No. 25-7510

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

CALIFORNIANS FOR EQUAL RIGHTS FOUNDATION,

Plaintiff - Appellant,

vs.

MISTY HER, superintendent of the Fresno Unified School District; and VALERIE F. DAVIS, President of the Fresno Unified School District,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of California, Case No. 25-cv-00250-BAM
Hon. Barbara A. McAuliffe, United States Magistrate Judge

BRIEF OF *AMICI CURIAE* NATIONAL CENTER FOR YOUTH LAW, *ET AL.*

THIS BRIEF SUPPORTS AFFIRMANCE

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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9th Cir. Case Number(s) No. 25-7510

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Signature /s/ Patrick Burns **Date** April 15, 2026

*(use "*s/[typed name]*" to sign electronically-filed documents)*

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Statement of Identity, Interest and Authority

The National Center for Youth Law ("NCYL"), the Equal Justice Society ("EJS"), Public Advocates ("PA"), and California Rural Legal Assistance, Inc. ("CRLA") (collectively, "*Amici*") submit this amicus brief in support of Defendants-Appellees and affirmance. *Amici* represent legal organizations based in California that frequently work with local communities advocating for equal educational opportunities for students across all races and backgrounds.

The NCYL is a private, nonprofit legal organization that works to fundamentally transform our nation's approach to education, health, immigration, foster care, and youth justice. Among other extensive work in educational civil rights, NCYL served as counsel for plaintiffs challenging the seizure of Black students and other students for involuntary psychiatric examinations in *D.P. v. Sch. Bd. of Palm Beach*, 658 F. Supp. 3d 1187 (S.D. Fla. 2023); and currently serves as lead counsel for plaintiff families challenging the obliteration of the U.S. Department of Education's Office for Civil Rights in *A.W. v. U.S. Dep't of Education*, No. 1:25-cv-0744-PLF (D.D.C.). NCYL also co-authored a report documenting the continuing challenges facing Black students

and other historically marginalized students from disparate discipline practices in California schools, Flores, R. and Losen, D., "In Harm's Way: The Persistence of Unjust Discipline Experienced by California's Students," (Aug. 2025).

The EJS seeks to transform the nation's consciousness on race through law, social science, and the arts. EJS is a national nonprofit legal organization that works to dismantle structural and institutional racism and advance robust equal protection under the Fourteenth Amendment. EJS achieves its goals through impact and class action litigation, zealously fighting for its clients by taking on local, state, and federal agencies in order to protect the rights afforded by our federal and state constitutions. EJS represents students, parents and community organizations invested in the equal educational opportunity, growth and achievement of all students, particularly for students of color and students with disabilities who are disproportionately punished or excluded from classrooms in comparison with their white and non-disabled peers. EJS and its clients have won district-wide reform in multiple school districts to bring them into legal compliance, thereby protecting the rights of future students and entire communities.

PA is a nonprofit law firm and advocacy organization that challenges the systemic causes of poverty and racial discrimination by strengthening community voices in public policy and achieving tangible legal victories advancing education, housing, transportation equity, and climate justice. PA has advocated for educational equity for low-income students, students of color and English Learners for over 50 years since its founding in 1971 and the landmark *Serrano v. Priest* school funding case. 5 Cal. 3d 584 (1971). Over the last 30 years, PA successfully advocated for and implemented numerous equitable policies and programs, like the A4 program in this case, without running afoul of either the limitations on race-conscious remedies imposed by Proposition 209 or the Equal Protection Clause of the U.S. Constitution.

In *Williams v. California,* for example, PA challenged the state for denying thousands of California students their fundamental right to an education, resulting in an historic settlement equalizing access to basic educational necessities like qualified teachers, decent facilities and instructional materials for students of color and low-income students across the state. No. CGC-00-312236 (Cal. Super. Ct.). In 2013, PA advocated for the passage of one of the most progressive school funding

formulas in the country, the Local Control Funding Formula (LCFF), which provides funding to schools based on student poverty, English Learner or foster youth status and requires districts to take corrective action when disparities exist in learning outcomes among student subgroups. Most recently, PA brought suit in *Rodriguez et al. v. State of California,* No. 25CV150626 (Cal. Super. Ct.), a case challenging the state's distribution scheme for capital modernization funding as unconstitutional wealth-based discrimination, disadvantaging low-income students and students of color. Public Advocates has both relevant expertise in and an interest in ensuring the courts maintain broad access to effective and constitutional educational school district-based equity initiatives.

