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Filed
October 20, 2026
Clerk of the Court
Superior Court of CA
County of Santa Clara
24CV431640
By: lbmartinez

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

SARA KOPIT-OLSON, et al.,

Plaintiffs,

vs.

MOUNTAIN VIEW LOS ALTOS HIGH

SCHOOL DISTRICT, et al.,

Defendants.

Case No. 24CV431640

ORDER RE MOTION FOR SUMMARY
JUDGMENT/ ADJUDICATION

ORDER ON SUBMITTED MATTER

Defendants Mountain View Los Altos Union High School District and Kip Glazer's motion for summary judgment, or in the alternative, for summary adjudication of issues came on for hearing before the Honorable Eunice W. Lee on October 20, 2026 at 9:00 a.m. in Department 1. The matter having been submitted, the court orders as follows:

I. BACKGROUND

The Oracle is a student-run newspaper at Mountain View High School ("MVHS"). (Complaint, ¶11). During the 2022-2023 school year, plaintiff Hanna Olson ("Olson") was an editor of *The Oracle*; plaintiff Hayes Duenow ("Duenow") was a student member of *The Oracle*;

1 and plaintiff Carla Gomez (“Gomez”) was the sole faculty adviser to *The Oracle*. (Complaint,
2 ¶¶2 – 4 and 11).

3 For the fifth issue of the 2022-2023 edition of *The Oracle*, the students chose to write,
4 edit, and publish an in-depth article about a culture of sexual harassment at MVHS (“Article”).
5 (Complaint, ¶12).

6 On March 24, 2023, plaintiff Gomez received a call from MVHS Assistant Principal,
7 John Robell (“Robell”), who expressed concern over a student who might be named in the
8 Article as a serial sexual harasser of other students because the student in question was in a
9 fragile mental state. (Complaint, ¶13).

10 On March 27, 2023, MVHS Principal, defendant Kip Glazer, Ed.D (“Glazer”) addressed
11 the journalism class during session and took the position that students should write about MVHS
12 in a “positive light” and that *The Oracle* should be “uplifting” for MVHS. (Complaint, ¶14).
13 Later that same day, at defendant Glazer’s request, a student reporter sent defendant Glazer a
14 draft of the Article using pseudonyms to identify several students including one MVHS male
15 student in particular (pseudonymously called “Tyler”) who had been sexually harassing fellow
16 MVHS students. (Complaint, ¶15).

17 In the evening of March 27, 2023, defendant Glazer visited the journalism production and
18 met in a separate room with plaintiff Gomez and three student journalists, including plaintiff
19 Duenow, who worked on the Article. (Complaint, ¶¶16 and 17). Defendant Glazer also met the
20 writers on the evening of March 28, 2023. (*Id.*). During those meetings, defendant Glazer used her
21 authority and position to pressure the students to censor the Article. (*Id.*).

22 The students relented to defendant Glazer’s pressure and implemented extensive changes to
23 the content and context of the Article. (Complaint, ¶18). On or about March 31, 2023, a censored
24 version of the Article was published in the print and online versions of *The Oracle*. (Complaint, ¶21)

25 On April 24, 2023, defendant Glazer announced her decision to remove plaintiff Gomez
26 as the journalism adviser and give the position to someone with a Career & Technical Education
27 (“CTE”) credential. (Complaint, ¶21). Defendant Glazer’s purported rationale for removing
28 plaintiff Gomez as the journalism adviser was pretextual. (Complaint, ¶22). Defendant Glazer

1 retaliated against plaintiff Gomez because she supported the student journalists in their efforts to
2 publish an uncensored version of the Article and refused to participate in defendant Glazer's
3 efforts to censor the Article. (*Ibid.*).

