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Exempt from filing fee under Government Code section 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

PROTECT KIDS CALIFORNIA, et al., Petitioners, **v.** **ROB BONTA, in his official capacity as Attorney General of the State of California,** Respondent.	Case No. 24WM000034 **ORDER AND JUDGMENT** Date: April 19, 2024 Time: 1:30 p.m. Dept: 36 Judge: Hon. Stephen P. Acquisto Action Filed: February 13, 2024

The verified petition for writ of mandate filed by petitioners Protect Kids California and Jonathan Zachreson came before the court for a hearing on April 19, 2024, at 1:30 p.m., in Department 36 of the above-titled court, the Honorable Stephen P. Acquisto presiding. Deputy Attorney General Malcolm Brudigam and Supervising Deputy Attorney General Benjamin Glickman appeared on behalf of respondent, Rob Bonta, in his official capacity as Attorney General of the State of California. Attorneys Nicole Pearson and C. Erin Friday appeared on behalf of petitioners.

Before the hearing, on April 18, 2024, the court issued a tentative ruling denying the verified petition. Following oral argument by the parties at the April 19th hearing, the court took the matter under submission. On April 22, 2024, the court issued its final ruling denying petitioners' verified petition and all claims contained therein, which is attached and incorporated herein as **Exhibit A**.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. The verified petition for writ of mandate is denied for the reasons set forth in the attached final ruling.
2. The verified petition is dismissed in its entirety with prejudice.
3. Judgment is entered in favor of respondent.

Dated: 5/1/24

SUPERIOR COURT OF CALIFORNIA COUNTY OF SACRAMENTO

The Honorable Stephen P. Acquisto
Judge of the Superior Court

Approved as to form:

Dated: April ___, 2024

By: _____
C. Erin Friday
Nicole C. Pearson
Attorneys for Petitioners

Exhibit A

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

DATE/TIME JUDGE	April 22, 2024 HON. STEPHEN ACQUISTO	DEPT. NO CLERK	36 B. POLLOCK
PROTECT KIDS OF CALIFORNIA, et al., **Petitioners,** **v.** **ROB BONTA,** **Respondent.**		**Case No. 24WM000034** **FILED** Superior Court of California County of Sacramento 04/22/2024 B. Pollock, Deputy	
Nature of Proceedings:	**Ruling on Submitted Matter – Petition for Writ of Mandate**		

On April 18, 2024, the Court issued a tentative ruling denying the petition for writ of mandate. The following day, the Court held a hearing and took the matter under submission. Having considered the parties' filings and arguments offered at the hearing, the Court issues this final ruling denying the petition for writ of mandate.

BACKGROUND

Petitioner Jonathan Zachreson is a proponent of a ballot initiative and a member of Petitioner Protect Kids California, a political organization. On September 25, 2023, Zachreson submitted to Respondent Rob Bonta, the Attorney General, proposed ballot initiative number 23-0027 calling for a number of changes to the Education Code and the Business and Professions Code regarding the treatment of minors based on their biological sex.

The proposed measure would do the following: (1) add a new Education Code provision requiring schools to notify parents when a pupil requests to be treated as a gender different from the gender on the pupil's record, i.e. the biological sex, and to obtain consent before providing accommodations on such request; (2) repeal an existing Education Code provision providing that a student must be permitted to participate in sex-segregated activities and use facilities consistent with the student's gender identity; (3) add new Education Code provisions prohibiting schools from allowing biological male students to participate in programs or activities designated for

female students and to use facilities designated for female students; and (4) add new Business and Professions Code provisions prohibiting health care providers from providing "sex-reassignment prescriptions or procedures" to minors. (Pet., Exh. A.)

On November 29, 2023, the Attorney General issued the following circulating title and summary for the proposed measure under Elections Code section 9004:

RESTRICTS RIGHTS OF TRANSGENDER YOUTH. INITIATIVE STATUTE.

