

1 SAHAR DURALI (SBN 292793)
Sahardurali@nlsla.org
2 CHELSEA HELENA (SBN 328623)
Chelseahelena@nlsla.org
3 ANDRES RAPOPORT (SBN 309451)
Andresrapoport@nlsla.org
4 DAVID PALLACK (SBN 90083)
Dpallack@nlsla.org
5 NEIGHBORHOOD LEGAL SERVICES
6 OF LOS ANGELES COUNTY
13327 Van Nuys Blvd,
7 Pacoima, CA 91331-3006
Telephone: (818) 291-1786
8 Fascimile: (833) 537-5529

9 *Attorneys for Plaintiffs R.W., J.L.,*
10 *G.V., and F.V. and Black Parallel School Board*
[Additional counsel listed on the following page]

11 SUPERIOR COURT OF CALIFORNIA
12 COUNTY OF LOS ANGELES

13 R.W.,
14 Student J.L., Minor by and through their
15 guardian *ad litem* R.W.,
16 G.V.
17 Student F.V., Minor by and through their
18 guardian *ad litem* G.V.,
19 BLACK PARALLEL SCHOOL BOARD,
20 Plaintiffs,

21 v.
22 TONY THURMOND in his official capacity
23 as STATE SUPERINTENDENT OF
24 PUBLIC INSTRUCTION and the
25 CALIFORNIA DEPARTMENT OF
EDUCATION,
26 Defendants.

Case No.:

VERIFIED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF AND PETITION FOR WRIT OF
MANDATE

1 EVA PATERSON (SBN 67081)
2 *epaterson@equaljusticesociety.org*
3 MONA TAWATAO (SBN 128779)
4 *mtawatao@equaljusticesociety.org*
5 ALEXANDRA SANTA ANA (SBN 317852)
6 *Asantaana@equaljusticesociety.org*
7 EQUAL JUSTICE SOCIETY
8 1939 Harrison Street, Suite 818
9 Oakland, CA 94612
10 Telephone: (415) 288-8703
11 Fascimile: (510) 338-3030

12 JASON D. LINDER (SBN 212665)
13 *jlinder@mayerbrown.com*
14 DOUGLAS A. SMITH (SBN 290598)
15 *dougsmith@mayerbrown.com*
16 NAAMA SHEMESH (SBN 328370)
17 *nshemesh@mayerbrown.com*
18 JOSEPH J. VESCERA (SBN 328386)
19 *jvescera@mayerbrown.com*
20 MAYER BROWN LLP
21 350 South Grand Avenue, 25th Floor
22 Los Angeles, California 90071-1503
23 Telephone: (213) 229-9500
24 Facsimile: (213) 625-0248

25 *Attorneys for Plaintiffs R.W., J.L., G.V.,*
26 *F.V. and Black Parallel School Board*
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1 **PRELIMINARY STATEMENT**

2 1. This case seeks to require the California Department of Education (“CDE”) and its
3 Superintendent of Public Instruction (“STATE SUPERINTENDENT”) to monitor all
4 California public school districts for racially discriminatory discipline practices and to
5 redress those practices when they are found.

6 2. Black and Latinx students have been denied equal educational opportunities in
7 California for generations. Through years of racialized disinvestment, systematic
8 criminalization, and school pushout through the school-to-prison pipeline, public education
9 in California has failed to equitably serve Black and Latinx students. State-level data has
10 long shown that Black and Latinx students in districts across California are disciplined more
11 frequently and more harshly than their white counterparts. Policies and practices in several
12 California districts serve to undermine students’ fundamental right to education under the
13 California Constitution and have led to alarming disparities in discipline statistics.

14 3. The State of California requires that all students—regardless of race or ethnicity—
15 have equal access to its public education system. Cal. Const., art. IX, § 1, *Butt v. California*
16 (1992) 4 Cal. 4th 668, 680. This means that districts must offer all students an education
17 program providing the opportunity for them to stay in school and succeed. Access to
18 education is vital to ensuring that students of any background enter colleges or careers with
19 the skills and tools necessary to be self-sufficient, productive, and contributing members of
20 society. When students are removed from or otherwise prevented from engaging with their
21 learning environments due to exclusionary discipline practices or a lack of investment in
22 restorative programs (*i.e.*, programs that emphasize building relationships with and between
23 students to foster a culture of respect, personal responsibility, and holistic conflict
24 resolution), their access to basic educational services and opportunities is severely
25 compromised.¹ Highly punitive forms of discipline—like suspensions, expulsions, and
26 involuntary transfers—create the additional consequences of traumatizing students,
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1 jeopardizing their mental and social-emotional health, and subjecting them to needless and
2 life-altering contact with the criminal legal system.²

3 4. The state of California, acting through its STATE SUPERINTENDENT, and the
4 CDE have the ultimate responsibility for ensuring that students of all backgrounds receive
5 equal access to educational services in compliance with federal and state law. As a crucial
6 part of this duty, the STATE SUPERINTENDENT and CDE must both monitor and enforce
7 the express and mandatory limitations and obligations imposed on educational agencies who
8 discipline, transfer, assign, and accept expelled or transferred students. Defendants STATE
9 SUPERINTENDENT and the CDE have refused to monitor and redress the disparate impact
10 of school discipline, transfer, and assignment policies on Black and Latinx students.
11 Defendants have thereby failed to fulfill their obligation to ensure that school districts
12 statewide do not discriminate against Black and Latinx students through the application of
13 discipline and school transfer policies that have a disproportionate racial impact.

14 5. Moreover, school districts often disguise their disparate treatment of Black and Latinx
15 students by classifying expulsions as voluntary or involuntary transfers to other schools to
16 evade their responsibility to accurately report their expulsions. School districts are obligated
17 to report their suspensions and expulsions each year to CDE, and in turn, CDE makes that
18 data publicly available through its website DataQuest.³ Media and advocacy groups
19 frequently access this data to compile reports on school districts with the worst rates of
20 discipline. To reduce their publicly reported suspension and expulsion numbers, school
21 districts have increasingly relied on “voluntary transfers” and “involuntary transfers” as a
22 means of forcing or coercing students to move from their current comprehensive school
23 campuses to alternative school placements, such as continuation schools. Cal. Educ. Code §§
24 48432.3 [voluntary transfers], 48432.5, 48662 [involuntary transfers]. Involuntary transfers

26 ¹ Elizabeth Pufall Jones, Max Margolius, Miriam Rollock, Catalina Tang Yan, Marissa L. Cole & Jonathan F.
27 Zaff, *Disciplined and Disconnected: How Students Experience Exclusionary Discipline in Minnesota and the*
Promise of Non-Exclusionary Alternatives (2018) p. 3.

28 ² Mara Eyllon, Carmel Salhi, John L. Griffith & Alisa K. Lincoln, *Exclusionary School Discipline Policies and*
Mental Health in a National Sample of Adolescents without Histories of Suspension or Expulsion (2020).

³ California Department of Education, DataQuest, <https://data1.cde.ca.gov/dataquest/>.

1 in particular are expulsions by another name. These transfers are subject to administrative
2 hearing requirements similar to those required in expulsion hearings. Cal. Educ. Code §
3 48432.5. School districts throughout the state are using transfers to manage student behavior
4 in a way that disadvantages vulnerable student groups, including students of color and
5 students with disabilities. This practice is able to continue without public knowledge or
6 meaningful accountability, as districts are not required to submit data on voluntary and
7 involuntary transfers to the state for the public to view. Cal. Educ. Code §§ 60900-01.

