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14 **UNITED STATES DISTRICT COURT**  
15 **CENTRAL DISTRICT OF CALIFORNIA**

17 PETER P., et al., )

18 Plaintiffs, )

19 v. )

21 COMPTON UNIFIED SCHOOL )  
22 DISTRICT, et al., )

23 Defendants. )

**Case No. LA CV-15-3726 MWF  
(PLAx)**

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
MOTION FOR PRELIMINARY  
INJUNCTION**

Date: August 17, 2015  
Time: 10:00 A.M.  
Ctrm: 1600  
Judge: Hon. Michael W. Fitzgerald

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Plaintiffs seek a preliminary injunction ordering Compton Unified School District (“CUSD”) and Individual Defendants<sup>1</sup> to train all CUSD teachers, administrators, and school-site staff regarding understanding and recognizing the effects of complex trauma, including its effects on development and the ability to learn, think, read, concentrate, and communicate, in accordance with research-based practices that have achieved success in school districts like CUSD. Plaintiffs Peter P., Phillip W., Virgil W., Kimberly Cervantes, and Donte J. represent a putative class of current and future students in CUSD whose exposure to complex trauma has impaired or will impair their basic ability to learn, read, think, learn, and concentrate (collectively, “Student Plaintiffs”).<sup>2</sup> The neurobiological effects of the complex trauma to which Student Plaintiffs have been subjected impair the ability to perform activities essential to education—including, but not limited to, learning, thinking, reading, and concentrating—and thus constitute a disability under Section 504 of the Rehabilitation Act (“Section 504”) and the Americans With Disabilities Act (“ADA”). In short, Student Plaintiffs have been, and without school-wide trauma-sensitive accommodations will continue to be, denied meaningful access to public education on account of their disabilities.

The training sought is necessary to enable CUSD employees to recognize the effects of trauma and begin to modify practices and policies to provide the Student Plaintiffs with access to the public education to which they are entitled. While such training is only the initial component of the full remedy necessary to accommodate

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<sup>1</sup> Individual Defendants are Superintendent of Compton Unified School District Darin Brawley, and the members of the Board of Trustees of Compton Unified School District, Micah Ali, Satra Zurita, Margie Garrett, Charles Davis, Skyy Fisher, Emma Sharif, and Mae Thomas.

<sup>2</sup> There is no requirement that a class be certified before the court grants a preliminary injunction. *Bay Area Addiction Research and Treatment, Inc. v. City of Antioch*, No. C-98-2651 SI, 1999 WL 33490207 at \*1 (N.D. Cal. Sept. 17, 1999).

1 Student Plaintiffs, it is an essential step to begin the implementation of school-wide  
2 trauma-sensitive practices. CUSD must begin to stem the devastating harm to  
3 Student Plaintiffs' education and life chances wrought by its discriminatory and  
4 trauma-insensitive practices and policies, and an initial training session, although  
5 not sufficient, will have an immediate effect. Finally, initial training is feasible to  
6 implement on a short time frame: this initial training can be provided in a day or  
7 less, and leading national experts in trauma-affected education have offered to  
8 provide training materials and onsite support free of charge.

9 Compton youth are profoundly and disproportionately impacted by trauma  
10 and yet are provided no or exceedingly few resources in their schools to  
11 meaningfully address trauma's impact on education. 29.6% of children age 0-17  
12 living in Compton have experienced one trauma, and an additional 24.6% have  
13 experienced two or more traumas. Too many CUSD students experience and  
14 witness violence in their neighborhoods, homes, and schools, grieve the loss of  
15 loved ones, are subjected to the instability and dislocation of separation from  
16 caregivers or the foster system, arrive at school not knowing where they will sleep  
17 that night, and experience the harms of racism or homophobia.

18 Decades of scientific research have conclusively established that exposure to  
19 such chronic or repeated trauma results in neurological and endocrinal changes to  
20 the brains of children. The effect of these changes is to demonstrably impair the  
21 ability of the brain to store and retrieve information—impeding memory,  
22 concentration, and communication—and to regulate emotion and impulses.  
23 Addressing these effects of trauma is key to closing the achievement gap that has  
24 long plagued CUSD schools, which have been underperforming for decades. The  
25 research is clear and indisputable that students who have experienced trauma are  
26 more likely to experience academic failure, perform poorly on tests, be disengaged  
27 or absent from school, have behavioral problems, and drop out.

28

1 Yet instead of providing the necessary accommodations, CUSD’s policies and  
2 practices of deliberate indifference to the trauma its students endure, and the often  
3 debilitating consequences, re-traumatize Student Plaintiffs and discriminate against  
4 students with trauma-induced disabilities. Among other things, CUSD fails to  
5 prepare teachers and staff to address the impact of trauma. As a result, teachers and  
6 staff act in ways that trigger trauma and affirmatively impede learning, use punitive  
7 and counterproductive exclusionary discipline instead of using proven restorative  
8 practices, and fail to understand the signs of trauma-related disability and refer  
9 students to mental health support when needed.

10 The Rehabilitation Act and the ADA foster the public interest by  
11 “empower[ing] individuals with disabilities to maximize ... independence, and  
12 inclusion and integration into society.” 29 U.S.C. § 701(b). Congress enacted these  
13 laws precisely because “discrimination against individuals with disabilities persists  
14 in such critical areas as ... education.” 42 U.S.C. § 12101 (a)(3). Tragically,  
15 through no fault or failure of their own, the Student Plaintiffs are losing out on the  
16 promise of their future by denial of access to the principal institution in our society  
17 that can lift them out of the conditions responsible for the traumas they  
18 suffer. These young persons are inspirational in their resilience and commitment to  
19 standing up for a school environment and appropriate supports that provides them  
20 with the same opportunity to learn that their non-disabled peers are entitled to. The  
21 preliminary injunction here, in ensuring that CUSD takes a first step to provide free  
22 research-based trauma training to all staff, is the very least that must be done by law  
23 to give these students a fighting chance.

24 **II. STATEMENT OF FACTS**

25 Trauma occurs when overwhelmingly stressful events undermine a person’s  
26 ability to cope. Dorado ¶ 7. “Complex trauma” describes exposure to multiple  
27 traumatic events, often repeatedly over a long period of time, and the wide-ranging,  
28



1 long-term impact of this exposure. *Id.* As discussed in further detail below,  
 2 complex trauma has neurobiological effects that are disabling to a young person’s  
 3 capacity to learn. *See infra* § II.B. Accommodating these effects requires CUSD to  
 4 adopt system-wide strategies, policies, and procedures to address complex trauma.

5 **A. Complex Trauma Experienced By CUSD Student Plaintiffs**

6 The pervasive exposure of CUSD students to complex trauma is widely  
 7 known and well-documented.<sup>3</sup> Compton is among the most socioeconomically  
 8 distressed cities in California,<sup>4</sup> and it experiences high rates of violent crime.<sup>5</sup> Data  
 9 analyzed by Dr. Christina Bethell and the Child and Adolescent Health  
 10 Measurement Initiative reflects that 29.6% of children age 0-17 living in Compton  
 11 have one adverse childhood experience (“ACE”),<sup>6</sup> and an additional 24.6% have  
 12 two or more ACEs. Bethell ¶ 39; *see also id.* ¶ 40. These statistics confirm the  
 13 experiences of CUSD educators who report that the majority of their students have  
 14 experienced violence or other traumatic events. *E.g.*, Curry ¶ 10 (Dominguez);  
 15 McCoy ¶ 5 (Centennial); Castro ¶ 11 (Chavez); Deposition of Principal Stephen  
 16 Glass (Compton High School) 219:2-3 (“I couldn’t see any student that’s at our  
 17 school that hasn’t witnessed violence”).

