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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

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| **THE PEOPLE OF THE STATE OF CALIFORNIA, EX. REL. XAVIER BECERRA, ATTORNEY GENERAL OF THE STATE OF CALIFORNIA,**<br><br>Plaintiff,<br><br>**v.**<br><br>**STOCKTON UNIFIED SCHOOL DISTRICT,**<br><br>Defendant. | Case No. 34-2019-00248766<br><br>**[PROPOSED] FINAL JUDGMENT** |

RECEIVED JAN 18 2019 L&M

Plaintiff, the People of the State of California ("People" or "Plaintiff"), by and through its attorney, Xavier Becerra, Attorney General of the State of California (the "Attorney General"), and by Supervising Deputy Attorney General Christine Chuang, and Defendant Stockton Unified School District (the "District"), appearing through its attorney Dannis Woliver Kelley, by Keith Bray and Marie Nakamura, having stipulated to the entry of this judgment ("Judgment" or "Agreement") by the Court without the taking of proof and without trial or adjudication of any fact or law, without this Judgment constituting evidence of or admission by the District regarding any issue of law or fact alleged in the People's Complaint for Injunctive Relief ("Complaint") on file or any of the allegations or conclusions set forth herein, and without the District admitting any liability, and with all parties having waived their right to appeal, and the Court having considered the matter and good cause appearing,

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

This Court has jurisdiction over the allegations and subject matter of the People's Complaint filed in this action, and the parties to this action; venue is proper in this County; and this Court has jurisdiction to enter this Judgment.

## INJUNCTION

The District is enjoined from engaging in any violations of law, including the causes of action set forth in the People's Complaint, and for the five-year term of this Judgment established in Section XVI, shall engage in the following affirmative corrective actions:

## I. REVISION OF POLICIES AND PROCEDURES RELATING TO ROLE OF LAW ENFORCEMENT IN STUDENT DISCIPLINE AND CRIMINAL MISCONDUCT

A. Within 180 days of both entry of judgment and the appointment and approval of a monitor, the District shall review and revise its law enforcement referral policy and adopt a police assistance and student referral policy that states that police officers should not be involved in disciplinary infractions that are more appropriately the responsibility of school administrators and teachers. This policy shall include direction as to when school administrators may call for police assistance. The policy shall not prohibit any employee from calling 911 when their safety or the safety of others is at serious risk. The terms "refer" or "referral" as used herein shall mean the

forwarding of students by school site administrators on to the District's Police Department (the "Department") for the purpose of criminal investigation and remediation.

1. The Department and District shall specifically distinguish between disciplinary infractions appropriately handled by school officials versus major threats to school safety or serious school-based criminal conduct by students that cannot be safely and appropriately handled by school site administrators following the District's disciplinary procedures. The list of low-level disciplinary conduct that should be subject to school discipline rather than referrals to law enforcement shall include conduct such as:

a. Defiance

b. Disorderly Conduct

c. Disturbing the Peace

d. Trespassing

e. Loitering

f. Using profanity

g. Verbal altercations unless threat of serious bodily injury or involves hate speech

h. Fights with no injuries unless more than two combatants are involved (however, this shall also be guided by the totality of the circumstances including age of the students)

i. Possession of alcohol and tobacco

j. Vandalism less than $400 unless vandalism pertains to gang affiliation or hate groups

k. Theft less than $50

2. Since police officers should not be involved in handling low-level disciplinary conduct, the police assistance and student referral policy shall reflect that officers should be involved only when there is a major threat to school safety, or when there is school-based criminal conduct that cannot be safely and appropriately handled by the school's administrative staff, or when the school site administrator is mandated to notify law enforcement under Education Code section 48902. If a police officer is on-site and witnesses a low-level disciplinary infraction, the policy shall reflect that the officer should direct the student to

appropriate school staff for any discipline. If a student is engaged in low-level disciplinary conduct that is also a criminal violation, whether that student may be subject to intervention by law enforcement that is on-site will depend upon the totality of the circumstances including the age of the student and the number of alleged criminal violations committed by the student during the incident, consistent with the graduated process of disciplinary and law enforcement-based interventions as set forth below in subsection (C).

3. The District shall provide the monitor and the Attorney General's Office with a draft of the police assistance and student referral policy within 120 days of both entry of judgment and the appointment and approval of a monitor, and the parties shall address any modifications or changes to the policy within 60 days thereafter.

B. The District shall include in its police assistance and student referral policy above that it will not refer students to law enforcement and the Department shall not cite or book students for the following specific offenses:

1. Truancy: The Department has implemented an informal practice where they no longer issue citations for Truancy and will refer the student to the Child Welfare & Attendance (CWA) office. Citations will only be issued if the student is referred by CWA as a chronic truant, pursuant to the Education Code. The Department formalized this policy in Special Order 17-011, which is attached hereto as Appendix A.

2. Disturbing the Peace (Penal Code sections 415 and 415.5): The District shall provide within its police assistance and student referral policy that sections 415 or 415.5 do not apply to students because those sections were intended to apply to outsiders disturbing the peace on school grounds.

