

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ARAB STUDENT UNION OF
JACKSON-REED HIGH SCHOOL,

Plaintiff,

v.

DISTRICT OF COLUMBIA, et al.,

Defendants.

No. 1:24-cv-_____

MOTION FOR A PRELIMINARY INJUNCTION

Pursuant to Fed. R. Civ. P. 65, Plaintiff Arab Student Union of Jackson-Reed High School (Arab Student Union or ASU) moves for a preliminary injunction ordering the Defendants to allow it and its members to engage in expressive activity at Jackson-Reed High School, including showing a documentary film and posting and distributing printed material.

Plaintiff does not know the identity of Defendants’ attorneys and therefore has been unable to request their consent. Plaintiff assumes they will oppose.

INTRODUCTION

It has been black letter law for more than half a century that public school students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 506 (1969). The District of Columbia recognized as much when it promulgated the D.C. Student Bill of Rights, which provides that “[e]ach student shall have the right to exercise his or her constitutional rights of free speech, assembly, and expression without prior restraint, so long as the exercise of these rights does not substantially interfere with the rights of others.” 5-E D.C. Mun. Regs. § 2401.17.

Yet the Jackson-Reed High School refuses to allow the exercise of these rights by its Arab Student Union.

Plaintiff Arab Student Union is a recognized student club at Jackson-Reed High School, a public high school in the District of Columbia. For the past four months, the club and its members have been trying to engage in expressive activities at the school—showing a documentary film, putting up posters, distributing literature, presenting a cultural program—but have been stopped at every turn by the school administration. Their activities would not be disruptive; they are the same kinds of activities in which other student clubs engage. Their speech has been suppressed because the school does not want their viewpoint—which concerns the ongoing war in Gaza and its effects on the Palestinian people—to be heard. Plaintiff seeks declaratory and injunctive relief directing the school to stop violating its and its members’ First Amendment rights and their rights under the Equal Access Act and the D.C. Student Bill of Rights.¹

STATEMENT OF FACTS

Jackson-Reed High School (formerly named Wilson High School), located in Northwest Washington, D.C., educates more than 1,900 students from grades 9 through 12 and focuses on a college-preparatory curriculum. It is one of the most diverse high schools in the country.² The Arab Student Union is a recognized student club at Jackson-Reed, with approximately 19 members.³ It is one of more than sixty school clubs at Jackson-Reed, including the Asian Student

¹ Plaintiff brings this suit on its own behalf and on behalf of its members. Complaint ¶ 6. References to Plaintiff’s activities also refer to activities by its members.

² <https://jacksonreedhs.org/wp-content/uploads/2022/11/Student-Planner-SY21-22.pdf>. (Note that this online document has not been updated since 2022.)

³ Declaration of ASU Member, ¶ 3.

Union, the Black Student Union, and the Jewish Student Union.⁴ Like many of the other school clubs, it holds regular meetings during lunch hour. Like many of the other clubs, it sometimes holds events of interest to other students and advertises those events within the school. Like many of the other clubs, it sometimes distributes expressive materials on school premises. For example, the Arab Student Union organized a “Pennies for Palestine” fundraiser in January-February 2023 which raised some money for humanitarian aid. It also hosted an event in May 2022, where ASU students handed out Middle Eastern food to other students. In April 2024 the ASU conducted a tabling event at school where students and staff could stop by to get their names written in Arabic.⁵

1. The proposed documentary film screening

During the fall of 2023, members of the Arab Student Union became concerned that people did not understand the facts about the Israeli-Palestinian situation and the war in Gaza. In an effort to get people talking about Palestine and bring attention to Gaza, in early December 2023 the ASU decided to show a 49-minute version of the documentary film, *The Occupation of the American Mind*, split between two lunch-hour club meetings on December 14 and 15, 2023.⁶ A basic message of the film is that the Israeli government has engaged in a successful but misleading public relations campaign in the U.S. Another important part of the movie is how people are attacked for speaking up about Palestine by labeling them as antisemitic or calling them terrorists, which is something ASU members have to deal with. The film presents a pro-

⁴ See <https://jacksonreedhs.org/students/clubs-extracurricular-activities/>; Declaration of ASU member, ¶ 2; Declaration of Faculty Sponsor, ¶ 3.

⁵ Declaration of ASU Member, ¶ 4; Declaration of Faculty Sponsor, ¶ 5; <https://jacksonreedhs.org/students/clubs-extracurricular-activities/>.

⁶ Declaration of ASU Member, ¶ 6; Declaration of Faculty Sponsor, ¶ 7.

Palestinian point of view and is highly critical of the Israeli government's actions toward Palestinians. The length of the film allowed time for open discussion in each of the two sessions after viewing each half—discussions that the club planned to facilitate. All members of the student body and faculty were welcome to attend and watch the film and participate in the discussion; no one was required to attend.⁷

To advertise the event, members of the Arab Student Union placed posters on some hallway walls in the school about a week before the event, in the same manner as other student clubs have used posters to advertise club events to the school community. The top line of the poster said, "Let's get educated!" Under the title of the film, the poster said, "Join us in learning & discussing!"⁸

Student clubs at Jackson-Reed are routinely allowed to screen films as part of their meetings. For example, the French Club has shown French films and the Marvel Monday Club screens and discusses Marvel films every Monday. There is no special procedure or permission required for a club to show a film at a club meeting, and student clubs at Jackson-Reed are routinely promote their upcoming events with written materials, including posters, without any prior review or approval by school faculty or administrators.⁹

In the late afternoon of December 6, 2023, a parent who was present in the school removed one of the posters from the wall and complained to the school administration about the showing of the film.¹⁰ In response, Principal Sah Brown cancelled the event and had the posters

⁷ Declaration of ASU Member, ¶ 6.

⁸ Declaration of ASU Member, ¶ 8; Declaration of Faculty Sponsor, ¶ 7. A photograph of this poster is attached to the Declaration of ASU Member as Exhibit A. The 49-minute version of the film can be viewed at <https://www.youtube.com/watch?v=-jKRwdsq-As&rco=1>.

⁹ Declaration of ASU Member, ¶¶ 7, 8; Declaration of Faculty Sponsor, ¶¶ 7, 10.

¹⁰ Declaration of Faculty Sponsor, ¶ 8.

taken down. In an email on December 10 to the ASU's faculty sponsor, Principal Brown stated that he would not allow ASU to screen the documentary, saying that the "content and individuals associated with the film may provoke strong emotional responses or polarizing views within our diverse school community." Principal Brown also instructed the faculty sponsor to obtain prior approval before the club announced any other film screenings. Principal Brown's email said nothing about any apprehension of disruption or violation of the rights of others.¹¹

In meeting with Principal Brown and others on December 12, 2023, club members sought permission to show the film. Principal Brown stated that his mind was "set" about not allowing the ASU to screen *The Occupation of the American Mind*. He explained that he was concerned that the views portrayed in the documentary may be polarizing and may cause a divide among the student body. He added that the movie's narrator (Roger Waters) was a problem, and that he would not feel comfortable associating the school with a person whose views are critical of people that are part of the school community. He did not express any concern about disruption at the school if the film were shown. He also informed the ASU that if it wanted to present materials that were not included on a DCPS-provided list of suggested resources about the Israel-Palestine conflict, the club had to submit them to Mr. Brown for vetting and approval.¹²

In a message Principal Brown posted on the school's website, he stated that the film screening was an "unsanctioned event" and an "unsanctioned activity" and stated that he had "met with the club's sponsor and the students [and] discussed the proper process for event approval."¹³ However, the event was no less "sanctioned" than many other events, including film

¹¹ Declaration of Faculty Sponsor, ¶¶ 9, 11.

¹² Declaration of ASU Member, ¶ 9; Declaration of Faculty Sponsor, ¶ 12.

¹³ Addressing Recent Concerns: A Message from Principal Brown, *available at* <https://jacksonreedhs.org/addressing-recent-concerns-a-message-from-principal-brown/>.

showings, that have been held by the Arab Student Union and other student clubs at Jackson-Reed. There is no rule requiring students to obtain permission to screen a film during a club meeting over lunch. Nor is there any “official process” for the approval of posters advertising student club events; clubs routinely advertise their meetings and events in this manner.¹⁴

On January 3, 2024, after the winter break, the ASU emailed Principal Brown a list of four additional films ASU wanted to screen. The email said, “We want to start our monthly screening with these movies so please get back to us.” Mr. Brown did not respond for more than a month. On February 6, he emailed, “These movies are currently under review, and I’ll provide you with an update by the end of the week.” On February 12, he emailed that the films were still under review. On February 22, he told ASU that he had spoken with a DCPS’s “content specialist” and was hoping to get a response the next day. ASU has never heard back from Mr. Brown about whether it is allowed to screen any of the films that it proposed.¹⁵

Plaintiff has been trying to show *The Occupation of the American Mind* for more than four months and has still not been allowed to do so. Nor has it been allowed to show any of the other films it proposed. Plaintiff wishes to show *The Occupation of the American Mind* while students are still at school this semester. The last day of school for Seniors is Friday, June 7, and ASU wants interested Seniors to be part of its audience, so they can bring a better understanding of this subject with them to college next fall. Members of the club who are Seniors also want to participate in the screening and the discussion.¹⁶

¹⁴ Declaration of Faculty Sponsor, ¶¶ 7, 10.

¹⁵ Declaration of ASU Member, ¶ 10.

¹⁶ Declaration of ASU Member, ¶ 12.

