

ORIGINAL
FILED

MAR 28 2003

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FILED

APR 3 2003

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EMMA C., et al.,

Plaintiffs,

vs.

DELAINE EASTIN, et al.

Defendants.

Case No. C-96-4179 TEH

~~PROPOSED~~ ORDER RE: FINAL
APPROVAL OF FIRST AMENDED
CONSENT DECREE AND SUPPLEMENTS
THERETO

Hearing:

Date: March 31, 2003
Time: 10:00 a.m.
Dept: Courtroom 12, 19th Floor

(Hon. Thelton E. Henderon)

By Order dated March 13, 2003, the Court concluded that it could determine whether the First Amended Consent Decree, including Exhibit A (Board Resolution 103102) and Exhibit B (Ravenswood Self-Improvement Plan) (collectively, the "Amended Consent Decree"), is fair, adequate, reasonable and, thus, suitable for final approval without the need for notice to class members pursuant to Federal Rule of Civil Procedure 23(e). The Court concluded that it could make its determination based upon the presentations of counsel rather than proceeding in accordance with the notice requirement set forth in Rule 23(e). Nonetheless, the Court invited any party to request reconsideration of the Court's preliminary conclusion if they believed that notice was necessary or otherwise appropriate in this matter. No party requested that the Court reconsider its conclusion that notice is not required in this matter. Thus, the Court held a hearing on March 31, 2003, at 10:00 a.m. to consider the parties joint request for final approval of the Amended Consent Decree.

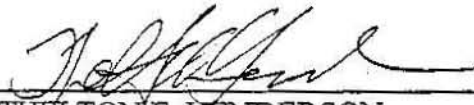
Case No. C-96-4179 TEH

~~PROPOSED~~ ORDER RE: FINAL APPROVAL OF FIRST AMENDED CONSENT DECREE AND
SUPPLEMENTS THERETO

1 Having considered the presentations of counsel for all parties, and based upon the Court's lengthy
2 experience with, and intimate knowledge of, this case, and good cause appearing, it is HEREBY
3 ORDERED THAT the Amended Consent Decree executed among the parties on March 11, 2003, is
4 approved. The Court hereby enters the Amended Consent Decree and the supplements thereto as a final
5 order of the Court that shall be enforced as an order of the Court.
6

7 IT IS SO ORDERED.

8 Dated: 3/31/03
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12 THELTON E. HENDERSON
13 UNITED STATES DISTRICT COURT JUDGE
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MAR 12 2003

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FILED

APR 3 2003

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

EMMA C., by and through her Guardian Ad
Litem, et al., each one individually and on behalf
of all other similarly situated children,

Plaintiff,

vs.

DELAINE EASTIN, individually and in her
official capacity as Superintendent of Public
Instructions for the State of California, et al.,

Defendant.

Case No.: C-96-4179 (TEH)

**STIPULATION AND ~~PROPOSED~~
ORDER**

Judge: Hon. Thelton E. Henderson
Dept: 12

ORIGINAL

1 The Plaintiff Class, the State Defendants (the California Department of Education, the
2 Superintendent of Public Education, Jack O'Connell in his individual capacity, the State Board
3 of Education and any past or present member of the State Board of Education in their
4 individual capacities) and the District Defendants (the Ravenswood City Elementary School
5 District, Dr. Floyd Gonella, Adam Mitchell, Todd Gaviglio, Jaqueline Green, Marcelino
6 Lopez, Chester Palesoo, the Board of Trustees of Ravenswood, and any past and present
7 member of the Board of Trustees of Ravenswood) hereby submit the following Stipulation and
8 [Proposed] Order.