8 6. The Education Code gives districts the power to establish their own policies and
9 procedures governing the criteria for compulsory and voluntary interdistrict transfers, which
10 are often published in districts' administrative regulations. School districts are therefore
11 given the power to create their own extralegal criteria for school discipline through the
12 transfer process.

13 7. Additionally, school districts often pressure parents into signing "waivers," through
14 which they waive their rights to an expulsion hearing. This allows their students to be
15 transferred directly to alternative school sites. When a parent agrees to a waiver, school
16 districts label the student's change in placement as a "voluntary transfer." But in reality, the
17 transfer is far from voluntary. Although these voluntary transfers often arise out of
18 disciplinary incidents, CDE does not monitor voluntary transfers or hearing waivers. On
19 information and belief, many parents, including limited English-proficient parents, are
20 coerced by the district to execute waivers without realizing the rights they are relinquishing.
21 Despite being on notice of these practices, CDE has failed to exercise any meaningful
22 oversight of waivers and has failed to create reporting requirements for voluntary transfers or
23 waivers.

24 8. Additionally, after these placements, students typically end up in the same restrictive,
25 inadequate placements as they would after an expulsion, including but not limited to, a
26 county community school, a continuation school, or independent study.⁴ In other words,
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28 ⁴ Jorge Ruiz de Velasco, Greg Austin, Don Dixon, Joseph Johnson, Milbrey McLaughlin & Lynne Perez,
Alternative Education Options: A Descriptive Study of California Continuation High Schools (2008); Sarah

1 school districts circumvent public reporting of school discipline by creating what amounts to
2 their own school removal process. Despite being on notice of school districts using transfers
3 to effectuate expulsions and conceal true discipline numbers, the CDE has failed to exercise
4 oversight of transfers and has not required school districts to report transfer data.

5 9. Plaintiffs are Black and Latinx students, parents of students, and community
6 organizations. Plaintiffs have or support those who have been subject to disproportionate
7 discipline in California public school districts. They seek the Court's judicial intervention to
8 ensure that Defendants STATE SUPERINTENDENT and CDE meet their mandatory duty to
9 monitor and enforce the express and mandatory limitations and obligations imposed on
10 educational agencies who discipline, transfer, assign, and accept expelled or transferred
11 students to ensure that those practices do not unlawfully discriminate against students based
12 on race or ethnicity.

14 PARTIES

15 PLAINTIFFS

16 10. Plaintiff J.L. is a fourth-grade student attending Mojave Unified School District and is
17 a resident of California. J.L. is Black and has been diagnosed with autism and ADHD. He has
18 a Section 504 plan, which is a personalized accommodation plan that requires school officials
19 to provide accommodations and services necessary for students with disabilities to participate
20 in and benefit from public education programs and activities. J.L. has experienced repeated,
21 off-the-books suspensions and classroom exclusions as a student in Mojave Unified School
22 District and has not been given equal access to educational instruction and school programs
23 or afforded the protections of due process.

24 11. Plaintiff R.W. is a taxpayer in Kern County and the state of California. She is the
25 parent of J.L. In addition to the discrimination against her son J.L., Plaintiff R.W. has

27 Butrymowicz, *There's no good way to know how California's alternative schools are working* (June 30, 2015)
28 Hechinger Report < <https://hechingerreport.org/theres-no-good-way-to-know-how-californias-alternative-schools-are-working/> [as of Sept. 1, 2021].

1 witnessed the mistreatment of other Black and Latinx students in Mojave Unified School
2 District.

3 12. Plaintiff F.V. is a fifth-grade student currently attending Wilsona Elementary School
4 District. He previously attended Eastside Union School District. F.V. is Latinx and receives
5 special education services through an Individualized Education Program (“IEP”), a legal
6 document that is developed for each public-school child in the U.S. who needs special
7 education. While attending school in Eastside Union School District, F.V. received both
8 formal and informal off-the-books suspensions for behavior that was a manifestation of his
9 disabilities, causing him to lose several days of instructional time. He was also subjected to
10 frequent law enforcement contact from a Los Angeles County Sheriff’s Deputy stationed at
11 his school, causing him to receive a criminal citation at 8-years-old.

12 13. Plaintiff G.V. is a taxpayer in Los Angeles County and the state of California. She is
13 the parent of F.V. In addition to the discrimination against her son F.V., G.V. has witnessed
14 the mistreatment of other Black and Latinx students in Antelope Valley schools.

15 14. Plaintiff BLACK PARALLEL SCHOOL BOARD is a non-profit community
16 organization developed to work parallel to the Sacramento City Unified School District’s
17 Board of Education. Black Parallel School Board’s mission is to support the educational
18 achievement and opportunities of Black students by monitoring all educational activities and
19 programs of the school district to ensure that they serve the needs of Black students. Black
20 Parallel School Board also provides support services to parents regarding the education of
21 their children and is a leader in statewide efforts to reform school discipline for Black
22 students.

23
24 **DEFENDANTS**

25 15. Defendant CDE is the California government department statutorily charged with
26 administering and enforcing laws pertaining to education, including those laws that guarantee
27 an equal public education under the California Constitution. Cal. Educ. Code § 33308; Cal.
28 Const., art. I, § 7; art. IV § 16(a); art. IX § 1, the Equal Protection Clause of the 14th

1 Amendment to the United States Constitution, and the Equal Educational Opportunities Act
2 (“EEOA”), 20 U.S.C. § 1703. The CDE is the administrative arm of the State in this capacity.
3 The state, and in turn the CDE, receives federal grants from the U.S. Department of
4 Education to provide educational services to California children and youth consistent with
5 the provisions of federal law and the express conditions of grant agreements. The CDE is
6 charged with cooperating with federal and state agencies in prescribing rules, regulations,
7 and instructions required by those agencies and monitoring legal compliance by local
8 education agencies. Cal. Educ. Code § 33316(b).

9 16. Defendant TONY THURMOND is California’s State Superintendent of Public
10 Instruction (“STATE SUPERINTENDENT”) and is a constitutional officer of the state
11 charged with the supervision of all California schools and school districts. Superintendent
12 Thurmond is sued in his official capacity. In such capacity, he is obligated to take all steps
13 necessary to ensure that school districts comply with state and federal legal requirements
14 concerning educational programs and services. Superintendent Thurmond is also the Director
15 of Education—in whom all executive and administrative functions of the California
16 Department of Education are vested—and is the Executive Officer for the State Board of
17 Education. Ed. Code §§ 33111, 33301-33303. He is statutorily required to review any
18 empirical research data that becomes available concerning barriers to equal opportunities.
19 Cal. Educ. Code §33126.2. He is also required to assist school districts and county offices of
20 education to recognize and eliminate unlawful discrimination that may exist within their
21 programs or activities and to meet state anti-discrimination mandates. Cal. Code Regs., tit. 5,
22 §§ 4900-4901.

