

Office of the Independent Monitor

Modified Consent Decree
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February 22, 2010

Honorable Board of Education
Los Angeles Unified School District
333 S. Beaudry Avenue
Los Angeles, CA 90017

Ramon Cortines
Superintendent of Schools
Los Angeles Unified School District
333 S. Beaudry Avenue, 24th Floor
Los Angeles, CA 90017

Re: Report on the Progress and Effectiveness of the Los Angeles Unified School District's Implementation of the Modified Consent Decree during the 2008-09 School Year – Part II

Dear Mr. Cortines and Board of Education:

Section 13 of the Modified Consent Decree (MCD) requires the Independent Monitor (IM) to annually present a written report to the Superintendent and the Board of Education concerning the progress and effectiveness of the implementation of the terms and conditions of the MCD. This year the IM has chosen to submit the report in two parts. Part I submitted on October 5, 2009 reported on the District's performance on five outcomes and three activities. Part II, this report, will address the status of the District's performance on the remaining three outcomes and three activities.

The outcomes of the MCD are statistically based. Each outcome has at least one data target that the District has to meet. It is the responsibility of the IM to determine if the target has been achieved. All targets within an outcome must be achieved before the IM can determine that the outcome has been met. For each target the parties agreed to the protocol that was used to analyze performance on the target. Much of the data used in the analyses are derived from District data sources. In all cases the data are validated. The appendix to this Report contains studies and other analyses the IM used to make determinations on the District's performance on the outcomes.

This Report makes determinations on the following outcomes:

- Outcome #2: Performance in the statewide assessment program
- Outcome #4: Completion rate
- Outcome #16: Increase in qualified providers

The Report also updates the progress the District is making on Section 10 of the MCD regarding making facilities accessible to individuals with disabilities, the development and implementation of the Integrated Student Information System (ISIS) and implementation of the District's accountability plans.

A summary of the District's performance on all eighteen outcomes is presented at the end of this report (Table 1).

OUTCOME # 2: PERFORMANCE IN THE STATEWIDE ASSESSMENT PROGRAM

- ◆ **Outcome:** By June 30, 2006, the percentage of students with disabilities (SWD) 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 27.5% in English Language Arts and at least 30.2% in Mathematics.

California Standards Test (CST) Spring 2009

| School Year | Proficiency Categories | # of Special Education Students | # of Special Education Students Ranked as Basic or Above | % |
|-------------|------------------------|---------------------------------|--|-------|
| 2008-09 | English/Language Arts | 50,796 | 14,425 | 28.4% |
| | Mathematics | 49,160 | 13,684 | 27.8% |
| 2007-08 | English/Language Arts | 51,995 | 13,050 | 25.1% |
| | Mathematics | 49,599 | 12,552 | 25.3% |
| 2006-07 | English/Language Arts | 51,904 | 11,531 | 22.2% |
| | Mathematics | 49,639 | 11,242 | 22.7% |
| 2005-06 | English/Language Arts | 53,707 | 10,709 | 19.9% |
| | Mathematics | 50,826 | 10,258 | 20.2% |
| 2004-05 | English/Language Arts | 56,926 | 11,596 | 20.4% |
| | Mathematics | 54,784 | 10,605 | 19.4% |
| 2003-04 | English/Language Arts | 57,597 | 10,276 | 17.8% |
| | Mathematics | 54,827 | 10,032 | 18.3% |

- ◆ **Data Source:** 2009 STAR testing file
 - Numerator includes SWD with performance levels of “basic,” “proficient,” and “advanced.”
 - Denominator includes SWD with performance levels of “far below basic,” “below basic,” “basic,” “proficient” and “advanced.”

- ◆ **Discussion:** This outcome consists of two targets. The first is to increase the percentage of SWD with performance levels of “basic or above” on the English Language Arts (ELA) section of the CST to 27.5%. During the 2008-2009 school year, the District exceeded this target with 28.4% of SWD performing at these levels. The second target focuses on increasing the performance of SWD in the area of mathematics. While the District demonstrated a 2.5% gain from last year, it did not meet the target of 30.2%.

