

B327589

**IN THE COURT OF APPEAL OF
THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION 8**

CHARLES WONG, ET AL.,
Plaintiffs, Respondents, and Cross-Appellants,

v.

SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT,
Defendant, Appellant, and Cross-Respondent.

CASE NO. 19STCV05418
HON. RICHARD FRUIN, JR., TRIAL
JUDGE LOS ANGELES COUNTY
SUPERIOR COURT

**APPLICATION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF IN
SUPPORT OF PLAINTIFFS, RESPONDENTS AND CROSS-
APPELLANTS CHARLES WONG, *ET AL.*; PROPOSED *AMICI
CURIAE* BRIEF OF DISABILITY RIGHTS EDUCATION AND
DEFENSE FUND, *ET AL.* IN SUPPORT OF PLAINTIFFS,
RESPONDENTS AND CROSS-APPELLANTS CHARLES WONG, *ET
AL.***

DISABILITY RIGHTS EDUCATION AND DEFENSE FUND

Jinny Kim, SBN 208953
Francesca Simon, SBN 359441
3075 Adeline Street, Suite 210
Berkeley, California 94703
Telephone: (510) 644-2555
Emails: jkim@dredf.org
fsimon@dredf.org

ATTORNEYS FOR AMICI

CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

Pursuant to California Rules of Court, Rule 8.208, I hereby certify that no entity or person has an ownership interest of 10 percent or more in proposed *amici curiae*. I further certify that I am aware of no person or entity, not already made known to the Justices by the parties or other amici curiae, having a financial or other interest in the outcome of the proceedings that the Justices should consider in determining whether to disqualify themselves, as defined in Rule 8.208(e)(2).

Executed on July 1, 2025 in San Francisco, California.

/s/ Jinny Kim

Jinny Kim

Francesca Simon

Disability Rights Education and Defense Fund

Attorneys for Amici Curiae

I. INTRODUCTION

Pursuant to California Rule of Court 8.200(c), Disability Rights California, Disability Rights Education and Defense Fund, Disability Rights Legal Center, Impact Fund, Learning Rights Law Center, and Public Advocates request leave to file the attached *amici curiae* brief in support of plaintiffs, respondents and cross-appellants. *Amici* are committed to disability non-discrimination and eradicating violence against students with disabilities. The proposed brief reviews the Ralph Civil Rights Act, its application to students with disabilities and will assist the Court in deciding this matter.

II. STATEMENTS OF INTEREST

Amici curiae are public interest organizations dedicated to advancing and protecting the civil rights of persons with disabilities. A brief description of the work and mission of each of the *amici curiae*, explaining our interest in the case, is as follows:

Disability Rights California

Disability Rights California (DRC) is California's non-profit Protection & Advocacy agency mandated under state and federal law to advance the legal rights of Californians with disabilities. DRC was established in 1978 and is the largest disability rights legal advocacy organization in the nation. As part of its mission, DRC works to ensure that people with disabilities have access to essential services and supports, including education, and to further ensure they are free from disability-based discrimination. In the past year, DRC served more than 26,000 Californians with disabilities and positively impacted 607,688 individuals through our systemic litigation.

Disability Rights Education and Defense Fund

Disability Rights Education and Defense Fund ("DREDF") based in Berkeley, California, is a national nonprofit law and policy center dedicated to protecting and advancing the civil and human rights of people with disabilities. Founded in 1979 by people with disabilities and parents of children with disabilities, DREDF remains board- and staff-led by members of the communities for whom we advocate. DREDF pursues its mission through

education, advocacy, and law reform efforts. For more than three decades, DREDF has received funding from the California Legal Services Trust Fund (IOLTA) Program as a Support Center providing consultation, information, training, and representation services to legal services offices throughout the state as to disability civil rights law issues. DREDF is nationally recognized for its expertise in the interpretation of federal and California disability civil rights laws. DREDF has participated as amicus and amici counsel in numerous cases addressing the scope and meaning of California civil rights mandates. DREDF remains dedicated to advancing the human and civil rights of people with disabilities, including students with disabilities.

Disability Rights Legal Center

Disability Rights Legal Center (DRLC), founded in 1975, is the nation's oldest non-profit legal organization to represent and serve people with disabilities. DRLC works with people with disabilities to obtain the benefits, protections, and equal opportunities guaranteed to them under the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Unruh Civil Rights Act, and other state and federal laws. DRLC's mission is to champion the rights of people with disabilities through education, advocacy, and litigation, including in various amici curiae efforts.

Impact Fund

The **Impact Fund** is a non-profit legal organization that provides strategic leadership and support for impact litigation to achieve economic, environmental, racial, and social justice. The Impact Fund provides funding, offers innovative training and support, and serves as counsel for impact litigation across the country. The Impact Fund has served as party or *amicus* counsel in major civil rights class actions, including systemic and institutional reform cases enforcing essential rights on behalf of underrepresented and vulnerable communities.

Learning Rights Law Center

The **Learning Rights Law Center ("LRLC")** is a non-profit legal aid organization in Southern California founded in 2005 to provide free and low-cost legal representation, advice, advocacy and training to families and communities whose

children, as a consequence of disability or discrimination, have been denied equal access to a public education. 58% of families seeking our assistance have children with autism, and 70% have children with disabilities including autism that manifest in maladaptive behaviors in the classroom. LRLC provides direct representation to students who have been wrongfully denied appropriate education or who have experienced unlawful discrimination in the public-school setting, including inappropriate restraint and discipline. LRLC also conducts community-based outreach activities and legal clinics. Our community work allows LRLC to bring to the Court our direct observations of the broader systemic issues facing students with disabilities, including the pervasive use of restraint and force when students with autism and related conditions exhibit behaviors symptomatic of their disability.

Public Advocates

Public Advocates, Inc. is one of the oldest non-profit public interest law firms in the nation. Throughout its history, the firm's mission has been to challenge the persistent, underlying causes and effects of poverty and discrimination and to work for the empowerment of the poor and people of color, including immigrants. Public Advocates uses diverse litigation and non-litigation strategies. Its efforts have focused on educational equity, transit equity, employment and affordable housing among other areas. Throughout its history, Public Advocates has consistently advanced equal educational opportunities for all students and has worked to challenge unlawful discrimination in public education, including with respect to student with disabilities.

III. PURPOSE OF PROPOSED BRIEF OF AMICI CURIAE

The proposed brief presents arguments that materially add to and complement Plaintiffs, Respondents, and Cross-Appellants Charles Wong, *et al.*'s brief on the merits. *Amici curiae* have years of experience litigating numerous cases of importance involving the educational rights of students with disabilities. *Amici* have also worked with the California Legislature to enact disability rights and civil rights legislation. The proposed brief will assist the Court by highlighting California's history of disability discrimination and violence in public schools, the intentional violence and threats of violence based on symptoms of disability, and the plain language, purpose and jury

instruction of the Ralph Civil Rights Act. A heightened animus standard is inconsistent with comparable disability laws and if adopted, would have a disproportionate impact on California's most vulnerable students.

IV. CONCLUSION

For all the foregoing reasons, *amici curiae* respectfully request that the Court grant the application of *amici curiae* and accept the attached brief for filing and consideration.

Executed on July 1, 2025, in San Francisco, California.

