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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

1776 PROJECT FOUNDATION,

Plaintiff,

v.

ALBERTO M. CARVALHO, Superintendent of the Los Angeles Unified School District (LAUSD), *et al.*,

Defendants.

Case No.: 2:26-cv-00548-HDV-CTS

DEFENDANTS' NOTICE OF MOTION AND MOTION TO DISMISS OR, IN THE ALTERNATIVE, STAY; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT

Hon. Hernán D. Vera

Hearing date: September 24, 2026
Hearing time: 10:00 am

NOTICE OF MOTION

PLEASE TAKE NOTICE that on September 24, 2026, at 10:00 a.m., or as soon thereafter as the matter shall be heard, in Courtroom 5B of the United States Courthouse located at 350 West 1st Street, Los Angeles, California 90012, before the Honorable Hernán D. Vera, Defendants Board of Education of the Los Angeles Unified School District, Alberto M. Carvalho, and Scott Schmerelson, by and through their counsel of record, will move pursuant to Federal Rules of Civil Procedure 12(b)(1) and (6) for an order dismissing with prejudice the complaint of Plaintiff 1776 Project Foundation and the complaint-in-intervention of Plaintiff-Intervenor United States or, in the alternative, staying the action.

This motion is based on this notice of motion, the accompanying memorandum of points and authorities, the declaration of Matthew J. Craig and exhibits thereto, and such other further evidence and argument as may be presented at any hearing on this motion.

This motion is made following the conference of counsel pursuant to Local Rule 7-3, which took place via telephone on June 15, 2026. *See* Declaration of Matthew J. Craig.

Dated: June 22, 2026

MATTHEW J. CRAIG

Counsel for Defendants Board of Education of the Los Angeles Unified School District, Alberto M. Carvalho, and Scott Schmerelson

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Fed. R. Civ. P. 12(b)(6) 8

OTHER AUTHORITIES

LAUSD 2018 Dashboard, Cal. Dep't of Educ., https://www6.cde.ca.gov/californiamodel/studentgroupsreport?year=2018&cdcode=1964733 (last visited June 22, 2026) 27

LAUSD 2019 Dashboard, Cal. Dep't of Educ., https://www6.cde.ca.gov/californiamodel/studentgroupsreport?year=2019&cdcode=1964733 (last visited June 22, 2026) 28

LAUSD 2022 Dashboard, Cal. Dep't of Educ., https://www6.cde.ca.gov/californiamodel/studentgroupsreport?year=2022&cdcode=1964733 (last visited June 22, 2026) 28

LAUSD 2023 Dashboard, Cal. Dep't of Educ., https://www6.cde.ca.gov/californiamodel/studentgroupsreport?year=2023&cdcode=1964733 (last visited June 22, 2026) 28

LAUSD 2024 Dashboard, Cal. Dep't of Educ., https://www6.cde.ca.gov/californiamodel/studentgroupsreport?year=2024&cdcode=1964733 (last visited June 22, 2026) 28

LAUSD 2025 Dashboard, Cal. Dep't of Educ., https://www6.cde.ca.gov/californiamodel/studentgroupsreport?year=2025&cdcode=1964733 (last visited June 22, 2026) 28

U.S. Dep't of Educ., Achieving Diversity: Race-Neutral Alternatives in American Education (Feb. 2004), https://perma.cc/LK93-3AC9 23

U.S. Dep't of Educ., Dear Colleague Letter on Parents Involved (Aug. 28, 2008), https://perma.cc/49ULX94U 23

U.S. Dep't of Justice & U.S. Dep't of Educ., Guidance on the Voluntary Use of Race to Achieve Diversity and Avoid Racial Isolation in Elementary and Secondary Schools (Dec. 2, 2011), https://perma.cc/UG83-CMMD 23

INTRODUCTION

For more than four decades, the Los Angeles Unified School District ("LAUSD") has administered a series of targeted programs to promote equal educational opportunities for Los Angeles's diverse student population. Because of these efforts, LAUSD has seen improvement not only in its students' academic achievement, but also in reversing decades of segregation in LAUSD schools. Although that improvement is promising, LAUSD's work to remove existing barriers to equal educational opportunities for all of its students remains ongoing.

LAUSD did not adopt these programs voluntarily, nor is it free to simply stop these programs today. Rather, LAUSD's integration programs are the result of nearly twenty years of litigation in California state court that culminated in a seminal 1981 Superior Court order in a case called *Crawford v. LAUSD*. That order mandates the exact program that has been challenged in this suit and, as a matter of California law, it remains in effect to this day.

Plaintiff 1776 Project and Plaintiff-Intervenor United States (collectively, "Plaintiffs") ask this Court to upend a key component of LAUSD's desegregation efforts known, in the language of the original 1981 order, as the "PHBAO" program. But, remarkably, Plaintiffs make no mention of the court order that continues to bind LAUSD or the decades of desegregation litigation that preceded it. Heedless of that history, Plaintiffs seek to invalidate the PHBAO program and thereby nullify a valid and long-standing court order. That unprecedented attack fails several times over.

First, 1776 Project lacks standing. It offers only threadbare allegations about a single anonymous parent member of the organization, but those allegations do not demonstrate that the parent or their children have suffered any injury in fact, much less any injury properly attributable to the PHBAO program that 1776 Project challenges. Indeed, it has not shown that invalidating the PHBAO program will make any difference whatsoever to that parent or their children. Because the Court lacks jurisdiction to adjudicate mere ideological disagreement with the program, 1776 Project should be

dismissed for lack of associational standing. And because the United States has no statutory authority to prosecute this action in the absence of a private plaintiff with standing, the Court should dismiss the case in full.

Second, even if Plaintiffs could establish jurisdiction, this case would be a poster child for abstention. Doctrines of abstention exist to preserve comity between federal and state courts. Plaintiffs' claims implicate important questions of state and federal constitutional law in the sensitive area of education policy. Those questions could be fully avoided (or at least narrowed significantly) by litigating the underlying state-law issues in the *Crawford* order about which Plaintiffs themselves raise significant doubts. The Court should allow those state-law questions to be resolved in state court first and abstain from overruling a valid state-court order through an improper collateral attack in federal court.

Third, Plaintiffs' position on the merits has been rejected by every court to consider it. The PHBAO program allocates benefits based on where students live—not based on their racial identities. Because the program operates based on school-level demographics and does not rest on an invidious discriminatory purpose, it is subject to rational basis review, a standard that LAUSD readily meets. To hold otherwise, as Plaintiffs request, would create a new split with at least four other federal circuit courts—all of which have consistently held that school districts may adopt desegregation programs based on students' neighborhoods and other race-neutral features—and would depart from the Supreme Court's most analogous precedent. Regardless, even if strict scrutiny were appropriate, LAUSD would satisfy it. The challenged PHBAO program serves multiple compelling interests, including LAUSD's indisputable interest in complying with a valid court order and its obligation to combat segregation and racial discrimination in education. And the PHBAO program is narrowly tailored to achieve those ends.

For all of these reasons, the Court should dismiss the case.

RELEVANT BACKGROUND[1]

A. The *Crawford* Litigation

In August 1963, a class of LAUSD students filed suit in California Superior Court, alleging that the district's schools were segregated in violation of the state constitution. *Crawford v. Bd. of Educ.*, 551 P.2d 28, 31 (Cal. 1976) (en banc). At the time, LAUSD was one of "the most segregated [districts] in the entire country." *Id.* at 32 n.2. In May 1970, after considering enormous volumes of evidence, including a trial spanning seven months with a 62-volume transcript, the trial court concluded that LAUSD was "substantially segregated" and "increasingly" so, causing minority students "serious harm." *Id.* at 31-33. The court also found that predominantly non-white schools were overcrowded, had poorer quality teachers, and suffered from inferior facilities and curricula. *Id.* at 32-33. To remedy these documented harms, the court ordered LAUSD to "adopt a meaningful desegregation plan." *Id.* at 33.

LAUSD challenged that order before the California Supreme Court. It argued that the segregation in Los Angeles schools was de facto in nature, rather than de jure, and that LAUSD therefore had "no constitutional duty to alleviate [the] segregation." *Id.* at 30. But the court unanimously rejected that argument. *Id.* It held that "[t]he findings in this case adequately support the trial court's conclusion that the segregation in the defendant school district is de jure in nature." *Id.* And the court further held that, "whether such segregation is de jure or de facto," it violated the California Constitution, which imposes on all public schools "a constitutional obligation to take reasonably feasible steps to alleviate school segregation 'regardless of its cause.'" *Id.* at 30, 33. The California Supreme Court therefore concluded that the trial court "properly ordered the board to prepare and implement a reasonably feasible desegregation plan." *Id.* at 42.

