

5. Defendants lack information sufficient to form a belief and therefore deny the allegations in Paragraph 5.

6. Defendants admit so much of the allegations of Paragraph 6 as alleges that a student informed TCCD of his intent to wear an empty holster in the classroom in April 2008, but Defendants lack information sufficient to form a belief as to the remaining allegations of Paragraph 6.

7. Defendants admit so much of Paragraph 7 as alleges that TCCD responded that the students could not wear empty holsters on campus, that TCCD had free speech zones on each campus, and that notice was requested before a demonstration could only be held on the TCCD campuses, but deny the remaining allegations of Paragraph 7.

8. Defendants admit the recitation of TCCD's former *Policy and Regulation Manual* and its former Student Handbook in Paragraph 8, but answering further would state that the language is no longer contained in the student handbook which is attached as Exhibit A.

9. Defendants admit that it has been criticized for its policies and decisions, some criticism being made in the form of threats, but deny the remaining allegations of Paragraph 9.

10. Defendants admit so much of Paragraph 10 as alleges an email from Clayton Smith and the content of the email, but they lack information sufficient to form a belief as to the remaining allegations in Paragraph 10 and demand strict proof thereof.

11. Defendants admit so much of Paragraph 11 as alleges that protesters were not allowed to wear empty holsters anywhere on campus, that the handing out of flyers was confined to the Free Speech Zone, that permission was requested and no protest was held. Defendants deny the remaining allegations in Paragraph 11.

12. Defendants admit so much of Paragraph 12 as alleges that Clayton Smith informed the Defendants that an empty holster protest would be held the week of November 9, 2009, without any specifics as to where the protest would be held or any other details and that TCCD responded

to him, but Defendants lack information specific to form a belief as to the remaining allegations of Paragraph 12.

13. Defendants admit the allegations of Paragraph 13.

14. Defendants admit so much of Paragraph 15 as alleges that one or more of the Plaintiffs engaged in some protest during the week of November 9, 2009, but lack information sufficient to form a belief as to the remaining allegations of Paragraph 14.

15. Defendants admit so much of Paragraph 15 as alleges that Defendants revised their policies and student handbook, but deny the remaining allegations of Paragraph 15.

16. Defendants lack information sufficient to form a belief as to the allegations of Paragraph 16.

17. Paragraph 17 contains legal conclusions cast in the form of allegations. Defendants, therefore, deny the "allegations" of Paragraph 17.

18. Paragraph 18 contains legal conclusions cast in the form of allegations. Defendants, therefore, deny the "allegations" of Paragraph 18.

19. Paragraph 19 contains legal conclusions and positions taken by parties in other cases. Defendants, therefore, deny the "allegations" of Paragraph 19.

20. Paragraph 20 contains legal conclusions cast in the form of allegations. Defendants, therefore, deny the "allegations" of Paragraph 20.

21. Paragraph 21 contains legal conclusions cast in the form of allegations. Defendants, therefore, deny the "allegations" of Paragraph 21.

22. Defendants admit so much of Paragraph 22 as recites BD (LEGAL). The remaining language of Paragraph 22 constitutes legal conclusions cast in the form of allegations and is, therefore, denied.

23. Defendants admit so much of Paragraph 23 recites GB (LEGAL). The remaining language of Paragraph 23 constitutes legal conclusions cast in the form of allegations and is, therefore, denied.

24. Defendants admit so much of Paragraph 24 as alleges that TCCD's South, Northwest, and Trinity River Campuses have addresses with the city of Fort Worth; the Southeast Campus has an address within the city of Arlington, and Northeast Campus is located in the cities of North Richland Hills and Hurst. The remaining language of Paragraph 24 constitutes legal conclusions cast as allegations and is, therefore, denied.

25. Paragraph 25 contains legal conclusions cast in the form of allegations. Defendants, therefore, deny the "allegations" of Paragraph 25.

