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

13 **T.S., at al.,**

14 Plaintiffs,

15 v.

16 **RIVERSIDE UNIFIED SCHOOL**
17 **DISTRICT, et al.,**

18 Defendants.

5:24-cv-02480-SSS-SPx

DEFENDANT CALIFORNIA
DEPARTMENT OF
EDUCATION'S OPPOSITION TO
PLAINTIFFS' MOTION FOR
RECONSIDERATION

Date: March 27, 2026
Time: 2:00 p.m.
Courtroom: 2
Judge: The Honorable Sunshine
S. Sykes
Action Filed: 11/20/2024

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INTRODUCTION

Defendant California Department of Education (CDE) opposes Plaintiffs’ motion for reconsideration of the Court’s February 5, 2026 order granting Defendants’ motion to dismiss Plaintiffs’ Second Amended Complaint (SAC). A Motion for Reconsideration is an extraordinary remedy that is only permissible on three narrow bases, none of which is present here. Plaintiffs ignore these limited bases under which a party may bring a motion for reconsideration and instead ask this Court to again consider Plaintiffs’ same arguments that were already fairly considered and adjudicated by the Court. Because Plaintiffs are barred from re-litigating these same issues on a motion for reconsideration, and because Plaintiffs fail to demonstrate any sufficient error in the Court’s prior ruling with respect to the claims against CDE, Plaintiffs’ motion for reconsideration of the Court’s ruling on CDE’s motion to dismiss should be denied.

PROCEDURAL HISTORY

I. THE COURT DISMISSES PLAINTIFFS’ CLAIMS AGAINST THE STATE DEFENDANTS

Plaintiffs initially filed this suit against the School District. *See* Dkt. No. 1. Pursuant to stipulation, Plaintiffs amended their complaint adding the Attorney General and State Superintendent of Public Instruction as defendants and Save Girls’ Sports as a plaintiff. First Am. Compl. (FAC), Dkt. No. 28. As to these State Defendants, Plaintiffs brought a Title IX sex discrimination claim, a Title IX Effective Accommodation claim, a Title IX Equal Treatment claim, and a state law gender-discrimination claim under California Education Code § 220.

In response, State Defendants filed a motion to dismiss. Dkt. No. 41. On September 24, 2025, this Court granted the motion. Order Granting Mot. to Dismiss FAC, at 1, Dkt. No. 68. As to State Defendants, the Court dismissed Plaintiffs’ Title IX Sex Discrimination, Effective Accommodation, and Equal Treatment claims against State Defendants on standing grounds and for failure to

1 state a claim, with leave to amend to address the deficiencies identified in the
2 Court’s order. *Id.* at 11-19. The Court also dismissed the claim for violation of
3 California Education Code § 220 against State Defendants without leave to amend.
4 *Id.* at 19-20. The order also stated that “any amended complaint SHALL ONLY
5 address the deficiencies identified [in the Court’s order].” *Id.* at 20-21.

6 **II. THE COURT DISMISSES PLAINTIFFS’ CLAIMS AGAINST CDE**

7 On October 29, 2025, Plaintiffs filed the Second Amended Complaint (SAC).
8 Second Am. Compl., Dkt. No. 71. Plaintiffs opted to not re-assert any claims
9 against the former State Defendants. Rather, Plaintiffs instead brought two new
10 claims against CDE seeking to enjoin CDE’s alleged enforcement and
11 implementation of AB 1266: a seventh claim based on a facial preemption claim
12 under the Supremacy Clause of the United States Constitution and an eighth
13 claim—an as-applied preemption claim—under the Supremacy Clause of the
14 United States Constitution. *Id.* ¶¶ 400-434.

15 On November 25, 2025, CDE moved to dismiss the SAC and all claims
16 asserted against CDE. In its motion to dismiss, CDE argued that the case was moot
17 because Plaintiffs did not allege that M.L. would be competing or participating in
18 cross-country in the upcoming season, and the complaint did not include any
19 allegations that any other transgender female athlete would be competing for a spot
20 on the varsity girls’ cross-country team. Dkt. No. 76-1 at 6. CDE also argued that
21 Plaintiffs lacked standing, that Plaintiffs’ claims were barred by sovereign
22 immunity and the Spending Clause, and that the SAC failed to state any cognizable
23 claims against CDE. *Id.* at 7-20.

