

Office of the Independent Monitor
Modified Consent Decree
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Austin Beutner
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

**Re: Report on the Progress and Effectiveness of the Los Angeles Unified School District's
Implementation of the Modified Consent Decree during the 2017-18 School Year—June 2018**

Dear Mr. Beutner 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 (BOE) concerning the progress and effectiveness of the implementation of the MCD's terms and conditions. This is the Annual Report for the 2017-18 school year; it provides an update of outstanding MCD outcomes and requirements as well as an update on the newly stipulated revised measure for Outcome 13: Delivery of Services.

The MCD establishes 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 (SWDs) receiving special education services. Prior to this update, the District had met the requirements of 17 outcomes. However, slippage in performance on two previously met outcomes now require the District to increase such performance for disengagement. The second set of requirements pertains to making District schools, programs, and activities 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 unmet MCD outcomes (Outcome 10: Timely Completion of Evaluations, Outcome 13: Delivery of Services, and Outcome 16: Increase in Qualified Providers); making schools, services, programs, and activities accessible; and MiSiS. It also includes discussions regarding schools of choice, information on the spring annual hearing, an update on the complaint management system, progress on the District's capacity for ensuring substantial compliance, an update on the corrective actions of the Individualized Education Program (IEP) complaint investigation, and the criteria for disengagement.

In preparation for this annual report, the Office of the Independent Monitor (OIM) requested updates and information from the District on April 10, 2018. On April 30, the District provided updates on many of these items. This report reflects the most current status of progress for meeting the requirements of the MCD. Issues that have not been updated or resolved will be addressed in periodic updates to the District throughout the 2018-19 school year.

The MCD outcomes are statistically based. The newly stipulated revised outcome (Outcome 13: Delivery of Services) has three data targets that the District must meet. It is the IM's responsibility to determine whether a target has been achieved. All targets in an outcome must be achieved before the IM can determine that the outcome has been met. The Plaintiffs' Counsel, the District, and the OIM (the Parties) agreed to the protocol used to measure performance for each target. Data used in the analyses are validated and derived from District data sources.

This report addresses the following outcomes:

- Outcome 13: Delivery of Services
- Outcome 16: Increase in Qualified Providers
- Outcome 10: Timely Completion of Evaluations (update)

It also includes information on:

- Making District schools, programs, and activities accessible
 - Rapid Access Program (RAP)
 - New schools and repair and renovation
 - Section 17—Substantial Program Accessibility Compliance
 - Americans with Disabilities Act (ADA) Compliance Manager
 - Preschool for All Learners (PALs) Programs
- Schools of choice—charter and magnet schools
- Data systems—MiSiS
- Annual hearing
- Complaint management system/Complaint Response Unit
- IEP complaint investigation corrective actions
- Substantial compliance
- Disengagement

OUTCOME 13: DELIVERY OF SERVICES

◆ Outcome Measure 13A:

The duration rate of services provided for all students' IEP services for all IEP service categories¹ combined will be at least 90%², measured at the end of the school year. For purposes of duration, service minutes not delivered due to student absences/no shows/service refusal/school closure/shortened day will be deducted due to lack of opportunity to provide services³.

Outcome Measure 13B:

The District will demonstrate it has a process in place that (1) identifies students⁴ who are receiving less than 70% of the aggregate duration of services prescribed in their IEPs for each service category⁵; (2) provides notification to the identified students' parents that the District has not provided the required duration of specified services prescribed in their child's IEP, which also informs parents that compensatory services will be offered; and (3) offers compensatory services for the services that were not received.

Outcome Measure 13C:

By June 30, 2018, all parents will have access through the MiSiS Parent Portal to a quarterly⁶ year-to-date snapshot report summarizing all services delivered in accordance with the IEP. The service delivery communique will be accessible to screen readers, easy to understand, and enable parents to view the provision of resource specialist program (RSP) and related services delivered over a specified time at least equal to one school year (for the current school year).

◆ Data Source: Welligent Service Tracking (SER 300) and MiSiS Parent Portal

- Data will be validated by the OIM in consultation with the Office of Data and Accountability (ODA) and the American Institutes for Research (AIR)
- **Methodology Outcome Measure 13A:**
 - $$\frac{\text{Aggregate Duration of Minutes Provided}}{\text{Total Opportunity Minutes (TO)}} = \text{Service Delivery \%}$$
 - Service delivery will be calculated using Welligent Service Tracking (SER 300) data for the 2017-18 school year or, if not met, for subsequent school years.
 - The OIM will validate the accuracy of data.
- **Methodology Outcome Measure 13B:**
 - The District will identify students receiving less than 70% of their aggregate duration minutes per service category as calculated in 13A on the following benchmark dates: October 15, February 15, and April 15.
 - Within 10 days of each benchmark date, the District will provide written notification to parents with an offer of compensatory services for services not received.

¹ Adapted PE, Audiology, Behavior Intervention Consultation (BIC), Behavior Intervention Development (BID), Behavior Intervention Implementation (BII), Blind/Partially Sighted Itinerant, Counseling and Guidance, Deaf/Hard of Hearing Itinerant, Inclusion for Moderate/Severe, Language and Speech, Least Restrictive Environment Counselor, Occupational Therapy, Occupational Therapy - Clinic, Orthopedic Impairment (OI) Services, Orientation Mobility for Blind, Physical Therapy, Pre-Kindergarten (Pre-K) Itinerant, Psychological Services (ERICS), Recreation Therapy, and RSP.

² The 90% threshold is subject to renegotiation in the event of a national, state, or local shortage of available staff or providers to deliver the applicable special education and related services.

³ According to the following service tracking cancellation codes: SA (Student Absence), SN (No Show), PR (Parent Refused Service), LT (School Wide Testing), SR (Student Refused Service), NPS/RTC ERICS (Approved absence used only by RTC for room and board), LC (School Closure), District Closure Day (Approved Absence: NPA only), and SD (Shortened Day) (restricted service tracking cancellation code is applicable to services with a prescription, which is delivered for the entire school day or a majority of the school day).

⁴ Excluding (1) yearly prescriptions of 300 minutes or less, and (2) services initially identified within 30 days prior to the benchmark dates.

⁵ As measured on three benchmark dates (October 15, February 15, and April 15).

⁶ The quarterly report will be available for parent access on October 15, February 15, April 15, and June 15.

⁷ TO Minutes means (Aggregate Prescribed Target Minutes) – (Minutes not provided due to a lack of opportunity also known as "LO")

- The District will provide all parent notifications to the OIM within 10 days of the notices being provided to parents.
 - The OIM will validate the accuracy of Outcome 13B data.
- **Methodology Outcome Measure 13C:**
 - The OIM will monitor the implementation of the quarterly reports, which are to be available via the Parent Portal.
- ◆ **Discussion:** On May 14, 2018, the Parties agreed to revise this outcome, establishing three new measures aimed at ensuring that SWDs receive services as specified in their IEPs. This includes instructional services like the RSPs and related services such as speech and language therapy, occupational therapy (OT), and physical therapy (PT). The revised outcome has three parts, and its performance will be determined using Welligent Service Tracking data and the MiSiS Parent Portal. For context, the newly revised measures and methodology will be summarized after a brief description of the previous Outcome 13 measures that were in place since the inception of the MCD in the 2003-04 school year.

Performance on this outcome was previously determined by a study that examined evidence of eight weeks of service for meeting both the frequency and duration requirements specified in a student's IEP. The outcome required the District to maintain accurate service delivery records of thousands of special education teachers and service providers in the Welligent system to determine whether students were receiving their services and whether the frequency and duration requirements specified in IEPs were being met. The first part of the outcome measured evidence of service for students who received at least one session of the services specified in their IEPs for the eight-week period. To assess the next two parts (frequency and duration), the study compared the number of sessions and duration minutes specified in the IEPs and the information in the Welligent provider logs for the same time period. To meet the frequency and duration requirements, 85% of SWDs had to receive 100% of their prescribed sessions (frequency) and 98% of their duration minutes. The District was able to meet the first two parts of the outcome but always fell considerably short of the duration requirement. Due to the lack of progress with the duration target and concerns over some structural components of the duration measure, the OIM repeatedly encouraged the Parties to reexamine these measures since 2014. Additionally, due to the lack of progress with the previous duration measure and the productive and collaborative negotiations for a revised outcome by the Parties, the IM did not conduct the services study during the 2017-18 school year.

The first part of the revised outcome (Measure 13A) requires that the population (aggregate) of SWDs receive 90% of the duration minutes as specified in IEPs. This means that performance will be based on the overall minutes provided to all students for service categories grouped together. The Parties agreed to base the total minutes provided on the total prescribed minutes minus services not provided due to a lack of opportunity. This means that when a student is absent or does not show up for a session, these owed minutes are removed from the calculation. A full list of the allowable reasons to report a lack of opportunity is included in footnote 3.

The previous duration measure was based on service delivery for individual students, meaning if a student did not receive at least 98% of all of his or her specified minutes, this student did not contribute to meeting the 85% measure. The revised measure does not differentiate between students, meaning that as long as all students average 90% or more of the prescribed duration minutes (minus service delivery minutes not provided due to lack of opportunity), this part of the outcome is met. For example, some students might receive only 50% of their prescribed minutes, but as long as many more receive more than 90%, this outcome can still be met.

The second part of the revised outcome (13B) requires the District to identify students receiving less than 70% of their aggregate duration minutes by service category, notify parents of this noncompliance, and present an offer of compensatory services within 10 days of identification. Students will be identified three times over the course of the 2018-19 school year (October 15, February 15, and April 15). Although this measure is limited to the accurate identification of students receiving less than 70% of their services and notification to parents, the Parties agreed that the aim is to increase service delivery for these students to 100%. The IM has indicated that while meeting this measure is not dependent on increasing service delivery (only identification and notification to parents), the OIM will monitor these students as part of the substantial compliance requirements of the MCD, since a considerable number

of students not receiving the majority of their services impacts the determination that the District has systems in place to ensure systemic substantial compliance. The Parties agreed that it is within the IM's purview to monitor these students for improved performance throughout the year for determining substantial compliance.

The third part (13C) requires quarterly parent notification of their student's service delivery status via the MiSiS Parent Portal. This component aims to increase parent awareness of the compliance status of their student's service delivery throughout the school year. Performance on this measure is based solely on availability of these reports and is not dependent on parents utilizing the Parent Portal system or outreach efforts.

The Parties are commended for the collaborative efforts in the revision of this outcome over the past year. The revised outcome appears to be reasonably structured to achieve all three parts by the end of the 2018-19 school year. While this outcome is achievable, part 13B will require considerable efforts to identify and notify parents when students fall below the 70% duration threshold. While remediation of noncompliance is not required for this measure, the offer of compensatory services should result in addressing noncompliance if parents are able to easily access District providers and/or non-public agency providers. Remediation of noncompliance for students receiving less than 70% of their services will be monitored and will factor into the IM's determination of substantial compliance.

A major positive aspect of the revised outcome is that parts 13B and 13C increase parent involvement and communication mechanisms regarding compliance with the service delivery requirements of their student's IEP. These efforts increase transparency and should increase communication between parents and schools.

Although the revised outcome appears achievable within the next school year, it does not specifically address many of the concerns impacting service delivery that have been persistently raised by the OIM, ODA, and AIR. This includes issues related to schools that are uncovered for extended periods of time (schools not assigned service providers for various reasons), staffing limitations related to caseload and workloads, organizational fragmentation for allocating resources, and accountability. While not directly addressed in these new measures, these issues will be factors that will impact success, particularly for 13B and the IM's determination of substantial compliance. While parts 13A and 13C include timelines that potentially could be met this school year, it is unlikely that the IM can consider them met this year: Outcome 13A has the potential to be met this year, but it is unclear how the lack of codes for sessions missed due to a lack of opportunity will impact performance data. Outcome 13C requires parents to have access to service delivery reports in the MiSiS Parent Portal three times over the course of the year, which cannot be met this year.

The District has been working on developing dashboards that will inform local districts and schools of service delivery performance for RSP and Behavior Intervention Implementation (BII) services. This dashboard was scheduled to be available by October 2017 but will now be rolled out by June 30, 2018. Once this capacity is available, it should provide schools and local and central district administrators the necessary tools to identify and respond to noncompliance.

To reiterate, service provision is a fundamental part of a system that is substantially compliant. Disengagement will occur only when assurances of addressing these problems turn into credible action and students receive services as per their IEPs.

OUTCOME 16: INCREASE IN QUALIFIED PROVIDERS

- ◆ **Outcome:** The District shall increase the percentage of credentialed special education teachers to 88%. Under MCD paragraph 88, the IM shall not certify 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	# of Special Education Teachers	# of Intern Teachers	# of Provisional Teachers	Qualified Special Education Teachers	% Qualified Special Education Teachers
2017-18	4,434	391	238	3,805	85.81%
2016-17	4,448	304	289	3,855	86.67%
2014-15	4,030	217	93	3,720	92.31%
2013-14	3,909	138	1	3,770	96.44%
2012-13	3,884	145	0	3,739	96.27%
2011-12	3,940	156	0	3,784	96.04%
2010-11	4,051	225	2	3,824	94.40%
2009-10	4,242	304	37	3,901	91.96%
2008-09	4,321	358	123	3,840	88.87%
2007-08	4,183	308	198	3,677	87.90%
2006-07	4,193	390	316	3,487	83.16%
2005-06	4,003	405	317	3,281	81.96%
2004-05	Data unavailable	Data unavailable	Data unavailable	3,063	72.3%
2003-04	Data unavailable	Data unavailable	Data unavailable	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 percentage 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 May 15, 2018, 85.81% of the District's special education teachers were fully credentialed. This performance continues to decrease and is below the 88% target; therefore, this outcome continues to be unmet.

