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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION (LOS ANGELES)

1776 PROJECT FOUNDATION,

Plaintiff,

v.

ALBERTO M. CARVALHO, ET AL.

Defendants.

Case No: 2:26-cv-00548-HDV-AGR

PLAINTIFF'S OPPOSITION TO PROPOSED DEFENDANT-INTERVENORS' MOTION TO INTERVENE [ECF No. 36]

Hearing Date: July 30, 2026
Hearing Time: 10:00 a.m.
Courtroom: Courtroom 5B
Judge: Hon. Hernán D. Vera

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INTRODUCTION

Proposed Defendant-Intervenors seek to enter this case as full parties based on a faulty premise: that they are members of the *Crawford* plaintiff class and, therefore, have a legally protected interest in defending the remedies ordered by the *Crawford* Court in 1981 that are supposedly at issue in this case. But they are not *Crawford* class members. The Ninth Circuit has already made clear that the *Crawford* class closed with the September 10, 1981 final order (the "1981 Order"). Proposed Intervenors A.M. and E.H. are current LAUSD students and are four decades removed from that cutoff date. Proposed Intervenors may favor LAUSD's race-conscious policies, but that does not make them members of the *Crawford* class, nor give them the specific protectable interest on which their motion depends.

Second, even if Proposed Intervenors were, somehow, members of the *Crawford* class, they have not connected their asserted interests to the LAUSD practices challenged in the Complaint. The declarations submitted by the parents of Proposed Intervenors describe generalized interests in their children's schools, educational programs, and school diversity. However, the declarations do not identify an interest in preserving the disparities challenged by the Complaint, including unequal student-teacher ratios between PHBAO and non-PHBAO schools, additional parent-teacher conferences for PHBAO schools, or PHBAO-

based magnet priority points. Nor do the declarations show that Plaintiffs' requested relief would remove either student from their current school, deprive them of access to their academic programs, or otherwise impair the educational interests described by their parents. Indeed, the 1981 Order Proposed Intervenors repeatedly cite does *not require* LAUSD to maintain the specific disparities outlined in the Complaint. LAUSD discriminates against its students on its own volition. The palpable disconnect between the interests described in the declarations and the practices actually challenged in the Complaint underscores why Proposed Intervenors have not established a significantly protectable interest sufficient to justify intervention as of right.

Third, even if Proposed Intervenors could identify a significant protectable interest as current LAUSD students, intervention as of right would still be improper because LAUSD adequately represents their interests. Proposed Intervenors and LAUSD share the same ultimate objective: defeating Plaintiffs' claims and preserving the challenged disparate policies. That shared ultimate objective triggers a presumption of adequate representation, which is reinforced by the indisputable fact that LAUSD is a public entity charged with administering the school district and representing the interests of its students. Proposed Intervenors have not rebutted the strong presumption of adequate representation in this case, nor could they. Proposed Intervenors' own proposed motion to dismiss simply

rehashes the arguments raised by LAUSD's motion to dismiss and rests on the same basic premise: that Plaintiffs' claims improperly attack LAUSD's alleged obligations under the 45-year-old order in the *Crawford* litigation. To the extent Proposed Intervenors attempt to suggest intervention should be allowed because their proposed motion to dismiss adds a narrower *Younger* abstention theory, that is not a singular sufficient basis to justify full party intervention. It is, at most, the kind of discrete legal argument that can be presented through *amicus* participation.

Permissive intervention should be denied for similar reasons. Granting Proposed Intervenors full-party status would duplicate briefing and discovery, complicate the case, and delay its orderly resolution. If the Court believes Proposed Intervenors' perspective may assist it, the Court can allow Proposed Intervenors to file an *amicus* brief. Alternatively, if the Court allows intervention, it should strictly limit any participation to avoid duplicative filings, expanded discovery, and unnecessary delay in the adjudication of the case.

For these reasons, the Motion to Intervene should be denied.

