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Modified Consent Decree  
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October 13, 2014

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Superintendent of Schools  
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333 S. Beaudry Avenue, 24<sup>th</sup> Floor  
Los Angeles, CA 90017

Honorable Board of Education  
Los Angeles Unified School District  
333 S. Beaudry Avenue, 24<sup>th</sup> Floor  
Los Angeles, CA 90017

**Re: Report on the Progress and Effectiveness of the Los Angeles Unified School District's  
Implementation of the Modified Consent Decree During the 2013-2014 School Year**

Dear Dr. Deasy and Board of Education:

Section 13 of the Modified Consent Decree (MCD) requires the Independent Monitor (IM) to present an annual, 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 set is 18 performance-based outcomes pertaining to students with disabilities (SWD) receiving special education services. Prior to this report, the District had met the requirements of 16 of the outcomes. The second set of requirements pertains to making District schools accessible to individuals with disabilities. The third concerns the development and implementation of the My Integrated Student Information System (MiSiS).

This report addresses the status of the District's performance on three outcomes, making schools accessible and MiSiS. It also includes discussions regarding schools of choice, an update on one particular outcome, the annual hearing, an update on the complaint response unit and the substantial compliance criteria.

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 used to measure performance on the target. Data used in the analyses are validated and derived from District data sources. The appendices to this report contain studies and other analyses the IM used to make determinations on the District's performance of the outcomes.

This report addresses the following outcomes:

- Outcome #7: Placement in the Least Restrictive Environment
  - Part 1: Placement of SWD at Special Education Centers
  - Part 2: Students at Co-located Sites will Participate 12 of the Instructional Day with Their Non-Disabled Peers

- Outcome #13: Delivery of Services
- Outcome #16: Increase In Qualified Providers
- Outcome #10: Timely Completion of Evaluations

It also reports on:

- Making Schools Accessible
- Schools of Choice – Charter and Magnet Schools
- Data Systems – My Integrated Student Information System (MiSiS)
- Annual Hearing
- Complaint Response Unit (CRU)
- Substantial Compliance

## OUTCOME # 7: PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT

- ◆ **Outcome 7 - Part 1:** Reduce the number of students with moderate to severe disabilities ages 6-18 at special education centers by a total of 33% over three years, beginning with the 2012-2013 school year.

Placement of SWD at Special Education Centers

School Year	# of Students	# of Students Reduced from Target	% of Students Reduced
2013-14	1,621	569	25.98%
2012-13	2,121	69	3.25%
2011-12*	2,190		

\* Baseline Year Data

- ◆ **Data Source:** Students in the Special Education Census database, ages 6 to 18, enrolled at special education centers on April 15 of each school year make up the dataset.
  - Baseline data = 2,190 students at centers (April 15, 2012). The target is a reduction of 723 students for a total number of no more than 1,467 students enrolled at special education centers by 2014-2015.
- ◆ **Note:** The percentage of SWD at co-located schools shall not exceed 28% of the school population. (Average of the total number of SWD divided by total school population at eligible co-located schools, ages 6-12 for elementary, ages 13-18 for secondary). The number of general education students used in this calculation shall not be less than the number reflected in the California Longitudinal Pupil Achievement Data System (CALPADS) during the initial year in which the co-location of the designated schools occurs. For students to count as being enrolled at a co-located school, the number of special education students shall not exceed 35% of the population (ages 6-12 for elementary, and ages 13-18 for secondary). SWD who are outside the approved age ranges described above for co-located schools will be counted as attending a center for the calculation purposes of Outcome 7-Part 1.
- ◆ **Discussion:** Outcome 7-Part 1 requires the District to reduce the percentage of students attending special education centers by 33%. The District presented a two-year plan beginning July 1, 2012 for achieving this outcome by merging four centers with nearby general education campuses. These schools include: Blend and Van Ness Elementary; Banneker and Avalon Gardens Elementary; McBride and Grand View Elementary; and Miller and Cleveland High School. The Parties agreed to establish student population parameters for the new co-located sites to ensure that they did not consist primarily of SWD.

This Outcome's performance is based on enrollment data from April 15, 2014<sup>1</sup>. The District has reduced the number of students attending centers by 25.98%. This demonstrates considerable progress toward achieving this Outcome. However, it falls short of the 33% target, and therefore this part of the Outcome is not met.

During the 2013-2014 school year, the District relocated 26 classes from special education centers and opened two new classes at a middle school. This resulted in 200 students from centers now receiving instruction at general education campuses. The population of students also decreased due to limited new enrollments at centers and students who aged-out or turned age 19, for the purpose of this Outcome. For the 2014-2015 school year, 20 classes were relocated, with one new class opened. It is projected that this will decrease the population of students attending centers by 160. If new enrollments at special education centers remain low, the District is likely to achieve this Outcome by the end of this school year.

The District has made considerable efforts in relocating students from centers to general education classes, despite political and logistical challenges. These efforts have occurred over the past three years and demonstrate a commitment for integrating students with moderate to severe disabilities.

<sup>1</sup> Due to varying enrollment throughout the year, the Parties agreed to a specific date to measure progress.

During the 2013-2014 school year, the OIM, Plaintiff's Counsel, representatives from the Division of Special Education (DSE) and Access Compliance Unit (ACU) visited co-located sites and schools where classes from centers had been relocated. The visits aimed to observe the integration activities at the co-located schools and the efforts to address the accessibility needs at sites. This section will report on the progress noted regarding program accessibility, while the discussion on Outcome 7.2 will include observations from the integration activities.

Eight schools were visited in June and August 2014 to examine the progress of renovations or proposed plans for improving program accessibility. This included three of the co-located sites. For these sites, the District had prepared a three-year plan for removal of barriers and renovations. The District is in the second year of the plan. For the other sites, representatives from the DSE and ACU walked the sites, explained the selection of the classrooms and proposed barrier removal and renovations.

The visits found an overall lack of readiness and consideration for ensuring program access, particularly at those non-co-located sites. Concerns were noted with the District's decisions regarding access to bathrooms and changing rooms, and bus drop-off zones. Changing rooms were an area of particular concern, with one school offering one such room used by three classrooms. Others were located inside classrooms that lacked running water and drainage. Decisions for the selection of bathrooms were also questioned, particularly at a school where the bathrooms to be renovated were over 350 feet from classrooms despite bathrooms being nearby. Further, the renovation isn't expected to begin until summer 2015. Two schools had problems with the area selected for the bus drop-off zone. One required students with visual impairments to navigate slopes and uneven steps to get to their classrooms. The other contained large barriers in the path of travel and did not present a feasible option. For those sites with three-year plans, barrier removal and renovations were inconsistent with the scopes of work provided. In some instances, work had not been completed or renovations were not built compliant.

Decisions for the placement of students with visual impairments also were questioned. The classrooms selected were in an isolated part of the campus with inaccessible bathrooms. The students were situated near the bus drop-off zone, but were required to navigate slopes, uneven steps, tripping hazards and protruding objects to attend the main building and lunch area. Truncated domes had also been installed in the perimeter of the walkway in front of the classrooms. It was explained by representatives of the DSE that these detectable warning surfaces were placed for training purposes; however, the purpose of truncated domes is to alert a person with visual impairments of impending danger such as vehicular traffic and/or a grade change. The inappropriate use of these detectable warnings and lack of them in locations where required highlighted a lack of understanding and training by representatives of the DSE. Questionable decision making and a lack of a coordinated plan for improving program accessibility were also noted, raising concerns about the capacity of those responsible for these efforts.

At the conclusion of the June visit, the IM noted that the District was to provide a plan based on surveys to address immediate and medium range needs for barrier removal at these sites. It also was emphasized that the District was to address the issues related to bus drop-off zones, bathrooms and changing rooms prior to the beginning of this school year. Plans to revisit these sites at the beginning of the school year also were set.

On August 6, 2014, the District provided plans for barrier removal at five sites, as well as updates for two of the co-located sites. The OIM revisited the sites with staff from the ACU on August 25-26. The District had addressed some issues related to the bus drop-off zones and plans for changing rooms and bathrooms. Additional concerns were noted, particularly the lack of running water and drainage in classrooms where students required changing, feeding and health care protocols.

While some of the primary issues had been resolved, the walk-throughs provided a limited understanding for the plans due to the District's refusal to send representatives from the DSE and/or those responsible for the creation of the plans and its oversight. To be clear, the ACU assisted in this endeavor by providing the DSE surveys of these schools, but were not involved in the development of the plans and/or any decision making processes. Another concern was the lack of involvement in the development of the plans by school administrators or staff. Only one administrator was aware of the ongoing and future work to be done at a particular school, while the remaining principals had minimal to some knowledge of the efforts to improve program accessibility.