/s/ Jinny Kim

Jinny Kim

Francesca Simon

Disability Rights Education and Defense Fund

Attorneys for Amici Curiae

**CERTIFICATE OF COMPLIANCE WITH CAL. RULES OF COURT, RULE
8.200 subd. (c)(3)**

Amici curiae hereby certify under the provisions of California Rules of Court 8.200 subd. (c)(3) that no party or counsel for any party authored the proposed brief in whole or in part or made any monetary contribution intended to fund the preparation or submission of the brief. *Amici curiae* further certify that no person or entity other than *amici curiae* and their counsel made any monetary contribution intended to fund the preparation or submission of the brief.

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/s/ Jinny Kim

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DISABILITY RIGHTS EDUCATION AND DEFENSE FUND

Jinny Kim, SBN 208953
Francesca Simon, SBN 359441
3075 Adeline Street, Suite 210
Berkeley, California 94703
Telephone: (510) 644-2555
Emails: jkim@dredf.org

ATTORNEYS FOR AMICI

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INTRODUCTION

The landmark *Brown v. Board of Education* ruling in 1954 was a unanimous victory for the civil rights movement and became a foundation for further change in the education system. In the struggle for disability rights, the *Brown* decision laid the groundwork for advocates to seek equal educational opportunities for children with disabilities. In California, our Constitution promises that schoolchildren have an equal opportunity for education and that public schools are safe, welcoming and supportive. However, the reality does not always meet our mandates. Disability discrimination and violence in public schools have long jeopardized the quality and safety of public education. Students with disabilities disproportionately experience violence in school and violence against students with disabilities is widespread.

California's Ralph Civil Rights Act – a law prohibiting violence based on protected statuses such as race, sex, and disability – is an effective tool to combat these harms. It embodies the state's strong public policy consistent with California's long history of enacting expansive laws designed to protect persons with disabilities in all spheres of public life. This Court should adopt the straight-forward interpretation of the Ralph Civil Rights Act intended by the Legislature, not the heightened animus standard Defendants propose.

The guarantees of the Ralph Civil Rights Act are critical to students with disabilities—like Christopher and Christian Wong—who face violence by the very schools and by the adults who are mandated to provide a safe, appropriate and accessible education. Schoolchildren and their parents should be able to use the Ralph Civil Rights Act to combat violence in California schools.

RELEVANT FACTUAL BACKGROUND

Christopher and Christian Wong are non-verbal twin brothers with Autism Spectrum Disorder and severe intellectual disability. (13RT:3725, 3767-3768; 10RT:2769-2770, 8RT:2201.) Christopher and Christian's parents enrolled the twins in the Santa Monica-Malibu Unified School District's program for disabled children in the hopes that a safe and supportive environment would help with their symptoms directly

related to their disabilities. By all accounts, Christopher and Christian made “huge” improvements and from January 2017 and August 2017, with no incidences of disruptive or self-injurious behavior. (14RT:4072-4073; 13RT:3719; 3RA:1122.)

In August 2017, Defendant Galit Gottlieb was assigned as an aide to Christopher and Christian. (5RT:1226, 2442-2443; 13RT:3783; AA:349.) Rather than assist Christopher and Christian with accessing their education and providing a safe learning environment, as she was required to do, Ms. Gottlieb intentionally and knowingly elbowed them, squeezed their wrists, forced their shoes on, and rubbed alcohol-based sanitizer on the broken skin of their dry, cracked hands. (5RT:1227-1229, 1231; AA:488) Ms. Gottlieb inflicted this pain on Christopher and Christian “to make her job easier” because they “misbehaved” due to their autism. (AA:344.)

Moreover, Ms. Gottlieb used threats of pain – threats to use hand sanitizer on broken skin – in order to obtain behavioral compliance from Christopher and Christian. For example, Ms. Gottlieb made this threat when the children refused to take a seat during circle time. (9RT:2443-2444, 2466-2467.) The threat worked because Christopher looked “scared,” “frozen” and “gritt[ed] his teeth” when he saw the hand sanitizer. (AA:511.)

Due to Ms. Gottlieb’s violent actions and threats, Christopher and Christian Wong both had numerous incidents of biting, scratching, hitting and attacks on those around them. (8RT:2251; 9RT:2414, 2455, 2536-2537, 2539.) Both boys were diagnosed with Post-Traumatic Stress Disorder caused by Ms. Gottlieb’s violent actions. (10RT:2778, 2798.) Christopher and Christian were transferred by the District to a school for children who cannot be supported by a public school, and are now facing a lifetime of care because of Ms. Gottlieb’s actions. (8RT:2235, 2238; 10RT:2796, 2819-2825, 2829; 15RT:4013, 4094, 4112.)

ARGUMENT

I. Students with Disabilities Disproportionately Experience Violence in Schools.

A. Students with Autism Are Particularly Vulnerable to Abuse.

Christopher and Christian Wong have been diagnosed with Autism Spectrum Disorder. Autism manifests differently with each individual and can cause significant social, communication, and behavioral challenges¹ and people with autism may communicate, interact, behave, and learn in ways that are different from most other people.² Autism is characterized by a persistent difference in communication, interpersonal relationships, and social interaction across different environments, and restricted and repetitive behavior, activities, and interests.³ Children with autism are often hypersensitive to tactile sensations and sensitive to emotional events because of their excessive levels of cortisol. (10RT:2779, 2781, 2783-2784.) Non-verbal children with autism often use their hands to communicate. (10RT:2782.)

Students with autism may also have sensory differences such as unusual sensitivity to light, sound, touch or texture⁴ or experience barriers to communication.⁵

¹ Centers for Disease Control, Autism Spectrum Disorder (ASD) <<https://www.cdc.gov/autism/>> (as of June 15, 2025).

² Autism Society, What is Autism Spectrum Disorder <<https://autismsociety.org/the-autism-experience/>> (as of June 15, 2025).

³ *Ibid.*

⁴ Autism Speaks, Autism Symptoms <<https://www.autismspeaks.org/autism-symptoms>> (as of June 25, 2025).

⁵ See Autistic Self Advocacy Network, Beyond Coercion and Institutionalization: People with Intellectual and Developmental Disabilities and the Need for Improved Behavioral Health Services (May 31, 2024) <<https://autisticadvocacy.org/wp-content/uploads/2023/04/BSP-Academic-Full-White-Paper-tagged-2-with-new-attribution.pdf>> (as of June 27, 2025).

These behaviors and disability-related symptoms compound during stressful events which educators with limited training or who have implicit or explicit disability biases misconstrue as “rude,” “evasive,” “non-compliant,” or even “aggressive.” As a result, students with autism face a heightened risk of physical abuse and even death when their behavior is misinterpreted during encounters with educators and other school personnel.⁶

The purpose of disability and education laws is to understand and address disability-related behaviors educationally, not punitively. Children should not be penalized for behavior that relates directly to their disabilities. Behavioral supports and interventions for students with disabilities must not impinge on a student’s right to a meaningful public education. When students with disabilities are provided with supportive schools, trained teachers and aides, they can and will succeed.⁷ The Wong twins were on that path to success prior to their violent encounters with Ms. Gottlieb. They now face a lifetime of care and are at great risk for incarceration or a residential facility with 24 hour supervision. (10RT:2819-2824, 2829.)

B. Ms. Gottlieb’s Use of Improper Behavioral Management Techniques is Contrary to Educational Standards and Subjected Christopher and Christian to Abuse and Violence.

