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*Counsel for Plaintiff*

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**GAIL NAZARENE,**  
P.O. Box 32  
Alloway, NJ 08001

*Plaintiff,*

v.

**KEVIN DEHMER,**  
as New Jersey Department of  
Education Commissioner;  
**ROBERT W. BENDER,**  
as New Jersey School Ethics  
Commission Chairperson;  
**MICHAEL CARUCCI,**  
**MARK J. FINKELSTEIN,**  
**DENNIS ROBERTS,**  
**CAROL E. SABO,** and  
**RICHARD TOMKO,**  
as New Jersey School Ethics  
Commission members,  
P.O. Box 500  
Trenton, NJ 08625

*Defendants.*

Civil Action No. 1:25-cv-17770

**VERIFIED  
CIVIL RIGHTS COMPLAINT  
  
JURY TRIAL DEMANDED**

## INTRODUCTION

1. Plaintiff Gail Nazarene, an elected member of the Alloway Township Board of Education, campaigned for office on Facebook, like many candidates. After getting elected, she wanted to continue using Facebook to engage with constituents, and she made a few posts. Nazarene wants to speak with her constituents about issues concerning the Alloway Township School District, including soliciting views about matters such as raising school taxes, funding, budgets, and operations. In other words, she wants to exercise her First Amendment “right to speak freely on questions of government policy.” *Hou. Cmty. Coll. Sys. v. Wilson*, 595 U.S. 468, 478 (2022).

2. But Nazarene was chilled from posting further by the New Jersey Commissioner of Education and the School Ethics Commission (collectively, the state). The state’s announced interpretation and enforcement of New Jersey’s School Ethics Act, N.J.S.A. §§ 18A:12-21–12-34, precludes school board members from speaking publicly about school issues—even if they clarify that they are speaking only in a personal capacity. According to the state, the Act also prohibits board members from discussing school issues online, including on social media.

The chill Nazarene felt was reinforced by directives from the New Jersey School Board Association, admonishments from the Alloway school board chair, and a complaint to the School Ethics Commission from another board member.

3. Under the state's interpretation, the School Ethics Act prevents Nazarene and thousands of other elected school board members in New Jersey from communicating with constituents about issues of public concern. But the "manifest function of the First Amendment in a representative government requires that legislators be given the widest latitude to express their views on issues of policy." *Bond v. Floyd*, 385 U.S. 116, 135–36 (1966). The state cannot restrict elected officials' right to communicate with constituents—the right that enables constituents to be effectively represented by the person they elected. *Id.* at 136–37.

4. The School Ethics Act, as interpreted and enforced by the state, thus violates the First Amendment. It is a content-based speech restriction that is not narrowly tailored to achieve a compelling government interest. It is, in effect, a prior restraint and a gag order that

precludes elected officials from communicating with or soliciting views from constituents.

5. Without this Court's intervention, the state will continue to silence elected school board members, like Nazarene, who want to communicate with constituents. To protect her First Amendment rights, Nazarene brings this lawsuit to enjoin the state's interpretation and speech restrictions.

### **JURISDICTION AND VENUE**

6. This action arises under the First and Fourteenth Amendments to the United States Constitution, 42 U.S.C. §§ 1983 and 1988, and 28 U.S.C. §§ 2201 and 2202.

7. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1343.

8. Venue is proper under 28 U.S.C. §§ 1391(b)(1) and (b)(2) because the defendants perform their official duties in New Jersey and because the events giving rise to the claim occurred here.

### **PARTIES**

#### **Plaintiff**

9. Plaintiff Gail Nazarene is a resident of Alloway Township, New Jersey. She is a proud Navy veteran, active in her church, helps run recovery programs, volunteers for youth outreach, and has served on the

Salem County Social Services Board. Her neighbors elected her to the Alloway Township Board of Education in 2024. Her term began in February 2025 and ends in December 2027. She plans to seek reelection.