On September 2, 2014, the IM provided the Office of General Counsel a letter summarizing the site visits and subsequent debriefing meeting (See Appendix A). The IM noted that “the District’s refusal to make staff available from the DSE limited the ability for having meaningful discussions regarding the work plans to make these schools accessible. The District also failed to identify any individual responsible for the development and oversight of the work plans, with the exception of those at co-located sites. Additionally, the District failed to provide the necessary information and/or documents requested, further limiting the OIM’s ability to effectively monitor Outcome 7.” The IM also noted “a clear void in the leadership, management and accountability of this effort, which has an impact on students accessing programs, goods and services.”

As a result of these visits, the IM directed the District to provide the following: identify an individual or persons responsible for the design, management and oversight of the program accessibility efforts at these schools; revise and update work plans for each site with detailed information including expected date of completion; a written monthly summary on the progress at each site; a report for each site on the location, intended use and necessary resources needed for changing rooms; copies of all task orders and documentation on renovations associated with program accessibility at each site; and a plan for those classrooms with portable lavatories to ensure that the necessary plumbing and drainage is available. The District is also required to meet with principals and school staff to obtain input on barriers to be removed and gather issues that may be impacting program accessibility. Principals are to receive a copy of the revised work plans with quarterly updates on progress of the renovations.

In September 2013, the DSE funded the assignment of a position to provide full-time support to the accessibility efforts at the general education campuses where programs have been newly opened and for those to be opened in the future. While it was initially reported that this individual was knowledgeable of accessibility legal requirements, it became clear that this was not the case. The District later acknowledged that the primary role of this position was to facilitate and oversee projects, and not to provide expertise on program accessibility.

It’s apparent that outside the ACU, the District continues to lack the capacity for developing program accessibility at its schools. This has long impacted the effectiveness of the Rapid Access Program (RAP) or on-demand program. While it makes sense that staff from the DSE assumes leadership and responsibility for ensuring program accessibility, its effectiveness will continue to remain limited unless staff are adequately trained and knowledgeable. During the 2014-2015 school year, the District must identify staff responsible for ensuring program accessibility. This group is required to participate in training that is approved by the OIM. On October 1, 2014, the District provided the OIM the name of an individual fully responsible and accountable for this endeavor.

The District has completed the merging of three of its co-located sites. As of this year, students are fully enrolled and have been relocated to the general education campuses. While the District has maintained a steadfast commitment to the relocation of classes from centers to general education campuses, it must improve its capacity to ensure program accessibility. The District is on track to meet this outcome by the end of this school year, and should commit the necessary resources to facilitate the integration of students at these sites.

◆ **Determination:** Outcome 7 - Part 1 not met\*\*

\*\* The District has been provided explicit directions concerning remedies. To date, directed actions have not been fully compliant. This Outcome will not be considered successfully met until all programs are accessible at the relevant sites. Notwithstanding efforts to date, there has not been sufficient demonstration of commitment to remedy the serious deficiencies identified. Students must be attending facilities that are fully accessible.

## OUTCOME # 7: PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT (CONT.)

- ◆ **Outcome 7 - Part 2:** Students with moderate to severe disabilities at co-located schools shall participate with their non-disabled peers in general education classes an average of 12% of the instructional day and during lunch, breaks/recesses and school-wide activities.

SWD at Co-Located Sites Participating 12% of Instructional Day with Their Non-Disabled Peers

School Year	Total # of Students	Average % of Time in General Education
2013-14	280	27.65%

- ◆ **Data Source:** Students in the SPED Census database enrolled at eligible co-located schools (ages 6-12 for elementary and ages 13-18 for secondary) on April 15 of each school year make up the dataset.
- ◆ **Note:** Students with moderate to severe disabilities at co-located schools shall participate with their non-disabled peers in general education classes an average of 12% of the instructional day and during lunch, breaks/recesses and school-wide activities.
- ◆ **Discussion:** The second part of the Outcome requires students at co-located sites to participate with their non-disabled peers in general education classes an average of 12 percent of the instructional day. Not all students with moderate to severe disabilities at each co-located site must be integrated for this amount of time, but the average of these students must meet or exceed this target.

This is the first year for monitoring this part of the Outcome. During the 2013-2014 school year, class schedules and IEPs were collected for students attending the co-located sites. Information regarding integration in the general education settings from both sources was compared and analyzed. Performance for this Outcome is based on class schedules, which more accurately represents time spent in the general education setting. The findings were disaggregated by school site.

The review found that the average time spent in general education classes is 27.65%, exceeding the target of 12% (See Appendix B). Additionally, the majority of students (84.3%) have schedules that indicate time in the general education setting for 12% or more of the day. These findings must be interpreted with caution and are considered positively skewed due to the high percentage of students (46.8%) at Cleveland and Miller High Schools. Despite this, it appears that the District is on target to meet this Outcome.

Integration time varies by school, with Avalon Gardens showing the lowest (8.32%) average time spent in the general education class, while Grandview (28.01%) and Van Ness (28.42%) show that on average SWD spend less than one-third of the day in general education classes. Integration for students attending Cleveland (43.0%) and Miller (24.87%) must be viewed carefully since the only integration activities that occurred last year were students from Miller attending physical education classes on the Cleveland campus. The integration reported at these schools primarily occurred within school for Cleveland students and in the community for students attending Miller. While this may be appropriate as determined by IEP teams, these sites do not meet the criteria of being co-located.

Students received the following integration classes with the highest frequency: PE (55.2%), music (35.5%), visual arts (30.3%), dance, (17.2%), library 14.5%, gardening/cooking (13.1%) and theater (12.4). Opportunities for integration also varied, with Avalon Gardens offering the least number of classes (6), while Grand View and Van Ness offered 10 each. Students attending Cleveland were offered nine classes, while Miller had the highest with 21. The opportunities at Miller reflect its curriculum of being a Career and Transition Center, where courses such as auto maintenance and fashion design are offered.

During the 2013-2014 school year, the OIM and Plaintiffs' Counsel visited these co-located sites multiple times to observe integration. Overall, efforts were noted for integrating students at the three co-located sites, but results varied by school. As noted above, Grand View and Van Ness had more classes available for integrating SWD with

their general education peers. It was also noted that structured integration activities also were in place during lunch and recess. It was noted that one school had invested resources partnering with non-profit and community groups to provide more opportunities for integration. The differences in classes offered raises concerns over inequities among these sites and should be addressed.

Schools reported receiving support by the DSE during the co-location; however, two of the three thought they were mostly on their own for implementing this integration initiative. Two also noted wanting more say in the type of program support provided by the District, for classes that are more appropriate for their student populations.

During the 2014-2015 school year, the OIM will continue to collect student schedules for fall and spring semesters. Observations will be conducted to examine the substantive nature of the integration.

- ◆ **Determination:** Outcome 7 - Part 2: On target to be met.

### OUTCOME # 13: DELIVERY OF SERVICES

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

Delivery of Services

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*
2013-14	96.4%	*N/A	96.2%	*N/A
2012-13	98.1%	*N/A	97.7%	*N/A
2011-12	94.1%	*N/A	94.5%	*N/A
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 eliminated as part of the Services Study during the 2006-2007 school year.

- ◆ **Data Source:** Services Study
  - Office of Data and Accountability and American Institutes for Research (AIR).
- ◆ **Outcome:** By June 30, 2006, the District will provide evidence that at least 85% of the services identified on the IEPs for SWD have a frequency and duration that meets IEP compliance. For the purposes of assessing frequency and duration, provider absences will constitute evidence of service provision if such absences are the result of short-term (maximum two consecutive weeks) illness, family emergency or jury duty. Student absences/no shows will also constitute evidence of service provision.



Frequency and Duration of Services

School Year	IEP – Log Frequency Agreement	IEP – Log Duration Agreement
	% of Services with Frequency at Least Equal to the IEP	% of Services with Duration at Least Equal to the IEP
2013-14	84.4%	67.7%
2012-13	86.0%	71.4%
2011-12	83.5%	70.2%
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 (ODA) and American Institutes 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 like the Resource Specialist Program (RSP) and related services such as speech and language, and occupational and physical therapy. For the purpose of this study, evidence of eight weeks of service is required for meeting both the frequency and duration requirements as specified in a student's IEP. This Outcome requires the District to maintain accurate records of service delivery in the Welligent system by thousands of special education teachers and service providers.

The provision of services to SWD in the District has been examined over the course of the MCD. The OIM, ODA and AIR have worked together to better understand service delivery and have explored other areas of inquiry related to identifying school-level factors that may contribute to challenges for delivering services and examining the effectiveness of a series of reports utilized for self-monitoring service delivery ("300 Reports"). This has included conducting focus groups of providers and managers, as well as an online survey of all providers.

During the 2013-2014 school year, the ODA and AIR, in collaboration with the OIM, conducted a study to measure the delivery of service to SWDs (See Appendices C and D).

