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FRIENDS OF LOWELL FOUNDATION; ASIAN
11 AMERICAN LEGAL FOUNDATION; CALIFORNIANS
FOR EQUAL RIGHTS FOUNDATION; and
12 CONNECTED SF

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 FOR THE COUNTY OF SAN FRANCISCO

15 UNLIMITED JURISDICTION

16 FRIENDS OF LOWELL FOUNDATION,

17 Petitioner and Plaintiff,

18 vs.

19 SAN FRANCISCO BOARD OF
EDUCATION; SAN FRANCISCO UNIFIED
20 SCHOOL DISTRICT; MARIA SU in her
official capacity as San Francisco
21 Superintendent of Schools; and DOES 1 - 50,
inclusive,

22 Respondents and Defendants.
23

Case No. CPF-26-519816

**FIRST AMENDED VERIFIED PETITION
FOR WRIT OF MANDATE UNDER THE
RALPH M. BROWN ACT AND
COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Action Filed: July 10, 2026

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1 **I. INTRODUCTION**

2 1. Petitioners and Plaintiffs Friends of Lowell Foundation, Asian American Legal
3 Foundation, Californians for Equal Rights Foundation, and Connected SF (collectively,
4 “Petitioners”) hereby seek a writ of mandate under Code of Civil Procedure (“CCP”) section 1085
5 and Government Code sections 54950 et seq., as well as other appropriate relief, to set aside the
6 unlawful adoption of the “Voices” ethnic studies curriculum (the “Ethnic Studies Curriculum” or
7 “Voices”) by Respondent and Defendant San Francisco Board of Education (the “School Board”) on April 28, 2026.

9 2. Respondents and Defendants School Board, San Francisco Unified School District
10 (“SFUSD” or “District”), San Francisco Superintendent of Schools Maria Su (the
11 “Superintendent”) and DOES 1 through 50, inclusive (collectively, “Respondents”) violated the
12 Ralph M. Brown Act (the “Brown Act”), the state’s open meetings law, and their own Rules and
13 Procedures (especially SFUSD Board Rules and Procedures 9320, 9322, 9323 and 6161.1) in
14 adopting the Ethnic Studies Curriculum, thereby denying Petitioners, as well as the public, the
15 opportunity to prepare and provide meaningful comments to the School Board on matters
16 pertaining to the adoption of the Ethnic Studies Curriculum, such that this Court should set aside
17 the action and grant other appropriate relief.

18 3. This violation of the basic legal requirements for the conduct of School Board
19 business deprived parents and guardians of SFUSD students, SFUSD students, other stakeholders,
20 and members of the public – including Petitioners and the members of Petitioners’ organizations –
21 of the ability to fully comment on and participate in the School Board’s consideration of an
22 important policy issue.

23 4. The ethnic studies requirement and curriculum have been the subject of significant
24 public controversy for several years. Respondents’ initial consideration of the Voices ethnic
25 studies pilot curriculum at its meeting in July 2025 elicited public comment from numerous
26 parents, students, teachers, community organizations and other stakeholders, and the issue has
27 generated significant media coverage.

28 5. Rather than face the controversy head-on, Respondents chose instead to conceal the

1 School Board’s action to approve the Ethnic Studies Curriculum from the public. While the law
2 clearly required them to properly agendize the approval of the Ethnic Studies Curriculum in order
3 to give the public adequate notice of the potential action, Respondents instead opted to use a vague
4 and misleading description of the item on the agenda of the School Board meeting, and to take
5 action on the Ethnic Studies Curriculum in a single vote which also included the approval of an
6 entirely separate history and social studies curriculum.

7 **II. BACKGROUND AND PROCEDURAL HISTORY**

8 6. On April 23, 2021, Petitioners Friends of Lowell Foundation and Asian American
9 Legal Foundation, along with other organizations, filed a lawsuit in San Francisco Superior Court
10 against the District, the School Board, and then-Superintendent Vincent Matthews alleging
11 violations of the Brown Act in connection with the School Board’s action to eliminate the
12 decades-old merit-based admissions system at Lowell High School – like ethnic studies, a
13 controversial policy issue which drew significant public and press interest. Among other defects,
14 the lawsuit alleged that the District violated the Brown Act when it agendized the Lowell
15 admissions item as “In Response to Ongoing, Systemic Racism at Lowell High School,” thereby
16 effectively hiding its intended action on the merit-based admissions system from the public. The
17 lawsuit thereby alleged that the District’s actions violated the basic legal requirements that the
18 agenda for every regular School Board meeting must contain a brief general description of each
19 item and that the School Board may not take any action on any item not properly appearing on the
20 agenda.

21 7. On November 18, 2021, Judge Ethan Schulman of this Court granted this petition,
22 finding the District “plainly failed” to comply with the Brown Act based on the inadequate agenda
23 description and declaring the School Board’s action to eliminate merit-based admissions at Lowell
24 null and void. A copy of the Court’s order detailing the District’s prior Brown Act violations is
25 attached hereto as Exhibit A.

26 8. Respondents clearly have not learned their lesson. Despite the clear edict from this
27 prior court action, they have again failed to comply with the basic legal requirements for School
28 Board meeting agendas. Specifically, on April 28, 2026, the School Board held a regular meeting

1 where it considered an item described on the meeting agenda as: “Instructional Materials
2 Adoption: Elementary and High School History/Social Studies Curriculum.” As part of this single
3 item, the School Board would consider approving the adoption of *both* a comprehensive, broad
4 history and social studies curriculum for K-12 students *and* an ethnic studies curriculum for one
5 course for high school students. However, nothing in the agenda indicated that the School Board
6 would consider adopting the new ethnic studies curriculum, that this ethnic studies course
7 curriculum would become a two-semester requirement for all ninth grade students throughout the
8 District, or that the School Board’s approval of the item would enable the District to teach a
9 particular ethnic studies curriculum, the Voices curriculum, for five years. A copy of the relevant
10 portion of the School Board’s April 28, 2026 regular meeting agenda is attached hereto as Exhibit
11 B.

12 9. In addition to the April 28, 2026 agenda’s vague, misleading and unceremonious
13 description, the Superintendent introduced the item at the meeting as “a sweeping modernization
14 of our history and social studies curriculum,” which she described as “the first comprehensive
15 update in more than two decades,” before only later acknowledging that the item “also”
16 encompassed a distinct “recommendation to adopt a new ethnic studies curriculum.”

17 10. At least one member of the School Board called out the agenda’s legal infirmities
18 during the meeting. Before the School Board’s vote on the item, Commissioner Supryia Ray, who
19 is also a licensed California attorney, warned her colleagues about the apparent flaws in the
20 manner in which the curriculum item was agendized, stating: “[T]he agenda does not actually list
21 ethnic studies in any way that would be apparent to a regular person This may raise legal
22 concerns about public notice.” She continued: “Whatever the intention here, this looks too much
23 like hiding the ball. I myself was surprised to find ethnic studies . . . folded in under the history
24 social studies category.” Later, just before the vote, Commissioner Ray made a motion to
25 “divide” the item into two separate votes in order to allow the Commissioners to vote separately
26 on adopting the comprehensive history and social studies curriculum and the separate Ethnic
27 Studies Curriculum because the two were “not separately listed” on the meeting agenda. Although
28 three other Commissioners voted in favor of the motion, the School Board rejected it on a split 4-3

1 vote.

2 11. The School Board ultimately adopted the Ethnic Studies Curriculum by a 6-1 vote,
3 in the same vote by which it concurrently adopted the completely separate history and social
4 studies curriculum for K-12 students.

5 12. Respondents also concealed the specific contents of the Ethnic Studies Curriculum
6 from the public, preventing parents, students, teachers and other stakeholders from reviewing the
7 controversial curriculum which was set to become a year-long requirement for all ninth grade
8 students in the District. The contents of the Ethnic Studies Curriculum were not included in the
9 agenda materials for the April 28, 2026 meeting posted on the District's website or provided to the
10 public following the release of the meeting agenda. The only opportunity the public had to review
11 the curriculum was provided through a bizarre, opaque process which took place several months
12 before the April 28, 2026 vote; specifically, in order to view the curriculum, members of the
13 public were required to appear in person at the District office during a specified two-week period,
14 could review the curriculum only while accompanied by District staff, were limited to a 30-minute
15 inspection period, and were prohibited from taking photos on their cell phones or even taking
16 notes. Respondents' concealment was so egregious that Commissioner Ray noted during the April
17 28, 2026 meeting that even she was entirely unaware of the public inspection process until she
18 reached out to a third party source about the issue.

19 13. The way in which the School Board described an agenda item relating to the same
20 ethnic studies curriculum in the past highlights the legal infirmities of the April 28, 2026 agenda.
21 At its July 29, 2025 meeting, the School Board voted to purchase Voices as an ethnic studies
22 "pilot" curriculum. In stark contrast to the agenda item at the center of this action, the ethnic
23 studies pilot curriculum item which appeared on the July 29, 2025 agenda was clearly described as
24 "Purchase of Ethnic Studies Pilot Curriculum," and was accompanied by additional background
25 information explaining that the item concerned the "[p]urchase and delivery of the Voices
26 Curriculum Instructional Materials, including digital and print teacher materials." A copy of the
27 relevant portion of the School Board's July 29, 2025 regular meeting agenda is attached hereto as
28 Exhibit C.

1 14. On May 28, 2026, Petitioner Friends of Lowell Foundation sent a timely and
2 legally-compliant “cure-and-correct” letter (*see* Cal. Govt. Code section 54960.1 & School Board
3 Rule 9323.2), via email and U.S. Mail, to School Board President Phil Kim, School Board Vice
4 President Jamie Huling and Superintendent Maria Su, clearly describing the Brown Act violations
5 and demanding that the School Board immediately rescind its adoption of the Ethnic Studies
6 Curriculum for the reasons set forth in the letter. A copy of this cure-and-correct letter is attached
7 hereto as Exhibit D.

8 15. To date, neither the School Board nor any of the other Respondents have responded
9 to the cure-and-correct letter and the School Board has not taken action to rescind its adoption of
10 the Ethnic Studies Curriculum. Petitioner’s rights to bring this action therefore have ripened. (Cal.
11 Govt. Code section 54960.1 & School Board Rule 9323.2.)

12 **III. JURISDICTION AND VENUE**

13 16. Pursuant to CCP sections 526, 526a, 527, 1060, 1085 and 1087, and California
14 Government Code sections 54960 and 54960.1, and as confirmed in SFUSD Board Rule and
15 Procedure 9323.2, this Court has jurisdiction to issue a writ of mandate and the declaratory and
16 other relief requested herein.

17 17. Venue is proper in San Francisco Superior Court because the parties are conducting
18 business in, and the acts complained of herein took place in, the City and County of San
19 Francisco.

20 18. Petitioner Friends of Lowell Foundation has complied with the requirements of
21 Government Code section 54960.1 by delivering a letter to the Board on May 28, 2026, within
22 30 days of the School Board’s April 28, 2026 vote on the Ethics Studies Curriculum, outlining the
23 Brown Act violations and demanding that the School Board either cure or correct such violations.

24 19. Any and all necessary conditions precedent to filing this action, including
25 commencing this action within 15 days of the expiration of the cure and correct period and
26 exhausting any and all available administrative remedies to the extent required by law, have been
27 satisfied.

28 20. Petitioners have no plain, speedy or adequate remedy in the ordinary course of law,

1 unless this Court grants the requested writ of mandate or other appropriate relief to require
2 Respondents to set aside the School Board's actions taken in violation of the Brown Act, the
3 School Board's own Rules and Procedures, and the School Board's ministerial duties. In the
4 absence of such remedy, the School Board's adoption of the Ethnic Studies Curriculum will
5 remain in effect in violation of law.

6 **IV. PARTIES**

7 21. Petitioner Friends of Lowell Foundation is a registered section 501(c)(3) non-profit
8 corporation organized and existing under the laws of the State of Delaware, is qualified to do
9 business in the State of California, and maintains its principal office in California. Its Board of
10 Directors and its general membership include natural persons who are citizens of the state of
11 California. As part of its mission, the Friends of Lowell Foundation vigorously advocates for
12 transparency and accountability in public education and works to advance educational
13 opportunities for all in San Francisco. The Friends of Lowell Foundation often participates in
14 School Board meetings in pursuit of its mission and on behalf of its members.

15 22. Petitioner Asian American Legal Foundation is a registered section 501(c)(3) non-
16 profit corporation organized and existing under the laws of the State of California, founded to
17 protect and promote the civil rights of Asian Americans, and dedicated to the principle that
18 Americans of all races and ethnicities have the right to be treated as individuals, free of
19 discrimination. Its Board of Directors and its general membership include natural persons who are
20 citizens of the state of California.

21 23. Petitioner Californians for Equal Rights Foundation is a registered
22 section 501(c)(3) non-profit corporation organized and existing under the laws of the State of
23 California, founded to safeguard and advance the cause of equal rights and the constitutional
24 guarantee of equal protection for Californians by promoting community education, civic
25 engagement and public advocacy. Its Board of Directors and its general membership include
26 natural persons who are citizens of the state of California.

27 24. Connected SF is a registered section 501(c)(4) non-profit corporation organized
28 and existing under the laws of the State of California, founded to promote informed public

participation in local government by supporting neighborhood groups throughout San Francisco, monitoring and educating San Francisco residents about local government proceedings and policies, and organizing and empowering residents to engage with local officials and to participate in matters affecting their communities. Its Board of Directors and its general membership include natural persons who are citizens of the state of California.

25. Respondent School Board is the governing board of the SFUSD and is a legislative body within the meaning of Government Code Section 54952. The School Board determines policy for all public schools in SFUSD.

26. Respondent SFUSD is a local education agency in San Francisco, organized and existing under the Constitution and laws of the State of California, which operates all public schools in San Francisco. SFUSD is a local agency within the meaning of Government Code section 54951. It is not a department or agency of the City and County of San Francisco.

27. Respondent Maria Su is the Superintendent of the SFUSD and is sued herein in her official capacity.

28. DOE Respondents 1-50, upon information and belief, are, in addition to the named Respondents, responsible for some or all of the Brown Act and other violations of law alleged herein. The true names and capacities of the Respondents sued as Does are unknown to Petitioner at the present time. The DOE Respondents were the agents or employees of some or all of the named Respondents and, at all relevant times, acted within the scope of that agency or employment. When Petitioner ascertains the names and capacities of the DOE Respondents, they will seek to amend this Petition/Complaint to insert such names in place of the DOE names.