ARGUMENT

I. Proposed Intervenors Are Not Entitled to Intervention as of Right.

Federal Rule of Civil Procedure 24(a)(2) requires a proposed intervenor to establish four elements: "(1) the motion must be timely; (2) the applicant must claim a significantly protectable interest relating to the property or transaction which is

the subject of the action; (3) the applicant must be so situated that the disposition of the action may as a practical matter impair or impede its ability to protect that interest; and (4) the applicant's interest must be inadequately represented by the parties to the action." *Perry v. Proposition 8 Official Proponents*, 587 F.3d 947, 950 (9th Cir. 2009). Failure to satisfy any one element is fatal to a Rule 24(a) intervention bid. *Id*.

Proposed Intervenors have not – and indeed cannot – satisfy the requirements of Rule 24(a). Their asserted interest rests on an incorrect claim of *Crawford* class membership, the 1981 Order Proposed Intervenors seek to defend does not actually require the discriminatory policies at issue in the Complaint, and their parents' declarations fail to show any actual interest that would be affected by this litigation. In any event, Proposed Intervenors fail to seriously argue that their interests are not adequately represented by LAUSD.

A. *Proposed Intervenors Are Not Crawford Class Members.*

Proposed Intervenors' claimed protectable interest depends on their assertion that they are "members of the plaintiff class" in a lawsuit that was resolved forty-five years ago. *See* Int. Mem. at 1 (citing *Crawford v. Board of Education*, 17 Cal. 3d 280 (1976)). They rely on that assertion throughout their filing, referring to themselves as the "*Crawford* Class Intervenors" and claiming an interest in LAUSD's compliance with the *Crawford* desegregation order. But the authority

they cite makes clear that Proposed Intervenors *are not* members of the *Crawford* class.

Under the California rules then in effect, the *Crawford* court was not required to formally certify a class and never did so.[1] Thus, to support their claim to membership in the *Crawford* class, Proposed Intervenors turn to the explanation of the *Crawford* class provided by the Ninth Circuit in *Los Angeles Branch NAACP v. Los Angeles Unified Sch. Dist.*, 750 F.2d 731 (9th Cir. 1984) (en banc) (hereafter, "*L.A. Branch*"). Proposed Intervenors rely on a single, early passage in *L.A. Branch*, where the Ninth Circuit said that the *Crawford* class includes "all black and Hispanic students *attending* school in the Los Angeles Unified School District." Int. Mem. at 2 (quoting *L.A. Branch*, 750 F.2d at 734) (emphasis added). They interpret this passage to mean that the Crawford class includes *future* black students, like A.M. and E.H., who would not attend LAUSD until *decades after* that case ended. But in reaching this conclusion, Proposed Intervenors ignore the Ninth Circuit's later explanation of when that class closed:

> The plaintiff class in *Crawford* consisted of all black and Hispanic students *attending* school in the Los Angeles Unified School District. It is clear from the final order of the state trial court on September 10, 1981, that the class remained open *to that date,* because the relief

[1] *See Los Angeles Branch NAACP v. Los Angeles Unified Sch. Dist.*, 750 F.2d 731,734 (9th Cir. 1984) at n. 11 ("The class in *Crawford* was never formally certified. No procedure for such certification existed in California prior to 1973. The California courts treated *Crawford* as a class action throughout. … We therefore treat it as a class action for purposes of *res judicata*.")

> encompassed, and was intended to benefit, black and Hispanic children in school *on that date*.

L.A. Branch, 750 F.2d at 741 (emphasis added). Accordingly, *L.A. Branch* does not support Proposed Intervenors' claim to class membership – in fact, it plainly forecloses their theory. A.M. and E.H. were not LAUSD students when the class closed on September 10, 1981, and therefore, they are not members of the *Crawford* class.

The Ninth Circuit's *res judicata* analysis in *L.A. Branch* confirms this critical point. The court explained that the class in *L.A. Branch* included "*all existing and future black students* who are or become eligible to attend the District's schools during the pendency of this action," and that the class therefore included "some members who were also members of the *Crawford* class and others who were not." *Id.* (emphasis added). Only the former group—*Crawford* class members—was bound by *res judicata*; the latter group—black students who were not *Crawford* class members—was not. *Id.* If all future Black and Hispanic LAUSD students were automatically part of the *Crawford* class, as Proposed Intervenors necessarily contend, no such latter group could have existed. But the Ninth Circuit *expressly* recognized the opposite and treated September 10, 1981, as the cutoff for *Crawford* class membership. Students who began attending LAUSD after that date were not *Crawford* class members and were not bound by *Crawford*'s preclusive effect.

