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Attorneys for Plaintiffs

10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA
12

13 ELIZABETH MIRABELLI, an
14 individual, on behalf of herself and all
15 others similarly situated; LORI ANN
16 WEST, an individual, on behalf of herself
and all others similarly situated; et al.,

17 Plaintiffs,

18 v.

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

21 Defendants.
22

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

**Plaintiffs' Ex Parte Application for
Leave to Submit a Supplemental
Request for Judicial Notice in
Opposition to the CDE's Motion to
Dismiss as Moot**

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

1 **TO: THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF**
2 **RECORD:**

3 PLEASE TAKE NOTICE that Plaintiffs, by and through counsel, will and
4 hereby do apply to the Court, for leave to file a supplemental request for judicial
5 notice in opposition to the CDE's motion to dismiss the action as moot. In support of
6 this Ex Parte Application, undersigned counsel declares as follows:

7 1. On March 27, 2025, the U.S. Department of Education issued a press
8 release titled: "U.S. Department of Education Launches Investigation into California
9 Department of Education for Alleged FERPA Violations." A true and correct copy of
10 that press release is attached as Exhibit X. It is available online at:

11 [https://www.ed.gov/about/news/press-release/us-department-of-education-](https://www.ed.gov/about/news/press-release/us-department-of-education-launches-investigation-california-department-of-education-alleged-ferpa-violations)
12 [launches-investigation-california-department-of-education-alleged-ferpa-violations.](https://www.ed.gov/about/news/press-release/us-department-of-education-launches-investigation-california-department-of-education-alleged-ferpa-violations)

13 2. In that Press Release, the U.S. Department of Education states that it
14 "has reason to believe that numerous local educational agencies (LEAs) in California
15 may be violating FERPA to socially transition children at school while hiding minors'
16 'gender identity' from parents. Given the number of LEAs that appear to be
17 involved, [the Department of Education] is concerned that CDE played a role, either
18 directly or indirectly, in the widespread adoption of these practices[.]"

19 3. The Press Release further states: "California Assembly Bill 1955, which
20 was signed into law by Governor Gavin Newsom and took effect on January 1, 2025,
21 appears to conflict with FERPA by prohibiting schools from requiring personnel to
22 disclose a child's "gender identity" to that child's parent."

23 4. The announcement of this investigation is relevant because it shows the
24 reasonableness of Plaintiffs' belief that obtaining relief against the CDE is necessary
25 and that the passage of AB 1955 has no practical effect on the need for relief. The
26 U.S. Department of Education shares Plaintiffs' view that the "CDE played a role,
27 either directly or indirectly, in the widespread adoption" of Parental Exclusion
28 Policies, and that AB 1955 reinforces those policies instead of undermining them.

1 Based on the foregoing, Plaintiffs respectfully request that the Court grant this
2 ex parte application and take judicial notice of Exhibit X.

3 Pursuant to 28 U.S.C. § 1746, undersigned counsel declares under penalty of
4 perjury that the foregoing is true and correct.

5
6 Respectfully submitted,

7 LiMANDRI & JONNA LLP

8
9 Dated: March 27, 2025

By:



Charles S. LiMandri
Paul M. Jonna
Jeffrey M. Trissell
Attorneys for Plaintiffs

EXHIBIT X

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PRESS RELEASE

U.S. Department of Education Launches Investigation into California Department of Education for Alleged FERPA Violations

MARCH 27, 2025

Today, the U.S. Department of Education's Student Privacy Policy Office (SPPO) launched an investigation into the California Department of Education (CDE) for alleged violations of the Family Educational Rights Privacy Act (FERPA). FERPA gives parents the right to access their children's educational data. The California Department of Education has allegedly abdicated the responsibilities FERPA imposes due to a new California state law that prohibits school personnel from disclosing a child's "gender identity" to that child's parent.

SPPO has reason to believe that numerous local educational agencies (LEAs) in California may be violating FERPA to socially transition children at school while hiding minors' "gender identity" from parents. Given the number of LEAs that appear to be involved, SPPO is concerned that CDE played a role, either directly or indirectly, in the widespread adoption of these practices, which appear to be required by the recently enacted California Assembly Bill 1955.

"Teachers and school counselors should not be in the business of advising minors entrusted to their care on consequential decisions about their sexual identity and mental health. That responsibility and privilege lies with a parent or trusted loved one," **said Secretary of Education Linda McMahon.** "It is not only immoral but also potentially in contradiction with federal law for California schools to hide crucial information about a student's wellbeing from parents and guardians. The agency launched today's investigation to vigorously protect parents' rights and ensure that

students do not fall victim to a radical transgender ideology that often leads to family alienation and irreversible medical interventions.”

State laws do not override federal laws, and educational entities receiving federal funding are subject to FERPA and its implementing regulations. Violation of FERPA can result in termination of an educational entity’s federal funding.

Background:

[FERPA](#) is a federal privacy law enforced by the Department's SPPO. FERPA gives parents the right to access their children’s education records, the right to request record corrections or amendments, and the right to control, with important exceptions, disclosure of personally identifiable information in education records.

[California Assembly Bill 1955](#), which was signed into law by Governor Gavin Newsom and took effect on January 1, 2025, appears to conflict with FERPA by prohibiting schools from requiring personnel to disclose a child’s “gender identity” to that child’s parent. As a result, according to the California Justice Center, “every public school in California has a policy of denying, or effectively preventing, the parents of students...the right to inspect and review the education records of their children.”

CONTACT

Press Office | press@ed.gov | (202) 401-1576 | Office of Communications and Outreach (OCO)

Office of Communications and Outreach (OCO)

Page Last Reviewed: March 27, 2025

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1 **CERTIFICATE OF SERVICE**

2 ***Elizabeth Mirabelli v. Mark Olson, President of the EUSD Board of Education, et al.***
3 USDC Court Case No.: 3:23-cv-00768-BEN-VET

4 I, the undersigned, declare under penalty of perjury that I am over the age of eighteen years
5 and not a party to this action; my business address is P.O. Box 9120, Rancho Santa Fe, California
6 92067, and that I served the following document(s):

- 7 • **Plaintiffs' Ex Parte Application for Leave to Submit a Supplemental Request for**
8 **Judicial Notice in Opposition to the CDE's Motion to Dismiss as Moot; and**
9 • **Order Taking Judicial Notice of a U.S. Department of Education Press Release in**
10 **Opposition to the CDE Defendants' Motion to Dismiss the Action as Moot.**

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

13 Len Garfinkel, Esq., General Counsel
14 Paul Gant, Assistant General Counsel
15 Christopher Mandarano, Esq., Deputy Gen. Counsel
16 Virginia Cale, Deputy General Counsel
17 California Department of Education
18 1430 "N" Street, Suite 5319
19 Sacramento, CA 95814
20 Tel: 916-319-0860; Fax: 916-322-2549
21 E-Mail: lgarfinkel@cde.ca.gov
22 E-Mail: pgant@cde.ca.gov
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Attorneys for AG Rob Bonta

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

25 X **(BY ELECTRONIC FILING/SERVICE)** I caused such document(s) to be Electronically
26 Filed and/or Service using the ECF/CM System for filing and transmittal of the above
documents to the above-referenced ECF/CM registrants.

27 I declare under penalty of perjury, under the laws of the State of California, that the above
28 is true and correct. Executed on March 27, 2025, at Rancho Santa Fe, California.


Kathy Denworth