10 Whereas the Class Members, Plaintiffs in the *Emma C.* Class Action, are children with
11 disabilities who were, are now, or will be in the future residing within the jurisdiction of
12 Ravenswood, and who were, are now, or will be in the future entitled to a free appropriate
13 public education ("FAPE") under federal and state laws, and
14

15 Whereas counsel for Plaintiffs filed a complaint initiating this Class Action by and
16 through Plaintiffs' respective guardians ad litem (all Class Members' parents and/or guardians
17 shall be referred to herein as "Parent/Guardian(s)"), against CDE and Ravenswood on
18 November 18, 1996 (hereinafter the "Complaint"), and

19 Whereas Plaintiffs alleged in the Complaint, among other things, that Ravenswood
20 failed to comply with federal and state laws which protect children with disabilities. Such laws
21 include the Individuals with Disabilities Act ("IDEA") and Section 504 of the Rehabilitation
22 Act of 1983 ("Section 504"). Plaintiffs further alleged that Ravenswood's failure to comply
23 with such laws results in the denial of FAPE in the least restrictive environment ("LRE") to
24 Class Members. Plaintiffs further alleged that CDE failed to monitor and ensure that all Class
25 Members received FAPE and Compensatory Education services; and
26
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1 Whereas an original Consent Decree was agreed to by the Parties on or around
2 September 2, 1999 and approved by Judge Thelton Henderson of the United States District
3 Court for the Northern District of California and adopted as an order of the Court on January
4 18, 2000, and that original Consent Decree incorporated a corrective action plan for
5 Ravenswood (the "RCAP") which was developed by monitors hired by the CDE; and
6

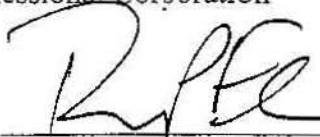
7 Whereas on March 19, 2001, Plaintiffs filed a motion for an order to show cause why
8 Ravenswood should not be held in contempt for violation of the provisions of the original
9 Consent Decree (including the RCAP), ultimately resulting in an Order by the Court of
10 October 4, 2001 finding Ravenswood in contempt and delaying any decision on remedy until
11 after March 31, 2002; and
12

13 Whereas the issues of whether Ravenswood has purged itself of contempt and, if not,
14 the appropriate remedy, have been the subject of extensive litigation during the last several
15 months, and the Parties wish to settle and resolve these issues without further contempt
16 proceedings;

17 NOW THEREFORE, to settle and resolve the contempt proceedings, the Parties agree
18 to request that the Court enter the attached First Amended Consent Decree, including Exhibit A
19 (Board Resolution 103102) and Exhibit B (the Revised RCAP), as a final order of this Court.
20

21 Dated: ^{March} ~~February~~ 12 2003

22 WILSON SONSINI GOODRICH & ROSATI
23 Professional Corporation

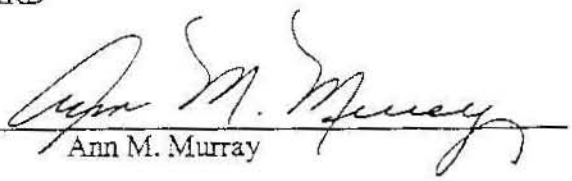
24 By: 
25 Robert P. Feldman
26 Colleen Bal

27 Attorneys for Plaintiffs
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Dated: ~~February~~ ^{March} 11, 2003

KRONICK MOSKOVITZ TIEDMANN &
GIRARD

By: 
Ann M. Murray

Attorneys for CDE

Dated: February __, 2003

SAN MATEO COUNTY COUNSEL'S
OFFICE

By: _____
Thomas F. Casey III
Miguel Marquez

Attorneys for Ravenswood

IT IS SO ORDERED.

The Honorable Thelton E. Henderson
United States District Judge

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Dated: February __, 2003

KRONICK MOSKOVITZ TIEDMANN &
GIRARD

By: _____
Ann M. Murray

Attorneys for CDE

Dated: February 28, 2003

SAN MATEO COUNTY COUNSEL'S
OFFICE

By: Thomas F. Casey III
Thomas F. Casey III
Miguel Marquez

Attorneys for Ravenswood

IT IS SO ORDERED.

Thelton E. Henderson
The Honorable Thelton E. Henderson
United States District Judge

3/31/03