

**Study of Magnet Schools' Compliance with the Modified Consent Decree  
and the Los Angeles Unified School District's Special Education Policies  
and Procedures**

**Office of the Independent Monitor  
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TABLE OF CONTENTS

Executive Summary..... 1

**INTRODUCTION** ..... 3

Background of Desegregation and Magnet Schools ..... 3

    Evolving Landscape of Magnet Schools ..... 4

    Types of Magnet Schools in the LAUSD..... 5

**RATIONALE OF STUDY**..... 6

**METHODS**..... 7

**FINDINGS** ..... 9

Question #1 ..... 9

    Least Restrictive Environment (LRE) Brochure ..... 10

    The Magnet Resource Handbook – Special Education Students in Magnet Programs..... 12

        Directions for the enrollment of Students from Active and Wait Lists..... 13

    Lottery Selection Process of SWD..... 14

        Review of IEPs and Identification of SWD on “No-Match List” ..... 15

Question #2 ..... 17

    Enrollment, Application, Selection, “No-Match” Data of Students at Magnet Schools ..... 17

Question #3 ..... 25

    Mechanisms to Promote Compliance ..... 26

    Special Education Programming and Services..... 26

Question #4 ..... 27

    Increase of Graduation and School Completion Rates of SWD..... 27

    Reduction of Suspensions for SWD ..... 28

Integration of Students with Moderate to Severe Disabilities in the General Education Setting.....	28
Timely Completion of Initial Evaluations .....	29
Program Accessibility .....	29
Vintage Math/Science Magnet .....	30
Marshall Gifted/Highly Gifted Magnet .....	30
Sunland Gifted Magnet .....	30
Brentwood Math/Science Magnet.....	30
LACES –Center for Enriched Studies .....	30
SOCES –Center for Enriched Studies .....	31
<b>SUMMARY</b> .....	32
References .....	33
<b>Appendices</b> .....	Tabs B - K
Analysis of LAUSD Magnet School Program Relative to Students Receiving Special Education Services – Sue Gamm, Esq. ....	B
Magnet Program Resource Handbook: Los Angeles Unified School District Student Integration Services .....	C
Descriptions of Rosters.....	D
Letters to Parents: Active and “No-Match” .....	E
Vintage Math/Science Magnet .....	F
Marshall Gifted/Highly Gifted Magnet .....	G
Sunland Gifted Magnet .....	H
Brentwood Math/Science Magnet .....	I
LACES – Center for Enriched Studies .....	J
SOCES – Center for Enriched Studies .....	K

## EXECUTIVE SUMMARY

During the 2010-2011 school year, the Office of the Independent Monitor (OIM) studied the impact of the District's magnet schools on its performance in achieving the requirements of the Modified Consent Decree (MCD), including compliance with federal and state special education law.

The District has 169 magnet schools, and when combined with its 183 charter schools, offers 352 schools of choice to the public, representing 30% of all LAUSD's schools. The combined total of students enrolled represents 20% of the overall student population (135,000). Due to the large number of schools and students attending magnets and charters, it is critical to see if students with disabilities (SWD) have equal opportunity to attend these schools.

To examine the impact magnets have on the District's compliance with the MCD, the OIM study included the following data collection activities:

- An independent and internal review of the District's policies and procedures associated with the compliance of the MCD including special education laws at magnet schools
- An independent and internal review of related documents and data pertaining to the lottery, selection and enrollment of students at magnet schools
- A review of District data associated with select MCD outcomes
- Interviews/conversations with District personnel including staff from the Division of Special Education, local Support Units; Staff from the Office of Student Integration Services and its Magnet School Office; and coordinators and administrators from 16 magnet schools
- Six site visits to conduct spot checks of compliance with the program accessibility requirements of federal (ADA and Section 504) and state law.

The study revealed several areas within magnet schools' policies and procedures that appear to be in violation of federal and state laws pertaining to the education of SWD. Most notable is the District's screening policy for SWD selected for enrollment in magnets; its policies that all magnet students be required to participate in the magnet program for 50% of the day; and the policy that SWD receiving services in separate classrooms (SDP) are not eligible to participate in these programs. These policies are solely directed at SWD and result in the exclusion of students through a "no-match list," thereby denying students equitable access to these schools of choice. The study also found inconsistencies in the implementation and interpretation of these policies among staff at schools and the local support units. The lack of procedures for implementing such policies also raised concerns over the intent and consistency for which these are applied. Overall, there does not appear to be a clear educational justification for these policies, which result in SWDs having less access to magnet schools compared to their peers without disabilities.

While the study found the lottery process to be fair and equitable, it also found that SWD are underrepresented in the magnet program. Several factors contribute to this underrepresentation. The first is the lack of recruiting of SWD and the perception that magnet schools are programs only for high-achieving students. Second, the District's screening policy excludes students prior to enrollment. Last, there appears to be factors related to scheduling and programming that fail to ensure programs fit students' needs, not vice versa.

The performance of magnets toward the requirements of the MCD does not appear to impact the District's systemic, substantial compliance with the MCD, including special education law and federal program accessibility requirements. While problems were noted in the area of accessibility at magnets, the District has been engaged in efforts to address these problems at all its schools. This review does however highlight the need for additional efforts to identify areas of non-compliance and the immediate impact this has on students.

Site visits and interviews found magnet schools and staff to be warm and welcoming environments for all students, and the OIM noted many examples of schools going to great lengths to include SWD within their program. While this

finding is positive, many of the staff appeared to also be indoctrinated by the District's policies and procedures to exclude and restrict SWD from participating in their programs. As the interviews progressed, many participants emerged with a new perspective of these policies, with some expressing enthusiasm at the prospect of recruiting and enrolling more SWD.

## INTRODUCTION

The *Chanda Smith* Modified Consent Decree (MCD) is a federal class-action settlement agreement that requires the Los Angeles Unified School District (LAUSD) to address and improve its systemic compliance with special education law. Initiated in 1993 and modified in 2003, the agreement charges the federally appointed court monitor with the determination to disengage the LAUSD from court oversight upon achieving compliance with the MCD.

The MCD clearly delineates the requirements the District must meet in order to be disengaged from court oversight. To summarize these requirements to issues relevant to magnet schools, the Independent Monitor may disengage the District upon the following<sup>1</sup>:

*The District has achieved each of the outcomes in accordance with Paragraph 87 above and, in the Independent Monitor's judgment the District's special education program has no systemic problems that prevent substantial compliance with applicable federal special education laws and regulations.*

*The Independent Monitor has certified that the District has entered into binding commitments to expend the \$67.5 million required by Section 10 of this Modified Consent Decree and, in the Independent Monitor's judgment, the District has no systemic program accessibility problems that prevent substantial compliance with the program accessibility requirements of federal special education laws and regulations.*

In addition, the MCD clearly states that this agreement is "binding on all public schools in the District, including, but not limited to, charter schools, alternative schools, charter complexes, magnet schools and to any schools formed or approved in the future by the District."

The LAUSD has 169 magnet schools which serve approximately 57,000 students including 2,236 students with disabilities (SWD) (3.93%). This represents approximately 15% of the District's schools and 8.50% of its entire student population. Due to the large number of schools and students attending magnets, if issues with non-compliance in special education laws exist, this would contribute to systemic, substantial non-compliance.

### Background of Desegregation and Magnet Schools

With *Brown v. Board of Education of Topeka (1954)*, the United States Supreme Court sent a clear message that racial segregation of public schools would no longer be tolerated. In 1964, the passage of the Civil Rights Act included sanctions to withhold federal funds from school districts that ignored *Brown* and did not enforce racial desegregation of public schools. The courts continued to increase pressure to desegregate schools with several decisions. The first provided guidelines on meeting the standards of a nonracially segregated system, *Green v. County School Board of New Kent County, 1968 (Armor, 2003)*. This included the redistricting of school attendance zones and involuntary busing of students. In 1973, with *Keyes v. School District #1 of Denver, Colorado*, the courts expanded mandatory desegregation to include Latino students as well as African Americans (Hochschild & Scovronick, 2003, p. 28). Between 1968 and 1972, a large drop occurred in the percentage of African American students attending segregated schools and particularly those in the South, where segregation had been most pronounced (Harris, 2006; Hochschild & Scovronick, 2003).

During the 1970s, several political changes and rulings shifted the landscape of desegregation. A reconstitution of the Supreme Court resulted in *Millikin v. Bradley, 1974*, which overturned a lower-court order to consolidate Detroit public schools with neighboring suburban school districts. This ruling declared that desegregation efforts ended at the district border, meaning that parents who wished to avoid desegregated schools could simply move to the suburbs (Harris, 2006). With political backlash growing from the redistricting of neighborhood schools, in 1974, Congress prohibited the use of public funds for busing (Hochschild & Scovronick, 2003). These events contributed to the

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<sup>1</sup> To view all of the requirements necessary for disengagement of the MCD visit: [http://oimla.com/pdf/mcd\\_text\\_05122003.pdf](http://oimla.com/pdf/mcd_text_05122003.pdf)

phenomenon commonly referred to as “white flight,” with parents leaving public schools for private schools and suburbs.

In response, models of parental choice and specialty schools arose. Magnet schools were one model that came about by providing a voluntary integration program designed to achieve racial integration in schools, as well as the growing public demand for variation and choice in traditional public education. Magnet schools were envisioned as a vehicle to voluntarily increase the enrollment of African American students in predominately non-African American schools, as well as integrating white students into predominately African American schools. In addition to promoting voluntary racial integration, these schools were encouraged and supported to promote innovation through specialty schools and programs while expanding school choice for parents. To achieve this and encourage growth of the magnet program, support and funding from the federal government was provided, through the *Emergency School Aid Act* (1972-1981) and the Magnet Schools Assistance program (1985 – present) (Arcia, 2006).

