

**Office of the Independent Monitor**  
Modified Consent Decree  
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October 25, 2018

Austin Beutner  
Superintendent of Schools  
Los Angeles Unified School District  
333 S. Beaudry Avenue, 24<sup>th</sup> Floor  
Los Angeles, CA 90017

**Re: MCD Quarter 1 Report and Disengagement Update**

Dear Mr. Beutner:

On July 25, 2018, I provided you an update on the newly stipulated Outcome 13: Service Delivery and on the implementation of the District's Self-Evaluation and Transition Plan to comply with the Americans with Disabilities Act (ADA). The letter also established an ongoing checklist that will guide future disengagement updates through quarterly reports.

The letter noted that as of June 30, 2018, the District met the first part of Outcome 13, which requires that 90% or more of the aggregate prescribed minutes for students with disabilities (SWDs) be provided. Prior to the winter break, I will issue a report on progress with Outcome 13B, which requires the identification of students not receiving at least 70% of their services, and notification to parents of such noncompliance.

I also informed you of the considerable delays (between six months and one year) in the implementation of ADA betterments scheduled for the first group of 34 sites and expressed dismay with the District's lack of transparency with this information prior to the issuance of my June 26, 2018, Annual Report.

This first quarterly report includes updates on the following:

**Making Schools Accessible (Program Accessibility)**

- Rapid Access Program (RAP)
- Preschool for All Learners (PALs)

**Substantial Compliance**

- Complaint Response Unit (CRU)
- Outcome 10: Timely Completion of Initial Evaluations
- Outcome 16: Qualified Providers
- Compliance Indicators: Completion of Annual IEP Meetings

To provide the most current assessment of progress, this report includes data from September 15 and October 15 timeframes. For brevity, this update does not contain comprehensive background of the ongoing efforts and/or historical Office of the Independent Monitor (OIM) findings or directives regarding some of these items.

Due to District timelines for completion of tasks that extend beyond this timeframe and/or because no new information was provided, several items included in the July 25 letter have not been updated. For tracking purposes, these items have been included at the end of this report and will be updated when appropriate.

## **Making Schools Accessible (Program Accessibility)**

### *Rapid Access Program*

1. Establish a functioning RAP with ongoing commitment to fund requests and outreach to schools.
  - a. This is a critical component of a system that ensures substantial compliance and must be funded, effective, and responsive before disengagement from the Modified Consent Decree (MCD).
  - b. The District provided a tracking sheet with 13 projects (with RAP applications) at 12 sites with request dates ranging from March 10 to September 4, 2018.
    - i) The District did not provide the correct application for the project at Griffith STEAM Magnet Middle School, and only included the application for a changing station requested May 15, 2017.
  - c. Two projects were reported in the IM's June 26, 2018, Annual Report. The project at Gage Middle School was requested on March 19, 2018, and despite an anticipated completion date of May 15, 2018, the project was completed on July 24, 2018.
    - i) The spreadsheet erroneously indicates this project was completed 21 days prior to the deadline—a difference of 127 calendar days.
  - d. The spreadsheet reports five projects being completed in the “negative,” or prior to the deadline, which appears to be the first day of school.
  - e. To validate the completed work, the OIM visited nine sites and spoke to representatives from another by telephone.
    - i) Site visits confirmed the completion of work and timelines.
  - f. Two requests were deemed to be larger in scope than the RAP, and were transferred to the Critical Barrier Removal (CBR) program.

- **Status: Progress noted, Not met**

- The negative accounting of timelines is a new practice noted with RAP projects and misrepresents the time required to complete projects. Although it is understandable that the completion of a project over the summer might not impact students (if not required during extended school year), timelines must be accurately reported.
- The low number of projects requested is of concern given the high needs identified by the District's ADA Self-Evaluation and Transition Plan and historical findings from the OIM's site visits such as those at PALs programs.

### *Preschools for All Learners (PALs)*

2. Readiness and appropriateness of changing conditions at PALs classrooms.
  - a. The District has now had two years to implement its plan for improving changing conditions at PALs programs. The IM's June 26, 2018, Annual Report noted that it expected the plan to be

fully implemented, with improved changing conditions at PALs programs prior to the opening of the 2018-2019 school year.