C. Within 180 days of both entry of judgment and the appointment and approval of a monitor, the District shall attach as an exhibit to Board Policy 5144 its revised matrix that specifically delineates offenses and the graduated process of disciplinary and law enforcement based interventions. The police assistance and student referral policy shall provide that only authorized school site administrators may make referrals to law enforcement and shall require them to review whenever practicable any documentation of prior interventions before making the

referral. Within 90 days of entry of judgment and the appointment and approval of a monitor, the District, following Board review, shall provide a draft of the proposed exhibit to Board Policy 5144 to the Attorney General's Office for review and approval, and the parties shall address any modifications or changes to the revised policy within 60 days thereafter. In the event the parties are unable to agree on the proposed revisions, the court will resolve the dispute pursuant to Section XV of this Agreement.

D. Within 180 days of both entry of judgment and the appointment and approval of a monitor, the Department shall create protocols containing standards relating to the following offenses:

1. Resist, Delay Officer (Penal Code section 148): The Department shall create a written protocol requiring supervisor approval, including situations involving battery on a police officer, before students are cited and/or booked for Penal Code section 148 charges. This protocol shall note that students shall not be cited or booked for section 148 violations as the sole result of low-level disciplinary conduct, including the list of low-level misconduct set forth above, and truancy situations. The protocol shall provide that whether students are booked for a section 148 violation along with another violation(s) of the Penal Code will depend upon the totality of the circumstances, including the severity of the underlying misconduct and the severity of the student's resistance, delay, or obstruction of the officer in performing his/her duties.

2. Out of Control (Welfare & Institutions Code section 601, subd. (a)): The District shall include in its police assistance and student referral policy language prohibiting school administrators from using "out of control" as a catch-all category for referrals to law enforcement unless they have reason to believe the minor is subject to Welfare & Institutions Code section 601, subd. (a), in accordance with applicable legal standards.

E. Within 180 days of both entry of judgment and the appointment and approval of a monitor, the Department shall develop written protocols for dispatchers that provide more guidance in information gathering and in an effort to provide effective police response and/or resources/services. If a call does not warrant a response pursuant to the police assistance and student referral policy, the Department shall notify the school site. The Department shall keep a

record of all calls for service that, pursuant to the discipline matrix attached to Board Policy 5144, do not warrant a police response and the records shall indicate which school site and which employee made the call. The Department shall provide the District and the monitor with such records to identify school staff that may be in need of additional training regarding the role of Department officers.

F. Within 180 days of entry of judgment and the appointment and approval of a monitor, the District shall create a plan relating to law enforcement referrals that is consistent with its revised discipline policies as required by the resolution agreement with the U.S. Department of Education, Office for Civil Rights ("OCR"), which will include Positive Behavioral Interventions and Supports ("PBIS"), and other restorative strategies.

## II. FORMAL DIVERSION PROGRAM THAT MINIMIZES CITATIONS AND BOOKINGS FOR MINOR SCHOOL-BASED CRIMINAL OFFENSES

A. Within 180 days of both entry of judgment and the appointment and approval of a monitor, the District and Department shall formalize their stated goal to create a protocol to continue a community policing model and develop a diversion program aimed at minimizing arrests for minor school-based criminal offenses when a less punitive measure, such as diversion, restorative justice, or discipline, could be applied.

B. Within 180 days of both entry of judgment and the appointment and approval of a monitor, the District, in consultation with the Department, shall contact relevant stakeholders like juvenile courts, probation, and the District Attorney to create a formal diversion program, which shall, with the necessary participation of stakeholders, be implemented within two years of the entry of judgment and appointment and approval of a monitor.

C. Within 180 days of both entry of judgment and the appointment and approval of a monitor, the Department shall create a plan to work with the juvenile courts, probation, and the District Attorney to identify all students from at least January 1, 2010 through present who have been cited or booked, and found to have violated, Penal Code section 415.5 at a school at which they were enrolled. The plan shall include procedures to request judicial expungement of these

violations from the students' records and provide notice to parents and students of such procedures.

D. Within 240 days of both entry of judgment and the appointment and approval of a monitor, the Department shall ensure the community policing philosophy is identified in the 2019 Strategic Plan with a goal of ensuring that officers serve as mentors or role models for students, as well as identify avenues for positive interactions with students.

## III. ENSURE NON-DISCRIMINATION OF STUDENTS WITH DISABILITIES

Pursuant to the OCR agreement referenced above, the District has designated a Positive School Climate Director, who is tasked with ensuring that the District's policies and practices do not discriminate against students on the basis of disabilities, and to identify and retain an expert to conduct analysis and research to prevent discrimination against students with disabilities with respect to the use of school discipline. The District shall create and revise the following policies, protocols, and procedures relating to the non-discrimination of students with disabilities:

A. Within 180 days of entry of judgment and the appointment and approval of a monitor, the District's Mental Health administrator shall create a protocol for school site administrators to refer students who exhibit indicators of mental health needs or that suggest indicators of mental health needs to a psychologist or counselor instead of a referral to the Department, unless it is for the purpose of a mental health evaluation under Welfare & Institutions Code section 5150 et seq. The District shall create a policy that sets forth the requirements for staff requesting an assessment to assist them in identifying mental health issues that can be managed at the school site with appropriate supports and services.

