

EDMUND G. BROWN JR.  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



455 GOLDEN GATE AVENUE, SUITE 11000  
SAN FRANCISCO, CA 94102-7004

Public: (415) 703-5500  
Telephone: (415) 703-5749  
Facsimile: (415) 703-5480  
E-Mail: George.Prince@doj.ca.gov

*via email and postal service*

October 1, 2008

Mr. Mark Mlawer  
Court Monitor  
P.O. Box 51170  
Palo Alto, CA 94303-9998

Re: Emma C. v. Delaine Eastin, et al.  
United States District Court, Northern District of California, Case No. C96-4179 THE

Dear Mark:

This letter responds to your September 22, 2008, memorandum to the California Department of Education (CDE) regarding compensatory services. Enclosed with the letter are documents in response to the specific inquiries of your memorandum.

In addition to addressing the specific inquiries you have made, however, CDE wants to emphasize that it is in no way attempting to shift its responsibilities under Judge Henderson's December 20, 2007 order for the provision of compensatory education services to the District's students. It is important to point out that while the Court may have ordered a temporary remedy to the compensatory services by having CDE ensure the delivery of those services, interaction and assistance from the District is necessary. Judge Henderson recognized this point by requesting that the District report to him regarding the implementation of compensatory education services at the July 31st status conference. In response to the Court's request, the District informed the Court, in the status report, and in their subsequent testimony at the hearing, of the District's activities in directly providing compensatory education services. This report by the District included a description of its collaboration with the CDE on the implementation of those services. Thus, the Court and CDE both appear to recognize that ultimately the District will be responsible for providing these services.

CDE is concerned that the e-mail message from its Lead Consultant was taken out of context. The informal working document was summarizing collaborative efforts between CDE and the District to provide compensatory education services, now and in the future. It was not an effort to avoid the obligation to ensure that services are provided. You are encouraged to contact Sacramento staff for clarification of any concerns you may have regarding CDE activities, policies or position(s).

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Thank you for the opportunity to address the concerns raised in your memorandum.  
Please do not hesitate to contact me if you have any additional questions or concerns.

Sincerely,



GEORGE PRINCE  
Deputy Attorney General

For EDMUND G. BROWN JR.  
Attorney General

enclosure: single-page printout

electronic enclosure: Excel spreadsheet file.  
attached to e-mailed  
pdf copy of this letter

cc, via email only: Maria De La Vega  
Adam Escoto  
Linda Lee  
Eugene Whitlock  
Bill Koski  
Larissa Cummings

1) By 10/1/08 CDE will provide data to the Court Monitor, Plaintiffs' Counsel and the District indicating:

a) The number and percentage of eligible students whose parents were contacted with an offer of compensatory education;

**350 parents (100%), in both English and Spanish.**

b) The number and percentage of parents contacted who accepted the offer;

**76 parents (30%)**

c) the number and percentage of eligible students whose compensatory services have started;

**38 students (15%)**

d) the number and percentage of eligible students whose compensatory services have been completed;

**0**

e) the number of providers contracted with by CDE to provide compensatory services; and

**One**

f) the extent to which, if any, District providers can deliver compensatory education in addition to their regular service delivery responsibilities.

**Four**

2) By 10/1/08 CDE will provide to the Court Monitor, Plaintiffs' Counsel, and the District a spreadsheet indicating, for each eligible student:

**See attached spreadsheet**