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Tentative Rulings

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DEPARTMENT 86 LAW AND MOTION RULINGS

Case Number: 21STCP04106 **Hearing Date:** July 16, 2024 **Dept:** 86

THE ROMAN CATHOLIC
ARCHBISHOP OF LOS ANGELES, *et*
al.,

Petitioners,

vs.

LOS ANGELES UNIFIED SCHOOL
DISTRICT, *et al.*,

Respondents.

Case No. 21STCP04106

[TENTATIVE] RULING ON VERIFIED
PETITION FOR WRIT OF MANDATE

Dept. 86 (Hon. Curtis A. Kin)

Petitioners The Roman Catholic Archbishop of Los Angeles and Archdiocese of Los Angeles Education & Welfare Corporation (collectively, "Archdiocese" or "ADLA") petitions for a writ of mandate directing respondent Los Angeles Unified School District ("LAUSD" or "District") to produce records related to LAUSD's funding of ADLA's educational services in compliance with Title I of the Elementary and Secondary Education Act.

I. Factual Background

A. Statutory Background

Under Title I of the Elementary and Secondary Education Act, 20 U.S.C. § 6320, *et seq.*, as amended by the 2015 Every Student Succeeds Act ("ESSA"), federal educational grants are provided to local educational agencies ("LEAs") in order to "provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps" by funding services such as instructional services, counseling, mentoring, one-on-one tutoring, and intervention services for neglected, delinquent, or at-risk children. (20 U.S.C. §§ 6301, 6320(a)(1)(A), 6333, 6421(b).) Title I requires each LEA to dedicate a portion of its grant to provide educational services to eligible students residing in the LEA's school attendance area who attend nonprofit private schools. (20 U.S.C. § 6320(a)(1)(A).) Before providing Title I services to eligible private school students, the LEA shall engage in "timely and meaningful consultation with appropriate private school officials" to determine "how to provide equitable and effective programs for eligible private school children." (20 U.S.C. §§ 6320(a)(1), (b)(1), (b)(3).) Issues discussed during the consultation shall include "the method or sources of data that are used...to determine the number of children from low-income families in participating school attendance areas who attend private schools," as well as whether to "pool" funds allocated to all children from low-income families attending private schools or whether to provide equitable services on a "proportional" basis, as defined in the statute. (20 U.S.C. § 6320(b)(1)(F), (b)(1)(J).)

"Expenditures for educational services and other benefits to eligible private school children" made pursuant to Title I "shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools." (20 U.S.C. § 6320(a)(4).) For purposes of this calculation, the LEA must calculate the number of children, ages 5 through 17, who are from low-income families and attend private schools according to one of the exclusive methodologies set forth in 20 U.S.C. § 6320(c)(1).

ADLA alleges that during the 2017-2018 through the 2019-2020 school years, the District failed to consult with the relevant school officials before changing the methodology for counting the number of eligible low-income ADLA students who are residents of

the LAUSD school attendance area. (Pet. ¶ 11.) The change in methodology purportedly resulted in less funding to ADLA. (Pet. ¶¶ 13, 15, 16.)

B. ADLA Submits Three Sets of CPRA Requests to District

On August 23, 2019, ADLA submitted its first set of requests under the California Public Records Act (“CPRA”) to LAUSD. (Wenkart Decl. ¶ 2 & Ex. A.) The District responded to the first CPRA request on September 27, 2019 and January 24, 2020. (Turner Decl. ¶¶ 10-13 & Exs. 1, 2.)

On July 22, 2020, ADLA submitted its second set of CPRA requests to LAUSD. (Wenkart Decl. ¶ 4 & Ex. G.) On August 17, 2020, the District sent a letter to ADLA’s outside counsel, providing an estimated response date of October 2, 2020. (Wenkart Decl. ¶ 6 & Ex. I.) Later in August 2020, ADLA’s outside counsel and the District engaged in email communication, in which ADLA provided clarifying information in response to the District’s questions. (Wenkart Decl. ¶ 7 & Ex. J.)

