

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KAARYN GUSTAFSON; MICHAEL
EMMETT; ALAINE PERRY; on behalf of
themselves and all others similarly situated;
COALITION FOR ACCESS AND
DISABILITY RIGHTS EVERYWHERE
("CADRE"),

Plaintiffs,

v.

UNIVERSITY OF CALIFORNIA at
BERKELEY; REGENTS OF THE
UNIVERSITY OF CALIFORNIA; and
ROBERT M. BERDAHL, CHANCELLOR OF
THE UNIVERSITY OF CALIFORNIA,

Defendants.

CASE NO. C-97-4016 BZ

CLASS ACTION

SETTLEMENT AGREEMENT AND
RELEASE OF CLAIMS

RECITALS

1. On or about October 31, 1997, Named Plaintiffs Kaaryn Gustafson, Michael Emmett, Elaine Perry and the Boalt Disability Law Society ("BLDS") (f.k.a. Coalition for Access and Disability Rights ["CADRE"]) commenced a civil class action in the United States District Court for the Northern District of California, Case No. C-97-4016 BZ (the "Lawsuit"), against defendants, alleging, *inter alia*, discrimination in violation of Title II of the Americans with Disabilities Act codified at 42 U.S.C. § 12132, et seq. ("ADA") Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, et seq. ("Section 504") and California Civil Code §§ 51 *et seq.* and 54 *et seq.* regarding physical Access at the University of California at Berkeley ("UC Berkeley") to people with mobility disabilities. Thereafter, the parties stipulated that the complaint would also include claims under California Government Code §§ 11135 *et seq.* regarding physical Access at UC Berkeley to people with mobility disabilities. Subsequent to the filing of the case, the Boalt Disability Law Society replaced CADRE as the organizational plaintiffs.

2. Defendants are the University of California at Berkeley, The Regents of the Universities of California, and Robert M. Berdahl, in his official capacity as the Chancellor of the University of California at Berkeley (collectively, "the University").

3. On or about February 2, 1999, the parties entered into a Joint Expert Agreement under which they agreed to retain joint and neutral experts to evaluate and make recommendations on ways to improve Access and remove barriers for students with mobility disabilities on the UC Berkeley campus. In entering into the Joint Expert Agreement, the parties understood and agreed that the use of the joint experts would assist the parties in resolving the Lawsuit. The parties thereafter agreed to include in the joint expert evaluation physical barriers that affect Access for students with vision disabilities.

4. On or about May 30, 2000, pursuant to the Stipulation by and between the parties to the Lawsuit, the United States District Court for the Northern District of California, per the Honorable Magistrate Judge Bernard Zimmerman, entered an Order certifying, for purposes of Rule 23(b)(2) of the Federal Rules of Civil Procedure the following class (hereinafter referred to as the "Class"):

1 All UC Berkeley students disabled by mobility impairments as defined under state
2 and/or federal law who since October 31, 1994, have allegedly been denied their
3 rights under Section 504 of the Rehabilitation Act of 1973, Title II of the
4 Americans with Disabilities Act, California Civil Code §§ 51, *et seq.*, California
5 Civil Code §§ 54, *et seq.*, California Government Code §§ 4450, *et seq.*, and/or
6 California Civil Code §§ 11135, *et seq.*, to access to the programs, services,
7 and/or activities of the University of California, Berkeley resulting from and/or
8 relating to physical barriers.

9
10 5. Subsequent to this Order certifying the Class, the Parties agreed to include issues
11 related to access for students with vision disabilities in the settlement negotiations. Accordingly,
12 the Parties stipulate to the certification of a settlement class defined as:

13 All UC Berkeley students disabled by mobility and/or vision impairments as
14 defined under state and/or federal law who allegedly have been denied their rights
15 under Section 504 of the Rehabilitation Act of 1973, Title II of the Americans
16 with Disabilities Act, California Civil Code §§ 51, *et seq.*, California Civil Code
17 §§ 54, *et seq.*, California Government Code §§ 4450, *et seq.*, and/or California
18 Civil Code §§ 11135, *et seq.*, to access to the programs, services, and/or activities
19 of the University of California, Berkeley resulting from and/or relating to physical
20 barriers.

21 6. On or about May 24, 2000, the Court in the Lawsuit entered an Order approving
22 the parties' Stipulation Regarding Mediation and Arbitration of Issues. Pursuant to that
23 Stipulation and Order, the parties agreed to submit all claims alleged in the Lawsuit to the
24 Honorable Eugene F. Lynch (Ret.) of JAMS for mediation and/or binding arbitration as provided
25 therein. This Class Action Settlement has been developed and agreed to pursuant to this
26 Mediation process.

27 7. The University denies any and all liability to the Named Plaintiffs and to the Class
28 Members and denies that it has violated any laws, including without limitation the ADA and
Section 504, pertaining to Access for people with mobility and/or vision disabilities.

8. The University, the Class, and the Named Plaintiffs, and each of them, now desire
to resolve their differences and disputes by settling this Lawsuit in such a manner as to:

a. Maintain and improve Access for people with mobility and/or vision
disabilities to all of UC Berkeley's programs, services and activities;

b. Assure that neither CADRE, the Class nor any Class Member (hereinafter
collectively, "Plaintiffs") shall attempt to enforce, and the University shall not thereby be subject
to, conflicting standards regarding compliance with the statutes and regulations at issue in this

1 case; and

2 c. Assure that the University shall not apply differing standards than set forth
3 herein regarding compliance with the statutes and regulations at issue in this case.

4 8. Notwithstanding anything to the contrary in this Agreement, this Settlement
5 Agreement and Release does not apply to, address, or release any claims relating to any of the
6 following: the adequacy of the University's intranet and internet services to students with vision
7 disabilities; future new construction and alteration work, except the disability access work and
8 remediation specifically addressed herein; study abroad programs; U.C. Extension; and remote
9 research facilities.

10 **I. DEFINITIONS**

11 As used in this Settlement Agreement and Release (hereinafter the "Agreement"), the
12 following terms shall have the meaning ascribed to them in this Section and in the Recitals.
13 Except to the extent clearly required to the contrary by the context of its usage in this Agreement,
14 any term not expressly defined in this Section or elsewhere in this Agreement that has an
15 expressly defined meaning in either the ADA, Section 504, or the regulations promulgated
16 thereunder (hereinafter the "Federal Statutes and Regulations"), and/or by California Civil Code
17 §§ 51 *et seq.* and 54 *et seq.* and California Government Code §§ 11135 *et seq.* or the regulations
18 promulgated thereunder (hereinafter the "State Statutes and Regulations"), shall have the
19 meaning ascribed to it by the Federal Statutes and Regulations and State Statutes and
20 Regulations. All other terms shall be interpreted according to their plain and ordinary meaning.

21 **A. Access or Accessible**

22 "Access" and "Accessible", unless otherwise indicated, mean and refer to conditions that
23 comply with the standards set forth in the Federal Statutes and Regulations and the State Statutes
24 and Regulations.

25 **B. Agreement**

26 "Settlement Agreement" and "Agreement" mean and refer to this document.

27 **C. Arbitrator and Mediator**

28 "Arbitrator," "Mediator," and "Mediator/Arbitrator" shall mean Judge Eugene F. Lynch

(Ret.) of JAMS. Should Judge Lynch not be available in the future to act as the arbitrator or mediator under this agreement, the parties agree that any one of the following JAMS Endispute panelists may hear a disputed issue: Daniel Weinstein, Cathy Yanni, and Rebecca Westerfield. If none of these individuals is available, the parties shall agree upon a replacement Mediator/Arbitrator, and if they are unable to do so, JAMS shall appoint a replacement.

D. Assistant Provost, Office of Equity Standards and Compliance

“Assistant Provost, Office of Equity Standards and Compliance” and “AP-ESC” mean and refer to that individual appointed by the University, in accordance with Section III.C of this Agreement, who shall have responsibility for the functions and duties set forth herein.

E. Class Counsel

“Class Counsel” means and refers to the law firms Disability Rights Advocates and Schneider and Wallace, including the lawyers and other employees therein.

F. Code Access or Code Accessible

“Code Access” and “Code Accessible” mean and refer to conditions that comply with the Americans with Disabilities Act Accessibility Guidelines (“ADAAG”) and Title 24 of the California Code of Regulations that are in effect at the time of the subject barrier removal, alteration, or other disability access initiative.

G. Designated Waiting Area

“Designated Waiting Area” means a clearly identified area with space for wheelchair users and others to wait for rescue assistance in case of emergency.

H. Disability

“Disability” shall have the same meaning as set forth in the Federal Statutes and Regulations and State Statutes and Regulations.

I. Effective Date

The “Effective Date” of this Settlement Agreement shall mean the date on which the District Court issues an Order granting Final Approval of the settlement.

J. Facilities Access Plan

“Facilities Access Plan” means and refers to the facility-by-facility surveys and

prioritization of improvements conducted pursuant to this litigation and the resulting “Campus Access Improvement Recommendations Report One – Campus Facilities.”

K. Final Approval

“Final Approval” shall mean and refer to an order approving the Settlement Agreement after Notice to the Settlement Class and the holding of a Fairness hearing.

L. Information Channels

“Information Channels” shall include dissemination of information through the following: the UC Berkeley Campus Access Guide, UC Berkeley’s Disabled Students’ Program (“DSP”) website, and the AP-ESC website; provision of hardcopies (in alternative Accessible formats) at the offices of DSP and the AP-ESC; and in materials provided to students newly registering with DSP. Where appropriate, such information will also be provided in orientation materials for new students, on the campus website and in the annual catalogue.

M. New Construction and Alteration Requirements

“New Construction and Alteration Requirements” means and refers to the Code Access requirements applicable under the Federal Statutes and Regulations and State Statutes and Regulations when facilities are renovated, remodeled, newly constructed and/or altered. These include the provisions of 28 C.F.R. § 35.151 and Title 24 of the California Code of Regulations.

N. Program Access

“Program Access” means and refers to the provision of Access to the programs, services and activities of UC Berkeley for students with mobility and/or vision disabilities, as required under Title II of the ADA, Section 504 of the Rehabilitation Act of 1973, California Govt. Code §§ 11135, *et seq.*, their implementing regulations, and the applicable case law.

O. Settlement Period

“Settlement Period” shall mean the time period commencing on the Effective Date of the Settlement and concluding on the same month and day fourteen years later.

P. Settlement Progress Reports

“Settlement Progress Reports” shall mean the reports described in Section IV(B) to be provided by the University describing the University's compliance with the terms of this

1 Agreement.

2 **Q. University**

3 The "University" means and refers to each and all of the defendants as defined in Recital
4 No. 2 hereinabove, including UC Berkeley. The "University" includes The Regents, and the
5 officers, directors, employees, attorneys, agents and insurers of the individually named
6 defendants, their successors and assigns, and each of them.

7 **II. APPROVAL**

8 Upon Final Approval of this Settlement Agreement by the District Court, all Class
9 Members and the University shall be bound by all of the equitable relief provisions of this
10 Settlement Agreement and orders issued pursuant thereto.

11 **III. EQUITABLE RELIEF**

12 The Parties agree that the University is obligated to and will provide Program Access to
13 UC Berkeley's academic and non-academic programs, services, and activities for students with
14 mobility and/or vision disabilities in regards to physical access. To that end, the Parties hereby
15 agree that, conditioned upon entry of Final Approval by the District Court, the University shall
16 do the following in order to ensure provision of Program Access to the programs, services and
17 activities of UC Berkeley to students with mobility and/or vision disabilities:¹

18 **A. Access Improvements: Building Accessibility**

19 The University, in accordance with the schedule provided in Attachment A, shall provide
20 the following improvements:

21 **1. Building Entrances:**

22 **a.** For each building where programs, services, or activities are held or
23 provided to or for class members, provide a minimum of one Useable Entrance. The University
24 will make the entrances depicted in Attachment B the Useable Entrances for the facilities
25 covered in that attachment. For building complexes with multiple facilities, the University will
26 provide a Useable Entrance for each individual building.

27 _____
28 ¹ The parameters, criteria and schedules for the University's access improvement work on building entrances, restrooms and paths of travel are further described in Attachments A-G to this Agreement, which Attachments are incorporated by reference in this Agreement. To the extent that there may be inconsistencies between any of these Attachments and the text of this Agreement, the text of this Agreement shall control.

b. Install signage at all other entrances directing individuals with disabilities to the Useable Entrance

c. As used in this Section III.A.I of this Agreement, "Useable Entrance" means useable by people with mobility and/or vision disabilities. A Useable Entrance shall meet, where feasible, the Usability Checklist criteria for Useable Entrances, set forth in Attachment C. The Usability Checklist criteria will be met within one inch tolerance except as follows:

- i. handrails and thresholds shall meet the Usability Checklist with no more than a 5% deviation from any required dimension; and
- ii. door width shall be at least 32" clear.

d. For building complexes with multiple facilities, provide a Useable entrance for each individual building.

e. For each building provide contrast striping and useable handrails on at least one pathway leading to a Usable entrance.

f. Keep the Usable entrances unlocked during the same hours as the primary entrances unless temporary security concerns and/or unusual emergency circumstances make that infeasible. In an entire building is locked after-hours and a security guard is posted at a non-useable entrance, the University shall provide at the useable entrance a method of two-way communication that will connect directly with the security guard posted at the non-useable entrance of the building. The security guard will promptly unlock the useable entrance upon request.

g. The University retains the right to identify in its annual work plan as required by Section II.A.4, herein, a particular building entrance where a particular Usability Checklist item will not be met due to infeasibility (including, but not limited to, prohibitive cost).

2. Restrooms

The University, in accordance with the schedule provided in Attachment B, shall provide the following improvements:

1 a. In each building where programs, services, or activities are held or
2 provided to or for class members, if restrooms are provided, ensure that there is at least one
3 Useable restroom for each gender. In addition, unless infeasible, additional existing restrooms in
4 each building shall be modified to ensure that there will be a maximum of a 200-foot distance
5 (measured horizontally and/or vertically) between each building's program areas and Useable
6 Restroom for each gender.

7 b. As used in Section III.A.2 of this Agreement, "Useable Restroom" means
8 useable by people with mobility and/or vision disabilities. A Useable Restroom shall meet,
9 where feasible, the Usability Checklist criteria for Useable Restrooms set forth in Attachment E.
10 The Usability Checklist criteria will be met within a one inch tolerance except for grab bars and
11 thresholds, which shall be met with no more than a 5% deviation from any required dimension.
12 In addition, where feasible, the University will ensure that at least one entrance to a Useable
13 Restroom for each gender in each building as a 32" clear door width.

14 c. The University retains the right to identify in its annual work plan as
15 required by Section III.A.4, herein, a particular restroom where a particular Usability Checklist
16 item will not be met due to infeasibility (including, but not limited to, lack of program use of
17 building and/or prohibitive cost).

18 3. Interior Signage

19 All interior signs that are installed pursuant to this Agreement after the Effective Date of
20 the Agreement will be Code Accessible. In addition, the University will develop and implement
21 a plan for modifying existing signage in buildings where programs, services, or activities are
22 held or provided to or for class members to facilitate independent navigation by students with
23 mobility and/or vision disabilities. This signage access program will be incorporated into the
24 annual work plan required under Section III.A.4, below.

25 4. Other Building/Facility Access Conditions

26 a. To address all other physical access features of buildings and facilities
27 aside from the features covered in Sections III.A. 1-2 above, the University, beginning one year
28 from the Effective Date and annually thereafter, will provide plans of action ("Annual

1 Implementation Plans”) that address during the fourteen (14) years following the Effective Date
2 all other barriers found in the surveys that have been found in the surveys that have been
3 conducted of University buildings and facilities including the surveys conducted in preparation
4 of the Facilities Access Plan. These Annual Implementation Plans will be submitted to both the
5 Joint Experts and Class Counsel. The University shall identify in these annual plans:

- 6 i. those barriers that will be removed, eliminated, or otherwise
7 obviated, with a schedule for removal, and
- 8 ii. those barriers that were identified in such surveys but which the
9 University does not intend to remove because the University
10 determines that the barrier removal is not necessary to provide
11 Program Access.

