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14 UNITED STATES DISTRICT COURT

15 FOR THE CENTRAL DISTRICT OF CALIFORNIA

16 CASEY A.; CARL C.; and MIGUEL B.,
17 by and through L.L., on behalf of
18 themselves and all those similarly
situated,

19 Plaintiffs,

20 vs.

21 JON R. GUNDRY, in his official
22 capacity, Interim Superintendent, Los
Angeles County Office of Education;
23 WILLIAM ELKINS, in his official
capacity, Director, Los Angeles County
24 Office of Education Division of Juvenile
Court Schools; JESUS CORRAL, in his
25 official capacity, Principal, Los Angeles
County Office of Education Challenger
Center School; and LOS ANGELES
26 COUNTY PROBATION
DEPARTMENT,

27 Defendants.
28

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CENTRAL DISTRICT OF CALIF.
LOS ANGELES

Case No: CV 10-00192 GHK (FMOx)

CLASS ACTION

**First Amended Complaint For
Violations Of:**

- (1) 42 U.S.C. Section 1983 (Due Process Clause of the 14th Amendment)
- (2) 42 U.S.C. Section 1983 (Equal Protection Clause of the 14th Amendment)
- (3) 42 U.S.C. Section 1983 (Due Process Clause of the 14th Amendment)
- (4) 20 U.S.C. Sections 1400 *et seq.*
- (5) Article IX, Sections 1 and 5 of the California Constitution
- (6) Article I, Section 7(a) & Article IV, Section 16(a) of the California Constitution
- (7) Article I, Section 7(b) of the California Constitution
- (8) Miscellaneous Provisions of the California Education Code

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1 The following allegations are based on information and belief, unless otherwise
2 specified:

3 JURISDICTION

4 1. This court has jurisdiction over Plaintiffs' claims under 28 U.S.C.
5 § 1331, because those claims arise under the Constitution of the United States and
6 the laws of the United States, specifically the Individuals with Disabilities Education
7 Improvement Act (IDEA), 20 U.S.C. Sections 1400 *et seq.*; under 28 U.S.C. §
8 1343(a)(3), because those claims seek to redress deprivations, under color of state
9 authority, of rights, privileges and immunities secured by the United States
10 Constitution; and under 28 U.S.C. § 1343(a)(4), because those claims seek to secure
11 equitable relief under an Act of Congress, specifically under 42 U.S.C. § 1983. This
12 court also has jurisdiction over Plaintiffs' state law claims under 28 U.S.C. § 1367.

13 2. Pursuant to the Court's jurisdiction over this matter, Plaintiffs Casey A.,
14 Carl C., by and through his guardian ad litem, Kendra Tankersley, and Miguel B., by
15 and through his guardian ad litem, L. L., bring this action on behalf of themselves
16 and on behalf of all other persons similarly situated.¹

18 VENUE

19 3. Venue is proper in the Central District of California under 28 U.S.C.
20 § 1391(b) because Defendants are located in this District and all of the acts and/or
21 omissions complained of herein have occurred or will occur in the District.

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25 ¹ Because, among other things, Carl and Miguel are minors and remain wards of the state
26 either in custody or on probation, and, therefore, subject to serious risk of retaliation, pseudonyms
27 are used to protect their identities and protect them from harm. Because, among other things,
28 Plaintiff Casey remains on probation and subject to the supervision of agents of Defendant Los
Angeles County Probation Department, and, therefore, subject to serious risk of retaliation, a
pseudonym is used to protect his identity and protect him from harm. Because Miguel's guardian
ad litem is his parent, a pseudonym is used to protect Miguel's identity.

INTRODUCTION

1
2 4. Courts have long recognized that education is critical to our democratic
3 society and is the foundation of good citizenship because it instills cultural values,
4 prepares children for a productive career, and allows children to become full
5 participants in our polity. *See, e.g., Brown v. Board of Educ.*, 347 U.S. 483, 493
6 (1954). Furthermore, as the United States Supreme Court recognized over half a
7 century ago, “it is doubtful that any child may reasonably be expected to succeed in
8 life if he is denied the opportunity of an education.” *Id.*

9 5. Consistent with this understanding, every state in the union has
10 established a system of free public schools and every state requires children to attend
11 school under compulsory attendance laws. The decision by each state in our union to
12 provide free public schools and require attendance by children in that state reflects
13 that the importance of education is a notion deeply rooted in our nation’s history and
14 tradition.

15 6. Moreover, “[s]ince its admission to the Union, California has assumed
16 specific responsibility for a statewide public education system open on equal terms
17 to all,” *Butt v. The State of California*, 4 Cal. 4th 668, 680 (1992), and the California
18 Supreme Court has repeatedly held that under the State Constitution, “education [is]
19 a fundamental interest ‘which [lies] at the core of our free and representative form of
20 government.’” *Id.* at 683 (quoting *Serrano v. Priest* 18 Cal. 3d 728, 767-68 (1976)
21 (“*Serrano II*”) (bracket in original)).

22 7. Juvenile detention facilities in California, including county probation
23 camps, exist “solely for the purpose of rehabilitation and not punishment,” *People v.*
24 *Olivas*, 17 Cal. 3d 236, 254 (1976), and education is the “foundation for
25 programming in most juvenile institutions,” U.S. Department of Justice Office of
26 Juvenile Justice and Delinquency Prevention, *Conditions of Confinement: Juvenile*
27 *Detention and Corrections Facilities* 129 (1994).
28

1 8. Juveniles detained in detention facilities, as wards of the state and with
2 no choice but to attend the schools provided in these facilities, have a liberty interest
3 in minimally adequate care and treatment, including a minimally adequate education,
4 appropriate to the youth's age and circumstances, protected by the federal
5 constitution.

6 9. Juveniles detained in detention facilities in California also share in the
7 guarantee of a fundamental right to equal educational opportunity protected by the
8 State Constitution.

9 10. Juveniles with qualifying disabilities who are detained in detention
10 facilities also have a right to special education.

11 11. California law provides that the County Board of Education shall
12 provide for the administration and operation of juvenile court schools in conjunction
13 with the county's chief probation officer, or a designee. Defendants Robles, Elkins,
14 and Ramos-Allen, as officers of the Los Angeles County Office of Education
15 ("LACOE"), are therefore responsible, together with Defendant Los Angeles County
16 Probation Department ("Probation" or "Probation Department"), for ensuring
17 detained youth in Los Angeles County receive an education that complies with the
18 state and federal constitutions and applicable state and federal laws.

19 12. Nonetheless, Defendants have abdicated their core responsibility of
20 providing education to youth forced to attend the school operated by LACOE while
21 detained at the Challenger Memorial Youth Center ("Challenger" or "Camp
22 Challenger"), a facility operated by Defendant Probation Department in Lancaster,
23 California. The violations of youth's rights and illegal deprivations of educational
24 services at Challenger are rampant, widespread, and well-known, yet Defendants
25 have allowed them to persist, despite their duties to ensure the provision of
26 appropriate educational services to the youth at Challenger. Specifically, Defendants
27 have violated the rights of youths at Challenger as follows:
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- 1 • Decisions on what services and class assignments students receive are not
2 governed by what services will provide an educational benefit based on the
3 student's specific needs, such that some students were deprived of needed
4 educational services for months at a time;
- 5 • Despite the high incidence of reading deficits among the population of
6 students served at Challenger and the central importance of literacy to any
7 educational program, students are not systematically screened for reading
8 problems and staff are not trained to provide the research-based
9 interventions that are proven to help the students address their literacy
10 deficits;
- 11 • Students who are functionally illiterate are routinely awarded credits,
12 regardless of whether they master academic content and without efforts to
13 address their illiteracy. Consequently, students receive high school
14 diplomas based simply on their time at Challenger, even when Defendants
15 and their employees are aware that the student cannot read or write;
- 16 • Students are regularly deprived of the full 240 minutes of instruction
17 mandated by state law and are not provided access to physical education
18 classes required by state law;
- 19 • Teachers, without accountability or consequences, routinely deprive
20 students of class time by showing up late to work, refusing to teach to the
21 content standards for academic subjects, screening movies or reading books
22 aloud that are not at all related to academic subjects, and refusing to grade
23 assignments completed by students, thereby depriving students of any
24 educational benefit;
- 25 • Students are routinely excluded from class, purportedly for disciplinary
26 reasons, without any explanation of the reason for the suspension or an
27 opportunity to challenge the basis for the deprivation of educational
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1 services;

- 2 • Students are routinely removed from class, without cause or proper
3 procedure, to perform tasks on Camp Challenger grounds, including
4 painting, housekeeping and landscaping services;
5 • Students with disabilities are deprived of necessary special education
6 services.

