

FAGEN FRIEDMAN & FULFROST, LLP  
Milton E. Foster III, SBN 250357  
mfoster@f3law.com  
Nathaniel Rosilez, SBN 339229  
nrosilez@f3law.com  
4160 Temescal Canyon Road, Suite 610  
Corona, California 92883  
Phone: 951.215.4900  
Fax: 951.215.4911

Attorneys for RIVERSIDE UNIFIED  
SCHOOL DISTRICT, AMANDA  
CHANN, and LEANN IACUONE

# UNITED STATES DISTRICT COURT

## CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION

SAVE GIRLS' SPORTS, an  
unincorporated California association;  
T.S., a minor by and through her father  
and natural guardian, RYAN  
STARLING, individually, and on  
behalf of all others similarly situated;  
and K.S., a minor by and through her  
father and mother and natural  
guardians, DANIEL SLAVIN and  
CYNTHIA SLAVIN, individually, and  
on behalf of all others similarly  
situated;

Plaintiffs,

vs.

TONY THURMOND, in his official  
capacity as State Superintendent of  
Public Instruction; ROB BONTA, in his  
official capacity as State Attorney  
General; RIVERSIDE UNIFIED  
SCHOOL DISTRICT; LEANN  
IACUONE, Principal of Martin Luther  
King High School, in her personal and  
official capacity; and AMANDA  
CHANN, Assistant Principal and  
Athletic Director of Martin Luther King  
High School, in her personal and  
official capacity,

Defendants.

CASE NO. 5:24-cv-02480-SSS (SPx)

**DEFENDANTS RIVERSIDE  
UNIFIED SCHOOL DISTRICT'S,  
LEANN IACUONE'S, AND  
AMANDA CHANN'S EX PARTE  
APPLICATION FOR THE  
RECUSAL OF JUDGE SYKES**  
The Hon. Sunshine Suzanne Sykes

Hon. Sunshine Suzanne Sykes

Trial Date: None Set

*(Filed concurrently with Declaration of  
Milton E. Foster, III; Declaration of  
Nathaniel B. Rosilez and [Proposed  
Order])*

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that Defendants Riverside Unified School  
3 District (“District”), Dr. Leann Iacuone (“Iacuone”), and Amanda Chann (“Chann”)  
4 (the District, Iacuone, and Chann collectively hereinafter “Defendants”) hereby  
5 submit this ex parte application for recusal of Honorable Sunshine Suzanne Sykes  
6 from hearing this matter (“Application”).

7 This Application is made pursuant to 28 U.S.C. § 455(a), which provides that  
8 a federal judge must recuse herself “in any proceeding in which his (or her)  
9 impartiality might reasonably be questioned.” *See also United States v. Anderson*,  
10 160 F.3d 231, 233-234 (5th Cir. 1998). This Application is further made pursuant to  
11 28 U.S.C. § 455(b), which requires a judge to recuse herself where “[she],  
12 individually or as a fiduciary, or [her] spouse or minor child residing in [her]  
13 household, has a financial interest in the subject matter in controversy or in a party  
14 to the proceeding, or any other interest that could be substantially affected by the  
15 outcome of the proceeding.” 28 U.S.C. § 455(b)(4).

16 This ex parte application is based upon this notice, the accompanying  
17 Memorandum of Points and Authorities; the Declaration of Milton E. Foster, III  
18 filed concurrently herewith; the Declaration of Nathaniel B. Rosilez filed  
19 concurrently herewith; all pleadings, records and files herein; and upon such other  
20 and further matters as may be presented in connection with this ex parte.  
21 Defendants noticed opposing counsel of this ex parte application, pursuant to L.R.  
22 7-19. This ex parte application complies with Local Rule 7-19’s requirements.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 DATED: May 9, 2025

FAGEN FRIEDMAN & FULFROST, LLP

2  
3  
4 By:



Milton E. Foster III

Attorneys for RIVERSIDE UNIFIED SCHOOL  
DISTRICT, AMANDA CHANN, and LEANN  
IACUONE

Fagen Friedman & Fulfrost, LLP

4160 Temescal Canyon Road, Suite 610

Corona, California 92883

Main 951.215.4900 • Fax 951.215.4911

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

This ex parte application is made pursuant to 28 U.S.C. § 455(a), which provides that a federal judge must recuse herself “in any proceeding in which his (or her) impartiality might reasonably be questioned.” *See also United States v. Anderson*, 160 F.3d 231, 233-234 (5th Cir. 1998). This ex parte application is further made pursuant to 28 U.S.C. § 455(b)(4), which requires a judge to recuse herself where “[she], individually or as a fiduciary, or [her] spouse or minor child residing in [her] household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding.” 28 U.S.C. § 455(b)(4).