23 17. All Defendants receive financial assistance from or are responsible for programs that
24 receive financial assistance from the United States Department of Education and must ensure
25 that no person, including Student Plaintiffs and other Black and Latinx students in California
26 districts, is subjected to discrimination under any program or activity receiving such
27 assistance, and for otherwise complying with the provisions of 42 U.S.C. § 2000d and 34
28 C.F.R. § 100.1 *et seq.*

1 18. Defendants know or should know that districts across the state have engaged in
2 policies and practices leading to discriminatory discipline of Black and Latinx students. Each
3 has failed to comply with their various statutory and constitutional obligations by
4 establishing a system, pattern, and practice of exclusionary discipline that discriminates
5 against Student Plaintiffs and other Black and Latinx students and directly results in the
6 denial of equal access to educational services. Defendants, acting under the color of state
7 law, performed, participated in, and aided or abetted the acts and omissions averred herein,
8 proximately causing the harm to Plaintiffs set forth below. They are thereby liable to
9 Plaintiffs for the relief sought herein.

10
11 **VENUE**

12 19. Venue in this Court is appropriate under Code Civ. Proc. § 393, as funds distributed
13 by the state of California, the California Department of Education, and the State
14 Superintendent of Public Instruction were expended by the Antelope Valley Union High
15 School District, a school district operating within the regional boundaries of Los Angeles
16 County, and the facts giving rise to the causes of action arose in Los Angeles County.

17
18 **FACTUAL ALLEGATIONS**

19 20. Black and Latinx students in California schools are not afforded the same
20 opportunities or treated the same way as their white peers. While Black students accounted
21 for only 5.4% of the state's public-school enrollment in 2018-2019, they represented 16.3%
22 of students suspended in the State and 12.9% of those expelled. In 2018-2019, Black students
23 accounted for 59,493 of California's suspensions and 673 of the state's expulsions. Assuming
24 a 180-day school year, 331 suspensions and four expulsions of Black students were therefore
25 occurring each day. Black students are significantly overrepresented in suspension and
26 expulsion numbers reported to CDE each year and to a degree not experienced by any other
27 student group.

1 21. The consequences of harsher punishments for Black and Latinx students are far-
2 reaching and extend beyond the lost hours of instructional time. For years, comprehensive
3 research and studies have shown that students who are frequently suspended have a greater
4 risk of dropping out due to falling behind in schoolwork, feeling disconnected from school,
5 and feeling targeted, singled out, or unsupported by teachers and administrators.⁵ Students
6 affected by exclusionary discipline practices are less likely to attend college and
7 consequently more likely to experience economic instability and be relegated to low-wage
8 jobs as adults.⁶ Moreover, due to the pervasive presence of law enforcement in public schools
9 throughout the State, suspensions and expulsions have been found to forge a direct pathway
10 from school to the criminal justice system, a phenomenon referred to as the “school-to-prison
11 pipeline.”⁷

12 22. Numerous districts statewide have reported discipline data to CDE showing marked
13 racial disparities; on information and belief, CDE has failed to meaningfully and
14 affirmatively hold any district to account for discipline discrimination or provide redress to
15 affected students. Sacramento City Unified gave Black students 41.47% of suspensions in
16 2018-2019, despite Black students comprising only 15.5% of the student population. That
17 same year, Latinx students in Stanislaus Union School District received 69% of suspensions
18 despite accounting for only 53.4% of the student population. West Contra Costa Unified gave
19 41.5% of suspensions to Black students, who represent only 15% of the student population.
20

21 ⁵ See Advancement Project & The Civil Rights Project, *Opportunities Suspended: The Devastating*
22 *Consequences of Zero tolerance and School Discipline Policies* (2000)
23 [https://civilrightsproject.ucla.edu/research/k-12-education/school-discipline/opportunities-suspended-the-](https://civilrightsproject.ucla.edu/research/k-12-education/school-discipline/opportunities-suspended-the-devastating-consequences-of-zero-tolerance-and-school-discipline-policies/crp-opportunities-suspended-zero-tolerance-2000.pdf)
24 [devastating-consequences-of-zero-tolerance-and-school-discipline-policies/crp-opportunities-suspended-zero-](https://civilrightsproject.ucla.edu/research/k-12-education/school-discipline/opportunities-suspended-the-devastating-consequences-of-zero-tolerance-and-school-discipline-policies/crp-opportunities-suspended-zero-tolerance-2000.pdf)
25 [tolerance-2000.pdf](https://civilrightsproject.ucla.edu/research/k-12-education/school-discipline/opportunities-suspended-the-devastating-consequences-of-zero-tolerance-and-school-discipline-policies/crp-opportunities-suspended-zero-tolerance-2000.pdf) (as of Sept. 2, 2021); C.A. Christle, K. Jolivet & C.M. Nelson, *Breaking the School to*
26 *Prison Pipeline: Identifying School Risk and Protective Factors for Youth Delinquency* (2005)
27 https://doi.org/10.1207/s15327035ex1302_2 (as of Sept. 2, 2021); Sheryl Hemphill, John Toumbourou, Todd
28 [Herrenkohl, Barbara McMorris & Richard Catalano, *The Effect of School Suspensions and Arrests on*](https://doi.org/10.1207/s15327035ex1302_2)
Subsequent Adolescent Antisocial Behavior in Australia and the United States (2006) 39 *J. Adolescent Health* 5,
736-44 (2006).

26 ⁶ Andrew Bacher-Hicks, Stephen B. Billings & David Deming, *The School to Prison Pipeline: Long Run*
27 *Impacts of School Suspension on Adult Crime*, National Bureau of Economic Research (2019)
https://www.nber.org/system/files/working_papers/w26257/w26257.pdf.

27 ⁷ ACLU, *No Police in Schools: A Vision for Safe and Supportive Schools in CA* (2021)
28 [https://www.aclusocal.org/sites/default/files/field_documents/no_police_in_schools_-_report_-_aclu_-_](https://www.aclusocal.org/sites/default/files/field_documents/no_police_in_schools_-_report_-_aclu_-_082421.pdf)
[_082421.pdf](https://www.aclusocal.org/sites/default/files/field_documents/no_police_in_schools_-_report_-_aclu_-_082421.pdf).

1 Black students in Hesperia Unified, at just 7% of the student population, received 17% of
2 suspensions and 22% of expulsions in 2018-2019. In San Bernardino Unified, Black students
3 make up just 11.5% of the population but received 27.3% of suspensions in 2018-2019.

4 23. Latinx students in Riverside Unified received 71% of expulsions, while making up
5 only 63% of the population. In Conejo Valley Union School District, Latinx students
6 received 45 % of suspensions, but make up only 27% of the population. Conversely, their
7 white counterparts make up 54% of the population, but received 41% of the suspensions.
8 Similarly, in San Dieguito Union High School District, Latinx students make up only 14.5%
9 of the population, but received 27% of the suspensions. Their white counterparts make up
10 62% of the population but receive a proportional share of suspensions at 60%.

11 24. The Antelope Valley Union High School District provides another telling example of
12 how exclusionary discipline practices have impacted Black and Latinx children and have
13 been left unchecked and without any oversight or imposition of meaningful accountability
14 from the state. The Antelope Valley Union High School District is located in the cities of
15 Lancaster and Palmdale, California, in a region of north Los Angeles County known as the
16 Antelope Valley. In 2018-2019, it served 22,476 students in grades 9 through 12. The
17 district's student population is racially and ethnically diverse: 63.3% are Latinx; 16.7% are
18 Black; 12.3% are white; 2.8% are Asian-Pacific Islander; and 0.3% are American Indian or
19 Alaska Native. The State has deemed 70% of the Antelope Valley Union High School
20 District students as low income, a reality that makes public education all the more critical to
21 breaking the cycle of poverty for these students.