Overall, the District's performance showed a slight decrease for all targets, meeting one target, and not meeting the remaining two targets for this outcome. The District's performance on the first part of the outcome (Evidence of Service) meets or exceeds the target level (93%) for demonstrating evidence of service for students with specific learning disabilities (SLD) (96.2%) and for students who have a disability in all other categories (96.4%). This part of the outcome measures evidence of students who received at least one session of the services specified in their IEPs for the eight-week period.

To assess frequency and duration, the study compared the number of sessions and duration minutes specified in the IEPs and information documented in the Welligent provider logs within the same time period. Students

must receive 98% of all minutes prescribed to meet the duration requirement of the outcome<sup>2</sup>. The District was close (84.4%) but fell slightly below the 85% of the target for frequency.

All services met the 85% frequency target except: deaf and hard of hearing (84%), school mental health or counseling (81%), speech and language (79%), occupational therapy (77%), and physical therapy (71%). The decrease noted for students receiving physical therapy was significant, from a performance of 91% observed the 2013-2014 school year.

About 53% of the cases that did not meet the frequency requirement (n=696) were missing one session (n=325). The largest percentage of those missing services by more than one session was resource specialist program (RSP) and non-public agency (NPA) behavior intervention services, at 85%. This is likely due to services that are provided daily or multiple times a week, which may limit providers' opportunity for providing make-up sessions. As noted above, 84.4% of the students in the sample received all of the sessions at the frequency specified in their IEPs. This number would increase to 92% if those only missing one session were included.

The performance for duration noted a decrease from last year (67.7% from 71.4%) and continues to fall well below the target. The only service to meet the duration target was LRE services (88%). Pre-school (84%) and visual impairment (82%) services were also close to the 85% target. The following services had the lowest duration rates: behavioral intervention services provided by NPAs (48%), RSP (65%), school mental health (66%), physical therapy (66%) and speech and language (68%). A significant decrease was also observed for physical therapy service from the previous year (85% to 65%). Overall, seven of the eleven services noted decreases from last year, raising questions on the overall effectiveness of interventions and concerns regarding staffing levels and workloads.

Cases that did not meet the duration requirement (32.3%; n=1,379) were further examined. Thirty-eight percent of these cases were missing service time equivalent to one session. If those missing one session were included and considered meeting duration, the performance would increase to 79%. Services with the largest gap between provided and required duration were again led by RSP and behavioral intervention services delivered by NPA providers. These services are typically provided daily which may explain the low rate of duration since missing one day of service has a considerable impact on meeting the duration target and may be difficult to make up.

Reasons for not providing services were examined for cases not meeting the duration requirement by one session. The review found that 21% of the cases that missed the duration requirement by one session were due to attendance at an IEP meeting, 10% were the result of a provider absence, and 59% did not indicate any reason for missing the session. The latter percentage is of concern to the OIM because it indicates providers fail to provide appropriate documentation for service delivery. The OIM observed similar findings from the previous year, and similar questions remain about the effectiveness of interventions.

To further test the impact of services that are slightly under the required duration on the population estimates, the study examined students who received services within 10% and 15% of the required duration minutes reported in the IEP. For example, if a student is to receive counseling for 30 minutes a week, or 240 minutes of service over an eight-week period, the student would require at least 216 minutes (90%) or 204 minutes (85%) to meet these adjusted criteria. The analysis found that 73.5% of the population received at least 90% of their total minutes of prescribed services, and 82.0% received at least 85% of their minutes.

After the 2011-2012 annual report, the District was required to submit a two-year targeted strategy that addressed issues identified from the provider surveys. To assist the District in determining if additional staff is necessary and/or responsibilities can be reduced or eliminated, the plan was to focus on existing policies and practices and the determination of caseload assignments; analyses of current staffing levels and workloads;

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<sup>2</sup> Under the current methodology, the study considers the duration requirement to be met if it falls within 2% of the total required minutes over the eight-week period.

and additional job factors affecting providers. The District submitted the targeted strategy plan on March 21, 2013 to address these issues.

On October 11, 2013, a general update was provided on the status of some of the activities of the targeted strategy plan. The update noted that the majority of the global activities had been incorporated in the Division of Special Education Strategic Plan 2015. The District had initiated the work on activities related to implementing effective caseload/workload practices and policies and implementing effective class scheduling practices. It also was in the development phase of improving the service tracking system, and reported having established a central office responsible for monitoring and applying corrective actions.

A second update was provided on September 19 and 25, 2014. The following discussion highlights some of the efforts included from the update of the two-year plan. An area of concern noted by providers during the OIM survey and focus groups conducted last year was the issue of how caseloads were determined and the factors associated with workloads impacting service delivery. The District reported that a workgroup of representatives from each service was established to examine issues related to workload versus caseloads. The workgroup identified effective practices, which it will finalize into a framework to be piloted for the 2015-2016 school year. To examine practices in other school districts, a questionnaire was distributed and interviews were conducted with 13 districts around the nation. Based on the findings, the District concluded that its caseloads and assignment practices are similar to those with large urban school districts. Factors that influence workload were found to include the location of schools and the amount of services delivered at each site. While these findings may provide some insights, it is unclear if or how the District will address this issue.

Two issues raised that may impact the delivery of services were the practices regarding the prescription of services and the scheduling of IEP meetings. The District examined the policies and practices regarding prescription of services and recommended practices to maximize service delivery and determined which prescriptions were successful by program. For this school year and next, training modules will be developed for each service type, and the District has said it will pilot the successful prescription practices in one to two disciplines to determine its effectiveness. A questionnaire also will be developed to gather information from other districts and professional organizations, such as the Council for Exceptional Children, during the 2014-2015 school year in an effort to examine practices for scheduling IEP meetings in the future.

Scheduling of secondary students was also noted as a factor impacting service delivery. The District conducted a survey of the scheduling practices for secondary schools and summarized its findings. During this school year, the District will include training on how to program SWD during administrator meetings as well as professional development modules around master scheduling for RSP students.

The District will continue to examine issues related to the effective tracking of service delivery in the Welligent system. These include issues such as: limitations within the scheduler module; variables associated with different school levels (elementary, middle and high); and documentation of services by substitute teachers. It will also examine enhancing efficiencies by importing data such as attendance from the MiSIS.

While the District has made some progress on items of the two-year plan, many of the timelines of the items have been extended through the end of this school year. Some will proceed through the 2015-2016 school year. The OIM will continue to monitor the implementation of the activities of the two-year plan.

As noted in previous reports, Outcome 13 is a simple compliance requirement: to provide SWD the services specified in their IEPs. Concerns regarding the limitations with the methodology of this outcome have also been well documented, particularly with the measure used for duration. In the last annual report, the IM encouraged the Parties to reexamine the appropriateness of the duration target. The Parties agreed to have the OIM provide alternative ways to measure service delivery, which was provided on May 5, 2014. On May 12, 2014, the Parties met to discuss these alternatives. The District still has not pursued further discussions or proposed alternatives for modifications to Outcome 13.

While this year's decrease in performance is minimal and it is difficult to conclude the causes of this decline, the OIM will continue to examine variables that may impact service delivery. This year the District is required to

provide the following information for each service: Staffing levels with caseloads and school assignments of each provider; lists of schools that demonstrate performance below the 85% duration target; and corrective actions taken, including offers of compensatory services to parents. This information will be provided on a quarterly basis.

Compliance with the service delivery requirements as specified in students' IEPs is closely tied to the District's obligations for having a system in place to ensure substantial compliance. The OIM will work closely with the District related to the requirements under the Substantial Compliance framework, including the monitoring of service delivery and corrective actions to address non-compliance. It is imperative that the District continue to commit the necessary resources for the delivery and monitoring of services to achieve disengagement.

- ◆ **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 IM shall not certify under paragraph 88 of the MCD 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
2013-14	3,770	96.4%
2012-13	3,739	96.3%
2011-12	3,784	96.0%
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 Source:** Human Resources/Personnel Research. Classroom teachers make up the dataset.
  - 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 after all other outcomes are met and the District has achieved and maintained at least the 88% level. As of June 15, 2014, 96.4% of the District's special education teachers were fully credentialed.
- ◆ **Determination:** Outcome 16 is met and the District will be disengaged from this Outcome after all other Outcomes are met and the District has achieved and maintained at least the 88% level.

## OUTCOME # 10: TIMELY COMPLETION OF EVALUATIONS

- ◆ **Outcome:** By the end of the 2005-2006 school year:
  - a. 90% of all initial evaluations shall be completed within 60 days.
  - b. 95% of all initial evaluations shall be completed within 75 days.
  - c. 98% of all initial evaluations shall be completed within 90 days.

