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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.:

**COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF**

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



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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, enrolled in an individualized education program
7 (“IEP”), 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 [REDACTED] 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 [REDACTED]
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 [REDACTED]
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



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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 [REDACTED]
14 [REDACTED] 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.



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PARTIES - DEFENDANT

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

JURISDICTION AND VENUE

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

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

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

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

STATEMENT OF FACTS

A. History of Childhood Vaccination Requirements in California

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

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

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



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

12 35. Despite eliminating the PBE, SB 277 still provides exemptions to the
13 vaccination requirements, including medical exemptions, Cal. Health & Safety Code
14 § 120370(a), exemptions for “home-based private school or ...an independent study
15 program[,]” *id.* § 120335(f), and exemptions for students who qualify for an IEP, *id.*
16 § 120335(h).

17 36. California also allows immigrant and homeless children to attend
18 public and private schools without proof of vaccination.

19 37. SB 277 broadened medical exemptions under § 120370(a) to give
20 physicians discretion to write medical exemptions beyond the narrow Center for
21 Disease Control (CDC) guidelines.

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

27 39. Notably, when considering SB 277, the Senate Judiciary committee
28 highlighted that repealing the PBE “effectively repeals any possible religious



1 exemptions” and may conflict with the Free Exercise Clause. *See* Senate Judiciary
2 Committee Hearing on SB 277 at *16 (April 28, 2015).

3 40. However, the committee minimized any free exercise concerns by
4 noting that the bill was a neutral law of general applicability. *Id.* The committee
5 further rationalized that to “give effect to the religious exception, which would
6 provide for the exemption of children of parents whose religious beliefs conflict with
7 the immunization requirements, would discriminate against the great majority of
8 children who have no such religious conviction.” *Id.* at 17.

9 41. Numerous religious adherents testified about how SB 277 would
10 impact them and their families, but Governor Brown still signed the bill over their
11 objections and in contradiction to his prior conduct. For instance, in 2012, he
12 directed the California Department of Public Health to allow for religious
13 exemptions under AB 2109.

14 42. Several legislators, including the author of SB 277, Richard Pan, have
15 made discriminatory remarks about individuals who have sincerely held religious
16 objections to vaccines.

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

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

23 45. These statements diminish the sincerely held religious beliefs of parents
24 across California.

25 46. 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 47. 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 48. This knowledge has prompted many parents to object to their children
5 receiving the mandatory vaccines for public and private schools, including Plaintiffs.

6 49. In 2022, the Legislature and Gavin Newsom have 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 50. California vaccination rates are high—higher than the national average
12 for each disease listed on the CDC schedule.¹

13 51. Additionally, just prior to SB 277’s passage, childhood vaccination
14 rates were on the rise in California. Vaccine rates increased 0.2% for
15 Kindergarteners and 1.2% for seventh graders between the 2013/14 and 2014/15
16 school years, while PBEs were declining.²

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

26 ² 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%.³ 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%.⁴

5 53. Herd immunity thresholds for required vaccinations against contagious
6 diseases range from 80% to 95%.⁵ If immunity is above the “herd immunity”
7 threshold for a group of people, then an infectious disease might cause a few cases,
8 but it will quickly stop spreading because enough people are protected.

9 54. California cannot demonstrate that religiously exempt students pose a
10 greater risk than secularly exempt students. The exempt unvaccinated children under
11 SB 277 are still free to sweat in weekend sports leagues together, participate in public
12 extracurricular activities, and sit through hours of services at churches and
13 synagogues.

14 55. California also mandates vaccines that are not necessary. For instance,
15 chickenpox is a mild disease and complications in children are rare. Chickenpox
16 vaccination also increases the risk of shingles in adults, which is a more dangerous
17 disease and comes with a higher risk of complications.

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³ See California Department of Public Health Immunization Branch, *2015-2016 7th Grade Immunization Assessment Results* at *1, available at: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/School/tk-12-reports.aspx#> (accessed September 28, 2023).

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

⁵ See Carrie MacMillan, *Herd Immunity: Will We Ever Get There?*, Yale Medicine, May 21, 2021, <https://www.yalemedicine.org/news/herd-immunity>.

1 56. Forty-five states and the District of Columbia currently offer religious
2 exemptions from compulsory school vaccination laws.⁶ California is one of only five
3 states that does not offer a religious exemption from compulsory school vaccination
4 laws.

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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 57. Plaintiffs re-allege and incorporate by reference the allegations in the
preceding paragraphs 1 through 56, as if fully set forth herein.

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

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

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

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27 ⁶ See National Conference of State Legislatures, *States With Religious and Philosophical*
Exemptions From School Immunization Requirements, last updated August 3, 2023,
28 <https://www.ncsl.org/health/states-with-religious-and-philosophical-exemptions-from-school-immunization-requirements>





1 61. The First Amendment’s Free Exercise Clause prohibits the government
2 from enacting non-neutral and non-generally applicable legislation unless it is
3 narrowly tailored to a compelling government interest.

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

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

13 64. The State has taken the additional step to single out religious adherents
14 for worse treatment by publicly announcing that religious exemptions are
15 categorically excluded from consideration. The Health Department’s website states
16 that it will consider medical exemptions, but not religious exemptions (“Starting in
17 2016, exemptions for religious or other personal beliefs are no longer an option for
18 the vaccines that are currently required for entry into school or childcare in
19 California.”).⁷

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

23 66. Furthermore, a law “lacks general applicability if it prohibits religious
24 conduct while permitting secular conduct that undermines the government’s asserted
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28 ⁷ See California Department of Public Health, *Personal Belief Exemptions FAQs*, last updated August 24, 2023, <https://eziz.org/assets/docs/shotsforschool/PBEFAQs.pdf>.



1 interests in a similar way.” *Id.* at 1877 (internal citations omitted).

2 67. A student with an exemption for secular reasons poses a similar
3 contagion hazard as a student with a hypothetical religious exemption.

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

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

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

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

19 72. These practices are not generally applicable, and they must therefore
20 survive strict scrutiny.

21 73. SB 277 fails strict scrutiny because it is not narrowly tailored to meet
22 any compelling government interest.

23 74. 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.

Respectfully submitted,

DATED: October 31, 2023

ADVOCATES FOR FAITH & FREEDOM

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

