

1 Erika Cervantes (SBN 344432)
Ernest I. Herrera (SBN 335032)
2 MEXICAN AMERICAN LEGAL DEFENSE AND
EDUCATIONAL FUND (MALDEF)
3 634 S. Spring St. 11th Floor
Los Angeles, Ca 90014
4 Telephone: (213) 629-2512
Facsimile: (213) 629-0266
5 Email: ecervantes@maldef.org
eherrera@maldef.org

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7 *Attorneys for Plaintiffs*

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

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12 DAVID CHAVEZ, DANAE TAPIA, JESSENIA
MANCIA, CARLA PONCE, BELEN CID-
13 GARCIA, LUZ BECERRA, JOSE FLORES,
14 M.Q.C.T., a minor, by and through DAVID
CHAVEZ, guardian ad litem, I.M., a minor, by
15 and through JESSENIA MANCIA, guardian ad
16 litem, E.M., a minor, by and through JESSENIA
MANCIA, guardian ad litem, R.P., a minor, by
17 and through CARLA PONCE, guardian ad litem,
18 D.P., a minor, by and through CARLA PONCE,
guardian ad litem, E.C.G., a minor, by and through
19 BELEN CID-GARCIA, guardian ad litem, and
20 A.F.F.B., a minor, by and through LUZ
BECERRA, guardian ad litem,

21
22 Plaintiffs,

23 v.

24 PASADENA UNIFIED SCHOOL DISTRICT, the
PASADENA UNIFIED SCHOOL DISTRICT
25 BOARD OF EDUCATION, KIMBERLY
KENEY, JENNIFER HALL LEE, MICHELLE
26 RICHARDSON BAILEY, YARMA
27 VELAZQUEZ, PATRICK CAHALAN,
PATRICE MARSHALL MCKENZIE, and TINA
28 FREDERICKS, in their official capacities as

Case No. **22STCV41127**

UNLIMITED CIVIL CASE

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

1 members of the PASADENA UNIFIED SCHOOL
2 DISTRICT BOARD OF EDUCATION, and
3 BRIAN MCDONALD, in his official capacity as
4 Superintendent of the PASADENA UNIFIED
5 SCHOOL DISTRICT,

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Defendants.

INTRODUCTION

1. California has enshrined the fundamental right to education within its own Constitution. Pasadena Unified School District (PUSD) reneged on this long-standing promise by discriminating against its Latino elementary students.
2. With little notice and community input, PUSD willfully approved the permanent closure of Roosevelt, Jefferson, and Franklin, three majority-Latino elementary schools. Consequently, the PUSD's uninformed decision forced many Latino students to re-enroll in either Madison, Longfellow, or Altadena elementary schools.
3. PUSD's discriminatory school closures forced its Latino students and families to carry the burdens of attending overenrolled schools, experiencing the interruption of special education services, and adjusting to unfamiliar school environments.
4. Undoubtedly, PUSD's targeted and deliberate closures send a clear message: to be Latino is to be stripped of your right to an equal education.
5. For the reasons set forth below, the Pasadena Unified School District's discriminatory school closures violate California Government Code section 11135, the California Constitution's Equal Protection Clause, and California Education Code section 220. In this action, Plaintiffs seek declaratory and injunctive relief to ensure that PUSD addresses the traumas it has imposed on its Latino families and students.

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PARTIES

PLAINTIFFS

6. Plaintiffs Chavez, Tapia, Mancía, Ponce, Cid-García, Becerra, and Flores (collectively, “Plaintiff Parents”) are, and at all times mentioned in this complaint were, residents of Pasadena, California in Los Angeles County, and are parents of PUSD students who attended a school approved for closure. After the school closures, Plaintiffs were directed to send their children to schools designated to receive students from closed schools. The reassignment of their children was a result of the unlawful actions of Defendants.

7. Plaintiffs M.Q.C.T., I.M., E.M., R.P., D.P., E.C.G., and A.F.F.B. are Latino minors who are current students of PUSD, who were each subjected to the closure of their school by Defendants and were reassigned to other schools. Their reassignment was a result of the unlawful actions of Defendants.

David Chavez, Danae Tapia, and M.Q.C.T.

8. Plaintiff M.Q.C.T. is the daughter of Plaintiff David Chavez and Plaintiff Danae Tapia. Plaintiff Chavez is the guardian ad litem of Plaintiff M.Q.C.T. and Plaintiff Chavez brings the claims detailed in this complaint on her behalf. At all times mentioned in this complaint, Plaintiff M.Q.C.T. was, and still is, a resident of Pasadena and a student enrolled at PUSD.