B. Within 240 days of entry of judgment and the appointment and approval of a monitor, the District and Department shall collaborate in developing or revising policies and procedures that outline for students with disabilities disciplinary dispositions that are consistent with state and federal law regarding potential changes in their educational placement and a process regarding law enforcement referrals to ensure that such referrals are consistent with state and federal disability discrimination laws. The District will create protocols that require school administrators, whenever practicable, to review in non-exigent circumstances the documentation

of any interventions and supports that have been undertaken prior to requesting police assistance relating to a student who is an individual the school administrator knows or perceives to have a disability, including a mental health disability, or who knows the student has an Individualized Education Plan (IEP) or a Section 504 plan.

C. The District shall hire a qualified Disability Coordinator. Within 60 days of entry of judgment, the position of Disability Coordinator shall be posted. Within 360 days of both entry of judgment and the appointment and approval of a monitor, the District's Disability Coordinator will work with the Positive School Climate Director and the Department to develop training regarding working with students with disabilities, including students with mental health disabilities. The District's Disability Coordinator shall have the requisite experience and knowledge with disability discrimination laws, including the Americans with Disabilities Act (ADA), to ensure compliance with disability discrimination laws relating to law enforcement activities, including on mental health issues. The Disability Coordinator shall also work with the District and the Department to create and revise its policies and procedures to address the needs of students with disabilities, including students with mental health disabilities, and to ensure that procedures are in place so that students with disabilities, except as provided for below, are not cited or booked for conduct that directly results from their disability. The procedure shall include a process for making referrals to the appropriate services or placements. For conduct of a serious nature as defined in Education Code section 48915(a)(1) and (c), officers, when determining whether to cite or book a student with a disability, in addition to considering the alleged criminal violation(s) committed by the student, shall make such determination in compliance with state and federal disability discrimination laws as well as be guided by the totality of circumstances, including (1) whether referral to the formal diversion program or other supports and interventions is appropriate and can address the conduct; (2) the age of the student; (3) the specific disability of the student; (4) the intent of the student; and (5) any other mitigating circumstances.

D. Within 180 days of both entry of judgment and the appointment and approval of a monitor, the Department shall initiate training of all officers and dispatchers in crisis intervention and de-escalation techniques to handle calls that relate to students in a mental health crisis or who

are exhibiting behavior that may be indicators of mental health needs or disability. The Department shall create a procedure to handle such calls that will include a District protocol for referral for a mental health assessment, other than an evaluation under section 5150 et seq. of the Welfare & Institutions Code, where appropriate.

E. Within 180 days of both entry of judgment and the appointment and approval of a monitor, the Department will modify existing policy to include the utilization of qualified sign language interpreters who are skilled in interpreting for law enforcement matters, and who will be on-call to interpret for students who need interpreters for effective communication during police investigations. The modified policy will, absent exigent circumstances, include the use of on-call interpreters should the District or Department determine the need for such an interpreter or if a student or parent makes such a request.

## IV. REVISE USE OF FORCE POLICIES AND INCLUDE FORCE REVIEW PROCESS

A. Use of Force Policy: Within 240 days of both entry of judgment and the appointment and approval of a monitor, the Department shall revise Department Policy 300, Use of Force, with respect to use of force as follows:

1. A police officer may only use the degree of force that is reasonably necessary under the totality of the circumstances known to or perceived by the officer at the time of the incident. In evaluating the reasonableness of any force by its officers, the Department's review shall include the objective condition that most of its enforcement is in a school setting populated by students, the majority of whom are minors.

2. In evaluating the totality of the circumstances regarding the reasonableness of any use of force, the Department shall consider the factors set forth currently in Department Policy 300.3.2, as well as whether the student posed an immediate danger of serious bodily injury to self or others, and the following express circumstances:

a. Whether the student has a known disability or other special needs relating to mental health or behavior;

b. The emotional and physical capacity of the student.

3. Officers shall not use force in an effort to effectuate detention, apprehension, or overcome resistance in response to truancy and other low-level disciplinary conduct. This prohibition does not apply to fighting between students or other instances where force may be reasonably necessary to prevent the risk of bodily injury or harm to the student or others.

4. Officers shall not use force to punish or retaliate against a student or in response to verbal confrontations.

5. Absent exigent circumstances, officers shall not pursue or use force in an effort to effectuate detention, apprehension, or overcome resistance of students who are fleeing relating to truancy or other low-level disciplinary conduct. Officers shall articulate and document the exigent circumstances that exist at the time of the incident.

6. Officers shall use the least intrusive means to encourage compliance with orders or instruction and use de-escalation techniques prior to resorting to force when practicable. In evaluating the reasonableness of any force by an officer, the Department shall review the totality of the circumstances when determining whether the officer had a reasonable opportunity to use de-escalation techniques prior to the use of force.

7. Officers shall not enlist the aid of school staff to assist with effectuating apprehensions or detentions or using force except in instances where the student poses an immediate danger of serious bodily injury to self or others.

8. If force is used on a minor, it shall be reported to the parents or guardians of the minor as soon as practicable.

9. The Department shall provide medical attention to any person injured as a result of police actions in accordance with Policy 300.6. The Department shall revise Policy 300.6 to require that the parents and guardians of any student who is injured as a result of police activity will be notified by the District as soon as practicable.

