sound educational goals.
- K. Avoids using position for personal gain through political, social, religious, economic, or other influence.
- L. Maintains the standards and seeks to improve the effectiveness of the profession through research and continuing professional development.
- M. Stresses the proper use and protection of all school properties, equipment, and materials.
- N. Honors all contracts until fulfillment or release.

In the performance of duties, employees shall keep in confidence such information *as* they may secure unless disclosure serves District purposes or is required by law.

Adopted October 01, 2019

LEGAL REF:

A.A.C.  
R7-2-205

1. A violation of A.R.S. 13-3102 [possession of a deadly weapon on school grounds].
2. A violation of A.R.S. 13-3111 [possession of a firearm by a minor without authorization (in Maricopa and Pima Counties and where otherwise adopted by local ordinance)].
3. A violation of A.R.S. 13-3411 [possession, use, or intent to sell marijuana, peyote, or dangerous or narcotic drugs, or intent to sell prescription-only drugs in a drug-free school zone (i.e., school grounds and the area within three hundred [300] feet and public property within one thousand [1,000] feet of school grounds, the area at a school bus stop, and a school bus)].

Any administrator receiving a report of a violation of A.R.S. 13-3102, 13-3111, or 13-3411 shall immediately report such violation to a peace officer in compliance with A.R.S. 15-153 and 15-515.

Employees of the District who violate these rules are subject to disciplinary action.

## **GBEB-R© STAFF CONDUCT**

No employee, *while* on or using school property, otherwise acting as an agent, or working in an official capacity for the District shall engage in:

- A. Physical or verbal abuse of, or threat of harm to, anyone.
- B. Causing damage, or threat of damage, to property of the District or property of a member of the community or a visitor to the school when the property is located on premises controlled by the District.
- C. Forceful or unauthorized entry to or occupation of District facilities, including buildings and grounds.
- D. Use, possession, distribution, or sale of alcohol or of drugs or other illegal substances.
- E. Use of profane or abusive language, symbols, or conduct.
- F. Failure to comply with lawful direction of District officials, security officers, or any other law-enforcement officer, or failure to identify oneself to such officials or officers when lawfully requested to do so.
- G. The carrying or possession of a weapon on school grounds without authorization from the appropriate school administrator.
- H. A violation of District policies and regulations.
- I. Any conduct violating federal, state, or applicable municipal law or regulation.

- J. Any other conduct that may obstruct, disrupt, or interfere with teaching, research, service, administrative, or disciplinary functions of the District, or any other activity sponsored or approved by the Board.
- K. The use of District resources, as defined in A.R.S. 1511 and District Policy GBI, Staff Participation in Political Activities, to influence the outcome of an election.

In addition to the foregoing, all staff members are expected to:

- A. Thoroughly acquaint themselves with the rules, regulations, and other information applicable to them contained within the policies of the Board.
- B. Conduct themselves in a manner consistent with effective and orderly education and to protect the students and the District property.
- C. Maintain order in a manner consistent with District policies and regulations.
- D. Comply promptly with all orders of the Superintendent and the administrator who is their immediate supervisor.
- E. Dress and maintain a general appearance that reflects their position and does not detract from the educational program of the school.
- F. Comply with the requirement of A.R.S. 15-153 and j5-515 by immediately reporting to the Superintendent or the administrator who is their immediate supervisor:

## **GBK© STAFF GRIEVANCES**

Effective communication between District employees, the administrative staff, and the Board is essential for proper operation of the schools. The Governing Board, therefore, authorizes the Superintendent to establish a grievance procedure for employees as the prescribed means of resolving grievances at the earliest date and the lowest possible administrative level.

Such procedure shall provide for Board review of any grievance involving a loss of pay or benefits, or a grievance against the Superintendent, which cannot be resolved at the administrative level. In such instances, the affected individual may request that the Governing Board review the situation. Such request shall be in writing and shall contain the basis for the appeal, including the act or acts out of which the grievance arose, identification of the Board policies and/or administrative regulations involved, and the remedy sought. Within five (5) working days following notification of the Superintendent's decision, any written request for appeal shall be submitted to the Superintendent for transmittal to the Board. The Governing Board, at a time of its choosing, shall review the grievance and issue a response within fifteen (15) working days following such review.

