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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

C.B., by and through his guardians ad litem
W.B. and B.T.,

Plaintiffs,

v.

MORENO VALLEY UNIFIED SCHOOL
DISTRICT; MARTINREX KEDZIORA,
in his official capacity as Moreno Valley
Unified School District Superintendent;
DARRYL SCOTT; SCOTT WALKER;
DEMETRIUS OWENS; MANUEL
ARELLANO; LONIESHA KING;
COUNTY OF RIVERSIDE; RIVERSIDE
COUNTY SHERIFF'S DEPARTMENT;
DEPUTY SHERIFF NORMA LOZA;
DEPUTY SHERIFF JERSSY TOSCANO;
and DOES 3-10.

Defendants.

Case No. 5:21-cv-00194-JGB (SPx)

[Assigned to the Honorable Jesus G. Bernal-
Riverside, Courtroom 1]

**ORDER GRANTING INJUNCTIVE
AND DECLARATORY RELIEF,
INCLUDING PERMANENT
INJUNCTION, ON PLAINTIFF'S
THIRD AND FOURTH CAUSES OF
ACTION**

Complaint Filed: February 2, 2021

1 On October 13, 2023, this Court issued its Order Granting Plaintiff’s Partial
2 Motion for Summary Judgment, Dkt. No. 254, which it attaches to this Order for
3 Permanent Injunction as Attachment 1. The Court found Defendant Moreno Valley
4 Unified School District (MVUSD)’s “methods of administration in maintaining its
5 police program violate the ADA and Section 504 of the Rehabilitation Act” and ordered
6 Plaintiff C.B. (“Plaintiff”), and MVUSD (collectively, the “Parties”) to design a remedy
7 to bring MVUSD into compliance. *Id.* at 17; 22.

8 On June 18, 2024 the Parties jointly requested the Court for entry of stipulated
9 injunctive and declaratory relief. The Court has reviewed the Parties’ submission and
10 finds that a permanent injunction is necessary and justified to remedy MVUSD’s
11 violation of the ADA and Section 504, to address the irreparable harm to Plaintiff, and to
12 serve the public’s interest. Accordingly:

13 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that:

- 14 1. The Parties’ Joint Motion for Entry of Stipulated Injunctive and Declaratory
15 Relief Pursuant to Order for Partial Summary Judgment is granted.
- 16 2. To bring Defendant MVUSD’s methods of administering its police program
17 into compliance with the ADA and Section 504, MVUSD shall:
- 18 a. Develop and implement new policies, procedures, practices, and
19 customs, or modify and implement existing policies, procedures,
20 practices, and customs, to ensure MVUSD’s students with disabilities
21 are not disproportionately removed¹, restrained², and/or referred to

22 ¹ The terms “removed,” “remove,” or “removal” shall mean or refer to any means by which
23 MVUSD staff or law enforcement present on any MVUSD school campus, including School Resource
24 Officers, exercise school discipline that causes or requires a student with a disability to leave the
25 student’s classroom to a different in-school or out-of-school setting during the course of a regular
26 school day and includes in-school suspensions, out-of-school suspensions, and/or placement in a
different classroom where the purpose of the classroom is to seclude, isolate, or “cool-down” a student.

27 ² The terms “restrained,” “restrain,” and “restraint” shall refer to any physical intervention or
28 use of force used by MVUSD staff and/or law enforcement including by a SRO, to immobilize a
student or reduce the ability of such student to move the student’s torso, arms, legs, or head freely. The

1 MVUSD’s Campus Security Officers³ (“CSOs”) or law
2 enforcement⁴, including School Resource Officers⁵ (“SROs”), at any
3 MVUSD school;

4 b. Develop new trainings, or modify existing trainings, to ensure all
5 school staff employed or contracted by MVUSD who interact with
6 MVUSD students with disabilities, including CSOs and SROs, are
7 trained to avoid the use of removal, restraint, and/or referral to CSOs
8 or law enforcement, including SROs, and to use disability-
9 appropriate alternatives to removal, restraint, and referrals;

