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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CHARLES ANTHONY GUERRA, et al.,
Plaintiffs,
v.
WEST LOS ANGELES COLLEGE, et al.,
Defendants.

Case No. CV 16-6796-MWF(KSx)
SUPPLEMENTAL FINDINGS OF
FACT AND CONCLUSIONS OF LAW
FOLLOWING REMAND

This matter is on remand from the Ninth Circuit following its reversal of this Court’s prior Findings of Fact and Conclusions of Law and the resulting judgment in favor of Defendants. (Order and Amended Memorandum No. 18-56236 (“Amended Memorandum”) (Dkt. No. 210)). The issues now before this Court are (1) the appropriate relief for Plaintiff Charles Anthony Guerra, whose entitlement to relief was determined by the Ninth Circuit (Amended Memorandum at 4); and (2) whether Plaintiff Karlton Bontrager was denied adequate access to the campus because of the slope of Albert Vera Drive and, if so, then what relief would restore meaningful access. (Amended Memorandum at 4-5).

This Court now makes the following Supplemental Findings of Fact and Conclusions of Law, pursuant to the Amended Memorandum and Rule 52 of the Federal Rules of Civil Procedure. The Court herein orders equitable relief, pursuant

1 to Rule 65(d) of the Federal Rules of Civil Procedure. Any finding of fact that
2 constitutes a conclusion of law is also hereby adopted as a conclusion of law, and any
3 conclusion of law that constitutes a finding of fact is also hereby adopted as a finding
4 of fact.

5 **FINDINGS OF FACT**

6 **A. WLAC AND LACCD**

7 1. Defendant West Los Angeles College (“WLAC”) is a public community
8 college located in Culver City, California. Along with other Los Angeles Community
9 Colleges, WLAC is part of Defendant Los Angeles Community College District
10 (“LACCD”). (Findings of Fact and Conclusions of Law (“FFCL”) (Dkt. No. 172 at
11 2)).

12 2. WLAC and LACCD are public entities within the meaning of Title II of
13 the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12131(1)(A). WLAC and
14 LACCD are also public entities receiving public funds within the meaning of Section
15 504 of the Rehabilitation Act, 29 U.S.C. § 794; 34 C.F.R. §104.4. (FFCL at 2).

16 **B. THE WLAC CAMPUS**

17 3. Exhibit 37 provides a map of the campus. The campus, as depicted in the
18 map, is oriented as follows: College Boulevard (at the left side of the map) is to the
19 north; Freshman Drive (at the bottom of the map) is to the west; Stocker Street (at the
20 right side of the map) is to the south; and Sophomore Drive (at the top of the map) is
21 to the east. Generally speaking, the campus runs uphill from the west to the east (*i.e.*,
22 Freshman Drive is at a lower elevation than Sophomore Drive). (FFCL at 5).

23 4. The campus is split into tiers, with different classes, student services, and
24 campus activities on each. (FFCL at 5).

25 5. The Student Services Building (“SSB”) (the building depicted in orange
26 on the map) and the General Classrooms (“GC”) building (the building immediately
27 to the right of the SSB) are located on the campus’s middle tier. (FFCL at 5).

28

1 6. The Fine Arts building (“FA”), the Math and Sciences A building
2 (“MSA”), the HLRC (the library), the CE building, and the SC building (all to the east
3 of the SSB and GC and to the north of the South Parking Structure (“SPS”)) are all
4 along a pedestrian mall on the campus’s upper tier (the “Pedestrian Mall”) (the white
5 area depicted on the map to the east of the FA and HLRC). (FFCL at 5-6).

6 7. The white rectangular area depicted on the map between the SSB and the
7 GC is a pedestrian walkway (the “SSB/GC Walkway”). At the east end of the
8 SSB/GC Walkway, there is a functional elevator that links the campus’s middle tier
9 with its upper tier. (FFCL at 6).

10 8. At the west end of the SSB/GC Walkway (where the walkway meets B
11 Street), there is a bus stop. The Culver City bus drops passengers off there. (FFCL at
12 6).

13 **C. THE PRIOR CAMPUS SHUTTLE**

14 9. From approximately August 2011 to February 2016, WLAC and LACCD
15 operated an on-campus shuttle service on the WLAC campus. The shuttles were
16 extended golf carts. Plaintiff Charles Guerra, now-deceased Plaintiff Chrystal,
17 Plaintiff Karlton Bontrager, and other students with mobility issues utilized the shuttle
18 service to get around campus. (FFCL at 6).

19 10. In 2011, Larry Brandon and another WLAC custodial employee were
20 reclassified as paratransit drivers and assigned to drive the golf carts. (FFCL at 6).
21 Mr. Brandon testified on October 20, 2017, about his experiences driving the on-
22 campus shuttle.

23 11. An August 1, 2011 “classified staffing request” relating to the paratransit
24 shuttle driver position described the job as follows: “Transit Shuttle Driver duties:
25 providing shuttle/transportation services to students on the terraced and hilly terrain at
26 WLAC per ADA guidelines, and to aid those students with related needs during
27 transport.” (FFCL at 6).

28

1 12. According to the LACCD job description, the WLAC paratransit shuttle
2 driver “[o]perates a light vehicle to pick up and transport students, faculty, and/or staff
3 with disabilities to various points within assigned campus areas and performs the full
4 range of custodial services when transportation services are suspended, rescheduled,
5 or not required.” (FFCL at 6).

6 13. WLAC gave eligible students a card that listed a phone number for them
7 to call when they needed a ride. The students would speak to one of the two WLAC
8 paratransit drivers when they needed a ride and the paratransit driver on duty would
9 pick them up at the requested location along the shuttle route. (FFCL at 6).

10 **D. CHARLES GUERRA**

11 14. Plaintiff Charles Guerra has been a student at WLAC since 2015. He
12 obtained his certification as an Alcohol and Drug Abuse Counselor in June 2017. Mr.
13 Guerra continues to enroll in WLAC courses, working to earn credits that will apply
14 to higher-level degrees, including a bachelor’s degree. (FFCL at 2).

