

Nos. 25-8056 & 26-2337

In the United States Court of Appeals for the Ninth Circuit

ELIZABETH MIRABELLI, an individual, on behalf of herself and
all others similarly situated,
LORI ANN WEST, an individual, on behalf of herself
and all others similarly situated, *et al.*,

Plaintiffs-Appellees,

v.

ROB BONTA, in his official capacity as the Attorney General of
California, *et al.*,

Defendants-Appellants.

Appeal from the United States District Court for the
Southern District of California
Honorable Roger T. Benitez
(3:23-cv-00768-BEN-VET)

AMICUS CURIAE BRIEF ON BEHALF OF CHRISTIAN
EDUCATORS ASSOCIATION INTERNATIONAL IN SUPPORT OF
PLAINTIFFS-APPELLEES

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and Ninth Circuit Rule 26.1-1, *amicus curiae* Christian Educators Association International states that it is a nonprofit corporation. It has no parent corporation, and no publicly held corporation owns 10% or more of its stock. A completed Form 34 accompanies this brief as a separate filing.

Dated: September 2, 2026

ADVOCATES FOR FAITH AND FREEDOM

/s/ Erin Elizabeth Mersino
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INTEREST OF *AMICUS CURIAE*¹

Amicus curiae Christian Educators Association International (“Christian Educators”) is a nonprofit professional association of Christian educators. It was founded in Southern California in 1953 by Dr. Clyde M. Narramore, a psychologist for the Los Angeles County Schools, and Benjamin S. Weiss, principal of Metropolitan High School in Los Angeles. Christian Educators exists to encourage, equip, connect, and protect Christians who serve in public schools, so that they can make a lasting difference in the lives of their students, the students’ parents, and their colleagues.

The organization serves approximately 15,000 members in all fifty States, including more than 1,000 California educators. Over 90 percent of its professional members are K–12 classroom teachers serving in traditional public schools.

Those members have a direct stake in this appeal. Christian

¹ All of the parties have consented, through their counsel, to the filing of this *amicus brief* by Christian Educators. Pursuant to Fed. R. App. P. 29(a)(4)(E), undersigned counsel certifies that no counsel for a party authored this brief in any respect; and no party, party’s counsel, person or entity, other than *Amicus*, its members, and its counsel, contributed monetarily to this brief’s preparation or submission.

Educators has a strong interest in promoting and protecting the rights, practices, and laws that are best for students, teachers, and families. The organization has a strong interest in the present case because it greatly affects these three groups. In response to a Christian Educators' 2025 Membership Survey, almost half of the respondents (47%) answered that they have been asked to refer to a student by a different name or pronoun, which is over a 70% increase from previous years. This rise demonstrates how important the matters in this case are to teachers and parents. *See* (<https://christianeducators.org/whatsnew/may-fft-reasons-for-hope/>, last visited Sept. 2, 2026).

Christian Educators' members care for all children, regardless of religion or beliefs, and desire their well-being. Christian Educators' members take seriously their mandatory reporter obligations under state law, including the Child Abuse and Neglect Reporting Act. Cal. Penal Code §§ 11164 *et seq.* They are also subject to dismissal for "dishonesty." Cal. Educ. Code § 44932(a)(4). California's policies place those duties in conflict. They require teachers to use one name and set of pronouns with the child, a different name and set of pronouns with the parent, and to treat the State's assumed parental disagreement as the proffered reason

to keep two sets of books. The teacher-plaintiffs described that collision under oath. Christian Educators' members live it in California classrooms.

CTA and CFT have told this Court that the injunction is unworkable, and that forced concealment is a professional duty. Christian Educators files as the professional counterweight to that account. Its members care for every child under their professional supervision, without regard to the child's religion or beliefs. Christian Educators also knows that a successful school is one in which parents, children, and educators work together—and that parents, not the school, are the child's primary guardians. School personnel must share important information about a child's health and well-being with those parents. They must not withhold it until a parent happens to ask. Christian Educators' members will teach every student assigned to them. They will report actual abuse. They will not lie to the families they serve. The organization therefore has a substantial interest in affirmance of the judgment and of the class-wide permanent injunction.

SUMMARY OF THE ARGUMENT

Religious educators are in this case because California has

conscripted them to lie. The policies require teachers to address a child by a new name and new pronouns, then to use a different name and different pronouns when speaking with the parent, and to treat the parent's perceived disagreement as a reason to keep two sets of books. The Supreme Court has already held that the same regime likely violates parents' free-exercise and due-process rights. *Mirabelli v. Bonta*, 607 U.S. 492, 496 (2026). CTA and CFT ostensibly ask this Court to restore that faulty regime under four labels—safety, trust, administrability, and antidiscrimination. None of those labels authorizes parental deception, and none authorizes compelled false speech.