On November 15, 2021, ADLA submitted its third set of CPRA requests in a letter to LAUSD. (Wenkart Decl. ¶ 9 & Exh. K.) Along with setting forth new CPRA requests, ADLA’s counsel stated that no response had yet been provided to the first two sets of CPRA requests. (Wenkart Decl. ¶ 9 & Exh. K.)

The District did not provide any substantive response to the second and third sets of requests and did not produce any requested records before the Petition for Writ of Mandate was filed in this matter on December 16, 2021. (Wenkart Decl. ¶¶ 3, 8, 10.)

C. ADLA Files Petition for Writ of Mandate

On December 16, 2021, ADLA filed the Petition. (Troy Decl. ¶ 8 & Ex. L.) The first six causes of action contained in the Petition were causes of action relating to actions, events and omissions that were the subject of the three sets of CPRA requests. The seventh cause of action was for a petition for writ of mandate compelling LAUSD to perform its duty under then-Government Code section 6250 *et seq.* (subsequently renumbered as Government Code section 7920.000 *et seq.*) to provide a prompt and legally sufficient responses to ADLA’s Public Records Act requests. (Pet. ¶¶ 157-162 and Prayer for Relief ¶ 6.)

D. District Produces Documents

After ADLA filed the Petition, LAUSD produced to ADLA what it designated as a “First Production” on February 18, 2022 (Wenkart Decl. ¶ 11 & Ex. M); what it designated as a Second Production of documents on April 7, 2022 (Wenkart Decl. ¶ 12 & Ex. N); what it designated as the Third Production of documents on April 29, 2022 (Wenkart Decl., ¶ 13 & Ex. O); what it designated as the

Fourth Production of documents on January 31, 2023 (Wenkart Decl. ¶ 14 & Ex. P); and what it designated as the Fifth and Final Production on April 12, 2023 (Wenkart Decl. ¶ 15 & Ex. Q).

II. Procedural History

Petitioners filed the operative Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief on December 16, 2021.

On April 20, 2022, the Court (Hon. Douglas W. Stern, presiding) sustained respondents' demurrer to the Petition for Writ of Mandate without leave to amend. On June 9, 2022, Judge Stern revised the April 20, 2022 ruling. Judge Stern sustained the demurrer to the first six causes of action without leave to amend and made no ruling with respect to the seventh cause of action seeking writ of mandate under the California Public Records Act. On June 20, 2023, the instant case was reassigned to this Court to adjudicate the seventh cause of action.

On April 12, 2024, ADLA filed an opening brief. On May 10, 2024, the District filed an opposition. On May 28, 2024, ADLA filed a reply. The Court has received an electronic copy of the administrative record and a hard copy of the joint appendix.

III. Standard of Review

Pursuant to the CPRA, individual citizens have a right to access government records. In enacting the CPRA, the California Legislature declared that "access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state." (Gov. Code § 7921.000; *see also* Cal. Const. Art. I, Sec. 3(b); *County of Los Angeles v. Superior Court* (2012) 211 Cal.App.4th 57, 63.)

"[E]very person has a right to inspect any public record" of a state or local agency subject to statutory exemptions. (Gov. Code § 7922.530(a); *see also* Gov. Code § 7920.510(h) [definition of "local agency" includes agent of a city].) The California Constitution mandates that the CPRA be "broadly construed," while any statute "that limits the right of access" must be "narrowly construed." (*See* Cal. Const. Art. I, Sec. 3(b)(2); *see also Nat'l Lawyers Guild v. City of Hayward* (2020) 9 Cal.5th 488, 507.) The CPRA "does not allow limitations on access to a public record based upon the purpose for which the record is being requested, if the record is otherwise subject to disclosure." (Gov. Code § 7921.300.)

"Any person may institute a proceeding...for a writ of mandate...to enforce that person's right...to inspect or receive a copy of any public record or class of public records." (Gov. Code § 7923.000.) "To establish an agency has a duty to disclose under [the CPRA], the petitioner must show that: (1) the record 'qualif[ies] as [a] 'public record[]' ...; and (2) the record is 'in the possession of the agency.'" (*Anderson-Barker v Sup.Ct.* (2019) 31 Cal.App.5th 528, 538.) "Whether a record falls within the statutory definition of a 'public

record' involves a 'distinct inquiry' from whether the agency is in possession of that record.... The duty to disclose applies only when the petitioner has satisfied both elements." (*Id.* at 539.)

