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9
 10 IN THE UNITED STATES DISTRICT COURT
 11 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
 12
 13

14 **ELIZABETH MIRABELLI, an**
individual, and LORI ANN WEST,
 15 **an individual,**
 16
 Plaintiffs,
 17
 v.
 18
MARK OLSON, in his official
capacity as President of the EUSD
 19 **Board of Education, et al.,**
 20
 Defendants.
 21

3:23-cv-0768-BEN-VET

**EX PARTE APPLICATION FOR A
 STAY OF DISCOVERY PENDING
 RULING ON MOTIONS TO
 DISMISS**

Courtroom: Courtroom 14B
 Mag. Judge: The Honorable Valerie E.
 Torres

Action Filed: April 27, 2023

22
 23 Pursuant to Local Rule 83.3(g), Defendant Gavin Newsom, in his official
 24 capacity as Governor, and Defendant Rob Bonta, in his official capacity as
 25 Attorney General of California, respectfully submit an application *ex parte* for an
 26 order staying all discovery as to them, including discovery motions, pending a
 27 ruling on their motions to dismiss the First Amended Complaint (FAC).
 28

1 This request is made on the grounds that a stay is warranted to temporarily
2 pause burdensome discovery proceedings that resolution of the Governor and
3 Attorney General's pending motions to dismiss may ultimately render unnecessary.
4 Specifically, the *ex parte* application is made on the grounds that: (1) the pending
5 motions to dismiss will potentially dispose of the majority, if not all, of the case
6 against one or both Defendants Newsom and Bonta; (2) the Court does not require
7 additional information to decide the pending motions; and (3) the expenditure of
8 resources required to respond to Plaintiffs' discovery requests will be needlessly
9 wasted if the Court grants either or both of Defendants Newsom and Bonta's
10 motions to dismiss. Accordingly, a brief stay is in the interest of judicial economy
11 because the parties would be relieved of the burdens of propounding and
12 responding to discovery relating to Defendants Newsom and Bonta, while the Court
13 would be relieved of adjudicating potential discovery disputes that would be rendered
14 unnecessary if the case against the Defendants Newsom and Bonta is resolved.

15 Furthermore, Defendants Newsom and Bonta seek this relief via an *ex parte*
16 order to ensure that the underlying purpose of the requested stay is not undermined
17 by Plaintiffs' propounding of discovery requests. *See Quezambra v. United*
18 *Domestic Workers of Am. AFSCME Local 3930*, No. 8:10-cv-00927-JLS-JEM,
19 2019 WL 8108745, at *1 n.2 (C.D. Cal. Nov. 14, 2019) (an *ex parte* application is
20 the appropriate mechanism for requesting a discovery stay where stipulation is not
21 possible and the timeline for a noticed motion and hearing will undercut the relief
22 sought). Plaintiffs served voluminous requests for various written discovery on
23 March 20, 2024, with responses due by April 19, 2024. Declaration of Emmanuelle
24 Soichet (Soichet Decl.), ¶¶ 11-12. The discovery includes a set of requests for
25 production of documents, two sets of requests for admissions, and a set of
26 interrogatories. *Id.*

27 The parties have since extensively discussed Defendants Newsom and Bonta's
28 position that discovery proceedings should be temporarily stayed as to them.

1 Counsel for Defendants Newsom and Bonta first raised the stay during a meet and
2 confer on February 15, 2024, shortly after Plaintiffs first propounded discovery.
3 Soichet Decl. ¶¶ 5, 7. That initial discovery was withdrawn after the magistrate
4 judge in this matter reset discovery deadlines. *Id.* ¶¶ 8-9. The parties discussed a
5 stay again on March 20, 2024, during their Rule 26(f) conference, when counsel for
6 Defendants Newsom and Bonta again asked Plaintiffs to stipulate to a stay of
7 discovery pending resolution of the motions to dismiss. *Id.* ¶ 12. Plaintiffs again
8 rejected the stipulation and, within hours of concluding the conference, served four
9 new sets of discovery requests on each defendant. *Id.* ¶¶ 10-11.

10 Plaintiffs have informed counsel for Defendants Newsom and Bonta that they
11 oppose the *ex parte* application; Defendants Escondido Union School District, the
12 California Department of Education, and California State Board of Education do
13 not oppose the *ex parte* application. *Id.* ¶ 15.

14 In light of the forgoing, the concurrently filed Memorandum of Points and
15 Authorities, the accompanying Declaration of Emmanuelle Soichet, and the
16 pleadings and papers filed in this matter, Defendants Newsom and Bonta
17 respectfully request an *ex parte* order staying all discovery as to them, including
18 discovery motions, pending a ruling on their motions to dismiss the FAC.

19 Given the *ex parte* status of this request, Defendants Newsom and Bonta
20 provide the following contact information for Plaintiffs' counsel:

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14 The contact information for counsel for Defendants with the Escondido Union
15 School District (Mark Olson, Frank Huston, Joan Gardner, Doug Paulson, Zesty
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17 Dated: March 29, 2024

18 Respectfully submitted,

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20 Attorney General of California
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24 Deputy Attorney General



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**MEMORANDUM OF POINTS
 AND AUTHORITIES IN SUPPORT
 OF EX PARTE APPLICATION
 FOR A STAY OF DISCOVERY
 PENDING RULING ON MOTIONS
 TO DISMISS**

Courtroom: Courtroom 14B
 Mag. Judge: The Honorable Valerie E.
 Torres

Action Filed: April 27, 2023

22
 23 **INTRODUCTION**

24 In a First Amended Complaint (FAC) that added Governor Gavin Newsom
 25 and Attorney General Rob Bonta as Defendants, Plaintiffs challenge the
 26 constitutionality of an Escondido Union School District (EUSD) policy that bars
 27 employees from disclosing information about a student’s gender identity or
 28 expression without the student’s consent. In response, Defendants Newsom and

1 Bonta have filed motions for dismissal under Federal Rules of Civil Procedure
2 12(b)(1), asserting that Plaintiffs lack standing to sue them and that they are
3 shielded by Eleventh Amendment immunity.

4 Defendants Newsom and Bonta seek an *ex parte* order staying all discovery
5 obligations—as to them only—during the limited time period necessary for the
6 Court to hear and decide their motions to dismiss. A district court is permitted to
7 issue an order limiting discovery “for good cause, . . . to protect a party or person
8 from . . . undue burden or expense.” Fed. R. Civ. P. 26(c)(1). Resolution of the
9 motions to dismiss will likely dispose of this matter entirely for one or both of the
10 moving Defendants. Staying discovery pending resolution of these motions will
11 protect not only Defendants Newsom and Bonta, but all parties and the Court from
12 the unnecessary burden and expense of engaging in discovery and litigating
13 discovery disputes before threshold, potentially dispositive issues are resolved.

14 **RELEVANT PROCEDURAL HISTORY**

15 The initial complaint in this case was filed on April 25, 2023. ECF 1.
16 Plaintiffs—two teachers with Escondido Unified School District (EUSD)—sued
17 EUSD and the California Department of Education, alleging that EUSD’s policy
18 relating to student gender identity violates Plaintiffs’ First Amendment rights to
19 free speech and the free exercise of religion, and seeking declaratory relief that
20 “conclusions” contained in a Department of Education guidance document violated
21 the U.S. Constitution. *See* ECF 1, ¶¶ 217-280, 285. On September 14, 2024, the
22 Court issued an order preliminarily enjoining EUSD from enforcing the challenged
23 policy against Plaintiffs and enjoining the Department of Education from enforcing
24 its guidance against Plaintiffs. ECF 42.

25 On January 8, 2024, the Court ordered Plaintiffs to add “the Attorney General
26 and the State of California” as defendants. ECF 72. After their request for leave to
27 amend their claims was denied in part, Plaintiffs served their FAC (ECF 80) on
28

1 Defendants Newsom and Bonta on February 2, 2024. *See* ECF 77, 79; Declaration
2 of Emmanuelle Soichet (Soichet Decl.) ¶ 4.

3 A week later, on February 9, Plaintiffs served multiple sets of written
4 discovery on Defendants Newsom and Bonta. Soichet Decl. ¶ 5. The next week,
5 on February 15, counsel for Defendants Newsom and Bonta requested that
6 Plaintiffs agree to stipulate to a stay of discovery as to them, pending resolution of
7 Defendants Newsom and Bonta’s anticipated motions to dismiss. *Id.* ¶¶ 6-7.
8 Plaintiffs rejected that request. *Id.* ¶ 7. However, after Judge Torres modified and
9 extended the operative discovery deadlines in the case to account for the addition of
10 Defendants Newsom and Bonta, Plaintiffs withdrew the February 9 discovery
11 served on Newsom and Bonta. *Id.* ¶¶ 8-9.

12 Defendants Newsom and Bonta then filed their motions to dismiss the First
13 Amended Complaint. ECF 95, 96. Those motions are now fully briefed and set for
14 hearing on April 29, 2024. *See* ECF 102.

15 During the parties’ Rule 26(f) conference on March 20, counsel for
16 Defendants Newsom and Bonta again asked Plaintiffs to agree to stay discovery as
17 to them pending resolution of the motions to dismiss. Soichet Decl. ¶ 10. Plaintiffs
18 again refused and, immediately afterward, served four sets of written discovery on
19 each of the two defendants. *Id.* ¶¶ 10-11. Defendants Newsom and Bonta’s
20 responses to those requests are due April 19, 2024—10 days before the hearing on
21 their motions to dismiss. *Id.* ¶ 12.

