



REGULAR MEETING

January 5, 2022

3:30 p.m.

Location: The public meeting will be conducted onsite with limited seating at 200 Kalmus Drive, Costa Mesa, CA 92626 and via YouTube live stream <https://www.youtube.com/watch?v=xGr0IRjKBL8>

ORANGE COUNTY BOARD OF EDUCATION  
AGENDA

WELCOME

CALL TO ORDER

STATEMENT OF PRESIDING OFFICER: For the benefit of the record, this Regular Meeting of the Orange County Board of Education is called to order.

ROLL CALL

(\*) AGENDA

Regular Meeting of January 5, 2022 – Adoption

(\*) MINUTES

Regular Meeting of December 1, 2021 – Approval  
Special Meeting of December 8, 2021 – Approval

PUBLIC COMMENTS (related to Closed Session)

TIME CERTAIN

3:30 p.m.

1. Inter-district Appeal Hearing (closed) – 01052022001I – Santa Ana Unified School District to Tustin Unified School District.

CLOSED SESSION 1

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION Orange County Board of Education v. OC Superintendent of Schools, Al Mijares, and State Superintendent of Public Instruction, Tony Thurmond Case No 30-2019-01112665-CU-WM-CJC - Government Code §§ 54956.9(a) and (d)(1)

CLOSED SESSION 2

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION- Orange County Board of Education v. Newsom Case Number 30-2021-01233170 - Government Code §§ 54956.9(a) and (d)(1)

CLOSED SESSION 3

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION  
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9:  
(1 case)

CLOSED SESSION 4

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION  
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9:  
(1 case)

## INVOCATION

5:00 p.m.

Jordan Hansen, Lead Pastor

Mesa Church, Irvine CA

<http://www.mesa.church>

## PLEDGE OF ALLEGIANCE

## INTRODUCTIONS

## PUBLIC COMMENTS

(30 minutes)

## CONSENT CALENDAR

- |     |    |   |
|-----|----|---|
| (*) | 2. | Approve the granting of diplomas to the students listed from Alternative, Community, and Correctional Education Schools and Services, Alternative Education Division.   |
| (*) | 3. | Approve new Board Meeting dates for August 2022 through June 2023.  |
| (*) | 4. | Approve invoice #3249277 in the amount of \$2,252.76 for Haight, Brown & Bonesteel LLP.   |
| (*) | 5. | Approve invoices #9742 in the amount of 21,924.50 (October) and #9771 in the amount of \$5,673.75 (November) for the Law Offices of Margaret A. Chidester & Associates. |

## CHARTER SCHOOLS

- |    |                                     |
|----|-------------------------------------|
| 6. | Charter submissions                 |
| 7. | Suncoast Preparatory Academy Update |

## BOARD RECOMMENDATIONS

- |     |     |   |
|-----|-----|---|
| (*) | 8.  | Adoption of the White Paper-California Ethnic Study Model Curriculum (Barke and Williams) |
| (*) | 9.  | Superintendent Salary 2022-2026 Term (Williams)   |
| (*) | 10. | Legal Opinion Presentation Health Contracts- Margaret A. Chidester (Williams)             |

## STAFF RECOMMENDATIONS

## INFORMATION ITEMS

### ANNOUNCEMENTS

- Superintendent
- Deputy Superintendent

COMMUNICATION/INFORMATION/DISCUSSION

- Vacancy 4<sup>th</sup> District Update

Legislative Updates

- CSBA Update
- CCBE Update
- NSBA Update
- Capitol News Update
- School Services Update

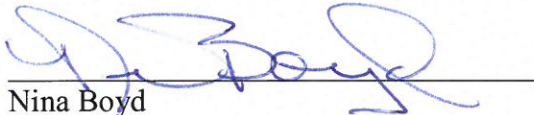
COMMITTEE REPORT

- Website

BOARD MEMBER COMMENTS

PUBLIC COMMENTS

ADJOURNMENT



Nina Boyd  
Assistant Secretary, Board of Education

Next Regular Board Meeting: Wednesday, February 2, 2022 at 5:00 p.m. The meeting will be held onsite at 200 Kalmus Drive, Costa Mesa, CA 92626 with limited seating and via YouTube live stream.

Individuals with disabilities in need of copies of the agenda and/or the agenda packet or in need of auxiliary aides and services may request assistance by contacting Darou Sisavath, Board Clerk at (714) 966-4012.

(\*) Printed items included in materials mailed to Board Members



MINUTES  
Regular Meeting  
December 1, 2021

ORANGE COUNTY BOARD OF EDUCATION  
MINUTES

WELCOME

CALL TO ORDER

The Regular Meeting of the Orange County Board of Education was called to order by Board President Barke at 4:05 p.m., December 1, 2021 in the Board Room, 200 Kalmus Drive, Costa Mesa, California and via YouTube live stream.

ROLL CALL

Present:

Lisa Sparks, Ph.D.  
Ken L. Williams, D.O.  
Mari Barke

Absent:

Rebecca "Beckie" Gomez (arrived at 4:15 p.m.)

AGENDA

Motion by Sparks, seconded by Williams, and carried by a vote of 3-0 to approve the agenda of the Regular meeting of December 1, 2021.

MINUTES

Motion by Williams, seconded by Sparks, and carried by a vote of 3-0 to approve the minutes of the November 3, 2021 Regular Board Meeting.

PUBLIC COMMENTS (related to Closed Session)

- Lynne Riddle – Closed Session #2

The Board took a recess to go into closed session from 4:08 p.m. to 4:58 p.m. Trustee Gomez joined the closed session at 4:15 p.m.

CLOSED SESSION 1

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION Orange County Board of Education v. OC Superintendent of Schools, Al Mijares, and State Superintendent of Public Instruction, Tony Thurmond Case No 30-2019-01112665-CU-WM-CJC - Government Code §§ 54956.9(a) and (d)(1)

CLOSED SESSION 2

CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION- Orange County Board of Education v. Newsom Case Number S270319 - Government Code §§ 54956.9(a) and (d)(1)

CLOSED SESSION 3

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: (1 case)

INVOCATION

Rabbi David N. Young (Virtual)  
Congregation B'nai Tzedek  
9669 Talbert Ave



PLEDGE

Tim Shaw

- Closed Session Report Out Mr. Brenner reported, for Closed Session 1, the Board received an update from counsel. No action was taken with the exception of the approval of an Epstein, Green & Becker invoice #108102, dated November 30, 202, by a vote of 3-0 (Williams, Barke, and Sparks voted Yes; Gomez Absent). For Closed Session 2, the case number was corrected to reflect case #30-2021-01233170 that was filed with the Orange County Superior Court on November 23, 2021. The board had a discussion. No action was taken. For Closed Session 3, the Board received an update. No action was taken.
- Comment Board President Barke made a statement regarding her affiliation with the Orange County Classical Academy (OCCA) and recused herself from all discussions regarding the OCCA.

INTRODUCTIONS

None

CHARTER SCHOOLS

1. Charter submissions – None
2. Charter School Public Hearing – Oxford Preparatory Academy – Saddleback Valley Material Revision - Aracely Chastain, Director, Charter Schools, facilitated the public hearing.
  - Amy Kernan, Executive Director
3. Charter School Public Hearing – Orange County Classical Academy II - Countywide Charter School Petition - Aracely Chastain, Director, Charter Schools, facilitated the public hearing.
  - Semi Park, OCCA Lead Petitioner
  - Helen Suhr, OCCA Headmaster
  - Lucas Garcia, OCCA Student
  - Janelle Ruley, Legal Counsel

PUBLIC COMMENTS (OCCA Only)

- Skylar
- Eddie
- Lisa
- Madison
- Yesenia
- Mike
- Kristen
- Drew
- Dawna
- Rafael
- Sukhi
- Rebecca

- Roy
- Tina
- Joel

The Board took a recess from 6:27 p.m. to 6:42 p.m.

#### PUBLIC COMMENTS (General)

- John Nielsen, CRT Survey
- Madison, Item #6

#### CONSENT CALENDAR

4. Motion by Williams, seconded by Sparks, and carried by a vote of 4-0 to approve the granting of diplomas to the students listed from Alternative, Community, and Correctional Education Schools and Services, Alternative Education Division.
5. Motion by Williams, seconded by Sparks, and carried by a vote of 3-1 (Williams, Sparks, and Barke voted Yes; Gomez voted No) to approve invoice #3248331 in the amount of \$566.10 and invoice #3248332 in the amount of \$19,208.50 for Haight, Brown & Bonesteel LLP.

#### BOARD RECOMMENDATIONS

6. Motion by Williams, seconded by Barke, and carried by a vote of 3-1 (Williams, Barke, and Sparks voted Yes; Gomez voted No) to adopt a resolution Insisting for State Officials to Recommend and Not Require the Covid-19 Vaccine for Students and Staff.
7. Redistricting Update - Douglas Johnson & Greg Rolen
  - Video presentation
8. Redistricting Public Hearing #2 – The public hearing was opened at 7:10 p.m. for public input.

#### PUBLIC COMMENTS (Redistricting)

- Andrea
- Libby
- Natalie
- Debbie
- Rona
- Billie Joe
- Lorrie
- Linda

The public hearing was closed at 7:23 p.m.

Mr. Rolen facilitated the discussion on the ten map options. The following actions took place:

- By consensus of the full board, map options 1, 2, and 3 would not move forward for consideration at the December 8, 2021 Special board meeting.
- By consensus of the full board, map options 4, 5, and an additional map 4A moved forward for consideration at the December 8, 2021 Special board meeting.
- By consensus of the full board, map options 6, 7, and 8 would not move forward for consideration at the December 8, 2021 Special board meeting.
- By a majority vote of 3-1, map option 9 would not move forward for consideration at the December 8, 2021 Special board meeting. Williams, Sparks, and Barke voted against and Gomez voted in favor of moving forward map option 9 for consideration.
- By consensus of the full board, map option 10 would not move forward for consideration at the December 8, 2021 Special board meeting.

## STAFF RECOMMENDATIONS

9. Presentation and Public Hearing (OCDE ACCESS and Special Schools) – Renee Hendrick, Associate Superintendent facilitated the presentation and public hearing regarding the Educator Effectiveness Block Grant for the Orange County Department of Education’s Alternative, Community, and Correctional Education Schools and Services (ACCESS) and Special Schools.

The public hearing for public input was opened at 8:15 p.m. There being no input from the public, the hearing was closed at 8:16 p.m.

10. Presentation and Public Hearing (CCPA) – Renee Hendrick, Associate Superintendent facilitated the presentation and public hearing regarding the Educator Effectiveness Block Grant for the College and Career Preparatory Academy.

The public hearing for public input was opened at 8:21 p.m. There being no input from the public, the hearing was closed at 8:22 p.m.

11. Motion by Williams, seconded by Sparks, and carried by a vote of 4-0 to approve revisions to the annual budget in excess of \$25,000 as per Education Code Section 1280. These revisions have been included in the Second Interim Report that is certified Positive by the County Superintendent of Schools.

## INFORMATION ITEMS

### ANNOUNCEMENTS

#### Superintendent

- OC Pathways Showcase
- CEO Leadership Alliance
- Golden Bell Award
- Collaboration with OC District Attorney – truancy intervention
- Native American Heritage Month Celebration
- National Blue Ribbon School Program- Christy Flores, Principal, Davis Magnet School, Newport-Mesa USD



Deputy Superintendent

- Next board meetings: December 8<sup>th</sup> Special meeting, posting and delivery on Friday, Dec. 3<sup>rd</sup> and December 21<sup>st</sup> Special meeting regarding 4<sup>th</sup> District trustee appointment; next regular board meeting is Wednesday, January 5, 2022 at 5:00 p.m., submission deadline is December 17<sup>th</sup>, delivery on December 29<sup>th</sup>.
- Office closed: December 23, 24, 30, 31

COMMUNICATION/INFORMATION/DISCUSSION

- New School Update - Renee
- Rancho Sonado Update - Renee
- Vacancy 4<sup>th</sup> District Update – Trustee Williams

COMMITTEE REPORT

- Website – Trustee Williams
- OCSBA, CSBA – Trustee Gomez

BOARD MEMBER COMMENTS


- Trustee Gomez- Delegate Assembly at CSBA Conference, Dec. 1st – Dec. 4th, OC School of Arts tour, Scholarship Prep Groundbreaking, Native American Heritage Month
- Trustee Gomez requested the board move map option 9 forward for consideration at the December 8th special meeting, with revisions concerning Cypress and Los Alamitos.
- Trustee Barke- Middle Tree, Scholarship Prep Groundbreaking
- Trustee Sparks- Orange County Classical Academy Visit

PUBLIC COMMENTS

None

ADJOURNMENT

On a motion duly made, and seconded, the board meeting of December 1, 2021 adjourned at 9:09 p.m.



Nina Boyd  
Assistant Secretary, Board of Education

---

Mari Barke  
President, Board of Education

Next Special Board Meetings: Wednesday, December 8, 2021 & Tuesday, December 21, 2021

Next Regular Board Meeting: Wednesday, January 5, 2022 at 5:00 p.m. All meetings will be held onsite at 200 Kalmus Drive, Costa Mesa, CA 92626 with limited seating and via YouTube live stream.

Individuals with disabilities in need of copies of the agenda and/or the agenda packet or in need of auxiliary aides and services may request assistance by contacting Darou Sisavath, Board Clerk at (714) 966-4012.





MINUTES  
Special Meeting  
December 8, 2021

ORANGE COUNTY BOARD OF EDUCATION  
Special Meeting Minutes

WELCOME

CALL TO ORDER

The Special Meeting of the Orange County Board of Education was called to order by Board President Barke at 4:01 p.m., December 8, 2021 in the Board Room, 200 Kalmus Drive, Costa Mesa, California and via YouTube live stream.

ROLL CALL

Present:  
Lisa Sparks, Ph.D.  
Ken L. Williams, D.O.  
Mari Barke  
Rebecca "Beckie" Gomez

(\*) AGENDA

Motion by Williams, seconded by Sparks, and carried by a vote of 4-0 to approve the agenda of the Special meeting of December 8, 2021.

(\*) MINUTES

None

PUBLIC COMMENTS

No public comments regarding the closed session.

The Board took a recess to go into closed session from 4:02 p.m. to 4:59 p.m.

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION  
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9:  
(1 case)

INVOCATION

Lorrie Kaylor

PLEDGE

Trustee Sparks

Comment

Acknowledgment of Orange County Sheriff's Department by Trustee Williams.

Closed Session Report Out

Mr. Rolan reported, for Closed Session, the Board received information on a matter of potential litigation and directed the reading out of a resolution regarding Redistricting that was approved by a vote of 3-0-1 (Williams, Barke, and Sparks voted Yes; Gomez Abstained). The resolution was read by Mr. Rolan into the record.

STAFF RECOMMENDATIONS

1. Motion by Williams, seconded by Barke, and carried by a vote of 4-0 to approve the Educator Effectiveness Block Grant for the Orange County Department of

Education's Alternative, Community, and Correctional Education Schools and Services (ACCESS) and Special Schools.

2. Motion by Williams, seconded by Sparks, and carried by a vote of 4-0 to approve the Educator Effectiveness Block Grant for the College and Career Preparatory Academy.

#### BOARD RECOMMENDATIONS

3. Redistricting Update – Greg Rolen and Justin Levitt
  - Video presentation by Douglas Johnson
4. Redistricting Public Hearing #3 facilitated by Greg Rolen - The public hearing was opened at 5:39 p.m. for public input.

#### PUBLIC COMMENTS (Redistricting)

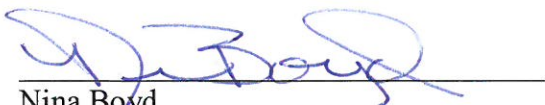
- Libby, Map 9
- Harumi, Map 5
- Lynne, Map 9
- Dorie, Map 9
- Billie Joe, Map 9
- Miguel, Map 9
- Eddie, Vaccine Mandate
- Lorrie, Map 5
- George, Map 5
- Linda Cone, Map 5
- Linda Cameron, Map 5

The public hearing was closed at 6:00 p.m.

