IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

H.C. by and through their father WAYNE CARVER *Plaintiff*, v. EFFINGHAM COUNTY SCHOOL DISTRICT, Superintendent YANCY FORD, in his individual and official capacities; Effingham County Board of Education Chair VICKIE DECKER in her individual and official capacities; Effingham County Board of Education Members TROY ALLEN, JAN LANDING, and BEN JOHNSON in their individual and official capacities; and Principal MICHELLE CORLESS in her individual and official capacities, *Defendants*.	Civil Action File No. 4:26-cv-00081-RSB-CLR

PLAINTIFF'S MOTION AND BRIEF IN SUPPORT OF A PRELIMINARY INJUNCTION

Plaintiff H.C., by and through their father Wayne Carver, files this Motions and Brief in Support of a Preliminary Injunction ordering that H.C. may wear three rainbow pride buttons while at school without being subject to discipline for violating Defendant Effingham County School District ("ECSD")'s Dress Code Policy.

In December 2025, Sand Hill Elementary School Principal Defendant Michelle Corless forbade H.C. from engaging in the "silent, passive expression" of wearing rainbow pride buttons on their backpack at school because it might "spread the wrong message." Exhibit A - Declaration of H.C. ("H.C. Decl.") at ¶¶ 11-14. Defendant Corless informed H.C.'s parents that wearing the buttons was against ECSD's Dress Code Policy banning "political messages of any kind." Exhibit

B - Declaration of Wayne Carver ("W.C. Decl.") at ¶¶ 10-12; Exhibit C – Dress Code Policy at 5. H.C. stopped wearing their rainbow buttons out of fear of being disciplined for violating the Dress Code Policy. H.C. Decl. at ¶¶ 19, 27-28. There is no evidence that the buttons "materially and substantially interfere with the requirements of appropriate discipline in the operation of the school." *Tinker v. Des Moines Indep. Cmty. Sch. Dist.,* 393 U.S. 503, 509 (1969). Prohibiting Plaintiff H.C. from wearing the buttons at school violates their free speech rights under the First and Fourteenth Amendments to the United States Constitution and should be preliminarily enjoined while this litigation proceeds.

FACTS SUPPORTING PRELIMINARY INJUNCTIVE RELIEF

1. Plaintiff H.C. is a fifth grader at Sand Hill Elementary School, where they have attended since pre-kindergarten. H.C. enjoys school and gets good grades. They are an active member of the BETA Club, a service-oriented school organization. H.C. Decl. at ¶ 3.

2. H.C. is LGBTQ. H.C. has been repeatedly targeted by Defendant ECSD officials due to their LGBTQ identity. H.C. Decl. at ¶¶ 4, 11-15, 22-26; W.C. Decl. at ¶¶ 3, 5-7, 16-19.

3. In the fall of 2025, H.C. was wearing multiple buttons and accessories while at school. Defendant ECSD permits students to wear buttons and accessories on their backpacks and clothing. H.C. Decl. at ¶¶ 5-8; W.C. Decl. at ¶¶ 4-5.

4. Upon information and belief, ECSD students, including at Sand Hill Elementary, frequently wear messages that communicate information about their identities, beliefs, and associations. H.C. too has often worn various buttons and accessories without facing discipline. H.C. Decl. at ¶¶ 5-8.

5. Among their other accessories and buttons, H.C. wore three buttons featuring the rainbow pride flag during the Fall 2025 semester without any disruption or even negative comments from other students. *Id*. at ¶¶ 5-6, 10.

6. One button showed a cartoon duck holding a rainbow pride flag. Another showed a rainbow-colored possum with the caption "[SCREAMS IN GAY]." A third, smaller button showed the colors of the rainbow pride flag. H.C. also had on several buttons and accessories depicting Japanese animated –i.e., "anime" -- characters. *Id*. at ¶ 7.

7. H.C. wore the rainbow pride buttons and the anime character buttons and accessories for three weeks without incident. H.C.'s pride buttons did not cause any disruption of any kind. One of H.C.'s friends commented that the possum button was funny. No other students made comments or had any apparent reaction to the buttons. *Id*. at ¶¶ 6-10.

8. On December 2, 2025, Defendant Principal Corless stopped H.C. in the hallway while H.C. was wearing the three rainbow pride buttons and several anime character buttons and accessories on their clothing. *Id*. at ¶ 11.

