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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

FRESNO DIVISION

CALIFORNIANS FOR EQUAL RIGHTS FOUNDATION, Plaintiff, v. MISTY HER, interim superintendent of the Fresno Unified School District; and VALERIE F. DAVIS, President of the Fresno Unified School District, Defendants.	No. 1:25-cv-00250-BAM **PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS** Judge: Barbara A. McAuliffe Place: Courtroom 8, 6th floor Complaint Filed: February 27, 2025

INTRODUCTION

This case presents straightforward equal protection, California Constitution, and Title VI challenges to K-12 academic programs that the Fresno Unified School District (Fresno Unified or the District) advertises as "for African American students." Fresno Unified has moved to dismiss, claiming that Plaintiff Californians for Equal Rights (CFER), a nonprofit organization with members who have children in the District, lacks standing to challenge the programs. The District's primary argument is that there is no injury because CFER does not allege that its members' children applied to and were denied access to the programs in question.

Whether CFER's members were denied access to or participation in programs that they were not told about, that were not promoted to them, and that were advertised as being "for" students of a different race, is beside the point. In equal protection cases, the relevant constitutional injury arises from the exposure to unequal treatment itself—not the ultimate denial of a benefit. *See N.E. Fla. Chapter of the Associated Gen. Contractors of Am. v. City of Jacksonville*, 508 U.S. 656, 666 (1993); *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 211 (1995). CFER alleges that its members' children—strictly because they have the wrong skin color—are told that certain District programs are not "for" them, when they are told about these programs at all. More often, non-Black students in the District are not equally informed about the programs, which are instead promoted on a racially-exclusive basis. This is unequal treatment, and it is happening right now. It will happen tomorrow, too.

Fresno Unified's made-for-litigation argument is an ineffective attempt to reverse District policy. The programs in question are advertised as racially exclusive and are directly promoted only to individuals of one race, in the explicit hope of benefiting only students of one race (after all, you cannot close "achievement gaps" by helping everyone). However, now that the programs are being challenged, Fresno Unified asserts that the programs would have been available to students of other races (if they had somehow found out about them). But even if discovery reveals that there is no express racial exclusion from these programs, that would not remedy other ongoing unequal treatment in the programs' promotion and design. It is not enough for Fresno Unified to silently unlock the door for students of other races; its programs must be both facially open to all

and widely advertised as such. Accordingly, CFER's members are injured by the design, promotion, and effect of the challenged programs, regardless of whether they have applied and been denied entry. As the Supreme Court has stated, "[i]f an employer should announce his policy of discrimination by a sign reading 'Whites Only' on the hiring-office door, his victims would not be limited to the few who ignored the sign and subjected themselves to personal rebuffs." *Int'l Bhd. of Teamsters v. United States*, 431 U.S. 324, 365 (1977). The same reasoning applies to Fresno Unified's attempt to cover up the impact of its policies here. The motion should be denied.

FACTUAL BACKGROUND

I. Fresno Unified School District's African American Acceleration Programs

Fresno Unified is one of the largest school districts in California, responsible for over 70,000 students. Compl. ¶ 16. The District is racially diverse. Fresno Unified statistics identify most of those students as Hispanic—over 48,000 students (nearly 70%). *Id.* ¶ 17. Other sizeable populations include Asian students (around 7,400), White (around 5,300), African American (around 5,100), and smaller groups of American Indian, Filipino, and Pacific Islander students. *Id.* Socioeconomic disadvantage is rife in Fresno Unified, and thousands of students are falling behind academically. *Id.* ¶¶ 17–18. There are statistical racial disparities within these performance statistics; for example, while overall 22% of the District's elementary students read at grade level, 38% of White students, 25% of Asian students, 21% of Hispanic students, 21% of American Indian students, and 16% of African-American students read at grade level. *Id.* ¶ 19.

In response to these statistics and other perceived racial disparities in performance, in 2017, Fresno Unified created the "Office of African American Academic Acceleration" (A4 Office) to "address the disparities in academic outcomes faced by African American students." *Id.* ¶ 20. This Office administers over a dozen race-focused programs and a budget of over $12 million. *Id.* ¶¶ 20–21. The programs administered by the A4 Office include, among other things, summer reading "for African American students," math camps for "5th and 6th grade African American students," and specialized leadership academies and college-prep programs targeted and marketed exclusively to black students. *Id.* ¶ 22.

