

**The Office of the Independent Monitor's Final Report  
Concluding the Modified Consent Decree:  
Successes, Challenges, and Lessons Learned**

Modified Consent Decree

OFFICE OF THE INDEPENDENT MONITOR

December 13, 2019

## ACKNOWLEDGEMENTS

The Office of the Independent Monitor (OIM) would like to acknowledge some of the many individuals who have contributed to the monitoring efforts over the past 16 years. The successes you will read about in this report would not have been possible without the commitment and dedication of the OIM staff, research assistants, and consultants. This progress was also made possible due to the leadership of the Plaintiffs' Counsel and Parents' Council. Lastly, countless District personnel, including leadership, management, teachers, and service providers, have been instrumental in implementing these reform efforts and improving the special education system.

I would especially like to acknowledge two OIM staff members who expertly guided the Parties within the confines of the Modified Consent Decree (MCD) toward reform. It is with deepest gratitude that I formally recognize the invaluable contributions of Mr. Jay Alleman and Dr. Jaime Hernandez. These individuals are the utmost professionals dedicated to students and families with disabilities. They have been the binding force for all the successes you will read about, and have worked tirelessly to push the District to be better. This consent decree would not have experienced these successes without these two professionals.

Mr. Alleman was instrumental in ensuring District data were accurate, enabling sound programmatic decision making. His knowledge of data systems and the District's special education programs allowed the OIM to focus on areas of noncompliance and measure progress. His contributions have undoubtedly increased District capacity and improved data systems.

Dr. Hernandez has been the engine of the MCD. He designed monitoring and research methodologies to identify systemic weaknesses impacting compliance. He guided these reform efforts with thoughtful and comprehensive research studies, annual reports, and recommendations. His commitment to improving organizational systems will have a long-lasting legacy and positive impact on students with disabilities and in the field of special education reform.

This report is dedicated to the memory of Frederick Weintraub and Nick Divito.

### **Independent Monitor**

David Rostetter (2014 -2019)  
Fredrick Weintraub (2005-2014)  
Carl Cohn (2003-2005)

### **Office of the Independent Monitor**

Jay Alleman (2003-2019)  
Jaime Hernandez (2003-2019)  
Robert Neary (2010-2019)  
Arun Ramanathan (2003-2004)

### **Editor**

Christine Anthony (2014-2019)  
Nick P. Divito (2008-2014)

**Secretary**

Lidia Morales (2008-2019)

Myrna Barragan (2004-2008)

Sonia Silva (2003-2004)

**Consultants**

Barbara Thorpe, Michael Boga, Tom Heir, Pete Goldschmidt, Daniel Gumarang, David Riley, Sue Gamm, Charlene Green, Judy Elliot, Ron Felton, Doug Fuchs, Edward Kim, Bill Swan, Melissa Barnhart, Katrina Arndt, Susan Hildenbrand, Allen Mori, Michael Norman, James de Jong

**Research Assistants**

Amparo Martinez Cruz, Stephanie Martinez, Pauline Wang, Karintiha Sanchez, Veronica Torres, George Torres, Morry Vann, Trisha Janelle Gragera, Jessica Nguyen, Gina Lammens, Gracie Finnigan-Fox, Honey Ebrahimi, Erica Lee, Nicole Gioia Kelly, Crystal Meza, Kellie Tam, Stacy Hachiya, Edit Tumasian, Isabel Bracamontes, Carly Petersen, Danielle Odom, Lindsay Hardman, Jennifer Brenneman, Kim de Deaux, Ted Johan Mikael Lundell, Vanessa Macias, Theresa Demus, Evan Watanabe, Melanie Crane, Michiko Okamoto, Megan Gaphardt, Hilary Aquino, Jessica Chai, Inger Johnson-Quezada, Regie Simon, Lorena Gomez, Christopher Ugorji, Ariana Marquez, Blaire Johnson, Aileen Liu, Heidi Gomez, Janet Labriola, Bess Rizzi, Nicole Taccariello, Gregory Corralejo, Sarah Adams, Celia Adame, Christine Garcia, Carlos Guerrero, Rosemary Gurrola, Jeannette Park, Marcela Puga

**Plaintiffs Counsel**

Catherine Blakemore, Robert Myers, David German, Brigitte Ammons, Melinda Bird

**Parents' Council Members and Ex-Oficio Members**

Sandra Baker, Rosa Villegas, Teri Blake, Jacquelyn Smith Conkleton, Natalie Demus, Evelyn Mason, Maya Osborne, Norma Pedregon, Bertha Rios, Sharon Suddeth, Paz Velasquez, Carla Vega, Gail Murray, Eric Sheman, Mark Torres, Jerrilyn Hayashi, Nancy Perren, Maria Fausto, Cecilia Hernandez, Jennifer Lewis, Jesus Jim Lira, Zita Elizabeth Suarez, Norma Angelica Alvarez, Efren Di-Chiara, David Plaza

John Cromshow, Pierre Landry, Tim Delia, Barbara Marbach, Sandra Renteria, Joanne Saliba

**TABLE OF CONTENTS**

**ACKNOWLEDGMENTS** ..... i

**INTRODUCTION** ..... 1

**PART ONE - STATUS OF 18 OUTCOMES** ..... 3

    Outcome 1: Participation in the Statewide Assessment Program..... 3

    Outcome 2: Performance in the Statewide Assessment Program ..... 4

    Outcome 3: Graduation Rate..... 4

    Outcome 4: Completion Rate ..... 5

    Outcome 16: Qualified Providers..... 6

    Outcome 5: Reduction of Suspensions ..... 7

    Outcome 17: IEP Team Consideration of Special Factors – Behavioral  
        Interventions, Strategies, and Supports. .... 8

    Outcome 9: Individual Transition Plan (ITP) ..... 8

    Outcome 6: Placement of SWDs with Eligibilities of Specific Learning  
        Disabilities (SLDs) and Speech/Language Impaired (SLI) ..... 8

    Outcome 7: Placement in the LRE ..... 9

    Outcome 8: Home School ..... 11

    Outcome 13: Delivery of Services ..... 11

    Outcome 10: Timely Completion of Evaluations ..... 12

    Outcome 18: African American Students Identified as Emotionally Disturbed ..... 13

    Outcome 11: Complaint Response Time ..... 14

    Outcome 12: Informal Dispute Resolution ..... 15

    Outcome 14: Increased Parent Participation..... 16

    Outcome 15: Timely Completion of IEP Translations ..... 16

**PART TWO – CASE STUDIES**..... 18

    Schools of Choice ..... 19

        Charter Schools..... 20

        Magnet Schools..... 22

    Data Systems..... 23

    Welligent IEP Data System..... 23

    My Integrated Student Information System (MiSiS)..... 25

Graduation Data.....	28
Summary.....	28
Disproportionality.....	29
Summary.....	34
Least Restrictive Environment.....	35
Relocation of SWDs from Special Education Centers.....	35
Preschool for All Learners (PALs).....	37
Career and Transition Centers.....	39
Summary.....	40
Family Involvement and Participation in the IEP Decision-Making Process.....	41
IEP Complaint Investigation.....	42
Complaint Management System.....	44
Summary.....	46
Making Schools Accessible.....	46
ADA Self-Evaluation and Transition Plain (2017).....	47
Remediation of Noncompliance at New Schools and Independent Charter Schools.....	50
Rapid Access Program (RAP).....	51
Summary.....	52
Service Delivery.....	53
Factors Impacting Service Delivery as Reported by Staff in the Field.....	55
Problems with the Current Service Delivery Model.....	57
Summary.....	59
<b>SUMMARY AND RECOMMENDATIONS.....</b>	<b>60</b>
Recommendations.....	61

## INTRODUCTION

On May 15, 2003, the Court approved a stipulation to replace and supplant the *Chanda Smith vs. the Los Angeles Unified School District*<sup>1</sup> with the Modified Consent Decree (MCD). This resulted in a major change in the structure of the original consent decree, establishing 18 measurable outcomes, as well as requirements for developing an integrated student information system, improving access in Los Angeles Unified School District (District) facilities, and ensuring there are no systemic problems with substantial compliance of special education laws and regulations. The MCD established a three-year timeframe for disengagement, upon completion of all outcomes and obligations.

In spring 2019, the Parties (Plaintiffs' Counsel and District) began negotiating the termination of the MCD. On August 9, 2019, the Honorable Ronald S.W. Lew signed an order approving the stipulation between the Parties for termination of the MCD, effective December 31, 2019 (Attachment A).

The stipulation required the Independent Monitor (IM) to produce a final report on the status and achievements of the MCD's outcomes as well as the District's substantial compliance with applicable federal special education laws and regulations. It also was to include recommendations to assist the District in ensuring compliance following the termination of the MCD. This report is the IM's final report as ordered by stipulation.

