

Nos. 17-17478, 17-17480

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IN THE  
**United States Court of Appeals for the Ninth Circuit**

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CITY AND COUNTY OF SAN FRANCISCO

*Plaintiff-Appellee,*

*v.*

DONALD J. TRUMP, ET AL.,

*Defendants-Appellants.*

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COUNTY OF SANTA CLARA

*Lead Plaintiff-Appellee,*

*v.*

DONALD J. TRUMP, ET AL.,

*Defendants-Appellants.*

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On Appeal from the United States District Court  
for the Northern District of California  
Case Nos. 3:17-cv-00485-WHO; 3:17-cv-00574-WHO  
The Honorable William H. Orrick, III

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**BRIEF OF *AMICI CURIAE* OF PUBLIC SCHOOLS, SCHOOL  
DISTRICTS, AND EDUCATORS**

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## **TABLE OF CONTENTS**

|   | <b>Page</b> |
|---|-------------|
| I. IDENTITY AND INTERESTS OF AMICUS CURIAE .....  | 1 -         |
| II. STATEMENT OF COMPLIANCE WITH RULE 29.....   | 4 -         |
| III. INTRODUCTION.....  | 4 -         |
| IV. ARGUMENT.....   | 9 -         |
| A. The Perception That the Executive Order Required<br>Public Schools to Assist in Enforcing Federal<br>Immigration Law Irreparably Harmed Students<br>Mentally and Emotionally. .... | 9 -         |
| 1. The Executive Order Caused Student Attendance<br>and Community Participation to Drop. ....   | 9 -         |
| 2. The Executive Order Destroyed Inclusive<br>Classroom Environments, Leaving Behind Racial<br>Divides and Animus.....  | 15 -        |
| 3. The Executive Order Impeded Schools' Ability to<br>Effectively Educate the Entire Student Body. ....   | 18 -        |
| a. Research shows that a lack of cohesion and<br>acceptance in school has a measurable<br>negative impact on educational outcomes. ....   | 18 -        |
| b. Schools were forced to redirect limited<br>resources to combat negative educational<br>environments. ....  | 20 -        |

**TABLE OF CONTENTS**

(continued)

|   | <b>Page</b> |
|---|-------------|
| B. The Executive Order Irreparably Harmed Students by Jeopardizing the School District Funding Necessary for Essential Services upon Which They Rely.....     | 21 -        |
| 1. The Executive Order's Atmosphere of Fear Reduced Student Attendance, Thereby Reducing School District Funding.....   | 21 -        |
| 2. The Executive Order's Ambiguity Puts at Risk Federal Funding for Essential Programming and Basic Student Needs.....  | 23 -        |
| V. CONCLUSION .....   | 27 -        |
| CERTIFICATE OF COMPLIANCE .....   | 30 -        |
| CERTIFICATE OF SERVICE.....   | 31 -        |
| Exhibit 1 - Declaration of Ralph G. Porras in Support of Amici Curiae of Public Schools, School Districts and Educators, Dkt. No. 58-2 (Filed March 29, 2017) |             |
| Exhibit 2 - Declaration of Erika Torres in Support of Amici Curiae of Public Schools, School Districts and Educators, Dkt. No. 58-3 (Filed March 29, 2017)    |             |
| Exhibit 3 - Declaration of Ricardo Mireles in Support of Amici Curiae of Public Schools, School Districts and Educators, Dkt. No. 58-4 (Filed March 29, 2017) |             |

**TABLE OF CONTENTS**

(continued)

**Page**

Exhibit 4 - Declaration of Sonia Picos in Support of Amici  
Curiae of Public Schools, School Districts and  
Educators, Dkt. No. 58-5 (Filed March 29, 2017)

## **TABLE OF AUTHORITIES**

| <b>Cases</b>  | <b>Page(s)</b> |
|---|----------------|
| <i>Belanger v. Madera Unified Sch. Dist.</i> ,<br>963 F.2d 248 (9th Cir. 1992).....   | 10             |
| <i>Brown v. Bd. of Educ.</i> ,<br>347 U.S. 483 (1954) .....   | 5              |
| <i>Grutter v. Bollinger</i> ,<br>539 U.S. 306 (2003) .....  | 15             |
| <i>Monteiro v. Tempe Union High Sch. Dist.</i> ,<br>158 F.3d 1022 (9th Cir. 1998) .....   | 20             |
| <i>Plyler v. Doe</i> ,<br>457 U.S. 202 (1982) .....   | 3, 4, 14       |
| <i>Schuette v. Coal. to Defend Affirmative Action, Integration &amp; Immigrant<br/>Rights &amp; Fight for Equal. By Any Means Necessary (BAMN)</i> ,<br>134 S. Ct. 1623 (2014) (Sotomayor, J., dissenting)..... | 18             |
| <i>Vance v. Spencer Cnty. Pub. Sch. Dist.</i> ,<br>231 F.3d 253 (6th Cir. 2000) .....   | 20             |