5. Motion by Sparks, seconded by Williams, and carried by a vote of 3-1 (Sparks, Williams, and Barke voted Yes; Gomez voted No) to approve map option 5 to be submitted to the Orange County Committee on School District Organization for final approval at their December 10<sup>th</sup> special meeting.

#### ADJOURNMENT

On a motion duly made, and seconded, the Special Board meeting of December 8, 2021 adjourned at 6:04 p.m.

  
Nina Boyd  
Assistant Secretary, Board of Education

\_\_\_\_\_  
Mari Barke  
President, Board of Education

Next Special Meeting: Tuesday, December 21, 2021 at 2:30 p.m.

Next Regular Board Meeting: Wednesday, January 5, 2022 at 5:00 p.m. The meeting will be held onsite at 200 Kalmus Drive, Costa Mesa, CA 92626 with limited seating and via YouTube live stream. Individuals with disabilities in need of copies of the agenda and/or the agenda packet or in need of auxiliary aides and services may request assistance by contacting Darou Sisavath, Board Clerk at (714) 966-4012.



**ORANGE COUNTY BOARD OF EDUCATION**

**BOARD AGENDA ITEM**

DATE: January 5, 2022  
TO: Nina Boyd, Associate Superintendent  
FROM: Vern Burton, Assistant Superintendent  
SUBJECT: Granting of Diplomas

The students listed on the attached pages have been certified for graduation by the Custodian of Records or their designee for the Division of Alternative Education of the Orange County Department of Education. These students have met the standards of proficiency in the basic skills prescribed by the governing board in accordance with Education Code 51412. It is requested that the Board approve the granting of diplomas to these students.

---

**RECOMMENDATION:**

Approve granting of diplomas to the students listed from Alternative, Community, and Correctional Education Schools and Services, Alternative Education Division.

VB:sl

Pages 12-14 removed (CONFIDENTIAL STUDENT INFORMATION)





ORANGE COUNTY BOARD OF EDUCATION

BOARD AGENDA ITEM

DATE: January 5, 2022  
TO: Nina Boyd, Deputy Superintendent  
FROM: Darou Sisavath, Recording Clerk  
SUBJECT: 2022-2023 Board Meeting Dates

---

The Orange County Board of Education regular board meetings are held on the first Wednesday of each month. All board meetings listed will begin at 5:00 p.m. unless otherwise noted.

**2022-2023 Proposed Board Meeting Dates**

Wednesday, July 6, 2022  
Wednesday, August 3, 2022  
Wednesday, September 7, 2022  
Wednesday, October 5, 2022  
Wednesday, November 2, 2022  
Wednesday, December 7, 2022  
Wednesday, January 4, 2023  
Wednesday, February 1, 2023  
Wednesday, March 1, 2023  
Wednesday, April 5, 2023  
Wednesday, May 3, 2023  
Wednesday, June 7, 2023  
Wednesday, June 21, 2023

RECOMMENDATION:

Approve new board meeting dates for July 2022 through June 2023.

---

Date, time, and location of Board meetings subject to change by Board order

---



ORANGE COUNTY BOARD OF EDUCATION

BOARD AGENDA ITEM

DATE: January 5, 2022

TO: Nina Boyd, Deputy Superintendent

FROM: Mari Barke, Board President  
Ken L. Williams, D.O., Board Vice President

SUBJECT: Haight, Brown & Bonesteel LLP – Invoice

---

RECOMMENDATION:

Approve invoice #3249277 in the amount of \$2,252.76 for Haight, Brown & Bonesteel LLP.



**Haight Brown & Bonesteel LLP**  
**LAWYERS**

555 South Flower Street  
Forty-Fifth Floor  
Los Angeles, CA 90071

P.O. Box 17939  
Los Angeles, CA 90017-0939

www.hbblaw.com

*Telephone:* 213.542.8000

*Facsimile:* 213.542.8100

*Bill Inquiries:* 213.542.8074  
accountsreceivable@hbblaw.com

*Tax ID:* 95-1605271

Nina Boyd, Associate Superintendent  
ORANGE COUNTY BOARD OF EDUCATION  
200 Kalmus Drive  
Costa Mesa, CA 92626-5922

Invoice No.: 3249277  
Client/Matter: OC18-0000001  
Billing Atty: GREGORY J. ROLEN  
December 6, 2021

**Representing: Orange County Board of Education**

Re: ORANGE COUNTY BOARD OF EDUCATION  
Orange County Board of Education

Total Fees This Invoice	\$1,155.00
Total Costs Advances This Invoice	\$531.66
Total Fees and Costs This Invoice	\$ 1,686.66
Balance Carried Forward from Previous Invoice(s)	566.10
<b>Total Due Upon Receipt</b>	<b>\$ 2,252.76</b>

BILLS ARE DUE AND PAYABLE UPON RECEIPT  
THIS STATEMENT DOES NOT INCLUDE EXPENSES NOT YET RECEIVED BY THIS OFFICE  
WHICH MIGHT HAVE BEEN INCURRED DURING THE PERIOD COVERED BY THIS BILLING

LOS ANGELES " ORANGE COUNTY " RIVERSIDE " SACRAMENTO " SAN DIEGO " SAN FRANCISCO

**Haight Brown & Bonesteel LLP**

213.542.8000

Invoice No: 3249277

Re: ORANGE COUNTY BOARD OF EDUCATION

OC18-0000001

Orange County Board of Education

Page 2

PROFESSIONAL SERVICES RENDERED through 11/30/2021

<b>Date</b>	<b>Description</b>	<b>Attorney</b>	<b>Hours</b>
11/10/2021		AR	7.70
Total Hours			7.70
Total Fees This Invoice			\$1,155.00



**Haight Brown & Bonesteel LLP**

213.542.8000

Invoice No: 3249277

Re: ORANGE COUNTY BOARD OF EDUCATION

OC18-0000001

Orange County Board of Education

Page 3

---

<b>Timekeeper</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
ANGELICA RESENDEZ	7.70	\$150.00	1,155.00
	<u>7.70</u>		<u>1,155.00</u>

**Haight Brown & Bonesteel LLP**

213.542.8000

Invoice No: 3249277

Re: ORANGE COUNTY BOARD OF EDUCATION

OC18-0000001

Orange County Board of Education

Page 4

**Mileage**

11/03/2021	15.68
------------	-------

<b>Total for Mileage</b>	<b>15.68</b>
--------------------------	--------------

**Hotels**

11/11/2021	174.03
------------	--------

<b>Total for Hotels</b>	<b>174.03</b>
-------------------------	---------------

**Parking Expense**

11/11/2021	24.00
------------	-------

<b>Total for Parking Expense</b>	<b>24.00</b>
----------------------------------	--------------

**Round Trip Airfare**

11/11/2021	317.95
------------	--------

<b>Total for Round Trip Airfare</b>	<b>317.95</b>
-------------------------------------	---------------

Total Costs Advanced This Invoice

---

\$531.66

Total Fees and Costs This Invoice

---

---

\$1,686.66

**Haight Brown & Bonesteel LLP**  
**LAWYERS**

555 South Flower Street  
Forty-Fifth Floor  
Los Angeles, CA 90071

P.O. Box 17939  
Los Angeles, CA 90017-0939

www.hbblaw.com

**Haight**

*Telephone:* 213.542.8000

*Facsimile:* 213.542.8100

*Bill Inquiries:* 213.542.8074  
accountsreceivable@hbblaw.com

*Tax ID:* 95-1605271

Nina Boyd, Associate Superintendent  
ORANGE COUNTY BOARD OF EDUCATION  
200 Kalmus Drive  
Costa Mesa, CA 92626-5922

**Remit To:**

Haight Brown & Bonesteel LLP  
P.O. Box 17939  
Los Angeles, CA 90017-0939  
Attn, Accounts Receivable

Invoice No.: 3249277  
Client/Matter: OC18-0000001  
Billing Atty: GREGORY J. ROLEN  
December 6, 2021

**PROFESSIONAL SERVICES RENDERED through November 30, 2021**

Total Fees This Invoice	\$ 1,155.00
Total Costs Advanced This Invoice	\$ 531.66
Total Fees and Costs This Invoice	<u>\$ 1,686.66</u>
Balance Forward	\$ 566.10
<b>Total Due Upon Receipt</b>	<b><u>\$ 2,252.76</u></b>

**PLEASE RETURN THIS PAGE WITH YOUR REMITTANCE**

LOS ANGELES " ORANGE COUNTY " RIVERSIDE " SACRAMENTO " SAN DIEGO " SAN FRANCISCO

*AB*

ORANGE COUNTY BOARD OF EDUCATION

BOARD AGENDA ITEM

DATE: January 5, 2022

TO: Nina Boyd, Deputy Superintendent

FROM: Mari Barke, Board President  
Ken L. Williams, D.O., Board Vice President

SUBJECT: Law Offices of Margaret A. Chidester & Associate – Invoices

---

RECOMMENDATION:

Approve invoices #9742 in the amount of 21,924.50 (October) and #9771 in the amount of \$5,673.75 (November) for the Law Offices of Margaret A. Chidester & Associates.



LAW OFFICES OF  
**MARGARET A. CHIDESTER & ASSOCIATES**  
17762 COWAN, 1ST FLOOR  
IRVINE, CALIFORNIA 92614  
(949) 474-5040

November 12, 2021

Orange County Board of Education  
200 Kalmus Drive, P.O. Box 9050  
Costa Mesa, CA 92628-9050

**CONFIDENTIAL**  
**ATTORNEY-CLIENT**  
**PRIVILEGE**

Attention: Dr. Ken Williams  
drkenlwilliams@gmail.com

Invoice No. 9742  
Federal Tax ID# 33-0216030

---

Professional Services Rendered During October 2021:

MAC	3.7 hrs. at \$325/hr.	\$1,202.50	
MAC	.8 hrs. at \$325/hr.	[NO CHARGE]	
OLB	60.7 hrs. at \$275/hr.	\$16,692.50	
OLB	1.4 hrs. at \$275/hr.	[NO CHARGE]	
			<u>\$17,895.00</u>

MAC	12.3 hrs. at \$325/hr.	\$3,997.50	
MAC	.6 hrs. at \$325/hr.	[NO CHARGE]	
			<u>\$3,997.50</u>
	<b>ATTORNEY TIME:</b>		<u>\$21,892.50</u>

**COSTS ADVANCED**

Copying	<u>\$32.00</u>	
		<u>\$32.00</u>

<b>TOTAL AMOUNT DUE:</b>	<u><u>\$21,924.50</u></u>
--------------------------	---------------------------

LAW OFFICES OF  
**MARGARET A. CHIDESTER & ASSOCIATES**  
17762 COWAN, 1ST FLOOR  
IRVINE, CALIFORNIA 92614  
(949) 474-5040

December 14, 2021

Orange County Board of Education  
200 Kalmus Drive, P.O. Box 9050  
Costa Mesa, CA 92628-9050

**CONFIDENTIAL**  
**ATTORNEY-CLIENT**  
**PRIVILEGE**

Attention: Dr. Ken Williams  
drkenlwilliams@gmail.com

Invoice No. 9771  
Federal Tax ID# 33-0216030

---

Professional Services Rendered During November 2021:

MAC	9.6 hrs. at \$325/hr.	\$3,120.00	
SRC	4.0 hrs. at \$325/hr.	<u>\$1,300.00</u>	
			<b>\$4,420.00</b>

MAC	3.3 hrs. at \$325/hr.	\$1,072.50	<b>\$1,072.50</b>
-----	-----------------------	------------	-------------------

MAC	.5 hrs. at \$325/hr.	\$162.50	<b>\$162.50</b>
-----	----------------------	----------	-----------------

MAC	.7 hrs. at \$325/hr.	[NO CHARGE]	<b>\$0.00</b>
-----	----------------------	-------------	---------------

<b>ATTORNEY TIME:</b>		<u><b>\$5,655.00</b></u>
-----------------------	--	--------------------------

**COSTS ADVANCED**

Copying	<u>\$18.75</u>	<u><b>\$18.75</b></u>
---------	----------------	-----------------------

<b>TOTAL AMOUNT DUE:</b>	<u><u><b>\$5,673.75</b></u></u>
--------------------------	---------------------------------



ORANGE COUNTY BOARD OF EDUCATION

BOARD AGENDA ITEM

DATE: January 5, 2022

TO: Nina Boyd, Deputy Superintendent

FROM: Mari Barke, Board President  
Ken L. Williams, D.O., Board Vice President

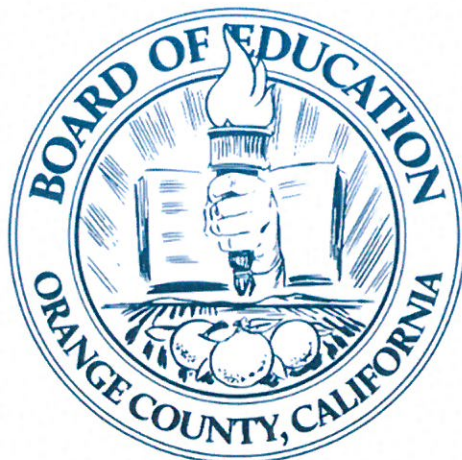
SUBJECT: White Paper – California Ethnic Study Model Curriculum

---

RECOMMENDATION:

Adoption of White Paper – California Ethnic Study Model Curriculum

# Orange County Board of Education



Orange County Department of Education  
200 Kalmus Drive  
Costa Mesa, CA

## **White Paper-Final Draft**

### **Special Community Forums on “California’s Ethnic Study Model Curriculum”**

**On January 5, 2022 Agenda for Board Approval**



## **ACKNOWLEDGMENT**

The Orange County Board of Education would like to acknowledge and thank Wenyan Wu, of Californians for Equal Rights Foundation, for her contribution to the development of this document, as well as her assistance in the community forums. The board also wishes to acknowledge Elina Kaplan, Executive Director of Constructive Ethnic Studies for her significant contributions to these two public forums intended to inform the public about important issues and proposed curricula involving Critical Race Theory and Ethnic Studies in K12 public schools.

We are grateful for the participation and subject expertise of our forum experts who presented testimony:

- Elina Kaplan, President, Alliance for Constructive Ethnic Studies
- Walter H. Myers III, Adjunct Lecturer of Theology Biola University
- Richard Sander, Ph.D., Jesse Dukeminier Professor of Law, University of California, Los Angeles
- Brandy Shufutinsky, Ed.D., Director, Black Americans for Inclusive Ethnic Studies, The Alliance for Constructive Ethnic Studies
- Maimon Schwarzschild, J.D., Professor of Law, University of San Diego
- Wenyan Wu, Ph.D., Californians for Equal Rights Foundation
- James Lindsay, Ph.D., Founder, New Discourses
- Mark McDonald, M.D., Psychiatrist, Child and Adolescent Psychiatry
- Damon A. Horton, M.S., Assistant Professor of Intercultural Studies, California Baptist University
- Joe Nalven, Ed.D., Lecturer and Research Associate, Cultural Anthropology, University of San Diego

## **TABLE OF CONTENTS**

<b>Executive Summary</b>	<b>Page 5</b>
<b>Intellectual &amp; Empirical Debates-Critical Race Theory</b>	<b>Page 6</b>
<b>Intellectual &amp; Empirical Debates- Ethnic Studies</b>	<b>Page 9</b>
<b>Intellectual &amp; Empirical Debates- Relationship of ESMC &amp; CRT</b>	<b>Page 9</b>
<b>Intellectual &amp; Empirical Debates-Liberated Ethnic Studies</b>	<b>Page 12</b>
<b>Summary of the Two OCBE Expert Forums</b>	<b>Page 15</b>
<b>July 27, 2021 Forum</b>	<b>Page 17</b>
<b>August 24, 2021 Forum</b>	<b>Page 20</b>
<b>Forum Outcomes and Policy Recommendations</b>	<b>Page 23</b>
<b>School Districts Required to Consider AB101 Guardrails</b>	<b>Page 24</b>
<b>Controversial Issues &amp; School District Board Policy</b>	<b>Page 27</b>
<b>Potential Legal Exposure for School Boards</b>	<b>Page 28</b>
<b>Prohibited Instruction and Advocacy of Communism or Marxism</b>	<b>Page 30</b>
<b>References</b>	<b>Page 31</b>

**This page left intentionally blank**

## **California's Ethnic Study Model Curriculum**

### **EXECUTIVE SUMMARY**

On March 18<sup>th</sup>, 2021, the California State Board of Education (SBE) adopted its final Ethnic Studies Model Curriculum (ESMC).<sup>1</sup> Nearly seven months later, Governor Gavin Newsom signed into law AB101, the state mandate requiring ethnic studies as a high school graduation requirement starting with the class of 2030.<sup>2</sup> These two state-level developments, coupled with a decade-long movement to introduce ethnic studies curricula in K-12 classrooms at both the state and local levels, makes California among the first in the nation to embrace and implement a disputed and fairly polarizing education paradigm.