22 25. Over the last ten years, Black and Latinx students in the Antelope Valley Union High
23 School District have been subject to discipline and school assignment policies that suspend,
24 expel, or assign them to alternative schools at highly disproportionate rates. In the 2018-2019
25 school year, the Antelope Valley Union High School District reported 2,972 suspensions. By
26 comparison, this is over 600 more suspensions than were reported for the same year in the
27 entirety of Los Angeles Unified School District, a district over 21 times the size of Antelope
28 Valley Union and the largest district in both Los Angeles County and California. At 8.3%,

1 the Antelope Valley Union High School District’s suspension rate is over 20 times that of the
2 Los Angeles Unified School District (0.4%), nearly four times the rate of the rest of Los
3 Angeles County (2.1%) and nearly 2.5 times the rate of the state (3.6%). While overall
4 suspensions in the Antelope Valley Union High School District are high compared to both
5 the county and the state, suspensions of Black and Latinx students are even higher. For
6 example, in the 2018-2019 school year, despite their relatively small share of the Antelope
7 Valley Union High School District student population (16.7%), Black students made up
8 nearly half of suspended and expelled students, at 43.7% and 42.6% respectively. As a point
9 of comparison, white students made up only 6.3% of suspended students in 2018-2019, and
10 none of the students expelled from the Antelope Valley Union High School District were
11 white.

12 26. Further, districts have been permitted to circumvent some of their state reporting
13 requirements by masking their exclusionary discipline practices as informal suspensions and
14 involuntary or voluntary transfers. Although statewide suspension and expulsion rates have
15 decreased over the last decade, significant disproportionalities remain for Black students in
16 virtually all school districts, and Latinx students in several school districts around the state.
17 Several school districts, including those mentioned in this complaint, have not seen any
18 significant decrease in suspensions and expulsions, and continue to discipline Black and
19 Latinx students at momentously high rates. Moreover, the statewide decrease, on information
20 and belief, masks a pervasive and pernicious statewide practice of districts using informal
21 suspensions and transfers as functional school exclusions that avoid reporting requirements.

22 27. Informal, or off-the-books, suspensions are illegal in that they temporarily exclude
23 students from school without the due process protections the Education Code requires—
24 written notice and an opportunity for a parent conference. Cal. Educ. Code §§ 48910, 48911.
25 There is often no documentation proving that these suspensions took place, so parents are put
26 in the unfortunate position of having their word pitted against a district’s when they attempt
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1 to contest or resist these exclusions.⁸ These suspensions are also not reported to the
2 Department of Education, meaning that they will not be publicly disclosed or held to
3 meaningful account. *See* Cal. Educ. Code § 48900.8.

4 28. Further, many districts hide their true numbers of expulsions by relying on
5 involuntary transfers. Students who are initially referred for expulsion are instead
6 involuntarily transferred out of a general education setting and into an alternative setting. In
7 so doing, districts avoid issuing reportable formal expulsions. Because the state gives
8 districts the freedom to establish their own policies and criterion for such transfers, districts
9 have been allowed to abuse that power in shuffling students to alternative schools as a means
10 of punishment for disrupting the learning environment, as an alternative to expulsion, or as a
11 way to handle student truancy. Cal. Educ. Code § 48432.3; 48432.5.

12 29. Relatedly, districts around the state, on information and belief, have implemented a
13 “waiver” system, wherein parents and students are convinced through coercion, intimidation,
14 or misrepresentation into waiving the due process protections that accompany expulsion
15 hearings and involuntary transfers in accepting an immediate “voluntary” transfer to an
16 alternative school. Parents and students are led to believe that they are avoiding expulsions
17 by consenting to these waivers; however, these transfers operate as an expulsion in removing
18 the student from the general education setting and placing them in an often less supportive,
19 more poorly resourced, and less academically rigorous alternative setting.

20 30. Transfer practices in the Antelope Valley Union High School district reflect this
21 statewide trend of masking true expulsion numbers. Expulsions in the Antelope Valley Union
22 High School District are also well above those of the Los Angeles Unified School District as
23 well as county and statewide averages. In 2018-2019, the Antelope Valley Union High
24 School District’s average expulsion rate was 2.6 per 1,000 students, 2,600% higher than the
25 Los Angeles Unified School District’s expulsion rate, 866% higher than the rest of Los
26 Angeles County, and 289% higher than the rest of the state. As is typical in the Antelope
27

28 ⁸ Teresa Watanabe, *L.A. Unified suspension rates fall but some question figures’ accuracy*, L.A. Times, May
31, 2014, <https://www.latimes.com/la-me-lausd-suspend-20140601-story.html>.

1 Valley Union High School District, Black students fare far worse when it comes to
2 expulsions as well. The average expulsion rate for Black students in the Antelope Valley
3 Union High School District for this same year was 6.6 per 1,000 students, 253% higher than
4 the district's overall average. Comparatively, the Antelope Valley Union High School
5 District did not expel any white students during the 2018-2019 school year.

6 31. Through an extensive public records request, Plaintiffs' counsel was able to obtain
7 otherwise inaccessible, and non-publicly reported transfer data for the Antelope Valley
8 Union High School District. In 2018-2019, the Antelope Valley Union High School District
9 effectuated 573 transfers to alternative schools. Over the last three years (from 2016 through
10 2019), it averaged 623 such transfers. The district reported 61 expulsions for that same year
11 and averaged 83 expulsions in the previous three years. Reported expulsions in the Antelope
12 Valley Union High School District have decreased in the last decade, from 161 expulsions in
13 2012 to 61 in 2019, while the data made available on district transfers shows that these
14 numbers in the last three years have remained very high. On information and belief, Antelope
15 Valley Union High School District, like other California school districts, is relying on this
16 hidden and unreported disciplinary tactic to reduce its reported number of student
17 suspensions and expulsions.

18 32. Transfers in the Antelope Valley Union High School District follow a similar pattern
19 to suspensions and expulsions in terms of the impact on vulnerable students. Of the 29
20 voluntary transfers given in the 2018-2019 school year, Black and Latinx students received
21 27 of them, or 93%. Black students received 59%, more voluntary transfers than all other
22 racial groups combined.

23 33. The example of the Antelope Valley Union High School District is merely a snapshot
24 of a statewide problem—Black and Latinx students in districts throughout California
25 experience the adverse and far-reaching effects of discipline discrimination.