The District is to be commended for its continued progress in the increase of the percentage of SWD achieving “basic or above” on the CST (See Appendix A). If the District is able to maintain or improve the performance levels in ELA and makes progress in the area of mathematics that it made last year, the District would meet the requirements of Outcome 2 during the 2009-2010 school year.

- ◆ **Determination:** The District did not meet this outcome by June 30, 2009.

OUTCOME # 4: COMPLETION RATE

- ◆ **Outcome:** The District's completion rate shall increase based on an increase in the number of students who graduate with a diploma, receive a certificate of completion, or age out, as compared to the total number of students with disabilities who graduate with a diploma, receive a certificate of completion, age out, or drop out (grades 7-12).

Completion Rate

| School Year | # of Students in Cohort | # of Special Education Students Receiving Diplomas | % of Special Education Students Receiving Diplomas | # of Special Education Students Receiving Certificates of Completion | % of Special Education Students Receiving Certificates of Completion | # of Special Education Students Who Aged Out | % of Special Education Students Who Aged Out | # of Special Education Students Grade 7-12 that Dropped Out | % of Special Education Students Grade 7-12 that Dropped Out | % of Completion |
|-------------|-------------------------|--|--|--|--|--|--|---|---|--------------------|
| 2008-09 | 4,630 | 1,384 | 29.9% | 1,175 | 25.4% | 21 | 0.5% | 2,050 | 44.3% | 55.7% |
| 2007-08 | 3,484 | 1,061 | 30.5% | 754 | 21.6% | 15 | 0.4% | 1,654 | 47.5% | 52.5% |
| 2006-07 | 3,502 | 1,720 | 49.1% | 419 | 12.0% | 9 | 0.3% | 1,354 | 38.7% | 61.3% |
| 2005-06 | 2,999 | 1,636 | 54.6% | 364 | 12.1% | 11 | 0.4% | 988 | 32.9% | 67.1% |
| 2004-05* | 3,279 | 1,974 | 60.2% | 350 | 10.7% | 177 | 5.4% | 778 | 23.7% | 76.3% |
| 2003-04 | | Data not available | | Data not available | | Data not available | | Data not available | | Data not available |

Source: *District Reported

- ◆ **Data Source:** SIS/Welligent/Student Roster
 - Numerator includes SWD with diplomas (from Outcome 3) plus students with Certificates of Completion or aging out.
 - Denominator includes all SWD in the numerator plus students grades 7 through 12 dropping out the 2008-09 school year.
 - The dropout data are preliminary. Final dropout data are not available until May 2010.

- ◆ **Discussion**

This outcome aims to increase the number of SWD who complete high school with a diploma, receive a certificate of completion or age out. It also seeks to reduce the number of students who drop out in grades 7-12. Since this outcome does not have a specific numeric target that the District must meet, the District's performance is measured by an increase in the rate of SWD who graduate with a diploma, receive a certificate of completion, or age out from the baseline year of 2004-2005. To determine performance of this outcome, the OIM conducted a study to validate the completion status of 12th grade SWD and data analyses of dropouts since the 2004-2005 school year (See Appendix B).

During the 2008-2009 school year, the District had a substantial increase (32.9%) in the number of students (cohort) with a high school diploma, certificate of completion, aged out or dropped out. This increase is primarily attributed to two reasons. The first is associated with improvements in the retention of students for an additional fifth year to complete class requirements. For example, during the 2006-207 school year, 385 12th grade SWD were fifth-year seniors while the 2008-2009 school year had 1,081 fifth-year seniors marking an increase of 64% over two years.

Despite an increase in the number of seniors, the percentage of students receiving a high school diploma remained similar to that of the 2007-2008 school year (29.9% vs. 30.5%). However, the number of students who received a diploma is considerably higher (1,061 to 1,384). This is positive since these students passed both sections of the California High School Exit Exam (CAHSEE) in order to receive a diploma. This number should continue to increase as a result of the State Board of Education's decision to reinstate the CAHSEE exemption for SWD who met all of their high school requirements but did not pass the exit exam in the years 2008 and 2009. This means that many of the 1,171 students who received a certificate of completion this year will now be eligible to receive a high school diploma. As of January 2010, the District and schools have

been contacting these students to issue them a diploma. A final count of graduates should be available by the end of June 2010. However, this should have no impact on the results of Outcome 4 since these students are considered "completers."