CRLA is a nonprofit legal services organization that serves low-income families in 21 California counties. Since 1966, CRLA has provided no-cost legal services and education to tens of thousands of rural, low-income Californians and litigates cases that benefit even more. To address educational gaps in rural communities that unfairly harm vulnerable student groups, CRLA represents public school students and their families in a variety of actions in trial and appellate

courts and in administrative law proceedings. These matters include discriminatory discipline, school funding, special education, gaps in language access, bullying, harassment, and other educational issues.

The *Amici* affirm that no counsel for any party has authored this brief in whole or in part, and no person other than the *Amici* or their counsel has made any monetary contribution to the preparation or submission of this brief. Fed. R. App. P. 29(a)(4)(E). All parties have consented to the filing of this brief. Fed. R. App. P. 29(a)(2), (a)(4)(D); Ninth Circuit Rule 29-1(a).

Introduction and Summary of the Argument

Academic support programs aimed at addressing systemic disparities facing students of color and others struggling to succeed in public schools offer students of all backgrounds a chance to improve their educational performance by accessing certain educational benefits, including participation in after-school reading programs. Because such programs, including the one at issue, are open and inclusive to all students and do not apply racial classifications for entry, any plaintiff challenging the program and alleging equal protection violations must show an inability to access it. Appellant California for Equal Rights Foundation's ("CFER") fails to do so here.

This Court should affirm the district court's decision dismissing this case. Allowing the case to move forward with such bare, conclusory allegations could place at risk several other well-intentioned, inclusive, and nondiscriminatory programs helping to improve learning and ensuring equal educational opportunities for all students, including students of color—lawful programs that *Amici* and other advocates often promote in schools.

The Fresno Unified School District's (the "District") accelerated program, formerly known as the African American Academic Acceleration program[1] (the "A4 program"), is dedicated to equipping students, parents, and families with resources and support so that struggling students can achieve in education at higher levels. The design of the A4 program is consistent with the Elementary and Secondary Education Act, as amended, which requires states and local education agencies to establish "long-term goals ... for all students and separately for each subgroup of students" and track progress toward closing achievement gaps. 20 U.S.C. § 6311(c)(4)(A).

In the 2023-24 academic year, the racially inclusive A4 program served more than 1,200 African American students and nearly 8,000 students of all racial and ethnic backgrounds. The District's A4 Department website explains that any student, regardless of their race, can participate in the A4 program.

Purported non-African American students who are the children of members of CFER never applied to the program and were not denied

[1] "The program has since been renamed the "Advancing Academic Acceleration & Achievement" program, while continuing to be referred to as "A4."

access to it. In the lawsuit brought below, CFER fails to allege any existing racial barrier that prevents its members' children from competing on equal footing in the A4 program, much less that they are in need of accelerated learning. At best, some members "would likely" "be interested in the A4 Office's programs."

Nevertheless, CFER challenges the A4 program as discriminatory in a complaint bereft of facts alleging the requisite injury in fact, traceability, and redressability factors to establish Article III standing. The district court gave CFER an opportunity to amend its complaint, but it refused.

Now, in this appeal, CFER argues that the district court failed to apply the appropriate standing analysis. CFER seeks to avail itself of the relaxed standing requirements applied to the injury in fact analysis in cases challenging race-based programs that "erect[] a barrier that makes it more difficult for members of one group to obtain a benefit than it is for members of another group." *Northeastern Fla. Chapter of Associated Gen. Contractors of Am. v. City of Jacksonville, Fla.*, 508 U.S. 656, 666 (1993).

As discussed further below, the district court correctly rejected CFER's argument, holding that it failed to allege any race-based barrier preventing the children of CFER's members from competing on equal footing for entry into the program, and, in turn, failed to carry its burden of demonstrating sufficient facts supporting any concrete, particularized, and impending injury. CFER's complaint does not, and cannot, allege any barrier to enter the A4 program and its generalized grievances with the A4 program cannot withstand a traditional standing analysis for its members and, therefore, its organization.

But CFER is not alone. Courts across the country have dismissed similar lawsuits by other plaintiffs to educational diversity programs, often concluding that such lawsuits were based on allegations of speculative harm that had not yet occurred. These plaintiffs frequently have not sought access nor been denied access to such programs, and there were frequently no existing classification barriers that put the plaintiffs on unequal footing to compete. Like CFER here, they cannot skip the line into court by broadly alleging discrimination.

Accordingly, *Amici* respectfully request that this Court affirm the decision below.

