

A173289

**IN THE COURT OF APPEAL OF THE
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT, DIVISION 2**

SAM CLEARE, ET AL.,
Appellants and Petitioners,

v.

WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT, ET AL.
Appellees and Respondents.

CASE NO. N24-1353
HON. BENJAMIN T. REYES II
HON. TERRI MOCKLER
CONTRA COSTA COUNTY SUPERIOR
COURT

**APPLICATION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF IN
SUPPORT OF APPELLANTS AND PETITIONERS SAM CLEARE, *ET
AL.*; PROPOSED *AMICI CURIAE* BRIEF OF DISABILITY RIGHTS
CALIFORNIA AND DISABILITY RIGHTS EDUCATION & DEFENSE
FUND, IN SUPPORT OF APPELLANTS AND PETITIONERS SAM
CLEARE, *ET AL.***

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CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

Pursuant to California Rules of Court, Rule 8.208, I hereby certify that no entity or person has an ownership interest of 10 percent or more in proposed *amici curiae*. I further certify that I am aware of no person or entity, not already made known to the Justices by the parties or other amici curiae, having a financial or other interest in the outcome of the proceedings that the Justices should consider in determining whether to disqualify themselves, as defined in Rule 8.208(e)(2).

Executed on September 22, 2025 in San Francisco, California.



Megan Stanton-Trehan
Disability Rights California

/s/ Jinny Kim

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Attorneys for *Amici Curiae*

I. INTRODUCTION

Pursuant to California Rule of Court 8.200(c), Disability Rights California and Disability Rights Education and Defense Fund request leave to file the attached *amici curiae* brief in support of plaintiffs, respondents and cross-appellants. *Amici* are committed to ensuring accessible and equally effective education. The proposed brief reviews the impact on utilizing untrained substitutes on students with disabilities and will assist the Court in deciding this matter.

II. STATEMENTS OF INTEREST

Amici curiae are public interest organizations dedicated to advancing and protecting the civil rights of persons with disabilities. A brief description of the work and mission of the *amici curiae*, explaining our interest in the case follows.

Disability Rights California

Disability Rights California (DRC) is California’s non-profit Protection & Advocacy agency mandated under state and federal law to advance the legal rights of Californians with disabilities. DRC was established in 1978 and is the largest disability rights legal advocacy organization in the nation. As part of its mission, DRC works to ensure that people with disabilities have access to essential services and supports, including education, and to further ensure they are free from disability-based discrimination. In the past year, DRC served more than 26,000 Californians with disabilities and positively impacted 607,688 individuals through our systemic litigation.

Disability Rights Education and Defense Fund

Disability Rights Education and Defense Fund (“DREDF”) based in Berkeley, California, is a national nonprofit law and policy center dedicated to protecting and advancing the civil and human rights of people with disabilities. Founded in 1979 by people with disabilities and parents of children with disabilities, DREDF remains board- and staff-led by members of the communities for whom we advocate. DREDF pursues its mission through

education, advocacy, and law reform efforts. DREDF is nationally recognized for its expertise in the interpretation of federal and California disability civil rights laws. DREDF has participated as amicus and amici counsel in numerous cases addressing the scope and meaning of California civil rights mandates. DREDF remains dedicated to advancing the human and civil rights of people with disabilities, including students with disabilities.

III. PURPOSE OF PROPOSED BRIEF OF AMICI CURIAE

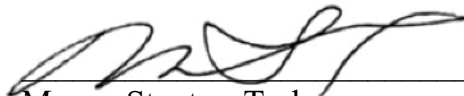
The proposed brief presents arguments that materially add to and Complement Appellants and Petitioners Sam Cleare, et al.’s brief on the merits. Amici curiae have years of experience litigating numerous cases of importance involving the educational rights of students with disabilities. The proposed brief will assist the Court by highlighting a school district’s legal mandates under federal and California law, the important role that qualified teachers with specialized training have in teaching students with disabilities and ensuring they succeed, and the impact untrained substitutes have on West Contra Costa Unified School District’s and California’s most vulnerable students.

IV. CONCLUSION

For all the foregoing reasons, amici curiae respectfully request that the Court grant the application of *amici curiae* and accept the attached brief for filing and consideration.