The right to a public education is embedded in California’s constitution and case law. (*Serrano v. Priest* (1971) 5 Cal.3d 584, 609 [holding that education is a fundamental right].) Students with disabilities have a critical need for statutorily mandated supports and non-discrimination given their particular vulnerability to abuse. (*See Jennifer C. v. Los Angeles Unified School Dist.* (2008) 158 Cal.App.4th 1320, 1327 [recognizing the

⁶ Kutz, Seclusions and Restraints, Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers (May 19, 2019) Government Accountability Office <<https://www.gao.gov/assets/gao-09-719t.pdf>> (as of June 15, 2025).

⁷ Autism Self Advocacy Network, About Autism (2022) <<https://autisticadvocacy.org/about-asan/about-autism/>> (as of June 17, 2025).

“unique vulnerability” of students with disabilities to abuse and the “paramount policy concern of providing our children with safe learning environments.”].)

Although state law prohibits the use of violence and corporal punishment at school,⁸ some educators nevertheless use force against students with disabilities. These harmful and unlawful acts can occur when educators have little to no understanding about disabilities that include disability-related behaviors.⁹ Our laws eradicate dangerous and harmful disciplinary practices and adopted behavioral interventions that protect the safety and dignity of all students. Indeed, California makes bold commitments to students with disabilities to “address the[ir] learning and behavioral needs” and to protect them from behavioral interventions that cause “physical pain,” “excessive emotional trauma,” and deprive them of “human dignity and personal privacy.” (Cal. Ed. Code, § 56520 (a)(3)-(4), (b)(3); 56521.2(a)(1), (4).)

Restraints and similar actions are not only harmful to students with disabilities but also cause serious physical and psychological harm. Schools and the adults who are entrusted to work with students with disabilities must respond to disability-related behaviors with strategies that are research-based and with interventions that are consistent with accepted professional judgment, practices and standards. (*See* Cal. Ed. Code, § 56521.2; 34 C.F.R. § 300.324(a)(2)(i) (2025) [“[i]n the case of a child whose behavior impedes the child’s learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.”].) Schools are required to accommodate all manifestations of a student’s disabilities with behavioral interventions, supports, and other strategies to support behavior. (*See* Cal. Ed.

⁸ Cal. Ed. Code, §§ 49005-49006.4; the California Education Code defines “corporal punishment” as “the willful infliction of, or willfully causing the infliction of, physical pain on a pupil.” Cal. Ed. Code, § 49001(a).

⁹ Human Rights Watch, *Impairing Education: Corporal Punishment of Students with Disabilities in U.S. Public Schools* (Aug. 10, 2009) p.39.

Code, § 56521.1.) Positive behavioral supports can be particularly effective for students with disabilities.¹⁰ Positive behavioral supports have consistently been shown to reduce schools' use of aversive techniques such as seclusion and restraint.¹¹

Children with disabilities (like all school-age children) are legally required to attend school and often have no choice but to enter environments with persons who are behaving toward them in a violent and abusive manner. “[T]he right of all students to a school environment fit for learning cannot be questioned. Attendance is mandatory and the aim of all schools is to teach. Teaching and learning cannot take place without the physical and mental well-being of the students. The school premises, in short, must be safe and welcoming.” (*In re William G.* (1985) 40 Cal.3d 550, 563.) Hostile and violent aides like Ms. Gottlieb traumatize and injure students with disabilities, as Christopher and Christian Wong’s experiences show.

Ms. Gottlieb’s conduct in the educational setting toward Chrisopher and Christian included the use of restraint and abusive physical controls, as well as threats of abuse to achieve compliance for manifestations of their disability. Ms. Gottlieb’s actions were violent, and cannot be justified by any professional standards currently recommended by educators. As experts have recognized, there are safe and effective ways for teachers and aides to support students with disabilities and respond to their disability-related behavior. Ms. Gottlieb’s actions failed to adhere to the accepted positive behavioral supports without any attempt to reinforce appropriate behavior or conform to acceptable educational practice.

¹⁰ *Id.* at p.7.

¹¹ U.S. Department of Education, Students with Disabilities and the Use of Restraint and Seclusion in K-12 Public Schools (July 2019)<<https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/20190725-students-with-disabilities-and-use-of-rs.pdf>> (as of June 27, 2025).

C. Violence Against Students with Disabilities is Widespread.

Disability discrimination and violence in public schools have long jeopardized the quality and safety of public education. In 2009, the American Civil Liberties Union and Human Rights Watch studied the corporal punishment of students with disabilities and found disproportionately high rates of corporal punishment among students with disabilities.¹² Many of the cases involved young students with autism who, like Christopher and Christian Wong, were punished and abused for common behaviors related to their disability.¹³ As the report concluded, “[s]tudents are being beaten for behavior they simply cannot control, or cannot reasonably be expected to control, a grossly disproportionate and fundamentally demeaning response to the child’s condition.”¹⁴

Also in 2009, the Government Accountability Office issued a report and provided testimony on seclusions and restraints and discovered “hundreds of [abuse] allegations at public and private schools across the nation” and at least 20 deaths resulting from the use of restraints and seclusions, almost all involving children with disabilities.¹⁵ Similar

¹² Human Rights Watch, *Impairing Education: Corporal Punishment of Students with Disabilities in U.S. Public Schools* (Aug. 10, 2009) p.6 [“Some students with disabilities may exhibit behavioral problems in the classroom, but that does not justify use of force.”].

¹³ *Id.* at p.5 [“When students with disabilities are beaten for the consequences of their disabilities, their rights to education and non-discrimination are violated.”]; *Id.* at p.38 [discussing examples of children with autism who were punished because of the behavior related to their disability.]

¹⁴ *Id.* at p.35.

¹⁵ Kutz, *Seclusions and Restraints, Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers* (May 19, 2019) Government Accountability Office at pp.5, 8. <<https://www.gao.gov/assets/gao-09-719t.pdf>> (as of June 15, 2025).

reports from the National Disability Rights Network¹⁶ and the Council of Parent Attorneys and Advocates¹⁷ highlighted the dangers of restraints and seclusion and urged the federal government to take action and to end the patchwork of inconsistent state legislation.

In April 2015, EdSource Today published an extensive investigative report that documented the lack of state oversight of restraint and seclusion practices. The report described “a shadow discipline system in many special education classrooms, where minimally trained classroom aides have significant leeway in using emergency interventions to manage disruptive students.”¹⁸

Despite these damaging reports and continued advocacy attempts to address these dangerous, discriminatory and punitive practices, public schools continue to be harmful and hostile environments for many students with disabilities. As the Wong twins experienced, disabled students do not receive the treatment and supports to which they are entitled, with serious consequences. Students with disabilities are disciplined more frequently and more harshly than students without disabilities. According to the U.S. Department of Education, students with disabilities make up 13% of students across all United States school districts but as many as 80% of restraint and seclusion incidents

¹⁶ National Disability Rights Network, *School is Not Supposed to Hurt* (Jan. 2009) <<https://www.ndrn.org/wp-content/uploads/2019/03/SR-Report2009.pdf>> (as of June 19, 2025).

¹⁷ The Council of Parent Attorneys and Advocates, Inc., *Unsafe in the Schoolhouse: Abuse of Children with Disabilities* (May 2009) <https://cdn.ymaws.com/www.copaa.org/resource/collection/662B1866-952D-41FA-B7F3-D3CF68639918/UnsafeCOPAAMay_27_2009.pdf> (as of June 19, 2025).