An initial evaluation is any evaluation other than a District-initiated three-year reevaluation. Completion means that the evaluation has been completed and an IEP meeting convened. If the evaluation or IEP meeting is delayed because of a parent request or the child is unavailable for testing, the completion period shall be extended by the period of such parental request or unavailability.

Evaluations

School Year	# of IEPs	Within 60 Days (50 Days prior to 10/8/05)		Within 75 Days (65 Days prior to 10/8/05)		Within 90 Days (80 Days prior to 10/8/05)		Over 90 Days (80 Days prior to 10/8/05)	
		#	%	#	%	#	%	#	%
2013-14	16,489	14,012	85%	15,237	92%	15,759	96%	730	4%
2012-13	14,056	12,231	87%	13,105	93%	13,434	96%	622	4%
2011-12	14,079	12,603	90%	13,372	95%	13,628	97%	451	3%
2010-11	14,282	12,991	91%	13,714	96%	13,960	98%	322	2%
2009-10	14,762	13,423	91%	14,222	96%	14,496	98%	266	2%
2008-09	15,671	14,199	91%	14,956	95%	15,251	97%	420	3%
2007-08	15,874	14,345	90%	15,229	96%	15,523	98%	351	2%
2006-07	14,438	13,142	91%	13,728	95%	14,010	97%	428	3%
2005-06	13,465	11,565	86%	12,495	93%	12,933	96%	532	4%
2004-05	11,213	7,025	63%	8,870	79%	9,671	86%	1,239	11%
2003-04	12,300	8,142	66%	10,038	82%	11,056	90%	1,244	10%

◆ **Data Source:** Welligent

- Numerator is the number of initial evaluations completed and the IEP convened within the appropriate number of days (60, 75 and 90).
- Denominator is the number of requested initial evaluations according to the number of days overdue on June 30, 2008.

- ◆ **Discussion:** This outcome requires the District to complete an initial evaluation within the timelines required by law<sup>3</sup>. The District is to complete 90% of all initial evaluations and hold an IEP within 60 days. During the 2007-2008 school year, the District completed 90% of the initial evaluations within the 60 day timeframe, 96% within the 75 day timeframe and 98% within the 90 day timeframe, based on data from the District's Welligent system.

This update is being provided due to the decrease in performance for completing timely evaluations. The slippage in performance observed over the past two school years raises concerns over the effectiveness of systemic safeguards to prevent non-compliance and staffing levels.

<sup>3</sup> At the beginning of the MCD, California law required that evaluations be completed within 50 days, but as of October 2005, California law changed to correspond with the Federal timelines of 60 days, at which time the Parties agreed to amend this Outcome to reflect the change in law.

The Welligent IEP system contains timelines and alerts to providers when evaluations are nearing the due date and when overdue. These alerts also are used for monitoring and therefore should trigger responses from supervisors to ensure compliance. If functioning effectively, these safeguards should prevent cases from becoming overdue.

Since systemic safeguards have not effectively maintained compliance, this raises questions regarding the impact of staffing levels at schools. This may include positions critical to the evaluation process such as service providers, school psychologists, administrators and MCD clerks.

The timely completion of evaluations is a primary indicator of substantial compliance. The OIM will work with the District in the future to better understand the factors contributing to this decrease in performance. It also will examine the effectiveness of its system to prevent non-compliance with timely completion of evaluations. Staffing levels also will be examined to ensure that schools have the necessary resources for complying with Federal and State special education laws.

- ◆ **Determination:** Outcome 10 met, July 30, 2008.

## 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 the 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 section will summarize the progress of the District toward meeting the requirements of Section 10: Facilities since last year’s report from October 2013. Since then, the District submitted 18 projects under the on-demand/ RAP.

### *\$67.5 Million Repair and Renovation Projects*

On August 10, 2011, the District met this requirement of the MCD.

### *\$20 Million On-Demand Projects*

The District made changes in the 2011 school year to streamline the process for requesting renovations for on-demand program accessibility and renamed the program RAP. This aimed to improve the response and completion time of projects requested. These changes also were designed to promote the use of interim plans while students await renovations, and ensure that requests approved are minor.

Since October 2013, 18 RAP requests were received. Eleven have been completed, three are under construction, and four are pending approval and are in the planning stage. Of those completed and under construction, four began construction or received a notice to proceed (NTP) within five weeks of the receipt of the request, eight projects took two to four months, and the remaining two projects took five to six months to complete. Once projects received the NTP and/or began construction, eight projects were completed within six weeks, three were completed or are estimated to be completed within two months, and the remaining three projects were completed or are estimated to be completed within five months. Overall, the length from the date of the request to completion and/or estimated completion is as follows:

- one project, three weeks
- one project, two-and-a-half months
- five projects, four months
- four projects, five to six months
- three projects, up to nine months

While the responses and completion times are improvements from past years, the biggest delays appear to be administrative in nature. Overall, 11 of the 14 projects were or are estimated to be completed within two months upon commencement of construction. Two of the three projects that took more than five months were larger in scope and included several items per request. The last project is minor in cost (\$1,600), requiring the installation of flashing lights to assist a student with a hearing impairment to recognize passing periods. The project is estimated to be completed within six months from the date of request. Of most concern is that nine of the projects completed were finished in June or later, meaning students did not benefit from the renovations during the school year. Another project requested in January is estimated to be completed in late September, also negating any benefit of use until the following year.



Another improvement noted is that the majority of projects are minor in nature with nine having costs under \$10,000 and three projects under \$35,000. The majority of these projects were for renovations to restrooms, including the installment of electrical outlets for the use of changing tables, and minor modifications to lavatories and toilet compartments. The two largest projects had sizable scopes of work and costs between \$135,000 to \$155,000.

There was contrast between projects that were executed efficiently. Some raised concerns. One project requested a temporary ramp to a stage so students could participate in graduation activities. This project was completed within three weeks from the date of request, and is an exemplary example of this process. Another request was made at the end of the last school year in anticipation of a student's attendance. While this project took four months to complete (two months were during summer), it included several items and is a good example of proactive use of the RAP process.

Two projects highlight the need for continued improvement in the streamlining of the RAP process. Both involved the installation of electrical outlets for the use of changing tables. One took four months, the other took six. However, they were not completed until the end of the school year. This is troubling because the principal requesting one of the projects noted safety concerns due to the use of an extension cord and an outlet outside of the bathroom. These projects were delayed due to administrative procedures, since the installation of the outlets took less than two weeks upon the NTP.

Overall, the RAP program appears to be more streamlined than in past years. However, the intent of this part of the MCD is to provide rapid program access. The fact that 10 of the projects requested were not completed during the school year raises the question of the effectiveness of the program. Only three of the projects were requests made at schools where programs for students with moderate to severe disabilities have been placed on general education campuses, including one co-located school. These projects were recent requests made at the conclusion of this past school year (June and August 2014). Considering the observations noted above in the discussion of Outcome 7.1, this program was not utilized during the 2013-2014 school year, raising questions of the effective use of the program by District staff responsible for the implementation of this outcome.

The District must review its administrative procedures to further promote timely completion of renovations. The program should strive to promote an approach where a project is completed within a reasonable timeframe and provides program access. The project to provide a student with access to a graduation ceremony was pursued with the necessary priority and urgency and should be the goal for all future requests, especially since many of the requests received are for access to bathrooms and changing areas.

### ***New Construction, Repairs and Renovations***

The Parties entered into a stipulation agreement requiring the District to address non-compliant findings and work at 81 schools opened after June 30, 2006. The District also committed to surveying new schools not included in the 81 projects to ensure that non-compliant work be addressed prior to their opening. During the 2012-2013 school year, the District completed repairs at these schools and provided a sample of survey results of schools opened after the original 81 schools. The OIM reviewed and validated these repairs and surveys and found the District performed adequately in this area.

While past reports have focused primarily on efforts related to the stipulation agreement and new schools, this part of Section 10 clearly includes any new construction, repairs and renovations. This requirement does not delineate a timeframe or expenditure amount in order for this to be considered met. Although the District met many of the obligations of Section 10, the OIM has previously noted that it would continue to evaluate the District's processes to ensure that the necessary measures were taken to prevent non-compliance, particularly with conducting design reviews and comprehensive surveys. These processes will be discussed in the next section.

## *Section 17*

The OIM met with the District during the 2013-2014 year to discuss the expectations for meeting its obligation with Section 17, which requires the IM to determine there are no systemic problems within the District's schools that prevent substantial program accessibility compliance. The expectation for meeting these obligations include: the District's compliance with the ADA requirements of having transition plans that identify barriers and a schedule for removal at all District schools and buildings; the designation of an ADA coordinator; the capacity to conduct consistent and comprehensive surveys; and establishing a system to prevent non-compliance.