4 On February 22, 2024, plaintiffs Olson (a minor, by and through her mother, Sara Kolpit-
5 Olson), Duenow, and Gomez filed a complaint against defendants Mountain View Los Altos
6 High School District ("District") and Glazer asserting causes of action for:

- 7 (1) Violation of Education Code §48907
- 8 (2) Violation of Education Code §48907(g)
- 9 (3) Violation of Labor Code §1102.5

10 On March 28, 2024, defendants District and Glazer filed an answer to the plaintiffs' complaint.

11 On April 19, 2024, defendant Glazer filed a motion for judgment on the pleadings as to
12 plaintiffs' complaint. On June 20, 2024, the Honorable Evette Pennypacker issued an order
13 granting, without leave to amend, defendant Glazer's motion for judgment on the pleadings as to
14 the second and third causes of action.

15 On July 30, 2026, defendants District and Glazer filed the motion now before the court, a
16 motion for summary judgment/ adjudication of plaintiffs' complaint. On August 5, 2026,
17 pursuant to an ex-parte application, the court issued an order specially setting the hearing of
18 defendants' motion for summary judgment/ adjudication for October 20, 2026.

19 20 **II. PROCEDURAL VIOLATION**

21 As a preliminary matter, the court notes that both defendants' supporting memorandum
22 of points and authorities and plaintiffs' opposition memorandum of points and authorities exceed
23 the page limitations set forth at California Rules of Court, rule 3.1113, subdivision (d) which
24 states, in relevant part, "In a summary judgment or summary adjudication motion, no opening or
25 responding memorandum may exceed 20 pages." Both defendants and plaintiffs' memorandum
26 of points and authorities is 25 pages, exclusive of the table of contents and table of authorities.
27 Neither party sought leave in advance from this court for a page extension as permitted by
28 California Rules of Court, rule 3.1113, subdivision (e).

1 "A memorandum that exceeds the page limits of these rules must be filed and considered
2 in the same manner as a late-filed paper." (Cal. Rules of Court, rule 3.1113, subd. (g)). A court
3 may, in its discretion, refuse to consider a late-filed paper but must indicate so in the minutes or
4 in the order. (Cal. Rules of Court, rule 3.1300, subd. (d)).

5 Here, the Court balances the totality of circumstances, including judicial economy to avoid
6 the expenditure of any further judicial resources, the court will look past the procedural violations
7 and consider the motion and opposition on its merits. However, the parties are hereby admonished
8 to comply with Rule of Court and Code of Civil Procedure. Any future violations may result in the
9 court's refusal to consider papers exceeding the page limit without prior leave of court.

10 11 **III. LEGAL STANDARD**

12 Pursuant to Code of Civil Procedure section 437c, summary judgment is appropriate
13 when there is no triable issue of material fact as to one or more elements of a particular cause of
14 action. (Code Civ. Proc., § 437c, subds. (f)(1), (o)(1)). The court identifies the causes of action
15 framed by the pleadings. The court then determines whether the plaintiff as the moving party
16 has carried its burden to show that there is no defense to any cause of action by proving each
17 element of the causes of action. (Code Civ. Proc., § 437c, subd. (p)(1)). If the plaintiff makes
18 that prima facie showing, the burden of production shifts to the defendant to show that a triable
19 issue of one or more material facts exists as to the causes of action, or a defense
20 thereto. (*Ibid*). "The defendant or cross-defendant shall not rely upon the allegations or denials
21 of its pleadings to show that a triable issue of material fact exists but, instead, shall set forth the
22 specific facts showing that a triable issue of material fact exists as to the cause of action or a
23 defense thereto." (*Ibid*).

24 25 **III. ANALYSIS**

26 **A. VIOLATION OF EDUCATION CODE SECTION 48907**

27 Education Code section 48907 states, in relevant part:

28 (a) Pupils of the public schools, including charter schools, shall have the right to
exercise freedom of speech and of the press . . . and the right of expression in

1 official publications, whether or not the publications or other means of expression
2 are supported financially by the school or by use of school facilities, except that
3 expression shall be prohibited which is obscene, libelous, or slanderous. Also
4 prohibited shall be material that so incites pupils as to create a clear and present
5 danger of the commission of unlawful acts on school premises or the violation of
6 lawful school regulations, or the substantial disruption of the orderly operation of
7 the school.