2. The proposed Palestinian cultural presentation

Seeking to inform and educate their fellow students about the Palestinian people, the Arab Student Union and its members also decided to present a Palestinian Culture Night at the school in January 2024. Other student clubs have held similar events. For example, in May 2023, the Ethiopian Eritrean Organization hosted a cultural event, which was so successful that they are going to have another one in May 2024. The ASU based its vision for a Palestinian Culture Night on that event.¹⁷

Because the Culture Night would be a larger event and held after regular school hours, ASU's faculty sponsor submitted an "Internal Building Use Agreement" form on December 19, 2023. The event was promptly approved and was scheduled for January 18, 2024—thirty days later—and was put on Jackson-Reed's official calendar. However, the event was later removed from the calendar. ASU's faculty sponsor was told that the reason for the removal was because the ASU had not planned the event one month in advance, which was not true. Nor is any such requirement reflected in the staff handbook or any other written materials provided by the school. That was the only reason given; no fear of any disruption was expressed. The ASU tried to reschedule the event for February or March with more than one month's notice, but they were not allowed to do so.¹⁸

Having been denied access to the school forum, Plaintiff's members and others presented a Palestinian cultural program at Busboys and Poets, a restaurant located in Takoma Park, D.C., on January 18, 2024—the same date they had planned to present it at the school. The event was

¹⁷ Declaration of ASU Member, ¶ 13.

¹⁸ Declaration of Faculty Sponsor, ¶ 13.

well-attended and successful.¹⁹ However, because the event was off campus, it was attended by only a handful of Jackson-Reed students who were not members of the Arab Student Union. Because students were the audience Plaintiff primarily wished to reach, Plaintiff and its members still wanted to present such an event at Jackson-Reed. But the school refused to allow it in January, February, or March—despite having much more than a month’s notice.²⁰

Eventually, the school approved a Palestinian Culture Night during Arab Heritage Month in April, and it is now scheduled for April 25, 2024. But ASU was subjected to a review and approval process unlike any its faculty sponsor has experienced in the past or that sponsors of other clubs have ever had to go through, including a detailed review of the proposed program. Although a Palestinian Culture Night is now expected to take place, it has been so heavily censored and restricted that it no longer presents the message that Plaintiff and its members had envisioned for the event.²¹

3. The proposed tabling and distribution of printed material

Student clubs at Jackson-Reed regularly engage in “tabling” in the school’s atrium during lunch hour. The school provides tables and chairs, and student groups distribute printed and other materials and engage in conversation with other students to promote their clubs and spread awareness about the subject matter of the clubs. The materials distributed at such events are not required to be reviewed or approved in advance by the school. Before this spring, the ASU has not had to seek and obtain prior approval of materials to be displayed or distributed at tabling

¹⁹ Declaration of ASU Member, ¶ 15. *See also* Lauren Lumpkin, *Students tried to host a Palestinian culture event. Then a local eatery stepped in*, Washington Post, January 22, 2024, available at

<https://www.washingtonpost.com/education/2024/01/22/dc-students-palestinian-cultural-event/>.

²⁰ Declaration of ASU Member, ¶ 15; Declaration of Faculty Sponsor, ¶¶ 13, 14.

²¹ Declaration of ASU Member, ¶¶ 16, 17; Declaration of Faculty Sponsor, ¶ 14.

events.²² Students also distribute small items to each other in school on an even more informal basis. For example, some students at Jackson-Reed have recently distributed blue ribbons that other students can wear to express support for Israel. They don't need school permission to do that, and no one has stopped them.²³

The Arab Student Union planned to have a tabling in early March 2024 to distribute Pro-Palestine stickers, offer face-paint “tattoos,” and distribute a one-page “zine” that displayed and explained various Palestinian symbols.²⁴ Unlike other clubs, and unlike ASU’s own prior experience, it was required to submit its proposed zine for review, and Defendants disapproved of some of the contents and required the students to censor their own expression. Specifically, Defendants required Plaintiff to delete an image of a man holding a set of keys accompanied by text explaining that the “Key of Palestine” represents homes that Palestinians lost when they were expelled or fled in 1948, and to which they hope to return. Plaintiff was also required to delete an image of a popular cartoon character named Handala, who is named after the resilient handal plant, and who symbolizes Palestinian resistance. Plaintiff was permitted to distribute its zine only in this censored form.²⁵ One ASU member brought to the tabling event several different types of stickers to hand out, including stickers showing the Palestine flag, an outline of the country, and one that said “Free Palestine.” During the event a school administrator told the students that they were not allowed to distribute the stickers with the outline of Palestine or the

²² Declaration of ASU Member, ¶¶ 19, 20; Declaration of Faculty Sponsor, ¶ 15.

²³ Declaration of ASU Member, ¶ 19.

²⁴ Declaration of ASU Member, ¶ 20. A zine (derived from the word “magazine”) is a small-circulation self-published work of original or appropriated texts and images, usually reproduced by copy machine. *See* <https://en.wikipedia.org/wiki/Zine>.

²⁵ Declaration of ASU Member, ¶¶ 19, 20; Declaration of Faculty Sponsor, ¶ 15. *See also* Exhibits B and C to Declaration of ASU Member (Plaintiff’s original zine and Plaintiff’s censored zine, respectively).

ones that said “Free Palestine.” The administrator cited no policy and gave no reason for this censorship.²⁶

4. The ongoing censorship of Plaintiff’s speech

Plaintiff and its members continue to wish to show the 49-minute version of the 2016 documentary film, *The Occupation of the American Mind*, during two lunch periods this semester, leaving time for open discussion after screening each half of the film. Plaintiff continues to wish to conduct tabling and distribute handouts and stickers this semester, with content to be determined by Plaintiff. Time is of the essence to Plaintiff’s speech, as the conflict in Gaza is ongoing and Plaintiff’s messages are focused on informing and educating their fellow students in a timely way about the plight of the Palestinian people. But Defendants continue to prohibit Plaintiff from doing these things.²⁷

5. The absence of any basis to fear disruption

There is no reasonable basis to believe that allowing Plaintiff and its members to carry out the expressive activities they wish to conduct would result in any disruption at Jackson-Reed High School. Defendants have never asserted that they anticipate disruption if Plaintiff’s desired activities are carried out.²⁸ In particular, Principal Brown said nothing about disruption in his December 10 email to the club’s faculty sponsor informing him that the film would not be shown, or at the December 12 meeting at which he explained why he had cancelled the film, or

²⁶ Declaration of ASU Member, ¶ 20; Declaration of Faculty Sponsor, ¶ 16.

²⁷ Declaration of ASU Member, ¶¶ 12, 21. Plaintiff also wishes to present a Palestinian Culture Night, with content to be determined by Plaintiff rather than censored by school officials, but there is not time to organize a second one this semester. Declaration of ASU Member, ¶ 18. Accordingly, Plaintiff does not seek preliminary injunctive relief regarding such an event at this time.

²⁸ Declaration of ASU Member, ¶¶ 9, 14, 16, 20, 24; Declaration of Faculty Sponsor, ¶¶ 11, 12, 13, 16.

in his subsequent posting about the matter on the school's website.²⁹ Nor did anyone say anything about disruption when the Palestinian Culture Night was cancelled,³⁰ or when Plaintiff was required to censor its zine or stop distributing certain stickers.³¹

The students at Jackson-Reed live in the nation's capital and are accustomed to hearing, seeing, and learning about political and social controversies, including the events of the past six months in and around Gaza. Jackson-Reed is one of the most diverse high schools in the country, and its students know that their fellow students come from many different backgrounds and hold differing viewpoints on many issues. They are exposed to differing opinions every day, in newspapers, on television, and in social media, as well as in conversations with fellow students and others. None of this has led to disruption.³²

Members of the Arab Student Union have shared their opinions and feelings about the events in Gaza with fellow students and those conversations have been mutually respectful. Students at Jackson-Reed understand that education does not occur only in the classroom, and they value the exchange of views with others who do not necessarily share their own views. Students at Jackson-Reed have, for many years, been presented with information about, and engaged in conversations about, highly controversial subjects such as presidential politics, abortion, racial justice, immigration, and others. None of this has led to disruption.³³

There has been extensive publicity about the Arab Student Union's efforts to show the *Occupation* movie and to present a Palestinian cultural event, including in the Jackson-Reed

²⁹ Declaration of ASU Member, ¶¶ 9, 24; Declaration of Faculty Sponsor, ¶¶ 11, 12.

³⁰ Declaration of ASU Member, ¶ 16; Declaration of Faculty Sponsor, ¶ 13.

³¹ Declaration of ASU Member, ¶ 20.

³² Declaration of ASU Member, ¶¶ 23; Declaration of Faculty Sponsor, ¶¶ 17.

³³ Declaration of ASU Member, ¶ 23.

High School newspaper,³⁴ on the school’s own website,³⁵ in the Washington Post,³⁶ and in the Washington Jewish Week.³⁷ That publicity has led to much discussion and some disagreement among students but has not led to any disruption or threatened disruption at the school.

LEGAL STANDARD

To prevail on a motion for a preliminary injunction, the Plaintiff “must: (1) establish a likelihood of success on the merits; (2) show irreparable harm in the absence of preliminary relief; (3) demonstrate that the equities favor issuing an injunction; and (4) persuade the court that an injunction is in the public interest.” *Trump v. Thompson*, 20 F.4th 10, 31 (D.C. Cir. 2021) (cleaned up).

ARGUMENT

I. Plaintiff is Likely to Succeed on the Merits of its Claims

In December 1965, John and Mary Beth Tinker went to school wearing black armbands to protest the War in Vietnam. They were suspended “until they would come back without their armbands.” *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 504 (1969). At that time, the Vietnam War was “the subject of a major controversy”; “[b]oth individuals supporting

³⁴ Simon Holland, Isadora Groves, & Rohini Kieffer, *Arab Student Union attempt to show documentary halted*, The Jackson-Reed Beacon (Jan. 9, 2024), available at <https://thejackson-reedbeacon.com/22081/news/arab-student-union-attempt-to-show-documentary-halted-by-admin/>.

³⁵ Addressing Recent Concerns: A Message from Principal Brown, available at <https://jacksonreedhs.org/addressing-recent-concerns-a-message-from-principal-brown/>.

³⁶ Lauren Lumpkin, *Students tried to host a Palestinian culture event. Then a local eatery stepped in*, Washington Post, January 22, 2024, available at <https://www.washingtonpost.com/education/2024/01/22/dc-students-palestinian-cultural-event/>.