B. Handcuff/Mechanical Restraint Policy: Within 240 days of both entry of judgment and the appointment and approval of a monitor, the Department shall revise Department Policy

306, Leg Restraint Device, with respect to use of handcuffs and approved mechanical restraints, as follows:

1. Ordinarily, officers shall not use handcuffs or other approved mechanical restraints unless the student poses an immediate danger of serious bodily injury to self or others. In situations involving criminal conduct, officers may use discretion regarding the use of restraints where there is a physical arrest of a student into custody or where there is an immediate and articulable risk of destruction of evidence or fleeing. Officers will be expected to articulate objective indications of such risks and document the application of any restraints. If force is necessary in order to effectuate the use of restraints, any use of force will be evaluated under the Department's use of force policy.

C. De-Escalation Training: Within 240 days of both entry of judgment and the appointment and approval of a monitor, the Department shall develop a training curriculum that incorporates de-escalation techniques in a school-based policing setting. The Department shall provide required training on use of force and de-escalation strategies and techniques considering youth behavior that is developmentally appropriate and trauma-informed.

D. Use of Force Review Process: Within 240 days of both entry of judgment and the appointment and approval of a monitor, the Department shall modify its current policy to include the following use of force review process to ensure accountability:

1. The Department's revised use of force policy, Department Policy 300, shall advise staff that its use of force review will consider whether alternatives to force were available and considered.

2. The Department will modify its use of force policy to include required notice to its supervisors of any complaint of excessive force.

3. The Department shall include in its use of force review process the following expectations of supervisors when responding to and reviewing a reported use of force incident:

a. Responding to the scene;

b. Obtaining the basic facts surrounding the incident from the involved officer(s) and witness officer(s);

c. Interviewing the student upon whom force was used;

d. Interviewing eyewitnesses to the incident including students and District staff;

e. Photographing any apparent or reported injuries or location of pain claimed to have resulted from use of force;

f. Collecting any video or audio evidence of the incident;

g. Reviewing all incident reports to ensure sufficient detail; officers should articulate in such reports the factors perceived and why s/he believed the use of force was reasonable under the circumstances, and describe in detail the force application itself.

4. The Department shall set out in writing its expectations for the supervisor in documenting his/her findings. At a minimum, the supervisor shall be required:

a. To complete the Use of Force Review Form and attach witness statements (audio, visual, or written);

b. To determine whether the officer considered and/or used alternative de-escalation techniques short of force to resolve the situation;

c. To review the tactics of the involved officer(s) prior to the force incident;

d. To review any post-force issues relating to the provision of emergency aid or otherwise stabilizing the situation;

e. To analyze the force to determine the following:

(i) Whether the force complied with the Department's use of force policy;

(ii) Whether alternatives to force such as de-escalation techniques, complied with the District's use of force policy;

(iii) Whether the matter should be referred for an administrative investigation;

(iv) Whether the officer should be referred for additional training and/or briefing.

5. The Department will modify its use of force review process to include a provision for Department's lieutenants to review and forward the supervisor's investigation, findings, and determination through the chain of command. Lieutenants shall be assigned the additional responsibility of reviewing the incident through the lenses of:

a. Accountability

b. Supervision

c. Equipment

d. Training

e. Policy

6. In the event the review of the use of force incident raises significant concerns about the force used by the officer, and/or there is a complaint or allegation of excessive force, the sergeant will recommend referral for an administrative investigation to determine if the force used is within policy, pursuant to the collective bargaining agreement between the District and Operating Engineers Local # 3, and state law.

7. The Department will modify its use of force policy to include the Captain's responsibility to convene a group of supervisors on a regular basis to review reported use of force incidents to identify performance issues and trends. As with the supervisory reviews, the supervisors shall discuss potential issues of supervision, equipment, training, policy, and the use of and alternatives to the application of force. Each review should contain a written action plan for remediation when applicable, and any recommendation whether the incidents or trends suggest that a modification to then-current written policies and procedures should be considered.

8. The Department shall ensure that its performance evaluation system reinforces police officer activity that is geared toward problem-solving, developing positive

relationships with students, and acknowledging when officers resolve conflicts using alternatives other than force.

9. The Department shall revise its foot and vehicle pursuit policies (Department Policies 457 and 314) to ensure consistency with principles of communication and officer safety, as well as effective inter-agency communication and appropriate agency roles both close to and away from school sites, and to continue to require supervisors to review all foot and vehicle pursuit reports.

## V. RESTRAINTS BY SCHOOL STAFF OTHER THAN DISTRICT POLICE OFFICERS

Within 180 days of both entry of judgment and the appointment and approval of a monitor, the District shall revise its policies and procedures to include the following:

A. The District shall create written protocols and training regarding de-escalation techniques for staff consistent with best practices in this area. Annually, school personnel involved in responding to student misconduct, including Campus Security Monitors (CSMs) and Campus Safety Assistants (CSAs), shall receive training on school-wide programs of positive behavioral supports and other strategies, including de-escalation techniques, for preventing student behavior that leads to the use of physical restraints. This training shall include training on compliance with federal and state law relating to behavioral restraints, including Education Code sections 56520-23 and 49005-49006. Within 360 days of the entry of judgment and the appointment and approval of a monitor, the District shall implement this training.