A tremendous amount of reflection has occurred in the development and writing of this report. The MCD has witnessed many highs and lows with the majority of these events well documented in the Parties' correspondence and the IM's annual reports. As part of the stipulation, the history of the MCD will be transferred to and maintained by Disability Rights California (DRC), in hopes that the field may continue to benefit from the challenges faced and progress made over the past 16 years.

It is important to acknowledge the vast contributions made by numerous District staff, including teachers and services providers, who made much of this progress possible. These successes are also a testament to the power of third-party oversight and the hard work and diligence of the Office of the Independent Monitor (OIM) staff, consultants, research assistants, and editors.

The report first provides an update on the status of the 18 outcomes, with brief progress summaries included for select outcomes. The report also includes an update on family participation and involvement in the Individualized Education Program (IEP) decision-making progress, and examines two areas that represent continued challenges for ensuring the District's substantial compliance. It concludes with a series of recommendations.

This final report aims to emphasize a few of the more significant successes that have occurred throughout the course of the MCD. It will examine these achievements and highlight lessons learned to enable further organizational progress and reform. The examples included in this report will also show how third-party oversight resulted in the identification of the root causes of noncompliance, and led to changes in policy and practice as well as the establishment of organizational systems. In some areas, these changes have resulted in continued progress and improved compliance despite many leadership changes, including superintendents, Chief Information Officers, and Associate Superintendents of Special Education.

---

<sup>1</sup> The Chanda Smith Consent Decree was entered on April 26, 1996.

This report includes the following:

- Status of 18 Outcomes
- Schools of Choice
  - Charter Schools
  - Magnet Schools
- Data Systems
  - Welligent IEP Data System
  - My Student Information System (MiSiS)
  - Graduation Data
- Disproportionality
- Least Restrictive Environment
  - Relocation of SWDs from Special Education Centers
  - Preschool for All Learners (PALs)
  - Career and Transition Centers
- Family Involvement and Participation in the IEP Decision-Making Process
  - IEP Complaint Investigation
  - Complaint Management System
- Making Schools and Programs Accessible
- Provision of Special Education Services
- Summary and Recommendations

## PART ONE – STATUS OF 18 OUTCOMES

This section will provide brief summaries of the 18 MCD outcomes, highlighting fundamental aims, progress made, and lessons learned. For purposes of discussion, this section presents a cursory review of events. Part Two will elaborate on outcomes selected as case studies. For some outcomes, reliable data were not available at the inception of the MCD (2003-04 school year); in these cases, the initial most reliable data are used.

Each of the 18 outcomes represents an element of the MCD's intended reform process. The MCD was designed with the intent to improve student educational outcomes, special education compliance with federal and state laws and regulations, and parent participation and involvement, and to ensure equitable access on par with nondisabled students.

Some outcomes have been combined because they share common goals to improve student welfare and achieve compliance with specific areas of special education law (e.g., graduation and completion rate). The outcomes' purposes are described here in simple terms and do not contain the exact language of the outcome. Attachment B contains each outcome and its targets, methodology for determining progress, and tables with annual measures as reported in previous IM annual reports.

The first four comprise educational and compliance outcomes for students with disabilities (SWDs) that aim to improve academic performance, increase graduation and school completion rates, and reduce disparities between SWDs and their nondisabled peers. Successful performance in these areas signifies compliance with federal or state special education laws or regulations, and also promotes post-secondary educational or workforce opportunities.

- Ensure SWDs participate in the statewide assessment program with their nondisabled peers, and increase the percentage of students that perform at the basic level in math and English Language Arts (ELA) (Outcomes 1 and 2).

### Outcome 1: Participation in the Statewide Assessment Program

During the 2003-04 school year, 73.4% of SWDs participated in ELA and 75.6% in the mathematics statewide assessment tests, for a combined participation rate of 74.4%. This outcome was met during the 2005-06 school year, and was helped by the requirements of No Child Left Behind (NCLB) mandating 95% participation for SWDs. At the end of the 2017-18 school year, the District had a combined participation rate of 96.1% for SWDs taking these tests.

A notable benefit of the OIM's monitoring of this outcome was the identification of SWDs who could not participate in the math portion of the statewide assessment due to their nonparticipation in required math courses. The data indicated that 56.6% of 10th grade and 63.3% of 11th grade SWDs were not enrolled in any mathematics class during the spring 2006 semester. This differed considerably from the percentage of nondisabled students not enrolled in a mathematics course (15.9% of 10th grade and 24.6% of 11th grade).

The IM noted that the low enrollment in these courses not only affected participation rates but also contributed to the low graduation rates for SWDs, impacting the District's ability to meet Outcome 3 (Graduation Rate). This finding also led to an increase in the passing rate of the California High School Exit Exam (CAHSEE), because enrollment in these courses was necessary.

Increased participation rates of SWDs in the statewide assessment programs was important in ensuring assessment of students' instruction in both the core and alternate curriculums, thereby increasing accountability for the educational outcomes for these students. SWDs' participation rates are now comparable to their nondisabled peers'.

### Outcome 2: Performance in the Statewide Assessment Program

During the 2003-04 school year, 17.8% of SWDs who participated in ELA and 18.3% in mathematics met the basic standards of the statewide assessment tests (referred to as STAR). The Statewide Assessment Program changed tests in the 2014-15 to the Smarter Balanced assessment, limiting comparisons with the previous STAR results.

Since the switch to the Smarter Balanced assessment, there has been minimal increase in the percentage of students having received scores of nearly met (comparable to basic), met, or exceeded standards. As of June 30, 2018, 24.3% of SWDs received a score of nearly met or better in ELA, while 20.4% had a score of nearly met or better in math.

Although progress has been relatively stagnant for years, the District made some notable efforts to improve performance during the course of the MCD. This includes the implementation of the Voyager instructional intervention program, CAHSEE boot camps aimed at preparing students for the exit exam, and credit recovery programs, which resulted in students retaking or enrolling in courses required for a diploma.

Continued improvement in student performance on the statewide assessment will require collaboration that increases student access to quality instruction in both core and alternate curriculum. Increasing access for SWDs in class settings in the least restrictive environment (LRE) is critical for ensuring equitable opportunities to core curriculum.

- Almost half of SWDs will graduate with a diploma, and fewer will drop out every year (Outcomes 3 and 4).

### Outcome 3: Graduation Rate

At the MCD's inception (2002-03 school year), District data indicated that approximately 34% of SWDs received a diploma. The OIM's monitoring efforts revealed many inaccuracies in the District's graduation and completion data, an issue that persisted for more than 10 years. Data problems and the solution for correcting these issues will be discussed in additional detail in Part Two.

Despite many years of data concerns, the District engaged in efforts to increase SWDs' graduation rates. Some were driven by the changing state requirements related to CAHSEE, particularly after the discontinuation of the exemption that deemed students eligible for a diploma as long as they participated in the exit exam, without being required to pass it. As a result of the exemption's revocation, the District invested heavily in CAHSEE boot camps, which provided instructional intervention programs intended to help students pass the exit exam in order to receive a diploma.

The District also invested in credit recovery programs. Students who dropped out or missed courses could return to school and/or participate in programs designed to make up credits for

previously incomplete or failed courses required for a diploma. These programs provided necessary alternatives for students who otherwise may have been discouraged from completing their high school requirements.

These efforts resulted in significant increases in both students who received diplomas and those who remained in school through the 12th grade. For example, during the 2007-08 school year, the District graduated 1,061 out of the 2,547 SWDs (41.7%) enrolled in the 12th grade as of December 1<sup>2</sup>.

Although this performance was enough to meet the MCD target for Outcome 3, growth in SWDs' receiving diplomas has continued annually and has almost doubled. At the end of the 2017-18 school year, 4,338 SWDs were enrolled in the 12th grade as of December 1, with 3,396 (78.3%) having graduated with a diploma. This represents a 220% increase of SWDs graduating with a diploma since the outcome was met (1,061, 2007-08 vs. 3,396, 2017-18).

Achieving a high school diploma is the highest educational outcome for SWDs in the core curriculum. This outcome has resulted in tens of thousands of SWDs attaining the educational program's highest goal, increasing their opportunities for post-secondary education and/or employment. Lastly, the District now has reliable and accurate graduation data and a data system with improved mechanisms for tracking and monitoring graduation requirements and will be discussed in more detail in Part Two.

#### Outcome 4: Completion Rate

This outcome aimed to reduce the number of SWDs who drop out of school and in turn increase the number of students who complete school with a diploma or certificate of completion, or who age out. This outcome includes students counted for Outcome 3 in addition to students in grades 7-12 who drop out<sup>3</sup>, resulting in a larger cohort group. Although students who receive certificates of completion are mainly those on the alternate curriculum, some students who participated in the core instructional program can also be awarded a certificate of completion if they did do meet all graduation requirements.