Although the District has been engaged in an ongoing recruiting campaign to address state and national shortages of special education teachers and related service providers, the need for qualified providers continues to outpace those employed. On January 8, 2018, the Division of Special Education (DSE) provided some data on recent hires, responding to an OIM request regarding Outcome 10: Timely Completion of

Evaluations. The data showed that, as of January 8, 10.6 full-time equivalent (FTE) positions were open for speech pathologist, with 10 pending new hires. It also showed eight openings (FTE) for school psychologists. Missing from the data tables was information on the total number of FTEs by related service and number of schools that may be uncovered due to these vacancies or staff leaves, which the District agreed to provide. To date this information has not been provided, and no updates on qualified special education teachers specific for this outcome was provided for inclusion in this annual report.

On January 30, 2018, the IM provided the Interim Superintendent a disengagement alert raising concern over the performance on this outcome. The lack of qualified providers has a direct impact on three MCD performance outcomes (Outcome 10: Timely Completion of Evaluations, Outcome 13: Delivery of Services, and Outcome 16: Increase in Qualified Providers) and Section 17, which requires the IM to make a determination that no systemic problems exist that prevent substantial compliance.

The disengagement alert noted that although the shortage of qualified providers for both special education teachers and some related service providers, such as speech pathologists, is a national and state phenomenon, school districts can and should implement processes to ensure students receive their required services, assessments, and IEP meetings on time. The impact on timely completion of initial IEP meetings is also discussed in the next section.

Solutions for dealing with the shortage of qualified providers will require systemwide leadership and management across many components. The capacity to meet evaluation and IEP timelines and deliver all IEP services to all students will require system changes that allow special education teachers and providers to focus on their primary responsibilities, which is working with students. The alert noted that this will require changes to "bureaucratic processes" that detract staff from their primary responsibilities. In addition, it will likely require focusing on the existing organizational fragmentation and structures that negatively impact communication, resource allocation, and accountability.

In the alert, the IM noted that the "recruitment, retention, and efficient deployment of qualified special education teachers and related service providers are the key factors for disengagement from the MCD." Although the District has engaged in yearly recruitment efforts, it is unknown if variables such as pending teacher retirements will further impact the number of qualified teachers. The alert also questioned whether unknown variables, such as the retention of qualified teachers or related service providers for nonretirement reasons, have resulted in higher loss of staff over the past few years. Because providers are usually assigned to more than one school, the impact of these vacancies or leaves can become exponential.

The lack of enough related service providers has a considerable impact on the District's ability to ensure a system that prevents substantial compliance. As the District continues to express optimism and desire to fulfill all of the requirements of the MCD within the next 12-18 months, improved performance in the recruitment and retention of qualified special education teachers and related service providers must occur. Section 7 of the MCD, regarding the achievement of outcomes, states that "the Independent Monitor shall continue to monitor whether the District is maintaining satisfaction of the outcome. All outcomes have to continue to be achieved on the date the Independent Monitor certifies that all outcomes have been met (pp. 17-18)." A stipulation by the Parties also requires that this performance be maintained for disengagement from the MCD to occur.

- ◆ **Determination:** Outcome 16 is no longer met. The District will be disengaged from this outcome after all other outcomes are met, provided it has achieved and maintains at least 88% fully credentialed special education teachers.

OUTCOME 10: TIMELY COMPLETION OF EVALUATIONS

- ◆ **Outcome:** By the end of the 2005-06 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 concluded and an IEP meeting convened. If the evaluation or IEP meeting is delayed because of a parent request or because the student 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)		More than 90 Days (80 Days Prior to 10/8/05)	
		#	%	#	%	#	%	#	%
2017-18	15,418	13,059	84.7%	14,364	93.2%	14,827	96.2%	591	3.8%
2016-17	15,866	14,147	89.2%	15,064	95.0%	15,384	97.0%	482	3.0%
2015-16	16,317	14,823	90.8%	15,615	95.7%	15,933	97.6%	384	2.4%
2014-15	15,376	13,720	89.2%	14,553	94.6%	14,881	96.8%	495	3.2%
2013-14	16,489	14,012	84.9%	15,237	92.4%	15,759	95.6%	730	4.4%
2012-13	14,056	12,231	87.0%	13,105	93.2%	13,434	95.6%	622	4.4%
2011-12	14,079	12,603	89.5%	13,372	94.9%	13,628	96.8%	451	3.2%
2010-11	14,282	12,991	90.9%	13,714	96.0%	13,960	97.7%	322	2.3%
2009-10	14,762	13,423	90.9%	14,222	96.3%	14,496	98.2%	266	1.8%
2008-09	15,671	14,199	90.6%	14,956	95.4%	15,251	97.3%	420	2.7%
2007-08	15,874	14,345	90.4%	15,229	95.9%	15,523	97.8%	351	2.2%
2006-07	14,438	13,142	91.0%	13,728	95.1%	14,010	97.0%	428	3.0%
2005-06	13,465	11,565	85.9%	12,495	92.8%	12,933	96.1%	532	3.9%
2004-05	11,213	7,025	62.7%	8,870	79.1%	9,974	89.9%	1,239	10.9%
2003-04	12,300	8,142	66.2%	10,038	81.6%	11,056	89.9%	1,244	10.1%

- ◆ **Data Source:** Welligent
 - Numerator is the number of initial evaluations completed (with IEP convened) within the appropriate number of days (60, 75, or 90).
 - Denominator is the number of requested initial evaluations according to the number of days overdue on June 15.
- ◆ **Discussion:** The timely completion of a student's IEP is a fundamental compliance safeguard afforded to students and families. By ensuring timely assessments and IEP meetings, it enables the prompt delivery of services and accommodations aimed at helping students access the general education curriculum and/or benefit from their

specialized educational programs and IEP goals. Outcome 10: Timely Completion of Evaluations monitors initial IEPs that are to be held within the following parameters:

- 90% of all initial evaluations shall be completed within 60 days.
- 95% of all initial evaluations shall be completed within 75 days.
- 98% of all initial evaluations shall be completed within 90 days.

During the 2007-08 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, meeting all three parts of this outcome. Since the 2010-11 school year, slippage in one or more of these timeframes has resulted in partial compliance with these targets, prompting numerous warnings and concerns for improved performance by the IM. On January 30, 2018, the IM issued a disengagement alert to the Interim Superintendent, expressing concern with the increasing noncompliance with meeting IEP timelines for initial evaluations as well as annual and triennial IEPs.

The disengagement alert noted that for the past six school years (since 2010-11), the District met the performance for the 60-day timeline, which coincides with both federal and state regulations, for only one year (2015-16); met the 75-day timeline two years (2015-16 and 2016-17); and hasn't met the 90 day timeline since 2009-10.

Two factors for this decreased performance were highlighted, the first citing a recent policy change that increased the number of triennial assessments and IEPs. The impact of this policy on meeting compliance timelines was confirmed as a factor by the Associate Superintendent of the DSE at the January 2018 meeting of the Parties. Second, noting progress in the timely completion of initial IEPs since 2014-15, this improved performance could be attributed to Superintendent Cortines's campaign for monitoring and notifying schools when overdue IEPs were identified. This also required schools to hold meetings and report on their status. While close monitoring of overdue IEPs continues, systemic notification and reporting of IEP meetings have been discontinued.

The disengagement alert pointed out two citations by the California Department of Education (CDE) with a Data Identified Non-Compliant (DINC), in both spring and fall 2017. This notice identified 3,940 overdue IEPs during spring 2017 (Annual – 2,705 and Triennial – 1,235) and 537 overdue IEPs (Annual – 291 and Triennial – 246) as of September 18, 2017. The DSE informed the field of these notices and noted that noncompliance with IEP timelines could result in the withholding of funds by the CDE.

As of June 15, 2018, the District is no longer meeting any of the three targets. This performance is concerning given that it's at the lowest point since the 2004-05 school year. This is also concerning because the IM alerted the Interim Superintendent of this performance. With slightly over 15% (one in seven) initial IEPs held failing to meet the 60-day state and federal timelines, this raises concerns over the District's capacity to ensure substantial compliance.

Although one might consider meeting compliance timelines of this outcome for the majority of students adequate performance, the size and scope of this District has a considerable impact when more than 15% of SWDs do not get their initial assessments and IEPs completed on time. These delays will result in triggering other areas of noncompliance in areas such as the provision of services and instructional accommodations. As pointed out by the DSE, noncompliance with completion of timely IEPs might carry financial implications, as it can increase cost associated with due process filings and/or result in withholding of funds by the CDE.

The disengagement alert noted another factor contributing to the inability to meet initial, annual, and triennial IEPs: staffing and workload concerns of related service providers and site administrators, including assistant principal instructional educational specialists (APEISS). This is discussed in more detail in the sections on Outcome 16: Increase in Qualified Providers, and Substantial Compliance.

In the last annual report, the District reported on two monitoring mechanisms for ensuring local district and school staff are provided IEP timeline reports to ensure compliance. The first comprises school summary reports that show historical data of overdue IEPs by school as well as IEP timeline reports that show all types of IEPs (in process, pending, active) and due dates (annual, triennial, and 60-day) for all students, including those attending private schools and those receiving District services. The second mechanism, referred to as the Certify platform, was also implemented, and includes information on overdue IEPs. Certify provides biweekly notifications of noncompliance

with IEP timelines to school administrators via email. Summary reports—which are provided to school sites, local districts, and central office administrators who monitor compliance—identify cases by severity level to alert schools of degrees of noncompliance such as critical, urgent, compliance warning, caution, and informational.

While these reporting mechanisms appear to be structured to promote monitoring and remediation of noncompliance, the District did not provide any new information on their use and/or how these tools have resulted in improved performance for meeting IEP timelines. During the 2017-18 school year, the DSE was expected to roll out dashboards that would provide compliance data on IEP timelines. While these dashboards were anticipated for use in early 2018, the implementation has not occurred but will reportedly happen prior to June 30, 2018.

The IM has repeatedly stated that the timely completion of assessments and IEP meetings is a substantial compliance indicator that has challenged the District's capacity for years. As the District continues to assert assurances and desire to fulfill all the requirements of the MCD to warrant disengagement within the next 12-18 months, improved performance in meeting IEP timelines and the remediation of noncompliance must occur. As noted in the previous discussion, Section 7 of the MCD requires that all outcomes must continue to be met on the date the IM certifies that all outcomes have been achieved. This means that for disengagement to occur, the District must meet all targets of Outcome 10.

- ◆ **Determination:** Outcome 10 met on July 30, 2008, but is no longer being met.

SCHOOLS OF CHOICE

Charter Schools

SWD enrollment at independent charters continues an upward trend. As of May 15, 2018, enrollment at charter schools remained relatively constant, while enrollment of SWDs at charter schools rose 7.2% (n=861). This continued increase in SWD enrollment is evidence that the changes to the policies and practices for servicing SWDs has had a positive systemic effect. The percentage of SWDs enrolled at charters continues to increase closer to the percentage of SWDs attending District noncharter schools. The District is commended for increasing enrollments of SWDs at charter schools.

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

School Year	Total # of Students Enrolled	% of SWDs Enrolled in District-Operated Schools	# of SWDs Enrolled in Charter	% of SWDs Enrolled in Charter
2017-18 5/15/18	112,222*	13.47%	12,847	11.45%
2016-17 10/15/16	111,683	12.60%	11,986	10.73%
2015-16	102,849	11.96%	11,352	11.04%
2014-15	100,768	12.63%	10,324	10.25%
2013-14	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%

* 2017-18 enrollment data based on CALPADS

Magnet Schools

During the 2017-18 school, a considerable (n=363, 12.4%) increase was noted in the number of SWDs who applied for magnet schools, and an increase of 15.7% (n=248) for students selected. Despite this increase in students selected and SWD enrollment increase of 7.7% or 374 students, the overall percentage of SWD enrollment remained at 6.51%. The number of SWDs attending magnet schools continues to be considerably lower than those attending charter schools. As previously stated, this is of concern as magnet schools are District-operated schools of choice; the District has direct-line authority to establish programs and allocate resources.

During the 2017-18 school year, an additional 13 magnet programs were opened across the District. While this is a positive step for increasing opportunities for students and families to access schools of choice, the District should evaluate the programming options for SWDs to ensure that equitable opportunities are built in to these programs.

While the growth of SWDs attending magnets has remained relatively stagnant, the overall enrollment of SWDs has considerably increased since 2010-11. The District is commended for increasing enrollments of SWDs at magnet schools and should continue to bring awareness of these options to families of SWDs.

Number and Percentage of SWDs Who Applied and Were Selected for Magnet Schools by School Year

School Year	Total # of Students Applied	# of Students Selected	% Selected of SWDs Who Applied
2017-18	3,302	1,827	55.33%
2016-17	2,939	1,579	53.73%
2015-16	2,442	1,251	51.23%
2014-15	3,387	2,037	60.14%
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%

Magnet School Enrollment over Time

School Year	# of Schools	CBEDS/ NORM*	SWD Enrollment	% SWD Enrollment
2017-18 5-15-18	226	80,459	5,239	6.51%
2016-17 10-15-16	213	75,427	4,865	6.45%
2015-16	198	69,859	4,106	5.88%
2014-15	188	66,881	3,792	5.67%
2013-14	178	62,363	3,075	4.93%
2012-13	174	59,482	2,549	4.29%
2011-12	175	58,838	2,451	4.17%
2010-11	169	56,556	2,236	3.95%

* 2017-18 enrollment data based K-12 Norm Day data.