26 34. Moreover, these practices are able to continue statewide without public knowledge or
27 meaningful accountability, as districts are not required to submit data on voluntary and
28 involuntary transfers to state and federal agencies for the public to view. Cal. Educ. Code §§

1 60900-60901. The manner in which many districts throughout the state are using transfers to
2 manage student behavior is, on information and belief, further disadvantaging vulnerable
3 student groups, particularly and disproportionately students of color and students with
4 disabilities. Plaintiffs are informed and believe that data reported to Defendants, but not
5 generally available to the public, shows that discipline-related transfers result in
6 disproportionate exclusions of students of color and students with disabilities from
7 comprehensive school campuses. Such findings have been confirmed in federal government
8 studies.⁹

9 35. Transferring students, particularly vulnerable students, to alternative school campuses
10 all but ensures that those students will not be provided with the full educational opportunities
11 and experiences offered in the general education setting. Alternative and community day
12 schools were designed to be a temporary placement for students needing to address urgent,
13 short-term behavioral problems, credit deficiencies, or attendance issues—they were not
14 intended to provide comprehensive education programs. These schools are not equipped or
15 structured to support students with special education needs, students experiencing the effects
16 of trauma, students with acute academic deficits, or students ready for academic
17 advancement.¹⁰ They often do not offer honors or advanced placement courses, or even all of
18 the courses necessary to enroll in many colleges and universities. Many students must remain
19 enrolled an additional semester or year to even meet the requirements to graduate high
20 school. Often, students are given one-size-fits-all online or independent study curriculums in
21 which they receive limited academic support or opportunities for collaboration that are
22 critical to college and career readiness. These curriculums often do not offer a selection of
23 elective courses or have any athletics or extracurricular activities. Students forced into these
24 placements spend full semesters and sometimes even multiple years in these unsatisfactory

25 _____
26 ⁹ U.S. Gov't Accountability Off., GAO-19-373, *K-12 Education: Certain Groups of Students Attend Alternative*
27 *Schools in Greater Proportions Than They Do Other Schools* (2019), <https://www.gao.gov/products/gao-19-373>.

28 ¹⁰ U.S. Gov't Accountability Off., GAO-20-310, *K-12 Education: Information on How States Assess*
Alternative School Performance (2020), <https://www.gao.gov/assets/710/705567.pdf>.

1 settings, meaning that most cannot and do not earn the credits or gain the experience needed
2 to graduate or succeed post-graduation.¹¹ Moreover, after years of placement in alternative
3 schools, students' academic deficits can become insurmountable, leading to higher drop-out
4 rates.¹²

5 36. Defendants CDE and STATE SUPERINTENDENT have been on notice of the stark
6 disparities in discipline statewide at districts like the Antelope Valley Union High School
7 District due to the state data reporting responsibilities required of all California districts.
8 Plaintiffs are informed and believe that Defendants CDE and the STATE
9 SUPERINTENDENT have not increased monitoring of discipline data, escalated reporting
10 requirements, or taken action to require districts that have reported disparities in discipline
11 data to explain or address the disproportionality. Further, Defendants have not and did not at
12 any time undertake an investigation in districts where disproportionate and racialized
13 discipline is present. They have not subjected such districts to additional monitoring and have
14 not required the submission of any additional information regarding suspension, expulsion,
15 and transfer policies and statistics.

16 37. On information and belief, Defendants continue to fully fund districts around the
17 State with high rates of suspension, expulsion, and transfers of Black and Latinx students
18 without reduction or condition.

19
20 **PLAINTIFFS**

21 **J.L. and R.W.**

22 38. J.L. is a nine-year-old student who attends Hacienda Elementary School in Mojave
23 Unified School District. J.L. is Black.

24 39. J.L. has autism spectrum disorder. He has a Section 504 plan, which is a personalized
25 accommodation plan that requires school officials to provide accommodations and services
26 necessary for students with disabilities to participate in and benefit from public education

27
28 ¹¹ *Id.* at 11-12, 16-17.

¹² *Id.*

1 programs and activities. One of the accommodations to which J.L. is entitled under his
2 Section 504 Plan is a “hot pass.” This pass allows J.L. to leave class and go to a designated
3 safe space when he is feeling overwhelmed.

4 40. In October 2019, when J.L. was a second-grade student at Mojave Elementary School
5 in the Mojave Unified School District, he was informally suspended from his class for two
6 days, allegedly for not listening to his teacher and for “destroying school property” by
7 rubbing his pencil eraser on the back of a classroom chair. An informal suspension refers to
8 instances where school districts exclude students from their regular classrooms or from
9 school campus as a disciplinary measure, without following the due process requirements in
10 Education Code Sections 48910 and 48911. These workaround, off-the-books suspensions
11 are not reported to the California Department of Education, meaning that they will not be
12 publicly disclosed. *See* Cal. Educ. Code § 48900.8.

13 41. Plaintiff R.W., J.L.’s mother, asked to meet with the principal to discuss J.L.’s
14 suspension, but the principal was unavailable according to the Mojave Unified School
15 District. Mojave Unified School District gave J.L. a two-day suspension, which he served in
16 a segregated classroom for students with behavioral issues.

17 42. Mojave Unified School District permitted R.W. to observe the behavioral intervention
18 class during J.L.’s suspension and she observed that students watched movies all day and did
19 not receive any meaningful educational instruction or support.

20 43. In November 2019 after having lunch with R.W., J.L. went to line up with his teacher
21 and the rest of his class. However, his teacher told him to get out of line. When R.W.
22 inquired as to the reason for this treatment, the teacher yelled in front of J.L.’s classmates and
23 his other teachers, “He’s not welcome in my class!” J.L. and R.W. were publicly
24 embarrassed.

25 44. Thereafter, the teacher refused to allow J.L. into class. He was moved to another
26 class. The instruction at this class was at a lower academic level than his previous class and
27 gave less challenging classwork and assignments to students.

28

1 45. J.L. was understandably very upset about his experience with that particular teacher.
2 Whenever he saw or had to interact with her, he felt physically ill with headaches,
3 stomachaches, and other physio-emotional responses to trauma. His grades suffered as a
4 result.

5 46. J.L. was subject to additional informal suspensions, but Mojave Unified School
6 District did not inform R.W. of all these informal suspensions, nor did she receive any notice
7 of them. She only later learned of them from J.L.'s teacher.

8 47. During the 2020-2021 school year, when instruction occurred through distance
9 learning because of the COVID-19 pandemic, J.L. was excluded from his online classroom
10 on multiple occasions, causing him to lose vital instructional time. J.L.'s teacher blocked him
11 from class for playing online games during instructional time, games that were part of the
12 class curriculum. J.L. was excluded from online class on at least three occasions, at times
13 losing half a day of instructional time.

14 48. Plaintiff R.W., J.L.'s mother, also works with other Black and Latinx students in
15 Mojave Unified School District who are experiencing or have experienced discrimination,
16 disparate discipline, and mistreatment at school. R.W. often acts as an advocate and
17 community resource for these parents. She puts together advocacy letters that can be used as
18 templates for other parents to use when advocating for their students. She attends monthly
19 seminars on how to navigate school boards that train her, in part, on how to successfully
20 advocate for students and against discrimination at the school board level. She does
21 significant outreach to Black and Latinx parents in her community and provides training to
22 them on their rights at school. Plaintiff R.W. has also filed district-level complaints
23 challenging misuse of school funds intended for vulnerable student groups.

24 49. Plaintiff R.W. is connected with several advocacy and parent groups statewide,
25 including Plaintiff Black Parallel School Board. Plaintiff R.W. consults with these groups to
26 receive training and understand how she can become a more effective advocate for her
27 community.

28

1 50. Plaintiff R.W. has accompanied other parents in proceedings at the school district
2 regarding bullying of their children. She has raised issues relating to harassment and
3 discrimination against Black and Latinx students at the district and school levels.

4 51. Plaintiff R.W. engages in all of these activities because she would like to see her
5 children and children around the state receive a robust, equitable education free from
6 discrimination and harassment.

7 **F.V. and G.V.**

8 52. F.V. is a ten-year-old fifth grade student who attends Challenger Middle School in
9 Lancaster, California. Challenger Middle School is part of the Wilsona Elementary School
10 District. F.V. is hard of hearing. He previously attended Eastside Elementary School in
11 Eastside Union School District in Lancaster for his third-grade year. Both Wilsona
12 Elementary School District and Eastside Union School District feed into the Antelope Valley
13 Union High School District. F.V. is Latinx.