³⁷ Suzanne Pollak, *Amid Teacher Suspensions, Antisemitism Remains an Issue at Local Public Schools*, Washington Jewish Week, January 10, 2024, available at <https://www.washingtonjewishweek.com/amid-teacher-suspensions-antisemitism-remains-an-issue-at-local-public-schools/>.

the war and those opposing it were quite vocal in expressing their views.” *Id.* at 510 n.4 (quoting the district court). Indeed, school officials noted that a former student had been killed in Vietnam and some of his friends were still in school. *Id.* at 509 n.3. In short, the war in Vietnam engendered strong opposing feelings, much as the events in Gaza do today.

Nevertheless, the Court held that the Tinkers’ expressive activity was constitutionally protected. This case raises similar issues regarding student expression about a controversial current issue; the result should be the same.

A. Plaintiff’s proposed activities are protected by the First Amendment

In *Tinker*, the Court explained that “[s]tudents in school as well as out of school are ‘persons’ under our Constitution. They are possessed of fundamental rights which the State must respect.” *Id.* at 511. Thus, “[i]n the absence of a specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views.” *Id.*

Tinker identified two grounds on which student speech could be regulated: first, if it “materially disrupts classwork or involves substantial disorder,” *id.* at 513; second, if it results in “invasion of the rights of others.” *Id.* The Court was careful to caution that “undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression,” *id.* at 508. The fact that some students “made hostile remarks” to the Tinkers provided no basis to restrict their speech. *Id.*

The *Tinker* standard remains the law, as the Supreme Court recently reiterated in *Mahanoy Area Sch. Dist. v. B.L.*, 594 U.S. 180 (2021). *Mahanoy* repeatedly invokes the *Tinker* standards, *see id.* at 187, 188, 189, 192, 193; it reaffirms that for a school “to justify prohibition of a particular expression of opinion, it must be able to show that its action was caused by

something more than a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint.” *Id.* at 193 (quoting *Tinker*, 393 U.S. at 509). In *Mahanoy*, the fact that some students were “upset” by the plaintiff’s expression “does not meet *Tinker*’s demanding standard.” *Id.* at 192-93.

Lower courts have also made clear that the second ground identified in *Tinker*, “invasion of the rights of others,” cannot justify the restriction of student expression simply because it is controversial or offensive to some. Thus, for example, then-Judge Alito explained for the Third Circuit that “it is certainly not enough that the speech is merely offensive to some listener.” *Saxe v. State Coll. Area Sch. Dist.*, 240 F.3d 200, 217 (3d Cir. 2001) (Alito, J.); accord *Guiles ex rel. Guiles v. Marineau*, 461 F.3d 320, 328 (2d Cir. 2006) (observing that “*Tinker* would have no real effect” if schools could prohibit speech because it is offensive); *Chandler v. McMinnville Sch. Dist.*, 978 F.2d 524, 530 (9th Cir. 1992) (holding that the possibility that speech “could be interpreted as insulting [or] disrespectful” is insufficient to limit students’ speech). And at least one court has noted that where, as would be the case here, “students are exposed to speech only as a consequence of voluntary choice, the speaker has not invaded the rights of others.” *Bowler v. Town of Hudson*, 514 F. Supp. 2d 168, 178 (D. Mass. 2007), *reconsidered in part on other grounds*, 2007 WL 9797643 (D. Mass. Dec. 18, 2007).

The facts in this case compel the conclusion that Plaintiff’s activities are protected. Showing a movie in one classroom during lunch hour, which students have the choice to attend or not, will not materially disrupt classwork or cause substantial disorder, and the school has made no such claim. If the message of the film upsets students who voluntarily choose to watch it, that cannot constitute an invasion of their rights, for they have no right to “avoid the discomfort and unpleasantness that always accompany[ies] an unpopular viewpoint,” *Mahanoy*, 594 U.S. at 193 (quoting

Tinker, 393 U.S. at 509). That principle is especially apt here, where students are completely free to avoid any potential discomfort or unpleasantness by simply eating lunch in the lunchroom.

Defendants' removal of Plaintiff's posters advertising the film is equally indefensible. Posters are routinely used by student clubs at Jackson-Reed to announce their meetings and activities, and these posters had been displayed in school hallways without incident until a parent who was attending a late afternoon event at the school removed one of them from the wall and complained to the school administration about the film.³⁸ The posters had caused no disruption and had elicited no complaints by students, who have perhaps learned to appreciate freedom of speech more than some of their parents have.

Likewise, there is no factual basis to predict that Plaintiff's tabling activity would cause substantial disruption or invade the rights of others. In fact, Plaintiff was allowed to table and distribute copies of its zine.³⁹ But the zine Plaintiff was allowed to distribute was censored, prohibiting Plaintiff from sharing images of two symbols of significance to Palestinians (the Key of Palestine and the cartoon character Handala) and explaining their meaning.⁴⁰ It cannot credibly be supposed that allowing Plaintiff to distribute the original version of its zine would have caused substantial disruption, nor have Defendants made any such claim. Nor can it credibly be supposed that allowing Plaintiff to distribute the original version of its zine or its stickers—which no student was obliged to pick up—would have somehow invaded the rights of others.

³⁸ *See supra* at 4.

³⁹ *See supra* at 9-10.

⁴⁰ *See supra* at 9.

Defendants’ basis for restricting Plaintiff’s expressive activity, as expressed in Defendants’ communications with Plaintiff’s members and its faculty sponsor, appears to be simply that they wish to avoid in-school communication about a sensitive subject on which students have differing views. Under *Tinker* and its progeny, that cannot suffice. To the contrary, “the school itself has an interest in protecting a student’s unpopular expression [S]chools have a strong interest in ensuring that future generations understand the workings in practice of the well-known aphorism, ‘I disapprove of what you say, but I will defend to the death your right to say it.’” *Mahanoy*, 594 U.S. at 190.

B. Plaintiff’s proposed activities are protected by the Equal Access Act

Defendants’ refusal to allow Plaintiff’s expressive activity also violates Plaintiff’s and its members’ rights under the Equal Access Act, 20 U.S.C. §§ 4071–4074, a federal statute enacted in 1984 precisely to stop public high schools from discriminating against student groups on the basis of the content of their expression. Under the Act, when students who wish to conduct a meeting within a public secondary school’s “limited open forum,” the school is prohibited from discriminating against the students on the basis of the “religious, political, philosophical, or other content of the speech at such meetings.” 20 U.S.C. §§ 4071(a), (b). Specifically, the Act provides:

It shall be unlawful for any public secondary school which receives Federal financial assistance and which has a limited open forum to deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings.

20 U.S.C. § 4071(a). A “limited open forum” exists whenever a public secondary school “grants an offering to or opportunity for one or more noncurriculum related student groups to meet on school premises during noninstructional time.” § 4071(b). “Meeting” is defined to include “those

activities of student groups which are permitted under a school's limited open forum and are not directly related to the school curriculum." § 4072(3). "Noninstructional time" includes lunch hour and similar activity periods, even if they occur during the school day. *See Cenicerros By & Through Risser v. Bd. of Trustees of the San Diego Unified Sch. Dist.*, 106 F.3d 878 (9th Cir. 1997) (lunch time); *Donovan ex rel. Donovan v. Punxsutawney Area Sch. Bd.*, 336 F.3d 211 (3d Cir. 2003) ("activity period").

"Thus, even if a public secondary school allows only one 'noncurriculum related student group' to meet, the Act's obligations are triggered and the school may not deny other clubs, on the basis of the content of their speech, equal access to meet on school premises during noninstructional time." *Bd. of Educ. of Westside Cmty. Sch. v. Mergens*, 496 U.S. 226, 236 (1990).

It is indisputable that Jackson-Reed High School operates a "limited open forum" as defined in the Equal Access Act. The school's own webpage lists more than sixty student clubs and shows their various meeting times. In addition to the Arab Student Union, these clubs include the Asian Student Union, the Black Student Union, the Jewish Student Union, the Ethiopian Eritrean Organization, the Gender Sexuality Alliance, the Disability Student Alliance, and the Community Coalition for Change.⁴¹ Their names alone (there are also short descriptions on the website) demonstrate that they involve expression with a variety of viewpoints on a variety of subjects, including matters of racial/ethnic identity, sexual orientation and gender identity, disability accommodation, and international affairs that are controversial. For example, a school club called The Birds & The Bees Sexual Health Club, has distributed condoms on school grounds, along with a flier providing information about their use, about safe and unsafe

⁴¹ *See* <https://jacksonreedhs.org/students/clubs-extracurricular-activities/>.

sexual practices, and about sexually transmitted diseases. The school has not interfered with that activity, which was conducted multiple times this year. Another school club, the Gender and Sexuality Alliance, has organized many events, including a Trans Day of Visibility, a Lesbian Visibility Week, a Queer Visibility Fair, a sale of Pride merchandise in the Atrium during Pride month, and a screening of an original video on the history of the Queer rights movement and the Queer Student experience at Jackson-Reed.⁴²

The Equal Access Act has been invoked to prevent public high schools from discriminating against groups that may be quite controversial and unpopular in the school's community, such as LGBTQ+ groups, *see, e.g., Carver Middle Sch. Gay-Straight Alliance v. Sch. Bd. of Lake Cnty.*, 249 F. Supp. 3d 1286 (M.D. Fla. 2017); Christian clubs, *see, e.g., Mergens, supra*; and political groups, *see Student Coalition for Peace v. Lower Merion Sch. Dist. Bd. of Sch. Directors*, 633 F. Supp. 1040 (E.D. Pa. 1986) (student group wishing to conduct a public anti-nuclear and peace exposition on school grounds).

Defendants' discrimination against the Arab Student Union on the basis of the content of its proposed speech therefore violates the Equal Access Act.

C. Plaintiff's proposed activities are protected by the D.C. Student Bill of Rights

Defendants' censorship of Plaintiff's expression also violated Plaintiff's and its members' rights under the D.C. Student Bill of Rights.

The District of Columbia Public Schools has adopted a "Student Bill of Rights," which is codified in Title 5-E of the D.C. Municipal Regulations, section 2401. In relevant part, it provides:

⁴² Declaration of ASU Member, ¶ 22.