The second factor resulting in the substantial increase of the cohort of students for Outcome 4 is the 24% increase in the number of SWD in grades 7-12 who dropped out of school from the 2007-2008 school year (1,654 to 2,050, 2008-2009). However, while this number has increased, the percentage of students who dropped out has decreased (47.5% to 44.3%). This is due to the increase in the overall number of students in the cohort as well as those that completed school with a diploma or certificate of completion. Furthermore, a pattern of increase in the number of students who dropout has been observed since 2004-2005 and may be due to improvements in the maintenance of data and tracking of students as well as an increase in dropouts.

The identification of students who drop out is a complex and cumbersome process which is not unique to the LAUSD. Many students who drop out are students whose whereabouts are unknown as a result of several factors. Some students' whereabouts are unknown because a family moved out of the District, state or country. These students may have not informed their previous school of their potential transfer and therefore their whereabouts are unknown until they're enrolled and the next district requests their records. If this request is not made, students may continue to be considered as an unknown or dropout. This process results in the District reporting an initial dropout file to the state which then requires further investigation and reconciliation of this data that takes approximately one year. This reconciliation of data results in finding additional students who dropped out and finding others who were previously reported as unknown. This process results in a final dropout count of students for the previous school year.

To examine the potential impact of the accuracy of dropout data on Outcome 4, analyses were conducted for the 2006-2007 and 2007-2008 school year (See Appendix C). The analyses found that the final dropout file resulted in an increase in dropouts for the 2006-2007 school year, and a decrease for 2007-2008. Therefore, at this time, it is difficult to project how the final dropout file for the 2008-2009 school year will impact the District's performance on Outcome 4. Considering the disparity between the District's performance and the target of Outcome 4, the accuracy of the initial dropout file utilized for making a determination appears to be adequate.

Lastly, the validation study noted some inaccuracies with the completion data maintained in the Student Information System (SIS). These inaccuracies are mainly due to school variables such as inconsistent data entry and maintenance. While many of the inaccuracies pertaining to the leave codes noted in the past have improved considerably, instances of students having met their requirements but had not been updated and a diploma issued continue to be observed. The main concern this year was the inconsistent data entry of leave codes for students who had completed class requirements but did not pass the CAHSEE. In some schools, these students had a leave code indicating a certificate of completion (L7, 92) or an unknown (L8) for the 2008-2009 school year, while also showing the student as re-enrolled and active for the 2009-2010 school year. While these students had been coded as re-enrolled for the purpose of participating in the CAHSEE exam for the 2009-2010 school year, they were not attending classes. Concerns arise regarding the reconciliation of data and leave codes between both years so that students are not counted twice, once as a dropout or having received a certificate of completion, and again as a graduate.

As mentioned earlier, to meet this outcome, the District must show an increase in the percentage of SWD completing school from the 76.3% baseline established during the 2004-2005 school year. While the District demonstrated an increase from the 2007-2008 school year, its performance continues to fall well below the target. However, the District's efforts appear to be resulting in more students staying in school to complete their requirements and in a higher number of students passing the CAHSEE. Ultimately, the District has continued to increase the number of students completing school with either a diploma, certificate of completion and/or aging out. These findings are encouraging and offer evidence of the District's commitment to helping students complete high school. The District should continue the efforts to better track and maintain student data, and prepare students for participation and passage of the CAHSEE.

- ◆ **Determination:** The District did not meet this outcome by June 30, 2009

OUTCOME # 16: INCREASE IN QUALIFIED PROVIDERS

- ◆ **Outcome:** The District shall increase the percentage of credentialed special education teachers to 88%. The Independent Monitor shall not certify under paragraph 88 of the Modified Consent Decree that the District has achieved each of the outcomes unless on the date of such certification the percentage of credentialed special education teachers is at least 88%.

