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9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF CALIFORNIA**

11 California Parents for the
12 Equalization of Educational Materials,

13 Plaintiff,

14 v.

15 The California State Department of
16 Education; The California State Board
of Education; Glee Johnson, President;
17 Kenneth Noonan, Vice President; Alan
Bersin; Ruth Bloom; Yvonne Chan;
18 Donald G. Fisher; Ruth E. Green; Joe
Nuñez; Bonnie Reiss; and Tom Adams,

19 Defendants.
20
21

Case No. _____

COMPLAINT FOR:

- (1) Violations of CAL. EDUC. CODE §§ §§ 51500, 51501, & 60044
- (2) Violation of the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution
- (3) Violation of the First Amendment to the U.S. Constitution
- (4) 42 U.S.C. § 1983
- (5) Violation of the Bagley-Keene Open Meeting Act
- (6) Violation of SBE and CDE Rules, Regulations, and Guidelines

1 Plaintiff, California Parents for the Equalization of Educational
2 Materials (“Plaintiff”) files this Complaint against the California State Board
3 of Education, the California Department of Education, and various individual
4 members (collectively “Defendants”), for itself and on behalf of its members
5 who are parents (the “Parents”) who have children attending public schools in
6 the State of California and who will be attending public schools in the State of
7 California in the first through sixth grades (the “Students”). Plaintiff alleges
8 based on personal knowledge as to Plaintiff’s own activities, and on
9 information and belief as to the activities of others, as follows:

10 11 I. NATURE OF THE CASE

12 1.1. This case challenges the derogatory and unequal treatment of the
13 Hindu religion in social sciences textbooks used in the sixth grade in the
14 California public education system.

15 1.2. Specifically, Plaintiff challenges the recent adoption of certain
16 suggested edits and rejection of other edits by the California State Board of
17 Education (“SBE”) and the California Department of Education (“CDE”).
18 Plaintiff challenges the substance of the final edits as well as the procedure
19 followed by the SBE and CDE in adopting certain edits and rejecting others.

20 1.3. The SBE’s and CDE’s actions resulted in the adoption of
21 educational materials which – because they (1) embrace Judeo-Christian
22 conceptions of Divinity to the exclusion of other conceptions, (2) portray
23 Hinduism in an inaccurate manner, and (3) portray Hinduism in a negative
24 light compared to other religions – will cause stigma, and significant and
25 irreparable harm to the Students, and other non-Hindu students, and which
26 will result in the denial of equal educational opportunities for these students.

27 1.4. This lawsuit seeks to enjoin the Defendants’ unlawful conduct, a
28 declaration that Defendants’ actions were improper, and an Order prohibiting

1 Defendants from taking actions injurious to Plaintiff's rights.
2

3 **II. THE PARTIES**

4 2.1. Plaintiff, California Parents for the Equalization of Educational
5 Materials, is a California non-profit corporation, with its principal place of
6 business in San Jose, CA 95136.

7 2.2. The California State Board of Education (SBE) is an
8 administrative body of the State of California charged with, among other
9 things, adopting and approving educational materials for public schools in the
10 State of California. The SBE is the policy-making body for public elementary
11 and secondary school education.

12 2.3. Defendants Glee Johnson, Kenneth Noonan, Alan Bersin, Ruth
13 Bloom, Yvonne Chan, Donald G. Fisher, Ruth E. Green, Joe Nuñez, and
14 Bonnie Reiss are all believed to be residents of the State of California, and
15 were or are board members of the SBE.

16 2.4. The California Department of Education (CDE) is a California
17 state agency which oversees the public school system of the State of
18 California.

19 2.5. Tom Adams is believed to be a resident of the State of California,
20 and the Director of the Curriculum Framework/Instructional Resources
21 Division of the CDE. Mr. Adams oversees the textbook revision process for
22 the CDE.
23

24 **III. JURISDICTION AND VENUE**

25 3.1. This Court has original subject matter jurisdiction over this
26 action pursuant to 28 U.S.C. § 1331 over Plaintiff's causes of action arising
27 under the First and Fourteenth Amendments to the United States
28 Constitution, 42 U.S.C. § 1983, and the Declaratory Judgment Act, 28 U.S.C.

1 §§ 2201 and 2202. The Court has supplemental jurisdiction over Plaintiff's
2 remaining causes of action pursuant to 28 U.S.C. § 1367.

3 3.2. This Court has personal jurisdiction over the Defendants because
4 each of them are present, domiciled, resident, or a citizen of this state.

5 3.3. Venue is proper pursuant to 28 U.S.C. § 1391(b) because one or
6 more of the Defendants reside in this District, and the events or omissions
7 giving rise to the claims at issue occurred in this District.

