

1 Eric P. Early, State Bar Number 166275  
eearly@earlysullivan.com  
2 Peter Scott, State Bar Number 247786  
pscott@earlysullivan.com  
3 EARLY SULLIVAN WRIGHT  
GIZER & McRAE LLP  
4 6420 Wilshire Boulevard, 17<sup>th</sup> Floor  
Los Angeles, California 90048  
5 Telephone: (323) 301-4660  
Facsimile: (323) 301-4676  
6

7 Attorneys for Plaintiff  
FAIR EDUCATION SANTA BARBARA

8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10  
11 FAIR EDUCATION SANTA  
BARBARA, INC., a 501(c)(3)  
12 organization

13 Plaintiff,

14 vs.

15 SANTA BARBARA UNIFIED  
SCHOOL DISTRICT, a public school  
16 district; and JUST COMMUNITIES  
CENTRAL COAST, INC., a  
17 501(c)(3) organization,

18 Defendants.  
19

Case No.: 2:18-cv-10253-SVW-PLA

**PLAINTIFF’S NOTICE OF  
MOTION AND MOTION FOR  
PRELIMINARY INJUNCTION**

**[Declaration of Peter Scott in  
Support Thereof]**

The Honorable Stephen V. Wilson

Date: January 14, 2019  
Time: 1:30 PM  
Courtroom: 10A

Trial Date: None Yet

1 **TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that, on January 14, 2019, at 1:30 p.m., or as  
3 soon thereafter as the Court can consider the matter, in Courtroom 10A of the  
4 above-captioned Court, located at 350 W. 1<sup>st</sup> Street, 10<sup>th</sup> Floor, Los Angeles,  
5 California 90012, the Honorable Stephen V. Wilson presiding, plaintiff Fair  
6 Education Santa Barbara, Inc. (sometimes referred to herein as “Plaintiff” or “Fair  
7 Education SB”) pursuant to Federal Rule of Civil Procedure 65, will and hereby  
8 does apply to this Court for a Preliminary Injunction Order enjoining defendants  
9 Santa Barbara Unified School District and Just Communities Central Coast, Inc.  
10 (collectively, “Defendants”) from further action or expenditure under the October 9,  
11 2018 contract for services between the Santa Barbara Unified School District  
12 (“SBUSD”), on the one hand, and Just Communities Central Coast, Inc. (“JCCC”),  
13 on the other hand (the “JCCC Contract”), a copy of which is included with the  
14 concurrently filed Declaration of Peter Scott as Exhibit L.

15 Unless enjoined by this Court, Defendants will proceed further under an  
16 illegal and void contract for JCCC to provide purported “unconscious bias” and  
17 “inclusivity” training for teachers and students of the Santa Barbara Unified School  
18 District. Several of Plaintiff’s claims in this action are directed toward the unlawful  
19 and unconstitutional discriminatory nature of JCCC’s “training” programs  
20 (“JCCC’s Indoctrination Programs”). The JCCC Contract also is void and  
21 terminable for being entered in violation of California Public Contract Code §  
22 20111. In this regard, the SBUSD failed to open the contract for public bidding as  
23 required by law. The relief sought by the instant motion is based on Fair Education  
24 SB’s Sixth Claim for Relief for Violation of Public Contract Code § 20111 and is  
25 based on these public bidding violations.

26 In the context of the awarding of government contracts, Federal Courts have  
27 repeatedly held that “[i]rreparable harm is established by a lost opportunity to fairly  
compete.” *BINL, Inc. v. U.S.*, 106 Fed. Cl. 26, 49 (Fed. Cir. 2012) (“A lost

1 opportunity to compete in a fair competitive bidding process for a contract is  
2 sufficient to demonstrate irreparable harm.”); *Palantir USG, Inc. v. United States*,  
3 129 Fed. Cl. 218, 291 (Fed. Cir. 2016); *HP Enterprise Services, LLC v. United*  
4 *States*, 104 Fed. Cl. 230, 245 (Fed. Cir. 2012). *See also, Eel River Disposal &*  
5 *Resource Recovery, Inc. v. County of Humboldt*, 221 Cal. App. 4th 209, 239 (2013)  
6 (the most effective enforcement of the competitive bidding law is to enforce by  
7 injunction).

8 Plaintiff Fair Education Santa Barbara has also recently uncovered serious  
9 conflicts of interest between the SBUSD school board (the “Board”) (that recently  
10 rubber-stamped the approval of the JCCC Contract) and JCCC itself, including  
11 without limitation, that a present sitting Board member, and the current SBUSD  
12 Assistant Superintendent (both of whom actively lobbied for SBUSD’s entry into  
13 the JCCC Contract), were both *paid* employees of JCCC less than two years ago.  
14 Several other such conflicts exist -- none of which were disclosed to the public  
15 despite express requirements to do so by SBUSD’s governing rules and regulations.  
16 These conflicts help explain the obvious favoritism show JCCC by SBUSD. “The  
17 purpose of requiring governmental entities to open the contracts process to public  
18 bidding is to eliminate favoritism, fraud and corruption; avoid misuse of public  
19 funds; and stimulate advantageous market place competition.” *Konica Bus.*  
20 *Machines USA Inc. v. The Regents Of The University of California*, 206 Cal. App.  
21 3d 449, 456 (1988) (citations omitted).

### 22 **Preliminary Injunction**

23 Fair Education Santa Barbara respectfully seeks a preliminary injunction to  
24 maintain the *status quo* until such time as a trial on the merits of the action can  
25 determine among other things, and without limitation, whether the JCCC Contract  
26 is illegal and void under California Public Contract Code § 20111 and California  
27 Government Code § 53060. Plaintiff thus seeks a preliminary junction ordering  
SBUSD and JCCC and any successors, agents, servants, employees, attorneys, and

1 all persons in active concert therewith, to refrain from taking any further action  
 2 under the JCCC Contract, including without limitation, restraining SBUSD from  
 3 paying any further amounts to JCCC under the JCCC Contract, and restraining  
 4 JCCC from providing any more services or programs called for under the JCCC  
 5 Contract. It is Plaintiff's understanding that the next major instructional program to  
 6 be presented under the JCCC Contract -- called the Institute for Equity in Education  
 7 -- is scheduled for March 11 through 19, 2019. In addition to all of the grounds  
 8 supporting the requested injunction, an injunction at this time also will prevent  
 9 JCCC and the SBUSD from further financial outlays, and prevent Defendants from  
 10 using such as a pretext to try to avoid the requested relief.