CPRA exemptions must be narrowly construed, and the agency bears the burden of showing that a specific exemption applies. (*Sacramento County Employees' Retirement System v. Superior Court* (2013) 195 Cal.App.4th 440, 453.) A public agency also has the burden to demonstrate that it properly withheld records on the grounds they are non-responsive to a CPRA request or do not constitute public records. (*ACLU of Northern Cal. v. Sup. Ct.* (2011) 202 Cal.App.4th 55, 83-86.) ""Because the agency has full knowledge of the contents of the withheld records and the requester has only the agency's affidavits and descriptions of the documents, its affidavits must be specific enough to give the requester 'a meaningful opportunity to contest' the withholding of the documents." (*Id.* at 83.)

IV. Analysis

A. Evidentiary Matters

The District's evidentiary objections to the declaration of Kevin Troy are OVERRULED. Pursuant to Evidence Code § 1523(d), counsel for ADLA is entitled to aver to the "general result of the whole," specifically what the documents referenced by the District do not contain, as examination of the documents by the Court would cause a great loss of time. While secondary evidence must comply with the hearsay rule (*Dart Industries, Inc. v. Commercial Union Ins. Co.* (2002) 28 Cal.4th 1059, 1070, fn. 2), counsel for ADLA's averments are not inadmissible hearsay. Counsel is not averring to any statement in the documents referenced by the District but rather what statements are not in the referenced documents. (*See* Evid. Code § 1200(a) [defining "hearsay evidence" as "evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated"].) In any event, any evidentiary defect was cured by ADLA filing the referenced documents with the reply. (*See* Troy Supp. Decl. ¶¶ 3-7 & Exs. W-AA.)

ADLA's objections to the declaration of Rita Gail Turner are OVERRULED.

B. Merits

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1. First Request (August 23, 2019)

In the moving papers, ADLA sought to compel production of Request No. 2, which sought "[a]ll budget documents and related information showing the cost of Title I services provided to the Archdiocese's students for the past three years [2016-19]." (Opening Br. at 14:12.) In the opposition, the District asserted that they responded to this request on September 27, 2019 and January 24, 2020.

(Opp. at 6:10-17; Turner Decl. ¶¶ 9-13 & Ex. 1-2.) In the reply, ADLA withdrew the request. (Reply at 2:6-8.) Accordingly, the Court does not rule on ADLA's first CPRA request.

2. Second Request (July 22, 2020)

From ADLA's July 22, 2020 request, ADLA seeks to compel Request Nos. 2, 3, 7, 8, 9, 10, 11, and 14. (Opening Br. at 14:13-14; see Wenkart Decl. ¶ 4 & Ex. G.)

Request Nos. 2, 3, 7, 10, 11, and 14 request the following:

2. Any and all records, documents, correspondence, e-mails and other information related to LAUSD's internal discussions related to the Archdiocese of Los Angeles' (ADLA) request for push-in as opposed to pull-out services since July 1, 2018.

3. Any and all records, documents, correspondence, e-mails, and other information related to the names, years of experience, prior assignments, and qualifications of teachers assigned to programs operated by the ADLA, including, but not limited to, a roster of teachers assigned to ADLA for the past four school years [2016-20]

7. Any and all records, documents, correspondence, e-mails, and other information related to the mailing of a survey to parents of ADLA students in the last year, including, but not limited to, a list of the correspondence returned to LAUSD, and the reasons the correspondence was returned by the U.S. Postal Service.

10. Any and all records, documents, correspondence, e-mails, and other information related to LAUSD's development and distribution of the survey LAUSD developed to send to the parents of ADLA students.

11. Any and all records, documents, correspondence, e-mails, and other information related to LAUSD's internal discussions related to the ADLA's proposed survey to determine Title I eligibility and LAUSD's rejection of the ADLA's proposed survey.

