

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

The Bullis-Purissima Elementary School v. Santa Clara County Board of Education

Bullis-Purissima Elementary School · No. 24-cv-08527-VKD · Decided July 11, 2025

SUMMARY

The United States District Court for the Northern District of California grants defendants’ Rule 12(b) (6) motion to dismiss a Title VI discrimination claim brought by Bullis-Purissima Elementary School concerning the conditional renewal of its charter. The court concludes that the complaint does not plausibly allege disparate treatment of similarly situated charter schools or that defendants required the school to use unlawful racial quotas. The court denies dismissal for lack of ripeness and grants leave to amend by August 1, 2025.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Virginia K. DeMarchi
JURISDICTION	United States District Court for the Northern District of California
DECIDED	July 11, 2025
DOCKET	24-cv-08527-VKD
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought a Title VI claim against the Santa Clara County Board of Education and Santa Clara County Office of Education. Defendants moved to dismiss under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).
STANDARD OF REVIEW	On a Rule 12(b)(1) factual attack, the court may consider matters beyond the complaint, including public records, without converting the motion into one for summary judgment, and need not presume the truth of jurisdictional allegations. On a Rule 12(b)(6) motion, material allegations are accepted as true and construed in the claimant's favor, but conclusory allegations and allegations that do not plausibly support a cognizable legal theory are insufficient. Leave to amend is generally freely given under Rule 15(a), subject to considerations such as undue delay, bad faith, prejudice, or futility.

TOPICS

motions to dismiss

civil procedure

subject matter jurisdiction

civil rights

equal protection

PRACTICE AREAS

civil rights

education law

federal civil procedure

administrative law

QUESTIONS PRESENTED

1. Whether the complaint plausibly alleged intentional race discrimination or disparate treatment under Title VI.
2. Whether the complaint plausibly alleged that defendants required the school to use unlawful racial quotas or race-based admissions criteria.
3. Whether the Title VI claim was ripe for adjudication under Article III and prudential ripeness principles.

HOLDINGS

1. The complaint failed to state a plausible Title VI disparate-treatment claim because it did not allege facts showing that the other charter schools identified by plaintiff were similarly situated or providing more than conclusory descriptions of differential treatment.
2. The complaint failed to state a plausible claim that defendants required the school to engage in unlawful race discrimination because the charter, memorandum of understanding, and applicable state law did not expressly require racial quotas or race-based admissions, and the complaint did not clearly identify a viable alternative theory.
3. The Title VI claim was not subject to dismissal for lack of ripeness because the alleged present burdens, reputational harm, and resource expenditures could constitute concrete injuries, and the claim was sufficiently fit for judicial decision if plaintiff could plead a viable Title VI theory.

KEY QUOTATIONS

“a complaint’s threadbare recital that another class is similarly situated will not suffice to survive a motion to dismiss.” (at 7)

“If BCS is able to state a viable claim or claims under Title VI, the Court is not persuaded that the charter renewal alone will render any such claims not ripe, either as a constitutional or prudential matter.” (at 10)

FACTUAL BACKGROUND

The Bullis-Purissima Elementary School operates Bullis Charter School, a TK-8 public charter school authorized by the Santa Clara County Board of Education. The school alleged that county education officials subjected it to adverse treatment during a charter-renewal process because its student population was predominantly Asian and did not reflect the racial and ethnic composition of the surrounding district. Defendants

conditionally renewed the charter through 2030 and required the school to execute a memorandum of understanding, after which the school alleged continuing burdens, reputational harm, and resource expenditures.

PROCEDURAL HISTORY

The plaintiff challenged defendants' treatment of its charter school during the charter-renewal process and alleged race discrimination under Title VI. Defendants moved to dismiss for lack of subject matter jurisdiction based on ripeness and for failure to state a claim. The court denied the Rule 12(b)(1) motion, granted the Rule 12(b)(6) motion, and granted leave to amend by August 1, 2025.