8 ...
9 (c) Pupil editors of official school publications shall be responsible for assigning
10 and editing the news, editorial, and feature content of their publications subject to
11 the limitations of this section. However, it shall be the responsibility of a
12 journalism adviser or advisers of pupil publications within each school to
13 supervise the production of the pupil staff, to maintain professional standards of
14 English and journalism, and to maintain the provisions of this section.

15 (d) There shall be no prior restraint of material prepared for official school
16 publications except insofar as it violates this section. School officials shall have
17 the burden of showing justification without undue delay prior to a limitation of
18 pupil expression under this section.

19 The first cause of action, asserted by plaintiffs Olson and Duenow, alleges defendants
20 District and Glazer, "acting under color of state law, unlawfully censored and/or coerced
21 censorship of the Article based on its content and/or viewpoint." (Complaint, ¶26). "Defendants'
22 censorship of the Article constitute unlawful prior restraints of expression in violation of
23 Education Code § 48907." (Complaint, ¶27). "With this cause of action, Plaintiffs Olson and
24 Duenow only seek an injunction preventing future censorship by Defendants of the Article, and
25 permitting the current or future student editorial staff of *The Oracle* to decide whether to publish
26 an uncensored version of the Article for the benefit of the MVHS, District, and greater
27 communities in Santa Clara County." (Complaint, ¶28).

28 **1. Waiver**

Defendants argue, initially, that Education Code section 48907 authorizes schools to
maintain professional standards of English and journalism.

The statute provides schools some authority to control student speech in school
newspapers. Section 48907 [subdivision (c)] makes it the responsibility of student
journalism advisers "to maintain professional standards of English and
journalism." For example, this responsibility permits the prohibition of profanities
in official school publications. (*Lopez, supra*, 34 Cal.App.4th at pp. 1323-1327).
It likely authorizes journalism advisers to restrict the publication of student
writings that are ungrammatical, poorly written, or inadequately researched.

1 (*Smith v. Novato Unified School Dist.* (2007) 150 Cal.App.4th 1439, 1458 (*Smith*)).

2 Defendants contend that is what they did here and then cite *Smith* for the proposition that
3 their conduct is now unassailable, as a matter of law, “because Dr. Glazer suggested revisions on
4 the basis of professional standards of English and journalism . . . and the students did not
5 challenge or seek review of these suggestions.” (Defendants’ memorandum of points and
6 authorities in support of (“MPA ISO”) motion for summary judgment/adjudication
7 (“MSJ/MSA”), at p. 16, lines 17-20). According to defendants, “Because the plaintiff [in *Smith*]
8 accepted the suggestions and made the requested revisions, he could not subsequently challenge
9 the appropriateness of the revisions [having] waived his right to challenge the district’s
10 revisions.” (*Id.*, at p. 15, lines 16-18, citing *Smith, supra*, 150 Cal.App.4th at pp. 1458-1459).

11 In *Smith*, the appellate court held that the defendant District’s response to a piece written
12 by Smith entitled “Immigration” infringed on Smith’s right to exercise freedom of speech and
13 violated Education Code section 48907. (*Smith, supra*, 150 Cal.App.4th at p. 1458 citing
14 *Ketchens v. Reiner* (1987) 194 Cal.App.3d 470, 480, quoting *Elrod v. Burns* (1976) 427 U.S.
15 347, 373, [“ ‘The loss of First Amendment freedoms, for even minimal periods of time,
16 unquestionably constitutes irreparable injury’ ”]). The court also noted that while the piece
17 communicated Smith’s viewpoint in a disrespectful and unsophisticated manner, it did not
18 contain any direct provocation or racial epithets, thus “Immigration” was not inciting speech that
19 the District was authorized to prohibit under section 48908. (*Id.*). The court addressed that the
20 reaction to “Immigration,” however unpopular, cannot limit Smith’s communication as it would
21 be tantamount to a heckler’s veto. (*Id.*).

22 This court has carefully reviewed *Smith* and does not read *Smith* to even mention the
23 concept of waiver. Indeed, the very next section in *Smith* goes on to explain how the defendant
24 school district’s response infringed upon the plaintiff’s right to free speech. The *Smith* court
25 expressly noted that it did not determine the scope of the progression standard set forth under
26 section 48907 because it was not confronted with the circumstances in which a journalism
27 adviser sought to improve the quality of a student piece, and a student refused such suggestion.
28 The *Smith* court noted that while section 48907 permits schools to engage with student

1 journalists regarding professional linguistic or journalistic quality, the Court rejected the notion
2 that Education Code section 48907 was at issue in the matter.

