

Hon. Robert S. Lasnik

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

BENJAMIN LANG, a minor student by and
through his parents, BIN LANG and ZIYI
ZHOU,

Plaintiff,

vs.

BELLEVUE SCHOOL DISTRICT,

Defendant

NO: 2:19-cv-01454

**AMENDED NOTICE OF APPEAL OF
SCHOOLDISTRICT DECISION
PURSUANT TO CHAPTER 28A.645 RCW
AND COMPLAINT FOR
DECLARATORYRELIEF**

Comes now Plaintiff Benjamin Lang by and through his parents Bin Lang and Ziyi Zhou,
and his attorney, Lara Hruska of Cedar Law PLLC, and hereby files this Amended Complaint:

I. Introduction

1.1 Plaintiff Benjamin Lang was a sophomore at Defendant's Bellevue High School during the 2018-2019 school year. During that year, Defendant's staff repeatedly retaliated against Benjamin for exercising his right to free speech under Article 1 Section 5 of the Washington State Constitution and the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.

1.2 All events relevant to this case arose in the context of the Bellevue High School Speech and Debate Club. Benjamin was repeatedly retaliated against by the Club's faculty advisor for exercising his right to free speech, and was disciplined by high school administrators as a result.

AMENDED NOTICE OF APPEAL OF SCHOOLDISTRICT
DECISION PURSUANT TO CHAPTER 28A.645 RCW AND
COMPLAINT FOR DECLARATORYRELIEF - 1

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1.3 In addition to violating Benjamin's right to free speech, Defendant Bellevue School District violated its own written policies on student discipline and misled Benjamin's parents about those policies. All of this conduct resulted in injury to Benjamin.

II. Parties

2.1 At all relevant times, Plaintiff Benjamin Lang (“Benjamin”) has resided with his parents, Bin Lang (“the Father”) and Ziyi Zhou (“the Mother”) (collectively referred to herein as “the Parents”) within the boundaries of the Bellevue School District in Bellevue, Washington. The Parents and Benjamin are collectively referred to herein as “the Family.”

2.2 Defendant Bellevue School District is a Washington State municipal corporation located in Bellevue, Washington.

III. Jurisdiction and Venue

3.1 Plaintiff originally filed this case in the Superior Court for the State of Washington in King County, because it is an appeal under Chapter 28A.645 RCW of a school district decision. On September 11, 2019, Defendant filed a Notice of Removal to this federal district court because Plaintiff alleges that his federal constitutional right of free speech was violated by the school district decision. Plaintiff does not object to Defendant's Notice of Removal.

IV. Factual Allegations

A. Opposition to Benjamin exercising free speech rights in February 2019

4.1 Prior to the State Competition for Congressional Speech and Debate in March 2019 (“State Competition”), the Washington State Forensics Association (“WSFA”) changed its procedure for selecting which students would compete.

4.2 Previously, there was a runoff tournament for all students who had accumulated 20 or more points during the regular season. This year, the runoff tournament was cancelled. Instead, the three top-scoring students from each high school would advance to the

1 State Competition. The WSFA provided a procedure for breaking a tie if any top-scoring
2 students had the same number of points.

3 4.3 The three top-scoring students from Bellevue High School (“BHS”) had
4 29, 27, and 26 points, respectively, prior to the State Competition. Benjamin was the student
5 with 26 points. He was therefore selected for the State Competition. Benjamin’s name was
6 posted on the Washington Interscholastic Athletics Association (“WIAA”) Speech and Debate
7 website as one of the three BHS students going to the State Competition.

8 4.4 At all relevant times, the faculty advisor for the BHS Speech and Debate
9 Club was Amy McCormick. Ms. McCormick wanted a different student to attend the State
10 Competition instead of Benjamin. Ms. McCormick appealed to WIAA, asking if she could treat
11 the third position (Benjamin’s) as if there was a tie. However, there was no tie. The BHS
12 student with the next highest number of points (the one Ms. McCormick wanted to select) had 25
13 points. Benjamin had 26 points.