Safety does not. CTA would add an exception for any parent the school presciently believes might respond badly to the truth. The Child Abuse and Neglect Reporting Act already requires educators to report a reasonable suspicion of actual abuse. Cal. Penal Code §§ 11164 *et seq.* The injunction leaves that duty untouched. An undefined exception for parents a school deems “unsafe” would swallow the right the Supreme Court identified. A parent who will not affirm a social transition is not, for that reason, an abusive parent. Disagreement is not abuse. And the notion that a parent's religious beliefs and views on gender ideology are

tantamount to abuse is intolerance.

Trust does not. CTA would limit notice to parents who have already asked, undermining educators' credibility with both students and parents. A teacher who uses one name and set of pronouns in the classroom and another when the parent appears at conference is not building a trustworthy professional relationship. The teacher is modeling deception. Dual bookkeeping is a lie by another name. Education Code § 44932(a)(4) lists dishonesty as independent cause for dismissal. The injunction resolves that conflict in favor of the truth.

Administrability and antidiscrimination law do not fill the gap. CTA treats the injunction as a command to police clothing, sports, and drama class. It is not. Injunctive relief forbids lying to parents, using opposite-sex names or pronouns over a parent's objection, compelling concealment over a teacher's conscientious objection, and interfering with a teacher's communication that a child has manifested gender incongruity. Dkt. 308 ¶ 1(a)–(d). Preferred pronouns are not a neutral label. They communicate a proposition: that a child is the sex the child asserts, or at least that the speaker must treat identity as controlling over biological sex. Compelling that utterance, and compelling its

concealment from parents, is compelled speech. *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943); *Meriwether v. Hartop*, 992 F.3d 492, 507–09 (6th Cir. 2021). *Bostock*, Education Code § 220, *Downs*, and *Johnson* do not hold otherwise.² Those authorities do not convert a refusal to affirm a contested claim about sex into unlawful discrimination, and they do not require a teacher to speak words she believes false.

The Constitution does not require California to adopt any particular theory of sex or identity. It does require California to leave fit parents in charge of their own children and to leave religious educators free to tell those parents the truth. The District Court’s injunction does both. This Court should affirm.

ARGUMENT

The Free Exercise and Due Process Clauses do not speak in the register of education-policy tradeoffs. They speak in the register of authority and conscience. *Pierce v. Society of Sisters* and *Wisconsin v. Yoder* locate the child’s formation first in the family. 268 U.S. 510, 534–

² *Bostock v. Clayton Cnty.*, 590 U.S. 644 (2020); Cal. Educ. Code § 220 (2025); *Downs v. Los Angeles Unified Sch. Dist.*, 228 F.3d 1003 (9th Cir. 2000); *Johnson v. Poway Unified Sch. Dist.*, 658 F.3d 954 (9th Cir. 2011).

35 (1925); 406 U.S. 205, 232 (1972). *Parham v. J.R.* locates mental-health decisions there as well: “natural bonds of affection lead parents to act in the best interests of their children,” and a child’s disagreement “does not diminish the parents’ authority to decide what is best for the child.” 442 U.S. 584, 602, 604 (1979). *Mahmoud v. Taylor* holds that even curricular exposure to contested gender ideology, without an opt-out, substantially burdens parents’ religious upbringing of their children. 606 U.S. 522, 546–50 (2025). And this Court is by no means writing on a blank slate. The Supreme Court has already held that California’s regime imposes an even greater intrusion than that in *Mahmoud*: “unconsented facilitation of a child’s gender transition,” coupled with the right “not to be shut out of participation in decisions regarding their children’s mental health.” *Mirabelli v. Bonta*, 607 U.S. 492, 496-97 (2026).

Religious educators occupy the hinge of that regime. They are the persons the State conscripts to speak the new name, to use the new pronouns, and to keep two sets of books—one for the classroom, another for the parent. The record of this case is the proof.

Plaintiff Elizabeth Mirabelli testified by declaration that when EUSD first presented the policies she “was worried about any liability

[she] might have for deceiving parents,” and that Human Resources told her at the accommodation meeting “that [she] would be fired if [she] did not comply.” Dkt. 59-2 ¶ 2; *see also* SAC ¶ 252; 2-SER-492, 553. As a Catholic she holds that “the parent-child relationship was ordained by God and that parents have the ultimate right and responsibility to care for and guide their children,” and that cooperating with a policy that “prevents a parent from knowing their child’s gender identity status ... is a violation of [her] deeply held religious beliefs, ethics, and moral standards.” SAC ¶¶ 98, 243. Her summary-judgment declaration supplies the complementary teaching of her faith: educators “are only able to carry out their responsibilities in the name of the parents, with their consent.” 2-SER-428.

