

Office of the Independent Monitor
Modified Consent Decree
333 S. Beaudry Avenue, 18th 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

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Beth Kauffman
Associate Superintendent
Division of Special Education
Los Angeles Unified School District
333 S. Beaudry Avenue, 17th Floor
Los Angeles, CA 90017

Re: Follow-up to Changing and Toileting Conditions at Preschool for All Learners (PALs) Programs

Dear Ms. Kauffman:

On April 7, 2016, I provided the District a letter raising serious concerns about the health and safety conditions of the Preschool for All Learners (PALs) programs at 153rd Street and Broadus Elementary schools. On May 6, 2016, I provided a follow-up letter after visiting an additional 11 schools, highlighting problems with the appropriateness of changing area conditions at PALs programs. These visits found that schools lacked the appropriate changing tables, privacy screens, ventilation, and running water. Although some schools had changing areas in private bathrooms or toilet compartments, many lacked the necessary basic compliant features such as access to grab bars, clear floor space, or adequate stepping stools. I also questioned the adequacy in the preparation and selection of sites by district officials who oversee the relocation and implementation of new programs.

To summarize, the May 6 letter noted that these findings were indicative of:

no uniform procedures for establishing changing stations or the site-selection process for PALs programs. The variability and inadequacy of changing stations is evidence of a lack of systemic processes that ensure program accessibility, and health and safety conditions. It is also indicative of a lack of support to schools and poor leadership by DSE [Division of Special Education] and FSD [Facilities Services Division] professionals.

As a result, I directed the District to develop short- and long-term plans to evaluate and address these concerns. The plan was to include a review of all PALs programs and campuses as well as timelines for addressing features including (but not limited to) the following:

1. Changing areas and restrooms. This was to include a short-term timeline for ensuring all classrooms have the necessary changing tables, privacy screens, and step ladders. It was also to

include a long-term plan for ensuring adequate space as well as bathrooms with compliant features such as clear floor space, grab bars, ventilation, privacy, dispensers, and lavatories.

2. Play and physical education areas.
3. Lunchrooms and other common areas including, but not limited to, auditoriums, entrances, and drinking fountains.

Furthermore, the plan was to include:

1. A review of policies and procedures related to toileting or changing of students.
2. A timeline for establishing a standard that describes the District's expectation for uniform changing stations, including procedures for the disposal of diapers and waste.
3. The available general and special education programs, including those to be opened in the future, for each site that will support students once they leave the PALs program.
4. A process for matriculating students at the same school as well as those requiring external placements.
5. All training materials utilized in professional development of the DSE and FSD staff responsible for program placement, determining program accessibility, and Rapid Access Program (RAP).
6. An outreach plan, training, and distribution of request forms for the RAP program.
7. Information on the process for selecting sites where classrooms for students with moderate to severe disabilities, including PALs, have been opened or relocated, including the materials used to collect information from site administrators and evaluate the readiness of the sites for ensuring program accessibility.

Since then, the District has provided several responses and updates regarding efforts to address these issues. On May 6, 2016, the District provided its first response with an attempt to address these issues, and characterized this initial step as being in the "process of obtaining the necessary approvals to offer the following recommendations regarding restroom facilities for PALs classrooms." The approvals the District sought are summarized below:

1. Reviewing the availability of classrooms on school sites to assign PALs classes according to a priority to ensure the appropriate changing areas
2. Having restrooms reconfigured to allow for wall-mounted changing tables that accommodate a weight capacity of 250lbs
3. Placement of PALs classes in proximity to nurse's office or other location that allows for a changing table if not feasible in the self-contained classroom
4. Placement of privacy screens in appropriately designated classroom areas that allow for adequate space to change students while ensuring proper visibility for student safety

5. Providing annual Universal Precaution training for all PALs classroom staff, to be delivered by Nursing Services
6. Providing, annually, upon request, Universal Precaution materials, including gloves, wipes, and changing table coverings
7. Audit of each school with a PALs program, using standard protocol regarding toileting procedures, including the use of Universal Precautions and student privacy issues

This resulted in the plan as described below. On September 29, 2017, the District provided its latest update of the progress made prior to the Independent Monitor (IM) Annual Report (October 25, 2017). The following outlines the District's actions; the status of the approval or implementation with recent actions is highlighted in bold.