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[1] The below relies on the allegations in the complaints, which are presumed true at this stage, as well as documents incorporated by reference in the complaint and official court records, all of which the Court may consider on a motion to dismiss. *See United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003) ("Even if a document is not attached to a complaint, it may be incorporated by reference into a complaint if the plaintiff refers extensively to the document or the document forms the basis of the plaintiff's claim.").

Following the California Supreme Court's decision, the parties, including intervenors representing white families, litigated the proper remedy. *See Bustop v. Superior Ct.*, 69 Cal. App. 3d 66, 69 (1977). In 1977, LAUSD submitted a desegregation plan that the trial court rejected as too limited in scope. *See LAUSD v. U.S. Dist. Ct.*, 650 F.2d 1004, 1006 (9th Cir. 1981) (Ferguson, J., dissenting). In 1978, the trial court approved a second plan that included mandatory student reassignment and busing. *Id.*

A group of white intervenors sought emergency relief from the United States Supreme Court. They argued that they possessed a "federal right" to be "free from racial quotas and to be free from extensive pupil transportation that destroys fundamental rights of liberty and privacy." *Bustop, Inc. v. Bd. of Educ. of City of L.A.*, 439 U.S. 1380, 1382 (1978) (Rehnquist, J., in chambers). Justice Rehnquist denied the application. He explained that even if the Fourteenth Amendment did not require the reassignment and busing plan, "state courts . . . are free to interpret the Constitution of the State to impose more stringent restrictions on the operation of a local school board." *Id.* Because the order arose under California law, he characterized the intervenors' complaints as "complaints about California state law" to be "resolved" in state "forums." *Id.* at 1383. Justice Powell separately denied the same stay application, expressly adopting Justice Rehnquist's reasoning. *Bustop, Inc. v. Bd. of Educ. of City of L.A.*, 439 U.S. 1384 (1978) (Powell, J., in chambers).

Having failed to halt mandatory busing and reassignment at the Supreme Court, opponents turned to the ballot box. In 1979, California voters ratified a proposition to amend Article I, Section 7(a) of the state constitution. The amendment stripped the state courts of the power to order desegregation through mandatory student assignment or busing, "except to remedy a specific violation" that also violated the "Equal Protection Clause." Cal. Const. art. I, § 7(a).

Following the amendment, the trial court declined to halt mandatory busing and reassignment. It reasoned that its findings established a violation of the Equal Protection Clause, as required by Section 7(a). *Crawford v. Bd. of Educ.*, 113 Cal. App. 3d 633,

637 (1980). The California Court of Appeal reversed. *Id.* at 645-46, 656. Relying on intervening Supreme Court precedents, it held that LAUSD did not "intentionally segregate[]" its schools, which it deemed a required element for a violation of the federal Equal Protection Clause. *Id.* at 644, 655.

The *Crawford* plaintiffs challenged Section 7(a)'s constitutionality before the U.S. Supreme Court. The Supreme Court upheld Section 7(a) but stressed its narrow scope. Even after Section 7(a)'s adoption, the Court explained, California courts still had "an obligation under state law to order segregated school districts to use voluntary desegregation techniques, whether or not there has been a finding of intentional segregation" under federal law. *Crawford v. Bd. of Educ. of City of L.A.*, 458 U.S. 527, 535 (1982). And school districts themselves retained a "state-law obligation to take reasonably feasible steps to desegregate, and they remain free to adopt reassignment and busing plans" to do so. *Id.* at 535-36. Section 7(a), in short, left untouched both the broader authority of state courts to remedy de facto segregation and LAUSD's obligation to address segregation regardless of its cause.

To discharge that obligation, LAUSD submitted a nearly 200-page desegregation plan to the *Crawford* trial court. *See Am. Civil Rights Found. v. LAUSD*, 169 Cal. App. 4th 436, 443 (2008); Ex. A to Craig Decl., LAUSD Plan for Desegregation (submitted June 30, 1981) (hereinafter, "Desegregation Plan"). On September 1, 1981, the trial court found that the proposed plan "remedied present conditions" in LAUSD, "protect[ed] the rights of all students," and "met Constitutional standards." Ex. B to Craig Decl., Order, *Crawford v. Bd. of Educ. of the City of L.A.*, No. 822 854 (Cal. Super. Ct. Sept. 10, 1981) (hereinafter, "*Crawford* Order"); s*ee also Am. Civil Rights Found. v. LAUSD*, No. BC341363, 2007 WL 5312748, at *4-8 (Cal. Super. Ct. Dec. 10, 2007) (quoting the *Crawford* order in substantial part). It issued a final judgment that ordered implementation of the plan, but with several key revisions.

Three of those revisions are relevant here. First, given LAUSD's changed demographics, the court disallowed the terms "minority" or "majority" to refer to

students. Instead, it required LAUSD to use the term Hispanic, Black, Asian, or Other Non-Anglos (or "HBAO"). *Crawford* Order at 4-6. Second, it imposed a student-teacher ratio of 27-to-1 "or less" at schools with a predominantly Hispanic, Black, Asian, or Other Non-Anglo (or "PHBAO") student body, rejecting LAUSD's proposed higher ratios. *Id.* at 6. And third, it directed LAUSD to locate all new elementary and middle school magnet programs in areas with high HBAO enrollment. *Id.* The court ordered the remainder of LAUSD's plan without changes, including LAUSD's proposal to conduct two annual parent-teacher conferences at PHBAO schools. *See generally id.*; Desegregation Plan at 128.

B. LAUSD's Court-Ordered Desegregation Programs

The *Crawford* order, including the plan it incorporates, remains valid and binding on LAUSD today. *See Am. Civil Right Found.*, 169 Cal. App. 4th at 451-52. Under the order, LAUSD is obligated to maintain several distinct programs to desegregate its schools, including a program that allocates teachers across schools, *e.g.*, *Friery v. LAUSD*, No. 00 Civ. 6536, 2001 WL 37121280, at *1 (C.D. Cal. May 15, 2001 ; a construction program to address school overcrowding; a permit-transportation program; and a program of magnet schools in which students may enroll voluntarily, *Crawford* Order at 6.

1776 Project and the United States challenge one of LAUSD's court-ordered programs, the PHBAO program. ECF 29 ¶ 1 ("This action challenges the constitutionality of a policy of the LAUSD referred to as the PHBAO Program."); *see also, e.g.*, *id.* ¶¶ 8, 19, 37-39; ECF 1 ¶¶ 4, 22, 26-30, 44 (first claim), 51 (second claim), 56 (third claim). Under the PHBAO program, a school in which the student population is 70 percent or more Hispanic, Black, Asian, or other non-Anglo is designated a PHBAO school, while schools below 70 percent are designated as non-PHBAO. ECF 1 ¶ 3; ECF 29 ¶ 3. The complaints allege that students at PHBAO schools receive three primary resources or benefits that students at non-PHBAO schools do not.

First, PHBAO schools must maintain a 25-to-1 student-teacher ratio in academic

classes. ECF 1 ¶¶ 4, 28; ECF 29 ¶ 21. Because of California laws passed since the *Crawford* order, LAUSD must maintain that student-to-teacher ratio (or lower) in many grades and schools independent of PHBAO status. *See, e.g.*, Cal. Educ. Code § 42238.02(d)(3)(B) (conditioning state funding on schools' working "toward maintaining an average class enrollment of not more than 24 pupils for each schoolsite in kindergarten and grades 1 to 3"); *id.* at § 48000(g) (mandating average "class enrollment of not more than 24 pupils" for transitional kindergarten).

Second, PHBAO schools require two parent-teacher conferences per year, while non-PHBAO schools have no minimum. ECF 1 ¶¶ 4, 30; ECF 29 ¶ 22. Relatedly, the complaints vaguely assert that PHBAO schools received additional "staff and administration" as a result of disproportionate budgeting. ECF 1 ¶ 31; *see* ECF 29 ¶ 27.

