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Mark D. Rosenbaum (SBN 59940)
David B. Sapp (SBN 264464)
ACLU FOUNDATION OF SO. CALIFORNIA
1313 W. 8th Street
Los Angeles, CA 90017
Telephone: (213) 977-9500
Facsimile: (213) 977-5297
Email: mrosenbaum@aclusocal.org
dsapp@aclusocal.org

Kathryn Ann Eidmann (SBN 268053)
Benjamin Conway (SBN 246410)
PUBLIC COUNSEL LAW CENTER
610 S. Ardmore Avenue
Los Angeles, CA 90005
Telephone: (213) 385-2977
Facsimile: (213) 385-9089
Email: keidmann@publiccounsel.org
bconway@publiccounsel.org

Mark A. Neubauer (SBN 73728)
CARLTON FIELDS JORDEN BURT, LLP
2029 Century Park East, Suite 2000
Los Angeles, California 90067-2901
Telephone: (310) 651-2147
Facsimile: (424) 653-5105
Email: mneubauer@cfjblaw.com

Additional Counsel for Plaintiffs Listed on Following Page

Attorneys for Plaintiffs

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA**

JESSY CRUZ; BRIAN CRUZ, a minor, by Jonathan Cruz, guardian ad litem; BRIANA LAMB, a minor, by Ronald Lamb, guardian ad litem; CRISTIAN GASPAR, a minor, by Guadalupe Gaspar, guardian ad litem; LEE SIMMONS, a minor, by Rhac Ray Eason, guardian ad litem; MYRIAM GISELLE GONZALEZ; SAMARIA HUDSON, a minor, by Chawmein Hudson, guardian ad litem; TALİYAH JACOBS, a minor, by Katherine Jacobs, guardian ad litem; JUMANTAE SMITH; ARNOLD GUTIERREZ, a minor, by Norma Gutierrez, guardian ad litem; ERIC FLOOD, a minor, by Nicole

Case No.:

2014727139

CLASS ACTION COMPLAINT FOR:

- 1) Violation of the Equal Protection Clauses of the California Constitution, Article I, Section 7(a) & Article IV, Section 16(a) (Fundamental Interest)
- 2) Violation of the Equal Protection Clauses of the California Constitution, Article I, Section 7(a) & Article IV,

CLASS ACTION COMPLAINT

FAXED

King, guardian ad litem; EDITH QUINTERO;
DAISY ROMO, a minor by Elizabeth Rodriguez,
guardian ad litem; RIANNA BROWN, a minor, by
Victoria Williams, guardian ad litem; EMMANUEL
ENRIQUEZ, a minor, by Olga Enriquez, guardian ad
litem; NATHAN SAUCEDA, a minor, by Olga
Enriquez, guardian ad litem; IGNACIA BARAJAS, a
minor, by Genoveva Barajas, guardian ad litem; and
LUCIA BARAJAS, a minor, by Genoveva Barajas,
guardian ad litem,

Plaintiffs,

vs.

STATE OF CALIFORNIA; STATE BOARD OF
EDUCATION; STATE DEPARTMENT OF
EDUCATION; TOM TORLAKSON, and DOES 1-
100, inclusive,

Defendants.

Section 16(a) (Suspect Class)

**3) Violation of Article IX, Sections 1
and 5 of the California Constitution**

**4) Violation of Article I, Section 7(b)
of the California Constitution**

**5) Violation of the Equal Protection
Clause of the Fourteenth Amendment
of the United States Constitution**

**6) Violation of California Government
Code Section 11135**

7) Declaratory Relief

Additional Counsel for Plaintiffs:

Gary L. Blasi (SBN 70190)
UCLA SCHOOL OF LAW*
405 Hilgard Avenue
Los Angeles, CA 90095-1476
Telephone: (310) 304-4502
Email: blasi@law.ucla.edu
* For identification purposes only

John C. Ulin (SBN165524)
ARNOLD & PORTER LLP
777 S. Figueroa Street, 44th Floor
Los Angeles, CA 90017
Telephone: (213) 243-4228
Facsimile: (213) 243-4199
Email: john.ulín@aporter.com

Sharon Douglass Mayo (SBN 150469)
ARNOLD & PORTER LLP
3 Embarcadero Center, Floor 10
San Francisco, CA 94111-4024
Telephone: (415) 471-3100
Facsimile: (415) 471-3400
Email: sharon.mayo@aporter.com

1 Unless explicitly stated to the contrary, all allegations are based on information and belief.
2 Plaintiffs allege as follows:

3 **INTRODUCTION**

4 1. There are few absolutes in education, but none more fundamental than this: learning
5 takes time. Meaningful learning time is the irreducible unit of education.

6 2. This action is filed on behalf of the children in seven California public schools who
7 receive far less meaningful learning time than their peers in most California public schools. They
8 are nearly all poor students of color. Like every child, these students entered the school system with
9 promise, hope, and potential. Yet that system continuously deprives them of the basic requisite for
10 academic success: the minutes, hours, weeks, and years of learning time that translate into the skills
11 and knowledge that constitute the foundation for educational achievement. For these students,
12 consigned to a series of school that perpetually fail to deliver education, hope fades and potential is
13 crushed. The loss educational opportunity does not occur in any dramatic, headline-making way,
14 but rather inexorably through the cumulative and debilitating effects, over time, from the loss of
15 learning time itself.

16 3. As a result of the loss of learning time, the children in these seven schools have been
17 denied and continue to be denied their right under the California Constitution to receive an
18 education that is not substantively inferior to the education received by other students in California
19 public schools. (Cal. Const. art I, § 7(a); *id.* art IV, § 16(a).) They have also been denied and
20 continue to be denied access to the minimum level of learning time adequate to obtain the basic
21 educational services to which they are entitled under the state constitution. (*Id.* art IX, §§ 1, 5.)

22 4. Students in these seven schools receive fewer minutes of learning time per hour, fewer
23 hours per week, and fewer weeks per year. As a result of this massive deprivation, an indefensibly
24 high percentage of students at these schools fall far behind, give up, and drop out, not as result of
25 any deficiencies on their part, but because the grade-level academic content standards that the State
26 requires they be taught cannot be delivered and mastered in the actual learning time provided at
27 their schools. The actual learning time available at these schools falls far below the norm in public
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1 schools across the State of California due to conditions at the schools triggered through inequities
2 in the educational delivery structures established by the State that these students and their educators
3 must confront every day and cannot overcome, no matter how great their commitment and efforts
4 may be.

5 5. Those who persist through 12 years or more to graduation receive a diploma but lag
6 far behind their peers elsewhere in literacy, mathematical skills, and basic knowledge—the
7 consequence of losses of months or even years of effective learning time since entering
8 kindergarten. And those—far too few—who struggle on and gain entry to a community college,
9 trade school, or university find that they are so far behind their peers that they must continue to lose
10 precious time, assigned to classes designated “remedial” precisely because they are designed to
11 remedy some of the predictable consequences of learning time lost in 12 years in their public
12 schools.

13 6. The effects of learning time lost in these seven schools are not isolated or linear, but
14 cumulative, compounding, and self-amplifying. The state-mandated academic content standards are
15 predicated on a carefully prescribed sequence of teaching and student mastery of academic content,
16 within a given year or semester and throughout a student’s academic career. These standards
17 presume that students are progressing and able to keep up with increasingly complicated bodies of
18 knowledge, each constructed upon foundations attained in past years of learning. The language of
19 instruction itself assumes an expected level of literacy at each grade level. Instruction in
20 mathematics and science assumes that students will have attained certain and progressively elevated
21 levels of numeracy. As the loss of learning time accumulates, the gap grows between the base of
22 knowledge and the skills reasonably expected of students and what they have been able to acquire
23 in the learning time provided. New material that should be merely challenging instead becomes
24 unattainable, stifling growth and engendering a vicious cycle of frustration, self-doubt, and
25 disengagement.

26 7. Effective learning time is lost in increments large and small and for reasons that may
27 vary somewhat from school to school and between elementary and secondary schools. There are,
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1 however, tragically common patterns replicated over and over in the seven schools and not seen in
2 most other public schools throughout the state. The causes and impacts of lost learning time, though
3 known to the State, are hidden from view for the majority of the public, who would be aghast were
4 even some of these conditions to take place in their children's schools.

5 8. For instance, students and teachers lose days and sometimes weeks of learning time at
6 the beginning of each school year, particularly at the high schools in this action. Administrators
7 struggle to construct master schedules of courses appropriate to the students who have enrolled.
8 Because of the instability of the teaching staff, transience of the student population, and
9 insufficiency of administrative resources at these schools, a permanent schedule is almost never in
10 place when school officially starts. As a consequence, students are routinely assigned temporarily
11 to the wrong classes, only to be reassigned weeks later so they can, finally, begin instruction in the
12 state-prescribed academic content standards. An extreme shortage of academic counselors in these
13 schools aggravates the disruption. These problems beget other problems, and further loss of
14 effective learning time. Until the master class schedule is set, for example, principals cannot
15 determine what staffing they may require, forcing them to rely more heavily on substitute teachers.
16 The often chaotic beginning to the school year is just one of the many challenges that teachers and
17 administrators face.

18 9. In addition, lockdowns—procedures in which students and teachers stay in locked
19 classrooms, often huddled under desks to protect themselves from violence in the area—are far too
20 common in schools to which Plaintiff children are assigned. These incidents, which do not take
21 place in the vast majority of public schools, have traumatic after-effects that persist far longer than
22 the duration of any single lockdown itself. These traumatic events provoke the need for intensive
23 mental health support, but appropriate counseling, emotional, and mental health resources are not
24 available on the campuses. This unavailability occurs even though it is well-established that
25 unaddressed trauma reduces students' ability to focus and learn. Many teachers in these schools,
26 though not trained in crisis counseling or mental health services, must therefore function as
27 makeshift mental health counselors, taking time from curriculum planning and instructional time in
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1 class to help distressed students cope enough to be able to process what they have endured, let
2 alone learn at all. Administrators also pitch in to help address students' emotional and mental health
3 needs, trading off essential time from their regular duties as both administrators and instructional
4 leaders.

5 10. Teachers and administrators in these schools face high expectations and overwhelming
6 demands with resources and support woefully inadequate to the need. Teachers are expected to
7 deliver instruction in the state-mandated content standards in a sequence keyed to particular grade
8 levels to students who have already fallen far behind. Instruction that should be devoted to teaching
9 grade-level material is instead spent trying to build basic skills that teachers in other schools can
10 simply assume students possess. But students, teachers, and administrators are judged based on
11 student performance on tests standardized using expectations for students who attend schools
12 without these challenges. So teachers must spend additional days on test preparation that
13 professional educators believe would otherwise be more productively spent on core instruction.
14 Teachers and administrators at these seven schools are forced to choose continually among
15 pedagogically bad alternatives, cutting corners on the fly in ways they hope will do the least harm
16 to the majority of their students.

17 11. Many teachers are able to perform heroically under these stressful and demanding
18 conditions, but others are understandably less able to cope and instead seek other teaching
19 positions. Teacher absences are far higher in these schools, as are mid-year departures and teacher
20 turnover generally. Here again, the loss of time compounds upon other time lost. Unexpectedly
21 vacant positions are filled by substitute teachers, including short-term substitutes who are
22 completely unfamiliar with the students and their progress in coursework. Little learning takes
23 place during these chaotic transitions, which many students in these schools experience several
24 times in the course of a single school year.

25 12. The effects of lost learning time not only cumulate over time for students, but at these
26 schools they also ripple through the structure of instruction itself, leaving students in classes where
27 they learn nothing at all. Students who fail courses, either because they received inadequate
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1 learning time in those courses or in the building block courses that came before, must repeat those
2 courses. Administrators must staff additional classrooms to accommodate the resulting additional
3 demand for basic courses. In other schools, those teachers and classrooms would be devoted to a
4 much wider range of elective courses, which increase student engagement in school and enthusiasm
5 for learning. But in these schools, those students who do not fail courses often find that there are no
6 meaningful course offerings available for them to take.

7 13. Because there is neither staff to teach elective courses nor resources devoted to
8 improving literacy and numeracy skills that students might need in college or the workplace, the
9 education of these more successful students simply comes to an abrupt end, as they are assigned to
10 make-work “service classes,” running errands for teachers, or are simply sent home early.

11 14. Taken together, these deprivations conspire to convey to students an inescapable
12 message that the time they spend in school is not valuable. After repeatedly attending schools
13 where they are not provided meaningful opportunities to learn, these students, who are
14 overwhelmingly poor and already face substantial stressors, trauma, and challenges in their home
15 lives, begin to arrive late or miss school altogether. Tardy students and students who are returning
16 from absences of various lengths arrive and disrupt the flow of instruction, not only for themselves
17 but also for students who are never absent or tardy. More instructional time is lost as teachers
18 struggle to further differentiate and remediate instruction for students who have missed school
19 because they have become disaffected with a school system that is not meeting their educational
20 needs. These schools lack the counseling, mental health, and other supportive resources needed to
21 effectively reduce student absences and tardiness, which requires that schools closely monitor
22 attendance and respond promptly and early to attendance issues and then provide targeted
23 assessments and intervention when attendance issues arise.

24 15. These are only a few of the many ways in which students, teachers, and administrators
25 in these schools are trapped in vicious cycles and downward spirals of the cumulative effects of lost
26 learning time. The children in these schools deserve better. The California Constitution demands it.
27 Indeed, the California Supreme Court has long recognized that education is a fundamental right in
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1 this State because public education serves a “distinctive and priceless function” (*Serrano v. Priest*
2 (1971) 5 Cal.3d 584, 608, 608-09 (*Serrano I*))—it is the engine of our democracy. Public schools,
3 properly functioning, teach children the values and ways of participating in our political and
4 institutional structures that “distribute economic opportunities,” (*Hartzell v. Connell* (1984) 35
5 Cal.3d 899, 908), and serve as “the bright hope for entry of the poor and oppressed into the
6 mainstream of American society” (*Serrano I*, at p. 609). This case seeks to ensure that these schools
7 do not extinguish that “bright hope.”

8 16. The California Constitution places an affirmative obligation on the State to safeguard
9 the indispensable right to an equal education, no matter the circumstances: “The State itself bears
10 the ultimate authority and responsibility to ensure that its district-based system of common schools
11 provides basic equality of educational opportunity.” (*Butt v. State of California* (1992) 4 Cal.4th
12 668, 685). This obligation “extends beyond the detached role of fair funder or fair legislator”, and
13 requires the State, to “intervene to prevent unconstitutional discrimination at the local level” “even
14 when the discriminatory effect was not produced by the purposeful conduct of the State or its
15 agents.” (*Id.* at p. 688, 681 (internal quotation marks omitted).) Thus, the State must not create,
16 compound, or permit the perpetuation of disparities in its public school system that contribute to
17 students receiving an education that “falls fundamentally below prevailing statewide standards.”
18 (*Id.* at p. 686-87.)

19 17. Basic equality in education then must begin with the guarantee that no child be denied
20 the time required to learn what the State itself mandates be taught. As an elemental matter of equity
21 and fairness, all public school children, at a minimum, are entitled to meaningful learning time
22 sufficient for teachers to deliver the content necessary to meet the State’s academic standards. In
23 *Butt v. California, supra*, 4 Cal.4th at 668, 687-88, our Supreme Court concluded that a one-time
24 loss of six weeks of instruction time would produce a “real and appreciable impact on the affected
25 students’ fundamental right to basic educational equality.” It held that the State was mandated to
26 ensure delivery of those resources necessary to prevent the “extensive educational disruption”
27 resulting from this loss of precious instructional time. (*Id.* at 687.) A six-week interruption in a
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1 single block, as in *Butt*, has less long-term effects on students than the steady, cumulative,
2 compounding loss of learning time and the resulting degradation of literacy, numeracy and
3 prerequisite knowledge in these schools. These students rarely experience a normal school day, let
4 alone semester or year.

5 18. The State itself has recognized that time is an integral unit of learning. Defendant
6 California Superintendent of Public Instruction Tom Torlakson has admitted that the loss of just
7 four weeks of instruction in one school year would create a “gap” in learning (Ginn, *Why Johnny*
8 *Can’t Ride the Bus*, (Sept./Oct. 2012) Capitol Ideas 20, 21 [admitting that in a school year
9 shortened by four weeks, teachers “can’t cover all of the material in depth for optimal student
10 understanding and learning”].)

11 19. The State has also established minimum standards for the number of instructional days
12 and minutes that schools must deliver and conducts annual audits to ensure that schools meet these
13 standards. (Cal. Ed. Code, §§ 46200–46208; Cal. Code Regs., tit. 5 § 19824.) But this audit process
14 is both perfunctory—it does not account for the above-described factors that substantially reduce
15 the amount of meaningful learning time in the seven schools—and counterproductive for these
16 schools—failure to deliver sufficient instruction time is penalized by the withholding of funds.

17 20. The State has an affirmative duty under the California Constitution to address
18 circumstances that result in the deprivation of basic educational equity. That duty extends to taking
19 appropriate steps to ensure that its district-based system of public schools accounts for the realities
20 it has long known about and that are identified by this action. The State must adequately identify
21 grossly disparate meaningful learning time in its school system and must ensure appropriate
22 remediation when schools fall below the norm, as has occurred at the seven schools that are the
23 subject of this action. Each of the identified losses is preventable and can be remedied with
24 practices that have been demonstrated effective in schools like the seven schools that are located in
25 California and throughout the nation.