**I. IDENTITY AND INTERESTS OF AMICUS CURIAE**

Together, the below public school districts, public schools, educational associations, and individual educators (the “Educational Amici”) respectfully submit this amicus curiae brief in opposition to Appellant’s appeal of the district court’s nationwide permanent injunction against the enforcement of Section 9 of the Executive Order entitled, “Enhancing Public Safety in the Interior of the United States” (the “Executive Order”).<sup>1</sup>

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, they teach and nurture our children, they interact with students’ families, and they foster the sense of community and inclusiveness essential for successful educational outcomes.

The Educational Amici include 14 California public schools, 19 California public school districts, three superintendents, and seven California associations representing 482,727 teachers, 22,520

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

administrators, and elected school officials. Amici schools and districts enroll approximately 1,183,994 K-12 California students and 239,959 adult and college students. A significant number of those students are directly impacted by the Executive Order's emphasis on punishing jurisdictions the Trump Administration deems too protective of people with irregular immigration status. Up to 1 in 30 students in California public schools is undocumented. *Undocumented*, ED100.<sup>2</sup>

Furthermore, in 2014, approximately 3.9 million K-12 students nationally, or 7.3%, had at least one undocumented parent. Jeffrey S. Passel and D'Vera Cohn, *Children of Unauthorized Immigrants Represent Rising Share of K-12 Students*, PEW RESEARCH CENTER (Nov. 17, 2016) ("Pew: Rising Share of K-12"). This number was even higher in California, which reported that 12.3% of its K-12 students had at least one undocumented parent in 2014. *U.S. Unauthorized Immigration Population Estimates*, PEW RESEARCH CENTER (Nov. 3, 2016).

Given their unique position, the Educational Amici are particularly aware of the Executive Order's impact on the educational

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<sup>2</sup> <https://ed100.org/lessons/undocumented> (last visited Feb. 8, 2018).

system. Educational Amici, who dedicate their lives to providing our children with their right to an education, *Plyler v. Doe*, 457 U.S. 202, 219-30 (1982), bore witness to the irreparable harm the Executive Order caused to our children, their families and the broader school communities prior to being enjoined, and can attest firsthand to the inevitable harm that will be inflicted again if the injunction is lifted.

Entrusted with the safety and well-being of our children, the amici faced questions and concerns from students and their families about whether schools would disclose their immigration statuses or other sensitive information to federal immigration authorities in the wake of the Executive Order's issuance. As demonstrated by the concrete, swift fallout experienced prior to the District Court's injunction, all students enrolled in public schools across the country—regardless of their immigration status—will again face imminent, irreparable harm unless the Court affirms the District Court order permanently enjoining the implementation and enforcement of Section 9 of the Executive Order. Moreover, if the injunction is lifted, the Executive Order's ambiguity and unreasonably broad language will again expose public schools themselves to financial risks outside of their control, creating severe



financial consequences that will further harm our children.

## **II. STATEMENT OF COMPLIANCE WITH RULE 29**

This brief is submitted pursuant to Rule 29(a)(2) of the Federal Rules of Appellate Procedure. All current parties have consented to the filing of this brief.

No party or party's counsel authored this brief in whole or in part; no party or party's counsel contributed money to fund the preparation or submission of this brief; and no other person except amici curiae and their counsel contributed money to fund the preparation or submission of this brief.

## **III. INTRODUCTION**

Children are the bedrock of our nation's future; their education is the foundation of our democracy. Education is so "fundamental. . . in maintaining the fabric of our society" that over thirty years ago, the Supreme Court recognized that all children are entitled to equal access to a public education, regardless of immigration status. *Plyler v. Doe*, 457 U.S. 202, 219-30 (1982); *see also Dear Colleague Letter on Equal Access For All Children To Public Schools, Regardless of Immigration*

*Status* at 1-2, U.S. DEP'T OF EDUC. (May 8, 2014)<sup>3</sup> (reminding educators of *Plyler*'s holding and stating that "students are not barred from enrolling in public schools at the elementary and secondary level on the basis of their own citizenship or immigration status or that of their parents or guardians"). Indeed, education "is the very foundation of good citizenship." *Brown v. Bd. of Educ.*, 347 U.S. 483, 493 (1954). "[I]t is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education." *Id.*

Yet on January 25, 2017, President Donald J. Trump issued the Executive Order, imminently threatening to destroy the ability of our public schools to protect, foster, and educate our children. Specifically, Section 9 of the Executive Order purported to grant the Attorney General (the "AG") and the Secretary of Homeland Security (the "Secretary") the authority to unilaterally deny federal funds that support critically-needed basic services from any jurisdiction they deem to be a "sanctuary jurisdiction." Exec. Order 13768, 82 Fed. Reg. 8799 § 9(a) (Jan. 25, 2017).

