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15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA

17 ROXANNE LOPEZ and HUGO LOPEZ, as) No. C 99-3260 SI (EMC)
guardians ad litem of L.L.; et al.,)

18) CLASS ACTION

19 Plaintiffs,)

20) STIPULATED JUDGMENT

21 vs.)

22 THE SAN FRANCISCO UNIFIED SCHOOL)
DISTRICT ("SFUSD" or "DISTRICT"), et al.,)

23 Defendants.)

24)

25)

26)

27)

28)

Stipulated Judgment

Lopez et al. v. SFUSD, et al., Case No. C 99-3260 SI (EMC)

1 **I. RECITALS**

2 1. On July 6, 1999, Named Plaintiffs Hugo and Roxanne Lopez as guardians ad
3 litem of Jason Lopez, and Teresa Gallegos commenced a class action in the United States
4 District Court for the Northern District of California, Case No. C-99-3260 SI (the
5 “Lawsuit”), against Defendants, alleging *inter alia*, discrimination in violation of the
6 Americans with Disabilities Act (“ADA”), Section 504 of the Rehabilitation Act of 1973
7 (“Section 504”) and 42 U.S.C. § 1983 regarding physical access for persons with mobility
8 and/or vision disabilities in the schools of the San Francisco Unified School District
9 (“SFUSD”). On December 14, 1999, Plaintiffs filed their Second Amended Complaint
10 pursuant to a stipulation of the parties. Defendants filed their Answer to the Second
11 Amended Complaint on January 11, 2000.

12 2. Defendants are members of the School Board of the San Francisco Unified
13 School District, in their official capacities, and the Superintendent of the San Francisco
14 Unified School District, in her official capacity as Superintendent of Schools
15 (collectively, “Defendants”).

16 3. On May 2, 2001, the Court entered an Order certifying the following two
17 classes:

18 1) All persons disabled by mobility and/or visual impairments who have
19 enrolled as students in the San Francisco Unified School District since July 6,
20 1996 and who have allegedly been denied their rights under Title II of the
21 Americans with Disabilities Act, Section 504 of the Rehabilitation Act and 42
22 U.S.C. section 1983 to access to the programs, services, activities and/or facilities
23 of the San Francisco Unified School District as a result of physical barriers.

24 2) All persons (other than students) disabled by mobility and/or visual
25 impairments who have allegedly been denied their rights under Title II of the
26 Americans with Disabilities Act, Section 504 of the Rehabilitation Act and 42
27 U.S.C. section 1983 to access to the programs, services, activities and/or facilities
28 of the San Francisco Unified School District as a result of physical barriers.

Order Re Class Certification at 4. For the purposes of this Stipulated Judgment, the two
classes are hereinafter referred to as “the Class.”

1 4. The lawsuit has been vigorously prosecuted and defended. Trial in this
2 case was scheduled to begin on June 21, 2004.

3 5. Defendants deny any and all liability to the Named Plaintiffs and to the
4 Class Members, and deny that they have violated any laws, including without limitation,
5 Title II of the ADA, Section 504 and 42 U.S.C. § 1983, pertaining to access for persons
6 with mobility and/or vision disabilities.

7 **II. DEFINITIONS**

8 As used in this Stipulated Judgment (hereinafter the “Judgment”), the following
9 terms shall have the meaning ascribed to them in this Section and in the Recitals. Except
10 to the extent clearly required to the contrary by the context of its usage in this Stipulated
11 Judgment, any term not expressly defined in this Section or elsewhere in this Judgment
12 that has an expressly defined meaning in either the ADA, Section 504, or the regulations
13 promulgated thereunder (hereinafter the “regulations”), or the Americans with
14 Disabilities Act Accessibility Guidelines (“ADAAG”) shall have the meaning ascribed to
15 it by the ADA, Section 504, the regulations, or the ADAAG. All other terms shall be
16 interpreted according to their plain and ordinary meaning.

