

## MEDIA RELEASE

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### **Students, Parents, and School Leaders File Lawsuit Against the State of California to Stop the Defunding of California Public School Students**

Sacramento, California (July, 28, 2020) – A coalition of students, parents, and school leaders announced today that they have filed a joint lawsuit to stop the defunding of public school students in California. SB 98, the California budget bill addressing spending for K-12 education, denies funding for students newly enrolling in a public school. SB 98 violates the constitutional promise of a free and equitable public education for all students. Students, parents, and school leaders from four public charter school organizations were joined by civil rights leaders during a press conference on Tuesday, July 28 at 9:00 AM via ZOOM, to discuss the severe negative impacts on students brought on by SB98.

California's Constitution guarantees to every young citizen a free and equitable public education. SB 98 violates this constitutional promise. A provision in SB 98 eliminates the historical method of providing state funding to schools based on per pupil attendance of the actual students enrolled in the school, and instead reduces school funding to prior year amounts regardless of how many children are enrolled. This provision defunds growth at any public school. This defunding of students breaks the long standing link between funding following the child and fails to provide schools the necessary resources to educate each child.

If a public school has enrolled more students for the upcoming 2020-21 school year than they had enrolled the previous year, then according to the defunding provision of SB98, the state will not provide any additional funding for those new enrolling students. Schools grow for a number of reasons: new families move into the community, younger children become school age and enter public school for the first time, new schools add new grade levels as students matriculate, children reach a grade span and move to the next school such as from elementary to middle, or middle to high school, or a child chooses to enroll in a school that fits their specific needs. Approximately 43% of California school districts increased enrollment during the last five years. That's over 400 districts and thousands of public school students that are being denied funding within the State. Public charter schools have also experienced growth with families seeking high quality school options aligned with the needs of their children.

Some of the highest enrollment growth in public schools is in high poverty communities of color and areas of the state where families are moving to find jobs and affordable housing. There is a severe and persistent African American achievement gap that is well-documented based on student achievement data from the California Department of Education. The State's

decision to defund students is a blow to communities of color who rely on the social and academic services at high performing public schools to close the achievement gap and break the cycle of poverty.

*“Governor Gavin Newsom and the Legislature struck a budget deal that strips school funding away from tens of thousands of children who attend public schools that are growing. This is completely unfair. I created Fortune School to close the Black achievement gap in my hometown of Sacramento by preparing kids for college starting in kindergarten. Fortune School has responded very skillfully and quickly to the coronavirus pandemic with a rigorous distance learning program for our families. We even made our distance learning program available to the public for free,” explained Margaret Fortune, President and CEO of Fortune School which operates nine highly successful charter schools in California serving predominantly low-income, Black students. “As a result, more and more Black and Latino parents are choosing Fortune School because we are effective and they want a high quality education for their children. Public school funding should follow the child to the school where they are enrolled, like it always has. The state budget changes all that and is a slap in the face to the many hard working Black and Latino parents who want the best opportunity for their children to obtain a good, high quality education.”*

*“Black kids are going to fall further behind and we will not know how much with no test results for ... we don't know how long. Black parents are choosing effective schools for their children that will prepare them for college and have taken distance learning seriously in the pandemic, putting the needs of our children first. Of course these public schools are growing. The money should follow the child to the school where they are enrolled. Anything less is a violation of a child's civil rights.” said Joette Spencer Campbell, Education Chair, NAACP San Bernardino Branch.*

Failing to fund the education of each child increases the achievement gap. At risk students will not have access to the interventions and supports that they would otherwise have if schools were funded on a per pupil basis, furthering the achievement gap that has already been intensified by learning losses due to COVID-19 closures. *“In a time when educators are trying to remediate the loss of learning, establish equity, and close the achievement gap, under the strains of a global pandemic, we are handed, on the eve of a new school year, a public education policy that exacerbates these issues”* stated Joseph Benson, Executive Director of John Adams Academy. *“Our schools have grown every year because we are providing a high quality education that fits the needs of students. To meet the demand, we have carefully planned for our growth, built facilities, and hired staff. As a result of this legislation, approximately 763 new students are joining one of our three campuses and none of them will get any funding from the state. In other words, the state is defunding 763 students or about 31% of our total enrollment. The same is happening at many other public schools throughout the state. By withholding funding from some of the most effective schools in the state, legislators are in reality abandoning these newly enrolled families.”*