8 9 IV. FACTS

10 A. THE TEXTBOOK APPROVAL AND REVISION PROCESS

11 4.1. Every six years the SBE and CDE adopt and approve textbooks
12 and instructional materials for use in public schools in California. In most
13 cases, the SBE and CDE revisit existing textbooks and approve revisions and
14 edits to existing textbooks (the "Materials").

15 4.2. The Curriculum Development and Supplemental Materials
16 Commission (the "Curriculum Commission"), an advisory body to the SBE,
17 makes recommendations for specific edits and corrections to the textbooks.
18 The SBE adopts or rejects these recommendations.

19 4.3. The SBE generally conducts the corrections process in a public
20 manner, and allows interested groups the opportunity to publicly comment
21 and participate. Christian, Jewish, Buddhist and Muslim groups have long
22 participated in this process.

23 B. THE 2005 REVIEW

24 4.4. CDE opened History-Social Sciences textbooks in California for
25 public review and comment during the 2005 adoption process. During a
26 September 2005 meeting, it collected and received all submissions for changes
27 and edits.

28 4.5. Marking the closure of the review process, the CDE sent the

1 suggestions to the Curriculum Commission so that the Curriculum
2 Commission could make its recommendations to the SBE, who could then
3 make the final decision regarding the suggestions.

4 4.6. Like other religious groups (*e.g.*, Jewish and Muslim groups)
5 various Hindu groups, including the Hindu Education Foundation and the
6 Vedic Foundation (the "Hindu Groups") suggested edits during the September
7 2005 meeting. Other groups such as Educators' Society for the Heritage of
8 India submitted comments directly to the SBE.

9 4.7. In response to the large volume of comments from the Hindu
10 Groups the CDE constituted an ad-hoc committee ("AHC") along with a
11 Content Review Panel Expert ("CRPE") to review the edits and corrections
12 proposed by the Hindu Groups.

13 4.8. The CDE retained Dr. Shiv Bajpai (Professor Emeritus in
14 History, California State Northridge) as the sole member of the CRPE. The
15 CDE required Professor Bajpai to fulfill three criteria prior to his
16 appointment: (1) he could not have published with any of the textbook
17 publishers for the prior three years; (2) he had to be an expert of ancient
18 Indian history and Hinduism; and (3) he could not be affiliated in any way
19 with the Hindu Groups (the Vedic Foundation or the Hindu Education
20 Foundation).

21 4.9. In October, the AHC and Professor Bajpai reviewed the edits and
22 corrections proposed by the Hindu Groups. The AHC and Professor Bajpai
23 approved the majority of these proposed edits. On October 31, 2005, the AHC
24 and Professor Bajpai (along with other ad hoc committees and subcommittees
25 which dealt with other groups such as Muslim and Jewish groups) made their
26 recommendations to the Curriculum Commission. The AHC did not have an
27 opportunity to review all of the edits, and Professor Bajpai requested the
28 AHC to seek additional time from the SBE in order to consider all of the edits

1 proposed by the Hindu Groups.

2 4.10. Of the edits AHC considered the Curriculum Commission
3 accepted the recommendations of AHC and Professor Bajpai in full and
4 submitted these recommendations (the “Initial Revisions”) to the SBE for
5 final approval.

6 **C. THE INITIAL REVISIONS**

7 4.11. The Initial Revisions principally addressed the following issues,¹
8 seeking to correct numerous inaccurate characterizations of the Hindu faith:

9 **The Origins of Hinduism: Aryan Invasion Theory.**

10 4.12. The Aryan Invasion Theory (“AIT”), prominently featured in all of
11 the textbooks, holds that a people called “Aryans” migrated into Northern
12 India sometime in the second millennium B.C.E. For example, one textbook
13 states: “Around 1500 BCE, invaders called Aryans conquered northern India.
14 Some historians credit the Aryans with bringing Hinduism to India.”

15 4.13. AIT decidedly has an ethnic or racial component. For example,
16 Professor Stanley Wolpert, a proponent of the AIT, and one of the individuals
17 who objected to the Initial Revisions, notes in one of his books that “[the
18 Aryan invasion] was the most important invasion in all of India’s history,
19 since the Aryans brought with **their Caucasian genes** a new language –
20 Sanskrit – and a new pantheon of gods . . .” (See Stanley Wolpert, A New
21 History of India, 4th Edition, Oxford University Press (emphasis added).)

22 4.14. AIT lacks a scholarly basis and lacks support in the Hindu texts.
23 AIT is derived from a Biblical, colonial, and Eurocentric perspective, and
24

25
26 ¹ In addition to these issues, the Hindu Groups sought to correct
27 numerous errors, misstatements, incorrectly captioned or incorrect
28 photographs, and contradictions. For purposes of brevity, the Complaint
focuses on the issues discussed below.

1 presupposes the truth of the Judeo-Christian version of creationism.²

2 4.15. AIT is particularly offensive when used to explain the genesis of
3 the Hindu faith because the theory purports to project modern racial and
4 ethnic stereotypes onto Hindu traditions, when no such notions existed in
5 ancient India.