17 **A. Access or Accessible**

18 “Access” or “accessible,” unless otherwise indicated, mean and refer to conditions
19 that comply with the standards set forth in the Americans with Disabilities Act
20 Accessibility Guidelines (“ADAAG”). Access work performed pursuant to
21 Section III of this Judgment shall be performed in compliance with the standards
22 set forth in the Americans with Disabilities Act Accessibility Guidelines.

23 **B. Class Counsel**

24 “Class Counsel” means and refers to Schneider & Wallace, the Legal Aid
25 Society-Employment Law Center, and/or José R. Allen, including the attorneys
26 therein.

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C. Compliance Period

“Compliance Period” means and refers to the period from the effective date of this Stipulated Judgment until the termination of this Stipulated Judgment.

D. Interim Access Work

“Interim Access Work” shall mean and refer to the access improvements required by Section III.B of this Stipulated Judgment and which shall be undertaken by Defendants concurrently with the access work identified in Section III.A.

“Interim Access Work” shall be performed in compliance with the standards set forth in the Americans with Disabilities Act Accessibility Guidelines (“ADAAG”).

E. Notice

“Notice,” with the exception of notice to the Class of the proposed settlement of this matter, shall mean a written notification to the attorneys for the Defendants, and/or to the attorneys for the Class, or those attorneys’ designees. Unless otherwise stated herein, notice shall be provided within a reasonable period of time.

F. Path of Travel

“Path of Travel” shall mean and refer to a continuous unobstructed way of pedestrian passage by means of which an altered area may be approached, entered and exited, and which connects the altered area with an exterior approach (including sidewalks, streets and parking areas), an entrance to the facility, and other parts of the facility.

G. Physical Access Barrier

“Physical access barrier” means and refers to conditions that are not compliant with ADAAG.

- 1 9. A.P. Giannini Middle School
- 2 10. Everett Middle School
- 3 11. Gloria R. Davis Middle School
- 4 12. Horace Mann Middle School
- 5 13. James Denman Middle School
- 6 14. Alvarado Elementary School
- 7 15. Bryant Elementary School
- 8 16. Clarendon Elementary School
- 9 17. Claire Lilienthal 3-8 Elementary School (Divisadero campus)
- 10 18. Commodore Sloat Elementary School
- 11 19. Harvey Milk Elementary School
- 12 20. Hillcrest Elementary School
- 13 21. Rosa Parks Elementary School
- 14 22. Sherman Elementary School
- 15 23. Treasure Island K-8
- 16 24. West Portal Elementary School
- 17 25. Bret Harte Elementary School
- 18 26. San Francisco Community Elementary School
- 19 27. Charles Drew Elementary School
- 20 28. E.R. Taylor Elementary School
- 21 29. Leonard R. Flynn Elementary School
- 22 30. Malcolm X Elementary School
- 23 31. Argonne Elementary School
- 24 32. Bessie Carmichael Elementary School
- 25 33. Diane Feinstein Elementary School
- 26 34. Jean Parker Elementary School
- 27 35. Tenderloin Elementary School
- 28 36. George Moscone Elementary School

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- 1 37. Rooftop School (Mayeda campus)
- 2 38. Argonne Child Development Center
- 3 39. Las Americas Child Development Center
- 4 40. Alice Fong Yu Elementary School
- 5 41. Chinese Education Center Elementary School
- 6 42. Sutro Elementary School
- 7 43. Sutro Child Development Center
- 8 44. Mission Child Development Center
- 9 45. Jefferson Child Development Center
- 10 46. San Miguel Child Development Center
- 11 47. Independence High School

12 The District shall make schools and facilities 40-47 fully compliant with
13 applicable ADAAG requirements for new construction as stated in 28 C.F.R. § 35.151 by
14 June 30, 2010, with the sole exception that the District shall not be required to make
15 elevators at those sites compliant with the ADAAG requirements for new construction if
16 it is technically infeasible to do so as defined by section 4.1.6 of the ADAAG.