Similar to Outcome 3, the District has considerably increased the completion rate of SWDs, particularly because the number of students receiving a diploma has grown significantly. To illustrate this growth, a comparison of completion data<sup>4</sup> is seen below (Table 1), using 2005-06<sup>5</sup> and 2017-18 school year data.

All three completion outcomes had demonstrable improvements, with a large decrease in those students reported as having dropped out. Note that the number of dropouts reported exceeded more than 1,000 students for seven years and more than 2,000 students for three years, with the highest number of dropouts reported in 2013-14 (2,154).

---

<sup>2</sup> December 1 was the date established under this outcome for inclusion of students in the 12th grade cohort for the purposes of Outcomes 3 and 4.

<sup>3</sup> Dropout data were provided by the state and not validated by the OIM.

<sup>4</sup> For simplicity, data for students who aged out were omitted since they represent less than 0.5% of the total cohort.

<sup>5</sup> 2005-06 data was deemed more reliable than the initial 2004-05 baseline data.

Table 1. Comparison of Completion Data for SWDs between 2005-06 and 2017-18 School Years

# of Students in Cohort	SWDs Receiving Diplomas		SWDs Receiving Certificates of Completion		SWDs Grade 7-12 who Dropped Out		Completion Rate
	#	%	#	%	#	%	
<i>2017-18</i>							
4,616	3,396	73.6	942	20.4	278	6.0	94.0
<i>2005-06</i>							
2,999	1,636	54.5	364	12.1	778	26.0	67.1

Overall, data are conclusive that the efforts to improve school completion for SWDs has resulted in many more students remaining in school and achieving favorable educational outcomes. These gains are attributable to many factors including changes in federal and state law and/or requirements, the structure of the MCD, and the OIM’s monitoring and validation of completion data.

- SWDs will have a qualified teacher comparable to their nondisabled peers (Outcome 16).

Outcome 16: Qualified Providers

At the beginning of the MCD, 70.6% of special education teachers had a special education credential and thus were considered highly qualified. This outcome showed tremendous growth between the 2007-08 (87.9%) and 2013-14 (96.4%) school years. Since then, the number of qualified teachers has decreased annually, and as of June 30, 2019, the number of qualified teachers has fallen to a level below the 88% target (84.9%).

State and national teacher shortages are factors contributing to the lack of qualified providers. However, the District was not affected by these shortages during the economic downturn experienced nationally during the period of growth mentioned above; rather it seized the opportunity to attract and employ qualified special education teachers from other school districts.

Annually, the District deploys many resources to attract qualified teachers both nationally and in the state. The regression in this outcome is not for a lack of trying. The loss of qualified providers should be examined to identify factors that might be within the District’s control. District updates on efforts for this outcome have not focused on retaining qualified providers. Events such as retirement or family issues such as relocations, illness, or childcare can impact retention. The growth of independent charter schools may also be contributing to the loss of qualified teachers as some District employees and new teachers may choose to work at these schools.

The state and District are experiencing declining student enrollment, which inevitably will impact the number of teachers districts can retain. This phenomenon might provide another opportunity to recruit qualified providers, similar to what occurred during the economic downturn.

The next set of outcomes focuses on increasing SWD opportunities in the instructional program, with the services and supports needed to be successful and as required by their IEPs, as well as expanding access to instructional programs in general education classes in their school of residence (LRE). The last two outcomes focus on ensuring initial evaluations are completed within the established timelines, and that students referred for emotional disturbance (ED) receive a comprehensive evaluation.

- Fewer SWDs will be suspended, and more will receive behavioral supports (Outcomes 5 and 17).

#### Outcome 5: Reduction of Suspensions

Out-of-school suspension, particularly the use of one-time suspensions for both general and special education students, was a significant problem at the MCD's inception. In 2004-05, the District recorded its highest rates of suspensions for both special education students (n=10,741, 14.1%) and their nondisabled peers (n=42,332, 6.4%). Note that these data represent individual students suspended, and not instances of suspensions.

As of June 30, 2019, the use of out-of-school suspensions was its lowest—around 1% or lower (SWDs n=849, 1.1% compared to nondisabled peers n=2,504, 0.5%).

Several factors contributed to the success in the reduction of suspensions Districtwide. The first is the Board of Education's (Board's) passage of two resolutions establishing Districtwide discipline policies that employed alternative methods for correcting student misconduct, thereby decreasing lost instructional time and days. In 2005, the Board adopted the Student Discipline Policy, which led to the Discipline Foundation Policy in spring 2007. More recently, in 2013, the Board passed another resolution, the School Discipline Policy and School Climate Bill of Rights. The latter resolution mandates that staff review current policies related to discipline, establish alternatives to school suspensions to correct misconduct, and implement restorative justice practices by 2020.

It is likely the District would have addressed this issue in the absence of the consent decree, due to the loss of revenue (based on average daily attendance) that out-of-school suspensions have on schools and the District. However, the dramatic reduction of suspensions for all students can be directly attributable to the MCD and OIM.

In 2006, the IM required the Board to pass the Discipline Foundation Policy by October 30, 2006, as a condition for approval of the Targeted Strategy Plans<sup>6</sup>. The MCD's structure and the OIM ensured the plans focused on sites with the highest rates of noncompliance. To guide the District's intervention efforts, the OIM provided lists of high-suspending schools. Some sites reported that slightly more than half of their SWD population was suspended at least once. In addition, OIM validation of suspension data revealed that the majority of one-time suspensions resulted from two minor offenses, and the IM directed the District to find alternatives to suspension for these types of infractions.

This outcome is also a good example of the Board's ability to prioritize reform efforts and pass Districtwide resolutions that create positive and lasting systemic change.

---

<sup>6</sup> Letter from Frederick Weintraub dated August 11, 2006, Re: Approval of Targeted Strategy Plans

Outcome 17: IEP Team Consideration of Special Factors – Behavioral Interventions, Strategies, and Supports

This outcome focused on increasing the number of students with ED and autism with behavioral supports as prescribed in the IEP behavior support plans. In 2003-04, 20.1% of students with autism and 41.1% with ED had behavior support plans. As of June 30, 2019, IEPs for almost all students with ED (98.0%) and half of students with autism (51.1%) contained these supports.

This outcome was met in the 2005-06 school year and is a good example of the District's ability to improve performance and practices in a timely fashion. Progress for students with ED was also facilitated by the requirements imposed by the OIM for Outcome 18: Disproportionality.

- Nearly all SWDs ages 14 and older will have a plan to help them transition into the real world after high school (Outcome 9).

Outcome 9: Individual Transition Plan (ITP)

The majority of students (92.1%) had an ITP as part of their IEP at the beginning of the MCD. To date, all students (100%) ages 14 and older have an ITP as required by federal and state special education laws and regulations. This upswing was largely due to Welligent edits that required an ITP to be completed for any student age 14 and older. This outcome is a good example of how technology can help ensure 100% compliance.

Although the outcome did not include measures to improve ITP quality, the District has been investing in Career and Transition Centers (CTCs) to better prepare students for their transition into post-secondary life and workforce. These efforts will be highlighted in Part Two.

- Increase the percentage of SWDs who receive their education in a general education classroom in their local neighborhood school (Outcomes 6, 7, and 8).

Outcome 6: Placement of SWDs with Eligibilities of Specific Learning Disabilities (SLDs) and Speech/Language Impaired (SLI)

This outcome was designed to increase the time that students with high-incidence disabilities participate in the general education instructional setting. During the 2003-04 school year, 63.2% of students with SLD and SLI participated in the general education program for 40% or more of the instructional day. As of June 30, 2019, 87.2% of these students received instruction in general education classes for 40% or more of the day.

Table 2 shows the growth and progress for students with SLD/SLI participating in less restrictive placements since the beginning of the MCD. In 2004, 38.8% of these students were in special day program (SDP) classrooms, the most restrictive setting on general education campuses. Only 11.4% received instruction in the general education program for 40% or more of the day. As of April 2019, 37.9% of SLD/SLI students participated in the general education program for 40% or more of the day, while those in SDP decreased to 25.4%.

Table 2. LRE Data for Students with SLD/SLI in 2004 and 2019

SLD/SLI	SDP		RSP		GE	
	#	%	#	%	#	%
April 2019						
49,514	12,521	25.4	18,112	36.7	18,681	37.9
April 2004						
48,943	18,977	38.8	24,368	49.8	5,598	11.4

This performance illustrates the shift toward increasing opportunities for SWDs in the LRE, which began its turnaround during the 2007-08 school year. This outcome resulted in several systemic changes and capacity building of staff. The OIM noted that, during the first three years of its monitoring of LRE outcomes, many staff lacked a good understanding of how to calculate time in the general education instructional setting when determining LRE time in a student’s IEP. The OIM also found discrepancies that showed time implementation (class schedules) did not match the time specified in the IEP. These findings led to a series of bulletins, staff training, and changes to the Welligent IEP program to improve data accuracy and programming decisions at IEP meetings.