3
4 **2. *Rights to restrain/ prohibit tortious expression***

5 Defendants argue next that, “A school district in this state may censor expression from
6 official school publications which it reasonably believes to contain an actionable defamation, but
7 not as a matter of taste or pedagogy.” (*Leeb v. Delong* (1988) 198 Cal.App.3d 47, 60).

8 Defendants apparently contend this first cause of action is premised on defendant Glazer’s
9 insistence that plaintiffs remove personally identifying information relating to teenage students
10 from the Article.

11 In the complaint, plaintiffs allege they “implemented extensive changes (due to the
12 pressure Principal Glazer exerted on them) to the content and context of the Article, including
13 but not limited to the following: . . . Removing an expert opinion that ‘When harassers are not
14 held accountable, it sends the worst possible message;’ Removing reference to the harm
15 harassers can cause including a concern that victims suffer a drop in grades, an inability to focus,
16 and the inability to ‘get the support they need from the school.’” (Complaint, ¶18). Defendants
17 offer no explanation how it was reasonable to believe this allegedly censored material contains
18 actionable defamation. “[T]he burden of a defendant moving for summary judgment . . . requires
19 that he or she negate plaintiff’s theories of liability *as alleged in the complaint.*” (*Hutton v.*
20 *Fidelity National Title Co.* (2013) 213 Cal.App.4th 486, 493; italics original). For this reason
21 alone, denial of summary judgment/ adjudication of this first cause of action is proper since
22 summary adjudication motion may be granted “only if it completely disposes of a cause of
23 action.” (Code Civ. Proc., §437c, subd. (f)(1)).

24 Defendants contend, if removal of the personally identifying information of the teenage
25 students from the Article was a prior restraint, defendants were nevertheless censoring such
26 expression because defendants reasonably believed they were acting to prevent tortious
27 defamation. Defendants proffer the fact that the “final draft” Article accused multiple students,
28 including student A, of a number of serious crimes, including harassment, stalking, attempted

1 rape, and distribution of child pornography; included incorrect and unverified allegations and
2 information; included references to student discipline which is private information; and included
3 sufficient information to identify the teenage students accused in the Article. (Separate Statement
4 of Undisputed Material Facts in Support of Defendants Mountain View Los Altos Union High
5 School District and Kip Glazer's Motion for Summary Judgment, or in the Alternative, for
6 Summary Adjudication of Issues ("Defendants' UMF"), Issue No. 2, Fact No. 18).

7 In opposition, plaintiffs proffer evidence disputing whether defendants could and/or did,
8 in fact, reasonably believe the "final draft" of the Article contained actionable defamation.
9 (Plaintiffs' Response to Defendants' Alleged Undisputed Material Facts in Support of
10 Defendants' Motion for Summary Judgment or, in the Alternative, for Summary Adjudication
11 ("Plaintiffs' Response UMF"), Issue No. 2, Fact No. 18). Among such evidence are declarations
12 disputing whether the allegations and information contained in the article were verified and
13 defendant Glazer's deposition testimony that when she read the March 27 "final draft" of the
14 Article, she did not think anything at the time she read it was false. At the very least, such
15 evidence in opposition presents a triable issue of material fact.

16 Defendants objection to plaintiffs' evidence submitted in opposition to defendants'
17 motion for summary judgment, or in the alternative, for summary adjudication of issues,
18 objection no. 1, is OVERRULED. Defendants contend the portion of defendant Glazer's
19 deposition testimony cited by plaintiffs is incomplete and misleading, but did not timely or
20 properly submit the additional pages from defendant Glazer's deposition testimony for the court
21 to sufficiently make a determination as to whether the cited testimony is objectionable.