26 21. The time losses suffered at the seven schools are far greater than the prevailing norm
27 in California and are not an inevitable result of poverty or any other condition faced by the
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1 communities in which these schools are located. To suggest that it is impossible to provide these
2 children with an equal education would be to demean the children enrolled at these schools, who
3 depend on their education to have a bright future, and the committed education professionals
4 working in these schools, who devote their professional lives to the success of their students.

5 22. The State is aware and has been aware for years that students at these schools are
6 systematically deprived of meaningful learning time. The State is also aware that there are
7 straightforward and commonsense measures that it can take to prevent and remediate these time
8 losses, such requiring students to be placed in courses that prepare them for graduation and college
9 instead of assigning them to perform administrative tasks or sending them home, ensuring that
10 adequate numbers of mental health, attendance, and academic counselors, teachers, and
11 administrators are assigned to schools to meet student needs, requiring implementation of research-
12 based practices that have been demonstrated to promote stability in teaching faculties, and
13 mandating provision of proven literacy and mathematics intervention programs to bring students up
14 to grade level. Yet the State has failed to take such steps and thus has permitted the loss of learning
15 time at these schools to continue unabated.

16 23. The State has failed to establish a system that meaningfully identifies and remedies
17 grossly disparate and inadequate allocations of meaningful learning time in its school system. The
18 State's inaction violates its duty as the ultimate guarantor of fundamental educational rights of
19 children. The unmistakable message that the State thereby communicates to the children in the
20 seven schools here is that they are regarded as less capable of learning and achieving success in
21 school than their counterparts in schools where meaningful learning time in line with prevailing
22 statewide standards is provided—that they are, in short, disposable children for whom the State will
23 not provide the time of day.

24 **PARTIES**

25 **Plaintiffs**

26 24. Plaintiffs Jessy Cruz, Brian Cruz, Briana Lamb, and Cristian Gaspar, reside in Los
27 Angeles County within the boundaries of the Los Angeles Unified School District and John C.

1 Fremont High School in Los Angeles. Plaintiffs Jessy Cruz, Briana Lamb, and Cristian Gaspar
2 attend school at Fremont High School, and Cristian Gaspar is legally required to attend school.
3 Plaintiff Jessy Cruz is 18 years old. Plaintiff Brian Cruz and will attend Fremont High School in the
4 future and is legally required to attend school. The legal guardian of Plaintiff Brian Cruz, the legal
5 guardian of Plaintiff Briana Lamb, and the parent of Plaintiff Cristian Gaspar have concurrently
6 filed petitions with the Court to act as Plaintiffs' guardians ad litem.

7 25. Plaintiffs Lee Simmons and Myriam Giselle Gonzalez reside in Alameda County
8 within the boundaries of the Oakland Unified School District and Castlemont High School in
9 Oakland. Plaintiffs Lee Simmons and Myriam Giselle Gonzalez attend school at Castlemont High
10 School and Lee Simmons is legally required to attend school. Plaintiff Myriam Giselle Gonzalez is
11 18 years old. The parent of Plaintiff Lee Simmons has concurrently filed a petition with the Court
12 to act as Plaintiff Lee Simmons's guardian ad litem.

13 26. Plaintiffs Samaria Hudson, Taliyah Jacobs, and Jumantae Smith reside in Contra Costa
14 County within the boundaries of the West Contra Costa Unified School District and Nystrom
15 Elementary School in Richmond. Plaintiffs Samaria Hudson, Taliyah Jacobs, and Jumantae Smith
16 attend school at Nystrom Elementary School and are legally required to attend school. The parents
17 of Plaintiffs Samaria Hudson, Taliyah Jacobs, and Jumantae Smith have concurrently filed petitions
18 with the Court to act as Plaintiff's guardian ad litem.

19 27. Plaintiff Arnold Gutierrez resides in Los Angeles County within the boundaries of the
20 Compton Unified School District and Franklin S. Whaley Middle School in Compton. Plaintiff
21 Arnold Gutierrez attends school at Franklin S. Whaley Middle School and is legally required to
22 attend school. The parent of Plaintiff Arnold Gutierrez has concurrently filed a petition with the
23 Court to act as Plaintiff Arnold Gutierrez's guardian ad litem.

24 28. Plaintiffs Eric Flood, Edith Quintero, and Daisy Romo reside in Alameda County
25 within the boundaries of the Oakland Unified School District and Fremont High School in Oakland.
26 Plaintiffs Eric Flood and Daisy Romo attend school at Fremont High School and are legally
27 required to attend school. Plaintiff Edith Quintero is 18 years old. The parents of Plaintiffs Eric
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1 Flood and Daisy Romo have concurrently filed petitions with the Court to act as Plaintiffs'
2 guardians ad litem.

3 29. Plaintiffs Rianna Brown, Emmanuel Enriquez, and Nathan Saucedo reside in Los
4 Angeles County within the boundaries of the Los Angeles Unified School District and Florence
5 Griffith Joyner Elementary School in Los Angeles. Plaintiffs Rianna Brown, Emmanuel Enriquez,
6 and Nathan Saucedo attend school at Joyner Elementary School and are legally required to attend
7 school. The parents of Plaintiffs Rianna Brown, Emmanuel Enriquez, and Nathan Saucedo have
8 concurrently filed petitions with the Court to act as Plaintiffs' guardians ad litem.

9 30. Plaintiffs Ignacia Barajas and Lucia Barajas reside in Los Angeles County within the
10 boundaries of the Compton Unified School District and Compton High School in Compton.
11 Plaintiffs Ignacia Barajas and Lucia Barajas attend school at Compton High School and are legally
12 required to attend school. The parents of Plaintiff Ignacia Barajas and Lucia Barajas have
13 concurrently filed a petition with the Court to act as Plaintiffs' guardians ad litem.

14 **Defendants**

15 31. Plaintiffs are ignorant of the names or capacities of other defendants responsible for
16 the wrongs described in this Complaint, and, pursuant to California Code of Civil Procedure section
17 474, sue such defendants under the fictitious names Does 1 through 100 inclusive.

18 32. Defendant State of California is the legal and political entity with plenary
19 responsibility for educating all California public school students, including the responsibility to
20 establish and maintain the system of common schools and a free education, under Article IX,
21 section 5 of the California Constitution, and to assure that all California public school students
22 receive their individual and fundamental right to an equal education, under the equal protection
23 clauses of the California Constitution, Article I, section 7(a), and Article IV, section 16(a).

24 33. Defendant State Board of Education and its members are responsible for determining
25 the policies governing California's schools and for adopting rules and regulations for the
26 supervision and administration of all local school districts. Pursuant to California Education Code
27 Sections 33030-32, Defendant State Board of Education is required to supervise local school
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1 districts to ensure that they comply with State and federal law requirements concerning educational
2 services.

3 34. Defendant State Department of Education is the department of State government
4 responsible for administering and enforcing laws related to education. Pursuant to California
5 Education Code Sections 33300-16, the State Department of Education is responsible for revising
6 and updating budget manuals, forms, and guidelines; cooperating with federal and state agencies in
7 prescribing rules and regulations, and instructions required by those agencies; and assessing the
8 needs and methods of collecting and disseminating financial information.

9 35. Defendant Tom Torlakson, sued here solely in his official capacity, is the State
10 Superintendent of Public Instruction for the State of California, the Secretary and Executive Officer
11 for the State Board of Education, and the Chief Executive Officer of the California Department of
12 Education. As such, he is obligated to take all necessary steps to ensure that school districts comply
13 with the California Constitution and State laws. Pursuant to California Education Code Sections
14 33301-03, he is the Director of Education in whom all executive and administrative functions of the
15 California Department of Education are vested. Pursuant to California Education Code Section
16 33112(a), he shall superintend the schools of this state. He is responsible for ensuring that children
17 within the State of California receive a free and equal public education. Although the conditions in
18 Plaintiffs' schools have continued since Superintendent Torlakson assumed office, these conditions
19 existed under many prior Superintendents of Instruction and were well-known to other State
20 officials.

21 36. Defendants State of California, State Board of Education, State Department of
22 Education, and Tom Torlakson are herein referred to collectively as "Defendants."

23 37. All the Defendants either are recipients of State funds in support of the operation of
24 public schools or are responsible for and capable of ensuring that recipients of State funds for the
25 operation of public schools are spent in a nondiscriminatory manner.
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CLASS ACTION ALLEGATIONS

38. This action is maintainable as a class action under section 382 of the California Code of Civil Procedure.

39. Plaintiffs represent a class of students consisting of all current or future students attending Castlemont High School in Oakland Unified School District, John C. Fremont High School in Los Angeles Unified School District, Nystrom Elementary School in West Contra Costa Unified School District, Franklin S. Whaley Middle School in Compton Unified School District, Fremont High School in Oakland Unified School District, Florence Griffith Joyner Elementary School in Los Angeles Unified School District, and Compton High School in Compton Unified School District (collectively, "Plaintiffs' schools").

40. There is a well-defined community of interest in that there exist questions of law and/or fact common to the entire class and which predominate over any individual question. Common questions of law include, without limitation, whether the Defendants' actions and omissions have failed to ensure the delivery of equal educational opportunity and constitutionally adequate educational services to the class by denying, and sanctioning and failing to correct the deprivation of, meaningful instructional time in accordance with the prevailing statewide standard. These common questions of law are susceptible to common answers. More specifically, these common questions of law and/or fact include, without limitation, the following:

- a. Whether the Defendants' practices or absence of practices which deny, and sanction and fail to correct the deprivation of, meaningful instructional time in accordance with according the prevailing statewide standard violate Article I, section 7(a) and Article IV, section 16(a) of the California Constitution, which guarantee Plaintiffs the equal protection of the law, by failing to provide Plaintiffs basic educational opportunities equal to those that students in other schools receive;
- b. Whether the Defendants' practices or absence of practices which deny, and sanction and fail to correct the deprivation of, meaningful instructional time sufficient to provide basic educational services violate Article IX, sections 1 and 5 of the California Constitution,

1 which guarantee Plaintiffs a fundamental right to attend a “system of common schools”
2 that are free and “kept up and supported” such that they may receive the “diffusion of
3 knowledge and intelligence essential to the preservation of the[ir] rights and liberties”;

4 c. Whether the Defendants’ practices or absence of practices which deny, and sanction and
5 fail to correct the deprivation of, meaningful instructional time in accordance with the
6 prevailing statewide standard violate Article I, section 7(b) of the California Constitution
7 by denying Plaintiffs educational services capable of allowing students at Plaintiffs’
8 schools to master state-mandated content standards in all academic subjects, while
9 providing educational services capable of allowing students at other schools to master the
10 content standards in all academic subjects;

11 d. Whether the Defendants’ practices or absence of practices which deny, and sanction and
12 fail to correct the deprivation of, meaningful instructional time in accordance with the
13 prevailing statewide standard violate the Fourteenth Amendment of the United States
14 Constitution by maintaining a system of public schools that does not provide equal access
15 to basic educational services to Plaintiffs without regard to economic status;

16 e. Whether the Defendants’ practices or absence of practices which deny, and sanction and
17 fail to correct the deprivation of, meaningful instructional time in accordance with the
18 prevailing statewide standard violate California Government Code section 11135 by
19 maintaining a system of public schools that does not provide equal educational
20 opportunities and basic educational services to Plaintiffs without regard to race or
21 ethnicity.

22 41. The Plaintiff class is so numerous that joinder of all members or individual actions by
23 each class member are impracticable. The class includes all students at Castlemont High School,
24 Fremont High School in Los Angeles, Nystrom Elementary School, Whaley Middle School,
25 Fremont High School in Oakland, Joyner Elementary School, and Compton High School. The size
26 of the class exceeds 8,000 students, which is the approximate number of students currently enrolled
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1 in the schools attended by Plaintiffs. Moreover, the inclusion in the class of future members and the
2 dispersal of the class at seven school sites make joinder impracticable.

3 42. Each member of the class has claims that are typical of the claims of the class. All
4 named Plaintiffs are members of the class they seek to represent and have suffered or will suffer the
5 deprivation of meaningful learning time.

6 43. The named Plaintiffs will fairly and adequately protect the interests of the class.
7 Plaintiffs are represented by experienced counsel who will adequately represent the interests of the
8 class.

9 44. Defendants have acted and refused to act on grounds generally applicable to the class,
10 thereby making appropriate final injunctive relief and/or corresponding declarative relief with
11 respect to the class as a whole.

12 **FACTUAL ALLEGATIONS**

13 45. Plaintiffs' schools, which serve high concentrations of low-income students, students
14 of color and English language learners ("ELs"), consistently deliver far less meaningful learning
15 time than California public schools serving more affluent students provide and that professional
16 standards dictate as essential to the delivery of instruction necessary for students to meet the State-
17 mandated academic content standards. This disparity in the availability of meaningful learning
18 time, which is created and perpetuated by the State's systematic failure to adequately staff and
19 resource Plaintiffs' schools and by the State's failure to monitor practices at these schools
20 responsible for such deprivations, denies Plaintiff students and their peers an equal chance to obtain
21 essential basic literacy and mathematical skills, and the opportunity to meet the mandated academic
22 content standards that assume students have these skills.

23 46. Defendants' actions and inactions resulting in the creation and exacerbation of these
24 disparities are deliberate and conscious, in that they are aware of the causes of these disparities, yet
25 have failed to establish any system to monitor the provision of meaningful learning time in schools
26 throughout California and remedy identified gaps. In fact, Defendants have taken the position that
27 they have no legal duty or responsibility to prevent, close or correct these disparities.

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3 **A. Factors Resulting in Denial of Meaningful Learning Time in Plaintiffs' Schools**

4 47. At Plaintiffs' schools, the amount of time devoted to meaningful learning—that is,
5 time during which a qualified teacher delivers instruction necessary to meet state-mandated
6 academic standards to students who are present in class—comprises only a fraction of the hours
7 that school is in session. Several interrelated factors divert substantial classroom time away from
8 content-delivery in Plaintiffs' schools including, but not limited to the following:

- 9
- 10 • assignment of students to administrative tasks or free periods instead of assignment to
 - 11 classroom periods of instruction because of insufficient curricular offerings and a lack of
 - 12 available qualified teachers;
 - 13 • violence or security disruptions, which result in cessation of instruction and traumatic after-
 - 14 effects, and insufficient access to mental health professionals to assist students and faculty
 - 15 in coping with these disruptions;
 - 16 • late changes to the master course schedule requiring course and teacher changes well into
 - 17 the semester;
 - 18 • unstable, transient teaching faculties and administrative teams (including principals,
 - 19 assistant principals, and counselors), resulting from under-resourced and stressful campuses
 - 20 not conducive to professional development and growth; and
 - 21 • unaddressed student absenteeism, resulting in whole or part from campus conditions.

22 48. Each of these factors can be redressed by the State and directly contributes to the loss
23 of real and appreciable meaningful learning time for students. At least as damaging to the overall
24 educational program delivered by Plaintiffs' schools, however, are the lasting consequences of
25 these deprivations, which contribute to and compound the chaos, instability and unmet student
26 needs at the school site. The learning environments at Plaintiffs' schools do not meet prevailing
27 statewide standards compared to the learning environments at schools within the same districts,
28 across the state, and as deemed minimally acceptable by professional educators.

1 49. The causes of lost learning time in Plaintiffs' schools described below have been
2 documented repeatedly as known features of the district-based system of schools adopted by the
3 State. Yet the State has not taken steps to mitigate or prevent the deprivations, and has it not
4 intervened directly to remedy the harm in Plaintiffs' schools.

5 50. **High School Students Assigned to Administrative Tasks or Sent Home:** The high
6 schools attended by Plaintiffs—Castlemont, Fremont in Los Angeles, Fremont in Oakland, and
7 Compton—lack an adequate number of qualified teachers and curricular content course offerings,
8 making it impossible to fill all students' course schedules. As a consequence, many students are
9 assigned to menial administrative tasks or sent home. Some students are assigned to classes for
10 only part of the school day and are sent home for the remainder of the day even though they are
11 supposed to be receiving a full day of education. Similarly, some students have class periods during
12 which they are assigned to a teacher or staff member at the school for whom they perform
13 administrative tasks, such as making photocopies or summoning other students from class. Sending
14 students home or assigning them to perform administrative busywork as a replacement for time
15 spent in class is counter-productive for any child, but it is particularly devastating for students who
16 are already below proficiency in basic skills and core knowledge and who are ill-prepared for
17 college-level work after graduation. The use of students' time in this manner also conveys the
18 message that learning is not valued, and that the purpose of attending school is simply to obtain
19 credits and check off a box rather than to master content and grow academically. For this reason
20 too, such practices disadvantage students in Plaintiffs' high schools when they submit (or consider
21 submitting) applications for higher education or employment.

