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Superior Court of California,

County of Alameda

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By: Milagros Cortez,

Deputy Clerk

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **FOR THE COUNTY OF ALAMEDA**

11 JUDICIAL WATCH, INC.,) Case No.: **23CV055165**
12 Petitioner/Plaintiff,)
13 v.)
14 OAKLAND UNIFIED SCHOOL DISTRICT,) **PETITION FOR WRIT OF MANDATE,**
15) **OR, IN THE ALTERNATIVE,**
16 Respondent/Defendant.) **COMPLAINT FOR DECLARATORY**
17) **AND INJUNCTIVE RELIEF**
18)
19)

20 **INTRODUCTION**

21 1. Petitioner/Plaintiff Judicial Watch, Inc., pursuant to section 10 of Article VI of the
22 California Constitution, sections 1085 and 1060 of the Code of Civil Procedure, and sections
23 7923.000 and 7923.100 of the Government Code, petitions this Court for a writ of mandate or other
24 order directed to Respondent/Defendant Oakland Unified School District (“OUSD”), or, in the
25 alternative, declaratory judgment and injunctive relief, commanding OUSD to perform its
26 ministerial duties as required by the California Public Records Act (“CPRA”).

27 **JURISDICTION AND VENUE**

1 2. This Court has jurisdiction under Cal. Gov't Code § 7923.000 and Cal. Civ. Pro.
2 Code §§ 1060, 1085.

3 3. Venue is proper in this Court as Respondent/Defendant and the public records at
4 issue are located within the County of Alameda and events giving rise to the claims occurred in the
5 County of Alameda. Cal. Gov't Code §§ 7923.100, 7923.105, 7923.110 and Cal. Civ. Proc. Code
6 §§ 393, 394(a).

PARTIES

8 4. Petitioner/Plaintiff Judicial Watch, Inc. is a not-for-profit, educational organization
9 incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW,
10 Suite 800, Washington, DC 20024. Petitioner/Plaintiff seeks to promote transparency,
11 accountability, and integrity in government and fidelity to the rule of law. As part of its mission,
12 Judicial Watch regularly requests records under federal and state “open records” laws, analyzes the
13 responses and any records it receives, and disseminates its findings and the records to the public to
14 inform them about their government.

15 5. Respondent/Defendant Oakland Unified School District (“OUSD”) is a “local
16 agency,” as that term is defined in Gov’t Code § 7920.510. OUSD has possession, custody, and
17 control of records to which Petitioner/Plaintiff seeks access. Respondent/Defendant maintains its
18 primary place of business at 1011 Union Street, Suite 958, Oakland, California, 94067, in Alameda
19 County.

STATEMENT OF FACTS

21 6. On September 29, 2023, Petitioner/Plaintiff submitted a CPRA request to
22 Respondent/Defendant OUSD seeking access to the following:

1 Chabot Elementary School Equity and Inclusion Committee regarding the
2 August 26, 2023 “Playdate Social for Black, Brown & API Families.”

3 4. Any records concerning or relating to inviting students or families who do
4 not identify as “Black,” “Brown,” or “API” to the August 26, 2023 “Playdate
5 Social for Black, Brown & API Families.”

6 5. Any records concerning or regarding the presence or participation of students
7 or families who do not identify as “Black,” “Brown,” or “API” at the August
8 26, 2023 “Playdate Social for Black, Brown & API Families.”

9 6. Any records concerning or regarding the exclusion of students or families
10 who do not identify as “Black,” “Brown,” or “API” at the August 26, 2023
11 “Playdate Social for Black, Brown & API Families.”

12 7. Any rules, regulations, policies, or guidelines regarding the use of OUSD
13 facilities or resources for race-specific or race-selective events, such as the
14 August 26, 2023 “Playdate Social for Black, Brown & API Families.”

15 8. Any records concerning, relating to, or addressing application of the
16 following to race-specific or race-selective events, such as the August 26,
17 2023 “Playdate Social for Black, Brown & API Families”:

18 i. Cal Const., art. I, § 31 (Proposition 209);
19 ii. U.S. Const., amend. 14;
20 iii. 42 U.S.C. § 2000d (Title VI);
21 iv. Cal. Educ. Code §§ 200 or 220;
22 v. Cal Gov’t Code § 11135;
23 vi. Cal. Penal Code §422.55;
24 vii. 5 C.C.R. § 1460; or
25 viii. OUSD Policy Nos. 0410, 1312.3, 4030, 5143.3, or 5145.7.

26 The time frame of the request was identified as January 1, 2023 to present. The request noted that
27 Petitioner/Plaintiff does not seek records received from third parties (other than students or parents)
28 complaining about the August 26, 2023 “Playdate Social for Black, Brown & API Families.”

1 Petitioner/Plaintiff also noted that it does not seek the names of or identifying information about any
2 student or parent.

3 7. By letter on October 5, 2023, Respondent/Defendant advised Petitioner/Plaintiff that
4 it was invoking a 14-day extension pursuant to Cal. Gov't Code § 7922.535(b) and that it expected
5 to provide Petitioner/Plaintiff with a determination letter within 24 days of the date of
6 Petitioner/Plaintiff's request. Petitioner/Plaintiff has not received any further response.