14 4.5 WIAA informed Ms. McCormick that tie-breaking was an internal school
15 decision that was up to her. Ms. McCormick therefore acted as if there was a tie and utilized
16 WIAA’s tie-breaking procedure, which was to compare the two students’ head-to-head scores in
17 regular season tournaments. Using this method, Ms. McCormick cut Benjamin from the State
18 Competition.

19 4.6 The website of the Emerald City Speech and Debate League – WIAA
20 District 2,¹ encouraged students: “Please do not hesitate to contact [the WIAA Coordinator] with
21 any questions you may have.” Following this suggestion, Benjamin sent a polite email to one of
22 the WIAA Speech and Debate Coordinators for District 2. He explained the situation without
23 saying anything negative about Ms. McCormick and concluded: “I was wondering if I could
24 receive clarification and more rules on this matter? I still firmly stand on my belief that this is
25 not a tie and I would appreciate some clarification on this issue.”

26 ¹ The website address was formerly emeraldcityspeech.org. That web address is no longer operational.
27 Plaintiff has not been able to locate a current website for the organization.

1 4.7 The WIAA Coordinator replied, explaining that it is the policy of District
2 not to interfere with internal team tie-breaking decisions. That ended the matter.

3 4.8 However, Ms. McCormick was upset that Benjamin had appealed above
4 her and exercised his right to speak to the WIAA Coordinator -- a right protected by the State
5 and federal Constitutions as well as being explicitly encouraged by the WIAA. Defendant
6 School District retaliated against Benjamin for this exercise of free speech: at Ms. McCormick's
7 request, the BHS Principal punished Benjamin for another alleged offense two months later
8 (discussed below). In determining discipline for the new alleged offense, the Principal wrote that
9 he "considered the following information" including: "Ben emailed the Speech and Debate
10 Coordinator for [WIAA], District 2, to question the selection of state qualifiers."

11 **B. Opposition to Benjamin exercising free speech rights in March 2019**

12 4.9 The Western Washington District Speech and Debate Tournament
13 occurred in March 2019. Benjamin placed third in the tournament. Benjamin's teammate from
14 BHS (hereafter referred to as "J.P.") placed fourth.

15 4.10 Benjamin believed that J.P. should have placed second instead of fourth,
16 based on the scoring charts. Benjamin believed that J.P.'s lowest score was incorrectly counted
17 twice, which caused J.P. to be ranked fourth instead of second.

18 4.11 Benjamin wanted to appeal the scoring decision to the national level. Ms.
19 McCormick opposed Benjamin's advocacy for J.P. Ms. McCormick shut Benjamin down,
20 claiming an appeal would risk the entire Western Washington region being disqualified from
21 national competition the following year. Ms. McCormick again became upset at Benjamin for
22 his exercise of free speech rights, leading to further retaliation.

23 **C. April 2019 Retaliation for exercising free speech rights: Refusing to register**
24 **Benjamin for National competition**

25 4.12 The National Speech and Debate Tournament ("Nationals") was
26 scheduled for June 16 - 21, 2019, in Dallas, Texas. Students who placed first and second in the
27 Western District of Washington in Congressional Debate were eligible for Nationals. Initially,

Benjamin was not eligible because he placed third.

4.13 However, on April 12, 2019, the student who placed first in the Western District of Washington in Congressional Debate, S.G., informed Benjamin that she had decided not to attend Nationals. She wrote to Benjamin that she had attended twice before and wanted to participate in graduation-related activities instead. Because Benjamin had placed third, he should have been the first selection to become the alternate and attend Nationals.

4.14 In order to attend as an alternate, a student's debate team advisor would have to register the student for Nationals by the deadline of May 24, 2019.

4.15 On April 15, 2019, Benjamin informed Ms. McCormick of S.G.'s decision not to attend Nationals, making Benjamin eligible to attend. When Ms. McCormick did not initially register Benjamin, he asked her several times during April to register him. Ms. McCormick did not do so.

