

1 KATHRYN E. DOBEL, CSB 85530
 2 Law Office of Kathryn E. Dobel
 3 1700 Shattuck Avenue #77
 4 Berkeley, CA 94709
 5 Tele: 510-548-2004
 6 Fax: 510-666-1315
 7 spedlaw@comcast.net

8 Attorney for Student and Mother H

9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 STUDENT H., by and through his guardian ad
 12 litem, MOTHER H., and MOTHER H., on her
 13 own behalf,

14 Plaintiffs,

15 vs.

16 BERKELEY UNIFIED SCHOOL DISTRICT,
 17 etc., et al.,

18 Defendants.

Case No. C 06-02031 VRW

~~PROPOSED~~ STIPULATED ORDER
 FOR MINOR'S COMPROMISE

19 **PARTIES**

20 1. Petitioner MOTHER H. as Guardian ad Litem for STUDENT H. petitioned this Court for an
 21 order approving the compromise of Student H.'s claims against defendants: BERKELEY
 22 UNIFIED SCHOOL DISTRICT, MICHELE LAWRENCE, ELAINE EGER, KENNETH
 23 JACOPETTI, ALAN JOY, FELTON OWENS and THE BOARD OF EDUCATION OF THE
 24 BERKELEY UNIFIED SCHOOL DISTRICT (Hereinafter collectively BERKELEY
 25 DEFENDANTS).

is

26 2. Claimant STUDENT H. is a plaintiff in the instant action. He 13 years of age and has
 27 extensive physical disabilities. He resides with his mother in Berkeley, California, and is
 28 currently at home on medical leave from the Perkins School for the Blind.

3. Petitioner MOTHER H. is the mother and guardian ad litem for STUDENT H. In those two

1 capacities, she brought the instant action against the BERKELEY DEFENDANTS on behalf of
2 STUDENT H and on her own behalf. Petitioner MOTHER H. at all times since the inception of
3 this claim and litigation has had sole legal and physical custody of STUDENT H. Petitioner
4 MOTHER H. is also a plaintiff in the instant action

5 **NATURE OF CLAIMS**

6 4. The parties have agreed that all claims of Plaintiffs, including Minor Plaintiff, STUDENT H.,
7 arising out of Case No. 06-02031 VRW, will be compromised without a trial on the merits and
8 the pending action will be dismissed after payment of the settlement funds if this Petition is
9 granted. The Parties by counsel have stipulated to the allocation of damages of Three Million
10 Dollars (\$3,000,000) to Student H.; the balance of the settlement payment, after payment of
11 attorney's fees and costs from the settlement funds pursuant to the Special Master's Report and
12 Recommendations to the Court, will be placed in the existing Special Needs Trust for Student H.
13 administered in Superior Court Case No. RPO3102373. Requests for payment to Mother H. for
14 educational programming and expenses for Student H. shall be made directly to the Superior
15 Court administering the Special Needs Trust for Student H.

16 5. STUDENT H has disabilities that entitle him to a free and appropriate public education under
17 the Individuals with Disabilities Education Act and protections from discrimination under
18 Section 504 of the 1973 Rehabilitation Act. As to Student H., the claims and action against the
19 BERKELEY DEFENDANTS involve damages allegedly suffered by Student H. The parties,
20 without admitting liability or responsibility in this matter, have agreed to resolve the matter in its
21 entirety pursuant to the terms stated in Paragraph 4.

22 **TERMS OF SETTLEMENT**

23 6. The parties have agreed to resolve this matter in its entirety for a total sum of Three Million
24 Dollars (\$3,000,000) payable to Student H.'s existing Special Needs Trust administered in
25 Superior Court Case No.: RP0310373. In full and final resolution of Case Nos.: CV06-
26 02031VRW; C07-01712 and OAH Case No.: 2008120784 BERKELEY UNIFIED SCHOOL
27 DISTRICT and the BERKELEY DEFENDANTS, by and through the Schools Excess Liability
28

1 Fund, on behalf of the BERKELEY UNIFIED SCHOOL DISTRICT and the BERKELEY
2 DEFENDANTS, shall cause to be paid, within thirty (30) days of the Order on the Minor's
3 Compromise, a total sum of Three Million Dollars (\$3,000,000.00), to be disbursed as follows:

- 4
- 5 A. \$2,510,679.88 to Student H., by check payable to the Special Needs Trust
6 for Student H., administered in Superior Court Case No.: RPO3102373.
- 7 B. \$256,836.68 by check payable to Mother H. for reimbursement for
8 payments of attorney's fees and costs.
- 9 C. \$232,483.44 by check payable to Kathryn Dobel, attorney at law, for
10 payments owing to Kathryn Dobel (\$53,283.44), Jennifer Torbohn
11 (\$25,000), Sally McDonald (\$150,000) and ADR Services. Inc. (\$4,200).
12

13 **Order for Disposition of Damages for Student H.**

14

15 7. The Court appointed Judge Isabella Horton Grant as the Special Master to administer claims
16 for reimbursement and payment of attorney's fees and costs (for the administrative hearings and
17 court cases) from the settlement funds. Judge Grant's Report and Recommendations dated
18 September 3, 2009 have been filed with this Court and the Court accepts the recommendations
19 and the stipulation of the parties for the allocation of the payment of attorney's fees and costs in
20 this case for the Student's attorneys and costs for the Special Master as set forth above in
21 paragraph 6, in the sum of \$232,483.44, and reimbursement to Mother H for fees and costs that
22 she has paid to date in the amount of \$256,836.68, from the settlement funds.

23 8. This Court approves the settlement of Three Million Dollars (\$3,000,000), and orders that the
24 settlement funds shall be paid within thirty (30) days of this Order. The proceeds of the
25 settlement funds, after the payments for fees and costs as specified in paragraph 7 and herein,
26 shall be placed in the existing Special Needs Trust for Student H, administered in Superior Court
27 Case No. RPO3102373. The settlement sum is to be allocated as follows:
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


- A. \$2,510,679.88 to Student H., by check payable to the Special Needs Trust for Student H., administered in Superior Court Case No.: RPO3102373.
- B. \$256,836.68 by check payable to Mother H. for reimbursement for payments of attorneys' fees and costs.
- C. \$232,483.44 by check payable to Kathryn Dobel, attorney at law, for payments owing to Kathryn Dobel, Jennifer Torbohn, Sally McDonald and ADR Services. Inc.

9. Mother H may petition the Superior Court directly for payment for educational programming and expenses for Student H.

Additional Orders

10. The specific terms of the Settlement Agreement and Mutual General Release executed by the Parties shall remain confidential between the Parties.

Dated: November 4, 2009



Honorable Vaughn Walker
Chief Judge of the United States District Court