12 b. The University shall plan to remove those barriers according to the
13 priorities set forth in the Priority List of Campus Buildings set forth in Attachment F, provided
14 however, that the University may reprioritize (subject to Section II.A.4.d., below) its building
15 access improvement plan as conditions warrant. Any such reprioritization or modification of
16 scheduling shall be identified in the University’s Annual Implementation Plans.

17 c. The Annual Implementation Plans required under this section will be
18 reviewed by the Joint Experts, and the Joint Experts will provide their comments on the planned
19 barrier removal, as well as on the barriers that the University does not intend to remove. The
20 Joint Experts shall also provide their comments on any proposed modifications to priorities. The
21 Joint Experts shall submit their comments to the parties no later than thirty days after the
22 University submits its annual plan.

23 d. If the parties are not in agreement with regard to the need for the removal,
24 elimination, and/or obviation of a particular barrier or barriers, or disagree regarding any
25 proposed changes to priorities, or disagree over the feasibility of any particular access
26 improvement measure arising from this Agreement after receiving the Joint Experts’ comments,
27 this disagreement shall be resolved via the Dispute Resolution provisions set forth in Section V
28 of this Agreement.

B. Access Improvements: Paths of Travel around Campus

1. By the deadlines specified in Attachment C to the Agreement, the University

a. Will make all the paths marked as Primary Routes and Building Connections in Attachment G Code Accessible. Additionally, within five (5) years of the Effective Date of the Settlement, the University will make one path leading directly from the east edge of campus into the interior of the central campus Code Accessible through the new Stanley Hall or the Haas School of Business. All Code Accessible paths shall be open for use at all times, unless unusual emergency circumstances require otherwise. The University reserves the right to provide access through the new Stanley Hall or Haas School of Business by coded access cards, available to qualified students through the DSP.

b. Will increase the Accessibility of the paths marked as Auxiliary Routes in Attachment C, bringing them as close as feasible to Code Accessible.

2. Within two years of the Effective Date, the University shall, for all existing paths and roads on campus generally used by students, complete the following:

a. Replace all storm drain grates located in those paths of travel that are not ADAAG-compliant with ADAAG-compliant grates, eliminating all openings in the direction of these paths of travel larger than ½”.

b. Replace or modify all bollards located in those paths of travel with locking bollards that meet grade smoothly, eliminating tripping hazards. The University will cap all holes when the bollards are not in place, and cap or fill all holes from permanently removed bollards.

c. Use ADAAG-compliant contrasting paving colors and textured warning strips to provide detectable warnings of shifts on those paths of travel (e.g. when a path of travel changes from a pedestrian path to a vehicular roadway).

d. Repair or replace all sections of those paths of travel that have unsafe cracks, gaps or deflection, or that have conditions that pose significant impediments to travel.

3. Within three years of the Effective Date, the University shall:

a. For all Primary Routes, Building Connection Routes, and Auxiliary Routes on campus, install ADAAG-compliant curb ramps where necessary to transition between path elevations (e.g. from sidewalks to crosswalks). As a first priority, the University will provide new curb ramps and repair those in poor or hazardous conditions.

b. Develop and implement a lighting plan for the Primary Routes and Building Connections. The lighting plan for Building Connections will provide illumination for buildings where programs, services and activities are held in such buildings during times of day when building illumination is necessary.

4. Regarding construction on campus, within twelve (12) months of the Effective Date, the University will:

a. Institute a process whereby construction access plans are submitted as part of construction work on campus and the appropriate campus units, such as the Campus Committee for the Removal of Architectural Barriers, are timely apprised of those construction access plans.

b. Develop and institute guidelines to ensure whenever feasible that a safe and accessible path of travel is provided for pedestrians around and/or through construction sites. Such guidelines will include the following provisions: (i) insofar as feasible, construction projects shall not interfere with accessible routes on campus; (ii) barricades shall be placed around construction sites; and (iii) in the event that accessible routes are interfered with, alternative routes as close to accessible as feasible shall be provided. The University will include these guidelines in construction specifications and will require contractors to comply with them.

C. Organizational Changes

The University, by the beginning of the Fall 2005 semester (unless otherwise indicated), shall implement the following policies.

1. The University has appointed an Assistant Provost, Office of Equity Standards and Compliance ("AP-ESC"). The individual hired to fill the position of AP-ESC, Ms. Sarah Hawthorne, has experience in analysis and evaluation of the Accessibility, from the standpoint of people with disabilities, of public entities' programs, services and activities.

2. The AP-ESC shall report directly to the University's Executive Vice Chancellor and Provost with respect to the topics addressed by this Agreement. This reporting relationship shall be memorialized in the University's organizational chart and publicized through its websites.

3. The AP-ESC shall be responsible for providing campus-wide leadership in disability services, including the programmatic removal of physical barriers to Access on the campus and disability-related accommodations, programming and grievance. The AP-ESC's functions and responsibilities will be predominantly devoted to disability access and compliance. The AP-ESC shall have overall authority and responsibility to ensure that students with disabilities are provided Program Access to UC Berkeley's programs, services and activities. The University will give the position overall monitoring authority over all Access issues related to policy, programs, equipment selection and environments. This position will be accountable for internal monitoring of compliance with Access standards and ensuring campus-wide Access. The AP-ESC shall have the authority necessary to carry out the responsibilities listed herein. These responsibilities shall include the following:

a. Periodically reviewing, implementing, and modifying as appropriate UC Berkeley's policies and procedures to ensure that Program Access is achieved and maintained and that students with disabilities receive appropriate auxiliary aids, services and accommodations;

b. Regularly evaluating the Accessibility of programs, services and activities;

c. Regularly assessing whether physical Access barriers exist which impede Program Access to any or all of UC Berkeley's programs, services and activities and how to eliminate or obviate any such barriers;

d. Assessing whether the purchase or provision of Accessible equipment is needed to ensure the Accessibility and usability of any or all of UC Berkeley's programs, services and activities;

e. Implementing the Building Evacuation Policy described herein;

f. Supervising staff in the Office of Equity Standards and Compliance;

1 g. Providing a website containing all University policies regarding or
2 relevant to students with disabilities, as well as links to other pertinent sites;

3 h. Providing a centralized administrative mechanism for students raising
4 disability Access and accommodation issues, and responding to inquiries and complaints from
5 students on those issues, and providing an additional avenue for appeal on those issues.
6 Decisions and determinations made by the DSP with respect to disability accommodations and/or
7 Program Access may be appealed directly to the Office of Equity Standards and Compliance;

8 i. Clarifying and streamlining procedures (i) for students to obtain Access
9 modifications or accommodations, and (ii) for students to appeal denial of same;

10 j. Overseeing the assignment and reassignment of classes and other activities
11 to locations that are readily Accessible to and usable by people with disabilities as necessary to
12 provide Program Access for students with disabilities to any or all of UC Berkeley programs,
13 services and activities;

14 k. Administering special funds, specifically the Berkeley Campus Plan for
15 Funding Reasonable Accommodations for Individuals with Disabilities and AP-ESC's
16 discretionary fund;

17 l. Identifying any other interim measures that may be necessary during the
18 Settlement Period to ensure Program Access to any or all of UC Berkeley's programs, services
19 and activities;

20 m. Training students and faculty concerning the needs and rights of students
21 with disabilities, including effectively disseminating clear, simple, non-contradictory
22 explanations of rights, policies, procedures, and appeal processes; and

23 n. Providing internal monitoring of the University's compliance with this
24 Agreement, including without limitation its reporting obligations hereunder.

25 4. The University shall establish a new fund of \$30,000 (to be replenished annually
26 or more often as needed to maintain its initial balance), which will be available to the AP-ESC to
27 address disability Access issues encountered by individual students. The AP-ESC will maintain
28 a log of all requests received and the responses thereto, which shall be attached to each

1 Settlement Progress Report. During the first year of the Settlement Period, and thereafter as
2 necessary, the AP-ESC will assess whether this fund is sufficient to accomplish its intended
3 purpose of resolving individual Access issues in a timely manner, and will include those findings
4 in the Settlement Progress Reports. If the University determines that a higher discretionary fund
5 is needed to meet program access needs, the fund amount will be increased accordingly. If the
6 parties are not in agreement with regard to the need for modification of this amount, said
7 disagreement shall be resolved via the Dispute Resolution provisions set forth in Section V of
8 this Agreement.

9 5. The University has hired a full-time staff person ("Physical Access Coordinator"),
10 who will be assigned to assist the AP-ESC in implementing this Agreement. The Physical
11 Access Coordinator will report directly to the AP-ESC. The tasks to be assumed by this assistant
12 to the AP-ESC will include assisting the AP-ESC in campus coordination of building evacuation
13 plans, providing training for various campus units, and tracking and reporting on the campus'
14 implementation of and compliance with this Agreement.

15 6. The University also has hired a full-time staff person to address and respond to
16 issues related to Program Access ("Disability Access Resolution Officer"). The Disability
17 Access Resolution Officer will report directly to the AP-ESC and will assist the AP-ESC in
18 providing Program Access and in addressing and resolving student requests and complaints
19 concerning disability access issues. Pursuant to the "Procedure for Prompt Resolution of Access
20 Problems" (Section III.C.9., below) students registered with the DSP are to raise such issues first
21 with their DSP Counselors and/or the DSP Access Specialist (*see* below). The Disability Access
22 Resolution Officer of the Office of Equity Standards and Compliance ("OESC") will provide a
23 second level of review for DSP-registered students who wish to raise such issues. Students may
24 contact the Disability Access Resolution Officer to appeal decisions regarding disability
25 accommodations and/or Program Access made by the DSP. Students with disabilities who are
26 not registered with the DSP may present disability access issues to the OESC's Disability Access
27 Resolution Officer in the first instance.
28

1 These administrative mechanisms pertain specifically to disability access issues.
2 University-wide grievance procedures for academically-related issues (available on-line at
3 <http://students.berkeley.edu/uga/grievance.stm>) will remain in effect.

4 7. Access Specialists and Counselors

5 a. The University has hired a new Access Specialist within the Disabled
6 Students' Program. This DSP Access Specialist will be a primary point of contact for students
7 with mobility and/or vision access issues and complaints. In addition, he/she will be charged
8 with ensuring that students with disabilities have appropriate access to special and extracurricular
9 events, activities and programs. The University will publicly identify via the Information
10 Channels this DSP Access Specialist as a contact person for (i) mobility and/or vision access
11 issues and complaints, and for (ii) special and extracurricular events. With regard to this latter
12 function, the Access Specialist will, as appropriate, be so identified publicly in materials for
13 special events. The Access Specialist will provide guidance to and will closely coordinate with
14 student organizations, the University's Director of Student Life and the departments and other
15 units on campus that hold special events and extracurricular activities to monitor and facilitate
16 the provision of appropriate access to such activities to students with mobility and/or vision
17 disabilities.

18 b. The University will assign and/or continue to assign to each student with
19 mobility and/or vision disability an Access Counselor who understands the centralized policies
20 and the individual departments' provisions for students with those disabilities. The DSP, which
21 is monitored by the Office of Equity Standards and Compliance, will be charged with the day-to-
22 day implementation of the University's policy of ensuring appropriate Access to students with
23 mobility and/or vision disabilities to the University's academic and non-academic events,
24 activities and programs, including classes. The Access Specialists and Counselors will be and/or
25 continue to be available to students for same-day appointments and/or prompt feedback through
26 e-mail or phone calls, and will provide follow-up and problem-solving assistance regarding
27 access issues raised by students with mobility and/or vision disabilities.
28

1 c. With respect to after-hours events, programs and activities, the University
2 will make available an after-hours contact person as a resource to address mobility and/or vision-
3 related access problems. These activities include classes, labs, workshops, lectures, club
4 meetings, concerts, sports events, and social events that are held and/or sponsored by, the
5 University. The AP-ESC will develop a plan to address how best to enable students to make use
6 of this service and will publicize this information via the Information Channels and emergency
7 telephone lists. This plan shall be attached to the first Settlement Progress Report. Disputes
8 regarding the adequacy of this plan will be resolved according to the Dispute Resolution
9 Procedure described in Section V.A of this Agreement.

10 d. The Access Specialists and Counselors and the after-hours contact persons
11 designated by the University will have the responsibility and authority to take action necessary to
12 provide prompt and appropriate Access for a student who has encountered a barrier. Such action
13 might include changing, where feasible, the location where an event is scheduled or putting a
14 temporary solution like a ramp in place.

15 e. As discussed in Subsection III (J), the Access Specialist and the DSP
16 Counselors assigned to students with mobility and/or vision disabilities will assist the students to
17 prepare for possible emergency evacuations.

18 8. During the first six months of the Settlement Period, and annually thereafter, the
19 University will review and evaluate, with the input of DSP personnel and students with mobility
20 and/or vision disabilities, whether the DSP is adequately meeting the needs of students with
21 mobility and/or vision disabilities. The Office of Equity Standards and Compliances ("OESC"),
22 in coordination with DSP, will periodically and as needed, organize focus groups and email
23 surveys to obtain feedback from students with mobility and/or vision disabilities regarding the
24 adequacy of DSP services. The University will include the results of such reviews in its
25 Settlement Progress Reports. Any disputes between the University and Class Counsel over the
26 adequacy of DSP staffing will be resolved according to the Dispute Resolution Procedure set
27 forth in Section V of this Agreement. In presiding over any such disputes, the Arbitrator will
28 have authority and jurisdiction to order the University to provide additional staffing for the DSP.

9. Procedure for Prompt Resolution of Access Problems

The following policy will be adopted and distributed through the Information Channels:

a. Step One: Upon encountering any physical Access barrier on campus, a student with a mobility and/or vision disability should contact his/her Disability Counselor or the Access Specialist at the DSP. The Disability Counselor or Access Specialist will prepare a summary of the incident and/or problem, log the summary into a centralized database, investigate promptly, identify solutions, and ensure that an appropriate solution is implemented as quickly as possible. If the problem is not resolved within 24 hours, the Disability Counselor or Access Specialist will notify the AP-ESC. Step Two: If the problem is not resolved within one week, the AP-ESC will investigate, identify solutions, and ensure that an appropriate solution is implemented as quickly as possible.

Students with disabilities who are *not* registered with the DSP may present such issues in the first instance to the OESC and in particular, the Disability Access Resolution Officer.

This section does not affect otherwise applicable grievance procedures available at the University. Those procedures are available online at <http://students.berkeley.edu/uga/grievance.stm>.

b. During the first year of the Settlement Period, and thereafter, if requested or deemed necessary by the Monitor, a log will be kept tracking all complaints, their resolution, the length of time that passed between the initial contact with the Access Specialist or Counselor and the implementation of the solution, and the stage of the appeals process at which the problem was resolved. Copies of this log will be forwarded to the AP-ESC and will be attached to the Settlement Progress Reports. The students will be promptly advised of the resolutions of their complaints.

c. The University acknowledges that often time is of the essence, and that prompt solutions are important to the student.

D. Room Reassignment Policy

The University, by the beginning of the Fall 2005 semester (unless otherwise indicated), shall implement the following policies:

1 1. The University shall maintain a room reassignment policy as set forth below.
2 This policy will be prominently posted on the Registrar's website and distributed via the
3 Information Channels.