17 **Group 2 Schools & Facilities**

18 Defendants shall complete all Priority 1-3 access work specified in the June 7,
19 2002 ADA Transition Plan at the following schools and/or facilities by no later than June
20 30, 2010:

- 21 1. Newcomer High School
- 22 2. Aptos Middle School
- 23 3. Luther Burbank Middle School
- 24 4. Mission Education Center Elementary School
- 25 5. John Swett Elementary School
- 26 6. Lakeshore Elementary School
- 27 7. Lawton Elementary School
- 28 8. New Traditions Elementary School

1 Defendants shall also provide (i) supervised automatic sprinkler systems or areas of
2 rescue assistance; (ii) restrooms that provide an ADAAG compliant side transfer toilet in
3 those restrooms to be made accessible in connection with the access work identified in
4 Priorities 1-3 of the June 7, 2002 ADA Transition Plan; (iii) ADAAG compliant strike
5 side clearance at all classrooms.

- 6 1. Twenty-first Century Elementary School
- 7 2. Jefferson Elementary School
- 8 3. Buena Vista Elementary School
- 9 4. Alamo Elementary School
- 10 5. Fairmount Elementary School
- 11 6. International Studies High School
- 12 7. Golden Gate Elementary School
- 13 8. Marshall Elementary School
- 14 9. Cleveland Elementary School
- 15 10. Dr. George Washington Carver Elementary School
- 16 11. Sunset Elementary School
- 17 12. Hilltop High School/RAP (2730 Bryant Street)
- 18 13. John Muir Elementary School
- 19 14. Cabrillo Elementary School
- 20 15. Dr. William Cobb Elementary School
- 21 16. Downtown High School
- 22 17. Herbert Hoover Middle School
- 23 18. Glen Park Elementary School
- 24 19. Grattan Elementary School
- 25 20. William De Avila Elementary School
- 26 21. Theresa Mahler Child Development Center
- 27 22. Raoul Wallenberg High School
- 28 23. Dr. Martin Luther King Middle School

1 24. Francis Scott Key Elementary School

2 25. Marina Middle School

3 In the event that Defendants construct any new schools or facilities, those schools
4 and facilities shall fully comply in all aspects with the ADAAG requirements for new
5 construction as stated in 28 C.F.R. § 35.151.

6 **B. Interim Access Work**

7 Pending the completion of the access work specified in Section III.A, Defendants
8 shall perform interim disability access work at schools that student Class Members attend
9 that are not among the sites designated as schools 1-39 in the Group One schools.

10 Starting in September 2004, the District has represented that student Class Members will
11 be distributed among the following 28 sites that are not Group One Schools and Facilities
12 as identified in Section III.A:

13 1. Aptos Middle School

14 2. Benjamin Franklin Middle School

15 3. Cesar Chavez Middle School

16 4. El Dorado Elementary School

17 5. Enola D. Maxwell Middle School

18 6. Francis Scott Key Elementary School

19 7. Francisco Middle School

20 8. Glen Park Elementary School

21 9. Grattan Elementary School

22 10. Guadalupe Elementary School

23 11. Ida B. Wells High School

24 12. International Studies Academy

25 13. Lafayette Elementary School

26 14. Lawton Elementary School

27 15. Longfellow Elementary School

28 16. Martin Luther King Jr. Academic Middle School

- 1 17. Miraloma Elementary School
- 2 18. Phillip & Sala Burton High School
- 3 19. Presidio Middle School
- 4 20. Raoul Wallenberg High School
- 5 21. Redding Elementary School
- 6 22. Roosevelt Middle School
- 7 23. Sanchez Elementary School
- 8 24. School of the Arts
- 9 25. Sunnyside Elementary School
- 10 26. Twenty-First Century Academy
- 11 27. Ulloa Elementary School
- 12 28. Visitacion Valley Middle School