14. Any and all records, documents, correspondence, e-mails, and other information related to the filing of LAUSD's consolidated applications for Title I funds with the California Department of Education (CDE).

As a preliminary matter, it is undisputed that the records requested by ADLA are public records.

With respect to Request Nos. 2, 3, 7, 10, 11, and 14, through which ADLA seeks internal communications, the District opposes the requests based on the following arguments: 1) the District produced internal communications within its responsive records, 2) internal communications are subject to the attorney-client privilege, and 3) ADLA did not file copies of the District's production so that the Court can determine whether internal communications were omitted.

Regarding the third argument, it is without merit for the reasons stated in section IV.A, *supra*.

Regarding the first argument, the District does not argue that it is not in possession of responsive documents. (See Turner Decl. ¶ 43 ["As to all other categories of records sought in Mr. Wenkart's CPRA request dated July 22, 2020, LAUSD has produced all responsive non-exempt public records known to exist within the District's custody and control"]; Opp. at 12:4-6.) Instead, the District argues that Exhibits B, D, E, F, S, and T in support of ADLA's opening brief are responsive internal communications. (Turner Decl. ¶¶ 44, 45.) However, these exhibits were produced in response to other requests. Exhibit B (Bates number PRA 2148-49) does not appear to be an internal communication but rather communications between ADLA's counsel and a representative from the District. (Troy Decl. ¶ 3 & Ex. B.) In any event, the District produced Exhibit B in response to Request No. 6. (Wenkart Decl. ¶ 15 & Ex. Q, #6.) Exhibit D (PRA 6632-33), Exhibit E (PRA 6653-54), Exhibit F (PRA 7012-16), and Exhibit T (PRA 6467) were produced in response to Request No. 9. (Troy Decl. ¶¶ 5-7, 18 & Exs. D-F, T; Wenkart Decl. ¶ 15 & Ex. Q, #9.) Exhibit S (PRA 15059, 15060) was produced in response to Request Nos. 13 and 15. (Troy Decl. ¶ 17 & Ex. S; Wenkart Decl. ¶ 15 & Ex. Q, #13, 15.) The District cannot rely on records produced in response to other requests to claim that it complied with Request Nos. 2, 3, 7, 10, 11, and 14. ADLA cannot be expected to decipher which documents are responsive to certain other requests, especially when the District's responses to each of ADLA's CPRA requests identified by Bates number the documents that it contends are responsive. (Wenkart Decl. ¶¶ 11-15 & Exs. M-Q.)

Regarding the second argument, the District asserts that, because the parties were engaged in Uniform Complaint Procedures ("UCP") proceedings concerning the District's Title I funding for ADLA students (see Petition Ex. A; Turner Decl. ¶ 24), "LAUSD's Office of General Counsel was almost certainly involved in many of the very same internal discussions sought in ADLA's CPRA requests, thereby rendering such records attorney-client communications exempt from disclosure." (Opp. at 12:7-16.) However, it is the District's burden under the CPRA to "describe the justification for nondisclosure with reasonably specific detail and demonstrate that the information withheld is within the claimed privilege or exemption." (*Golden Door Properties, LLC v. Superior Court* (2020) 53 Cal.App.5th 733, 790.) "Declarations supporting the agency's claim of exemption "must be specific enough to give the requester "a meaningful opportunity to contest" the withholding of the documents and the court to determine whether the exemption applies.'" [Citation.]" (*Ibid.*, citing *ACLU*, 202 Cal.App.4th at 83.) The District invokes the possibility that documents responsive to Request Nos. 2, 3, 7, 10, 11, and 14 are

privileged without providing any evidence supporting this assertion. (*See generally* Turner Decl.; *Hebberd-Kulow Enterprises, Inc. v. Kelomar, Inc.* (2013) 218 Cal.App.4th 272, 283 ["An attorney's argument in pleadings is not evidence"].) The District does not meet its burden to demonstrate that responsive documents are exempted from production.

For the foregoing reasons, the Court will order the District to produce all records responsive to Request Nos. 2, 3, 7, 10, 11, and 14. To the extent that documents that the District previously produced are responsive to these requests, the District may specify the Bates numbers of any such documents in responding to the requests.

