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9 \*Application to Appear Pro Hac Vice Forthcoming

10 Attorneys for Plaintiff/Petitioner Parents Defending Education

11 **SUPERIOR COURT OF CALIFORNIA**

12 **COUNTY OF SAN MATEO**

13 24-CIV-03586

14 PARENTS DEFENDING EDUCATION,

15 Plaintiff/Petitioner,

16 v.

17 SEQUOIA UNION HIGH SCHOOL  
DISTRICT,

18 Defendant/Respondent.

Case No.:

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELEF AND  
VERIFIED PETITION FOR WRIT OF  
MANDATE FOR VIOLATIONS OF THE  
CALIFORNIA PUBLIC RECORDS ACT  
AND CALIFORNIA CONSTITUTION,  
ART. I, §3, WITH EXHIBITS A & B**

[Gov. Gode §7920.000 *et seq.*; Cal. Const.,  
art. I, §3; Code Civ. Proc. §§1060, 1085]

Electronically  
**FILED**  
by Superior Court of California, County of San Mateo  
ON 6/13/2024  
By /s/ Hessen Ladcani  
Deputy Clerk

1 **INTRODUCTION**

2 1. This is a lawsuit to enforce the right to inspect public records under Article I, §3 of  
3 the California Constitution and the California Public Records Act (“CPRA”), Cal. Gov’t Code  
4 §7921.000 *et seq.* Plaintiff and Petitioner Parents Defending Education (“PDE”) requested records  
5 from Defendant and Respondent, the Sequoia Union High School District, but the District is  
6 withholding requested records without lawful justification. PDE seeks a writ of mandate, declaratory  
7 and injunctive relief, attorney fees, and costs.

8 2. In early 2024, filmmaker Eli Steele released a new documentary: *Killing America:  
9 Can America’s Schools Be Saved?* The film highlights rising antisemitism in the Bay Area public  
10 schools and focuses on Menlo-Atherton High School in the Sequoia Union High School District in  
11 particular.

12 3. Steele’s documentary features photos and short video clips originally created by  
13 Menlo-Atherton’s student newspaper, the *M-A Chronicle*. The editorial board of the *M-A Chronicle*  
14 accused Steele of copyright infringement for using this content, demanded that he remove it from  
15 his film, and convinced multiple online platforms to remove the video. Steele maintained that his  
16 inclusion of the photos and videos was protected by the Fair Use doctrine, and the *M-A Chronicle*  
17 ultimately decided not to pursue a legal claim against him.

18 4. In furtherance of its mission to prevent corrosive and discriminatory ideologies from  
19 influencing K-12 education, PDE submitted a CPRA request to the Sequoia Union High School  
20 District for records related to this controversy. PDE seeks to uncover the extent to which the *M-A  
21 Chronicle*’s efforts to silence criticism of the District were supported by taxpayer dollars.

22 5. The District partially denied PDE’s request, citing inapplicable CPRA exemptions  
23 and privileges that have nothing to do with the law governing disclosure of public records. The  
24 District’s refusal to produce the records is unjustified, and PDE respectfully requests that this Court  
25 order the District to produce the requested records.

26 **PARTIES**

27 6. Plaintiff and Petitioner Parents Defending Education is a nationwide, grassroots  
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1 membership organization whose members include parents, students, and other concerned citizens,  
2 many of whom reside in California. PDE’s mission is to prevent—through advocacy, disclosure, and  
3 if necessary, litigation—the politicization of K-12 education, including government promotion of  
4 divisive ideologies in schools. PDE is authorized to request and obtain public records and is a  
5 “member of the public” under Government Code §§7920.515, 7920.520. PDE requested records  
6 from Defendant and Respondent Sequoia Union High School District, and the District partially  
7 denied that request.

8 7. Defendant and Respondent Sequoia Union High School District is a public union  
9 school district in California and a “local agency” within the meaning of Government Code  
10 §7920.510.

#### 11 **JURISDICTION AND VENUE**

12 8. This Court has jurisdiction under Government Code §§7923.000, 7923.100; Code of  
13 Civil Procedure §§1060, 1085; and Article VI, §10 of the California Constitution.

14 9. Venue is proper in this Court pursuant to Code of Civil Procedure §§393 and 401(1)  
15 because the records in question, or some portion of them, are situated in the County of San Mateo;  
16 the acts or omissions complained of occurred in this County; and the Sequoia Union High School  
17 District is in this County.

#### 18 **STATEMENT OF FACTS**

19 10. Eli Steele is the president of Man of Steele Productions and an award-winning  
20 filmmaker. *See About*, Man of Steele Productions, <https://perma.cc/WJ4Y-KU2A>.