¹⁸ Adams, *Little Oversight of Restraint Practices in Special Education* (2015) EdSource <<https://edsource.org/2015/little-oversight-of-restraint-practices-in-special-education/78040?amp=1>> (as of June 23, 2025).

involve students with disabilities.¹⁹ Autistic students, and especially non-verbal autistic students, are more likely to be secluded or restrained.²⁰

In 2018, to mitigate the harms of arcane and discriminatory disciplinary practices, the California Legislature adopted a law prohibiting the use of any restraint or seclusion as “coercion, discipline, convenience, or retaliation.” It mandated that the only lawful use of physical force is to “control behavior that poses a clear and present danger of serious physical harm to the pupil or others that cannot be immediately prevented by a response that is less restrictive.” AB 2657 (adding Ed. Code sections 49005 to 49006.4). California Education Code section 49005 recognizes that “students with disabilities...are disproportionately subject to restraint and seclusion,” “restraint and seclusion are dangerous interventions, with certain known practices posing a great risk to child health and safety,” that those practices “may cause serious injury or long lasting trauma and death,” and that these practices “do not further a child’s education.” (Cal. Ed. Code, § 49005(a), (d), (f), (j).)

Even after AB 2657, a study of restraint complaints in California identified a continued pattern of excessive use of force against students with disabilities which resulted in the serious injury (and even death) of children.²¹ While students with

¹⁹ U.S. Department of Education, 2017-2018 Civil Rights Data Collection: The Use of Restraint and Seclusion on Children with Disabilities in K-12 Schools, p.5 (Oct. 2020) <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/restraint-and-seclusion.pdf>> (as of June 14, 2025).

²⁰ Alliance Against Seclusion and Restraint, Disabilities and Disparities: Why disabled students are disproportionately impacted by restraint and seclusion (Jan. 25, 2024) <<https://endseclusion.org/2024/01/25/disabilities-and-disparities-why-disabled-students-are-disproportionately-impacted-by-restraint-and-seclusion/>> (as of June 14, 2025).

²¹ Disability Rights Cal., Protect Children’s Safety and Dignity: Recommendations on Restraint and Seclusion in Schools (2019) pp. 2-3 <<https://www.disabilityrightsca.org/post/protect-childrens-safety-and-dignity-recommendations-on-restraint-and-seclusion-in-schools>> (as of June 27, 2025)

disabilities make up 14% of the students in California, they are nearly 90% of the students being physically restrained.²² In addition, California segregates students with disabilities from other students at higher rates than almost any other state.²³ Students with the most significant disabilities, including autism, are placed into dangerous and inappropriate restraints and seclusion throughout California.²⁴ These statistics demonstrate that California is wholly failing to provide these students with an “inalienable right to attend campuses which are safe, secure and peaceful.” Cal. Const. Art. I, § 28(f)(1).

The following examples further highlight the violence against students with disabilities in schools throughout California:

- A 9-year-old child with autism was restrained 92 times over the course of a year in which the Department of Education concluded Oakland Unified School District violated education and disability laws.²⁵
- A highly-publicized and preventable death of a 13-year-old child with

²² Disability Rights Cal., *Restraint and Seclusion in California Schools: Findings and Recommendations from the 2021-22 School Year Data* <<https://www.disabilityrightsca.org/custom-page/restraint-and-seclusion-in-california-schools-findings-and-recommendations-from-the>> (as of June 15, 2025).

²³ Policy Analysis for Cal. Educ., *Promising Policies to Address the Needs of Students with Disabilities: Lessons from Other States* (2020) p.1.

²⁴ Disability Rights Cal., *supra* n.11.

²⁵ Adams, Federal investigators cite harsh discipline in special education at Bay Area school (Aug. 2016) EdSource <<https://edsource.org/2016/federal-investigators-cite-harsh-discipline-in-special-education-at-oakland-district/567767>> (as of June 25, 2025).

autism following the use of a restraint.²⁶ The restraint lasted over 90 minutes, causing medical complications including cardiac arrest which led to the child's death.

- Moreno Valley Unified School District was found to have violated disability laws for repeatedly and violently striking and handcuffing a small, 11-year-old Black boy with disabilities for disability-related behaviors. *C.B. v. Moreno Valley Unified School Dist.* (2023) 732 F.Supp.3d 1139.
- A settlement between Stockton Unified School District and the California Department of Justice on behalf of Black, Latine and students with disabilities after the students with disabilities were interrogated, restrained and arrested for conduct resulting from their disabilities.²⁷
- A settlement on behalf of students with disabilities who were placed in “trauma-inducing” physical restraints and secluded at a Contra Costa County public school serving students with disabilities.²⁸
- The plaintiff in *Brennon B. v. Superior Court* (2022) 13 Cal.5th 662, was a student with autism who was sexually assaulted by other students and a

²⁶ Sheriff: Boy with Autism Dies After Being Restrained at El Dorado Hills School During Violent Outburst (Dec. 6, 2018) CBS Sacramento <<https://www.cbsnews.com/sacramento/news/el-dorado-hills-autistic-boy-death-investigation/>> (as of June 27, 2025).

²⁷ Washburn, Stockton Unified settles state complaint over discriminatory policing practices (Jan. 2019) EdSource <<https://edsource.org/2019/stockton-unified-settles-state-complaint-over-discriminatory-policing-practices/607559>> (as of June 27, 2025).

²⁸ Public Counsel, Landmark Settlement Reached in Lawsuit Challenging Trauma-Inducing Physical Restraints and Seclusion of Students in California School (Sept. 2022) <<https://publiccounsel.org/press-releases/landmark-settlement-reached-in-lawsuit-challenging-trauma-inducing-physical-restraints-and-seclusion-of-students-in-california-school>> (as of June 27, 2025).

school district employee.²⁹

- A school principal in the Fresno Unified School District aggressively shoved a student with disabilities to the ground.³⁰
- An 8-year-old student with autism secluded and restrained multiple times by San Francisco Unified School District aide.³¹
- A May 2025 lawsuit filed against Del Mar Unified School District for a student with a disability who was placed in isolation multiple times per week which left her with psychological trauma, a PTSD diagnosis and required intensive therapeutic intervention.³²

The continuing prevalence of abuse and violence in the school setting makes it vital that students with disabilities – and particularly behavioral disabilities as are at issue

²⁹ Students with disabilities are about three times more likely to be victims of sexual abuse than non-disabled children. (VERA Institute of Justice, *Sexual Abuse of Children with Disabilities: A National Snapshot* (2013) p.4.) Children with intellectual or mental disabilities are five times as likely to experience sexual abuse than their nondisabled peers. (*Ibid.*)

³⁰ Alvarado, Former California principal charged after shoving special needs student to the ground, authorities say (Sept. 2022) CNN
<<https://www.cnn.com/2022/09/09/us/california-principal-charged-push-student>> (as of June 25, 2025).

³¹ Baer, Her autistic son was restrained and isolated at school. Why didn't SFUSD report it? (Mar. 2024) The San Francisco Standard
<<https://sfstandard.com/2024/03/25/sfusd-restraint-seclusion-reporting/>> (as of June 25, 2025).