B. All school personnel shall comply with the requirements of the Education Code with respect to using emergency behavioral interventions and physical restraint techniques, including Education Code sections 56520-23 and 49001. CSMs, CSAs, and school staff shall be trained not to use force except under exigent circumstances, in compliance with federal and state law, and only after being trained. CSMs, CSAs, and school staff shall use only the amount of force that is reasonable and necessary to quell a disturbance threatening physical injury to persons or property, in self-defense, or to obtain weapons, as provided for in Education Code section 49001. Any use of force by a CSM, CSA, or school staff shall be documented and reviewed by

the District. With the Department's assistance if requested, the District shall determine whether the force was consistent with District policy and procedure and state and federal law. The District shall create a protocol to ensure that any complaint of excessive force made against a CSM, CSA, or school staff is effectively investigated, reviewed, and documented. The protocol, which is subject to negotiations with applicable bargaining unit representatives, shall include the process to establish a timeframe for final resolution and remedial action, if warranted.

C. School staff shall use as a resource for training school staff in the use of physical restraints the U.S. Department of Education's "Restraint and Seclusion: Resource Document." There shall be a District policy that physical restraint techniques may only be utilized by individuals trained in their application. Each school site shall determine which staff is trained and maintain a list of those who are trained. The training provided shall include the U.S. Department of Education's advisory in 2012 that physical restraint techniques shall be avoided unless the student's behavior poses immediate danger of serious physical harm to the student or others, as well as federal and state law requirements relating to behavioral restraints.

D. There shall be a formal process, negotiated with applicable bargaining unit representatives, to document all instances of the use of physical restraint techniques. The District shall regularly review data on the use of physical restraints to determine whether certain staff or school sites are utilizing restraint techniques learned in training inappropriately or disproportionately. If so, the District pursuant to the protocol provided for above, shall when applicable, develop an individual remediation plan for the staff member and/or school site.

E. The schools shall comply with Education Code section 56520 et seq. regarding the completion of behavioral emergency reports ("BERs") for students with disabilities. The District's Special Education Department will review data on BERs on a monthly basis to determine whether certain administrators or staff are utilizing restraint techniques disproportionately and/or in violation of the Education Code. If so, the District shall immediately develop an individual remediation plan for the staff members and/or school site.

## VI. RECORDS AND NOTIFICATION

A. Within 120 days of both entry of judgment and the appointment and approval of a monitor, the District shall revise its policy to require schools to take immediate steps to contact a parent/guardian to obtain oral consent before any police interrogation of a minor student and give the parent/guardian a reasonable opportunity to be present for any police interrogation (unless the child is a suspected victim of child abuse). Absent extenuating circumstances (such as an ongoing investigation of a serious nature or felony), officers shall avoid interviewing and apprehending students at school for non-school-related issues.

B. The Department has updated policy and provided training to ensure compliance with Senate Bill 395 (approved by Governor, October 11, 2017 (2017-2018)), codified at Welfare & Institutions Code section 625.6(a).

C. Within 120 days of both entry of judgment and the appointment and approval of a monitor, the District shall create a policy prohibiting school administrators from requesting the transport of students by police officers after students misbehave and/or are disciplined. Department officers will only transport students home if requested by the parent/guardian and/or in compliance with Policy 324 (Temporary Custody of Juveniles) absent exigent circumstances.

D. The District's current policy and regulation (Board Policy and Administrative Regulation 5145.11, Questioning and Apprehension) requires the District to maintain records of any interviews of students by officers on school grounds. The District shall modify Board Policy 5145.11 to include centrally maintaining records of any such interviews, and referencing the specific information that Administrative Regulation 5145.11 currently requires.

## VII. SEARCHES AND SEIZURES

A. Within 180 days of both entry of judgment and the appointment and approval of a monitor, the District shall review and revise its Search and Seizure Policy and Regulation, Board Policy 5145.12 and Administrative Regulation 5145.12, in consultation with the monitor, submit to the Attorney General's Office for approval, and obtain Board approval.

1. The District has suspended its practice of school site administrators conducting random, suspicionless classroom searches and its canine inspection program pending

the development and approval of its revised search and seizure policy, Board Policy and Administrative Regulation 5145.12. The policy will be revised to require that any such searches and seizures be supported by a specific finding of a current identified drug or safety problem at the school. School administrators involved with the administration of random, suspicionless classroom searches and the canine inspection program shall be trained. The revised policy shall expressly provide that any random, suspicionless searches, along with any seizures related hereto, including those conducted pursuant to its canine inspection program, will conform to state and federal law and Constitutions, and that inspections may include procedures for students to be notified at the time of each search that they are allowed to take their belongings with them. Any such searches and seizures shall be conducted in accordance with controlling legal standards, including as set forth in *Vernonia Sch. Dist. v. Acton*, 515 U.S. 646 (1995), *B.C. v. Plumas Unified Sch. Dist.*, 192 F.3d 1260 (9th Cir. 1999), and any subsequent controlling caselaw. The revised search and seizure policy shall also expressly prohibit random, suspicionless pat-down searches on students.