DISPOSITION

other

CASES CITED

- Warren v. Fox Family Worldwide, Inc., 328 F.3d 1136, 1139 (9th Cir. 2003)
- White v. Lee, 227 F.3d 1214, 1242 (9th Cir. 2000)
- Balistreri v. Pacifica Police Department, 901 F.2d 696, 699 (9th Cir. 1990)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-679 (2009)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)
- Prager University v. Google LLC, 2018 WL 1471939, at *3 (N.D. Cal. Mar. 26, 2018)
- Fayer v. Vaughn, 649 F.3d 1061, 1064 (9th Cir. 2011) (per curiam)
- In re Gilead Sciences Securities Litigation, 536 F.3d 1049, 1055 (9th Cir. 2008)
- Lopez v. Smith, 203 F.3d 1122, 1127 (9th Cir. 2000) (en banc)
- Leadsinger, Inc. v. BMG Music Publishing, 512 F.3d 522, 532 (9th Cir. 2008)
- Foman v. Davis, 371 U.S. 178, 182 (1962)
- Fobbs v. Holy Cross Health System Corp., 29 F.3d 1439, 1447 (9th Cir. 1994)
- Daviton v. Columbia/HCA Healthcare Corp., 241 F.3d 1131 (9th Cir. 2001)
- Grutter v. Bollinger, 539 U.S. 306, 343 (2003)
- Regents of the University of California v. Bakke, 438 U.S. 265, 287 (1978)
- Yu v. Idaho State University, 15 F.4th 1236, 1242 (9th Cir. 2021)
- Monteiro v. Tempe Union High School District, 158 F.3d 1022, 1026 (9th Cir. 1998)
- Aguirre v. San Leandro Police Department, 2011 WL 738292, at *3 (N.D. Cal. Feb. 22, 2011)
- Rashdan v. Geissberger, 764 F.3d 1179, 1183 (9th Cir. 2014)
- Olson v. California, 104 F.4th 66, 77 (9th Cir.), cert. denied, 145 S. Ct. 382 (2024)
- Arizona Dream Act Coalition v. Brewer, 757 F.3d 1053, 1064 (9th Cir. 2014)
- Students for Fair Admissions, Inc. v. President & Fellows of Harvard College, 600 U.S. 181 (2023)
- Moyo v. Gomez, 40 F.3d 982, 985 (9th Cir. 1994)
- Bishop Paiute Tribe v. Inyo County, 863 F.3d 1144, 1153 (9th Cir. 2017)

- Thomas v. Anchorage Equal Rights Commission, 220 F.3d 1134, 1139, 1141 (9th Cir. 2000)
- Abbott Laboratories v. Gardner, 387 U.S. 136, 149 (1967)
- Califano v. Sanders, 430 U.S. 99 (1977)

OPINION

The Bullis-Purissima Elementary School v. Santa Clara County Board of Education
PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 SAN JOSE DIVISION

7 8 THE BULLIS-PURISSIMA Case No. 24-cv-08527-VKD
ELEMENTARY SCHOOL,

9 Plaintiff, ORDER GRANTING DEFENDANTS’

10 MOTION TO DISMISS WITH LEAVE

v. TO AMEND

11

SANTA CLARA COUNTY BOARD OF Re: Dkt. No. 11

12 EDUCATION, et al., Defendants. 13 14 15 Plaintiff The Bullis-Purissima Elementary School,
operator of Bullis Charter School 16 (“BCS”), brings this action against defendants the Santa
Clara County Board of Education 17 (“SCCBOE”) and Santa Clara County Office of Education
 (“SCCOE”), asserting one claim for 18 violations of Title VI of the Civil Rights Act of 1964. Dkt.
No. 10. Defendants move to dismiss 19 this claim pursuant to Rule 12(b)(1) and Rule 12(b)(6) of
the Federal Rules of Civil Procedure. 20 Dkt. No. 11. BCS opposes the motion. Dkt. No. 15. Upon
consideration of the moving and 21 responding papers and the oral arguments presented, the Court
grants defendants’ motion to 22 dismiss under Rule 12(b)(6) with leave to amend.¹ 23 1 In
conjunction with their motion to dismiss, defendants filed a request for judicial notice of two 24
documents: the August 26, 2024 SCCBOE resolution conditionally approving the renewal of
BCS’s charter, and the memorandum of understanding executed between BCS and defendants. 25
Dkt. No. 11-2. At the hearing, BCS indicated that it does not oppose this request. Federal Rule of
Evidence 201 states that “[t]he court may judicially notice a fact that is not subject to reasonable
26 dispute because it . . . can be accurately and readily determined from sources whose accuracy
cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2). These reliable sources include 27
“matters of public record . . . as long as the facts noticed are not subject to reasonable dispute.”

