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Public Schools, Public School
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CITY AND COUNTY OF SAN FRANCISCO,

Plaintiff,

vs.

DONALD J. TRUMP, President of the United
States, UNITED STATES OF AMERICA,
JOHN F. KELLY, Secretary of United States
Department Homeland Security, JEFFERSON
B. SESSIONS, Attorney General of the United
States, DOES 1-100 et al.,

Defendants.

Case No. 3:17-cv-00485-WHO

**PUBLIC SCHOOLS, SCHOOL
DISTRICTS AND ASSOCIATIONS OF
EDUCATORS' MOTION FOR LEAVE TO
FILE AMICUS CURIAE BRIEF**

INTRODUCTION

Public schools, school districts, educational associations, and individual educators (the “Educational Amici”) respectfully move for leave to file an amicus curiae brief in support of the City and County of San Francisco’s Motion for Preliminary Injunction. Pursuant to the Court’s March 21, 2017 Order Regarding Amicus Briefing, Educational Amici file this administrative motion for leave to file their *amicus* brief. A copy of the proposed brief is attached as Exhibit A to this motion. Plaintiff has consented to the filing of this motion and the accompanying *amicus* brief. Defendant has informed Educational Amici that it takes no position on the current filing.

IDENTITY AND INTEREST OF AMICUS CURIAE

The Educational Amici are located throughout the State of California and are at the heart of local education communities. They operate schools and school districts, teach and nurture our children, interact with student families, and foster the sense of community and inclusiveness essential for successful educational outcomes.

The Education Amici include nine public charter schools, Academia Avance Charter, Alta Public Schools, Aspire Public Schools, Camino Nuevo Charter Academy, GALS LA (Girls Athletic Leadership School - Los Angeles), Green Dot Public Schools, KIPP Bay Area Schools, Semillas Community Schools and Sunrise Middle School; eight school districts, Berryessa Union School District, Sacramento City Unified School District, San Diego Unified School District, San Francisco Unified School District, Santa Clara Unified School District, Sunnyvale School District, Sweetwater Union High School District and Wiseburn Unified School District; three community college districts, Palomar College, San Diego Community College District and Southwestern College; five educational associations, ACSA (Association of California School Administrators), CCSA (California Charter Schools Association), CFT (California Federation of Teachers), CLSBA (California Latino School Boards Association) and CTA (California Teachers Association); and one superintendent in his official capacity, Benjamin H. Picard, Ed.D. (Superintendent of Schools, Sunnyvale School District).

Given their position in the educational system, the Educational Amici are particularly aware of the impact of the President Donald J. Trump’s Executive Order entitled “Enhancing Public

1 Safety in the Interior of the United States” (the “Executive Order”) on our students, their families,
 2 and the broader educational system. Educational Amici, who provide children with their
 3 constitutionally guaranteed right to an education, *Plyler v. Doe*, 457 U.S. 202, 219-30 (1982), are
 4 bearing witness to the on-going and irreparable harm the Executive Order is causing.

5 **REASONS WHY THE MOTION SHOULD BE GRANTED**

6 District courts have “broad discretion” to appoint amicus curiae. *Hoptowit v. Ray*, 682 F. 2d
 7 1237, 1260 (9th Cir. 1982). “District courts frequently welcome amicus briefs from non-parties
 8 concerning legal issues that have potential ramifications beyond the parties directly involved or if
 9 the amicus has ‘unique information or perspective that can help the court beyond the help that the
 10 lawyers for the parties are able to provide.’” *NGV Gaming, Ltd. V. Upstream Point Molate, LLC*,
 11 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005) (quoting *Cobell v. Norton*, 246 F. Supp. 2d 59, 62
 12 (D.D.C.2003)). If permitted to file, the Educational Amici will fulfill “the classic role of amicus
 13 curiae by assisting in a case of general public interest[] [and] supplementing the efforts of
 14 counsel[.]” *Miller-Wohl Co. v. Comm’r of Labor & Indus. State of Mont.*, 694 F.2d 203, 204 (9th
 15 Cir. 1982).

16 The Court should exercise its discretion to permit the Educational Amici to file the attached
 17 *amicus* brief. Counsel for the Educational Amici is familiar with the scope of the arguments
 18 presented by the parties and will not unduly repeat those arguments. Educational Amici will draw
 19 upon their knowledge of the educational system and their experience in school communities to
 20 demonstrate the on-going and irreparable harm the Executive Order is causing and will continue to
 21 cause unless enjoined by the Court.

22 **CONCLUSION**

23 For these reasons, the Educational Amici respectfully request that the Court grant it leave to
 24 file the *amicus* brief attached as Exhibit A.
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 26
 27
 28

1 Dated: March 29, 2017

Respectfully submitted,

2 ORRICK, HERRINGTON & SUTCLIFFE LLP

3 /s/ Darren S. Teshima

4 DARREN S. TESHIMA

5 Attorneys for *Amici Curiae*
6 Public Schools, Public School Districts,
7 and Associations of Educators
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CERTIFICATE OF SERVICE

I, Darren S. Teshima, hereby certify that on the 29th day of March, 2017, I caused the foregoing document to be electronically transmitted to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to any ECF registrants for this case.

/s/ Darren S. Teshima
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EXHIBIT A

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12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION
14

15 CITY AND COUNTY OF SAN FRANCISCO,

16 Plaintiff,

17 vs.

18 DONALD J. TRUMP, President of the United
19 States, UNITED STATES OF AMERICA,
JOHN F. KELLY, Secretary of United States
20 Department Homeland Security, JEFFERSON
B. SESSIONS, Attorney General of the United
21 States, DOES 1-100 et al.,

22 Defendants.

Case No. 3:17-cv-00485-WHO

**[PROPOSED] BRIEF OF AMICI CURIAE
PUBLIC SCHOOLS, SCHOOL
DISTRICTS, AND ASSOCIATIONS OF
EDUCATORS**

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TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. INTEREST OF AMICI CURIAE	3
III. ARGUMENT	4
A. The Perception That the Executive Order Requires School Districts to Assist in Enforcing Federal Immigration Law Irreparably Harms Students Mentally and Emotionally	4
1. The Executive Order Has Caused Student Attendance and Community Participation to Drop	4
2. The Executive Order Destroys Inclusive Classroom Environments, Replacing Them with Racial Divides and Animus	6
3. The Executive Order Impedes Schools' Ability to Effectively Educate the Entire Student Body	7
a. Research shows that a lack of cohesion and acceptance in school has a measurable negative impact on educational outcomes	7
b. School districts must redirect limited resources to combat negative educational environments	8
B. The Executive Order Irreparably Harms Students by Jeopardizing the School District Funding Necessary for Essential Services upon Which They Rely	9
1. The Executive Order's Atmosphere of Fear Reduces Student Attendance, Thereby Harming School District Funding	9
2. School Districts Rely Upon Federal Funding for Essential Programming and Basic Needs	10
C. The Public Interest Favors Issuing a Nationwide Preliminary Injunction Against the Executive Order's Implementation and Enforcement	12
IV. CONCLUSION	12

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Belanger v. Madera Unified Sch. Dist.</i> , 963 F.2d 248 (9th Cir. 1992).....	4
<i>Brown v. Bd. of Educ.</i> , 347 U.S. 483 (1954).....	1
<i>Grutter v. Bollinger</i> , 539 U.S. 306 (2003).....	6
<i>Monteiro v. Tempe Union High Sch. Dist.</i> , 158 F.3d 1022 (9th Cir. 1998).....	8
<i>Plyler v. Doe</i> , 457 U.S. 202 (1982).....	1, 5
<i>Schuetz v. Coal. to Defend Affirmative Action, Integration & Immigrant Rights & Fight for Equal. By Any Means Necessary (BAMN)</i> , 134 S. Ct. 1623 (2014).....	7
<i>Vance v. Spencer Cnty. Pub. Sch. Dist.</i> , 231 F.3d 253 (6th Cir. 2000).....	8