22 ARGUMENT

23 I. A DISCOVERY STAY SHOULD BE GRANTED PENDING THE MOTIONS TO 24 DISMISS

25 Federal Rule of Civil Procedure 26(c) provides that the Court “may, for good
26 cause, issue an order to protect a party or person from annoyance, embarrassment,
27 oppression, or undue burden or expense, including . . . forbidding the disclosure or
28 discovery.” Additionally, the Court has the authority to control discovery to fit the

1 needs of a particular case. *See* Fed. R. Civ. Proc. 16(a)(3) (wasteful pretrial
2 activities are discouraged); Fed. R. Civ. Proc. 16(c)(2)(F) (the Court has the
3 authority to control the scheduling of discovery and disclosures); Fed. R. Civ. Proc.
4 16(c)(2)(P) (the Court has the ability to take appropriate action to facilitate the
5 “inexpensive disposition of the action”).

6 In this case, the Court has the broad discretion to stay discovery as to
7 Defendants Newsom and Bonta pending the outcome of their potentially dispositive
8 motions to dismiss. *Alaska Cargo Transp., Inc. v. Alaska R.R. Corp.*, 5 F.3d 378,
9 383 (9th Cir. 1993). Such stays are routinely upheld on appeal and the Court’s
10 decision to postpone discovery “will be not disturbed except up on the clearest
11 showing that denial of discovery results in actual and substantial prejudice to the
12 complaining litigant.” *Hallett v Morgan*, 296 F.3d 732, 751 (9th Cir. 2002); *see*
13 *Quinn v. Anvil Corp.*, 620 F.3d 1005, 1009 (9th Cir. 2010) (affirming district
14 court’s decision staying discovery pending resolution of motion to dismiss for lack
15 of standing). As the Ninth Circuit has explained, where a motion to dismiss may be
16 granted:

17 [O]ur requiring costly and time consuming discovery and trial work
18 would represent an abdication of our judicial responsibility. It is sounder
19 practice to determine whether there is any reasonable likelihood that
plaintiffs can construct a claim before forcing the parties to undergo the
expense of discovery.

20 *Rutman Wine Co. v. E. & J. Gallo Winery*, 829 F.2d 729, 738 (9th Cir. 1987)
21 (internal citations and punctuation omitted). To that end, the Court has recognized
22 that discovery at the pleading stage is only appropriate where resolution of a Rule
23 12(b) motion turns on factual issues. *Wagh v. Metris Direct, Inc.*, 363 F.3d 821,
24 829 (9th Cir. 2003), *overruled on other grounds*, *Odom v. Microsoft Corp.*, 486
25 F.3d 541, 551 (9th Cir. 2007) (en banc); *Jarvis v. Regan*, 833 F.2d 149, 155 (9th
26 Cir. 1987).

27 Federal district courts in California, including this District, have employed a
28 two-part test to assess whether a stay of discovery is proper pending the outcome of

1 a motion to dismiss: (1) is “the pending motion potentially dispositive of the entire
2 case, or at least dispositive on the issue at which discovery is aimed,” and (2) can
3 “the pending, potentially dispositive motion . . . be decided absent additional
4 discovery.” *Pacific Surf Designs, Inc. v. Whitewater West Industries, Ltd.*, No. 20-
5 cv-1464-BEN-BLM, 2021 WL 3080061, at *1-2 (S.D. Cal. July 21, 2021) (internal
6 quotation marks and citation omitted); *Camacho v. United States*, No. 12-cv-956-
7 CAB-BGS, 2014 WL 12026059, at *3 (S.D. Cal. Aug. 15, 2014).

8 **A. Defendants’ Motion to Dismiss is Potentially Dispositive of All**
9 **Claims Against Them**

10 Defendants Newsom and Bonta have brought potentially dispositive motions
11 to dismiss that, if granted, will resolve the entire action as to one or both of them.
12 In assessing whether a pending motion is potentially dispositive, a court must take a
13 “preliminary peek” at the merits of the motion. *Pacific Surf Designs, Inc.*, 2021
14 WL 3080061, at *2. Upon this preliminary examination, there is “an immediate
15 and clear possibility” that Defendants Newsom and Bonta’s motions will be
16 granted. *GTE Wireless, Inc. v. Qualcomm, Inc.*, 192 F.R.D. 284, 286 (S.D. Cal.
17 2000).

18 The pending motions to dismiss raise the preliminary justiciability issue of
19 whether this Court has jurisdiction to hear Plaintiffs’ claims against Defendants
20 Newsom and Bonta. As to the Governor, Plaintiffs’ suit is barred by Eleventh
21 Amendment immunity. *See* ECF No. 95 at 12-17. Though actions for prospective
22 injunctive relief can be brought against state officers in their official capacities in
23 some circumstances, an exception to immunity requires that the officer have some
24 direct authority or practical ability (as opposed to mere generalized enforcement or
25 supervisory duties) to enforce the challenged act. *Ex parte Young*, 209 U.S. 123,
26 157 (1908); *Nat’l Audubon Soc’y, Inc. v. Davis*, 307 F.3d 835, 846 (9th Cir. 2002);
27 *Los Angeles Cnty. Bar Ass’n v. Eu*, 979 F.2d 697, 704 (9th Cir. 1992). Plaintiffs
28 have not alleged and cannot show that the Governor has any connection to the

1 injury-causing local policy whatsoever, let alone the type of direct enforcement
2 power that could render him responsible for Plaintiffs' injuries. For the same
3 reasons, Plaintiffs cannot establish standing to sue the Governor because their
4 alleged injuries are multiple steps removed from and in no sense "fairly traceable"
5 to any of his conduct. ECF No. 95 at 17-19; *see Wash. Env't Council v. Bellon*, 732
6 F.3d 1131, 1142 (9th Cir. 2013).

7 Plaintiffs likewise have failed to establish jurisdiction to sue Attorney General
8 Bonta. As to standing, they cannot demonstrate that their alleged constitutional
9 injuries, which indisputably flow from EUSD's enacting and enforcing its policy,
10 are "fairly traceable" to any conduct of the Attorney General. *See* ECF No. 96 at
11 10-19. Indeed, Plaintiffs do not allege and cannot show that the Attorney General
12 has any authority to require EUSD to continue to enforce the specific policy at issue
13 in this suit. Rather, EUSD's independent decision to enact and enforce its policy,
14 even if based on a mistaken belief that the policy was required by state law under
15 penalty of Attorney General enforcement, severs any casual connection between the
16 injurious policy and the Attorney General's generalized enforcement authority with
17 respect to California law. *See Maya v. Centex Corp.*, 658 F.3d 1060, 1070 (9th Cir.
18 2011) ("independent decisions" by third parties can render chain of causation too
19 weak for standing). Eleventh Amendment immunity likewise shields the Attorney
20 General in this case because the specific local policy at issue is not mandated by
21 California law and, thus, Plaintiffs' injuries, which are caused by EUSD's
22 enforcement of its policy, cannot be sufficiently connected to the Attorney
23 General's generalized power to enforce state law. *See* ECF No. 96 at 19-21; *Nat'l*
24 *Audubon Soc'y, Inc.*, 307 F.3d at 847.

25 The defects outlined in both motions to dismiss turn on the unique and
26 inherent powers of the Governor and Attorney General, thus it is highly unlikely
27 amendment could cure the jurisdictional deficiencies. *See David v. Fraser*, No.
28 3:17-cv-00708-CAB-NLS, 2017 WL 3605444, at *5 (S.D. Cal. Aug. 22, 2017)

1 (dismissing without leave to amend on Eleventh Amendment grounds).

2 Accordingly, Defendants Newsom and Bonta’s motions are likely dispositive
3 because, at least as to them, Plaintiffs’ claims are likely to be dismissed with
4 prejudice.

5 **B. Defendants Newsom and Bonta’s Motions to Dismiss Can Be**
6 **Decided Without Additional Discovery**

7 Discovery is not needed to decide the pending motions to dismiss. As
8 explained, the Court should order this action dismissed because Plaintiffs cannot
9 establish the jurisdiction necessary to move forward against the Governor or
10 Attorney General. In their opposition to the motions to dismiss, Plaintiffs pointed
11 to the inherent powers of these officials and, as to the Attorney General, judicially
12 noticeable legal filings submitted by the Attorney General in other litigation. *See*
13 ECF No. 98 at 27-30. No conceivable factual discovery will be required for the
14 Court to decide the pending, potentially dispositive, jurisdictional issues. *See*
15 *Pacific Surf Designs, Inc.*, 2021 WL 3080061, at *2.

16 **C. A Discovery Stay Would Promote Justice and Efficiency**

17 Though both prongs of the typical test applied in this jurisdiction are met here,
18 other factors also favor a discovery stay. For example, courts are directed to
19 “secure the just, speedy, and *inexpensive* determination of every action.” Fed. R.
20 Civ. P. 1 (emphasis added). Discovery imposes significant costs, both in financial
21 resources and time, on the litigant from whom discovery is sought. *Chudasama v.*
22 *Mazda Motor Corp.*, 123 F.3d 1353, 1367-68 (11th Cir. 1997) (detailing the various
23 burdens and explaining the benefit of adjudicating a motion to dismiss to determine
24 the validity of all or some of claims before entering discovery orders).