22 51. Students attending most California public high schools do not spend a substantial
23 proportion of the school day performing administrative tasks on behalf of school personnel or at
24 home because there are not sufficient appropriate courses to fill students' schedules. Most
25 California public high schools offer sufficient courses such that students enroll as a routine matter
26 in the courses they need to complete for graduation and college eligibility and students on track to
27 meet graduation requirements have the option to take meaningful elective courses that enhance
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1 their education and keep them engaged in learning. In Plaintiffs' schools, by contrast, some
2 students are assigned to perform administrative tasks or sent home because there is no space in core
3 courses required for graduation. And although a limited number of the top students at other high
4 schools may be assigned to free periods or other enrichment activities when they have completed
5 the entire curriculum offered by the school, these students are typically academically advanced
6 students who have had consistent access to meaningful learning time and are performing at the
7 college level. By contrast, students in Plaintiffs' schools assigned to perform administrative tasks or
8 sent home during the school day often have not yet mastered the high school curriculum and may
9 be reading at a ninth grade level or lower. As a result, children attending Plaintiffs' schools receive
10 substantially less meaningful learning time than their peers in most California public schools.

11 52. The State has created a system of district-based governance that allows these known
12 and extreme disparities to arise and has no mechanism to address them. Moreover, although the
13 State knows or reasonably should know of this disparity, the State has failed to ensure that students
14 are not assigned to periods during which students perform administrative tasks or are sent home.
15 The State has also failed to ensure that Plaintiffs' schools are adequately staffed with sufficient
16 numbers of teachers such that they can offer sufficient classes to provide a full schedule of
17 meaningful course offerings to every student, comparable to that at other schools in the same
18 districts and throughout California.

19 53. **Disruptions Caused by Trauma and Unmet Mental Health Needs:** Many students in
20 Plaintiffs' schools are exposed to violence while on their school campuses. In several of Plaintiffs'
21 schools, for example, classroom instruction is not infrequently disrupted or brought to a halt when
22 violence perpetrated outside the school by non-students and the police response to that violence
23 spills onto the campus and forces the school to go on lockdown. These frightening incidents deprive
24 children at Plaintiffs' schools of valuable class time and traumatize students by introducing
25 violence into the school sphere, where students have—and should have—and expectation of safety.
26 While on lockdown, students may be confined to a single classroom for hours, at times dropping to
27 the floor and squatting under furniture in response to the sounds of nearby gunshots, police sirens,
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1 and circling helicopters. No compensatory learning time is provided for time lost during lockdowns
2 or for the time it takes for students to recover emotionally from that type of traumatic event.

3 54. Indeed, the intrusion of neighborhood violence onto school campuses creates
4 disruptions in the learning environment in Plaintiffs' schools that persist far longer than the
5 duration of any single lockdown or traumatic incident. The insecurity and uncertainty that students
6 feel when their physical safety is endangered makes it more difficult for them to focus in the
7 classroom and engage in higher-level critical thinking. Young people who have been affected by
8 violence experience anxiety, inability to concentrate, and anger management issues. Some students
9 feel extreme anxiety if they must sit with their backs to the door in a classroom. Students
10 experiencing untreated trauma may have sudden and disproportionate reactions to small perceived
11 slights, profoundly affecting their capacity to learn and that of their classmates. Each time a teacher
12 must respond to outbursts caused by such untreated trauma, every student in the class loses learning
13 time.

14 55. Trauma also contributes to student absence from school. In particular, students are
15 disproportionately absent in the aftermath of traumatic incidents or during periods of threatened or
16 expected violence.

17 56. Plaintiffs' campuses lack adequate numbers of trained mental health personnel who
18 could help students to cope more effectively with their emotional responses and assist teachers to
19 develop trauma-sensitive classroom management techniques to mitigate the impact of trauma from
20 these lockdowns in the classroom. As a result, teachers and administrators in Plaintiffs' schools,
21 most of whom are not qualified to provide mental health or therapeutic services, must spend
22 significant class time addressing students' reactions and responses to violence and trauma. This
23 requires teachers to expend valuable classroom learning time in attempting to relieve student
24 trauma and stress. By necessity, the majority of time is spent with those students who most visibly
25 manifest the consequences of the violence experienced, leaving the needs of other students unmet.

26 57. Additionally, the occurrence of violence around these schools and the resulting
27 disruption on these campuses accompanied by the absence of sufficient personnel to assist in
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1 minimizing the consequences also discourage qualified teachers and administrative personnel,
2 including principals, assistant principals and counselors, from seeking positions at these schools or
3 from remaining for long periods of time.

4 58. Most California public high schools are not significantly affected by recurrent
5 violence surrounding the school and the attendant security measures—schools and students placed
6 on lockdown, the sounds of police sirens and circling helicopters. The emotional and psychological
7 toll such traumatic incidents exact on students, if not absent entirely, occurs only in anomalous and
8 isolated incidents at most California schools and does not substantially reduce the availability of
9 meaningful learning time. In contrast, because of unmet mental health needs, children attending
10 Plaintiffs’ schools receive materially less meaningful learning time than their peers in most
11 California public schools.

12 59. The consequences of trauma at Plaintiffs’ schools can be remedied most efficiently by
13 fostering supportive learning environments staffed by sufficient numbers of well-trained mental
14 health professionals who can implement trauma-sensitive practices. The State has endorsed these
15 widely recognized, evidence-based practices as proven effective in schools like Plaintiffs’, yet it
16 has failed to ensure that sufficient numbers of mental health professionals are assigned to Plaintiffs’
17 schools. The State acknowledges the necessity of addressing student mental health needs by
18 recognizing counselors, psychologists, and social workers trained to address trauma as staff who
19 belong at schools, but Plaintiffs’ schools lack anywhere near sufficient numbers of such
20 professionals to meet student demand. The State’s decision to limit so extremely the resources for
21 essential student support services at Plaintiffs’ schools requires administrators at these schools to
22 choose between necessary services, inevitably leaving many students underserved.

23 60. The State is aware that Plaintiffs’ schools are located in areas that experience high
24 rates of violence that periodically cause schools to go on lockdown, and that such traumatic events
25 create mental health effects that schools are not equipped to address. Yet the State has created a
26 district-based system for delivering public education that does not account for these district needs
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1 and allows Plaintiffs' schools to lose significant learning time due to these unaddressed mental
2 health issues. The State has taken no affirmative steps to address these significant disparities.

3 61. **Changes to the Master Schedule and New Student Assignments after the Start of**
4 **School:** Meaningful learning time is reduced and disrupted in Plaintiffs' high schools by frequent
5 course and classroom transfers during the initial weeks and months of the school year. Plaintiffs'
6 schools traditionally do not finalize their master course schedules before school begins for the year.
7 As consequence, students are routinely placed in classes where they do not belong because of
8 insufficient numbers of qualified personnel such as counselors to adequately assess students'
9 academic needs, match course schedules with these needs, and provide sufficient curricular
10 offerings to permit students to satisfy State requirements for matriculation and graduation. Some
11 students in fact identified as having been improperly assigned to courses remain in these classrooms
12 for weeks or months because Plaintiffs' schools cannot offer all the courses that their students need
13 or because Plaintiffs' schools lack sufficient numbers of administrators and academic counselors to
14 promptly and efficiently effectuate the necessary course transfers, which is exacerbated by the high
15 transiency rate of students attending these schools.

16 62. Moreover, students who have been placed in appropriate classes are also affected by
17 the repeated disruptions caused by many students transferring in and out of their classes, including
18 students newly arriving at the school. Transfers work a hardship on teachers and make impossible
19 orderly and efficient presentation of curriculum according to sequential lesson plans crafted on the
20 assumption that class rolls will remain largely stable. The incapacity of Plaintiffs' schools to do
21 proper scheduling is so severe that some teachers do not even attempt to introduce new material
22 during the first weeks of the school year, resulting in the loss of meaningful learning time from the
23 first day of the academic year, and forcing their teachers to choose between compressing
24 curriculum into shorter periods than required to properly deliver required content or sacrificing
25 required content in order to deliver the remaining material.

26 63. Plaintiffs' schools serve a highly transient student population unlike the student
27 enrollment in the large majority of public schools throughout California. Such schools are unable to
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1 program classes prior to the first day of school because the enrollment processes on which these
2 schools are forced to rely do not provide an adequate estimate of the number and type of students
3 that will actually attend the school in the coming year. Plaintiffs' schools also lack the personnel
4 and technology necessary to efficiently schedule new students to their campuses into classes
5 appropriate to these students' academic backgrounds in a timely manner throughout the school
6 year. Each new student's enrollment results in lost learning time associated with enrolling that
7 student, including the time required to register the student, identify and assess the student's
8 academic needs and integrate the student into the school and individual classrooms. This causes lost
9 meaningful learning time not just for the new students, but for all of the students in the classrooms
10 to which they are assigned. Where, as in Plaintiffs' schools, there is not the personnel or technology
11 available to facilitate new enrollments efficiently, the losses in meaningful learning time are
12 multiplied beyond what they would be in counterpart schools serving student populations without
13 high percentages of transiency and able to process new students with sufficient personnel and
14 technology to fulfill these responsibilities.

15 64. Most California public high schools finalize a master course schedule in advance of
16 the first day of school and do not experience repeated course and classroom transfers during the
17 initial weeks of the school year. Although a very few students in a class may transfer from one
18 course to another in some California schools, these limited and isolated instances of student
19 schedule changes do not detract from the stability and consistency necessary to adequately deliver
20 instruction at the beginning of the school year. In other words, the inability of Plaintiffs' schools to
21 create and maintain a master schedule prior to the beginning of the school year leaves children with
22 substantially less meaningful learning time than their peers in most California public schools.

23 65. Despite knowing that students attending Plaintiffs' schools experience these
24 disruptions, the State has created a district-based system for delivering public education that does
25 not account for these district challenges and allows Plaintiffs' schools to lose significant learning
26 time due to high student transiency, insufficient numbers of counselors and administrators, and
27 schools that are difficult to staff. The State has taken no affirmative steps to address these
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1 significant disparities. In particular, the State has failed to ensure that sufficient numbers of
2 administrators and academic counselors are assigned to Plaintiffs' schools to make likely the
3 completion of a master course schedule in advance of the school year, efficiently make required
4 changes, and ensure that students are placed in appropriate courses in the context of a highly
5 transient student population.

6 66. **High Teacher Turnover, Vacancies and Absences:** Given the above-described factors
7 that significantly reduce the amount of available meaningful learning time in Plaintiffs' schools, it
8 is not surprising that these schools are historically difficult to staff with permanent teachers and
9 administrators and are characterized by high teacher turnover and absences. The reduced learning
10 time available in Plaintiffs' schools contributes to the hard-to-staff character of the schools. As a
11 result of years of accumulated lost learning time, students in Plaintiffs' schools enter the classroom
12 academically behind, requiring teachers to do additional work to develop curricula and plan lessons
13 that meet State standards while accommodating the wide range of ability levels in the classroom,
14 including the students who lack even basic literacy and numeracy skills. Throughout the school
15 year, additional burdens are placed on teachers and valuable instruction time is lost as lockdowns,
16 unmet student mental health needs, unaddressed student absences, and changes to student class
17 schedules disrupt the delivery of instruction. This loss of learning time only increases the pressure
18 placed on teachers to successfully deliver required curricula and meet expectations on statewide
19 proficiency assessments, the results to which are normed by comparison to students who do not
20 face these losses to learning time. Teachers teach to succeed and because of their belief that all
21 children can learn. The diminished learning time available at these schools conspires to defeat this
22 belief system through no fault of either the students or the teachers.

23 67. The frequent teacher turnover on these campuses predictably produces teaching
24 vacancies, including vacancies occurring during the course of the school year that result when
25 teachers are unable to continue working in these conditions or who are forced to go on medical
26 leaves. These vacancies are difficult or impossible to fill with new teachers who possess the
27 necessary background to achieve success in delivering meaningful learning time to Plaintiff
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1 students and their classmates. Vacant teaching positions are often filled by one or a series of long-
2 term substitutes; some students are assigned new teachers every week, month or semester. These
3 substitute teachers generally do not know how long they will be in the classroom and typically lack
4 expertise and experience in the curricular subject areas where they are placed. These factors
5 conspire to make it difficult for the substitutes to plan or carry out efficient and coherent long-term
6 lesson plans and teaching strategies, learn their students' strengths and weaknesses and to develop
7 relationships with their students, and become part of the school-wide community. Substitute
8 teachers are regarded by all segments of the campus as temporary personnel, here today and gone
9 tomorrow.

10 68. Plaintiffs' schools also experience disproportionately higher teacher absences of
11 shorter duration as well, necessitating the use of short-term substitutes to cover classes. These
12 substitute teachers are "substitutes" only in name, brought in without access to the long-term
13 learning plan being followed in the classroom, without any knowledge of the students and their
14 instructional needs, and often lacking the expertise and experience required to carry out coherent
15 and productive delivery of curricular material and classroom management. The frequent use of
16 short-term substitutes is so disruptive to and destructive of Plaintiff students' learning as to
17 constitute waste of students' time in these classes.

18 69. It is well established that learning requires, at minimum, consistency and stability in
19 teaching faculties. Even when a permanent teacher is assigned or returns, valuable learning time
20 must be expended by the teacher in attempting to determine what teaching took place in her
21 absence, where the students are academically and psychologically as result of the substitutes'
22 practices, and then in improvising, designing, and implementing catch-up strategies for delivery of
23 curricular material and classroom management. Similarly, when a new teacher is hired to replace a
24 teacher who has left the school permanently, the new teacher must spend learning time adapting to
25 the new school and students and receiving training from the administrative staff before the teacher
26 is fully up-to-speed. Students subjected to such practices internalize that their learning is not an
27 educational priority and understandably question the basis of the teacher-student relationship; they
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1 and their permanent teachers must spend even more valuable time just in forming and cementing
2 such relationships.

3 70. The disruptions that take place in Plaintiffs' schools as a consequence of teacher
4 turnover, vacancies, and absenteeism do not take place in most California schools. Though a
5 teacher in any California school may, for example, take temporary parental leave, such periods of
6 leave typically do not have an overall impact on the availability of meaningful learning time at the
7 school because they are comparatively rare and take place in an otherwise stable teaching
8 environment. In addition, most California schools are typically able to hire in advance a long-term
9 substitute teacher to cover the entire period of the planned leave. Likewise, although all schools
10 experience a modicum of teacher turnover from year to year as teachers retire or relocate, the
11 departure of a very few teachers has a dramatically different effect than the turnover of a significant
12 proportion of the teaching staff. And although teachers in any school will be absent on occasion, the
13 higher number of teacher absences in Plaintiffs' schools on top of the greater instability of the
14 teaching staff more broadly generates consequences that are far more disruptive to the consistency
15 and stability necessary to learn in Plaintiffs' schools. As a result, children attending Plaintiffs'
16 schools receive substantially less meaningful learning time than their peers in most California
17 public schools.

18 71. Defendant Torlakson's Task Force on Education Excellence has acknowledged that
19 high teacher turnover at under-resourced schools "cause[s] discontinuity that interferes with school
20 improvement efforts and reduces student achievement." (State Superintendent of Public Instruction
21 Tom Torlakson's Task Force on Educator Excellence, *Greatness by Design* (Sept. 2012) p. 20.)
22 Defendant Torlakson's task force report and findings within the academic literature identify
23 supportive teaching and learning conditions as proven effective to create and maintain teacher
24 stability in schools in high-poverty communities including and like those in parts of Oakland,
25 Richmond, Compton and Los Angeles. (*See id.* at pp. 25-26.) These practices include safe
26 campuses, meaningful professional development opportunities, access to instructional coaching,
27 protected time for teacher collaboration, ability to influence curriculum, a role in school-wide
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1 decision-making and assignment of sufficient numbers of teachers, administrators, counselors,
2 nurses, and mental health professionals.

3 72. Although the State is undeniably aware of the disproportionately high teacher turnover
4 at low-income schools and its destructive consequences for student learning, the State has created a
5 district-based system for delivering public education that does not account for these district needs
6 and allows Plaintiffs' schools to lose significant learning time due to instability in the teaching
7 staff. The State has taken no affirmative steps to address these significant disparities. In particular,
8 the State has failed to intervene to require implementation of widely recognized, evidence-based
9 practices that have been demonstrated to promote stability in the teaching faculties or
10 administrative staffs in schools like Plaintiffs' schools located in California and throughout the
11 nation.

12 73. **Unaddressed Student Absenteeism and Tardiness:** The above-described factors that
13 rob students of meaningful learning time contribute to high student absenteeism and tardiness by
14 creating school environments in which learning time is not valued and time in school is not
15 valuable. What results is a vicious cycle: the loss of meaningful learning time causes students to
16 miss class, and absence from school deprives students of yet more learning time. The causes of lost
17 learning time in Plaintiffs' schools—for example, being assigned menial tasks instead of receiving
18 an academic lesson, having a different substitute teacher every week, or suffering from untreated
19 mental health needs related to violence on campus—directly contribute to academic disengagement,
20 which leads to absenteeism. When time in school is wasted on menial administrative tasks or
21 receiving repetitive instruction or no instruction at all from a series of ever-changing substitute
22 teachers, students are, understandably, left with the impression that they do not lose anything by
23 missing school. In a school environment in which every minute is not valued, students may make
24 the rational decision that their time is better spent attending to their many obligations outside of
25 school.