6 4.16. With respect to the origin and migrations of the adherents of
7 other religions (*e.g.*, Judaism and Islam), the SBE deferred to the
8 characterizations of the adherents, or the prevailing texts.

9 **Treatment of Women.**

10 4.17. The textbooks typically single out Hinduism for granting a
11 grossly inferior status to women vis-à-vis men.

12 4.18. When viewed relative to other ancient religions, however,
13 Hinduism granted women equal – if not greater status. For example, the
14 textbooks ignore the significant role and positive contributions of women to
15 Hinduism.

16 4.19. Hinduism is one of the few living traditions that honors and
17 worships the feminine manifestations of the Divine. These manifestations
18 receive no positive attention in the textbooks. Similarly, Hinduism boasts a
19 long and ancient history of women sages of the Vedas. Ignoring this, the
20 textbooks single out and highlight only women mentioned in the Judeo-
21 Christian texts.

22
23 ² Like other proponents of AIT, Professor Wolpert cited to the work of
24 colonialists, such as Max Muller, who also held an unabashed creationist,
25 anti-evolutionist, and Biblical perspective. Max Muller is quoted as “[looking]
26 upon the account of creation as given in Genesis as **simply historical**.” (*See*
27 *Letter to The Duke of Argyll*, 4 Feb 1875, *The Life and Letters of Friedrich*
28 *Max Muller*, vol. 1, page 509 (emphasis added).) Max Muller seemed to share
Kipling’s view of India; he once wrote: “India has been conquered once, but
India must be conquered again India can never be anglicized, but it can
be reinvigorated” (*See Id.* at p. 377.)

1 4.20. Some textbooks inaccurately note that in ancient India Hinduism
2 denied property rights to women, and denied them education.

3 4.21. With respect to other religions and societies the textbooks were
4 far more favorable of their portrayal of the differences in status between men
5 and women. For example, with respect to ancient Greek society, the
6 Curriculum Commission recommended an edit (ultimately adopted by the
7 SBE) that read “[i]n Athens, for example, girls stayed at home, and boys went
8 off to school.” This is a euphemistic way of saying that women received less
9 education than men. The edit also notes that it clarifies the statement to
10 make clear it refers to Athenian society and not necessarily Greek society in
11 general.

12 4.22. With respect to the edits relating to the status of women
13 suggested on behalf of other groups, revisions adopted by the SBE were far
14 more solicitous.

15 4.23. In general, the textbooks portray women as having greater status
16 in other ancient societies than in ancient Hindu society, when, in reality,
17 women did not enjoy a particularly inferior status in ancient Hindu society.

18 **Wrongly Conflating Untouchability with Hinduism.**

19 4.24. The textbooks improperly present social evils as Hindu
20 characteristics and fail to explain that such practices have no basis in the
21 Hindu faith.

22 4.25. The textbooks discuss the social practice of untouchability, only in
23 the context of Hinduism. However, the practice is not sanctioned anywhere
24 in the sacred texts of Hinduism. Hindu societies – such as in Bali (Indonesia)
25 – never practised untouchability. It is a social and not a religious construct.

26 4.26. The textbooks ignore the fact that both Muslims and Christians
27 in India practiced, and continue to practice, untouchability. The scriptures of
28 other major ancient religions contain endorsements of the practice of

1 untouchability. However, Hinduism seems to be singled out in these
2 textbooks.

3 4.27. The fact that Hindu scriptures do not advocate this practice was
4 used by Mahatma Gandhi, a devout Hindu, to fight the practice in modern
5 times. Mahatma Gandhi called modern untouchables “Harijans,” or people of
6 God, in order to fight this practice.

7 4.28. One textbook commences the section on Hinduism with a
8 rhetorical question purporting to juxtapose modern egalitarian ideals with
9 alleged ancient Hindu-endorsed notions of social inequality.

10 **Failure to Articulate the Hindu Conceptions of the Divine.**

11 4.29. The textbooks portray two possible conceptions of God: the Judeo-
12 Christian concept of God as a single omnipotent being separate and apart
13 from humans, versus a polytheistic concept of multiple gods, also separate
14 and apart from humans.

15 4.30. Hinduism, as expressed in the relevant texts, conceives of God as
16 an omnipotent force that is not separate and apart from humans. Hinduism
17 holds that the universe, and everything in the universe, is a manifestation of
18 the Divine. Hinduism conceives of all living things as being, or having a part
19 of, the divine force. God in Hinduism is both immanent and transcendent –
20 the Hindu religion is monistic in nature. Hence, Hindu concepts of divinity
21 do not neatly fit into either the Judeo-Christian framework or the polytheistic
22 alternative.

23 4.31. The textbooks ignore this nuance altogether and instead wrongly
24 describe central Hindu tenets based on the Judeo-Christian conception and
25 the polytheistic alternative.