Because Proposed Intervenors are not *Crawford* class members, they lack the specific significantly protectable interest they assert: an interest as *Crawford* class members in defending or enforcing the 1981 Order. At most, Proposed Intervenors are current LAUSD students, who, through their parents, support the continuation of the challenged policies. That asserted interest is not the legally protected interest on which their Motion is based and does not entitle them to intervene as full parties.

B. Proposed Intervenors Have Not Established a Significantly Protectable Interest In Maintaining The LAUSD Policies Challenged In the Complaint.

To the extent that Proposed Intervenors claim they are members of the Crawford Class, they still fail to establish a significantly protectable interest justifying mandatory intervention in this case. This is so for three reasons.

First, as shown by the Declarations filed by their parents, the Proposed Intervenors fail to substantiate any interest in the advantages that LAUSD gives to students attending PHBAO schools.

Proposed Intervenor A.M. Niglmoro Okuk, the parent of A.M., explains in her Declaration (Dkt. # 36-3) that A.M. is a second grader currently attending Point Fermin Marine Science Magnet School. There is nothing in the Declaration – or in the Complaint – to suggest that granting Plaintiff the relief it seeks would result in disenrolling A.M. from that school. Nor does the parent identify the Point Fermin Marine Science Magnet School as a PHBAO school or express any interest

in the advantageous student-teacher ratios or parent-teacher conferences that LAUSD provides to students who attend PHBAO schools.

Proposed Intervenor E.H. Latonya Huey, the parent of L.H., explains in her Declaration (Dkt. # 36-2) that L.H. will be attending Venice High School in the fall of 2026, and that Venice High School is a PHBAO school. The parent explains that E.H. has been studying Mandarin since elementary school and will continue studying the language at Venice High School, but the parent expresses no concern with the advantageous student-teacher ratios or parent-teacher conferences that LAUSD provides to students who attend PHBAO schools, nor does the parent express any interest in E.H. obtaining admission to any magnet program.

At bottom, Proposed Intervenors seek party status based on interests asserted in the declarations that are disconnected from this litigation. The declarations fail to show that adjudication of Plaintiffs' claims would impair an interest of Proposed Intervenors in the practices challenged by the Complaint.

Second, while the *Crawford* Order approved LAUSD's "Plan for Desegregation" (the "1981 Plan"), the court stopped far short of ordering compliance with every jot and tittle of that 199-page document.[2] Instead, the *Crawford* Order says: "The Court… makes the following order:" and then lists several points where various actions by LAUSD were permitted, required, or

[2] A copy of the 1981 Plan has been filed by LAUSD as Dkt. # 48-2

forbidden. But nowhere is there a requirement that all aspects of the 1981 Plan be implemented – much less that they be kept in place in perpetuity. *See Crawford* Order, Dkt. # 48-3 at 5-8.[3]

Third, assuming *arguendo* that the *Crawford* Order requires LAUSD to comply with all aspects of the 1981 Plan, it still does not require the discrimination that is at issue in this case, as the following examples will show.

Student-Teacher Ratios: Under the *Crawford* Order, "[t]he pupil-teacher ratio in predominantly Hispanic, Black, Asian and Other schools operated under this plan must be maintained at **27:1** or less…" *See Crawford* Order, Dkt. 48-3 at 7 (emphasis added). But, as alleged by the Complaint (¶ 4) LAUSD maintains a student-teacher ratio in its **600-plus** PHBAO schools of not greater than **25:1**, a substantially more favorable ratio than found in the *Crawford* Order.