The contents of California's ESMC have been vigorously rejected by parent groups in California and across the United States questioning the efficacy of ethnic studies, the ideological influence, and embedded divisiveness of critical race theory (CRT). Against this backdrop, the Orange County Board of Education (OCBE) became the first elected educational board in the country to host two expert forums on ethnic studies and CRT, on July 27<sup>th</sup>, 2021 and August 24<sup>th</sup>, 2021. The two highly attended public events featured dynamic testimony from scholars, advocates, and practitioners, spurring national and international media attention and generated a great amount of community interest to better understand the controversial and sometimes confusing curricula to be rolled out in K12 public schools in California.

This policy paper surveys the intellectual and empirical debates surrounding ethnic studies and CRT, summarizes the contents of both public expert forums, and provides policy recommendations for consideration to schools, families, and students in the Orange County public education system.



## 1. INTELLECTUAL & EMPIRICAL DEBATES

### 1.1. CRITICAL RACE THEORY

Born out of American legal scholarship in the early 1980s, critical race theory is defined by the American Bar Association as “a practice of interrogating the role of race and racism in society that emerged in the legal field and spread to other fields of scholarship.”<sup>3</sup> While many proponents and observers insist that CRT is a strictly legal academic concept<sup>4</sup> and that any dissenting discussions on CRT should be invalidated as a result, one does not even need to venture out of the pro-CRT intellectual camp to uncover the theory’s broad cultural and political implications and ambitions.

Generally speaking, there is strong consensus that CRT is a worldview with a pedagogy designed to have implications beyond the immediate realm of legal analysis, with academic roots grounded in Marxism, neo-Marxism, radical feminism, critical theory, post-modernism and constructivism. Roy L. Brooks defined CRT as “a collection of critical stances against the existing legal order from a race-based point of view.”<sup>5</sup> This narrow-focused conception was then broadened by Richard Delgado and Jean Stefancic to mean “a collection of activists and scholars interested in studying and transforming the relationship among race, racism, and power.”<sup>6</sup> The two also expand on this ontological starting point by asserting that: “Critical race theory questions the very foundations of the liberal order including equality theory, legal reasoning, Enlightenment rationalism, and neutral principles of constitutional law.” Critical race theory questions the very foundations of the liberal order including equality theory, legal reasoning, Enlightenment rationalism, and neutral principles of constitutional law.”<sup>7</sup>

CRT’s modern-day proponent, UCLA and Columbia law professor Kimberle Williams Crenshaw, who coined the term “intersectionality” as a key building block of the theory, went one step further to attribute CRT to an ongoing battle against white supremacy, arguing that it is “an approach to grappling with a history of white supremacy that rejects the belief that what’s in the past is in the past, and that the laws and systems that grow from that past are detached from it.”<sup>8</sup> As a pedagogy, CRT is defined as “the introduction to a particular form of life,” serving “in part to prepare students for dominant or subordinate positions in the existing society.”<sup>9</sup> When applied to education, Gloria Ladson-Billings and

William F. Tate, IV, wrote for a critical-race-theory paradigm of education that rejects multicultural education and aims for a “*program of emancipation...to be built around the question of race first.*”<sup>10</sup>

CRT is centered on a prognosis of systemic racism. The five tenets of its race centrality are:

1. Racism is ‘embedded in the structure of society.’
2. Racism has a ‘material foundation.’
3. Racism changes and develops over different times.
4. Racism is often ascribed a degree of rationality.
5. Racism has a contemporary basis.

While CRT was first developed as early as the 1980s, social scientists and culture critics have only started to debate it in recent years. Both of its theoretical rigor and empirical utility have been scrutinized. According to Helen Pluckrose and James Lindsay, CRT creates a phenomenon of people searching for “*power imbalances, bigotry, and biases that it assumes must be present,*” which reduces everything to prejudice, “*as understood under the power dynamics asserted by Theory.*”<sup>11</sup> From a perspective of rhetoric and linguistics, Erec Smith, Ph.D., argues against CRT’s prescriptive solution--- anti-racism.

*“Anti-racism initiatives and the narratives and ideologies feed them result from a ‘primacy of identity’ that, itself, results from a strong sense of disempowerment that leads to fallacious interpretations of texts, situations, and people; an infantilization of the field, its scholars, and its students; an overemphasis of subjectivity and self-expression over empirical and critical thought; an embrace of racial essentialism.”*<sup>12</sup>

Perhaps the two most controversial projects on CRT in contemporary times involve the anti-racist scholarship of Ibram X. Kendi, Ph.D., and the media debut of CRT known as the 1619 Project. The former prescribes a dichotomous remedy to racism: “*The only remedy to racist discrimination is antiracist discrimination. The only remedy to past discrimination is present discrimination. The only remedy to present discrimination is future discrimination.*”<sup>13</sup> The latter is a journalism project platformed by the New York Times and created by Nikole Hannah-Jones in 2019 to reframe America’s history on the legacy of slavery and contributions of Black Americans. The 1619 Project argues that American

history is a story of Black struggle against white supremacy and that America's founding ideals of liberty and equality were false when they were written.<sup>14</sup>

Both projects have been criticized by serious thinkers of our times. A group of intellectually honest black academics at the "1776 Unites" consortium object to CRT's simplicity and over-determinacy. According to John McWhorter, *"the heart of critical race theory is an idea that all intellectual and moral endeavor must be filtered through a commitment to overturning power differentials."*<sup>15</sup>

Political scientist Carol Swain writes:

*"Critical race theory says that every dysfunctional condition in black urban communities can be traced to slavery and its aftermath. There is no place for individual choice or initiative. That's the theory. But what critical race theory actually 'accomplishes' is to create anger, frustration, and despondency among persons in the victim categories, who internalize this destructive message."*<sup>16</sup>

Leading historians Sean Wilentz, James McPherson, Gordon Wood, Victoria Bynum, and James Oakes argue that the 1619 Project reflected "a displacement of historical understanding by ideology."<sup>17</sup> According to academic Glenn Loury:

*"What happened in 1776 — the founding of the United States — was vastly more significant for world history than what happened in 1619 — the first arrival in America of African slaves. The narrative we blacks settle upon about the American story, the American project, is fundamentally important. Is this, basically, a good country that affords boundless opportunity to all who are fortunate enough to enjoy the privileges and bear the responsibilities of American citizenship?"*

18

In summary, CRT is a contested and explicitly political theory that examines all social relations, economic governance and policy outcomes through the prism of race and systemic/structural racism.



## 1.2. ETHNIC STUDIES

In the last decade, California has become embroiled in an increasingly contentious debate on the revolutionary paradigm of ethnic studies. After three rewrites and one veto <sup>19</sup>, ethnic studies was codified as a required course for California's over one thousand public high schools on October 8<sup>th</sup>, 2021. Policy observers, intellectuals, education reformers, advocates and other stakeholders disagree on the substantive or pedagogical framework of this unvetted and misunderstood paradigm. They also have drastically different opinions when it comes to evaluating the observed and predicted efficacy of ethnic studies. The public debate was so heated and unconventionally divided that the *Los Angeles Times*, a liberal media titan, issued an editorial in late September arguing that the latest ethnic studies bill was "not quite ready for prime time." <sup>20</sup>

Notably, the biggest disagreement over the ethnic studies paradigm, expected to be a national roadmap, is involved around its alleged ideological roots in critical pedagogy and CRT. While many ethnic studies proponents and practitioners vehemently deny that California's ESMC is CRT, critics view this backdoor approach as a gaslighting tactic to deflect from the paradigm's intentions of indoctrination and division.

## 1.3 RELATIONSHIP OF ESMC & CRT

In July 2021, the California School Boards Association (CSBA) issued a bulletin to clarify the differences between CRT and ethnic studies.<sup>21</sup> The state-wide organization argues: "*Although certain approaches to ethnic studies may incorporate elements of CRT, they are not synonymous or interchangeable.*" CSBA further adds:

*"The state's model curriculum is intended to provide guidance to school districts and county offices of education. It does not require specific concepts — such as critical race theory — be incorporated, should an LEA decide to offer an ethnic studies course."* <sup>22</sup>

Opponents strongly believe the categorical connections between ethnic studies and CRT cannot be so easily explained away. Williamson Evers, education researcher and former Assistant Secretary of



Education, has studied and written about various versions of ESMC. Evers compared the latest ESMC to its earlier write-ups, concluding the same ideological framework of CRT: *“the state’s new curriculum prefers victimization to minority achievement, and Marxism to liberal values.”*<sup>23</sup>

Lee Ohanian, a Stanford economics professor, reflects upon the state’s approval of the final ESMC:

*“The curriculum continues to be founded on critical race theory (CRT), which is the view that our legal, economic, and social institutions are inherently racist and are exploited by some Whites to retain their dominance by oppressing and marginalizing others. The CRT-focused curriculum will foster divisions among students and will almost certainly not improve learning outcomes, as advertised by its proponents.”*<sup>24</sup>

The Alliance for Constructive Ethnic Studies (ACES), one of the leading advocacy groups against critical ethnic studies, pinpoints the final ESMC’s unchanged focus on the Critical Ethnic Studies approach which has corrupted and hijacked the discipline with *“a narrow, divisive ideology...based on CRT.”*<sup>25</sup> Addressing the fact that California’s State Board of Education (SBE) only made window-dressing changes to the final ESMC, ACES notes:

*“With over 7,000 comments submitted in January-February, letters opposing the Critical ES approach and Critical Race Theory (CRT) comprised the #1 concern about the ESMC. However, the SBE ignored nearly all of the more than 100 pages of edits submitted by organizations advocating to shift the underlying Critical Ethnic Studies focus to a Constructive Ethnic Studies approach.”*<sup>26</sup>

Another leading organization in opposition is the AMCHA Initiative, a non-profit organization dedicated to “investigating, documenting, educating about, and combating antisemitism at institutions of higher education in America.”<sup>27</sup> AMCHA was instrumental in lobbying Governor Newsom to veto AB331 in fall 2020 by coordinating a letter from 80 California-based organizations to shed a light on an inherent anti-Semitic bias of the ethnic studies paradigm.<sup>28</sup> AB331 was AB101’s precedent. In 2021, AMCHA engaged in organized activism against both AB101 and the ESMC. Tammy Rossman-Benjamin, the

director of AMCHA Initiative, emphasizes that ESMC is rooted in principles of CRT and critical pedagogy in an official statement:

*“While on the surface, the curriculum approved by the state appears improved over the rejected first draft, it remains firmly rooted in the principles of Critical Ethnic Studies, which unlike the broader field of ethnic studies, has a politically- and activist-driven mission that will incite hate and division and is dangerous for all high school students. Most profoundly concerning for the Jewish community is the portrayal of Jews, filtered through the lens of Critical Ethnic Studies, as ‘white’ and ‘privileged’. At a time when anti-Jewish sentiment, hostility and violence has reached truly alarming levels, indoctrinating students to view Jews as ‘white’ and ‘racially privileged’ is tantamount to putting an even larger target on the back of every Jewish student.”*

29

Wenyuan Wu, Ph.D., of Californians for Equal Rights Foundation (CFER), another leading group in California that has organized awareness building campaigns surrounding ESMC, AB101, and CRT, concurs with these scholar’s supporting evidence and assessment that CRT is indeed ESMC’s guiding framework. In her testimony at the California Assembly Education Committee as a primary witness opposing AB101 on April 7<sup>th</sup>, 2021, Wu argues:

*“The final model curriculum is still rooted in an unchanged ideological framework of critical ethnic studies and critical pedagogy. This is the single-most corrupted pedagogy to impose a belief system that divides our students and teachers on the crude basis of skin color or race. It is simply wrong and the state shouldn’t sponsor this movement with public dollars. Second, teaching ethnic studies in a context that’s predicated on racial divisions and a crude dichotomy of victim v. oppressor fundamentally violates the 14th Amendment to the U.S. constitution, California’s constitutional guarantee of equal treatment, and a plethora of anti- discrimination laws at federal and state levels, including Articles 3 and 4 of the Education Code.”*

Analyzing the newly added lessons on Asian-American studies in the finalized ESMC, Wu adds:



*“Perspectives on Asian-American history, for instance, reek of victimhood mentality and divisiveness. The ESMC sample lesson on “Chinese Railroad Workers” starts with a presupposition that Chinese laborers’ contributions to American infrastructure have been overlooked to “exemplify the white supremacy view of US history.” Then, it advises students to comprehend the construction and power interplay of the transcontinental railroads project through “systems of power” and “racism and exploitation.”* <sup>30</sup>

#### **1.4 LIBERATED ETHNIC STUDIES**

Perhaps the most problematic aspect of California’s ethnic studies movement lies within a more radical paradigm than the state approved ESMC. In practical terms, there are no well-designed curricula at the district level for teaching ethnic studies - and the only one being marketed is based on materials that were rejected by the state and Gavin Newsom said would never "see the light of day" because they were so offensive. Recognizing the prevalence and popularity of Liberated Ethnic Studies Model Curriculum (LESMC), Wenyuan Wu testified against AB101 at the California Senate Education Committee, on behalf of a diverse coalition of 27 organizations:

*“It is simply premature and imprudent for the state legislature to pass a taxpayer-funded state mandate on ethnic studies when tensions, controversies and disagreements abound. The final state-approved model curriculum is still rooted in an unchanged ideological framework of critical pedagogy. More importantly, dozens of individual school districts have adopted resolutions to endorse the first and rejected model, coined as Liberated Ethnic Studies Model Curriculum.”*

LESMC is a rather institutionalized form of ethnic studies, a for-profit consulting group called “the Liberated Ethnic Studies Model Curriculum Institute” (LESMCI, formerly known as the Liberated Ethnic Studies Model Curriculum Coalition).<sup>31</sup> LESMCI provides consulting services targeting districts that are looking for: 1. Anti-racist culturally responsive training; 2. District advertisement and implementation of ethnic studies; 3. ethnic studies professional development. The coalition is promoting the previously rejected 1st draft of Ethnic Studies Model Curriculum by pressuring individual school boards to adopt resolutions at the request of its affiliated group “Save CA Ethnic Studies.” LESMCI defines the linkages between CRT and Ethnic Studies as:

*“Critical Race Theory is one of the many theoretical lenses used in Ethnic Studies. Critical Race Theory argues that a students’ every day experience is informed by their encounters with racism. Someone with a critical race lens would reason that changing racist educational structures requires students to embrace their racialized identity and other forms of identity, including gender and/or immigration status. Since Ethnic Studies is an anti-racist project, students are encouraged to develop counter-stories or counter-narratives to the dominant voices in traditional curriculum.”*<sup>32</sup>

In warning about the proliferation of liberated ethnic studies in the classroom, ACES pinpoints:

*“Critical/Liberated Ethnic Studies scholars are also working with teachers to infuse all classrooms with this ideology through webinars and training sessions under the guise of “professional development.” When asked about the explicit Marxist concepts, the trainers acknowledge that some teachers may find this difficult, but explain that they must have the “correct political views” in order to teach this subject.”*<sup>33</sup>

To protest the SBE approved ESMC as too mild and insufficiently revolutionary, LESMC experts and consultants, many of whom were original authors of the first draft and members of the Model Curriculum Advisory Committee formed by the CDE/SBE, signed an open letter on February 3<sup>rd</sup>, 2021 to request that their names be removed from the final ESMC:

*“Ethnic Studies guiding principles, knowledge, frameworks, pedagogies, and community histories have been compromised due to political and media pressure. Our association with the final document is conflicting because it does not reflect the Ethnic Studies curriculum that we believe California students deserve and need.”*<sup>34</sup>

Across California, many local school districts have embraced the revolutionary paradigm of critical or liberated ethnic studies through teaching intersectional identity politics to 3rd-graders (Cupertino)<sup>35</sup>, training white teachers to embrace “diversity” and atone for “spiritually murdering black children” (San Diego)<sup>36</sup>, and priming students to become anti-racist activists (Santa Barbara)<sup>37</sup>. Multiple sources from insider whistleblowers and researchers have unearthed evidence of a fringe, radical group of activists



based in Southern California as the catalyst for this sweeping ideological reform in education. In turn, this movement has hijacked genuine cultural and ethnic studies and turned it into a political battleground of proselytizing, divisive, and un-American worldviews.