Alarminglly, the Executive Order contained no clear definition of

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<sup>3</sup> <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201405.pdf>.

“sanctuary jurisdiction,” instead broadly threatening any “State, or a political subdivision of a State.” *Id.* Further startling was the unbridled discretion afforded the AG under the Executive Order. Section 9 broadly charged the AG with taking “appropriate enforcement action against any entity” that he determined has “a statute, policy, or practice” that “prevents or hinders” the enforcement of federal law. *Id.*

The Executive Order transformed schools from inclusive, safe spaces to places of fear and uncertainty, ultimately undermining our entire public education system. By expansively targeting any “State” or “political subdivision of a State,” the Executive Order caused sweeping, profound, and irreparable harm to our children and their families, our public education system, and ultimately, the future of our country prior to the District Court’s injunction. Section 9’s ambiguity, coupled with its grant of unbridled discretion to the AG and the Secretary to classify “sanctuary jurisdictions,” created a level of unpredictability that prevented school districts from properly functioning and providing essential services to students. *See* Ex. 1 at 4 (attesting that “[t]he threat of the loss of federal funding [was] already causing great concern to many school officials planning and implementing multi-year budgets”

and that the loss of federal funds would be “devastating” for “vulnerable and often under-served students.”).

Without the security of knowing whether they would be targeted at school because of their or their families’ actual or perceived immigration status, students were increasingly fearful to attend school, and family members were increasingly reluctant to engage with school staff. Ex. 1 at 3-4 (absenteeism and truancy increased in the months following the issuance of the Executive Order); Ex. 2 at 2-3; Ex. 4 at 2-4.

The serious threat that schools would be compelled to disclose the immigration status of their students and families drove a wedge between students in the classroom and members of broader school communities, directly impeding teachers’ ability to educate their students. Ex. 2 at 2-4; Ex. 4 at 2-4. This caused students intense and irreversible mental harm. For instance, after the enactment of the Executive Order, a father was detained immediately after dropping his daughter off at school, sending waves of fear through school communities. See Ex. 3 at 3-5; Jennifer Medina, *Deportation Arrest Highlights Tensions in Los Angeles on Immigration*, THE NEW YORK

TIMES, March 4, 2017, at A17 (“*L.A. Deportation Arrest*”).<sup>4</sup>

Furthermore, the Executive Order’s ambiguity deprived public schools of the stability and predictability essential to budget for students’ needs. Prior to the permanent injunction, public schools risked losing significant, indispensable federal funds if they were declared sanctuary jurisdictions or found themselves located in a state, county, or city that was deemed a sanctuary jurisdiction. In the face of this uncertainty, it was our children who were exposed to the greatest consequences.

In light of the profound, irreversible harm that the Executive Order caused our students, our communities, and our nation’s future prior to being enjoined, the amici curiae public schools, school districts, associations of educators, and individual educators respectfully urge the Court to affirm the district court’s permanent nationwide injunction against the implementation and enforcement of Section 9 of the Executive Order.

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<sup>4</sup> <https://www.nytimes.com/2017/03/04/us/los-angeles-deportation-immigration.html>.

#### IV. ARGUMENT

A. The Perception That the Executive Order Required Public Schools to Assist in Enforcing Federal Immigration Law Irreparably Harmed Students Mentally and Emotionally.

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

After the President issued the Executive Order, student attendance dropped due to the perception that federal immigration agents would target schools for enforcement actions. Ex. 1 at 3-4; Ex. 2 at 2-3; Ex. 4 at 2; Ray Sanchez, *After ICE arrests, fear spreads among undocumented immigrants*, CNNPOLITICS (Feb. 12, 2017).<sup>5</sup> Students who lose out on even a few weeks of school may see long-term negative consequences. *See Chronic Absenteeism in the Nation's Schools*, U.S. DEP'T OF EDUC. (2016) (noting that chronically absent students are more likely to read below grade level, drop out of school, commit crimes, and end up in poverty).<sup>6</sup> Parent engagement in some schools also declined because parents feared that their presence at school events could

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<sup>5</sup> <http://www.cnn.com/2017/02/11/politics/immigration-roundups-community-fear/>.