Dated: September 22, 2025

Respectfully submitted,



Megan Stanton-Trehan
Disability Rights California

/s/ Jinny Kim

Jinny Kim
Disability Rights Education and Defense Fund

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**PROPOSED *AMICI CURIAE* BRIEF OF DISABILITY RIGHTS CALIFORNIA
AND DISABILITY RIGHTS EDUCATION & DEFENSE FUND, IN SUPPORT OF
APPELLANTS AND PETITIONERS SAM CLEARE, *ET AL.***

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INTRODUCTION

The United States and California Constitutions agree that public education is the institution by which all children receive equal opportunity to better their circumstances, become meaningful participants in our democracy, and identify and realize their dreams for a fulfilling life. *Brown v. Bd. of Educ. of Topeka* (1954) 347 U.S. 483, 495. The California Constitution goes further, recognizing education as a “fundamental right,” perhaps the most vital of all fundamental rights, to be obstructed only upon a showing that there is a compelling interest for doing so. *Butt v. State* (1992) 4 Cal.4th 668, 692-93.

Federal and California law spell out the scope and nature of the entitlements to an education that enables students with disabilities to reach their full potential, no different from their peers without disabilities. The law properly demands that educators meet their obligations without delay to a student’s educational progress. Given the important role that teachers play in ensuring that students succeed, teachers must be qualified and receive specialized training to specifically teach students with disabilities.

Allowing West Contra Costa Unified School District (“WCCUSD”) to continue denying students access to qualified educators sets a dangerous precedent for students in WCCUSD and throughout California particularly for Black students and low-income students who are disproportionately overrepresented in the special education system. Our most vulnerable students deserve consistent access to qualified, well-prepared educators.

ARGUMENT

I. Students with Disabilities Must Receive Targeted Instruction by Qualified Teachers with Specialized Training

A. Legal Mandates Under Federal and State Law

A State that receives federal funding under the IDEA “must provide a free appropriate public education—a FAPE, for short—to all eligible children.” (*Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1* (2017) 137 S. Ct. 988, 993 [citing 20 U.S.C. § 1412(a)(1)]; *see also* Cal. Ed. Code, § 56040(a).) “A FAPE, as the Act defines it, includes both ‘special education’ and ‘related services’.” (*Id.* at 994 [citing 20 U.S.C. §

1401(9)].) “‘Special education’ is specially designed instruction . . . to meet the unique needs of a child with a disability’; ‘related services’ are the support services ‘required to assist a child . . . to benefit from ‘that instruction.’” (*Id.* [citing 20 U.S.C. §§ 1401(26), (29)]; *see also* Cal. Ed. Code, §56031(a).) The instruction and services provided by school districts must meet each student’s “academic, social, health, emotional, communicative, physical and vocational needs.” (*Ashland Sch. Dist. v. Parents of Student E.H.* (9th Cir. 2009) 587 F.3d 1175, 1185].)

Special education and related services must be provided “‘in conformity with the [child’s] individualized education program,’ or IEP.” (*Andrew F.*, 137 S.Ct. at 994 [citing 20 U.S.C. § 1401(9)(D)].) An IEP must be “reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances[.]” (*Id.* at 999-10000 [citation omitted]; *see also* Cal Ed. Code, § 56345.) “Education for [] students with disabilities often differs dramatically from ‘conventional’ [] education.” (*E.R.K. ex rel. R.K. v. Hawaii Dep’t of Educ.* (9th Cir. 2013) 728 F.3d 982, 990 [citation omitted].) And a “material failure” by the school “to implement an IEP violates the IDEA.” (*Van Duyn ex rel. Van Duyn v. Baker Sch. Dist. 5J* (9th Cir. 2007) 502 F.3d 811, 822 [emphasis omitted].)

In addition, as recipients of federal financial assistance, school districts are obligated under Section 504 of the Rehabilitation Act of 1973 to ensure that disabled students are not discriminated against on the basis of their disability. (29 U.S.C. § 794.) In the context of K-12 education, Section 504 requires that students be provided a FAPE in general education classes, with accommodations and supports set forth in a student’s Section 504 Plan.

California school districts, like WCCUSD have fundamental obligations under IDEA, Section 504 and California law to students with disabilities.

B. School Districts Cannot Meet Their Legal Obligations Through Untrained Substitutes

Students with disabilities have diverse and unique needs ranging from differential or specialized academic instruction to accommodations and modifications of curriculum.

Some students with disabilities may require specialized academic instruction or the implementation of a behavior intervention plan. Other students with disabilities may require differentiated teaching or extra time to complete assignments.

