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Superior Court of California
County of Los Angeles

DEC 05 2017

Sherri R. Carter, Executive Officer/Clerk
By: M. Soto, Deputy
Moses Soto

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

Ella T. and Katie T., through their guardian ad litem Tamika T., Sasha E., through her guardian ad litem Thomas E., Russell W., through his guardian ad litem Tiana W., Dylan O., through his guardian ad litem Melody O., Bella G. and Alex G., through their guardian ad litem Samantha G., Judith B., through her guardian ad litem Sophie B., Victoria Q., through her guardian ad litem Alexis Q., and Bernie M., through his guardian ad litem Wanda M., Fathers & Families of San Joaquin, CADRE, Azalee Green, and David Moch,

Plaintiffs,

v.

STATE OF CALIFORNIA, State Board of Education, State Department of Education, Tom Torlakson, in his official capacity as State Superintendent of Public Instruction, and Does 1-100,

Defendants.

Case No. BC 685730

UNLIMITED JURISDICTION

JURY TRIAL DEMANDED

COMPLAINT

Judge:
Dept.:

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Unless explicitly stated to the contrary, all allegations are based upon information and belief. Plaintiffs allege as follows:

INTRODUCTION

1. The California Constitution guarantees every child a basic education. Five years ago, the State of California correctly recognized a "critical need to address the literacy development of California children." It further recognized that this need is particularly dire in California's underserved populations, specifically English learners, students with disabilities, socioeconomically disadvantaged students, and African American and Hispanic students. The State drafted a plan that proposed remedies similar to those that have effectively addressed literacy issues in other states. The State acknowledged a "sense of urgency in implementing a state literacy plan."

2. Yet the State has not implemented its own plan or otherwise taken sufficient steps to ensure that a literacy education is available to all children. As a result, the State continues to allow children from disadvantaged communities to attend schools that are unable to provide them an opportunity to obtain basic literacy. These children do not learn to read properly, let alone to write properly, perform basic math functions, and comprehend state-mandated curricular content.

3. On measures of literacy and basic education, in the 200 largest school districts in the country, California has eleven of the lowest performing twenty-six districts, including three among the lowest performing ten districts. *See* Figure 1 below. In fact, Stockton Unified School District is the third-lowest performing large district in the nation, achieving only slightly better results than Detroit City School District.[1] Texas, the next largest state after California, has only one district in the bottom twenty-six. When it comes to literacy and basic education, California is bringing down the nation.

[1] *See* data collected in Reardon, et al., *Stanford Education Data Archive* (2016), http://purl.stanford.edu/db586ns4974.

Figure 1: Ranking of lowest 26 districts among 200 largest school districts in the United States, from lowest to highest average composite test score

Ranking (Out of 200)	District Name
1	Rochester City School District, New York
2	Detroit City School District, Michigan
3	Stockton Unified School District, California
4	Memphis City School District, Tennessee
5	St. Louis City School District, Missouri
6	Cleveland Municipal School District, Ohio
7	Milwaukee School District, Wisconsin
8	Buffalo City School District, New York
9	Bakersfield City Elementary School District, California
10	San Bernardino City Unified School District, California
11	Columbus City School District, Ohio
12	Fresno Unified School District, California
13	Oklahoma City Public Schools, Oklahoma
14	Moreno Valley Unified School District, California
15	Montgomery County School District, Alabama
16	Richmond County School District, Georgia
17	Baltimore City Public Schools, Maryland
18	Tulsa Public Schools, Oklahoma
19	East Baton Rouge Parish School District, Louisiana
20	Santa Ana Unified School District, California
21	Fontana Unified School District, California
22	Los Angeles Unified School District, California
23	Anaheim Elementary School District, California
24	San Antonio Independent School District, Texas
25	Oakland Unified School District, California
26	Ontario-Montclair Elementary School District, California

4. While this data underscores the crisis at the state and district levels, the situation is even more dire for Plaintiffs in particular schools: ***La Salle Avenue Elementary School*** in the Los Angeles Unified School District, ***Van Buren Elementary School*** in the Stockton Unified School District, and ***Children of Promise Preparatory Academy***, a charter school chartered by the Inglewood Unified School District (together, "Plaintiffs' Schools"). These are three of the lowest performing schools in the state.

5. State-mandated literacy test results, among other indicators, confirm that children in Plaintiffs' Schools are not receiving a basic education equal to their peers in other districts—or even equal to children in other schools within their own districts. By the State's own standards,

historically and currently, the proficiency rates (i.e., percentage of students scoring at or above established statewide standards) of students at Plaintiffs' Schools on the state-mandated tests are under 11% in core subjects like reading and math and are frequently under 5%. In 2016-17, the school-wide proficiency rates for La Salle, Van Buren, and Children of Promise, respectively, were 4%, 6%, and 11%. Student Plaintiffs do not even come close to meeting grade-level content standards for literacy.

6. Public schools in America were conceived as the engine of democracy, the great equalizer that affords all children the opportunity to define their destinies, lift themselves up, and better their circumstances. Student Plaintiffs are full of potential and want to learn. They hold high aspirations; they seek to become, for example, doctors, lawyers, hairstylists, racecar drivers, and paleontologists, among other professions. But the State's system of education is failing them. An education that does not provide access to literacy cannot be called an education at all. Nor can it prepare students to be citizens, participate meaningfully in politics, exercise free and robust speech, and voice the views of their communities. In California's education system, the children of the "haves" receive access to a basic education while the children of the "have nots" are barred access, rendering the state system of public education the great unequalizer.

7. Plaintiffs bring this lawsuit on behalf of former and current California students at Plaintiffs' Schools in order to hold the State accountable for its refusal to fulfill its constitutional obligation. This action is supported by parents, former teachers, and community activist groups, who have long sought that the State ensure that Plaintiffs' Schools be equipped to provide their children with the basic education that is their fundamental right under the California Constitution and that gives them access to the democratic process and social mobility.

PARTIES

I. DEFENDANTS

8. **Defendant State of California** is the legal and political entity with plenary responsibility for educating all California public school students, including the responsibility to establish and maintain the system of common schools and a free education, under Article IX, section 5 of the California Constitution, and to assure that all California public school students

receive their individual and fundamental right to an equal education, under the equal protection clauses of the California Constitution, Article I, section 7(a), and Article IV, section 16(a). Defendant State of California controls Inglewood Unified School District, the charter authorizer of Children of Promise Preparatory Academy, through the state-appointed administrator.

9. **Defendant State Board of Education** and its members are responsible for determining the policies governing California's schools and for adopting rules and regulations for the supervision and administration of all local school districts. Pursuant to California Education Code sections 33030-32, Defendant State Board of Education is required to supervise local school districts to ensure that they comply with State and federal law requirements concerning educational services.

10. **Defendant State Department of Education** is the department of State government responsible for administering and enforcing the laws related to education. Pursuant to California Education Code sections 33300-16, the State Department of Education is responsible for revising and updating budget manuals, forms, and guidelines; cooperating with federal and state agencies in prescribing rules and regulations, and instructions required by those agencies; and assessing the needs and methods of collecting and disseminating financial information.

11. **Defendant Tom Torlakson**, sued here solely in his official capacity, is the State Superintendent of Public Instruction for the State of California, the Secretary and Executive Officer for the State Board of Education, and the Chief Executive Officer of the California Department of Education. As such, he is obligated to take all necessary steps to ensure that school districts comply with the California Constitution and State laws. Pursuant to California Education Code sections 33301-03, he is the Director of Education in whom all executive and administrative functions of the California Department of Education are vested. Pursuant to California Education Code section 33112(a), he shall superintend the schools of this state. He is responsible for ensuring that children within the State of California receive a free and equal public education. He is also responsible for appointing the state administrator of Inglewood Unified School District, the charter authorizer of Children of Promise Preparatory Academy.

12. Plaintiffs presently do not know the names or capacities of other defendants responsible for the wrongs described in this Complaint, and, pursuant to California Code of Civil Procedure section 474, sue such defendants under the fictitious names Does 1 through 100 inclusive.

13. Defendants State of California, State Board of Education, State Department of Education, Tom Torlakson, and Doe defendants are herein referred to collectively as "Defendants."

II. PLAINTIFFS

A. Students Attending, or Who Have Recently Attended, La Salle Elementary School in the Los Angeles Unified School District

14. **Plaintiff Ella T.** is a seven-year-old African American student. Ella T. is in second grade at La Salle, having attended the school since kindergarten. At the end of first grade, Ella T. was reading at a below-kindergarten level and in need of "intensive support" but was not offered any meaningful intervention. Defendants have denied Ella T. access to literacy, meaning they have denied Ella T. her fundamental right to an education as provided for in the California Constitution.

15. **Plaintiff Katie T.** is an eleven-year-old African American student. Katie T. is in sixth grade at a charter school in California, having previously attended La Salle for second through fifth grade. Katie T. scored in the lowest achievement level ("standard not met") on the California Assessment of Student Performance and Progress (CAASPP) test in third, fourth, and fifth grades, scoring in the lowest 5% nationally[2] for both English Language Arts (ELA) and math in fourth grade. Katie T. was offered no meaningful intervention at La Salle. At the end of fifth grade, Katie T. was reading at the level of a beginning third grader, nearly three years behind

[2] The CAASPP ELA test is California's implementation of the Smarter Balanced Assessment in English Language Arts and Literacy, which was administered in about a dozen states in 2017. *See What is Smarter Balanced?*, Smarter Balanced Assessment Consortium , http://www.smarterbalanced.org/about/ (last visited Nov. 30, 2017). The percentiles referred to here and in subsequent instances represent data for the 2015-16 assessments aggregated across the Smarter Balanced Assessment Consortium members, including California. *See Percentiles*, Smarter Balanced Assessment Consortium, www.smarterbalanced.org/assessments/development/percentiles (last visited Nov. 30, 2017).

grade level. Defendants have denied Katie T. access to literacy, meaning they have denied Katie T. her fundamental right to an education as provided for in the California Constitution.

16. **Plaintiff Sasha E.** is a nine-year-old African American student. Sasha E. is in the fifth grade at a charter school in California, having attended La Salle for second and fourth grades. Sasha E. failed to meet state standards on the CAASPP test, scoring in the lowest 5% nationally, for both ELA and math in third grade. Nonetheless, Sasha E. was not offered any meaningful intervention at La Salle. Defendants have denied Sasha E. access to literacy, meaning they have denied Sasha E. her fundamental right to an education as provided for in the California Constitution.

17. **Plaintiff Russell W.** is an eleven-year-old African American student. Russell W. is in sixth grade at a middle school in the Los Angeles Unified School District, having attended La Salle from kindergarten through fifth grade. Russell W. has never met standards on the CAASPP ELA test; instead he scored in the lowest achievement level ("standard not met") in the third, fourth, and fifth grades, and at the end of fifth grade, Russell W. tested at an early-third-grade reading level, nearly three grade levels behind. Nonetheless, Russell W. received no meaningful intervention in third, fourth, or fifth grade. Defendants have denied Russell W. access to literacy, meaning they have denied Russell W. his fundamental right to an education as provided for in the California Constitution.

B. Students Attending, or Who Have Recently Attended, Van Buren Elementary School in the Stockton Unified School District

18. **Plaintiff Dylan O.** is a fourteen-year-old multiracial student. Dylan O. is in eighth grade at Van Buren, having attended the school since kindergarten with the exception of two years at other schools. In the middle of seventh grade, according to his Measures for Academic Progress (MAP) assessment,[3] Dylan O. was reading at an early-second-grade level,

[3] The MAP assessment is a computer adaptive interim assessment aligned to the Common Core. *See About the Measures of Academic Progress (MAP)*, Stockton Unified School District, www.stocktonusd.net/Page/706 (last visited Nov. 30, 2017) ("Common Core Measures of Academic Progress (MAP) are computer adaptive interim assessments in Reading and Math for K-12 and Science (Grades 5, 8, and 10) and [are] administered three times per year," and which measure "academic growth"); *see also MAP Growth*, Northwest Evaluation Association

placing him in the bottom 1% of seventh-grade students.[4] Dylan O.'s ELA CAASPP scores in sixth and seventh grade placed him in the lowest achievement level possible, with scores in the lowest 5% nationally in sixth grade. Nonetheless, Dylan O. has not been offered meaningful intervention at Van Buren at least since he was in second grade. Defendants have denied Dylan O. access to literacy, meaning they have denied Dylan O. his fundamental right to an education as provided for in the California Constitution.

19. **Plaintiff Bella G.** is a twelve-year-old Latina student. Bella G. is in sixth grade at an elementary school in Stockton Unified School District, having attended Van Buren for fourth and fifth grades. At the end of fifth grade, according to the MAP assessment, Bella G. was reading at a mid-second-grade level, placing her in the bottom 5% of fifth-grade students nationally. During her two years at Van Buren, Bella G.'s reading speed decreased. Bella G. has never met the state proficiency standards in ELA or mathematics, scoring in the bottom 10% nationally on the ELA CAASPP in fourth grade. Nonetheless, Bella G. was never offered any meaningful intervention at Van Buren, even though she had received intervention at her previous school. Defendants have denied Bella G. access to literacy, meaning they have denied Bella G. her fundamental right to an education as provided for in the California Constitution.

20. **Plaintiff Alex G.** is a ten-year-old Latina student. Alex G. is in fourth grade at an elementary school in Stockton Unified School District, having attended Van Buren for second and third grades. At the end of third grade, according to the MAP assessment, Alex G. was reading at an early-first-grade level, placing her in the bottom 5% of third-grade students

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(NWEA), https://www.nwea.org/map-growth/ (last visited Nov. 30, 2017) [hereinafter *MAP Growth*].

[4] MAP percentiles referred to here and in subsequent instances indicate how well a student is doing relative to a "norm group," which is a group of students at the same grade level tested on the same subject. "A student's percentile rank indicates that the student scored as well, or better than, the percent of students in the norm group." *What is a Percentile Rank?*, NWEA (May 26, 2017), https://tinyurl.com/y9vgvdpa; Yeow Meng Thum & Carl H. Hauser, *NWEA 2015 Norms for Student and School Achievement Status and Growth* 73-78 & Table C.1.6 (2015), http://www.sowashco.org/files/department/rea/2015NormsReport_Reading.pdf. The MAP-grade level conversions referred to here and in subsequent instances represent information from Stockton Unified School District's (SUSD) MAP Mean RIT Score Ranges chart. *See* SUSD, *2016-17 MAP Mean RIT Score Ranges (same as 2015-16*), https://www.stocktonusd.net/cms/lib/CA01902791/Centricity/Domain/156/2016-17%20MAP/16170002%20Analysis%20of%20Updated%20RIT%20Scores-081516.pdf.

nationally. In third grade, Alex G. scored in the lowest achievement level ("standard not met") for both ELA and mathematics on the CAASPP. But Alex G. did not receive any meaningful intervention at Van Buren. Defendants have denied Alex G. access to literacy, meaning they have denied Alex G. her fundamental right to an education as provided for in the California Constitution.