Establishing a model that allows meaningful SWD participation in the general education instructional setting requires collaboration with general education teachers and impacts master planning of courses and student schedules for secondary-aged students. It also requires a shift in the delivery model of supports and services. Albeit challenging, the data clearly show that these efforts have paid off with higher numbers of students having more opportunities for integration and better educational outcomes, such as graduating with a diploma.

Outcome 7: Placement in the LRE

This outcome had several iterations as a result of renegotiations by the Parties. Initially, the outcome focused on SWDs with all other disabilities (non-SLD/SLI), and then only for students with multiple disabilities-orthopedic (MDO). The structure of these two versions was deemed problematic and had unintended consequences for students that made meeting these outcomes inappropriate and/or impossible to achieve.

In 2011-12 school year, the Parties agreed to revise the outcome to focus on reducing the number of students enrolled in special education centers, co-locating or merging four special centers with their adjacent general education schools<sup>7</sup> and increasing the time students with moderate to severe disabilities spend in the general education instructional setting at these co-located sites<sup>8</sup>.

Since the revised outcome, the District has successfully reduced the number of students enrolled in special education centers from 2,190 to 834, a reduction of 163% (between 2011-12 and 2018-19 school years). This effort shifted a once heavy reliance on segregating students

<sup>7</sup> These schools were selected based on the ability to merge them. They include Blend and Van Ness Elementary; Banneker and Avalon Gardens Elementary; McBride and Grand View Elementary; and Miller and Cleveland High School.

<sup>8</sup> The outcome required students with moderate to severe disabilities at co-located sites to participate in the general education instructional setting for an average of 12% of the day.

with moderate to severe disabilities to meet their needs, to a setting that offers programming, supports, and services to students in the LRE.

During the 2012-13 school year, the District engaged in planning activities to prepare students, parents, and staff for the opening of the new sites in time for the 2013-14 school year. This included the creation of an integration team of eight central office staff to coordinate efforts with school staff, other departments such as the Facilities Division and Related Services, and outside agencies such as Shane's Inspiration and UC Play.

During the planning year, the integration team began preparing schools and personnel by holding joint meetings to integrate staff and provide professional development. The teams also identified the materials, supplies, and technology needed for integration. Maintenance and operation staff from the Facilities Division conducted walkthroughs at sites to identify areas that needed renovations to provide or improve accessibility. Despite these planning activities, this effort was not without logistical and political challenges.

The OIM's monitoring found co-located sites lacking many necessary program access features to ensure the health and safety of these students. This included a lack of program access to areas such as bathrooms and common areas. Although the District later addressed these issues, it showed a lack of adequate logistical preparation prior to moving SWDs to the general education campuses.

This outcome was designed to reduce the population of students attending centers by co-locating sites; however, the District engaged in a larger initiative that included moving classes from other centers to general education campuses as well as opening new alternate programs. This resulted in more students being afforded an opportunity to participate in instructional and noninstructional activities with their nondisabled peers.

This larger effort was highlighted in the IM's 2014-15 annual report, which stated "Of those students who have been relocated to general education campuses, only 152 (16.6%) attend the three co-located sites. This means that approximately 85% of the reduction comprised students relocated from other centers or new students enrolled directly onto a general education site. This effort is commendable and shows the District's commitment to create a large system change to improve educational opportunities for students with moderate to severe disabilities" (pp. 3-4).

Initially, there was a considerable increase in LRE time for students with moderate to severe disabilities in the general education instructional setting at co-located sites. At the inception of this effort, the District provided additional instructional options for students by augmenting music and arts programs. However, schools reported the District began withdrawing resources within a few years, reducing options for participation in the LRE. During the 2013-14 school year, students spent an average of 27.65% of time in the LRE; this number decreased substantially to 9.5% in 2018-19.

Despite this backslide, Outcomes 6 and 7 resulted in a change in the landscape of programming for all SWDs in the LRE. This progress is no easy feat, and places the District and schools in a good position to improve these LRE opportunities. Sustainability of these efforts and continued

investment in the LRE will inevitably improve educational outcomes for SWDs in terms of performance on statewide assessments and graduation/completion rates.

#### Outcome 8: Home School

This outcome contained three parts with seven targets that aimed to increase the number of SWDs who attend their home school. The first part of the outcome addressed SWDs with SLD/SLI attending their home school; the second part focused on students with all other disabilities in the transition grades of kindergarten, grade 6, and grade 9; and the third part included students with all other disabilities in grades 1-5, grades 7-8, and grades 10 and above.

The outcome's three-part structure with multiple targets made it very difficult to achieve and ultimately was met by stipulation of the Parties in 2008. Nonetheless, opportunities for SWD home school enrollment have increased considerably. During the course of the MCD, the number of charter and magnet schools has increased dramatically, with SWD enrollment also demonstrating growth. (This issue will be discussed further in Part Two.) More importantly, the District promoted LRE and home school placements by creating and integrating an LRE Analysis form into the IEP decision-making process; this form guides IEP teams in ensuring students are afforded opportunities in classroom settings with their nondisabled peers, and at their resident school.

- Most students will receive the special education services as specified on their Individual Education Plans (IEPs) (Outcome 13).

#### Outcome 13: Delivery of Services

The provision of supports and services as specified in students' IEPs is a cornerstone of special education law and free and appropriate education (FAPE). Compliance with service delivery requirements requires teachers and related service providers to fulfill the frequency and duration obligations as mandated in students' IEPs.

This outcome has been the most challenging to meet, as the District's size and scope requires significant resources to fulfill obligations Districtwide. Part Two and will include additional information on this issue, including findings of a recent survey of related service providers.

Between the 2003-04 and 2016-17 school years, this outcome required at least 85% of all students to receive 100% of their specified services. After many years of falling short of the duration target and multiple OIM recommendations to modify the outcome, the Parties revised this outcome and included three parts, with two focused on process-oriented measures.

Although the outcome maintained a performance measure, it centered on the aggregate of minutes owed for all students in the District, removing any individual accountability for service delivery. This means that as long as the District could show minutes delivered for at least 90% of all minutes owed, this measure would be considered met. Despite reservations expressed by the OIM, the Parties included exceptions for not providing services due to a "lack of opportunity," meaning the District would get credit via a reduction of minutes owed when students were coded as absent or having refused a service. This outcome was met in its first year (2017-18);

however, data reviewed during the negotiations showed that the District was already performing at the target level agreed upon by the Parties.

The other two parts of the outcome required the District to implement systems for the identification of students receiving less than 70% of their services, and required notification of parents both through a letter sent home and via the MiSiS Parent Portal. These two parts were also met.

Despite meeting the target and demonstrating that the majority of services owed were delivered, thousands of students received less than 70% of their services. Data also show that thousands received no services throughout the year. Although the District has committed to and begun providing compensatory services for these students, the systemic problems that led to this noncompliance have not been remediated.

Of most concern is the number of students who do not receive any services for part or the entirety of the school year due to a lack of an available service provider. The issue of uncovered schools is partly attributable to a state and national shortage of qualified service providers, which is further compounded by leaves (i.e., medical, maternity) throughout the year. Although the District has developed plans to provide coverage at these schools and offer compensatory services to affected students, schools can remain uncovered for extended periods of time, which impacts overall compliance.

In short, the District has a resource constraint problem that must be remediated in order to have systems in place that prevent substantial noncompliance. For many years, the OIM, Office of Data and Accountability (ODA), and American Institutes for Research (AIR) have explored factors that contribute to the lack of service provision and made recommendations for improving systemic shortcomings.

As the District moves forward, its focus must shift from the documentation issues around service delivery to the systemic shortcomings that continue to leave thousands of students short of receiving services owed in their IEPs. This is not an easy feat and will require outside-the-box thinking. The District must approach this similarly to the challenges presented with translating IEP documents (discussed later) and find solutions that work with the available resources and for collective obligations.

Although the Outcome 13 revisions made meeting this outcome possible, the reality is the District has a long way to go to ensure all students receive their services. The outcome did establish systems that increase transparency of such noncompliance, and if these systems are sustained, they should yield progress and improve communication and trust with parents.

- After a parent requests an evaluation to see if their child is eligible for special education services, the District will complete an evaluation and hold a meeting to discuss the results within 60 days.

#### Outcome 10: Timely Completion of Evaluations

This outcome aimed to improve compliance for completing initial IEP evaluations within 60 days for 90% of students assessed. This outcome was met in 2007-08 but has seen a considerable decrease in performance the past two school years. As of June 30, 2019, 80.4% of students had

their initial IEP completed on time. This sharp decrease raises concerns as to whether existing resources are being utilized effectively to meet this fundamental compliance indicator.