Despite several meetings to discuss the components of transition plans, offers of technical support by the OIM and its consultants, and assurances by the District to develop a plan for completing transition plans by July 30, 2014, there has been no observable progress to date. The District failed to provide any explanation on why it did not meet its own timeline. The District has committed to providing a plan to complete transition plans by October 31, 2014. The lack of progress highlights areas of concern regarding the organizational will and commitment by senior leadership for complying with the ADA and achieving disengagement. It was expressed on numerous occasions that in order for disengagement from the MCD to occur, the District must have a plan to complete transition plans within a reasonable timeframe. It was also discussed that the District must also have a sizable number of schools surveyed with transition plans completed prior to disengagement. The Board of Education must be committed to this plan. This expectation was expressed in an August 2014 meeting with the Chief Facilities Officer, and also was outlined in a letter to the Office of General Counsel on Sept. 2, 2014 (See Appendix D). The expectation of the qualifications and designation of an ADA coordinator also was discussed. Over the past 15-18 months, the District has made no progress in this area, which resulted in delays of potential disengagement.

The capacity to conduct consistent surveys has been a persistent issue over the course of the MCD. The District has been repeatedly advised that such a system is critical to ensuring substantial compliance, and the OIM has observed numerous instances where multiple survey formats and the use of consultants have resulted in non-compliant schools and barriers being built. In 2009, the District proposed using an electronic survey program developed by the OIM's consultants, and continued its primary use through 2012. The program also enabled the District to manage data and update surveys upon the removal of barriers, and print easy-to-follow reports to facilitate use in the field. This system guided inspectors through surveys, and produced consistent findings with photographs of non-compliant items. The District reverted to its existing paper checklist for completing surveys around fall 2013.

The District requested a meeting with the OIM in October 2013 to present its plan to have an electronic system for conducting surveys developed internally by the Information Technology Division (ITD). During this presentation, it was apparent that the District was in the early stages of development. Further, disagreements between management on the specifications of some aspects of its system were observed, raising concerns about the readiness of the system and the District's capacity to carry out such an endeavor. Shortly after this meeting, the OIM met with District officials and stated that while they were free to pursue this endeavor, there was doubt regarding the development of such a program. It was also expressed that the OIM would take a step back, allowing the District to take the lead in informing the OIM of progress made. In spring 2014, the OIM was notified that the District had contracted with an external vendor for an electronic survey. The District reported that staff received training in June 2014 and began using the system in July of that year, and noted that the system was not being utilized by all staff.

The District has not been able to provide a partial or completed new survey, but said it expects to submit one by October 31, 2014. This delay in adopting or developing a system for conducting consistent and comprehensive surveys is a concern as it impacts the District's capacity to begin conducting surveys for transition plans and ongoing renovation projects. While the District's current checklist may be adequate for conducting surveys, it does not contain the similar capacity to ensure consistent surveys. The checklist does not contain safeguards to ensure that surveyors capture all as-is conditions, and relies on the training and subjectivity of each individual. This subjectivity resulted in inadequate and inconsistent surveys in the past.

Another persistent area of concern is the non-compliant findings that have been attributed to the design phase. While the District has made headway by including the ACU in design reviews, the process has been voluntary. The impact of this limitation was recently observed at two sites visited, where bathrooms at each site had been renovated without the knowledge and involvement of the ACU. This resulted in the renovations failing to be built compliant and creating barriers. This concern has been well documented over the years and evidenced by problems observed at new and existing schools. In last year's annual report, the OIM met with the state architect to discuss this problem and review three new schools that were built non-compliant with designs signed off by DSA. While the state architect acknowledged some discrepancies, these were attributed mainly to problems with capacity due to both the boom and bust in the economy. Concerns with the design review process have been repeatedly noted in the IM's annual reports and non-compliance due to such limitations that can only be characterized as a failure to prioritize resources to prevent non-compliance. This is particularly concerning considering the ACU's technical capacity. In August 2014, the OIM met with senior management of the Facilities Division and expressed this concern, and was assured that the ACU's involvement with design reviews would be mandatory.

While the District has made great strides to increase the capacity and management of its ACU, there has been an overall lack of leadership and commitment in the interest of complying with the ADA and the intent of the MCD. While the completion of repairs at 81 new schools and charter schools was an accomplishment, progress was plagued with missteps and delays. Many of the District's efforts have been reactionary in nature, and often progress has been followed by setbacks. Within the past 18 months, the District's progress has regressed because of questionable decision making. These decisions have impacted the District's progress with meeting the requirements of Section 10 and Section 17. In addition to delays in conducting transition plans, establishing a system for surveying schools and the limited role of the ACU in design reviews, the District also decimated the staff of the ACU during the 2012-2013 school year. It also reduced its staff to three specialists from January to October 2013. The ACU has since added seven positions, leaving it with 10 employees, almost a third of the 26 it once had. While the unit is considered fully staffed, the role and responsibility of the ACU has grown to include design reviews, transition surveys and construction support. The decision to cut staff puts into question the commitment and fundamental understanding for building compliant schools. The District must prioritize resources to ensure a system that is proactive and with an aim toward building inclusive, accessible schools and communities.

The District must demonstrate engaged leadership and commitment for building compliant schools and establishing a system to prevent non-compliance. This commitment cannot solely be driven by the requirements of the MCD and must become an internalized priority of the organization. This commitment must be reflected in policy, allocation of resources and credible action.

### ***Determination***

1. All new construction and renovation or repairs by the District shall comply with Section 504 and the ADA – **Improvement noted**
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 – **Total approved: \$67,523,202. 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 Additional credit approved: \$394,969. Total approved: \$13,683,525.**
4. Section 17. **No Progress**

## **SCHOOLS OF CHOICE**

### **CHARTER SCHOOLS**

Enrollment of SWD attending independent charters continues to show an upward trend for the fourth year. During the 2013-2014 school year, the enrollment at charter schools increased by 7.4% (n=6,594) while SWD

increased by 13.2%, or 1,087 students. This continued increase in enrollment of SWD is evidence that the changes to the policies and practices for servicing SWD has resulted in a positive outcome.

Number and Percentage of SWD who Enrolled at District-Operated and Charter Schools by School Year

School Year	Total # of Students Enrolled	% of SWD Enrolled District Operated Schools	# of SWD Enrolled Charter	% of SWD Enrolled
2013-2014	95,207	12.46	9,331	9.80
2012-13	88,613	12.30	8,244	9.30
2011-12	82,888	12.04	7,143	8.62
2010-11	69,444	12.10	5,699	8.21

### MAGNET SCHOOLS

The District continues to make progress in increasing the number of SWD who applied for and were selected to attend magnet schools. The 2013-2014 data show that the number of SWD who applied increased by 17.5% from last year. Those selected increased considerably by 662 students (55%). This growth is a testament to the effectiveness of the District's efforts to improve the recruitment, enrollment and retention of SWD at magnet schools.

The District is to be commended for this progress as it continues to increase educational opportunities for SWD to attend schools of choice with enriched academic programs.

Number and Percentage of SWD who Applied and Were Selected for Magnet Schools by School Year

School Year	Total # of Students Applied	# of Students Selected	% Selected for SWD who Applied
2013-14	3,065	1,861	60.72%
2012-13	2,608	1,199	45.97%
2011-12	2,401	857	35.69%
2010-11	2,126	664	31.23%
2009-10	2,238	850	37.98%
2008-09	2,061	575	27.90%

### DATA SYSTEMS

#### *My Integrated Student Information Systems (MiSiS)*

Section 11 of the MCD requires the District to comply with the stipulation to develop and implement an Integrated Student Information System (ISIS). This will require all schools, including charter schools, to utilize one common data system that is connected to all sites and enables instant access to students' records throughout the District.

Since the last annual report, the District was due to meet Milestones 7 and 8. Milestone 7 was deployed as scheduled in March 2014 and included two critical functions: master scheduling and ad hoc reporting. Two areas of concern were noted during that time. Subsequent to the deployment of the ad hoc reporting, it was noted that the training approach of "train the trainer," where participants were trained and then taught others, was unsuccessful. The other concern related to staff resource challenges impacting the project.

Milestone 8 was slated for deployment in August 2014, and was the largest bundle of new functionality containing 16 major modules. This included functions such as, but not limited to: enrollment, scheduling, transcripts, census, graduation standards and family consolidation. Additionally, the District chose to develop modules in MiSiS that had already been built in the SchoolMax system, rather than build temporary interfaces and postpone development. These additional modules included attendance, counseling, discipline and grades. While this may have been a good strategy for better system integration, it added additional work to Milestone 8. This was a large bundle of functions for delivery and implementation. During the initial planning stages of MiSiS, the District was cautioned on the potential challenges for meeting Milestone 8.