7 8. As of the date of this Complaint, OUSD has failed to: (i) determine whether to
8 comply with the request; (ii) demonstrate that the requested records are lawfully exempt from
9 production; (iii) notify Petitioner/Plaintiff of the scope of any responsive records it intends to
10 produce or withhold and the reasons for any withholdings, or (iv) provide Petitioner/Plaintiff an
11 estimated date and time when the requested records will be made available, as required by
12 Government Code section 7922.535.

13 **FIRST CAUSE OF ACTION**

14 **(Writ of Mandate – Violations of Public Records Act, Gov't Code §§ 7920.000 *et seq.* and** 15 **California Constitution, Art. I, § 3)**

16 9. Petitioner/Plaintiff incorporates by reference and realleges all its prior allegations.

17 10. The CPRA imposed a clear, ministerial duty on Respondent/Defendant to determine,
18 within no more than 24 days from receipt of Petitioner/Plaintiff's request, whether the request seeks
19 copies of disclosable public records in Respondent/Defendant's possession and to promptly notify
20 Petitioner/Plaintiff of the determination and reasons for the determination. *See* Gov't Code §
21 7922.535. The CPRA also imposed a clear, ministerial duty on Respondent/Defendant to specify in
22 its notification, if they determined that Petitioner/Plaintiff's request sought disclosable records, the
23 estimated date and time when the requested records would be made available.

24 11. Respondent/Defendant has failed to perform its clear, ministerial duties as required
25 by the CPRA.

26 12. Petitioner/Plaintiff has an immediate, vital, and beneficial interest in, and right to, the
27 performance of the aforementioned duties. Petitioner/Plaintiff has no other plain, speedy, and
28

adequate remedy at law. There are no material issues of fact necessary to the resolution of this matter that are or can be disputed.

13. Section 10 of Article VI of the California Constitution provides that superior courts and their judges have original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition. Government Code section 7923 permits any person to institute proceedings for injunctive or declaratory relief or writ of mandate to enforce his or her right to inspect or to receive a copy of any public record under the CPRA. Code of Civil Procedure section 1085 authorizes the Court to issue a writ of mandate to Respondent/Defendant to compel the performance of the aforementioned mandatory, ministerial duties under the CPRA.

SECOND CAUSE OF ACTION

(Declaratory Judgment and Injunctive Relief – Violations of Public Records Act, Gov't Code

§§ 7920.000 *et seq.* and California Constitution, Art. I, § 3)

14. Petitioner/Plaintiff incorporates by reference and realleges all its prior allegations.

15. An actual controversy exists between Petitioner/Plaintiff and Respondent/Defendant regarding Respondent/Defendant's mandatory duties under the CPRA.

16. Respondent/Defendant's failure to perform its clear, ministerial duties under the CPRA violates the CPRA.

17. Petitioner/Plaintiff is being irreparably harmed by Respondent/Defendant's failure to perform its clear, ministerial duties under the CPRA, and Petitioner/Plaintiff will continue to be irreparably harmed unless Respondent/Defendant is compelled to comply with the law.

18. Petitioner/Plaintiff has no plain, speedy, and adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Petitioner/Plaintiff prayers judgment against Respondent/Defendant as follows:

1. Issue a writ of mandate ordering Respondent/Defendant to perform its clear, ministerial duties as required by the CPRA to: (1) determine whether Petitioner/Plaintiff's request seeks copies of disclosable public records in Respondent/Defendant's possession; (2) promptly notify Petitioner/Plaintiff of the determination and reasons for the determination; and (3) if the

determination is that Petitioner/Plaintiff's request seeks disclosable public records, include in its notification the estimated date and time when the requested records shall be made available;

2. In the alternative, treat this Petition as a complaint for declaratory and injunctive relief on the grounds that an actual controversy exists between Petitioner/Plaintiff and Respondent/Defendant regarding Respondent/Defendant's mandatory duties under the CPRA, declare that Respondent/Defendant violated the CPRA, and enjoin Respondent/Defendant from continuing to violate the CPRA with respect to Petitioner/Plaintiff's requests in the future;

3. Declare that Respondent/Defendant has violated Petitioner/Plaintiff's rights under the California Constitution, Art. I, § 3, and under Cal. Gov. Code § 7920 *et seq.*, by failing to produce the requested documents;

4. Award Petitioner/Plaintiff reasonable attorney's fees incurred in this action pursuant to Cal. Gov. Code § 7923.115.

5. Award Petitioner/Plaintiff its costs in bringing this action; and

6. Grant Petitioner/Plaintiff such other and further relief as the Court deems just and proper.

DATED: November 29, 2023

Respectfully submitted,

JUDICIAL WATCH, INC.

By:

KATHRYN BLANKENBERG

Atorneys for Petitioner/Plaintiff

VERIFICATION

I am an officer of the petitioner/plaintiff in the above-entitled action.

3 I have read the foregoing PETITION FOR WRIT OF MANDATE, OR, IN THE
4 ALTERNATIVE, COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF and know
5 its contents. The same is true of my own knowledge, except as to those matters which are therein
6 stated upon information or belief, and as to those matters, I believe it to be true.

7 I declare under penalty of perjury under the laws of the State of California that the foregoing
8 is true and correct.

Executed on November 28, 2023 at Phoenix, Arizona.



Mark Spencer