2. The District shall require annual mandatory training of school administrators (and any other staff who may participate in searches and seizures) and police officers on the Fourth Amendment in schools and the revised policy. The training shall be developed in consultation with the monitor, subject to the approval of the Attorney General's Office.

3. The District shall publicize the revised policy when issued, and thereafter, in an annual notice to parents and students.

4. The Department shall ensure officers are properly trained regarding consent to search cell phones, backpacks, or other personal property, consistent with Department Policy 322, Search and Seizure.

5. Any search of a student's personal electronic device must conform to the requirements of the state and federal Constitutions and California Electronic Privacy Communications Act. (Pen. Code, § 1546.1.)

## VIII. TRAINING

A. Department Officers: Within 180 days of both entry of judgment and the appointment and approval of a monitor, Department officers shall be required to be trained on the new policies set forth in this agreement and the Department shall create a mandatory training plan that will include the frequency of when officers will be trained. The training plan will be reviewed annually, and developed in consultation with the monitor and subject to the approval of the Attorney General's Office. The training plan will incorporate recommendations on specific training topics for school-based officers from U.S. DOJ COPS' SECURe Local Implementation Rubric and National Association of School Resource Officers, such as:

1. Constitutional and civil rights
2. Childhood and adolescent development
3. Age appropriate responses to student conduct
4. Disability and special education issues
5. Conflict resolution and de-escalation techniques (as required in the Use of Force section)
6. Bias free policing, including implicit bias and cultural competence
7. Responses to trauma
8. Restorative justice techniques
9. Interacting with specific student groups, such as students with disabilities or limited English proficiency

B. School Administrators: Within 180 days of both entry of judgment and the appointment and approval of a monitor, school administrators shall be required to be trained on the new policy relating to police assistance and student referrals to law enforcement. They shall also be required to be trained annually on the following issues:

1. Implicit bias
2. Cultural competence
3. Responses to trauma
4. Restorative practices

5. Constitutional and civil rights, including the Fourth Amendment of the U.S. Constitution, Title VI of the Civil Rights Act of 1964, and compliance with the ADA

6. Conflict resolution and de-escalation techniques

## IX. COMPLAINT SYSTEM

A. Within 180 days of both entry of judgment and the appointment and approval of a monitor, the Department will review and revise Department Policy 1020, Personnel Complaints, its formal complaint procedure, in consultation with the monitor and subject to approval by the Attorney General's Office, in a format which is easily understood and publicized to students, parents/guardians, and the community, including students and parents/guardians with limited English proficiency. This procedure shall include the timeframe for handling complaints and procedures to avoid conflicts of interest.

1. Complaints regarding officer misconduct are made a variety of ways, including via the telephone, through the Uniform Complaint Process, or directly to the District and/or Department. The Department has developed and implemented a formalized complaint process that ensures all complaints, whether informally or formally made, are centrally tracked and investigated through the appropriate channels. The existing complaint process has set forth the requirement that if a student makes an allegation of excessive force orally to the officer at the time of the incident, it is treated as a complaint. The current process also sets forth procedures to avoid conflicts of interest (i.e., the officer who is the subject of the investigation shall not be involved in the investigation).

2. The Department shall develop a mechanism for the potential resolution of complaints through mediation or other forms of alternative dispute resolution.

3. Complaints will be investigated in accordance with the Public Safety Officers Procedural Bill of Rights Act, Government Code section 3300 et seq.

4. The Department's Personnel Complaint Policy (1020.4.1) requires complaint forms to be in plain view at its headquarters (and available in languages other than English pursuant to Education Code section 48985). To ensure compliance, the policy shall

designate one police official with the relevant responsibility; that person shall be responsible for lapses of this requirement.

5. On an annual basis, the District shall publish its Department of Justice mandated Annual Report of Citizens' Complaints against Peace Officers that contains general information regarding complaints, including the types of complaints and outcomes, which does not identify complainant and officer identities. The annual report shall be published on the District's website and provided to the Community Advisory Committee described below. The data contained in the annual report shall also be utilized in informing the District's decision making and public consultation relating to the crafting of the District's Local Control and Accountability Plan.

6. Within 180 days of the both entry of judgment and the appointment and approval of a monitor, the District shall create a draft formal complaint procedure, in consultation with the monitor and subject to approval by the Attorney General's Office, which is easily understood and publicized to students, parents/guardians, and the community, including students and parents/guardians with limited English proficiency. This procedure shall include the timeframe for handling complaints and avoiding conflicts of interest.

a. The District shall ensure that any complaint of use of excessive force made against a school official, including a CSM, a CSA, a school site administrator, or a school employee, is effectively investigated and reviewed, and that the complainant is kept apprised throughout the investigation of the status and resolution.

7. The District shall provide the monitor with a biannual report that contains a summary of all complaints against school officials and how they are handled.

## X. DATA ANALYSIS

A. Within 90 days of both entry of judgment and the appointment and approval of a monitor, the Department shall modify the Computer Aided Dispatch form to include an "Ethnicity" field, similar to how the case reports track race and ethnicity. Any data required to be submitted to the monitor or to the Attorney General's Office shall also differentiate accordingly.