18 Student Plaintiffs are children attending CUSD schools who, at a young age,  
 19 have experienced traumatic events difficult for any person to endure. Student  
 20

21 <sup>3</sup> Indeed, Defendant CUSD School Board President Micah Ali has repeatedly  
 22 acknowledged the “unique education challenges” facing CUSD, including “higher  
 23 than normal rates of poverty, single parent families, ... foster youth [and] violence.”  
 24 Eidmann Dec.ISO PI, Ex. E.

25 <sup>4</sup> 26.3% of Compton residents live below the poverty level, a rate more than  
 26 50% higher than the California average, and the per capita income in Compton is  
 27 \$13,548, less than half the California average. Chung ¶ 171. 93% of children in  
 28 Compton schools are eligible for Free and Reduced Priced Lunch. *Id.* ¶ 110.

<sup>5</sup> For example, Compton’s homicide rate is more than five times the national  
 average. Chung ¶ 186.

<sup>6</sup> ACEs are defined as a subset of childhood traumatic events, including  
 childhood abuse, neglect, and exposure to other traumatic stressors such as  
 community violence. Bethell ¶ 9.



1 Plaintiffs witness violence at home, on the way to and from school, and in their  
 2 neighborhoods. Peter P. ¶¶ 6-11, 18; Phillip W. ¶¶ 5, 8-12, 14-15; Virgil W. ¶ 4;  
 3 Cervantes ¶ 22; *see also* Curry ¶ 10; Castro ¶¶ 10-11; Glass Dep. 219:2-4, 220:5-7.  
 4 Too often, this violence spills onto CUSD campuses themselves, requiring schools  
 5 to go on “code yellow,” confining students to classrooms where they must fear and  
 6 anticipate the threat of violence outside. Cervantes ¶¶ 18, 40; *see also* Castro ¶¶ 11,  
 7 13, 17. Some Student Plaintiffs have been direct victims of violence themselves,  
 8 Peter P. ¶ 20; Phillip W. ¶¶ 6, 14; Cervantes ¶¶ 30, 36; *see also* Curry ¶ 14, 19;  
 9 Castro ¶¶ 11-14; or constantly fear for their own safety and the safety of their loved  
 10 ones. Phillip W. ¶¶ 5-7, 12-13, 15, 28-29, 37; Virgil W. ¶ 12-13; Cervantes ¶¶  
 11 33, 37; *see also* Curry ¶¶ 20-21, 25. They experience and grieve the loss of family  
 12 members and friends, including members of the school community. Peter P. ¶ 18;  
 13 Phillip W. ¶ 18-19; Virgil W. ¶¶ 25-26; Cervantes ¶¶ 17, 19; *see also* Curry ¶¶ 11-  
 14 13, 15-18, 22-24, 27; Castro ¶ 22. Many have been separated from caregivers and  
 15 family as a result of deportation, incarceration, or family separation. Peter P. ¶ 11-  
 16 15; Virgil W. ¶ 5; *see also* Curry ¶ 28. Others experience the trauma of  
 17 discrimination, racism, or homophobia. Cervantes ¶¶ 12-14, 24; *see also* Curry  
 18 ¶ 29.

19 Student Plaintiffs include two particularly vulnerable groups of young people:  
 20 foster youth<sup>7</sup> and homeless youth.<sup>8</sup> *See, e.g.*, Peter P. ¶¶ 11-15, 22; Curry ¶ 28;  
 21 Glass Dep. 217:13-15 (approximately 10% of Compton High School students are  
 22 foster youth), 218:2-10 (approximately 15% of Compton High School students are  
 23 homeless). As foster youth expert Professor Mark Courtney explains, “youth in  
 24 foster care are a highly traumatized population,” both due to “the pre-foster care  
 25 situation necessitating state intervention and the inherent instability of foster care

26 \_\_\_\_\_  
 27 <sup>7</sup> CUSD reports that it serves 245 foster youth district-wide. Chung ¶ 110.

28 <sup>8</sup> There are 1,751 homeless students in CUSD schools, or 7.8% of the total student population. Chung ¶ 165.

1 placements.” Courtney ¶ 7; *see also* Glass Dep. 217:15-24. Likewise, “trauma is  
2 both a cause and a consequence of being homeless.” Stefanidis ¶ 8; *id.* ¶¶ 8-10.

3 Student Plaintiffs do not experience these traumatic events in isolation; rather  
4 they are multiple and overlapping:

5 • Seventeen-year-old **Peter P.** is currently homeless, and spent two months living  
6 on the rooftop of Dominguez High School. Peter P. ¶ 22. As a young child,  
7 Peter P. experienced extensive sexual and physical abuse, *id.* ¶¶ 5-11, and lived  
8 with a caregiver who abused substances. *Id.* ¶ 15. He spent years in the foster  
9 care system and was frequently transferred back and forth between foster  
10 placements and his biological mother. *Id.* ¶¶ 12-15. He has witnessed shootings  
11 in his neighborhood, *id.* ¶ 17, and the deaths of two classmates during the school  
12 day at Whaley Middle School in CUSD, *id.* ¶ 18.

13 • **Kimberly Cervantes**, who is eighteen years old, lived with a caregiver who  
14 suffered severe panic attacks from post-traumatic stress disorder, Cervantes ¶ 9,  
15 and has also lived with a caregiver with substance abuse issues. *Id.* ¶¶ 15-16. In  
16 middle school, Kimberly witnessed the deaths of two classmates. *Id.* ¶¶ 17, 19.  
17 In high school, she felt shame and humiliation when a teacher made homophobic  
18 and stigmatizing remarks about her sexuality during class. *Id.* ¶¶ 24. Kimberly  
19 was assaulted by a security guard at Dominguez High School in CUSD, *id.* ¶ 30,  
20 and was recently sexually assaulted on a bus on the way home from Chavez  
21 Continuation School in CUSD. *Id.* ¶ 36.

22 • As a child, fifteen-year old **Philip W.** frequently witnessed shootings in his  
23 housing complex, Phillip W. ¶ 5, and was repeatedly assaulted. *Id.* ¶ 6. When he  
24 was eight years old, while walking to McNair Elementary School in CUSD, he  
25 saw a man shot and killed. *Id.* ¶ 9. He has since witnessed multiple other  
26 shootings and killings. *Id.* ¶¶ 10-11. He was shot in the knee last year, *id.* ¶ 14,  
27 and on another occasion, a bullet grazed his shoulder and left a burn mark where  
28

1 he was shot at by the police. *Id.* ¶ 15. He has lost multiple friends. *Id.* ¶¶ 18-19.