The Magnet schools’ assistance program provides grants to assist in the desegregation of public schools. In providing such assistance, grantees are responsible for the following:

- Support the development and implementation of magnet schools that assist in the achievement of systemic reforms and provide all students with the opportunity to meet challenging academic content and student academic achievement standards
- Support the development and design of innovative education methods and practices that promote diversity and increase choices in public education
- Support capacity development through professional development and other activities to help all students meet more challenging standards that can be sustained at a high-performance level after funding ends
- Support the implementation of courses of instruction in magnet schools that strengthen students’ knowledge of academic subjects and their grasp of tangible and marketable vocational skills<sup>2</sup>

### *Evolving Landscape of Magnet Schools and School Choice*

Since the era of court-ordered involuntary and voluntary integration, communities across the country and within the LAUSD have seen demographic and socio-economic changes that have also resulted in changes to the goals of magnet schools within these communities. Communities that once strived to integrate minority students into predominately white schools are now primarily composed of non-white families. As such, white communities with schools once with enrollment quotas that promoted integration now have those quotas readjusted (e.g., 60:40 to 70:30) or eliminated entirely due to the changing racial landscapes of the communities at large.

In the 1990s, in response to the demographic changes in communities and easing of the courts, districts began to develop integration programs based on socioeconomic status. While the first district to shift to this model occurred in 1981, in La Crosse, Wisconsin, other districts joined this movement in the 1990s. Today, 69 school districts across the country have integration models based on socioeconomic status. The primary factor for this shift is the overwhelming research over the past 40 years that shows that the single most important predictor of academic achievement is the socioeconomic status of the family from which a child comes, while the second most important predictor is the socioeconomic makeup of the school a child attends (Kahlenberg, 2009, p. 6). Kahlenberg contends that students from all backgrounds -- rich, poor, white, African American, Latino, Asian -- perform better in schools with strong middle class populations than they do in high poverty schools. This is in part due to the desirable factors associated with these schools such as high standards and expectations, good teachers, active parents, safer environments and stable student and teacher populations (p. 6).

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<sup>2</sup> <http://www2.ed.gov/programs/magnet/index.html>

Another phenomenon that evolved from the proliferation of magnets and charters is the general perception among parents that these schools have improved academic achievement and quality instruction compared to other district-operated schools. While the primary intent of magnets was to promote racial integration, the driving force for many parents in selecting magnets or other schools of choice for their children became based on the following three assumptions (Howe & Welner, 2002):

- Public schools are performing dismally
- Precluding choice results in a system that provides no reasons for schools to improve
- Providing parents with choice will improve public education by forcing schools to compete for students

Prior to the emergence of charter schools, magnets were viewed as one of the only public school options for higher-achieving students due to their perceived rigorous academic curriculum. As demographics changed and court mandates for desegregation eased or disengaged districts, magnets continued as options for students who were able to sustain high levels of academic achievement.

### *Types of Magnet Schools in LAUSD*

The LAUSD magnet program was established by court order in 1977 as a voluntary integration program intended to offer students an opportunity to pursue his or her academic interest in a special environment. The program was established by the court to address the five harms of racial isolation (2011-2012 Choices Brochure). These include:

- Low academic achievement
- Low self-esteem
- Lack of access to post-secondary opportunities
- Interracial hostility and intolerance
- Over-crowded conditions<sup>3</sup>

Similar to magnet programs across the country, LAUSD's magnets offer enriched and high-interest educational opportunities for students in thematic areas such as:

- Alternative schools
- Centers for Enriched Studies
- Fine Arts
- Law/Government/Police Academies
- Communications
- Foreign Language
- Gifted and High Ability
- Highly Gifted
- Humanities
- Medical Careers
- One of a Kind (i.e., Museum Science, Architecture/Digital Arts)
- Math/Science/Technology

Although the schools are configured in various ways, most are located at a regular (non-magnet) "host" school. In total, 143 of LAUSD's 169 magnet schools share a campus, personnel and resources with its host school. The remaining are self-contained school sites, with 19 configured by traditional school level (elementary, middle and high), and six that are considered span schools that vary in the grade levels offered (e.g., K-8, K-12). The LAUSD continues to be under court-order with the sole criterion of race for its integration programs.

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<sup>3</sup> LAUSD 2010-2011 Choices Brochure



## RATIONALE OF STUDY

An OIM study of the District charter schools in 2009 discovered that SWD were underrepresented in charters. The study also found problematic areas within the policies, procedures and practices that have contributed to this underrepresentation and the overall ability of the District to be in systemic, substantial compliance with federal and state special education laws.

During the 2010-2011 school year, in step with its charter school study the previous year, the OIM studied the role and impact of the District's magnet schools on its performance in achieving the requirements of the MCD. The study also broadly examined compliance with federal and state special education law, as well as the District's special education policies and procedures.

The District has 183 charter schools, and when combined with its 169 magnet schools, offers 352 schools of choice to the public, representing 30% of all LAUSD's schools. The combined total of students enrolled in these schools of choice represent 20% of the overall student population (135,000). Due to the large number of schools and students attending magnets and charters, it is critical to see if SWD have equal opportunity to attend these schools.

The OIM's charter school study of 2009 created a useful framework that highlighted four research questions below that helped determine if potential areas of non-compliance exist for magnet schools with the potential to affect the District's compliance with the MCD.

These research questions are:

1. Do the District's policies and procedures pertaining to magnets promote compliance with the Modified Consent Decree, including federal and state special education law?
2. Do the District's policies and procedures promote equitable access and opportunity for students with disabilities for a free and appropriate education at a District school of choice, such as magnet schools?
3. Does the District demonstrate the organizational capacity to ensure the implementation and oversight of its magnet schools associated with the mandated activities of the Modified Consent Decree and special education law?
4. Do magnet schools present potential barriers or concerns related to the systemic, substantial compliance of the District's special education programs and with the program accessibility requirements under federal and state law?

## METHODS

To examine the impact of magnet schools on the District's compliance with the MCD, including federal and state special education laws, the OIM collected the following information between November 2010 and April 2010:

1. An independent and internal review of the District's policies and procedures associated with the compliance of the MCD including federal and state special education law at magnet schools
2. An independent and internal review of related documents and data pertaining to the lottery, selection and enrollment of students at magnet schools
3. A review of District data associated with the following MCD outcomes:
  - a. Outcome 3 and 4
  - b. Outcome 5
  - c. Outcome 7a
  - d. Outcome 10
4. Interviews/conversations with District personnel including:
  - a. Staff from the Division of Special Education and four local Support Unit personnel
  - b. Staff from the Office of Student Integration Services, including the Magnet School Office
  - c. Magnet coordinators and administrators from 16 magnet schools in seven different local districts. Of these, 12 are magnet centers and four are self-contained magnets, while two are considered span schools. The following magnet types were included in the interviews:
    - 6 Math/Science Magnet Centers
    - 3 Performing Arts Magnets
    - 1 Humanities Magnet
    - 3 Specialty Magnets
    - 1 Center for Enriched Studies
    - 2 Gifted/High Achieving/Highly Gifted Magnet
5. Six site visits to conduct spot checks of compliance with the program accessibility requirements of federal (ADA and Section 504) and state law.

The following documents were reviewed as part of this study:

- 2011-2012 Choices Brochure
- 2010-2011 Choices Brochure
- 2011-2012 Choices Application Process Timeline
- Current Magnet/PWT/PSC Process System Design
- English & Spanish Parent Letters for Applicants with IEPs (acceptance, waiting list, and waiting list – no match)
- Magnet Program Resource Handbook including the section regarding Special Education Students in Magnets
- LAUSD News Release, Parents/Guardians to Receive 2009-2010 Magnet/Permits with Transportation/Public School Choice Brochures by Mail (Nov. 7, 2008)
- School Self Review Checklist, Students with Disabilities: 2004-2005
- Verification Process, Gifted/High Ability Magnet Centers
- Annual Year-End Evaluation for Magnet Schools and Centers
- LAUSD Division of Special Education's Least Restrictive Environment Brochure
- Examples of the Elements in the Summary Offer of FAPE

- Los Angeles Unified School District Policy (in support of LRE)
- 2010-11 Staffing Ratios – Magnet Schools – as of May 10, 2010

To obtain a legal perspective, the OIM contracted Sue Gamm, Esq., to review documents and policies and procedures pertaining to magnet schools and special education, to identify areas of compliance with applicable special education law and the MCD. Gamm is a former senior administrator in the Chicago Public Schools, and federal official and attorney with the Office of Civil Rights with expansive knowledge and experience with issues related to special education programs and schools of choice. Her report, which includes a brief biography, is provided (Appendix A).

## FINDINGS

### Question #1.

*Do the District's policies and procedures pertaining to magnets promote compliance with the Modified Consent Decree including federal and state special education law?*

This question focused on identifying whether the policies and procedures complied with the following:

- Modified Consent Decree
- Federal and state special education law
- District special education policies and procedures

Magnet schools, like every other school in the District, are required to comply with all federal and state education laws and the MCD. As such, in regards to special education, magnet schools utilize the District's *Special Education Policy and Procedures Manual* to guide their special education programs.

A review of District policies and related documents and processes regarding the recruitment, enrollment and retention of SWD found areas of possible violation of Title II of the American with Disabilities Act (ADA), Section 504 of the 1973 Rehabilitation Act and the Individuals with Disabilities Act (IDEA) 2004. To frame this discussion, a summary of the laws and relevant regulations are included.