The story started in 2013 with the “People’s Campaign” by the Southern California-based Union del Barrio (UdB), a self-described “*independent political organization*” working towards “*political revolution*” and “*the fundamental liberation of all raza, from Chile to Alaska.*”<sup>38</sup> In time, a number of UdB-affiliated activists would go on to obtain official public positions to promote the anti-capitalist and anti-imperialist “critical” ethnic studies.

Both LESMCI/LESMCC and Save CA Ethnic Studies are also affiliated with “Ethnic Studies Now Coalition (ESNA),” an activist group backed by UdB with a mission to promote ethnic studies as “a form of liberation” and a pedagogy of “transformational resistance” throughout California.<sup>39</sup> AMCHA’s Rossman-Benjamin characterizes the hijacking of ethnic studies by radical politics as “*a case of bait and switch*”:

*“When California lawmakers approved AB 2016, a landmark bill mandating the development of an ethnic studies model curriculum for high school students, they believed that teaching ethnic studies would promote mutual understanding and respect among members of the largest and most ethnically diverse public school student body in the nation...Little did these legislators know, however, that they had been manipulated by a small group of highly motivated activists bent on hijacking the state’s educational and legislative infrastructure for their own radical political ends – which has also come at the expense of Jewish children and the Jewish community.”*<sup>40</sup>

This critical observation on UdB being the change agent for critical ethnic studies is shared by Wu in a February 9<sup>th</sup>, 2021 interview.<sup>41</sup> Wu further notes:

*“Jose Lara, R Tolteka Cuauhtin and another UdB member Lupe Carrasco Cardona launched the “Save CA Ethnic Studies” campaign to promote elements of anti-racism, empire critique, anti-colonialism and to promote the curriculum (rejected by public comments). Subverting the process that was resulting in criticism, the campaign went directly to 20+ individual school districts, presenting them with resolutions masquerading as innocuous support for ethnic studies in general. Most board members did not notice the fine print that had them inadvertently endorse*

*the controversial draft. Cardona and other MCAC advisors launched the Liberated Ethnic Studies Model Curriculum Coalition (LESMC) in August of 2020 to further perpetuate the critical pedagogy framework of ethnic studies.”*

## **2. SUMMARY OF THE TWO OCBE EXPERT FORUMS**

Echoing intense intellectual discussions, the public, including parents, community members and taxpayers of Orange County, have hotly debated CRT and ethnic studies. By early summer 2021, the topic of critical race theory had become a hot-button issue at the national level, generating both top-down legislative responses in over 20 states and bottom-up, grassroots activism across the United States. While a group of Orange County parents and students called upon their school districts to confront racism and history through the teaching of ethnic studies<sup>42</sup>, others protested against a new ESMC and CRT curriculum such as the one introduced in the Los Alamitos Unified School District (LAUSD), slamming it as “infused with critical race theory”<sup>43</sup> and “anti-white.”<sup>44</sup>

Two schools in the Los Alamitos School District were also found to assign a Huffington Post opinion article titled “Why I’m A Racist,” at a high school science class and a middle school English class, respectively.<sup>45</sup> LAUSD leadership defends the use of this article in both classes, as a “warm-up” in the science class and as an example of “opinion writing.” LAUSD admits obtaining the article from Teaching Tolerance (now called Learning for Justice), an organization dedicated to the cause of racial justice, dismantling white supremacy, and promoting intersectional social movements. When challenged by outraged and concerned parents, the administrative leadership dismissed their criticism as “calculated misinformation.” Parents were not happy and turned to the Orange County Board of Education trustees for guidance and help.

The Orange County Board of Education (OCBE) responded to the requests of parents from across Orange County to inform the public about the ESMC and CRT curricula by organizing two public meetings, on July 27<sup>th</sup>, 2021 and August 24<sup>th</sup>, 2021, respectively. Both public meetings contained expert forums organized to better educate students, parents, and community members on various complex issues surrounding the two topics through expert testimony and public discussions among the public, invited experts and the OCBE trustees. In total, ten distinguished experts from a diverse array of ethnic



and political backgrounds presented at the two forums with evidence-based testimony, and relevant legal and scholarly insights.

In opening the first forum, OCBE President Mari Barke commented:

*“As an elected government body entrusted with the mission to offer leadership and resources for our 29 school districts and OCDE schools, the Orange County Board of Education has a vested interest in making sure that all our trustees are sufficiently educated on these two inter-related topics, so that we can better inform the public and guide various schools in our county. Specifically, we want to be educated on the proper and legal implementation of California’s Ethnic Studies Model Curriculum.”*

Her remarks were amplified by Board Trustee, Lisa Sparks, Ph.D.:

*“Our students need to learn about American history, racism and cultures in an unabridged, apolitical and balanced manner, so that they can better contribute to the American citizenship, then become global citizens with respect for one another’s differences. Indoctrinating them with contested theories as accepted truths is not the way to go. As a society, we also want to address existing issues of inequalities and disparities so that we continue to perfect the recipe for justice and liberty. But using CRT or race-based thinking to guide our public policies is tantamount to fighting fire with fire. My own research of more than 150 publications and 12 books has supported a better path of understanding and helping underserved populations. Generally speaking, we need intercultural and cross-cultural communication that promote inclusiveness and understanding, not an activist approach to tear down, divide and socially engineer.”*

Collectively, the two special forums examined the following issues:

- Is ethnic studies co-opted as a vehicle to propagate CRT?
- Are there different ways to teach ethnic studies? How can they be differentiated from each other?
- How can we make sure the instruction is age and grade-level appropriate?
- Are there any legal concerns or liability issues when it comes to teaching a particular kind of ethnic studies?

## 2.1 PUBLIC FORUM- JULY 27<sup>TH</sup>, 2021

Five experts from a diverse array of ethnic and political backgrounds testified at the first public meeting. The panel included Mr. Walter H. Myers III, Adjunct Lecturer at Biola University, Dr. Richard Sander, Professor of Law at UCLA, Dr. Brandy Shufutinsky of the Alliance for Constructive Ethnic Studies, Dr. Maimon Schwarzschild, Professor at University of San Diego and Dr. Wenyuan Wu of Californians for Equal Rights Foundation. While ESMC and CRT are controversial issues, all experts gave evidence-based presentations to amplify the broad-based nature of important public discourses and concerns surrounding the two topics. Additionally, the expert panel was moderated by Mr. Joe Collins, former candidate U.S. Congress

Myers' testimony mainly focused on the theoretical backgrounds and empirical critique of CRT.

*“Critical Race Theory (CRT) has its roots in Critical Legal Theory, which has its roots in Critical Theory. I will start with Critical Theory and work my way historically to CRT. CRT has been in academia for decades but has only recently come to the forefront since it is now making its way into the public consciousness primarily due to advocacy that CRT be taught in K-12. Suddenly, parents are acutely aware something is amiss, and I think finally understand why many of their children have left college with a disdain for America and our capitalist system.”*

Professor Sander, a nationally recognized expert on academic mismatch and affirmative action in higher education, utilized the example of a pioneering program called “Critical Race Studies” at UCLA Law School offering the following analysis

*“In principle, these (ethnic studies courses) were helping to redress a real disparity in what academics focused on. The problem is, when you have a special program that focuses on a particular ethnicity, you define that ethnicity as essentially an academic discipline. If you define that as a discipline, then you are automatically narrowing the range of answers that people can come up with, as they explore that discipline. You also dramatically narrow the diversity of viewpoints and experiences and expertise... You tentatively develop programs that are essentially echo chambers. They are very ideologically homogenous.”*



Coming from a background of legal scholarship on the U.S. Constitution, Professor Schwarzschild addressed the legal ramifications of teaching CRT and other CRT-based concepts such as anti-racism from the lenses of the Constitution, the Civil Rights Act of 1964 and the Educational Amendments of 1972:

*“There is potential for legal liability, in short, under these federal laws among others, and under state law as well, when public schools adopt racist and racially abusive classroom techniques and curricula. More broadly, greater equality of opportunity for all in America depends crucially on the quality of public education – on students’ opportunity to acquire the verbal and mathematical skills, the discipline, and the accurate knowledge essential for citizenship and success in a free and prosperous society. Yet there is widespread educational failure in the public schools, with troubling gaps by race and social class. In the San Diego Unified School District, for example, which spends millions of dollars on “anti-racism” trainings, speeches, and “diversity audits”, only 37 percent of San Diego’s fourth-graders were scored “proficient” in reading, and only 42 percent in math, according to standardized tests in 2019. Black and Latino students there perform still worse than these overall averages.”*

Dr. Shufutinsky compared two competing approaches of ethnic studies- constructive and critical/liberated, from her experiences as a long-term public-school educator and a black American:

*“Those who are pushing ideology that frames Black Americans as perpetual victims are touting the same ideology that my grandparents fought against. Ideology that is steeped in Klan-like prejudices, painting Black Americans as lesser than, as weaker, as unable to overcome. Institutionalizing this type of rhetoric under the guise of liberatory ethnic studies denigrates those who came before us, those who sacrificed so much for those of us who came afterwards. Upholding learning materials that falsely portray the bravery that Black Americans who resisted oppression through sit-ins, marches, and boycotts as “passive”, “docile”, or “racial accommodationism” minimizes the violence that these Americans faced. Using a critical race lens, liberatory ethnic studies distorts history and further marginalizes the experiences of Black Americans by portraying us as monolithic, as though there is only one acceptable way to be Black. Examples of this are in sections of LES curriculum covering “significant figures,” where*

*only radical, Marxist leaders are used to demonstrate to students the acceptable types of leaders they should look up to.”*

For the July 27<sup>th</sup> forum, Wenyuan Wu, Ph.D. replaced Dr. Theresa Montaño, who canceled her participation the day before the event as an expert panelist. Montaño who is the leader of the LESMCI, latter publicly protested the public forum and expert panel in a public news conference falsely accusing the other panelists of not being knowledgeable and experts in the subject matters.<sup>46</sup> Wu, a political scientist by academic training and a policy advocate for equal rights by profession, spoke about curricular alternatives to CRT and critical ethnic studies.

*“To start, ethnic studies should promote mutual understanding and respect among students of different ethnic backgrounds. It should inspire meaningful efforts to build bridges and increase appreciation for different cultures and ethnicities in our diverse country. If it is taught as a literature course which we have seen in places like Poway Unified, ethnic studies should introduce logic, higher thinking and contextual understanding. It should also emphasize objectivity, civil discourse and independent thinking. In addition to encouraging multicultural perspectives, the materials should help improve students’ verbal and writing skills, cultural competencies, and college preparedness.*

*In terms of ethnic studies in history lessons, there are several alternatives to the 1619 version of black history, for example. The “Alternative Reading Guide for The 1619 Project” by J.D. Richmond and W.F. Twyman Jr., two self-identified classical liberal scholars, recognizes the groundswell of conversation created by the 1619 Project but also sees the danger in overemphasizing oppression and grievance and drowning out voices of resilience, strength and true heroism. We also have the 1776 Unites Curriculum from the Woodson Center. This is a collection of black history lessons covering the time period from the early 18th century to the contemporary era. The lessons focus on both the tragedies of racism and the heights of human resilience, through teaching key historical events such as the American Revolution, the Civil War, the Tulsa Race Massacre and Jim Crow. It offers authentic, inspiring stories from American history that show what is best in our national character and what our freedom makes possible even in the most difficult circumstances.”*



Wu also countered Montañó's criticism regarding the expertise of her co-panelists:

*“Curricula design and implementation, classroom management and pedagogical practices should not be locker room talk, reserved for bureaucrats, administrators, principals and educator-activists. Parents, grandparents, community members, and taxpayers have a right for prior consultation and informed consent. This need for stakeholder engagement is especially heightened when our public education system is failing our kids, particularly students from underprivileged backgrounds. California's public K-12 education system ranked 38th in the nation, last time I checked. Only 5 in 10 students, grades 3 to 8, can read proficiently and only 4 in 10 can do math proficiently. Only 32% of public school 11th graders met state test standards in 2019. The pandemic-induced school closures have exacerbated learning losses and gaps.”*

The expert panel was well received by Orange County parents and community members, who overwhelmingly rejected CRT being an ideological foundation for various classes and programs in K-12 schools. OCBE trustees engaged the experts in a thought-provoking Q & A session, in which they discussed the vital importance of improving basic competencies of our K-12 students, different approaches to teaching cultures and ethnicities and legal consequences of perpetuating CRT in classrooms.

## **2.2 PUBLIC FORUM- AUGUST 24<sup>TH</sup>, 2021**

For the purpose of doing a deep-dive into ESMC in relation to CRT, the OCBE conducted a second special meeting bring together nationally renowned experts, esteemed public speakers and community members in Orange County. The expert panel included Dr. James Lindsay, Founder of New Discourses, child and adolescent psychiatrist Dr. Mark McDonald, Ms. Elina Kaplan, President of the Alliance for Constructive Ethnic Studies, Dr. Joe Nalven, Lecturer and Research Associate of cultural anthropology at University of San Diego, and Mr. Damon A. Horton, Assistant Professor of Intercultural Studies at the California Baptist University. The panel was moderated by Ms. Harriette Reid, an African American local education advocate.

Kaplan opened the panel by identifying herself as “a mom of two, a long-term Democrat and a professional in executive management and an immigrant from the Soviet Union.” Kaplan recounted her experience and story of encountering critical ethnic studies as a sweeping thought experiment that starts in early grades and mimics the Soviet experiment:

*“Never could we have imagined that decades later the same ideology and concepts that we escaped would show up in of all places the California Ethnic Studies Model Curriculum. What in the world is Marxist and neo-Marxist dogma doing in a K-12 ethnic studies curriculum? A curriculum that’s supposed to be focusing on building bridges and understanding between ethnic groups, on building mutual respect...And it turns out that there is a specific discipline on college campus called critical ethnic studies and the practitioners of this discipline refer to themselves as scholar activists. They say this very openly... and they aim to “bring into conversation the ways of concerted effort and collectivized resistance to U.S. imperialism, ground our approaches for dismantling the neocolonial schooling apparatus.”*

Lindsay, a leading national expert and critic of CRT and grievance studies, with an in-depth analysis of racial Marxism and liberationism as the ideological underpinnings for liberated ethnic studies. Lindsay also addressed the common misunderstanding that CRT is not taught in K-12:

*“Yet liberationism was a hot topic in the 1960s... Herbert Marcuse was a very influential Critical Theorist in the 1960s. He’s considered the father of the New Left which gave rise subsequently to the Critical Legal Studies movement... And the Critical Legal Studies gave rise to Critical Race Theory... In 1969, he wrote an essay on liberation titled “An Essay on Liberation,” a stunning work of communist thought where he makes out that liberation means socialism without the bureaucracy... The point of his liberation critical theory is to induce psychopathologies in activists so that they find the life that we live in our society intolerable and require liberation in order to survive, to function in day-to-day society.”*

From a perspective of a long-term educator and a professional mediator, Nalven delved into the human conditions that empirically negate the efficacy of critical ethnic studies in explaining human interactions



and our nuanced social realities. Nalven talked about how colorblindness becomes a microaggression, as an example of the fallacy of race-centric thinking:

Through war, migration, exchanging partners as part of alliances, we are not isolated- we have quite a bit of mixing. Especially in the United States, we are a heterogeneous society. So the sense of having only one race, the human race, is basically a fundamental truth...But it comes into conflict with the teaching within a critical race theory model of a microaggression... Students shouldn't be taught with a truncated understanding in order to get to an ideological perspective. You are moving away from education into indoctrination.

