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10  
 11 **IN THE UNITED STATES DISTRICT COURT**  
 12 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

13 **SARA ROYCE; SARAH CLARK;**  
 14 **TIFFANY BROWN; and KRISTI**  
 15 **CARAWAY;**

16 Plaintiffs,

17 v.

18 **ROB BONTA**, in his official capacity  
 19 as attorney general of California;

20 Defendant.

Case No.: 3:23-cv-02012-H-BLM

**FIRST AMENDED COMPLAINT  
 FOR INJUNCTIVE AND  
 DECLARATORY RELIEF**

**DEMAND FOR JURY TRIAL**

21 **INTRODUCTION**

22 1. This action challenges the constitutionality of Senate Bill (SB) 277  
 23 under the Free Exercise Clause.

24 2. Plaintiffs have religious beliefs that forbid them from vaccinating their  
 25 children, and their decision to adhere to their religious convictions has required  
 26 significant sacrifices. California’s compulsory vaccination law requires all students  
 27 to receive numerous vaccines to enter public or private school. Cal. Health & Saf.  
 28 Code §§ 120325-120375. Plaintiffs’ children are unable to enjoy the benefits of a

1 public and private education that their secular peers enjoy because of California’s  
2 compulsory vaccination requirements.

3 3. California law allows students to object to the required school vaccines  
4 for secular reasons, but SB 277 removed the ability for students to object to the  
5 compulsory vaccines on religious grounds. Students can still enter public or private  
6 school if they are homeless, in foster care, enrolled in an individualized education  
7 program (“IEP”) or home-based private school, or have a medical objection.

8 4. California also allows children to participate in camps, visit a public  
9 library, or participate in extra-curricular activities – all without proof of vaccination.  
10 California has no compelling, much less rational, justification for eliminating  
11 religious exemptions when religiously exempt students pose no greater risk than  
12 secularly exempt students.

13 5. Indeed, California is only one of a few states that denies religious  
14 students the benefits of a private and public education. Most recently, a court held  
15 Mississippi’s law violated the Free Exercise Clause because it disallowed religious  
16 exemptions to school-mandated vaccinations.

17 6. SB 277 also deprives Plaintiffs of their rights under the First  
18 Amendment to the United States Constitution. Accordingly, Plaintiffs seek a  
19 declaratory judgment and an injunction, prohibiting California from implementing a  
20 law that does not provide the option for a religious exemption.

21 **PARTIES - PLAINTIFF**

22 **Sara Royce**

23 7. Plaintiff Sara Royce (“Mrs. Royce”) resides in Pala, California. She is  
24 the mother of three children, one of whom is school age.

25 8. Mrs. Royce and her husband prayed extensively and consulted the Bible  
26 when deciding whether or not to vaccinate their children, and they arrived at the firm  
27 religious conviction that they must not. Because many of the required childhood  
28 vaccines were derived from aborted fetal cells, Mrs. Royce believes vaccinating her



1 children would cause her and her family to be complicit in abortion. None of Mrs.  
2 Royce’s children are vaccinated.

3 9. Mrs. Royce desires to enroll her elementary aged child in public or  
4 private school in California. However, because her child has received no vaccines,  
5 her child is unable to enroll in public or private school and interact with her friends,  
6 whom she is permitted to attend church with and interact with frequently outside of  
7 church.

8 **Sarah Clark**

9 10. Plaintiff Sarah Clark (“Mrs. Clark”) resides in Temecula, California.  
10 She is the mother of two school-aged children, one in fifth grade and one in sixth  
11 grade.

12 11. Mrs. Clark’s children were vaccinated as newborns and again in 2018-  
13 2019. After praying for an extended period, Mrs. Clark believes that the Lord told  
14 her to no longer vaccinate her children. Mrs. Clark believes that the body is a temple  
15 of the Holy Spirit (1 Corinthians 6:19-20) and that she must honor the Lord with the  
16 things she puts into her body. Mrs. Clark believes that vaccines violate the bible  
17 because they are a foreign substance and are harmful to the body. Mrs. Clark’s  
18 children have not received any more vaccinations.

19 12. Mrs. Clark would like her children to attend public school, but the  
20 school will not accept Mrs. Clark’s children without the necessary vaccinations.  
21 Receiving the required vaccinations would be violative of the Clark family’s  
22 religious beliefs. The only option available to the Clark family is homeschooling.  
23 This has been a great sacrifice for the Clarks, as Mrs. Clark has had to forego  
24 professional opportunities to homeschool her children.

