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SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA
RENE C. DAVIDSON ALAMEDA COUNTY COURTHOUSE

JESSY CRUZ; BRIAN CRUZ, a minor, by Jonathan Cruz, guardian ad litem; BRIANA LAMB, a minor, by Ronald Lamb, guardian ad litem; CRISTIAN GASPAS, a minor, by Guadalupe Gaspar, guardian ad litem; LEE SIMMONS, a minor, by Rhae Ray Eason, guardian ad litem; MYRIAM GISELLE GONZALEZ; SAMARIA HUDSON, a minor, by Chawmein Hudson, guardian ad litem; TALIIYAH JACOBS, a minor, by Katherine Jacobs, guardian ad litem; JUMANTAE SMITH; ARNOLD GUTIERREZ, a minor, by Norma Gutierrez, guardian ad litem; ERIC FLOOD, a minor, by Nicole King, guardian ad litem; EDITH QUINTERO; DAISY ROMO, a minor by Elizabeth Rodriguez, guardian ad litem; RIANNA BROWN, a minor, by Victoria Williams, guardian ad litem; EMMANUEL ENRIQUEZ, a minor, by Olga Enriquez, guardian ad litem; NATHAN SAUCEDA, a minor, by Olga Enriquez, guardian ad litem; IGNACIA BARAJAS, a minor, by Genoveva Barajas, guardian ad litem; and LUCIA BARAJAS, a minor, by Genoveva Barajas, guardian ad litem,

Plaintiffs,

vs.

STATE OF CALIFORNIA; STATE BOARD OF EDUCATION; STATE DEPARTMENT OF EDUCATION; TOM TORLAKSON, and DOES 1-100, inclusive,

Defendants.

Case No.: RG14727139

SECOND AMENDED [PROPOSED] ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION AND AMENDED [PROPOSED] TEMPORARY RESTRAINING ORDER

Assigned for All Purposes to:
Judge: The Hon. George Hernandez, Jr.
Dept. 17

Date: Oct. 6, 2014
Time: 2:30 p.m.
Place: Dept. 17
1221 Oak Street
Oakland, CA 94612

Complaint filed: 05/29/14

1 Based on Plaintiffs' *Ex Parte* Application for the Issuance of a Temporary Restraining
2 Order and Order to Show Cause re: Preliminary Injunction Against All Defendants, the
3 Memorandum of Points and Authorities in Support of the *Ex Parte* Application and all
4 supporting declarations filed therewith, the Reply in Support of the *Ex Parte* Application and
5 all supporting declarations filed therewith, upon the [Proposed] Supplemental Complaint, as
6 well as the argument of counsel at hearing on October 2, 2014 and October 6, 2014, the
7 Court finds that (1) issuance of an order to show cause is appropriate and (2) unless the
8 Court issues a temporary restraining order, plaintiffs will suffer irreparable injury before the
9 matter can be heard on formal notice.

10 ORDER TO SHOW CAUSE

11 Defendants are hereby ordered to show cause before this Court why a preliminary
12 injunction should not issue restraining and enjoining Defendants State of California, State
13 Board of Education, State Department of Education, and State Superintendent of Public
14 Instruction, during the pendency of this action, from failing to exercise their constitutional
15 duty and authority, "by whatever means they deem appropriate,"¹ to:

- 16 1. Prevent the future assignment of any student at Thomas Jefferson Senior High
17 School to a course period without educational content (as defined below), when that
18 student is performing below established State standards (as defined below)
- 19 2. Prevent the future assignment of any student at Thomas Jefferson Senior High
20 School to more than one course period without educational content (as defined
21 below)
- 22 3. Prevent the future assignment of any student at Thomas Jefferson Senior High
23 School to any core curricular, Graphic Design, or Computer course the student has
24 already completed with a grade of C or higher. This paragraph does not apply to
25 courses designed to be repeated, such as art or music classes.
- 26 4. Ensure that students at Thomas Jefferson Senior High School currently assigned to a
27

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¹ *Butt v. State of California*, 4 Cal. 668, 694 (1992).

1 course period without educational content (as defined below) be provided as quickly
2 as possible with educational opportunities determined by the Defendants to meet one
3 or more of the educational content standards currently approved by the Defendants.

4 5. Ensure that compensatory instruction time is made available to Thomas Jefferson
5 Senior High School students sufficient to allow students to successfully complete
6 coursework for the 2014-2015 school year.