25 In this case, Plaintiffs seek wide-ranging written discovery on a number of
26 topics. *See* Soichet Decl. ¶ 11, Exs. 2-5 (one set of document requests, one set of
27 interrogatories, and two sets of requests for admission served on each defendant).
28

1 Substantial time and effort by the staff of both the Governor and the Attorney
2 General will be expended analyzing these requests and providing the necessary
3 responses. Indeed, the complexity of the written discovery process here is
4 particularly aggravated because it appears that Plaintiffs have simply re-served
5 discovery that was originally drafted for a different party, the California
6 Department of Education. *See, e.g.*, Soichet Decl. ¶ 11, Ex. 5 (West Request for
7 Admission No. 6: “Admit that the California Department of Education believes
8 that its 2016 LEGAL ADVISORY ON GENDER IDENTITY accurately
9 summarizes the law”)

10 Difficulty of actually responding aside, a preliminary assessment of Plaintiffs’
11 discovery requests indicates that the vast majority will likely call for objections
12 based on various privileges. Soichet Decl. ¶ 14. Thus, moving forward with
13 discovery at this early juncture, when potentially dispositive motions to dismiss
14 have yet to be decided, risks a significant waste of time and resources not only in
15 the collection and production of the requested discovery, but also in inevitable
16 litigation concerning the Governor and Attorney General’s refusals to provide
17 certain discovery. *Chudasama*, 123 F.3d at 1367-68; *United States v. Ctr. for*
18 *Diagnostic Imaging, Inc.*, No. C05-0058-RSL, 2010 WL 11682231, *2 (W.D.
19 Wash., Dec. 16, 2010) (granting stay request “preserves judicial resources because
20 the Court will not be required to address potential motions related to discovery
21 issues that may become moot”).

22 On the other hand, in contrast to the clear burdens associated with pressing
23 ahead on discovery at this stage of the proceedings, Plaintiffs face no discernable
24 prejudice from a brief stay pending resolution of the motions to dismiss. Indeed, to
25 the contrary, Plaintiffs presumably have similar interests in avoiding potentially
26 moot and wasteful pre-trial efforts. At the same time, if a discovery stay as to the
27 Governor and the Attorney General were to go into effect, Plaintiffs would still
28

1 have the ability to continue with their ongoing discovery directed at EUSD and the
2 California Department of Education.

3 And, although Plaintiffs have a generalized interest in bringing their case to
4 trial in a timely manner, their specific interests at the heart of this litigation—
5 obtaining injunctive relief to prevent alleged ongoing violation of their
6 constitutional rights—are fully safeguarded during the pendency of this litigation
7 by the preliminary injunction issued in their favor. *See* ECF No. 42. EUSD’s
8 policy restricting these Plaintiffs’ ability to disclosure of students’ private gender-
9 identity information may not be enforced against Plaintiffs for the entire time in
10 which the requested discovery stay would be in effect. *Id.* at 35-36.

11 Indeed, it is simply not clear how a temporary pause in discovery as to the
12 Governor and the Attorney General would result in any tangible prejudice to
13 Plaintiffs’ interests. No credible argument can be made that immediate discovery is
14 need to preserve critical evidence. To the extent there is evidence to be procured
15 about any actual conduct by the Governor or Attorney General relevant to
16 Plaintiffs’ directive claims that they are responsible for EUSD’s alleged
17 constitutional violations, such evidence is in no danger of becoming unavailable. In
18 any case, Defendants Newsom and Bonta have taken affirmative steps to ensure
19 that all potential evidence is preserved. Soichet Decl., ¶ 16; *see Walker v. Higher*
20 *Educ. Loan Auth. of State of Missouri*, No. 1:21-cv-00879-DAD-SAB, 2022 WL
21 1460021, at *6 n.6 (E.D. Cal., May 9, 2022) (dismissing concern for loss of
22 evidence during a discovery stay in light of the possibility of litigation hold for
23 defendant’s in-house records). Further, given that no trial date has been set, there is
24 no indication that discovery could not be timely completed after resolution of the
25 pending motions to dismiss. *See Reveal Chat Holdco, LLC v. Facebook, Inc.*, No.
26 20-cv-00363-BLF, 2020 WL 2843369, *4 (N.D. Cal., Apr. 10, 2020) (stay of
27 discovery ordered where stay’s limited timeframe would not unduly prejudice
28 Plaintiffs and allow parties enough time to later complete discovery).

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CONCLUSION

For the foregoing reasons, the Defendants Newsom and Bonta respectfully request that the Court enter an order staying discovery as to them until after the Court decides the pending motions to dismiss.

Dated: March 29, 2024

Respectfully submitted,

ROB BONTA
Attorney General of California
DARRELL W. SPENCE
Supervising Deputy Attorney General
KEVIN L. QUADE
Deputy Attorney General



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**DECLARATION OF
 EMMANUELLE S. SOICHET IN
 SUPPORT OF *EX PARTE*
 APPLICATION FOR A STAY OF
 DISCOVERY PENDING RULING
 ON MOTIONS TO DISMISS**

Courtroom: 14B
 Mag. Judge: The Honorable Valerie E.
 Torres

Action Filed: April 27, 2023

22 I, Emmanuelle S. Soichet declare:

23 1. I am an attorney licensed to practice before all the courts of the State of
 24 California and am a Deputy Attorney General employed by the Office of the
 25 Attorney General, counsel of record for Defendants Gavin Newsom, in his official
 26 capacity as Governor of California, and Rob Bonta, in his official capacity as
 27 Attorney General of California, in this matter.
 28

1 2. This declaration supports Defendants Newsom and Bonta's *ex parte*
2 application for an order staying all discovery as to them, including discovery
3 motions, pending a ruling on their Motions to Dismiss the First Amended
4 Complaint (FAC).

5 3. On January 29, 2024, Plaintiffs filed the FAC, naming Governor Gavin
6 Newsom and Attorney General Bonta as Defendants in their official capacities.
7 ECF No. 80.

8 4. On February 2, 2024, Plaintiffs served the FAC on Defendants Newsom
9 and Bonta. Defendant Newsom and Bonta's responsive pleading was due within 21
10 days, on February 23, 2024.

11 5. On February 9, 2024, Plaintiffs served various written discovery requests
12 on all Defendants, including Defendants Newsom and Bonta. This included two
13 sets of requests for admission, a set of requests for production of documents, and a
14 set of interrogatories. The response deadline for these written discovery requests
15 was March 11, 2024.

16 6. The following week, on February 15, 2024, the parties met and conferred
17 at the request of counsel for Defendants Newsom and Bonta, who informed the
18 parties that Defendants Newsom and Bonta intended to (1) move to continue the
19 early neutral evaluation (ENE) conference then scheduled for February 28, 2024, on
20 the basis that they were still formulating their respective strategies and responses to
21 the FAC and had not had sufficient time to consider the factors that go into good
22 faith settlement discussions, and (2) move to dismiss the FAC on jurisdictional
23 grounds. Defendants Newsom and Bonta filed the joint motion to continue the
24 ENE conference on February 20, 2024 (ECF 92) and the motions to dismiss on
25 February 23 (ECF 95 and 96).

26 7. During the initial meet and confer on February 15, my colleague Kevin
27 Quade also requested a stipulation to stay discovery for Defendants Newsom and
28 Bonta pending resolution of their intended motions to dismiss. As explained in an

1 email from Mr. Quade ahead of the February 15 call, Defendants Newsom and
2 Bonta's position was that a stay of the pending discovery would avoid wasted
3 resources given their pending motions were likely dispositive and could result in
4 the dismissal of one or both defendants. When Plaintiffs refused to stipulate to the
5 stay, Mr. Quade informed Plaintiffs that Defendants Newsom and Bonta intended
6 to submit an *ex parte* application to stay discovery pending resolution of the
7 motions to dismiss. Attached as **Exhibit 1** is a true and correct copy of Mr.
8 Quade's email communications with Plaintiffs' counsel ahead of the February 15,
9 2024 meet and confer.

10 8. On February 21, 2023, Magistrate Judge Valerie E. Torres granted the
11 motion to continue the ENE conference and, in doing so, reset the deadlines for the
12 parties to hold their Rule 26(f) conference, exchange initial disclosures, and file a
13 joint discovery plan. ECF 93.

14 9. Following Judge Torres' order, Plaintiffs' counsel confirmed that they
15 would withdraw their written discovery requests served on Defendants Newsom
16 and Bonta until the parties participated in a Rule 26(f) conference.

17 10. On March 20, 2024, counsel for Defendants Newsom and Bonta and
18 Plaintiffs conducted their Rule 26(f) conference. During that meeting, counsel for
19 Defendants Newsom and Bonta again requested that Plaintiffs stipulate to a stay of
20 discovery pending the Court's resolution of their motions to dismiss, in the hopes of
21 having to avoid filing an *ex parte* application to stay discovery. Plaintiffs' counsel
22 again refused to stipulate to a stay of discovery. Counsel for Newsom and Bonta
23 then indicated their intent to request the stay from the Court.

24 11. Within two hours of concluding the Rule 26(f) conference, on March 20,
25 Plaintiffs served four sets of written discovery each on Governor Newsom and on
26 Attorney General Bonta. These included:

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- a. Plaintiffs’ Requests for Production of Documents to Defendants Newsom and Bonta (Set One), a true and correct copy of which is attached here as **Exhibit 2**;
- b. Plaintiff Elizabeth Mirabelli’s Interrogatories to Defendants Newsom and Bonta (Set One), a true and correct copy of which is attached here as **Exhibit 3**;
- c. Plaintiff Elizabeth Mirabelli’s Requests for Admission to Defendants Newsom and Bonta (Set One), a true and correct copy of which is attached here as **Exhibit 4**;
- d. Plaintiff Lori West’s Requests for Admission to Defendants Newsom and Bonta (Set One), a true and correct copy of which is attached here as **Exhibit 5**;

12. In total, each Defendant was served 33 requests for admission, 17 interrogatories, and 14 requests for production. Responses to this written discovery are due April 19, 2024, which is 10 days *before* the hearing on Defendants Newsom and Bonta’s motions to dismiss.