9. For the 2019-20 academic year, M.Q.C.T. was a first grader at Franklin Elementary School. Following the closure of Franklin, M.Q.C.T. moved to Altadena Elementary School.

Jessenia Mancía, I.M., and E.M.

10. Plaintiffs I.M. and E.M. are the children of Plaintiff Jessenia Mancía. Plaintiff Mancía is the guardian ad litem of Plaintiffs I.M. and E.M. and brings the claims detailed in this complaint on their behalf. At all times mentioned in this complaint, Plaintiffs I.M. and E.M. were, and still are, residents of Pasadena and students enrolled at PUSD.

11. For the 2019-20 academic year, I.M. and E.M. attended Franklin Elementary School.

1 12. Following the closure of Franklin, I.M. was initially transferred to Altadena
2 Elementary School.

3 13. Because of over-enrollment at Altadena, I.M. was relocated to Eliot Middle School in
4 the fall of 2021.

5 14. Before the end of the fall 2021 semester, I.M. was transferred back to Altadena.

6 15. After the closure of Franklin, E.M. was transferred to Altadena Elementary.

7 **Carla Ponce, R.P, and D.P.**

8 16. Plaintiffs R.P. and D.P. are the children of Plaintiff Carla Ponce. Plaintiff Ponce is the
9 guardian ad litem of Plaintiffs R.P. and D.P. and brings the claims detailed in this
10 complaint on their behalf. At all times mentioned in this complaint, Plaintiffs R.P. and
11 D.P. were, and still are, residents of Pasadena and students enrolled at PUSD.

12 17. For the 2019-20 academic year, R.P and D.P. were in kindergarten and the third grade
13 at Franklin Elementary, respectively. Following the closure of Franklin, R.P and D.P
14 moved to Norma Coombs Elementary School.

15 **Belen Cid-Garcia and E.C.G.**

16 18. Plaintiff E.C.G. is the son of Plaintiff Belen Cid-Garcia. Plaintiff Cid-Garcia is the
17 guardian ad litem of Plaintiff E.C.G. and brings the claims detailed in this complaint on
18 their behalf. At all times mentioned in this complaint, Plaintiff E.C.G. was, and still is,
19 a resident of Pasadena and a student enrolled at PUSD.

20 19. For the 2019-20 academic year, E.C.G. was enrolled in Transitional Kindergarten at
21 Jefferson Elementary. Following the closure of Jefferson, Cid-Garcia initially moved
22 E.C.G. to Field Elementary School.

23 **Luz Becerra, Jose Flores, and A.F.F.B.**

24 20. Plaintiff A.F.F.B. is the son of Plaintiff Luz Becerra and Plaintiff Jose Flores. Plaintiff
25 Becerra is the guardian ad litem of Plaintiff A.F.F.B. and brings the claims detailed in
26 this complaint on his behalf. At all times mentioned in this complaint, Plaintiff
27 A.F.F.B. was, and still is, a resident of Pasadena and a student enrolled at PUSD.

28 21. For the 2019-20 academic year, A.F.F.B. was a second grader at Roosevelt

1 Elementary. Following the closure of Roosevelt, A.F.F.B. moved to Willard
2 Elementary School.

3 ***DEFENDANTS***

4 22. Defendant Pasadena Unified School District is, and at all times mentioned herein was,
5 a local education agency and a school district duly organized and existing under the
6 laws of the State of California. As such, PUSD is charged with providing “all
7 educational programs and activities ...without regard to...ethnic group identification,
8 race, ancestry, national origin, religion, [or]color” to all children within its district
9 boundaries. (Cal. Code Regs. tit. 5, § 4900.) PUSD is, and at all times mentioned
10 herein was, a local agency as that term is defined in 22 California Code of Regulations
11 section 98010 and receives state financial assistance from the State of California and is
12 funded directly by the State of California to provide educational services to children
13 who reside and are enrolled in public schools within its boundaries.

14 23. Defendants Pasadena Unified School District Board of Education (“PUSD Board”),
15 Kimberley Kenne, Jennifer Hall Lee, Michelle Richardson Bailey, Yarma Velazquez,
16 Patrick Cahalan, Patrice Marshall McKenzie, and Tina Fredericks, in their official
17 capacities as members of the PUSD Board, constitute the governing body of PUSD and
18 are charged with the oversight of PUSD and its compliance with state laws regarding
19 the education of its students. Defendants Kenne, Hall Lee, Richardson Bailey,
20 Velazquez, Cahalan, Marshall McKenzie, and Fredericks are sued in their official
21 capacities only.

