

## ***Office of the Independent Monitor***

### **Modified Consent Decree**

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### **Re: New and Pending Outcomes**

Dear Dr. Ott, Ms. Jaque-Anton, Mr. Myers and Ms. Blakemore:

I congratulate both parties for the significant progress you made in the establishment of new outcomes and the spirit of cooperation you displayed during the negotiations. It is clear that the primary concern of both parties is achieving substantial improvement in the education of students with disabilities and compliance with special education law. This concern has translated into outcomes that are both rigorous and achievable. I again want to thank Dr. Thomas Hehir for his assistance to the parties in achieving consensus in a broad range of difficult areas.

The purpose of this letter is threefold. First, I will present outcomes established by mutual agreement of the parties in the negotiations on May 24, 2004 and June 14, 2004. Second, I will present my decision on Outcome 13: Services. Third, I will present a proposed outcome in the area of disproportional identification of African-American students as emotionally disturbed for review by the parties prior to negotiations scheduled for June 28, 2004.

I will begin by reviewing the agreement on Outcome 17: IEP Team Consideration of Special Factors – Behavioral Interventions, Strategies and Supports. The Modified Consent Decree requires the Independent Monitor to “review the District’s requirement that in the case of children whose behavior impedes their learning, IEP teams are appropriately considering strategies, including positive behavior interventions and supports, to address such behavior and if appropriate, establish an outcome.”

On April 26, 2004, I provided the parties with the required review. After considering the information in this review, the parties decided to focus Outcome 17 on students with autism and students with emotional disturbance since the diagnostic criteria for emotional disturbance and autism require the identification of behaviors that are adversely affecting educational progress<sup>1</sup>.

In Los Angeles Unified School District (LAUSD), the mechanism to consider strategies including positive behavior interventions and supports for students with disabilities whose behavior impedes their learning is the Behavior Support Plan (BSP), an attachment to the IEP. Since students with emotional disturbance and students with autism often exhibit behaviors that impede learning, it is reasonable to expect that a large percentage of them would have behavior support plans in their IEPs. However, data from a sample of IEPs in the Welligent computerized IEP system revealed that only 22.5% of students with autism and 57% of students with emotional disturbance were provided with a behavior support plan. Parties agreed that the District should increase the percentage of these categories of students with disabilities with behavior support plans and established the following outcome:

- By June 30, 2006, the percentage of students with autism with a behavior support plan will increase to 40% and the percentage of students with emotional disturbance with a behavior support plan will increase to 72%.”

Achieving this outcome is a complex task that will require additional training and support for the members of IEP teams responsible for addressing student behavior. Two LAUSD initiatives, the implementation of the Welligent system and the establishment of a system-wide behavior support system to achieve the reduction of long-term suspensions required by Outcome 5 provide the District with opportunities to provide this training and support. As one aspect of these efforts, the District should strongly consider the inclusion within the Welligent IEP of a simple mechanism that would allow IEP teams to address the question, “Does this student’s behavior adversely affect their educational progress?” If the answer were yes, the IEP team would complete a behavior support plan.

I will now review the two outcomes established by mutual agreement in the negotiations on June 14, 2004 - Outcome No. 8: Home School Placement and Outcome No. 2: Performance in the Statewide Assessment Program.

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<sup>1</sup> CFR 300.7 (c) (1) and 300.7 (c) (4)

The Modified Consent Decree states that “The Independent Monitor shall establish an outcome regarding home school placement with the objective to ensure that the District is meeting the Least Restrictive Environment requirement of federal law. Home School means any school a student with disabilities may attend if the student were not disabled.”<sup>2</sup>

In my April 5, 2004 memorandum to the parties, I noted that students with disabilities in LAUSD are educated in a wide range of schools. This range of school placements, both voluntary and involuntary, complicates the process of defining a child’s home school. Using data in the Welligent computerized IEP system, my office identified eleven different types of school placements in LAUSD. These were then sorted into two categories: home school and non-home school<sup>3</sup>. This data was further sorted into two categories based on special education eligibility.

For students with specific learning disabilities (SLD) and speech and language impairments (SLI), the parties developed the following outcome:

- The District will ensure that the percentage of students with disabilities with the eligibilities of specific learning disabilities (SLD) and speech and language impaired (SLI) who are in their home school does not fall below 92.9% by June 30, 2006.

For students with all other eligibilities, the parties developed two outcomes. The first outcome, presented below, focused on kindergarten, sixth grade, and ninth grade. This was based on the premise that the District could better facilitate the transition of students with disabilities to home school placements during the natural transition grades.