7 13. In short, Defendants have systematically denied youth at Challenger
8 access to minimally adequate educational services, in violation of both federal and
9 state law. The education program at Camp Challenger falls fundamentally below
10 professional standards of care and denies youth access to a public education that will
11 teach them the basic skills they need to succeed as productive members of modern
12 society.

13 14. These illegal deprivations of educational services have been occurring
14 at Challenger for several years and have been repeatedly documented in publicly
15 available reports, yet Defendants have allowed them to persist.

16 15. Instead of attending to their mission of educating the juveniles in Camp
17 Challenger, Defendants are simply ignoring it by allowing a system to operate
18 without adequate oversight, accountability or professionalism. Defendants conduct,
19 acts and omissions are ongoing.

20 16. The result is a generation of Los Angeles youth, already disadvantaged
21 and challenged due to other factors, being deprived of constitutionally mandated
22 educational services and the opportunity to learn despite Defendants' explicit
23 statutory obligation to help rehabilitate them.

24 17. Plaintiff Casey A. ("Casey"), who is eighteen years old and a special
25 education student, can neither read nor write. Although he was detained at
26 Challenger and educated at Challenger Center School for most of his high school
27 career, LACOE staff refused to provide him with the necessary instruction and
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1 services to overcome his illiteracy. Instead, LACOE staff excused Casey from
2 reading assignments, read course materials aloud for him, and orally administered
3 written tests to him, thus ensuring that he would not learn to read and write on his
4 own.

5 18. Regardless, Defendants continually awarded Casey passing grades in
6 his classes, and in late 2009 awarded Casey a high school diploma despite
7 Defendants' awareness of Casey's illiteracy and inability to complete written
8 coursework on his own. Among other violations, in addition, while he was still in
9 school, Defendants routinely excluded Casey from instruction as punishment or to
10 complete menial tasks, with no opportunity to challenge these exclusions, and in
11 violation of federal and state law.

12 19. Plaintiff Carl C. ("Carl"), who is seventeen years old and a special
13 education student, has been enrolled in the school run by Defendants at Challenger
14 for much of the last year and was tested at a 2nd grade reading level. Among other
15 violations, Defendants have routinely excluded Carl from classes, often as
16 punishment for requesting additional instructional assistance, with no opportunity to
17 challenge these exclusions and in violation of state and federal and state law and
18 have denied him educational instruction appropriate to meet his needs.
19 Consequently, Carl has been and continues to be deprived of significant educational
20 instruction in all areas, has fallen significantly behind and lacks nearly one third of
21 the credits needed for graduation.

22 20. On several occasions, Carl asked for Defendants to stop denying him
23 educational services, but he received no relief or response.

24 21. Plaintiff Miguel B. ("Miguel"), who is fifteen years old and a special
25 education student, has been enrolled in the school run by Defendants at Challenger
26 for much of the last year. Among other violations, in late 2009, Defendant Probation
27 confined Miguel in a solitary cell in the Special Housing Unit (SHU) containing only
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1 a cot for more than two months. During this time, Defendants provided Miguel with
2 two hours or less of educational instruction per day in violation of state laws that
3 establish the required minimum amount of daily instructional minutes and refused
4 him access to state-mandated physical education and recreation and to educational
5 textbooks and materials.

6 22. During his confinement, Miguel would on some days receive no
7 educational instruction at all, and on many other days Miguel's instruction would
8 consist of copies of school materials shoved under his cell door. On those days, he
9 never saw a teacher or interacted with other students.

10 23. Finally, during the months that he was confined in the SHU, Miguel was
11 not allowed to set foot outside. Due to Miguel's legitimate fear of retaliation, he was
12 afraid to challenge these illegal conditions.

13 24. The challenged policies and practices constitute a plain denial of
14 juveniles' rights under the United States Constitution to a minimally adequate
15 rehabilitative program, appropriate to their age and circumstances, while a ward of
16 the state, and their fundamental right under the State Constitution to equal
17 educational opportunity.

18 25. In addition, the arbitrary exclusion of detained juveniles from
19 educational instruction as punishment or for no reason at all, with no opportunity to
20 challenge the exclusion, constitutes a violation of these juveniles' substantive and
21 procedural due process rights under the United States and State Constitutions, as well
22 as the specific rights delineated in the state education code.

23 26. By and through their actions, Defendants are perpetuating irreparable
24 harm on these disadvantaged youth by denying them basic educational opportunity
25 and equality and severely limiting their prospects for graduation from high school,
26 meaningful employment, and the possibility for post-secondary education. In effect,
27 Defendants are assuring that these youth have little to no chance of succeeding when
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1 they transition back to the community and placing them at serious risk of recidivism.

2 27. These constitutional and statutory deprivations constitute a shameful
3 indictment of the empty services being provided to the youth that are supposed to be
4 rehabilitated in Los Angeles juvenile camps. Defendants' acts and omissions are
5 particularly shocking within the broader context of how juvenile probation camps in
6 Los Angeles County operate. Despite costing an estimated \$30,000 per year per bed
7 to house minors at county juvenile detention camps, *see* Marcus Nieto, *County*
8 *Probation Camps and Ranches for Juvenile Offenders* 13 (Nov. 2008), available at
9 <http://www.library.ca.gov/crb/08/08-016.pdf>, Defendants have deprived and
10 continue to deprive Plaintiffs and other wards at Challenger a minimally adequate
11 education, the central component of any rehabilitative program for youths.

12 28. Moreover, during much of the time Plaintiffs were detained at
13 Challenger, the County of Los Angeles, through the Los Angeles County Probation
14 Department, charged families \$11.94 each day a youth was held at a Probation
15 Department camp, purportedly to compensate the county for the rehabilitative
16 services being provided to the youth. *See* Molly Hennessee-Fiske, *L.A. County*
17 *Probation Department Suspends Aggressive Billing of Guardians*, L.A. TIMES
18 (February 14, 2009).

19 29. Plaintiffs seek declaratory and injunctive relief on behalf of themselves
20 and a class of similarly situated youth to remedy the unconstitutional education
21 conditions that exist at Challenger.

22 **PARTIES**

23
24 30. Plaintiff Casey A. is an eighteen-year old citizen of the United States
25 and a resident of Los Angeles County, California. Between October 2005 and
26 September 2009, Casey was detained on three separate occasions at the Challenger
27 Memorial Youth Center in Lancaster, California, for a collective period of time of
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1 approximately three years. Casey A. is a student eligible for special education
2 services.

3 31. Plaintiff Carl C. is a seventeen-year old citizen of the United States and
4 resident of Los Angeles County, California. Between December 2007 and May 2008,
5 Carl was detained at the Challenger Memorial Youth Center in Lancaster, California,
6 for a collective period of time of approximately three months. Carl was detained at
7 Challenger again in March 2009 and remains there at the present time. His projected
8 release date is March 2010. Carl's education rights holder is contemporaneously
9 filing a petition under seal with this court to act as his guardian ad litem. Carl C. is a
10 student eligible for special education services.

11 32. Plaintiff Miguel B. is a fifteen-year old citizen of the United States and
12 resident of Los Angeles County, California. Between the summer of 2009 and early
13 2010, Miguel was detained at the Challenger Memorial Youth Center in Lancaster,
14 California. Miguel's parent is contemporaneously filing a petition under seal with
15 this court to act as his guardian ad litem. Miguel B. is a student eligible for special
16 education services.

17 33. Defendant Darline P. Robles is the Superintendent of LACOE. She is
18 sued in her official capacity. LACOE is a public agency with headquarters in
19 Downey, California. Defendant Robles' official duties as LACOE Superintendent
20 include direct supervisory responsibilities over LACOE's Division of Juvenile Court
21 Schools, which operates the public schools at camps run by the Los Angeles County
22 Department of Probation, including the school that Casey, Carl, and Miguel attended
23 while they were housed at Challenger.

24 34. In her official capacity, Defendant Robles is also statutorily responsible
25 for superintending all of the schools in Los Angeles County, visiting and examining
26 each school in the county at reasonable intervals to observe its operation and to learn
27 of its problems, enforcing the course of study mandated by the state, enforcing the
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1 use of state textbooks and instructional materials and of high school textbooks and
 2 instructional materials, ensuring that sufficient textbooks and instructions are being
 3 used and provided to the students, and otherwise ensuring that the rights of students
 4 to an education in compliance with state and federal statutes and constitution are
 5 upheld.