22 23 **3. Post-publication restraint**

24 As a third and final argument in support of summary adjudication of the first cause of
25 action, defendants contend there is no violation of Education Code section 48907 because they
26 made no response *subsequent to* publication of the Article. "A violation of free speech rights
27 may be established where a governmental response to speech would chill or silence a person of
28 ordinary firmness from future First Amendment activities. . . . a governmental response that

1 would constitute a violation of a student's free speech rights under the First Amendment would
2 also constitute a violation of a student's right to exercise freedom of speech under section
3 48907.” (*Smith, supra*, 150 Cal.App.4th at p. 1460).

4 However, defendants themselves go on to acknowledge that in *Smith*, the school district
5 did not prohibit publication of the plaintiff’s opinion editorial in the first instance. Yet, the
6 school district did thereafter “announc[e] that the District should never have published [the
7 plaintiff’s opinion editorial] and order[ed] that remaining copies of [the school newspaper] be
8 retracted. In so doing, the District violated section 48907.” (*Smith, supra*, 150 Cal.App.4th at p.
9 1462.) “[T]he District's response had the effect of chilling any further dissemination of the
10 protected message in [plaintiff’s opinion editorial]. (*Ibid.*).

11 By defendants’ own acknowledgment, the circumstances here are distinguishable from
12 *Smith* as defendants engaged in a prior (to publication) restraint. The court does not agree with
13 defendants’ assertion that the standard is “whether the response to material that was *not*
14 *restrained* would have a chilling effect. (Defendants’ MPA ISO MSJ/MSA, page 19, line 19).

15 For the foregoing reasons, defendants’ motion for summary judgment is DENIED.
16 Defendants’ alternative motion for summary adjudication of the first cause of action of plaintiffs’
17 complaint is DENIED. [In their notice of motion, defendants identify five issues. As stated, those
18 “issues” are not the proper subjects of summary adjudication. (See Code Civ. Proc., §437c, subd.
19 (f)(1)—“A party may move for summary adjudication as to one or more causes of action within
20 an action, one or more affirmative defenses, one or more claims for damages, or one or more
21 issues of duty. . .”).

22 23 **B. VIOLATION OF EDUCATION CODE SECTION 48907(G)**

24 Education Code section 48907, subdivision (g), states:

25
26 An employee shall not be dismissed, suspended, disciplined, reassigned,
27 transferred, or otherwise retaliated against solely for acting to protect a pupil
28 engaged in the conduct authorized under this section, or refusing to infringe upon
conduct that is protected by this section, the First Amendment to the United States
Constitution, or Section 2 of Article I of the California Constitution.

1 In the second cause of action, asserted only by plaintiff Gomez against defendant District,
2 the complaint alleges, in relevant part, defendant District “unlawfully dismissed, reassigned,
3 transferred, and otherwise retaliated against Gomez solely for acting to protect her journalism
4 students for their conduct authorized under Education Code § 48907.” (Complaint, ¶30).

5 In support of summary adjudication of this second cause of action, defendants assert that
6 plaintiff Gomez did not engage in any protected activity, i.e., Gomez did not act to protect
7 student journalists’ rights.

8 Defendants proffer evidence that plaintiff Gomez told [assistant principal] Mr. Robell
9 that she would not convey the administration’s concerns about student A to the student
10 journalists because “she did not have editorial control over [*The Oracle*] publishing decisions,
11 but had limited authority to direct the content of the publication.” (Defendants’ UMP, Issue No.
12 4, Fact. No. 27). However, “Ms. Gomez did not directly advise students on their rights.” Instead,
13 Ms. Gomez “referred [the students] to the Student Press Law Center.” (*Id.*, at Fact, No. 28).
14 Gomez referred the journalism students to the Student Press Law Center before speaking to
15 Robell, not as a result of her conversation with Robell. (*Id.*, at Fact, No. 29). Without citation to
16 any relevant legal authority, defendants contend these actions should be characterized as plaintiff
17 Gomez’s failure to protect the student journalists, i.e., “she stood aside and let the student
18 journalists fend for themselves.”