1 Together, the below public school districts, public schools, and associations of educators¹
 2 respectfully submit this amicus curiae brief in support of Plaintiff City and County of San
 3 Francisco’s Motion for a Preliminary Injunction seeking a nationwide injunction against the
 4 enforcement of Section 9 of the Executive Order entitled, “Enhancing Public Safety in the Interior
 5 of the United States.”²

6 **I. INTRODUCTION**

7 Children are the bedrock of our nation’s future; their education is the foundation of our
 8 democracy. Education is so “fundamental . . . in maintaining the fabric of our society” that over
 9 thirty years ago, the Supreme Court recognized that all children are entitled to equal access to a
 10 public education, regardless of immigration status. *Plyler v. Doe*, 457 U.S. 202, 219-30 (1982).
 11 Indeed, education “is the very foundation of good citizenship.” *Brown v. Bd. of Educ.*, 347 U.S.
 12 483, 493 (1954). In these days, it is doubtful that any child may reasonably be expected to
 13 succeed in life if he is denied the opportunity of an education.” *Id.*

14 Yet on January 25, 2017, President Donald J. Trump issued an Executive Order entitled
 15 “Enhancing Public Safety in the Interior of the United States” (the “Executive Order”) that
 16 imminently threatens to destroy the ability of our public schools to protect, foster, and educate our
 17 children. Specifically, Section 9 of the Executive Order purports to grant the Attorney General
 18 (the “AG”) and the Secretary of Homeland Security (the “Secretary”) the authority to unilaterally
 19 deny federal funds that support critically-needed basic services from any jurisdiction they deem to
 20 be a “sanctuary jurisdiction.” Exec. Order 13768, 82 Fed. Reg. 8799 § 9(a) (Jan. 25, 2017).
 21 Alarming, the Executive Order contains no clear definition of “sanctuary jurisdiction,” instead
 22 broadly threatening any “State, or a political subdivision of a State.” *Id.* Further, Section 9
 23

24 ¹ Although all amici to this brief are experiencing many of the harms detailed here, any given amici
 25 may not experience all of the harms discussed below.

26 ² Public schools, school districts, and associations of educators recently submitted a substantially
 27 similar amicus curiae brief in support of the County of Santa Clara’s motion for a preliminary
 28 injunction in the related case *County of Santa Clara v. Trump*, Case No. 17-574-WHO (N.D. Cal.).
 There are fewer amici to this brief in part due to the timing of the preliminary injunction motion in
 this case and the limited occurrence of district board meetings at which districts can approve
 participation as amici.

1 charges the AG with taking “appropriate enforcement action against any entity” that he
 2 determines has “a statute, policy, or practice” that “prevents or hinders” the enforcement of
 3 federal law. *Id.*

4 The Executive Order transforms schools from inclusive, safe spaces to places of fear and
 5 uncertainty, ultimately undermining our entire public education system. By expansively targeting
 6 any “State” or “political subdivision of a State,” the Executive Order is causing sweeping,
 7 profound, and irreparable harm to our children and their families, our public education system,
 8 and ultimately, the future of our country. Section 9’s ambiguity, coupled with its grant of
 9 unbridled discretion to the AG and the Secretary to classify “sanctuary jurisdictions,” creates a
 10 level of unpredictability that prevents school districts from properly functioning and providing
 11 essential services to students. *See* Decl. of Ralph G. Porras (“Porras Decl.”) ¶ 11. Without the
 12 security of knowing whether they will be targeted at school because of their or their families’
 13 actual or perceived immigration status, students are increasingly fearful to attend school, and
 14 family members are increasingly reluctant to engage with school staff. *Id.* ¶ 10; Decl. of Erika
 15 Torres (“Torres Decl.”) ¶¶ 3-8; Decl. of Sonia Picos (“Picos Decl.”) ¶¶ 7, 13, 15. The serious
 16 threat that schools will be compelled to disclose the immigration status of their students and
 17 families drives a wedge between students in the classroom and members of the broader school
 18 communities, directly impeding teachers’ ability to educate their students. Torres Decl. ¶¶ 4, 10;
 19 Picos Decl. ¶¶ 7, 15. This causes students intense and irreversible mental harm. After the
 20 enactment of the Executive Order, a father was detained immediately after dropping his daughter
 21 off at school, sending waves of fear through school communities. *See* Decl. of Ricardo Mireles
 22 (“Mireles Decl.”) ¶¶ 6-7, 9-10; Jennifer Medina, *Deportation Arrest Highlights Tensions in Los*
 23 *Angeles on Immigration*, THE NEW YORK TIMES, March 4, 2017, at A17 (“*L.A. Deportation*
 24 *Arrest*”).³

25 Furthermore, the Executive Order’s ambiguity deprives school districts of the stability and
 26 predictability they need to budget for students’ needs. Public schools risk the loss of significant,
 27

28 ³ <https://www.nytimes.com/2017/03/04/us/los-angeles-deportation-immigration.html>.

1 indispensable federal funds if they are declared sanctuary jurisdictions or find themselves located
 2 in a state, county, or city that is deemed a sanctuary jurisdiction. In the face of this uncertainty, it
 3 is our children that continue to suffer the greatest consequences.

4 In light of the profound, irreversible harm that the Executive Order is already causing our
 5 students, our communities, and our nation's future, the amici curiae public schools, school
 6 districts, and associations of educators respectfully urge the Court to enjoin the Executive Order's
 7 implementation and enforcement nationwide.

8 **II. INTEREST OF AMICI CURIAE**

9 Amici curiae are 12 California public schools, eight California public school districts, one
 10 superintendent, and five California associations representing 442,791 teachers, 19,539
 11 administrators, and elected school officials, who actively participate in national counterparts to
 12 these school and educational organizations. Amici schools and districts enroll approximately
 13 284,234 K-12 California students and 179,959 adult and college students. A significant number
 14 of those students are directly impacted by the Executive Order's emphasis on punishing
 15 jurisdictions the Trump Administration deems too protective of people with irregular immigration
 16 status. Up to 1 in 30 students in California public schools is undocumented. UNDOCUMENTED,
 17 ED 100.⁴ Furthermore, in 2014, approximately 3.9 million K-12 students nationally, or 7.3%, had
 18 at least one undocumented parent. Jeffrey S. Passel and D'Vera Cohn, *Children of Unauthorized*
 19 *Immigrants Represent Rising Share of K-12 Students*, PEW RESEARCH CENTER (Nov. 17, 2016)
 20 (*"Pew: Rising Share of K-12"*).⁵ This number was even higher in California, which reported that
 21 12.3% of its K-12 students had at least one undocumented parent in 2014. *U.S. Unauthorized*
 22 *Immigration Population Estimates*, PEW RESEARCH CENTER (Nov. 3, 2016).⁶ Nationwide, there
 23 were 3.2 million K-12 U.S. citizen students who had at least one undocumented parent or
 24 guardian. *See Pew: Rising Share of K-12*.⁷

26 ⁴ <https://ed100.org/lessons/undocumented> (last visited Mar. 17, 2017).

27 ⁵ <http://pewrsr.ch/2g1q6kg>.

28 ⁶ <http://www.pewhispanic.org/interactives/unauthorized-immigrants/>.

⁷ This data was obtained from American Community Survey Data, not school districts.

Entrusted with the safety and well-being of our children, in the wake of the Executive Order, the amici face questions and concerns from students and their families about whether schools will disclose their immigration statuses or other sensitive information to federal immigration authorities. All students enrolled in public schools across the country—regardless of their immigration status—face imminent, irreparable harm unless the Court enjoins the Executive Order’s implementation and enforcement. Moreover, the Executive Order’s ambiguity and unreasonably broad language are exposing public school districts themselves to financial risks outside of their control, creating severe financial consequences that will further harm our children.

