

1 ROB BONTA
Attorney General of California
2 DARRELL W. SPENCE (SBN: 248011)
Deputy Attorney General
3 STACEY L. LEASK (SBN: 233281)
KATHERINE J. GRAINGER (SBN: 333901)
4 TRUMAN S. BRASLAW (SBN: 356566)
Deputy Attorneys General
5 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
6 Telephone: (415) 510-3524
Fax: (415) 703-5480
7 E-mail: Stacey.Leask@doj.ca.gov
Attorneys for Defendants State
8 *Superintendent of Public Instruction Tony*
Thurmond and Attorney General Rob Bonta
9

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12
13

14 T.S., et al.

15 Plaintiffs,

16 v.

17
18 RIVERSIDE UNIFIED SCHOOL
DISTRICT, et al.

19 Defendants.
20
21

5:24-cv-02480-SSS (SPx)

**STATE DEFENDANTS'
OBJECTIONS TO PLAINTIFFS'
REQUEST FOR JUDICIAL
NOTICE**

Date: May 16, 2025
Time: 2:00 p.m.
Courtroom: 2
Judge: The Honorable Sunshine
Suzanne Sykes
Trial Date: N/A
Action Filed: 11/20/2024

22 **INTRODUCTION**
23

24 Defendants, State Superintendent of Public Instruction Tony Thurmond and
Attorney General Rob Bonta (collectively, State Defendants), object to the exhibits
25 offered by Plaintiffs in their Request for Judicial Notice and Exhibits in Support of
26 Opposition to Defendants' Motion to Dismiss (ECF No. 47), and move to strike
27 these exhibits. Specifically, State Defendants object to Plaintiffs' Exhibits A, B, C,
28

1 D, E, F, G, and H. Judicial notice should be denied because Plaintiffs' request for
2 judicial notice of these documents is for improper purposes and relies on documents
3 that are irrelevant or that otherwise are not properly subject to judicial notice.

4 In their Opposition to State Defendants' Motion to Dismiss (ECF No. 46),¹
5 Plaintiffs improperly rely on factual assertions contained within Exhibits A and G.
6 However, the truth of the facts contained therein is in dispute and is not properly
7 subject to judicial notice.

8 Additionally, judicial notice should be denied for Exhibits A, B, C, D, E, F, G,
9 and H because they are not of consequence in determining Plaintiffs' claims.

10 For these reasons, further explained below, Plaintiffs' request for judicial
11 notice should be denied in its entirety.

12 STANDARD FOR JUDICIAL NOTICE

13 Pursuant to Rule 201(b) of the Federal Rules of Evidence, a court may
14 judicially notice an adjudicative fact "that is not subject to reasonable dispute
15 because it: (1) is generally known within the trial court's territorial jurisdiction; or
16 (2) can be accurately and readily determined from sources whose accuracy cannot
17 reasonably be questioned." Although many public records may be judicially
18 noticeable under Rule 201(b)(2), it is well-established that when a court takes
19 judicial notice of a public record, "it may do so not for the truth of the facts recited
20 therein, but [only] for the existence of the [record], which is not subject to
21 reasonable dispute over its authenticity." *Klein v. Freedom Strategic Partners*, 595
22 F. Supp. 2d 1152, 1157 (D. Nev. 2009) (quoting *Lee v. City of Los Angeles*, 250
23 F.3d 668, 689–90 (9th Cir. 2001)).

24 Courts decline to take judicial notice of facts that are irrelevant, even if they
25 otherwise meet the criteria under Rule 201. *See, e.g., U.S. v. Lumiguid*, 499 F.

26
27 ¹ Plaintiffs have erroneously titled their opposition to State Defendants'
28 Motion to Dismiss as "Plaintiffs' Opposition to Defendants Riverside Unified
School District's, Leann Iacuone's, and Amanda Chann's Motion to Dismiss." *See*
ECF. No. 46.

App’x 689, 691 (9th Cir. 2012) (denying judicial notice of state licensing statutes as irrelevant to scam for using unlicensed nurses); *Banks v. Clark Cnty., Nev.*, 461 F. App’x 585, 587 (9th Cir. 2011) (denying notice of irrelevant administrative order); *U.S. v. Burlington Northern & Santa Fe Ry. Co.*, 520 F.3d 918, 930 n.2 (9th Cir. 2008) (denying judicial notice of EPA proceedings that “do not have a direct relation to the matters at issue”), *rev’d on other grounds*, 556 U.S. 599 (2009); *Hadley v. Blakey*, 160 F. App’x 612, 614 n.1 (9th Cir. 2005) (denying notice of Federal Aviation Administration documents as not relevant to any valid claim for relief); *LaHaye v. Galvin Flying Serv., Inc.*, 144 F. App’x. 631, 634 (9th Cir. 2005) (denying notice of National Transportation Safety Board’s report of an unrelated plane crash on grounds of relevance).