22 24. Defendant Brian McDonald is PUSD’s Superintendent. As PUSD’s highest
23 administrative officer, Defendant McDonald shares responsibility with PUSD to ensure
24 that PUSD complies with all laws, including state law. Defendant McDonald is sued in
25 his official capacity only.

26 **JURISDICTION AND VENUE**

27 25. Jurisdiction is proper in the Los Angeles County Superior Court because it has general
28 subject matter jurisdiction and no statutory exceptions to jurisdiction exist.

1 26. Venue is proper in this Court under Code of Civil Procedure section 393, as
 2 Defendants are located in Los Angeles County. In addition, the funds distributed by the
 3 State of California, the California Department of Education, and the State
 4 Superintendent of Public Instruction were expended by PUSD in Los Angeles County.
 5 Finally, the facts giving rise to the causes of action alleged in this complaint arose in
 6 Los Angeles County.

7 **FACTUAL ALLEGATIONS**

8 **A. Elementary School Closures**

9 27. On September 26, 2019, PUSD approved a proposal to close Roosevelt, Jefferson, and
 10 Franklin elementary schools (collectively, “closing schools”). Afterwards, Madison,
 11 Longfellow, and Altadena elementary schools (collectively, “receiving schools”)
 12 absorbed the children who attended the respective closing schools.

13 28. During the school closure process, PUSD delineated one receiving school for each
 14 closing school. Yet, due to over-capacity issues at certain designated receiving schools,
 15 PUSD transferred several affected students to schools that were not originally
 16 considered a "receiving school."

17 29. The closing and receiving schools are all generally situated in the central and northwest
 18 portion of the school district. In other words, none of these schools are located in the
 19 east portion of the District, which generally has a higher rate of white students and a
 20 lower rate of Latino students.

21 30. According to the California Department of Education, during the 2019-20 school year,
 22 the closed schools had much higher Latino student rates as compared to PUSD’s
 23 overall elementary school (K-5) population:¹

School	Latino		African American		White		Asian		Multi		Total
Franklin	76%	127	22%	36	2%	3	0%	0	0%	0	167
Jefferson	86%	350	5%	21	5%	21	1%	3	1%	4	409
Roosevelt	88%	251	7%	20	3%	9	1%	2	0%	0	284

28 ¹ All data from California Department of Education DATAQUEST at <https://www.cde.ca.gov/ds/ad/dataquest.asp>.

PUSD K-5 ²	58%	4533	10%	815	18%	1415	7%	549	4%	338	7873
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*California Department of Education: 2019-20 school year data regarding the closing schools

31. In that same school year, the following receiving schools, Madison and Longfellow, similarly had higher proportions of Latino students as compared to PUSD’s overall elementary school (K-5) population:

School	Latino		African American		White		Asian		Multi		Total
Madison	90%	359	6%	24	3%	10	1%	2	0%	0	398
Longfellow	72%	286	15%	60	7%	26	2%	6	2%	9	400
Altadena	52%	137	21%	56	17%	45	1%	2	7%	18	262
PUSD K-5	58%	4533	10%	815	18%	1415	7%	549	4%	338	7873

32. In the 2021-22 school year, Madison and Longfellow continued reporting higher proportions of Latino students as compared to PUSD’s overall elementary school (K-5) population. In comparison to their 2019-20 school year data, Madison and Longfellow’s Latino student rates notably increased.

School	Latino		African American		White		Asian		Multi		Total
Madison	93%	422	5%	23	<1%	3	<1%	1	<1%	1	453
Longfellow	77%	444	10%	61	6%	34	<1%	4	2%	12	573
Altadena	47%	204	21%	80	17%	88	1%	5	7%	36	435
PUSD K-5	54%	3881	9%	655	21%	1487	7%	473	6%	421	7179

B. PUSD’s Lack of Process

33. The California Department of Education’s (CDE) “Closing a School Best Practices Guide” (CASBPG) provides a comprehensive guide for districts going through the school closure process. The District failed to follow the guidelines for the school

² The “PUSD K-5” figures reflect district-wide 2019-20 elementary school enrollment computed from California Department of Education (“CA DoE”) data. While the CA DoE provides its own “total” figures, those figures not match the sum of the CA DoE’s school data broken down by race. It is unclear whether the relatively minor discrepancies reflect that, for example, some families did not disclose their race/ethnicity and therefore may not be included in individual school data. The discrepancies, however, are immaterial because both sets of “total” data demonstrate that Latino students are heavily disproportionately affected.

