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16 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

17 **COUNTY OF SAN BERNARDINO**

18 **THE PEOPLE OF THE STATE OF**
19 **CALIFORNIA, EX REL. ROB BONTA,**
20 **ATTORNEY GENERAL OF THE STATE OF**
21 **CALIFORNIA,**

22 Plaintiff,

23 v.

24 **CHINO VALLEY UNIFIED SCHOOL**
25 **DISTRICT,**

26 Defendant,

27 **NICHOLE VICARIO, an individual, RICHARD**
28

Case Number: CIV SB 2317301

**MEMORANDUM IN SUPPORT OF
APPLICATION FOR LEAVE TO
INTERVENE**

Judge: Hon. Thomas S. Garza

Date: September 15, 2023

Time: 8:30 a.m.

Dept: S27

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N. WALES Jr., an individual, **MISTY STARTUP**, an individual, **DARICE DE GUZMAN**, an individual, **KRISTI MARCOS**, an individual, and **KRISTAL BARRET**, an individual,

Prospective Intervenors.

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

INTRODUCTION 1

STATEMENT OF FACTS 2

STATEMENT OF THE LAW 5

 I. Mandatory Intervention..... 5

 II. Permissive Intervention..... 6

ARGUMENT 6

 I. Prospective Intervenors are Entitled to Intervention as a Matter of Right..... 6

 a. Prospective Intervenors’ Motion is Timely 7

 b. Prospective Intervenors Have a Protectable Interest in the Subject of this
 Litigation..... 7

 c. The Disposition of this Action May Impair or Impede Prospective Intervenor’s
 Ability to Protect Their Fundamental Interest in Directing the Upbring of Their
 Own Children..... 8

 d. Prospective Intervenor’s Rights are Not Adequately Represented by the Existing
 Parties..... 9

 II. Prospective Intervenors Should be Granted Permissive Intervention..... 10

 a. Prospective Intervenors’ Application is Timely and Follows Proper Procedures 11

 b. Prospective Intervenors have a Direct and Immediate Interest in this Action..... 11

 c. Prospective Intervenors Will Not Enlarge the Scope of this Litigation..... 12

 d. The Reasons for Intervention Outweigh Any Opposition by the Parties Presently
 in the Action..... 12

CONCLUSION 12

TABLE OF AUTHORITIES

Cases

Am. Academy of Pediatrics v. Lungren,
16 Cal. 4th 307 (1997) 1, 9, 10

Bustop v. Superior Court,
69 Cal. App.3d 66 (1977) 10

Cal. Dep’t of Toxic Substance Control v. Jim Dobbas, Inc.,
54 F.4th 1078 (9th Cir. 2022) 6, 7

Carlsbad Police Officers Ass’n v. City of Carlsbad,
49 Cal. App. 5th 135 (Cal. Ct. App. 2020) 5, 7

City and Cnty. of San Francisco v. State of California,
128 Cal. App. 4th 1030 (Cal. Ct. App. 2005) 8

Crestwood Behav. Health, Inc. v. Lacy,
70 Cal. App. 5th 560 (Cal. Ct. App. 2021) 6, 8

Edwards v. Heartland Payment Sys., Inc.,
29 Cal.App.5th 725 (Cal. Ct. App. 2018)..... 6

In re Carl R.,
128 Cal. App. 4th 1051 (Cal. Ct. App. 2005) 1, 9, 10

In re Roger S.,
10 Cal. 3d 921 (1977) 1, 9

Lindelli v. Town of San Anselmo,
139 Cal. App.4th 1499 (Cal. Ct. App. 2006) 8

May v. Anderson,
345 U.S. 528 (1953)..... 9

Meyer v. Nebraska,
262 U.S. 390 (1923)..... 9

Parham v. J.R.,
442 U.S. 584 (1979)..... 11

Pierce v. Society of the Sisters of the Holy Name of Jesus and Mary,
268 U.S. 510 (1925)..... 9, 11

Reliance Ins. Co. v. Superior Court,
84 Cal.App.4th 383 (Cal. Ct. App. 2000) 7



1 *Simpson v. Redwood Co. v. State of California*,
196 Cal. App.3d 1192 (Cal. App. 1987) 6

2

3 *Skinner v. Oklahoma*,
316 U.S. 535 (1942)..... 9

4 *Stanley v. Illinois*,
405 U.S. 645 (1972)..... 9

5

6 *Troxel v. Granville*,
530 U.S. 57 (2000)..... 1, 8

7

8 *Washington v. Glucksberg*,
521 U.S. 702 (1997)..... 14

9

10 *Wilderness Soc’y v. U.S. Forest Serv.*,
630 F.3d 1173 (9th Cir. 2011) 7

11 *Wisconsin v. Yoder*,
406 U.S. 205 (1972)..... 1

12

13 *Ziani Homeowners Ass’n v. Brookfield Ziani LLC*,
243 Cal.App.4th 274 (Cal. Ct. App. 2015) 6

14

15 **Rules**

16 Cal. Code Civ. Pro. § 387(d)(2)..... 6

17 Cal. Code Civ. Pro. § 378(d)(1)..... 2, 5

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1 **INTRODUCTION**

2 Contrary to the hyperbolic assertions in Plaintiff’s Complaint, this case is not about “animus,”
3 but love. Prospective Intervenors, all of whom are fit parents, are motivated by their love for their
4 children and a desire to be fully informed about their children’s wellbeing to direct and provide for
5 their upbringing as they deem appropriate. They are entitled to intervene in this matter as party-
6 defendants.

7 “The liberty interest at issue in this case—the interest of parents in the care, custody, and control
8 of their children—is perhaps the oldest of the fundamental liberty interests recognized by [the
9 Supreme] Court.” *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (plurality op.). Over fifty years ago, the
10 Supreme Court declared the “primary role of . . . parents in the upbringing of their children is now
11 established beyond debate as an enduring American tradition.” *Wisconsin v. Yoder*, 406 U.S. 205, 232
12 (1972). Accordingly, the Supreme Court of California “ha[s] recognized a parent’s right to direct his
13 or her child’s upbringing,” including “extensive power to direct the education of the child and make
14 critical decisions concerning medical treatment.” *Am. Academy of Pediatrics v. Lungren*, 16 Cal. 4th
15 307, 396 (1997) (citing *In re Roger S.*, 10 Cal. 3d 921, 934 (1977)); *see also In re Carl R.*, 128 Cal.
16 App. 4th 1051 (Cal. Ct. App. 2005) (quoting *Am. Academy of Pediatrics*, 16 Cal. 4th at 396).

17 The State of California seeks to intrude upon this fundamental right and *require* school districts
18 to adopt policies deliberately withholding information that significantly impacts the educational
19 experiences and emotional and mental well-being of their own children.