4 2. Classroom Reassignment:

5 a. In the event that a student with a mobility and/or vision disability has
6 enrolled or signed up or seeks to enroll or sign up for a course, program, or activity that has been
7 assigned to a classroom or facility that is not Accessible to that student due to his or her
8 disability, the University will promptly reassign the course, program, or activity to a location that
9 is Accessible to the student. The DSP's Access Specialists and Counselors also will take a
10 proactive role in counseling students with mobility and/or vision disabilities on the locations and
11 accessibility of classrooms where courses and other activities may be held and will coordinate
12 their academic schedules accordingly.

13 b. In order to facilitate the determination and confirmation that classes will
14 be held in Accessible locations, the University will provide a comprehensive database that can be
15 accessed over the Internet that will enable students, the DSP, the OESC and other University
16 personnel, to look up a specific classroom or other location to determine its Accessibility. Such
17 information regarding the Access characteristics of these facilities shall be maintained on the
18 current Classroom Attribute Search [found at <http://students.berkeley.edu/rooms/attributes.htm>].
19 Links to this database will be included on the DSP website and AP-ESC website, as well as
20 clearly marked on the Registrar's website, and information regarding the existence of this
21 database will be disseminated via the Information Channels.

22 3. Activities Not Centrally Scheduled

23 a. Within one year of the Effective Date of this Agreement, the AP-ESC will
24 develop a policy to ensure that activities that are not centrally scheduled are also accessible to
25 people with mobility and/or vision disabilities. This policy shall be attached to the second
26 Settlement Progress Report. If plaintiffs dispute the adequacy of the policy, the disagreement
27 shall be resolved via the Dispute Resolution provisions set forth in Section V of this Agreement.
28

b. The University will provide adequate accessible rooms to each department for non-academic activities so that rooms can be switched when needed. These rooms may be in any building that is regularly used or occupied by the department.

E. Way-finding and Information Distribution (Campus Access Guide and Updated Websites)

The University, by the beginning of the Fall 2005 semester, shall implement the following improvements:

1. Campus Signage

a. In conjunction with the implementation of each segment of the paths of travel and entrance Accessibility work, the University will create a new coherent signage system to clearly point out Accessible paths of travel, particularly among clusters of buildings, buildings with multiple entrances, and areas of high public use, such as performance and recreational facilities. In determining where to install these signs, the University will reference the locations identified in the Campus Access Master Plan ("CAMP") Report (which will be available at the AP-ESC office and online at the AP-ESC website) on pages 39-200.

b. The University will update and replace the main entrance maps and campus locator maps in order to improve informative signage for all visitors and users. The new maps will clearly indicate which routes are Accessible and to what degree, will include information pertaining to Accessible building entrances, and will be Accessible themselves.

2. Campus Maps

The University will provide maps showing Accessible routes on all pathways and roads, and update them whenever there are significant changes in Accessible routes. These maps will be available online and in hard copy, and will be accessible to people with mobility and/or vision disabilities. The University will also use print and electronic information to provide additional information that relates to Accessibility, including information regarding major construction zones.

1 3. Construction Navigation

2 a. The University will provide monthly Web updates regarding construction
3 and renovation-related barriers, specifying the impact of construction on Accessible routes and
4 the availability of alternative routes. In the event that a construction or renovation-related barrier
5 arises between these monthly updates, the University will update its websites accordingly. These
6 updates will include information regarding both current conditions and shall provide at least
7 seven (7) days notice of anticipated future barriers. These updates will resemble the weekly
8 temporary Access interruption updates currently available at [http://www.cp.berkeley.edu/](http://www.cp.berkeley.edu/TempAccessInterruption.html)
9 TempAccessInterruption.html, but will address Accessibility for people with mobility and/or
10 vision disabilities more directly. Links to these updates will be available from the DSP and AP-
11 ESC websites and information regarding the existence of these updates will be provided through
12 the Information Channels.

13 b. The University will provide students with disabilities with the opportunity
14 to subscribe to a listserve providing updates about temporary Access interruptions.

15 4. Campus Access Guide

16 By the beginning of the Fall 2005 semester, and at least once per calendar year thereafter,
17 UC Berkeley shall make available to its students and faculty with disabilities an updated,
18 comprehensive, accurate, and readily understandable Campus Access Guide indicating current
19 conditions on campus, including:

20 a. Location of Accessible parking, Accessible exterior paths of travel,
21 Accessible entrances to buildings or facilities and Accessible transit stops.

22 b. Location of Accessible restrooms, telephones, and Areas of Refuge or
23 Designated Waiting Areas inside each building or facility.

24 c. Policies and procedures relating to or relevant to people with disabilities,
25 including policies and procedures concerning parking, emergency evacuation, transportation
26 systems, room reassignment, requests for Access modifications and appeals of denials of such
27 requests, and emergency assistance.
28

d. Identification of hazardous paths of travel or other safety hazards to individuals with mobility and or vision disabilities.

e. Information regarding any other rights or benefits available to people with disabilities described in this Agreement.

f. Contact information and roles of the organizations and offices useful for students with disabilities.

g. An explanation of the University's grievance processes and procedures relating to disability access, references to the University's web sites that set forth those processes in full, and information regarding other resources available to students with mobility and/or vision disabilities.

h. Information regarding the availability of additional funds to address immediate access barriers as provided in Section III.C.4.

i. The Access Guide shall be made available in alternative accessible formats to all students with disabilities who are registered with the Disabled Students Program ("DSP"), posted on UC Berkeley's web pages, made available at and provided upon request by DSP and the OPSC, and distributed via the Information Channels. The University shall provide Class Counsel with a draft of this Guide before it is published.

F. Parking

1. By the beginning of the Fall 2005 semester (unless otherwise indicated), the University will formally adopt written guidelines as to its policies regarding parking for individuals with disabilities. These guidelines will include the University's commitment to:

a. By September 1, 2004, waive parking fees if DSP determines that parking is a necessary, reasonable accommodation for a student with a mobility or vision disability.

b. Maintain the policy of providing central campus parking spaces for campus users with disabilities.

c. Maintain and/or institute a policy of making available assigned Accessible parking spots on campus for students with mobility and/or vision disabilities if the circumstances of the student's disability require an assigned space.

2. The University will periodically reassess the number of on-campus Accessible and Code Accessible parking spaces needed to serve students with disabilities and provide additional blue spaces if necessary. The University will annually provide Class Counsel with a map setting forth the number of parking spaces reserved for persons with disabilities. Any dispute regarding the need for additional spaces shall be resolved pursuant to the Dispute Resolution Provisions in Section V of this Agreement.

3. With respect to newly created "blue spaces" not required to be ADAAG-compliant, the University will change its standard dimension for regular blue spaces from 96 inches to 108 inches wide. The University will ensure that blue spaces provided on campus meet student needs in terms of width and slope.

4. The University represents and warrants that the University's central lot system currently contains the ADAAG-mandated number of Code Accessible parking spaces.

5. By December 31, 2006, the University will provide at least twenty (20) additional Code Accessible parking spaces in its central parking lot system. At least four (4) of those additional parking spaces will be van-Accessible.

6. The University shall situate Accessible parking spaces so that they are distributed throughout the campus and/or are in close proximity to Accessible shuttle stops.

G. Transportation

1. By the beginning of the Fall 2005 semester (unless otherwise indicated), the University will implement the following improvements.

Shuttle Buses

a. By September 1, 2004 the University will replace its fleet of shuttle buses with sixteen (16) newer, wheelchair-accessible buses.

b. For at least a one-year period following the Effective Date, the University shall increase the hours of operation of the central campus shuttle to 7:00 p.m. During this period, the University will evaluate the frequency of usage of these later shuttles, and will report its findings in its second Settlement Progress Report. If the University maintains that the longer hours are not necessary to ensure Program Access for students with mobility and/or vision

1 disabilities and decides to discontinue this extended hours program, it will notify plaintiffs'
2 Counsel at least thirty (30) days beforehand and shall not discontinue the program prior to the
3 resolution of any disputes regarding the discontinuation through the Dispute Resolution
4 Procedure set forth in Section V of this Agreement.

5 c. In order to increase the Accessibility of the shuttle system for students
6 with vision disabilities, the University will: (i) provide tactile identification marks at shuttle
7 stops; (ii) train its drivers to provide audible identifications at each shuttle stops where persons
8 with disability and/or vision disabilities are waiting; and (iii) institute a system aboard shuttles to
9 indicate to riders with vision disabilities that a desired stop has been reached.

10 d. The University will increase publicity about the campus shuttles to the
11 campus population, using print, and electronic media to publicize this service. The University
12 will evaluate the ridership following a semester of publicity.

13 e. Unless infeasible, the University will ensure that various stops distributed
14 evenly along the shuttle routes, which will be identified in the University's first Annual
15 Implementation Plan, are Code Accessible. Any disputes regarding the adequacy of the Code
16 Accessible shuttle stops shall be resolved through the Dispute Resolution process set forth in
17 Section V of this Agreement. Unless infeasible, the University will also provide Code
18 Accessible paths connecting the stops with the Primary Routes identified in the University's first
19 Annual Implementation Plan.

20 f. Unless infeasible, the University will install bus shelters at the perimeter
21 stops at primary routes into campus to protect people with disabilities from inclement weather.

22 3. Electric Cart Service

23 a. By the beginning of the Fall 2005 semester, The University will provide
24 one wheelchair-accessible and two other motorized carts, which will have drivers, to transport
25 students with mobility and/or vision disabilities in and around the campus where necessary and
26 appropriate. The University will make this service available on a regular basis where the DSP
27 reasonably determines that the University's regular transit service does not meet the needs of a
28

1 student with a mobility and/or vision disability. The University will also make these shuttles
2 available in the event of emergencies or where necessary due to construction.

3 b. The University will develop a written policy regarding which students will
4 be eligible to use the cart, how they will request the service, and who will be responsible for
5 overseeing it. This policy will be disseminated via the Information channels, and will be
6 attached to the first Settlement Progress Report. Any dispute regarding the contents of the policy
7 will be resolved through the Dispute Resolution Provisions set forth in Section V of this
8 Agreement.

9 c. The University shall conduct annual assessments of this cart service for
10 the first three years and periodically thereafter, which will be included in the Settlement Progress
11 Reports. As part of each assessment, the AP-ESC shall conduct a survey of students with
12 mobility and/or vision disabilities in order to obtain their feedback regarding the effectiveness of
13 the carts and possible improvements that could be made to the cart program. The University
14 shall keep a log of all requests for cart services and the responses/services provided. This log
15 shall be attached to the Settlement Progress Reports. The University will provide additional
16 carts if the need arises. If additional carts are deemed necessary following the first assessment,
17 they shall be provided within three months. Any dispute regarding the need for additional carts
18 shall be resolved through the Dispute Resolution provisions set forth in Section V of this
19 Agreement.

20 4. The University will improve its communication concerning the availability of
21 these transportation services, including but not limited to, updating a map to assist all students
22 with disabilities in campus navigation. This map will be distributed through the Information
23 Channels. The University will increase publicity about available Code Accessible transit.

24 5. In purchasing or leasing transportation vehicles, the University will look at the
25 types of equipment available and select the most appropriate equipment to best serve the needs
26 of students with disabilities.
27
28

H. Building Evacuation and Safety

1. The University agrees to provide the following minimum safety measures in each building:

a. Identification of Designated Waiting Areas on every floor to which persons with disabilities will be instructed to go in the event of an emergency (See Section III.H.8.b, below); and

b. In buildings that do not have automated sprinkler systems, some means of accessible two way communication for individuals waiting in the Designated Waiting Area to contact emergency personnel. This communication system will be installed by the beginning of the Fall 2007 semester.

2. Additionally, the University is committed to improving fire safety in its facilities, and to that end reserves the right to develop and implement a plan, to be phased in over time, to install fire sprinklers in additional buildings that do not have them in addition to the features identified in paragraph III.H.1., above.

3. Within one (1) year of the Effective Date of the Settlement Agreement, the University will consolidate its various documents addressing evacuations into a formal campus-wide Evacuation Policy, which will include all of the points in this Subsection. This policy will be posted on the Office of Emergency Preparedness (OEP) website, and provisions specific to people with disabilities will be distributed through the Information Channels.

4. The University will require that the OEP distribute the Evacuation Policy document on a yearly basis.

5. Within three (3) years of the Effective Date, the University will provide at least one evacuation chair for every building, with additional chairs for the larger buildings and upon request. The University will arrange for trainings of "buddies" (See III.H.10, below) on how to operate these evacuation chairs either through the City of Berkeley or through another source or vendor.

6. The University, subject to safety considerations, will assist in the removal of mobility aid devices such as wheelchairs or walkers in addition to the person being evacuated.

1 Once outside, individuals with disabilities will be reunited with their mobility aid devices as
2 soon as feasible.

3 7. DSP Counselors and/or Access Specialists assigned to students with mobility
4 and/or vision disabilities shall apprise those students of the University's evacuation and safety
5 policies and procedures and within the first month of each semester shall establish a plan to
6 ensure that the student will be able to safely evacuate from each class, his or her dorm room, and
7 other locations where the student spends significant time.

8 8. Building Emergency Plans. The University, by the beginning of the Fall 2005
9 semester (unless otherwise indicated), shall implement the following policies:

10 a. The University will assign and/or continue to assign a person (for
11 example, a building coordinator) to manage each building's emergency plans for each building.
12 The building coordinator's responsibilities will include: (i) reasonable efforts to communicate the
13 evacuation plan to everyone in the building, and train every permanent staff in the building on it;
14 (ii) ensuring that there are sufficient volunteers to act as "floor wardens" and "roll-takers" and
15 that they are provided training from the OEP; and (iii) assisting in the safe evacuation of people
16 with mobility and/or vision disabilities.

17 b. The OEP, in conjunction with the OESC, will develop an Emergency Plan
18 for each campus building. These building specific evacuation plans will identify, for each
19 building, Designated Waiting Areas ("DWA") at which persons with disabilities (which hinder
20 their ability to exit the building in the event of an emergency) will be instructed to go. A map of
21 DWA locations shall be provided by the University with its first report required under this
22 Agreement.

23 c. The OESC, in conjunction with the OEP, will work individually with
24 building coordinators to ensure that each building's Building Emergency Plan includes disability
25 issues. Each building's plan will detail how people with disabilities will be evacuated from that
26 building, including information regarding which stairways will be used, meeting places for
27 assistance, and meeting places after evacuation.

1 d. At least one evacuation plan will be posted on each floor. All emergency
2 floor plans will identify the location of the Designated Waiting Areas, as well as the location of
3 any additional communication devices.

4 e. The University, through the building coordinators, will conduct periodic
5 reviews and drills on disability-specific evacuation procedures. The reviews will include either
6 walk-throughs, announced drills, and surprise drills.

7 f. Each building will have signage and maps related to safe evacuation from
8 the building, including information needed by people with disabilities to safely evacuate. There
9 will also be signage indicating how promptly to contact the appropriate person in an emergency.
10 The University will post signage indicating that students and other visitors to the building (who
11 need assistance for safe evacuation) may alert the person in charge of evacuation if they will be
12 in the building for an extended period of time.

13 9. The University will provide the campus Evacuation Policy and building-specific
14 information on evacuation policies and procedures in alternative Accessible formats, including
15 Braille, audiotape, digital media, and tactile evacuation maps (with information equivalent to
16 information posted on the walls in buildings). The University will institute a system to ensure
17 this information is communicated to students with vision disabilities, including outreach to
18 organizations representing blind and visually impaired individuals.

