

No. G064332

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT, DIVISION THREE

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**MAE M., ET AL.**  
*Plaintiffs-Appellants,*

v.

**JOSEPH KOMROSKY, ET AL.**  
*Defendants-Respondents.*

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Appeal from an Order of the Superior Court Riverside County  
The Honorable Eric Keen, Case No. CVSW2306224

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**[PROPOSED] BRIEF OF AMICI CURIAE CALIFORNIA  
TEACHERS ASSOCIATION, CALIFORNIA FEDERATION OF  
TEACHERS, CALIFORNIA FACULTY ASSOCIATION,  
CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION, AND  
SERVICE EMPLOYEES INTERNATIONAL UNION CALIFORNIA  
STATE COUNCIL**

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Laura P. Juran (SBN 199978)  
Jean Shin (SBN 228423)  
California Teachers Association  
11745 E. Telegraph Road  
Santa Fe Springs, CA 90670  
Telephone: (562) 478-1410  
Email: [ljuran@cta.org](mailto:ljuran@cta.org)  
[jshin@cta.org](mailto:jshin@cta.org)

Glenn Rothner (SBN 67353)  
Rothner, Segall & Greenstone  
510 South Marengo Avenue  
Pasadena, CA 91101  
(626) 796-7555  
Email: [grothner@rsglabor.com](mailto:grothner@rsglabor.com)

*Attorneys for Amici Curiae*

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| <b>COURT OF APPEAL</b> <b>FOURTH APPELLATE DISTRICT, DIVISION THREE</b>  | COURT OF APPEAL CASE NUMBER:<br>G064332    |
| ATTORNEY OR PARTY WITHOUT ATTORNEY:      STATE BAR NUMBER: 228432<br>NAME: Jean Shin<br>FIRM NAME: California Teachers Association - Legal Department<br>STREET ADDRESS: 11745 E. Telegraph Road<br>CITY: Santa Fe Springs      STATE: CA      ZIP CODE: 90670<br>TELEPHONE NO.: (562) 478-1378      FAX NO.:<br>E-MAIL ADDRESS: jshin@cta.org<br>ATTORNEY FOR (name): Amici Curiae, California Teachers Association, et al.   | SUPERIOR COURT CASE NUMBER:<br>CVSW2306224 |
| APPELLANT/ MAE M., by and through her guardian ad litem Anthony M., et al.<br>PETITIONER:<br>RESPONDENT/      JOSEPH KOMROSKY, ET AL.<br>REAL PARTY IN INTEREST:   |  |
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Amici Curiae, California Teachers Association, California Federation of Teachers, California Faculty Association, California School Employees Association, and SEIU California State Council

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Date: October 2, 2024

Jean Shin, Esq. \_\_\_\_\_  
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## INTRODUCTION

The amici labor organizations agree with the arguments of Plaintiffs-Appellants that the anti-CRT Resolution 2022-23/21 (the “Resolution”) and forced-outing Policy 5020.01 (the “Policy”), enacted by the Board of Trustees of the Temecula Valley Unified School District (the “District”), are unconstitutional and unlawful. We also agree that the Resolution and Policy seriously harm students and their ability to receive an equitable education in a non-discriminatory environment. We join and do not repeat those arguments.

We write separately to address how the District’s actions irreparably harm school employees and the learning environment as a whole. Students, parents and educators all want thriving schools where students are safe, supported, and taught critical thinking skills in a truthful and inclusive way. In Temecula Valley Unified School District, however, school board members have prioritized their personal political agendas over the well-being of the students and the school community. Their vague, overbroad, and politically-motivated anti-CRT Resolution silences educators and prevents them from engaging students in a culturally-responsive and honest curriculum. Their forced-outing Policy damages student-teacher relationships and prohibits educators from providing a safe and supportive learning environment for gender-nonconforming children. These unlawful enactments have created a critical dilemma for District educators. They must try to interpret the vague Resolution, and to figure out how to reconcile the Resolution and Policy with educators’ existing obligations under California law and curricular standards. These educators are perpetually aware that their daily decisions may result in public censure and workplace discipline.

The District’s politicization of the classroom weakens educator morale, chills classroom discussions, and erodes trust between school employees and students. The damage to the school environment makes it more difficult to recruit and retain educators during a time of critical teacher shortages.

Educators in California’s schools already perform a difficult job under challenging conditions. They need and deserve support, autonomy and respect. Instead, the District’s actions create an atmosphere of fear and stress, and turn educators into political targets. Amici urge the Court to reverse the decision of the superior court below and direct the court to issue the preliminary injunction requested by Plaintiffs-Appellants.