21. **Plaintiff Judith B.** is a six-year-old Latina student. Judith B. is in first grade at Van Buren, having attended the school since kindergarten. In spring of 2017, according to the MAP assessment, Judith B.'s reading level was below where it should be for a beginning kindergartner, despite a year of schooling, placing her in the bottom 3% of kindergarten students nationally. But Judith B. was not offered any meaningful intervention at Van Buren. Defendants have denied Judith B. access to literacy, meaning they have denied Judith B. her fundamental right to an education as provided for in the California Constitution.

C. Students Attending, or Who Have Attended, Children of Promise Preparatory Academy in the Inglewood Unified School District

22. **Plaintiff Victoria Q.** is a seven-year-old African American student. Victoria Q. is in second grade at Children of Promise, having attending the school since kindergarten. Victoria Q. is severely behind in her reading and writing, but Victoria Q. was not offered any meaningful intervention at the school. Defendants have denied Victoria Q. access to literacy, meaning they have denied Victoria Q. her fundamental right to an education as provided for in the California Constitution.

23. **Plaintiff Bernie M.** is an eleven-year-old African American student. Bernie M. is in fifth grade at Children of Promise, having attended the school since third grade. Bernie M. has never met standards on the ELA CAASPP exam. Bernie M.'s 2016-17 score in ELA placed him in the lowest achievement level ("standard not met"), a decrease from the previous year. Nonetheless, Bernie M. was not offered any meaningful intervention at the school. Defendants have denied Bernie M. access to literacy, meaning they have denied Bernie M. his fundamental right to an education as provided for in the California Constitution.

D. Taxpayer and Organizational Plaintiffs

24. **Plaintiff Fathers & Families of San Joaquin** ("FFSJ") is a community-based non-profit organization based in Stockton, California, whose mission is to promote the cultural, spiritual, economic, and social renewal of the most vulnerable families in Stockton and the greater San Joaquin Valley.

25. To fulfill this mission, FFSJ engages in organizing, programming, advocacy, and direct services designed to enhance literacy education and encourage positive youth development and family strengthening initiatives. FFSJ was founded in 2003 and has strong ties to the community.

26. FFSJ's members include low-income people of color and their families who live in San Joaquin County, including within the boundaries of the zone served by Van Buren, and pay taxes to the State of California including, but not limited to, property taxes. FFSJ has repeatedly encountered Defendants' failures in providing access to literacy and made local and state officials aware of these deficiencies.

27. FFSJ also has devoted significant resources towards ameliorating those failures. For example, FFSJ runs "Reading is Lit," a campaign to provide participants library cards and free books to youth that encourage family reading. In addition, FFSJ runs Joven Noble, a culturally-grounded youth empowerment group promoting youth leadership through, among other things, strong communication skills.

28. FFSJ also runs numerous programs, in partnership with schools and detention facilities, to improve the literacy of Stockton-area youth who have been neglected by Defendants. To take just one example, FFSJ provided a literacy program at Marshall Middle School for students involved in the child welfare and juvenile justice systems from around the district, employing a positive, motivational approach that addresses emotional, behavioral, and academic needs. The youth participating in the literacy program have grown up with exposure to traumatic experiences, including unstable home lives, poverty, relatives suffering from addiction, violence in the neighborhood or the home, incarcerated parents, death of loved ones, and numerous other

adverse childhood experiences that many of the coaches and mentors at FFSJ have also experienced.

29. Due to multigenerational adverse childhood experiences, magnified by the prevalence of illiteracy rates locally and statewide, FFSJ provides research-based trauma treatment, mental health services, and referrals for youth and their families, through the Stockton Trauma Recovery Center (TRC). The TRC has an extensive reach to the most vulnerable and disenfranchised multi-ethnic populations experiencing victimization and violence.

30. FFSJ also expends significant organizational resources to advocate on behalf of youth and their families in the San Joaquin Valley, including local youth at risk of entering the school-to-prison pipeline as a result of denials of access to literacy, pushing them into the criminal justice system.

31. As a result of Defendants' longstanding failures, FFSJ and its core members have been subjected to, and will be imminently subjected to, the consequent harms of denial of access to literacy.

32. **Plaintiff CADRE** is a community-based organization in South Los Angeles led by African American and Latino members who are parents and caregivers to children attending schools in the Los Angeles Unified School District. CADRE's members include individuals who pay state taxes in the County of Los Angeles, including, but not limited to, property taxes. CADRE works for grassroots system change by supporting South LA parents as the leaders in stopping the school pushout crisis in schools serving low-income neighborhoods of color in LAUSD. CADRE seeks to ensure that parents are welcomed as collaborators and as essential partners in their children's literacy development, understanding that low literacy is the earliest warning sign of school pushout.

33. CADRE's members have repeatedly encountered Defendants' failures in providing access to literacy. CADRE engages and trains member parents to be the first educational advocates for their children. Members intervene on behalf of students whose low literacy levels have often led to academic disengagement and other factors that put them at risk of pushout. Through this work, CADRE's members find themselves as the last line of defense against

Defendants' failures, protecting students who year after year are not learning to read and instead are left to fall through the cracks in the system of education.

34. CADRE has devoted significant resources to ameliorating Defendants' failure to provide South LA children access to literacy. CADRE invests substantial resources in training parents to become knowledgeable of their children's right to a basic education, to identify the literacy challenges students can face across all grade levels, and to become powerful advocates for the appropriate academic interventions and curricular supports their students might need in order to be successful. The organization additionally has expended funds to provide individual private tutoring for their members' children, whose literacy achievement was multiple levels behind the expected grade appropriate standards. CADRE also has invested significant resources in seeking to improve LAUSD school conditions affecting students' learning readiness.

35. As a result of Defendants' longstanding failures, CADRE and its members have been subjected to, and will be imminently subjected to, the consequent harms of denial of access to literacy.

36. **Plaintiff Azalee Green** is a former teacher's aide at La Salle and a taxpayer in the State of California. Ms. Green taught at La Salle for twenty-six years from 1989 until her retirement in 2015, providing instruction to children in kindergarten and first, second, third, fifth, and sixth grades. Ms. Green's family has attended La Salle for three generations, including her own three children, her granddaughter, and most recently her great-granddaughter. Ms. Green has witnessed La Salle's gradual transformation from its role through the late 1980s as a beacon of education in the community, to an underserved school campus failing to provide children with adequate access to literacy. Ms. Green resides in the city of Los Angeles and has paid state taxes in the County of Los Angeles within the past year.

37. **Plaintiff David Moch** is a former teacher at La Salle and a taxpayer in the State of California. Mr. Moch taught at La Salle for eighteen years from 1996 until his retirement in 2014, providing instruction to children in kindergarten and first, second, and third grades. He has witnessed students go through their primary education at La Salle without accessing basic literacy due to the lack of resources and unsupported implementation of curricular programs. As a

kindergarten teacher, Mr. Moch received students of all levels, including fifth graders, into his classroom for periods of the day to give them instruction in basic phonics. Mr. Moch resides in the city of Los Angeles and has paid state taxes in the County of Los Angeles within the past year.

FACTUAL ALLEGATIONS

I. EDUCATION IS A FUNDAMENTAL RIGHT UNDER THE CALIFORNIA CONSTITUTION, FOR WHICH THE STATE IS ULTIMATELY RESPONSIBLE. ACCESS TO A BASIC EDUCATION IS THE ESSENCE OF THAT RIGHT.

38. Access to education is a "uniquely fundamental personal interest in California" and belongs to each individual student. *Butt v. State of California*, 4 Cal. 4th 668, 681 (1992). The California Supreme Court has repeatedly recognized that all California students possess a constitutional right to "equal access to a public education system that will teach them the skills they need to succeed as productive members of modern society." *O'Connell v. Superior Court*, 141 Cal. App. 4th 1452, 1482 (2006); *see also Hartzell v. Connell*, 35 Cal. 3d 899, 906-09 (1984); *Serrano v. Priest*¸ 5 Cal. 3d 584, 608-09 (1971) (*"Serrano I*"); *Piper v. Big Pine Sch. Dist.of Invo City*, 193 Cal. 664, 668-670 (1924). Accordingly, schools cannot provide students with a program of education that "falls fundamentally below prevailing statewide standards." *Butt*, 4 Cal. 4th at 685-87.

39. The fundamental right to even the most basic of educations means nothing if it does not also guarantee the right to access literacy. Literacy is an essential building block for all education. A team of experts convened by Defendants State Board of Education and Torlakson affirmed that "literacy is the key to becoming an independent learner in all the other disciplines."[5] Education is a fundamental right in large part because it is required for participation in democratic citizenship and economic self-sufficiency. "The purpose of education is not [simply] to endow students with diplomas, but to equip [students] with the substantive knowledge and skills they

[5] Thomas Glen et al., *California Striving Readers Comprehensive Literacy Plan: A Guidance Document* 61 (2012), https://tinyurl.com/SRCLP. The document is unpaginated; all page numbers refer to the pagination of the PDF document.

need to succeed in life." *O'Connell*, 141 Cal. App. 4th at 1478. Such "knowledge and skills" necessarily must include the ability to read, write, and comprehend.

40. In multiple statutory provisions, California's lawmakers have codified literacy's primacy within the State's definition of a basic education, acknowledging its necessity for democratic participation and economic survival. *See, e.g.*, Cal. Educ. Code § 19985.5(a) ("Reading and literacy skills are fundamental to success in our economy and our society."); Cal. Educ. Code § 300(h) (of "the skills necessary to become productive members of our society," "literacy in the English language is among the most important").

41. The California Supreme Court made clear that the State bears the "ultimate responsibility for public education [that] cannot be delegated to any other entity," including "ensur[ing] basic educational equality under the California Constitution." *Butt*, 4 Cal. 4th at 681 (citing *Hall v. City of Taft*, 47 Cal. 2d 177, 180-81 (1956), and *Piper*, 193 Cal. 3d at 669). Any action that has a real and appreciable impact upon the right to basic educational equality is subject to strict scrutiny. *See, e.g., Serrano v. Priest*, 18 Cal. 3d 728, 761, 767-68 (1976) ("*Serrano II*").

42. Yet Defendants have consistently refused to acknowledge that students have a constitutional right to literacy, let alone ensure access to it. The tragic facts of this case are but the most extreme example, among many, of this unflinching position.

II. THE STATE IDENTIFIED A LITERACY CRISIS IN ITS PUBLIC SCHOOLS FIVE YEARS AGO.

43. In 2012, the State's own literacy experts, convened by Defendants State Board of Education and Torlakson, documented a crisis in literacy in California's system of public schools. They issued a report, called the Striving Readers Comprehensive Literacy Plan ("SRCL Plan"), stating: "Statewide assessment data indicate that there is an urgent need to address the language and literacy development of California's underserved populations, specifically English learners, students with disabilities, socioeconomically disadvantaged students, and African-American and Hispanic students."[6] The State's experts warned that "[t]he critical need to address the literacy

[6] SRCL Plan, *supra* note 5, at 7.

development of California children and students cannot be underestimated. . . . [M]any students will be at academic risk if improved approaches to literacy instruction are not an immediate and central focus of California's educational system."[7]

44. The State's experts concluded that the evidence "support[s] a sense of urgency in implementing a state literacy plan that promotes a comprehensive and sustained research-based approach to empowering pedagogy for excellent first teaching and intense, scaffolded differentiated instruction and literacy intervention."[8]

45. The bulk of the SRCL Plan presented a targeted, research-based program to remedy the crisis. Research-based approaches are practices and strategies that are backed by research and demonstrated to improve overall literacy levels.[9] The SRCL Plan explained that, for "struggling readers" to "make accelerated progress toward grade-level proficiency," there must be "a comprehensive, system-wide, sustained approach to intense reading instruction and intervention that is based on students' diagnosed needs and current and confirmed research."[10] The report explained that an effective "system-wide, sustained approach" requires "high-quality first teaching in every grade and discipline," "early screening and identification of language and literacy instructional needs," and "differentiated instruction and intervention when necessary to develop the language and literacy skills of all students."[11] In short, the SRCL Plan emphasized that an effective system-wide approach to literacy must include both comprehensive literacy instruction and targeted literacy assessment and intervention.

46. But despite the "sense of urgency in implementing a state literacy plan," the State has never implemented the SRCL Plan as part of its statewide system of education, nor did it implement any other targeted literacy remediation plan or take any other steps to ensure that school districts were offering students access to literacy.

[7] *Id.* at 8.
[8] *Id.* at 8.
[9] *Id.* at 7.
[10] *Id.* at 10.
[11] *Id.*

III. THE LACK OF ACCESS TO LITERACY IN PLAINTIFFS' SCHOOLS HAS DIRE AND FAR-REACHING EFFECTS.

47. As a result of the State's failure, students in California continue to suffer from illiteracy, which has cross disciplinary effects and dire impacts on students' lives outside of school.

48. **Educational Attainment:** Lack of literacy interferes with students' ability to understand not only ELA instruction but the core content of every other subject matter, effectively barring students from receiving any education at all. Without basic levels of literacy, students cannot read, write, or comprehend state-mandated material at state-mandated levels. For example, during math instruction, students do not understand the vocabulary necessary to answer the question. Students struggle to read math problems on their own, and, lacking an understanding of the question, fail to answer it. This occurs both with younger students and adolescents. In one Van Buren seventh grade math class, up to half of the students struggled with word problems.

49. As a result of low literacy levels, teachers are forced to rely on audio and video content to provide students access to other subjects. In one classroom at Children of Promise, where students are unable to read the grade-level social studies newspapers, the teacher used the audio version of the paper so that students could follow without reading the text.

50. Lacking foundational literacy skills, students fall further and further behind, leaving them unable to access grade-level content. As a result, students who lack literacy are barred from higher education and the opportunities that it provides.

51. **Marginalization and Incarceration:** Students "with pronounced reading difficulties are vulnerable to marginalization in their schools" and face an increased, "lifelong risk of involvement in the juvenile and criminal justice systems."[12]

52. The relationship between illiteracy and incarceration is well documented. The California Supreme Court has noted the strong connection: "Aside from reducing the crime rate

[12] Peter E. Leone et al., *Organizing and Delivering Empirically Based Literacy Instruction to Incarcerated Youth*, 13 Exceptionality 89, 95 (2005).

