

Office of the Independent Monitor
Modified Consent Decree
333 So. Beaudry Avenue, 18th Floor
Los Angeles, California 90017
Tel: (213) 241-1797
Fax: (213) 241-7551

FREDERICK J. WEINTRAUB
Independent Monitor

JAY R. ALLEMAN
Chief Analyst

JAIME E. HERNANDEZ
Research Director

October 5, 2011

John Deasy, Ph.D.
Superintendent of Schools
Los Angeles Unified School District
333 S. Beaudry Avenue, 24th Floor
Los Angeles, CA 90017

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

**Re: Report on the Progress and Effectiveness of the Los Angeles Unified School District's
Implementation of the Modified Consent Decree During the 2010-2011 School Year – Part I**

Dear Dr. Deasy and Board of Education:

Section 13 of the Modified Consent Decree (MCD) requires the Independent Monitor (IM) to annually present a written report to the Superintendent and the Board of Education concerning the progress and effectiveness of the implementation of the terms and conditions of the MCD. The MCD has three primary sets of requirements the Los Angeles Unified School District (District) must meet. The first is 19 performance-based outcomes pertaining to students with disabilities (SWD) receiving special education services. Prior to this report, the District had met the requirements of 14 of the outcomes. The second set of requirements pertains to making District schools accessible to individuals with disabilities. The third concerns the development of the Integrated Student Information System (ISIS).

As in recent years the IM has chosen to submit the report in two parts. Part I, this report, will address the status of the District's performance on four outcomes, accessible schools and the ISIS. Part II, expected in February 2012, will report on the District's performance on the remaining two outcomes.

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

This report makes determinations on the following outcomes:

- Outcome #7A: Placement of Students with Other Disabilities
- Outcome #7B: Placement of students with Multiple Disabilities Orthopedic (MDO)
- Outcome #13: Delivery of Services

- Outcome #16: Increase In Qualified Providers

It also reports on the following:

- Making Schools Accessible
- Charter Schools
- Magnet Schools
- Data Systems – Integrated Student Information System (ISIS)
- Update on Outcome 18: Disproportionate Identification of African American Students with Emotional Disturbance
- Annual Hearing

OUTCOME # 7A: PLACEMENT OF STUDENTS WITH DISABILITIES (AGES 6-18) WITH ALL OTHER DISABILITIES

- ◆ **Outcome:** Placement of Students with Disabilities (Ages 6-18) with All Other Eligibilities excluding SLI, SLD and OHI. The District will demonstrate a ratio of not less than 51% of students placed in the combined categories of 0-20% and 21-60%, and not more than 49% of students placed in the 61-100% category utilizing instructional minutes as the methodology. In determining whether the District has achieved this outcome, any fraction percentage of .51 or above shall be rounded up to its nearest whole number.

All Other Disabilities Placed in General Education 40% or More of the Instructional Day

School Year	Total # of Students	# of Students 40% or more	% of Students 40% or more
2010-11 As reported in OIM Study	1,136	413	36.36%
2010-11 As reported in Welligent	17,065	8,964	52.53%
2009-10 As reported by OIM Study	1,765	563	31.90%
2009-10 As reported in Welligent	16,739	8,657	51.72%
2008-09 As reported in Welligent	16,297	8,044	49.36%
2007-08 As reported in Welligent	15,766	7,369	46.74%
2006-07 As reported in Welligent	14,841	5,627	37.92%
2005-06 As reported in Welligent	14,591	4,282	29.35%

- ◆ **Data Source:** Welligent and study conducted by the Office of the Independent Monitor (OIM). Students with an eligibility other than SLI/SLD/OHI ages 6 to 18
 - Numerator is the number of all other disabilities placed in the combined categories of 0-20% and 21-60% in a special education setting.
 - Denominator is the number of all other disabilities.
 - Note: Changes have been made to numbers and percentages from previous reports because of a miscalculation in the age category.
 - For this outcome caution must be taken when comparing the outcome performance by year due to the number of IEPs and quality of data.
 - Note: Please be advised that changes in the Welligent data system have created problems in the data. The numbers and percentages reported are not accurate and only an approximate estimation of the District's performance.
- ◆ **Discussion:** Outcome 7A requires the District to increase the percentage of students with disabilities (Ages 6-18) with all other eligibilities, not including specific learning disabilities (SLD), speech language impairments (SLI) and other health impairments (OHI) placed in the general education setting for 40% or more of the day. The goal of this outcome is to increase to 51% the overall percentage of students with these disabilities receiving instruction in the general education setting.

During the 2010-2011 school year, the Welligent IEP data system indicated that 52.53% of students with all other eligibilities were placed in the general education classroom for 40% or more of the day. While this performance exceeds the 51% target, inaccuracies found by the OIM's validation study within the least restrictive environment (LRE) data suggest a continued overestimation of the time students with all other disabilities spent in the general education setting (Appendix A).