10 c. Require and provide training to current and future SROs who are
11 assigned to MVUSD schools pursuant to MVUSD’s contract with
12 any sheriff’s department, including the Riverside County Sheriff’s
13 Department, in the following areas:

- 14 i. Federal and state laws protecting the rights of students with
15 disabilities;
- 16 ii. Provision of appropriate accommodations and/or positive
17 behavior interventions for students with disabilities;
- 18 iii. Disability specific de-escalation techniques and alternatives to
19 removal and restraints; and

20 _____
21 term includes, but is not limited to, holding or grabbing a student’s arm or wrist to escort, compel, or
22 coerce the student to move to another location within the school; mechanical restraints such as the use
23 of handcuffs or prone restraints; and chemical restraints such as pepper spray.

23 ³ Campus Security Officers refers both to individuals bearing that title who are employed or
24 contracted by MVUSD to provide campus security, and to individuals who may be employed or
25 contracted by MVUSD in the future to perform the same role and function under a different title than
26 Campus Security Officer.

26 ⁴ The terms “law enforcement” shall refer to officers responsible for enforcing laws,
27 investigating crimes, and making arrests, such as police officers, sheriff’s deputies, and school resource
28 officers.

28 ⁵ For the purposes of this Order, School Resources Officers shall refer to Sheriff’s deputies or
police officers assigned to MVUSD school campuses.

1 iv. MVUSD policies and procedures implemented in accordance
2 with this Order.

3 d. Modify all current and future MVUSD contracts, agreements, and/or
4 memoranda of understanding with any law enforcement agency,
5 including the Riverside County Sheriff’s Department, to include the
6 training requirements set forth above in Paragraph 2(c) of this
7 Court’s Order.

8 e. Document and annually report data, disaggregated by race and
9 disability, on the following, as required by federal and state laws:

10 i. Removals of students by MVUSD staff, including CSOs;

11 ii. Removals of students by law enforcement, including SROs;

12 iii. Use of restraints on students by MVUSD staff, including
13 CSOs;

14 iv. Use of restraints on students by law enforcement, including
15 SROs; and

16 v. Referrals of students to CSOs and law enforcement, including
17 SROs.

18 f. Monitor disproportionate rates of use of removal, restraint, and
19 referrals on students with disabilities, including by reviewing
20 annually the data listed above in Paragraph 2.

21 **IMPLEMENTATION OF INJUNCTION**

22 **A. Appointment of Independent Monitor**

23 1. *Selection of Independent Monitor:* The Parties agree to the appointment of
24 Dr. Jaime Hernandez as the third-party Independent Monitor who will be responsible for
25 implementing the Injunction and monitoring compliance with this Order. The Parties
26 agree that Dr. Hernandez has the following expertise:
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- 1 a. Familiarity with the relevant federal and California statutes and
2 regulations concerning the rights of students with disabilities and
3 protections against disability-based and race-based discrimination;
- 4 b. Demonstrated understanding of the provision of disability-specific
5 behavioral accommodations, supports, and de-escalation techniques;
- 6 c. Substantial practical and field experience designing and
7 implementing programs or systems in public school districts that
8 comply with and promote the aforementioned rights and anti-
9 discrimination laws protecting students with disabilities;
- 10 d. Familiarity and experience with a wide array of relevant data metrics,
11 such as academic, social/emotional, behavioral, attendance, etc. and
12 the corresponding expertise necessary to cross-tabulate/triangulate
13 and analyze data metrics; and
- 14 e. Ability to be physically and virtually present in the City of Moreno
15 Valley as needed to fulfill their obligations as the Independent
16 Monitor.

17 2. *Scope of Work:* The Independent Monitor will be responsible for proposing
18 and implementing a plan of action to bring MVUSD's methods of administration into
19 compliance with the Americans with Disabilities Act and Section 504 of the
20 Rehabilitation Act as outlined below in Section B, and for overseeing MVUSD's
21 compliance with this Court's Order and Permanent Injunction.