20 At minimum, parents, whose fundamental right would be circumscribed by Plaintiff’s proposed
21 remedies, are entitled to their day in court to have their concerns fully and freely argued and considered
22 concerning the State’s mandate that teachers actively interfere with the most fundamental human
23 relationship of all—that of a parent and child.

24 Prospective Intervenors have filed a timely application for intervention. They have a significant
25 interest in the transaction at the center of this litigation—the adoption and continuing viability of Chino
26 Valley Unified School District Policy 5020.1 (“Board Policy 5020.1”). They are so situated that the
27 disposition of this matter will, as a practical matter, impede their ability to protect that interest. And
28 they are not (and cannot be) adequately represented by the parties here. Prospective Intervenors are

1 thus entitled to intervention as a matter of right under California Code of Civil Procedure section
2 378(d)(1).

3 In the alternative, this Court should grant permissive intervention. Prospective Intervenors have
4 a direct interest in the outcome of this litigation; their intervention will not enlarge the issues in this
5 litigation; and the vindication of the fundamental rights of parents to direct the upbringing of their own
6 children outweighs any opposition by the present parties.

7 STATEMENT OF FACTS

8 Prospective Intervenors are all parents of students who attend school in the Chino Valley
9 Unified School District (“CVUSD”) who seek to preserve their fundamental rights to direct the care
10 and upbringing of their own children, including regarding medical treatment. Social transitioning, by
11 admission of the State’s own expert, is “a medically recognized *treatment* for gender dysphoria”
12 Declaration of Dr. Christine Bradey in Support of the People of the State of California’s Ex Parte
13 Application for Temporary Restraining Order and Order to Show Cause re: Preliminary Injunction, ¶
14 19 (C) (emphasis added).

15 Nichole Vicario is the mother of two children who attend CVUSD schools. She has a son in
16 tenth grade and a daughter in eleventh grade. *See* Exhibit A (Declaration of Nichole Vicario). She also
17 cares for her niece, an eleventh-grade student in CVUSD who lives with her and identifies as LBGTQ.
18 Contrary to Plaintiff’s overheated and patronizing rhetoric, Ms. Vicario loves her niece; she has not
19 cast her out or disowned her due to her sexual identity. She believes it is wrong for schools to lie to
20 parents about what is going on with their kids, especially regarding matters as weighty as gender
21 identity. Ms. Vicario also previously worked for CVUSD for twelve years. From that employment, she
22 knows that schools have to obtain parental permission for students to watch movies or carry Advil. It
23 makes no sense that, for a medical intervention, they are forbidden from *even notifying* parents. Vicario
24 wants to ensure that CVUSD and the State of California do not supplant her role as a parent and primary
25 caregiver to direct the upbringing of her own children and those entrusted to her care.

26 Richard N. Wales Jr. is the father of a daughter who attends sixth grade in CVUSD. *See* Exhibit
27 B (Declaration of Richard N. Wales Jr.). He is concerned that an injunction prohibiting the enforcement
28 of Board Policy 5020.1 will require educators to lie to parents, breaking the bonds of trust that are

1 necessary between parents and teachers to successfully educate their children. Just like the State's
2 expert, he knows that decisions regarding gender identity are fundamentally medical decisions because
3 social transitioning is a medical intervention. Yet the school does not know his daughter's full medical
4 history, what medications she might be taking, or what doctors she may be seeing. He does not believe
5 his child's teacher is qualified to be making the kind of medical diagnosis that would need to precede
6 social transitioning or to oversee such transition. He believes Board Policy 5020.1 ensures that
7 someone without medical training is not making potentially damaging decisions that can radically
8 impact his child's future.

9 Misty Startup is a mother of six children, one of whom is in ninth grade in CVUSD. *See* Exhibit
10 C (Declaration of Misty Startup). In addition, she has a niece and a nephew who identify as transgender
11 and has seen the value of parents being involved in their lives during their transitioning process. She
12 believes it is wrong for schools to dictate when parents are and are not allowed to parent their own
13 children. It is deeply troubling to her that her child's school would have the authority to deprive her of
14 the ability to make medical decisions regarding her children. She does not stop being their parent just
15 because she drops them off at school. She is also concerned from her perspective as a special needs
16 parent. Special needs students are particularly vulnerable. She has been intimately involved in her
17 daughter's medical care throughout her life. And her needs have been significant and ongoing,
18 requiring an Individualized Education Plan ("IEP") for her to fully participate in school. Yet regarding
19 something as medically sensitive as gender identity, she believes it is outrageous the school would lie
20 to parents, potentially jeopardizing the health of a medically vulnerable child.

21 Darice De Guzman is a mother of two children attending school in CVUSD. *See* Exhibit D
22 (Declaration of Darice De Guzman). District schools notify parents if children suffer an injury or have
23 behavioral issues in the classroom, and De Guzman does not understand why the policy should be any
24 different for things that potentially impact a student's mental health such as gender dysphoria. One of
25 De Guzman's children is disabled, and she has been alarmed at how some school personnel try to hide
26 or downplay difficulties he encounters. Given that school officials were willing to put a disabled child
27 at risk by not taking appropriate steps, De Guzman has major concerns about what else they would be
28 willing to hide from her as a parent, especially because her son's disabilities make him particularly

1 vulnerable to be influenced by peers and adults. De Guzman also has interest in supporting the
2 District's policy as a taxpayer. Numerous districts who secretly transitioned students behind parents'
3 backs are now involved in costly litigation. That is money that could be going to educating kids.

4 Kristi Marcos has two children attending CVUSD schools in fourth and sixth grades. She is
5 also is a teacher in the District. *See Exhibit E (Declaration of Kristi Marcos)*. Marcos has an emotional,
6 financial, and legal stake in her children's lives. She believes removing parental notification on any
7 grounds limits her ability to direct the upbringing of her own children by leaving them vulnerable to
8 whatever society's agenda is for youth without appropriate parental support and guidance. She believes
9 the school's role is to "partner" with parents, not keep secrets or supplant the parental role. Marcos is
10 also a special education teacher in the District. She regularly meets with parents to craft IEPs tailored
11 to meet the individual needs of the children in her care. An IEP is a binding, legal document. Yet if a
12 student wants to change their pronouns, the State would say she is required to lie to parents on a legal
13 document. Further, since social transitioning is a medical intervention, she is concerned that, if she is
14 prevented from notifying parents, she could face a lawsuit for practicing medicine without a license.
15 She finds it illogical and troubling that teachers would be required not to notify parents when it comes
16 to the medical treatment of socially transitioning their child yet required to notify parents of all other
17 medical treatments concerning their child, including something as minor as providing calamine lotion
18 to a child with bug bites.