4.16 Ms. McCormick was well aware of the May 24, 2019 deadline to register alternates for Nationals. Ms. McCormick never registered Benjamin as an alternate, and never indicated to Benjamin that she had any intention of registering him. Ms. McCormick's refusal to do so was in retaliation for Benjamin's exercise of free speech rights set forth above.

D. April 2019 retaliation for Benjamin exercising free speech rights: Officer elections

4.17 The BHS Speech and Debate Club held officer elections on April 22, 2019 for the next school year. Benjamin and three other students ran for vice president.

4.18 The votes for vice president were recorded on paper ballots and placed in a bucket. When Ms. McCormick announced the results, the number of votes she announced did not add up to the total number of votes cast. This raised questions in Benjamin's mind. Benjamin did not win the race, according to Ms. McCormick.

4.19 At the conclusion of the election, Benjamin approached Ms. McCormick and requested a recount of the vice-presidential election ballots. *The ballots did not contain the names of the voters, only the names of the candidates.* Therefore, a recount in front of Benjamin or other students would not violate any voter's confidentiality.

4.20 Ms. McCormick refused to perform a recount of the votes. Benjamin

1 explained that he believed he had a right to know. Ms. McCormick replied, “You absolutely do
2 not!” and dumped the ballots into a trash bin.

3 4.21 Having been denied the recount of a suspicious vote tally, and any future
4 recount being prevented by Ms. McCormick disposing of the ballots, Benjamin took the only
5 alternative route to verify the accuracy of the election. Benjamin politely asked other students
6 if they wished to waive the confidentiality of their votes. Before doing so, he read the
7 Constitution of the BHS Speech and Debate Club. Nothing in it indicated in any way that this
8 was not permitted. Nothing in any Bellevue School District policy, or in the National Speech
and Debate Association Code of Honor, indicated this was not permitted.

9 4.22 Benjamin contacted students via text message or social media along the
10 following lines:

11 **Benjamin:** Hey XXX, did you vote for me for vp? No judgment, I am just trying to
12 confirm how many votes I received. It’s ok if you did not.

13 **XXX:** I didn’t sorry.

14 **Benjamin:** That’s ok. Thank you so much though.

15 **XXX:** Np [no problem].

16 *****

17 **Benjamin:** Hey YYY did you vote for me? It’s ok if you didn’t, no judgement, but I
just need to know the truth.

18 **YYY:** Dude I only got to vote for president then I had to leave.

19 Benjamin: Oh that’s right.

20 **YYY:** I’ll vote for you for class pres though!

21 Benjamin: Thanks but you can’t.

22 4.23 To students who asked more questions, Benjamin explained:

23 **Benjamin:** I tried to see the votes to confirm it but mccormick shooed me away and
24 locked the door... Mccormick wouldn’t let me challenge the results at all and I won’t
25 accept that.

26 *****

1 **Benjamin:** I think we should have a right to challenge the results, just as real politicians
2 call for recounts.

3 *****

4 **Benjamin:** And I wanted to confirm it and see for myself but I was completely shut
5 down. It's not even about winning or losing, I just want to know.

6 *****

7 **Benjamin:** If they had let me reverify and I saw that say, 3 people voted for ZZZ, I
8 would accept the loss and move on. But the fact is they wouldn't even let me reverify
9 and I'm just not [sentence not completed]

10 *****

11 **Benjamin:** I did ask for the numbers, and she completely shut me down.

12 4.24 Students Benjamin could not reach by text message or social media, he
13 contacted in person. If they said they voted for him, he asked them to sign a paper that he
14 planned to show to Ms. McCormick.