26. Defendants deny the allegations of Paragraph 26.

27. Paragraph 27 contains legal conclusions cast in the form of allegations. Defendants, therefore, deny the "allegations" of Paragraph 27.

28. Paragraph 28 contains legal conclusions cast in the form of allegations. Defendants, therefore, deny the "allegations" of Paragraph 28.

29. Paragraph 29 contains legal conclusions cast in the form of allegations. Defendants, therefore, deny the "allegations" of Paragraph 29.

30. Paragraph 30 contains legal conclusions cast in the form of allegations. Defendants, therefore, deny the "allegations" of Paragraph 30.

31. Defendants admit so much of Paragraph 31 as recites GFA (LEGAL), but deny the remaining allegations of Paragraph 31.

32. Defendants admit that GFA (LEGAL) prohibits a person from possessing a firearm on the premises of the campus.

33. Paragraph 33 contains legal conclusions cast in the form of allegations. Defendants, therefore, deny the "allegations" of Paragraph 33.

34. Defendant admits that it has revised certain policies after the Court's November 6, 2009 order. A true and correct copy of the revised Handbook Policy is attached to this Verified Answer as Exhibit A.

35. Defendant admits its revised policies as set forth in Paragraph 35 of the Amended Complaint.

36. Paragraph 36 contains legal conclusions cast in the form of allegations. Defendants, therefore, deny the "allegations" of Paragraph 36.

37. Paragraph 37 contains legal conclusions cast in the form of allegations. Defendants, therefore, deny the "allegations" of Paragraph 37.

38. Paragraph 38 contains legal conclusions cast in the form of allegations. Defendants, therefore, deny the "allegations" of Paragraph 38.

39. Paragraph 39 contains legal conclusions cast in the form of allegations. Defendants, therefore, deny the "allegations" of Paragraph 39. As to the recitation of TCCD policies, the Defendants admit.

40. Defendants admit so much of Paragraph 40 as alleges that TCCD roads and sidewalks are designated public forums, but deny the remaining allegations of Paragraph 40.

41. Paragraph 41 contains legal conclusions cast in the form of allegations. Defendants, therefore, deny the "allegations" of Paragraph 41.

42. Paragraph 42 contains legal conclusions cast in the form of allegations. Defendants, therefore, deny the "allegations" of Paragraph 42.

43. Defendants admit so much of Paragraph 43 as alleges that Plaintiffs were not permitted to wear empty holsters in the classroom and on campus prior to this Court's November 6, 2009 order, but deny the remaining allegations of Paragraph 43.

44. Defendants admit so much of Paragraph 44 as alleges that protestors were not allowed to wear empty holsters on campus prior to this Court's November 6, 2009 order and that there were concerns as to the potential disruption in the classroom and the campuses.

45. Defendants lack information sufficient to form a belief as to the allegations of Paragraph 45 which set forth Plaintiffs' intent in their protest. As to the remaining allegations of Paragraph 45, Defendants deny.

46. Defendants admit so much of allegations of Paragraph 46 as alleges that TCCD Board policy follows state law, but denies the remaining allegation of Paragraph 46.

47. Defendants deny the allegations of Paragraph 47.

48. Defendants deny the allegations of Paragraph 48.

49. Defendants admit that handbook revisions were effective December 8, 2009, and that on December 17, 2009 the TCCD board revised two policies related to expressive activities. Defendants deny the remaining allegations of Paragraph 49.

50. Paragraph 50 contains legal conclusions cast in the form of allegations. Defendants, therefore, deny the "allegations" of Paragraph 50.

51. Defendants deny the allegations of Paragraph 51.

52. Defendants admit that there are Policy and Regulations identified as BE (REGULATION) and BE (LOCAL). Defendants deny the intent of the out of context recitation.

53. Defendants deny the allegations of Paragraph 53.

54. Defendants admit so much of Paragraph 54 as alleges that one of the Chancellor's functions is preparation and promulgation of a student handbook and that the administrative staff, faculty and employees operate under the direction and control of the chancellor. Defendants deny the remaining allegations of Paragraph 54.

