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County of Butte
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*Exempt from filing fees pursuant to
Government Code, section 6103*

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF BUTTE

14 **THE PEOPLE OF THE STATE OF**
15 **CALIFORNIA, EX. REL. XAVIER**
16 **BECCERRA, ATTORNEY GENERAL OF**
THE STATE OF CALIFORNIA,
17 Plaintiff,
18 v.
19 **OROVILLE UNION HIGH SCHOOL**
20 **DISTRICT,**
21 Defendant.

Case No. **20CV01686**
**COMPLAINT FOR INJUNCTIVE
RELIEF**

1 The People of the State of California, by and through Xavier Becerra, Attorney General of
2 the State of California, allege on information and belief as follows:

3 **JURISDICTION AND VENUE**

4 1. This Court has jurisdiction over the allegations and subject matter of the People’s
5 Complaint filed in this action and the parties to this action; venue is proper in this County; and
6 this Court has jurisdiction to enter this Judgment.

7 **PARTIES**

8 2. Plaintiff Xavier Becerra is the Attorney General of the State of California. The
9 Attorney General is the chief law officer of the state and has the authority to see that the State’s
10 laws are uniformly and adequately enforced for the protection of public rights and interests. (Cal.
11 Const., art. V, § 13.)

12 3. Defendant Oroville Union High School District (Defendant or the District) receives
13 state funds, is a public school district organized and existing under the laws of the State of
14 California, and is responsible for providing public education to District students.

15 **FACTUAL BACKGROUND**

16 4. In California, education is a fundamental interest, and students have the right to equal
17 protection with respect to its provision. (*Serrano v. Priest* (1971) 5 Cal. 3d 584, 608-09, 616-17.)
18 The Attorney General has the authority, in his or her sole discretion, to bring claims against a
19 school district for violation of the California Constitution, Article 1, section 7, or where the
20 district has failed to ensure that all students, regardless of race, color, national origin, ethnicity, or
21 disability, are treated equally in all aspects of education. (Educ. Code, §§ 220, 262.3, & 262.4.)

22 5. The Attorney General has the authority, in his or her sole discretion, to bring claims
23 against a school district for violation of Government Code section 11135, where the district is
24 unlawfully denying students full and equal access to the benefits of, or unlawfully subjecting
25 students to discrimination under, its programs and activities on the basis of, *inter alia*, race, color,
26 ancestry, national origin, ethnic group identification, mental disability, physical disability, or
27 medical condition. (Gov. Code, § 11135(a).) With respect to discrimination based on disability,
28 the District is subject to the protections and prohibitions contained in state law. (Gov. Code, §
11135(b).)

1 **A. Disproportionate and Exclusionary School Discipline are Associated with Negative**
2 **Outcomes.**

3 6. Exclusionary school discipline is ineffective in addressing student behavior, is
4 harmful to students, and often has a disproportionate impact on students of color and students
5 with disabilities. Greater use of exclusionary school punishments does not help to improve
6 student behavior either among the students being punished or among the general school
7 population.¹ Instead, evidence shows that being suspended predicts greater rates of criminal
8 offending among youth years later, even after accounting for initial student behaviors.²

9 7. Suspension and expulsion put students at greater risk of a host of negative outcomes,
10 including school failure, grade retention, future unemployment, and future justice system
11 involvement.³ When students miss instructional time for misbehavior, they fall behind
12 academically, and become less engaged in their school and their education.⁴

13
14 ¹ See Kupchik, *The Real School Safety Problem: The long-term consequences of harsh school punishment* (2016) pp. 23-27.

15 ² Mowen et al., *The Effect of School Discipline on Offending Across Time* (July 12, 2019) Justice Quarterly.

