UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No.	**EDCV 18-2185 JGB (SHKx)**	Date	May 18, 2023
Title	***Riley's American Heritage Farms, et al. v. Claremont Unified School District, et al.***		

Present: The Honorable	JESUS G. BERNAL, UNITED STATES DISTRICT JUDGE

MAYNOR GALVEZ	Not Reported
Deputy Clerk	Court Reporter
Attorney(s) Present for Plaintiff(s):	Attorney(s) Present for Defendant(s):
None Present	None Present

Proceedings: Order (1) GRANTING Defendants' Motion for Summary Judgment and (2) VACATING the May 22, 2023 Hearing (IN CHAMBERS)

Before the Court is a motion for summary judgment filed by Defendants James Elsasser, Kathy Archer, Hilary LaConte, Kathryn Dunn, Bob Fass, Richard O'Neill, Ann O'Connor, and Sarah Estrada (collectively, "Defendants") pursuant to Federal Rule of Civil Procedure 56 ("Rule 56"). ("Motion," Dkt. No. 116-1.) The Court finds this matter appropriate for resolution without a hearing. See Fed. R. Civ. P. 78; L.R. 7-15. After considering the papers filed in support of and in opposition to the Motion, the Court **GRANTS** the Motion and **VACATES** the May 22, 2023 hearing.

I. BACKGROUND

Because the parties are familiar with this case's extensive procedural history, the Court provides only the background necessary to understand the Motion. On October 12, 2018, Plaintiffs Riley's American Heritage Farms ("Riley's Farm") and James Patrick Riley ("Mr. Riley") (jointly, "Plaintiffs") filed a complaint against Defendants. ("Complaint," Dkt. No. 1.) Defendants are the superintendent, board members, and administrators of the Claremont Unified School District. (See "First Amended Complaint," Dkt. No. 35, ¶¶ 6–13.)

On July 17, 2020, the Court granted Defendants' motions for summary judgment and denied Plaintiffs' cross-motion for partial summary judgment. ("Summary Judgment Order," Dkt. No. 86.) The Court held that Defendants are entitled to qualified immunity and entered summary judgment in their favor on all claims. (See id.) On August 27, 2020, the Court denied

Plaintiffs' motion for relief from the Summary Judgment Order and/or to alter or amend judgment. ("Relief Order," Dkt. No. 93.)

On September 25, 2020, Plaintiffs appealed to the Ninth Circuit Court of Appeals. ("Notice of Appeal," Dkt. No. 94.) On April 29, 2022, the Ninth Circuit affirmed this Court's grant of qualified immunity on Plaintiffs' claim for damages and reversed this Court's grant of summary judgment on Plaintiffs' claim for injunctive relief. ("Ninth Circuit Order," Dkt. No. 101.)[1] The Ninth Circuit remanded Plaintiffs' claim for prospective injunctive relief to this Court. (Id.) On May 9, 2022, the mandate of the Ninth Circuit issued. (Dkt. No. 102.)

On March 3, 2023, Defendants filed a motion for summary judgment. In support, Defendants submitted the following:

- Memorandum of Points and Authorities (Motion);
- Statement of Undisputed Facts ("Def. SUF," Dkt. No. 116-2);
- Declaration of Daniel S. Modafferi ("Modafferi Decl.," Dkt. No. 116-3);
- Declaration of James Elsasser with attached exhibits ("Elsasser Decl. & Exs. A–E," Dkt. No. 116-4);
- Declaration of Sarah Estrada ("Estrada Decl.," Dkt. No. 116-5);
- Declaration of Ann O'Connor ("O'Connor Decl.," Dkt. No. 116-6); and
- Proposed Judgment (Dkt. No. 116-7).

On April 3, 2023, Plaintiffs opposed the Motion. ("Opposition," Dkt. No. 117.) In support of the Opposition, Plaintiffs submitted the following:

- Statement of Genuine Disputes of Material Facts ("Pl. SGD," Dkt. No. 117-1, at 1–6) and Statement of Additional Material Facts ("Pl. SUF," id. at 6–10);
- Objections to Evidence ("Pl. Objs.," Dkt. No. 117-2);
- Declaration of James P. Riley ("Riley Decl.," Dkt. No. 117-3); and
- Declaration of William J. Becker, Jr. ("Becker Decl.," Dkt. No. 117-4) with an attached exhibit ("Becker Ex.," Dkt. No. 117-5).