<sup>6</sup> <https://www2.ed.gov/datastory/chronicabsenteeism.html>.

increase the likelihood of their own or their loved ones' deportation. Ex. 2 at 2-3; Ex. 3 at 5; Ex. 4 at 3; Roque Planas & Jessica Carro, *This Is What Trump's Immigration Crackdown Is Doing To School Kids*, HUFFINGTONPOST (Feb. 27, 2017);<sup>7</sup> Esmeralda Fabian Romero, *New California Laws Ensure Schools Remain Safe Spaces for Students and Parents — Regardless of Immigration Status*, THE 74 (Dec. 27, 2017) ("Safe Spaces for Students and Parents") (noting a reduction in student school attendance and parent attendance at workshops, school events, and extracurricular activities as a result of the "frightening immigration climate").<sup>8</sup>

This apprehension that California schools would be targeted for immigration enforcement was 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

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<sup>7</sup> [http://www.huffingtonpost.com/entry/elementary-school-kids-terrified-by-immigration-arrests\\_us\\_58a76321e4b07602ad548e14](http://www.huffingtonpost.com/entry/elementary-school-kids-terrified-by-immigration-arrests_us_58a76321e4b07602ad548e14).

<sup>8</sup> <https://www.the74million.org/article/know-your-rights-california-education-advocates-want-to-make-sure-you-know-you-can-stay-in-school/>

families worried that school administrators or security personnel would be forced to disclose sensitive student information to immigration officials or to permit them on school grounds. Ex. 2 at 2-3; Ex. 4 at 2-4. This fear was particularly acute at large school districts that employ their own police officers, who some educators and school officials worried might be required to conduct immigration enforcement actions to avoid losing essential federal funds. *See* Ex. 1 at 2-3.

A strong relationship with community members built on trust is central to day-to-day safety in these schools, and the Executive Order risked the fracturing of these key relationships—a potentially disastrous outcome for our educational system. Ex. 1 at 3; Ex. 3 at 4. Even if schools chose to risk the loss of federal funds by affirmatively declaring themselves safe havens, students and parents feared that participation in school activities would expose them to federal immigration agents. *See* Ex. 1 at 2-3; Ex. 2 at 3; Ex. 3 at 5; Ex. 4 at 3-4. These fears would be renewed if this Court lifts the permanent injunction.

These fears are real, not speculative. In the wake of the Executive Order, there were numerous reports of students and parents being



detained, sometimes in close proximity to schools. For example, Romulo Avelica-Gonzalez was detained by ICE officials shortly after dropping off his youngest daughter at school. Ex. 3 at 3; *L.A. Deportation Arrest, supra*. Not only was Mr. Avelica's family suddenly ripped apart despite Mr. Avelica posing no threat to the surrounding community, but his thirteen-year-old daughter, Fatima, was still in the car when ICE took him into custody. *Id.*

The lasting psychological trauma inflicted by the Executive Order on our state's children is undeniable. Research shows that young children like Fatima whose parents have been detained or deported often experience withdrawal, disrupted eating and sleeping patterns, anger, anxiety, and depression. *See Undocumented Americans, AMERICAN PSYCHOLOGICAL ASSOCIATION.*<sup>9</sup> More long term, these children are at risk for more severe issues, such as post-traumatic stress disorder, poor identity formation, distrust of authorities, acting out, and difficulty with school. *Id.*; Mark Keierleber, *Trump's immigration crackdown is traumatizing a generation of children*, THE

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<sup>9</sup> <http://www.apa.org/topics/immigration/undocumented-video.aspx> (last visited Feb. 8, 2018).

GUARDIAN (Aug. 23, 2017) (“Kids start lagging behind academically, having social stress, anxiety, depression[.]...With the new administration and all the threats for deportation that are so vivid and so real, and all the rhetoric that’s going around, the anxiety escalates to a point that can be very paralyzing for some of these kids, who don’t want to go to school, or who go to school and sit in there and still worry about their families.”).<sup>10</sup>

Reports of traumatic experiences like that of Fatima’s family sent chills through school communities. Ex. 3 at 4. Although ICE policy prohibits enforcement actions in and around schools unless exigent circumstances exist, an exception applies, or prior approval is obtained, *see Enforcement Actions at or Focused on Sensitive Locations*, ICE (Oct. 24, 2011),<sup>11</sup> ICE maintains that Mr. Avelica’s arrest was proper because he was half a mile away from the school. *L.A. Deportation Arrest*, *supra*. Understandably, students and their families were fearful that even if ICE respected its own policies, Fatima’s story demonstrated that in the wake of the Executive Order, those policies were insufficient to

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<sup>10</sup> <https://www.theguardian.com/us-news/2017/aug/23/us-immigration-children-schools-trump>.