FIRST CAUSE OF ACTION

WRIT OF MANDATE (CAL. GOVT. CODE SECTION 54960.1 & CCP SECTION 1085) –

VIOLATION OF CAL. GOVT. CODE SECTION 54954.2

(AGAINST ALL RESPONDENTS)

29. Petitioners incorporate by reference the allegations contained in paragraphs 1 through 28 as if those allegations were fully set forth in this cause of action.

30. For more than half a century, it has been the policy of the State of California that

1 public commissions, boards and councils and the other public agencies in this State exist to aid in
2 the conduct of the people's business. As codified in the Brown Act, "it is the intent of the law that
3 [public agencies'] actions be taken openly and that their deliberations be conducted openly." (Cal.
4 Govt. Code section 54950.)

5 31. These principles are enshrined in our state Constitution, which commands each
6 local agency in this state to comply with the Brown Act. (Cal. Const, Art. I, section 3(b)(7).)

7 32. To further the process of public participation in government and to curb misuse of
8 the democratic process by secret legislation, the Brown Act requires that at least 72 hours before a
9 regular meeting, a legislative body must post an agenda containing "a brief general description of
10 each item of business to be transacted or discussed at the meeting." (Cal. Govt. Code
11 section 54954.2.) Unless one of few narrow exceptions apply, "[n]o action or discussion shall be
12 undertaken on any item not appearing on the posted agenda." (*Id.*)

13 33. Respondents violated the Brown Act by failing to properly list in the agenda for the
14 April 28, 2026 meeting the actions to be taken at that meeting and then later taking action on an
15 item of business which was not properly listed in the agenda. Specifically, the description for the
16 relevant agenda item – item number G-1 – read, "Instructional Materials Adoption: Elementary
17 and High School History/Social Studies Curriculum." The actual School Board action involved
18 reviewing and approving a controversial curriculum for a specific ethnic studies course.

19 34. The agenda description did not include any information about "ethnic studies" and
20 therefore gave no indication to the public that the District, in addition to adopting its broader,
21 comprehensive K-12 history/social studies curriculum, would also be adopting a new permanent
22 ethnic studies curriculum for a specific course for all ninth grade students.

23 35. By way of comparison, when the School Board voted to purchase its ethnic studies
24 pilot curriculum on July 29, 2025, the agenda description read, "Purchase of Ethnic Studies Pilot
25 Curriculum" and the "Background" section of the agenda stated "Purchase and delivery of the
26 Voices Curriculum Instructional Materials, including digital and print teacher materials."

27 36. In contrast, the April 28, 2026 agenda's "Background" section provided absolutely
28 no indication that the item was related in any way to the adoption of a new ethnic studies

1 curriculum or that the School Board would in fact be voting to adopt the Voices curriculum as the
2 District's permanent curriculum. The Background section did not even mention the term "ethnic
3 studies."

4 37. Respondents violated the Brown Act when the School Board voted to adopt the
5 Ethnic Studies Curriculum without providing an adequate description of the item on the April 28,
6 2026 agenda. (Cal. Govt. Code section 54954.2.)

7 38. Respondents violated the Brown Act when the School Board voted to adopt the
8 Ethnic Studies Curriculum when no such item appeared on the April 28, 2026 agenda. (Cal. Govt.
9 Code section 54954.2.)

10 39. Petitioner Friends of Lowell Foundation has complied with the requirements of
11 Government Code section 54960.1 by delivering a letter to the Board on May 28, 2026, within
12 30 days of the School Board's April 28, 2026 vote on the Ethics Studies Curriculum, outlining the
13 Brown Act violations and demanding that the School Board cure or correct such violations. The
14 School Board failed to take any action to cure or correct its Brown Act violations in response to
15 the letter and the 30-day period to cure or correct has expired.

16 40. Petitioners have been harmed as a result of Respondents' violations of the Brown
17 Act because their organizations, their Directors and individual members, and other taxpaying
18 members of the general public were not given proper notice of the actions to be taken at the
19 meeting and were therefore denied the opportunity to prepare and provide meaningful comments
20 to the School Board on April 28, 2026, to their prejudice. If the Court allows the School Board's
21 action to adopt the Ethnic Studies Curriculum to remain in place, Petitioners will be irreparably
22 harmed, because they, and others similarly situated, were deprived of proper Brown Act notice
23 and opportunity to be heard.

24 41. Petitioners have a general, direct and beneficial interest in the issuance of a writ of
25 mandate, because their organizations, their Directors and individual members, and other taxpaying
26 members of the general public were not given proper notice of the actions to be taken at the
27 meeting and were therefore denied the opportunity to prepare and provide meaningful comments
28 to the School Board on April 28, 2026.

42. Petitioners do not have a plain, speedy and adequate remedy at law. Petitioners' only legal means of redress is the relief being requested of this Court.

SECOND CAUSE OF ACTION

**WRIT OF MANDATE (CCP SECTION 1085) – VIOLATIONS OF SCHOOL BOARD
RULES AND PROCEDURES 9320, 9322, 9323 & 6161.1
(AGAINST ALL RESPONDENTS)**

43. Petitioners incorporate by reference the allegations contained in paragraphs 1 through 42 as if those allegations were fully set forth in this cause of action.

44. Respondents have a clear, present and ministerial duty to comply with the law and their own School Board Rules and Procedures.

45. Respondents failed to comply with their duties under School Board Rule and Procedure 9320, which states "All meetings shall be conducted in accordance with law and the Board's rules and procedures, policies, administrative regulations, and exhibits."

46. Respondents also failed to comply with their duties under School Board Rule and Procedure 9322, which states: "Board of Education meeting agendas shall state the meeting time and place and shall briefly describe each business item to be transacted or discussed, including items to be discussed in closed session."

47. Respondents also failed to comply with their duties under School Board Rule and Procedure 9323, which states "All Board of Education meetings shall begin on time and shall be guided by an agenda prepared in accordance with Board Rules and Procedures and posted and distributed in accordance with the Ralph M. Brown Act (open meeting requirements) and other applicable laws." (Emphasis in original.)

48. Respondents also failed to comply with their duties under School Board Rule and Procedure 6161.1, which states "All recommended instructional materials shall be available for public inspection at the district office."

49. By failing to provide an adequate description of the School Board's action to approve the Ethnic Studies Curriculum on the April 28, 2026 agenda and thereafter voting to approve the Ethnic Studies Curriculum, Respondents violated the Brown Act and their own

1 School Board Rules and Procedures.

2 50. By failing to make the recommended Ethnic Studies Curriculum available for
3 public inspection, Respondents violated the Brown Act and their own School Board Rules and
4 Procedures.

5 51. Accordingly, Respondents have breached and continue to breach their legal duties
6 under their own School Board Rules and Procedures governing their affairs.

7 52. Respondents' failure to provide adequate notice of the proposed action and
8 meaningful public access to the curriculum prevented Petitioners from timely reviewing and
9 evaluating the Ethnic Studies Curriculum and presenting informed comments to the School Board
10 before it voted to adopt the curriculum. Petitioners therefore have a general, direct, and beneficial
11 interest in ensuring that SFUSD and the School Board fulfill their legal obligations, including
12 following their own Rules and Procedures.

13 53. Petitioners do not have a plain, speedy and adequate remedy at law. Petitioners'
14 only legal means of redress is the relief being requested of this Court.

15 **THIRD CAUSE OF ACTION**

16 **(DECLARATORY RELIEF — CCP SECTIONS 526(A) & 1060)**

17 **(AGAINST ALL RESPONDENTS)**

18 54. Petitioners incorporate by reference the allegations contained in paragraphs 1
19 through 53 as if those allegations were fully set forth in this cause of action.

20 55. An actual controversy exists between Petitioners and Respondents as to whether the
21 School Board must rescind its adoption of the Ethnic Studies Curriculum. Respondents were
22 asked to take such action in a timely manner, but Respondents have not provided any response to
23 the May 28, 2026 cure-and-correct letter.

24 56. Petitioners request a judicial determination that the School Board's action to adopt
25 the Ethnic Studies Curriculum is null and void.

26 57. This determination is necessary and proper because Respondents are refusing to do
27 what is required by the Brown Act, the School Board's own Rules and Procedures, the California
28 Constitution, and other applicable legal authorities.

PRAYER

WHEREFORE, Petitioners pray for judgment as follows:

1. For a Writ of Mandate to be issued under CCP section 1085 and Government Code section 54960.1, under the seal of this Court, determining Respondents' action to adopt the Ethnic Studies Curriculum to be null and void and ordering Respondents to repeal the adoption of the Ethnic Studies Curriculum.

2. For a declaration that Respondents' action to adopt the Ethnic Studies Curriculum taken on April 28, 2026 is null and void, due to the School Board's violations of the Brown Act, Article I, section 3(b)(7) of the California Constitution, and School Board Rules and Procedures 9320, 9322, 9323 and 6161.1.

3. For a stay, and preliminary and permanent injunctions, restraining the District and the School Board and their agents, employees, officers, and representatives from undertaking any activity to implement the Ethnic Studies Curriculum;

4. For costs of suit;

5. For attorneys' fees as authorized by California Government Code section 54960.5 and CCP section 1021.5; and

6. For such other and further relief as the Court deems just and proper.

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1 Dated: 9-1-2026

RUTAN & TUCKER, LLP
JAMES R. SUTTON
NICK GERMAIN

2
3 By: James R. Sutton
4 James R. Sutton
5 Attorneys for Petitioners and Plaintiffs
6 FRIENDS OF LOWELL FOUNDATION;
7 ASIAN AMERICAN LEGAL
8 FOUNDATION; CALIFORNIANS FOR
9 EQUAL RIGHTS FOUNDATION; and
10 CONNECTED SF

11 Dated: 9.1.2026

LAW OFFICE OF CHRISTINE A.
LINNENBACH
CHRISTINE A. LINNENBACH

12 By: Christine A. Linnenbach
13 Christine A. Linnenbach
14 Attorneys for Petitioners and Plaintiffs
15 FRIENDS OF LOWELL FOUNDATION;
16 ASIAN AMERICAN LEGAL
17 FOUNDATION; CALIFORNIANS FOR
18 EQUAL RIGHTS FOUNDATION; and
19 CONNECTED SF
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VERIFICATION

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I, Christine Linnenbach, am President of, and co-counsel for, the Friends of Lowell Foundation, a Petitioner and Plaintiff in the above-entitled action.

I have read the foregoing First Amended Petition and Complaint and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe them to be true.

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

Executed on September 1, 2026 at San Francisco, California.

By: _____


Christine Linnenbach

VERIFICATION

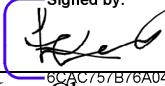
STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I, Lee Cheng, am Secretary for the Asian American Legal Foundation, a Petitioner and Plaintiff in the above-entitled action.

I have read the foregoing First Amended Petition and Complaint and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe them to be true.

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

Executed on this September 2, 2026 at Santa Ana, California.

Signed by:
By: 
6C4C757B76A04E4...
Lee Cheng

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I, Wenyuan Wu, am Executive Director for the Californians For Equal Rights Foundation,
a Petitioner and Plaintiff in the above-entitled action.

I have read the foregoing First Amended Petition and Complaint and know the contents
thereof. The same is true of my own knowledge, except as to those matters which are therein
alleged on information and belief, and as to those matters, I believe them to be true.

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

Executed on this August 26, 2026 at Monroe County, GA.

By: Wenyuan Wu
Wenyuan Wu

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I, Marie Hurabiell, am Founder and Executive Director for Connected SF, a Petitioner and Plaintiff in the above-entitled action.

I have read the foregoing First Amended Petition and Complaint and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe them to be true.

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

Executed on this August 28, 2026 at San Francisco, California.

By: _____

Marie Hurabiell

Exhibit A

Prepared by
Court

FILED
San Francisco County Superior Court

NOV 18 2021

CLERK OF THE COURT
BY: [Signature] Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN FRANCISCO

FRIENDS OF LOWELL FOUNDATION;
LOWELL ALUMNI ASSOCIATION; and
ASIAN AMERICAN LEGAL FOUNDATION,

Petitioners and Plaintiffs,

v.

SAN FRANCISCO BOARD OF EDUCATION;
SAN FRANCISCO UNIFIED SCHOOL
DISTRICT; VINCENT MATTHEWS in his
official capacity as San Francisco Superintendent
of School; and DOES 1 - 50, inclusive,

Respondents and Defendants.

Case No. CPF-21-517445

**ORDER GRANTING IN PART
PETITION FOR WRIT OF
MANDATE AND RELATED RELIEF**

Date: November 17, 2021
Time: 9:30 a.m.
Dept.: 302

1 On November 18, 2021, the petition for writ of mandate, injunction and/or declaratory
2 relief of Petitioners and Plaintiffs Friends of Lowell Foundation, Lowell Alumni Association,
3 and Asian American Legal Foundation came on regularly for hearing. All parties appeared
4 through their counsel of record. Having read the petition, the memoranda and declarations filed
5 by the parties, and having heard arguments of counsel, and good cause appearing therefor, the
6 Court orders as follows:

7 Petitioners challenge an action by the San Francisco Board of Education (“Board”) at its
8 February 9, 2021 meeting enacting Resolution 212-2A1 (the “Resolution”), by which the Board
9 rescinded the merits-based admission policy applicable to Lowell High School (“Lowell”), as
10 well as certain other related actions by the Board. Petitioners’ primary claim is that the Board
11 violated the Ralph M. Brown Act, Gov’t Code § 54950 *et seq.*, California’s open meetings law,
12 in the title and description of the February 9, 2021 agenda item by which the Board enacted the
13 Resolution. Because the Court finds that claim to be meritorious, it need not reach any of
14 Petitioners’ other claims, except to the extent that they affect the relief to be granted for that
15 violation.¹

16
17 **I. Respondent Violated The Brown Act By Failing To Post an Agenda
Containing A Minimally Adequate Description of the Resolution.**

18 The California Constitution provides that “[i]n order to ensure public access to the
19 meetings of public bodies and the writings of public officials and agencies,” each local agency
20 is required to comply with the Ralph M. Brown Act. (Cal. Const., art. I, § 3(b)(7).) The Brown
21 Act, enacted in 1953, “was adopted to ensure the public’s right to attend the meetings of public
22 agencies.” (*Freedom Newspapers, Inc. v. Orange County Employees Retirement System Board
23 of Directors* (1993) 6 Cal.4th 821, 823.) In enacting the Act, the Legislature found that “the

24
25 ¹ At the threshold, the Board argues that the Court should deny the motion because Petitioners did
26 not serve it on the minimum required statutory notice. (Opp. at 5:20-6:4.) However, the Board
27 filed a full opposition on the merits, has not sought a continuance of the hearing on the motion,
28 and makes no showing it was prejudiced by the one-day shortfall. Assuming Respondents appear
at the hearing, their objection will be considered to have been waived. (See *Reedy v. Bussell*
(2007) 148 Cal.App.4th 1272, 1288-1289.)