21 11. In early 2024, Steele released a 38-minute documentary, *Killing America: Can*  
22 *America’s Schools Be Saved?* Man of Steele, *Killing America*, Man of Steele’s Substack (Feb. 24,  
23 2024), <https://perma.cc/9432-8LDS>.

24 12. The film chronicled Steele’s “deep dive investigation in the Bay Area schools”  
25 following the events “in southern Israel on October 7th,” 2023. *Id.* The investigation revealed “a  
26 shockingly strong current of antisemitism among teachers, students, and staff.” *Id.*

27 13. Steele explained that the rise of antisemitism in Bay Area schools came “after years  
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1 of anti-white and anti-Asian hate.” Eli Steele (@Hebro\_Steele), X.com (Feb. 24, 2024),  
2 <https://perma.cc/X669-7VAJ>. He asked: “Where [is] this tribal hatred coming from, especially after  
3 60 years of diversity efforts that promised us unity?” *Id.*

4 14. The Sequoia Union High School District is home to Menlo-Atherton High School.  
5 Menlo-Atherton’s motto is “Strength in Diversity.” *Home*, Menlo-Atherton High School,  
6 <https://perma.cc/D3X6-3X26>. The school features prominently in the *Killing America* documentary.

7 15. For example, the documentary shows an ethnic studies teacher at Menlo-Atherton  
8 telling students that “the existence of Israel was ‘illegal,’” and that “‘ Hamas were a people from  
9 Palestine (as opposed to terrorists) who targeted soldiers [on October 7] (when civilians were, in  
10 fact, the main target).” Man of Steele, *School Newspaper Tries to Take Down “Killing America”*,  
11 Man of Steele’s Substack (Apr. 4, 2024), <https://perma.cc/6WMD-HCEY>.

12 16. After an early screening of the documentary, Karl Losekoot, the principal of Menlo-  
13 Atherton High School, called the film a work of “‘sensational propaganda at its worst’” and  
14 “‘completely ridiculous.’” Man of Steele, *Killing American is “Completely Ridiculous”*, Man of  
15 Steele’s Substack (Mar. 5, 2024), <https://perma.cc/7KWX-PHVM>. Losekoot complained that the  
16 documentary “‘aims to paint [Menlo-Atherton] in a negative light.’” *Id.*

17 17. Both the trailer for *Killing America* and the documentary itself included footage from  
18 a Menlo-Atherton High School board meeting. The footage was originally filmed by the *M-A*  
19 *Chronicle* and was posted online. *See School Newspaper Tries to Take Down “Killing America”*,  
20 *supra*.

21 18. The *M-A Chronicle* describes itself as “‘a student-managed public forum, dedicated  
22 to objective and comprehensive reporting.’” *About*, M-A Chronicle, <https://perma.cc/G8ES-7PU4>.  
23 Its slogan is “‘your stories, your voices, your paper.’” *Id.*

24 19. On April 2, 2024, Steele received a cease and desist email from the *M-A Chronicle*  
25 demanding that he remove their footage from the trailer and documentary. *See School Newspaper*  
26 *Tries to Take Down “Killing America”*, *supra*. The letter, signed by “‘The Editorial Board of the *M-*  
27 *A Chronicle*,’” identified three pieces of content in the documentary that were originally created by  
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1 the newspaper. The students claimed Steele’s use of those items constituted copyright infringement.  
2 Man of Steele, *The Price of Censoring “Killing America”*, Man of Steele’s Substack (Apr. 12, 2024),  
3 <https://perma.cc/34DR-9FLD>.

4 20. Specifically, the students complained about the use of: (1) “video by the *M-A*  
5 *Chronicle* of [a] January 17th SUHSD Board meeting,” (2) “the use of photos of board meetings  
6 from two *M-A Chronicle* articles,” and (3) “the use of the *M-A Chronicle*’s short form video posted  
7 on the *M-A Chronicle*’s Tiktok and Instagram accounts.” *Id.* (quoting April 2 cease and desist letter).  
8 The letter demanded that Steele “[r]emove all infringing content” and threatened to “take appropriate  
9 legal action” and “seek all available damages and remedies” if he did not comply. *Id.*

10 21. The students on the editorial board claimed that they had decided to send the cease  
11 and desist letter ““without communicating with or being influenced by [the Menlo-Atherton]  
12 administration.”” Staff Report, *Students Get Film Taken Off YouTube*, Palo Alto Daily Post (Apr. 8,  
13 2024), <https://perma.cc/SR6H-DMZM>.

14 22. On April 4, 2024, Steele received notice from YouTube that the platform had  
15 removed the trailer for *Killing America* following a copyright removal request from the *M-A*  
16 *Chronicle*. *School Newspaper Tries to Take Down “Killing America”*, *supra*.