13. There is good cause to seek a stay of discovery as to Defendants Newsom and Bonta via an *ex parte* order, because there are no other means to ensure that the underlying purpose of the requested stay is not undermined by Plaintiffs’ propounding of discovery requests.

14. My preliminary assessment of the requests is that the vast majority will likely call for objections or a refusal to disclose information based on various privileges, including attorney-client privilege, the attorney work product doctrine, and the deliberative process privilege.

15. On March 28, 2024, I contacted counsel for all parties to this action to request their position on the *ex parte* application. Plaintiffs’ counsel responded that Plaintiffs oppose the *ex parte* application. I was also informed by counsel that

1 Defendants Escondido Union School District, the California Department of
2 Education, and State Board of Education do not oppose the *ex parte* application.

3 16. I have taken measures to preserve evidence and any documents
4 responsive to Plaintiffs' requests, including sending litigation holds to potential
5 custodians identified in the Attorney General's Office, as well as the Governor's
6 Office, and collecting documents. This will minimize any prejudice to Plaintiffs if
7 a stay of discovery as to Defendants Newsom and/or Bonta is granted.

8
9 I declare under penalty of perjury under the laws of the United States that the
10 foregoing is true and correct.

11 Executed in Berkeley, California on March 29, 2024.

12
13 
14 By: _____
15 Emmanuelle S. Soichet

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EXHIBIT 1

From: [Kevin Quade](#)
To: [Paul Jonna](#); [Daniel Shinoff](#); [Christopher Mandarano](#)
Cc: [Charles Limandri](#); [Mark Myers](#); [Jeffrey Trissell](#); [Jack Sleeth](#); [Gil Abed](#); [Maurice Bumbu](#); [Nopealey Lay](#); [Len Garfinkel](#); [Virginia Cale](#); [Darrell Spence](#); [Emmanuelle Soichet](#)
Subject: RE: [EXTERNAL] RE: Mirabelli v. Olson - Meet & Confer
Date: Wednesday, February 14, 2024 2:57:57 PM
Attachments: [image001.png](#)

Hi Paul – On the motions to dismiss, we’re making 12(b)(1) arguments based on lack of standing to sue either the Governor or the Attorney General, as well as arguments that both Defendants are covered by 11th Amendment immunity. Though the Court previously rejected such arguments with respect to the State Education Defendants, we think there are specific circumstances unique to the Governor and Attorney General that dictate an opposite result.

On the ENE conference continuance, the court’s initial order scheduling the conference states that requests for continuance should be done via Joint Motion, which we understand in the Southern District is essentially a stipulation. Since the ENE conference ordinarily doesn’t happen until after a Defendant files an answer to the complaint (within 45 days under the local rules) it would be counterproductive to hold the conference on February 28, 2024. We were just recently served with the FAC and are on the clock for our responsive pleading, so there has been no time to consider the factors (let alone the required documents) that go into the ENE conference.

On discovery, we think it makes sense to hold off, at least as to Defendants Newsom and Bonta, for a brief time to allow the court to rule on the MTDs. Those motions is likely dispositive as to whether either Defendant is a proper party in the case. Should discovery proceed on the timeline outlined in your requests and one or both Defendants are later dismissed from the case, the work of both parties that went into the discovery process will necessarily have been wasted. Moreover, since your clients have obtained a preliminary injunction that safeguards their interests during the pendency of the case, there is little urgency that justifies pressing ahead with discovery in the face of these concerns.

Look forward to speaking with you and everyone else tomorrow.

Kevin

From: Paul Jonna <pjonna@limandri.com>
Sent: Wednesday, February 14, 2024 11:55 AM
To: Kevin Quade <Kevin.Quade@doj.ca.gov>; Daniel Shinoff <DShinoff@as7law.com>; Christopher Mandarano <CMandarano@cde.ca.gov>
Cc: Charles Limandri <climandri@limandri.com>; Mark Myers <mmyers@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Jack Sleeth <JSleeth@as7law.com>; Gil Abed <GAbed@as7law.com>; Maurice Bumbu <mbumbu@as7law.com>; Nopealey Lay <nlay@AS7Law.com>; Len Garfinkel <LGarfinkel@cde.ca.gov>; Virginia Cale <VCale@cde.ca.gov>; Darrell Spence <Darrell.Spence@doj.ca.gov>; Emmanuelle Soichet <Emmanuelle.Soichet@doj.ca.gov>
Subject: RE: [EXTERNAL] RE: Mirabelli v. Olson - Meet & Confer

<p>EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.</p>

Kevin:

It would help make the call more productive if you could send us more information via email before we speak. For example, perhaps you can at least summarize the issues you intend to raise in the motions to dismiss.

Thanks.

Paul M. Jonna | Partner
LIMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
Tel: (858) 759-9930 | Direct: (858) 759-9133 | Fax: (858) 759-9938
pjonna@limandri.com | www.limandri.com



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From: Kevin Quade <Kevin.Quade@doj.ca.gov>
Sent: Wednesday, February 14, 2024 10:31 AM
To: Daniel Shinoff <DShinoff@as7law.com>; Christopher Mandarano <CMandarano@cde.ca.gov>
Cc: Paul Jonna <pjonna@limandri.com>; Charles Limandri <climandri@limandri.com>; Mark Myers <mmyers@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Jack Sleeth <JSleeth@as7law.com>; Gil Abed <GAbed@as7law.com>; Maurice Bumbu <mbumbu@as7law.com>; Nopealey Lay <nlay@AS7Law.com>; Len Garfinkel <LGarfinkel@cde.ca.gov>; Virginia Cale <VCale@cde.ca.gov>; Darrell Spence <Darrell.Spence@doj.ca.gov>; Emmanuelle Soichet <Emmanuelle.Soichet@doj.ca.gov>
Subject: RE: [EXTERNAL] RE: Mirabelli v. Olson - Meet & Confer

Thank you everyone for the quick response. Let's do tomorrow at 12:30. I'll send the calendar invite to everyone on this email.

Kevin

From: Daniel Shinoff <DShinoff@as7law.com>
Sent: Wednesday, February 14, 2024 10:22 AM
To: Christopher Mandarano <CMandarano@cde.ca.gov>
Cc: Paul Jonna <pjonna@limandri.com>; Kevin Quade <Kevin.Quade@doj.ca.gov>; Charles Limandri <climandri@limandri.com>; Mark Myers <mmyers@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; Jack Sleeth <JSleeth@as7law.com>; Gil Abed <GAbed@as7law.com>; Maurice Bumbu <mbumbu@as7law.com>; Nopealey Lay <nlay@AS7Law.com>; Len Garfinkel <LGarfinkel@cde.ca.gov>; Virginia Cale <VCale@cde.ca.gov>; Darrell Spence <Darrell.Spence@doj.ca.gov>; Emmanuelle Soichet <Emmanuelle.Soichet@doj.ca.gov>
Subject: Re: [EXTERNAL] RE: Mirabelli v. Olson - Meet & Confer

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.
--

11-2 tomorrow works for me as well.
Daniel
Sent from my iPhone

On Feb 14, 2024, at 10:14 AM, Christopher Mandarano <CMandarano@cde.ca.gov> wrote:

We can also be available tomorrow between 11 AM and 2 PM.

Chris Mandarano, Deputy General Counsel
Legal, Audits and Charters Branch
California Department of Education
1430 N Street, Suite 5319
Sacramento, CA 95814-5901
Phone: 916-319-0288
Fax #: 916-322-2549
cmandarano@cde.ca.gov

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From: Paul Jonna <pjonna@limandri.com>
Sent: Wednesday, February 14, 2024 10:12 AM
To: Kevin Quade <Kevin.Quade@doj.ca.gov>; Charles Limandri <climandri@limandri.com>; Mark Myers <mmyers@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; dshinoff@as7law.com <dshinoff@as7law.com>; jsleeth@as7law.com <jsleeth@as7law.com>; gabed@as7law.com <gabed@as7law.com>; mbumbu@as7law.com <mbumbu@as7law.com>; nlay@as7law.com <nlay@as7law.com>; Len Garfinkel <LGarfinkel@cde.ca.gov>; Christopher Mandarano <CMandarano@cde.ca.gov>; Virginia Cale <VCale@cde.ca.gov>
Cc: Darrell Spence <Darrell.Spence@doj.ca.gov>; emmanuelle.soichet@doj.ca.gov <emmanuelle.soichet@doj.ca.gov>
Subject: [EXTERNAL] RE: Mirabelli v. Olson - Meet & Confer

CAUTION! This email originated from outside the California Department of Education.
Be careful of links and attachments.

I have an all day mediation Friday, but could speak tomorrow between 11am-2pm PT.