16 ³ Rosenbaum, *Educational and Criminal Justice Outcomes 12 Years After School Suspension* (Jan. 17, 2018) Youth & Soc’y (finding that suspended youth were less likely to have graduated from college or high school, and were more likely to have been arrested and on probation); Morris & Brea, *The Punishment Gap: School Suspension and Racial Disparities in Achievement* (Feb. 1, 2016) 63(1) J. Soc. Probs. 1 (in longitudinal study, finding that school suspensions account for approximately one-fifth of black-white differences in school performance, and stating that findings suggest that exclusionary school punishment hinders academic growth and contributes to racial disparities in achievement); Perry & Morris, *Suspending Progress: Collateral Consequences of Exclusionary Punishment in Public Schools* (Nov. 5, 2014) 79 Am. Soc. Rev. 1067 (finding that high levels of exclusionary discipline within schools threaten the academic success of all students, including those who have never been suspended); The Council on State Gov’t & Pub. Policy Research Inst. at Tex. A&M Univ., *Breaking Schools’ Rules: A Statewide Study on How School Discipline Relates to Students’ Success and Juvenile Justice Involvement* (July 2011), (comprehensive longitudinal study in Texas showing that even one out-of-school suspension made it five times more likely for a student to drop out and three times more likely for the student to enter the juvenile justice system within one year, when compared to similar students).

26 ⁴ Arcia, *Achievement and Enrollment Status of Suspended Students: Outcomes in a Large Multicultural School District* (May 1, 2006) 38 Educ. & Urb. Soc’y 359 (identifying a correlation between suspension and school avoidance, diminished educational engagement, and decreased academic achievement).

1 8. The harms of overusing exclusionary school punishment extend beyond the
2 individual students who are punished. Empirical research shows that schools with relatively high
3 rates of suspensions tend to have worse academic scores for other students, even when
4 statistically controlling for other predictors of student achievement.⁵

5 9. Studies consistently find that youth of color, particularly African-American youth, are
6 disproportionately reported for disciplinary incidents and subjected to exclusionary punishments,
7 even when controlling for student misbehavior.⁶ The most substantial racial disparities in school
8 punishment tend to be for more subjectively defined infractions, such as defiance of authority,
9 disruption, or disorderly conduct, rather than more serious and objectively defined infractions
10 such as fighting.⁷

11 10. Studies have also shown that students with learning and behavioral disabilities are at
12 greater risk than others of being reported for school discipline.⁸

13 11. Schools throughout California have begun to incorporate positive behavior
14 intervention and supports, restorative justice practices, and other strategies laid out in the
15 Education Code to focus on addressing the root causes of student misconduct, to keep students in
16 schools and learning, and to minimize school removals and involvement with the juvenile justice
17 system. Schools in California have focused on addressing disparities in discipline to ensure that
18 certain groups of students are not subjected to disproportionate disciplinary consequences or
19 treated more harshly as compared to their similarly situated peers.

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21
22 ⁵ Perry & Morris, *supra* at n.3.

23 ⁶ U.S. Dep't of Ed. Office for Civil Rights, Civil Rights Data Collection: Data Snapshot
24 (School Discipline), Issue Brief No. 1 (2014); General Accounting Office (2018) *K-12*
25 *Education: Discipline disparities for black students, boys, and students with disabilities* (GAO-
18-258); Rocque & Paternoster, *Understanding the Antecedents of the 'School-to-Jail' Link: The*
relationship between race and school discipline (2011) 101 *The J. of Crim. L. & Criminology*
633, 653-54.

26 ⁷ Skiba et al., *Parsing disciplinary disproportionality: Contributions of infraction, student,*
and school characteristics to out-of-school suspension and expulsion (2014) 51 *Am. Ed. R. J.*
27 640.

28 ⁸ Krezmien et al., *Suspension, Race, and Disability: Analysis of statewide practices and*
reporting (2006) 14 *J. of Emotional and Behavioral Disorders* 217.

1 **B. District Discipline Policies and Practices Result in Different Treatment and**
2 **Disproportionate Impact.**

3 12. In May 2019, the Attorney General’s office began an investigation to determine
4 whether the District’s policies, procedures, and practices with respect to discipline violated any
5 California laws, specifically those laws protecting students from discrimination based on a
6 protected characteristic and other laws that provide for a state constitutional right to education,
7 other means of correction prior to school removal, and procedural due process protections for
8 students.