26 4.32. The textbooks accurately portray the core of the Judeo-Christian
27 conceptions of Divinity but make no effort to accurately portray the Hindu
28 conceptions of Divinity.

1 **Derogatory Remarks About Hinduism and Hindu Tenets:**

2 4.33. Certain textbooks characterize Buddhism, which has its historical
3 origins in the practice of Hinduism, as somehow an improvement over
4 Hinduism. Analogously, no textbook claims that Christianity is an
5 improvement over Judaism.

6 4.34. Hindu beliefs are often held up to ridicule in these textbooks. For
7 example, one textbook erroneously describes Durga and Kali as “blood-thirsty
8 goddesses.”

9 4.35. Central Hindu texts are repeatedly described using terms such as
10 ‘stories’, ‘poems’, ‘myths’ whereas textbooks typically use the word ‘scriptures’
11 for Judeo-Christian religions such as the Bible, Koran, and the Torah.

12 4.36. The textbooks also ignore significant contributions to modern
13 society having their roots in Hinduism. Specifically, the practices of Yoga,
14 meditation, and Ayurveda medicine all currently enjoy widespread adoption
15 in the modern Western world. However, these are not accurately described
16 anywhere in the sections on Hinduism, notwithstanding their Hindu roots.
17 In contrast, textbooks describing other religions make special efforts to
18 highlight and explain their contributions to modern society.

19 **D. THE WITZEL LETTER**

20 4.37. On November 8, 2005 Professor Michael Witzel, a Professor of
21 Sanskrit at Harvard University sent a letter to the SBE (the “Witzel Letter”).
22 A copy of this letter is attached hereto as **Exhibit A**.

23 4.38. The Witzel Letter accused the Hindu Groups of harboring
24 political and religious motivations. Among other things, the Witzel letter
25 called on the SBE “to reject the demands by nationalist Hindu (‘Hindutva’)
26 groups that California textbooks be altered to conform to their religious-
27 political views.” According to Professor Witzel, the “proposed revisions [were]
28 . . . of a religious-political nature.”

1 4.39. The letter also warned of an impending “international education
2 scandal” if the proposed changes are accepted by the SBE.

3 4.40. The Witzel Letter did not specifically address any edits or
4 corrections, or any of the Initial Revisions. Indeed, the Initial Revisions were
5 only available to the participants in the process, and had not been made
6 available to the general public by the date of the Witzel Letter.

7 4.41. Thus, the letter did not – and could not have – made any specific
8 charges against the Initial Revisions. Professor Witzel’s objections to the
9 Initial Revisions were based solely on the identity of the Hindu Groups and
10 their supposed political and religious leanings.

11 4.42. Up to this point in the process neither Professor Witzel nor any of
12 the signatories to the Witzel Letter had participated in any way in the
13 process – *i.e.*, the signatories to the Witzel Letter failed to follow the required
14 procedure of submitting their reviews and proposed edits to the Curriculum
15 Commission, nor did they timely provide any specific objections to any edits
16 submitted by third parties.

17 **E. THE SECOND CRPE PANEL**

18 4.43. During a November 9, 2005 meeting of the SBE, SBE President
19 Ruth Green read the Witzel Letter and based on this letter decided to delay
20 approval of the Curriculum Commission’s edits (*i.e.*, the Initial Revisions).
21 President Green asked the Curriculum Commission to revisit the Initial
22 Revisions. Notwithstanding this delay, the Curriculum Commission failed to
23 follow through on the October 31 proposal for seeking an extension of time
24 from the SBE in order to complete the evaluation of the remaining edits of the
25 Hindu Groups.

26 4.44. President Green gave no substantive reason for delaying approval
27 of the Initial Revisions. Nor did she cite any scholarly reasons for the SBE’s
28 reconsideration of the Initial Revisions.

1 4.45. During this meeting the SBE approved in full the Curriculum
2 Commission recommended edits and changes urged by other religious groups,
3 including Christianity, Judaism and Islam.

4 4.46. At a second meeting following the initial SBE meeting the CDE
5 and SBE constituted a second panel of CRPEs, consisting of Professor Witzel,
6 Professor Wolpert of University of California at Los Angeles, and Professor
7 Heitzman of University of California at Davis.

8 4.47. All three members of the second CRPE were affiliated with the
9 Witzel Letter. Professor Witzel drafted the letter. Professor Wolpert co-
10 signed the letter. While not a co-signatory, Professor Heitzman delivered the
11 letter to the SBE.

12 4.48. The appointment of these three experts violated the criteria the
13 Curriculum Commission required of Professor Bajpai, namely that members
14 of the CRPE: (1) not have any financial relationship with any of the textbook
15 publishers (*i.e.*, none of the members should have published anything with
16 the publishers in the last three years), (2) be scholars in ancient Indian
17 history and Hinduism, and (3) not have any affiliation with any of the groups
18 suggesting or objecting to edits.

