

1 KAMALA D. HARRIS
Attorney General of California
2 ISMAEL A. CASTRO
Supervising Deputy Attorney General
3 LISA A. TILLMAN
Deputy Attorney General
4 State Bar No. 126424
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 327-7872
Fax: (916) 324-5567
7 E-mail: Lisa.Tillman@doj.ca.gov
Attorneys for Defendant
8 *Department of Education*

William S. Koski, Esq., CA. Bar #166061
STANFORD LAW SCHOOL
YOUTH & EDUCATION LAW PROJECT
559 Nathan Abbott Way
Stanford, CA 94305-8610
Telephone: (650) 724-3718
Fax: (650) 723-4426
Email: bkoski@stanford.edu
Attorneys for Plaintiffs

9 MICHAEL P. MURPHY
COUNTY COUNSEL (SBN 83887)
10 BY: AIMEE B. ARMSBY, DEPUTY (SBN 226967)
Hall of Justice and Records
11 400 County Center, 6th Floor
Redwood City, CA 94063
12 Telephone: (650) 363-4647
Facsimile: (650) 363-4034
13 Email: kmeola@co.sanmateo.ca.us
aarmsby@co.sanmateo.ca.us
14 *Attorneys for Defendant Ravenswood City School*
District

Arlene B. Mayerson, Esq., CA Bar # 79310
Larisa M. Cummings, Esq., CA Bar # 131076
DISABILITY RIGHTS EDUCATION & DEFENSE FUND, INC.
2212 Sixth Street
Berkeley, CA 94710
Telephone: (510) 644-2555
Fax: (510) 841-8645
Email: amayerson@dredf.org
Email: lcummings@dredf.org
Attorneys for Plaintiffs

16 IN THE UNITED STATES DISTRICT COURT
17 FOR THE NORTHERN DISTRICT OF CALIFORNIA
18

21 **EMMA C.,**

Plaintiff,

23 v.

24 **DELAINE EASTIN, ET AL.,**

25 Defendant.

3:96-cv-04179-TEH

**THIRD JOINT STATEMENT
RE: CDE MONITORING OF THE
PROVISION OF FAPE IN
RAVENSWOOD CITY SCHOOL
DISTRICT**

Judge: The Honorable Thelton E. Henderson

1 In accord with this Court's Order dated March 14, 2012, (ECF 1698), the California
 2 Department of Education ("CDE"), Ravenswood City School District ("Ravenswood" or the
 3 "District"), and Plaintiffs (collectively, the "Parties"), the parties submit this interim conceptual
 4 framework for evaluating the CDE's special education statewide monitoring system pursuant to
 5 the IDEA (20 USC 1400 et seq.)¹ under Section 13.0 of the First Amended Consent Decree
 6 ("FACD"). That section provides, in relevant part:

7 If, after considering the motion(s) of Defendants and any opposition thereto, and after
 8 conducting an Evidentiary Hearing, if necessary, the Court determines that . . . (2) the
 9 state-level system in place is capable of ensuring continued compliance with the law
 10 and the provision of FAPE to children with disabilities in Ravenswood, there shall be
 a rebuttable presumption that there exists . . . in CDE a system to adequately monitor,
 supervise and ensure FAPE to class members.

11 The Parties will develop a system to evaluate the CDE's statewide special education
 12 monitoring system which will include the development of standards, items, and methodology.
 13 The Parties agree on the following interim conceptual framework for developing the specific
 14 standards of compliance with Section 13.0:

15 **1. Procedural and Substantive Compliance Standards**

16 The Parties will develop standards for determining whether the statewide monitoring
 17 system, including its "quantifiable and qualitative indicators" (34 CFR Section 300.600(d)),
 18 adequately measures whether Ravenswood complies with the procedural and substantive
 19 requirements of the Individuals with Disabilities Education Act ("IDEA") ensuring provision of
 20 FAPE to children with disabilities in Ravenswood.

21 A. The parties will discuss standards for determining both procedural and
 22 substantive compliance. The parties will discuss a range of procedural compliance standards
 23 which may include whether the monitoring system is capable of detecting whether Ravenswood
 24 has met the required timelines for developing assessment plans, conducting assessments and
 25 holding individualized education program ("IEP") meetings, and holding annual IEP reviews.