9 13. After a comprehensive investigation of the District’s policies, procedures, and
10 practices focusing on the 2016-2017 school year through the first semester of the 2019-2020
11 school year, the Attorney General’s office found in March 2020 that the District’s policies,
12 procedures, and practices with respect to discipline discriminated against African-American
13 students and students with disabilities. The investigation also raised significant concerns that the
14 District’s discipline policies, procedures, and practices may be subjecting Alaskan Native/Native
15 American students to discrimination.

16 14. In addition, the Attorney General’s office concluded that: (a) aspects of the District’s
17 discipline policies are unlawful; (b) the District has failed in practice to provide legally required
18 other means of correction prior to issuing suspensions for specified offenses as required by state
19 law; and (c) the District’s involuntary transfer process for students placed in the Community Day
20 School and Continuation School is inconsistent with state law requirements and provides unequal
21 access to quality education and education opportunity.

22 15. Lastly, the Attorney General’s investigation raised significant compliance concerns
23 regarding the District’s in-school suspension program because of the lack of counseling resources
24 and consistent schoolwork and tests provided to students; and the lack of an adequate system to
25 identify, accommodate, and provide sufficient services and positive behavior support for students
26 with disabilities.

27 16. The Parties have worked cooperatively to agree to a remedial plan that includes
28 among other things: (a) a five-year term: (b) changes to school discipline policies and practices to

1 bring them into compliance with state law and to address discrimination and disproportionality in
2 discipline; (c) ongoing analysis of school discipline and achievement data to address root causes
3 of discrimination in discipline; (d) consistent implementation of positive other means of
4 correction and development of individualized behavior support plans; (e) implementation of a
5 system of culturally responsive, multi-tiered supports and interventions; (f) training for staff on
6 manifestation determination meetings, positive behavior intervention plan creation and
7 implementation, and reasonable accommodations; (g) provision of support, training, and
8 assistance to parents of students with disabilities during special education and Section 504
9 processes; (h) revisions to policies and practices for responding to discrimination and harassment
10 complaints to comply with state law requirements; (i) changes to involuntary transfer policies and
11 procedures to bring them into compliance with state law; and (j) development of a system to
12 ensure that students in in-school suspension receive schoolwork, counseling, and re-entry support.
13 The District has begun to take positive steps to revise policies and eliminate punitive discipline
14 practices at its school-sites and to work with organizations focused on addressing bias and
15 discrimination in all of its forms.

16 17. The Attorney General’s investigation included a review of the District’s disciplinary
17 data from the 2016-2017 to 2018-2019 school years—data collected and administered by the
18 District. The Attorney General’s review of this data demonstrated that the District’s use of
19 exclusionary punishment is excessive. Nearly 90 percent of defiance or obscenity incidents
20 resulted in an in-school or out-of-school suspension. In addition, the majority of reported
21 incidents are for relatively minor behaviors. Across the three school years reviewed, almost half
22 (47.2 percent) of all incidents reported are either for tardy or truancy, and over one-fourth (27.9
23 percent) are for campus or class behavior, while only about 4 percent of reported incidents
24 involved a weapon, injury, or the threat of injury.

25 18. The Attorney General’s review of the District’s own data also demonstrated that
26 under the District’s discipline policies and practices, African-American students are significantly
27 and substantially more likely than White students with similar disciplinary histories to be reported
28 for an incident, to be punished in school, and to receive more days of punishment for similar

1 offenses. African-American students are also more likely than any other racial or ethnic group to
2 be suspended or to receive detention, Saturday school, or another school punishment. African-
3 American students are about 56 percent more likely to be suspended out of school than White
4 students reported for similar behavior. African-American students in the District are also
5 disciplined more often for subjective offenses than other students, with African-American
6 students more than twice as likely to be referred for defiance or obscenity than White students.

