



July 15, 2020

Via Certified U.S. Mail and Facsimile

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Re: Student [REDACTED] Claim for Damages; Cal. Gov't Code § 910 et seq.

To whom it may concern:

This is a claim for damages against the Moreno Valley Unified School District ("MVUSD" or "District"), the Riverside County Sheriff's Department ("Department"), Moreno Valley Special Education Local Plan Area ("SELPA"), the County of Riverside ("County"), and the City of Moreno

Valley ("City") (referred to collectively as "Respondents") under California Government Code Section 910 *et seq.* for injuries sustained by Claimant [REDACTED] (hereinafter "C.B." or "Claimant") arising out of violations of statutory, common law, and constitutional rights as set forth below.

I. Summary of Claim

[REDACTED] and [REDACTED], on behalf of their son, C.B., a minor, bring this claim for deprivations of C.B.'s constitutional, statutory, and common law rights by Respondents and persons employed by Respondents. [REDACTED] and [REDACTED] allege that Respondents have subjected C.B. to abusive and traumatic physical and mechanical restraints and have discriminated against him on the basis of disability and race by, including, but not limited to: (1) failing to maintain, implement, and/or reasonably modify policies and procedures to prohibit and prevent the systemic use of physical and mechanical restraints; (2) failing to maintain and enforce policies and procedures that ensure prompt, accurate reporting of student injuries and restraints to District administrators, additional authorities, and parents; (3) failing to provide adequate structure, supervision, oversight, and training of employees to ensure that students like C.B. are not injured, and that any injuries are quickly identified, investigated, and prevented in the future.

Despite that school districts throughout California have begun to incorporate positive behavior supports, restorative justice practices and other strategies to focus on addressing the root causes of student misconduct and minimizing the use of officers, the District continues to use police officers to address student misconduct within the District resulting in disability and race-based discrimination, among other legal wrongs.

II. Name and Mailing Address of Claimant

[REDACTED] on behalf of her son [REDACTED]

Mailing address:

[REDACTED]

[REDACTED] on behalf of his son [REDACTED]

Mailing address:

[REDACTED]

III. Address to Which Notices Should Be Sent

Please address all correspondence related to this claim to C.B.'s counsel, Robert Borrelle, at Disability Rights California, [REDACTED], [REDACTED], [REDACTED]. Mr. Borrelle's tel [REDACTED] and his email address is [REDACTED].

IV. Date, Place, and Other Circumstances Which Gave Rise to the Claim Asserted

Claimant C.B. is a Black, eleven-year-old boy with multiple disabilities, including attention deficit hyperactivity Disorder ("ADHD") and oppositional defiant disorder ("ODD"). He has been a student of the District since March 2019.¹ He is an incoming 7th grader at [REDACTED] ("[REDACTED]") in MVUSD and has received special education and related services through an Individualized Education Program (IEP) since at least the third grade.² Prior to attending [REDACTED], C.B. went to [REDACTED] ("[REDACTED]"). Both schools are within MVUSD's boundaries. Claimant intends to remain a student of the District.

As a result of his disabilities, Claimant has difficulty with, *inter alia*, regulating his emotions, maintaining focus, and communicating and complying promptly with directives. These impairments substantially limit several major life activities including concentrating, thinking, and interacting with others, and several major bodily functions, including brain function.

¹ C.B. first enrolled in MVUSD in March 2019. He briefly reenrolled in Val Verde Unified School District from May to June 2019. C.B. then reenrolled in MVUSD in August 2019.

² Claimant notes he is eligible for special education and related services as evidence that Respondents had knowledge of his disabilities and to support his disability discrimination claims. Claimant does not challenge the adequacy of his IEP, nor does he assert the District violated the Individuals with Disabilities Education Act (IDEA). The District acknowledged in multiple IEP meetings that the handcuffing incidents described herein are not part of C.B.'s special education program or IEP and should not be discussed or addressed in an IEP. The District and Claimant agree these incidents and relief for such claims are issues separate from C.B.'s IEP/special education.

At all times relevant to this claim, Respondents have known or should have known that C.B. is a child with disabilities. For example, C.B.'s disabilities are well-documented in his IEP,³ which includes references to his diagnoses and disability-related behaviors. His behaviors include acting out, cursing, and difficulty complying promptly with verbal demands.

C.B.'s build is slender; he stood 4'8" tall and weighed about 70 pounds at the time of the events discussed herein. Despite C.B.'s small size and their knowledge of his disabilities, Respondents and their agents repeatedly tackled and handcuffed him over a span of three and half months as punishment for his disability-related behavior. Claimant provides detailed factual explanations of these illegal restraints in Section IV.A-D below. C.B. had never been handcuffed before these incidents.