19 4.49. Professors Witzel, Wolpert, and Heitzman were adherents of AIT
20 and had expressed antagonistic sentiments towards Hinduism and the Hindu
21 Groups. They sought the outright rejection of all the Initial Revisions.

22 4.50. The SBE and CDE failed to provide notice (to either the Hindu
23 Groups or Professor Bajpai) that the SBE and CDE were considering
24 retaining a second CRPE panel. The SBE's and CDE's decision to retain this
25 second panel was conducted in a closed door meeting.

26 4.51. On November 22, 2005, the CDE released a memorandum
27 containing new final recommendations, as determined by the second CRPE
28 Panel (consisting of Professors Witzel, Wolpert and Heitzman) and endorsed

1 by the CDE, to be submitted to the SBE. Despite repeated requests, neither
2 the Hindu Groups nor Professor Bajpai were afforded an opportunity to rebut
3 the charges of the second CRPE Panel. Nor were the Hindu Groups and
4 Professor Bajpai were afforded input into this process.

5 4.52. On December 2, 2005, the Curriculum Commission met to
6 address final edits and corrections on Ancient India and Hinduism.

7 4.53. The Curriculum Commission conducted a line review of the
8 proposed edits. This was the third review in the entire process.

9 4.54. A Curriculum Commission member highlighted scientific and
10 archaeological evidence supporting the Initial Revisions.

11 4.55. The Curriculum Commission then submitted the results of the
12 meeting (*i.e.*, its recommendation) to the SBE.

13 4.56. The SBE has yet to release these recommendations to interested
14 parties. The SBE has yet to address these recommendations, although the
15 President of the SBE is required to approve or reject the recommendations.

16 **F. SBE'S ADOPTION OF FINAL REVISIONS**

17 4.57. On January 6, 2006, the SBE (or select SBE members) conducted
18 a closed-door meeting with Professors Bajpai and Witzel. The representatives
19 of the Hindu Groups were not invited, despite requests to be present.

20 4.58. At the January 6, 2006 meeting Professors Bajpai and Witzel
21 essentially debated each line item before SBE members. A record of this
22 closed door meeting – to the extent the SBE maintained a record – has not yet
23 been released to the interested parties.

24 4.59. On January 12, 2006, SBE President announced the creation of a
25 new sub-committee. SBE then appointed a five SBE member committee,
26 which would make recommendations to the full SBE to consider at its
27 following meeting (scheduled to take place on March 8-10, 2006).

28 4.60. The SBE provided no further details regarding the follow up

1 recommendations of the Curriculum Commission or the private meeting
2 between select SBE members, Professors Bajpai and Witzel, held on January
3 6, 2006.

4 4.61. The SBE conducted a public meeting on March 8-10, 2006.

5 4.62. At this meeting the SBE adopted final edits (the "Final
6 Revisions") to the textbooks.

7 4.63. The SBE also purported to adopt four amendments to the Final
8 Revisions. The SBE did not formally vote on these four amendments. Thus,
9 these amendments merely constitute the suggestions of one or more of the
10 members of the SBE.

11 4.64. While the SBE has not yet released the results of this March 8-10
12 meeting (*i.e.*, the Final Revisions) the Final Revisions adopt some but not all
13 of the recommendations of the Hindu Groups, leaving unaddressed the salient
14 concerns of the Hindu Groups.

15 4.65. The Final Revisions rejected many of the Initial Revisions, and
16 fail to adequately address the concerns of the Hindu Groups regarding
17 (1) AIT; (2) description of the treatment and status of women in Hinduism;
18 (3) conflation of untouchability with Hindu beliefs; (4) inaccurate descriptions
19 of core Hindu beliefs; and (5) derogatory references or remarks about
20 Hinduism.

21 **G. DAMAGES TO PLAINTIFF AND ITS MEMBERS**

22 4.66. It is widely acknowledged that the content of educational
23 materials affects the quality of education received by students.

24 4.67. Numerous Hindu and Indian students attest that the negative
25 portrayal of Hinduism causes these students embarrassment and
26 degradation.

27 4.68. The embarrassment and degradation caused by educational
28 materials containing negative portrayal of a certain group or groups affects

1 the education obtained by members of that group – *i.e.*, members of that
2 group will receive a lesser quality education and will be less likely to achieve
3 success as members of other groups.

4 4.69. One student, Abhijit Kurup, who attended Claremont middle
5 school characterized the textbook portrayal of Hinduism as “a religion of
6 monkey and elephant gods, rigid caste discrimination and oppression of
7 women.”

8 4.70. Mr. Kurup, now a student at University of California at Riverside
9 said the textbooks “degraded” his religion. Upon reading these materials Mr.
10 Kurup said he “felt a mixture of anger, embarrassment and humiliation.”