To account for the uniquely individualized requirements of teaching students with disabilities, the California Commission on Teacher Credentialing requires a “special education teaching credential,”¹ a specialty separate from California’s general teaching credential. (Cal. Ed. Code, § 44065(a)(1); *see also* Cal. Ed. Code, § 44830(a).) While it is very likely that substitutes will be responsible for at least some students with disabilities, regardless of whether they are placed in a special education or a general education classroom, most substitutes do not have special education teaching credentials or any type of training in teaching students with disabilities.

Even those teachers teaching in general education classes have some training regarding the needs of students with disabilities. (*See* Cal. Ed. Code, § 44282(b) [requiring teaching credential candidates to pass a test that includes “human development.”].) Furthermore, after obtaining their baccalaureate, teachers with either a single subject or multisubject credential must participate in a rigorous training process including internship teaching time and classroom instruction over the course of many months, sometimes even multiple years, to obtain the required certification to teach in a California public school classroom.

In contrast, California’s process for obtaining a substitute teaching permit requires an application and a baccalaureate degree in any subject. (5 CCR § 80025.) Substitutes receive no additional training before entering a classroom. (*Ibid.*) A permit allows substitutes to teach students with disabilities in a special day class for 20 days and

¹ Commission on Teacher Credentialing, *Teaching Credentials Requirements* <<https://www.ctc.ca.gov/credentials/req-teaching>> (as of Dec. 16, 2021); Commission on Teacher Credentialing, *Education Specialist Instruction Credential Requirements for Teachers Prepared in California for the Preliminary and Clear Credentials* <[https://www.ctc.ca.gov/credentials/leaflets/Ed-Specialist-Instruction-Cred-\(CL-808CA\)](https://www.ctc.ca.gov/credentials/leaflets/Ed-Specialist-Instruction-Cred-(CL-808CA))> (as of Jul. 1, 2024)

students with disabilities in a general education class for 30 days.² Beyond this timeframe, California law requires districts to utilize properly credentialed teachers to teach students with disabilities in either a special education or general education setting. Recognizing the limited training and experience that substitutes have compared with credentialed teachers, the law does not permit a further extension of the use of substitutes solely at the discretion of a school district such as WCCUSD. (Cal. Ed. Code, §44065(a)(1); *see also* Cal. Ed. Code, §44830(a).)

The simple requirement that substitutes only need to have a baccalaureate degree in any subject means that individuals can enter a classroom without any relevant subject area expertise, and lack basic teaching, youth engagement, and lesson organization skills. Substitutes are not required to be trained on classroom management, reading instruction, supporting students with disabilities, on teaching English learners or recognizing students who are undergoing deprivation, bullying or trauma. This means too many substitutes will be in a classroom in survival mode, cycling through classroom management techniques they have read about online and trying to figure out how to build a rapport with students who have a wide gamut of educational levels and needs, rather than developing good lesson plans and preparing their students to achieve educational goals. When school districts— such as WCCUSD— unlawfully extend the time a substitute can remain in a classroom, they do so without requiring even a modicum of training and at the peril of student safety, achievement and success. Indeed, the District’s brief acknowledges that it treats its year-long substitutes teaching on 30-day permits “like any other teacher at their school.” Resp. Br. at 8. In other words, these substitutes receive no additional specialized training or support because of the fact that – unlike every other teacher at their school – they lack the training and education those teachers possess.

² Commission on Teacher Credentialing, *Emergency 30-Day Substitute Teaching Permit* <[\(https://www.ctc.ca.gov/credentials/leaflets/30-Day-Substitute-Teaching-Permit-\(CL-505p\)](https://www.ctc.ca.gov/credentials/leaflets/30-Day-Substitute-Teaching-Permit-(CL-505p))> (as of Oct. 14, 2024).

C. The Risks of Untrained Personnel Working with Students with Disabilities

For many students with disabilities, expert teachers with specialized training are especially needed to fulfill the school district’s requirements of FAPE whether students are in a general education classroom or in a separate special day class. There are many misconceptions and assumptions about what people with a range of disabilities need, how they behave, what they can or cannot do, and their hopes for the future. Disabled youth and students equally experience stereotypes that can lead to negative impacts on their life.³ A substitute lacking training on disability could assume that any student with communication disabilities must also have an intellectual disability, or that all children who use wheelchairs are too frail to engage in physical education or extracurricular activity. Worse, untrained substitutes could easily interpret an autistic student’s communication, focus, or behaviors as willful misbehavior that requires direct confrontation or overt control. An untrained substitute will not know how to redirect a student with Attention-Deficit/Hyperactivity Disorder (ADHD) or other neurobehavioral disabilities, and is highly unlikely to know that there are limits and procedures that apply when discipline is imposed for behavior that is “caused by, or had a direct and substantial relationship to, the child’s disability.” (34 C.F.R. § 300.530.) These are only a few examples of the risks that untrained substitutes hold for students with disabilities.