³² Singleton Schreiber, Del Mar Union School District Faces Lawsuit Over Systemic Abuse and Illegal Use of Isolation Rooms (May 2025)
<<https://www.singletonschreiber.com/newsroom/pressreleases/del-mar-union-school-district-faces-lawsuit-over-systemic-abuse-and-illegal-use-of-isolation-rooms#:~:text=San%20Diego%2C%20CA%20%E2%80%93%20A%20lawsuit,both%20federal%20and%20state%20law>> (as of June 27, 2025).

here – can access the rights and remedies afforded by the Ralph Civil Rights Act. Continued discrimination and violence in schools underscore the importance of maintaining strong protections for California’s school children.

II. Violence and Threats of Violence Triggered by Negative Reactions to Symptoms of Disability are Forms of Intentional Disability Discrimination.

Intentional violence against someone because of the symptoms of their disability is necessarily based on their disability and is, as more fully explained below, a violation of the Ralph Civil Rights Act. Disability discrimination laws do not contemplate a stark dichotomy between “disability” and the “disabilities’ effect on [] behavior” as the Defendants in this case assert. Rather, courts protect the conduct as part of the disability itself. This principle was first articulated in the Second Circuit’s decision in *Teahan v. Metro–North Commuter Railroad Co.* (2d Cir. 1991) 951 F.2d 511.³³ In that case, the Second Circuit reversed the lower court’s ruling that an alcoholic employee who had been fired because of excessive absenteeism—which was caused by his alcoholism—had been terminated because of his disability. *Id.* at 516. The circuit court analogized the case to that of a hypothetical employee with a limp that caused him to make a “thump” noise when walking, stating that the limping individual’s employer could not escape liability by articulating that it fired the employee because of the noisy “thump,” rather than the limp. *Id.* at 516–17. The court held that termination based on a “conduct or circumstance that is a manifestation or symptomatic” of an employee’s disability is disability discrimination. *Id.* at 517.

Circuit courts, as well as California courts, have similarly refused to disconnect a disability’s effect or symptoms from the disability itself. (See *McMillan v. City of New York* (2d Cir. 2013) 711 F.3d 120, 129 [reaffirming the rule of *Teahan*]; *Doebele v. Sprint/United Mgmt. Co.* (10th Cir. 2003) 342 F.3d 1117, 1134 [“It is significant that the ADA anti-discrimination provision ‘does not contemplate a stark dichotomy between

³³ California courts look to federal precedent in determining the meaning of California statutes. (*Guz v. Bechtel National, Inc.* (2000) 24 Cal.4th 317, 354.)

‘disability’ and ‘disability-caused misconduct,’ but rather protects both.”]; *Humphrey v. Mem’l Hosps. Ass’n* (9th Cir 2001) 239 F.3d 1128, 1139-1140 [holding that conduct resulting from the disability is considered to be part of the disability]; *Gambini v. Total Renal Care, Inc.* (9th Cir. 2007) 486 F.3d 1087, 1095 [“if the law fails to protect the manifestations of [] disability, there is no real protection in the law because it would protect the disabled in name only.”]; *Den Hartog v. Wasatch Acad.* (10th Cir. 1997) 129 F.3d 1076, 1086-97 [distinguishing consequences of disability from disability “makes no sense.”]; *Jackson v. Veterans Admin.* (11th Cir. 1994) 22 F.3d 277, 281 [“[D]ischarge[] because of a symptom of his handicap is . . . the same as taking action solely on account of [his] handicap.”]; *Van Zande v. Wisc. Dep’t of Admin.* (7th Cir. 1995) 44 F.3d 538, 544 [holding that a manifestation of a disability (pressure sores) is part of the disability (spinal cord tumor) itself]; *McWright v. Alexander* (7th Cir. 1992) 982 F.2d 222, 228 [holding that “discrimination ‘because of’ [disability] is frequently directed at an effect or manifestation of a [disability] rather than being literally aimed at the [disability] itself” and providing an example of using gray hair as a proxy for age: there are young people with gray hair (a few), but the “fit” between age and gray hair is sufficiently close that they would form the same basis for invidious classification.”]; *Soria v. Univision Radio Los Angeles, Inc.* (2016) 5 Cal.App.570, 595 [relying on *Humphrey v. Mem’l Hosps. Assn.* and finding that the proffered reason for termination “intertwines with the employee’s disability”]; *but see Wills v. Superior Court* (2011) 195 Cal.App.4th 143, 166 [finding non-discriminatory termination in spite of disability-caused misconduct in the narrow context of threats or violence against coworkers].

Here, both sides and the trial court all agree that Ms. Gottlieb used violence and intimidation towards the twins to manage their disability-related behavior. (See AOB 38-39, RB-XAOB 20, 23-30, 77; AA:344.). Ms. Gottlieb’s actions included elbowing the twins if they tried to get up to move (5RT:1228.), “forcefully” pulling or twisting Christopher’s arm when he did not want to leave the bus (5RT:1230-1232), and squeezing the twins’ wrists and using a harness to restrain Christopher when disliking their behavior. (5RT:1231, 1233, 1234.) Because actions taken against the symptoms of a

disability are necessarily motivated at least in part by disability, Ms. Gottlieb’s conduct was motivated by the disabilities of the Wong twins. Applying the straightforward rule—whether an individual has been subjected to discrimination or violence because of their disability or subjected to discrimination or violence because of the symptoms of their disability leads to the same result: both necessarily occurred because of disability.

III. The Trial Court Correctly Decided the Violence Here Was Actionable Under the Ralph Civil Rights Act.

California has some of the most robust civil rights protections in the United States. California law provides comprehensive protection from discrimination for people with disabilities with statutes prohibiting discrimination in employment, housing, education, and public accommodations.³⁴ The legislative history of California’s laws manifests a deep commitment to protecting disabled Californians from any kind of discrimination that treats them differently from non-disabled persons. Enacted in 1976, the Ralph Civil Rights Act falls within California’s proud tradition of disability civil rights laws. It ensures that Californians, including California’s vulnerable children, can live free from the fear of violence.

Requiring a disabled child prove that violence was motivated by hostility toward their disability by itself—separate from its manifestations—is contrary to the Ralph Civil Rights Act’s plain statutory language, purpose and jury instruction. The Ralph Civil Rights Act only requires a causal connection between Christopher and Christian’s disabilities. Ms. Gottlieb’s violent conduct runs counter to the uniquely stringent standard Defendants want this Court to adopt.

³⁴ See California Fair Employment and Housing Act, Cal. Gov. Code, §12940(a) (employment) and Cal. Gov. Code, § 12955(a) (housing); Unruh Civil Rights Act, Cal. Civ. Code, § 51(b) (public accommodations); The California Student Civil Rights Act, Cal. Ed. Code, § 200, et seq. (education).

A. Defendants' Proposed Animus Standard is Incompatible with the Plain Language of the Ralph Civil Rights Act.

The Ralph Civil Rights Act provides, in pertinent part: “all persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence...” “on account of” [disability] or “because another person perceives them to have” [a disability]. Cal. Civ. Code, § 51.7(b)(1). The plain language of the Ralph Civil Rights Act is clear that only a causal connection is required between the violence or intimidation and the disability. (*See Univ. of Tex. Southwestern Med. Ctr. v. Nassar* (2013) 570 U.S. 338, 350 [describing “because” as indicating a “causal relationship”].) If the Legislature had intended to include an additional animus, prejudice or bias standard, it could easily have done so. (*See Ventura v. ABM Industries Inc.* (2012) 212 Cal.App.4th 258, 269-270 [declining to disturb the plain meaning of the Ralph Act to require proof that the violence was motivated by hate and finding that “[i]f the California legislature wanted to limit the reach of the statute to extreme, criminal acts of violence, it could have explicitly said so.”].) There is no ambiguity in the plain language of the Ralph Civil Rights Act to protect the Defendants here.