24 Plaintiffs opposed CDE’s motion to dismiss, arguing that the case was not
25 moot. *See* Pls.’ Opp’n Mot. Dismiss, Dkt. No. 85. Specifically, Plaintiffs argued
26 that the action was not moot because of the existence of the ongoing policy/state
27 law, which they claimed “Plaintiffs remain subject to” and that Plaintiffs seek to
28 challenge through “declaratory and injunctive relief.” *Id.* at 4. Plaintiffs also

1 argued that their claims are allegedly capable of repetition yet evading review (*id.*
2 at 5) and that neither sovereign immunity nor the Spending Clause bars their
3 claims. *Id.* at 14-22. CDE filed a reply in support of its motion to dismiss, Dkt.
4 No. 87 at 6-10, addressing Plaintiffs’ assertion that Plaintiffs seek “an injunction”
5 to “prevent future displacement and protect access to competitive and private
6 spaces.” Dkt. No. 85 at 10.

7 On February 5, 2026, the Court granted Defendants’ motions to dismiss the
8 SAC. *See* Order Granting Mot. to Dismiss SAC, Dkt. No. 91. The Court
9 concluded that it lacked subject matter jurisdiction over the action because the
10 claims for relief are moot. *Id.* at 3. Specifically, the Court noted that “[b]ecause
11 mootness implicates a jurisdictional limitation, it must be addressed prior to
12 reaching the merits of the claims.” *Id.* at 2 (citing *DeFunis v. Odegaard*, 416 U.S.
13 312, 316 (1974) and *Warth v. Seldin*, 422 U.S. 490, 498 (1975)).

14 With respect to mootness, the Court found that “[t]here is no dispute amongst
15 the parties that there are no transgender athletes against whom T.S. and K.S. will
16 compete for a spot on the varsity girls’ cross-country team. [State MTD at 26 n.2;
17 School MTD at 16; Opp. to State MTD].” *Id.* at 3. Accordingly, while Plaintiffs’
18 original case was premised on alleged harm due to the participation of transgender
19 student M.L. on the MLKHS cross-country team, Plaintiffs’ SAC did not allege any
20 ongoing harm relating to M.L. nor identify “at least one other individual that serves
21 as the source of a concrete risk that had previously been posed.” *Id.* Because of
22 this, the Court found that “the facts in the SAC no longer present a live
23 controversy” and that the Court “lacks subject matter jurisdiction over this action.”
24 *Id.* The Court ordered the dismissal of the action without prejudice. *Id.* at 4.

25 Fourteen days after the Court’s Order, on February 19, 2026, Plaintiffs filed
26 the instant motion for reconsideration of the Court’s order. Dkt. No. 92.

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APPLICABLE LEGAL STANDARD

“Motions for reconsideration are disfavored and rarely granted.” *Hopkins v. Callahan*, No. 5:23-CV-02347-SSS-SPX, 2025 WL 3036484, at *1 (C.D. Cal. Sept. 5, 2025). Under Local Rule 7-18, a motion for reconsideration must be founded on one of the following three grounds: “(a) a material difference in fact or law from that presented to the Court before such decision that in the exercise of reasonable diligence could not have been known to the party moving for reconsideration at the time of such decision, or (b) the emergence of new material facts or a change of law occurring after the time of such decision, or (c) a manifest showing of a failure to consider material facts presented to the Court before such decision.” Local Rule 7-18.

Local Rule 7-18 also provides that “No motion for reconsideration may in any manner repeat any oral or written argument made in support of, or in opposition to, the original motion.” Motions for reconsideration “may not be used to relitigate old matters, or to raise arguments or present evidence that could have been raised prior to the entry of judgment.” *Exxon Shipping Co. v. Baker*, 554 U.S. 471, 485 n.5 (2008); *see also Guenther v. Lockheed Martin Corp.*, 972 F.3d 1043, 1058 (9th Cir. 2020) (citing *Exxon Shipping*, 554 U.S. 471).