9. Defendant Principal Corless ordered H.C. to remove their rainbow pride buttons. H.C. first removed the two buttons with a duck and a possum. Corless then told H.C. that they must remove the small rainbow button as well. H.C. complied. *Id*. at ¶¶ 12-14.

10. Defendant Principal Corless stated "they did not want to spread the wrong message around." *Id.* at ¶ 13.

11. Defendant Principal Corless did not make any comment on H.C.'s anime character buttons and accessories, nor did she ask H.C. to remove them. *Id*. at ¶¶ 11, 14.

12. H.C. was upset and told their parents they were confused about why they had to remove the rainbow pride buttons. *Id*. at ¶ 15; W.C. Decl. at ¶ 6.

13. H.C.'s parents also did not understand and felt H.C. was being targeted for being LGBTQ. W.C. Decl. at ¶¶ 7, 13.

14. H.C.'s parents reached out to the school to ask about the incident. The school provided them with Defendant ECSD's Dress Code Policy. They read through the policy but did not believe that anything in it precluded their child from wearing their rainbow pride buttons. *Id*. at ¶¶ 8-9.

15. H.C.'s parents communicated with Defendant Principal Corless who stated that she had consulted with another ECSD official and determined that the pride buttons were "political symbols," which are not allowed under Defendant ECSD's Dress Code Policy. *Id*. at ¶ 10.

16. Defendant Corless cited the following portion of the Dress Code Policy: "No clothing or accessories which through language or graphics display, exploit, sanction, or promote drugs,

alcohol, tobacco, gangs, sex, violence, discrimination, vulgarity, or unlawful activity are allowed. This would include political messages of any kind." *Id*. at ¶ 11.

17. Defendant Corless stated that "the pins [are] political symbols and they are not allowed in the student dress code." *Id*. at ¶ 12.

18. Defendant Corless advised H.C.'s parents that they could reach out to Defendant ECSD's Board of Education if they had further questions about the Dress Code Policy. *Id*.

19. H.C.'s parents were surprised to learn that school officials thought H.C.'s rainbow pride buttons were political because H.C. wears their pride buttons to express they are LGBTQ, not to make a political statement. *Id*. at ¶ 13; H.C. Decl. at ¶ 5, 16-18.

20. H.C.'s parents communicated to Defendant Corless that H.C. would continue to wear their rainbow pride buttons in exercise of their free speech rights. W.C. Decl. at ¶¶ 14.

21. The next day, December 3, 2025, H.C. chose not to wear their rainbow buttons to school for fear of discipline. H.C. Decl. at ¶¶ 19, 21.

22. Defendant ECSD's Dress Code Policy provides for escalating punishments for each violation of the Dress Code Policy.

> * On the first violation, the student will be given a "[w]arning, parental contact, and remedy uniform. Should the remedy require the student to sign out of school, the absence will be recorded as unexcused."
> * On the second violation, the student will be punished with "[l]oss of privileges, after-school detention, or ISS."
> * On the third violation, the student will be punished in "accordance with the Code of Conduct which provides for various consequences depending on a student's discipline record and the severity of the offense."

Exhibit C at 7. The ECSD Student Code of Conduct provides a list of disciplinary actions that a school principal and/or administration may employ including, without limitation, restriction from school programs like clubs and field trips, in-school detention or suspension, and suspension. *See* Student Code of Conduct, "Progressive Discipline

Procedures," available at: https://www.effinghamschools.com/family-students/student-discipline (last visited Mar. 30, 2026).

23. On December 3, 2025, H.C. was scheduled to go to an off-campus convention with the school's BETA Club. Before leaving for the convention, H.C.'s art teacher, Samantha Motes, told them, in words or substance, "I don't want to do this, but you can't wear those buttons, and if you have them with you (which H.C. did not), you need to give them to me," referring to the rainbow buttons. H.C. Decl. at ¶¶ 20-21.

24. H.C. has not worn their rainbow buttons to school since December 2, 2025, for fear of being singled out and disciplined for it. *Id.* at ¶¶ 27-28.

25. Sand Hill Elementary School allows parents to pay to put up pictures and a short message on the lunchroom TV screens to celebrate their children's birthday. There is no requirement that the clothes children wear in their "birthday gram" photos comply with the ECDS Dress Code Policy. The school regularly permits photos of children wearing outfits that are not Dress Code compliant, including gymnastic leotards and very short skirts. W.C. Decl. at ¶¶ 16, 19; H.C. Decl. at ¶¶ 22, 24-25.