2 **B. Complex Trauma Impairs Student Plaintiffs’ Ability to Learn**

3 Decades of medical research have conclusively established that exposure to  
4 chronic or repeated trauma results in neurobiological changes to the brains of  
5 children. Perry ¶ 12; *see also* Dorado ¶¶ 6-12; Bethell ¶¶ 12-18. The effect of these  
6 changes is to demonstrably impair the ability of the brain to store and retrieve  
7 information—impeding memory, concentration, and communication—and to  
8 regulate emotion and impulses. Perry ¶ 23. If schools do not proactively address  
9 these impairments, students will not be able to access education, resulting in  
10 academic failure and attendance and behavior issues.

11 **1. Exposure to Complex Trauma Alters Brain Physiology**

12 Dr. Bruce Perry, the nation’s leading expert on the brain science of childhood  
13 trauma, has provided a declaration that describes in detail the extensive  
14 neurobiological changes that take place in the brain of a young person who has been  
15 exposed to complex trauma. Perry ¶¶ 10-31; *see also* Dorado ¶ 6-12; Bethell ¶¶ 12-  
16 18;. In short, the human brain, especially a child’s developing brain, is plastic and  
17 adaptable. Perry ¶ 11. A key principle in brain development is “use-dependence”—  
18 the functioning of the brain can change with activation or lack of activation. Perry  
19 ¶ 12. Thus, when a child faces repeated exposure to chaos, neglect, violence, and  
20 other adversities, their brain adapts and this often results in undeveloped or  
21 maladapted functioning in emotional, cognitive, and behavioral areas. Perry ¶ 12.

22 Some of the primary neural systems impacted by developmental trauma are  
23 those involved in the stress response. Perry ¶ 14. The stress response systems, like  
24 the other systems in the brain, are malleable. Perry ¶ 16. A child exposed to  
25 moderate, controllable, and predictable stress will experience a decrease in  
26 sensitivity to that stress and the individual will become more tolerant of the stressor.  
27 Perry ¶ 17. On the other hand, the activation of the stress response system in  
28

1 variable, unpredictable, and extreme ways will make these systems “sensitized,”  
2 causing more extreme responses to each additional stressor. Perry ¶ 17. It is  
3 through this physical adaptation that trauma adversely affects students in CUSD.

## 4 **2. Impairments Caused by the Physiological Effects of Trauma**

### 5 **(a) Regulation of Emotion and Impulses**

6 Trauma can have a significant impact on an individual’s ability to regulate  
7 their emotions and impulses. The functional effect of a sensitized stress response  
8 system is that, at a baseline, the brain is acting as if the individual is under threat.  
9 Perry ¶ 23. This means that the student is less capable of consciously controlling his  
10 or her emotions and impulses, and even small increases in stress or mental state may  
11 further impair that ability. Perry ¶ 22. To a sensitized, threatened student, a whisper  
12 may become a shout, or a “not now” may become a “NEVER.” Perry ¶ 24. This  
13 only serves to further reinforce the sensitization of the brain. The sensitized child  
14 will be more likely to demonstrate regressed, impulsive, reactive, and aggressive  
15 behaviors. Perry ¶ 22. This can, in turn, frustrate those who interact with the child,  
16 such as teachers, and impact all of those around the child.

### 17 **(b) Storage and Processing of Information**

18 The impact on sensitization affects the mental skills necessary to adequately  
19 learn as well. An individual in a state of alarm will be less capable of concentrating  
20 and more anxious than a calm student. Perry ¶ 26. The more elevated a student’s  
21 mental state is, the harder it is for that student to learn. For example, if a student is  
22 alarmed, he or she will shut down all unneeded cognitive abilities, such as the ability  
23 to learn a new math concept, and focus on the immediately perceived threat. Perry  
24 ¶ 26. A student who is alarmed will focus predominantly on non-verbal cues, such  
25 as who is whispering to whom, whether and at whom the teacher is smiling, or noise  
26 in the street or hallway. Perry ¶ 26. As a result of the above, traumatized child will  
27 find it difficult to be capable of abstract, reflective processing of information. Perry  
28

1 ¶ 26. All learning requires an exposure to novelty, and a traumatized student will be  
2 less capable of handling that exposure in a positive manner. Perry ¶ 18.

3 **(c) Student Plaintiffs**

4 Student Plaintiffs Peter P., Phillip W., Virgil W., and Kimberly Cervantes  
5 have been evaluated by the Children’s Hospital Los Angeles (“CHLA”) Division of  
6 Adolescent & Young Adult Medicine, High Risk Youth Program, under the  
7 leadership of clinical psychologist and trauma expert Dr. Nikolaos Stefanidis.  
8 Stefanidis ¶ 24. Dr. Stefanidis concluded that they have experienced complex  
9 trauma, and “the effects of this complex traumatic experiences have profoundly  
10 affected each young person’s development,” substantially limiting one or more life  
11 activities, including: “the ability to learn, think, read, concentrate, communicate,  
12 and/or behave in pro-social ways.” *Id.* ¶ 24. & Exhs. B-E.

13 **3. Educational Consequences of Unaddressed Complex Trauma**

14 ***Academic Failure:*** “The consequences of trauma exposure on academic  
15 success are direct and causal.” Dorado ¶ 15; *see also* Bethell ¶¶ 28-37; Wong ¶ 17  
16 (“Children exposed to trauma also experience decreased IQ and reading ability.”).  
17 Academic studies have shown that, when controlling for all other factors such as  
18 race and income:

- 19 • academic failure is four times more likely in children who have experienced  
20 three or more traumas, Dorado ¶ 15;
- 21 • repeating a grade is 2.67 times more likely in children who have experienced two  
22 or more traumas, Bethell ¶ 29;
- 23 • engagement in school is 2.59 times less likely in children who have experienced  
24 two or more traumas, *id.* ¶ 30;
- 25 • as exposure to trauma increases, performance on standardized tests decreases,  
26 Dorado ¶ 15; and
- 27 • students who have experienced trauma are less likely to graduate from high  
28

1 school. Wong ¶ 17.

2 Named Plaintiffs' stories are part of these statistics. CUSD schools have been  
3 persistently low-performing and have consistently failed to meet state standards for  
4 academic achievement. *See* Chung ¶ 80. The named Student Plaintiffs, for  
5 example, have all suffered concrete academic harm. All have struggled  
6 academically. Donte J. School Records at 13; Virgil W. School Records at 1.  
7 CUSD involuntarily transferred Plaintiff Kimberly Cervantes to a continuation  
8 school because she lacked sufficient credits to graduate from a mainstream high  
9 school. *Id.* ¶ 26, 29. Although graduation date was last June, , she continues to  
10 make up credits to graduate. *Id.* ¶ 4.

11 ***Attendance and Behavior:*** Exposure to trauma is also the principal predictor  
12 of attendance and behavior problems among youth. Dorado ¶ 16; Wong ¶¶ 17, 19.  
13 Studies have shown, for example, that students with three or more traumas are five  
14 times more likely to have poor attendance. Dorado ¶ 17. Likewise, children  
15 exposed to trauma are roughly 2.5 times more likely to exhibit high incidences of  
16 behavioral, emotional, or developmental problems than their non-exposed peers.  
17 Bethell ¶ 19; *see also* Dorado ¶ 17.