Plaintiff Lori Ann West described the same collision. Her Christian faith teaches that “God created two sexes: male and female” and that “the relationship between parents and children was created by God with the intent for the parents to raise and guide their children.” SAC ¶¶ 107, 246. That faith “preclude[s] [her] from facilitating any student’s transgender or gender diverse social transition by withholding information about it from the student’s parents.” SAC ¶ 108. Plaintiff Jane Roe understood

the February 2022 training the same way. “As a Christian, I believe that God made man and woman in his image, specifically male and female.” Dkt. 247-5 ¶¶ 4–5. “I believe it would violate my religious beliefs to mislead a parent about his or her child’s gender transition at school.” *Id.* ¶ 7. Administrators “made it clear ... that failing to adhere to the policy would result in termination.” *Id.* ¶ 19. After the policy, “the only way ... to avoid lying to parents was to stop speaking to them.” 3-SER-599–600. Plaintiff Jane Boe put the same objection on the record. She “believe[s] it would violate [her] religious beliefs to deceive parents about their child’s gender transition at school.” Dkt. 247-4 ¶ 7. When she raised those convictions with an assistant principal, he replied: “If you’re not able to follow this policy, you may have to find a different job.” *Id.* ¶ 9.

California denied Mirabelli’s religious accommodation because, officials said, CDE’s reading of state law forbade the honesty her faith required. 2-SER-492, 553. When Mirabelli asked what would happen if she failed to comply, Assistant Superintendent John Albert informed her that she “would be fired.” Dkt. 59-2 ¶ 2; SAC ¶ 252. Roe understood the same consequence: administrators “made it clear ... that failing to adhere to the policy would result in termination.” Dkt. 247-5 ¶ 19, 22. That is a

substantial burden. It is also not a neutral and generally applicable rule.

The members of Christian Educators Association International teach, counsel, and coach in public schools across California and the Nation. They do not ask this Court to convert the classroom into a pulpit. They ask only that they not be conscripted to lie. The record shows why that request is not abstract. Escondido Union School District trained its teachers that a student's mere "assertion" of a new gender identity is enough: "There is no need for a formal declaration. There's no requirement for parent or caretaker agreement or even for knowledge." 2-SER-467. Revealing the student's status to parents without the student's consent "would be considered discrimination or harassment." 2-SER-470–71. A counselor emailed Mirabelli a list of seven students to be treated as the opposite sex; the parents of six did not know. 2-SER-487–89. When Jane Doe asked her daughter's teachers whether there was "anything else" she should know, each said "no"—even though the child's male name was on the seating chart. 3-SER-650. The principal later explained that even if the school were socially transitioning the child, CDE guidance prohibited telling the parents. 3-SER-650–51. John and Jane Poe learned that their daughter was being addressed as a boy at

school only after she attempted suicide; a hospital physician told them. 3-SER-637–38. When they confronted the principal and school psychologist, both “lied, stating that the school had not socially transitioned her.” 3-SER-608, 616–17, 637.

CTA and CFT ask this Court to restore the regime that produced those facts. Their four arguments fail for the same reason the Supreme Court has already identified: California has no constitutional warrant to order teachers to shut parents out of the most consequential identity decision a child will make, and no warrant to compel religious educators to become the instruments of that exclusion.

I. Student Safety Does Not Authorize Systematic Parental Deception, and an Open-Ended “Abuse” Exception Would Nullify the Right the Supreme Court Has Already Identified.

CTA first contends that policies withholding a child’s social transition from parents serve a compelling interest in safety and protection from abuse, and that the injunction must fall because it lacks a tailored exception for parents the school deems dangerous. CTA Br. 5–8. The argument conflates two different regimes. One is the Child Abuse and Neglect Reporting Act. The other is a school-administered secrecy protocol that treats parental disagreement with social transition as itself

the abuse.

Mandatory-reporter statutes remain fully intact. Cal. Penal Code §§ 11164 *et seq.* A teacher or counselor who has a reasonable suspicion of physical abuse, sexual abuse, or neglect must report that suspicion to an appropriate public agency. Cal. Penal Code § 11166. The injunction does not touch that duty. The teacher-plaintiffs themselves understand the distinction. And they do not ask teachers to ignore abuse. Mirabelli described her obligation as “my duty to protect children from harm and seek their best interests.” Dkt. 59-2 ¶ 2. The district court made the same point as a matter of law: nothing in the injunction “prohibits a teacher from pursuing lawful approaches to either avoiding or resolving possible abuse,” 1-ER-81:19–25. That is the Act working as written.

The Supreme Court agrees. The injunction “permits the State to shield children from unfit parents by enforcing child-abuse laws and removing children from parental custody in appropriate cases.” *Mirabelli*, 607 U.S. at 497–98. What the injunction forbids is a different and broader practice: treating a parent’s religious or scientific refusal to affirm a social transition as presumptive unfitness and vesting the school with unreviewable power to decide which parents are “safe” enough to be

told the truth.