## DISCUSSION

### **I. The Increased Politicization of the Classroom Worsens the Teacher Shortage.**

California is suffering a shortage of qualified educational professionals. Earlier this year, *USA Today* reported that California has the third-lowest teacher-to-student staffing ratio in the nation, with just one teacher employed to serve every 45.74 students in its public schools.<sup>1</sup> Worrisomely, this teacher shortage is likely to grow even more severe. In a recent poll, half of California teachers reported that they are considering leaving the profession.<sup>2</sup> And in a poll conducted earlier this year, half of teachers surveyed nationwide said that teachers’ morale has worsened over the past year.<sup>3</sup>

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<sup>1</sup> Janet Loehrke, *Where are all the teachers? Breaking down America's teacher shortage crisis in 5 charts*, USA TODAY (March 19, 2024), available at <https://www.usatoday.com/story/graphics/2024/03/19/teacher-shortage-crisis-explained/72958393007/>

<sup>2</sup> Hart Research Associates, *Voices from the Classroom: Developing a Strategy for Teacher Retention and Recruitment* (2022) at p. 9, available at <https://transformschoools.ucla.edu/research/voices-from-the-classroom/>

<sup>3</sup> Alex Harwin & Laura Baker, *DATA: 5 Key Insights Into America’s Teachers*, EDWEEK (March 6, 2024), available at <https://www.edweek.org/teaching-learning/data-5-key-insights-into-americas-teachers/2024/03>

The politicization of education exacerbates this problem, by making the classroom a less desirable place to work. In a recent survey of 4,600 California teachers, educators said that ideological and political attacks on teachers were a top reason that they are considering leaving the profession.<sup>4</sup>

Ideological attacks on schools are especially likely to dissuade educators of color from joining or staying in the field. Research has long shown that students of color benefit when at least some of their teachers are people of color. When students of color are instructed by teachers with a shared ethnic or racial background, students demonstrate improved attendance, higher test scores, and higher graduation rates.<sup>5</sup> It is therefore essential that schools attract and retain teachers from racially diverse backgrounds. However, teachers from historically marginalized racial groups feel particularly burdened by ideological attacks on education. They often report that they feel an ethical obligation to ensure that curriculum is culturally relevant, accurate, and just.<sup>6</sup> When they are prevented from teaching in a manner

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<sup>4</sup> Kai Mathews, *et al.*, Civil Rights Project/Proyecto Derechos Civiles and Center for the Transformation of Schools, UCLA, *Barriers to Racial Equity for Teachers of Color and Indigenous Teachers in California's Teaching Pipeline & Profession* (May 2024) at p. 56, available at <https://transformschoools.ucla.edu/research/barriers-to-racial-equity-for-teachers-of-color-and-indigenous-teachers/>. See also Hart Research Associates, *Voices from the Classroom: Developing a Strategy for Teacher Retention and Recruitment* (2022) at p. 9, available at <https://transformschoools.ucla.edu/research/voices-from-the-classroom/> (political attacks on teachers are the second-highest ranked reason why teachers want to leave the profession).

<sup>5</sup> Seth Gershenson & Nicholas Papageorge, Brookings Institute, *Through peer learning, the benefits of teacher diversity extend beyond classroom walls* (July 18, 2023), available at <https://www.brookings.edu/articles/through-peer-learning-the-benefits-of-teacher-diversity-extend-beyond-classroom-walls/>

<sup>6</sup> Kai Mathews, *et al.*, Civil Rights Project/Proyecto Derechos Civiles and Center for the Transformation of Schools, UCLA, *Barriers to Racial Equity for Teachers of Color and Indigenous Teachers in California's Teaching Pipeline & Profession* (May 2024), at pp. 49-50, available at <https://transformschoools.ucla.edu/research/barriers-to-racial-equity-for-teachers-of-color-and-indigenous-teachers/>



that meets their ethical standards, they report feeling stress, discouragement, and dissatisfaction.<sup>7</sup>

Notably, educator dissatisfaction and resultant turnover is not inevitable. Nor is it uniform across the nation or even across the state. Instead, teacher turnover rates are highly influenced by factors within individual schools and individual school districts. Educators who report positive school climates, supportive school administration, and safe working environments are less likely to want to leave their jobs.<sup>8</sup> Conversely, educators who perceive that their school climates are not positive, or that their districts' policies hinder their goals, are more likely to seek employment elsewhere.<sup>9</sup>

## **II. Actions like the Resolution and Policy Worsen Working Conditions and Hurt School Employee Morale.**

Given the worsening teacher shortage, it is critically important for school districts to implement policies that create positive school environments, and that empower and support educators. In Temecula, however, the District has done the opposite. Its Resolution and Policy disempower educators, harm educator-student relationships, and hinder teachers, counselors, and other school professionals from doing their jobs. These enactments therefore worsen the teaching environment and working conditions for the District's educators – which causes immediate and irreparable harm to students.