7 19. The District's data demonstrated that African-American students with disabilities are
8 at even higher risk of exclusionary discipline: while 11.8 percent of students with disabilities,
9 overall, are suspended out of school, 28.6 percent of African-American students with disabilities
10 are suspended out of school. Overrepresentation of defiance or obscenity incidents among
11 African-American students is even greater when looking at African-American students with
12 disabilities: 23.8 percent of African-American students with disabilities were reported for
13 defiance or obscenity, compared with 7.2 percent of students overall.

14 20. The District's data also demonstrated that Native-American students are more likely
15 to be reported for an incident and are also more likely to experience suspension, detention,
16 Saturday school, or other punishment compared to similarly situated White students. Native-
17 American students who have been reported for obscenity or defiance are approximately 275
18 percent more likely to receive an in-school suspension than White students who are also reported
19 for obscenity or defiance.

20 21. An analysis of the District's data found that school punishments in the District result
21 in a significant loss of instructional time that disproportionately impacts African-American
22 students, Native-American students, and students with disabilities. During the 2018-2019 school
23 year, White students lost 27.4 instructional days to out-of-school suspension per 100 students
24 enrolled, while Native-American students lost 39.5 days and African-American students lost 56.5
25 days. Additionally, students without disabilities lost 22.1 days to out of school suspension in the
26 2018-2019 school year, while students with disabilities lost 41.8 days. For all students, the rate of
27 days lost was significantly higher than the statewide average, calculated in the 2016-2017 school
28 year, of 12 instructional days lost per 100 students enrolled.

1 22. School punishments in the District have a quantifiable adverse education impact
2 beyond the loss of instructional time. While controlling for individual student characteristics and
3 school attended, on average, the class rank of District students suspended out of school in any
4 given year decreases by an average of 12.7 percentile points the following year. Class ranks of
5 students who receive detention decrease 23.3 percentile points; those who receive Saturday
6 school decrease 27.1 points; and those who receive in-school suspension decrease 21.4 points the
7 following school year.

8 23. Statewide data also suggest that the District’s largely punitive discipline policies,
9 procedures, and practices are not serving students in the District, and have a particularly acute
10 impact on the subgroups experiencing the greatest disproportionality. For example, chronic
11 absenteeism is a measure that has been linked to reduced student achievement, increased rates of
12 high school dropout, and negative outcomes in adulthood. In the 2018-2019 school year, the
13 District had a chronic absenteeism rate of 26 percent, which is far higher than the statewide
14 California rate of 12 percent.⁹ And, the rate of chronic absenteeism for African-American and
15 Alaskan Native/Native American students is higher still at 41.1 percent and 33.3 percent
16 respectively.¹⁰

17 24. There are comparable effective alternatives that would meet the District’s educational
18 goals with less burden on African-American and Alaskan Native/Native American students and
19 students with disabilities, such as incorporating social-emotional learning practices into the
20 curriculum and improving instructional practices to focus on student engagement, cultural
21 relevance, and opportunities for practice and feedback.

22 25. Despite the significant disparities described above and the negative effects thereof,
23 District administrators do not regularly review disciplinary data to identify and ameliorate
24 disparities. Nor are staff effectively trained on disciplinary policies and procedures or on

25 _____
26 ⁹ Cal. Dep’t of Educ., DataQuest, 2018-19 Chronic Absenteeism Rate, Oroville Union
27 High Report, at
28 <<https://dq.cde.ca.gov/dataquest/DQCensus/AttChrAbsRate.aspx?agglevel=District&cds=0461515&year=2018-19>> [as of July 13, 2020].

¹⁰ *Id.*

1 alternative positive behavioral strategies set forth in state law, resulting in inconsistent
2 implementation of these policies and inadequate tools to address unequal treatment in discipline
3 and improve school climate and cultures.