19 On the proffered fact that Gomez referred the journalism students to the Student Press
20 Law Center before speaking to Robell, plaintiffs dispute this assertion in opposition proffering
21 Gomez’s declaration that she also subsequently advised a student journalist to “speak with the
22 lawyers at SPLC.” (Plaintiffs’ Response UMF, Issue No. 4, Fact No. 29). At the least, this
23 presents a triable issue of material fact. Moreover, defendants’ characterization of the fact that
24 Gomez referred journalism students to the Student Press Law Center as inaction, could also be
25 viewed as an affirmative protective act.

26 As a secondary argument, defendants note that subdivision (g) of Education Code section
27 48907 is violated only where Gomez has been “retaliated against *solely* for acting to protect a
28 pupil engaged in the conduct authorized under this section, or refusing to infringe upon conduct

1 that is protected by this section.” (Emphasis added.) Defendants proffer evidence that Gomez
2 was reassigned for a *multitude* of reasons. (Defendants’ UMF, Issue No. 5, Fact Nos. 33-46).

3 One of the reasons proffered by defendants is that in April 2023, Glazer decided to merge
4 the Yearbook and Journalism programs into a “wheel” course for the 2023-2024 school year,
5 with the intent to submit a new CTE Pathway proposal to the school board in November 2023.
6 Thereafter, if approved, the Yearbook and Journalism courses would become a CTE Pathway in
7 the 2024-2025 school year. (*Id.*, No. 38). Mr. Morris obtained his preliminary CTE approval on
8 April 27, 2023, and cleared his credential before the start of the 2023-2024 school year. (*Id.*, No.
9 43). Accordingly, MVHS had a CTE credentialed instructor in place when it submitted its
10 Pathway proposal to the school board in November 2023. (*Id.*, No. 44).

11 In opposition, plaintiff Gomez points to evidence disputing whether Mr. Morris had, in
12 fact, cleared his credential before the start of the 2023-2024 school year thereby raising a triable
13 issue of material fact the veracity of defendants’ proffered reasons for reassigning plaintiff
14 Gomez. (Plaintiffs’ Additional Facts in Support of Opposition to Defendant’s Motion for
15 Summary Judgment, Nos. 97-98).

16 Consequently, defendants’ alternative motion for summary adjudication of the second
17 cause of action of plaintiffs’ complaint is DENIED.

18 19 **C. VIOLATION OF LABOR CODE SECTION 1102.5**

20 The whistleblower protection statute of the Labor Code prohibits retaliation against an
21 employee who, or whose family member, *discloses* information about, or *refuses* to participate
22 in, an illegal activity. (Lab. Code, § 1102.5(b), (c), (h).)

23 The third cause of action, asserted by plaintiff Gomez only, alleges, in relevant part, that
24 “Gomez had reasonable cause to believe that Defendants were violating . . . Education Code
25 section 48907. Gomez *refused to participate in* the decisions to censor or coerce censorship of
26 the Article.” (Complaint, ¶35; emphasis added.) As confirmed by plaintiff Gomez in opposition,
27 plaintiff Gomez is not asserting a violation of Labor Code section 1102.5, subdivision (b), for her
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1 *disclosure* of illegal activity. Thus, defendants' argument premised upon a violation of Labor
2 Code section 1102.5, subdivision (b), is inapplicable.

3 Labor Code section 1102.5, subdivision (c) states:

4 An employer, or any person acting on behalf of the employer, shall not retaliate
5 against an employee for refusing to participate in an activity that would result in a
6 violation of state or federal statute, or a violation of or noncompliance with a
local, state, or federal rule or regulation.

(See also CACI, No. 4603.)

7 Unlike retaliation under subdivision (b) of section 1102.5, in which the employee
8 must show only that he or she reasonably believed that there was a violation of a
9 statute, rule, or regulation, section 1102.5(c) requires a showing that the activity
10 in question *actually would* result in a violation or noncompliance with a statute,
rule, or regulation. That is a quintessentially legal question. No findings of fact
11 are needed to determine the question, because the question is limited to whether
the activity that the plaintiff alleges he or she refused to participate in would
12 violate a statute, rule, or regulation. Because that is a question of law, the court is
required to make that determination. Once it is determined that the activity would
13 result in a violation or noncompliance with a statute, rule, or regulation, the jury
must then determine whether the plaintiff refused to participate in that activity
14 and, if so, whether that refusal was a contributing factor in the defendant's
decision to impose an adverse employment action on the plaintiff.