The District has become aware that Judge Sykes sits as the co-chair of the District’s Native American Parent Advisory Council (“NAPAC”) and has, on occasion, presented to the District’s governing Board of Education (“Board”) on behalf of NAPAC and other similarly situated parent groups. In doing so, Judge Sykes was exposed to the personal account of the District student identified as Student M.L. in Plaintiff’s First Amended Complaint for damages. Further, the District is aware that NAPAC requests and relies on the use of District resources and facilities to help it carry out its mission and various programs it puts on.

While Defendants and counsel greatly respect Judge Sykes, a reasonable person or entity may question Judge Sykes’ ability to be impartial under all of the circumstances of this case. Moreover, “counsel for a party who believes a judge’s impartiality is reasonably subject to question has not only a professional duty to the client to raise the matter, but an independent responsibility as an officer of the court...” *In re Bernard*, 31 F.3d 842, 847 (9th Cir. 1994). In light of the upcoming hearing on Defendants’ pending dispositive motion, good cause exists to grant the relief requested herein.

///

**II. FACTUAL BACKGROUND**

On or about November 20, 2024, Plaintiffs T.S. and K.S. filed a verified complaint for deprivation of the freedom of speech, violation of the due process clause, and violation of Title IX. Declaration of Milton E. Foster, III (“Foster Decl.”) at ¶ 2. Following an extensive meet and confer process, Plaintiffs T.S., K.S., and Save Girls’ Sports (collectively “Plaintiffs”) filed a First Amended Complaint (“FAC”) on January 31, 2025, alleging claims for deprivation of the freedom of speech – facial, deprivation of the freedom of speech – as applied, violation of the due process clause, violatoin of Title IX – sex discrimination, violation of Title IX – effective accommodatoin, violatoin of Title IX – equal treatment; and violation of Education Code section 220. Foster Decl. at ¶ 3. Plaintiffs’s FAC alleges in part that Plaintiffs were harmed due to the District allowing Student M.L., a transgender girl, to participate on the girls’ cross country team, consistent with Student M.L.’s gender identity. Foster Decl. at ¶ 3. Plaintiffs further allege that the District violated their freedom of speech when the District restricted Plaintiffs from wearing shirts that targeted Student M.L.’s gender identity. Foster Decl. at ¶ 3.

Shortly thereafter, at a regularly scheduled meeting of the District’s Board on February 6, 2025, Judge Sykes presented before the District Board to provide a report on the NAPAC as well as on behalf of the District African American Parent Advisory Council, La Comunidad Latina de Riverside, and Somos Dual Language Immersion. Foster Decl. at ¶¶ 4-5. At that Board meeting, the District student identified as Student M.L., as well as another student and an individual identified as “Jennifer”, spoke out against the targeting of the transgender community at the District’s Martin Luther King High School (“King”). Foster Decl. at ¶ 6. Student M.L. and the other individuals specifically discussed Student M.L.’s participation on the King girls’ cross country team and the wearing of the t-shirts underlying Plaintiffs’ freedom of speech claims. Foster Decl. at ¶ 6.

**Fagen Friedman & Fulfrost, LLP**  
4160 Temescal Canyon Road, Suite 610  
Corona, California 92883  
Main 951.215.4900 • Fax 951.215.4911

1 Defendants previously notified Judge Sykes' chambers of the alleged factual  
2 circumstances for recusal in an effort to bring this situation to light on March 25,  
3 2025. Foster Decl. at ¶ 7. On March 25, 2025, Defendants received a response  
4 stating that the court would formally issue written rulings and orders should it wish  
5 to communicate with the parties. Foster Decl. at ¶ 8. As of the date of this filing, no  
6 written rulings or orders have been issued related to Judge Sykes's involvement with  
7 the District's NAPAC. Foster Decl. at ¶ 8. Defendants and State Defendants each  
8 now have motions to dismiss Plaintiff's First Amended Complaint set for oral  
9 arguments before Judge Sykes on May 16, 2025. Foster Decl. at ¶ 10.