Argument

I. CFER Cannot Establish Injury in Fact for Article III Standing

A. Courts Do Not Apply the Lesser "Able and Ready" Standard for Alleging an Injury in Fact to Policies and Programs That Do Not Erect Barriers to Access.

Article III of the United States Constitution limits the jurisdiction of the district court to cases and controversies. "[S]tanding is an essential and unchanging part of the case-or-controversy requirement of Article III." *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992). To establish Article III standing, a plaintiff must allege that it: "(1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision." *Spokeo, Inc. v. Robins,* 578 U.S. 330, 338 (2016).

To satisfy the first element for an injury in fact, "a plaintiff must show that he or she suffered 'an invasion of a legally protected interest' that is 'concrete and particularized' and 'actual or imminent, not conjectural or hypothetical.'" *Id.* at 339.

For certain equal protection claims, the Supreme Court has explained that the injury in fact element "is the denial of equal

treatment resulting from the imposition of the barrier, not the ultimate inability to obtain the benefit." *City of Jacksonville*, 508 U.S. at 666.

But that standard applies only when there is a *discriminatory* policy or program that erects an actual barrier in the first place, such as racial set-aside programs, quotas, or automatic bonus points. *See, e.g., Carroll v. Nakatani*, 342 F.3d 934, 941 (9th Cir. 2003) (explaining in challenge to programs reserved only for Native Hawaiians and seeking forward-looking relief, "the injury is not the inability to obtain the benefit, but the inability to compete on an equal footing."); *see also Dragovich v. U.S. Dep't of the Treasury*, 764 F. Supp. 2d 1178, 1187 (N.D. Cal. 2011) (noting that in an equal protection challenge, the Ninth Circuit applies an "able and ready" standard when a " plaintiff sufficiently alleges injury [from] a discriminatory policy [that] has interfered with the plaintiff's otherwise equal ability to compete for the program benefit.").

In other words, a plaintiff seeking to apply the "able and ready" standard to allege an injury in fact must first show a *discriminatory* policy that erects a "barrier that makes it more difficult for members of

one group to obtain a benefit than it is for members of another group." *City of Jacksonville, Fla.*, 508 U.S. at 666.

Here, CFER must at least adequately allege that the A4 program is a race-based discriminatory program with a barrier erected to exclude students based on race and that its members did not apply because of the government-erected barrier. CFER has failed to do so, as explained in the next section.

B. CFER's Allegations Are Grossly Insufficient to Invoke *City of Jacksonville* and to Satisfy Its Standing Burden.

CFER primarily argues in its opening brief that the district court applied the incorrect legal standard because subjecting individuals to a "racial classification," only requires a showing that the plaintiff was denied equal treatment. Appellant's Opening Brief, ECF No. 10 ("AOB") 13–23. CFER contends that it has standing because the District is promoting the A4 programs in a "race-based manner that denies non-black students equal treatment." (AOB 11.)

But that argument fails for at least four reasons. First, CFER applies the incorrect legal standard, seeking to import *City of Jacksonville* here to avail itself of reduced scrutiny on standing. Second,

CFER bears the burden of satisfying standing (*Lujan*, 504 U.S. at 560), and it has failed miserably with its allegations of, at best, imprecise, speculative, and non-particularized injuries based on conjecture. Third, because federal law anticipates and requires state and local education agencies to address gaps in student group performance including racial groups, CFER's generalized grievances with the design and marketing of the A4 program are especially deficient for standing. Finally, competent evidence in the record demonstrates that the A4 program is open and inclusive to all and, as noted above, CFER has not alleged any *discriminatory* policy that erects a "barrier that makes it more difficult for" non-African American students and children of members of CFER to gain access compared to African American students. *City of Jacksonville, Fla.*, 508 U.S. at 666. In fact, it is not a barrier at all because all students may participate. Therefore, CFER must show more than simply the "inability to compete on an equal footing," that would apply if the A4 program was discriminatory. *Carroll*, 342 F.3d at 941.

On the first point, CFER acknowledges that the Supreme Court has held that when the government "erects a barrier that makes it more difficult for members of one group to obtain a benefit than it is for

members of another group,' the 'injury in fact' is 'the denial of equal treatment resulting from the imposition of the barrier, not the ultimate inability to obtain the benefit." AOB 15 (citing *City of Jacksonville*, 508 U.S. at 666). CFER proffers that because it alleges that the District engages in discrimination in the A4 program, it need only allege that its members were denied equal treatment. AOB 15.

