



FILED  
ALAMEDA COUNTY

OCT - 8 2014

CLERK OF THE SUPERIOR COURT  
By Yestrada Deputy

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA**  
**RENE C. DAVIDSON ALAMEDA COUNTY COURTHOUSE**

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JESSY CRUZ, et al.,

Plaintiffs,

vs.

STATE OF CALIFORNIA, et al.,

Defendants.

Case No.: RG14727139

**TEMPORARY RESTRAINING ORDER**

Assigned for All Purposes to:  
Judge: The Hon. George Hernandez, Jr.  
Dept. 17

Date: Oct. 6, 2014  
Time: 2:30 p.m.  
Place: Dept. 17  
1221 Oak Street  
Oakland, CA 94612

Complaint filed: 05/29/14

1 Having considered Plaintiffs' *Ex Parte* Application for the Issuance of a Temporary  
2 Restraining Order and Order to Show Cause re: Preliminary Injunction Against All  
3 Defendants (the "Application"), the Memorandum of Points and Authorities in Support of  
4 the *Ex Parte* Application and all supporting declarations filed therewith, the Reply in Support  
5 of the *Ex Parte* Application and all supporting declarations filed therewith, upon the  
6 [Proposed] Supplemental Complaint, all papers filed by Defendants<sup>1</sup> in opposition to the  
7 Application, as well as the argument of counsel at hearings on October 2, 2014 and October  
8 6, 2014, the court finds that unless the court issues a temporary restraining order, plaintiffs  
9 will suffer irreparable injury before the matter can be heard on formal notice. For the  
10 reasons stated below, the court declines to issue an order to show cause at this time.

### 11 LEGAL STANDARD

12 The standard for issuance of a temporary restraining order ("TRO") is well-  
13 established. A TRO is appropriate to "restrain[] the...continuance of the act complained of"  
14 when "great or irreparable injury will result to the applicant before the matter can be heard  
15 on notice." (Code Civ. Proc. §§ 526(a), 527(c).) Two interrelated factors must be considered  
16 in determining whether to issue a TRO: (1) the likelihood that the applicant will prevail on  
17 the merits at trial; and (2) the relative interim harm the parties will sustain from the issuance  
18 or non-issuance of the TRO. (See, e.g., *Church of Christ in Hollywood v. Superior Court* (2002) 99  
19 Cal.App.4th 1244, 1251-52.)

20 The trial court's determination must be guided by a 'mix' of the potential-merit and  
21 interim-harm factors; the greater the plaintiff's showing on one, the less must be  
22 shown on the other to support [a restraining order].... Of course, '[t]he scope of

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23  
24 <sup>1</sup> Defendants State Board of Education, California Department of Education, and State  
25 Superintendent Tom Torlakson (the "State Education Defendants") submitted written opposition  
26 papers. Defendant the State of California also appeared at both hearings to oppose the  
27 application, and joined in the State Education Defendants' arguments.

28 On October 7, 2014, the State Education Defendants also filed Objections to Plaintiffs' Second  
Amended [Proposed] Temporary Restraining Order, which Plaintiffs subsequently moved to  
strike. Although the Objections do contain extended, unauthorized arguments - and new  
evidence - in response to the court's questions at the October 6 hearing, the court has considered  
those arguments as well as the issues raised regarding the proposed TRO language.

1 available preliminary relief is necessarily limited by the scope of the relief likely to be  
2 obtained at trial on the merits.' ... A trial court may not grant a [restraining order],  
3 regardless of the balance of interim harm, unless there is some possibility that the  
plaintiff would ultimately prevail on the merits of the claim.

4 (*Id.*, quoting *Butt v. State of California* (1992) 4 Cal.4th 668, 678, internal citations omitted.)

## 5 **FACTUAL FINDINGS**

6 On the present record, the court FINDS as follows:

7 1. Those Plaintiffs who are students at Jefferson Senior High School in South Los  
8 Angeles<sup>2</sup> ("Jefferson") have presented evidence that they and other students (including those  
9 who submitted declarations in support of Plaintiffs' application for TRO) have suffered and  
10 continue to suffer severe and pervasive educational deprivations, in the form of lost hours of  
11 instructional time, compared to other students in LAUSD and the State of California. This  
12 deprivation is the direct result of Jefferson's failure to provide the students with appropriate  
13 course schedules on August 12, 2014, the first day of the 2014-2015 school year, and  
14 Jefferson's failure, over the last 8 weeks, to promptly remedy the problem.