17 23. Steele responded to the YouTube complaint and explained that his use of the footage  
18 from the school board meeting was protected by the Fair Use doctrine. *See id.*

19 24. Steele also decided to “release the full 38 minute documentary on all possible online  
20 platforms” on April 5, 2024. Man of Steele, *Watch Killing America (Full Movie) Now*, Man of  
21 Steele’s Substack (Apr. 5, 2024), <https://bit.ly/3yv5Vah>.

22 25. Shortly after Steele posted the full documentary to YouTube and Vimeo, it was  
23 removed from those platforms in response to further complaints from the *M-A Chronicle*. *See Man*  
24 *of Steele, M-A Chronicle Forces YouTube & Vimeo to Remove “Killing America”*, Man of Steele’s  
25 Substack (Apr. 6, 2024), <https://perma.cc/Z7B4-5V4E>.

26 26. On April 4, 2024, PDE submitted a formal request for records under the CPRA to the  
27 Public Information Officer of the Sequoia Union High School District. Ex. A. PDE requested records  
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1 containing the phrases “Eli Steele,” “Man of Steele,” “Killing America,” “documentary,” “trailer,”  
2 and “YouTube” in the possession of certain identified board members, district employees, and  
3 students between the dates of January 18 and April 4, 2024. *Id.*

4 27. In its records request, PDE explained that the “primary purpose of th[e] request is to  
5 inform the public’s understanding of the M-A Chronicle’s copyright removal request filed against  
6 Man of Steele Productions, which featured several seconds of a previously public—and since  
7 removed—recording of a January 17 public meeting of the Sequoia Unified School District.” *Id.*  
8 PDE specified that its intent was to publicize the results of its request on its website. *See id.*

9 28. On April 15, 2024, the District partially denied PDE’s request, specifying two  
10 categories of records that it believed were exempt from disclosure: (1) “[R]ecords created, held or  
11 used by students to develop material for the student newspaper, participate in a journalism class, or  
12 make editorial decisions about student publications,” and (2) “records relating to the advice and  
13 supervision the journalism teacher provided to students relating to their editorial decisions.” Ex. B  
14 at 2. But neither is exempt.

15 29. Start with the records “created, held or used by students.” *Id.* The District offers three  
16 arguments for why these records are exempt from disclosure. All are meritless.

17 30. *First*, the District argues the students’ records are exempt from disclosure because  
18 they “are neither District records nor reflective of the ‘public’s business.’” Ex. B at 2 (citing Gov’t  
19 Code §§7920.520, 7920.545, 7922.525). Both parts of this statement are wrong.

20 31. For one, the records are reflective of the public’s business. The CPRA “defines  
21 ‘public record’ as ‘any writing *containing information relating to the conduct of the public’s*  
22 *business* prepared, owned, used, or retained by any state or local agency.’” *Cnty. Youth Athletic Ctr.*  
23 *v. City of Nat’l City*, 220 Cal.App.4th 1385, 1418 (2013) (quoting Cal. Gov’t Code §7920.530)  
24 (emphasis in original). This “definition is broad and intended to cover every conceivable kind of  
25 record that is involved in the governmental process.” *Id.* (cleaned up). Determining “[w]hether a  
26 writing is sufficiently related to public business” often “involve[s] an examination of several factors,  
27 including the content itself; the context in, or purpose for which, it was written; the audience to  
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1 whom it was directed; and whether the writing was prepared by an employee acting or purporting to  
2 act within the scope of his or her employment.” *City of San Jose v. Super. Ct.*, 2 Cal.5th 608, 618  
3 (2017).

4 32. Here, an examination of these factors demonstrates that the requested records are  
5 inextricably intertwined with public business. The *M-A Chronicle* is a student newspaper at a public  
6 high school. Its activities are supported by public dollars. Indeed, the publication is part of the public-  
7 school curriculum, as students who work on the newspaper do so as part of “a journalism class.”  
8 Ex. B at 2; *see also Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 271 (1988) (recognizing that  
9 school-sponsored publications “may fairly be characterized as part of the school curriculum, whether  
10 or not they occur in a traditional classroom setting, so long as they are supervised by faculty members  
11 and designed to impart particular knowledge or skills to student participants and audiences”). Any  
12 records created by students in relation to this matter were created “in the scope of” their roles as  
13 student journalists for the taxpayer-funded student newspaper and with the purpose of conducting  
14 newspaper business. What’s more, those writings involved the students injecting themselves into a  
15 matter of public controversy that extended well beyond their immediate school community. Thus,  
16 the records “relate in [a] substantive way to the conduct of the public’s business.” *City of San Jose*,  
17 2 Cal.5th at 618.