The decision of the Governing Board is final.

Adopted: date of Manual adoption

LEGAL REF.:

A.R.S.  
38-532

## **GBK-R STAFF GRIEVANCES**

Grievance: A claim by an aggrieved party that there has been a violation, Misinterpretation, or misapplication of the terms and conditions of one (1) or more Governing Board policies and procedures that directly and specifically governs the employee's terms and conditions of employment. The grievance procedure shall not apply to any matter upon which the Governing Board is without authority to act, or any matter that has an alternative procedure for review under law or policy. Reductions in force, non-renewals, and evaluations are specifically excluded from this policy. No discretionary decision of the Governing Board shall be made the subject of a grievance.

Assignment, reassignment, or transfer of an employee to another position or duties is not grievable beyond the Superintendent unless there is also a reduction in compensation or the Superintendent requests the matter to go to the Board.

### **Immediate Supervisor**

Any employee experiencing a problem or concern with the application of any District policy or procedure should, in good faith, attempt to resolve the problem or concern with the immediate supervisor in an informal and open fashion.

### **Appropriate Supervisor/Administrator**

If the problem or concern is not resolved to the grievant's satisfaction, the problem or concern would move to the grievance level. The grievant shall discuss the grievance with the next level supervisor/administrator capable of acting to resolve the grievance

within ten (10) working days of the incident prompting the grievance. The grievance must specifically identify the relevant District policy or procedure and how the policy has been improperly applied. The grievant will clearly describe a proposed action consistent with the policy to resolve the grievance. The appropriate supervisor/administrator shall submit, in writing, the decision to the grievant within five (5) working days.

### **Superintendent**

If the grievant is not satisfied with the decision rendered by the next level supervisor/administrator, the grievant must notify the Superintendent and submit any appropriate materials within five (5) working days for further consideration of the grievance by the Superintendent. The grievant should clearly indicate the manner in which the grievance could be resolved. The Superintendent shall render a decision to all parties, in writing, within five (5) working days. Unless the grievance involves a loss of pay, is against the Superintendent, or recommended for Governing Board review by the Superintendent, the Superintendent's decision is final.

### **Governing Board**

If the grievant is not satisfied with the decision rendered by the Superintendent, and the matter is eligible for Board review, that individual must submit to the Superintendent a request for consideration of the grievance by the Governing Board, with appropriate materials, within five (5) working days. The grievance issue will be placed on the next Governing Board meeting agenda for consideration. All written materials will be forwarded to the Governing Board

prior to the next scheduled Governing Board meeting. The Governing Board may conduct a hearing, review the matter and render a decision on the written record.

The Governing Board shall address the matter at the next regularly scheduled meeting of the Governing Board. If the Governing Board conducts a hearing, the hearing will allow for both viewpoints with respect to the grievance to be presented. The grievant and appropriate supervisor/administrator will each be allowed fifteen (15) minutes to present their individual perspectives of the grievance issue, with a five (5) minute period for additional comments following the other party's presentation. The Governing Board may ask questions of either side. A grievant may be represented by legal counsel at his/her own expense.

The hearing will occur in an open meeting unless either party requests the hearing to occur in executive session. The Governing Board will have the option of discussing the grievance in executive session without the presence of the involved parties following presentations by the parties.

The Governing Board will render a decision in open session following the presentations and discussion of the grievance issue. The decision will be rendered through voting by the Governing Board.

The decision of the Governing Board is final.

### **Miscellaneous Procedures**

The grievant and/or supervisor/administrator may be accompanied by another District employee at any level of the grievance procedure.

All material pertaining to the grievance and procedure is confidential and shall not become part of the employee's or supervisor/administrator's personnel file.

A grievance may be withdrawn by the grievant at any time.

### **GBP© PROHIBITED PERSONNEL PRACTICES**

#### **Disclosure Protected**

It is a prohibited personnel practice for any District employee, who has control over personnel actions, to take reprisals against another employee for a disclosure of a matter of public concern, by that other employee, to a public body when the employee believes there has been:

- A. A violation of law.
- B. Mismanagement, a gross waste of monies, or an abuse of authority.