19 Kristal Barret is a mother of three. *See Exhibit F (Declaration of Kristal Barret)*. Her seventh-
20 grade son attends a CVUSD school. As a parent, she believes she needs to be fully informed and
21 involved to help support her child with medical issues. This includes any issue her children may face
22 relating to gender identity. She believes a parent's role is to provide support and guidance for children
23 as they face challenges and make important decisions. She also believes that she has a right to direct
24 the upbringing of her own children under the United States Constitution that is infringed by policies
25 that limit her ability to provide appropriate support and guidance. Further, Barret has instilled in her
26 children that they do not keep secrets in their household. Barret is aware of the literature that one of
27 the ways sexual abusers groom children is by convincing them they should keep the things they are
28 doing to children secret from their parents. Child abuse prevention guidance states that parents should

1 be affirming that you do not keep secrets from your parents. The State undermines those parenting
2 rights and values through the legal arguments it brings to this court. Barret further believes the State’s
3 desired policy drives a wedge between parents and children.

4 STATEMENT OF THE LAW

5 California Code of Civil Procedure section 378 sets forth the standards for mandatory and
6 permissive intervention.

7 I. Mandatory Intervention

8 The Court “shall” permit a nonparty to intervene “upon timely application” when either “[a]
9 provision of law confers an unconditional right to intervene” or “[t]he person seeking intervention
10 claims an interest relating to the property or transaction that is the subject of the action and that person
11 is so situated that the disposition of the action may impair or impede that person’s ability to protect
12 that interest, unless the person’s interest is adequately represented by one or more of the existing
13 parties.” Cal. Code Civ. Pro. § 387(d)(1). Courts have distilled the second part of Section 378(d)(1) to
14 three requirements: “the nonparty must: (1) show a protectable interest in the subject of the action, (2)
15 demonstrate that the disposition of this action may impair or impede its ability to protect that interest;
16 and (3) demonstrate that its interests are not adequately represented by existing parties.” *Carlsbad*
17 *Police Officers Ass’n v. City of Carlsbad*, 49 Cal. App. 5th 135, 148 (Cal. Ct. App. 2020).

18 “Mandatory intervention . . . ‘should be liberally construed in favor of intervention.’”
19 *Crestwood Behav. Health, Inc. v. Lacy*, 70 Cal. App. 5th 560, 572 (Cal. Ct. App. 2021) (quoting
20 *Simpson v. Redwood Co. v. State of California*, 196 Cal. App. 3d 1192, 1200 (Cal. App. 1987)).

21 Section 387 “‘was modeled after and is virtually identical to rule 24 of the Federal Rules of
22 Civil Procedure’ . . . [;] [t]hus, ‘in assessing [the] requirements’ for mandatory intervention, ‘[courts]
23 may take guidance from federal law.’” *Crestwood*, 70 Cal. App.5th at 484 (quoting *Ziani Homeowners*
24 *Ass’n v. Brookfield Ziani LLC*, 243 Cal. App. 4th 274, 280–81 (Cal. Ct. App. 2015); *Edwards v.*
25 *Heartland Payment Sys., Inc.*, 29 Cal. App. 5th 725, 732 (Cal. Ct. App. 2018)).

26 Under federal law, a party has a “protectable interest in the subject of the action” when it has a
27 “legally cognizable” interest or an interest that is “‘protectable under some law’ and that there exists
28 ‘a relationship between the legally protected interest and the claims at issue.’” *Cal. Dep’t of Toxic*

1 *Substance Control v. Jim Dobbas, Inc.*, 54 F.4th 1078, 1086 (9th Cir. 2022) (quoting *Wilderness Soc’y*
2 *v. U.S. Forest Serv.*, 630 F.3d 1173, 1179 (9th Cir. 2011)).¹

3 **II. Permissive Intervention**

4 The Court “may” grant permissive intervention “upon timely application” where the person
5 seeking intervention “has an interest in the matter in litigation, or in the success of either of the parties,
6 or an interest against both.” Cal. Code Civ. Pro. § 387(d)(2). Courts have interpreted this to mean
7 “[p]ermissive intervention is appropriate if: ‘(1) the proper procedures have been followed; (2) the
8 nonparty has a direct and immediate interest in the action; (3) the intervention will not enlarge the
9 issues in the litigation; and (4) the reasons for intervention outweigh any opposition by the parties
10 presently in the action.’” *Carlsbad Police Officers Ass’n*, 49 Cal. App. 5th at 148 (quoting *Reliance*
11 *Ins. Co. v. Superior Court*, 84 Cal. App. 4th 383, 386 (Cal. Ct. App. 2000)).

12 The requirement of a ‘direct’ and ‘immediate’ interest means that the interest must
13 be of such a direct and immediate nature that the moving party “‘will either gain or
14 lose by the direct legal operation and effect of the judgment.” [Citations.] ‘A
15 person has a direct interest justifying intervention in litigation where the judgment
16 in the action *of itself* adds to or detracts from his legal rights without reference to
17 rights and duties not involved in the litigation.’ [Citations.] Conversely, ‘An interest
18 is consequential and thus insufficient for intervention when the action in which
19 intervention is sought does not directly affect it although the results of the action
20 may indirectly benefit or harm its owner.’
Lindelli v. Town of San Anselmo, 139 Cal. App. 4th 1499, 1505 (Cal. Ct. App. 2006) (quoting *City and*
County of San Francisco v. State of California, 128 Cal. App. 4th 1030, 1037 (Cal. Ct. App. 2005)).

21 **ARGUMENT**

22 **I. Prospective Intervenors are Entitled to Intervention as a Matter of Right**

23 Prospective Intervenors have satisfied the standards for intervention as a matter of right,
24 particularly under the “liberal[.]” construction in favor of intervention adopted by the courts. *See*
25 *Crestwood Behav. Health, Inc. v. Lacy*, 70 Cal. App. 5th 560 (Cal. Ct. App. 2021).

26 ¹ While meeting the standard in the text is sufficient to establish a protectable interest, it may not be
27 necessary. *See Cal. Dep’t of Toxic Substance Control, Inc.*, 54 F.4th at 1086 (noting that standard for
28 showing a protectable interest may be less demanding). Because Proposed Intervenors here meet the
standard in the text, it is not necessary for this Court to decide the minimum showing necessary to
establish a protectable interest.

1 **a. Prospective Intervenor’s Motion is Timely**

2 Prospective Intervenor’s Application to Intervene is timely. Given the interests at stake,
3 Prospective Intervenor initially sought to have their Application heard with the Temporary Restraining
4 Order and provided the Court with additional information to inform the Court’s decision on that matter.
5 Unfortunately, Proposed Intervenor’s filings were not accepted, so they set up a hearing at the next
6 possible opportunity. CVUSD has not yet filed an Answer, and no undue delay will result from
7 Prospective Intervenor joining this action.