19 10. Tracking ("Buddy System")

20 a. A tracking policy will be instituted in which people with disabilities who
21 may need assistance in the event of an emergency may notify campus emergency personnel of
22 their whereabouts. There will be a list of such people (including employees) deposited in the
23 Knox Box for each building, to which emergency personnel have access when arriving at the
24 scene of an emergency. In addition, the University will offer to pair individuals with disabilities
25 with two other people who will assist the person with a disability in an emergency. These
26 "buddies" will be faculty members or other people employed in the building, and they will be
27 trained in how most effectively and promptly communicate with emergency personnel.
28

b. Both of the foregoing tracking systems require that building occupants needing assistance be identified prior to occurrence of an emergency. People who anticipate needing assistance in the event of an emergency will be given an opportunity to self-identify as such. A campus memorandum will be distributed with a central number where such people may call, e.g., Office of Equity and Disability Standards & Compliance Office at (510) 642-2795 or esc@berkeley.edu. The list of such people for each building (developed as a result of responses to the campus memo and student information provided each semester by DSP personnel) may be supplemented by names contributed from building coordinators/floor monitors who have directly asked (and obtained confirmation from) people in their building that they would like special assistance in an emergency evacuation of their building.

I. Training, Orientation and Notifications

1. By the Fall 2005 Semester (unless otherwise indicated) and on an on-going basis thereafter, the University shall:

a. Provide training to all academic departments/units, with respect to UC Berkeley's evacuation procedures pertaining to people with disabilities;

b. Provide training to all department/units on UC Berkeley's ADA grievance procedures;

c. Provide to any new student participating in UC Berkeley's Student Orientation information on the rights of people with disabilities and the services of the DSP and the ODSC;

d. Provide information on the rights of people with disabilities and the services of the DSP and the ODSC to any new faculty participating in DSP's new faculty orientation;

e. Provide a notice to incoming students at the time of acceptance about the services and accommodations available to people with disabilities;

f. Distribute once per year to all Deans and department heads information describing the DSP and the OESC and their services;

g. Disseminate to all Deans and department heads the DSP publication, "Teaching Students with Disabilities."

2. Materials for UC Berkeley's campus events shall include language which provides attendees with specific instructions for obtaining reasonable, disability-related accommodations.

3. The University will prepare an action plan for monitoring the implementation and publication of these training, orientation and notification initiatives. A copy of this action plan will be provided to class counsel with the first Settlement Progress Report.

J. General Maintenance of Access Features

Within three months of the Effective Date, the University will implement the following maintenance measures:

1. The University agrees to maintain in operating condition and shall regularly check all physical Access features provided for students with mobility and/or vision disabilities. This includes but is not limited to the following:

- a. Automatic door openers;
- b. Lifts and ramps on shuttles (no shuttles to be used with inoperative or malfunctioning lifts or ramps);
- c. Elevators;
- d. Door closure mechanisms;
- e. Accessible routes to and from all Access features, such as pathways to restrooms, Access to elevator control buttons, etc.; and
- f. Detectable warning and contrast striping.

2. The University shall ensure that intra-campus shuttles are maintained in operational condition, including regularly maintenance of lifts. The University shall inspect the lifts on each shuttle on a daily basis, and shall only release shuttle buses to circulate if the lifts are functioning properly.

3. The University will regularly trim all trees and plantings to eliminate anything hanging below 80" or protruding into paths of travel.

1 4. The University will train maintenance staff to recognize maintenance-related
2 Access barriers in the field so they can be removed when first spotted.

3 **IV. REPORTS AND MONITORING**

4 **A. Third Party Monitor**

5 To assist in ensuring compliance with this Settlement Agreement, a person or firm with
6 substantial experience in evaluating and/or assisting public entities in evaluating the
7 Accessibility of programs, services, activities and facilities under Title II of the Americans with
8 Disabilities Act (the "Monitor") shall be appointed within three months of the Effective Date.
9 The Monitor shall be a person or firm acceptable to Class Counsel and the University. The joint
10 experts currently serving under the parties' February 2, 1999 Joint Expert Agreement shall be
11 acceptable to the parties. If both of the joint experts are or become unavailable, the parties will
12 select a substitute Monitor. The University shall provide reasonable compensation to the
13 Monitor for services rendered and costs incurred in connection with monitoring compliance with
14 this Agreement.

15 Students who wish to be heard concerning the University's compliance with this
16 Agreement may contact the OESC and particular, the Physical Access Coordinator. If students
17 are not satisfied with OESC's handling of the issue, they may notify Class Counsel. Under no
18 circumstance should students contact directly the Monitor or the Mediator/Arbitrator.

19 Students who wish to present individual disability accommodations and/or Program
20 Access issues and who are registered with the DSP, should follow the "Procedures for Prompt
21 Resolution of Access Problem" set forth in Section III.C.9 of this Agreement. Those students
22 who are not registered with the DSP may present those issues directly to the OESC. Students
23 may not present those disability accommodation and program access issues directly to the
24 Monitor or the Mediator/Arbitrator. Rather, they may present those issues to the Monitor or the
25 Mediator/Arbitrator only through Class Counsel. In addition, the avenues of redress available to
26 students through the DSP and OESC, as described above, shall be attempted before such issues
27 are presented, through Class Counsel, to the Monitor or the Mediator/Arbitrator.

B. Reporting Requirements

1. Six months after the Effective Date, twelve (12) months after the Effective Date, and annually thereafter until the close of the Settlement Period, the University shall provide to Class Counsel and the Monitor detailed reports on the University's compliance with the terms of the Agreement ("Settlement Progress Reports"). These Settlement Progress Reports shall address what efforts the University has made to comply with this Agreement since the last report and shall include:

a. What facilities and paths of travel have been modified and in what manner;

b. Whether all of the barrier removal and renovation work scheduled to be completed since the last report has been completed, and if not, the extent to which such work has been completed and why the scheduled work was not completed; and

c. The status of all other disability Access projects, initiatives, and reviews scheduled for completion under this Agreement for the year preceding the report.

d. A summary of usage of the shuttle buses and carts and an assessment of whether the shuttle/cart service being provided is sufficient to meet Access needs.

e. A summary of usage of the \$30,000 replenishable fund [Section III.C.4] and an assessment of whether this amount is sufficient to meet Access needs.

f. A Yearly Work List of the specific Access work that the University proposes to engage in during the upcoming year.

g. Subject to students' confidentiality requirements, copies of any written complaints received concerning physical Access to University programs, services or activities within the prior year. The parties anticipate that in most cases, confidentiality issues may be addressed through appropriate redaction of student-identifying information.

h. A summary of any and all changes in Access policies that have been made and/or are under consideration relating to Access to the University's programs, services and activities, including, but not limited to, any changes in evacuation policies, changes in administrative responsibility or staffing, and/or changes in parking, transportation and

1 maintenance policies or procedures.

2 2. The Monitor shall review the Settlement Progress Reports for comprehensiveness
3 and compliance with this Agreement, and to ensure that the University is on target for
4 completion of its obligations within the agreed-upon timeframe. The Monitor shall perform
5 spotchecks at five percent (5%) of the sites where each report states that Access work was
6 performed, to confirm the accuracy and comprehensiveness of the reports. The Monitor will also
7 perform additional spotchecks of policy-related aspects of this Agreement as necessary to
8 confirm compliance with this Agreement and the accuracy and comprehensiveness of the
9 Settlement Progress Reports, specifically performing regular spotchecks of the adequacy of DSP
10 staffing and implementation of access-related policies and including the input of students with
11 disabilities and DSP personnel in these assessments. The Monitor shall report to the parties the
12 results of its review of the Settlement Progress Reports and of the spotchecks in a format
13 sufficient for the parties to reasonably assess the status of settlement compliance. The Monitor
14 may not himself/herself invoke the Dispute Resolution Procedure.

15 3. The University shall submit to Class Counsel a final report one hundred twenty
16 (120) days before the expiration of the Settlement Period. This final report shall describe the
17 University's compliance with this Agreement, and in particular shall set forth the disability
18 access initiatives that have been undertaken and the costs for such work, as well as detailing any
19 as yet unmet obligations under the Agreement, the reason for that failure, and the proposed
20 resolution.

21 **C. Inspections**

22 During the Settlement Period and on reasonable advance written notice to the
23 University's counsel, Class Counsel may conduct periodic inspections, not to exceed twice per
24 year during the first year and once per year thereafter, of UC Berkeley's campus to monitor
25 compliance with this Agreement. Additional inspections may be ordered by the
26 Mediator/Arbitrator on a showing of good cause.

27 **D. Proposed Exceptions To This Agreement**

28 In addition to the provisions of Section III.A.4, for any physical Access modification

1 relating to buildings or path of travel where the University believes that meeting the standards
2 specified herein is unnecessary because Program Access is being or will be provided via another
3 mechanism, the University will notify the Monitor and Class Counsel of the proposed exception
4 as part of its Yearly Work List in the Settlement Progress Report. The notice shall include the
5 reason for the proposed exception and a description of the means by which Program Access has
6 been or will be ensured. The Monitor will, within 30 days of receipt of notification of a
7 proposed exception, indicate in writing to the parties whether or not the proposed exception is
8 accepted and the basis for this decision. Any disagreement between Class Counsel and the
9 University considering proposed exceptions shall be resolved via the dispute resolution
10 provisions set forth in Section V of this Agreement.

11 **E. Class Counsel Monitoring Fees and Costs**

12 The University will pay Class Counsel for monitoring compliance with the Settlement
13 Agreement, as fully described in Attachment I to this Agreement. These payments will not
14 include fees and costs that may be awarded for Arbitrations under Section V of this Agreement.

15 **V. DISPUTE RESOLUTION**

16 All disputes concerning the interpretation, implementation, modification, and compliance
17 with this Agreement shall be resolved as follows: Step One: Counsel for the parties shall meet
18 and confer in a good faith effort to resolve any dispute. Step Two: In the event that the parties
19 are unable to resolve their dispute through such meet and confer negotiations, the dispute shall be
20 submitted to mediation before the Mediator. The University shall bear the costs of the
21 mediation. Step Three: In the event that the parties are not able to resolve their dispute through
22 mediation, those issues not resolved through mediation shall be submitted to the Arbitrator or, if
23 the University so chooses, Judge Zimmerman or an alternative Magistrate Judge referred by the
24 Court for binding arbitration. The Arbitrator or Magistrate shall determine (a) whether the
25 University has complied with the Agreement and (b) in the event that the University has not so
26 complied and/or has sought exceptions from or modification of the terms of the Agreement,
27 whether such non-compliance, exceptions and/or modifications are reasonable and necessary. In
28 this latter circumstance, the University shall bear the burden of establishing the reasonableness

1 and necessity of its conduct and proposed conduct. The determinations of the Arbitrator and
2 Magistrate shall be final, binding and non-appealable. The Arbitrator and Magistrate shall have
3 all necessary and appropriate powers under applicable law to resolve disputes, including the
4 power to authorize discovery. Reasonable fees and costs in connection with dispute resolution
5 may be claimed and recovered by either party in accordance with applicable law, with the
6 following proviso: fees and costs may be awarded to the University only if (1) the Arbitrator or
7 Magistrate determines that plaintiffs' claim or challenge is frivolous and (2) the Arbitrator or
8 Magistrate previously has determined that a prior claim or challenge brought by plaintiffs
9 pursuant to this provision was frivolous. Unless otherwise ordered by the Arbitrator based on a
10 finding that Plaintiffs' claim or challenge is frivolous, the University shall bear the costs of the
11 Arbitrator.

12 **VI. DAMAGES**

13 The University agrees to pay, within 30 days after final approval, Two thousand dollars
14 (\$2,000.00) to named plaintiff Michael Emmett. Two thousand dollars (\$2,000.00) will be
15 donated by the University to the Berkeley Center for Independent Living on behalf of named
16 plaintiff Elaine Perry. Twenty thousand dollars (\$20,000.00) will be donated by the University
17 to the San Francisco State University Institute on disability on behalf of named plaintiff Kaaryn
18 Gustafson.

19 **VII. RELEASES**

20 **A. Releases By The Class**

21 In return for the consideration provided for in this Agreement, the adequacy of which is
22 hereby acknowledged, on the date of Final Approval, all Class Members, both individually and
23 as a Class, shall be deemed to release and shall have released the University and its trustees,
24 officers, directors, employees, attorneys, agents and insurers, and their successors and assigns,
25 and each of them ("Released Parties"), from any and all equitable claims that are the subject of,
26 included within, and/or arise from the Lawsuit, including without limitation, all equitable claims,
27 liabilities, obligations, demands, and actions under Title II of the ADA, Section 504, 42 U.S.C.
28 § 1983, and/or California Civil Code § 51, *et seq.*, California Civil Code § 54, *et seq.*, Cal.

1 Government Code § 4415, and Title 24, that were brought or could have been brought against the
2 Released Parties for injunctive or declaratory relief relating to physical Access barriers that
3 allegedly deny Program Access to UC Berkeley's programs, services and activities for people
4 with mobility and/or vision disabilities. This Release shall apply to all class-wide claims for
5 declaratory and/or injunctive relief for the duration of the Settlement Period.

6 It is specifically understood and agreed that this is a full and final release applying to all
7 unknown and unanticipated claims for injunctive and declaratory relief arising out of or in any
8 way related to or connected with the Lawsuit and of any other fact or circumstance described in
9 the Lawsuit, as well as those facts known or disclosed, whether included or not in the prayers of
10 said pleading, and as further consideration and inducement for this settlement, Plaintiffs and the
11 University hereby expressly waive all rights or benefits which they may have or may in the
12 future have under the provisions of Civil Code section 1542, which section provides as follows:

13 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE
14 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME
15 OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE
16 MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

17 Except as set forth in Section VII.B below, nothing in this Agreement releases any
18 damages claims or any individual claims for reasonable accommodations.

19 **B. Additional Releases By Particular Named Plaintiffs**

20 In return for the consideration set forth in this Agreement, the adequacy of which is
21 hereby acknowledged, on the date of Final Approval, the individual plaintiffs identified above in
22 Section VI of this Agreement who have executed releases in the form attached hereto as
23 Attachment J, shall also be deemed to release and shall have released the Released Parties from
24 any and all claims for damages made, subsumed within and/or arising from the Lawsuit,
25 including without limitation any and all claims, liabilities, obligations, demands, actions, and
26 claims that were brought or could have been brought under Title II of the ADA, Section 504,
27 42 U.S.C. § 1983 and/or the State Law Claims against the Released Parties relating to physical
28 Access barriers that allegedly deny Program Access to UC Berkeley's programs, services and

activities for people with mobility and/or vision disabilities.

VIII. ATTORNEYS' FEES AND COSTS

The University agrees to pay Class Counsel reasonable attorneys' fees and costs for time, expenses and costs incurred in connection with this litigation, as set forth fully in Attachment I to this Agreement

IX. APPROVAL AND CLASS CERTIFICATION

A. Certification of a Settlement Class

The Parties stipulate to class certification at the time of the Fairness Hearing of a settlement class as follows (hereinafter referred to as the "Settlement Class"):

All UC Berkeley students disabled by mobility and/or vision impairments as defined under state and/or federal law who allegedly have been denied their rights under Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, California Civil Code §§ 51, *et seq.*, California Civil Code §§ 54, *et seq.*, California Government Code §§ 4450, *et seq.*, and/or California Civil Code §§ 11135, *et seq.*, to access to the programs, services, and/or activities of the University of California, Berkeley resulting from and/or relating to physical barriers.

The Parties further stipulate that this Settlement Class certification shall not address any damage claims and shall not provide for a right to opt out of the Class.

These stipulations are contingent upon the Court granting Final Approval of the Settlement Agreement, and shall not be binding or of any consequence if Final Approval is not granted.

B. Motion for Leave to File a First Amended Complaint

To reflect this revised Class definition, the parties stipulate, subject to Court approval, to the filing of a First Amended Complaint.

C. Joint Approval Action

The Parties shall jointly move for an order granting Preliminary Approval of this Settlement Agreement, directing Notice to the Settlement Class as described in Section X, and setting a hearing for Final Approval allowing for at least 30 days notice.