6 35. Defendant William Elkins is the Director of LACOE's Division of
 7 Juvenile Court Schools. He is sued in his official capacity. Defendant Elkins'
 8 official duties include operation of and supervision of the Division of Juvenile Court
 9 Schools, including the Challenger Center School.

10 36. Defendant Lauren Ramos-Allen is the Principal of Challenger Center
 11 School, the LACOE school located at the Challenger Memorial Youth Center. She is
 12 sued in her official capacity. Defendant Ramos-Allen's official duties include
 13 operation and supervision of Challenger Center School.

14 37. Defendant Los Angeles County Probation Department is a public
 15 agency with headquarters in Downey, California. Probation's Office of Juvenile
 16 Institutions Bureau is responsible for the care of youth detained in the 18 juvenile
 17 camps, including those at Challenger, and 3 juvenile halls operated by Probation and
 18 the treatment components designed to assist detained youth in their transition back
 19 into society. Under California law, Probation must ensure that youth detained at
 20 Challenger have access to constitutionally and legally adequate educational services,
 21 which are currently provided by LACOE, during their term of commitment.

22 CLASS ALLEGATIONS

23
 24 38. Plaintiffs bring this action on behalf of themselves and all other persons
 25 similarly situated pursuant to Federal Rule of Civil Procedure 23.

26 39. The class includes "All youth who were detained at Challenger
 27 Memorial Youth Center at any point between January 12, 2008 and November 8,
 28

1 2010.”

2 40. Class action status for this litigation is proper because:

3 (a) the class of students is so numerous that joinder of all members is
4 impractical in that Plaintiff maintains, upon information and belief, the class of
5 persons consists of hundreds if not thousands of youth;

6 (b) there are questions of law and fact common to the class and the
7 claims of Plaintiff are typical of the claims of the class in that Plaintiffs are and were
8 denied their fundamental right to education and educational equality, to minimally
9 adequate educational services, to educational instructional without due process of
10 law, and access to educational materials or services required by state statutes and the
11 claims are not subject to unique defenses;

12 (c) Plaintiffs will fairly and adequately protect the interests of the
13 class as there is no conflict between Plaintiffs and the other class members; and

14 (d) Plaintiffs can adequately represent the interests of the class
15 members and have retained counsel experienced in class action litigation.

16 41. Defendants have acted and/or refused to act on grounds generally
17 applicable to the class, thereby making appropriate final declaratory and injunctive
18 relief with respect to the class as a whole.

19 **FACTUAL ALLEGATIONS**

20 **The Challenger Memorial Youth Center**

21 42. Defendant Probation Department operates the Challenger Memorial
22 Youth Center in Lancaster, California. Challenger consists of six probation camps,
23 each of which houses approximately 110 youth, plus the SHU.

24 43. Under California law, county offices of education, in conjunction with
25 the county probation departments, are responsible for operating public schools for
26 youth detained at county probation camps.
27
28

1 44. Accordingly, LACOE operates, in conjunction with Defendant
2 Probation Department, a public school that provides educational services to the
3 youth held at Challenger: the Challenger Center School.
4

5 **Education Rights of Youth Detained at Challenger**

6 45. When states assume wardship of minors, they assume a special
7 relationship with the minors and owe the minors, as part of the minors' liberty
8 interest protected by the United States Constitution, minimally adequate care and
9 treatment, including a minimally adequate education, appropriate to the minors' age
10 and circumstances.

11 46. In this regard, California law provides that each county probation
12 department must administer juvenile facilities in such a way that they provide a "safe
13 and supportive home and family environment" for the youth placed under their
14 supervision. Cal. Welf. & Inst. Code § 880. Furthermore, probation camps are
15 required to provide "individualized guidance and treatment for juvenile offenders
16 which enables them to return to their families and communities as productive and
17 law abiding citizens." Cal. Welf. & Inst. Code § 886.5.

18 47. Educational services play a central role in the mission of California's
19 juvenile justice system, that of rehabilitation rather than punishment. To have any
20 chance of achieving that rehabilitative purpose, youth held in California juvenile
21 detention facilities must, at a minimum, be provided with minimally adequate
22 educational services suitable to their age and circumstances.

23 48. Additionally, the State Constitution grants every child a fundamental
24 right to an education and requires that all California children have "equal access to a
25 public education system that will teach them the skills they need to succeed as
26 productive members of modern society." *Hartzell v. Connell* 35 Cal. 3d 899, 906-09
27 (1984); *see also Serrano v. Priest* 5 Cal. 3d 584, 608 (1971) ("*Serrano I*") (same);
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1 *Piper v. Big Pine Sch. Dist.* 193 Cal. 664 (1924)(same); *O'Connell v. Superior Court*
2 141 Cal. App. 4th 1452, 1482 (2006)(same). The fundamental nature of the right to
3 education arises from "the distinctive and priceless function of education in our
4 society," *Serrano I*, 5 Cal. 3d at 608-09, and the California Supreme Court has
5 recognized that "education is the lifeline of both the individual and society," *id.*
6 Under the State Constitution, a student may not be provided with a program of
7 education that "falls fundamentally below prevailing statewide standards," *Butt*, 4
8 Cal. 4th at 685, 686-87, and any action that has a real and appreciable impact upon
9 such right is subject to strict scrutiny. *Serrano II*, 18 Cal. 3d at 761, 767-68.

10 49. California has set forth the content of the education guaranteed to each
11 child by its constitution in specific terms: rigorous content standards describe what
12 the State promises to teach and what students need to learn if they are to become
13 competent members of our society and employable in today's economy.

14 50. Although the State of California is ultimately responsible for ensuring
15 the system of common schools does not deny equal educational opportunity to
16 students in a particular school district, the California State Legislature has assigned
17 much of the governance of public schools to local educational agencies that operate
18 the schools. In its capacity as the educational agency that operates the Challenger
19 Center School, LACOE is a local educational agency.

20 51. LACOE, as a county office of education, is also statutorily responsible
21 for overseeing and monitoring schools throughout Los Angeles County and ensuring
22 that all schools in the county, including the Challenger Center School it operates,
23 meet statutory and constitutional minimums for the provision of education as well as
24 the responsibilities under IDEA to provide special education and transition services
25 to students with disabilities.

26 52. Defendants Robles, Elkins, and Ramos-Allen, as managing officers of
27 LACOE and the school at Challenger, are responsible for ensuring LACOE operates
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1 the Challenger Center School in a manner that fulfills its obligations under the
2 Federal Constitution, the State Constitution, and state statutes. Accordingly, they
3 must ensure students at Challenger Center School receive day-to-day instruction
4 sufficient to meet federal constitutional standards of a minimally adequate education;
5 ensure students at Challenger Center School are not unlawfully denied access to
6 educational instruction and services; and ensure Challenger Center School operates
7 consistently with state constitutional standards of providing each child with their
8 fundamental right to equal educational opportunity.

9
10 53. Defendant Probation Department, as the agency charged with the care
11 and custody of youth held at Challenger, is responsible for ensuring Plaintiffs and
12 students like them are not denied educational instruction and services to which they
13 are entitled. State law explicitly imposes obligations on Defendant Probation
14 Department to provide for the administration and operation of schools for youth
15 detained at Challenger.

16 54. Nonetheless, Defendants consistently fail to provide educational
17 services to youth held at Challenger that meet either the state or federal constitutional
18 requirements.

19 **Defendants' Policy and Practice of Denying Minimally Adequate Educational**
20 **Services to Detained Youth, Appropriate to their Age and Circumstances**

21 55. Defendants operate an educational system at Camp Challenger in Los
22 Angeles County that determines each youth's educational program based on what
23 service is available at any given time rather than what service the youth needs and is
24 entitled to in order to receive the education mandated by state and federal law.

25 56. For example, Defendants have failed to provide an appropriate
26 screening mechanism to determine a youth's reading level and reading deficits and
27 utilize research-based interventions to address those deficits, even though it is well
28 documented that detained youth are substantially more likely than the general

1 population to have learning disabilities and reading deficiencies. They also have
2 failed to provide any supplemental or remedial reading programs for the youth in
3 their custody who require such programs in order to access basic grade level
4 curriculum and content standards, and have refused to employ necessary staff, such
5 as reading specialists, to meet the education mandate for all students.