1 public commissions, boards and councils and the other public agencies in this State exist to aid
2 in the conduct of the people's business. It is the intent of the law that their actions be taken
3 openly and that their deliberations be conducted openly.” (Gov. Code § 54950.)² In particular:

4 The Act is intended to ensure that the deliberations and actions of the governing bodies
5 of local agencies are open and public and that provision is made for meaningful public
6 access to their decisionmaking. To that end, the Act requires the meetings of such
7 bodies to be open to the public, held on a regular schedule, and conducted in accordance
8 with an agenda available in advance of the meeting. Conversely, the Act prohibits
action on items not placed on the agenda and severely restricts the type of actions such
bodies can take in private session.

9 (*Olson v. Hornbrook Community Services Dist.* (2019) 33 Cal.App.5th 502, 519 (citations
10 omitted).) “The Act thus serves to facilitate public participation in all phases of local
11 government decisionmaking and to curb misuse of the democratic process by secret legislation
12 of public bodies.” (*Id.*; *Cohan v. City of Thousand Oaks* (1994) 309 Cal.App.4th 547, 555.) As
13 a remedial statute, “the Brown Act should be construed liberally in favor of openness so as to
14 accomplish its purpose and suppress the mischief at which it is directed.” (*International*
15 *Longshoremen’s and Warehousemen’s Union v. Los Angeles Export Terminal, Inc.* (1999) 69
16 Cal.App.4th 287, 294.)³

17 “To achieve these aims, the Act requires, inter alia, that an agenda be posted at least 72
18 hours before a regular meeting and forbids action on any item not on that agenda.” (*Id.* at 293.)
19 Government Code section 54954.2 provides in pertinent part that “[a]t least 72 hours before a
20 regular meeting, the legislative body of the local agency . . . shall post an agenda containing a
21 brief general description of each item of business to be transacted or discussed at the meeting,
22 including items to be discussed in closed session. A brief general description of an item
23 generally need not exceed 20 words.” (§ 54954.2(a)(1).) An agency that fails to provide in its
24

25 ² Unless otherwise indicated, all statutory references in this order are to the Government Code.

26 ³ The Brown Act applies to the legislative bodies of local agencies, which are defined to include
27 counties, cities, school districts, and other public agencies. (§§ 54951, 54952.) It is undisputed
28 that the Board of Education is the District’s governing body and is subject to the Act.

1 agenda the required “brief general description” of an item of business cannot discuss that item at
2 the meeting, except in a few limited situations that do not apply here. (§ 54954.2(a)(3)).⁴ This
3 requirement serves an important purpose under the Act: “agenda drafters must give the public a
4 fair chance to participate in matters of particular or general concern by providing the public with
5 more than mere clues from which they must then guess or surmise the essential nature of the
6 business to be considered by a local agency.” (*Olson*, 33 Cal.App.5th at 519 (citation and
7 quotations omitted).)

8 Here, the District plainly failed to comply with this requirement. The agenda for its
9 February 2, 2021 meeting contained only the title of the Resolution—“In Response to Ongoing,
10 Systemic Racism at Lowell High School”—and the names of its proponents. (Sutton Decl., Ex.
11 4.) The “Background” section of that agenda item said only that “Resolution No. 212-2A1 is
12 being introduced by the Board of Education at this Special Meeting and intends to take action to
13 [sic] the resolution at the Regular Meeting of February 9, 2021.” (*Id.*) Likewise, the agenda
14 item for the Board’s February 9, 2021 meeting contained the same subject title and a similarly
15 uninformative “Background” description: “Resolution No. 212-2A1 was introduced by the
16 Board of Education at the Special Meeting held on February 2, 2021 and will take action on the
17 resolution at the Regular Meeting of February 9, 2021.” (*Id.*, Ex. 7.) Neither the vague title of
18 the Resolution nor the Background text provided *any* description of the item of business to be
19 transacted or discussed by the Board—*i.e.*, the elimination of Lowell’s merit-based admissions
20 process.

21 The District’s contention that it satisfied the statutory requirement by including the
22 proposed Resolution in the agenda packets for the two meetings (“Collins Lowell 2_Feb

23 ⁴ Section 54954.2(a)(3) [“members of a legislative body or its staff may briefly respond to
24 statements made or questions posed by persons exercising their public testimony rights under
25 Section 54954.3”]; *id.* § 54954.2(b) [““a determination by a majority vote of the legislative body
26 that an emergency situation exists, as defined in Section 54956.5”; “a determination by a two-
27 thirds vote of the members of the legislative body present at the meeting . . . that there is a need to
28 take immediate action and that the need for action came to the attention of the local agency
subsequent to the agenda being posted as specified in subdivision (a)”]; and “[t]he item was posted
pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than
five calendar days prior to the date action is taken on the item, and at the prior meeting the item
was continued to the meeting at which action is being taken.”].)

2021.pdf”) is groundless. The plain language of section 54954.2 provides that the required brief general description of each item of business to be transacted or discussed at the meeting must be contained *in the agenda itself*, not buried in the lengthy agenda packet. Thus, “No action or discussion shall be undertaken on any item *not appearing on the posted agenda*.” (§ 54954.2(a)(3) (emphasis added).) Likewise, section 54954.3 requires that every agenda for regular meetings “shall provide an opportunity for members of the public to directly address the legislative body of any item of interest to the public . . . , provided that no action shall be taken on any item *not appearing on the agenda* unless the action is otherwise authorized by subdivision (b) of Section 54954.2.” (§ 54954.3(a) (emphasis added); see also § 54954.2(b) [listing the circumstances in which, notwithstanding subdivision (a), “the legislative body may take action on items of business not appearing on the posted agenda”]; § 54954.5 [for purposes of describing closed session items, “the agenda may describe closed sessions as provided below”].) This unambiguous statutory language means that “notice of the essential nature of the matter an agency will consider” must be “disclosed in the agency’s agenda.” (*San Diegans for Open Government v. City of Oceanside* (2016) 4 Cal.App.5th 637, 644.)⁵ The vague title of the Resolution in the Board’s agendas (“In Response to Ongoing, Systemic Racism at Lowell High School”) failed entirely to provide the required “brief general description” of the item of business to be acted on by the Board, and violated the statutory objective that the Board “provid[e] the public with more than mere clues from which they must then guess or surmise the essential nature of the business to be considered by a local agency.”⁶

Where, as here, an agency fails to comply with the statutory requirement that the agenda contain “a brief general description of each item of business” to be discussed at the meeting, it

⁵ See also California Practice Guide: Administrative Law ¶ 28:131 (The Rutter Guide 2021) [“The agenda item should not be phrased too narrowly or broadly. For example, an agenda that states ‘speed bumps will be discussed’ might be too narrow to permit discussion of alternative traffic claiming measures. And an agenda that states ‘traffic issues will be discussed’ might be too broad to provide sufficient warning to the public that speed bumps would be discussed.”].

⁶ The uninformative title of the attachment itself (“Collins Lowell 2 Feb 2021.pdf”) provided no clue to the public as to the subject of the resolution, other than that it concerned Lowell High School and was introduced or co-authored by Commissioner Collins.

1 violates the Brown Act. Thus, in *Moreno v. City of King* (2005) 127 Cal.App.4th 17, although a
2 city was considering taking disciplinary action against its finance director, including possible
3 termination, its agenda item merely stated that in closed session the city would consider: “Per
4 Government Code Section 54957: Public Employee (employment contract).” (*Id.* at 21.) The
5 court found this agenda item violated section 54954.2 because it failed to give notice to the
6 public that the council was considering disciplining or terminating the finance director: “The
7 agenda’s description provided no clue that the dismissal of a public employee would be
8 discussed at the meeting.” (*Id.* at 27.) Moreover, the city could have readily avoided the
9 violation: “an agenda that said simply ‘Public Employee Dismissal’ would have provided
10 adequate public notice of a closed session at which the council would consider [the finance
11 director’s] dismissal.” (*Id.*)

12 Similarly, in applying an analogous provision of the Education Code,⁷ the court in
13 *Carlson v. Paradise Unified Sch. Dist.* (1971) 18 Cal.App.3d 196, found that an agenda which
14 stated that a local board of education would consider a “[c]ontinuation school site change” did
15 not permit the board to decide to close an elementary school and move the continuation school
16 to the site of the elementary school. In language that could as well have been written about the
17 instant case, the court stated:

18 Decisions of local governing bodies of school districts may directly affect parents and
19 teachers alike, as well as the students themselves. Thus, it is imperative that the agenda
20 of the board’s business be made public and in some detail so that the general public can
21 ascertain the nature of such business. It is a well-known fact that public meetings of
22 local governing bodies are sparsely attended by the public at large *unless* an issue vitally
affecting their interests is to be heard. To alert the general public to such issues,
adequate notice is a requisite.

23 (*Id.* at 199-200.) The agenda item’s reference to “continuation school site change” was
24 “entirely inadequate notice to a citizenry which may have been concerned over a school

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26 ⁷ *Carlson* involved former Education Code section 966, which dealt with the adequacy of school
27 board notices, and provided that “[a] list of items that will constitute the agenda for all regular
28 meetings shall be posted at a place where parents and teachers may view the same at least 48
hours prior to the time of said regular meeting.” (18 Cal.App.3d at 199.)

1 closure.” (*Id.* at 200.)⁸ The agenda item was “entirely misleading and inadequate to show the
2 whole scope of the board’s intended plans. It would have taken relatively little effort to add to
3 the agenda that this ‘school site change’ also included the discontinuance of elementary
4 education [at one school] and the transfer of those students to [another school].” (*Id.*) So, too,
5 here: the agenda item titled “In Response to Ongoing, Systemic Racism at Lowell High School”
6 was entirely inadequate notice to parents and others that the Board was considering eliminating
7 Lowell’s merit-based admissions policy.

8 Several other cases support the same conclusion: where an agency’s agenda item is
9 incomplete or misleading, it violates the Act. (See, e.g., *Sierra Watch v. Placer County* (2021)
10 69 Cal.App.5th 1, 5 [agenda that informed the public that county board of supervisors would
11 consider approving a development agreement that its planning commission had recommended
12 was misleading, where board instead considered and then approved a materially revised
13 agreement]; *Olson v. Hornbrook Community Services Dist.*, 33 Cal.App.5th 502, 521 [agenda
14 describing meeting business as to “[a]pprove bills and authorize signatures” on warrant
15 authorization form for nine specified payments was insufficient to comply with requirement that
16 agenda describe items of business to be transacted or discussed, where agenda failed to
17 communicate that payments at issue were regular monthly payments or that they were part of
18 bills received the previous month]; *Hernandez v. Town of Apple Valley* (2017) 7 Cal.App.5th
19 194, 200, 207-209 [agenda item posted by town which stated only “Wal-Mart Initiative
20 Measure” and “Provide information to staff” was insufficient where it did not include notice that
21 town council was considering approving a memorandum of understanding authorizing

22
23 ⁸ As the California Supreme Court explained, the item “continuation school site change” “would
24 have in no way notified parents of children attending Canyon View Elementary School that their
25 children would be affected by such action and certainly would not have warned them that the
26 school might be closed. It gave fair notice to parents of continuation school students as to
27 impending changes and to people generally concerned about financial expenditures and priorities.
28 However, the item in no way warned Canyon View Elementary School parents that their interests
might be vitally affected.” (*Santa Barbara School Dist. v. Superior Court* (1975) 13 Cal.3d 315,
334.) In *Santa Barbara School Dist.*, the Court similarly held that once a board of education
posted an agenda stating that it would adopt one of the specific school desegregation plans
presented at an earlier meeting, “it thereby limited its power to consider any other substantially
different plan since otherwise the posted agenda would be fatally misleading.” (*Id.* at 336.)

1 acceptance of a gift from Walmart to pay for the special election to pass the initiative measure
2 discussed]; *San Joaquin Raptor Rescue Center v. County of Merced* (2013) 216 Cal.App.4th
3 1167, 1170, 1176-1177 [agenda description stating that planning commission would potentially
4 approve subdivision application was lacking where it failed to mention the commission would
5 also consider whether to adopt a mitigated negative declaration concerning the environmental
6 impact of the project].)

7 Just as in these cases, “the Brown Act was violated in this case because the [Board] took
8 action on the [Resolution rescinding Lowell High School’s merit-based admissions process]
9 when that matter was not expressly disclosed on the meeting agenda.” (*San Joaquin Raptor*
10 *Rescue Center*, 216 Cal.App.4th at 1170.) Notably, it would have taken relatively little effort to
11 add to the agenda a brief phrase disclosing that item—just as the Board had done only months
12 earlier, in October 2020, when it temporarily suspended Lowell’s merit-based admissions policy
13 due to the COVID-19 pandemic. (See Sutton Decl., Ex. 6 [“Approve Superintendent’s
14 Resolution to Adopt an Interim Lowell Admissions Policy for the 2021-22 School Year”;
15 Background states in part, “”This Resolution suspends Board Policy 5120.1 for the 2021-2022
16 admissions cycle and replaces the Lowell High School admissions process with the general
17 comprehensive high school admissions process described in Board Policy 5101.”].) The Board
18 could have readily complied with the Act, and it knew how to do so, but it did not.

19 II. The Appropriate Remedy for the Board’s Violation of the Act.

20 Having found that the Board violated the Brown Act, the Court must determine the relief
21 appropriate for that violation. Petitioners seek an order of this Court (1) rescinding the
22 Resolution; (2) returning Lowell to its prior status as an academic high school with merit-based
23 admissions; (3) terminating the District’s contracts with the University of Kentucky; and (4)
24 terminating the Equity Audit Committee. (Memo. at 6:13-17; Reply at 9:3-7; Proposed Order.)
25 The Court addresses each request in turn.
26
27
28

1 **A. The Court Will Issue A Writ Of Mandate And Declaratory Relief**
2 **Determining That The Board's Actions Are Null And Void And**
3 **Directing The Board to Set Aside Resolution No. 212-2A1.**

4 Under the Brown Act, "any interested person may commence an action by mandamus or
5 injunction for the purpose of obtaining a judicial determination that an action taken by a
6 legislative body of a local agency in violation of" specified provisions of the Act including
7 section 54954.2 is "null and void." (§ 54960.1(a).) In addition, "any interested person may
8 commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping
9 or preventing violations or threatened violations of this chapter by members of the legislative
10 body of a local agency or to determine the applicability of this chapter to past actions of the
11 legislative body." (*Id.* § 54960(a).)