15 15. Mr. Guerra has a spinal cord condition that has damaged the nerve to his
16 left leg, and he has undergone surgery to treat this condition. His ability to walk is
17 limited, and he uses a walker and a foot brace. (FFCL at 2). He also has severe back
18 problems. 10/17/2017 Tr. Trans. at 166:15-25; 10/18/2017 Tr. Trans. at 180:4.

19 16. Mr. Guerra drives himself to the WLAC campus. He has a disabled
20 placard from the California Department of Motor Vehicles that allows him to park in
21 disabled parking lots. (FFCL at 2).

22 17. Mr. Guerra testified on October 17 and 18, 2017 about his experiences
23 navigating the WLAC campus and his interactions with WLAC administrators.
24 (FFCL at 3).

25 18. Prior to the termination of on-campus shuttle service, Mr. Guerra would
26 drive himself to campus, park in a handicap space in Lot 5, and call for a ride. A
27 shuttle driver would pick him up at the Lot 5 pick-up location and transport him to the
28 drop-off location closest to the building in which he had class. (FFCL at 8). He

1 would also utilize the shuttle when he needed it to go between campus buildings
2 during the day. 10/18/2017 Tr. Trans. at 4:1-4. When he was done with class for the
3 day, he would call for a ride and receive a ride back to the Lot 5 drop-off location.
4 Mr. Guerra found the shuttle service to be convenient, reliable, and safe. (FFCL at 8).

5 19. On his first day of class after WLAC and LACCD cancelled the shuttle,
6 Mr. Guerra went to the campus sheriff's department and asked how he should get to
7 class in the CE building without the shuttle. 10/18/2017 Tr. Trans. at 195:5-14. The
8 sheriffs directed him to park in a handicapped spot in Lot 1 or Lot A, walk down E
9 Street, and cut over through a bungalow to get to the CE building. 10/18/2017 Tr.
10 Trans. at 195:14-17. Mr. Guerra did so. 10/18/2017 Tr. Trans. at 196:4-6.

11 20. While walking down E Street pursuant to the campus sheriffs' directive,
12 Mr. Guerra lost his balance on the steep walkway and fell several feet. 10/18/2017 Tr.
13 Trans. at 196:10-19; (FFCL at 9 (finding that Mr. Guerra had "fallen down on E Street
14 (to the south of Lots 1 and 2 and to the north of the "B" buildings), which is fairly
15 steep")). An ambulance arrived and took Mr. Guerra to the UCLA emergency room
16 for treatment for his injuries. 10/18/2017 Tr. Trans. at 196:14-24. The week of
17 recovery time from the fall caused Mr. Guerra to lose two summer school classes that
18 he had intended to take. 10/18/2017 Tr. Trans. at 196:25-197:12. He also had to
19 switch back to using a walker rather than a cane for mobility. 10/18/2017 Tr. Trans.
20 at 197:13-24.

21 21. Since that time, Mr. Guerra has continued to drive himself to campus, but
22 has parked in the SPS and accessed the rest of campus via the Pedestrian Mall. Mr.
23 Guerra walks from the SPS to his classes along the Pedestrian Mall using his walker.
24 (FFCL at 9).

25 22. It is difficult for Mr. Guerra to park in the SPS due to the speed bumps in
26 the parking structure. Mr. Guerra testified that going over the speed bumps "shakes
27 my whole back up." 10/18/2017 Tr. Trans. at 203:22-204:7 and 220:21.
28

1 23. The Pedestrian Mall runs approximately 493 feet from the SPS to the
2 HRLC entrance. (FFCL at 14). Classroom buildings such as MSA are even further
3 away from the SPS. 10/18/2017 Tr. Trans. 206:17-23. Mr. Guerra has struggled
4 walking the distance of the Pedestrian Mall and has also struggled manipulating his
5 walker to avoid spaces between the concrete slabs that comprise the walkway. On one
6 occasion, a film crew was filming near the Pedestrian Mall and he fell down when the
7 wheels of his walker got caught on a piece of hard plastic that was covering electrical
8 wires running across the path. (FFCL at 9).

9 24. Additionally, the Pedestrian Mall does not provide access to all areas of
10 campus that Mr. Guerra would like to go. First and foremost, Mr. Guerra would like
11 to go to class. 10/18/2017 Tr. Trans. at 201:25. In addition to buildings along the
12 Pedestrian Mall, such as the FA building, classes are also held in GC building, which
13 is in a lower area of campus. 10/18/2017 Tr. Trans. at 203:4-8. Mr. Guerra also needs
14 access to the SSB building, which houses the Disabled Students Programs and
15 Services (“DSPS”) office and is across from the GC building. 10/18/2017 Tr. Trans.
16 at 198:14-199:5; 10/18/2017 Tr. Trans. at 241:13-25.

17 25. The SSB building and the GC building are on an inclined plaza.
18 10/18/2017 Tr. Trans. at 210:15-23; 218:6-13 and 330:8-11. The steepness of the
19 plaza is difficult for Mr. Guerra to manage. 10/18/2017 Tr. Trans. at 210:14-18 and
20 330:13-17. The right side of the plaza has an area that is steep enough that it should
21 have handrails and other protections, but it does not; nor is there a sign directing
22 people with disabilities to use the less steep side of the plaza. 10/18/2017 Tr. Trans. at
23 331:4-332:13. Mr. Guerra has “lost his balance and fell pretty hard” while walking on
24 the right side of the plaza. 10/18/2017 Tr. Trans. at 210:24-211:9.

25 26. Mr. Guerra would also like to go to the A-9 building housing the ASO (a
26 student organization) and to one of the bungalows that provides free breakfasts to
27 students. 10/18/2017 Tr. Trans. at 202:9-22. But Mr. Guerra cannot walk through
28 those areas because they are along E Street, which is a steep incline and composed of

1 a rough aggregate material with a water channel in the middle. 10/18/2017 Tr. Trans.
2 at 209:14-210:3; *see also* Tr. 10/18/2017 Trans. at 264:2-18 (testimony from Dr. Duke
3 that “you have to cross E Street to get to the bungalows”) and 10/18/2017 Tr. Trans. at
4 337:22-25 (testimony from Mr. Mastin that the routes between the B buildings “are
5 among the worst routes” and that “the one behind the B building is actually bad too”).