11 In support of this Motion, Plaintiff Fair Education Santa Barbara submits the  
 12 accompanying Memorandum of Points and Authorities, Declaration of Peter Scott  
 13 and accompanying exhibits, the Complaint filed in this case, and any further  
 14 briefing, argument or evidence as may be presented before and at the hearing of this  
 15 matter.

16

17 Respectfully submitted,  
 18 EARLY SULLIVAN WRIGHT  
 19 GIZER & McRAE LLP

18 Dated: December 13, 2018

20  
 21 By: /s/ Eric Early  
 22 Eric P. Early  
 23 Peter Scott  
 24 Attorneys for Plaintiff  
 25 FAIR EDUCATION SANTA  
 26 BARBARA, INC.

27

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**TABLE OF CONTENTS**

Page

I. INTRODUCTION .....9

II. FACTUAL BACKGROUND ..... 11

    1. The Parties ..... 11

    2. JCCC’s Discriminatory Curriculum ..... 12

    3. The JCCC Contract..... 14

        a. The September 11, 2018 Board Meeting ..... 14

        b. The October 9, 2018 Board Meeting..... 16

III. ARGUMENT ..... 16

    A. Legal Standard ..... 16

    B. Plaintiff Will Likely Succeed On The Merits Of Its Claim For  
Violation Of California Public Contract Code § 20111 ..... 17

        1. The JCCC Contract *Does Not* Involve “Special Services” ..... 18

            a. Scores of Vendors Provide Implicit Bias and  
Diversity Training ..... 20

            b. The Subject Services Require No Special Licensing,  
Registration, Certification or Qualifications ..... 22

            c. The Services in Question Are Not “Temporary” ..... 22

            d. The Public Bidding Requirement Also Exists To  
Prevent Just The Sort of Favoritism Occurring Here..... 23

            e. Arguments Previously Made By The SBUSD to  
Avoid The Public Bidding Requirement Are  
Unavailing ..... 23

    C. Plaintiff Will Suffer Irreparable Harm In The Absence Of The  
Requested Relief ..... 25

    D. The Balance Of Hardships Tips Strongly In Plaintiff’s Favor ..... 27

1 E. Preliminary Relief Serves The Public Interest.....28

2 IV. CONCLUSION .....28

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

**TABLE OF AUTHORITIES**

Page

**Cases**

*Accord Exodus Refugee Immigration, Inc. v. Pence*,  
 165 F. Supp. 3d 718 (S.D. Ind. 2016), aff’d, 838 F.3d 902 (7<sup>th</sup> Cir. 2016)..... 11

*Alliance for the Wild Rockies v. Cottrell*,  
 632 F.3d 1127 (9th Cir. 2011) ..... 17

*Amelco Electric v. City of Thousand Oaks*,  
 27 Cal. 4th 228 (2002) ..... 26

*BINL, Inc. v. U.S.*,  
 106 Fed. Cl. 26 (Fed. Cir. 2012)..... 1, 11, 26

*Cammack v. Waihee*,  
 932 F.2d 765 (1991)..... 27

*City of Inglewood-Los Angeles County Civic Center Auth. V. Superior Court of  
 Los Angeles County*,  
 7 Cal. 3d 861 (1972) ..... 29

*Doe v. Wood County Bd. Of Educ.*,  
 888 F.Supp. 2d 771 (USDC S.D. West Virginia)..... 11

*Eel River Disposal & Resource Recovery, Inc. v. County of Humboldt*,  
 221 Cal. App. 4th 209 (2013) ..... 2, 27

*HP Enterprise Services, LLC v. United States*,  
 104 Fed. Cl. 230 (Fed. Cir. 2012)..... 1, 27

*J.A.W. v. Evansville Vanderburgh School Corporation*,  
 323 F. Supp. 3d 1030 (USDC S.D. Ind. 2018) ..... 11

*Jaynes v. Stockton*,  
 193 Cal. App. 2d 47 (1961) ..... 20, 21

*Johnson v. Macy*,  
 145 F. Supp. 3d 907 (C.D. Cal. 2015) ..... 17

1 *Kajima v. Los Angeles County Metropolitan Transp. Authority,*  
 2 23 Cal. 4th 305 (2000) .....26, 27  
 3 *Klinger v. City of Fayetteville,*  
 4 293 Ark. 128 (1987).....22  
 5 *Konica Bus. Machines USA Inc. v. The Regents Of The University of California,*  
 6 206 Cal. App. 3d 449 (1988) .....26, 27  
 7 *Layman’s Security Company v. Water Works And Sewer Board of the City of*  
 8 *Prichard, 547 So. 2d 533 (Ala. 1989) (overruled on other grounds by Ex Parte*  
 9 *Ballev, 771 So. 2d 1040 (Ala. 2000).....22*  
 10 *Lopez v. Heckler,*  
 11 725 F.2d 1489 (9th Cir. 1984) ..... 17  
 12 *Marshall v. Pasadena Unified School Dist.,*  
 13 119 Cal. App. 4th 1241 (2004) ..... 19  
 14 *McCormick v. Sch. Dist. Of Mamaroneck,*  
 15 370 F.3d 275 (2d Cir. 2004)..... 11  
 16 *MCM Construction, Inc. v. City and County of San Francisco,*  
 17 66 Cal. App. 4th 359 (1998) ..... 18  
 18 *Miller v. McKinnon,*  
 19 20 Cal. 2d 83 (1942) .....10, 18, 26, 27  
 20 *Pacificorp Capital, Inc. v. City of New York,*  
 21 741 F. Supp. 481 (S.D. N.Y. 1990) .....22  
 22 *Palantir USG, Inc. v. United States,*  
 23 129 Fed. Cl. 218 (Fed. Cir. 2016)..... 1, 27  
 24 *Service Employees Internat. Union v. Board of Trustees,*  
 25 47 Cal. App. 4th 1661 (1996) .....24, 25  
 26 *Stormans, Inc. v. Selecky,*  
 27 586 F.3d 1109 (9th Cir. 2009) ..... 17