15 2. These widespread scheduling failures were due in part to Jefferson's (and/or  
16 LAUSD's) inability to implement new scheduling software. Hundreds of students were sent  
17 to the auditorium to wait for course assignments for periods in which no class was assigned.  
18 Those students who did receive schedules were assigned to inappropriate courses (e.g.,  
19 courses already taken with a passing grade). Many were told, sometimes for weeks, to wait  
20 until students with "no classes at all" received assistance.

21 3. Some students were enrolled in "courses" called "College Class," "Adult Class,"  
22 "Home," and "Service," which are devoid of content and during which students receive no  
23 instruction; rather, they were either sent to the auditorium to do as they pleased, roamed  
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25 <sup>2</sup> Concurrently with this application, Plaintiffs filed an application for order shortening time on a  
26 motion to for leave to supplement the complaint to add events which transpired after the  
27 complaint was filed and to amend the complaint to add Plaintiffs, including students Jason  
28 Magana, Jesus Tamayo and Eduardo Tamayo, who attend Jefferson High School. These matters  
were set for hearing with the TRO application. The court granted both of these requests, via  
separate orders, after the hearing.

1 around campus (disrupting other classes), or were sent home. Although "College Class" and  
2 "Adult Class" are supposed to be used to allow students (with parental permission) to obtain  
3 instruction elsewhere, it does not appear that Jefferson obtained the necessary permission or  
4 ensured that students were obtaining such instruction. Staff recommended that students  
5 attempt to enroll in "Adult School" for courses (mainly math and science) which may not be  
6 offered through adult school. They also recommended Adult School courses to students  
7 were unable to pass the entrance (writing) exam.

8 4. "Service" periods, which were assigned to many students, are ostensibly to enable  
9 students who are interested in gaining employment experience to do so at school, e.g.  
10 assisting teachers and administrators with office tasks, working as teaching assistants, etc.  
11 However, declarants testify that they were put into Service classes because Jefferson was  
12 unable or unwilling to assign the students to appropriate classes with educational content.  
13 Further, when these students reported for duty, they were often told that there was nothing  
14 for them to do. In the instances when duties are provided, they usually menial tasks, such as  
15 summoning students from classes.

16 5. While "home" classes are ostensibly limited to students who have completed state  
17 requirements, Jefferson assigned them to students without any verification that such  
18 requirements have been met. Although these periods are designed to permit students to take  
19 college courses, help out their families at home, or meet other personal needs, and require  
20 parental consent, the evidence is that they were assigned to students against their will,  
21 without parental consent, for the convenience of Jefferson - not to facilitate students'  
22 educational or personal goals.

23 6. Jefferson assigned students to multiple non-instructional periods per school day  
24 (sometimes up to four such periods), despite the students' repeated requests to enroll in core  
25 classes, which the students needed to graduate and/or to meet college eligibility  
26 requirements for CSU or UC schools.

27 7. The declarants who have themselves been assigned to the wrong courses or to  
28 contentless "courses" testify that they have been deprived of significant instructional time,

1 sometimes for 6 to 8 weeks, while they attempt to obtain a final, satisfactory schedule. Last  
2 year, one such student was assigned to trigonometry 10 weeks into the semester, experienced  
3 great difficulty understanding the material after missing so many weeks of instruction, and  
4 received a "D" grade. Students testify that they face the same problem this year.

5 8. Even those students who received timely class schedules are experiencing chaotic  
6 classrooms with constantly changing students, which has caused teachers to adjust their  
7 expectations and even hold off teaching some materials until schedules are more settled.  
8 Teachers have been required to review and re-review prior material. Some anticipate having  
9 to cut out significant instructional units later in the year. Teachers also observe that  
10 Jefferson's inability to promptly address the issues has severely impacted student morale,  
11 causing serious anxiety for upperclassmen and inducing complacency and truancy among  
12 younger students. The harms flowing from Jefferson's inability to provide appropriate  
13 schedules are thus not limited to only those students who are not enrolled in courses with  
14 appropriate content, but are more widespread.