Meanwhile, in the **fewer-than-100** non-PHBAO schools, the student-teacher ratio can soar as high as **34.5:1.** Complaint (¶ 4). There is no requirement in the *Crawford* Order that LAUSD maintain some differential between the PHBAO and non-PHBAO schools. Thus, on student-teacher ratios, the Court can order LAUSD to comply with its federal equal protection obligations without ordering discontinuation of the benefits of possible concern to the Proposed Intervenors.

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[3] A copy of the *Crawford* Order has been filed by LAUSD as Dkt. # 48-3

Parent-teacher conferences: The 1981 Plan provides: "Each RIM [now "PHBAO"] school will conduct individual parent conferences on the school site twice a year." 1981 Plan at 128. Unlike student-teacher ratios, which the *Crawford* Order expressly addressed, the *Crawford* Order does not require adherence to that part of the 1981 Plan. But even if it did, there is nothing in the *Crawford* Order prohibiting LAUSD from offering the same two conferences per year to parents in non-PHBAO schools. Thus, on parent-teacher conferences, the Court can order compliance with federal equal protection obligations without ordering discontinuation of the benefits of possible concern to the Proposed Intervenors.

Magnet school advantages: "In PHBAO schools, students applying to a prestigious magnet school automatically receive extra points on their application. Students in non-PHBAO schools receive no such advantage." Complaint (¶ 4). This is different from the 1981 Plan**,** which states: "Priority for acceptance into the District's Magnet program is given to minority students presently attending ***overcrowded*** schools…." 1981 Plan at 43 (emphasis added). Assuming *arguendo* that the *Crawford* Order required LAUSD to implement that part of the 1981 Plan, it is plainly doing something else. The preference that LAUSD gives to students attending PHBAO schools is not limited to those schools that are "overcrowded." Moreover, to be clear, PHBAO status does not statistically correlate with being overcrowded. On the contrary, according to a recent LAUSD document, ***none*** of

the PHBAO school are overcrowded. There are four LAUSD schools that are overcrowded, and all of them are non-PHBAO.[4] Thus, if the Proposed Intervenors were to seek an advantage in obtaining admission to magnet schools, the 1981 Plan would not help them.

C. *Proposed Intervenors Fail to Make a Compelling Showing that LAUSD Will Not Adequately Represent Any Interest They May Have In Defending The Challenged Policies.*

To the extent Proposed Intervenors could identify a protectable interest as current LAUSD students, which they have not, intervention as of right would still be unavailable because LAUSD adequately represents that interest, and Proposed Intervenors have not made the compelling showing required to prove otherwise. In determining adequacy of representation, courts consider: "(1) whether the interest of a present party is such that it will undoubtedly make all of a proposed intervenor's arguments; (2) whether the present party is capable and willing to make such arguments; and (3) whether a proposed intervenor would offer any necessary elements to the proceeding that other parties would neglect." *W. Watersheds Project v. Haaland*, 22 F.4th 828, 840–41 (9th Cir. 2022).

However, where an existing party and proposed intervenor share the same ultimate objective, a presumption of adequate representation applies. *Perry*, 587

[4] For the official list of LAUSD PHBAO and Overcrowded Schools, *see*: https://integration.lausd.org/apps/pages/index.jsp?uREC_ID=4407108&type=d&pREC_ID=2635590

F.3d at 951. Here, Proposed Intervenors and LAUSD share the same ultimate objective to defeat the Complaint and preserve LAUSD's race-conscious PHBAO policies. In fact, the interests of Proposed Intervenors and LAUSD's are identical. Thus, there is a "presumption" that the LAUSD "adequately represents" the Proposed Intervenors' interests, and Proposed Intervenors must make a *compelling showing* of inadequate representation. *See W. Watersheds Haaland*, 22 F.4th at 840. That presumption applies with even greater weight here because LAUSD is a public entity charged with representing the interests of its students. *See Arakaki v. Cayetano*, 324 F.3d 1078, 1086 (9th Cir. 2003) (finding that presumption of adequate representation applies "when the government is acting on behalf of a constituency that it represents").