25 **Tiffany Brown**

26 13. Tiffany Brown (“Mrs. Brown”) is a resident of Hollister, California.  
27 She has three daughters – 18, 14, and 8 years old.

28 14. Mrs. Brown vaccinated her children in their early years, but after her



1 children started to experience severe reactions following vaccination, Mrs. Brown  
2 began to research and pray about whether she should continue vaccinating her  
3 children.

4 15. During her research, Mrs. Brown discovered that many vaccines  
5 contain aborted fetal cells. Mrs. Brown arrived at the firm religious conviction that  
6 she must not continue vaccinating her children, as to do so would cause her and her  
7 family to be complicit in abortion. Mrs. Brown’s youngest daughter, G.B., has not  
8 received any vaccines.

9 16. Because of their religious beliefs concerning vaccination, Mrs. Brown’s  
10 daughters are not allowed to attend public school. Mrs. Brown was forced to  
11 homeschool her children and forego professional opportunities.

12 **Kristi Caraway**

13 17. Kristi Caraway (“Mrs. Caraway”) is a resident of Lake Elsinore,  
14 California. She has ten biological children.

15 18. Mrs. Caraway vaccinated her eldest three children. Her third child, J.C.,  
16 developed injuries following vaccination, specifically the HepB and MMR vaccines.  
17 J.C. was non-verbal until age six and was diagnosed with autism in 2018. Due to his  
18 injuries, J.C. has a medical exemption to the vaccine requirement.

19 19. Following J.C.’s injuries, Mrs. Caraway and her husband began to  
20 research vaccines. They discovered that many vaccines contain aborted fetal cells.  
21 The Caraways made the decision to stop vaccinating their children. Because many  
22 of the required childhood vaccines were derived from aborted fetal cells, Mrs.  
23 Caraway believes vaccinating her children would cause her and her family to be  
24 complicit in abortion in violation of their religious beliefs.

25 20. Mrs. Caraway did not vaccinate her six youngest children.  
26 Accordingly, they are not permitted to attend public or private school. Mrs.  
27 Caraway’s youngest six children are homeschooled through a charter program. Mrs.  
28 Caraway desires to send her children to public school.



1 **PARTIES - DEFENDANT**

2 21. Defendant ROB BONTA is the Attorney General of California. He is  
3 sued in his official capacity. His authority is delegated to him by Article V, section  
4 13 of the California Constitution and is authorized to enforce SB 277.

5 **JURISDICTION AND VENUE**

6 22. This civil rights action raises federal questions under the United States  
7 Constitution, specifically the First Amendment, and under federal law, particularly  
8 42 U.S.C. § 1983.

9 23. This Court has subject matter jurisdiction over the federal claims  
10 pursuant to 28 U.S.C. §§ 1331 and 1343.

11 24. This Court has authority to grant the requested declaratory relief under  
12 the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, implemented through  
13 Rule 57 of the Federal Rules of Civil Procedure. This Court is also authorized to  
14 grant injunctive relief and damages under 28 U.S.C. § 1343, pursuant to Rule 65 of  
15 the Federal Rules of Civil Procedure, and reasonable attorney’s fees and costs under  
16 42 U.S.C. § 1988.

17 25. Venue is proper in this Court under 28 U.S.C. § 1391(b)(2) because a  
18 substantial part of the events or omissions giving rise to Plaintiff’s claims occurred  
19 in this district.

20 **STATEMENT OF FACTS**

21 **A. History of Childhood Vaccination Requirements in California**

22 26. In 1961, California began to add required vaccines for public and  
23 private school entry. The California Legislature first enacted a single dose of polio  
24 vaccination for school attendance.

25 27. In 1977, the Legislature added single doses of diphtheria, pertussis,  
26 tetanus, and measles vaccines to the school vaccination schedule.

27 28. In 1979, the Legislature added single doses of mumps and rubella  
28 vaccines to the list.



1           29. In 1992, the Legislature added a haemophilus influenzae type b.

2           30. In 1995 and 1997, the Legislature added a vaccine for hepatitis B.

3           31. In 1999, the Legislature added vaccination for varicella (chicken pox)  
4 to the required list of vaccines.