- A. Review classroom availability on school sites for PALs classes; these should be assigned in the following order of preference:
 1. Classrooms with a self-contained restroom (i.e., transitional kindergarten/kindergarten classroom).
 2. Restrooms reconfigured to allow for a changing table (wall mounted) with weight capacity that accommodates 250 pounds or more.
 3. Placement of PALs classes in proximity of nursing office or other location allowing for a changing table, if not feasible in self-contained restroom.
 4. Placement of privacy screens in appropriate designated classroom areas, allowing 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.

During the 2016-17 school year, principals were notified via email about PALs program location requirements, which were included the REF-6449.0: Preschool for All Learners Special Day Program and Classroom Assignment Mandate for PAL Programs. PALs programs have complied by relocating to a classroom with a self-contained restroom, were provided a changing table with privacy screens, or were given an extenuating circumstances waiver if school sites did not have classrooms with self-contained restrooms.

- B. Annually, each PALs classroom staff will receive Universal Precaution training, including hygienic toileting, from LAUSD Nursing Services.

During the 2017-18 school year, District Nursing Services will be providing Diapering and Universal Precautions training to PAL Program School Sites. Additionally, REF-6889.0 requires all special education paraprofessionals participate in mandatory online training modules including diapering and Universal Precautions.

- C. Annually, and upon additional request, each PALs program is provided Universal Precaution materials, including gloves, wipes, changing table coverings, etc.

Universal Precautions Starter Kits were delivered to all preschool programs by Tuesday, August 29, 2017. Included in the kits were REF-5959.2 Ordering Universal Precautions Materials and REF-6777.1 Procedures for Completing the Annual Early Childhood Special Education Health and Safety Review.

- D. Annually, each school with a PALs program will be audited using a standard protocol regarding the toileting procedures, including the use of Universal Precautions and student privacy issues.

School sites were provided REF-6777.1, and the District received the Annual Early Childhood Special Education Health and Safety Review: Toileting Procedure Skills Performance Checklist due within eight weeks of the start of the school year. As of September 17, 2017, the District had received over 120 Attachment B reviews (Checklists).

Americans with Disabilities Act (ADA) Districtwide Transition Plan

On May 17, 2017, the District submitted its sixth version of the districtwide ADA transition plan for compliance with the program accessibility requirements of the ADA and Section 504. The plan outlines three primary components as stated below (p. 5):

- (1) Facility improvements: Assigning each school to a category reflecting one of three levels of access, conducting detailed facility and program surveys, identifying betterments to be made at each facility, and making those improvements;*
- (2) Operational solutions: Effectively reassigning programs and activities to accessible locations when necessary, or quickly making necessary changes to inaccessible facilities needed for individuals; and*
- (3) Policies and training: implementing supportive policies, procedures and training.*

With this plan, the District intends to achieve compliance with the ADA over three phases, with the first spanning eight years, and Phase 2 beginning on or before 2025. The District also asserts a decision-making process for ensuring program access at the end of Phase 1 (p. 6).

The District plans to ensure program access at the end of Phase One, with schools in each category distributed geographically throughout the District and with the ability to implement operational solutions to access when necessary, based on policies and procedures in place. Because not all facilities and spaces are required to be accessible, in some instances the District will ensure that individual programs and activities are made accessible by reassigning them to accessible locations, so that all students can access programs for which they are eligible – whether those programs are in their geographic area or part of the school choice program. Several policies and procedures to support those operational methods will be put in place as a critical piece of this commitment; and teachers, administrators, facilities staff, and others will undergo training about the policies.

The plan aims to address physical changes at 235 (one-third of) schools within eight years, or by 2025, and improve program accessibility with two primary goals that will:

- provide an adequate number of schools in each board district to ensure program accessibility through facility access and/or operational means (p. 32); and
- result in approximately three feeder patterns of Category One¹ and Category Two² schools for each local district, with each pattern consisting of approximately one high school, one to two middle schools, and three to four elementary schools (p. 32).

Findings from December 2017 Site Visits

In the October 2017 IM Annual Report, I noted my office would visit sites to observe the efforts and improvements reported by the District at PALs programs.