26 74. As a result, students in Plaintiffs' schools are absent and tardy in far greater numbers
27 than their counterparts in other schools throughout their districts and throughout California.

1 Generally speaking, the State recognizes that absences and tardiness can be combatted at the school
2 site level through the provision of specially trained attendance counselors and mental health
3 professionals. But there are far too few such personnel to effectively address the needs on these
4 campuses.

5 75. By definition, student absenteeism and tardiness reduce the availability of meaningful
6 learning time at Plaintiffs' schools not only for absent or tardy students, but also for these students'
7 classmates. When students are not present in class, they cannot receive instruction. They fall behind
8 and then require assistance from their teachers in learning the missed information so that they can
9 progress. Where absenteeism and tardiness are high, teachers are confronted with choices that have
10 no good outcome: whether to adjust or redo lesson plans to devote classroom time to attend to the
11 needs of each previously absent or tardy student or whether to treat these students as if they had
12 been present all along and have the necessary learning foundation when they do not. More broadly,
13 teachers in Plaintiffs' schools cannot employ some forms of effective pedagogy, such as lesson
14 plans relying on complex instructional groupings, because they cannot predict which (or how
15 many) students will show up for any particular lesson. The result is cumulative net losses of
16 meaningful learning time for the entire class.

17 76. The disruptions that take place in Plaintiffs' schools as a consequence of student
18 absenteeism and tardiness do not take place in most California schools. Although students in any
19 school may be absent on limited or isolated occasions, student absences in most California schools
20 are not attributable to the State's failure to ensure that meaningful learning time is provided at the
21 school. Moreover, the occasional absence of a very few students from a classroom does not create
22 overall instability and inconsistency as the scale of student absences in Plaintiffs' schools does. As
23 a result, children attending Plaintiffs' schools receive substantially less meaningful learning time
24 than their peers in most California public schools.

25 77. The California Attorney General has recognized that thousands of California
26 schoolchildren are being denied the fundamental right to an education guaranteed by the California
27 Constitution "because they never make it to the classroom." (California Attorney General Kamala
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1 D. Harris, *In School and On Track: Attorney General's 2013 Report on California's Elementary*
2 *School Truancy & Absenteeism Crisis* (2013) p. 1.) The State acknowledges the necessity of
3 attendance interventions by recognizing attendance support, nurses, mental health counselors, and
4 family liaisons who can address student attendance by contacting families and conducting home
5 visits as staff who belong at schools. Yet Plaintiffs' schools lack anywhere close to the resources
6 sufficient to consistently staff sufficient numbers of such professionals to adequately address
7 attendance.

8 78. Despite the State's acknowledgment that unaddressed student absenteeism deprives
9 students of equal educational opportunity, the State has created a district-based system for
10 delivering public education that does not account for these district needs and in which districts are
11 not able to take appropriate, well-documented steps to prevent chronic absenteeism and allows
12 Plaintiffs' schools to lose significant learning time due to unaddressed student absences. The State
13 has failed to ensure that Plaintiffs' schools are adequately staffed to allow the schools to identify
14 chronically absent students, investigate the root causes of student absences, and assist students in
15 returning to school.

16 **B. The Denial of Meaningful Learning Time in Plaintiff Students' Schools**

17 79. The extreme disparity in access to educational opportunity as a consequence of the
18 above-described factors in Plaintiffs' schools is a well-documented feature of California's district-
19 based system of K-12 public education. As a direct result of the district-based system for delivering
20 public education that fails to account for the distinct needs of Plaintiffs' schools and the State's
21 failure to take affirmative steps to address the significant disparities this system generates,
22 Plaintiffs' schools lose significant learning time. The individual experiences of Plaintiff students
23 typify many of the ways by which they and other class members at their schools are denied equal
24 meaningful learning time in comparison to students at other campuses in their districts and across
25 California as consequences of the actions and failure to act by Defendants. As examples:

26 80. **Castlemont High School in Oakland.** Plaintiffs Lee Simmons and Myriam Giselle
27 Gonzalez attend Castlemont High School in East Oakland. During the 2012-2013 school year,

1 Castlemont’s enrollment was 641. Of these students, 53 percent were Latino, 38 percent were
2 black, 6 percent were Native Hawaiian / Pacific Islander, and 1 percent were Asian. Approximately
3 43 percent of the students were English language learners, and 87 percent of the students were
4 socioeconomically disadvantaged. Castlemont is a chronically low-performing school, having been
5 on Program Improvement status since 2006-2007, which means it has consistently failed to meet
6 student achievement goals. Castlemont High School was divided into three small schools—East
7 Oakland School of the Arts, Castlemont Leadership Preparatory School, and Castlemont Business
8 and Information Technology School—beginning with the 2004-2005 school year. The three small
9 schools were reconsolidated into a single large high school during the 2011-2012 school year.

10 81. Although Castlemont has a six period daily class schedule, many Castlemont students
11 are not placed in meaningful core or enrichment classes for all of these periods. Instead, they are
12 assigned to Inside Work Experience (“IWE”) periods or have no class scheduled at all for some
13 class periods. Plaintiff Lee Simmons has no class scheduled during fifth or sixth period. As a result
14 of these IWE periods alone, Lee has received 33 percent less learning time during his senior year of
15 high school. Plaintiff Myriam Giselle Gonzalez has an IWE period for sixth period, during which
16 she helps the teacher to whom she is assigned clean the room, organize the desks, or write the daily
17 “To Do” list on the board.

18 82. Castlemont students experience and witness violence at school and in the immediate
19 vicinity of the school. Violence and threats to student safety cause security lockdowns that disrupt
20 the delivery of instruction and affect students’ mental health. Recent representative incidents
21 include, but are not limited to, the following:

- 22 • On April 18, 2013, a drive-by shooting sent bullets flying through the front door of the school
23 and into the main hallway, where many students were walking at the time. Stray bullets struck
24 occupied cars parked in front of the school, including those of a Castlemont student and a
25 Castlemont teacher’s partner. Students and teachers in classrooms dropped to the floor at the
26 sounds of the gunshots. Students missed hours of instruction during the subsequent security
27

lockdown. In the days that followed, student absenteeism increased and teachers took class time to discuss the incident and provide informal mental health support to their students.

- In November 2013, a drive-by shooting took place next to the school gates immediately after school let out. The street and sidewalks were full of students coming out of the school. Plaintiff Lee Simmons heard the gunshots, started running, and had to drop to the ground. After the incident, he was shaken and the next day struggled to pay attention and did not want to come to school.
- No additional mental health, counseling, or trauma support was provided to the school-site to assess the needs of students and teachers affected by these incidents and provide appropriate services. For those students whose absentee rates rose after the shootings, there were insufficient counselors and administrative staff to reach out to those families and address their needs.

83. The student population at Castlemont has a significant unmet need for mental health and social-emotional support: an experienced Castlemont administrator estimates that over 85 percent of the student population would benefit from some form of counseling or therapeutic programming. But Castlemont has no mental health counselor on staff to support students with mental health or social-emotional challenges. Although counselors employed by an outside non-profit organization, Children's Hospital Oakland, meet with some Castlemont students on a weekly basis, these counselors only have the capacity to serve a fraction of the Castlemont students in need of mental health or social-emotional support. Some Castlemont students who were referred for mental health counseling in fall 2013 have yet to receive any services. Castlemont does not control or supervise the outreach, casework, or management of Children's Hospital. Castlemont also has no ability to serve students who have mental health and social-emotional needs that are greater than one hour of counseling per week can manage. In addition, Castlemont has no school nurse.

84. Insufficient administrative, mental health, and teaching personnel contribute to high levels of student absenteeism and tardiness at Castlemont. During the 2013-2014 school year, only approximately 60 percent of Castlemont students are estimated to have attended school regularly.

1 Throughout the school day, those Castlemont students who do receive some mental health
2 counseling with Children's Hospital, meet with mentors through an outside non-profit organization,
3 or attend group therapy sessions are removed from class in order to receive services. Each morning,
4 more than half of the student body arrives late to school and misses the beginning of first period. In
5 many first period classes, there are typically fewer than five students present in a 25 student class
6 when the bell rings to start the school day. In some classes, there is not a single student present for
7 the first few minutes of class. Many students miss first period altogether.

8 85. Castlemont lacks sufficient administrative staff to meaningfully reduce student
9 absenteeism and tardiness. Castlemont designates one staff member with responsibility for
10 addressing truancy. He spends only a fraction of his hours on student attendance because he must
11 also attend to significant teaching, athletic department, and other administrative responsibilities.
12 Castlemont also lacks sufficient, stable administrative resources to consistently enforce school
13 policies to deter student absences and tardiness.

14 86. At the beginning of each of the past two years, approximately half of Castlemont's
15 teaching staff was new to the school. Key members of the administrative team also turned over in
16 both years. In addition, the difficulty of attracting experienced teachers to teach at Castlemont
17 means that many Castlemont hires are first-year teachers who are part of an alternative certification
18 program. These teachers typically stay for only the duration of a two-year contract, contributing to
19 high teacher turnover at Castlemont.

20 87. Because of the extraordinary challenges they must face with inadequate resources and
21 support, teachers regularly leave Castlemont mid-way through the school year. That creates mid-
22 year teaching vacancies that are particularly difficult to fill. In most cases, classes are covered with
23 a series of short-term or long-term substitute teachers. Some of the mid-year teacher departures
24 during the past several years include, but are not limited to, the following:

- 25 • During the 2011-2012 school year, Plaintiff Lee Simmons's Spanish 1 teacher left Castlemont
26 during the fall semester. The position was vacant for months. The class was taught by a series
27 of substitute teachers, most of whom did not speak Spanish. Lee and his classmates enrolled
28

1 in Spanish 2 the following year, but it soon became clear that the class had not gained the
2 necessary foundational skills in Spanish 1 to be able to succeed in Spanish 2.

- 3 • Also during 2011-2012, an art teacher left midway through the year.
- 4 • During fall 2012, Plaintiff Myriam Giselle Gonzalez's Spanish teacher left the school. The
5 students who remained in the class were taught by a series of substitute teachers. Myriam was
6 transferred to an art class. Because she had been transferred midway through the semester, she
7 received no credit for either Spanish or art that semester.
- 8 • During spring 2013, the art teacher whose class Myriam had been transferred into after her
9 Spanish teacher left also left the school. The class was covered by a series of substitute
10 teachers. Work was rarely assigned, assignments went ungraded, and students spent class time
11 socializing.

12 88. Castlemont has had several vacancies in its special education department during the
13 past two years. Five of seven positions for instructional assistants remained vacant throughout the
14 2012-2013 school year. These assistants are necessary to provide support to special education
15 students in mainstream classrooms and facilitate one-on-one instruction in special education
16 classes. As of January 2014, one instructional assistant position remained vacant.

17 89. A severely handicapped special education class began the 2013-2014 school year with
18 no permanent teacher. On the first day of school, there was not even a substitute teacher present in
19 the classroom. This position was later filled with a teacher contracted to work only four days per
20 week. A substitute teacher or instructional assistant covers the remaining day of class on an *ad hoc*
21 basis. The school is out of compliance with the standards set out in the students' Individualized
22 Education Programs ("IEPs") because students are not in a classroom with a credentialed special
23 education teacher for one-fifth of their time in school.

24 90. Castlemont classes are repeatedly disrupted during the first weeks of the school year
25 as changes are made to Castlemont's course schedule and students are shifted between classes.
26 Castlemont does not receive sufficient information regarding the number of incoming students to
27 finalize the master course schedule before the school year begins. In fall 2012, out of approximately
28

1 600 incoming ninth graders assigned to Castlemont in the school district's student information
2 system, approximately 100 ultimately attended the school. In the opening weeks and months of the
3 school year, Castlemont must significantly alter student schedules to correct the resulting
4 imbalances. The schedules of the freshman students in the Resource Program, for example, were
5 changed three times in the first two months of the 2013-2014 school year. At the beginning of a
6 given school year, some Castlemont classrooms have over 40 students in them. These conditions
7 persist for weeks until some students are transferred to other classes. In response to the instability
8 in the initial weeks of the school year, many Castlemont teachers do not attempt to introduce new
9 material during the first week or more of school.

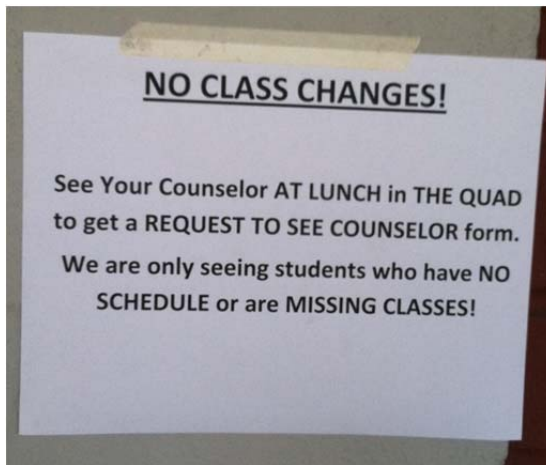
10 91. Castlemont also lacks the resources to respond to the consequences of the high student
11 transiency it faces throughout the school year. A disproportionate number of students new to the
12 school district are placed at Castlemont because the school is underenrolled; it serves only around
13 550 students on a campus with physical capacity for 2,500 students. Castlemont has no registrar, so
14 the responsibilities of requesting and receiving student records, entering new student data into the
15 student information system, and placing students in appropriate classes fall upon already
16 overwhelmed administrators. As a consequence of insufficient administrative support, some
17 students who transfer to Castlemont are placed in classes they have already taken or for which they
18 lack prerequisites. Others are not provided necessary services. Students have attended Castlemont
19 for months or even years before the school became aware that the student had an IEP and was
20 entitled to special education services.

21 92. As a result of the cumulative effects of the above-described losses to instructional
22 time, Plaintiffs Lee Simmons and Myriam Giselle Gonzalez and their classmates at Castlemont
23 receive substantially less meaningful instruction time than their peers at most other California
24 schools. The State's district-based system for delivering public education fails to account for the
25 above-described disparities and allows Castlemont's students to lose substantial meaningful
26 learning time as a result of unaddressed needs. The State has taken no affirmative steps to address
27 these disparities.

1 93. **John C. Fremont High School in Los Angeles.** Plaintiffs Jessie Cruz, Briana Lamb,
2 and Cristian Gaspar attend Fremont High School in South Central Los Angeles. Plaintiff Brian
3 Cruz lives within the attendance area for Fremont High School and will attend Fremont High
4 School beginning in 2017. During the 2012-2013 school year, Fremont's enrollment was 2,515. Of
5 these students, 91 percent were Latino and 9 percent were black. Approximately 46 percent of the
6 students were English language learners, and 76 percent of the students were socioeconomically
7 disadvantaged. Fremont is a chronically low-performing school, having been on Program
8 Improvement status since 1997-1998, which means it has consistently failed to meet student
9 achievement goals.

10 94. Fremont experiences persistently high administrative turnover. In the past four years,
11 Fremont has had four principals and many more assistant principals. Immediately prior to the
12 opening of the 2012-2013 school year, the principal position and all four assistant principal
13 positions were vacant. The assistant principal positions were all filled with interim appointments,
14 and a principal was assigned to Fremont only two days before the beginning of the school year.

15 95. In part due to the late administrative transition, Fremont's master course schedule was
16 not finalized prior to the start of the 2012-2013 school year, resulting in scheduling chaos that was
17 not fully resolved for up to three months. Some students showed up on the first day of school and
18 were told that they were no longer enrolled at Fremont. Others were given blank course schedules.
19 Some sat in the auditorium during the school day for weeks, waiting to be assigned to classes.
20 Many students who had been assigned to classes were placed in the incorrect courses or in
21 classrooms of over 60 students. They were unable to make changes to their schedules for weeks
22 because Fremont's limited scheduling resources were overwhelmed with attending to the needs of
23 students who had no classes at all.



Sign posted at Fremont, August 20, 2012

For several months, some Fremont teachers had a different set of students in their classes almost every day as the administration sought to absorb additional students and balance class sizes. In some cases, students were transferred out of a class, reassigned to another class, and then transferred back into the initial class two weeks later.

96. Scheduling problems at Fremont are not limited to the 2012-2013 school year. For example, at the beginning of the 2011-2012 school year, the master course schedule was changed several weeks into the school year. Teaching assignments were changed and many students were given entirely new course schedules. Likewise, many students experienced multiple schedule changes at the beginning of the 2013-2014 school year.

97. Fremont also lacks the resources to respond to the consequences of high student transiency throughout the school year. In 2013-2014, Fremont had a 59 percent student transiency rate—the percentage of students who enter entered the school or left the school during the school year. Despite consistently high levels of student transiency, Fremont has no system or process to integrate mid-year transfer students and no additional support to manage the administrative burden of mid-year transfers. Plaintiff Jessy Cruz, for example, transferred high schools five times, in part due to changing foster care placements. Jessy attended Fremont at the beginning of his sophomore year of high school, transferred to another school in Victorville for several months, and then returned to Fremont the same year. His teachers were not notified that he had temporary transferred

1 to Victorville and believed that he had simply been absent. He therefore did not receive academic
2 credit for the work he had accomplished in Victorville until a social worker intervened on his
3 behalf. Fremont's failure to properly re-integrate Jessy had devastating effects on his academic
4 performance and engagement in school.