Third, the complaints allege that students who are zoned for PHBAO schools, regardless of their individual race, receive "four Magnet Priority Points" for their application to a magnet school. ECF 1 ¶ 29; ECF 29 ¶ 5. That aspect of the PHBAO program is just one factor in the process for admission to a school in LAUSD's separate magnet program. A student who applies to a magnet school may receive additional points for reasons independent of their school's PHBAO status, including if the student's school is overcrowded, if their sibling attends the magnet school, or if the student was previously waitlisted by a magnet school. ECF 29 ¶¶ 23, 25. LAUSD uses a student's points in connection with magnet school admissions only if the particular magnet school to which that student applied is oversubscribed. *Id.* at 2.

C. Procedural History

LAUSD's court-mandated desegregation programs have operated for 45 years. *See Crawford* Order at 8. In January 2026, the 1776 Project Foundation, a nonprofit launched in February 2025, with "one or more members who reside in Los Angeles," filed this action alleging that the PHBAO program violates the Equal Protection Clause, Title VI of the Civil Rights Act of 1964, and the California Constitution. ECF 1 ¶¶ 11, 42-57. The United States filed a motion to intervene as a plaintiff, which the Court

granted on April 28, 2026. ECF 15; ECF 28. The United States alleges that the PHBAO program violates the Equal Protection Clause based on largely the same facts as 1776 Project's complaint. ECF 29. On June 6, two parents of LAUSD students who are members of the *Crawford* class moved to intervene as defendants. ECF 36; ECF 36-1 at 3-5. They are represented by the American Civil Liberties Union, which represented the student plaintiffs in the *Crawford* litigation. ECF 36-1 at 12.

LEGAL STANDARD

To survive a motion to dismiss under Rule 12(b)(6), the complaint must "state[] a plausible claim for relief with well-pleaded facts demonstrating the pleader's entitlement to relief." *Whitaker v. Tesla Motors, Inc.*, 985 F.3d 1173, 1176 (9th Cir. 2021) (citing *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009)). The Court may consider the complaint, documents incorporated by reference, and matters of official public record subject to judicial notice. *Supra* at 3 n.1. But the Court "need not accept as true legal conclusions or . . . mere conclusory statements." *Whitaker*, 985 F.3d at 1176 (cleaned up). "[P]leadings must assert well-pleaded factual allegations to advance to discovery." *Id.* at 1177.

Similarly, under Rule 12(b)(1), the plaintiff "must clearly allege facts demonstrating" the Court's subject matter jurisdiction, including all elements of Article III standing. *Jones v. L.A. Cent. Plaza LLC*, 74 F.4th 1053, 1056 (9th Cir. 2023) (quoting *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016)); *see also Leite v. Crane Co.*, 749 F.3d 1117, 1121 (9th Cir. 2014) ("To invoke a federal court's subject-matter jurisdiction, a plaintiff . . . must allege facts, not mere legal conclusions . . . .").

ARGUMENT

I. The Court Should Dismiss for Lack of Subject Matter Jurisdiction

1776 Project fails to allege Article III standing to challenge the PHBAO program. And without 1776 Project, the United States cannot independently maintain this lawsuit. The Court should therefore dismiss the case for lack of subject matter jurisdiction.

A. 1776 Project Lacks Article III Standing

To invoke the Court's jurisdiction, 1776 Project bears the burden to establish all three elements of Article III standing. Because it seeks forward-looking injunctive relief, 1776 Project must show (1) sufficient likelihood of a future injury that is "concrete," "particularized," and "imminent," (2) that the injury likely will be caused by Defendants, and (3) that the injury likely would be redressed by the requested relief. *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, 380-81 (2024). These requirements must be met for "each claim and each remedy sought." *Cal. Rifle & Pistol Ass'n, Inc. v. City of Glendale*, 644 F. Supp. 3d 610, 617 n.5 (C.D. Cal. 2022) (refusing to enjoin portions of city ordinance that the plaintiff lacked standing to challenge).

In race-based equal protection challenges, the "injury in fact" is "the denial of equal treatment resulting from the imposition of the [race-based] barrier." *Ne. Fla. Chapter of Associated Gen. Contractors of Am. v. City of Jacksonville*, 508 U.S. 656, 666 (1993). A plaintiff establishes that injury by demonstrating that it is "able and ready" to participate in the program and that "a discriminatory policy prevents it from doing so on an equal basis." *Id.* Even so, "only those personally denied equal treatment have standing to seek relief." *Carroll v. Nakatani*, 342 F.3d 934, 946 (9th Cir. 2003). A generalized objection to the "existence of [a racial] classification alone," without "a particularized denial of equal treatment," will not suffice. *Id.* at 946-47; *see also All. for Hippocratic Med.*, 602 U.S. at 381 (no standing based on belief that government "is acting illegally").

Here, 1776 Project asserts associational standing to bring claims on behalf of its parent members who reside in LAUSD. ECF 1 ¶¶ 20-21. But its complaint alleges facts regarding only a single, pseudonymous parent—Parent A—and their children. *Id.* ¶¶ 13-18. Because Parent A would not have standing to challenge the PHBAO program "in their own right," the suit brought on Parent A's behalf must be dismissed. *Satanic Temple v. Labrador*, 149 F.4th 1047, 1050 (9th Cir. 2025) (quoting *Friends of the Earth, Inc. v. Laidlaw Env't Servs. (TOC), Inc.*, 528 U.S. 167, 181 (2000)).

Most basically, any injury based on the children's enrollment in a non-PHBAO school would stem from Parent A's own voluntary choices, not LAUSD's conduct. State law entitles Parent A to open enrollment, including at a PHBAO school, regardless of Parent A's children's neighborhood or race. *See* Cal. Educ. Code § 35160.5(b) (requiring all districts to "establish[] a policy of open enrollment within the district for residents of the district" that provides "the parent or guardian of each schoolage child who is a resident in the district may select the schools the child shall attend, irrespective of the particular locations of the child's residence within the district"). Parent A does not allege any barrier—let alone a race-based one—to enrolling their children at a PHBAO school and thereby being guaranteed two parent-teacher conferences or a 25-to-1 student-teacher ratio. Because their children's enrollment is a consequence of Parent A's voluntary choices, any resulting injury is self-inflicted and not cognizable for standing. *See Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 415-18 (2013); *Int'l Partners for Ethical Care Inc v. Ferguson*, 146 F.4th 841, 848-49 (9th Cir. 2025).

For the same reason, because a statute entitles Parent A to avoid the injuries complained of, causation is also absent. *See All. for Hippocratic Med.*, 602 U.S. at 386-89 (holding that doctors' injury of performing abortions was not caused by government's conduct because doctors could request conscience accommodation under state and federal statutes); *Doe v. Hochul*, 139 F.4th 165, 187-88 (2d Cir. 2025) ("[T]he Supreme Court has made clear, when another statute would impede the alleged harm from occurring, the 'chain of causation' is broken and traceability is lacking." (quoting *All. for Hippocratic Med.*, 602 U.S. at 390)). For example, the Tenth Circuit held that a parent who challenged a school district's refusal to enroll her special-needs children for lack of residency in the district could not establish causation because the parent could enroll her children by applying through a nonresidency program. *See D.L. v. Unified Sch. Dist. No. 497*, 596 F.3d 768, 774-75 (10th Cir. 2010) (per curiam). Similarly, a court in this district dismissed a challenge to another LAUSD policy where the plaintiff failed to show that he requested a modification to the allegedly discriminatory policy,

which, if accepted, would have fully resolved his alleged injury. *Friery v. L.A. Unified Sch. Dist.*, No. 00 Civ. 6536, 2009 WL 10710275, at *2 (C.D. Cal. Jan. 8, 2009).

There are additional standing defects with respect to Parent A's student-teacher ratio and parent-teacher conference allegations. The complaint alleges that because Parent A's children are non-HBAO, and attend a non-PHBAO school, they are not guaranteed these additional resources mandated for PHBAO schools. ECF 1 ¶¶ 13-15. But the complaint does not allege that the children actually experience any less favorable student-teacher ratio at the school they attend. Rather, the complaint cites "average" ratios across "grades" in general, and it ignores that for many grades, state law mandates an even lower ratio than the averages at PHBAO schools. *See id.* ¶ 28; *supra* at 6-7. Nor does the complaint allege that Parent A received (and will continue to receive) fewer than two parent-teacher conferences. *See Chapman v. Pier 1 Imports (U.S.) Inc.*, 631 F.3d 939, 954-55 (9th Cir. 2011) (en banc) (even under "generous pleading standards," plaintiff failed to plead details necessary to show he fell within category of injured persons).