The site visits aimed to identify if PALs programs:

- were located in classrooms with self-contained bathrooms,
- were provided standard changing tables with privacy screens (if needed),
- had bathrooms (either self-contained or in another location) reconfigured to accommodate a wall-mounted changing table with weight capacity to hold 250lbs or more,
- had received the Universal Precaution starter kits at the beginning of the 2017-2018 school year,
- had received an audit or visit from district officials to review the changing and toileting conditions at their sites,
- had bathrooms used by PALs students with program accessibility features such as grab bars, and
- had site-level awareness of the RAP program for addressing program accessibility needs of students and staff.

Information from the District’s ADA transition plan was reviewed to identify each site’s:

- date of anticipated ADA betterments,
- proposed accessibility category designation, and
- inclusion in the feeder pattern clusters.

Although the District did not provide information or address all of the items (e.g., decision-making process for selection of sites for PALs programs) as directed in the IM’s May 6, 2017, letter, discussions with site administrators and teachers did provide anecdotal information on the planning for the placement of new programs with central or local district officials responsible for oversight and implementation of the plan. The site conditions observed are evidence that planning and oversight for opening new programs did not consistently result in improved conditions.

In December 2017, the Office of the Independent Monitor (OIM) visited 29 randomly selected sites across the District’s six geographic areas (Northwest, Northeast, South, Central, East, West) (Table 1).

¹ These sites will meet new construction standards of either “full accessibility” or “high accessibility” to meet alteration standards.

² These sites will be “program-accessible” schools and have accessible core spaces and features. Program accessibility will be provided for all activities at the school.

More than half (n=27, 58.6%) of these sites had PALs programs placed within the past two years, as reported by school staff. This timeframe falls within the District’s proposed planned intervention to improve changing and toileting conditions at these programs. Select photos from the visits have been included to illustrate findings in Attachment B.

More than half (n=15, 51.7%) of the sites were slated to have ADA betterments within Phase 1, with eight (53.3%) of those sites scheduled for improvements between 2020-2023. By the end of Phase 1, four sites would meet the Category 1a criteria of “high accessibility,” nine would meet Category 2 or be “program accessible,” with the remaining two meeting Category 3³ “core access” standards. Nine of the Phase 1 sites are part of the feeder clusters; however, one site does not meet this criteria since it is slated to be a Category 3 school.

Fourteen (48.3%) of the schools visited are scheduled for ADA betterments in Phase 2, which is set to begin by 2025. Of these, 10 are to have betterments at the Category 2 standards, with the remaining four sites slated to meet those of Category 3.

Table 1. Number and Percentage of Sites by Local District and Years

Local Districts	# of Sites	%	# of years	# of Sites	%
NW	6	20.7	1	6	20.7
NE	3	10.3	2	11	37.9
S	6	20.7	3	7	24.1
C	3	10.3	4	3	10.3
W	6	20.7	5+	2	6.9
E	5	17.2			
Total	29	100.0	Total	29	100.0

A total of 45 PALs classrooms were observed at the 29 sites. More than half (n=25, 55.6%) had bathrooms that were self-contained or inside the room (Table 2). Some of these self-contained bathrooms were shared, commonly referred to as “Jack and Jill” bathrooms.

For classrooms that do not have a self-contained bathroom, the OIM observed the toileting and changing stations used by PALs programs to examine their appropriateness. For some schools, changing stations were located in rooms other than classrooms or bathrooms. In some instances, changing areas, including those located in classrooms, were shared by more than one PALs classroom.

Although the OIM site visits did not aim to identify compliance with Title 24 and California Building Code (CBC) regulations, information on the availability of grab bars was noted. Given past contentions by the District that schools are encouraged to train students for independent toileting, which includes staff changing students standing up, access to grab bars is essential for safely promoting this independence.

A total of 41 bathrooms were identified by school staff as being used by PALs programs. Of these, less than half (n=20, 48.8%) contained grab bars on both the side and back of the toilet, while three (7.3%) only provided one grab bar (back or side). Around half (n=18, 43.9%) did not provide access to any

³ These schools will have “core access,” which means that certain common spaces would be made accessible, to ensure a basic level of access.

grab bars. Some teachers noted that when changing students standing up, students hold on to sinks, walls, or staff shoulders/arms while being assisted.

