

1 ROB BONTA, State Bar No. 202668
Attorney General of California
2 DARRELL W. SPENCE, State Bar No. 248011
Supervising Deputy Attorney General
3 DARIN L. WESSEL, State Bar No. 176220
Deputy Attorney General
4 600 West Broadway, Suite 1800
San Diego, CA 92101
5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 738-9125
Fax: (619) 645-2012
7 E-mail: Darin.Wessel@doj.ca.gov
Attorneys for Defendant
8 *Dr. Erica Pan, in her official capacity as Director of*
the California Department of Public Health and
9 *State Public Health Officer*

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF CALIFORNIA
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14 **AMY DOESCHER, STEVE DOESCHER,**
15 **DANIELLE JONES, KAMRON JONES,**
16 **RENEE PATTERSON, and DR. SEAN**
PATTERSON, individually and on behalf of
their minor children,

17 Plaintiffs,

18 v.

19 **DR. ERICA PAN, in her official capacity as**
20 **Department of Public Health Director and**
as the State Public Health Officer,

21 Defendant.
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2:23-cv-02995-KJM-JDP

**SUPPLEMENTAL BRIEF IN SUPPORT
OF MOTION TO DISMISS PLAINTIFFS'
SECOND AMENDED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

Date: June 5, 2025
Time: 10:00 a.m.
Dept: 3
Judge: The Honorable Kimberly J.
Mueller
Trial Date: Not Set
Action Filed: 12/22/2023

TABLE OF CONTENTS

	Page
Introduction	1
Argument	1
I. <i>Royce II</i> Confirms That Plaintiffs Have Not Stated a Cognizable First Amendment Claim	1
A. SB 277 is facially neutral	2
B. SB 277’s legislative history does not demonstrate hostility to religion	2
C. SB 277 Does Not Contain Comparable Secular Exemptions	4
Conclusion	5

TABLE OF AUTHORITIES

Page**CASES**

<i>Doe v. San Diego Unified Sch. Dist.</i> 19 F.4th 1173 (9th Cir. 2021) (<i>Doe</i>)	1, 2, 4
<i>Dr. A v. Hochul</i> 142 S. Ct. 2569 (2022)	2
<i>Emp't Div. v. Smith</i> 494 U.S. 872 (1990)	1
<i>Jacobson v. Commonwealth of Massachusetts</i> 197 U.S. 11 (1905)	1
<i>Miller v. McDonald</i> 130 F.4th 258 (2d Cir. Mar. 3, 2025)	2, 3
<i>Phillips v. City of New York</i> 775 F.3d 538 (2d Cir. 2015)	2
<i>Prince v. Massachusetts</i> 321 U.S. 158 (1944)	1
<i>Roman Catholic Diocese of Brooklyn v. Cuomo</i> 592 U.S. 14 (2020)	2
<i>Royce v. Pan</i> No. 3:23-CV-02012-H-BLM, 2025 WL 834769 (S.D. Cal. Mar. 17, 2025)	1, 2, 3, 4
<i>Stormans, Inc. v. Wiesman</i> 794 F.3d 1064 (9th Cir. 2015)	1
<i>Tingley v. Ferguson</i> 47 F.4th 1055 (9th Cir. 2022)	3
<i>We The Patriots USA, Inc. v. Conn. Off. of Early Childhood Dev.</i> 76 F.4th 130 (2d Cir. 2023)	2, 3
<i>We The Patriots USA, Inc. v. Hochul</i> 17 F.4th 266 (2d Cir. 2021)	2
<i>Whitlow v. California</i> 203 F.Supp.3d 1079 (S.D. Cal. 2016)	2
<i>Zucht v. King</i> 260 U.S. 174 (1922)	1

TABLE OF AUTHORITIES
(continued)

Page

CONSTITUTIONAL PROVISIONS

United States Constitution First Amendment.....	1
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OTHER AUTHORITIES

Senate Bill California SB 277 (2015).....	1
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INTRODUCTION

Defendant Dr. Erica Pan, in her official capacity as Director of the California Department of Public Health and State Public Health Officer (Dr. Pan), submits this supplemental brief in support of her motion to dismiss Plaintiffs’ Second Amended Complaint (SAC) challenging Senate Bill 277 (SB 277), addressing the impact of the recent decision in *Royce v. Pan*, No. 3:23-CV-02012-H-BLM, 2025 WL 834769 (S.D. Cal. Mar. 17, 2025) (*Royce II*) on this case.