10. To best represent Alloway residents, Nazarene has solicited her constituents' views and input online. She intends and wants to do the same in the future. But because of the state's interpretation of the School Ethics Act, N.J.S.A. §§ 18A:12-21–12-34, Nazarene fears her future speech will cause the state to reprimand or censure her or to suspend or remove her from the Alloway school board.

### **Defendants**

11. Kevin Dehmer is the Commissioner of the New Jersey Department of Education. He became commissioner in February 2024.

12. Robert W. Bender is the chairperson of New Jersey's School Ethics Commission. He has served as chair since at least 2011.

13. Michael Carucci, Mark J. Finkelstein, Dennis Roberts, Carol E. Sabo, and Richard Tomko are School Ethics Commission members. The nine-member commission currently has three vacancies.

## FACTUAL ALLEGATIONS

### **I. The School Ethics Act governs school board members' conduct and establishes discipline mechanisms.**

14. The New Jersey School Ethics Act regulates elected school board members' conduct. That includes providing that "school officials," which includes local school board members, N.J.S.A. § 18A:12-23, shall not have conflicts of interest. *Id.* § 12-24; *see, e.g., id.* § 12-24(b) ("No school official shall use or attempt to use his official position to secure unwarranted privileges, advantages or employment for himself, members of his immediate family or others.").

15. The Act also establishes a "Code of Ethics for School Board Members," *id.* § 12-24.1, that sets forth general principles that school board members will act "in terms of the educational welfare of children" and "to see that [schools] are well run." *Id.* § 12-24.1(b), (d).

16. The code of ethics also provides that board members "will confine [their] board action to policy making, planning, and appraisal," *id.* § 12-24.1(c); "recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board," *id.* § 12-24.1(e); not "use the schools for personal gain," *id.* § 12-24.1(f); and "hold confidential all

matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools,” *id.* § 12-24.1(g).

17. Neither the School Ethics Act nor its code of ethics contains any provision or restrictions regarding school board members’ communications with constituents about public school-related issues.

18. The School Ethics Act also creates discipline and enforcement mechanisms by empowering the New Jersey School Ethics Commission and the New Jersey Department of Education Commissioner to interpret and enforce the Act. *Id.* §§ 12-28(b), 12-29(c).

19. The School Ethics Commission interprets and enforces the Act by issuing advisory opinions interpreting the Act and its proscriptions and by addressing enforcement actions. *Id.*

20. In enforcement actions, the commission determines whether probable cause exists to credit allegations in a complaint filed against a school official or board member. *Id.* § 12-29(b). If the commission finds probable cause, it refers the matter to the Office of Administrative Law for a hearing. *Id.* After the hearing, the commission determines whether the complained-of conduct violates the Act, or in the case of a board

member, the Act or its Code of Ethics for School Board Members. *Id.* § 12-29(c).

21. If the commission determines a violation occurred, it “recommend[s] to the commissioner the reprimand, censure, suspension, or removal of the school official” or board member. *Id.* The commissioner then acts on the commission’s recommendation of sanctions. *Id.*

22. In addition to charging the commission and commissioner with enforcing the Act, the Act requires the New Jersey School Board Association (NJSBA) to train new and recently re-elected school board members. *Id.* § 12-33(a), (b).

## **II. The School Ethics Commission interprets the School Ethics Act to prevent school board members from speaking freely on matters of public concern.**

23. In 2022, the School Ethics Commission issued a public advisory opinion regarding whether the Act prevents local school board members from posting information related to schools on social media. Pub. Advisory Op. – A02-22, N.J. Sch. Ethics Comm’n (2022) [<https://perma.cc/9HGX-FCVK>]. The advisory opinion is attached as Exhibit A.



24. In the advisory opinion, the commission said it “recognizes that board members do not abdicate their fundamental rights as citizens after they become members of a board of education, and this necessarily includes the sacrosanct rights to freedom of speech and freedom of expression.” *Id.* at 2. The commission also acknowledged it has no “authority to regulate private conduct, including speech and postings on social media, that is unrelated to [a board member’s] position on the Board and does not occur in [a board member’s] capacity as a school official.” *Id.* at 3.