26. H.C.'s parents submitted two photos for H.C.'s birthday in December 2025. In one, H.C. is holding their button with the rainbow-colored possum captioned "[SCREAMS IN GAY]." In the other, they are holding their button with the duck that is holding a rainbow pride flag. W.C. Decl. at ¶ 17; H.C. Decl. at ¶ 23.

27. The school informed H.C.'s parents that these photos were inappropriate and that they needed to submit different photos. W.C. Decl. at ¶¶ 18. H.C.'s parents sent in a photo of H.C. in the snow and a photo of H.C. wearing face paint, which is not allowed under Defendant ECSD's

Dress Code. The school permitted both photos and displayed them on the lunchroom screens. W.C. Decl. at ¶¶ 18-19; H.C. Decl. at ¶ 24.

28. H.C. wears their rainbow and anime buttons to express their LGBTQ identity and affiliation. H.C. Decl. at ¶¶ 4-6, 18. However, due to Defendants mischaracterizing the buttons as political and barring H.C. from wearing them at school or school-related events, H.C. no longer feels free or comfortable to wear the rainbow buttons in public, even including sometimes when they are not at school. *Id*. at ¶¶ 17-18, 27-28; W.C. Decl. at ¶¶ 13, 20.

ARGUMENT

A preliminary injunction should be granted when the moving plaintiff establishes (1) a substantial likelihood of prevailing on the merits; (2) threat of irreparable injury; (3) that the plaintiff's injury outweighs any harm an injunction may cause the defendants; and (4) that granting the injunction will not disserve the public interest. *See Church v. City of Huntsville*, 30 F.3d 1332, 1342 (11th Cir. 1994); Fed. R. Civ. P. 65(b). To obtain a preliminary injunction, a plaintiff need only show a substantial likelihood of prevailing on the merits of at least one count in the complaint, not all counts. *Atlanta Sch. of Kayaking v. Douglasville-Douglas Cty. Water & Sewer Auth*., 981 F. Supp. 1469, 1472 (N.D. Ga. 1997). Plaintiff H.C. satisfies each of these requirements.

I. Plaintiff Is Substantially Likely to Prevail on the Merits of Their First and Fourteenth Amendment Claims.

A. Symbolic student speech is constitutionally protected absent substantial disruption or invasion of the rights of others.

Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503 (1969) is the touchstone case for pure student expression. In *Tinker*, students wore black armbands to school to silently express their opposition to the Vietnam War. *Id.* at 504. Other students taunted them, and five students wearing armbands were suspended for their "silent, passive expression of opinion, unaccompanied

by any disorder or disturbance on the part of [the students wearing armbands]." *Id.* at 504, 508. The Supreme Court held that wearing the armbands was pure symbolic speech, which a public school must tolerate unless it "materially disrupts classwork or involves substantial disorder or invasion of the rights of others" *Id.* at 513. *Accord Mahanoy Area Sch. Dist. v. B. L.*, 594 U.S. 180, 193 (2021) (noting that schools may regulate speech occurring under their supervision if it "materially disrupts classwork or involves substantial disorder or invasion of the rights of others"); *Bannon v. Sch. Dist*., 387 F.3d 1208, 1213 (11th Cir. 2004) (holding that schools must tolerate pure student expression "unless they can reasonably forecast that the expression will lead to 'substantial disruption of or material interference with school activities'") (quoting *Tinker*, 393 U.S. at 514). The Court acknowledged that student speech may cause controversy, and the *Tinker* students' armbands indeed provoked "comments, warnings by other students, [and] the poking of fun at them." 393 U.S. at 517. But under the substantial disruption standard, student speech merely causing controversy or debate does not justify suppressing it: "Any word spoken, in class, in the lunchroom, or on the campus, that deviates from the views of another person may start an argument or cause a disturbance. But our Constitution says we must take this risk," *Id.* at 508.

The *Tinker* majority compared two Fifth Circuit cases, which are binding authority in this Circuit,[1] involving students wearing buttons to school to illustrate the difference between protected student speech versus speech that a school may prohibit or discipline as unacceptably disruptive or invasive to the rights of others. 393 U.S. at 505 n.1. In *Burnside v. Byars*, 363 F.2d 744 (5th Cir. 1966), students wore "freedom buttons" to school in silent support of equal voting rights. The buttons were "circular, approximately 1 1/2 inches in diameter, containing the wording 'One Man

[1] Fifth Circuit decisions issued before October 1, 1981 are controlling in the Eleventh Circuit. *See Bonner v. City of Prichard, Ala.*, 661 F.2d 1206, 1207 (11th Cir. 1981) (en banc).