Defunding students leads to the denial of choice of public schools and degrades the quality of education for all students in growing public schools. The only way to avoid undue burden on the school would be to deny enrollment to new students. However, public schools do not have the option of disenrolling students, nor do they have the desire to refuse them. There is a moral and legal imperative to ensuring that every child receives a free high quality and equitable education at the school of their choice. That puts schools in a box where they are serving a greater number of students without the fiscal resources to do so. By forcing schools to provide education to more students no additional funding for students, the educational

program at growing schools will suffer. Less funding means larger class sizes, fewer teachers, less support staff, less supplies, less technology; it means less of everything. Denying access to students or degrading the educational program for all is not an option.

*“Not funding public school students, because their families have made an educational decision in their children’s best interest is inequitable and unconscionable. This is especially devastating to Voices families of historically underserved students who already are taking the brunt of the learning loss and trauma associated with the COVID-19 pandemic. SB 98 denies educational opportunities and services that have proven to be successful for English Learners, Latino, and socio-economically disadvantaged students at Voices and countless other public school students across California who should expect the same level of funding for their education no matter which public school they attend,”* said Frances Teso, Chief Executive Officer and Founder, Voices College-Bound Language Academies. Teso, a Latina, created the Voices model after her experiences growing up and later teaching in underserved communities in San Jose.

Schools experiencing growth have been planning for this growth by building schools and incurring debt, hiring staff, buying curriculum, supplies, etc. Schools have spent substantial amounts of money to support these planned expansions and planned growth with the promise and understanding from the State that they would be funded on a per pupil basis to support that growth. SB98 strips away the funding relied upon to pay these outstanding obligations. And the newest schools may be forced to completely close because of SB 98’s added provision to fund from the February 29th cut off which denies funding to students who enrolled later in the year.

*“SCCCS was in its first year of operation in 2019 and had 65.9 ADA as of the end of February,”* explained Dr. Sarah Bach, Founder and Executive Director of Sycamore Creek Community Charter. *“Families continued to enroll with us throughout the year and we ended the school year with 80 students. We have an additional 46 registered for this fall and 40 in a waiting pool. The defunding provision of SB 98 thwarts our school from following our legally binding charter to serve all of the students seeking a public education with us. We are at a loss as to how to provide our enrolled 126 students a free comprehensive Public Waldorf education with funding for only 65.9 ADA as SB 98 deems.”*

According to Dr. Bach, SCCCS made it through the challenges of starting a new school compounded by those of COVID-19 without sacrificing programming, but they won’t make it through SB98. *“Now, with the State defunding students we see clearly that our current and newly enrolled students will not be able to receive the education they signed up for and we promised to deliver. Simple math tells us that we cannot continue to operate unless the State funds every child.”*

If schools closed, all enrolled students would be forced to find new schools, and the new schools would face the same struggle to serve students that have been defunded by the State. Students like Ryan, a special needs student on the Autism spectrum. *“We feel extremely fortunate to be able to provide our child with Special Needs, a learning opportunity in a public education environment that is inclusive and where he can learn typical behavior from his typical peers.”* shared Ryan’s parents. *“Through the Waldorf curriculum at SCCC, Ryan was able to practice right-brain activities such as painting, playing and singing music, sewing, knitting, handwriting and more; the constant practice of these skills helped create balance in his brain which has*

*a tendency for left-brain dominance. We are very concerned about how the decision to defund Ryan's education will negatively impact him both emotionally and academically."*

The harm of the State's decision to defund students is deep and widespread which is reflected in the diversity of those bringing this lawsuit to protect students. SB98 impacts students in TK-12 of every racial, ethnic, socio-economic status, and special need throughout all public schools in California.