An employee, or former employee, who believes that an adverse personnel action taken is the result of such person's disclosure of information under A.R.S. 38-532 shall make a complaint to the Board. The Board shall make a determination pursuant to the rules under A.R.S. 41-785.

#### **Reporting Protected**

A governing board or school district employee who has control over personnel decisions shall not take unlawful reprisal against an employee for good-faith reports about certificated personnel engaged in conduct involving minors that is reportable under

A.R.S. 13-3620 (Reporting Child Abuse). *Unlawful reprisal* means an action taken by a governing board that results in:

- A. Disciplinary action.
- B. Transfer or reassignment.
- C. Suspension, demotion, or dismissal.
- D. An unfavorable performance evaluation.
- E. Other significant changes in duties or responsibility that are inconsistent with the employee's salary or employment classification.

Adopted: date of Manual adoption

LEGAL REF.:

A.R.S.

15-213

15-514

23-425

38-532

41-785

CROSS REF.:

DJ - Purchasing

DJE - Bidding/Purchasing Procedures

**GDQA©**

## **SUPPORT STAFF REDUCTION IN FORCE**

In the event the Board decides to release support staff members, the following guidelines will be in effect:

- A. Normal attrition due to terminations will be relied upon as the first means of reducing the staff.

B. If attrition does not accomplish the required reduction in the staff, the Superintendent shall submit to the Board recommendations for the termination of specific staff members. The criteria used in formulating these recommendations shall include, but shall not be limited to:

1. Qualifications of staff members to accomplish the District's program.
2. Overall experience, training, and ability.
3. Past contributions to the program of the District.
4. All other factors being equal, length of service in the District.

Criteria for selection of staff members to be released will be applied separately to employees within specialty categories.

Personnel to be released shall be notified of such release as soon as practical.

Adopted: March 3, 2020

**EXHIBIT J**  
**GBA-E – EQUAL EMPLOYMENT**  
**OPPORTUNITY COMPLAINT FORM**  
**(FEBRUARY 20, 2020)**

---

**EQUAL EMPLOYMENT OPPORTUNITY**  
**COMPLAINT FORM**  
**(To be filed with the compliance officer**  
**as provided in GBA-R)**

Date February 20, 2020

Please print:

Name: Denise A Canzoneri

Address:

303 E Gurley St., #148, Prescott, AZ 86301

Telephone: 928-925-2580

During the hours of 9:00 AM -4:00 PM, Mon-Thurs

Email Address: DACanzoneri@gmail.com

I wish to complain against:

Name of person, school (department), program, or activity:

Joe Howard, Superintendent of PUSD, and  
Mark Goligoski, Principal at PHS

Address:

c/o Prescott United School District,  
300 E Gurley St., Prescott, AZ 86301

Specify your complaint by stating the problem as you see it. Describe the incident, the participants, the back-

ground to the incident, and any attempts you have made to solve the problem. Be sure to note relevant dates, times, and places.

Ref. Joe Howard: Mr. Howard Failed to investigate an allegation contained in a letter Dated April 4, 2018, regarding Mr. Goligoski's handling of my position as Library Specialist. (Also ignored by the past President after she heard my speech.)

Ref. Mark Goligoski: Mr. Goligoski failed to adhere to Rule GBB – Staff Involvement in Decision Making.

If there is anyone who could provide more information regarding this, please list name(s), address(es), and telephone number(s).

Teresa Smith, Karan Rauls, Vanessa Martin, Lauris Ann Frank to start

If you want a complete understanding, talk to all of the teachers and students.

### **The projected solution**

Indicate what you think can and should be done to solve the problem. Be as specific as possible.

See specifics outlined in the attached Complaint.

I certify that this information is correct to the best of my knowledge.

---

Signature of Complainant

The compliance officer, as designated in GBA-R, shall give one (1) copy to the complainant and shall retain one (1) copy for the file.

**EXHIBIT K**  
**APRIL 3, 2019 LETTER FROM JOE HOWARD**  
**TO CANZONERI/NON-RENEWAL**

---



**PRESCOTT UNIFIED SCHOOL DISTRICT No. 1**  
300 E. Gurley Street, Prescott, Arizona 86301  
(928) 445-5400 [www.prescottonschools.com](http://www.prescottonschools.com)

---

April 3, 2019

Dear Denise Canzoneri:

Prescott Unified School District (District) is projecting a decline in student enrollment for SY2019-2020. Accordingly, the Governing Board made the tough decision under District Policy GDQA to reduce the number of support staff members in order to effectuate economies in the District's operations and to improve the efficient conduct and administration of its schools.