One Vote' around the perimeter with 'SNCC' inscribed in the center." *Id.* at 746. The buttons provoked discussion and curiosity but did not "hamper the school in carrying on its regular schedule of activities" *Id.* at 748. The *Burnside* court held that the students had the right to wear the buttons and struck down a lower court order denying a preliminary injunction against the school, stating:

> Wearing buttons on collars or shirt fronts is certainly not in the class of those activities which inherently distract students and break down the regimentation of the classroom such as carrying banners, scattering leaflets, and speech-making, all of which are protected methods of expressions, but all of which have no place in an orderly classroom.

Id.

The *Tinker* majority then contrasted *Burnside* with *Blackwell v. Issaquena Cty. Bd. of Educ.*, 363 F.2d 749 (5th Cir. 1966), which was decided by the same circuit panel on the same day. In *Blackwell*, students wore the same freedom buttons but disrupted school operations by disrespecting teachers, walking out of classrooms, having loud, disruptive conversations in halls, and taking other actions that "constituted a complete breakdown in school discipline*."* 363 F.2d at 753. The students also invaded the rights of others by accosting students not wearing buttons and even forcibly pinning a button on a crying younger student. *Id.* at 751. The court held that sanctioning this speech was permissible in order to stop an "unusual degree of commotion, boisterous conduct, a collision with the rights of others, an undermining of authority, and a lack of order, discipline and decorum." *Id.* at 754.

B. H.C.'s rainbow pride buttons are symbolic student speech that, like the buttons in *Burnside*, do not disrupt or interfere with school activities or invade others' rights.

H.C.'s rainbow pride buttons fall within the same category of protected, nondisruptive, noninvasive symbolic "silent expression" exemplified by the "freedom buttons" in *Burnside* and the black armbands in *Tinker*. Symbolic speech is protected by the First Amendment when an

"intent to convey a particularized message was present, and in the surrounding circumstances the likelihood was great that the message would be understood by those who viewed it." *Spence v. Washington*, 418 U.S. 405, 410 (1974) (holding that displaying an upside-down American flag with a peace sign on it constituted symbolic speech). *Accord Holloman ex rel. Holloman v. Harland,* 370 F.3d 1252, 1270 (11th Cir. 2004). Here, the pride rainbow is a well-recognized symbol used to express LGBTQ identity or inclusiveness of such identities. *See, e.g.*, *Rainbow flag (LGBTQ)*, Wikimedia Foundation (last visited Feb. 11, 2026), https://en.wikipedia.org/wiki/Rainbow_flag_(LGBTQ). H.C. wore their pride buttons to communicate their own identity as LGBTQ and to show support for others who are LGBTQ. H.C. Decl. at ¶¶ 6, 18. H.C.'s buttons are not merely an expression of personal style; they communicate a specific message about who H.C. is and who they support that was received and understood by others. Receipt of this message was evidenced by Defendant Principal Corless telling H.C. to remove the buttons because "they did not want to spread the wrong message around." H.C. Decl. at ¶ 13. *Compare Bar-Navon v. Brevard Cty. Sch. Bd*., 290 F. App'x 273, 276 (11th Cir. 2008) (holding that a student's facial piercings worn to express nothing more than personal style were likely not symbolic speech), *with Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp. of Bos.*, 515 U.S. 557, 570 (1995) (finding that marching with a banner proclaiming "Irish American Gay, Lesbian and Bisexual Group of Boston" constituted an expressive message). Defendant Corless, however, mischaracterized H.C.'s message as political, rather than personal. H.C. Decl. at ¶¶ 16, 18.

But whether personal or political, since H.C.'s buttons constitute pure symbolic speech, Defendants can only prohibit them if the *Tinker* standard is satisfied, which it is not. Under the first prong of the *Tinker* standard, H.C.'s buttons caused no interference or disruption to school

activities. H.C. wore the buttons for three weeks without incident. One friend commented that the possum button was funny, but no other students appeared to take notice. H.C. Decl. at ¶ 10. H.C.'s buttons were a "silent, passive expression of opinion, unaccompanied by any disorder or disturbance." *Tinker,* 393 U.S. at 508.