The Complaint alleges that these programs discriminate on the basis of race in their advertising, promotion, and design. First, these programs are advertised as being "for" students of only one race, and their official descriptions lack any indication that they are open to students of other races. *Id.* ¶ 23. Second, these programs are specifically promoted *only* to African-American students—District administrators direct teachers to invite certain students, who are selected for inclusion because of their race. *Id.* ¶ 24. This extends even to directing non-African-American students to other offerings, if they should show up at programs intended for African-American students. *Id.* ¶ 25. Third, the A4 programs are exclusionary in design—the material and pedagogy in many of the programs are intended to feel exclusionary and keep out students of other races. *Id.* ¶ 26. These programs, by virtue of their focus on race—and indeed, on one particular race—make those with the wrong skin color feel unwelcome. *Id.* The purpose of the A4 Office programs is to maintain a segregated environment as much as possible, for the ostensible benefit of African-American students. *Id.* ¶ 27.

II. Plaintiff Californians for Equal Rights

Plaintiff CFER is a nonprofit organization incorporated under the laws of California and headquartered in San Diego County. Its mission is to advocate for the principle of equal rights for all by opposing race-based discrimination in public education, employment, and contracting. *Id.* ¶ 9.

CFER has several members who reside in the Fresno Unified School District and who have children who attend Fresno Unified schools. *Id.* ¶ 10. Three of these members are listed in the Complaint, under the pseudonyms "Member A," Member B," and "Member C." *Id.* ¶¶ 11–13. These member parents and their students were never informed of the A4 programs, which were not promoted to these students exclusively because of the color of their skin. *Id.* These members' children would be interested in participating in the A4 programs. *Id.* Because Fresno Unified will continue marketing these programs—and other A4 programs—in a racially-exclusionary manner in the future, CFER's members will continue to be treated differently in the future. And, even if those students had been informed of the programs, the racially-exclusionary design of these programs makes their children feel unwelcome and believe they would be directed toward other

programs or made to feel like they do not belong. *Id.* That is true today and it will continue to be true so long as Fresno Unified can maintain a multi-million dollar office dedicated solely to benefit students of one racial group.

LEGAL STANDARD

A Rule 12(b)(1) facial challenge tests whether the complaint, taken as true, alleges facts sufficient to invoke federal jurisdiction. *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004). Facial challenges are adjudicated under the "familiar Rule 12(b)(6) standard," *Bowen v. Energizer Holdings, Inc.*, 118 F.4th 1134, 1143 n.7 (9th Cir. 2024), meaning that the court must take all facts in the complaint as true and make all reasonable inferences in favor of the plaintiff. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

To satisfy Article III's standing requirements, a plaintiff must show that (1) it has suffered an injury in fact, that is concrete, particularized, and not "conjectural or hypothetical"; (2) this injury is "fairly traceable to the challenged action"; and (3) the injury is "likely" to be "redressed by a favorable decision." *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992) (citations omitted). A plaintiff organization has standing to sue on behalf of its members if: "(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 199 (2023) ("*SFFA*").

ARGUMENT

Fresno Unified makes three overlapping arguments against jurisdiction in this case. First, it argues that CFER has failed to identify an injury in fact. Second, it takes issue with CFER's members being pseudonymously identified in the Complaint and asserts that this renders CFER's claim a generalized grievance. Third, Fresno Unified argues that CFER's claims are not ripe.

All three arguments fail, because all are based on the false premise that CFER's members need to have applied to the programs and been denied based on race before they have an injury sufficient to satisfy standing. This is not, and has never been, the rule in an equal protection case alleging racial discrimination. In such cases, the injury comes from the denial of equal treatment.

Furthermore, the allegations in the Complaint—which include that Fresno Unified specifically promotes the A4 programs only toward students of a specific race and turns some students away based on their race—involve the real risk of future injury to CFER's members, for example, by excluding their children from referral to a program which could benefit them. Accordingly, the motion should be denied.