Horton, a proponent of teaching ethnic studies in K-12, introduced an important perspective of shared unity as a theologian and a missiologist to evidence the utility of an affirmative ethnic studies paradigm:

*"I do believe that there is merit to show that ethnic studies, grounded in data, has proven to be beneficial not only for "students of color," but for all students...Ethnic studies courses actually have been proven to help the mental health of students...All of us understand the underperforming realities of the California public school system...But the test scores of those children when their ethnicity was affirmed went up 21% in math, 20% in reading and 9% in writing. Ethnic studies courses demonstrate the uniqueness of the United States of America as it celebrates the cultures and ethnicities that are present."*

Coming from a background in child psychiatry, McDonald commented on the psychological impact of manufactured human divisions and consequent fears brought forth by race-centric ideologies such as CRT:

*"We are largely divided now into two groups- the rational and the irrational. The irrational people are largely very fearful now... They tend to largely want to control everyone...Propaganda is always used in the same way- it's used as a vehicle to announce, fuel and maintain a crisis, either real or imagined... The crisis that we are being told were suffering from and that is necessitating Critical Race Theory is the crisis of racism. Well, racism has always existed. It has existed in every society around the world throughout history. It still exists today and it exists in every race. But that's not the point. The point is whether it is an obstacle to*

*the success of every American in this country. It is not. Racism is not an obstacle to one's success anymore. But if you continue to see it as a crisis, then you can justify really any sort of irrational policy."*

Similar to the July public forum, the August 24<sup>th</sup> public forum had an overwhelmingly positive reception among the Orange County's diverse parents, grandparents and community members, who came forth to give public comments in support of unity and in opposition to divisive indoctrination. OCBE Board Trustees and the panel experts exchanged questions and answers regarding CRT's theoretical flaws and the distinctions between liberated and constructive ethnic studies

### **3. FORUM OUTCOME AND POLICY RECOMMENDATIONS**

While members of the public who were present at the past two OCBE panels welcomed the events as positive, informative and balanced, the qualifications of panelists and their potential biases were scrutinized. A July 27 news report by the Orange County Register highlighted the criticism, not by Orange County community members, but by LESMCI leader Dr. Dr. Theresa Montaña, that the experts were not qualified to discuss ethnic studies and that the OCBE sponsored the event to spread "misinformation" and "lies."<sup>47</sup> Similarly, an August 8 editorial by the Los Angeles Times also criticized the OCBE and its invited experts as refusing to "teach truth," harboring intentional biases, and illustrating "systemic and institutional racism," while not denying the fact that public attendees of the event agreed with the experts.<sup>48</sup>

In response to the concern that invited expert witnesses did not have specialized expertise or presented bias against ethnic studies, OCBE Board President Mari Barke co-authored and published a rebuttal on the Orange County Register:

*"Coming from different racial and ethnic backgrounds, none of the speakers opposed ethnic studies categorically or suggested that we refrain from discussing racism. None gave any slight indication that we should not teach history honestly. This type of misinformation and false equivalence between CRT and "talking about racism" is exactly why the panel was needed. Notably, the five experts, one Republican, two Independents, and two Democrats, showcased the*



*bi-partisan nature of the broader alliance against illiberal CRT and a politicized ethnic studies paradigm.”*<sup>49</sup>

To counter the smears displayed in the Los Angeles Times editorial, another opinion piece was featured on Minding the Campus, framing the debate on ethnic studies and CRT as emblematic of “*the shifting power dynamics in America’s current culture war, not between the left and the right, but from an elitist class of cultural bourgeoisie and interest groups against the common man.*”<sup>50</sup>

*“It is ironic that a top regional media corporation felt it necessary or fashionable to lambast a small local educational board consisting of five elected trustees and two staff members. More disturbingly, the L.A. Times editorial board even went as far as to disparage the parents and community members present for failing to toe the line of political correctness and support its favored narratives of CRT, systemic racism, and a particular brand of ethnic studies.”*

Moving beyond the unfortunate yet inevitable politicization surrounding the contested topics of ethnic studies and CRT, it is imperative to derive practical policy lessons from the two public forums. As public schools in Orange County are poised to institute ethnic studies courses following the passage of AB101, education decision makers, reformers, teachers and other stakeholders such as parents and taxpayers can benefit from a more refined focus on the substantial details and policy implications in the actual implementation of ethnic studies as a public-school course.

### **3.1 SCHOOL DISTRICTS REQUIRED TO CONSIDER AB101 GUARDRAILS**

While acknowledging the functional utility and importance of teaching ethnicities and cultures, all experts correctly called attention to competing pedagogies of ethnic studies. The legal definition according to AB2016 is that ethnic studies is an interdisciplinary study of different ethnicities and cultures in the United States to prepare students to be global citizens with an appreciation for the contributions of multiple cultures. Most sensible citizens and the OCBE support such a positive approach to ethnic studies and agree with the non-negotiable importance of teaching cultures, history, and racism in our K-12 classrooms so that our students become informed citizens with cross-cultural understanding.

The ongoing debate is not whether or not an educational entity should teach ethnic studies. This has long been settled among scholars, educators, and community members. The question remaining is how a public education institution should teach ethnic studies. Should ethnic studies be taught to highlight tribulations, perseverance, and contributions and/or intra-group or intergroup differences? Should it be a stand-alone course for high school students or should the curricula be integrated into a variety of disciplines across different grades?

As of now, for reasons discussed in the preceding sections, critical or liberated ethnic studies has been the prevailing paradigm in many California school district. While the state mandate for high school ethnic studies was signed into law, schools and school districts must be aware of a series of accompanying “guardrails” inserted through the amendment process and emphasized by Governor Newsom to “ensure that [ethnic studies] courses will be free from bias or bigotry and appropriate for all students.”<sup>51</sup> Among these guardrails are specific requirements for any ethnic studies course to:

- 1) Be “appropriate for use” with students “of all races, religions, nationalities, genders, sexual orientations, and diverse ethnic and cultural backgrounds”;
- 2) Not “reflect or promote, directly or indirectly, any bias, bigotry, or discrimination against any person or group of persons” within a protected group; and
- 3) “Not teach or promote religious doctrine.”<sup>52</sup>

Additionally, AB101 guardrails highlight the vital role of local control and public consent, aligning with Damon A. Horton’s remarks during the August forum that it is up to each and every school district to decide upon its own ethnic studies curriculum. Specifically, according to AB101, any local governing body that develops its own ethnic studies course must present it at a public meeting of the governing board, and shall not be approved until a subsequent public meeting at which the public has a chance to express its views on the proposed course.

Furthermore, based on the bill, to the extent that local educational agencies, including public charter schools, choose to locally develop an ethnic studies program, it is the intent of the Legislature that local educational agencies not use the portions of the draft model curriculum that were not adopted by the Instructional Quality Commission due to concerns related to bias, bigotry, and discrimination.



In actuality, school districts have tremendous leeway to not emulate either ESMC or LESMC, especially portions of which, including the religious chants under an ongoing lawsuit, are controversial and problematic. There are also resources available, as mentioned by Wenyuan Wu at the July 27 meeting, that provide powerful alternatives to both LESMC and CRT.

For example, *Between Two Worlds: A Multicultural and Multilingual Anthology* by the Alan Hidalgo Team is a series of three ethnic literature and English language arts textbooks for high schoolers and college students, that has been piloted in several high schools in Central California. It focuses on nuanced, classical multiculturalism with interesting life lessons. The books introduce logic, higher thinking and contextual understanding of different cultures in the United States. They also emphasize objectivity, civil discourse and independent thinking. In addition to encouraging multicultural understanding and perspectives, the materials also help improve students' verbal and writing skills, cultural competencies, and college preparedness.

There are three textbooks in the series: The *Between Two Worlds Anthology*, the *Between Two Worlds Student Workbook*, and the *Between Two Worlds Instructor Manual*. Educators will notice that there are ten words that have been placed in bold print in each of the ten novels of the anthology. These words were chosen for the vocabulary lessons in the student workbook due to their academic and thematic qualities. Each of the three texts is designed to correlate to the other; for instructional purposes, all three must be incorporated for maximum results in a classroom setting. The *Between Two Worlds Student Workbook* may be used at various secondary and post-secondary educational levels such as courses in English, ESL, character building, multiculturalism, and diversity training.

At the same time, "The 1776 Unites Curriculum" from the Woodson Center is a collection of black history lessons covering the time period from the early 18th century to the contemporary era. The lessons focus on both the tragedies of racism and the heights of human resilience, through teaching key historical events such as the American Revolution, the Civil War, the Tulsa Race Massacre and Jim Crow. Inspirational historical figures such as Booker T, Washington, Benjamin Banneker, Alice Coachman, Paul Cuffe and Biddy Mason.

“The 1776 Unites curriculum” offers authentic, inspiring stories from American history that show what is best in our national character and what our freedom makes possible even in the most difficult circumstances. 1776 Unites maintains a special focus on stories that celebrate black excellence, reject victimhood culture, and showcase African-Americans who have prospered by embracing America’s founding ideals. The first installment is designed for high school students. Lessons will be added monthly, with K-8 modules coming soon.

Last but not least, “Alternative Reading Guide for the 1619 Project” by J.D. Richmond and W.F. Twyman Jr. includes essays from the New York Times 1619 Project and a Pulitzer Center designed reading guide along with a supplemental reading guide and questions. The authors recognize the groundswell of conversation created by the 1619 Project but also see the danger in using only the 1619 Project as a guide to race relations and black American history because it drowns out some of the voices of black resilience, strength and true heroism.

Much of the 1619 Project focuses on oppression and grievance as the collective voice of the black American experience. This alternative reading guide takes the Pulitzer Center’s guide and adds an additional reading to each 1619 Project essay for a more complete picture of the black American experience and contribution to American society. This reading guide is designed to help classrooms using the 1619 Project to expand their curriculum, promote robust dialogue and discussion, and add further dimension to the nuance and complexity of the building of America.

Each alternative curriculum can be accessed online or purchased via a common platform such as Amazon or related platform.

### **3.2 CONTROVERSIAL ISSUES & SCHOOL DISTRICT BOARD POLICY**

The first two “guardrails” in AB101 closely mirror the California School Boards Association (CSBA), sample Board Policy 6144(a) recommendations in regards to instruction on controversial issues- personal values and beliefs, political philosophy, culture, religion, or other influences. Most school districts throughout California have approved similar board policies such as CSBA recommended

policy 6144 (a), under the context that school instruction needs to consider controversial issues in a balanced, responsible and civil manner.

For instance, the Los Alamitos Unified School District adopted board policy 6144 on April 22, 2014, promulgating that introduction and proper educational use of controversial issues provided that their use in the instructional program:

1. Is related to the specific instructional goals of the subject being studied and to the level of maturity of the students.
2. Does not tend to indoctrinate or persuade students to a particular point of view. (Education Code 51530)
3. Does not reflect adversely upon persons because of their race, sex, color, creed, national origin or ancestry. (Education Code 51500)
4. Represents facts and concepts of controversial issues from multiple perspectives to ensure that students develop critical thinking and problem-solving skills.
5. Is conducted in a spirit of scholarly inquiry.
6. Is instigated by curricular design or by the students themselves but not by a source outside of the schools.
7. Draws upon information and insights from the widest feasible range of resources.

In other words, ethnic studies, as a controversial topic, should not be taught through any particular ideological lens without introducing counter-balancing perspectives. An equity lens must be discussed alongside a racial equality lens. A race-conscious anti-racism perspective should be taught along with a race-blind perspective of constitutional equality, without any particular bias or tilt toward one view over the other.

### **3.3 POTENTIAL LEGAL EXPOSURE FOR SCHOOL BOARDS**

Promotional controversial approaches such as liberated ethnic studies as a primary pedagogical source of high school ethnic studies could lead to a series of legal violations. First, its implementation would run counter to California's constitutional principle of equal treatment by dividing students and educators based on their skin colors and race-based presumptions of power and privilege. California State Constitution Article I Section 31(a) was established by the passage of Proposition 209, or the California



Civil Rights Initiative in 1996. It unequivocally states: “The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.” This principle was overwhelmingly reaffirmed on the November 2020 ballot when 57.2% of California voters rejected Proposition 16, which would have repealed Prop 209.

This constitutional guarantee is echoed by Article 3 of the Education Code which states that “No person shall be subjected to discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic...in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance, or enrolls pupils who receive state student financial aid.”

The Placentia-Yorba Linda Unified School District recently moved to vote on a board resolution that would ban the teaching of CRT in the district’s schools.<sup>53</sup>

Implementation of ethnic studies rooted in critical pedagogy or CRT would undoubtedly contravene both laws. Furthermore, accommodating any ideological slant toward neo-Marxist class/race divisions and Leninist anti-imperialism, clearly contradicts Article 4 of the Education Code stating that “No teacher giving instruction in any school, or on any property belonging to any agencies included in the public school system, shall advocate or teach communism with the intent to indoctrinate or to inculcate in the mind of any pupil a preference for communism.”

To date, three lawsuits have been filed in the State of California against CRT and the ESMC. The first litigation is a class action lawsuit against the California Natural Resources Agency and the California Department of Fish and Wildlife for racial discrimination and race-based treatment in CRT-rooted employment practices.<sup>54</sup> The second litigation was filed by a group of parents and taxpayers against the Santa Barbara Unified School District. These legal proceedings seek to prevent the continued use of public money to fund alleged implicit bias training which impermissibly discriminates against persons on the basis of race, gender, sexual orientation, religion and other factors in violation of the United States and California Constitutions and various Federal and State Statutes, and to prevent the awarding of contracts without the use of competitive bidding.<sup>55</sup>



The third and latest lawsuit was filed by Californians for Equal Rights Foundation and three San Diego parents against the State of California, the State Department of Education, the State Board of Education and the State Superintendent of Public Instruction, challenging the constitutionality of two religious chants in the Ethnic Studies Model Curriculum.<sup>56</sup>

Not only would future developments on these cases set institutional (legal and procedural) precedents for the implementation of CRT-infused school programs and ethnic studies, they also indicate a variety of legal and administrative vulnerabilities of school boards if CRT-based concepts are taught in K-12 settings. While proponents of CRT and its intellectual predecessor Critical Legal Studies debate the utility of U.S. constitutional principles, it is prudent to argue that neither the ideological supporters nor the actual policy makers can stay above the law. Therefore, individual school districts must be aware of the legal exposure associated with promoting, perpetuating and disseminating legally questionable materials in both classroom teaching and school administration.

### **3.4 PROHIBITED INSTRUCTION & ADVOCACY OF COMMUNISM OR MARXISM**

Education Code 51530 prohibits advocacy or teaching communism or Marxism with the intent to indoctrinate or to inculcate in the mind of any pupil. Education Code 51530 reads as follows:

*No teacher giving instruction in any school, or on any property belonging to any agencies included in the public school system, shall advocate or teach communism with the intent to indoctrinate or to inculcate in the mind of any pupil a preference for communism.*

*In prohibiting the advocacy or teaching of communism with the intent of indoctrinating or inculcating a preference in the mind of any pupil for such doctrine, the Legislature does not intend to prevent the teaching of the facts about communism. Rather, the Legislature intends to prevent the advocacy of, or inculcation and indoctrination into, communism as is hereinafter defined, for the purpose of undermining patriotism for, and the belief in, the government of the United States and of this state.*

*For the purposes of this section, communism is a political theory that the presently existing form of government of the United States or of this state should be changed, by force, violence, or other unconstitutional means, to a totalitarian dictatorship which is based on the principles of communism as expounded by Marx, Lenin, and Stalin*

California's Education Code 51530 clearly prohibits and limits the LESMC by the liberated ethnic study paradigm of advocacy and indoctrination of Communism or Marxism.