Timely completion of evaluations is essential to ensuring students receive FAPE. Delays in completing eligible students' assessments and IEPs carry implications for a denial of FAPE, as students lack the necessary supports and services to be successful in their instructional program.

Performance on this outcome also highlights a valuable lesson in ensuring substantial compliance. Moving forward, the District must recognize that compliance with performance targets does not necessarily mean compliance with requirements mandated by the California Department of Education (CDE). In this case, completing 80% or 90% of initial evaluations on time may not constitute compliance with CDE. It is critical that the District continually monitor such data and immediately make efforts to remediate slippage in performance.

- To reduce overrepresentation in the category of emotional disturbance, every African American student identified as ED will have a referral, identification, and placement process that meets basic standards (Outcome 18: Disproportionality).

#### *Outcome 18: African American Students Identified as Emotionally Disturbed*

This outcome is an example of tremendous success and will be discussed in additional detail in Part Two. The following provides a summary of its history.

During the initial MCD negotiations, the Parties acknowledged that data indicated an overrepresentation of African American students identified with ED as well as those enrolled in highly segregated settings, particularly nonpublic schools (NPSs). The Parties charged the OIM to examine the issue and come up with an outcome to address disproportionality.

The OIM determined the outcome after conducting a study to examine possible factors contributing to the disproportionate identification of African American students in the ED category. The study found many shortcomings in the referral, assessment, and placement processes for all students referred for ED. It raised questions regarding the validity and appropriateness of evaluations for all students regardless of race/ethnicity, as eligibility decisions seemed driven by placement of students in more restrictive environments. To remediate these shortcomings, the OIM created a "basic standard" for a comprehensive evaluation that necessitated changes to the assessment and referral process as well as the decision-making process for determining eligibility, placement, and services.

To ensure compliance with this outcome, the OIM created a checklist that served as verification that schools completed each step of the comprehensive evaluation, including the eligibility and placement decisions. The OIM monitored this process for every initial evaluation and three-year reevaluation of African American students, and a sample of students in the White, Latino, and all other races/ethnicities categories.

The District also established mechanisms for making sure students referred for ED underwent all steps of the evaluation process, creating review groups for school psychologists to ensure that all factors ruling out the possibility of ED had been considered. In addition, the

psychoeducational reports were enhanced to guide staff to justify the eligibility and exclusionary criteria, resulting in highly comprehensive assessments and reports. Last, the checklist became part of the students' IEPs and served as both the eligibility and exclusionary statements as well as verification that all steps were completed.

Success for this outcome is measured by compliance with the steps in the checklist. After years of continued progress, during the 2009-10 school year, the IM determined the intent of this outcome met<sup>9</sup>. The District continues to show a high level of compliance with the comprehensive evaluation standard with 92.5% of African American students meeting the standard as of June 30, 2019.

This outcome resulted in a reduction of disproportionate identification of African American students identified as ED as well as those placed in NPSs. Equally important, reductions were observed for all students regardless of race/ethnicity, validating the initial theory that by remediating systemic failures, the appropriateness of ED identifications would increase. Reductions were also noted for all students with ED enrolled in NPSs.

This outcome is an example of how the examination of a problem led to systemic fixes that benefited all students. It also resulted in an increase in the quality and implementation of general education interventions prior to a referral, higher-quality assessments, and sound justifications for eligibility determinations—in essence, a standard of best practice that is now systemically embedded into practice.

The next four outcomes were intended to create opportunities for parents to resolve compliance complaints without the need for formal due process filings, increase parental participation at IEP meetings, and improve involvement in their student's educational program.

- Most parents will have a place to turn to that can resolve their concerns and complaints and have the opportunity to settle disagreements with schools informally instead of having to take legal action (Outcomes 11 and 12).

#### *Outcome 11: Complaint Response Time*

The MCD established mechanisms for reducing formal due process complaints. This outcome focused on calls received through the Complaint Response Unit (CRU) and required that the majority of complaints would receive a "lawful response" within 30 days.

For the purpose of this update, a brief summary of some of the challenges and OIM's monitoring efforts is included below.

This outcome was met during the 2005-06 school year, and performance for submitting lawful responses to parents continues to exceed standards, with almost all complaints closed out within 30 days.

---

<sup>9</sup> This determination was made due to the structure of the outcome that required all 33 elements of the checklist to be met in order to count as progress toward the outcome. In addition, one item preventing further progress was deemed outside the control of schools.

Despite this progress and performance, many problems persisted that brought into question the validity and credibility of the CRU's role in the complaint management system. (This will be discussed further in Part Two). The OIM conducted two comprehensive reviews of the CRU, in 2013 and 2016, and provided findings and a series of recommendations.

Much improvement was noted in the 2016 review, which found that the complaint management system's policies, procedures, and protocols provided a fundamental framework for a valid and credible complaint system. The structure and procedures established for processing and resolving calls were also seen as areas of strength and improvement. This progress was evidence that the District had committed significant time and resources to further develop this system since the OIM's 2013 study.

The progress made in improving the CRU as a mechanism within the complaint management system gives cause for optimism. The District has established a call center that fields more than 10,000 calls annually and refers parents with complaints to the CRU.

During exit interviews, the CRU director and staff noted the MCD and OIM's role in guiding improvements in this system, particularly in establishing standards and processes for conducting intakes and documenting calls; enhancing the database; and refining quality controls throughout the process, including the vetting of lawful response letters.

The CRU's director reported that the functions of the CRU will be sustained after the MCD, which is an important aspect of ensuring substantial compliance. Although the director felt that due process data do not support the notion that this mechanism reduced overall formal filings, he believes that some informally resolved cases prevented such filings.

#### Outcome 12: Informal Dispute Resolution

This outcome aimed to reduce formal due process filings while increasing reliance on informal dispute resolution (IDR), which can be achieved more quickly, minimizes costs, and encourages parents and schools to find resolutions at the local level.

Although the District met the timeline aspect of this outcome in 2005-06, it did not achieve the goal of increasing reliance on IDR to reduce the need for due process. At the time the outcome was met, the District received 605 IDRs and 1,118 formal due process requests. As of June 30, 2019, the District received 1,004 IDRs and 1,816 formal due process requests. This is the highest number of formal due process requests recorded since 2004-05, with increases noted annually. In addition, IDR requests exceeded more than 1,500 for nine of the 15 years tracked by the OIM.

The OIM did not examine this phenomenon directly, but did conduct two telephone surveys of parents that inquired about their experience during IEP meetings. The resulting data, as well as parent feedback from Parent Council members and parents who provided testimony at annual hearings, indicate that the District at times encourages parents to file for due process when disagreements arise. This phenomenon is supported by Outcome 12 data, which show that more parents are relying on formal due process filings to have their complaints resolved.

The District has developed mechanisms for parents to have concerns or disputes met without the need for formal due process filings; it should examine how these mechanisms may be better promoted and/or made more effective for reducing formal complaints.

- Increase and improve parent participation and involvement at IEP meetings and educational programs (Outcomes 14 and 15).

#### Outcome 14: Increased Parent Participation

The goal of this outcome was to increase the number of parents attending IEP meetings and ensure schools engage in good-faith efforts to inform the parent of the scheduled meeting. This outcome was quickly met (2005-06), and the District has done a great job getting parents to attend and documenting attempts to notify parents of their student's scheduled IEP meeting.

During the 2018-19 school year, the District held 136,958 IEP meetings, with 84.3% (114,618) of these meetings attended by a parent. Examining students individually, 84.5% of parents attended their student's IEP meeting (73,364 out of 86,778). In addition, less than 0.01% of IEPs lacked evidence of three attempts to notify parents of the scheduled IEP meeting. This is remarkable performance given the District's size and scope.

#### Outcome 15: Timely Completion of IEP Translations

The provision of translated IEPs in parents' native language enables meaningful parental participation in their student's educational program. The District has demonstrated exemplary performance in this outcome.

At MCD's inception, the District had to translate approximately 8,000 IEPs, and completed 8% within 30 days, 13% within 45 days, 18% within 60 days, and 41% over 60 days. More than half (n=4,141, 52%) of the IEPs were pending translation at the end of the school year. As of June 30, 2019, the District received 45,400 requests for translated IEPs, with 99.99% translated within 30 days.

The turnaround in the timely provision of translated IEPs is a testament to what can be accomplished when outside-the-box solutions are implemented. The most salient factor for this performance was the use of outside vendors to meet the high and growing demand for translations. While District staff worked diligently to meet such demand, internal resources were too limited to meet this challenge.