15 4.25 Ms. McCormick learned from a student that Benjamin was seeking to
16 verify the accuracy of the election in this manner. Ms. McCormick immediately referred
17 Benjamin to the Assistant Principal for discipline.²

18 4.26 Ms. McCormick asked that Benjamin be barred from the Speech and
19 Debate Club for the entire the next school year, or alternatively that he be barred from attending
20 Nationals in June 2019 during the present school year. Even before the officer elections
21 incident on April 22nd Ms. McCormick had been refusing to register Benjamin for Nationals
22 since he informed her of his eligibility on April 15th. (School was in session after April 15th –
spring break had ended April 12th.)

23 4.27 On April 29, 2019, the Assistant Principal met with Benjamin and his
24 _____
25

26 ² BHS has two Assistant Principals. The one involved in this case was Assistant Principal Bret Cochrun.
27 For the sake of simplicity, he is referred to herein as the Assistant Principal.

1 Mother. He issued a disciplinary decision barring Benjamin from competing in Nationals.

2 4.28 This punishment was unrelated to Benjamin's attempt to verify the
3 accuracy of officer elections. Instead, the punishment targeted what Ms. McCormick knew
4 Benjamin wanted most: to compete in Nationals. The Assistant Principal advised Benjamin's
5 Mother that she could speak with Ms. McCormick to see if Ms. McCormick was willing to
6 change her mind.

7 4.29 On April 30, 2019, Benjamin apologized to Ms. McCormick via email.
8 He took all the blame on himself and adopted Ms. McCormick's views on the officer election
9 incident. Benjamin did not believe Ms. McCormick was correct in those views, but was willing
10 to put aside his own views on free speech and the right to election recounts in order to reconcile
11 with her and be permitted to attend Nationals.

12 4.30 Ms. McCormick never replied to Benjamin's apology email.

13 4.31 Ms. McCormick refused the Mother's request to meet with her to discuss
14 Benjamin's behavior.

15 4.32 The Parents then followed each step of Defendant's discipline appeal
16 process. That process is discussed in the section IV.E., below. The Parents' appeal was denied
17 at every step.

18 4.33 Benjamin attempted to mitigate his damages for the next school year,
19 2019-2020: he requested to compete with the debate team of a different high school in
20 Defendant Bellevue School District. That would avoid continued retaliation by Ms.
21 McCormick. The WIAA denied Benjamin's request because WIAA rules do not allow students
22 to compete for a different school than the one they attend.

23 4.34 On August 2, 2019, after exhausting Defendant's internal discipline
24 appeal process, Benjamin filed this case in King County Superior Court to appeal Defendant's
25 decision pursuant to Chapter 28A.645 RCW.³ Defendant subsequently removed the case to this

26 ³ Plaintiff's complaint under Chapter 28A.645 RCW was assigned Cause No. 19-2-20412-5 SEA. On
27 September 11, 2019, Defendant filed a Notice of Removal to the federal district court for the Western
28 District of Washington, where the case was assigned Cause No. 2:19-cv-01454.

1 federal district court.

2
3 **E. Defendant violated its own written policies and misled Benjamin's Parents about**
4 **those policies**

5 Defendant misled Benjamin's Parents about its own policies

6 4.35 On April 29, 2019, the Assistant Principal misled the Mother about the
7 District's discipline appeal process. He advised that the Mother go back to Ms. McCormick to
8 try to get the Assistant Principal's own discipline decision reversed. District policy, adopted
9 by its Board of Directors, states that if a parent or student is aggrieved by discipline, the next
10 step is to request an "informal conference with the principal." *See* Bellevue School District
11 Policy 3241, "Classroom Management, Corrective Actions and/or Interventions" ("Policy
3241").

12 4.36 The Mother wasted precious time in advance of the May 24, 2019
13 deadline to register Benjamin for Nationals by doing as the Assistant Principal advised. It was
14 predictably fruitless: In response to the Mother's April 30th and May 2nd requests to meet, on
15 May 3rd Ms. McCormick directed the Mother back to the Assistant Principal because the matter
was in his hands.