Misunderstanding H.C.'s pride buttons as "political symbols," Defendants appear to have been worried that the buttons might cause some degree of undefined controversy – i.e., that they would "spread the wrong message around" or were inappropriate. H.C. Decl. at ¶ 13; W.C. Decl. at ¶¶ 17-18. However, an "undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression." *Tinker,* 393 U.S. at 508. Like in H.C.'s case, where "there is no finding and no showing that engaging in the forbidden conduct would materially and substantially interfere with the requirements of appropriate discipline in the operation of the school, the prohibition cannot be sustained." *Id.* at 509. Hence, Defendants prohibiting H.C. from wearing their pride buttons at school fails the first prong of *Tinker*.

Turning to *Tinker*'s second prong, schools are allowed to prohibit speech that is invasive of the rights of other students. *Id.* at 513. However, unlike when students accosted and forcibly pinned buttons on nonparticipating students in *Blackwell,* H.C.'s buttons were in no way physically invasive of the rights of other students. H.C. silently wore the buttons on their own backpack and clothing with no intrusion into "the school affairs or the lives of others." *Tinker,* 393 U.S. at 514. H.C.'s buttons are also not condemning or critical of others' beliefs or views. The buttons silently express H.C.'s own identity and affinity without comment on or criticism of anyone else. There is no evidence that students complained about H.C.'s buttons, or even noticed them, apart from the one friend who thought the possum button was funny. H.C. Decl. at ¶ 10.

Even if students had strongly disagreed with H.C.'s symbolic speech, feeling upset, offended, or even disgusted by the speech of others "is an unavoidable part of living in our 'often disputatious' society, and *Tinker* made abundantly clear that the 'mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint' is no reason to thwart a student's speech." *L.M. v. Town of Middleborough*, 145 S. Ct. 1489, 1495 (2025) (quoting *Tinker*, 393 U.S. at 509) (Thomas, J., dissenting from denial of certiorari); *see, e.g.*, *Texas v. Johnson*, 491 U.S. 397, 399 (1989) ("The government may not prohibit the verbal or nonverbal expression of an idea merely because society finds the idea offensive or disagreeable."); *Young v. Giles Cty. Bd. of Educ.*, 181 F. Supp. 3d 459 (M.D. Tenn. 2015) (granting a preliminary injunction permitting a student to wear a shirt that said, "Some people are gay, get over it," because the shirt did not materially or substantially disrupt the school environment or invade the rights of others).

Only Defendant ECSD's officials took issue with H.C.'s pride buttons, impermissibly engaging in viewpoint discrimination. *See Rosenberger*, 515 U.S. at 829 ("The government must abstain from regulating speech when the. . . opinion or perspective of the speaker is the rationale for the restriction."). Defendant Principal Corless telling H.C. that the pride buttons spread the "wrong message" and other school officials asking H.C. to turn in their pride buttons before going on the BETA Club field trip and rejecting the birthday gram photos featuring H.C. holding their possum and duck pride buttons even though birthday gram photos are not required to be in compliance with the Dress Code Policy demonstrate school officials' discomfort with or disapproval of the perspective the buttons communicate. H.C. Decl. at ¶¶ 13, 19-25, ; W.C. Decl. at ¶¶ 17-19. The First Amendment staunchly protects students from school officials' viewpoint-based censorship. *See Holloman*, 370 F.3d at 1280 (reiterating that the "fundamental prohibition

against viewpoint-based discrimination extends to public schoolchildren" and invalidating punishment of student for silently raising his fist during the pledge of allegiance).

In sum, H.C.'s rainbow pride buttons clearly constitute pure student expression protected by *Tinker* and *Burnside*. There is no evidence that H.C.'s silently wearing the buttons at school caused any disruption or invaded the rights of other students. Plaintiff H.C. is therefore substantially likely to prevail in showing that Defendants violated their First Amendment rights by barring them from wearing the buttons, warranting a preliminary injunction declaring that H.C. may wear their buttons to school free from discipline.

C. Defendants' Prohibition on "All Political Messages of Any Kind" on Students' Clothing and Accessories is Unconstitutionally Vague and Overbroad.

The ECSD Dress Code Policy prohibiting "all political messages of any kind" is unconstitutionally vague and overbroad in violation of the Fourteenth Amendment.

