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

- 4. Any records concerning or relating to inviting students or families who do not identify as “Black,” “Brown,” or “API” to the August 26, 2023 “Playdate Social for Black, Brown & API Families.”
- 5. Any records concerning or regarding the presence or participation of students or families who do not identify as “Black,” “Brown,” or “API” at the August 26, 2023 “Playdate Social for Black, Brown & API Families.”
- 6. Any records concerning or regarding the exclusion of students or families who do not identify as “Black,” “Brown,” or “API” at the August 26, 2023 “Playdate Social for Black, Brown & API Families.”
- 7. Any rules, regulations, policies, or guidelines regarding the use of OUSD facilities or resources for race-specific or race-selective events, such as the August 26, 2023 “Playdate Social for Black, Brown & API Families.”
- 8. Any records concerning, relating to, or addressing application of the following to race-specific or race-selective events, such as the August 26, 2023 “Playdate Social for Black, Brown & API Families”:

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

The time frame of the request was identified as January 1, 2023 to present. The request noted that Petitioner/Plaintiff does not seek records received from third parties (other than students or parents) 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  
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1 adequate remedy at law. There are no material issues of fact necessary to the resolution of this  
2 matter that are or can be disputed.

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

10 **SECOND CAUSE OF ACTION**

11 **(Declaratory Judgment and Injunctive Relief – Violations of Public Records Act, Gov’t Code**  
12 **§§ 7920.000 *et seq.* and California Constitution, Art. I, § 3)**

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

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

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

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

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

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Petitioner/Plaintiff prays judgment against Respondent/Defendant as  
24 follows:

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

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

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

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

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

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

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

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18 DATED: November 29, 2023

Respectfully submitted,

JUDICIAL WATCH, INC.

19  
20 By:

  
KATHRYN BLANKENBERG

Attorneys for Petitioner/Plaintiff

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**VERIFICATION**

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

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

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

Executed on November 28, 2023 at Phoenix, Arizona .



Mark Spencer