26
 27 ¹ The Parties will meet and confer about monitoring pursuant to Section 504 of the Rehabilitation
 28 Act and the Americans with Disabilities Act.

1 The parties will discuss a range of substantive compliance standards which may include
2 whether Ravenswood has conducted child find activities and assessments compliant with the
3 IDEA; whether Ravenswood has developed IEPs compliant with the IDEA, including whether the
4 IEPs are designed to ensure provision of a free appropriate public education (“FAPE”) in the least
5 restrictive environment (“LRE”); and whether Ravenswood has IDEA policies and procedures
6 compliant with the IDEA.

7 B. The parties will also discuss the means of determining compliance with these
8 procedural and substantive standards which may include the possible use of stratified random
9 samples of students’ assessment reports, IEPs, and other educational records; and reviews of
10 District policies and procedures, as compared to relevant CDE monitoring findings and corrective
11 actions.

12 **2. Student Outcome Standards.**

13 The Parties will develop standards for determining whether the statewide monitoring
14 system can ensure that Ravenswood’s delivery of special education and related services results in
15 appropriate student outcomes. (See, e.g., 34 CFR Section 300.600(b), requiring “the primary
16 focus of monitoring to be on (1) improving educational results and functional outcomes for all
17 children with disabilities; and (2) ensuring that public agencies meet the program requirements
18 under Part B of the Act, with a particular emphasis on those requirements that are most closely
19 related to improving educational results for children with disabilities.”)

20 A. The parties will meet and confer to discuss possible standards, which may
21 include whether the monitoring system is capable of detecting whether Ravenswood ensures that
22 students are placed in the least restrictive environment; whether Ravenswood ensures that it does
23 not use exclusionary school discipline practices in ways that disproportionately affect students
24 with disabilities or relevant subgroups such as racial minority students; and student performance
25 on the California Standards Test.

26 B. The parties will meet and confer to discuss possible means of assessing
27 compliance with these standards which may include analysis of data submitted to, gathered by, or
28

1 compiled by the CDE and/or the Court Monitor as compared to relevant CDE monitoring findings
2 and corrective actions.

3 **3. Service Delivery Standards**

4 The Parties will develop standards for whether the statewide monitoring system can ensure
5 that Ravenswood is delivering high quality and appropriate services to students with disabilities.
6 Such an inquiry will evaluate whether the CDE’s in-depth review of specific student files and the
7 delivery of services to those specific students (what CDE currently calls its “Education Benefit
8 Review”) meets certain quality standards that the parties will develop.

9 A. The Parties will discuss possible standards for service delivery which may
10 include whether the statewide system can detect student progress on annual IEP goals; whether
11 students’ service providers are “highly qualified” under state and federal law; whether students’
12 IEPs are being implemented; issues related to the quality of service delivery; and whether the
13 District is appropriately engaging parents in the educational planning for their children.

14 B. The parties will discuss whether such a review will include an in-depth analysis
15 of those students’ files and the delivery of services to those students who are selected by the CDE
16 for their Education Benefit Review (or its equivalent) as compared to relevant CDE monitoring
17 findings and corrective actions. The parties will discuss ensuring that those limited number of
18 students selected for such review will represent students with varying disabilities, from varying
19 schools, and with varying supports, services, and placements.

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4. Compliance Complaint Resolution Standards

The Parties will develop standards for determining whether the statewide monitoring system can effectively redress noncompliance as required by IDEA. Such an inquiry will evaluate whether the statewide system detects and timely addresses noncompliance in actual special education compliance complaints made against Ravenswood to CDE.

Respectfully submitted,
DISABILITY RIGHTS EDUCATION & DEFENSE FUND, INC.

By: _____
Larisa M. Cummings
Attorneys for Plaintiffs

YOUTH AND EDUCATION LAW PROJECT

By: _____
William S. Koski
Attorneys for Plaintiffs

COUNTY COUNSEL OF THE COUNTY OF SAN MATEO

By: _____
Aimee Armsby
Deputy County Counsel
Attorneys for Ravenswood City School District

OFFICE OF THE CALIFORNIA ATTORNEY GENERAL

By: _____
Lisa Tillman
Deputy Attorney General
Attorneys for Defendants Delaine Eastin, Superintendent of Public Instruction, and California Department of Education

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