- By June 30, 2006, the District will increase the percentage of students with disabilities with all other eligibilities in kindergarten and sixth grade to 65% and the percentage of students with disabilities with all other eligibilities in ninth grade to 60%.

In addition, the parties sought to ensure that the percentage of students with disabilities with all other eligibilities who are attending their home school did not decrease in all other elementary, middle and high school grades. With this goal in mind, the parties agreed to increase the percentage of these students in their home school in other grades. This increase would be 5% greater than the total number currently enrolled in their home schools. Based on this calculation, my office derived the percentage increase that would be required in home school placements for students with disabilities with all other eligibilities in non-transition grades (See Attachment A). These percentages are incorporated into the outcome below:

- By June 30, 2006, the District will increase the percentage of students with disabilities with all other eligibilities in elementary school grades one through five in their home school to 62.0%. By June 30, 2006, the District will increase the percentage of students with disabilities with all other eligibilities in middle school grades seven and eight in their home school to 55.2%. By June 30, 2006, the District will increase the percentage of

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<sup>2</sup> See 34 CFR 300.552 (c)

<sup>3</sup> See p.2-3 of April 5, 2004 Memorandum on Outcome No. 8 Home School for placement categories associated with Non-home School and Home School

students with disabilities with all other eligibilities in high school grades ten and beyond in their home school to 36.4%.

The Home School outcome resulted from many hours of deliberation over available data. In its efforts to achieve this outcome, the District would benefit from close consideration of this data and additional data disaggregated by local district and school site. For those students with disabilities who will be transitioning to their home schools, the District should ensure that the supports and services that they need to succeed are in place and that teachers, staff and administrators are trained to accommodate their needs. It should also ensure the accessibility of school sites as required by Section 10 of the Modified Consent Decree.

For Outcome No. 2: Performance in the Statewide Assessment Program, the Modified Consent Decree states that the “The Independent Monitor shall develop an outcome measure to require that the performance of students with disabilities on the statewide assessment program increases and that the disparity with general education performance on the statewide assessment program is reduced. The outcome measure shall be based on key performance indices.”

In my May 3, 2004 memorandum, I noted that the results of the English Language Arts and Mathematics sections of the California Standards Test (CST) should be considered the key performance indices<sup>4</sup>. Using the CST data, the parties considered a range of different measures including the performance gap between students with disabilities and non-disabled students and the percentages of students with disabilities and non-disabled students in proficiency categories (% advanced, proficient, basic, below basic, far below basic) derived from the requirements of No Child Left Behind.

The parties developed an outcome to increase the percentage of students with disabilities in the combined categories of basic, proficient and advanced. This outcome, presented below, would be expected to result in a reduction in the disparity between special education and general education performance on the statewide assessment program.

- By June 30, 2006, the percentage of students with disabilities in Grades 2-11 participating in the California Standards Test (CST) whose scores place them in the combined rankings of Basic, Proficient and Advanced will increase to at least 32.4% in English Language Arts and at least 32.8% in Mathematics.

Prior to agreement over this performance outcome, the District presented a thoughtful and comprehensive analysis that reviewed the progress of students with disabilities on the CST and calculated the percentage of students with disabilities with scores approaching the “basic” performance level. Based on this analysis the District produced a credible proposal that resulted in the outcome. However, since this outcome is based on assessment data from the 2002-03 school year, the parties agreed to the following caveat:

- By agreement of the parties, the Independent Monitor will evaluate the performance of students with disabilities in the District on the 2003-04 California Standards Test (CST) to determine if the above outcome represents a sufficient increase in performance over

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<sup>4</sup> See p.2 of May 3, 2004 Memorandum on Outcome No. 2: Performance on Statewide Assessment for an analysis of key performance indices

the current baseline. If the Independent Monitor makes this determination, he can reopen negotiations between the parties over Outcome No. 2.

I applaud the District for the additional analysis that it conducted in this area and the expert assistance it sought in reviewing its data. Achieving this outcome is a difficult task that will require the hard work of a broad range of special education and general education staff. I hope that the District will continue its efforts to increase the integration between special and general education in order to provide high standards of achievement and quality instruction for all students. I also expect that the District will strive to ensure the teachers of students with disabilities have access to the quality instructional materials and training that they need to improve their students' performance in the statewide assessment program.