1 *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*,

2 240 F.3d 832 (9th Cir. 2001) ..... 17

3 *Transportation Displays, Inc. v. City of New Orleans*,

4 346 So. 2d 359 (La. Ct. App. 4th Cir. 1977) ..... 22

5 *U.S. Philips Corp. v. KBC Bank N.V.*,

6 590 F.3d 1091 (9th Cir. 2010) ..... 17

7

8 **Statutes**

9 Cal. Corp. Code § 13401(a)..... 25

10 Cal. Education Code § 81676.5 ..... 25

11 Cal. Government Code § 53060 ..... 2, 9, 19, 20, 24, 25

12 Cal. Pub. Con. Code § 20111 ..... 1, 2, 9, 10, 18, 19, 25, 28

13 Internal Revenue Code Section 501(c)(3) ..... 11, 12

14

15 **Rules**

16 FRCP § 65..... 1

17

18

19

20

21

22

23

24

25

26

27

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 This case concerns the Santa Barbara Unified School District’s (“SBUSD”) 4 contracting with an organization calling itself Just Communities Central Coast, Inc. 5 (“JCCC”). The contract was entered by SBUSD’s Board on October 9, 2018. 6 JCCC purports to provide so-called “diversity”, “inclusivity” and “unconscious 7 bias” training to SBUSD staff and students. As set forth in Fair Education SB’s 8 recently filed complaint and explained hereinbelow, JCCC’s program – which is 9 taught to the teachers and students of the SBUSD – is manifestly discriminatory and 10 in violation of several bedrock tenets of the United States and California 11 Constitutions. The injunctive relief requested herein focuses on SBUSD’s failure to 12 submit the JCCC Contract for public bidding as required by California Public 13 Contract Code § 20111 and California Government Code § 53060. Because JCCC 14 does not provide “special services” (as set forth in § 53060 and relevant case law), 15 SBUSD was required to submit the contract for public bidding pursuant to Public 16 Contract Code § 20111. That did not occur and thus, pursuant to Fair Education 17 SB’s Sixth Claim for Relief, the JCCC Contract is void as a matter of law.

18 To make matters worse, major conflicts of interest existing between SBUSD 19 on the one hand, and JCCC on the other hand, underlie the rampant favoritism 20 shown JCCC by SBUSD. There is a virtual revolving door of people who have 21 provided paid services to both Defendants. The statutory public bidding 22 requirement seeks among other things, to prevent such favoritism.

23 We note that Fair Education Santa Barbara is an organization of concerned 24 Santa Barbara taxpayers and parents of SBUSD students that *is not* opposed to 25 unconscious bias and diversity training. JCCC however, has crossed far over the 26 line in providing such training, proudly boasting of its blatantly and overtly racist, 27 anti-Caucasian, anti-male and anti-Christian agenda, with the compromised SBUSD

1 acting as JCCC's greatest cheerleader. As but one of many examples, the following  
 2 chart *was copied directly* from JCCC's written materials:

## 3 4 Forms of Oppression

5 Form of Oppression	6 Privilege Group	7 Target Group
8 Sexism	9 Men	10 Women
11 Racism	12 White People	13 People of Color
14 Heterosexism	15 Heterosexual People	16 LGBTQ People
17 Genderism	18 Traditionally gendered people	19 Transgender and Genderqueer People
20 Classism	21 Wealthy People	22 Working Class & Poor
23 Ableism	24 Generic / "Able"	25 People living with Disabilities
26 Ageism	27 Adults, 18-65 years old	28 Youth & Elders
29 Religious Oppression	30 Christian People	31 All others

32 The chart speaks for itself. JCCC also openly admits that it physically  
 33 separates its program participants into different racial groups to receive differing  
 34 "instruction." (Scott Decl., ¶ 23.) The participants in the Caucasian group are told  
 35 that, whether conscious of it or not, all "white people" are, at base, racist and  
 36 collude to promote or perpetuate racism against non-whites.

37 California Public Contract Code § 20111 requires that California school  
 38 boards let for public bidding any contract for services totaling over \$50,000. Cal.  
 39 Pub. Contract Code § 20111. The JCCC Contract requires SBUSD to pay JCCC  
 40 \$294,000 during the 2018-2019 school year and is thus, subject to this public  
 41 bidding requirement. Contracts that do not comply with Public Contract Code §  
 42 20111 are void and unenforceable. *Miller v. McKinnon*, 20 Cal. 2d 83, 87-88  
 43 (1942).

44 Inclusivity, diversity and unconscious bias training is a nationwide growth  
 45 industry. Such services are anything but "special services" and thus, must be let for

1 public bidding. Scores of entities and individuals now provide such training and do  
2 so without the anti-Caucasian, anti-Christian agenda of JCCC.

3 Irreparable harm will result if a preliminary injunction is not entered. In the  
4 context of awarding public contracts, Federal Courts have consistently held that  
5 “irreparable harm is established by a lost opportunity to fairly compete.” *BINL, Inc.*  
6 *v. U.S.*, 106 Fed. Cl. 26, 49 (Fed. Cir. 2012). Irreparable harm also is presumed  
7 with regard to Equal Protection claims. *J.A.W. v. Evansville Vanderburgh School*  
8 *Corporation*, 323 F. Supp. 3d 1030, 1040 (USDC S.D. Ind. 2018) *citing Accord*  
9 *Exodus Refugee Immigration, Inc. v. Pence*, 165 F. Supp. 3d 718, 738-39 (S.D. Ind.  
10 2016), *aff’d*, 838 F.3d 902 (7<sup>th</sup> Cir. 2016). *See also Doe v. Wood County Bd. Of*  
11 *Educ.*, 888 F.Supp. 2d 771, 777 (USDC S.D. West Virginia) *citing McCormick v.*  
12 *Sch. Dist. Of Mamaroneck*, 370 F.3d 275, 301-02 n.25 (2d Cir. 2004) (plaintiffs’  
13 continued participation in single-sex classes without having voluntarily chosen that  
14 option constitutes irreparable harm).

15 Fair Education Santa Barbara respectfully requests that a preliminary  
16 injunction issue, prohibiting the Santa Barbara Unified School District and Just  
17 Communities Central Coast, Inc., from further action or expenditure under the  
18 JCCC Contract until a final judgment on the merits can be rendered.

## 19 **II. FACTUAL BACKGROUND**

### 20 **1. The Parties**

21 Plaintiff Fair Education Santa Barbara is an Internal Revenue Code Section  
22 501(c)(3) organization formed to advocate for fair education policies in the Santa  
23 Barbara Unified School District and in Santa Barbara County, that benefits all  
24 Americans educated in the Santa Barbara Unified School District through, among  
25 other methods, lobbying, grass roots organizing, community outreach, legal actions  
26 and education. (Scott Decl. ¶ 2, Ex. A.)

27 Fair Education SB is a coalition of concerned parents of students and  
taxpayers in the Santa Barbara Unified School District, all of whom are residents

1 and tax payers within Santa Barbara County. All members of Fair Education SB  
2 are assessed for, liable to pay, and have paid real property taxes and assessments on  
3 property located within the Santa Barbara Unified School District’s boundaries  
4 within one year before commencement of this action. (Scott Decl. ¶ 3.)