Vagueness: A rule or policy "may be unconstitutionally vague for either of two independent reasons." *Hill v. Colorado*, 530 U.S. 703, 732 (2000). The first is when it "fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits." *Id.* at 732; s*ee also City of Chi. v. Morales*, 527 U.S. 41, 56 (1999); *Connally v. Gen. Constr. Co*., 269 U.S. 385, 391 (1926). The second is when the rule or policy "authorizes or even encourages arbitrary and discriminatory enforcement." *Hill*, 530 U.S. at 732. Defendant ECSD's ban on "all political messages of any kind" is unconstitutionally vague for both reasons.

While school policies are not required to be as detailed as criminal codes to avoid vagueness challenges, they still must provide sufficient notice to students as to what conduct is allowed and what is off limits. *See, e.g.*, *Bethel v. Fraser*, 478 U.S. 675, 686 (1986) (holding that "school disciplinary rule proscribing 'obscene' language and the pre-speech admonitions of teachers [regarding same] gave adequate warning" to a student that a speech containing lewd

sexual metaphors was prohibited). In this vein, school dress codes have been found to be impermissibly vague when they "leave the students or their parents without knowledge of the nature of the clothing that is prohibited" *Smith v. Greene Cty. Sch. Dist.*, 100 F. Supp. 2d 1354, 1366 (M.D. Ga. 2000). *See, e.g., Tillman v. Gwinnett Cty. Sch. Dist.*, No. 1:04-CV-1180-BBM, 2005 U.S. Dist. LEXIS 57916, at *25 (N.D. Ga. Nov. 23, 2005) (holding school dress code was unconstitutionally vague because it prohibited but did not define "gang related activity," "gang words," and "gang symbols").

Here, Defendant ECSD's Dress Code Policy provides no definition of prohibited "political messages," leaving students and their parents to wonder what constitutes a political message, apart from clothing featuring a political party or political candidate for office. For instance, H.C., who wore their rainbow pride buttons as a silent, nondisruptive expression of their personal LGBTQ identity, had no warning that Defendants' Dress Code Policy would be interpreted to bar their buttons as "political symbols." H.C. Decl. at ¶¶ 16-18; W.C. Decl. at ¶¶ 8-9, 13.

Vague prohibitions -- like barring "political messages of any kind" -- are of special concern because they have an "obvious chilling effect on free speech." *Reno v. Am. Civ. Liberties Union*, 521 U.S. 844, 846 (1997). In order to avoid punishment under a vague speech policy, students will actively self-censor, even more than the policy requires, because of the uncertainty about when the hammer will fall. *See Speech First, Inc. v. Cartwright*, 32 F.4th 1110, 1124 (11th Cir. 2022) (holding that, when faced with a vague university anti-discrimination policy containing multiple undefined and prohibited terms, "the average college-aged student would be intimidated—and thereby chilled from exercising her free-speech rights"). The danger of chill is all the greater here considering that ECSD's Dress Code Policy applies to K-12 students, who by virtue of their age are more likely than college students to be dissuaded from speaking. *See id*. at 1123-24 (noting

that indirect pressure that falls short of formal punishment may suffice to chill speech when that pressure is applied to less sophisticated and experienced individuals) (collecting cases where age or "youth" was deemed a relevant factor). In other words, rather than "run the risk" of being punished for their symbolic speech, ECSD students, including H.C., will simply not speak at all. *Id.* at 1124. Thus, with no definition of "political messages," Defendant ECSD's Dress Code Policy fails to provide a "reasonable opportunity to understand what conduct it prohibits," making it unconstitutionally vague on its face. *Hill*, 530 U.S. at 732.

Defendant ECSD's Dress Code Policy is also unconstitutionally vague due to its lack of enforcement guidelines, which serves to encourage "arbitrary and discriminatory enforcement." *Id*. *See Minn. Voters All. v. Mansky*, 585 U.S. 1, 21 (2018) (striking down prohibition on "political" buttons in a polling place and noting it "is 'self-evident' that an indeterminate prohibition carries with it '[t]he opportunity for abuse, especially where [it] has received a virtually open-ended interpretation.'") (quoting *Bd. of Airport Comm'rs v. Jews for Jesus*, 482 U.S. 569, 576, (1987)).