Qualified Providers

| School Year | Qualified Special Education Teachers* | % Qualified Special Education Teachers |
|-------------|---------------------------------------|--|
| 2008-09 | 3,840 | 88.9% |
| 2007-08 | 3,748 | 87.9% |
| 2006-07 | 3,484 | 83.2% |
| 2005-06 | 3,342 | 80.0% |
| 2004-05 | 3,063 | 72.3% |
| 2003-04 | 3,480 | 70.6% |

- ◆ **Data Source:** Human Resources/Personnel Research. Classroom teachers make up the data set.
 - Numerator is the number of qualified special education teachers.
 - Denominator is the number of special education teachers.
- ◆ **Discussion:** This outcome requires the District to maintain the percent of fully credentialed special education teachers to 88%. As of June 30, 2009, 88.9% of the District's special education teachers were fully credentialed. The District will be disengaged from this outcome only after all other outcomes are met and the District has achieved and maintained at least the 88% level.
- ◆ **Determination:** Met but not disengaged.

MAKING SCHOOLS ACCESSIBLE (UPDATE)

Introduction

Section 10 of the MCD requires that:

- All new construction and renovation or repairs by the District shall comply with Section 504 and the American with Disabilities Act (ADA).
- The District shall enter into binding commitments to expend at least \$67.5 million dollars on accessibility renovations or repairs to existing school sites consistent with Section 504 and ADA.
- The District shall establish a unit to address “on-demand” requests related to accessibility. The District shall expend up to \$20 million dollars for task orders related to requests for program accessibility.

Section 17 of the MCD requires the IM must also determine there are no systemic problems within the District’s schools that prevent substantial compliance with program accessibility. Part I of this Report issued on October 5, 2009 described the progress the District had made on making schools accessible to individuals with disabilities. This Report includes additional progress and an examination of compliance with accessibility standards in District independent charter schools.

New Schools

The District’s corrective action plan of its 54 new schools includes three activities that were to be initiated or completed by February 2010. First, the plan identified four schools for which surveys and repairs were to be completed for items that did not require the approval of the Division of State Architect (DSA). These repairs were completed as scheduled by December 2009.

The second activity required the development and submittal of designs for all items (non-DSA and DSA) at 13 additional schools (Phase I). To date, the District had not completed these designs. The District is currently addressing the packaging of the designs of DSA-related items and has indicated that the progress on Phase I schools is several months behind.

Lastly, the plan included efforts to identify and repair “Barrier and High Risk Safety Items” by February 2010. The District remains in the vetting process of these items identified through the surveys and additional data collection efforts.

Renovation or Repair Projects (\$67.5M)

Since the release of Part I of this Report, the District has not submitted additional Repair and Renovations projects for credit.

On-Demand Projects (\$20M)

On November 30, 2009 the District submitted seven projects for a total credit request of \$229,263.74. On January 26, 2010, the District submitted an additional 30 projects for a total credit request of \$1,761,891.29. The projects were approved for credit based on improved program accessibility at the site. On February 19, 2010, the District was granted \$229,263.74 for the seven projects submitted in November and \$1,713,904.57 for those in January. The District was not granted credit for three projects submitted due to time constraints for validating these projects prior to the release of this Report. These projects may be approved in the near future with the additional credit reported in the Fall 2010, Annual Report.

Independent Charter School Site Surveys

Independent charters, like all public schools, are required to comply with the requirements of the ADA. Furthermore, the charter application that potential charters must submit requires a “reasonably comprehensive” description that must: “Assure that the schools’ facilities will comply with state building codes, federal Americans with Disabilities Act (ADA) access requirements, and other applicable fire, health and structural safety requirements, and will maintain on file readily accessible records documenting such compliance¹.” In California, the method for measuring compliance at charters is through the local

¹ Los Angeles Unified School District Charter Application, Element 6 – Health and Safety, Revised July 24, 2008.

municipality in which it resides. The process for determining compliance is one in a series of inspections conducted prior to the issuance of a certificate of occupancy. The OIM conducted surveys of independent charter schools to examine this process and determine if the inspections conducted by a local municipality were adequate for measuring compliance with the ADA. This Report includes a summary of the methodology and findings from the surveys. The full report may be viewed at <http://www.oimla.com>.