15 9. Defendants contend that no constitutional deprivations are occurring because  
16 Plaintiffs and other affected students are Jefferson's more successful students and are merely  
17 unhappy because they cannot get assigned to their desired electives. While there is some  
18 evidence to suggest that some of the students assigned to contentless classes (or the wrong  
19 classes, or classes they have already passed) seek to enroll in advanced placement courses or  
20 electives needed to satisfy college eligibility requirements, there is no evidence that the  
21 above-described harms are limited to these students, alone. (E.g., Defendants do not dispute  
22 that special education students have also suffered disproportionately.) More importantly,  
23 there is evidence in the record showing that overall, Jefferson's students are  
24 disproportionately low-income, minority, first-generation students, foster children and/or  
25 English learners, and that even Jefferson's standouts have had difficulty competing at the  
26 college level. Thus, the failure to timely provide appropriate class schedules, and the ensuing  
27 chaos and disruption, has inflicted a variety of harms on a significant number of Jefferson  
28 student students, few, if any, of whom have the resources needed to successfully recover

1 from setbacks of this kind.

2 10. Jefferson's attempts to address these issues have not succeeded. Over the last  
3 eight weeks, students' schedules have constantly shifted, and some are still not final.  
4 Although students have demanded reassignments to appropriate courses, many remain  
5 enrolled in more than one contentless period or the wrong classes (inappropriate for their  
6 grade/skill level, already taken with a passing grade, etc.) and are missing classes they need to  
7 graduate and/or qualify for college.<sup>3</sup>

8 11. Although Jefferson's scheduling issues and the resulting chaos have been widely  
9 publicized and communicated to the Los Angeles School Board and Dr. John Deasey (the  
10 LAUSD Superintendent) in at least early September, scheduling problems still persist and,  
11 more importantly, there is no evidence of any organized effort to help those students who  
12 have been assigned to courses several weeks into the semester to catch up to their peers.<sup>4</sup>  
13 Jefferson teachers have testified that some students are unaware of which classes they have  
14 been assigned to, or removed from, and that there is no systematic effort to identify students  
15 who need to be reassigned to appropriate courses, e.g. to graduate, and thus some students  
16 are not aware that they need to ask for help.<sup>5</sup>

17 12. Further, while Dr. Deasey expresses appropriate outrage regarding the  
18 assignment of empty, contentless "courses" to students, particularly those who are not on  
19 track to graduate or meet college eligibility requirements, he does not admit to knowing  
20

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21 <sup>3</sup> Even Defendants admit that Jefferson students have "endure[d] a maddening degree of  
22 mismanagement from the school and the District." (Supp. Opp. at p. 4.) Their arguments that  
23 "the situation is improving" are based upon misreadings of Plaintiffs' declarations that verge on  
the acrobatic, and in any event are belied by the evidence submitted by Plaintiffs on reply.

24 <sup>4</sup> Defendants contend that efforts are underway to assist students in catching up, citing one  
25 student's belief that his biology teacher is creating a packet to assist late-assigned students (a  
26 packet which had not yet been provided), one biology teacher who is holding after school make-  
up classes, and one teacher who is "helping" a late-assigned student by "telling [her] which  
27 assignments [she] need[s] to make up." (See Opp. Mem. at 5-6, citing Eidmann Decl. Exs. G ¶  
11, L ¶ 9, N ¶ 9.)

28 <sup>5</sup> One student, Valerie Toro, is still assigned to four classes she passed as a sophomore, and  
despite pleas to put her in appropriate classes, her counselor has told her that her scheduling  
issues are a lower priority than students with no classes.

1 about Jefferson's scheduling problems approximately one month ago or describe any actual  
2 or anticipated efforts by LAUSD to remedy them.

3 13. From all of the foregoing, the court reasonably infers that neither the Los  
4 Angeles Unified School District nor Jefferson Senior High School are able and willing to  
5 take immediate and substantial steps to remedy this shocking loss of instructional time. The  
6 court further concludes that, absent immediate and substantial intervention by Defendants,  
7 the students of Jefferson will continue to suffer educational deprivations of the kind  
8 described above. Absent such intervention, there is a significant likelihood that Jefferson  
9 students will continue to endure chaos and disruption due to ongoing scheduling issues and  
10 low morale, will not have the opportunity to enroll in courses needed to graduate or qualify  
11 for college admission, will fail courses or receive poor grades due circumstances beyond their  
12 control (including the scheduling fiasco and lack of remedial resources) and, as a result, will  
13 be less equipped to succeed in life, in the job market, and (if they are able to gain admission)  
14 in college.

