



COUNTY OF LOS ANGELES  
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TO: CELIA ZAVALA  
Executive Officer  
Board of Supervisors

Attention: Agenda Preparation

FROM: ADRIENNE M. BYERS  
Litigation Cost Manager  
Executive Office

RE: **Item for the Board of Supervisors' Agenda**  
**County Claims Board Recommendation**  
**Claudia Herrera, et al. v. Los Angeles Unified School District,**  
**et al.**  
**United States District Court Case No. CV 17-0069 JVS (KESx)**

Attached is the Agenda entry for the Los Angeles County Claims Board's recommendation regarding the above-referenced matter. Also attached are the Case Summary and the Summary Corrective Action Plan to be made available to the public.

It is requested that this recommendation, the Case Summary, and the Summary Corrective Action Plan be placed on the Board of Supervisors' agenda.

AMB:vc

Attachments

## Board Agenda

### MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled Claudia Herrera, et al. v. Los Angeles Unified School District, et al., United States District Court Case No. CV 17-0069 JVS (KESx) in the amount of \$2,125,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Department of Parks and Recreation's budget.

This wrongful death lawsuit arises from an incident that occurred at a County Department of Parks and Recreation swimming pool.

## CASE SUMMARY

### INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Claudia Herrera, et al. v. Los Angeles Unified School District, et al.
CASE NUMBER	CV 17-0069 JVS (KESx)
COURT	United States District Court
DATE FILED	December 2, 2014
COUNTY DEPARTMENT	Department of Parks and Recreation
PROPOSED SETTLEMENT AMOUNT	\$ 2,125,000
ATTORNEY FOR PLAINTIFF	Daniel Rodriquez, Esq. Rodriquez & Associates Luis A.Carrillo, Esq. Carrillo Law Firm, LLP
COUNTY COUNSEL ATTORNEY	Jonathan McCaverty Principal Deputy County Counsel
NATURE OF CASE	<p>On June 4, 2014, at approximately 1:30 p.m., Erick Ortiz, a 16-year-old Garfield High School special needs student, was found unresponsive in the deep end of the Atlantic Avenue Park swimming pool during a field trip event sponsored by the Los Angeles Unified School District ("LAUSD"). Despite resuscitation efforts at the pool and at Monterey Park Hospital, Erick was pronounced dead later that day. The Department of Medical Examiner-Coroner determined that Erick's cause of death was drowning. Erick's parents, Ms. Herrera and Mr. Ortiz sued LAUSD, the County, Jose Lopez (Erick's full-time, one-on-one teacher's aide), and Jose Huerta (Garfield HS principal).</p> <p>Given the risks and uncertainties of litigation, a reasonable settlement at this time will avoid further litigation costs; therefore, a full and final settlement of the case is warranted.</p>
PAID ATTORNEY FEES, TO DATE	\$ 967,615
PAID COSTS, TO DATE	\$ 115,664

**Case Name:**

Claudia Herrera, v. County of Los Angeles, et al.



## Summary Corrective Action Plan

The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

### Incident/Event Specific Information

Date of Incident/Event:	June 4, 2014
Briefly provide a description of the incident/event:	<p>On June 4, 2014, the Los Angeles Unified School District (LAUSD) held an end-of the-year school event for High School students at the County's Atlantic Avenue Park Swimming Pool.</p> <p>At around 1:30 p.m., one of the lifeguards discovered 16-year-old, special needs student at the bottom of the deep end of the pool. Prior to the event, LAUSD did not disclose any participant with special needs nor provided a person for one-on-one supervision. The lifeguard immediately dove in, brought the student to the surface, and with the assistance of the other lifeguards, lifted him onto the pool deck. The student was unconscious, nonresponsive, and had no pulse. Two of the lifeguards began performing CPR – one performing chest compressions and the other administering breath ventilations. As CPR was being administered, another lifeguard attempted to, but was unsuccessful, in setting up the rescue equipment to administer oxygen.</p> <p>Simultaneous with the lifeguards beginning CPR, 9-1-1 was called by one of the County lifeguards. When County paramedics arrived at 1:40 p.m., they took over rescue efforts. The student was transported by ambulance to the hospital. He never regained consciousness and was pronounced dead shortly thereafter.</p>

1. Briefly describe the root cause(s) of the claim/lawsuit:

- Root Cause 1: The policies and procedures related to pool aquatics, including the swim test used to track swimmers' proficiency was not properly executed.
- Root Cause 2: AED equipment was not available for use and staff was insufficiently trained on the use of Other available emergency rescue equipment.
- Root Cause 3: The park permits between LAUSD and County DPR including insurance and Indemnification was unenforceable.
- Root Cause 4: At the time of the incident, the Department of Parks and Recreation pool aquatics structure Was decentralized into separate agencies with respect to leadership, lifeguard training, Policies and practices.

