



January 19, 2022

BY US MAIL AND EMAIL

Veronica Flournoy
Spreckels Union School District
Business Manager
P.O. Box 7308
4th and Hatton Street
Spreckels, CA 93962
vflournoy@susd.net

Re: CLAIMS UNDER GOVERNMENT CLAIMS ACT

Dear Ms. Flournoy:

This firm represents Jessica Konen and her minor child, [REDACTED] (collectively, “Claimants”), in connection with claims they are making against Spreckels Union School District (“Spreckels Union”) and several of its employees, Lori Caldiera, Kelly Baraki, and Katelyn Pagaran (collectively, “Respondents”), under the Government Claims Act, Cal. Gov’t Code § 810, *et seq.* The claims arise out of acts and omissions that Respondents committed / omitted during [REDACTED]’s time at Buena Vista Middle School. Buena Vista Middle School’s records may refer to [REDACTED] as “[REDACTED]” and / or “[REDACTED]”

To that end, please see the attached Claim Forms and Statement of Facts and Claims. As you will note, we are submitting two Claim Forms. We obtained these Claim Forms from Spreckels Union’s webpage. It was unclear from that webpage which of these Claim Forms was the operative version, so we are submitting a copy of both.

Based on the Claim Forms and the Statement of Facts and Claims appended thereto, the acts at issue here occurred over the spring and fall of 2019. Although that was more than six months ago, the claims are not untimely under Cal. Gov’t Code § 911.2. Under that provision, the six-month limitation period to submit a claim to a public agency begins upon “accrual of the cause of action.” Cal. Gov’t Code § 911.2(a). The date of accrual “is the date upon which the cause of action would be deemed to have accrued within the meaning of the statute of limitations which would be applicable” under background principles of California law. Cal. Gov’t Code § 901. Under those principles, the discovery rule delays the accrual of statutes of limitations until “the plaintiff discovers, or has reason to discover, the cause of action.” *Fox v. Ethicon Endo-Surgery, Inc.*, 35 Cal.4th 797, 807 (2005). In addition, statutes of limitations may be equitably estopped or tolled where the defendant “has acted in an unconscionable manner or attempted to take unfair advantage of the claimant.” *Christopher P. v. Mojave Unified Sch. Dist.*, 19 Cal. App. 4th 165, 172 (1993). Both of these principles—the discovery rule and estoppel—apply to claims under the

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Government Claims Act. *Est. of Jackson v. City of Modesto*, No. 1:21-CV-0415 AWI EPG, 2021 WL 4819604, at *20 (E.D. Cal. Oct. 14, 2021) (discovery rule); *Christopher P.*, 19 Cal. App. 4th at 172 (equitable estoppel / tolling).

Here, as set forth in more detail in the Statement of Facts and Claims, Claimants did not discover or have reason to discover the claims at issue here until, at the earliest, Ms. Konen read a news article on or about November 18, 2021, which set forth the deceptive tactics that Ms. Caldiera and Ms. Baraki took to push new gender identities on schoolchildren and to conceal from parents their children's new gender identities and expression. That article prompted a discussion between Ms. Konen and [REDACTED] during which the two of them together came to appreciate the wrongs that had been inflicted upon them. Accordingly, the six-month limitations period did not accrue until November 18, 2021, at the earliest. Moreover, Respondents are estopped from invoking the six-month limitations period because of their efforts to conceal their involvement in creating and recognizing [REDACTED]'s new gender identity and expression, including but not limited to instructing [REDACTED] not to tell her mother about that new gender identity and expression. For these reasons, the claims at issue here are not untimely under Cal. Gov't Code § 911.2, nor are Claimants required to request leave to submit late claims under Cal. Gov't Code § 911.4.

In the alternative, please construe this letter as an application for leave to submit late claims under Cal. Gov't Code 911.4. The grounds for the claims being submitted now are set forth above and in the attached Statement of Facts and Claims. In sum, the failure to present the claims before now was due to mistake, inadvertence, surprise, excusable neglect, and the fact that [REDACTED] (and is) a minor, and Respondents are not prejudiced by the date of the submission of the claims.

Finally, please note that the attached Statement of Facts and Claims refers to [REDACTED] as "A.G." and to her new gender identity ("[REDACTED]") as "S.G." We respectfully request that you take all measures practicable and required under the law to protect [REDACTED]'s identity.

Please feel free to contact me with any questions or concerns regarding these claims. Please send all written correspondence to me at the following address:

Josh Dixon
Senior Litigation Counsel
Center for American Liberty
1311 Main Street, Suite 302
Mount Airy, MD 21771
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I look forward to working with you to resolve these claims.



Very truly yours,

A handwritten signature in black ink, appearing to read "JDixon", written in a cursive style.

Josh Dixon

Enclosures as stated