(the inverse relation is strong), education also supports each and every other value of a democratic society—participation, communication, and social mobility, to name but a few." *Serrano I*, 5 Cal. 3d at 607 (internal quotations and citation omitted). Social science corroborates this statement. "Illiteracy is perhaps the strongest common denominator among individuals in correctional facilities."[13] A report sponsored by the U.S. Department of Education asserts that "illiteracy and criminality are umbilically joined";[14] another report sponsored by the U.S. Department of Justice argues that "the link between academic failure," in particular "reading failure," and delinquency is strong."[15]

53. According to the National Assessment of Adult Literacy Prison Survey, at least half of all incarcerated adults surveyed scored "basic" or "below basic" in literacy skills. Less than 5% of incarcerated adults had literacy skills that were "proficient."[16] In California, up to one-third of inmates read below the third-grade level, and up to half of all inmates read below the seventh-grade level.[17] Such students are pushed out or excluded from school and end up, illiterate, in the criminal justice system.

54. In a cruel irony, it is only while incarcerated that some young people learn to read. For example, one of FFSJ's organizers did not learn to read until he was incarcerated. As another example, a former Van Buren student's older brother did not know how to read until he was arrested at age 16; after years of failure and embarrassment in school, he was lucky enough to have an extraordinary teacher in juvenile hall who taught him to read and to love learning. The student's mother is terrified that her youngest son now at Van Buren, who has similarly struggled

[13] William Drakeford, *The Impact of an Intensive Program to Increase the Literacy Skills of Youth Confined to Juvenile Corrections*, 53 J. of Correctional Educ. 139, 139 (2002).
[14] Anabel P. Newman et al., National Center on Adult Literacy, *Prison Literacy: Implications for Program and Assessment Policy* ix (1993).
[15] Michael S. Brunner, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, *Reduced Recidivism and Increased Employment Opportunity Through Research-Based Reading Instruction* 7, 12 (1993).
[16] Elizabeth Greenberg et al., *Literacy Behind Bars: Results from the 2003 National Assessment of Adult Literacy Prison Survey* 13 (2007). According to the survey, 56% of incarcerated adults scored "basic" or below in prose literacy; 50% in document literacy; and 78% in quantitative literacy.
[17] Prisoners: Literacy and Education, A.B. 494, 2013-14 Reg. Sess. (Ca. 2013).

with literacy for years without meaningful intervention, will follow the same path of school pushout and place him at risk of incarceration.

55. **Participation in Democratic Citizenship:** Among other things, participation in democratic citizenship includes the ability to exercise free speech rights, vote, serve in the military, serve on juries, and access the justice system.

56. Literacy allows citizens to exercise their right to engage in political speech and public discourse regarding the important civil and political issues of the day. Without basic literacy skills, citizens cannot engage in knowledgeable and informed voting for the candidates of their choice, much less read and comprehend the complicated ballot initiatives on California ballots.

57. Joining the armed services requires applicants to pass a multiple-choice test administered on a wide range of subjects, including word knowledge and paragraph comprehension. Without literacy, an individual is effectively precluded from serving our country in the military.

58. Likewise, lack of literacy precludes meaningful participation in the judicial process, including serving as a member of a jury. Without basic literacy skills, citizens who are serving on juries cannot comprehend documentary evidence presented to them.[18]

59. **Economic Self-Sufficiency:** Individuals who have been denied access to literacy often experience significant barriers to securing economic self-sufficiency. They may be unqualified for jobs or unable to read and fill out job applications. Individuals who cannot financially support themselves due to lack of literacy often cannot complete the written application forms necessary to obtain government entitlements such as Medi-Cal, Covered California, Social Security Disability Insurance, or General Assistance/General Relief benefits.

[18] *See* Goodwin Liu, *Education, Equality, and National Citizenship*, 116 Yale L.J. 330, 345 (2006) ("Citizenship requires a threshold level of knowledge and competence for public duties such as voting, serving on a jury, and participating in community affairs, and for the meaningful exercise of civil liberties like freedom of speech.").

IV. THE STATE'S FAILURE TO IMPLEMENT ITS OWN PLAN OR THE EQUIVALENT HAS RESULTED IN A CONTINUING LITERACY CRISIS IN PLAINTIFFS' SCHOOLS.

60. Defendants' failures to execute proven remedies are evidenced by the State's assessment data in the form of the CAASPP, California Standardized Testing and Reporting (STAR) Results, and the California Accountability Model & School Dashboard. Each of these measures confirms the ongoing "urgent need" with respect to literacy education faced by children in Plaintiffs' Schools.

61. Established by state statute, the CAASPP is a test administered in ELA and mathematics for grades three through eight, and grade eleven, that measures content standards adopted by the State Board of Education. Cal. Educ. Code § 60640. The CAASPP is "[a]n indicator of progress toward career and college readiness,"[19] which was "created specifically to gauge each student's performance in mathematics and English language arts/literacy as they develop – grade by grade – the skills called for by the standards, including the ability to write clearly, think critically and solve problems."[20]

62. The CAASPP replaced the STAR program that expired on July 1, 2013.[21] The STAR program included four components, including California Standard Tests for ELA, mathematics, science, and history–social science. The historic performance of students at Plaintiffs' Schools in the STAR Program shows that the problems with the delivery of literacy instruction at Plaintiffs' Schools are longstanding and well known to Defendants.

63. Defendant Torlakson has assured parents and students that "[t]he information from these tests will help our schools refine their teaching, improve learning, and better prepare our students for success."[22] As set out below, CAASPP scores at each of Plaintiffs' Schools are dismally low and have remained virtually at the same level, declined, or dramatically declined

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[19] *CAASPP Key Messages*, Cal. Dep't of Educ. (Aug. 23, 2017), https://www.cde.ca.gov/ta/tg/ca/caasppkeypts.asp.
[20] *Id.*
[21] *State Schools Chief Tom Torlakson Announces Peak of Annual CAASPP Testing*, Cal. Dep't of Educ. (May 11, 2017), https://www.cde.ca.gov/nr/ne/yr17/yr17rel36.asp.
[22] Cal. Dep't of Educ., News Release, *State Schools Chief Tom Torlakson Announces Peak of Annual CAASPP Testing* (May 11, 2017), https://www.cde.ca.gov/nr/ne/yr17/yr17rel36.asp.

since the CAASPP was first administered. Yet Defendants have not taken targeted steps to ensure that the students receive access to literacy.

64. The California Accountability Model & School Dashboard ("Dashboard") provides information about how local educational agencies and schools are meeting the needs of California's diverse student population. The Dashboard contains reports that display the performance of local educational agencies ("LEAs"), schools, and student groups on a set of state and local measures to assist in identifying strengths, weaknesses, and areas in need of improvement, taking into account change in performance over time.[23] The Dashboard's measurements show Plaintiffs' Schools are at the lowest performance level in the state; they show no or negligible signs of improvement, or even decline from one year to the next.

A. Defendants Are Depriving Students at La Salle of Their Constitutional Right to Education

65. La Salle is part of the Los Angeles Unified School District (LAUSD). Approximately 430 students attend La Salle in kindergarten through fifth grade. Of La Salle's students, 58% are African American, 40% are Latino, and 95% are socioeconomically disadvantaged. La Salle has one of the highest percentages of foster children as students among all elementary schools in LAUSD.

66. As alleged in paragraphs 14-17, Plaintiff Ella T. currently attends La Salle. Plaintiffs Katie T., Sasha E., and Russell W. recently attended La Salle for four, two, and six years respectively. The State has failed to provide these Plaintiffs their fundamental right to education through access to literacy when attending La Salle as demonstrated below.

67. In 2014-15, only 3% of all students at La Salle scored at or above "met standard" on the ELA CAASPP. That figure decreased to 2% in 2015-16 and barely increased to 4% in 2016-17. To put the 2016-17 figure in context, of the 179 La Salle students who took the ELA CAASPP exam, only *eight* children were proficient or above. A single child in the school—one

[23] *California School Dashboard*, Cal. Dep't of Educ., https://www.caschooldashboard.org/#/Home (last visited Nov. 30, 2017).

third grader—exceeded the State's standards, and only two third graders, three fourth graders, and three fifth graders met the State's standards.

Percent of Student Population Scoring At or Above "Met Standard" on the 2015-2017 CAASPP English Language Arts[24]												
	Grade 3			Grade 4			Grade 5			All Students		
	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17
La Salle	**3%**	**4%**	**3%**	**0%**	**3%**	**5%**	**6%**	**0%**	**5%**	**3%**	**2%**	**4%**
LAUSD	29%	34%	36%	29%	36%	37%	35%	40%	39%	33%	39%	40%
State of California	38%	43%	44%	40%	44%	45%	44%	49%	47%	44%	49%	49%

68. The CAASPP results for mathematics show that Plaintiffs are not receiving basic education in other subject matters. In 2014-15, only 3% of all students at La Salle scored at or above "met standard" on the mathematics CAASPP. That figure barely budged in the next two years, increasing to 4% in 2015-16 and remaining there in 2016-17.

[24] All CAASPP data is from the *California Assessment of Student Performance and Progress (CAASPP) Results*, California Department of Education (December 15, 2016), http://caaspp.cde.ca.gov/. The percentages represented in all CAASPP charts combine the students in the categories "Met Standard" or "Exceeded Standard," two of the four achievement levels on the CAASPP. The additional two achievement levels are "Not Met Standard" and "Nearly Met Standard." *See Understanding California Assessment of Student Progress and Performance Reports*, Cal. Dep't of Educ., https://caaspp.cde.ca.gov/sb2015/UnderstandingCAASPPReports (last visited Nov. 15, 2017); *see also* Cal. Educ. Code § 60648. Students who score "Not Met" or "Nearly Met" are not meeting the grade level standard, and are not "considered on track to demonstrating the knowledge and skills necessary for college and career readiness." *Achievement Level Descriptors*, Smarter Balanced Assessment Consortium, http://www.smarterbalanced.org/assessments/scores/ (last visited Jul. 18, 2017).

Percent of Student Population Scoring At or Above "Met Standard" on the 2015-2017 CAASPP Mathematics												
	Grade 3			Grade 4			Grade 5			All Students		
	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17
La Salle	**6%**	**9%**	**5%**	**0%**	**5%**	**5%**	**4%**	**0%**	**2%**	**3%**	**4%**	**4%**
LAUSD	32%	38%	40%	26%	31%	33%	21%	24%	26%	25%	28%	30%
State of California	40%	46%	47%	35%	38%	40%	30%	33%	34%	33%	37%	38%

69. A review of the STAR ELA data shows that the State has failed to provide access to literacy for students attending La Salle for some time.[25] Looking at data for school years 2008-09 through 2012-13 for grades 3-5, the average percentage of students scoring at or above "proficient"[26] ranged between 9% and 41% across third through fifth grades, as compared to a District range of 34% to 62% and a State range of 44% to 67%.[27] The average percentage of students scoring at or above "proficient" across grades 3-5 during these years at La Salle was 24%, half the District average of 48% and even further behind the statewide average of 56%.[28]

70. The Dashboard shows that all student groups at La Salle fell within the state-designated "red" zone of the Dashboard—the lowest performance level ("very low") with no indication of improvement with respect to ELA achievement, and were thus designated as "red."

[25] All STAR data can be found at *Standardized Testing and Reporting (STAR) Results,* Cal. Dep't of Educ. (Jul. 24, 2014), http://star.cde.ca.gov/.

[26] From lowest to highest, the five achievement levels on the STAR are: Far Below Basic, Below Basic, Basic, Proficient, and Advanced. "[T]he state target is for all students to score at or above proficient." 2013 STAR Test Results, Cal. Dep't of Educ, http://star.cde.ca.gov/star2013/help_comparescores.aspx (last visited Dec. 1, 2017). "At or above proficient" is defined here as the percentage of students scoring Proficient or Advanced.

[27] The "range" referred to here and in subsequent instances represents the range of all specified grade level scores at the school, district, or state level for the 2009-13 STAR assessments. *See Standardized Testing and Reporting Results*, Cal. Dep't of Educ., http*://star.cde.ca.gov/* (last visited Dec. 1, 2017).

[28] The "average" referred to here and in subsequent instances represents the average of all specified grade level scores at the school, district, or state level for the 2009-13 STAR assessments. *See id.*

Figure 2: California Dashboard, English Language Arts (grades 3-8), Student Group Five-by-Five Placement Report – La Salle[29]

LEVEL	Declined Significantly by more than 15 points	Declined by 1 to 15 points	Maintained Declined by less than 1 point or increased by less than 7 points	Increased by 7 to less than 20 points	Increased Significantly by 20 points or more
Very High 45 or more points above	Yellow (None)	Green (None)	Blue (None)	Blue (None)	Blue (None)
High 10 points above to less than 45 points above	Orange (None)	Yellow (None)	Green (None)	Green (None)	Blue (None)
Medium 5 points below to less than 10 points above	Orange (None)	Orange (None)	Yellow (None)	Green (None)	Green (None)
Low More than 5 points below to 70 points below	Red (None)	Orange (None)	Yellow (None)	Yellow (None)	Yellow (None)
Very Low More than 70 points below	Red (None)	Red (None)	Red **All Students (School Placement)** English Learners Socioeconomically Disadvantaged Black or African American Hispanic or Latino	Orange (None)	Yellow (None

71. These test results are corroborative of Plaintiffs' own experiences.

72. Plaintiff Ella T., a second grader, was already more than two grade levels behind in literacy at the end of first grade. Her mother spends time working with her on reading, math, and other homework, but still Ella T. cannot spell basic words like "paper," "dear," "need," or "help." *See* Fig. 4. Ella T.'s literacy deficits have been recognized since kindergarten, but they

[29] California Department of Education, California Model Five-by-Five Placement Reports & Data, http://www6.cde.ca.gov/californiamodel/grid?indicator=ela&year=2017s&cdcode=&scode=6017750&reporttype=sgroups

have not improved. In fact, in first grade, Ella T.'s literacy declined. Ella T. began the year performing below grade level, scoring 52 on the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) assessment.[30] Her DIBELS score declined to 28 by mid-year and plummeted to 13 by the year's end. Her year-end score was not only lower than her score upon entering kindergarten; it placed her at a pre-kindergarten level.[31] Despite this alarming performance and decline, the only intervention Ella T. received was group tutoring for at most a total of approximately eight hours over a period of eight weeks in the first grade.

73. Ella T.'s writing demonstrates substantial literacy deficits. Whereas the State mandates that a second-grade student like Ella T. should be able to "introduce a topic," "use facts and definitions to develop points," and "use linking words (e.g., because, and, also),"[32] Ella T. cannot spell basic words and can barely write a complete sentence. *Compare* Figure 3: Representative Sample of Student Writing Meeting Grade 2 Standards,[33] *with* Figure 4: Second grader Ella T.'s letter to the Governor.[34]

[30] The Dynamic Indicators of Basic Early Literacy Skills scores referred to herein represent measures "the acquisition of early literacy skills from kindergarten through sixth grade," including "phonemic awareness, alphabetic principle, accuracy and fluency with connected text, reading comprehension, and vocabulary." Roland H. Good, III & Ruth A. Kaminski, *What are DIBELS?*, DIBELS.org, https://dibels.org/dibels.html (last visited Nov. 17, 2017).

