

Independent Charter Schools Accessibility Report

*Office of the Independent Monitor
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Background

The Charter Pilot Study¹ conducted in June 2009 examined the potential impact of charter schools on the District's systemic, substantial compliance with the MCD. The pilot study included a review of the policies and procedures associated with the approval of facilities to ensure that sites meet State and federal accessibility requirements. The pilot included a walk-through of four charters to determine if areas of non-compliance existed.

The Pilot Study found that District policies lacked specifics regarding the requirements for complying with state and federal accessibility laws. A reference was noted in the Charter Application that requires potential charters to include 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 compliance." The walk-through surveys of a sample of accessible items and elements found areas of non-compliance at the four schools, and noted that one school did not contain any compliant elements of accessibility. These findings provided an initial confirmation that charters may prevent the District from achieving substantial compliance with access compliance at all District schools.

Since the release of the Pilot Study, 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. While the pilot focused on all charters, independent charters has been the focus since these schools do not operate under District policies, unless included within their charter. Therefore, the District has limited oversight in the selection, maintenance and operation of independent charter facilities.

The District's current policies for ensuring access compliance at independent charters is based on the California Education Code *Section 47610 (d)*, which requires the local municipality to conduct a series of inspections, including access compliance, prior to issuing a certificate of occupancy. The only acknowledgement required by the District of such compliance is through the Certificate of Occupancy issued by the local municipality in which the school resides.

While the District currently has charters that reside in 10 different municipalities, the majority of schools are within the jurisdiction of the City of Los Angeles. For the purpose of consistency, only schools issued a certificate of occupancy by the LADBS were included in the surveys. To better understand the processes of determining compliance by a local municipality, on November 30, 2009, the OIM met with the City of Los Angeles Department of Building and Safety (LADBS) and the District.

¹ See Charter Pilot Study dated June 5, 2009. The report may be viewed at: <http://oimla.com/pdf/PilotCharterSchool.pdf>

The LADBS explained that schools are only inspected for compliance with the accessibility requirements under Title 24 of the California Building Code (CBC). The LADBS noted that as local municipalities, federal requirements of Section 504 and the ADA that are not covered by Title 24 are not under their jurisdiction and therefore are not enforced. It should be noted that the differences between Section 504, the ADA and Title 24 are minimal. The LADBS described three types of certificates of occupancy issued to charters which include:

- New Construction: Schools that are newly built from the ground-up.
- Change-of-Use: Buildings that were previously used for non-school purposes, (e.g., business, warehouse) and have been converted to a school.
- Existing School: Buildings that were previously occupied by a private, parochial or charter school.

The LADBS noted that a certificate of occupancy is granted for sites that are fully compliant with Title 24 of the California Building Code and other applicable codes and standards. The LADBS noted an exception to this procedure for sites that were previously operating as a school. For these schools the process forgoes an inspection and transfers the previous certificate of occupancy to the new charter operator.

Methodology

To validate the adequacy of the inspection process for independent charter schools, the OIM and its consultants conducted walk-through surveys of 29 charter schools during the weeks of December 14-17, 2009 and January 25-28, 2010. Using information provided by the LADBS, a sample was selected based on the three types of certificates of occupancy issued to charters. Sites were selected from a variety of geographic locations. The sample included:

- 6 Sites - New Construction
- 14 Sites- Change-of-Use
- 8 Sites- Existing schools
- 1 Site – New Construction and Change-of-Use

The walk-through was not a comprehensive inspection of the entire site. The findings below represent only a sample of non-compliant findings. Items selected for sampling depended upon the site. For example, some schools lacked on-site parking, so the sample didn't include parking. For the purposes of validating the inspection process of the LADBS, sample items were reviewed for compliance with Title 24 of the California Building Code.

Findings

Overall, non-compliant items were found at all 29 sites. The degree of non-compliance varied, with some schools having no or limited accessibility features. Others had elements of accessibility that provided some access, but did not meet the specifications required by Title 24. Reports of each site surveyed with photographs may be viewed in Appendices A-Z (Attached).

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. Additionally, 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 following summarizes findings by elements of accessibility and is not inclusive of all of the non-compliant findings observed.