5           32. The Legislature added a tetanus, diphtheria, and pertussis booster as a  
6 requirement for advancement to the seventh grade in 2010.

7           33. In 2015, as a response to the measles outbreak, the California  
8 Legislature enacted SB 277, which eliminated the personal belief exemption  
9 (“PBE”). At the time, only approximately 2.5% of students had PBEs.

10          34. The stated goal of SB 277 was not to protect the public health and safety  
11 of children in general, but to prevent the transmission of disease.

12          35. Indeed, the intent of the legislature in passing SB 277 is revealed in its  
13 legislative history. In the Senate Committee on Health’s comment section, it states  
14 the following: “Given the highly contagious nature of diseases such as measles,  
15 vaccination rates of up to 95% are necessary to preserve herd immunity and prevent  
16 future outbreaks.” The legislative history further touts the effectiveness of vaccines  
17 in preventing disease, further demonstrating that the intent was to prevent the  
18 transmission of disease.

19          36. The legislative history also indicates that the California Senate justified  
20 continuing to provide medical exemptions on the speculative belief that less students  
21 would request medical exemptions than religious exemptions. In the Senate Floor’s  
22 Analysis posted on June 25, 2015, they note that even though the percentage of  
23 conditional entrants increased for the 2014-15 school year, “[t]he percentage of  
24 students with permanent medical exemptions stayed the same at .19 percent....”

25          37. Until SB 277, each of the required vaccinations for school entry were  
26 subject to a PBE.

27          38. Despite eliminating the PBE, SB 277 still provides exemptions to the  
28 vaccination requirements, including medical exemptions, Cal. Health & Safety Code



1 § 120370(a), exemptions for “home-based private school or ...an independent study  
2 program[,]” *id.* § 120335(f), and exemptions for students who qualify for an IEP, *id.*  
3 § 120335(h).

4 39. Independent studies can be organized in the following ways: school-  
5 within-a-school; countywide home-based independent study offered by the county  
6 superintendent of schools; district or county alternative in a communication location;  
7 school-based independent study offered part-time and full-time; countywide home-  
8 based independent study offered by the county superintendent of schools; district  
9 dropout prevention centers at selected community sites; district dropout prevention  
10 centers at selected community sites; curricular enrichment options offered to high  
11 school students with special abilities and interests, scheduling problems, or  
12 individual needs that cannot be met in the regular program; alternative school-based  
13 independent study, on-or off-site; and some combination of the above.

14 40. Medical exemptions are not temporary in nature. An exemption is  
15 provided for the entire duration that the student has his or her medical condition.  
16 There is no basis to suggest that a student who has a medical contraindication to the  
17 school-mandated vaccines will overcome that condition and be medically cleared to  
18 the vaccines during the school year.

19 41. Federal law may require the implementation of IEPs, but that does not  
20 give California justification to discriminate against students with religious  
21 exemptions. In a similar lawsuit filed in the Northern District of California, Santa  
22 Clara County attempted to justify their reasoning for discriminating against  
23 employees with religious exemptions to the COVID-19 vaccine, claiming they were  
24 required to prioritize employees with medical exemptions because of federal and  
25 disability law. *UnifySCC v. Cody*, No. 22-CV-01019-BLF, 2022 WL 2357068, at  
26 \*10 (N.D. Cal. June 30, 2022). The court rejected this argument and enjoined the  
27 discriminatory practice, concluding that “under the Supremacy Clause, the edicts of  
28 the federal Constitution trump any obligation to comply with federal or state



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1 statutory or regulatory requirements.” *Id.*

2 42. No Court can disregard a student’s constitutional right to the free  
3 exercise of religion.

4 43. California also allows migrant students, homeless children, military  
5 families and children, and foster youth to attend public and private schools without  
6 proof of vaccination.

7 44. Section 48850(f)(8)(B) of the Education Code provides that when a  
8 foster child is transferred to a new school, that school “shall immediately enroll the  
9 foster child even if the foster child...is unable to produce...records normally  
10 required for enrollment, such as...proof of immunization history...”

11 45. Similarly, Section 48852.7(c)(3) of the Education Code requires the  
12 school to immediately “enroll the homeless child even if the child...is unable to  
13 produce...records normally required for enrollment...including, but not limited to,  
14 records or other proof of immunization history...”

15 46. This section does not require proof of residency or citizenship, allowing  
16 undocumented and unvaccinated migrant students to enroll in school.