ARGUMENT

THE COURT SHOULD DENY PLAINTIFFS’ REQUEST FOR JUDICIAL NOTICE

A. Exhibit A: Executive Order No. 14201

State Defendants object to Plaintiffs’ request for judicial notice of Exhibit A, Executive Order No. 14201. Plaintiffs impermissibly rely on Exhibit A for the truth of its factual assertion that allowing students to compete on sex-segregated sport teams that correspond with their gender identity “is demeaning, unfair, and dangerous to women and girls, and denies women and girls the equal opportunity to participate and excel in competitive sports.” ECF No. 46 at 1. These facts are subject to reasonable dispute and thus cannot be judicially noticed. Fed. R. Evid. 201(b).

Further, Exhibit A is inadmissible because it is not relevant to Plaintiffs’ claims. The facts asserted in Executive Order No. 14201 have no tendency to prove or disprove any fact of consequence in determining Plaintiffs’ claims. Fed. R. Evid. 401(b). Therefore, the Court should decline to take judicial notice of Exhibit A. *See, e.g., Lumiguid*, 499 F. App’x at 691 (denying judicial notice of state

1 nursing licensure statutes as irrelevant to fraudulent scheme involving unlicensed
2 caregivers).

3 **B. Exhibit B: Press Release from the U.S. Department of**
4 **Education**

5 State Defendants object to Plaintiffs' request for judicial notice of Exhibit B, a
6 press release issued by the U.S. Department of Education on February 12, 2025.

7 Exhibit B is inadmissible because it is not relevant to Plaintiffs' claims. The
8 facts asserted in the press release concern independent investigations of entities
9 which are not parties to this lawsuit. There are no allegations in this lawsuit
10 concerning the investigations of the U.S. Department of Education. Further,
11 nothing in Exhibit B would impact this Court's ruling. Thus, Exhibit B has no
12 tendency to prove or disprove any fact of consequence in determining Plaintiffs'
13 claims. Fed. R. Evid. 401(b). The Court should decline to take judicial notice of
14 Exhibit B. *See, e.g., Lumiguid*, 499 F. App'x at 691; *see also Loper Bright Enters.*
15 *v. Raimondo*, 603 U.S. 369, 412-13 (2024) (courts need not defer to an agency
16 interpretation of the law to resolve statutory ambiguity).

17 **C. Exhibit C: Letter from Attorney General Bondi to California**
18 **Interscholastic Federation**

19 State Defendants object to Plaintiffs' request for judicial notice of Exhibit C, a
20 letter from U.S. Attorney General Pam Bondi to the California Interscholastic
21 Federation sent on February 25, 2025.

22 Exhibit C is inadmissible because it is not relevant to Plaintiffs' claims. The
23 facts asserted in the letter concern an independent investigation of an entity which
24 is not a party to this lawsuit. There are no allegations in this lawsuit concerning the
25 investigation of the U.S. Department of Education. Further, nothing in Exhibit C
26 would impact this Court's ruling. Thus, Exhibit C has no tendency to prove or
27 disprove any fact of consequence in determining Plaintiffs' claims. Fed. R. Evid.
28 401(b). The Court should decline to take judicial notice of Exhibit C. *See, e.g.,*
Lumiguid, 499 F. App'x at 691; *see also Loper Bright Enters.*, 603 U.S. at 413.

D. Exhibit D: Letter from the U.S. Department of Education to Tumwater School District

State Defendants object to Plaintiffs' request for judicial notice of Exhibit D, a letter from the U.S. Department of Education to the Tumwater School District sent on February 28, 2025.

Exhibit C is inadmissible because it is not relevant to Plaintiffs' claims. The facts asserted in the letter concern an independent investigation of an entity which is not a party to this lawsuit. There are no allegations in this lawsuit concerning the investigation of the U.S. Department of Education. Further, the outcome of the investigation referenced in Exhibit D has no impact on this Court's ruling. The facts in Exhibit D thus have no tendency to prove or disprove any fact of consequence in determining Plaintiffs' claims. Fed. R. Evid. 401(b). The Court should decline to take judicial notice of Exhibit D. *See, e.g., Lumiguid*, 499 F. App'x at 691; *see also Loper Bright Enters.*, 603 U.S. at 413.