D. Objections

Any Class Member may object to the proposed Settlement Agreement by filing with the

1 Clerk of the Court a written objection filed or postmarked no later than a date set by the Court in
2 this case after Preliminary Approval of the Settlement Agreement.

3 **E. Fairness Hearing**

4 The Court shall hold a hearing to establish the fairness of the final settlement of the
5 claims of the Settlement Class against Defendants and to decide whether there will be final
6 approval of the Settlement Agreement and certification of the Settlement Class. This hearing
7 shall take place at a date allowing for a period of notice to the Settlement Class as the Court may
8 direct. At this hearing, the Parties shall jointly move for Final Approval of the Settlement
9 Agreement.

10 **X. NOTICE TO THE CLASS**

11 The University shall provide Notice (Attachments H-1 and H-2) to the Settlement Class,
12 and shall bear the costs of such Notice. Notice shall be distributed by Defendants as follows:

13 **A.** Mailing of the Notice to all current students with mobility and/or vision
14 disabilities registered with DSP, and all campus-affiliated disability groups known to the
15 University (this Notice shall be provided in alternative Accessible formats);

16 **B.** Emailing of the Notice to all known, current students with mobility and/or vision
17 disabilities;

18 **C.** Posting of the Notice at bulletin boards at the University's Disabled Students
19 Program and Student Union for at least 30 days;

20 **D.** Posting of the Notice on the DSP website and the University's website in the
21 Accessibility Section for at least 30 days;

22 **E.** Publication of the Notice in the *Daily Californian* newspaper twice a week during
23 the 30-day notice period;

24 **F.** Distribution of the Notice on the following disability list serves: adapt-
25 cal@egroups.com; Berkeley-disabled@onelist.com; and disability-civil-
26 rights@yahoogroups.com;

27 **G.** Mailing of the Notice of any class member that requests information concerning
28 the proposed settlement.

H. Posting of the entire Settlement Agreement on the OESC website
(<http://equity.chance.berkeley.edu>).

XI. ORDERS AND DISMISSAL

A. Continuing Jurisdiction

The Court shall maintain jurisdiction over the Lawsuit, including jurisdiction to enforce the terms of this Agreement and to otherwise oversee compliance with the terms of this Agreement for the duration of the Settlement Period and for such additional time as may be necessary to resolve any disputes still pending at the end of the Settlement Period.

B. Dismissal

Within fourteen (14) calendar days after final resolution of any appeal of the Court's Final Approval of the Agreement or, if no such appeal is filed, within fourteen (14) calendar days of the expiration of the deadline for filing a Notice of Appeal, Class Counsel shall provide to counsel for the University a signed form of Request for Dismissal without Prejudice of the claims of the Class and CADRE in this Lawsuit subject to the Court retaining jurisdiction to oversee and enforce compliance as set forth in I (A), above.

XII. MISCELLANEOUS

A. Entire Agreement

This Agreement expresses and constitutes the complete and final understanding of the parties with respect to the subject matter of this Agreement. The parties hereto understand and agree that the terms of this Agreement supersede any prior discussions, understandings, or agreements, whether orally or in writing, between them related to the subject matter hereof.

B. Counterparts

This Agreement may be executed in counterparts, each of which shall be considered an original, but all of which, when taken together, shall constitute one and the same instrument

C. Interpretation

The language of this Agreement shall be construed as a whole according to its fair meaning, and not strictly for or against any of the parties. The headings in this Agreement are solely for convenience and shall not be considered in its interpretation. Where required by

context, the plural includes the singular and the singular includes the plural, and the terms "and" and "or" shall mean "and/or." This Agreement is the product of negotiation and joint drafting so that any ambiguity shall not be construed against any Party.

D. Enforceability of Agreement

The parties acknowledge the enforceability of this Agreement by the Court and waive any and all defenses to its enforceability. This acknowledgement shall not be construed as a waiver of any defense in any other action.

E. Additional Documents

To the extent any documents are required to be executed by any of the Parties to effectuate this Agreement, each party hereto agrees to execute and deliver such and further documents as may be required to carry out the terms of this Agreement.

F. Authority to Bind

The undersigned counsel for the University each represent and warrant that they are authorized to sign on behalf of, and to bind, Defendants, and represent and warrant that this Settlement Agreement has been approved by The Regents of the University of California, the University of California at Berkeley, and Robert M. Berdahl, in his capacity as the Chancellor of the University of California at Berkeley.

For Plaintiff Class and Berkeley Disability
Law Society

DISABILITY RIGHTS ADVOCATES

By: 

Laurence W. Paradis
Attorneys for Plaintiffs

SCHNEIDER & WALLACE

By: 

Guy B. Wallace
Attorneys for Plaintiffs

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For the University:

GORDON & REES LLP

By: Michael T. Lucey
Michael T. Lucey

OFFICE OF THE GENERAL COUNSEL

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For the University:

GORDON & REES LLP

By: _____
Michael T. Lucey

OFFICE OF THE GENERAL COUNSEL

By: _____
Jeffrey Blair
Attorneys for University

EXHIBIT A

ATTACHMENT A

UNIVERSITY OF CALIFORNIA, BERKELEY'S PLAN FOR USEABLE BUILDING ENTRANCES

Under the Class Action Settlement Agreement (the "Agreement"), of which this Attachment A is a part and in which it is incorporated by reference, the University has committed to renovating its building facilities such that by the end of the Settlement Period, each building on campus in which programs, services and activities are held will have at least one useable building entrance. "Useable" as used herein is defined in Section III.A. of the Agreement. In accordance with the Agreement, where feasible, the building entrances identified in this Attachment will meet the usability criteria set forth in Attachment C to the Agreement. Pursuant to Section III.A.1.g. of the Settlement Agreement, the University retains the right to identify in its annual work plans required by the Settlement Agreement particular building entrance(s) where a particular Usability criterion will not be met due to infeasibility (including, but not limited to, prohibitive cost). All projects are contingent upon Division of State Architect ("DSA") approval or waiver of full compliance with current disability standards. If the DSA fails to approve or waive full compliance with current accessibility standards, the Assistant Provost – Equity Standards & Compliance shall have discretion to determine what, if any, additional or alternative measures should be undertaken to address the barriers at issue.

The University's plan for building entrances is as follows:*

PHASE I: By December 31, 2010, each of the following buildings and facilities will have at least one useable entrance:

- 1) Central Dining Facility
- 2) Boalt Hall
- 3) Doe Library
- 4) Tolman Hall
- 5) Hertz Hall
- 6) LeConte - New
- 7) LeConte - Old
- 8) Wheeler Hall
- 9) Dwinelle Hall
- 10) Cory Hall
- 11) King Union
- 12) Zellerbach Hall

- 13) Greek Theater
- 14) Bechtel Center
- 15) Simon Hall
- 16) International House
- 17) Kroeber Hall
- 18) Unit 2 Complex
- 19) Hearst Gym
- 20) Pimental Hall
- 21) Sproul Hall
- 22) Unit 1 Complex
- 23) Chavez
- 24) Univ. Village Albany
- 25) Etcheverry Hall
- 26) GP&B Teach.
- 27) Moffitt Library
- 28) Haas Pavilion
- 29) Tang Center
- 30) Glirton Hall
- 31) Birge Hall
- 32) Campbell Hall
- 33) Evans Hall
- 34) Lawrence Hall Science
- 35) Memorial Stadium

PHASE II: By December 31, 2015, each of the following buildings and facilities will have at least one useable entrance:

- 36) Valley Life Sciences Building

- 37) Tan Hall
- 38) Atherton 2425
- 39) Blake Garden
- 40) North Gate Hall
- 41) Sather Tower
- 42) Giauque Lab
- 43) Morgan Hall
- 44) Bancroft 2111
- 45) Spieker Pool
- 46) Warren Hall
- 47) University Hall
- 48) Hellman Tennis Center
- 49) Hesse Hall
- 50) McCone Hall
- 51) Haviland Hall
- 52) Botanical Garden
- 53) Clark Kerr Campus
- 54) CKC 25 Rec. Center
- 55) Witter Facility
- 56) Strawberry Recreation Center
- 57) Edwards Field
- 58) Evans Field
- 59) McLaughlin Hall
- 60) Koshland Hall
- 61) Soda Hall

- 62) Giannini Hall
- 63) Mulford Hall
- 64) Hilgard Hall
- 65) Wellman Hall
- 66) Channing 2515
- 67) Davis – New
- 68) Moses Hall
- 69) 2427 Dwight Way
- 70) Lewis Hall
- 71) Bowditch 2334
- 72) Stern Hall
- 73) Bowles Hall
- 74) Gilman Hall
- 75) LSB Addition
- 76) O'Brien Hall
- 77) Anna Head Complex
- 78) McEnerney Gr.
- 79) 2536 Channing, 2536A Channing
- 80) 2538 Channing, 2538A Channing

PHASE III: By February 2, 2019, each of the following buildings and facilities will have at least one useable entrance:

- 81) NW Animal Facility
- 82) Unit 3 Dining
- 83) Unit 3 Housing
- 84) Bancroft 2401
- 85) Founders Building

- 86) Naval Arch
- 87) Duran Hall
- 88) Silver Annex
- 89) Foothill Bridge
- 90) Foothill Housing 3
- 91) Foothill Housing 4
- 92) Foothill Housing 5
- 93) Foothill Housing 6
- 94) Foothill Housing 7
- 95) Foothill Housing 8
- 96) Foothill Housing 9
- 97) Manville Hall
- 98) Art Museum
- 99) 2440 Bancroft
- 100) Beverly Cleary Hall
- 101) Smythe Fernwald
- 102) Donner Lab – New
- 103) 2521 Channing
- 104) 2616 Dwight
- 105) Barker Hall
- 106) Warster Hall
- 107) Hildebrand Hall
- 108) Barrows Hall
- 109) Space Sciences
- 110) 221 Cottage

111) Latimer Hall

***NOTE:** The sequence set forth above is subject to change based upon capital program budget changes, relocation of programs, student usage, and other factors bearing upon optimal prioritization, as well as cost constraints. The University will report any such changes in the first annual plan that follows the decision to make such a change.

EXHIBIT B

This is a detailed architectural site plan of the University of California, Berkeley campus. The map shows numerous buildings, including academic halls (e.g., Bowley Hall, Wheeler Hall, Wheeler Hall), libraries (e.g., Doe Memorial Library), and administrative buildings. It also depicts outdoor spaces like the Campanile Grove, Eucalyptus Grove, and the Sproule Field. The map is oriented with North at the top. A scale bar at the bottom left indicates distances in feet (0 to 1000). A legend at the bottom right identifies symbols for 'UNIVERSITY BUILDING', 'PARK', 'STREET', and 'FENCE'.

EXHIBIT C

ATTACHMENT C

This Attachment C, which is part of and incorporated by reference in the Class Action Settlement Agreement and Release of Claims between the plaintiffs and the University in the case of *Gustafson, et al. v. The University of California at Berkeley, et al.*, United District Court for the Northern District of California, Case No. C-97-4017 BZ (the "Settlement Agreement"), sets forth usability criteria applicable to building entrances on the University of California – Berkeley campus. These usability criteria are subject to the terms and conditions of the Settlement Agreement, including without limitation Section III.A.1 thereof. Pursuant to Section III.A.1.g. of the Settlement Agreement, the University retains the right to identify in its annual work plans required by the Settlement Agreement particular building entrance(s) where a particular Usability Checklist item will not be met due to infeasibility (including, but not limited to, prohibitive cost).

Building Entrances Usability Checklist

General

1. If it is not feasible to make the primary entrance accessible due to structural difficulty, preservation of historic resources, or the layout of the campus circulation system (accessible route) then, provide an alternative accessible entrance as close to the building's primary entrance as feasible.
2. Locate the primary entrance to each building on the accessible path of travel.
3. For building complexes with multiple facilities, provide accessible or useable entrance for each individual building.
4. Install signage at all other building entrances directing individuals with disabilities to the nearest accessible/usable entrance.
5. For each path of travel that leads to a useable entrance, provide as appropriate useable handrails, which are Code compliant within 5% of dimensions that are code required and contrast striping on stairs if present.
6. Keep accessible/Useable entrances unlocked and open during the same hours as the primary entrances, unless unusual emergency circumstances require otherwise. If the useable entrance cannot remain open then alternative entry arrangements are required.
7. Each Useable primary entrance will have:
 - a. A minimum clear door width of 32 inches.
 - b. Code compliant level landings, strike side clearances; and maximum operating door pressures of 8.5 pounds unless structurally infeasible in

which case power assisted door opening hardware would be an acceptable equivalent facilitation.

- c. Code compliant thresholds and door handles.
- d. Code compliant slope and cross slope.

EXHIBIT D

ATTACHMENT D

UNIVERSITY OF CALIFORNIA, BERKELEY'S FACILITIES PLAN: USEABLE RESTROOMS

Under the Class Action Settlement Agreement (the "Agreement"), in which this Attachment D is incorporated by reference, the University has committed to upgrading its restroom facilities such that by the end of the Settlement Period, each program building will have at least one useable restroom for each gender. In addition, unless unfeasible, additional existing restrooms in each program building shall be modified to ensure that there will be a maximum of a 200-foot distance (measured horizontally and/or vertically) between each such building's program areas and useable restrooms for each gender. "Usability" with respect to restrooms is defined in Section III.A.2 of the Agreement and Attachment E thereto. Where feasible, the University has agreed to meet the usability criteria set forth in Attachment E. The University retains the right to identify in its annual work plans as required by Section III.A.4 of the Agreement, particular restroom(s) in which a particular Usability Checklist item will not be met due to infeasibility (including, but not limited to, prohibitive cost). These annual work plans will specify each year the restroom improvements made the preceding year and those planned for the upcoming year. All projects are contingent upon Division of State Architect ("DSA") approval or waiver of full compliance with current disability standards. If the DSA fails to approve or waive full compliance with current accessibility standards, the Assistant Provost – Equity Standards & Compliance shall have discretion to determine what, if any, additional or alternative measures should be undertaken to address the barriers at issue.