[31] DIBELS grade equivalence conversion charts can be found at Dynamic Mgmt. Grp., *DIBELS Next Benchmark Goals and Composite Score* (2016), https://dibels.org/papers/DIBELSNextBenchmarkGoals.pdf.

[32] Cal. Dep't of Educ., *California Common Core State Standards: English Language Arts & Literacy in History/Social Studies, Science, and Technical Subjects* 21 (2013), https://www.cde.ca.gov/be/st/ss/documents/finalelaccssstandards.pdf.

[33] Common Core State Standards Initiative, *Common Core State Standards for English Language Arts & Literacy in History/Social Studies, Science, and Technical Subjects, Appendix C: Samples of Student Writing* 15 (2013), http://www.corestandards.org/assets/Appendix_C.pdf [hereinafter *State Writing Samples*].

[34] Transcript: "Der Governor. I can improve the school. supplies eras piso cupiso. shrpo pars yes. I ned eshu hlpe."

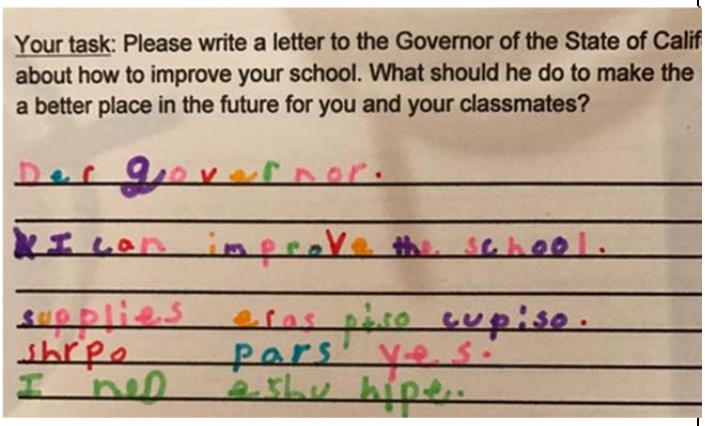
Figure 3: Representative Sample of Student Writing Meeting Grade 2 Standards

Owl Moon

When you go owling you don't need words, or worm or any thing, but hope. This is the booK of Owl Moon. This booK is written by Jane Yolen. I liKe that phrase Because The boy was happy becaus he got to go owling and hes been wonted to go owling for a long time and he finally got to go.

When other Kids are happy that maKes me happy. I liKe it Because it maKes me feel good Because you don't haf't to have words to go owling but you haf't to have hope to see an owl.

Figure 4: Second grader Ella T.'s letter to the Governor



74. Plaintiff Katie T., a sixth grader, is typical of older La Salle students lacking access to literacy. In third, fourth, and fifth grades, Katie T. failed to meet state standards on the CAASPP exam for both ELA and math; each year she was in the lowest achievement level ("standard not met"), scoring in the bottom 5% nationally in both subject areas in fourth grade. Her DIBELS score at the end of fifth grade placed her at the beginning of the third-grade level, about three grade levels behind. Despite Katie T.'s low literacy levels, at La Salle, she was offered only eight hours of after-school tutoring for over two months and only during third grade. As a result, Katie T. has not mastered writing basic sentences in sixth grade. Whereas the State mandates that a sixth-grade student should be able to "introduce claim(s)," "use words, phrases, and clauses to clarify the relationships among claim(s) and reasons," "establish and maintain a

formal style," "produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience,"[35] and employ standard English conventions,[36] Katie T. often is unable to put together grammatically correct sentences with basic subject-verb agreement, punctuation, capitalization, plural nouns, and standard spelling, much less to produce clear and coherent writing with development, organization, and style appropriate to the task as mandated by the State. *Compare* Figure 5: Representative Sample of Student Writing Meeting Grade 6 Standards,[37] *with* Figure 6: Excerpts of Sixth Grader Katie T.'s Letter to Governor Brown.[38]

[35] *Id.* at 56, 59.
[36] *See, e.g.*, *id.* at 40 (stating that a sixth grader should be able to "ensure subject-verb agreement and pronoun-antecedent agreement," "produce complete sentences," "choose punctuation for effect," and "recognize and correct inappropriate shifts in verb tense").
[37] *State Writing Samples*, *supra* note 33, at 36.
[38] Transcript, first excerpt: "I think you should improve all bad schools to be better, kind, respect, responsible also be nice? La Salle Elementary school needs to wear uniform at all times and they need more supples. They need to control this kids and have assiantants princalable and see IF they in control right. The uniform need to kwaki pants . . ." Transcript, second excerpt: "help kids not shruggle in class Like In Reading, math and other things. the supples they need is pencils, pens, crayons, text book and better Food nice and kind people."

Figure 5: Representative Sample of Student Writing Meeting Grade 6 Standards

Student Sample: Grade 6, Argument

This argument was written as homework after a class in which grade 6 students viewed a movie titled *Benchwarmers* and discussed how movie writers and producers promote smoking. The letter is addressed to the producer of a film in which smoking appears.

Dear Mr. Sandler,

Did you know that every cigarette a person smokes takes seven minutes off their life? I mentioned this because I just watched the movie, Benchwarmers, and I noticed that Carlos smoked. Why did you feel the need to have one of the characters smoke? Did you think that would make him look cool? Did you think that would make him look older? It did neither of those things. As a matter of fact, I think it made him look stupid and not very cool. Especially when he put out a cigarette on his tongue.

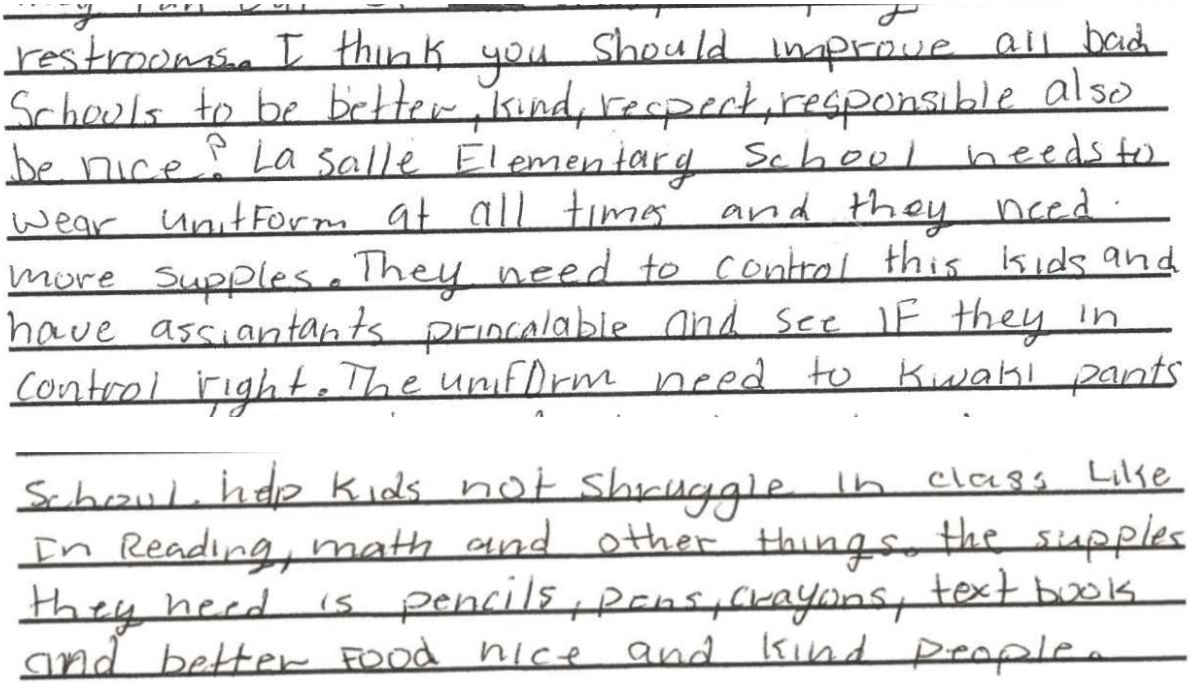
If I were producing a movie, I would want my characters to be strong, healthy and smart. I would not have any smokers in my movies for many reasons. The first reason is it sets a bad example for children. An estimated 450,000 Americans die each year from tobacco related disease. In fact, tobacco use causes many different types of cancers such as lung, throat, mouth, and tongue. Another reason not to promote smoking is it ages and wrinkles your skin. Who wants to look 75 if you are only 60? It turns your teeth yellow and may lead to gum disease and tooth decay. Lastly, smoking is a very expensive habit. A heavy smoker spends thousands of dollars a year on cigarettes. I can think of better things to spend money on.

So Mr. Sandler, I urge you to take smoking out of all future movies you produce. Instead of having your characters smoke have them do healthy things. That will set a positive influence for children instead of poisoning their minds. Thanks for reading my letter. I hope you agree with my opinion.

Sincerely, _____

P.S. I love your Chanukah song.

Figure 6: Excerpts of Sixth Grader Katie T.'s Letter to Governor Brown


restrooms. I think you should improve all bad Schools to be better, kind, respect, responsible also be nice. La salle Elementary School needs to wear uniform at all time and they need more supples. They need to control this kids and have assiantants principalable and see IF they in control right. The uniform need to Kwaisi pants

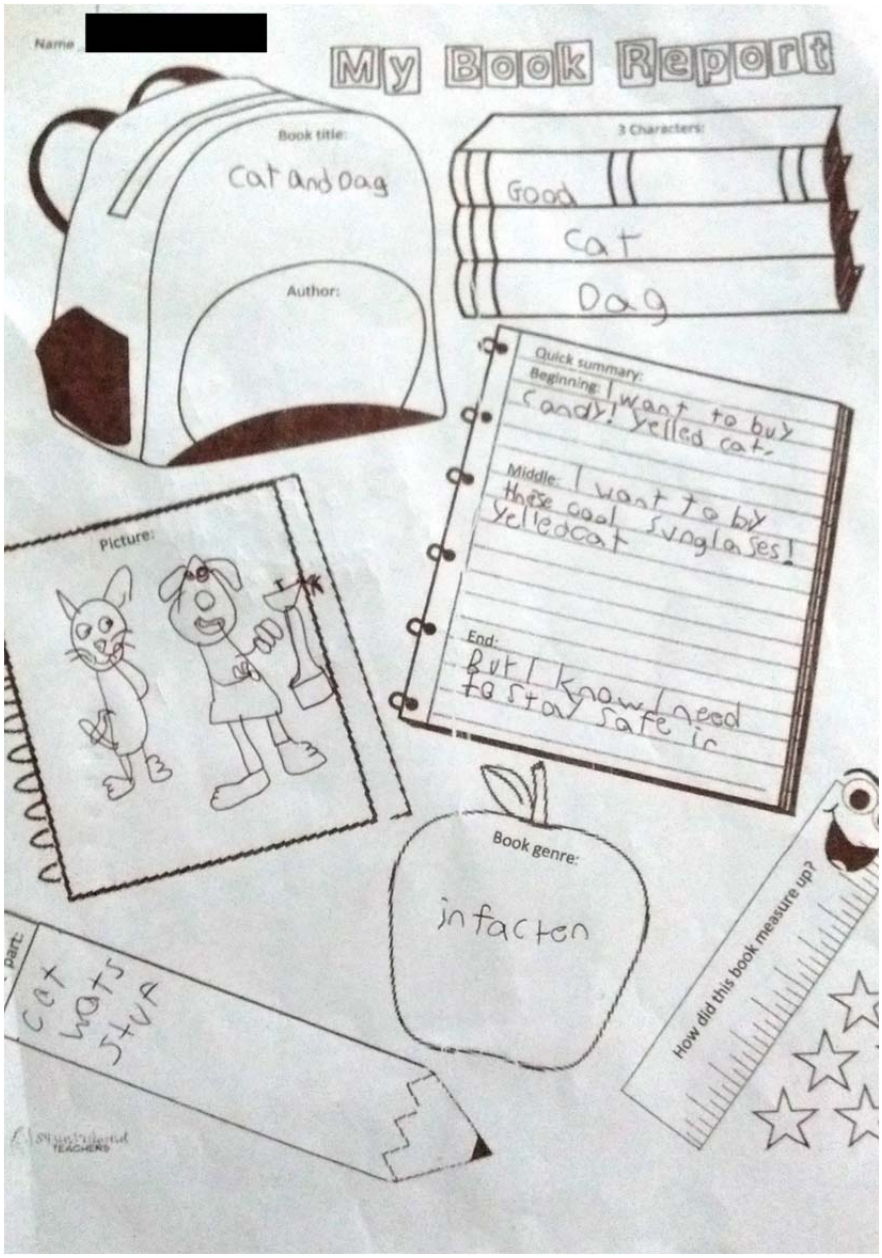
School. help kids not shruggle in class Like In Reading, math and other things. the supples they need is pencils, pens, crayons, text books and better FOOD nice and kind people.

75. Plaintiff Sasha E. is a fifth grader, yet she failed to meet standards on the CAASPP for ELA or mathematics in third grade, and her scores—in ELA, 2269, and in mathematics, 2278—placed her in the lowest achievement level ("standard not met") and in the bottom 5% of all students in both subject areas. Sasha E. cannot answer basic comprehension questions after reading. Sasha E. is embarrassed to read aloud in class and fears not knowing words or mispronouncing them. Despite her clear literacy deficits, Sasha E. was not offered any meaningful interventions. In fact, Sasha E.'s teacher informed Sasha E.'s father that Sasha E. needed individualized help that the teacher could not provide because she had too many students.

76. Plaintiff Russell W. is a sixth grader who did a book report on *Cat in the Hat*, a kindergarten level book, in fifth grade. At the end of fifth grade, Russell W. tested at an early-third grade-level on the DIBELS assessment. Even though he also scored in the lowest achievement level ("standard not met") on the CAASPP in third, fourth, and fifth grades, Russell W. received no meaningful interventions during those years. Russell W. dreaded taking the ELA CAASPP test because it requires reading passages that are longer than he normally has to read.

77. Plaintiffs are representative of students at La Salle. Many first graders are unable to recognize letters of the alphabet or sight words (i.e., commonly used words that young children are encouraged to memorize and recognize by sight), pronounce basic sounds, or write their names. Third graders struggle to spell basic words like "dog." *See* Fig. 7. Older students cannot read grade-level texts, and they are not provided instruction in disciplinary-specific literacy skills.