Background and Methodology

The Charter Pilot Study² included a walk-through of four charters and noted concerns regarding access compliance at all schools. Since that time, discussions have occurred with the District regarding the processes for ensuring that independent charter operators secure sites that meet compliance with Section 504 and the ADA. The District confirmed that the process for ensuring such compliance is based on the California Education Code *Section 47610 (d)*, which requires the local municipality³ to conduct a series of inspections, including access compliance, prior to issuing a certificate of occupancy. The District also acknowledged the issuance of a certificate of occupancy as the only process for ensuring that charters meet the State and federal requirements for access compliance. To better understand this process, on November 30, 2009, the OIM met with the City of Los Angeles Department of Building and Safety (LADBS) and the District.

The LADBS explained that schools are inspected for compliance with Title 24 of the California Building Code (CBC) and that a certificate of occupancy is granted for sites that are fully compliant. The LADBS noted an exception to this procedure for sites that were previously operating as a school (e.g., parochial, private or independent charter). For these schools the process forgoes an inspection and transfers the previous certificate of occupancy to the new charter operator.

To validate the adequacy of the inspection process for independent charter schools, the OIM conducted walk-through surveys of 29 charter schools during the weeks of December 14-17, 2009 and January 25-28, 2010. The surveys only focused on schools granted a certificate of occupancy by the LADBS since the majority of the District's independent charters are within their jurisdiction. Using information provided by the LADBS, a sample was selected based on the three types of certificates of occupancy issued to Charters. This includes new construction, change of use buildings⁴ and existing schools. Sites also were selected from a variety of geographic locations.

The walk-throughs were not intended to be comprehensive inspections of the entire site. Findings represent only a sample of non-compliant findings. Items selected for sampling depended upon the site. For example, some schools lacked on-site parking and the sample didn't include parking. Sample items were reviewed for compliance with Title 24 of the California Building Code.

General Findings

Non-compliant items were found at all 29 sites. Some findings were significant and would potentially deny program access for individuals with disabilities. For example, non-compliant entrances and school offices with stair-only access were noted at several sites, thus denying access for individuals who may require the use of mobility devices such as wheelchairs or walkers. Some sites did not have any compliant restrooms or drinking fountains throughout the school.

While many schools had structural components aimed at providing access, many of these were non-compliant and may have created additional barriers for individuals with disabilities. The majority of schools had non-compliant paths of travel from the public right-of-way, non-compliant passenger loading zones and non-compliant parking. Many sites with ramps were noted to be non-compliant with excessive slopes and non-compliant handrails. The surveys also found common areas of non-compliance, including: lunch areas, student lockers, counters, door hardware and door thresholds. A lack of compliant signage also was noted at the majority of sites. These areas of non-compliance further limit access to the programs, services and activities provided at the school.

² See Charter Pilot Study dated June 5, 2009. The report may be viewed at: <http://www.oimla.com/pdf/PilotCharterSchool.pdf>

³ The LAUSD contains charters within 10 different local municipalities.

⁴ This certificate of occupancy is for buildings that were previously used for purposes other than a school site, such as a business, church or warehouse.

The surveys also observed areas of non-compliance that may expose individuals with disabilities to unsafe conditions. These include the lack of detectable warning surfaces, non-compliant crosswalks, protruding objects, lack of vertical headroom clearance, pipes not wrapped at lavatories, non-compliant call box controls in elevators and tripping hazards. In addition to non-compliant items associated with Title 24 of the CBC, potential safety violations were evident at some sites, such as exposed wiring in student bathrooms.

The site surveys aimed to understand and validate the adequacy of the inspection process for access compliance conducted by LADBS at independent charters. As noted, the schools selected represented the three types of certificates of occupancy issued. The walk-through found that some of the schools reported as having been issued a certificate of occupancy for a school considered new construction had previously been an existing building (non-school use). Similarly, some schools that had been reported as having been issued a change of use certificate of occupancy had previously been a school. Based on these reviews, the process remains unclear for determining the type of certificate of occupancy issued.