Without the proper training provided to substitutes, some students will simply be ignored because the substitute never realized that their communication disability is not indicative of an intellectual disability or that they should be allowed to use their phone and other assistive communication technology in the classroom. Other students with disabilities may be disciplined in violation of their rights.

³ Kids Included Together (KIT), Dispelling 11 Common Myths About Kids with Disabilities (March 2023) <<https://www.kit.org/common-myths-about-kids-with-disabilities/>>.

II. Qualified Teachers Play an Important Role in Ensuring that Students with Disabilities Succeed.

Properly trained and qualified teachers play an important role in student progress and closing opportunity gaps. Research⁴ shows that teacher quality is the most influential in-school factor for student success.

A. Identifying Students with Disabilities

The IDEA and California have broad “child find” mandates, an obligation to identify, locate and evaluate children with disabilities who need special education and related services. (34 C.F.R. § 300.111; 303.302; Cal. Ed. Code, § 56301.) Teachers are the essential on-the-ground agents who carry out the state’s obligation to proactively engage in child find and are responsible for recognizing potential signs of a disability and initiating the referral process for a comprehensive evaluation by the school. Schools, for their part, are required to provide ongoing training to ensure that teachers and other school staff can identify students who may need special education services and understand the referral process. Substitutes will not receive this critical training. As an example, an untrained substitute facing the immediate challenge of managing and teaching a full classroom will likely not recognize the signs of dyslexia or other specific learning disabilities in students who are falling behind in reading, math, or sightreading.⁵

⁴ Isaac M. Opper, PhD. Economics, *Teachers Matter: Understanding Teachers’ Impact on Student Performance*. <https://www.rand.org/education-and-labor/projects/measuring-teacher-effectiveness/teachers-matter.html> (as of Sept. 22, 2025)

⁵ Jacob Kirksey, *Amid Rising Number of Uncertified Teachers, Previous Classroom Experience Proves Vital in Texas*. (2024) (“Students who had an uncertified, first-time teacher in first grade were much less likely to receive dyslexia services by third grade. Compared to students who had certified, first-time teachers in first grade, where 7.91% received dyslexia services in third grade, only 3.56% of students with uncertified, first-time teachers received these services.”)

B. Delivering Specialized Instruction, Interventions and Supports for Students with Disabilities

The central function of special education teachers is to provide specially designed instruction and achieve progress on individualized learning goals. Special education teachers “must be appropriately and adequately prepared and trained, including having the content knowledge and skills to serve children with disabilities which includes adapting the content, methodology or delivery of instruction to address the unique needs of the child that result from the child’s disability.”⁶ (34 C.F.R. § 300.39(b)(3).) Trained teachers provide FAPE “to each qualified student with a disability who is in the school district’s jurisdiction, regardless of the nature or severity of the disability.”⁷ And school districts “shall take measurable steps to recruit, hire, train and retain highly qualified personnel to provide special education.” (Cal. Ed. Code, § 56070(b).)

1. An Untrained Substitute Will Not be Able to Implement Behavioral Techniques

A properly trained teacher will be able to identify behavioral manifestations linked to disability and implement behavioral techniques. Positive behavioral supports can be particularly effective for students with disabilities.⁸ There are safe and effective ways for teachers to support students with disabilities and respond to any disability-related behavior. Teachers who are entrusted to work with students with disabilities must respond to disability-related behaviors with strategies that are research-based and with

⁶ U.S. Department of Education, *Building and Sustaining Inclusive Educational Practice* <<https://www.ed.gov/media/document/inclusive-practices-guidance-109436.pdf>>; See also 20 U.S.C. § 1412(a)(14) and 34 C.F.R. § 300.156.