Section 504 and the ADA provides important protections for SWD, and prohibit discrimination based on disability in the administration of public services, including education. Both contain similar language, offer similar protections, and have been interpreted in a similar manner by the courts (Howe & Welner, 2002). In addition to the requirements concerning the provision of a free and public education, these laws are applicable to schools of choice regarding requirements that they make reasonable accommodations as necessary to serve students with disabilities. The laws establish a high threshold for a reasonable accommodation, citing an accommodation as reasonable unless it would "fundamentally alter the nature"<sup>4</sup> of the school's program or services.

The Technical Assistance Manual for Title II of the ADA also states:

*"[A] public entity may not impose eligibility criteria for participation in its programs, services, or activities that either screen out or tend to screen out persons with disabilities, unless it can show that such requirements are necessary for the provision of the service, programs, or activity" (p. 12).*

Similarly, Section 504 states:

*"A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program or activity with respect to handicapped persons..."<sup>5</sup>*

In addition, the IDEA contains regulatory provisions that guide the decision-making process regarding SWD in regular classes. In her report, Gamm provides the following regulations and guidance (p. 6):

*To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and*

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<sup>4</sup> U.S. Department of Justice *Technical Assistance Manual* for Title II of the ADA, (1992) p. 13.

<sup>5</sup> 34 C. F. R. 104.(b)(b)

*Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.<sup>6</sup>*

*In addition, US Department of Education comments to its final regulation state that in all cases placement decisions must be individually determined on the basis of each student's abilities and needs and each student's IEP, and not solely on factors such as category of disability, severity of disability, availability of special education and related services, configuration of the service delivery system, availability of space, or administrative convenience.*

To assess whether these District policies complied with law, the following documents were reviewed:

1. Least Restrictive Environment (LRE) Brochure
2. Choices Brochure 2010-2011
3. Magnet School Enrollment Procedure Manual
4. Lottery/selection process for students with disabilities
5. Enrollment procedures of students with disabilities
6. Notification letters sent to students with disabilities

#### *Least Restrictive Environment (LRE) Brochure*

The District has a policy that promotes and supports the placement of SWD in the LRE. This includes stating its commitment to providing equitable access to SWD to all District schools including home or neighborhood schools, open enrollment schools, magnets and charter schools.

The LRE Brochure informs schools and families of responsibilities related to placement decisions in the LRE. Gamm summarizes these responsibilities below (p. 4):

*The IEP team must consider your child's individual needs and decide the least restrictive placement based on your child's needs... Decisions must be based on individual needs in the IEP, and not on:*

- *The child's disability ... this also means that a student can not be placed in a special class just because a child needs extra services;*
- *Where the District's staff is located;*
- *Amount of funds that are available; or*
- *What is easy for the school District.*

The LRE Brochure conveys the necessary information for making placement decisions in the LRE as mandated by IDEA. This expresses the process and considerations schools are to follow when making placement decisions. This includes a decision making process based on an IEP team's consideration for the individualized needs of the students, and not based on administrative convenience or a lack of resources.

#### *Recruitment Materials (2010-2011 Choices Brochure)*

The District's Choices Brochure informs families of the various aspects of the choices program including the types of magnets. The brochure also includes the application for families to enter the lottery.

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<sup>6</sup> 34 C.F.R. 300.114

The brochure encourages all students to apply, including students with disabilities, English learners (ELs), and those identified as gifted or highly gifted who qualify for the Gifted and Talented Education (GATE) program. In addition, the brochure contains a section regarding students with individualized education programs (IEPs). The section states:

*Students with Individualized Education Programs (IEPs) may be eligible for Magnet school placement, providing it is determined that a free and appropriate public education (FAPE) is available at the proposed site. The first consideration is to ensure that the IEP team recommendations, based on the student's assessed needs, can be met.*

Gamm noted that the brochure does not describe how this determination is made and who is included in making such determination. In addition, it does not mention the role, if any, the parent has in making such determination.

The brochure includes two other sections pertinent to families of SWD when applying to magnets schools. The first pertains to students identified as Gifted/High Ability and Highly Gifted (GATE)<sup>7</sup>. The brochure clearly delineates that specific criteria applies only for schools designated as gifted/high ability. Gamm notes that the brochure does not mention any information on the extent to which accommodations or alternative measures can be provided in determining if a student with a disability may meet the relevant criteria (p. 8).

Gamm also noted that the brochure does not mention that SWD may be eligible for transportation as a related service as specified within their IEP. She noted that the absence of this clarifying information may discourage parents from applying to the magnet program if their child requires such service.

Magnet coordinators report a range and variety of recruiting activities. Some noted that they engage in very little recruitment due to the high demand their program generates. Others mentioned attending fairs and local schools within the feeder pattern (i.e., middle schools will visit local elementary schools). While the majority reported having a high level of interest with minimal recruitment, two magnets at one host school noted having availability and the difficulty in recruiting students due to competing schools of choice. Officials at this school noted that the performing arts program offered at their site was the only one within the community; however, many families and students preferred similar programs in other parts of the city. The coordinators also noted competition for students from charter schools, and the limited access to schools that have been awarded by the Public School Choice initiative due to a lack of cooperation from those schools. When asked about recruitment of SWD, both coordinators appeared unaware of the potential of these students attending their magnets. Hosted by a comprehensive secondary school with a large population of students receiving special education services, the coordinators expressed enthusiasm for this prospect and a willingness to work with all students, including those with disabilities.

As noted, some schools in the sample were selected due to their relatively high enrollment of SWD. Many believed that the high number of SWD attending was a result of the reputation of the special education programs at the host school. Staff at one stand-alone magnet with two special day programs noted that the availability of those programs enabled more students to attend; however, they also noted that the support units had placed some SWD at their schools as a special education placement. This finding indicates that schools offering quality special education programs and classes see interest from families of SWD.

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<sup>7</sup> For the purpose of this report, students identified as gifted/high ability and highly gifted are referred as GATE.

This section of the handbook provides guidance to magnet programs for the enrollment of SWD (Appendix B). The section begins by clearly explaining that “an IEP does not automatically preclude a student from participating in the magnet program.” The section provides enrollment and programmatic guidelines for SWD, including directions for enrolling students from the active and wait lists. The handbook also instructs schools to contact the Office of Student Integration Services immediately if there are students enrolled who do not meet the criteria below. Last, the section provides schools information on eligibility and special education services codes, as well as contact information for the local Special Education Support Units.

The handbook provides the following enrollment criteria for SWD (p. SPED 1):

- Elementary
  - To be eligible for a Magnet, a student’s IEP must not require full-day placement in a Special Day Program (SDP).
  - RSP students are eligible for an elementary Magnet Program
- Secondary
  - To be eligible for a Magnet, the student’s IEP must not require placement in more than 50% of the school day in a SDP.
  - To be considered a Magnet student, the student must be enrolled in a minimum of three (3) magnet classes.

In regards to this enrollment criteria policy that excludes students in SDP or those in special education placements for 50% or more of the day, Gamm questions why the policy limits this presumptive eligibility for students in RSP, and does not discuss other elements of eligibility.

The guidance offered by this eligibility criterion appears to be in violation of Title II of the ADA which prohibits eligibility criteria that may screen out someone based on disability without showing the requirements are necessary for the provision of the service, programs or activity. This eligibility criterion also appears to be in violation of the regulations of IDEA that requires placement decisions be based on individual needs and not the availability of special education services and supports, or the configurations of the service delivery system.

An eligibility criterion for attending gifted/highly gifted schools is reasonable and compliant due to the fundamental nature of the program. However, since the eligibility requirement stating that all students must participate in the magnet program for 50% of the day only pertains to SWD, the motive must be examined before making a determination that this criterion violates law. The policy also delineates that only students receiving RSP services are eligible for magnets, and students in SDP may be eligible if their needs change, IEPs are changed or the student is exited from special education.

The OIM investigated LAUSD’s rationale for and practice involving the above procedure to determine whether it meets the legal standards discussed above. Interviews with the Office of Student Integration Services and magnet coordinators at schools revealed many misconceptions and contradictions of this rule. The following reflects information obtained as a result of these interviews.

Magnet classes are any classes offered by the magnet program as delivered by a magnet teacher. These classes may range in subject and have curricula that have been enriched and integrated into the theme of their particular magnet. To delineate between general and special education classes, some coordinators were asked if students

could take a special education “core class” like English or math, and have their remaining classes in the magnet program. All interviewees overwhelmingly agreed that this would be in compliance with the 50% policy. One coordinator noted that this policy presented challenges for students who took AP or gifted classes from the host school teachers. Several others commented that AP or gifted classes were equivalent to magnet classes and counted toward the 50% policy, despite having non-magnet teachers. Coordinators at magnet centers expressed that many students are not in magnet classes for 100% of the day, due to limitations of the magnet program and the sharing of resources of the host school. Many stated that physical education or some elective classes offered to students were non-magnet. Two coordinators noted that a shift to block scheduling also impacted the ability to meet this 50% policy, as the logistics of programming students became more difficult due to the limited availability of classes. This concern was expressed for both students with and without IEPs.

One coordinator noted that the adherence to this policy was logistically difficult for all students and that some of their students were not in compliance due to scheduling limitations; however, the coordinator was adamant that these students belonged to that magnet program. Another coordinator questioned whether any magnet center could meet this requirement for all its students. Many schools believed the scheduling of classes presented the biggest challenge for complying with this policy, and noted that this became more difficult for SWD mainly due to conflicts in programming. One coordinator provided an example of the lengths taken to accommodate the schedule for a SWD, noting that four magnet teachers willingly changed their classes to enable this student to participate in the magnet program and receive the necessary special education supports and services.