The OIM LRE validation study examined possible discrepancies between the LRE time reported by the Welligent IEP system and the student's class schedule provided by the school. To impact the performance of this outcome, discrepancies within the Welligent data and a student's class schedule must place him or her into a different LRE category. For example, if the Welligent system reports that a student is in the general education setting for 70% of the day and the class schedule reflects integration for 45% of the day, this discrepancy does not result in a change in category. If this same student's class schedule reflects 30% of the day in the general education setting, this would shift the student into the 40% or less category, resulting in an overestimation of Welligent data.

Over the past four years, the validation study has noted discrepancies between the Welligent LRE data and students' schedules that have overestimated the number and percentage of students in the general education setting for 40% or more of the day. The 2010-2011 validation study found inaccuracies in the Welligent LRE data for approximately one-third of students in the sample from the 40% or more in general education category with discrepancies large enough to shift them into the other category. This means that from the sample of students reviewed in the study, 637 (56.1%) were reported by the Welligent system to be in the general education setting for 40% or more of the day. Based on the class schedules provided by schools, the study was able to validate the same LRE time category for 414 (36.4%) students. This finding demonstrates considerable inaccuracies within the Welligent LRE data for students reported to be in the general education setting for 40% or more of the day.

To further examine the District's performance, data were analyzed by removing students who attend special education centers and non-public schools (NPS). Since students attending centers and NPS do not have an opportunity for integration in the general education setting, this analysis provided insight on the extent of the effort required to meet this outcome. The Welligent data indicated that 13,605 students attend general education campuses, with 9,612 (70.7%) students reporting a Welligent LRE time of 40% or more. Of the 838 students in the sample attending general education campuses, 630 (75%) had a Welligent LRE time of 40% or more, while 414 (49.9%) had classroom schedules within this category. Based on the OIM sample, this finding implies that approximately half of the students reported by Welligent having an LRE time of 40% or more have schedules that do not match this level of integration. This means that of the 9,612 students reported by Welligent as being integrated in the general education setting for 40% or more, approximately half of these students may have inaccurate classroom schedules that place them in the 40% or less category. Ultimately, this would require the District to identify a large number of students who may have inaccurate schedules and either re-program these students to be integrated for the time specified within their IEP or change the IEP to accurately reflect their class schedules. Both would require considerable effort and coordination.

Previous reports have noted that a contributing factor to these discrepancies was that schools appeared to be entering a percent of time below 60% in special education without regard to or consideration of the student's class schedule. This practice was most likely attributed to the influence of the statement within the Welligent IEP that required schools to acknowledge placements of time in the special education setting of 60% or more (or 40% or less in the general education setting) of the day. While the District has since removed this statement from the Welligent IEP, this practice continues at some schools. The LRE validation study¹ examined 236 students with an LRE time between 56-60%. Of these students, 58 (25.6%) had class schedules reflecting time in the special education setting for less than 60% of the day. This means that based on class schedules, three out of four students within this LRE time range were in the special education setting for more than 60% of the day, resulting in a change in LRE category. To account for minor programming differences, these discrepancies were broken down to determine

¹ Due to concerns over the increase in number of students with LRE time within the 56-60% in special education, the validation oversampled students within this time range to examine discrepancies and any impact on the overall LRE data.

if the LRE times reported within the Welligent were within a reasonable range. Of those in the 56-60% range of the sample, 60% had class schedules that reflected a time in special education for over 71% percent of the day. This means that more than half were in special education settings for the majority of the day and had schedules that did not fall within a range that may be explained by reasonable programmatic differences.

Based on the findings of this year's validation study, the LRE data are not considered reliable for making a determination. Additionally, these results indicate that the District's overall performance is well below the 51% target.

The District committed to resolving these discrepancies as part of its Targeted Strategy Plan for the 2011-2012 year by having schools comply with IEPs or revising IEPs to meet class schedules by November 30, 2011. Furthermore, the District must inform school principals that discrepancies between IEPs and class schedules result in a lack of implementation of that student's IEP and is therefore non-compliant with IDEA. Principals will be required to verify the accuracy of the LRE time on each student's IEP as reflected by class schedules. While this may be a challenging endeavor, the improvement of the accuracy of the Welligent data and the implementation of IEPs is a critical step in achieving this outcome.

- ◆ **Determination:** Outcome 7A not met.

OUTCOME # 7B: PLACEMENT OF STUDENTS (AGES 6-18) WITH MULTIPLE DISABILITIES ORTHOPEDIC (MDO)

- ◆ **Outcome:** Placement of Students with Disabilities (Ages 6-18) with MDO Eligibility. The District will demonstrate a ratio of not less than 23% of students placed in the combined categories of 0-20% and 21-60%, and not more than 77% of students placed in the 61-100% category utilizing instructional minutes as the methodology. In determining whether the District has achieved this outcome, any fraction percentage of .51 or above shall be rounded up to its nearest whole number.