III. ARGUMENT

A. The Perception That the Executive Order Requires School Districts to Assist in Enforcing Federal Immigration Law Irreparably Harms Students Mentally and Emotionally.

1. The Executive Order Has Caused Student Attendance and Community Participation to Drop.

Following the President’s issuance of the Executive Order, student attendance has dropped due to the perception that federal immigration agents will target schools for enforcement actions. Porras Decl. ¶ 10; Torres Decl. ¶¶ 4-5, 7-8; Picos Decl. ¶ 7. Parent engagement in some schools has also declined because parents fear that their presence at school events could increase the likelihood of their own or their loved ones’ deportation. Torres Decl. ¶¶ 5-7; Picos Decl. ¶ 13; Mireles Decl. ¶ 10.

This apprehension has been caused by the Executive Order’s broad objective to “ensure, to the fullest extent of the law, that a State, or a political subdivision of a State” comply with federal immigration law. § 9. Because school districts are arms of the state, *Belanger v. Madera Unified Sch. Dist.*, 963 F.2d 248, 254 (9th Cir. 1992), students and their families worry that school administrators or security personnel may be forced to disclose sensitive student information to immigration officials or permit their entry into schools. Torres Decl. ¶¶ 4-5; Picos Decl. ¶¶ 7, 15. This fear is particularly acute at large school districts that employ their own police officers, who some worry may be required to conduct immigration enforcement actions to avoid

1 losing essential federal funds. *See* Porras Decl. ¶¶ 4-7. A strong relationship with community
 2 members built on trust is central to day-to-day safety in these schools, and fracturing of these
 3 relationships would be disastrous for the educational process. *Id.* ¶ 7; Mireles Decl. ¶ 8. Even if
 4 schools choose to risk the loss of federal funds by affirmatively declaring themselves safe havens,
 5 students and parents fear that participation in school activities could expose them to federal
 6 immigration agents. *See id.* ¶¶ 4-6; Torres Decl. ¶ 8; Picos Decl. ¶ 15; Mireles Decl. ¶¶ 10-11.

7 These fears are real, not speculative. Since the Executive Order, there have been
 8 numerous reports of students and parents being detained, sometimes in close proximity to
 9 schools. For example, Romulo Avelica-Gonzalez was detained by ICE officials earlier this month
 10 shortly after dropping off his youngest daughter at school. Mireles Decl. ¶ 6; *L.A. Deportation*
 11 *Arrest*. Not only was Mr. Avelica's family suddenly ripped apart despite Mr. Avelica posing no
 12 threat to the surrounding community, but his thirteen-year-old daughter, Fatima, was still in the
 13 car when ICE took him into custody. *Id.* Research shows that young children like Fatima whose
 14 parents have been detained or deported often experience withdrawal, disrupted eating and
 15 sleeping patterns, anger, anxiety, and depression. *See Undocumented Youth*, AMERICAN
 16 PSYCHOLOGICAL ASSOCIATION.⁸ More long term, these children are at risk for more severe
 17 issues, such as post-traumatic stress disorder, poor identity formation, distrust of authorities,
 18 acting out, and difficulty with school. *Id.*

19 Reports of traumatic experiences like that of Fatima's family have sent chills through
 20 school communities. Mireles Decl. ¶¶ 7-9. Although ICE policy prohibits enforcement actions in
 21 and around schools unless exigent circumstances exist, an exception applies, or prior approval is
 22 obtained, *see* ICE, ENFORCEMENT ACTIONS AT OR FOCUSED ON SENSITIVE LOCATIONS (Oct. 24,
 23 2011),⁹ ICE maintains that Mr. Avelica's arrest was proper because he was half a mile away from
 24 the school. *L.A. Deportation Arrest*. Understandably, students and their families are fearful that
 25 even if ICE respects its own policies, Fatima's story demonstrates that in the wake of the
 26

27 _____
 28 ⁸ <http://www.apa.org/topics/immigration/undocumented-video.aspx> (last visited Mar. 16, 2017).

⁹ <https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf>.

Executive Order, those policies are insufficient to protect young students simply seeking their constitutional right to an equal education. *See Plyler*, 457 U.S. at 219-30. Indeed, since the Executive Order, schools report an uptick in unverified community rumors regarding the presence of ICE officials in and around schools. Torres Decl. ¶ 5; Mireles Decl. ¶ 5.

When student attendance and parent participation in school communities decline, the entire student body suffers. Picos Decl. ¶ 9; Porras Decl. ¶ 8; Mireles Decl. ¶ 10. Students and family members with irregular immigration status live in a state of terror that immigration agents might meet them at the schoolhouse door. Porras Decl. ¶ 8; Torres Decl. ¶¶ 4-8; Mireles Decl. ¶¶ 5, 7, 9-10. Many students fear for their classmates, worrying about how to protect them in the face of threatened enforcement action. *See* Porras Decl. ¶ 8; Pico Decl. ¶ 12. Schools lose voices that contribute to the vibrancy and diversity of their classrooms, and dedicated parent volunteers who provide essential support to students across California. *See* Porras Decl. ¶¶ 8, 10; Picos Decl. ¶ 9.

2. **The Executive Order Destroys Inclusive Classroom Environments, Replacing Them with Racial Divides and Animus.**

The Executive Order (particularly when coupled with the President's other immigration policies) teaches our students to shun immigrant members of our communities rather than value diversity—a central tenet of education in the United States. *See Grutter v. Bollinger*, 539 U.S. 306, 332 (2003) (recognizing that “[e]ffective participation by members of all racial and ethnic groups in the civic life of our Nation is essential if the dream of one Nation, indivisible, is to be realized.”). Consequently, the Executive Order undermines the efforts of schools to teach and model that classrooms are meant to be safe spaces for all children to learn and grow, without regard to race or ethnicity. *See* Porras Decl. ¶ 9; Picos Decl. ¶¶ 6, 15.

The presidential policies underlying the Executive Order are now undermining years of work that schools have invested to combat bullying amongst students. MAUREEN B. COSTELLO, TEACHING THE 2016 ELECTION, THE TRUMP EFFECT 10-11 (2016)¹⁰; *see* Picos Decl. ¶ 15. In recent months, there has been a significant increase in reported cases of hateful harassment, with

¹⁰ https://www.splcenter.org/sites/default/files/splc_the_trump_effect.pdf.

1 nearly 40% of all incidents occurring in an educational setting and the highest number of
 2 incidents occurring in K-12 schools. S. Poverty Law Ctr. Hatewatch, *Update: Incidents of*
 3 *Hateful Harassment Since Election Day Now Number 701*, SPLCENTER (Nov. 18, 2016)¹¹; see
 4 also Porras Decl. ¶ 9; Picos Decl. ¶ 6. Although anti-immigrant incidents constitute the most
 5 common form of reported harassment, these incidents are not limited to immigrant students and
 6 their families. COSTELLO at 7. Children increasingly feel emboldened to use hateful language
 7 against those who appear different from themselves. *Id.* at 10-11; Picos Decl. ¶ 15. Indeed,
 8 students of diverse backgrounds express daily fears about being deported, being sent to detention
 9 camps, losing their homes, or being attacked by police, solely due to their actual or perceived
 10 identities. COSTELLO at 10-11. These incidents of hate are particularly traumatizing for students
 11 who have come to the United States seeking asylum or refuge from persecution in other countries.
 12 *Id.* at 8.

13 The irreparable mental and emotional damage the Executive Order has already caused by
 14 destroying the safe haven that classrooms traditionally have provided cannot be underestimated.
 15 See Porras Decl. ¶ 8; Picos Decl. ¶ 6.