22 3. *Authority of the Independent Monitor:* The Independent Monitor shall have
23 broad discretion to implement, and monitor MVUSD's compliance with, the Court's
24 Order and Permanent Injunction. To carry out its duties and responsibilities as described
25 below in Section B, the Independent Monitor shall have the authority to retain and/or
26 consult with, any expert, consultant, and/or personnel deemed necessary.

27 4. *Term:* The Independent Monitor shall be appointed for a period of four
28 years, which shall commence 30 days following execution of a services contract

1 between MVUSD and the Independent Monitor, as specified below in Section B. The
2 Independent Monitor's term may be extended pursuant to the terms and conditions set
3 forth below in Section C.8.

4 5. *Diligence of Independent Monitor and Support:* In performing its duties
5 under this Order, the Independent Monitor shall proceed with reasonable diligence to
6 carry out the duties and responsibilities assigned below in Section C, and in the course of
7 such duties and responsibilities, shall retain consultants, experts, and other personnel as
8 may be reasonably required.

9 6. *Independent Monitor's Access to Information:* In performing duties under
10 this Order, the Independent Monitor and any expert, consultant and/or personnel retained
11 by the Independent Monitor, shall be entitled to access to all relevant MVUSD records
12 and data, including student records, except for materials protected by the attorney-client
13 privilege or attorney work-product doctrine from either Party. The Independent Monitor
14 and any retained personnel by the Independent Monitor shall have access to MVUSD
15 premises, including observation of classroom instruction and shall be permitted to
16 communicate with MVUSD staff, as necessary to perform the Independent Monitor's
17 duties under this Order. The Independent Monitor and any expert, consultant and/or
18 personnel retained by the Independent Monitor shall maintain the confidentiality of all
19 confidential and privileged materials and shall not disclose the content of the materials
20 to any party or person. The Independent Monitor and any expert, consultant and/or
21 personnel retained by the Independent Monitor shall enter into an agreement with
22 MVUSD that allows the Independent Monitor and its personnel to have access to student
23 records in keeping with the Family Education Rights and Privacy Act ("FERPA"), 20
24 U.S.C. § 1232g, 34 C.F.R. Part 99, Education Code section 49060 *et seq.*, and similar
25 state laws, and acknowledges compliance with relevant privacy and confidentiality laws.

26 7. *Ex Parte Communications:* The Independent Monitor may have *ex parte*
27 communications at any time with counsel for the Parties and employees, agents,
28 contractors, and all others working for or on behalf of MVUSD. All counsel for the

1 Parties will have access to any information considered by the Independent Monitor,
2 except for *ex parte* communications with other Parties or where such access is not
3 permitted under applicable California or federal law. Nothing in this Order is intended to
4 limit any Party's authority under federal and state law to access information and
5 documents.

6 8. *Neutrality of Independent Monitor*: The Independent Monitor shall remain
7 impartial, neutral, and independent in its relations with and conduct toward the Court,
8 MVUSD, and Plaintiff. In carrying out its duties under this Order, the Independent
9 Monitor shall act upon and otherwise exercise its independent professional judgment.

10 **B. Independent Monitor Services Contract**

11 1. *Services Contract*: Within 30 days of Court approval, MVUSD shall retain
12 and execute a services contract with the Independent Monitor. The scope of work of the
13 services contract with the Independent Monitor will be limited to that described as the
14 Independent Monitor's duties set forth in Section C below.

15 2. *Compensation*: Throughout the term of the Independent Monitor, and any
16 extensions thereof, the entirety of Independent Monitor's fees, costs, and expenses,
17 including fees, costs, and expenses incurred in the retention or assistance of other experts,
18 consultants, and/or personnel deemed necessary, shall be paid by MVUSD. The services
19 contract with the Independent Monitor shall set forth the procedures, conditions, and
20 frequency of payment to the Independent Monitor.

21 a. *Terms for Compensation*: MVUSD shall: (i) compensate the
22 Independent Monitor for professional services; (ii) reimburse the
23 Independent Monitor for all expenses incurred by the Independent
24 Monitor in performing its duties under this Order; and (iii)
25 compensate and reimburse the expenses of any consultants, experts,
26 or other personnel retained to assist the Independent Monitor.