SB 98 creates inequity by treating growing schools and individual students at those schools differently than other schools and students, providing full funding to the latter and zero funding to the former. *"Students at schools with increasing enrollment will be effectively funded on a per-pupil basis at, for example, 25-80% of the LCFF level, e.g., funding as low as \$2,500 per student, as multiple students must "share" the same "per pupil" allocation. Thus, while some growing school students will be funded around \$2,500 per student other declining enrollment schools could be receiving north of \$11,000 per student (the average LCFF funding is around \$10,000 per student) – as the school has more funding and less students to educate. This funding disparity is more than four times the disparity the California Supreme Court has already declared as unconstitutional in the Serrano I and II cases."* shared Paul Minney, Partner at Young, Minney & Corr, the law firm representing students and schools in this action.

While California Governor Gavin Newsom was signing the legislation that included this provision to defund students attending growing schools he included a signing statement which indicates a realization of the harm that will be done to families, to children, and to the dedicated professionals that serve them. *"By not funding those expansions, families enrolled in those schools may be displaced, with impacts exacerbated by the uncertainties caused by COVID-19. I urge members of the Legislature to pursue targeted solutions to these potential disruptions, and will work with you in the coming weeks to enact them."* Unfortunately, the legislature has not provided a remedy to the harm caused by this defunding of students.

*"This is about choice, equality and justice under the law. The State has chosen not to fund a child's constitutional right to a free public education. Schools must be funded on the actual enrollment and attendance of all of their students."* said Dean Forman, Founder of John Adams Academy, which has nearly completed the planned construction of a new 96,000 square foot facility to serve the hundreds of new students enrolling in their program this coming fall. *"To simply sign legislation and ask for a fix later, leaves families and educators lost in the balance. We have built a brand new facility to welcome our planned growth, have already hired staff, purchased furniture, computers, books and other resources, to serve children with the highest quality of programming available all based on the promise by the State to fund every child's education. The State defunding students hurts families when they need relief the most "* he added.

*"I have two daughters who attend Fortune Early College High School. My eldest daughter will be a senior next fall in Fortune's first 12 th grade class. Because the school didn't have 12 th grade last year, the state won't pay for my daughter's last year in high school. She doesn't deserve this,"* explained Pastor Stefon DuBose, father of two children harmed by SB 98.

With the start of school only weeks away, students, parents, and schools are forced to seek relief from the court to protect students and ensure their constitutional right to educational equity.

For more information on the filed litigation see attached complaint or visit:  
<https://reve916.wixsite.com/FundAllKids>

**About Fortune School:** Fortune is a TK-12 network of 9 tuition-free public charter schools in Sacramento and San Bernardino. The schools include: Hardy Brown College Prep, Fortune School, William Lee College Prep, Alan Rowe College Prep, Ephraim Williams College Prep Middle School, Hazel Mahone College Prep, Tecoy Porter College Prep, Fortune Middle School and Rex and Margaret Fortune Early College High School.  
<https://www.fortuneschool.us/>

**About John Adams Academy:** John Adams Academy is Northern California's only tuition-free, TK-12 Classical Leadership Education public charter school network with campuses in Roseville, El Dorado Hills and Lincoln. John Adams Academy's high quality program is preparing future leaders and statesmen through principle-based education centered in classics and great mentors. <https://www.johnadamsacademy.org/>

**About Sycamore Creek Community Charter:** Sycamore Creek Community Charter School is a TK-8 tuition free Public Waldorf option located in Huntington Beach. SCCCS' educational philosophy focuses on developing the child's active will, supporting clear and independent thinking through an arts-integrated, interdisciplinary approach. SCCCS is committed to contributing to the healthy growth of the whole child at each stage of development. <https://sycamorecreekcharter.org/>

**About Voices College-Bound Language Academies:** Voices College-Bound Language Academies Network, recognized by Innovate Public Schools as being a top Bay Area public school network for underserved students, has three schools in Santa Clara County, one school in Contra Costa County, and two schools in San Joaquin County. Voices' mission is to prepare all students for the challenges of higher education through the context of an academically rigorous dual-language program. <https://voicesacademies.org/>

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