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<sup>7</sup> *Id.* at p. 65.

<sup>8</sup> Erica Harbatkin & Tuan D. Nguyen, Brookings Institute, *The relationship between teacher intentions, turnover behavior, and school conditions* (October 19, 2023), available at <https://www.brookings.edu/articles/the-relationship-between-teacher-intentions-turnover-behavior-and-school-conditions/>

<sup>9</sup> *Id.*

A. The Resolution and Policy force school employees to choose between violating state law and policy, and risking discipline.

Both the Resolution and the Policy conflict with California law. This conflict puts educators, counselors, and other school employees in an untenable position: They must choose between violating their obligations under state law, and risking workplace discipline by defying their employer.

The forced-outing Policy violates the California Constitution's equal protection guarantee, as Plaintiffs-Appellants have compellingly argued.<sup>10</sup> The Policy also requires employees to violate the constitutional privacy rights of transgender and gender-nonconforming students by disclosing students' gender identities, even against their will. This also contravenes state statutory law and policy. California students have a statutory right to participate fully in the educational process, and to use facilities and participate in school activities consistent with their gender identity.<sup>11</sup> School districts and school district employees are required to provide transgender students with a safe and supportive learning environment, free from discrimination or bullying.<sup>12</sup>

This means that a school district employee may not disclose a student's gender identity to anyone against the student's wishes. As the California Department of Education has explained in legal guidance issued a decade ago, "preserving a student's privacy is of the utmost importance," because "[r]evealing a student's

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<sup>10</sup> On September 9, 2024, the San Bernardino County Superior Court held that a similar policy in Chino Valley Unified School District violated the privacy and equal protection rights of students. *State of California v. Chino Valley Unified School District*, Case No. CIVSB2317301 (San Bernardino County Superior Court, Sept. 9, 2024). Ruling available at <https://oag.ca.gov/system/files/attachments/press-docs/Chino.Injunction.Decision.9.9.24.pdf>

<sup>11</sup> California Education Code §§ 200, 201, 221.5.

<sup>12</sup> California Education Code §§ 220, 234; California Government Code § 11135.

gender identity or expression to others may compromise the student’s safety.”<sup>13</sup> The CDE stated that transgender students have a “right ... to keep their transgender status private,” and that this right is “grounded in California’s antidiscrimination laws as well as federal and state laws.”<sup>14</sup> “Disclosing that a student is transgender without the student’s permission may violate California’s antidiscrimination law by increasing the student’s vulnerability to harassment and may violate the student’s right to privacy.”<sup>15</sup>

That a student’s gender identity must not be disclosed without their consent has been made even more explicit with AB 1955.<sup>16</sup> This bill, which was signed into law on July 15, 2024, expressly prohibits a school district from requiring any employee to disclose a student’s gender identity or gender expression to any other person, without the student’s consent.<sup>17</sup> Importantly, AB 1955 states that it is declaratory of existing law.<sup>18</sup> In other words, the prohibitions enunciated in the bill clearly spell out legal requirements that were already in effect at the time that the District enacted the forced-outing Policy.

Teachers in the District are – quite understandably – anxious about the fact that the Policy requires them to violate their students’ rights to privacy and non-discrimination. For example, District teacher Amy Eytchison seeks to provide a safe learning environment for all her students, including those who are transgender [I CT 738]. But because of the Policy, she does not know how to provide that support

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<sup>13</sup> California Department of Education, *School Success and Opportunity Act (Assembly Bill 1266) Frequently Asked Questions*, at <https://www.cde.ca.gov/re/di/eo/faqs.asp> (last visited September 4, 2024).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> Assembly Bill 1955, approved by the Governor, July 15, 2024 (2023-2024 Reg. Sess.).

<sup>17</sup> Assembly Bill 1955, approved by the Governor, July 15, 2024 (2023-2024 Reg. Sess.) § 6.

<sup>18</sup> *Id.*

without putting herself in danger of discipline [*id.*]. Eytchison is now “terrified” that her efforts to support her students in accordance with her teaching obligations will put her job at risk [*id.*].

