

***Office of the Independent Monitor***

Modified Consent Decree  
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May 16, 2016

Deneen Evans Cox  
Associate General Counsel 1  
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:

I am writing in response to several items in your letter dated May 6, 2016. The first regards the following request:

The District respectfully requests that you provide any information you have regarding Diaper Changing Rooms/Toileting facilities ventilation requirements pursuant to code or otherwise so that the District may specifically respond to your general findings that ventilation at the school sites you have visited is improper or lacking.

A search of the LAUSD website found several ventilation requirements in the District's Office of Environmental & Health Safety (OEHS) page, with references to District bulletins and an external source (the US Environmental Protection Agency [EPA]) that schools must use to ensure indoor air quality. I am including excerpts here to assist you as you conduct due diligence in this matter.

The following describes OEHS environmental health and safety in LAUSD schools. It notes that the EPA developed an inspection model based on the LAUSD OEHS *Safe School Inspection Guidebook*, which includes requirements for ventilation and indoor air quality.

In 2001, routine health and safety inspections were initiated in all District schools to assess compliance with Federal, State and District requirements. The inspections are designed to assess compliance with 14 health and safety standards. Each of these standards are in the [Safe School Inspection Guidebook \(Revised September 2015\) \(\\*.pdf\)](#). At the time of each inspection, the OEHS inspector documents necessary corrective action, and issues a Corrective Action Notice and Compliance Scorecard. The effectiveness of this program is apparent in reviewing compliance scorecards for all schools for the years 2003 and 2006. In 2003, the schools were rated 39% poor, 59% fair and 3 % good. In 2006, the ratings were 7% poor, 74% fair and 19% good. The United States Environmental Protection Agency (US EPA) has recently released the Healthy

School Environmental Assessment Tool (Healthy SEAT) nation-wide for schools to implement an inspection program based on the model created by LAUSD.

The table below includes excerpts from the LAUSD OEHS *Safe School Inspection Guidebook*.

LAUSD OEHS *Safe School Inspection Guidebook* (Revised September 2015)

<i>Facilities and Equipment Maintenance p. 22</i>		
<b>Subtype</b>	<b>Corrective action for identified deficiency</b>	<b>Reference</b>
Restroom –Ventilation	Maintain restroom exhaust fans in proper working condition. If necessary, place a service call to the Maintenance and Operations Service Call Unit at (213) 745-1600.	Bul-735.1
<i>Indoor Environment p. 33</i>		
<b>Subtype</b>	<b>Corrective action for identified deficiency</b>	<b>Reference</b>
Odors – Indoor Air Quality	Ensure rooms are properly maintained to minimize objectionable odors.	EPA Tools for Schools
Tools for Schools	Implement the EPA’s “Tools for Schools Program” to address ongoing indoor air quality concerns. For assistance, contact Nursing Services at (213) 202-7580.	EPA Tools for Schools Program
Ventilation - Adequate	Ensure mechanical ventilation systems supply at least fifteen cubic feet of outside air per minute per occupant. Windows/doors shall be open or ventilation must run continuously during occupancy. Thermostats should be set to “fan on” position for continuous ventilation	EPA Tools for Schools; 8 CCR § 5142; 2001 California Building Code (CBC) § 1202
Ventilation - Exhaust	Ensure adequate exhaust ventilation for all activities emitting air contaminants. If necessary, place a service call to the Maintenance and Operations Service Call Unit at (213) 745-1600.	EPA Tools for Schools

A review of the EPA website found a reference guide addressing indoor air quality for schools. The following excerpt notes the purpose of ventilation, which is to remove indoor air pollutants. It lists areas that produce such pollutants, including restrooms.

EPA Reference Guide for Indoor Air Quality in Schools  
([https://www.epa.gov/sites/production/files/2014-08/documents/reference\\_guide.pdf](https://www.epa.gov/sites/production/files/2014-08/documents/reference_guide.pdf))

Ventilation is the process of supplying outdoor air to the occupied areas in the school while indoor air is exhausted by fans or allowed to escape through openings, thus removing indoor air pollutants. Often, this exhaust air is taken from areas that produce air pollutants such as restrooms, kitchens, science-storage closets, and fume hoods. (p. 6)

The importance of air quality is noted on the EPA website and included for your information.

Understanding the importance of good indoor air quality (IAQ) in schools is the backbone of developing an effective IAQ program. Poor IAQ can lead to a large variety of health problems and potentially affect comfort, concentration and staff/student performance (EPA website). (<https://www.epa.gov/iaq-schools/reference-guide-indoor-air-quality-schools>)

I am also including information from the EPA website regarding the importance of air quality for younger students.