In *Mansky*, the Supreme Court found that a state statute banning any "political badge, political button, or other political insignia" in a polling place was unconstitutionally vague even when accompanied by examples of what kinds of apparel were considered political, which Defendant ECSD's Dress Code Policy lacks. 585 U.S. at 3. *Mansky* further noted that the word "political" is so expansive that it can encompass "anything 'of or relating to government, a government, or the conduct of government affairs.'" *Id.* at 4 (quoting Webster's Third New International Dictionary). The Court thus found that the expansiveness of the term "political," coupled with the lack of enforcement guidelines in the statute, created unacceptable risk that the enforcer's "politics may shape his views on what counts as 'political.'" *Id*. at 22. Indeed, that is precisely what occurred in H.C.'s case where Defendant Corless and other ECSD officials

categorized H.C.'s silent, symbolic speech -- which Corless feared would spread "the wrong message" -- as "political." H.C. Decl. at ¶¶ 13-15; W.C. Decl. at ¶¶ 5, 10. In other words, viewpoint discrimination is unconstitutionally informing how Defendants interpret and apply the term "political." *See Holloman*, 370 F.3d at 1280 (reaffirming that the "fundamental prohibition against viewpoint-based discrimination extends to public schoolchildren").

Overbreadth: Relatedly, Defendant ESCD's Dress Code Policy banning "all political messages of any kind" is unconstitutionally overbroad because it is untethered from the *Tinker* standard that requires a reasonable likelihood of substantial disruption before school officials can stifle pure student speech. Prohibiting "political messages" regardless of disruption sweeps up the very same silent, passive political speech that the Supreme Court held was constitutionally protected in *Tinker*. Additionally, given that any message touching on matters of public concern -- including subjects like climate change, religion, sexual orientation, race relations, etc. -- could be deemed "political" and banned by ECSD officials, even if not disruptive or invasive, the Policy's "unconstitutional applications are substantial compared to its constitutional ones." *Moody v. NetChoice*, LLC, 603 U.S. 707, 718 (2024). This is the textbook definition of facial overbreadth. *See id*.; *see also Speech First,* 32 F.4th at 1125 (holding that a policy that "restricts political advocacy and covers substantially more speech than the First Amendment permits. . . is fatally overbroad").

Since students do not "shed their constitutional rights to freedom of speech or expression at the school house gate," students have a right to express political messages as long as those messages do not risk materially disrupting or substantially interfering with school operations or invading the rights of others. *Tinker*, 393 U.S. at 506, 509. To satisfy the *Tinker* standard, Defendant ECSD's encroachment on pure student expression must be based, not on the speech's

political (or perceived political) content, but on its actual impact on school operations. *Id.* at 509. Every application of the Dress Code Policy to pure student expression that is not materially disruptive or invasive to the rights of others is therefore unconstitutional.

In sum, Defendant ECSD's ban on "political messages of any kind" fails to give notice as to what speech is allowed or prohibited, invites unconstitutional viewpoint discrimination against H.C. and other students, and bans significantly more speech than what is permitted under the *Tinker* standard. Plaintiff H.C. is therefore substantially likely to prevail in showing that Defendants' Dress Code Policy violates their rights under the Fourteenth Amendment, warranting a preliminary injunction enjoining enforcement of the Policy.

II. Plaintiff H.C. Has Demonstrated Irreparable Injury.

Plaintiff H.C. is currently not allowed to wear their non-disruptive, non-invasive rainbow pride buttons at school on threat of discipline up to and including ISS or suspension. H.C. Decl. at ¶ 11-16, 19-21, 27; Exhibit C at 7; Student Code of Conduct, "Progressive Discipline Procedures," available at https://www.effinghamschools.com/family-students/student-discipline. Since December 2025 and continuing to the present, H.C. is therefore being deprived of their right to engage in silent symbolic speech. "The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976); *KH Outdoor, LLC v. Trussville*, 458 F.3d 1261, 1272 (11th Cir. 2006). The chilling of H.C.'s speech constitutes a particularized, irreparable injury as plaintiffs "who are being 'chilled from engaging in constitutional activity' . . . suffer a discrete harm independent of enforcement." *Speech First,* 32 F.4th at 1120 (quoting *Dana's R.R. Supply v. Att'y Gen., Fla*., 807 F.3d 1235, 1241 (11th Cir. 2015)).