As a result of Respondents' acts and/or omissions, C.B. has suffered and continues to suffer severe emotional distress, trauma, physical harm, humiliation, reputational consequences, and loss of his civil rights. He has had difficulty falling asleep, staying asleep, and expressing his emotions. C.B.'s parents have noticed he is more "shut down" emotionally than he was before. He has also exhibited new, more intense, and more frequent behaviors in school and a fear of police officers. C.B.'s parents secured therapy services for their son to help him cope with the trauma he experienced and continues to experience from these incidents.

A. On information and belief, on or about August 21, 2019, the District's agents and representatives handcuffed C.B. for conduct resulting from his disabilities.

On or about August 21, 2019, District staff handcuffed C.B. for the first time at [REDACTED]. Then [REDACTED] Assistant Principal Pedro Gutierrez called C.B.'s mother, [REDACTED], to tell her to pick C.B. up from school early because he was "acting up." On information and belief, C.B. was exhibiting behaviors that were caused by his disability.

When [REDACTED] arrived at [REDACTED], Mr. Gutierrez verbally informed her that school police officers had handcuffed C.B. The officers removed the handcuffs before [REDACTED] arrived. Mr. Gutierrez said that he

³ See footnote 2, *supra*.

instructed officers to remove the handcuffs because he believed handcuffing C.B. was “totally unacceptable,” or words to that effect.

Mr. Gutierrez did not provide [REDACTED] any further information. The District did not provide parents or counsel with a written incident report for this handcuffing incident, even though SELPA policy required District staff to create written reports (hereinafter “Incident Reports”) after using such interventions on students. At this time, Claimant believes that only District staff – i.e., not Department officers – were involved in the incident.

B. On August 26, 2019, the District’s agents and representatives shackled C.B.’s hands and ankles for conduct resulting from his disabilities.

On August 26, 2019, District staff handcuffed C.B. for the second time at [REDACTED]. The incident began when Mr. Gutierrez directed Campus Security Officer (“CSO”)⁴ Demetrius Owens to bring C.B. to the office for a meeting. CSO Owens’ report does not describe a reason for this meeting, demonstrating the District’s defective record keeping practices. A behavior log drafted by C.B.’s teacher, Mr. Proprofsky, says that C.B. had disrupted class earlier in the day by cursing and ripping paper. As such, Claimant suspects that the meeting with Mr. Gutierrez may have been related to his alleged disruptive behavior in class – which took place approximately three hours before Mr. Gutierrez summoned him to his office.

CSO Owens, along with CSO King (first name unknown), and then-[REDACTED] Assistant Principal Kamilah O’Connor found C.B. on the playground. All three directed C.B. to leave the playground and go to the office. C.B. verbally refused and started to exhibit conduct related to his disability, including an inability to self-regulate or express himself. He allegedly clenched his fists and began breathing heavily. CSO King and CSO Owens responded by dragging C.B. by his arms to a seclusion room.

Then-[REDACTED] Principal Scott Walker joined the CSOs Owens and King. Surrounded by three much larger adults in the seclusion room, C.B. began experiencing and externalizing emotions of fear, anxiety, and frustration. He began pulling away, pushing, and swinging with his arms in

⁴ On information and belief, MVUSD established its CSO program pursuant to California Education Code section 38000. Claimant believes that CSOs are District employees.

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an attempt to free himself from the room. C.B. was not acting out physically before the CSOs physically dragged him to the seclusion room.

Mr. Walker directed CSO King and CSO Owens to handcuff C.B. At the time, C.B. was 4'8" tall and approximately seventy pounds. The CSOs placed C.B. in a physical control hold, tackled him to the floor, and forced him into District-issued metal cuffs. The CSOs pulled C.B. up from the ground and attempted to sit him in a chair. Now handcuffed in a seclusion room and surrounded by three adults, C.B. became even more upset and distressed. Unable to regulate his emotions due to his disabilities, he began flailing his legs towards the CSOs.

Mr. Walker then directed CSO King and CSO Owens to place handcuffs on C.B.'s ankles. The CSOs complied and simultaneously shackled C.B.'s hands and ankles with metal cuffs. C.B. remained shackled in this manner for an unknown period of time.

The District suspended C.B. from school that day and his aunt came to pick him up. She was concerned and confused to find C.B. sitting in the fetal position against the wall of the seclusion room. His arms were hugging his knees and his head was down. C.B. was not wearing a shirt, which had come off during his struggle with the CSOs. A desk was blocking the door to the seclusion room. C.B. and his aunt helped school staff clean up the room, and then she took him home. No one told C.B.'s aunt that CSOs had physically tackled C.B. and then handcuffed and leg-cuffed him. District staff never told C.B.'s parents of the incident either.

The District never gave an Incident Report to C.B.'s parents. In November 2019, counsel made a request to MVUSD for a full and complete copy of C.B.'s educational records. Only after counsel received the records did C.B.'s parents learn that the CSOs shackled C.B.'s hands and ankles. The District provided Claimant with CSO King's and CSO Owens' witness statements, which were missing at least two pages. Further, the District did not provide a witness statement from Mr. Walker. The District has not responded to counsel's January 2020 follow-up request for the missing pages. On information and belief, the District did not adequately investigate, train, supervise, or discipline staff involved in this incident.