<sup>11</sup> <https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf>.

protect young students simply seeking their right to an equal education. *See Plyler*, 457 U.S. at 219-30. Indeed, following the Executive Order, schools reported an uptick in unverified community rumors regarding the presence of ICE officials in and around schools. Ex. 2 at 2-3; Ex. 3 at 2-3; Andrea Castillo, *Immigrant arrested by ICE after dropping daughter off at school, sending shockwaves through neighborhood*, LOS ANGELES TIMES (Mar. 3, 2017).<sup>12</sup>

The Executive Order's damage extended beyond immigrant populations. When student attendance and parent participation in school communities declined as a result of the Executive Order, the entire student body suffered. Ex. 3 at 5; Ex. 4 at 2; Ex. 1 at 3 ("Strong educational programs require the support of healthy, vibrant and diverse communities."). Students and family members with irregular immigration status lived in a state of terror that immigration agents might meet them at the schoolhouse door. Ex. 1 at 3; Ex. 2 at 2-3; Ex. 3 at 2-5. Many students feared for their classmates, worrying about how to protect them in the face of threatened enforcement action. *See* Ex. 1

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<sup>12</sup> <http://www.latimes.com/local/lanow/la-me-immigration-school-20170303-story.html>.

at 3; Ex. 4 at 3. Schools lost voices that contribute to the vibrancy and diversity of their classrooms and dedicated parent volunteers who provide essential support to students across California. *See* Ex. 1 at 3-4; Ex. 4 at 2; Mike Szymanski, *Protesters Join Family of Father Arrested by ICE Agents Outside His Daughter's School at Rally in Downtown LA*, THE 74 (Mar. 7, 2017) (quoting Mireles, the principal of Academia Avance charter school, who predicts a drop in student attendance and parent involvement in light of recent ICE activities on campus).<sup>13</sup>

**2. The Executive Order Destroyed Inclusive Classroom Environments, Leaving Behind Racial Divides and Animus.**

The Executive Order (particularly when coupled with the President's other immigration policies) taught 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

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<sup>13</sup> <https://www.the74million.org/article/protesters-join-family-of-father-arrested-by-ice-agents-outside-his-daughters-school-at-rally-in-downtown-la>.

of our Nation is essential if the dream of one Nation, indivisible, is to be realized.”). Consequently, the Executive Order undermined 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* Ex. 1 at 3; Ex. 4 at 2-4; *Sacramento Schools Promoting Image as Immigration Safe Haven*, CBSSACRAMENTO (Mar. 7, 2017) (quoting California Assemblyman Jim Cooper stating, “I look around the room and I see the students and all they should be worried about is going to school, getting good grades and going to prom, not being deported.”).<sup>14</sup>

Prior to the District Court’s injunction, the presidential policies underlying the Executive Order were 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, S. POVERTY LAW CTR. (2016);<sup>15</sup> *see* Ex. 4 at 3-4. In the aftermath of the election, there was a significant increase in reported cases of hateful

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<sup>14</sup> <http://sacramento.cbslocal.com/2017/03/07/sacramento-schools-promoting-image-as-immigration-safe-haven>.

<sup>15</sup> [https://www.splcenter.org/sites/default/files/splc\\_the\\_trump\\_effect.pdf](https://www.splcenter.org/sites/default/files/splc_the_trump_effect.pdf).

harassment, with nearly 40% of all incidents occurring in an educational setting and the highest number of incidents occurring in K-12 schools. *Update: Incidents of Hateful Harassment Since Election Day Now Number 701*, S. POVERTY LAW CTR. (Nov. 18, 2016);<sup>16</sup> *see also* Ex. 1 at 3; Ex. 4 at 2; *Safe Spaces for Students and Parents*, *supra* (reporting more calls for help with submitting discrimination claims in the past six months than in the last five years). Although anti-immigrant incidents constituted the most common form of reported harassment, these incidents were not limited to immigrant students and their families. Costello, *supra*, at 7. Children increasingly felt emboldened to use hateful language against those who appeared different from themselves. *Id.* at 10-11; Ex. 4 at 3-4. Indeed, students of diverse backgrounds expressed daily fears about being deported, being sent to detention camps, losing their homes, or being attacked by police, solely due to their actual or perceived identities. Costello, *supra*, at 10-11. These incidents of hate were particularly traumatizing for students who have come to the United States seeking asylum or refuge from persecution in

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<sup>16</sup> <https://www.splcenter.org/hatewatch/2016/11/18/update-incidents-hateful-harassment-election-day-now-number-701>.

other countries. *Id.* at 8.