14 53. F.V. has an individualized education program (“IEP”). An IEP is a legal document
15 that is developed for each public-school child in the U.S. who needs special education. It is
16 created through a team of the child’s parents or guardians and district personnel who are
17 knowledgeable about the child’s needs and is essentially a map that lays out the program of
18 special education instruction, supports, and services special education students need to make
19 progress in school. F.V. receives services under the primary eligibility of Hard of Hearing
20 and the secondary eligibility Speech or Language Impairment. He also has been diagnosed
21 with autism spectrum disorder and attention deficit hyperactivity disorder (“ADHD”).

22 54. For kindergarten and first and second grades, F.V. did not have any behavioral or
23 discipline issues at school. However, in third grade, other students started bullying F.V. for
24 his disabilities—he has to wear both glasses and hearing aids. F.V. did his best to cope with
25 being newly bullied; however, because the school did not adequately address the bullying
26 despite multiple attempts by his mother, G.V., to inform them of it, F.V. began manifesting
27 new behaviors as a response to emotional stress.

28

1 55. During the 2019-2020 school year, F.V. went from having no behavioral or
2 disciplinary issues to being frequently formally and informally suspended from classes and
3 school. His first suspension occurred in October 2019. Eight-year-old F.V. was suspended for
4 one day after a staff member on lunch duty reported seeing F.V. name calling, pushing, and
5 jumping on other students. F.V. told G.V. that this behavior was a response to a group of
6 students bullying him by hitting him and calling him names.

7 56. In February of 2020, F.V. was given a one-day suspension for tripping another
8 student and grabbing the hood of the student's jacket. At eight years old, a sheriff's deputy
9 serving as a school resource officer questioned F.V. and gave him a criminal citation for
10 battery. Although the citation was never filed, F.V. still experiences fear and anxiety around
11 school police.

12 57. Because F.V.'s school was not giving him additional supports and made no effort to
13 address the causes for his behavior, F.V. continued to be disciplined for conduct that was a
14 manifestation of his autism and ADHD diagnoses and that was being exacerbated by frequent
15 bullying from other students. In February 2020, F.V. was suspended for three days for
16 allegedly fighting with other students in the cafeteria. The other students had previously
17 called F.V. names and bullied him for his disability. F.V. reacted by calling them names and
18 attempting to push and scratch them.

19 58. For all of F.V.'s suspensions, G.V. was not initially given written notice or an
20 opportunity for conferences, as required by Education Code § 49811. She had to request
21 these due process protections herself by going to the school and asking for written
22 explanations and meetings with school staff.

23 59. According to counseling notes from October 2019 to March 2020, F.V. was referred
24 for discipline several times by his teacher for exhibiting similar behavior. No additional
25 supports were added to his education program to address F.V.'s sudden change of behavior
26 and temperament. During this period, school administrators routinely called G.V. in the
27 middle of the school day to take F.V. home from school on account of the aforementioned
28 behaviors. G.V. was not given formal notices of the suspension. She was also not given an

1 opportunity to have a conference with the school regarding the suspension, as required by
2 Education Code § 48911. She was not given any paperwork to document these multiple
3 informal suspensions.

4 60. F.V. continues to experience anxiety and signs of depression as he struggles to cope
5 with the exclusionary and discriminatory discipline and law enforcement contacts he
6 experienced as a third grader.

7 **Black Parallel School Board**

8 61. Black Parallel School Board is a non-profit community organization supporting the
9 educational opportunities and advancement of Black students. It was developed to work
10 parallel to the Sacramento City Unified School District Board of Education by monitoring all
11 educational activities and programs of the school district and ensuring the school district
12 addresses and meets the needs of Black students. Black Parallel School Board further
13 provides support services to parents regarding the education of their children. Black Parallel
14 School Board and its members are concerned about, and work to advocate against,
15 disproportionate rates of discipline for Black students across the state of California.

16 62. Black Parallel School Board also works with networks of parent groups, community-
17 based organizations, and grassroots groups to capacity-build and provide trainings on issues
18 relating to school discipline, and specifically, exclusionary discipline of Black students.
19 Black Parallel School Board works with policy advocates to provide parent and student
20 stories and on-the-ground information about the workings of targeted school districts. Such
21 information helps policy advocates inform their legislative advocacy and strategy. Black
22 Parallel School Board also works with other community organizations to develop and
23 disseminate handbooks and know-your-rights materials relating to school discipline.

24 63. Its members include concerned community members and parents of students in
25 Sacramento City Unified School District who have been or may be subjected to expulsion
26 and other forms of harsh and exclusionary disciplinary action.

27 64. Black Parallel School Board is concerned about the high rates of suspensions and
28 expulsions for Black students in Sacramento City Unified and the state of California. One of

1 its organizational focuses is addressing the disproportionate occurrences of exclusionary
2 discipline on Black students and fostering equitable access to education by reforming
3 discipline practices that lead to loss of instruction and educational opportunities for Black
4 youth.

5 65. Indeed, when Black Parallel School Board was formed almost a decade ago, its
6 members were focused on increasing graduation rates and closing the academic achievement
7 gap for Black students in Sacramento Unified School District. However, as time went on, the
8 group soon learned of grossly disproportionate rates of discipline for Black students in the
9 Sacramento Unified School District. The group and its members began to divert their
10 resources to address exclusionary discipline of Black students. In the last several years,
11 parents around the state have reached out to the group for training, advice, technical
12 assistance, and close support to address exclusionary discipline in their own home districts.
13 As a result of CDE's failure to monitor and redress the exclusionary discipline of Black
14 students, Black Parallel School Board has had to divert further resources away from Black
15 student academic achievement in Sacramento towards exclusionary discipline of Black
16 students at school districts statewide.

17 66. Black Parallel School Board has expended both funds and resources in furtherance of
18 its mission of attaining Black student equity in Sacramento and statewide. The organization
19 is a leader in statewide efforts to reform school discipline for Black students.

20
21 **FIRST CAUSE OF ACTION**

22 **VIOLATION OF THE EQUAL PROTECTION CLAUSES OF THE CALIFORNIA**
23 **CONSTITUTION, ARTICLE I, SECTION 7(A) & ARTICLE IV, SECTION 16(A)**

24 **ALL PLAINTIFFS AGAINST ALL DEFENDANTS**

25 67. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth
26 here.

27 68. The California Constitution guarantees all students in California basic educational
28 equality. A constitutional violation of basic educational equality occurs where a public

1 educational program “falls fundamentally below prevailing statewide standards” that effects
2 disparate treatment upon a group of students. *Butt v. California* (1992) 4 Cal.4th 669, 687.
3 This right is fundamental, such that any action that has a real and appreciable impact upon
4 such right is subject to strict scrutiny.

5 69. The State bears the nondelegable responsibility and the ultimate authority to ensure
6 that public schools are providing basic educational equality to all students, as guaranteed by
7 the Constitution. Cal. Const., art. IX, § 5; art. I, § 7. Public education is an obligation, which
8 the state assumed by the adoption of the Constitution and by operation of statute delegated to
9 the CDE and STATE SUPERINTENDENT and to local education agencies. The
10 Constitution prohibits the state from maintaining, operating, or financing the common public
11 school system in a way that denies educational equality absent a compelling reason.