Further the district court’s declaratory relief separately balanced a parents’ right to be informed of their child’s gender incongruence. 1-ER-106:1–3. The Supreme Court has identified this constitutionally sufficient safety valve in its existing injunction. *Mirabelli*, 607 U.S. at 497–98. Those processes are individualized. They require a defined statutory predicate, a designated agency, and, before the State may displace a fit parent, the process the Constitution has long required. See *Stanley v. Illinois*, 405 U.S. 645, 657–58 (1972); *Wallis v. Spencer*, 202 F.3d 1126, 1141–42 (9th Cir. 2000). CTA’s proposed substitute—a belief that disclosure “of a student’s gender identity to a parent might result in abuse,” CTA Br. 6–7—is not that process. It has no statutory definition of “abuse,” no external reviewer, and no burden of proof. In operation it means that any parent whose convictions lead them to reject the premise that a girl can become a boy is unsafe until the school is satisfied otherwise. That is not tailoring. It is the policy’s original design: parents are “assumed ‘unsafe’ until proven otherwise.” Jason Rogers, “*I Want a Transgender Support Plan*,” Teachers of Vision (Christian Educators Ass’n Int’l, Winter 2023).

CTA relies on a sentence in the Supreme Court’s opinion that the State’s interest in safety “could be served by a policy that allows religious exemptions while precluding gender-identity disclosure to parents who would engage in abuse.” CTA Br. 5 (quoting *Mirabelli*, 607 U.S. at 496-98). That sentence describes the regime the injunction already preserves—enforcement of child-abuse laws against parents who would *engage in abuse*. It does not authorize a school to withhold information from fit parents because an administrator fears that a parent who learns the truth might disagree with the school. Disagreement is not abuse. Both of California’s own experts testified that denying a social transition does not rise to the level of abuse or neglect. 1-SER-275–77; 2-SER-395–400. Social transition itself is, as the State’s expert acknowledged, a medically recognized intervention. The home, on the same expert record, is the place a gender-questioning child should not have to hide. Maintaining split identities—one at school, another at home—increases anxiety, a point California’s experts were forced to concede.

Informing parents of their children’s gender behavior is essential for the protection and well-being of their children. The Supreme Court declared in *Mirabelli* that “[g]ender dysphoria is a condition that has an

important bearing on a child's mental health” and then cited the examples that the Poes’ daughter was hospitalized, had a risk for self-harm, and was placed in therapy and psychiatric care, and that the Does’ daughter was placed in therapy due to gender identity issues. *Mirabelli*, 607 U.S. at 493, 497. The U.S. Department of Health and Human Services published its peer-reviewed study on the “medical dangers posed to children from attempts to change their biological sex” in which it detailed long-term harm to children. (<https://www.hhs.gov/press-room/hhs-releases-peer-reviewed-report-discrediting-pediatric-sex-rejecting-procedures.html>, last visited Sept. 2, 2026) *see also* (<https://opa.hhs.gov/gender-dysphoria-resources>, last visited Sept. 2, 2026). So, in addition to mental health, gender and identity issues can also lead to serious long-term physical harm, which is another reason why parents should be involved from the beginning.

A policy that manufactures that split in the name of “safety” is not narrowly tailored to any interest the Supreme Court recognized. It is the interest the Supreme Court held likely unconstitutional.

Lived experience among Christian Educators’ members confirms what the expert record shows. Counselor Jason Rogers was instructed

that his “ethical duty” was to “always ‘affirm’ a transgender student whether the parents agree, give consent, or are even aware.”³ A thirteen-year-old girl requested a Transgender Support Plan: to use a pseudonym (a new male name), male pronouns, male facilities, and a directive that staff use her birth name only when speaking with her parents. *Id.* District administrators completed the plan without his knowledge, listed him as the “safe person” required to conduct secret weekly check-ins, and took advice from the same activist organization that had trained the staff. Because he believed that “using incorrect pronouns was lying to the student and defying God’s created order,” he avoided pronouns and offered the child compassion. *Id.* The student’s mental-health symptoms worsened. *Id.* Only after three months—and only after the student signed a written permission form—were the parents told. *Id.* Once the parents were involved, “the student no longer wanted to be transgender.” *Id.* Rogers compared the change to “Jesus calming the sudden and fierce squall.” Affirmation without the parents, he concluded, “was a lie.” *Id.*

³ Rogers, J. (2023). I want a transgender support plan. Teachers of Vision. Christian Educators Association International, (<https://magazine.ceai.org/stories/i-want-a-transgender-support-plan>, last visited Sept. 2, 2026).

Religious educators will report actual abuse. They will not accept the State's invitation to redefine disagreement as abuse so that they may lie. *Parham's* presumption is the constitutional baseline: parents act in their children's best interests in the ordinary case. 442 U.S. at 602. The Child Abuse and Neglect Reporting Act is the exception for the extraordinary case. CTA asks this Court to invert the two. The Supreme Court has already refused that inversion. This Court should as well.