11 4.71. Plaintiff and its members are now suffering, and after adoption of
12 the Final Revisions will continue to suffer, actual and irreparable harm due
13 to Defendants’ actions.

14
15 **V. FIRST CAUSE OF ACTION**
16 **VIOLATION OF CALIFORNIA EDUCATION CODE §§ 51500, 51501, & 60044**
17 **(Against All Defendants)**

18 5.1. Plaintiff incorporates the allegations set forth in paragraphs 1.1
19 through 4.71 above as though fully set forth herein.

20 5.2. Plaintiff asserts this cause of action on its own behalf and on
21 behalf of its members.

22 5.3. California Education Code § 51500 prohibits the “giv[ing of]
23 instruction . . . [or sponsorship of] any activity which reflects adversely upon
24 persons because of their race, sex, color, creed, handicap, national origin, or
25 ancestry.”

26 5.4. California Education Code § 51501 provides:

27 No textbook, or other instructional materials shall be adopted
28 by the state board or by any governing board for use in the
public schools which contains any matter reflecting adversely
upon persons because of their . . . creed . . . national origin, or
ancestry.

1 5.5. California Education Code § 60044 prohibits the adoption of any
2 instructional material for use in schools which contains:

3 Any matter reflecting adversely upon persons because of their
4 . . . creed, national origin, [or] ancestry.

5 5.6. The Materials contain information that reflects adversely upon
6 the Students due to the religion or national origin of the Students or their
7 Parents.

8 5.7. The Materials, and SBE's adoption of the Final Revisions violate
9 California Education Code §§ 51500, 51501 and 60044, and the rights of
10 Plaintiff and its members thereunder.

11 **VI. SECOND CAUSE OF ACTION**
12 **VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE**
13 **FOURTEENTH AMENDMENT OF THE UNITED STATES**
14 **CONSTITUTION**
15 **(Against All Defendants)**

16 6.1. Plaintiff incorporates the allegations set forth in paragraphs 1.1
17 through 5.7 above as though fully set forth herein.

18 6.2. The Equal Protection Clause of the Fourteenth Amendment to
19 the United States Constitution provides “[n]o state shall make or enforce any
20 law which shall abridge the privileges or immunities of citizens of the United
21 States; nor shall any state deprive any person of life, liberty, or property,
22 without due process of law; nor deny to any person within its jurisdiction the
23 equal protection of the laws.”

24 6.3. The Equal Protection Clause generally prohibits explicit
25 consideration of a person or group's religious affiliation or national origin in
26 governmental decisionmaking. The Equal Protection Clause also prohibits
27 denial of equal benefits based on membership in a religious group.

28 6.4. Defendants' decision to reverse course and revisit the Initial
Revisions based on a letter that explicitly referenced the political and

1 religious motivations of the Hindu Groups violated Plaintiff's rights under the
2 Equal Protection Clause.

3 6.5. Defendants' treatment of the Hindu Groups – and subjecting
4 edits put forth by the Hindu Groups to unique hurdles – violated Plaintiff's
5 rights under the Equal Protection Clause.

6 6.6. Defendants' treatment of other religions in a more favorable
7 manner than the religion of Plaintiff and its members violated their rights
8 under the Equal Protection Clause.

9 6.7. Defendants' adoption of the Final Revisions and approval of the
10 Materials will have the effect of depriving the Students of an educational
11 experience equal to that of their peers, thus violating the rights of Plaintiff
12 and its members under the Equal Protection Clause.

13
14 **VII. THIRD CAUSE OF ACTION**
15 **VIOLATION OF THE ESTABLISHMENT CLAUSE OF THE FIRST**
16 **AMENDMENT OF THE UNITED STATES CONSTITUTION**
17 **(Against All Defendants)**

18 7.1. Plaintiff incorporates the allegations set forth in paragraphs 1.1
19 through 6.7 above as though fully set forth herein.

20 7.2. The Establishment Clause requires state neutrality towards
21 religion in general and towards different religions – *i.e.*, government action
22 cannot convey a message of endorsement or disapproval of a particular creed,
23 promote a favored religion, or conversely, denigrate a disfavored one.

24 7.3. Defendants' approval of the Final Revisions and adoption of the
25 Materials has the effect of denigrating the religious beliefs of the Plaintiff and
26 its members.

27 7.4. Defendants' more favorable treatment of the edits suggested by
28 other religious groups will promote those other groups at the expense of
Plaintiff and its members.

7.5. Defendants' actions will have the overall effect of promoting

1 other religions while denigrating Hinduism. These actions violate the
2 Establishment Clause.

3 7.6. Defendants' accurate portrayal of Judeo-Christian beliefs while
4 inaccurately portraying the Hindu religion constitutes an endorsement of
5 Judeo-Christian beliefs in violation of the Establishment Clause.