In September 2019, the OIM met with District staff to inquire more about the lessons learned related to management, and plans for ensuring sustainability of this performance. In essence, the District created a system for processing these requests more efficiently, embedded a bidding process for approved vendors with established performance benchmarks, and established quality assurance mechanisms.

One problem with meeting timelines was the delay caused when schools did not send requests immediately after an IEP meeting, which was resolved by directly forwarding requests via the Welligent IEP system. Vendors are also required to provide completed translated IEPs within four or six days, depending on the number of bundles (each bundle is 100 IEPs) in the bid. IEP delivery was also embedded in the Welligent system, meaning that, once translated, the

documents were available for schools in the Welligent system and did not require other forms of delivery.

The Board also approved five-year bench contracts that allow the District to approve bids without needing recurring Board approval. The District placed a high value on ensuring parents are well informed about their child's IEP, and staff feel this effort will be sustained. The District is in the process of submitting a new five-year bench contract for approval next year. Furthermore, the District is engaged in developing technology with third-party vendors to customize the Google Translate platform to reduce costs and improve efficiency.

This success was in large part due to the collaboration between the Division of Special Education (DSE) and Office of Translation Services, and was facilitated by Board action to ensure the necessary resources to remedy the problem. The OIM was also instrumental in this effort, with District staff noting the OIM's monthly monitoring allowed them to see progress and crediting the MCD for helping push these initiatives forward.

## **PART TWO – CASE STUDIES**

As noted in Part One, the MCD has led to many successful organizational changes improving compliance and educational outcomes. Part Two aims to showcase progress that has resulted in systemic change and offer valuable lessons learned for reform. In some areas, change occurred swiftly, whereas in others, remediation of problems took years. This section will also include additional information on some outcomes and areas related to substantial compliance, intended to offer insights for furthering progress in these areas. For the majority of these issues, the OIM conducted exit interviews with respective program leadership, and/or collected new information.

This section will highlight the following areas:

- Schools of Choice
  - Magnet Schools
  - Charter Schools
- Data Systems
  - Welligent IEP Data System
  - My Student Information System (MiSiS)
  - Graduation Data
- Disproportionality
- Least Restrictive Environment
  - Relocation of SWDs from Special Education Centers
  - Preschool for All Learners (PALs)
  - Career and Transition Centers
- Family Involvement and Participation in the IEP Decision-Making Process
  - IEP Complaint Investigation
  - Complaint Management System
- Making Schools and Programs Accessible
- Provision of Special Education Services

### *Schools of Choice*

One of the biggest successes of the MCD has been the growth in the number of SWDs applying to and enrolling in charter and magnet schools, reducing disparities in their enrollment in schools of choice compared to their nondisabled peers. These improvements also increased opportunities for SWDs to participate in the general education setting (LRE) in their school of residence and attend schools with enriched thematic-based instruction. This section will highlight the OIM's monitoring efforts and the District's actions to remediate systemic problems in this area.

While all schools were subject to the obligations of the MCD, the MCD did not contain specific outcomes pertaining to schools of choice. The IM's 2009-10 Annual Report, Part 1, summarized the MCD's role in oversight of schools of choice.

While the District faces many political and logistical challenges, it is important to keep in mind the intent and leverage that the MCD provides. To summarize, the MCD is designed to improve the educational outcomes for students with disabilities by addressing inequities in education and the discriminatory practices that have persistently marginalized students with disabilities and their families. The MCD is not an attempt to curb, discourage or restrict the authorization or autonomy of these schools, but rather protect the rights of students and families to have equitable access to a free and appropriate education at all District schools, including schools of choice (p. 18).

In spring 2011, the District had 183 charter schools and 169 magnet schools, offering 352 schools of choice to the public, representing 30% of all District schools. The combined student enrollment in these schools of choice (135,000) represented 20% of the overall student population. Due to the large number of students attending magnets and charters, it was critical to see if SWDs had equal opportunities to attend these schools and if there were any differences in policies, practices, and/or procedures that impacted the District's ability to ensure substantial compliance.

The OIM conducted two large studies of the District's charter (2009) and magnet (2011) schools. At the respective times of the studies, similar studies found that SWDs were underrepresented in these schools of choice. The studies also found problematic areas within the policies, procedures, and practices that contributed to this underrepresentation and the District's overall ability to be in systemic, substantial compliance with federal and state special education laws.

In both cases, the District provided immediate responses and plans to address these systemic problems. These efforts have yielded positive results in the enrollment of SWDs while effectively addressing discriminatory practices and tightening processes that potentially screened out SWDs from attending schools of choice.

The increased enrollment of SWDs at charters and magnets is a testament to the MCD and its positive outcomes for SWDs. While increasing enrollment at schools of choice was not a specific outcome, the District took ownership of the problems with the policies and practices that were resulting in inequitable access to these schools. This was critical in ensuring the District does not have policies that prevent systemic substantial compliance.

To set context for this discussion and illustrate growth, enrollment data for the 2010-11 and 2018-19 school years are included in Table 3. As of September 2019, the District had 227 charter schools and 292

magnet schools, with student enrollment of 13,087 (11.6%) at charters and 6,108 (7.0%) at magnet schools. Since 2010-11, this demonstrates an increase of SWDs served by 130% for charters and 173% for magnets. Complete enrollment data at schools of choice can be viewed in Attachment C.

Table 3. Comparison of Charter and Magnet School Enrollment between 2010-11 and 2018-19 School Years

School Year	Number of Schools	Overall Enrollment	SWD Enrollment	% SWD Enrollment
2010-11				
Charters	183	69,444	5,699	8.2
Magnets	169	56,556	2,236	3.9
Total	352	126,000	7,935	6.3
2018-19				
Charters	227	112,485	13,087	11.6
Magnets	257	87,425	6,108	7.0
Total	484	199,910	19,195	9.6

The following case studies are examples of the District embracing the findings of the OIM studies and engaging in swift action to remediate systemic weaknesses and failures that impacted substantial compliance. They also show good leadership in taking ownership of noncompliance and poor practices, building capacity, and establishing systems of accountability. The OIM conducted exit interviews with leadership and staff from both the charter and magnet departments; insights from these interviews are included in the discussions below.

### Charter Schools

The 2009 OIM study found several issues that impacted charter schools' compliance with the MCD particularly in the application and enrollment processes, which appeared to have the potential for screening out SWDs, primarily at independent charter schools. A sample of site walks also found widespread problems with program access at sites selected by independent charter schools, limiting the possibility of serving students with mobility or visual impairments.

These findings prompted several years of oversight over the application and enrollment processes at independent charters as well as program access at these sites and resulted in major changes in policies and practices that directly led to increased SWD participation in and access to these schools of choice.

The District, particularly the Charter School Division (CSD), embraced the study's findings and immediately began overseeing application and enrollment process and working collaboratively with independent charter operators and the DSE to correct any procedures that might have led to the screening of SWDs. For instance, the CSD revised the language in the application and petition documents to clarify charter schools' obligations to comply with special education laws and the MCD. It also developed a comprehensive procedural manual, approved by the Board on August 31, 2010, further cementing the expectation that all charter schools comply with special education laws and the MCD.

In August 2011, the CSD distributed a letter to all charters providing guidance and direction regarding charter schools' pre- and post-lottery enrollment forms to address issues that directly or indirectly

discouraged parents from enrolling their children at charters school. After two years of these efforts, the problems identified these forms were mostly remediated.

The CSD also engaged the facilities service division's Access Compliance Unit (ACU) and responded with a plan to survey all independent charter sites to determine areas of noncompliance. In a collaborative effort among the Los Angeles Department of Building and Safety (LADBS), the ACU, and charter school administrators, 126 sites were surveyed. The District completed these surveys within its committed timeframe of March 2011. The re-inspection of all independent charters resulted in "Orders to Comply" (OTC) for noncompliant findings, and as of August 17, 2012, all but one existing independent charter had completed the necessary repairs and had been signed off as compliant by the LADBS. The remaining school resolved its OTC a month after the Board authorized the CSD to begin the revocation process.

These actions represent an incredible effort to remediate a large number of noncompliant findings and inaccessible sites. For perspective, surveying and correcting 126 sites within two years was much better progress than any remediation effort for barrier removal at District schools during the 16 years of the MCD.

The rapid growth in schools and enrollment of SWDs at independent charters also required an increase in the capacity to support schools and oversee compliance with the MCD and special education laws. During the 2009-10 school year, the District had to contend with the defection of independent charter schools from its oversight, as some elected to leave (and many more petitioned to leave the following year) the LAUSD Special Education Local Planning Agency (SELPA) and become members of the El Dorado County Charter SELPA.

During the 2010-11 school year, the District began creating a new organizational structure within SELPA to provide charters with various funding options for special education personnel and programs. This charter unit is a subunit of the DSE and provides compliance support and oversight to any charter that elects to remain in the LAUSD SELPA. As per the CSD Executive Director, the unit has effectively provided support and communication, managed resources, and monitored compliance at these schools. As of October 2019, the majority of charters were part of the LAUSD SELPA, with only 10 opting to move to another SELPA.