I. CFER's Members Suffer a Concrete and Particularized Injury

As stated above, an organization may assert standing on behalf of its members if "(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *SFFA*, 600 U.S. at 199. CFER easily satisfies prongs 2 and 3 of this test, and Fresno Unified does not argue otherwise. On prong 2, CFER is a nonprofit organization with the mission of advocating the principle of equal rights and opposing race-based discrimination. Compl. ¶ 9. On prong 3, nothing in the claims brought here requires the participation of individual CFER members; their claims are straightforward equal protection and other discrimination law claims that seek prospective declaratory and injunctive relief.

Fresno Unified only challenges the first prong: whether any of CFER's members "would otherwise have standing to sue in their own right." *SFFA*, 600 U.S. at 199. According to Fresno Unified, none of CFER's members described in the Complaint would have standing because none is suffering from an actual or imminent "injury in fact." *Lujan*, 504 U.S. at 560. Specifically, Fresno Unified argues that "[n]one of Plaintiff's members have alleged a denial of any educational opportunity, denial from placement in any school, [or] exclusion from any educational program …." Br. in Supp. of Mot. to Dismiss at 4. Although Fresno Unified acknowledges that CFER alleges that its members were not aware of the programs in question, it asserts that such members must have become aware of the programs while developing this litigation. *Id.* at 1, 4.[1] Without citing any

[1] Fresno Unified also asserts that CFER has "full knowledge of the programs." Br. in Supp. of Mot. to Dismiss at 4. This factual assertion is not found in the Complaint and thus cannot be considered

authority, Fresno Unified asserts that only an express exclusion of a member of CFER from an A4 program can amount to a concrete injury. *Id.* (arguing that standing requires "actual exclusion from educational programs"). That may be true if CFER's members were seeking damages from a past exclusion, but here CFER seeks forward-looking relief and therefore need only show that the injury its members allege is likely to occur in the future.

More fundamentally, Fresno Unified's argument is based on a mistaken legal premise. The Supreme Court has long held that a member of a racial group disadvantaged by a government policy "need not allege that he would have obtained the benefit but for the barrier in order to establish standing." *City of Jacksonville*, 508 U.S. at 666. The injury in such cases comes from "the denial of equal treatment resulting from the imposition of the barrier," not the loss of access to any benefit. *Id.*; *see also Bras v. Cal. Pub. Utilities Comm'n*, 59 F.3d 869, 873 (9th Cir. 1995) ("[P]laintiffs alleging equal protection violations need not demonstrate that rigid quotas make it impossible for them to compete for any given benefit. Rather, they need only show that they are forced to compete on an unequal basis."); *Wooden v. Bd. of Regents*, 247 F.3d 1262, 1280 (11th Cir. 2001) (explaining that standing is simply about whether "the plaintiff is entitled to 'walk through the courthouse door' …. Standing doctrine has been developed primarily to ensure that the person seeking to litigate a claim is the 'right' person to advance the claim.") (citing *Sierra Club v. Morton*, 405 U.S. 727, 740 (1972)). These cases caution against focusing on whether there has been the denial of a benefit in evaluating standing; instead, "exposure" to unequal treatment alone establishes injury sufficient for standing. *Wooden*, 247 F.3d at 1279.

This reasoning has been repeatedly applied in the educational context. In *Parents Involved in Community Schools v. Seattle School District No. 1*, the Supreme Court concluded that a nonprofit corporation comprising the parents of children who "have been or may be denied assignment" to their chosen high school in the district because of their race had standing to challenge a busing program in the Seattle public schools. 551 U.S. 701, 713 (2007). Seattle argued

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at this stage. Moreover, there is no basis for concluding that CFER or its members know the full extent to which Fresno Unified excludes and discriminates against non-Black students in the A4 programs, which will be an important topic of discovery.

that this group lacked jurisdiction because the members' children would only be affected if they—down the road—sought to enroll in a public high school and that school was both oversubscribed and integration positive. *Id.* at 718. As here, no children in the *Parents Involved* case were imminently going to be denied participation in any program. However, the Supreme Court nonetheless concluded they had standing because they were being forced to "compete in a race-based system that *may* prejudice" them. *Id.* at 719 (emphasis added).