Proposed Intervenors have made no such showing to rebut the strong presumption of adequate representation that applies in this case. Instead, Proposed Intervenors claim, in conclusory fashion, that they and LAUSD "have diverging interests." Int. Mem. at 10. But rather than explain how those interests diverge in 2026, they point back to 1981 – nearly a half century ago – when there was "significant disagreements [between the *Crawford* Class and LAUSD], about whether and how LAUSD should desegregate its schools." Int. Mem. at 10. But the views held at that time by LAUSD policy makers (the LAUSD board) provide no indication of the views held by their successors so many years later. The board

members and the constituencies that elect them are entirely different than they were in 1981. For example, in 1981, a sizeable majority of Angelenos (72.4%) were white. Today, the most recent census data shows that whites are a distinct minority (32.55 %). There is no basis to any suggestion that LAUSD would be insensitive to the needs of Black and Hispanic students.

Proposed Intervenors also claim that, without them, "the existing parties would fail to offer the essential experiences and viewpoints of the *Crawford* Class members at issue in this litigation, which Intervenors represent." Int. Mem. at 11. But as discussed above, the Ninth Circuit made clear in *L.A. Branch* that the door to the Crawford class closed on September 10, 1981. Moreover, the relevant inquiry is not whether Proposed Intervenors would offer a different framing or emphasis of the issues; it is whether LAUSD adequately represents the interests of its students in this litigation. *See Arakaki*, 324 F.3d at 1086. Proposed Intervenors offer no basis for concluding that it does not. They point to no present conflict or difference between their litigation objective and LAUSD's litigation objective, much less meaningfully identify any diverging interests they have with LAUSD.

Nor do Proposed Intervenors identify any necessary argument LAUSD is unable or unwilling to make. LAUSD has already demonstrated that it is both willing and capable of defending its discriminatory policies. In its motion to dismiss or, in the alternative, stay this case, LAUSD argues vociferously that Plaintiffs lack

standing, that abstention is warranted, that the PHBAO program does not trigger strict scrutiny because it does not directly classify students by race, and that, in any event, the challenged policies are justified by the 1981 Order and compelling state interests. While these arguments lack merit, as Plaintiff's later briefing will show, the fact that LAUSD would go to such lengths to defeat the Complaint illustrates the Proposed Intervenors' failure to show their interests will not be adequately represented.

Proposed Intervenors' proposed motion to dismiss confirms that their participation as a party is unnecessary, as it depends on the same core premise and arguments advanced by LAUSD. To the extent Proposed Intervenors suggest they wish to advance a narrower *Younger* abstention theory, that is at most a discrete legal argument, and it does not establish that LAUSD is unwilling or unable to protect Proposed Intervenors' asserted interests.

Indeed, district courts within the Ninth Circuit have rejected intervention in similar circumstances where a proposed intervenor shares the same ultimate objective but seeks to add its own perspective or emphasis. *See, e.g.*, *Microsoft Corp. v. United States Department of Justice* No. C16-0538JLR, 2016 WL 4506808, at *7–8 (W.D. Wash. Aug. 29, 2016). In *Microsoft*, the court denied the ACLU's motion to intervene when it failed to rebut the presumption of adequate representation, and instead, allowed it to participate as an *amicus*. The same

approach may be appropriate here. Proposed Intervenors' perspective and discrete *Younger* abstention argument can be presented, if at all, through an *amicus* brief. *See Perry*, 587 F.3d at 950 (noting that proposed intervenor "could seek leave to file *amicus* briefs on specific legal issues that it believes require elaboration or explication that the parties fail to provide"). Inexplicably, Proposed Intervenors do not even suggest this alternative. As such, Proposed Intervenors do not satisfy Rule 24(a), and the Court should deny the motion.

II. The Court Should Deny Permissive Intervention

Proposed Intervenors' alternative request for permissive intervention should also be denied. Under Rule 24(b), a court may permit intervention where the proposed intervenor "has a claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b)(1)(B). But even where the threshold requirements are met, permissive intervention remains discretionary. *Donnelly v. Glickman*, 159 F.3d 405, 412 (9th Cir. 1998). In exercising that discretion, courts may consider "the nature and extent of the intervenors' interest," whether the existing parties adequately represent that interest, and whether intervention will cause undue delay or prejudice. *Perry*, 587 F.3d at 955.