For Outcome 13: Delivery of Services, the Modified Consent Decree states, "The Independent Monitor, in consultation with the parties, shall establish a performance outcome to measure the District's delivery of services in accordance with a child's Individualized Education Program." As required by the Modified Consent Decree, the Independent Monitor designed a sampling methodology to establish criteria and subsequent benchmarks for this Outcome. In this effort, my office worked with the assistance and input of a chosen independent entity, the American Institutes of Research (AIR), and the District's Program Evaluation and Research Branch (PERB). In October 2003, the Office of the Independent Monitor and AIR initiated a district-wide study of service delivery for a sample of over 3000 students. AIR collected data on requirements for service provision in these student IEPs and compared it to evidence of service provision in service providers' logs and during observations in school sites. The results of this study were presented to the parties in May 2004 and a final report delivered on June 1, 2004.

In the negotiations on this outcome, the parties reviewed data from the AIR report on both evidence of service delivery and the frequency and duration of service provision. The district-wide baseline estimate of evidence of service delivery for all disabilities is 42.7%. Based on the site-visit data, the baseline estimate of service delivery is 89.0%. In their report, AIR notes that it is likely that the true rate of service delivery lies between these two estimates. They also point out that the baseline estimate derived from the log analysis is heavily influenced by effect of the lack of evidence of service provision for students with learning disabilities in the resource specialist program (RSP)<sup>5</sup>. Students with SLD are the largest population of students with disabilities in the District and their sampling weights disproportionately influence the district-wide estimate. Excluding SLD, the estimate for service provision is 63.7%. The estimate for SLD alone is 33.8%. Parties agreed to use these estimates as baselines for service delivery. In addition, parties agreed to submit to the Independent Monitor a position paper on an outcome in this area that would achieve "substantial compliance" with IDEA as required by the Modified Consent Decree.

Plaintiff's counsel position on substantial compliance, presented in a May 27, 2004 letter, stated that "the District should be held to a high standard consistent with its legal obligations to implement the IEPs of every student and consistent with the Modified Consent Decree's requirement of substantial compliance." This letter provided references to state and federal law,

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<sup>5</sup> See p. viii-ix, Executive Summary: Study to Measure Delivery of Services in Accordance with the Individualized Education Programs of Students with Disabilities in the Los Angeles Unified School District, June 1, 2004.

legal precedent, a current consent decree and the *Allen v. McDonough* standards in presenting an opinion that substantial compliance would require a standard in the 90-100% range.

The District, in a June 4, 2004 letter, attempted to clarify its position regarding the meaning of the term substantial compliance and presented an alternative proposal for Outcome 13. After reviewing this letter, I am still unclear on the District's position on substantial compliance. The District provides no reference for the concept of substantial compliance beyond a restatement of the purpose of the Consent Decree, a vague reference to IDEA, and a restatement of a recommendation by AIR that "that the most likely benchmark measures will come from IEP-log agreement." The District then presents a proposed objective that it believes will "constitute substantial compliance" – in effect, presenting the outcome itself as a definition.

In addition to the positions of the parties, the Office of the Independent Monitor, as required by the Modified Consent Decree sought "assistance" from AIR and "input from the District's Program Evaluation and Research Branch" in the "design of...[the] benchmarks." In a position paper titled "Recommended Standards for Service Delivery" (See Attachment B), AIR commented on the disproportionate effect of the SLD data on the overall estimate and stated that "analyses [should] be disaggregated to ensure that the trends for SLD do not overwhelm what is happening for other disability categories." However, AIR noted, "ultimately the standard should be the same."

Based on these analyses, I am establishing the following outcome for evidence of service delivery:

- By June 30, 2006, the District will provide evidence of service provision for 93% of students with disabilities in all disability categories with the exception of specific learning disability. In addition, by June 30, 2006, the District will provide evidence of service provision in a separate estimate for 93% of students with specific learning disabilities.

In regards to the frequency and duration of service delivery, the District presented a proposal during negotiations for performance outcomes set at 70% for frequency and duration. Plaintiffs stated their belief that an outcome in the "high 90's" range would constitute substantial compliance with IDEA. AIR noted that current data indicates that 57.2% of students with disabilities (unweighted) had a monthly frequency of services that complied with the value specified in the IEP and 61.5% of students with disabilities (unweighted) received services with a monthly duration that complied with their IEP. In reference to these figures, AIR noted that the numerous difficulties associated with interpreting the logs resulted in considerable difficulty deriving frequency and duration estimates and mitigated against the derivation of population estimates. They state that logs would "need to be standardized and provide comprehensive information (i.e. frequency and duration) in order to establish reliable benchmarks of service delivery." It should be further noted that these estimates derive from a smaller sample since not all logs or IEPs contain frequency and duration information.