The Office of Student Integration Services expressed that this rule applied to all students, and was particularly aimed at students attending magnet centers on a host campus. For students attending self-contained magnets, all classes are considered magnet classes; therefore, these students meet this enrollment criterion regardless of the type of class. When asked if the several special day classes on existing self-contained campuses conflicted with the 50% rule, the Office of Student Integration Services noted that these complied since the teachers in the classroom were magnet teachers. When asked if a SDP with a magnet teacher was made available at a magnet center, would that qualify as a magnet classroom, the Office of Student Integration Services agreed that it would.

It is important to highlight that one of the self-contained magnets visited had two successful SDP classes on-site. When asked if the curriculum differed from those offered in the general education classes, the coordinator and assistant principal stated that students received the same enriched, thematic-based curriculum with accommodations and modifications. They expressed that these classes had been a part of their magnet for almost two decades, and had been functioning well within their school. They also noted that students were integrated into the general education setting and all other school activities.

These contradictions of both perceptions and practice of the 50% policy, which requires students with more restrictive placements to be excluded from enrollment at magnets based on the delivery model (SDP) specified on their IEP, put into question any educational justification for this policy. The availability of SDP at magnets contradicts the policy that students with these placements are not eligible for magnet enrollment. Furthermore, the notion that intensive special education services would prevent students from participation in the magnet program does not appear to be an educational justification given that the only requirement needed to be considered a magnet class is that the teacher be funded by or be part of the magnet program. This again is a contradiction as many schools have special education teachers as part of their programs. Lastly, the absence of how this rule may apply to other non-disabled students suggests that this policy may be arbitrary and have the effect of categorically excluding a class of students with disabilities.

#### Directions for the Enrollment of Students from Active and Wait Lists

The handbook also instructs schools on the steps to take for enrolling SWD placed on the active and wait lists. For newly selected SWD placed on the active lists, it informs schools that these students have been determined eligible to participate in its program. Schools are also informed that parents have been sent a letter that states that their child



has been “provisionally accepted” provided the IEP is rewritten at the sending schools. In this letter, parents are instructed to contact the local support unit for assistance. Schools and families are instructed that if the student’s needs change prior to enrollment (presumably for more intensive needs), acceptance to the magnet school may not be possible. If this occurs, schools are instructed to work with the support units to communicate this to parents.

The handbook communicates that students on the wait list have not been “reviewed” by the support units and schools are instructed to obtain a recommendation for enrollment from the support units prior to contacting parents of the availability. Upon approval, schools are instructed to notify parents. If a student is considered unable to have their needs met at the receiving magnet, schools are informed to contact the Office of Student Integration Services for assistance in notifying the parent.

During the course of the OIM’s interviews, it was revealed that schools receive a “no-match list” for SWD. While the handbook does not include any guidance for contacting families whose child was selected but determined as a “no-match,” schools are provided a form with a description of the type of rosters they may receive (Appendix C). This form describes the “no-match list” as:

*This list shows students whose needs cannot be met at the Magnet school to which they applied. However, if the student is exited from special education, please contact the Magnet Program Specialist for further direction.*

Gamm’s review of these enrollment procedures raised several questions and concerns. She questioned the procedure of having all SWD “reviewed” by the support units, as opposed to only those that magnet schools believe they are unable to support. Gamm also raised the following questions regarding the lack of clarity for this process:

- Does a group of persons knowledgeable about the student and the meaning of the evaluation data review information (as required by Section 504 and IDEA), or is it reviewed by one administrator only?
- Is the review based on the magnet school’s current configuration of services or does it consider additional services that can be made available at the school?
- Does the review consider whether the student’s IEP can be modified to be more inclusive because of the magnet school’s program and the student’s interests, or other considerations?
- Does the review exclude consideration of administrative convenience as a primary consideration?

Lastly, Gamm questioned the procedure for students selected “provisionally,” which requires parents to obtain a rewritten IEP for their child by the sending school. She also questioned why the “administrative burden” falls on the sending school, especially since the receiving magnet school would have the appropriate understanding of its configuration of its services, and whether this procedure pertains to other District schools for students whose residence changes.

While this section of the handbook provides instructions for the enrollment of SWD based on the lists schools receive, it does not provide sufficient information regarding the procedures for the lottery and selection of students in magnet schools. The following section examines these processes in additional detail.

#### *Lottery/Selection Process for SWD*

Selection for magnet schools is based on a point lottery system. Students are selected based on the number of points accumulated, and based on the racial integration needs or quotas of the school. The Choices Brochures informs families on how points are awarded and accumulated, and are summarized as follows:

- Matriculation points – For students already enrolled in magnets and applying for another magnet. This usually occurs when students change school level, such as promotion from elementary to middle school.
- Waiting list – Students who have applied and have not been selected may accumulate points for up to three consecutive years of being placed on the wait-list.
- Predominately Hispanic, Black, Asian, and Other Non-Anglo (PHBAO) Schools – These points are awarded if the applicant whose resident school is in a PHBAO areas as designated by the LAUSD.
- Overcrowded – Applicants whose resident school is overcrowded or is currently sending students to the Capacity Adjustment Program (CAP) or are part of the year-round Concept 6 calendar.
- Sibling – Applicants whose sibling already attends the same magnet receive additional points.

The lottery system is conducted through a computer-generated draw based on the point accumulation formulas of the magnet program. The application does not contain any information regarding a student's disability or the support and services they receive. While the lottery does not identify particular information regarding special services students may receive, (e.g., IEP, GATE or EL), once students are selected the Office of Student Integration Services uploads this data. While EL and GATE data are identified, only students identified with IEPs receive another level of scrutiny prior to notification of being selected.

The lottery and/or selection process presents considerable implications of civil rights violations by failing to provide equitable access to all SWD to attend magnets. Nevertheless, the lottery/selection process is well within the control, oversight and authority of the District to ensure a process that promotes equitable access and increases school choice for traditionally low-achieving groups of students and their families.

Considering that SWD are disproportionately underrepresented at magnet schools, particularly those with significant disabilities, oversight of the application process is instrumental in ensuring that the selection process does not contain procedures that violate the rights of SWD, and/or deny them access to goods and services based on disability.

#### Review of IEPs and Identification of SWD on "No-Match List"

While all students are selected for magnets based on the random, computer-generated point-lottery system, the Magnet Office identifies all SWD selected in the lottery by identifying IEP status. Lists are then generated by school of all SWD selected and provided to the support units for review. A recommendation of whether that student's needs can or cannot be met at the receiving magnet is then made.

The intent of this review is unclear and inconsistent among support units, the Office of Student Integration Services and schools. The process intends to obtain a recommendation from the support unit on whether the student can have his or her special education supports and services provided at that school. The Office of Student Integration Services noted that this "no-match list" was a recommendation, and school officials were instructed to conduct additional review of the student's needs and contact the support units to determine if the student could be accommodated at their school. However, the process for follow-up with the "no-match list" varied by school. While several coordinators reported following-up with support units, about half noted that they did not follow-up with the students on the "no-match list" and considered these students as not being placed at their school.

Inconsistencies were also noted for the procedures for making this recommendation. The District does not offer any guidance other than the enrollment criteria discussed above. Therefore, this process becomes arbitrary and at the discretion of the support unit personnel designated to conduct these reviews.

Support unit staff described the process for determining a "no-match" by reviewing the student's IEP document, contacting the student's current school and reviewing additional student data such as performance on statewide assessments and determining if the receiving schools could support that student. One support unit viewed this

process as primarily making a recommendation on whether the school had a program available consistent with that specified in the student's IEP.

As noted above, most support units reported several primary factors determining a "no-match." The first is the student's current special education program and time in the general education setting (LRE time). This seems to be a primary factor since there appears to be an adherence to the policy guidelines established by the Office of Student Integration Services requiring all magnet students to attend at least 50% of their day in magnet classes. This policy impacts SWD who have placements in SDP where they are taught by a special education teacher in separate classes for more than 60% of the day. While support unit staff reported that participation in the SDP did not automatically include that student on the "no-match list," many noted that students receiving RSP services often were recommended for placement in the magnet with no reservations, while students with SDP classes were more likely to not have a recommendation for enrollment.

Evidence of these inconsistencies were noted during site visits, as schools showed an active list with students whose placements were in a SDP. They also showed a list that had students on the "no-match list" who received RSP services only. Interestingly, magnet coordinators did not express an opinion or concern if students placed on the active list had SDP placements, but rather conveyed an element of trust of the support unit's recommendation, and expressed a willingness to work with any student on the list. This sentiment was echoed by all coordinators interviewed.

Students for whom the support unit concludes cannot have their needs met at that corresponding magnet are placed on a "no-match list." Parents are then notified that while their child was selected to the magnet, the school cannot meet the supports and services as indicated on the IEP (Appendix D). Parents are instructed that if the program needs change for their child they may contact the support unit to determine if a placement at the magnet meets their needs. The letter indicates that students do not lose points or their place within the lottery system and may re-apply the following year.

For SWD who are selected and placed on the active roster list, parents are sent a letter notifying them that their child has been selected "provisionally" based on the special education status (Appendix D). Parents are instructed that changes to their child's special education program may result in changes to the programming for their child at the magnet.

Students not selected for enrollment are placed on wait-lists. If space is available as a result of selected students not enrolling, magnet coordinators take students in the order as listed on the wait-list. For students with disabilities, schools are instructed to notify the support unit for a determination of whether that school can meet the student's needs as specified in the IEP.