7 As used in this Order to Show Cause, a “course period without educational content”
8 is defined as a course period during which the student is expected to engage in activities with
9 no assigned or planned substantive curricular content, such as a “Home” period, “Service”
10 period, “Library” period, “College Class” or “Adult Class.”

11 As used in this Order to Show Cause, a “student . . . performing below established
12 State standards” is defined as a student:

- 13 (a) who received a score below “Proficient” in any subject in the most recently
14 administered California Standards Tests, below “Intermediate” on the California
15 English Learner Development Test, or has not passed both parts of the California
16 High School Exit Examination test;
- 17 (b) who has fewer than the number and type of credits expected at the student’s
18 grade level to be on track to graduate from high school in four years; or
- 19 (c) who has fewer than the number and type of credits expected at the student’s
20 grade level to be on track to qualify for admission to a California state college or
21 university in four years.

22 The hearing on the order to show cause will be held in Department 17 at _____
23 [time] on _____, 2014.

24 This order to show cause and supporting papers shall be served on Defendants no
25 later than _____ [time] on _____, 2014 by _____
26 _____ [manner of service].

27 Proof of service shall be filed and delivered to the court hearing this order to show cause on
28 _____, 2014.

1 The following briefing schedule shall apply:

- 2 • Defendants’ opposition papers shall be filed no later than _____ [*time*] on
- 3 _____, 2014.
- 4 • Plaintiffs’ reply papers shall be filed no later than _____ [*time*] on
- 5 _____, 2014

6 Briefs shall be served by e-mail in addition to any required form of service.

7 **TEMPORARY RESTRAINING ORDER**

8 **IT IS ORDERED** that Defendants State of California, State Board of Education,
9 State Department of Education, State Superintendent of Public Instruction Tom Torlakson,
10 their agents, employees, assigns, and all persons acting in concert with them (“Defendants”)
11 are restrained and enjoined from failing to exercise their constitutional duty and authority,
12 “by whatever means they deem appropriate,”² to:

- 13 1. Prevent the future assignment of any student at Thomas Jefferson Senior High
14 School to a course period without educational content (as defined below), when that
15 student is performing below established State standards (as defined below)
- 16 2. Prevent the future assignment of any student at Thomas Jefferson Senior High
17 School to more than one course period without educational content (as defined
18 below)
- 19 3. Prevent the future assignment of any student at Thomas Jefferson Senior High
20 School to any core curricular, Graphic Design, or Computer course the student has
21 already completed with a grade of C or higher. This paragraph does not apply to
22 courses designed to be repeated, such as art or music classes.
- 23 4. Ensure that students at Thomas Jefferson Senior High School currently assigned to a
24 course period without educational content (as defined below) be provided as quickly
25 as possible with educational opportunities determined by the Defendants to meet one
26 or more of the educational content standards currently approved by the Defendants.

27 _____
28 ² *Butt v. State of California*, 4 Cal. 668, 694 (1992).

1 As used in this Order, a “course period without educational content” is defined as a
2 course period during which the student is expected to engage in activities with no assigned
3 or planned substantive curricular content, such as a “Home” period, “Service” period,
4 “Library” period, “College Class” or “Adult Class.”

5 As used in this Order, a “student . . . performing below established State standards” is
6 defined as a student:

- 7 (a) who received a score below “Proficient” in any subject in the most recently
8 administered California Standards Tests, below “Intermediate” on the California
9 English Learner Development Test, or has not passed both parts of the California
10 High School Exit Examination test;
- 11 (b) who has fewer than the number and type of credits expected at the student’s
12 grade level to be on track to graduate from high school in four years; or
- 13 (c) who has fewer than the number and type of credits expected at the student’s
14 grade level to be on track to qualify for admission to a California state college or
15 university in four years.

16
17 The intent of this Order is that it apply only to future, prospective course
18 assignments. Nothing in this Order shall require Defendants to cause any student at
19 Jefferson Senior High School to withdraw from a course to which he or she is currently
20 enrolled, or to require changes to any existing course schedules for students at Jefferson.

21
22 **IT IS SO ORDERED**

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25 Dated: October ____, 2014

By: _____
The Honorable George Hernandez, Jr.
JUDGE OF THE SUPERIOR COURT