6 57. Defendants have further failed to establish a system to ensure that
7 students with disabilities are provided individualized special education and transition
8 services, even though it is well documented that detained youth are substantially
9 more likely than the general population to have learning disabilities and other
10 disabling conditions. They have refused to employ sufficient staff with experience
11 working with students with disabilities, such as teachers with special education
12 credentials and transition specialists, to meet the educational needs of such students.

13 58. Defendants have also awarded students diplomas, terminating the
14 provision of continuing education instruction, even when they have known that the
15 student cannot even read or write or is so severely behind in reading and writing that
16 could not possibly be in their interest to terminate educational instruction.

17 59. The State of California clearly recognizes the importance of ensuring
18 children are educated and taught to read, and thus requires reading to be taught early
19 in a child's education. California content standards state that by the second grade
20 students should be able to read aloud fluently, accurately, and with appropriate
21 intonation and expression.

22 60. The State's decision to mandate universal public education ensures that
23 every child will be able to read and write fluently and independently, skills that are
24 essential for self-sufficiency. When a child fails to master these skills, the negative
25 consequences for that child and for society are myriad and serious.

26 61. Literacy is the irreducible foundation for education. Students who
27 cannot read or write are unable to access the curriculum, which is often structured on
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1 the assumption that students can read materials and textbooks provided by the
2 classroom teachers and can complete written assignments and examinations to
3 demonstrate their mastery of the materials. For example, students at the high school
4 level are generally expected to acquire knowledge in most subjects by reading
5 textbooks and other materials independently. Students who cannot read or
6 comprehend what they are reading are obviously unable to do so. Simply put,
7 students who are not taught to read and write fluently and independently are not
8 provided a meaningful or even a minimally adequate education.

9 62. The problems caused by illiteracy are even greater for youths in the
10 juvenile justice system. Once involved with the juvenile justice system, minors with
11 unaddressed reading deficits are far more likely to recidivate than minors leaving the
12 system with adequate reading capabilities. Disturbingly, in Los Angeles, the typical
13 detained youth is 16 years old, yet is reading at only a 5th grade level.

14 63. Tragically for both their own lives and for society, students who do not
15 learn to read and write are more likely to commit crimes and be incarcerated as
16 adults. One study reported that 82 % of prison inmates are high school drop outs,
17 and a high percentage of these inmates were unable to read. *See Ernest Fleishman,*
18 *"Adolescent Literacy: A National Reading Crisis," Scholastic Professional Paper*
19 *(2004), available at*
20 [http://teacher.scholastic.com/products/READ180/overview/pdfs/Paper_LiteracyCrisi](http://teacher.scholastic.com/products/READ180/overview/pdfs/Paper_LiteracyCrisis.pdf)
21 [s.pdf.](http://teacher.scholastic.com/products/READ180/overview/pdfs/Paper_LiteracyCrisis.pdf)

22 64. Furthermore, one study of the relationship between literacy and juvenile
23 delinquency found that minors with reading deficits are disproportionately
24 represented in detention facilities. The study concluded that providing quality
25 educational services with a strong emphasis on literacy development was one
26 mechanism that would reduce crime and recidivism among minors. *See Project*
27 *READ, To Make a Difference, REDUCED RECIDIVISM AND INCREASED EMPLOYMENT*
28

1 OPPORTUNITY THROUGH RESEARCH-BASED READING INSTRUCTION 27 (M.S. Brunner,
2 ed., 1993).

3 65. Despite the central importance of literacy to a child's education and to
4 rehabilitative programs for delinquent youth, and despite the disproportionate
5 number of youth held in detention whose reading and writing abilities are below
6 grade level, Defendants have refused to employ a protocol that screens youth for
7 their reading ability using a research-based method that provides sufficient
8 information about the student's reading level and the reason for any deficits from
9 which to formulate an effective reading intervention strategy, or, if such information
10 is available, to use this information to formulate an effective reading intervention
11 strategy.

12 66. In addition, LACOE Defendants have refused to provide the educational
13 services necessary to overcome literacy and reading deficits. Until recently, they
14 employed no reading specialists and did not provide evidence-based reading
15 programs to the youth who required them. Even now, LACOE Defendants employ
16 only a single reading specialist, despite the overwhelming evidence that numerous
17 students in the Challenger Center School require access to evidence-based reading
18 programs to address their serious reading deficits.

19 67. Defendants also routinely award credits to students who cannot read or
20 write, even when Defendants are aware of students' illiteracy. Defendants also
21 routinely award credits to student who are so severely behind in reading and writing,
22 that they cannot meet the most basic state standards or complete grade level
23 curriculum. This practice is one means utilized by Defendants to attempt to conceal
24 the constitutional deficiencies inherent in their denial of the fundamental right to
25 education under the State Constitution and the right to a minimally adequate
26 education under the United States Constitution.

27 68. There is no excuse for these deprivations of fundamental education
28

1 rights. Nearly all students can learn to read with adequate intervention. Specifically,
2 education research has demonstrated the effectiveness of structured, systematic,
3 direct and explicit teaching of the English language reading code to older students
4 who are substantially behind grade level in their reading ability. For example,
5 programs that teach the reading code to students struggling with literacy through
6 direct instruction in a structured, sequential and cumulative manner, using
7 multisensory techniques, are recognized for their consistent effectiveness in
8 remediating older students with reading delays.

9
10 69. Although students often are enrolled at LACOE schools for short
11 periods of time and spend, on average, six months in the LACOE schools at the
12 probation camps, research shows that older students can make substantial gains in
13 literacy within such a timeframe if provided appropriate evidence-based reading
14 remediation programs.

15 70. Accordingly, Defendants could and should have established a protocol
16 that screens students for severe deficits in literacy and provides those in need of
17 reading remediation access to an effective and appropriate reading intervention
18 program based on the results of the screening assessment. Defendants were aware of
19 the high rates of reading delays among the population served at the Challenger
20 Center School and that certain programs could be implemented that would help those
21 students overcome their problems, but they elected not to do so.

22 71. The consequences of Defendants' wholesale failure to address the
23 severe literacy deficiencies of students at Challenger are apparent: During the
24 academic years ending in 2006, 2007 and 2008, no more than 5% of students in
25 grades 9 through 11 at LACOE's schools performed at Proficient or Advanced on the
26 language arts portion of the California Standards Test. Thus, fewer than one out of
27 twenty students attending LACOE schools at probation camps and juvenile halls
28 demonstrate competence with the grade-level language arts content standards

1 established by the state. Defendants are well aware of these facts.

2 72. Youth at Challenger are also routinely denied access to textbooks to use
3 and to study with in violation of the "Williams Act" and the state constitution, even
4 though such textbooks are available in sufficient numbers to be provided to students
5 for use at school and in their dorms.

6 73. Furthermore, youth are routinely denied access to state-mandated
7 physical education classes and recreation. In this regard, in spring of 2009, the
8 Probation Commission found that no Physical Education classes were being
9 provided to any youth at Camp Onizuka, one of the Challenger Camps, due to the
10 failure of LACOE and Probation to resolve a dispute amongst themselves.

11 74. Finally, youth at Challenger generally receive subpar educational
12 instruction or little to no instruction at all. Teachers do not show up for entire days
13 of instruction, fail to ensure that there are substitutes to cover absences, take lengthy
14 and unapproved lunches or arrive late leaving their classes uncovered and their
15 students with nowhere to go, ignore assignments turned in by students and refuse to
16 grade them, staple the state's educational standards to the wall and fail to teach them,
17 screen inappropriate and non-educational movies instead of teaching the state's
18 mandated educational curriculum, and otherwise fail to provide education instruction
19 that could provide even a faint promise of what the federal and state constitutions
20 and state education code require for these youth.

21
22 **Defendants' Policy and Practice of Arbitrarily Depriving Youth of Educational**
23 **Services Without Providing an Explanation for the Removal or an Opportunity**
24 **to Challenge the Exclusion**

25 75. Defendants have maintained a policy and practice of arbitrarily
26 depriving detained children access to educational services for alleged disciplinary
27 violations or for no apparent reason at all, with neither accountability nor oversight.
28

1 These deprivations occur without following minimal federal and state procedural
2 protections that are clearly spelled out in court decisions, statutes and regulations and
3 are designed to protect student's liberty interests and prevent the improper denial of
4 educational instruction.