1 I. BACKGROUND

2 According to the operative complaint, plaintiff The Bullis-Purissima Elementary School 3
operates BCS, a TK-8 public charter school located within the geographic boundaries of Los Altos
4 School District and authorized by the SCCBOE. Dkt. No. 10 ¶ 2. BCS alleges that it is “the 5

highest-performing public school in Santa Clara County.” Id. 6 BCS asserts that, despite its high level of performance, over the past six years, SCCBOE 7 has subjected it to “adverse treatment, deprivation of rights under the law, and ongoing 8 harassment” because BCS’s student population does not have a racial and ethnic makeup that 9 reflects the population of the school district as a whole. Id. ¶¶ 24-27. In particular, BCS alleges 10 that SCCBOE has sent “numerous letters” to BCS “falsely accusing” it of excluding students on 11 the basis of race. Id. ¶ 24. BCS asserts that SCCBOE does not subject any of the other fifteen 12 charter schools operating within Santa Clara County to this level of scrutiny and that the “adverse 13 treatment” BCS complains of stems from SCCBOE’s “opinion” that “BCS has enrolled too many 14 Asian students and too few Hispanic students” Id. ¶ 25. 15 On June 3, 2024, BCS sought renewal of its charter for a seven-year term. Id. ¶ 26. BCS 16 alleges that its charter should have been unconditionally renewed, given BCS’s high level of 17 performance. Id. ¶ 2. However, on August 4, 2024, SCCOE informed BCS that “there continues 18 to be underrepresentation of some historically underserved student groups at BCS” and that BCS 19 therefore would receive only “conditional approval.” Id. ¶ 26. On August 26, 2024, SCCBOE 20 held a meeting to discuss BCS’s charter renewal petition where SCCOE “indicated that approval 21 of BCS’s renewal petition . . . was not warranted because BCS has not ‘fully achieved being 22 reflective of the district’ with regard to racial and ethnic makeup” Id. ¶ 27. Defendants 23 ultimately decided to renew BCS’s charter with conditions, including the requirement that BCS 24 enter into a memorandum of understanding (“MOU”) with defendants. Id. ¶ 29. 25 26 matters of public record, the Court finds that it may properly take judicial notice of these documents for the purpose of recognizing the undisputed fact that BCS’s charter is currently 27 approved through 2030. The Court also takes notice of these documents to the extent that they 1 BCS appealed defendants’ decision to the State Board of Education, which dismissed the 2 appeal on the basis that BCS’s charter had been renewed conditionally, not outright denied. Id. 3 ¶ 30. Thereafter, SCCOE and BCS conferred regarding the proposed MOU for three months. Id. 4 ¶ 31. On November 15, 2024, BCS’s board approved a version of the MOU suggested by SCCOE 5 staff. Id. ¶ 32. However, this version of the MOU was voted down by SCCBOE on November 6 20, 2024, allegedly because it contained the following language: “Charter School contends that 7 factual evidence did not support any finding that Charter School excluded any student who wished 8 to attend, and disagrees with and objects to the Conditions” Id. ¶¶ 31-32. SCCBOE 9 approved a revised version of the MOU that did not contain this language at its December 18, 10 2024 meeting, a version that BCS contends contained “even more changes . . . beyond the 11 conditions SCCBOE set for renewal on August 27, 2024.” Id. ¶ 34. BCS signed the MOU but 12 asserts that it “executed [this] MOU under . . . protest.” Id. After the execution of the MOU, on 13 January 9, 2025, defendants confirmed with the California Department of Education that BCS’s 14 charter had been renewed through June 30, 2030. Id. 15 In this action, BCS asserts one claim for violation of Title VI of the Civil Rights Act of 16 1964 against SCCOE and SCCBOE. BCS

seeks both declaratory and injunctive relief and 17 attorneys' fees and costs.