55. Defendants admit the allegations of Paragraph 55.

56. Defendants admit so much of Paragraph 56 as alleges that FLAA (LEGAL) was revised pursuant to a consent agenda by the TCCD Board, but denies the remaining allegations of Paragraph 56.

57. Defendants admit the revisions to FLAA (LEGAL) as set forth in Paragraph 57, but deny the remaining allegations of Paragraph 57. Defendants attach the revised FLAA (LEGAL) policy as Exhibit B.

58. Defendants deny the allegations of Paragraph 58.

59. Defendants deny the allegations of Paragraph 59.

60. Defendants deny the allegations of Paragraph 60.

61. Defendants admit so much of Paragraph 61 as recites a portion of the Student Handbook, but deny the remaining allegations of Paragraph 61.

62. Defendants admit the allegations of Paragraph 62.

63. Defendants admit the allegations of Paragraph 63.

64. Defendants deny the allegations of Paragraph 64.

65. Defendants admit the reference to GF (LEGAL), but deny the legal conclusions in Paragraph 65.

66. Defendants admit so much of Paragraph 66 as recites revised GF (REGULATION), but deny the remaining allegations of Paragraph 66. Defendants attach a true and correct copy of GF (REGULATION) as Exhibit C.

67. Defendants admit so much of Paragraph 67 as recites GF (REGULATION), but deny the remaining allegations of Paragraph 67.

68. Defendants admit so much of Paragraph 68 as alleges that FLAA (LEGAL) was revised by the board on December 17, 2009, but deny the remaining allegations of Paragraph 68.

69. Defendants admit so much of the allegations of Paragraph 69 as lauds the revisions as "commendable" and recites the commendable provisions, but deny the remaining allegations of Paragraph 69.

70. Defendants admit so much of the allegations of Paragraph 70 as alleges that the permit system has been abolished. Answering further, Defendants deny the allegations of Paragraph 70. Defendants would direct the Court to Section IX of the revised Student Handbook attached hereto as Exhibit A.

71. Defendants deny the allegations of Paragraph 71 and would reference Exhibit A herein.

72. Defendants deny the allegations of Paragraph 72 and would reference Exhibit A herein.

73. Defendants admit so much of Paragraph 73 as sets forth the section of the student handbook, but deny the remaining allegations of Paragraph 73 and would refer the Court to Exhibit A.

74. Defendants admit so much of Paragraph 74 as states that students, faculty and administrator groups are allowed to distribute literature without permission. Defendants lack information sufficient to form a belief as to Plaintiffs' intent and deny the remaining allegations in Paragraph 74.

75. Defendants deny the allegations of Paragraph 75 and would reference Exhibit A herein.

76. Defendants deny the allegations of Paragraph 76 and would reference Exhibit A herein.

77. Defendants admit so much of Paragraph 77 as sets forth a portion of the cosponsorship section of the student handbook, but deny the remaining allegations of Paragraph 77.

78. Defendants lack information sufficient to form a belief as to Paragraph 78.

79. Defendants admit so much of Paragraph 79 as set forth a portion of the student handbook, but deny the remaining allegations of Paragraph 79.

80. Defendants admit so much of Paragraph 80 as allege that TCCD is a nonresidential college and that certain individuals have demonstrated on its property, but deny the remaining allegations of Paragraph 80.

81. Defendants lack information sufficient to form a belief as to the allegations of Paragraph 81.

82. Defendants deny the allegations of Paragraph 82.

83. Defendants admit the recitation of the revised Student Handbook, but deny the remaining allegations of Paragraph 83 and would incorporate Exhibit A herein.

84. Defendants admit that they acted under color, authority and pretense of government regulations and policies of TCCD. Defendants deny the remaining allegations of Paragraph 84.