⁷ U.S. Department of Education, *Frequently Asked Questions: Section 504 Free Appropriate Public Education* <<https://www.ed.gov/laws-and-policy/civil-rights-laws/disability-discrimination/frequently-asked-questions-section-504-free-appropriate-public-education-fape>> (as of June 30, 2025).

⁸ Human Rights Watch, *Impairing Education: Corporal Punishment of Students with Disabilities in U.S. Public Schools* (Aug. 10, 2009) p. 7.

interventions that are consistent with accepted professional judgment, practices and standards. (See Cal. Ed. Code, § 56521.2; 34 C.F.R. § 300.324(a)(2)(i) [“[i]n the case of a child whose behavior impedes the child’s learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.”].) Schools are required to accommodate all manifestations of a student’s disabilities with behavioral interventions, supports, and other strategies to support behavior. (See Cal. Ed. Code, § 56521.1.) Teachers must be specifically trained to implement these behavioral supports.⁹ Without appropriate training on addressing disability-related behavioral needs, an untrained substitute may respond to these behaviors by removing a student from the classroom, perhaps informally, rather than moving forward with a legally required manifestation determination review for repeated removals (20 U.S.C. § 1415(k); Cal. Ed. Code, § 48915.5.) Without understanding the heightened protections against school discipline and removal of students with disabilities, students with disabilities served by untrained substitutes could be at heightened risk of school push out.¹⁰

⁹ Los Angeles Unified School District was out of compliance with Section 504 because a substitute failed to follow a student’s behavior plan. See Julie Hall-Panameño, Letter from Los Angeles Unified School District <<https://www.ed.gov/media/document/09131007-apdf-28990.pdf>> (“The Substitute Teacher did not have any knowledge of Student’s IEP or [Behavioral Intervention Plan] or methods to address the Student’s disability-related behaviors that were appropriate to his individual needs.”; OCR stated that “involving a long-term substitute in a special day classroom that contains students with behavioral problems, the District must have some consistent method of ensuring that substitutes have sufficient information to implement the students’ IEP and provide them with FAPE.”)

¹⁰ See, e.g., Brooke Schultz, *‘Handcuffed and Pushed Out’: How Schools Fail Some Students With Disabilities* (October 2024) <<https://www.edweek.org/teaching-learning/handcuffed-and-pushed-out-how-schools-fail-some-students-with-disabilities/2024/10>>.

2. An Untrained Substitute Will Not be Able to Support Students with Disabilities with Limited English Proficiency

Expert teachers with specialized training are especially required for disabled students who have limited English proficiency given the complex interaction between learning disabilities and language acquisition. Students who are English learners and who also have learning or communication disabilities, diagnosed or undiagnosed, raise particular support needs when it comes to assessing and addressing their acquisition of written and spoken English. Experts in this area of interaction recommend a number of strategies¹¹ that will help school districts address the nuanced learning interventions which can benefit disabled English language learners. Substitutes who need not undergo training on even the basic barriers encountered by students with disabilities or who have limited English proficiency will be unable to implement best practices for students who are both disabled and English learners.

3. An Untrained Substitute Will Not Be Able to Provide Consistent Services

Without appropriate services and teachers trained to provide those services, students with disabilities will lose the ability to achieve positive long-term outcomes. Consistent services are especially vital for students with disabilities such as autism and learning disabilities.

Autism manifests differently with each individual and can cause significant social, communication, and behavioral challenges¹² and people with autism may communicate,

¹¹ See, e.g., Supporting English language Learner Students with Disabilities: 10 Best Practices. (July 2025)
<<https://www.wested.org/blog/supporting-english-learner-students-with-disabilities-10-best-practices-for-culturally-sensitive-assessments/>>.

¹² Centers for Disease Control, Autism Spectrum Disorder (ASD)
<<https://www.cdc.gov/autism/>> (as of September 22, 2025).

interact, behave, and learn in ways that are different from most other people.¹³ Autism is characterized by a persistent difference in communication, interpersonal relationships, and social interaction across different environments, and restricted and repetitive behavior, activities, and interests. Research has repeatedly shown that schools must identify and provide intervention services to autistic students at the earliest possible time to maximize positive outcomes and prevent negative secondary symptoms, such as remaining permanently non-verbal.¹⁴

Learning disabilities encompass a range of disabilities including dyslexia, dyscalculia, and dysgraphia that cause students to struggle in one or more areas of learning.¹⁵ As with students with autism, students with learning disabilities require

¹³ Autism Society, What is Autism Spectrum Disorder <<https://autismsociety.org/the-autism-experience/>> (as of September 22, 2025).