§ 2401.17 Each student shall have the right to exercise his or her constitutional rights of free speech, assembly, and expression without prior restraint, so long as the exercise of these rights does not substantially interfere with the rights of others.

§ 2401.18 The exercise of the constitutional rights of free speech, assembly, and expression by students shall include, but is not necessarily limited to, the following:

(a) Wearing political buttons, armbands, or other badges of symbolic expression;

...

(e) Preparation and distribution of posters, newspapers, or other printed matter, on or off school grounds, and the reasonable use of the school public address system subject to standards adopted by the student government organization in cooperation with school officials; provided, that such distribution or use shall be limited to reasonable times before, during, and after school hours in order to prevent undue interference with classroom activities and the rights of others[.]

At a minimum, the Student Bill of Rights incorporates students' "constitutional rights of free speech, assembly, and expression." Because Plaintiff has shown a likelihood of success on its constitutional claims, it follows that Plaintiff has also shown a likelihood of success on its claims under the Student Bill of Rights.

Beyond that, the Student Bill of Rights specifically provides that students are entitled to distribute "posters [and] other printed matter, on or off school grounds," and that they are entitled to exercise these rights "without prior restraint, so long as the exercise of these rights does not substantially interfere with the rights of others." § 2401.18(e). Because, as we have already shown, Plaintiff's activities would not substantially interfere with the rights of others, Defendant Brown's actions in taking down Plaintiff's posters and prohibiting Plaintiff's members from distributing their uncensored zine and their stickers violated the explicit command of the Student Bill of Rights.

The D.C. Public Schools' regulations are authorized by statute, *see* D.C. Code § 38-172, and the Student Bill of Rights thus "has the force and effect of law." *Hutchinson v. District of Columbia Ofc. of Employee Appeals*, 710 A.2d 227, 234 (D.C. 1998) ("A regulation has the force and effect of law, much like a statute."). It is therefore "binding upon the Board," *Dankman v.*

D.C. Bd. of Elections & Ethics, 443 A.2d 507, 513 (D.C. 1981); indeed, “[i]t is axiomatic that once an agency commits itself in its regulations to adhering to certain principles or procedures, it cannot violate them.” *Id.* (quoting *Zotos International, Inc. v. Kennedy*, 460 F. Supp. 268, 275 (D.D.C.1978)). It is “well established that an agency action made in violation of its own regulations cannot be sustained.” *Seman v. D.C. Rental Hous. Comm’n*, 552 A.2d 863, 866 (D.C. 1989) (citing *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954)). Therefore, as a matter of adherence to their own regulations as well as the First Amendment, Defendants should not be allowed to subject Plaintiff’s activities to the sorts of prior restraints Plaintiff challenges here.

D. The Court Has Authority to Issue Injunctive Relief

This Court can issue injunctive relief in this case both under 42 U.S.C. § 1983 and under its inherent equitable power.

1. Plaintiff is entitled to injunctive relief under § 1983 against Defendant Brown in his individual capacity⁴³

Defendant Brown, whom Plaintiff has sued for injunctive relief in his individual capacity, Complaint ¶ 8, is the Principal of Jackson-Reed and bears personal responsibility for the constitutional violations at issue; accordingly, this Court can enjoin him personally to cease violating Plaintiff’s First Amendment and other rights. Defendant Brown sometimes exercised his authority directly, for example, when he personally cancelled the planned showing of the film

⁴³ Plaintiff does not at this time seek preliminary injunctive relief against the District of Columbia under § 1983. Discovery may show that the violations of Plaintiff’s rights were caused by a District of Columbia policy or custom, such as via the decisions of officials having policymaking authority, so that the District itself will be subject to injunctive relief under § 1983. *See Los Angeles Cnty. v. Humphries*, 562 U.S. 29 (2010). Meanwhile, however, preliminary injunctive relief can be issued against the District of Columbia under this Court’s equitable power, as explained below.

on December 14 and 15, 2023, and personally ordered the removal of the posters announcing that event.⁴⁴ On other occasions, he delegated his authority to subordinates or sought input from DCPS headquarters. But the final decisions were his, as a representative of DCPS made clear at a meeting with the Plaintiff.⁴⁵

Under § 1983, supervisors are personally liable for constitutional torts when they commit them, and also when they “know about the conduct and facilitate it, approve it, condone it, or turn a blind eye for fear of what they might see.” *Barham v. Ramsey*, 434 F.3d 565, 578 (D.C. Cir. 2006) (citation and internal quotation marks omitted).

Although injunctive relief is more commonly pursued against official-capacity defendants because the resulting injunction runs with the office if the officeholder changes, *see* Fed. R. Civ. Pro. 25(d), individual-capacity injunctive relief is equally available. This conclusion follows directly from *Ex parte Young*, 209 U.S. 123 (1908), which explained that even where a government entity is not directly amenable to suit, the entity’s responsible official is separately subject to suit for injunctive relief “in his person,” *Id.* at 160. The modern Court has reiterated that *Ex parte Young* permits “certain suits seeking declaratory and injunctive relief against state officers *in their individual capacities.*” *Idaho v. Coeur d’Alene Tribe*, 521 U.S. 261, 269 (1997) (emphasis added); *see also Hernandez v. O’Malley*, 98 F.3d 293, 297 (7th Cir. 1996) (“Because of the individual-capacity claim in the complaint, however, Hernandez can take advantage of *Ex parte Young*, 209 U.S. 123 (1908), and obtain prospective relief.”) (Easterbrook, J.); *accord Redondo-Borges v. U.S. Dep’t of Hous. & Urban Dev.*, 421 F.3d 1, 7 (1st Cir. 2005); *MCI*

⁴⁴ *See supra* at 4-5.

⁴⁵ Mr. Raymond Hamilton, Director, Office of Teaching and Learning at DCPS, explained, “we’re not making decisions on what is shown. That’s up to admin.” A student asked, “So you mean admin at our school or admin, like central office?” Mr. Hamilton replied, “Admin at the school.” Declaration of ASU Member, ¶ 11.

Telecomm. Corp. v. Bell Atl. Pa., 271 F.3d 491, 506 (3d Cir. 2001). The D.C. Circuit has likewise recognized the availability of injunctive relief against officers in their individual capacities. In *Vann v. Kempthorne*, 534 F.3d 741 (D.C. Cir. 2008), descendants of freed slaves of the Cherokee Nation sued the tribe and its chief, seeking injunctive relief against their exclusion from tribal elections. *See id.* at 745. The plaintiffs sued the chief in his individual capacity,⁴⁶ and the D.C. Circuit held that the suit could proceed against the chief in that capacity, 534 F.3d at 744, squarely rejecting the tribe’s objection: “[T]he Cherokee Nation argues that tribal sovereign immunity bars the suit against its officers because the requested relief really runs against the tribe itself.” 534 F.3d at 750. “This,” the D.C. Circuit explained, “is reminiscent of the losing argument in *Ex parte Young*. . . . The argument is no more persuasive a century later.” *Id.*

The fact that Principal Brown acts as a school official in violating Plaintiff’s First Amendment rights is no barrier to individual-capacity relief. In *Hafer v. Melo*, 502 U.S. 21 (1991), the Supreme Court unanimously held that an individual-capacity defendant is subject to liability for conduct taken as a government official because the actions at issue were taken “under color” of law within the meaning of § 1983, even if the defendant is named in an individual capacity. The Court squarely rejected the defendant’s argument that an official could not be liable in an individual capacity for actions taken “within the official’s authority”; the Court explained that “[t]he requirement of action under color of state law means that Hafer may be liable for discharging respondents precisely because of her authority as auditor general. We

⁴⁶ *See* Pls.’ Second Amended Compl., *Vann v. Norton*, No. 1:03-cv-01711 (D.D.C. Aug. 3, 2006), 2006 WL 4016149, at ¶ 1 (“Plaintiffs bring this action to redress long-standing and invidious racial discrimination against them by the BIA, the CNO and Chadwicke Smith, individually.”); *id.* at ¶ 19 (“Plaintiffs also seek declaratory relief under 28 U.S.C. § 1343 against the CNO and against Chadwicke Smith, individually, setting forth their rights . . . , and a declaration that the CNO and Chadwicke Smith, individually, cannot elect new officials or amend the Cherokee Constitution in an election which denies the Freedmen the right to vote.”).

cannot accept the novel proposition that this same official authority insulates Hafer from suit.” *Id.* at 27-28. Although *Hafer* was a case about damages, nothing in *Hafer*’s discussion or logic suggests that its invocation of the “under color” principle holds only for damages suits.⁴⁷

Moreover, a doctrine immunizing municipal officials from injunctive relief in their individual capacities would leave plaintiffs entirely without a remedy under § 1983 when municipal officers violate a person’s rights in the absence of a municipal “policy or custom” under *Monell*. Concretely: a Metropolitan Police Department “School Resource” (*i.e.*, law enforcement) Officer at Jackson-Reed could boldly declare that he intended to search a student’s locker the next day for no reason other than her pro-Palestinian views and Arab ethnicity, and the student could not seek an injunction against that threatened conduct—even though it would clearly violate the First, Fourth, and Fifth Amendments at a single stroke—absent a municipal policy. Likewise, the commander of a police precinct could instruct officers at roll call every morning to issue tickets only to vehicles driven by Black men, and—absent municipal policy—that practice could not be enjoined in a suit under § 1983. That cannot be the law.

⁴⁷ One case in this district reached a contrary conclusion, *see Hatfill v. Gonzales*, 519 F. Supp. 2d 13, 19-24 (D.D.C. 2007), but it was, respectfully, in error. The basic reasoning of that decision was that a government official can be sued for an injunction only in an official capacity because that is the capacity in which the official acts on behalf of the government. That very reasoning was rejected in *Ex parte Young*, where the state official argued that “the complainants do not complain and they care nothing about any action which Mr. Young might take or bring as an ordinary individual, but that he was complained of as an officer.” 209 U.S. at 159. The Court responded, “If the act which the state attorney general seeks to enforce be a violation of the Federal Constitution, the officer, in proceeding under such enactment, comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected *in his person* to the consequences of his individual conduct.” *Id.* at 159-160 (emphasis added). Likewise, in *Vann v. Kempthorne*, discussed above, the D.C. Circuit permitted an injunctive suit against an individual capacity defendant to proceed the year after *Hatfill*—demonstrating that *Hatfill*’s conclusion cannot be correct.

