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14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA

16 CHANDA SMITH, et al.,
17 Plaintiffs,

18 v.

19 LOS ANGELES UNIFIED SCHOOL
20 DISTRICT, et al.,
21 Defendants/Third-Party
22 Plaintiff

Case No. CV 93-7044-RSWL (GHKx)

ASSIGNED FOR ALL PURPOSES TO
JUDGE RONALD S. W. LEW

**STIPULATION BETWEEN
PLAINTIFFS AND DEFENDANT
LOS ANGELES UNIFIED SCHOOL
DISTRICT TO CONCLUDE AND
TERMINATE MODIFIED
CONSENT DECREE PURSUANT
TO SECTION 20, AND TO DISMISS
ACTION WITHOUT PREJUDICE**

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3 **INTRODUCTION**

4 1. In November 1993, a class action complaint was filed in this matter, with
5 the stated purpose of bringing Defendant Los Angeles Unified School District
6 (“LAUSD” or “District”) into compliance with applicable federal law, being the
7 Individuals with Disabilities Education Act (“IDEA”) (20 U.S.C. §§ 1400 et seq.), and
8 Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794. (DKT#
9 1; amended complaints at DKT# 7 and 22¹.)

10 2. The litigation was resolved in 1996 through a consent decree. (DKT#
11 84.) Thereafter, by agreement of the Parties and approval of the District Court, in
12 May 2003 the consent decree was modified and superseded by a Modified Consent
13 Decree (also referred to hereinafter as the “MCD”). (See DKT# 265 and 266.)

14 3. The May 2013 MCD set forth specified “Outcomes,” that were expected
15 to be met over the succeeding several years (MCD, Section 6), and put in place a
16 “monitor” whose primary responsibility was to evaluate whether the Outcomes set
17 forth in the MCD are met (MCD, Sections 2 and 3).

18 4. The MCD provided for “disengagement of Outcomes” once the
19 Outcomes were met (MCD, Section 16), and provided for termination of the MCD
20 once the Outcomes and certain other requirements as discussed in more detail below
21 were met (MCD, Section 17).

22 5. The MCD also provided that it could be modified by agreement of the
23 Parties, subject to Court approval. (MCD, Section 20.)

24 6. At the time of the MCD’s approval in 2003, it was contemplated that the
25 Outcomes would be met and the MCD terminated within 3 years (by June 30, 2006)

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27
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¹ The operative complaint, the Second Amended Complaint, will be referred to hereinafter as the “Complaint.”

1 (see MCD Section 6, lines 16-17). However, this did not occur and the MCD remains
2 in place.

3 7. Over the past 16 years, Class Counsel and the District have collaborated
4 in good faith to ensure improvement in the delivery of special education and related
5 services to the students of the District. During this time period, there have been three
6 Independent Monitors due to retirement and the unfortunate passing of one of the
7 monitors.

8 8. The Parties agree that all or nearly all the Outcomes have been met, with
9 slight disagreements regarding the specifics. The District maintains that all Outcomes
10 have been met and disengaged, with perhaps one Outcome just about to be met. The
11 District maintains that the MCD should terminate by June 30, 2019.

12 9. Plaintiffs agree that nearly all of the Outcomes have been met as
13 determined by the Independent Monitor. However, plaintiffs maintain that some
14 Outcomes have not been fully met and that the District's performance on some
15 previously met outcomes has fallen below thresholds required by the MCD. As a
16 result, plaintiffs believe that termination of the MCD by June 30, 2019, is premature.

17 10. Despite this minor disagreement, the Parties have conferred regarding
18 timing of concluding and terminating the MCD, and have reached a compromise –
19 subject to Court approval - under the terms of which the MCD would conclude and
20 terminate December 31, 2019.

21 11. The Parties lodge this “Stipulation Between Plaintiffs And Defendant
22 Los Angeles Unified School District To Conclude And Terminate Modified Consent
23 Decree Pursuant To Section 20, And To Dismiss Action Without Prejudice,” together
24 with a “[Proposed] Order.”