However, the courts have never applied *City of Jacksonville* and its progeny so loosely. If that was the case, plaintiffs claiming discrimination against any program or policy would need only allege such bare, conclusory facts of purported injuries. But that is not so. Instead, the courts have applied *City of Jacksonville* only in cases where a government actor creates a racial classification barrier that does not allow members of one group to obtain a benefit that others can obtain. *See, e.g., Adarand Constructors, Inc. v. Pena*, 515 U.S. 200, 210–11 (1995) (applying *City of Jacksonville* injury in fact analysis to race-based presumptions in awarding government contracts); *Haaland v. Brackeen*, 599 U.S. 255, 292 (2023) (applying *City of Jacksonville* to Indian Child Welfare Act's preference for Native American placements but denying standing on redressability).

CFER offers no such allegations here and indeed, concedes that it does not. AOB 24. Its argument fails.

Secondly, regardless of what standard applies, CFER cannot get around its own deficient, conclusory, and generalized allegations that fail to demonstrate injury in fact. The district court correctly determined that CFER failed to establish the requisite injury in fact, much less traceability or redressability. ER-74–86; *see also* Appellees' Answering Brief ("AAB") at 37–61. None of CFER's members have been adversely impacted by the A4 program, and the complaint does not allege that any specific child of CFER's members was denied access to the A4 program or was directed to non-A4 programs. ER-75–76. The district court rightly concluded that CFER "does not allege how its members were specifically harmed by lack of access to the A4 programs." ER-76. Similarly, the district court properly recognized there was no *imminent* injury alleged in the complaint. ER-76–78. *Amici* agree that plaintiffs seeking forward-facing injunctive relief need only show that its injuries are likely to occur in the future, but such plaintiffs still carry the burden of demonstrating that the risk of harm is "sufficiently imminent and substantial." *TransUnion LLC v. Ramirez*,

594 U.S. 413, 435 (2021). CFER's allegations that its members children "would likely be interested" in the A4 programs are a far cry from establishing that the purported risk of harm is imminent and substantial. ER-78.

Thirdly, CFER's generalized grievances to the design and promotion of the A4 program not only fail to provide specific allegations identifying the harm suffered by any of CFER's members (ER-75–76), but these grievances also fail to account for how the A4 program is consistent with federal laws aimed at ensuring equal educational opportunities for all students. Congress has enacted a series of statutes designed to ensure that states and school districts do not overlook the needs of students who struggle academically, including those who have been historically, and presently, underserved such as students from families experiencing economic hardship, students from different racial and ethnic groups, English learners, and students with disabilities. Those federal efforts reflect a longstanding legislative approach that equal opportunity in education requires attention to disparities in access and outcomes across defined student populations. Under the Elementary and Secondary Education Act, as amended, states must

implement accountability systems that measure performance "for all students and separately for each subgroup of students," including "economically disadvantaged students," "students from major racial and ethnic groups," "children with disabilities," and "English learners." 20 U.S.C. § 6311(b)(2)(B)(xi)(I)–(VI). These systems must also establish "long-term goals ... for all students and separately for each subgroup of students" and track progress toward closing achievement gaps. 20 U.S.C. § 6311(c)(4)(A)(i).

In this way, federal law requires states and districts to identify disparities and take steps to address them within a framework that evaluates outcomes for all students.[2] The A4 program, which remains open to students across backgrounds requiring additional assistance,

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[2] To assist the U.S. Department of Education in achieving its mission to ensure equal access to education and to promote educational excellence across the country, federal law further mandates that the U.S. Department of Education require certain grant applicants "to develop and describe in such applicant's application the steps such applicant proposes to take to ensure equitable access to, and equitable participation in, the project or activity to be conducted with such assistance, by addressing the special needs of students, teachers, and other program beneficiaries in order to overcome barriers to equitable participation, including barriers based on gender, race, color, national origin, disability, and age." 20 U.S.C. 1228a.

fits within Congress's lawful statutory framework. Accordingly, CFER's generalized grievances are even more problematic as they run afoul of congressional statutes aimed at securing educational opportunity for all students.

Finally, CFER's lawsuit fails because its allegations are grossly deficient as discussed further above and in Appellees' Answering Brief. Its allegations of disparate treatment lack specificity and fail to demonstrate individualized harm. Should the Court address the lower court's judicial notice ruling as to consideration of public information on the A4 program on the District's website, such evidence further diminishes CFER's purported injury in fact allegations.