> • Requires public and private schools and colleges to: restrict gender-segregated facilities like bathrooms to persons assigned that gender at birth; prohibit transgender female students (grades 7+) from participating in female sports. Repeals law allowing students to participate in activities and use facilities consistent with their gender identity.
>
> • Requires schools to notify parents whenever a student under 18 asks to be treated as a gender differing from school records without exception for student safety.
>
> • Prohibits gender-affirming health care for transgender patients under 18, even if parents consent or treatment is medically recommended.

(Pet., Exh. D.)

On February 13, 2024, Petitioners filed this action alleging that the Attorney General prepared an inaccurate, false, and biased title and summary for the proposed measure in violation of Elections Code sections 9004 and 9051 as well as Petitioners' constitutional free speech rights. Petitioners seek a writ of mandate directing the Attorney General to replace the current circulating title and summary with Petitioners' own title and summary, and to allow an additional 180 days for gathering voter signatures under Elections Code section 9014.

DISCUSSION

I. Preliminary Matters

A. Petitioners' Requests for Judicial Notice

Petitioners submitted four requests for judicial notice. Each request is denied for the following reasons. Petitioners seek judicial notice of the Court's "entire file, and all its contents including Exhibits attached thereto and referenced in Declarations, including but not limited to Respondent's public press releases and announcements" under Evidence Code section 452, subdivision (d). (Pet. RJN, p. 2.)

Judicial notice is proper only as to relevant matters. (*Town of Atherton v. California High-Speed Rail Authority* (2014) 228 Cal.App.4th 314, 341.) Judicial notice is taken with respect to *facts* that may be gleaned from judicially noticeable documents. (See *Barri v. Workers' Comp. Appeals Bd.* (2018) 28 Cal.App.5th 428, 437.) While judicial notice may be taken of the existence of certain court records and certain facts such as the results of the results reached, judicial notice may not be taken of the truth of hearsay statements within. (*Ibid.*).

Here, Petitioners do not clarify which court records are being offered, and for what purpose. The Court declines to comb through the entire record and speculate which declarations and exhibits are being offered for what purpose, and how they are relevant. The Court, however, takes judicial notice of Exhibit A attached to the petition. While Exhibit A was not properly submitted as evidence, it appears to be the only copy of the text of the proposed measure, and the Attorney General does not appear to dispute that it is a true copy. (See Opp., p. 11:11-13.)

Petitioners also request judicial notice of two articles from the website "rasmussenreports.com" regarding certain polling results, as official acts and facts not reasonably subject to dispute under Evidence Code section 452, subdivisions (c) and (h), respectively. The articles are not official governmental acts, and they do not provide facts not reasonably subject to dispute. (See *Walgreen Co. v. City and County of San Francisco* (2010) 185 Cal.App.4th 424, 443 [contents of newspaper article not subject to judicial notice].) The articles are also irrelevant.

Petitioners also request judicial notice of the following statement found on the website "ballotpedia.org": "The ballot title and summary are arguably the most important part of an initiative in terms of voter education. Most voters never read more than the title and summary of the text of initiative proposals. Therefore, it is of critical importance that titles and summaries be concise, accurate and impartial." This request is denied as irrelevant and not subject to judicial notice under section 452, subdivisions (g) or (h).

B. The Attorney General's Requests for Judicial Notice

The Attorney General requests judicial notice of 18 items. Exhibits 1-6 are previous proposed initiatives submitted by Zachreson and corresponding circulating titles and summaries that preceded the proposed measure in this case. Exhibit 7 is a correspondence from the Secretary of State to Zachreson regarding the applicable deadlines. Exhibits 13-18 are circulating title and summary previously prepared by the Attorney General for other proposed

measures, offered to show that the Attorney General has been consistent in the usage of certain terms. These requests are unopposed and granted, except as to Exhibits 13-18. The Attorney General's use of certain terms in the title and summary of other measures is not relevant to whether the title and summary in this case complies with the applicable standards.