ADLA also seeks an order for the District to produce records responsive to Request No. 8, which asks for "[a]ny and all records, documents, correspondence, e-mails, and other information related to the ineligibility of ADLA students for the 2019-20 and 2020-21 school years, including, but not limited to a list of the names of parents and students, addresses, and schools of attendance, of students found ineligible for Title I services." The District declined to produce records responsive to Request No. 8 pursuant to the Family Educational Rights and Privacy Act ("FERPA"). (Wenkart Decl. ¶¶ 13-15 & Exs. O-Q, #8.)

Under FERPA, educational agencies which have a policy or practice of releasing "any personally identifiable information in education records other than directory information" are prohibited from receiving federal funds unless the information "is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency." (20 U.S.C. § 1232g(b)(2)(B).)[1] As phrased in the statute, FERPA "imposes a financial penalty for the unauthorized disclosure of educational records." (*Ellis v. Cleveland Municipal School Dist.* (N.D. Ohio 2004) 309 F.Supp.2d 1019, 1023.) "FERPA is not a law which absolutely prohibits the disclosure of educational records." (*Ibid.*) Moreover, FERPA was designed to 'address systematic, not individual, violations of students' privacy by unauthorized releases of sensitive information in their educational records.'" (*Ibid.*) FERPA's focus on "policies which systematically invade a student's privacy is thus consistent with the statute's allowances for the disclosure of such information in particular circumstances or pursuant to a court order on a case-by-case basis." (*Id.* at 1023-24.)

Accordingly, FERPA is not a statutory exemption which would prohibit respondent from producing responsive documents. By complying with Request No. 8, the District would not be acting in accordance with any policy or practice. Rather, the District would be responding to a public records request as required under the CPRA. Therefore, the District fail to satisfy their burden to demonstrate a statutory exemption to the CPRA. (*Sacramento County*, 195 Cal.App.4th at 453 ["Creating a general right of access subject to exemptions places the burden on the agency to show that a particular public record is exempt from disclosure"].)

Because FERPA does not pose a barrier to production of documents that are responsive to Request No. 8, the Court need not address ADLA's alternative arguments that the District improperly withheld documents in whole instead of redacting potentially

redactable information and that the District interpreted the request to include only documents with potentially redactable information. (See Opening Br. at 9:19-20:4.)

ADLA also seeks an order for the District to produce records responsive to Request No. 9, which asks for “[a]ny and all records, documents, correspondence, e-mails, and other information related to LAUSD’s budget for the Title I program, including, but not limited to, the apportionment of administrative overhead among the various components of the Title I program, including LAUSD schools and private schools, including, but not limited to ADLA schools.” ADLA argues that the documents that the District identified by Bates number (PRA 3257 through 14591) as responsive to Request No. 9 do not pertain to the District’s Title I budget or at most contain a tangential reference to Title I. (Troy Decl. ¶ 15; Troy Supp. Decl. ¶ 7 & Ex. AA.) ADLA also argues that the budgets are not easily identifiable within the District’s referenced documents because the District produced emails without the accompanying attachments. (Troy Decl. ¶¶ 15, 16.) The District did not address these arguments in its opposition. For example, the District did not cite specific Bates numbers and explain how the documents it produced are responsive to Request No. 9.

On the face of Request No. 9, budgets, documents related to budgets, and attachments corresponding to emails are within the District’s control. (See, e.g., *Getz v. Superior Court* (2021) 72 Cal.App.5th 637, 660 [ordering production of emails and attachments under CPRA].) The District does not meet its burden to demonstrate that an exemption to the CPRA applies, that the records which ADLA seeks are not responsive to Request No. 9, or that the requested records are not public records. (*Sacramento County*, 195 Cal.App.4th at 453; *ACLU*, 202 Cal.App.4th at 83-86.)

For the foregoing reasons, the District is ordered to produce records responsive to Request Nos. 2, 3, 7-11, and 14 contained in ADLA’s July 22, 2020 CPRA request.