Parent A's assertion of standing fares no better as to the magnet priority points awarded to students who are zoned to PHBAO schools. As an initial matter, the allegation that Parent A's children "were denied" placement in a magnet school "because of the discriminatory policy of the District," ECF 1 ¶ 14, is the type of conclusory allegation not entitled to a presumption of plausibility, *see Loffman v. Cal. Dep't of Educ.*, 119 F.4th 1147, 1161 (9th Cir. 2024) (holding that plaintiffs lack standing because "conclusory allegations . . . are 'not entitled to be assumed true' at the motion to dismiss stage" (quoting *Iqbal*, 556 U.S. at 681)); *Safetypark Corp. v. Su*, No. 24 Civ. 10526, 2025 WL 1420105, at *1-3 (C.D. Cal. Apr. 24, 2025) (collecting cases).

Regardless, past injury is not enough, and the Ninth Circuit has held already in a nearly identical challenge to a magnet program that Parent A's allegations are far too speculative to support prospective relief. In *Scott v. Pasadena Unified School District*, a group of parents challenged a school board's use of race in the admissions lottery for

its magnet schools. 306 F.3d 646, 649-52 (9th Cir. 2002). The Ninth Circuit held that the parents lacked standing to seek prospective relief: although the parents expressed an intention to apply to magnet schools in the future, they failed to demonstrate that the schools would be oversubscribed and trigger the use of the lottery. *Id.* at 660. Parent A's position is weaker still. Unlike the parents in *Scott*, Parent A does not even assert a future "intent to apply" to a magnet school. *Gratz v. Bollinger*, 539 U.S. 244, 261 (2003); *see also Carney v. Adams*, 592 U.S. 53, 65-66 (2020). And even if Parent A had asserted such an intent, the complaint would still fall short because it does not allege that the particular magnet school is oversubscribed (a notable omission given that most magnet schools in LAUSD are not oversubscribed) or otherwise requires the use of the PHBAO-based points system that 1776 Project seeks to challenge. *See Scott*, 306 F.3d at 660; *Californians for Equal Rts. Found. v. Her*, No. 25 Civ. 250, 2025 WL 2324110, at *6-7 (E.D. Cal. Aug. 12, 2025) (holding that parents lacked standing without allegations that children had imminent, concrete plans to apply to allegedly discriminatory school district program); *Edwards v. MUBI, Inc.*, 773 F. Supp. 3d 868, 886-87 (N.D. Cal. 2025) (allegation of past conduct is not adequate to infer future injury).

B. The United States Cannot Independently Maintain This Lawsuit

If the Court concludes that 1776 Project lacks standing, the United States' complaint must be dismissed as well. It is "axiomatic" that intervention requires "an existing suit in a court of competent jurisdiction." *Disability Advocs., Inc. v. N.Y. Coal. for Quality Assisted Living, Inc.*, 675 F.3d 149, 160 (2d Cir. 2012) (quoting *Fuller v. Volk*, 351 F.2d 323, 328 (3d Cir. 1965)); *see also United States ex rel. Tex. Portland Cement Co. v. McCord*, 233 U.S. 157, 163-64 (1914) (intervention "presuppose[s] an action duly brought"); 7C Wright & Miller, Federal Practice and Procedure § 1917 (2026 update) (similar). If 1776 Project never had standing, there was never a live case or controversy in which to intervene—that is, the government's intervention was void from the outset. *Vill. of Oakwood v. State Bank & Tr. Co.*, 481 F.3d 364, 367 (6th Cir.

2007) ("In the absence of jurisdiction over the existing suit, a district court simply has no power to decide a motion to intervene."); *Jacobs v. Dist. Dir. of Internal Revenue*, 217 F. Supp. 104, 106 (S.D.N.Y. 1963) (holding that the United States could not create jurisdiction by intervening in a suit where jurisdiction was originally lacking because of sovereign immunity). At the very least, the government's underlying interest "dissolves" once the Court decides 1776 Project lacks standing. *Carroll*, 342 F.3d at 945.

To be sure, courts sometimes dismiss an original plaintiff yet retain jurisdiction over an intervenor's complaint to avoid the unnecessary expense or delay of forcing the intervenor to file the complaint anew. But this exception applies only if the intervenor's claim could stand on its own in the first place. *In re Molasky*, 843 F.3d 1179, 1184 (9th Cir. 2016); *Vill. of Oakwood*, 481 F.3d at 367 (exception applies when an intervenor has "separate claims" and the court independently has "jurisdiction" over them). The United States' claim cannot. The United States asserts a single claim under the Fourteenth Amendment. ECF 29 ¶¶ 31-42. Yet Section 5 of the Fourteenth Amendment vests its enforcement authority in Congress, not the Executive. *United States v. City of Philadelphia*, 644 F.2d 187, 200 (3d Cir. 1980). And Congress has not empowered the Executive to bring standalone equal protection claims in these circumstances; it has limited the Executive's authority only to intervention—despite repeated requests by Attorneys General for authority to initiate such suits independently. *See* 42 U.S.C. § 2000h-2; *City of Philadelphia*, 644 F.2d at 195 (recounting the repeated "express refusals of modern Congresses to grant the Executive general injunctive powers" to remedy constitutional violations).

Without "specific statutory authority," the United States cannot pursue its claim on a standalone basis. *United States v. Mattson*, 600 F.2d 1295, 1297 (9th Cir. 1979); *see also City of Philadelphia*, 644 F.2d at 199-202 (concluding that "the United States does not have implied statutory authority to sue a local government or its officials to enjoin violations of citizens' constitutional rights"); *United States v. Solomon*, 563 F.2d

1121, 1124-26 (4th Cir. 1977) (rejecting Attorney General's attempt to seek an injunctive remedy for violations of the Eighth, Thirteenth, and Fourteenth Amendments because "[e]xpress or implicit statutory authority to sue simply does not exist"); *United States v. Sch. Dist. of Ferndale*, 577 F.2d 1339, 1345-46 & n.12 (6th Cir. 1978) (rejecting Fourteenth Amendment claims that would circumvent statutory prerequisites). Because the United States' claim cannot stand on its own, dismissal of 1776 Project also ends this action for the government.

The Court should therefore dismiss for lack of subject matter jurisdiction.

II. In the Alternative, the Court Should Abstain

Even if the Court concludes it has jurisdiction, it should stay its hand at this juncture. This action's surreptitious attempt to invalidate a state-court order that has governed LAUSD's operations for more than four decades implicates powerful federalism and comity interests that should be resolved in the first instance in state court. Under *Railroad Commission of Texas v. Pullman Co.*, federal courts should abstain where (1) a federal constitutional issue touches a sensitive area of social policy, (2) state-court resolution could avoid or narrow the need for constitutional adjudication, and (3) the potentially determinative state-law question is doubtful. 312 U.S. 496, 500-01 (1941); *Gearing v. City of Half Moon Bay*, 54 F.4th 1144, 1147 (9th Cir. 2022). If these conditions are satisfied, "*Pullman* abstention applies whether or not a state proceeding is pending." *Gilbertson v. Albright*, 381 F.3d 965, 971 n.6 (9th Cir. 2004). All three conditions are satisfied here, and background principles of comity and equity overwhelmingly favor abstention.

First, this case undoubtedly raises sensitive issues of local policy. Public K-12 education is "a matter of particularly local concern," and disputes over school policies are "best resolved by those closer to the issue." *Pustell v. Lynn Pub. Sch.*, 18 F.3d 50, 54 (1st Cir. 1994) (abstaining from challenge to school district policy); *see also Gottfried v. Med. Plan. Servs., Inc.*, 142 F.3d 326, 333 (6th Cir. 1998) (highlighting state court's familiarity with "local conditions" in abstaining from review of state-court

injunction). At its core, this case concerns how a large urban school district like LAUSD must allocate resources among its many schools under state law. Those are "persistent and difficult questions of educational policy," and they "counsel[] against premature interference" by federal courts. *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 42 (1973); *see also Bd. of Educ. of Okla. City Pub. Schs. v. Dowell*, 498 U.S. 237, 248 (1991). The first *Pullman* factor is easily met.