15 14. Plaintiffs did not provide any direct evidence of the number of hours of  
16 educational instruction, or the nature of that instruction, made available to other high school  
17 students in LAUSD or other California high schools. However, Plaintiffs did provide the  
18 declaration of Jennie Oakes, an expert with more than 30 years of work in the education  
19 field, including in California. She states, "In more than 30 years of work in this field, I have  
20 encountered nothing that compares with the deprivations of educational opportunity being  
21 visited upon these students." (Oakes Decl. ¶ 10. See also ¶¶ 20-21 [scheduling issues are  
22 common in low-income area schools but not ongoing problems for 6 weeks or more, which  
23 she finds shocking].) Dr. Deasey, the Superintendent of LAUSD, implies in his declaration  
24 that the practice of assigning contentless courses to Jefferson students is unacceptable. The  
25 court also reasonably infers from the declarations of Jefferson's teachers and staff members  
26 that the losses caused by Jefferson's scheduling problems are both unprecedented and  
27 unacceptable in California high schools (and indeed would not be tolerated at high-  
28 performing schools and schools where parents have more resources). In their Opposition,

1 Defendants did not argue or supply any evidence tending to show, that the hours of  
2 substantive instruction that Plaintiffs and other Jefferson students can expect to receive  
3 during the 2014-15 school year is basically "on par" with that provided by other California  
4 public high schools.<sup>6</sup>

5 15. Defendants did not provide evidence of any harm that they will suffer if an  
6 injunction is entered. They contend that injunctive relief may result in another round of  
7 course reassignments, implying that it would cause further constitutional deprivations to  
8 Plaintiffs or other students. However, on this record, there is no evidence to support this  
9 contention. Defendants also argue that Plaintiffs' proposed order would deprive some  
10 students who want "Home" or "Service" or "College" periods from using those periods; but  
11 there is no evidence to suggest that the proposed order would do that or that such students  
12 exist (and have provided parental consent).

### 13 ANALYSIS

#### 14 **A. Plaintiffs and their Peers are likely to Suffer Great or Irreparable Injury** 15 **before a Noticed Motion can be Heard**

16 The factual findings set forth above clearly establish that Plaintiffs and other  
17 Jefferson students are suffering continuing harms and, absent an order by this court, will  
18 suffer irreparable injury. Students remain assigned to the wrong courses or contentless  
19 courses, or have only recently been assigned to substantive courses and need assistance with  
20 the course material they missed, earlier. With each day that passes, all of these students fall  
21 further behind and the need for supplemental instruction increases. There is no evidence of  
22 any concerted effort by Jefferson to offer remedial instruction to such students. Further,  
23 LAUSD's superintendent, though ostensibly aware of these issues for more than a month, is  
24 silent as whether LAUSD intends to take any steps to remedy these problems. Defendants,  
25 who bear ultimate responsibility for any constitutional deprivations, disclaim any obligation  
26 or ability assist LAUSD or Jefferson, financially or otherwise.

27 \_\_\_\_\_  
28 <sup>6</sup> As noted above, Defendants only seized on this issue after the court asked related questions at  
the October 6 hearing.



1 Defendants contend that because the Los Angeles School Board will take up the  
2 specific issues raised in the Application at its October 14, 2014 meeting, the court should  
3 refrain from issuing a TRO. However, LAUSD's protracted and inexplicable inaction,  
4 coupled with the Superintendent's statement welcoming a court order, suggest that LAUSD  
5 needs State intervention to adequately address the deprivations that have occurred.

6 Put bluntly, the harms already suffered are severe and pervasive; there is no evidence  
7 of an imminent solution; Defendants disclaim their constitutional responsibilities; and the  
8 harm to students (who are among the State's most challenged) is compounding daily. By the  
9 time a noticed motion could be heard and decided, the semester could be two-thirds over, at  
10 which point the likelihood that affected students could achieve a passing grade in  
11 appropriate courses (particularly without supplemental instruction) may be nil.