2. Plaintiff is also entitled to injunctive relief against both Defendants under the Court’s inherent equitable power

Plaintiff has also invoked this court’s powers in equity, *see* Complaint ¶¶ 95-99, which provides an independent basis to enjoin both Principal Brown and the District from continuing to violate Plaintiff’s legal rights.

As the Supreme Court explained in *Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320 (2015), federal courts may use their inherent equitable powers to enjoin violations of federal law by “public officers”:

[W]e have long held that federal courts may in some circumstances grant injunctive relief against state officers who are violating, or planning to violate, federal law. *See, e.g., Osborn v. Bank of United States*, 9 Wheat. 738, 838–839, 844; *Ex parte Young, supra*, at 150–151 (citing *Davis v. Gray*, 16 Wall. 203, 220 (1873)). . . . What our cases demonstrate is that, “in a proper case, relief may be given in a court of equity . . . to prevent an injurious act by a public officer.” *Carroll v. Safford*, 3 How. 441, 463 (1845).

The ability to sue to enjoin unconstitutional actions by state and federal officers is the creation of courts of equity, and reflects a long history of judicial review of illegal executive action, tracing back to England.

575 U.S. at 326–27.⁴⁸

Employing this Court’s equitable power to enforce Plaintiff’s federal rights here accords with a long tradition of the enforcement of federal rights in equity against municipalities without relying on § 1983. *See, e.g., Cuyahoga River Power Co. v. City of Akron*, 240 U.S. 462, 463 (1916) (reversing dismissal of suit “in equity” asserting Fourteenth Amendment claim against Ohio town’s regulation of property; the Court never mentioned § 1983); *Vill. of Norwood v. Baker*, 172 U.S. 269, 271, 297 (1898) (affirming injunction declaring that municipal ordinance

⁴⁸ Although the Court held that the plaintiffs in *Armstrong* could not invoke the federal courts’ equitable powers to enjoin an alleged violation of a particular statutory provision, § (30)(A) of the Medicaid Act, that conclusion rested on Congress’s “exclusion of private enforcement” of that provision. *Id.* at 328. There is no such congressional exclusion here.

levying an assessment on property violated the Fourteenth Amendment; the Court cited approvingly the principle that “equity may properly interfere to restrain the operation of this unconstitutional exercise of power” (quoting *Cummings v. Merchants’ Nat’l Bank*, 101 U.S. 153, 154 (1879)), and never mentioned § 1983).

Indeed, even during the roughly two decades when the Supreme Court adhered to the view that § 1983 could not be used against municipalities at all—from *Monroe v. Pape*, 365 U.S. 167, 191 (1961) (so holding) to *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 690 (1978) (overruling *Monroe* on this point and permitting § 1983 suits against municipalities)—the Supreme Court continued to recognize federal courts’ authority to enjoin unconstitutional actions by municipal actors. For instance, in *Griffin v. County School Board*, 377 U.S. 218, 231 (1964), the Court held that a Virginia county school board had violated equal protection by closing all of its public schools in order to avoid desegregation. The Court emphasized the power of the district court to enjoin the county board of supervisors, school board, and superintendent, among other defendants: “We have no doubt of the power of the court to give this relief to enforce the discontinuance of the county’s racially discriminatory practices. It has long been established that actions against a county can be maintained in the United States courts in order to vindicate federally guaranteed rights.” *Id.* at 232-33. Unsurprisingly (in light of the 1961 holding in *Monroe* that municipalities were not proper defendants under § 1983), the Court made no mention of § 1983. *See also Wright v. Council of City of Emporia*, 407 U.S. 451, 452 (1972) (upholding, without reference to § 1983, district court’s injunction against municipal defendant that attempted to create a new school system to thwart desegregation).

In more recent years, following the Court’s clarification in *Armstrong* of the contours of courts’ powers in equity, courts of appeals have reconfirmed federal courts’ inherent equitable

power to enjoin violations of federal law by municipalities and their agents. For instance, in *Moore v. Urquhart*, 899 F.3d 1094 (9th Cir. 2018), the plaintiffs, without invoking § 1983, sought to enjoin the sheriff of King County, Washington, from executing eviction orders without court hearings. *Id.* at 1097. The sheriff argued that because plaintiffs failed to state a claim under § 1983, they could not proceed at all, but the Ninth Circuit rejected that argument as “plainly without merit,” holding that because plaintiffs sought only equitable relief, not damages, “plaintiffs do not need a statutory cause of action. They can rely on the judge-made cause of action . . . which permits courts of equity to enjoin enforcement of state statutes that violate the Constitution or conflict with other federal laws.” *Id.* at 1103 (citing *Armstrong*). Further, the court underscored that the cause of action existed in equity against the sheriff specifically *as a municipal official* (rather than, for instance, a instrumentality of the state): “[I]t is unnecessary for us to resolve the parties’ dispute over whether the Sheriff acts on behalf of King County or the State of Washington when he executes writs of restitution,” the court explained, because actions in equity “can be brought against *both state and county officials*.” *Id.* at 1103 (emphasis added).

In *Crown Castle Fiber, L.L.C. v. City of Pasadena*, 76 F.4th 425 (5th Cir. 2023), *cert. denied*, No. 23-698, 2024 WL 674840 (U.S. Feb. 20, 2024), the court held that a plaintiff could invoke the federal courts’ equitable power alone to enjoin a city from enforcing land-use standards in a manner the plaintiffs alleged would violate a federal statute. *See* 76 F.3d at 433-34. The equitable power question was squarely presented, the court observed, because the plaintiff “is not seeking a legal remedy through § 1983” but instead “seeks declaratory and injunctive relief, bringing the suit in equity.” *Id.* The Fifth Circuit held that such a suit was

permitted under *Armstrong*, “[e]ven though [the statute] does not confer a private right” enforceable via § 1983. *Id.* at 434-35.

By the same token, this Court, when exercising supplemental jurisdiction over the D.C. law claims in this case, has inherent equitable power to enjoin violations of D.C. law. *See, e.g., Am. Univ. in Dubai v. D.C. Educ. Licensure Comm’n*, 930 A.2d 200, 206 (D.C. 2007) (recognizing “complaint for declaratory and injunctive relief to enforce a statutory requirement . . . under the court’s general equitable powers”); *Columbia Realty Venture v. D.C. Hous. Rent Comm’n*, 350 A.2d 120, 123 (D.C. 1975) (“[T]he equity power has evolved into an important and essential remedy against administrative abuse.”). *See generally Armstrong, supra.*

In sum, even if this Court tentatively concludes that Plaintiff is not entitled to a preliminary injunction against Principal Brown under § 1983 (which it is, and which is Plaintiff’s preference), Plaintiff is nonetheless entitled to invoke this Court’s inherent equitable power to obtain an injunction against both Principal Brown and the District of Columbia prohibiting the ongoing violations of its First Amendment rights.

II. Plaintiff Will Suffer Irreparable Harm in the Absence of Relief

If the Court finds that Plaintiff has shown a likelihood that its constitutional rights are being violated, it follows that Plaintiff is suffering irreparable harm. “It has long been established that the loss of constitutional freedoms, ‘for even minimal periods of time, unquestionably constitutes irreparable injury.’” *Mills v. District of Columbia*, 571 F.3d 1304, 1312 (D.C. Cir. 2009) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)); *accord Singh v. Berger*, 56 F.4th 88, 109 (D.C. Cir. 2022); *Student Press Law Center v. Alexander*, 778 F. Supp. 1227, 1234 (D.D.C. 1991) (“The Court presumes that irreparable harm will flow to plaintiffs from a continuing constitutional violation.”).

III. The Balance of Equities and the Public Interest Favor the Plaintiff

If the Court finds that Plaintiff has shown a likelihood that its First Amendment rights are being violated, it likewise follows that the balance of equities and the public interest weigh in Plaintiff's favor.

As the D.C. Circuit has held, it is "obvious" that "enforcement of an unconstitutional law is always contrary to the public interest." *Gordon v. Holder*, 721 F.3d 638, 653 (D.C. Cir. 2013). Accordingly, the Circuit has explained, "the strength of the [defendant's] showing on public interest rises and falls with the strength of its showing on likelihood of success on the merits. The public interest favors the protection of constitutional rights." *Archdiocese of Washington v. WMATA*, 897 F.3d 314, 335 (D.C. Cir. 2018).

Enjoining Defendants to stop censoring Plaintiff's expression may, of course, make some people unhappy, including some students at Jackson-Reed and some parents. But some people's unhappiness about the government's failure to censor other people's speech is not a harm about which the government can legitimately complain: "Many are those who must endure speech they do not like, but that is a necessary cost of freedom." *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 575 (2011). The Supreme Court has explained time and again that "[s]peech may not be banned on the ground that it expresses ideas that offend," *Matal v. Tam*, 582 U.S. 218, 223 (2017), and that "the proudest boast of our free speech jurisprudence is that we protect the freedom to express 'the thought that we hate.'" *Id.* at 246 (plurality opinion) (quoting *United States v. Schwimmer*, 279 U.S. 644, 655 (1929) (Holmes, J., dissenting)).

For reasons like these, this Court has regularly concluded that "[i]t is always in the public interest to prevent the violation of a party's constitutional rights." *Simms v. District of Columbia*, 872 F. Supp. 2d 90, 105 (D.D.C. 2012) (internal quotation and citation omitted), and that "[t]he

Government cannot suffer harm from an injunction that merely ends an unlawful practice.”

R.I.L-R v. Johnson, 80 F. Supp. 3d 164, 191 (D.D.C. 2015) (internal quotation marks omitted).