5 98. Instead of being placed in meaningful core or enrichment classes, many Fremont
6 students are assigned to "Service periods", during which they perform menial administrative tasks
7 for Fremont staff, or "Home periods", during which they must leave the Fremont campus. Fremont
8 has invested its limited resources in providing intervention classes, which are necessary for many
9 students to graduate, but this has come at the expense of offering sufficient classes and electives to
10 fill the course schedules of students who are on track to graduate. For the 2013-2014 school year,
11 for example, the school did not have the resources to re-hire a beloved teacher who had been
12 teaching auto mechanics electives at Fremont for 32 years. Many Fremont students are enrolled in
13 multiple Service and Home periods. Fremont senior Oscar Serranto, for example, is currently
14 enrolled in four Service periods, two Home periods, and only two actual classes. As a result of
15 these Service and Home periods alone, Oscar has received 75 percent less learning time during his
16 senior year of high school. Plaintiff Jessy Cruz, who will not graduate with sufficient credits to
17 meet the entry requirements for four-year colleges in California, was enrolled in two Service
18 periods and one Home period.

19 99. Fremont students experience violence in the immediate vicinity of the school. Just
20 outside the school gates, students are assaulted, robbed, and sexually harassed, and gang
21 recruitment and retaliation activity takes place. Several female students were victims of sexual
22 assault in the immediate vicinity of the Fremont campus during the 2012-2013 school year. A
23 female student was abducted near the campus during the 2013-2014 school year. No additional
24 mental health, counseling, or trauma support was provided to the school-site to assess the needs of
25 students and teachers affected by these incidents and provide appropriate services.

26 100. The student population at Fremont has significant unmet need for mental health and
27 social-emotional support. In addition to students struggling with the effects of trauma, depression,
28

1 and anger management issues, Fremont supports many students who are in crisis, exhibiting
2 suicidal behavior or deliberately inflicting self-harm. Fremont’s psychological social worker
3 (“PSW”) conducts between ten and fifteen suicide assessments per week, and, among those
4 students, about five students per month are determined to pose a threat to themselves and require
5 hospitalization.

6 101. Fremont also serves a sizeable population of students with particularly high mental
7 health needs: as of the beginning of the 2013-2014 school year, Fremont had identified at least 100
8 foster youth, 100 migrant students, and 57 homeless students. Despite the tremendous need for
9 mental health intervention, Fremont has only one mental health professional—a psychological
10 social worker—on staff to support 2,500 students. This professional provides short-term counseling
11 and crisis intervention and coordinates services supplied by outside providers, but he is unable to
12 provide any long-term counseling within the school. Counselors employed by outside non-profit
13 and governmental organization meet with some Fremont students on a weekly basis, but these
14 counselors serve only a fraction of the Fremont students in need of mental health or social-
15 emotional support. Fremont also does not control or supervise the casework or management of
16 these outside organizations. During the 2012-2013 school year, Fremont’s psychological social
17 worker referred about 150 students to outside organizations for long-term counseling, but only
18 approximately 60 percent of those students received any services, and many more students with
19 high mental health needs did not even receive a referral.

20 102. Insufficient administrative, mental health, and teaching personnel contribute to high
21 levels of student absenteeism and tardiness at Fremont. During the 2012-2013 school year, only 50
22 percent of Fremont students attended school at least 96 percent of the time, equivalent to missing
23 seven or fewer days of school. In addition, throughout the school day, Fremont students who
24 participate in mental health counseling with outside service providers are removed from class in
25 order to receive services.

26 103. Disproportionately large class sizes at Fremont also contribute to poor student
27 attendance and make it more difficult for students who have been absent to successfully return to
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1 school. Fremont regularly places 45 students or more in a single classroom, making it difficult or
2 impossible to create a physical environment conducive to learning and impossible to effectively
3 deliver differentiated learning pedagogy.

4 104. Fremont lacks sufficient administrative staff to meaningfully reduce student
5 absenteeism and tardiness. During the 2011-2012 school year, Fremont used Quality Education
6 Investment Act (“QEIA”) funding to hire three full-time Pupil Services and Attendance (“PSA”)
7 counselors, and one part-time PSA counselor. These staff members, although insufficient to address
8 all student attendance issues, called and visited student homes, created attendance contracts, and
9 tracked credit recovery. During the 2012-2013 school year, Fremont had only one PSA counselor to
10 serve more than 2,500 students, and this counselor rarely made home visits because she feared for
11 her safety in the neighborhood. During the 2013-2014 school year, Fremont has had no PSA
12 counselor on staff. Although academic counselors have been asked to add attendance issues to their
13 responsibilities, they are not trained as social workers and attendance is not their primary area of
14 responsibility. Fremont’s lack of capacity to effectively address student attendance issues causes
15 many students to miss additional school time. For example, Plaintiff Jessy Cruz missed a
16 significant amount of school as a consequence of unmet social-emotional needs, yet the only
17 contact he or his family received from the school regarding his attendance was automated, pre-
18 recorded voicemail messages stating that he had been absent. Administration of student attendance
19 issues is so haphazard that a student who missed a week of school to attend a family event was
20 dropped from the school’s roster and had to re-enroll at Fremont when she returned. To her
21 knowledge, no one from the school ever contacted her or her family to inquire why she was missing
22 school before dropping her from the school’s roster.

23 105. Fremont has experimented with various strategies to attempt to mitigate the
24 consequences of recurrent student tardiness to school in the morning, but these policies have often
25 caused students to miss even more instruction time. Teachers estimate that approximately half of
26 their students arrive late to school on a daily basis, some by as much as 20 minutes into the first
27 period. Fremont therefore constructed a course schedule in which the first period of each day is a
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1 25-minute advisory period for which students do not receive credit and which teachers use for
2 activities such as character-building exercises, review, or homework. The Fremont administration
3 and staff determined that it was preferable to spend instruction time on a non-credit advisory period
4 than to have half of the students arriving late and missing the beginning of a core class. In fall 2012,
5 students who arrived late to school had to wait in long lines to check in with the attendance office
6 before they were permitted to go to class, causing late students to miss even more class in the
7 mornings.

8 106. Because of the extraordinary challenges teachers must face with inadequate resources
9 and support, teachers regularly leave Fremont mid-way through the school year, creating mid-year
10 teaching vacancies that are particularly difficult to fill. Teaching vacancies are covered with a series
11 of short-term or long-term substitute teachers. During the 2013-2014 school year, at least two
12 science teachers and an English teacher have left midyear.

13 107. During the 2012-2013 school year, only 56% of Fremont teachers attended school at
14 least 96 percent of the time, an attendance rate that is not much higher than the student attendance
15 rate. Only approximately seven out of Fremont's 90 teachers completed the year with perfect
16 attendance.

17 108. As a result of the cumulative effects of the above-described losses to instructional
18 time, Plaintiffs Jessie Cruz, Briana Lamb, Cristian Gaspar, and their classmates at Fremont receive
19 substantially less meaningful instruction time than their peers at most other California schools, and
20 Plaintiff Brian Cruz will receive substantially less meaningful instruction time than his peers at
21 most other California schools. The State's district-based system for delivering public education
22 fails to account for the above-described disparities and allows Fremont's students to lose substantial
23 meaningful learning time as a result of unaddressed needs. The State has taken no affirmative steps
24 to address these disparities.

25 109. **Nystrom Elementary School in Richmond.** Plaintiffs Samaria Hudson, Taliyah
26 Jacobs, and Jumantae Smith attend Nystrom Elementary School in Richmond. During the 2012-
27 2013 school year, Nystrom's enrollment was 451. Of these students, 71 percent were Latino, 26

1 percent were black, and 2 percent were Native Hawaiian / Pacific Islander. Approximately 61
2 percent of the students were English language learners, and 100 percent of the students were
3 socioeconomically disadvantaged. Nystrom is a chronically low-performing school, having been on
4 Program Improvement status since 1998-1999, which means it has consistently failed to meet
5 student achievement goals.

6 110. Because of the extraordinary challenges teachers must face with inadequate resources
7 and support, Nystrom experiences persistently high teacher turnover. At the beginning of the 2013-
8 2014 school year, 11 of approximately 21 teachers at Nystrom were new to the school, and nine of
9 those teachers were new to the teaching profession entirely. The school has had six different
10 principals in the past 15 years. The difficulty of attracting experienced teachers to Nystrom means
11 that many Nystrom hires are first-year teachers who are part of an alternative certification program.
12 These teachers typically stay for only the duration of a two-year contract, contributing to and
13 exacerbating high teacher turnover at Nystrom.

14 111. Teachers regularly leave Nystrom mid-way through the school year, creating mid-year
15 teaching vacancies that are particularly difficult to fill. For example, one first grade classroom at
16 Nystrom has gone through three teachers during the first six months of the 2013-2014 school year.
17 The school district reduced class sizes after the school year had begun, which required some first
18 graders to be transferred into a newly created class four to six weeks into the school year. The new
19 class was initially covered by a long-term substitute before a permanent teacher was hired. The
20 permanent teacher was so overwhelmed by the challenges of teaching at Nystrom that she called
21 911 from her classroom during the school day and to report that she was a danger to herself. The
22 police escorted her out of her classroom. A first-year teacher with no prior teaching experience was
23 hired to replace her.

24 112. Mid-year—and, at times, mid-day—teacher departures have been a persistent fixture
25 at Nystrom for years. Approximately ten years ago, during the middle of the school day, a teacher
26 picked up his lunch and coat, walked out of his classroom to his car, and never returned to
27 Nystrom. In most cases, mid-year vacancies are covered with a series of short-term or long-term
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1 substitute teachers. For example, during the 2010-2011 school year, a second grade teacher left, and
2 the class was covered by a series of substitute teachers. During the 2011-2012 school year, more
3 students enrolled than the school expected, and the school had to create an additional first grade
4 classroom. That teaching position was covered in piecemeal fashion by a series of substitute
5 teachers.

6 113. Nystrom has particular difficulty attracting and retaining short-term substitute
7 teachers. The challenge of being a substitute teacher at Nystrom is so great; on at least one
8 occasion, a substitute teacher left midway through the school day. Frequently, the school cannot
9 hire enough substitute teachers to cover teacher absences. When a teacher is absent and no
10 substitute is available, the class is split into groups of about 10 students who are sent into other
11 classrooms. This type of incident, during which Nystrom teachers must absorb some students from
12 an absent colleague's classroom, occurs with great frequency, in some classrooms, as frequently as
13 every other week.

14 114. The student population at Nystrom has significant unmet needs for mental health and
15 social-emotional support. Students at Nystrom experience a great deal of violence, with one teacher
16 estimating that at least 75 percent of children at Nystrom have personally witnessed violence. In
17 addition to the trauma of violence, many students at Nystrom face challenges associated with
18 severe poverty. Nystrom has no mental health counselor on staff to support students with mental
19 health or social-emotional challenges. Although a counselor employed by an outside non-profit
20 organization, Bay Area Community Resources, meets with some Nystrom students on a part-time
21 basis, this part-time counselor only has the capacity to serve a fraction of the Nystrom students who
22 are in need of mental health or social-emotional support. The counselor's caseload is almost always
23 at capacity. Undocumented students do not receive services because Bay Area Community
24 Resources serves only students with health insurance.

25 115. Nystrom has a high student absence rate. One teacher reports that typically one out of
26 every ten students is absent on a daily basis. About one in four students arrives to school late in the
27 morning. Some students arrive late to school almost every day. Nystrom lacks sufficient
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1 administrative staff to meaningfully reduce student absenteeism and tardiness. Nystrom employs
2 one, part-time attendance clerk. Her limited time is consumed by addressing daily issues and
3 ensuring that attendance is properly completed. Tracking students who are chronically absent or
4 tardy is not a priority. Nystrom previously employed a community outreach worker who was
5 assigned to respond to student absences, tardiness, or poor hygiene by contacting families,
6 including by making home visits. But there is no community outreach worker currently on staff at
7 Nystrom.

8 116. As a result of the cumulative effects of the above-described losses to instructional
9 time, Samaria Hudson, Taliyah Jacobs, Jumantae Smith, and their classmates at Nystrom receive
10 substantially less meaningful instruction time than their peers at most other California schools. The
11 State's district-based system for delivering public education fails to account for the above-described
12 disparities and allows Nystrom's students to lose substantial meaningful learning time as a result of
13 unaddressed needs. The State has taken no affirmative steps to address these disparities.

14 117. **Franklin S. Whaley Middle School in Compton.** Plaintiff Arnold Gutierrez attends
15 Whaley Middle School in Compton. During the 2012-2013 school year, Whaley's enrollment was
16 854. Of these students, 90 percent were Latino and 9 percent were black. Approximately 76 percent
17 of the students were English language learners, and 95 percent of the students were
18 socioeconomically disadvantaged. Whaley is a chronically low-performing school, having been on
19 Program Improvement status since 1997-1998, which means it has consistently failed to meet
20 student achievement goals.

21 118. Because of the extraordinary challenges teachers must face with inadequate resources
22 and support, Whaley experiences persistently high teacher turnover. Teachers sometimes leave
23 Whaley mid-way through the school year, creating mid-year teaching vacancies that are particularly
24 difficult to fill. In addition, Whaley regularly fails to fill teaching vacancies prior to the beginning
25 of the school year. In most cases, teaching vacancies are covered with a series of short-term
26 substitute teachers. For example, the 2013-2014 school year began with five teaching vacancies.

1 Some of these vacancies were not filled until December. Some of the recent mid-year teacher
2 departures included:

- 3 • Whaley's eighth grade algebra teacher left prior to the 2011-2012 school year, creating a
4 teaching vacancy that was covered by a long-term substitute teacher for the 2011-2012 school
5 year. The position remained unfilled at the beginning of the next school year, and was covered
6 by a series of short-term substitute teachers for the entire duration of the 2012-2013 school
7 year.
- 8 • A reading intervention teacher position was vacant at the beginning of the 2013-2014 school
9 year. The position was ultimately eliminated due to the school's inability to fill it with
10 appropriate staff
- 11 • A seventh grade history teacher position was vacant at the beginning of the 2013-2014 year.
12 The position was covered by a series of short-term substitute teachers for over three months
13 until a permanent teacher was hired in December.

14 119. Whaley has particular difficulty attracting and retaining short-term substitute teachers.
15 Frequently, the school cannot hire enough substitute teachers to cover teacher absences. When a
16 teacher is absent and no substitute is available, the class is sent to sit in another teacher's classroom
17 during that teacher's planning period.

18 120. Whaley students experience and witness violence at school and in the immediate
19 vicinity of the school. Violence and threats to student safety cause "Code Red" security lockdowns
20 that disrupt the delivery of instruction and affect students' mental health. For example, in 2013, a
21 shooting took place directly in front of the school. The school was placed on lockdown for
22 approximately two hours due to a fear that the shooter may have entered the building. Within a
23 block of the school, students are assaulted, harassed, and encounter prostitution and gang activity.
24 No additional mental health, counseling, or trauma support was provided to the school-site to assess
25 the needs of students and teachers affected by these incidents and provide appropriate services.

26 121. The student population at Whaley has a significant unmet need for mental health and
27 social-emotional support. Whaley has no mental health counselor on staff designated to support
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1 students with mental health or social-emotional challenges. Although teachers can refer struggling
2 students to an outside non-profit organization, Shields for Families, for mental health counseling,
3 this organization has the capacity to serve only a fraction of the Whaley students who are in need of
4 mental health or social-emotional support. Whaley does not control or supervise the outreach,
5 casework, or management of Shields for Families.

6 122. At the beginning of the school year, students are often placed in inappropriate classes
7 or classes for which they lack appropriate proficiency. At the beginning of the school year, English
8 learner students are frequently placed in classes for which they lack appropriate proficiency, and
9 students who have been reclassified and should be taking mainstream classes are placed in English
10 Language Development classes. Due to insufficient numbers of counseling and administrative staff,
11 it takes up to 10 weeks to correct student schedules and stabilize classes.

12 123. Whaley also lacks the resources to respond to the consequences of the high student
13 transiency it faces throughout the school year. It is not unusual for Whaley teachers to receive
14 seven new transfer students throughout the first half of the school year. Despite this consistent level
15 of high student transiency, Whaley has no appropriate system to place or integrate mid-year transfer
16 student. For example, English learner students who transfer into Whaley from outside the district
17 are typically placed into whichever classes have space, without any kind of proficiency assessment.

18 124. Insufficient administrative, mental health, and teaching personnel contribute to high
19 levels of student absenteeism and tardiness at Whaley. During the 2012-2013 school year, at least
20 75 students at Whaley missed 28 or more days of school. Some students arrive late to school almost
21 every day. Whaley lacks sufficient administrative staff to meaningfully reduce student absenteeism
22 and tardiness. Whaley employs one attendance clerk whose limited time is consumed by addressing
23 daily issues and ensuring that attendance is properly complete. Tracking students who are
24 chronically absent or tardy is not a priority.