27 b. *Compensation Amount*: The Independent Monitor's total annual
28 salaries (including salaries and wages of other vendors, consultants,

1 research assistants or other personnel the Independent Monitor may
2 retain), costs, and expenses is anticipated to not exceed \$250,000. If
3 the Independent Monitor's anticipates its annual salary, expenses and
4 costs will exceed this amount, the Independent Monitor shall notify
5 MVUSD within 30 days and explain the reasons for the anticipated
6 increase(s). MVUSD shall pay the amount in full unless MVUSD has
7 good cause to believe the increased costs are unreasonable or
8 unjustified, in which case MVUSD shall follow the procedures set
9 forth under the Parties' dispute resolution process set forth below
10 under Section D.

11 3. *Independent Monitor as Agent of MVUSD:* In performing its duties under
12 this Order, the Independent Monitor, and any retained consultants, experts, or other
13 personnel, shall be deemed an agent of MVUSD and shall be entitled to all immunities
14 applicable to the conduct of school district officials or personnel. MVUSD shall defend,
15 indemnify, and hold harmless the Independent Monitor from and against any and all
16 liability, action or proceeding arising from or related to the performance of any act,
17 obligation or duty performed in connection with this Order except for any matter that
18 involves or results from willful misconduct.

19 4. *Removal for Cause:* The Parties agree that once selected and after a service
20 contract is entered with MVUSD, the Independent Monitor may be removed for cause
21 upon the mutual written agreement of counsel for Plaintiff and counsel for MVUSD
22 setting forth the cause constituting the basis for such removal. Cause for removal shall
23 be: (a) material failure or refusal to perform duties required of the Independent Monitor
24 as outlined in Section C below; or (b) misconduct on the part of the Independent
25 Monitor. If either Party identifies cause to remove the Independent Monitor, that Party
26 shall notify the other Party of such cause immediately, after which the Parties shall meet
27 and confer within 30 days to try to reach agreement regarding the Independent Monitor's
28 removal. If the Parties are unable to reach mutual agreement, no later than 30 days

1 thereafter, either Party may move the Court for removal of the Independent Monitor.

2 The Party making such motion must demonstrate by clear and convincing evidence that
3 cause for removal exists. In the event the Independent Monitor is removed pursuant to
4 the provisions of this Section, Plaintiff shall select a replacement Independent Monitor
5 pursuant to the requirements set forth above in Section A.1.

6 **C. Duties of the Independent Monitor**

7 1. *Baseline Review and Development of Action Plan:* Within four months of
8 approval of the Independent Monitor’s services contract, the Independent Monitor shall
9 provide the Parties in writing a proposed plan of action (the “Action Plan”) to bring
10 MVUSD’s methods of administration into compliance with the ADA and Section 504.

11 The Action Plan shall be informed by:

- 12 a. A review of MVUSD’s current policies, procedures, practices,
13 customs, and trainings to establish a baseline understanding of
14 MVUSD’s current methods of administration;
- 15 b. Data and information maintained by MVUSD that the Independent
16 Monitor deems necessary or beneficial to the preparation of the
17 Action Plan; and
- 18 c. Consultation with any experts, consultants, and/or personnel the
19 Independent Monitor deems necessary.

20 2. *Goals of the Action Plan:* The Action Plan shall delineate the steps and
21 actions MVUSD must take to produce, at a minimum, data-based outcomes, systems
22 change, and a training program, as described below:

- 23 a. Data Based Outcomes
 - 24 i. Substantial reduction of the number of referrals and the
25 disproportionate rates of referrals of disabled students and
26 Black disabled students to CSOs and to law enforcement,
27 including SROs;

- 1 ii. Substantial reduction of the number of removals and the
- 2 disproportionate rates of removal of disabled students and
- 3 Black disabled students;
- 4 iii. Substantial reduction in the number of incidents involving
- 5 restraints and the disproportionate rates of use of restraints on
- 6 disabled students and Black disabled students;
- 7 iv. Substantial increase in the behavioral supports and
- 8 assessments⁶ offered to students with disabilities to address
- 9 disability-related behaviors, such as Behavior Intervention
- 10 Plans⁷; and
- 11 v. Any other related metrics identified during the Independent
- 12 Monitor’s baseline review of MVUSD methods of
- 13 administration.