12 Thus, the Brown Act authorizes a court to find null and void an action taken in violation
13 of section 54954.2. Such relief is routinely granted. (See, e.g., *Hernandez*, 7 Cal.App.5th at
14 209 ["Town's action of putting the Initiative on the ballot was properly found null and void by
15 the trial court as the Town council's decision to put the Initiative on the ballot was made in
16 violation of the Ralph M. Brown Act."]; *Moreno*, 127 Cal.App.4th at 23 [affirming order
17 declaring city's action terminating finance director null and void and ordering city to reinstate
18 him and judgment awarding monetary damages, costs, and attorney's fees]; *Carlson*, 18
19 Cal.App.3d at 200 [affirming preliminary injunction restraining defendant school board from
20 implementing its decision to discontinue elementary education at a specified school].) Where, as
21 here, the parties dispute whether the public agency complied with the Brown Act, declaratory
22 relief is also warranted. (*California Alliance for Utility Safety and Education v. City of San*
23 *Diego* (1997) 56 Cal.App.4th 1024, 1030 ["Thus there can be no serious dispute that a
24 controversy between the parties exists over city's past compliance with the Brown Act and the
25 charter. On that basis alone plaintiffs are entitled to declaratory relief resolving the
26 controversy."].)

1 Other than where an agency has substantially complied with the Act (which Respondents
2 did not),⁹ the only other situation in which courts decline to order such relief is where the
3 petitioner does not show that it was prejudiced. “Even where a plaintiff has satisfied the
4 threshold procedural requirements to set aside an agency’s decision, Brown Act violations will
5 not necessarily invalidate a decision. [Petitioners] must show prejudice.” (*San Lorenzo Valley*
6 *Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.*
7 (2006) 139 Cal.App.4th 1356, 1410 (citation and quotations omitted); see, e.g., *Galbiso v. Orosi*
8 *Public Utility Dist.* (2010) 182 Cal.App.4th 652, 671 [finding a plaintiff was not prejudiced by
9 an agency’s alleged violation of the Brown Act because the plaintiff already had a fair
10 opportunity to state her position].)¹⁰ While Respondents do not explicitly argue that Petitioners
11 were not prejudiced by the Board’s violation of the Act, they point out that a number of
12 members of the public were aware of the subject of the Resolution because they appeared to
13 comment on it at the February 2 and February 9 meetings. (Opp. at 9:26-10:2.) However,
14 Petitioners present several declarations of persons who testify that they would have participated
15 in the meetings, had the meeting notices and agendas provided notice of the matters to be
16 considered and acted on by the Board. (Yap Decl. ¶¶ 7-9, 13; Valdez Decl. ¶¶ 6-8, 12; Hsu
17 Decl. ¶ 10; Ballard Decl.) That showing is sufficient to establish prejudice.

18 Respondents insist that “the Court should not require the District to return Lowell to
19 academic-based admissions for the 2022-2023 academic year because the admissions process
20 for next year has already begun and it would be impracticable—not to mention unfair to
21 students and their families—to change the process at this point.” (Opp. at 12:24-28.) Rather,

22
23 ⁹ An action taken by an agency’s legislative body shall not be determined to be null and void if,
24 among other things, the action taken was in “substantial compliance” with the statute violated. (§
25 54960.1(d)(1).) Respondents do not contend that the Board’s action substantially complied with
26 section 54945.2. Nor could they. “Substantial compliance . . . means actual compliance in
respect to the substance essential to every reasonable objective of the statute.” (*Olson*, 39
Cal.App.5th at 519 (citation and quotations omitted).) As discussed above, the language of the
agenda did not give the public even a “clue” that the Board was considering eliminating Lowell’s
merit-based admissions policy.

27 ¹⁰ This is a prerequisite to relief on the merits, not a pleading requirement. (*New Livable*
28 *California v. Association of Bay Area Governments* (2020) 59 Cal.App.5th 709, 714-715.)

1 Respondents argue that the Court should “exercise its discretion” to fashion an “equitable
2 remedy” that would not require an immediate return to academic-based admissions. (*Id.* at
3 17:18-22.) However, Respondents do not cite any authority to support their contention that a
4 court has discretion to refuse to grant relief for a violation of the Brown Act merely because it
5 would be difficult for the agency to comply with its order. Nor do they provide so much as a
6 hint as to what such a remedy would consist of.

7 Petitioners contest Respondents’ contention that it would be impracticable in the time
8 remaining for the District to comply with an order returning Lowell to a merits-based admission
9 policy, which they challenge as unsupported “hyperbole.” (Reply at 9:17-11:13.) The Court
10 need not resolve those disputed factual contentions, however, because as discussed below, the
11 Court is not directly ordering the District to reinstate its prior admissions policy; rather, it is
12 finding the Resolution null and void. It is up to the Board how it wishes to proceed, which may
13 include the option of re-noticing the Resolution for a public hearing in compliance with the
14 Brown Act.

15 Even assuming that the effect of the Court’s order would be to require the District to
16 reinstate the previous admissions policy, thereby imposing additional burdens on the District,
17 the District and the Board have only themselves to blame. It is undisputed that beginning on
18 March 9, 2021, Petitioner sent Respondents no fewer than four “notice and cure” letters
19 pursuant to the terms of the Brown Act. (Linnenbach Decl., Exs. 1-4.) Although the Brown Act
20 gives public entities 30 days to correct violations of the Act (§ 54960.2(b)), the Board never
21 responded to those letters. Had it done so, it could have long since cured the defect, and would
22 not now be facing the problems it complains of.

23
24 **B. The Court Will Not Directly Order the Board to Restore Lowell High
25 School’s Prior Merit-Based Admissions Policy Because It May Cure Or
26 Correct Its Brown Act Violation.**

26 The Court will not directly order the Board to restore Lowell High School’s prior merit-
27 based admissions policy, which prevailed (as modified) from 1966 through October 2020, when
28

1 the Board adopted an interim admissions policy for the current 2021-2022 school year as a
2 result of the COVID-19 pandemic. (Sutton Decl., Ex. 6.) Although that may be the indirect
3 effect of the Court's order granting a writ of mandate directing the Board to set aside Resolution
4 No. 212-2A1 and related relief, it is not impossible for the Board timely to cure its violation of
5 the Brown Act by thoroughly reconsidering the challenged action at a properly noticed meeting,
6 as the Brown Act itself explicitly contemplates.

7 Section 54960.1, subdivision (e) provides, "During any action seeking a judicial
8 determination pursuant to subdivision (a) if the court determines, pursuant to a showing by the
9 legislative body that an action alleged to have been taken in violation of Section . . . 54954.2 . . .
10 has been cured or corrected by a subsequent action of the legislative body, the action filed
11 pursuant to subdivision (a) shall be dismissed with prejudice." (§54960.1(e).) In other words,
12 even after a lawsuit has been filed charging an agency with violating the Brown Act, the agency
13 may cure or correct the violation. (See *Bell v. Vista Unified School Dist.* (2000) 82 Cal.App.4th
14 672, 685 ["the statutory scheme explicitly anticipates curing post-filing of an action in section
15 54960.1, subdivision (e)"] [trial court correctly advised respondent school district that TRO and
16 request for preliminary injunction would become moot should district cure the alleged open
17 meetings law violation].) Thus, in *Boyle v. City of Redondo Beach* (1999) 70 Cal.App.4th 1109,
18 the court held that a city council's violation of the Brown Act in omitting an item from its
19 published agenda for a special meeting, and then subsequently adding that item to the agenda
20 during the meeting, did not give rise to a cause of action under the Act, where the council
21 corrected or cured the violation by subsequently rescinding all action taken at the special
22 meeting in relation to the added agenda item. (*Id.* at 1117.) Nothing prevents the District here
23 from taking similar action here to properly re-notice the matter for a further meeting, should it
24 choose to do so.

25 **C. The Court Will Not Set Aside The University of Kentucky Contract.**

26 Petitioners also demand that the Court terminate the District's contract with the
27 University of Kentucky, which it apparently entered into following a public meeting held on
28

1 June 22, 2021. The agenda item for that meeting is titled, “Professional Services Agreement
2 with University of Kentucky Education Civil Rights Initiative to Conduct an Equity Audit
3 Pursuant to Resolution No. 212-2A1 – In response to Ongoing, Systemic Racism at Lowell
4 High School.” (Sutton Decl. ¶ 9 & Ex. 9.) According to the meeting minutes, the Board
5 authorized the Superintendent to enter into a professional services contractor agreement with the
6 University of Kentucky, College of Education Civil Rights Initiative to conduct a three-phase
7 project. The project includes establishing an Equity Audit Action Plan Committee, distributing
8 equity audit surveys, conducting focus groups to address admissions issues at Lowell High
9 School and racial bullying (particularly an increase in such incidents directed at Asian
10 Americans), a review of District policies, a formal action plan with recommendations, and
11 development of a peer review support plan and other matters. (*Id.*)

12 Petitioners contend that the District’s contract with the University of Kentucky is invalid
13 because Kentucky is on a list of prohibited jurisdictions with which San Francisco governmental
14 entities are prohibited from doing business under the San Francisco Administrative Code, the
15 City Administrator’s July 9, 2021 memorandum, and Board Policy 9000. As Respondents
16 correctly point out in their opposition, however, the Administrative Code does not apply to the
17 District, which is not a department of the City and County of San Francisco. The Court is
18 unpersuaded by Petitioners’ fallback argument (Reply at 8:14-20) that either the vague
19 declaration in Board Rule and Procedure 9000 that “[t]he Board shall ensure that the district is
20 responsive to the values, beliefs, and priorities of the community” or Board Policy 0410, which
21 ensures “equal opportunity for all individuals *in SFUSD programs and activities*,” imposed any
22 duty on the District that it violated by entering into the contract.¹¹

23 Petitioners also briefly argue that because this contract flowed from the portion of
24 Resolution which stated that the District “will initiate an MOU process” with the University of
25 Kentucky to conduct an equity audit, it is necessarily null and void. (See Memo. at 19:21-25

26
27 ¹¹ Petitioners’ unsupported contention in a single sentence of their reply brief that the Board “also
28 violated a host of other Policies relating to public contracting” (Reply at 19:18-20) is inadequate
to articulate or preserve any claim.

1 ["Leaving this action out of the [February 2 and February 9] Agenda Item is another ground to
2 invalidate this Board action"].) This argument fails for two reasons. First, while the agenda
3 item identified the contract as "pursuant to" the previously-adopted Resolution, Petitioners
4 make no argument that the Board violated the Brown Act in connection with the June 22, 2021
5 public meeting at which it was authorized. Petitioners cite no authority holding that any action
6 by a public agency that follows a Brown Act violation and is somehow related to the meeting at
7 which the Act was violated is automatically null and void.

8 Second, the Brown Act, in a provision that neither party addresses, provides that an
9 action taken that is alleged to have been taken in violation of Section 54954.2 "shall not be
10 determined to be null and void if . . . [t]he action taken gave rise to a contractual obligation,
11 including a contract let by competitive bid other than compensation for services in the form of
12 salary or fees for professional services, upon which a party has, in good faith and without notice
13 of a challenge to the validity of the action, detrimentally relied." (§ 54960.1(d)(3).) While
14 Petitioners do not address the issue, it is a fair inference that the University of Kentucky may
15 have detrimentally relied upon the professional services contract that the District apparently
16 entered into it with it more than five months ago. Accordingly, in light of the apparent
17 legislative intent not to interfere with third parties' reasonable contractual expectations, the
18 Court will not set aside the University of Kentucky contract.¹²

19 20 **D. The Court Will Not Terminate The Equity Audit Committee.**

21 Finally, Petitioners contend that the Court should terminate the Equity Audit Committee
22 formed by the District at its September 21, 2021 meeting. Petitioners contend that because the
23 District's action went beyond the scope of the Resolution and vote the Board had taken in
24 February, specifically by excluding involvement in the process by the San Francisco Human
25 Rights Commission and others, the District's action violated the Brown Act. (Mot. at 19:26-
26 20:15.) Again, however, Petitioners do not contend that the District violated the Brown Act in

27 ¹² The Court also notes that Petitioners have not named the University of Kentucky as a party to
28 this action. As a general matter, a court may not issue an order that will adversely affect the
interests of an unnamed third person.

1 noticing or agendaizing that item at its September 21, 2021 meeting, or for that matter in
2 connection with the two meetings it held on May 12 and May 19 to explain the process and the
3 work of the Committee. (Sutton Decl., Ex. 10.) Petitioners' contention that the District acted
4 "with no additional notice or public discussion" (Memo. at 20:12) is inaccurate. Further,
5 Petitioners cite no authority to support their contention that once a public agency has resolved to
6 take a particular action and to implement the action in a particular manner, it is thereafter
7 precluded from changing its approach or even from making a different decision, so long as it
8 complies with the Brown Act and other formalities. That is plainly not the law. (See *City and*
9 *County of San Francisco v. Cooper* (1975) 13 Cal.3d 898, 929 ["It is a familiar principle of law
10 that no legislative board, by normal legislative enactment, may divest itself or future boards of
11 the power to enact legislation within its competence."].) Accordingly, the Court declines
12 Petitioners' request that it terminate the Equity Audit Committee.

13 CONCLUSION

14 For the foregoing reasons, Petitioner's petition for writ of mandate and motion for
15 injunction and/or declaratory relief is granted in part, as follows:

- 16 1. The Court hereby issues a writ of mandate directing the San Francisco Board of
17 Education to set aside Resolution No. 212-2A1, adopted at its February 9, 2021
18 meeting, as well as declaratory relief finding that Resolution null and void.
19 Respondent Board shall, within 30 days, file a return showing that it has complied
20 with the writ.
- 21 2. The petition for writ of mandate and motion for injunction and/or declaratory relief is
22 otherwise denied.

23
24
25 **IT IS SO ORDERED.**

26 DATED: November 18, 2021

By:


JUDGE OF THE SUPERIOR COURT
ETHAN P. SCHULMAN

CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.251)

I, William Trupek, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On November 18, 2021, I electronically served the attached ORDER GRANTING IN PART PETITION FOR WRIT OF MANDATE AND RELATED RELIEF via email to counsel at the following email addresses: Christine A. Linnenbach, Esq., christine@christinelinnenbach.com, James R. Sutton, Esq., jsutton@campaignlawyers.com, Bradley W. Hertz, Esq., bhertz@campaignlawyers.com, counsels for petitioners Friends of Lowell Foundation et al; Suzanne Solomon, Esq., ssolomon@lcwlegal.com, and Danielle Houck, Esq., daniellehouck@sfsud.edu, counsels for respondents San Francisco Board of Education et al

Date: November 18, 2021

MICHAEL T. YUEN, Clerk

By: 

William Trupek,
Deputy Court Clerk

Exhibit B

The SFUSD Board of Education is committed to effective governance focused on student outcomes and regularly engages in progress monitoring of the district's goals and guardrails as part of that commitment. Staff will present a progress monitoring report on Guardrail 2 (Whole Child). The guardrail consists of three interim guardrails: 2.1 on chronic absenteeism; 2.2 on sense of belonging; and 2.3 on disproportionate discipline. The report shares SFUSD’s progress on all three interim measures, from both the historical and the within-school year perspectives. The initiatives for the interim guardrails center around the work on the Coordinated Care Teams (CCTs) at each site, and the implementation measures capture the site-level work done by and through the CCTs. The report provides concrete plans for making further improvements on each of the interim guardrails.