12 **B. Plaintiffs Demonstrate a Likelihood of Prevailing at Trial**

13 On this limited record, Plaintiffs have shown that it is more likely than not that they  
14 could prevail at trial on their equal protection claims on behalf of Jefferson students.

15 The record tends to show that Jefferson students have suffered and, absent  
16 intervention, will likely continue to suffer, a denial of "basic educational equality" compared  
17 to other California high school students. (*Butt v. State of California* (1992) 4 Cal. 668.) As  
18 noted, Plaintiffs failed to provide direct evidence of how many substantive instructional  
19 hours are generally made available to other high school students in California students  
20 generally receive in terms of substantive instructional hours. However, a seasoned California  
21 education professional testifies that the deprivations visited upon Jefferson students are  
22 shocking, unprecedented and unacceptable; this testimony is corroborated by long-time  
23 Jefferson teachers and staff members. As such, the court can fairly infer that Jefferson  
24 students are thus likely to receive an education in the year 2014-15 that is not "basically  
25 equivalent to that provided elsewhere throughout the state," and the quality of which "falls  
26 fundamentally below prevailing statewide standards". (*Butt, supra*, at 685, 687.) While, at the  
27 second hearing, Defendants attacked the sufficiency of Plaintiffs' showing, they did not offer  
28

1 any evidence to rebut Plaintiffs' (admittedly minimal) showing.<sup>7</sup> Thus, Plaintiffs have  
2 provided evidence, uncontroverted by Defendants, that is at least sufficient for the issuance  
3 of the limited relief set forth herein.<sup>8</sup>

4 Defendants did not provide any evidence of a compelling state interest in  
5 discriminating against Plaintiffs or similarly-situated Jefferson students. Defendants'  
6 argument that there is an existing state policy and plan recently set into motion promoting  
7 "local control" was squarely rejected by *Butt* as a justification for depriving students of their  
8 fundamental right to a basically equivalent education. (*Butt*, supra, at 688-89 ["educational  
9 policy of local autonomy and accountability" is not sufficiently compelling to justify extreme  
10 local deprivation].)

11 Defendants also contend that there is a compelling State interest in avoiding unlawful  
12 (or even unconstitutional) interference in local school districts' affairs. However, they have  
13 not shown that statutory concerns can trump constitutional ones; nor have they shown that  
14 an order requiring Defendants to participate in a solution to Jefferson's problems would  
15 violate the constitution. Indeed, this court reads *Mendoza v. State* (2007) 149 Cal. App. 4th  
16 1034, and *Cobb v. O'Connell* (2005) 134 Cal.App.4th 91, as modified (Nov. 18, 2005), both  
17 cited by Defendants, to *permit and sometimes require* such intervention by entities or persons  
18 who are part of the "Public School System" pursuant to section Article IX, section 6 of the  
19 California Constitution (which includes the State Education Defendants here), so long as

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21 <sup>7</sup> The evidence and argument belatedly supplied with Defendants' October 8, 2014 Objections  
22 regarding the use of "home" and "service" periods in other school districts does not undermine,  
23 let alone defeat, Plaintiffs' showing. Defendants' comparisons to high performing, more affluent  
24 school districts (that in any event have not suffered a similar scheduling mishap) are inapt. Their  
25 contention that other schools have "silent" and "study" periods does not mean that those periods  
26 are assigned to students *in lieu of needed substantive courses*. Their contention that some  
27 schools only have 6 instructional periods per day fails to account for periods that last 1 hour and  
28 10 minutes, which appear to be longer than Jefferson's instructional periods. Defendants  
myopically focus on individual facts that they hope will make the deprivations appear to be less  
severe, and fail to take into account the overall picture - which is one of dramatic disparity. (See  
*Butt*, supra, at 686 ["A finding of constitutional disparity depends upon the individual facts"].)

<sup>8</sup> The court does not express any opinion regarding the sufficiency of this showing to obtain  
more lasting relief, however, such as a preliminary or permanent injunction.

1 those entities do not interfere with the constitutional right of local public entities to choose  
2 how members of their school boards are appointed.