17 47. Section 48204.6(c)(3) of the Education Code provides the same  
18 exemption for military families and children.

19 48. Notably, none of these statutory provisions require students to provide  
20 proof of vaccination within a certain time period.

21 49. Many schools have allowed foster children, homeless children, and  
22 migrant students to enroll in school unvaccinated for the entire duration of the school  
23 year, as allowed by state law.

24 50. The state does not require the school districts to disenroll students if  
25 they do not provide proof of vaccination within thirty days. There are circumstances  
26 when school districts, including schools in the Inland Empire of California, spend  
27 the entire school year trying to ensure students are compliant.

28 51. Indeed, there are circumstances where school districts can take more





1 than an entire school year to confirm compliance. The state is primarily concerned  
2 that schools make a good faith effort to ensure compliance.

3 52. SB 277 broadened medical exemptions under § 120370(a) to give  
4 physicians discretion to write medical exemptions beyond the narrow Center for  
5 Disease Control (CDC) guidelines.

6 53. When former Governor Brown signed SB 277, he acknowledged that  
7 “[t]he Legislature, after considerable debate, specifically amended SB 277, to  
8 exempt a child from immunizations whenever the child’s physician concludes that  
9 there are circumstances, including, but not limited to, family medical history, for  
10 which the physician does not recommend immunization....”

11 54. Notably, when considering SB 277, the Senate Judiciary committee  
12 highlighted that repealing the PBE “effectively repeals any possible religious  
13 exemptions” and may conflict with the Free Exercise Clause. *See* Senate Judiciary  
14 Committee Hearing on SB 277 at \*16 (April 28, 2015).

15 55. Several civil rights groups, such as the ACLU-CA, noted that removing  
16 religious exemptions raises constitutional concerns.

17 56. However, the committee minimized any free exercise concerns by  
18 noting that the bill was a neutral law of general applicability, dismissing the opinions  
19 of experienced constitutional attorneys and experts. *Id.* The committee further  
20 rationalized that to “give effect to the religious exception, which would provide for  
21 the exemption of children of parents whose religious beliefs conflict with the  
22 immunization requirements, would discriminate against the great majority of  
23 children who have no such religious conviction.” *Id.* at 17.

24 57. Numerous religious adherents testified about how SB 277 would  
25 impact them and their families, but Governor Brown still signed the bill over their  
26 objections and in contradiction to his prior conduct. For instance, in 2012, he  
27 directed the California Department of Public Health to allow for religious  
28 exemptions under AB 2109.



1           58. The legislators’ treatment and consideration of the religious adherents’  
2 concerns were neither tolerant nor respectful of their religious beliefs.

3           59. Several legislators, including the author of SB 277, Richard Pan, have  
4 made discriminatory remarks about individuals who have sincerely held religious  
5 objections to vaccines before and during the passing of SB 277.

6           60. For instance, on social media, Richard Pan stated that people who “opt  
7 out of vaccines should be opted out of American society.” He even equated these  
8 individuals to drunk drivers.

9           61. Maral Farsi, who serves as the Deputy Director of Legislative and Inter-  
10 Governmental Affairs, has stated that anti-vaxxer parents are “oxygen thieves who  
11 don’t care about children.”

12           62. These statements diminish the sincerely held religious beliefs of parents  
13 across California.

14           63. The state targeted religion because it expressly eliminated religious  
15 exemptions.

16           64. Even though the California Legislature stated it enacted SB 277 to  
17 achieve total immunization of appropriate age groups, the evidence still  
18 demonstrates a targeting of religion because exempt students pose the same risk, if  
19 not a greater risk, than students with religious exemptions.

20           65. Although SB 277 removed all PBEs, hostility towards religion is still  
21 demonstrated because PBEs are still subject to First Amendment protection.  
22 Religious beliefs need not be acceptable, logical, consistent, or comprehensible to  
23 others, nor do they have to be part of an established religion. They just have to be  
24 sincere.

25           66. Since 2021, after the development of the COVID-19 vaccine,  
26 information related to the efficacy of vaccines and religious objections to the  
27 development of vaccines became more widely known and understood.

28           67. More members of the public are now aware that several childhood



1 vaccines were derived from aborted fetal cells. Even if a vaccine is not directly  
2 associated with aborted fetal cells, they are still made by manufacturers who profit  
3 from the use of aborted fetal cells.