18 33. For another, any records “created, held or used by students” are “District records.”  
19 Ex. B at 2. It is irrelevant that the student journalists in question are not District officials. “The CPRA  
20 is not limited to writings by public officials. The controlling question is whether the request seeks  
21 the ‘public records’ of a state or local agency.” *Iloh v. Regents of Univ. of Cal.*, 87 Cal.App.5th 513,  
22 525 n.5 (2023). “Although a person’s status as a public official (and resulting reduced expectation  
23 of privacy) might be relevant in the CPRA context when evaluating whether an exemption applies  
24 ... it is not relevant to the threshold question of whether the requested documents qualify as public  
25 records under the CPRA.” *Id.* PDE’s request sought records that belong to the school district, a local  
26 agency. *See* Cal. Gov’t Code §7920.510 (defining “‘local agency’” to include “[a] school district”).  
27 The requested records are therefore subject to disclosure.

1           34.     *Second*, the District argues that the records are exempt from disclosure because of  
2 the students’ “right to express themselves.” Ex. B at 2. But “*all* public records are subject to  
3 disclosure unless the Legislature has expressly provided to the contrary.” *Williams v. Super. Ct.*, 5  
4 Cal.4th 337, 346 (1993) (emphasis added). And although the CPRA specifies certain exemptions, it  
5 does not include a general exemption for expressive activity. Indeed, it’s hard to see how such an  
6 exemption could operate without swallowing the general rule favoring disclosure: Most (if not all)  
7 records subject to disclosure under the CPRA involve expressive activity of some sort—after all,  
8 they are “writings.” Cal. Gov’t Code §§7920.530 (defining ““public records”” to include certain  
9 “writing[s]”); 7920.545 (defining ““writing”” broadly). Even so, California has concluded that the  
10 public’s right to review these records is “fundamental and necessary.” Cal. Gov’t Code §7921.000.  
11 Thus, it makes no difference that the requested records involve expression.

12           35.     *Third*, the District argues that the records are exempt from disclosure because they  
13 qualify for a “reporter’s privilege.” Ex. B at 2. That’s wrong for at least four reasons.

14           36.     One, the so-called “reporter’s privilege” is not a privilege at all. It is a limited  
15 immunity from contempt. The relevant provisions in the California Constitution and Evidence Code  
16 specify that a reporter who refuses to disclose his sources or other unpublished information “cannot  
17 be adjudged in contempt by a judicial, legislative, administrative body, or any other body having the  
18 power to issue subpoenas.” Cal. Evid. Code §1070; *see* Cal. Const. art. I, §2(b). And cases discussing  
19 this immunity explain that it is not absolute. *See, e.g., Delaney v. Super. Ct.*, 50 Cal.3d 785, 797 n.6,  
20 805, 806 n.20 (1990) (explaining that the shield law “provides only an immunity from contempt, not  
21 a privilege” against disclosure, and that the “protection is overcome in a criminal proceeding on a  
22 showing that nondisclosure would deprive the defendant of his federal constitutional right to a fair  
23 trial”).

24           37.     Two, this limited immunity for journalists has no application whatsoever in the  
25 context of a public records request. It is relevant only in “proceedings” as defined in Cal. Evid. Code  
26 §901. *See id.* §1070. So it applies to “any action, hearing, investigation, inquest, or inquiry (whether  
27 conducted by a court, administrative agency, hearing officer, arbitrator, legislative body, or any other  
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1 person authorized by law) in which, pursuant to law, testimony can be compelled to be given.” *Id.*  
2 §901. A public-records request is not a “proceeding” in which “testimony can be compelled to be  
3 given,” so the so-called “reporter’s privilege” does not apply at all. *Id.*

4 38. Three, even if they were called to testify in a qualifying proceeding, it’s unlikely that  
5 student reporters and journalism teachers would even be eligible for this immunity. The immunity  
6 applies to a “publisher, editor, reporter, or other person connected with or employed upon a  
7 newspaper” or other publication involved in gathering “information for communication to the  
8 public.” *Id.* at §1070. Neither the students nor the teachers are employed by a news organization that  
9 disseminates information to the public at large; the school newspaper is merely a part of the  
10 curriculum. *Cf. Hazelwood*, 484 U.S. at 271 (recognizing that school-sponsored publications “may  
11 fairly be characterized as part of the school curriculum”). The District has identified no case where  
12 a student or teacher associated with a school newspaper has been granted this limited immunity.