## REFERENCES

- <sup>1</sup> “Ethnic Studies Model Curriculum,” California Department of Education, updated April 08, 2021, accessed October 26, 2021, <https://www.cde.ca.gov/ci/cr/cf/esmc.asp>.
- <sup>2</sup> Lily Button, “Gov. Gavin Newsom signs AB 101, requiring ethnic studies course in public high schools,” *The Daily Californian*, October 12, 2021, <https://www.dailycal.org/2021/10/12/newsom-signs-ab-101-requiring-ethnic-studies-in-public-high-schools/>.
- <sup>3</sup> Janel George, “A Lesson on Critical Race Theory,” *The American Bar Association*, January 11, 2021, [https://www.americanbar.org/groups/crsj/publications/human\\_rights\\_magazine\\_home/civil-rights-reimagining-policing/a-lesson-on-critical-race-theory/](https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/civil-rights-reimagining-policing/a-lesson-on-critical-race-theory/).
- <sup>4</sup> Ibram X. Kendi, “There Is No Debate Over Critical Race Theory,” *The Atlantic*, July 9, 2021, <https://www.theatlantic.com/ideas/archive/2021/07/opponents-critical-race-theory-are-arguing-themselves/619391/>.
- <sup>5</sup> Roy L. Brooks, “Critical Race Theory: A Proposed Structure and Application to Federal Pleading,” *Harvard BlackLetter Law Journal*, Spring, 1994, 11.
- <sup>6</sup> Richard Delgado & Jean Stefancic, *Critical race theory: an introduction* (Third ed.) 2017, 1.
- <sup>7</sup> Ibid.
- <sup>8</sup> Katy Steinmetz, “She Coined the Term ‘Intersectionality’ Over 30 Years Ago. Here’s What It Means to Her Today,” *Time Magazine*, February 20, 2020, <https://time.com/5786710/kimberle-crenshaw-intersectionality/>.
- <sup>9</sup> Peter McLaren, “Critical pedagogy: A look at the major concepts,” In Antonia Darder et al. (Eds.), *The critical pedagogy reader* (pp. 69-96). New York and London: Routledge/Falmer.
- <sup>10</sup> Gloria Ladson-Billings and William F. Tate IV, “Toward a Critical Race Theory of Education,” *Teachers College Record* Vol. 97, no. 1, Fall 1995, 62.
- <sup>11</sup> Helen Pluckrose and James Lindsay, *Cynical Theories: How Activist Scholarship Made Everything about Race, Gender, and Identity—and Why This Harms Everybody*, Pitchstone Publishing: Durham, 2020, 128.
- <sup>12</sup> Erec Smith. *A Critique of Anti-racism in Rhetoric and Composition: The Semblance of Empowerment*, Lexington Books: Lanham, XIV.
- <sup>13</sup> Ibram X. Kendi, *How to Be an Antiracist*, One World: New York, 2019, 19
- <sup>14</sup> “The 1619 Project,” *The New York Times Magazine*, August 14, 2019, <https://www.nytimes.com/interactive/2019/08/14/magazine/1619-america-slavery.html>.
- <sup>15</sup> “Critical Race Theory: On the New Ideology of Race,” *the Manhattan Institute*, December 16, 2020, <https://www.manhattan-institute.org/critical-race-theory-new-ideology-race>.
- <sup>16</sup> Carol Swain, “Critical race theory’s toxic, destructive impact on America,” *1776 Unites*, January 15, 2021, <https://1776unites.com/essays/critical-race-theorys-toxic-destructive-impact-on-america/>.
- <sup>17</sup> David North and Eric London, “The 1619 Project and the falsification of history: An analysis of the New York Times’ reply to five historians,” *World Socialist Web Site*, December 28, 2019, <https://www.wsws.org/en/articles/2019/12/28/nytr-d28.html>.
- <sup>18</sup> Glenn Loury, “Whose Fourth of July? Blacks and the ‘American project’,” *1776 Unites*, February 9, 2021, <https://1776unites.com/essays/whose-fourth-of-july-blacks-and-the-american-project/>.
- <sup>19</sup> “AB 331 Veto Message,” Office of the Governor, September 30, 2020, <https://www.gov.ca.gov/wp-content/uploads/2020/09/AB-331.pdf>.



- 
- <sup>20</sup> “Editorial: California’s latest ethnic studies bill is not quite ready,” *The L.A. Times*, September 20, 2021, , <https://www.latimes.com/opinion/story/2021-09-20/editorial-californias-ethnic-studies-is-not-quite-ready-for-prime-time>.
- <sup>21</sup> “Critical race theory FAQ,” California School Boards Association, July 2021, [https://www.csba.org/-/media/CSBA/Files/GovernanceResources/EducationalEquity/CriticalRaceTheory\\_FAQ\\_7-1-2021.ashx?la=en&rev=43cc698d0964446e889fd1a45ff136a9](https://www.csba.org/-/media/CSBA/Files/GovernanceResources/EducationalEquity/CriticalRaceTheory_FAQ_7-1-2021.ashx?la=en&rev=43cc698d0964446e889fd1a45ff136a9).
- <sup>22</sup> Ibid.
- <sup>23</sup> Williamson M. Evers, “‘Critical’ Ethnic Studies Returns to California,” *WSJ Opinion*, August 27, 2020, [https://www.wsj.com/articles/critical-ethnic-studies-returns-to-california-11598568504?cx\\_testId=3&cx\\_testVariant=cx\\_4&cx\\_artPos=0&mod=WTRN#cxrecs\\_s](https://www.wsj.com/articles/critical-ethnic-studies-returns-to-california-11598568504?cx_testId=3&cx_testVariant=cx_4&cx_artPos=0&mod=WTRN#cxrecs_s).
- <sup>24</sup> Lee Ohanian, “California’s Education Department Chooses Critical Race Theory Over 100,000 Objections,” *Hoover Institution*, March 23, 2021, <https://www.hoover.org/research/californias-education-department-chooses-critical-race-theory-over-100000-objections>.
- <sup>25</sup> Alliance for Constructive Ethnic Studies, “Summary of CA Ethnic Studies Concerns and Recommendations,” <https://www.calethstudies.org/aces-esmc-concerns-and-recommendations>.
- <sup>26</sup> Alliance for Constructive Ethnic Studies, “Draft 4 of the Ethnic Studies Model Curriculum Ignores Thousands of Comments about Divisive Ideological Agenda,” <https://www.calethstudies.org/esmc-draft-4-update>.
- <sup>27</sup> AMCHA Initiative, <https://amchainitiative.org>.
- <sup>28</sup> AMCHA Initiative, “AMCHA Hails Newsom’s Veto of AB 331, A Bill that Would Have Made Inherently Anti-Semitic ‘Critical’ Ethnic Studies Courses A H.S. Requirement,” October 1, 2020, <https://amchainitiative.org/newsom-vetoed-ab-331-10-1-20pr/>.
- <sup>29</sup> AMCHA Initiative, “AMCHA Denounces California for Approving Ethnic Studies Curriculum Rooted in Principles of Critical Ethnic Studies,” March 18, 2021, <https://amchainitiative.org/amcha-denounces-sbe-3-18-21pr/>.
- <sup>30</sup> Wenyuan Wu, “Should I Get Canceled for Telling the Emperor He Has No Clothes On?” *Minding the Campus*, March 1, 2021, <https://www.mindingthecampus.org/2021/03/01/should-i-get-canceled-for-telling-the-emperor-he-has-no-clothes-on/>.
- <sup>31</sup> LESMC, “Welcome to Liberated Ethnic Studies,” <http://www.liberatedethnicstudies.org>.
- <sup>32</sup> LESMC, “Critical Race Theory: A Pair of Eyeglasses,” <http://www.liberatedethnicstudies.org/crt.html>.
- <sup>33</sup> Alliance for Constructive Ethnic Studies, “How Critical Ethnic Studies is Entering the Classroom,” <https://www.calethstudies.org/critical-ethnic-studies-in-the-classroom>.
- <sup>34</sup> Save Arab American Studies, “Remove Names from Ethnic Studies Model Curriculum,” <https://savearabamericanstudies.org/wp-content/uploads/2021/02/Letter-to-CDE-2.3.2021.pdf>.
- <sup>35</sup> Wu, “Should I get.”
- <sup>36</sup> Ibid.
- <sup>37</sup> Fair Education Santa Barbara, <https://www.faireducation.org/legal/>.
- <sup>38</sup> Unión del Barrio, “What is Unión del Barrio?” <https://uniondelbarrio.org/main/4-2/about-udb/>.
- <sup>39</sup> Ethnic Studies Now, <https://www.ethnicstudiesnow.com>.
- <sup>40</sup> Tammi Rossman-Benjamin, “The Tale of Two Ethnic Studies: A Case of Bait and Switch,” *The Algemeiner*, July 26, 2021, <https://www.algemeiner.com/2021/07/26/the-tale-of-two-ethnic-studies-a-case-of-bait-and-switch/>.
- <sup>41</sup> May Li, “California high schools will teach Ethnic Studies Model Curriculum. CFER Opposes.” *The Epoch Times*, February 9, 2020, <https://www.epochtimes.com/gb/21/2/9/n12742291.htm>



---

<sup>42</sup> Hosam Elattar, “Orange County Parents And Students Confront Ethnic Studies; School Districts Look to Potentially Expand Offerings,” *Voice of OC*, April 20, 2021, <https://voiceofoc.org/2021/04/orange-county-parents-and-students-confront-ethnic-studies-school-districts-look-to-potentially-expand-offerings/>.

<sup>43</sup> Joseph Pimentel, “In Orange County, high school ethnic studies courses get heated, confrontational,” *Spectrum News 1*, April 28, 2021, <https://spectrumnews1.com/ca/orange-county/education/2021/04/28/in-orange-county--high-school-ethnic-studies-gets-heated-and-confrontational->.

<sup>44</sup> Deepa Bharath, “Critical race theory stirs debate in Southern California schools,” *Daily Bulletin*, July 6, 2021, <https://www.dailybulletin.com/2021/07/06/critical-race-theory-stirs-debate-in-southern-california-schools/>.

<sup>45</sup> CFER, “CFER Special Report: CRT in Action – A Summary of Case Findings,” <https://cferfoundation.org/wp-content/uploads/2021/07/CFER-Report-CRT-in-Action.pdf>.

<sup>46</sup> Hosam Elattar and Noah Biesiada, “Ethnic Studies Professor Drops Out of County Board of Education Forum Over Fellow Panelists,” *Voice of OC*, July 26, 2021, <https://voiceofoc.org/2021/07/ethnic-studies-professor-drops-out-of-county-board-of-education-forum-over-fellow-panelists/>.

<sup>47</sup> Roxana Kopetman, “New group clashes with O.C. Board of Education over ethnic studies,” *The Orange County Register*, July 27, 2021, <https://www.ocregister.com/2021/07/27/new-group-clashes-with-o-c-board-of-education-over-ethnic-studies/>.

<sup>48</sup> The Editorial Board, “What critical race theory is — and isn’t — and why it belongs in schools,” *The Los Angeles Times*, August 8, 2021, <https://www.latimes.com/opinion/story/2021-08-08/editorial-what-critical-race-theory-is-and-isnt-and-why-it-belongs-in-schools>.

<sup>49</sup> Mari Barke and Wenyan Wu, “Incomplete Coverage on ethnic studies debate misleads the public,” *The Orange County Register*, August 4, 2021, <https://www.ocregister.com/2021/08/04/incomplete-coverage-on-ethnic-studies-debate-misleads-the-public/>.

<sup>50</sup> Wenyan Wu, “The Culture War Against the Little Man,” *Minding the Campus*, September 2, 2021, <https://www.mindingthecampus.org/2021/09/02/the-culture-war-against-the-little-man/>.

<sup>51</sup> Gabe Stutman, “Everything you need to know about the ‘guardrails’ built into the California ethnic studies law,” *The Jewish News of Northern California*, October 18, 2021, <https://www.jweekly.com/2021/10/18/everything-you-need-to-know-about-the-guardrails-built-into-the-california-ethnic-studies-law/>.

<sup>52</sup> Ibid.

<sup>53</sup> Hosam Elattar, “Placentia-Yorba Linda School District Moves to Ban Critical Race Theory,” *Voice of OC*, November 17, 2021, [https://voiceofoc.org/2021/11/placentia-yorba-linda-school-district-moves-to-ban-critical-race-theory/?fbclid=IwAR2GI6VFRayvjRoJpOH9YT18625oTNexU3Hf7\\_mYAAE33k0ixK8SyjxepUc](https://voiceofoc.org/2021/11/placentia-yorba-linda-school-district-moves-to-ban-critical-race-theory/?fbclid=IwAR2GI6VFRayvjRoJpOH9YT18625oTNexU3Hf7_mYAAE33k0ixK8SyjxepUc).

<sup>54</sup> The Pivtorak Law Firm, “Critical Race Theory at the Center of Racial Discrimination Class Action Filed Against California State Agency,” October 19, 2020, <https://www.piv4law.com/new-blog/2020/10/14/critical-race-theory-at-the-center-of-racial-discrimination-lawsuit-filed-against-california-agencies>.

<sup>55</sup> Fair Education Santa Barbara, <https://www.faireducation.org/legal/>.

<sup>56</sup> CFER, “CFER and Three San Diego Parents Sue the State of California for the Aztec and Ashe Prayers in Its Ethnic Studies Model Curriculum,” September 3, 2021, [https://cferfoundation.org/pr\\_0903/](https://cferfoundation.org/pr_0903/).