II. Trust Is Built by Truth-Telling, Not by a One-Way Bargain That Excludes Parents.

CTA next argues that any injunction must be limited to parents who have affirmatively requested notice, lest "trusting relationships" between educators and students collapse. CTA Br. 8–12. The argument treats parental knowledge as the threat and secrecy as the professional norm. Constitutional law and the teacher-plaintiffs' own professional practice run the other way.

Students learn whom they can trust by watching whether adults tell the truth when it is costly. A teacher who uses one name and set of pronouns in the classroom and a different set when the parent appears at conference is not building trust. The teacher is modeling deception. Roe found that "the only way ... to avoid lying to parents was to stop

speaking to them.” Dkt. 69.1 at 7 (citing 3-SER-599–600). After the policy, she no longer felt comfortable reaching out as much as she used to with families. 3-SER-602 at ¶21. That is the opposite of the open communication she had practiced for years. CTA’s preferred “best practices”—role-playing coming-out conversations, referring the child to a counselor, waiting to assess whether the parent is “safe”—assume that the school, not the parent, is the proper first recipient of this information and the proper judge of parental fitness. That assumption is the constitutional violation. *Mirabelli*, 607 U.S. at 496.

Religious educators cannot accept it. West’s faith teaches that “the relationship between parents and children was created by God with the intent for the parents to raise and guide their children.” SAC ¶¶ 107, 246. Plaintiff-Appellees Roe and Boe “believe that the parent-child relationship is sacred and that they should not usurp the role of parents in guiding their children.” SAC ¶ 111; Dkt. 247-5. *Mirabelli* holds that “parents have the ultimate right and responsibility to care for and guide their children,” and that educators act “in the name of the parents, with their consent.” SAC ¶¶ 98, 243; 2-SER-428. A policy that requires the teacher to help the child conceal a social transition from those parents

places the teacher in simultaneous violation of her faith and her professional duty. The “trust” CTA seeks to preserve runs exclusively from student to school employee and treats the parent as an outsider whose knowledge must be managed. That is not the relationship the Constitution protects, and it is not a relationship these teachers can maintain or that courts should sanction.

CTA’s claim that forced disclosure will “alienate” parents who prefer to let the child explore identity privately misses the point. Parents remain free to discuss these matters on their own timetable. What they may not be forced to accept is a school that has already socially transitioned the child, created dual records, and then presents the transition as a *fait accompli* when the parent finally learns of it—often from a hospital physician after a suicide attempt. 3-SER-637–38. The Poes’ principal and psychologist looked them in the eye and denied that any social transition had occurred. That is not respect for family privacy. It is institutional falsehood.

California Education Code § 44932(a)(4) lists “dishonesty” as independent cause for dismissal of a permanent employee. The secrecy policies place every teacher in an impossible conflict: violate the CDE’s

interpretation of Education Code § 220, or violate the honesty statute and the convictions these teachers placed on the record. Roe understood the policies to require her to “mislead a parent about his or her child’s gender transition at school.” Dkt. 247-5 ¶ 7. West sought a last-name accommodation so that she would not have to facilitate a social transition by “withholding information about it from the student’s parents.” SAC ¶¶ 108, 246. Boe “believe[s] it would violate [her] religious beliefs to deceive parents about their child’s gender transition at school.” Dkt. 247-4 ¶ 7. CTA’s own brief all but concedes the point. “Nothing in student support policies,” it says, “requires ‘directly lying.’” CTA Br. 13. Indirect lying, however, is lying. Educators are required to become the bearers of disingenuity. At some level, even CTA knows the policies violate CDE regulations. The State cannot compel teachers to lie. The live practice and effect of these policies is dual-bookkeeping: different names and pronouns with the child than with the parent; records the parent is not told how to read; conferences in which teachers answer “no” while the opposite-sex name sits on the seating chart. 3-SER-650; Dkt. 308 at 2 (injunction ¶ 1(a)(iii)); 1-ER-75:3–8). That practice is a lie by another name. It is deception. The injunction resolves the conflict in favor of

truth. That is not an assault on professional relationships. It is their restoration.

III. The Injunction Is Administrable; Compelled Pronouns and Dual Records Are Compelled Speech, Not Ordinary Classroom Management.

CTA asserts that the injunction is vague, overbroad, and would force educators to become “gender police” or enforcers of parents’ religious practices. CTA Br. 12–19. The argument proceeds by substituting hypotheticals about nail polish, powderpuff football, and Shakespearean cross-dressing for the conduct the injunction actually addresses.