B. A Heightened Animus Requirement Undermines the Purpose of the Ralph Civil Rights Act.

Given the existing clarity and lack of ambiguity in the Ralph Civil Rights Act, the Court need not go beyond an analysis of the plain meaning of the statute. This Court should adhere to well-established principles of statutory construction in which the plain text analysis is the first and, in this case, the only step. “The statute’s plain meaning controls the court’s interpretation unless its words are ambiguous. If the plain meaning of a statute is unambiguous, no court need, or should go beyond that pure expression of legislative intent.” (*Kobzoff v. Los Angeles County Harbor/UCLA Med. Ctr.* (1998) 19 Cal.4th 851, 860-61; *Solberg v. Superior Court* (1977) 19 Cal.3d 182, 198 [“When statutory language is thus clear and unambiguous there is no need for construction, and courts should not indulge in it.”].) If the language is unambiguous, courts “presume the Legislature meant what it said, and the plain meaning of the statute controls.” (*People v.*

Evans (2008) 44 Cal.4th 590, 597 [internal quotation marks omitted].)

Even assuming textual ambiguity, the Legislature made its intention unmistakably clear. In enacting the Ralph Civil Rights Act, the Assembly Committee report acknowledged that in the “numerous state and federal laws providing for full and equal civil rights protections in employment, housing, and access to public accommodations and facilities,” no specific prohibition exists in protecting individuals from violence “because of” a protected characteristic. Assembly Committee on Labor Relations, Analysis of Assem. Bill No. 2986 (1975-1976 Reg. Sess.). In acknowledging and referencing the existing civil rights protections, the Legislature could not have contemplated that a higher and more stringent animus standard would apply to violence claims than the standards that apply in employment, housing, and access to public accommodations and facilities cases. (See CACI No. 2500 (employment claims subject to “substantial motivating reason” standard); CACI No. 2548-2549 (refusal to make reasonable accommodations or reasonable modifications in FEHA housing claims applies “necessary” standard); and CACI No. 3060 (Unruh Act claims subject to “substantial motivating reason” standard). This Court should follow the will of the Legislature and confirm that the Ralph Civil Rights Act merely requires a causal connection.

1. The United States Supreme Court Recently Affirmed the Rights of Students with Disabilities and Found No Basis for a Heightened Intent Requirement.

On June 12, 2025, the United States Supreme Court unanimously refused to apply a heightened “bad faith or gross misjudgment” standard for schoolchildren bringing Section 504 and ADA claims.³⁵ *A.J.T. v. Osseo Area Schools* (2025) 605 U.S. ___, 145

³⁵ Forty years ago, the Supreme Court similarly opined, “discrimination based on disability is “most often the product, not of invidious animus, but rather of thoughtlessness and indifference – of benign neglect.” (*Alexander v. Choate* (1985) 469 U.S. 287, 295.) Indeed, “much of the conduct that Congress sought to alter in passing the Rehabilitation Act would be difficult if not impossible to reach were the Act construed to proscribe only conduct fueled by a discriminatory intent.” *Id.* at 296-97; *cf. Midgett v. Tri-County Metro. Transp. Dist.* (9th Cir. 2001) 254 F.3d 846, 851.)

S.Ct. 1647. Rather, the Supreme Court held:

... ADA and Rehabilitation Act claims based on educational services should be subject to the same standards that apply in other disability discrimination contexts. Nothing in the text of Title II of the ADA or Section 504 of the Rehabilitation Act suggests that such claims should be subject to a distinct, more demanding analysis... Together [children with disabilities and their parents] face daunting challenges on a daily basis. We hold today that those challenges do not include having to satisfy a more stringent standard of proof than other plaintiffs to establish discrimination under Title II of the ADA and Section 504 of the Rehabilitation Act.
Id. at 1655, 1659.

Moreover, even under the “deliberate indifference” standard required to obtain compensatory damages under the ADA, the Court emphasized that animus is not required. (*A.J.T.*, 145 S.Ct. 1655 *citing to Meagley v. City of Little Rock* (8th Cir. 2011) 639 F.3d 384, 389 [“[t]he deliberate indifference standard, unlike some tests for intentional discrimination, ‘does not require a showing of personal ill will or animosity toward the disabled person’”]; *accord Duvall v. Cty. of Kitsap* (9th Cir. 2001) 260 F.3d 1124, 1139.

So too here, Plaintiffs should not be required to compound the discrimination and violence they experienced by requiring that they prove more than any other plaintiff with a disability. Plaintiffs should not be required to prove animus.

2. The Austin B. Case is an Outlier and Distinguishable.

Defendants ask this Court to mandate a Ralph Civil Rights Act intent standard based on one stray reference to the word “animus” in *Austin B. v. Escondido Union School District* (2007) 149 Cal.App.4th 860, 882. However, the case at hand is distinguishable because the nature of the behavioral management and therapy in *Austin B.* revolved around touch which both the parents and the aide employed and the student

enjoyed. *Id.* at 868. Austin’s “sensory diet” included “deep pressure touching,” “joint compression techniques,” “heavy touching, hugs and pressure on different parts of [Austin’s] body” which had some effect in calming Austin. (*Ibid.*) The issue in *Austin B.* was not whether the touching was proper but rather, whether it *exceeded* the reasonable touching the parents consented to that was necessary to control Austin. (*Id.* at 873.) The *Austin B.* jury found that there was no intent to harm or offend Austin. *Id.* at 871-72.

In sharp contrast to *Austin B.*, the parents of the Wong twins did not consent to any touching and the Wong twins clearly did not enjoy the contact. *Austin B.* is distinguishable here due to the intentional actions of Ms. Gottlieb.³⁶

C. The Remedial Purpose of California’s Disability Anti-Discrimination Laws, including the Ralph Civil Rights Act, Mandates Liberal Construction.

Even if the language of the Ralph Civil Rights Act was ambiguous and the legislative history unclear—which they are not—this Court has held that the Ralph Civil Rights Act must be interpreted broadly to effectuate its purpose. (*See Stamps v. Superior Court* (2006) 136 Cal.App.4th 1441, 1459 [holding that a narrowing of the statute “would do serious disservice to the effectiveness of this legislation” “[g]iven the need [] to be protected from the conduct condemned by the Ralph Civil Rights Act of 1976”].) (*See also Winarto v. Toshiba America Electronics Components, Inc.* (9th Cir. 2001) 274 F.3d 1276, 1288-1290 [construing the Ralph Civil Rights Act broadly in keeping with its statutory purpose and noting that “there is no requirement that the violence be extreme or motivated by hate or that the violence even constitute a crime.”].)

³⁶ In using violence and intimidation towards the twins, Ms. Gottlieb acted deliberately and spitefully in interfering with their civil rights. Animus is inherent in Ms. Gottlieb’s actions. When a person intentionally causes pain and harm to control and restrain the symptoms of disability, it is reasonable to attribute ill will and animosity toward the disability. It follows that violence directed against someone because of the symptoms of their disability, in combination with the predicate acts of malicious physical contact, or threats of contact or violence, falls within the scope of the Ralph Civil Rights Act even if an animus standard is imposed.