In addition, the developing bodies of children might be more susceptible to environmental exposures than those of adults. Children breathe more air, eat more food and drink more liquid in proportion to their body weight than adults. Therefore, air quality in schools is of particular concern. Proper maintenance of indoor air is more than a "quality" issue; it encompasses safety and stewardship of your investment in students, staff and facilities (<https://www.epa.gov/iaq-schools/why-indoor-air-quality-important-schools>).

Below are additional references and resources to assist you in examining the indoor air quality and ventilation requirements of bathrooms and schools.

- California Education Code, 17070.15 (k).
- Environmental Health Conditions in California's Portable Classrooms Report.
- Santa Cruz County Grand Jury Portable Classroom survey.
- U.S. Environmental Protection Agency Web site.
- California Air Resources Board and California Department of Health Services
- California Educational Code 17074.54.
- Healthy Schools Act of 2000.
- IAQ violations shall be classified according to the provisions in 8 CCR §334. California code of Regulations
- 2013 Title 24, Part 5 California Plumbing Code

The next item I would like to address concerns your comment that the District "is in the process of obtaining the necessary approvals to offer the following recommendations regarding restroom facilities for PAL classrooms."

It remains unclear what type of approvals are required, particularly for the training of schools with Universal Precaution procedures, which District policy has required for years.

Under the first bullet for approvals, which describes the process for selecting classrooms to place the PAL program, it notes:

The goal of preschool programs is to train students to independently use the restroom which includes engaging in their own self-care by assisting in their toileting through standing for the change of diapers.

The District must provide staff with necessary tools and accessible bathrooms to achieve the aforementioned goal. During the Office of the Independent Monitor (OIM) site visits, school staff informed us of students who required changing while standing, with an adult assisting them. The majority of restrooms in these classrooms did not contain accessible features such as grab bars to facilitate this goal. At one site, staff noted that students stand and hold the sink while being changed. It is important that these approvals include renovations of existing bathrooms to bring them into compliance.

The letter also states that the District is seeking approvals for the placement of privacy screens in “appropriate designated classroom areas which allows for adequate space to change students when necessary while taking into account precautions against staff being in enclosed areas without proper visibility by other adults to avoid potential child abuse allegations.”

It is unclear why the use of privacy screens requires approval. This is something that can and should be immediately addressed; this authority should lie within the purview of the Chief Officer of Special Education.

On May 10, 2016, the OIM visited three more schools to observe PAL programs. At 6<sup>th</sup> Avenue Elementary, staff reported that ACU staff had visited the previous week to inspect the PAL classrooms’ changing areas and bathroom. Two classrooms contained changing stations that lacked privacy screens. In the first classroom, staff reported that, based on the ACU’s visit, privacy screens would be provided. However, in the other classroom, staff were told that a privacy screen would not be made available because a wall-mounted changing table would be provided in the bathroom. Staff was not aware when the table would be provided. It can reasonably be assumed that a wall-mounted table will not be installed immediately; therefore, it is unclear why a privacy screen is not provided in the meantime.

This example continues to highlight the lack of training, competence, and empathy by professionals who are entrusted to ensure program access and the health and safety of students.

Lastly, the issue of purchasing Universal Precaution materials (e.g., gloves, wipes, etc.) was mentioned by site administrators at the majority of the 16 schools visited. Many administrators noted purchasing these materials from their school budgets and indicated that the Division of Special Education does not provide these materials. The District’s May 6, 2016, letter states it is seeking the following approval:

Annually, and upon additional request, each PAL program is provided Universal Precaution materials including gloves, wipes, changing table covering, etc.

Please provide information on how these materials will be provided and funded, and the schools’ process and timelines for obtaining them.

It is my hope that the information regarding the ventilation requirements from District offices and bulletins can assist the District in conducting its due diligence in this matter. The District appears to have an office with such capacity (OEHS) and seems to have developed an inspection plan that assisted the EPA in establishing similar protocols. It baffles me how such a large organization with a recent history of spending billions of taxpayer dollars to build and renovate schools could not provide you this information. As you explore solutions, I strongly recommend you review the references included regarding indoor air quality at schools and ventilation requirements of bathrooms.

I would like to reiterate my concern regarding the District's lack of willingness to find solutions collaboratively. The example at 6<sup>th</sup> Avenue Elementary school is evidence that the District continues to lack the capacity and process to remedy these situations effectively. I want to once again extend my offer to visit sites and work with staff responsible for developing a plan to collaboratively address the systemic weaknesses and improve these conditions for students with disabilities. However, given the lack of a collaborative approach I will continue to visit sites to monitor this issue and report accordingly.

Sincerely,

A handwritten signature in black ink, 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 Hovetter