- b. The OIM visited a total of 30 sites, including 58 PALs classrooms and 41 bathrooms used by PALs students. District staff representing the Preschool Department accompanied OIM staff on site visits.
- c. The site visits continued to reveal lack of equipment and/or practices, resulting in students being changed in substandard conditions, such as no privacy screens in the classroom and/or nonstandard tables (one site used a desk and another a bookshelf).
- d. Preschool staff agreed to follow up with six schools requiring remediation. One site required a table and privacy screen, three required screens, and two needed tables. Some sites reported requesting these materials during the 2017-2018 school year.
- e. One site continued to demonstrate the same changing conditions from the previous OIM visit (students were being changed on a bookshelf), and although the District made an attempt to install a Koala table in the self-contained restroom, the school refused due to it being an ineffective solution. District staff agreed with this assessment during the visit, and noted a different solution was needed.
- f. Training continues to be needed to ensure acceptable practices. At the aforementioned site, a different program specialist visited the program two days before the OIM and informed the teacher the changing conditions were acceptable. At one site, a teacher was using a classroom desk to change students while an adjacent classroom contained an unused table; at another site, a student was being changed on a standard table without a privacy screen.
- g. Ten of the bathrooms visited had wall-mounted Koala tables installed. One bathroom had two Koala tables installed. Some teachers noted not using the tables due to the tables being too short for their students, tables being too hard, or the need to lift students that are heavy onto the table. Staff noted needing step ladders to get students onto the tables.
- h. Twenty-five of the bathrooms (43%) did not contain grab bars in toilet compartments, despite staff reporting changing students standing up. The lack of grab bars is inconsistent with the District's assertion and Plan for training students to toilet independently.
- i. One site (Angeles Mesa) had two newly remodeled (completed July 2018) inaccessible bathrooms used by three PALs classes.
- j. One site had three PALs classrooms using the bathroom in an ongoing Kindergarten program, causing disruptions in the Kindergarten's instructional program and loss of instructional time for the PALs program.
- k. The site that did not have a standard table and privacy screen was a brand new program opened at the beginning of this school year.
- l. Universal precaution supplies were not available at all sites by the beginning of the school year.

- **Status: Not met**

- After two years, the inability to fully implement the Plan and have changing stations ready for the 2018-2019 school constitutes a systemic failure to remediate noncompliant conditions. Six of the 30 (20%) sites visited required remediation by District staff. With more than 200 PALs programs across the District, it is reasonable to conclude that more programs continue to have substandard changing conditions requiring remediation.
- The OIM will continue to monitor changing stations at PALs programs as part of its overall monitoring effort.
- By November 15, 2018, the District is to report on the systemic failures that resulted in newly remodeled inaccessible bathrooms at Angeles Mesa Elementary, and those reported last year at Toluca Lake Elementary.