6 27. Mr. Guerra testified that either a point-to-point shuttle service (like the
7 one that WLAC previously offered to people with disabilities) or a fixed-route service
8 would provide the access to campus that he needs. 10/18/2017 Tr. Trans. at 219:11-
9 221:1.

10 28. Dr. Shalomon Duke, WLAC’s Dean of Support Services, testified on
11 October 18, 2017, about the accessibility of the WLAC campus, the now-discontinued
12 on-campus shuttle service, and his interactions with Plaintiffs. Dr. Duke testified that
13 if golf cart transportation were available to students with disabilities at WLAC, it
14 would be an appropriate accommodation for the students in this case. 10/18/2017 Tr.
15 Trans. at 245:17-20.

16 29. Jeff Mastin, Plaintiffs’ disability access expert, testified on October 18
17 and 19, 2017, about his inspection of the WLAC campus and his ultimate opinion that
18 the campus is presently inaccessible to Plaintiffs. He testified that a shuttle or
19 transportation service for the campus would address the program access problems
20 caused by the distances on campus. 10/19/2017 at 382:20-383:4.

21 **E. FEASIBILITY OF THE CAMPUS SHUTTLE AS AN**
22 **ACCOMMODATION**

23 30. At trial, counsel for WLAC and LACCD stated that “transportation
24 services are something that colleges do provide, and there is no question we could
25 provide it.” 10/17/2017 Tr. Trans. at 26:14-20. Iris Ingram, WLAC’s Vice President
26 of Administrative Services, testified on October 19, 2017, about her decision to
27 terminate the on-campus shuttle service and her interactions with Plaintiffs. She
28 testified that if the on-campus shuttle “was a priority, the campus could have made a

1 decision to direct resources in that area.” 10/19/2017 Tr. Trans. at 479:15-16.

2 However, WLAC and LACCD chose not to make it a priority or to ensure its
3 provision to people with disabilities with accommodation needs like Mr. Guerra’s.
4 WLAC administrator Dr. Duke testified that the decision to terminate the shuttle
5 services was “an administrative decision,” and that it could be an administrative
6 decision to change that policy. 10/18/2017 Tr. Trans. at 253:14-19.

7 31. While WLAC does not currently provide transportation to students with
8 disabilities, it does continue to provide golf cart transportation to other people on
9 campus including for students on campus at night as a safety escort. 10/17/2017 Tr.
10 Trans. at 140:25-141:16, 10/19/2017 Tr. Trans. at 484:19-485:25, 10/20/2017 Tr.
11 Trans. at 585:14-596:20. When LACCD Board of Trustee meetings are held on the
12 WLAC campus, the trustees are driven between the campus parking structure and the
13 meeting location on campus. 10/17/2017 Tr. Trans. 81:11-20. Plant Facilities staff,
14 gardeners, and the college president’s secretary continue to use golf carts on campus.
15 10/17/2017 Tr. Trans. 81:5-11. Mr. Guerra testified that he has seen “Clumps of
16 administrators driving around, people that I assumed were guests of the administrators
17 getting the tour of the campus,” as well as tram-style golf carts “moving disabled
18 parents to the field for the graduation ceremonies.” 10/18/2017 Tr. Tran. at 193:1-
19 194:6.

20 32. Mr. Guerra testified that he had no concerns about the safety of the
21 shuttle vehicle or about the shuttle drivers, who he described as “helpful.” He did not
22 observe anything about the shuttle that indicated any risk to riders or pedestrians.
23 10/18/2017 Tr. Trans. at 182:5-19. Mr. Brandon testified that there were no accidents
24 or even close calls while he was driving the on-campus shuttle, and no injuries to
25 riders or pedestrians. He never heard any complaints about safety from anyone
26 regarding the campus shuttle. 10/20/2017 Tr. Trans. at 584:24-585:13.

27 33. Any changes that WLAC and LACCD might wish to make to the shuttle
28 service before restoring it would be feasible. Ms. Ingram testified that replacing the

1 carts that were being used to provide transportation was “as much as 8 to \$10,000.”
2 10/19/2017 Tr. Trans. at 482:20-24. Jasper Kirsch, WLAC’s disability access expert,
3 testified on November 14, 2017, about his inspection of the WLAC campus. He
4 testified that he was not aware of anything that would stop WLAC from providing an
5 accessible vehicle on campus. 11/14/2017 Tr. Trans. at 646:25-647:2.

6 34. Mr. Kirsch further testified that disability awareness training might be
7 needed for drivers of a shuttle, and that the firm that he used to work at could provide
8 that training for WLAC. 11/14/2017 Tr. Trans. at 647:3-10. Dr. Lisa Meeks, a
9 disability access consultant who has worked with numerous colleges and who was
10 engaged by Plaintiffs, testified on October 19, 2017, about disability access services
11 offered on other college campuses in the United States. She testified that she would
12 recommend that shuttle drivers receive “an etiquette training” covering topics such as
13 how to assist someone without being paternalistic. 10/19/2017 at 449:1-10. Mr.
14 Brandon testified that no one at the school had ever told him that he was not
15 adequately trained to be a driver, but that if the school determined that he or any other
16 driver should have some additional training as a paratransit shuttle driver, they would
17 be willing to participate. 10/20/2017 Tr. Trans. at 561:3-16.

18 35. Dr. Duke, WLAC’s Dean of Support Services, testified that the
19 Chancellor’s Office for California Community Colleges produced the 2015
20 Implementing Guidelines for Title V DSPTS Regulations (“Guidelines”) to provide
21 guidance for community colleges throughout the state, and that his office consulted
22 the Guidelines on occasion. 10/18/2017 Tr. Trans. at 247:20-248:25; Exh. 33. The
23 Guidelines provide that:

24 Mobility assistance also includes on-campus manual or
25 motorized transportation to and from college courses and
26 related educational activities, including the provision of tram
27 services. Specialized transportation around campus may be the
28

1 best method of ensuring equal access on large campuses or
2 difficult terrain.