Second, abstention could "avoid in whole or in part the necessity for federal constitutional adjudication, or at least materially change the nature of the problem." *Harrison v. NAACP*, 360 U.S. 167, 177 (1959); *see also Pullman*, 312 U.S. at 500-01. Though the complaints do not so much as mention the *Crawford* order, the PHBAO program they attack is not a freestanding policy choice by LAUSD. Rather, it is specifically mandated by the *Crawford* order, which has "never been reversed, vacated, or overruled," and thus "remains in effect" today. *Am. Civil Rights Found.*, 169 Cal. App. 4th at 452. That order, in turn, rests heavily on the California Constitution's requirement that school boards "take reasonably feasible steps to alleviate" de facto segregation—an obligation with no analogue under the federal constitution. *Crawford*, 551 P.2d at 33; *see also Crawford*, 458 U.S. at 535. This matters because, as the Ninth Circuit has recognized, *Pullman* abstention is "particularly appropriate" where the challenged state action rests on a state constitutional provision with no federal parallel. *Columbia Basin Apt. Ass'n v. City of Pasco*, 268 F.3d 791, 806 (9th Cir. 2001); *see Gottfried*, 142 F.3d at 332 (abstaining where state law was "antecedent" to challenged state-court injunction).

The state court, moreover, retains the authority to address Parent A's grievance. California provides procedures "to modify or set aside an existing desegregation order." *Am. Civil Rights Found.*, 169 Cal. App. 4th at 452 ("[C]ourt-ordered desegregation plans usually . . . remain in place until a person with standing applies for termination."). And California courts have in fact modified their desegregation decrees in other cases. *See, e.g.*, *Hernandez v. Bd. of Educ.*, 126 Cal. App. 4th 1161, 1171-74 (2004) (affirming

dissolution of 34-year-old state desegregation order for Stockton Unified School District); *Bd. of Educ. v. Superior Ct.*, 61 Cal. App. 4th 411, 420 (1998) (affirming modification of decades-old state desegregation order for San Diego Unified School District). That means the state court, unlike this Court, could "modify its [decree] or narrowly construe it in light of" the alleged "intervening . . . developments" on which Plaintiffs rest their claim. *Gottfried*, 142 F.3d at 332 (abstaining on challenge to twelve-year-old state-court injunction); *see also Hernandez*, 126 Cal. App. 4th at 1171-75 (detailing standard for dissolving state-court desegregation decrees). Any such modification would necessarily reshape the PHBAO program that this action contests, potentially avoiding the need for this Court to wade into sensitive constitutional waters. Thus, the second *Pullman* factor is also met.

Third, this lawsuit's entire objective is to place the *Crawford* order's continued scope and effect in doubt. As the California Supreme Court recognized, the state trial court's task in *Crawford* was "an exceedingly difficult, sensitive and taxing one, requiring the balancing and reconciliation of many competing values." *Crawford*, 551 P.2d at 48. The United States highlights that "[s]ixty years have passed" since the state court assumed that difficult role, ECF 29 at 2, and the state court has not had occasion to revisit the issue because no one has requested such reconsideration. The complaints also allege that the "majority racial group in LAUSD has been Hispanic for decades," that white students are now "such a small fraction of LAUSD's student population that roughly 90% of [LAUSD] schools" qualify as PHBAO, and that this "renders LAUSD's efforts incoherent." *Id.*; *see also* ECF 1 ¶ 32. In other words, 1776 Project and the United States themselves contend that the factual predicates underlying the *Crawford* order have fundamentally changed. But whether the *Crawford* order should be maintained in its current form, modified in light of intervening developments, or dissolved altogether is a question only the state court can answer. Moreover, where the underlying state scheme is "localized and complex," the Ninth Circuit generally requires "only a minimal showing of uncertainty" with respect to how a state court

might rule. *Gearing*, 54 F.4th at 1151 (abstaining in land-use challenge). By Plaintiffs' own lights, the *Crawford* order easily clears that standard.

Beyond the three *Pullman* factors, basic principles of comity reinforce the case for abstention. Rather than seek modification or dissolution in the court that entered the *Crawford* order, 1776 Project has mounted this collateral attack, asking the Court to effectively nullify a state court order based on state law, without even acknowledging the underlying state court litigation. That is precisely the kind of collision between federal and state judicial power that comity forbids. *See Gottfried*, 142 F.3d at 330; *Lynch v. Snepp*, 472 F.2d 769, 770 (4th Cir. 1973). And it is also vastly different from how federal courts treat their own remedial orders. In *Pasadena City Board of Education v. Spangler*, the Supreme Court confirmed that an outstanding desegregation order must be obeyed "until modified or reversed by a court having the authority to do so"—even if the order may ultimately prove unlawful. 427 U.S. 424, 438-40 (1976). Thus, when a federal desegregation order remains in effect, parties may not directly attack the policies it mandates, even before the same court that issued it; instead, they must first move to dissolve or modify the order before the court whose judgment they seek to undo. *See, e.g.*, *Hampton v. Jefferson Cnty. Bd. of Educ.*, 72 F. Supp. 2d 753, 754 (W.D. Ky. 1999) (plaintiffs could not constitutionally challenge school board's compliance with federal desegregation order without first moving the court to dissolve its decree); *Dowell v. Bd. of Educ. of Okla. City Pub. Schs.*, 795 F.2d 1516, 1520-21 (10th Cir. 1986) (similar). Comity dictates that a state court be afforded the same respect for its remedial decree—particularly where nothing suggests it would be unequal to the task and where, as here, its decree resulted from arduous, decades-long proceedings.

Equity, too, weighs in favor of abstention. *See Pullman*, 312 U.S. at 500 (rooting abstention in principles of equity). The complaints seek nothing less than a universal injunction—one that would invalidate the PHBAO program not just for Parent A's children but for every student in LAUSD. ECF 1 at 14-15; ECF 29 at 8-9. Yet the Supreme Court has made clear that such relief "likely exceed[s] the equitable authority

that Congress has granted to federal courts." *Trump v. CASA, Inc.*, 606 U.S. 831, 837 (2025). Under *CASA*, this Court's equitable power reaches only so far as is "necessary to provide complete relief to each plaintiff with standing to sue." *Id.* at 861. So even if this Court were to reach the merits, the broadest relief it could grant would be addressed to Parent A's children alone; the Court does not have equity jurisdiction to tear up the *Crawford* plan root and branch. *Id.* at 852 ("[T]he question is . . . whether an injunction will offer complete relief *to the plaintiffs before the court*."); *Johnson v. Fliger*, No. 23 Civ. 848, 2026 WL 482669, at *15 (E.D. Cal. Feb. 20, 2026) (limiting injunction to plaintiff's speech).

To be clear, abstention in this posture would not abdicate this Court's "obligation" to exercise the jurisdiction that it has been given. *Colo. River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976). Abstention would simply defer its exercise while the state court—which has decades of familiarity with the *Crawford* litigation—determines in the first instance whether its order should be modified in light of present conditions and intervening developments that Plaintiffs believe necessitate modification. *See Harrison*, 360 U.S. at 177 (*Pullman* abstention "does not, of course, involve the abdication of federal jurisdiction, but only the postponement of its exercise"); *Growe v. Emison*, 507 U.S. 25, 32 n.1 (1993) ("[I]t would be preferable to speak of *Pullman* 'deferral.'"). If the state court maintains its decree, then 1776 Project may return to this Court with its federal claims fully intact. *England v. La. State Bd. of Med. Exam'rs*, 375 U.S. 411, 421-22 (1964) (parties can reserve federal claims and return to federal court after state proceedings).

In short, the equities that inform *Pullman* abstention are clear. Abstention here would avoid premature adjudication of weighty constitutional questions, prevent unnecessary federal-state collision in a sensitive area of local policy, and preserve Plaintiff's right to a federal forum if one proves necessary. Under these circumstances, the Court should dismiss this case or, in the alternative, stay the matter pending state-court resolution. *See Park at Cross Creek, LLC v. City of Malibu*, No. 15 Civ. 33, 2015

WL 9698236, at *2 (C.D. Cal. Apr. 10, 2015) (abstaining under *Pullman* and directing plaintiffs to "refile[]" dispositive state-law claims in state court).

III. The Court Should Dismiss All Claims

If the Court reaches the merits, it should dismiss all claims. The PHBAO program at issue does not discriminate on the basis of individual racial classifications, nor does it rest on an invidious discriminatory purpose; accordingly, it does not trigger strict scrutiny and easily satisfies rational basis review. But even if the PHBAO program were reviewed under a heightened standard, it would survive. The program also complies with Section 31 of the California Constitution, which expressly exempts desegregation plans that existed before its passage. And because the individual defendants are officials of a municipality, the claims against them must also be dismissed.