10 This ex parte application complies with Local Rule 7-19's requirements. On  
11 May 7, 2025, counsel for Defendants separately contacted Plaintiffs' counsel as well  
12 as counsel for Rob Bonta and Tony Thurmond (Rob Bonta and Tony Thurmond  
13 collectively "State Defendants") via email requesting to schedule a telephonic  
14 conference to discuss Defendants' intent to file this ex parte application.  
15 Declaration of Nathaniel B. Rosilez ("Rosilez Decl.") at ¶¶ 2-3. On May 7, 2025,  
16 counsel for Defendants spoke with Plaintiffs' counsel via telephone notifying them  
17 of Defendants' intent to bring this ex parte application in compliance with the Local  
18 Rules and the grounds upon which Defendants bring this ex parte application.  
19 Rosilez Decl. at ¶ 2. On May 8, 2025, counsel for Defendants spoke with counsel  
20 State Defendants via telephone notifying them of Defendants' intent to bring this ex  
21 parte application in compliance with the Local Rules and the grounds upon which  
22 Defendants bring this ex parte application. Rosilez Decl. at ¶ 4. Neither Plaintiffs'  
23 counsel nor counsel for State Defendants were able to indicate whether they would  
24 oppose or not oppose Defendants' ex parte application. Rosilez Decl. at ¶¶ 2, 4-5.

25 Plaintiff's counsel Julianne Fleischer is an attorney with Advocates for Faith  
26 & Freedom, located at 25026 Las Brisas Road Murrieta, California 92562. Rosilez  
27 Decl. at ¶ 6. Ms. Fleischer's phone number is 951.304.7583, and her email address  
28 is jfleischer@faith-freedom.com. Rosilez Decl. at ¶ 6. State Defendants' counsel

**Fagen Friedman & Fulfrost, LLP**  
4160 Temescal Canyon Road, Suite 610  
Corona, California 92883  
Main 951.215.4900 • Fax 951.215.4911

1 Stacey Leask is an attorney with the California Department of Justice, located at  
2 355 Golden Gate Ave, Ste 11000, San Francisco, CA 94102. Rosilez Decl. at ¶ 7.  
3 Ms. Leask's phone number is 415.510.3524, and her email address is  
4 Stacey.Leask@doj.ca.gov. Rosilez Decl. at ¶ 7.

5 **III. GOOD CAUSE EXISTS FOR THIS COURT TO GRANT THE**  
6 **REQUESTED RELIEF ON AN EX PARTE BASIS**

7 There is good cause for this Court to grant Defendants' requested relief on an  
8 Ex Parte basis. *Mission Power Engineering Co. v. Continental Cas. Co.* (CD CA  
9 1995) 883 F.Supp. 488, 492 (application must show why moving party has good  
10 cause for ex parte relief). In this instant matter, Judge Sykes is set to hear oral  
11 arguments on Defendants' and State Defendants' motions to dismiss on May 16,  
12 2025. Because of the dispositive nature of Defendants' and State Defendants'  
13 motions, it is necessary for Judge Sykes to make a determination as to whether she  
14 should recuse herself prior to issuing any ruling on the motions to dismiss for the  
15 reasons stated herein. Should Defendants be required to bring a regularly noticed  
16 motion for recusal, Defendants would not be able to heard until after the date upon  
17 which Judge Sykes is set to hear oral arguments on Defendants' and State  
18 Defendants' respective motions to dismiss. Defendants would therefore be  
19 prejudiced should its request not be addressed on an ex parte basis.

20 Further, Defendants are without fault in creating this situation at hand.  
21 Defendants previously notified Judge Sykes' chambers of preexisting relationship  
22 with the District in an effort to bring this situation to light on March 25, 2025. On  
23 March 25, 2025, Defendants received a response stating that the court would  
24 formally issue written rulings and orders should it wish to communicate with the  
25 parties. To date, no written ruling or order has been issued by the court regarding  
26 Judge Sykes preexisting relationship with the District.

27 Therefore, because Defendants can not be heard on the requested relief prior  
28 to Judge Sykes hearing oral arguments on Defendants' and State Defendants'



1 respective motions to dismiss and because Defendants are not in fault in creating  
2 this situation, good cause exists for relief requested to be granted on an ex parte  
3 basis.

4 **IV. RECUSAL OF JUDGE SYKES IS APPROPRIATE UNDER THE**  
5 **CIRCUMSTANCES OF THIS CASE**

6 **A. RECUSAL OF JUDGE SYKES IS APPROPRIATE PURSUANT TO 28**  
7 **U.S.C. SECTION 455(a).**

8 Under 28 U.S.C. Section 455(a), a federal judge must recuse herself “in any  
9 proceeding in which his (or her) impartiality might reasonably be questioned.” In  
10 *United States v. Anderson*, the United States Court of Appeals for the Fifth Circuit  
11 held:

12 This Circuit has recognized that each section 455(a) case is extremely  
13 fact intensive and fact bound, and must be judged on its unique facts and  
14 circumstances rather than by comparison to similar situations considered  
15 in prior jurisprudence. *United States v. Jordan*, 49 F.3d 152, 157 (5th  
16 Cir. 1995). The party seeking recusal must demonstrate that, if a  
17 reasonable person knew of all of the circumstances, they would harbor  
18 doubts about the judge's impartiality. *Travelers Ins. Co. v. Liljeberg*  
19 *Enterprises, Inc.*, 38 F.3d 1404, 1408 (5th Cir. 1994). Thus, if a judge  
20 concludes that his impartiality might be reasonably questioned, then he  
21 should find that the statute requires his recusal. *In re Faulkner*, 856 F.2d  
22 716, 721 (5th Cir.1988) (citing *Liljeberg v. Health Services Acquisition*  
23 *Corp.*, 486 U.S. 847, 860, 108 S.Ct. 2194, 100 L.Ed.2d 855 (1988)). The  
24 goal of section 455(a) is to avoid even the appearance of partiality.  
25 *Liljeberg*, 486 U.S. at 860.... This Court recognizes that it is essential to  
26 avoid even the appearance of impropriety because it is as important in  
27 developing the public confidence in our judicial system as avoiding the  
28 impropriety itself. *Jordan*, 49 F.3d at 155-56.



1 *Anderson*, 160 F.3d at 233-234. Importantly, the appearance of partiality requires  
2 recusal “even though no actual partiality exists because the judge does not recall the  
3 facts, because the judge actually has no interest in the case or because the judge is  
4 pure in heart and incorruptible.” *Liljeberg*, 486 U.S. at 860.

5 In this case, a reasonable person is likely to question the ability of Judge  
6 Sykes to be completely impartial in this matter. Judge Sykes admirably sits as a co-  
7 chair of NAPAC, a District parent advisory group whose mission it is “to ensure that  
8 Native American students receive equitable support, thrive academically, and  
9 celebrate their cultural heritage within the educational system.” NAPAC itself relies  
10 in part on the use of District facilities and resources to provide services to the  
11 District’s Native American students. Although neither Defendants nor counsel  
12 believe that Judge Sykes would base any of her rulings on the continued allocation  
13 of District funds to NAPAC or the continued use of District facilities by NAPAC, it  
14 would not be unreasonable for an outside party to, either innocently or maliciously,  
15 misrepresent the Court’s ruling as less than impartial.

16 This is especially true in a matter that has garnered national attention such as  
17 this. Both Plaintiffs T.S. and K.S., as well as their counsel, have previously  
18 appeared on national television to discuss the case at hand. It cannot be denied that  
19 transgender inclusion in athletics currently holds national attention, being the main  
20 focus of multiple executive orders issued by incumbent President Donald Trump  
21 and relied upon by Plaintiffs’ in their response to the defendants collective motions  
22 to dismiss. *See* Plaintiff’s Opposition to Riverside Unified School District’s, Leann  
23 Iacuone, and Amanda Chann’s Motion to Dismiss at pp. 1, 17; Plaintiff’s  
24 Opposition to Defendant Tony Thurmond’s and Rob Bonta’s Motion to Dismiss at  
25 pp. 1, 17. Regardless of which way this Court would rule on motions filed by the  
26 Parties, the impartiality of Judge Sykes may be questioned by those that oppose or  
27 support transgender inclusion in athletic teams consistent with their gender identity.  
28 Moreover, Judge Sykes continued handling of this matter potentially places the

1 District in a challenging position. When contemplating requests from NAPAC, the  
2 District may be faced with questions about any impact or import the case may have  
3 on the District's response to requests for aide. The District should not be placed in  
4 such a position.

5 Notably, as discussed above, there have been instances where the facts of the  
6 case have been directly discussed at board meetings by plaintiffs, persons involved  
7 and/or potential witnesses or others, where Judge Sykes has previously attended.  
8 Such information would ordinarily only come before the Court via declaration or  
9 sworn testimony, none of which can be required at a Board meeting. Recusal would  
10 seem appropriate to allow Judge Sykes to continue attending Board meetings and  
11 representing the interests of NAPAC, without concern that case specific statements  
12 and information would be provided outside of the judicial setting.

13 Given the previously established relationship between the District and Judge  
14 Sykes, recusal should not be a "close call" under the facts of this case. However,  
15 even if it were, the use of the word "might" in Section 455(a) makes it clear that a  
16 judge should decide "close calls" in favor of removing himself or herself from a  
17 case. *New York City Housing Development Cor. v. Hart*, 796 F.2d 976, 980 (7th  
18 Cir. 1986); *In re Boston's Children First*, 244 F.3d 164, 167 (1st Cir. 2001) (holding  
19 that "[i]f the question of whether § 455(a) requires disqualification is a close one,  
20 the balance tips in favor of recusal"). Therefore, Defendants' position is that Judge  
21 Sykes should consider recusal to avoid even the appearance of impartiality.