8 **b. Prospective Intervenor Has a Protectable Interest in the Subject of this Litigation**

9 Prospective Intervenor has a protectable interest in this litigation. Both the United States
10 Supreme Court and the Supreme Court of California have recognized the fundamental liberty interest
11 of parents to direct the upbringing of their own children. Indeed, the Supreme Court has stated “[t]he
12 liberty interest at issue in this case—the interest of parents in the care, custody, and control of their
13 children—is perhaps the oldest of the fundamental liberty interests recognized by this Court.” *Troxel*,
14 530 U.S. at 65 (plurality op.).

15 For nearly a century, the Supreme Court has consistently recognized the basic liberty interest
16 of parents to direct the care and upbringing of their children under the United States Constitution. In
17 *Meyer v. Nebraska*, the Court stated that the Due Process Clause protects “the right of the individual
18 to . . . establish a home and bring up children.” 262 U.S. 390, 399 (1923). In *Pierce v. Society of the*
19 *Sisters of the Holy Name of Jesus and Mary*, the Court cited “the doctrine of *Meyer*” for the proposition
20 that “the liberty of parents and guardians to direct the upbringing and education of children under their
21 control.” 268 U.S. 510, 534 (1925). And in *Stanley v. Illinois*, the Court recognized that “[t]he private
22 interest here, that of a man in the children he has sired and raised, undeniably warrants deference and,
23 absent a powerful countervailing interest, protection.” 405 U.S. 645, 651 (1972). Indeed, “[t]he rights
24 to conceive and to raise one’s children have been deemed ‘essential’ . . . ‘basic civil rights of man,’ . .
25 . and ‘(r)ights far more precious . . . than property rights.’” *Id.* (quoting *Meyer*, 262 U.S. at 399; *Skinner*
26 *v. Oklahoma*, 316 U.S. 535, 541 (1942); *May v. Anderson*, 345 U.S. 528, 533 (1953)).

27 Similarly, California courts “have recognized a parent’s right to direct his or her child’s
28 upbringing,” including “extensive power to direct the education of the child and make critical decisions

1 concerning medical treatment.” *Am. Academy of Pediatrics v. Lungren*, 16 Cal. 4th 307, 396 (1997)
2 (citing *In re Roger S.*, 10 Cal. 3d 921, 934 (1977)); *see also In re Carl R.*, 128 Cal. App. 4th 1051 (Cal.
3 Ct. App. 2005) (quoting *American Academy of Pediatrics*, 16 Cal. 4th at 396). Indeed, parents’ rights
4 to direct the upbringing of the children, including making educational decisions on behalf of their
5 children, “rank[] among the most basis of civil rights.” *In re Carl R.*, 128 Cal. App. 4th at 1066
6 (quoting *American Academy of Pediatrics*, 16 Cal. 4th at 396). Moreover, a parent’s interest in
7 directing the upbringing of their own children, including directing educational decisions, a legally
8 cognizable interest that is enough to support intervention. *See Bustop v. Superior Court*, 69 Cal. App.3d
9 66 (1977) (holding that the lower court erred in denying parents intervention in proceeding to determine
10 whether a school integration plan complied with a Supreme Court mandate).

11 Prospective Intervenors have a clear, significant, legally cognizable interest at stake in this case:
12 the longstanding fundamental right of parents to direct the upbringing of their own children.

13 **c. The Disposition of this Action May Impair or Impede Prospective Intervenor’s Ability**
14 **to Protect Their Fundamental Interest in Directing the Upbring of Their Own**
15 **Children**

16 Prospective Intervenors have a fundamental liberty interest to direct the upbringing of their own
17 children. The “transaction” at issue in this action—the enactment of Board Policy 5020.1—advances
18 this right by providing parents with information about their own children. By the State’s own pleadings,
19 this information may be crucial to a child’s emotional and mental health and well-being. *See generally*
20 *Compl. ¶¶ 22–39*.

21 Depending on the outcome of this action, it may impair or impede Prospective Intervenors’
22 ability to protect this fundamental right in both the immediate and long term. The disposition of this
23 action will determine whether parents such as Prospective Intervenors are entitled to information about
24 their own children. This has an immediate impact in the short term on their ability to determine how
25 best to raise their own children, because it forces them to operate with incomplete information.

26 In the long term, the disposition of this action may also impair or impede the ability of parents,
27 including Prospective Intervenors, to assert their fundamental rights through the ballot box and normal
28 policy process. Board Policy 5020.1 was adopted through democratic processes. Plaintiff seeks to undo

1 the will of the voters in CVUSD by invalidating the policy choices of their elected school board
2 representatives. If Plaintiff's position is correct, Prospective Intervenors will be unable to adopt *any*
3 policy reflecting their view of parental rights through the local ballot box. Thus, for Prospective
4 Intervenors, this is not just a matter of losing a single policy. It is a matter of taking the subject matter
5 of that policy off the table for democratic compromise and resolution. This would immediately impede
6 or impair Prospective Intervenor's ability to vindicate their fundamental rights to direct the education
7 and upbringing of their own children.

8 **d. Prospective Intervenor's Rights are Not Adequately Represented by the Existing**
9 **Parties**

10 The existing parties are both state entities. State entities do not and cannot adequately represent
11 the fundamental liberty rights of parents concerned with the upbringing of their own children.

12 "The child is not the mere creature of the state; those who nurture him and direct his destiny
13 have the right, coupled with the high duty, to recognize and prepare him for additional obligations."
14 *Pierce*, 268 U.S. at 535. "The law's concept of the family rests upon a presumption that parents possess
15 what a child lacks in maturity, experience, and capacity for judgment required for making life's
16 difficult decisions" that cannot be supplanted by "[t]he statist notion that governmental power should
17 supersede parental authority in all cases because some parents abuse and neglect children," a notion
18 that is "repugnant to American tradition." *Parham v. J.R.*, 442 U.S. 584, 602 (1979).

19 Prospective Intervenors seek to oppose the Plaintiff's lawsuit. Thus, the Plaintiff, by definition,
20 cannot adequately represent their interests.

21 Even though Prospective Intervenors seek to intervene as party-defendants, CVUSD also
22 cannot adequately represent the interests of Prospective Intervenors. Parents have rights and interests
23 in the upbringing of their children that are separate and distinct from those of the Defendant, and for
24 which the Defendant generally is not and cannot be an adequate substitute. Put simply, parents' right
25 to direct the upbringing of their children belong to *parents*, not their children's *school*.