Reconsideration is an “extraordinary remedy, to be used sparingly.” *Kona Enters. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000) (internal citation omitted); *see also, Kopelev v. Boeing Co.*, No. LACV20-05805-VAP-KSx, 2021 WL 3888248, at *2 (C.D. Cal. July 29, 2021) (finding motions for reconsideration should be granted only in “rare and highly unusual circumstances”). “Whether to grant a motion for reconsideration under Local Rule 7-18 is a matter within the court’s discretion.” *Daghlian v. DeVry Univ., Inc.*, 582 F. Supp. 2d 1231, 1251 (C.D. Cal. 2007).

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ARGUMENT

I. THERE IS NO BASIS FOR THE COURT TO RECONSIDER ITS ORDER

At the outset, Plaintiffs do not identify the rule under which they filed their motion. *See* Dkt. No. 92. Plaintiffs appear to bring this motion on the grounds that the Court “committed clear error.” *Id.* at 5. However, “clear error” is not a permitted ground for reconsideration under Local Rule 7-18. *See Ketab Corp. v. Mesriani L. Grp.*, No. 2:14-CV-07241-RSWL, 2015 WL 2084469, at *2 (C.D. Cal. May 5, 2015) (holding that “‘clear error’ resulting in a manifestly unjust decision is not a permitted ground for reconsideration under Local Rule 7-18”).

Rather, the Local Rules clearly provide that a motion for reconsideration may be made *only* on the grounds of a material difference in fact or law, the emergence of new material facts or change of law, or a manifest showing of a failure to consider material facts. Local Rule 7-18; *see also In re Countrywide Fin. Corp. Mortg.-Backed Sec. Litig.*, 966 F. Supp. 2d 1031, 1040 (C.D. Cal. 2013).

Plaintiffs have not demonstrated any of the circumstances set forth under Local Rule 7-18. First, Plaintiffs do not allege that there has been a material change in fact or law that occurred after the Court’s decision, or that in the exercise of reasonable diligence could not have been known at the time of the Court’s decision. Local Rule 7-18. Second, Plaintiffs do not allege that there has been the emergence of any new material facts or changes of law. *Id.* Third, Plaintiffs fail to identify any material facts that were presented to the Court but that the Court did not consider. *Id.* (“manifest showing of a failure to consider material facts presented to the Court before the Order was entered”). Because Plaintiffs failed to demonstrate that any of the limited circumstances set forth under Local Rule 7-18 apply here, their motion should be denied on these grounds alone. *In re Countrywide Fin. Corp. Mortg.-Backed Sec. Litig.*, 966 F. Supp. 2d at 1040; *Ketab Corp.*, 2015 WL 2084469, at *2.

1 Plaintiffs’ citation to the “clear error” standard of review is misplaced. Under
2 Federal Rules of Civil Procedure 59(e) and 60(b), a court may reconsider a
3 judgment if “the district court (1) is presented with newly discovered evidence, (2)
4 committed clear error or the initial decision was manifestly unjust, or (3) if there is
5 an intervening change in controlling law.” *Sch. Dist. No. 1J, Multnomah Cty., Or.*
6 *v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993); *see also 389 Orange Street*
7 *Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999). Here, Plaintiffs do not argue
8 for relief under either Rule 59(e) or 60(b) and Plaintiffs have not established that
9 either rule applies in this case.¹ Even if they had, courts in this district have
10 interpreted Local Rule 7-18 to be coextensive with Rules 59(e) and 60(b), *see*
11 *Hopkins*, 2025 WL 3036484, at *1-2, and, as argued herein, Plaintiffs have failed
12 entirely to demonstrate that this is one of the rare and highly unusual circumstances
13 under which a motion for reconsideration should be granted. *Id.* at *2.
14 Accordingly, Plaintiffs’ motion for reconsideration should be denied.