Figure 7: Book Report Homework Assignment in Third Grade at La Salle



B. Defendants Are Depriving Students at Van Buren of Their Constitutional Right to Education

78. Van Buren is part of the Stockton Unified School District. Approximately 571 students attend Van Buren in kindergarten through eighth grades. Of Van Buren's students, 64% are Latino, 21% are African American, 10% are Asian, and 90% are socioeconomically disadvantaged.

79. As alleged in paragraphs 18-21, Plaintiffs Dylan O. and Judith B. currently attend Van Buren. Plaintiffs Alex G. and Bella G. attended Van Buren for two years. The State has failed to provide these Plaintiffs their fundamental right to education through access to literacy when attending Van Buren as demonstrated below.

80. The CAASPP results for ELA show Plaintiffs are being denied access to literacy. In fact, the percentage of Van Buren students meeting state standards has decreased each year since the CAASPP was first administered, and in fact has almost been cut in half, falling from 11% in 2014-15 to 8% in 2015-16, and further down to 6% in 2016-17. This means that in 2017, of the 378 students who took the CAASPP, only 24 children met state standards, including a single child in fourth grade, two sixth graders, four children third, fifth, and seventh grades, and nine eighth graders.

Percent of Student Population Scoring At or Above "Met Standard" on the 2015-2017 CAASPP English Language Arts

	Grade 3			Grade 4			Grade 5		
	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17
Van Buren	**2%**	**0%**	**7%**	**10%**	**4%**	**1%**	**2%**	**5%**	**6%**
SUSD	16%	19%	21%	15%	18%	22%	21%	21%	20%
State of California	38%	43%	44%	40%	44%	45%	44%	49%	47%

	Grade 6			Grade 7			Grade 8			All Students		
	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17
Van Buren	**13%**	**9%**	**4%**	**15%**	**14%**	**6%**	**29%**	**17%**	**15%**	**11%**	**8%**	**6%**
SUSD	22%	22%	23%	25%	26%	25%	31%	31%	28%	23%	25%	25%
State of California	42%	48%	47%	44%	48%	49%	45%	48%	49%	44%	49%	49%

81. The CAASPP results for mathematics show Plaintiffs are not receiving basic education in other subject matters. Since the first administration of the CAASPP, Van Buren's numbers have declined: in 2014-15 and 2015-16, only 9% of all students at Van Buren scored at or above "met standard" on the mathematics CAASPP, but that figure dropped to 6% in 2016-17.

Percent of Student Population Scoring At or Above "Met Standard" on the 2015-2017 CAASPP Mathematics									
	Grade 3			Grade 4			Grade 5		
	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17
Van Buren	**12%**	**13%**	**13%**	**8%**	**10%**	**0%**	**3%**	**3%**	**4%**
SUSD	20%	28%	26%	18%	21%	22%	11%	14%	14%
State of California	40%	46%	47%	35%	38%	40%	30%	33%	34%

	Grade 6			Grade 7			Grade 8			All Students		
	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17
Van Buren	**11%**	**4%**	**2%**	**10%**	**16%**	**8%**	**9%**	**5%**	**13%**	**9%**	**9%**	**6%**
SUSD	18%	18%	17%	19%	22%	19%	18%	19%	19%	18%	20%	19%
State of California	33%	35%	36%	34%	36%	37%	33%	36%	36%	33%	37%	38%

82. A review of the STAR ELA data shows that the State has failed to provide access to literacy for students attending Van Buren for some time. Looking at data for school years 2008-09 through 2012-13 for grades 3-8, the percentage of students scoring at or above "proficient" ranged between 5% and 50%, as compared to the District range of 22% to 43% and the State range of 44% to 67%. The average percentage of students scoring at or above "proficient" across grades 3-8 during these years at Van Buren was 23%, significantly behind the District average of 35% and less than half the statewide average of 56%.

83. The Dashboard shows that the Van Buren student body taken as a whole along with all but one student group, fell within the lowest performance level ("very low") with no or negligible indication of improvement in ELA for Black or African American students and a decline for all students, socioeconomically disadvantaged students, and Hispanic or Latino students, which were designated as "red."

Figure 8: California Dashboard, English Language Arts (grades 3-8), Student Group Five-by-Five Placement Report – Van Buren[39]

LEVEL	Declined Significantly by more than 15 points	Declined by 1 to 15 points	Maintained Declined by less than 1 point or increased by less than 7 points	Increased by 7 to less than 20 points	Increased Significantly by 20 points or more
Very High 45 or more points above	Yellow (None)	Green (None)	Blue (None)	Blue (None)	Blue (None)
High 10 points above to less than 45 points above	Orange (None)	Yellow (None)	Green (None)	Green (None)	Blue (None)
Medium 5 points below to less than 10 points above	Orange (None)	Orange (None)	Yellow (None)	Green (None)	Green (None)
Low More than 5 points below to 70 points below	Red (None)	Orange (None)	Yellow Asian	Yellow (None)	Yellow (None)
Very Low More than 70 points below	Red (None)	Red **All Students** **(School Placement)** English Learners Socioeconomically Disadvantaged Hispanic or Latino	Red Black or African American	Orange (None)	Yellow (None)

[39] California Department of Education, California Model Five-by-Five Placement Reports & Data, http://www6.cde.ca.gov/californiamodel/grid?indicator=ela&scode=6042790&year=2017s&reporttype=sgroups

84. These test results are corroborative of Plaintiffs' experiences.

85. Plaintiff Dylan O. is in eighth grade and has attended Van Buren for almost his entire education, except for third and fourth grades when he was at other schools. Dylan O.'s reading deficits have been apparent since the early grades and have worsened as he moved through school so that he now, as an eighth grader, is almost six-grade levels behind. Dylan O.'s CAASPP scores have been in the lowest achievement level ("standard not met") every year he has taken the test. In fifth grade, his words per minute rate was on grade level for a second-grade student, three grade levels behind.[40] The following year, his ELA CAASPP scores declined, placing him in the bottom 5% nationally. According to the results of Dylan O.'s MAP assessment, he was reading at an early-second-grade level at the end of sixth grade. His score on the same assessment fell further the following year; by the middle of seventh grade, he was still reading at an early-second-grade level, about six grade levels behind, and scoring in the lowest 1% of seventh graders nationally. Dylan O. lacks an understanding of basic ELA concepts; at the beginning of eighth grade, he did not know what a novel is. Yet Dylan O. has not received meaningful literacy interventions from Van Buren since at least second grade, though he did receive interventions during the part of third grade when he was in a school in another district.

86. Plaintiff Bella G. recently began sixth grade at an elementary school in Stockton Unified School District after attending Van Buren for two years. Over her two years at Van Buren, Bella G.'s words per minute score decreased, and on the ELA CAASPP she moved from "standard nearly met" in third grade at her previous school, to "standard not met" in fourth and fifth grade at Van Buren. According to her spring 2016-17 MAP reading assessment, Bella G. was reading at a mid-second-grade level, over three grades behind and lower than all but 5% of fifth-grade students nationally. Bella G. has never met the state proficiency standards in ELA. In 2015-16, her scores of 2318 on the ELA CAASPP test and of 2375 in mathematics placed her in the lowest possible achievement level ("standard not met") and in the bottom 10% nationally in

[40] Read Naturally, *Hasbrouck & Tindal Oral Reading Fluency Data*, https://www.readnaturally.com/knowledgebase/documents-and-resources/26/386 (last visited Dec. 1, 2017). "Words per minute" represents a measurement of student fluency. *Id.*

ELA. Despite these scores, Bella G. has never been offered any meaningful interventions in literacy at Van Buren, although she had received interventions at her previous school.

87. Plaintiff Alex G. is in fourth grade at an elementary school in Stockton Unified School District after having attended Van Buren for two years. At the end of third grade, Alex G. was reading at an early-first-grade level according to her MAP reading assessment, placing her in the bottom 5% of third-grade students nationally. In third grade, Alex G. received Ds and Fs in the reading, writing, and language components of ELA on her report card. Alex G. scored in the lowest achievement level ("standard not met") for both ELA and mathematics on the CAASPP in third grade. Nonetheless, Alex G. did not receive any meaningful reading intervention.

88. Plaintiff Judith B. is in first grade at Van Buren. As a kindergartner, Judith B. did not have a permanent teacher and had a different substitute almost every day. This lack of literacy instruction is reflected in Judith B.'s literacy assessment scores. In the spring 2017 MAP assessment, Judith B. scored a 133, which places her a year below grade level and in the bottom 3% of all kindergarten students nationally. Judith B.'s kindergarten Stockton Unified School District report card notes "mastery of phonological awareness" as an area of concern.

89. A recent Van Buren student's experience is representative of the experience in early grades. The student attended Van Buren for four years—kindergarten, first grade (repeated), and second grade. When she was in first grade, she was not able to read simple words like "cat," "mat," and "top." Her mother persistently worked with her and repeatedly sought help. The teacher acknowledged that the student responded well to one-on-one instruction, but told the mother that she had too many students in class to do much one-on-one work with the student or with any of the many other children who need individual help. The assessment data documents the student's deficits. In the middle of the 2016-17 school year, her MAP assessment scores placed her at an early-kindergarten reading level, three grade levels behind students of similar age. These MAP scores placed her in the bottom 2% of second-grade students nationally.

90. Another recent Van Buren student's experience is representative of older students in Van Buren. This student is now in ninth grade at a high school in Stockton Unified School District. She attended Van Buren from third through eighth grade. In eighth grade at Van Buren

she had four different long-term English and Social Studies teachers and multiple additional short-term substitutes in 2016-17; her English class was covered by various staff including a counselor. After her original English teacher left, the student had almost no homework assigned in English. The only substantive writing assignment that she received was to write four pages on world hunger for her science class, and she never received a writing assignment in history. In the student's intensive math course, intended to provide extra support to students struggling with math, students watched movies almost every day, such as *The Minions*, *Finding Nemo,* or *The Lion King*.

91. Because the State does not ensure that Van Buren students receive research-based literacy instruction and intervention, Van Buren students lack the meaningful interventions they need in order to learn to read. As a result, they feel the stigma of lack of literacy acutely: they are embarrassed and ashamed about their reading level. Some students therefore start crying when asked to read out loud in class or categorically refuse to read out loud. Students will go to great lengths to avoid these humiliations, including leaving the room to use the bathroom during reading time or engaging in behaviors that they know will cause the teacher to remove them from the classroom. At Van Buren, one student who recently completed the eighth grade, when asked to read, would regularly announce "I'm not going to read" and walk out of class.

C. Defendants Are Depriving Students at Children of Promise of Their Constitutional Right to Education

92. Children of Promise Preparatory Academy is a charter school in Inglewood, California, chartered by the Inglewood Unified School District, which has been operated directly by Defendant Torlakson since 2012. Approximately 350 students attend Children of Promise in kindergarten through sixth grades. Of Children of Promise's students, approximately 73% are African American, 26% are Latino, and 93% are socioeconomically disadvantaged.

93. As alleged in paragraphs 22-23, Plaintiffs Bernie M. and Victoria Q., currently attend Children of Promise. The State has failed to provide these Plaintiffs their fundamental right to education through access to literacy when attending Children of Promise as demonstrated below.

94. The CAASPP results for ELA show Plaintiffs are being denied access to literacy. In 2014-15, only 15% of all students at Children of Promise scored at or above "met standard" on the ELA CAASPP, and even fewer students met the standard in subsequent years. That figure decreased to 11% in 2015-16 and did not rise in 2016-17. In 2016-17, not a single child in the fifth grade met the standard, only three sixth graders met the standard, and no more than five children in any other grade met the standard.

Percent of Student Population Scoring At or Above "Met Standard" on the 2015-2017 CAASPP English Language Arts																		
	Grade 3			**Grade 4**			**Grade 5**			**Grade 6**			**Grade 7**			**All Students**		
	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17
Children of Promise	**0%**	**19%**	**10%**	**16%**	**0%**	**13%**	**38%**	**4%**	**0%**	**15%**	**25%**	**14%**			**31%**	**15%**	**11%**	**11%**
IUSD	20%	26%	24%	22%	26%	30%	31%	29%	29%	32%	32%	32%	29%	33%	32%	26%	29%	29%
State of California	38%	43%	44%	40%	44%	45%	44%	49%	47%	42%	48%	47%	44%	48%	49%	44%	49%	49%

95. The CAASPP results for mathematics also demonstrate Plaintiffs' lack of access to basic education. In 2014-15, 1% of all students at Children of Promise scored at or above "met standard" on the mathematics CAASPP. That figure increased to 12% in 2015-16 and fell to 7% in 2016-17.

Percent of Student Population Scoring At or Above "Met Standard" on the 2015-2017 CAASPP Mathematics																		
	Grade 3			**Grade 4**			**Grade 5**			**Grade 6**			**Grade 7**			**All Students**		
	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17	2014-15	2015-16	2016-17
Children of Promise	**0%**	**20%**	**14%**	**0%**	**3%**	**5%**	**0%**	**0%**	**0%**	**8%**	**19%**	**5%**			**15%**	**1%**	**12%**	**7%**
IUSD	23%	25%	28%	15%	17%	23%	13%	12%	16%	17%	20%	24%	16%	16%	12%	14%	16%	19%
State of California	40%	46%	47%	35%	38%	40%	30%	33%	34%	33%	35%	36%	34%	36%	37%	33%	37%	38%

96. A review of the STAR ELA data shows that the State has failed to provide access to literacy for students attending Children of Promise for some time. Looking at data for school years 2008-09 through 2012-13 for grades 3-4, the percentage of students scoring at or above

"proficient" ranged between 8% and 42%, as compared to the District range of 31% to 57% and the State range of 44% to 67%. The average percentage of students scoring at or above "proficient" across grades 3-4 during these years at Children of Promise was 26%, significantly behind the District average of 46% and less than half the statewide average of 55%.

97. Children of Promise has attempted to discourage students from taking the CAASPP test, in violation of Cal. Code Regs. tit. 5, § 852(c). The school gives parents pre-printed forms that they can sign to opt their children out of testing. Office staff encouraged one mother to sign the form, telling her that other parents had signed it because the test is several hours long and is too strenuous for the students. The school employees did not explain that the CAASSP can give parents insight into their students' academic progress. In the 2017 implementation of the CAASPP, 14% of students at Children of Promise who were in grades eligible to take the CAASPP did not take the ELA test and 18% did not take the math test. In short, there were more CAASPP eligible children at Children of Promise who opted not to take the test than there were children who met state standards.

98. Children of Promise has refused to provide Plaintiffs' counsel with Plaintiffs' test scores and other school records, to which they are legally entitled pursuant to adequate authorizations signed by parents or guardians. In fact, it has pressured or attempted to pressure parents to sign a specially prepared form withdrawing their consent to have their children's records transmitted to their counsel. As a result, Plaintiffs are not in possession of all their school records.