5 Defendant Santa Barbara Unified School District is a public-school district  
6 located in Santa Barbara County, California, created and operating under the laws  
7 of the State of California. SBUSD receives and benefits from federal and state  
8 financial assistance, as well as taxes and assessments paid by the members of Fair  
9 Communities SB. (Scott Decl. ¶ 4.)

10 Defendant Just Communities Central Coast is an Internal Revenue Code  
11 Section 501(c)(3) organization. (Scott Decl. ¶ 5, Ex. B.) From its website, JCCC  
12 purports to “work to ensure that Central Coast schools, organizations and  
13 communities are places of opportunity, not places of limitations” and to “bring  
14 together community members and empower them to be leaders who promote equity  
15 around issues of race, socio-economic class, sexual orientation, [and] gender.”  
16 (Scott Decl. ¶ 6, Ex. C.)

17 **2. JCCC’s Discriminatory Curriculum**

18 In or about 2013, SBUSD engaged JCCC as an outside independent  
19 contractor to provide training and educational programs to SBUSD staff and  
20 students with respect to “diversity, inclusion, and equity.” JCCC’s programs  
21 consist of several workshops and training sessions provided to SBUSD staff and  
22 students throughout the year. (Scott Decl. ¶¶ 7-10, Exs. D-G.)

23 SBUSD funds JCCC’s programming through state and federal funds  
24 earmarked in its Local Control Accountability Plan (“LCAP”). Since 2013,  
25 SBUSD has paid JCCC over \$1,000,000 to provide these programs to SBUSD staff  
26 and students. On October 9, 2018, for the 2018-2019 school year, SBUSD entered  
27 into a renewed contract with JCCC to again provide its so-called “diversity,

28

1 inclusion and equity” programs for a total cost to the tax payers of \$294,000. (Scott  
2 Decl. ¶¶ 16-17, Ex. L.)

3 While JCCC purports to provide “diversity, inclusion and equity” programs,  
4 its actual curriculum and programs are anything but. JCCC’s actual programming  
5 is a radical, exclusionary and discriminatory curriculum, masquerading under the  
6 guise of “advancing justice” and making communities “more inclusive and just for  
7 all people.” JCCC’s curriculum and written materials attempt to indoctrinate staff  
8 and students with a warped view of the world where racism can only be perpetrated  
9 by “white people” and where the success of students in so-called “privileged”  
10 groups is due solely to their “unearned access to resources . . .” (Scott Decl., Ex.  
11 FF.)

12 Certain of JCCC’s materials, obtained by among others, a parent who  
13 attended some of JCCC’s courses, are attached to the accompanying Declaration of  
14 Peter Scott as Exhibit FF. These materials contain among many others, the  
15 following direct quotes:

- 16 a. “Oppression” is “[a] system that benefits some groups (often called  
17 ‘privileged groups) and disadvantages other groups (often called  
18 ‘target groups’).” (Scott Decl., Ex. FF, p. 15.)
- 19 b. “Privileged Groups” include “Men,” “White People,” “Christian  
20 People,” and “Wealthy People,” and “Target Groups” include  
21 “Women,” “People of Color,” and “Working Class & Poor.” (Scott  
22 Decl., Ex. FF, p. 17.)
- 23 c. “Racism” is “[a] system of oppression based on race that privileges  
24 white people and targets people of color.” (Scott Decl., Ex. FF, p. 19.)
- 25 d. “Privilege” is “[u]nearned access to resources that enhance one’s  
26 chances of getting what one needs or influencing others in order to lead  
27 a safe, productive and fulfilling life.” The subtext of this definition is  
that a “privileged group’s” success is due to their “unearned access to

1 resources,” as opposed to for example hard work or intelligence.

2 (Scott Decl., Ex. FF, p 19.)

3 e. JCCC’s materials define “Religious Oppression” as “Christian People”  
4 targeting “All Others” and “Sexism” as “Men” targeting “Women.”

5 (Scott Decl., Ex. FF, p. 15.)

6 Utilizing this ideological framework, JCCC physically separates participants  
7 during the actual workshops and training sessions, into different racial groups,  
8 requiring all individuals that JCCC perceives to be “white” to be segregated in a  
9 separate room to receive instruction that differs from all perceived “non-white”  
10 participants. In these racially segregated sessions, the “white” participants are  
11 instructed that, whether they are conscious of it or not, all “white people” are racist  
12 and collude to promote or perpetuate racism against non-whites. JCCC’s program  
13 administrator, Jarrod Schwartz, admitted that JCCC splits its participants into  
14 separate racial groups to receive differing instruction in a recent interview with  
15 KCRW Santa Barbara. (Scott Decl., ¶ 21.)

16 JCCC’s written curriculum further states that “public schools teach ‘skills’  
17 that business owners find useful like competition, obedience and respect for  
18 authority,” that “public schools create the illusion that everyone has an equal  
19 chance” and that “wealthy people and business shaped the schools to contain and  
20 control poor people.” (Scott Decl., Ex. FF, p. 87-88.)

21 **3. The JCCC Contract**

22 **a. The September 11, 2018 Board Meeting**

23 On September 11, 2018, the Board considered entering a four-year  
24 Memorandum of Understanding with JCCC for its programming at a cost of  
25 \$1,737,910. (Scott Decl., ¶¶ 14-15, Ex. K.)

26 At the September 11<sup>th</sup> meeting, JCCC’s proposal was challenged by a group  
27 of concerned taxpayers and parents within SBUSD. Concerns were expressed  
regarding JCCC’s discriminatory programming, the failure of the proposed JCCC

1 MOU to adhere to district contracting standards, numerous conflicts of interest  
2 between JCCC and SBUSD, and the failure of SBUSD to open the contract for  
3 public bidding as required by California Public Contracts Code § 20111. As a  
4 result of this initial challenge, SBUSD tabled approval of the proposed JCCC MOU  
5 until October of 2018. (*Id.*)

6 Of note, SBUSD and the Board were expressly advised of numerous actual  
7 and potential conflicts of interest with JCCC, including the following:

- 8 a. Current Board member, Ismael Ulloa (who ultimately voted to approve  
9 the JCCC Contract), was a program leader for JCCC in 2016;
- 10 b. Annette Cordero was a two-term member of the Board, serving from  
11 2004 through 2012 and is currently a member of JCCC's Board of  
12 Directors;
- 13 c. Dr. Dave Cash was the superintendent of SBUSD from 2011 through  
14 2016 and approved JCCC's prior contracts with SBUSD. Dr. Cash is  
15 currently a member of JCCC's Board of Directors.
- 16 d. Monique Limon was a Board member from 2014 through 2017 and  
17 currently sits on the Grant Review Committee of the McCune  
18 Foundation, which is a major source of funding for JCCC;
- 19 e. Pedro Paz was a Board member from 2012 through 2016 (ending his  
20 tenure as Vice President) and is the current head of the Fund For Santa  
21 Barbara, which is another major contributor to JCCC;
- 22 f. Current SBUSD Assistant Superintendent of Secondary Education,  
23 Shawn Carey, was an instructor for JCCC;
- 24 g. Current SBUSD administrative assistant, Alma Flores, was a paid  
25 teacher for JCCC and currently sits on JCCC's Board of Directors;
- 26 h. Current SBUSD Director of English Learners and Parent Engagement,  
27 Maria Larios-Horton is currently on JCCC's Board of Directors.