1 closure process. It failed to provide the requisite transparency or notice. It also failed to
2 ensure that Latino students would not be disproportionately affected or compliance
3 with anti-discrimination laws.

4 34. Defendant’s actions resulted in the closure of three predominantly Latino schools.

5 Defendants’ Executive Leadership Team (“ELT”) specifically pursued the closure of
6 the “Group 1” schools (consisting of the three disproportionately Latino schools) over
7 the three other school “Groups” it was considering or any of the other options that were
8 identified and developed by the boundary committee. As shown in the chart below,
9 each of the other school “Groups” the ELT and Boundary Committee³ considered
10 would have had lesser disproportionate impact on Latino students, particularly the
11 ELT’s “Group 3” schools– a set of schools that most closely resembles overall PUSD
12 student demographics.

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14 **ELT Groupings**

<i>Group</i>	<i>Latino</i>	<i>White</i>
1	67%	15%
2	71%	13%
3	62%	21%
4	70%	11%

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16 **Boundary Committee Groupings**

<i>Group</i>	<i>Latino</i>	<i>White</i>
1	79%	6%
2	73%	10%
3	57%	24%
4	73%	12%

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18
19 35. Notably, the boundary committee considered, but PUSD did not move forward with,
20 the closure of Don Benito and Norma Coombs, each of which have had significant
21 decreases in student enrollment and have a significantly lower Latino student
22 population than the closing schools – 43% and 58%, respectively. Significantly, the
23 PUSD Board approved the school closures that disproportionately affect Latino
24 students.

25 36. The most notable omissions from the Board’s factors were the consideration of
26 neighborhoods, transportation, environmental factors, and the capacity of a school to
27

28 ³ The Boundary Committee was the primary committee charged with studying and developing school merger proposals. There are “Group” closings the Boundary Committee considered that the ELT did not, and vice versa.

1 accommodate excess students.

2 37. Board meeting materials reported that the Boundary Committee held fourteen public
3 meetings on the school closure proposal between December 2018 and September 2019.
4 Notably, however, options for elementary school closures were not developed and
5 identified until September 2019 and first presented to the public at a Board meeting on
6 September 19, 2019.⁴ The purported fourteen public meetings were not related to
7 concrete proposals for specific school closures and mergers.

8 **C. Lack of Notice to Parents and Elementary School Closures**

9 38. Around or near September 18, 2019, PUSD parents learned, primarily through word of
10 mouth, that their schools were being considered for closure.

11 39. Parents were notified of the potential school closures about *one week* before such
12 closures were formally approved by PUSD.

13 40. Neither PUSD nor individual school leadership provided families with notice of the
14 Board's consideration of the proposal.

15 41. Upon learning about proposed school closures, PUSD parents immediately organized a
16 meeting to voice their concerns and invited Pasadena Mayor Victor Gordo and PUSD
17 Board members to attend.

18 42. Despite the attendance of Mayor Gordo and three Board members, the meeting made
19 no lasting impression on the District's process or proposal.

20 43. On September 26, 2019, the PUSD Board reconvened to discuss elementary school
21 consolidations.⁵

22 44. Curiously, several security guards attended the September 26, 2019 meeting. Upon
23 information and belief, their presence was purely meant to discourage parent activism.

24 45. Despite the public's impassioned pleas, that very day, the Pasadena Board of Education
25 agreed to close Franklin, Roosevelt, and Jefferson elementary schools—three Latino-

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27 ⁴ One Board member discussed the possibility of town hall meetings for the community to discuss options, but, upon
information and belief, the district did not hold these meetings.

28 ⁵ Board of Education, Pasadena Unified School District, Action Item M(1) (September 26, 2019)
https://pusd.granicus.com/MediaPlayer.php?view_id=15&clip_id=697 (last visited Dec 22, 2022).

majority schools.⁶

46. Beyond the public comment period of the September 19 and September 26, 2019 PUSD Board of Education meetings and the parent-organized meeting, the general public was not provided any meaningful opportunity to provide input.

47. Simply put, on short notice, PUSD deprived hundreds of Latino children access to an equal education.

D. Effects on Families of Closing Schools

48. The closure of the three elementary schools caused various burdens on parents and caretakers of students attending those schools.