C. On October 8, 2019, Respondents' representatives and agents tackled C.B. and handcuffed him while pressing a knee into his back for disability-related behaviors.

On October 7, 2019, C.B. allegedly threw a rock in the general direction of CSO Manuel Arellano. Per the Department's police report obtained by Claimant's counsel dated October 8, 2019, sometime after school hours on October 7, 2019, an unidentified District staff member requested that Deputy Norma Loza ("Deputy Loza") intervene and "investigate."⁵ On information and belief, the District contracts with the Department to run its School Resource Officer ("SRO") program. Unlike CSOs, SROs are employees of the Department. Further, on information and belief, the City of Moreno Valley contracts with the Department for its services.

On October 8, Deputy Loza and CSO Arellano arrived at C.B.'s special education classroom to investigate the alleged rock-throwing from the day before. At no time prior to involving the CSOs and SROs did anyone with the District attempt to arrange a meeting with C.B. with his parents present.

Unlike the other incidents where school police officers handcuffed C.B., Deputy Loza's body camera partially captured the October 8 incident. At Claimant's counsel's request, the Department produced a video that is approximately 8-minutes long. On information and belief, Deputy Loza shut off her body camera before the incident concluded, violating Department policy and leaving the remaining hour of the incident unfiled.

Based on the review of the available Department footage, immediately upon entering C.B.'s classroom, Deputy Loza directed the teacher (name unknown) to remove the other students from the classroom. This left C.B. alone with Deputy Loza and CSO Arellano. C.B. sat motionless at his desk with his head down. Deputy Loza stood over C.B. and said, "You're going to go to the office, no matter what. Either you go, cooperating, or I'm going to take you to the office." Neither Deputy Loza nor CSO Arellano explained

⁵ On information and belief, the unidentified District staff member in the police report is CSO Arellano. The police report states an individual (name redacted) contacted Deputy Loza on October 7, 2019 and alleged that C.B. threw a rock in his direction earlier that day at [REDACTED]. Separately, on October 7, 2019, CSO Arellano added a behavior log entry in C.B.'s education file alleging that C.B. threw a rock towards him. School staff did not create a behavior log entry documenting its restraint of C.B. on October 8.

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to C.B. why they were asking him to go to the office. C.B. kept his head down on his arms and quietly said he was not going. For thirty seconds, Deputy Loza repeated different variations of “do you understand you are going to the office?” but never explained why. C.B. remained completely still, repeating that he was not going at barely audible volume.

After less than 90 seconds, the footage shows, Deputy Loza grabbed the back of C.B.'s sweatshirt and physically pulled him out of his seat. She then passed C.B. to CSO Arellano. While CSO Arellano twisted the 4'8" boy's wrists behind his back to try and force handcuffs on him, Deputy Loza repeated, “You are going to the office.” Again, consistent with his disabilities and behavior that they had seen him exhibit before, C.B. swore and stated he was not going. The officers then tackled C.B., pinned him to the ground, and pressed him face down into the floor. He screamed out in pain: “Ow! My knee!” CSO Arellano then dug his own knee into C.B.'s back, and Deputy Loza placed him in handcuffs. Neither officer spoke to C.B. about his legal rights.

The Department footage also shows that while the two officers pinned C.B. on the ground, Deputy Loza told him not to move or the handcuffs were “going to get tight on you.” While C.B.'s hands are out of frame, a distinct clicking can be heard on video for about thirty seconds, as Deputy Loza presumably followed through with her threat and tightened C.B.'s handcuffs. C.B. wiggled on his stomach briefly and swore, behavior consistent with his disabilities and of being physically and mechanically restrained. He then laid still on the ground, facedown and handcuffed. Deputy Loza radioed an unknown person and stated: “I have one juvenile detained. He's being uncooperative.”

The video then shows Deputy Loza and CSO Arellano pulling C.B. to his feet and pushing him towards the classroom door, while C.B. squirmed and cried out to be let go. The officers again physically forced C.B. face down onto the floor. Another CSO then arrived (the “second CSO”).⁶ The second

⁶ On information and belief, the second CSO was Demetrius Owens. CSO Arellano can be heard on video using his radio to ask someone he refers to as “Owens” to come assist in the classroom. About 30 seconds later, the video shows the second CSO entering the classroom. Owens was a CSO assigned to [REDACTED] at the time of the incident. He also handcuffed C.B. on August 26, 2019, along with CSO King.

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CSO told C.B. that he should “relax.” At one point while CSO Arellano held C.B. facedown, Deputy Loza stood over him and accused him of kicking. The video does not show C.B. kicking anyone in frame.