25 125. As a result of the cumulative effects of the above-described losses to instructional
26 time, Plaintiff Arnold Gutierrez and his classmates at Whaley receive substantially less meaningful
27 instruction time than their peers at most other California schools. The State's district-based system
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1 for delivering public education fails to account for the above-described disparities and allows
2 Whaley's students to lose substantial meaningful learning time as a result of unaddressed needs.
3 The State has taken no affirmative steps to address these disparities.

4 **126. Fremont High School in Oakland.** Plaintiffs Eric Flood, Edith Quintero, and Daisy
5 Romo attend Fremont High School in the Fruitvale District of East Oakland. During the 2012-2013
6 school year, Fremont's enrollment was 795. Of these students, 51 percent were Latino, 32 percent
7 were black, 4 percent were Native Hawaiian / Pacific Islander, 9 percent were Asian, and 2 percent
8 were white. Approximately 47 percent of the students were English language learners, and 100
9 percent of the students were socioeconomically disadvantaged. Fremont is a chronically low-
10 performing school, having been on Program Improvement status since 2005-2006, which means it
11 has consistently failed to meet student achievement goals. Beginning with the 2004-2005 school
12 year, Fremont High School was divided into four small schools—College Preparatory and
13 Architecture Academy, Mandela High School, Media College Preparatory High School, and Paul
14 Robeson School, Visual and Performing Arts. One school closed in 2009-2010 and the remaining
15 small schools were reconsolidated into a single large high school during the 2011-2012 school year.
16 Each Fremont student is assigned to one of four academies within the school—Media Academy,
17 Architecture Academy, Mandela Academy for Law and Public Service, and Ninth Grade House—
18 and most of his or her classes are taught by teachers associated with each academy.

19 **127.** Because of the extraordinary challenges teachers must face with inadequate resources
20 and support, Fremont experiences persistently high teacher turnover. At the beginning of the 2013-
21 2014 school year: (1) five of seven teachers in Ninth Grade House were not only new to Fremont,
22 but new to the teaching profession entirely; (2) two of three Spanish teachers were new to Fremont;
23 and (3) four out of seven teachers in Media Academy were in their first or second year of teaching
24 at Fremont. Several of the new Media Academy teachers were hired at the last minute, including an
25 English teacher who was hired the week before school started. The administration also turned over
26 just prior to the 2013-2014 school year. The difficulty of attracting experienced teachers to teach at
27 Fremont means that many Fremont hires are first-year teachers who are part of an alternative
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1 certification program. These teachers typically stay for only the duration of a two-year contract,
2 contributing to high teacher turnover at Fremont.

3 128. Teachers regularly leave Fremont mid-way through the school year, creating mid-year
4 teaching vacancies that are particularly difficult to fill. In most cases, classes are covered with a
5 series of short-term or long-term substitute teachers. Some of the mid-year teacher departures
6 during the 2013-2014 school year include, but are not limited to, the following:

- 7 • A social science teacher in Media Academy left Fremont shortly before Thanksgiving.
8 Although she notified the school administration in early October of her plans to leave, her job
9 listing was not posted until December. For more than six weeks, her classes were covered by
10 a series of substitute teachers. As a consequence of the staffing changes necessitated by her
11 departure, Plaintiff Eric Flood was removed from an advisory class with a teacher who had
12 been his advisor for the past three years and moved to a larger advisory class with a new
13 teacher.
- 14 • A video production teacher in Media Academy left Fremont six weeks into the school year.
15 His classes were covered by a series of substitute teachers for over three months. The video
16 production students were combined into the same classroom as Eric Flood's journalism class
17 for a period of time, as Fremont's journalism teacher attempted to manage both the journalism
18 and video production classes simultaneously.
- 19 • A long-term substitute teacher hired to cover the four-month maternity leave of a government
20 teacher in Media Academy left Fremont after only six weeks. For the next two and a half
21 months, the classes were covered by a series of at least four substitute teachers. Plaintiff Eric
22 Flood's government class and Plaintiff Daisy Romo's Advanced Placement ("AP") U.S.
23 History class were affected. When Eric told a substitute teacher that he did not know how to
24 complete an assigned worksheet because he had not been taught the necessary material, the
25 substitute teacher told him simply to copy the answers from the textbook into the packets.
26 Because class time was not used for an educational purpose, many students understandably
27 stopped attending class, and most students did not pass their final exams. Daisy is no longer
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1 planning to take the AP test in U.S. History at the end of the school year because she does not
2 believe she can pass it.

3 As a result of these departures, some seniors in Media Academy had only one permanent teacher in a
4 core class during fall 2013. Mid-year teacher departures of this nature are not unusual at Fremont;
5 during the 2012-2013 school year, a nine-year veteran at Fremont left mid-way through the year. Eric
6 Flood's drama teacher also left several weeks before the end of the 2012-2013 school year; the class
7 spent class time watching movies for the remainder of the semester.

8 129. Fremont students experience and witness violence at school and in the immediate
9 vicinity of the school. Violence and threats to student safety cause security lockdowns that disrupt
10 the delivery of instruction and affect students' mental health. Recent representative incidents
11 include, but are not limited to, the following:

- 12 • In February 2013, a student was shot in the leg immediately after school let out on the corner
13 of Fremont's football field, which is adjacent to the school. Many students trying to leave the
14 school were on the football field and on the street. There was widespread panic and fear
15 among students and staff. Some students just outside of the school gates tried to run back to
16 safety inside the school, but the school had entered lockdown and did not allow any students
17 who were outside the gates back into the school. The school had not issued student
18 identification cards, and thus had no way to distinguish between students and potential non-
19 student perpetrators.
- 20 • During the 2012-2013 school year, Fremont was placed on lockdown after a shooting lodged
21 bullets into the wall of an English classroom. The class heard three or four loud shots and felt
22 the building jolt. The class froze, and then an administrator came on the loudspeaker to
23 announce a lockdown.
- 24 • No additional mental health, counseling, or trauma support was provided to the school-site to
25 assess the needs of students and teachers affected by these incidents and provide appropriate
26 services. For those students whose absentee rates rose after the shootings, there were
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1 insufficient counselors and administrative staff to reach out to those families and address their
2 needs.

3 130. The student population at Fremont has a significant unmet need for mental health and
4 social-emotional support. Fremont has no mental health counselor on staff to support students with
5 mental health or social-emotional challenges. Although one counselor employed by an outside
6 community health organization, La Clínica, meets with some Fremont students on a weekly basis,
7 this counselor has the capacity to serve only a fraction of the Fremont students in need of mental
8 health support. During the 2012-2013 school year, five Marriage and Family Therapist (“MFT”)
9 interns worked full-time at Fremont through a non-profit internship program, each of whom had a
10 full caseload of Fremont students. The MFT interns did not return for the 2013-2014 school year.
11 Fremont students referred for mental health counseling have yet to receive any services. Because
12 teachers are aware that the single mental health counselor has very limited capacity, they tend to
13 refer only the most extreme cases for counseling. That leaves students who are perceived to have
14 comparatively lesser needs without any services.

15 131. Insufficient administrative, mental health, and teaching personnel contribute to high
16 levels of student absenteeism and tardiness at Fremont. Teachers report that in a typical Fremont
17 class, approximately one-third of students on the roster are regularly absent. Throughout the school
18 day, Fremont students who participate in mental health, physical health, or sexual education
19 counseling with La Clínica leave class to receive those services. In a typical day at Fremont, more
20 than half of the students arrive late to school and miss the beginning of first period. In many first
21 period classes, late students continue to walk in 30 to 45 minutes after the starting bell has rung.

22 132. Fremont lacks sufficient administrative staff to meaningfully reduce student
23 absenteeism and tardiness. Fremont has only one staff member with the designated responsibility
24 for addressing attendance by tenth through twelfth graders: an attendance clerk who is assigned to
25 refer chronically absent students to the district’s School Attendance Review Board (“SARB”). The
26 attendance clerk only has the capacity to serve a fraction of the many Fremont students in need of
27 attendance-related intervention. Fremont previously assigned two bilingual staff members to
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1 address truancy by making contact with families and reporting back to teachers. Those positions
2 have been cut.

3 133. Fremont inconsistently implements a tardy sweep policy that actually causes students
4 to miss additional class time and increases the number of lost instructional minutes for students.
5 When the school announces a tardy sweep, teachers must close and lock their doors, and
6 administrators collect any students in the hallways or courtyards and bring them to the front gate.
7 Students identified in the sweep are held at the front gate until the end of the period, placed in
8 detention for the entire school day, or sent home for the day.

9 134. Approximately one-third of Fremont seniors are assigned to at least one Inside Work
10 Experience (“IWE”) period instead of being placed in meaningful core or enrichment classes. Some
11 seniors have up to three IWE periods. Plaintiff Eric Flood has an IWE period during which he sorts
12 mail, runs errands, or socializes. Plaintiff Edith Quintero has two IWE periods during which she
13 makes copies, enters attendance data into a computer, or socializes. Fremont assigns IWE periods
14 to juniors as well. When Plaintiff Daisy Romo received her schedule at the beginning of the 2013-
15 2014 school year, she was first assigned to an IWE period instead of a science class.

16 135. Fremont classes are repeatedly disrupted during the first weeks of the school year as
17 changes are made to Fremont’s course schedule and students are shifted between classes. At the
18 beginning of the school year, students are often placed in inappropriate classes or classes for which
19 they lack prerequisites. For example, in fall 2013 an entire class of English learner students was
20 assigned to a mainstream twelfth grade government class. Plaintiff Daisy Romo’s schedule changed
21 twice within the first month of school. During the first week of school, Daisy asked her counselor
22 to transfer her into a science class to replace her preassigned IWE period. Two weeks later, she was
23 transferred to a different English class because the English teacher to whom she had been assigned
24 was outside of her academy. In addition, Fremont does not receive sufficient information regarding
25 the number of incoming students to finalize the master course schedule before the school year
26 begins; and must make many changes to student schedules to correct resulting imbalances. At the
27 beginning of this school year, some Fremont classrooms had over 35 students for two months until
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1 some students are transferred to other classes. Similarly, during the 2011-2012 school year, there
2 were so many students in Plaintiff Eric Flood's media studies class for the first week of the school
3 year that students had to stand up because there were too few desks. Eric's schedule was also
4 changed at the beginning of the 2012-2013 school year, as his intended Spanish class was removed
5 from his schedule because all of the Spanish classes were full. In response to the instability in the
6 initial weeks of the school year, many Fremont teachers do not attempt to introduce new material
7 during the first week or more of school.

8 136. Fremont also lacks the resources to respond to the consequences of high student
9 transiency throughout the school year. A disproportionate number of students new to the school
10 district are placed at Fremont because the school is underenrolled. Fremont receives a particularly
11 high number of recent immigrant transfer students because the school has a Newcomer Program
12 designed to assist students who are not English-proficient. It is not unusual for Fremont teachers to
13 receive 10 new transfer students throughout the first half of the school year. Despite this consistent
14 level of high student transiency, Fremont has no system to integrate mid-year transfer students and
15 no additional support to manage the administrative burden of mid-year transfers.

16 137. As a result of the cumulative effects of the above-described losses to instructional
17 time, Plaintiffs Eric Flood, Edith Quintero, Daisy Romo, and their classmates at Fremont receive
18 substantially less meaningful instruction time than their peers at most other California schools. The
19 State's district-based system for delivering public education fails to account for the above-described
20 disparities and allows Fremont's students to lose substantial meaningful learning time as a result of
21 unaddressed needs. The State has taken no affirmative steps to address these disparities.

22 138. **Florence Griffith Joyner Elementary School in Los Angeles.** Plaintiffs Rianna
23 Brown, Emmanuel Enriquez, and Nathan Saucedo attend Joyner Elementary School, located in
24 Watts in South Central Los Angeles. During the 2012-2013 school year, Joyner's enrollment was
25 705. Of these students, 70 percent were Latino, and 29 percent were black. Approximately 45
26 percent of the students were English language learners, and 86 percent of the students were
27 socioeconomically disadvantaged. Joyner is a chronically low-performing school, historically
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1 failing to meet the student achievement goals set by the State. In 2010, Joyner began being
2 managed by the Partnership for Los Angeles Schools, an independent school turnaround operator
3 managing 17 schools in Los Angeles pursuant to an agreement with Los Angeles Unified School
4 District.

5 139. Joyner students experience and witness violence at school and in the immediate
6 vicinity of the school. Violence and threats to student safety cause security lockdowns that disrupt
7 the delivery of instruction and affect students' mental health. During lockdowns, Joyner students
8 frequently hear the sounds of police sirens and helicopters flying low overhead. Recent
9 representative incidents include, but are not limited to, the following:

- 10 • On October 3, 2012, an annual day of particularly intense gang violence in the area, Joyner
11 was placed on lockdown for most of the school day, as the repeated sounds of gunshots,
12 helicopters, and police sirens sounded outside.
- 13 • One morning in October 2012, shots were fired on the corner of 103rd Street and Wilmington,
14 directly adjacent to the Joyner playground. The school was in chaos as many of the children
15 on the playground tried to run inside, screaming, crying, and looking for their teachers or
16 adults who could offer them some safety. The school remained on lockdown for
17 approximately two hours. After this incident, some students were afraid to go outside on the
18 playground. Some students asked to stay inside during recess and subsequently wrote about
19 guns and shootings in their journal entries.
- 20 • In April 2013, during a month in which a series of traumatic violent incidents had taken place,
21 gunshots were fired so close to the school that they rattled the windows of the principal's
22 office. While crouching under her desk, the principal reached for her telephone and
23 announced a lockdown over the loudspeaker.
- 24 • In October 2013, Joyner was placed on an inclement weather schedule, in which all doors and
25 windows to the school were locked and students were not permitted to go outside, for four
26 days straight because a cycle of gang violence and retaliation in the area made it too
27 dangerous for the children to be outside.

- No additional mental health, counseling, or trauma support was provided to the school-site to assess the needs of students and teachers affected by these incidents and provide appropriate services. For those students whose absentee rates rose after the shootings, there were insufficient counselors and administrative staff to reach out to those families and address their needs.

140. Even when the school is not on lockdown, Joyner students are confronted with violence and its consequences throughout the school day. Upon returning from winter break, one class discovered bullet holes in their classroom window. From their classroom windows, Joyner schoolchildren hear fights, tires screeching, police sirens, and helicopters. Sometimes they see people outside on the street carrying a gun or a knife.

141. The student population at Joyner has significant unmet need for mental health and social-emotional support. Joyner has no psychiatric social worker on staff to support students with mental health needs, such as students with post-traumatic stress disorder, anxiety disorders, and students who deliberately inflict self-harm. Although counselors employed by outside non-profit and governmental organizations, including Kedren and Alafia Mental Health Institute, meet with about 200 Joyner students, these counselors serve only a fraction of the Joyner students in need of mental health or social-emotional support. Joyner does not control or supervise the outreach, casework, or management of these outside organizations. In addition, throughout the school day, the Joyner students who are able participate in mental health counseling with outside service providers are removed from class in order to receive services. During the 2012-2013 school year, Joyner was able to use a time-limited grant funding to hire a psychiatric social worker (“PSW”), who coordinated social service providers on campus and sought to ensure that counseling during the school day is provided during non-core classroom activities to the extent feasible. No PSW is on staff at Joyner for the 2013-2014 school year; during budgeting, the administration had to choose between hiring a PSW and a psychologist to test students for learning disabilities, an unconscionable choice to have to make between the needs of students with disabilities and those suffering from trauma.

1 142. Insufficient administrative, mental health, and teaching personnel contribute to high
2 levels of student absenteeism and tardiness at Joyner. During the 2012-2013 school year, only 50
3 percent of Joyner students attended school at least 96 percent of the time. Throughout the school
4 day, Joyner students who participate in mental health counseling are removed from class in order to
5 receive services. Teachers report that approximately one in six students arrives to school late in the
6 morning.

7 143. Joyner lacks sufficient administrative staff to meaningfully reduce student absenteeism
8 and tardiness. Despite demonstrated need for attendance intervention, Joyner lacks sufficient, stable
9 resources to consistently staff a Pupil Services and Attendance (“PSA”) counselor position. During
10 the 2012-2013 school year, Joyner was able to use School Improvement Grant funding to hire a
11 PSA counselor. No PSA counselor was on staff at Joyner for the fall 2013 semester; during
12 budgeting, the administration had to choose between hiring a PSA counselor and a nurse, and chose
13 the latter to serve students who need daily medical attention. During the spring 2014 semester, a
14 new PSA counselor was hired on a part-time basis. Her limited time is insufficient to serve all of
15 the Joyner students in need of attendance-related interventions.

16 144. Because of the extraordinary challenges teachers must face with inadequate resources
17 and support, Joyner experiences persistently high teacher turnover. Prior to the 2012-2013 school
18 year, approximately 50 percent (18 out of 37) teaching positions were vacant and had to be filled.
19 The following year, the retention rate of teachers who had been hired during the previous summer
20 was less than 50 percent. In 2012-2013, only 65 percent of the teaching staff was present at the
21 school at least 96 percent of the time.