22 **B. RECUSAL IS APPROPRIATE PURSUANT TO 28 U.S.C. SECTION**  
23 **455(b).**

24 28 U.S.C. § 455(b)(4) requires a judge to recuse herself where "[she],  
25 individually or as a fiduciary, or [her] spouse or minor child residing in [her]  
26 household, has a financial interest in the subject matter in controversy or in a party  
27 to the proceeding, or any other interest that could be substantially affected by the  
28 outcome of the proceeding." 28 U.S.C. § 455(b)(4).

1 Judge Sykes, by way of her position as the co-chair of the NAPAC, arguably  
2 has a vested interest that could be substantially affected by the outcome of the  
3 proceeding. District resources are a finite resource: for every dollar spent in  
4 litigation or on any award that may be granted to Plaintiff, one less dollar is  
5 available to support Native American students, and others ability to thrive  
6 academically and celebrate their cultural heritage within the educational system. It  
7 is highly unusual for a judge to serve in a leadership role for a district-centered  
8 special interest group that seeks (and relies on) aide and assistance from the district  
9 to concurrently preside over a litigated matter against the same district. Judge Sykes  
10 position and interest in the District's NAPAC and the continued use of District  
11 resources therefore also provides sufficient grounds for recusal.

12 **C. THIS MOTION IS TIMELY AND NOT BROUGHT FOR THE**  
13 **PURPOSES OF DELAY OR ANY OTHER IMPROPER PURPOSE.**

14 Defendants bring this motion prior to any substantial judicial involvement in  
15 this matter. To date, the pleadings remain unsettled and Judge Sykes has not issued  
16 any rulings on any of the motions to dismiss filed by all defendants in this matter.  
17 Defendants do not seek to impugn the integrity of Judge Sykes by way of this  
18 motion. Rather, Defendants bring this motion based solely on the desire to have this  
19 matter determined by a judge whose impartiality would not reasonably be subject to  
20 doubt in light of Judge Sykes's preexisting relationship with the District.

21 **V. CONCLUSION**

22 For all of the foregoing reasons, the Defendants respectfully requests that the  
23 Court grant Defendants' ex parte application for recusal of Judge Sykes.  
24 Defendants further request that this matter be assigned to a judicial officer with no  
25 connection to any party that would cause a reasonable person to question the  
26 impartiality of the assigned judge. Alternatively, the matter could be assigned to a  
27 judge in a different branch of the United States District Court for the Eastern District  
28 of California.

1 DATED: May 9, 2025

FAGEN FRIEDMAN & FULFROST, LLP

2  
3  
4 By:



Milton E. Foster III

Attorneys for RIVERSIDE UNIFIED SCHOOL  
DISTRICT, AMANDA CHANN, and LEANN  
IACUONE

5  
6  
7  
8  
9 190-115/7282758.1

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Fagen Friedman & Fulfrost, LLP**  
4160 Temescal Canyon Road, Suite 610  
Corona, California 92883  
Main 951.215.4900 • Fax 951.215.4911

**PROOF OF SERVICE**

**T.S. and K.S. v. Riverside Unified School District, et al.  
Case No. 5:24-cv-02480-SSS (SPx)**

**STATE OF CALIFORNIA, COUNTY OF RIVERSIDE**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Riverside, State of California. My business address is 4160 Temescal Canyon Road, Suite 610, Corona, CA 92883.

On May 9, 2025, I served true copies of the following document(s) described as **DEFENDANTS RIVERSIDE UNIFIED SCHOOL DISTRICT'S, LEANN IACUONE'S, AND AMANDA CHANN'S EX PARTE APPLICATION FOR THE RECUSAL OF JUDGE SYKES** on the interested parties in this action as follows:

Robert Tyler  
Julianne Fleischer  
ADVOCATES FOR FAITH & FREEDOM  
25026 Las Brisas Road  
Murrieta, CA 92562  
Telephone: (951) 600-2733  
[bt Tyler@faith-freedom.com](mailto:bt Tyler@faith-freedom.com)  
[jfleischer@faith-freedom.com](mailto:jfleischer@faith-freedom.com)

Attorneys for Plaintiffs T.S. and K.S.

☒ **BY CM/ECF NOTICE OF ELECTRONIC FILING:** I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on May 9, 2025, at Corona, California.



Lisa Spencer