Additionally, some of the sites underwent significant remodeling prior to occupancy and some were considered new construction, while others were treated as a change-of-use occupancy. Lastly, while the LADBS noted that charters applying for a certificate of occupancy at a site that was previously utilized as a school didn't need additional inspections, all but one of the schools reported inspections at their site prior to occupancy. Overall, the surveys at the 29 independent charters found the inspection process was inadequate for ensuring that these sites meet the State and federal access compliance requirements. Additionally, some sites had a mixture of adult and children's standards in restrooms which raise additional questions of the process for conducting inspections.

These findings are continued evidence of the District's systemic problems that prevent substantial compliance with the accessibility requirements of the American with Disabilities Act and Section 504. These problems are not unique to independent charters. However, these problems appear to be more significant at independent charters since many exist in buildings that were not intended to be utilized as schools and/or have not been properly updated. Furthermore, the current processes for relying on the certificate of occupancy to indicate compliance with Title 24 of the CBC contribute to these problems at independent charters. While the District may be correct in relying on the inspection processes of local municipalities as required by the California Education Code, the MCD clearly holds the District accountable for compliance at all of its schools, including independent charters. Therefore, the District must review the current process that relies on the capacity of the local municipalities.

The surveys noted too many instances of potential safety hazards to all students and staff at some of the independent charters. While the MCD limits the purview of the inspections to those related to access compliance, the District is highly encouraged to expand its review of the processes for approving sites for independent charters including compliance with inspections for life, fire and safety as well as meeting the requirements of the Field Act. Ultimately, safety of students, staff and public should be paramount at all District schools.

Determination

1. All new construction and renovation or repairs by the District shall comply with Section 504 and the American with Disabilities Act (ADA). **Improvement**
2. The District shall enter into binding commitments to expend at least \$67.5 million on accessibility renovations or repairs to existing school sites consistent with Section 504 and ADA – **No Additional Credit**.
Total Approved: \$11,130,586.00
3. The District shall establish a unit to address "on-demand" requests related to accessibility. The District shall expend up to \$20 million for task orders related to requests for program accessibility
Unit Established
Additional Credit approved \$ 1,943,168.27.
Total approved: \$4,344,154.76

INTEGRATED STUDENT INFORMATION SYSTEMS (ISIS)

The maintenance of student records is an integral part of developing systemic capacity to ensure compliance with the Individuals with Disabilities Education Act. The development and implementation of the ISIS is the foundation for maintaining student records in the LAUSD. This data system is intended to integrate and replace the existing District data systems, such

as those at elementary and secondary schools, charters and continuation schools. This will ensure that student records are readily available at each site. This is important because it will help facilitate schools' access to student records so that transfers and transitions are seamless and students are provided the appropriate programs, curriculum, support and services from their previous school. This also will enable the District to have immediate access to student-level data and enhance the ability to make data-based decisions. This issue is still a concern with many of the independent charter schools that are not connected to the District. The OIM has repeatedly advised the District of the difficulties in obtaining data from some of its charters.

One of the foundations of the MCD is the implementation of the ISIS data system at all District schools, including charter schools. During the 2008-2009 school year, the ISIS project has suffered set-backs related to budget constraints and a change of ownership of the original contractor. While these events may be understandable, these set-backs represent a historic pattern with the implementation of the ISIS. The District contends that the ISIS will be fully implemented at all schools by June 2011. It is the expectation of the IM that the District continue to allocate the necessary resources to complete its implementation. Overall, the OIM has repeatedly noted improvements in the accuracy of the District's data which have led to substantial improvements for student outcomes.

ACCOUNTABILITY

Since February 2007, the District has included the outcomes of the MCD within the performance evaluations of District administrators including: the Superintendent of schools; local district superintendents; local district directors; and principals. The District also expanded these efforts to include accountability plans in the areas of facilities and the Integrated Student Information System.