Exhibits 8-12 are online news articles regarding Petitioners' proposed ballot measures. Exhibits 9-12 are specifically offered to show the words used by news outlets to describe Petitioners' proposed ballot measures, as compared to the Attorney General's title and summary. The requests are denied. While the fact that certain news outlets have used certain words to describe the proposed ballot measure likely is not reasonably subject to dispute, it has little bearing, if any, on whether the title and summary prepared by the Attorney General complies with the statutory requirements.

C. The Attorney General's Evidentiary Objections

The Court rules as follows on the Attorney General's various evidentiary objections submitted with the opposition brief.[1]

Wells Declaration filed 2/13/24

The declaration of Korey Wells filed on February 13, 2024 states his belief that the Attorney General's title and summary does not match the content of the proposed measure, and that Wells's contacts have refused to sign the petition or donate solely based on the title and summary. (Wells Decl. ¶¶ 4-8.) The objections as to these paragraphs are sustained on relevance grounds.

Lee Declaration filed 2/13/24

The declaration of Robert Lee filed on February 13, 2024 states that Lee, as a volunteer in support of the proposed measure, spoke to many people that changed their minds about signing for the proposed measure because of the Attorney General's title and summary, and that Lee believes the title and summary to be an improper editorial. (Lee Decl. ¶¶ 6-12.) The objections to these paragraphs are sustained on relevance grounds.

[1] The Attorney General also made a number of evidentiary objections to certain factual assertions in Petitioners' opening brief. The opening brief is not evidence, and the Court did not consider factual assertions in the opening brief not supported by any evidence.

Friday Declaration filed 2/13/24

The declaration of counsel, C. Erin Friday, filed on February 13, 2024 states, in part, that a number of other states have passed laws similar to the proposed measure but with more positive titles (Friday 2/13/24 Decl. ¶ 4), that counsel received certain results after performing Casetext searches for codes and regulations that define the term "female" (*Id.*, ¶¶ 5-6), that Korey Wells sent an email to Protect Kids asking why a lawsuit has not been filed regarding the circulating title and summary (*Id.*, ¶¶ 7-8), and that counsel, while gathering signatures, had to explain to at least 10 potential signatories what the term "transgender female" means. (*Id.*, ¶ 10.) The objections to these paragraphs are sustained on relevance grounds.

Friday Declaration filed 3/20/24

The declaration of counsel, C. Erin Friday, filed on March 20, 2024, offers, in part, statements and exhibits regarding articles on polling results (Friday 3/20/24 Decl. ¶ 3; Exh. 1a, 2a), Korey Wells, Robert Lee, and various potential donors' contact with Protect Kids (*Id.*, ¶¶ 4-6), other states' laws similar to the proposed measure (*Id.*, ¶ 7), an unrelated case where the Attorney General has filed an amicus brief (*Id.*, ¶ 8; Exh. 3a), counsel's legal research on California codes and regulations on the term "female" (*Id.*, ¶¶ 9-10), counsel's conversations with people who believed "transgender female" meant biological females who identified as males (*Id.*, ¶ 11), and a page from the website "ballotpedia.org" regarding the importance of ballot titles and summaries. (*Id.*, ¶ 12.) The objections to these paragraphs are sustained on relevance grounds.

II. Merits

Upon receipt of the text of a proposed initiative measure, the Attorney General must prepare "a circulating title and summary of the chief purposes and points of the proposed measure" not exceeding 100 words. (Elec. Code, § 9004, subd. (a).) The circulating title and summary must "give a true and impartial statement of the purpose of the measure" so that it "shall neither be an argument, nor be likely to create prejudice, for or against the proposed measure." (Elec. Code, §§ 9004, subd. (a), 9051, subd. (e).) The circulating title and summary should be read as a single document, rather than in isolation. (*Becerra v. Superior Court* (2017) 19 Cal.App.5th 967, 976.) The purpose of these requirements is to "reasonably inform the voter of the character and real purpose of the proposed measure," and to "avoid misleading the public

with inaccurate information." (*Horneff v. City and County of San Francisco* (2003) 110 Cal.App.4th 814, 820.)