During the development of the software it was noted that programming outpaced the MiSiS team's capacity for conducting quality assurance (QA) work. It was also noted that the team lacked the adequate resources for QA testing, which resulted in several software code freeze dates not being met. This means that the programming should have been completed by this time but was extended. This delay caused the QA work to continue until the roll-out date in August.

Problems with the implementation of Milestone 8 have been well documented by the media, which highlighted problems with the enrollment and scheduling of students at the beginning of the current school year. While the District acknowledged problems with the implementation of these modules, it provided conflicting reports minimizing the impact and portrayed a quick resolution of problems (Appendix E). Due to these conflicting reports, the OIM conducted a telephone survey of 255 schools to better understand the impact on SWD. The nature and impact of these problems, as well as the findings of the survey, will be discussed at the end of this section.

The MiSiS Project continues to be managed with sound principles and consistent practices, as they relate to application software development. In contrast, the efforts related to data conversion and data interfaces appear to have been managed less rigorously, with omissions of requirements and a failure to understand data propagation to other systems. This resulted in a negative impact on other systems and all users, and has contributed to the decreased confidence in the MiSiS program.

The problems with MiSiS must be observed in two ways: those directly attributed to the MiSiS software and those which occurred as a result of data conversion and interface problems between different systems. While it may be difficult to sort out data integrity problems from those pertaining to the MiSiS software, particularly for users, these issues undoubtedly had an impact on schools and SWD. The effectiveness of the MiSiS will not be known until data integrity issues are resolved.

The data conversion issues also have impacted the effectiveness of the Parent Portal. The District decided to not activate this module until all parent-student association data are validated. The Parent Portal still does not contain special education and student discipline information. Additions to this module are anticipated.

The District did not meet all of the requirements of Milestone 8. The two primary areas that were not met pertain to the mandatory use of the Gradebook module by all teachers, and the mandated use of MiSiS by all charter schools. All teachers were required to use the MiSiS Gradebook module at the beginning of the school year, however, the District chose to delay this requirement until November and January for elementary and secondary teachers. The District acted in bad faith by attempting to propose such changes after making a unilateral decision and without following the agreed-upon procedures for making changes to the MiSiS plan. The District presented to the IM on August 6, 2014 a proposal to delay the mandated use of the Gradebook module along with a Board Informative citing reasons related to the readiness of the program and a lack of feedback from educators (See Appendix F).

In a response to this proposal, the IM noted that the District failed to thoroughly consult with the OIM and Plaintiff's counsel and that there was "sufficient history to adhere to the expectation that any proposed changes to the MiSiS implementation plan be provided to the parties in advance to any decisions being made." (See Appendix G) The IM also noted that the timing of the proposal carried "serious implications to educators and parents who would have not benefited from the ineffective implementation of the Gradebook module." For this

reason, the delay to implement the Gradebook module was approved. Further, the IM questioned the District's reasons for delaying the Gradebook module as stated in the Board Informative, noting that the module had been completed, tested and piloted by more than 700 educators who provided feedback, which was then incorporated into enhancements. It also questioned how the delay would prevent similar problems in the future.

The second major aspect of Milestone 8 that the District failed to meet is the mandated use of the MiSiS by all charter schools. Currently, only affiliated charters that were using the legacy system (SIS) are using MiSiS. This constitutes 58 of 254 schools chartered by the District. The OIM has repeatedly emphasized the importance of using the program and it reinforced its position at the January Steering Committee meeting. The lack of charter schools' use of MiSiS calls into question leadership's failure to implement the system's use.

The District acknowledged on September 1, 2014 that issues had arisen with the implementation of MiSiS at charters, and that communication with the IM and the Plaintiff's Counsel should have occurred earlier (see Appendix H). The District reported that 158 of the 213 independent charter schools had provided data files that were to be uploaded into MiSiS, and the MiSiS team was in the process of validating the data. While this was an important step in preparation for the August roll-out, much of these efforts have now become limited in value since data contained in these files may be outdated. The letter also noted that many independent charters have invested substantial resources into existing data systems over the past year, but emphasized that the District has made it clear to these schools that utilization of MiSiS is a mandated requirement. The District presented three options that it was exploring for getting charters to utilize MiSiS, and requested a meeting to discuss these options with the IM. It also requested a meeting with Plaintiff's Counsel following the agreed-upon protocols. However, the District did not request a change to the MiSiS plan relating to this requirement.

Noting a lack of "clear direction, coordination, communication and planning for the implementation of MiSiS at charter schools," the IM directed the District to provide weekly updates on the status of all independent charter schools not implementing the MiSiS (See Appendix I). This update is to include information on the status of the following: data files received, data file validation, data load completion, projected or actual date of implementation, and daily use of MiSiS. Additionally, the District must provide an explanation of the current plan for organizing communication, training and roll-out of MiSiS at these schools. Another concern expressed has been the lack of a single, designated project manager responsible for overseeing this endeavor. This has resulted in a fragmented approach and lack of understanding of the status of this effort. By November 1, the District must provide the Parties the name of the project manager for implementing use of MiSiS at charters. During the 2014-2015 school year, the OIM will continue to work with the parties on potential solutions for getting charters to utilize the MiSiS.

As noted above, to better understand the impact of MiSiS problems on SWD, and due to conflicting reports and feedback received from schools during the initial roll-out of Milestone 8, the OIM conducted telephone surveys of 255 school administrators which yielded 250 completed interviews. The survey aimed to better understand the impact of the problems associated with the Milestone 8 roll-out, particularly with problems identifying enrollment, placement and service information of SWD. Inquiries were also made into training, beliefs whether MiSiS has improved their special education programs, and any other problems experienced.

The surveys found that 201 schools were using MiSiS; however, only 13 of the 62 charter schools sampled reported using the system (See Appendix J). Of those using MiSiS, all but four schools noted problems with the program (n=201; 98%). The majority of respondents reported problems with MiSiS that impacted their ability to identify SWD enrolled at their schools. (n=163, 83%). Of these, half noted the degree of the impact to be major (n=83, 51%), while slightly less than half (n=70, 43%) believed it was a moderate impact. Five percent (n=9) noted the impact to be minor. When asked if these problems impacted their ability to have SWD in the correct program placements, 68.5% (n=135) responded yes. Approximately half characterized the degree of the impact as moderate (n=64, 47.4%), while 41% noted it was a major impact, and 12% (n=16) reported a minor impact.. Similarly, 69% noted that the ability to identify the type of services students received was impacted by the roll-out. Respondents believed the impact was both moderate (41%) and major (40%), with 16% citing a minor impact. Two percent of respondents noted that there was no impact on services.

While many of the respondents reported major and moderate impact on their ability to identify SWD enrolled at their schools, correct program placements and services students receive, many noted considerable efforts by staff to reconcile the data through work-arounds. This included efforts such as, but not limited to: reviewing hardcopies of IEPs; developing external spreadsheets and manually created lists; reviewing data from the legacy SIS system; and contacting parents' and students' previous schools. Many school officials who reported no impact stated that while MiSiS was not providing accurate data, they were able to program and schedule students due to the small size of their special education population, a high number of returning SWD and work-around efforts created by staff. School officials with larger special education populations reported higher degrees of impact and frustration.

More than half of the participants reported having received no training (n=112, 55.7%), while over one-third (n=71, 35.3%) believed the training was inadequate. Sixteen participants (7.9%) noted the training provided was adequate, while one stated it was more than adequate (0.5%). Many of the comments described the training as failing to provide hands-on experience, and noted the majority of the training was done through hardcopies of screen shots or "job aides, described as user guides." Additionally, some participants reported that at the time they received training the modules were not yet functional.

The survey confirmed that charter schools are not using MiSiS. While 13 respondents noted using MiSiS, only one school was using it as its primary system. The remaining noted that while school staff or the central office from their Charter Management Organization (CMO) were entering data into the system, they were still relying on their own systems. Some charter representatives not using MiSiS reported not knowing the use of MiSiS was mandatory and had recently purchased a different data system. Some charter school representatives were hesitant to participate in the survey, while others stated that they were not using MiSiS based on the direction from their CMO leadership.

Respondents reported a number of problems during the initial roll-out. Many expressed high levels of frustration and commended the hard work of their staffs for resolving enrollment, programming and scheduling issues. Some of the most frequently mentioned problems are highlighted below.