3 As stated in *Mendoza*, "the state may, and in some circumstances must, interfere with  
4 a local school board's management of its schools when an emergency situation threatens the  
5 students' constitutional right to basic equality of educational opportunity." (*Mendoza*, supra,  
6 at 1056.) In *Mendoza*, the legislature trampled on local constitutional rights by directly  
7 interfering with the right to determine how school board members were appointed and by  
8 giving persons who were not part of the Public School System direct and plenary powers  
9 over low-performing schools.<sup>9</sup> The relief sought by Plaintiffs threatens neither of these  
10 wrongs, and is less intrusive even than the relief that was upheld in *Cobb*, where control was  
11 only temporarily transferred to the state superintendent (who is a part of the Public School  
12 System) and there was no interference with appointment of school board members.<sup>10</sup>

### 13 **C. The Balancing of Harms Favors Plaintiffs**

14 As discussed above, the evidence strongly indicates that, absent immediate  
15 intervention, Plaintiffs and other Jefferson students will suffer serious and irreparable harm.  
16 Defendants have supplied no evidence of harms that they will suffer if such an order issues.  
17 Defendants express concern that intervention will interfere with, and undermine, long-term  
18 funding and local control initiatives, concerns that were dismissed in *Butt*. Defendants also  
19 cite "unintended consequences" which may harm other students, but cite to no case law that  
20 harms to nonparties are appropriately considered, and provide no evidence of such harm.  
21 Finally, Defendants' contention that Plaintiffs' proposed order would deprive some students  
22 who want "Home" or "Service" or "College" periods from using those periods is belied by  
23 the proposed order (which in any event Plaintiffs are willing to adjust).<sup>11</sup> Defendants have

24 \_\_\_\_\_  
25 <sup>9</sup> Further, in *Mendoza*, "[t]he Legislature made no findings that LAUSD was failing in its  
26 obligation to deliver a constitutionally adequate education to its students." (Id. at 1045.)

27 <sup>10</sup> The foregoing also undermines Defendants' arguments that Plaintiffs have improperly failed to  
28 name LAUSD and/or Dr. Deasey (in his capacity as Los Angeles Superintendent of Schools) or  
that they are "necessary parties" to these proceedings.

<sup>11</sup> Plaintiffs deny that they seek to prevent students who are "on track" from utilizing such  
benefits.

1 provided no evidence of such students, that they are academically "on track," or that they  
2 have obtained the required parental consent. As such, the balancing of harms weighs heavily  
3 in Plaintiffs' favor.

4 **TEMPORARY RESTRAINING ORDER**

5 Defendants State of California, State Board of Education, State Department of  
6 Education, State Superintendent of Public Instruction Tom Torlakson, their agents,  
7 employees, assigns, and all persons acting in concert with them ("Defendants") are hereby  
8 ORDERED as follows:

9 1. Each Defendant shall immediately make a representative with decision-making  
10 authority available for an in-person meeting with Superintendent Deasey, at LAUSD offices  
11 if necessary, to be attended by all Defendants' representatives (and counsel, if desired), and  
12 which shall take place as soon as possible but in any event no later than October 13, 2014.

13 2. At the meeting, Defendants shall work with Dr. Deasey to discuss the findings  
14 herein and shall attempt to devise a proposed plan designed to do the following (at a  
15 minimum):

16 a. identify each Jefferson student who is currently assigned to (i) two or more periods  
17 per day of Home, Service, College, Library or Adult classes, and/or (ii) one or more courses  
18 that the student has already taken and passed (other than those intended to be repeated, such  
19 as art or music classes) (hereinafter "Affected Students");

20 b. make immediately available to each Affected Student the option to enroll in  
21 substitute course(s) that are substantive, instructional, appropriate for that student's grade  
22 level, and fulfill Jefferson's obligation to ensure that the student has timely access to courses  
23 needed for graduation and college eligibility;

24 c. immediately establish a systematic and comprehensive program, including but  
25 not limited to additional instruction time, for the purpose of helping every Jefferson student  
26 who was enrolled in any academic course more than one week into the semester to grasp the  
27 material presented in the course, to date; and

28 d. ensure that there are adequate teachers, classrooms, seats, desks, and instructional

1 materials, and any other resources needed to implement the proposed plan as quickly as  
2 possible (and in any event no later than November 3, 2014).

