ROB BONTA
Attorney General of California
DARRELL W. SPENCE (SBN: 248011)
Deputy Attorney General
STACEY L. LEASK (SBN: 233281)
KATHERINE J. GRAINGER (SBN: 333901)
TRUMAN S. BRASLAW (SBN: 356566)
Deputy Attorneys General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3524
Fax: (415) 703-5480
E-mail: Stacey.Leask@doj.ca.gov
Attorneys for Defendants State Superintendent of Public Instruction Tony Thurmond and Attorney General Rob Bonta

IN THE UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

T.S., et al. Plaintiffs, v. RIVERSIDE UNIFIED SCHOOL DISTRICT, et al. Defendants.	5:24-cv-02480-SSS (SPx) **STATE DEFENDANTS' NOTICE OF MOTION TO DISMISS AND MOTION TO DISMISS PLAINTIFFS' FIRST AMENDED COMPLAINT** **[Fed. R. Civ. P. 12(b)(1) & (6)]** Date: Friday, May 16, 2025 Time: 2:00 p.m. Courtroom: 2 Judge: The Honorable Sunshine Suzanne Sykes Trial Date: Not Set Action Filed: 11/20/2024

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on May 16, 2025, at 2:00 p.m., or as soon as the matter may be heard, before the Honorable Sunshine Suzanne Sykes in Courtroom 2 of the United States District Court for the Central District of California, Eastern Division, located at 3470 Twelfth Street, Riverside, CA 92501, Defendants State Superintendent of Public Instruction Tony Thurmond and Attorney General Rob Bonta (collectively, State Defendants) will and do hereby move this Court for an order to dismiss State Defendants from this action and all claims asserted against them under Federal Rules of Civil Procedure 12(b)(1) and (6) on the following grounds:

As to all claims for relief asserted against State Defendants (claims 4 through 7), this Court lacks subject matter jurisdiction under Rule 12(b)(1) because Plaintiffs lack standing. With respect to the seventh claim for relief based on violation of state law, State Defendants also have Eleventh Amendment immunity and thus, the seventh claim is barred.

In addition, all of Plaintiffs' claims against State Defendants should be dismissed under Rule 12(b)(6) on the grounds that Plaintiffs have failed to state cognizable claims under Title IX, 20 U.S.C. § 1681 (claims 4 through 6) and under California Education Code § 220 (claim 7). Plaintiffs have not alleged that State Defendants are recipients of federal and state financial assistance and, even if they had, State Defendants are not proper defendants for such claims. Plaintiffs also have not alleged facts sufficient to show intentional sex discrimination, ineffective accommodation and/or unequal treatment. The Title IX claims likewise fail against State Defendants because State Defendants lack clear notice that allowing transgender girls to participate in girls' high school interscholastic programs and activities violates Title IX. Additionally, there is no conflict between Title IX and Assembly Bill 1266.

This motion is made following the conference of counsel pursuant to Local Rule 7-3, which took place on March 20, 2025. The following attorneys were present for the conference on behalf of Plaintiffs: Julianne Fleischer and Joel Oster. The following attorneys were present for the conference on behalf of State Defendants: Stacey Leask, Katherine Grainger, Truman Braslaw and Darrell Spence. The conference, which was held by telephone, lasted approximately 30 minutes. During the conference, counsel for State Defendants informed Plaintiffs' counsel of the grounds upon which the claims for relief against State Defendants are subject to dismissal, including that Plaintiffs lack Article III standing, that the seventh claim based on alleged violation of state law is barred by Eleventh Amendment sovereign immunity, and that Plaintiffs have failed to state cognizable claims for relief against State Defendants under Title IX or California Education Code section 220. The parties did not agree to any resolution with respect to the claims asserted by the First Amended Complaint during the conference.

State Defendants' counsel then followed up with a written email to Plaintiffs' counsel that further detailed the grounds for dismissal with legal authorities on March 26, 2025, and asked that Plaintiffs let counsel know if Plaintiffs would amend the First Amended Complaint or dismiss any of the claims for relief against State Defendants. Plaintiffs declined this invitation.

This motion to dismiss is noticed to be heard on May 16, 2025. However, State Defendants are aware that the other defendants in the case have filed a motion to dismiss (ECF No. 37) that is set to be heard on April 25, 2025, and that the Court directed the parties to file a stipulation for all motions to dismiss to be heard on the same date. ECF No. 40. State Defendants have contacted the parties regarding a single hearing date for both motions, and will work with the parties to file a stipulation regarding a hearing date.

The motion is based upon this Notice, the accompanying Memorandum of Points and Authorities in support, the attached Request for Judicial Notice, the

papers and pleadings on file in this action, and such matters as may be presented to the Court at the time of the hearing.

Dated: March 28, 2025

Respectfully submitted,

ROB BONTA
Attorney General of California
DARRELL W. SPENCE
Supervising Deputy Attorney General

/S/ Stacey L. Leask

STACEY L. LEASK
Deputy Attorney General
Attorneys for Defendants State Superintendent of Public Instruction Tony Thurmond and Attorney General Rob Bonta

SA2025300597

CERTIFICATE OF SERVICE

Case Name: **Save Girls' Sports, et al v Tonly Thurmond, et al.** No. **5:24-cv-02480-SSS-SP**

I hereby certify that on March 28, 2025, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

STATE DEFENDANTS' NOTICE OF MOTION TO DISMISS AND MOTION TO DISMISS PLAINTIFFS' FIRST AMENDED COMPLAINT

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on March 28, 2025, at Sacramento, California.

Christopher R. Irby	*S/ Christopher R. Irby*
Declarant	Signature

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