4 **C. The District Did Not Adequately Respond to Allegations of Racial Harassment.**

5 26. The Attorney General's investigation identified that African-American students
6 attending Las Plumas High may have been subjected to a hostile environment on the basis of race,
7 and that the District has been on notice of this environment and failed to provide a prompt and
8 adequate response. For example, the Attorney General's investigation uncovered reports from
9 multiple witnesses that the use of racial slurs by White students towards African-American
10 students was common on campuses, and that White students engage in other objectively hostile
11 conduct directed at African-American students without a sufficient District response to prevent
12 further hostile conduct. For the cases reviewed, the investigation did not identify evidence that
13 the District had investigated or adequately responded to the racial harassment to prevent, stop, or
14 eliminate further harassment or had utilized the required state law Uniform Complaint Procedure
15 process, which includes a written report of findings and the right to appeal.

16 27. The District's failure to adequately address racial slurs, hostility, and harassment
17 signals to students that the school will ignore the use of racial epithets and may cause students to
18 feel that they have no recourse through the District to resolve these issues.

19 **D. Important Aspects of District Discipline Policies and Practices Fail to Comply with
20 State Law.**

21 28. The Attorney General's investigation also found that important aspects of District's
22 disciplinary policies are inconsistent with state law. In violation of state law, the District's 2016-
23 17 through 2019-20 school year discipline policy permitted suspension of a pupil upon a first
24 offense for offenses for which suspension is required to be a last resort. In addition, during the
25 2016-17 through 2018-19 school years, the District policy allowed for teacher suspensions
26 beyond the per offense maximum of two school periods and set forth suspension as a punishment
27 for truancy and tardiness.

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1 29. Moreover, in practice, the District generally fails to provide students other legally
2 required means of correction required before suspension. Evidence reviewed shows that students
3 were regularly suspended and placed in detention and Saturday School, and, sometimes, referred
4 to law enforcement instead of being provided alternative means of correction such as team
5 assessments and plans, referral for counseling or special education assessment, community
6 service, positive behavior interventions and supports, and trauma-informed, restorative justice
7 and/or social emotional programming.

8 30. The District does not provide students placed in in-school suspension with
9 appropriate access to counseling services or promote their completion of schoolwork and tests
10 missed, in violation of state law. Those administering in-school suspensions are often unable to
11 obtain schoolwork and tests from teachers, even after multiple requests. There is no process to
12 ensure that missed schoolwork can be made up after suspension. As a result, students assigned to
13 in-school suspension regularly sit with little or nothing to do. Students placed in in-school
14 suspension who were already struggling return to the comprehensive school site even further
15 behind.

16 31. The District's involuntary transfer policies and practices violate state law.
17 Community Day School students are generally not permitted to return to a comprehensive
18 campus; instead, their only option is involuntary transfer to Prospect High School, the District's
19 continuation school. Students generally do not receive legally required notice, due process, or the
20 opportunity to dispute the transfer before the District enrolls them in Prospect High School.

21 32. Furthermore, the Alternative Education Principal participates in the decision to
22 involuntarily transfer students from Community Day School to Prospect High School in violation
23 of state law prohibiting staff at the student's enrolled school from being involved in the transfer
24 decision.

25 33. The District's general practice of refusing to permit students enrolled in Prospect
26 High School to return to a comprehensive site after two semesters violates state law. The
27 investigation revealed that the District generally prohibits reenrollment in comprehensive schools
28 by students enrolled in Prospect High School, even when requested by a student.

1 34. The District’s transfer practices raised additional concerns because of significant
2 concerns about educational instruction and opportunities provided to students at the Community
3 Day School and Prospect High School. Witnesses also reported a hostile environment at Prospect
4 High School based on the treatment of students by site leadership.

5 35. The Attorney General’s review of disciplinary data also demonstrated
6 disproportionate rates of school suspensions and other discipline for District students with
7 disabilities. In each of the three years reviewed, students with disabilities had approximately
8 twice the rate of days of instruction lost due to out-of-school suspension than their nondisabled
9 peers.