Paul M. Jonna | Partner
LiMANDRI & JONNA LLP | P.O. Box 9120 | Rancho Santa Fe, CA 92067
Tel: (858) 759-9930 | Direct: (858) 759-9133 | Fax: (858) 759-9938
pjonna@limandri.com | www.limandri.com

<image002.png>

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From: Kevin Quade <Kevin.Quade@doj.ca.gov>

Sent: Wednesday, February 14, 2024 10:10 AM

To: Paul Jonna <pjonna@limandri.com>; Charles Limandri <climandri@limandri.com>; Mark Myers <mmyers@limandri.com>; Jeffrey Trissell <jtrissell@limandri.com>; dshinoff@as7law.com; jsleeth@as7law.com; gabed@as7law.com; mbumbu@as7law.com; nlay@as7law.com; lgarfinkel@cde.ca.gov; cmandarano@cde.ca.gov; vcalle@cde.ca.gov

Cc: Darrell Spence <Darrell.Spence@doj.ca.gov>; Emmanuelle Soichet <Emmanuelle.Soichet@doj.ca.gov>

Subject: Mirabelli v. Olson - Meet & Confer

Good morning counsel – We’re looking to schedule a meet and confer in the next couple days to discuss a number of filings that we’re preparing on behalf of Defendants Newsom and Bonta. Specifically, we’d like to discuss our position and get everyone’s response with respect to the following potential filings:

- Motions to Dismiss under Rule 12(b)(1) filed separately for Defendants Newsom and Bonta
- A Joint Motion/stipulation to continue the ENE Conference now scheduled for February 28, 2024
- A Joint Motion/stipulation to extend Defendants Newsom and Bonta’s deadlines for responding Plaintiffs’ written discovery requests, or in the alternative, an *ex parte* application for stay of discovery pending resolution of the anticipated MTDs
- Any additional discovery topics pursuant to Rule 26

We are hoping to have this omnibus meet and confer either tomorrow or Friday and are pretty flexible to try and work with the parties’ schedules. Please let me know your availability and I will send out an invite for a time that hopefully works for everyone. Thank you!

Kevin

<image003.png>

KEVIN L. QUADE

Deputy Attorney General

Health, Education, and Welfare

Office of the Attorney General | Department of Justice | State of California

1300 I Street, Sacramento, California 95814

T. 916.210.7693

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EXHIBIT 2

1 Charles S. LiMandri, SBN 110841
 2 cslimandri@limandri.com
 3 Paul M. Jonna, SBN 265389
 4 pjonna@limandri.com
 5 Mark D. Myers, SBN 235719
 6 mmyers@limandri.com
 7 Jeffrey M. Trissell, SBN 292480
 8 jtrissell@limandri.com
 9 Milan L. Brandon II, SBN 326953
 10 mbrandon@limandri.com
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 14 Telephone: (858) 759-9930
 15 Facsimile: (858) 759-9938

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 pbreen@thomasmorsociety.org
 THOMAS MORE SOCIETY
 309 W. Washington St., Ste. 1250
 Chicago, IL 60606
 Tel: (312) 782-1680
 *Application forthcoming

Attorneys for Plaintiffs

12 UNITED STATES DISTRICT COURT
 13 SOUTHERN DISTRICT OF CALIFORNIA

15 ELIZABETH MIRABELLI, an
 16 individual, and LORI ANN WEST, an
 17 individual,

18 Plaintiffs,

19 v.

20 MARK OLSON, in his official capacity as
 21 President of the EUSD Board of
 22 Education, et al.,

23 Defendants.

Case No.: 3:23-cv-0768-BEN-VET

**PLAINTIFFS' REQUESTS
 FOR PRODUCTION OF
 DOCUMENTS TO
 DEFENDANTS NEWSOM AND
 BONTA**

[SET ONE]

Judge: Hon. Roger T. Benitez
 Courtroom: 5A

Action Filed: April 27, 2023
 Trial Date: Not Set

1 PROPOUNDING PARTIES: Elizabeth Mirabelli and Lori Ann West.

2 RESPONDING PARTIES: Governor Gavin Newsom and Attorney
3 General Rob Bonta.

4 SET NO.: One [1-14].
5

6 Pursuant to Fed. R. Civ. P. 34, Plaintiffs Elizabeth Mirabelli and Lori Ann
7 West, hereby requests that the Defendants Governor Gavin Newsom and Attorney
8 General Rob Bonta produce and permit visual inspection and photocopying of the
9 documents and other tangible things identified below. Pursuant to Rule 34(b)(2)(A),
10 written responses to these requests are due by **Friday, April 19, 2024**. Pursuant to
11 Rule 34(b)(1)(B), the documents must be produced on that same date. The place of
12 production shall be the LiMandri & Jonna, LLP, located at 16236 San Dieguito Road,
13 Suite 3-15, Rancho Santa Fe, California 92067 (physical address). Alternatively,
14 responding party may comply with these requests by sending copies of all responsive
15 documents to P.O. Box 9120, Rancho Santa Fe, CA 92067 (mailing address).

16 Pursuant to Fed. R. Civ. P. 26(b)(5)(A)(ii), for any requested document that
17 you claim to be protected by immunity or privilege, state as to each such document
18 the following information: (a) the author(s); (b) the recipient(s), including those
19 copied; (c) the subject matter of the document; and (d) the basis for the claim of
20 immunity or privilege.

21 If any requested document is known to have been in existence but no longer
22 exists, state as to each such document the following information: (a) a description of
23 the document[s] to the fullest extent possible, (c) the request to which they are
24 responsive, (c) the circumstances under which such document[s] were lost or
25 destroyed; and (d) identify persons having knowledge of the content of such
26 documents.

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DEFINITIONS

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1. “YOU” and “YOUR” means the party responding to these requests, and includes any predecessors, successors, partners, subsidiaries, affiliates, partners, joint venturers, officers, directors, agents, employees, insurance company(s), attorneys, accountants, adjusters, contractors, consultants, underwriters, investigators, claims handlers, or other person(s) acting at that party’s behest or on that party’s behalf or who is otherwise within its control or obligated to respond to these requests for production.

2. “PERSON” means a natural person, firm, association, organizations, partnership, business, trust, corporation or public entity.

3. The term “DOCUMENTS” as used in these Requests for Production is intended to be defined as in Fed. R. Civ. P. 34 and includes any printed, handwritten, recorded, electronically stored or graphic matter of every type and description, however and by whomever made, reproduced or disseminated, in your actual or constructive custody or control. This includes electronically stored information (ESI) as that term is defined in Fed. R. Civ. P. 34. ESI may be generated or stored in several locations, including emails and email attachments, Excel spreadsheets, word processing documents, databases, voicemails, text messages, internet history logs, backup tapes, social media platforms, devices connected to the Internet of Things (IoT), workplace collaboration tools (WCTs), and ephemeral messaging applications.

4. “COMMUNICATION” or “COMMUNICATIONS” means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise) whether orally, in writing, or otherwise.

5. “PLAINTIFFS” means Plaintiff Elizabeth Mirabelli and Plaintiff Lori Ann West.

6. “COMPLAINT” means the complaint filed in this case.

7. “ANSWER” means YOUR answer filed in this case.

///

1 8. “2016 LEGAL ADVISORY ON GENDER IDENTITY” means the
2 webpage “Legal Advisory regarding application of California’s antidiscrimination
3 statutes to transgender youth in schools” available online at
4 <https://www.cde.ca.gov/re/di/eo/legaladvisory.asp>.

5 9. “FAQ PAGE ON GENDER IDENTITY” means the webpage “School
6 Success and Opportunity Act (Assembly Bill 1266) Frequently Asked Questions”
7 available online at <https://www.cde.ca.gov/re/di/eo/faqs.asp>.

8
9 **REQUESTS FOR PRODUCTION**

10 **REQUEST FOR PRODUCTION NO. 1:**

11 All DOCUMENTS identified in YOUR initial disclosures in this case.

12 **REQUEST FOR PRODUCTION NO. 2:**

13 All DOCUMENTS identified in YOUR responses to interrogatories.

14 **REQUEST FOR PRODUCTION NO. 3:**

15 All DOCUMENTS created by YOU or on YOUR behalf which in any way
16 memorialize your recollection of any events relating to events alleged in the
17 COMPLAINT.

18 **REQUEST FOR PRODUCTION NO. 4:**

19 All DOCUMENTS which substantiate any fact which YOU contend is
20 relevant to the defenses raised in YOUR ANSWER filed in this case.

21 **REQUEST FOR PRODUCTION NO. 5:**

22 All DOCUMENTS exchanged with counsel for the Plaintiff in *People v. Chino*
23 *Valley Unified School Dist.*, No. CIV SB 2317301 (Cal. Super. Ct., San Bernardino
24 County, Aug. 28, 2023).

25 **REQUEST FOR PRODUCTION NO. 6:**

26 All DOCUMENTS exchanged with counsel for the Defendant in *Regino v.*
27 *Staley*, No. 2:23-cv-32 (E.D. Cal., Jan. 6, 2023).

28 ///

1 **REQUEST FOR PRODUCTION No. 7:**

2 All DOCUMENTS relating to the adoption of the California Department of
3 Education's 2016 LEGAL ADVISORY ON GENDER IDENTITY.

4 **REQUEST FOR PRODUCTION No. 8:**

5 All DOCUMENTS relating to the adoption of the California Department of
6 Education's FAQ PAGE ON GENDER IDENTITY.

7 **REQUEST FOR PRODUCTION No. 9:**

8 All emails relating to the adoption of the California Department of Education's
9 2016 LEGAL ADVISORY ON GENDER IDENTITY, including specifically
10 COMMUNICATIONS to and from PERSONS in the CDE's School Health and
11 Safety Office.

12 **REQUEST FOR PRODUCTION No. 10:**

13 All emails relating to the adoption of the California Department of Education's
14 FAQ PAGE ON GENDER IDENTITY, including specifically
15 COMMUNICATIONS to and from PERSONS in the CDE's School Health and
16 Safety Office.

17 **REQUEST FOR PRODUCTION No. 11:**

18 All versions of the California Department of Education's 2016 LEGAL
19 ADVISORY ON GENDER IDENTITY and accompanying FAQ PAGE ON
20 GENDER IDENTITY.