The CSD Executive Director credited the OIM's monitoring and findings for leading to difficult conversations with many stakeholders across different levels. He believes the revised policies, procedures, and practices that pertain to SWDs have resulted in institutionalized practices and a more inclusive culture. SWDs' interests and compliance obligations to serve this subgroup are now part of all aspects of planning and oversight. He also found the MCD and OIM's monitoring efforts especially helpful during a time of rapid growth in the number of new charter schools and the increase in SWD enrollment. He believes the MCD helped provide another level of oversight that was needed at the time, resulting in the establishment of proactive mechanisms to ensure compliance. Lastly, he expressed the intent to continue the CSD's commitment to serve all students including SWDs and maintain the current level of oversight.

Many lessons can be extracted from these efforts. This case study shows what the District is capable of when leadership owns problems that impact compliance and equitable opportunities for SWDs. The timeliness of these responses and correction of deficiencies are commendable. The creation of the DSE

Charter Unit also shows the District's ability to build capacity and systems of oversight and strengthen accountability mechanisms through collaboration and transparency.

### **Magnet Schools**

In May 2011, the OIM conducted a study on the District's compliance with the MCD at magnet schools. The following excerpt from the IM's 2010-11 Annual Report, Part 1 (October 5, 2011), summarizes the findings:

The study revealed several areas within magnet schools' policies and procedures that appear to be in violation of federal and state laws pertaining to the education of SWD. Most notable is the District's screening policy for SWD selected for enrollment in magnets; its policies that all magnet students be required to participate in the magnet program for 50% of the day; and the policy that SWD receiving services in separate classrooms (SDP) are not eligible to participate in these programs. These policies are solely directed at SWD and result in the exclusion of students through a "no-match list," thereby denying students equitable access to these schools of choice.

The study also found inconsistencies in the implementation and interpretation of these policies among staff at schools and the local support units. The lack of procedures for implementing such policies also raised concerns over the intent and consistency for which these are applied. Overall, there did not appear to be a clear educational justification for these policies, which result in SWDs having less access to magnet schools compared to their peers without disabilities. While the study found the lottery process to be fair and equitable, it also found that SWD are underrepresented in the magnet program. Several factors contribute to this underrepresentation. The first is the lack of recruiting of SWD and the perception that magnet schools are programs only for high-achieving students. Second, the District's screening policy excludes students prior to enrollment. Last, there appears to be factors related to scheduling and programming that fail to ensure programs fit students' needs, not vice versa (p. 14).

The IM also noted that the two primary policies appeared "arbitrary" and had the effect of "categorically excluding a class of students with disabilities" from attending magnet schools. The policy requiring all magnet students to participate in the magnet program for 50% of the day negatively impacted students in special day programs, particularly those attending a program located at a "host" school or magnet center, compared to those enrolled in a standalone or self-contained magnet (these schools have SDPs as part of the overall program).

In addition, the study found that local district support unit special education staff were carrying out the discriminatory practice of screening SWDs selected to enroll in magnets. Upon students' acceptance at their respective magnet program, staff reviewed IEPs and made the decision or "recommendation" as to whether their special education needs could be met there. If the reviewer determined that the school lacked the program and/or services, enrollment for that student was denied and considered a "No Match." Parents were notified via a letter that the school lacked these supports and/or programs, and their student could not attend. It is important to note that during the OIM interviews conducted for the study, staff would realize these actions were in fact discriminatory and expressed remorse. As the interviews progressed, participants changed their perspective on these policies, with some expressing enthusiasm at the prospect of recruiting and enrolling more SWDs.

These findings resulted in several major changes in policies and practices that directly led to increased participation in and access to these schools of choice for SWDs. Similar to the issues with charter schools, the District embraced these findings and provided a timely response (September 2011) for addressing discriminatory practices.

### *Data Systems*

The need for functional and efficient data systems is at the heart of the MCD and the original Chanda Smith Consent Decree. The initial lawsuit's lead plaintiff, Chanda Smith, alleged the District failed to transfer her educational records from one LAUSD school to another, resulting in her being twice retained in 10th grade. In addition, she had to wait more than two years for an evaluation of eligibility for special education services. The lawsuit filed on behalf of the class alleged the District's special education system had shortcomings in the areas of child find, identification, tracking of student records, and placement, which gave rise to systemic violations of the requirements of the IDEA.

An improved and integrated data system was an essential tenet of the MCD. The MCD established 18 performance- and data-based outcomes, and required the development and implementation of an integrated student information system (Section 11). The MCD also emphasized the IM's duty to verify the District's data accuracy and make determinations based only on data deemed accurate and monitor the data system implementation's progress.

This case study contains three parts and provides good examples of challenges in the large-scale implementation of data systems, and the impact of leadership on its success. In addition, it showcases the importance of monitoring and validating data, and obtaining user feedback; data systems' role in workflow automation; and the impact of political and organizational prioritization. The first part focuses on the implementation and use of the Welligent IEP data system, which contains all special education data. The second highlights the development and implementation of the integrated student information system (MiSiS). The last provides an example of efforts to remediate persistently problematic graduation and completion data. While there are many examples of challenges overcome and successes in all of these case studies, the discussion includes select efforts to illustrate the accomplishments gained and lessons learned.

### **Welligent IEP Data System**

With a data-based consent decree, the timely provision and accuracy of District data is essential. More importantly, they are critical for the District to monitor performance and demonstrate capacity to identify and remediate noncompliance. At the beginning of the MCD, the District was in the early implementation stages of the Welligent IEP system and engaged in an aggressive and concerted effort to increase the number of schools using Welligent and students in the database. The District successfully implemented the Welligent system in a relatively short time, particularly considering the large number of users (more than 30,000 administrators, teachers, and related service providers).

This was the first time the District would have an online database to manage the special education process, determining the performance of MCD outcomes and overall compliance with IDEA. This database contains all student-level special education data, which can then be aggregated to inform District administrators at all levels about a range of system-level issues such as the demographics of the

special education population, overall service and programmatic requirements, and a variety of compliance issues such as timely completion of evaluations and IEPs.

Quality Welligent data was essential for measuring progress with the MCD. Given the system's newness, the OIM aimed to validate data for various compliance indicators and outcomes, obtain user feedback via telephone or online surveys regarding the implementation of Welligent, and guide and improve programmatic decisions. The OIM validated data for many years for the majority of MCD outcomes such as suspensions, IEP timelines, graduation and completion, LRE, service provision, and disproportionality. These validation efforts revealed sources of errors and identified specific areas of noncompliance (e.g., geographic and/or school levels) and poor practices. The findings led to recommendations for addressing system shortcomings in order to improve data quality and guide programmatic reform efforts.

The OIM monitored outcome and compliance data monthly and identified dips or spikes in performance throughout the school year. For example, the OIM monitored the timely completion of initial IEP evaluations and periodically shared this data—along with any effects of the District's reform efforts—with the District and Plaintiffs' Counsel to keep the Parties informed.

The implementation had many challenges and required an ongoing and long-term commitment by the District. One notable effort was entering IEPs in the data system for more than 80,000 SWDs—a massive undertaking. To do so, the District invested in staff training and batch entry of IEPs<sup>10</sup>. The Welligent system saw many changes early on, as data validation exposed areas where the system required enhancements and modifications.

Since the initial version, the system has expanded considerably and continues to evolve. The capacity to monitor performance and identify noncompliance has improved greatly with the development of reporting mechanisms at various levels. These reporting structures have been critical in identifying service delivery performance and establishing monitoring practices at all levels.

The District can now monitor and create reports using up-to-date service delivery data. Related service providers are required to enter, maintain, and monitor service delivery data weekly. Most recently, service delivery data have become available to parents via the Parent Portal, which shows periodic service delivery rates for their student. These practices have enabled the District to better exercise accountability measures to address noncompliance.

The Welligent system also outlines compliance and process expectations to guide providers and schools. One of the first examples of this was the embedding of the Outcome 18 requirements aimed to reduce the disproportionate identification of African American students in the ED eligibility<sup>11</sup>. The District embedded the OIM-created checklist, which laid out compliance expectations. Schools and providers are required to verify that all elements on the checklist were adhered to and to provide justification for eligibility, ruling out exclusionary criteria. This checklist successfully guided practice and established clear expectations for appropriately identifying students with ED, thereby solidifying monitoring and accountability in this area. This model has been replicated in two other areas, with similar checklists used when identifying students with speech and language impairments, and for guiding IEP teams

---

<sup>10</sup> The District paid overtime for staff to enter groups of IEPs into the Welligent system.