ORANGE COUNTY BOARD OF EDUCATION

BOARD AGENDA ITEM

DATE: January 5, 2022

TO: Nina Boyd, Deputy Superintendent

FROM: Ken L. Williams, D.O., Board Vice President

SUBJECT: Superintendent Salary 2022-2026 Term

---

RECOMMENDATION:

Superintendent Salary 2022-2026 Term

County	Superintendent	Salary	Population	2019-20 Enrollment	Salary per Population	Salary per Enrollment
Los Angeles	Dr. Debra Duardo	\$336,349.00	10,014,009	1,436,522	\$0.03	\$6.97
San Diego	Dr. Paul Gothold	\$344,103.00	3,298,634	502,785	\$0.10	\$6.56
Orange	Dr. Alfred "Al" Mijares	\$364,895.00	3,186,989	473,612	\$0.11	\$6.73
Riverside	Judy Denise White	\$298,383.00	2,418,185	431,521	\$0.12	\$5.60
San Bernardino	Theodore "Ted" Alejandre	\$289,966.00	2,181,654	407,268	\$0.13	\$5.36
Solano	Lisette Estrella-Henderson	\$245,000.04	1,453,491	62,979	\$0.17	\$23.08
Alameda	L. Karen Monroe	\$291,864.51	1,682,353	227,331	\$0.17	\$7.40
Santa Clara	Mary Ann Dewan, Ph.D.	\$352,827.00	1,936,259	263,449	\$0.18	\$7.35
Sacramento	David Gordon	\$289,047.00	1,585,055	249,540	\$0.18	\$6.35
Contra Costa	Lynn Mackey	\$248,136.96	1,165,927	178,406	\$0.21	\$6.54
Kern	Mary Barlow	\$225,000.00	909,235	198,910	\$0.25	\$4.57
Fresno	Jim Yovino	\$271,017.48	1,008,654	207,858	\$0.27	\$4.85
Ventura	Dr. Cesar Morales	\$226,993.00	843,843	135,312	\$0.27	\$6.24
San Mateo	Nancy Magee	\$237,668.92	764,442	93,554	\$0.31	\$8.17
San Joaquin	James A. Mousalimas	\$264,681.72	779,233	152,350	\$0.34	\$5.11
San Francisco	Dr. Vincent Matthews	\$301,862.46	873,965	61,912	\$0.35	\$14.12
Santa Barbara	Dr. Susan Salcido	\$193,786.94	448,229	69,006	\$0.43	\$6.50
Stanislaus	Scott Kuykendall	\$246,024.00	552,878	110,456	\$0.44	\$5.01
Sonoma	Dr. Steven Herrington	\$235,570.86	488,863	68,194	\$0.48	\$7.17
Monterey	Dr. "Norma" Deneen Guss	\$235,845.00	439,035	77,387	\$0.54	\$5.67
Tulare	Time Hire	\$256,097.00	473,117	105,038	\$0.54	\$4.50
Placer	Gayle Garbolino-Mojica	\$235,055.28	404,739	75,208	\$0.58	\$5.38
Plumas	Terry Oestreich	\$13,946.58	19,790	2,219	\$0.70	\$8.92
San Luis Obispo	Dr. James Brescia	\$206,684.04	282,424	34,387	\$0.73	\$8.21
Yolo	Garth Lewis	\$167,782.00	216,403	30,569	\$0.78	\$7.08
Merced	Dr. Steve M. Tietjen	\$228,196.00	281,202	59,531	\$0.81	\$4.72
Santa Cruz	Dr. Faris Sabbah	\$231,700.57	270,861	40,551	\$0.86	\$6.68
Butte	Mary Sakuma	\$184,510.78	211,632	30,034	\$0.87	\$7.05
Shasta	Judy Flores	\$204,492.12	182,155	27,116	\$1.12	\$6.72
Sierra	James Berardi	\$9,545.64	8,236	432	\$1.16	\$19.06
Kings	Todd Barlow	\$179,061.00	152,486	29,951	\$1.17	\$5.09
El Dorado	Dr. Edward Manansala	\$235,439.48	191,185	31,126	\$1.23	\$6.14
Marin	Mary Jane Burke	\$335,555.58	262,321	33,516	\$1.28	\$7.83
Imperial	Todd Finnell	\$242,607.50	179,702	37,375	\$1.35	\$4.81
Humboldt	Dr. Christopher Hartley	\$186,910.04	136,463	18,106	\$1.37	\$7.54
Madera	Cecilia Massetti	\$222,438.96	156,486	32,144	\$1.42	\$4.87
Nevada	Scott Lay	\$152,457.70	102,241	11,525	\$1.49	\$8.87
Mendocino	Michelle Hutchins	\$159,174.99	91,601	13,245	\$1.74	\$6.92
Yuba	Dr. Francisco Reveles	\$143,322.00	81,575	14,915	\$1.76	\$5.47
Sutter	Tom Reusser	\$180,747.93	99,633	23,308	\$1.81	\$4.27
Napa	Dr. Barbara Nemko	\$264,120.72	138,019	20,022	\$1.91	\$6.89
Tehama	Richard DuVarney	\$167,794.29	65,829	11,109	\$2.55	\$5.93
Lake	Brock Falkenberg	\$185,328.90	68,163	9,850	\$2.72	\$6.92
San Benito	Krystal Lomanto	\$179,345.16	64,209	11,545	\$2.79	\$5.56
Tuolumne	Cathy A. Parker	\$163,200.00	55,620	6,045	\$2.93	\$9.20
Siskiyou	Kermith Walters	\$153,277.38	44,076	6,066	\$3.48	\$7.27
Calaveras	Scott Nanik	\$168,419.00	45,292	5,315	\$3.72	\$8.52
Amador	Dr. Steve Russell	\$181,280.04	40,474	4,166	\$4.48	\$9.72
Lassen	Patricia "Patty" Gunderson	\$149,986.02	32,730	3,811	\$4.58	\$8.59
Glenn	Tracey Quarne	\$153,999.96	28,917	6,042	\$5.33	\$4.79
Del Norte	Jeffrey L. Harris	\$169,012.50	27,743	4,327	\$6.09	\$6.41
Colusa	Michael West	\$159,951.45	21,839	4,730	\$7.32	\$4.62
Trinity	Sarah Supahan	\$145,054.50	16,112	1,579	\$9.00	\$10.20
Inyo	Barry D. Simpson	\$175,000.00	19,016	4,476	\$9.20	\$4.25
Mariposa	Jeff Aranguena	\$161,500.00	17,131	1,870	\$9.43	\$9.16
Mono	Dr. Stacey Adler	\$151,665.00	13,195	1,936	\$11.49	\$6.82
Modoc	Miachael "Mike" Martin	\$130,365.36	8,700	1,394	\$14.98	\$6.24
Alpine	Matthew Strahl	\$59,105.00	1,204	70	\$49.09	\$17.20



County	Superintendent	Salary	Population	2019-20 Enrollment	Salary per Population	Salary per Enrollment
Solano	Lisette Estrella-Henderson	\$245,000.04	1,453,491	62,979	\$0.17	\$23.08
Sierra	James Berardi	\$9,545.64	8,236	432	\$1.16	\$19.06
Alpine	Matthew Strahl	\$59,105.00	1,204	70	\$49.09	\$17.20
San Francisco	Dr. Vincent Matthews	\$301,862.46	873,965	61,912	\$0.35	\$14.12
Trinity	Sarah Supahan	\$145,054.50	16,112	1,579	\$9.00	\$10.20
Amador	Dr. Steve Russell	\$181,280.04	40,474	4,166	\$4.48	\$9.72
Tuolumne	Cathy A. Parker	\$163,200.00	55,620	6,045	\$2.93	\$9.20
Mariposa	Jeff Aranguena	\$161,500.00	17,131	1,870	\$9.43	\$9.16
Plumas	Terry Oestreich	\$13,946.58	19,790	2,219	\$0.70	\$8.92
Nevada	Scott Lay	\$152,457.70	102,241	11,525	\$1.49	\$8.87
Lassen	Patricia "Patty" Gunderson	\$149,986.02	32,730	3,811	\$4.58	\$8.59
Calaveras	Scott Nanik	\$168,419.00	45,292	5,315	\$3.72	\$8.52
San Luis Obispo	Dr. James Brescia	\$206,684.04	282,424	34,387	\$0.73	\$8.21
San Mateo	Nancy Magee	\$237,668.92	764,442	93,554	\$0.31	\$8.17
Marin	Mary Jane Burke	\$335,555.58	262,321	33,516	\$1.28	\$7.83
Humboldt	Dr. Christopher Hartley	\$186,910.04	136,463	18,106	\$1.37	\$7.54
Alameda	L. Karen Monroe	\$291,864.51	1,682,353	227,331	\$0.17	\$7.40
Santa Clara	Mary Ann Dewan, Ph.D.	\$352,827.00	1,936,259	263,449	\$0.18	\$7.35
Siskiyou	Kermith Walters	\$153,277.38	44,076	6,066	\$3.48	\$7.27
Sonoma	Dr. Steven Herrington	\$235,570.86	488,863	68,194	\$0.48	\$7.17
Yolo	Garth Lewis	\$167,782.00	216,403	30,569	\$0.78	\$7.08
Butte	Mary Sakuma	\$184,510.78	211,632	30,034	\$0.87	\$7.05
Los Angeles	Dr. Debra Duardo	\$336,349.00	10,014,009	1,436,522	\$0.03	\$6.97
Lake	Brock Falkenberg	\$185,328.90	68,163	9,850	\$2.72	\$6.92
Mendocino	Michelle Hutchins	\$159,174.99	91,601	13,245	\$1.74	\$6.92
Napa	Dr. Barbara Nemko	\$264,120.72	138,019	20,022	\$1.91	\$6.89
Mono	Dr. Stacey Adler	\$151,665.00	13,195	1,936	\$11.49	\$6.82
Orange	Dr. Alfred "Al" Mijares	\$364,895.00	3,186,989	473,612	\$0.11	\$6.73
Shasta	Judy Flores	\$204,492.12	182,155	27,116	\$1.12	\$6.72
Santa Cruz	Dr. Faris Sabbah	\$231,700.57	270,861	40,551	\$0.86	\$6.68
San Diego	Dr. Paul Gothold	\$344,103.00	3,298,634	502,785	\$0.10	\$6.56
Contra Costa	Lynn Mackey	\$248,136.96	1,165,927	178,406	\$0.21	\$6.54
Santa Barbara	Dr. Susan Salcido	\$193,786.94	448,229	69,006	\$0.43	\$6.50
Del Norte	Jeffrey L. Harris	\$169,012.50	27,743	4,327	\$6.09	\$6.41
Sacramento	David Gordon	\$289,047.00	1,585,055	249,540	\$0.18	\$6.35
Modoc	Miachael "Mike" Martin	\$130,365.36	8,700	1,394	\$14.98	\$6.24
Ventura	Dr. Cesar Morales	\$226,993.00	843,843	135,312	\$0.27	\$6.24
El Dorado	Dr. Edward Manansala	\$235,439.48	191,185	31,126	\$1.23	\$6.14
Tehama	Richard DuVarney	\$167,794.29	65,829	11,109	\$2.55	\$5.93
Monterey	Dr. "Norma" Deneen Guss	\$235,845.00	439,035	77,387	\$0.54	\$5.67
Riverside	Judy Denise White	\$298,383.00	2,418,185	431,521	\$0.12	\$5.60
San Benito	Krystal Lomanto	\$179,345.16	64,209	11,545	\$2.79	\$5.56
Yuba	Dr. Francisco Reveles	\$143,322.00	81,575	14,915	\$1.76	\$5.47
Placer	Gayle Garbolino-Mojica	\$235,055.28	404,739	75,208	\$0.58	\$5.38
San Bernardino	Theodore "Ted" Alejandro	\$289,966.00	2,181,654	407,268	\$0.13	\$5.36
San Joaquin	James A. Mousalimas	\$264,681.72	779,233	152,350	\$0.34	\$5.11
Kings	Todd Barlow	\$179,061.00	152,486	29,951	\$1.17	\$5.09
Stanislaus	Scott Kuykendall	\$246,024.00	552,878	110,456	\$0.44	\$5.01
Madera	Cecilia Massetti	\$222,438.96	156,486	32,144	\$1.42	\$4.87
Fresno	Jim Yovino	\$271,017.48	1,008,654	207,858	\$0.27	\$4.85
Imperial	Todd Finnell	\$242,607.50	179,702	37,375	\$1.35	\$4.81
Glenn	Tracey Quarne	\$153,999.96	28,917	6,042	\$5.33	\$4.79
Merced	Dr. Steve M. Tietjen	\$228,196.00	281,202	59,531	\$0.81	\$4.72
Colusa	Michael West	\$159,951.45	21,839	4,730	\$7.32	\$4.62
Kern	Mary Barlow	\$225,000.00	909,235	198,910	\$0.25	\$4.57
Tulare	Time Hire	\$256,097.00	473,117	105,038	\$0.54	\$4.50
Sutter	Tom Reusser	\$180,747.93	99,633	23,308	\$1.81	\$4.27
Inyo	Barry D. Simpson	\$175,000.00	19,016	4,476	\$9.20	\$4.25

ORANGE COUNTY BOARD OF EDUCATION

BOARD AGENDA ITEM

DATE: January 5, 2022

TO: Nina Boyd, Deputy Superintendent

FROM: Ken L. Williams, D.O., Board Vice President

SUBJECT: Legal Opinion Presentation Health Contracts- Margaret A. Chidester

---

RECOMMENDATION:

Legal Opinion Presentation Health Contracts- Margaret A. Chidester

# Review and Analysis of Selected Healthcare Contracts

Orange County Board of Education  
January 5, 2022

---

LAW OFFICES OF MARGARET A. CHIDESTER & ASSOCIATES



# Summary of October 27, 2021 Opinion

---

LEGAL ANALYSIS OF CERTAIN CONTRACTS ENTERED INTO BY COUNTY  
SUPERINTENDENT

# Summary of Statutes Potentially Applicable to OCDE Contracts

Education Code Section	Explanation
<b>§ 1260(e)</b>	This section allows a County Superintendent to provide in-service programs and coordinative services for schools and community colleges under his jurisdiction <i>with County Board approval</i> .
<b>§ 1703</b> <i>Note: went into effect January 1, 2022</i>	This section allows a County Superintendent to employ personnel for guidance, health, and library services, special education, attendance activities, and the coordination of courses of study <i>with County Board approval</i> . This statute went into effect January 1, 2022.
<b>§ 1750</b>	This section allows a County Superintendent to employ health supervisors to provide health services to pupils <i>with County Board approval</i> .
<b>§ 1751</b>	This section allows a County Superintendent, instead of employing health supervisors, to contract with the County Board of Supervisors or a local health district for their employees to provide health services <i>with County Board approval</i> .

# I. Summary of Contracts *Requiring* County Board Approval

Contract	Applicable Statute(s)
<p>#1</p> <p><b>September 1, 2020 Memorandum of Understanding (“MOU”) Between Orange County Superintendent of Schools AKA Orange County Department of Education (“OCDE”) and County of Orange Health Care Agency (“HCA”)</b></p>	<p><b>Education Code section 1260(e)</b> applies because OCDE has agreed to provide professional development, training, and education sessions for staff members regarding mental health topics which will likely qualify as in-service programs and coordinative services.</p> <p><b>Education Code section 1703</b> would apply because OCDE has agreed to hire, train, and supervise Regional Mental Health Coordinators which will qualify as employing personnel for guidance and health services. (In effect January 2022.)</p> <p><b>Education Code section 1750</b> applies because OCDE has agreed to employ Mental Health Coordinators (health supervisors) to provide health services.</p> <p><b>Education Code section 1751</b> likely applies because OCDE has contracted with the County of Orange and therefore the Orange County Board of Supervisors. Alternatively, HCA, a local health district, will carry out the County of Orange’s responsibilities, and it may be argued that OCDE has contracted with a local health district.</p>



# Summary of Contracts *Requiring* County Board Approval (cont.)

Contract	Applicable Statute(s)
<p>#2</p> <p><b>March 16, 2021 Agreement for Grant ID #170706</b></p>	<p><b>Education Code section 1260(e)</b> applies because the grant requires OCDE to provide training and technical assistance to school-level leadership teams in implementing improvement policies contemplated by the agreement. These trainings likely qualify as in-service programs and coordinative services, and they will be provided to schools within the County Superintendent’s jurisdiction.</p>

## II. Summary of Contracts *Possibly Requiring* County Board Approval

Contract	Applicable Statute(s)
<p>#1</p> <p><b>July 1, 2020 Agreement for Provision of Educationally Related Mental Health Services Between County of Orange and Orange County Department of Education (“OCDE”) July 1, 2020 Through June 20, 2021</b></p>	<p><b>Education Code section 1751</b> may apply because OCDE has contracted with the County of Orange, which may qualify as contracting with the Orange County Board of Supervisors. Further investigation is required to determine whether the Board of Supervisors has delegated this duty to the County. If so, County Board approval would be required.</p>
<p>#2</p> <p><b>July 1, 2020 Greatrex Global Learning LLC Service Agreement</b></p>	<p><b>Education Code section 1260(e)</b> may apply because the contract contemplates a virtual keynote speaking event intended to increase positivity and improve employee performance, which may qualify as a professional development training. Further investigation is required to determine whether the speaking event includes any school or community college district within the County Superintendent’s jurisdiction. If so, County Board approval is required.</p>

### III. Summary of Contracts *Not Requiring* County Board Approval

Contract	Applicable Statute(s)
<b>#1</b> <b>August 2019 Memorandum of Understanding Between Children's Hospital of Orange County and Orange County Superintendent of Schools</b>	None
<b>#2</b> <b>August 1 2020 Children's Hospital of Orange County Service Agreement</b>	None
<b>#3</b> <b>July 1, 2020 Contract for Provision of K-12 Mental Health Educational Services Between County of Orange and Orange County Superintendent of Schools AKA Orange County Department of Education July 1, 2020 Through June 30, 2022</b>	None



# Analysis of Selected Contracts Regarding Healthcare

---

ENTERED INTO BY COUNTY SUPERINTENDENT

# 1. August 2019 Memorandum of Understanding (“MOU”) Between Children’s Hospital of Orange County (“CHOC”) and Orange County Superintendent of Schools (“OCDE”) – Summary:

## Statement of Collaboration:

- CHOC shall be OCDE’s preferred pediatric healthcare partner during MOU term.
- OCDE shall not enter into a substantially similar agreement with another children’s hospital without CHOC’s prior written agreement.
- OCDE shall offer CHOC a right of first refusal to be the pediatric healthcare provider selected by OCDE for similar arrangements and initiatives for children between the ages of zero and 18 years.