The officers surrounded C.B. and held him face-down on the floor for almost two minutes. The video shows Deputy Loza, CSO Arellano, and the second CSO pull him up to a seated position on the floor. Still handcuffed, C.B. cried out as CSO Arellano pressed down on his shoulders. The second CSO used what appears to be a pain compliance hold on C.B. The video shows this person twisting C.B.'s leg and using both arms and his body weight to press C.B.'s calf into the ground. C.B. cried, “Let me go! Let me go!” While immobilizing C.B.'s hands, shoulders, and leg, the two male CSOs repeated: “If you calm down, we calm down. You calm down, we calm down.” C.B. – a child with known emotional disabilities – was unable to “calm down” while handcuffed and restrained by three officers.

The Department footage then shows two unidentified district staff arriving, but neither took any steps to intervene. One radioed for Principal Walker to come to the classroom, but could not reach him. CSO Arellano directed her to leave the room and find Mr. Walker. All the while, C.B. remained handcuffed, immobilized on the floor. Deputy Loza stood over him, and threatened to take him to the police station if he did not calm down.

After two more minutes, the second CSO can be seen finally releasing C.B.'s leg from the pain compliance hold. The three officers then pulled C.B. into a standing position, and C.B. cried out in apparent pain. Deputy Loza said that a fourth officer, her partner, would be arriving to help the three officers escort C.B. off campus to the awaiting police car. At that point, the body camera footage abruptly ends.

Deputy Loza and her partner, Deputy Toscano (first name unknown), later placed C.B. in the back of a police car. By that time, given the traumatic events that had just occurred and were continuing to occur, C.B. was experiencing worsening trauma. While locked in the back seat, C.B. stated:

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"I wish I was dead."⁷ At times the deputies left C.B. alone in the locked car. On information and belief, C.B. was in handcuffs for over an hour.

While locked and handcuffed in the police car, C.B. managed to use his cell phone to call his mother. C.B.'s mom recalls that he repeatedly screamed, "Tell them to let me go!" before the phone hung up. C.B.'s mom was afraid and confused; no one from the school had informed her about these events. When ██████████ called her son back, Deputy Loza answered the phone. ██████████ told Deputy Loza that she was on her way to pick C.B. up from school. Deputy Loza responded that it was too late; the ambulance was coming to pick him up. C.B. remained in the back of the police car for nearly another hour before an ambulance arrived. During this time, other students passing by saw C.B. handcuffed in the back of the police car.

At approximately 12:55 pm, the ambulance took C.B. from ██████████ to Riverside's Emergency Treatment Service facility for a Section 5585 evaluation.⁸ At the time of hospitalization, the treating psychiatrist, Dr. Alexander Tsang, and treating therapist, Shirlee Lyons, noted C.B. presented as "selectively mute." His distress began to decrease once his mom arrived, and they discharged him that day at around 4:00 pm. C.B. spent over half a day handcuffed, held in a police car, transported by ambulance, and psychiatrically hospitalized.

Days after this incident, ██████████ staff handed ██████████ a notice of suspension, which only mentioned the alleged rock throwing incident from October 7 and not the use of physical and mechanical restraints. ██████████ asked staff to provide her with more information about the school police officers restraining, handcuffing, and holding her son in a police car. Staff told ██████████ they had no information about the incident. Contrary to its own documentation and reporting procedures, the District did not and has not provided ██████████ and ██████████ with any documentation related to

⁷ C.B. later told his dad that he intentionally made these statements to protect himself. C.B. was afraid because Deputy Loza repeatedly threatened to take him juvenile hall while he was in the back seat of the police car.

⁸ Under California Welfare & Institutions Code section 5585, officers may temporarily place a minor in a psychiatric facility where probable cause supports that "as a result of mental disorder" the minor is: (1) a danger to themselves or others or "gravely disabled"; and (2) "voluntary treatment is not available."

the October 8 restraint, handcuffing, detention, or hospitalization. To date, the District has failed to produce any written Incident Reports from its staff related to this handcuffing, even after multiple requests by counsel.

The Department similarly failed to comply with its own documentation procedures. On information and belief, Deputy Loza turned off her body camera before the incident ended, against Department policy. Also against Department policy, Deputy Loza did not document her reasons for turning off her camera in a report or memorandum. In addition, despite requests from counsel, the Department has not produced all body camera footage from Deputy Loza for this incident. Also, on information and belief, Deputy Toscano did not create a police report or body camera footage for this incident and/or the Department did not produce these records.

Again, on information and belief, Respondents did not adequately investigate, train, supervise, or discipline staff following this incident.

D. On December 9, 2019, Respondents' agents and representatives handcuffed C.B. while he was already physical restrained for exhibiting disability-related behaviors.

After their son was restrained, handcuffed, locked in a police car, and sent for an involuntary psychiatric hold while at [REDACTED], C.B.'s parents were understandably afraid for his safety and no longer wanted him to return to the same school. After the October 8, 2019 incident, C.B. remained at home from school for approximately five weeks. Desperate for another option, C.B.'s parents obtained an intra-district transfer permit so that C.B. could attend [REDACTED]. The move forced C.B. to, among other things, leave his friends and social networks behind.