26 Parents have their highest duty to one class of children: their own and those over whom they
27 exercise parental rights. A school district owes its duty to *all* the stakeholders in a school district. These
28

1 interests are not the same and may sometimes be at odds. What is good for the many may not be good
2 for a given child.

3 Moreover, a school district answers to a broader group of constituents than just parents; it
4 answers to all citizens in a jurisdiction. Citizens may (and often do) have differing priorities. A school
5 board does not adequately represent the views of specific parents merely by virtue of enacting policies
6 through the democratic process. *See, e.g., Bustop*, 69 Cal.App.3d at 69–72 (rejecting argument that a
7 school district adequately represents the interests of a parents group seeking intervention by virtue of
8 considering the parents’ views in the policy formulation process).

9 Finally, CVUSD has its own bureaucratic interests and concerns, which are not shared by
10 Prospective Intervenors. CVUSD must prioritize resources litigating this case against competing
11 priorities. It must balance its litigation positions with a desire to limit dissention among staff and other
12 employees. It must calibrate its position towards the Plaintiff in the context of a complex,
13 multidimensional relationship, fraught with competing priorities and even potential conflicts of
14 interest.

15 Prospective Intervenors do not have these same concerns or limitations. They are concerned
16 about their children and their right and duty to properly direct their upbringing. This interest is not
17 adequately represented by the existing parties.

18 Prospective Intervenors’ Application to Intervene is timely. They have a legally cognizable
19 interest in the “transaction” that is the subject of this litigation—their fundamental right to direct the
20 upbringing of their own children. This right is at substantial risk of being impeded or impaired by this
21 litigation, the outcome of which could be the invalidation of a policy providing for parental notification
22 on an fundamental medical matter affecting the lives of their children. The interests of parents—which
23 are unique and individualized to their own children—are not and cannot be adequately represented by
24 any state entity, including the Defendant. Prospective Intervenors may thus intervene as a matter of
25 right under the “liberal” standard of section 387.

26 **II. Prospective Intervenors Should be Granted Permissive Intervention**

27 In the alternative, Prospective Intervenors should be granted permissive intervention.
28

1 **a. Prospective Intervenor’s Application is Timely and Follows Proper Procedures**

2 As described above, Prospective Intervenor’s Motion is timely. Moreover, Prospective
3 Intervenor has followed proper procedure by petitioning the Court for leave to intervene through *ex*
4 *parte* application, including a copy of their proposed Answers in intervention and setting forth the
5 grounds upon which intervention rests. The *ex parte* application was necessary here as the parents’
6 rights have already been impacted by this Court’s grant of the Temporary Restraining Order. The
7 parents now risk not having their interests represented while this Court considers an injunction that
8 would indefinitely violate their parental rights.

9 **b. Prospective Intervenor has a Direct and Immediate Interest in this Action**

10 The outcome of this action will determine whether Board Policy 5020.1, and its corresponding
11 notification requirements, remain enforceable. This directly impacts Prospective Intervenor’s ability to
12 obtain critical, medically material information about their own children in the Chino Valley Unified
13 School District, and to have confidence that their children’s teachers and administrators are being
14 honest with them. Whether or not a child identifies as a different gender than their birth sex is important
15 information for a parent. The existence of Board Policy 5020.1 ensures parents have this fundamental
16 information. This is important information, even if a child does not identify as a different gender or
17 sexual identity, because then parents *know* that their child is not identifying as a different gender or
18 sexual identity.

19 As described above, if Plaintiff succeeds in this litigation, as a direct consequence Prospective
20 Intervenor will lose this valuable information about their own children. Losing access to this
21 information hampers Prospective Intervenor’s ability to direct the care and upbringing of their children.

22 Once lost, Prospective Intervenor will not be able to reassert their fundamental parental rights
23 at a later time. If successful, Plaintiff’s position would put notification policies like Board Policy
24 5020.1 outside of the power of local school boards.

25 Prospective Intervenor has direct and immediate interests in the outcome of this litigation:
26 preserving their fundamental parental rights now and their ability to assert them in the future.

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c. Prospective Intervenors Will Not Enlarge the Scope of this Litigation

Prospective Intervenors seek to do one thing and one thing only: ensure their fundamental parental rights to direct the upbringing of their children are preserved. They only seek to litigate the case that has already been brought. They bring no cross-complaints or counterclaims. Thus, Prospective Intervenors will not enlarge the scope of this litigation.

d. The Reasons for Intervention Outweigh Any Opposition by the Parties Presently in the Action

On one side of the ledger is one of the oldest and most well-recognized fundamental rights in our nation: the right of parents to direct the care and upbringing of their own children. As the Court has recognized, the fundamental right “to direct the education and upbringing of one’s children” is so deeply rooted in our Nation’s history and tradition and implied in concepts of ordered liberty that it is one of the handful of fundamental rights explicitly recognized by the Court as protected by substantive due process. *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997).

On the other is little more than bureaucratic convenience. As described above, Prospective Intervenors will not enlarge this litigation. They accept the expedited pace with which Plaintiff is pursuing this matter and are submitting a timely Application for Intervention that will not delay these proceedings. And their intervention will not open the floodgates to intervention by other concerned parents because “[f]urther intervention can easily be limited by permitting additional intervention only b[y] persons or groups whose interest is presently unrepresented in the action,” *i.e.*, the current parties and the Prospective Intervenors. *Bustop*, 69 Cal. App. 3d at 71–72.

Accordingly, the reasons for intervention outweigh any argument against intervention. In the event that Prospective Intervenors are not entitled to intervention as a matter of right, they should be permitted to intervene as a matter of this Court’s exercise of discretion.

CONCLUSION

Prospective Intervenors seek to vindicate an interest not currently represented in this matter: the fundamental right of parents to direct the upbringing of their own children. For these reasons, they should be granted intervention as a matter of right under the “liberal” standard of section 387 or, in the alternative, permitted to intervene as a matter of discretion.



1
2 Dated: September 13, 2023.

**DHILLON LAW GROUP INC.
CENTER FOR AMERICAN LIBERTY**

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5 _____
6 HARMEET K. DHILLON
7 KARIN M. SWEIGART
8 JESSE D. FRANKLIN-MURDOCK
9 FRANCIS ADAMS
10 JOSHUA W. DIXON*
11 ERIC A. SELL*

12 *Attorneys for Proposed Intervenors*
13 ** Pro Hac Vice Forthcoming*

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EXHIBIT A

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Attorneys for Intervenor Parents

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

THE PEOPLE OF THE STATE OF
CALIFORNIA, EX REI. ROB BONTA,
ATTORNEY GENERAL OF THE STATE
OF CALIFORNIA,

Plaintiff,

vs.