22 145. Teachers also leave Joyner mid-way through the school year, creating mid-year
23 teaching vacancies that are particularly difficult to fill. Some of the mid-year teacher departures
24 during the past several years include, but are not limited to, the following:

- 25 • After a teacher was removed for cause at the beginning of the 2012-2013 school year, the
26 class was covered by a series of long-term substitute teachers throughout fall 2012. The
27 instability created a chaotic classroom environment. Each of the substitute teachers left

1 because they could not handle the challenges of teaching at Joyner. When a permanent teacher
2 took over the class in January 2013, the students asked her, “Are you going to leave us, too?”

- 3 • During the 2013-2014 school year, the lower-level intervention teacher did not return to
4 school after winter break. The upper-level intervention teacher was assigned to both upper-
5 level and lower-level intervention students to cover the vacancy. As a result, Joyner students
6 received less one-on-one and small group intervention time.

7 146. Joyner classes covered by short-term substitute teachers rarely engage students in
8 meaningful learning. Substitutes almost never request to return to Joyner. Some substitute
9 teachers—particularly those assigned to fourth and fifth grade classrooms—do not even stay for the
10 entire school day.

11 147. Joyner lacks the resources to respond to the consequences of high student transiency
12 throughout the school year. During the 2011-2012 school year, Joyner’s student transiency rate—
13 the percentage of students who either entered the school or left the school during the school year—
14 was over 30 percent.

15 148. As a result of the cumulative effects of the above-described losses to instructional
16 time, Plaintiffs Rianna Brown, Emmanuel Enriquez, Nathan Saucedo, and their classmates at
17 Joyner receive substantially less meaningful instruction time than their peers at most other
18 California schools. The State’s district-based system for delivering public education fails to account
19 for the above-described disparities and allows Joyner’s students to lose substantial meaningful
20 learning time as a result of unaddressed needs. The State has taken no affirmative steps to address
21 these disparities.

22 149. **Compton High School in Compton.** Plaintiffs Ignacia Barajas and Lucia Barajas
23 attend Compton High School in Compton. During the 2012-2013 school year, Compton’s
24 enrollment was 2,224. Of these students, 82 percent were Latino and 17 percent were black.
25 Approximately 61 percent of the students were English language learners, and 92 percent of the
26 students were socioeconomically disadvantaged. Compton is a chronically low-performing school,
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1 having been on Program Improvement status since 1997-1998, which means it has consistently
2 failed to meet student achievement goals.

3 150. Because of the extraordinary challenges teachers and administrators must face with
4 inadequate resources and support, Compton experiences persistently high teacher and
5 administrative turnover. The school has had five different principals in the past 12 years and many
6 more assistant principals. Compton regularly fails to fill teaching vacancies prior to the beginning
7 of the school year. For example, the 2013-2014 school year began with four teaching vacancies in
8 the science department. Two of these positions were eliminated due to the school's inability to fill
9 them with appropriate staff. The students who had been assigned to those classes were reassigned.
10 The remaining two positions remained vacant for several months, and were covered by a series of
11 short-term substitute teachers.

12 151. Instead of covering teaching vacancies with long-term substitute teachers who can stay
13 until a permanent teacher is hired, Compton typically employs a series of short-term substitute
14 teachers, who only work in a single assignment for a up to several weeks. For example, when Lucia
15 Barajas's biology teacher went on maternity leave during the 2011-2012 school year, the position
16 was covered for two months by a series of short-term substitute teachers, most of whom stayed only
17 for a few days. As a result of the systematic failure by the State to match resources and support with
18 the needs of the school, district administrators have informed teachers that during the 2013-2014
19 school year, a policy of hiring short-term substitute teachers to fill teaching vacancies was
20 implemented to avoid the cost of health care benefits for substitute teachers.

21 152. Frequently, the school cannot hire enough substitute teachers to cover teacher
22 absences because Compton has particular difficulty attracting and retaining short-term substitute
23 teachers. When a teacher is absent and no substitute is available, the class is either sent to the
24 library or sent to sit in another teacher's classroom during that teacher's planning period. For
25 example, Plaintiff Ignacia Barajas's U.S. History class had more than 10 substitute teachers during
26 the fall 2013 semester. The class was assigned to a different substitute teacher each time their
27 teacher was absent. On some days, no substitute teacher showed up at all. The class waited outside
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1 the classroom door until they were sent to the library or another teacher’s classroom for the
2 duration of the class period.

3 153. Compton students experience violence on campus and in the immediate vicinity of the
4 school. Non-students regularly enter the school campus and initiate altercations and assaults.
5 Teachers at Compton estimate that most students have witnessed or been a victim of violence. Just
6 outside the school gates, students are assaulted and robbed, and gang recruitment and retaliation
7 activity takes place. No additional mental health, counseling, or trauma support was provided to the
8 school-site to assess the needs of students and teachers affected by these incidents and provide
9 appropriate services.

10 154. The student population at Compton has a significant unmet need for mental health and
11 social-emotional support. Compton has no mental health counselor on staff to support students with
12 mental health or social-emotional challenges.

13 155. Many Compton students, instead of being placed in meaningful core or enrichment
14 classes, are assigned to “Teaching Assistant” periods—during which students help teachers with
15 administrative tasks such as photocopying or grading papers—or free periods for some periods.
16 Plaintiff Lucia Barajas currently has a free period. She requested that her free period be switched
17 for a chemistry class, which she needed to pass in order to graduate. She was told, however, that
18 there was no space in any chemistry class.

19 156. Compton classes are repeatedly disrupted during the first weeks of the school year as
20 changes are made to Compton course schedule and students are shifted between classes. At the
21 beginning of the school year, students are often placed in inappropriate classes. Due to insufficient
22 numbers of counseling and administrative staff, it typically takes weeks or even months to correct
23 every student’s schedule. Students are often placed in the wrong classes; classes are dangerously
24 overcrowded, and counselors have huge lines of students waiting to fix their schedules. At the
25 beginning of the school year, some Compton classrooms have over 45 students in a single class for
26 weeks or even months until some students are transferred to other classes. For example, during the
27 first three months of the 2012-2013 school year, there were so many students in Plaintiff Ignacia
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1 Barajas's chemistry class that students had to sit in regular chairs and do work on their laps because
2 there were too few desks.

3 157. Insufficient administrative, mental health, and teaching personnel contribute to high
4 levels of student absenteeism and tardiness at Compton. Teachers report that typically four or five
5 students per class are absent on a daily basis. Some students arrive late to school almost every day.
6 At Compton, student absences are particularly damaging to the critical continuity required for
7 learning because Compton follows a block schedule in which each class typically meets on
8 alternate days for approximately 100 minutes. If a student misses even a single class period, he may
9 not see his teacher for almost a week.

10 158. Compton lacks sufficient administrative staff to meaningfully reduce student
11 absenteeism and tardiness. Compton's only staff with designated responsibility for addressing
12 attendance are two attendance clerks whose primary responsibility is to ensure that attendance
13 records are properly maintained. These attendance clerks do not assume primary responsibility for
14 making home visits or assisting students in need of attendance-related intervention to return to
15 school.

16 159. As a result of the cumulative effects of the above-described losses to instructional
17 time, Plaintiffs Ignacia Barajas, Lucia Barajas, and their classmates at Compton receive
18 substantially less meaningful instruction time than their peers at most other California schools. The
19 State's district-based system for delivering public education fails to account for the above-described
20 disparities and allows Compton's students to lose substantial meaningful learning time as a result of
21 unaddressed needs. The State has taken no affirmative steps to address these disparities.

22 **C. The Consequences for Plaintiffs of Denial of Meaningful Learning Time**

23 160. By maintaining a district-based system of public schools that deprives Plaintiffs and
24 class member students in Plaintiffs' schools of equal and adequate meaningful learning time, the
25 State denies all these children any realistic opportunity to master and develop basic literacy and
26 mathematical skills, let alone more advanced skills commensurate with their intelligence and
27 academic potential. Due to the unstable, chaotic and disruptive learning conditions created by the
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Defendants’ policies, teachers in Plaintiffs’ schools—unlike their counterpart teachers in other schools throughout their districts and across California—do not have anywhere close to the learning time necessary to bring their students to appropriate levels of proficiency in literacy and mathematics. As such, Plaintiffs’ schools cannot deliver the core curricular information that will allow Plaintiffs to satisfy the State’s mandated content standards. Even more troubling, children in Plaintiffs’ schools graduate without the basic skills minimally necessary for informed citizenship in a democracy and participation in the workforce.

161. As a direct and proximate result of the failure of the State to ensure that its schools deliver minimally necessary meaningful learning time, class member children who attend Plaintiffs’ schools lag far behind their peers in literacy and math skills. Many struggle just to read and write and to master elemental math concepts. Many students in Plaintiffs’ schools read far below grade level or are functionally illiterate. Many students in Plaintiffs’ high schools struggle to write a proper paragraph or even a complete sentence; some cannot read, let alone comprehend paragraphs or narratives. Many students are unable to even read their teacher’s instructions written on the chalkboard. Without the levels of literacy and numeracy that the curriculum assumes, students are denied meaningful access to the core content not only of the required English and mathematics courses, but also to the state-mandated content in literature, history, social science, science, and the visual and performing arts.

162. At Castlemont, school-wide administration of the Scholastic Reading Inventory (“SRI”) during the 2013-2014 academic year revealed that more than two thirds of students were reading below grade level, and close to a fifth were reading at an elementary school level.

	Percentage of Castlemont Students Reading Below Grade Level	Percentage of Students Castlemont Students Reading at a Below Basic Level
Ninth Grade	77%	20% (below a fourth grade reading level)

Tenth Grade	67%	21% (below a fourth grade reading level)
Eleventh Grade	66%	21% (below a fifth grade reading level)
Twelfth Grade	53%	11% (below a fifth grade reading level)

163. Likewise, many students in Plaintiffs’ schools have significant gaps in their mathematical skills. Students in high school algebra classrooms do not know their basic multiplication tables or how to perform long division. At Fremont High School in Los Angeles, for example, only 88 of 500 incoming freshman passed a math placement test administered before the 2013-2014 school year.

164. Student performance data collected by the State has long established that students at Plaintiffs’ schools are far less likely to achieve proficiency in English and math than their peers elsewhere throughout the state. Plaintiffs’ schools are all on Program Improvement status and have consistently failed to meet student achievement goals—most for six or more consecutive years.

165. In years prior to the 2013-2014 school year, the State has required students in grades two through eleven to take California Standards Tests (“CSTs”) in order to measure students’ progress toward achieving the state-mandated academic content standards. Students in Plaintiffs’ schools have disproportionately failed to meet the proficiency standards established by the State in English-language arts and mathematics on the CSTs as compared to students elsewhere in the State:

<u>School</u>	<u>English/Language Arts</u> (2013) Percentage of Students Scoring Proficient or Advanced	<u>Math</u> (2013) Percentage of Students Scoring Proficient or Advanced
Castlemont High School	18%	8%
Fremont High School (Oakland)	14%	3%
Fremont High School (Los Angeles)	26%	9%
Compton High School	24%	6%

Whaley Middle School	26%	19%
Joyner Elementary School	22%	30%
Nystrom Elementary School	20%	25%
State of California	56%	51%

166. In 2006, the California Department of Education (“CDE”) instituted the California High School Exit Exam (“CAHSEE”) “to ensure that pupils who graduate from public high schools can demonstrate grade level competency in reading, writing, and mathematics.” (Cal. Dep’t of Ed., Explaining and Using 2012-2013 CAHSEE Summary Results (2013).) Students in Plaintiffs’ high schools have disproportionately failed to achieve proficiency standards established by the State in English-language arts and mathematics on the CAHSEE as compared to students elsewhere in the State:

<u>School</u>	<u>English/Language Arts</u> <u>(2012-2013)</u> Percentage of Students Scoring Proficient or Advanced	<u>Math</u> <u>(2012-2013)</u> Percentage of Students Scoring Proficient or Advanced
Castlemont High School	18%	19%
Fremont High School (Oakland)	22%	23%
Fremont High School (Los Angeles)	25%	36%
Compton High School	30% (2011-2012)	26% (2011-2012)
State of California	57%	60%

167. Students in Plaintiffs’ schools fall farther behind with each year of schooling as the lost learning time accumulates and compounds pre-existing academic gaps. Literacy and mathematics are sequentially-dependent subject areas in which falling behind renders subsequent learning nearly impossible. Students with low reading comprehension skills have trouble

1 progressing further in school because they cannot read age-appropriate texts. There are very few
2 books written at a third-grade reading level that are cognitively appropriate for high school-aged
3 students, so students who are behind in their literacy development often cannot read texts that can
4 engage and educate them with high school content. Likewise, a student lacking basic arithmetic
5 skills cannot access the content in a high school algebra class. High school math teachers in
6 Plaintiffs' schools must frequently go back to remediate concepts that students should have learned
7 as early as third grade, which reduces the class time available to deliver material sufficient to
8 satisfy state-mandated high school mathematics content standards.

9 168. Students' failure to attain proficiency in literacy and mathematics also prevents them
10 from achieving mastery of content in other core subject areas. For example, students in Plaintiffs'
11 schools with low literacy are unable to access word problems in mathematics classes, do not
12 sufficiently understand grammatical concepts in English to be able to apply them in Spanish class,
13 and lack the vocabulary to express their thoughts in laboratory reports in science class. Because
14 many students lack the reading comprehension skills to access textbooks that deliver high-school
15 level science content, at least one Castlemont biology teacher cannot rely on published textbooks or
16 curriculum, and must create all classroom materials on his own. Likewise, students in Plaintiffs'
17 schools lack the numeracy skills to perform basic calculations using data collected in science class
18 and to understand how data illustrate scientific principles.

19 169. Severe literacy deficits, particularly among high-school-aged students, inflict
20 immeasurable damage to the self-esteem of students and require greater resilience to remediate with
21 each passing year. Students with low literacy may more frequently act out in the classroom to
22 deflect being seen by others as students who cannot read. As a result, one or more students in the
23 class facing significant literacy barriers reduces the meaningful instruction time for the full class of
24 students.

25 170. Plaintiffs' schools lack the staffing and resources required to bring students up to
26 grade level in reading and math. In Plaintiffs' schools, students with a wide range of learning
27 abilities coexist within a single classroom. Students reading at a third-grade level or below sit next
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1 to students reading at or above grade level in many high school classrooms. Intervening with
2 students who are far behind in literacy and mathematics requires one-on-one time and small group
3 time that is not feasible when a single teacher is serving a classroom, typically with more than 30
4 students, all with varying levels of proficiency. Moreover, many secondary school teachers have
5 insufficient training to support students who are performing as far below grade level as many
6 students are in Plaintiffs' schools. For example, high school English teachers in Plaintiffs' schools
7 must work with students reading at an elementary school level, but most have not received the
8 training in teaching reading fundamentals that an elementary school teacher would have.

9 171. Even a master teacher would struggle to provide appropriate instruction to students of
10 such varied levels in the same class. As explained above, however, Plaintiffs' schools suffer from
11 significant teacher turnover and chronic staffing issues due to the challenging teaching and learning
12 conditions that themselves cause students to fall behind academically, illustrating vividly how the
13 harms wrought on students at Plaintiffs' schools by the State's inaction are cumulative and amplify
14 each other.

15 172. Although the State is aware of the disproportionate literacy deficits at low-income
16 schools and its destructive consequences, the State has failed to intervene to require implementation
17 of proven literacy intervention programs to bring students up to grade level. A literacy task force
18 appointed by Defendants Torlakson and the State Board of Education has admitted that "[s]tatewide
19 assessment data indicate that there is urgent need to address the language and literacy development
20 of California's underserved populations, specifically English learners, students with disabilities,
21 socioeconomically disadvantaged students, and African-American and Hispanic students." (Cal.
22 Dep't of Ed., California Striving Readers Comprehensive Literacy Plan, A Guidance Document
23 (2012) p. 7.) Although the State's report acknowledges the critical need to provide literacy
24 intervention in schools serving high concentrations of low-income students, English learners, and
25 students of color, the State has failed to require implementation of literacy intervention programs
26 proven effective in high-poverty communities in Plaintiffs' schools, and specifically has failed to
27 ensure that teachers with appropriate training and credentials and a track record of serving low-

performing students are assigned to deliver math and reading intervention services to all students performing below grade level.

D. The Program of Education Delivered to Plaintiffs Falls Fundamentally Below Prevailing Statewide Norms

173. As a result of the conditions and practices in Plaintiffs' schools described above, students in these seven schools are provided with far less meaningful learning time than students in the great majority of California schools. These losses of instructional time compound over time, leaving students increasingly ill-prepared for the curriculum that the State itself mandates be taught, depressing further their ability benefit from the reduced learning time that is available.

174. The State itself has defined both the amount of instruction time and the sequencing of mandated academic content standards that schools are expected to provide to children in California and the content that schools are expected to teach within this time frame, and it has put systems in place to hold school districts and schools accountable for meeting these standards. Unlike students in most California schools, Plaintiffs and their classmates have been deprived of and continue to be deprived of the meaningful learning time necessary to meet these standards defined and enforced by the State.