Given the judgment and discretion required in complying with these requirements, "the Attorney General is afforded 'considerable latitude' in preparing a title and summary." (*Becerra, supra*, 19 Cal.App.5th 967 at p. 975.) "[T]he title and summary prepared by the Attorney General are presumed accurate, and substantial compliance with [section 9004] is sufficient." (*Ibid.*) "If reasonable minds may differ as to its sufficiency, the title and summary prepared by the Attorney General must be upheld . . . because all legitimate presumptions should be indulged in favor of the propriety of the attorney-general's actions. ... Only in a 'clear case' should a title and summary prepared by the Attorney General be held insufficient." (*Ibid.* [citations and quotation marks omitted].)

Upon a challenge to the title and summary prepared by the Attorney General, courts independently review whether it "substantially complies with statutory standards." (*Id.*) Relief may be granted by a writ of mandate "only upon clear and convincing proof" that the title and summary is "false, misleading, or inconsistent with the requirements of the [Elections Code]." (*Becerra, supra*, 19 Cal.App.5th at p. 976; Elec. Code, § 9092.)

A. The Attorney General's Title and Summary Accurately and Impartially Stated that the Proposed Measure "Restricts Rights" of Transgender Youth.

Petitioners argue that the Attorney General's circulating title and summary is inaccurate and biased in describing that the proposed measure "restricts rights" of transgender youth. The Court disagrees.

Under current law, minor students have express statutory rights with respect to their gender identity: "A pupil shall be permitted to participate in sex-segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with his or her gender identity, irrespective of the gender listed on the pupil's records." (Ed. Code, § 221.5, subd. (f).)

A substantial portion of the proposed measure is dedicated to eliminating or restricting these statutory rights. The proposed measure would expressly repeal section 221.5, subdivision (f). (Pet., Exh. A, p. 3.) It would add new provisions, proposed Education Code sections 221.75 and 66271.85, expressly prohibiting schools serving students grades 7 to 12 and colleges from allowing transgender females from participating in athletic programs or activities designated for

female students, as well as using sex-segregated facilities such as bathroom and lockers designated for female students. (*Id.*, at pp. 3-4.) The proposed measure would add another provision, proposed Education Code section 51101.5, that would require schools to notify parents when a pupil requests to be treated as a gender different from their biological sex, and prohibit schools from providing accommodations consistent with such requests without express consent of the parents. (*Id.*, at p. 3.)

"Restrict" is a verb that means, "to confine within bounds," and is interchangeable with "restrain." (Merriam-Webster Dict. Online (2024) <https://www.merriam-webster.com/dictionary/restrict> [as of Apr. 16, 2024].) "Restrain" is defined, in part, as: "to prevent from doing, exhibiting, or expressing something." (*Id.*, <https://www.merriam-webster.com/dictionary/restrain> [as of Apr. 16, 2024].) The proposed measure would eliminate express statutory rights and place a condition of parental consent on accommodations that are currently available without such condition. The proposed measure objectively "restricts rights" of transgender youth by preventing the exercise of their existing rights. "Restricts rights of transgender youth" is an accurate and impartial description of the proposed measure.

At the hearing, Petitioners' counsel argued that stating that the measure would "*restrict*" rights is prejudicial, and suggested that "*limits*" rights would be preferable. But as just explained, "restricts rights" accurately describes what the proposed measure would do. If, as Petitioners contend, people have expressed negative reactions when asked to sign the initiative petition, perhaps those reactions stem from the measure itself, rather than the accurate use of the word "restricts" in the title and summary.

Petitioners also contend that their preferred title of "Protect Kids of California Act of 2024" should have been used to avoid prejudicial effect, because "protect" does not carry a negative connotation. But the term "protect" is abstract because it does not describe in specific or concrete terms what the proposed measure would actually do. And whether the measure would actually "protect" kids is subjective and debatable. Petitioners' preferred verbiage would broadly suggest to voters that they should support the measure if they want to "protect kids," and appears to be the type of advocacy disallowed in a title and summary by Elections Code section 9051. The Attorney General's wording, on the other hand, provides an accurate description of the immediate and tangible effect of the proposed measure.