¹⁴ Lynn Kern Koegel et al., *The Importance of Early Identification and Intervention for Children With or At Risk for Autism Spectrum Disorders* (2013) 16 *International Journal of Speech-Language Pathology* 50, 54 [“Data suggest that children who are completely non-verbal who begin intervention in the early pre-school years are far more likely to become verbal than children who begin intervention over the age of 5-years.”]; *id.* [“We strongly encourage symptoms to be addressed at the earliest point in time so that parents learn effective strategies to help their children improve socially and communicatively and to decrease the possibility of more severe secondary symptoms.”]; see e.g., *id.* at 52 [“Alternatively, failing to provide intervention for these symptoms due to inaccurate or lack of diagnosis may result in grave consequences. Early intervention techniques to address core symptoms of ASD may prevent secondary symptoms and reduce the need for more substantial and expensive interventions later in life.”]; Edward C. Fenske, et al., *Age at Intervention and Treatment Outcome for Autistic Children in a Comprehensive Intervention Program*, in *Analysis and Intervention in Developmental Disabilities* (1985) 57 [explaining that positive outcomes diminish sharply when intensive, high-quality services such as behavioral intervention are not begun before age five] [citations omitted].

¹⁵ National Center for Learning Disabilities, What are Specific Learning Disabilities <<https://nclld.org/understand-the-issues/specific-learning-disabilities/>> (as of September 22, 2025).

intervention services to improve long-term outcomes and academic achievement.¹⁶ Without these services and the teachers specifically trained in providing these services, students with learning disabilities can experience “secondary consequences,” which “include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge.”¹⁷ Students with instructional deficits and gaps experience similar consequences.¹⁸

Substitutes will not be able to provide consistent services to students with autism and learning disabilities which hinders their ability to meet their educational goals and maximize long term success.

III. Our Most Vulnerable Students Will Continue to Be Disproportionately Impacted

WCCUSD’s practice of utilizing substitutes beyond the legally permitted timeframe impacts students with disabilities, low-income students, students of color, and

¹⁶ International Dyslexia Association, *Dyslexia Assessment: What Is It and How Can It Help?* (2017) <<https://dyslexiaida.org/dyslexia-assessment-what-is-it-and-how-can-it-help/>> [“[A]ppropriate early intervention, provided in kindergarten through grade three, is very effective in closing the gap for struggling readers. Early intervention and additional direct instruction should begin as early as kindergarten or first grade for struggling readers when the gap is small and students benefit from brain plasticity advantages for learning language-based information. When a student is not achieving at an average rate, additional instruction ...must be provided immediately to help them catch up.”].

¹⁷International Dyslexia Association, *Definition of Dyslexia* (2002) <<https://dyslexiaida.org/definitionofdyslexia/>> (as of September 22, 2025).

¹⁸ Frank R Vellutino, *The Case for Early Intervention in Diagnosing Specific Reading Disability* (1998) 36 J. Sch. Psych. 367, 388; see id. at 384 [“In keeping with results obtained in previous intervention studies, our remedial program significantly reduced the number of children who qualified as “disabled readers,” relative to the number who qualified prior to remediation.”]; id. at 389 [“They also suggest that such children are in the minority, compared with those whose reading difficulties are caused by experiential and instructional deficits and, thereby, speak for the utility of using early intervention as the primary vehicle for distinguishing the two groups.”]

English Learners. Within WCCUSD, 87% are students of color, 15% are students with disabilities, 67% are low income, and 32% are English language learners.¹⁹ In addition, there are a high percentage of students with disabilities who are also low income, students of color, and English Learners. In WCCUSD, 91% of students with disabilities are students of color.²⁰ Marginalized students deserve and require teachers who have received the education, training, and experience to effectively meet their individualized and specialized needs. Because most students with disabilities have multiple marginalized identities, they are among the most likely to be impacted by unqualified and untrained teachers.

Should the court permit WCCUSD to continue utilizing substitutes in contravention of the law, there could be wider ramifications for vulnerable students with disabilities throughout California. Over 825,000 students with disabilities are enrolled in California's K-12 public schools.²¹ More than one in 10 California students receive special education services.²² There is a significant relationship and overlap between

¹⁹ West Contra Costa Unified School District, 2024-29 Strategic Plan, Brave Minds. Bold Leaders. Big Dreams at p. 23. <<https://www.wccusd.net/about-us/superintendent/strategic-plan>> (as of September 22, 2025).