18 II. LEGAL STANDARD

19 A Rule 12(b)(1) motion to dismiss challenges a federal court's subject matter jurisdiction. 20 Such a challenge may be made either on the face of the pleadings (a "facial attack") or by 21 presenting extrinsic evidence (a "factual attack"). *Warren v. Fox Family Worldwide, Inc.*, 328 F.3d 1136, 1139 (9th Cir. 2003) (citing *White v. Lee*, 227 F.3d 1214, 1242 (9th Cir. 2000)). Here, 23 defendants make a factual attack. Dkt. No. 11 at 12-13. "With a factual Rule 12(b)(1) attack . . . a 24 court may look beyond the complaint to matters of public record without having to convert the 25 motion into one for summary judgment." *White*, 227 F.3d at 1242. The Court also "need not 26 presume the truthfulness of the plaintiffs' allegations" in conducting its jurisdictional analysis. Id. 27 A Rule 12(b)(6) motion to dismiss for failure to state a claim tests the legal sufficiency of 1 appropriate where there is no cognizable legal theory or an absence of sufficient facts alleged to 2 support a cognizable legal theory. Id. (citing *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 3 699 (9th Cir. 1990)). In such a motion, all material allegations in the complaint must be taken as 4 true and construed in the light most favorable to the claimant. Id. 5 However, "[t]hreadbare recitals of the elements of a cause of action, supported by mere 6 conclusory statements, do not suffice," *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009), and "[f]actual 7 allegations must be enough to raise a right to relief above the speculative level," *Bell Atl. Corp. v. 8 Twombly*, 550 U.S. 544, 555 (2007) (citations omitted). Moreover, the Court is not required to 9 "'assume the truth of legal conclusions merely because they are cast in the form of factual 10 allegations.'" *Prager Univ. v. Google LLC* ("Prager I"), No. 17-cv-06064-LHK, 2018 WL 11 1471939, at *3 (N.D. Cal. Mar. 26, 2018) (quoting *Fayer v. Vaughn*, 649 F.3d 1061, 1064 (9th 12 Cir. 2011) (per curiam)). Nor does the Court accept "allegations that are merely conclusory, 13 unwarranted deductions of fact, or unreasonable inferences." *In re Gilead Scis. Sec. Litig.*, 536 14 F.3d 1049, 1055 (9th Cir. 2008).

15 Rule 8(a)(2) requires only "a short and plain statement of the claim showing that the 16 pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). This means that the "[f]actual allegations 17 must be enough to raise a right to relief above the speculative level." *Twombly*, 550 U.S. at 555 18 (citations omitted). However, only plausible claims for relief will survive a motion to dismiss. 19 *Iqbal*, 556 U.S. at 679. A claim is plausible if the facts pled permit the court to draw a 20 reasonable inference that the defendant is liable for the alleged misconduct. Id. A plaintiff does not have to 21 provide detailed facts, but the pleading must include "more than an unadorned, the- 22 defendant- 23 unlawfully-harmed-me accusation." Id. at 678.

23 Rule 15(a) provides that leave to amend "should be freely given when justice so requires," 24 and "the court must remain guided by the underlying purpose of Rule 15 . . . to facilitate 25 decision 26 on the merits, rather than on the pleadings or technicalities." *Lopez v. Smith*, 203 F.3d 1122, 1127 26 (9th Cir. 2000) (en banc) (quotations and citations omitted). "The decision of whether to grant 27 leave to amend nevertheless remains within the discretion of the district

court,” which may deny 1 delay, or be futile, or if the party seeking amendment has acted in bad faith. *Leadsinger, Inc. v. 2 BMG Music Publ’g*, 512 F.3d 522, 532 (9th Cir. 2008) (citing *Foman v. Davis*, 371 U.S. 178, 182 3 (1962)).