DATA SYSTEMS

My Integrated Student Information System (MiSiS)

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

The following updates summarize the continued work on several key related initiatives.

- **Schoology Gradebook**—Beginning in the 2017-18 school year, the District mandated use of the Schoology Gradebook for all secondary teachers. The District reported utilization of the Gradebook to be approximately 80% of those teachers as of the end of the year, but has since determined that the percentage is somewhat lower. Additional analysis of Schoology utilization data will be done to create a more accurate report and identify targets for additional support. For those teachers who are fully utilizing the Schoology Gradebook, the statistical evidence of benefits to students, their parents, and the teachers themselves is tremendous (e.g., 32M assignments created by teachers; 44M visits by users to Schoology). Elementary school teachers will begin using the Gradebook at the start of the 2018-19 school year.
- **Enterprise Ad Hoc Reporting**—The prebuilt subject area Dashboards are well done and deliver actionable data analyses. The Information Technology Division (ITD) implemented additional Dashboards in the 2017-18 school year. This capacity allows competent users to produce custom reports with near real-time data. Data from the Welligent system has recently been incorporated into this tool, and a pilot of the first Dashboards for the DSE is underway.
- **Systems Integration**—The District completed implementation of a job-scheduling system from BMC Software, called Control-M. This system now contains a catalog of all data exchange processes, the business rules for executing them, and automatic notifications of failures for escalation and remediation.
- **Charter Schools Application Program Interface (API) Development**—In November 2015, the District presented a White Paper regarding the integration of charter schools into MiSiS. After working with the Superintendent and the Chief Information Officer, the IM and Plaintiffs' Counsel agreed to one of the options offered in the White Paper, with some qualifications. The solution included developing an API to all non-MiSiS student information systems employed by independent charter schools, so that student data can be passed to MiSiS, rather than requiring that each school use MiSiS exclusively. Phase 1 of this initiative is complete, with enrollment data APIs tested and implemented for all charter schools (except for a few schools that are implementing new Student Information Systems in summer 2018). Phase 2, which includes all other student data items, is scheduled for delivery by December 31, 2018.
- **MCD MiSiS Requirements Checklist**— A large number of smaller checklist items have been addressed during the 2017-18 year. Requests will be made to officially remove items from the checklist that are no longer relevant or needed. Remaining items have plans for completion.

Overall, the MiSiS team's progress in 2017-18 was impressive. Team leaders should be commended for their commitment to preserve and improve MiSiS for the greatest benefit of students and staff. Although this is encouraging, concerns exist for two key areas in the 2018-19 school year.

- As previously noted, effective change management is an ongoing concern. The mandated Gradebook module is now implemented for secondary teachers. However, successful implementation will require timely, accurate, and complete recordkeeping in the Gradebook from teachers, so that results will be visible to students and parents in the Passport system. If teachers do not comply, the benefits for parents and students will not be realized. While utilization is reported to be 80%, it is only measured by one task, the number of grades passed back to MiSiS from the Schoology system. This means that teachers who are not using the Gradebook need only enter students' final grades in Schoology to be counted in that number. Their students and parents would not have had access to assignments and other Gradebook data that will be available via the Parent Portal.
- Progress on charter schools' Phase 2 integration with MiSiS is limited. There is a need to analyze Phase 2 data acquisition issues and develop the means to overcome them. The IM understands that the approach to rolling out and supporting this integration is influenced by policy, politics, vendor relationships, and charter schools themselves. These variables create challenges for full integration within the defined timeframe.

ANNUAL HEARINGS

As per the September 17, 2012, stipulation of the Parties, the OIM is to conduct two annual hearings per school year. This report includes findings from one hearing conducted on March 14, 2018. To facilitate attendance, the hearing had two sessions—one in the morning and another in the evening. Notices inviting persons to attend were made available in English, Spanish, Armenian, Chinese, Japanese, Korean, Russian, and Vietnamese. To promote the annual hearing, a direct mailing was sent to homes of parents of SWDs; a Districtwide mailing was sent to all schools, including charter and nonpublic schools; and an ongoing advertisement was broadcast on the District's television station, KLCS.

The hearing was attended by 62 people, with 24 presenting oral testimony. In addition, 5 written comments were submitted. 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 31 referrals seen by District staff.

The most frequent concerns were not getting services or accommodations specified in IEPs, lack of collaboration in and/or hostile IEP meetings, being equal members of IEP teams, and schools allowing parents to review the draft IEP document prior to consent.

COMPLAINT MANAGEMENT SYSTEM/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 complaints regarding compliance with special education laws. The CRU is charged with providing parents a lawful response that demonstrates the District's legal obligation to address their inquiries and complaints.

The MCD requires the District to address and improve its systemic, substantial compliance with special education law. The IM—through annual reports, the Substantial Compliance Framework, and correspondence with the District—has consistently stated that a viable complaint management system is necessary for substantial compliance.

The MCD includes two requirements to address and resolve parent complaints in a timely manner and the establishment of a complaint management system. Outcome 11, Complaint Response Time, requires the District to provide a lawful response, within specific timelines, to parents who file a complaint. This outcome is the performance measure that aims to facilitate parents in resolving complaints. Section 9, CRU (paragraphs 71-75), outlines the District's requirements for the CRU's establishment and the development of its operational procedures. Some of the requirements include (section 9, paragraph 74):

- The District must establish the CRU that gives the District an opportunity to resolve parent complaints without the need for parents to resort to external complaint and due process mechanisms.
- The CRU must accurately record all parent inquiries and complaints and the District's response thereto and provide complete and accurate information to parents who contact it.
- The District must ensure that information materials inform parents of the availability of the CRU.
- The District must establish procedures and protocols for the processing of complaints, which must be approved by the IM.
- The District must establish procedures and protocols for the retention of data concerning complaint filings and dispositions, which must be approved by the IM.
- The District shall prepare a staffing plan for the CRU with adequate capacity to timely respond to complaints in the seven primary languages of the District. The staffing plan shall be approved by the IM.

The OIM submitted two reports that examined the complaint management system and CRU's performance and adherence to the requirements of the MCD (2014, 2016). Both reports provided similar findings and recommendations intended to guide the continued improvement of the District's complaint management system and

CRU. While the 2016 study noted improvements with the procedures for processing complaints, one of the primary problematic issues found was the District's use of a two-tier process for identifying call types and cases that result in the recategorization of complaints. The issue stems from the District's characterization of a complaint, which deviates from the definition in the MCD and in its *Policies and Procedures Manual*, which states:

Complaint means the allegation of a perceived violation of (1) the Individuals with Disabilities Education Act and implementing regulations; (2) the California State Education Code related to special education and implementing regulations; or (3) the District's Special Education Compliance Guide.

The District defended the practice of the two-tier process for identifying calls noting that calls that were easily resolved should be closed as "concern" or an "inquiry," while only those that were found to have violated special education laws or regulations, or the District's special education policies and procedures, are to be considered and closed as "complaints."

This practice results in cases not being resolved pursuant to the MCD, which requires that lawful response letters be provided to parents when an alleged violation is made, investigated, and closed out. The practice of recategorizing an alleged complaint to an inquiry or concern might result in circumventing investigation and lawful response processes.

The MCD defines four lawful response types for resolving "alleged" complaints. One option allows the District to resolve the case by notifying the parents that the investigation found the alleged complaint to be unfounded, or invalid. The other three lawful response options are as follows:

- Remedy or action to be taken to resolve the noncompliance
- Referral(s) to appropriate office or agency
- Referral to dispute resolution options such as Informal Dispute Resolution (IDR), mediation, or due process.

Several issues require updating from the previous annual report: the District's revised CRU staffing plan submitted October 13, 2017, and response to the remaining OIM's 2016 recommendations.

On October 13, 2017, the District provided the Parties a revised staffing plan. On November 9, 2017, the IM provided a letter with the conditional approval of the District's CRU Staffing Plan and contingent approval on several issues that required clarification and/or resolution. Many of these issues were minor, requiring clarification or minor changes to documents. On December 4, 2017, the District provided a response to the IM's letter satisfactorily addressing the majority of these issues. On January 23, 2018, the IM responded noting that three issues continued to require resolution. Two dealt with minor changes in job descriptions of Parent Community Facilitators and CRU posters distributed to schools. The third directed the District to cease its two-tier process for categorizing calls.

On February 16, 2018, the District provided another response resolving all three items. Of most consequence, the District agreed to immediately cease its practice of the two-tiered process for categorizing calls. It noted that the District's Special Education Operations Department received training to accurately report on complaints based on the initial intake and designation. It also committed to have staff review 41 complaints that were re-designated following the initial intake. On April 30, in response to the IM's request for information for inclusion in this report, the District provided 43 lawful response letters of complaint cases filed through December 15, 2017.

On April 9, 2018, the Plaintiffs' Counsel brought to the IM's attention a recent case filed by parents with the CRU that raised concern regarding the effectiveness and oversight of the CRU and the adherence to its policies and procedures when processing complaints. The OIM reviewed several relevant documents, including the student's last three IEPs, the CRU case file in the electronic complaint management system, and the lawful response letter. The IM requested that the District look into the how this case was handled and provide an explanation of the process.

Questions and/or concerns regarding the implementation of the CRU's policies and procedures in this case were:

- How timelines were determined for resolving the complaint and provision of the lawful response, since it reportedly took 15 days despite the letter being dated approximately 5 months after the call;
- The investigation and documentation practices for processing complaints, since the case notes and lawful response letter did not include specifics of the alleged complaint; and
- Inconsistency in the person (parent vs. school) responsible for remediating or resolving noncompliance, in this case, requesting an IEP meeting to discuss these concerns.

On June 12, 2018, the District provided a response to the concerns of the aforementioned case. The letter also addressed the two-tier process for re-categorizing calls, noting that as a response to the IM's directive to remedy re-categorized cases, the District reviewed cases that resulted in (re)sending out lawful response letters outside of the normal timelines.

The letter also indicates that following the discussions during the DSE's presentation at the May 14, 2018, Parents' Council Meeting⁸, the District conducted a review of all "concerns" in the Welligent Call Center Module from July 1, 2017, to May 16, 2018. The letter states the purpose of the review was to address the issues raised by the OIM regarding the designations of initial and resolution call types and to determine if any cases needed to be re-categorized to a complaint. This resulted in a review of 953 cases, 428 which were re-categorized from a concern to complaint. The District issued lawful responses for each of these re-categorized cases. The District noted that, moving forward, it would categorize calls that involve a perceived allegation of a violation as a complaint rather than a concern and address the calls as such. This practice will align with the definition of a complaint in the MCD and CRU's Policies and Procedures Manual, as well as the numerous OIM recommendations and directives.

The OIM conducted a review of the 43 lawful response letters and accompanying case notes in the Welligent Call Center Module, which consisted of the following:

- Date and number of calls with lawful response letters
 - July – 1
 - August – 7
 - September – 4
 - October – 13
 - November – 11
 - December – 7
- 33 of the calls had initial lawful response letters provided to parents on February 23, 2018
- 37 had an amendment lawful response letters sent on March 9, 2018
- 39 lawful response letters notified parents that their complaint was unfounded
- Four lawful response letters validated the complaint and offered a remedy

While the letters and case notes demonstrate improved documentation of the issues reported by parents, the lack of the original lawful response letter make it difficult to assess the initial effectiveness of the complaint management system. However, the amendment letters demonstrate much improved documentation of the complaint and actions taken by the District. While improvements were noted in the alignment between the issues in the case notes and lawful response letters, some letters did not include all or the most prevalent issues of the complaint.

For example, one case involved issues that alleged harassment, discrimination, neglect, and the failure to provide an incident report of the student's injury. The lawful response noted that the complaint was unfounded and advised the parent of the District policy for informing parents for notification of incidents regarding injuries, and referred them to the school principal. The letter did not address the allegations of harassment, discrimination, or neglect. Although no violations of special education laws or District policies or procedures were found, it does appear the parent was not provided the incident report in accordance with a District non-special education policy. A referral to the correct department for follow-up might have been a more appropriate response. In addition, the lack of

⁸ During this presentation, the DSE was unable to differentiate between a concern and complaint (alleged violation vs. verified complaint) as defined by the MCD.

investigation and response regarding allegations of harassment, discrimination, or neglect demonstrates a lack of training and poor oversight for addressing these concerns or complaints.

The District continues to make progress toward achieving an effective complaint management system. The cessation of the two-tiered categorization process and identification of complaints aligned with the MCD's definition (i.e., an alleged violation of special education law or District policy) ensures complaints are handled in accordance with the MCD and CRU's Policies and Procedures Manual.

Concerns exist regarding the District's ability to remediate systemic problems that prevent substantial compliance in a timely manner. The IM has repeatedly stated that an effective complaint management system is a critical aspect of ensuring substantial compliance and the determination for disengagement. Problems regarding the accurate identification of complaints have been brought to the District's attention repeatedly by the OIM since 2014. Problems with the two-tier categorization process have also been repeatedly highlighted, with directives to cease this practice that were not immediately heeded. These issues should have been resolved much sooner, and the failure to do so has limited progress in this area.

One major area of concern is the lack of two of the four lawful responses. The majority of cases were determined as unfounded, while only three included a remedy to address the complaint. No lawful response letters provided a referral to an appropriate agency or District office or informed parents of their dispute resolution options. Given the number of calls processed by the CRU and Call Center, it is reasonable to expect a good number of complaints that allege a violation of special education laws or District policies that require a referral to an appropriate agency or sending parents information on their dispute resolution options.