## Substantial Compliance

### *Elements of the Framework – Complaint Management System*

3. Process for receiving and resolving compliance complaints
  - a. As of September 15, 2018, the District identified a total of 118 complaint calls. Of these, 93 cases were resolved or closed by this date.
    - i. Ninety-four complaints were processed by the Complaint Response Unit, and 24 by the Call Center.
    - ii. To examine the District's adherence to its procedures for identifying and resolving complaints the OIM reviewed 93 complaints (with corresponding lawful response letters) and 38 concern calls.
    - iii. Of the 93 complaints with corresponding lawful response letters reviewed, the District identified 39 as unfounded, with 54 including a statement indicating a remedy or action was taken.
  - b. Of the 93 complaints reviewed, the OIM found:
    - i. High level of agreement between the nature of the complaint and resolution noted in the District's database, and those stated in the lawful response letters sent to parents
      - Despite a high level of agreement (wording was the same in database and on letter), many lawful response letters did not clearly state the District's action as a remedy (Type 1) and/or referral (Type 2) or suggested action (Type 3).
        1. The database does not identify the lawful response type (Type 1-4).
        2. Cases that were unfounded (Type 4) were clearly identified as such and cases were coded as unfounded in both the statement made in the lawful response letter and notes in the database indicating the allegation was investigated and unconfirmed.
      - The OIM noted one case that could be categorized as a referral (Type 2), one as a recommended action (Type 3), and one that could not be categorized (unknown)-all three were categorized as remedies.
      - Eight cases should have been categorized as a concern, as they did not allege a violation of special education law or the District's Special Education Policies.
  - c. Of the 38 concern or inquiry calls reviewed, the OIM found:
    - i. Three cases that alleged a violation of special education law or the District's Special Education Policies and should have been a complaint.
      - One case included notes between District staff stating the case should be changed to a complaint, acknowledging the misidentification of the call.
      - Of the small sample of concern calls (38 of 410) reviewed, approximately 8% of these calls were valid complaints. It can be reasonably expected that more cases of under-identification of complaints exist.
    - ii. One call was from a school and did not pertain to any student, and therefore should have been an inquiry.
  - d. Data captured were inconsistent among calls, with the fields (Violation, Violation Type, Remedy) for many cases containing no values or left blank, despite being categorized as a complaint and having a lawful response letter.
  - e. On October 8, 2018, at the meeting of the Parties, the IM raised concerns that the CRU processes (from the middle to the end) between Parent Community Facilitators and Specialists were not occurring as outlined in the District's December 2017 letter. The IM asked the District to look into this concern and report back.

- **Status: Not met**

- Although progress was noted in the accurate identification of complaints, there continue to be instances of over- and under-identification.
  - The under-identification of complaints is of concern as these calls might not receive the appropriate action and lawful response.
- The lack of clarity for lawful response Types 1-3 in the lawful response letters, and lack of identification in the database, should be addressed to ensure the accurate processing and reporting of lawful responses.
- As of September 15, the District’s database contained 118 complaints, which is already higher than those identified as complaints in the past years (n=43: 2017-2018, and n=79: 2015-2016). This confirms the large under-identification of complaints in the past and failure to implement an effective complaint management system.
- Although the appropriateness of the remedy has not been a focal point of this or past OIM reviews, two cases raise concern particularly as they relate to Outcome 13B and Substantial Compliance.
  - These complaints were made due to a lack of a speech and language provider assigned to their respective schools. The District issued lawful response letters informing the parents that compensatory services would be accrued until a provider was assigned to their school. One letter noted this problem was due to a national and state shortage of speech and language providers and informed the parent of their option to request an Individualized Education Program (IEP) meeting to memorialize any compensatory services. The other noted an IEP meeting had been held documenting compensatory time.
  - These cases and lawful response letters do not constitute a remedy that satisfactorily corrects the ongoing noncompliance, and/or mitigates past harmful effects.

*MCD Outcomes and Substantial Compliance Indicators*

4. 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. Outcome 10: Timely Completion of Initial Evaluations
    - i. Outcome requires completion of initial evaluations within the following timeframes: Within 60 days (90%), within 75 days (95%), within 90 days (98%)
    - ii. As of October 15, 2018, the District conducted a total of 3,340 initial evaluations<sup>1</sup> within the following timeframes:
      - Within 60 days (88.1%), within 75 days (94.5%), within 90 days (97.4%), over 90 days (2.6%). This performance falls below the three targets.
  - **Status: Not met**
  - The District must demonstrate improvements in these areas for disengagement to occur.
  - b. Outcome 16: Qualified Providers
    - i. Outcome and stipulation between the Parties requires the District to maintain the percentage of qualified providers at least at 88%

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<sup>1</sup> Complete data can be found in Attachment A

- ii. As of October 15, 2018, 85.7% (3,914 of 4,567) of special education teachers were qualified providers.

- **Status: Not met**
- The District must demonstrate improvements in these areas for disengagement to occur.

c. Timely completion of annual IEPs

- i. As of October 15, 2018, the District held a total of 12,297 annual IEPs<sup>2</sup> within the following timeframes:
  - On time (95.77%), overdue 1 to 30 days (3.78%), overdue 31 to 60 days (0.37%), overdue 61 to 90 days (0.08%), overdue more than 90 days (0.0%)
  - To date, this performance constitutes systemic compliance
    - Although this performance is at acceptable levels, historical trends indicate decreasing performance as the school year progresses.
- ii. The District must provide quarterly evidence of its monitoring mechanisms that result in the identification and correction of noncompliance.