175. The State has established minimum statewide standards for the number of instructional days and minutes that schools must deliver. Generally, under state law, public schools must deliver at least 180 days of instruction (Cal. Ed. Code § 46208), as well as a minimum number of instructional minutes that varies by grade level, (*id.* § 46207(a)). Districts may temporarily opt to reduce the school year on a district-wide basis by up to five days, but this option will be discontinued beginning with the 2015-2016 school year. (*Id.* § 46201.2.)

176. The State conducts annual audits to ensure that schools meet the statewide standards for instruction time of 180 days and the number of minutes prescribed by California Education Code Section 46207. During the state audit process, however, auditors review only the schools' academic calendars—which reflect the number of school days scheduled during an academic year—and bell schedules—which identify the beginning and ending time of each class period

1 during a school day—to calculate the number of minutes that schools were officially in session.
2 (Cal. Ed. Audit Appeals Panel, Standards and Procedures for Audits of California K-12 Local
3 Education Agencies (2013-2014) pp. 26-27.) In determining whether schools provided their
4 students with an adequate amount of instruction time, the State does not account for time lost to
5 lockdowns and their consequences, time when students were performing administrative tasks or had
6 been sent home instead of receiving meaningful instruction, or any of the other facts contributing to
7 lost meaningful learning time described above. In other words, the State monitors only the
8 instructional time that schools and districts say they intend to deliver. Although the State conducts a
9 separate audit of student attendance data, it does not link student attendance data to its
10 determination of whether schools have met minimum state standards for the delivery of
11 instructional time.

12 177. Plaintiffs’ schools have fallen and continue to fall substantially below the statewide
13 standards for instructional time of 180 days and the number of minutes prescribed by California
14 Education Code Section 46207. The State’s method of calculating instruction time and its audit
15 procedures simply ignore the loss of actual instructional time during the “official” school day. As a
16 result, the State system falsely presumes that as long as the bells at Plaintiffs’ schools ring at 8:00
17 a.m. and 3:00 p.m., these schools are delivering equivalent daily hours of instruction time as
18 schools that do not experience the losses to meaningful learning time afflicting Plaintiffs’ schools.
19 Unlike students at most California schools, however, students in Plaintiffs’ schools spend far less of
20 the actual school day engaged in the process of teaching and learning, depriving them of equal
21 educational opportunity.

22 178. The amount of meaningful learning time delivered by Plaintiffs’ schools also has
23 fallen and continues to fall substantially below what educational experts agree is necessary to meet
24 the academic content standards mandated by the State. California has set forth the content of the
25 education guaranteed to each student by its Constitution in explicit terms. (Cal. Ed. Code §§ 51200-
26 51284, 51003.) Since 1997, the State has prescribed uniform content standards describing precisely
27 what the State promises to teach and what students are expected to learn in each grade level. (*Id.*

§ 60605.) California built upon this commitment when it adopted the Common Core State Standards in 2010, delineating the content of what schools are expected to teach and students are expected to learn in every school in California. The State also imposes high school graduation exit requirements. The State conditions graduating from high school or receiving a high school diploma on (1) completing a series of courses delineated by the State, (*id.* § 51225.3), and (2) demonstrating mastery of the academic content standards established by the State by passing California High School Exit Examination (“CAHSEE”) (*id.* § 60851).

179. As a result of the disproportionate loss of instruction time in Plaintiffs’ schools, these schools do not deliver and continue to fail to deliver educational services that will allow their students to satisfy California’s state-mandated content standards. California’s content standards presume that, over the course of a full academic year, schoolchildren will receive instruction in basic academic content so they may attain and increase proficiency in the designated content areas. But the children in Plaintiffs’ schools do not receive the hypothetical full academic year of instruction upon which the California content standards are predicated. As a result, teachers in Plaintiffs’ schools lack sufficient time to bring their students to requisite levels of proficiency.

180. Because California’s content standards build cumulatively as students progress through the educational system, students who fail to master state-mandated content standards during one school year begin at a disadvantage the following year. As a consequence, with each year that passes, students at Plaintiffs’ schools receive a program of education that departs further and further from the content standards prescribed by the State and provided to the students elsewhere throughout the State.

E. The State’s Obligation to Deliver Equal Educational Opportunity to Plaintiffs.

181. The State retains ultimate, plenary power over public education in the State of California. Notwithstanding any purported delegation of authority to local school districts, the State bears responsibility to ensure that all children in California’s public schools receive equal educational opportunity. The primary responsibility for carrying out the State’s duties and functions with respect to its educational mandate resides with the State Superintendent of Public Instruction

1 and with the State Board of Education. Neither these offices, nor the State and State Department of
2 Education, have effectively supervised the statewide system of public education to ensure that all
3 California schoolchildren receive equal educational opportunity.

4 182. The State has failed its minimal and most vital constitutional obligation to Plaintiffs
5 and children in Plaintiffs' schools by maintaining a statewide system of education that
6 systematically fails to account for the fact that these children receive far less meaningful learning
7 time than their counterparts throughout their and other districts and, more broadly, throughout
8 California. Although the essential facts spelled out in this Complaint are well-known to
9 Defendants—and are in fact matters of common public knowledge for generations—the State has
10 not acted or otherwise intervened to ensure that Plaintiff students and their similarly-situated peers
11 have access to the same amount of meaningful learning time other students enjoy.

12 183. The State has established minimum standards for the number of instructional days and
13 minutes that schools must deliver and conducts annual audits to ensure that schools meet these
14 standards. By creating and enforcing such standards, the State recognizes not only that, in
15 education, time matters, but also that the State plays an indispensable role in safeguarding the right
16 of schoolchildren to receive instruction time that meets minimum statewide standards. But the
17 State's enforcement process is fundamentally flawed in two ways. First, it improperly fails to
18 account for the above-described factors and other factors that substantially reduce the amount of
19 meaningful learning time delivered by Plaintiffs schools by failing to acknowledge losses to
20 instructional time during the time that school is formally in session. Second, instead of remediating
21 the factors that cause loss of instructional time by ensuring that schools have appropriate support
22 and resources, the State penalizes schools that fail to deliver sufficient instruction time by
23 withholding necessary funding from the district. (Cal. Ed. Code §§ 46201, 46202.)

24 184. The systematic deprivation of meaningful learning time in Plaintiffs' schools is one
25 consequence of the State's failure to maintain an appropriate statewide audit system for
26 instructional time that meaningfully monitors the actual number of instructional days and minutes
27 delivered by California schools. The State must identify and cure constitutional deficiencies
28

1 resulting in the loss of meaningful learning time, and establishing and maintaining an appropriate
2 statewide audit system for instructional time is one mechanism by which this relief could be
3 accomplished.

4 185. The State must establish a monitoring system that tracks the number of instructional
5 days and minutes delivered by Plaintiffs' schools to accurately account for the factors that cause
6 loss of instruction time in these schools, including time lost when students perform administrative
7 tasks or sent home; the consequences of violence and unmet student mental health needs; changes
8 to the master course schedule and student transiency; student absences and tardiness; and teacher
9 turnover, vacancies, and absences. Where schools deliver fewer minutes than the minimally
10 acceptable statewide standard, the State must intervene to correct and prevent the causes of lost
11 instruction time. As described above, each of the identified causes of lost time can be prevented and
12 remedied by the State with the implementation of well-established, research-based practices,
13 including:

- 14 • Prohibiting the assignment of students to periods during which they perform administrative
15 tasks or are sent home, and ensuring that schools are adequately staffed with sufficient
16 numbers of teachers such that they can offer sufficient classes to provide a full schedule of
17 meaningful course offerings to every student;
- 18 • Ensuring that sufficient numbers of mental health and medical professionals are assigned to
19 schools to address the consequences of violence and trauma identified in this Complaint;
- 20 • Ensuring that sufficient numbers of administrators and academic counselors are assigned to
21 schools to make likely the completion of a master course schedule in advance of the school
22 year, efficiently make required changes, and ensure that students are placed in appropriate
23 courses;
- 24 • Ensuring that sufficient numbers of administrative and mental health staff—such as
25 attendance counselors, truancy officers, and family liaisons—are assigned to schools to
26 implement interventions proven effective at improving student attendance, such as home
27

1 visits, counseling, and the connection of students to appropriate resources to overcome
2 barriers to attendance;

- 3 • Intervening to require implementation of research-based practices that create supportive
4 teaching and learning conditions and have been demonstrated to promote stability in the
5 teaching faculties or administrative staffs in schools like Plaintiffs' schools located in
6 California and throughout the nation; and
- 7 • Implementing proven literacy and mathematics intervention programs to bring students up to
8 grade level, such as by ensuring that teachers with appropriate training and credentials and a
9 track record of serving low-performing students are assigned to deliver math and reading
10 intervention services to all students performing below grade level.

11 **CAUSES OF ACTION**

12 **FIRST CAUSE OF ACTION**

13 **(All Plaintiffs Against All Defendants for Violation of the Equal Protection Clauses of the**
14 **California Constitution, Article I, Section 7(a) & Article IV, Section 16(a) (Fundamental**
15 **Interest))**

16 186. Plaintiffs incorporate by reference the foregoing paragraphs of this Complaint as
17 though fully set forth herein.

18 187. The Defendants have violated the rights of Plaintiffs and those similarly situated to
19 receive equal protection of the laws, pursuant to Article I, section 7(a) and Article IV, section 16(a)
20 of the California Constitution, by failing to provide them with basic educational opportunities equal
21 to those that other students elsewhere in the State receive.

22 **SECOND CAUSE OF ACTION**

23 **(All Plaintiffs Against All Defendants for Violation of the Equal Protection Clauses of the**
24 **California Constitution, Article I, Section 7(a) & Article IV, Section 16(a) (Suspect Class))**

25 188. Plaintiffs incorporate by reference the foregoing paragraphs of this Complaint as
26 though fully set forth herein.

189. The Defendants have violated and continue to violate Plaintiffs' and members of the Plaintiff class' right to receive educational opportunity regardless of wealth and race, pursuant to Article I, section 7(a) and Article IV, section 16(a) of the California Constitution, by failing to provide Plaintiffs and members of the Plaintiff class equal educational opportunity and basic educational services, as described above.

THIRD CAUSE OF ACTION

(All Plaintiffs Against All Defendants for Violation of Article IX, Sections 1 and 5 of the California Constitution)

190. Plaintiffs incorporate by reference the foregoing paragraphs of this Complaint as though fully set forth herein.

191. The Defendants have violated the rights of Plaintiffs and those similarly situated to receive basic educational services, pursuant to Article IX, sections 1 and 5 of the California Constitution, to learn in a “system of common schools” that are “kept up and supported” such that students may learn and receive “the diffusion of knowledge and intelligence essential to the preservation of the[ir] rights and liberties.”

192. These constitutional provisions impose on the Defendants the duty to provide Plaintiffs with basic educational services adequate to teach them the skills they need to succeed as productive members of modern society.

FOURTH CAUSE OF ACTION

(All Plaintiffs Against All Defendants for Violation of Article I, Section 7(b) of the California Constitution)

193. Plaintiffs incorporate by reference the foregoing paragraphs of this Complaint as though fully set forth herein.

194. The State of California has established content standards and other commitments of care and services to kindergarten through grade 12 students, defining the education to which students are entitled. These commitments are among the privileges and immunities that may not be granted to some citizens or classes of citizens but not provided on the same terms to all citizens.

1 195. The Defendants have violated the rights of Plaintiffs and those similarly situated to
2 receive privileges and immunities on the same terms as all other citizens by failing to ensure that
3 the rights enumerated *supra* were provided to Plaintiffs

4 **FIFTH CAUSE OF ACTION**

5 **(All Plaintiffs Against All Defendants for Violation of the Equal Protection Clause of the**
6 **Fourteenth Amendment of the United States Constitution)**

7 196. Plaintiffs incorporate by reference the foregoing paragraphs of this Complaint as
8 though fully set forth herein.

9 197. The Defendants have violated and continue to violate Plaintiffs' and members of the
10 Plaintiff class' right to receive a basic education regardless of economic status, pursuant to the
11 Fourteenth Amendment of the U.S. Constitution, by failing to provide Plaintiffs and members of
12 the Plaintiff class equal access to basic educational services, as described above.

13 **SIXTH CAUSE OF ACTION**

14 **(All Plaintiffs Against All Defendants for Violation of California Government Code Section**
15 **11135)**

16 198. Plaintiffs incorporate by reference the foregoing paragraphs of this Complaint as
17 though fully set forth herein.

18 199. California Government Code section 11135 provides:
19 No person in the State of California shall, on the basis of race, national origin, ethnic group
20 identification, religion, age, sex, sexual orientation, color, genetic information, or disability,
21 be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to
22 discrimination under, any program or activity that is conducted, operated, or administered by
23 the state or by any state agency, is funded directly by the state, or receives any financial
24 assistance from the state.

25 200. The Defendants have violated and continue to violate Plaintiffs' and members of the
26 Plaintiff class' right to receive educational opportunity regardless of economic status, nationality,
27 race, or ethnicity, pursuant to California Government Code section 11135, by failing to provide
28

1 Plaintiffs and members of the Plaintiff class equal educational opportunity and basic educational
2 services, as described above.

3 **SEVENTH CAUSE OF ACTION**

4 **(All Plaintiffs Against All Defendants for Declaratory Relief)**

5 201. Plaintiffs incorporate by reference the foregoing paragraphs of this Complaint as
6 though fully set forth herein.

7 202. An actual and existing controversy exists between the Plaintiffs and the Defendants
8 because Plaintiffs contend, and Defendants dispute, that Defendants' actions and inactions as
9 described above have violated Article I, section 7(a) and Article IV, section 16(a) of the California
10 Constitution; Article I, section 7(b) of the California Constitution; Article IX, sections 1 and 5 of
11 the California Constitution; the Fourteenth Amendment of the U.S. Constitution; and California
12 Government Code section 11135.

13 203. Plaintiffs seek a judicial declaration that the Defendants have violated these
14 constitutional and statutory provisions.

15 **REQUEST FOR RELIEF**

16 Plaintiffs respectfully request the following relief:

- 17 1. A determination by this Court that this action may be maintained as a class action;
- 18 2. Injunctive relief prohibiting the Defendants and their officers, agents, and employees
19 from continuing to ignore the loss of meaningful learning time in Plaintiff's schools and from
20 continuing to operate a constitutionally inadequate monitoring system that fails to:
- 21 (a) monitor the meaningful learning time delivered by Plaintiffs' schools, taking into
22 account the identified factors that cause loss of meaningful learning time in Plaintiffs'
23 schools; and
- 24 (b) intervene in a timely manner when schools fall below the statewide standard for
25 meaningful learning time to restore instruction time and prevent and remedy the causes
26 of lost learning time;
- 27
- 28

3. The issuance of a declaratory judgment that Defendants' actions and inaction complained of herein violate:

- Plaintiffs' rights under the Equal Protection Clauses of the California Constitution, Article I, section 7(a), and Article IV, section 16(a);
- Plaintiffs' rights under Article IX, sections 1 and 5 of the California Constitution;
- Plaintiffs' rights under Article I, section 7(b) of the California Constitution;
- Plaintiffs' rights under the Fourteenth Amendment of the U.S. Constitution;
- Plaintiffs' rights under California Government code section 11135;

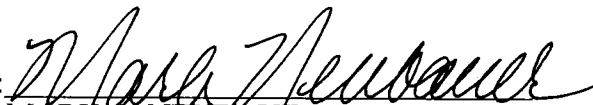
4. An award of costs, disbursements, and reasonable attorneys' fees and expenses pursuant to California Code of Civil Procedure section 1021.5 and any other applicable provisions of law; and

5. Such other relief as this Court deems just and proper.

Dated: May 29, 2014

ACLU FOUNDATION OF SO. CALIFORNIA
PUBLIC COUNSEL LAW CENTER
GARY BLASI
ARNOLD & PORTER
CARLTON FIELDS JORDEN BURT, LLP

By:


MARK A. NEUBAUER

Attorneys for JESSY CRUZ; BRIAN CRUZ, A minor, by Jonathan Cruz, guardian ad litem; BRIANA LAMB, a minor, by Ronald Lamb, guardian ad litem; CRISTIAN GASPAS, a minor, by Guadalupe Gaspar, guardian ad litem; LEE SIMMONS, a minor, by Rhae Ray Eason, guardian ad litem; MYRIAM GISELLE GONZALEZ; SAMARIA HUDSON, a minor, by Chawmein Hudson, guardian ad litem; TALIIYAH JACOBS, a minor, by Katherine Jacobs, guardian ad litem; JUMANTAE SMITH; ARNOLD GUTIERREZ, a minor, by Norma Gutierrez, Guardian Ad Litem; ERIC FLOOD, a minor, by Nicole King, guardian ad litem; EDITH QUINTERO; DAISY ROMO, a minor by Elizabeth Rodriguez, guardian ad litem; RIANNA BROWN, a minor, by Victoria Williams, guardian ad litem; EMMANUEL ENRIQUEZ, a minor, by Olga Enriquez, guardian ad litem; NATHAN SAUCEDA, a minor, by Olga Enriquez, guardian ad litem; IGNACIA BARAJAS, a minor, by Genoveva Barajas, guardian ad litem; and LUCIA BARAJAS, a minor, by Genoveva Barajas, guardian ad litem