As discussed below, *Royce II* dismissed a nearly identical First Amendment Free Exercise Clause challenge to SB 277 with prejudice for failure to state a claim. The *Royce II* court found that California’s compulsory school vaccination law is a neutral, generally applicable law that satisfies rational basis review. Consistent with the *Royce II* court and for the reasons set forth in Dr. Pan’s motion to dismiss, this Court should dismiss the SAC with prejudice.¹

ARGUMENT

I. ROYCE II CONFIRMS THAT PLAINTIFFS HAVE NOT STATED A COGNIZABLE FIRST AMENDMENT CLAIM

In *Royce II*, the District Court confirmed that our Supreme Court “has held that ‘the right of free exercise does not relieve an individual of the obligation to comply with a “valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that [his or her] religion prescribes (or proscribes).”’” *Royce II*, 2025 WL 834769, at *4, citing to *Doe v. San Diego Unified Sch. Dist.*, 19 F.4th 1173, 1177 (9th Cir. 2021) (*Doe*) (quoting *Emp’t Div. v. Smith*, 494 U.S. 872, 879 (1990)); accord *Stormans, Inc. v. Wiesman*, 794 F.3d 1064, 1075 (9th Cir. 2015). This includes a long line of authority endorsing “state and local government authority to impose mandatory student vaccinations in order to protect the health and safety of other students and the public at large.” *Royce II*, 2025 WL 834769, at *5, citing *Jacobson v. Commonwealth of Massachusetts*, 197 U.S. 11 (1905); *Zucht v. King*, 260 U.S. 174, 175-77 (1922) (“[I]t is within the police power of a state to provide for compulsory vaccination.”); *Prince v. Massachusetts*, 321 U.S. 158, 166-67 (1944) (“The right to practice religion freely does not

¹ *Royce II* did not address standing. Accordingly, Dr. Pan relies on the prior moving and reply papers for her arguments as to why Plaintiffs lack standing in the present case.

1 include liberty to expose the community or the child to communicable disease or the latter to ill
 2 health or death.”). Likewise, “[f]ederal courts, including courts within this circuit, have routinely
 3 analyzed mandatory vaccination cases under rational basis review and have regularly rejected
 4 Free Exercise challenges to mandatory vaccination laws.” *Royce II*, 2025 WL 834769, at *4,
 5 citing to *Miller v. McDonald*, 130 F.4th 258, 265 (2d Cir. Mar. 3, 2025); *We The Patriots USA, Inc. v. Conn. Off. of Early Childhood Dev.*, 76 F.4th 130, 156 (2d Cir. 2023), cert. denied 144 S.
 6 Ct. 2682 (2024) (*We the Patriots*); *We The Patriots USA, Inc. v. Hochul*, 17 F.4th 266, 290 (2d
 7 Cir. 2021) (*Hochul*) (per curiam), opinion clarified, 17 F.4th 368 (2d Cir. 2021), cert. denied sub
 8 nom. *Dr. A v. Hochul*, 142 S. Ct. 2569 (2022); *Doe v. San Diego Unified School District*, 19 F.4th
 9 1173, 1177–80; *Whitlow v. California*, 203 F.Supp.3d 1079, 1086–87 (S.D. Cal. 2016).

11 *Royce II* further recognized that “Courts have also consistently held that religious
 12 exemptions to vaccine mandates go beyond what the Constitution requires.” *Royce II*, 2025 WL
 13 834769, at *5, citing to *Phillips v. City of New York*, 775 F.3d 538, 543 (2d Cir. 2015); *Whitlow*,
 14 203 F.Supp.3d at 1084 (“[I]t is clear that the Constitution does not require the provision of a
 15 religious exemption to vaccination requirements, much less a [personal belief exemption].”).

16 *Royce II* analyzed similar, if not nearly identical, Free Exercise Clause claims attacking
 17 California’s mandatory school vaccination laws and concluded that they failed. This Court
 18 should adopt the same logic here.

19 **A. SB 277 Is Facially Neutral**

20 Just as this Court should, *Royce II* concluded that “SB 277 is facially neutral.” *Royce II*,
 21 2025 WL 834769, at *6. “SB 277 does not make any reference to religion or ‘a religious practice
 22 without a secular meaning discernable from the language or context’” and “does not target any
 23 religion or religious practice or ‘single out’ any religion or religious practice ‘for especially harsh
 24 treatment.’” *Id.*, citing to *Church of Lukumi Babalu Aye*, 508 U.S. at 533 and *Roman Catholic*
 25 *Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 17 (2020) (per curiam).

26 **B. SB 277’s Legislative History Does Not Demonstrate Hostility to Religion**

27 The *Royce II* court considered SB 277’s legislative history and rejected Plaintiffs’ claims
 28 that the judiciary committee report and comments by the bill’s author after the bill’s enactment

1 demonstrated hostility towards religion. *Royce II*, 2025 WL 834769, at *6. *Royce II* noted that
 2 “SB 277 was introduced in response to the 2015 measles outbreak in California and reports from
 3 the Centers for Disease Control (“CDC”) that there were more measles outbreaks in January 2015
 4 in the United States than in any one month in the twenty years prior” and that “[d]ocuments in SB
 5 277’s legislative history also identify concerns over the significant rise in personal belief
 6 exemptions – a 337% increase between 2000 and 2012 – which placed communities at risk of
 7 preventable diseases.” *Royce II*, 2025 WL 834769, at *6.

