

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Jason Spieler, *et al.*

Plaintiff,

vs.

Mt. Diablo Unified School District

Defendant

Case No. C98-00951-CW MEJ

**ORDER**

Judge: Claudia Wilken

For good cause shown and pursuant to the Parties' request and stipulation, it is found and ORDERED that:

- 1. The District installed engineered wood fiber ("EWF") in certain of its playboxes, replacing then-existing tanbark, to provide an accessible surface for the playboxes.
- 2. The District's installation of EWF (without respect to the issue of maintenance) met the requirements of the Consent Decree and fully meets the requirements of the Americans with Disabilities Act Accessibility Guidelines ("ADAAG"), codified at 36 C.F.R §§1191, *et seq.*, by providing a ground surface on accessible routes, clear floor or ground spaces, and turning spaces that comply with ASTM F 1951, which is incorporated into ADAAG by reference, and ADAAG 403.3, related to the grade of accessible routes. (36 C.F.R. §1191, App. D, guideline 1008.6.)
- 3. Subject to the terms of the Settlement Agreement between the Parties, all Class Members, for themselves, their successors, assigns, officers, directors, and past and present agents, attorneys, employees, independent contractors, and owners ("Released Parties") shall release the District and all its officers, directors, Board members, past and present agents, attorneys and employees, from any and all claims for relief raised in this action under the Americans with Disabilities Act, the Individuals with Disabilities Education Improvement Act (20 U.S.C 1400, § *et seq.*), the Rehabilitation Act of 1973, §§ 51 and 54 of the California Civil Code, and §§ 4450 and 11135 of the California Government Code.

[PROPOSED] ORDER

LOZANO SMITH  
One Capitol Mall, Suite 640 Sacramento, California 95814  
Tel 916-329-7433 Fax 916-329-9050

1 Nothing in this release shall be construed to limit an individual's right to file a tort claim arising from  
2 physical injury related to the condition of the playboxes.

3 4. The terms of section IV.B., paragraphs 6 and 7 of the Consent Decree shall be deleted  
4 and replaced with the following language:

5 "6. The District shall provide Class Counsel with semi-annual reports regarding  
6 its progress in performance of the Implementation Plans.

7 7. Dr. Louis S. Barber will review the District's semi-annual reports and perform  
8 spot checks at the sites to confirm the accuracy and comprehensiveness of the reports."

9 5. Section V.B of the Consent Decree shall be deemed inoperative, except for class  
10 member complaints under Section 5.A of the Consent Decree.

11  
12 DATED: \_\_\_12/5/08\_\_\_\_\_



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Hon. Claudia Wilken  
United States District Court  
Northern District, California

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