These changes and areas of progress are cause for optimism. If implemented correctly, the District should be able to demonstrate an effective complaint management system in the near future. The effectiveness of the complaint management system will be closely monitored during the 2018-19 school year. Complaints will be reviewed quarterly to ensure that the implementation of the changes result in complaints being processed in accordance with the MCD and CRU's Special Education Policies and Procedures Manual.

IEP COMPLAINT INVESTIGATION

On August 5, 2015, the IM issued a report on the findings of the IEP Complaint Investigation and corrective actions to be taken by the District to cease and remedy noncompliant behavior by June 30, 2016. On September 19, 2015, the District provided a response that included timelines for completion of each corrective action, with one receiving approval from the IM to be completed by August 31, 2016. On September 29, 2017, the District provided another update on the implementation of the corrective actions. In response to the IM's April 10, 2018, request for information for inclusion in this annual report, the District provided an update on April 30.

Although the District had committed to the implementation of all but one corrective action by June 30, 2016, three outstanding corrective actions remain (1, 7, and 10). Below are the 12 corrective actions with the District's responses and subsequent OIM feedback. The District's and OIM's most recent responses for the three corrective actions are in bold.

1. *Establish an objective, neutral complaint investigation mechanism that has the authority to cease noncompliant behavior and ensure remedies.*
 - a. The OIM reviewed the effectiveness of the complaint management system and provided findings and recommendations in October 2016. The District's most recent responses inadequately address the problems highlighted and recommendations.
 - b. Although considerable progress was noted, issues such as those related to the two-tiered approach for identifying calls and the application of lawful responses must be addressed to ensure a credible system.
 - c. **On April 30, 2018, the District provided a description of the complaint investigation mechanism that is processed via the Welligent Call Center Module by Parent Community Facilitators and**

- Program Specialists. While these procedures are consistent with those implemented by the CRU, the response does not mention the CRU's role with this mechanism.
- d. Concerns still exist regarding the effectiveness of the complaint management mechanisms. Although the District has reportedly ceased its two-tiered approach for identifying complaints, it appears that senior officials continue to misidentify complaints as defined in the MCD. This was evidenced in the May 14, 2018, Parents' Council meeting where senior officials provided a presentation on these procedures and could not accurately describe how a complaint is differentiated from inquiries and concerns. The District reported it is reviewing these procedures as a result of these presentations. Additional discussion is included in the section regarding the CRU.
 - e. This corrective action continues to be unmet.
2. *Review policies and procedures to ensure alignment with state and federal regulations as well as consistency among bulletins and reference guides. Clarify and emphasize the IEP teams' authority in all policies related to the decision-making processes during IEP meetings.*
 - a. This corrective action is met.
 3. *Develop an IEP process that ensures placement based on IEP team consensus. This includes establishing a standard for how meetings are conducted that aligns with the Welligent IEP system and promoting a decision-making process that establishes goals, objectives, supports, and services prior to program placement.*
 - a. This corrective action is met.
 4. *Issue a bulletin/directive on the use of draft IEPs. The Welligent system must be revised to prevent input of program placement information prior to the IEP meeting.*
 - a. This corrective action is met.
 5. *Prepare a statement to be read and made available at every IEP meeting. Before an IEP meeting can proceed, the statement must be in the Welligent system with a checkbox indicating it was read. This statement must inform the participants that:*
 - *an IEP meeting is a collaborative process, and all participants have the opportunity to ask questions and provide recommendations and suggestions;*
 - *the IEP team has the authority and responsibility to design a program from which the child can derive meaningful benefit;*
 - *the draft IEP, behavior intervention plan, or assessment plan might change as a result of the IEP team's deliberations;*
 - *the IEP will continue until it is complete, unless all members agree to an extension;*
 - *the decision on related services and placement will occur during the IEP meeting, unless the team agrees that there is not sufficient information to make a placement determination;*
 - *the District considers the family equal partners in the educational decision-making process; and*
 - *any team member may add an objective or goal to the IEP, even if it is not included in the Welligent goal bank.*
 - a. The District added the introductory statement to the *Parents' Guide to Special Education Services* in September 2016. The revised publication was distributed to schools the week of November 14, 2016.
 - b. This corrective action is met.
 6. *Develop a comprehensive list and descriptions of all related services and program options available. This must become part of the Welligent system and be made available at IEP meetings.*
 - a. The District added the introductory statement to the *Parents' Guide to Special Education Services* in September 2016. The revised publication was distributed to schools the week of November 14, 2016. Stand-alone handouts of programs, supports, and services on the District's website and through Welligent downloads were also available as of November 14, 2016.

- b. This corrective action is met.
7. *Address the caseload procedures to reflect workload throughout the school year. The District must stop allocating resources based solely on caseload and initiate allocating workload to all providers including resource specialist programs and related service providers, such as per diem personnel.*
- a. The District was to complete a staffing formula for each related service and RSP, taking into consideration extenuating factors that might impact the provision of services to individuals (i.e., age of student, school configurations, etc.) by February 19, 2016.
 - b. On February 19, 2016, the District provided an email containing two documents with staffing formulas for psychological service and related service providers. The email contained an explanation of the staffing information for determining RSP caseloads.
 - c. The OIM response noted the following:
 - The documents contain information on the activities required to meet the needs of schools and students, apply a unit of work to each activity, and define the length of time required to complete (weeks per year and cumulative hours per year).
 - The documents begin to present a picture of the District's needs, such as identifying the number of FTE positions needed and what appears to be an average number of students on a provider's caseload; however, they lack necessary information on the District's current staffing levels.
 - This corrective action, as well as directives in past annual reports, aimed to have the District conduct a comprehensive analysis of its caseload and workload demands and current staffing levels and practices. The documents provided appear to contain some workload factors for the overall District, but they do not sufficiently examine the problem. For example, for speech and language providers, the document identifies 522.842 FTEs needed to meet the total hours to complete all service-related tasks, but it does not contain information on the total number of FTEs employed and those on leave, or the number of District personnel compared to per diems.
 - An effective analysis should contain median and mode information, particularly by local district and for District and per diem providers. It should similarly examine the number of schools assigned to providers.
 - d. **On April 30, 2018, the District provided a caseload versus workload analysis to fulfill this obligation. The document includes data on factors such as the number of schools per provider, number of assessments and IEPs per year, and miscellaneous hours (not defined) per year, for the following services: Orthopedic Impairment (OI), Visual Impairment (VI), Orientation and Mobility (O&M), Audiology, Deaf and Hard of Hearing (DHH), Least Restrictive Environment (LRE), and Inclusion. Missing from this analysis are the most impacted services including: speech and language services (LAS), occupational therapy (OT), physical therapy (PT), counseling (including ERICS), and resource specialist program (RSP). Although data is included in a one-page table for all services, the document lacks any "analysis" of the data and implications for impacting service delivery. The analysis is wholly inadequate and appears to have been put together for the purpose of satisfying the OIM's directive for this corrective action.**
 - e. This analysis was not intended for the purpose of the OIM's knowledge, but was rather aimed at providing senior leadership valuable information for making staffing and resource allocation decisions. This effort does not appear to provide valuable management insight. The submission of the document as a response shows disregard for this information and analysis by senior leadership. It is important to note that this issue has been a primary concern of service providers who feel overwhelmed by caseloads, workloads, and staffing assignments.
 - f. Although the caseload versus workload analysis is inadequate and lacks any narrative on the implications of the findings or data, as well as any indication this effort will result in any staffing, programmatic, or policy changes, this corrective action is considered met.
8. *Eliminate barriers and obstacles for the IEP team's placement determination. When considering NPS placement, the District must first conduct any necessary evaluations prior to the IEP meeting. The evaluations must determine that the identified needs cannot be met by any District service. If NPS*

placement is supported by such evaluation, then the placement must be implemented, and no further evaluation shall be required.

- a. This corrective action is met.
9. *Clarify procedures for recessing IEP meetings. A recess may not be used to deter or delay a placement determination or the provision of related services.*
 - a. This corrective action is met.
 10. *Ensure that whenever the District initiates or refuses an evaluation, change in placement, or provision of FAPE, it provides notice to the parent. Whenever the operations unit receives notice to look for a change in placement, parents must be notified.*
 - a. The District was to revise applicable bulletins by November 20, 2015.
 - b. The District has not provided any evidence of these revised bulletins. Bulletin 5901.4 does not address this corrective action.
 - c. The District added a new checkbox to the Notification to Participate in an IEP Meeting form. In the Purpose of Meeting section of the form, a checkbox for "Change in Placement" was added on April 10, 2016.
 - d. **On April 30, 2018, the District provided a document describing and listing the applicable publications and policies and procedures for meeting the Prior Written Notice (PWN) requirements of the Individuals with Disabilities Education Act. It is in the process of drafting a policy document that consolidates all PWN requirements in one document, but did not identify the timeframe for its completion.**
 - e. **Despite providing the list of available publications and policy bulletins, this fragmentation results in a lack of comprehensive clarity of the PWN requirements, which led to the failures and noncompliance of this requirement. Therefore, this corrective action is still unmet.**
 11. *Conduct an analysis to examine how the social-emotional needs of students with intellectual disability (ID) are being supported. This must include a review of data, policies, procedures, and practices for the provision of behavior supports, counseling, and other related supports.*
 - a. This corrective action is met.
 12. *Establish professional development to address these corrective actions and improve the IEP team's collaborative process.*
 - a. This corrective action is met.

Little progress was made in the implementation of two of the three corrective actions (1 and 10). In the last annual report, it was noted that these items can easily be remedied with clarification between the OIM and District. However, the District did not make any attempts to communicate with the OIM, particularly with the persistently problematic issues around the complaint management system. Several issues regarding the complaint management system and CRU were discussed with the Parties throughout this school year; however it did not result in management addressing the fundamental task of accurately identifying complaints and ensuring that staff are properly trained to delineate between complaints and inquiries and concerns. This issue has also been comprehensively covered by the OIM in both CRU studies (2012 and 2016), which include specific examples of the misidentification of complaints, with accompanying recommendations.

The analysis provided for corrective action 7 demonstrates minimal effort and disregard for the issues identified by service providers as impacting their ability to deliver services. The determination to consider this corrective action met is simply based on the completion of the task since the primary beneficiaries of insights are management. The submittal of this inadequate analysis speaks more to the minimal value placed on such an analysis by senior leadership. The remaining two corrective actions have a much larger impact on parents who rely on an effective complaint mechanism, and site professionals including administrators, teachers, and providers who require adequate guidance for complying with the PWN requirements. These remaining corrective actions must be addressed with credible effort in order to be met. It is the IM's hope and assumption that senior officials will engage

in good-faith efforts to address these issues with professionalism and in the best interest of students, families, and the organization.

It has been repeatedly stated in past annual reports that the ultimate test will be the change in culture of IEP teams to ensure that families are equal members of the IEP team and are authorized to make decisions on the appropriate services for SWDs. If achieved, this should result in less reliance on external complaint and due process procedures, and change the culture so parents are not encouraged by IEP teams to go to informal dispute resolution or due process, but rather to resolve disputes at the local level.

At the spring 2018 annual hearing and during Parents' Council meetings, feedback from parents continues to indicate that this change in culture has yet to permeate districtwide. Families and advocates continue to experience IEP teams that do not value families as equal partners. The OIM has yet to examine the implementation of these corrective actions but will do so in its overall monitoring effort to determine disengagement. It is imperative that senior leadership also evaluate the effectiveness of these corrective actions for ensuring schools have functioning IEP teams that promote equitable parent participation in the decision-making processes related to their student's IEP programs and services.

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 when MCD compliance is achieved.

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" (p. 26). It also clearly delineates the requirements the District must meet to be disengaged from court oversight. Sections 16 and 17 summarize these requirements by stating (pp. 24-25):

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.

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

In the last annual report, it was reported that the District had made progress in meeting the requirements of Elements I and II of the substantial compliance framework based on the contents of its June 9, 2017, update and subsequent clarification letter dated September 22, 2017. While the contents were a good start for meeting the requirements, the OIM requested the following to aid in completing these requirements.

- A list of specific actions for these steps for all indicators
- Specific examples of corrective actions carried out at schools or local districts for all indicators
- Changes that address concerns with the "three point checks and balances" procedures for complaint management and resolution that result in the change of call or complaint cases being recategorized (inquiry, concern, complaint)
- Validation procedures for outstanding outcomes and state indicators
- Evidence of corrective actions and mitigation of noncompliance at the student, school, and local district levels
- Evidence of District Validation Review (DVR) findings (or other compliance reviews) that led to a review and/or change to existing policies to address systemic noncompliance

In addition, on September 25, 2017, the IM provided the District a letter with additional feedback and a request for information regarding Elements I and II. On December 20, 2017, the District responded to the IM's requests from the September 25 letter and October 25, 2017 annual report. This response provided additional clarification and information but did not fully address all of the questions and concerns raised by the IM. Although more progress was made, the IM issued another letter requesting more information to conclude Elements I and II as well as information on the remaining three elements (III, IV, and V) that had not previously been provided.

To summarize, the following outlines the items requested in the IM's May 1 letter and April 10, 2018, request for information for inclusion in this annual report. The District's May 15, 2018, response is included in bold.