The process of standardizing logs and modifying them to contain comprehensive information on service delivery should address these problems. I expect that this process, once initiated and refined over several years, will result in substantial improvement in both the provision and

tracking of service delivery throughout the District. With that expectation, I am establishing the following outcome:

- By June 30, 2006, 85% of students with disabilities will receive the frequency and duration of services that meets IEP compliance. For the purposes of assessment of frequency, provider absences will not constitute evidence of non-provision of service if such absence is the result of short-term (maximum two consecutive weeks) illness, family emergency or jury duty. Student absences/no shows will not constitute evidence of non-provision of service. For the purposes of assessment of duration, sessions not completed as the result of conflicts with a student's school schedule or late arrival/early departure by student will not constitute evidence of an incomplete session.

In order to achieve this outcome by June 30, 2006, the District must make a concerted effort to improve both the tracking and delivery of services. In this effort, the District should strongly consider the recommendations presented in the AIR report on developing a standardized service log and creating a comprehensive tracking system. In addition, the District should pay close attention to the challenge referred to by AIR of tracking flexibly provided services "without curbing deliveries [of services] that can provide support in a more inclusive, flexible manner that is appropriate for the student." Rather than eliminating flexibly provided services, the District should ensure that they are accurately logged. Lastly, based on AIR's recommendation, I am modifying the study for the 2004-05 school year to include two months of log collection. The 2004-05 study will continue to include a site visitation component to assess the degree to which logs accurately reflect actual service provision in schools.

The final purpose of this letter is to provide the parties with a proposed outcome in the area of Disproportionality. The Modified Consent Decree states that "The District shall provide to the Independent Monitor data and analysis concerning whether African-American students are disproportionately identified as emotionally disturbed." The Independent Monitor shall review the data and the District's analysis, and such other information as the Independent Monitor deems appropriate, to determine whether a performance outcome should be established."

After a review of data providing clear evidence of disproportional identification of African-Americans, the parties agreed to consider a proposed outcome presented by the Office of the Independent Monitor. The focus of this outcome is the assessment process for African-American students newly identified as emotionally disturbed (ED) in LAUSD and the triennial review process for students currently identified as ED. This focus is based on the results of a study by my office indicating comprehensive problems in the ED identification and placement process in LAUSD. The goal of the outcome presented below is to ensure that the procedural due process rights of African-American students are protected during the ED assessment and placement process.

- By June 30, 2006, 90% of African American students identified as emotionally disturbed during an initial or triennial evaluation, will demonstrate evidence of a comprehensive evaluation as defined by the Independent Monitor and consideration for placement in the least restrictive environment as determined by the Independent Monitor.

The method by which the Office of the Independent Monitor will identify evidence of a comprehensive evaluation for the purpose of assessing progress toward this outcome is attached (Attachment C). The Office of the Independent Monitor will also determine if there are any statistically significant differences between the comprehensive evaluations conducted for different racial groups. In order to facilitate this assessment, the District will need to create a tracking system for the cumulative files and the psychological evaluations of all students identified as ED, including those currently placed in non-public schools.

I look forward to your feedback regarding this proposed outcome and the method of assessment prior to the negotiations scheduled for June 28, 2004.

Sincerely,

Carl A. Cohn

c: Roy Romer, Allyn Kreps, Bridgette Ammons, Thomas Hehir, Theodore Bartell,  
Deborah Oliver, Jay Alleman

att: (3)



Students with Disabilities Attending Their Home School

Kindergarten Students

Eligibility	Total	Home	CAP	Permit	Magnet	PWT	Open	Other	Private	# in Home School	% in Home School	Special Education	Adapted Campus	Nonpublic School	# Not in Home School	% Not in Home School
BLANK	366	292	4		1		5	27	2	331	90.44%	32		3	35	9.56%
<b>Low Incidence Disabilities</b>																
AUT	252	126	1	2			3	9	3	144	57.14%	91		17	108	42.86%
DEA/HOH	33	12							1	13	39.39%	19		1	20	60.61%
ED	16	8								8	50.00%	5		3	8	50.00%
MD/EMD	67	10								10	14.93%	48	7	2	57	85.07%
MR	100	45						1		46	46.00%	50	3	1	54	54.00%
OHI	102	67	1	1			3	2	1	75	73.53%	23	2	2	27	26.47%
OI/TBI	32	12					1	3		16	50.00%	11	5		16	50.00%
VI	7	3								3	42.86%	4			4	57.14%
Total	609	283	2	3	0	0	7	15	5	315	51.72%	251	17	26	294	48.28%
<b>High Incidence Disabilities</b>																
SLD/DD	495	389	2		1		1	14	2	409	82.63%	84	1	1	86	17.37%
SLI	893	748	6	4	2	2	12	67	4	845	94.62%	48			48	5.38%
Total	1388	1137	8	4	3	2	13	81	6	1254	90.35%	132	1	1	134	9.65%