The Attorney General is not required to use a proponent's proposed title, and "[n]or should a court draw any adverse conclusion from the fact that the Attorney General wrote his own title and summary, rather than using one proposed by [the proponent]." (*Becerra*, *supra*, 19 Cal.App.5th at p. 979.) And "a difference of opinion does not rise to the level of clear and convincing proof that the challenged language in the ballot title and summary . . . is misleading." (*Yes on 25, Citizens for an On-Time Budget v. Superior Court* (2010) 189 Cal.App.4th 1445, 1454.) The Court's task is not to decide what language best captures the essence of the proposed measure, but to decide whether the language chosen by the Attorney General is "untrue, misleading, or argumentative." (*Becerra*, *supra*, 19 Cal.App.5th 967 at p. 979.) The Court finds that the Attorney General's use of the term "restricts rights" does not render the title and summary untrue, misleading, or argumentative.

B. The Attorney General's Title and Summary Was Not Inaccurate for Omitting that the Proposed Measure Would Provide Definitions of "Male" and "Female."

Petitioners contend that the summary is insufficient because it fails to mention a chief purpose of the proposed measure to define the terms "male" and "female." The Court disagrees. "[I]f reasonable minds can differ as to whether a particular provision is or is not a 'chief point' of the measure the determination of the [Attorney General] should be accepted." (*Zaremberg v. Superior Court* (2004) 115 Cal.App.4th 111, 117.) The proposed measure would define the terms "male" and "female" in the Education Code. But it would do so *in support of* the proposed prohibitions on transgender female students. Defining "male" and "female" is not a chief purpose of the proposed measure, but merely a means to achieve the chief purpose of prohibiting transgender females from participating in female-designated sports and using female-designated facilities. The omission of the provision regarding the definitions of "male" and "female" did not render the circulating title and summary insufficient under Elections Code section 9004.

C. The Attorney General's Title and Summary Was Not Inaccurate or Confusing for Using the Term "Transgender Female."

Petitioners contend that the proposed measure is inaccurate and confusing because the term "transgender female" used in the summary is part of "ever-changing lexicon" that needs clarification. Petitioners argue that the term "could, and has been interpreted to, mean" biological females who identify as transgender. To prove this point, Petitioners point to Code of Regulations, title 4, section 831, which includes a clarification for the term: "transgender female

(male to female) athletes." Petitioners also offer counsel's declaration that a number of potential signatories have expressed confusion about the term.

The Court does not find the use of the term inaccurate or confusing. The term "transgender female" describes a biological male who identifies as a female. Merriam-Webster does not define "transgender female," but defines "trans woman" as a term to describe "transgender woman," which in turn is defined as "a woman who was identified as male at birth." (Merriam-Webster Dict. Online (2024) <https://www.merriam-webster.com/dictionary/trans%20woman> [as of Apr. 16, 2024].) Regulations and judicial opinions have used "transgender female" and "transgender women" in a manner consistent with this definition. (See Cal. Code Regs., tit. 4, § 830, subd. (b) ["A transgender female is a person who lives and identifies as female, but whose designated sex at birth was male."]; *Hecox v. Little* (2023) 79 F.4th 1009, 1017.)

Petitioners have not offered, and the Court is unaware of, any instances in which the term "transgender female" has been used to mean biological females who identify as male. The use of the term "transgender female" does not render the title and summary impermissibly confusing or inaccurate.

D. The Attorney General's Title and Summary Was Not Misleading in Stating That the Notification Requirement Is "Without Exception for Student Safety."