Overall, the wholesale review and screening of SWD selected for magnets appears to be in violation of special education laws and the District's policy on LRE. Specifically, this review and screening potentially violates the placement procedures specified within IDEA that require such decisions to be:

*"individually determined on the basis of each student's abilities and needs and each student's IEP, and not solely on factors such as category of disability, severity of disability, availability of special education and related services, configuration of the service delivery system, availability of space, or administrative convenience."*

The lack of a similar screening of students with other special needs, such as ELs, raise important questions regarding equity and different treatment based on one's disability status. Further, the practice appears to contradict the District's LRE policy that "promotes and supports equitable access to SWD to all district schools including: home or neighborhood schools, open enrollment schools, magnets, and charter schools."

Last, as Gamm noted above, the lack of clarification on the procedures for screening students out based on the student not "fitting the program" reduces the process' credibility. While one can understand that not all schools can meet the needs of every child with a disability, this screening process seems to apply a wholesale approach that circumvents the role of the IEP team in a decision-making process.

Overall, the District's policies and procedures demonstrate areas that appear to be in violation of the procedures for the enrollment of SWD as outlined by federal and state laws applicable to SWD. The enrollment criteria and "no-match list" process appear to violate several principles of the law, including promoting integration of SWD in the LRE, ensuring equitable access to all programs and services to SWD, and protecting the rights of students, families and IEP teams in determining placement.

While these policies may be viewed as egregious, it is important to note that all interviewees from schools, support units and the Office of Student Integration Services appeared to have realized the contradictions and inequities promoted by these policies and procedures when brought to light. At the beginning of the interviews, participants expressed these practices as uniform and correct based on an approved policy of the District. As the interviews progressed, participants expressed having a better understanding and a change in perception of these policies. All agreed that a similar process to screen SWD from other schools of choice such as charter schools would be in violation of law and inequitable. Many agreed that charters, like all schools, should not be allowed to deny access to SWD.

Many of the support unit staff expressed a dislike for their role in this process, and noted that this process had many inherent difficulties such as a limited timeframe for completing reviews, and not always knowing the student or sending/receiving schools. They expressed willingness to help, and a desire to have all students have their needs met at magnet schools. Magnet coordinators also expressed a narrow understanding of this process and relied on the recommendation and expertise of the support units. All magnet coordinators expressed an overwhelming dedication to meeting the needs of all students including those with disabilities at their school. Many shared stories of the efforts in meeting the needs of their SWD and all expressed willingness to work with all students, including students with moderate to severe disabilities, provided the students were approved by the support unit.

Last, it is unclear what process was used to approve the policies and procedures regarding SWD within the *Magnet Program Resource Handbook*. The District should examine this process to determine how these policies were vetted and approved by both the Division of Special Education and the Office of the General Counsel.

## Question #2.

*Do the District's policies and procedures promote equitable access and opportunity for students with disabilities for a free and appropriate education at a District school of choice, such as magnet schools?*

This question examines the potential impact of the District's policies and procedures on the enrollment of SWD at magnets. To examine this issue, the following activities were conducted:

- Review of enrollment, application and selection data of SWD
- Review and comparison of enrollment, application and selection data of all students, including English Learners and students identified as GATE
- Interviews were conducted with magnet coordinators and special education staff, local Special Education Support Unit personnel, and central office personnel from the Office of Student Integration Services, Division of Special Education and Office of the General Counsel

### *Enrollment of Students with Disabilities at Magnet Schools*

As noted earlier, the LAUSD has 169 magnet schools with a student population of approximately 57,000 students. This represents approximately 8.50% of the overall student population (approximate 670,000). Of those 57,000 students, 2,236 are SWD enrolled at magnet schools, comprising 3.93% of the District's overall population of students attending magnets. In contrast, SWD in all other District schools represent 11.55% of the overall population attending non-magnets<sup>8</sup> (Table 1). These differences indicate that magnets are underrepresented in the number and percentage of SWD they serve.

Table 1. Enrollment of General Education (GE) students and SWD, by Magnets and Non-Magnets

School Type	Total GE Students		Total SWD		Total	
	N	%	N	%	N	%
Magnets	54,684	96.16	2,236	3.93	56,869	100.00
Non-Magnets	540,638	88.45	70,605	11.55	611,243	100.00
Total	595,322	100.00	72,836	100.00	668,112	100.00

During the 2010-2011 school year, SWD enrolled at magnets were primarily those with high incidence or more frequently occurring disabilities, which include specific learning disabilities, speech and language impairments, and other health impairments. However, students with high incidence disabilities attending non-magnets were approximately three times higher than those in magnets when compared to the overall student population (9.51% non-magnets vs. 3.19% magnets). The enrollment of students with low incidence disabilities, which include all other eligibilities<sup>9</sup>, consisted of 432 students, or 0.76% of the total magnet enrollment. For non-magnet schools, students with low incidence disabilities made up 3.54% of the entire student population (Table 2).

To better understand the type of magnets and school levels serving SWD by incidence, Table 2 below breaks down the enrollments of high and low incidence disabilities.

The data indicate that schools on self-contained campuses have the highest number and percentages of SWD enrolled (elementary schools: 5.01% high incidence and 1.79% low incidence, and span schools 4.85% high incidence). However, self-contained senior high schools (MS and HS) demonstrate a stark contrast with the lowest enrollments of SWD. These consist of six schools with a total student population of 5,751, with only 124 total SWD attending these schools (103 students; 1.79% high incidence, and 21 students; 0.37% low incidence). One may expect that self-contained schools should have higher levels of enrollments of SWD, since they serve an overall larger population and therefore have more resources to provide supports and services. To make parallel comparisons, it would be reasonably expected for self-contained non-magnets and charter schools with similar populations of students to serve higher rates of SWD. However, given that the average student enrollment at each of these self-contained senior high schools is 960, it is worth noting that the average numbers of SWD at each school is 20, or 2% of the overall population. These rates of enrollment would be considered unacceptable at similarly sized non-magnets or charters.

The low number of SWD enrolled at magnet centers is equally troubling. While centers are smaller and offer less special education supports from within the magnet program, these schools have the benefit of having access to

<sup>8</sup> For purpose of establishing a more direct comparison, this percentage excludes the student population attending non-public schools and pre-schools. The overall population of students with disabilities is approximately 81,000, or 13.50% of the overall population.

<sup>9</sup> Such as: Autism, Emotional Disturbance, Mental Retardation, Orthopedic Impairment, Deaf and Hard of Hearing, Visual Impairment, Traumatic Brain Injury

special education supports and services of the host school. This is even more true of centers on middle and high school campuses that tend to have comprehensive sites and a range of special education programs and supports.

Table 2. Number and Percent of SWD, by High and Low Incidence Disabilities and School Type

School Type	Number of Schools	Total Enrollment N	Total SWD		High Incidence		Low Incidence	
			N	%	N	%	N	%
Total – LAUSD – Non-Magnets		540,638	70,605	11.55	51,462	9.51	19,143	3.54
Total Magnets	169	56,556	2,236	3.95	1,804	3.19	432	0.76
Center ES	45	7,692	292	3.80	241	3.13	51	0.66
Center MS	47	13,736	462	3.36	373	2.72	89	0.65
Center HS	51	15,210	477	3.14	388	2.55	89	0.59
Elementary SC	13	7,772	528	6.79	389	5.01	139	1.79
Senior SC	6	5,751	124	2.16	103	1.79	21	0.37
Span	7	6,395	353	5.52	310	4.85	43	0.67

The following analysis examines the composition of students attending magnet schools and provides insight into the problem of underrepresentation of SWD. To achieve this, enrollment data were reviewed and compared for two other groups of students: English Learners (EL) and those identified as Gifted and Talented (GATE). Comparison groups are important in identifying patterns that may suggest bias between groups.

Data were obtained from the Office of Student Integration Services for the past three years (2008-2009, 2009-2010, 2010-2011). While analyses were conducted for all three years<sup>10</sup>, for purpose of discussion only data from 2010-2011 were presented within this section. It is important to note that some students may fall under more than one category of student type. For instance, a student with a disability may also be an English Learner or enrolled in GATE.

Comparison of enrollment data shows that SWD (3.95% magnets vs. 11.55% non-magnets) and ELs (7.45% magnets vs. 29.55% non-magnets) are significantly underrepresented while students identified as GATE (32.67% magnets vs. 10.26% non-magnets) are overrepresented in magnets (Table 3). Since magnets have specific schools dedicated to gifted/highly gifted students that may attract more of these students, the data were disaggregated or separated by those GATE students attending those magnets designed for these students, and all other magnets. Of the 18,579 students identified as GATE attending magnets, approximately half (9,190, 49.46%) attend non-gifted/highly gifted magnet programs. This finding suggests that non-GATE magnets are perceived as schools for high academically achieving students. This finding may also suggest that this notion may deter families of SWD from applying to these programs, and may be evidenced by the significant underrepresentation found.

To examine the probability for students to be enrolled in magnet schools, risk ratios were calculated. Risk ratios compare the probability of one group's enrollment with all other students. This metric provides insight into whether over or underrepresentation exists for one group compared to another, and the severity to which it exists. To have proportionate representation between groups, it is expected that risk ratios are approximately a one-to-one correspondence (risk ratio of 1) to reflect the representation of the community or school. While there are various ranges of risk identified by scholars and states to determine severity of disproportionate representation, typically, risk ratios over 2 to 3 indicate significant disproportionate representation.

<sup>10</sup> Similar patterns were noted for the three years.