During the 2008-09 school year, 377 performance evaluations of school principals were completed. Of these, 191 (50.6%) made reference to the MCD and/or special education and 85 (22.5%) included a recommendation. Of these, four included references of needed assistance, while five contained a negative/perceived negative comment of performance in the area of special education. In addition, there were five evaluations conducted for schools on the targeted schools list for Outcome 5: Suspension. While all included a comment that referenced this outcome, none included a negative/perceived negative comment. In addition, eight performance evaluations of local district directors were reviewed. Of these, none contained a reference, recommendation or commendation regarding the MCD and/or special education. While the performance evaluations continue to show general references or comments regarding the MCD and/or special education, there is an increase in references to the MCD reports provided to each school by the Division of Special Education during the Stull evaluation.

Facilities

The accountability plan to ensure or improve accessibility at District schools addresses areas of design, construction and inspection. Since October 2009, the District has continued to demonstrate good faith and progress in addressing concerns within each aspect of construction. Many of the activities included within the plan have been completed or are at a completion rate of over 70%. More importantly, the activities of the plan have resulted in proactive efforts to identify and address design and construction problems before they occur or are in the earlier stages of construction, at sites currently being built or repaired. The District also has been engaging vendors and DSA in the redesign of products such as lavatories and TMP ramps that were non-compliant by design. While the District still has a way to go, this progress is an example of credible action for addressing systemic capacity in making schools accessible.

CONCLUSION

To date the District has met a total of 12 of the 18 outcomes. Of the remaining six (note that Outcome 7 has two distinct parts, thus there are a total of seven outcomes to be met), significant progress has been made on most and the District is close to meeting some. Outcome 4 is the only one where the District's performance is well below the target. Therefore, the MCD continues to be in force.

The District has made great progress since the inception of the MCD and is close to successfully achieving it. More importantly, the District has made systemic improvements that have benefited all students. For example, suspensions are dramatically down and performance on state-wide assessments and graduation rates are up. While the focus of the MCD is

about compliance with applicable laws, it has significantly improved educational outcomes for students with disabilities and the ability of the District to target its resources effectively and measure their effectiveness.

While not discussed in this Report, the IM commends the District for the progress it has made in establishing policies to address the problems pertaining to the education of students with disabilities in charter schools as identified in the OIM's June 5, 2009 Pilot Study.

The IM recognizes that these are difficult times financially and appreciates the Superintendent's and Board's commitment to protect the resources necessary to ensure compliance with special education laws and the MCD. The OIM will continue to work with the District to ensure that resources are used effectively and efficiently.

Three provisions of the MCD are worth reiterating at this time:

First, for outcomes that were met by June 30, 2006, the IM is required to continue to monitor the District's performance until all outcomes are met. Thus it is expected that the District will maintain or improve its performance on these outcomes.

Second, the IM is required to issue periodic reports on progress in meeting the outcomes. As data become available, the IM will report on the District's performance on specific outcomes. These reports will contain, when appropriate, the schools that are not making adequate progress and the individuals responsible.

Third, the MCD authorizes the IM to increase the outcome measure in the event that an outcome is not achieved by June 30, 2006 and that its achievement will be delayed by more than six months. The District should be aware of this possibility.

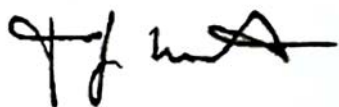
ACKNOWLEDGEMENTS

The IM commends both the District and Plaintiffs for the constructive and positive manner in which they have worked together in the process of implementing the MCD. It is not to be expected in an undertaking so broad and significant that there is always agreement. However the parties have consistently demonstrated both the desire and ability to reach appropriate resolutions.

While all outcomes have not been met, the IM wishes to commend the many individuals in the District who worked diligently to achieve the outcomes that have been met and the progress that has been made in others.

Recognition must also be given to the staff of the OIM, the graduate assistants, consultants and researchers who diligently gather and analyze data and review documents to ensure the validity of our determinations. Their professionalism and dedication are greatly appreciated.