4 III. DISCUSSION

5 Defendants challenge BCS’s complaint for failure to state a claim under Rule 12(b)(6) and 6 for lack of subject matter jurisdiction under Rule 12(b)(1). Dkt. No. 11 at 1-2. Defendants’ 7 jurisdictional challenge is based on the argument that BCS’s claim is not ripe for adjudication 8 because its only purported injuries involve hypothetical future harm, rather than an “actual, 9 concrete and particularized” injury that can be redressed by the Court. *Id.* at 15-16. Because the 10 Court must first consider the nature of BCS’s claim and its theories of liability, the Court 11 addresses defendants’ Rule 12(b)(6) arguments, and then addresses defendants’ Rule 12(b)(1) 12 arguments. 13 A. Rule 12(b)(6): Title VI Discrimination 14 BCS alleges that defendants’ treatment of the school during the charter renewal process 15 and the years preceding it violates Title VI of the Civil Rights Act of 1964. Dkt. No. 10 ¶¶ 37-40. 16 Title VI states that “[n]o person in the United States shall, on the ground of race, color, or national 17 origin, be excluded from participation in, be denied the benefits of, or be subjected to 18 discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. 19 § 2000d. To state a claim under this statute, BCS must plausibly allege that defendants are (1) 20 “engaging in racial discrimination” and (2) “receiving federal financial assistance.” *Fobbs v. Holy 21 Cross Health Sys. Corp.*, 29 F.3d 1439, 1447 (9th Cir. 1994), overruled on other grounds by 22 *Davison v. Columbia/HCA Healthcare Corp.*, 241 F.3d 1131 (9th Cir. 2001). Defendants do not 23 contend BCS fails to allege defendants receive federal funds; thus, the sole question is whether 24 BCS has adequately alleged racial discrimination. 25 The pleading requirements for a discrimination claim under Title VI are similar to those for 26 an equal protection claim under the Fourteenth Amendment. See *Grutter v. Bollinger*, 539 U.S. 27 306, 343 (2003) (quoting *Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265, 287 (1978) (opinion of 1 Protection Clause or the Fifth Amendment.” (cleaned up)). “Private parties seeking judicial 2 enforcement of Title VI’s nondiscrimination protections must prove intentional discrimination.” 3 *Yu v. Idaho State Univ.*, 15 F.4th 1236, 1242 (9th Cir. 2021). However, at the pleading stage, a 4 Title VI plaintiff need only allege that the defendant engaged in discrimination; he or she need not 5 plead intent. *Monteiro v. Tempe Union High Sch. Dist.*, 158 F.3d 1022, 1026 (9th Cir. 1998); see 6 also *Fobbs*, 29 F.3d at 1447 (“Although the plaintiff must prove intent at trial, it need not be pled 7 in the complaint.”). 8 BCS contends that “[c]ounty officials . . . single out and discriminate against BCS and its 9 families because of BCS’s predominately Asian enrollment.” Dkt. No. 10 ¶ 4. Although the 10 complaint contains only a single claim for relief, BCS appears to assert at least two theories of 11 discrimination. First, BCS alleges that defendants subject BCS to disparate treatment, including: 12 (1) “harass[ment] and bully[ing]” through notices and letters alleging BCS’s noncompliance with 13 California law; (2) giving only conditional approval to BCS’s charter renewal initially,