(Scott Decl., Exs. H, R-DD, and GG.)



1           Additionally, despite being expressly advised of these conflicts, SBUSD  
2 refused to have JCCC provide a written conflict of interest statement, which is  
3 required by the Board’s own policies and procedures. See Board Policy No. 3600.<sup>1</sup>

4                           **b.     The October 9, 2018 Board Meeting**

5           The proposed contract was rescheduled for the Board’s October 9, 2018  
6 meeting. At the October 9, 2018 meeting, a revised, one-year contract with JCCC  
7 for an aggregate cost of \$294,000 was proposed. (Scott Decl. ¶¶ 16-17, Ex. L.)  
8 Again, the SBUSD failed (despite repeated requests therefore) to let the contract for  
9 public bidding and did nothing to resolve the numerous conflicts of interest.<sup>2</sup>  
10 Instead, the Board (with Superintendent Cary Matsuoka’s glowing support)  
11 unanimously approved the JCCC Contract. (*Id.*)

12           JCCC provided its first program under the new JCCC Contract on November  
13 5, 2018. The next major instructional program to be presented under the JCCC  
14 Contract – called the Institute for Equity in Education – is scheduled for March 11  
15 through 19, 2019. (Scott Decl. Ex. E.)

16           **III.    ARGUMENT**

17                   **A.     Legal Standard**

18           Preliminary injunctive relief is intended to “preserve the status quo and the  
19 rights of the parties until a final judgment on the merits can be rendered.” *Id.*  
20 (citing *U.S. Philips Corp. v. KBC Bank N.V.*, 590 F.3d 1091, 1094 (9th Cir. 2010)).  
21 The “status quo is the last uncontested status which preceded the pending  
22 controversy.” *Lopez v. Heckler*, 725 F.2d 1489, 1509 (9th Cir. 1984).

23 \_\_\_\_\_  
24 <sup>1</sup> Board Policy No. 3600 states: “Independent contractors applying for a  
25 consultant contract shall submit a written conflict of interest statement disclosing  
26 financial interests as determined necessary by the Superintendent or designee,  
27 depending on the range of duties to be performed by the consultant. The  
Superintendent or designee shall consider this statement when deciding whether to  
recommend the consultant’s employment.” (Scott Decl., ¶ 17, Ex. M [SBUSD  
Board Policy 3600].)

<sup>2</sup> While Ismael Ulloa lost his Board re-election bid in November 2018, he  
voted in favor of the JCCC Contract on October 9, 2018 while he was a member.

1 “The proper legal standard for preliminary injunctive relief requires a party to  
 2 demonstrate (1) that he is likely to succeed on the merits, (2) that he is likely to  
 3 suffer irreparable harm in the absence of preliminary relief, (3) that the balance of  
 4 equities tips in his favor, and (4) that an injunction is in the public interest.”  
 5 *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009). Alternatively, in  
 6 the Ninth Circuit, a plaintiff may demonstrate “that serious questions going to the  
 7 merits were raised and the balance of hardships tips sharply in the plaintiff’s favor.”  
 8 *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134-35 (9th Cir. 2011)  
 9 (internal quotation marks omitted). The standard that governs the issuance of a  
 10 temporary restraining order is “substantially identical” to the standard that governs  
 11 the issuance of a preliminary injunction.” *Stuhlberg Int’l Sales Co. v. John D.*  
 12 *Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001); *Johnson, supra*, 145 F. Supp.  
 13 3d at 913.

14 **B. Plaintiff Will Likely Succeed On The Merits Of Its Claim For**  
 15 **Violation Of California Public Contract Code § 20111**

16 The JCCC Contract was not “let” for public bidding. It is thus void and  
 17 unenforceable as a matter of law, and all services to be performed and consideration  
 18 exchanged thereunder, should immediately be restrained.

19 California Public Contract Code § 20111 states:

20 The governing board of any school district, in accordance with any  
 21 requirement established by that governing board pursuant to  
 22 subdivision (a) of Section 2000, shall let any contracts involving an  
 23 expenditure of more than fifty thousand dollars (\$50,000) for any of the  
 following: [...] (B) Services, except construction services.

24 Cal. Pub. Con. Code § 20111.

25  
 26 “Ordinarily, compliance with the terms of a statute requiring the letting of  
 27 certain contracts by a public agency such as a municipal corporation or county by  
 competitive bidding and the advertising for bids is mandatory with respect to those

1 contracts coming within the terms of the statute; a contract made without  
 2 compliance with the statute is void and unenforceable as being in excess of the  
 3 agency's power." *Miller v. McKinnon*, 20 Cal. 2d 83, 87-88 (1942).

4 "Because of the potential for abuse arising from deviations from strict  
 5 adherence to standards which promote these public benefits, the letting of public  
 6 contracts universally receives close judicial scrutiny and contracts awarded without  
 7 strict compliance with bidding requirements will be set aside. This preventative  
 8 approach is applied even where it is certain there was in fact no corruption or  
 9 adverse effect upon the bidding process [...] The importance of maintaining  
 10 integrity in government and the ease with which policy goals underlying the  
 11 requirement for open competitive bidding may be surreptitiously undercut, mandate  
 12 strict compliance with bidding requirements." *MCM Construction, Inc. v. City and*  
 13 *County of San Francisco*, 66 Cal. App. 4th 359, 369 (1998) (internal citations  
 14 omitted); *Marshall v. Pasadena Unified School Dist.*, 119 Cal. App. 4th 1241, 1256  
 15 (2004) ("Given this strong public policy, any exception to competitive bidding  
 16 requirements should be strictly construed.")

### 17 1. The JCCC Contract Does Not Involve "Special Services"

18 In previous communications between the parties, the SBUSD has incorrectly  
 19 argued that it is not required to follow the competitive bidding requirements of  
 20 Public Contract Code § 20111 because the JCCC Contract purportedly involves so-  
 21 called "special services" as referenced in Government Code § 53060. Not so.