13 39. Four, the so-called “reporter’s privilege” and the CPRA share the same fundamental  
14 goal: to protect and support the public’s access to information. *See Rancho Publ’ns v. Super. Ct.*, 68  
15 Cal.App.4th 1538, 1543 (1999) (recognizing that the purpose of the reporter’s shield law is “to  
16 promote the free flow of information to the public”); Cal. Gov’t Code §7921.000 (recognizing that  
17 the CPRA exists to protect the “fundamental and necessary right” to access “information concerning  
18 the conduct of the people’s business”). The District’s invocation of the shield law in an attempt to  
19 withhold information from the public is thus entirely inconsistent with the law’s purpose

20 40. The District is likewise unjustified in its attempt to withhold certain records  
21 belonging to its employees. Ex. B at 2.

22 41. For one, the District argues that records “relating to the advice and supervision the  
23 journalism teacher provided to students relating to their editorial decisions” are shielded by the  
24 reporter’s privilege. Ex. B at 2. As already explained, this so-called privilege is inapplicable in the  
25 context of a public records request. *See supra* ¶¶36-37.

26 42. For another, the District contends that the “public interest served by not disclosing  
27 such records clearly outweighs the public interest served in disclosing them.” Ex. B at 2-3 (citing  
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1 *L.A. Unif. Sch. Dist. v. Sup. Ct.*, 228 Cal.App.4th 222 (2014)). However, the District’s reliance on  
2 *L.A. Unified* is problematic: As that case and many others explain, the burden is on the District to  
3 show why, on the facts of this particular case, the need for secrecy clearly outweighs the public  
4 interest in disclosure. *Id.* at 239-40. The District hasn’t even attempted to make that showing here.

5 43. Start with the burden on the District. “An agency opposing disclosure bears the  
6 burden of proving that an exemption [to the CPRA] applies.” *Id.* at 239. So the District must show  
7 that “on the facts of the particular case the public interest served by not disclosing the record clearly  
8 outweighs the public interest served by disclosure of the record.” Cal. Gov’t Code §7922.000. In  
9 other words, this section of the CPRA “contemplates a case-by-case balancing process, with the  
10 burden of proof on the proponent of nondisclosure to demonstrate a clear overbalance on the side of  
11 confidentiality.” *ACLU of N. Cal. v. Super. Ct.*, 202 Cal.App.4th 55, 68 (2011) (emphasis added).

12 44. For two reasons, the District hasn’t met that burden here. First, PDE’s request for  
13 disclosure clearly serves the public interest. Second, the District has not even come close to showing  
14 a “clear overbalance on the side of confidentiality.” *Id.*

15 45. *First*, PDE has demonstrated a public interest in disclosure. The “relevant public  
16 interest in the FOIA balancing analysis is the extent to which disclosure of the information sought  
17 would shed light on an agency’s performance of its statutory duties or otherwise let citizens know  
18 what their government is up to.” *L.A. Unified*, 228 Cal.App.4th at 241 (quoting *DOD v. FLRA*, 510  
19 U.S. 487, 497 (1994)) (cleaned up).

20 46. That is precisely PDE’s interest here: As PDE explained in its initial request, its goal  
21 is to understand to what extent employees of the Sequoia Union High School District were involved  
22 in an attempt to silence criticism of the District. PDE has no private purpose for the records: It  
23 intends to publish them on its website for the all the world to see. In other words, PDE seeks  
24 information that “would ... shed light on [the school district’s] performance” and “let citizens know  
25 what [the District] is up to.” *Id.* (cleaned up).

26 47. Second, the District hasn’t explained why confidentiality is needed in this particular  
27 case. The District merely contends that the public interest supports nondisclosure “[f]or the reasons  
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1 articulated in” *L.A. Unified*. Ex. B at 2-3. But none of the factors relevant to the court’s decision in  
2 *L.A. Unified* are present here.

3 48. *L.A. Unified* involved “AGT scores,” which measured teachers’ effectiveness on their  
4 students’ performance on standardized tests. 228 Cal.App.4th at 230. The school district publicly  
5 released these scores but redacted the names of individual teachers. *See id.* The court considered  
6 whether the district court was required to produce the names of the individual teachers associated  
7 with each AGT score. *See id.* at 230-31. It held that the “public interest served by not disclosing the  
8 teachers’ names clearly outweighs the public interest served by their disclosure.” *Id.* at 231.

9 49. The school district in *L.A. Unified* showed a strong public interest in nondisclosure  
10 by highlighting concerns that disclosing the teachers’ names “could spur unhealthy comparisons  
11 among teachers and breed discord in the workplace, discourage recruitment of quality candidates  
12 and/or cause existing teachers to leave the District, disrupt the balance of classroom assignments  
13 ... , and adversely affect the disciplinary process.” *Id.* at 245.