On April 24, 2023, Defendants replied. ("Reply," Dkt. No. 118.) In support of the Reply, Defendants submitted the following:

- Objections to Evidence ("Def. Objs.," Dkt. No. 118-1); and
- Request for Judicial Notice with attached exhibits ("RJN," Dkt. No. 118-2).

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[1] Riley's Am. Heritage Farms v. Elsasser, 32 F.4th 707 (9th Cir. 2022).

II. FACTS

A. Evidentiary Objections

"A trial court can only consider admissible evidence in ruling on a motion for summary judgment." Orr v. Bank of America, NT & SA, 285 F.3d 764, 773 (9th Cir. 2002); see Fed. R. Civ. P. 56(e). On a motion for summary judgment, courts consider evidence with ***content*** that would be admissible at trial, even if the ***form*** of the evidence would not be admissible at trial. See, e.g., Fraser v. Goodale, 342 F.3d 1032, 1036 (9th Cir. 2003). The Court considers the parties' objections only where necessary.[2] All other objections are **OVERRULED AS MOOT**.

B. Judicial Notice

A court may take judicial notice of "a fact that is not subject to reasonable dispute because it . . . can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b)(2). Defendants request judicial notice of two facts: (1) In 2021, the Claremont Unified School District Board of Education renamed District Board Policy 6153 from "Field Trips and Excursions" to "School-Sponsored Trips"; and (2) the substance language of Board Policy 6153 and the accompanying Administrative Regulation have remained unchanged since at least 2008. (RJN at 1–2.) Defendants assert that these facts can be accurately and readily determined from Claremont Unified School District records—specifically, the Minutes of the June 3, 2021 Board Meeting and the Prior Version of Board Policy 6153, revised February 28, 2008. (See RJN at Exs. F & G.) Plaintiffs do not contest the authenticity of the CUSD records. Accordingly, the Court **GRANTS** the RJN and takes judicial notice of the two facts.

C. Undisputed Facts

The following material facts are sufficiently supported by admissible evidence and are uncontroverted, except as noted. These material facts are "admitted to exist without controversy" for purposes of the Motion. See Fed. R. Civ. P. 56(e)(2); L.R. 56-3. The Court incorporates by reference the undisputed facts established in the Summary Judgment Order.

Claremont Unified School District ("CUSD" or "District") is a public K–12 school district located in Los Angeles County. (Def. SUF ¶ 1.) CUSD is governed by a publicly elected, five-member Board of Education (the "Board"). (Id. ¶ 2.)

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[2] "[O]bjections to evidence on the ground that it is irrelevant, speculative, and/or argumentative, or that it constitutes an improper legal conclusion are all duplicative of the summary judgment standard itself" and are thus "redundant" and unnecessary to consider here. Burch v. Regents of Univ. of California, 433 F. Supp. 2d 1110, 1119 (E.D. Cal. 2006); see also Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986) ("Factual disputes that are irrelevant or unnecessary will not be counted.").

On September 4, 2018, Superintendent James Elsasser asked CUSD administrators to speak with teachers at their schools to determine if any of them wanted to attend a field trip to Riley's Farm. (Id. ¶ 3.) In response to Superintendent Elsasser's inquiry, no administrator, teacher, or staff member expressed a desire to attend field trips to Riley's Farm. (Id. ¶ 4.)

CUSD's policies and procedures for school-sponsored field trips and excursions are set forth in Board Policy 6153 and the accompanying Administrative Regulation 6153. (Id. ¶ 5.) Pursuant to CUSD's policy, teachers planning a field trip must make a request in writing to the Principal at least ten days prior to the date of the proposed trip. (Id. ¶ 6.) CUSD's policy provides that the purpose of the trip and its relation to the course of study must be stated in the request. (Id. ¶ 7.) Principals have a duty under the policy to review and, where appropriate, approve all requests for field trips. (Id. ¶ 8.) In determining whether to approve a field trip or excursion, the Principal must consider the safety and supervision of students during the proposed trip, whether the proposed trip furthers educational objectives which relate directly to the curriculum, and the cost of the proposed trip. (Id. ¶ 9.)

Superintendent Elsasser has instructed CUSD Principals that the District does not permit them to consider the political beliefs or speech of persons affiliated with a proposed field trip vendor in determining whether to approve a field trip. (Id. ¶ 10.) He has also instructed Principals that they are expected to treat Riley's Farm the same as they would any other field trip vendor. (Id. ¶ 11.)