21 **REQUEST FOR PRODUCTION No. 12:**

22 All versions of the California Department of Education's FAQ PAGE ON
23 GENDER IDENTITY.

24 **REQUEST FOR PRODUCTION No. 13:**

25 All DOCUMENTS concerning the California Department of Education's
26 investigation into Rockland Unified School District, Case Matter No. 2023-0202.

27 ///

28 ///

1 **REQUEST FOR PRODUCTION NO. 14:**

2 All DOCUMENTS concerning any and all investigations that the California
3 Department of Education has initiated or concluded, since on January 1, 2020,
4 concerning any local education agency's adoption of policies relating in any way to
5 gender identity.

6
7 LiMANDRI & JONNA LLP

8
9 Dated: March 20, 2024

By:



Charles S. LiMandri

Paul M. Jonna

Mark D. Myers

Jeffrey M. Trissell

Milan L. Brandon II

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

Elizabeth Mirabelli v. Mark Olson, President of the EUSD Board of Education, et al.

USDC Court Case No.: 3:23-cv-00768-BEN-WVG

I, the undersigned, declare under penalty of perjury that I am over the age of eighteen years and not a party to this action; my business address is P.O. Box 9120, Rancho Santa Fe, California 92067, and that I served the following document(s):

- **PLAINTIFF LORI ANN WEST’S REQUESTS FOR ADMISSION TO DEFENDANTS NEWSOM AND BONTA [Set One];**
- **PLAINTIFF ELIZABETH MIRABELLI’S REQUESTS FOR ADMISSION TO DEFENDANTS NEWSOM AND BONTA [Set One];**
- **PLAINTIFF MIRABELLI’S INTERROGATORIES TO DEFENDANTS NEWSOM AND BONTA [Set One];**
- **PLAINTIFFS’ REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANTS NEWSOM AND BONTA [Set One].**

on the interested parties in this action by placing a true copy in a sealed envelope, addressed as follows:

Len Garfinkel, Esq., General Counsel
 Bruce Yonehiro, Assistant General Counsel
 Paul Gant, Assistant General Counsel
 Christopher Mandarano, Esq., Deputy Gen. Counsel
 Virginia Cale, Deputy General Counsel
 California Department of Education
 1430 “N” Street, Suite 5319
 Sacramento, CA 95814
 Tel: 916-319-0860; Fax: 916-322-2549
 E-Mail: lgarfinkel@cde.ca.gov
 E-Mail: byonehiro@cde.ca.gov
 E-Mail: pgant@cde.ca.gov
 E-Mail: cmandarano@cde.ca.gov
 E-Mail: vcale@cde.ca.gov
Attorneys for State Defendants

Daniel R. Shinoff, Esq.
 Gil Abed, Esq.
 Jack Sleeth, Esq.
 Maurice Bumbu, Esq.
 Artiano Shinoff
 3636 Fourth Avenue, Suite 200
 San Diego, CA 92103
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 E-Mail: Dshinoff@as7law.com
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 E-Mail: jsleeth@as7law.com
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Attorneys for EUSD Defendants

Emmanuelle Soichet, Esq.
 Darrell W. Spence, Esq.
 Kevin L. Quade, Esq.
 Deputy Attorney General
 California Department of Justice
 455 Golden Gate Ave., Ste. 1100
 San Francisco, CA 94102-7004
 E-Mail: emmanuelle.soichet@doj.ca.gov
 E-Mail: darrell.spence@doj.ca.gov
 E-Mail: kevin.quade@doj.ca.gov
**Attorneys for Governor Gavin Newsom
 and Attorney General Ron Bonta**

(BY ELECTRONIC MAIL) I served a true copy, electronically on designated recipients via electronic transmission of said documents.

I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct. Executed on March 20, 2024, at Rancho Santa Fe, California.



 Kathy Denworth

EXHIBIT 3

1 Charles S. LiMandri, SBN 110841
 2 cslimandri@limandri.com
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 *Application forthcoming

Attorneys for Plaintiffs

11
 12 UNITED STATES DISTRICT COURT
 13 SOUTHERN DISTRICT OF CALIFORNIA
 14

15 ELIZABETH MIRABELLI, an
 16 individual, and LORI ANN WEST, an
 17 individual,

18 Plaintiffs,

19 v.

20 MARK OLSON, in his official capacity as
 21 President of the EUSD Board of
 22 Education, et al.,

23 Defendants.
 24
 25
 26
 27
 28

Case No.: 3:23-cv-0768-BEN-VET

**PLAINTIFF MIRABELLI'S
 INTERROGATORIES TO
 DEFENDANTS NEWSOM
 AND BONTA**

[SET ONE]

Judge: Hon. Roger T. Benitez

Courtroom: 5A

Action Filed: April 27, 2023

Trial Date: Not Set

1 PROPOUNDING PARTIES: Elizabeth Mirabelli.

2 RESPONDING PARTIES: Governor Gavin Newsom and Attorney
3 General Rob Bonta.

4 SET NO.: One [1-17].
5

6 Pursuant to Fed. R. Civ. P. 33, Plaintiff Elizabeth Mirabelli hereby requests
7 that the Defendants Governor Gavin Newsom and Attorney General Rob Bonta
8 respond in writing to the following interrogatories. Pursuant to Rule 33(b)(2), written
9 responses to these requests are due by **Friday, April 19, 2024**. Pursuant to Rule
10 33(b)(3), (5), the responses must be verified under oath at that time. The responding
11 party may deliver their original responses to LiMandri & Jonna, LLP, located at
12 16236 San Dieguito Road, Suite 3-15, Rancho Santa Fe, California 92067 (physical
13 address). Alternatively, responding party may mail its original responses to P.O. Box
14 9120, Rancho Santa Fe, CA 92067 (mailing address).

15 **DEFINITIONS**

16 1. "YOU" and "YOUR" means the party responding to these requests,
17 and includes any predecessors, successors, partners, subsidiaries, affiliates, partners,
18 joint venturers, officers, directors, agents, employees, insurance company(s),
19 attorneys, accountants, adjusters, contractors, consultants, underwriters,
20 investigators, claims handlers, or other person(s) acting at that party's behest or on
21 that party's behalf or who is otherwise within its control or obligated to respond to
22 these requests for production.

23 2. "PERSON" means a natural person, firm, association, organizations,
24 partnership, business, trust, corporation or public entity.

25 3. The term "DOCUMENTS" as used in these interrogatories is intended
26 to be defined as in Fed. R. Civ. P. 34 and includes any printed, handwritten,
27 recorded, electronically stored or graphic matter of every type and description,
28 however and by whomever made, reproduced or disseminated, in your actual or

1 constructive custody or control. This includes electronically stored information (ESI)
2 as that term is defined in Fed. R. Civ. P. 34. ESI may be generated or stored in several
3 locations, including emails and email attachments, Excel spreadsheets, word
4 processing documents, databases, voicemails, text messages, internet history logs,
5 backup tapes, social media platforms, devices connected to the Internet of Things
6 (IoT), workplace collaboration tools (WCTs), and ephemeral messaging applications.

7 4. "COMMUNICATION" or "COMMUNICATIONS" means the
8 transmittal of information (in the form of facts, ideas, inquiries, or otherwise)
9 whether orally, in writing, or otherwise.

10 5. "PLAINTIFFS" means Plaintiff Elizabeth Mirabelli and Plaintiff Lori
11 Ann West.

12 6. "COMPLAINT" means the complaint filed in this case.

13 7. "ANSWER" means your answer filed in this case.

14 8. "2016 LEGAL ADVISORY ON GENDER IDENTITY" means the
15 webpage "Legal Advisory regarding application of California's antidiscrimination
16 statutes to transgender youth in schools" available online at
17 <https://www.cde.ca.gov/re/di/eo/legaladvisory.asp>.

18 9. "FAQ PAGE ON GENDER IDENTITY" means the webpage "School
19 Success and Opportunity Act (Assembly Bill 1266) Frequently Asked Questions"
20 available online at <https://www.cde.ca.gov/re/di/eo/faqs.asp>.

21

22

INTERROGATORIES

23

INTERROGATORY NO. 1:

24

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26

Describe why the California Department of Education issued the 2016 LEGAL
ADVISORY ON GENDER IDENTITY and accompanying FAQ PAGE ON
GENDER IDENTITY.

27

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///

1 **INTERROGATORY NO. 2:**

2 Describe under what legal authority the California Department of Education
3 issued the 2016 LEGAL ADVISORY ON GENDER IDENTITY and accompanying
4 FAQ PAGE ON GENDER IDENTITY.

5 **INTERROGATORY NO. 3:**

6 Identify the specific PERSONS involved in originally drafting, or subsequently
7 reviewing and editing the 2016 LEGAL ADVISORY ON GENDER IDENTITY and
8 accompanying FAQ PAGE ON GENDER IDENTITY.

9 **INTERROGATORY NO. 4:**

10 For each PERSON identified in response to Interrogatory No. 3, identify the
11 dates of their involvement, their specific role(s) within the California Department of
12 Education, and their specific role(s) with respect to the webpages.

13 **INTERROGATORY NO. 5:**

14 Describe all legal authority, including case law, undergirding the following
15 statement in FAQ PAGE ON GENDER IDENTITY:

16 With rare exceptions, schools are required to respect the limitations that
17 a student places on the disclosure of their transgender status, including
18 not sharing that information with the student’s parents. In those very
19 rare circumstances where a school believes there is a specific and
20 compelling “need to know,” the school should inform the student that
21 the school intends to disclose the student’s transgender status, giving
22 the student the opportunity to make that disclosure her or himself....
23 Schools are not permitted to disclose private student information to
24 other students or the parents of those students.