15 **II. PLAINTIFFS’ ATTEMPT TO RE-LITIGATE ISSUES ALREADY DECIDED BY**
16 **THE COURT SHOULD BE REJECTED**

17 Plaintiffs’ motion argues that their claims against CDE are not moot because
18 they allege that the policy remains in effect, which they argue is likely to cause
19 them continuing harm. Dkt. No. 92 at 7-8. Plaintiffs further argue that Plaintiffs’
20 addition of allegations related to A.H. demonstrate ongoing harm to Plaintiffs. *Id.*
21 at 8. However, Local Rule 7-18 prohibits a party from reasserting “any oral or
22 written argument made in support of, or in opposition to, the original motion.”
23 Local Rule 7-18. “Reconsideration motions may not be used to raise new
24 arguments or introduce new evidence if, with reasonable diligence, the arguments
25 and evidence could have been presented during consideration of the original
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27 _____
28 ¹ Rule 59 (e) states that “Any motion to alter or amend a judgment shall be
filed no later than 10 days after entry of the judgment.” Fed. R. Civ. P. 59(e).

1 ruling.” *Berman v. Freedom Fin. Network, LLC*, 30 F.4th 849, 859 (9th Cir. 2022)
2 (citing *Kona Enters.*, 229 F.3d at 890).

3 In this case, each of Plaintiffs’ mootness arguments were already extensively
4 briefed by both parties in Defendants’ motions to dismiss Plaintiffs’ SAC. For
5 instance, in their opposition to CDE’s motion to dismiss, Plaintiffs extensively
6 argued that the case was not moot because T.S. and K.S. “are current student-
7 athletes who ‘will continue to face harm as long as males are allowed to compete in
8 their sports programs and access female spaces,’ and they have ‘upcoming athletic
9 seasons during which a biological male could participate in their events.’” Dkt. No.
10 85 at 3 (citing SAC ¶ 172). Plaintiffs further argued that because they “remain
11 subject to the challenged policy and seek declaratory and injunctive relief, their
12 claims are not moot.” *Id.* at 4. Plaintiffs also argued during the underlying motion
13 that the case was not moot because the SAC included new allegations regarding
14 A.H., another transgender athlete at a different school district who they allege is
15 participating in track and field events. *Id.*

16 In adjudicating CDE’s motion to dismiss, the Court thoroughly considered and
17 rejected these arguments, finding that Plaintiffs did not “identify at least one other
18 individual that serves as the source of a concrete risk that had previously been
19 posed,” and that the “newly added allegations in the SAC regarding another
20 transgender female do not present the same type of injury” such that “Plaintiffs
21 failed to amend the complaint to cure the deficiencies” of their pleading and “the
22 facts in the SAC no longer present a live controversy.” Dkt. No. 91 at 3.

23 Plaintiffs’ attempt to revive these arguments in their motion for
24 reconsideration should be rejected, as they were already litigated in the underlying
25 motion, and they do not form a valid basis for reconsideration of the Court’s prior
26 Order. Local Rule 7-18 (“No motion for reconsideration shall in any manner repeat
27 any oral or written argument made in support of or in opposition to the original
28 motion.”). Thus, for these additional reasons, the motion should be denied.

1 **III. THE COURT DID NOT ERR IN ITS PRIOR RULING**

2 Plaintiffs’ unhappiness with the outcome of the Court’s order is not a proper
3 basis for reconsideration. *See Kopelev*, 2021 WL 3888248, at *2. As indicated, the
4 Court already reviewed and correctly decided the issue of mootness, and rejected
5 Plaintiffs’ arguments that are raised for the second time in this motion for
6 reconsideration. Not only do Plaintiffs offer no new facts or law that was not
7 presented to the Court, they also fail to demonstrate that there was clear error by the
8 Court. *See e.g., Smith v. Clark Cty. Sch. Dist.*, 727 F.3d 950, 955 (9th Cir. 2013)
9 (Finding clear error occurs when the court “is left with the definite and firm
10 conviction that a mistake has been committed”).

11 For starters, Plaintiffs’ arguments pertain mostly to claims asserted against the
12 School District, which do not apply to CDE. *See, e.g.,* Dkt. No. 92 at 6 (“monetary
13 damages for intentional discrimination,” “monetary damages for failure to
14 effectively accommodate . . . under Title IX” and “monetary damages . . . for
15 violations under § 1983 . . .”).² Thus, they are irrelevant for the purposes of
16 evaluating dismissal of the two claims alleged against CDE.

17 Plaintiffs attempt, however, to argue that even if their claims for injunctive
18 relief were moot, their damages claims are not. Dkt. No. 92 at 5-7. This argument
19 should be rejected, for several reasons.