18 Named Plaintiffs' stories are illustrative of these statistics. Kimberly  
19 Cervantes, for example, missed a significant amount of school due to unaddressed  
20 complex trauma. Cervantes ¶ 23, 25, 37. Student Plaintiffs have struggled with  
21 self-regulation and behavior and have been absent from the classroom due to  
22 CUSD's practice of suspending students for trauma-induced behavior. Peter P. ¶¶  
23 22, 29; Phillip W. ¶¶ 26, 30; Virgil W. ¶¶ 11, 15, 16; Cervantes ¶ 20; Donte J.  
24 School Records at 4-10.

#### 25 **4. Secondary Traumatic Stress in CUSD Schools**

26 The failure of CUSD to address the impact of trauma with research-based  
27 training and support further denies Student Plaintiffs access to education by  
28

1 contributing to fatigue, secondary traumatic stress, and burnout among CUSD  
2 teachers and school staff. Wong ¶ 23; *see also* Perry ¶ 29; Dorado ¶¶ 27-28.  
3 Attempting to meet the needs of severely traumatized children without proper  
4 training or the support necessary to do so can lead to an emotional state in which  
5 even the best and most empathetic teachers are unable to effectively teach and a  
6 “dysregulating, distressing learning environment.” Perry ¶ 29; Wong ¶ 25; Dorado  
7 ¶ 27.

8 In the longer term, unaddressed stress leads to burnout, increasing teacher  
9 turnover and absences at the school. Dorado ¶ 28; Wong ¶ 23. CUSD’s failure to  
10 train its teachers and provide research-based supports and tools has caused CUSD  
11 teachers to suffering from vicarious trauma, which has led them to miss school days  
12 and turnover at CUSD school sites. McCoy ¶¶ 31-34; Castro ¶¶ 31-33. High  
13 turnover creates an unstable and unpredictable learning environment, and can  
14 further re-traumatize trauma-impacted students “who may be particularly vulnerable  
15 to being triggered around issue of loss and abandonment.” Dorado ¶ 28.

16 **C. CUSD’s Failure to Accommodate Student Plaintiffs**

17 The nation’s leading experts agree that effectively accommodating students  
18 whose access to public education impaired by exposure to complex trauma can and  
19 must be achieved by implementation of appropriate, district- and school-wide  
20 policies and practices that address trauma and its effects. Perry ¶¶ 32-34; Dorado ¶¶  
21 29-30; Bethell ¶ 57; Wong ¶ 39; Stefanidis ¶ 30; Courtney ¶ 17. This is particularly  
22 true in CUSD, which serves a high concentration of students affected by complex  
23 trauma. *See* Subsection II.A, *supra*. Yet CUSD’s policies of deliberate indifference  
24 fail to accommodate disabled students and affirmatively discriminate against  
25 students with trauma-induced disabilities, contributing to educational deprivation.

26 **1. Meaningful Accommodation Requires School-wide Trauma-**  
27 **Sensitive Practices**  
28



1 “In order to meaningfully address the impact of complex trauma on students’  
2 abilities to access their education, a school must adopt system-wide strategies,  
3 policies, and procedures.” Dorado ¶ 29; *see also* Perry ¶ 32; Bethell ¶ 57; Wong ¶  
4 30; Stefanidis ¶ 30; Courtney ¶ 17. Therapy or treatment on an individualized basis  
5 is not sufficient to address the impact of trauma on access to education because such  
6 individualized interventions cannot address the broader changes to school and  
7 classroom culture that are essential to reduce unnecessary triggers and create safe  
8 and stable conditions under which trauma-impacted students can learn. Dorado  
9 ¶ 29; *see also* Perry ¶ 32. School-wide trauma-sensitive approaches have been  
10 shown to effectively remove impediments to learning, thinking, reading, and  
11 concentrating in school settings similar to CUSD, including in San Francisco,  
12 Massachusetts, and Washington State. Perry ¶ 35; Dorado ¶¶ 34-46.

13 Dr. Joyce Dorado, a leader in the movement to develop and implement  
14 effective trauma-sensitive strategies in schools, has submitted a declaration that  
15 describes in detail the central components of a school-wide trauma sensitive  
16 approach that would effectively respond to and address the needs of CUSD students  
17 whose learning has been impaired due to exposure to complex trauma. Dorado ¶ 30.  
18 In brief, accommodating such students requires (1) developing a foundational  
19 infrastructure that delivers training and ongoing coaching of educators to recognize,  
20 understand, and proactively intervene to address the effects of complex trauma; (2)  
21 development of restorative practices to build healthy relationships, resolve conflicts  
22 peacefully, and avoid re-traumatizing students through the use of punitive  
23 discipline; and (3) consistent mental health support to appropriately meet diverse  
24 student needs. *Id.*; *see also* Perry ¶ 34; Bethell ¶ 57; Wong ¶ 39; Stefanidis ¶ 30;  
25 Courtney ¶ 17 (all endorsing this approach).

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1                   **2. CUSD’s Policies and Practices Re-Traumatize Student**  
2                   **Plaintiffs and Impede Access to Education.**

3           CUSD has not only failed to implement trauma-sensitive practices necessary  
4 to accommodate students whose learning is impaired by the effects of complex  
5 trauma, but its district-wide policies and practices of deliberate indifference to  
6 complex trauma also have the tragic effect of re-traumatizing students and  
7 affirmatively impeding learning.

8           **No Staff Training:** CUSD does not provide trauma-sensitivity training to its  
9 teachers and staff. *See, e.g.*, Curry ¶ 32; McCoy ¶ 29; Castro ¶ 23. It is essential to  
10 provide training to every adult at a school site to understand and appropriately  
11 respond to manifestations of trauma. Dorado ¶¶ 31-32; Perry ¶ 38. For example, as  
12 discussed above, a student who is triggered by a trauma reminder in the classroom  
13 may enter an alarmed, alert state and react with hyperactivity, aggression, or  
14 impulsiveness. Dorado ¶¶ 22-23; Perry ¶ 20. It is essential that teachers recognize  
15 this behavior as a fear response. Dorado ¶ 23; Perry ¶ 38. A teacher who raises her  
16 voice in response to such disruptive behavior will only heighten the child’s alert  
17 state, escalating the situation in ways that fracture relationships and create more  
18 impediments to learning. Dorado ¶ 23; Perry ¶ 24. By contrast, understanding  
19 trauma and its effects enables teachers to respond in ways that provides safety,  
20 assists in self-regulation, and promotes healing. Dorado ¶ 31; Perry ¶ 34. A teacher  
21 implementing trauma-sensitive practices will also avoid trauma triggers in the first  
22 place and lead the child to associate the classroom with calm and safety, helping to  
23 establish a pattern of regulation and decrease the rate of future incidents. Dorado  
24 ¶ 32; Perry ¶ 31.