25. But the commission interprets “private conduct” narrowly, limiting it to “behavior and/or actions strictly taken as a ‘private citizen’” unrelated to the school board or school issues. *Id.*

26. In other words, the commission asserts authority to regulate any local school board member’s speech discussing any issue that is or might be considered by the school board.

27. Under the advisory opinion, the scope of the commission’s proscriptive oversight of school board members’ speech is therefore extensive, encompassing any discussion of school funding, budgets, personnel, management, operations, or curriculum.

28. The commission asserts this authority to control school board members' speech even when board members provide disclaimers to clarify that they are speaking in their personal capacity and not on the board's behalf. *Id.* In fact, the advisory opinion said that "any attempt to disclaim your speech (as being in your personal or private capacity) would likely be futile." *Id.*

29. The advisory opinion concludes with a warning: If a local school board member engages with constituents online, the commission says, "it will be difficult, if not impossible for you to avoid conduct that is violative of the Act (whether actual, or perceived)." *Id.*

30. The commission has not withdrawn, retracted, or revised the advisory opinion. To the contrary, it has continued to interpret the School Ethics Act to prohibit school board members from using social media to communicate with and solicit views from constituents.

### **III. The state has continued to enforce its interpretation of the School Ethics Act by punishing school board members who communicate about matters of public concern.**

31. In addition to issuing advisory opinions, the commission enforces the Act through the ethics complaint process, which the Act establishes. N.J.S.A. § 18A:12-29(c).

32. If the commission receives a complaint alleging a school board member violated the Act or its Code of Ethics for School Board Members, the commission must determine, by majority vote, whether the conduct violated the Act or its code of ethics. *Id.*

33. If the commission determines a violation occurred, it must, again by majority vote, recommend to the Commissioner of Education the sanction of the board member found to have violated the Act or its code of ethics. *Id.*

34. Sanctions under the School Ethics Act may include reprimand, censure, suspension, or removal of a school board member. *Id.*; see also N.J.A.C. § 6A:28-1.2 (defining these sanctions and their increasing severity).

35. After the commission recommends a penalty, the School Ethics Act provides that the “commissioner shall then act on the commission’s recommendation regarding the sanction.” N.J.S.A. § 18A:12-29(c).

36. For several years, the state, through the commission and commissioner, has punished school board members who communicate with the public about matters of public concern.

37. For example, in a 2021 ruling, the commission recommended censure of board member Christopher Treston after he wrote an op-ed endorsing four candidates for the Randolph Township school board and opposing another. *In re Treston*, No. C71-18, slip op. at 1, 12 (Sch. Ethics Comm’n Apr. 27, 2021).

38. In the op-ed, Treston stated expressly: “The author is writing this endorsement on his own personal behalf. His opinions are his own.” *Id.* at 2.

39. But the commission determined Treston’s disclaimer was insufficient because he had made “multiple references to his position on the Board and Board matters generally.” *Id.* at 7.

40. The commission cited prior decisions addressing disclaimers. For example, it quoted *Melnyk v. Fiel*, which set forth the “prominent disclaimer” in “caps/bold” the commission apparently deems necessary:

**THE FOLLOWING STATEMENTS ARE MADE IN MY CAPACITY AS A PRIVATE CITIZEN, AND NOT IN MY CAPACITY AS A BOARD MEMBER. THESE STATEMENTS ARE ALSO NOT REPRESENTATIVE OF THE BOARD OR ITS INDIVIDUAL MEMBERS, AND SOLELY REPRESENT MY OWN PERSONAL OPINIONS.**

*Id.* (quoting No. C64-18, slip. op. at 4 n.1 (Sch. Ethics Comm’n Mar. 27, 2019)).

41. The commissioner accepted the reasoning of the commission's ruling that, "while [Treston's] disclaimer noted that his views were his own, he failed to make clear that the views expressed were not those of the Board." *In re Treston*, No. 208-21 SEC, slip op. at 3 (Comm'r of Educ. Sept. 30, 2021) (reducing sanction to a reprimand).