14 50. None of these factors are relevant here. Unlike the AGT Scores in *L.A. Unified*,  
15 nothing in the records that PDE requested compares teachers to one another. Releasing records  
16 belonging to the (singular) journalism teacher would not “spur unhealthy comparisons among  
17 teachers,” “breed discord in the workplace,” “discourage recruitment of quality candidates,” or  
18 “cause existing teachers to leave the District.” *Id.*

19 51. Nor would releasing records “relating to the advice and supervision the journalism  
20 teacher provided to students,” Ex. B at 2, “disrupt the balance of classroom assignments” or  
21 “adversely affect the disciplinary process.” *L.A. Unified*, 228 Cal.App.4th at 245. Although the  
22 District mentions a vague “public interest ... in the managing of a classroom,” Ex. B at 3, it does  
23 not even attempt to explain how releasing records relating to the journalism teacher’s advice in this  
24 matter would interfere with that teacher’s ability to manage the classroom moving forward.

25 52. Moreover, in *L.A. Unified*, the balancing of interests was easy because it was  
26 one-sided in favor of the school district. The interests supporting disclosure in that case were not  
27 public interests at all, but private interests of parents who wanted to get their children into “classes  
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1 with the highest scoring teachers.” 228 Cal.App.4th at 247-48 (the parents’ interest in “maximizing  
2 the educational opportunities for [their] child[ren] ... does not directly assist in determining whether  
3 the District is fulfilling its statutory obligations; it does not illuminate whether, or how, the  
4 government agency is doing its job ... [and] [w]hile it may give parents a tool with which to assist  
5 their own child, it does not help them understand the workings of the agency itself”). Not so here.  
6 In this case, PDE has demonstrated a public interest in disclosure, and the District has failed to show  
7 that that public interest is clearly outweighed by a need for secrecy.

8 53. In sum, the District has not met its burden to demonstrate “on the *facts of the*  
9 *particular case* [that] the public interest served by not disclosing the record *clearly outweighs* the  
10 public interest served by disclosure.” Cal. Gov’t Code §7922.000 (emphasis added). It has made no  
11 attempt to explain why the facts of this particular case justify nondisclosure. Instead, it merely cites  
12 *L.A. Unified* and summarily concludes that “the reasons articulated in that case” also support  
13 nondisclosure of “records generated in connection with student journalist decision-making.”  
14 Ex. B at 3. That is insufficient.

## **CLAIMS FOR RELIEF**

### **FIRST CAUSE OF ACTION AGAINST DEFENDANT/RESPONDENT**

#### **Writ of Mandate (Gov. Code §7923.000; Code Civ. Proc. §1085)**

#### **Violation of Gov. Code §7920.000, et seq., and Cal. Const. art. I, §3(b)**

19 54. PDE incorporates the foregoing paragraphs as though set forth here in full.

20 55. “The [CPRA] and the California Constitution provide the public with a broad right  
21 of access to government information. ... Modeled after the federal Freedom of Information Act  
22 (5 U.S.C. §522 *et seq.*), the [CPRA] was enacted for the purpose of increasing freedom of  
23 information by giving members of the public access to records in the possession of state and local  
24 agencies. Such ‘access to information concerning the conduct of the people’s business,’ the  
25 Legislature declared, ‘is a fundamental and necessary right of every person in this state.’” *L.A. Cty.*  
26 *Bd. of Supervisors v. Super. Ct.*, 2 Cal. 5th 282, 290 (2016) (citations omitted). The presumption is  
27 that “all governmental records are available to any person” unless the agency demonstrates that  
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1 nondisclosure is warranted. *ACLU*, 202 Cal.App.4th at 85; *see also* Gov. Code §7922.000(a).

2 56. Public entities like the Sequoia Union High School District are obligated to respond  
3 to requests for public records and to search for and disclose all non-exempt records. *See* Gov't. Code  
4 §7920.000 *et seq.*; Cal. Const. art. I, §3.

5 57. PDE's CPRA request describes public records as defined by the CPRA.

6 58. The Sequoia Union High School District has failed to fulfill its obligations under the  
7 CPRA and the California Constitution to produce public records responsive to Petitioner's CPRA  
8 request.

9 59. The Sequoia Union High School District has failed to provide all non-exempt  
10 documents responsive to PDE's CPRA request. The District cannot demonstrate that the outstanding  
11 records responsive to PDE's CPRA request are exempt under express provisions of the CPRA or  
12 any authority; or that on the facts of this particular case, the public interest served by not disclosing  
13 the records clearly outweighs the public interest served by disclosing the records. Thus, the District  
14 has violated its clear, present, ministerial obligations under the CPRA and Article I, Section 3 of the  
15 California Constitution to produce all records responsive to Petitioner's CPRA request.

16 60. PDE is thus entitled to enforce its rights under California's public records laws  
17 through a petition for writ of mandate. Gov. Code §7923.000 (CPRA); Code Civ. Proc §1085  
18 (California Constitution).