I am saddened to inform you, on behalf of the Governing Board, that your employment with the District will end upon May 24, 2019 and that you will not receive an employment agreement for SY2019-2020.

On behalf of the Governing Board, myself, and the entire District community, I thank you for your service and contributions to the District.

Sincerely,

/s/ Joseph W. Howard  
Superintendent

Cc: Personnel File

## **EXHIBIT L** **PUSD – MISSION, VISION, AND GOALS**

---

### **PRESCOTT**



### **GOVERNING BOARD**

Board Members

Meeting Schedule

Meeting Agendas & Public Notices

Vision, Mission, & Goals

District Policy Manual

### **PUSD Mission, Vision, and Goals**

Home >> Our District >> Governing Board >> Mission, Vision, and Goals

#### **Vision**

Prescott Unified School District educates students to be confident, lifelong-learners prepared to achieve their full potential in complex, interconnected world.

#### **Mission**

- Providing extraordinary opportunities through a variety of programs and challenging curriculum.
- Uniting the PUSD family of students, staff, and community members through positive relationships.
- Supporting exceptional staff through ongoing individualized professional development.

- Developing a highly educated, civic-minded, and productive community, one student at a time.

### **Goals**

- Student Achieve.
- Culture
- Community and Stakeholder Relationships
- Enrollment
- Resource Accountability



**EXHIBIT M**  
**APRIL 15, 2019 LETTER TO CANZONERI**  
**FROM CHRISTA SIMMONS**

---



**PRESCOTT UNIFIED SCHOOL DISTRICT No. 1**  
300 E. Gurley Street, Prescott, Arizona 86301  
(928) 445-5400 [www.prescottschools.com](http://www.prescottschools.com)

---

April 15, 2019

Denise Canzoneri  
303 East Gurley Street #148  
Prescott, Arizona 86301

Dear Denise,

Since you are on paid administrative leave and are a current employee of the district, you are to be available for work and meetings during your normal work hours, Monday through Friday. Although you have currently been assigned to stay at home, the letter dated April 4, 2019 states, you are to be available to the district as directed during your normal work hours. On April 11, 2019, you did not show up for a meeting at PHS at 2 pm as directed during your normal work hours. This is insubordination.

The primary purpose of the meeting on April 11 was to present the results of my investigation regarding trying to form a committee to continue operating the

library. From that investigation, it is clear that you did use work time to promote a personal agenda and violated Board Policy GBEA Staff Ethics. In addition during the interview, you were dishonest regarding your activities. I have attached a Letter of Direction regarding that matter.

Secondly, we also were going to give you a letter from Joe Howard in response to your letter to him. That letter is now enclosed.

For the remainder of the year, you are to remain on paid administrative leave. The terms of the letter given to you on April 4 still remain in effect. You may make arrangements with Mark Goligoski to pick up your personal items from the school.

Please let me know if you need additional information.

Sincerely,

/s/ Christa Simmons

Christa Simmons

Director of Human Resources

Cc: Personnel File  
Letter from Mr. Howard  
Letter of Direction

**EXHIBIT N**  
**APRIL 12, 2019 MEMO FROM CANZONERI**  
**TO CHRISTA SIMMONS**

---

TO: Christa Simmons

FROM: Denise Canzoneri

DATE: April 12, 2019

RE: Meeting Scheduling; Clarify my position on this matter

Christa.... Apparently I was not clear in my email yesterday. I am more than willing to meet with representatives of PUSD. However, the manner in which I was mistreated is front and center, and now is the No.1 topic in our discussions.

You were in the last meeting I had with Goligoski and Read. I never felt more intimidated and harassed in my life. I was literally given a gag-order and told to stop talking to my Colleagues, Students, Parents of Students, etc. In Prescott? Who's left to talk to? I live across the street from PUSD employee's and PUSD Students. Now I can't talk to my neighbors? How embarrassing and humiliating!

