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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES**

10 Concerned Parents of California,) Case No.:
11)
12) Petitioner,)
v.) **VERIFIED PETITION FOR WRIT OF**
13) **MANDATE**
14)
15) Robert Taylor Ed.D., Superintendent)
of Walnut Valley Unified School District,)
in his official capacity,) **Date:**
16) **Time:**
Respondent.) **Dept.:**
17) **Hon.:**
_____)

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19 **Introduction**

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21 Petitioner applies for an issuance of a writ of mandate, under the California Code of Civil
22 Procedure (“CCP”) §1085, to provide to parents and guardians of pupils written notice consistent
23 with the requisites of section 852(b) of Title 5 of the California Code of Regulations (“CCR”).
24 This provision provides that a parent or guardian must be given notice that he or she can request
25 to have their child excused from statewide assessment testing as per Education Code (“Educ.C.”)
26 §60615.

27
28 **Parties**

1. Petitioner, Concerned Parents of California, is an organization of parents and guardians of pupils
enrolled in K-12 public schools in California, including students enrolled in the Walnut Unified
School District (“District”). Concerned Parents of California and its members have profound

1 California State Board of Education. The statewide assessment test, called California Assessment
2 of Student Performance and Progress (“CAASPP”) (5 CCR 850) reflects the Common Core
3 curriculum taught in the classroom. Petitioner has an organizational interest in ensuring that its
4 parent members are afforded all of their legal rights relative to CAASPP, including the right to
5 have notice that their children can be excused from CAASPP in the spring.
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7. Respondent, Robert Taylor (“Superintendent”) is an employee of the District and serves as the
8 District’s Superintendent. The District is established pursuant to Article IX, §6, of the California
9 Constitution and defined under Educ.C. §83 as a *unified school district*. As a unified school
10 district, the District is a “local education agency” as per 5 CCR 850(p). The Superintendent’s
11 duties include serving as the secretary to the District Board and he is the chief executive officer
12 charged with ensuring the District’s compliance with the Education Code and California Code of
13 Regulations. In that capacity, pursuant to 5 CCR 857, the Superintendent, or a District employee
14 or employees whom he so designates, is responsible for the implementation of the District’s
15 participation in statewide assessment testing of pupils. The Superintendent is sued in his official
16 capacity.

17 **Jurisdiction and Venue**

18 3. This action arises under CCP §1085.

19 4. Venue is proper in this Court because the principle place of business of the District is in Walnut,
20 California, and the actions complained of below occurred within the County of Los Angeles.

21 **Statement of Facts**

22 5. Petitioner has members with children enrolled in the District.

23 6. K-12 school districts are required to apprise parents and guardians of their right under the law to
24 request that their child be excused from statewide assessment testing.

25 7. K-12 school districts administer statewide assessment tests pursuant to Educ.C. §60600, et seq.
26 Pupils across the state normally sit for these exams during the spring term.

27 8. Parents or guardians of students may submit a written request to have their child excused from
28 taking all or part of the statewide assessment test. Specifically, Educ.C. §60615 reads in full, as
follows:

Notwithstanding any other provision of law, a parent's or guardian's written request to school officials to excuse his or her child from any or all parts of the assessments administered pursuant to this chapter shall be granted.

1 in 5 CCR 852, subsections a and b, which read, as follows:

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3 (a) Each year the LEA¹ shall notify parents or guardians of their pupil's
4 participation in the CAASPP assessment system in accordance with Education
Code section 60604.

5 (b) The notification to parents or guardians, as defined in subdivision (a), shall
include a notice of the provisions outlined in Education Code section 60615.

6 10. A request for public records was sent to the Superintendent requesting

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8 Any notices sent to parents/guardians by the District related to 5 CA Code of
9 Regulations §852(a) and (b). This request covers the period of January 1, 2013
to the date of this letter.

10 (A true and correct copy of the request is attached and marked as “Exhibit 1”).

11 11. In response, the District provided a template, drafted by the California Department of Education,
12 of the notice relative to CAASPP sent to parents and guardians. The District also provided the
13 notices used by the twelve schools within its jurisdiction. (True and correct copies of the notices
14 are attached and marked as “Exhibit 2”).

15 12. Using the stationary of the six elementary schools, four middle schools, and two high schools
16 within the jurisdiction of the District, the District’s principals dispatched letters in March 2015, to
17 parents and guardians regarding the upcoming assessment testing in the spring term. The
18 District’s principals are designated by the Superintendent to implement CAASPP on their
19 respective campuses. Not one of these notices dispatched by the principals include the provisions
20 of Educ.C. §60615 as required by 5 CCR 852(b) thereby depriving Petitioner and its members of
21 their rights to have legal notice that their children may be excused from CAASPP upon submission
22 of a written request.

23 **FIRST CAUSE OF ACTION FOR WRIT OF MANDAMUS**

24 13. Paragraphs 1-12 are incorporated herein by reference as though fully set forth. Section 852(a) of
25 Title 5 of the California Code of Regulations requires that the District notify parents or guardians
26 of their pupil's participation in the statewide assessment test. Further, section 852(b) requires that
27 the notice include the provisions of Educ.C. §60615.

28 14. Section 60615 of the Education Code provides that “a parent's or guardian's written request to
school officials to excuse his or her child from any or all parts of the assessments administered
pursuant to this chapter shall be granted.”

13. The notice dispatched to parents and guardians by the Superintendent fails to include the
provisions of Education Code §60615 as required under 5 CCR 852(b), to the detriment of

1 compliance with this statute and regulation.
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3 14. In the alternative, under the public interest exception to the beneficial interest requirement, the
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5 Petitioner has standing to seek a writ compelling the District to comply with 5 CCR 852(b).
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7 15. Respondent has the ability to comply with Petitioner's request.
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9 16. Petitioner seeks the issuance of writ of mandate, compelling the Respondent to comply with 5
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11 CCR 852(b) for the upcoming school year and subsequent years.
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13 17. The issuance of the writ is indispensable to the enforcement of the Petitioner and its members'
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15 rights because no plain, speedy, or adequate remedy in the ordinary course of law whereby said
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17 rights can be upheld or whereby the Respondent can be compelled to comply with 5 CCR 852(b).
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19 If the relief sought by this Petition is not granted, great and irreparable injury will be caused to
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21 Petitioner and its members.
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PRAYER

WHEREFORE, Petitioner requests relief as follows:

1. That the Court issue an alternative Writ of Mandate commanding Respondent to comply with 5
CCR 852(b) by publishing and dispatching notices consistent with the requirements of that
regulation within sixty (60) days, or any other period that the Court may set, or to show cause
before this Court, at a time specified by Court order, why they have not done so and why a
peremptory writ should not issue;
2. For reasonable attorney fees;
3. For taxable costs of suit incurred herein;
4. For such other and further relief as the Court deems just and proper.

Dated: September 4, 2015

By _____
Kevin T. Snider
Michael J. Peffer
Matthew B. McReynolds
Attorneys for Petitioner

VERIFICATION

I, Tony Dolz, am the president and official representative for Petitioner, Concerned Parents
of California, in the above-captioned matter. I have read the VERIFIED PETITION FOR WRIT

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

Executed this ____ day of September, 2015, in the County of Ventura, City of Thousand Oaks, State of California.

Tony Dolz