Similarly, in *Christa McAuliffe Intermediate School PTO, Inc. v. de Blasio*, the Southern District of New York addressed an equal protection challenge to New York City's allegedly discriminatory changes to admission procedures for its specialized public high schools. 364 F. Supp. 3d 253 (S.D.N.Y.), *aff'd*, 788 F. App'x 85 (2d Cir. 2019). The court concluded that a parent of an eighth-grade Asian student who wanted to attend a specialized school had standing to challenge those changes even though the student's test scores were such that "the determination of whether she will be admitted … [was] unaffected by the changes to the program." *Id.* at 272–73. The student suffered an injury not because she was unable to access the program, but because she was exposed to unequal treatment in the process. *Id.* As the court correctly held, it does not matter for standing purposes if a challenged policy appears to have had no effect on a plaintiff because of their unique circumstances—simply being forced to participate in the unfair system amounts to an equal protection injury.

Here, CFER has alleged that Fresno Unified treats students differently because of their race, including the children of CFER members. Non-African American students are not subject to the same promotional efforts for the A4 programs as African Americans. Compl. ¶¶ 23–24. They are not included in outreach for those programs because of their race. *Id.* They are expressly told that these public programs are not "for" them because of their race. *Id.* ¶¶ 22–23. Furthermore, even if they did show up to those programs, they would be directed toward other extracurricular offerings. *Id.* ¶ 25. This is not hypothetical discrimination—but a real, ongoing program of discrimination that puts some children at a disadvantage because of their race. There is no question that CFER's members' children are "exposed" to unequal treatment as a result of these programs.

Fresno Unified responds by asserting that the website for the A4 program purportedly

indicates in some way that it "serves all racial and ethnic groups." Br. in Supp. of Mot. to Dismiss at 4. This factual assertion is not found in the Complaint and should be disregarded, but even if it could be considered at this stage, it is irrelevant. None of these programs say or even imply they are open to non-African American students in the program descriptions themselves. Compl. ¶¶ 22–23. Even if the A4 website suggests that some non-African-American students participate in these programs, that can hardly cure this deficiency. Furthermore, the Complaint alleges, and the Court must accept at this stage, that teachers are directed to promote these programs to students based on their race—a purely race-based classification among students that clearly disadvantages non-African Americans. *Id.* Regardless of whether CFER or its member parents know of the existence of some A4 programs, that cannot cure this disadvantage—their children are not going to be directed toward programs by the teachers that know them best, simply because of their skin color.

Likewise, CFER has alleged, and the Court must accept at this stage, that non-African American students are both made to feel unwelcome by the design of the program and, in some cases, expressly directed away from these programs. This is enough for standing; nothing requires students to show up at programs at which they are not welcome in order to establish injury. *See, e.g.*, *Teamsters*, 431 U.S. at 365 ("If an employer should announce his policy of discrimination by a sign reading 'Whites Only' on the hiring-office door, his victims would not be limited to the few who ignored the sign and subjected themselves to personal rebuffs."). Nor would it matter for purposes of this allegation if *some* non-African American students have accessed the program; the fact that the program may be available to some students of other races hardly means it is equally open to all, and the Complaint credibly alleges that the A4 programs are not equally available. *E.g.*, Compl. ¶ 25.

The Supreme Court stated in *Grutter v. Bollinger* that the "core purpose" of the Equal Protection Clause is to "do away with all governmentally imposed discrimination based on race." 539 U.S. 306, 341 (2003) (quoting *Palmore v. Sidoti*, 466 U.S. 429 (1984)). As the Court has repeatedly made clear, "[e]liminating racial discrimination means eliminating all of it." *SFFA*, 600 U.S. at 206. This undoubtedly includes public programs like those administered by Fresno Unified's A4 Office, which discriminate in myriad ways, regardless of whether they stop short of

completely barring the door to certain races. Even the previous administration's Department of Education acknowledged that a "voluntary" membership program targeting students of a particular race could be unconstitutional, if the program was not "open and welcoming to all students *and [] widely advertised as such*."[2] Current Department of Education guidance is even more stark, stating that "educational institutions may neither separate or segregate students based on race, nor distribute benefits or burdens based on race."[3] Although not binding authority, both of these federal guidance documents demonstrate that programs like the ones operated by the A4 Office can infringe on students' constitutional rights even if they do not explicitly and completely exclude those students because of their race.[4]