16 3. **The Executive Order Impedes Schools' Ability to Effectively Educate** 17 **the Entire Student Body.**

18 The Executive Order's harm is not limited to individual students' mental and emotional
 19 damage. The racial animus and divisiveness caused by the Executive Order impair educational
 20 outcomes and force schools to redirect limited funds toward mitigating racial and ethnic hostility.
 21 Picos Decl. ¶ 15. As noted by Justice Sotomayor, "I do not belong here" is indeed "the most
 22 crippling of thoughts." *Schuetz v. Coal. to Defend Affirmative Action, Integration & Immigrant*
 23 *Rights & Fight for Equal. By Any Means Necessary (BAMN)*, 134 S. Ct. 1623, 1676 (2014)
 24 (Sotomayor, J., dissenting).

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 28 ¹¹ <https://www.splcenter.org/hatewatch/2016/11/18/update-incidents-hateful-harassment-election-day-now-number-701>.

a. **Research shows that a lack of cohesion and acceptance in school has a measurable negative impact on educational outcomes.**

A positive school environment is essential to promote positive academic outcomes. Research shows a direct correlation between a positive school climate and increased short-term and long-term academic achievement. Amrit Thapa, et al., *A Review of School Climate Research*, 83 REV. OF EDUC. RES. 357, 365 (2013).¹² Similarly, a sense of belonging in the classroom positively predicts end of semester grades, increases motivation, and promotes academic engagement. RW Roeser, et al., *Perceptions of the School Psychological Environment and Early Adolescents' Psychological and Behavioral Functioning in School*, J. EDUC. PSYCHOL. 88, 408-22 (1996); C Goodenow C & KE Grady, *The Relationship of School Belonging and Friends' Values to Academic Motivation Among Urban Adolescent Children*, J. EXP. EDUC. 62, 60-71 (1993).

In contrast, a negative school environment precludes educators from fostering the civil discourse necessary for an enriching educational process. See Picos Decl. ¶ 15. When students feel excluded, anger, hostility, and physical altercations replace the civil debates that classrooms traditionally promote. See COSTELLO at 11. Consequently, students experience increased anxiety for themselves and their fellow classmates, impacting their ability to concentrate. *Id.* at 7, 9; Porras Decl. ¶ 8; Picos Decl. ¶ 13.

b. **School districts must redirect limited resources to combat negative educational environments.**

In response to increased bullying and racial animus, school districts are legally required to take reasonable actions to stop harassing behavior. *Vance v. Spencer Cnty. Pub. Sch. Dist.*, 231 F.3d 253, 261 (6th Cir. 2000); *Monteiro v. Tempe Union High Sch. Dist.*, 158 F.3d 1022, 1034 (9th Cir. 1998) (holding that “a school district ‘has a legal duty to take reasonable steps to eliminate’ a racially hostile environment”). Accordingly, some public schools and school districts are being forced to redirect valuable time and finite resources to resisting the hate and

¹² <http://k12engagement.unl.edu/REVIEW%20OF%20EDUCATIONAL%20RESEARCH-2013-Thapa-357-85.pdf>.

divisiveness promoted by the Executive Order. Picos Decl. ¶ 15. In an environment where time and resources are scarce, these increased obligations are irreparably harming the educational process for all students. *Id.*

B. The Executive Order Irreparably Harms Students by Jeopardizing the School District Funding Necessary for Essential Services upon Which They Rely.

1. The Executive Order's Atmosphere of Fear Reduces Student Attendance, Thereby Harming School District Funding.

California funds most school districts through grants based on average daily student attendance. *LCFF Frequently Asked Questions*, Cal. Dep't. of Educ.¹³ Consequently, decreases in student attendance levels have a profound negative effect on the state funds those schools receive. Porras Decl. ¶ 10; Picos Decl. ¶ 10. During the 2009-2010 school year, San Diego County public schools lost over \$102 million in state funding due to student absences. Joanne Faryon, *Chronically Absent Students Cost County Schools Millions*, KPBS (June 27, 2011).¹⁴ Reports estimate that “[o]ver the past six years, school districts in California have lost an estimated \$7.3 billion in funding due to student absences. An estimated \$1.52 billion dollars was left unclaimed by school districts in the 2015-2016 school year alone.” *In School + On Track: Attorney General's 2016 Report on California's Elementary School Truancy & Absenteeism Crisis*, Cal. Dep't. of Just.¹⁵

As discussed in Section III.A.1 *supra*, the Executive Order and the President's related immigration policies have created tremendous uncertainty in immigrant communities, causing parents to keep their children at home for fear that immigration agents may raid public schools. Porras Decl. ¶ 10; Torres Decl. ¶¶ 4-8; Picos Decl. ¶ 8. This fear deprives children of their constitutional right to an education and reduces state funding schools need for basic operations. Reduced funding impacts all students, regardless of immigration status, and has long-term

¹³ <http://www.cde.ca.gov/fg/aa/lc/lcfffaq.asp#FC> (last visited Mar. 15, 2017).

¹⁴ <http://www.kpbs.org/news/2011/jun/27/chronically-absent-students-cost-county-schools-mi/>.

¹⁵ <https://oag.ca.gov/truancy/2016> (last visited Mar. 20, 2017).

consequences for communities, the state, and the economy. *See In School + On Track: Attorney General's 2013 Report on California's Elementary School Truancy & Absenteeism Crisis*, Cal. Dep't. of Just.¹⁶ (truant elementary school students more likely to become dropouts who annually cost California billions in "criminal justice costs, social and medical costs, lost income taxes and associated economic losses"); Picos Decl. ¶¶ 16-17.

2. **School Districts Rely Upon Federal Funding for Essential Programming and Basic Needs.**

Section 9 fails to provide notice as to what criteria will be used by the Secretary and the AG to make "sanctuary jurisdiction" determinations. The breadth of the Executive Order compounds this uncertainty by failing to identify the limits of enforcement to be leveled against sanctuary jurisdictions or to provide a review process. Some school districts believe they cannot guarantee that they will not be deemed sanctuary jurisdictions and, even if they could, they cannot predict any potential financial consequences of being located in a state, county, or city that is deemed a sanctuary jurisdiction. Rory Carroll, Robin Respaut & Andy Sullivan, *Top 10 U.S. sanctuary cities face roughly \$2.27 billion in cuts by Trump policy*, REUTERS (Jan. 26, 2017)¹⁷ (noting that a city's designation as a "sanctuary" may risk loss of federal funding for public education programs). Loss of federal funding in either scenario would have severe impacts on school budgets and essential programs students rely upon. Porras Decl. ¶ 11; Picos Decl. ¶¶ 10, 16; Mireles Decl. ¶ 12.

The federal government provides funding for various programs that are essential to fostering healthy students and academic success. Torres Decl. ¶ 9; Porras Decl. ¶ 11; Picos Decl. ¶¶ 5, 10, 16; Mireles Decl. ¶ 12. Many schools fear that the Executive Order critically threatens the viability of these key programs, upon which our most vulnerable students depend. *Id.*

Under Title I of the Elementary and Secondary Education Act, schools with high

¹⁶ <https://oag.ca.gov/truancy/2013> (last visited Mar. 15, 2017).

¹⁷ <http://www.reuters.com/article/us-usa-trump-sanctuarycities-idUSKBN1592V9>.

1 populations of low-income students receive additional federal funding to help “ensure that all
 2 children meet challenging state academic standards” in core subject areas. *Improving Basic
 3 Programs Operated by Local Educational Agencies* (Title I, Part A), U.S. Dep’t of Educ.¹⁸
 4 During the 2009-2010 school year, 56,000 public schools nationally received Title I funds to
 5 support “extra instruction in reading and mathematics, as well as special preschool, after-school,
 6 and summer programs to extend and reinforce the regular school curriculum.” *Id.* The Executive
 7 Order’s ambiguity threatens this crucial Title I funding necessary to ensure the academic success
 8 of economically disadvantaged students. Porras Decl. ¶ 11; Mireles Decl. ¶ 12.