14 b. Systems Change

- 15 i. Develop new policies and procedures, or modify existing
- 16 policies and procedures, to ensure compliance with federal and
- 17 state laws and regulations and employ best practices in the
- 18 areas of removals, restraints, and referrals to CSOs and law
- 19 enforcement, including referrals to SROs;
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22 ⁶ Such assessments can include the Functional Behavior Assessment or FBA which is an

23 assessment designed to isolate target behaviors, develop hypotheses regarding the function of the target

24 behavior, and create a behavior plan to address the target behaviors with positive strategies and

 interventions.

25 ⁷ Behavior Intervention Plan or BIP refers to a plan created by appropriately trained

26 professionals for an individual student comprised of positive behavior interventions, strategies, and

27 supports, which may include modifications to the nature of instruction, curriculum, or school routine.

28 Such plans are typically developed based on the outcome of a Functional Behavior Assessment and

 reflect feedback from parents or guardians regarding the emotional, mental, and physical health of the

 student. While such plans are often prepared for students with a documented disability, they can be

 prepared for any student having difficulty with behavior.

- 1 ii. Establish a reliable data collection system that documents,
2 stores, and tracks data, disaggregated by, at minimum, race and
3 disability, on the use of removals, restraints, and referrals by
4 MVUSD staff, including CSOs, and by law enforcement,
5 including SROs;
- 6 iii. Recommend and ensure MVUSD schools have adequate staff
7 dedicated to providing behavioral and social-emotional
8 supports and interventions, such as Board Certified Behavior
9 Analysts, counselors, and mental health providers;
- 10 iv. Implement accountability mechanisms for MVUSD staff,
11 including CSOs, who inappropriately and/or disproportionately
12 use removal, restraints, and referrals to CSOs and law
13 enforcement, including SROs, on students with disabilities;
- 14 v. Implement accountability mechanisms for SROs who
15 inappropriately and/or disproportionately use removal and
16 restraints on students with disabilities;
- 17 vi. Implement mechanisms to timely notify parents and guardians
18 of the removal, restraint, and/or referral to CSOs and to law
19 enforcement, including to SROs, of students with disabilities;
20 and
- 21 vii. Ensure that all current and future MVUSD contracts,
22 agreements, and/or memoranda of understanding with any law
23 enforcement agency, including the Riverside County Sheriff's
24 Department, requires SROs receive training in the areas listed
25 below in Section C.2.c.i.
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1 c. Training Program

2 i. Identify competent trainers, produce a training schedule, and
3 require all relevant MVUSD staff, including CSOs, are trained
4 in the following:

- 5 1. New or revised MVUSD policies and procedures as
6 referenced above in Section 2(b);
- 7 2. De-escalation techniques and strategies;
- 8 3. Education and understanding of disabilities, their
9 definitions, effective disability accommodations, and
10 their impact on students' educational opportunities;
- 11 4. Federal and state law protections and entitlements for
12 students with disabilities;
- 13 5. Documentation, data maintenance, and reporting
14 requirements referenced above in Section 2(a)-2(b);
- 15 6. Behavioral supports and accommodations for students
16 with disabilities such as Behavioral Intervention Plans;
17 and
- 18 7. Identification and eradication of implicit and explicit
19 bias.

20 ii. Require a training schedule for SROs assigned to MVUSD
21 campuses and provide trainings in the categories listed above
22 in Section C.2.c.i.

23 3. *Finalization of Action Plan:* The Independent Monitor shall share the
24 proposed Action Plan with the Parties. The Parties shall have 30 days from receipt of the
25 proposed Action Plan to review and provide comment to the Independent Monitor.
26 Within 30 days of receiving feedback from the Parties, the Independent Monitor shall
27 analyze the Parties' comments and revise the Action Plan. The Independent Monitor
28 shall attempt to resolve any disputes between the Parties regarding the feedback to the

1 Action Plan. The Parties may resolve any disputes regarding feedback to the Action
2 Plan that cannot be resolved by the Independent Monitor through the dispute resolution
3 process set forth below in Section D.