The irreparable mental and emotional damage the Executive Order caused by destroying the safe haven that classrooms have traditionally provided cannot be underestimated, and cannot be permitted to occur again. *See* Ex. 1 at 3; Ex. 4 at 2.

**3. The Executive Order Impeded Schools’ Ability to Effectively Educate the Entire Student Body.**

The Executive Order’s harm was not limited to individual students’ mental and emotional damage. The racial animus and divisiveness caused by the Executive Order impaired educational outcomes and forced schools to redirect limited funds toward mitigating racial and ethnic hostility. Ex. 4 at 3-4. As noted by Justice Sotomayor, “I do not belong here” is indeed the “most crippling of thoughts.” *Schuette v. Coal. to Defend Affirmative Action, Integration & Immigrant Rights & Fight for Equal. By Any Means Necessary (BAMN)*, 134 S. Ct. 1623, 1676 (2014) (Sotomayor, J., dissenting).

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

Unless the permanent injunction is affirmed, the Executive Order will again irreparably damage the positive school environment 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).<sup>17</sup> Similarly, a sense of belonging in the classroom positively predicts end of semester grades, increases motivation, and promotes academic engagement. Robert W. Roeser, et al., *Perceptions of the School Psychological Environment and Early Adolescents' Psychological and Behavioral Functioning in School*, 88 J. EDUC. PSYCHOL. 408-22 (1996); C. Goodenow C & K.E. Grady, *The Relationship of School Belonging and Friends' Values to Academic Motivation Among Urban Adolescent Children*, 62 J. EXP. EDUC. 60-71 (1993).

In contrast, a negative school environment precludes educators from fostering the civil discourse necessary for an enriching educational process. *See* Ex. 4 at 3-4. When students feel excluded, anger, hostility, and physical altercations replace the civil debates that classrooms traditionally promote. *See* Costello, *supra*, at 11. Consequently,

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<sup>17</sup> <http://k12engagement.unl.edu/REVIEW%20OF%20EDUCATIONAL%20RESEARCH-2013-Thapa-357-85.pdf>.



students experience increased anxiety for themselves and their fellow classmates, impacting their ability to concentrate. *Id.* at 7, 9; Ex. 1 at 3; Ex. 4 at 3.

**b. Schools were forced to redirect limited resources to combat negative educational environments.**

The Executive Order diverted essential resources because, in response to increased bullying and racial animus, school districts are legally required to take reasonable actions to stop harassing behavior. *Vance v. Spencer Cty. 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 were forced to redirect valuable time and finite resources to resisting the hate and divisiveness promoted by the Executive Order. Ex. 4 at 3-4. In an environment where time and resources are scarce, these increased obligations were irreparably harming the educational process for all students by syphoning resources from books, teachers, and learning, to mitigating hate. *Id.*

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

**1. The Executive Order's Atmosphere of Fear Reduced Student Attendance, Thereby Reducing 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.<sup>18</sup> Consequently, decreases in student attendance have a profound negative effect on the state funds those schools receive. Ex. 1 at 3-4; Ex. 4 at 2. 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).<sup>19</sup> 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*

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<sup>18</sup> <http://www.cde.ca.gov/fg/aa/lc/lcffffaq.asp#FC> (last visited Feb. 8, 2018).

<sup>19</sup> <http://www.kpbs.org/news/2011/jun/27/chronically-absent-students-cost-county-schools-mi/>.

*Report on California's Elementary School Truancy & Absenteeism*

*Crisis*, CAL. DEP'T. OF JUST.<sup>20</sup>

As discussed in Section IV.A.1 *supra*, the Executive Order and the President's related immigration policies created tremendous uncertainty in immigrant communities, causing parents to keep their children at home for fear that immigration agents might raid public schools. Ex. 1 at 3-4; Ex. 2 at 2-3; Ex. 4 at 2; Ray Sanchez, *After ICE arrests, fear spreads among undocumented immigrants*, CNN (Feb. 12, 2017); Julie Zeeb, *Gerber school sees attendance drop after immigration operation*, CHICO ENTERPRISE-RECORD (Mar. 24, 2017) (reporting absence of 57 out of 416 students enrolled in Gerber Elementary School the day following a two-day ICE enforcement operation).<sup>21</sup> This fear deprived children of their right to an education and reduced state funding that schools need for basic operations. Reduced funding impacts all students, regardless of immigration status, and has long-term consequences for communities, the state, and the economy. *See In*

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<sup>20</sup> <https://web.archive.org/web/20170725194708/https://oag.ca.gov/truancy/2016> (last visited Feb. 8, 2018).