On August 4, 2022, CUSD Assistant Superintendent Julie Olesniewicz submitted a list of field trip vendors to the Board for advance approval of the purchase of admission tickets, should any District school choose to attend a field trip through one of the listed vendors. (Id. ¶ 12.) The Board unanimously approved the list of vendors. (Id. ¶ 13.) Riley's Farm is on the Board-approved list of field trip vendors. (Id. ¶ 14.)

On November 17, 2022, the Board unanimously adopted Resolution No. 06-2023 ("Resolution"). (Id. ¶ 15.) The Resolution states that "the Board hereby reaffirms its prior assertions that the District has no policy barring or discouraging District personnel from organizing field trips to Riley's Farm." (Elsasser Ex. E at 1.) Further, "the Board hereby reaffirms the policies and procedures set forth in Board Policy 6153." (Id. at 2; Def. SUF ¶ 17.)

On October 7, 2021, Riley's Farm was contacted by Heather Stradley of Mountain View Elementary School via an online reservation form requesting a field trip booking on May 1, 2022. (Pl. SUF ¶ 10.) On or about October 8, 2021, Riley's Farm contacted Stradley and was told that she was not allowed to book a field trip with Riley's Farm due to district policy. (Id.) There have been no field trips to Riley's Farm since 2018. (Id. ¶ 11; see Riley Decl. ¶ 3.)

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III. LEGAL STANDARD

Summary judgment is appropriate when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). The moving party has the initial burden of identifying the portions of the pleadings and record that it believes demonstrate the absence of an issue of material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). Where the nonmoving party bears the burden of proof at trial, the moving party need not produce evidence negating or disproving every essential element of the nonmoving party's case. Id. at 325. Instead, the moving party need only prove there is an absence of evidence to support the nonmoving party's case. Id.; In re Oracle Corp. Sec. Litig., 627 F.3d 376, 387 (9th Cir. 2010). The moving party must show that "under the governing law, there can be but one reasonable conclusion as to the verdict." Anderson, 477 U.S. at 250.

If the moving party has sustained its burden, the nonmoving party must then show that there is a genuine issue of material fact that must be resolved at trial. Celotex, 477 U.S. at 324. The nonmoving party must make an affirmative showing on all matters placed at issue by the motion as to which it has the burden of proof at trial. Celotex, 477 U.S. at 322; Anderson, 477 U.S. at 252. A genuine issue of material fact exists "if the evidence is such that a reasonable jury could return a verdict for the non-moving party." Anderson, 477 U.S. at 248. "This burden is not a light one. The nonmoving party must show more than the mere existence of a scintilla of evidence." In re Oracle, 627 F.3d at 387 (citing Anderson, 477 U.S. at 252).

When deciding a motion for summary judgment, the court construes the evidence in the light most favorable to the nonmoving party. Barlow v. Ground, 943 F.2d 1132, 1135 (9th Cir. 1991). Thus, summary judgment for the moving party is proper when a "rational trier of fact" would not be able to find for the nonmoving party based on the record taken as a whole. Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986).

IV. DISCUSSION

The Ninth Circuit remanded Plaintiffs' claim for prospective injunctive relief because it found that there was a genuine issue of material fact as to whether Defendants maintain an ongoing policy barring field trips to Riley's Farm.[3] (See Ninth Circuit Order at 35–38.) As the Ninth Circuit explained, "[a]lthough sovereign immunity bars money damages and other

[3] In September 2018, when no administrator, teacher, or staff member expressed a desire to continue going to Riley's Farm, Assistant Superintendent Julie Olesniewicz sent an email to the principal of each of the District's elementary schools "asking that no CUSD school attend Riley's Farm field trips." (See Ninth Circuit Order at 10–11.) On appeal, the parties disputed whether Olesniewicz's guidance was still in place. (Id. at 11.) At his deposition, Superintendent Elsasser stated, "The guidance is still in place. We've never revisited it." (Id. at 11 n.4.) Although Defendants argued that Elsasser was merely clarifying opposing counsel's question, the Ninth Circuit held that Elsasser's testimony was sufficient to create a genuine issue of material fact as to whether Plaintiffs continued to suffer an ongoing constitutional violation. (Id. at 37.)