4 4. *18-Month Implementation Schedule:* Within 60 days of the Independent
5 Monitor finalizing the Action Plan, MVUSD shall develop and submit to the
6 Independent Monitor and the Plaintiff a proposed initial 18-month implementation
7 schedule that includes benchmarks and deadlines to ensure progress and successful
8 implementation of the Action Plan. MVUSD shall develop subsequent 18-month
9 implementation schedules until the goals of the Action Plan are achieved. The
10 Independent Monitor shall provide MVUSD with comments and recommendations on its
11 18-month implementation schedule(s) within 30 days of submission. Plaintiff retains the
12 right to make comments on the MVUSD's implementation schedule(s) for consideration
13 by the Independent Monitor. The Independent Monitor may approve or reject the
14 MVUSD's proposed implementation schedule(s) in its entirety or as to its parts, and if
15 further revision is required, the Independent Monitor will set the timeline for review and
16 approval. If MVUSD fails to submit an Implementation Schedule at the time specified in
17 the Action Plan or fails to develop a satisfactory Implementation Schedule, the
18 Independent Monitor shall develop and circulate a proposed Implementation Schedule.
19 The Parties will have 15 days to comment on the Independent Monitor's proposed
20 Implementation Schedule.

21 5. *Compliance Period.* The compliance period shall begin upon the
22 Independent Monitor's approval of an initial 18-Month implementation Schedule. The
23 Independent Monitor shall monitor MVUSD's compliance for a minimum of three years
24 unless the Independent Monitor determines that the compliance period needs to be
25 extended further pursuant to the terms and conditions set forth below in Section C.8.

26 6. *Community Input.* The Independent Monitor shall develop a mechanism for
27 community input to identify and report any systemic non-compliance by MVUSD of the
28 Action Plan.

1 7. *Regular Communication with Parties.* In carrying out their duties under this
2 Order, the Independent Monitor shall meet with the Parties on a bi-monthly (every other
3 month) basis for the first year following entry of this Order and at least quarterly
4 thereafter. The Independent Monitor may require more frequent meetings as it
5 determines necessary. The Independent Monitor must consider all reasonable feedback
6 and input from the Parties provided at these meetings or otherwise.

7 8. *Term Extensions.* The Independent Monitor’s four-year term may be
8 extended as follows:

9 a. *Stipulated Extension of Compliance Period:* Six months prior to the
10 conclusion of the Independent Monitor’s four-year term, the Parties
11 shall stipulate to extending the Independent Monitor’s term and the
12 terms of this agreement only if the Independent Monitor determines
13 that MVUSD (i) will fail to meet the requirements of the Action Plan
14 by the end of the four-year term; (ii) cannot continue implementation
15 of the outcomes and systems change without the presence of a
16 monitor; and /or (iii) causes delay in implementation of the Action
17 Plan for failure to adhere to the terms of this agreement and/or failure
18 to cooperate with the Independent Monitor. Two months before the
19 expiration of the Independent Monitor’s term, the Parties shall jointly
20 file with the Court a Notice to extend the Independent Monitor’s
21 Term and the terms of this agreement for a period of time necessary
22 to ensure either compliance with the Action Plan or make up for the
23 lost time.

24 b. *Tolling during Dispute Resolution:* The term of the Independent
25 Monitor shall be automatically tolled for any length of the time that
26 dispute resolution is necessary.

27 c. *Other Reasons for Extension:* If Plaintiff seeks an extension of the
28 Independent Monitor’s term for reasons other than those described

1 above in Section B.4.a., Plaintiff must submit a Notice to the Court
2 two months prior the Independent Monitor’s Term ending and show
3 good cause for why an extension is necessary. The Notice shall
4 identify an appropriate extension of time to ensure that the goals of
5 the monitoring are met. MVUSD shall have the right to respond to
6 any such Notice within 14 days after the Notice’s filing before the
7 Court rules on the request for an extension. Plaintiff may apply for
8 additional extensions under the same standard by filing a Notice
9 requesting an extension no later than two months before the end of
10 any extended term. Otherwise, the presumptive end of the
11 Independent Monitor’s term shall be four years.