CFER argues that the district court erred by taking judicial notice of the District's A4 Department website. AOB 30–34. Not so. Judicial notice of the website was appropriate because CFER also sought to excerpt statements from the website in support of its claims and made them part of its allegations in the complaint; this Court has previously taken judicial notice of materials that are also relied on in the body of a complaint where no party has challenged the authenticity of the materials. *In re Zynga Privacy Litig.*, 750 F.3d 1098, 1101 (9th Cir.

2014); *see also Marder v. Lopez*, 450 F.3d 445, 448 (9th Cir. 2006) ("A court may consider evidence on which the complaint 'necessarily relies' if: (1) the complaint refers to the document; (2) the document is central to the plaintiff's claim; and (3) no party questions the authenticity of the copy attached to the 12(b)(6) motion."). As the district court rightly recognized, CFER did not challenge the authenticity of the A4 Department website. ER-72. The documents are therefore subject to judicial notice, and the Court may consider them in analyzing the standing requirement.

The records judicially noticed include facts demonstrating that the A4 program is open and inclusive to all students. As the district court noted, the A4 program does not "impose any racial restriction or deny access," to any student. ER-8, 69–70. Moreover, the "A4 [program] has served 7,950 students of all racial and ethnic backgrounds," of which only 1,212 students were African American. ER-8–9, 56–57. African American students comprise only 23% of the total of enrolled students in the A4 program. ER-56. The District's A4 program website also makes clear that it is open and available to all students. ER-54.

In summary, Plaintiff's theory of injury is untethered to any actual exclusion from participation, relying instead on allegations that certain students were not informed about or did not pursue available programming. See ER-129–136. That theory does not transform a broadly available educational program into unlawful discrimination.

Accordingly, contrary to CFER's argument in this appeal, its broader allegations asserted in the lawsuit fail to demonstrate any actual injury stemming from a racial barrier that inhibits its members' children's participation on equal footing in the A4 program with African American students. CFER further fails to allege any injury or unequal treatment that is concrete and suffered by its non-African American members' children based on their race. Any purported, generalized injuries claimed by CFER are unsupported and, at best, self-inflicted by failing to apply to the A4 program, lacking any traceability to the acts complained of by the District. *See, e.g., Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 416 (2013) (citations omitted) (dismissing case on standing, in part, on grounds that plaintiff's members manufactured their injuries, the injuries were not impending, and such injuries were not fairly traceable to the challenged policy).

Therefore, this Court should affirm the district court's conclusion that CFER failed to allege an injury in fact and failed to show Article III standing.

C. Courts Across the Nation Have Dismissed Similar Challenges to Diversity Programs in Education on the Basis that the Allegations Were Speculative and Failed to Allege Concrete and Imminent Injuries.

In the wake of the Supreme Court's ruling in *Students for Fair Admissions, Inc. v. Pres. & Fellows of Harvard Coll.,* 600 U.S. 181 (2023) striking down race-based affirmative action admissions program at Harvard College and the University of North Carolina, various plaintiffs have filed discrimination lawsuits across the country targeting race-based and race-conscious programs, as well as diversity, equity, and inclusion programs.[3] Like CFER here, other plaintiffs have challenged various programs and policies that do not expressly present racial barriers for challengers to compete on an equal basis or where plaintiffs have not demonstrated that they are able and willing to apply. And like the lower court here, many federal courts across the country

[3] *See, e.g.,* Hinojosa, D. & Jones, C., *Overturning SFFA v. Harvard*, The Scholar, Vol. 26, No. 3 (2024) 272–78 (discussing various lawsuits across education, employment, and contracts spurred by *Harvard* decision).

have routinely dismissed similar claims and lawsuits on standing where plaintiffs challenging diversity-related programs fail to allege a concrete injury and personal denial of an opportunity to compete.

For example, in *Faculty, Alumni, & Students Opposed to Racial Preferences (FASORP) v. New York University,* the plaintiff organization composed of students and faculty challenged the university's policy of including nonspecific race and gender considerations in its editor and selection process for law review positions and law review articles under Title VI of the Civil Rights Act and Title IX of the Education Amendments. 11 F.4th 68, 71–72 (2d Cir. 2021). The Second Circuit affirmed the district court's order denying standing. First, the Court held that FASORP failed to identify any specific members suffering the requisite harm. Mere allegations of individuals who planned to submit articles in the future or persons who planned to apply for faculty positions were insufficient. *Id.* at 75–76. Next, the Court concluded that FASORP's pleadings failed to allege the requisite injury in fact. The court noted that the allegations were based on "uncertain future action," and showed no harm had occurred to the members of the

organization. *Id.* at 76–77. Therefore, the allegations were insufficient to plead actual or imminent injury. *Id.* at 76–77.