12 70. Although Defendants are on notice of the gross racial disparities in discipline
13 administered in districts around the State, they have not, on information and belief, taken
14 action or directed any school district to determine the cause of the disparities or rectify them
15 accordingly. Defendants additionally continue to provide funding to districts even when these
16 districts show statistically significant disparities in discipline and transfer rates for Black or
17 Latinx students.

18 71. Defendants have violated the rights of Plaintiffs and other Black and Latinx students
19 to receive equal protection under the law, pursuant to Article I, § 7(a) and Article IV, § 16(a)
20 of the California Constitution, by failing to monitor and take other steps to ensure that school
21 districts are providing basic educational opportunities equal to those of white students.
22 Further, Defendants have failed to ensure that school district policies are applied in a manner
23 that do not disparately impact Black and Latinx students by disproportionately subjecting
24 them to discipline, suspension, expulsion, involuntary transfers, assignment to independent
25 study programs, contact with school-based law enforcement and security personnel, or limits
26 or denials of their access to the general education setting. Student Plaintiffs and members of
27 Black Parallel School Board who were, are, or will be enrolled in districts around the state
28 have a personal interest in their educational rights and the obligation under State law to

1 ensure their equal protection and access to education. Student Plaintiffs and student members
2 of, or students served by, Black Parallel School Board are hampered in their ability to access
3 education equally to white students, on account of an inferior education and discriminatory
4 practices.

5 72. Unless enjoined, Defendants will continue to violate the rights of Student Plaintiffs,
6 Plaintiff organizations, and other Black and Latinx students enrolled in California public
7 schools to receive equal protection under the laws of the California Constitution. Student
8 Plaintiffs and other Black and Latinx students will continue to suffer irreparable harm
9 including, but not limited to, continued exclusion and removal from school, poor academic
10 outcomes, lost instructional time, social isolation, poor mental health outcomes, and higher
11 risk of drop-out and incarceration.

12 73. Plaintiffs seek a judicial determination of their rights as well as a declaration as to the
13 legal duties and obligations of Defendants. A judicial declaration is necessary and
14 appropriate at this time under the circumstances in order that Plaintiffs may ascertain their
15 rights and the duties and obligations of Defendants. Declaratory relief is proper here because
16 all Plaintiffs are informed and believe that Defendants will deny that they have violated and
17 continue to violate the right of students to equal protection of the laws under the California
18 Constitution.

19 74. Plaintiffs bring this action in furtherance of public policy and to enforce important
20 rights affecting the public interest as established by the U.S. Constitution, the California
21 Constitution, and the federal and state laws alleged in this complaint. Therefore, Plaintiffs
22 seek attorneys' fees pursuant to Code Civ. Proc. § 1021.5 or as otherwise allowed by law.

23 **SECOND CAUSE OF ACTION**

24 **WRIT OF MANDATE (CODE CIV. PROC. § 1085)**

25 **ALL PLAINTIFFS AGAINST ALL DEFENDANTS**

26 75. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth
27 here.

28

1 76. Defendants have a clear and present ministerial duty to provide for equal access to
2 educational opportunities for all children enrolled in the schools and school districts they
3 administer or oversee; to take appropriate action to identify and eliminate policies that
4 interfere with the equal participation of students in their instructional programs; and to
5 monitor and ensure that they are in compliance with State laws applicable to the provision of
6 equal education to Black and Latinx children. Ed. Code §§ 48432.3; 51865; 220-221.1 Gov.
7 Code §§ 11135 *et seq.* Defendants, as alleged herein, have failed and are failing to comply
8 with those duties and obligations through their deliberate inaction in the face of facts pointing
9 to discipline discrimination in their own collected data.

10 77. Defendants CDE and STATE SUPERINTENDENT administer, oversee, or apportion
11 funding to school districts and have a clear and present duty to fund only those programs and
12 districts that comply with the provisions of the Education Code and state and federal statutes
13 and grant conditions, including those applicable to discipline, student assignment and
14 transfer, and anti-discrimination protections. All recipients of federal funding administered
15 by the State are prohibited from discriminating on the basis of protected characteristics,
16 including race or national origin. Defendants have violated their duty to comply with these
17 anti-discrimination provisions by failing to monitor and redress the implementation of
18 suspension, expulsion, truancy, and involuntary transfer policies that have denied and are
19 denying Black and Latinx students, including Plaintiffs, their children, their members, or
20 their members' children, full and equal access to public education.

21 78. As recipients of federal financial assistance in the form of education grants and
22 contracts, Defendants are subject to the provisions of Title VI of the Civil Rights Act of
23 1964, 20 U.S.C. § 2000d, and its implementing regulations, which prohibits discrimination
24 on the basis of race, color, or national origin. As a condition of the receipt of federal funding
25 for educational programs, Defendants are prohibited from implementing programs or criteria
26 for participation in educational programs that disparately limit the participation of Petitioners
27 and other students who are Black and Latinx. Defendants have violated Title VI and its
28 regulations by knowingly allowing the implementation of highly discretionary suspension

1 and expulsion policies which result in a loss of instructional time. Defendants CDE and
2 STATE SUPERINTENDENT have a clear and present duty under the California
3 Constitution to ensure that all California children are afforded equal access to the public
4 education provided by local education agencies. They had and have a duty to fulfill mandates
5 of 42 U.S.C. § 2000d and 34 C.F.R. § 100.1 *et seq.* to ensure equal access to district
6 educational services funded by federal monies. They had and have the duty pursuant to 20
7 U.S.C. § 1703, Ed. Code § 234.1, and Cal. Code of Regs., tit. 5, § 4902 to supervise, monitor,
8 and ensure that California districts are not denying equal education to Black and Latinx
9 students by operation of their discipline and transfer policies. Based on the information
10 available to Defendants, as alleged in this complaint, Defendants CDE and STATE
11 SUPERINTENDENT had or should have had reasonable suspicion that districts around the
12 State were engaging in discipline and transfer practices that discriminated against Black and
13 Latinx students. Defendants have failed and are failing to take any action to require that those
14 disparities be addressed by the school districts.

15 79. Defendants CDE and STATE SUPERINTENDENT, despite the clear duty to act,
16 failed to ensure that the requirements of the federal nondiscrimination laws and their related
17 regulations were met and used to monitor compliance by districts with anti-discrimination
18 mandates. To the extent that the obligation to provide education services is delegated to local
19 education agencies, the CDE and STATE SUPERINTENDENT continue to be obligated to
20 ensure compliance with all state and federal laws and protections through monitoring,
21 oversight, and budgetary sanctions, and if necessary, direct intervention.

22 80. Defendants CDE and STATE SUPERINTENDENT have failed to implement a
23 monitoring and oversight system, issue appropriate guidelines or take any action to ensure
24 that Plaintiffs, their children, their members, or their members' children, and other Black and
25 Latinx students, are afforded equal access to educational opportunities and all the
26 nondiscrimination protections of state and federal law. This failure occurred when
27 Defendants were on notice that schools or school districts have disproportionately disciplined
28 Black and Latinx students.

1 81. As a result of the Defendants' failure to comply with their duties, Black and Latinx
2 students enrolled in school districts throughout the state have been disproportionately denied
3 equal educational opportunity and continue to suffer academic deficits.