B. Beginning 120 days from both entry of judgment and the appointment and approval of a monitor, the Department shall on, a monthly basis, analyze data regarding contacts with students on District sites to determine:

1. School requests for assistance
2. Resolution (including resulting police action) of the school requests for assistance
3. Citations issued
4. Bookings
5. Counsel and releases
6. Instances where force was used and by whom

C. The data shall be disaggregated by school site, type of offense or incident, resolution, and student demographics (e.g., age, race, ethnicity, English-Language Learner status, foster youth status, gender, disability, whether student has an IEP or Section 504 plan), and provided to the District and the Community Advisory Committee on a quarterly basis in a format that will protect any confidential information about the students included in the report.

## XI. DISTRICT OVERSIGHT

A. The District must provide comprehensive oversight of the Department. Within 180 days of both entry of judgment and the appointment and approval of a monitor, the District, in consultation with the Department, shall retain an outside police professional to submit to the District, within 180 days of being retained, a publicly available annual report that shall not disclose confidential information about students or staff. The annual report shall address the state of the Department, and shall include input from the monitor during the term of the judgment, as well as from the Community Advisory Committee.

B. The Department shall immediately inform the Superintendent and/or designee of any complaints it receives relating to allegations of excessive force, racial profiling, harassment, or discrimination by Department personnel. On a quarterly basis, the Department shall provide the Superintendent with a summary report of complaints based on the tracking log described in Section IX, Complaint System.

C. The District shall annually convene school site administrators and members of the Department to discuss any questions, issues, or changes to policies relating to the Department's role.

D. Within one year from the both the entry of judgment and the appointment and approval of a monitor, the District and the Department shall, with necessary stakeholders, which may include staff, consultants, students, and community members, create a plan to reduce disproportionalities in referrals by administrators to law enforcement, which as a result, would reduce the disproportionalities in citations and bookings. Action on the plan shall be initiated within 30 days of its approval by the Board. The plan shall be implemented within the monitoring period.

## XII. COMMUNITY ADVISORY COMMITTEE

A. Within 240 days of both entry of judgment and the appointment and approval of a monitor, the District shall create a Community Advisory Committee ("Committee") that will meet quarterly, which will be comprised of students, parents, educators, and community members. The purpose of the Committee, as described in subsection (C) below, is to provide comments to the Department and the District on changes to policies and procedures, the diversion program established as an alternative to citations and bookings, and to make recommendations to reduce the disproportionalities in the student referrals to law enforcement and which as a result, would reduce the disproportionalities in citations and bookings.

B. The District shall invite representatives from the following categories of persons or entities, though members of the Committee are not limited to the following:

1. Students
2. Parents
3. School Administrators and/or Educators
4. Community Organizations, including Stockton Education Equity Coalition
5. District Attorney's office
6. Public Defender's office
7. San Joaquin County Probation Department

8. San Joaquin County child welfare agency

9. San Joaquin County Juvenile Justice and Delinquency Prevention Commission

C. The duties of the Committee shall generally include, but are not limited to:

1. Review of the Department's recruitment efforts and employee statistics (i.e., hiring, termination, resignations, etc.);

2. Review and comment on changes or revisions to policies and procedures;

3. Review of annual report relating to complaints described above;

4. Review of feedback (i.e., surveys) from the community regarding the Department's practices;

5. Review and comment on the formal diversion program and its impact on data results (i.e., citation/booking outcomes); and

6. Review of the police assistance and student referral policy and Student Response (Referral) Matrix and referral statistics, including providing recommendations with respect to reducing disproportionalities in referrals, citations, and bookings. Such recommendations shall inform the plan set forth above in Section XI(D).

D. Within 45 days of each meeting, the Committee shall provide a written summary of the meeting to the public, to the monitor, to the District Superintendent, and to the Chief of Police.

E. The Chief of Police and the District Superintendent or designee will review the summaries to identify potential improvements or modifications to Department policies and/or practices.

## XIII. HIRING AND QUALIFICATIONS

A. Within 240 days of both entry of judgment and the appointment and approval of a monitor, the Department shall formalize its hiring preference for officers who have experience working with children and youth and who have ties to the community. The Department shall note

in its recruitment and application materials its preference for applicants with experience and interest in school policing and working with youth.

B. The Department currently selects officers to be School Resource Officers (SROs) at specific schools through an interview process. The Department shall require that selected SROs have experience working well with and a desire to work with children and youth. The Department shall, after reviewing the totality of the circumstances involving a particular applicant or employee, use its experience and professional judgment in making SRO assignments. The totality of the circumstances in this context shall include whether the individual has experience in not working well with children and youth or has any substantiated complaints relating to excessive force or discrimination.