20 First, in opposing CDE’s motion to dismiss the SAC, Plaintiffs unequivocally
21 stated that they were not “challeng[ing] a past, isolated event involving a single
22 student, but California’s ongoing enforcement of a statewide gender-identity policy

23 ² Plaintiffs specifically argue that damages are available under Title IX for
24 intentional discrimination claims and for violations under section 1983. Dkt. No.
25 92 at 6. However, the SAC does not include a Title IX intentional discrimination
26 claim against CDE, only against the School District. *See* Dkt. No. 71 at 38
27 (“Fourth Cause of Action . . . Defendants’ Intentional Discrimination Against
28 Plaintiffs . . . as against Defendant RUSD”). Likewise, the section 1983 claims are
asserted only against the School District employees. *Id.* at 33, 35 and 37 (“First
Cause of Action . . . 42 U.S.C. § 1983 . . . as against Defendants Iacuone, Chann”;
“Second Cause of Action . . . 42 U.S.C. § 1983 . . . as against Defendants Iacuone,
Chann”; and “Third Cause of Action . . . 42 U.S.C. § 1983 . . . as against
Defendants Iacuone, Chann”).

1 and related rules.” Dkt. No. 85 at 2. If Plaintiffs were *not challenging past*,
2 *isolated events*, then they admitted that they were, in fact, not seeking damages
3 against CDE. Similarly, in arguing that their claims were redressable, while
4 Plaintiffs argued an injunction would redress their injuries, *id.* at 10, they did not
5 argue that damages would redress their injuries. *Id.* at 10-11. In fact, Plaintiffs’
6 opposition to CDE’s motion made no mention of damages at all with respect to
7 their claims against CDE; nor did Plaintiffs allege that they lost any future
8 opportunities because of a transgender student, let alone identify any quantifiable
9 damages with respect to the claims against CDE. Because Plaintiffs failed to assert
10 those arguments in their Opposition, they have waived those arguments and they
11 are further precluded from raising such new arguments in a motion for
12 reconsideration. *See Kona Enters.*, 229 F.3d at 890 (holding that a motion for
13 reconsideration “may *not* be used to raise arguments or present evidence for the
14 first time when they could reasonably have been raised earlier in the litigation”);
15 *see also Berman*, 30 F.4th at 859.

16 Second, the SAC failed to state any viable claim for damages against CDE.
17 Dkt. No. 87 at 4. As stated in CDE’s papers in support of its motion to dismiss, to
18 the extent Plaintiffs were attempting to plead a preemption claim against CDE,
19 sovereign immunity barred Plaintiffs’ claims for damages. Dkt. No. 76-1 at 12;
20 Dkt. No. 87 at 6-8. And, to the extent that Plaintiffs were attempting to state a
21 substantive Title IX claim against CDE, such claims for damages are barred
22 because CDE lacked clear notice under the Spending Clause. Dkt. No. 76-1 at 14-
23 16; Dkt. No. 87 at 7.

24 Moreover, the Court has discretion to strike or dismiss a complaint that
25 exceeds the scope of prior leave to amend. *Marin v. Marshall*, No. 23-CV-336-
26 RSH-BLM, 2025 WL 1082745, at *5 (S.D. Cal. Apr. 10, 2025). Given that
27 Plaintiffs’ new allegations in the SAC involving A.H. were not premised on the
28 same facts or alleged harm as their claims in the FAC, the Court did not err in

1 dismissing these allegations. Nor are Plaintiffs unfairly prejudiced; because the
2 Court's dismissal was without prejudice, Plaintiffs are not precluded from re-filing
3 a new suit to the extent they seek to claim injuries in the future.

4 For these reasons, and because Plaintiffs' SAC did not cure the defects
5 identified in the Court's prior Order despite having ample opportunity to do so, the
6 Court did not err in dismissing the SAC without further leave to amend.

7 **CONCLUSION**

8 For the foregoing reasons, Plaintiffs' motion for reconsideration of CDE's
9 motion to dismiss the SAC should be denied.

10 Dated: March 6, 2026

11 Respectfully submitted,
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CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Defendant California Department of Education, certifies that this brief contains 3,168 words, which complies with the word limit of Local Rule 11-6.1.

Dated: March 6, 2026

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