9 Additionally, many public schools provide free or reduced-cost meals to low-income
 10 students and receive reimbursement from the federal government. Torres Decl. ¶ 9; Picos Decl.
 11 ¶¶ 5, 11; Mireles Decl. ¶ 12. For many low-income students, these free or discounted meals are
 12 the only meals they know they can depend upon each day. Picos Decl. ¶ 11. The United States
 13 Department of Agriculture’s preliminary data for Fiscal Year 2016 shows that schools served
 14 breakfast to 8.9 million students daily, including 6.52 million free breakfasts and 800,000
 15 reduced-price breakfasts. *School Breakfast Program Participation and Meals Served*.¹⁹
 16 Preliminary data also shows that schools served 30.4 million lunches daily, including 20.1 million
 17 free lunches and 2 million reduced-price lunches. *NATIONAL SCHOOL LUNCH PROGRAM:
 18 PARTICIPATION AND LUNCHES SERVED*.²⁰ These meals are essential to combating hunger,
 19 promoting student wellness, and fostering an environment where students can thrive and learn.
 20 Torres Decl. ¶ 9; Picos Decl. ¶ 11.

21 The Executive Order’s threat to public schools’ federal funding jeopardizes these essential
 22 programs for all students, regardless of immigration status. Porras Decl. ¶ 11; Picos Decl. ¶ 16.
 23 The uncertainty under the Executive Order places public schools in an unconscionable
 24 dilemma—they can either stop providing essential nutrition and support services to their students
 25 or risk a significant budgeting shortfall.

26
 27 ¹⁸ <https://www2.ed.gov/programs/titleiparta/index.html?exp=0> (last visited Mar. 15, 2017).

28 ¹⁹ <https://www.fns.usda.gov/sites/default/files/pd/sbsummar.pdf> (last visited Mar. 15, 2017).

²⁰ <https://www.fns.usda.gov/sites/default/files/pd/slsummar.pdf> (last visited Mar. 15, 2017).

1 The Executive Order’s ambiguity poses particular challenges for California public
 2 schools. Under California’s 2014 Local Control Funding Formula (“LCFF”), school districts are
 3 legally required to develop Local Control & Accountability Plans (“LCAPs”) in consultation with
 4 parents, educators, employees and their unions, and the larger community as part of their
 5 budgeting processes. *LCFF Frequently Asked Questions*. LCAPs cover three-year periods and
 6 must explain how district budgets meet annual goals for student achievement. *Id.* Because the
 7 Executive Order threatens significant federal funds for LCAPs that must be approved three years
 8 in advance, it creates a level of uncertainty that makes the LCFF community consultation process
 9 untenable. *See Picos Decl.* ¶ 14.

10 **C. The Public Interest Favors Issuing a Nationwide Preliminary Injunction**
 11 **Against the Executive Order’s Implementation and Enforcement.**

12 There is a significant public interest in ensuring that public school districts remain
 13 inclusive, welcoming environments that promote all students’ well-being and academic success.
 14 There is an equally significant public interest in providing school districts with the financial
 15 predictability needed to provide children with essential programs they depend upon to access
 16 equal educational opportunities. These concrete, paramount interests vastly outweigh the
 17 government’s amorphous assertion of “supporting the enforcement of federal immigration law.”
 18 *See Dkt. No. 35 at 21.*

19 **IV. CONCLUSION**

20 For the reasons above, the amici respectfully request that the Court issue a nationwide
 21 preliminary injunction against the Executive Order. Absent a preliminary injunction, students,
 22 their families, and entire school communities will continue experiencing immediate, irreparable
 23 harm as a direct result of the uncertainty and fear caused by the Executive Order. Students will
 24 experience increased emotional damage, and poor academic outcomes. School districts will be
 25 unable to plan for upcoming school years in compliance with local law and ensure that students
 26 continue receiving essential services.

1 Dated: March 29, 2017

Respectfully submitted,

2 ORRICK, HERRINGTON & SUTCLIFFE LLP

3 /s/ Darren S. Teshima

4 DARREN S. TESHIMA

Attorneys for

Academia Avance Charter

ACSA (Association of California School Administrators)

Alta Public Schools

Aspire Public Schools

Benjamin H. Picard, Ed.D. (Superintendent of Schools,
Sunnyvale School District)

Berryessa Union School District

Camino Nuevo Charter Academy

CCSA (California Charter Schools Association)

CFT (California Federation of Teachers)

CLSBA (California Latino School Boards Association)

CTA (California Teachers Association)

GALS LA (Girls Athletic Leadership School - Los Angeles)

Green Dot Public Schools

KIPP Bay Area Schools

Palomar College

Sacramento City Unified School District

San Diego Community College District

San Diego Unified School District

San Francisco Unified School District

Santa Clara Unified School District

Semillas Community Schools

Southwestern College

Sunnyvale School District

Sunrise Middle School

Sweetwater Union High School District

Wiseburn Unified School District

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO,

Plaintiff,

vs.

DONALD J. TRUMP, President of the United
States, UNITED STATES OF AMERICA,
JOHN F. KELLY, Secretary of United States
Department Homeland Security, JEFFERSON
B. SESSIONS, Attorney General of the United
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Defendants.

Case No. 3:17-cv-00485-WHO

**DECLARATION OF RALPH G. PORRAS
IN SUPPORT OF AMICI CURIAE OF
PUBLIC SCHOOLS, SCHOOL DISTRICTS
AND EDUCATORS**

I, Ralph G. Porras, declare as follows based on my personal knowledge:

1. I currently serve as the President of the Association of California School Administrators (ACSA), and I am also the Superintendent of the Pacific Grove Unified School District. I have worked as an administrator and bilingual teacher in the public school system for 26 years.

2. ACSA advocates on behalf of its more than 18,000 members and, more importantly, on behalf of the roughly six million California public school children they serve. ACSA has consistently supported policies that provide a safe, inclusive and diverse learning environment for all school-aged children in California.

1 3. In my position as President of ACSA, I have had the opportunity to discuss the
2 impact of President Trump's January 25, 2017 Executive Order regarding sanctuary jurisdictions
3 with educators, and many others in the school community, throughout the state. I am also familiar
4 with the federal funds that California school districts receive, and how those funds are used to
5 provide programs and services for students. Moreover, as Superintendent of Pacific Grove USD, I
6 am directly responsible for creating an optimal learning environment for our K-12 students, as well
7 as for Transitional Kindergartens and Adult Education students.

8 4. Many schools and school districts throughout the state have adopted policies or
9 resolutions clarifying that schools are "safe zones" or "safe havens" where all students and their
10 families are welcome. Most of these policies and resolutions were adopted long before the most
11 recent Presidential election. While these policies and resolutions vary to some degree, they are
12 primarily motivated by a desire to build trust among students and the schools that serve them, and to
13 make it clear that school officials play no role in determining the legal status of students or their
14 families with respect to federal immigration laws. To be clear, these policies and resolutions are not
15 focused on promoting a specific agenda with respect to immigration law, but instead simply assure
16 students and their families that coming to school does not expose them to federal enforcement
17 action.

18 5. The Executive Order does not clearly indicate whether schools and school districts
19 with safe zone or safe haven policies and resolutions will be identified as "sanctuary jurisdictions"
20 and subject to unspecified enforcement action and the loss of federal funds. Having spoken with
21 members of the school community throughout the state, however, I know that in many places the
22 Executive Order has created uncertainty and fear among students and families who are no longer
23 sure that schools are safe places.