25           **Exclusionary Discipline:** When Student Plaintiffs predictably behave in  
26 ways induced by trauma, CUSD schools respond to such actions with punitive  
27 suspensions, involuntary transfers, or expulsions. Chung ¶ 44 (CUSD reports 1,243  
28

1 suspensions in the 2013-2014 school year); *see also* Curry ¶¶ 31-32. CUSD has  
2 responded to trauma by suspending from school Student Plaintiffs, Peter P. ¶¶ 22,  
3 29; Phillip W. ¶¶ 26, 30; Virgil W. ¶¶ 11, 15, 16; Cervantes ¶ 20, and has  
4 involuntarily removed most of them from one or more CUSD schools, Peter P. ¶¶  
5 29-30; Phillip W. ¶ 32; Virgil W. ¶ 12; *see also* Cervantes ¶¶ 26-28 (pushed out to  
6 continuation school).

7 Such punitive discipline is counter-productive and antithetical to learning.  
8 Dorado ¶ 24. It has been shown to re-traumatize students and sends the damaging  
9 message to students that they “something is ‘wrong’ with them and that they are  
10 ‘damaged goods.’” *Id.*; Dorado ¶ 24.

11 **Inadequate Mental Health Support:** The mental health support available at  
12 CUSD schools to support students with higher needs is woefully inadequate or  
13 virtually non-existent. Curry ¶¶ 37-39; McCoy ¶ 26; Castro ¶ 24. For example, at  
14 Dominguez High School, which serves approximately 2100 students, a single school  
15 psychologist is shared with the other high schools in the district. Curry ¶ 37. At  
16 Chavez Continuation School, a psychiatrist comes one day per week and sees only  
17 special education students. Castro ¶ 24. This quantity of mental health personnel is  
18 insufficient to serve a student population of the size and with the level of need of  
19 CUSD. Wong ¶ 35.

20 It is unsurprising, then, that timely mental health support is not provided to  
21 Student Plaintiffs in need, even in urgent situations. For example, after Kimberly  
22 Cervantes was sexually assaulted on a bus on the way home from school, she was  
23 not provided with timely mental health support despite repeated requests. Cervantes  
24 ¶ 37.

### 25 3. District-Wide Trauma-Sensitivity Training

26 District-wide trauma-sensitivity training, while not alone sufficient to address  
27 the effects of complex trauma, is an essential first step to accommodate students  
28

1 whose learning has been impaired by complex trauma. Perry ¶ 38; Dorado ¶ 48;  
2 Bethell ¶ 58; Wong ¶ 40. Such training must help educators and staff to recognize,  
3 understand, and proactively intervene to address the effects of complex trauma.  
4 Perry ¶ 38. School personnel must possess the knowledge and skills to recognize  
5 when and how trauma may be affecting students in the classroom and to respond  
6 appropriately and productively to the actions of students who are affected by  
7 trauma. *Id.*; Dorado ¶¶ 31-32; Wong ¶ 31.

8 A single training session of less than a day is capable of making a meaningful  
9 difference to schools' accommodations of students suffering from complex trauma.  
10 Perry ¶ 39. Furthermore, the cost associated is minimal. Because the ChildTrauma  
11 Academy has agreed to provide materials for trauma-sensitivity training free of  
12 charge, the cost to CUSD would be limited to the cost of personnel time.<sup>9</sup> *Id.* ¶ 40.

### 13 **III. ARGUMENT**

14 "A plaintiff seeking a preliminary injunction must establish [1] that he is  
15 likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the  
16 absence of preliminary relief, [3] that the balance of equities tips in his favor, and  
17 [4] that an injunction is in the public interest." *Am. Trucking Ass'ns, Inc. v. City of*  
18 *Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009) (quoting *Winter v. Natural Res.*  
19 *Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). Plaintiffs meet and exceed the required  
20 showing on each factor.<sup>10</sup>

#### 21 **A. Plaintiffs are Likely to Prevail on the Merits**

22 The Ninth Circuit has "discussed the close relationship between Section 504  
23 [of the Rehabilitation Act] and Title II of the ADA." *K.M. ex rel. Bright v. Tustin*

24 \_\_\_\_\_  
25 <sup>9</sup> A number of Compton community-based organizations have also  
26 communicated their support for such relief and have offered to provide CUSD with  
27 any community support that would be appropriate. Community Groups Decl. ¶ 36.

28 <sup>10</sup> Courts are "empowered to grant mandatory injunctions, especially when  
prohibitory orders may be ineffective or inadequate." *Franco-Gonzales v. Holder*,  
767 F. Supp. 2d 1034, 1043 (C.D. Cal. 2010) (citing *Katie A., ex rel. Ludin v. Los*  
*Angeles County*, 481 F.3d 1150, 1156-57 (9th Cir. 2007)).

1 *School Dist.*, 725 F.3d 1088, 1098 (9th Cir. 2013). In fact, “Congress used the  
2 earlier-enacted Section 504 as a model when drafting Title II.” *Id.* (citing *Duvall v.*  
3 *Cty. of Kitsap*, 260 F.3d 1124, 1135 (9th Cir. 2001)). The Court has “observed . . .  
4 that there is no significant difference in the analysis of rights and obligations created  
5 by the two Acts.” *Id.* (quoting *Vinson v. Thomas*, 288 F.3d 1145, 1152 n.7 (9th Cir.  
6 2002)). As a result, “courts have applied the same analysis to claims brought under  
7 both statutes.” *Zukle v. Regents of Univ. of Cal.*, 166 F.3d 1041, 1045 n.11 (9th Cir.  
8 1999). Plaintiffs therefore analyze these statutes together.

9 **1. CUSD Has Violated Section 504 of the Rehabilitation Act**  
10 **and Title II of the ADA**

11 Section 504 of the Rehabilitation Act reads: “[n]o otherwise qualified  
12 individual with a disability ... shall, solely by reason of her or his disability, be  
13 excluded from the participation in, be denied the benefits of, or be subjected to  
14 discrimination under any program or activity receiving Federal financial assistance.”  
15 29 U.S.C. § 794 (2012). Title II of the ADA similarly provides: “[N]o qualified  
16 individual with a disability shall, by reason of such disability, be excluded from  
17 participation in or be denied the benefits of the services, programs, or activities of a  
18 public entity, or be subjected to discrimination by any such entity.” 42 U.S.C.  
19 § 12132 (2012).

20 The tests for proving a violation of each law are closely similar to one  
21 another. “[U]nder Section 504... a plaintiff must show: (1) he is an ‘individual with  
22 a disability’; (2) he is ‘otherwise qualified’ to receive the benefit; (3) he was denied  
23 the benefits of the program solely by reason of his disability; and (4) the program  
24 receives federal financial assistance.” *Weinreich v. Los Angeles Metropolitan*  
25 *Transportation Authority*, 114 F.3d 976, 978 (9th Cir. 1997). Title II of the ADA  
26 requires that a plaintiff show: “(1) he is a ‘qualified individual with a disability’; (2)  
27 he was either excluded from participation in or denied the benefits of a public  
28

1 entity’s services, programs or activities, or was otherwise discriminated against by  
2 the public entity; and (3) such exclusion, denial of benefits, or discrimination was by  
3 reason of his disability.” *Id.* (quoting 42 U.S.C. § 12132).