The District’s anti-CRT Resolution also contravenes state law and policy. As Rita Kohli, an Associate Professor of Teaching and Teacher Education at UC Riverside School of Education, and Marcos Pizarro, the Associate Dean of the Lurie College of Education at San Jose State University explain, the Resolution makes it impossible to teach to the state’s academic content standards. For example, the academic framework for history and social science that was adopted by the California Department of Education provides that teachers should instruct students on how the California missions negatively impacted Native American communities, how hostility towards Chinese and Japanese laborers led to the anti-Asian exclusion movements, and how controversies over the expansion of slavery impacted California’s statehood<sup>19</sup> [I CT 941]. Professor Kohli and Dean Pizarro note that “these standards are impossible to reconcile with the restrictions imposed by the Board,” because the Resolution “censors virtually all instruction that suggests that racism is embedded into social institutions” [I CT 941-942].

The Resolution also makes it impossible for teachers to meet California’s new ethnic studies curriculum mandates. California law requires that public high schools offer ethnic studies courses beginning in the 2025-2026 school year.<sup>20</sup> As noted by John Rogers, UCLA Professor of Education and Information Studies and the Faculty Director of Center X, which houses UCLA’s Teacher Education Program, the Resolution conflicts with this directive, because it makes it impossible

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<sup>19</sup> California Department of Education, California History-Social Science Framework (2016), *available at* <https://www.cde.ca.gov/ci/hs/cf/documents/hssframeworkwhole.pdf>

<sup>20</sup> California Education Code §§ 51225.3, 51226.7.

for teachers to teach about race, racism, or social and political history in a nuanced and accurate way [I CT 990-991].

The conflict between the Resolution and California curriculum requirements creates an impossible situation for District employees. District employees are well-aware of their responsibilities as educational professionals, and struggle with the fact that fulfilling those responsibilities now puts them in danger of discipline. For example, elementary school teacher Amy Eytchison is at a loss as to how to meet the state’s academic content standards for fourth grade – which include teaching about historical harms to racial minorities in California – without violating the Resolution and facing discipline [I CT 734-735]. Similarly, high school teacher Dawn Sibby worries that the Resolution’s prohibition on teaching that individuals “should feel discomfort” on account of their race has made it “impossible to teach” required topics such as European imperialism in her World History course, because the discussion is likely to “cause some students to feel discomfort” [I CT 757]. In her American History class, Sibby “do[es] not know how to meet” state requirements to teach about “the controversies that have resulted over changing interpretations of civil rights” without violating the Resolution [*id.*].

B. The Resolution’s vagueness puts educators in constant fear of discipline.

The censorship Resolution creates problems for District educators for another reason. As discussed by the Plaintiffs-Appellants in their Briefs, the anti-CRT Resolution is impermissibly vague. It prohibits instruction on a range of concepts that are so poorly defined that the parameters of the prohibition are impossible for employees to guess. Not only that, the Resolution also bars educators from using “frameworks” that are “similar” to critical race theory, without providing any guidance on what those frameworks are, or how to determine whether they are sufficiently “similar” to fall under the District’s prohibition [I CT 76].

Defendants-Respondents scoff at the concern that educators would have difficulty knowing what is prohibited by the Resolution [Respondents’ Brief, p. 27]. They claim that it is “nonsensical” to worry that a well-respected text, such as Dr. Martin Luther King, Jr.’s *Letter from a Birmingham Jail*, might run afoul of the Resolution [Respondents’ Brief, pp. 27-28]. But in fact, there is nothing far-fetched about this concern. In 2023, a teacher in South Carolina, Mary Wood, was disciplined for allegedly violating a rule that – exactly like the Resolution in Temecula Unified School District – forbids the instruction of material that conveys that an individual should “feel discomfort, guilt, anguish, or any other form of psychological distress” on account of their race.<sup>21</sup> Wood’s offense was that she had assigned her high school AP English class excerpts from Ta-Nehisi Coates’ National Book Award-winning nonfiction book, *Between the World and Me*.<sup>22</sup> Although Wood ultimately returned to the classroom, the experience has made her fearful and unwilling to assign challenging material, because of the risk that she might again be accused of running afoul of the vaguely-worded prohibition.<sup>23</sup> Likewise, educators in Temecula have every reason to be worried that assigning works about race – including those by well-known, well-respected thinkers and writers – could result in their discipline.