99. The Dashboard shows that all student groups at Children of Promise fell within the lowest performance level ("very low") in ELA. Children of Promise received an orange rating because of a small increase in numerical scores from 2015-16 to 2016-17, an increase that is not reflected in the overall proficiency rate for the school; in fact, the percent of students proficient in ELA has decreased since the first administration of the CAASPP in 2014-15.

Figure 9: California Dashboard, English Language Arts (grades 3-8), Student Group Five-by-Five Placement Report – Children of Promise[41]

LEVEL	Declined Significantly by more than 15 points	Declined by 1 to 15 points	Maintained Declined by less than 1 point or increased by less than 7 points	Increased by 7 to less than 20 points	Increased Significantly by 20 points or more
Very High 45 or more points above	Yellow (None)	Green (None)	Blue (None)	Blue (None)	Blue (None)
High 10 points above to less than 45 points above	Orange (None)	Yellow (None)	Green (None)	Green (None)	Blue (None)
Medium 5 points below to less than 10 points above	Orange (None)	Orange (None)	Yellow (None)	Green (None)	Green (None)
Low More than 5 points below to 70 points below	Red (None)	Orange (None)	Yellow (None)	Yellow (None)	Yellow (None)
Very Low More than 70 points below	Red (None)	Red (None)	Red (None)	Orange **All Students (School Placement)** Socioeconomically Disadvantaged Black or African American	Yellow (None)

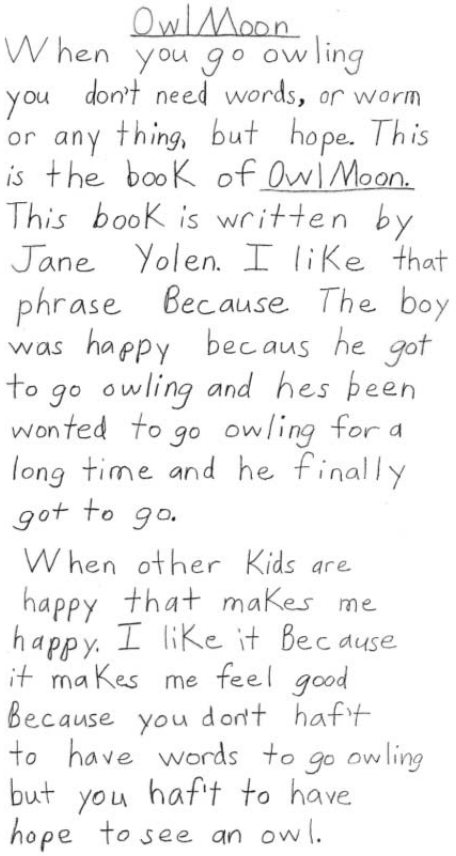
100. These test results are corroborative of Plaintiffs' experiences.

101. Victoria Q. is currently in second grade and has attended Children of Promise since kindergarten. State content-standards mandate that students Victoria Q.'s age should be able to "introduce a topic," "use facts and definitions to develop points," "use linking words (e.g.,

[41] California Department of Education, California Model Five-by-Five Placement Reports & Data,http://www6.cde.ca.gov/californiamodel/grid?indicator=ela&year=2017s&cdcode=&scode=0121186&reporttype=sgroups

because, and, also)," recount events with "details to describe actions, thoughts, and feelings, [and] use temporal words to describe event order."[42] Victoria Q.'s writing does not demonstrate any of these traits. She cannot spell basic words like "want" or "meet" or write full sentences, let alone give reasons for her thoughts or opinions. *Compare* Figure 10: Representative Sample of Student Writing Meeting Grade 2 Standards, Grade 2 *with* Figure 11: Second grader Victoria Q.'s letter to the Governor.

Figure 10: Representative Sample of Student Writing Meeting Grade 2 Standards



Owl Moon

When you go owling you don't need words, or worm or any thing, but hope. This is the booK of Owl Moon. This booK is written by Jane Yolen. I liKe that phrase Because The boy was happy becaus he got to go owling and hes been wonted to go owling for a long time and he finally got to go.

When other Kids are happy that maKes me happy. I liKe it Bec ause it maKes me feel good Because you don't haf't to have words to go owling but you haf't to have hope to see an owl.

Figure 11: Second grader Victoria Q.'s letter to the Governor[43]



Dear to goviern I in my scho[s]ol I whit fun Finday ♡ I whit to met the goviern. ♡ I miss the gorern. ♡

[42] Cal. Dep't of Educ., *supra* note 28, at 21.

[43] Transcript: "Dear to goviern I in my scho[s]ol I whit fun Finday [heart drawing]. I whit to met the goviern. [heart drawing] I miss the gorern. [heart drawings]."

102. Older students continue to lack basic literacy skills required to access grade-level content. Students in the fifth grade should, according to State standards, be able to "introduce a topic or text clearly, state an opinion, and create an organizational structure in which ideas are logically grouped to support the writer's purpose," "provide logically ordered reasons that are supported by facts and details," "link opinion and reasons using words, phrases, and clauses (e.g., consequently, specifically)," "form and use the perfect (e.g., I had walked)," and "use punctuation to separate items in a list."[44] By contrast, Children of Promise fifth grader Kendall Q. does not form complete sentences with correct use of verb tense or punctuation. She struggles with subject-verb agreement and basic word order. Her writing does not demonstrate clear reasoning or a coherent organizational structure. *Compare* Representative Sample of Student Writing Meeting Grade 5 Standards,[45] *with* Fifth grader Kendall Q.'s letter to the Governor.

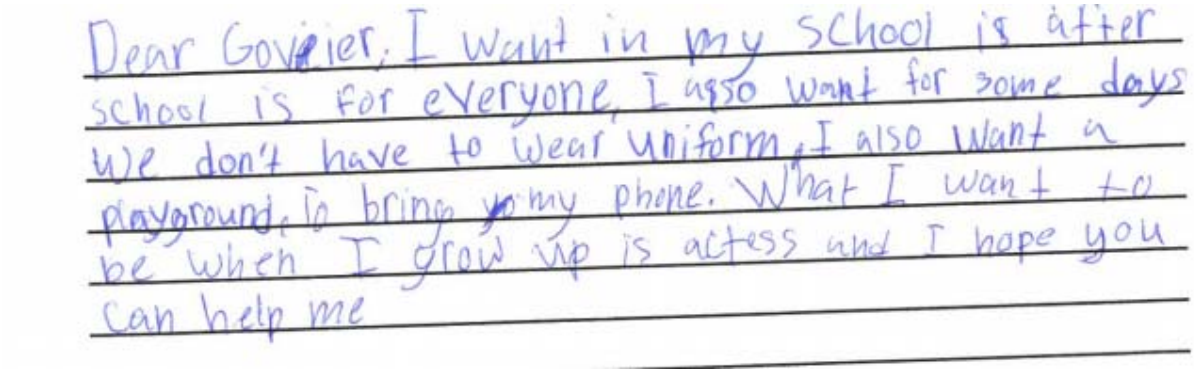
[44] Cal. Dep't of Educ., *supra* note 28, at 22-24, 36, 37.
[45] Common Core State Standards Initiative, *supra* note 29, at 29.

Figure 12: Representative Sample of Student Writing Meeting Grade 5 Standards

Author Response: Roald Dahl
By:

Roald Dahl is a very interesting author to me. That's because he knows what a kid wants to hear. He has a "kid's mind". He is the only author that I know that makes up interesting words like Inkland, fizz wizard, and gobble funking. All his stories are the same type. I don't mean the same story written again and again. What I mean is that they all have imagination, made up words, and disgusting thoughts. Some of his stories that have those things are Charlie and the Chocolate Factory, Matilda, The Witches and Danny the Champion of the World. The Witches is the book that I am reading right now, and it is like The BFG, another book that is by Roald Dahl. They are alike because in The BFG, Sophie and the BFG, (the big friendly giant), are trying to stop other giants from eating human beings. The Witches has the same problem. The Boy, (he has no name), is trying to stop the witches from turning children into small mice, and then killing the mice by stepping on them. Both stories have to stop evil people from doing something horrible. Roald Dahl uses a lot of similes. Some similes that he used that I like are: Up he shot again like a bullet in the barrel of a gun.

Figure 13: Children of Promise Fifth grader's letter to the Governor[46]



[46] Transcript: "Dear Goveier, I want in my school is after school is for everyone. I also want for some days we don't have to wear uniform. I also want a playground. To bring my phone. What I want to be when I grow up is actess and I hope you can help me".

103. Plaintiff Bernie M. is a fifth grader. He has attended Children of Promise since 2015, when he was in third grade. At Children of Promise, Bernie M. has never met standard on the state's standardized test in either ELA or mathematics. Bernie M.'s scores on the ELA CAASPP decreased from 2319 in 2015-16 to 2293 in 2016-17. Bernie M.'s 2015-16 score in ELA places him in the lowest possible achievement level ("standard not met"). In the 2016-17 school year, Bernie M.'s fourth-grade class was taught by three successive permanent teachers and three substitutes. Bernie M. cannot spell basic words like "courts," "pockets," "everybody," "defense," "instruments," "hurt," "wear," and "different." Bernie M. does not form complete sentences with correctly formed basic pronouns, singular and plural forms, verb tense, and punctuation. *Compare* Figure 14: Representative Sample of Student Writing Meeting Grade 5 Standards, *infra*, *with* Figure 15: Fifth grader Bernie M.'s letter to the Governor.[47]

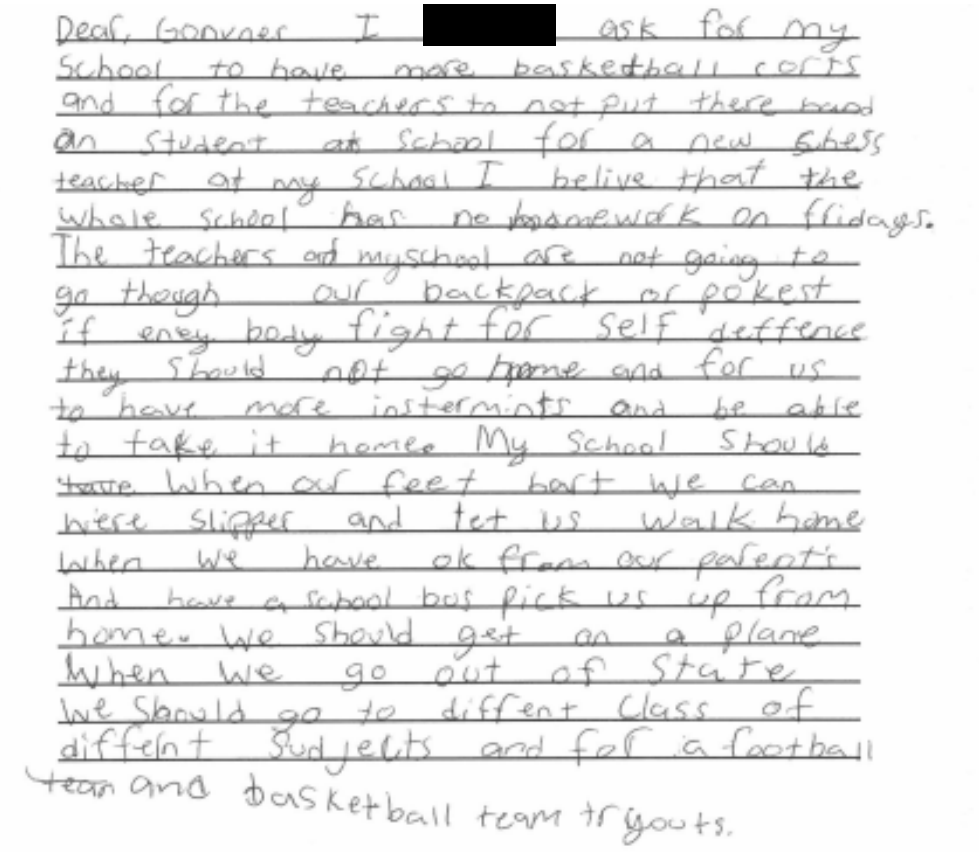
[47] Transcript: "Dear, Gonvner I [Bernie M.] ask for my school to have more basketball corts and for the teachers to not put there hand on student at school for a new chess teacher at my school I belive that the whole school has no homework on fridays. The teachers at my school are not going to go though our backpack or pokest if eney body fight for self deffence they should not go home and for us to have more instermints and be able to take it home. My school should have when our feet hart we can were slipper and let us walk home when we have ok from our parent's And have a school bus pick us up from home. We should get on a plane when we go out of state we should go to diffent class of differnt sudjects and for a football team and basketball team tryouts."

Figure 14: Representative Sample of Student Writing Meeting Grade 5 Standards

Author Response: Roald Dahl
By:

Roald Dahl is a very interesting author to me. That's because he knows what a kid wants to hear. He has a "kid's mind". He is the only author that I know that makes up interesting words like Inkland, fizz wizard, and gobble funking. All his stories are the same type. I don't mean the same story written again and again. What I mean is that they all have imagination, made up words, and disgusting thoughts. Some of his stories that have those things are Charlie and the Chocolate Factory, Matilda, The Witches and Danny the Champion of the World. The Witches is the book that I am reading right now, and it is like The BFG, another book that is by Roald Dahl. They are alike because in The BFG, Sophie and the BFG, (the big friendly giant), are trying to stop other giants from eating human beings. The Witches has the same problem. The Boy, (he has no name), is trying to stop the witches from turning children into small mice, and then killing the mice by stepping on them. Both stories have to stop evil people from doing something horrible. Roald Dahl uses a lot of similes. Some similes that he used that I like are: Up he shot again like a bullet in the barrel of a gun.

Figure 15: Fifth grader Bernie M's letter to the Governor



Dear, Governer I [redacted] ask for my school to have more basketball courts and for the teachers to not put there hand on student at school for a new chess teacher at my school I belive that the whole school has no homework on fridays. The teachers and myschool are not going to go though our backpack or pokest if eney body fight for self deffence they should not go home and for us to have more insterniots and be able to take it homee My School Shoulo have When our feet hart we can wiere slipper and tet us walk home when we have ok from our parent's And have a school bus pick us up from home. We Should get on a plane When we go out of State We Should go to diffent Class of diffent Sudjects and for a football team and basketball team tryouts.

104. Plaintiffs are representative of Children of Promise students who are severely behind in literacy. Many first-grade students lack basic phonetic awareness and most are far below grade level in fluency, phonics, and comprehension. By third grade, students should be able to compose multi-paragraph essays organizing their thoughts. But at Children of Promise, many fourth graders cannot write multiple complete sentences without extensive teacher assistance. Some students are embarrassed by their reading levels and refuse to read out loud.