42. More recently, the commission recommended a reprimand of elected board member Christine Skurbe, who served on the Monroe Township Board of Education, for posting views about school overcrowding, failed referendums to build a new school, extra spending for an appointed superintendent, and other issues on a Facebook page. *In re Skurbe*, No. C75-21, slip op. at 2–6 (Sch. Ethics Comm'n July 22, 2025).

43. Although Skurbe repeatedly included express disclaimers in her posts, clarifying, for example, that she was "speaking as a private citizen" and "not represent[ing] any official elected position" and that she was "posting as a private citizen ... not affiliated with the Board of Education," *id.* at 4, 5, the commission concluded she should be sanctioned because she did not use disclaimers in *every* post and she used the word "we" to reference the board and school board issues, *id.* at 10.

44. Also a few months ago, the commission recommended a reprimand of board member Douglas Cusato, who serves on the Westwood Regional Board of Education, for a comment he made in a Facebook group. *Pinto v. Cusato (Pinto I)*, No. C74-23, slip op. at 1–2, 7 (Sch. Ethics Comm’n July 22, 2025).

45. After an anonymous individual posted “maybe some books should be banned,” Cusato responded from his personal Facebook account, “100% agree. History books then library.” He clarified his personal views shortly afterward: “I don’t want to ‘ban’ any books. Do I want to make sure we buy neutral written books for history in the future – yes I do. Do I think we need to review our libraries and apply a logical age appropriate lens – yes I do. Banning a book, as in removing its existence is the same as silencing someone. I don’t support that at all. Hope that helps.” *Id.* at 2.

46. Although there were and had been no issues before the Westwood school board regarding book banning, the commission determined Cusato should be sanctioned for “commenting on potential or future Board activities, including activities or actions that could come before the Board.” *Id.* at 7. The commissioner “concur[red] with the

penalty recommended ... for [Cusato's] actions in making comments on social media that had the potential to compromise the board.” *Pinto v. Cusato (Pinto II)*, No. 445-25SEC, slip op. at 1 (Comm’r of Educ. Sept. 12, 2025).

47. The commission’s and commissioner’s rulings regarding the School Ethics Act make clear that, even if a school board member includes disclaimers in their personal posts online, “the substance of a post/statement can, nevertheless, render the disclaimer meaningless.” *Melnyk*, C64-18, slip. op. at 4 n.1. The state deems it a violation of the Act if a board member’s speech has some “nexus” to school board matters, and conversely that members “will not violate the Act” “[i]f the speech in question has absolutely no correlation or relationship to the business of the Board and/or its operations.” *Pinto I*, slip op. at 5 (quoting *Aziz v. Nikitinsky*, No. C56-22, slip op. at 8 (Sch. Ethics Comm’n Oct. 17, 2022)).

48. The School Ethics Act, as the state interprets it, thus prohibits essentially all communications by board members about school board matters, operations, funding, taxes, or anything else related to schools and education.

49. The state has restated and repeated its interpretation numerous times, including by the commission as recently as July 22, 2025, *see Pinto I*, and by the commissioner as recently as September 12, 2025, *see Pinto II*.

50. The state's edict is also reinforced by the New Jersey School Board Association (NJSBA), a state entity that provides training, advocacy, and support to elected school board members. In a workshop the NJSBA held for school board members across New Jersey, it emphasized that board members should "NOT make Facebook posts expressing your opinion even if you state comments are as [a] 'public citizen.'" Memorandum from Michael S. Dennison to Board of Education Members at 1 (June 24, 2025). The workshop's highlights published by the NJSBA are attached as Exhibit B.