- **Status: Not met**
- The District has not yet provided evidence of monitoring and efforts to correct noncompliance (accountability) in the December 2018 submission of data for the OIM's quarter 2 report.

The following includes outstanding items, with District-imposed timelines (if available), that have not been updated since the July 26 letter. This list will be updated in quarter 2, or upon completion of tasks.

5. 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 must provide information on plans for ensuring sustainability of this effort, including the allocation of additional resources if needed.

- **Status: Not met**

- 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.
  - ii. The OIM planned to review these surveys over the summer and provide an update after the first round of site visits. Due to the six-month delay of these projects, now scheduled for completion after April 1, 2019, the review will occur over the next few months and provide an update on whether these surveys appear to align 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.

- **Status: Not met**

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<sup>2</sup> Complete data can be found in Attachment B

iii. On July 10, 2018, the District informed the OIM that the 34 sites scheduled for completion in quarter 3, 2018, have been delayed once more; 24 are now scheduled for completion by quarter 2, 2019, and 11 sites are slated for completion by quarter 4, 2019.

- **Status: Not met**

6. MiSiS

a. A solution for integrating the full participation of charters

- **Status: Not met**

b. The full implementation of the Gradebook and Passport Parent Portal

- **Status: Not met**

c. 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.

- **Status: Not met**

d. A commitment to comprehensive training

- **Status: Not met**

e. Ad hoc reporting

- **Status: Not met**

f. A commitment to system sustainability with a long-range financial and management plan

- **Status: Not met**

g. The OIM will assess the District's performance and status of MiSiS and develop a report shortly after December 2018.

7. Outcome 13: Delivery of Services

a. Outcome 13A requires the District to demonstrate it provided 90% or more of the aggregate minutes prescribed by the end of the school year. On July 9, 2018, the IM notified the Parties that this part of the outcome is met.

- **Status: Met**

b. Outcome 13B requires the identification of students not receiving the majority of their services (less than 70%), and notification to parents of such noncompliance and an offer of compensatory services within 10 days. The District will provide all letters to the OIM within 10 days after notification to parents. Students receiving less than 70% of their services will be identified on the following dates: October 15, February 15, and April 15.

- **Status: Not met**
  - The OIM will validate the accuracy of data to ensure all students receiving less than 70% of their services were identified and parental notification was sent within the 10-day timeframe.
  - 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), service delivery will be monitored by the OIM under the purview of substantial compliance.
- c. Outcome 13C requires all parents to have access through the MiSiS Parent Portal to a quarterly (October 15, February 15, April 15, and June 15) year-to-date snapshot report summarizing all services delivered in accordance with the IEP.

- **Status: Not met**

8. Substantial Compliance

- a. Establish training initiatives to improve school and parent communication and collaboration at IEP meetings.

- **Status: Not met**

9. IEP Complaint Investigation

- a. The District must present the revised Prior Written Notice policy and demonstrate an effective complaint management system.

- **Status: Not met**

## Conclusions

This first report highlights areas with performance levels that jeopardize disengagement within the next eight to 12 months. This is particularly concerning given that performance in areas such as the timely completion of initial evaluations and annual IEP meetings tends to decrease as the year progresses.

The failure to implement the PALs Plan after two years, and ensure adequate changing stations at the beginning of the school year, constitutes a systemic failure to remediate noncompliant conditions. This performance is evidence that the District is not capable of preventing substantial noncompliance, a criterion required for disengagement.

I have stated in the past that disengagement will not occur based on District assurances or self-imposed timelines. Credible action, transparency, and the timely identification and remediation of noncompliance must occur in order for disengagement from federal court oversight.

Although I remain cautiously optimistic, it is incumbent on the District to demonstrate its best effort in addressing these issues as soon as possible. I am available to discuss this report in further detail and hope that this update provides you the necessary feedback to further the District's progress.