An examination of risk ratios for the enrollment of students during the 2010-2011 school year found that general education students were 2.5 times more likely to be enrolled in a magnet school than a SWD. This means that students without disabilities have 2.5 times the probability of being enrolled in a magnet than a SWD. Non-ELs were 5.21 times more likely to be enrolled in a magnet than ELs. This means that SWD are significantly underrepresented in magnets, while ELs demonstrated severe underrepresentation when compared to non-ELs.

Students identified as GATE were 4.2 times more likely to be enrolled in magnets schools than non-GATE students, meaning they are overrepresented in magnet schools. Of course, one would expect higher proportions of these students at magnets because these schools offer specific programs for their special needs.

Table 3. Enrollment SWD, EL and GATE students, by Magnets and Non-Magnets

Student Type	Non-Magnet		Magnet		Total	
	N	%	N	%	N	%
SWD	70,605	11.55	2,185	3.84	72,790	100.00
EL	180,592	29.55	4,237	7.45	184,829	100.00
GATE	62,731	10.26	18,579	32.67	81,310	100.00
Total – Non-Magnet	611,243	100.00	56,556	100.00	668,112	100.00

While the disparities in enrollment provide insight into the types of students and programs magnet schools offer, one cannot conclude bias within the process without examination of data for those who applied and were selected.

Since magnets are schools of choice, it is assumed there are elements of self-selection<sup>11</sup> for those who apply. Therefore, it is important to identify if the application and selection processes demonstrate biases that may contribute to the underrepresentation of SWD in magnet schools.

Enrollment data of students who applied to a magnet school and who were selected were reviewed for the 2010-2011 school year. This section examines if differences exist in the applications received between the three groups. These findings may provide insight into the recruitment of students, perceptions of families seeking magnets, and the availability of programs offered at magnets. This may also provide a better understanding of the disproportionality (both over and under) of the enrollment of the three groups.

During the 2010-2011 school year, the magnet office received 41,354 applications. Of these, 2,119 (5.12%) were from SWD, 3,640 (8.80%) were from ELs, and 10,118 (24.46%) from students identified as GATE (Table 4). While these differences cannot be interpreted without examining the proportions of students selected from each group, these patterns do offer insights into the types of recruitment or perceptions of what magnets offer. This finding may indicate several implications of the recruitment efforts for students by magnets schools and the materials distributed by the Office of Student Integration Services.

Additionally, the high number of students identified as GATE enrolled at non-GATE magnets coupled with the high number of applicants may support the perception of these magnets as schools for high-achieving and gifted students. This notion was noted by school staff from non-gifted/highly-gifted magnets who would often mention the high percentages of their enrollment of students identified as gifted or awaiting identification. Conversely, when asked about why they thought the enrollment of SWD was low at their school, many responded that they believed parents

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<sup>11</sup> For example, parents who applied had to have been aware and have an understanding of the overall magnet program; the particular school applied to; and knowledge of the application, lottery and point system.

generally viewed magnets as schools for higher achieving students. Many also believed this perception may have deterred parents from applying.

To examine the probability of each group for applying to the magnet program, risk ratios were calculated for each. Students in the general education program are 2.5 times more likely to have applied to a magnet school than students with disabilities. Non-ELs are 4.21 times more likely to apply than ELs, while GATE students are 2.53 times more likely to apply to a magnet school.

This data sheds insight into the disparities in enrollment of SWD, ELs and GATE students in magnet schools within the LAUSD. These discrepancies show a linear relationship with the discrepancies between those who apply and are enrolled in magnets. For instance, GATE students apply with higher rates, therefore, have higher probability of selection than SWD and ELs. This finding suggests that in order to increase enrollments of underrepresented groups, the District needs to focus on increasing the recruitment and applications of these students.

Table 4. Number and Percent of Students Who Applied, by SWD, EL, GATE and Non-Student Groups

	Non-Student Group Applied		Student Group Applied		Total Applied	
	N	%	N	%	N	%
SWD	39,235	94.88	2,119	5.12	41,354	100.00
EL	37,714	91.20	3,640	8.80	41,354	100.00
GATE	31,236	75.53	10,118	24.46	41,354	100.00

Table 5 shows the number and percentage of students selected for those who applied. Of the 14,354 students selected by the lottery system for magnet placement, a total of 664 (4.64%) were SWD, 1,280 (8.91%) were ELs, and 4,020 (28.00%) were GATE. To make meaningful interpretation of this data, risk ratios were examined below.

Table 5. Number and Percent of Students Selected, by SWD, EL, GATE and Non-Student Groups

	Non-Student Subgroup Selected		Student Subgroup Selected		Total Selected	
	N	%	N	%	N	%
SWD	13,690	95.36	664	4.64	14,354	100.00
EL	13,074	91.09	1,280	8.91	14,354	100.00
GATE	10,334	72.00	4,020	28.00	14,354	100.00

The application data show disparities between the three groups. To rule out bias within the lottery process, the selection of students should be proportionate for each group.

Examining discrepancies in the selection of students is critical to better understand if biases exist, however inadvertent, between those who applied and those who were selected. Upon analyzing risk ratios, it was discovered that of the 2,119 SWD with disabilities who applied, only 664 (31.33%) were selected (Table 6). In comparison, 39,235 general education students applied, and 13,690 (31.62%) were selected. As noted, both groups have very similar rates of selection (31.33% SWD vs. 31.62% GE) indicating similar chances for being selected for those that apply. Therefore, the odds ratio for GE students is 1.2, indicating relatively no disparity between their selection and that of SWD, for those who apply.



English Learners and students identified as GATE also had proportionate rates of selection when compared to non-ELs and non-Gate students. Therefore, this indicates no biases within the selection of a particular group of students once they apply. In short, if students apply, regardless of group or special needs, they have very similar odds of being selected for magnet placement.

Table 6. Number and Percent of Students Who Applied, Were Selected and Wait-listed, by SWD, EL, GATE

	GE		SWD		ELs		GATE		Total	
	N	%	N	%	N	%	N	%	N	%
Applied	39,235	100.00	2,119	100.00	3,640	100.00	10,118	100.00	41,354	100.00
Selected	13,690	31.62	664	31.33	1,280	35.16	4,020	39.73	14,354	100.00
Wait-listed	25,545	61.77	1,455	68.66	2,360	64.83	6,098	60.26	27,000	100.00

While the lottery process does not indicate bias that may contribute to the underrepresentation of SWD, the document review and interviews found an administrative process for screening out students selected. This is referred to as the “no-match list” and the process for this selection was discussed earlier.

To illustrate the impact of this process, data were provided for students selected and those screened out during the 2010-2011 school year. The data are provided by local district, disability and program type. It is important to note that students may apply from local districts other than the local district where the magnet resides. Therefore, residence is based on the students' home address, while the “no-match list” is determined using the location of the receiving magnet school<sup>12</sup>.

Of the 664 SWD selected, 147 (23.55%) were placed on the “no-match list,” indicating that the receiving magnet could not meet the needs or the supports and services specified in the student's IEP (Table 7). This means that one out of four SWD selected to attend a magnet were screened out before even enrolling.

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<sup>12</sup> Students who were screened out within the unknown local district category are reported in the local district of the residing magnet.

Table 7. SWD Who Applied, Were Selected, and Placed on the No-match List, by Local District

LD	SWD						
	Total Applications	# Applied	# Selected	% Selected for SWD Applied	% Selected from all Apps	No match list	%
1	7,964	492	154	31.30	1.93	20	12.98
2	5,081	286	69	24.13	1.36	15	21.73
3	7,132	448	145	32.37	2.03	37	25.51
4	4,301	233	69	29.61	1.60	34	49.27
5	2,378	92	38	41.30	1.60	9	23.68
6	1,137	58	30	51.72	2.64	9	30.00
7	1,736	81	16	19.75	0.92	5	31.25
8	2,729	114	48	42.11	1.76	6	12.50
R*	1,225	89	21	23.60	1.71	7	33.30
S*	39	3	0	0.00	0.00	0	0.00
T*	1,125	83	31	37.35	2.76	11	35.48
Unkn	6,613	147	43	29.25	0.65		0.00
	41,460	2,126	664	31.23	1.60	147	23.55

\* R – Charter Schools, S – Options Schools, T – Innovation Schools

Disability and program data were obtained for those placed on the “no-match list” to provide insight into the rationale for excluding these students from attending magnets. Overall, placement in the special day program is the primary factor for placement on the “no-match list,” consisting of 81.60% of all students screened (Table 8). This finding is evidence that the District’s policy for the exclusion of students in special day programs and/or placements of 50% or more of the day have a negative impact on access to magnets for SWD.

Interestingly, 24 students (16.30%) had RSP support identified in their IEP as the program placement, with the majority of these students (n=16) having been screened out from attending magnets in District 4 schools. This findings provides insight into the variability of the criteria applied for determining students for the “no-match list” by local districts and for students whose program needs are less than 50% of the day in a special education setting.

Table 8. Number of Students on the No-Match List, by Local District and Program Type

LD	No match list	Other <sup>13</sup>	RSP	SDP
	N	N	N	N
1	20	0	0	20
2	15	0	4	11
3	37	1	0	36
4	34	1	16	17
5	9	1	3	5
6	9	0	0	9
7	5	0	0	5
8	7	0	1	6
R	0	0	0	0
S	0	0	0	0
T	11	0	0	11
Total	147	3	24	120
%	100.00	2.00	16.30	81.60

When examined by disability type, 60% of all students placed on the “no-match list” were identified as students with high incidence disabilities of SLD (46.25%), OHI (12.92%) and SLI (1.36%)(Table 9). Since many of the students screened have mild to moderate disabilities, this finding supports the notion that placement in the special day program is a primary factor for being determined a “no-match.”