despite 14 BCS's high level of academic performance; and (3) forcing BCS to sign an MOU in order to get 15 final approval. Id. ¶¶ 26, 37-39. BCS asserts that no other similarly situated charter school in 16 Santa Clara County is being subjected to this treatment. Id. ¶ 39. Second, BCS alleges that the 17 requirements imposed by defendants are such that BCS will be forced to engage in unlawful 18 discrimination in order to satisfy them—specifically, that it will be forced to use racial quotas or 19 other prohibited race-based measures as part of its admissions process, in violation of the equal 20 protection clause of the Fourteenth Amendment. Id. ¶¶ 5-6. The Court addresses each of these 21 theories separately. 22 1. Intentional Discrimination: Disparate Treatment 23 BCS alleges that it is treated differently as compared to other similarly-situated charter 24 schools because a majority of its student population is Asian. To establish a claim for disparate 25 treatment, BCS will ultimately need to show that (1) it is part of a protected class², (2) it was 26 2 BCS asserts that it has “an imputed racial identity” based on the racial identity of its students, 27 and therefore has standing to sue. Dkt. No. 15 at 15. Defendants do not challenge this assertion, 1 treated differently from similarly situated individuals, and (3) this treatment was motivated by its 2 protected status.³ *Mandel v. Bd. of Trs. of California State Univ.*, No. 17-cv-03511, 2018 WL 3 1242067, at *17 (N.D. Cal. Mar. 9, 2018) (citing *Rashdan v. Geissberger*, 764 F.3d 1179, 1183 4 (9th Cir. 2014)). The group of similarly situated individuals or entities “need not be similar in all 5 respects, but they must be similar in those respects relevant to the Defendants’ policy.” *Olson v. 6 California*, 104 F.4th 66, 77 (9th Cir.), cert. denied, 145 S. Ct. 382 (2024) (quoting *Ariz. Dream 7 Act Coal. v. Brewer*, 757 F.3d 1053, 1064 (9th Cir. 2014)). 8 Here, BCS suggests that the other fifteen charter schools authorized by SCCBOE are 9 “similarly-situated.” Dkt. No. 10 ¶ 25. Of these schools, BCS alleges that it “has one of the 10 smallest variances between its Hispanic school population and the population of the surrounding 11 district.” Id. Yet, BCS asserts, “SCCBOE does not bully and harass those other charter schools 12 on their ‘population imbalance’ nor threaten them with non-renewal of their charters, nor 13 constructively deny them their charters.” Id. ¶¶ 25, 39. Indeed, BCS alleges that it was entitled to 14 the benefit of unconditional⁴ renewal of its charter for a period of seven years, given its status as a 15 “high performing charter school.” Id. ¶ 38. It maintains that the reason SCCBOE treats BCS 16 differently is that “the disproportionality [at the other charter schools] is not about too many Asian 17 students.” Id. 18 Defendants argue that these allegations fail to state a claim for relief under Title VI. They 19 point out that it is undisputed that BCS’s charter has been renewed through 2030 with the signing 20 of the MOU, and for this reason, no benefit has been withheld from BCS. Dkt. No. 11 at 15. In 21 22 3 As discussed above, a showing of discriminatory intent is not required for a Title VI claim at the pleading stage. See *Aguirre v. San Leandro Police Dep’t*, No. 10-04364 CW, 2011 WL 738292, at 23

^{*3} (N.D. Cal. Feb. 22, 2011) (citing *Monteiro*, 158 F.3d at 1026) (“Unlike claims under the Equal Protection Clause which must plead intentional discrimination, Title VI claims need only allege 24 that the defendant is engaging in discrimination, although a showing of intent is necessary at