4 82. Plaintiffs have no clear and present alternative remedy available to them with respect
5 to Defendants' failure to comply with their statutory duties.

6 83. Plaintiffs desire a judicial determination of their rights as well as a declaration as to
7 legal duties and obligations of Defendants. A judicial declaration is necessary and
8 appropriate at this time under the circumstances in order that Plaintiffs may ascertain their
9 rights and the duties and obligations of Defendants.

10 84. Plaintiffs bring this action in furtherance of the public policy and to enforce important
11 rights affecting the public interest as established by the U.S. Constitution, the California
12 Constitution, and the federal and state laws alleged in this complaint. Therefore, Plaintiffs
13 seek attorneys' fees pursuant to Code Civ. Proc. § 1021.5 or as otherwise allowed by law.
14

15 **THIRD CAUSE OF ACTION**

16 **ILLEGAL EXPENDITURE OF TAXPAYER FUNDS (CODE CIV. PROC. § 526a)**

17 **ALL PLAINTIFFS AGAINST ALL DEFENDANTS**

18 85. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth
19 here.

20 86. Plaintiffs G.V. and R.W. are residents and taxpayers of Los Angeles County,
21 California. Within the last year, Plaintiffs G.V. and R.W. have been assessed for and are
22 liable to pay taxes in the county in which they reside and are liable to pay income taxes to the
23 state of California and the United States of America. Within a year before the
24 commencement of this action Plaintiffs G.V. and R.W. were assessed, and paid taxes in the
25 county in which they reside and to the state of California and the United States.

26 87. Defendants, individually and through the actions of their agents, have expended tax
27 money and will continue to expend tax money in an illegal manner in violation of state law,
28 as alleged in this complaint.

1 88. Defendants received state and federal funds which have been appropriated and
2 allocated to the Defendants, CDE, and the state of California through its Board of Education
3 for the purpose of complying with state and federal mandates regarding specialized education
4 programs for students. By failing to exercise its statutorily required responsibility to properly
5 oversee these programs and otherwise failing to take steps to ensure equal educational access
6 for Black and Latinx students herein, Defendants have unlawfully diverted money intended
7 for monitoring and oversight of programming designed to expressly benefit such students to
8 other uses in violation of state and federal law. There is no adequate administrative remedy to
9 challenge the State's unlawful failure to exercise its oversight responsibilities and resulting
10 illegal diversion of money.

11 89. Plaintiffs G.V. and R.W. and other taxpayers have suffered and continue to suffer
12 irreparable injury. Money damages would not adequately compensate taxpayers for unlawful
13 governmental activity.

14 90. The acts and omissions outlined in this Complaint were committed by Defendants,
15 either in their official capacities or through the actions of their agents, acting pursuant to
16 policies set by Defendants. Plaintiffs G.V. and R.W. bring this action on behalf of herself to
17 enjoin the wasteful expenditure of taxpayers' dollars by Defendants.

18 91. Additionally, Plaintiffs G.V. and R.W. desire a judicial determination of their rights
19 as well as a declaration as to legal duties and obligations of Defendants. A judicial
20 declaration is necessary and appropriate at this time under the circumstances in order that
21 Plaintiffs may ascertain their rights and the duties and obligations of Defendants.

22 92. Plaintiffs bring this action in furtherance of public policy and to enforce important
23 rights affecting the public interest as established by the U.S. Constitution, the California
24 Constitution, and the federal and state laws alleged in this complaint. Therefore, Plaintiffs
25 seek attorneys' fees pursuant to Code Civ. Proc. § 1021.5 or as otherwise allowed by law.

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27
28

1 **FOURTH CAUSE OF ACTION**

2 **DECLARATORY RELIEF**

3 **ALL PLAINTIFFS AGAINST ALL DEFENDANTS**

4 93. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth
5 here.

6 94. Plaintiffs assert that Defendants CDE and STATE SUPERINTENDENT are
7 obligated pursuant to Cal. Const. Art. I, § 7, Cal. Code of Regs., tit. 5, § 4902, 42 U.S.C. §
8 2000d, 34 C.F.R. § 100.1 *et seq.*, and 20 U.S.C. § 1703, to ensure that all policies and
9 practices of school districts are applied in a manner that does not disparately harm Black and
10 Latinx students by disproportionately subjecting them to discipline, suspension, expulsion,
11 involuntary transfers, assignment to independent study programs, school police or criminal
12 legal system contact, or limits or denials of their access to the general education setting.
13 Defendants failed to meet that obligation when they took no action to intervene when data
14 showed that districts were actively applying disciplinary practices in a manner that negatively
15 and disparately impacted Black and Latinx students and denied them access to the full range
16 of educational services.

17 95. Plaintiffs assert that Defendants CDE and STATE SUPERINTENDENT are
18 obligated pursuant to Cal. Const. Art. I, § 7, Cal. Code of Regs., tit. 5 § 4902, 42 U.S.C. §
19 2000d, 34 C.F.R. § 100.1 *et seq.*, and 20 U.S.C. § 1703, to monitor school districts for
20 compliance with anti-discrimination policies but failed to implement a monitoring system
21 that provided notice of non-compliance and timely intervention and correction.

22 96. Plaintiffs desire a judicial determination of their rights as well as a declaration as to
23 legal duties and obligations of Defendants. A judicial declaration is necessary and
24 appropriate at this time under the circumstances in order that Plaintiffs may ascertain their
25 rights and the duties and obligations of Defendants.

26 97. Plaintiffs bring this action in furtherance of public policy and to enforce important
27 rights affecting the public interest as established by the U.S. Constitution, the California
28

1 Constitution, and the federal and state laws alleged in this complaint. Therefore, Plaintiffs
2 seek attorneys' fees pursuant to Code Civ. Proc. § 1021.5 or as otherwise allowed by law.

3
4 **REQUEST FOR RELIEF**

5 **WHEREFORE**, Plaintiffs request judgment against Defendants as follows:

6 1. An injunction directing Defendants to implement a monitoring and response system
7 designed to identify schools and school districts that disproportionately discipline or transfer
8 Black or Latinx students and to develop and take such intervention measures as are necessary
9 to ensure that Black, Latinx, and other students are not denied equal access to educational
10 opportunities based on their race or ethnicity as a result of a district's discipline or transfer
11 policies.

12 2. An order that Defendants take all necessary steps to ensure that state laws regulating
13 the discipline and involuntary transfer of students are not racially and ethnically
14 discriminatory and ensure that school districts comply with their obligations under state and
15 federal law to provide equal educational opportunity to all students.

16 3. A writ of mandate ordering Defendants to comply with their mandatory constitutional
17 and statutory duties alleged in this complaint/petition.

18 4. Declaratory relief resolving the issues in dispute between the parties.

19 5. Reasonable attorney fees to their counsel under Code Civ. Proc. §1021.5 and as
20 otherwise allowed by law.

21 6. Costs of suit and all further relief to which they may be entitled.

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Dated: October 6, 2021



Neighborhood Legal Services of Los Angeles
Sahar Durali
Chelsea Helena
Andres Rapoport
David Pallack
Attorneys for the Plaintiffs

Equal Justice Society
Eva Paterson
Mona Tawatao
Alexandra Santa Ana
Attorneys for the Plaintiffs

Mayer Brown LLP
Jason D. Linder
Douglas A. Smith
Naama Shemesh
Joseph J. Vescera
Attorneys for the Plaintiffs