Students eligible with autism (17.00%) made up the largest group of students with low incidence disabilities screened out. One may speculate that due to the higher numbers of students with autism in the district, and the broad spectrum of abilities within this eligibility criteria, these students apply to magnets with more frequency, compared to students with all other low incidence disabilities. Therefore it may be expected to observe a higher rate of denial.

<sup>13</sup> This includes one student with DIS services only, one with IEP and one with an unknown program.

Table 9. Number of Students on the No-match List, by Local District and Disability

LD	Total	SLD	SLI	OHI	DD	ED	Autism	MR	DEA
1	20	8	1	2	0	0	6	1	0
2	15	6	0	5	0	0	3	0	0
3	37	9	0	3	1	3	11	1	1
4	34	21	1	5	2	0	3	0	0
5	9	8	0	0	0	0	1	0	0
6	9	7	0	0	0	0	1	0	0
7	5	1	0	2	0	0	0	1	0
8	7	2	0	1	0	1	0	1	0
R	0	0	0	0	0	0	0	0	0
S	0	0	0	0	0	0	0	0	0
T	11	6	0	1	0	0	0	1	0
Total	147	68	2	19	3	4	25	5	1
Percentage	100.00	46.25	1.36	12.92	2.04	2.72	17.00	3.40	0.68

The enrollment and selection data show SWD are underrepresented at magnets as compared to non-magnets. In addition, the comparisons between students identified as EL and GATE provides insights into the students who applied for and were enrolled into the magnet program. Examination of data on the “no-match list” process suggests that these procedures result in the exclusion of SWD from participating in the magnet program in a manner that is not consistent with federal and state laws pertaining to the education of SWD.

### Question #3.

*Does the District demonstrate the organizational capacity to ensure the implementation and oversight of its magnet schools associated with the mandated activities of the Modified Consent Decree including special education law?*

This question examines the organizational processes in place at magnets to promote the implementation of the MCD, the LAUSD special education policies and procedures, and compliance with federal and state special education laws.

Magnets are under the same governance structure of all non-magnet schools that follow a local district organizational structure. Administrators and support staff are assigned from local districts, and report directly to local district directors and superintendents. Magnet centers do not have their own administration and support staff and utilize the personnel assigned to their adjoining non-magnet host school. Magnet coordinators and magnet teachers are funded by the Office of Student Integration Services and report directly to the school principal.

Magnet coordinators are responsible for compliance with all state regulations and District policy, including but not limited to: the recruitment of students, assisting families with the application and enrollment of students, programming, curricula and maintaining student records. While magnet coordinators also facilitate the IEP meeting process, coordinators reported working collaboratively with the special education personnel (administrators and support staff) of the host school. Coordination and allocation of service providers is done through the local district support units. Magnet coordinators and support unit personnel reported working effectively within the local Special Education Support Unit structure to address and meet the needs of students with disabilities attending magnets.

### *Mechanisms to Promote Compliance*

Several mechanisms to promote the implementation, monitoring and oversight of the requirements of the MCD and special education laws exist. These include the data-based performance measures of the MCD and other District mechanisms such as the Targeted Strategy Plans, MCD accountability plan and the schools' self-review checklist. In addition, magnets participate in state-mandated mechanisms such as the District Validation Review (DVR).

Utilization of District data systems such as the Welligent Electronic IEP and Integrated Student Information System are important in the implementation and monitoring of schools' performance with the MCD and IDEA regulations. All magnets utilize these data systems like all other District schools.

### *Special Education Programming and Services*

To determine if the disproportionate enrollment of students with disabilities is a result of systemic differences between magnet and non-magnet schools in their ability to serve SWD, data were examined to identify if differences exist between the available special education programs and services offered at each.

Collectively, the lack of such programs may indicate a disproportionate availability of the continuum of program and service options when compared to non-magnet schools. Because all magnets are District schools, the LAUSD is responsible for ensuring that collectively its schools provide the full-continuum of programs and services as required by IDEA. Therefore, a lack of programs at magnets may result in the denial of equitable access to SWD from attending these schools.

To frame this discussion, it's important to restate the structure of magnets. Of the 169 magnets in the District, the majority 85% (143) are co-located on host campuses that offer a range of programs and supports, with the remaining 26 on self-contained sites. A total of 24 sites contain special education programs with a total of 32 RSP programs and 6 special day class programs. While the OIM did not analyze the specific number of programs at each host site, the majority of these sites contain either a resource specialist and/or a range of special day programs. Thus, the issue does not seem to be the availability of SDPs at host campuses, but rather the adherence and precept to the enrollment guidelines that exclude students from participating in both magnets and more restrictive placements.

Therefore, the issue becomes two-fold: the first regards finding suitable ways to provide these programs within the magnet schools, while the second reveals a strict adherence to the contextual delivery model of a special day program as compared to providing the necessary supports and services to the student in the least-restrictive environment. During the visits, various coordinators shared examples of providing supports and services to students with moderate to severe disabilities in the general education setting. At one school, the coordinator spoke of how a student with mental retardation was being fully integrated within the general education program with supports, including making modifications to the curriculum being provided in that setting. The coordinator spoke affectionately of the student and expressed that the student "belonged" in the magnet program and was an integral part of the school community. Similar examples were shared during the interviews, where schools willingly worked with their SWD to ensure full participation in the magnet program. The schools simply had detached from the concept of the separate class as the model for delivering services, and provided those services within the magnet classes and general education setting. However, in most cases, when asked if they could serve more students with moderate to severe disabilities, they often responded that that was based on the recommendation of the support unit. This information suggests that although the District has developed policies and procedures that limits SWD enrollment in magnet programs based on students' previously defined need for SDPs, in practice, schools have been able to provide supplementary aids and services that enable them to participate in the magnet program. This practice calls into question justification for the criteria.

Further, as noted earlier, many schools expressed a genuine willingness for serving all students including SWD. Many believed that the low number of these students limited their ability to provide additional programs and supports.

In this regard, the screening and exclusion of students has contributed to these limitations. In addition, the interviews revealed that the process for projecting classes (eCast) for the upcoming school year did not coincide with the selection of students to the magnet program. Therefore, this created difficulties for support units to program classes based on the lack of alignment of these two events. Overall, the District does not seem to effectively consider or utilize magnets as schools that can offer special education programs. While this may be a result of the selection process associated with magnets, the District does maintain the authority to place programs at all its schools, including schools of choice such as charters. It is important to point out that recently, the Division of Special Education and Office of Student Integration Services have been working collaboratively on increasing special education programs at magnets. They shared one example where they had been engaged in programming of special education programs at a magnet center that will soon convert to a self-contained magnet. These efforts are a step in the right direction and are to be commended.

Overall, the District has the organizational processes in place at magnets to promote the implementation of the MCD, the LAUSD special education policies and procedures, and compliance with federal and state special education laws. The factor that impedes this is the policies in place that screen SWD and limitations created by the programming of classes and scheduling within schools. In general, magnet coordinators and staff demonstrated a high level of willingness to work with all students at their schools, including SWD.

#### Question #4.

*Do magnet schools present potential barriers or concerns related to the systemic substantial compliance of the District's special education programs and with the program accessibility requirements under federal and state law?*

The MCD consists of performance outcomes that aim to improve the District's systemic substantial compliance with IDEA. In addition, the MCD requires the District's school facilities to comply with the program accessibility requirements of the ADA and Section 504.

This section examines the impact of magnet schools on the District's systemic substantial compliance with the MCD, including special education law and federal program accessibility requirements. It is important to note that the performance reported on outcomes were not analyzed to measure the effect of a magnet on SWD, meaning that the findings do not imply whether one type of school is more effective than another. It simply compares the performance of students attending magnets to those attending non-magnets to see if this performance contributes or hinders the overall ability of the District to meet that outcome. To gauge this impact the following performance on the MCD Outcomes were reviewed:

- Outcome 3 and 4: Completion and Graduation
- Outcome 5: Suspensions
- Outcome 7A: Integration of Students with Moderate to Severe Disabilities in the General Education Setting
- Outcome 10: Timely Completion of Initial Evaluations and Annual IEP Meetings
- Program Accessibility at Select Schools

#### *Increase of Graduation and School Completion Rates of SWD*

Outcome 3 aims to increase the percentage of SWD who receive diplomas to 46.32%. For students attending magnets, 89.70% received a diploma exceeding the target of the outcome (Table 10). Outcome 4 aims to increase the completion rate to higher than 76.30%. School completion includes students who receive a diploma, certificate of completion, or leave due to aging out<sup>14</sup>. SWD attending magnet schools had higher rates of school completion than those attending non-magnet (97.80% magnets vs. 55.50% non-magnets).

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<sup>14</sup> Students with disabilities may remain in school up to the age of 22.

This data may be skewed based on the element of self-selection for students attending magnets. Since students and families must reapply when matriculating at a new magnet and school level, students enrolled may demonstrate a higher desire to attend school and complete school with a diploma. This coupled with the fact that the magnets exclude many students who receive higher levels of special education supports and services may attribute to the high rate of school completion at magnets.

Overall, while the performance of magnets may contribute to the progress of the District on these two outcomes, the small number and percentage of students (n=97, 2.00%) have very little impact on achieving Outcome 3.