Another concern raised by staff was the lack of clear floor space in bathrooms used. At one school, staff noted that the size of the two toilet compartments made it difficult to assist students with toileting (Attachment A: Barton Hill ES). This school had the PALs program placed within the past two years, is located on a hill and considerably inaccessible, and is scheduled for ADA upgrades in Phase 2, or after 2025. This site is highlighted as an example of continued poor planning and preparation of sites for opening new programs.

The OIM observed a total of 41 changing stations for the availability of standard tables and privacy screens. Standard changing tables were observed at 32 stations, with 23 (56%) located in the classrooms and 18 (44%) in bathrooms or other rooms. Wall-mounted tables were observed at three sites; however, none are designated as capable of holding the 250lbs as indicated in the District plan. These sites also had standard tables located in classrooms. Staff at three different schools reported being told by district officials that a wall-mounted table was to be installed, yet no follow-up ever occurred. Several teachers raised concerns about the size of tables, noting that over the course of the school year, children grow and the tables become too small.

Three sites lacked any changing stations, with students being changed standing either in the classroom or in the bathroom. At three other sites, changing stations lacked standard tables, with children being changed on built-in bookshelves and the floor (Attachment A: Union ES and Castle Heights ES). Staff at one site reported returning the standard table due to a lack of space in the room used for the changing station, and were using the top of a built-in bookshelf. One administrator with a new program expressed frustration with the different expectations communicated for the changing stations of PALs programs, noting that a program specialist from the preschool department told them not to order a changing table. The program specialist also discouraged them from changing students on tables. One site had a classroom with a changing station; however, due to the distance of the bathroom, staff would change students standing up in the corner of the room using privacy screens. These examples highlight the variabilities of toileting practices due to a lack of a standard for uniform changing stations, as well as the lack of oversight of the plan to improve conditions of changing areas.

Standard privacy screens were observed at 15 of the changing stations, with four more using nonstandard screens such as pocket charts or mats. Several teachers reported that the standard privacy screens fall over too easily and preferred using other types of screens. One school had secured the screen to prevent it from falling. Three schools noted that screens had been formally requested more than once and had yet to receive them, with one site providing evidence of email communication with DSE staff dating back over a year.

Table 2. Availability of Self-Contained Restrooms, Standard Tables, and Privacy Screens

Self-contained	n	%	Tables	n	%	Privacy Screen	n	%
Yes	25	70	Yes	32	78.0	Yes	15	36.6
No	16	39.0	No	9	22.0	Yes - nonstandard	4	9.8
						No	10	24.4
						NA	12	29.2
Total	41	100.0		41	100.0		41	100.0

To gauge the impact of the District’s plan to improve the conditions of changing stations and restrooms, sites with programs opened within the past two school years were analyzed (Table 3). Seventeen of the 29 sites visited opened 21 PALs programs within the past two years, with about two-thirds (n=12, 57.1%) having self-contained restrooms. Two-thirds of the classes had changing tables (n=14, 66.6%), with three schools (four classes) not having access to a changing station.⁴ Additionally, two-thirds (10 out of 15, 66.6%) of changing stations in classrooms had privacy screens (including nonstandard). The OIM observed a total of 21 bathrooms used by PALs classes, with 13 having grab bars available.

In the 2017-2018 school year, six of the sites visited opened eight PALs classes, with most of the classes (n=7, 87.5%) located in classrooms that do not have a self-contained restroom. A total of eight restrooms were observed, with about one-third (n=3, 37.5%) not having grab bars. Three (42.9%) of the classes did not have changing tables, and two (28.6%) did not have privacy screens.

Table 3. Availability of Tables, Screens, Self-Contained Restrooms, and Grab Bars at PALs Programs Opened within the Past Two School Years

Years	Tables (N=21)				Screen (N=21)						Self-Contained (N=21)				Grab bars (N=21)			
	Yes		No		Yes		No		NA*		Yes		No		Yes		No	
	n	%	n	%	n	%	N	%	n	%	n	%	n	%	n	%	N	%
1	5	23.8	3	14.2	5	23.8	2	9.5	1	4.7	1	4.7	7	33.3	5	23.8	3	14.3
2	9	42.9	4	4.8	5	23.8	3	14.2	5	23.8	11	52.3	2	9.5	8	38.0	5	23.8
Total	14	66.6	7	33.3	10	47.6	5	23.8	6	28.6	12	57.1	9	42.9	13	61.9	8	38.1

*Changing stations were located in bathrooms or other self-contained rooms not requiring privacy screens.