Requiring animus under the Ralph Civil Rights Act is inconsistent with the well-settled purpose that California’s anti-discrimination laws are to be liberally construed to effectuate their remedial purposes of ensuring non-discrimination for persons with disabilities. (See, e.g., Gov. Code, § 12993 [“The provisions ... shall be construed liberally ...”]; Gov. Code, § 12926.1[“Although the [ADA] provides a floor of protection, this state’s law has always, even prior to the passage of the federal act, afforded additional protections.”]; Civ. Code, § 54.5, subd. (e) [“[i]t is the policy of this state to encourage and enable disabled persons to participate fully in the social and economic life of the state ...”]; Gov. Code, § 11135, subd. (b) [“if the laws of this state prescribe stronger protections and prohibitions [than the ADA], the programs and activities ... shall be subject to the stronger protections and prohibitions.”]). Interpreting the Ralph Civil Rights Act to require a showing of animus erodes the Act’s protections and frustrates its purpose. The protections of the Ralph Civil Rights Act are a critical part of the solution for the many Californians who face violence on a regular basis, including California’s students with disabilities.

D. The Ralph Civil Rights Act’s Jury Instruction Adopts California’s Employment Discrimination Standard Which Does Not Require Animus.

California’s jury instruction on the Ralph Civil Rights Act also adopts a “substantial motivating reason” standard. (CACI No. 3063.) The “substantial motivating reason” standard was first articulated by the California Supreme Court in *Harris v. City of Santa Monica*, an employment discrimination case brought under the Fair Employment and Housing Act. ((2013) 56 Cal.4th 203, 232.) In adopting the “substantial motivating reason” standard, the California Supreme Court made clear that it does not require animus, animosity or ill will. (*Ibid.*)

Following *Harris*, the California Court of Appeal reiterated that animus is not required for a disability discrimination claim. (*Wallace v. County of Stanislaus* (2016) 245 Cal.App.4th 109.) In so doing, the Court flatly rejected the County’s argument that “because of” requires a showing of discriminatory animus. (*Id.* at 128 [“an employer can violate [FEHA] by taking an adverse employment action against an employee “because

of” the employee’s [] disability even if the employer harbored no animosity or ill will against the employee or the class of persons with that disability.”].) Similarly, this Court should reject Defendants’ proposed heightened animus standard and confirm the “substantial motivating reason” standard set forth in California’s jury instruction and correctly applied by the jury in finding that Ms. Gottlieb violated the Ralph Civil Rights Act.

E. Courts Have Consistently Affirmed that Violence Motivated by Disability Does Not Require Animus.

The refusal to consider animus is not limited to the Ralph Civil Rights Act. In other cases raising disability discrimination claims (including cases challenging violent acts in response to disability-related behaviors), courts have consistently eschewed any requirement of animus in their analysis. For example, the court in *Kaur v. City of Lodi* held the plaintiff, in support of his ADA claim, sufficiently alleged that his disability constituted a “motivating factor” behind police officers’ unlawful use of force on him. (E.D. Cal. June 18, 2015) No. 2:14-CV-00828-GEB-AC, 2015 WL 3941460, at *12.) The plaintiff, whose mental health disability prevented him from complying with the officers’ verbal orders, alleged the officers nevertheless confronted and pursued him in an aggressive manner by shouting commands, closely following and brandishing firearms, and ultimately shooting him. (*Ibid.*) He further alleged that had the officers received proper training to appreciate the effect of mental illness on his behavior, they would have responded differently, by maintaining physical distance, engaging in non-threatening communications, allowing him more time to respond, and consulting with trained personnel. (*Ibid.*) In other words, the officers’ violence arose from a conflict between the plaintiff’s disability and the procedures through which the officers responded. Accordingly, the court did not require that the officers acted with animus and held that the plaintiff’s disability motivated the officers’ violent actions. (*Ibid.*; see also *Sheehan v. City and County of San Francisco* (9th Cir. 2014) 743 F.3d 1211, 1233 [holding a reasonable jury could find police officers discriminated against plaintiff on the basis of disability when they ignored plaintiff’s mental illness and need for reasonable

accommodations, including the use of less confrontational tactics, by forcing their way into her room].)

Similarly, in *C.B. v. Moreno Valley Unified School District*, the court agreed that, by failing to maintain adequate policies and trainings of school police, the defendant school district “subject[ed] qualified individuals with disabilities to discrimination on the basis of disability through disproportionate use of restraints and referrals to disabled students to [school-based police].” ((C.D. Cal. 2023) 732 F.Supp.3d 1139, 1160.) The court did not require plaintiff to prove that the school district or its staff were motivated by animus in concluding that these failures established that the school district engaged in disability discrimination.³⁷

These cases affirm how a defendant need not be motivated by animus in order to engage in conduct that discriminates against a person on the basis of their disability. Indeed, a defendant need not be motivated by animus in order to engage in conduct that discriminates against a person on the basis of their disability.³⁸ To impose such an

³⁷ Other cases have also rejected the requirement that animus is necessary to prove disability discrimination. *See, e.g., Washington v. Ind. High Sch. Athletic Ass’n, Inc.* (7th Cir. 1999) 181 F.3d 840, 846 [rejecting the suggestion that liability under the ADA must be based on animus against disabled people]; *Helen L. v. DiDario* (3d Cir. 1995) 46 F.3d 325, 335 [ADA and Section 504 sought to eliminate discrimination based on thoughtlessness and indifference]; *Henrietta D. v. Giuliani* (S.D.N.Y. 2000) 119 F. Supp.2d 181, 206 [government’s animus or motive irrelevant to adverse action based on disability].)

³⁸ Discrimination and violence because of disability arises from an inherent conflict between manifestations of disability and structural barriers. Ms. Gottlieb’s violent acts against Christopher and Christian Wong illustrate this point. Christopher and Christian have autism, a disability that, among other things, makes them hypersensitive to transitioning between locations or activities, described as “nonpreferred sensory stimulation.” (9RT:2608.) As a result, when transitioning to a classroom activity, such as “circle time,” they face tremendous difficulty sitting down and staying focused, as preferred by their aide, Ms. Gottlieb. Because of the aide’s preference and the structure of circle time, their autism impacts their ability to participate and learn during circle time and therefore impacts a major life activity. Thus, autism constitutes a disability because of the structural barriers the twins face in the existing school setting. Ms. Gottlieb’s

onerous burden on plaintiffs seeking relief under anti-discrimination laws would hollow out the important protections provided by those statutes.

Likewise, the Ralph Civil Rights Act affords people the “right to be free from any violence ... on account of” disability or perceived disability. (Cal. Civ. Code, § 51.7(b)(1).) Requiring proof of animus from those seeking its protection not only lacks any textual basis in the statute, but also contradicts the approach that courts consistently take in analyzing claims under comparable disability laws.

IV. Adopting an Animus Standard Will Disproportionately Impact California’s Most Vulnerable Students.

Nearly 775,000 students with disabilities are enrolled in California’s K-12 public schools.³⁹ More than one in 10 California students receive special education services.⁴⁰ There is a significant relationship and overlap between disability and other protected statuses. Students with disabilities in California are disproportionately low-income.⁴¹

intentionally violent actions accordingly arose from, and responded directly to, Christopher and Christian’s barriers to learning. Instead of modifying the barriers to accommodate their autism, Ms. Gottlieb threatened to use hand sanitizer to punish them into complying with her “circle time” preference. (*See* RB-XAOB:29.) Accordingly, Ms. Gottlieb’s violence, as do many discriminatory and violent acts against students with disabilities, was motivated by a fundamental discord between disability and the learning environment.