E. Exhibit E: Letter from the U.S. Department of Education to Maine Department of Education

State Defendants object to Plaintiffs' request for judicial notice of Exhibit E, a letter from the U.S. Department of Education to the Maine Department of Education sent on March 19, 2025.

Exhibit E is inadmissible because it is not relevant to Plaintiffs' claims. The facts asserted in the letter concern an independent investigation of an entity which is not a party to this lawsuit. There are no allegations in this lawsuit concerning the investigation of the U.S. Department of Education. Further, the outcome of the investigation referenced in Exhibit E has no impact on this Court's ruling. The facts in Exhibit E thus have no tendency to prove or disprove any fact of consequence in determining Plaintiffs' claims. Fed. R. Evid. 401(b). The Court should decline to take judicial notice of Exhibit E. *See, e.g., Lumiguid*, 499 F. App'x at 691; *see also Loper Bright Enters.*, 603 U.S. at 413.

F. Exhibit F: Press Release from the U.S. Department of Education

State Defendants object to Plaintiffs' request for judicial notice of Exhibit F, a press release issued by the U.S. Department of Education on March 20, 2025, concerning investigations into the Illinois Department of Education, the Chicago Public School District 299, and the Deerfield Public Schools District 109.

Exhibit F is inadmissible because it is not relevant to Plaintiffs' claims. The facts asserted in the press release concern independent investigations of entities which are not parties to this lawsuit. There are no allegations in this lawsuit concerning the investigations of the U.S. Department of Education. Further, the outcome of the investigations referenced in Exhibit F have no impact on this Court's ruling. The facts in Exhibit F thus have no tendency to prove or disprove any fact of consequence in determining Plaintiffs' claims. Fed. R. Evid. 401(b). The Court should decline to take judicial notice of Exhibit F. *See, e.g., Lumiguid*, 499 F. App'x at 691; *see also Loper Bright Enters.*, 603 U.S. at 413.

G. Exhibit G: Complaint in *United States v. Maine*

State Defendants object to Plaintiffs' request for judicial notice of Exhibit G, the complaint filed in *United States of America v. Maine Department of Education*.

The alleged facts contained in the complaint attached as Exhibit G are subject to reasonable dispute and thus cannot be judicially noticed. Fed. R. Evid. 201(b). Further, Exhibit G is inadmissible because it is not relevant to Plaintiffs' claims. The facts asserted in the complaint concern entities which are not parties to this lawsuit. There are no allegations in this lawsuit concerning the U.S. Department of Education's investigation into the Maine Department of Education. Further, the outcome of the lawsuit referenced in Exhibit G has no impact on this Court's ruling. The facts in Exhibit G thus have no tendency to prove or disprove any fact of consequence in determining Plaintiffs' claims. Fed. R. Evid. 401(b). The Court should decline to take judicial notice of Exhibit G. *See, e.g., Lumiguid*, 499 F. App'x at 691; *see also Loper Bright Enters.*, 603 U.S. at 413.

H. Exhibit H: Website of Plaintiff Save Girls' Sports

State Defendants object to Plaintiffs' request for judicial notice of Exhibit H, a page on the website of Plaintiff Save Girls' Sports.

Plaintiffs impermissibly rely on Exhibit H for the factual assertion that AB 1266 causes Save Girls' Sports members to lose "competitive rankings, podium finishes, awards, and even opportunities for college recruitment." ECF No. 46 at 15. These facts are subject to reasonable dispute and thus cannot be judicially noticed. Fed. R. Evid. 201(b). Further, Exhibit H does not actually contain these facts.

Additionally, Exhibit H is inappropriate for judicial notice because Save Girls' Sports' website is not a source whose accuracy cannot reasonably be questioned. Fed. R. Evid. 201(b)(2). The Court should thus decline to take judicial notice of Exhibit H.

Dated: May 2, 2025

Respectfully submitted,

ROB BONTA
Attorney General of California

/S/TRUMAN S. BRASLAW

TRUMAN S. BRASLAW
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 May 2, 2025, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

STATE DEFENDANTS' OBJECTIONS TO PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE

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 May 2, 2025, at San Francisco, California.

G. Guardado
Declarant

/s/ G. Guardado
Signature