A 2023 study by the National Education Policy Center found that vague and overbroad prohibitions on curriculum and content make it impossible for “educators [to] ascertain what ‘crosses the line’ from lawful to unlawful conduct.”<sup>24</sup> This leads

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<sup>21</sup> *Id.*

<sup>22</sup> Hannah Natanson, *Her students reported her for a lesson on race. Can she trust them again?*, WASHINGTON POST (September 18, 2023), available at <https://www.washingtonpost.com/education/2023/09/18/south-carolina-teacher-ta-nehisi-coates-racism-lesson/>

<sup>23</sup> *Id.*

<sup>24</sup> Jonathan Feingold & Joshua Weishart, National Education Policy Center, *How Discriminatory Censorship Laws Imperil Public Education*, (November, 2023) at pp. 17-18, available at <http://nepc.colorado.edu/publication/censorship>

to a broad chilling effect, because “without clear guardrails about what they can and cannot teach, many educators will have to steer clear of difficult topics altogether.”<sup>25</sup> Vague prohibitions also “predictably add[] stress and undermine[] morale” among educators.<sup>26</sup>

This chilling effect, and the erosion of teacher morale, is already evident in the District. Jennifer Scharf, a high school English teacher, states that “[b]ecause the Resolution’s language is so unclear,” she and her colleagues are unsure “about what books and ideas they can and cannot teach” [I CT 763]. High school history teacher Sibby says that she has “read Resolution 21 multiple times and attended Board meetings to try to understand what it permits,” but “[d]espite [her] efforts to gain more clarity on the Resolution’s restrictions,” she has been “unable to discern what specific topics and conduct will be found to violate them” [I CT 756]. Edgar Diaz, the president of the teachers’ union in the District, reports that since the passage of the Resolution, the union has had “to field countless questions from teachers and administrators regarding what they can and cannot teach, and what questions they can and cannot answer, under the Resolution” [I CT 802]. However, the union itself has “no way of parsing the Resolution’s vague language,” and its leaders have been unable to explain or interpret the new rule for union members [*id.*].

The Resolution’s lack of clarity – coupled with the threat of discipline if educators do not accurately guess the Resolution’s prohibitions – causes educators considerable stress on a daily basis. Amy Eytchison is fearful about the “uncertainties regarding what is and is not permissible to discuss” [I CT 735]. Similarly, Dawn Sibby worries that the lack of “clear standards” gives the Board wide discretion to discipline her for any perceived violation [I CT 758]. In light of this uncertainty, Sibby is “forced to broadly self-censor” in order to avoid trouble [I CT 756].

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<sup>25</sup> *Id.* at p. 18 (internal alterations omitted).

<sup>26</sup> *Id.*

C. The Resolution and Policy politicize the classroom and make the educational environment less safe.

In addition, the Board’s politicization of the classroom damages the teaching environment, making it harder for students to learn and for educators to do their jobs. In 2023, the Center on Reinventing Public Education reported on a nationwide survey of school district leaders. It found that polarization over political issues, including CRT and LGBTQ rights, interfered with educators’ work in more than half of the surveyed districts.<sup>27</sup> Disturbingly, “[n]early one in three district leaders (31 percent) reported verbal or written threats against educators about politically controversial topics since the start of the 2021-22 school year.”<sup>28</sup>

These political attacks erode the safety of teachers and the classroom, and harm teachers’ emotional well-being. To take a couple of recent publicized examples: In Chico Unified School District, a counselor was publicly vilified after she appropriately supported a student who stated that they were questioning their gender identity.<sup>29</sup> Although the counselor’s actions were consistent with California law and professional best practices, she became the target of an “astounding” level of “ill-will and hatred,” which left her fearful for the safety of her students, her coworkers, her family and herself.<sup>30</sup> In Glendale Unified School District, a teacher

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<sup>27</sup> Ashley Jochim, *et al.*, Center on Reinventing Public Education, *Navigating Political Tensions over Schooling: Findings from the Fall 2022 American School District Panel Survey* (January 2023) at p. 4, available at [https://crpe.org/wp-content/uploads/ASDP- Navigating-Political-Brief\\_v6.pdf](https://crpe.org/wp-content/uploads/ASDP- Navigating-Political-Brief_v6.pdf). Full webinar available at <https://crpe.org/asdp-2023-politics-brief/>

<sup>28</sup> *Id.* at p. 2.

