

## *Office of the Independent Monitor*

### Modified Consent Decree

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September 13, 2005

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### **Re: 2005-06 Annual Plan**

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

On June 20, 2005, I responded to the District's 2005-06 Annual Plan. I expressed my concern that the Plan contained numerous elements from previous annual plans despite any apparent

analysis of their prior effectiveness. I also noted the absence of a 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. I expressed concerns about an overemphasis on central office activities rather than local district and school-level activities and an ongoing failure to include general education staff in the development and implementation of the action steps. Finally, I noted that the District had failed to utilize the expertise and assistance of local or national experts in areas such as suspensions and disproportionality or collect and provide examples of school and district-level successes that could be used to inform other schools or local districts as they strived to achieve the outcomes.

The revised 2005-06 Annual Plan is a substantial improvement that offers hope for significant progress in the final year of the MCD. Responsibility for implementing action steps is now distributed to a broad range of special and general education personnel including the Superintendent of Schools. The Plan indicates the use of national experts in a number of areas including the disproportional identification of African-Americans as emotionally disturbed. The accountability mechanisms in the Plan are clearly outlined at each level and address the performance evaluations of personnel responsible for implementing the action steps. Unfortunately the District appears to have disregarded my recommendations to disseminate the expertise of schools that are experiencing success meeting individual outcomes. This absence is puzzling since this recommendation emerged from school and local district administrators who were interviewed by my staff. Since the Associate Superintendent for Special Education has brought examples of successful schools to the attention of the Board of Education as evidence of the District's progress toward the outcomes, the Division of Special Education should be expected to provide these and other examples to school personnel throughout the District.

The Plaintiff Counsels' response to the 2005-06 Annual Plan submitted on August 29, 2005 notes their concerns about the lack of "realistic annual benchmarks" and the potential failure of the District's leadership to implement the accountability mechanisms. While the gap between the District's current performance and many of the outcomes is wide, the fact that the parties entered into a three year agreement indicates that the District should be expected to plan for the achievement of the outcomes rather than some lower target. In the area of accountability, the results of the District's failure to achieve the outcomes are clearly enumerated in the Modified Consent Decree. If the Plaintiff's Counsel has specific complaints about the District's failure to enforce the accountability mechanisms or follow through on any other aspect of the Annual Plan, they may follow the complaint process set forth in Section 14 the Modified Consent Decree.

In this final year, achievement of the outcomes will require the full implementation of the action steps of the Annual Plan within the identified timelines. The staff of the Office of the Independent Monitor will continue to regularly monitor the implementation of the Annual Plan at the District, local district and school level and request evidence of the completion of action steps or elements of the accountability mechanisms at all levels. Such evidence will provide a strong indication of the District's motivation to achieve the outcomes of the MCD and improve the quality of education for students with disabilities and their families.

As stated in Section 5.32.d the MCD and noted in the September 12, 2005 letter directed to me by the Office of the General Counsel, "The Independent Monitor shall adopt the Annual Plan

with such additions, deletions, or revisions as he deems appropriate”. Based on the findings of several studies conducted in accordance with the negotiated outcomes of the MCD and the requirement that the District provide accurate data that can be used by the Independent Monitor to make precise determinations on the District’s progress toward the outcomes and make a judgment that the “District’s special education program has no systemic problems that prevent substantial compliance with applicable federal special education laws and regulations”<sup>1</sup>, the 2005-06 Annual Plan will be revised in the following ways:

### **Outcomes 5/17**

Add Central Level Action Step: Conduct a program evaluation on the effects of the elected dean on suspension rates in the top 50 highest suspending secondary schools, including a determination of whether elected deans and school administrators in these schools are following the requirements of federal and state law, the requirements of the Annual Plan and the policies and procedures of the District in regards to suspensions and student behavior.

### **Outcome 6 and 7**

Add Central Level Action Step: Conduct a program evaluation of a representative sample of schools throughout the District implementing the three-tiered approach to instruction for students with disabilities to ensure that it is being implemented in accordance with federal and state special education law and without violation of the rights of students with disabilities or their parents.

Add Central, Local District and School Level Action Step: Provide professional development for the accurate calculation of percent of time in the general education setting, procedures for ensuring accurate data entry into the Welligent system, and procedures for calculating percent of time in the general education setting through the Welligent system.

Add Central, Local District and School Level Action Step: Provide professional development on the requirements for updating student IEP and percent of time in the general education setting for students receiving a change of placement.

### **Outcome 13**

Add Central Action Step: Implement edits on the uniform web-based system for documenting attendance data, including provision of service information, service frequency and duration, and standardized procedures for coding provider absences, student absences and the delivery of services that will not allow the entry of any service provision information more than one month after the occurrence of a service to an individual child.

The Timeline for this Action Step shall be: “Initiate September 2005. Complete October 2005”

Revise Action Step 13.C.9 to read: “Add a section on the Welligent IEP containing a summary sheet on which service providers will identify all the special education services identified in state

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<sup>1</sup> MCD, Section 16.88

and federal law received by a student with disabilities together with the associated frequency and duration of each service.”

Revise Timeline on Action Step 13.C.9 to read “Initiate September 2005. Complete October 2005”

### **Outcome 16**

Revise Action Step 16.C.7 to read “Develop pre-employment financial incentives for certificated special education staffing, remove the impediments to their use within District policies, procedures, or collective bargaining agreements and develop a timeline to initiate their use.”

### **Outcome 18**

Central: Verify the accuracy of data that is provided monthly to the OIM of those students newly identified as ED or having received a comprehensive re-evaluation by cross-referencing the database submitted to OIM with other District data systems such as SIS, Welligent, and provider logs, to ensure the accurate reporting of IEP type, demographic information, IEP date and cumulative and IEP file locations.

I will expect these revisions to be completed by September 16, 2005 and a revised 2005-06 Annual Plan submitted to my office. Once these revisions are incorporated into the 2005-06 Annual Plan, it will be considered approved.

Sincerely,

A handwritten signature in blue ink that reads "Carl A. Cohn". The signature is written in a cursive style with a long horizontal flourish at the end.

Carl A. Cohn

c: Board of Education, Kevin Reed, Diane Pappas, Brigitte Ammons, Thomas Hehir