16 4.37 The Assistant Principal also misled the Family about which appeal
17 process applied to their case. On May 9, 2019, the Assistant Principal wrote that the appeal
18 procedures in the District's policy on "Interscholastic Activities," Policy 2151, applied. On
19 May 14th, he reiterated this in another email to the Family. This caused the Family to believe
20 they had the enhanced rights provided by Procedure 2151P. The Family fruitlessly argued for
21 these enhanced rights through the time of their second-level appeal to the Executive Director
22 of Schools ("Executive Director"). The Executive Director informed the Family, in her June 11,
23 2019 decision, that Policy 2151 did *not*, in fact, apply, and only the lesser rights provided in
24 Policy 3241 applied.

Defendant violated its own policies

4.38 On May 7, 2019, Benjamin's Father appealed the Assistant Principal's discipline decision and asked to meet with the Principal immediately. On May 9th, the Father reiterated this request because the May 24th deadline to register for Nationals was approaching.

4.39 The Principal met with Parents on May 15, 2019, but stated he would next meet with Benjamin alone.

4.40 The Principal violated Policy 3241 by stating he would meet with Benjamin alone. Policy 3241 provides students the right to have their parents present at the informal conference with the principal to appeal discipline:

Any parent/guardian *and/or* student who is aggrieved by the imposition of discipline will have the right to an informal conference with the principal. (Italics added).

4.41 The Principal then failed to meet with Benjamin until May 22nd – two days before the registration deadline for Nationals. At that meeting the Principal again violated Policy 3241. He failed to offer Benjamin an opportunity to question the staff involved in the matter being grieved. (He had not offered this opportunity to the Parents, either, when he met with them on May 15th.) Policy 3241 provides that at the informal conference with the principal:

the student and parent/guardian . . . will be entitled to question staff involved in the matter being grieved.

4.42 Benjamin did know that District policy provided this right. He also he did not know he had the right to have his Parents present when he met with the Principal. The Principal did not disclose either of these rights to Benjamin.

4.43 The Principal also pre-judged the outcome of the appeal, and rendered the entire appeal process futile, by refusing to preserve the status quo pending appeal.

4.44 At their May 15th meeting with the Principal, the Parents had requested that Benjamin be registered for Nationals to preserve the *possibility* of a successful appeal. The Principal refused to do so. Unless Benjamin was provisionally registered for Nationals by the May 24th deadline, the outcome of his appeal was pre-judged and futile. If the appeal was

1 ultimately unsuccessful, Benjamin's name could have been withdrawn (just as S.G.'s name had
2 been withdrawn earlier). Nationals did not begin until June 16th. There was ample time to
3 withdraw Benjamin's name before then if the appeal was unsuccessful.

4 4.45 The Principal had the express authority to preserve the status quo
5 pending appeal under Policy 3241, which provides:

6 The disciplinary action will continue notwithstanding implementation of the grievance
7 procedure *unless the principal, superintendent or board elects to postpone such action.*"
(Italics added).

8 4.46 The Principal refused to postpone the disciplinary action by registering
9 Benjamin for Nationals to preserve the possibility of a successful appeal. This pre-judged the
10 outcome of the appeal and rendered futile all of the appeal rights provided in Policy 3241.

11 4.47 At the May 22, 2019 informal conference with Benjamin, the Principal
12 announced his decision to uphold the Assistant Principal's discipline. The Principal stated: "It
13 is not going to happen for you to attend the National final."

14 4.48 The Principal still needed to send his decision in writing to the Parents.
15 He did not do that until after the deadline to register Benjamin for Nationals had already passed.

16 4.49 On May 22, 2019, after Benjamin informed his Father of the Principal's
17 decision, the Father wrote to the Principal: "Based on your conversation with [Benjamin], we
18 do not agree with what you said and your decision. We had consulted with lawyers . . . we will
19 take legal actions to sue in the court." The Principal responded: "I will be sending my response
20 to your appeal in writing by tomorrow afternoon. [May 23rd]" The Father replied, reiterating
21 that the Family would sue in court.