51. According to the NJSBA, school board members cannot express their views publicly because "[y]ou are either a Board member or not. Once you are elected you have Ethics Standards to follow, and your role becomes different unlike that of citizens who are not on the Board." *Id.* "Comments as a 'Private Citizen' are futile and harm the district. You have a Code of Ethics to follow. Anything you state that is related to a



student, staff member, policy or the operations of the School District can create a conflict and in turn violate Ethics.” *Id.*

**IV. Nazarene, a school board member, speaks to her constituents online about board matters of public concern.**

52. Gail Nazarene moved to Alloway Township from Philadelphia eight years ago. She became an involved member of the community, is active in her church, helps run volunteer programs, and serves on the Salem County Social Services Board.

53. In November 2024, Alloway Township residents elected Nazarene to serve on the Alloway Township Board of Education for a three-year term starting February 2025 and ending December 2027.

54. When campaigning for the school board, Nazarene posted on Facebook to elicit input from Alloway residents about Alloway’s school. She used a personal Facebook page titled “Gail Nazarene for Alloway School Board.”

55. After she won election, Nazarene wanted to continue speaking out and reaching out to constituents about issues that mattered to her and that she believed were important to the community.

56. For example, on March 20, 2025, Nazarene spoke during a public comment portion of an Alloway Township Committee meeting. She

addressed a proposed waste recycling plant, encouraging others in the town to attend an upcoming advisory council meeting to share their views. She also discussed the Alloway Township school, its proposed budget, and concerns about funding shortfalls. She encouraged the public to attend the school board meeting where the board would decide whether to approve the budget.

57. Nazarene made clear in the March 20 meeting that she was speaking in her personal capacity and not on behalf of the Alloway Township Board of Education. She discussed only public information and nothing related to deliberations or discussions of the Alloway school board.

58. Days later, the Alloway school board president emailed Nazarene, saying she was “writing to kindly remind [her] about the importance of adhering to the board’s bylaws and the Code of Ethics when speaking publicly at meetings.” Calling out Nazarene’s public comments at the township committee meeting, she stressed “[i]t is critical that individual [school] board members refrain from speaking on behalf of the Board of Education,” as “[a]ny statements made outside of this framework could potentially create misunderstandings or

misrepresentations of the Board's official stance." The school board president said, "I also want to make sure you understand the importance of maintaining the integrity of the Board's collective voice by complying with the Code of Ethics."

59. After the criticism she received for speaking at the March 20 meeting, Nazarene has not spoken about public school matters or encouraged the public to attend school board meetings at any Alloway Township Committee meetings.

60. Nazarene continued to use her personal Facebook page for community outreach after she was elected to the Alloway school board, retitling the page "Gail Nazarene for Alloway."

61. Thus, for example, on March 30, 2025, when the school board was considering whether to increase taxes for school funding, Nazarene asked Alloway residents through her Facebook page: "If taxes will need to be raised by 30% to keep the school open what is your opinion?"

62. In short order, Nazarene again received official critique and warnings for her outreach to residents about taxes. The Alloway school board president criticized her again, pulling her aside and telling her that her posts online were like "shouting fire in a crowded theater."

63. She also received an email from the chief school administrator of Alloway Township, expressing her disappointment and saying she “really wish[ed]” that Nazarene did not communicate with constituents about tax issues.

64. Frustrated by the pushback she continued to receive for communicating with Alloway residents, Nazarene posted online with a clear disclaimer: “Hi I am asking for myself AND ONLY FOR MYSELF - how do you feel about being silenced? Unable to freely speak and ask questions because of volunteering.” Gail Nazarene for Alloway (@Gail-Nazarene-for-Alloway-61567705804681), Facebook (Apr. 3, 2025, at 8:14 AM), <https://perma.cc/V7ST-CK97>.

65. The next day, she asked again about taxes, again including an express disclaimer: “As a resident of Alloway, I am wondering what other residents think about a 9-15% school tax increase ? “The above statements are made in my capacity as a private citizen, and not in my capacity as a board member. These statements are also not representative of the Board or its individual members and solely represent my own personal opinions.” Gail Nazarene for Alloway (@Gail-

Nazarene-for-Alloway-61567705804681), Facebook (Apr. 4, 2025, at 1:30 PM), <https://perma.cc/2E6S-P5M9>.