Even after changing schools, Respondents' district-wide discriminatory practices and policies and failure to supervise its employees continued to harm C.B. On December 9, 2019, shortly after starting at [REDACTED], Respondents again handcuffed C.B. after he had an argument with a classmate. The incident began when C.B. pulled a classmate's chair out from under him. The classmate then shoved C.B. The two children pushed each other a few times, and the teacher intervened to break it up. Unable

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to regulate his emotions effectively, C.B. pushed his teacher and began to throw classroom items.

The teacher cleared the classroom and called for CSOs and SROs to respond. CSO Juan Ramirez and CSO Kristopher Woodside arrived first and, almost immediately, physically restrained C.B., who was displaying disability-related behaviors. CSO Woodside restrained C.B. on the ground.

Deputy Loza arrived next about 15 minutes later. Deputy Loza did not turn on her body camera and later failed to report why she did not turn it on, despite Department procedures mandating otherwise. When Deputy Loza arrived, CSOs Ramirez and Woodside were still physically restraining C.B. Without attempting to deescalate the situation or address C.B.'s disability related behaviors, Deputy Loza handcuffed C.B.

After handcuffing C.B., Deputy Loza transported him to the Moreno Valley Police Station. While the police held C.B. at the station, Deputy Loza made the decision to refer C.B. to the Emergency Treatment Services Center for another Section 5585 evaluation and requested an ambulance transport. Before the ambulance got to the police station to transport C.B., [REDACTED] arrived and expressed her desire to take her son home. But Deputy Loza refused. Instead, [REDACTED] watched the police officers escort her son outside the back of the police station building and into the ambulance.

The ambulance transported C.B. to the Emergency Treatment Services Center. According to the official police report, an unidentified person restrained C.B. to the gurney during the ride. Hours later, C.B. finally reunited with his mother and received his discharge. This traumatic episode, which involved handcuffing, detention in a police station, physical restraint on an ambulance gurney, and a psychiatric hospitalization referral, lasted, in total, approximately three hours.

The District later initiated expulsion proceedings against C.B. based on the initial fight at school. On December 20, 2019, the IEP team met for a Manifestation Determination Review, a procedure required under the IDEA before expelling a student with a disability. The IEP team determined that C.B.'s behaviors – the same behaviors he had exhibited many times before and in each of the prior handcuffing incidents – were in fact caused by his

disabilities, including ADHD and ODD.⁹ The IEP team's determination nullified the pending expulsion charges.

On information and belief, Respondents did not document the incident or adequately investigate, train, supervise or discipline the staff involved.

V. Nature of the Legal Claims That Claimant Asserts

A. Respondents fail to maintain, implement, and reasonably modify policies and procedures to prohibit and prevent the systemic use of physical and mechanical restraints.

- i. Respondents fail to reasonably modify policies, denying students with disabilities, including students of color, meaningful and equal access to their education*

Respondents' policies, procedures, and practices related to referrals to law enforcement have discriminated against and continue to discriminate against C.B. and similarly situated students with disabilities and students of color. Respondents have an obligation to design and modify their policies and practices to avoid disability and race discrimination. Their individual and joint failures to do so have resulted in, among other things, students with disabilities, like C.B., being subject to interrogation, use of force, and/or arrests for conduct relating to their disabilities.

The failure to modify these policies as applied to students with disabilities disproportionately impacts students with disabilities and Black students with disabilities by subjecting them to physical restraint, handcuffing, arrest, campus removal, and involuntary hospitalization at higher rates than their non-disabled or non-Black peers. For example, during the 2015-16 school year, the District referred at least 143 children to law enforcement.¹⁰ Of

⁹ Claimant includes this information merely to provide evidence that Respondents discriminated against C.B. by handcuffing him for disability-related behaviors. Claimant does not challenge the adequacy of his IEP or allege Respondents violated the IDEA.

¹⁰ Moreno Valley Unified School District, Civil Rights Data Collection (2015-16), available at <https://ocrdata.ed.gov/Page?t=d&eid=30417&syk=8&pid=2539>. Counsel for Claimant requested updated law enforcement referral, on-campus arrest, and mechanical restraint data through a California Public Record Act request to the District on January 3, 2020. To date, the District has not produced this data.

these, 28% were students with disabilities, compared to just 16.6% of children districtwide who are students with disabilities.¹¹ Of the students with disabilities referred to law enforcement, 42.5% were Black. This is more than twice the percentage of students with disabilities district-wide who are Black (19.2%).

Respondents' failure to reasonably modify their policies results in further traumatized children, escalated and unnecessary use of physical restraints, and worsened behaviors. Respondents operate SRO and CSO programs that discipline and punish students with disabilities, especially Black students with disabilities, and deny C.B. and similarly situated students access to reasonable modifications in police encounters and deprive them of meaningful access to public education and Respondents' services.

ii. Respondents' use of force policies and practices are unconstitutional

Respondent violated Claimant's fourth amendment right to be free from unreasonable seizure and excessive use of force in violation of substantive and procedural due process. Respondents also violated Claimant's substantive and procedural due process rights under the fourteenth amendment.