22 Section 53060 provides as follows:

23 The legislative body of any public or municipal corporation or district  
 24 may contract with and employ any persons for the furnishing to the  
 25 corporation or district *special services* and advice in financial,  
 26 economic, accounting, engineering, legal, or administrative matters if  
 27 such persons are specially trained and experienced and competent to  
 perform the special services required. (Emphasis added.)

28 Cal. Gov. Code § 53060.

1 For starters, JCCC *does not* offer services or advice (much less special  
2 services) *in “financial, economic, accounting, engineering, legal, or*  
3 *administrative matters.” Id.* Instead, JCCC provides teaching and workshops in  
4 purported “unconscious bias”, “inclusivity” and “diversity” training. (Scott Decl.  
5 ¶¶ 7-11, Exs. C-H, L.) On this ground alone, Government Code § 53060 is  
6 inapplicable.<sup>3</sup>

7 Specific examples of the services to be provided by JCCC are set forth in  
8 JCCC’s own materials attached as Exhibits C through H to the Scott Declaration.  
9 These services include the following:

- 10 • Holding JCCC’s “Institute for Equity in Education” seminar to purportedly  
11 help “educators develop a cultural proficiency and equity lens that they can  
12 apply in their jobs.” (Scott Decl., Exs. E, FF.)
- 13 • Holding JCCC’s “Talking in Class” program for students to “bring student  
14 voices into conversations and action to improve equity, cultural proficiency  
15 and student outcomes.” (Scott Decl. Ex. F.)
- 16 • Holding JCCC’s “Parents for Inclusion, Diversity & Access” program to  
17 “bring parent voices into conversations and action to improve equity, cultural  
18 proficiency, parent engagement, and student outcomes.” (Scott Decl. Ex. G.)

19 None of these services provided by JCCC are “financial, economic,  
20 accounting, engineering, legal, or administrative [].” Thus, the “special services”  
21 language of Government Code Section 53060 is not triggered, and Defendants’  
22 anticipated argument that it provides “special services” and thus, need not submit  
23 the contract to public bidding, is of no moment.

24  
25  
26  
27 <sup>3</sup> For example, the JCCC Contract provides in part that JCCC “will provide  
several different workshops and training sessions relating to diversity, inclusion and  
implicit bias issues over the course of the 2018-2019 school year, ...”. (Scott Decl.,  
Ex. L.)

1 Assuming for purposes of argument only that JCCC’s services are somehow  
 2 financial, economic, accounting, engineering, legal or administrative (and they  
 3 clearly are not), the services JCCC provides are not “special services”. The “special  
 4 services” standard as applicable to the statute, “is the result of a composite  
 5 consideration of various factors [including] those which relate to the nature of the  
 6 services required to the subject matter thereof, to the qualifications of the person  
 7 capable of furnishing them, to their availability from public sources and to the  
 8 temporary basis of the employment through which they are obtained.” *Jaynes v.*  
 9 *Stockton*, 193 Cal. App. 2d 47, 51-52 (1961) (internal citations omitted) (finding  
 10 that legal services offered by a private law firm were not “special services” as the  
 11 same legal services were equally available from the local district attorney’s office).

12 **a. Scores of Vendors Provide Implicit Bias and Diversity**  
 13 **Training**

14 “The term ‘special’ has been defined [to include] unique, unusual [] out of  
 15 the ordinary [and] ‘extraordinary’ ...” *Jaynes, supra*, 194 Cal. App. 2d at 51  
 16 (internal citations omitted).

17 There is nothing unique, unusual or extraordinary about the services JCCC  
 18 provides. To the contrary, “unconscious bias” and “diversity” training has become  
 19 a big industry and is widely available from local school teachers, local schools and  
 20 scores of outside entities. A simple Google search of “unconscious bias training”  
 21 displays many such providers.

22 By way of but one example, the California Teachers Association offers  
 23 diversity and inclusion programs.<sup>4</sup> (Scott Decl., Ex. N.) Other examples include  
 24 \_\_\_\_\_

25 <sup>4</sup> As shown in the California Teachers Association (“CTA”) publication  
 26 entitled “California Challenge: A Program for Celebrating Diversity” (attached as  
 27 Ex. N to the Scott Decl.), the purpose of the CTA’s California Challenge “is to  
 foster understanding, acceptance and constructive relations among people of many  
 different cultures and language backgrounds.” The training program, “Reflects a  
 positive response to the recognition of the culturally pluralistic nature of society[;]  
 Presents skills for problem solving in a culturally diverse and sensitive educational  
 environment[;] Assists teachers in utilizing the diversity of their students for  
 28

1 the Santa Barbara Pathways Program, run by the University of California Santa  
 2 Barbara’s Department of Diversity and Inclusion, which offers outreach instruction  
 3 to local schools “aimed at reducing academic achievement disparities and  
 4 increasing college-going rates among local youth.” (Scott Decl., Ex. O.) Many  
 5 other service providers exist that perform unconscious bias and diversity training.  
 6 (Scott Decl. ¶ 19, Exs. N-Q.)

7 Courts in other states interpreting similar “special services” exceptions to  
 8 competitive bidding requirements have even found that the following *do not*  
 9 constitute “special services”: installation and maintenance of computer mainframe  
 10 central processing units<sup>5</sup>, security services to a water processing plant<sup>6</sup>,  
 11 archeological services to preserve a historical site<sup>7</sup>, and conducting the sale of  
 12 advertising space at a public airport.<sup>8</sup> This is because of the scores of other  
 13 individuals and entities who can provide the same or similar such services.

14 “Special services” providers (for whom outside bidding is not required) are,  
 15 thus, limited to a specific subset of professionals who provide unique, specialized  
 16 financial, economic, accounting, engineering, legal, or administrative services not  
 17 otherwise available through public sources. Cal. Gov. Code § 53060; *Jaynes*,  
 18 *supra*, 193 Cal. App. 2d at 51-52. The services offered by JCCC do not fit within  
 19 this narrow category.

---

22 enriching the classroom; [and] Encourages students to develop positive self-esteem  
 23 based on a pride in their cultural backgrounds. ...” (Scott Decl. Ex. N.) None of  
 24 the anti-white, anti-male, anti-Christian rantings of the JCCC appear in these CTA  
 materials.