CONCLUSION

For the reasons given above, Plaintiff’s motion for a preliminary injunction should be granted. A proposed order is attached.⁴⁹

April 24, 2024

Respectfully submitted,

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⁴⁹ Because the entry of an injunction will not harm the Defendants, the security required by Fed. R. Civ. P. 65(c) should be set at zero or at a nominal amount. *See, e.g., Diaz v. Brewer*, 656 F.3d 1008, 1015 (9th Cir. 2011) (“The district court retains discretion as to the amount of security required, if any.” (internal quotation marks omitted)); *Doctor’s Assocs., Inc. v. Stuart*, 85 F.3d 975, 985 (2d Cir. 1996) (“the district court did not abuse its discretion in dispensing with the bond”).

* Eleanor DeGarmo graduated from the Georgetown University Law Center in February 2024 and has been informed that she passed the February 2024 District of Columbia administration of the Uniform Bar Examination. She is awaiting admission to the D.C. Bar.

** Counsel wish to acknowledge the assistance of paralegal Elaine Stamp in the preparation of this motion.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ARAB STUDENT UNION OF
JACKSON-REED HIGH SCHOOL

Plaintiff,

v.

No. 1:24-cv-_____

DISTRICT OF COLUMBIA, et al.,

Defendants.

**DECLARATION OF ASU MEMBER IN SUPPORT OF
PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION**

I, [Name omitted], declare as follows:

1. I am 17 years old and a resident of the District of Columbia. I make this declaration based on my personal knowledge of the matters described.

2. I am a Senior at Jackson-Reed High School (Jackson-Reed) and I am a co-leader of the Arab Student Union (ASU), which is one of over 60 student organizations at Jackson-Reed. I joined the club when the ASU was formed during the 2021-2022 school year. I was a member for two years before I became a co-leader for the 2023-2024 school year.

3. There are currently about 19 student-members in the club. The ASU is an open membership club with both Arab and non-Arab members. Jackson-Reed students are welcome to attend ASU meetings and events whether or not they are members of the club. The ASU meets weekly on Mondays during lunch hour (which is called "STEP", standing for Student-Teacher Enrichment Period) in the classroom of our faculty sponsor, Phillip Bechara. Usually, we spend these meetings planning upcoming events and activities. Other times, we use the meeting time to talk and just hang out with one another in a communal space.

4. During my time as co-leader of the ASU this school year, I have helped plan and run several events, including a joint meeting with Jackson-Reed's Jewish Student Union in January 2024, where members of the two student groups played games and ate food together. I also helped plan and run a tabling event in April 2024, which is Arab Heritage Month, where students and staff could stop at an ASU table in the school atrium to get their names written in Arabic.

5. While those ASU events and some others have gone smoothly, the ASU has faced resistance and censorship by the school administration with respect to three events or activities that the ASU has tried to organize this academic year: a documentary film screening, a Palestinian cultural night, and a tabling event involving distribution of leaflets and stickers.

6. During the fall of 2023, members of the Arab Student Union became concerned that people did not understand the facts about the Israeli-Palestinian situation and the war in Gaza. In an effort to get people talking about Palestine and bring attention to Gaza, in early December 2023 the ASU decided to show a 49-minute version of the documentary film, *The Occupation of the American Mind*, split between two club meetings during lunch hour. The film can be viewed at <https://www.youtube.com/watch?v=-jKRwdsq-As&rco=1>. A basic message of the film is that the Israeli government has engaged in a successful but misleading public relations campaign in the U.S. Another important part of the movie is how people are attacked for speaking up about Palestine by labeling them as antisemitic or calling them terrorists, which is something we have to deal with. By splitting the screening into two parts, there would be time after viewing each half for the ASU to facilitate an open discussion among the students who attended.

7. Other Jackson-Reed student clubs, including the French Club and the Marvel Monday Club, have screened films in school this school year as part of their meetings.

8. To promote this event, ASU members and I designed and put up posters on some of the school hallway walls. The top line of the poster said, “Let’s get educated!” Under the title of the film, the poster said, “Join us in learning & discussing!” A photo of this poster is attached to this declaration as Exhibit A. Other organizations, as well as the ASU in the past, have routinely advertised club events to the school community using similar posters. The film screening event was scheduled for the lunch periods on December 14 and December 15, 2023. About a week in advance, I and another ASU member hung the posters at the school. The next day almost all of them were gone.

9. On December 12, 2023, the ASU had a meeting with the Jackson-Reed Principal, Mr. Sah Brown, and others to discuss the removal of the posters. During that meeting, Mr. Brown told us that he was concerned that the views portrayed in the documentary may be polarizing and may cause a further divide among the student body. Mr. Brown also said that the narrator, Roger Waters, was an issue. He did not say anything about the possibility of disruption at school if the movie were shown. He also told us that the documentary was not included in a DCPS-provided list of suggested resources about the Israeli-Palestine conflict. Mr. Brown explained that if we wanted to use other resources, we had to provide them to him in advance so he could vet and approve them. At the end of that meeting, Mr. Brown said that his mind was “set” about not allowing the ASU to screen *The Occupation of the American Mind*.

10. On January 3, 2024, after returning to school after winter break, I emailed Mr. Brown with a list of four additional films ASU could screen. My email said, “We want to start our monthly screening with these movies so please get back to us.” Mr. Brown did not respond for more than a month. On February 6, he emailed me saying “These movies are currently under review, and I’ll provide you with an update by the end of the week.” On February 12, he emailed

that the films were still under review. On February 22, he told us that he had spoken with a DCPS's "content specialist" and was hoping to get a response the next day. To this day, we have not heard back from Mr. Brown about whether we are allowed to screen any of the films we proposed.

11. The decisions about what ASU can and can't do at Jackson-Reed are made at Jackson-Reed. This was made clear at a meeting held on March 12, 2024, between several members of the ASU and Mr. Raymond Hamilton, Director, Office of Teaching and Learning at DCPS, and Ms. Tomeka McKenzie, Resident Principal at Jackson-Reed. During that meeting, Mr. Hamilton, speaking for the central office, explained, "we're not making decisions on what is shown. That's up to admin. But as you all are aware, this is a very charged situation at Jackson-Reed and we just want to make sure that everything is, is considered before we, anything is done." At that point I asked him, "So you mean admin at our school or admin, like central office?" He replied, "Admin at the school."

12. ASU wants to show *The Occupation of the American Mind* while students are still at school this semester. The last day of school for Seniors is Friday, June 7, and we want interested Seniors to be part of our audience, so they can bring a better understanding of this subject with them to college next fall. Members of the club who are Seniors, including me, also want to participate in the screening and the discussion.

13. The second event we tried to host was a Palestinian Culture Night in January 2024. Other student clubs have held similar events. For example, in May 2023, the Ethiopian Eritrean Organization hosted a cultural event. The event was so successful that they are going to have another one this year in May 2024. The ASU based its vision for a Palestinian Culture Night on that event.

14. We were told we could not do this. They didn't give us a reason. Later, when we tried to plan it again, they said it was DCPS policy that programming like this needed to be approved a month in advance.

15. Since we couldn't hold our cultural event at the school, we held it at Busboys and Poets, a restaurant located in Takoma Park, D.C., on January 18. The restaurant was filled to capacity, and the evening was overall a success. However, because it was off campus, it was only attended by a handful of Jackson-Reed students who were not members of the ASU. Because Jackson-Reed students were the primary audience we wanted to reach, we still want to have a Palestinian Culture Night at Jackson-Reed.

16. The months-long process of trying to organize this event has been painstaking and discouraging. Unlike with the Ethiopian Eritrean Organization's event, we have had to submit for review every aspect of our proposed Palestinian Culture Night, and the school administration has scrutinized every detail. We had to submit a PowerPoint describing the proposed run-of-show for the evening. We were told that the purpose of the PowerPoint was to provide a high-level overview of the planned event, which was all the school needed to see. However, after it was reviewed, we were told that it did not include enough about the specifics of what we were planning, and we had to provide more details. In all of our conversations about this event, no one from the school ever mentioned disruption as a concern.

17. The Palestinian Culture Night is now scheduled for April 25, 2024, but it has been so heavily censored and restricted that the plan for the event does not represent the vision we hoped for the night.

18. Because we are holding a cultural night at school in a few days, there isn't time to organize a second one this semester. But we want to organize another one during the 2024-25

academic year, with the content of our choice and not subject to censorship of every detail by the school.

19. The third activity we have tried to engage in and have been met with resistance from the school is tabling. Student clubs at Jackson-Reed regularly engage in tabling in the school's atrium during lunch hour. The school provides tables and chairs for students to promote their respective clubs and spread awareness about the subject matter of the clubs. Students also distribute small items to each other in school on an even more informal basis. For example, some students have recently distributed blue ribbons that other students can wear to express support for Israel. They don't need school permission to do that, and no one has stopped them.

20. ASU wanted to have a tabling where we would distribute Pro-Palestine stickers, offer face-paint "tattoos," and distribute a one-page "zine" that illustrated and described various Palestinian symbols. In the past, the ASU has not had to seek and obtain prior approval of materials to be used at tabling events. To my knowledge, no other clubs have had to submit tabling materials for preapproval. For this tabling event, however, the ASU was required to submit the zine for prior review. On March 5, 2024, Ms. Tomeka McKenzie, Resident Principal, informed me via email that she had reviewed the zine and the ASU was required to remove the imagery of and any information about the "Key of Palestine" and the cartoon character Handala. A copy of the zine we wanted to distribute is attached to this declaration as Exhibit B. A copy of the censored zine we were allowed to distribute is attached to this declaration as Exhibit C. One of our members also brought some stickers to distribute, with designs showing the Palestine flag, an outline of the country, and one that said "Free Palestine." Ms. McKenzie refused to let us distribute these stickers, except the one with the Palestine flag. She didn't give any reason.