A. The PHBAO Program Does Not Impermissibly Discriminate on the Basis of Race and Thus Does Not Trigger Strict Scrutiny

The PHBAO program allocates resources to schools—not individual students—based on aggregate demographic data. It thus falls squarely within the framework the Supreme Court has endorsed for facially neutral measures designed to achieve legitimate educational objectives. Every circuit court to consider the question has held that such generalized, race-conscious policymaking does not trigger strict scrutiny.

When an equal protection plaintiff challenges a government program as racially discriminatory, strict scrutiny may be triggered in one of two ways. First, strict scrutiny applies whenever the program, on its face, explicitly classifies individuals by race and allocates benefits or burdens to those individuals based on their race. *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 213 (1995). Second, even where a policy is facially race-neutral, it may still be subject to strict scrutiny if it is motivated by an invidious discriminatory purpose. *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 264-65 (1977). But under either path, the Fourteenth Amendment's guarantee of equal protection "protects *persons*, not *groups*." *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 743 (2007) (brackets omitted). An

individual suffers unequal treatment "when he or she is disadvantaged by the government because of his or her race, whatever that race may be." *Adarand*, 515 U.S. at 230. Thus, in a usual race discrimination case, the threshold question is whether the government has subjected an individual to differential treatment on the basis of that individual's own race. *See Parents Involved*, 551 U.S. at 743 (plurality opinion) (applying "individualized scrutiny"). If that threshold is met, the government bears the burden of proving that its action is narrowly tailored to serve a compelling state interest. *Id.* at 720 (majority opinion).

Plaintiffs do not allege that kind of individual racial classification here. As set forth in the complaints, the PHBAO program turns on school-level racial demographic data; it does not allocate benefits to any individual student on the basis of that student's race. ECF 1 ¶ 3. A white student enrolled at a PHBAO school would receive the same reduced class sizes and the same parent-teacher conferences as, for example, a Hispanic student at that school. A white student would receive the same magnet priority points as that student's Black neighbor zoned to the same school. And students at a non-PHBAO school all receive the same treatment, regardless of whether they are white, Hispanic, or any other race. The determinative factor under the PHBAO program is which school a student attends or is zoned to—not what race the student happens to be. In *United States v. Skrmetti*, the Supreme Court held that a law regulating treatment for gender dysphoria did not trigger heightened scrutiny because its application did not turn on any minor's sex. 605 U.S. 495, 512, 515 (2025). Unlike the law in *Skrmetti*, the PHBAO program does not even operate at an individual level. And its "mere reference" to school-wide racial demographics does not trigger heightened scrutiny. *Id.* at 512.

The PHBAO program is also unlike the "zero-sum" admissions policies invalidated in *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*, 600 U.S. 181, 218-19 (2023). There, one applicant's racial classification came at a cost to another applicant competing for the same limited number of seats. Here, one student's receipt of programmatic benefits at a PHBAO school does not deprive any

other student of the same resource. All district students remain free to enroll at any district school regardless of residential address. *See* Cal. Educ. Code § 35160.5(b). And once enrolled at a PHBAO school, every student receives the same number of parent-teacher conferences and experiences the same class size regardless of individual race. The PHBAO program, in short, classifies schools, not students.

Nor is the PHBAO program motivated by an invidious purpose that would subject it to strict scrutiny under *Arlington Heights*. To the contrary, the Supreme Court has repeatedly endorsed such individually race-neutral methods for promoting desegregation and equal opportunity. In *Crawford* itself, the Court observed that "a distinction may exist between state action that discriminates on the basis of race and state action that addresses, in neutral fashion, race-related matters." 458 U.S. at 538. And more recently, the Court emphasized that "race may be considered in certain circumstances and in a proper fashion," and authorities can use "race-neutral efforts to encourage revitalization of communities that have long suffered the harsh consequences of segregated housing patterns." *Texas Dep't of Hous. & Cmty. Affs. v. Inclusive Cmtys. Project, Inc.*, 576 U.S. 519, 545 (2015); *see also Citizens for Better Educ. v. Goose Creek Consol. Indep. Sch. Dist.*, 484 U.S. 804, 804 (1987) (deeming meritless an appeal challenging, on equal protection grounds, school district's decision to change geographical attendance zones for its high schools to avoid de facto racial segregation, dismissing appeal from *Citizens for Better Educ. v. Goose Creek Consol. Indep. Sch. Dist*, 719 S.W.2d 350, 351-53 (Tex. App. 1986)).

Indeed, rather than condemn the PHBAO program, the Supreme Court's most analogous precedent supports it. In *Parents Involved*, a plurality joined by Justice Kennedy struck down student-assignment plans that classified individual students by race and then used those classifications to determine which public school each student could attend. 551 U.S. at 720, 734-36. But Justice Kennedy's concurrence—which is the controlling opinion under the rule in *Marks v. United States*, 430 U.S. 188, 193-96

(1977)—drew a sharp line between individual racial classifications, which demand strict scrutiny, and generalized race-conscious measures, which do not:

> In the administration of public schools by the state and local authorities it is permissible to consider the *racial makeup of schools* and to adopt *general policies* to encourage a diverse student body, one aspect of which is its racial composition. If school authorities are concerned that the student-body compositions of certain schools interfere with the objective of offering an equal educational opportunity to all of their students, they are free to devise *race-conscious measures* to address the problem in a general way and without treating each student in different fashion solely on the basis of a systematic, individual typing by race.

Parents Involved, 551 U.S. at 788-89 (Kennedy, J., concurring in part and concurring in the judgment) (citation omitted) (emphases added). Justice Kennedy then identified specific examples of permissible race-conscious policies: "strategic site selection of new schools; drawing attendance zones with general recognition of the demographics of neighborhoods; allocating resources for special programs; recruiting students and faculty in a targeted fashion; and tracking enrollments, performance, and other statistics by race." *Id.* The PHBAO program—which "allocat[es] resources" based on "the racial makeup of schools"—falls comfortably within this enumerated list. *Id.*

Justice Kennedy's opinion did not break new ground. It merely reflected the longstanding view of lower courts—and the federal government itself—prior to *Parents Involved*. *See, e.g.*, *Comfort v. Lynn Sch. Comm.*, 418 F.3d 1, 9, 11-12 (1st Cir. 2005) (en banc) (rejecting equal protection challenge to a state law authorizing funding for school districts to voluntarily combat de facto racial segregation); *Raso v. Lago*, 135 F.3d 11, 16 (1st Cir. 1998) (explaining that plaintiffs were "mistaken in treating 'racial motive' as a synonym for a constitutional violation," and noting that "[e]very antidiscrimination statute aimed at racial discrimination, and every enforcement measure taken under such a statute, reflect[s] a concern with race"); *Riddick by Riddick v. Sch. Bd. of City of Norfolk*, 784 F.2d 521, 540 (4th Cir. 1986) (upholding school-assignment plan "based upon the residence of the child, not the race of the child . . . to result in the maximum amount of integration possible"); U.S. Dep't of Educ., *Achieving Diversity: Race-Neutral Alternatives in American Education* (Feb. 2004),

https://perma.cc/LK93-3AC9 (discussing the "rich variety of race-neutral alternatives now available" to educational institutions, including at the K-12 level).

And since *Parents Involved*, lower courts have adhered to the same approach. In doing so, they have consistently upheld policies that use general racial demographics under rational basis review, concluding that such policies do not employ racial classifications nor reflect the kind of invidious intent that triggers strict scrutiny. *See, e.g.*, *Doe ex rel. Doe v. Lower Merion Sch. Dist.*, 665 F.3d 524, 548 (3d Cir. 2011) ("The consideration or awareness of race while developing or selecting a policy . . . is not in and of itself a racial classification."); *Spurlock v. Fox*, 716 F.3d 383, 394 (6th Cir. 2013) (policymakers do not have to "blind themselves" to "demographic realities" and "consequences"); *Lewis v. Ascension Parish Sch. Bd.*, 806 F.3d 344, 355 (5th Cir. 2015) (mere "consideration of racial demographics in drawing district boundaries will not alone trigger strict scrutiny"); *Stevenson v. Blytheville Sch. Dist. #5*, 800 F.3d 955, 972 (8th Cir. 2015) ("[T]his is not a case in which the District was 'distribut[ing] burdens or benefits on the basis of individual racial classifications.'" (quoting *Parents Involved*, 551 U.S. at 720)). The federal government, too, has maintained this position across presidential administrations of both parties.[2] This Court should reject Plaintiffs' invitation to depart from that consensus.

