

## Plaintiffs Fighting for Latino and Black Students in Kern County Will Proceed without State of California and Pursue Their Discrimination Claims Against Other Defendants

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BAKERSFIELD, CA — Plaintiffs have filed a motion to lift the stay of their discrimination lawsuit against Kern High School District (KHSD), Kern County Office of Education (KCOE), the California Department of Education (CDE), and State Superintendent Tom Torlakson following Plaintiffs' dismissal of the pending appeal against the State of California.

Plaintiffs' decision to withdraw their appeal was prompted by the order from Judge Chapin of Kern County refusing to lift the stay on the entire litigation against all remaining Defendants pending the result of Plaintiffs' appeal. Plaintiffs believe it is critically important to focus now on remedying the significant harms caused by the remaining Defendants to their students and organizational members.

In December 2015, the court dismissed the State of California as a defendant from the lawsuit. Plaintiffs immediately appealed this decision to the Fifth District Court of Appeals, as they believe the State of California has the independent and ultimate responsibility for District oversight and ensuring quality and equitable education for all California students.

However, Judge Chapin, on May 24, 2016, issued an order stopping Plaintiffs from proceeding with their case against the remaining three Defendants until there is a ruling on the State appeal. Plaintiffs demonstrated that the appeal could proceed without prejudicing the other Defendants and asked that the stay be lifted on that basis.

KHSD, as well as KCOE, CDE, and Torlakson, all argued that no factual investigation or hearings should take place while the appeal of the State's responsibilities was pending. KCOE, CDE and Torlakson, despite their oversight responsibilities, took the position that KHSD's allegedly discriminatory conduct should be allowed to continue without trial court interference until the appeal is resolved.

Plaintiffs' appeal to maintain the State of California as a defendant in the case would likely take eighteen months or more to resolve, causing irreversible harm for the Plaintiffs and other students who are current students within the District. Although the law is clear that the State of California – not just its agencies – has responsibility for the discriminatory conduct on which the lawsuit is based, Plaintiffs weighed this reality against the continuing harm to their students and organizational members if forced to wait for the resolution of the State appeal before they could pursue proper relief against the remaining Defendants. Plaintiffs made the hard choice to dismiss their appeal of the State so that they can proceed with litigation against the remaining culpable Defendants and obtain immediate relief for KHSD African American and Latino students.

The Plaintiffs include parents and students in the Kern High School District, taxpayer plaintiff Lori De Leon, and community activist organizations Dolores Huerta Foundation, National Brotherhood Association, and Faith in Action - Kern County.

The Plaintiffs brought the lawsuit against the Defendants to challenge discriminatory discipline and transfer policies that push African American and Latino students out of district schools and into alternative schools that provide fewer opportunities. Plaintiffs allege that these policies result in the hostile treatment of Latino and African-American students.

The Plaintiffs are represented by a coalition of civil rights legal advocates, including California Rural Legal Assistance, Inc. (CRLA), Mexican American Legal Defense and Educational Fund (MALDEF), Equal Justice Society (EJS), Greater Bakersfield Legal Assistance, Inc. (GBLA), and Wilson, Sonsini, Goodrich & Rosati (WSGR).

“While we certainly understand why KHSD wanted the stay in order to protect it from having to disclose information about its discriminatory practices, the fact that Kern County Office of Education, the California Department of Education and Superintendent Torlakson supported the delay of justice for African American and Latino students demonstrates that they are putting their political self-interest above the interests of and their duties to students of color in California schools, said Cynthia L. Rice, Director of Litigation Advocacy & Training for CRLA.

“Dismissal of the appeal means that the legal issue of the State of California’s responsibility will have to wait until another case so that we can focus on the ills in this community, which we will do so tirelessly through litigation of this lawsuit,” said Eva Paterson, President, Equal Justice Society.

#### Long History of Discriminatory Practices by KHSD

Plaintiffs allege there is a long history of discriminatory practices that has resulted in the disproportionate expulsion and involuntary transfer of African American and Latino students. When the disproportionality was brought to the District’s attention, the District changed its reporting practices and method of addressing discipline so that students are involuntarily transferred or forced to waive their hearing rights in order to stay in some kind of school setting, which often fails to meet the students’ educational needs. As a result, they end up in the same alternative schools that expelled students are sent to and on the same path to nowhere.

The Kern High School District, located in California's Central Valley, has a student population that is 62 percent Latino and 6.3 percent African American. Over the last five years, discriminatory school assignment policies have made it far more likely for Latino and African American students to be suspended, expelled, or transferred to alternative schools than the general school population.

An equal or greater number of African American students and Latino students are being forced to spend time in alternative schools even while KHSD claims progress due to the decrease in expulsions. The numbers look different, but the result is that substantially similar numbers of African-American and Latino students are pushed out of regular school settings and assigned to alternative schools that fail to meet their needs or deliver a quality education.

The lawsuit alleges that the CDE, Torlakson and the Kern County Office of Education all have the power and responsibility to take steps to ensure that KHSD schools are free from discrimination, but have failed to do so.

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#### CRLA

Founded in 1966, CRLA's mission is to fight for justice and individual rights alongside the most exploited communities of our society. Through a network of regional offices and cross-cutting programs, CRLA provides legal services to over 43,000 low-income people annually. Our work impacts farmworkers, individuals with disabilities, immigrant populations, LGBT communities, women, children and families in rural areas. For more information on CRLA, please visit: [www.crla.org](http://www.crla.org).

#### MALDEF

Founded in 1968, MALDEF is the nation's leading Latino legal civil rights organization. Often described as the "law firm of the Latino community," MALDEF promotes social change through advocacy, communications, community education, and litigation in the areas of education, employment, immigrant rights, and political access.

For more information on MALDEF, please visit: [www.maldef.org](http://www.maldef.org).

#### The Equal Justice Society

The Equal Justice Society is transforming the nation's consciousness on race through law, social science, and the arts. Led by President Eva Paterson, our legal strategy aims to broaden conceptions of present-day discrimination to include unconscious and structural bias by using social science, structural analysis, and real-life experience. Connect with EJS at [equaljusticesociety.org](http://equaljusticesociety.org), [@equaljustice](https://twitter.com/equaljustice), and [fb.com/equaljusticesociety](https://facebook.com/equaljusticesociety).

**GREATER BAKERSFIELD LEGAL ASSISTANCE, INC.**

Founded in 1968, GBLA's mission is to promote social change and justice by providing high-quality legal services to the low-income community of Kern County, California. GBLA assists clients in the areas of housing and homelessness, domestic violence, guardianship, children and family services, health law, consumer law, and others. For more information on GBLA, please visit: [www.gbla.org](http://www.gbla.org).

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