

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 **February 28, 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 **March 23, 2005, at 3:00 p.m. in Courtroom G. 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

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.
- 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: January ___, 2005