Accessible Entrances and Path of Travel from Public Right of Way

As noted above, several schools did not have accessible entrances and had entrances that could only be accessed by stairs. Some schools had entrances with accessible features such as ramps that were not compliant. The majority of schools had non-compliant paths of travel from the public right of way and non-compliant passenger loading zones. These areas also lacked compliant signage to assist and direct individuals with disabilities to the programs, activities and services offered at each site.

Parking

Areas of non-compliance include striping of parking spaces, slopes and access aisles. The placement of some accessible spaces required individuals to travel behind vehicles or through vehicular traffic. Some also lacked crosswalks and detectable warnings on the path of travel from the accessible spaces to the facility.

Restrooms

Common areas of non-compliance found in both student and staff restrooms include: placement of toilets, urinals, lavatories and dispensers. Also noted were non-compliant door hardware in bathroom compartments and grab bars. Some restrooms lacked sufficient clear floor space and latch side clearance. As mentioned above, some schools did not have any compliant elements of accessibility in the staff or student restrooms. Lastly, some sites had a mixture of adult and children's standards in restrooms.

Ramps and Fountains

Many sites with ramps were noted to be non-compliant with excessive slopes and non-compliant handrails. Some did not comply with the width requirements, were missing edge protection and lacked level landings. At one site, a ramp had been installed over the path of travel, reducing the width of the sidewalk.

Several of the drinking fountains observed did not comply with the high-low design. Some high-low fountains were installed incorrectly and did not provide the required clearance for use. Some fountains protruded into the primary path of travel.

Common Areas

The surveys also found common areas of non-compliance including: lunch areas, student lockers, counters in lunch areas and main offices.

Signage and Doors

A lack of compliant signage also was noted at the majority of sites, throughout the school. Some schools had doors throughout the site with non-compliant hardware, door pressure and thresholds.

Safety

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.

Process for Determining the Type of Certificate of Occupancy

Since the LADBS indicated that sites that were previously schools did not require additional inspections in order to be granted a certificate of occupancy, the surveys sought to better understand the processes for issuing a certificate of occupancy.

The sample was selected based on the type of certificate issued and reported by the LADBS. The surveys found that some of the types of certificates reported did not coincide with the buildings and staff reports. For example, some schools reported as having been issued a certificate of occupancy for a site 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.

Furthermore, some sites that had undergone significant remodeling prior to occupancy were considered new construction while others were treated as a change-of-use occupancy. In a couple of instances, a newly constructed building was added to an existing site. The buildings did not have their own accessible entrance, and the paths of travel went through the existing sites. It was not evident whether the new construction had triggered an inspection of the path of travel to the new site.

Discussion

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. These findings are evidence of the impact of independent charters on the District's systemic problems that prevent substantial compliance with the accessibility requirements of the American with Disabilities Act and Section 504. While these problems are not unique to independent charters, they appear to be more significant since many schools exist in buildings that were not intended to be utilized as schools and/or have not been properly updated.

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. The inadequacy of these inspections may have adverse implications to charter operators dependent on local municipalities to ensure compliance with accessibility standards and codes. It is also evident that the local municipality did not find or report non-compliant findings in regards to Title 24 of the California Building Code or failed to utilize non-compliant findings in regards to issuing certificates of occupancy. Therefore, the District must review the current process that relies on the capacity of the local municipalities.

Systemic capacity is also limited in independent charter schools as most sites are disconnected from policies and procedures of the District's maintenance and operations department. The Charter Schools do not have one centralized point of information that is disseminated to all sites. In District-operated schools, a District-wide memorandum was sent to all school sites regarding the non-compliant items that were being added by school sites, such as non-compliant door stops and toilet paper dispensers that were being added in non-compliant locations. For example, the District recently issued a memorandum instructing maintenance staff to remove door stops as a means of addressing non-compliance with the requirement that the bottom 10 inches of the push side of the door be smooth and clear of obstructions and to not place additional toilet paper dispensers in locations that interfere with the use of the grab bars in the restrooms.

Lastly, the surveys noted instances of potential safety hazards, as well as sanitary and security concerns, 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.