19 61. Issuance of a writ of mandate compelling the Sequoia Union High School District to  
20 perform its duties under the CPRA and the California Constitution is required because there exists  
21 no plain, speedy, and adequate remedy in the ordinary course of law that would protect the  
22 Petitioner's rights and interest to the information sought here.

23 **SECOND CAUSE OF ACTION AGAINST DEFENDANT/RESPONDENT**

24 **Declaratory and Injunctive Relief (Gov. Code §7923.000; Code Civ. Proc. §1060)**

25 **Violation of Gov. Code §7920.000, *et seq.*, and Cal. Const. art. I, §3(b)**



1 Dated: June 13, 2024

By /s/ Bradley A. Benbrook

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16 \*Application to Appear Pro Hac Vice  
17 Forthcoming

18 Attorneys for Plaintiff/Petitioner Parents  
19 Defending Education

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**VERIFICATION**

I, Nicole Neily, declare:

I have read the foregoing Complaint For Declaratory and Injunctive Relief and Verified Petition for Writ of Mandate and know the contents thereof. The factual matters contained in the foregoing document are true and of my own knowledge. The remaining matters are stated on information and belief, and, as to those matters, I believe them to be true.

Executed June 12, 2024.

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

By:   
\_\_\_\_\_  
Nicole Neily  
President of Parents Defending Education



# **Exhibit A**



Nicole Neily

## public records request

Nicole Neily

Thu, Apr 4, 2024 at 6:39 PM

To: Arthur Wilkie <awilkie@seq.org>

Dear Mr. Wilkie,

My name is Nicole Neily, and I am the president and founder of Parents Defending Education, a national nonprofit organization.

Pursuant to the California Public Records Act (§ 6250 et seq.), I formally request records containing the phrases "Eli Steele," "Man of Steele," "Killing America," "documentary," "trailer," and "YouTube" in the possession of the following board members, district employees, and students between the dates of January 18, 2024 and April 4, 2024:

1. Shawneece Stevenson
2. Sathvik Nori
3. Amy Koo
4. Carrie Du Bois
5. Rich Ginn
6. Zahara Agarwal
7. Jacob Yuryev
8. Karl Losekoot
9. Emily Rigotti
10. Jessica Magallanes
11. Amy Hanson
12. Nick Muys
13. John McBlair
14. Cleo Rehkopf
15. Dylan Lanier
16. Natalie Fishman
17. Sonia Freedman
18. Sarah Weintraut
19. Ben Siegel
20. Celine Chien
21. Arden Margulis
22. Collin Goel

In connection with this request, and to comply with your legal obligations:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.
- In conducting your search, please construe the term "record" in the broadest possible sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek all records, including electronic records, text messages, instant messages, letters, emails, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions.
- Our request includes any attachments to those records or other materials enclosed with a record when transmitted. If an email is responsive to our request, then our request includes all prior messages sent or received in that email chain, as well as any attachments.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages.

We respectfully request a waiver or reduction of fees associated with this request. Parents Defending Education is a nonprofit organization and it does not intend to use the requested records for private commercial interests. The primary purpose of this request is to inform the public's understanding of the M-A Chronicle's copyright removal request filed

against Man of Steele Productions, which featured several seconds of a previously public - and since removed - recording of a January 17 public meeting of the Sequoia Unified School District.

Parents Defending Education has a proven track record of disseminating news about education issues, and expects to publicize the results of this request on its website. (See <https://defendinged.org/>.) To minimize the burden of production, I can accept records electronically and double-sided copies. That being said, if there are any fees for searching or copying these records, please inform me if the cost will exceed \$20.

If you expect a significant delay in responding to this request, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please state in writing the basis for the denial, cite each specific exemption you feel justifies the refusal to release the information, and notify me of the appeal procedures available to me under the law.

Thank you for your prompt attention, and please let me know if you have any questions.

Sincerely,

Nicole Neily  
President  
Parents Defending Education

# **Exhibit B**



## SEQUOIA UNION HIGH SCHOOL DISTRICT

480 James Avenue, Redwood City, CA 94062  
650.369.1411 • www.seq.org

**Arthur Wilkie, Public Information Officer**

### BOARD OF TRUSTEES

Carrie Du Bois  
Rich Ginn  
Amy Koo  
Sathvik Nori  
Shawneece Stevenson

**VIA EMAIL ONLY** [REDACTED]

**Re: Your April 4, 2024 CPRA Request**

Dear Nicole Neily,

I am writing on behalf of the Sequoia Union High School District in response to your request for public records pursuant to the California Public Records Act ("CPRA"), dated April 4, 2024. As the District's Public Information Officer, I am responsible for determining how to respond to requests for public records for the District.