Petitioners challenge the summary's statement that the parental notification requirement of the proposed measure is "without exception for student safety." Petitioners argue that the proposed measure *does* provide such exception: "Nothing in this section affects confidentiality between a school counselor and a pupil as provided in Section 49602 of the Education Code, Section 6924 of the Family Code, and Section 124260 of the Health and Safety Code, as applicable." (Pet., Exh. A, p. 3 [proposed Ed. Code, § 51101.5, subd. (c)].) The Attorney General argues that the cited provisions are either inapplicable or extremely limited in application so that they amount to no exception for student safety.

The Court agrees with the Attorney General. Under the proposed measure, a school must notify parents when "a pupil . . . requests that the school treat the pupil as a gender that differs from the pupil's gender in the pupil's record as submitted by the parents," including a request to be addressed "with pronouns for a gender that does not correspond with the pupil's records" and to be given access to certain clothing or materials such as tapes and compression garments to

appear as a different gender. (Pet., Exh. A, p. 2 [proposed Ed. Code, § 51101.5, subds. (a), (b)].) Before providing any accommodations for such request, "schools, teachers, administrators, certified staff, school counselors, employees and agents of the school, including health centers on school sites or in contract with the school, shall obtain explicit advance written approval from the parents[.]" (*Id.*, at p. 3 [proposed Ed. Code, § 51101.5, subd. (d)].)

Family Code section 6924 provides, in part, that outpatient "*mental health treatment or counseling* of a minor authorized by this section shall include involvement of the minor's parent or guardian unless, in the opinion of the professional person who is treating or counseling the minor, the involvement would be inappropriate." (Fam. Code, § 6924, subds. (a)(1), (d) [emphasis added].) Health and Safety Code section 124260 similarly provides, in part, that outpatient "*mental health treatment or counseling* of a minor authorized by this section shall include involvement of the minor's parent or guardian, unless the professional person who is treating or counseling the minor, after consulting with the minor, determines that the involvement would be inappropriate." (Health & Saf. Code, § 124260, subds. (a)(1), (c).)

Family Code section 6924 and Health and Safety Code section 124260 allow exclusion of parents' involvement in outpatient *mental health treatment or counseling* by professional persons when such involvement would be "inappropriate." But the proposed measure has nothing to do with outpatient mental health treatment or counseling. The reporting requirement is triggered upon any request for accommodation made to a school regarding the student's gender, not when a student is sent to outpatient mental health treatment or counseling. In addition, the exclusion of parents under the cited Family Code and Health and Safety Code sections is a discretionary decision of the treating professional for situations where parental involvement would be "inappropriate." They are not exceptions for student safety.

Education Code section 49602 provides generally that communications between a student and a school counselor are confidential, subject to certain exceptions including when disclosure is needed to "avert a clear and present danger to the health, safety, or welfare of the pupil or . . . other persons living in the school community[.]" These exceptions are subject to an exception of their own, that "a school counselor shall not disclose information deemed to be confidential pursuant to this section to the parents of the pupil when the school counselor has reasonable cause to believe that the disclosure would result in a clear and present danger to the health, safety, or welfare of the pupil." (Ed. Code, § 49602.) Thus, it could be argued that section

49602 creates an exception to the limited disclosure obligation on school counselors when maintaining confidentiality is necessary to protect the student's safety.

Regardless, this statute does not constitute a student safety exception for the parental notification requirement in the proposed measure because Education Code section 49602 applies only within the narrow context of the student-counselor relationship. The proposed measure, however, would require more than just school counselors to notify parents when a student asks to be treated as a gender differing from school records. Section 49602 has *no* applicability to principals, vice principals, or teachers, all of whom would be required to notify parents without exception for student safety. Even in circumstances when section 49602 would require a school counselor to refrain from notifying a student's parents due to concerns for the student's safety, the parents would still receive notification from other school officials under the proposed measure. The Attorney General's summary was neither inaccurate nor misleading in stating that "schools" would be required to notify parents "without exception for student safety."

E. The Attorney General's Title and Summary Was Not Inaccurate or Misleading in Stating the Proposed Measure "Prohibits Gender-Affirming Health Care."