A successive lawsuit was brought against N.Y.U. by an anonymous student plaintiff on behalf of a putative class challenging the law review's alleged preferential treatment for women, non-Asian, homosexual, and transgender applicants. *Doe v. New York Univ.*, No. 23-CV-10515, 2024 WL 2847368, at *4–5 (S.D.N.Y. May 30, 2024). Plaintiff's allegations of harm based on how he expected to be treated differently based on his race, sex, and gender as a white, heterosexual male in the application process—for which he had not yet applied—were held to be too speculative and insufficient to establish standing. *Id.* at *5. The Court also rejected the plaintiff's argument that he was denied the opportunity to compete on equal footing, finding that he lacked "any well-pleaded allegations of a discriminatory selection process" and that his "purported injury likewise rests on nothing more than speculation and conjecture." *Id.*

Several other courts have similarly dismissed cases by plaintiffs charging discrimination but failing to satisfy requisite standing. *See, e.g., Lowery v. Texas A&M Univ.*, No. 23-20481, 2024 WL 4614714, at *1

(5th Cir. Oct. 30, 2024) (affirming dismissal of a professor's lawsuit against Texas A&M University alleging discrimination in hiring practices for professorships on the basis of race and sex, concluding that the professor failed to submit an application to substantiate his interest in applying for a professorship); *Fac., Alumni, & Students Opposed to Racial Preferences v. Northwestern Univ.*, No. 25 C 1129, 2026 WL 252514, at *1, *7–10 (N.D. Ill. Jan. 22, 2026) (granting dismissal in a lawsuit brought by faculty members alleging Northwestern University discriminates against heterosexual, cisgender white men based on entry-level and faculty hiring process and selection of members for the law review, holding that the plaintiffs failed to allege injuries to members demonstrating associational standing); *Fac., Alumni, & Students Opposed to Racial Preferences v. Harv. L. Rev. Ass'n*, No. 18-12105-LTS, 2019 WL 3754023, at *5–6 (D. Mass. Aug. 8, 2019) (granting motion to dismiss for lack of standing in lawsuit alleging discrimination based on race and sex in Harvard University's hiring practices, determining that the allegations were based on speculation and suspicion).

The reasoning in these cases supports affirmance of the district court's ruling here. CFER has failed to allege that any of its members' non-African American children suffered any concrete injury, were harmed by a government-erected barrier, or were denied entry into the A4 program. Its allegations that its members' children "would likely benefit" from the programs but were not informed of them, are prime examples of allegations of harm that are speculative and based on conjecture—not allegations showing a concrete, particularized, and imminent injury. This Court should affirm.

Conclusion

For all of the foregoing reasons, *Amici* respectfully request that this Court affirm the order below and conclude CFER lacks standing by failing to establish an injury in fact, traceability, and redressability under Article III.

DATED: April 15, 2026 HANSON BRIDGETT LLP

By: /s/ *Patrick Burns*
Patrick Burns
Shandyn H. Pierce

Attorneys for *Amici Curiae*
National Center for Youth Law, *et al.*

Statement of Related Cases

Amici are not aware of any related cases pending before the Court.

DATED: April 15, 2026

HANSON BRIDGETT LLP

By: /s/ *Patrick Burns*
Patrick Burns
Shandyn H. Pierce

Attorneys for *Amici Curiae*
National Center for Youth Law, *et al.*

Certificate of Compliance

Pursuant to Fed. R. App. P. 32(a)(7) and Ninth Circuit Rule 32-1, I certify that the attached brief is proportionally spaced, has a typeface of 14 points and contains 6,012 words.

DATED: April 15, 2026 HANSON BRIDGETT LLP

By: /s/ *Patrick Burns*
Patrick Burns
Shandyn H. Pierce

Attorneys for *Amici Curiae*
National Center for Youth Law, *et al.*

Certificate of Service

In accordance with Federal Rule of Appellate Procedure 25, I hereby certify that I electronically filed this Brief with the Clerk of court for the U.S. Court of Appeals for the Ninth Circuit by using the CM/ECF system on April 15, 2026. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

DATED: April 15, 2026 HANSON BRIDGETT LLP

By: /s/ *Patrick Burns*
Patrick Burns
Shandyn H. Pierce

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