85. Defendants deny the allegations of Paragraph 85.

86. Defendants deny the allegations of Paragraph 86.

87. Defendants deny the allegations of Paragraph 87.

88. Defendants deny the allegations of Paragraph 88.

89. Defendants deny the allegations of Paragraph 89, including all subparagraphs.

AFFIRMATIVE DEFENSES

First Affirmative Defense – Qualified Immunity

90. Hadley has not violated any clearly established right of Plaintiffs and thus enjoys a qualified immunity from the award of damages.

91. At all times mentioned in the Complaint, Hadley was acting in her official capacity with the District. All acts complained of are discretionary in nature. As such, Hadley has qualified immunity from suit and may not be held liable for the acts alleged in the Complaint unless and until

the Plaintiffs prove that Hadley acted deliberately, in bad faith, and with clear knowledge that the conduct was precluded by the Constitution of the United States, which Defendants deny.

Second Affirmative Defense – Sovereign Immunity

92. The District is a political subdivision of the State of Texas and Defendant Hadley is an employee of the District. As an agent or officer of a political subdivision of this State, the suit against Hadley is a suit against the State. As such, both Defendants are entitled to the protection of sovereign immunity.

93. Sovereign immunity, including Eleventh Amendment Immunity, has not been waived by the State for the acts complained of in Plaintiffs' Complaint.

Third Affirmative Defense – Good Faith Reliance on Safety and Security Concerns

94. TCCD admits it prohibited empty holsters on TCCD campuses. However, in doing so, Defendants believed that they were protecting the safety and security of its faculty and students.

95. Defendants believe such restriction was reasonable as to time, place and manner given the surrounding facts and circumstances.

Fourth Affirmative Defense - Good Faith Reliance on Texas Penal Code

96. Defendants were acting in good faith reliance of Texas Penal Code Section 46.03 which makes it a third degree felony to wear a firearm on the premises of an educational institution.

Fifth Affirmative Defense - Good Faith Reliance on Texas Education Code

97. Defendants were acting pursuant to the authority of Texas Education 51.001 et seq. in adopting and promulgating rules related to the use of buildings and grounds for purposes other than programs and activities related to the role and mission of TCCD.

Sixth Affirmative Defense - Mootness

98. TCCD has substantially revised its Student Handbook and the relevant policies since November 6, 2009. The revised Student Handbook is attached to this Verified Answer as Exhibit

A. The revised policies are attached as Exhibits B and C. Defendants do not intend on reverting to TCCD's prior policies.

99. Any claims that Plaintiffs have relating to the prior policy are moot and thus do not constitute a viable case or controversy.

Seventh Affirmative Defense - Claims Are Not Ripe

100. The claims addressed by Plaintiffs' Amended Complaint are not ripe for adjudication.

Eighth Affirmative Defense - Standing

101. Plaintiffs do not have standing to bring this claim in that they cannot claim that a substantial right has been violated by these Defendants.

PRAYER

For these reasons, Defendants ask the Court to enter a judgment that Plaintiffs take nothing, that a permanent injunction not be issued, that the Court dismiss Plaintiffs' suit with prejudice, assess costs against Plaintiffs, and award Defendants all other relief the Court deems appropriate.

Respectfully submitted,

LAW, SNAKARD & GAMBILL, P.C.

By: /s/ Angela H. Robinson

Angela H. Robinson
State Bar No. 24006655
J. Davis Chapman
State Bar No. 00798101
Gregory W. Monroe
State Bar No. 24060296

1600 West Seventh Street, Suite 500
Fort Worth, Texas 76102
Telephone: 817/ 335-7373
Telecopier: 817/ 332-7473

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of January, 2010, a true and correct copy of the above and foregoing instrument has been sent via electronic mailing to the persons named below:

Karin Cagle
Kirkley & Berryman, LLP
100 N. Forest Park Blvd., Suite 220
Fort Worth, Texas 76102

Lisa Graybill
Fleming Terrell
ACLU Foundation of Texas
P.O. Box 12905
Austin, Texas 78711-2905

/s/ Angela H. Robinson
Angela H. Robinson