Interface problems between MiSiS and Welligent meant that the data between both systems were not transferring data accurately. This resulted in inaccurate data in both systems, where students would show up on one system and not the other. It was reported that the special education rosters had many inaccuracies or were not produced using MiSiS. This also affected the ability to find which services students were to receive. The enrollment of new students and finding new enrollees, particularly students in transition grades of kindergarten, sixth and ninth grades, created difficulty for staff. It was also reported that newly entered enrollment data would disappear and not be saved within the system. Access to SESAC reports also were noted, with participants noting difficulties generating and printing the reports. Some reported not being able to access the Welligent system to view students' IEPs, and providers not being able to log in service delivery. The OIM will resurvey schools this year to examine the ongoing impact of the MiSiS implementation

The District provided the Parties a letter on October 9, 2014, requesting a delay in the implementation of the Gradebook (Appendix K). An update on the progress of the implementation at charters was also included. The District proposes delaying the implementation of the Gradebook until the 2015-2016 school year. It acknowledged that the compromised data quality and integrity that occurred as a result of the roll-out, created a "significant impact" on its schools. It also recognized the insufficient effort and limitations to the approach taken for training teachers and staff. While this transparency is welcomed, it's difficult to understand the delay in communicating the significance of these problems. The update on the use of MiSiS at charters did not give clear information as to plans for its full implementation.

Despite these problems with the roll-out of Milestone 8, the District is committed to the implementation of MiSiS. Several issues need to be addressed to restore confidence in the software. The District must resolve data integrity issues as well as bugs associated with the program. Training must be enhanced and resources to provide support to schools must be allocated. The District must be transparent in communicating problems and resolutions. It must also ensure a successful roll-out of the Gradebook module.

Broader leadership concerns exist since the current MiSiS project director does not directly manage training and change management, data correction efforts, or the implementation at charters. This management structure has inevitably contributed to the problems associated with Milestone 8. Further, ITD is now essentially a software company with a very large client. This requires a commitment to adequately plan and budget resources for all aspects of this endeavor. Based on the performance with QA and training, it indicates that the District was not fully prepared for this commitment. Finally, strong leadership with a coordinated plan to implement MiSiS at all charters must exist.

## **ANNUAL HEARING**

As per the September 17, 2012 stipulation of the parties, the OIM held two annual hearings during the 2013-2014 school year. The OIM's hearings were held on November 7, 2013 and May 15, 2014. To facilitate attendance, a hearing was held in the morning and another in the evening. Notices inviting persons to attend were made available in English, Spanish, Chinese, Japanese, Korean, Russian, Vietnamese and Armenian. To promote the annual hearing, a direct mailing was sent to homes of parents of SWD; a District-wide mailing was sent to all schools including charter and non-public schools; and an ongoing advertisement was broadcast on the District's television station, KLCS.

The first hearing was attended by 131 people, with 51 presenting oral testimony. In addition, five letters and/or written comments were received. Individuals who presented specific complaints or problems were afforded the opportunity to meet with District staff to discuss the matter in greater depth to find a resolution. This resulted in a total of 20 referrals seen by District staff.

The most frequent concern related to special education centers (40%) and the merging of four special education centers with general education schools. Presenters also noted concerns relating to retaliation or bullying of staff or parents (13%), limited staff (i.e., aides, assistant principals and MCD clerks) (11%), problems with non-compliance with specific provisions or services of their child's IEP (9%), and parents feeling pressured to sign IEPs (9%).

The second hearing was attended by 85 people, with 42 presenting oral testimony. Twelve letters and/or written comments were received. Twenty-three people met with District staff to discuss their concerns. The main issues were disagreements over services and/or denial of services/assessments at IEP meetings (23%); problems with compliance with their children's IEPs (16%); concerns with the placement of students from special education centers to general education campuses (10%) and parents feeling pressured to sign IEPs (10%).

## **COMPLAINT RESPONSE UNIT**

The MCD established the Complaint Response Unit (CRU) and processes for reviewing and responding to parents' complaints. The CRU's primary function is to assist and facilitate families with inquiries and/or complaints regarding compliance with special education laws. The CRU is charged with providing parents a lawful response that demonstrates the District's legal obligation in addressing their inquiries and/or complaints.

During the 2012-2013 school year, at the request of the Plaintiff's counsel, the OIM studied the compliance of the CRU as it pertains to Section 9 of the MCD. The study also aimed to examine the effectiveness of the CRU in responding to parent complaints and reducing external complaints and due process cases. To determine this, the study included a review of all policies, procedures, and communication related to the CRU, including the Procedures and Protocols Manual, a review and analysis of all cases and corresponding lawful responses during the 2011-2012 school year, and interviews with a total of 23 staff involved with the complaint process of the CRU.

To summarize<sup>4</sup>, the study found problems with the procedures for receiving, categorizing, prioritizing and investigating complaints. It also found problems with the process for issuing a lawful response that lacked

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<sup>4</sup> The full report can be viewed: [http://oimla.com/pdf/20130607/CRUFinal3\\_13\\_13.pdf](http://oimla.com/pdf/20130607/CRUFinal3_13_13.pdf)



oversight and basic information, including the nature of the call/complaint and/or a lawful response. Additional problems arose from perceived beliefs by CRU staff that they lacked the necessary training to provide a lawful response and limitations within the CRU's data system for maintaining and reporting data.

The District provided a response to the OIM's study on May 13, 2013 and developed a plan for addressing these issues by July 2014. The following is an update of the District's efforts to improve the CRU's processes for reviewing and responding to parents' complaints.

The District reports that CRU staff and staff from the Division of Special Education's Call Center have received ongoing training from the Office of General Counsel, beginning August 2013. It also has enhanced online training for school administrators regarding Federal and State special education laws and the District's *Special Education Policy and Procedures Manual*. Revisions to the Lawful Response letter were made and sample letters were provided to the OIM on September 24, 2014. The letters now include information such as the nature of the call; the allegation of a violation as it relates to Federal and/or State law or the District's policies and procedures; and the action that the District will take to remedy the violation.

Several items on the plan were not completed and some are pending with extended timelines. The District had proposed including a satisfaction survey to the response by August 2013, and has extended this timeline to coincide with the expectant date for a fully functional Welligent call-in center by July 2015. Similarly, the District was to implement a uniform call-in center for all Division of Special Education offices (central and local) by July 2014. This too will now coincide with the implementation of the Welligent call-in center.

The District provided explanations for not completing two actions. The first involves the establishment of a voice-mail system for receiving calls from non-English and non-Spanish speaking callers. It noted that calls will be received utilizing the *Language Line*, which provides third-party interpretation. While the use of this vendor may be helpful, the intent of the voicemail system was to ensure that parents may call and be directed to a voicemail of their primary language and leave a message during working and non-working hours. The second regards the enhancement of the reporting functions of the current CRU data system while the new Welligent system was being established. The District noted that the system was antiquated and could not be enhanced. While this may be the case, it is expected that the new system contains the necessary functions to accurately report data.

The District provided and updated the *Procedures and Protocols Manual* on June 30, 2014 for the IM's approval. This was discussed with the OIM and is pending approval. The OIM will continue to monitor the implementation of the Welligent call-in center and work with the District to finalize the *Procedures and Protocols Manual*. It is important to point out that an effective system to receive, respond and manage parent complaints is a fundamental part of a system to prevent substantial non-compliance and will be an integral part of disengagement.

## SUBSTANTIAL COMPLIANCE

The MCD is a federal class-action settlement agreement that requires the District to address and improve its systemic compliance with special education law. The agreement charges the federally appointed court monitor with the determination to disengage the District from court oversight upon achieving compliance with the MCD.

The MCD 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." It also clearly delineates the requirements the District must meet in order to be disengaged from court oversight. Section 16 and 17 of the MCD summarize these requirements by stating:

*"Upon the Independent Monitor's certification that the District has achieved each of the outcomes in accordance with paragraph 87 above and in the Independent Monitor's judgment that the District's special education program has no systemic problems that prevent substantial compliance with applicable federal special education laws and regulations then sections 5, 6, 7, 8, 9, 12, 13 and 18 of this Modified Consent Decree shall*

*automatically terminate and have no further force or effect. The parties shall file a joint report informing the court of the termination of these sections."*

Section 17 of the MCD requires that the IM also must determine there are no systemic problems within the District's schools that prevent substantial compliance with the program accessibility requirements of special education laws and regulations.

To assist developing criteria for such judgment, the IM commissioned a report to examine what a compliance system would look like that effectively monitors compliance with the capacity to correct the issue. In June 2011, this report was provided to the Parties for review.

As noted in the 2012-2013 annual report, the IM noted that he believed the District was on track to successfully fulfill the requirements of the MCD within the timeframe of its own plans. At this time, the District proposed plans that aimed at fulfilling such requirements within two years or by the conclusion of the 2014-2015 school year. It also was noted that in concert with the Parties, the IM would begin to frame the expectations for such judgment.

A draft framework was provided to the Parties on April 30, 2014 for their review and feedback. Subsequent meetings were held with the Parties to discuss the framework and minor revisions were made. A final framework was provided on July 28, 2014 to the Parties (See Appendix L). This framework is based on the premise that the District must have a system to effectively monitor compliance and the capacity to correct noncompliance. The IM noted that "successful implementation and execution of such system will require the District to demonstrate initiative and engaged leadership." Further, the expectation is that the District commits the necessary resources to build and maintain the capacity of its system beyond the conclusion of the MCD.