<sup>29</sup> Mandi Robertson, *Guest Commentary: School counselor speaks out on gender identity case*, CHICOSOL (July 22, 2023), available at <https://chicosol.org/2023/07/22/school-counselor-speaks-gender-identity-case/>

<sup>30</sup> *Id.*



showed short videos, designed for children, on the topic of gay pride.<sup>31</sup> She received threats and so much hatred from anti-LGBTQ activists that her employer transferred her for her own safety.<sup>32</sup>

In Temecula Unified School District, the Resolution and Policy – and the concomitant politicization of District schools – have already made educators feel less safe. Dawn Sibby reports that the “Resolution has created a tense and hostile working environment for my colleagues and me” [I CT 758]. She worries that if she “use[s] the ‘wrong’ language or if a student misinterprets [her] words,” she will be reported and disciplined [I CT 757]. Amy Eytchison states that she was “terrified” when one of her students spoke up in favor of LGBTQ rights. While Eytchison normally would want to support her student, she now fears that because of the forced-outing Policy, any perception that she is affirming her student “could affect my classroom, my relationship with students, and even my job” [I CT 738].

The erosion of trust and safety goes both ways. District educators observe that their students also feel less safe, and are less able to be honest and open in the classroom. Dawn Sibby states that the Policy – which requires teachers to report on their students’ highly personal feelings and choices – “has led to LGBTQ students distrusting our staff” [I CT 758]. Amy Eytchison laments that the “policy is ... keeping me from providing a safe and supportive learning environment” [I CT 738]. Union president Edgar Diaz has observed that the Policy has “transform[ed] District classrooms into unsafe environments where LGBTQ students must constantly be on their guard” [I CT 802].

For educators, many of whom enter the profession because of their dedication to mentoring, supporting and helping young people, this destruction of

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<sup>31</sup> Howard Blume & Melissa Gomez, *Glendale third-grade teacher showed gay pride videos. A year later, furious debate erupts*, LOS ANGELES TIMES (May 11, 2022), available at <https://www.latimes.com/california/story/2022-05-11/glendale-unified-schools-lgbtq-curriculum>

<sup>32</sup> *Id.*

trust is devastating. Amy Eytchison is passionate about showing her students how “to think for themselves and come to their own conclusions,” and wants to teach her students history so that they can “be part of the change that will help redress the wrongs of the past and usher in more justice in the future” [I CT 736]. The Resolution and Policy now prevent her from having the candid conversations that are necessary to reach that level of understanding. Katrina Miles, an eighth-grade teacher who is the only Black educator at her school, cares deeply about helping her students “understand that racial inequities are not confined to the distant past, and to develop compassion for people whose backgrounds are different from their own” [I CT 751]. Since the Resolution was passed, however, she fears “being reported to the highly partisan Board members,” and therefore “avoid[s] sharing any of [her] own perspectives” with her students [I CT 751-752].

The Resolution and the Policy have thus worsened working conditions for District educators. Educators are fearful for their safety and worried that having open, honest conversations about racial equality, LGBTQ rights, or American history will lead to being targeted or disciplined. Educators also find that they are unable to support their own students, or to act as genuine mentors and leaders, even though such support and mentorship are important components of student success. They are thus deprived of the very motivations that led them to enter the educational field in the first place.

D. The Resolution and Policy undermine educators and lead to loss of morale.

Finally, the Resolution and the Policy undermine educators, by preventing them from putting their skills to use in the classroom. Educators in Temecula can’t do the work that they entered the profession to do. Instead, their professional judgment has been replaced by the Board members’ political opinions.

California educators are trained to mentor students from diverse backgrounds, and they are skilled in explaining complex and sensitive issues to students at different ages and grade levels. Indeed, as Professor Rita Kohli and Dean Marcos Pizarro explain, in order to earn a teaching credential, aspiring educators in California must “demonstrate their ability to create a culturally responsive classroom environment in which all students can engage in critical inquiry and develop mastery” [I CT 940]. Educators must continue to develop these skills throughout their careers. The California Standards for the Teaching Profession, which are promulgated by the California Commission on Teacher Credentialing and the California Department of Education, set out the state’s expectations for teachers.<sup>33</sup> Teachers must be adept at designing curricula that are developmentally-appropriate and that can reach diverse students in an accessible and culturally-responsive way.<sup>34</sup> They are also expected to teach material in a manner that engages students’ backgrounds and cultural experiences.<sup>35</sup>

Professor Kohli and Dean Pizarro note that the Resolution is “directly at odds” with the state’s expectations for teachers, and “prevents Temecula educators from putting [their] ability into practice” [I CT 940]. Instead of allowing educators to do the work that they have been trained to do, the District replaces their skills and judgment with the ideological decisions of politicians.

