

## COUNTY COUNSEL

MICHAEL P. MURPHY



## CHIEF DEPUTIES

JOHN C. BEIERS  
DEBORAH PENNY BENNETT  
BRENDA B. CARLSON

# COUNTY COUNSEL

## COUNTY OF SAN MATEO

HALL OF JUSTICE AND RECORDS · 6<sup>TH</sup> FLOOR  
400 COUNTY CENTER · REDWOOD CITY, CA 94063-1662  
TELEPHONE: (650) 363-4250 · FACSIMILE: (650) 363-4034

## DEPUTIES

KATHRYN E. ALBERTI  
REBECCA M. ARCHER  
AIMEE B. ARMSBY  
CLAIRE A. CUNNINGHAM  
PETER K. FINCK  
TIMOTHY J. FOX  
PORTOR GOLTZ  
JUDITH A. HOLIBER  
DAVID A. LEVY  
GLENN M. LEVY  
KIMBERLY A. MARLOW  
JOHN D. NIBBELIN  
PAUL A. OKADA  
DAVID A. SILBERMAN  
WILLIAM E. SMITH  
V. RAYMOND SWOPE III  
LEE A. THOMPSON  
EUGENE WHITLOCK  
CAROL L. WOODWARD

*Please respond to: (650) 363-4989*

October 6, 2008

*Via U.S. Mail and Email*

Mark Mlawer  
Court Monitor  
PO Box 51170  
Palo Alto, CA 94303

*Re: Emma C - Delivery of Compensatory Education Services and the Court's  
December 20, 2007 Order*

Dear Mark:

I am writing on behalf of the District to respond to the correspondence from the CDE regarding the CDE's obligation to provide Compensatory Education Services pursuant to the Court's December 20, 2007 Order (the "Order").

The CDE grossly understates its responsibilities pursuant to the Order. First, the Order clearly states that the CDE shall determine to the extent to which current District providers can delivery compensatory education services. Order at 6, ll. 22-25. Next, the Order states that CDE shall contract with a sufficient number of providers to ensure the timely delivery of services. *Id.* Finally, the CDE shall "ensure the timely, full and competent delivery of the compensatory services." The Court did make the District responsible, under the supervision and oversight of the CDE, for notifying parents about the offers for compensatory education. Order at 6, ll.27-28. The CDE states in its October 1, 2008 letter that the District will ultimately be responsible for providing compensatory education services. This conclusion is contrary to the Court's Order, quoted above, which placed the responsibility for ensuring the delivery of the services on the CDE.

As pointed out in the Directive dated September 22, 2008, the CDE has attempted to place the burden on the District for the fulfillment of tasks which the Court placed squarely on the shoulders of the CDE. The District is particularly disturbed by the fact that CDE has made

the District responsible for finding service providers. To date, CDE has identified only one service provider – Total Education Services (TES) – and it did not appear that CDE had properly vetted it prior to recommending it to the District<sup>1</sup>. Moreover, the CDE did not follow the Court's direction to enter into the contract with TES, but left it to the District. The CDE's claim in the attachment to its October 1, 2008 letter that it has entered into a contract to provide compensatory services is, quite simply, untrue. Viewed together with the fact that only four individual service providers have been identified to provide services—each of which was identified by the District through its efforts—it is clear that CDE has taken only limited responsibility for the delivery of compensatory education services.

In its October 1, 2008 supplemental response to the Court Monitor's directive, the CDE states that the District will work towards making its facilities and transportation available for the provision of compensatory education services. The District has already done this but informed the CDE that the District needs support to provide supervision when children are present at its facilities (e.g. someone to be responsible for opening the facilities and remaining until the last student is picked up by a parent). Again, the CDE only talks of TES and makes no mention of any additional efforts to identify other potential service providers.

Rather than repeat the points of the Court Monitor's September 22, 2008 Directive, the District does agree that the email from the CDE is heavily focused on tasks that the CDE wants the District to complete – tasks that are the responsibility of the CDE and tasks that take District personnel away from the special education program going forward. Clearly, there is a greater role for CDE that as yet remains unfulfilled.

Very truly yours,

MICHAEL P. MURPHY, COUNTY COUNSEL

/s/ Eugene Whitlock

By: \_\_\_\_\_  
Eugene Whitlock, Deputy

MPM:EW/c

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cc: Adam Escoto, Ravenswood  
Linda Lee, Ravenswood  
George Prince, CDE

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<sup>1</sup> This conclusion is based on conversations that the District has had with TES and the evident inability of TES to deliver the services that CDE said it could deliver.