13 In the event that student Class Members are enrolled in additional school sites not
14 listed above, the parties shall meet and confer regarding such student Class Members to
15 ensure the provision of interim access work at those additional sites. In the event that no
16 student Class Members attend one or more of the school sites listed above, the parties
17 shall meet and confer regarding removal of such school sites from the school sites at
18 which interim access work must be performed. The District has budgeted \$13.5 million
19 for this access work which it believes to be sufficient to complete the work. However, in
20 no event shall this amount be construed as a limitation of any kind on any of the access
21 work required by Section III.B. Such disability access work shall commence
22 immediately upon the effective date of this Stipulated Judgment, and shall include the
23 following minimum components of access work to be completed at all schools covered
24 by Section III.B by no later than March 1, 2006 unless otherwise stated:

- 25 1. Path of Travel. All of the access barriers of the following types shall
26 be removed:
 - 27 (a) Lack of accessible passenger loading zones & curb ramps from the
28 sidewalk to the school or facility campus. The District will bear

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responsibility to work with the City and County of San Francisco to ensure that accessible passenger loading zones are constructed at the schools attended by Class Members by March 1, 2006.

Unusual rain delays may require some exterior work to continue into the summer, but no such delay shall exceed 90 days.

(b) Grates with wide openings. Grates with openings that are more than ½ inch wide shall be remediated. This access work shall be performed on grates that are located on primary and secondary paths of travel used by Class Members at the school sites.

(c) Uneven paths of travel with bumps and holes. Defendants shall ensure that hazardous paths of travel, such as paths of travel that contain broken or uneven pavement, or abrupt changes in level, shall be made ADAAG compliant. This access work shall be performed on primary and secondary paths of travel used by Class Members at the school sites. Unusual rain delays may require some exterior work to continue into the summer, but no such delay shall exceed 90 days.

(d) Ramps or paths of travel with slopes in excess of maximum allowable gradient. By no later than March 1, 2006, Defendants shall re-grade all ramps or paths of travel that exceed 10% gradient to a gradient of 8.33%. This access work shall be performed on primary and secondary paths of travel used by Class Members at the school sites. Unusual rain delays may require some exterior work to continue into the summer, but no such delay shall exceed 90 days.

(e) Ramp landings that are too short. Defendants shall ensure that all ramp landings comply with ADAAG. Defendants shall perform any access work necessary to ensure that ramps or paths of travel

1 that lack ramp landings as required by ADAAG are reconstructed
2 to provide such landings. This access work shall be performed on
3 the primary and secondary paths of travel used by Class Members
4 at the school sites. Unusual rain delays may require some exterior
5 work to continue into the summer, but no such delay shall exceed
6 90 days.

7 (f) Cross-slopes in excess of allowed slopes. Defendants shall
8 remediate all cross slopes in excess of 2% on ramps at the schools
9 attended by Class Members. Such cross slopes shall be re-graded
10 to 2%. With respect to cross slopes on paths of travel other than
11 ramps, Defendants shall remediate all cross slopes in excess of
12 2.5%, and shall re-grade such cross slopes to 2%. However,
13 Defendants shall not be required to remediate cross slopes between
14 2.5% and 3% unless such a cross slope extends for a distance of
15 more than six feet in the path of travel in the direction of travel.
16 This access work shall be performed on primary and secondary
17 paths of travel used by Class Members at the school sites. Unusual
18 rain delays may require some exterior work to continue into the
19 summer, but no such delay shall exceed 90 days.

20 (g) Protruding objects. Defendants shall remediate all hazardous
21 protruding objections extending more than 4" into the path of
22 travel with the sole exception of existing fire pulls. This access
23 work shall be performed on primary and secondary paths of travel
24 used by Class Members at the school sites.

25 (h) Lack of accessible handrails. Defendants shall provide accessible
26 handrails at schools or facilities attended by Class Members.

27 (i) Paths of travel that run behind parked cars. Defendants shall
28 ensure that no paths of travel at any of the schools, including the