Students with the Disability of MDO in General Education 40% or More of the Instructional Day

School Year	Total # of Students	# of Students 40% or more	% of Students 40% or more
2010-11 As reported by OIM Study	1,111	63	5.67%
2010-11 As reported in Welligent	1,111	195	17.55%
2009-10 As reported by OIM Study	1,169	51	4.36%
2009-10 As reported in Welligent	1,169	184	15.73%
2008-09 As reported by OIM Study	1,109	49	4.41%
2008-09 As reported in Welligent	1,109	151	13.61%
2007-08 As reported in Welligent	1,107	114	10.30%
2006-07 As reported in Welligent	1,186	102	8.60%
2005-06 As reported in Welligent	1,191	75	6.30%

- ◆ **Data Source:** Welligent and study conducted by the OIM. Students with an eligibility of MDO ages 6 to 18
 - Numerator is the number of MDO students placed in the combined categories of 0-20% and 21-60% in a special education setting.
 - Denominator is the number of MDO students.
 - Note: Changes have been made to numbers and percentages from previous reports because of a miscalculation in the age category.
 - Note: Please be advised that changes in the Welligent data system have created problems in the data. The numbers and percentages reported are not accurate and are only an approximate estimation of the District's performance.
- ◆ **Discussion:** Outcome 7B requires the District to increase to 23 percent of the overall population the number of students with multiple disabilities orthopedic (MDO) (Ages 6-18) placed in the general education setting for 40% or more of the instructional day.

During the 2010-2011 school year, the OIM conducted a validation study (Appendix B) of the LRE time for students with eligibilities of MDO. Since the population of students with MDO is relatively small and many of these students attend special education centers, the findings of this study can be considered the District's actual performance on Outcome 7B². To determine this performance,

² The sample of the study includes all students with MDO attending general education campuses, therefore, it is considered an accurate count of those students being integrated in the general education setting.

the study compared class schedules with the Welligent LRE data for all students with an eligibility of MDO attending general education campuses.

The population of students with MDO is 1,111, with the majority attending special education centers³ or non-public schools (n= 840, 75.6%). These students are therefore limited in their potential to be integrated into the general education setting. While the Welligent system reports 271 students with MDO attending general education campuses, the study identified 27 of these students as being served by the Carlson Home Hospital program. This decreases the number of students with an opportunity to be integrated to 244 (21.9%).

Similar to past findings, the study noted that many of the students attending general education campuses with Welligent LRE data of 40% or more had class schedules that showed placements in the general education setting of less than 40%. Based on the findings of the validation study, 63 students (5.67%) have classroom schedules that reflect time in the general education setting of 40% or more of the day. This performance is well below the target of 23%. As noted in past reports, achieving this outcome will not be easy and will not occur without the integration of students with MDO attending special education centers. Furthermore, the District would need to integrate every student attending a general education campus for 40% or more of the instructional day. Currently, the circumstances and target of this outcome do not appear realistically achievable.

Despite the limited progress for achieving this outcome, the District must be commended for its effort and commitment to develop programs on general education campuses with the opening of seven new classes. While this effort has been positive, the District reports challenges in transitioning students to general education campuses primarily due to reservations held by families in having their child attend these schools. The District reports that of 95 children identified as potential students to transition, 27 enrolled in these new classes. The District must be commended for the comprehensive approach taken to work with parents and open these classes.

During the 2011-12 school year, the District is encouraged to continue its work with families to explore existing and new classes on general education campuses. While families may resist, it is important they be exposed to options available outside of special education centers. As noted in past reports, these efforts should be in the best interest of the student and not solely motivated by progress on this outcome. Last, similar to outcome 7A, it is critical that the District continue to address the inaccuracies within the LRE time in the Welligent system.

- ◆ **Determination:** Outcome 7B not met.

³ This includes 78 students at Pacific Boulevard with potential for integration; however, the majority of these students are in a special education program for 100% of the day.

OUTCOME # 13: DELIVERY OF SERVICES

- ◆ **Outcome:** By June 30, 2006, 93% of the services identified on the IEPs of students with disabilities in all disability categories except specific learning disability will show evidence of service provision. In addition, by June 30, 2006, 93% of the services identified on the IEPs of students with specific learning disability will show evidence of service provision.

Delivery of Services

School Year	Percentages of Services Provided: Overall Population Estimate Weighted to the Population without SLD		Percentages of Services Provided: Overall Population Estimate Estimate for SLD Only	
	IEP-Log Analysis	IEP-Site Visit*	IEP – Log Analysis	IEP – Site Visit*
2010-11	94.5%	*N/A	90.8%	*N/A
2009-10	94.8%	*N/A	93.0%	*N/A
2008-09	93.7%	*N/A	91.2%	*N/A
2007-08	92.0%	*N/A	93.0%	*N/A
2006-07	86.6%	*N/A	74.0%	*N/A
2005-06	84.8%	86.4%	79.4%	85.0%
2004-05	93.2%	77.2%	72.8%	79.0%
2003-04	63.7%	85.6%	33.8%	92.6%

* Site visits were conducted as part of the services study during the 2006-2007 school year, however, the purpose of the site visits was modified.