6/7/2004

Ratio of .617 used to determine # of NPS students

Current IEP's Only - April 2003 to April 2004

Source: Welligent 6/1/04

SESAC 3/12/04 (NPS)

Grand Total: 2,363

Students with Disabilities Attending Their Home School

Grade 6 Students

Eligibility	Total	Home	CAP	Permit	Magnet	PWT	Open	Other	Private	# in Home School	% in Home School	Special Education	Adapted Campus	Nonpublic School	# Not in Home School	% Not in Home School
BLANK	400	300	2	1	12	1	7	2	4	329	82.25%	42	7	22	71	17.75%
<b>Low Incidence Disabilities</b>																
AUT	134	58	1				2			61	45.52%	48		25	73	54.48%
DEA/HOH	77	31			1	1				33	42.86%	43		1	44	57.14%
ED	216	95					2		1	98	45.37%	33		85	118	54.63%
MD/DBL	78	10						1		11	14.10%	49	12	6	67	85.90%
MR	210	117				1		1		119	56.67%	86	2	3	91	43.33%
OHI	214	164	2		11	1	8	3	2	191	89.25%	10	1	12	23	10.75%
OI/TBI	39	20						1		21	53.85%	8	9	1	18	46.15%
VI	11	2								2	18.18%	8		1	9	81.82%
Total	979	497	3	0	12	3	12	6	3	536	54.75%	285	24	134	443	45.25%
<b>High Incidence Disabilities</b>																
SLD	2246	2019	29	8	33	13	21	27	4	2154	95.90%	47		45	92	4.10%
SLI	74	63			3		3	2		71	95.95%	3			3	4.05%
Total	2320	2082	29	8	36	13	24	29	4	2225	95.91%	50	0	45	95	4.09%

6/7/2004

Ratio of .617 used to determine # of NPS students

Current IEP's Only - April 2003 to April 2004

Source: Welligent 6/1/04  
SESAC 3/12/04 (NPS)

Grand Total: 3,699

Students with Disabilities Attending Their Home School

Grade 9 Students

Eligibility	Total	Home	CAP	Permit	Magnet	PWT	Open	Other	# in Home School	% in Home School	Special Education	Adapted Campus	Nonpublic School	# Not in Home School	% Not in Home School
BLANK	426	293	2		6		3	8	312	73.24%	55	1	58	114	26.76%
<b>Low Incidence Disabilities</b>															
AUT	66	25				1		2	28	42.42%	22	1	15	38	57.58%
DEA/HOH	38	26			6		1		33	86.84%	5			5	13.16%
ED	416	90	2	2	1		1	3	99	23.80%	54		263	317	76.20%
MD/DBL	66	11							11	16.67%	35	13	7	55	83.33%
MR	162	104				1		1	106	65.43%	45	1	10	56	34.57%
OHI	157	104	1		11	4	3	4	127	80.89%	9	1	20	30	19.11%
OI/TBI	35	23			3				26	74.29%	4	4	1	9	25.71%
VI	10	2							2	20.00%	6	1	1	8	80.00%
Total	950	385	3	2	21	6	5	10	432	45.47%	180	21	317	518	54.53%
<b>High Incidence Disabilities</b>															
SLD	2296	1934	40	1	50	22	25	66	2138	93.12%	42	2	114	158	6.88%
SLI	19	15			1				16	84.21%	2		1	3	15.79%
Total	2315	1949	40	1	51	22	25	66	2154	93.05%	44	2	115	161	6.95%

6/7/2004

Ratio of .617 used to determine # of NPS students

Current IEP's Only - April 2003 to April 2004

Source: Nelligent 6/1/04  
SESAC 3/12/04 (NPS)