24 6. School officials are concerned that the Executive Order will force them to choose
25 between rescinding their safe zone or safe haven resolution and policies or risking the loss of
26 critically needed federal funds. These same educators are already seeing an erosion of the trust and
27 faith in the system that they have built with their communities over many years, and know that if
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1 they rescind their policies to avoid federal sanctions they will cause irreparable damage to the
2 relationship between schools and the most vulnerable students they serve.

3 7. Larger school districts with their own police officers, and the many other districts
4 that work closely and cooperatively with their local police departments, have worked very hard over
5 the last couple of decades to create opportunities for trust and collaboration among the police,
6 students, and educators. Particularly for our most at-risk students, building this trust is essential to
7 their safety both within and outside of school. To the extent that the Executive Order undermines
8 this trust and collaboration, it is likely to make both students and police officers less safe.

9 8. It is important to note that all students are negatively impacted when some of them
10 are targeted and threatened with exclusion. Strong educational programs require the support of
11 healthy, vibrant and diverse communities. If some students stop attending or participating,
12 programs become less diverse and students lose valuable opportunities for interaction and
13 enrichment. An optimal educational environment allows students to dialog with each other and
14 share experiences, but this is only possible if students believe that school is a safe place to share
15 those experiences. Educators have told me that many students, particularly in schools that serve
16 large immigrant populations, are starting to withdraw and participate less in school activities. Even
17 students who are secure fear for their classmates, and worry whether they will be protected from
18 enforcement action while in school.

19 9. There are other, more direct, negative impacts on schools caused by the Executive
20 Order and the general environment that informs our students that some of them are not welcome. I
21 have spoken to educators in the Bay Area and rural parts of Northern California that have seen an
22 increase in vandalism directed at certain student populations, hateful speech directed at some
23 students, and even aggressive behavior among students stemming from a more divisive
24 environment.

25 10. Particularly in schools serving largely immigrant populations, educators have told
26 me that absenteeism and truancy have increased over the last couple of months. Drops in school
27 attendance not only impact the funding received by schools, which is based on verified average
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1 daily attendance (ADA), but also decrease the diversity, vibrancy and effectiveness of the
2 educational programs aimed at our most vulnerable students.

3 11. The threat of the loss of federal funding is already causing great concern to many
4 school officials planning and implementing multi-year budgets. Federal funds for education are
5 largely targeted to students from low-income families, English learners and students entitled to
6 special education. The loss of these funds would be devastating for these vulnerable and often
7 under-served students.

8 12. Finally, in my many years of experience in the public school system, I have learned
9 that students carefully watch adult behavior to determine what is "licensed" behavior in their
10 schools and community. If adults stand by their safe zone and safe haven resolutions, policies and
11 behaviors, that sends a positive, inclusive message to the students. If they rescind or revoke those
12 resolutions, and associated policies, it sends a very different and harmful message. The Executive
13 Order thus places school officials in a "no-win" situation – either protect your students or protect
14 your funding. This is untenable and unconscionable.

15 I declare under penalty of perjury under the laws of the State of California that the foregoing
16 is true and correct.

17 Executed on March 21, 2017, at Pacific Grove California.

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21 Ralph G. Porras

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO,

Plaintiff,

vs.

DONALD J. TRUMP, President of the United
States, UNITED STATES OF AMERICA,
JOHN F. KELLY, Secretary of United States
Department Homeland Security, JEFFERSON
B. SESSIONS, Attorney General of the United
States, DOES 1-100 et al.,

Defendants.

Case No. 3:17-cv-00485-WHO

**DECLARATION OF ERIKA TORRES IN
SUPPORT OF AMICI CURIAE OF PUBLIC
SCHOOLS, SCHOOL DISTRICTS AND
EDUCATORS**

DECLARATION OF ERIKA TORRES

I, Erika Torres, declare as follows:

1. I am the Executive Director of the Student Health and Human Services Division of the Los Angeles Unified School District (“LAUSD” or “District”). As the Executive Director, I oversee and manage the Student Health and Human Services Division (“SHHS”) which provides a comprehensive array of services that support student achievement and success in LAUSD to help reduce barriers to success for students by ensuring their health physically, mentally and emotionally.
2. I have personal knowledge of the matters contained within this Declaration, and if I am called upon to testify as to the statements made herein, I could and would competently testify hereto.
3. In my capacity as Executive Director of SHHS, I have become aware through various reports that students and families are experiencing higher levels of anxiety and fear as a result of the executive orders and the increased enforcement actions or immigration raids in the various LAUSD communities.
4. The District started receiving numerous calls from the field especially after the issuance of the executive orders sometime in late January 2017 requesting for information and training to help address student concerns and questions. The calls and concerns from the field continue to date and include students expressing fear of family’s deportation, parents expressing worry and fear of deportation, reports that parents are keeping their students at home because of fear of raids, and questions to schools whether ICE agents could come on school campuses.
5. Some specific accounts are as follows: around mid-February, the District received reports from one of our local districts that a number of students were absent due to reported ICE “checkpoints” in the community. Around the same time period, there was a parent meeting being held in the auditorium of a high school. During the course of the meeting, parents started receiving messages that ICE agents had breached the rear gates of the

1 school and were on campus. Many parents, out of fear and panic, ran out of the school.

2 This turned out to be a rumor but the parents' reactions demonstrate a heightened level of
3 anxiety and fear.

4 6. Another report involved a school which received numerous calls from parents stating that
5 ICE is in the community and they are waiting for parents to pick up their children to
6 round up undocumented parents. There were also reports of several calls from parents
7 stating that ICE is in the community going door to door looking for undocumented
8 aliens and parents were calling the school that they were afraid to come pick up their
9 children from school.

10 7. Sometime in February 2017, the District received a call from a school counselor stating
11 that several families—an estimated 60-80 students—kept their children at home because
12 parents were afraid to wait at the bus stop or outside of the school because they might be
13 picked up by ICE. Some parents brought their students to the parent center to leave them
14 there instead of the typical practice of waiting for school to start outside.

15 8. There was another inquiry from a school sometime in February 2017 that parents were
16 afraid to send their children on a field trip for fear that students will be rounded up
17 because they are not within the physical confines of the school.

18 9. LAUSD participates in the USDA's National School Lunch and School Breakfast
19 Programs with the mission of "Nourishing Children to Achieve Excellence." The District
20 received numerous concerns from parents indicating that they were afraid to submit free
21 and reduced meals applications for fear of reprisal from the government for being
22 deemed as obtaining public benefits. This could deprive our neediest students of
23 nutritional meals to aid in accessing instruction.

24 10. Although LAUSD has strived to make resources available to students and parents by
25 providing legal referrals, mental health resources, issuing answers to frequently asked
26 questions, and providing guidance and support to schools and administrators, the
27
28

1 executive orders and its implementation have continued to negatively impact our
2 students, parents, and communities.

3 11. I declare under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct. Executed this 21st of March, 2017 at Los Angeles,
5 California.
6

7 
8 ERIKA TORRES
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO,

Plaintiff,

vs.

DONALD J. TRUMP, President of the United States, UNITED STATES OF AMERICA, JOHN F. KELLY, Secretary of United States Department Homeland Security, JEFFERSON B. SESSIONS, Attorney General of the United States, DOES 1-100 et al.,

Defendants.

Case No. 3:17-cv-00485-WHO

**DECLARATION OF RICARDO MIRELES
IN SUPPORT OF AMICI CURIAE OF
PUBLIC SCHOOLS, SCHOOL DISTRICTS
AND EDUCATORS**

I, Ricardo Mireles, hereby declare:

1. I am the Executive Director at Academia Avance and have worked for the charter school for 12 years.

2. I have personal knowledge of the matters contained in this declaration and if called to testify to the matters set forth in this declaration, could do so competently. In my position I am responsible for all operations, program and policy matters of the school, including reporting to the governance body, the Avance Executive Board. In this capacity, I am in daily contact with all stakeholders of our school: the students, faculty, staff, parents and staff of our partner organizations. This community collectively approaches 1,000 persons. In this role, I have witnessed the many impacts of the January 25, 2017 Presidential Executive Order entitled, "Enhancing Public Safety in the Interior of the United States" to our stakeholders.