The District’s plan to improve changing conditions included providing Universal Precaution starter kits at the beginning of the 2017-2018 school year. These kits contain the supplies needed for changing stations such as latex gloves, wipes, and disposable table covers. Almost all (n=28, 96.6%) sites visited reported having received the starter kits at the beginning of the school year, with the remaining site unable to recall (Table 4).

Schools were required to submit the Annual Early Childhood Special Education Health and Safety Review: Toileting Procedure Skills Performance Checklist within the first eight weeks of the school year. Three-quarters (n=22, 75.8%) of the schools reported having submitted the checklist, three (10.3%) could not recall sending the form, and four (13.8%) were not sure.

The plan also calls for the annual auditing of PALs programs, using a standard protocol regarding the toileting procedures, including the use of Universal Precautions and student privacy issues. Schools were asked if they had been audited or visited by district officials to observe their changing stations or restrooms. About two-thirds (n=18, 62%) of the schools reported that district officials had not visited their sites. Ten sites reported that district officials had visited the PALs programs: five sites reporting being visited for the purpose of reviewing their bathrooms and changing stations for PALs programs, while five were not certain if the visit was specific to changing stations.

⁴ Students are changed standing up in bathrooms.

Three schools from local district South reported having been visited by the Operations Director at the beginning of this school year, and were told that their programs were not in compliance. Two were told that PALs classrooms needed self-contained bathrooms, with one being told they needed a waiver, which according to the administrator was never completed. The third site was told that the bathroom used by PALs program could not be shared.

District officials visited two sites due to remodeling of the bathrooms used by PALs classes. One site was told a wall-mounted table would be installed but it never was; the other was remodeled after problems rendered the bathroom out of order. This bathroom is located on a site with four PALs classes and was completed in November 2017, a month before the OIM visits. However, this bathroom was not made compliant, is stair access only, and does not contain any accessible compartments or grab bars (Attachment A: Toluca Lake ES). While some students use this bathroom, four classes primarily use a noncompliant bathroom in an old office building with only one toilet.

Table 4. Universal Precautions, Toileting Checklist, and Audit by Schools

Universal Precautions	#	%	Toileting Checklist	#	%	Audit	#	%
Yes	28	96.6	Yes	22	75.8	Yes	10	34.4
No	0	0.0	No	3	10.4	No	18	62.0
Not sure	1	3.4	Not sure	4	13.8	Not sure	2	6.8
Total	29	100.0		29	100.0		29	100.0

Schools were asked if they were aware of the RAP process and application, and if they had ever used it to improve program accessibility. The majority of schools (n=25, 86.2%) had not heard of RAP, with the four sites who reported awareness of the program noting it had been used on assignments at different sites. All schools were provided a copy of the RAP application and REF-6763.0 Ordering Changing Tables for Early Childhood Special Education Programs. Schools in need of tables, screens, and/or grab bars were encouraged to use the processes available for improving program accessibility at PALs programs.

During the week of February 19-23, 2018, follow-up faxes were sent to all schools to obtain updates on the conditions of changing stations, bathrooms, or RAP or table/privacy screens requests since the December 2017 visit. Nineteen schools responded, with the following updates:

- Five sites had wall-mounted tables installed
- Five sites reported no change
- Two sites reported no changes due to the appropriateness of the conditions available
- One site had grab bars installed
- One site had two privacy screens delivered
- One site was visited for the installation of a Koala changing table; however, the Principal refused due to the inappropriate size of the table for the students in need, and has requested a larger wall-mounted table
- Four sites made requests for the following, which are still pending:
 - Universal Precaution materials
 - RAP (not specified) and changing table

- A longer changing table
- Privacy screen and grab bars

Summary

The findings of the 29 site visits show a continued lack of adequacy of the changing and toileting conditions at PALs programs. Despite a plan for improving these conditions, developed in fall 2016, the conditions observed indicate poor oversight of its implementation. It also gives rise to questions about the decision-making processes and oversight when opening new programs, as well as the ongoing support and guidance offered to schools. One positive note was the delivery of Universal Precaution starter kits at the beginning of the 2017-2018 school year.