49. For example, grandparents and parents of former Roosevelt students who do not own vehicles have had to make alternate arrangements to send their children to Willard Elementary School, five and one half miles further than their former home school.⁷ The additional distance and differing bell schedule between these two schools has required parents to adjust their work schedules.

50. Additionally, guardians have had to make the decision between sending their children to medical therapy or school because of their inability to transport their children to and from therapy and Willard Elementary. The school consolidation proposals did not contain any transportation plans.

51. Moreover, Roosevelt facilities were designed to serve higher numbers of children with disabilities, while Madison, Roosevelt students' designated receiving school, is not.

52. Students with disabilities who attended Roosevelt were ultimately divided between Willard, Don Benito, and Madison because of each school's inadequate facilities and high enrollment.

E. Effects on Plaintiffs

David Chavez, Danae Tapia, and M.Q.C.T.

53. For the 2019-20 academic year, M.Q.C.T. was a first grader at Franklin elementary

⁶ *Id.*

1 school where she took part in the school’s STEM program. Following the closure of
2 Franklin, M.Q.C.T. was required to move to Altadena Elementary School.

3 54. To M.Q.C.T.’s disappointment, Franklin’s STEM program was not transferred to
4 Altadena. To date, Altadena has not yet implemented a comparable education program.

5 55. After the closure of Franklin, Altadena was overwhelmed by the influx of new students
6 and ultimately faced significant traffic congestion.

7 56. Apart from needing to drive the additional distance to get to Altadena elementary,
8 Chavez needs to station himself in longer drop-off and pick-up lines for M.Q.C.T.

9 57. To date, Altadena’s drop off conditions have not yet improved.

10 58. Currently, Altadena’s drop off location is on a busy street, has little parking, and the
11 school has only provided one crossing guard to assist the students.

12 59. On information and belief, Altadena does not have a permanent full-time principal,
13 making it difficult for parents, like Chavez and Tapia, to communicate their concerns.

14 ***Jessenia Mancia, I.M., and E.M.***

15 60. For the 2019-20 academic year, I.M. attended Franklin. While at Franklin, I.M. took
16 part in the school’s Leading Education Achievement and Revitalizing Neighborhoods
17 (LEARNS) program.

18 61. LEARNS was an engaging after-school program that provided sports, extracurricular
19 activities and community-building activities to participating students.

20 62. Following the closure of Franklin, I.M. was initially transferred to Altadena
21 Elementary as a fifth grader. She participated in their LEARNS program.

22 63. At Altadena, LEARNS did not provide comparable activities to those provided at
23 Franklin. Children were kept inside and were only allowed to do homework. The
24 program failed to provide any extracurricular community-building activities.

25 64. Because of over enrollment at Altadena, I.M. was later relocated to Eliot Middle
26 School in the Fall of 2021.

27 65. Despite I.M.’s relocation to Eliot, the LEARNS program was still only located at
28 Altadena Elementary.

1 66. As a result, teachers were required to walk relocated fifth graders, like I.M., from Eliot
2 to Altadena in order for them to participate in the LEARNS program.

3 67. The children were exposed to dangerous intersections and busy avenues on their walk
4 to Altadena's LEARNS program.

5 68. I.M. eventually left Altadena's LEARNS program, as school staff were unwelcoming
6 to former Franklin students.

7 69. Before the end of the Fall 2021 semester, I.M. was transferred back to Altadena.

8 70. Since the closure of Franklin, I.M. experienced severe depression and has been placed
9 in therapy.

10 71. For the 2019-20 academic year, E.M. was a third grader at Franklin.

11 72. Following the closure of Franklin, E.M. was moved to Altadena and had trouble
12 adjusting to his new school.

13 73. As a result of his transfer, E.M. has experienced thoughts of suicide, depression, and
14 loneliness. He was soon placed into therapy.

15 74. Mancia has interacted with Altadena administrators and participated in Altadena's
16 Parent Teacher Association ("PTA") meetings.

17 75. While Altadena is predominantly Latino, 12% of the student population is white.
18 Altadena has a higher proportion of white students than any other closing or receiving
19 school and white parents are overrepresented in the PTA.⁸

20 76. Since the closure, Mancia has felt unwelcomed by Altadena administrators and white
21 parents who are members of Altadena's Parent Teacher Association ("PTA").

22 77. On information and belief, these tensions likely stem from racial prejudice and
23 resentment that Franklin students were merged into Altadena.

24 ***Carla Ponce, R.P. and D.P.***

25 78. For the 2019-20 academic year, R.P and D.P were in kindergarten and the third grade
26 at Franklin.