105. Defendants' own testing confirms that students at Plaintiffs' Schools are desperately behind in their ability to read, write, and comprehend. The testing also provides incontrovertible evidence that the State has failed to implement a system that provides students attending these schools access to literacy.

V. THE CONTINUED LITERACY CRISIS IN PLAINTIFFS' SCHOOLS IS CAUSED BY THE STATE'S FAILURE TO EFFECTIVELY IMPLEMENT ITS OWN PROPOSED REMEDIES OR THE EQUIVALENT.

106. Defendants selected and implemented the statewide test that demonstrates the lack of literacy in Plaintiffs' Schools, and they collect and maintain the results. Thus they are aware of the disproportionate literacy deficits in these schools and the destructive consequences for Plaintiffs' futures.

107. Despite this knowledge, and despite acknowledging a literacy crisis in California's schools in 2012, the State has failed to ensure that Plaintiffs' Schools implement a "comprehensive, system-wide, sustained approach to intense reading instruction and intervention that is based on students' diagnosed needs and current and confirmed research,"[48] the very literacy instruction and intervention programs that it proposed in its 2012 SRCL Plan. Nor has it held charter schools accountable for not providing adequate access to literacy. These failures have exacerbated the literacy crisis acknowledged five years ago.

[48] SRCL Plan, *supra* note 5, at 10.

A. The State Has Failed to Ensure That Plaintiffs' Schools Implement the Research-Based Instruction and Intervention Programs It Proposed

108. None of Plaintiffs' Schools has a faithfully implemented, research-based literacy curriculum and intervention system. Moreover, the programs that do exist are not consistently implemented.

1. Lack of Fully-Implemented, Research-Based Literacy Curriculum

109. The SRCL Plan describes an "effective curriculum" for literacy as "a plan of activities and instructional strategies that engages students, is based on research and grade-appropriate expectations and is aligned with state education policy."[49] However, at Plaintiffs' Schools, these criteria are far from met.

110. Children of Promise does not deliver a comprehensive system of literacy instruction and intervention that meets professional standards as recommended in the SRCL Plan. At Children of Promise, teachers often are not provided with teaching materials, such as complete classroom sets of reading materials keyed to students' reading levels. Such materials are critical to faithfully implementing the literacy curriculum used by the school and are acknowledged by the State as critical to high-quality, evidence-based literacy instruction.[50] Not all teachers received necessary support in designing evidence-based, targeted lessons or methods of instructional delivery.

111. Van Buren does not employ a comprehensive, research-based literacy curriculum across the grade levels. Instead of using a professionally evaluated research-based literacy instruction system, Van Buren's literacy instruction is based in "[t]eacher developed Units of Study aligned to Common Core State Standards."[51] In its 2017-18 Single Plan for Student Achievement (SPSA), a "plan of actions to raise the academic performance of all students, which is provided to the State as required by federal and state regulation related to the receipt of certain funds,"[52] Van Buren acknowledges that, although this curriculum was adopted in 2014, teachers

[49] SRCL Plan, *supra* note 5, at 66.
[50] SRCL Plan at 72.
[51] Van Buren Elementary School, *2015-16 School Accountability Report Card* 3 (2016), http://sarconline.org/SarcPdfs/8/39686766042790.pdf.
[52] *See Single Plan for Student Achievement*, Cal. Dep't of Educ. (Jun. 7, 2016), https://www.cde.ca.gov/sp/sw/t1/singleplan.asp.

are not yet able to effectively implement all components of the Units of Study curriculum because they "are learning the components" and "need time to become proficient in using the new programs and strategies."[53] Notably, Van Buren's 2016-17 SPSA stated the same need with identical language.[54] Van Buren also purports to use CAFE, an educator-created literacy instruction system which has not been evaluated by the What Works Clearinghouse.

112. La Salle also lacks an effective literacy curriculum. As the school admits in its 2017-18 SPSA, one reason students are unable to meet their ELA goals is that "ELA strategies were not consistently implemented across grade levels" and "not enough/regular articulation amongst grade levels."[55] Nor does the school's curriculum "[e]stablish[] an engaging and motivating context in which to teach reading comprehension."[56] Programs that La Salle has on paper—Words Their Way and Writers' Workshop—were not fully implemented across all grade levels, according to La Salle's 2017-18 SPSA.[57] La Salle's 2016-17 SPSA documents the same lack of consistent implementation of these ELA strategies, making clear that these problems have persisted from year to year.[58] Virtually no students are given the opportunity to compose multi-paragraph, on grade-level opinion pieces, informative/explanatory texts, or narratives.

2. Lack of Targeted Literacy Intervention

113. Though the State has acknowledged the "critical need" to "implement more effective and efficient systems to identify the needs of struggling readers, apply interventions, and continually monitor progress,"[59] and though it is aware of multiple indicators of students' lack of literacy, it has failed to ensure that Plaintiffs' Schools have systems in place to provide essential interventions to students. Nor do Plaintiffs' schools timely inform parents of their "students'

[53] Van Buren Elementary School, *2017-18 Single Plan for Student Achievement, Form G: SPSA Annual Evaluation* (2017) (on file with author) [hereinafter *Van Buren 2017-18 SPSA*].
[54] Van Buren Elementary School, *2016-17 Single Plan for Student Achievement, Form G: SPSA Annual Evaluation* (2016) (on file with author) [hereinafter *Van Buren 2016-17 SPSA*].
[55] La Salle Avenue Elementary School, *2017-18 Single Plan for Student Achievement* 15, 19 (2017) (on file with author) [hereinafter *La Salle 2017-18 SPSA*].
[56] SRCL Plan, *supra* note 5, at 62.
[57] *La Salle 2017-18 SPSA*, *supra* note 55, at 15, 20.
[58] La Salle Avenue Elementary School, *2016-17 Single Plan for Student Achievement* 20 (2016) (on file with author).
[59] SRCL Plan, *supra* note 5, at 7.

language and literacy process, types of assessments administered, and the results of those assessments."[60]

La Salle Avenue Elementary School

114. In its 2017-18 SPSA, La Salle made clear that it does not have the resources to deliver meaningful literacy interventions, noting its lack of "systemic, purposeful, and targeted, small group instruction"; its need for more teacher "training in targeted reading and writing instruction for all students"; its inconsistent implementation of ELA strategies across grade levels; its lack of DIBELS progress monitoring across grade levels; and its failure to fully implement literacy programs that do exist across all grade levels.[61] La Salle's 2016-17 SPSA documented the same resource deficiencies, making clear that such deficiencies have persisted year after year.

115. At La Salle, DIBELS data is not being used to provide intensive interventions for students who are multiple grade levels behind in their reading according to the assessment.[62] Meaningful, tiered intervention is not provided in third through fifth grade, and students who are multiple grade levels behind do not receive consistent, meaningful individualized instruction.

116. For instance, Ella T. not only scored at a below-kindergarten level in first grade; her reading level was going down. Nonetheless, she did not receive any meaningful intervention, besides thirty minutes of tutoring twice a week for two months.

117. Similarly, Plaintiff Sasha E., a fourth grader who scored "standard not met" on the CAASPP, scoring in the lowest 5% nationally, was not offered targeted, meaningful interventions. In fact, her teacher informed Sasha E.'s father that Sasha E. needed individualized help that the teacher could not provide because she had too many students.

118. La Salle also states that it will offer ten hours of a School Intervention Program per semester. The program that was supposed to start on September 11, 2017, but had not begun as of December 1, 2017.[63] Should the program start, a maximum of twenty hours of voluntary

[60] SRCL Plan, *supra* note 5, at 47.
[61] *La Salle 2017-18 SPSA*, *supra* note 55, at 15, 19.
[62] *Id.* at 15.
[63] *Id.* at 23.

intervention over a full year for students who are multiple grade levels behind is insufficient to give those students access to literacy.

119. La Salle provided a similar program last year only to certain students for a few weeks before the CAASPP test. The students who were invited to participate were ones who had a chance of meeting the CAASPP standards, not the most struggling students. One mother was told that there was no point in providing tutoring to a child who was so far behind as hers.

Van Buren Elementary School

120. Van Buren assesses students' literacy through the Measures of Academic Progress (MAP) assessment, a computer adaptive interim assessment aligned to the Common Core,[64] three times a year, and students third grade and above take the CAASPP test annually. All of these assessments provide significant information about students' literacy levels, including whether students are performing behind their peers. Yet Van Buren students who regularly perform well below grade level on the MAP assessment and who score in the lowest achievement level on the CAASPP assessment year after year are not provided meaningful literacy intervention. Teachers at Van Buren are not able to provide the targeted individualized assistance required by full classes of students who are so far behind in literacy, and no additional staff is provided; students are pulled out for English Language Development or Special Education services, but not for literacy interventions.

121. Student records document that they are multiple grade levels behind year after year without necessary intervention. As discussed above, all Van Buren Plaintiffs are severely behind in literacy, and none was provided meaningful intervention. For example, Dylan O. had MAP scores that placed him about six grade levels behind, but he was not offered any meaningful interventions at least since second grade. Bella G. was over three grades behind according to her MAP scores, but she was not offered any meaningful intervention whatsoever, much less the one-

[64] *See About the Measures of Academic Progress (MAP)*, Stockton Unified Sch. Dist. https://www.stocktonusd.net/page/706 (last visited Dec. 1, 2017) ("Common Core Measures of Academic Progress are computer adaptive interim assessments in Reading and Math for K-12 and Science (Grades 5, 8, and 10) and [are] administered three times per year," which measure "academic growth"); MAP Growth, *supra* note 3.

on-one intervention she requires. Although an additional adult was occasionally in Bella G.'s fourth grade classroom, that person would typically direct the students to play Animal Jam, an "online playground," on a tablet.

Children of Promise Preparatory Academy

122. Children of Promise does not have sufficient, trained staff to effectively implement intensive, individualized interventions and small-group instruction. Children of Promise students who are far behind in literacy do not receive meaningful literacy interventions. Plaintiff fifth grader Bernie M., for example, not only scored in the lowest achievement level ("standard not met") on the ELA CAASPP test in both third and fourth grade but also had declining scores over the years; yet Bernie M. was never offered any meaningful literacy interventions. In fact, Bernie M.'s mother was never informed by the school that her son is behind in reading. When she attempted to request his records through an authorized records request by her counsel, the school pressured her into signing a specially-prepared form withdrawing her consent to have her son's records transmitted to counsel. Plaintiff Victoria Q., a second grader, struggles to form complete sentences and spell simple words, like "want" or "meet," yet she has received no meaningful literacy interventions.

B. The State Has Not Ensured That There Are an Adequate Number of Well-Supported Teachers to Provide Instruction and Interventions

123. Although there are many talented and dedicated teachers at Plaintiffs' Schools, they are not provided sufficient support, professional development opportunities, or even adequate supplies to provide instruction and interventions.

124. Plaintiffs' Schools do not deliver small group or one-on-one literacy intervention. Intervention efforts are hampered by a lack of adequate literacy staffing, such as interventionists, reading specialists, literacy coaches, or literacy-trained teacher's assistants.

125. The lack of support for teachers with regard to literacy instruction and intervention leads to low teacher morale, which in turn causes teachers to seek assignments, or other employment, in which they are provided the tools and resources necessary to be effective in

improving literacy outcomes. In addition to high turnover, low teacher morale caused by lack of support leads to a higher than average rate of teacher absences. At La Salle, only 54% of teachers in 2014-2015 and only 63% of teachers in 2015-2016 had 96% or higher attendance, compared to 74% of teachers in LAUSD overall.[65] At least one teacher is absent every other week. Midway through the first semester of 2017-18, one Van Buren student estimated that he had already had twenty substitute teachers.

126. High teacher turnover and absence rates interfere with the delivery of both primary instruction and interventions: the progression of the curriculum is interrupted, teachers cannot observe trends in performance and implement the necessary interventions, and substitute teachers are not necessarily trained in the delivery of literacy instruction. For instance, at Van Buren, one kindergarten class, which had substitutes all year, did not receive any of the literacy instruction that the other class received; an eighth-grade ELA class had four different long-term teachers and multiple substitutes in a single year, and from December through April the only homework students received was spelling words. Van Buren's SPSAs for 2016-17 and 2017-18 both note that "Grades 2, 5, and 6 did not have consistent staff which impacted . . . implementation of the [curriculum]" and that "[t]his was reflected in the MAP scores for these grades."[66] Similarly, at Children of Promise, teacher turnover and midyear vacancies are common; indeed, multiple teachers left midyear during the 2015-16 and 2016-17 school years.

127. Teachers are also not adequately supported by high quality professional development. As the State's own SRCL Plan expressly acknowledges, not only must educators "have [] concrete knowledge of how to effectively implement high-quality reading instruction,"[67] "[o]ngoing professional learning is necessary to support educators in learning to use new performance-based assessments to inform instruction, provide strategic interventions, and to effectively support students from diverse backgrounds."[68] Yet, at Plaintiffs' Schools, teachers are

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[65] Los Angeles Unified Sch. Dist., *La Salle Avenue Elementary 2015-2016 School Report Card* 5 (2016), https://tinyurl.com/LaSalleReportCard.
[66] *Van Buren 2017-18 SPSA*, *supra* note 53, at Form G; *Van Buren 2016-17 SPSA*, *supra* note 54, at Form G.
[67] SRCL Plan, *supra* note 5, at 72.
[68] *Id.* at 7.

not consistently provided effective professional learning, ongoing mentorship, and other capacity-building opportunities required to provide students with effective literacy instruction. As but one example, La Salle's 2016-17 SPSA expressly recognizes that its "teachers need more training in targeted reading and writing instruction for all students" and that "[o]ne of the issues involving the use of DIBELS data at our school is the fact that teachers are not maximizing DIBELS data to plan instruction."[69] La Salle's 2017-18 SPSA repeats this problem, verbatim.[70]

C. The State Has Failed to Hold Charter Schools Accountable

128. The State permits charter schools to operate with little oversight or transparency and virtually no public accountability for whether a school delivers an equitable education to all students. Section 47610 of the California Education Code exempts charter schools from almost all "laws governing school districts," including those relevant to provision of the components a research-based literacy program. *See* Cal. Educ. Code § 47610. To list but a few examples, charter schools are not subject to laws ensuring (i) instruction in core academic areas, *id.* § 51210, et seq.; (ii) appropriate textbooks and instructional materials, *id.* § 60000, et seq.; (iii) teacher certification and credentialing, *id.* § 44250, et seq.; and (iv) trauma-sensitive measures, such as restorative justice practices, anti-bullying policies, and due process protections for students in school disciplinary proceedings, *id.* §§ 48900.9, 48918.