5 76. Defendants routinely exclude juveniles from educational instruction as
6 punishment, with no opportunity to challenge these exclusions. Many of these
7 exclusions are entirely arbitrary.

8 77. In some instances, Defendants have denied educational instruction to
9 students for requesting additional help in schoolwork.

10 78. In other instances, they have placed juveniles in solitary confinement
11 for months on end, without providing them the minimum hours of educational
12 instruction required by state law and while denying them access to state mandated
13 physical education and recreation.

14 79. Entire classes of students have been removed from educational
15 instruction due solely to an individual teacher's decision, without justification, to not
16 teach that day or to punish the behavior of one student, with little accountability or
17 oversight of the teachers for their illegal conduct. On some school days, entire
18 classes of students have been forced to stand outside in the rain in the winter or in the
19 100-plus degree heat during the summer as punishment, all the while being denied
20 any and all educational services.

21 80. On still other occasions, Defendants have removed children from state-
22 mandated education instruction to perform menial tasks like sweeping and mopping
23 floors, painting dorms, mowing lawns, and weeding.

24 81. Still other students have been removed for arriving to class late, a
25 circumstance that is most often not in their control while they are detained, or
26 because they failed to properly greet the teacher.

27 82. Although evidence-based methods for implementing class and school-
28

1 wide positive behavior supports that consistently reduce instructional exclusions by
2 as much as 60 percent are available and known to the Defendants, they neither
3 implemented such supports nor any type of reasonably adequate or minimally
4 sufficient program to improve or correct the student's behavior.

5 83. Students at the Challenger Center School are also being excluded from
6 educational instruction in excess of the maximum number of days allowable per year
7 by state law for legally valid suspensions, without receiving statutory or procedural
8 protections, and in violation of the state mandate to use exclusions as a last resort
9 and only after other means of remediation have failed.

10 84. Thus, Defendants arbitrarily deny students access to educational
11 instruction and services and fail to provide notice of the reason for the exclusion or
12 an opportunity to challenge the basis for the exclusion from class. They maintain a
13 pattern and practice of illegally excluding students from educational instruction for
14 disciplinary violations, for no apparent reason, or because they lack space in the
15 appropriate classroom.

16 85. This pattern and practice has been going on for some time and has been
17 repeatedly documented in publicly available reports. For example, in June 2009, a
18 County of Los Angeles Probation Commission inspection team documented
19 numerous instances in which students at Challenger Center School were removed
20 from class and denied education instruction and documented that the youth were
21 deprived of education services without being afforded an opportunity to challenge
22 the deprivation. The inspection team observed that 14 youths were denied access to
23 class because there were not enough teachers and noted that large numbers of
24 students were removed from class, often within the first five minutes, and returned to
25 their living areas without LACOE personnel attempting to resolve the issue that
26 caused the removal. The inspection team also noted that LACOE staff often
27 removed students from the classroom without completing referral paperwork stating
28

1 the reasons for the removal.

2 86. Another report prepared by the Learning Rights Law Center in 2007
3 documented similar violations. This report found that the minimum school day
4 required by law is not being provided at all school sites at Probation camps and
5 juvenile halls, that students are often removed from the classroom without a properly
6 completed referral explaining the reasons for the removal, and that mandatory
7 conferences to address the reason for the removal were not held.

8 87. The Learning Rights Law Center report also noted that removals from
9 class are not closely documented. Accordingly, LACOE staff failed to deduct the
10 time students miss as a result of referrals from the Average Daily Attendance
11 reported to the state, which is the basis for the amount of state funding LACOE
12 receives. This means that the LACOE juvenile court schools received funding from
13 the State based the purported attendance of students who had, in fact, been removed
14 from the class for disciplinary or other reasons.

15 88. A November 2009 report by the California Corrections Standards
16 Authority found Defendant Probation out of compliance with state standards because
17 youths held in the SHU at Challenger were denied access to school. The report
18 noted that youths in the SHU who were not in school either did not receive
19 schoolwork or received work that the teacher threw under the doors to their cells.

20 89. Students in the SHU who are allowed to attend class and meet with a
21 teacher are deprived of a full school day. Some students in the SHU receive only
22 one-and-a-half to two hours of instruction each school day. Thus, students assigned
23 to the SHU, whether for disciplinary reasons or because of special treatment needs,
24 are being unlawfully denied educational services, the opportunity to learn grade-level
25 content, and the ability to earn credit hours that will allow them to advance in school
26 and graduate.

27 90. In May of 2009, the Youth Law Center notified Defendant Robles and
28

1 Robert Taylor, the Chief Probation Officer who is responsible for the management of
2 Defendant Los Angeles County Probation Department, of these educational
3 deficiencies in a letter discussing the aforementioned violations of the youth's basic
4 educational rights and requested an immediate remedy. Nevertheless, and in spite of
5 more than two years of reports detailing the extensive and egregious education
6 failures at Camp Challenger, Defendants have failed to remedy the deficiencies.

7 **Other Conditions that Impede Effective Delivery of Minimally Adequate**
8 **Educational Services**

9 91. Even outside the regular school day, youth at Challenger are subjected
10 to conditions and conduct by Defendants' employees that undermine the delivery of
11 educational services.

12 92. As punishment for perceived misconduct, Probation staff frequently
13 denies students food during meals or knocks the trays containing the food on the
14 floor so that the youths cannot eat.

15 93. Some youths who are confined to the SHU are not allowed to set foot
16 outside and are confined to their cell for more than 20 hours each day. This isolation
17 and sensory deprivation can lead to depression and apathy and exacerbate existing
18 emotional and mental health problems.

19 94. Additionally, as reflected in the November 2009 Corrections Standards
20 Authority report, probation staff withholds U.S. mail from the students, resulting, at
21 times, in a delay of one month or more between when it arrives at Challenger and
22 when it is delivered to youths.

23 95. Probation's conduct affects the youths' ability to attain educational
24 benefit on the days when they are provided access to meaningful instruction. When
25 students have been subjected to this kind of treatment outside the classroom, the
26 students often come to school with a bad attitude, and it permeates throughout the
27 classroom. Additionally, when students attend class hungry because they were
28

1 denied food at breakfast or lunch, they are not able to focus on the lesson.
2

3 **Class Representative Casey A.**

4 96. Casey was detained at various probation camps at the Challenger
5 Memorial Youth Center in Lancaster for all but 13 months during the time period
6 between October 2005 and September 2009.

7 97. Casey attended schools run by LACOE while at Challenger. Because
8 he was detained, he had no choice but to attend these schools.

9 98. Casey was found eligible for special education with a specific learning
10 disability in first grade and remained eligible for special education throughout his
11 primary and secondary schooling. When Casey entered Challenger in October 2005,
12 his then current individualized education program ("IEP") from Los Angeles Unified
13 School District provided for placement in a non-public school. Upon his enrollment
14 at the Challenger School, however, LACOE placed Casey in a general education
15 class in spite of his IEP.

16 99. After approximately two months, LACOE finally placed Casey in a
17 special day class, but did not provide special education; instead non-credentialed
18 para-educators did his work for him.

19 100. LACOE similarly failed to provide appropriate special education during
20 Casey's subsequent detainments at Challenger and never provided him a transition
21 plan or transitional services even though he was entitled to such a plan and services.

22 101. By December 2005 at the latest, LACOE staff knew that Casey was not
23 able to read or write.

24 102. Because Casey could not read, a "para-educator" – a person not certified
25 as a teacher – read materials aloud to Casey in the classroom. If an assignment
26 required Casey to answer questions, the para-educator read the materials to Casey,
27 then read the questions to him and wrote down his oral answers. At times, the para-
28

1 educator provided Casey the correct answer and simply required that Casey repeat
2 the correct answer aloud.

3 103. On March 31, 2009, a LACOE employee wrote, "Casey has
4 demonstrated interest in Reading, but is unable to read on his own," and, "Casey has
5 demonstrated interest in writing, but is unable to write on his own. Casey needs to
6 verbally tell someone what he's thinking and they write it down for him." Even at
7 this point, over three years since Defendants first discovered or should have
8 discovered that Casey was illiterate, Defendants did not offer Casey appropriate
9 remedial reading services. Instead, the para-educator simply continued to read to
10 Casey and write down the answers that Casey spoke aloud.