10 36. Policies and practices that do not comply with state law contribute to this
11 disproportionality. The District’s written policy for students with disabilities violates state law
12 because it permits ten days of consecutive suspension for a single incident of misconduct, even
13 though the state law maximum is five days.

14 37. The District’s policies, practices, and processes for providing equal access to
15 necessary services to students with disabilities and ensuring students with disabilities are not
16 denied equal access to education are inadequate. Specifically, student files reviewed revealed that
17 several students, including students who had been suspended, were denied full and equal access
18 to education because of their disabilities, including failure to provide procedural protections,
19 reasonable accommodations, and modifications.

20 **E. Proposed Resolution by the Parties**

21 38. Since April 2020, the Parties have negotiated in good faith on numerous policy and
22 procedure changes and have come to an agreement to address the findings of the investigation.
23 The District has begun to make changes to its policies, procedures, and practices and is in the
24 process of implementing several terms agreed upon by the Parties.

25 39. The District has also begun to take steps to comply with the California Department of
26 Education’s oversight monitoring and compliance requirements with respect to addressing
27 significant disproportionality for students with disabilities.

28

1 40. Plaintiff now seeks an order requiring the District to implement the agreed-upon
2 reforms and respectfully requests that the Court enter Judgment as set forth in the proposed
3 Stipulated Judgment, concurrently filed with this Complaint.

4 **CAUSES OF ACTION**

5 **FIRST CAUSE OF ACTION**

6 **(Violation of Education Code sections 200 et seq. and 33315)**

7 41. Plaintiff realleges all paragraphs set forth above and incorporates them by reference
8 as though they were fully set forth in this cause of action.

9 42. Education Code section 220 prohibits discrimination based on race, color, national
10 origin, and ethnicity in state-funded programs and activities.

11 43. When a school district receives notice of an allegation of potential discrimination,
12 harassment, bullying, or retaliation on the basis of a protected characteristic, such as race or
13 disability, Education Code section 33315 requires the District to investigate and to provide a
14 timely and effective response to end the discrimination, harassment, or retaliation, prevent its
15 recurrence, and remedy the effects using the Uniform Complaint Procedures.

16 44. The Uniform Complaint Procedures require an independent investigation, an
17 opportunity for the complainant and respondent to present and respond to evidence, a written
18 decision of finding, and a right to appeal to the California Department of Education. (Ed. Code, §
19 33315; Cal. Code Regs., tit. 5, §§ 4610, et seq.)

20 45. Defendant has violated Education Code section 200 et seq. by subjecting African-
21 American students to discrimination with respect to disproportionate disciplinary punishments
22 and with respect to the length of such punishments, which has resulted in adverse impacts on such
23 students.

24 46. Alaskan Native/Native American students also experienced disproportionate
25 disciplinary punishment and may have been subjected to discrimination under the District's
26 discipline policies and practices, which resulted in adverse impacts on such students.
27
28

1 47. Defendant has violated Education Code section 200 et seq. by subjecting similarly
2 situated African-American students to higher numbers of punishments and harsher punishments
3 than similarly situated students of other races and ethnicities for similar offenses.

4 48. Defendant has violated Education Code sections 200 et seq. and 33315 by failing to
5 provide a prompt, adequate, and procedurally compliant response to notice of harassment on the
6 basis of race for some African-American students.

7 49. Due to Defendant's violations of Education Code sections 200 et seq. and 33315, and
8 their implementing regulations, injunctive relief is an appropriate remedy.

9 **SECOND CAUSE OF ACTION**

10 **(Violation of California Constitution, Article 1, section 7)**

11 50. Plaintiff realleges all paragraphs set forth above and incorporates them by reference
12 as though they were fully set forth in this cause of action.