27
28 ⁸ Altadena Elementary School, GreatSchools Rating, <https://www.greatschools.org/california/altadena/2777-Altadena-Elementary-School/> (last visited Nov. 8, 2022).

1 79. To avoid the congestion at Altadena, R.P and D.P moved to Norma Coombs.

2 80. Because of the instability of the school closures and inconsistent presence of teachers,
3 R.P. was obligated to repeat the second grade.

4 81. Ponce attended Board of Education meetings where parents protested the school
5 closure proposals.

6 82. Ponce felt that the Board did not listen to Black and Latino parents' concerns and
7 disregarded the adversities their children would face if the Board went through with the
8 closures.

9 83. Parents, like Ponce, were not given the opportunity to choose the school their children
10 would be transferred to despite the differences in educational programs, bell schedules,
11 and distance.

12 ***Belen Cid-Garcia and E.C.G.***

13 84. For the 2019-20 academic year, E.C.G. was enrolled in Transitional Kindergarten at
14 Jefferson Elementary and took part in the school's Spanish Dual Language Immersion
15 program.

16 85. Following the closure of Jefferson, PUSD directed them to enroll in Madison.

17 86. Because of Madison's poor reputation in academics, Cid-Garcia enrolled E.C.G. at
18 Field Elementary and its Mandarin Dual Language Immersion program instead.

19 87. Afterwards, E.C.G. felt stressed and unhappy over Field's dual language program.

20 88. Cid-Garcia later transferred E.C.G. to Longfellow Elementary.

21 89. E.C.G. currently remains on Longfellow's waiting list to participate in its Spanish Dual
22 language program.

23 ***Luz Becerra, Jose Flores, and A.F.F.B.***

24 90. For the 2019-20 academic year, A.F.F.B. was a second grader at Roosevelt
25 Elementary.

26 91. A.F.F.B. has osteoporosis, a condition which requires him to use a wheelchair.

27 92. The Roosevelt campus was specifically designed to accommodate children who require
28 alternative access to facilities.

1 93. A.F.F.B, Becerra, and Flores live right next to the Roosevelt campus.

2 94. Prior to the closure, A.F.F.B. was able to easily attend both Roosevelt and his therapy
3 sessions as they were conveniently near his home.

4 95. Following the closure of Roosevelt, A.F.F.B. moved to Willard Elementary.

5 96. Becerra and Flores were not given an opportunity to choose where A.F.F.B. was
6 enrolled after the closure.

7 97. Willard is about five and one half miles from A.F.F.B.'s home.

8 98. Becerra does not drive, nor does she have easy access to transportation.

9 99. Becerra is the primary caretaker of A.F.F.B.

10 100. Yet A.F.F.B. had to attend Willard because it was the only school with comparable
11 accommodations for children with disabilities. These facilities are considerably
12 substandard compared to those offered at Roosevelt.

13 101. Since A.F.F.B.'s enrollment at Willard, A.F.F.B. has fallen behind academically and
14 has missed classes to attend his therapy sessions near Roosevelt.

15 **F. Reopening of Schools in the 2021-22 School Year**

16 102. As a result of the COVID-19 pandemic, PUSD conducted all remote instruction for
17 some of the spring semester of 2020 and for the entire Fall semester of 2020.

18 103. In January 2021, PUSD implemented a hybrid structure in which parents could opt to
19 send their children to attend a PUSD school in person or to continue remote
20 instruction. Upon information and belief, most PUSD parents opted to continue
21 remote learning. Most of the Plaintiff parents chose to keep their children in remote
22 learning while it was an option.

23 104. The 2021-22 school year was the first academic year since the commencement of the
24 pandemic that PUSD had students fully attend schools in person.

25 105. The Fall 2021 semester was also the first time that parents with children from closing
26 schools saw the clear consequences resulting from school closures.

27 106. Notably, Altadena Elementary School became so over-enrolled with students after
28 having to absorb children from Franklin that two fifth-grade Altadena classrooms

1 were moved to Elliot Middle School one block away.⁹ The measure was poorly
2 thought out and implemented. Adequate steps were not taken to ensure consistent
3 separation of elementary and middle school students, which led to arguments and the
4 bullying of younger students.

5 107. In December 2021, in the weeks before PUSD students went on winter break, the two
6 fifth-grade classes transitioned to Altadena classrooms.

7 108. Upon information and belief, the campuses of the now-closed schools were used for a
8 number of different purposes, including distribution of technology to students during
9 the pandemic and tech support, an early child development program, and a local
10 firefighter training program.