REQUESTED BY: Tony Payne, Assistant Superintendent of Student & Family Services

APPROVED BY: Maria Su, Superintendent

File Attachments

[20260428 PMR - Guardrail 2 - Coverpage.pdf \(123 KB\)](#)

[\[BOE Final\] 20260428 PMR - Guardrail 2.pdf \(1,077 KB\)](#)

[\[BOE Final\] 20260428 PMR Presentation - Guardrail 2.pdf \(1,526 KB\)](#)

G. Action Items

Subject	1. 264-28Sp1 - Instructional Materials Adoption: Elementary and High School History/Social Studies Curriculum
Meeting	Apr 28, 2026 - Regular Meeting: Monitoring Workshop
Category	G. Action Items
Type	Action
Preferred Date	Apr 28, 2026
Absolute Date	Apr 28, 2026
Fiscal Impact	Yes
Dollar Amount	\$7,301,824.00
Budgeted	Yes
Budget Source	PEEF: 01-9588-90588-0-1110-1000-4100-0195
Recommended Action	The Board approves the Instructional Materials Adoption of Elementary and High School History/Social Studies Curriculum

BACKGROUND:

From 2022 through 2026, the following researched-based instructional materials have been evaluated and piloted by SFUSD staff. The instructional materials meet the requirements set forth by Board policy 6141 (Curriculum Development and Evaluation). It is the recommendation by the Curriculum and Instruction Division that the following be approved by the Board of Education:
For Elementary Grades History/Social Studies (K-5): InquirEd
For High School Grades (9-12): McGraw-Hill, Gibbs-Smith

These materials are in alignment with SFUSD’s Vision, Values, Goals, and Guardrails.

REQUESTED BY: Devin Krugman, Assistant Superintendent-Curriculum and Instruction

APPROVED BY: Maria Su, Superintendent

File Attachments

[041626_History_Social_Studies_Curriculum_Adoption_.pdf \(828 KB\)](#)

Subject	2. 264-28Sp2 - Tentative Agreements Between San Francisco Unified School District and IFPTE Local 21 and IUOE Local 39
Meeting	Apr 28, 2026 - Regular Meeting: Monitoring Workshop
Category	G. Action Items
Type	Action
Preferred Date	Apr 28, 2026
Absolute Date	Apr 28, 2026
Fiscal Impact	Yes
Recommended Action	Approve Tentative Agreements Between San Francisco Unified School District and IFPTE Local 21 and IUOE Local 39

BACKGROUND:

This item is submitted in accordance with the requirements of Government Code 3547.5 which requires the District to:

- a. disclose at a public meeting the major provisions of a written agreement with an exclusive representative covering matters within the scope of representation;
- b. disclose the costs that would be incurred by the District under the agreement for the current and subsequent fiscal years; and
- c. certify in writing by the Chief Business Official and Superintendent that the costs incurred by the District under the agreement can be met by the District during the term of the agreement and itemize any budget revision necessary to meet the costs of the agreement in each year of its term.

The attached Tentative Agreement between SFUSD and IFPTE Local 21 and IUOE Local 39 the CBA dated July 01, 2025 is a summary of the changes made to the CBA and a fully executed CBA will be uploaded and distributed upon BOE approval.

- 1. Signed Tentative Agreements Local 39
- 2. Signed Tentative Agreements Local 21
- 3. AB 1200

REQUESTED BY:

Apolinar Quesada, Executive Director of Labor Relations

APPROVED BY:

File Attachments

Exhibit C

District. During the public hearing, the petitioners shall have equal time and opportunity to present evidence and testimony in response to the staff recommendations and findings. (Education Code 47605.)

REQUESTED BY:

Chris Armentrout, Director of Policy & Planning

APPROVED BY:

Manuel F. Martinez, General Counsel

File Attachments

[Dragon Gate Academy Presentation.pptx.pdf \(1,453 KB\).](#)

[SFUSD Board of Education Public Hearing_ Dragon Gate Academy.pdf \(94 KB\).](#)

[Dragon Gate Academy Charter Petition 2025.pdf \(4,914 KB\).](#)

[Charter School Petition DGA Initial Hearing \(3\).pdf \(431 KB\).](#)

Workflow

Workflow	Jul 16, 2025 5:45 PM :: Submitted by Chris Armentrout. Routed to Manuel F Martinez for approval.
	Jul 16, 2025 6:54 PM :: Rejected by Chris Armentrout
	Jul 16, 2025 6:55 PM :: Submitted by Chris Armentrout. Routed to Manuel F Martinez for approval.
	Jul 25, 2025 6:06 PM :: Final approval by Manuel F Martinez

G. ACTION ITEMS

Subject	1. Purchase of Ethnic Studies Pilot Curriculum
Meeting	Jul 29, 2025 - Regular Meeting
Category	G. ACTION ITEMS
Type	Action
Fiscal Impact	Yes
Recommended Action	The Board approves the Purchase of Ethnic Studies Pilot Curriculum

BACKGROUND:

Purchase and delivery of the Voices Curriculum Instructional Materials, including digital and print teacher materials.

REQUESTED BY:

APPROVED BY:

File Attachments

[Voices SFUSD Ethnic Studies No cost SSA.pdf \(29,125 KB\).](#)

[Voices- CA. San Francisco Unfied Pilot July 10, 2025 \(3\).pdf \(403 KB\).](#)

[Ethnic Studies Curriculum Plan - SY 25.26.pdf \(753 KB\).](#)

Exhibit D



FRIENDS OF LOWELL FOUNDATION

Defending Lowell High School. Defending Educational Excellence. Defending Merit.

236 West Portal Avenue, No. 771 • San Francisco, CA 94127

Tel: 415.637.7171 • www.friendsoflowell.org • EIN 86-2366429

May 28, 2026

VIA ELECTRONIC MAIL AND U.S. MAIL

Phil Kim, President San Francisco Board of Education

Jaime Huling, Vice President San Francisco Board of Education

Members of the Board of Education

Maria Su, Psy.D., Superintendent San Francisco Unified School District ("District")

Office of the General Counsel

San Francisco Unified School District

555 Franklin Street

San Francisco, California 94102

ERRATA'

Re: **DEMAND TO CURE AND CORRECT PURSUANT TO CALIFORNIA GOVERNMENT CODE § 54960.1; Ralph M. Brown Act Govt. Code Section 54950 et seq.; Board Action of April 28, 2026 on Item G-1 (Voices: An Ethnic Studies Survey); Related Consent-Calendar Cost Approval; Misuse of Public Education Enrichment Fund Monies; Notice to Enforcement Agencies**

Dear President Kim, Vice President Huling, Commissioners, and Superintendent Su:

I write on behalf of the Board of Directors of the Friends of Lowell Foundation ("FOLF"), a 501(c)(3) public charity. Pursuant to California Government Code section 54960.1, FOLF demands that the San Francisco Board of Education (the "Board") cure and correct its April 28, 2026, action on Item G-1 (purporting to adopt the Voices: An Ethnic Studies Survey curriculum), the related consent-calendar approval of the \$564,070.19, five-year Gibbs Smith contract, and the related misuse of restricted Public Education Enrichment Fund ("PEEF") monies to fund that contract. The Board has thirty (30) days to cure.

I. BROWN ACT

The Brown Act exists "to ensure the public's right to attend the meetings of public agencies" and to facilitate participation in "all phases of local government decision making and to curb misuse of the democratic process by secret legislation of public bodies." *Epstein v. Hollywood Entertainment Dist. II* (2001) 87 Cal.App.4th 862, 868. "The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know." Gov. Code § 54950. The April 28, 2026 actions violate that core principle, the

Brown Act statutory text, the California Education Code, the California Educational Employment Relations Act, the District's own Board Policy 6161.1, and San Francisco's restrictions on PEEF monies.

II. EXECUTIVE SUMMARY OF VIOLATIONS

The April 28, 2026, actions are infected by the following independent and concurrent violations of law, each of which is set out in detail in Section IV below:

- **Violation of Government Code section 54954.2(a)(1)** (Brown Act, agenda description): the Item G-1 description identified the *action only as "History/Social Studies Curriculum Adoption,"* with no reference whatsoever to *Voices*, to ethnic studies, or to the grade levels affected.
- **Violation of Government Code section 54954.2(a)(1)** (Brown Act, fragmentation): the \$564,070.19 funding contract was severed from the substantive adoption and buried on the consent calendar at the same meeting.
- **Violation of Government Code section 54954.3** (Brown Act, public comment): the Board permitted a disruption to terminate Zoom remote comment on Item G-1 and proceeded to the vote without restoring lost comment time.
- **Violation of Education Code section 60002 and Board Policy 6161.1** (thirty-day public review): the complete *Voices* curriculum was not made available for public review before adoption.¹ The District's stated copyright basis for that restriction is directly foreclosed by Section 1.d of the District's own executed Software Subscription and Support Services Agreement with Gibbs M. Smith Inc.
- **Violation of Government Code section 54954.2(a)(1)** (Brown Act, concealment of pre-completed administrative track): the agenda failed to disclose that the District's administrative approval of the underlying contract was complete by April 8, 2026, three weeks before the Board vote.
- **Violation of San Francisco Charter section 16.123 et seq. and California Penal Code section 424** (misuse of PEEF monies): the entire \$564,070.19 Gibbs Smith contract is charged to PEEF (SACS code 01-9588-90588-0-1110-100041000195), in violation of

the PEEF Citizens' Advisory Committee's formal written direction that mandated curriculum costs be funded from the General Fund, not PEEF.

- **Violation of California Government Code section 3543.2(a)(1) and (a)(3) (EERA) and Education Code section 60002** (unlawful union domination of a non- bargainable curriculum decision; failure of substantial parent and community involvement): the District permitted its own employee union, United Educators of San Francisco ("UESF"), to dominate, rather than consult on, a curriculum content decision that the Legislature has expressly placed outside the scope of mandatory bargaining. UESF supplied 31 of 39 voting members of the only review committee. Approximately 8 parents and community members participated in a committee of 39. Eight community members on a committee of 39 is not the "substantial involvement of parents and other members of the community" that Education Code section 60002 requires and is not the broad community input the District publicly promised.

III. PROCEDURAL POSTURE

The procedural posture of this matter *forecloses any claim of innocent procedural error*. The SFUSD has been adjudicated against on materially identical facts, has been formally trained, and has received written warning letters from no fewer than three separate law offices about the *Voices* process before adoption.

- **November 18, 2021.** In *Friends of Lowell Foundation, et al. v. San Francisco Unified School District, et al.*, San Francisco County Superior Court Case No. CPF21-517-445, the Honorable Ethan P. Schulman granted in part FOLF's petition for writ of mandate, declared Resolution 212-2A1 null and void, and ordered the Board to set it aside (Appendix A).

"Agenda drafters must give the public a fair chance to participate in matters of particular or general concern by providing the public with more than mere clues from which they must then guess or surmise the essential nature of the business to be considered by a local agency." (Schulman Order, p. 3.)

"Here, the District plainly failed to comply with this requirement, Neither the vague title of the Resolution nor the Background text provided any description of the item of business to be transacted or discussed by the Board." (Schulman Order, pp. 3-4.)

- **September 16, 2021.** The California School Boards Association (“CSBA”) delivered a 113-page formal Brown Act training to SFUSD, two months before the Schulman Order issued (**Appendix B**).
- **August 2022.** Paul D. Scott, Esq., transmitted cure-and-correct correspondence to the SFUSD on the related Eid resolution.
- **July 29, 2025.** Before the Board’s pilot authorization vote, James R. Sutton, Esq., of Rutan & Tucker LLP, transmitted a formal demand letter to Superintendent Su identifying multiple Brown Act, Education Code, and curriculum-adoption defects in the SFUSD’s expedited handling of *Voices*. The Board voted that night anyway.
- **April 28, 2026 (morning of).** The undersigned served a thirteen-page formal demand on the Board, the Superintendent, and the Office of the General Counsel identifying the very defects detailed below and demanding that Item G-1 be taken off calendar (**Appendix C**). The Board did not respond. The Board did not remove the item. The Board proceeded to vote late that night.
- **May 8, 2026.** FOLF transmitted to the Honorable Daniel Lurie, Mayor of the City and County of San Francisco, a fifty-three-page legal record concerning the *Voices* adoption, including the FOLF April 28 demand letter, the cure-and-correct chronology, multi-counsel warning correspondence, the legal table on UESF and District-employee domination of the curriculum adoption process, and the supporting record on outside-vendor reliance and Lowell targeting (**Appendix G**). That fifty-three-page record is incorporated by reference into this demand.

Constructive knowledge is enough. *Stark v. Superior Court* (2011) 52 Cal.4th 368, 376 (general-intent crimes by public officials “additionally require that the defendant knew, or was criminally negligent in failing to know, the legal requirements that governed the act”). On this record, the District had actual knowledge of the controlling agenda-description standard from the Schulman Order, of the broader Brown Act framework from the September 2021 CSBA training, of the specific defects in the *Voices* process from the Sutton/Rutan demand of July 29, 2025, of the specific defects in the April 28, 2026 agenda from the FOLF demand served on the morning of the meeting, and of the broader pattern from the fifty-three-page record transmitted to the Mayor on May 8, 2026.

No good faith claim of innocent procedural error can survive that record; accordingly, this matter will be transmitted to the District Attorney’s Office.

IV. THE VIOLATIONS

Violation No. 1: Brown Act, Inadequate Agenda Description (Gov. Code § 54954.2(a)(1))

Issue. Whether the Item G-1 agenda description provided the “brief general description” of the business to be transacted that section 54954.2(a)(1) requires.