## XIV. MONITORING

A. The Judgment shall be overseen by a qualified third-party monitor, who shall be provided access to information and documents to ensure compliance and whose reasonable costs and expenses shall be paid for by the District. The District is committed to allocating all costs necessary to comply with the terms of the Agreement and if the District believes that any monitoring costs are not reasonable, the District shall meet and confer with the Attorney General's office within 15 days of the receipt of each invoice. The monitor shall provide the Attorney General's Office and the District with monthly invoices detailing each expense along with any documentation necessary to justify each expense. At the sole direction of the Attorney General's Office, the monitor shall provide the Attorney General's Office with a bi-annual report on the status of compliance with the Judgment following the date of the entry of this Judgment for a period of five years, unless time is extended as set forth in Section XVI(E) below, in which case the monitor shall continue to provide bi-annual reports until this Judgment's enforcement period ends. The District's selection of a monitor will be subject to Attorney General's approval. Within 15 days of the entry of judgment, the parties shall meet and confer regarding the identity of the monitor.

## XV. APPROVALS BY THE ATTORNEY GENERAL'S OFFICE

A. It is the intent of the parties to work collaboratively to address any potential violations of this Judgment. If the Attorney General denies approval of any policy, plan, procedure, protocol, or any other document submitted to the Attorney General's Office by the District as required per this Agreement, the Attorney General, will, within 60 days of the date on which the Attorney General advises the District of such disapproval, negotiate in good faith to reach a resolution of any dispute. If the parties are unable to reach agreement regarding a provision of this Agreement that is subject to approval by the Attorney General's Office, the matter or matters upon which they disagree will be submitted to the Court for initiation of any further proceedings that the Court may deem at its discretion necessary to reasonably resolve the matters in dispute. In response to any enforcement action brought by the Attorney General to enforce this Judgment, any party may present evidence that the District has or has not taken corrective or remedial action required by the Agreement to address any potential violation of this Judgment.

## XVI. CONTINUING JURISDICTION OF COURT AND COMPLIANCE

A. The Attorney General's Office may make reasonable requests to the District for additional information demonstrating its compliance with any provision(s) of this Judgment. The District shall furnish such information within 30 days after the request is made, unless another date is agreed upon in writing.

B. Jurisdiction is retained by the Court to enforce the Judgment for a period of five years, unless time is extended pursuant to subsection E below, for the purpose of enabling any party to the Judgment to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the interpretation or the carrying out of this Judgment, for the modification of any of the injunctive provisions hereof, for enforcement of compliance herewith, and for the punishment of violations hereof, if any.

C. This Judgment shall take effect immediately upon entry thereof and service by mail of "Notice of Entry of Judgment" upon all parties, through their counsel of record.

D. The Attorney General and the District may jointly stipulate to make changes, modifications, and amendments to the Stipulation and Judgment for what the parties deem to be material revisions, which shall be effective after a joint motion is filed by the parties and is granted by the Court.

E. Any time limits for performance imposed by the Judgment may be extended by the mutual agreement, in writing, of the Attorney General's Office and the District, and/or by order of the Court for good cause shown.

F. Nothing in this Judgment alters the requirements of federal or state law to the extent these laws may currently, or upon future amendment will, offer greater protection.

G. Nothing in this Judgment limits the powers vested in the Attorney General by the California Constitution and state statutory law, including Government Code section 11180 et seq., to oversee or enforce any California laws or regulations, which he/she may use to monitor the District's compliance with the terms of the Judgment.

H. The injunctive provisions of this Judgment shall apply to the District as well as its successors, directors, officers, employees, agents, independent contractors, partners, associates, and representatives of each of them with respect to their activities in the State of California.

I. The clerk is ordered to enter this Judgment forthwith.

DATED: _____

_____
JUDGE OF THE SUPERIOR COURT

# APPENDIX A

Stockton Unified School District
POLICE DEPARTMENT
Anne Brewer, Chief of Police

SPECIAL ORDER 17-001

TO: All Police Staff
FROM: Anne Brewer
DATE: August 10, 2017
SUBJECT: SPECIAL ORDER 17-001 – Truant Students

The Department works closely with Child Welfare and Attendance (CWA) and allied agencies to reduce the number of truant students in the neighborhoods and business, particularly during school hours.

In our continued efforts to provide quality, professional and appropriate law enforcement services, and work in concert with CWA, the following special order will take effect immediately with regard to calls for service or working with truant students:

- Parents/guardians contacting District Police for truancy concerns should be referred to the appropriate site or CWA for assistance
- Sites wishing to make truancy referrals should be referred to CWA for assistance
  - ✓ CWA will work with District Police to make an appropriate determination regarding participation in requests for intervention, involvement or other assistance
    - It is important that officers do not intervene in enforcing truancy violations unless and until CWA first verifies that the truancy breaks compulsory attendance laws
- District police officers who observe possible truancy violations should make contact with students to determine their status, and, if confirmed truant:
  - ✓ Transport the student to the proper school
  - ✓ Escort student to administrative office
  - ✓ Notify the parent/guardian of the police transport as soon as practicable
- District Police may assist CWA staff with enforcement of truancy violations or sweeps
  - ✓ Officers will complete incident reports as needed which will be routed to CWA
  - ✓ CWA staff will coordinate efforts with District Police in advance
- District Police may assist CWA staff with conducting home visits of truant students
  - ✓ If/when CWA staff request assistance due to possible safety concerns
  - ✓ CWA staff will make every effort to schedule/coordinate home visits in advance