6
7 **VIII. FOURTH CAUSE OF ACTION**
8 **VIOLATION OF THE FIRST AMENDMENT OF THE UNITED STATES**
9 **CONSTITUTION**
10 **(Against All Defendants)**

11 8.1. Plaintiff incorporates the allegations set forth in paragraphs 1.1
12 through 7.6 above as though fully set forth herein.

13 8.2. The Free Speech Clause of the First Amendment to the United
14 States Constitution protects the rights of individuals to express themselves
15 free of government retribution.

16 8.3. Plaintiff, its members, and those affiliated with them expressed
17 themselves in a variety of contexts outside the proceedings and hearings in
18 front of the SBE and in front of the SBE.

19 8.4. Defendants improperly considered such expression – highlighted
20 in the Witzel Letter – in deciding to revisit the Initial Revisions.

21 8.5. Defendants took the step of revisiting the Initial Revisions in
22 retaliation or reaction to Plaintiff's protected expression.

23 8.6. Defendants' consideration of Plaintiff's expression in revisiting
24 the Initial Revision violated Plaintiff's rights under the Free Speech Clause of
25 the First Amendment to the United States Constitution by penalizing
26 Plaintiff for its speech.

27 8.7. The Association Clause of the First Amendment to the United
28 States Constitution protects the right of individuals to associate with persons
of their choosing, including in order to express themselves.

8.8. In reconsidering the Initial Revisions, Defendants took into

1 account Plaintiff's association with third parties deemed "nationalist Hindu"
2 or "Hindutva supporters".

3 8.9. Defendants' consideration of Plaintiff's association with these
4 third parties violated Plaintiff's rights under the Association Clause of the
5 First Amendment to the United States Constitution.

6 **IX. FIFTH CAUSE OF ACTION**
7 **42 U.S.C. § 1983**
8 **(Against Individual Defendants)**

9 9.1. Plaintiff incorporates the allegations set forth in paragraphs 1.1
10 through 8.9 above as though fully set forth herein.

11 9.2. The individual Defendants acted under color of state law
12 throughout the revisions process, including in approving the Final Revisions.

13 9.3. The acts and conduct of the individual Defendants, as herein
14 alleged, deprived Plaintiff and its members of the rights, privileges, and
15 immunities secured for the First and Fourteenth Amendments of the United
16 States Constitution, in violation of 42 U.S.C. § 1983.

17 **X. SIXTH CAUSE OF ACTION**
18 **VIOLATION OF THE BAGLEY-KEENE OPEN MEETING ACT 2004**
19 **(Against All Defendants)**

20 10.1. Plaintiff incorporates the allegations set forth in paragraphs 1.1
21 through 9.3 above as though fully set forth herein.

22 10.2. Defendants conducted several meetings in private, failed to
23 provide notice to known interested parties and failed to keep and release
24 records of various meetings.

25 10.3. Defendants' actions violated, and continue to violate, the Bagley-
26 Keene Open Meeting Act of 2004.

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1 **XI. SEVENTH CAUSE OF ACTION**
2 **VIOLATION OF THE SBE AND CDE RULES AND PROCEDURES**
3 **(Against All Defendants)**

4 11.1. Plaintiff incorporates the allegations set forth in paragraphs 1.1
5 through 10.3 above as though fully set forth herein.

6 11.2. Defendants promulgated procedures they (and their members)
7 are required to follow in conducting their affairs.

8 11.3. Defendants repeatedly violated their own procedures and
9 regulations in adopting the second panel of CRPEs, conducting closed door
10 meetings or off-the-record communications between members of the SBE and
11 this second panel, and in adopting and approving the Final Revisions.

12 **XIV. PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff prays for the following relief:

14 1. An injunction:

- 15 a. prohibiting Defendants from using any material which
16 reflects adversely upon Plaintiff and its members based on
17 religion or national heritage;
- 18 b. prohibiting Defendants from treating Plaintiff or its
19 members differently because of their religion or national
20 origin;
- 21 c. prohibiting Defendants from promoting other religions at
22 the expense of the religious beliefs of Plaintiff and its
23 members;
- 24 d. prohibiting Defendants from denigrating the religious
25 beliefs of Plaintiff and its members;
- 26 e. prohibiting Defendants from utilizing creationist, Judeo-
27 Christian-based theories to explain the development of
28 Hinduism;
- f. prohibiting Defendants from taking adverse action against
Plaintiff or its members based on their protected expression
or political beliefs;
- g. requiring Defendants to comply with the Bagley-Keene
Open Meeting Act 2004;
- h. requiring Defendants to comply with the procedures, rules,

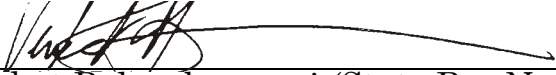
1 regulations and guidelines promulgated by Defendants;

- 2 2. Nominal damages: an award of nominal damages;
- 3 3. Attorney's fees: an award of attorney's fees and costs; and
- 4 4. Other relief: for such other and further relief as the
5 Court may deem just and
6 proper.