- Information for two schools for each local district, as well as independent charter schools that demonstrate the application of the described standards for ensuring substantial compliance, with at least half of the schools where these standards were applied that were not a result of the DVR.
 - **Examples of findings from several DVR schools and several Report of Findings from Uniform Complaint Procedures (UCPs) were provided as evidence of these substantial compliance mechanisms.**
- Additional information regarding the 11 compliance indicators to assess the viability of the action steps and procedures for identification and correction of violations, including the following relevant information and/or documentation for all indicators:
- Triggers for the identification of noncompliance, specific to each compliance indicator.
 - **Triggers and/or mechanisms for alerting schools of noncompliance were provided for the 11 indicators.**
- Policy bulletins and/or trainings that provide guidance and/or specifics for the identification of noncompliance and steps to eliminate or cure any harmful effects.
 - **A table with policy documents for all compliance indicators was included.**
- Examples of monitoring and corrective actions for each indicator at two schools that occurred during the 2017-18 school year. Evidence of monitoring and corrective actions at high offending schools for a variety of compliance indicators, which should include (but not be limited to) areas such as IEP timelines and service delivery.
 - **Two examples of monitoring and corrective actions for schools noncompliant with multiple compliance indicators were included.**
- Information regarding Element III: Process for Receiving and Resolving Compliance Complaints.
 - **An overview of the three mechanisms used was provided, which include the UCP, CDE Compliance Complaint Process, and CRU.**
 - **Policy bulletin (BUL-5159.7) for the UCP was provided.**
- Information regarding Element IV: Process for Resolving IEP Disputes.
 - Descriptions for the four parts of this element were provided, which include
 - Policies and procedures to ensure procedural safeguards of notice and consent, mediation, due process, and state complaints;
 - This included policy bulletin (REF-1410.9) for the District's three options for resolving IEP disputes which include: 1) informal dispute resolution, 2) state mediation only, and 3) formal due process hearing;
 - Capacity to ensure that timelines are met for resolving IEP disputes through informal and formal dispute resolution;
 - Capacity to collect and maintain data on issues and resolution of informal and formal dispute resolution; and
 - Mechanisms for analyzing the issues and findings to determine if systemic problems exist, which are reported annually to the Superintendent.
- Information regarding Element V: Management and Administrative Structure with Authority to Monitor and Enforce Compliance.
 - Descriptions for the items in this element were provided, which include:
 - The electronic portal with the District's special education policies and procedures manual;
 - Methods for communicating policies and procedures for LRE, placements, and the development, review, and revision of IEPs;

- Methods for the review and implementation of newly developed federal and state requirements;
- Capacity of the administrator in charge of special education to direct District personnel to comply with special education laws and regulations, correct noncompliance, and maintain access to all school data; and
- Capacity to identify school administrators and special education providers who fail to monitor special education compliance in a timely manner.

The IM's letter also expressed concern that the DVR process—which is relied on for ensuring substantial compliance as an ongoing monitoring system that identifies violations and monitors corrective actions—is limited to schools selected annually for a DVR. It noted that the DVRs four-year cycle for reviewing schools also limits its viability as a main source for ensuring substantial compliance.

Although the UCP is a viable method for parents to resolve complaints, this process is not intended to identify systemic noncompliance. Unlike the DVR or monitoring through dashboards or Welligent Service Tracking reports, UCPs are individual complaints.

The District has satisfactorily completed describing the processes associated with Substantial Compliance Framework. As previously stated, the real test is whether the District's implementation of the monitoring procedures and corrective actions results in the mitigation and nonrecurrence of violations at schools. During the 2018-19 school year, the District must provide evidence of the identification of noncompliance and corrective actions. This must include non-DVR schools for various areas of noncompliance. Systemic issues must also be addressed swiftly, unlike the PALs changing areas, which took more than two years to resolve.

In addition, the District must continue to demonstrate its capacity to renovate and repair ADA elements to code and effectively utilize the RAP processes. Lastly, the complaint management mechanisms, particularly the CRU, must be implemented effectively in accordance with the MCD and its policies and procedures manual.

MAKING SCHOOLS, PROGRAMS, AND ACTIVITIES ACCESSIBLE

MCD Section 10 requires that: (p. 19)

- 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.

MCD Section 17 requires that the IM determine that District schools have no systemic problems preventing substantial program accessibility compliance.

Meeting the requirements of Sections 10 and 17 has presented considerable challenges during the course of the MCD. This section summarizes the District's progress toward meeting the requirements of Sections 10 and 17 since the previous report issued October 2017.

\$67.5 Million Repair and Renovation Projects

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

\$20 Million On-Demand RAPs

The MCD established an on-demand program to respond to site-level requests to improve program accessibility for SWDs. This program was to provide flexibility to make minor renovations in an expedited manner so students could participate in programs and activities.

Over the course of the MCD, concerns with the effectiveness of the RAP program have been consistently expressed, particularly with program management and lack of timeliness in completing projects. Over the past few years, the District has provided information and assurances that enhancements to the RAP were underway. The District's Board-approved ADA Districtwide Transition Plan also placed a large onus on the RAP's effectiveness to provide program access. This means that the effectiveness and use of the RAP are essential to improving program access across the District until the full implementation of its plan aimed at achieving compliance with the Title II requirements of the ADA and Section 504, which will occur more than a decade from now.

Prior to the last annual report, the District noted that the following improvements were being made to better streamline the program's process and effectiveness:

- Purchasing long-lead times to have more items on-hand and readily available to assist in expediting the process of responding to RAP requests.
- Maximizing the effective use of the District Maintenance and Operations (M&O) workforce and utilizing quick contracting methods when necessary to meet the 21-day response timeline.
- Streamlining the contracting process.
- Improving oversight of the RAP process to ensure RAP timelines are met.
- Developing a more detailed tracking sheet and metrics that enable projects to be completed by the goal timelines.

Given the District's assurances that the RAP program will be improved and its large emphasis on these mechanisms for making schools, programs, and services accessible as part of the Districtwide Transition Plan, the OIM reviewed the effectiveness of the applications submitted during the 2017-18 school year. This analysis includes a review of the application and tracking spreadsheet as well as validation of these efforts through email and personal communication with school administrators at selected sites.

The last annual report contained information on projects completed before September 22, 2017. To avoid double reporting, only projects completed after September 22 were included in this analysis. The District provided a total of 26 applications; some were duplicates or outside the timeframe of the analysis. A total of 20 projects were validated with seven (one outside of the timeframe) visited by the OIM and the remaining sites contacted via email and telephone calls. A spreadsheet listing all the projects was also included. This spreadsheet contained the only completion information. Several of these projects were validated by the OIM.

The Rapid Access Program spreadsheet contained 22 projects at 20 sites that contained information on both the request and time of completion (that fell between September 22, 2017, and April 12, 2018). Of these projects, five were transferred to Critical Barrier Removal (CBR) program, two had estimated completion dates after the submittal to the OIM (but prior to May 15), one was deemed not required, and two were resolved with operational solutions. The District reported completion or expected completion times for the remaining projects, as follows:

2017-18 – 12 Projects (Per District Spreadsheet)

- 0-20 days – 5 projects
- 21-40 days – 2 projects
- 41-60 days – 3 projects
- 61-80 days – 2 projects

There were 22 projects included on the spreadsheet. Of these, eight were projects for restroom renovations or to assist with toileting needs (i.e., lifts, changing tables) for middle or high school students; two for restroom renovations or to assist with toileting needs of elementary or preschool children; seven for ramps to allow access to classrooms, a main building, and a computer lab; and three for various access issues including locks for students with visual impairments, striping of stairs, and a portable stage lift.

Two projects were requested in anticipation of students' needs for the upcoming school year, which schools applied for proactively. Eight projects were requested and six were not completed due to the projects requiring design and

were transferred to CBR and/or folded into another remodeling project. One project was not completed due to an operational solution that was implemented (relocation of classroom) and one was deemed not required. Eleven projects were reported as completed, with two including expected dates of completion (both prior to the OIM visit).

To validate the data on the spreadsheet, on May 22 and 23, 2018, the OIM visited seven schools to better understand the RAP process and observe completed work. In addition, between June 6 and June 13, the OIM emailed site administrators at the remaining 13 schools. The following are highlights of the site visits and email/telephone communication with schools.

Site Visits

Stevenson Middle School

- Request was made March 27, 2017, for a restroom with an adult changing table for a student who requires assistance with toileting.
- The table was delivered, with modifications to restroom made over summer 2017.
- A Rifton lift was delivered in October or November 2017, which was placed in the same bathroom with privacy track curtain installed. However, this area does not contain a toilet or sink, and has never been used.
- The school was uncertain of the purpose of this lift and installation of the privacy curtain with no other toileting features included.
- Spreadsheet states it was completed February 9, 2018.

Fleming Middle School

- Request was dated November 8, 2017, for modifications to the restroom to accommodate a lift by removing a part of the partition and the installation of an electrical outlet and ventilation fan.
- The partition was removed prior to the winter break.
- The assistant principal (AP) recalls making the request prior to November 1, since she began a leave on that day. AP recalls having three District personnel members assess the restroom prior to her leave.
- The electrical outlet and ventilation fan have not been installed.
- Spreadsheet states it was completed December 5, 2017.

Carson High School

- Request was made April 10, 2018, for an electrical outlet for a lift to assist a student with toileting.
- The electrical outlet was installed the week of May 14.
- School did not recall anyone from the DSE assessing the restroom, rather staff from M&O came to install the outlet.
- School reports that the outlet had previously been requested but could not recall when, and the District required them to resubmit the request due to the previous request not being fulfilled, citing a staff member retirement.
- Spreadsheet states it was completed April 19, 2018.

Wilson High School

- Request was made March 13, 2018, for modifications to a restroom to accommodate two changing tables. This required the removal of three urinals, installation of an electrical outlet, and tracking for privacy curtains.
- A second request with the same date was provided to the OIM, stating the application had been denied as the project required "design and sequential construction."
- The initial request was made August 22, 2017, for the same modifications to the same restroom.
- School reports that District personnel have come several times since August 2017 with many people (up to five) and professionals disagreed with the solution.
- The tracking for privacy curtains is still not complete.

- School notes that they were asked to resubmit the RAP application due to the request not being fulfilled, citing a staff member retirement.
- Spreadsheet states the request was made March 14, 2018, and was transferred to CBR for “required design and sequential construction.”

Hawaiian Elementary

- Request was made December 15, 2017, for the installation of grab bars in a restroom.
- School reports that the grab bars were installed in about one month.
- Spreadsheet states it was completed January 26, 2018.

Foshay Learning Center

- Request was made October 20, 2017, for the installation of a ramp so that a parent in a wheelchair could access her student’s classroom.
- The ramp was installed over winter break to minimize disruption to the instructional program.
- Spreadsheet states it was completed January 15, 2018.

Gage Middle School

- Request was made March 19, 2018, for a changing table and modifications to the restroom including installation of an electrical outlet and door hardware.
- The table had not been delivered, and the school reports that District staff visited a month prior to the OIM visit to measure the room for the table.
- Spreadsheet states expected completion date was May 15, 2018.

Description of Remaining RAP Projects and Email Feedback

Burbank Middle School

- Temporary ramp for classrooms for students matriculating to the eighth grade for the 2018-19 school year.
- Spreadsheet notes an operational solution was applied by changing the classroom location.

Cantara Elementary School

- Temporary ramp for classrooms for students matriculating to the fifth grade for the 2018-19 school year.
- Spreadsheet states the project was transferred to CBR.

Grant High School

- Modified locks for lockers for students with visual impairments.
- Spreadsheet states this was a follow-up to an earlier RAP and was projected to be completed 50 days after request date.
- Data indicates it took 30 days for Access Compliance Unit (ACU) to receive the application from the DSE.
- School reported the original request was made May 3, 2017, almost 10 months prior to the March 1, 2018, request.
- School reported that the package with locks was sent but not properly addressed, resulting in the locks sitting in a box and unused for almost a year.

Langdon Elementary School

- Installation of a ramp to a restroom, grab bars, opening the doorway, and ensuring adequate turning radius.
- Completion date is five days after the request and states that the project was transferred to CBR and ramp was coordinated with restroom remodel project.

Marshall High School

- Striping of stairs for student with visual impairment.
- Spreadsheet reports a completion date within two weeks of application.

Morningside Elementary School

- Main office, auditorium, and classrooms in the main building are not accessible.
- Request made for a small permanent ramp to replace stairs at the east side of the building.
- The elevator is reportedly out one-third of the year and prevents access for a student and staff member with disabilities.
- The spreadsheet indicates elevator is working and the ramp is not needed.

Murchison Elementary School

- Installation of privacy lock in a restroom.
- Spreadsheet states it was completed within two weeks of the request.

Nobel Middle School

- Stage in the multipurpose room is not accessible and requires a portable wheelchair lift.
- Spreadsheet reports it was completed four days after the application was received.

Northridge Middle School

- Two requests made the same day for modifications to a restroom for students who require changing, including removing the exterior landing; removing cabinets and kiln; and providing privacy locks, exhaust fan, electrical outlet, changing table, and Rifton lift.
- Spreadsheet states this project was transferred to CBR due to extensive design and construction and that this scope would be added to the barrier removal project expected to be completed by October 1, 2019.

Plummer Elementary School

- Installation of a temporary ramp into a classroom.
- Spreadsheet indicates it was completed eight weeks after request.

Pomelo Elementary School

- Installation of a temporary ramp into a classroom.
- Spreadsheet indicates it was completed eight weeks after request.
- School confirmed completion timelines.

Rowan Avenue Elementary School

- Request for a ramp to computer lab.
- Transferred to an operational solution by changing the location of the classroom/lab.

Sylvan Park Elementary School

- Installation of a temporary ramp into a classroom.
- Spreadsheet indicates it was completed short of 10 weeks after request was submitted.