If the Court adopts Plaintiffs' theory, the resulting disruption would extend far beyond LAUSD. As Justice Kennedy observed, government entities have "for generation[s]" implemented precisely the kind of demographic-based program that 1776 Project and the United States challenge here. *Parents Involved*, 551 U.S. at 788.

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[2] *See, e.g.*, U.S. Amicus Br. at 6, *Bos. Parent Coal. for Acad. Excellence v. Sch. Comm. for the City of Boston*, No. 21-1303 (1st Cir. Oct. 18, 2022) ("In multiple contexts, the Supreme Court has explained that public entities may use race-neutral means to provide equal opportunities for persons of all races or to further the related purposes of increasing racial diversity or promoting racial integration."); U.S. Dep't of Justice & U.S. Dep't of Educ., *Guidance on the Voluntary Use of Race to Achieve Diversity and Avoid Racial Isolation in Elementary and Secondary Schools* 5-6 (Dec. 2, 2011), https://perma.cc/UG83-CMMD; U.S. Dep't of Educ., *Dear Colleague Letter on Parents Involved* (Aug. 28, 2008), https://perma.cc/49ULX94U; U.S. Amicus Br. at 17, 24-27, *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, No. 05-908, 2006 WL 2415458 (Aug. 21, 2006).

"Having spent decades telling school officials they must consider race-neutral methods for ensuring a diverse student body before turning to race-conscious ones, it would be quite the judicial bait-and-switch to say such race-neutral efforts are also presumptively unconstitutional." *Coal. for TJ v. Fairfax Cnty. Sch. Bd.*, 68 F.4th 864, 891 (4th Cir. 2023) (Heytens, J., concurring).

Consider federal grants as just one example. For over two decades, Congress has funded higher education grants whose eligibility turns on the racial composition of an institution's student body. The Higher Education Act, for instance, authorizes grants to institutions with at least a 25% undergraduate Hispanic enrollment. 20 U.S.C. § 1101a. Similar programs support institutions serving Alaska Native students (at least 20%), *id.* § 1059d(b)(2), Native Hawaiian students (at least 10%), *id.* § 1059d(b)(4), Asian American and Native American Pacific Islander students (at least 10%), *id.* § 1059g(b)(2), Native American students at nontribal institutions (at least 10%), *id.* § 1059f(b)(2), and Black American students (at least 40%), *id.* § 1059e(b)(1). Like the PHBAO program, these federal grants use aggregate racial demographics to identify eligible recipients and then fund general educational expenditures that benefit all enrolled students regardless of individual race. *See, e.g.*, *id.* § 1101b(a) (grant funds intended "to assist the institutions to plan, develop, undertake, and carry out programs to improve and expand the institutions' capacity to serve Hispanic students and other low-income students"). To date, no court has declared any of these programs unconstitutional. Yet under Plaintiffs' theory, each one apparently is.

In short, both caselaw and longstanding practice by the government show that the PHBAO program does not discriminate on the basis of race within the meaning of the Equal Protection Clause. Rather, according to the complaints, the program allocates modest additional resources to certain schools based upon their "resident student population," ECF 1 ¶ 3; ECF 29 ¶ 3, and "a student living in the area served by a PHBAO school" receives four magnet priority points that improve the student's chances of admission to an oversubscribed magnet school that uses an admissions lottery,

ECF 29 ¶ 5; ECF 1 ¶ 29. The PHBAO program is therefore subject to rational basis review, which it easily satisfies. *See infra* at 25-29. And because the PHBAO program complies with the Equal Protection Clause, 1776 Project's Title VI claim also fails. *See Students for Fair Admissions*, 600 U.S. at 198 n.2 (reaffirming that Title VI's protections are coextensive with those of the Equal Protection Clause).

B. The PHBAO Program Is Mandated by a Valid Court Order To Further Compelling State Interests

If the Court concludes that heightened scrutiny applies, it should still dismiss this case. Whatever their precise contours, the desegregation programs in LAUSD did not emerge from a vacuum; rather, they reflect LAUSD's continued compliance with the *Crawford* order, which remains in full effect. *See Am. Civil Rights Found.*, 169 Cal. App. 4th at 451-52. "Any rul[ing] that punishe[s] the School Board for failing to *disobey* the court would not comport with the sanctity of an unchallenged court order." *Citizens Concerned About Our Child. v. Sch. Bd. of Broward Cnty.*, 193 F.3d 1285, 1292 (11th Cir. 1999) (per curiam) (collecting cases). Accordingly, "[a]voiding contempt and respecting the court that entered the [*Crawford* order] suffice to make obedience a compelling interest." *Id.*; *see also Lomack v. City of Newark*, 463 F.3d 303, 310 (3d Cir. 2006) ("Compliance with a consent decree may certainly be a compelling interest . . . if the decree *mandates* the race-based policy at issue[.]"); *Pope v. Alabama*, No. 03 Civ. 199, 2008 WL 2874483, at *8 (M.D. Ala. July 24, 2008) (same). That basic principle is enough to end this case.

But there is more. For decades, courts have recognized that a desegregation order grants a school district the authority to adopt race-conscious remedies. In *Swann v. Charlotte-Mecklenburg Board of Education*, the Supreme Court held that race-conscious measures fall "within the broad discretionary powers of school authorities" operating under a desegregation order. 402 U.S. 1, 16 (1971); *see also N.C. State Bd. of Educ. v. Swann*, 402 U.S. 43, 45-46 (1971) (reaffirming same); *Zaslawsky v. Bd. of Educ. of L.A. City Unified Sch. Dist.*, 610 F.2d 661, 664 (9th Cir. 1979) (quoting and

applying the preceding). And in *Parents Involved*, the Supreme Court took pains to limit its holding to school districts that (unlike LAUSD) were not currently "subject to court-ordered desegregation." 551 U.S. at 703, 712, 720.

This Court need not stop at LAUSD's indisputable obligation to comply with a valid court order. By design, the PHBAO program, with the other measures ordered in *Crawford*, serves the "fundamental, overriding interest in eradicating racial discrimination in education." *Bob Jones Univ. v. United States*, 461 U.S. 574, 604 (1983). The exhaustive evidence in *Crawford* left "little question" that LAUSD schools were "substantially segregated," and that predominantly non-white schools were "in fact of poorer quality than the plant, teachers, physical facilities and curriculum at its predominantly white schools." 551 P.2d at 32-33. The California Supreme Court also concluded that LAUSD had shown an "absolute failure" to alleviate segregation and instead adopted policies that foreseeably "perpetuat[ed] and indeed exacerbate[ed]" it. *Id.* at 46. LAUSD has a compelling interest in remedying such "specific, identified instances of past discrimination." *Students for Fair Admissions*, 600 U.S. at 207. And "because the statistical evidence demonstrates that schools within the district remain segregated," LAUSD has "a present obligation to continue its remedial efforts." *Friery*, 2001 WL 37121280, at *8; *id.* at *6 (observing "well-documented history of segregation").

Labeling LAUSD's segregation "*de facto*" does not diminish this remedial interest. ECF 29 at 2. *Crawford* did not rest merely on residential housing patterns. Quite the opposite. The *Crawford* courts catalogued specific LAUSD policies—including school siting, neighborhood-school policies, one-sided transfer programs, and feeder-school arrangements—through which LAUSD itself "perpetuate[d]" school segregation. *Crawford*, 551 P.2d at 32-33; *see also id.* at 31 (recounting LAUSD's years-long refusal to voluntarily desegregate). These facts—all of which were affirmed by the California Supreme Court—establish de jure segregation. *See Diaz v. S.J. Unified Sch. Dist.*, 733 F.2d 660, 664-74 (9th Cir. 1984) (finding intentional segregation under

similar facts). But even on a more charitable reading, LAUSD's prior actions amounted to at least "passive maintenance" of some of the worst school segregation in the country. *Crawford*, 113 Cal. App. 3d at 645. And when the government becomes a "'passive participant' in a system of racial exclusion," it can act to undo that discrimination. *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 492 (1989) (plurality opinion).

Even beyond the *Crawford* order, LAUSD has a compelling interest in closing the educational gaps among its students. School districts have a compelling interest in seeking "to reach *Brown*'s objective of equal educational opportunity." *Parents Involved*, 551 U.S. at 788 (Kennedy, J., concurring in part and concurring in the judgment). Indeed, courts have recognized LAUSD's interests in this very context. A court in this district held that LAUSD has a compelling interest in desegregating its student body and alleviating "racial disparities." *Friery*, 2001 WL 37121280, at *5 & n.12 ("[LAUSD's efforts] to remedy the effects of past *de facto* segregation, to prevent the formation of racially identifiable schools, and to promote educational diversity . . . [serve] compelling interests."). And the Ninth Circuit reached the same conclusion decades earlier. *Zaslawsky*, 610 F.2d at 664 (describing measures to "enhance the educational opportunities available to [LAUSD] students" as "an educational objective which has been well recognized and approved by the Supreme Court").