3 10/18/2017 Tr. Trans. at 249:1-13; Exh. 33 at p. 27. Dr. Duke testified that the on-
4 campus shuttle service formerly provided at WLAC was the kind of “mobility
5 assistance” described in the Guidelines. 10/18/2017 Tr. Trans. at 249:14-16.

6 36. LACCD’s own Administrative Regulation E100 provides that “Support
7 services are the specialized services made available to students with disabilities” and
8 that these services and accommodations may include “On-campus mobility assistance,
9 including manual or motorized transportation to and from classrooms and other
10 related educational activities.” 10/18/2017 Tr. Trans. at 249:22-251:13; Exh. 35.

11 37. LACCD has been obligated to provide a shuttle service for people with
12 disabilities at Pierce College pursuant to a court order. *Huezo v. Los Angeles Cmty.*
13 *Coll. Dist.*, No. CV 04-09772 MMM (JWJX), 2008 WL 4184659, at *2 (C.D. Cal.
14 Sept. 9, 2008); *see also* 10/20/2017 Tr. Trans. at 586:21-587:11 (testimony of Mr.
15 Brandon that the service at Pierce College is still in operation).

16 38. Professor Jack Ruebensaal, a now-retired professor of political science at
17 WLAC, has difficulty walking and has used a cane since 2011. He testified on
18 October 17, 2017, about his experiences navigating the WLAC campus and
19 accommodations that WLAC provided to him. He testified that the campus shuttle
20 was his “lifeline” when it was in operation. 10/17/2017 Tr. Trans. at 43:20-25 and
21 61:25-62:2.

22 39. After WLAC and LACCD terminated the shuttle, they allowed Professor
23 Ruebensaal to park in the alleyway on the other side of the GC building, gave him a
24 key to the back side of the building, and moved his classroom to the first floor.
25 10/17/2017 Tr. Trans. at 75:14-20. Professor Ruebensaal testified that this was an
26 effective accommodation as far as allowing him to get to his class and office, but the
27 “rest of campus was problematic.” 10/17/2017 Tr. Trans. at 77:21-24.

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1 40. The on-campus shuttle also worked well for a wide variety of other
2 people with mobility impairments who needed access. Professor Ruebensaal saw the
3 service used by the chair of the English department when she broke her ankle, a staff
4 member with “leg issues,” “a gentleman who had a stroke in the counseling
5 department,” and “a woman in the music department who had severe osteoporosis.”
6 10/17/2017 Tr. Trans. at 65:2-19. Ms. Chrystal testified that she used the shuttle
7 service every time she went to campus, and that “[i]t made all the difference for me in
8 every way,” including by reducing her anxiety about how she would get to classes or
9 student services. 10/17/2017 Tr. Trans. at 102:8-24. Campus shuttle driver Larry
10 Brandon testified that it was evident to him that the shuttle was important and helpful
11 for each of the Plaintiffs, as well as many others, in getting around campus due to their
12 disabilities. 10/20/2017 Tr. Trans. at 581:25-583:9.

13 **F. KARLTON BONTRAGER**

14 41. Plaintiff Karlton Bontrager began attending WLAC in the fall of 2014.
15 He is currently enrolled and is seeking a certification as an Alcohol and Drug Abuse
16 Counselor. (FFCL at 3). This Court has further relied on the post-remand
17 submissions and representations of counsel that Plaintiffs Guerra and Bontrager desire
18 to pursue studies at WLAC to determine that the action is not moot.

19 42. Mr. Bontrager sustained a right-side brain injury as a result of a
20 snowboarding accident in 2002. His left side is partially paralyzed, his leg drags when
21 he walks, and he has some balance problems. (FFCL at 3). He cannot see the left
22 field of vision properly, which means that he can stumble or trip over barriers in his
23 path of travel that he does not see, and that he cannot drive a car ever again.
24 10/19/2017 Tr. Trans. at 523:17-25. He makes every effort to be careful when he
25 walks and becomes easily fatigued when walking up or down slopes. 10/19/2017 Tr.
26 Trans. at 524:1-18; 10/20/2017 Tr. Trans. at 559:14-16; Ex. 209.

27 43. Mr. Bontrager also has damage to his prefrontal cortex that controls
28 executive functions including organizational skills such as time management.

1 10/19/2017 Tr. Trans. at 523:2-5. His cognitive processing speed is significantly
2 reduced, which means that in class he has to make great effort “just to stay on the
3 same page as all the classmates.” 10/19/2017 Tr. Trans. at 522:13-23.

4 44. Mr. Bontrager testified on October 19 and 20, 2017, about his
5 experiences navigating the WLAC campus and his interactions with WLAC
6 administrators. (FFCL at 4).

7 45. Mr. Bontrager lives approximately one-half mile from the WLAC
8 campus. He usually walks to campus. (FFCL at 3). The walk from his house to the
9 entrance at the southwest of the campus, at Overland Avenue and Freshman Drive, is
10 mostly flat. Once on campus, though, the walk up Albert Vera Drive is steep. (FFCL
11 at 11).

12 46. Soon after enrolling at WLAC, classmates informed Mr. Bontrager about
13 the on-campus shuttle and Mr. Bontrager incorporated it into his daily routine. When
14 he arrived on campus, he would call the shuttle operator and request a pickup from the
15 pickup location at the bottom (the west end) of Albert Vera Drive and would get a ride
16 to the drop-off location closest to his class. Once on campus, he also utilized the
17 shuttle service to get from building to building. When he was done for the day, he
18 would request and receive a ride back to the pickup/drop-off location at the bottom of
19 Albert Vera Drive. As with Mr. Guerra, Mr. Bontrager found the shuttle service to be
20 convenient, safe, and reliable. (FFCL at 11).

21 47. Following the termination of the on-campus shuttle service, Mr.
22 Bontrager resumed walking up Albert Vera Drive to get to his classes. Occasionally
23 his mother gives him a ride or he takes the city bus, but primarily he walks. He
24 becomes tired walking up the steep incline of Albert Vera Drive and is sometimes
25 agitated by the time he gets to class. (FFCL at 11).