- ◆ **Data Source:** Services Study
 - Office of Data and Accountability and American Institutes for Research (AIR).
- ◆ By June 30, 2006, the District will provide evidence that at least 85% of the services identified on the IEPs of students with disabilities have a frequency and duration that meets IEP compliance. For the purposes of assessment of frequency, provider absences will not constitute evidence of non-provision of service if such absence is the result of short-term (maximum two consecutive weeks) illness, family emergency or jury duty. Student absences/no shows will not constitute evidence of non-provision of service. For the purposes of assessment of duration, sessions not completed as the result of conflicts with a student's school schedule or late arrival/early departure by a student will not constitute evidence of an incomplete session.

Frequency and Duration of Services

School Year	IEP – Log Frequency Agreement	IEP – Log Duration Agreement
	% of services with monthly frequency at least equal to the IEP	% of services with monthly duration at least equal to the IEP
2010-11	81.8%	68.9%
2009-10	74.5%	66.6%
2008-09	72.3%	66.9%
2007-08	76.0%	72.0%
2006-07	73.0%	70.0%
2005-06	63.0%	65.0%
2004-05	57.2%	59.9%
2003-04	57.2%	61.5%

◆ **Data Source:** Services Study

- Office of Data and Accountability and American Institute for Research (AIR).

◆ **Discussion:** The purpose of this outcome is to ensure that SWD receive services as specified in their IEPs. This includes instructional services such as the Resource Specialist Program (RSP) and Adapted Physical Education (APE), as well as designated instructional services such as speech and language, and occupational and physical therapy. Evidence of service is required for meeting both the frequency and duration requirements as specified in the student's IEP for eight weeks. Additionally, this outcome requires that the District maintain accurate records of service delivery and a high level of implementation by thousands of special education teachers and service providers.

The Office of Data and Accountability and the American Institute for Research (AIR) conducted a study to measure the delivery of service for students with disabilities (Appendices C and D).

The District's performance toward the first part of the outcome meets or exceeds the target level (93%) for demonstrating evidence of service for students who have a disability in all other categories (94.5%). This year, the estimate for students with SLD (90.8%) fell below the target. This part of the outcome measures evidence of students who received at least one session of the services specified in their IEP for the eight-week period reviewed.

The District's performance for meeting the targets for frequency (81.8%) and duration (68.9%) are an improvement but continue to fall below the 85% target. This part of the study compares the number of sessions and duration specified within the IEP and those completed and documented in the Welligent provider logs within the same time period. Consistent with previous studies, the study found that services provided by non-public agencies, school mental health providers, occupational therapists, physical therapists and speech and language therapists had the lowest rates of frequency and duration. The District should closely examine these services to identify if programming factors exist that may be impeding service delivery or whether these rates are due to providers simply failing to deliver services. It should be noted that charter schools continue to perform well below the targets for frequency (74.0%) and duration (59%).

Analyses were conducted of all service records indicating that the District did not meet the frequency (1,047) and duration (1,718) requirements. The data indicate that about 44% of the cases that did not meet the frequency requirement were missing only one session. Similarly, 36%

of those cases that did not meet the duration requirement were missing only one session. These findings should be further explored by the District to determine factors that prevented providers from delivering services. While the data provide insights into practices, it is important that the District identify and rectify any issues that lead to non-compliance of student services.

To validate the accuracy of the service tracking logs, an observation study was conducted on a sample of 245 students. This study aimed to determine if the provider accurately reported the outcome of a session and whether it was delivered. The study found that 74% of sessions observed matched what was documented in the Welligent logs. This finding was lower than last year (82%). For services observed as completed during the site visit, the agreement between the event and what was reported in the Welligent log was 80%. Similarly, this was lower than those cases with agreements last year (90%). This means that for 20% of the cases where a session was completed, the log was missing or did not contain accurate information on its duration. However, the study found instances where providers delivered services which were not documented on their logs. The study noted that the impact of these discrepancies on meeting the targets of this outcome are uncertain and may work both in favor of and against the District.

The IM has continually noted that the provision of services is one of the fundamental indicators of systemic substantial compliance with federal and state special education law. The District needs to demonstrate the capacity to identify students whose services are not being provided, and the ability to correct these issues in a timely manner both centrally and at the school sites. While the District has made improvements in its reports to monitor service delivery within the Welligent system (referred to as the "300 Reports"), it must demonstrate the effective utilization of such reports.

During the 2011-2012 school year, the OIM will explore potential changes to the current methodology used for measuring services for this outcome. While the study has been an effective measure, it contains limitations within the methodology that both help and hinder an accurate measure of service provision. While some of these limitations may be difficult to eliminate due to the numerous variables of service delivery and dynamic nature of a school day, the development and utilization of Welligent's "300 reports" may provide a better indication of the District's capacity to measure services and monitor its schools for compliance. Therefore, the OIM will explore developing a methodology aligned to validate these "300 reports," including how principals and service providers are held accountable for noncompliance with federal and state special education law.

- ◆ **Determination:** Outcome 13 not met.