25 **RATIONALE AND SUPPORT FOR PROPOSED CONCLUSION AND**
26 **TERMINATION OF MCD**

27 12. The MCD contains the following 17 Outcomes:

28 Outcome 1: Participation in the Statewide Assessment Program

- 1 Outcome 2: Performance in the Statewide Assessment Program
- 2 Outcome 3: Graduation Rate
- 3 Outcome 4: Completion Rate
- 4 Outcome 5: Reduction of Long-Term Suspensions
- 5 Outcome 6: Placement of Students with Eligibilities of Specific Learning
- 6 Disabilities and Speech and Language Impaired
- 7 Outcome 7: Placement of Students with All Other Eligibilities
- 8 Outcome 8: Home School
- 9 Outcome 9: Individual Transition Plan
- 10 Outcome 10: Timely Completion of Evaluations
- 11 Outcome 11: Complaint Response Time
- 12 Outcome 12: Informal Dispute Resolution
- 13 Outcome 13: Delivery of Services
- 14 Outcome 14: Increased Parent Participation
- 15 Outcome 15: Timely Completion of Future Translations
- 16 Outcome 16: Increase in Qualified Providers
- 17 Outcome 17: IEP Team Consideration of Special Factors – Behavioral
- 18 Interventions, Strategies, and Supports

19 13. As reflected in the reports of the Office of Independent Monitor (“OIM”),
20 these Outcomes (or in some instances, amended versions of the Outcomes have been
21 met), as follows:

- 22 Outcome 1: Met in 2006 (See OIM Letter², dated March 12, 2007.)
- 23 Outcome 2: Met in 2011 (See OIM Report, dated February 17, 2012.)
- 24 Outcome 3: Met in 2008 (See OIM Report, dated February 4, 2009.)
- 25 Outcome 4: Met in 2012 (See OIM Report, dated October 24, 2012.)
- 26 Outcome 5: Met in 2009 (See OIM Report, dated October 5, 2009.)

27 ² Copies of the referenced OIM reports are available at the OIM website, at the
28 following link: <http://oimla.com/reports.htm>

1 Outcome 6: Met in 2006 (See OIM Report, dated August 22, 2006.)

2 Outcome 7: Met in 2015³ (See OIM Report, dated November 10, 2015.)

3 Outcome 8: Met in 2008 (See OIM Report, dated October 1, 2008.)

4 Outcome 9: Met in 2006 (See OIM Report, dated August 22, 2006.)

5 Outcome 10: Met in 2008 (See OIM Report, dated October 1, 2008.)

6 Outcome 11: Met in 2006 (See OIM Report, dated August 22, 2006.)

7 Outcome 12: Met in 2006 (See OIM Report, dated August 22, 2006.)

8 Outcome 13: Met in 2019 (Remaining portal posting to occur by June
9 15, 2019.)

10 Outcome 14: Met in 2008 (See OIM Report, dated October 1, 2008.)

11 Outcome 15: Met in 2007 (See OIM Report, dated September 28, 2007.)

12 Outcome 16: Met in 2008 (See OIM Report, dated October 1, 2008.)

13 Outcome 17: Met in 2006 (See OIM Report, dated August 22, 2006.)⁴

14 14. In addition to the 17 Outcomes, the MCD also required the District to
15 ensure that all new construction and renovation and repairs by the District comply
16 with Section 504 and the Americans with Disabilities Act (the "ADA") (42 U.S.C. §§
17 12101 et seq.), and that the District enter into binding commitments to expend at least
18 \$67.5 million dollars on accessibility renovations or repairs to existing school sites,
19 consistent with Section 504 and the ADA. (MCD, Section 10.) These requirements
20 have been met.

21 15. The MCD also required the District to establish a unit to rapidly respond
22 to requests for minor renovations where necessary to provide access for individual
23 students seeking placement in currently inaccessible programs and expend up to \$20

24
25 ³ Outcome 7 was amended in 2012 but, per a recent settlement with Intervenors, the
26 amended Outcome 7 will be vacated, and the original Outcome 7 deemed to have been
met.

27 ⁴ An additional performance outcome (relating to Proportionality) was established
28 pursuant to Par. 53 of the MCD. This Outcome was met on June 30, 2010. This was
noted in the OIM Report, dated September 29, 2010, and by Monitor letter dated
October 16, 2010.

1 million on task orders related to these requests. (MCD, Section 10, par. 78.) The
2 District established such a unit, and since 2003 has in many instances provided (and to
3 this day, is still providing) such rapid action responses exceeding the up to \$20 million
4 required expenditure. (See OIM Report, dated October 13, 2014, reflecting \$13.68
5 million expended; more than \$7 million has since been expended.)

