



Written by [Michael Tennant](#) on December 7, 2023

## Teachers Who Sued School District Over Gender Policy Take District Back to Court for Failing to Comply With Judge's Order

Two California teachers are asking a federal judge to hold their employer in contempt of court for refusing to reinstate them as required by the judge's September injunction.

Elizabeth Mirabelli and Lori Ann West, long-tenured, award-winning teachers at Escondido Union School District's (EUSD) Rincon Middle School, filed an [application](#) with U.S. District Judge Roger Benitez Wednesday requesting that Benitez find the district in contempt of court. In September, Benitez issued a [preliminary injunction](#) stating that EUSD must refrain "from taking any adverse employment actions" against Mirabelli and West unless so ordered by the court.



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"We expected that EUSD would quickly bring Elizabeth Mirabelli and Lori Ann West back into the classroom," Thomas More Society Special Counsel Paul Jonna said in press release. "In issuing the injunction, the court recognized that being precluded from doing your job is 'irreparable harm' — harm that can never be undone. But the district has refused to bring them back into the classroom."

Meanwhile, EUSD has ignored or unsatisfactorily responded to multiple inquiries from their attorneys and continually extended its own deadlines.

"Enough is enough," Mirabelli and West declared in their filing. "With no movement on the part of EUSD to comply with this court's preliminary injunction order, and only after multiple explicit warnings that a contempt application would be forthcoming, plaintiffs are now forced to file this ex parte application for civil contempt."

The two teachers [sued](#) EUSD in April over its policy requiring teachers to refer to students in school by the names and pronouns they choose to correspond to their "gender identities" — but to continue to use their real names and appropriate pronouns when speaking with parents. Failure to abide by this policy, of which teachers were only informed after one of them unknowingly violated it, would be considered grounds for discipline under the district's discrimination and harassment policy.

"Mirabelli and West, both Christians, objected to this policy not because they have any desire to harm transgender students, but because they felt it was being dishonest with parents — which, by the way, violates another EUSD policy," [The New American](#) reported in September. EUSD denied their requests for religious exemptions.

"After plaintiffs filed [their] suit, they experienced immediate retaliation and harassment from EUSD



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personnel,” their contempt application charges. Mirabelli, suffering from mental and physical ailments caused by the situation, asked to be put on administrative leave and has been on said leave since May 5. “She also filed administrative complaints with EUSD, seeking, among other things, an investigation into how hateful posters were allowed to be plastered inside her classroom (classrooms are locked without an employee present).” Two weeks later, West was placed on involuntary administrative leave, allegedly because of complaints filed by students.

Benitez issued his injunction in the teachers’ favor on September 14. He called the EUSD policy “a trifecta of harm” for students, parents, and teachers. In the case of Mirabelli and West, it violated their constitutional right to freely exercise their religion by forcing them “to conceal information they feel is critical for the welfare of their students,” he wrote.

Four days later, according to the contempt application, Mirabelli and West sent a letter to EUSD to negotiate the terms of their return to work. They sought the specific steps the district planned to take to ensure Mirabelli’s safety and an update on the investigation into the complaints against West.

From there, it was a long series of mostly fruitless follow-up communications from the teachers’ attorneys to wring any specific information out of the district. At one point, EUSD even claimed to have never received any communications from them. It still has not explained how it will guarantee Mirabelli’s safety, effectively preventing her from returning to work.

In late September, EUSD admitted that West had been cleared of wrongdoing from previous complaints; but, conveniently, a new complaint turned up just three days later. That complaint, from a student who had been in West’s class five years earlier, alleged West had made numerous racist remarks in class — something that apparently didn’t bother the student until after Benitez’ injunction was issued and that had never been reported by any other student over West’s 30-year teaching career.

EUSD personnel organized a protest against Mirabelli and West in October. One flyer advertising it mocked Mirabelli’s claimed “extreme stress” and “anxiety” over her hostile work environment. The teachers reported it to EUSD but received only a “vague, equivocal response,” says their filing.

In late October, EUSD said it would likely conclude its investigations and allow the teachers to return to work on November 27, but by mid-November, the district said meeting that deadline was no longer possible.

Thus, Mirabelli and West had little choice but to file for contempt. They allege that EUSD has violated Benitez’ injunction prohibiting “adverse employment actions” against them by preventing them from teaching, by conducting “endless investigations,” and by permitting harassment from their colleagues (thereby making it unsafe for them to return). The latter two, they note, give EUSD “a fairly easy end-run around” the injunction.

They are asking Benitez either to hold EUSD in contempt or to clarify his injunction if he deems it “insufficiently clear for a civil contempt finding.” They hold out hope that EUSD will come to its senses before a hearing becomes necessary, but given the district’s intransigence thus far, it’s a good bet that its attorneys will wind up in Benitez’ courtroom again.



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