Summary

The high percentage of requests related to changing areas and toileting needs shows the continued need for making schools accessible and proper planning for students who transition from different grade levels or schools. These requests might indicate a systemic need for reviewing toileting and changing stations for secondary students, similar to what occurred for PALs programs.

Although the timeliness of repairs appears to have improved, concerns still exist with the management of this program as many applications do not contain important information on the approval or completion date, which is also

observed on the tracking spreadsheet. Discrepancies were found with the completion times reported on the spreadsheet as well as the original request dates of several applications. These discrepancies raise concern over the accurate reporting and management of the RAP projects.

During the 2018-19 school year, the District must provide the OIM all applications on a quarterly basis. The OIM will closely monitor these processes and validate work at the site level. The RAP is a critical component of the Self-Evaluation and Transition Plan and for determining disengagement and must be effectively managed to ensure timely program accessibility.

The RAP requirement is also a critical component of the Transition Plan, MCD, and Substantial Compliance Framework. This commitment is ongoing, and no determination stating otherwise has ever been made. Transparency in this area is essential for ensuring a system is in place that can identify and remediate noncompliant conditions and improve program accessibility.

New Construction, Repairs, and Renovations

MCD Section 10 requires that any new construction, repairs, and renovations comply with federal and state requirements. This requirement has no timeframe or minimum cost expenditure. The OIM will continue to evaluate the District's processes related to this requirement until disengagement. The processes to ensure compliance are discussed in the next section.

Section 17

Section 17 requires the IM to determine that District schools have no systemic problems preventing substantial program accessibility compliance. The expectation for meeting these obligations include:

- compliance with ADA requirements for transition and self-evaluation plans that identify barriers and a schedule for their removal at all District schools and buildings,
- designation of an ADA Compliance Manager, and
- the capacity to conduct consistent and comprehensive surveys.

The RAP is a large part of ensuring a system that can prevent substantial noncompliance; however, because this requirement was addressed earlier, only a brief discussion is included in this section. This discussion primarily focuses on the other requirements of Section 17.

Progress on the Implementation of the District's Self-Evaluation and Transition Plan and Other Related Requirements for Disengagement

The implementation of the District's Self-Evaluation and Transition Plan is one of the largest efforts to fulfill prior to disengagement from the MCD. This section will detail the status of the Plan's implementation as well as other areas required for disengagement. The criteria for disengagement from the Substantial Compliance Framework were established by the previous IM in 2014. Timelines have been established and modified by the District.

On October 10, 2017, the Board of Education approved the District's Self-Evaluation and Transition Plan to comply with the ADA's Title II Program Accessibility requirements and Section 504. These laws prohibit the discrimination of individuals with disabilities because the entity's facilities are inaccessible and unusable, denying program access. Public entities are required to ensure that programs, benefits, services, and activities offered, when viewed in their entirety, are accessible for individuals with disabilities. These laws also require new construction and altered facilities to meet more stringent "readily accessible" standards.

To comply, the District is required to create an ADA transition plan that addresses the needed structural changes to achieve compliance with the ADA's Title II program accessibility requirements and Section 504. These physical changes were to be completed by January 26, 1995. As noted above, the District now has a compliant and Board-approved Self-Evaluation and Transition Plan, which when fully implemented, will bring the District into compliance with federal laws. For disengagement, it must also comply with MCD Section 10 and Section 17.

The Plan outlines three primary components to achieve compliance:

1. the implementation of facility improvements,
2. operational solutions, and
3. policies and training.

The Plan is designed to achieve program accessibility over three phases. The first phase spans an eight- to 10-year timeframe. By the end of Phase 1 (2025), the District intends to establish program accessibility with the development of approximately three feeder patterns of Category 1 and Category 2 schools, with each pattern consisting of approximately one high school, one to two middle schools, and three to four elementary schools in each local district. Phase 2 will begin no later than 2025 and address approximately one-third of the schools, with the remaining sites to be addressed in Phase 3.

The Plan defines three levels of access for schools. Category 1 schools will be fully accessible and meet new construction or renovation standards (readily accessible), Category 2 sites will have accessible core spaces and features while offering program accessibility for activities, and Category 3 will offer a basic level of access to the building. Although no date has been provided for the completion of the three phases, the District intends to have all schools meet one of the three levels of access.

The magnitude of effort to improve Districtwide compliance with the ADA requires the implementation of operational solutions, such as the relocation of programs and minor betterments through RAP, as a critical component of the Plan and of meeting the IM's Substantial Compliance Framework. Although an overview of the changes to improve the RAP program was provided prior to the last annual report, the status of these changes are unknown, with no updates provided prior to this report. As noted in the above discussion, the RAP appears to have improved in the timeliness of making renovations and responding to requests; however, questions regarding the effective management of the program persist.

On August 31, 2017, the OIM submitted a review and analysis of the Plan and its appendices to provide feedback on the Plan's potential to comply with the ADA and Section 504 requirements and to ensure the District has no systemic program accessibility problems that prevent substantial compliance with the program accessibility requirements of federal special education laws and regulations.

To summarize highlights of the OIM's review, it commended the District for the extraordinary amount of work in collecting high-level survey data at all sites and for its greatly improved approach to addressing its longstanding noncompliance with the ADA and Section 504. The review noted that despite concerns with aspects of the approach and adherence to the priorities and intent of the Plan, the effort appeared to be a viable pathway to attain acceptable levels of program access. It also recognized the Plan's increased transparency to the public and Plaintiff's Counsel regarding the magnitude of noncompliance across the District.

The OIM's feedback report and previous annual report included a series of 13 next steps that must occur prior to disengagement. These next steps were designed to address and improve systemic program accessibility problems that prevent substantial compliance with the program accessibility requirements of federal special education laws and regulations, both in the short and long term, in order for the IM to recommend disengagement. This included:

- As previously agreed to, complete barrier removal at 75 sites.
- Complete 150 comprehensive surveys.
- Develop a plan to address and remediate all barriers at sites with nonaccessible main entrances.
- Develop a short- and long-term plan to address and remediate passenger loading zone (PLZ) problems.
- Provide periodic (at least twice a year to coincide with school semesters) reports to the Parties with updates of plans for implementing operational solutions for all schools pending accessibility improvements. The updates should include operational solutions for dealing with issues such as vertical access problems and identify student populations at each site. The reports must emphasize operational solutions at sites with programs for students with mobility, hearing, or vision impairment disabilities, and schools scheduled in Phases 2 and 3. Reports of operational solutions will be provided for each school until betterments are completed at the site.

- Provide quarterly reports of RAP requests and completion.
- Provide a revised schedule for ensuring equitable access at schools of choice.
- Include documentation, including schedules for Categories 2-3 clusters, identifying when each will be available per local district, and programs at each site.
- Provide a schedule and sample surveys for Category 1 schools.
- Provide detailed information, including dates, for the completion and distribution of policies and training for the implementation of operational solutions.
 - Provide policies and training materials.
- Provide detailed information on the changes to improve RAP as well as short- and long-term funding commitments.
- Provide detailed information on the expectations for ensuring independent charter schools develop transition plans and comply with the ADA, individuals responsible for supporting and overseeing this effort and compliance, and access to District supports that will ensure operational solutions and RAP, when needed.
- Provide biannual reports to the Parties of current expenditures and projected costs yearly, and by phases.

On September 8, 2017, the District's OGC submitted a response to the OIM's review of the draft Districtwide Transition Plan. The letter contained several allegations of the OIM's misunderstanding and/or inaccurate assumptions of the Plan's approach and relevant laws as well as an overreach of its authority pursuant to the MCD. The IM responded to these allegations, providing clear justification and responses that supported the review and its findings.

The OGC also argued that complying with the 13 next steps would detract from the District's moving forward with the Plan. However, most of the requirements were for issues for which periodic reporting on the Plan's implementation would be expected, such as reports on the operational solutions at schools that are awaiting betterments and have student populations that require such solutions. The OGC also claimed that there is no basis for providing additional information related to the changes to improve RAP because the measures in the MCD have been met. Other requirements were the provision of detailed information not provided with the Plan, such as the policies and training materials, which are described as a critical component of the Plan. The IM noted that the majority of these functions could be reasonably assumed to occur as a result of the Plan's implementation. The IM added that the two most cumbersome steps would require the District to develop short- and long-term plans for addressing noncompliance with PLZs and nonaccessible main entrances, which are necessary for the IM to determine disengagement.

The list of next steps did not require the District to remediate all issues of noncompliance, but rather provide a good-faith plan as an assurance that these problems will be addressed. The District is no longer required to provide plans or a response on the OIM's next steps outlined in the ADA feedback report and previous annual report. However, it is highly recommended it address the high number of schools with nonaccessible main entrances and passenger loading zones, as these areas of noncompliance prevent basic program accessibility at these sites.

The IM has also repeatedly stated, and memorialized in the 2016 Annual Report, that in addition to the requirements of Sections 10 and 17, the District's obligations for disengagement include:

- Compliance with the ADA requirements for transition and self-evaluation plans that identify barriers and a schedule for their removal at all schools and buildings.
- Designation of an ADA Compliance Manager.
- The capacity to conduct consistent and comprehensive surveys.
- Completion of transition plans and program accessibility betterments within 10 years. There must be a firm commitment for funding of the proposed \$1.2 billion estimate. These commitments must be Board approved and irrevocable.
- Completion of a sufficient number of surveys to ensure institutional commitment of at least 150 schools with completed surveys and transition plans, with 50% of these schools having completed betterments.
- Establishment of a functioning RAP with ongoing commitment to fund requests and outreach to schools.

In addition, the Substantial Compliance Framework (July 2014) included the following disengagement requirements:

- Capacity to build and renovate schools consistent with ADA and Title 24 requirements.
- Capacity and a plan for complying with the federal requirements of developing transition plans that identify existing barriers and a schedule for the removal of such barriers.
- Capacity and procedures for responding to requests for providing program accessibility within a reasonably timely manner.

Since the last annual report, no updates have been provided on either the implementation of the Plan or the next steps outlined in the IM's review and feedback report. In an April 10, 2018, letter, the IM requested the following information for inclusion in this annual report:

- RAP applications and relevant documents for requests received after September 22, 2017.
- High-level survey forms (Appendices B and D from the May 17, 2017, ADA Transition Plan), Initial Facility Assessment Form, and Program Access Field Questionnaire for 30 sites (Attachment A).
- Comprehensive Surveys for 50 sites (Attachment B).

On April 30, the District provided the following:

- 27 high-level surveys
- 47 comprehensive surveys
- 22 RAP applications
- Information, including board reports on 77 sites that are in the process of having facility improvements through the end of 2020
- ADA policies and/or trainings
 - *Compliance with Title II of the Americans with Disabilities Act (ADA)*, BUL-046982.0

The District's April 30 response explained that some sites did not receive a high-level survey due to a more comprehensive survey (referred to as the Barrier Removal Report [BRR]) having been completed. It noted two additional sites would be provided by May 4, 2018, but this has yet to occur. It also noted one additional comprehensive survey upon Board approval of the scope of work and BRR. The letter also referenced ongoing work regarding an Access Request Reference, updates to the RAP reference guide (REF-1446.3), and training "prescribed by the Self-Evaluation and Transition Plan" to be rolled out by December 2018.

The three board reports (REP-065-17/18 – 61 sites, REP-340-17/18 – 8 sites, REP-430-17/18 – 8 sites) define or amend the original scopes of work for barrier removal projects at 78 sites. These projects are the first facility improvement projects derived from the Board-approved Self-Evaluation and ADA Transition Plan. The amendments align these previously approved accessibility improvement projects with the Districtwide Plan through increases in the scope of the projects and costs. Timelines have also been extended for projects, with the majority adding three months to previous deadlines. The following breaks down some of the changes from these amendments.

Board Report 065-17/18 – 61 Sites

- An increase in cost of 181%, or \$152,655,635.00, from the original approval brings the total cost of these projects to an estimated at \$236.5M.
- An additional \$5M for RAP projects was approved.
- Revised scopes of work include considerable areas not previously addressed, such as signage.
- Only five sites include playground components, despite being one of the areas of program accessibility to be addressed in the Plan.
- Barrier removal at these sites will yield the following levels of accessibility:
 - One site - Category 1a
 - 52 sites – Category 2
 - Eight sites – Category 3
- All projects have timelines extended between three months to up to four years (e.g., Avalon Gardens) from the projected completion dates of the original scope of work.
 - 34 are now scheduled for completion Quarter 3 2018
 - 27 are now scheduled for completion Quarter 3 2019

Board Report 340-17/18 – 8 Sites

- The proposed cost is \$67,959,080.00.
- Barrier removal at these sites will yield the following levels of accessibility:
 - Six sites – Category 2
 - Two sites – Category 3
- All projects are scheduled to begin construction in Quarter 3 2019 and slated for completion by the end of Quarter 3 2020.

Board Report 430-17/18 – 9 Sites

- The proposed cost is \$43,880,591.00.
- Barrier removal at these sites will yield the following levels of accessibility:
 - Seven sites – Category 2
 - Two sites – Category 3
- Timelines for completion are as follows:
 - One scheduled for completion Quarter 3 2020
 - Seven scheduled for completion Quarter 4 2020
 - One scheduled for completion Quarter 3 2021

Because the majority of monitoring the implementation of the District's Plan will occur during the 2018-19 school year, the board reports raise several concerns. First, completion timelines have been extended, contradicting previous and repeated assurances stated by the District for disengagement. Second, the cost of the barrier removals at the 78 sites nears \$350M, or 58% of the allocated funds to complete Phase 1. This means that without securing additional funds, the completion of the 235 Phase 1 schools is at risk. The considerable increase in scopes of work for the 61 sites indicates a large underestimation of the magnitude of noncompliance and the remediation efforts to improve program accessibility.