The University's plan for restroom remediation is as follows:*

PHASE I: By December 31, 2010, the following buildings will have at least one set of useable restrooms and will undergo any additional restroom renovations called for in the Agreement:

- 1) Central Dining Facility
- 2) Boalt Hall
- 3) Doe Library
- 4) Tolman Hall
- 5) Hertz Hall
- 6) LeConte – New
- 7) LeConte - Old
- 8) Wheeler Hall
- 9) Dwinelle Hall

- 10) Old Davis Hall
- 11) Cory Hall
- 12) King Union
- 13) Zellerbach Hall
- 14) Greek Theater
- 15) Bechtel Center
- 16) Simon Hall
- 17) International House
- 18) Kroeber Hall
- 19) Unit 2 Complex
- 20) Hearst Gym
- 21) Glassock Boathouse
- 22) Pimental Hall
- 23) Sproul Hall
- 24) Unit 1 Complex
- 25) Chavez
- 26) Univ. Village Albany
- 27) Etcheverry Hall
- 28) GP&B Teach.
- 29) Moffitt Library
- 30) Haas Pavilion
- 31) Tang Center
- 32) Girton Hall
- 33) Birge Hall
- 34) Campbell Hall

- 35) Evans Hall
- 36) Lawrence Hall Science
- 37) Memorial Stadium
- 38) Valley Life Sciences Building
- 39) Tan Hall
- 40) Atherton 2415

PHASE II: By December 31, 2014, the following buildings and facilities will have at least one set of useable restrooms and will undergo any additional restroom renovations called for in the Agreement:

- 41) Blake Garden
- 42) North Gate Hall
- 43) Sather Tower
- 44) Gianque Lab
- 45) Morgan Hall
- 46) Bancroft 2111
- 47) Spieker Pool
- 48) Warren Hall
- 49) University Hall
- 50) Hellman Tennis Center
- 51) Hesse Hall
- 52) McCone Hall
- 53) Haviland Hall
- 54) Botanical Garden
- 55) Clark Kerr Campus
- 56) CKC 25 Rec. Center
- 57) Witter Facility

- 58) Strawberry Recreation Center
- 59) Edwards Field
- 60) Evans Field
- 61) McLaughlin Hall
- 62) Koshland Hall
- 63) Soda Hall
- 64) Giannini Hall
- 65) Mulford Hall
- 66) Hilgard Hall
- 67) Wellman Hall
- 68) Channing 2515
- 69) Davis – New
- 70) Moses Hall
- 71) 2427 Dwight Way
- 72) Lewis Hall
- 73) Bowditch 2334
- 74) Stern Hall
- 75) Bowles Hall
- 76) Gilman Hall
- 77) LSB Addition
- 78) O'Brien Hall
- 79) Anna Head Complex

PHASE III: By February 2, 2019, the following buildings and facilities will have at least one set of useable restrooms and will undergo any additional restroom renovations called for in the Agreement:

- 80. McEnerney Gr.
- 81. 2536, 2536A Channing
- 80) 2538, 2538A Channing
- 81) NW Animal Facility
- 82) Unit 3 Dining
- 83) Unit 3 Housing
- 84) Bancroft 2401
- 85) Founders Building
- 86) Naval Arch
- 87) Durant Hall
- 88) Silver Annex
- 89) Foothill Bridge
- 90) Foothill Housing 3
- 91) Foothill Housing 4
- 92) Foothill Housing 5
- 93) Foothill Housing 6
- 94) Foothill Housing 7
- 95) Foothill Housing 8
- 96) Foothill Housing 9
- 97) Manville Hall
- 98) Art Museum
- 99) 2440 Bancroft
- 100) Beverly Cleary Hall

- 101) Smythe Fernwald
- 102) Donner Lab - New
- 103) 2521 Channing
- 104) 2616 Dwight
- 105) Barker Hall
- 106) Wurster Hall
- 107) Hildebrand Hall
- 108) Barrows Hall
- 109) Space Sciences
- 110) 2251 College
- 111) Latiner Hall

***NOTE:** The sequence set forth above is subject to change based upon capital program budget changes, relocation of programs, student usage, cost constraints and other factors bearing upon optimal prioritization. If this sequence does change. The University will report any such changes in the first annual plan that is issued after the decision has been made to make such a sequencing change.

EXHIBIT E

ATTACHMENT E

This Attachment E, which is part of and incorporated by reference in the Class Action Settlement Agreement and Release of Claims between the plaintiffs and the University in the case of *Gustafson, et al. v. The University of California at Berkeley, et al.*, United District Court for the Northern District of California, Case No. C-97-4017 BZ (the "Settlement Agreement"), sets forth the usability criteria applicable to restrooms on the University of California – Berkeley campus. These usability criteria are subject to the terms and conditions of the Settlement Agreement, including without limitation Section III.A.2 thereof. Pursuant to Section III.A.2.c. of the Settlement Agreement, the University retains the right to identify in its annual work plans required by the Settlement Agreement particular restroom(s) where a particular Usability Checklist item will not be met due to infeasibility (including, but not limited to, prohibitive cost).

Multiple User Restroom Usability Checklist

Accessible Route

1. There is an accessible route to the multiple user restroom.
2. The accessible toilet is no more than 200' from the program space.
3. Entry corridor 44" min. wide.

Access to Restroom

4. Accessible facilities are identified with an International Symbol of Accessibility (when not all facilities are accessible).
5. Clear space of 44" min. is provided to the accessible stall and sinks.
6. A turning area 60" min. in diameter and unobstructed from the floor to a height of 27" min. is provided.
7. Towel, sanitary napkin, and waste containers are 40" max (+/- 1")
8. There is one accessible sink.
9. Lavatories next to walls have 18" min. between wall and center of fixture.
10. Height of rim or counter is 34" max. above the floor.
11. Clear space beneath the lavatory sink is 29" min. high (to front apron).
12. The space under the bowl is 27" min. when measured 8" in from the front edge.

13. Controls are lever, push-button, or similar type requiring 5lbs. max. effort to operate and valve remains open for at least 10 seconds if self-closing.
14. Hot water and drainpipes are insulated.

Stalls

15. There is one side transfer accessible stall.
16. Stall door has handles on the front and back, latches and is self-closing.
17. Handles are U-shaped loops located below the latch between 30" and 40" above the floor.
18. Latch is flip-over, sliding, or other hardware not requiring grasping or twisting.
19. Door width is 34" min. for side-entry stall.
20. Space in front of the door is 48" clear measured at a right angle from the stall door.

Clear Space in Stalls

21. 18" from one wall to the centerline of the toilet +/-1"
22. 32" min. from the edge of the toilet to the wall or partition at the other side.
23. 60" min. where the stall is side-entry.
24. Stall width is 60" min.
25. Toilet seat height is 17" to 19" +/-1 and seat does not rise when unoccupied.
26. Flush controls are located on the wide side of the toilet and 44" max. above the floor, requires 5lbs. max. pressure to operate.
27. Toilet paper turns freely, is 12" max. in front of toilet, and between 19" and 40" above the floor.

Grab Bars

28. Bars are mounted 33" above the finished floor, parallel to the floor surface (36" rear grab bar height acceptable if tank-type toilet).
29. Rear grab bar is 36" min. long and begins a max. of 6" from the corner of the wall and the toilet side.

- 30. Side grab bar is 42" min. long and is 24" min. in front of the toilet.
- 31. Side grab bar is positioned so the front end is located a min. of 52" from the back wall.
- 32. Diameter of bars is 1-1/4" to 1-1/2"
- 33. Space between the wall and the grab bar is 1-1/2".
- 34. Grab bars do not rotate in fittings.
- 35. Grab bars have rounded and non-abrasive surfaces.
- 36. Minimum structural strength of grab bars will support a 250-lb. point load.

Single User Restrooms

- 37. Follow the requirements for the useable restroom above. The single user restroom will have a side transfer toilet with the appropriate space (#16-36) an accessible sink (#9-14), accessible dispensers (#7) and be large enough for a wheelchair user to turn around (#6).

EXHIBIT F

ATTACHMENT F

Priority List of Campus Buildings
(Revised to include housing facilities)

Priority	CAAN	Building Name
1.		Central Dining Facility
2		Boalt Hall
3		Doe Library
4		Tolman Hall
5		Hertz Hall
6		LeConte – New
7		LeConte – Old
8		Wheeler Hall
9		Dwinelle Hall
10		Cory Hall
11		King Union
12		Zellerbach Hall
13		Greek Theater
14		Bechtel Hall
15		Simon Hall
16		International House
17		Kroeber Hall
18		Unit 2 Complex
19		Hearst Gym
20		Pimental Hall
21		Sproul Hall
22		Unit 1 Complex
23		Chavez
24		Univ. Village Albany
25		Etcheverry Hall
26		GP&B Teach.
27		Moffitt Library
28		Haas Pavilion
29		Tang Center
30		Glirton Hall
31		Birge Hall
32		Campbell Hall
33		Evans Hall
34		Lawrence Hall Science
35		Memorial Stadium
36		Valley Life Sciences Building
37		Tan Hall
38		Atherton 2425
39		Blake Garden
40		North Gate Hall
41		Sather Tower

ATTACHMENT F

Priority List of Campus Buildings
(Revised to include housing facilities)

42		Giauque Lab
43		Morgan Hall
44		Bancroft 2111
45		Spieker Pool
46		Warren Hall
47		University Hall
48		Hellman Tennis Center
49		Hesse Hall
50		McCone Hall
51		Haviland Hall
52		Botanical Garden
53		Clark Kerr Campus
54		CKC 25 Rec. Center
55		Witter Facility
56		Strawberry Recreation Center
57		Edwards Field
58		Evans Field
59		McLaughlin Hall
60		Koshland Hall
61		Soda Hall
62		Giannini Hall
63		Mulford Hall
64		Hilgard Hall
65		Wellman Hall
66		Channing 2515
67		Davis – New
68		Moses Hall
69		2427 Dwight Way
70		Lewis Hall
71		Bowditch 2334
72		Stern Hall
73		Bowles Hall
74		Gilman Hall
75		LSB Addition
76		O'Brien Hall
77		Anna Head Complex
78		McEnerney Gr.
79		2536 Channing, 2536A Channing
80		2538 Channing, 2538A Channing
81		NW Animal Facility

ATTACHMENT F

Priority List of Campus Buildings *(Revised to include housing facilities)*

82		Unit 3 Dining
83		Unit 3 Housing
84		Bancroft 2401
85		Founders Building
86		Naval Arch.
87		Duran Hall
88		Silver Annex
89		Foothill Bridge
90		Foothill Housing 3
91		Foothill Housing 4
92		Foothill Housing 5
93		Foothill Housing 6
94		Foothill Housing 7
95		Foothill Housing 8
96		Foothill Housing 9
97		Manville Hall
98		Art Museum
99		2440 Bancroft
100		Beverly Cleary Hall
101		Smythe Fernwald
102		Donner Lab – New
103		2521 Channing
104		2616 Dwight
105		Barker Hall
106		Warster Hall
107		Hildebrand Hall
108		Barrows Hall
109		Space Sciences
110		221 Cottage
111		Latimer Hall

Exhibit G

ATTACHMENT G

THE UNIVERSITY'S PATH OF TRAVEL IMPROVEMENT PROGRAM

Under Section III.B of the Class Action Settlement Agreement (the "Agreement"), the University has agreed to various improvements to its paths of travel around the campus. This Attachment G, which is part of the Agreement and incorporated by reference therein, specifies the timetables by which this path of travel program will be completed. In the event that the University decides, due to relocation of programs, campus construction, budgetary allocations or other factors, that a change in this timetable is necessary, it shall notify plaintiffs' counsel via the reporting mechanisms provided under the Agreement.

Phase I: Paths of Travel Improvements Already Completed Or To Be Completed by Year-End 2005

The University has completed or will have completed by December 31, 2005 the following paths of travel improvement projects:

Paths of Travel

1. Kroeber Hall entrance – level landing, signage for new automated door
2. New curb ramp and intersection striping at Shlessinger Way/Oxford Way
3. New curb ramp and striping at Gayley Road/East Gate entrance
4. Flagstone path repairs
5. Pothole/paving repair at LSA building at Campanile Way
6. Maxwell Field entrance path improvements
7. West Circle curb ramp construction
8. West Circle paving/pothole repair
9. Mulford Hall curb ramps/crosswalk
10. Barrows Hall environs paving repair
11. Campus bus stop pad at University Drive

Stair Striping and Handrail Extensions

1. Boalt Hall
2. Wheeler Hall

Phases II – V: Comprehensive Path of Travel Remediation Program

As graphically shown in Attachment G-1 to the Agreement, the University has agreed to implement a plan for improving the major routes of travel through and around this campus. The University will create a network of accessible routes around the campus that permits persons with mobility impairments to identify those routes based on their destinations and abilities. The program elements include a system of maps and signs, installation of curb ramps and projects to redesign paths and create connections between major routes. This path of travel program will be carefully coordinated with the University's transportation system, accessible building facilities and accessible parking. The schedule for this path of travel program is as follows.

Phase II - To be completed within 3 years of the Effective Date of the Agreement

- | | |
|--------------------------------|---|
| A. Signage: | Begin installation of signage/public information and way finding system identifying primary routes of travel |
| B. Maintenance Program: | <p>Complete Campus Maintenance Program</p> <ul style="list-style-type: none">○ Paving: repair or replace sections of paths with surface hazards, potholes, etc.○ Landscape Maintenance: trim all trees and planting and modify signs to eliminate overhanging or protruding objects in paths of travel○ Storm Grate Replacement: replace storm drain grates with ADAAG-compliant grates○ Bollard Replacement: replace/modify bollards with locking bollards that meet grade smoothly, eliminating tripping hazards |
| C. Engineering Program: | <ul style="list-style-type: none">▪ Complete detectable warnings installation at curb ramps and roadways: install contrasting paving colors and textured warning strips to provide detectable warning at the intersections of curb ramps and roadways▪ Provide accessible connections to "Phase I" buildings (see Attachment A)▪ Provide cross slope path connections at designated sites<ul style="list-style-type: none">- Priority 1: Regrade paths for intersecting cross slopes- Priority 2: Regrade path sections for cross slope- Priority 3: Regrade path sections for longitudinal slope▪ Complete 80% of ADAAG-compliant curb ramps installation identified along major paths. First priority: providing curb ramps and repairing those with |

hazardous conditions.

Phase III - To be completed within 5 years of the Effective Date of the Agreement

- Signage:** Continue with signage program – to be coordinated with completion of engineering of primary routes
- A. Maintenance Program:** Program allowance for on-going and recurring landscape and pathway maintenance and repair
- storm grate replacement
 - bollard replacement
- B. Engineering Program:**
- Continue path connections to accessible entrances in sequence and timing identified in Building Entrance List (“Phase II” buildings identified in Attachment B)
 - Continue with remaining cross slopes corrections
1. Primary Routes: Complete construction at primary routes path segments as follows:
- University Drive north of VLSB
 - Hilgard Wellman Connector
 - Sather Road/east of King Student Union
 - Wurster/Kroeber Hall paths
2. Access Initiative Areas: Complete construction at the following Access Initiative Areas:
- West of Evans at McLaughlin Hall
 - University Drive connector at East Asian Studies Building
 - Northgate connector at Euclid entrance

Phase IV – To be completed within 8 years of the Effective Date of the Agreement

- A. Signage:** Continue with signage program
- B. Maintenance Program:**
- Continue with allowance for recurring items (paving and landscape maintenance)
- C. Engineering Program:**
- Continue pathway connections to accessible entrances as identified in Attachment B
 - Continue with cross slopes corrections
1. Complete construction at primary routes path segments as follows:
- Esplanade Drive at South Hall
2. Access Initiative Areas: Complete construction at following Access Initiative Areas:
- South of Moffit between Sather Rd. and Harmon Way
 - Doe Library/California Hall intersection