3. Third Request (November 15, 2021)

ADLA also petitions for an order for the District to produce records responsive to Request Nos. 1-8 in ADLA’s third CPRA request. Request Nos. 1-8 seek the following categories of records:

1. Any and all records, documents, correspondence, e-mails, and other information related to LAUSD’s response to the CDE Investigation Report, Case No. 2019-0271TM/2019-058CPM.
2. Any and all records, documents, correspondence, e-mails, and other information related to LAUSD’s modifications, changes, reforms, or improvements of LAUSD’s Title I program since the CDE’s Investigation Report was issued.

3. Any and all records, documents, correspondence, e-mails, and other information related to the expenditure, use or transfer of Title I funds allocated to the ADLA since July 1, 2017, how these Title I funds were actually spent.

4. Any and all records, documents, correspondence, e-mails, and other information related to the transfer of teachers and other LAUSD staff from ADLA schools to other schools since July 1, 2017.

5. Any and all records, documents, correspondence, e-mails, and other information related to the Corrective Action ordered by CDE in its Investigation Report.

6. Any and all records, documents, correspondence, e-mails, and other information related to the reduction in Title I funds allocated to the ADLA from July 1, 2017, to the present.

7. Any and all records, documents, correspondence, e-mails, and other information related to finding ADLA students ineligible for Title I services since July 1, 2016.

8. Any and all records, documents, correspondence, e-mails, and other information related to LAUSD's responses, modifications, changes, reforms, or improvements of LAUSD's Title I program since the United States Department of Education's decision related to the Complaint filed by the Bureau of Jewish Education (BJE).

(Wenkart Decl. ¶ 9 & Exh. K.) The District argues that it never received ADLA's third CPRA request. (Turner Decl. ¶ 47.) The evidence presented by ADLA leads the Court to conclude the contrary. The third CPRA request was contained in a letter to Grace Yeo, Assistant General Counsel of the District in a letter dated November 15, 2021. (Wenkart Decl. ¶ 9 & Exh. K.) The letter was emailed to Ms. Yeo at grace.yeo@lausd.net. (Troy Supp. Decl. ¶ 8 & Ex. BB.) This is the same email address from which Ms. Yeo sent emails to counsel for ADLA. (Troy Supp. Decl. ¶¶ 9-10 & Exs. CC, DD.) Ms. Yeo was employed as an Assistant General Counsel for the District as of November 15, 2021 and until November 2022. (Troy Supp. Decl. ¶ 11 & Ex. EE.)

The District asserts that it is possible that it "simply missed" the third CPRA request because it was contained on pages 3 and 4 of a letter which contained discussion of the first and second CPRA requests. (Opp. at 13:7-9.) However, the email accompanying the request clearly stated that a Public Records Act request was attached and that ADLA has sent two prior Public Records Act requests in 2019 and 2020. (Wenkart Decl. ¶ 9 & Exh. K.) "[I]nternal logistical problems or general neglect of duties" do not excuse the District's failure to comply with the CPRA. (See *Community Youth Athletic Center v. City of National City* (2013) 220 Cal.App.4th 1385, 1447 [finding petitioner may be entitled to attorney fees under CPRA despite public agency's failure to produce documents "due to its internal logistical problems or general neglect of duties"].)

In any event, the District does not argue that an exemption applies to any of the categories of records set forth in the third request. The District agrees to voluntarily respond. (Opp. at 13:13-14.) Accordingly, the District is ordered to produce records responsive to Request Nos. 1-8 contained in ADLA's November 15, 2021 CPRA request.

4. Attorney Fees

ADLA seeks an award of attorney fees pursuant to Government Code § 7923.115(a). "If the requester prevails in litigation filed pursuant to this chapter, the court shall award court costs and reasonable attorney's fees to the requester." (Gov. Code § 7923.115(a).)

"A plaintiff is considered the prevailing party if his lawsuit motivated defendants to provide the primary relief sought or activated them to modify their behavior [citation], or if the litigation substantially contributed to or was demonstrably influential in setting in motion the process which eventually achieved the desired result [citation]." (*Belth v. Garamendi* (1991) 232 Cal.App.3d 896, 901-02.)