Some school administrators and teachers expressed confusion and frustration with the mixed messages received regarding changing station requirements, including the need for tables. Administrators also noted not having received assistance in planning for new programs, with one noting having to close a program to accommodate a PALs program that only had one student until December 2017.

Local district south sites were the only ones to report having been visited by their operations director who discussed noncompliance with the District's plan due to classrooms lacking self-contained bathrooms. The majority of sites did not appear to have been audited or have had visits from local district or DSE personnel to review their changing stations. Eleven sites noted having requested tables or screens that took six months or longer to receive, or had yet to receive them.

Site personnel provided feedback on the adequacy of the equipment provided, noting that the standard tables often become too small for students, and expressed concern over the size of the wall-mounted Koala tables, which do not meet the standard weight capacity in accordance with the District plan. Teachers expressed concern about the safety of the standard privacy screens, which have a tendency to fall over if not secured, as well as the lack of appropriate step ladders and access to grab bars. Some teachers raised concern over the lack of ventilation for classes that contained changing stations.

These findings represent 13% of all PALs programs (n=225). Given the high number of new programs in the District and the conditions found, it can be reasonably be assumed that many more sites lack the appropriate equipment needed to ensure safe and sanitary conditions. The overwhelming lack of awareness of the RAP process and application also raises concerns about systemic processes in place to ensure operational solutions for providing program accessibility.

It is important to note that the majority of site administrators and staff expressed positive attitudes for improving the changing and toileting conditions for students. While some engaged in inappropriate practices (changing students standing in the corner of the room or using bookshelves as tables), these could have been—and can be—easily remediated through the establishment and communication of uniform standards for changing stations, PALs bathrooms, and toileting procedures. Schools cannot be discouraged from having access to an appropriately equipped changing station and bathroom, even if all students in attendance are toilet trained. All site-level personnel understand and noted that needs change on a daily basis and the enrollment of new students with varying needs can occur anytime during the school year.

These findings indicate that the District cannot demonstrate the capacity to remediate systemic noncompliance absent third-party oversight; these problems prevent substantial compliance with

program accessibility. Furthermore, the recent noncompliant renovation of a bathroom at Toluca Lake Elementary School is evidence of the lack of oversight by the Access Compliance Unit and FSD in ensuring substantial compliance.

Next Steps

The implementation of the District's plan to improve changing and toileting conditions of PALs programs has shown little progress over the past two years. This issue deals with the health and safety of the District's most vulnerable students, aged three to five, with a range of moderate to severe disabilities. These conditions are unacceptable and demonstrate a failure to provide program accessibility owing to poor planning and execution of operational solutions.

The District must remedy this noncompliance immediately and with credible action in both the implementation of the plan and accountability. The following directives align with the District's plan, which it committed to over the past 18 months and has to achieve. Therefore, the District must amend its plan and provide the following:

- Name of the person responsible for the implementation of the plan and follow-up of these directives.
- A report on the changing stations and restroom conditions, including plans to reconfigure restrooms, for all existing PALs programs and those scheduled to be opened for the 2018-2019 school year.
 - Timelines for the implementation of any changes, by site, to be completed prior to the beginning of the 2018-2019 school year.
- Standards for uniform changing stations, including expectations for standard tables and privacy screens.
- Plan to address ventilation for changing stations, including those in classrooms.
- Plans for the installation of changing tables that meet the needs of the students, including appropriate length and weight-bearing capacity, in accordance with the District's plan.
- An outreach plan for distributing information regarding RAP.

It is my expectation that much of this remediation occur by June 30, 2018, and all issues be addressed prior to the 2018-2019 school year. This includes new programs being adequately equipped and located in the appropriate locations with bathrooms and changing stations that ensure program accessibility.

Sincerely,



David Rostetter, Ed.D.
Independent Monitor

C: David Holmquist, Mark Hovatter, Robert Myers, Catherine Blakemore, Deneen Cox, Veronica Smith