The OIM will provide the necessary assistance in the development of such a system, upon the District's request. It will monitor the progress of this system closely and a section about it will be included in subsequent annual reports. The District is required to make publicly available an annual report on the implementation of all items within this framework by August 15, 2015.

## CONCLUSION

This report has documented the District's progress in meeting three components of the MCD. The report also provided updates on one outcome, schools of choice, the CRU and introduced the criteria for determining substantial compliance. The District has made progress on two of the three performance-based outcomes that remained unmet as of last year.

The District's performance on Outcome 7 continues to demonstrate its commitment for reducing the population of SWD in centers and their integration into the general education setting. Despite this progress, issues related to the planning and readiness of sites to ensure program accessibility must be addressed in order for this Outcome to be met. It is critical that the District dedicate the necessary resources to ensure students have access to programs, good and services, in addition to campuses that meet their health and safety needs. The IM commends school personnel, parents and members of the community for their work and patience to make a more inclusive education a reality.

Outcome 13 is a simple compliance requirement to provide SWD the services specified in their IEPs. Decreases in the performance on two of the three components of the Outcome raise concerns over the District's capacity to effectively address factors that may be contributing to the failure to meet this outcome. The limited progress on the District's interventions outlined in its two-year target strategy plan, and the extension of some timelines through the 2015-2016 school year, raise concerns regarding its will to meet this Outcome. Particularly, since many of the issues to be addressed are related to factors that providers have reported as impacting their ability to deliver services. Past reports have expressed doubts that the District would meet the duration target due to the limitations of the measure. The IM recommended the parties explore alternatives for measuring service delivery. Upon the request of the Parties, the OIM provided a series of alternatives but the District has shown no initiative to pursue these or propose any other options. The capacity to deliver and monitor service provision is an integral part of substantial compliance.

To achieve this Outcome and disengagement, the District must make the effectiveness of such a system a priority and act with a sense of urgency.

The District's progress has been stagnant in meeting the requirements of Section 10 pertaining to facilities. The limited progress has been a result of leadership decisions made around the delays for adopting a system for conducting comprehensive surveys, the reduction in ACU staff, and the voluntary process for design review. Before the IM can determine that the District has met Section 17, the IM must conclude that the District has no systemic program accessibility problems that prevent substantial compliance with program accessibility requirements of Federal and State laws. Progress on this has also been stagnant, and the District has failed to provide a course of action for completing transition plans and assigning an ADA coordinator. The District must continue to improve the effectiveness of its system that provides SWD accessibility to the programs they require.

The implementation of the MiSiS was impacted by data integrity and interface issues that created problems for schools in the identification, placement and enrollment of SWD. In addition, a poor training approach has created a negative impression on the readiness of the MiSiS software. The District must continue to expend all necessary resources to reconcile data problems, fix program bugs and support schools to ensure students are appropriately placed and serviced.

The IM expresses gratitude and acknowledgment of the additional work and commitment to resolve these problems by school staff and ITD. While the IM has confidence in the direct leadership of the MiSiS project, it has concerns with the broader leadership structure which does not provide full authority of all aspects of the program to the Project Director. This has resulted in fragmented awareness of problems and solutions. Further, the failure to have any independent charter schools utilizing MiSiS signals concerns with the lack of leadership and accountability for implementing the program at these schools.

An effective complaint management system is a fundamental piece of a program that prevents substantial non-compliance. While the District is in the process of implementing a new complaint management system with its Welligent call-in center, it has made minimal progress with its plan to improve the CRU. While it is understandable to expend resources on the call-in center, which promises to be more comprehensive, the District has not fully shared the roles, responsibilities and operating procedures for this new system.

Once the District has met all outcomes and requirements of the MCD, the IM must determine whether the District has a system in place to prevent substantial non-compliance. A framework with the criteria for determining substantial compliance has been agreed-upon by the Parties. The onus lies on the District to develop such a system and provide evidence that it has the capacity to monitor key compliance indicators and correct non-compliance. An example of this is the District's decrease in performance on the timely completion of evaluations, and the actions being taken to identify and remedy non-compliance at schools.

#### *Essential Accountability Provisions of the MCD*

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 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.

Section 8 states that the chief administrator of special education has the authority to direct District staff as necessary to correct any non-compliance with special education laws and regulations or prevent any such non-compliance.

While efforts and responsibilities to comply with the MCD may be bestowed on numerous personnel, ultimately, the chief administrator of special education is accountable for compliance with the MCD and applicable laws. This authority will be instrumental in the establishment of an effective system that ensures substantial compliance.

Finally, the IM believes that the District's potential for meeting the requirements of the MCD are within its control. The expectations for meeting the remaining outcomes and substantial compliance have been discussed and provided. There are no timelines associated with when disengagement will occur. Several timelines proposed by the District have now been extended. The delays in taking initiative for completing transition plans, exploring different options for Outcome 13 and establishing a system for substantial compliance have inevitably resulted in prolonging the MCD. The IM will continue to provide support and guidance, upon the District's request.

#### **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.

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

Sincerely,



David Rostetter

C: Hon. Judge Ronald Lew, Robert Myers, Catherine Blakemore, Matt Hill, David Holmquist, Sharyn Howell, Diane Pappas, Deneen Cox, Brigitte Ammons

Table A

#	Outcome		Current Status 6/30/13	Outcome Determination Status	Outcome Target	Outcome Met
1	Participation in the (STAR) Statewide Assessment Program (without modifications)	ELA/Math	86.2%*	85.2%	75%	Yes 6/30/06
		Comparable to Non-Disabled	97.6%*	95.0%	95%	
2	Performance in the (STAR) Statewide Assessment Program (at basic or above)	ELA	48.41%*	35.74%	27.5%	Yes 6/30/11
		Math	41.58%*	34.96%	30.2%	
3	Increase Graduation Rate		To be determined	55.98**%	39.79%	Yes 6/30/08
4	Increase Completion Rate/Reduce Drop Out		To be determined	72.4%**	76.3%	Yes By Stipulation of the Parties 9/14/12
5	Reduce Suspensions of Student with Disabilities		2.87%	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		87.2%	73.7%	73%	Yes 6/30/06
7	Part 1: Placement of Students at Special Education Centers		1,643	-24.98%	1,467	No
	Part 2: Students at Co-Located Sites will Participate 12% of the Instructional Day with their Non-Disabled Peers		280	27.65%	12%	No
8a	Increase Home School Placement: SLI/SLD		94.1%	92.7%	92.9%	Yes By Stipulation of the Parties 9/16/08
8b	Increase Home School Placement: All Other Disabilities	Grade K	60.4%	59.1%	65%	
		Grade 6	69.9%	65.0%	65%	
		Grade 9	68.2%	60.0%	60%	
8c	Increase Home School Placement: All Other Disabilities	Grades 1-5	62.5%	58.8%	62.0%	
		Grades 7-8	67.5%	60.3%	55.2%	
		Grades 10-PG	51.2%	41.4%	36.4%	
9	Individual Transition Plan in IEP (14 years and above)		99.9%	99.8%	98%	Yes 6/30/06
10	Timely Completion of Initial Special Education Evaluations	60 Days	87%	90%	90%	Yes 6/30/08
		75 Days	93%	96%	95%	
		90 Days	96%	98%	98%	
11	Response Time to Parent Complaints	5 Days	50%	54%	25%	Yes 6/30/06
		10 Days	77%	82%	50%	
		20 Days	95%	97%	75%	
		30 Days	99.2%	99.9%	90%	
12	Informal Dispute Resolution Prior to Formal Due Process (within 20 days)		83%	77%	60%	Yes 6/30/06

Table A

#	Outcome		Current Status 6/30/13	Outcome Determination Status	Outcome Target	Outcome Met
13a	Delivery of Special Education Services	SLD Only	97.7%	90.8%	93%	No
		Other Disabilities	98.1%	94.5%	93%	
13b	Delivery of Special Education Services	Frequency (# of times)	86.0%	81.8%	85%	
		Duration (length)	71.4%	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	78.4%	96%	85%	Yes 6/30/07
		45 Days	78.7%	99%	95%	
		60 Days	79.4%	99%	98%	
16	Increase in Qualified Special Education		96.3%	88%	88%	Yes 7/15/08 Not disengaged
17	IEP Team Consideration of Behavior Support Plans for Autistic and Emotionally Disturbed Students	Autism	64.9%	61%	40%	Yes 6/30/06
		ED	100%	97%	72%	
18	Comprehensive Evaluation of African American Students Identified as Emotionally Disturbed	% Meeting Criteria	81%	81%	90%	Yes 6/30/10

\* Preliminary Data

\*\* Data from June 30, 2012