15 (*Nejadian v. County of Los Angeles* (2019) 40 Cal.App.5th 703, 719; italics original.)

16 Similar to the argument defendants raised in section II(C), *supra*, defendants contend the
17 actual activity that plaintiff Gomez refused to engage in is not an act which would amount to
18 "protecting" students. As before, defendants proffer evidence that plaintiff Gomez told [assistant
19 principal] Mr. Robell that she would not convey the administration's concerns about student A to
20 the student journalists because "she did not have editorial control over [*The*] *Oracle* publishing
21 decisions, but had limited authority to direct the content of the publication." (Defendants' UMF
22 Issue No. 4, Fact No. 27). "Ms. Gomez did not directly advise students on their rights." Instead,
23 Ms. Gomez "referred [the students] to the Student Press Law Center." (*Id.*, at No. 28).
24 Defendants argue that Gomez's claims fail under Labor Code section 1102.5 as there is
25 insufficient evidence to establish that she engaged in protected activity. (Defendant's MPA ISO
26 MSJ/MSA, at p. 22). Even if the plaintiff could establish engaging in protected activity, the
27 defendant had a legitimate and independent reason to reassign her back to English. (*Id.*).
28 Defense avers that the plaintiff did not report the reasonable belief to an authority to investigate

1 the claim of prior resignation. (*Id.*, at p. 23). Defense also asserts that Gomez's claims would fail
2 under subdivision (c) as she cannot identify any unlawfully activity either that was asked of her
3 or that she refused. Section (c) requiring a showing that the activity in question would result in
4 violation or noncompliance with a statute, rule or regulation. (*Id.*). Because Gomez cannot
5 articulate either the specific activity and statute, rule or, regulation at issue, the court must then
6 determine whether the identified activity would result in a violation or noncompliance. Plaintiff
7 admits she "did not directly advise students on their rights" but referred them to the Student
8 Press Law Venter and did so before speaking with Mr. Robbell. (*Id.*, at p. 24). Only after Gomez
9 was reassigned did she tell Glazer that the actions relating to the journalism students violated the
10 law. (*Id.*, UMP Nos. 30-32).

11 However, as the court understands, the question under *Nejadian* is not whether plaintiff
12 Gomez engaged in a protected activity but whether the activity (had plaintiff not refused to
13 participate) would violate a statute. The specific statute at issue is Education Code section 48907
14 and, more particularly, its prohibition against "prior restraint of material prepared for official
15 school publications except insofar as it violates this section." In the court's opinion, the activity
16 that plaintiff Gomez refused to engage in (alter/ censor the content of the Article) *actually would*
17 result in a violation or noncompliance with Education Code section 48907's prohibition against a
18 prior restraint.

19 Secondly, defendants contend that plaintiff Gomez's section 1102.5 cause of action
20 fails because defendants had legitimate, independent reasons for reassigning plaintiff Gomez.
21 Defendants argue that Gomez's claims fail under Labor Code section 1102.5 as there is
22 insufficient evidence to establish that she engaged in protected activity. (Defendant's MPA ISO
23 MSJ/MSA, at p. 22). Even if the plaintiff could establish engaging in protected activity, the
24 defendant had a legitimate and independent reason to reassign her back to English. (*Id.*).
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2 articulate either the specific activity and statute, rule or regulation at issue, the court must then
3 determine whether the identified activity would result in a violation or noncompliance. Plaintiff
4 admits she “did not directly advise students on their rights” but referred them to the Student
5 Press Law Venter and did so before speaking with Mr. Robbell. (*Id.*, at p. 24). Only after Gomez
6 was reassigned did she tell Glazer that the actions relating to the journalism students violated the
7 law. (*Id.*, UMP Nos. 30-32). Even if the plaintiff could show she was involved in a protected
8 activity, she cannot overcome that there was an independent and legitimate reason that she was
9 reassigned. (*Id.*). Defendant asserts that beginning in 2021-2022, MVLA focused on establishing
10 a more CTE Pathways at school and provide more opportunities for English-language learners
11 and provide more opportunities for course credits. Glazer then made the decision to merge the
12 yearbook and journalism programs into a wheel course for 2023-24 school year with the intent to
13 submit a new CTE Pathway proposal to the board. (*Id.*). Ms. Gomez did not indicate her interest
14 in obtaining a CTE credential until after Glazer made the decisions. (*Id.*). Glazer had looked to
15 assigned Mr. Morris to the program based on his background and Mr. Morris obtaining a
16 preliminary CTE credential on April 27, 2023. (*Id.*, at p. 25). Gomez had been a long term
17 English teacher and spent one and a half years in Journalism, so Glazer found it logical to return
18 Gomez to a full time English Teacher and also appointment Mr. Morris to this new position that
19 would make him a full time employee. (*Id.*).