Your April 4 request seeks records containing the phrases "Eli Steele," "Man of Steele," "Killing America," "documentary," "trailer," and "YouTube" in the possession of certain identified board members, district employees, and students between the dates of January 18, 2024 and April 4, 2024.

### General Response to Your Request

As a preliminary matter, only those writings which meet the definition of a public record, which are prepared, owned, used, or retained by the District, and which are not otherwise exempt from disclosure, are subject to production under the CPRA. (Gov. Code, §§ 7920.530, 7920.545, 7922.525.) To constitute a "public record," a writing must "contain[] information relating to the conduct of the public's business ...." (Gov. Code, § 7920.530(a).) Further, the CPRA only requires the production of records which exist at the time of the request, and does not require the District to create documents in response to requests for records. (Gov. Code, § 7920.530.)

Records exempt from disclosure include, but are not limited to:

- Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure (Gov. Code, § 7927.500);
- Records pertaining to pending litigation or a pending claim to which the public agency is a party, until the pending litigation or pending claim has been finally adjudicated or otherwise settled (Gov. Code, § 7927.200);
- Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy (Gov. Code, § 7927.700);
- The home addresses, home telephone numbers, personal cellular telephone numbers, and birth dates of all employees of the public agency, and in some instances the home addresses and telephone number of public elected or appointed officials (Gov. Code, §§ 7928.300, 7928.205, 7928.215);
- Confidential pupil or educational records (Family Educational Rights & Privacy Act [FERPA], 20 U.S.C., § 1232g; 34 C.F.R. Part 99; Ed. Code, §§ 49060, *et seq.*; Cal. Code Regs., tit. 5, §§ 430, *et seq.*; Gov. Code, §§ 7927.705, 7930.185); and



## SEQUOIA UNION HIGH SCHOOL DISTRICT

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**Arthur Wilkie, Public Information Officer**

### BOARD OF TRUSTEES

Carrie Du Bois  
Rich Ginn  
Amy Koo  
Sathvik Nori  
Shawneece Stevenson

- Records, the disclosure of which is exempted or prohibited pursuant to federal or state law. This includes, but is not limited to [REDACTED] ed or protected from disclosure under the attorney-client privilege, the official information privilege, the legislative privilege, the attorney work product doctrine, and the Brown Act's confidentiality requirements (Gov. Code, §§ 7927.705, 7922.000; see also *City of Petaluma v. Superior Court* (2016) 248 Cal.App.4th 1023, 1033-1034.)

Additionally, the District has no obligation to produce records where the public interest served by not disclosing the record, including the burden to the agency, clearly outweighs the public interest served by disclosure of the record. (Gov. Code, § 7922.000; *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440, 452-54; *Times Mirror Company v. Superior Court* (1991) 53 Cal.3d 1325.) This includes, but is not limited to, records whose disclosure would infringe on the deliberative process of District employees and decision-makers. (*Times Mirror Co., supra*; see also, *California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 169-71.)

Where possible, if a document is otherwise subject to disclosure, the District will redact non-public information and produce the remainder of the record.

### Response to Your Specific Request

While it reserves all objections to the production of documents that are exempt from the CPRA, the District has determined that your request includes potentially disclosable public records that the District may have in its possession. More specifically, public records with the search terms you provided may exist for the identified board members or District employees.

However, the District believes that records created, held or used by students to develop material for the student newspaper, participate in a journalism class, or make editorial decisions about student publications are neither District records nor reflective of the "public's business." (Gov. Code, §§ 7920.530, 7920.545, 7922.525.) Students have the right to express themselves through the student newspaper, and retain editorial control over that publication, subject to the supervision of the assigned teacher. (Educ. Code, § 48907(c).)

Moreover, reporters, including student reporters, have a privilege to withhold records pertaining to their news gathering that does not wind up in a published story. (See, e.g., Evid. Code, § 1070; Cal. Const. art. I, § 2(b).) Any information within the scope of the reporter's privilege would be exempt from the Public Records Act. (Gov. Code, §§ 7927.705, 7922.000.)

We believe that the reporter's privilege would shield not only information gathered or used by student reporters, but would also shield records relating to the advice and supervision the journalism teacher provided to students relating to their editorial decisions. We also believe that the disclosure of such information would not be required under the CPRA because the public interest served by not disclosing such records clearly outweighs the public interest served in disclosing them. In *Los Angeles Unified School District v. Superior Court (Los Angeles Times)* (2014) 228 Cal.App.4th 222, the court held that the school district was not obligated to identify teachers by name in reports of aggregated student standardized test scores since disclosure of each teacher's performance would sow discord between parents and teachers and within the