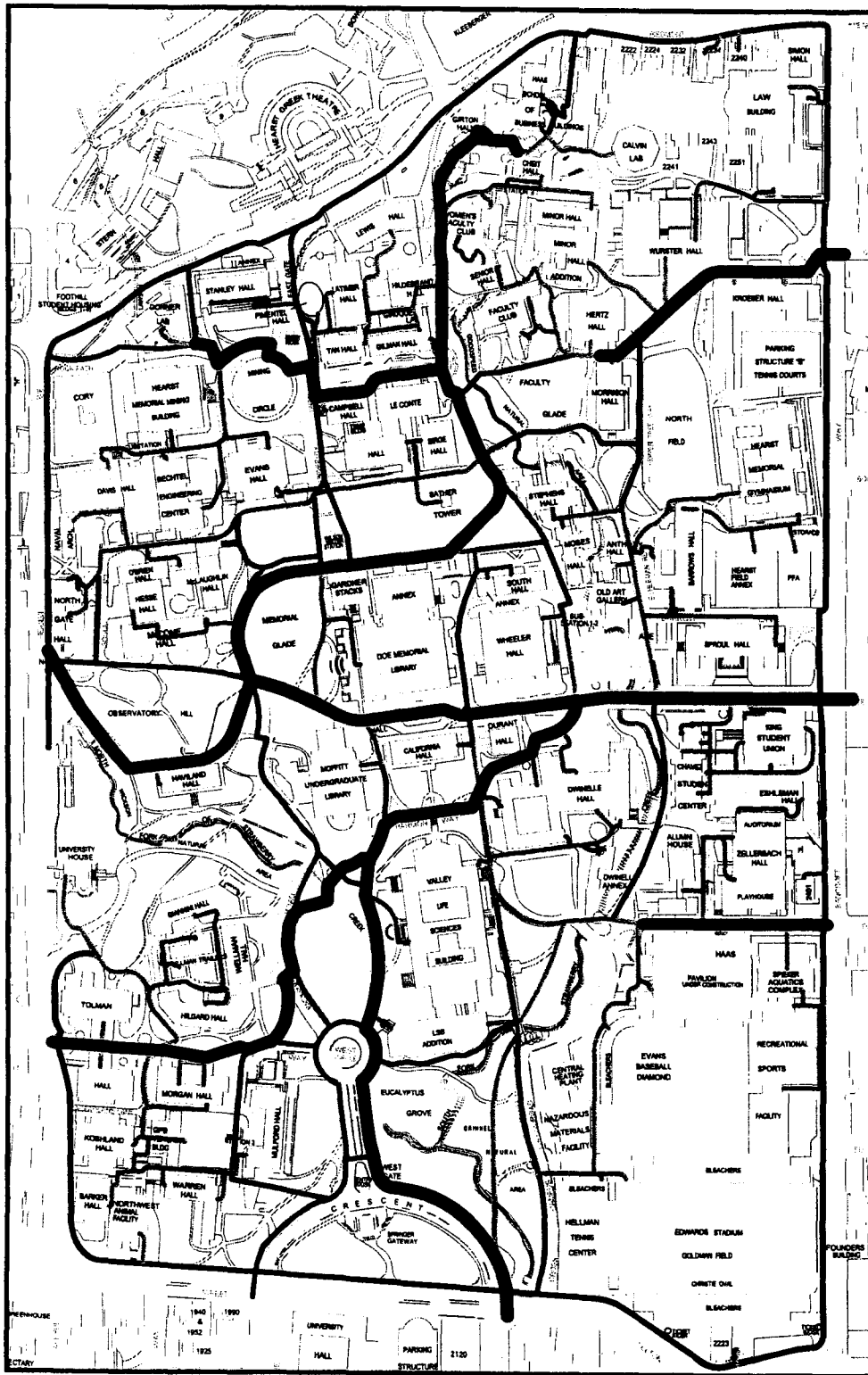
- VLSB Moffit connector
- Birge Stephens intersection

Phase V: To be completed within 11 years of the Effective Date of the Agreement

- A. **Signage:** Complete signage program
- B. **Maintenance Program:** paving and landscaping allowance for recurring items
- C. **Engineering Program:**
 - 1. Complete remaining path connections to accessible entrances in accordance with Attachment B priority list.
 - Complete cross slope remediation
 - 2. Complete construction at primary routes path segments as follows:.
 - South Hall Road
 - East Mining Circle
 - Girton Hall path
 - 3. Access Initiative Areas: Complete construction at following Access Initiative Areas:
 - Campbell Hall Stanley Connector
 - Warren/West Circle

Accessible Paths of Travel

Capital Projects - University of California, Berkeley



- - Primary Routes
- - Building Connections
- - - - - Auxiliary Routes
- - - - - Perimeter Public Sidewalks

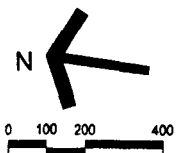


Exhibit H

ATTACHMENT H-2

**NOTICE OF PROPOSED
SETTLEMENT OF CLASS ACTION LAWSUIT**

(to be published for the benefit of possible, unidentified class members)

TO: U.C. Berkeley students with mobility and/or vision disabilities:

A class action settlement, which must be approved by the Court, has been reached in connection with a lawsuit alleging that the University of California at Berkeley ("the University") failed to provide full and equal access to persons with mobility and/or vision disabilities due to the presence of physical access barriers. The University denies any liability and wrongdoing. A copy of the proposed settlement agreement is available for your review at the office of the Clerk of the United States District Court in San Francisco at the address listed below. At the Clerk's Office, you may request the "counter" copy of the proposed settlement agreement, which will be made available for your review. The proposed settlement agreement also may be reviewed online, at the University of California's Office of Equity Standard's website, <http://equity.chance.berkeley.edu>.

You are a member of the class in this action if you are currently a student at the University and have a mobility and/or vision disability. Future students with such disabilities who attend the University during the term of this settlement will also be members of the class. For purposes of this class action, you are deemed to have a "disability" if you are limited in one or more major life activities, including educational pursuits, due to physical characteristics that impair your mobility and/or your vision. If you are a class member, you may do one of two things: (1) if the settlement is satisfactory, you may do nothing and be bound by the terms and conditions of the settlement; or (2) if you object to the settlement, you may submit written objections to the Court. If you wish to object, write the Court Clerk at the following address:

Clerk of the United States District Court
Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102-3483

Specifying: *Gustafson, et al. v. Regents of the University of California, et al.*
C 97-4055 BZ

Objections must be postmarked or, if not delivered via U.S. mail, file-stamped by the Court by _____, 2005. **Do not telephone the Court.** Any questions concerning the settlement should be directed to plaintiffs' counsel, Stephen Tollafeld of Disability Rights Advocates, 449 15th Street, Suite 303, Oakland, CA. You also may contact plaintiffs' counsel by phone at 510-451-8644, or by email at stollafeld@dralegal.org.

A hearing before the Honorable Bernard Zimmerman on the fairness of this settlement shall be held at the United States District Court, at the above address, on _____, 2005, at _____

ATTACHMENT H-1

**NOTICE OF PROPOSED
SETTLEMENT OF CLASS ACTION LAWSUIT
(known class members)**

TO: U.C. Berkeley students with mobility and/or vision disabilities:

A class action settlement, which must be approved by the Court, has been reached in connection with a lawsuit alleging that the University of California at Berkeley ("the University") failed to provide full and equal access to persons with mobility and/or vision disabilities due to the presence of physical access barriers. The University denies any liability and wrongdoing. A copy of the proposed settlement agreement is available for your review at the office of the Clerk of the United States District Court in San Francisco at the address listed below. At the Clerk's Office, you may request the "counter" copy of the proposed settlement agreement, which will be made available for your review. The proposed settlement agreement also may be reviewed online, at the University of California's Office of Equity Standard's website, <http://equity.chance.berkeley.edu>.

As a class member, you can do one of two things: (1) if the settlement is satisfactory, you may do nothing and be bound by the terms and conditions of the settlement; or (2) if you object to the settlement, you may submit written objections to the Court. If you wish to object, write the Court Clerk at the following address:

Clerk of the United States District Court
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C 97-4055 BZ

Objections must be postmarked or, if not delivered via U.S. mail, file-stamped by the Court by _____, 2005. **Do not telephone the Court.** Any questions concerning the settlement should be directed to plaintiffs' counsel, Stephen Tollafield of Disability Rights Advocates, 449 15th Street, Suite 303, Oakland, CA. You also may contact plaintiffs' counsel by phone at 510-451-8644, or by email at stollafield@dralegal.org.

A hearing before the Honorable Bernard Zimmerman on the fairness of this settlement shall be held at the United States District Court, at the above address, on _____, 2005, at _____ Courtroom _____. **As a class member, you have the right to attend and be heard at this hearing.**

Counsel for the plaintiffs are Disability Rights Advocates and Schneider & Wallace. Copies of the objections should also be mailed to Counsel for Plaintiffs as follows:

Stephen Tollafeld
Disability Rights Advocates
449 15th Street, Suite 303
Oakland, CA 94612

SUMMARY OF SETTLEMENT

Among other things, the University has completed, or will complete, the following disability access initiatives and improvements:

Building Accessibility

- **Building Entrances:** All buildings which house student programs, services, and activities will have at least one entrance per building that is accessible to students with disabilities. All other entrances will have signs directing visitors to the accessible entrance(s).
- **Restrooms:** Restrooms shall be renovated to ensure that there is one accessible restroom for each gender within a 200-foot distance of each building's program areas.
- **Interior Signage:** All new interior signs will have raised lettering and Braille for people with vision disabilities. Existing interior signs indicating programs or activities for class members will be improved with the same features over time.
- **Comprehensive Plan to Improve Accessibility of Building Interiors:** Other barriers to access inside campus buildings, including those identified in experts' surveys, will be analyzed and remedied over the settlement period.

Paths of Travel Around Campus

- All buildings will be connected to a system of fully accessible pathways leading to and among the facilities.
- A lighting plan for primary routes and building connections will be developed and implemented.
- A system of auxiliary routes will also be made as accessible as feasible.

Organizational Changes and Training

- A newly appointed Assistant Provost, Office of Equity Standards and Compliance ("AP-ESC") is now responsible for providing campus-wide leadership in disability services, including the removal of physical barriers to access on the campus and disability-related accommodations, programming, and grievances. A Physical Access Coordinator will be hired or appointed to assist the AP-ESC in this function. The physical Access Coordinator will report directly to the AP-ESC.
- A Disability Access Resolution Officer will be appointed to assist the AP-ESC in resolving disability access complaints that are not resolved to the student's satisfaction by the DSP's counselors and specialists.
- A new Access Specialist will also be hired or appointed to work within the Disabled Students Program ("DSP") as a primary point of contact for students with mobility and/or vision access issues and complaints. This Access Specialist, along with the DSP Access

Counselors, will be available to provide follow-up assistance regarding access issues raised by students with mobility and/or vision disabilities. The Access Specialist will report to the Director of the DSP, Ed Rogers, and will consult with the AP-ESC on access issues. Students who are not registered with the DSP may present access issues and complaints directly to the Office of Equity Standards and Compliance.

- Procedures for Prompt Resolution of Access Problems. Students who have questions or complaints about disability access at the University may contact either the DSP counselors or the newly appointed DSP Access Specialist, who will assist students with those matters. Students with disabilities who encounter access barriers on campus will first contact the DSP Access Specialist and/or Counselors to resolve access issues. If the barrier or problem is not promptly resolved, the AP-ESC will investigate, identify solutions, and ensure that the issue is remedied as quickly as possible. To facilitate the prompt resolution of access problems, the University will set aside a replenishing fund to immediately remove access barriers that are identified by students.
- These organizational changes are designed to give students with disabilities additional avenues for resolving access issues. The University-wide grievance procedures for academically-related issues will remain in effect.
- The University will implement a training and orientation program to all departments and units concerning evacuation procedures pertaining to persons with disabilities, grievance procedures, the rights of persons with disabilities, and the services offered on campus to accommodate the needs of persons with disabilities.

Room Assignments/Reassignments

- The DSP Access Specialist and Counselors will proactively advise students with mobility and/or vision disabilities on access issues relevant to the student's academic program. Students and Counselors will also be able to access an online database to research accessibility of campus locations.
- Courses, programs, and activities in rooms that are not accessible to a participating student with a disability will be promptly reassigned to an accessible location. Activities that are not centrally scheduled will also be made accessible to people with disabilities.

Way-Finding and Information Distribution

- A new signage system will be installed designating accessible paths of travel. The main entrance maps and campus locator maps will be updated periodically to provide improved signage regarding accessibility of routes and building entrances.
- An updated, comprehensive, accurate, and readily understandable access guide will be made available annually in alternative accessible formats describing current campus conditions.

Parking

- Parking spaces on campus will still be reserved for people with disabilities.
- Students with disabilities will continue to have assigned specific parking spaces where needed.

- At least twenty additional accessible parking spaces will be provided by December 31, 2006.
- On-campus parking fees will be made waivable where such parking is needed as an accommodation.

Transportation

- Campus shuttle buses will be replaced with sixteen newer, wheelchair accessible buses. Stops will be improved to be accessible, including tactile identification marks. Shelters will be provided to protect individuals with disabilities from inclement weather.
- Lifts on shuttle buses will be inspected regularly and no bus will be released on a route with a malfunctioning lift.
- An electric cart service will be instituted to transport qualified students with disabilities around the campus where necessary and appropriate and in the event of emergencies or where necessary due to construction impediments.

Building Evacuation and Safety

- The University will develop and implement a campus-wide evacuation policy.
- The University will clearly identify designated waiting areas to which people with disabilities may go in the event of an emergency on every floor of each building. A two-way communication system will be installed in buildings that do not have fire sprinklers to enable individuals waiting in designated waiting areas to contact emergency personnel.
- Evacuation chairs will be provided for each building. The University will provide training on the safe use of the chairs.
- Individuals with disabilities will have the option of being paired with two trained University employees (“buddies”) who will assist them in an emergency.

Maintenance of Access Features and Ongoing Commitments

- The University will maintain in operating condition all disability access features provided for students with mobility and/or vision disabilities.
- The University will conduct periodic surveys and submit an annual plan to the Monitor and Class Counsel detailing efforts to identify and remove access barriers.

Settlement Period

- The settlement will be in effect for fourteen years.
- The access improvements described above will be phased in during the Settlement Period. Some of these improvements have already been provided. Others will be provided at various intervals specified in the Settlement Agreement.

Monitoring and Enforcement

- An outside neutral Monitor will be appointed to check on the University’s compliance with the Settlement Agreement. The University will provide the Monitor and Class Counsel with annual reports on the disability access work conducted pursuant to the Settlement Agreement, and the Monitor will conduct spot inspections to ensure compliance.
- The Court will retain jurisdiction to enforce the settlement agreement. Retired Judge Eugene Lynch will resolve any disputes that arise concerning compliance.

- Any input or comments regarding the University's compliance with the Settlement Agreement should be directed to Class Counsel. **Do not contact the Monitor, the Court, or Retired Judge Lynch.**

If approved by the Court, this Settlement will fully settle as to the University all injunctive and declaratory relief claims concerning disability access relating to physical barriers for students with mobility and/or vision disabilities during the Settlement Period. The Settlement will bar any claims during the settlement period by class members for class-wide injunctive relief for physical access features and remediation items covered by the Settlement Agreement. With the exception of the Named Plaintiffs who have actively participated in this lawsuit and who have signed releases of their damage claims, no class members will recover monetary damages under this Settlement, and nothing in this Settlement shall affect class members' rights to pursue damage claims that may otherwise exist. In addition, individual claims for reasonable accommodations at the University are not barred by the Settlement Agreement.

The parties have agreed, subject to Court approval of the Settlement Agreement, that Plaintiffs' counsel will receive \$661,000 for attorneys' fees and costs incurred in pursuing this case through July 31, 2004. Plaintiffs' counsel will also receive reasonable fees and costs for additional time spent (1) on the settlement approval process and (2) monitoring the implementation of the Agreement over the course of the settlement term.

This notice is being sent to class members and published by Order of the United States District Court.

Date: _____

Clerk of the United States District Court

Courtroom _____. As a class member, you have the right to attend and be heard at this hearing.

Counsel for the plaintiffs are Disability Rights Advocates and Schneider & Wallace. Copies of the objections should also be mailed to Counsel for Plaintiffs as follows:

Stephen Tollafield
Disability Rights Advocates
449 15th Street, Suite 303
Oakland, CA 94612

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- All buildings will be connected to a system of fully accessible pathways leading to and among the facilities.
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- These organizational changes are designed to give students with disabilities additional avenues for resolving access issues. The University-wide grievance procedures for academically-related issues will remain in effect.
- The University will implement a training and orientation program to all departments and units concerning evacuation procedures pertaining to persons with disabilities, grievance procedures, the rights of persons with disabilities, and the services offered on campus to accommodate the needs of persons with disabilities.

Room Assignments/Reassignments

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- The University will maintain in operating condition all disability access features provided for students with mobility and/or vision disabilities.
- The University will conduct periodic surveys and submit an annual plan to the Monitor and Class Counsel detailing efforts to identify and remove access barriers.

Settlement Period

- The settlement will be in effect for fourteen years.
- The access improvements described above will be phased in during the Settlement Period. Some of these improvements have already been provided. Others will be provided at various intervals specified in the Settlement Agreement.