The injunction is precise. It prohibits the State from requiring or permitting employees to mislead parents about a child’s gender presentation at school—by directly lying, by blocking records access, or by using different names and pronouns with parents than are used at school; from using opposite-sex names or pronouns over a parent’s communicated objection; from requiring such use while concealing a social transition from parents over an employee’s conscientious or religious objection; or from interfering with an educator’s communication that the child has manifested gender incongruity such as a change in preferred names or pronouns. Dkt. 308 at 2–3; 1-ER-75:3–20. Those

terms track the facts the Supreme Court recited: teachers and officials “continued to use a male name and pronouns for [the Poes’] daughter” contrary to the parents’ instructions, and the policies prevent schools from telling parents “about their children’s efforts to engage in gender transitioning at school unless the children consent.” *Mirabelli*, 607 U.S. at 493–94.

Teachers already distinguish ordinary adolescent variation from a request that the school treat the child as the opposite sex and hide that treatment from the child’s parents. Name-and-pronoun changes are, as CTA itself concedes, “the main way—and often the first way—in which educators are asked to recognize a student’s changing gender identity.” CTA Br. 17. Those changes appear in records already subject to parental inspection under FERPA and California pupil-records law. 20 U.S.C. § 1232g; Cal. Educ. Code §§ 49060, 51101(a). The injunction does not require a running inventory of hairstyles. It forbids the dual-bookkeeping Jane Doe encountered when teachers looked at a seating chart bearing her daughter’s male name and then told her there was nothing else she needed to know. It forbids the practice Boe described: using opposite-sex pronouns while concealing a social transition from the parent. Dkt. 247-

4 ¶¶ 7, 9.

The deeper defect in CTA’s administrability argument is that it treats compelled pronouns and compelled concealment as ordinary workplace directives rather than as compelled speech. They are the latter. In *Barnette*, the Supreme Court held that a public school could not require Jehovah’s Witness children to salute the flag and recite the Pledge of Allegiance. Justice Jackson’s opinion remains the fixed point: “If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.” 319 U.S. at 642. A salute, the Court explained, is “a form of utterance.” *Id.* at 632. Boards of education “are not excepted” from the Bill of Rights. *Id.* at 637. “Compulsory unification of opinion achieves only the unanimity of the graveyard.” *Id.* at 641. The same principle forbids a State to require a citizen to carry an ideological message on his license plate. *Wooley v. Maynard*, 430 U.S. 705, 714–17 (1977).

Preferred pronouns are likewise a form of utterance. They are not a neutral administrative label. They communicate a proposition: that a

child *is* the sex the child asserts, or at least that the speaker must treat that assertion as true. The Sixth Circuit recognized as much in *Meriwether*, 992 F.3d 492. There a public-university professor of philosophy, acting on Christian convictions that sex is binary and immutable, declined to use a student’s preferred pronouns. The university disciplined him. Reversing dismissal of his free-speech and free-exercise claims, the court observed that “titles and pronouns carry a message. The university recognizes that and wants its professors to use pronouns to communicate a message: People can have a gender identity inconsistent with their sex at birth.” *Id.* at 507–08. By refusing, the professor “advanced a viewpoint on gender identity,” a “hotly contested matter of public concern.” *Id.* at 508–09. A public institution may not “wield alarming power to compel ideological conformity.” *Id.* at 506. The court quoted *Barnette*’s “fixed star” and noted that the State could not require a pacifist professor to declare that war is just, a believer to deny God, or a Soviet émigré to address students as “comrades.” *Id.*

Meriwether arose in a university classroom. The principle applies with greater, not lesser, force in a K–12 setting when the compelled utterance is not merely an address to a student but a lie to that student’s

parents. California’s policies require teachers to use one set of names and pronouns with the child and another with the parents—or to refuse to speak to the parents at all. 3-SER-599–600. That is not classroom management. It is a compelled confession of orthodoxy, exacted from public-school employees and then hidden from the persons the Constitution recognizes as the child’s primary guardians. *Barnette* forbids the State to prescribe that orthodoxy. *Meriwether* confirms that pronouns are the medium through which the confession is extracted. The injunction simply prevents the extraction.

Nor does the injunction conscript teachers into enforcing parents’ religion. CTA’s analogies—a child who removes religious garb at school, a parent who objects to a lesson on evolution—describe a different problem. *Mahmoud* concerned opt-outs from curricular material. Parents here are not asking teachers to catechize students, to police modest dress, or to rewrite the biology curriculum. They are asking that the school not socially transition their child in secret and not use the child’s teachers as instruments of that concealment. Refusing to use opposite-sex pronouns for a child whose parents have objected is not “assisting the child’s religious practices.” It is declining to speak words the teacher believes to

be false. That is a different and greater intrusion than the one *Mahmoud* addressed, as the Supreme Court has already held. *Mirabelli*, 607 U.S. at 496.