Rule. Section 54954.2(a)(1) requires the legislative body to post an agenda “containing a brief general description of each item of business to be transacted or discussed at the meeting,” and forbids action or discussion on items not so described. The description must give the public meaningful notice of the essential nature of the business. The Brown Act’s exceptions are construed narrowly and its access provisions broadly. Cal. Const. art. I, § 3, subd. (b)(2);

- *Carlson v. Paradise Unified Sch. Dist.* (1971) 18 Cal.App.3d 196, 200 (school board’s agenda item “Continuation school site change” held “entirely inadequate notice to a citizenry which may have been concerned over a school closure”; agenda “though not deceitful, was entirely misleading and inadequate to show the whole scope of the board’s intended plans”);
- *Sari Joaquin Raptor Rescue Ctr. v. County of Merced* (2013) 216 Cal.App.4th 1167 (agenda violated section 54954.2 where it identified subdivision approval but failed to identify the related CEQA action; a body cannot use overbroad descriptions to mask discrete actions);
- *Schulman Order*, pp. 3-4 (vague resolution title and background text inadequate; agenda packet cannot cure agenda).

Violation: The April 28, 2026, agenda described Item G-1 only as “History/Social Studies Curriculum Adoption.” The description did not identify *Voices: An Ethnic Studies Survey* as the curriculum to be adopted; did not state that the Board would be adopting an ethnic studies curriculum; did not identify the grade levels affected; did not state that the curriculum would become mandatory for all SFUSD ninth graders; and did not state that the action would create a \$564,070.19 contractual obligation that would enable SFUSD to teach Voices for five years. The Voice of San Francisco accurately described the agenda on the day of the vote: the formal recommended action “lacks any reference to ethnic studies. Period.” That defect is governed by, and is indistinguishable from, the failure that Judge Schulman declared a Brown Act violation in CPF-21-517-445, and by the failure that the court in *Carlson* declared inadequate as to a school closure.

Conclusion. The Item G-1 action was taken on an agenda that failed to satisfy section 54954.2(a)(1) and must be rescinded.

Violation No. 2: Brown Act, Fragmentation and Consent-Calendar Concealment (Gov. Code § 54954.2(a)(1))

Issue. Whether splitting a single substantive curriculum-adoption decision into (a) a stand-alone Item G-1 vote and (b) a separate consent-calendar funding approval at the same meeting satisfied section 54954.2(a)(1).

Rule. A body cannot fragment what is in substance a single decision into multiple discrete items to defeat the public's right to notice of the essential nature of the business. *San Joaquin Raptor*, 216 Cal.App.4th at 1178. Consent calendar treatment, under SFUSD's own Board Bylaw, is reserved for routine, non-controversial business.

Violation. The substantive adoption was placed under Item G-1 as a stand-alone policy choice. The \$564,070.19 five-year contract was placed on the consent calendar of the same meeting and passed in a single omnibus vote with no separate discussion. A member of the public reading Item G-1 alone would not have known that the funds had already been committed on the consent calendar; a member reading the consent calendar item alone would not have known that the underlying contract committed District funds to the very curriculum being separately adopted under Item G-1. The two items were halves of one decision, and the SFUSD's agenda design concealed that fact. The *Voices* contract was the subject of extensive public protest at the very same meeting, and could not lawfully be treated as consent calendar business under the District's own bylaw.

Conclusion. The consent-calendar action and the Item G-1 action are interdependent violations of section 54954.2(a)(1) and must both be rescinded.

Violation No. 3: Brown Act, Denial of Meaningful Public Comment (Gov. Code § 54954.3)

Issue. Whether the Board satisfied section 54954.3 when it permitted a disruption to consume the Zoom remote public-comment queue on Item G-1 and proceeded to the vote without restoring lost comment time.

Rule. Section 54954.3 requires the agenda to provide an opportunity for members of the public to address the Board on every item, and requires that remote participants receive the same opportunity as in-person participants. The Board's authority to respond to disruption is set out exclusively in section 54957.9, which must be construed narrowly. Cal. Const. art. I, § 3, subd. (b)(2);

- *Berkeley People's Alliance v. City of Berkeley* (2025) 114 Cal.App.5th 984 (relocating a public meeting in response to disruption violated section 54957.9; the Brown Act's narrow disruption procedure cannot be used to truncate public participation);
- *Preven v. City of Los Angeles* (2019) 32 Cal.App.5th 925, 933-936 (Brown Act does not permit limiting comment at agenda items based on collateral devices; the public comment right must be enforced on its own terms).

Violation. The Board permitted a disruption to terminate the Zoom remote-comment queue on Item G-1. Members of the public who had timely registered to comment remotely were never returned to the queue and were never given back their allotted comment time. The Board did not invoke section 54957.9, did not order the room cleared, did not declare an emergency under section 54956.5, and did not adjourn under section 54955. It simply proceeded to the vote on the most controversial item on the agenda.

Conclusion. The Board violated section 54954.3. Comment must be restored at any re-noticed meeting on equal terms for in-person and remote commenters.

Violation No. 4: Education Code § 60002 and Board Policy 6161.1 (Thirty-Day Public Review; Copyright Pretext)

Issue. Whether the District satisfied its statutory and policy obligation to make the full Voices curriculum available for public inspection during the thirty days before adoption.

Rule. Education Code section 60002 requires substantial review and affirmative promotion of parent and community involvement in the selection of instructional materials. Board Policy 6161.1 requires public display of proposed instructional materials for community review before adoption. A claimed copyright restriction cannot defeat the District's own contractual fair use rights under 17 U.S.C. §§ 107-108.

Violation. The complete *Voices* curriculum was not displayed publicly before April 28, 2026, adoption. The SFUSD's stated reason, repeated in writing on July 25, 2025 (Appendix E) and on the public meeting record on July 29, 2025, was that "*Voices is a copyrighted curriculum. Therefore, it is not possible to provide open-source public access.*" That position is directly foreclosed by Section 1.d of the executed Gibbs Smith Software Subscription and Support Services Agreement (Appendix D):

“Notwithstanding anything to the contrary in this Agreement, no term or provision of this Agreement shall be interpreted to limit or restrict the Fair Use Rights of the District and its Authorized Users, as provided by U.S. Copyright Act §§ 107 & 108. Authorized Users shall not be restricted from extracting or using information for the purpose of illustration, explanation, example, comment, criticism, teaching, research, or analysis ”. (Gibbs Smith Software Services Agreement, § 1.d.)

Pre-adoption public review is the textbook example of fair use “for the purpose of comment, criticism, teaching, research, or analysis.” The same clause appeared in the antecedent July 2025 Memorandum of Understanding for the *Voices* pilot. The District’s copyright posture was contractually foreclosed throughout. Two collateral facts confirm the pretext: Vice President Jaime Huling stated on the record on April 28, 2026, that the publisher had granted “her” a full digital copy of the curriculum on request before the July 2025 pilot vote; and in October 2025 the District granted *The Frisc* access to all 386 pages of *Voices* at District headquarters in response to a Public Records Act request. The District *arbitrarily provided* meaningful access to some, but not others. It chose not to do so for the public during the statutory window.

Conclusion. The District failed to provide the pre-adoption public review the law requires. The April 28, 2026, adoption is unlawful on this ground alone.

Violation No. 5: Brown Act, Concealment of Predetermined Administrative Track (Gov. Code § 54954.2(a)(1))

Issue. Whether the agenda satisfied section 54954.2(a)(1) when it failed to disclose that the District’s administrative approval for the underlying five-year Gibbs Smith contract was complete three weeks before the Board vote.

Rule. The agenda must disclose the essential nature and posture of the business. Material facts that bear on the deliberative substance of the Board’s decision, including the existence and posture of prenegotiated commitments, fall within that requirement. *Carlson*, 18 Cal.App.3d at 200; *San Joaquin Raptor*, 216 Cal.App.4th at 1178.

Violation. The Gibbs Smith Software Subscription and Support Services Agreement was signed by the Service Provider on March 30, 2026, by Assistant Superintendent of Curriculum and Instructions Devin Krugman on April 7, 2026, by the Technology Review Committee designee on April 7, 2026, and by Technology Service Officer Eddie Ngo on April 8, 2026. The commencement date was already set for May 29, 2026. By April 8, 2026, three weeks before the Board vote, the administrative track was complete. None of this was disclosed on the face of the agenda.

Conclusion. The agenda concealed material facts about the deliberative posture of the decision, independently violating section 54954.2(a)(1).

Violation No. 6: Misuse of Public Education Enrichment Fund Monies (S.F. Charter § 16.123 et seq.; Cal. Penal Code § 424)

Issue. Whether the District lawfully charged the entire \$564,070.19, five-year Voices contract to restrict PEEF monies. Additionally, whether the entire \$7.3 million contract (for Ethnic Studies, History and Social Studies curriculum) was improperly funded 100 by PEEF monies.

Rule. San Francisco Charter section 16.123-1 et seq., enacted by the voters as Proposition H in 2004 and reauthorized as Proposition C in 2014, established the PEEF as a restricted fund for designated enrichment purposes. Half of the SFUSD allocation is restricted to Sports, Libraries, the Arts and Music (SLAM). Half supports Other General Uses (OGU) for purposes that promote general education. PEEF was specifically created to supplement, not supplant, the SFUSD's baseline obligations. The PEEF Citizens' Advisory Committee ("CAC") is the body charged with oversight; its written recommendations are part of the administrative record.

Violation. The Gibbs Smith contract as well as the other curriculum purchases for Social Studies History are funded entirely from PEEF.

The SACS code on the contract is 01-9588-90588-0-1110-1000-4100-0195, identified on the funding line as PEEF for \$564,070.19 (Appendix D, p. 1). The PEEF CAC formally objected to that very practice in writing in the 2025-26 PEEF Superintendent's Expenditure Plan Proposal (Appendix H):

"[T]he CAC. . . proposed several key recommendations. These included shifting mandated curriculum costs, such as those for Ethnic Studies and Computer Science, to the General Fund " (PEEF 2025-26 Superintendent's Expenditure Plan Proposal, p. 4.)

Approximately ten months after publication of that recommendation, the Board approved the \$564,070.19 Voices contract on the consent calendar and adopted Voices under Item G-1, **without addressing the CAC's concern, without removing the ethnic studies cost from PEEF, and without securing General Fund authorization for the underlying expenditure.** The District has additionally continued to draw approximately \$1.7 million per year of PEEF revenues to fund site-based ethnic studies teaching at high school sites. The new Voices contract is layered on top of that recurring use.

The District's own PEEF advisory committee has identified the practice as a misuse of restricted funds. The District has, ten months later, doubled down on it.

Conclusion. The use of PEEF monies to fund a mandated ninth-grade graduation-requirement course is a misuse of restricted enrichment funds under Charter section 16.123 *et seq.*, and supports a referral to the Controller for audit action.

Violation No. 7: Unlawful Union Domination of a Non-Bargainable Curriculum Decision: Failure of Substantial Parent and Community Involvement (Cal. Gov. Code § 3543.2(a)(1), (a)(3); Cal. Ed. Code § 60002)

Issue. Whether the District's decision to permit its own employee union to dominate the only formal Voices review committee, and to staff that committee with only approximately eight parent and community members on a body of 39, complied with the Educational Employment Relations Act's limits on union bargaining scope and with Education Code section 60002's requirement of substantial parent and community involvement. The district abandoned its "homegrown" Bespoke curriculum that was concealed from public review that was rejected as inadequate.

Rule. The Educational Employment Relations Act ("EERA") places strict limits on what is subject to bargaining and what is reserved to the public-school employer. Government Code section 3543.2(a)(1) provides that mandatory bargaining is "limited to matters relating to wages, hours of employment, and other terms and conditions of employment." Curriculum content and textbook selection are not within mandatory bargaining. Section 3543.2(a)(3) confirms the point: on "educational objectives, the content of courses and curriculum, including textbook selection, and the time, manner, and methods of delivering instructional services," the union has only a right "to consult," "to the extent such matters are within the discretion of the public school employer under the law." The Board cannot lawfully delegate to its own employee union the discretion the Legislature vested in the public-school employer and cannot lawfully convert a non-mandatory subject of bargaining into a union-driven outcome.

Education Code section 60002, in turn, requires the District to "promote the substantial involvement of parents and other members of the community in the selection of instructional materials." The District's own Board Policy 6161.1 elaborates on that requirement and adds the thirty-day public review obligation. The two provisions are complementary: section 60002 sets a floor for community participation; the EERA sets a ceiling on union participation. The District violated both, simultaneously, in the same review committee.

Violation. The only formal community review committee for *Voices* met on March 14 and March 21, 2026, on a **three-day signup window for community members**, with the meetings scheduled during Ramadan and Eid. The committee comprised 39 voting members. Thirty-one of those 39 voting members were UESF members or other District employees. Approximately eight parents and community members participated. UESF additionally issued a published mobilization toolkit directing its members on how to support the *Voices* adoption at the Board. The District’s own employee union thus drove the outcome of a decision the Legislature placed outside the scope of mandatory bargaining, in excess of the union’s statutory consultative role under section 3543.2(a)(3), and in derogation of the public school employer’s exclusive discretion under section 3543.2(a)(1).

Eight community members on a 39-member committee scheduled on a three-day signup window during the most sacred period of the Islamic calendar is not, on any reading of section 60002, the “substantial involvement of parents and other members of the community” the statute requires. It is not the “broad community input” the District itself publicly promised in its 2025-26 Ethnic Studies Plan, in its July 29, 2025 representations to the Board, and in its repeated public statements through the spring of 2026. The District did not engage the broad community. The District allowed its own employees and its own employee union to dominate, and then claimed community input it had not generated.

Conclusion. The District violated the EERA’s scope-of-bargaining limits and Education Code section 60002’s community-involvement requirement. The curriculum-adoption decision must be rescinded and re-noticed under a process in which curriculum content remains in the discretion of the public school employer, the union exercises only its consultative role, and parents and other members of the community are substantially, not nominally, involved.