Monitoring and Enforcement

- An outside neutral Monitor will be appointed to check on the University's compliance with the Settlement Agreement. The University will provide the Monitor and Class Counsel with annual reports on the disability access work conducted pursuant to the

Settlement Agreement, and the Monitor will conduct spot inspections to ensure compliance.

- The Court will retain jurisdiction to enforce the settlement agreement. Retired Judge Eugene Lynch will resolve any disputes that arise concerning compliance.
- Any input or comments regarding the University's compliance with the Settlement Agreement should be directed to Class Counsel. **Do not contact the Monitor, the Court, or Retired Judge Lynch.**

If approved by the Court, this Settlement will fully settle as to the University all injunctive and declaratory relief claims concerning disability access relating to physical barriers for students with mobility and/or vision disabilities during the Settlement Period. The Settlement will bar any claims during the settlement period by class members for class-wide injunctive relief for physical access features and remediation items covered by the Settlement Agreement. With the exception of the Named Plaintiffs who have actively participated in this lawsuit and who have signed releases of their damage claims, no class members will recover monetary damages under this Settlement, and nothing in this Settlement shall affect class members' rights to pursue damage claims that may otherwise exist. In addition, individual claims for reasonable accommodations at the University are not barred by the Settlement Agreement.

The parties have agreed, subject to Court approval of the Settlement Agreement, that Plaintiffs' counsel will receive \$661,000 for attorneys' fees and costs incurred in pursuing this case through July 31, 2004. Plaintiffs' counsel will also receive reasonable fees and costs for additional time spent (1) on the settlement approval process and (2) monitoring the implementation of the Agreement over the course of the settlement term.

This notice is being sent to class members and published by Order of the United States District Court.

Date: _____

Clerk of the United States District Court

EXHIBIT I

ATTACHMENT I

Re: *Kaaryn Gustafson; et al. v. The Regents of University of California at Berkeley, et al.*, United States District Court Case No. C-97-4016 BZ – Resolution of Plaintiffs' Claim for Past-Incurred Attorneys' Fees And Costs And Agreements With Respect To Future Fees And Costs And Monitoring Expenses

The parties to the above-captioned action have reached a settlement agreement with respect to: (1) plaintiffs' reasonable attorneys' fees and costs incurred in this litigation prior to August 1, 2004, (2) plaintiffs' attorneys fees and costs to be incurred on this matter between August 1, 2004 and final approval of the class action settlement agreement, and (3) plaintiffs' monitoring fees and costs. This Attachment memorializes the agreements reached on those issues.

I. Agreement On Attorneys' Fees And Costs Incurred From The Inception Of The Litigation Until August 1, 2004

Plaintiffs and defendants (hereinafter the "University") have agreed that the University (and/or its designated representative) shall pay to plaintiffs' counsel, including Disability Rights Advocates, Schneider & Wallace and the Legal Aid Society, the collective sums of: (1) Six Hundred Forty-Five Thousand Dollars (\$645,000) in attorneys' fees and Sixteen Thousand One Hundred Forty-Nine Dollars and Seventy-Five Cents (\$16,149.75) in costs. Payment of these sums shall be made after the court has issued an order granting final approval of the settlement and the deadline for filing of any appeal of such an order has passed. In the event that an appeal of the court's order granting final approval is filed and pursued, the University's payment obligation shall be deferred accordingly.

II. Agreement With Respect To Attorneys' Fees And Costs To Be Incurred By Plaintiffs Between August 1, 2004 And Final Approval

The parties have agreed that the attorneys' fees to be incurred by plaintiffs from August 1, 2004 until final approval of the class settlement are to be billed at a blended rate of \$300 per hour. Paralegal time during this period is to be billed at \$100 per hour. In addition, plaintiffs have agreed that they will charge for only two attorneys' time and one paralegal's time on this matter during this period. Those attorneys will be: Stephen Tollafield of DRA, and Larry Paradis of DRA. Reasonable costs (*e.g.*, for copying, mail, faxes, etc.) may be billed by plaintiffs to the University during this period.

To minimize the expenses incurred by the University during this timeframe, the parties have agreed that the University's counsel shall undertake primary responsibility for preparing the motions for preliminary and final approval of the class action settlement and supporting documentation.

The fees and costs that the University has agreed to pay during this time period do not include any fees and costs incurred by plaintiffs in connection with their request for reasonable attorneys' fees and costs filed with Judge Lynch, including the time spent on briefing the issue and preparing and gathering supporting documents, the time spent at prior mediation sessions and the time charged by Richard Pearl. Those fees and costs are expressly included in the payments referred to in (I), above.

III. Agreement With Respect To Monitoring Fees And Costs

With respect to class counsel's monitoring fees and costs as contemplated in Section IV.D of the Class Action Settlement Agreement, the parties have reached the following settlement agreement: Consistent with the compromise set forth in (II) above, the parties have agreed to a blended rate of \$300 per hour for attorney time and \$100 per hour for paralegal time. These rates shall be increased by five percent (5%) every three years, starting from the date of final approval. The parties also have agreed that plaintiffs will only charge the University for two attorneys and one paralegal for monitoring work during the life of the settlement. At least one of the attorneys and the paralegal will be from DRA. Plaintiffs will notify University counsel at the beginning of each year during the settlement period which two attorneys and paralegal they have designated for this monitoring work.

The parties further have agreed that plaintiffs shall bill the University no more than a maximum of 90 hours for any single year for monitoring during the settlement period. Plaintiffs will not bill the University for time spent deciding which of their attorneys will be designated to participate in this monitoring process. This hourly cap shall include hours billed by plaintiffs' designated paralegal.

These agreed-upon caps for monitoring fees and costs shall not include fees and costs incurred by plaintiffs in any arbitration of disputes arising from the settlement recovery of such fees and costs, if any, is addressed in and governed by the text of the Class Action Settlement Agreement.

By signing this document, counsel for plaintiffs and the University, respectively, acknowledge their agreement with its terms.

DISABILITY RIGHTS ADVOCATES

By: _____
Laurence Paradis, Esq.

GORDON & REES LLP

By: _____
Brian P. Maschler, Esq.

Attorneys for Defendants

SCHNEIER & WALLACE

By: _____
Guy Wallace, Esq.

EMPLOYMENT LAW CENTER

By: _____
Patricia Shiu, Esq.

Attorneys for Plaintiffs

Exhibit J

ATTACHMENT J

RELEASE OF INDIVIDUAL PLAINTIFFS' DAMAGE CLAIMS

This General Release of Damage Claims ("Release") is made and entered into and dated as of _____, 2004 by and between KAARYN GUSTAFSON, MICHAEL EMMETT, and ALAINE PERRY, (hereinafter "the Individual Plaintiffs"), and UNIVERSITY OF CALIFORNIA at BERKELEY; REGENTS OF THE UNIVERSITY OF CALIFORNIA; and ROBERT M. BERDAHL, CHANCELLOR OF THE UNIVERSITY OF CALIFORNIA (hereinafter "Defendants" or the "University").

1. In or about October 1997, Plaintiffs commenced a civil class action in the United States District Court for the Northern District of California, Case No. C-979-4016 BZ (the "Lawsuit"), against defendants, alleging, *inter alia*, violations of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12132, *et seq.* ("ADA") and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§ 794, *et seq.* ("Section 504") and their accompanying regulations by the University of California at Berkeley.

2. On or about May 30, 2000, the Court in the Lawsuit entered an Order Certifying a Plaintiff Class consisting of all University of California-Berkeley students disabled by mobility impairments, as defined under state and/or federal law who since October 31, 1994, have allegedly been denied their rights under a Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, California Civil Code §§ 51, *et seq.*, California Civil Code §§ 54, *et seq.*, California Government Code § 4450, *et seq.*, and/or California Civil Code §§ 11135, *et seq.*, to access to the programs, services and/or activities of the University of California-Berkeley resulting from and/or relating to physical barriers. Pursuant to the

Settlement Agreement reached in the Lawsuit, the parties thereto stipulated to expand the plaintiff class to include UC Berkeley students disabled by vision impairments who since October 31, 1994 allegedly have been denied their rights under those federal and state statutes and regulations.

3. The University denies any and all liability to the Individual Plaintiffs and Class Members and denies that it has violated any laws, including without limitation the ADA and Section 504, pertaining to access to persons who have mobility and/or vision disabilities.

4. In October 2004 the University, the Plaintiff Class reached a settlement of all of the claims for declaratory and injunctive relief asserted by the Class in the Lawsuit (hereinafter, the "Settlement Agreement").

5. Pursuant to this Settlement Agreement, the University has agreed to settle certain claims for damages asserted by the Individual Plaintiffs in the Lawsuit, in exchange for a full and final Release thereof.

WHEREAS, the Individual Plaintiffs and the University, and each of them, desire to settle all damage claims that the Individual Plaintiffs have or ever may have against the University, which damage claims arise out of or are in any way related to the Lawsuit, and to dismiss the entirety of said claims with prejudice, it being understood that the Individual Plaintiffs and the University are to bear their own attorneys' fees and costs incurred except as otherwise set forth in the Settlement Agreement.

WHEREAS, pursuant to the Settlement Agreement reached by the Plaintiffs in the Lawsuit and the University, the Individual Plaintiffs have agreed to accept the following sums from the University as a full and final settlement of all damage claims against the University: Two Thousand Dollars (\$2,000.00) to Plaintiff Michael Emmett, Two Thousand Dollars

(\$2,000.00) will be donated to the University to the Berkeley Center for Independent Living on behalf of Plaintiff Elaine Perry; and Twenty Thousand Dollars (\$20,000.00) will be donated by the University to the San Francisco State University Institute on Disability on behalf of Plaintiff Kaaryn Gustafson.

NOW, THEREFORE, in consideration of the foregoing, the Individual Plaintiffs agree to dismiss his/her damage claims against the University, with prejudice, and under the following conditions.

1. The Individual Plaintiffs hereby release, remise and forever discharge the University from any and all claims and demands for damages of any kind, nature or description whatsoever under state or federal law, including without limitation, claims arising under the ADA, Section 504, the Unruh Act, the Fair Employment & Housing Act, and Title 24 of the California Administrative Code, common law claims, and from any and all liabilities, damages, injuries, liens, actions or causes of action at law that Individual Plaintiffs have or in the future may have against the University arising out of the claims which are the subject of the Lawsuit.

2. It is specifically understood and agreed that this is a full and final release applying to all unknown and unanticipated claims arising out of or in any way related to or connected with the Lawsuit and of any other fact or circumstance described in the Lawsuit, as well as those facts known or disclosed, whether included or not in the prayers of said pleading, and as further consideration and inducement for this settlement, the Individual Plaintiffs and the University hereby expressly waive all rights or benefits which they may have or may in the future have under the provisions of Civil Code section 1542, which section provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

3. It is further understood and agreed that this settlement is a compromise of disputed claims. The execution of this release is not to be construed as an admission of liability by any party, which liability is expressly denied.

4. This Release shall inure to the benefit of and be binding upon the Individual Plaintiffs, and each of them, and the University, and all of their respective trustors, heirs, predecessors, successors, assignees, buyers, grantees, vendees, or transferees and their past or present, direct or indirect, partners, parents, divisions, or affiliates and their respective officers, directors or employees, attorneys and insurance carriers, and each of them, as though they were parties hereto.

5. The Individual Plaintiffs represent that he/she has authorized his/her attorneys to dismiss with prejudice his/her damage claims against the University asserted in the Lawsuit.

7. This Release may be executed in counterparts, each one of which shall be deemed an original, all of which together shall constitute one and the same Release.

8. Should any party to this Release fail to perform or otherwise breach this Release, the party seeking performance and/or recompense for said breach shall be entitled to reasonable attorneys' fees should said party prevail.

DATE: October 23, 2004


KAARYN GUSTAFSON
Plaintiff

DATE: _____, 2004

MICHAEL EMMETT
Plaintiff

DATE: _____, 2004

ALAINE PERRY
Plaintiff

APPROVED AS TO FORM:

DISABILITY RIGHTS ADVOCATES

DATE: _____, 2004

By: Laurence Paradis, Esq.
Attorneys for Plaintiffs
KAARYN GUSTAFSON, MICHAEL EMMETT
and ALAINE PERRY

APPROVED AS TO FORM:

REGENTS OF THE UNIVERSITY OF
CALIFORNIA

DATE: _____, 2004

By: Jeffrey A. Blair, Esq.
Office of the General Counsel
Regents of the University of California
1111 Franklin Street, 8th Floor
Oakland, CA 94607

DATE: _____, 2004

KAARYN GUSTAFSON
Plaintiff

DATE: October 21, 2004


MICHAEL EMMETT
Plaintiff

DATE: _____, 2004

ALAINE PERRY
Plaintiff

APPROVED AS TO FORM:

DISABILITY RIGHTS ADVOCATES

DATE: _____, 2004

By: Laurence Paradis, Esq.
Attorneys for Plaintiffs
KAARYN GUSTAFSON, MICHAEL EMMETT
and ALAINE PERRY

APPROVED AS TO FORM:

REGENTS OF THE UNIVERSITY OF
CALIFORNIA

DATE: _____, 2004

By: Jeffrey A. Blair, Esq.
Office of the General Counsel
Regents of the University of California
1111 Franklin Street, 8th Floor
Oakland, CA 94607

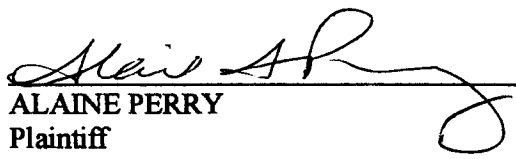
DATE: _____, 2004

KAARYN GUSTAFSON
Plaintiff

DATE: _____, 2004

MICHAEL EMMETT
Plaintiff

DATE: 10/23/04, 2004



ELAINE PERRY
Plaintiff

APPROVED AS TO FORM:

DISABILITY RIGHTS ADVOCATES

DATE: _____, 2004

By: Laurence Paradis, Esq.
Attorneys for Plaintiffs
KAARYN GUSTAFSON, MICHAEL EMMETT
and ALAINE PERRY

APPROVED AS TO FORM:

REGENTS OF THE UNIVERSITY OF
CALIFORNIA

DATE: _____, 2004

By: Jeffrey A. Blair, Esq.
Office of the General Counsel
Regents of the University of California
1111 Franklin Street, 8th Floor
Oakland, CA 94607

DATE: _____, 2004

KAARYN GUSTAFSON
Plaintiff

DATE: _____, 2004

MICHAEL EMMETT
Plaintiff


DATE: _____, 2004

ALAINA PERRY
Plaintiff

APPROVED AS TO FORM:

DISABILITY RIGHTS ADVOCATES

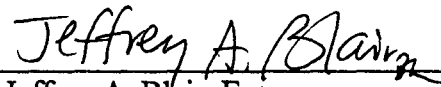
DATE: 10-25, 2004


By: Laurence Paradis, Esq.
Attorneys for Plaintiffs
KAARYN GUSTAFSON, MICHAEL EMMETT
and ALAINA PERRY

APPROVED AS TO FORM:

REGENTS OF THE UNIVERSITY OF
CALIFORNIA

DATE: 11-24, 2004


By: Jeffrey A. Blair, Esq.
Office of the General Counsel
Regents of the University of California
1111 Franklin Street, 8th Floor
Oakland, CA 94607

GORDON & REES LLP

DATE: 11-24, 2004


By: ~~Brian P. Maschler~~, Esq.

Attorneys for Defendants

THE UNIVERSITY OF CALIFORNIA AT
BERKELEY; REGENTS OF THE UNIVERSITY
OF CALIFORNIA; AND ROBERT M.
BERDAHL, CHANCELLOR OF THE
UNIVERSITY OF CALIFORNIA