13 51. Following an investigation carried out pursuant to his discretionary authority as the
14 state's chief law officer, the Attorney General has determined that Defendant has violated the
15 California Constitution, Article 1, section 7, by not satisfying its affirmative obligation to
16 implement programs that avoid discriminatory results through its knowingly subjecting African-
17 American students in the District to discrimination with respect to disproportionate disciplinary
18 punishments and the length of such punishments, without implementing feasible remedies when it
19 should have been aware of and addressed these results. These disproportionate punishments
20 result in changes in classroom settings in the District and sometimes involuntary transfers to the
21 District's alternative education schools, impacting the amount or quality of instruction received
22 by these District students and resulting in other cognizable education harms. Such
23 disproportionate punishments by Defendant are not necessary to meet an important education
24 goal and other options exist for the District with less of an adverse impact on African-American
25 students.

26 52. Following an investigation carried out pursuant to his discretionary authority as the
27 state's chief law officer, the Attorney General has determined that Defendant has violated the
28 California Constitution, Article 1, section 7, by not satisfying its affirmative obligation to

1 implement programs that avoid discriminatory results through its knowingly subjecting African-
2 American students in the District to higher numbers of punishments and harsher punishments than
3 similarly situated students of other races or ethnicities in the District for similar offenses, and
4 without implementing feasible remedies when it should have been aware of and addressed these
5 results. These disproportionate punishments result in changes in classroom settings within the
6 District and sometimes involuntary transfers to the District's alternative education schools,
7 impacting the amount or quality of instruction received by these students.

8 53. Due to Defendant's violations of the California Constitution, injunctive relief is an
9 appropriate remedy.

10 **THIRD CAUSE OF ACTION**

11 **(Suspensions in Violation of Education Code section 48900 et seq.)**

12 54. Plaintiff realleges all paragraphs set forth above and incorporates them by reference
13 as though they were fully set forth in this cause of action.

14 55. Education Code section 48900 et seq. prohibits suspension for truancy or tardiness.

15 56. Education Code section 48900.5 requires that other means of correction be attempted
16 prior to suspension of a student and prohibits suspension upon a first offense, except for certain
17 specifically defined offenses or where a student's presence causes a danger to persons.

18 57. Education Code section 48910 prohibits teacher suspensions longer than two class
19 periods.

20 58. Defendant has violated Education Code section 48900 by establishing policies that
21 permit suspensions for truancy or tardiness

22 59. Defendant has violated Education Code section 48900.5 by failing to consistently
23 provide other means of correction prior to suspension of a student and by permitting suspension
24 upon the first offense for offenses for which suspension upon a first offense is not permitted.

25 60. Defendant has violated Education Code section 48910 by permitting teachers to
26 impose suspensions of up to five days on students.

27 61. Due to Defendant's violations of the aforementioned California Education Code
28 sections and implementing regulations, injunctive relief is an appropriate remedy.

1 **FOURTH CAUSE OF ACTION**

2 **(Failure to Provide Services During In-School Suspension in Violation of Education Code**
3 **section 48911.1)**

4 62. Plaintiff realleges all paragraphs set forth above and incorporates them by reference
5 as though they were fully set forth in this cause of action.

6 63. Education Code section 48911.1 requires that students assigned to supervised
7 suspension classrooms be provided access to counseling services, schoolwork, and tests missed.

8 64. Defendant has violated Education Code section 48911.1 by failing to consistently
9 provide students assigned to in-school suspension access to counseling, schoolwork, and tests
10 missed.

11 65. Due to Defendant's violations of California Education Code section 48911.1 and
12 implementing regulations, injunctive relief is an appropriate remedy.

13 **FIFTH CAUSE OF ACTION**

14 **(Involuntary Transfer in Violation of Education Code section 48432.5)**

15 66. Plaintiff realleges all paragraphs set forth above and incorporates them by reference
16 as though they were fully set forth in this cause of action.

17 67. Education Code section 48432.5 requires that pupils be provided notice and an
18 opportunity to be heard prior to involuntary transfer to a continuation school.

19 68. Education Code section 48432.5 prohibits a member of the staff of the school in
20 which a pupil is enrolled from being involved in the decision to make an involuntary transfer of
21 that student.