²⁰ Cal. Dep't of Educ., 2022-23 Special Education Enrollment by Program Setting West Contra Costa Unified Report (07-61796) Disaggregated by Race / Ethnicity <<https://dq.cde.ca.gov/dataquest/DQCensus/SPEDEnr.aspx?agglevel=District&cds=0761796&year=2022-23>>.

²¹ Ed-Data Fiscal, Demographic, and Performance Data on California's K-12 Schools <https://www.ed-data.org/state/CA/ps_MjAyMjQ%5E> (as of September 22, 2025).

²² California School Boards Association, The Landscape of Special Education in California: A Primer for Board Members (May 2019) p. 4 <https://www.csba.org/-/media/CSBA/Files/GovernanceResources/Reports/20190520_The-Landscape-of-Special-Education-in-California_A-primer-for-board-members.ashx?la=en&rev=87463ec45c2f411fa559d4574dc32347> (as of September 22, 2025).

disability and other protected statuses. Students with disabilities in California are disproportionately low-income.²³ Black students represent six percent of the overall student population but nine percent of students with disabilities and Asian students represent six percent of the overall student population but 11 percent of the students with disabilities.²⁴ Students who are English Language Learners, gender non-binary, and in foster care also have high rates of disability.²⁵ Moreover, the number of students with relatively severe disabilities has increased significantly, almost doubling since 2000-01.²⁶ These students in districts across California require qualified and trained teachers working with them to ensure their success. Should the court allow WCCUSD to continue its current practices, our marginalized students across California could be at risk for similar practices in other school districts.

CONCLUSION

For the foregoing reasons, Amici respectfully urge the Court to reverse the trial court's orders, with instructions to issue a writ of mandate. West Contra Costa Unified School District has responsibilities to all of its students, including students with disabilities, to ensure they receive high quality, consistent instruction from teachers who are specially trained to meet their individualized needs.

²³ Petek, Overview of Special Education in California (Nov. 6, 2019) Legis. Analyst Report at p. 8. <<https://lao.ca.gov/reports/2019/4110/overview-spec-ed-110619.pdf>> (as of September 22, 2025).

²⁴ *Id.* at p. 1.

²⁵ Cal. Dep't of Ed., California Annual Enrollment Data <<https://www.cde.ca.gov/ds/ad/edtop.asp>> (as of September 22, 2025).

²⁶ *Ibid.*

Dated: September 22, 2025

Respectfully submitted,



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Disability Rights California

/s/ Jinny Kim

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**STATEMENT OF COMPLIANCE WITH CAL. RULES OF COURT RULE
8.204(c)(1)**

The text in this proposed *Amici Curiae* brief consists of 4,760 words, including footnotes, as counted by the word processing program used to generate this document.

Executed on September 22, 2025, in San Francisco, California

/s/ Jinny Kim

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PROOF OF SERVICE

SAM CLEARE, et al. v. WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT. et al.

**California Court of Appeals, First Appellate District, Division Two,
Case No. A173289**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Alameda, State of California. My business address is 3075 Adeline Street #210, Berkeley, CA 94703.

On September 22, 2025, I served true copies of the following document(s) described as on the interested parties in this action as follows:

APPLICATION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF IN SUPPORT OF APPELLANTS AND PETITIONERS SAM CLEARE, *ET AL.*; PROPOSED *AMICI CURIAE* BRIEF OF DISABILITY RIGHTS CALIFORNIA AND DISABILITY RIGHTS EDUCATION & DEFENSE FUND, IN SUPPORT OF APPELLANTS AND PETITIONERS SAM CLEARE, *ET AL.*

BY ELECTRONIC SERVICE: I electronically filed the document(s) with the Clerk of the Court by using the TrueFiling system. At the time of filing, I electronically served participants in the case who were registered TrueFiling users via the TrueFiling system. Participants in the case who were not registered TrueFiling users were served by mail or by other means permitted by the court rules, as indicated below:

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BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid as indicated below:

Clerk of the Superior Court for the State of California,
County of Contra Costa
The Honorable Benjamin T. Reyes II
Hon. Terri Mockler
Department 16
725 Court Street
Martinez, CA 94553

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

Executed on September 22, 2025, at San Francisco, California.



Ally Cline