

Emma C. v. Eastin, et al.,
Case No. C-96-4179

The Additional Corrective Actions Process:
A Modification to the First Amended Consent Decree

Pursuant to Section 12.0 of the FACD, the Court hereby modifies the FACD by including the following provisions in the FACD:

4.5 Collaboration Between CDE and the District in Implementing this Decree: The Additional Corrective Actions Process.

Within fourteen (14) days following the Monitor's issuance of any and all reports pursuant to Paragraph 6.1.2 of this Consent Decree, the CDE Liaison identified pursuant to Paragraph 4.2 and a CDE representative with final authority to negotiate on behalf of CDE and commit CDE resources shall meet with the Court Monitor, the District's Assistant Superintendent of Special Education and any other District personnel to review the findings of the report. Plaintiffs' Counsel shall be informed of this meeting and permitted to participate at their own discretion. At the meeting the Parties shall identify those areas of Consent Decree implementation, including the RSIP, that require corrective action by the District and/or the CDE to achieve compliance. The Parties shall further set forth a specific plan identifying the respective responsibilities of the District and/or the CDE to ensure implementation of each of the identified area(s) of the Consent Decree. The plan shall include a description of corrective actions necessary and a specific timeline for implementation of those corrective actions. Such corrective actions shall include specific actions by the CDE to ensure implementation of each of the identified areas of noncompliance. Such CDE actions may include, but not be limited to, CDE's provision of technical assistance and consulting services to the District, CDE's identification and/or provision of consultants and/or service providers to implement the corrective actions, CDE's provision of administrative support to assist in the implementation of the corrective actions, and/or CDE's provision of information and/or training to assist in the implementation of the corrective actions. CDE shall submit all such corrective actions in writing to the Court Monitor and all Parties within seven (7) days of the meeting.

In the event that any Party disagrees with the areas of Consent Decree implementation that require corrective actions or in the event that any party does not agree with the specific corrective actions and/or timeline proposed to address those areas, that Party may, at its discretion, submit in writing its proposed corrective action to the Monitor and all Parties within fourteen (14) days of the meeting. The Party refusing to undertake the corrective action shall submit in writing within fourteen (14) days of the meeting its specific reasons for refusing to agree to the proposed corrective action. Within twenty-one (21) days of the meeting, the Court Monitor shall either issue a Directive

regarding the proposed corrective action or a statement and reasons for not issuing such a Directive. The Defendant subject to the Directive shall have seven (7) days to perform, or state its commitment to perform, the activities in the Directive. In the event that the affected Defendant disagrees with the Directive, that Defendant shall seek relief from the Directive within fourteen (14) days of the day it notifies the Monitor of its refusal to comply with a Directive. It will do so by filing with the Court and serving on all Parties a memorandum or brief showing cause why the Court should not issue an Order enforcing the Directive.

First, as a general rule, the costs of any additional corrective action resulting from the Additional Corrective Actions Process shall be divided between the Defendants according to the cost allocation ratio for the RSIP budget for that school year. Any party objecting to the application of that allocation ratio in a specific instance may register its objections with the Court Monitor pursuant to the second step of the Additional Corrective Actions Process. The CDE may seek variance from this ratio by demonstrating that the District is already funded to perform the task agreed to as a corrective action; the District may seek variance from this ratio by demonstrating that its existing resources are insufficient to perform the corrective action competently.

Nothing in this Section shall be construed as limiting the Parties' from meeting and conferring at any other time to discuss implementation of this Consent Decree or limiting the Parties from proposing corrective actions to address areas of the Consent Decree or proposing modifications to this Consent Decree pursuant to Paragraph 12.0

At the invitation of the District, and upon no less than seven calendar days' notice, the CDE Liaison shall attend the meetings of the Assistant Superintendent identified in the agreed upon Methods of Supervision filed with the Court on May 30, 2008. To the extent the CDE Liaison is unable to participate in person, the Liaison may participate telephonically.

(a) These meetings include, but are not limited to, the following:

1. The meetings with the San Mateo County Special Education Local Plan Area (SELPA) to develop and/or review and revise policies and procedures for the District's Special Education Program;
2. The meetings with the District information technology coordinator to develop a comprehensive, web-based special education information system (SEIS),
3. The meetings with the Special Education Director and the District's Chief Financial Officer which is contemplated to occur within month after the District receives the special education budget allocation from the San Mateo County SELPA to review and revise the line item budget for the Special Education Department;
4. The meetings with the Chief Financial Officer following the District's Board's

approval of the line item budget in order to develop a monthly budget expenditure report.

5. The annual meeting with the District Human Resources Director to update hiring criteria and evaluation standards for special education and certificated staff, and the meeting to ensure that all special education positions are filled;
6. The annual meeting with the Human Resources Director to develop or review and revise a staff retention plan for special education staff;
7. The annual oversight meeting (Summer Retreat) with the special education staff
8. The bi-weekly meetings with the Superintendent which are intended to inform the Superintendent of critical activities in the Special Education Department;
9. The weekly meetings with the Special Education director to discuss critical issues related to implementing special education services in the District;
10. The monthly meetings with school site principals;
11. The weekly meetings with special education staff; and
12. The annual end-of-the-year meeting with special education staff.

(b) The role of the CDE Liaison in the meetings of the Assistant Superintendent identified in paragraph (a) shall be to (1) observe and (2) provide advice as it relates to the implementation of the RSIP and the Special Education Program. The CDE Liaison, unless expressly provided for by the RSIP, shall not have any authority to make any decisions regarding the District's Special Education program. If the District believes that the CDE Liaison's participation in any of the meetings identified in paragraph (c) would impair the ability of District staff to effectively fulfill their job duties, or prevent District staff from meeting in a timely manner, the District may in its sole discretion direct the CDE Liaison to leave a meeting.

(c) The CDE Liaison shall keep a log of his or her participation in each meeting identified in paragraph (a) above.

(d) In further the support of the District's development of a comprehensive, SEIS, web based IEP system, and special education service delivery and tracking system, the CDE shall partner with the District to secure such technical systems, offering technical assistance, including software development assistance. The precise nature of these measures shall be determined, and their costs shall be allocated between the Defendants, through submission to the Additional Corrective Actions Process.