IV. Antidiscrimination Law Does Not Authorize Compelled False Speech or Extinguish Free-Exercise Rights.

CTA’s final argument is that treating a student inconsistently with the student’s asserted gender identity is discrimination under *Bostock v. Clayton Cnty.*, 590 U.S. 644 (2020), and Education Code § 220; that public-school employees have no First Amendment right to violate antidiscrimination rules while on duty; and that *Downs v. Los Angeles Unified Sch. Dist.*, 228 F.3d 1003 (9th Cir. 2000), and *Johnson v. Poway Unified Sch. Dist.*, 658 F.3d 954 (9th Cir. 2011), confirm as much. CTA Br. 19–22. Each premise fails.

Bostock interpreted Title VII’s ban on sex discrimination in employment. It did not hold that the Constitution requires teachers to use pronouns that contradict biological sex and religious conviction, still less that a school may compel teachers to conceal a social transition from parents. Using a child’s given name and biologically accurate pronouns is not animus. It is a refusal to affirm a contested metaphysical claim. The State may not recast that refusal as “discrimination” and then use

the recasting to compel speech. Compelled speech “is always demeaning.” *Janus v. AFSCME, Council 31*, 585 U.S. 878, 893 (2018). The First Amendment does not permit the government to force a speaker to utter a message she does not believe. *303 Creative LLC v. Elenis*, 600 U.S. 570, 586–89 (2023).

Downs and *Johnson* involved teachers who used school bulletin boards and classroom banners to inject their own religious messages into the school environment. Those cases do not control a teacher’s right to *refrain* from speaking words she believes false, or her right to communicate accurately with the child’s parents. The speech at issue here is not a sermon. It is the refusal to participate in a lie and the desire to tell the truth to the persons who possess constitutional and natural authority over the child. Affirmative display and compelled falsehood are not the same First Amendment problem. CTA’s authorities address the former. This case is the latter.

Meriwether again supplies the better analogy. The Sixth Circuit rejected the claim that a public educator’s pronouns are unprotected official speech under *Garcetti v. Ceballos*, 547 U.S. 410 (2006). Classroom speech that takes a side on a contested public question—whether sex is

binary—is not stripped of First Amendment protection merely because the speaker is paid by the State. 992 F.3d at 504–07. Educators “do not shed their constitutional rights to freedom of speech or expression at the [schoolhouse] gate.” *Id.* at 505 (quoting *Tinker v. Des Moines Ind. Cmty. Sch. Dist.*, 393 U.S. 503, 506 (1969)); *see also Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 527 (2022). The court separately held that the professor stated a free-exercise claim because the university’s policy was not generally applicable: it accommodated some concerns while refusing a religious accommodation. 992 F.3d at 512–17.

California’s regime fails the same tests. A law is not generally applicable if it invites the government to consider the particular reasons for a person’s conduct through a system of individualized exemptions, *Fulton v. City of Philadelphia*, 593 U.S. 522, 533–34 (2021), or if it treats any comparable secular activity more favorably than religious exercise, *Tandon v. Newsom*, 593 U.S. 61, 62 (2021) (per curiam). Schools already exercise wide discretion over what to tell parents about a child’s distress, peer influence, counseling referrals, and “safety.” They accommodate secular concerns about family “readiness,” student comfort, and activist “best practices.” They refuse the religious teacher who will not lie. That

is the opposite of neutrality. *Kennedy* reserved whether the *Pickering-Garcetti* framework governs Free Exercise claims at all, 597 U.S. at 531 n.2, and this Court has not applied that framework to extinguish a teacher’s right to refrain from religiously forbidden speech. Compelled participation in parental deception is not an “official duty” the State may define into existence and then use to extinguish conscience. Teachers are hired to teach subjects and to communicate truthfully with families. They are not hired to maintain dual identities or to serve as the State’s instruments for circumventing parents. *See Vlaming v. West Point Sch. Bd.*, 302 Va. 504, 895 S.E.2d 705 (2023).

Christian Educators’ members understand they serve in pluralistic schools. They do not seek to refuse to teach or counsel students who identify as transgender. They seek what the injunction already grants: the right not to lie to parents, the right not to use language that contradicts their faith when parents have objected, and the right to tell parents when a social transition is occurring at school. Those claims are modest and fueled by honesty and conscience. They are also the claims *Barnette*, *Meriwether*, and *Mirabelli* already recognize.

CTA would enshrine as public policy a regime of authorized

falsehood in K-12 education. CTA treats honesty with parents as the professional problem and concealment as the professional solution. For religious educators the opposite is true. A teacher who cannot tell a parent the truth about what is happening to that parent's child has been asked to surrender both professional integrity and religious fidelity. The District Court's injunction prevents that surrender. This Court should affirm it.

CONCLUSION

The Court should affirm the judgment below.