11 109. On December 15, 2022 the Board of the Pasadena Unified School District ratified a
12 proposal with the Educational Housing Partners, Inc.¹⁰ Included in the Measure O
13 Bond language is the ability to use the bond funds to provide staff housing. The
14 Facilities Task Force made recommendations that the Roosevelt site be used for use
15 of the construction of the proposed staff housing.¹¹

16 CAUSES OF ACTION

17 **FIRST CAUSE OF ACTION**

18 **Cal. Gov. Code §11135 et seq.; 2 Cal. Code Regs. §11154(i)(2)** 19 **Discrimination- Defeating or Substantially Impairing the Objectives and Purposes of the** 20 **Program: Discriminatory Effects** 21 **By all Plaintiffs against all Defendants**

22 110. Plaintiffs allege and incorporate by reference all preceding allegations in the
23 complaint as though fully set forth herein.

24 111. Government Code section 11135 and its implementing regulations prohibit

25 ⁹ Other issues included significant traffic congestion caused by large numbers of parents simultaneously trying to drop
off students in the morning, and relocation of the after-school LEARNS program, a program many parents rely on for
child supervision during their work hours, to an inadequate cafeteria/auditorium room.

26 ¹⁰ Board Meeting Notice and Agenda Thursday, December 15, 2022, Pasadena Unified School District Board of
Education, https://pusd.granicus.com/GeneratedAgendaViewer.php?view_id=15&clip_id=833 (last visited Dec.22,
2022).

27 ¹¹ Ratification – Approval of Proposal with Education Housing Partners, Inc. [BR 85-B], Pasadena Unified School
28 District Board of Education, https://pusd.granicus.com/MetaViewer.php?view_id=15&clip_id=833&meta_id=134189
(last visited Dec.22, 2022).

1 discrimination in programs or activities funded by the State. Section 11135,
2 subdivision (a) provides, in pertinent part, that “[n]o person in the State of California
3 shall, on the basis of... race, national origin, ethnic group identification...[or]
4 color... be unlawfully denied full and equal access to the benefits of, or be
5 unlawfully subjected to discrimination under, any program or activity that is
6 conducted, operated, or administered by the state or by any state agency, is funded
7 directly by the state, or receives any financial assistance from the state.”

8 112. Defendants are subject to Section 11135 and its implementing regulations because
9 Defendants conduct, operate, or administer education programs and activities as a
10 state-funded school district.

11 113. Regulations implementing Section 11135 provide that it is an unlawful,
12 discriminatory practice to “utilize criteria or methods of administration that... have
13 the purpose or effect of [1] subjecting a person to discrimination on the basis of
14 ethnic group identification... [or] [2] defeating or substantially impairing the
15 accomplishment of the objectives of the recipient’s program with respect to a person
16 of a particular ethnic group identification...” (2 Cal. Code Regs. § 11154(i)(2).)

17 114. Key objectives of the PUSD governing board include providing equal opportunity for
18 all individuals in district programs and activities by providing:

- 19 a. “District programs, activities, and practices free from unlawful
20 discrimination, including discrimination against an individual or group
21 based on race, color, ancestry, nationality, national origin, immigration
22 status, ethnic group identification, ethnicity.”¹²
- 23 b. “[T]he district shall proactively identify class and cultural biases as well as
24 practices, policies, and institutional barriers that negatively influence
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28 ¹² Nondiscrimination in District Programs and Activities, Philosophy-Goals- Objectives and Comprehensive Plans,
[https://www.pusd.us/cms/lib/CA01901115/Centricity/domain/48/policies/0000/BP%200410%20REV%2006282018.p](https://www.pusd.us/cms/lib/CA01901115/Centricity/domain/48/policies/0000/BP%200410%20REV%2006282018.pdf)
df (last visited Nov. 8, 2022).

1 student learning, perpetuate achievement gaps, and impede equal access to
2 opportunities for all students.”¹³

3 c. “To ensure that equity is the intentional result of district decisions, the
4 Board shall consider whether its decisions address the needs of students
5 from racial, ethnic, and indigent communities and remedy the inequities that
6 such communities experienced in the context of a history of exclusion,
7 discrimination, and segregation. Board decisions shall not rely on biased or
8 stereotypical assumptions about any particular group of students.”¹⁴

9 d. “The Board and the Superintendent or designee shall develop and
10 implement policies and strategies to promote equity in district programs and
11 activities, through measures such as the following:

12 i. Routinely assessing student needs based on data disaggregated by
13 race, ethnicity, and socio-economic and cultural backgrounds in
14 order to enable equity-focused policy, planning, and resource
15 development decisions.