trial.”); see also Mandel, 2018 WL 1242067, at *17 n.14 (acknowledging “that under Title VI, the 25 Ninth Circuit has held that although ‘a showing of intent is required at trial,’ for pleadings, the complaint only needs to allege ‘that the defendant is engaging in discrimination.’”). 26 4 Defendants contend that BCS’s charter renewal is now unconditional. Dkt. No. 11 at 9. BCS 27 asserts that its charter renewal is conditional because it was required to sign an MOU to obtain 1 addition, defendants argue that no inference can reasonably be drawn that BCS has been subjected 2 to disparate treatment because of the racial composition of its student population where SCCBOE 3 has also acted to address BCS’s non-compliance with statutory requirements regarding 4 demographic categories that are not based on race, including “English learners, socioeconomically 5 disadvantaged students, and students with disabilities.” See Dkt. No. 16 at 8-9. 6 The Court disagrees that BCS’s disparate treatment claim necessarily fails at the pleading 7 stage because its charter was ultimately renewed through 2030. As discussed below, BCS may 8 suffer injury from the imposition of additional burdens by defendants and from the efforts required 9 to conform its enrollment practices during the period of the current charter to what is required to 10 obtain future renewals. As to defendants’ argument that their actions with respect to BCS’s 11 charter renewal were motivated by factors other than race, this argument is not persuasive at the 12 pleading stage where BCS need not plead discriminatory intent for the claim to proceed. 13 Nevertheless, the Court agrees that the allegations in the operative complaint are 14 insufficient to state a claim under Title VI. BCS does not allege any facts from which the Court 15 might reasonably infer that the fifteen other schools that BCS says are treated more favorably are 16 “similarly situated” to BCS. And while the determination of whether a particular set of schools 17 qualifies as similarly-situated to BCS is likely to require a fact-specific inquiry more appropriate 18 for summary judgment, “a complaint’s threadbare recital that another class is similarly situated 19 will not suffice to survive a motion to dismiss.” Olson, 104 F.4th at 77 (cleaned up). Finally, 20 BCS’s allegations of disparate treatment are largely conclusory characterizations, consisting of 21 statements that other schools are “not harassed,” are “not threatened” with non-renewal, or do not 22 receive “all of these conditions and requirements forced upon BCS.” Dkt. No. 10 ¶¶ 25, 30. 23 For these reasons, the Court concludes that the complaint fails to state a plausible claim for 24 disparate treatment based on race. However, as BCS may be able to allege facts sufficient to 25 address this deficiency, the Court will permit BCS to amend its complaint. 26 2. Requirement for Racial Balance 27 As noted above, BCS also contends that defendants’ actions will force BCS to engage in 1 some kind of ‘action plan’.” Dkt. No. 15 at 13 n.6. 2 Defendants do not dispute that requiring BCS to implement specific racial quotas would be 3 unlawful. Dkt. No. 16 at 13 (citing *Students for Fair Admissions, Inc. v. President & Fellows of 4 Harvard Coll.*, 600 U.S. 181 (2023)); see also *Moyo v. Gomez*, 40 F.3d 982, 985 (9th Cir. 1994) 5 (In the Title VII context, “requiring an employee to discriminate is itself an unlawful employment 6 practice.”). Defendants argue, however, that BCS’s own allegations show that defendants are 7 simply requiring BCS to comply with California law governing charter schools, which requires 8 that a school make efforts