Sincerely,

A handwritten signature in black ink, appearing to read "David Rostetter". The signature is written in a cursive style with a large initial "D" and "R".

David Rostetter, Ed.D.  
Independent Monitor

C: Robert Myers, Catherine Blakemore, Melinda Bird, David German, Beth Kaufman, Deneen Evans  
Cox, Veronica Smith

**OUTCOME # 10: TIMELY COMPLETION OF EVALUATIONS**

- ◆ **Outcome:** By the end of the 2005-2006 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 completed and an IEP meeting convened. If the evaluation or IEP meeting is delayed because of parent request or the child 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)		Over 90 Days (80 Days prior to 10/8/05)	
		#	%	#	%	#	%	#	%
2018-19 10-15-18	3,340	2,944	88.1%	3,155	94.5%	3,252	97.4%	88	2.6%
2017-18	15,336	13,072	85.2%	14,329	93.4%	14,749	96.2%	587	3.8%
2016-17	15,866	14,147	89.2%	15,064	95.0%	15,384	97.0%	482	3.0%
2015-16	16,300	14,853	91.1%	15,609	95.8%	15,900	97.6%	400	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 and the IEP convened within the appropriate number of days (60, 75 and 90).
  - Denominator is the number of requested initial evaluations aged according to the number of days overdue on 10/15/2018.
- ◆ **Note:** For this outcome caution must be taken when comparing the outcome performance by year due to the use of different data sources and quality of data during the years of 2003 - 2006.
- ◆ **Determination:** Outcome 10 was met during the 2007-08 school year

## Timely Completion of Annual IEPs

Status	2011_12	2012_13	2013_14	2014_15	2015_16	2016_17	2017_18	2018_19 10-15-18
Total IEP Meetings Held (no amendments)	92,464	92,789	93,310	94,801	95,712	96,912	97,770	98,321
IEPs Excluded **	20,480	20,084	18,880	20,023	18,599	19,638	22,349	86,024
IEPs used in Overdue Calculation	71,984	72,705	74,430	74,778	77,113	77,274	75,421	12,297
IEPs on Time	59,062	58,143	61,408	63,498	68,535	67,380	64,875	11,452
IEPs on Time (Parent Reschedule)	3,929	4,573	5,200	4,780	3,910	4,504	4,555	325
	62,991	62,716	66,608	68,278	72,445	71,884	69,430	11,777
IEPs Overdue 1 to 30 Days	5,313	5,742	4,955	4,229	3,251	3,836	4,258	465
IEPs Overdue 31 to 60 Days	1,449	1,831	1,246	1,104	777	943	1,057	45
IEPs Overdue 61 to 90 Days	656	810	548	412	263	376	392	10
IEPs Overdue More than 90 Days	1,575	1,606	1,073	755	377	235	284	
	8,993	9,989	7,822	6,500	4,668	5,390	5,991	520

Status	2011_12	2012_13	2013_14	2014_15	2015_16	2016_17	2017_18	2018_19 10-15-18
Total IEPs	71,984	72,705	74,430	74,778	77,113	77,274	75,421	12,297
% Held on Time	87.51%	86.26%	89.49%	91.31%	93.95%	93.02%	92.06%	95.77%
% Overdue	12.49%	13.74%	10.51%	8.69%	6.05%	6.98%	7.94%	4.23%
% Overdue 1 to 30 Days	7.38%	7.90%	6.66%	5.66%	4.22%	4.96%	5.65%	3.78%
% Overdue 31 to 60 Days	2.01%	2.52%	1.67%	1.48%	1.01%	1.22%	1.40%	0.37%
% Overdue 61 to 90 Days	0.91%	1.11%	0.74%	0.55%	0.34%	0.49%	0.52%	0.08%
% Overdue More than 90 Days	2.19%	2.21%	1.44%	1.01%	0.49%	0.30%	0.38%	0.00%

\*\* Exclude Reasons: Exit before next IEP; Exit school; Left District; Not enrolled; No longer eligible; No consent; Parent revoked; Private school; No new IEP held