Beginning summer 2018, the OIM will conduct a review of the comprehensive and high-level surveys to determine if these assessments were done consistently and in adherence to parameters set in the District's Plan. Upon completion of the first 34 sites, the OIM with its consultants will conduct walkthroughs to verify compliant work and determine if the barrier removal projects resulted in the corresponding levels of accessibility (Categories 1a, 2, and 3) assigned to those sites. These visits are expected to begin in early Quarter 4 2018, with findings reported by the end of January 2019.

The real test for determining the capacity to adhere with the categorization criteria is whether betterments result in sites that ensure program accessibility as defined. Considering the District's desire to disengage from the MCD over the next 12 to 18 months, the effectiveness of the procedures for responding to and completing minor renovations (RAP), completing compliant facility improvement projects, and adhering to completion timelines will be critical in achieving disengagement.

Review of Preschool for All Learners (PALS) Programs

The IM's October 2017 Annual Report provided an update on the implementation of the District's plan to improve changing and toileting conditions at PALS programs. Due to the issuance of the report at the beginning of the school year, minimal information was available—which indicated some progress, but had not been validated by the OIM. The report noted the OIM would conduct follow-up visits to observe the implementation efforts and improvements reported by the District at PALS programs.

On March 6, 2018, the OIM provided a report⁹ on these site visits and the status of the implementation of the District's plan. To align with the District's plan for improving changing and toileting conditions at PALS programs, the site visits aimed to determine that the programs:

- were located in classrooms with self-contained bathrooms,
- were provided standard changing tables with privacy screens (if needed),

⁹ The report, including photographs can be viewed at: http://oimla.com/pdf/20180314/pals_changingtoiletingletter_final_3-6-18.pdf.

- 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 2017-18 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.

In December 2017, the OIM visited 29 randomly selected sites, for a total of 45 PALs classrooms, across the District's six geographic areas (Northwest, Northeast, South, Central, East, West). More than half of these sites had PALs programs reportedly placed within the past two years, which falls within the timeframe of the District's proposed planned intervention to improve changing and toileting conditions at these programs.

One positive aspect of the site visits was that all schools reported having received the Universal Precaution starter kits at the beginning of the 2017-18 school year. Furthermore, the majority of site administrators and staff expressed positive attitudes about improving the changing and toileting conditions for students.

Overall, the review found a continued lack of adequacy of the changing and toileting conditions at PALs programs. Despite a plan for improving these conditions, developed by the District in fall 2016, the conditions observed indicate poor oversight of its implementation. In addition, the continued inadequate conditions raise questions regarding the decision-making processes when opening new PALs programs as well as the ongoing support and guidance offered to schools. For instance, during the site visits, the OIM observed a recent complete renovation of a bathroom at Toluca Lake Elementary School that did not contain any compliant features or an accessible entrance (stair access only).

Site administrators expressed confusion and frustration about the mixed messages received regarding changing station requirements, including the need for tables. Some expressed frustration with delays in receiving requested tables and screens that took six months or longer. Administrators also noted not having received assistance in planning for new programs, while only schools in local district South reporting oversight over their compliance with the plan.

Staff provided feedback on the adequacy of the equipment, noting that the standard tables often become too small for students and expressing concern over the size of the wall-mounted Koala tables. The Koala tables do not meet the standard weight capacity as specified in the District's plan. Teachers also expressed several safety concerns, including the tendency of privacy screens to fall over if not secured and the lack of appropriate step ladders and grab bars in restrooms. Some teachers raised concern over the lack of ventilation for classes that contained changing stations.

The report noted that given the inadequate conditions found at the small number of PALs programs visited (13% of 225 total programs), it could be reasonably assumed that many more sites lacked the appropriate equipment needed to ensure safe and sanitary conditions. The review also found an overwhelming lack of awareness of the RAP process, which raised concerns about systemic processes in place to ensure operational solutions for providing program accessibility.

The OIM's review concluded that the implementation of the District's plan to improve changing and toileting conditions of PALs programs had shown little progress over the past two years. It directed the District to remedy much of the noncompliance by June 30, 2018, and all issues by the beginning of the 2018-19 school year. Several directives were included and aimed to align with the District's plan, which it committed to implementing for the past 18 months.

On April 30, 2018, in response to the IM's request for information for inclusion in this annual report, the District provided voluminous binders with information. The following are some of the contents included:

- Reference Guides, interoffice correspondence, and other related documents

- REF-6449.0 – Preschool for All Learners (PAL) Special Day Programs
- REF-5959.2 – Ordering Universal Precautions
- REF-6771.1 – Procedures for Completing the Annual ECSE Health and Safety Review
- REF-6763.0 – Ordering Changing Tables for ECSE Classrooms
- Interoffice correspondence – Classroom Assignment Mandate for Preschool for All Learners (PAL) Programs
- District Nursing Services Toileting Guidelines in Preschool Classrooms
- Changing Table and Privacy Screen Surveys
- PALs Observation forms for all local districts

Overall, the provided documents show evidence of two considerable efforts to assess the changing conditions at PALs programs. The first began in late April 2016 and the second in late April 2018. The 2016 spreadsheets show information having been collected from groups of schools, including (but not limited to) the following:

- Number of PALs programs at the site
- Location of classroom (room number) including classroom type (bungalow, kindergarten, or standard)
- Location of restroom
 - Classroom, Jack and Jill
 - Or distance (in feet) from classroom
- Location and number of changing tables
 - Jack and Jill restroom, inside classroom, restroom, student restroom, or nurse's office)
- Types of changing tables
 - Table with mat, changing table, wall mounted
- Number of tables and screens to be purchased
- Comments
 - Examples include: Students changed standing up, modify jack and jill, changes on counter with mat
- Action to be taken
 - RAP requested with date

Another spreadsheet included similar data on the location and number of PALs programs, number of students requiring changing, and type and availability of changing tables and privacy screens. It also included information on universal precautions, annual ECSE toileting procedures observed, and teacher's name. While this spreadsheet did not contain source information, the data appears aligned with the survey forms completed by individual teachers in late April 2018.

The spreadsheet indicated that 53 PALs programs reported that no changing tables were available, while 131 reported no privacy screens were available. A comparison of forms reporting this information revealed many inconsistencies between data on the teacher-generated survey and the cumulative spreadsheet. Conversely, some forms reported having tables or screens, whereas on the spreadsheet, these were reported as not being available. Due to these discrepancies, it is unclear if these conditions have been updated or if a different source was used to create the spreadsheet. However, it appears that some classrooms still do not have tables or screens.

A schedule for the installation of changing tables was also included, with what appears to be a schedule for the installation of the number of changing tables per school, a priority group assignment (1-3), and completion date. One document includes 141 tables to be installed, with the majority containing completion dates by early February 2018.

Although these documents demonstrate efforts that appear to assess the conditions of changing stations and the status of table installation, the site visits did not validate these efforts. Of the 45 classrooms visited, only a few schools recently had Koala changing tables installed. After the March 6, 2018, OIM report, feedback from additional site visits and phone calls from site administrators indicated a large effort appeared to have been deployed in April for the installation of the Koala tables. Site administrators noted that District personnel showed up at sites and installed tables regardless of the teachers' or administrators' input on the location. Some site staff refused these tables citing that they were inappropriately sized for their students' needs. This was also reported on the spreadsheet as it contains a note that highlighted dates indicate schools that opted not to have the tables installed.

Summary

The OIM first raised concerns regarding the changing conditions at PALS programs in April 2016. The District began the development of its plan in May 2016. Despite having initiated a timely response, the implementation of the plan was inadequate at the time of the OIM visits. Although the District made a late push to install tables after the OIM's report, the installation of wall-mounted tables has taken two years and is still not complete. In addition, the majority of tables installed do not meet the weight-bearing specifications (250lbs) in accordance with the plan. Furthermore, site administrators and teachers noted that the Koala tables also do not meet length requirements for their students, particularly at the end of the school year. Although access to wall-mounted tables provides program access to students, many bathrooms still lack compliant features such as clear floor space and grab bars.

There is evidence the District assessed the conditions at PALS programs throughout 2016; however, the delays in addressing these issues demonstrate the inability to correct problems that prevent substantial compliance with program accessibility. Furthermore, the most recent OIM findings are evidence that the District cannot demonstrate the capacity to remediate systemic noncompliance absent third-party oversight or in a timely manner. Lastly, the observation of a recently renovated and considerably noncompliant bathroom at Toluca Lake Elementary School is evidence of the lack of oversight by the ACU and FSD in ensuring substantial compliance.

DISENGAGEMENT

The MCD's goal is to ensure compliance through the establishment of a system capable of monitoring itself while correcting noncompliance and holding staff accountable. The MCD was designed to steer the District toward this goal within a three-year timeframe. Furthermore, it created a framework with an end in mind, after which the District would no longer require federal court oversight or intervention from Plaintiff attorneys.

Since the previous annual report, the District has made progress in some outstanding areas. With the renegotiation of Outcome 13: Delivery of Services, the path to disengagement is one step closer to reality. However, disengagement will not occur based on the District's assurances or self-imposed timelines; it is rather incumbent on transparency and credible efforts to fulfill its remaining obligations for ensuring systemic compliance. To date, the District has three remaining outcomes to meet, which include:

- Outcome 10: Timely Completion of Initial IEPs
- Outcome 13: Delivery of Services
- Outcome 16: Increase in Qualified Providers

The District made some progress in the following areas; however, concerns still exist. These include:

- IEP Complaint Investigation
- Districtwide Self-Evaluation and Transition Plan
- Substantial Compliance Framework
- MiSIS
- Self-Evaluation and ADA Transition Plan
- RAP

Disengagement Framework

The following framework outlines the District's requirements for enabling the IM to determine disengagement. Although this framework will likely remain constant, it is amendable as issues of noncompliance might arise, similar to those identified in the IEP investigation. The following reiterates the expectations for disengagement and gives corresponding status updates.

1. Program Accessibility/ADA Components

- a. Complete transition plans and program accessibility betterments within 10 years. There must be a firm commitment for funding of the proposed \$1.2 billion estimate. These commitments must be Board approved and are irrevocable.
 - i. The District has committed only \$600 million of the original \$1.295 billion estimate. The 10-year plan will address only one-third of its schools in this timeframe. While the Plan will result in credible improvements for ensuring programming accessibility, this will place a heavy reliance on operational solutions and RAP for improving program access at the many schools that will not be addressed in Phase 1.
 - (a) The considerable rise in cost of 181%, or \$152.6M, from the original scopes of work at the 61 sites, and overall cost (approximately \$350M) to improve compliance at the 78 schools slated to be renovated through 2021, raise concerns that the District will not be able to fulfill its obligations within the estimated budget of \$1.2 billion and current funds allocated by the BOE for Phase 1.
 - ii. Although the plan gives the District a path for improving program accessibility, it has systemic noncompliance problems with accessible main entrances and passenger loading zones. As stated in the last annual report, the OIM expects to see plans addressing these two systemic issues that profoundly impact program accessibility prior to disengagement.
- b. Complete a sufficient number of surveys to ensure institutional commitment of at least 150 schools with transition plans, with 50% of these schools having completed betterments.
 - i. On April 30, 2018, the District provided completed surveys at 47 schools. The OIM with its consultants will be reviewing these surveys over the summer and provide an update after the first round of site visits, which are anticipated to begin after October 1, 2018.
 - ii. The real test will be whether these surveys lead to improvements that correspond with the category type for each school. Surveys and betterments must align with the proper categories (1, 1a, 2, and 3) assigned to each site.
- c. Establish a functioning RAP with ongoing commitment to fund requests and outreach to schools.
 - i. The poor documentation and reporting of the RAP process and completion times continue to be causes for concern. The District did not provide additional information on some of the enhancements to the RAP, or its tracking metric. While the IM will no longer require this information, the true test will be whether these applications and renovations are responded to, compliant, and completed within the timeframe. There is nothing more critical than ensuring students have timely renovations that will provide equal access to programs and activities, accessibility features that enable them to safely use the toilet or be assisted with toileting, and accessibility features that promote students' independence and dignity.
 - ii. This is a critical component of a system that ensures substantial compliance and must be funded, effective, and responsive before disengagement from the MCD.

2. MiSiS

- a. A solution for integrating the full participation of charters
 - i. Progress noted. However, the scope and timeline for implementation continue to be causes for concern.
- b. The full implementation of the Gradebook and Passport Parent Portal
 - i. Progress noted. The implementation of the Gradebook is proceeding, and data entered into the Gradebook are immediately available to parents and students in the Parent Portal.
- c. A commitment to comprehensive training
 - i. Progress noted.
- d. Ad hoc reporting
 - i) Progress noted.
 - ii) The relatively simple English-language-based reporting tools in the legacy systems have been replaced by a comprehensive enterprise reporting environment with vastly more capable tools. These tools, however, are also much more complex to understand and use, and require long-term commitments to training and support.
- e. A commitment to system sustainability with a long-range financial and management plan
 - i. Progress noted.