to enroll a student population that reflects the demographics of the 9 school district in which the school is located. Dkt. No. 11 at 1 (citing Cal. Educ. Code 10 § 47605(c)(5)(G)) (“[E]very charter school in the state, as a condition of approval or renewal must 11 articulate: ‘[t]he means by which the charter school will achieve a balance of racial and ethnic 12 pupils, special education pupils and English learners pupils . . . that is reflective of the general 13 population’” of the district). Specifically, they observe that no provision in the charter itself or the 14 MOU requires use of quotas for any purpose or requires BCS to use race as a factor in admissions 15 (which is based on a lottery system). Rather, BCS is only required to use “outreach and 16 recruitment measures that take race into account to increase the diversity among the applicant 17 pool, . . .” Dkt. No. 11 at 19-20; see also *id.* at 1-3. Defendants stress that “it is BCS’s 18 compliance with those steps that will be monitored” by defendants, not whether a particular 19 numerical balance has been achieved. Dkt. No. 16 at 9 (emphasis added). 20 The Court agrees with defendants that the complaint contains no plausible allegations that 21 defendants have expressly directed BCS to implement unlawful racial quotas or to otherwise 22 consider race in admissions. Indeed, BCS acknowledges that, on their face, the applicable state 23 law, the charter, and the MOU do not require the use of race-based quotas. See Dkt. No. 15 at 12; 24 Dkt. No. 20 at 18:19-19:13. Instead, BCS’s theory of liability appears to be that defendants are 25 implicitly requiring use of such quotas because it would be impossible for BCS to successfully 26 enroll a student population that is “reflective of the district” with regard to racial or ethnic makeup 27 without using quotas, and defendants purportedly require BCS to actually enroll a student 1 not have “too many Asians” compared to the percentage of Asians in the district, or face non- 2 renewal of their charter. See Dkt. No. 15 at 13 n.6. At the motion hearing, BCS suggested that, 3 given its theory of liability, it may wish to challenge the “racial balance” provision of the 4 Education Code itself on the ground that it is unconstitutional as applied by defendants. Dkt. No. 5 20 at 14:11-17, 19:2-13. The operative complaint contains no such “as-applied” challenge or 6 supporting allegations. 7 In view of BCS’s acknowledgement that no express requirement to use racial quotas exists, 8 and because it remains unclear precisely which theory or theories of liability BCS means to assert 9 against defendants regarding “racial balance,” the Court finds that BCS has failed to state a 10 plausible claim that defendants require it to engage in unlawful race discrimination. However, as 11 BCS may be able to allege facts sufficient to address the deficiencies described above, the Court 12 will permit BCS to amend its complaint. 13 B. Rule 12(b)(1): Ripeness 14 Defendants separately argue that dismissal is warranted because BCS’s claim is not ripe. 15 Dkt. No. 11 at 15-16. “Ripeness” implicates both constitutional and prudential considerations. 16 *Bishop Paiute Tribe v. Inyo Cnty.*, 863 F.3d 1144, 1153 (9th Cir. 2017). As a constitutional 17 consideration, “[f]or a case to be ripe, it must present issues that are ‘definite and concrete, not 18 hypothetical or abstract.’” *Id.* (quoting *Thomas v. Anchorage Equal Rts. Comm’n*, 220 F.3d 1134, 19 1139 (9th Cir. 2000)). As a prudential consideration, two factors guide a court’s assessment: “‘the 20 fitness of the issues for judicial decision and the hardship to the parties of withholding court 21 consideration.’” *Thomas*,

220 F.3d at 1141 (quoting *Abbott Lab'ys v. Gardner*, 387 U.S. 136, 149 22 (1967), abrogated by *Califano v. Sanders*, 430 U.S. 99 (1977)). 23 Defendants' ripeness challenge derives from its thesis that BCS has shown "no real, 24 concrete injury . . . , since it is not at risk of nonrenewal until 2030, and Defendants have not 25 threatened to revoke BCS'[s] charter let alone initiate[] any of the statutory steps that would be 26 necessary." Dkt. No. 16 at 10. However, as discussed above, this characterization of BCS's claim 27 does not accurately capture the injury it alleges. BCS claims to suffer a present and ongoing 1 See Dkt. No. 15 at 16-17 ("BCS alleges that 'SCCOE and SCCBOE are insisting that BCS achieve 2 || de facto "racial quotas",' not in the future, but recently and now."); id. at 17 ("BCS alleges that 3 || being subject to the MOU as a condition of renewal is itself a form of harm."). In addition, BCS 4 || alleges that defendants' actions have harmed its "reputation and standing in the community" and 5 || that it "has expended substantial resources in time, personnel, and money" to respond to the 6 || criticism it has received. Dkt. No. 10 39, 40. Defendants do not suggest that these types of 7 injuries are generally not "real" or "concrete," but they argue that BCS has not sufficiently alleged 8 || that "the Charter... has required BCS to expend such resources." Dkt. No. 16 at 11. 9 If BCS is able to state a viable claim or claims under Title VI for race discrimination, the 10 || Court is not persuaded that the charter renewal alone will render any such claims not ripe, either as 11 a constitutional or prudential matter. For this reason, the Court denies defendants' motion to 12 || dismiss for lack of subject matter jurisdiction.

13 || IV. CONCLUSION

14 For the reasons discussed above, the Court grants defendants' motion to dismiss under 3 15 Rule 12(b)(6) with leave to amend. Any amended complaint must be filed no later than August 1, a 16 || 2025. = i IT IS SO ORDERED. || Datea: July 11, 2025 19 Virginia K. DeMarchi 21 United States Magistrate Judge 22 23 24 25 26 27 28