I sent a letter to Joe specifically to illuminate the egregious manner in which they are handling my role in the "transitioning" of a century's old institution, and rather than respond to me directly, you (he?) "requires" me to walk back into a virtual lions' den!?

The notion that I would voluntarily agree to be put in that position again, the attempt at having me talk with them w/o the benefit of having Joe's response (of which I still have yet to receive) then, at 12:48, you send me an email saying "We'll give you his response

letter at the meeting” is beyond my ability to comprehend.

I gave Joe 10 days to research my claims and you give me a notice that I will have 2 minutes to understand and react to prior to walking into a meeting? Why was his response not included in your “advise” email of 11:47? At least I would have had an hour to determine my reaction!

I am not making demands or ultimatums, but be certain that I am stating facts.

- 1) I will be available for a meeting with a qualified team representing PUSD, provided I receive adequate advance notice.
- 2) Any in-person meeting will be held in a neutral setting agreed to by all parties.
- 3) At least 10 days prior to the meeting, an agenda will be agreed upon by all parties.
- 4) The names and authority positions of all meeting attendees will be circulated and approved by all parties prior to scheduling a meeting.
- 5) I will have representation.

/s/ Denise A. Canzoneri \_\_\_\_\_

**EXHIBIT O**  
**APRIL 11, 2019 MEMO FROM**  
**CHRISTA SIMMONS TO CANZONERI**

---

----- Forwarded message -----

From: Christa Simmons  
<Christa.Simmons@prescottschools.com>  
Date: Thu, April, 2019 at 11:47 AM  
Subject: Re: Meeting today  
To: Denise Canzoneri  
<Denise.Canzoneri@prescottschools.com>

Denise,

You are on paid administrative leave. One of the requirements of being on paid administrative leave is found in Mardi Read's letter dated April 3, 2019:

“During this period of administrative leave with pay, you are directed to be available by phone and be able to report as requested by the District during your normal working hours.”

You have been requested to be at the high school at 2:00 pm today for a meeting with district administration. Failure to report to this meeting will be viewed as insubordination and may result in disciplinary action.

Christa

Christa Simmons  
Director of Human Resources  
Prescott Unified School District  
300 East Gurley Street  
Prescott, Arizona 86301  
(928) 445-5400 ext 70118

---

On Thu, Apr 11, 2019 at 8:42 AM Denise Canzoneri <Denise.Canzoneri@prescottschools.com> wrote:

Dear Christa,

Please be advised that, although I agree that a meeting is of paramount importance, I am awaiting a response from a letter that I sent to Joe Howard which was received by him April 4, 2019.

Out of courtesy to this process, I believe it would be improper to accept an invitation with any representative of the District prior to receiving his timely response. (10 days, April 15, 2019.)

Should you have any further questions regarding my position on this matter, please restrict all future correspondence to either this email or USPS.

Thank You.  
Denise

---

----- Forwarded message -----

From: Christa Simmons  
<Christa.Simmons@prescottschools.com>  
Date: Thu, April, 2019 at 12:48 PM  
Subject:  
To: Denise Canzoneri  
<Denise.Canzoneri@prescottschools.com>

Denise,

Mardi will have a letter from Mr. Howard to give you at the meeting today.

Christa Simmons  
Director of Human Resources

Prescott Unified School District  
300 East Gurley Street  
Prescott, Arizona 86301  
(928) 445-5400 ext 70118

**EXHIBIT P**  
**NOTICE OF INDEFINITE TERM**  
**APPOINTMENT**

---

**Prescott Unified School District No. 1**  
**0000-0000**  
**CLASS –**

**Notice of Indefinite Term Appointment**

---

Canzoneri, Denise A

Document: CLASS – Notice of Indefinite Term  
Appointment

Issued By: Prescott Unified School District #1 on  
8/2/2018

You are hereby notified that the Prescott Unified School District No. 1 of Yavapai County (District) intends to employ you. The wage and hour information included in this notice of appointment is used for budget and payroll purposes only and does not create a contract.