22 4.50 Only then did the Principal apparently check Policy 3241 and realize he
23 had violated it by not giving Benjamin an opportunity at the informal conference – *before*
24 announcing his decision at that conference – to question the staff involved. Alternatively, the
25 Principal knew what Policy 3241 provided and intentionally violated it by denying Benjamin
26 the right to question staff during the conference (and denying that right to his Parents on May
27

1 15th), only acknowledging the existence of that right after the Father said he would sue.⁴

2 4.51 The Principal then wrote to the Father on May 22 and May 23, 2019:

3 Before I can complete my review and provide a written decision, you must be afforded
4 the right to question staff involved in the matter being grieved, as stated in Board Policy
5 3241, Section 2; Appeal Process for Disciplinary Action.

6 4.52 Benjamin's Father chose to appeal the Principal's decision to the
7 Executive Director (the next step in the appeal process). He declined the Principal's belated
8 offer to question staff because that questioning was supposed to have occurred *at* the informal
9 conference, not afterward, and was supposed to have occurred *before* the Principal announced
10 his decision at the conference, not afterward. The Family had wasted considerable time and
11 effort on all of the school's misinterpretations of district policy (described above) and did not
12 have more time to waste. Two days now remained before the May 24, 2019 deadline to register
Benjamin for Nationals.

13 4.53 Instead of sending his written decision on May 23rd, as promised, the
14 Principal sent it on May 27th -- after the deadline to register for Nationals had passed. The
15 written decision conformed with the decision he announced to Benjamin on May 22nd:
Benjamin would be barred from attending Nationals.

16 4.54 On May 30, 2019, the Family appealed the Principal's decision to the
17 Executive Director. On June 3rd, Benjamin's Father made an interim request of the Executive
18 Director, trying once again to salvage the status quo pending appeal:

19 While we wait to meet, we ask that someone immediately contact NSDA [National
20 Speech and Debate Association] that Benjamin can attend as an alternate even though
21 Ms. McCormick passed the 5/24/19 deadline. Without this quick effort to maintain the
22 status quo pending this appeal, Benjamin will be irreversibly prejudiced by Ms.

23
24
25 ⁴ Discovery will be conducted concerning what training the Principal received on Policy 3241 and whether
26 he had afforded *other* students the right to question staff during informal conferences in the past. This will
27 elucidate whether the Principal's violation of Policy 3241 was negligent or intentional.

1 McCormick's unfair behavior.

2 4.55 The Executive Director had the express authority to do this. As stated
3 above, Policy 3241 provides: “The disciplinary action will continue notwithstanding
4 implementation of the grievance procedure *unless the principal, superintendent or board elects*
5 *to postpone such action.*” (Italics added). The Executive Director was the Superintendent’s
6 designee. She had the authority to postpone the disciplinary action by attempting to register
7 Benjamin for Nationals, preserving the possibility of a successful appeal.

8 4.56 The Executive Director refused to do so, rendering the appeal futile. She
9 replied to the Father’s June 3, 2019 email, as follows, misrepresenting the provisions of Policy
3241 without even citing the policy:

10 I recognize your sense of urgency with the looming conference dates.

11 *Unfortunately, Dr. Anderson’s decision stands pending the appeal process.*

12 Thus, there will be no contact initiated with NSDA at this time.

13 (Italics added).

14 4.57 The Executive Director issued her decision on June 11, 2019. The
15 decision violated Policy 3241 in several ways. First, it failed to address one of the bases for the
16 appeal: that there is no rule against looking at ballots after-the-fact, yet Benjamin was
17 disciplined for asking to do so. One of the reasons the Principal cited for disciplining Benjamin
18 was: “Benjamin interfered with club officer elections by attempting to view the confidential
19 votes submitted by other members of the club.”