3 3. To the extent that any Affected Student's schedule must be adjusted in order to  
4 accomplish the foregoing, the proposed plan shall provide that the resulting class schedule  
5 may not include two or more periods without educational content in one day, nor may it  
6 include courses already taken and passed by that student (other than those intended to be  
7 repeated, such as art or music classes).

8 4. The proposed plan shall provide that any adjustments to a Special Education  
9 Student's schedule may not, under any circumstances, interfere with that student's Individual  
10 Education Plan (IEP) or any other federal legal requirements applying to that student.

11 5. Defendants shall ask Superintendent Deasey to identify the resources that are  
12 needed to implement the foregoing plan and to determine whether LAUSD possesses such  
13 resources or requires assistance (financial or otherwise) from Defendants; Defendants shall  
14 also determine the types of assistance they can quickly and lawfully provide to LAUSD.

15 6. Defendants and/or Dr. Deasey shall incorporate all of the foregoing into a  
16 proposed plan and present the terms of that plan to the Los Angeles School Board on Oct.  
17 14, 2014 (the "Oct. 14 meeting").

18 7. Defendants shall request a copy of the School Board's official video recording of  
19 the Oct. 14 meeting, and shall provide it to the court on a CD, DVD or thumb drive.

20 8. As soon as possible but in any event no later than October 16, 2014, Defendants  
21 and Plaintiffs shall each file a status update including all relevant information, including a  
22 description of information disclosed at the Oct. 14 meeting; decisions, if any, that were made  
23 (including but not limited to any resolutions passed) at the Oct. 14 meeting; and each side's  
24 vision of how best to proceed in this action.

25 9. If the parties are unable to reach agreement, Plaintiffs may file an ex parte  
26 application and proposed Order to Show Cause re Motion for Preliminary Injunction that is  
27 consistent with the court's findings above and takes into account any new information  
28 obtained through the above court-ordered meet and confer process. If such an application

1 is filed by October 20, 2014, and approved by the court, the court would anticipate holding  
2 the hearing on the OSC at 10:00 a.m. on November 26, 2014; requiring Defendants'  
3 opposition papers to be filed and served no later than November 17, 2014; and requiring  
4 reply papers to be filed and served no later than November 21, 2014. (If the foregoing  
5 presents a conflict, the parties may meet and confer regarding alternative schedules.)

6 Absent a court order to the contrary, this Order shall remain in effect through  
7 November 16, 2014 or, if the court issues an order to show cause, pending a ruling on the  
8 OSC re Plaintiff's Motion for Preliminary Injunction.

9 **ORDER TO SHOW CAUSE**

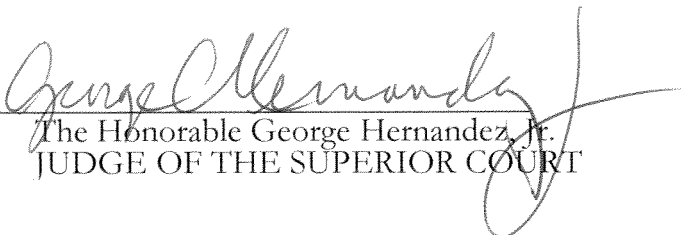
10 In the court's view, it is premature to issue an order to show cause at this time.  
11 The record does not adequately explain why LAUSD has been unable to resolve  
12 scheduling issues to date, what resources if any it needs to do so, and whether  
13 Defendants can provide such resources. The foregoing order is designed to augment  
14 the record on these issues so that the parties and the court can make informed  
15 decisions about the nature and extent of appropriate relief, if any, in this case.

16 **SERVICE OF THIS ORDER**

17 Plaintiffs are hereby ORDERED to serve each Defendant with a copy of this  
18 order by hand (as well as by email), and to serve Dr. John Deasey, Superintendent of  
19 LAUSD, and the agent for service of process for the LAUSD School Board, with a  
20 copy of this order by hand-delivery or overnight courier.

21  
22 IT IS SO ORDERED

23  
24  
25 Dated: October 8, 2014

26 By:   
The Honorable George Hernandez, Jr.  
27 JUDGE OF THE SUPERIOR COURT  
28