4 **(a) CUSD Receives Federal Financial Assistance**

5 As the slight difference in the texts indicates, a principal difference between  
6 the two statutes resides in the jurisdiction each covers. “Section 504 governs all  
7 entities receiving federal funds (public or private), while Title II governs all public  
8 entities (federally funded or not).” *K.M.*, 725 F.3d at 1099. This distinction is a  
9 non-factor here. That is because “[t]here is also no question that public schools are  
10 among the public entities governed by Title II.” *Id.* at 1097; *see also id.* (citing 42  
11 U.S.C. § 12101(a)(3) as listing “‘education’ in the ADA congressional findings as  
12 one of the ‘critical areas’ in which disability discrimination exists.”). And “Section  
13 504 applies to all public schools that receive federal financial assistance”; 29 U.S.C.  
14 § 794(b)(2)(B) “defin[es] ‘program or activity [covered] to include the operations of  
15 ‘local educational agenc[ies].’” *Mark H. v. Lemahieu*, 513 F.3d 922, 929 (9th Cir.  
16 2008) (second brackets in original). The Compton school district receives federal  
17 financial assistance, over \$39 million in 2013, amounting to 15.5% of CUSD’s  
18 revenue for that year.<sup>11</sup> *See* US CENSUS BUREAU, PUBLIC ELEMENTARY-SECONDARY  
19 EDUCATION FINANCE DATA, June 2, 2015, <http://www.census.gov/govs/school/>.

20 **(b) Student Plaintiffs are Qualified Individuals with a**  
21 **Disability**

22 As a threshold matter, each of the Student Plaintiffs is between the ages of 6  
23  
24

25 <sup>11</sup> The breakdown is as follows: \$17,167,000 in Title I “compensatory”  
26 funding, \$4,190,000 in revenue for children with disabilities, \$11,760,000 under the  
27 Child Nutrition Act, and \$6,020,000 in other federal aid. *Id.* *See also* US CENSUS  
28 BUREAU, PUBLIC ELEMENTARY-SECONDARY EDUCATION FINANCE DATA TECHNICAL  
DOCUMENTATION, JUNE 2, 2015, [http://www2.census.gov/govs/school/  
school13doc.pdf](http://www2.census.gov/govs/school/school13doc.pdf) (explaining data categories).



1 and 18 and/or otherwise still pursuing graduation requirements from CUSD.<sup>12</sup> Peter  
2 P. ¶ 3; Philip W. ¶ 2; Virgil W. ¶ 2; Cervantes ¶¶ 2, 4; Donte J. School Records at  
3 18. Student Plaintiffs therefore meet the eligibility requirements to receive a public  
4 education provided by Defendants. *See* Cal. Const., Art. 9, Sec. 5.

5 The definition of “disability” is identical under Section 504 and the ADA.  
6 *See* 29 U.S.C. § 794(a) (defining disability under Section 504 via cross reference to  
7 the definition in the ADA). 42 U.S.C. § 12102 thus defines “disability” as “a  
8 physical or mental impairment that substantially limits one or more life activities of  
9 [an] individual.” The 2008 ADA Amendments expanded this definition such that a  
10 non-exhaustive list of “major life activities” “in general” were enumerated to  
11 include “learning, reading, concentrating, thinking, [and]communicating” and  
12 “major bodily functions” affected were identified to include “neurological [and]  
13 brain” functions. 42 U.S.C. § 12102(2)(A), (B); *see Weaving v. City of Hillsboro*,  
14 763 F.3d 1106, 1111 (9th Cir. 2014). A 2008 amendment to the ADA also provides  
15 that “[t]he definition of disability in this chapter shall be construed in favor of broad  
16 coverage of individuals under this chapter, to the maximum extent permitted by the  
17 terms of this chapter.” *Weaving*, 763 F.3d at 1111 (quoting 42 U.S.C.  
18 § 12102(4)(A)). Indeed, as the Ninth Circuit held even three years before enactment  
19 of the cited ADA amendments, “[t]o be a major life activity, the activity need not be  
20 essential to survival, but rather ‘of central importance to most people’s daily  
21 lives.’” *Head v. Glacier Nw. Inc.*, 413 F.3d 1053, 1061-62 (9th Cir. 2005) (citation  
22 in footnote omitted) (holding that “thinking” and “reading” are “major life  
23 activities.”).

24 The scientific record conclusively establishes that complex trauma affects  
25 neurological and brain functions, and that these neurobiological changes impair  
26

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27 <sup>12</sup> Kimberly Cervantes is eighteen years old but has not attained sufficient  
28 credits to graduate from Chavez Continuation School in CUSD. She continues to  
pursue coursework to meet her high school graduation requirements. Cervantes ¶ 4.



1 learning, reading, concentrating, thinking, [and] communicating. Perry ¶ 26;  
2 Dorado ¶¶ 6-12; Bethell ¶¶ 12-18; *see* Subsections II.B. 1-2, *supra*. The brain of a  
3 young person who has been exposed to complex trauma undergoes substantial  
4 neurobiological changes. Perry ¶ 12. *See* Subsections II.B. 1-2, *supra*. The effect  
5 of these changes is to demonstrably impair the ability of the brain to store and  
6 retrieve information—impeding memory, concentration, and communication—and  
7 to regulate emotion and impulses. Perry ¶ 26. *See* Subsections II.B. 1&2, *supra*.  
8 Psychological evaluations of Student Plaintiffs have confirmed that the effects of the  
9 complex trauma Student Plaintiffs have experienced substantially limits one or more  
10 life activities, including: learning, reading, concentrating, thinking, and/or  
11 communicating.<sup>13</sup> Stefanidis ¶ 29; *see also* Subsection II.B.3, *supra*.

12 **(c) Plaintiffs Have Been Denied Access to Public**  
13 **Education By Reason of Their Disability**

14 In *Alexander v. Choate*, 469 U.S. 287 (1985), the Supreme Court analyzed  
15 Section 504 and rejected arguments by both sides that proof of discriminatory  
16 animus or effect is required to establish a violation of the Act and its implementing  
17 regulations. Instead, the Court fashioned a test sensitive to the rights of the disabled  
18 to be integrated into society without compromising the legitimate interests of federal  
19 grantees in preserving the essential character of their programs. As the Ninth  
20 Circuit summarized, “[i]n *Choate*, the Court concluded that Congress intended to  
21 protect disabled persons from discrimination arising out of both discriminatory  
22 animus and ‘thoughtlessness,’ ‘indifference,’ or ‘benign neglect.’” *Crowder v*  
23 *Kitagawa*, 81 F.3d 1480, 1484 (9th Cir. 1996) (quoting from *Choate*, 469 U.S. at  
24

25 <sup>13</sup> The Ninth Circuit has established that it is not necessary to provide “a  
26 medical professional’s diagnosis of” the asserted disability in order for a plaintiff to  
27 show that he or she is disabled under Section 504 or Title II of the ADA. *See*  
28 *Vinson v. Thomas*, 288 F.3d 1145, 1152 (9th Cir. 2002). Plaintiffs need only  
provide evidence that “a reasonable expert in the field would accept the type of  
evidence presented by [plaintiff] as proof of his disability.” *Id.* at 1153.