<sup>21</sup> <http://www.chicoer.com/article/NA/20170324/NEWS/170329854>

*School + On Track: Attorney General's 2013 Report on California's Elementary School Truancy & Absenteeism Crisis*, CAL. DEP'T. OF JUST.<sup>22</sup> (finding truant elementary school students more likely to become high school dropouts who annually cost California billions in “criminal justice costs, social and medical costs, lost income taxes and associated economic losses”); Ex. 4 at 4.

**2. The Executive Order's Ambiguity Puts at Risk Federal Funding for Essential Programming and Basic Student Needs.**

Section 9 failed to provide notice as to what criteria would be used by the Secretary and the AG to make “sanctuary jurisdiction” determinations. The breadth of the Executive Order compounded 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 believed they could not guarantee that they would not be deemed sanctuary jurisdictions and, even if they could, they could not predict any potential financial consequences of being located in a state, county, or city that was deemed a sanctuary jurisdiction. Rory

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<sup>22</sup> [https://oag.ca.gov/sites/all/files/agweb/pdfs/tr/truancy\\_2013.pdf](https://oag.ca.gov/sites/all/files/agweb/pdfs/tr/truancy_2013.pdf) (last visited Feb. 8, 2018).

Carroll, Robin Respaut & Andy Sullivan, *Top 10 U.S. sanctuary cities face roughly \$2.27 billion in cuts by Trump policy*, REUTERS (Jan. 25, 2017)<sup>23</sup> (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. Ex. 1 at 4; Ex. 3 at 5-6; Ex. 4 at 4.

The federal government provides funding for various programs that are essential to fostering healthy students and academic success. Ex. 1 at 4; Ex. 2 at 3; Ex. 3 at 5-6; Ex. 4 at 2, 4. Prior to the permanent injunction, many schools feared that the Executive Order critically threatened the viability of these key programs, upon which our most vulnerable students depend. Ex. 1 at 4; Ex. 2 at 3; Ex. 3 at 5-6; Ex. 4 at 2, 4.

Under Title I of the Elementary and Secondary Education Act, schools with high populations of low-income students receive additional federal funding to help "ensure that all children meet challenging state

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<sup>23</sup> <http://www.reuters.com/article/us-usa-trump-sanctuarycities-idUSKBN1592V9>.

academic standards” in core subject areas. *Improving Basic Programs Operated by Local Educational Agencies (Title I, Part A)*, U.S. DEP’T OF EDUC.<sup>24</sup> During the 2009-2010 school year, 56,000 public schools nationally received Title I funds to support “extra instruction in reading and mathematics, as well as special preschool, after-school, and summer programs to extend and reinforce the regular school curriculum.” *Id.* The Executive Order’s ambiguity threatened this crucial Title I funding—funding necessary to ensure the academic success of economically disadvantaged students. Ex. 1 at 4; Ex. 3 at 5-6.

Additionally, many public schools provide free or reduced-cost meals to low-income students and receive reimbursement from the federal government. *See e.g.* Ex. 2 at 3; Ex. 3 at 5-6; Ex. 4 at 2 (56% of Sweetwater district’s students are eligible for free or reduced price lunches). For many low-income students, these free or discounted meals are the only meals they know they can depend upon each day. Ex. 4 at 2. The United States Department of Agriculture’s preliminary data for Fiscal Year 2016 shows that schools served breakfast to 14.5

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<sup>24</sup> <https://www2.ed.gov/programs/titleiparta/index.html?exp=0> (last visited Feb. 8, 2018).

million students daily, including 11.5 million free breakfasts and 860,000 reduced-price breakfasts. *School Breakfast Program Participation and Meals Served*, U.S. DEP'T OF AGRIC.<sup>25</sup> Preliminary data also shows that schools served 30.4 million lunches daily, including 20.1 million free lunches and 2 million reduced-price lunches. *National School Lunch Program: Participation And Lunches Served*, U.S. DEP'T OF AGRIC.<sup>26</sup> These meals are essential to combating hunger, promoting student wellness, and fostering an environment where students can thrive and learn. Ex. 2 at 3; Ex. 4 at 2.

The Executive Order's threat to public schools' federal funding jeopardized these essential programs for all students, regardless of immigration status. Ex. 1 at 4; Ex. 4 at 4. The uncertainty under the Executive Order placed public schools in an unconscionable dilemma—they could either stop providing essential nutrition and support services to their students or risk a significant budgeting shortfall.