retrospective relief against a state or instrumentality of a state, it does not bar claims seeking prospective injunctive relief against state officials to remedy a state's ongoing violation of federal law."[4] (Id. at 35 (quoting Ariz. Students' Ass'n v. Ariz. Bd. of Regents, 824 F.3d 858, 865 (9th Cir. 2016))); see Ex Parte Young, 209 U.S. 123, 149–56 (1908). The Ex Parte Young exception to sovereign immunity is available where "a plaintiff alleges an ongoing violation of federal law, and where the relief sought is prospective rather than retrospective." Doe v. Lawrence Livermore Nat'l Lab'y, 131 F.3d 836, 839 (9th Cir. 1997). To bring a claim for prospective injunctive relief, a plaintiff "must identify a practice, policy, or procedure that animates the constitutional violation at issue." Ariz. Students' Ass'n, 824 F.3d at 865.

Here, Defendants insist that there is no current formal or informal CUSD policy barring or discouraging field trips to Riley's Farm.[5] (Motion at 8–10.) In fact, on August 4, 2022, the Board unanimously approved a list of field trip vendors, including Riley's Farm. (Def. SUF ¶¶ 13–14; Elsasser Decl. ¶ 9.) On November 17, 2022, the Board unanimously adopted Resolution No. 06-2023, which "affirms . . . that the District has no policy barring or discouraging District personnel from organizing field trips to Riley's Farm." (Def. SUF ¶ 15; Elsasser Decl. ¶ 10; Elsasser Ex. E at 1.) With these "formal legislative acts," the Board resolved any ambiguity as to the remaining effect—none—of Assistant Superintendent Olesniewicz's 2018 email "asking that no CUSD school attend Riley's Farm field trips." (See Motion at 1, 10.) That "guidance" is no longer in place. (Id. at 7–8.)

Further, Superintendent Elsasser has instructed CUSD principals that the District does not permit them to consider the political beliefs or speech of persons affiliated with a proposed field trip vendor in determining whether to approve a field trip.[6] (Def. SUF ¶ 10; Elsasser Decl. ¶ 12.) Specifically, CUSD principals are expected to treat Riley's Farm the same as they would any other field trip vendor. (Def. SUF ¶ 11; Elsasser Decl. ¶ 12.) The two Principal Defendants in this case confirm that they received the Superintendent's instructions and have no intention of

[4] California school districts are "arms of the state" entitled to sovereign immunity. Sato v. Orange Cnty. Dep't of Educ., 861 F.3d 923, 934 (9th Cir. 2017). As such, the Eleventh Amendment bars suits against school district officials used in their official capacity. See Eaglesmith v. Ward, 73 F.3d 857, 860 (9th Cir. 1995).

[5] Board Policy 6153 states the purpose and general requirements of school-sponsored trips. (See Elsasser Ex. A.) The accompanying Administrative Regulation 6153 outlines procedures for teachers to apply for and principals to approve field trips. (See Elsasser Ex. B.) Although Plaintiffs suggest that the District enacted these policies in reaction to the Ninth Circuit Order (Opposition at 3), these two policies have existed and remained largely unchanged since at least 2008 (see RJN at 1–2; Reply at 5–6). However, the Court finds Board Policy 6153 and Administrative Regulation 6153 immaterial because neither address whether school administrators may consider the political beliefs or speech of a vendor in determining whether to approve a field trip. The pertinent policies are the Board's list of approved field trip vendors, Resolution No. 06-2023, and Superintendent Elsasser's instructions to CUSD principals.

[6] It is unclear when Superintendent Elsasser gave these instructions.

considering the political beliefs or speech of persons affiliated with a proposed field trip vendor in determining whether to approve a field trip. (Estrada Decl. ¶¶ 6–7; O'Connor Decl. ¶¶ 11–12.) In all, Defendants have pointed to an absence of evidence to support Plaintiffs' claim that there is a practice, policy, or procedure that animates the constitutional violation at issue.

"In the analogous context of municipal liability for § 1983 claims, plaintiffs can establish liability in one of three ways: (1) by proving that an employee committed the violation pursuant to a formal policy or longstanding practice or custom that constitutes the standard operating procedure of the governmental entity; (2) by establishing that the individual who committed the constitutional tort was an official with final policy-making authority; or (3) by proving that an official with final policy-making authority ratified a subordinate's unconstitutional decision or action and the basis for it." Barto v. Miyashiro, 2022 WL 17729410, at *1 (9th Cir. Dec. 16, 2022). Plaintiffs have failed to raise a genuine issue of material fact to support any of these theories of liability.

