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## Press Release

### For Immediate Release

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### **COMPLAINT FILED ON BEHALF OF STUDENTS WITH DISABILITIES FOR DISCRIMINATION FROM NEW CALIFORNIA DISTANCE LEARNING LAW**

*New limits on distance learning discriminates against disabled students  
who are denied the alternatives to in-person classes  
that state law provides to other students.*

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(Oakland, CA) – On September 20, 2021, six families of students with intellectual and developmental disabilities are filing a civil rights complaint with the U.S. Department of Justice against the State of California and other state agencies for violating the American with Disabilities Act (ADA). These families argue that school districts across the state fail to provide needed accommodations in distance learning for disabled students who require them. Disability Rights Education & Defense Fund (DREDF) and the Arc of California, both organizations that advocate for people with disabilities, are also complainants. The families and organizations are represented by Disability Rights California (DRC), DREDF, and the law firm of Vanaman German, LLP.

In July 2021, California adopted a new state law that limits access to distance learning, leaving families only the option of Independent Studies. Alarming, families of students with disabilities have found that this program is effectively closed to them, in violation of the ADA. Lauren Lystrup, DRC Staff Attorney, says, “The design of Independent Study excludes many students with intellectual and developmental disabilities, such as Down syndrome and autism, who need adult assistance to learn.”

As a result, school districts are refusing to enroll many disabled students because they cannot work on their own. Even school districts that agree to admit disabled students in Independent Study demand that they give up their right to the special education services they need to learn.

”The new state law on distance learning discriminates against disabled students, who are denied the alternatives to in-person classes that are available to other students, says Melinda Bird, Senior Litigation Counsel, DRC. With the new surge in the Delta Variant of COVID-19, students with disabilities and their families now face an impossible choice – to send their children to in-person classes where they may face life-threatening health risks, or keep them at home with no or minimal educational services.”

Robert Borrelle, a DRC Supervising Attorney, said, “We have turned to the U.S. Department of Justice (DOJ) because this problem is larger than any one school district – the new state law itself violates federal law.”

David German, of Vanaman German LLP, notes, “Our attorneys are working with dozens of families who report that their children are currently out of school and have no safe way to receive an education because school districts are denying the accommodations, services, and supports that they need to access a distance learning program.”

**Susan Henderson**, Executive Director of DREDF, said, "We've heard from and continue to get contacted by families who have been asked to choose between putting their child's life at risk and giving up any meaningful learning. No parent should face that choice.”

The parents filing the DOJ complaint include **Susan Graham**, whose ten-year old son has Down syndrome and is at risk of serious complications if exposed to COVID-19. Since he did well with distance learning last year, she asked that this continue when he started 5<sup>th</sup> grade this August. Instead, his school district announced publicly that the only alternative to in-person classes is Independent Study, but this is only for students who can follow a general education curriculum, and not for students who need a special

education teacher. Susan's son needs an alternative curriculum, so he has been at home with no services for more than a month.

**Neelyn Tong** is another parent; her daughter has autism as well as asthma and other medical conditions that put her at greater risk from COVID-19. Her school district refused to enroll her in Independent Study because of her disability, so she has also been home for a month without even the distance learning supports that she had last year.

The U.S. Department of Justice has the authority to investigate civil rights complaints against public agencies for violating the ADA. In this case, it can seek a settlement and penalties against the State of California, and even file a lawsuit if need be. The full complaint and supporting declarations can be found here: <https://www.disabilityrightsca.org/press-release/complaint-filed-on-behalf-of-students-with-disabilities-for-discrimination-from-new>

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**Disability Rights California (DRC)** is the agency designated under federal law to protect and advocate for the rights of Californians with disabilities. The mission of DRC is to advance the rights, dignity, equal opportunities, and choices for all people with disabilities. For more information visit: <https://www.disabilityrightsca.org>.

**Vanaman German LLP** is a private law firm whose practice focuses exclusively on fighting for the educational rights of students with disabilities.

**Disability Rights Education & Defense Fund (DREDF)** is a national, nonprofit law and policy center led by people with disabilities and dedicated to advancing and protecting the civil and human rights of disabled people. As a Parent Training and Information Center (PTI) funded by the US Department of Education, DREDF serves families of children with disabilities and disabled young adults in 33 California counties.

The **Arc of California** promotes and protects the human rights of people with intellectual and developmental disabilities and actively supports their full inclusion and participation in the community throughout their lifetimes.