11 104. Thus, rather than teach Casey how to read, Defendants allowed him to
12 languish, leaving him farther and farther behind each year. Instead of providing
13 Casey with the minimally adequate services necessary to remedy his illiteracy,
14 LACOE masked Casey's problems.

15 105. Casey was discharged from LACOE schools in September 2009.
16 Although Defendants were aware of Casey's continued illiteracy, upon his discharge
17 Defendants did not provide Casey the basic, functional transition services necessary
18 for Casey to obtain appropriate reading remediation assistance upon his release.

19 106. Despite knowledge of Casey's illiteracy, after his discharge from the
20 Challenger, LACOE notified Casey by mail that he had attained sufficient credits to
21 graduate high school and would be awarded a diploma at a ceremony in December of
22 2009.

23 107. Casey received at least 64 documented disciplinary referrals during his
24 time at Challenger Center School, and many of these referrals resulted in his
25 exclusion from school for all or the remainder of the school day. Casey was not
26 provided notice of the reasons for removal, an explanation of the evidence
27 supporting the removal or an opportunity to present his side of the story. His parent
28

1 was never informed of the removals. During those 64 days, Casey received no
2 educational benefit and was completely denied his fundamental right to education.

3 108. In any event, the number of days that Casey was out of class exceeds
4 the yearly cap placed on school districts for suspension from classroom instruction.
5 This cap is designed to stop school districts from failing to educate students like
6 Casey who need more classroom instruction not less.

7 109. Casey was assigned to the "work crew" during school days during his
8 third term at Challenger in lieu of instruction time. Probation staff removed him
9 from class to work on landscaping tasks around the Camp grounds, including cutting
10 the grass, for approximately half of the school day. These assignments were in clear
11 violation of the law. In light of his documented and acknowledged inability to read
12 or write, he needed additional educational services and intensive reading intervention
13 assistance, not less time in the classroom, so the decision to limit his instructional
14 time was unconscionable.

15 110. As a result of Defendants' acts and omissions, Casey remains
16 functionally illiterate and unable to read or write, even though he is intellectually
17 capable of learning to do so.

18 111. Casey desperately wants to learn to read and write. He recognizes that
19 his illiteracy will make it difficult for him to apply for a job, to execute a basic
20 contract to rent an apartment or obtain utilities in his residence, to vote in an election,
21 or to complete an application for a marriage application.

22 112. Given the availability of reading remediation programs that would help
23 illiterate students and other students with severe reading deficits learn to read and the
24 critical importance of literacy to a youth's education, rehabilitation and ability to be
25 self-sufficient in contemporary society, Defendants' failure to provide appropriate
26 services to ensure that students at Challenger Center School are literate shocks the
27 conscience.
28

Class Representative Carl C.

113. Carl was found eligible for special education in third grade with an “other health impairment,” due to auditory and visual processing disorders and visual-motor integration deficits, and remained eligible for special education throughout his primary and secondary schooling. When Carl entered Challenger in October 2007, his then current individualized education program (“IEP”) from Los Angeles Unified School District provided for placement in a non-public school.

114. For approximately two months after Carl entered Challenger, he was placed in a classroom where he did not understand the assignments, and he repeatedly asked for additional help so he could succeed in the classroom. For example, he repeatedly told his teacher that was having trouble comprehending the reading passages contained on the worksheets she passed out to the class. Instead of receiving the assistance he requested, Carl was suspended from school for having the audacity to ask for more help.

115. LACOE never provided Carl a transition plan or transitional services even though he was entitled to such a plan and services.

116. When school administrators finally acknowledged his requests for additional assistance and concluded he would be better served in a different classroom, he was told that he would have to be on a “wait list” because there was not sufficient space in that classroom. Thus, the determination about what services he would receive was guided by what LACOE was willing to provide at the time, without regard to Carl’s individual needs.

117. Throughout his time at Challenger, Carl has been disciplined by Probation staff for conduct outside the classroom in such a way that he is denied access to education. On at least eight occasions shortly after his arrival at Challenger, Carl was sent by Probation staff to “the box,” which is disciplinary segregation in the SHU. Although he was supposed to be in class on those days, he was not provided

1 any educational instruction when he was in the box. As recently as this month, Carl
2 was sent to the SHU for a half day and denied educational services during his
3 confinement there, even though he was supposed to be in his class.

4 118. When Carl is sent to the box instead of attending class, he is suspended
5 from school without being given notice of the reasons for the disciplinary removal
6 from school, an explanation of the evidence to justify the suspension or an
7 opportunity to present his side of the story and explain why he should be able to
8 return to class or receive educational services.

9 119. As a result of his repeated exclusion from the classroom without access
10 to a fundamentally fair procedure to determine the propriety of the disciplinary
11 removals, Carl missed out on credits he must complete to graduate from high school,
12 as well as any educational benefit on those days.

13 120. Additionally, Carl is not provided access to text books in his classes at
14 Challenger. Instead, he is provided only with photocopies of a short section of a
15 textbook. This policy and practice precludes him from referring to earlier lessons or
16 other information that is included in the textbook but not in the photocopied section
17 provided to him that day. He is therefore unable to refer back to foundational
18 concepts and lessons that would be helpful to understanding the materials being
19 covered that day in class.

20 121. Moreover, Carl has never been assigned homework and is not provided
21 access to textbooks or other academic materials in the dorm. He is unable to study
22 on his own and does not have an opportunity to review and master the concepts
23 presented in class.

24 122. Furthermore, Carl was tested at an approximately 2nd grade reading
25 level and yet is not being provided with instruction and services appropriate to meet
26 his needs.

Class Representative Miguel B.

123. Miguel arrived at Challenger in July 2009. On November 1, 2009, he was removed from the general population and placed in the SHU for disciplinary reasons.

124. While he was housed in the SHU, his cell contained only a small cot. There were no windows except for a hand-sized opening covered with opaque plastic.

125. On some days during his confinement in the SHU, Miguel received no educational instruction at all.

126. On other days, approximately once or twice a week, the teacher shoved photocopies of school materials under his cell door. On the days that materials were shoved into his cell, he did not meet with a teacher, interact with other students, or have an opportunity to ask questions if he did not understand the materials. The teacher did not ever return to retrieve the worksheets. He was not provided access to a text book when he was required to complete assignments in his cell.

127. On days when he received educational services from a teacher, the length of instruction varied, but was never greater than two and a half hours. On some days, he was brought out to the day room in the SHU to meet with the teacher for only 15 minutes. On other days, he was brought out to the day room from approximately 9 a.m. until 10:30 a.m. and then again from 2 p.m. until 2:30 p.m. for school, which amounted to only two hours of school a day. On a few days, he met with the teacher for one session that lasted two and a half hours.

128. While he was in the SHU, Miguel never received tests or quizzes in his classes. He would turn in completed worksheets to the teacher on days when he met with her in the day room, but he never received any of those assignments back with grades or comments. As far as he knows, the teacher never looked at those completed assignments.

129. Miguel was required to eat all his meals in his room. He was taken to

1 the showers at around 4 p.m. each day, and, on some days, he was allowed to watch
2 television in the dayroom for an hour or two after he finished eating dinner in his cell.
3 He was not given an opportunity for recreation or physical exercise, although he did
4 pushups and crunches and paced back in forth in his cell to pass the time. At all
5 other times, he was locked in his cell. Thus, Miguel was forced to spend, at a
6 minimum, 18 to 20 hours each day in his tiny cell.

7 130. From December 23 until January 4, Miguel did not receive any
8 educational services because of winter break. The only times he was let out of his
9 cell during this time was to use the bathroom, for his daily shower, and for one or
10 two hours in the evening on some days to watch television in the day room.

11 131. Miguel was denied state-mandated education services, either through
12 the complete denial of education programming on some days or through a truncated,
13 school day on others, without ever having been afforded an explanation for the
14 deprivation or an opportunity to respond to the allegations against him. Moreover,
15 he was deprived of educational services as punishment for conduct that occurred
16 outside of school and solely by virtue of his disciplinary placement in the SHU by
17 Probation staff.

18 132. The only time Miguel was allowed outdoors during the more than two
19 months he was held in the SHU was one occasion when his school counselor
20 demanded that he be allowed to meet with her in her office. Over the supervising
21 probation officer's objection, she escorted Miguel outside to walk to her office and
22 back to the SHU at the end of the counseling session. It had been so long since
23 Miguel had been allowed outside that, when he first stepped into the sunlight beyond
24 the SHU's outside door, he stood dazed, surveying the courtyard and lawn.