129. The State Legislature's express intent is that charter schools be held "accountable for meeting measurable pupil outcomes," Cal. Educ. Code § 46701(f), yet the State's scheme has failed to offer a system that ensures such accountability. Neither the State Legislature nor the Governor is required to review the performance of the State Board of Education's actions taken as a charter authorizer. Charter school authorizers are not required to ensure that charter schools provide students with high-quality academic instruction of any kind. *See* Cal. Educ. Code § 47604.32 (listing charter authority duties); *see also id.* § 47604.33 (describing charter school reporting requirements). And while a county superintendent of schools "may, based upon written complaints by parents or other information . . . monitor the operations of a charter school located

[69] *La Salle 2016-17 SPSA*, *supra* note 58, at 15.
[70] *La Salle 2017-18 SPSA*, *supra* note 55, at 15.

within that county and conduct an investigation into the operations of that charter school," neither the county superintendent nor the charter authorizer is required to do so. *Id.* § 47604.4(a).

130. The State's new charter school accountability law does not remedy this failure. The legislation envisions a far-off and insubstantial response toward failing charter schools, which is shown to be particularly anemic when compared even to the shallow response currently in place for failing school districts. *Compare* Cal. Educ. Code § 47607.3(a)(1) (charter schools), *with* Cal. Educ. Code § 52071(b) (public schools). Whereas California Education Code section 52071 provides that the county superintendent of schools will provide "technical assistance" to a "school district that fails to improve pupil achievement across *more than one state priority* . . . for *one or more pupil subgroups*," Cal. Educ. Code § 52071(b) (emphasis added), California Education Code section 47607.3 provides that a charter authority will provide "technical assistance" to a failing charter school only if the "school fails to improve outcomes for *three or more pupil subgroups*"[71] with respect "to *one or more state or school priority*"[72] for "*three out of four consecutive school years*," *id.* § 47607.3(a) (emphasis added). Failing charter schools are thus left unchecked for years, as protected student subgroups languish in conditions deemed unacceptable for their public school counterparts. The only real recourse of accountability is not school improvement but eventual school death, in the form of non-renewal or revocation of a charter, Cal. Educ. Code § 47604.5, a course of action taken rarely and only a handful of times in the 2016-2017 fiscal year.[73]

131. The State's failure to hold charter schools accountable is all the more egregious with respect to Children of Promise because Defendants State and Torlakson have controlled Inglewood Unified School District, the charter authorizer of Children of Promise, since 2012.

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[71] "Pupil subgroups" include ethnic subgroups, socioeconomically disadvantaged pupils, English Learners, pupils with disabilities, foster youth, and homeless youth. *See* Cal. Educ. Code § 52052(a)(2)(A)-(F) (listing subgroups).

[72] "School priorities" are set forth in a charter's petition. *See* Cal. Educ. Code § 47605(b)(5)(A). "State priorities" are described in California Education Code, section 52060, and include, *inter alia*, pupil achievement, pupil engagement, and school climate. *See* Cal. Educ. Code § 52060(d)(1)-(8).

[73] *Charter School Closures Fiscal Year 2016-17*, Cal. Dep't of Educ., http://www.cde.ca.gov/sp/cs/lr/chclosures1617.asp (last visited Nov. 30, 2017) (listing the three charters that were closed due to revocation and fourteen charters closed due to non-renewal).

VI. THE COURT SHOULD ORDER THE STATE TO IMPLEMENT ITS OWN REMEDIES OR THE EQUIVALENT.

132. Defendants are well aware of the necessary elements of research-based literacy instruction, as set forth in Defendants' Striving Readers Comprehensive Literacy Plan. Schools can systemically implement effective research-based literacy programs and practices to ensure that every student learns to read in the first instance and to intervene and remediate when students fall behind. Research validating the effectiveness of these programs and practices shows that the quality of a school's program, not its enrollment demographics, determines its academic performance. Interventions have been proven to effectively remediate literacy deficiencies at all grade levels. At a minimum, the State must implement the following to provide access to literacy.

A. Establish Research-Based Literacy Programs Based on the Stage of Education

133. Effective research-based literacy programs have different characteristics at different stages of a child's education. Elementary literacy (kindergarten to third grade) must include instruction in three areas: the alphabetic principle, fluency, and comprehension.[74] But direct literacy instruction cannot end with third grade. The basic literacy skills that students should develop in early elementary school do not automatically evolve into the higher-level literacy skills needed to achieve in middle school, high school, and beyond. Older readers require literacy instruction in five areas: comprehension, motivation, word study, fluency, and vocabulary.[75]

134. Research on effective literacy instruction shows that literacy instruction should be embedded in content, both in language arts and in other disciplines, and that student motivation is particularly critical and requires culturally sensitive texts.[76]

[74] *See* SRCL Plan, *supra* note 5, at 64, 72-73.
[75] *Id.* at 110, 117-21.
[76] *See, e.g.*, *id.* at 64, 108-09.

B. Implement Assessments and Interventions

135. An effective literacy program also includes *both* assessments *and* interventions.[77] Universal screening is a critical first step in identifying students who are at risk for experiencing reading difficulties and who might need more instruction. But identifying problems is not enough.

136. Research supports the use of multi-tiered intervention strategies such as Response to Intervention to provide the appropriate level of support to prevent or remediate reading difficulties.[78] Under the multi-tier approach, the first tier is general instruction. Tier 2 interventions are provided to students who demonstrate problems based on screenings or show weak progress in regular classroom instruction. Students who do not progress after a reasonable amount of time are provided Tier 3 interventions, which typically involve one-on-one tutoring with in-depth modeling and extensive feedback.

C. Support for Teachers

137. Research shows, and Defendants have specifically recognized throughout the SRCL Plan in its multiple "Educator Preparation and Professional Learning" sections, that in order to effectively implement literacy instruction and intervention programs, teaching staffs must be supported, well-trained, and highly qualified.[79]

138. The State can implement a number of practices and policies to stabilize and professionalize the teaching force to enable the delivery of consistent, high-quality literacy instruction and intervention, including: implementing systemic, coordinated, and high-quality professional development; implementing programs designed to address secondary/vicarious trauma among educators; and providing support and incentivizing teaching in Plaintiffs' Schools.

139. Professional development for teachers in particular has consistent positive effects on student achievement. Ongoing, research-based, long-term professional development promotes lasting positive changes in teacher knowledge and practice. Professional development opportunities should be built into the regular school schedule. Effective professional

[77] *See id.* at 13-14, 70-71, 90-94.
[78] *See, e.g., id.* at 121-23.
[79] *See, e.g., id.* at 81-87.

development will help school personnel develop a team-oriented approach to improving the instruction and institutional structures that promote student literacy.

D. Implement Practices to Promote Parent Involvement

140. As Defendants have specifically recognized, one component of a research-based program for ensuring that schools have the capacity to deliver basic education affording meaningful access to literacy is involving parents as participants in their children's literacy education. Involving families as partners in the literacy development of children is integral to literacy education.[80] Parent involvement positively impacts student academic achievement regardless of a parent's education, income, or background.[81]

141. When parents participate in the school community, "students tend to earn higher grades, attend school more regularly, stay in school longer, and enroll in higher-level programs."[82] "Active family involvement, along with effective outreach and parent education opportunities, are essential to increase school readiness and academic skills among elementary-aged children."[83]

142. Essential elements of a parental involvement plan include emphasizing ongoing communication between school and home in English and the home language, as needed; "creating a welcoming environment at school to encourage family involvement as partners in learning"; "providing services in a culturally and linguistically responsive manner"; and encouraging parent education and school, home, and community activities that promote family literacy.[84]

E. Implement Practices to Promote Learning Readiness

143. As Defendants have specifically recognized, one component of a research-based program for ensuring that schools have the capacity to deliver basic education affording meaningful access to literacy is to address children's social-emotional needs.

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[80] *Id*, at 47, 87, 137, 184.
[81] Nat'l Educ. Assoc., *An NEA Policy Brief: Parent, Family, Community Involvement in Education* 1 (2008), http://www.nea.org/assets/docs/PB11_ParentInvolvement08.pdf; *see also Parental Involvement Strongly Impacts Student Achievement*, Sci. Daily (May 28, 2008), http://www.sciencedaily.com/releases/2008/05/080527123852.htm.
[82] *Id.*
[83] SRCL Plan, *supra* note 5, at 87.
[84] *Id.* at 47, 57, 87, 102, 137, 152, 184, 199.

144. Defendants have recognized that "prolonged exposure to violence and trauma can seriously undermine a child's ability to learn, form relationships, and focus appropriately in the classroom."[85]

145. Defendants must ensure that, as required by their own Teaching Performance Expectations, districts at minimum train educators to understand, proactively recognize, and address the effects of complex trauma; incorporate social-emotional learning into curricula; avoid re-traumatizing students through the use of punitive discipline; and provide access to mental health support.[86]

CAUSES OF ACTION

FIRST CAUSE OF ACTION – Violation of State Equal Protection Guarantees (Student Plaintiffs Against All Defendants for Violation of the Equal Protection Clauses of the California Constitution, Article I, Section 7(a) & Article IV, Section 16(a) (Fundamental Interest))

146. Defendants have violated and continue to violate the rights of Plaintiffs and those similarly situated to receive equal protection of the laws, as guaranteed by Article I, section 7(a) and Article IV, section 16(a) of the California Constitution, by failing to provide student Plaintiffs and members of Plaintiffs' class with basic educational opportunities equal to those that other students elsewhere in the State receive.

SECOND CAUSE OF ACTION – Violation of State Equal Protection Guarantees (Student Plaintiffs Against All Defendants for Violation of the Equal Protection Clauses of the California Constitution, Article I, Section 7(a) & Article IV, Section 16(a) (Suspect Class))

147. Defendants have violated and continue to violate the rights of student Plaintiffs and those similarly situated to receive educational opportunity regardless of wealth and race, as

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[85] *Focusing on Children Under Stress*, Cal. Dep't of Educ. (Aug. 9, 2017), https://www.cde.ca.gov/nr/el/le/yr17ltr0809.asp.

[86] California Commission on Teaching Credentialing, *California Teaching Performance Expectations* 7 (2016), https://www.ctc.ca.gov/docs/default-source/educator-prep/standards/adopted-tpes-2016.pdf (stating that beginning teachers should recognize that students come to school with traumatic childhood experiences, mental health issues, and social-emotional and physical health needs); Focusing On Children Under Stress, *Suggested Education Protocol*, FOCUSCalifornia.org, https://www.focuscalifornia.org/education-protocol (last visited Nov. 14, 2017) ("School districts are encouraged to provide trauma sensitive training to all school employees if possible.").

guaranteed by Article I, section 7(a) and Article IV, section 16(a) of the California Constitution, by failing to provide student Plaintiffs and members of Plaintiffs' class equal educational opportunity and basic educational services, including access to literacy appropriate to their grade level, as described above.

THIRD CAUSE OF ACTION – DECLARATORY RELIEF
(All Plaintiffs Against All Defendants for Declaratory Relief)

148. An actual and existing controversy exists between Plaintiffs and Defendants because Plaintiffs contend, and Defendants dispute, that Defendants' actions and inactions as described above have violated Article I, section 7(a) and Article IV, section 16(a) of the California Constitution.

149. Plaintiffs seek a judicial declaration that the Defendants have violated these constitutional and statutory provisions.

FOURTH CAUSE OF ACTION – Taxpayer Claim
(Plaintiffs Fathers and Families, CADRE, Azalee Green, and David Moch Against All Defendants for Violation of Cal. Civ. Proc. Code § 526a (Illegal Expenditure of Taxpayer Funds)

150. Plaintiffs Fathers and Families of San Joaquin, CADRE, Azalee Green, and David Moch have been assessed and found liable to pay taxes such as property, income, and other taxes in the counties in which they reside, and pay taxes to the State of California and United States of America, in the last year.

151. Defendants' expenditure of federal, state, county, and/or municipal funds to administer and implement a system of public education that engages in unconstitutional discrimination, as challenged herein, is unlawful. Plaintiffs Fathers and Families, CADRE, Azalee Green, and David Moch as state taxpayers, have an interest in enjoining the unlawful expenditure of tax funds. Pursuant to Cal. Civ. Proc. Code § 526a and this Court's equitable power, Plaintiffs Fathers and Families, CADRE, Azalee Green, and David Moch seek declaratory and injunctive relief to prevent continued harm and to protect Plaintiffs Fathers and Families, CADRE, Azalee Green, and David Moch and the public from Defendants' unlawful policies, practices, and deliberate indifference, as alleged herein.

152. There is an actual controversy between Plaintiffs Fathers and Families, CADRE, Azalee Green, and David Moch and Defendants concerning their respective rights and duties, in that Plaintiff Fathers and Families, CADRE, Azalee Green, and David Moch contend that the Defendants have unlawfully administered and implemented the State's system of public education, and have failed to satisfy their duty to act to correct deficiencies, as alleged herein, whereas Defendants contend in all respects to the contrary. Plaintiffs Fathers and Families, CADRE, Azalee Green, and David Moch seek a judicial declaration of the rights and duties of the respective parties with respect to the instant matter.

153. Unless and until Defendants' unlawful policies and practices, as alleged herein, are enjoined by order of this Court, they will continue to cause great and irreparable injury to Plaintiffs Fathers and Families, CADRE, David Moch, Azalee Green, and other taxpayers.

154. Plaintiffs Fathers and Families, CADRE, Azalee Green, and David Moch argue that Defendants' actions and inactions as described above violate Article I, section 7(a) and Article IV, section 16(a) of the California Constitution; Article I, section 7(b) of the California Constitution; Article IX, sections 1 and 5 of the California Constitution; the Fourteenth Amendment of the U.S. Constitution; and California Government Code section 11135.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the following relief:

a. Injunctive relief requiring Defendants and their officers, agents, and employees to ensure that Plaintiffs have the opportunity to attain literacy, including, but not limited to, implementation of research-based programs for literacy instruction and intervention, such as:

   i. appropriate literacy instruction at all grade levels, including instruction in the alphabetic principle, fluency, and comprehension in grades K-3 and instruction in comprehension, motivation, word study, fluency, and vocabulary in grades 4-12;

   ii. appropriate screening for literacy problems, including screening at the beginning and middle of the year for all students in primary grades and appropriate periodic screening of older students;

iii. timely and appropriate intervention with individual students to prevent or remediate reading difficulties; and

iv. establishment of a system of statewide accountability whereby the State monitors conditions that deny access to literacy and intervenes in a timely manner to address identified conditions that deny access to literacy;

b. The issuance of a declaratory judgment that Defendants' actions and inaction complained of herein violate Plaintiffs' rights under Article I, section 7(a) and Article IV, section 16(a) of the California Constitution;

c. An award of costs, disbursements, and reasonable attorneys' fees and expenses; and

d. For such other and further relief as the Court may deem just and proper.

Dated: December 5, 2017

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