26 48. Defendants’ access expert Jasper Kirsch testified that Albert Vera Drive
27 runs for approximately 1,375 feet from Freshman Drive to B Street and is quite steep.
28 He has no reason to question that Albert Vera Drive would constitute a barrier to

1 access for these Plaintiffs if they were compelled to traverse it on foot. (FFCL at 13-
2 14).

3 49. When Mr. Bontrager needs to access the upper tier of campus he takes
4 the stairs instead of the elevator because he thinks the elevator is too slow. (FFCL at
5 11). Mr. Bontrager's testimony was corroborated at trial by Professor Ruebensaal,
6 who testified that he avoided the elevator himself and warned students against taking
7 it because of its unresponsiveness and unreliability. 10/17/2017 Tr. Trans. at 54:10-
8 24.

9 50. Mr. Bontrager occasionally takes the Culver City public bus to the
10 WLAC campus. (FFCL at 3). Mr. Bontrager has a free bus pass (*i.e.*, he can take the
11 bus at no cost) and there is a bus stop close to Mr. Bontrager's house where the bus
12 that goes to campus stops. He also consistently takes the city bus to and from his job
13 at the library (unaffiliated with WLAC), which is further away from his home than
14 campus. (FFCL at 11-12). Mr. Bontrager can access all relevant parts of WLAC on
15 foot once he arrives at the campus bus stop. *Guerra v. W. Los Angeles Coll.*, 812 F.
16 App'x 612, 614 (9th Cir. 2020) (holding that this finding by the district court was not
17 clearly erroneous).

18 51. Only every other bus per line goes up to campus. 10/19/2017 Tr. Trans.
19 at 537:23-538:2. While Mr. Bontrager occasionally takes the bus to campus, Mr.
20 Bontrager does not feel that taking the bus consistently is a viable option because it
21 does not always run on the posted schedule, which means that sometimes he might
22 just miss a bus and/or need to wait for a long time for the next bus. (FFCL at 11-12).

23 52. Mr. Bontrager testified that, due to his disability, his experience with an
24 unreliable bus is different from other people's. If the bus is late, or the bus that arrives
25 is not the bus that goes to campus, then he must decide whether to wait an indefinite
26 amount of time for the next bus that does go to campus or to walk. If he does walk, he
27 takes longer and gets fatigued faster than others. And once he does begin walking,
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1 unlike other people, it is difficult for him to rush back to the bus stop if the bus does
2 appear. 10/20/2017 Tr. Trans. at 553:16-554:1.

3 53. Like Mr. Guerra, Mr. Bontrager testified that either a point-to-point
4 shuttle or a fixed route transportation system would work for him and accommodate
5 his disability-related needs in accessing the WLAC campus. 10/19/2017 Tr. Trans. at
6 542:25-543:10.

7 54. Applying the law as set forth in the Amended Memorandum, this Court
8 **FINDS** that Mr. Bontrager’s access to WLAC is impeded by the slope of Albert Vera
9 Drive. The only reason that the Court did not so find previously was because of its
10 mistaken understanding of what Title II requires. Indeed, this Court explicitly stated
11 that its prior “verdict [was] not based on the lack of credibility of Plaintiffs. As the
12 Court indicated during trial, the Court has respect for Plaintiffs, each of whom has
13 undergone hardships in attempting to secure an education at a public college . . .
14 Nonetheless, the law simply does not authorize the Court to correct all wrongs.”
15 (FFCL at 2). *See also* Conclusions of Law ¶¶ 22-26.

16 **CONCLUSIONS OF LAW**

17 1. Under Section 504 and the ADA, “an otherwise qualified handicapped
18 individual must be provided with meaningful access to the benefit that the [entity]
19 offers.” *Alexander*, 469 U.S. at 301, 105 S.Ct. 712; *see also Baughman v. Walt*
20 *Disney World Co.*, 685 F.3d 1131, 1135 (9th Cir. 2012) (the ADA “guarantees the
21 disabled more than mere access to public facilities; it guarantees them ‘full and equal
22 enjoyment’”).

23 **A. INJUNCTIVE RELIEF FOR CHARLES GUERRA**

24 2. The Ninth Circuit concluded that WLAC and LACCD denied Mr. Guerra
25 meaningful access to WLAC’s programs and services. *Guerra*, 812 F. App’x. at 614.
26 Consequently, the panel reversed this Court’s judgment as to Mr. Guerra and
27 remanded for further proceedings consistent with that disposition. *Id.* The Ninth
28

1 Circuit directed this Court to “determine what ‘reasonable modifications’ Defendants
2 can make to provide Guerra . . . with the requisite access.” *Id.*

3 3. As set forth below, providing transportation assistance on campus is a
4 reasonable accommodation that would provide Mr. Guerra with meaningful access to
5 the programs, services, and activities on the WLAC campus.

6 1. Transportation Assistance as a Reasonable Accommodation

7 4. The record is clear that the on-campus shuttle service previously operated
8 at WLAC provided Mr. Guerra with meaningful access to “the benefits of public
9 services” available on the campus. On-campus transportation assistance, whether in
10 the form previously provided or in a reasonable alternative form, would provide Mr.
11 Guerra with meaningful access going forward. Transportation assistance at WLAC
12 will allow Mr. Guerra meaningful access to services in all areas of the school, without
13 being constrained by the long distances (such as the length of the Pedestrian Mall), the
14 sloping surfaces (such as the plaza between the SSB and the GC building), and the
15 uneven terrain (such as E Street and the area around the bungalows) on campus.

16 5. WLAC and LACCD provided transportation service at the WLAC
17 campus for six years. The fact that an accommodation was provided in the past tends
18 to establish that a similar accommodation will be reasonable in the future. *See Hunt-*
19 *Golliday v. Metro. Water Reclamation Dist. of Greater Chicago*, 104 F.3d 1004, 1013
20 (7th Cir. 1997) (“We know that when Golliday previously injured her back, Metro
21 Water restricted her lifting to 50 pounds, so such accommodations in general appear to
22 be reasonable.”) In this case, WLAC and LACCD’s prior experience with providing
23 on-campus transportation demonstrates the reasonableness of their doing so going
24 forward. There is no evidence that the campus shuttle was ever unsafe for its riders or
25 for anyone else, or that the shuttle failed to accomplish its goal of providing access to
26 people with disabilities.