25 133. Even before his placement in the SHU, Miguel was denied educational
26 services arbitrarily and was not provided an opportunity to challenge the basis for his
27 removal from class.
28

1 134. On two or three occasions he was kicked out of class for allegedly
2 disrupting class. He was returned to the dormitory and not allowed to return to class
3 that day. He never met with school administrators to discuss the reason for his
4 suspension. Moreover, his mother was never contacted or otherwise notified of the
5 suspension.

6 135. On at least three other occasions, Miguel was suspended from class
7 because he needed to use the restroom. His teacher refused to allow students to use
8 the restroom unless they had earned sufficient "points." On these occasions, Miguel
9 did not have points, so when he asked to use the restroom, his teacher refused. When
10 Miguel reiterated that he needed to use the restroom, the teacher told him that if he
11 left the class, he would be considered AWOL and not allowed to return to class.
12 Rather than urinating on himself, Miguel left class to use the bathroom, was returned
13 to his dorm, and was not allowed to return to class that day. He never met with
14 school administrators to discuss the reason for his suspension. Moreover, his mother
15 was never contacted or otherwise notified of the suspension.

16 136. Finally, on at least two occasions, Miguel witnessed an entire class of
17 students who were returned to the dormitory at the beginning of the school day
18 because the teacher did not let the students into class.

19 137. Though Miguel had been eligible for special education since the third
20 grade and remained eligible throughout his detention at Challenger, he was *never*
21 provided special education or transition services during his detention.
22

23 **Defendants' Systemic Failure to Provide Adequate Educational Services**

24 138. Defendants Robles, Elkins, and Ramos-Allen are the LACOE officials
25 charged with providing educational services to youth like Plaintiffs who are detained
26 at Challenger. Plaintiffs, like other students detained at Challenger, had no choice
27 but to accept the services Defendants provide while they are detained.
28

1 139. Defendants have engaged in a pattern and practice of violating students'
2 basic and fundamental rights to receive appropriate educational services.

3 140. These failures have been documented in written reports by the County
4 of Los Angeles Probation Commission, the California Corrections Standards
5 Authority, and the Learning Rights Law Center, among others. These reports are
6 publicly available and are known to Defendants. For example, Defendant Elkins was
7 present at a meeting where the County of Los Angeles Probation Commission
8 presented an inspection report documenting the inadequate educational services and
9 illegal exclusion of students from classes at Challenger Center School.

10 141. Upon information and belief, Defendant Robles was also provided
11 copies of all of the aforementioned reports, as well as the May, 2009 letter from
12 Youth Law Center which refers to and cites from the Probation Commission report
13 detailing a number of these allegations regarding the denial of the most basic
14 educational opportunity.

15 142. Defendants have also been informed about specific instances of the
16 deprivations outlined in the foregoing paragraphs through internal written and oral
17 communication from employees at Challenger who have become concerned with the
18 state of affairs at Challenger.

19 143. Given their knowledge of the repeated public reports documenting the
20 woefully deficient educational programs and illegal deprivations of educational
21 services, Defendants were personally aware of the violations and have failed to act to
22 prevent them.

23 144. The violations outlined above are ongoing and will continue unless this
24 Court grants the relief Plaintiffs seek in this Complaint.

25
26 **CAUSES OF ACTION**

27 **First Cause of Action—Violation of 42 U.S.C. Section 1983**

1 **(Based on Violation of the Due Process Clause of the Fourteenth Amendment to**
2 **the United States Constitution)**

3 145. Plaintiffs incorporate by reference the foregoing paragraphs of this
4 Complaint as though fully set forth herein.

5 146. Defendants, who are charged with providing educational services to
6 juveniles who are detained at the Challenger Memorial Youth Center, have denied
7 and continue to deny Plaintiffs and others similarly situated a minimally adequate
8 education appropriate to their circumstances and needs, in violation of their
9 substantive due process rights protected by the Fourteenth Amendment to the United
10 States Constitution.

11 147. Defendants were acting under color of state law, thereby violating
12 section 1983.

13
14 **Second Cause of Action—Violation of 42 U.S.C. Section 1983**
15 **(Based on Violation of the Equal Protection Clause of the Fourteenth**
16 **Amendment to the United States Constitution)**

17 148. Plaintiffs incorporate by reference the foregoing paragraphs of this
18 Complaint as though fully set forth herein.

19 149. Defendants, who are charged with providing educational services to
20 juveniles while they are detained at the Challenger Memorial Youth Center, have
21 denied and continue to deny Plaintiffs and others similarly situated a minimally
22 adequate education, as compared to other students in Los Angeles County receiving
23 an education in schools overseen, monitored, and superintended by LACOE, in
24 violation of their right to equal protection of the law protected by the Fourteenth
25 Amendment to the United States Constitution.

26 150. Defendants were acting under color of state law, thereby violating
27 section 1983.

1 **Third Cause of Action---Violation of 42 U.S.C. Section 1983**
2 **(Based on Violation of the Due Process Clause of the**
3 **Fourteenth Amendment to the United States Constitution)**

4 151. Plaintiffs incorporate by reference the foregoing paragraphs of this
5 Complaint as though fully set forth herein.

6 152. Defendants, who are charged with providing educational services to
7 juveniles while they are detained at the Challenger Memorial Youth Center,
8 excluded Plaintiffs from educational programming without providing notice, an
9 explanation of the reason for the exclusion, and an opportunity to dispute the
10 legitimacy of the exclusion, and continue to exclude Plaintiff Carl C. and others
11 similarly situated from educational programming without providing notice, an
12 explanation of the reason for the exclusion, and an opportunity to dispute the
13 legitimacy of the exclusion, in violation of Plaintiffs' substantive and procedural due
14 process rights protected by the Fourteenth Amendment to the United States
15 Constitution.

16 153. Defendants were acting under color of state law, thereby violating
17 section 1983.

18
19 **Fourth Cause of Action--- Violation of 20 U.S.C. Sections 1400 *et seq.***

20 154. Plaintiffs incorporate by reference the foregoing paragraphs of this
21 Complaint as though fully set forth herein.

22 155. Defendants, who are charged with providing special education and
23 transition services, as those terms are defined in 20 U.S.C. Sections 1401(29) and
24 1401(34) respectively, to juveniles while they are detained at the Challenger
25 Memorial Youth Center, have failed to provide those juveniles with a free
26 appropriate public education by denying them special education and transition
27 services even though they were entitled to such services under IDEA.
28

1 Complaint as though fully set forth herein.

2 161. Defendants, who are charged with providing educational services to
3 juveniles while they are detained at the Challenger Memorial Youth Center, have
4 violated and continue to violate Plaintiffs' right and the rights of others similarly
5 situated to receive equal protection of the laws, pursuant to article I, section 7(a) and
6 article IV, section 16(a) of the California Constitution, by failing to provide them
7 with basic educational opportunities equal to those that other children in Los Angeles
8 County receive.

9 **Seventh Cause of Action---Violation of Article I, Section 7(b) of the**
10 **California Constitution**

11 162. Plaintiffs incorporate by reference the foregoing paragraphs of this
12 Complaint as though fully set forth herein.

13 163. The State of California has established content standards and other
14 commitments of care and services to Kindergarten through Grade 12 students,
15 defining the education to which students are entitled. These commitments are among
16 the privileges and immunities that may not be granted to some citizens or classes of
17 citizens but not provided on the same terms to all citizens.

18 164. The ability to read and write independently and fluently, without
19 assistance, is specifically included among the content standards for language arts,
20 and many, if not most, students in public high schools have attained that standard.

21 165. The right to attend classes for statutory minimum number of days and
22 hours per day is a right that all students in public schools enjoy.

23 166. Moreover, the right to be taught by a competent teacher who complies
24 with the most basic professional standards is a right that most students in public
25 schools enjoy.

26 167. Similarly, the right to receive state approved textbooks and materials for
27 use at school and after-school is statutorily mandated for all students.
28

1 168. In addition, the right to receive physical education and recreation in
2 keeping with the state's minimum standards for such instruction is also a right
3 enjoyed by most, if not all, public school students.

4 169. Defendants, who are charged with providing educational services to
5 Plaintiffs while they were detained at the Challenger Memorial Youth Center, have
6 violated and continue to violate their rights and the rights of those similarly situated
7 to receive privileges and immunities on the same terms as all other citizens by failing
8 to ensure that the rights enumerated above were provided to Plaintiffs and others
9 similarly situated.