Grand Total: 3,691

Students with Disabilities Attending Their Home School

Elementary School Grades 1-5

Eligibility	Total	Home	CAP	Permit	Magnet	Open Enroll	Other	PWT	Private School	# in Home School	% in Home School	Spec Ed	Adapted Campus	NPS	# Not in Home School	% Not in Home School
<b>Low Incidence Disabilities</b>																
AUT	1,537	820	3	4	17	32	24		5	905	58.88%	539	2	91	632	41.12%
DEA/HOH	433	244	2	2	8	3	6		1	266	61.43%	160	1	6	167	38.57%
ED	688	331	5		4	3	5	1	1	350	50.87%	187	1	150	338	49.13%
MD/DBL/EMD	485	60		1	1	1	4			67	13.81%	336	75	7	418	86.19%
MR	1,068	438	1			2	3	1		445	41.67%	607	9	7	623	58.33%
OHI	1,615	1,237	12	6	35	43	45	4	4	1,386	85.82%	181	24	24	229	14.18%
OI/TBI	297	151		1		9	5			166	55.89%	75	55	1	131	44.11%
VI	89	31	1	4						36	40.45%	53			53	59.55%
Sub Total	6,212	3,312	24	18	65	93	92	6	11	3,621	58.29%	2,138	167	286	2,591	41.71%
- Kindergarten	609	283	2	3		7	15		5	315	51.72%	251	17	26	294	48.28%
Total	5,603	3,029	22	15	65	86	77	6	6	3,306	59.00%	1,887	150	260	2,297	41.00%

5% Increase = 165

Total = 3,471 61.95%

Students with Disabilities Attending Their Home School

Middle School Grades 7-8

Eligibility	Total	Home	CAP	Permit	Magnet	Open Enroll	Other	PWT	Private School	# in Home School	% in Home School	Spec Ed	Adapted Campus	NPS	# Not in Home School	% Not in Home School
<b>Low Incidence Disabilities</b>																
AUT	365	154	1		7	5				167	45.75%	130	2	66	198	54.25%
DEA/HOH	212	109	3		4			1		117	55.19%	93		2	95	44.81%
ED	803	279	3	2	6	3	8	1	2	304	37.86%	139		360	499	62.14%
MD/DBL	228	35		1			3			39	17.11%	141	34	14	189	82.89%
MR	595	354				1	2	2		359	60.34%	219	4	13	236	39.66%
OHI	600	427	5	1	32	18	14	3	4	504	84.00%	39	8	49	96	16.00%
OI/TBI	109	61			2	1	1			65	59.63%	22	21	1	44	40.37%
VI	30	11		1			1			13	43.33%	15	1	1	17	56.67%
Sub Total	2,942	1,430	12	5	51	28	29	7	6	1,568	53.30%	798	70	506	1,374	46.70%
- Grade 6	979	497	3		12	12	6	3	3	536	54.75%	285	24	134	443	45.25%
Total	1,963	933	9	5	39	16	23	4	3	1,032	52.57%	513	46	372	931	47.43%

5% Increase = 52

Total = 1,084 55.20%

Students with Disabilities Attending Their Home School

High School Grades 10-PG

Eligibility	Total	Home	CAP	Permit	Magnet	Open Enroll	Other	PWT	Private School	# in Home School	% in Home School	Spec Ed	Adapted Campus	NPS	# Not in Home School	% Not in Home School
<b>Low Incidence Disabilities</b>																
AUT	263	84			2	1	6	1		94	35.74%	112	6	51	169	64.26%
DEA/HOH	199	94	2		16	1	2	1		116	58.29%	82		1	83	41.71%
ED	1,177	198	2	2	3	2	13	1	4	225	19.12%	156		796	952	80.88%
MD/DBL	333	33		3			2			38	11.41%	194	68	33	295	88.59%
MR	943	432	1	1		2	7	3		446	47.30%	445	11	41	497	52.70%
OHI	396	234	5		22	13	17	5	1	297	75.00%	32	7	60	99	25.00%
OI/TBI	136	75			4		3			82	60.29%	24	24	6	54	39.71%
VI	43	14			1					15	34.88%	24	2	2	28	65.12%
Sub Total	3,490	1,164	10	6	48	19	50	11	5	1,313	37.62%	1,069	118	990	2,177	62.38%
- Grade 9	950	385	3	2	21	5	10	6		432	45.47%	180	21	317	518	54.53%
Total	2,540	779	7	4	27	14	40	5	5	881	34.69%	889	97	673	1,659	65.31%

5% Increase = 44

Total = 925 36.42%



## AMERICAN INSTITUTES FOR RESEARCH®

June 2, 2004

To: Dr. Carl A. Cohn  
Independent Monitor  
Los Angeles Unified School District

From: Tom Parrish/Jenifer Harr  
American Institutes for Research

RE: *Recommended Standards for Service Delivery*

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This memo outlines standards for the delivery of special education services recommended by the American Institutes for Research (AIR) team which conducted the *Study to Measure the Delivery of Services in Accordance with the Individualized Education Programs of Students with Disabilities in the Los Angeles Unified School District* (LAUSD, or the “District”). These recommended standards represent the percentage of special education services that LAUSD should provide by 2006.