Finally, if CFER and its members lacked standing to challenge the racially discriminatory aspects of the A4 program, it is not clear who *would* be able to challenge them. As the Eleventh Circuit observed in *Wooden*, the purpose of standing is to ensure that a case or controversy is presented by the "right" parties, to require that litigants have skin in the game. 247 F.3d at 1279–80. And as the Ninth Circuit squarely held, one main purpose of the standing doctrine laid out in cases like *Jacksonville* and *Bras* is to ensure that unconstitutional action is not insulated from judicial review. *Planned Parenthood of Greater Washington & N. Idaho v. U.S. Dep't of Health & Hum. Servs.*, 946 F.3d 1100, 1109 (9th Cir. 2020) ("If Planned Parenthood did not have standing,

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[2] Department of Education, August 24, 2023, Dear Colleague Letter (withdrawn), at 13, https://web.archive.org/web/20250117222651/https://www.ed.gov/sites/ed/files/about/offices/list/ocr/letters/colleague-20230824.pdf (emphasis added).

[3] Department of Education, February 14, 2025, Dear Colleague Letter, at 2, https://www.ed.gov/media/document/dear-colleague-letter-sffa-v-harvard-109506.pdf. This letter's enforcement has been stayed by a district court. *See Nat'l Educ. Ass'n v. United States Dep't of Educ.*, No. 25-CV-091-LM (D.N.H. Apr. 24, 2025).

[4] While not necessary for resolving standing here, Fresno Unified's selective outreach and promotional choices—marketing programs explicitly "for" African-American students, failing to advertise or promote those programs to students of other races, and administering programs in ways that exclude non-Black students—strongly support an inference of intentional racial discrimination under *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252, 265–66 (1977) (intentional discrimination inferred from discriminatory impact, historical context, sequence of events, and departures from normal procedure). This inference supports and reinforces that the unequal-treatment injury here is both concrete and particularized: students who face intentional discrimination undoubtedly were "exposed" to unlawful discrimination.

then the instant agency action would be insulated from judicial review. The effects of an adverse standing decision would echo through many corridors of the law.").

Parents of non-African American children in the District, including CFER's members, undoubtedly have sufficient skin in the game to present a case or controversy, and this Court should recognize that their injuries are justiciable.[5]

II. Use of Pseudonyms for CFER's Members Does Not Undermine Standing

While Fresno Unified does not challenge the actual prongs of associational standing other than whether the Members themselves would have standing, it asserts that the use of pseudonyms for CFER's members in the Complaint means that they are not "sufficiently identified" and renders their claims a "general grievance." Br. in Supp. of Mot. to Dismiss at 5.

As best, this argument is premature, and at worst, it is based on a mistaken understanding of the law. Nothing requires CFER to identify the members by name at this stage. The Tenth Circuit has expressly rejected the idea that members of a plaintiff organization need to be identified by name, particularly at the pleading stage, where a plaintiff's "burden in establishing standing is lightened considerably." *See Speech First, Inc. v. Shrum*, 92 F.4th 947, 950 n.1 (10th Cir. 2024); *see also Nat'l Council of La Raza v. Cegavske*, 800 F.3d 1032, 1041 (9th Cir. 2015) ("Where it is relatively clear, rather than merely speculative, that one or more members have been or will be adversely affected by a defendant's action, and where the defendant need not know the identity of a particular member to understand and respond to an organization's claim of injury, we see no purpose to be served by requiring an organization to identify by name the member or members injured."). That conclusion is supported by many Supreme Court cases allowing associational standing without identified members. Indeed, *SFFA* itself involved pseudonymous members at the pleading stage. *See Students for Fair Admissions v. United States Mil. Acad. at W. Point*, 709 F.

[5] Aside from its injury argument, Fresno Unified does not separately dispute the other two prongs of individual standing, which are satisfied here. First, Fresno Unified promulgated and enforces the challenged policies; the injuries therefore "fairly can be traced" to Defendants. *Simon v. E. Ky. Welfare Rights Org.*, 426 U.S. 26, 41 (1976). Second, an injunction requiring Fresno Unified to open programs and outreach to all students on equal terms would eliminate the unequal-treatment barrier, fully redressing the harm. *See Adarand*, 515 U.S. at 211; *Parents Involved*, 551 U.S. at 719.