12 **D. Dispute Resolution**

- 13 1. In the event either party invokes the dispute resolution to remedy the
14 requirements of this Order, the following procedures shall apply:
- 15 a. *Notification in writing:* The disputing party shall provide written notice
16 and a statement of the dispute describing the alleged non-compliance
17 and specifying the provision of the Court’s Order and Permanent
18 Injunction violated (“Notice of Non-Compliance”) to the opposing party
19 and the Independent Monitor. The noticed party shall provide a written
20 response to the alleged violation within 14 calendar days from receipt of
21 the Notice of Non-Compliance and, within 21 calendar days from the
22 Notice of the Non-Compliance, the Parties and if applicable, the
23 Independent Monitor, shall meet and confer in a good faith effort to
24 resolve their dispute informally.
- 25 b. *Optional Mediation:* If the Parties are unable to resolve the dispute
26 through the meet and confer process described above, any Party may
27 request to submit the Dispute to an agreed-upon mediator for
28 resolution. A Party’s election to seek mediation will bind the other

1 Party to pursue medication to its completion. The Parties shall then
2 submit the Dispute to the selected mediator within thirty (30) days of
3 meeting and conferring, who shall have the authority to assist the
4 Parties in resolving the Dispute, but shall not have the authority to
5 direct any Party to take or refrain from taking any action or to render
6 decisions. The mediation shall be held and completed within forty-
7 five (45) calendar days of submission unless the mediator's calendar
8 will not allow for such scheduling. In such instance, the mediation
9 shall be scheduled as soon as practicable.

- 10 c. *Motion to Enforce*: If a Party fails to meet and confer or if the Parties
11 are unable to resolve the dispute through the mediation process
12 described above, any Party may seek enforcement of the Court's
13 Order and Permanent Injunction by motion to the Court. In the event
14 that a Dispute is submitted to the District Court for decision, and the
15 Plaintiff prevails, the Court may, in its discretion, award all
16 reasonable attorneys' fees and costs incurred by Plaintiff's counsel.


17 **E. Other Miscellaneous Provisions**

- 18 1. *Plaintiff's Attorney's Fees and Costs*: Plaintiff is entitled to recover
19 reasonable attorneys' fees and other expenses pursuant to 42 U.S.C. § 12205 and 29
20 U.S.C. § 794a for work reasonably performed by Plaintiff for purposes of monitoring
21 and ensuring MVUSD's compliance with the Court's Order and Permanent Injunction,
22 including cooperation with the Independent Monitor. Reasonable fees and expenses shall
23 be awarded in amounts agreed to by the Parties or, absent agreement, as determined by
24 the Court upon Plaintiff's noticed motions. Plaintiff shall submit an itemized statement
25 to MVUSD for intervals of not less than 120-day periods. The fees and costs submitted
26 by itemized statement shall be considered reasonable unless otherwise demonstrated by
27 pay MVUSD. MVUSD shall, within 60 days of receipt of the itemized statement, pay
28 such amount requested in the statement. Any claim for attorneys' fees and expenses can

1 be resolved by mutual agreement of the parties using the Dispute Resolution Procedure
2 outlined in Section D above. In the event MVUSD refuses or otherwise fails to pay all or
3 any portion of the itemized statement, Plaintiff's counsel may move this Court for an
4 order requiring MVUSD to issue payment not less than 60 days after MVUSD's
5 deadline to pay the statement amount.

6 2. *Retention of Jurisdiction:* The Court expressly retains jurisdiction over this
7 matter including, throughout the term of the Independent Monitor and any extensions
8 granted therein, to enforce any part of this Order and Permanent Injunction.

9
10 Date: June 28, 2024


11 Honorable Jesus G. Bernal
12 United States District Judge