23 **INTERROGATORY NO. 6:**

24 Describe as many circumstances as possible that would constitute “a specific
25 and compelling ‘need to know’” warranting disclosure of a student’s transgender or
26 gender diverse gender identity to his parents, over his objection, as stated in the FAQ
27 ON GENDER IDENTITY.

28 ///

1 **INTERROGATORY NO. 7:**

2 If YOU contend that revealing a student's transgender or gender diverse
3 gender identity to his parents, over his objection, is harassment, please explain how
4 doing so is harassing.

5 **INTERROGATORY NO. 8:**

6 If YOU contend that revealing a student's transgender or gender diverse
7 gender identity to his parents, over his objection, is discrimination, please explain
8 how doing so is discriminatory.

9 **INTERROGATORY NO. 9:**

10 Please explain how a student has a legitimate expectation of privacy regarding
11 his transgender or gender diverse gender identity when attending a school that has a
12 policy that requires all students and teachers to acknowledge and affirm his
13 transgender or gender diverse gender identity.

14 **INTERROGATORY NO. 10:**

15 Please explain whether the California Department of Education has the
16 authority to withhold state education funds from a school district that adopts a policy
17 to disclose students' gender identity to their parents.

18 **INTERROGATORY NO. 11:**

19 If YOU contend that informing parents of their child's gender identity and
20 using preferred names and pronouns is not speech, please explain why.

21 **INTERROGATORY NO. 12:**

22 If YOU contend that the topic of gender identity is not a matter of public
23 concern, please explain why.

24 **INTERROGATORY NO. 13:**

25 If YOU contend that withholding a student's gender identity from his or her
26 parents, absent express permission, satisfies strict scrutiny, please explain why.

27 ///

28 ///

1 **INTERROGATORY NO. 14:**

2 If YOU contend that withholding a student’s gender identity from his or her
3 parents, absent express permission, does not violate parental rights under the
4 Fourteenth Amendment, please explain why.

5 **INTERROGATORY NO. 15:**

6 Please explain whether the California Department of Education or any of its
7 officials have had any role, and if so the nature of that role, in the lawsuit *People v.*
8 *Chino Valley Unified School Dist.*, No. CIV SB 2317301 (Cal. Super. Ct., San
9 Bernardino County, Aug. 28, 2023).

10 **INTERROGATORY NO. 16:**

11 Please explain whether the California Department of Education or any of its
12 officials have had any role, and if so the nature of that role, in the lawsuit *Regino v.*
13 *Staley*, No. 2:23-cv-32 (E.D. Cal., Jan. 6, 2023).

14 **INTERROGATORY NO. 17:**

15 Please identify any and all investigations that the California Department of
16 Education has initiated or concluded, since on January 1, 2020, concerning any local
17 education agency’s adoption of policies relating in any way to gender identity.

18
19 LiMANDRI & JONNA LLP

20
21 Dated: March 20, 2024

By:


22 Charles S. LiMandri
23 Paul M. Jonna
24 Mark D. Myers
25 Jeffrey M. Trissell
26 Attorneys for Plaintiffs
27
28

CERTIFICATE OF SERVICE

Elizabeth Mirabelli v. Mark Olson, President of the EUSD Board of Education, et al.

USDC Court Case No.: 3:23-cv-00768-BEN-WVG

I, the undersigned, declare under penalty of perjury that I am over the age of eighteen years and not a party to this action; my business address is P.O. Box 9120, Rancho Santa Fe, California 92067, and that I served the following document(s):

- **PLAINTIFF LORI ANN WEST’S REQUESTS FOR ADMISSION TO DEFENDANTS NEWSOM AND BONTA [Set One];**
- **PLAINTIFF ELIZABETH MIRABELLI’S REQUESTS FOR ADMISSION TO DEFENDANTS NEWSOM AND BONTA [Set One];**
- **PLAINTIFF MIRABELLI’S INTERROGATORIES TO DEFENDANTS NEWSOM AND BONTA [Set One];**
- **PLAINTIFFS’ REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANTS NEWSOM AND BONTA [Set One].**

on the interested parties in this action by placing a true copy in a sealed envelope, addressed as follows:

Len Garfinkel, Esq., General Counsel
 Bruce Yonehiro, Assistant General Counsel
 Paul Gant, Assistant General Counsel
 Christopher Mandarano, Esq., Deputy Gen. Counsel
 Virginia Cale, Deputy General Counsel
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 E-Mail: kevin.quade@doj.ca.gov
**Attorneys for Governor Gavin Newsom
 and Attorney General Ron Bonta**

X **(BY ELECTRONIC MAIL)** I served a true copy, electronically on designated recipients via electronic transmission of said documents.

I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct. Executed on March 20, 2024, at Rancho Santa Fe, California.

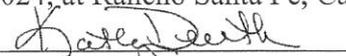

 Kathy Denworth

EXHIBIT 4

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Case No.: 3:23-cv-0768-BEN-VET

**PLAINTIFF ELIZABETH
 MIRABELLI'S REQUESTS
 FOR ADMISSION TO
 DEFENDANTS NEWSOM AND
 BONTA**

[SET ONE]

Judge: Hon. Roger T. Benitez
 Courtroom: 5A

Action Filed: April 27, 2023
 Trial Date: Not Set

1 PROPOUNDING PARTIES: Elizabeth Mirabelli.

2 RESPONDING PARTIES: Governor Gavin Newsom and Attorney
3 General Rob Bonta.

4 SET NO.: One [1-23].
5

6 Pursuant to Fed. R. Civ. P. 36, Plaintiffs Elizabeth Mirabelli and Lori Ann
7 West, hereby requests that the Defendants Governor Gavin Newsom and Attorney
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9 written responses to these requests are due by **Friday, April 19, 2024**. The
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19 Success and Opportunity Act (Assembly Bill 1266) Frequently Asked Questions”
20 available online at <https://www.cde.ca.gov/re/di/eo/faqs.asp>.

21
22 **REQUESTS FOR ADMISSION**

23 **REQUEST FOR ADMISSION No. 1:**

24 Admit that informing parents of their child’s gender identity is speech.

25 **REQUEST FOR ADMISSION No. 2:**

26 Admit that using names and pronouns—whether legal names, biological
27 pronouns, or preferred names and pronouns—is speech.

28 ///

1 **REQUEST FOR ADMISSION NO. 3:**

2 Admit that the topic of gender identity is a matter of public concern.

3 **REQUEST FOR ADMISSION NO. 4:**

4 Admit that the topic of the rights of transgender or gender diverse individuals
5 is a matter of public concern.

6 **REQUEST FOR ADMISSION NO. 5:**

7 Admit that the topic of gender incongruence among minors is a matter of
8 public concern.

9 **REQUEST FOR ADMISSION NO. 6:**

10 Admit that the topic of the rights of parents to be involved in decisions
11 regarding how to address gender incongruence among their own minor children or
12 adolescents is a matter of public concern.

13 **REQUEST FOR ADMISSION NO. 7:**

14 Admit that Plaintiffs' official job duties of teaching involve exercising academic
15 freedom.

16 **REQUEST FOR ADMISSION NO. 8:**

17 Admit that Plaintiffs' official job duties do not involve being a courier to
18 disseminate ideology generally.

19 **REQUEST FOR ADMISSION NO. 9:**

20 Admit that Plaintiffs' official job duties do not involve being a courier to
21 disseminate ideology regarding gender identity.

22 **REQUEST FOR ADMISSION NO. 10:**

23 Admit that Plaintiffs' official job duties do not involve engaging in illegal
24 conduct.

25 **REQUEST FOR ADMISSION NO. 11:**

26 Admit that Plaintiffs' official job duties do not involve engaging in dishonesty.

27 ///

28 ///

1 **REQUEST FOR ADMISSION NO. 12:**

2 Admit that Plaintiffs' official job duties involve including parents in the
3 education and development of their children.

4 **REQUEST FOR ADMISSION NO. 13:**

5 Admit that exempting Plaintiffs from any obligation to withhold information
6 regarding a child's gender identity from his or her parents will not cause a substantial
7 disruption in their workplace.

8 **REQUEST FOR ADMISSION NO. 14:**

9 Admit that Plaintiffs' objection to withholding information regarding a child's
10 gender identity from his or her parents is based on their sincerely held religious beliefs.

11 **REQUEST FOR ADMISSION NO. 15:**

12 Admit that terminating Plaintiffs for refusing to withhold information
13 regarding a child's gender identity from his or her parents is a substantial burden as
14 understood by the Free Exercise Clause of the U.S. Constitution.

15 **REQUEST FOR ADMISSION NO. 16:**

16 Admit that exempting students, substitute teachers, or classified staff, or
17 administrative staff from an obligation to withhold information regarding a fellow
18 student's gender identity from his or her parents will undermine the government's
19 interest in withholding information regarding gender identity, in a similar way as
20 exempting Plaintiffs.

21 **REQUEST FOR ADMISSION NO. 17:**

22 Admit that you lack any compelling interest in violating the Fourteenth
23 Amendment substantive due process rights of parents.

24 **REQUEST FOR ADMISSION NO. 18:**

25 Admit that requiring Plaintiffs to withhold information regarding a child's
26 gender identity from his or her parents is not the least restrictive means of achieving
27 the interests underlying such a requirement.

28 ///

1 **REQUEST FOR ADMISSION NO. 19:**

2 Admit that, even if a child does not want his or her parents to know of his or
3 her gender identity, revealing such information is not always detrimental to the child.