7 Dated this 14th day of March, 2006.

8 Respectfully Submitted,

9 **BALASUBRAMANI LAW**

10
11 By: 
12 Venkat Balasubramani (State Bar No. 189192)

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EXHIBIT A

**LETTER FROM PROFESSOR MICHAEL WITZEL TO RUTH GREEN AND
MEMBERS OF THE STATE BOARD OF EDUCATION
DATED NOVEMBER 8, 2005**

HARVARD UNIVERSITY
DEPARTMENT OF SANSKRIT AND INDIAN STUDIES
1 BOW STREET • CAMBRIDGE, MASSACHUSETTS 02138

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November 8, 2005

Ruth Green, President
State Board of Education
1430 N Street, Room 5111
Sacramento, California 95814

Dear Ms. Green and Members of the Board,

I write on behalf of a long list of world specialists on ancient India — reflecting mainstream academic opinion in India, Pakistan, the United States, Europe, Australia, Taiwan, and Japan — to urge you to reject the demands by nationalist Hindu ('Hindutva') groups that California textbooks be altered to conform to their religious-political views. The names of over four dozen scholars who have asked me to write you and the Board — more names are coming in hourly — are attached at the end. The list includes the most distinguished world experts in the field.

The nature of these proposed revisions only became known to international scholars on Saturday, November 5 — or we would have acted sooner and with even greater force.

On behalf of my colleagues, I would like to call the Board's attention to four points:

1. The agenda of the groups proposing these changes is familiar to all specialists on Indian history, who have recently won a long battle to prevent exactly these kinds of changes from finding a permanent place in history textbooks in India. The proposed revisions are not of a scholarly but of a religious-political nature, and are primarily promoted by Hindutva supporters and non-specialist academics writing about issues far outside their areas of expertise. These opinions do not reflect the views of the majority of specialists on ancient Indian history nor of mainstream Hindus. There are ill-concealed political agendas behind these views that are well-known to researchers and tens of millions of non-Hindu Indians, who are routinely discriminated against by these groups.
2. Ironically, the revisions that Hindu nationalists are now trying to force into California textbooks have been soundly repudiated in the last two years by Indian educators; previously, in a brief period in which the central government was under Hindutva control, those same types of revisions were temporarily inserted in Indian textbooks by the National Council of Education Training and Research (NCERT). The result was chaos in the Indian educational system and an extended battle in the Indian press that lasted several years. It would trigger an immediate international scandal if the California State Board of Education were to unwittingly endorse religious-nationalistic views of Indian history from which India has only extricated itself in the last two years.
3. The U.S. State Department has repeatedly warned of the dangers to religious freedom involved in the kinds of historical revisions demanded by Hindutva groups. Thus the

State Department's "International Religious Freedom Report 2003" complains of the massive "rewriting of textbooks to favor Hindu extremist interpretations of history" that occurred when the national government was under Hindutva control. In its 2004 report, written after the fall of that government, the State Department noted that these revisions were being corrected, but continued to warn of dangers to public education in Indian states like Gujarat in which Hindutva power remained firm, resulting in those regions in "the politicized inculcation of Hindu religious and cultural norms". The politicized views of history criticized by the U.S. Department of State are of the same type currently being proposed for use in textbooks aimed at sixth-grade California students.

For the 2003 and 2004 U.S. State Department reports discussing these issues, see:

<http://www.state.gov/g/drl/rls/irf/2003/24470.htm>

<http://www.state.gov/g/drl/rls/irf/2004/35516.htm>

4. The names on this letter, which have all been gathered over the past 48 hours, represent a broad cross-section of the world's leading historians, religious scholars, archaeologists, philologists, and linguists conducting specialized research on ancient India. A few of the signers include Romila Thapar, India's most famous historian, and a recent Kluge Fellow at the Library of Congress in Washington; Stanley Wolpert, Professor Emeritus at U.C.L.A, long the preeminent U.S. specialist on Indian history; Madhav Deshpande of the University of Michigan; Harry Falk, of Free University, Berlin; Patrick Olivelle, of the University of Texas; Muneo Tokunaga of Kyoto University, Japan; Maurizio Tosi of the University of Bologna; and dozens of equally world-famous researchers.

Our growing list, as it existed early this morning, is provided below. Other names are coming in at a rapid pace, and hundreds more could be quickly gathered. I will be happy to update the Board on additional endorsers of this letter if that becomes necessary, and to personally assist the Board in any way possible in the future.

In conclusion: the proposed textbook changes are unscholarly, are politically and religiously motivated, have already been rejected by India's national educational authorities, and will lead without fail to an international educational scandal if they are accepted by California's State Board of Education.

Sincerely,

Michael Witzel
Wales Professor of Sanskrit
Editor-in-Chief, The Harvard Oriental Series

Several pages of endorsements by internationally known researchers follow