

REC'D JUN 06 2012

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SAN FRANCISCO UNIFIED SCHOOL DISTRICT
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SAN FRANCISCO

12 UNLIMITED JURISDICTION

13 SAN FRANCISCO UNIFIED SCHOOL
DISTRICT,

14 Plaintiff,

15 vs.

16 THE STATE OF CALIFORNIA, THE
17 CALIFORNIA DEPARTMENT OF
HEALTH CARE SERVICES, DAVID
18 MAXWELL-JOLLY, in his official
capacity as Director, California
19 Department of Health Care Services, and
DOES 1 to 10,
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21 Defendants.
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ENDORSED
FILED
San Francisco County Superior Court
JUN 14 2012
CLERK OF THE COURT
BY: CYNTHIA S. HERBERT
Deputy Clerk

Case No. CPF-09-509499

STIPULATION AND ~~PROPOSED~~
ORDER TO LIFT STAY OF ACTION

1 WHEREAS, in an Order dated October 8, 2009, the Court determined that, unless or until
2 the Department of Health and Human Services ("DHHS") or the Departmental Appeals Board
3 ("DAB") issues a final determination demonstrating to the contrary, "federal financial participation"
4 is available within the meaning of California Welfare & Institutions Code § 14132.06 for LEA
5 services provided by petitioner San Francisco Unified School District (the District), otherwise
6 reimbursable in accordance with state and federal law, that are provided under circumstances that
7 do not meet the requirements of the "free care" principle ("the District's LEA services");

8 WHEREAS, the Court stayed its Order to give Respondents the opportunity to seek "federal
9 financial participation" for the District's LEA services;

10 WHEREAS, Respondents decided to seek "federal financial participation" from the Centers
11 for Medicare & Medicaid Services ("CMS") claims submitted by the District for LEA services
12 provided between July 2008 through March 31, 2010, and to appeal any adverse decision to the
13 DAB if necessary;

14 WHEREAS, Petitioner filed an Amended Petition and Complaint on November 9, 2009;

15 WHEREAS, the parties thereafter stipulated to a stay of this action while Respondents
16 sought "federal financial participation," entered by the court on January 15, 2010; and

17 WHEREAS, CMS has issued a positive grant award in connection with the District's LEA
18 Services claims;

19 IT IS HEREBY STIPULATED AND AGREED, by and among Petitioner and Respondents,
20 subject to approval of the Court, that:

- 21 1. The Court's stay of its October 8, 2009 order may be lifted;
- 22 2. The stay of this action entered January 15, 2010 may be lifted.
- 23 3. Notwithstanding the terms of the parties' prior stipulation, Respondents shall have
24 until August 23, 2012 to answer or otherwise respond to Petitioner's Amended
25 Petition and Complaint.

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1 Dated: June 5, 2012


2 DENNIS J. HERRERA
3 City Attorney
4 WAYNE SNODGRASS
5 VINCE CHHABRIA
6 TARA M. STEELEY
7 Deputy City Attorneys

8 By: 
9 TARA M. STEELEY

10 Attorneys for Plaintiff
11 SAN FRANCISCO UNIFIED SCHOOL DISTRICT

12 Dated: June 5, 2012

13 KAMALA D. HARRIS
14 Attorney General of California
15 KARIN S. SCHWARTZ
16 Supervising Deputy Attorney General
17 JOSHUA N. SONDEHEIMER
18 Deputy Attorney General

19 By: 
20 JOSHUA N. SONDEHEIMER

21 Attorneys for Defendants and Respondents
22 THE STATE OF CALIFORNIA, THE CALIFORNIA
23 DEPARTMENT OF HEALTH CARE SERVICES,
24 DAVID MAXWELL-JOLLY

25 **ORDER**

26 Pursuant to the stipulation of the parties, IT IS SO ORDERED.

27 **HAROLD KAHN**
28 JUDGE, SUPERIOR COURT

JUN 14 2012

1 **PROOF OF SERVICE**

2 I, HOLLY CHIN, declare as follows:

3 I am a citizen of the United States, over the age of eighteen years and not a party to the
4 above-entitled action. I am employed at the City Attorney's Office of San Francisco, City Hall, 1
Dr. Carlton B. Goodlett Place, Room 234, San Francisco, CA 94102.

5 On June 6, 2012, I served the following document(s):

6 **STIPULATION AND [PROPOSED] ORDER TO LIFT STAY OF ACTION**

7 on the following persons at the locations specified:

8 Kamala D. Harris
9 Attorney General of California
10 Joshua N. Sondheimer
11 Deputy Attorney General
12 455 Golden Gate Avenue, Suite 11000
13 San Francisco, CA 94102-7004
14 Telephone: (415) 703-5615
15 Facsimile: (415) 703-5480
16 E-mail: Joshua.Sondheimer@doj.ca.gov

17 in the manner indicated below:

18 **BY UNITED STATES MAIL:** Following ordinary business practices, I sealed true and correct copies
19 of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing
20 with the United States Postal Service. I am readily familiar with the practices of the San Francisco City
21 Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s)
22 that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that
23 same day.

24 **BY PERSONAL SERVICE:** I sealed true and correct copies of the above documents in addressed
25 envelope(s) and caused such envelope(s) to be delivered by hand at the above locations by a professional
26 messenger service. A declaration from the messenger who made the delivery is attached or will
27 be filed separately with the court.

28 **BY FACSIMILE:** Based on a written agreement of the parties to accept service by fax, I transmitted true
and correct copies of the above document(s) via a facsimile machine at telephone number Fax #415-554-4699
to the persons and the fax numbers listed above. The fax transmission was reported as complete and without
error. The transmission report was properly issued by the transmitting facsimile machine, and a copy of the
transmission report is attached or will be filed separately with the court.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed June 6, 2012 at San Francisco, California.


HOLLY CHIN