

**FOR PUBLICATION**

**FILED**

**UNITED STATES COURT OF APPEALS**

JAN 18 2023

**FOR THE NINTH CIRCUIT**

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

FELLOWSHIP OF CHRISTIAN  
ATHLETES, an Oklahoma corporation;  
FELLOWSHIP OF CHRISTIAN  
ATHLETES OF PIONEER HIGH  
SCHOOL, an unincorporated association;  
CHARLOTTE KLARKE; ELIZABETH  
SINCLAIR,

Plaintiffs-Appellants,

v.

SAN JOSE UNIFIED SCHOOL DISTRICT  
BOARD OF EDUCATION; NANCY  
ALBARRAN, in her official and personal  
capacity; HERB ESMIRITU, in his official  
and personal capacity; PETER GLASSER, in  
his official and personal capacity; STEPHEN  
MCMAHON, in his official and personal  
capacity,

Defendants-Appellees.

No. 22-15827

D.C. No. 4:20-cv-02798-HSG  
Northern District of California,  
Oakland

**ORDER**

**MURGUIA**, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that this case be reheard en banc pursuant to Federal Rule of Appellate Procedure 35(a) and Circuit Rule 35-3. The three-judge panel opinion is vacated.

Judge Koh did not participate in the deliberations or vote in this case.