The above study, which established baselines of current service delivery, showed that there was evidence (i.e., logs) for 42.7 percent of the services district-wide in 2003-04. Based on site visit data, 89.0 percent of the services observed were provided.

Based on these baselines of service delivery, the AIR research team recommends two primary standards to be met by the District by 2006 based on log data and site visit data, respectively. During a conference call on May 28, 2004, up to four standards were discussed, which distinguished between Specific Learning Disability (SLD) and all other disability categories. However, we believe that students with SLD should have the same standards as other disabilities, and that by 2006, the District should have comparable service delivery. We recommend that the analyses be disaggregated to ensure that the trends for SLD do not overwhelm what is happening for other disability categories. In other words, analyses should examine service delivery for students with SLD and that for all other disability categories, although ultimately the standard should be the same. In addition to these primary standards, we also recommend frequency and duration targets.

While the following recommendations do not propose 100 percent service provision, we believe that these recommended standards are reasonable targets. However, the standards

will depend on whether “service provided” is broadly or narrowly defined. With a stricter interpretation, a lower bound standard may need to be considered. A more liberal interpretation would enable the District to achieve a higher standard.

### **Standard 1: Service Delivery Based on Log Data**

As mentioned, the 2003-04 baseline for service delivery based on log data is 42.7 percent. In two years’ time, it seems reasonable to expect dramatic improvements in the log documentation of service provision. However, there will be some continued difficulty in tracking flexible service provision (e.g., consultation). A challenge for the District will be to accurately track service provision, including flexible services, without curbing deliveries that provide support in a more inclusive, flexible manner that is appropriate for the student. The AIR team believes a reasonable standard is 90 to 95 percent, contingent on the District devising a standardized tracking system across all services.

### **Standard 2: Service Delivery Based on Site Visits**

The 2003-04 baseline line for service delivery based on site visits is 89.0 percent. As this is already a fairly high percentage, it is not reasonable to expect as dramatic improvements as with the log data. The AIR team believes that a reasonable standard is 95 percent.

It is important to note that the team does not believe that site visits should stand alone as a reflection of service delivery in the District. The population estimate based on these data is tenuous, due to the limited number of observations by disability category. Furthermore, the visits were biased towards services that were on a relatively fixed schedule (e.g., services provided on a certain day at a certain time). Both of these characteristics may result in a somewhat distorted picture of service delivery. As we note in the report, “Given that the findings from the site visits are biased towards services with fixed schedules and have few observations, the findings should not be generalized to the District as a whole.”

On this note, the primary purpose of the site visit data would be to test confidence in the IEP-log alignment. Until the logs themselves record service provision accurately and comprehensively (i.e., with frequency and duration), the site visits will be necessary to assess indirectly how closely the logs seem to reflect actual service provision. We expect that the site visits will be phased out as the log data are strengthened, with some spot checks. The District may want to consider continuing to monitor its performance over time by conducting site visits, but it is important to bolster the documentation of service provision through comprehensive, standardized logs.

Furthermore, in order to make the site visits more meaningful, a broader array of service deliveries will need to be observed. As mentioned, the present data reflect service provision based on fixed schedules, and some services are generally provided in a more flexible manner. Including flexible services in the site visitation may actually cause the percentage of observed services provided to decline.



## Frequency and Duration Standards

Due to the difficulty of extracting frequency and duration information from the logs, the large number of logs missing those data, and the various assumptions involved in the analysis, the research team did not calculate population estimates for frequency and duration. For frequency, 57.2 percent of services (unweighted) had a monthly frequency that complied with the IEP. For duration, 61.5 percent of the services (unweighted) had a monthly duration that was equal to or greater than the value specified in the IEP. Again, the logs need to be standardized and provide comprehensive information (i.e., frequency and duration) in order to establish reliable benchmarks of service delivery.