1 3. Academia Avance enrolls just over 400 K-12 California students, and employs 25
2 teachers, and 20 administrators and support staff. This direct personnel work together with about
3 20 additional staff of partner organizations. A significant number of the students are directly
4 impacted by the Executive Order, either because of their immigration status, or that of a sibling, or
5 that of one or both parents. Some of the staff are also impacted due to of the immigration status of
6 members of their families.

7 4. Since President Trump issued the “Interior Security” Executive Order our students
8 and parents have exhibited a noticeable increase in concern regarding the emerging reality of the
9 45th President making real the many racist and hate-promoting statements and promises made as a
10 candidate towards Muslims, immigrants and Mexicans in particular. These student concerns have
11 been expressed to our teachers and staff during the daily House period, in counseling sessions, in
12 our parent meetings, and class discussions. The many hate crimes and harassment of those
13 perceived as immigrant and/or Muslim, correctly or not, as reported in the media, have led to a
14 deepening of the concerns among our students and parents. A recent egregious example of this rise
15 in harassment at schools is the story of the fourth grade robotics team in Indianapolis taunted
16 following their championship win, and told to ‘Go Back to Mexico.’ It has been impossible for our
17 school community to escape awareness of this rising level of hostility.

18 5. The anxiety at Academia Avance heightened starting on February 10th, following
19 the swearing in of Jeff Sessions as Attorney General, and the subsequent “Operation Cross Check”
20 detention of immigrants by federal agents of Department of Homeland Security Immigration and
21 Customs Enforcement (ICE) in many cities, including Los Angeles. Soon after, parents and students
22 daily shared stories of sightings of unmarked vehicles with what was believed to be ICE agents in the
23 neighborhoods of our school. At a meeting with parents on the evening of February 23rd, a parent
24 reported the detention by ICE of a neighbor in her shared apartment building while the neighbor
25 exited her unit to go to the laundry room. She had left her children in the apartment, and dared not
26 inform the ICE agents out of fear they would also take her kids. A second parent described an
27 incident where two young persons were detained by ICE agents, even though one held valid
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1 Deferred Action for Childhood Arrivals (DACA) status. This anxiety is a major obstacle to our
2 students and parents focusing on their pursuit of their academic goals.

3 6. The anxiety level spiked following the detention the morning of February 28th of
4 Romulo Avelica-Gonzalez. He is a parent of two students in grade 7 and 8 at Academia Avance,
5 and is also the uncle of two other grades 8 and 12 students at our school, and of an alumna now
6 attending UC San Diego, the three whose fathers are in Mexico. The Avelica family has been a
7 member of the Aacdemia Avance community for almost ten years. That morning, Mr. Avelica was
8 taking his two daughters to school, not aware that two unmarked vehicles with ICE agents were
9 following him. At about 7:40am the youngest exited the Avelica's SUV at the rear drop-off gate
10 for our campus for grade 6-7 located at 2635 Pasadena Av in Northeast Los Angeles. Then, Mr.
11 Avelica traveling with his wife and daughter Fatima, drove around the block to head to her campus
12 at 161 S Avenue 49. On the 3200 block of the same Pasadena Av, approximately 1,690 feet from
13 our charter school campus, but only 830 feet from the Los Angeles Unified School District Hillside
14 Elementary School campus which also abuts Pasadena Av, one of the ICE vehicles sped to the
15 front, the second to the rear of Mr. Avelica SUV to stop him. Wearing jackets emblazoned simply
16 as "POLICE" they detained him, leaving Fatima with her mother in the SUV. Fatima called her
17 two elder adult sisters who left work to assist them. As an indication of how she values her
18 education, Fatima continued to school, arriving just after 8:00am, just in time to join her 8th grade
19 classmate on their field trip to the Musuem of Tolerance. The detention of her father was witnessed
20 by many people, since it happened in plain site of all that drove by during the busy morning
21 commute along a major through fare for a neighborhood with about ten schools within a 1 mile
22 radius of where the detention took place. But far greater that those who saw the incident first-hand,
23 or who heard of it second-hand, was the awareness that spread quickly since the ICE detention was
24 captured on video by Fatima. What was local news on Wednesday, March 1st, became national
25 news the next day, and international news by week's end. The news articles and comments amassed
26 via social media overwhelming recognize this detention – an ICE action when a parent is taking his
27 kids to school – as being wrong. The public outcry has only increased in the weeks that have
28 followed.

1 7. The mental and emotional pressure on the two daughters, and their family, cannot
2 be underestimated, with huge ripple effects to all their classmates and teachers school-wide. Since
3 the detention of Romulo Avelica, the school staff have taken notice of dozens of students requesting
4 permission to call their parents, some requesting multiple time during the school day. The staff are
5 over hearing that most of these calls are to confirm the location of their parents, either at home or
6 work, ie. to establish that they have not been detained. This level of concern among the students is
7 disrupting our learning environment.

8 8. During the Spring parent conferences held the week of March 6th, 2017, a survey
9 was conducted of all parents attending. The parent attendance rate surpassed 90% for all grades 6-
10 12. On a scale of 1 to 5 between a level of no anxiety, to an extremely high level of anxiety and
11 fear of ICE actions impacting their family, only a minority reported levels below 3, ie. there is wide
12 spread and deep fear of ICE action among the Avance community. But there is also a level of trust
13 that the school is not cooperating with ICE action. If the “Interior Security” Executive Order is
14 implemented so as to force our school to cooperate with immigration enforcement actions, this trust
15 would be lost, and the college-going culture we have worked so hard to create over the last twelve
16 years would be irreparably damaged.

17 9. The required response to this detention has forced our school to redirect valuable
18 time and finite resources. Should there be a second detention suffered by an Avance family, the
19 school may be stretched too far. The “Interior Security” Executive Order and the ICE actions that
20 it has initiated have create anxieties within school communities that cannot be soon diminished. In
21 an environment where time and resources are scarce, these increased obligations are irreparably
22 harming the educational process for all students. At a time when we should be narrowly focused
23 on instruction in preparation for the annual student assessments set for late April, we have needed
24 to call for numerous school-wide and campus-wide assemblies to inform our students and staff of
25 the situation with the Avelica family, and how they can prepare for situations directed at them. One
26 emerging concern for the school leadership is how this level of support can be maintained once
27 classes break for the summer.

1 10. The “Interior Security” Executive Order has created an environment of fear of
2 possible immigration enforcement action on school property or at school events. Since the detention
3 of Romulo Avelica, many of the grade 8-10 students indicated their reluctance to participate in their
4 physical education classes that use the nearby City parks several times a week, for fear of ICE
5 actions. School staff have noticed a significant increase in the number of student walking alone to
6 school, thus no longer dropped off by their parents. This has had a corresponding increase in
7 students arriving tardy - a disruption to their learning. We have noticed a reduction in the
8 participation of students to off-campus activities, and major impact to the extensive experiential
9 learning of our school, which as a college preparatory, thus includes many university campus visits.
10 We have noticed that in the past month, parent attendance for our intramural basketball and soccer
11 games has decline significantly. For our school, student participation in sports has been a major
12 contributor to improved and sustained academic outcomes. A decline in parent support of the
13 athletics activities will diminish these outcomes.