20 4.58 The Executive Director declined to address this part of the appeal for an
21 unrelated reason: Benjamin was no longer contesting whether he won the vice-presidential
election. The Executive Director wrote:

22 At our meeting, it was shared that there was no longer a concern related to the
23 results of the election, as [Benjamin] had since determined that he did not have
24 enough votes to win the election. Based on this information I did not further
25 investigation [sic] this allegation, nor deem [sic] findings.

26 4.59 Second, the Executive Director failed to address the Family’s argument
27 that the Principal never stipulated what rule Benjamin violated. The Executive Director jumped

1 to the ultimate conclusion, stating the Principal had stipulated Benjamin violated the rule
2 against “Disruptive Conduct” (Procedure 3241P). That rule makes no mention of voting,
3 elections, or discussing votes after an election.

4 4.60 Third, the Executive Director erroneously found that Benjamin
5 attempted to violate the “confidential votes” of other students by attempting to view the ballots
6 after the election.⁵ The ballots did not contain the names of the voters, only the names of the
7 candidates. The Executive Director knew this because she was in possession of the actual
8 ballots.⁶ Just as a recount of ballots in a political election does not violate the confidentiality
9 of the vote, so here a recount would not have violated the confidentiality of any student’s vote.

10 4.61 Fourth, the Executive Director violated Procedure 3241P by completely
11 re-writing its definition of Disruptive Conduct. Procedure 3241P defines Disruptive Conduct
12 as follows:

13 Disruptive Conduct meaning substantially interfering with teaching, learning,
14 and/or school operations.

15 (Underscoring in original).

16 4.62 The Executive Director, by contrast, concluded Benjamin engaged in
17 Disruptive Conduct as follows:

18 [Benjamin’s] choice to approach select students in more than one way and on more
19 than one occasion to attempt to confirm their voting actions did *disrupt the*
20 *educational environment of select students.*

21 (Italics added).

22
23 ⁵ The Executive Director made this finding without addressing the Family’s argument that there was no
24 rule against asking for a recount, as discussed in paragraphs 4.57 – 4.58, above.

25 ⁶ It turns out that the ballots Ms. McCormick threw in the trash bin on April 22, 2019, were retrieved
26 (either by her or by other school staff). At a June 6, 2019 meeting with the Family, the Executive Director
27 revealed that she was in possession of the ballots, and that Benjamin did not have enough votes to win the
28 vice-presidential election. The Family stated they were not contesting the election outcome, but rather the
discipline imposed.

1 4.63 The definition of “Disruptive Conduct” in Procedure 3241P does *not*
2 include “disrupting the educational environment of other students.” It includes only
3 “substantially interfering with teaching, learning, and/or school operations.” The “educational
4 environment of other students” is a much broader concept than what is in the actual definition.

5 4.64 The Executive Director re-wrote Procedure 3241P by grafting onto it the
6 phrase at issue, which was invented out of whole cloth. She did this because Benjamin’s
7 conduct did not fit within the actual definition of “Disruptive Conduct.” No student, including
8 Benjamin, had notice that a new definition would be used. Also, the invented phrase is
9 unconstitutionally vague and overbroad because students cannot know in advance what conduct
10 might “disrupt the educational environment” of another student. Thus, Defendant committed a
11 Constitutional violation during the appeal process, in addition to the Constitutional violations
discussed above.

12 4.65 Finally, the Executive Director re-wrote Procedure 3241P by cutting the
13 word “substantially” from it. She did not even allege that Benjamin “substantially” disrupted
14 anyone’s educational environment. She simply ignored the word.

15 4.66 Assuming, as the Executive Director alleges, that Benjamin’s inquiry
16 caused a student or students to feel uncomfortable, this does not rise to the level of “substantially
17 interfering” with their “learning.” The Executive Director does not even allege that it did. None
18 of the quotes from the student interviews set forth in her decision come anywhere near meeting
19 that definition. Also, none of the students used the words “coerced”, “intimidated”, or any
20 synonym thereof. Those words, too, were grafted into the decisions of the Principal and the
Executive Director.

