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Modified Consent Decree  
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**Re: 2005-06 Annual Plan**

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

As the parties have noted in their communication over the 2005-06 Annual Plan, we are entering the final year of the Modified Consent Decree (MCD). Neither party needs to be reminded of the stakes associated with this final year. Nor do you need to be reminded of the implications of the

District's failure to meet its obligation to achieve the outcomes. Each of these outcomes were negotiated based on your expectations that they were achievable, established high standards for performance, and represented concrete improvements for children with disabilities in the Los Angeles Unified School District (LAUSD).

Last year, I noted that I would be more vigorous in my monitoring of the implementation of the Annual Plan. During the course of this year, I have conducted this monitoring through a series of mechanisms including school visits, requests for evidence of completion of action steps and interviews of LAUSD personnel. The results of this monitoring lead me to the conclusion that implementation of the 2004-05 Annual Plan has been haphazard at best. The District's focus has been on central office activities with little emphasis on the school level activities where the plan's success is determined.

To date, the District's primary areas of success associated with the implementation of the previous two Annual Plans appear to be the production of memorandums, policies and analyses of data and their distribution to local districts, support units and schools. Large-scale change at the local district and school level that translates into progress toward the outcomes does not appear to be occurring. There is little evidence of the systemic provision of focused support to schools and local districts that are far below outcome targets. Similarly, there is little evidence of the strong accountability system that would motivate schools and local districts that are far below outcome targets to make substantial progress within a short period of time.

Time is short. Based on my review of current outcome data, I have serious reservations about the ability of the District to achieve the outcomes in this final year. The 2005-06 Annual Plan does nothing to heighten my expectations or bolster the District's prospects. As both the plaintiff's attorneys and national special education experts working for my office have pointed out, the Plan is largely a reprint of the previous Annual Plan with numerous identical action steps and a few subtle changes in language. Despite my remarks on this issue in my review of last year's Annual Plan, there is little evidence of any analysis of the success or failure of specific action steps prior to the development of this year's plan. The Division of Special Education's explanation for this duplication that "the best strategy to achieve most of the outcomes is to continue to reinforce and expand the best practices articulated by the 2004-05 Annual Plan" appears to be an exercise in bureaucratic inertia. Indeed, when one considers the District's lack of progress in areas such as Outcomes 5: Suspensions, Outcome 7: Placement of Students with Disabilities (Ages 6-22) with all other Disabilities, and Outcome 18: Disproportional Identification of African-Americans as Emotionally Disturbed, the Division of Special Education's failure to consider alternatives to previous action steps or alternative approaches to drafting the Annual Plan such as the use of focus groups of school principals and school staff to review their viability or the acquisition of advice and assistance from national experts in the area of student suspensions or disproportional identification of African-Americans, is troubling. Similarly, the District's failure to access and disseminate the ground-level expertise of LAUSD schools and local districts that have made progress in outcome areas or inquire into the practices of other districts that have had success in implementing change in the outcome areas is disturbing, particularly since the lack of comparable "examples" of success has been a consistent theme in the interviews of LAUSD personnel conducted by my office.

Section 5.32 (d) of the Modified Consent Decree states that "The Independent Monitor shall adopt the Annual Plan with such additions, deletions, or revisions as he deems appropriate."

Section 5.34 adds that “the decision of the Independent Monitor shall be final and not subject to further review.” Last year, I noted that “while this part of the Modified Consent Decree permits the Independent Monitor to independently revise the District’s Annual Plan prior to adoption, I do not intend to pursue this course of action.” My reason is identical to last year’s. “The District, not the Independent Monitor is charged with the implementation of the Annual Plan. Therefore, the District, not the Independent Monitor, should produce and revise the Annual Plan.” The fact that much of this year’s plan is a duplication of last year’s plan diminishes any concerns about the effects of any delays in its distribution to schools. In any case, I would not expect any process of revision to continue past the end of July.

Rather than providing specific recommendations, I will leave this process of revision to the District. I expect that the Office of the Superintendent and Deputy Superintendent and any District office associated with an outcome area, with the input and assistance of Local District Superintendents will review the plan and collaborate on its redesign with the Division of Special Education. As I noted last year, progress toward the outcomes will require the collaboration of general and special education. A collaborative effort to produce the Annual Plan should, therefore, heighten the likelihood of the District’s achieving the outcomes. In addition, I expect that the District will access both the internal and external expertise that it needs to review the success of existing action steps and the viability of prospective steps. If the District requires any clarification in any outcome area, my office will be available to provide the requested feedback.

It is my hope that this process will result in an Annual Plan that holds the promise of closing the sizable gap between the District’s current performance in many of the outcome areas and the June 30, 2006 targets. I have stated before that LAUSD has a remarkable ability to achieve large-scale changes such as the implementation of the Open Court initiative or the school building program within a short period of time. The achievement of the outcomes of the MCD will require a similarly focused effort and level of commitment from the Superintendent and Board of Education on down.

Like those efforts, the MCD provides the hope for improvements in the education and lives of children and their families. Unlike them, the MCD is a mandated agreement, negotiated by the District and backed by the authority of the federal court. With such authority comes the power to promote change. The MCD contains a mechanism giving considerable power to the Administrator of Special Education to hold individuals accountable for their failure to comply with special education law. Long before the MCD, a similar power resided in the Superintendent and the local district superintendents. To date, there has been little evidence of the use of this authority. In light of the minimal progress toward many of the outcomes and the nature of a federal consent decree, this absence of accountability is inexcusable.

Sincerely,



Carl A. Cohn

c: Board of Education, Rowena Lagrosa, Kevin Reed, Diane Pappas, Allyn Kreps, Brigitte Ammons, Thomas Hehir, Jay Alleman