2. Briefly describe recommended corrective actions:

(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

**Root cause 1:** Before being allowed access to the deep end of the pool or diving boards, all patrons swimmers must pass a standard swim test conducted by a lifeguard assigned exclusively to the test without other distracting duties. Swimmers who successfully pass the swim test are issued a wrist band that signals they have taken and passed the test. Anyone not wearing a bracelet is restricted to the shallow end of the pool. Additionally, all groups that enter the pool are required to follow the Department's new "Water Watchers" program to ensure responsible parties within the group are actively watching their dependent minors.

**Root cause 2:** Since the date of this incident, defibrillators were purchased, distributed and installed in all aquatics facilities. Moreover, full-time auditors have been hired in each agency to inspect the devices for functionality, readiness and performance.

Standardized rescue equipment such as trauma, vac suction units and oxygen delivery masks and big valve kits were acquired to ensure all major medical and rescue equipment is uniform and deployed across all aquatic facilities. Moreover, all lifesaving staff are required to have personal protective equipment on their person while in a lifesaving role. All lifesaving staff have been trained on these equipment.

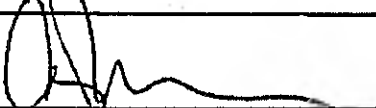
**Root cause 3:** Due to the increased exposure which arose from this lawsuit, DPR has suspended LAUSD's use of any and all Department facilities until a legally enforceable Indemnification Agreement between the Department, and the LAUSD Governing Board can be drafted and ratified. Furthermore, the Department and the LAUSD are engaged in a deliberative process regarding their responsibility to reimburse the Department for the legal expenses and monetary settlement incurred by the Department due to LAUSD's refusal to honor the original indemnification agreement.

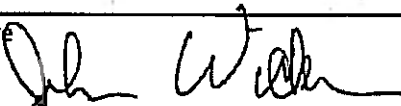
**Root cause 4:** The Department of Parks and Recreation contracted a private risk management firm, POMS and Associates Risk Services, to produce a comprehensive pool aquatics risk management program; including unified leadership and organizational structure that addresses principal causes of exposure to risk of drowning and injury, lifeguard skills and training, guarding patrons with disabilities and managing visiting groups.

In response to the POMS Audit, the Department transitioned from a decentralized pool aquatics organizational structure--by agency, to a unified Aquatics Division headed by a Chief of Pool Aquatics-- a new, Regional Recreation Director of Pool Aquatics was hired. This new position brings much needed leadership to pool aquatics life-saving and also is a significant step toward a centralized Department-wide division for all aquatics, lakes and pools. All aquatic staff are required to participate in and attend daily in-service training sessions. The Department continues to develop and implement critical life rescue training programs and simulation drills for aquatic staff. The Department developed policy for field trips and rental groups and implemented a "Water Watchers" program to ensure responsible parties within the group are actively watching their dependent minors. In addition, a staffing model was developed to strengthen the standards for lifesaving and preventive maintenance at all aquatic facilities.


3. Are the corrective actions addressing department-wide system issues?

- ☐ Yes – The corrective actions address department-wide system issues.  
No – The corrective actions are only applicable to the affected parties.

Name: (Risk Management Coordinator)	
Anush Gambaryan	
Signature 	Date: 8/8/19

Name: (Department Head)	
John Wicker	
Signature 	Date: 8/8/19

<b>Chief Executive Office Risk Management Inspector General USE ONLY</b>	
Are the corrective actions addressing department-wide system issues?	
<input checked="" type="checkbox"/> Yes – The corrective actions address department-wide system issues. <input type="checkbox"/> No – The corrective actions are only applicable to the affected parties.	

Name: (Risk Management Inspector General)	
Destiny Carter	
Signature 	Date: 8/8/2019