³⁹ Ed-Data Fiscal, Demographic, and Performance Data on California’s K-12 Schools <https://www.ed-data.org/state/CA/ps_MjAyMjQ%5E> (as of June 24, 2025).

⁴⁰ California School Boards Association, *The Landscape of Special Education in California: A Primer for Board Members* (May 2019) p. 4 <https://www.csba.org/-/media/CSBA/Files/GovernanceResources/Reports/20190520_The-Landscape-of-Special-Education-in-California_A-primer-for-board-members.ashx?la=en&rev=87463ec45c2f411fa559d4574dc32347> (as of June 24, 2025).

⁴¹ Petek, *Overview of Special Education in California* (Nov. 6, 2019) Legis. Analyst Report at p. 8. <<https://lao.ca.gov/reports/2019/4110/overview-spec-ed-110619.pdf>> (as of June 27, 2025).

Black students represent six percent of the overall student population but 9 percent of students with disabilities and Asian students represent six percent of the overall student population but 11 percent of the students with disabilities.⁴² Students who are English Language Learners, gender non-binary, and in foster care also have high rates of disability.⁴³ Moreover, the number of students with relatively severe disabilities has increased significantly, almost doubling since 2000-01, with a pronounced rise in autism diagnoses.⁴⁴ In the 2017-18 school year, about 1 in 50 California students had autism.⁴⁵

In the Santa-Monica Malibu School District, where Christopher and Christian Wong were enrolled, over 60 percent of students with disabilities are students of color.⁴⁶ Because most students with disabilities have multiple marginalized identities, they are among the most likely to experience discrimination at school. Applying a heightened animus standard would reduce accountability for violence against California's most vulnerable students.

⁴² *Id.* at p. 1.

⁴³ Cal. Dep't of Ed., California Annual Enrollment Data
<<https://www.cde.ca.gov/ds/ad/edtop.asp>> (as of June 27, 2025).

⁴⁴ Analyst Report, *supra* n. 35 at p. 9.

⁴⁵ *Ibid.*

⁴⁶ Cal. Dep't of Ed., Santa Monica-Malibu Unified Report 2023-24 Enrollment by Ethnicity
<<https://dq.cde.ca.gov/dataquest/dqcensus/enrethlevels.aspx?agglevel=District&year=2023-24&cde=1964980>> (as of June 27, 2025).

CONCLUSION

For the foregoing reasons, Amici respectfully urge the Court to continue safeguarding the breadth of California's civil rights laws and to implement the clear intent of the California Legislature. California has a responsibility to all of its residents, including students with disabilities, to ensure they are protected from violence and threats of violence. Amici respectfully request that the Court protect the State's longstanding commitment to expansive disability rights protections for all of its residents by not imposing a heightened animus standard for Ralph Civil Rights Act claims.

Dated: July 1, 2025

Respectfully submitted,

/s/ Jinny Kim
Jinny Kim
Francesca Simon
Disability Rights Education and Defense Fund

Attorneys for *Amici Curiae*

**STATEMENT OF COMPLIANCE WITH CAL. RULES OF COURT RULE
8.204(c)(1)**

The text in this proposed *Amici Curiae* brief consists of 8,703 words, including footnotes, as counted by the word processing program used to generate this document.

Executed on July 1, 2025, in San Francisco, California

/s/ Jinny Kim
Jinny Kim
Francesca Simon
Disability Rights Education and Defense Fund

Attorneys for Amici Curiae

PROOF OF SERVICE

I am employed in the County of Alameda, State of California. I am over the age of 18 and not a party to the within action; my business address is 3075 Adeline Street, Suite 210, Berkeley, CA 94703.

On the date set forth below, I served the foregoing document(s) described as follows:

APPLICATION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF IN SUPPORT OF PLAINTIFFS, RESPONDENTS AND CROSS-APPELLANTS CHARLES WONG, *ET AL.*

PROPOSED *AMICI CURIAE* BRIEF OF DISABILITY RIGHTS EDUCATION AND DEFENSE FUND, *ET AL.* IN SUPPORT OF PLAINTIFFS, RESPONDENTS AND CROSS-APPELLANTS CHARLES WONG, *ET AL.*

On the interested parties in this action addressed as follows:

SEE ATTACHED SERVICE LIST

✓ BY ELECTRONIC SERVICE VIA TRUEFILING, I caused the above-entitled document(s) to be served through TrueFiling at <https://www.truefiling.com> addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the TrueFiling Filing Receipt Page/Confirmation will be filed, deposited, or maintained with the original document(s) in this office.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on July 1, 2025 at San Francisco, California.

s/ Ally Cline
Ally Cline

SERVICE LIST

Charles Wong, et al. v. Santa Monica
Malibu Unified School District, et al.

(B327589 | 19STCV05418)

Marlon C. Wadlington, Esq.
Scott D. Danforth, Esq.
Kristin M. Myers, Esq.
ATKINSON, ANDELSON, LOYA,
RUUD & ROMO
12800 Center Court Drive South
Suite 300
Cerritos, CA 90703-9364
Telephone: (562) 653-3200 Email:
MWadlington@aalrr.com
SDanforth@aalrr.com
KMyers@aalrr.com

Attorneys for
Defendants, Appellants
and Cross-
Respondents SANTA
MONICA- MALIBU
UNIFIED SCHOOL
DISTRICT
and GALIT
GOTTLIEB

Edward L. Xanders, Esq.
Stefan C. Love, Esq.
GREINES, MARTIN, STEIN
& RICHLAND LLP
6420 Wilshire Blvd., Ste.1100
Los Angeles, CA 90048
Telephone: (310) 859-7811
Email: exanders@gmsr.com
slope@gmsr.com

Attorneys for
Defendants, Appellants
and Cross-
Respondents SANTA
MONICA- MALIBU
UNIFIED SCHOOL
DISTRICT
and GALIT
GOTTLIEB

Omar G. Qureshi, SBN 323493
QURESHI LAW PC
700 Flower Street, Ste. 1000 Los
Angeles, CA 90017 Telephone:
(213) 600-6096 Email:
omar@qureshi.law

***Attorneys for Plaintiffs,
Respondents and
Cross-Appellants*** C.N.,
by and through his
guardian ad litem,
Nadine Wong, and
Plaintiff C.R., by and
through his guardian ad
litem, Charles Wong

David W. German, SBN 252394
VANAMAN GERMAN LLP
14001 Ventura Blvd. Sherman
Oaks, CA 91423 Telephone:
(818) 990-7722
Email: dgerman@vanamangerman.com

***Attorneys for Plaintiffs,
Respondents and
Cross-Appellants*** C.N.,
by and through his
guardian ad litem,
Nadine Wong, and
Plaintiff C.R., by and
through his guardian ad
litem, Charles Wong

Holly N. Boyer, SBN 221788
Kiran R. Iyer, SBN 355440
Esner, Chang, Boyer & Murphy
234 East Colorado Boulevard,
Suite 975
Pasadena, California 91101
Telephone: (626) 535-9860
Email: hboyer@ecbm.law

***Attorneys for Plaintiffs,
Respondents and Cross-
Appellants*** C.N., by and
through his guardian ad
litem, Nadine Wong, and
Plaintiff C.R., by and
through his guardian ad
litem, Charles Wong