21. ASU and its members want to do another tabling this semester, without censorship of our handouts.

22. Other school clubs engage in activities that some people may disagree with or find offensive, and the school does not stop their activities the way it stops ASU's. For example, I am active in a school club called The Birds & The Bees Sexual Health Club, which also meets during lunch hour. That club has distributed condoms on school grounds, along with a flier providing information about their use, about safe and unsafe sexual practices, and about sexually transmitted infection. The school has not interfered with that activity, which we conducted multiple times this year. The school did request that we distribute the condoms after class rather than during lunch hour, and we were happy to do that. Another school club, the Gender and Sexuality Alliance, has organized many events, including a Trans Day of Visibility, a Lesbian Visibility Week, a Queer Visibility Fair, a sale of Pride merchandise in the Atrium during Pride month, and a screening of an original video on the history of the Queer rights movement and the Queer Student experience at Jackson-Reed.

23. None of our activities has caused any disruption at school. Also, none of the publicity surrounding them has caused or even threatened to cause any disruption at the school. Instead, the publicity has spurred meaningful discussions and raised awareness. ASU members have shared their opinions and feelings about the events in Gaza with fellow students, and those conversations have been mutually respectful. Students at Jackson-Reed understand that education does not occur only in class, and they value the exchange of views with others who do not necessarily share their own views. Students at Jackson-Reed have, for many years, been presented with information about, and engaged in conversations about, highly controversial subjects such as presidential politics, abortion, racial justice, immigration, and others. None of

this has led to disruption. Of course, there are some students who disagree with the ASU's position and its message, but students at Jackson-Reed understand that disagreement is part of life. Jackson-Reed students disagree about many things, and we have no problem discussing and debating them. Having discussions with people who have differing opinions promotes critical thinking, which is something we're supposed to learn in school.

24. In our meetings and emails with school officials regarding the ASU's proposed events, school officials have never said that they fear our activities would disrupt classes or create disorder in the school. None of our proposed events would occur in class or during class hours. Instead, these events would be over the lunch hour or after school. No student would be required to attend any of our events, or to accept a zine or a "tattoo" or a sticker.

I declare under penalty of perjury that the foregoing is true and correct.

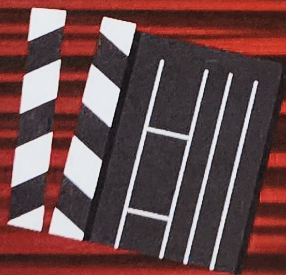
Executed in Washington, D.C. on April 24, 2024.

/s/ [Name omitted]
[Name omitted]

LET'S GET EDUCATED!

Arab Student Union Presents...

**MOVIE
SHOWING**



**THE OCCUPATION OF THE
AMERICAN MIND**

Join us in learning & discussing!

Snacks will be provided

Thursday & Friday

14th & 15th of December

@Lunch in room 325



LOCAL PALESTINIAN-OWNED BUSINESSES IN THE DMV!

RESTAURANTS

- Bawadi Mediterranean Grill (Falls Church)
- Mama Ayesha's (Adams Morgan)
- Haifa Grill (Arlington)
- Olive Lounge & Grill (Takoma Park)
- Urban Roast (Gallery Place)
- Jerusalem Mediterranean Restaurant (Falls Church)

CAFES/OTHER

- Z&Z Bakery (Rockville)
- Detour Coffee (Arlington)
- Jenin Pastry (Falls Church)
- Museum of the Palestinian People (Dupont Circle)
- Pita on the Plaza (Bethesda)
- Yellow cafe (Georgetown)



Handala
"The 10 year old who never grew up"

Handala is a cartoon character created in 1969 by Palestinian political cartoonist Naji Al-Ali. Handala symbolizes Palestinian resistance and struggle, the name coming from the handal plant that grows in the Middle East known to be resilient and grows back when it is weeded out. Handala has his back turned to represent a rejection of solutions from foreign countries that have been imposed on Palestine.

Naji Al-Ali explains why Handala was created, "Handala was born ten years old, and he will always be ten years old. At that age, I left my homeland, and when he returns, Handala will still be ten, and then he will start growing up. The laws of nature do not apply to him. He is unique. Things will become normal again when the homeland returns."

The Key of Palestine

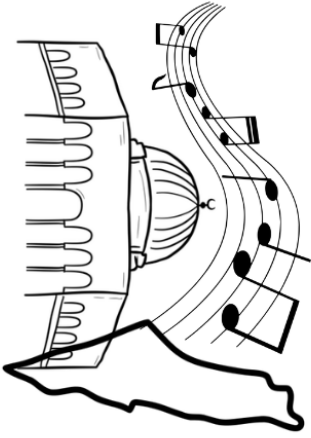


The Palestinian key is a symbol of the right of return to the lands that were originally Palestinians in 1948, 1967, and beyond. The key also symbolizes the homes lost in the Nakba when more than half of the population of Mandatory Palestine were either expelled or fled violence in 1948.

Many Palestinian families still have the keys to the houses they were driven from when the state of Israel was created. The keys have been passed on from generation to generation as a reminder of their lost homes. They all carry the hope that they will one day return.

COME TO PALESTINIAN CULTURE NIGHT!

APRIL 25TH 6-8PM
JACKSON-REED HS
ATRIUM



Explore Palestinian food, music, dance and more!

The Palestinian Keffiyeh



Bold
Represents the trade routes going through Palestine which played a vital role in carving the history and rich diverse culture of Palestinian identity.

Fishnet
Represents the relationship between the Palestinian fisherman and the Mediterranean sea especially since fishing was a huge aspect of life and trade. It also symbolizes abundance, grace, and freedom-particularly to Palestinians living in the west bank who have no access to the sea due to Israel's restrictions on their movement.

Olive Leaves
The olive tree is seen by many Palestinians as being a symbol of nationality and connection to the land, particularly due to their slow growth and longevity. Native olive trees and the annual harvesting season have thrived in Palestine for hundreds of years to represent Palestinians' relationship to the land as indigenous peoples. Approximately one million olive trees, many of which were centuries old, have been uprooted and burned by Israel since 1967 in the pursuit of making space for settlements.

SYMBOLS OF PALESTINE & PALESTINIAN PLACES TO SUPPORT IN THE DMV



SYMBOLS OF PALESTINE & PALESTINIAN PLACES TO SUPPORT IN THE DMV

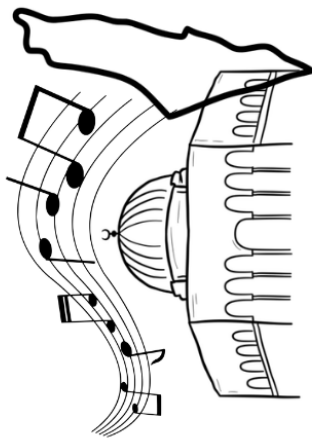


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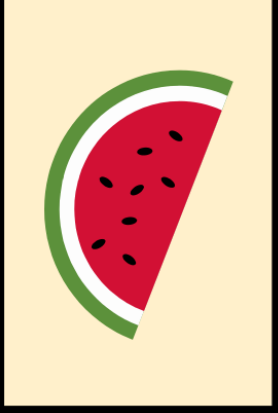
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COME TO PALESTINIAN CULTURE NIGHT! APRIL 25TH 6-8PM JACKSON-REED HS ATRIUM

Explore Palestinian food, music, dance and more!



Watermelon
A symbol of resistance

In the aftermath of the 6 day war in 1967, along with Israel's new control over Gaza and the West Bank, the Israeli Government banned the display of the Palestinian Flag in these territories.

Amidst this, Palestinians turned to the Watermelon which when cut open, reveal the same as their flag. A silent yet powerful form of protest against the ban. This allowed Palestinians to subtly express their national identity and resistance

LOCAL PALESTINIAN-OWNED BUSINESSES IN THE DMV!

CAFES/OTHER

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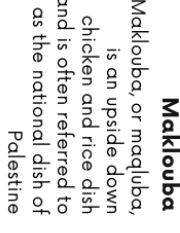
Palestinian foods

Za'atar
Za'atar is a spice mix that originated in Palestine in the 12th century. Za'atar is made from the dried and ground wild hyssop plant, which is similar to oregano. The mix also includes sesame seeds and sumac, giving it an earthy flavor with a hint of tartness.



Hummus

Hummus is a popular Levantine dish that most likely originated in Syria, but is eaten throughout the Middle East with distinct variations in Lebanon and Palestine. It's made of chickpeas, garlic, lemon, olive oil, and tahini (sesame paste)



Maqluba

Maqluba, or maqluba, is an upside down chicken and rice dish and is often referred to as the national dish of Palestine

Debke



The word 'dabke' is derived from the Arabic term 'dabaka', which denotes stamping of the feet. The dance originated from the Levantine area, but there are many different styles of the dance in the region.

Dabke serves as a symbol of Palestinian nationalism and cultural heritage, embodying themes of steadfastness and resistance against oppression. It is a way for Palestinians to maintain identity and foster community. Through its performances and teachings, dabke remains a vital component of Palestinian culture, conveying a message of defiance, resilience, and cultural pride.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ARAB STUDENT UNION OF THE
JACKSON-REED HIGH SCHOOL

Plaintiff,

v.

No. 1:24-cv-_____

DISTRICT OF COLUMBIA, et al.,

Defendants.

**DECLARATION OF FACULTY SPONSOR IN SUPPORT OF
PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION**

I, [Name omitted], declare as follows:

1. I am over 18 years of age and a resident of the District of Columbia. I am competent to make this declaration, which is based on my personal knowledge of the matters described.

2. I am a science teacher at Jackson-Reed High School (Jackson-Reed). I joined the faculty in 2019, so this is my fifth school year teaching at Jackson-Reed. I am also the faculty sponsor of the Arab Student Union (ASU), a student-led organization at Jackson-Reed. I have been the ASU faculty sponsor since the club was formed during the 2021-2022 school year.

3. The ASU is one of more than 60 clubs at Jackson-Reed. Some student organizations have school faculty who are in leadership roles, while other clubs are truly student-run. The ASU is one of the student-led organizations, and my role as the club's faculty sponsor is to support the ASU students by assisting with logistical matters and interfacing with the school administration.