14 11. The uncertainty caused by the how the “Interior Security” Executive Order will
15 impact our school, our students and staff has specifically impacted the Senior Class Kids Bridge
16 experiential learning project that is the capstone to their four year Life Prep curriculum. This May,
17 the Seniors are to present on water quality issues at a conference in Bennington College in Vermont,
18 attend workshops at the John Abbott College in Montreal, Canada, and have an exchange with high
19 school students of the St. Regis Mohawk Nation on the US-Canada border. As this project involves
20 travel outside of the City and County of Los Angeles, and the state, fear of being detained by federal
21 officers under the enforcement priorities of the “Interior Security” Executive Order has caused at
22 least ten students to withdraw from participation. This is a major loss for these students, and for
23 their classmates.

24 12. Loss of federal funding due to the Executive Order would have a devastating impact
25 on the budget of our charter school. In the last fiscal year ending in July 2016, Academia Avance
26 received \$407,044 from federal categorical program sources, including Title I to support English
27 Language Learners, Special Education and Child Nutrition funds for lunch service. A reduction or
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1 loss of these federal funds would severely disrupt these critical programs, and lead to student dis-
2 enrollment, which would permanently and irreparably reduce the revenues to the school.

3 I declare under penalty of perjury under the laws of the State of California that the foregoing
4 is true and correct.

5 Executed on March 22, 2017, at Los Angeles, California.

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8 Ricardo Mireles
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO,

Plaintiff,

vs.

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F. KELLY, Secretary of United States Department
Homeland Security, JEFFERSON B. SESSIONS,
Attorney General of the United States, DOES 1-
100 et al.,

Defendants.

Case No. 3:17-cv-00485-WHO

**DECLARATION OF SONIA PICOS IN
SUPPORT OF AMICI CURIAE OF
PUBLIC SCHOOLS, SCHOOL
DISTRICTS AND EDUCATORS**

I, Sonia Picos, hereby declare:

1. I am Director of Student Services at Sweetwater Union High School District.

2. I have personal knowledge of the matters contained in this declaration and if called to testify to the matters set forth in this declaration, could do so competently. In my position, I oversee all matters pertaining to students, including attendance, enrollment, health and wellness, safety and security, discipline and truancy, Title IX, and drop-out prevention. Also within our division, matters pertaining to our adult school students and concerns are handled.

3. Sweetwater Union High School District is the southernmost Secondary district in California in proximity to the United States-Mexico Border. It is comprised of schools in National City, Chula Vista, Imperial Beach and the City of San Diego. Many of our schools are located

1 within sightline of Mexico.

2 4. Sweetwater Union High School District employs about 4,300 employees for the
3 District (2,200 certificated, 1847 classified employees, and 194 administrators).

4 5. Sweetwater Union High School District enrolls approximately 41,000 students in
5 grades 7-12 and an additional 20,000 adults in our adult school programs. Over 76% of our families
6 identify as Hispanic or Latino. Sixty percent of students are English Learners, low income, or foster
7 or homeless youth. Over 56% of our students have filed documentation qualifying them for Free
8 and Reduced Lunches. A significant number of those students are directly impacted by the
9 Executive Order.

10 6. Since President Trump issued the Executive Order entitled “Enhancing Public Safety
11 in the Interior of the United States” incidents of hateful harassment have increased. The Executive
12 Order has created an environment of racial and ethnic hostility in classrooms that are meant to be
13 safe spaces for all children to learn and grow. This has caused irreparable mental and emotional
14 damage that cannot be underestimated.

15 7. The Executive Order has created an environment of fear of possible immigration
16 enforcement actions on school property or at school events. In addition, it has created confusion
17 over the roles of staff and law enforcement on school campuses.

18 8. Attendance by undocumented students or students with undocumented relatives has
19 begun to decline since the President issued the Executive Order, due to parental and student fear of
20 family separation.

21 9. Decreased school attendance has caused a loss of student voices that contribute to the
22 vibrancy and diversity of our classrooms and school communities.

23 10. Declines in student attendance also trigger reductions in State funding of the district
24 and put essential programs in jeopardy.

25 11. Further, many students only receive full and balanced meals because of participation
26 in the free and reduced lunch program. Therefore, when those students do not attend school, they
27 often do not eat. This hunger is an irreparable harm.

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1 12. Even students who do attend school are hindered from full focus on instruction, out
2 of fear for the safety of their families and for classmates who are not in attendance, worrying about
3 how to protect them in the face of threatened enforcement action.

4 13. Fear caused by the Executive Order has also reduced parent participation at schools.
5 Dedicated caring parents, who provide essential support to students in the district, have disengaged
6 from community activities.

7 14. Fear from parents, has also resulted in less willingness to complete state mandated
8 documentation. Failure to complete such forms will result in reduction of LCAP dollars tied to
9 unduplicated counts formulas and will result in failure to meet LCAP stakeholder engagement
10 mandates.

11 15. Some schools are already being forced to redirect valuable time and finite resources
12 to respond to the Executive Order. In an environment where time and resources are scarce, these
13 increased obligations are irreparably harming the educational process for all students.

14 a. Administrators and teachers districtwide are fielding calls and communications
15 from parents who are nervous to send students to school because they are
16 concerned with the safety of their students coming to school following the order
17 for fear of unwarranted deportation, harassment from law enforcement, or
18 bullying from students in light of the order. Working with families to assure
19 them that their students are safe from immigration concerns while on campus is a
20 significant draw on staff resources.

21 b. Students have come to their teachers and administrators in tears because they
22 forgot their school work, projects or meals and stating that their parents are afraid
23 to drop the items off at the campus because of the local presence of law
24 enforcement, resulting in student grades being lowered and/or having to provide
25 food to hungry students.

26 c. Daily classroom instruction has been interrupted so that teachers can respond to
27 such feelings of fear from their students in their classrooms. Teachers do not feel
28

1 fully equipped to address such interactions, and thus their inability to address
2 these matters is causing additional student harm.

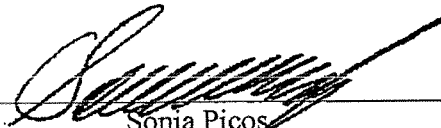
- 3 d. At some campuses, students and staff emboldened by a belief that some of our
4 students do not have the right to receive an education have demonstrated a desire
5 to exclude students from the learning process causing staff to have to redirect
6 conversations, defend some student's rights to learn, and making up lost
7 instructional time.

8 16. Loss of federal funding due to the Executive Order would have a devastating impact
9 on the district's budget and essential programs students rely upon.

10 17. Any decline in federal funding would be compounded by the financial harm caused
11 by declines in attendance.

12 I declare under penalty of perjury under the laws of the State of California that the foregoing
13 is true and correct.

14 Executed on March 21, 2017, at CHULA VISTA, California.

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Attorneys for *Amici Curiae*
Public Schools, Public School
Districts, and Associations of Educators

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CITY AND COUNTY OF SAN FRANCISCO,

Plaintiff,

vs.

DONALD J. TRUMP, President of the United
States, UNITED STATES OF AMERICA,
JOHN F. KELLY, Secretary of United States
Department Homeland Security, JEFFERSON
B. SESSIONS, Attorney General of the United
States, DOES 1-100 et al.,

Defendants.

Case No. 3:17-cv-00485-WHO

**[PROPOSED] ORDER GRANTING
PUBLIC SCHOOLS, SCHOOL DISTRICTS
AND ASSOCIATIONS OF EDUCATORS'
MOTION FOR LEAVE TO FILE AMICUS
CURIAE BRIEF**

1 The Public Schools, School Districts, Educational Associations and Individual Educators have
2 moved to appear and file a brief as *amici curiae*. Having reviewed the proposed brief and considered
3 the motion, this court GRANTS the motion and the proposed *amicus curiae brief* is deemed filed.

4 **IT IS SO ORDERED.**

5
6 Dated: _____

7 Honorable William H. Orrick
8 United States District Judge
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