## Initiatives:

- CHOC and OCDE agree to adopt and implement initiatives throughout MOU term.
- *Wellness Center*
  - To improve health of children who attend Orange County public local education agency (“OCPLEA”).
  - May include fitness and nutrition education, mental health counseling, screening and vaccination, and condition-specific education programs, etc.
- *Data Exchange Platform*
  - To study and improve instructional outcomes, academic performance, physical, behavioral, social, emotional and mental health.
  - Parties agree to exchange data to facilitate coordinated care, academic and wellness services to children.

# August 2019 Memorandum of Understanding (“MOU”) Between Children’s Hospital of Orange County (“CHOC”) and Orange County Superintendent of Schools (“OCDE”) – Summary:

## Initiatives (cont.):

- *Care Coordination*
  - Improve quality of care provided at OCPLEAs.
- *New Initiatives:*
  - The parties, through the Joint Oversight Council contemplated by the agreement, shall explore ways to adopt new initiatives consistent with the shared vision and objectives of this collaboration.

## Term:

- MOU effective for five years after the Effective Date
  - Effective Date: August 1, 2019
  - Term: August 1, 2019 to July 31, 2024
- MOU automatically renews for five year term unless terminated prior to renewal
  - Termination contemplated in agreement



# August 2019 Memorandum of Understanding (“MOU”) Between Children’s Hospital of Orange County (“CHOC”) and Orange County Superintendent of Schools (“OCDE”) – Analysis:

## General Legal Analysis:

- This agreement is neither prohibited nor contradicted by any Education Code sections.
- County Board of Education approval of this agreement is not required by any Education Code sections.

## Exclusivity Analysis:

- “OCDE agrees that CHOC Children’s shall be its preferred pediatric healthcare partner during the term of this MOU ... and OCDE shall not enter into a substantially similar agreement with another children’s hospital without the prior written agreement of CHOC Children’s. Programs and services developed under this agreement shall be exclusively used by CHOC Children’s. Furthermore, OCDE shall offer CHOC Children’s a right of first refusal to be the pediatric health provider selected by OCDE for similar arrangements and initiatives for children between the ages of zero (0) to eighteen (18) years.” (August 2019 MOU Between CHOC and OCDE, Statement of Collaboration, pages 1-2.)
  - *Note:* “Exclusive,” “preferred,” and similar wording is not used elsewhere in the agreement.

# August 2019 Memorandum of Understanding (“MOU”) Between Children’s Hospital of Orange County (“CHOC”) and Orange County Superintendent of Schools (“OCDE”) – Analysis:

## Under the MOU:

1. CHOC must be OCDE’s preferred pediatric healthcare partner.
  - “Preferred pediatric healthcare partner” is not defined or elaborated on elsewhere in the contract.
2. OCDE cannot enter into a substantially similar agreement with another children’s hospital (without CHOC’s approval).
  - A substantially similar agreement would require the children’s hospital to be OCDE’s preferred pediatric healthcare partner, the creation of exclusive programs and services developed for use by the children’s hospital, the mutual creation and adoption of initiatives such as wellness programs, data exchange, and the improvement of care coordination for OCPLEAs, the establishment of a Joint Oversight Council to make joint recommendations to the parties, and/or a right of first refusal for the children’s hospital to be the pediatric health provider for similar arrangements and initiatives.
3. Programs and services developed under the agreement are to be exclusively used by CHOC.
  - Programs and services such as the wellness center, data exchange, and care coordination initiatives.
4. OCDE must offer CHOC a right of first refusal to be its pediatric health provider for similar arrangements and initiatives for children between 0 and 18 years of age.
  - CHOC’s right of first refusal specifically applies to “similar arrangements and initiatives” as contemplated by the agreement.

# August 2019 Memorandum of Understanding (“MOU”) Between Children’s Hospital of Orange County (“CHOC”) and Orange County Superintendent of Schools (“OCDE”) – Analysis:

## Can Physicians Outside CHOC Screen Children for High Risk of Suicide Through County Programs?

- CHOC is entitled to exclusive use of the services and programs created by the MOU. However, screening children at high risk of suicide was not contemplated or developed by the agreement. As such, CHOC is not entitled to exclusivity for such services.
- CHOC was provided a right of first refusal to be OCDE’s pediatric health provider for arrangements and initiatives similar to those under the MOU. While mental health education and counseling are contemplated under the agreement, screening for suicide risk is not an arrangement or initiative similar to those under the agreement. Therefore, CHOC is not entitled to a right of first refusal to provide such screening.

## Conclusion:

- This agreement is not prevented by the Education Code.
- This agreement is not entirely exclusive.
  - However, it does prevent OCDE from entering substantially similar contracts with other children’s hospitals (without CHOC’s agreement), it requires CHOC to be OCDE’s preferred pediatric healthcare partner, it requires all programs and services developed under it to be exclusively used by CHOC, and it provides CHOC with a right of first refusal to be OCDE’s pediatric healthcare provider for similar arrangements and initiatives for children between 0 and 18 years of age.
- Physicians outside of CHOC may screen children at high risk of suicide through certain county programs.
- County Board of Education approval is not required.

## 2. August 1, 2020 Children's Hospital of Orange County ("CHOC") Service Agreement – Summary:

### Scope of Work:

- OCDE engages CHOC ("Contractor") as an independent contractor to perform services for the Educational Services Program. Services are described in Exhibit A.

### Exhibit A (List and Description of Services):

- CHOC's marketing and communication team will create, adapt, and curate ACEs (adverse childhood experiences) related information, communication, and stories to reach providers, pediatricians, and other target audiences.
- CHOC will use its existing communication channels to disseminate the ACEs related information.
- CHOC will coordinate with OCDE to cross distribute the shared information and disseminate additional information generated and curated by OCDE.
- CHOC experts will serve as ACEs champions and validators of content to ensure the accuracy and local relevance of content shared.

### Term:

- Beginning on August 1, 2020 and ending on June 29, 2021, subject to termination contemplated by the agreement.



# August 1, 2020 Children's Hospital of Orange County ("CHOC") Service Agreement – Analysis:

## Legal Analysis:

- This contract is neither prohibited or contradicted by any Education Code section.
- Orange County Board of Education approval of this contract is not required by any Education Code section.

## Exclusivity Analysis:

- The agreement does not state that it is exclusive. There is no mention of exclusivity, preference, or any other similar wording throughout the agreement.

## Conclusion:

- This agreement is not prevented by the Education Code.
- This agreement is not exclusive.
- County Board of Education approval of this contract is not required.

### 3. September 1, 2020 Memorandum of Understanding (“MOU”) Between Orange County Superintendent of Schools AKA Orange County Department of Education (“OCDE”) and County of Orange Health Care Agency (“HCA”) – Summary:

#### Background:

- The Orange County Board of Supervisors authorized HCA, in partnership with OCDE, 27 school districts in Orange County, and alternate and charter schools to apply for the Mental Health Student Services Act (“MHSSA”) grant, focused on funding partnerships between educational and county mental health agencies with the goal of increasing access to mental health services.
- The grant award will be used to pay for seven regional Mental Health Student Services Coordinators who will coordinate a variety of mental health services for students and families.

#### Purpose:

- The agreement requires OCDE to use the funds to provide support services in order to address the following goals: preventing mental illnesses from becoming severe and disabling, improving timely access, providing outreach, reducing the stigma and discrimination associated with mental illness, and preventing negative outcomes,

#### OCDE Responsibilities:

- OCDE agrees to hire, train, and supervise seven Regional Mental Health Coordinators and implement a variety of services, including the provision of professional development, training, and/or education sessions for educators and school staff on topics related to mental health, including suicide prevention and response.

# September 1, 2020 Memorandum of Understanding (“MOU”) Between Orange County Superintendent of Schools AKA Orange County Department of Education (“OCDE”) and County of Orange Health Care Agency (“HCA”) – Summary:

## County Responsibilities:

- The County of Orange, acting through HCA, agrees to collaborate with OCDE and school districts to develop information and sharing protocols needed to provide care coordination.
- The County of Orange agrees to collaborate with OCDE and districts to facilitate access to mental health and suicide prevention campaigns, trainings, workshops, and professional learning opportunities on mental health for students, families, schools, and district staff.

## Term:

- The term is a four-year period, beginning September 1, 2020 and ending August 31, 2024.

# September 1, 2020 Memorandum of Understanding (“MOU”) Between Orange County Superintendent of Schools AKA Orange County Department of Education (“OCDE”) and County of Orange Health Care Agency (“HCA”) – Analysis:

## General Legal Analysis:

- This agreement is not contradicted or prohibited by any Education Code sections.
- County Board of Education approval of this agreement is required under Education Code sections 1260(e), 1750, and 1751, because the agreement contemplates the employment of health supervisors, the training and professional development of district staff and certificated personnel, and because the County Superintendent has contracted with a local health agency.
- Education Code section 1703 would also apply had it come into effect prior to the agreement taking effect because it requires the County Superintendent to employ personnel for guidance services.

## Conclusion:

- This agreement is not prevented by the Education Code.
- County Board of Education approval is required for this agreement.



#### 4. July 1, 2020 Agreement for Provision of Educationally Related Mental Health Services Between County of Orange (“County”) and Orange County Department of Education (“OCDE”) July 1, 2020 Through June 30, 2021 – Summary:

##### Operative Principles:

- County agreed to provide services listed in Exhibit A and/or Exhibit B to districts’ designated students. The districts may elect Educationally Related Mental Health Services provided by the County or by a third party vendor.
- County, through HCA, will provide Educationally-Related Mental Health Services requested by districts to students.

##### Exhibit A (List of Outpatient Services):

- Assessment services include initial assessment/reassessment, annual assessments, and assessment updates.
- Mental health services include individual therapy, collateral services, and family therapy.
- Case management services include linkage and coordination in plan development.

##### Exhibit B (List of Residential Placement Services):

- Assessment services include initial assessment/reassessment, annual assessments, and assessment updates.
- Case management services include placement search, admission and discharge, residential case management visits, IEP attendance, and progress summary reports.

##### Term:

- The term begins on July 1, 2020 and ends on June 30, 2021.

# July 1, 2020 Agreement for Provision of Educationally Related Mental Health Services Between County of Orange (“County”) and Orange County Department of Education (“OCDE”) July 1, 2020 Through June 30, 2021 – Analysis:

## General Legal Analysis:

- This agreement is not contradicted or prohibited by any Education Code sections.
- County Board of Education approval is potentially required under Education Code section 1751, because it may be argued that by contracting with the County of Orange, the County Superintendent has contracted with the Orange County Board of Supervisors, requiring County Board approval.

## Conclusion:

- This agreement is neither prohibited nor contradicted by any Education Code sections.
- County Board of Education approval of this contract may be required under the Education Code.

## 5. July 1, 2020 Contract for Provision of K-12 Mental Health Educational Services Between County of Orange (“County”) and Orange County Superintendent of Schools AKA Orange County Department of Education (“OCDE”) July 1, 2020 Through June 30, 2022 – Summary:

### Background:

- This contract was entered into for the provision of K-12 Mental Health Educational Services to the residents of Orange County.

### Exhibit A (List of Services):

- OCDE agrees to maintain facilities and regularly scheduled service hours.
- OCDE agrees to provide educational services to support and engage the school community, increase knowledge of community resources, promote awareness of mental health issues, and reduce the stigma of mental illness. OCDE also agrees to make Mental Health Awareness Activities available to all Orange County schools and youth organizations.
- OCDE agrees to track and implement approved outcome measures across all services.

### Term:

- The term begins on July 1, 2020 and ends on June 30, 2022.

# July 1, 2020 Contract for Provision of K-12 Mental Health Educational Services Between County of Orange (“County”) and Orange County Superintendent of Schools AKA Orange County Department of Education (“OCDE”) July 1, 2020 Through June 30, 2022 – Analysis:

## General Legal Analysis:

- This contract is neither contradicted nor prohibited by any Education Code sections.
- County Board of Education approval of this agreement prior to its enactment is not required under any Education Code sections.

## Conclusion:

- This agreement is not prevented by the Education Code.
- County Board of Education approval is not required for this agreement.



## 6. March 16, 2021 Agreement for Grant ID #170706 – Summary:

### Grant Requirements:

- The grant provided to OCDE must only be used for objectives described in the agreement.
- *Objectives:*
  - Healthy Schools Leadership Committee with participation from at least four districts to build the capacity of school and district leaders around social-emotional health.
  - Provision of training to school-level leadership teams in order to support schools to implement at least two improvements in social-emotional health policies.
  - Collaboration across departments.
  - Demonstration of at least two efforts and establishment of recommendations and practices for large capacity building structure to support other county offices of education.

### Term:

- The grant period begins on January 1, 2021 and ends on June 30, 2023.

# March 16, 2021 Agreement for Grant ID #170706 – Analysis:

## General Legal Analysis:

- This agreement is neither contradicted nor prohibited by any Education Code sections.
- County Board of Education approval of this agreement prior to its enactment is required under Education Code section 1260(e).

## Conclusion:

- This agreement is not prevented by the Education Code.
- County Board of Education approval is required for this agreement.

# Potential Solutions Moving Forward

---

# Orange County Board of Education Potential Solutions Regarding Contracts Entered into by County Superintendent Moving Forward:

## Potential Recourse for the County Board:

1. Request that the County Superintendent notify the County Board of proposed contracts and place such contracts on Board meeting agendas for County Board review and approval in order to keep the County Board apprised of upcoming contracts and obligations, improve communication, and maintain cooperative governance.
2. Request that the County Superintendent provide the County Board with period updates of progress, programs, services, obligations, and financial matters regarding OCDE contracts so as to maintain transparency and awareness.
3. File suit for contracts which were entered into by the County Superintendent without County Board approval despite such approval being required by various sections of the Education Code. The County Board wishes to avoid this option through increased and improved communication, transparency, and cooperation between the County Superintendent and the County Board of Education.



# Orange County Board of Education Potential Solutions Regarding Contracts Entered into by County Superintendent Moving Forward:

## Education Code Sections Requiring County Board Approval:

- For varying reasons, Education Code sections 1260(a), 1260(e), 1703, 1750, 1751, 1752, and 8320 require County Board approval for a County Superintendent's actions.
- Though some of these sections apply to certain aforementioned contracts, Dr. Mijares failed to seek County Board approval for the contracts as required by the Education Code.
- In the future and in accordance with the Education Code, the County Board requests that Dr. Mijares seek Board approval for contracts governed by these sections prior to their enactment. Doing so will improve cooperation between the County Superintendent and the County Board of Education.

## Education Code Sections Not Requiring County Board of Education Approval:

- Other Education Code sections explain that the County Superintendent may act without the approval of the County Board. Although County Board approval is not required under these sections, the County Superintendent is not prohibited from seeking Board approval.
- In these matters, the Board requests that Dr. Mijares inform the Board of the proposed contracts, their financial impacts, and the programs, services, and obligations they contemplate in order to increase transparency and keep the County Board apprised of current, future, and ongoing projects. In an effort to improve communication, the Board requests that Dr. Mijares add such proposed contracts to Board meeting agendas so as to allow a thorough review and understanding of the proposed agreements by the Board.

# Conclusion

Thank you for your attention and interest.

**Questions?**