Petitioners challenge the summary's statement that the proposed measure "[p]rohibits gender-affirming health care for transgender patients under 18" as false. Petitioners argue that the proposed measure does not prohibit "gender-affirming health care" because while the term has a broad definition under Welfare and Institutions Code section 16010.2, subdivision (b)(3), the proposed measure would prohibit only a limited type of care that "permanently sterilizes minors," such as "puberty blockers, cross-sex hormones or surgical interventions for the purpose of stopping or delaying normal puberty[.]" (Reply Brief, pp. 13-16.) The Court disagrees.

"Gender affirming health care" is broadly defined, in the context of children in foster care, as "medically necessary health care that respects the gender identity of the patient, as experienced and defined by the patient[.]" (Welf. & Inst. Code, § 16010.2, subd. (b)(3)(A).) The proposed measure would broadly prohibit "[a]ny medical procedures, inclusive of surgery, for the purposes of affirming a child's perceived gender identity if that perception is inconsistent with the child's biological sex," subject to limited exceptions for (1) "medically verifiable genetic disorder of sexual development," (2) reversal of sex-reassignment procedures, and (3) continuation of such procedures that have already begun prior to the effective date of the measure. (Pet., p. 4 [proposed Bus. & Prof. Code, § 866.14, subd. (c)(3)].)

Contrary to Petitioners' characterization, the proposed measure is not a narrow prohibition but a broad and direct prohibition on "gender affirming health care" as used in Welfare and Institutions Code section 16010.2. The use of the term in the summary did not render it inaccurate or misleading. The omission of the limited exceptions to the broad prohibition also did not render it inaccurate or misleading.

F. The Attorney General Did Not Violate Petitioners' Free Speech Rights.

"[T]he guarantee of freedom of speech prohibits governmental action favoring a particular political opinion." (*Citizens for Responsible Government v. City of Albany* (1997) 56 Cal.App.4th 1199, 1228.) "Ballots . . . are hemmed in by the constitutional guarantees of equal protection and freedom of speech" so that "the wording on a ballot . . . cannot favor a particular partisan position." (*Huntington Beach City Council v. Superior Court* (2002) 94 Cal.App.4th 1417, 1433; see also *San Francisco Forty-Niners v. Nishioka* (1999) 75 Cal.App.4th 637, 647 [statement of reasons prepared by the proponent to be included in the initiative petition also implicates right to free speech].)

Petitioners contend that the Attorney General's title and summary violated their constitutional right to free speech. Petitioners' argument is not a facial challenge to the statutory scheme directing the Attorney General, rather than the proponent, to prepare the circulating title and summary. Rather, Petitioners' argument is that their free speech rights were violated when the Attorney General prepared a false and partisan title and summary in violation of the principles stated in *Huntington Beach*. This argument fails because as the Court found above, the Attorney General's title and summary was accurate and impartial. The Attorney General did not violate Petitioners' constitutional right to free speech by preparing the circulating title and summary at issue.

CONCLUSION

For these reasons, the petition is denied.

* * *

As directed in the tentative ruling, counsel for Respondent is directed to prepare a judgment incorporating the Court's ruling as an exhibit thereto, submit them to counsel for approval as to form, and then submit them to the Court for signature, in accordance with California Rules of Court, rule 3.1312.

DECLARATION OF SERVICE BY E-MAIL

Case Name: **Protect Kids California, et al. v. Rob Bonta**

Case No.: **24WM000034**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 300 South Spring Street, Suite 1702, Los Angeles, CA 90013-1230.

On April 30, 2024, I served the attached **[PROPOSED] ORDER AND JUDGMENT** by transmitting a true copy via electronic mail, addressed as follows:

- SEE ATTACHED SERVICE LIST –

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on April 30, 2024, at Los Angeles, California.

Ron Quijada	Ron Quijada
Declarant	Signature

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DECLARATION OF SERVICE BY E-MAIL

Case Name: **Protect Kids California, et al. v. Rob Bonta**

Case No.: **24WM000034**

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