66. Nazarene expressed her frustration again in an April 7 post: “My freedom of speech is being ripped away by the NJ school board. After [being] elected to [the] board I am no longer able to speak as a citizen. I must just quietly sit back. Voting for the people is not allowed because I cannot speak to the people to ask questions!!! Help I need a lawyer[.]” Gail Nazarene (@babymums), X (Apr. 7, 2025, at 1:54 PM), <https://perma.cc/A6Z8-PMKT>.

67. Shortly afterward, fellow Alloway Township Board of Education member Sara Cobb filed a complaint with the School Ethics Commission, claiming Nazarene violated School Ethics Act subsections 12-24.1(c), (d), (e), and (g) by asking constituents online for their feedback. Cobb’s complaint is attached as Exhibit C.

68. Nazarene responded that the First Amendment protects her speech and communications with constituents. Her response is attached as Exhibit D.

69. Cobb’s complaint remains pending before the commission.

**V. Nazarene has stopped speaking publicly or engaging with her constituents because of the state's interpretation and enforcement of the School Ethics Act.**

70. Given the state's interpretation of the Ethics Act, the warnings and admonishments she has received, and the complaint filed against her for speaking online with constituents, Nazarene stopped doing public comment and outreach. She has a well-founded fear that anything she says online will expose her to sanctions.

71. This fear is, has been, and continues to be a substantial hindrance to Nazarene, her rights, and her ability to perform effectively as an elected representative of the public.

72. But for the state's interpretation and enforcement threats, Nazarene would have posted online and solicited input on several matters of public concern regarding schooling in Alloway Township.

73. For example, Alloway Township is considering a proposal for regionalization, a process in which Alloway would merge with two neighboring school districts and cede control to a centralized regional school board, thus eliminating the Alloway Township School District and Board of Education. Eliminating local governance of schooling in Alloway is an issue of public concern.

74. Nazarene worries that regionalization will dilute Alloway residents' voice in school governing decisions and deprive residents of the small, local school district that attracted many to the area.

75. She would like to post about her concerns and hear other residents' views on the topic.

76. But because of the enforcement threat she faces under the School Ethics Act, Nazarene has not made any posts, delivered any public comments, or asked questions to her constituents about regionalization.

77. As another example, the Alloway Township School District recently adopted a budget that Nazarene believed was inflated and excessive.

78. She would like to post about why she voted against the 2024–2025 school budget, specifically highlighting that the budget allocated an unjustified amount of money for the maintenance and upkeep of a single-building school with no planned infrastructure improvements.

79. But because of the state's interpretation and threatened enforcement of the School Ethics Act, Nazarene has not made any posts, delivered any public comments, or asked questions to voters about the

budget. Under the state's interpretation, Nazarene is prevented from even informing Alloway's residents how she voted on the budget proposal.

**VI. The state has infringed and continues to infringe on Nazarene's First Amendment rights.**

80. The state's interpretation of the School Ethics Act violates Nazarene's rights and will continue to do so, forcing her to either continue self-censoring or risk state sanctions for communicating with constituents online to effectively represent them on the Alloway Township Board of Education.

81. The state is violating Nazarene's First Amendment rights by interpreting and enforcing the School Ethics Act to prevent her from posting online about matters of public interest that concern board business.

82. "The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Roman Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (plurality opinion)).

83. Nazarene has suffered and continues to suffer irreparable harm due to the state's interpretation of the Act as precluding local school



board members from discussing matters of public concern—effectively anything related to schools or education.

84. Because of the state’s interpretation and enforcement of the School Ethics Act, Nazarene faces the prospect of reprimand, censure, suspension, or removal for communicating online with her constituents.

85. This irreparable harm will continue absent declaratory and prospective injunctive relief.

86. Nazarene faces a credible threat of enforcement and sanction under the School Ethics Act, which presents an actual controversy within this Court’s jurisdiction.