Further, based on information and belief, seizure and use of force practices used on students within the District were and are unconstitutional. Further, on information and belief, the District and Department use of force on C.B., including the use of handcuffs and restraints, by Department officers and District staff, resulted in part from a lack of effective training, force review, and complaint process. Contributing to these violations is the District's lack of meaningful oversight of its CSOs pursuant to Education Code Section 38000. On information and belief, Respondents' policies and procedures relating to the use of SROs and CSOs also have an adverse disparate impact on students with disabilities and students of color like C.B.

¹¹ "Students with disabilities" refers to those eligible for an IEP under the IDEA. Claimant here provides law enforcement referral data disaggregated by IDEA eligibility because the data is only available in this form. But Claimant alleges Respondents discriminate against all students with disabilities, including those who are not IDEA-eligible.

B. Respondents fail to maintain and enforce policies and procedures ensuring prompt, accurate reporting of restraints and student injuries to District administrators, additional authorities, and parents, as required by law.

- i. Respondents fail to ensure their respective employees comply with the deficient reporting policies and procedures already in place*

The excessive use of physical restraints and seclusion that SROs and CSOs used on C.B. and on similarly situated students with disabilities in the District often remains in the shadows. The District's staff systematically fail to comply with internal documentation and notification policies for police incidents, which include incidents involving SROs.

For example, existing District and SELPA policy – Administrative Regulation 5145.11 – mandates that administrators attempt to contact the parent before allowing law enforcement to question a student and before removing a student from campus. Yet here, District administrators failed to contact C.B.'s parents before police questioned or attempted to remove him in any of the incidents described above.

Further, existing District and SELPA policies require school staff to immediately notify the Superintendent and to create a written report when police take a student into custody. SELPA policy also requires District staff to create written Incident Reports after using physical interventions on a student. Each District staff member involved in the restraint must complete a separate Incident Report and the school site administrator must review and forward them to the District's Special Education Director. Yet the District has not produced any Incident Reports for any of incidents described above, demonstrating the District's defective practices.

As was the case with C.B., District staff frequently fail to timely notify parents, or notify them at all, when school police question, restrain, handcuff, assault, or arrest their children. The District also fails to adequately document, report, or investigate these acts of abuse, and fails to take reasonable steps to prevent further abuse. When students with disabilities struggle to communicate experiences, especially traumatic ones, to parents or trusted adults, as was the case with C.B., these

caregivers are often unaware that their children have experienced any interaction with police at all.

Similarly, the Department's SROs fail to adequately document incidents of restraint involving MVUSD students. In a 2016 directive to all personnel, the Department instructed officers to create body camera recordings of "any law enforcement action where there is reason to believe it would be appropriate and valuable to record the event." This includes citizen contacts and detentions. If an officer fails to initiate the recording of an event when required, the officer must document the reasons for the failure in a report or memorandum. Officers may not terminate the body camera recording until the encounter ends. Even at rare times when "tactical or practical reasons" necessitate temporarily pausing body camera footage, the officer must reinitiate the recording as soon as possible. The officer must then document the reasons for stopping their body camera in a report. As was the case with C.B., SROs frequently fail to create police reports, fail to record incidents on their body cameras, and fail to document the reasons for turning off their body cameras in incidents involving MVUSD students.

Respondents' current policies and/or practices create little to no documentation regarding student injuries, handcuffing, and/or use of restraints. As a result, parents of students with disabilities like C.B.'s cannot obtain adequate information about the cause of injuries suffered while at school. Respondents have discriminated against C.B. and other similarly situated students with disabilities and students of color by failing to create, follow, and implement appropriate policies and procedures regarding documentation of student injuries, handcuffing, and/or use of restraints.

ii. The District violated the Child Abuse and Neglect Reporting Act and other laws, by failing to report abuse against Claimant to the proper authorities.

In addition to not complying with its own deficient policies, the District and its employees violated their duties as mandated reporters by failing to report the abuse of C.B. to the proper authorities. On information and belief, at no point did any of the District employees who witnessed the handcuffing incidents detailed above report this abuse of C.B. to the proper authorities as required by state law.

One such state law is the Child Abuse and Neglect Reporting Act (“CANRA”), which requires certain “mandated reporters,” including teachers, teacher’s and instructional aids, and employees of an organization whose duties require direct contact and supervision of children, to exercise vigilance in identifying and reporting known or reasonably suspected instances of abuse. Cal. Penal Code §§ 11164, 11165.7, 11166. Under CANRA, “abuse” includes “physical injury . . . inflicted upon a child by another person by other than accidental means . . . unlawful corporal punishment or injury . . . the willful harming or injuring of a child or the endangering of the person or health of a child.” *Id.* § 11165.5.