Table 10. Graduation and Completion Rate of SWD, by School Type

School Type	Cohort	# Diploma	% Diploma	# Certificate	% Certificate	# Age Out	% Age Out	# Dropped out 7-12	% Dropped Out 7-12	% Completion
Magnets	97	87	89.70	1	1.00	0	0.00	2	2.10	97.80
Non-Magnets	4,784	2,258	47.20	388	8.10	8	0.20	2,084	43.60	55.50

### *Reduction of Suspensions for SWD*

Outcome 5 requires the district to reduce suspensions to less than 8.60% of the population of SWD. Magnet students were suspended at similar rates of non-magnet SWD (6.93% magnets vs. 7.08% non-magnets) and below the target established by the outcome (Table 11). Interestingly, magnets follow a similar pattern in applying suspension disproportionately to SWD than those in the general education program (6.93% SWD vs. 3.53% GE). Overall, this performance contributes to the District exceeding the target of the outcome.

Table 11. Number and Percent of GE Students and SWD Suspended, by School Type

School Type	General Education Students			Students with Disabilities		
	Enrolled	# Suspended	% Suspended	Enrolled	# Suspended	% Suspended
Magnets	50,773	1,793	3.53	2,049	142	6.93
Non-Magnets	621,358	26,089	4.20	72,238	5,117	7.08

### *Integration of Students with Moderate to Severe Disabilities in the General Education Setting*

The MCD contains a two-part performance outcome aimed at increasing the number of students with moderate to severe disabilities in the general education setting. The first, Outcome 7A, focuses on students with all other eligibilities, such as: mental retardation, deaf and hard-of-hearing, emotional disturbance and traumatic brain injury.

Table 12 demonstrates that magnet schools integrate students with all other eligibilities at a higher percentage (93.11%) than non-magnet schools (51.72%). The performance of non-magnets exceeds the target of 51%. While the high performance on this outcome is correlated with the absence of special day program classes as well as the screening out of students with higher needs and supports, magnets may provide a viable option for the integration of more students with all other eligibilities.

Table 12. LRE Time Category in the General Education Setting for Students with All Other Disabilities, by School Type (2009-2010)

School Type	Total SWD	More than 40% in General Education Setting		Less than 40% in General Education Setting	
		N	%	N	%
Magnets	334	311	93.11	23	6.90
Non-Magnets	16,739	8,657	51.72	8,082	48.28
<b>Target</b>			<b>51.00</b>		

*Timely Completion of Initial Evaluations*

The timely completion of an initial evaluation is a cornerstone of compliance with IDEA. The target for completing initial evaluations within 60 days (90%) is aligned with performance levels indicative of substantial systemic compliance. Table 13 shows that magnet schools fall slightly below the targets of the 60-day, 75-day and 90-day timelines. This performance implies a negative impact on the District's systemic substantial compliance.

Table 13. 2009-2010 Timely Completion of Initial Evaluations, by School Type

School Year	Total # IEPs	Within 60 Days		Within 75 Days		Within 90 Days		Over 90 Days	
		N	%	N	%	N	%	N	%
Magnets	474	416	87.76	451	89.76	460	97.15	14	2.95
Non-Magnets	14,762	13,423	91.00	14,222	96.00	14,496	98.00	266	2.00
		Target	90.00	Target	95.00	Target	98.00		

\* Data through March 15, 2009

*Program Accessibility*

To examine the impact of magnet schools on the District's substantial systemic compliance with the program accessibility requirements, the OIM and Disability Access Consultants, Inc., conducted a walk-through of six schools. The walk-throughs were not intended to be a comprehensive inspection to measure compliance with ADA and Section 504, but rather to obtain a general observation of program accessibility at magnet schools.

Schools were selected based on the different types of sites. Four were centers adjoined to host schools, while two were self-contained campuses. All schools are District schools and included three elementary, one high school, and two span schools.

The walk-throughs found all six schools with overall elements of program accessibility, while demonstrating a range of non-compliant ADA items. Overall, the walk-throughs highlighted the continued need for the MCD's on-demand program as well as the need for the District to conduct transition plans at all its sites. The visits also observed recent compliant work that had been completed at four schools.



Included are summaries of some of the non-compliant elements observed. Reports with photographs of findings can be viewed in Appendices E-J.

Magnet School #1: Vintage Math/Science Magnet Elementary School – Magnet Center

The walk-through found non-compliant elements across the campus including: A lack of signage throughout the school; various items in the parking lot including striping, signage and width of access aisle; a newly renovated restroom with no accessible toilet compartment or alternative stall; non-compliant door hardware; and non-compliant handrails and landings at ramps. The visit observed renovations with compliant elements such as: compliant unisex faculty restroom in the office; accessible seating in common areas including the multipurpose room and library; accessible lift to the stage in the multipurpose room.

Magnet School #2: Marshall Gifted/Highly Gifted Magnet High School – Magnet Center

The walk-through found non-compliant elements across the campus including: non-accessible main entrance including stair access only, no striping on stairs, non-compliant stair handrails, no directional signage to entrance; non-compliant passenger loading zone including no curb to sidewalk, no striping, no signage; non-compliant elements at the magnet office such as door hardware, no signage, counters, and no latch side clearance; various non-compliant findings in the parking lot; no accessible route to field or bleachers, including no accessible seating and no striping of stairs and non-compliant handrails; and an inaccessible auditorium with no accessible seating or vertical access to the stage. It is important to note that this school has a large population of SWD and a program for students with visual and orthopedic impairments. These students were observed throughout the campus during the walk-through and had to navigate this large site with minimal elements of accessibility. Considering this site contains a program for students with visual impairments, it is difficult to understand how the campus lacks basic striping, signage with raised letters and compliant handrails.

Magnet School #3: Sunland Gifted Magnet Elementary School – Magnet Center

The walk-through found non-compliant elements across the campus including: Restroom with various non-compliant elements, including the lack of an alternate compartment; no accessible elements in the nurse's office restroom; non-compliant handrails and slope at ramp. Newly installed compliant signage was observed throughout the school.

Magnet School #4: Brentwood Math/Science Magnet Elementary School – Magnet Center

The walk-through found non-compliant elements across the campus including: non-accessible main entrance including stair access only; non-accessible path of travel, including no directional signage, excessive slopes; stairs with no striping and non-complaint handrails; various non-compliant findings in the parking lot; no accessible seating at the amphitheater or access to the top of it; and non-compliant door hardware throughout the site.

Magnet School #5: LACES – Self-Contained Magnet - Center for Enriched Studies

The walk-through found non-compliant elements across the campus including: non-accessible main entrance including stair access only, slopes exceeding 18% to the accessible entrance; non-compliant passenger loading zone including no curb to sidewalk, no striping, no signage; various non-compliant findings in the parking lot; non-compliant elements in locker rooms such as accessible shower, lockers and drinking fountains; non-accessible faculty unisex restroom; and non-compliant seating in auditorium. Newly installed compliant signage was observed throughout the school.

Magnet School #6: SOCES – Self-Contained Magnet - Center for Enriched Studies

The walk-through found non-compliant elements across the campus including: non-accessible drinking fountains (not high-low); no accessible features in the nurse's restroom; various non-compliant findings in the parking lot; and lack of signage throughout the school. Compliant TMP ramps to restroom and science building were noted.

Overall, the performance of magnets does not appear to impact of the District's systemic, substantial compliance with the MCD, including special education law and federal program accessibility requirements. While problems were noted in the area of accessibility, the District has been engaged in efforts to address these problems at all its schools. This review does however highlight the need for additional efforts to identify areas of non-compliance and the immediate impact this has on students.

## SUMMARY

Overall, the study revealed several areas within the District's magnet schools' policies and procedures that appear to be in violation of federal and state special education laws. Most notable is the District's screening policy for SWD selected for enrollment in magnets and its policy that all magnet students be required to participate in the magnet program for 50% of the day. The policy states that SWD receiving services in separate classrooms (SDP) are not eligible to participate in the magnet programs. These policies are solely directed at SWD and result in the exclusion of students through a "no-match list," thereby denying students equitable access to these schools of choice. The study also found inconsistencies in the implementation and interpretation of these policies among staff at schools and the local Special Education Support Units. The lack of procedures for implementing such policies also raised concerns over the intent and consistency for which these are applied.

While the study found the lottery process to be fair and equitable, it also found that SWD are underrepresented in the magnet program. Several factors contribute to this underrepresentation. The first is the lack of recruiting of SWD and perception that magnet schools are programs only for high-achieving students. Second, the District's screening policy results in exclusion of students prior to enrollment. Last, the District should examine factors related to scheduling and programming to ensure that programs fit students' needs, not vice versa.

Site visits and interviews found magnet schools and staff to be warm and welcoming environments for all students, and noted many examples of schools going to great lengths to include students with disabilities within their program. While this finding was positive, many of the staff appeared to also be indoctrinated by the District's policies and procedures to exclude and restrict SWD from participating in their programs. As the interviews progressed, many participants emerged with a new perspective of these policies, with some expressing enthusiasm at the prospect of recruiting and enrolling more SWD.

The District's magnet schools present a viable opportunity for expanding opportunities to families of SWD in schools of choice. Many of these schools already have the infrastructure to support SWD through their host schools to provide thematic-based, enriched curricula that benefit all learners, especially those that are traditionally from low-achieving groups.

As the District continues to emerge as a national leader in its school choice program, it should consider the expansion of magnets to serve and integrate all students, including SWD and ELs. The District should strive to develop successful programs similar to those serving its students identified as Gifted and Talented. While budget constraints have created difficult times across the District and within the magnet program<sup>15</sup>, these schools are maintained within the overall governance structure of the District which affords direct accountability and oversight within the choice program.

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<sup>15</sup> The Magnet Program's Budget has seen severe cuts over the past four years: 2008-2009 (\$84.6M), 2009-2010 (\$30.3M), 2010-2011 (\$17.1M) and 2011-2012 (\$1.7M), From TIIG Budget, Office of Student Integration Services.

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