CHINO VALLEY UNIFIED SCHOOL
DISTRICT,

Defendants.

Case No.: CIVSB 2317301

**DECLARATION OF PARENT
INTERVENOR NICHOLE VICARIO IN
SUPPORT OF PROPOSED DEFENDANT-
INTERVENOR PARENTS' MOTION TO
INTERVENE**

Date: September 15, 2023

Time: 8:30 a.m.

Department: 527

Judge: Hon. Thomas Garza

Action Filed: 8/28/2023

I, Nichole Vicario, hereby declare:

1. I make this declaration based on my own personal knowledge and, if called to testify, could and would do so competently.

2. I have lived in Chino, California since I was three years old. I am a parent of a tenth grader and an eleventh grader in the Chino Valley Unified School District (“CVUSD”). I am also the caregiver of my niece. She is also an eleventh grader in the CVUSD.

3. At my kids’ school, Ayala High School, I have served as a volunteer parent for the water polo and basketball teams. I was also elected to serve on the School Site Council, where I was involved with planning school activities. I also worked for the CVUSD for twelve years as a school secretary. For eleven of those years, I worked at Ayala High School. I have also volunteered as Event Security for various school events.

4. I am a loving parent who cares deeply for my children. I always do what I think is in their best interest. My greatest desire as a parent is to be involved in all aspects of my children’s lives. I want to know everything that is going on with them—especially in school, where I cannot directly observe what is happening with them.

5. I support the CVUSD school board’s policy 5020.1 (“Policy 5020.1”). The idea that a teacher or administrator at my kid’s school would learn something so intimate and consequential about my child, and would withhold it from me, is outrageous. It is wrong to assume that when a child comes out, their parents might disown them, or might in any way not be on *their* side. It is wrong for schools to lie to parents about what is going on with their kids. We want to be there to educate them, to lead them safely through life. We want to be aware of any big decisions they make—especially about something so important as their sexuality.

6. If the safety of children is truly a priority, parents should be aware of anything and everything going on with their children on school grounds. Teachers do not have special rights that supersede parental rights. They don’t have a right to decide what’s in the best interest of a child over their parents.

7. It makes no sense to say that the school needs permission from parents to allow students to watch movies, but it doesn’t need to notify them of a change of gender. It makes no

sense to say that my child can't carry Advil in her pocket on school grounds, but she can secretly transition to the opposite gender.

8. Teachers are not safer than me, the parent. I will be with my children until I die. The school system will support them until they are 18.

9. As the caregiver of my niece, who recently began to self-identify as lesbian, I cannot overstate how grateful I was that she was open about her identity with me. This allowed us to talk openly about it, and it allowed me to guide her through this decision—as a parent.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct. Executed on September 12, 2023.

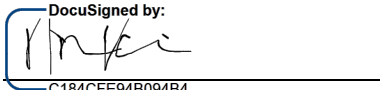
By: 
C184CFE94B094B4...
Nichole Vicario

EXHIBIT B

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

THE PEOPLE OF THE STATE OF
CALIFORNIA, EX REI. ROB BONTA,
ATTORNEY GENERAL OF THE STATE OF
CALIFORNIA,

Plaintiff,

vs.

CHINO VALLEY UNIFIED SCHOOL
DISTRICT,

Defendants.

Case No.: CIVSB 2317301

**DECLARATION OF PARENT
INTERVENOR RICHARD N. WALES JR. IN
SUPPORT OF PROPOSED DEFENDANT-
INTERVENOR PARENTS' MOTION TO
INTERVENE**

Date: September 15, 2023

Time: 8:30 a.m.

Department: 527

Judge: Hon. Thomas Garza

Action Filed: 8/28/2023

I, Richard N. Wales Jr., hereby declare:

1. I make this declaration based on my own personal knowledge and, if called to testify, could and would do so competently.
2. My family and I have lived in the CVUSD school district since 2004. I am a parent of a sixth grader in the Chino Valley Unified School District ("CVUSD"), and my daughter has attended a CVUSD school from kindergarten through the present.

3. At my daughter's school, I have been a parent volunteer in my child's class. For multiple years, I have been a member of the school's Safety Committee. I have helped create plans, assemble resources, and update aging facilities to provide better security for students and staff. Over several years, I have been part of the school's Site Counsel. On the Site Counsel, I helped with the development and monitoring of a School Plan for Student Achievement. We worked to ensure that the school was engaged in identifying and implementing curriculum and instructional practices that result in both strengthening the core academic program and ensuring that students have access to and success in that program.

4. Raising my daughter is both my greatest joy and my greatest responsibility. Her mother and I know her and love her more than anyone else. No one knows what is better for her than we do, and no one besides us has the obligation or right to make decisions regarding those matters. The Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to direct the care, upbringing, and education of their children. We are committed to helping her grow and develop as a student and as a person.

5. The school has no say in how a parent chooses to raise their child or the values they choose to instill in their child. I am a supporter of the CVUSD school board's policy 5020.1 ("Policy 5020.1"). Schools should not be the enemy of the parents. Policies that allow teachers and administrators to lie to parents about their children break fundamental trust that is necessary for a school to thrive. We should be working together to help our kids grow, and schools should not be undercutting parents by encouraging kids to lie about their struggles to the very people who should be their greatest advocates. This takes a school room into an area it doesn't belong. School in practice should just be about teaching students reading, writing, and arithmetic, etc. The rest should be left to the parents. A school doesn't have the right to know more about my child's life than my wife or I do. It doesn't have the right to keep something so important to my child's life a secret from their parents.

6. Schools and teachers cannot deliberately hide various aspects of our children's lives, that might result in harm to them, or which they are not capable of handling on their own. If my

child's teacher is required to lie to me about one thing, how can I trust that I am going to be told the truth about my child being bullied, harassed or worse. Policy 5020.1 merely reaffirms my constitutional right as a parent to direct the upbringing of my child.

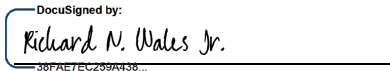
7. Decisions regarding gender identity are fundamentally medical decisions. Since social transitioning is considered a medical intervention, would not any school or District personnel be practicing medicine without a license if they did this? My school doesn't know my child's full medical history. My school doesn't know what medication my child might be taking or doctors they might be seeing. My child's teacher is not qualified to make a medical diagnosis that would need to precede social transitioning. A school has no information regarding my child's mental health situation, and a parent has the absolute right to know if their child is dealing with something so monumentally life changing, which could affect their mental health situation.