V. PROMISED VS. DELIVERED

The SFUSD’s public commitments and the District’s actual conduct diverge across every material aspect of the *Voices* adoption process. The following chart sets out the divergence, point by point, with the source for each item:

What the District Promised	What the District Actually Did	Authority / Source
An independent WestEd audit of the prior ethnic studies curriculum, modeled on the K-8 math and ELA audits, completed	No completed WestEd audit of the homegrown curriculum was presented to the Board before the vote on April 28, 2026.	SFUSD 2025-26 Ethnic Studies Plan; The

before any permanent adoption decision.		Frisc, Nov. 19, 2025.
What the District Promised	What the District Actually Did	Authority / Source
“The same standard of evaluation and engagement” as the K-8 ELA and K-8 math adoptions, with “engagement throughout our pilot, evaluation and adoption process,” including “focus groups and surveys for educators, students and families.”	The full pilot year was compressed into a three-day signup window followed by only two Saturday review sessions on March 14 and March 21, 2026, scheduled during Ramadan and Eid. No district- wide focus groups or surveys of educators, students, and families were conducted before the vote.	SFUSD 2025-26 Ethnic Studies Plan; San Francisco Standard, April 27, 2026.
“Substantial involvement of parents and other members of the community” in the selection of instructional materials, as Education Code section 60002 requires.	31 of 39 voting members of the only review committee were UESF members or other District employees. Only approximately 8 parent and community members participated. Eight community members on a committee of 39 is not the broad community input the District promised and is not the “substantial involvement of parents and other members of the community” that section 60002 requires.	Cal. Ed. Code § 60002; SFUSD Curriculu m Committe e record; San Francisco Standard, April 27, 2026.
The complete curriculum displayed publicly, in print and online, for at least thirty days before adoption, as Board Policy 6161.1 and Education Code section 60002 require.	The complete Voices curriculum was never publicly displayed during the thirty days before April 28, 2026. The District invoked copyright as a basis for restricting public access, notwithstanding that the executed Gibbs Smith Agreement at Section 1.d expressly preserves the District’s fair use	Board Policy 6161.1; Cal. Ed. Code § 60002; Gibbs Smith Software Subscription and Support Services Agreement, §

	rights for the very purposes of public review.	I.d.
A curriculum content decision made by the public school employer (the Board of	UESF issued a published mobilization toolkit on the Voices adoption, packed the	Cal. Gov. Code § 3543.2(a)(1), (a)(3); SFUSD Curriculum Committee composition record;
What the District Promised	What the District Actually Did	Authority / Source
Education and Superintendent), with the union exercising only the consultative role that Government Code section 3543.2(a)(3) prescribes.	only review committee with its own members and drove the outcome of a decision the Legislature expressly placed outside the scope of mandatory bargaining. The District allowed its own employee union to dominate, not merely consult, on a curriculum content decision.	UESF published mobilization toolkit.
A board vote held only after the deliberative process is complete, on an agenda that gives the public a fair chance to participate.	The administrative track for the underlying \$564,070.19, five- year Gibbs Smith contract was complete by April 8, 2026, three weeks before the April 28, 2026 Board vote, with a May 29, 2026 commencement date already set. The agenda did not disclose that the deliberative posture was a fait accompli.	Gibbs Smith Software Subscription and Support Services Agreement signature pages; Schulman Order, Friends of Lowell Foundation v. SFUSD, S.F. Super. Ct. Case No. CPF-21-517-445.

VI. THE DISTRICT MUST CURE AND IMMEDIATELY CORRECT

Within thirty (30) days of receipt of this letter, the Board must take the following actions:

1. **Rescind** the April 28, 2026, action on Item G-1 and declare it null and void.
2. **Rescind** the related consent-calendar approval of the Gibbs Smith contract and declare it null and void.
3. **Make available** the complete *Voices* curriculum, including the student textbook, teacher materials, lesson plans, and supplementary resources, in print and online, free of charge, for at least thirty days before any further Board action, consistent with the District's contractual fair use rights under Section 1.d of the Gibbs Smith Agreement.
4. **Re-agendize** any future Board action under a description that on its face (a) identifies the curriculum by name; (b) identifies it as an ethnic studies curriculum; (c) identifies the grade levels and student populations affected; (d) states that an adoption vote is scheduled; and (e) cross-references the funding item. The funding shall not be placed on the consent calendar.
5. **Provide** a meaningful public-comment period at any re-noticed meeting, with equal opportunity for in-person and remote commenters, and with restored time for any commenter displaced by disruption, consistent with section 54954.3 and *Berkeley People's Alliance*.
6. **Reverse the PEEF charge** for the Gibbs Smith contract; remove *Voices* from PEEF; identify a lawful General Fund source for any future curriculum charge; and submit the revised expenditure plan for PEEF CAC review consistent with Charter section 16.123 et seq.
7. **Reconstitute the review committee** on terms that comply with Government Code section 3543.2(a)(1) and (a)(3) (curriculum content remains in the discretion of the public school employer, with the union exercising only the consultative role the statute prescribes) and with Education Code section 60002 (substantial involvement of parents and other members of the community, on a posting window adequate to elicit broad community participation, and on dates that do not fall during the high-observance periods of major religious traditions).

Nothing less than each of the steps above constitutes a cure within the meaning of section 54960.1(c). FOLF requests written confirmation, within thirty (30) days, that the Board has rescinded the challenged actions and committed to a compliant re-noticing process.

VII. PRESERVATION OF EVIDENCE

This letter constitutes formal notice that the District's conduct will be the subject of administrative, regulatory, audit, and oversight proceedings. The District and its officers, employees, agents, and contractors are instructed to preserve, and to suspend any document-destruction practices that would otherwise affect, all records relating to the April 28, 2026 meeting and the underlying *Voices* adoption process, including without limitation:

- **All audio and video recordings** of the April 28, 2026 meeting, including the complete Granicus video, all Zoom session recordings, and any internal recordings;
- **All Zoom records** for the April 28, 2026 meeting, including the registration queue, the speakers list, the order in which remote commenters were called, the chat log, the waiting room log, host and co-host activity logs, raise-hand timing, and any communications about admitting, removing, or muting participants;
- **All communications** between or among Board members, the Superintendent, the Office of the General Counsel, District staff, security personnel, the Sergeant-at-Arms, the meeting moderator, and the Zoom host or co-host concerning the disruption, the management of public comment, the decision to proceed to the vote, and the response to FOLF's April 28, 2026 demand letter;
- **All communications with Gibbs M. Smith Inc.** concerning the negotiation, drafting, and execution of the Software Subscription and Support Services Agreement and the antecedent July 2025 MOU, the May 29, 2026 commencement date, the access granted to Vice President Huling and to The Frisc, and any communications about copyright, Fair Use, or public availability;
- **All internal District documents** concerning the agenda description for Item G-1, the placement of the funding item on the consent calendar, the WestEd audit, the Social Studies Accelerator pilot, the curriculum evaluation committee, the union's role in that committee, and the decision not to provide a thirty-day public review;
- **All communications with United Educators of San Francisco** concerning the curriculum evaluation committee, the union's mobilization toolkit on *Voices*, and the union's role in selecting voting members of the only review committee;
- **All advice-of-counsel materials** on which the Board or staff relied in proceeding with Item G-1 on April 28, 2026. Any subsequent assertion of an advice-of-counsel defense will be treated as an implied waiver of attorney-client privilege as to such materials;
- **All PEEF records** concerning the decision to charge the Gibbs Smith contract to PEEF, the District's response to the PEEF CAC's written recommendation against funding mandated curriculum costs from PEEF, and any communications with the Controller, the Mayor's Office, or the Board of Supervisors about PEEF compliance;

- **All public-comment records**, queue management records, and time allocations for the April 28, 2026 meeting, including records of any commenters who were registered but not called.

The District is on notice that spoliation of any of the foregoing materials will be the subject of further proceedings, including before the agencies and bodies identified in Section VII below, with adverse evidentiary inferences and other consequences. If you contend that any of the foregoing categories is subject to a privilege, you are instructed to preserve the underlying materials and to log them on a privilege log.

VIII. TRANSMISSION TO ENFORCEMENT AGENCIES; RESERVATION OF RIGHTS

The SFUSD's history of flagrantly ignoring the mandates of the Ralph M. Brown Act as well as other applicable laws is simply *legend*. The latest open and obvious violation of the Board of Education to ignore the fundamental notice requirements reaches now beyond the confines of the district. For example, if the Board was aware (which it was) of the Brown Act violations and chose to proceed with the agenda item, the Board as well as individual Board members with the power to remove the agenda item (namely President Kim, VP Huling, and Superintendent Su) made a deliberate choice to proceed with the agenda item despite the obvious agenda error. Thus, the act to proceed with the agenda item was a knowing, intelligent, and voluntary action by each Board member and the Superintendent to ignore the obvious.

Under California and federal law, the SFUSD's established pattern and practice of failing to abide by the fundamental principles of fair notice now opens the inquiry to multiple arenas of inquiry, audit, and enforcement including:

- **The Honorable David Chiu, City Attorney**, City and County of San Francisco, for civil intervention and enforcement pursuant to the Charter, the Brown Act, and the Educational Employment Relations Act;
- **The Honorable Brooke Jenkins, District Attorney**, City and County of San Francisco, for review under [Government Code section 54959](#) (Brown Act criminal sanctions for officials who attend a meeting where action is taken with intent to deprive the public of information they are entitled to know) and [California Penal Code section 424](#) (misappropriation of public funds);

- **Greg Wagner, Controller**, City and County of San Francisco, for audit action pursuant to San Francisco Charter section 16.123-2(e) and the Controller's broader audit authority concerning the District's ten-year history of PEEF disbursements;
- **The Foreperson, San Francisco Civil Grand Jury**, for investigation pursuant to Government Code section 3060 (willful or corrupt misconduct in office) and the Civil Grand Jury's general charter to investigate the conduct of local government;
- **The Public Employment Relations Board (PERB)**, for review under Government Code section 3543.2(a)(1) and (a)(3) of the District's permitting its own employee union to dominate, rather than consult on, a non-bargainable curriculum content decision;
- **The California State Auditor** and the California Department of Education, for review of the District's compliance with Education Code section 60002 and the District's use of restricted funds;
- **The United States Department of Education, Office for Civil Rights**, for review under Title VI of the Civil Rights Act of 1964, the Equal Educational Opportunities Act of 1974, and the Protection of Pupil Rights Amendment;
- **The Civil Rights Division of the United States Department of Justice**, for review under Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act of 1974; and
- **The House Committee on Education and the Workforce**, Chairman Tim Walberg, in connection with the June 10, 2026 hearing at which the Superintendent is scheduled to testify, and for incorporation into the Committee's record.

Nothing in this letter waives any other claim arising out of the District's adoption, implementation, or administration of the *Voices* curriculum, including claims based on the content of that curriculum.

IX. PERSONAL EXPOSURE OF THE BOARD PRESIDENT, VICE PRESIDENT, AND SUPERINTENDENT UNDER GOVERNMENT CODE § 54959; THE WITHDRAWAL AUTHORITY UNDER SFUSD BOARD BYLAW 9322

Failure to cure and correct could impact President Kim, Vice President Huling, and Superintendent Su, individually. The personal exposure created by the April 28, 2026, conduct is distinct from the institutional exposure of the Board as a body, and it is reduced or eliminated only by the corrective action set out in Section V above. There is a clean off-ramp under SFUSD Board Bylaw 9322. It is identified below.

A. Government Code § 54959 (Brown Act Misdemeanor)

Government Code section 54959 provides that “each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.” Gov. Code § 54959.

The misdemeanor reaches the individual board member at the meeting where the unlawful action was taken. It is enforceable by the District Attorney without a private right of action and without any prior civil resolution. See [First Amendment Coalition, California Brown Act Primer](#) (collecting authorities). The scienter element is satisfied by constructive knowledge: the member need not have actually known the law; it is enough that the member “knew, or was criminally negligent in failing to know, the legal requirements that governed the act.” *Stark v. Superior Court* (2011) 52 Cal.4th 368, 376.

The recent record in California shows a marked increase in Brown Act enforcement activity against school board members. In Riverside County, three newly seated trustees of the Temecula Valley Unified School District were referred to the District Attorney’s Office for Brown Act violations less than two months into their terms. See [3 Temecula Valley USD Board Members Called Out On Brown Act Patch \(Feb. 3, 2023\)](#). The California Attorney General has issued updated open-meetings guidance directly to public agencies, [Office of the Attorney General, Open Meetings](#), and the Legislature, by SB 707 (2025), has imposed an affirmative duty on every public agency, effective January 1, 2026, to deliver a copy of the Brown Act to every member of the legislative body. The political and prosecutorial environment around Brown Act compliance has tightened, not loosened. President Kim, Vice President Huling, and Superintendent Su sit at the front of that environment, not at the rear.

B. The April 28, 2026 Record Satisfies the Section 54959 Predicate

Three things must concur before a section 54959 charge can lie: (1) the member attended a meeting where action was taken; (2) the action violated a provision of the Brown Act; and (3) the member intended to deprive the public of information to which the member knew, or had reason to know, the public was entitled. Each element is present on this record.

- **Attendance and action.** President Kim, Vice President Huling, and Superintendent Su were all present on April 28, 2026 when the Board took action on Item G-1. President Kim cast the gavel as presiding officer. Vice President Huling spoke in support and confirmed on the

record that she had personally received the full digital *Voices* curriculum from the publisher in advance of the pilot vote. Superintendent Su presented the recommended action.

- **Violation.** The action violated section 54954.2(a)(1) (agenda description), section 54954.2(a)(1) (fragmentation), section 54954.3 (public comment), and additional statutory and policy provisions detailed in Sections IV.1-IV.7 above. Any one violation is sufficient under section 54959. There are seven.

- **Knowledge and intent.** The District has actual notice of the controlling agenda-description standard from the Schulman Order issued in this very courthouse against this very Board; from the 113-page CSBA training delivered to SFUSD; from the Sutton/Rutan demand letter; from the August 2022 Scott correspondence; from the PEEF CAC's written recommendation; and from the thirteen-page formal demand the undersigned served on the morning of April 28, 2026 on these same three officers. **Notice was given. Notice was ignored.** The vote proceeded late in the evening that after the Zoom public-comment queue had been truncated. That is the textbook fact pattern for section 54959. *See Stark*, 52 Cal.4th at 376.

C. SFUSD Board Bylaw 9322: The President, Vice President, and Superintendent Have Authority to Withdraw Item G-1.

The Board President, Vice President, and Superintendent stand on a different footing from rank-and-file commissioners. Under [SFUSD Board Bylaw 9322 \(Agenda/Meeting Materials\)](#), and consistent with the companion bylaws on the Office of the President and the Office of the Vice President, the Board President, Vice President, and Superintendent, as secretary to the Board, share the institutional authority to develop the agenda for every regular and special meeting. That agenda-development authority is not merely the power to add items. It includes the power to **withdraw** them. SFUSD's own published Board meeting agenda template confirms the point: every regular agenda carries a standing category titled "*Items Withdrawn or Corrected by the Superintendent.*" See, e.g., [SFUSD 2026 Board Meeting Documents](#) (Consent Calendar, Subject 2).