The District contends that the instant action was not the catalyst for production in response to the second CPRA request. The District contends that it was under the belief that the documents that it was producing in response to the UCP proceedings satisfied its obligations under the CPRA. (Turner Decl. ¶¶ 24-26.) The District does not cite any authority for the assertion that production in separate litigation satisfies its obligations under the CPRA. In any event, the District requested clarification on the second CPRA request, provided an estimated response time to the second request, and responded to the second requests without referencing the UCP proceedings or referring to production in the UCP proceedings. (Wenkart Decl. ¶¶ 5-7, 11-15 & Exs. H-J, M-Q.) Consequently, the Court finds that the instant action motivated the District to produce records responsive to the second request. The District's previous production in response to the instant action, as well as the Court's issuance of an order to produce records responsive to Request Nos. 2, 3, 7-11, and 14 in the second CPRA request and Request Nos. 1-8 in the third CPRA request, entitles ADLA to an award of attorney fees and costs as the prevailing party.

The District also argues that any award must be reduced due to ADLA's partial success. However, ADLA already reduced the fees incurred for preparing the writ petition by 1/7 to account for the fact that the other six non-CPRA causes of action in the petition were dismissed on demurrer. (Troy Decl. ¶ 19.) The other billing entries provided by ADLA pertain to the CPRA cause of action on which ADLA prevailed. (Troy Decl. ¶ 19 & Ex. V [\$37,550.79]; Wenkart Decl. ¶ 20 & Ex. U [\$17,817.00]; Troy Supp. Decl. ¶ 12 & Ex. FF [\$32,437.50].)

However, ADLA's fee request is excessive to the extent that it seeks to recover fees for the first CPRA request. ADLA first contended that the District did not respond to the first CPRA request only to later rescind the request after the District opposed the Petition with a showing that the District had, in fact, responded to that request. While "there is no requirement that the trial court make an award of attorney fees in an amount that is commensurate with or in proportion to the degree of success in the CPRA litigation" (*Bernardi v. County of Monterey* (2008) 167 Cal.App.4th 1379, 1398), the Court finds a reduction necessary here.

The Court reduces ADLA's fee request by \$2,009.00 for the fees that attorney Ronald Wenkart billed from August 23, 2019 to January 24, 2020 in connection with the first CPRA request. Attorney Kevin Troy also billed \$14,662.50 from April 8 to April 12, 2024 in connection with preparing the opening brief. (Troy Supp. Decl. ¶ 12 & Ex. FF.) To account for the time spent on ADLA's attention to and erroneous request for a response to the first CPRA request, the Court believes ADLA's fee request for the opening brief should be reduced by 25%, or \$3,655.63.

The fees are otherwise reasonable, including fees incurred in drafting the second and third CPRA requests. Had the District fully responded to the requests before ADLA filed the instant action, the District would not be liable for such fees.

The District shall therefore be liable for the fee award requested by ADLA, subject to the reductions noted herein.

VII. Conclusion

The petition is GRANTED IN PART with respect to the CPRA claim. By August 16, 2024, respondent Los Angeles Unified School District shall produce records that are responsive to Request Nos. 2, 3, 7-11, and 14 contained in ADLA's July 22, 2020 CPRA request and Request Nos. 1-8 contained in ADLA's November 15, 2021 CPRA request.

Using the appropriate lodestar approach, and based on the foregoing findings and in view of the totality of the circumstances, the total and reasonable amount of attorney fees and costs incurred for the work performed in connection with the Petition for Writ of Mandate is \$82,140.66 (\$37,550.79 Troy + \$17,817.00 Wenkart + \$32,437.50 Troy opening and reply briefs - \$2,009.00 first CPRA request - \$3,655.63 opening brief). Such fees are awarded to petitioners The Roman Catholic Archbishop of Los Angeles and Archdiocese of Los Angeles Education & Welfare Corporation and against respondent Los Angeles Unified School District.

Pursuant to Local Rule 3.231(n), petitioners shall prepare, serve, and ultimately file a proposed judgment and proposed writ of mandate.

[1] "Education records" means "records, files, documents, and other materials which...contain information directly related to a student" and are maintained by an educational agency. (20 U.S.C. § 1232g(a)(4).)