6 16. The MCD also incorporated a provision, mandating that the District
7 develop and implement an “Integrated Student Information System.” (MCD, Section
8 11.) The District has since designed, developed and implemented such a system,
9 known as “MiSiS” for “My Integrated Student Information System,” and has
10 complied with this requirement of the MCD. (See OIM Letter, dated April 9, 2019.)

11 17. Finally, the MCD required the Independent Monitor to provide a
12 certification that, in the Independent Monitor’s “judgment, the District’s special
13 education program has no systemic problems that prevent substantial compliance with
14 applicable federal special education laws and regulations.” [¶88] The Parties believe
15 that the District’s special education program has largely achieved such substantial
16 compliance, although plaintiffs believe some problems remain. It was not the
17 intention of the parties that this requirement would be the sole barrier to termination of
18 the MCD. In lieu of the certification required by section 88 of the MCD, the
19 Independent Monitor shall produce a final report setting forth the status and extent of
20 District’s achievement on each of the enumerated outcomes and of District’s
21 substantial compliance with applicable federal special education laws and regulations.
22 This report shall be provided to the parties and posted on the website of the
23 Independent Monitor no later than December 15, 2019. The report shall set forth such
24 recommendations as the Independent Monitor deems appropriate to assist the District
25 in ensuring ongoing special education compliance following termination of the MCD.

26 18. Through the date of the Independent Monitor’s Report, the District shall
27 continue to provide monthly data reports and such other data as requested by the
28

1 Independent Monitor. The Independent Monitor shall be allowed to interview such
2 District personnel as is necessary to complete the final Report.

3 19. Based on the foregoing, the District has achieved all or nearly all of the
4 requirements of the MCD. Plaintiffs believe that sufficient improvement has been
5 made that Court oversight is no longer required and are in agreement that it is time to
6 conclude the case.

7 20. The Parties have met and conferred and propose an end date of December
8 31, 2019, for conclusion and termination of the MCD, and dismissal of the action
9 without prejudice.

10 21. The parties have agreed to and shall be bound by the following additional
11 terms:

- 12 a. The management and control of the website of the Independent Monitor
13 (www.oimla.com) shall be transferred to Disability Rights California to
14 maintain as an historical resource. No later than January 15, 2020, the
15 following notice shall be placed on the website: "The Modified Consent
16 Decree terminated on December 31, 2019. This website is being
17 maintained as a historical record of the MCD." In addition, the contacts
18 page shall be deleted. Disability Rights California shall not otherwise
19 add or delete, nor allow for additions to or deletions from, the
20 www.oimla.com except by written agreement with the District, and shall
21 not transfer or assign the management or control of the website.
- 22 b. The Independent Monitor shall close his office no later than December
23 31, 2019.
- 24 c. The Board has approved a contract to reimburse the Independent Monitor
25 for all fees and expenses reasonably incurred through December 31,
26 2019, in accordance with Section 3 of the MCD.
- 27 d. Notwithstanding termination of the MCD, the District shall be obligated
28 to reimburse plaintiffs' counsel for all fees and expenses reasonably

1 incurred through December 31, 2019, in accordance with Section 19 of
2 the MCD.

3
4 Dated: July 23, 2019

Respectfully submitted,

5 /s/ D. Deneen Evans Cox
6 D. DENEEN EVANS COX
7 LAUSD, OFFICE OF THE GENERAL
8 COUNSEL
9 Attorneys for Defendant LAUSD
10 Respectfully submitted,

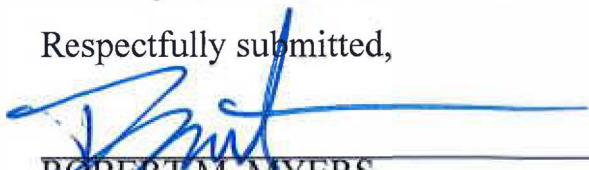
11 Dated: July 23, 2019

12 /s/ Barrett K. Green
13 BARRETT K. GREEN
14 LITTLER MENDELSON PC

Attorneys for Defendant LAUSD


15 Dated: July 8, 2019

Respectfully submitted,

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17 ROBERT M. MYERS
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21 Attorneys for the Plaintiff Class

22 Dated: July 3, 2019

Respectfully submitted,

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