10 **Eighth Cause of Action---Violation of**
11 **Various California Education Code Provisions**

12 170. Plaintiffs incorporate by reference the foregoing paragraphs of this
13 Complaint as though fully set forth herein.

14 171. Defendants, who were charged with providing educational services to
15 Plaintiffs at the Challenger Memorial Youth Center, allowed and continue to allow
16 Plaintiffs and others similarly situated to be suspended from school by teachers and
17 administrators for reasons not permitted under the education code and without being
18 allowed to have an informal conference with the school principal to allow Plaintiffs
19 to present reasons why they should not be suspended or the provision of written
20 notice to their parents, in violation of Cal. Educ. Code §§ 48910, 48911, and 48900,
21 *et seq.*

22 172. Defendants, who were charged with providing educational services to
23 Plaintiffs at the Challenger Memorial Youth Center, have and continue to suspend
24 students from school in excess of 30 percent of the schools student's enrollment and
25 have not implemented alternatives to suspension or considered other non-
26 exclusionary methods of improving social skills and behavior, in violation of Cal.
27 Educ. Code § 48911.2.
28

1 173. Defendants, who were charged with providing educational services to
2 Plaintiffs at the Challenger Memorial Youth Center, have and continue to suspend
3 Plaintiffs and others similarly situated in excess of five consecutive schooldays, in
4 violation of Cal. Educ. Code § 48900.5.

5 174. Defendants, who were charged with providing educational services to
6 Plaintiffs at the Challenger Memorial Youth Center, allowed and continue to allow
7 Plaintiffs and others similarly situated to be suspended from school for more than 20
8 schooldays within a school year, in violation of Cal. Educ. Code § 48903.

9 175. The State of California has set forth 240 minutes as the minimum
10 schoolday for juvenile court schools, including the school at Challenger. Cal. Educ.
11 Code § 48645.3. Defendants, who were charged with providing educational services
12 to Plaintiffs at the Challenger Memorial Youth Center, failed to provide and continue
13 to fail to provide Plaintiffs and others similarly situated with even the minimum
14 schoolday.

15 176. Defendants, who were charged with providing educational services to
16 Plaintiffs at the Challenger Memorial Youth Center, failed to provide and continue to
17 fail to provide Plaintiffs and others similarly situated with a physical education
18 course of study that satisfies the California Education Code, which requires that
19 schools provide students with “the courses of physical education for a total period of
20 not less than 400 minutes each 10 schooldays” and that such courses have “emphasis
21 given to physical activities.” Cal. Educ. Code §§ 51220(d) and 51222.

22 177. Defendants, who were charged with providing educational services to
23 Plaintiffs at Challenger Memorial Youth Center, failed to provide and continue to
24 fail to provide Plaintiffs and others similarly situated with state approved textbooks
25 and instructional materials so that each student has a textbook or instructional
26 materials, or both, to use in class and to take home, in violation of Cal. Educ. Code §
27 35186(f)(1).
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REQUEST FOR RELIEF

Plaintiff requests relief as follows:

A. An injunction directing Defendants, their officers, agents, and employees to fulfill their constitutional obligations by, among other things, screening and assessing for reading and writing disorders and providing intensive reading and writing remediation services in the form of ongoing and/or compensatory services suited to the individual needs of current, former and future students at Challenger Center School who were and are unable to read, comprehend, and write independently and fluently when they enrolled at Challenger Center School, and therefore were and are unable to access grade-level materials and content on their own and meet grade level standards.

B. An injunction forbidding Defendants, their officers, agents, and employees from excluding students from the classroom for non-statutorily defined and impermissible or arbitrary reasons and without providing notice and an opportunity to be heard to challenge the basis for removal or to receive state statutory protections related to removals, and directing Defendants, their officers, agents, and employees to fulfill their constitutional and statutory obligations by providing educational services covering the academic content that illegally suspended students missed.

C. An injunction forbidding Defendants, their officers, agents, and employees from denying Plaintiffs and others similarly situated from receiving the protections, privileges and immunities on the same terms as all other citizens by failing to ensure that the right to, among other things, read and write independently and fluently, without assistance, to attend classes for statutorily minimum numbers for days and hours per day, to be taught by a competent teacher who complies with the most basic professional standards, and to receive physical education and

1 recreation in keeping with the state's minimum standards are provided. An
 2 injunction forbidding Defendants, their officers, agents, and employees from
 3 depriving students of even the statutorily defined mandatory minimum number of
 4 education instructional minutes, physical education, textbooks and instructional
 5 materials, and directing Defendants, their officers, agents, and employees to fulfill
 6 their constitutional obligations by providing educational services covering the
 7 academic content that the students who were deprived of such educational instruction
 8 missed.

9 D. A declaration that Defendants' actions violate Plaintiffs' rights to
 10 substantive due process under the Constitution of the United States;

11 E. A declaration that Defendants' actions violate Plaintiffs' rights to
 12 procedural due process under the Constitution of the United States;

13 F. A declaration that Defendants' actions violate Plaintiffs' rights to equal
 14 protection under the Constitution of the United States;

15 G. A declaration that Defendants' actions violate eligible Plaintiffs' rights
 16 under IDEA;

17 H. A declaration that Defendants' actions violate Plaintiffs' rights under
 18 Article IX, Sections 1 and 5 of the California Constitution;

19 I. A declaration that Defendants' actions violate Plaintiffs' rights under
 20 the Equal Protection Clauses of the California Constitution, Article I, Section 7(a) &
 21 Article IV, Section 16(a);

22 J. A declaration that Defendants' actions violate Plaintiffs' rights under
 23 Article I, Section 7(b) of the California Constitution;

24 K. A declaration that Defendants' actions violate Plaintiffs' rights under
 25 the various California education code provisions listed above;

26 L. Compensatory educational services for Plaintiffs;

27 M. Compensatory transition services for Plaintiffs;

1 N. Monetary damages for class representative Miguel B.;

2 O. Costs of suit pursuant to 28 U.S.C. § 1920 and 42 U.S.C. § 1988;

3 P. Attorneys' fees pursuant to 42 U.S.C. § 1988 and Cal. Code Civ. Proc.
4 §1021.5 and any other appropriate statutory basis; and

5 Q. Such other relief as this Court deems just and proper.

6 Respectfully Submitted,

ACLU Foundation of Southern California

7
8 Dated: February 10, 2011

By: Mark Rosenbaum per SP
Mark D. Rosenbaum
Public Counsel

9
10
11 Dated: February 10, 2011

By: Laura Faer per SP
Laura Faer
Disability Rights Legal Center

12
13 Dated: February 10, 2011

By: SPK
Shawna L. Parks
Attorneys for Plaintiffs

PROOF OF SERVICE

Casey A. v. LA County of Education and LA County Probation Department
CASE NO.: CV 10-00192 GHK (FMOx)

I certify that I am authorized to serve documents in this action, as I am over the age of 18 and not a party to the action. I am employed at the Disability Rights Legal Center, in the office of a member of the Bar of this Court at whose direction service was made. My business address is 919 Albany Street, Los Angeles, California 90015. On February 10, 2011, I served the following document(s):

FIRST AMENDED COMPLAINT

X BY ELECTRONIC MAIL: I caused such document to be served via electronic mail (e-mail) on the parties in this action by transmitting a true copy to the e-mail addresses listed for each party.

X OVERNIGHT MAIL: I placed a true copy of the foregoing document(s) in a sealed envelope addressed to each interested party as set forth above. I placed each such envelope for collection and mailing at a Federal Express Location, Los Angeles, California. I am readily familiar with Federal Express's practice for collection and processing of correspondence for mailing and delivering. Under that practice, the correspondence would be picked up by Federal Express on that same day in the ordinary course of business.

True copies were transmitted via electronic mail and overnight mail to and served upon:

Attorneys for Defendant Los Angeles County Probation Department
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Office of County Counsel
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Los Angeles, CA 90012
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1 *Attorneys for Defendants Jon Gundry, William Elkins and Jesus Corral*
2 Vibiana Andrade, Esq.
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4 9300 Imperial Hwy
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6 Telephone: (562) 922-6123
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8 Email:Andrade_Vibiana@laoe.edu

9 I declare under penalty of perjury under the laws of the State of California
10 that the foregoing is true and correct. Executed on February 10, 2011, at Los
11 Angeles, California.

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14 _____
15 Jessica Bohorquez
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