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**DEPARTMENT OF JUSTICE**



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February 18, 2022

Chief Justice Tani Cantil-Sakauye and Associate Justices  
Supreme Court of California  
350 McAllister Street  
San Francisco, CA 94102-4797  
*Via TrueFiling*

RE: *Save Berkeley's Neighborhoods v. Regents of the University of California*  
Supreme Court of the State of California, Supreme Court California S.F., Case No.  
S273160

Dear Chief Justice Cantil-Sakauye and Associate Justices:

Governor Gavin Newsom, in his official capacity as the Governor of the State of California (the Governor) respectfully submits this amicus letter to urge the Court to grant review in the above-entitled matter and grant the Regents of the University of California's request for an immediate stay. (Cal. Rules of Court, rule 8.500(g).) As set forth below, the Governor's Office believes the significant impacts of this matter on Californians warrant review and an immediate stay pending review.<sup>1</sup>

I. The State's Interests

The State has a profound interest in maintaining – and strengthening – its exceptional system of public higher education, with its focus on access and affordability, equity, and innovation. The State's public higher education system drives equitable and upward mobility, helping first-generation and lower-income Californians realize their full educational and professional potential. It also prepares the workforces needed to secure the state's current and future economic success and confront its hardest challenges, including the climate crisis and global pandemics.

The State, consistent with the Governor's budget priorities, has made historic investments in higher education, including a total of \$47.1 billion in the last enacted budget. Expanding

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<sup>1</sup> This letter focuses on the benefits and burdens of the requested stay and does not address the merits issues surrounding the Regents' compliance with the California Environmental Quality Act (CEQA).

college access is the keystone of the higher education vision, with the State supporting expanded enrollment of nearly 5,000 full-time equivalent students within the UC System and nearly 10,000 full-time equivalent students within the California State University System in the 2019-20 budget.

The Governor's proposed 2022-23 budget builds upon these priorities by expanding access to education at all levels, with a focus on expanding enrollment for in-state residents and community-college transfers at the UC System, including the University of California at Berkeley (UC Berkeley). The proposed expansion of access to California's world-class higher education system includes the following:

- For the UC System, beginning in 2023-24 and through 2026-27, increasing California resident undergraduate enrollment by more than 7,000, with a significant portion of the new enrollment growth occurring at the UC Berkeley, UC Los Angeles, and UC San Diego – tracking demand from prospective students and families.
- For the California State University System, beginning in 2023-24 and through 2026-27, increasing California resident undergraduate enrollment by more than 14,000.

In turn, both Systems have committed – in exchange for historic investments – to close equity gaps in graduation, expand access for transfer students, create debt-free pathways, and increase by 25% the number of graduates entering into careers in climate action, healthcare, education, and technology.<sup>2</sup>

The Court of Appeal's decision would undermine these longstanding priorities of the State and force UC Berkeley to shut the door on over 5,000 potential college freshmen and transfer students, depriving the opportunity for 1 out of every 3 undergraduate students who would have otherwise enrolled. This will have a disproportionately disparate impact on students from disadvantaged or underrepresented backgrounds. (See, <https://www.ebudget.ca.gov/2022-23/pdf/BudgetSummary/HigherEducation.pdf>.)

Additionally, the Governor, as executive of the State, has the obligation to advance the interests of Californians, while minimizing the financial strain on individual residents. The enrollment restriction at issue in this case will negatively affect the Governor's proposed budget, if this Court does not intervene. Plaintiff's suggested solution of minimizing the irreparable harm to prospective California resident admissions by reducing non-resident admissions would

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<sup>2</sup> The implications of the trial court's injunction are not limited only to the increased access to UC Berkeley reflected in the Governor's proposed budget, but could extend to the expanded enrollment and access for resident students that the Governor has proposed across the State's higher education system.

substantially impact General Fund projections, causing ripple effects statewide in other areas of the proposed budget.

## II. Balance of Harm Heavily Favors Granting Review and Immediate Stay

The impact of restricting admission to UC Berkeley could forever change the lives of over 5,000 students, especially students from disadvantaged backgrounds. UC Berkeley provides an unmatched opportunity for low-income students, students from diverse backgrounds, and transfer students to access a high-quality education at a prestigious university at public-school tuition rates. The lower court's enrollment restriction may require impacted students to incur far more student debt to obtain a similar education at a private university, or require them to enroll at another school with similar tuition (which inevitably would have ripple effects to applicants to those other campuses).