The Executive Order's ambiguity posed particular challenges for

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<sup>25</sup> <https://www.fns.usda.gov/sites/default/files/pd/sbsummar.pdf> (last visited Feb. 8, 2018).

<sup>26</sup> <https://www.fns.usda.gov/sites/default/files/pd/slsummar.pdf> (last visited Feb. 8, 2018).

California public schools' budgeting processes. Under California's 2014 Local Control Funding Formula ("LCFF"), school districts are legally required to develop Local Control & Accountability Plans ("LCAPs") in consultation with parents, educators, employees and their unions, and the larger community as part of their budgeting processes. *LCFF Frequently Asked Questions, supra*. LCAPs cover three-year periods and must explain how district budgets meet annual goals for student achievement. *Id.* Because the Executive Order threatened significant federal funds for LCAPs that must be approved three years in advance, it created a level of uncertainty that made the LCFF community consultation process untenable. *See* Ex. 4 at 3 (detailing parents' fear that completing state-mandated documentation might result in deportation, putting LCAP funds further at risk).

## V. CONCLUSION

For the reasons above, the amici respectfully request that the Court affirm the nationwide injunction against implementation and enforcement of Section 9 of the Executive Order. Absent a continued injunction, students, their families, and our broader communities will again experience immediate, irreparable harm as a direct result of the



uncertainty and fear caused by the Executive Order. Students will experience increased emotional damage and poor academic outcomes; schools will be unable to plan for upcoming school years in compliance with local law and ensure that students continue receiving essential services; and ultimately, our nation as a whole will suffer.

February 12, 2018

Respectfully submitted,  
ORRICK, HERRINGTON & SUTCLIFFE LLP

/s/ Darren S. Teshima

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CLSBA (California Latino School Boards  
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CTA (California Teachers Association)  
East Side Union High School District

Evergreen School District  
Fenton Charter Public Schools  
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San Diego Community College District  
San Diego Unified School District  
San Francisco Unified School District  
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**CERTIFICATE OF COMPLIANCE**

This brief complies with the length limits permitted by Ninth Circuit Rule 32-1 and Fed. R. App. P. 29(a)(5). The brief is 4790 words, excluding the portions exempted by Fed. R. App. P. 32(f).

This brief's type size and type face comply with Fed. R. App. P. 32(a)(5) and (6), because the brief has been prepared in a proportionally spaced typeface using Microsoft Word 2013 in Century Schoolbook 14-point font.

February 12, 2018

ORRICK, HERRINGTON & SUTCLIFFE LLP

*/s/ Darren S. Teshima*

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*Counsel for Amicus Curiae  
Public Schools, School Districts and  
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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on February 12, 2018.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

ORRICK, HERRINGTON & SUTCLIFFE LLP

*/s/ Darren S. Teshima*

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DARREN S. TESHIMA

*Counsel for Amicus Curiae  
Public Schools, School Districts and  
Associations of Educators*

## Exhibit 1

Declaration of Ralph G. Porras in Support of Amici  
Curiae of Public Schools, School Districts and Educators,  
Dkt. No. 58-2 (Filed March 29, 2017)

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 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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Ralph G. Porras

## Exhibit 2

Declaration of Erika Torres in Support of Amici Curiae of  
Public Schools, School Districts and Educators, Dkt. No.  
58-3 (Filed March 29, 2017)

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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.

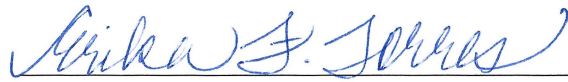
15 8. There was another inquiry from a school sometime in February 2017 that parents were  
16 afraid to send their children on a field trip for fear that students will be rounded up  
17 because they are not within the physical confines of the school.

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  
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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 21<sup>st</sup> of March, 2017 at Los Angeles,  
5 California.

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8 ERIKA TORRES  
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### Exhibit 3

Declaration of Ricardo Mireles in Support of Amici  
Curiae of Public Schools, School Districts and Educators,  
Dkt. No. 58-4 (Filed March 29, 2017)

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 23<sup>rd</sup>, 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 8<sup>th</sup> 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 1<sup>st</sup>, 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 6<sup>th</sup>, 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  
28

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.

6  
7 

8 Ricardo Mireles

## Exhibit 4

Declaration of Sonia Picos in Support of Amici Curiae of  
Public Schools, School Districts and Educators, Dkt. No.  
58-5 (Filed March 29, 2017)

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 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.



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.

15  
16  
17   
Sonia Picos