27 6. The safety and feasibility of on-campus transportation assistance is also
28 demonstrated by the fact that WLAC and LACCD only cancelled on-campus golf cart

1 transportation for *people with disabilities* – other on-campus golf cart transportation
2 continued. Plant Facilities staff, gardeners, and the college president’s secretary
3 continue to use golf carts on campus. When LACCD Board of Trustee meetings are
4 held on the WLAC campus, the trustees are driven between the campus parking
5 structure and the meeting location on campus. WLAC continues to provide
6 transportation services for students on campus at night as a safety escort.

7 7. WLAC and LACCD were not forced to terminate the shuttle for people
8 with disabilities. Ms. Ingram testified on behalf of WLAC and LACCD that if the on-
9 campus shuttle “was a priority, the campus could have made a decision to direct
10 resources in that area.” Dr. Duke likewise testified that the decision to terminate the
11 shuttle services was “an administrative decision,” and that it could be an
12 administrative decision to change that policy. But public entities may not simply elect
13 not to provide a reasonable accommodation. “An organization ... violates § 504 if it
14 denies a qualified individual with a disability a reasonable accommodation that the
15 individual needs in order to enjoy meaningful access to the benefits of public
16 services.” *Mark H.*, 620 F.3d at 1097.

17 8. A public entity must make reasonable accommodations when necessary
18 to avoid discrimination on the basis of disability, *unless* the public entity can
19 demonstrate that making the modifications would fundamentally alter the nature of the
20 service, program, or activity. 28 C.F.R. § 35.130(b)(7)(i) (emphasis added). But
21 WLAC and LACCD have waived the “fundamental alteration” affirmative defense.
22 Defs.’ Opp. to Plaintiffs’ Mot. for Partial Summary Judgment at 23, n.16, Dkt. No. 60.
23 And even if they had not, they are in no position to argue that transportation assistance
24 would be a “fundamental alteration” of their program given that both the Guidelines
25 promulgated by the Chancellor’s Office for California Community Colleges and
26 LACCD’s own Administrative Regulations describe on-campus mobility assistance,
27 including manual or motorized transportation, as a possible support service that
28 community colleges can provide to students. The Guidelines, in particular, recognize

1 that “Specialized transportation around campus may be the best method of ensuring
2 equal access on large campuses or difficult terrain.”

3 9. WLAC and LACCD have also waived any affirmative defenses that
4 accommodating the Plaintiffs in the case would be an undue financial or
5 administrative burden. (Defs.’ Opp. to Plaintiffs’ Mot. for Partial Summary Judgment
6 at 23, n.16 (Dkt. No. 60)). Moreover, as this Court ruled prior to trial, Order re
7 Motions in Limine:

8 Defendants’ counsel indicated that Defendants “do not intend to
9 stand up and say, it’s an undue burden ... because it costs too
10 much, because we didn’t produce any evidence to establish
11 that.” The Court will hold Defendants to that representation
12 and will not permit Defendants to rely at trial upon any
13 budgetary (or other) evidence that was not produced during
14 discovery.

15 (Order re Motions in Limine (Dkt. No. 141) at 5). At trial, counsel for WLAC and
16 LACCD stated that “transportation services are something that colleges do provide,
17 and there is no question we could provide it.” Thus, none of the legally sufficient
18 reasons for failing to provide transportation assistance as a reasonable accommodation
19 are available to WLAC and LACCD.

20 10. To provide meaningful access to Mr. Guerra, WLAC and LACCD should
21 provide transportation assistance that will accomplish the following: (1) connects Mr.
22 Guerra with critical access points for campus programs and services once he is on
23 campus (such as accessible parking spaces, classroom buildings, the campus library,
24 and student services); (2) is available during reasonable hours; and (3) has a
25 reasonable schedule or response time.

26 11. There are no practical barriers to effective provision of transportation
27 assistance to a person with Mr. Guerra’s disability-related needs on campus. For
28 instance, if WLAC and LACCD wished to provide additional training to drivers,

1 Defendants' own expert testified that his former firm could provide the training. To
2 the extent Defendants want to provide an on-campus transportation service with
3 vehicles that can transport people who use wheelchairs (not required by Mr. Guerra),
4 Ms. Ingram's own testimony was that the cost of replacement vehicles would be "8 to
5 \$10,000." And there is nothing to bar WLAC and LACCD from switching from a
6 point-to-point service to a fixed-route service if they wish.

7 12. Additionally, WLAC and LACCD are free to offer Mr. Guerra other
8 accommodations to ensure meaningful access. For instance, if Mr. Guerra has a class
9 in the GC building, WLAC and LACCD would be free to provide Mr. Guerra with the
10 same accommodations they provided Professor Ruebensaal (a parking space behind
11 the building and a key to the back door), and to ask him to park there rather than to
12 call for a ride. However, under those circumstances, WLAC and LACCD would still
13 need to provide Mr. Guerra with transportation assistance to other parts of campus,
14 such as the library or the bungalow area. An accommodation "is not adequate if it
15 does not provide meaningful access." *Bassilios v. City of Torrance, CA*, 166 F. Supp.
16 3d 1061, 1077 (C.D. Cal. 2015) (rejecting a parking accommodation proffered by a
17 municipality that would subject a disabled woman to "constraints and inconveniences"
18 not experienced by non-disabled individuals).

19 13. As stated at the hearing on equitable relief (Dkt. No. 268), WLAC and
20 LACCD are not obliged to provide relief to any other students at this time except Mr.
21 Bontrager as discussed below. Of course WLAC and LACCD are free to provide
22 relief that would benefit other students, as discussed in Conclusion of Law paragraph
23 19 below.

