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July 27, 2017

Via email & U.S. Mail

Amy Herman, School Board President
San Dieguito Union High School District
710 Encinitas Blvd,
Encinitas, CA 92024
Email: Amy.herman@sduhsd.net

Eric Dill, Superintendent
San Dieguito Union High School District
710 Encinitas Blvd,
Encinitas, CA 92024
Email: eric.dill@sduhsd.net

RE: San Dieguito Union High School District Adult Transition Program

Dear Ms. Herman & Mr. Dill,

We write to request that the San Dieguito Union High School District (SDUHSD) reconsider its decision to locate its Adult Transition Program in portable classrooms on the Earl Warren Middle School campus. As the federally mandated protection and advocacy agency for the State of California, Disability Rights California has serious concerns regarding what appears to be discrimination against students with disabilities, as well as health and safety concerns regarding the physical capacity of the classrooms.

Under the Individuals with Disabilities Education Act, students with disabilities should be educated to the maximum extent possible with their

non-disabled peers.¹ Under California regulations, when a school district constructs new classrooms for students with disabilities, it must ensure that those classrooms are integrated. This means that the classrooms must be:

- (1) located in proximity to regular education classrooms in such a way as to encourage age-appropriate interaction among all students.
- (2) Whenever possible, if relocatable classrooms are used for special education classes, the ratio of special education relocatable classrooms to permanent special education classrooms is the same as the classroom ratio between relocatable classrooms and permanent classrooms for regular education students.²

We are concerned that placing 18-22 year old students on a campus with 7th and 8th grade middle schoolers would deprive the Adult Transition Program students of opportunities to be integrated with age appropriate peers. The Adult Transition Program should be housed in a high school in order to encourage age-appropriate interaction with non-disabled students.

We also have concerns that the portable classrooms do not meet the requirements of Section 504 of the Rehabilitation Act, which prohibits disability-based discrimination in federally-funded programs, including public schools.³ The 504 regulations state that if a school district “operates a facility that is identifiable as being for handicapped persons, the recipient shall ensure that the facility...provided therein [is] comparable to the other facilities” provided to students without disabilities.⁴ The newly constructed Earl Warren Middle School facility was designed to be spacious and well-lit, with large banks of windows in each classroom. In comparison, the Adult Transition Program students will be relegated to portable facilities that currently have only one outside window.

Furthermore, we have serious health and safety concerns regarding the physical capacity of the two portable classrooms. We have received information that more than 60 adults, including students and staff, will be located in the Adult Transition Program in the coming school year, and that

¹ 20 U.S.C. § 1412(a)(5); 34 C.F.R. § 300.114

² 5 C.C.R. § 14036(a)(1)-(2), *emphasis added*.

³ 29 U.S.C. § 794(a), (b)(2)(B).

⁴ 34 C.F.R. § 104.34(c).

some of these students use wheelchairs or are medically fragile and may require additional space to store, access, and use medical and therapy equipment. We understand that the portable classrooms will include two bathrooms, one in each classroom; this may not be sufficient to accommodate the Adult Transition Program students, some of whom may need assistance with toileting. We are concerned that SDUHSD will not be able to meet the needs of these students in the limited space available.⁵

Lastly, we have received reports that the Adult Transition Program classrooms will include lockable “calming” rooms. We have questions regarding SDUHSD’s intended use for these “calming” rooms. As the protection and advocacy agency for California, Disability Rights California has an obligation to ensure that individuals with disabilities are not subjected to abuse or neglect. It is well established that seclusion is a traumatic and dangerous practice⁶ and California law prohibits the use of locked seclusion as an emergency behavioral intervention.⁷

We would be happy to discuss our concerns with you and would appreciate a response in writing.

Sincerely,



Melinda Bird
Litigation Counsel



Christian Abasto
Managing Attorney

CC: Meredith Wadley, Director of School & Student Services
Meredith.Wadley@sduhsd.net

⁵ Minimum special education classroom square footage allowances for new buildings are mandated under Cal. Educ. Code § 17047.

⁶ See, U.S. Gov’t Accountability Office, GAO-09-719T, *Seclusions and Restraints: Selected Cases of Death and Abuse at Public and Private Schools and Treatment Centers* (2009), <http://www.gao.gov/assets/130/122526.pdf>; U.S. Dep’t of Educ., *Restraint and Seclusion: A Resource Document* (2012), <https://www2.ed.gov/policy/seclusion/restraints-and-seclusionresources.pdf>; Nat’l Disability Rights Network, *School Is Not Supposed To Hurt* (2012), [http://www.ndrn.org/images/Documents/Resources/Publications/Reports/School is Not Supposed to Hurt 3 v7.pdf](http://www.ndrn.org/images/Documents/Resources/Publications/Reports/School%20is%20Not%20Supposed%20to%20Hurt%203%20v7.pdf).

⁷ Cal. Educ. Code § 56521.1(d)(1).

Board President Amy Newman
Superintendent Eric Dill
July 27, 2017
Page 4 of 4

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