25 <sup>5</sup> *Pacificorp Capital, Inc. v. City of New York*, 741 F. Supp. 481 (S.D. N.Y. 1990)

26 <sup>6</sup> *Layman’s Security Company v. Water Works And Sewer Board of the City of Prichard*, 547 So. 2d 533 (Ala. 1989) (overruled on other grounds by *Ex Parte Ballew*, 771 So. 2d 1040 (Ala. 2000).

27 <sup>7</sup> *Klinger v. City of Fayetteville*, 293 Ark. 128 (1987)

<sup>8</sup> *Transportation Displays, Inc. v. City of New Orleans*, 346 So. 2d 359 (La. Ct. App. 4th Cir. 1977).



1 until the October 9<sup>th</sup> meeting, by which time, the JCCC Contract was changed to a  
2 period of one year (apparently in a conscious effort to be shoehorned (incorrectly)  
3 into a “temporary” “special service” to try to avoid the public bidding requirement).  
4 (Scott Decl., Ex. L.)

5 The existing years-long relationship, and the September 11, 2018 attempt to  
6 continue the relationship for four more years, make clear that the Defendants  
7 believe their relationship is anything but “temporary.”

8 **d. The Public Bidding Requirement Also Exists To**  
9 **Prevent Just The Sort of Favoritism Occurring Here**

10 As explained above in Section II.3.a, many conflicts of interest exist between  
11 the SBUSD and JCCC.<sup>9</sup> Hence the flagrant favoritism shown JCCC by the  
12 SBUSD. One need only witness current SBUSD Assistant Superintendent Shawn  
13 Carey discuss JCCC in order to see such flagrant favoritism in action. Also, hence  
14 the apparent reason why the Board, in violation of its own conflict of interest  
15 disclosure requirements (*see* Board Policy No. 3600), has not made public (and  
16 perhaps has never prepared), any such disclosure.

17 **e. Arguments Previously Made By The SBUSD to Avoid**  
18 **The Public Bidding Requirement Are Unavailing**

19 In correspondence from SBUSD, it cited the case of *Service Employees*  
20 *Internat. Union v. Board of Trustees*, 47 Cal. App. 4th 1661 (1996), for the  
21 proposition that the JCCC Contract can be considered “special services” under  
22 Government Code § 53060 (and thus need not be let for public bidding).  
23  
24  
25

---

26 <sup>9</sup> The revolving door of those who have worked both for JCCC and SBUSD  
27 include for example: Ismael Ulloa (Board member who voted to approve the JCCC  
28 Contract); Shawn Carey who vigorously lobbied for entry into the JCCC Contract;  
Dave Cash, Annette Cordero, Monique Limon, Pedro Paz and Alma Flores, all of  
whom support the continued relationship between the SBUSD and JCCC.



1           *Service Employees* involved a college bookstore contracting with Barnes &  
2 Noble Booksellers (“B&N”) to provide management and operation services for the  
3 college’s campus bookstore, including staffing the bookstore with experienced  
4 managerial staff, renovating the existing bookstore, providing computerized  
5 textbook management systems and a guaranteed supply of used books and to utilize  
6 Barnes & Noble’s substantial purchasing power to reduce prices. *Id.* at 1664.

7           That contract was challenged by an employee union. The California Court of  
8 Appeal ruled that the college was authorized to enter into the contract without  
9 public bidding. First, the Court emphasized the wide latitude given Boards of  
10 Trustees of Community Colleges (and only Community Colleges), pursuant to  
11 certain statutes expressly applying *only to such boards*. *Id.* at 1664. Second, the  
12 Court went through the litany of truly special services being provided by B&N,  
13 including: (a) B&N providing the college a computerized textbook management  
14 system (thanks to B&N’s extensive background in that area); (b) B&N providing a  
15 guaranteed supply of used books (thanks to B&N’s unique ability to do so); and (c)  
16 B&N providing its substantial purchasing power (given the worldwide scope of the  
17 company) and the resulting competitive prices which would benefit the college’s  
18 students (thanks again to the unique scope and power of B&N’s business). *Id.* at  
19 1664. Thus, the services provided *could not be duplicated by other public sources*  
20 *available to the college*. *Id.* at 1674. And notably, although the issue of  
21 competitive bidding on the contract was not a focus in the case, the Board of  
22 Trustees *actually did* solicit public bids for the project as required under former  
23 California Education Code § 81676.5. *Id.* at 1670.

24           The *Service Employees* case is thus not applicable to the instant case. There  
25 the Court found that the services in question were “special” because the, “District’s  
26 employees were simply unable to provide the type of services offered by Barnes &  
27 Noble” and the services were not otherwise “available from a public source.” *Id.* at  
1674. Here, unlike in *Service Employees*, none of those “special” services exist.

1 And also unlike in *Service Employees*, and as discussed above, JCCC’s services *are*  
2 *equally available from many other sources, including from public sources such as*  
3 *publicly funded schools*.<sup>10</sup>

4 JCCC’s services are not “special services” as set forth in Government Code §  
5 53060, and the SBUSD is not absolved of its statutory duty to let the contract for  
6 public bidding as required by Public Contract Code § 20111 (especially, but not  
7 limited to, the conflicts of interest existing here).

8 In sum, Plaintiff Fair Education Santa Barbara is thus likely to prevail on the  
9 merits of its Sixth Claim for Declaratory Relief. The JCCC contract is void and  
10 unenforceable.

11 **C. Plaintiff Will Suffer Irreparable Harm In The Absence Of The**  
12 **Requested Relief**

13 A substantial injury will result not only to Fair Education Santa Barbara, but  
14 to the taxpayers as a whole if the temporary restraining order is not entered.

15 “The purpose of requiring governmental entities to open the contracts process  
16 to public bidding is to eliminate favoritism, fraud and corruption; avoid misuse of  
17 public funds; and stimulate advantageous market place competition.” *Konica Bus.*  
18 *Machines USA Inc. v. The Regents Of The University of California*, 206 Cal. App.  
19 3d 449, 456 (1988) (citations omitted).

20 “[C]ompetitive bidding statutes are ‘enacted for the benefit of property  
21 holders and taxpayers, and not for the benefit or enrichment of bidders, and should  
22

---

23  
24 <sup>10</sup> Moreover, Public Contract Code § 20111 expressly carves out contracts  
25 pertaining to “professional services or advice...” from the need for public bidding.  
26 Although not defined in the Public Contract Code, the term “professional services”  
27 is elsewhere statutorily defined as “any type of professional services that may be  
28 lawfully rendered *only* pursuant to a license, certification, or registration authorized  
by the Business and Professions Code, the Chiropractic Act, or the Osteopathic  
Act.” Cal. Corp. Code § 13401(a) (Emphasis added). JCCC’s “inclusivity”  
training does not require any such licensing, certification or registration in order to  
be lawfully performed. Thus, JCCC’s services are not remotely “professional  
services.”