20 Plaintiff rebuts defenses assertions and claims that Gomez was engaged in protecting
21 student journalists speech rights and refusing pressure to infringe on their speech. (Opposition,
22 at pp. 19 and 23). At a minimum, Gomez refused Robell’s demand to share information with
23 students that she believe would sway the students not to publish. (*Id.*, at p.23). Plaintiff asserts
24 that Gomez’s refusal to participate in the pressure campaign by Robel constitute activities
25 protected by section 1102.5(c). (*Id.*). Plaintiff emphasizes that she need only show by a
26 preponderance of evidence that her protected activity was a contributing factor to her removal
27 from the journalism advisor role. (*id.*). Plaintiff asserts that ample evidence including the
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1 compressed timeline, weeks after the publication and MVHS staffs contemporaneous comments
2 on removal demonstrate a connection. (*Id.*, at p. 24).

3 When students came to her about Glazer's involvement, Gomez referred the students to
4 SPLC. As to the reassignment, Plaintiff asserts that the action was pretextual. (*Id.*). Defendants
5 did not raise that Gomez's journalism course had enrollment issues that required a CTE
6 conversation and Gomez's removal. (*Id.*, at p. 20). Plaintiff also challenges when Digital
7 Communications CTE came into effect in the school year as well as Mr. Morri's CTE
8 preliminary credentials. (*Id.*). Plaintiff asserts that Defendant never asked Plaintiff if she was
9 interested or able to obtain a CTE certification. (*Id.*). Plaintiff avers that moving a teacher
10 without offering on obtaining a credential goes against District philosophy. (*Id.*).

11 By its terms, section 1102.6 describes the applicable substantive standards and
12 burdens of proof for both parties in a section 1102.5 retaliation case: First, it must
13 be "demonstrated by a preponderance of the evidence" that the employee's
14 protected whistleblowing was a "contributing factor" to an adverse employment
15 action. (§ 1102.6.) Then, once the employee has made that necessary threshold
16 showing, the employer bears "the burden of proof to demonstrate by clear and
17 convincing evidence" that the alleged adverse employment action would have
18 occurred "for legitimate, independent reasons" even if the employee had not
19 engaged in protected whistleblowing activities. (*Ibid.*)
20 (*Lawson v. PPG Architectural Finishes, Inc.* (2022) 12 Cal.5th 703, 712.)

21 For the same reasons discussed earlier in section II(C), the court finds a triable issue of material
22 fact with regard to the veracity of defendants' proffered reasons for reassigning plaintiff Gomez.
23 Consequently, defendants' alternative motion for summary adjudication of the third cause of
24 action of plaintiffs' complaint is DENIED

25 **V. CONCLUSION**

26 Based on the foregoing, Defendants' motion for summary judgment is DENIED. Defendants'
27 alternative motion for summary adjudication of the first cause of action for violation of
28 Education Code section 48907; second cause of action for violation of Education Code section

1 48907(g); and third cause of action for violation of Labor Code 1102.5 of Plaintiff's complaint
2 is DENIED.

3
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5 Dated: October 20, 2026



Hon. Eunice W. Lee
Judge of the Superior Court