8. In a school setting, parents have to be notified for a variety of things, such as fighting, bullying, drug use, etc. Schools have to receive consent from parents for everything from field trips to giving kids an aspirin for a headache. Parents have the right to opt their children out of various school activities. Parents have a right to see their children's personal files, and even visit the classroom. My child's school has been given consent to give first aid and nothing more. Parents and medical professionals need to be involved in conversations regarding social transitioning. Policy 5020.1 ensures that someone without a medical degree is not making ignorant and potentially damaging decisions that can radically impact my child's future.

9. Teachers, as mandated reporters, have the responsibility to report child abuse to authorities, and that is the extent or only area that a school should be allowed to intervene between a parent and their child. Intervening by hiding pertinent information from parents could hinder a child's development. Again, the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to direct the care, upbringing, and education of their children. The fact that the government of this state is basically taking an adversarial position against parents, and more or less declaring that parents are potentially dangerous to children, automatically puts parents and the

government at odds and destroys trust. The government throughout this whole issue continues to sow the seeds of fear that something bad might happen if parents find out the truth. This leads to a prejudicial view and treatment of parents.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct. Executed on September 12, 2023.

By: The signature box contains the text "DocuSigned by:" above a handwritten signature "Richard N. Wales Jr." which is underlined. Below the signature, there is a small alphanumeric string "38FAE7EC269A438...".

Richard N. Wales Jr.

EXHIBIT C

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Attorneys for Intervenor Parents

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

THE PEOPLE OF THE STATE OF
CALIFORNIA, EX REI. ROB BONTA,
ATTORNEY GENERAL OF THE STATE
OF CALIFORNIA,

Plaintiff,

vs.

CHINO VALLEY UNIFIED SCHOOL
DISTRICT,

Defendants.

Case No.: CIVSB 2317301

**DECLARATION OF PARENT
INTERVENOR MISTY STARTUP IN
SUPPORT OF PROPOSED DEFENDANT-
INTERVENOR PARENTS' MOTION TO
INTERVENE**

Date: September 15, 2023

Time: 8:30 a.m.

Department: 527

Judge: Hon. Thomas Garza

Action Filed: 8/28/2023

I, Misty Startup, hereby declare:

1. I make this declaration based on my own personal knowledge and, if called to testify, could and would do so competently.

2. I have lived in the CVUSD school district for thirty years. I am a parent of six children, one of whom currently attends a Chino Valley Unified School District (“CVUSD”) school. My other five children have all attended and graduated from CVUSD schools.

3. I am a loving parent who cares deeply for my children. I always do what I think is in their best interest.

4. Over the years I have volunteered in many capacities at my kids’ schools. I have been a Room Mom. I have taught Project Self-Esteem classes and art. I have coached soccer in the community for approximately 15 years and have been a youth leader for a local youth group.

5. I support CVUSD school board’s policy 5020.1 (“Policy 5020.1”) because I think it is wrong for schools to dictate when parents are and are not allowed to parent their own children. Decisions regarding gender identity are fundamentally medical decisions. It is deeply troubling to me that my kid’s school would have the audacity to deprive me of the ability to make medical decisions regarding my child. My kids are only the school’s when I, the parent, drop them off at school. They are on loan to the school temporarily to learn reading, writing and arithmetic. I am trusting that my child is in good hands. They are my children first and foremost, and they are my children 24-7, 365. I don’t stop being a parent while they are at school.

6. My perspective on this issue is partially formed by my own family experience. I have multiple family members in the LGBTQ community, two of whom are transgender. I have seen, firsthand, the importance of parents being involved in their children’s lives as they made the decision to transition. I am convinced that without their parents’ involvement and the support of the family, one of my cousin’s children would have committed suicide. That is why I am outraged at the thought of a school keeping anything so important as a child’s gender identity from their parents.

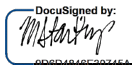
7. Another reason I am so supportive of Policy 5020.1 stems from my experience as the parent of a child with severe special needs. I have been caring for her for 24 years. Over the

years, I have made all medical decisions for her, including making sure she has gotten the right seizure medications, the right treatments, the right therapies, and more. These special needs kids are truly the most vulnerable, and the most vulnerable kids need their parents even more. So, if the State is worried about protecting vulnerable kids, the first thing it needs to do is involve the parents.

8. Government and school officials do not know what is best for my daughter. They have never changed her diaper, suctioned her, or fed her through a G-tube. They have never attended an IEP meeting at her school where they had to fight for every little accommodation to make sure she had the best education and learning environment possible. That they would deign to prescribe what decisions should be made for her regarding something so medically sensitive as her gender identity, without even consulting me, the person who knows her best, is outrageous to me.

9. We should be teaching our students morals and values like honesty, the importance of not lying and keeping secrets. We should be a team collaborating together as parents, teachers, school, counselors and staff. Instead, we are dividing families and accusing parents of being dangerous. If a student flunks a test or is in danger of failing a class, the teacher notifies the parents. If the student brings drugs to school, the parents are notified. Parental notification should be the same no matter what the issue is. It is not up to the state to pick and choose when a parent is involved. It is a given.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct. Executed on September 13, 2023.

By:  _____
DocuSigned by:
Misty Startup
00804848E00745A...

Misty Startup

EXHIBIT D

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Attorneys for Intervenor Parents

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

THE PEOPLE OF THE STATE OF
CALIFORNIA, EX REI. ROB BONTA,
ATTORNEY GENERAL OF THE STATE
OF CALIFORNIA,

Plaintiff,

vs.

CHINO VALLEY UNIFIED SCHOOL
DISTRICT,

Defendants.

Case No.: CIVSB 2317301

**DECLARATION OF PARENT
INTERVENOR DARICE DE GUZMAN IN
SUPPORT OF PROPOSED DEFENDANT-
INTERVENOR PARENTS' MOTION TO
INTERVENE**

Date: September 15, 2023

Time: 8:30 a.m.

Department: 527

Judge: Hon. Thomas Garza

Action Filed: 8/28/2023

I, Darice De Guzman, hereby declare:

1. I make this declaration based on my own personal knowledge and, if called to testify, could and would do so competently.

2. I have two children in the Chino Valley Unified School District (“CVUSD”), a daughter in tenth grade and a son with disabilities in seventh grade.

3. I have lived in CVUSD for fifteen years and had kids in district schools for the entirety of that time.

4. I have served in CVUSD schools as a PTO member and a PTA board member. I have coordinated fundraisers for my kids’ schools. I have also participated as a school representative on the ESSER committee and LCAP committee.