1 be so construed and administered as to accomplish such purpose fairly and  
2 reasonably with sole reference to the public interest.” *Kajima v. Los Angeles*  
3 *County Metropolitan Transp. Authority*, 23 Cal. 4th 305, 316-317 (2000); *see also*  
4 *Miller, supra*, 20 Cal. 2d at 88 (“the competitive bidding requirement is founded  
5 upon a salutary public policy declared by the legislature to protect the taxpayers  
6 from fraud, corruption, and carelessness on the part of public officials and a waste  
7 and dissipation of public funds.”); *Amelco Electric v. City of Thousand Oaks*, 27  
8 Cal. 4th 228, 234 (2002) (stating that “under long-standing California law, if a  
9 public contract is declared void, a contractor may not be paid for work performed  
10 under that contract.”)

11 In the context of the awarding of government contracts, Federal Courts have  
12 repeatedly held that “[i]rreparable harm is established by a lost opportunity to fairly  
13 compete.” *BINL, Inc. v. U.S.*, 106 Fed. Cl. 26, 49 (Fed. Cir. 2012) (“A lost  
14 opportunity to compete in a fair competitive bidding process for a contract is  
15 sufficient to demonstrate irreparable harm.”); *Palantir USG, Inc. v. United States*,  
16 129 Fed. Cl. 218, 291 (Fed. Cir. 2016); *HP Enterprise Services, LLC v. United*  
17 *States*, 104 Fed. Cl. 230, 245 (Fed. Cir. 2012).

18 Plaintiff, being comprised of SBUSD taxpayers, has standing to bring this  
19 action and claim this irreparable injury. *Cammack v. Waihee*, 932 F.2d 765, 770  
20 (9th Cir. 1991) (“[E]ven those who have taken a dimmer view of the breadth of  
21 state taxpayer standing than this court have recognized that municipal taxpayer  
22 standing requires no more injury than an allegedly improper municipal  
23 expenditure.”)

24 The failure to let the contract for public bidding demonstrates irreparable  
25 harm and courts take the public bidding requirements very seriously and apply close  
26 judicial scrutiny in order to achieve the statutory goal of eliminating favoritism,  
27 fraud and corruption, avoiding misuse of public funds, stimulating market  
competition, and protecting taxpayers from carelessness on the part of public

1 officials and a waste and dissipation of public funds. *Konica, supra*, 206 Cal. App.  
2 3d at 456; *Miller, supra*, 20 Cal. 2d at 88.

3 Here, no other service providers were considered. The taxpayers of SBUSD  
4 are entitled to have the JCCC Contract properly considered and let for public  
5 bidding in order to ensure that further public funds are not dissipated in a  
6 fraudulent, corrupt or careless manner and to rule-out the specter of favoritism in  
7 the contracting process.

8 “As the Supreme Court has noted, ‘the most effective enforcement of the  
9 competitive bidding law is to enforce by injunction the representation that the  
10 contract will be awarded to the lowest responsible bidder. This is generally done  
11 by setting aside the contract award to the higher bidder.’” *Eel River Disposal and*  
12 *Resource Recovery Inc. v. County of Humboldt*, 221 Cal. App. 4th 209, 239 (2013)  
13 (citing *Kajima/Ray Wilson v. Los Angeles County Metropolitan Transportation*  
14 *Auth.*, 23 Cal. 4th 305, FN 1 (2000)).

15 **D. The Balance Of Hardships Tips Strongly In Plaintiff’s Favor**

16 In the event that the requested temporary restraining order and preliminary  
17 injunction is entered, further payment and services under a legally void contract will  
18 be suspended. JCCC will not be providing any services while the services are  
19 enjoined and the status quo is maintained and thus, will not suffer hardship.

20 Plaintiff on the other hand, will suffer extreme hardship if the  
21 contract/services are not enjoined for all the reasons that the statutes in question  
22 exist, including: (a) the awarding of a contract based on favoritism; (b) the  
23 likelihood (or at a minimum the quite real possibility) that similar such services can  
24 be provided at a much lower cost to the SBUSD by public sector providers; (c) the  
25 rooting out of conflicts of interest; and separately but of utmost importance (d) the  
26 protection of the teachers and children of SBUSD from being subjected to unlawful  
27 racial, religious and sexual discriminatory indoctrination that is dangerous and  
28 divisive.

1           **E. Preliminary Relief Serves The Public Interest**

2           The public interest will be served through entry of a preliminary injunction.  
3           The public bidding requirements set forth in Government Code § 20111 exist  
4           expressly to protect the public from fraudulent, corrupt and/or wasteful spending of  
5           public funds. Enforcement of these requirements will serve the public interest by  
6           preventing such spending.

7           Here, SBUSD is currently contracted to pay JCCC nearly \$300,000 for a  
8           series of “workshops” on purported “inclusivity” training. No inquiries were made  
9           by SBUSD as to alternative service providers, let alone letting the contract for  
10          public bidding as required by statute. Further, serious real and potential conflicts of  
11          interest exist between SBUSD and JCCC involving current and former Board  
12          members and employees being employed by JCCC. The specter (and the existence)  
13          of unlawful favoritism in the contracting process is rampant. Under these  
14          circumstances, the public is entitled to have the JCCC Contract stayed pending the  
15          completion of this litigation.

16          In sum, the JCCC Contract was awarded without any competitive bidding,  
17          and as such the award of the contract, and the services and exchange of  
18          consideration to be provided thereunder, must be enjoined. *City of Inglewood-Los*  
19          *Angeles County Civic Center Auth. V. Superior Court of Los Angeles County*, 7 Cal.  
20          3d 861, 870 (1972) (award of a contract that did not comply with competitive  
21          bidding is invalid and must be set aside.)

22           **IV. CONCLUSION**

23           For the foregoing reasons, plaintiff Fair Education Santa Barbara respectfully  
24           requests that a Preliminary Injunction issue to prohibit defendants Santa Barbara  
25           Unified School District and Just Communities Central Coast, Inc. from further  
26  
27

1 action or expenditure under the JCCC Contract, until a final judgment on the merits  
2 can be rendered.

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

Respectfully submitted,

Dated: December 13, 2018

EARLY SULLIVAN WRIGHT  
GIZER & McRAE LLP

By: /s/ Eric Early

Eric P. Early  
Peter Scott  
Attorneys for Plaintiff  
FAIR EDUCATION SANTA  
BARBARA, INC.