Sincerely,



Frederick J. Weintraub

c: Hon. Judge Ronald Lew, Robert Myers, Catherine Blakemore, David Holmquist, Sharyn Howell, Diane Pappas, Deneen Cox, Brigitte Ammons, Thomas Hehir

Summary of Final Determination of the Modified Consent Decree Outcomes

| # | Outcome | | Status | Outcome Target | Outcome Met |
|----|--|----------------------------|--------|----------------|--|
| 1 | Participation in the (STAR) Statewide Assessment Program (without modifications) | ELA/Math | 85.2% | 75% | Yes 6/30/06 |
| | | Comparable to Non-Disabled | 95.0% | 95% | |
| 2 | Performance in the (STAR) Statewide Assessment Program (at basic or above) | ELA | 28.4% | 27.5% | No |
| | | Math | 27.8% | 30.2% | |
| 3 | Increase Graduation Rate | | 41.66% | 39.79% | Yes 6/30/08 |
| 4 | Increase Completion Rate/Reduce Dropout | | 55.7% | 76.3% | No |
| 5 | Reduce Suspensions of Student with Disabilities | | 7.57% | 8.6 | Yes 6/30/09 |
| 6 | Increase Placement of Students with Specific Learning Disabilities (SLD) and Speech and Language Impairment (SLI) in the Least Restrictive Environment | | 73.7% | 73% | Yes 6/30/06 |
| 7A | Increase Placement of Students with All Other Disabilities in the Least Restrictive Environment | | 50.68% | 51% | No |
| 7B | Increase Placement of Students with the Disability of MDO in the Least Restrictive Environment | | 4.04% | 23% | No |
| 8a | Increase Home School Placement: SLI/SLD | | 92.7% | 92.9% | Yes By Stipulation of the Parties 9/16/08 |
| 8b | Increase Home School Placement: All Other Disabilities | Grade K | 59.1% | 65% | |
| | | Grade 6 | 65.0% | 65% | |
| | | Grade 9 | 60.0% | 60% | |
| 8c | Increase Home School Placement: All Other Disabilities | Grades 1-5 | 58.8% | 62.0% | |
| | | Grades 7-8 | 60.3% | 55.2% | |
| | | Grades 10-PG | 41.4% | 36.4% | |
| 9 | Individual Transition Plan in IEP (14 years and above) | | 99.8% | 98% | Yes 6/30/06 |
| 10 | Timely Completion of Initial Special Education Evaluations | 60 Days | 90% | 90% | Yes 6/30/08 |
| | | 75 Days | 96% | 95% | |
| | | 90 Days | 98% | 98% | |
| 11 | Response Time to Parent Complaints | 5 Days | 54% | 25% | Yes 6/30/06 |
| | | 10 Days | 82% | 50% | |
| | | 20 Days | 97% | 75% | |
| | | 30 Days | 99.9% | 90% | |
| 12 | Informal Dispute Resolution Prior to Formal Due Process (within 20 days) | | 77% | 60% | Yes 6/30/06 |

Summary of Final Determination of the Modified Consent Decree Outcomes

| # | Outcome | | Status | Outcome Target | Outcome Met |
|-----|--|------------------------|--------|----------------|-------------------------------------|
| 13a | Delivery of Special Education Services | SLD Only | 91% | 93% | No |
| | | Other Disabilities | 94% | 93% | |
| 13b | Delivery of Special Education Services | Frequency (# of times) | 72% | 85% | |
| | | Duration (length) | 70% | 85% | |
| 14a | Increased Parent Participation (Attendance at IEP Meetings) | Attendance | 82% | 75% | Yes 2/1/08 |
| 14b | Increased Parent Participation (Attempts to convince parent to attend IEP) | Sufficient Attempts | 96% | 95% | |
| 15 | Timely Completion of IEP Translations | 30 Days | 96% | 85% | Yes 6/30/07 |
| | | 45 Days | 99% | 95% | |
| | | 60 Days | 99% | 98% | |
| 16 | Increase in Qualified Special Education Teachers | | 87.9% | 88% | Yes 7/15/08 Not disengaged |
| 17 | IEP Team Consideration of Behavior Support Plans for Autistic and Emotionally Disturbed Students | Autism | 61% | 40% | Yes 6/30/06 |
| | | ED | 97% | 72% | |
| 18 | Comprehensive Evaluation of African American Students Identified as Emotionally Disturbed | % Meeting Criteria | 81% | 90% | No |