

***Office of the Independent Monitor***

Modified Consent Decree  
333 S. Beaudry Avenue, 18<sup>th</sup> Floor  
Los Angeles, California 90017  
Tel: (213) 241-1797  
Fax: (213) 241-7551

DAVID ROSTETTER  
*Independent Monitor*

JAY R. ALLEMAN  
*Chief Analyst*

JAIME E. HERNANDEZ  
*Research Director*

May 9, 2016

Deneen Evans Cox  
Associate General Counsel I  
Los Angeles Unified School District  
333 S. Beaudry Avenue, 20<sup>th</sup> Floor  
Los Angeles, CA 90017

**Re: IM's Response to District's May 6, 2016, Letter**

Dear Ms. Evans Cox:

Thank you for your May 6, 2016, letter, which responds to our April 7, 2016, letter and the concerns regarding the changing stations at 153<sup>rd</sup> Street and Broadus Elementary Schools.

As you are aware, I followed up the April 7 letter with a report submitted May 6 concerning our review of 11 more PALs programs, which documents similar—and, in some cases, worse—conditions. This report directs the District to engage in an extensive planning effort to remediate these problems and eliminate their recurrence. The May 6 report also contains numerous citations of federal and state standards as well as District policies and procedures. These should suffice to answer any questions raised by your letter. We have also documented similar circumstances regarding the health and safety of students and, in two successive annual reports, have admonished the District to implement procedures to remediate these concerns.

Your letter raised concerns over my use of the terms “deliberate indifference” and “negligent.” I do not use these terms lightly. I am fully aware of their implications, as I have written expert reports for the federal court and provided expert testimony, including testimony in the Ninth Circuit, regarding the applicability of these terms to students with disabilities.

To be explicit, I use the term deliberate indifference to mean an awareness of facts from which the inference could be drawn that a substantial risk of serious harm exists. I use the term negligent to mean (1) marked by or given to neglect especially habitually or culpably and/or (2) failing to exercise the care expected of a reasonably prudent person in like circumstances.

The documentation provided clearly demonstrates that both of these apply.

I appreciate the steps described in your letter to address these problems and look forward to a comprehensive plan that will include these steps as well as the additional planning that I directed the District to engage in. Your letter states that the District is “in the process of obtaining the

necessary approvals to offer the following recommendations regarding restroom facilities for PALs classrooms.” I would appreciate any information on this process and an update of when the District will submit a plan that includes the required elements referenced in my May 6 report.

Sincerely,

A handwritten signature in cursive script, appearing to read "David Rostetter".

David Rostetter, Ed.D.  
Independent Monitor

C: Sharyn Howell, Michelle King, David Holmquist, Beth Kauffman, Robert Myers, Catherine Blakemore, Veronica Smith, Mike Torres, Mark Hovatter