First, Plaintiffs present no evidence that any CUSD employee violated Plaintiffs' First Amendment rights ***pursuant to a formal policy or longstanding practice or custom***. Plaintiffs attempt to raise a genuine issue of material fact by submitting evidence that in October 2021, a CUSD teacher cancelled a field trip to Riley's Farm due to "district policy." (Pl. SUF ¶ 10; see Riley Decl. ¶ 2.) On October 7, 2021, Riley's Farm was contacted by Heather Stradley of Mountain View Elementary School within CUSD to request a field trip booking for May 2022. (Pl. SUF ¶ 10; Riley Decl. ¶ 2.) "Subsequently, on or about October 8, 2021, Riley's Farm contacted Heather and was told by her that she was not allowed to book a field trip with us because of district policy." (Riley Decl. ¶ 2.)

Preliminarily, Defendants object to Mr. Riley's declaration recounting the incident as hearsay. (See Reply at 3; Def. Objs. ¶ 10.) It is true that Mr. Riley does not explain whether or how he has personal knowledge of the cancellation (i.e., whether he personally spoke with Ms. Stradley or was informed of the cancellation by an employee). However, on summary judgment, a court may consider evidence with ***content*** that would be admissible at trial, even if the ***form*** of the evidence would not be admissible at trial. See Fraser, 342 F.3d at 1036. The Court presumes that Plaintiffs would be able to introduce the content of this evidence in an admissible form at trial. As such, the Court overrules Defendants' objection and construes the evidence in the light most favorable to Plaintiffs.

But even if the Court assumes that a CUSD teacher cancelled a field trip to Riley's Farm due to "district policy," Ms. Stradley did so in October 2021—more than a year before the Board passed the Resolution that clarified the District has no such policy. Thus, this incident in 2021 does not show that there is a District policy ***today***, especially in light of a Board Resolution that states the contrary.

Second, Plaintiffs cannot establish that the individual who committed the constitutional tort was an official with final policymaking authority. In September 2018, Principal Ann O'Connor of Chaparral Elementary School within CUSD cancelled a field trip to Riley's Farm.

(See O'Connor Decl. ¶¶ 2, 8.) Principal O'Connor explained that after "[h]aving been informed of parent concerns surrounding field trips to Riley's Farm," she made the "simple and pragmatic decision" to take students to a different farm to pick apples. (Id. ¶ 8.) She "had no intention for that cancellation to be construed as a prospective ban on future trips to Riley's Farm," and she is not aware of any teacher or staff member of her school construing it as such. (Id. ¶ 9.) It was a "one-off decision," not a precedent-setting case barring or discouraging field trips to Riley's Farm. (Id.)

Even if the Court assumes that Principal O'Connor committed a constitutional tort by retaliating against Plaintiffs for Mr. Riley's political speech, Plaintiffs offer no evidence that she is an official with final policymaking authority. "The authority to exercise discretion while performing certain functions does not make the official a final policymaker unless the decisions are final, unreviewable, and not constrained by the official policies of superiors." Barto v. Miyashiro, 2021 WL 5218231, at *6 (S.D. Cal. Oct. 8, 2021) (citing City of St. Louis v. Praprotnik, 485 U.S. 112, 126–28 (1988) (plurality opinion)), aff'd, 2022 WL 17729410 (9th Cir. Dec. 16, 2022). "For a person to be a final policymaker, he or she must be in a position of authority such that a final decision by that person may appropriately be attributed to the District." Lytle v. Carl, 382 F.3d 978, 983 (9th Cir. 2004). While CUSD principals, including Principal O'Connor, approve field trips, those decisions are reviewable and constrained by the policies of the Superintendent and the Board. (See O'Connor Decl. ¶ 11 (describing the Superintendent as her "direct supervisor").) Thus, Principal O'Connor's "one-off decision" cannot appropriately be attributed to the District such that municipal liability attaches.