8 Here, Plaintiffs’ reliance on the same judiciary committee report as the plaintiffs in *Royce II*
 9 (Opp. at 14:21–26; SAC ¶ 55) is equally unavailing to demonstrate hostility towards religion or
 10 religious animus. *Royce II*, 2025 WL 834769, at *6, referencing *Miller*, 2025 WL 665102, at *5
 11 (“Plaintiffs have not alleged facts to suggest that those remarks infected ‘a sizeable portion’ of
 12 legislators’ votes or otherwise influenced the law’s enactment. . . . [T]he motives of a small
 13 number of legislators cannot be attributed to the legislative body as a whole.”); *Tingley v.*
 14 *Ferguson*, 47 F.4th 1055, 1087 (9th Cir. 2022).

15 *Royce II* also rejected allegations that SB 277, “‘targeted religion because it expressly
 16 eliminated religious exemptions.’” *Royce II*, 2025 WL 834769, at *7. Here, Plaintiffs make
 17 similar allegations in Paragraph 86 of the SAC, that the elimination of PBEs (and therefore the
 18 elimination of religious beliefs exemptions), coupled with the expansion of medical exemptions,
 19 indicates intolerance towards religious beliefs. SAC at 21:13–20 (¶ 85). “There are two
 20 problems with this contention. First, SB 277 did not specifically repeal a religious exemption.
 21 Rather, it repealed a general personal belief exemption that was secular and neutral on its face.
 22 Repeal of a secular exemption does not demonstrate hostility towards any religion or religious
 23 practice. Second, even if SB 277 could be characterized as repealing a religious exemption,
 24 repealing a prior religious exemption is not hostile towards religion per se.” *Royce II*, 2025 WL
 25 834769, at *7, referencing *We The Patriots*, 76 F.4th at 149–50.

26 Because they have not plausibly alleged that the legislation was enacted “with the aim of
 27 suppressing religious belief rather than protecting the health and safety of students, staff, and the
 28 community,” *Doe*, 19 F.3d at 1177, Plaintiffs fail to state a claim that SB 277 is not neutral.

1 **C. SB 277 Does Not Contain Comparable Secular Exemptions**

2 *Royce II* examined and rejected nearly identical arguments and contentions that SB 277 and
3 California law treated the subset of PBEs based on religious beliefs less favorably than
4 comparable secular activity. *Royce II*, 2025 WL 834769, at *7–*13. The *Royce II* court’s
5 analysis applies equally here to Plaintiffs’ contentions related to medical exemptions, exemptions
6 for home-based private school and independent study programs not involving classroom
7 instruction, exemptions for students with individual education programs which allow them to
8 access independent education program (IEP) services, and various short-term conditional
9 admissions for homeless, immigrant, foster youth, and children of active duty military, who are
10 given a limited time (30 days) to provide proof of vaccination or complete required vaccinations.
11 *Id.*; SAC at 11:18–14:19, 22:9–19 (¶¶ 46–54, 87–88).

12 In short, Plaintiffs cannot establish that the vaccine requirement contains a comparable
13 secular exception justifying strict scrutiny. *See* Mot. at 15:11–18:10. “Because SB 277 is neutral
14 and generally applicable, rational basis review applies.” *Royce II*, 2025 WL 834769, at *13. As
15 articulated in the moving papers, reply papers, and in *Royce II*, SB 277 satisfies rational basis
16 review. ECF 38-1 at 18:11–20:14; ECF 42 at 9:3–24; *Royce II*, 2025 WL 834769, at *13–*14.

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CONCLUSION

For the reasons set forth above, and in the Motion to Dismiss, the SAC should be dismissed entirely with prejudice.

Dated: April 24, 2025

Respectfully submitted,

ROB BONTA
Attorney General of California
DARRELL W. SPENCE
Supervising Deputy Attorney General

/s/ Darin L. Wessel
DARIN L. WESSEL
Deputy Attorney General
Attorneys for Defendant

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CERTIFICATE OF SERVICE

Case Name: **Doescher, et al. v Aragon et al.**
USDC Case No. **2:23-cv-02995-KJM-JDP**

I hereby certify that on **April 25, 2025**, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**SUPPLEMENTAL BRIEF IN SUPPORT OF MOTION TO DISMISS PLAINTIFFS'
SECOND AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

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 25, 2025**, at San Diego, California.

A. Dotson
Declarant


Signature

SA2023306716