4. Also, as the club's faculty sponsor, I allow ASU to host its meetings in my classroom every Monday during lunch hour (officially called the Student-Teacher Enrichment Period, or STEP). While the ASU holds its weekly meetings, I concurrently host an open study hall for the

students in my science classes to drop in to ask questions and discuss the assigned material. On any given day, there are usually 10-15 students who come to my study hall during the lunch hour. Because I am working with these students, I am not generally involved in the ASU's weekly meetings.

5. In previous school years, the ASU organized and hosted several events at Jackson-Reed, including a "Pennies for Palestine" fundraiser in January-February 2023 which raised some money for humanitarian aid, and a celebration in May 2022, near the end of Arab Heritage Month, where ASU students gave out Middle Eastern food. This year, the ASU has run several events, including a joint meeting with Jackson-Reed's Jewish Student Union in January 2024 where the two groups played games and ate food together and a tabling event in April 2024 where students and staff could stop by to get their names written in Arabic.

6. While there have been successful ASU events this year, the club has faced an unprecedented amount of pushback and restrictions in their attempts to run three events aimed at raising awareness of Palestinian culture and current events in Gaza.

7. First, the ASU planned to use my classroom to screen a 49-minute documentary film, *The Occupation of the American Mind*, over two club meetings during lunch hours on December 14 and 15, 2023. A week prior to the event, members of the ASU club put up posters on some of the walls in the school's hallways. Members of student clubs routinely promote their upcoming events with written materials without any prior review or approval by school faculty or administrators. In this instance, although it was not necessary, I did inform the School Activities Director about the event. I forwarded her a link to the trailer and orally informed her that the club was putting up posters.

8. At about 4:30 pm on December 6, 2023, I received a text message from my friend and colleague, Aaron Besser, who is the Sponsor of the Jewish Student Union. When he texted, he was at Jackson-Reed for an after-school event with parents of Jackson-Reed students. Aaron's text said that he had been approached by a parent who was holding one of the ASU's posters about the documentary film screening event the following week. The parent was unhappy and asked Aaron whether he knew about this event and Aaron replied that he did not.

9. The next day, on December 7, 2023, a school administrator told me that the posters were taken down because the documentary film screening event had not been approved. In an online announcement subsequently posted on the school website, Principal Sah Brown referred to the ASU's planned film screening as an "unsanctioned event" and an "unsanctioned activity."

10. I was surprised by that description because there is no rule requiring students to obtain permission to screen a film during a club meeting over lunch. There is an online form, "Internal Building Use Agreement," that club Sponsors fill out for larger events that require school resources (e.g., tables, chairs, microphones, projectors, staff volunteers) and use of a space other than the Sponsor's classroom (e.g., library, cafeteria, atrium). This form does not have to be used when clubs want to host informal club events in classrooms during lunch hour. Other student clubs at Jackson-Reed routinely show films and tv shows at school, including French films screened by the French Club and Marvel movies screened by the Marvel Monday Club. As is practice, students in these clubs do not seek prior approval of the specific films they want to show and they don't seek approval for the written materials, including posters, that they use to promote the film screenings.

11. On December 10, 2023, Mr. Brown informed me via email that he would not allow ASU to screen *The Occupation of the American Mind*. The text of his email was as follows:

Good morning Mr. [Name omitted]

Thank you for meeting with us on Friday. I'm writing to inform you that I have decided not to permit the viewing of "The Occupation of the American Mind." The content and individuals associated with the film may provoke strong emotional responses or polarizing views within our diverse school community. As a result, you may not show that film.

If you have other movies you'd like to show, please bring them to my attention and gain approval prior to announcing. Enjoy the rest of your weekend.

Mr. Brown did not express any concern that showing the film could cause any disruption at the school.

12. Two days later, on December 12, 2023, I attended a meeting with ASU students, Mr. Brown, and other school administrators. The purpose of the meeting was to discuss the school's cancellation of the film screening event and to clarify the event approval process moving forward. Mr. Brown explained that he was concerned that the views portrayed in the documentary may be polarizing and may cause a further divide among the student body. He added that the movie's narrator (Roger Waters) was a problem, and that he would not feel comfortable associating the school with a person whose views are critical of people that are part of the school community. Again, he did not say anything about having any fear of disruption if the movie were shown. He stated that his mind was set about not allowing the ASU to screen the film. He also said that if ASU wanted to present materials that were not included on a DCPS-provided list of suggested resources about the Israeli-Palestine conflict, then the club had to submit them to him for vetting and approval.

13. The second event the students wanted to host was a Palestinian Culture Night. Since this was a larger event and after regular school hours, I had to fill out an "Internal Building Use Agreement." I submitted this form online on December 19, 2023, and it was promptly approved. The event was scheduled for January 18, 2024—thirty days later—and it was put on Jackson-

Reed's official calendar. However, the event was later removed from the calendar. I was told that the reason for the removal was because the ASU had not planned the event one month in advance. That was the only reason given; no fear of any disruption was expressed. This was my first time hearing of such a policy, which is not reflected in the staff handbook or any other written materials provided by the school. The ASU tried to reschedule the event for February or March with more than one month's notice, but they were not allowed to do so, so it was obvious that the one-month rule was not the real issue.

14. The students decided to host the event off-campus at a local restaurant. But because few students who were not members of the ASU attended that event, the ASU still wanted to host a Palestinian Culture Night at Jackson-Reed, and they attempted to plan such an event. However, leaders and members of the ASU have been subjected to an approval process unlike any I have experienced with ASU in the past or that sponsors of other clubs have ever had to go through. Although a Palestinian Culture Night is now scheduled for April 25, 2024 at Jackson-Reed, it has been so controlled by the administration that it no longer presents the message the ASU students had envisioned for the night.

15. The final activity by the ASU that has been overly regulated by the school's administration is a tabling event where ASU students gave out stickers, provided face-painting, and distributed a one-page "zine" that included symbols and information so other students could learn about Palestine. As with written materials for promoting events, written materials distributed during tabling do not have to be pre-approved. Nonetheless, the school required the ASU students to submit their zine for review, and then required them to remove certain symbols and the accompanying descriptions.

16. An ASU student-member brought to the tabling event several different types of stickers to hand out, including stickers showing the Palestine flag, an outline of the country, and one that said “Free Palestine.” During the tabling, Ms. Tomeka McKenzie, Resident Principal, told the students that they were not allowed to distribute the stickers with the outline of Palestine or the ones that said “Free Palestine.” Ms. McKenzie cited no policy or guidelines and gave no reason for this censorship. (The title “Resident Principal” means principal-in-training. Many of Ms. McKenzie’s responsibilities were in line with those of the assistant principals at Jackson-Reed, and Mr. Brown delegated to her the responsibility of being the administration’s point of contact for the Arab Student Union. She is currently stationed at another school and most of her duties have been shifted to some of the other assistant principals, but I have been told that she remains the point of contact.)

17. Over the last three years that I have been ASU’s faculty sponsor, the club has hosted several events and activities. Like the events of other clubs, ASU’s events have not caused a disruption or disturbance. And there is no reasonable basis to believe that allowing the ASU to carry out the expressive activities they wish to conduct would result in any disruption. The students at Jackson-Reed live in the nation’s capital and are accustomed to hearing, seeing, and learning about political and social controversies, including the events of the past six months in and around Gaza. Jackson-Reed is one of the most diverse high schools in the country, and its students know that their fellow students come from many different backgrounds and hold differing viewpoints on many issues. They are exposed to differing opinions every day, in newspapers, on television, and in social media, as well as in conversations with fellow students and others. None of this has led to disruption. There has been extensive publicity about the ASU’s efforts to show the *Occupation* movie and to present a Palestinian cultural event. That

publicity has led to much discussion and some disagreement among students but has not led to any disruption or threatened disruption at the school.

18. The only events on which the ASU has received pushback from the administration are events involving Palestine. In my opinion, the ASU deserves to put on their planned events without the censorship and restrictions that they have faced, which no other group has faced as far as I know. The school administration should not apply policies that are not applied to other groups in order to silence ASU's attempts to raise awareness about an important topic and to foster productive and respectful dialogue about what is currently happening in Gaza.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Washington, D.C. on April 24, 2024.

/s/ [Name omitted]
[Name omitted]

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ARAB STUDENT UNION OF
JACKSON-REED HIGH SCHOOL,

Plaintiff,

v.

DISTRICT OF COLUMBIA, et al.,

Defendants.

No. 1:24-cv-_____

**[Proposed]
PRELIMINARY INJUNCTION**

Upon consideration of Plaintiffs' motion for a preliminary injunction, of any opposition thereto, and of the entire record in this action,

It appearing to the Court that Plaintiffs are likely to succeed on the merits of their claims, that they will suffer irreparable injury if the requested relief is not issued, that the Defendants will not be harmed if the requested relief is issued, and that the public interest favors the entry of such an order, it is, therefore,

ORDERED that Plaintiffs' motion for a preliminary injunction is hereby GRANTED;
and it is further

ORDERED that Defendants District of Columbia, Sah Brown, and all persons acting under their supervision or in concert with them, shall, pending further order of this Court, allow Plaintiff and its members to show the movie *The Occupation of the American Mind* during two lunch hours on or before June 7, 2024, and to advertise the event beforehand using posters on school walls; and it is further

ORDERED that Defendants District of Columbia, Sah Brown, and all persons acting under their supervision or in concert with them, shall, pending further order of this Court, allow Plaintiff and its members to distribute, by tabling in the atrium during a lunch hour on or before June 7, 2024, handouts and stickers about Palestinian culture with the expressive content Plaintiff and its members wish to include; and it is further

ORDERED that Defendants District of Columbia, Sah Brown, and all persons acting under their supervision or in concert with them, shall, pending further order of this Court, permit Plaintiff to engage in expressive activities pursuant to the same rules, procedures, and practices—and not different or additional ones—that govern the activities of all other Jackson-Reed High School recognized student organizations; and it is further

ORDERED that this injunction shall be effective upon service on the defendants, and no bond shall be required.

Date: _____

United States District Judge