24 14. WLAC and LACCD's obligation to provide transportation assistance to
25 Mr. Guerra does not apply during periods that other students do not have physical
26 access to the campus, such as periods during which the campus is closed (*e.g.*, for
27 public health or other reasons).
28

2. Availability and Necessity of Injunctive Relief

15. The equitable remedy of injunctive relief is available under Plaintiffs' common law and statutory claims in this case. Plaintiffs' first two statutory claims are for violations of the ADA and Section 504. As the Ninth Circuit explained in *Lovell v. Chandler*, 303 F.3d 1039, 1056 (9th Cir. 2002), "the same remedies are available for violations of Title II of the ADA and § 504 of the RA" pursuant to 42 U.S.C. § 12133 (ADA) and 29 U.S.C. § 794a (Section 504). Those remedies, in turn, are the same as those set forth in Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., which permits an award of injunctive relief. *See also Greater Los Angeles Council on Deafness, Inc. v. Zolin*, 812 F.2d 1103, 1107 (9th Cir. 1987) ("...[P]laintiffs suing under section 504 may pursue the full panoply of remedies, including equitable relief and monetary damages..."). With respect to Plaintiffs' third claim, violations of California Government Code § 11135 ("Section 11135"), the law explicitly provides that the statute "and regulations adopted pursuant [to the statute] may be enforced by a civil action for equitable relief, which shall be independent of any other rights and remedies." Cal. Gov't Code § 11139. Plaintiffs are further entitled to appropriate injunctive relief pursuant to the Unruh Act, *see* Cal. Civ. Code § 52(c)(3) (complainant may obtain "preventive relief, including . . . a permanent or temporary injunction" as "necessary to ensure the full enjoyment of the rights" protected by the Unruh Act), and California Education Code § 66270, *see* Cal. Educ. Code § 66251 (providing for remedies for the commission of unlawful discrimination, including on the basis of disability, in postsecondary educational institutions).

Plaintiffs do not seek injunctive relief based on the California Disabled Persons Act.

16. A permanent injunction may be entered where a plaintiff demonstrates: "(1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a

1 permanent injunction.” *Galvez v. Jaddou*, 54 F.4th 821, 831 (9th Cir. 2022) and
2 *LaQuinta Worldwide LLC v. Q.T.R.M., S.A., de C.V.*, 762 F.3d 867 (2014) (each
3 quoting *eBay v. MercExchange, L.L.C.*, 547 U.S. 388 (2006) (internal quotations
4 omitted)). Each of these factors is present here.

5 17. The injury Plaintiffs have and continue to experience to their dignity and
6 independence as a result of Defendants’ violation of their civil rights are such that
7 monetary damages are inadequate. *See Chalk v. United States District Court Cent.*
8 *Dist. of Cal.*, 840 F.2d 701, 709 (9th Cir.1988) (emotional and psychological injury
9 caused by deprivation of personal satisfaction in job was proper consideration in
10 determining whether irreparable harm existed since such loss cannot be adequately
11 compensated by a monetary award); *Cupolo v. Bay Area Rapid Transit*, 5 F. Supp. 2d
12 1078, 1084 (N.D. Cal. 1997) (“Injuries to individual dignity and deprivations of civil
13 rights constitute irreparable injury.”) (citing *Chalk*, 840 F.2d at 710; *Sullivan v.*
14 *Vallejo City Unified Sch. Dist.*, 731 F. Supp. 947, 961 (E.D. Cal. 1990) (injury to
15 ability to function as independent person constitutes irreparable injury)).

16 18. In light of the irreparable nature of this ongoing injury, the public interest
17 in furthering the civil rights of persons with disabilities, and Plaintiffs’ demonstrated
18 need for on-campus transportation as a reasonable accommodation, Plaintiffs’ request
19 for an order requiring Defendants to provide on-campus transportation service is
20 warranted. Indeed, a federal court ordered similar relief regarding another LACCD
21 campus in 2008 based on a finding that the plaintiff was denied meaningful access due
22 to campus paths of travel that are “long, very steep and inaccessible.” *Huezo v. Los*
23 *Angeles Cmty. Coll. Dist.*, 672 F. Supp. 2d 1045, 1056 n.41 (C.D. Cal. 2008). The
24 court issued a permanent injunction ordering LACCD to establish a regularly
25 scheduled accessible shuttle to transport students with disabilities on campus and
26 prohibiting LACCD from requiring that disabled students make advanced
27 appointments or sign-up with the DSPS office to be allowed to use the service. *Huezo*
28

1 *v. Los Angeles Cmty. Coll. Dist.*, No. CV 04-09772 MMM (JWJX), 2008 WL
2 4184659, at *2 (C.D. Cal. Sept. 9, 2008).

3 19. While the restoration of on-campus transportation at WLAC would
4 benefit individuals beyond the individual plaintiffs in this case, “an injunction is not
5 necessarily made overbroad by extending benefit or protection to persons other than
6 prevailing parties in the lawsuit – even if it is not a class action – if such breadth is
7 necessary to give prevailing parties the relief to which they are entitled.” *Bresgal v.*
8 *Brock*, 843 F.2d 1163, 1170-71 (9th Cir. 1987).

9 20. The Court will thus order Defendants WLAC and LACCD to provide Mr.
10 Guerra with on-campus transportation that, at a minimum, stops at critical access
11 points for campus programs and services and is available during reasonable hours
12 (i.e., during day and evening classes) and has a reasonable response time.

13 **B. KARLTON BONTRAGER**

14 1. Liability Determination

15 21. This Court must start by redetermining WLAC and LACCD’s liability
16 with respect to Mr. Bontrager because the Ninth Circuit was unable to come to a
17 conclusion as to whether Mr. Bontrager was denied meaningful access to the
18 programs, services, and activities at the WLAC campus. The Ninth Circuit found that
19 it was “not clear” from the evidence before it “whether the infrequency and
20 unreliability of the bus service are such that Bontrager cannot depend on the bus to get
21 to campus at the times he needs to be there.” *Guerra*, 812 F. App’x. at 614-15.
22 Accordingly, the panel vacated the judgment as to Mr. Bontrager and remanded for
23 this Court to resolve this evidentiary issue. *Id.* at 615. The Court now holds that the
24 infrequency and unreliability of the bus service are such that Mr. Bontrager cannot
25 depend on the bus to get to campus at the times he needs to be there, and that therefore
26 Mr. Bontrager has also been denied meaningful access.

27 22. The length and steepness of Albert Vera Drive are undisputed, as is Mr.
28 Bontrager’s disability-related difficulty walking up and down that area of campus.