Similarly, the forced-outing Policy contravenes the training and best practices that educators, school counselors, and other education professionals have successfully used for years to support students who might be questioning their gender identity or sexual orientation. The California Department of Education has

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<sup>33</sup> California Commission on Teacher Credentialing, California Standards for the Teaching Profession (adopted April 2024) at p. 6, *available at* [https://www.ctc.ca.gov/docs/default-source/educator-prep/standards/2024-cstp.pdf?sfvrsn=62eb3cb1\\_3](https://www.ctc.ca.gov/docs/default-source/educator-prep/standards/2024-cstp.pdf?sfvrsn=62eb3cb1_3)

<sup>34</sup> *Id.* at pp. 16-17.

<sup>35</sup> *Id.* at pp. 14-15.

recognized that the best way to protect a transgender student’s safety and privacy is to respect that student’s decisions as to whether, and to whom, their transgender status should be disclosed.<sup>36</sup> Before any disclosure is made, the school must take care to ensure the disclosure will not put the student at risk of harassment, discrimination or other harm.<sup>37</sup> The National Association of School Psychologists (“NASP”) has also recommended letting students themselves lead the process of gender transitioning, and respecting their decisions regarding confidentiality and disclosure. In 2020, NASP adopted a set of professional standards and best practices.<sup>38</sup> These standards enunciate that school psychologists must “respect the right of privacy of students ... with regard to sexual orientation, gender identity, or transgender status,” and that they should “not share information about the sexual orientation, gender identity, or transgender status of a student ... with anyone without that individual’s permission.”<sup>39</sup>

But the discriminatory Policy throws all these best practices out the window. The Policy replaces the training, professionalism, and skills of education professionals with the political whims of a handful of elected school board members. This demoralizes educators and hurts vulnerable students.

The devaluation of educators’ training and earned skills leads to demoralization. As Doris Santoro, Professor of Education at Bowdoin College explains: “Moral rewards are what bring many of us to teaching: finding ways to connect meaningfully with students, designing lessons that address students’ needs, using our talents to improve the lives of others. When teachers feel they no longer

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<sup>36</sup> California Department of Education, *School Success and Opportunity Act* (Assembly Bill 1266) Frequently Asked Questions, at <https://www.cde.ca.gov/re/di/eo/faqs.asp>

<sup>37</sup> *Id.*

<sup>38</sup> National Association of School Psychologists, *The Professional Standards* (2020), available at <https://www.nasponline.org/x55315.xml>

<sup>39</sup> *Id.* at p. 44.

find these kinds of moral rewards in their work, I call that demoralization. It is more than just sadness or a sense of defeat, but a sense that the moral dimension of the work is foreclosed due to conditions that affect their teaching directly.”<sup>40</sup>

By preventing educators from communicating ideas, exploring complex issues, and earning their students’ trust – in short, by undermining educators and preventing them from putting their skills to work – the Resolution and Policy make teaching less rewarding for educators. This, in turn, discourages educators, and worsens the problem of teacher attrition. As Professor Santoro explains, where teachers are prevented from putting into practice the skills that they have trained to attain, people who are passionate about education are less likely to enter the profession, and existing teachers are more likely to leave.<sup>41</sup> This is a consequence that hurts educators and students, and is detrimental to schools and to all members of the school community.

### **III. These Harms to the Learning Environment Are Irreparable and Justify Injunctive Relief.**

All the harms detailed above – to educators, other school employees, and students themselves – are immediate and significant. There is no way to undo the Resolution’s and the Policy’s ongoing damage to educator morale. Students experience real-time and long-term harms when school professionals cannot perform their jobs as they are trained to do; when students cannot consult with a

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<sup>40</sup> Doris A. Santoro, *Teacher demoralization and teacher burnout: why the distinction matters*, AJE Forum (May 3, 2012), at <https://www.ajeforum.com/teacher-demoralization-and-teacher-burnout-why-the-distinction-matters/>

<sup>41</sup> Doris Santoro, *Teacher Demoralization Isn’t the Same as Teacher Burnout*, EDWEEK (November 11, 2020), at <https://www.edweek.org/teaching-learning/opinion-teacher-demoralization-isnt-the-same-as-teacher-burnout/2020/11>

trusted education professional about their identity; and when students and school personnel are less safe.

These factors heavily tip the balance of harms in this case in favor of Plaintiffs-Appellants' requested injunction.

### **CONCLUSION**

For the for the reasons above, the Appeal should be granted, and the court below should be ordered to enter the Preliminary Injunction requested by Plaintiffs-Appellants.