First, there is no doubt that LAUSD adequately represents Proposed Intervenors' asserted interests. As explained above, LAUSD and Proposed Intervenors share the same ultimate objective, and LAUSD has already filed a

comprehensive motion to dismiss defending the challenged policies. That alone supports denial of permissive intervention. *See Perry*, 587 F.3d at 955; *United States ex rel. Richards v. De Leon Guerrero*, 4 F.3d 749, 756 (9th Cir. 1993).

Second, intervention would unnecessarily complicate this litigation. Proposed Intervenors have already previewed this problem by filing a proposed motion to dismiss that substantially overlaps with and rehashes LAUSD's arguments and defense of its race-conscious programs. Allowing Proposed Intervenors to become full parties would multiply briefing and unnecessarily complicate discovery and scheduling. That is precisely the kind of duplication and delay Rule 24(b)(3) guards against.

A discrete *Younger* abstention argument and any additional perspective Proposed Intervenors wish to present does not require party intervention. Indeed, if Proposed Intervenors believe these points would assist the Court, they should have and may seek leave to file an *amicus* brief addressing the isolated issue they believe is specific to them. *See, e.g.*, *Microsoft,* 2016 WL 4506808, at *8. They do not need full party status to do so. Permissive intervention should therefore be denied.

III. Alternatively, Any Intervention Should Be Strictly Limited

If the Court allows intervention, it should impose strict limits to prevent duplication, delay, and prejudice. The Proposed Intervenors fail to propose or even discuss limitations. District courts have broad discretion to impose conditions on

intervention. *See Donnelly*, 159 F.3d at 410; *Dep't of Fair Emp. & Hous. v. Lucent Techs., Inc.*, 642 F.3d 728, 741 (9th Cir. 2011) ("The district court's discretion under . . . Rule 24(b), to grant or deny an application for permissive intervention includes discretion to limit intervention to particular issues."). Conditions are especially appropriate where intervention threatens duplicative briefing or unnecessary complication. *See Pac. Coast Fed'n of Fishermen's Ass'ns v. Gutierrez*, No. 1:06-cv-00245, 2008 WL 4104257, at *7 (E.D. Cal. Sept. 2, 2008) (conditioning intervention to avoid duplicative briefing and delay); *Coal. for a Sustainable Delta v. Carlson*, No. 1:08-cv-00397, 2008 WL 2899724, at *4 (E.D. Cal. July 24, 2008) (limiting intervention to issues on which intervenors could provide "unique information and/or arguments").

If intervention is granted, the Court should limit Proposed Intervenors' participation. In particular, where Proposed Intervenors and LAUSD take the same position on an issue, they should be required to confer and file joint documents. *See, e.g.*, *Planned Parenthood Minn., N.D., S.D. v. Daugaard*, 836 F. Supp. 2d 933, 943 (D.S.D. 2011). If Proposed Intervenors disagree with LAUSD on an issue, then they should be required to certify that disagreement as part of a separate filing. Additionally, Proposed Intervenors should be required to confer with LAUSD regarding discovery. If Proposed Intervenors and LAUSD disagree with respect to

a particular issue, then Proposed Intervenors should be required to obtain the Court's permission before engaging in independent discovery. *See id.*

These limitations would preserve the original parties' ability to litigate the case efficiently while allowing Proposed Intervenors to present any genuinely distinct argument the Court believes may be useful. Without such limits, intervention would contravene the purpose of Rule 24(b)(3) and risk delay, prejudice, and unnecessary complication of the original parties' dispute.

CONCLUSION

For the foregoing reasons, the Court should deny Proposed Intervenors' Motion to Intervene. Proposed Intervenors may seek leave to participate as *amici* if they believe their perspective or discrete legal argument would assist the Court. Alternatively, if the Court permits intervention, it should strictly limit Proposed Intervenors' participation to avoid duplicative filings, delay, and prejudice.

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Respectfully submitted,

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