1 The walk along Albert Vera Drive is tiring for Mr. Bontrager and he is sometimes
2 agitated by the time he is done. Additionally, fatigue and an agitated state of mind can
3 compound the disability-related difficulties that Mr. Bontrager has “just to stay on the
4 same page as all the classmates” once he arrives at the classroom.

5 23. It is also undisputed that riding the bus is free to Mr. Bontrager, that the
6 bus stop is close by his home, and that he only needs to ride one stop from the WLAC
7 entrance at the bottom of Albert Vera Drive to arrive in the interior of the WLAC
8 campus. Despite this, and despite the difficulty Albert Vera Drive presents to him, it
9 is undisputed that Mr. Bontrager generally does *not* take the bus and instead walks to
10 campus. In other words, Mr. Bontrager routinely chooses the physically and mentally
11 difficult walk up Albert Vera Drive over the bus ride to campus that allows him to
12 avoid that section of campus.

13 24. This Court heard Mr. Bontrager’s testimony directly and previously
14 determined its credibility. Mr. Bontrager’s explanation for his decision to walk up
15 Albert Vera Drive is that – given his disability-related impairments coupled with the
16 unpredictability and infrequency of the bus – he cannot rely on the bus to get to class
17 on time. The Court finds this testimony credible. Mr. Bontrager’s demeanor, along
18 with the consistency of his testimony on this point during both direct and cross
19 examination, indicate that he is telling the truth about his experience taking the bus to
20 WLAC and his reason for walking rather than taking the bus.

21 25. The alternative would be to find that Mr. Bontrager’s testimony was *not*
22 credible and that, rather than choosing the difficulty of walking up Albert Vera Drive
23 over the bus in order to arrive at class on time, Mr. Bontrager instead does so out of
24 his own idiosyncratic preference not to take the bus. But there is no evidence to
25 support such a finding. Mr. Bontrager is not choosing to walk to save money: he has a
26 free bus pass. And there is no evidence that Mr. Bontrager has a personal distaste for
27 taking the bus. The evidence shows the opposite: Mr. Bontrager chooses to volunteer
28 at a library in the region, even though doing so requires him to take multiple public

1 buses. Moreover, there is no evidence in the record that the bus headways (i.e., the
2 time intervals between bus arrivals) on the line that travels between the stop near Mr.
3 Bontrager’s home and WLAC are so short that Mr. Bontrager must be able to arrive at
4 class on time despite his physical and mental impairments. The Court therefore
5 concludes that Mr. Bontrager cannot rely on the bus to arrive at the WLAC campus on
6 time.

7 26. As a result, Mr. Bontrager does not have meaningful access to the WLAC
8 campus. WLAC and LACCD are therefore liable for disability discrimination under
9 the ADA, Section 504 of the federal Rehabilitation Act; California Government Code
10 § 11135; California Education Code § 66270; California Civil Code § 51, and
11 California Civil Code § 54. *See also* Finding of Fact ¶ 54 above.

12 2. Availability and Necessity of Injunctive Relief

13 27. In order to comply with the ADA, a public entity must “operate each
14 service, program, or activity so that the service, program, or activity, when viewed in
15 its entirety, is readily accessible to and usable by individuals with disabilities.” 28
16 C.F.R. § 35.150. While a public entity may comply with that requirement through a
17 variety of methods, the method must actually “result in making [a public entity’s]
18 services, programs, or activities readily accessible to and usable by individuals with
19 disabilities” and it must give people with disabilities an equal opportunity to benefit
20 from the program. 28 C.F.R. § 35.150(b)(1). Access for students with disabilities is
21 neither meaningful nor equal if it means that they relinquish control over their ability
22 to arrive at class on time. As a result, the Ninth Circuit held that if this Court
23 “determine[s] that Bontrager cannot rely on the Culver City bus to surmount the
24 steeply inclined path on the WLAC campus, the district court must then decide what
25 ‘reasonable modifications’ WLAC could make to restore Bontrager’s meaningful
26 access to its programs and services.” *Guerra*, 812 F. App’x. at 615.

27 28. For the same reasons set forth above in paragraphs 4 through 13,
28 transportation assistance is a reasonable modification that will provide Mr. Bontrager

1 with meaningful access to the programs, services, and activities on the WLAC
2 campus. And for the reasons set forth above in paragraphs 15 through 20, injunctive
3 relief is available and necessary in order to ensure that Mr. Bontrager has meaningful
4 access.

5 29. The Court will thus order Defendants WLAC and LACCD to provide Mr.
6 Bontrager with on-campus transportation that will, at a minimum, transport him
7 between the entrance to the WLAC campus and the campus bus stop and that is
8 available during reasonable hours (i.e., during day and evening classes) and has a
9 reasonable response time, during periods that the campus is generally open to
10 students.

11 30. No party has disagreed with the Court's understanding that the next
12 semester begins on August 26, 2024.

13 31. Therefore, for good cause shown and pursuant to Rule 65(d) of the
14 Federal Rules of Civil Procedure, **IT IS HEREBY ORDERED** that the injunctive
15 relief set forth herein shall be in place on or before August 26, 2024.

16 32. It is the Court's belief that the injunctive relief set forth herein is
17 consistent with the Court's Order on Remand filed on July 29, 2024. (Dkt. 271).
18 Therefore, that Order may be used by the parties as guidance as to what is required.

19 33. If Plaintiffs dispute before August 26, 2024, that a proposed plan is
20 sufficient, then Defendants may seek ex parte approval of the plan pursuant to Local
21 Rule 7-19, except that Plaintiffs' response to the ex parte application may be filed two
22 court days after filing of the ex parte application.

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1 34. This Court entered a separate Judgment After Trial (Dkt. No. 173) after
2 filing its original Findings of Fact and Conclusions of Law. Since the remand,
3 Plaintiffs have maintained they have a right to a jury trial on damages. Therefore,
4 final judgment will be entered after the conclusion of the legal proceedings.

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6 **IT IS SO ORDERED.**

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8 Dated: July 30, 2024

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MICHAEL W. FITZGERALD
United States District Judge