Time has not made these interests any less compelling—it has only confirmed them. "While some of the racial disparities observed by the *Crawford* court have been alleviated, continuing racial imbalances exist." *Friery*, 2001 WL 37121280, at *5 n.12. The very sources 1776 Project relies on underscore the persistence of those gaps. The California Department of Education's "publicly available data and dashboard," ECF 1 ¶ 26, show that in 2018, while white LAUSD students met state performance metrics in English language arts and mathematics, Hispanic and Black students met neither.[3] The

[3] LAUSD 2018 Dashboard, Cal. Dep't of Educ., https://www6.cde.ca.gov/californiamodel/studentgroupsreport?year=2018&cdcode=1964733 (last visited June 22, 2026).

same was true in 2019, 2022, 2023, 2024, and 2025.[4] Moreover, the desegregation plan approved in *Crawford* was designed "[t]o be responsive to changing circumstances," Desegregation Plan at 1, and the PHBAO program itself accounts for changing school demographics, rather than allocating resources across schools in a manner frozen over time. The PHBAO program is thus far from "incoherent," ECF 29 at 2, and 1776 Project's own sources supply "a strong basis" for its continued implementation, *City of Richmond*, 488 U.S. at 510. Simply put, the challenged program is supported by multiple, independently sufficient compelling interests.

The PHBAO program is also narrowly tailored. The final remedies in the *Crawford* order are the product of five years of contentious litigation during which the remedies were incrementally tested, revised, and narrowed. After a three-month trial, the trial court rejected LAUSD's initial plan as insufficient. *Crawford v. Bd. of Educ.*, 200 Cal. App. 3d 1397, 1402-03 (1988). LAUSD proposed a second plan, with a variety of mandatory reassignment and voluntary magnet and transportation programs. *Id.* After further revisions by the trial court and pushback from an intervenor group of 65,000 mostly white parents, LAUSD implemented a third plan. *Id.* at 1401-03. The fourth and final plan, which remains operative today, also underwent months of hearings and court revisions before its approval in 1981. *Id.* at 1404 & n.3. That lengthy and iterative process—during which other means were proposed, tried, and rejected—is strong evidence of narrow tailoring. *See Loc. 28 of Sheet Metal Workers' Int'l Ass'n v. EEOC*, 478 U.S. 421, 476-82 (1986) (holding race-conscious remedies ordered by "state and federal court orders" after years-long litigation satisfied strict scrutiny).

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[4] LAUSD 2019 Dashboard, Cal. Dep't of Educ., https://www6.cde.ca.gov/californiamodel/studentgroupsreport?year=2019&cdcode=1964733 (last visited June 22, 2026); LAUSD 2022 Dashboard, Cal. Dep't of Educ., https://www6.cde.ca.gov/californiamodel/studentgroupsreport?year=2022&cdcode=1964733 (last visited June 22, 2026); LAUSD 2023 Dashboard, Cal. Dep't of Educ., https://www6.cde.ca.gov/californiamodel/studentgroupsreport?year=2023&cdcode=1964733 (last visited June 22, 2026); LAUSD 2024 Dashboard, Cal. Dep't of Educ., https://www6.cde.ca.gov/californiamodel/studentgroupsreport?year=2024&cdcode=1964733 (last visited June 22, 2026); LAUSD 2025 Dashboard, Cal. Dep't of Educ., https://www6.cde.ca.gov/californiamodel/studentgroupsreport?year=2025&cdcode=1964733 (last visited June 22, 2026).

The PHBAO program's substance confirms what its history suggests. Unlike the system invalidated in *Parents Involved*, the PHBAO program does not deny any student enrollment at a PHBAO school because of race, nor differentiate among students within particular schools. 551 U.S. at 738. The PHBAO program simply allocates modest resources—a slightly lower pupil-teacher ratio in some grades and classes, one additional parent-teacher conference per year, and four priority magnet points—to certain schools and school zones, benefiting every student within them. And, on its face, the features of the PHBAO program that the complaints challenge target academic disparities that *Crawford* identified and that persist to this day. *See id.* at 788-89, 797-98 (Kennedy, J., concurring in part and concurring in the judgment) (endorsing "allocating resources for special programs" and pursuing "equal educational opportunity"). The PHBAO program, moreover, applies widely to roughly 90% of LAUSD schools, minimizing any burden on white students. ECF 1 ¶ 26; ECF 29 ¶ 20.

Accordingly, the PHBAO program satisfies any heightened scrutiny.

C. In Any Event, the Court Should Dismiss the Complaint in Part

Regardless, the Court should dismiss 1776 Project's claim under the California Constitution and both Plaintiffs' claims against the individual defendants.

1. The PHBAO Program Complies with Proposition 209

1776 Project alleges that the PHBAO program violates Article I, Section 31 of the California Constitution, added by Proposition 209 in 1996. ECF 1 ¶¶ 54-57. Section 31 bars race-based discrimination or "preferential treatment" by the state in public contracting, employment, and education. Cal. Const. art. I, § 31(a).

1776 Project's claim fails for two independent reasons. First, Section 31 expressly exempts from its scope "any court order or consent decree which [was] in force as of [its] effective date." Cal. Const. art. I, § 31(d). Because the *Crawford* order was already in effect in 1996, the exact program challenged here is exempt from Section 31. *Am. Civil Rights Found.*, 169 Cal. App. 4th at 451-52; *see also Friery*, 2001 WL 37121280, at *9 (same conclusion as to LAUSD's faculty desegregation policies).

Second, because the PHBAO program employs race-neutral means to promote desegregation and diversity, *supra* at 19-24, it complies with Section 31, s*ee Am. Civil Rights Found. v. Berkeley Unified Sch. Dist.*, 172 Cal. App. 4th 207, 217-18 (2009) (holding that desegregation policy that extended admissions preferences to students based on their neighborhood's demographics did not discriminate on the basis of any student's race and so "does not violate section 31").

2. The Individual Defendants Should Be Dismissed

Defendants Carvalho and Schmerelson are officers of LAUSD, a municipal agency. ECF 1 ¶¶ 23-24. Consistent with this Court's settled practice, both individual Defendants should be dismissed as redundant. *See Ctr. for Bio-Ethical Reform, Inc. v. L.A. Cnty. Sheriff Dep't*, 533 F.3d 780, 799 (9th Cir. 2008); *e.g.*, *Lallemand v. Cnty. of Los Angeles*, No. 17 Civ. 781, 2018 WL 6136816, at *5 (C.D. Cal. June 12, 2018) (dismissing individual defendants in suit against county); *Castellanos v. City of Los Angeles*, No. 22 Civ. 1165, 2025 WL 1090393, at *9 (C.D. Cal. Mar. 7, 2025) (same).

CONCLUSION

For the foregoing reasons, the Court should grant Defendants' motion to dismiss the complaints or, in the alternative, stay this action pending state-court litigation. Because amendment would be futile, dismissal should be with prejudice. *See Gillam v. Barton*, 200 F. App'x 656, 657 (9th Cir. 2006) (affirming dismissal with prejudice of equal protection claim); *Tatum v. Hartsell*, No. 25 Civ. 5977, 2025 WL 2456902, at *3 (C.D. Cal. Aug. 15, 2025) (Vera, J.) (amendment futile where abstention applied).

Dated: June 22, 2026

MATTHEW J. CRAIG

Counsel for Defendants Board of Education of the Los Angeles Unified School District, Alberto M. Carvalho, and Scott Schmerelson

CERTIFICATE OF COMPLIANCE

The undersigned counsel of record for Defendants Board of Education of the Los Angeles Unified School District, Alberto M. Carvalho, and Scott Schmerelson certifies that this memorandum of points and authorities, which is thirty pages long, complies with Judge Vera's Civil Standing Order Rule IX.C and the parties' joint stipulation filed June 22, 2026, ECF 45.

Dated: June 22, 2026

MATTHEW J. CRAIG

Counsel for Defendants Board of Education of the Los Angeles Unified School District, Alberto M. Carvalho, and Scott Schmerelson