22 69. Education Code section 48432.5 prohibits involuntary transfers from extending
23 beyond the end of the semester after the semester during which the acts leading directly to the
24 involuntary transfer occurred unless the local governing board adopts a procedure for yearly
25 review of the involuntary transfer at the request of the pupil or the pupil's parent or guardian.
26 The District's governing board has not adopted a procedure for yearly review.

27 70. Defendant has violated Education Code section 48432.5 by failing to provide notice
28 and an opportunity to be heard prior to involuntary transfer, permitting staff of the school in

1 which a pupil is enrolled to be involved in the involuntary transfer decision, and by, in practice,
2 prohibiting pupils it has involuntarily transferred from reenrolling in a comprehensive school.

3 71. Due to Defendant's violations of California Education Code section 48432.5 and
4 implementing regulations, injunctive relief is an appropriate remedy.

5 **SIXTH CAUSE OF ACTION**

6 **(Abrogation of the Rights of Students with Disabilities in Violation of Government Code
7 section 11135 and Education Code sections 220 and 48911)**

8 72. Plaintiff realleges all paragraphs set forth above and incorporates them by reference
9 as though they were fully set forth in this cause of action.

10 73. Government Code section 11135 prohibits discrimination based on disability in state-
11 funded programs and activities, including prohibiting unlawful denial of full and equal access to
12 the benefits of and unlawful discrimination under any such program or activity receiving funding
13 or financial assistance from the state. Government Code section 11135 incorporates requirements
14 that local agencies that receive state funding to provide students with disabilities and suspected
15 disabilities with procedural protections, reasonable accommodations, and modifications.

16 74. Government Code section 11135 prohibits schools from punishing students based on
17 disability.

18 75. Education Code section 220 contains similar requirements to ensure non-
19 discrimination with respect to students with disabilities.

20 76. Education Code section 48911 prohibits suspensions by a principal of longer than five
21 days based on a single incident.

22 77. Defendant is responsible for providing public education to District students, including
23 students with disabilities.

24 78. Defendant has violated Education Code section 48911 by establishing policies and
25 procedures permitting suspensions of students with disabilities for longer than five days for a
26 single incident of misconduct.

27 79. Defendant has violated Government Code section 11135 and Education Code section
28 220 by failing to actively and systemically seek out individuals with exceptional needs who reside

1 in the District and to identify, locate, and assess such students in order to plan for an educational
2 program that will meet their unique needs and ensure that such students are receiving the
3 appropriate evaluations, specialized supports, and a determination as to whether behaviors
4 resulting in removals, as specified above, are a manifestation of their disabilities, which has
5 contributed to unequal treatment with respect to imposition of discipline for students with
6 disabilities.

7 80. Defendant has violated Government Code section 11135 and Education Code section
8 220 by failing to consider consistently the use of positive behavioral interventions and supports
9 for students with disabilities to address behavioral issues.

10 81. As a direct and proximate result of Defendants' violations, District students with
11 disabilities have suffered or may suffer irreparable harm.

12 82. Due to Defendant's violations of California Government Code section 11135 and
13 Education Code sections 220 and 48911, injunctive relief is an appropriate remedy.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff respectfully prays for the Court to enter judgment as follows:

16 83. For the Court to issue an order enjoining Defendant from engaging in the unlawful
17 practices challenged in this Complaint, requiring Defendant to implement the injunctive relief
18 provisions as set forth in the proposed Stipulated Judgment, and entering final judgment;

19 84. For the Court to exercise, pursuant to the terms of the Stipulated Judgment,
20 continuing jurisdiction over this action to ensure that Defendant complies with the judgment as
21 set forth in the proposed Stipulated Judgment; and

22 85. For such other and further relief as the Court deems just and proper.

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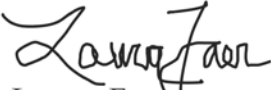
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Dated: August 25, 2020

Respectfully Submitted,

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