Finally, Plaintiffs cannot prove that an official with final policymaking authority ratified either Principal O'Connor or Ms. Stradley's unconstitutional decision or action and the basis for it. The Court assumes, without deciding, that the Superintendent and the Board are final policymakers with respect to approving field trips and field trip vendors. Superintendent Elsasser attests that in September 2018, he "did not prohibit, and would not have prohibited, any Claremont Unified School District school site from attending a field trip to Riley's Farm, at any time, for any reason." (Elsasser Decl. ¶ 7.) He currently "do[es] not have any formal or informal policy barring or discouraging field trips to Riley's Farm." (Id.) If a CUSD school were to request approval of a field trip to Riley's Farm today, he would not bar or discourage the approval of the request. (Id. ¶ 11.) Moreover, in August 2022, the Board approved Riley's Farm as a field trip vendor. (Def. SUF ¶¶ 13–14.) In November 2022, the Board also affirmed that the District has no policy barring or discouraging field trips to Riley's Farm. (Elsasser Ex. E at 1.) Although Plaintiffs contend that there have been no field trips to Riley's Farm since 2018, they present no evidence that this is so ***because*** of a "policy of barring them." (Riley Decl. ¶ 3.) This fact—without more—does not raise a triable issue as to the existence of an ongoing policy or that a final policymaker ratified a subordinate's decision to boycott Riley's Farm.[7]

[7] CUSD schools stopped organizing offsite field trips altogether during the COVID-19 pandemic. (See Relief Order at 6; cf. Ninth Circuit Order at 38.)

The Court concludes that Plaintiffs cannot show an "ongoing violation of federal law" to warrant prospective injunctive relief. Ariz. Students' Ass'n, 824 F.3d at 865. There is no "practice, policy, or procedure that animates" Defendants' alleged retaliation in violation of the First Amendment. Id.; see Hafer v. Melo, 502 U.S. 21, 25 (1991) ("Because the real party in interest in an official-capacity suit is the governmental entity and not the named official, the entity's policy or custom must have played a part in the violation of federal law." (internal quotation marks omitted)). Plaintiffs failed to point to any evidence that Defendants acted pursuant to a policy or a longstanding custom or practice to violate Plaintiffs' free speech rights. See Barto, 2022 WL 17729410, at *1 (affirming district court's grant of summary judgment in favor of school officials who allegedly retaliated against former board member); see also Collins v. S.F. Unified Sch. Dist., 2021 WL 3616775, at *3 (N.D. Cal. Aug. 16, 2021) (finding that the plaintiff failed to "identify an ongoing violation of federal law, as opposed to alleging a past violation of federal law caused by discrete past actions").

In their Opposition, Plaintiffs rely extensively on the voluntary cessation exception to mootness. (See Opposition at 8–17.) Under the voluntary cessation doctrine, "[i]t is well settled that a defendant's voluntary cessation of a challenged practice does not deprive a federal court of its power to determine the legality of the practice." Friends of the Earth, Inc. v. Laidlaw Env't Servs. (TOC), Inc., 528 U.S. 167, 189 (2000) (internal quotation marks omitted)). As the Supreme Court recognized, "a defendant cannot automatically moot a case simply by ending its unlawful conduct once sued. Otherwise, a defendant could engage in unlawful conduct, stop when sued to have the case declared moot, then pick up where he left off, repeating this cycle until he achieves all his unlawful ends." Already, LLC v. Nike, Inc., 568 U.S. 85, 91 (2013) (citation omitted). However, Defendants do not necessarily argue that the case is moot. (See Reply at 4–5.) Rather, Defendants argue—and the Court agrees—that Plaintiffs cannot show an ongoing policy barring field trips to Riley's Farm such that Ex Parte Young applies and Defendants may be sued for prospective injunctive relief. The "issue here is not whether [the] claim has become moot but whether [Plaintiffs] meet[] the preconditions for asserting an injunctive claim in a federal forum." City of Los Angeles v. Lyons, 461 U.S. 95, 109 (1983).

The Court retains the power to determine the ***past*** legality of Defendants' actions—indeed, the Ninth Circuit held that there was a genuine issue of material fact as to whether Defendants violated Plaintiffs' First Amendment rights (Ninth Circuit Order at 31)—but the Court does not have the power to enjoin the ***future*** actions of state officials if there is no ongoing violation of federal law to remedy. Ariz. Students' Ass'n, 824 F.3d at 865. Board Defendants have unanimously affirmed that there is no District policy of barring field trips to Riley's Farm. Superintendent and Principal Defendants have avowed that they will not consider the political beliefs or speech of persons affiliated with a proposed field trip vendor in determining whether to approve a field trip. There is nothing more for the Court to do. Accordingly, the Court **GRANTS** Defendants' Motion.

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V. CONCLUSION

For the reasons above, the Court **GRANTS** the Motion and **VACATES** the May 22, 2023 hearing. Judgment shall issue separately.

IT IS SO ORDERED.