1 295). “Rather than attempt to classify a type of discrimination as either ‘deliberate’  
2 or ‘disparate impact,’ the court determined it more useful to assess whether disabled  
3 persons were denied ‘meaningful access’ to state-provided services.” *Id.* (quoting  
4 *Choate*, 469 U.S. at 302).

5 The Ninth Circuit has explained that the touchstone of “meaningful access” is  
6 whether a disabled individual would receive the public benefit at issue but for his or  
7 her disability. In *Lovell v. Chandler*, 303 F.3d 1039 (9th Cir. 2002), then, the Court  
8 considered claims brought under Section 504 and Title II of the ADA that the State  
9 of Hawaii’s new healthcare program (“QUEST”) categorically excluded individuals,  
10 who but for their disabilities, would have been able to avail themselves of the  
11 medical coverage offered. More specifically, the State argued that a “public entity  
12 need only operate its programs in such a manner that, when viewed as a whole, they  
13 are readily accessible and usable by people with disabilities. *Id.* at 1053. The Court  
14 held that this argument “miss[ed] the point of plaintiffs’ suit,” which was not  
15 focused on the State’s Medicaid program as a whole, but rather on the particular  
16 QUEST program coverage. *Id.* “When viewed in relation to similarly situated  
17 nondisabled individuals, those disabled persons were denied QUEST coverage by  
18 the State solely because of their disabilities; that is, had they been nondisabled, they  
19 would have received QUEST coverage.” *Id.*

20 Here, the record is clear that as consequence of the trauma suffered by  
21 Student Plaintiffs, they are unable to carry out every day major life activities of  
22 learning, thinking, reading and concentrating essential to obtain the benefits of  
23 public education offered in the Compton schools.<sup>14</sup> As a consequence of their

24 \_\_\_\_\_  
25 <sup>14</sup> An additional distinction between the texts of Section 504 and the ADA is  
26 that while Section 504 prohibits discrimination “solely by reason of” disability, 29  
27 U.S.C. § 794, the ADA omits the word “solely” and prohibits all discrimination “by  
28 reason of” disability, 42 U.S.C. § 12132. The distinction is immaterial here. Courts  
have typically treated these two standards interchangeably, and have interpreted the  
scope of rights in the two statutes identically. *E.g.*, *Vinson*, 288 F.3d at 1152 n.7  
 (“[T]here is no significant difference in the analysis of rights and obligations created  
by the two Acts.”); *see also Henrietta v. Bloomberg*, 331 F.3d 261, 272-73 (2d Cir.

1 unaddressed complex trauma, their access to this education has been substantially  
2 limited by actions and inactions of CUSD personnel inside the classroom and  
3 out. Student Plaintiffs have been denied the full opportunity to master the curricula  
4 taught in the schools and think constructively about the academic problems posed by  
5 their teachers and coursework by virtue of the impediments to processing and  
6 storage of information that unaddressed trauma creates in the brains of trauma-  
7 exposed youth. Stefanidis ¶ 29; Perry ¶ 28; Subsection II.B.2, *supra*; *see also*  
8 Dorado ¶¶ 15-18; Bethell ¶¶ 12-18; Wong ¶¶ 17-19; Subsection II.B.4 (linking  
9 trauma and academic failure). And CUSD has subjected Student Plaintiffs to  
10 punitive removals from the classroom, suspensions, and expulsions as a direct  
11 response to their trauma-induced behavior. Subsection II.B.3; *see also* Chung ¶ 44  
12 (CUSD suspension numbers); Curry ¶¶ 31-32; Peter P. ¶¶ 22, 29; Phillip W. ¶¶ 26,  
13 30; Virgil W. ¶¶ 11, 15, 16; Cervantes ¶ 20. As the relationship between trauma and  
14 learning has now been scientifically established beyond question, the effects are  
15 such that, without steps taken to address Student Plaintiffs’ disability, they are  
16 functionally denied meaningful access to what the Supreme Court has recognized as  
17 “the basic tools by which individuals might lead economically productive lives to  
18 the benefit of us all.” *Plyler v. Doe*, 457 U.S. 202, 221 (1982). Impeding  
19 meaningful access to the public schools established to teach children to learn and  
20 think nullifies for Student Plaintiffs “the importance of education in maintaining our  
21 basic institutions” and guarantees a “lasting impact of its deprivation” on each of  
22 their lives for now and into the futures. *Id.*

23 Further, as much as any disability under Section 504 and Title II of the ADA  
24 considered by any court, unaddressed trauma is global in its destructive scope.  
25 Particularly in a school system like CUSD, in which a majority of students have

26  
27 2003) (interpreting the “by reason of” language in the ADA and Section 504  
28 “identically”). Moreover, as a factual matter, the record evidence is clear that  
Student Plaintiffs have been denied the benefits of public education by any standard  
applied.

1 been exposed to trauma, Bethell ¶ 39, the consequences of unaddressed trauma are  
2 not cabined to the individual student experiencing trauma’s neurobiological effects,  
3 but rather have a ripple effect throughout the classroom and school community.  
4 Dorado ¶ 26. Without changes to school-wide practices, children who receive  
5 individualized interventions “would inadvertently be triggered again in their  
6 classrooms (or on the yard, in the hallway, etc.), again cutting off their access to an  
7 education, because teachers and other school staff were not aware of how complex  
8 trauma was affecting the children’s behavior.” *Id.* ¶ 29.

9 Likewise, CUSD educators who must respond to significant unaddressed  
10 student trauma without appropriate training and support frequently suffer  
11 compassion fatigue, secondary trauma, and burnout. *See* Subsection II.B.4.; Wong  
12 ¶¶ 23-25; Perry ¶ 29; Dorado ¶ 27; Castro ¶¶ 31-33; McCoy ¶¶ 31-34; Curry ¶ 45.  
13 Undermining the capacities of the teaching staff, as CUSD has done, leaving  
14 personnel even less equipped to appropriately address student trauma, increasing  
15 teacher turnover and absences, and further re-traumatizing already-trauma impacted  
16 students. Wong ¶ 25; Perry ¶ 29; Dorado ¶¶ 27-28, Castro ¶¶ 31-33; McCoy ¶¶ 31-  
17 34. In short, where, as here, the incidence of trauma at a school site is highly  
18 concentrated, meaningful access to learning, thinking, and securing the benefits of  
19 the public education is subverted on a school-wide basis. As Dr. Marleen Wong  
20 states, “[i]n order to meaningfully address this disparity, we must begin by  
21 implementing school-wide, trauma-sensitive practices in underperforming schools.”  
22 Wong ¶ 18.

## 23 2. The Existence of a Reasonable Accommodation

24 Having met the burden of producing evidence that Plaintiffs are qualified  
25 under Section 504 and Title II of the ADA, Plaintiffs must next show the existence  
26 of a reasonable accommodation. *Zukle*, 166 F.3d at 1047. Once that showing is  
27 made, the burden shifts to Defendants, who, in order to defeat the claim, must prove  
28

1 that the accommodation sought would require a fundamental or substantial  
2 modification of its programs and standards. *Id.* “[M]ere speculation that a suggested  
3 accommodation is not feasible falls short of the ... requirement.” *Wong v. Regents*  
4 *of Univ. of Cal.*, 192 F.3d 807, 818 (9th Cir. 1999) (quotes omitted).