Job Title: Library Specialist

Check Location: PRESCOTT HIGH SCHOOL

Primary Worksite: Prescott High School

**Position Information**

Position: Librarian

Position Location: Prescott High School

Hrs/Day: 8

Hourly Rate: \$16.70

Start Date: 07/30/2018

FTE: 1.0000

Type: 2018/2019

**Prescott Unified School District No. 1**  
**0000-0000**  
**CLASS -**  
**Notice of Indefinite Term Appointment**

---

Canzoneri, Denise A

Document: CLASS - Notice of Indefinite Term  
Appointment

Issued By: Prescott Unified School District #1 on  
8/2/2018

Your employment is “at will” and may be terminated by the District, or by you, with or without cause. Termination shall become effective upon Board action. No legitimate expectation of continued employment is created by this notice of appointment, understandings with the District or its agents, interpretations of District policies, salary/compensation schedules, job descriptions or documents generated by the District. You must comply with the District’s policies, regulations and rules while you are employed.

This appointment incorporated assumptions with regard to the amount of funding that would be available to the District. If the funding that is made available to the District by the Arizona Legislatures budget for 2018/2019 or from Federal funding sources is less than was assumed when this contract was issued, the District may, in its discretion, reduce wages (although not below the Minimum wage), reduce hours, or reduce the number of staff.

This offer of appointment is contingent upon the following:

- A. If this is Employee's first year of employment with District, Employee receiving satisfactory clearance under the E-Verify Program;
- B. Employee receiving, and maintaining throughout the term of this Agreement, a satisfactory finger-print clearance card issued pursuant to ARS § 41-1758, or proof of compliance with ARS § 15-534(A)(2). This Agreement is void, and no further payments will be made, in the event of any false statements on Employee's fingerprint affidavit;
- C. Employee providing within thirty (30) days of the first duty date (unless waived by the District) other documentation required for employment by the District.
- D.
  - 1. Employees working 12 months work all professional development days (9/24/2018, 1/25/2019, 4/22/2019)
  - 2. Food Service, health aides, and security guards do not work professional development days. They are off and the days are unpaid.
  - 3. All other 10 and 11 month employees work and are paid for 2 of the 3 professional development days. (9/24/2018, 1/25/2019) are paid). The third professional development day (4/22/2019) is not a work day and is unpaid.
  - 4. Employees that work 10 and 11 months may elect to receive wages as earned or may defer wage pays and receive final payment in a lump sum. Please mark the appropriate box below:

I ELECT TO RECEIVE MY SALARY:  
(please check one)

22 equal installments  
 22 payments with a final balloon payment equal to four regular pays

Twelve month employees receive wages as earned and need not mark any payment options.

If Employee falls to mark any box, then wages will not be deferred, and Employee will be paid wages as the wages are earned. This election, whether a box is marked or unmarked, by the Employee may not be changed after Employee's first duty day.

If this notice of appointment is not returned to the District Office within FIFTEEN (15) BUSINESS days from the date Issued by the Governing Board or includes terms in addition to those authorized by the Governing Board, the undersigned has not accepted employment with the District, and this appointment shall be null and void.

/s/ Denise Canzoneri  
Employee Signature

Date: 8-2-2018

/s/ Brian Moore  
Chief Financial Officer

Date: 8/2/2018

**EXHIBIT Q**  
**APRIL 3, 2019 – EMAIL FROM MARK**  
**GOLIGOSKI NO REFERENCE**

---

Cable One Webmail                   scanzoneri@cableone.net

---

Fwd:

---

Thu, Apr 04, 2019 02:40 PM

From: Denise Canzoneri  
<Denise.Canzoneri@prescottschools.com>

Subject: Fwd:

To: Stephen Canzoneri <scanzoneri@cableone.net>

----- Forwarded message -----

From: Mark Goligoski  
<Mark.Goligmki@prescottschools.com>

Date: Wed, Apr 3, 2019 11:53 AM Subject: Re:

To: Denise Canzoneri  
<Denise.Canzoneri@prescottschools.com>

I do not feel it is appropriate for me to write the letter.

Mark Goligoski  
Principal  
Prescott High School  
(928) 445-2322

Visit the Prescott High School Website

---

On Wed, Apr 3, 2019 at 10:52 AM Denise Canzoneri <Denise.Canzoneri@prescottschools.com> wrote:

Mark,

Have you had a chance to write me a letter of reference yet?