Assuming these percentages are reliable and that the District improves its service tracking, we would expect 90 to 95 percent alignment with the IEPs, as with the other standards cited above. However, the data collection and analysis may need to be further refined to fully capture these data (along with substantial log improvement). For instance, compensatory sessions may not be reflected in a single month log. Accordingly, the data collection may need to account for two consecutive months of service provision to establish a monthly average. In short, the analysis needs to be sufficiently sophisticated to capture the details of service delivery accurately.

\* \* \* \*

Although we have recommended standards for service delivery for all students with disabilities in LAUSD, we believe that analyses by disability category remain an important component. Population estimates, even when excluding SLD, may obscure trends for certain disability categories; by examining rates by disability, the District can target specific categories with low percentages for improvement.

Los Angeles Unified School District

COMPREHENSIVE EVALUATION

1. REVIEW OF PRE-REFERRAL INTERVENTION

FOR STUDENTS INITIALLY REFERRED FOR SPECIAL EDUCATION

- | <u>Yes</u>               | <u>No</u>                |   |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Documentation of an initial SST that addresses the behavioral and/or academic concerns and actions to address these concerns.   |
| <input type="checkbox"/> | <input type="checkbox"/> | Documentation of a follow-up SST (at least 3 months after the initial SST) documenting the results of the interventions and the effect on the behavior.                           |
| <input type="checkbox"/> | <input type="checkbox"/> | Evidence of parent participation at the SST and/or parent conference.   |
| <input type="checkbox"/> | <input type="checkbox"/> | SST and/or pre-referral teams documentation of the following considerations: attendance history; recent changes in student's home environment; and, vision and hearing screening. |
| <input type="checkbox"/> | <input type="checkbox"/> | Report card or cumulative file comments indicate behavioral and academic concerns for <b>more than</b> one semesters (secondary) or one year, prior to the date of referral.      |
| <input type="checkbox"/> | <input type="checkbox"/> | Documentation of non-DIS counseling, behavior modification plan, and/or participation in a school-wide discipline program.  |
| <input type="checkbox"/> | <input type="checkbox"/> | Assessment plan indicating behavioral concerns and reason for referral for an ED evaluation.  |

FOR STUDENTS CURRENTLY RECEIVING SPECIAL EDUCATION SERVICES

- | <u>Yes</u>               | <u>No</u>                |   |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Behavior support plan.  |
| <input type="checkbox"/> | <input type="checkbox"/> | Academic modifications and accommodations attempted to address the behavioral concerns.     |
| <input type="checkbox"/> | <input type="checkbox"/> | Consideration for counseling services and/or referrals to school-wide discipline programs.  |
| <input type="checkbox"/> | <input type="checkbox"/> | Assessment plan indicates behavioral concerns and reason for referral for an ED evaluation. |

2. ASSESSMENT

- | <u>Yes</u>               | <u>No</u>                |   |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Health assessment to rule out whether an inability to learn is a result of a health or sensory condition.   |
| <input type="checkbox"/> | <input type="checkbox"/> | Formal academic assessment and consideration of the student's academic classroom performance based on curriculum based assessments and observations.  |
| <input type="checkbox"/> | <input type="checkbox"/> | Cognitive or general ability assessment identifying the student's strengths and weaknesses.   |
| <input type="checkbox"/> | <input type="checkbox"/> | Multi-disciplinary social-emotional evaluation using the following measures: observation in various settings (formal and informal); ratings scales and/or other psychometric instruments; interviews with at least one teacher and parent; and, consideration of the student's home and community behavior. |
| <input type="checkbox"/> | <input type="checkbox"/> | Comprehensive behavioral evaluation such as a functional behavioral analysis that identifies the function of the behavior, the frequency and duration of the behavior, and the identification of alternative behaviors that may serve to replace the undesired behavior.                                    |

Los Angeles Unified School District

COMPREHENSIVE EVALUATION

3. DETERMINATION OF ED ELIGIBILITY

Yes      No

- Comprehensive ED eligibility statement identifying specific areas of eligibility as per IDEA 1997 regulations.
- Consideration of exclusionary criteria and other relevant factors.
- Justification of co-morbid disabilities.

4. IEP TEAM RECOMMENDATIONS

Yes      No

- Consideration of a behavior support plan for initially referred students.
- IEP team considerations for placement in the least restrictive environment, including appropriate supports and modifications to ensure participation in the LRE, with responsible personnel.
- Consideration of DIS counseling services, and/or referral to mental health agency for such services.
- Counseling goals, if appropriate.
- Parent participation at the IEP meeting determining eligibility and placement.