Supp. 3d 118, 131–32 (S.D.N.Y.), *appeal withdrawn*, No. 24-40, 2024 WL 1494896 (2d Cir. Feb. 13, 2024) ("Moreover, identification of these members by name as opposed to pseudonym does not comport with the Supreme Court's conclusion concerning standing in Harvard, which was that SFFA had standing at the commencement of those underlying litigations.") (citing *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, No. 14-CV-14176, Doc. 1 (D. Mass. Nov. 17, 2014); *Students for Fair Admissions, Inc. v. University of North Carolina*, No. 14-CV-00954, Doc. 1 (M.D.N.C. Nov. 17, 2014)). The detail surrounding each of the members in the Complaint is sufficient to conclude that they would have independent standing if those facts are taken as true, and that is all that is required at this stage to support associational standing. *See Safe Air for Everyone*, 373 F.3d at 1039 ("In a facial attack [on standing], the challenger asserts that the allegations contained in a complaint are insufficient on their face to invoke federal jurisdiction.").

To the extent that Fresno Unified challenges the truthfulness or legitimacy of the allegations concerning CFER's members, those claims can be resolved after discovery on these issues.

III. This Case Is Ripe

Fresno Unified last argues that the case is not "ripe" because "Plaintiff makes no allegations that any of its members have any actual interest in A4 programs, that they are willing to seek admission or participation in those programs, or that, to date, they have been denied the benefit of any of the District's educational programs." Br. in Supp. of Mot. to Dismiss at 5.

This argument suffers from the same error as Fresno Unified's injury-in-fact argument. Ripeness asks whether the issues are "fit for judicial decision" and whether there would be hardship to the parties from withholding court consideration. *See Abbott Labs. v. Gardner*, 387 U.S. 136, 149 (1967). Where, as here, plaintiffs already face ongoing unequal treatment, the controversy is live. *See Scott v. Pasadena Unified Sch. Dist.*, 306 F.3d 646, 662 (9th Cir. 2002) (standing and ripeness "merge[]" when injury is concrete and continuing).

The A4 programs are operating and discriminating today and will continue to do so; the unequal treatment of CFER's members' children is neither speculative nor contingent. As discussed above, a major injury suffered by the members and their children is not an inability to access the benefit offered by these programs. Rather, it is the exposure to discrimination they face due to

Fresno Unified's unequal treatment of students in the process of promoting, selecting students, advertising, designing, and administering these programs. This unequal treatment is ongoing—Fresno Unified continues to market the A4 programs as racially exclusive, continues to perform outreach on a race-specific basis, and continues to discriminate in the presentation and availability of those programs. Accordingly, the challenge to those programs is ripe.

CONCLUSION

This Court should deny the motion to dismiss.

DATED: May 19, 2025.

Respectfully submitted,

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By /s/ Wilson C. Freeman
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CERTIFICATE OF SERVICE

I hereby certify that on May 19, 2025, the forgoing document was filed via the court's electronic filing system, which provides notice of filing to the following:

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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

FRESNO DIVISION

CALIFORNIANS FOR EQUAL RIGHTS FOUNDATION, Plaintiff, v. MISTY HER, interim superintendent of the Fresno Unified School District; and VALERIE F. DAVIS, President of the Fresno Unified School District, Defendants.	No. 1:25-cv-00250-BAM **[PROPOSED] ORDER DENYING DEFENDANTS' MOTION TO DISMISS** Judge: Barbara A. McAuliffe Place: Courtroom 8, 6th floor Complaint Filed: February 27, 2025

Considering Defendants Misty Her and Valerie F. Davis Notice of Motion and Motion to Dismiss, Defendants Brief in Support of Motion to Dismiss, and Plaintiff's Opposition to Defendants Motion to Dismiss

IT IS ORDERED that Defendants' Motion to Dismiss is DENIED.

DATED:_____.

_____
Judge Barbara A. McAuliffe