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April 14, 2009

John A. Roach, Ed. D.
Superintendent
Carlsbad Unified School District
6225 El Camino Real
Carlsbad, CA 92008

SENT VIA REGULAR MAIL AND FASCIMILE
Fax (760) 331-5000

Re: Violations of SARC Obligations

Dear Superintendent Roach:

The Carlsbad Unified School District (the "District") is in violation of state requirements concerning the preparation and dissemination of 2007-2008 School Accountability Report Cards ("SARCs").¹ An investigation by the law firms of Allen Matkins and Public Advocates has revealed that the District prepared and posted a 2007-2008 SARC for its 12 schools, but has failed to make translated copies of the SARC available where required by law (see Attachment A for a complete list of the District's SARC deficiencies). This letter is to inform you that Public Advocates is prepared to file suit in the event the Carlsbad Unified School District does not fully comply within 30 days with the SARC obligations set forth in this letter.

Public Advocates' Education Work

Over its thirty-eight years, Public Advocates has had a long-standing commitment to improving educational opportunities for low-income students, students of color, and English language learners. Through litigation and other means, Public Advocates has had significant success in supporting the fundamental right to education for all. Public Advocates was lead counsel in *Serrano v. Priest*, the landmark lawsuit that caused California to fund school districts more equitably. We also served as lead counsel in the educational equity class action, *Williams v. State of California*, which resulted in the August 2004 landmark settlement that takes important steps to provide all California students with basic educational necessities. An important element of the settlement in *Williams* was new SARC reporting requirements on teacher quality, sufficiency of textbooks, and the "good repair" of school facilities.

As part of our commitment to education equity, Public Advocates works to ensure that all school districts abide by their nondiscretionary duties to issue timely and complete SARCs for each of their schools. In 2007, Public Advocates brought successful litigation against the Oakland Unified School District for failure to comply with its mandatory SARC responsibilities. That same year, we helped draft and support a bill that established February 1st as a new common release date for SARCs statewide beginning in 2009. This winter, Allen Matkins and Public Advocates conducted a statewide investigation to determine which school districts failed to meet their SARC obligations by the February 1st deadline. The investigation found the following deficiencies with respect to the District's SARCs:

¹ 2007-08 SARCs are those required to be published during the 2008-09 school year.

Failure to Translate SARC's Into a Primary Language Other than English

The District has failed to make the 2007-08 SARC available in Spanish at 5 of its schools. This failure contravenes EC § 48985, which requires the SARC to be translated into other languages if 15% or more of the pupils enrolled in the school speak a single primary language other than English. Specifically, Section 48985 (a) provides:

If 15 percent or more of the pupils enrolled in a public school . . . speak a single primary language other than English . . . all notices, reports, statements, or records sent to the parent or guardian of any such pupil by the school or school district shall, in addition to being written in English, be written in the primary language, and may be responded to either in English or the primary language.

EC § 48985. Thus, it is mandatory that translations of the 2007-08 SARC be provided to parents or guardians of children in the district schools with 15% or more pupils that speak a single primary language other than English. In disregarding this requirement, the District has failed to meet explicit Legislative intent to “make a concerted effort to notify parents of the purpose of the school accountability report cards, . . . ensure that all parents receive a copy of the report card . . . [and] *ensure that the report cards are easy to read and understandable by parents.*” EC § 33126(d) (emphasis added). Obviously, many parents or guardians who speak a primary language other than English will not be able to read or understand the SARC unless it is translated.

Relief

By failing to comply with its SARC obligations, the District is depriving parents and communities of their ability to “guarantee accountability for dollars spent,” (The Classroom Instructional Improvement and Accountability Act of 1998, § 2) and to allow a parent to “make meaningful comparisons between public schools that will enable him or her to make informed decisions on which school to enroll his or her children” (EC § 3326 (a)). The District should immediately seek to correct its violation of SARC obligations.

This would be a fairly straightforward lawsuit with high probability that a court would determine that the District is in breach of its duties under state law, and that a writ of mandamus is appropriate. *See Beverly v. Anderson*, 76 Cal. App. 4th 480 (1999) (affirming grant of a petition for a writ of mandate where there was a mandatory duty under a state statute). The relief we would seek in the lawsuit is an order from the court directing the Carlsbad Unified School District to do the following:

Translation of the SARC

(1) Make the full 2007-08 SARC immediately available in other required languages where 15% or more of the school's students speak a primary language other than English; (2) make the 2008-09 SARC (published during the 2009-10 school year) available in such additional languages no later than February 1, 2010; and (3) provide the parent or guardian of each student enrolled in a district school that has 15% or more pupils speaking a primary language other than English with written notification in that primary language that: (a) a translated 2007-08 SARC for his/her child's school is available on the Internet and at their school site, (b) a translated 2008-09 SARC will be available on the Internet and at each school site for those schools where 15% or more of the students speak a primary language other than English, no later than February 1, 2010, and (c) at each school site, there are designated school personnel available to answer any questions regarding that school's SARC.

Should this matter proceed to court, we would also ask the court for an award of attorneys' fees and costs under Sections 1021 and 1021.5 of the California Code of Civil Procedure.

Resolving this Matter Short of Litigation

In an effort to redress the District's noncompliance with its SARC obligations, Public Advocates is prepared to file suit. We hope, however, that we can resolve this matter short of litigation. Accordingly, if within 30 calendar days the Carlsbad Unified School District provides the relief identified above, we are willing to forgo litigation, including an award of attorneys' fees and costs.

Given that over two months have passed since the February 1 SARC publication deadline, and that parents have been without this valuable information for long enough, we think you would agree that time is of essence. We look forward to your prompt response. If you should have any questions or comments regarding the allegations in this letter, please do not hesitate to contact us.

Sincerely,

A handwritten signature in brown ink, appearing to read 'G. Mayer', with a long horizontal flourish extending to the right.

Guillermo Mayer
Staff Attorney

cc: Megan Hutchinson, Esq., Allen Matkins

2007-08 SARC VIOLATIONS

School District	County	Last Reviewed	Internet Posting	Translation			Good Repair	Teacher Misassignment			Teacher Vacancy			Textbook Sufficiency	Expenditures per Pupil	Average Teacher Salaries
				Required	Language	Violations		2006	2007	2008	2006	2007	2008			
Carlsbad USD	San Diego															
Aviara Oaks		02/10/2009														
Buena Vista		04/01/2009		√	Spanish	x										
Calavera Hills Elementary		04/01/2009		√	Spanish	x										
Hope		02/10/2009														
Jefferson		04/01/2009		√	Spanish	x										
Kelly		02/10/2009														
Pacific Rim		04/01/2009														
Poinsettia		04/01/2009		√	Spanish	x										
Valley		04/01/2009		√	Spanish	x										
Aviara Oaks Middle		02/10/2009														
Calavera Hills Middle		02/10/2009														
Carlsbad High		02/10/2009														
Total				5		5										