

No. 25-3686

In the United States Court of Appeals
FOR THE NINTH CIRCUIT

CHINO VALLEY UNIFIED SCHOOL DISTRICT, a local educational
agency, ET AL.,

Plaintiffs–Appellants,

v.

GAVIN NEWSOM, in his official capacity as Governor of the State of
California, ET AL.,

Defendants–Appellees.

On Appeal from the United States District Court for the
Eastern District of California; No. 2:24-cv-01941-DJC-JDP
Hon. Judge Daniel J. Calabretta

MOTION FOR RECONSIDERATION

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INTRODUCTION

Under the standard for reconsideration of an order, a party seeking reconsideration must state particular points of the law the Court overlooked or misunderstood. This Court issued an order vacating submission of this case pending this Court’s decision in *Huntington Beach v. Newsom*, No. 25-3826, and holding the case in abeyance. Dkt. 60.1. Plaintiffs–Appellants seek to reverse that decision because resolution of *Huntington Beach* will not resolve all the claims in this case.

BACKGROUND

This case seeks to enjoin Assembly Bill 1955 (“AB 1955”), a California law that prohibits public schools from mandating that certain information be shared with parents about their children—including information correlated with an increased risk of psychological, emotional, and physical harm, and high rates of suicide and suicide attempts.

Specifically, AB 1955 states that a “school district . . . shall not enact or enforce any policy, rule, or administrative regulation that would require an employee or a contractor to disclose any information related

to a pupil's . . . gender identity[] or gender expression to any other person without the pupil's consent" Thus, under AB 1955, no matter how young a child is, a school may not adopt a policy requiring notification to the child's parents that the school is socially transitioning their child without the minor's "consent."

The underlying suit in this case brought four distinct claims. In addition to the Fourteenth Amendment claims brought in *Huntington Beach*, Plaintiffs¹ here also claimed that AB 1955 violated the Family Educational Rights & Privacy Act ("FERPA"), which governs communications between a school and the parents of a student regarding that student's education and educational records. 20 U.S.C. § 1232g. Further, Plaintiffs brought claims under the First Amendment, asserting a Free Exercise right to control the religious upbringing and education of their minor children. Finally, Plaintiffs brought claims

¹ A group of California parents (the "Parent Plaintiffs") and several local educational agencies, including Chino Valley Unified School District ("CVUSD"), Anderson Union High School District ("AUHSD"), and the Orange County Board of Education ("OCBE") (the "LEA Plaintiffs," and, together with the Parent Plaintiffs, "Plaintiffs") filed this suit against the governor, attorney general, and state superintendent of instruction ("Defendants") to prevent the enforcement of AB 1955.

under 28 U.S.C. § 2201(a) seeking a declaration that, by requiring them to enforce AB 1955, the governor and his co-defendants were forcing schools to violate federal law.

In a ruling on Defendants’ Rule 12(b)(1) motion, the district court dismissed all claims, and this appeal challenges the district court’s dismissal order.

On August 11, 2026, this Court issued an order vacating “submission of this case pending this Court’s decision in *Huntington Beach v. Newsom*, No. 25-3826” and holding the case “in abeyance pending further order of this court.” Dkt. 60.1.

STANDARD

Under Ninth Circuit Rule 27-10, “a party seeking [reconsideration of an order] shall state with particularity the points of law or fact which, in the opinion of the movant, the Court has overlooked or misunderstood.” While motions for reconsideration are generally disfavored, they are permitted “where counsel believes that the Court has overlooked or misunderstood a point of law or fact” Circuit Advisory Committee Note to Rule 27-10.

ARGUMENT

Reconsideration of the abeyance in this case is appropriate because the order overlooks the fact that this appeal presents independent issues not capable of resolution in *Huntington Beach* such that the abeyance unnecessarily suspends proceedings beyond the shared legal question. Although this case and *Huntington Beach* are both nominally about plaintiffs' standing to bring constitutional claims, resolving *Huntington Beach* will not resolve all the claims here. Compare Dkt. 12.1 (Appellants' Opening Brief), with *Huntington Beach*, No. 25-3826, Dkt. 14.1 (*Huntington Beach* Appellants' Brief ("*Huntington Br.*")).

Huntington Beach concerns a challenge by parents of schoolchildren and (via associational standing) a city to AB 1955 solely as a Fourteenth Amendment due process issue. *Huntington Br.* 4, 38. The district court there found that certain parents had standing to sue, *id.* at 15–16, but, in addition to dismissing some plaintiffs on a Rule 12(b)(1) motion, dismissed the case entirely for failure to state a claim under Rule 12(b)(6), *id.* at 16–18; *City of Huntington Beach v. Newsom*, 790 F. Supp. 3d 812, 838 (C.D. Cal. 2025).

This case, however, addresses a number of distinct issues. First, the institutional plaintiffs are LEAs, not a city, which allows them to make unique arguments about why this Court should dispose of its *City of South Lake Tahoe* doctrine.

Second, unlike *Huntington Beach*, this case is not limited to a due process claim and a claim under 28 U.S.C. § 2201(a). This case concerns a Free Exercise claim in which the Parent Plaintiffs assert a right to “control the religious upbringing and education of their minor children.” *Wisconsin v. Yoder*, 406 U.S. 205, 231 (1972). This case *also* concerns a FERPA claim, which was dismissed due to a perceived “federal carveout” in AB 1955. Dkt. 12.1 at 2, 4.

Third, this case was improperly dismissed² under Rule 12(b)(1) without reaching the merits of any of Plaintiffs’ arguments. *Id.* And, unlike in *Huntington Beach*, the district court here raised an Eleventh Amendment issue in holding that Governor Newsom has Eleventh Amendment immunity.

² As explained in Appellants’ Opening Br. 30–33, the FERPA claim was in fact improperly dismissed on the merits, rather than on any jurisdictional issue.

Because of these differences, resolving *Huntington Beach* will not dispose of all the issues in this case, and the order putting this case into abeyance pending decision in *Huntington Beach* overlooked this fact. A ruling against the *Huntington Beach* plaintiffs will not reach the First Amendment or FERPA issues present in this case. And because some of the *Huntington Beach* plaintiffs were found to have standing, a ruling in their favor on appeal will not address the standing of the Plaintiffs here. Nor would a ruling in *Huntington Beach* address Governor Newsom's Eleventh Amendment immunity here. In short, resolving *Huntington Beach* either way will not dispose of all the issues in this case. Because *Huntington Beach* is not dispositive, Plaintiffs in this action should not be required to delay their appeal that involves additional issues, and an oral argument date should be set.

CONCLUSION

Although Plaintiffs–Appellants are cognizant of the need to preserve judicial resources, abeyance is improper here because *Huntington Beach* does not encompass all of the issues in this case, and therefore cannot fully control any resolution of this case. The order overlooked this fact

warranting this Court's reconsideration. Plaintiffs–Appellants respectfully request that the abeyance be lifted.

Respectfully Submitted,

Dated: August 25, 2026

LIBERTY JUSTICE CENTER

By: 

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