Defendants' actions have also created a "chilling effect" on H.C.'s off-campus speech. Since Defendant Principal Corless told H.C. she could not wear their pride buttons because they would spread the "wrong message around," H.C. was told they could not bring their pride buttons to the off-campus Beta Club convention, and H.C.'s photographs holding her pride buttons were rejected for the school "birthday gram," H.C. has not felt comfortable wearing the buttons in public, including times when they are not at school. H.C. Decl. at ¶ 28. The Eleventh Circuit recognizes precisely this unique danger that viewpoint discrimination against public school students poses to free speech:

> Given the gross disparity in power between a teacher and a student, such comments -- particularly in front of the student's peers -- coming from an authority figure with tremendous discretionary authority, whose words carry a presumption of legitimacy, cannot help but have a tremendous chilling effect on the exercise of First Amendment rights.

Holloman, 370 F.3d at 1269 (holding that a teacher's verbal chastisement of a student for constitutionally-protected expression had an inevitable chilling effect on free speech). The immense power and authority Defendants have over fifth-grader H.C. amplifies the impact of Defendants' viewpoint discrimination and their ability to chill the speech of H.C. and other students both on and off campus. "Where the alleged danger of legislation is one of self-censorship, harm can be realized even without an actual prosecution." *Speech First, Inc.*, 32 F.4th at 1120. A preliminary injunction is necessary to prevent further injury and chilling of H.C. and other students' First Amendment-protected speech.

III. The Balance of Hardships Weighs in H.C.'s Favor.

The balance of hardships weighs decisively in favor of H.C. who, absent a preliminary injunction, continues to suffer irreparable injury due to the denial of their First Amendment freedoms. *See Elrod*, 427 U.S. at 373. An injunction will not overly burden Defendant ECSD and

will only prevent enforcement of a ban against the wearing of nondisruptive buttons while the merits of this case are litigated and resolved. There is no evidence that H.C.'s rainbow pride buttons were substantially and materially disruptive to the school's ability to maintain discipline or invasive of the rights of others. School administrators were the only people to take issue with the buttons. H.C.'s friends commented that the possum button was funny, but other students ignored the buttons. H.C. Decl. at ¶ 10. An "undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression." *Tinker*, 393 U.S. at 508. Granting a preliminary injunction will, in fact, serve the school's own "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 (Alito, J., concurring).

IV. Granting Preliminary Relief Serves the Public Interest.

Finally, granting a preliminary injunction serves the public interest by protecting the free speech rights of H.C. and other public-school students. "It is always in the public interest to protect First Amendment liberties." *KH Outdoor, LLC v. Trussville*, 458 F.3d 1261, 1272 (11th Cir. 2006) (quoting *Joelner v. Vill. of Washington Park*, 378 F.3d 613, 620 (7th Cir. 2004)). Protecting the free speech rights of public-school students is of even greater heightened import:

> The vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools. The classroom is peculiarly the 'marketplace of ideas.' The Nation's future depends upon leaders trained through wide exposure to that robust exchange of ideas which discovers truth 'out of a multitude of tongues, [rather] than through any kind of authoritative selection.

Tinker, 393 U.S. at 512 (quoting *Keyishian v. Bd. of Regents*, 385 U.S. 589 (1967) (internal citations omitted)). Preventing public schools from becoming "enclaves of authoritarianism"

necessitates that the fundamental rights of students are protected and student expression is not "confined to the expression of those sentiments that are officially approved." *Id.* at 551.

CONCLUSION

For the foregoing reasons, a preliminary injunction should be entered allowing H.C. to wear rainbow pride buttons on their backpack and clothing without fear of punishment.

Respectfully submitted this 30th day of March, 2026

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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

H.C. by and through their father WAYNE CARVER *Plaintiff*, v. EFFINGHAM COUNTY SCHOOL DISTRICT, Superintendent YANCY FORD, in his individual and official capacities; Effingham County Board of Education Chair VICKIE DECKER in her individual and official capacities; Effingham County Board of Education Members TROY ALLEN, JAN LANDING, and BEN JOHNSON in their individual and official capacities; and Principal MICHELLE CORLESS in her individual and official capacities, *Defendants*.	Civil Action File No. 4:26-cv-00081-RSB-CLR

CERTIFICATE OF SERVICE

The undersigned herby certifies that on March 30, 2026 a true and correct copy of the foregoing **PLAINTIFF'S MOTION AND BRIEF IN SUPPORT OF A PRELIMINARY INJUNCTION** was served by email on counsel for Defendants:

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