4 **REQUEST FOR ADMISSION NO. 20:**

5 Admit that, if a child is suffering from gender dysphoria, social transition is a
6 form of psycho-social treatment for that disorder.

7 **REQUEST FOR ADMISSION NO. 21:**

8 Admit that it is clearly established that if a defendant has in place a system of
9 individualized exemptions, it must extend that system to religious exemptions or face
10 strict scrutiny review.

11 **REQUEST FOR ADMISSION NO. 22:**

12 Admit that a child's statement that he or she wishes to withhold information
13 from his or her parents is not adequate evidence to conclude that the parents will
14 harm the child if provided with that information.

15 **REQUEST FOR ADMISSION NO. 23:**

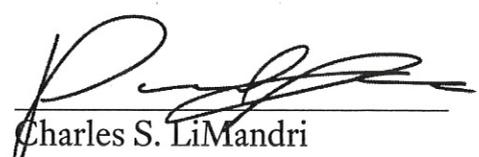
16 Admit that all of the documents attached to the operative complaint are true
17 and correct copies of what they purport to be.

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28

LiMANDRI & JONNA LLP

Dated: March 20, 2024

By:



Charles S. LiMandri

Paul M. Jonna

Mark D. Myers

Jeffrey M. Trissell

Milan L. Brandon II

Attorneys for Plaintiffs

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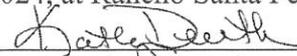
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 E-Mail: kevin.quade@doj.ca.gov
**Attorneys for Governor Gavin Newsom
 and Attorney General Ron Bonta**

X **(BY ELECTRONIC MAIL)** I served a true copy, electronically on designated recipients via electronic transmission of said documents.

I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct. Executed on March 20, 2024, at Rancho Santa Fe, California.



 Kathy Denworth

EXHIBIT 5

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**PLAINTIFF LORI ANN
 WEST'S REQUESTS FOR
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 BONTA**

[SET ONE]

Judge: Hon. Roger T. Benitez
 Courtroom: 5A

Action Filed: April 27, 2023
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22 these requests for production.

23 2. "PERSON" means a natural person, firm, association, organizations,
24 partnership, business, trust, corporation or public entity.

25 3. The term "DOCUMENTS" as used in these Requests for Production is
26 intended to be defined as in Fed. R. Civ. P. 34 and includes any printed, handwritten,
27 recorded, electronically stored or graphic matter of every type and description,
28 however and by whomever made, reproduced or disseminated, in your actual or

1 constructive custody or control. This includes electronically stored information (ESI)
2 as that term is defined in Fed. R. Civ. P. 34. ESI may be generated or stored in several
3 locations, including emails and email attachments, Excel spreadsheets, word
4 processing documents, databases, voicemails, text messages, internet history logs,
5 backup tapes, social media platforms, devices connected to the Internet of Things
6 (IoT), workplace collaboration tools (WCTs), and ephemeral messaging applications.

7 4. “COMMUNICATION” or “COMMUNICATIONS” means the
8 transmittal of information (in the form of facts, ideas, inquiries, or otherwise)
9 whether orally, in writing, or otherwise.

10 5. “PLAINTIFFS” means Plaintiff Elizabeth Mirabelli and Plaintiff Lori
11 Ann West.

12 6. “COMPLAINT” means the complaint filed in this case.

13 7. “ANSWER” means the answer filed in this case.

14 8. “2016 LEGAL ADVISORY ON GENDER IDENTITY” means the
15 webpage “Legal Advisory regarding application of California’s antidiscrimination
16 statutes to transgender youth in schools” available online at
17 <https://www.cde.ca.gov/re/di/eo/legaladvisory.asp>.

18 9. “FAQ PAGE ON GENDER IDENTITY” means the webpage “School
19 Success and Opportunity Act (Assembly Bill 1266) Frequently Asked Questions”
20 available online at <https://www.cde.ca.gov/re/di/eo/faqs.asp>.

21
22 **REQUESTS FOR ADMISSION**

23 **REQUEST FOR ADMISSION No. 1:**

24 Admit that the California Department of Education’s 2016 LEGAL
25 ADVISORY ON GENDER IDENTITY and FAQ PAGE ON GENDER
26 IDENTTIY provide that a student’s gender identity may be disclosed to his or her
27 parents if there is a legitimate reason for doing so.

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1 **REQUEST FOR ADMISSION NO. 2:**

2 Admit that the California Department of Education's 2016 LEGAL
3 ADVISORY ON GENDER IDENTITY and FAQ PAGE ON GENDER
4 IDENTTIY provide that a student's gender identity may be disclosed to his or her
5 parents if the parents have a need to know.

6 **REQUEST FOR ADMISSION NO. 3:**

7 Admit that the California Department of Education's 2016 LEGAL
8 ADVISORY ON GENDER IDENTITY and FAQ PAGE ON GENDER
9 IDENTTIY provide that a student's gender identity may be disclosed to his or her
10 parents if there is a compelling reason for doing so.

11 **REQUEST FOR ADMISSION NO. 4:**

12 Admit that the California Department of Education's 2016 LEGAL
13 ADVISORY ON GENDER IDENTITY and FAQ PAGE ON GENDER
14 IDENTTIY invite the government to decide which reasons for revealing a student's
15 gender identity to his or her parents are worthy of solicitude.

16 **REQUEST FOR ADMISSION NO. 5:**

17 Admit that the California Department of Education's 2016 LEGAL
18 ADVISORY ON GENDER IDENTITY and FAQ PAGE ON GENDER
19 IDENTTIY require teachers to withhold information regarding a student's gender
20 identity from his or her parents, unless the student has affirmatively granted
21 permission, regardless of whether the student is suffering from gender dysphoria or
22 not.

23 **REQUEST FOR ADMISSION NO. 6:**

24 Admit that the California Department of Education believes that its 2016
25 LEGAL ADVISORY ON GENDER IDENTITY accurately summarizes the law
26 relating to how California school districts must treat transgender or gender diverse
27 students.

28 ///

1 **REQUEST FOR ADMISSION NO. 7:**

2 Admit that the California Department of Education believes that its FAQ
3 PAGE ON GENDER IDENTTIY accurately summarizes the law relating to how
4 California school districts must treat transgender or gender diverse students.

5 **REQUEST FOR ADMISSION NO. 8:**

6 Admit that the California Department of Education can withhold state funding
7 under Cal. Gov. Code § 11135 to California school districts that do not treat
8 transgender or gender diverse students in accordance with the law.

9 **REQUEST FOR ADMISSION NO. 9:**

10 Admit that the California Department of Education can withhold state funding
11 under Cal. Educ. Code § 250 to California school districts that do not treat
12 transgender or gender diverse students in accordance with the law.

13 **REQUEST FOR ADMISSION NO. 10:**

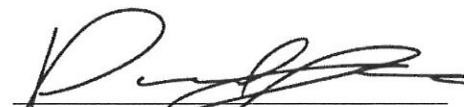
14 Admit that the California Department of Education can withhold state funding
15 under Cal. Code Regs., tit. 5, § 4670 to California school districts that do not treat
16 transgender or gender diverse students in accordance with the law.

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LiMANDRI & JONNA LLP

Dated: March 20, 2024

By:



Charles S. LiMandri

Paul M. Jonna
Mark D. Myers
Jeffrey M. Trissell
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

Elizabeth Mirabelli v. Mark Olson, President of the EUSD Board of Education, et al.

USDC Court Case No.: 3:23-cv-00768-BEN-WVG

I, the undersigned, declare under penalty of perjury that I am over the age of eighteen years and not a party to this action; my business address is P.O. Box 9120, Rancho Santa Fe, California 92067, and that I served the following document(s):

- **PLAINTIFF LORIANN WEST’S REQUESTS FOR ADMISSION TO DEFENDANTS NEWSOM AND BONTA [Set One];**
- **PLAINTIFF ELIZABETH MIRABELLI’S REQUESTS FOR ADMISSION TO DEFENDANTS NEWSOM AND BONTA [Set One];**
- **PLAINTIFF MIRABELLI’S INTERROGATORIES TO DEFENDANTS NEWSOM AND BONTA [Set One];**
- **PLAINTIFFS’ REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANTS NEWSOM AND BONTA [Set One].**

on the interested parties in this action by placing a true copy in a sealed envelope, addressed as follows:

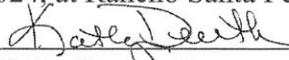
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 and Attorney General Ron Bonta**

 X **(BY ELECTRONIC MAIL)** I served a true copy, electronically on designated recipients via electronic transmission of said documents.

I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct. Executed on March 20, 2024, at Rancho Santa Fe, California.



 Kathy Denworth

CERTIFICATE OF SERVICE

Case Name: Mirabelli et al. v. Olson, et al. No. 3:23-cv-0768-BEN-VET

I hereby certify that on March 29, 2024, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

- **Ex Parte Application For a Stay Of Discovery Pending Ruling on Motions to Dismiss**
- **Memorandum of Points and Authorities In Support of Ex Parte Application for A Stay of Discovery Pending Ruling on Motions to Dismiss**
- **Declaration of Emmanuelle S. Soichet In Support of Ex Parte Application for A Stay of Discovery Pending Ruling on Motion to Dismiss**

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter.

I further certify that some of the participants in the case are not registered CM/ECF users. On March 29, 2024 I have caused to be electronically mailed.

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I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on March 29, 2024, at San Francisco, California.

Monali Dholakia

Declarant

/s/: Monali Dholakia

Signature

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