87. Nazarene is thus entitled to a judgment declaring her rights and the legal relations between the parties.

**FIRST AMENDMENT VIOLATION  
42 U.S.C. § 1983  
(Declaratory and Injunctive Relief)**

88. Nazarene realleges and reincorporates the preceding paragraphs as though fully set forth herein.

89. The First Amendment provides that “Congress shall make no law ... abridging the freedom of speech, or of the press; or the right of the

people peaceably to assemble, and to petition the Government for a redress of grievances.” U.S. Const. amend. I.

90. “The First Amendment surely promises an elected representative ... the right to speak freely on questions of government policy.” *Hou. Cmty. Coll. Sys.*, 595 U.S. at 478.

91. Nazarene wants to speak about public school matters in online communications with her constituents, and the First Amendment protects her expression on these matters of public concern.

92. The School Ethics Act, as interpreted by the state, violates the First Amendment, on its face and as applied to Nazarene, because it is a content-based speech restriction that fails strict scrutiny.

93. The Act is a content-based restriction because it regulates speech based on its subject matter, that is, whether it concerns school issues. *See Reed v. Town of Gilbert*, 576 U.S. 155, 159 (2015).

94. Content-based speech restrictions are “presumptively unconstitutional” and may stand only if they survive strict scrutiny. *Id.* at 163.

95. The School Ethics Act, as the state interprets and applies it, fails strict scrutiny because it is not narrowly tailored to serve any

compelling government interest. The state has no compelling interest—and not even a legitimate interest—in prohibiting elected representatives from communicating with constituents.

96. The School Ethics Act also fails strict scrutiny because the state could use less restrictive means to achieve its interests.

97. The School Ethics Act, as interpreted and enforced by the state to regulate elected officials' speech on matters of public concern, is thus subject to and fails strict scrutiny, in all its applications to speech by board members on matters of public concern, and is thus invalid on its face and as applied to Nazarene.

98. The School Ethics Act is causing and will continue to cause the deprivation of Nazarene's constitutional rights.

99. Without declaratory and injunctive relief against the state's unconstitutional enforcement of the Act, the state will continue to violate Nazarene's First Amendment rights, forcing her to either continue self-censoring her protected speech or risk reprimand, censure, suspension, or removal from her position if she continues to speak.

## **PRAYER FOR RELIEF**

For these reasons, Nazarene respectfully requests that this Court enter judgment against the Commissioner of Education and the School Ethics Commission members and issue the following relief:

A. Declare that the Commissioner of Education and the School Ethics Commission's interpretation of the School Ethics Act violates the First Amendment, as applied generally to elected officials' speech on matters of public concern and as applied specifically to Nazarene's speech on matters of public concern;

B. Enter a preliminary and permanent injunction enjoining the Commissioner of Education, the School Ethics Commission members, and their agents, officials, servants, employees, and persons acting in concert with it, from enforcing the School Ethics Act to prevent Nazarene from speaking about matters of public concern in any medium, including specifically Facebook and other online platforms;

C. Award reasonable attorneys' fees and costs under 42 U.S.C. § 1988 and any other applicable law; and

D. Award such other relief as the Court deems just and proper.

## DEMAND FOR JURY TRIAL

In compliance with Federal Rule of Civil Procedure 38, Nazarene demands a trial by jury on all issues so triable.

Dated: November 20, 2025

Respectfully submitted,

/s/ Greg Harold Greubel

Greg Harold Greubel

(NJ Bar No. 171622015)

James C. Grant\*

(WA Bar No. 14358)

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*Counsel for Plaintiff*

## VERIFICATION OF GAIL NAZARENE

Under 28 U.S.C. § 1746, I, Gail Nazarene, declare as follows:

1. I am the Plaintiff in the present case.
2. I have read the foregoing Verified Civil Rights Complaint.
3. I have personal knowledge of the factual allegations in paragraphs 9–10 and 52–79 of the Complaint and know them to be true.
4. I verify under penalty of perjury that the foregoing is true and correct.

Executed on November 18, 2025.



Gail Nazarene