

Office of the Independent Monitor

Modified Consent Decree
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Michelle King
Superintendent of Schools
Los Angeles Unified School District
333 S. Beaudry Avenue, 24th Floor
Los Angeles, CA 90017

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

Dear Superintendent King and Board of Education:

I am respectfully submitting part 2 of the Independent Monitor's (IM) 2014-2015 Annual Report. Due to the length of the report, it seemed appropriate to include a cover letter with notable areas of progress and concerns.

During the past two years, considerable advancements have been made in several areas that will contribute to the District's disengagement from the Modified Consent Decree (MCD). Such progress can be characterized by a positive working relationship between staff responsible for the content area and the Office of the Independent Monitor (OIM). In fact, a review of the history over the past decade reveals steady progression when staff from the various content areas work directly with OIM and its consultants. This is true in every instance. Three recent examples in this report bear this out.

Annual reports during the past 10 years identified the District's failures to accurately count and report on graduates of both students with disabilities and their nondisabled peers. Discrepancies in the reported numbers of graduating students were so alarming that the IM identified the problem repeatedly in annual reports, characterizing it as "negligent" on the District's part. In a disengagement alert dated April 22, 2015, the IM sought Superintendent Cortines' assistance to engage relevant personnel in a concerted effort to resolve the matter. Several meetings were held with the OIM staff, MiSiS programmers and leadership, and other participants who might help resolve the issue. The OIM's consultant on data management was also actively involved. As a result, there is now a very strong likelihood that this pervasive and serious problem has been rectified. This would not have occurred absent the willingness of experts made available from MiSiS project as well as direct engagement with the OIM, which has demonstrated the expertise to specifically identify solutions.

The District has also demonstrated the capacity to accurately monitor information necessary to ensure compliance with several MCD outcomes. This improvement was a direct result of District staff, with expertise in data management and special education, working intensively with OIM staff to validate data, resolve inaccuracies, and implement monitoring procedures to continually review outcomes. This is a major step toward substantial

compliance. This progress has occurred at the staff level, notwithstanding minimal support from Division of Special Education leadership. As a result, the District is now closer to disengagement, having demonstrated a capacity to monitor itself without OIM oversight. In addition, the issue of overdue IEPs and special education evaluations has also been largely rectified. Should the District continue to engage the OIM in this manner, substantial compliance will be more likely achieved in the near future.

One of the most difficult and seemingly intractable problems has been integrating independent charter schools' information into MiSiS. In November 2015, Superintendent Cortines directly sought the IM's assistance, requesting that OIM staff work with District staff to find a solution to this problem. After many hours of work and consultation, an acceptable approach was determined, which subsequently gained Plaintiffs' Counsel approval. If this plan is well executed, it is likely that the problem will be resolved. Certainly, this is largely due to the hard work of District professionals from the MiSiS project. And it is another excellent example of how collaboration between OIM and the District results in meaningful progress. This collaborative approach has also fostered a positive working relationship with MiSiS leadership and staff and, not surprisingly, resulted in reaching consensus on a path forward.

Historically, this type of collaboration has set a steady path toward disengagement. When this collaboration breaks down, disengagement becomes less likely, and the relationship less productive. There is no question of the OIM's commitment to a collaborative working relationship. It is certainly the case that criticism of the District's efforts can make this more difficult. However, over the past decade, the criticism provided by the IM has always been based on careful analysis and factual findings, and is given to form a basis for moving forward.

Notwithstanding the District professionals' hard work and the OIM's diligent oversight, the path forward concerning compliance with Section 504 and the Americans with Disabilities Act (ADA) has been elusive at times, and seemingly impossible at others. For the past 10 years, every bit of progress has been made after research, studies, countless hours of monitoring and critique. These efforts have resulted in work by the District that can only be characterized as "foot dragging." The District has regressed in its efforts to comply and still does not have an adequate Districtwide Transition Plan. In the past year, the District committed to an effort to conduct comprehensive surveys, which the new plan reneged. It also committed to a barrier removal program estimated at \$1.295B, which now is being called into question. Efforts at the 20 stand-alone barrier removal project sites have been documented as inadequate and the site surveys a waste of resources.

The District showed promise with the selection of its ADA compliance manager, who was supported by the OIM. It is unclear why the District chose not to renew his contract as the ADA compliance manager appeared to be fulfilling his responsibilities and advocating for students with disabilities. This was noted in part 1 of this report, submitted in November 2015, which presented a case study in which the ADA compliance manager brought to the OIM's attention a situation where senior officials had failed to respond to a school's request for program accessibility, despite a situation that endangered the safety of staff and students. Furthermore, it does not appear that an organizational structure was in place to provide the independence and authority necessary to ensure ADA compliance.

The IM is hopeful that the revised Districtwide Transition plan includes an organizational structure that enables the new ADA compliance manager to act with advocacy, authority, and the good faith necessary to address internal challenges and to move the District toward ADA compliance.

However, what is most distressing is the Associate General Counsel's termination of open discussions, joint site visits, and meetings to collaborate with responsible personnel. The former ADA compliance manager was even told not to speak with the OIM. This is not the way to establish consensus on a path forward.

The OIM is aware of the effort to secure an expert to assist the District in its plan. As has always been the case, the expertise relied on by the OIM is readily available to the District at any time. This includes professionals who have worked with many school districts in California and throughout the nation; helped craft curriculum for facilities inspectors in California; provided expert testimony in federal court on these matters; and practiced law on behalf of

public entities, including the attorney who wrote the successful transition plan for the city of New York in 1998. These individuals have expertise in disability discrimination and more than 35 years of practice.

Notwithstanding this type of assistance that is readily available, the OIM is certainly supportive of the District's efforts to find an expert to assist in the development of a sound Districtwide Transition Plan. Once this individual is procured, it is strongly recommended he or she immediately meet with the OIM so that consensus can be reached. Absent this type of a collaborative effort, and considering the complexity of meeting compliance for a District this size, it is highly unlikely that much progress will be made in the near future. The IM will likely have no option but to direct the District to comply with Section 504 and the ADA.

In regard to Outcome 13, I'd like to offer the following observations. Related services personnel have worked very hard to improve performance pursuant to the outcome. However, the performance on the duration target has not increased significantly. The District has yet to complete its two-year plan after more than three years. It has also failed to respond to multiple IM directives, particularly regarding case and workload information. Although the District has developed the capacity to measure and monitor related services and RSP performance, it is unclear how these efforts have guided the District toward progress with the outcome. Successful attainment of Outcome 13 is simply not likely in the near future as it is currently constructed.

The District must be able to provide services consistent with each student's IEP. Given the above issues and the fact that this pattern has persisted for several years, the OIM has provided alternative paths, which the District has not pursued. Therefore, if the District does not demonstrate increased performance on this outcome as measured by the 2015-16 study, it should consider finding an alternative way to measure performance improvements in Outcome 13 during the 2016-2017 school year. It should refer to the OIM's options provided in March 2014.

As a starting point for these discussions and in a good faith effort to renegotiate this outcome, the IM will consider directing the District to pursue a plan developed in consultation with the plaintiffs, and with expertise from the field, that will yield a better outcome for students with a higher percentage of services provided. The IM strongly recommends the reconsideration of this outcome going into the 2016-17 school year.

To conclude, the MCD has observed progress when approaches are based on collaboration with a goal of finding solutions and consensus, transparency, and the commitment to disengage. I am optimistic and look forward to more progress during the upcoming school year.

Sincerely,



David Rostetter

C: Robert Myers, Catherine Blakemore, David Holmquist, Beth Kauffman, Deneen Evans Cox, Brigitte Ammons