Dated: October 2, 2024      Respectfully submitted,

CALIFORNIA TEACHERS ASSOCIATION

*/s/ Jean Shin* \_\_\_\_\_

Jean Shin

*Attorneys for Amicus Curiae California Teachers Association*

ROTHNER, SEGALL & GREENSTONE

*/s/ Glenn Rothner* \_\_\_\_\_

Glenn Rothner

*Attorneys for Amici Curiae California Federation of Teachers, California Faculty Association, California School Employees Association, and Service Employees International Union California State Council*

**CERTIFICATION OF WORD COUNT**

Pursuant to rule 8.204(c)(1) of the California Rules of Court, the undersigned hereby certifies that the foregoing **[PROPOSED] BRIEF OF AMICI CURIAE CALIFORNIA TEACHERS ASSOCIATION, CALIFORNIA FEDERATION OF TEACHERS, CALIFORNIA FACULTY ASSOCIATION, CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION, AND SERVICE EMPLOYEES INTERNATIONAL UNION CALIFORNIA STATE COUNCIL** is produced using 13-point Times New Roman type and contains 4,659 words, according to the word count generated by the computer program used to produce the brief.

Dated: October 2, 2024

/s/ Jean Shin  
Jean Shin

**PROOF OF SERVICE**  
**State of California, County of Los Angeles**

COURT NAME: In the Court of Appeal for the State of California  
Fourth Appellate District, Division Three

CASE NUMBER: G064332

RIV. SUPERIOR CASE NO.: CVSW2306224

CASE NAME: *MAE M., by and through her guardian ad litem  
Anthony M., et al. v. JOSEPH KOMROSKY, et al.*

I declare that I am a resident of or employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within entitled cause. I am an employee of the California Teachers Association - Legal Department, 11745 E. Telegraph Road, Santa Fe Springs, California 90670.

On October 2, 2024, I served a copy of document(s) described as **APPLICATION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE IN SUPPORT OF PLAINTIFFS-APPELLANTS; AND [PROPOSED] BRIEF OF AMICI CURIAE CALIFORNIA TEACHERS ASSOCIATION, CALIFORNIA FEDERATION OF TEACHERS, CALIFORNIA FACULTY ASSOCIATION, CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION, AND SERVICE EMPLOYEES INTERNATIONAL UNION CALIFORNIA STATE COUNCIL** on the interested parties in this action as follows:

– See Attached Service List –

**BY ELECTRONIC FILING / SERVICE:** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission via Court’s Electronic Filing System (EFS) operated by *TrueFiling*.

**BY FIRST-CLASS UNITED STATES MAIL:** Pursuant to CRC R.8.212(c)(1), a true and correct copy of the foregoing was mailed to the Superior Court of Riverside County clerk for delivery to the trial judge, addressed as follows: Superior Court of California, County of Riverside, Attn: Appellate Division 4100 Main Street Riverside, CA 92501

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 2, 2024, at Santa Fe Springs, California.

  
\_\_\_\_\_  
Frankie Medina



**SERVICE LIST OF:**

**APPLICATION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE IN  
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AMICI CURIAE CALIFORNIA TEACHERS ASSOCIATION,  
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FACULTY ASSOCIATION, CALIFORNIA SCHOOL EMPLOYEES  
ASSOCIATION, AND SERVICE EMPLOYEES INTERNATIONAL  
UNION CALIFORNIA STATE COUNCIL**

***Attorneys for Plaintiffs-Appellants***

- Mark Rosenbaum at [mrosenbaum@publiccounsel.org](mailto:mrosenbaum@publiccounsel.org)
- Amanda Mangaser Savage at [asavage@publiccounsel.org](mailto:asavage@publiccounsel.org)
- Suzanne Castillo at [scastillo@publiccounsel.org](mailto:scastillo@publiccounsel.org)
- Amelia Piazza at [apiazza@publiccounsel.org](mailto:apiazza@publiccounsel.org)
- Mustafa Ishaq Filat at [ifilat@publiccounsel.org](mailto:ifilat@publiccounsel.org)
- Kathryn Eidmann at [keidmann@publiccounsel.org](mailto:keidmann@publiccounsel.org)
- Maxwell S. Mishkin at [mishkinm@ballardspahr.com](mailto:mishkinm@ballardspahr.com)
- Scott S. Humphreys at [humphreys@ballardspahr.com](mailto:humphreys@ballardspahr.com)
- Elizabeth L. Schilken at [schilken@ballardspahr.com](mailto:schilken@ballardspahr.com)

***Attorneys for Defendants-Respondents***

- Robert H. Tyler at [btyler@faith-freedom.com](mailto:btyler@faith-freedom.com)
- Julianne Fleischer at [jfleischer@faith-freedom.com](mailto:jfleischer@faith-freedom.com)
- Michelle Soto at [michelle.soto@lewisbrisbois.com](mailto:michelle.soto@lewisbrisbois.com)