OUTCOME # 16: INCREASE IN QUALIFIED PROVIDERS

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

Qualified Providers

School Year	Qualified Special Education Teachers*	% Qualified Special Education Teachers
2010-11*	3,824	94.4%
2009-10	3,904	92.2%
2008-09	3,840	88.9%
2007-08	3,748	87.9%
2006-07	3,484	83.2%
2005-06	3,342	80.0%
2004-05	3,063	72.3%
2003-04	3,480	70.6%

* Data as of 6/15/11

- ◆ **Data Source:** Human Resources/Personnel Research. Classroom teachers make up the data set.
 - Numerator is the number of qualified special education teachers.
 - Denominator is the number of special education teachers.
- ◆ **Discussion:** This outcome requires the District to increase the percent of fully credentialed special education teachers to 88% and maintain that level. The District will be disengaged from this outcome only after all other outcomes are met and the District has achieved and maintained at least the 88% level. As of June 15, 2011, 94.4% of the District's special education teachers were fully credentialed.

The District is commended for maintaining this high level of staffing of qualified special education teachers during these difficult economic times.

MAKING SCHOOLS ACCESSIBLE

Introduction

Section 10 of the MCD requires that:

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

Section 17 of the MCD requires that the IM must also determine there are no systemic problems within the District's schools that prevent substantial program accessibility compliance.

This report will summarize the progress of the District toward meeting the requirements of Section 10: Facilities since the March 2011 progress report. Since then, the District submitted 14 projects for credit for projects associated with the \$67.5M repair and renovation projects, and 10 projects under the \$20M on-demand program. Upon review of the documents submitted and subsequent site inspections, the IM was able to approve credit toward both obligations. The report also includes an update on the District's efforts to improve the practices and oversight related to access compliance.

\$67.5M Repair and Renovation Projects

Since March 2011, the District submitted a total of 14 repair and renovation projects for a total credit request of \$33,348,837.00. Of this, credit was granted for all projects for a total amount of \$33,348,837.00. It is important to point out that the District has now exceeded the \$67.5M amount of expenditures on repair and renovation projects. On August 10, 2011, the IM noted that the District had met this requirement of the MCD⁴.

The District continues to commit to updating its existing sites to be more accessible for students. Similar to other outcomes that have been met, the OIM will continue to monitor the progress of projects that would qualify as repairs and renovations to make schools accessible. This monitoring will focus on the completion of compliant work and will not include granting credit for these projects. The District is not required to provide financial information on future repair and renovation projects.

\$20M On-Demand Projects

Since March 2011, the District submitted 10 on-demand projects for a credit request totaling \$1,930,750.00. It was determined that all projects met the objective of program accessibility and credit was granted for \$1,930,750.00.

In June 2011, the District and OIM met to discuss making modifications to improve the on-demand program to ensure a more timely response and approval process, as well as compliant construction and inspections. One primary goal is to establish a sustainable program with clear guidelines and protocol for responding to on-demand requests. The District committed to creating and implementing these new procedures in October 2011.

New Schools

The parties entered into a stipulation agreement requiring the District to address non-compliant findings and work at schools opened after June 30, 2006. The District also has committed to surveying new schools not included in the previous surveys that have not yet opened to ensure that non-compliant work be addressed prior to these schools' opening. These efforts had been divided into four phases and the correction of deficiencies

⁴ See letter dated August 10, 2011, from Frederick Weintraub to Kelly Schamder: Re: Approval of Repair and Renovation and On-Demand Projects

was slated to be completed in 2012. During the 2010-2011 school year, the District was to have completed repairs at all 13 Phase I schools.

In March 2011, the OIM and its consultants, Disability Access Consultants, Inc. (DAC), were scheduled to visit six of these schools to validate compliant work. After visiting several schools with the Facilities Access compliance Unit (FACU), it was determined that the progress at the Phase I schools did not match what was reported by some officials. To summarize, the visits revealed that these schools were still in construction and lacked compliant work. In addition, the remedies were based on inadequate and inconsistent surveys. At this time, officials from the FACU requested a halt to the validation visits to evaluate the progress of these Phase I schools. As a result, the FACU deemed the existing efforts to be inadequate and inconsistent and decided to abandon the completed surveys for a more effective and consistent, electronic-based survey. The FACU developed a new plan for surveying the 83 schools and remains committed to completion of all repairs by the original date of December 31, 2012. To date, new surveys have been completed at 44 schools, with the remaining 39 slated to be completed by December 2011.

During the 2011-2012 school year, the OIM will work closely with the FACU to frequently monitor these efforts to ensure implementation and adherence to the new schedule. It is important to note that despite the disappointment by all parties (the OIM, plaintiff's counsel and District), the District demonstrated the capacity to hold personnel accountable for this poor performance.