Further, under CANRA, “the willful harming or injuring of a child or the endangering of the person or health of a child, means a situation in which any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes the person or health of the child to be placed in a situation in which his or her person or health is endangered.” *Id.* § 11165.3. “The intent and purpose of [CANRA] is to protect children from abuse and neglect.” *Id.* § 11164.

The school police officers’ use of physical and mechanical restraint on Claimant during the fall of 2019 met the standard for abuse under CANRA. By failing to report this abuse to the proper authorities, the District and its employees violated the spirit and letter of this law.

C. Respondents fail to provide adequate structure, supervision, oversight, and training of employees to ensure that students with disabilities like C.B. are not injured, and that any injuries are quickly identified, investigated, and prevented in the future.

Respondents do not provide officers (through their SRO program) or their employees (through their CSO program or otherwise) or staff with adequate training – or any training at all – to work with students with disabilities. For example, the nine SROs and dozens of CSOs patrolling MVUSD campuses frequently and disproportionately subject students with disabilities, and Black students with disabilities in particular, to handcuffing, physical restraint, campus removal, arrest, and involuntary hospitalization for disability-related behaviors. They use these traumatic practices to punish

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minor misconduct typical for school-age children and disability-related behaviors, regardless of whether the behavior poses an imminent danger of physical harm to anyone.

According to the District's job description,¹² CSOs "supervise," "monitor," and "control" school campuses and "enforce[] the rules and regulations governing student behavior." They are expected to "physically restrain[] persons involved in crimes, fights, or other acts of violence," and are trained to use, among other things, Tasers and pepper spray.

Despite requiring these duties of its officers, the District's CSO Program has no written policies and/or procedures to communicate boundaries, guidelines, and best practices for staff. While providing training on the use of pepper spray and use of Tasers, the District provides no training regarding working with students with disabilities, de-escalation, or crisis communication. Instead, on information and belief, Director of Safety and Security Darryl Scott issues only verbal commands and guidelines to the CSOs. Also, on information and belief, Director Scott fails to investigate and discipline CSOs who use physical force on students, including students with disabilities.

In addition to the CSO program, the District established its SRO program through a Law Enforcement Services Agreement with the Riverside County Sheriff's Department. These SROs are sworn law enforcement officers whose duties broadly include patrolling MVUSD campuses, investigating crimes that occur on District grounds, facilitating conversations between students and their parents, and serving as a liaison at elementary school sites. The Law Enforcement Services Agreement, which governs the relationship between the District and Department, does not prohibit SROs from intervening in minor school discipline incidents. It does not outline when they may use restraints or handcuffs. It does not describe applicable legal protections for students with disabilities, including the requirement to provide reasonable accommodations in police encounters.

¹² MVUSD Human Resources Division, *Position Title: Campus Security Officer I* (Oct. 17, 2017), available at: <https://4.files.edl.io/af25/09/04/18/173822-651104c9-971a-47b6-ba39-362fd1900e5b.pdf> (last accessed July 13, 2020).

Further, on information and belief, the Department does not have any training or policies on interacting with students with disabilities. For example, based on information and belief, in fall 2019, the Department verbally ordered SROs to arrest any MVUSD student accused of on-campus fighting, without exception. This order will likely disproportionately affect students with disabilities, including students of color with disabilities.

There is a fundamental flaw in the content and delivery of training by Respondents that requires, *inter alia*, system-wide fixes to appropriately accommodate students with disabilities and students of color to avoid discriminating against them, and to ensure that staff are properly trained to supervise students' behavior. As a result of these failures, Respondents have discriminated against C.B. on the basis of his disability and race.

VI. General Description of the Indebtedness, Obligation, Injury, Damage, or Loss Incurred

Respondents have violated multiple federal and state laws, including but not limited to: Title II of the ADA (42 U.S.C. §§ 12131, *et seq.*); Section 504 of the Rehabilitation Act (29 U.S.C. § 794); Section 1983 (42 U.S.C. § 1983); California Government Code Section 11135; California Disabled Persons Act (Cal. Civ. Code §§ 54.1 *et seq.*); California Education Code Section 220; California Education Code Section 234 *et seq.*; California Education Code Section 38000 *et seq.*; California Education Code Section 44807; California Education Code Section 49000 *et seq.*; California's Unruh Civil Rights Act (Cal. Civ. Code § 51, *et seq.*); California's Bane Act (Cal. Civ. Code § 52.1); California's Child Abuse and Neglect Reporting Act (Cal. Penal Code §§ 11164 *et seq.*); Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d, *et seq.*); U.S. Constitution; California Constitution; intentional torts; non-intentional torts; assault; battery; excessive force; unreasonable search and seizures; violations of substantive and procedural due process; false arrest and imprisonment; intentional infliction of emotional distress; negligent infliction of emotional distress; negligence; negligent supervision; invidious discrimination; non-invidious discrimination; vicarious liability; non-vicarious liability; discrimination against students with disabilities and students of color like C.B. with respect to law enforcement referrals that result in adverse disparate impact on students of color and students with disabilities; and all other legal theories that may apply. The foregoing list of legal claims is intended to be illustrative, not exhaustive.