3. Substantial Compliance – Elements of the Framework
 - a. Data system capable of monitoring key compliance and performance indicators at the District and school levels
 - i. Requirement met.
 - b. Process for monitoring special education compliance and performance at the school level
 - i. Requirement met.
 - c. Process for receiving and resolving compliance complaints
 - i. Progress noted. The District eliminated the two-tiered process for categorizing calls, but much too late after many clear notices of this concern. The processing of CRU complaints will be closely monitored to ensure adherence with the intent of the MCD and the District's policies and procedures manual.
 - d. Complaint management system that demonstrates integrity and a basic posture of advocacy on behalf of students (The system must have a thorough, objective, and responsive investigation process.)
 - i. Progress made. The processing of CRU complaints will be closely monitored to ensure adherence with the intent of the MCD and the District's policies and procedures manual.
 - e. Process for resolving IEP disputes
 - i. Requirement met.
 - f. Management and administrative structure with authority to monitor and enforce compliance
 - i. Requirement met.
 - g. While the majority of these elements have documentation that satisfactorily describes the processes associated with the substantial compliance framework, the real test is whether these mechanisms are effectively implemented and result in the identification and correction of noncompliance.
 - i. The District must provide evidence of its monitoring mechanisms that result in the identification and correction of noncompliance.
4. Outcome 13: Delivery of Services
 - a. The newly revised measures for Outcome 13 provide a viable opportunity to meet this outcome. While the outcome is designed to be met with minimal evidence of corrective actions, the resolution of noncompliance will be reviewed under the IM's purview under Section 17: Substantial Compliance.
 - i. The District continues to expand its capacity to monitor service delivery and report on noncompliance. Although it did not implement the MiSiS dashboards as anticipated, the test will be how these tools are used to correct noncompliance and hold staff accountable.
 - ii. Outcome 13B will be the mechanism for identifying students not receiving the majority of their services, which will be the basis for monitoring District systems to correct noncompliance. While the Parties agreed to an outcome that does not require a measurable increase in service delivery (rather a basic notification to parents and an offer of compensatory services), this will be monitored by the OIM.
 - (a) This means that IEPs must be held to offer compensatory services for students whose noncompliance is not remediated. Evidence of these IEPs will be reviewed, as this must occur to present a credible effort to address noncompliance.
 - (b) The OIM will also review the service delivery rates of students who were identified as having received less than 70% of their services to see if the remediation efforts resulted in 100%.
 - iii. Although the new outcome does not address all factors that might contribute to the inability to provide services, it would be prudent to continue to address these issues with transparency and good faith.
 - iv. Given the inadequacy of the caseload and workload analysis, leadership does not appear to place much value on this issue. As noted earlier, this information is important for making management decisions, which seems to be of critical importance given the decrease in performance for Outcome 10: Timely Completion of Initial IEPs and Outcome 16: Increase in Qualified Providers.
 - b. Demonstrate the ability to allocate resources to support schools and providers to ensure service provision.
 - i. This capacity will be reviewed as part of the Substantial Compliance monitoring of Outcome 13B: Service Delivery for students receiving less than 70% of their services.
5. Substantial Compliance
 - a. Meet the standards set forth in the Substantial Compliance Framework.
 - i. Documentation requirements met for Elements I through V.
 - b. Resolve the problem with graduation and completion data inaccuracies.
 - i. These issues have been resolved through MiSiS and are considered met.

- c. Establish training initiatives to improve school and parent communication and collaboration at IEP meetings.
 - i. Status unknown.

CONCLUSION

This report has documented the District's progress in meeting four outstanding components of the MCD: Outcome 13, Sections 10 and 17 (making schools, services, programs, activities accessible, and PALs), MiSiS, and substantial compliance. It also includes updates on Outcome 10: Timely Completion of Evaluations, Outcome 16: Increase in Qualified Providers, schools of choice, the complaint management system/CRU, and the spring annual hearing as well as progress on disengagement. Performance slippage increased the number of unmet outcomes to three: Outcome 10: Timely Completion of Initial IEPs, Outcome 13: Delivery of Services, and Outcome 16: Increase in Qualified Providers.

The Parties are commended for collaboratively working on the revision of Outcome 13. With credible effort, the revised Outcome 13 provides a viable path for meeting this requirement within the 2018-19 school year. Two of the three measures (13A and 13C) are likely to be met if the District can continue to deliver services at similar levels to the majority of SWDs. It must also commit resources to develop the Parent Portal service delivery reports within the set timeframe. Outcome 13B presents the biggest challenge. However, the process-oriented structure of this measure should enable the District to meet this if it can commit resources to the accurate identification of SWDs receiving less than 70% of their services as well as the notification of noncompliance and offer of compensatory services to parents. It is critical that the District engage sufficient resources to fulfill these requirements in a timely manner.

As highlighted in the disengagement alert to the Interim Superintendent, the shortage of qualified teachers and related service providers continues to be a cause for concern that has direct impact on substantial compliance, the timely completion of IEPs and evaluations, and service delivery. The District is no longer meeting Outcomes 10 and 16. The MCD requires all outcomes, even those previously met, to meet or exceed the performance measures for a determination of disengagement by the IM. This performance must be addressed for disengagement.

Progress with the obligations of Sections 10 and 17, which address accessible schools and ADA compliance, will be reviewed through December 2018, as the first group of sites receiving facilities improvements is scheduled for completion by October 2018. The OIM will review the consistency and adequacy of comprehensive surveys over the summer. In fall 2018, the OIM with its consultants will conduct a sample of walkthroughs at sites to determine if the ADA improvements resulted in meeting the program accessibility criteria requirements of the designated category assigned to each school. If construction timelines are met, an OIM report on the first group of schools is anticipated by the end of December 2018.

Although there is cause for optimism with the implementation of the District's ADA Self-Evaluation and Transition Plan, there are outstanding questions and concerns regarding the increase in cost and scope of work of the initial 78 sites, and the ability to implement the Plan through Phase 1. The District must provide information on plans for ensuring sustainability of this effort, including the allocation of additional resources if needed. Concerns also exist with the management and implementation of RAP projects. The District is no longer required to provide plans or a response on the OIM's next steps outlined in the ADA feedback report and previous annual report. However, it is highly recommended it address the high number of schools with nonaccessible main entrances and passenger loading zones, as these areas of noncompliance prevent basic program accessibility at these sites.

Progress with the implementation of the plan to improve changing conditions at PALs programs was noted in late spring 2018. Although this progress is positive, the District took almost two years to deliver changing tables for these students. In addition, the tables installed do not conform to the weight specifications outlined in the plan, and may limit use when students outgrow the weight and length capacities. Despite a late push to install tables and provide privacy screens, it appears some sites continue to lack the necessary equipment, including grab bars, and/or reconfigurations to restrooms. The District is expected to provide quarterly updates on these efforts until it can demonstrate full implementation of the Plan.

MiSiS leadership has been outstanding in its efforts to “do the right things.” A small number of items remain to be completed from the MiSiS Checklist. The District has presented a plan and timeline for addressing those items. Included in that plan are the key items of continued rollout of the Schoology Gradebook for both secondary and elementary teachers and the completion of charter student data acquisition. The OIM will assess the District's performance against this plan and will address the status of MiSiS with a report to be developed shortly after December 2018.

An effective complaint management system is critical for ensuring a system capable of identifying and remediating noncompliance. The District made late progress in addressing the issues raised in the OIM's 2016 study, particularly with the cessation of the two-tiered re-categorization process of complaints. It must continue to demonstrate the accurate documentation of calls, identification of complaints, and corresponding lawful response letters. Lawful responses should also reflect the four options, as one can reasonably assume that the number of calls will yield complaints that fall into all four of these categories.

The District has made progress on all five elements of the Substantial Compliance Framework. The real test will be demonstrating capacity to monitor schools (DVR and non-DVR) for all compliance indicators. The MiSiS dashboards should provide the tools for this to occur at various levels of the organization. The IM expects the District to use these tools and demonstrate evidence that it can identify and remediate noncompliance in a timely manner.

The District made progress with the corrective actions from the IEP Complaint Investigation. The District must present the revised Prior Written Notice policy and demonstrate an effective complaint management system. These two items should be easily met with continued effort. Again, the corrective actions aim to change the culture of IEP teams to ensure that families are equal members of the team and that IEP teams are authorized to determine the appropriate services for SWDs. It is important the DSE continue to communicate this expectation to schools.

The IM is hopeful that the 2018-19 school year will continue to build on this progress and remain productive through collaboration, transparency, and a joint commitment to completing the remaining obligations of the MCD that will lead to disengagement and, more important, to improved access and educational outcomes for SWDs. Although some real challenges remain, the conclusion of the MCD is within reach. A determination of disengagement can only occur with credible action in a timely manner.

Essential Accountability Provisions of the MCD

First, the IM is required to monitor the District's performance until all outcomes are met. Thus, it is expected that the District maintain or improve its performance on outcomes that have already been met.

Second, the IM is required to issue periodic progress reports on the outcomes. As data become available, the IM will report on the District's performance on specific outcomes. These 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 an outcome was not achieved by June 30, 2006, and its achievement was delayed by more than six months.

Section 8 states that the Chief Administrator of Special Education has the authority to direct District staff as necessary to correct noncompliance with special education laws and regulations or prevent any such noncompliance. Although efforts and responsibilities to comply with the MCD might be bestowed on numerous personnel, the Chief Administrator of Special Education is ultimately 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.

ACKNOWLEDGMENTS

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 and with the revised Outcome 13. Agreement is not always possible in such a broad and significant undertaking. However, the Parties have consistently demonstrated both the desire and ability to reach appropriate resolutions.

Although 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 OIM staff, consultants, and researchers who diligently gathered and analyzed data and reviewed documents to ensure the validity of our determinations. Their professionalism and dedication are greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "David Rostetter", with a stylized flourish at the end.

David Rostetter

C: Hon. Judge Ronald Lew, Robert Myers, Catherine Blakemore, David Holmquist,
Beth Kauffman, Deneen Evans Cox, Brigitte Ammons

Table A

#	Outcome		Status 6/15/18	Outcome Determination Status	Outcome Target	Outcome Met
1	Participation in the (Smarter Balanced and alternate assessment) Statewide Assessment Program	English/Language Arts/Math	94.6%	85.2%	75%	Yes 6/30/06
		Comparable to Non-Disabled	96.6%	95.0%	95%	
2	Performance in the (Smarter Balanced and alternate assessment) Statewide Assessment Program – Met or Exceeded Standards	English/Language Arts	7.98%			Yes 6/30/11
		Math	6.42%			
	Performance in the (Smarter Balanced and alternate assessment) Statewide Assessment Program – Nearly Met, Met, Exceeded Standards	English/Language Arts	22.45%			
		Math	19.24%			
3	Increase Graduation Rate		78.16%	55.98%	39.79%	Yes 6/30/08
4	Increase Completion Rate/Reduce Drop-Out		82.9%	72.4%	76.3%	Yes by Stipulation of the Parties 9/14/12
5	Reduce Suspensions of Student with Disabilities		1.31%	7.6%	8.6%	Yes 6/30/09
6	Increase Placement of Students with Specific Learning Disabilities (SLDs) and Speech and Language Impairment (SLI) in the Least Restrictive Environment		86.6%	73.7%	73%	Yes 6/30/06
7	Part 1: Placement of Students at Special Education Centers		877 59.95%	53.38%	33%	Yes 6/30/15
	Part 2: Students at Co-Located Sites Will Participate 12% of the Instructional Day with Their Non-Disabled Peers		124 16.20%	23.30%	12%	
8a	Increase Home School Placement: SLI/SLD		94.3%	92.7%	92.9%	Yes by Stipulation of the Parties 9/16/08
8b	Increase Home School Placement: All Other Disabilities	Grade K	58.5%	59.1%	65%	
		Grade 6	76.1%	65.0%	65%	
		Grade 9	78.69%	60.0%	60%	
8c	Increase Home School Placement: All Other Disabilities	Grades 1-5	63.3%	58.8%	62.0%	
		Grades 7-8	76.8%	60.3%	55.2%	
		Grades 10-PG	62.3%	41.4%	36.4%	
9	Individual Transition Plan in IEP (14 years and above)		100%	99.8%	98%	Yes 6/30/06
10	Timely Completion of Initial Special Education Evaluations	60 Days	84.7%	90%	90%	Yes 6/30/08
		75 Days	93.2%	96%	95%	
		90 Days	96.2%	98%	98%	

Table A

#	Outcome		Current Status 6/15/18	Outcome Determination Status	Outcome Target	Outcome Met
11	Response Time to Parent Complaints	5 Days	81.9%	54%	25%	Yes 6/30/06
		10 Days	95.0%	82%	50%	
		20 Days	98.8%	97%	75%	
		30 Days	99.9%	99.9%	90%	
12	Informal Dispute Resolution Prior to Formal Due Process (within 20 days)		87%	75%	60%	Yes 6/30/06
13a	Delivery of Special Education Services	SLD Only	Not Available	96.8%	93%	No
		Other Disabilities	Not Available	96.7%	93%	
13b	Delivery of Special Education Services	Frequency (# of times)	Not Available	86.9%	85%	
		Duration (length)	Not Available	71.8%	85%	
14a	Increased Parent Participation (Attendance at IEP meetings)	Attendance	84.8%	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	99.99%	96%	85%	Yes 6/30/07
		45 Days	100%	99%	95%	
		60 Days	100%	99%	98%	
16	Increase in Qualified Special Education		85.81%	88%	88%	Yes 7/15/08 Not disengaged
17	IEP Team Consideration of Behavior Support Plans for Autistic and Emotionally Disturbed Students	Autism	53.4%	61%	40%	Yes 6/30/06
		ED	100%	97%	72%	
18	Comprehensive Evaluation of African American Students Identified as Emotionally Disturbed	% Meeting Criteria	93.6%	81%	90%	Yes 6/30/10