5. I am a fit and loving parent who cares deeply for my children. I always do what I think is in their best interest.

6. A parent should be involved in their child’s life. If a child is sick or suffers an injury at school or has behavior issues in the classroom, the school calls and notifies the parents. It should be the same for aspects of their mental health, and gender dysphoria is included as a mental health condition as stated by the American Psychiatric Association. I have been fortunate that I have had teachers that understand what it’s like as a parent and have shared troubling and stressful events in the classroom for my son who struggles with disabilities. However, I have also seen school administration and district personnel try to hide or downplay the situation in ways that ultimately would have hurt my child had I not found out and intervened. I have experienced school administrators trying to silence teachers from telling me about important information about what was going on in the classroom and affecting my son. If they are willing to put a child with disabilities at risk by not taking appropriate steps, I have major concerns about what else they would be willing to hide from me. My son’s disabilities make him vulnerable to being influenced by his peers and by adults. It would be devastating to hear that he chose to identify as a different name or as a different gender without my knowledge. I need to have an integral role in supporting him.

7. But I have an additional interest in keeping CVUSD school board policy (“Policy 5020.1”) in place as a taxpayer. I have seen too many stories across the state of parents whose students were transitioned at school without their knowledge. Several of the districts who chose to keep secrets from parents are now involved in lawsuits which cost resources which could be going to educate our children. Policy 5020.1 helps prevent this from happening in our district. If Policy 5020.1 were in place, parents would be notified and could work with the school to provide the right support, together. Parents should be included as part of the support system for their children not excluded from it.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct. Executed on September 13, 2023.

By: 
94D7BDA10F4E3...

Darice De Guzman

EXHIBIT E

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Attorneys for Intervenor Parents

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

THE PEOPLE OF THE STATE OF
CALIFORNIA, EX REI. ROB BONTA,
ATTORNEY GENERAL OF THE STATE
OF CALIFORNIA,

Plaintiff,

vs.

CHINO VALLEY UNIFIED SCHOOL
DISTRICT,

Defendants.

Case No.: CIVSB 2317301

**DECLARATION OF PARENT
INTERVENOR KRISTI MARCOS IN
SUPPORT OF PROPOSED DEFENDANT-
INTERVENOR PARENTS' MOTION TO
INTERVENE**

Date: September 15, 2023

Time: 8:30 a.m.

Department: 527

Judge: Hon. Thomas Garza

Action Filed: 8/28/2023

I, Kristi Marcos, hereby declare:

1. I make this declaration based on my own personal knowledge and, if called to testify, could and would do so competently.

2. I have two children in the Chino Valley Unified School District (“CVUSD” or “District”) in fourth and sixth grade.

3. I have had children attending in the District since 2016. I also went to school in the District from 1989-2003.

4. I frequently volunteer for school related social events and have been a teacher in the District since 2014.

5. Notification is important to me because I have an emotional, financial, and legal stake in my kids’ lives. Removing parental notification on any grounds puts out children in danger of being vulnerable to whatever society’s agenda is for our youth, and strips parents’ rights to know what is happening in their children’s lives. The school’s role is to “partner” with parents, not keep secrets or parent our children. And as a teacher, it is not right to ask me to lie to parents. It breaks trust and puts me at odds with people I want to be my allies to help students achieve their utmost potential.

6. As a special education teacher, I meet with parents several times throughout the school year. I work with them to craft an Individual Education Plan (“IEP”) that is tailored to the individual needs of their children. An IEP is a binding, legal document. If a student wants to change their pronouns, this leaves me in a predicament. I have to either lie to parents on a legal document, or I have to inform parents of their child’s request to change their pronouns. Since I cannot (and would never) do the former, I must inform the parents. But given the State’s opposition to the SVUSD school board’s policy 5020.1 (“Policy 5020.1”), I would be prohibited from doing so. My fear is that there will be no ethical way for me to do my job if Policy 5020.1 is cancelled.

7. Another concern I have regards the fact that social transitioning is considered a medical treatment on behalf of a student. If I am prevented from notifying parents that their child is socially transitioning at school, I fear that this leaves me open to a lawsuit regarding making

medical decisions about a child without medical training or a license. I also find it illogical (and troubling) that teachers would be required *not* to notify parents when it comes to the medical treatment of socially transitioning their child, while at the same time being *absolutely required* to notify parents of all other medical treatments concerning their child (this includes actions as minor as providing calamine lotion to a child with bug bites).

8. Finally, I have sincerely held religious beliefs surrounding the issues of gender identity and being truthful and honest. The policy argued for by the State would not only infringe on my sincerely held religious beliefs as a parent, but also would force me to violate my religious beliefs in my capacity as a teacher.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct. Executed on September 12, 2023.


By:  _____
Kristi Marcos

EXHIBIT F

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Attorneys for Intervenor Parents

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

THE PEOPLE OF THE STATE OF
CALIFORNIA, EX REI. ROB BONTA,
ATTORNEY GENERAL OF THE STATE
OF CALIFORNIA,

Plaintiff,

vs.

CHINO VALLEY UNIFIED SCHOOL
DISTRICT,

Defendants.

Case No.: CIVSB 2317301

**DECLARATION OF PARENT
INTERVENOR KRISTAL BARRET IN
SUPPORT OF PROPOSED DEFENDANT-
INTERVENOR PARENTS' MOTION TO
INTERVENE**

Date: September 15, 2023

Time: 8:30 a.m.

Department: 527

Judge: Hon. Thomas Garza

Action Filed: 8/28/2023

I, Kristal Barret, hereby declare:

1. I make this declaration based on my own personal knowledge and, if called to testify, could and would do so competently.

2. I am a mother of three. I have a seventh-grade son in the Chino Valley Unified School District ("CVUSD"). He has attended CVUSD schools since pre-K.

3. I am also a product of CVUSD schools. I attended district schools from kindergarten through high school.

4. I am a supporter of the CVUSD school board's policy 5020.1 ("Policy 5020.1"). As a parent, I need to be involved to help support my child with medical related issues. This includes any issue my children may face related to gender identity. Children's brains do not fully develop until age 25, so they need help and guidance as they make decisions. That is a parent's role. That is also my right under the United States Constitution.

5. The State is arguing that schools should actively keep secrets from parents. This is fundamentally against the values I have instilled in my children. We do not keep secrets in our household. I have raised my kids to always be honest and to never hide anything or keep secrets. I've also taught them that anyone who tells them to keep secrets isn't a good friend or a good person. It is disturbing to me that a grown adult would keep secrets from a *parent*. If we don't put a stop to this now, what else are we going to let teachers keep from parents?

6. A child who keeps secrets from his or her parents—especially ones that adults encourage him or her to keep—is at risk of becoming a victim of abuse. It is well documented that one of the ways sexual abusers groom children is by convincing them they should keep the things they are doing to children secret from their parents. Literature on preventing childhood sexual abuse is replete with guidance that our households need to affirm we don't keep secrets. Yet the state is now undermining this bedrock principle in our schools and creating a wedge between parents and children.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct. Executed on September 13, 2023.

By: 
Kristal Barret