On April 28, 2026, and prior to the school board meeting the undersigned served on President Kim, Vice President Huling, and Superintendent Su a thirteen-page formal demand identifying the precise defects detailed above and asking that Item G-1 be withdrawn before the vote. Vested with distinct powers to control the agenda, the President and Vice President of the Board, as well as Superintendent Su had the institutional authority to withdraw Item G-1 from the calendar that night under Board Bylaw 9322. You did not withdraw it. You proceeded to put the matter to a vote that night, on an agenda the Schulman Order had already declared unlawful in materially indistinguishable form, after multiple warnings from separate law offices, in defiance of a written

cure-and-correct demand served that very day, and after the public-comment queue had been truncated.

D. The Off-Ramp

Under Board Bylaw 9322 and the standing “*Items Withdrawn or Corrected by the Superintendent*” agenda category, President Kim, Vice President Huling, and Superintendent Su have the authority, today, to:

Place on the next regular Board agenda an action to **rescind** the April 28, 2026 Item G-1 adoption and the related consent-calendar contract approval;

Direct the immediate withdrawal or correction of any pending implementation step that ratifies, gives effect to, or carries forward the April 28, 2026 actions; and Calendar and complete the corrective steps demanded in Section V above, including a fully compliant Education Code section 60002 public-review window, a reconstituted review committee that complies with Government Code section 3543.2, and a lawful General Fund funding source.

Exercising that authority will materially reduce, and may eliminate, the personal exposure that section 54959 otherwise creates. Declining to exercise it, after this written notice, will not.

X. CONCLUSION

Despite being repeatedly warned over the last five years that the Board must abide by the Ralph M. Brown Act, the District has set in motion a high-stakes Board game of “chicken” and continues to make decisions on a vague agenda, on a compressed, rigged, and stage-managed review process, in defiance of formal warning, and on the strength of representations that the public record does not support.

The first was the school renaming.

The second was the elimination of Lowell’s merit-based admissions.

The third is the purchase of the Voices pilot.

And now, here we are, again, on the precipice of litigation regarding the process regarding the flawed adoption of the Voices curriculum. In two of these matters, the Honorable Ethan P. Schulman of the San Francisco Superior Court has already told the District, in plain language, what the law requires. The District has not heeded that instruction.

On the Board’s obligation to give the public a fair chance to participate, Judge Schulman wrote:

"Agenda drafters must give the public a fair chance to participate in matters of particular or general concern by providing the public with more than mere clues from which they must then guess or surmise the essential nature of the business to be considered by a local agency."

(Schulman Order, p. 3.)

On the Board's compliance with that obligation in the very case in which FOLF was the petitioner, Judge Schulman wrote:

"Here, the District plainly failed to comply with this requirement. Neither the vague title of the Resolution nor the Background text provided any description of the item of business to be transacted or discussed by the Board."

(Schulman Order, pp. 3-4.)

On the District's attempt to defend a vague agenda by pointing to materials buried in the agenda packet, Judge Schulman wrote:

"The District's contention that it satisfied the statutory requirement by including the proposed Resolution in the agenda packets for the two meetings is groundless. The plain language of section 54954.2 provides that the required brief general description of each item of business to be transacted or discussed at the meeting must be contained in the agenda itself, not buried in the lengthy agenda packet."

(Schulman Order, p. 4.)

And on the consequences of the District's conduct, when the District sought to argue that reversal would be too costly, Judge Schulman observed that the District **"only ha[d] [itself] to blame."**

That observation is even more fitting here than it was in 2021. In 2021, the District had received cure-and-correct letters and ignored them. In 2026, the District has received cure- and-correct letters and ignored them; it has been formally trained in 113 pages by the California School Boards Association; it has been adjudicated against on materially identical facts in the very courthouse in which any further proceeding would be heard; it has been served, on the morning of the vote, with a thirteen-page formal demand identifying these very defects; and it has received written warnings from three separate law offices and from its own PEEF Citizens' Advisory Committee. The District proceeded anyway. If the consequences of that decision fall heavily on the District, the District has only itself to blame.

The cure is not difficult.

The District must immediately rescind the April 28, 2026 actions, make the curriculum publicly available for the thirty days the law requires, re-agendize the matter under a description that gives the public meaningful notice, reconstitute the review committee within the limits the Legislature has set, **return the contract to a lawful funding source**, and proceed in the open.

That is the law.

That is the District's own policy.

That is what the District itself publicly promised.

That is what the Schulman Order itself requires. The Board's thirty-day window to cure begins on receipt of this letter.

Respectfully submitted,



Christine A. Linnenbach

President

FRIENDS OF LOWELL FOUNDATION

cc:

Hon. David Chiu, City Attorney, City and County of San Francisco

Hon. Brooke Jenkins, District Attorney, City and County of San Francisco

Greg Wagner, Controller, City and County of San Francisco

Hon. Daniel Lurie, Mayor, City and County of San Francisco

Foreperson, San Francisco Civil Grand Jury

Public Employment Relations Board (PERB),

Bay Area Regional Office

California State Auditor

California Department of Education

U.S. Department of Education, Office for Civil Rights

Civil Rights Division, U.S. Department of Justice

Hon. Tim Walberg, Chairman, House Committee on Education and the Workforce

Hon. Burgess Owens, Vice Chair, House Committee on Education and the Workforce

Frank Cheung, Corresponding Secretary, Friends of Lowell Foundation

Board of Directors, Friends of Lowell Foundation

Lope Yap, Jr.

Quincy Yu, Past President of the Citizens Bond Oversight Committee

APPENDIX A REFERENCES

Reference A: Order Granting in Part Petition for Writ of Mandate and Related Relief, *Friends of Lowell Foundation, et al. v. SFUSD, et al.*, S.F. Super. Ct. Case No. CPF-21-517-445 (Schulman, J., Nov. 18, 2021). On file with the Friends of Lowell Foundation; available upon request to legal@friendsoflowell.org.

Reference B: California School Boards Association, Brown Act Training for SFUSD, September 16, 2021 (113 pages). On file with the Friends of Lowell Foundation; available upon request to legal@friendsoflowell.org. CSBA Brown Act training materials generally are available at [csba.org](https://www.csba.org).

Reference C: FOLF Demand Letter to SFUSD Board of Education, dated April 28, 2026 (morning-of, re: Item G-1). On file with the Friends of Lowell Foundation; available upon request to legal@friendsoflowell.org.

Reference D: SFUSD Software Subscription and Support Services Agreement with Gibbs M. Smith Inc., dated March 30, 2026, with signature pages dated through April 8, 2026. Contract incorporated into the SFUSD April 28, 2026 Consent Calendar item; [SFUSD 2026 Board Meeting Documents](#).

Reference E: SFUSD Written Response to Board Member Inquiry re: Access to *Voices* Curriculum, dated July 25, 2025 (invoking copyright as basis for restricting public access). On file with the Friends of Lowell Foundation; available upon request to legal@friendsoflowell.org.

Reference F: SFUSD History/Social Studies Curriculum Adoption Presentation, Item G-1, dated April 28, 2026; [SFUSD 2026 Board Meeting Documents](#).

Reference G: Supporting Record (fifty-three-page legal attachment package transmitted to the Honorable Daniel Lurie, Mayor of the City and County of San Francisco, on May 8, 2026), including: (i) FOLF April 28, 2026 Demand Letter; (ii) Cure-and-Correct Chronology; (iii) Multi-Counsel Warning Correspondence (Scott; Tribe/Remick/Burton; Hertz; Sutton; De Vries); (iv) Outside-Vendor Pattern; (v) Lowell-Targeting Record; and (vi) Legal Table on UESF and District-Employee Domination of the Curriculum Adoption Process. On file with the Friends of Lowell Foundation; available upon request to legal@friendsoflowell.org.

Reference H: PEEF 2025-26 Superintendent's Expenditure Plan Proposal (excerpt of CAC recommendation re: shifting mandated curriculum costs to General Fund). On file with the Friends

of Lowell Foundation; available upon request to legal@friendsoflowell.org. PEEF materials generally are posted at the SFUSD PEEF page.

Reference I: *Voices: An Ethnic Studies Survey*, Gibbs Smith publisher product page, gibbsmitheducation.com.

Reference J: San Francisco Public Education Enrichment Fund, San Francisco Charter section 16.123 et seq.; full text available at sfgov.org [Charter](#). Current PEEF expenditure plans posted at the Office of the Controller; sf.gov [Controller](#).

APPENDIX B TABLE OF AUTHORITIES

Cases

Berkeley People's Alliance v. City of Berkeley (2025) 114 Cal.App.5th 984.
Carlson v. Paradise Unified Sch. Dist. (1971) 18 Cal.App.3d 196.
Epstein v. Hollywood Entertainment Dist. II (2001) 87 Cal.App.4th 862.
Friends of Lowell Foundation, et al. v. San Francisco Unified School District, et al., S.F. Super. Ct. Case No. CPF-21-517-445 (Schulman, J., Nov. 18, 2021).
Preven v. City of Los Angeles (2019) 32 Cal.App.5th 925.
Sacramento Newspaper Guild v. Sacramento County Bd. of Suprs. (1968) 263 Cal.App.2d 41.
San Joaquin Raptor Rescue Ctr. v. County of Merced (2013) 216 Cal.App.4th 1167.
Stark v. Superior Court (2011) 52 Cal.4th 368.

California Constitution

Cal. Const. art. I, § 3, subd. (b)(2).

California Statutes

[Cal. Gov. Code § 3060](#) (willful or corrupt misconduct in office).
[Cal. Gov. Code § 3543.2\(a\)\(1\), \(a\)\(3\)](#) (Educational Employment Relations Act, scope of bargaining).
[Cal. Gov. Code § 54950](#) (Brown Act, legislative findings).
[Cal. Gov. Code § 54954.2\(a\)\(1\)](#) (Brown Act, agenda requirements).
[Cal. Gov. Code § 54954.3](#) (Brown Act, public comment).
[Cal. Gov. Code § 54957.9](#) (Brown Act, disruption procedure).

[Cal. Gov. Code § 54959](#) (Brown Act, misdemeanor penalty for willful violations by body members).
[Cal. Gov. Code § 54960](#) (civil enforcement).
[Cal. Gov. Code § 54960.1](#) (cure and correct; nullification).
[Cal. Ed. Code § 60002](#) (parent and community involvement in selection of instructional materials).
[Cal. Penal Code § 424](#) (misappropriation of public funds).

Federal Authorities

17 U.S.C. §§ 107-108 (Fair Use; Reproduction by Libraries and Archives). Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.
Equal Educational Opportunities Act of 1974, 20 U.S.C. § 1701 et seq.
Protection of Pupil Rights Amendment, 20 U.S.C. § 1232h.
U.S. Const. amend. I; U.S. Const. amend. XIV.

Local and District Authorities

San Francisco Charter § 16.123 et seq. (Public Education Enrichment Fund, Propositions H (2004) and C (2014)).
SFUSD Board Policy 6161.1 (Selection and Evaluation of Instructional Materials).
SFUSD Board Bylaw/Policy 9322 (Agenda/Meeting Materials); see [SFUSD 2026 Board Meeting Documents](#).

Other Authorities

California Attorney General, [Open Meetings](#).
California School Boards Association, Brown Act Training for SFUSD, September 16, 2021 (113 pages).
First Amendment Coalition, [California Brown Act Primer](#).
Toni McAllister, [3 Temecula Valley USD Board Members Called Out On Brown Act, Patch \(Feb. 3, 2023\)](#).
Cal. Sen. Bill 707 (Durazo, 2025), [SB 707 \(Brown Act modernization, eff. Jan. 1, 2026\)](#).
Gibbs Smith Education, [Voices: An Ethnic Studies Survey product page](#).

ENDNOTES

ⁱ This letter is issued as an errata to and replacement of the cure and correct letter that the Friends of Lowell Foundation previously transmitted to the District on May 28, 2026, bearing the internal identifier "Cure and Correct v8." That earlier letter was transmitted in error. It contained two inadvertencies, **neither of which alters the substance of the demand, and both of which are corrected herein.**

First, the earlier letter cited a judicial opinion that has since been ordered depublished and is therefore no longer citable authority under California Rules of Court, rule 8.1115. The Foundation does not rely upon that opinion, and the citation has been removed. The Brown Act and Education Code violations set forth in this letter rest entirely upon published, controlling authority and upon the statutory text itself.

Second, the earlier letter stated that California Education Code section 60002 imposes a thirty-day period for public notice of curriculum materials prior to adoption. That is not the Foundation's position, and the Foundation does not contend that section 60002, or any other provision of the Education Code, mandates a fixed thirty-day minimum review period.

The Foundation's position is as follows: California law requires that curriculum materials be made available to the public, and the Ralph M. Brown Act, Government Code section 54957.5, requires that writings distributed to the legislative body in connection with an agenda item be made available to the public and, as a matter of meaningful notice under Government Code section 54954.2, attached to and published with the agenda. **The District satisfied neither obligation.**

Separately, and as a matter of the Foundation's policy position rather than statutory mandate, given the substantial volume of the curriculum materials at issue, the Foundation contends that a thirty-day period for publication preceding adoption represents a reasonable and appropriate interval, at a minimum, to afford parents and members of the public a genuine opportunity to review the materials before the District acts.

This errata is provided as a courtesy, to avoid confusion and to conserve District resources. No other change has been made to the substance of the demand.

1 **PROOF OF SERVICE**

2 *(Friends of Lowell Foundation, et al v. San Francisco Board of Education, et al*
3 *San Francisco Superior Court Case No. CPF-26-519816)*

4 **STATE OF CALIFORNIA, COUNTY OF ORANGE**

5 I am employed by the law office of Rutan & Tucker, LLP in the County of Orange, State
6 of California. I am over the age of 18 and not a party to the within action. My business address is
7 18575 Jamboree Road, 9th Floor, Irvine, CA 92612. My electronic notification address is
8 lramey@rutan.com.

9 On September 2, 2026, I served on the interested parties in said action the within:

10 **FIRST AMENDED VERIFIED PETITION FOR WRIT OF MANDATE**
11 **UNDER THE RALPH M. BROWN ACT AND COMPLAINT FOR**
12 **DECLARATORY AND INJUNCTIVE RELIEF**

13 as stated below:

14 ☒ (BY E-MAIL) by transmitting a true copy of the foregoing document(s) to the e-mail
15 addresses set forth on the attached service list.

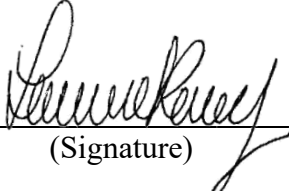
16 ☒ (BY ELECTRONIC TRANSMISSION) by transmitting a true copy of the foregoing
17 document(s) to the e-mail addresses set forth on the attached service list via the One Legal
18 filing and service portal.

19 Executed on September 2, 2026, at Mission Viejo, California.

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

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Lauren Ramey
(Type or print name)


(Signature)

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