4 68. This knowledge has prompted many parents to object to their children  
5 receiving the mandatory vaccines for public and private schools, including Plaintiffs.

6 69. In 2022, the Legislature and Gavin Newsom made attempts to add  
7 COVID-19 to the list of required vaccines for school entrance even though the virus  
8 poses a small risk to schoolchildren.

9 **B. SB 277 Is Not Congruent with California’s Interest in Slowing the Spread**  
10 **of Disease**

11 70. California vaccination rates are high—higher than the national average  
12 for each disease listed on the CDC schedule.<sup>1</sup>

13 71. Additionally, just prior to SB 277’s passage, childhood vaccination  
14 rates were on the rise in California. Although PBEs were increasing from 2000  
15 through 2012, vaccine rates increased 0.2% for Kindergarteners and 1.2% for  
16 seventh graders between the 2013/14 and 2014/15 school years, while PBEs were  
17 declining.<sup>2</sup>

18 72. In 2015-2016, the year before SB 277 went into effect, California’s  
19 seventh grade students were vaccinated at an overall rate of 97.8%. The percentage  
20 of students with PBEs this same year was 1.66%, while the percentage of students  
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25 <sup>1</sup> See American Academy of Pediatrics, *Child Vaccination Across America*, available at:  
<https://downloads.aap.org/AAP/Vaccine/index.html> (accessed September 28, 2023).

26 <sup>2</sup> See California Department of Public Health Immunization Branch, *2014-2015 Kindergarten*  
27 *Immunization Assessment Results* at \*1; See California Department of Public Health Immunization  
28 *Branch, 2014-2015 7th Grade Immunization Assessment Results* at \*1-2 both available at:  
<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/School/tk-12-reports.aspx#>  
(accessed September 28, 2023).





1 with medical exemptions was 0.14%.<sup>3</sup> For entering kindergarten students in the  
2 2015-2016 school year, 92.9% had received all required vaccines. The percentage  
3 of kindergarten students with PBEs this same year was 2.38%, while the percentage  
4 of kindergarten students with medical exemptions was 0.17%.<sup>4</sup>

5 73. Given that religious exemptions declined the year prior to when SB 277  
6 went into effect, there is no evidence to suggest that religious exemptions would  
7 increase or increase more than medical exemptions.

8 74. Indeed, since 2016, medical exemptions in California have increased  
9 rapidly.

10 75. Vaccination rates for entering kindergarten students during the 2020-  
11 21 school year was 94%. The overwhelming majority of counties have vaccination  
12 rates above 90%.

13 76. The herd immunity threshold range for most diseases, excluding the  
14 measles, is 80% to 90%. If immunity is above the herd immunity threshold for a  
15 group of people, then an infectious disease might cause a few cases, but it will  
16 quickly stop spreading because enough people are protected.

17 77. There is no evidence to suggest that students with PBEs who would be  
18 granted full access to traditional classroom settings pose a greater risk to students  
19 enrolled in a home-based private school or independent study program without  
20 classroom instruction.

21 78. The evidence to date demonstrates that the overwhelming majority of  
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24 <sup>3</sup> See California Department of Public Health Immunization Branch, *2015-2016 7th Grade*  
25 *Immunization Assessment Results* at \*1, available at:  
<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/School/tk-12-reports.aspx#>  
26 (accessed September 28, 2023).

27 <sup>4</sup> See California Department of Public Health Immunization Branch, *2015-2016 Kindergarten*  
*Immunization Assessment Results* at \*1, available at:  
28 <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/School/tk-12-reports.aspx#>  
(accessed September 28, 2023).

1 students in public school are vaccinated. Allowing religious exemptions to the  
2 required vaccines would not drop the compliance rate below the herd immunity  
3 threshold.

4 79. From an epidemiological standpoint, pooling unvaccinated students in  
5 a home-based private school or independent study program creates an equal, if not  
6 greater, risk of transmission than the small number of unvaccinated students pooled  
7 together with a majority of vaccinated students in public schools.

8 80. Students enrolled in independent study programs are still free to  
9 participate in sports and extra-curricular activities with other students who attend  
10 their local school districts. Students sitting in a classroom setting pose no greater  
11 risk than students shouting, singing, or chanting in their local sports league or extra-  
12 curricular activity.

