



SANTA MONICA - MALIBU UNIFIED SCHOOL DISTRICT

October 6, 2021

Superintendent's Message: Pupil Fees Settlement Update Final Approval of Settlement Expected Soon

Dear Parents, Guardians, Staff and Community Members,

This letter follows up on my previous letter in August 2019, regarding the settlement of a pending class action lawsuit against the Santa Monica-Malibu Unified School District, *de Baca, et al. v. Santa Monica-Malibu USD*, LA Superior Court Case No. BC674932. The lawsuit alleges the district charged unlawful "pupil fees" to parents and students in violation of state law.

In my letter I described the various district policies and parental notices regarding student fees, our support for the law, our commitment to full compliance, and our firmly-held position that the allegations could have and would have been addressed and resolved more quickly and efficiently if counsel for the plaintiffs had chosen to address this issue through our Uniform Complaint Procedures rather than through expensive litigation. I also noted that the district contests the allegations in the lawsuit, and that the decision to settle the lawsuit was based on the significant financial outlay required to defend state law in the context of class action litigation, the accompanying risk that always exists in litigation, and the best-case scenario in terms of financial and operational cost to the district.

Class action lawsuits must be approved by the judge overseeing the lawsuit, and although preliminary approval occurred in November 2019, shortly after my August 2019 letter, final approval of the settlement was delayed by a number of factors including the COVID pandemic, the large number of claims that the district disputed through the agreed-upon claims process, and the resignation of the agreed-upon referee to decide claim disputes due to a job change. Regarding the number of disputes, I have commented previously that plaintiffs' counsel encouraged parents to submit exaggerated and disingenuous claim forms, the most glaring example being a single claim for more than \$550,000 from a single family, for private school tuition and a number of other large expenses paid to private entities for non-district programs. That claim was not withdrawn until the judge was forced to order the family to substantiate their claims under oath.

The judge will consider final approval of the settlement on October 12, 2021. I am pleased to report that, with encouragement from the judge, the parties have negotiated and the School Board has approved a resolution of the disputed claims that, we hope, will facilitate final approval. As I noted in August 2019, and contrary to statements that had been made in the press by counsel for the plaintiffs, the settlement agreement explicitly states "nothing herein shall constitute an admission by the district of wrongdoing or liability or of the truth of any factual allegations" in the lawsuit. That remains true. Both the initial decision to settle the lawsuit and the decision to approve

a resolution of the disputed claims were financial and operational decisions. Stated simply, this negotiated resolution will cost the district less than proceeding with the dispute resolution process, and will not force district and school administrators and staff to divert their attention away from their day-to-day commitment to district students and families.

I will end by reiterating what I conveyed in August 2019, which reflected existing policy at the time and continues to this day: We take pride in our commitment to equity and we seek to ensure that all students have access and opportunity to all aspects of our educational and extracurricular programs; we believe in the underlying values reflected in the law governing pupil fees; the district stands ready to address any concerns parents have; and if a student/parent believes they have been charged a fee unlawfully, upon notification we will investigate and the student/parent and all other affected students/parents will be reimbursed if illegal fees have been charged.

Sincerely,

Dr. Ben Drati, Superintendent