Determination

1. All new construction and renovation or repairs by the District shall comply with Section 504 and the Americans with Disabilities Act (ADA) – **No Improvement Documented**
2. The District shall enter into binding commitments to expend at least \$67.5 million on accessibility renovations or repairs to existing school sites consistent with Section 504 and ADA –
Additional Credit Approved: \$33,348,837.00
Total Approved: \$67,523,202.00 Target Met
3. The District shall establish a unit to address “on-demand” requests related to accessibility. The District shall expend up to \$20 million for task orders related to requests for program accessibility – Unit established, model project binder approved
Additional Credit Approved: \$1,930,750.00
Total Approved: \$11,371,337.00

CHARTER SCHOOLS

During the 2010-2011 school year, the OIM monitored two areas related to charter schools and their collective compliance with the MCD and the IDEA. The first concerns the effort to correct areas of non-compliance with access compliance at all independent charter school locations. This consisted of surveying 126 sites through a collaborative effort between the Los Angeles Department of Building and Safety, the FACU and charter school administrators. The District completed these surveys within the committed timeframe of March 2011. Since this effort began, some charters have been relocated to new independent sites, were not renewed, or are now Prop 39⁵ schools “co-located” on District sites. This has reduced the number of charters at independent sites to 80. To date, 40, or half, of those sites have been certified as having completed compliant work, with the remaining scheduled for completion through December 2011. The FACU, Charter School Office, charter school operators and the LADBS should be commended for their cooperation in fulfilling their obligations to provide accessible sites.

The Parents' Council raised concerns that charter schools may be screening students by requiring parents to provide information regarding special education eligibility and services on the lottery application. In response, the OIM conducted a review of applications and enrollment forms of 178 charter schools (Appendix E). The review found that approximately half (49.43%) of the applications required parents to provide information related

⁵ Proposition 39 was a ballot measure approved by voters that requires districts to provide charter schools with facilities as described by the California Code of Regulations, 5 CCR § 11969.1-11

to the special education services their child received. Many schools even required that a copy of a student's IEP be included with the application. The review also found information requested within applications and enrollment forms that were not specific to special education, and may be considered inappropriate in terms of both the information sought and the actions required of parents or students. This included requiring student and parent essays and/or interviews, donation and/or volunteer commitment forms and requests for student transcripts and/or CST scores. Based on the findings of the review, the District was advised to conduct a comprehensive review of these forms and determine their appropriateness and compliance with applicable education codes and anti-discrimination laws. The District provided its response on August 30, 2011 (Appendix F) and has indicated that it would review all application and enrollment forms for the upcoming lottery and provide the plaintiffs' counsel and OIM a summary of these efforts.

It is important to acknowledge that enrollment of SWD attending independent charters has increased slightly during the past two years. This is a step in the right direction and the IM commends the District and charter operators for striving to meet the needs of all students.

MAGNET SCHOOLS

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, the OIM studied the impact of the District's magnet schools on its performance in achieving the requirements of the MCD, including compliance with federal and state special education law⁶.

The study revealed several areas within magnet schools' policies and procedures that violated federal and state laws pertaining to the education of SWD. Most notable was the District's screening policy for SWD selected for enrollment in magnets. Of concern were the District's policies stating that all magnet students be required to participate in the magnet program for 50% of the day, along with its exclusionary 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 deny them equitable access to their schools of choice through a "no-match" list. 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 were applied. Overall, the study did not find a clear educational justification for these policies.

While the study found the lottery process to be fair and equitable, it also found that SWD were underrepresented in the magnet program. Several factors contributed to this underrepresentation. The first was 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 excluded students prior to enrollment. Last, there appeared to be factors related to scheduling and programming that failed to ensure 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 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.

Since the release of this report, the District provided a response to this study outlining areas it will address to resolve these concerns⁷. It has discontinued its policy and practice regarding the "no-match" list. In addition, students who were placed on this list were contacted and efforts were made to try to accommodate them at the

⁶ Report may be viewed at: http://oimla.com/pdf/magnetstudy11/MagnetSchoolsStudy_Final.pdf

⁷ Report may be viewed at: <http://oimla.com/pdf/ResponsetoOIMStudyofMagnetSchools.pdf>

magnets for which they applied, or place them at similarly themed magnets. The District has also committed to ensuring that appropriate special education resources are available for SWD at magnet programs through improved enrollment procedures and collaboration between the Division of Special Education and the Magnet Office.

DATA SYSTEMS

Integrated Student Information Systems (ISIS)

Section 11 of the MCD requires the District to abide by the stipulation agreement entered on June 20, 2002, for the development and implementation of an Integrated Student Information System (ISIS) at all its schools. This stipulation agreement has been modified twice as a result of delays in meeting the agreed-upon timelines. Despite repeated delays, the District has made progress in the implementation of the Phase I components of ISIS, which were scheduled to be fully implemented⁸ at all schools by the end of June 30, 2011.

On September 2, 2010, the District made a formal decision to postpone the deployment of Phase 2 due to a lack of confidence in the quality of the software provided by its vendor⁹. Since then several key events occurred to re-establish the commitment and deployment of the ISIS program.

The District employed new leadership for the positions of Chief Information Officer and ISIS Project Director. These individuals have provided the direction in both style and substance that has resulted in significant improvement in a short period of time. For the first time, the relationship between the District, the OIM and plaintiffs' counsel is constructive.