21 4.67 The Family appealed the Executive Director’s decision to Defendant’s
22 Disciplinary Appeal Council (“DAC”), pursuant to Policy 3241. While the DAC upheld the
23 Executive Director’s decision, the DAC raised the same questions about the officer election
24 process that Benjamin tried to raise and was disciplined for doing so. The DAC wrote in its July
3, 2019 decision:

25 Although, the DAC decision was to uphold the District-level-grievance decision,
26 members of the DAC did feel that the officer election process may not have been
27

1 clear to club members. For example, regarding the voting process, the DAC had
2 the following questions:

- 3 • How were the results shared?
- 4 • *Is there a review or challenge process?*
- 5 • *Was there a validation process?*
- 6 • Were voting expectations clearly communicated in advance?

7 On behalf of the DAC, I will reach out to Mr. Jeff Lowell [Bellevue School] District
8 Athletics and Activities Director and have him work with the BHS Speech/Debate
9 advisor to review the officer election process to address the questions asked by the
10 DAC.

(Italics added).

11 4.68 Defendant owes a duty to its students to comply with the policies and
12 procedures on student discipline adopted by its Board of Directors. Defendant breached that
13 duty toward Plaintiff, resulting in injury to him that was proximately caused by Defendant's
14 breach.

15 **F. Injury**

16 4.69 As a result of the unlawful conduct of Defendant set forth above, Plaintiff
17 Benjamin Lang was injured by the chilling of his right to free speech and by being barred from
18 competing in the 2019 National Speech and Debate Tournament. Competing in the national
19 tournament would have been highly valuable for his future academic and professional career.
20 Benjamin may never have that opportunity again. Benjamin also suffered emotional distress
21 and loss of reputation.

22 **V. Claims for Relief**

23 5.1 Plaintiff is entitled to a de novo hearing by this Court of Defendant's
24 discipline decision, pursuant to RCW 28A.645.010 and RCW 28A.645.030.

25 5.2 Defendant erred as a matter of law by sanctioning Plaintiff for engaging
26 ins constitutionally protected speech.

1 5.3 Defendant further erred as a matter of law by upholding the discipline
2 against Plaintiff.

3 5.4 Defendant's actions were in violation of Plaintiff's constitutional rights
4 to free speech under Article 1, Section 5 of the Washington State Constitution and the First and
5 Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.

6
7 **VI. Relief Requested**

8 Plaintiff Benjamin Lang, by and through his parents, Bin Lang and Ziyi Zhou,
9 respectfully requests the following relief:

10 6.1 That the Court take jurisdiction over this matter;

11 6.2 That the Court review this matter de novo in an expeditious manner as
12 required by RCW 28A.645.030;

13 6.3 That the Court reverse Defendant's discipline decision;

14 6.4 That the Court find Defendant's actions violated Plaintiff's right to free
15 speech under state and federal constitutional law;

16 6.5 That the Court award costs and reasonable attorney's fees; and

17 6.6 That the Court order any other relief the Court finds necessary and proper.

18 Respectfully submitted this _____ day of September, 2019.

19
20 CEDAR LAW PLLC

21
22 _____
23 LARA HRUSKA, WSBA No. 46531
24 Attorney for Plaintiff
25 Cedar Law PLLC
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DECLARATION OF SERVICE

The undersigned declares under penalty of perjury under the laws of the State of Washington that on this day the undersigned caused to be served in the manner indicated below a copy of the foregoing document directed to the following individuals:

Counsel for Bellevue School District:

John Safarli
Floyd, Pflueger & Ringer, P.S.
20 W. Thomas St., Ste. 500
Seattle, WA 98119

☐ Via Messenger

☒ Via Facsimile – (206) 441-8484

☐ Via U.S. Mail, postage prepaid

☐ Via Overnight Mail, postage prepaid

☒ Via Court E-Service or email with
recipient's approval *jsafarli@floyd-
ringer.com*

DATED this _____ day of September, 2019.

By Nicole Cullen