13 81. Students enrolled in an independent study program or home-based  
14 private school are still able to gather and congregate with other students in the park,  
15 store, or church – settings that pose an equal risk as classroom settings.

16 82. SB 277 is further irrational considering that those vaccinated against  
17 certain diseases, such as Measles, can still develop infections. These students are  
18 allowed to go home and congregate with unvaccinated family members or family  
19 members who no longer have immunity or have waning immunity.

20 83. A significant number of individuals are also anergic to vaccines,  
21 meaning they can never mount antibodies no matter how protected they are by  
22 vaccines. Thus, there is no evidence to suggest that a ban on religious exemptions is  
23 justified considering a significant number of non-immune students are congregating  
24 with each other, including those who are anergic and those who no longer have  
25 immunity.

26 84. Moreover, these exempt unvaccinated children, as well as foster youth,  
27 homeless students, migrants, and military families are still free to gather in other  
28 congregate settings like sports leagues, public extracurricular activities, and hours



1 of services at churches and synagogues. These settings pose the same risk of  
2 transmission as classroom settings.

3 85. The rolling admission of foster youth, homeless students, migrants, and  
4 military families pose a similar risk of spreading disease. The moment an  
5 unvaccinated student steps foot on campus, he or she presents the same health and  
6 safety risks as an unvaccinated religious student. There is no evidence to suggest  
7 that an unvaccinated student is immune from contracting or spreading disease for  
8 ten days or thirty days.

9 86. Indeed, if anything, children living in homeless circumstances or  
10 shelters are more likely to be exposed to the kinds of conditions that would spread  
11 disease than children living in stable homes.

12 87. California has one of the highest rates of children in foster care than  
13 any other state.

14 88. Homelessness and immigration have steadily increased in California  
15 over the past decade. The average rate of students experiencing homelessness in  
16 California is around 4%, with some regions like Monterey and Santa Barbara  
17 experiencing rates above 10%. Scientific studies have shown that migrant students  
18 and students experiencing homelessness or living in foster homes are at increased  
19 risk of spreading disease due to a multitude of factors, including lack of access to  
20 hygiene and healthcare facilities.

21 89. Thus, migrant children, homeless children, and children living in foster  
22 homes are a greater contagion hazard than unvaccinated students with religious  
23 exemptions.

24 90. California also mandates vaccines that are not necessary. For instance,  
25 chickenpox is a mild disease and complications in children are rare. Chickenpox  
26 vaccination also increases the risk of shingles in adults, which is a more dangerous  
27 disease and comes with a higher risk of complications.

28 91. Tetanus is not person to person transmissible, and Hepatitis B immunity



1 wanes by the time the students are teenagers.

2 92. Forty-five states and the District of Columbia currently offer religious  
3 exemptions from compulsory school vaccination laws.<sup>5</sup> California is one of only five  
4 states that does not offer a religious exemption from compulsory school vaccination  
5 laws.

6 **FIRST CAUSE OF ACTION**

7 **Violation of the Free Exercise Clause of the**  
8 **First Amendment to the United States Constitution**  
9 **(42 U.S.C. § 1983)**

10 93. Plaintiffs re-allege and incorporate by reference the allegations in the  
11 preceding paragraphs 1 through 92, as if fully set forth herein.

12 94. The First Amendment’s Free Exercise Clause provides that “Congress  
13 shall make no law respecting an establishment of religion or prohibiting the free  
14 exercise thereof.”

15 95. Plaintiffs’ sincerely held religious beliefs prohibit them from  
16 vaccinating their minor children. SB 277 burdens Plaintiffs because it forces them  
17 to forego their religious beliefs to receive a public or private education.

18 96. The Free Exercise Clause of the First Amendment protects against  
19 “indirect coercion or penalties on the free exercise of religion, not just outright  
20 prohibitions.” *Carson v. Makin*, 142 S. Ct. 1987 (2022) (quoting *Lyng v. Northwest*  
21 *Indian Cemetery Protective Assn.*, 485 U. S. 439, 450 (1988). “In particular, we have  
22 repeatedly held that a State violates the Free Exercise Clause when it excludes  
23 religious observers from otherwise available public benefits.” *Id.*

24 97. The First Amendment’s Free Exercise Clause prohibits the government  
25

26  
27 <sup>5</sup> See National Conference of State Legislatures, *States With Religious and Philosophical*  
28 *Exemptions From School Immunization Requirements*, last updated August 3, 2023,  
<https://www.ncsl.org/health/states-with-religious-and-philosophical-exemptions-from-school-immunization-requirements>



1 from enacting non-neutral and non-generally applicable legislation unless it is  
2 narrowly tailored to a compelling government interest.