Between October and May 2010, the District engaged in comprehensive efforts to evaluate the true state of the ISIS program. This included conducting formal testing of key functionalities referred to as a Conference Room Pilot (CRP). Concerned with the adequacy of the ISIS, the District also conducted a CRP on an alternative program to see if this software performed better than the ISIS. In June 2011, based on the results of this testing, the District brought forth a recommendation to proceed with its commitment to develop and implement the ISIS program.

In May 2011, the parties agreed to implement the ISIS Checklist, which contains the objectives and business process that will be contained in the final version of ISIS. This checklist will be OIM's basis for measuring the District's compliance as it relates to the implementation of ISIS. On August 13, 2011, the District submitted to the IM the *Integrated Student Information System Phase 2 Implementation Completion Plan*¹⁰. The Plan represents a commendable effort from the District, and addresses requirements expressed in the IM's March 22, 2011 determination. During the 2011-2012 school year, the OIM will continue to work with the District to ensure that it remains committed to this plan and the completion of ISIS.

The District's commitment and performance on completing ISIS has experienced several set-backs during the course of this consent decree. The IM expects the District to expend necessary resources to fulfill this commitment; maintain open communication regarding all decisions with the OIM; resolve any disputes; and maintain a positive, working relationship with its vendor.

UPDATE ON OUTCOME 18: DISPROPORTIONATE IDENTIFICATION OF AFRICAN AMERICAN STUDENTS WITH EMOTIONAL DISTURBANCE

During the 2009-2010 school year, the IM noted that the District achieved this outcome by focusing on improving the quality of the identification and placement processes for all students. Last year, to ensure parents

⁸ Two exceptions exist, City of Angels and Carlson Home Hospital Schools.

⁹ See September 9, 2010 report from Jack Kelanic, Chief Information Systems Director, *Integrated Student Information System Project Status Report for the Independent Monitor*.

¹⁰ The Plan may be viewed at: http://oimla.com/pdf/ISISProjectImplementationPlan_Combined.pdf

were being notified of their child's upcoming IEP meeting, the District was required to send additional notification informing parents that their participation via phone or attendance at the IEP meeting was mandatory under the MCD. The letter required parents to acknowledge this mandate and provide their consent for the school to hold the IEP meeting without their participation. Of the eight students for whom the parents did not participate in the IEP meeting, the OIM was able to verify that letters were sent to five parents.

ANNUAL HEARING

Section 13 of the MCD requires the IM to conduct at least one hearing each year to hear from parents and other interested persons about the District's compliance with special education laws. This year's hearing was held April 13, 2011. Notices inviting persons to attend were made available in the seven primary languages of the District: English, Spanish, Chinese, Korean, Russian, Vietnamese and Armenian. To promote the annual hearing, the following means of outreach were conducted: a direct mailing to homes of parents of students with disabilities; district-wide distribution to all schools including charter and non-public schools; and a press release to all local media.

To facilitate attendance, a hearing was held in the morning and another in the evening. A total of 60 people signed in as attending in the morning, while 34 attended the evening session. A total of 36 people presented oral testimony, 19 in the morning and 17 in the evening. Individuals who presented specific complaints or problems were afforded the opportunity to meet with District staff to discuss the matter in greater depth and hopefully find a resolution. This resulted in a total of 39 referrals seen by District staff.

An analysis of comments expressed at the annual hearing shows that participants were concerned about issues over the IEP document and/or meeting (20%), budgets cuts (13%), schools' non-compliance with special education law (9%), and non-compliance with specific provisions or services of their child's IEP (12%). Lastly, 11% of parents expressed concerns of negative or hostile environments at their child's school.

CONCLUSION

This report has documented the District's progress in meeting three major components of the MCD. Of the three performance-based outcomes pertaining to students with disabilities, the District made progress, but did not meet the outcomes. The District continues to improve its performance in meeting the requirements of Section 10 of the MCD pertaining to making its facilities meet accessibility requirements, and has met the renovation and repairs target. ISIS now appears to be back on track under competent leadership and a plan for completion. As of this date the District has met 14 outcomes (see Table A). Part II of the Annual Report will document the District's progress on two outcomes: Outcome 2: Performance in the Statewide Assessment Program and Outcome 4: Completion Rate.

The IM is pleased that the parties have agreed to meet and discuss problems concerning the remaining outcomes. As currently constructed, there are some that cannot be achieved in the foreseeable future. In most cases the problem is that the data used in setting a baseline of performance from which targets were set highly overestimated the District's performance. In some cases, there are issues around matters not directly under the District's control. The IM believes that the parties can find reasonable solutions to these problems by continuing to work collaboratively.

Once the outcomes are met, Section 16 of the MCD requires the IM, before disengaging the District from the outcomes, to determine that the District has no systemic problems that prevent substantial compliance with applicable federal special education laws and regulations. Within the coming months the IM will establish the criteria that will be used to make such a determination.