A college education, especially at a school as revered as UC Berkeley, can be life-changing and provide tools and opportunities to thrive that students, especially those from low-income or underrepresented backgrounds, may not otherwise receive. Denying this opportunity to students to matriculate in the 2022-2023 school year as originally planned would be irreparably damaging to thousands of students, and also undermine the State's broad interest in expanding access to higher education, especially at the State's flagship undergraduate institutions. Further, each day that acceptance letters are delayed reduces the opportunity for deserving students to secure financial assistance and make the life-impacting decision about where to enroll before the May 1<sup>st</sup> deadline for final admissions decisions at most campuses.

UC Berkeley contends that it could stand to lose \$57 million from decreased enrollment. Not only will this loss have cascading impacts on UC Berkeley, as detailed in the Regents' Petition, but it will severely undermine the Governor's aforementioned priorities and strategic investments in higher education. For example, revenue from undergraduate tuition is often set aside for financial aid, so that every UC undergraduate has a pathway for debt-free education. With \$57 million in lost tuition, UC Berkeley could be forced to reduce financial aid, the number and types of classes offered, and student services. Current UC Berkeley students could be harmed if courses are reduced and their time-to-degree is lengthened, which would add tens of thousands of dollars to their college education.

Reduced enrollment will also undermine the broader benefits to the public that expanding access to UC Berkeley will provide. Thirty-two UC Berkeley alumni have received Nobel prize awards and the campus' graduates make valuable contributions to vital Californian industries every day, including technology, healthcare, justice and climate change research. Reducing enrollment by thousands of students will not only harm these students and their families, but California will miss out on the public good that these potential students could have offered through a UC Berkeley education.

Because the Governor strongly supports providing access to education for all, and the enrollment restriction could unjustly eliminate the opportunity for enrollment and education for

Chief Justice and Associate Justices  
February 18, 2022  
Page 4

over 5,000 individual students, the Governor respectfully urges this Court to issue a stay while the case proceeds on its merits. As the Court deliberates, the Governor hopes the Court considers the thousands of students in our State whose lives will be irrevocably altered by the loss of educational opportunities at UC Berkeley.

Sincerely,

/s/Jamee Jordan Patterson  
JAMEE JORDAN PATTERSON  
Supervising Deputy Attorney General  
State Bar License 100967

For     ROB BONTA  
         Attorney General

cc: See attached service list

**DECLARATION OF ELECTRONIC SERVICE AND SERVICE BY U.S.  
MAIL**

Case Name: **Save Berkeley's Neighborhoods v. Regents of the  
University of California**

Case No.: **S273160**

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. I am familiar with the business practice at the Office of the Attorney General for collecting and processing electronic and physical correspondence. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business. Correspondence that is submitted electronically is transmitted using the TrueFiling electronic filing system. Participants who are registered with TrueFiling will be served electronically. Participants in this case who are not registered with TrueFiling will receive hard copies of said correspondence through the mail via the United States Postal Service or a commercial carrier.

On February 18, 2022, I electronically served the attached **AMICUS CURIAE LETTER** by transmitting a true copy via this Court's TrueFiling system. Because one or more of the participants in this case have not registered with the Court's TrueFiling system or are unable to receive electronic correspondence, on February 18, 2022, I placed a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 600 West Broadway, Suite 1800, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Thomas N. Lippe Law Offices of Thomas N. Lippe, APC 201 Mission Street, 12th Floor San Francisco, CA 94105  <i>Attorney for Plaintiff and Appellant Save Berkeley's Neighborhoods</i>	Timothy D. Cremin Amrit Kulkarni Meyers Nave Riback Silver & Wilson 1999 Harrison Street, 9th Floor Oakland, CA 94612  <i>Attorneys for Plaintiff and Appellant Save Berkeley's Neighborhoods</i>
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<p>Philip J. Sciranka Carolyn J. Lee Lubin Olson &amp; Niewiadomski 600 Montgomery Street 14th Floor San Francisco, CA 94111</p> <p><i>Attorney for Defendant and Appellant The Regents of the University of California</i></p>	<p>Nicole H. Gordon The Sohagi Law Group, PLC 11999 San Vicente Boulevard, Suite 150 Los Angeles, CA 90049</p> <p><i>Attorney for Defendant and Appellant The Regents of the University of California</i></p>
<p>Deborah E. Quick Phillip J. Wiese Morgan Lewis &amp; Bockius LLP 1 Market Spear Street Tower San Francisco, CA 94105</p> <p><i>Attorneys for Real Party in Interest and Respondent American Campus Communities</i></p>	<p>Amanda Monchamp Robert Taboada Monchamp Meldrum LLP 50 Francisco Street, Suite 450 San Francisco, CA 94133</p> <p><i>Attorneys for Real Party in Interest and Respondent Collegiate Housing Foundation</i></p>

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 February 18, 2022, at San Diego, California.

C. Endozo

Declarant

Signature