5 Plaintiffs have identified a reasonable accommodation that would effectively  
6 address the effects of the complex trauma students’ abilities to access their  
7 education: districtwide and school-wide policies and practices that address trauma  
8 and its effects. *See* Subsection II.C.1. A baseline school-wide trauma-sensitive  
9 approach that would effectively accommodate Student Plaintiffs’ disability would  
10 include core practices components, including training and ongoing coaching and  
11 consultation of educators, replacement of punitive and exclusionary discipline with  
12 restorative practices, and provision of appropriate mental health support. *Id.*;  
13 Dorado ¶ 30; *see also* Perry ¶ 34; Bethell ¶ 57; Wong ¶ 39; Stefanidis ¶ 30;  
14 Courtney ¶ 17 (all endorsing this approach). School-wide trauma-sensitive  
15 approaches have been cost-effectively implemented and shown impressive results  
16 San Francisco, Massachusetts, and Washington State. Dorado ¶¶ 34-46.

17 Moreover, the immediate relief sought by this motion—training of CUSD  
18 personnel regarding trauma and its consequences for learning and education—is  
19 particularly reasonable and limited in scope. A single, district-wide trauma-  
20 sensitivity training is capable of making a meaningful difference to Student  
21 Plaintiffs and other students like them suffering from complex trauma. Stefanidis ¶  
22 31; Perry ¶¶ 38-39; *see also* Dorado ¶ 48; Bethell ¶ 58; Wong ¶ 40; Courtney ¶ 18.  
23 Finally, because Dr. Bruce Perry and the ChildTrauma Academy has agreed to  
24 provide materials for trauma-sensitivity training free of charge, the cost to CUSD  
25 would be limited to the cost of personnel time. Perry ¶ 40.

26 **B. Plaintiffs Will Suffer Irreparable Harm in Absence of Relief**

27 Preliminary injunctions are evaluated on a sliding scale: “serious questions  
28

1 going to the merits and a balance of hardships that tips sharply towards the plaintiff  
2 can support issuance of a preliminary injunction, so long as the plaintiff also shows  
3 that there is a likelihood of irreparable injury and that the injunction is in the public  
4 interest.” *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir.  
5 2011).

6 Injury to a plaintiff’s access to education is a form of “irreparable harm” that  
7 supports issuance of a preliminary injunction, particularly where it coincides with  
8 harm to emotional development. *D.R. v. Antelope Valley Union High Sch. Dist.*,  
9 746 F. Supp. 2d 1132, 1145-46 (C.D. Cal. 2010); *see also Plyler v. Doe*, 457 U.S.  
10 202, 223 (1982) (“By denying these children a basic education, we deny them the  
11 ability to live within the structure of our civic institutions, and foreclose any realistic  
12 possibility that they will contribute in even the smallest way to the progress of our  
13 Nation.”). In *D.R.*, for example, the Court found a danger of irreparable harm to a  
14 student plaintiff where “absences from the classroom have detrimentally affected  
15 her academic performance” and where the consequences of no injunction could  
16 “alienat[e] Plaintiff and provid[e] fodder for other children to ostracize her ...  
17 [which] likely would unduly affect Plaintiff’s self-worth and sense of  
18 independence.” *D.R.*, 746 F. Supp. 2d at 1145. The Court issued a preliminary  
19 injunction on this basis. *Id.* at 1149.

20 As with the plaintiff in *D.R.*, Student Plaintiffs will suffer further irreparable  
21 educational harm in the absence of injunctive relief. As Dr. Stefanidis has  
22 concluded, the complex trauma Student Plaintiffs have suffered “left untreated[,]”  
23 will continue to present obstacles in their daily functioning at school.” Stefanidis  
24 ¶ 29; *see also id.* ¶ 31 & Exhs. B-E. And Dr. Perry has made clear that “the longer  
25 such interventions are delayed, the greater the negative cumulative effect the acute  
26 neurophysiological, neuroendocrine, and neuropsychological response will have on  
27 the children and on society.” Perry ¶ 36; *see also id.* ¶¶ 30, 37; Subsection II.B.3  
28



1 (linking trauma exposure to poor academic performance, absences from the  
2 classroom, and behavioral challenges; detailing such harms to Student Plaintiffs).

3 This denial of the full benefit of public education would cause lifelong  
4 irreparable harm to trauma-impacted students in CUSD. Because the harm is  
5 irreparable and imminent, this factor weighs in favor of granting an injunction.

6 **C. The Balance of Harms Weighs Heavily In Favor of Plaintiffs**

7 Defendants' only possible interest in opposing the requested injunction, if  
8 there was one, would be financial. Financial interests are not significant for  
9 purposes of this prong of preliminary injunction analysis. *See, e.g., Golden Gate*  
10 *Restaurant Ass'n v. City and County of San Francisco*, 512 F.3d 1112, 1126 (9th  
11 Cir. 2008) ("entirely economic" government injuries do not outweigh "preventable  
12 human suffering"). By contrast, the educational opportunity and life chances of the  
13 Student Plaintiffs will be permanently hampered if CUSD fails to act.<sup>15</sup> *See*  
14 *Subsection II.B, supra*.

15 **IV. CONCLUSION**

16 For the foregoing reasons, Plaintiffs request this Court grant the preliminary  
17 injunction.

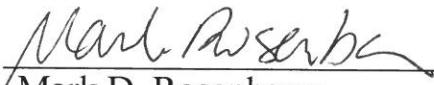
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19 <sup>15</sup> "Where a government entity is a party, the balance of hardships and public  
20 interest factors merge." *Defenders of Wildlife v. Jewell*, No. CV 14-1656-MWF  
21 (RZx), 2014 WL 1364452 (C.D. Cal. Apr. 2, 2014) (Fitzgerald, J.). For this reason,  
22 the Court in the past has not performed a separate analysis of the public interest  
23 factor where government entities were parties. *Id.* However, if the Court wishes to  
24 perform a separate analysis, the public interest greatly favors a preliminary  
25 injunction here. Not only is there no "critical public interest that would be injured  
26 by the grant of preliminary relief," *Cottrell*, 632 F.3d at 1138, on the contrary, the  
27 public interest would be injured if preliminary relief were denied. Courts have  
28 routinely recognized the importance of education for a functioning society. *See,*  
*e.g., Plyler v. Doe*, 457 U.S. 202, 221 (1982) (we cannot "ignore the significant  
social costs borne by our Nation when select groups are denied the means to absorb  
the values and skills upon which our social order rests."). Congress enacted the  
Rehabilitation Act precisely to "empower individuals with disabilities to maximize  
employment, economic self-sufficiency, independence, and inclusion and  
integration into society through . . . the guarantee of equal opportunity." 29 U.S.C.  
§ 701(b)(1)(F). Given the harm to future generations and society as a whole if an  
injunction is denied, the public interest is overwhelmingly on the side of Plaintiffs.

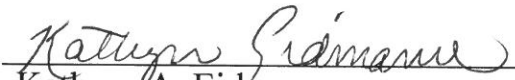


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Respectfully submitted,

  
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