As a direct and proximate result of Respondents' actions and omissions described above, C.B. has experienced extreme emotional and physical injuries and loss of his civil rights. C.B. claims damages for his physical and emotional injuries, punitive damages against the involved individuals, statutory damages as appropriate, and attorneys' fees and costs. C.B. has been and continues to be unlawfully excluded and denied meaningful access to the programs, services, and activities offered by Respondents as a result of the handcuffing incidents and Respondents' unlawful policies and practices regarding the management of student behavior, including the SRO and CSO programs. Further, as a result of these practices, policies and/or failure to train and supervise staff, students with disabilities and students of color are being systemically excluded from equal access to a public education and denied their right to full and equal access to, and use and enjoyment of, the facilities, programs, services and activities of Respondents as required by law.

Additionally, C.B. has been and continues to be excluded and deprived from having meaningful access to the programs, services and activities offered by Respondents based on Respondents' failure to modify their policies and procedures with respect to their law enforcement referrals and use of SROs and CSOs. As Respondents' discriminatory acts and omissions as herein alleged are ongoing, they constitute a continuing violation of C.B.'s rights, for which Respondents are liable.

Additionally, C.B. contends, based on the foregoing, that Respondents including the District, the SELPA, the Department, the County, the City, and their employees and agents, acting under color of law and within the course and scope of their employment, subjected him to various common-law and statutory torts, including but not limited to those described above, all of which subject the District, the SELPA, the Department, and the County and the involved employees to personal and vicarious liability.

VII. The Names of the Public Employees Causing the Injury, Damage, or Loss

As of the date of presentation of this claim, Claimant believes that the District, the SELPA, the County, the Department, the City and their respective current and former employees and agents of the same have caused injury, damage, and loss. These employees and agents include but

are not limited to: Superintendent Martinrex Kedziora, Director of Safety and Security Darryl Scott, Special Education Director Jason Ramirez, CSO Demetrius Owens, CSO King (first name unknown), former [REDACTED] Principal Scott Walker, former [REDACTED] Assistant Principal Kamilah O'Connor, former [REDACTED] Assistant Principal Pedro Gutierrez, School Psychologist David Satre, Mr. Scarefone, former [REDACTED] teacher Mr. Proprofsky, CSO Manuel Arellano, Josh (campus supervisor involved in October 8, 2019, incident, last name unknown), unknown female campus supervisor (involved in October 8, 2019, incident), [REDACTED] Interim Administrator Penny Macon, CSO Kristopher Woodside, CSO Juan Ramirez, CSO Christopher Hill, [REDACTED] Principal Jon Black, Sheriff Chad Bianco, Deputy Norma Loza, and Deputy Toscano (SRO, first name unknown), as well as all unknown persons responsible for formulating the aforementioned illegal policies and practices, all unknown persons responsible for failing to modify said illegal policies and practices to prevent discrimination, and all unknown persons responsible for implementing the aforementioned illegal policies and practices.

Claimant further asserts that this is not an exhaustive list of the employees who have caused his injury, damage, and loss. There are likely other witnesses, although Claimant does not currently have those names. Claimant reserves the right to augment this list if and when he identifies other employees responsible for the injury, damage, and loss.

VIII. The Amount Claimed

C.B. claims damages for his physical and emotional injuries, punitive damages against the involved individuals, statutory damages as appropriate, and attorneys' fees and costs. The amount of damages claimed exceeds the jurisdiction for a limited civil case in state court.

Claimant also seeks non-monetary declaratory and injunctive relief regarding Respondents' school police officer programs.

Claimant supports the Moreno Valley community's call for the District School Board to cut ties with the Riverside Sheriff Department's SRO program. But should the Board not heed this call, Claimant maintains that declaratory and injunctive relief is necessary to prevent school police

officers from continuing their unlawful and systemic physical and mechanical restraint practices.

IX. Application for Late Claim

To the extent the District considers any part of this claim to be late filed, please consider this an application for late filing. The District must grant a timely application for leave to file a late claim if either: (1) the Claimant failed to present the claim as a result of "mistake, inadvertence, surprise or excusable neglect," and the public entity was not prejudiced by the failure to file the claim within the time allowed by California Government Code Section 911.2; or (2) the Claimant was a minor throughout the time allowed for filing such claims. *E.M. v. Los Angeles Unified Sch. Dist.*, 194 Cal.App.4th 736, 746 (2011).

Here, C.B. has been a minor throughout the entire time period. Thus, any claims accrued are subject to the mandatory granting of leave for a late claim. See *E.M.*, 194 Cal.App.4th at 746. Moreover, as an eleven-year-old child, C.B. was unaware of the tort claim requirement during the earlier period of the violations at issue.

X. Conclusion

Should you have any questions regarding this matter, please do not hesitate to contact Robert Borrelle, Supervising Attorney at Disability Rights California.

Sincerely,



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