3 98. Government regulations “are not neutral and generally applicable, and  
4 therefore trigger strict scrutiny under the free exercise clause of the First  
5 Amendment, whenever they treat *any* comparable secular activity more favorably  
6 than religious exercise.” *Tandon v. Newsom*, 141 S. Ct. 1294, 1296 (2021)  
7 (emphasis in original).

8 99. Additionally, the government “fails to act neutrally when it proceeds in  
9 a manner intolerant of religious beliefs or restricts practices because of their religious  
10 nature.” *Fulton v. City of Philadelphia*, 141 S. Ct. 1868, 1877 (2023) (internal  
11 citations omitted).

12 100. The State has taken the additional step to single out religious adherents  
13 for worse treatment by publicly announcing that religious exemptions are  
14 categorically excluded from consideration. The Health Department’s website states  
15 that it will consider medical exemptions, but not religious exemptions (“Starting in  
16 2016, exemptions for religious or other personal beliefs are no longer an option for  
17 the vaccines that are currently required for entry into school or childcare in  
18 California.”).<sup>6</sup>

19 101. SB 277 is a demonstration of hostility towards religion, as evidenced  
20 by the comments of legislators diminishing the sincerely held religious beliefs of  
21 parents.

22 102. Furthermore, a law “lacks general applicability if it prohibits religious  
23 conduct while permitting secular conduct that undermines the government’s asserted  
24 interests in a similar way.” *Id.* at 1877 (internal citations omitted).

25 103. A student with an exemption for secular reasons poses a similar  
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27  
28 <sup>6</sup> See California Department of Public Health, *Personal Belief Exemptions FAQs*, last updated August 24, 2023, <https://eziz.org/assets/docs/shotsforschool/PBEFAQs.pdf>.





1 contagion hazard as a student with a hypothetical religious exemption.

2 104. Further, California does not prohibit unvaccinated children from  
3 attending camp, visiting public libraries or museums, or from interacting with their  
4 peers in any other way.

5 105. Additionally, California’s secular exemption system provides for  
6 individualized discretionary review. The Supreme Court recently reaffirmed that a  
7 policy that provides a “mechanism for individualized exemptions” is not generally  
8 applicable. *Id.*

9 106. In such instances, the government may not refuse to extend the  
10 possibility for an exemption “to cases of religious hardship without compelling  
11 reason.” *Id.* at 1872.

12 107. Here, the California Department of Public Health’s secular exemption  
13 process provides medical exemptions on an individualized basis, and the Department  
14 maintains the right to rescind exemptions in whole or in part based upon their  
15 discretionary review. Simultaneously, SB 277 requires the State to refuse to extend  
16 the possibility for an exemption to those with religious objections.

17 108. These practices are not generally applicable, and they must therefore  
18 survive strict scrutiny.

19 109. SB 277 fails strict scrutiny because it is not narrowly tailored to meet  
20 any compelling government interest. SB 277 mandates vaccines that are not  
21 necessary. And the state cannot show that exempt students pose a greater risk than  
22 students with religious exemptions.

23 110. As a direct and proximate result of Defendant’s violation of the First  
24 Amendment, Plaintiffs have suffered, and will suffer, irreparable harm, including  
25 the loss of their fundamental constitutional rights, entitling them to declaratory and  
26 injunctive relief. Additionally, Plaintiffs are entitled to attorneys’ fees under 42  
27 U.S.C. § 1988.  
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**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs pray for relief as follows:

1. A declaratory judgement that SB 277, as reflected in California Health and Safety Code §§ 120335 and 120370, is unconstitutional;
2. Temporary, preliminary, and permanent injunctive relief enjoining California Health and Safety Code §§ 120335 and 120370;
3. For costs, attorneys’ fees and interest, as allowed by law; and
4. For such other relief the Court determines is proper.

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand trial by jury.

Respectfully submitted,

ADVOCATES FOR FAITH & FREEDOM

DATED: April 29, 2024

By: /s/Mariah Gondeiro  
Mariah Gondeiro, Esq.