16 ii. Analyzing expenditures and allocating financial and human
17 resources in a manner that provides all students with equitable
18 access to district programs, support services, and opportunities for
19 success and promotes equity and inclusion in the district. Such
20 resources include access to high- quality administrators, teachers,
21 and other school personnel; funding; technology, equipment,
22 textbooks, and other instructional materials; facilities; and
23 community resources or partnerships.”¹⁵

24 115. Defendant’s school closures defeat and impair the objectives and purposes of PUSD
25 regulations and bylaws.

26 ¹³ Equity, Philosophy-Goals- Objectives and Comprehensive Plans,
27 <https://www.pusd.us/cms/lib/CA01901115/Centricity/domain/48/policies/0000/BP%200415%20rev%20092019.pdf>
(last visited Nov. 8, 2022).

28 ¹⁴ *Id.*

¹⁵ *Id.*

1 115. Defendant's actions violate the rights of Plaintiffs under Section 11135 and Section
2 11154, subdivision (i)(2). Plaintiffs are entitled to declaratory and injunctive relief as
3 set forth below.

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5 **SECOND CAUSE OF ACTION**
6 **Cal. Const. Art. I, § 7(a) & Art. IV, § 16(a)**
7 **California Constitution-Equal Protection**
8 **Discriminatory effects Based in Comparison to the General Insured Population**
9 **By all Plaintiffs against all Defendants**

10 116. Plaintiffs allege and incorporate by reference all preceding allegations in the
11 complaint as though fully set forth herein.

12 117. As set forth above, Defendants fail to ensure equal access to education for all
13 students.

14 118. Latinos are a protected class under the California Constitution.

15 119. Education is a fundamental right under the California Constitution.

16 120. Through its actions closing and consolidating primarily Latino schools, PUSD
17 violated the rights of Latino students to receive equal protection of the laws by failing
18 to provide them with basic educational opportunities equal to those of white students
19 in the district.

20 121. Defendant's challenged conduct has an unjustified discriminatory effect on students
21 from closing schools who are disproportionately Latino, as compared to the other
22 schools who have a higher population of white students.

23 122. Defendants have violated the rights of Plaintiffs to receive equal protection of the
24 laws, under Article I, section 7(a) and Article IV, section 16(a) of the California
25 Constitution, by failing to provide them with access to education opportunities
26 comparable to the white students in the district.

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THIRD CAUSE OF ACTION
Violation of California Education Code Section 220
Discrimination- Defeating or Substantially Impairing the Objectives and Purposes of the
Program
By all Plaintiffs against all Defendants

123. Plaintiffs allege and incorporate by reference all preceding allegations in the complaint as though fully set forth herein.

124. California Education Code section 220 provides: “No person shall be subjected to discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code, including immigration status, in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance, or enrolls pupils who receive state student financial aid.” (Educ. Code § 220).

125. PUSD is subject to Education Code section 220 because it is an educational institution that receives or benefits from state financial assistance.

126. Further, Section 262.4 provides that Section 220 “may be enforced through a civil action.” As such, PUSD is also subject to civil action because under Section 262.4, the Education Code explicitly allows a private right of action for Section 220. (Educ. Code § 262.4).

127. Defendants have violated the rights of Plaintiffs under California Education Code 220 by subjecting Plaintiffs to discrimination as defined by the statute. Plaintiffs are entitled to declaratory and injunctive relief as set forth below.

PRAYER FOR RELIEF

23 Plaintiffs pray for a judgment against Defendants, as follows:

- 24 A. Plaintiffs respectfully request that this Court issue a declaratory judgment holding
25 Defendants violated Government Code section 11135, the California Constitution and
26 Education Code section 220;

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- B. An injunction directing Defendants to conduct an equitable school closure process that complies with Government Code section 11135, Education Code section 220, and the California Constitution;
- C. Reasonable attorneys' fees and costs; and
- D. For such further equitable and legal relief as this Court deems just and appropriate.

Respectfully submitted,

Dated: December 30, 2022

By: /s/ Erika Cervantes
Erika Cervantes
Ernest Herrera
MEXICAN AMERICAN LEGAL DEFENSE
AND EDUCATIONAL FUND
634 S. Spring St., 11th floor
Los Angeles, CA 90014
Telephone: (213) 629-2512
Facsimile: (213) 629-0266

Attorneys for Plaintiffs