Assuming that the District adheres to its timelines for the completion of ISIS; the District meets its timelines for making its new schools meet accessibility standards; the parties revise the remaining outcomes so they are achievable within two years; and the District makes such achievement successful the MCD can be successfully concluded by the summer of 2014.

Also, essential to the implementation of the MCD is staff with the needed knowledge and skills to effectively implement its requirements. The District has in place the personnel with such knowledge and skills. However, there is continued jeopardy due to seniority and other policies that result in diminishing the capability of the District to meet its legal obligations. Last year the IM ordered that all decisions to replace key MCD personnel be approved by the IM. The District failed to comply. This will no longer be tolerated and the IM expects the Superintendent and the Board to take whatever steps needed to ensure compliance.

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

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

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

Third, the MCD authorizes the IM to increase the outcome measure in the event that an outcome is not achieved by June 30, 2006, and that its achievement will be delayed by more than six months. While the IM has no plans at this time to do so, the District should be aware of this possibility.

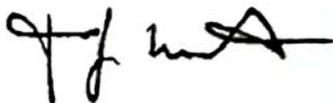
ACKNOWLEDGEMENTS

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

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

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

Sincerely,



Frederick J. Weintraub

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

Table A

#	Outcome	Current Status 6/30/11	Outcome Determination Status	Outcome Target	Outcome Met	
1	Participation in the (STAR) Statewide Assessment Program (without modifications)	ELA/Math	To be determined	85.2%	75%	Yes 6/30/06
		Comparable to Non-Disabled	To be determined	95.0%	95%	
2	Performance in the (STAR) Statewide Assessment Program (at basic or above)	ELA	To be determined	28.4%	27.5%	To be determined
		Math	To be determined	27.8%	30.2%	
3	Increase Graduation Rate	To be determined	41.66%	39.79%	Yes 6/30/08	
4	Increase Completion Rate/Reduce Drop Out	To be determined	56.0%*	76.3%	To be determined	
5	Reduce Suspensions of Student with Disabilities	6.8%	7.6%	8.6%	Yes 6/30/09	
6	Increase Placement of Students with Specific Learning Disabilities (SLD) and Speech and Language Impairment (SLI) in the Least Restrictive Environment	90.9%	73.7%	73%	Yes 6/30/06	
7A	Increase Placement of Students with All Other Disabilities in the Least Restrictive Environment	36.4%	36.4%	51%	No	
7B	Increase Placement of Students with the Disability of MDO in the Least Restrictive Environment	5.74%	5.74%	23%	No	
8a	Increase Home School Placement: SLI/SLD	92.9%	92.7%	92.9%	Yes By Stipulation of the Parties 9/16/08	
8b	Increase Home School Placement: All Other Disabilities	Grade K	60.2%	59.1%		65%
		Grade 6	68.6%	65.0%		65%
		Grade 9	60.0%	60.0%		60%
8c	Increase Home School Placement: All Other Disabilities	Grades 1-5	61.7%	58.8%		62.0%
		Grades 7-8	66.3%	60.3%		55.2%
		Grades 10-PG	48.0%	41.4%	36.4%	
9	Individual Transition Plan in IEP (14 years and above)	98.7%	99.8%	98%	Yes 6/30/06	
10	Timely Completion of Initial Special Education Evaluations	60 Days	91%	90%	90%	Yes 6/30/08
		75 Days	96%	96%	95%	
		90 Days	98%	98%	98%	
11	Response Time to Parent Complaints	5 Days	83%	54%	25%	Yes 6/30/06
		10 Days	95%	82%	50%	
		20 Days	99.6%	97%	75%	
		30 Days	100%	99.9%	90%	
12	Informal Dispute Resolution Prior to Formal Due Process (within 20 days)	75%	77%	60%	Yes 6/30/06	

Table A

#	Outcome		Current Status 6/30/11	Outcome Determination Status	Outcome Target	Outcome Met
13a	Delivery of Special Education Services	SLD Only	90.8%	90.8%	93%	No
		Other Disabilities	94.5%	94.5%	93%	
13b	Delivery of Special Education Services	Frequency (# of times)	81.8%	81.8%	85%	
		Duration (length)	68.9%	68.9%	85%	
14a	Increased Parent Participation (Attendance at IEP Meetings)	Attendance	83%	82%	75%	Yes 2/1/08
14b	Increased Parent Participation (Attempts to convince parent to attend IEP)	Sufficient Attempts	NA	96%	95%	
15	Timely Completion of IEP Translations	30 Days	99.4%	96%	85%	Yes 6/30/07
		45 Days	99.8%	99%	95%	
		60 Days	99.9%	99%	98%	
16	Increase in Qualified Special Education		94%	88%	88%	Yes 7/15/08 Not disengaged
17	IEP Team Consideration of Behavior Support Plans for Autistic and Emotionally Disturbed Students	Autism	66%	61%	40%	Yes 6/30/06
		ED	99%	97%	72%	
18	Comprehensive Evaluation of African American Students Identified as Emotionally Disturbed	% Meeting Criteria	81%	81%	90%	Yes 6/30/10

* Data from June 30, 2010