Dated: September 2, 2026

Respectfully submitted,

ADVOCATES FOR FAITH AND FREEDOM

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STATEMENT OF RELATED CASES

Pursuant to Ninth Circuit Rule 28-2.6, amicus curiae states that the following related cases are pending in this Court. They arise out of the same district-court action, *Mirabelli v. Bonta*, No. 3:23-cv-00768 (S.D. Cal.):

- Nos. 25-8056 & 26-2337 (this merits appeal and the consolidated appeal from the denial of modification of the injunction);
- No. 26-2334 (appeal from the district court's post-judgment attorneys' fee award); and
- *City of Huntington Beach v. Newsom*, No. 25-3826;
- *Chino Valley Unified School District v. Newsom*, No. 25-3686;
- *Regino v. Blake*, No. 26-475;
- and *Ramirez v. Oakland Unified School District*, No. 25-7232.

Dated: September 2, 2026

ADVOCATES FOR FAITH AND FREEDOM

/s/ Erin Elizabeth Mersino
Erin Elizabeth Mersino

CERTIFICATE OF COMPLIANCE

9th Cir. Case Number(s): 25-8056 & 26-2337

I am the attorney or self-represented party. This brief contains 5,981 words, including 0 words manually counted in any visual images, and excluding the items exempted by Federal Rule of Appellate Procedure 32(f) and Ninth Circuit Rule 32-1(c). The brief's type size and typeface comply with Federal Rule of Appellate Procedure 32(a)(5) and (6).

I certify that this brief is an amicus brief and complies with the word limit of Federal Rule of Appellate Procedure 29(a)(5) and Ninth Circuit Rule 29-2(c)(2).

Dated: September 2, 2026

ADVOCATES FOR FAITH AND FREEDOM

/s/ Erin Elizabeth Mersino
Erin Elizabeth Mersino

CERTIFICATE OF SERVICE

I hereby certify that on September 2, 2026, I electronically filed the foregoing Brief of Amicus Curiae Christian Educators Association International with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: September 2, 2026

ADVOCATES FOR FAITH AND FREEDOM

/s/ Erin Elizabeth Mersino
Erin Elizabeth Mersino

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 34. Disclosure Statement under FRAP 26.1 and Circuit Rule 26.1-1

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form34instructions.pdf>

9th Cir. Case Number(s) Nos. 25-8056 & 26-2337

Name(s) of party/parties, prospective intervenor(s), or amicus/amici filing this form:
Christian Educators Association International

Under FRAP 26.1 and Circuit Rule 26.1-1, I make the following disclosures:

1. I disclose the following information required by FRAP 26.1(a) and/or Circuit Rule 26.1-1(b) for any nongovernmental corporation, association, joint venture, partnership, limited liability company, or similar entity¹ which is a party, prospective intervenor, or amicus curiae in any proceeding, or which the government identifies as an organizational victim below in section 2 of this form,² or which is a debtor as disclosed below in section 3 of this form.

a. Does the party, prospective intervenor, amicus, victim, or debtor have any parent companies? Parent companies include all companies that control the entity directly or indirectly through intermediaries.

☐ Yes ☒ No

If yes, identify all parent corporations of each entity, including all generations of parent corporations (*attach additional pages as necessary*):

b. Is 10% or more of the stock of the party, prospective intervenor, amicus, victim, or debtor owned by a publicly held corporation or other publicly held entity?

☐ Yes ☒ No

¹ A corporate entity must be identified by its full corporate name as registered with a secretary of state's office and, if its stock is publicly listed, its stock symbol or "ticker."

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If yes, identify all such owners for each entity (*attach additional pages as necessary*):

2. In a criminal case, absent good cause shown, the government must identify here any organizational victim of the alleged criminal activity:

3. In a bankruptcy case, the debtor, the trustee, or, if neither is a party, the appellant must identify here each debtor not named in the court of appeals caption:

4. Are you aware of any judge serving on this Court who participated at any stage of the case, either in district court, administrative proceedings, or in related state court proceedings?

☐ Yes ☒ No

If yes, list the name of the judge and the case name, case number, and name of court of the related proceedings:

I certify that (*select only one*):

☒ this is the first disclosure statement filed in the above-referenced case by the above-identified party/parties, prospective intervenor(s), or amicus/amici, and this disclosure statement complies with FRAP 26.1 and Circuit Rule 26.1-1.

☐ the party/parties, prospective intervenor(s), or amicus/amici submitting this supplemental disclosure statement has previously filed a compliant disclosure statement in this case, and this updated disclosure statement discloses changed or additional information.

☐ I have reviewed this form, FRAP 26.1, and Circuit Rule 26.1-1 and, to the best of my knowledge, have no information to disclose at this time.

Signature /s/ Erin Mersino **Date** September 2, 2026
(use "s/[typed name]" to sign electronically-filed documents)