<sup>11</sup> This example will be discussed in further detail later in this section.

during the LRE placement decision-making process. The three forms/checklists can be viewed in Attachment D.

Welligent's implementation and development have resulted in improved institutional capacity for monitoring special education and remediating noncompliance. This capacity is the basis for ensuring the District has systems in place to prevent substantial noncompliance. Although Welligent provides the District the necessary tools to ensure compliance and hold staff accountable for poor performance, the onus lies on managers and senior leadership to utilize these tools. This platform has undoubtedly allowed the District to build capacity, manage organizational behavior, and strengthen accountability mechanisms.

These successes required the collaboration and commitment from all stakeholders and the Board. The District has heavily invested in the development of the Welligent IEP system and must sustain this system to ensure transparency and accountability.

### **My Integrated Student Information System (MiSiS)**

Section 11 requires the District to comply with the stipulation to develop and implement an integrated student information system (ISIS). This requires all schools, including charter schools, to utilize one common data system, connected to all sites, that provides access to students' records throughout the District. This requirement was a carryover of the Chanda Smith Consent Decree and stipulated in the MCD.

ISIS has a long and complex history of challenges and setbacks. Despite this, the development of My Integrated Student Information System (MiSiS) is a good example of what can be accomplished when political and organizational priorities merge with a sense of urgency. This example also shows what a large organization can accomplish when it leverages its resources.

Between 2003 and 2013, the District was dedicated to building the ISIS that was to replace several existing databases. These databases were standalone systems that lacked integration and therefore were vulnerable to data entry or transfer errors, and did not provide access to student records between school levels. This means that when students left elementary school, those records remained in the elementary student information system, and did not transfer to the secondary system. Adult and continuation schools maintained its own system, so data transfer depended on staff diligence and accuracy. These systems lacked special education data and edits or safeguards to ensure accurate data. To illustrate these issues and vulnerabilities, the next part will detail the problems with graduation and completion data.

As mentioned, development of this system has a long history of setbacks. Since 2003, ISIS development and implementation was beset by challenges including numerous incremental and partial software rollouts; multiple vendors, including litigation with one vendor; significant technological changes; abandonment of the initially selected software platform; multiple different software development methodologies; and repeated leadership changes, including at least five LAUSD Project Directors/Managers and three Chief Information Officers (CIOs).

During the 2012-13 school year, the District proposed changes to both the vendor and the platform upon which ISIS was being developed. The Parties agreed to this change and required the District to present a comprehensive implementation plan that committed to its completion, including a list of

functionality to be developed. In March 2013, the District presented a new plan for the completion of ISIS, and renamed the project My Integrated Student Information System, or MiSiS.

At the beginning of the 2014-15 school year, the District rolled out the largest bundle of functionality, or module (Milestone 8), and began to fully implement MiSiS at all schools including charters. This rollout included functions such as enrollment, scheduling, transcripts, census, graduation standards, and family consolidation. In addition, the District chose to develop modules in MiSiS that had already been built in the previous system, rather than postpone development by build temporary interfaces. These additional modules included attendance, counseling, discipline, and grades. While this may have been a good strategy for better system integration, it introduced extra work to Milestone 8.

During the development of the Milestone 8 modules, programming outpaced the MiSiS team's ability to perform quality assurance (QA). The team lacked the adequate resources for QA testing, which resulted in several "software code freeze" dates not being met—that is, the programming should have been completed by this time but had to be extended—causing the QA work to continue until the rollout date in August.

Problems with the implementation of Milestone 8 were well documented by the media, which highlighted issues with student enrollment and scheduling at the beginning of the 2014-15 school year. The issues caused by poorly executed data conversions were compounded by pushing "bad data," with varying inaccuracies, into other related systems, such as the Welligent IEP system.

While the District acknowledged problems with the implementation of these modules, it provided conflicting reports that downplayed the impact and portrayed a quick resolution of problems. Due to these conflicting reports, the OIM conducted a telephone survey at 255 schools to better understand the impact on SWDs. The survey found that almost all schools using the system reported experiencing a variety of problems with MiSiS. Many school officials characterized these problems as having a moderate to major impact on their school's ability to identify students attending their school as well as the correct special education placements and services students were to receive. Other concerns noted were the inadequacy of training (if any) and the program's overall lack of readiness.

The issues related to inaccurate data, lack of training, and performance issues led to a MiSiS reorganization. This included replacing MiSiS leadership: the project director and CIO left the District, the deputy CIO was no longer involved in the project, and new MiSiS Steering and Advisory Committees were formed. The reorganization resulted in a new executive sponsor who reported directly to the superintendent, a new CIO, and a new program director—a significant organizational disruption in a short time.

The new MiSiS team abandoned the previous team's organizational structure and reorganized staff by subject matter-specific "pods." The management team also entered into a new agreement with Microsoft Consulting and introduced a different development methodology. It approached the multitude of problems by focusing on stabilizing the program and shifting most available resources to several school-based events that required MiSiS support. These functions were tested as built prior to the event's occurrence so that defects could be corrected before rollout. The MiSiS training team also shifted its approach, focusing on outreach to schools and the transparent reporting of progress and challenges. The Superintendent performed similar reporting on a monthly basis. The increase in training availability, combined with proactive communication with schools, made the start of the 2015-16 school

year much smoother than the previous year. At this time, the Superintendent requested additional support from the OIM and its consultant.

In May 2015, the School Construction Bond Oversight Committee (BOC) endorsed an allocation of \$79.6 million from bond program funds to sustain the MiSiS project for the 2015-16 school year. This large allocation of resources was critical for turning the project around and ensuring its ultimate success. Despite some concerns, the BOC expressed confidence in the MiSiS project, noting it was “favorably impressed with the turnaround of this project since it has been reorganized, properly staffed with the required level of expertise, been paid proper attention at the highest levels within LAUSD, adequately funded, and, in particular, well led by current project and top District management.”

In March 2019, the IM provided a final assessment of the MiSiS development and implementation and declared Section 11 met. The District had effectively met the primary requirements for MiSiS, and the system was deemed a functional and stable student information system. Although the system’s integration did not meet the original vision or expectations, the system essentially functions as the integrated tool envisioned. In addition, the reporting environment and tools are well done and provide capacity that was previously missing. Despite many challenges, the current MiSiS team and leadership demonstrated persistent commitment to the program’s development and completion.

The OIM held an exit interview with two members of the MiSiS leadership team to discuss lessons learned and insights into the factors that contributed to the project’s successful turnaround. Interview participants noted that some of the leadership lessons learned were due to getting the right people in place and improving communication. They believed the previous team lacked communication channels that empowered people to express concerns or opinions about the software’s readiness. This resulted in cutting corners that led to failures during the Milestone 8 implementation.

The new management team comprised individuals who had previous working relationships in various capacities, enabling better and more open communication. Having learned from the previous regime’s mistakes, they aimed to improve communication by empowering team members to express concerns and took a more conservative approach prior to launching new functionality. They adopted a preventive method, employing more module testing and pilots to troubleshoot and fix problems prior to implementation. They also noted that timelines had been arbitrarily imposed, and designated program readiness as the condition for launching new modules.

Interview participants also credited the District’s commitment to fund the necessary resources as well as its partnership with Microsoft Consulting for salvaging the MiSiS in such a short period. They also addressed issues of morale, noting that staff felt overworked and discouraged prior to the change in leadership. In addition, they acknowledged the positive role the MCD and OIM had in the successful completion of MiSiS. They believe the structure of the MCD and requirements agreed to by the Parties kept them focused. The OIM consultant’s role was seen as critical and viewed more as a partnership than third-party oversight. Participants also credited the OIM’s oversight for improving transparency of the problems and status of the project. Last, they felt that the MCD was also the main factor in independent charters’ integration into MiSiS. Even though this will be done using APIs, essential data will interface with MiSiS, allowing the District access to this information.

Participants noted that there are planned enhancements and improvements for MiSiS in the near and long term. Sustainability of the MiSiS project is their main concern, but they feel the District is committed to the system.

### **Graduation Data**

The MCD included two outcomes designed to increase the rate of SWDs who graduate with a diploma (Outcome 3) and/or complete high school (Outcome 4), thereby decreasing the number of those who drop out. Since the 2005-06 school year, the OIM annually validated the graduation and completion data.

One of the biggest and most persistent challenges for improving graduation rates was the tracking and maintenance of graduation data. For years, the District's tools and policies for maintaining this data lacked the proper safeguards to ensure students had met graduation requirements. For almost a decade, the OIM delivered reports on students who should have received a diploma, or who had been erroneously reported as having received a diploma. These problems were a result of competing graduation data fields (including leave codes) in the student information system, and a lack of safeguards that created too much subjectivity and interpretation of requirements by school personnel.

In April 2015, the IM sent a letter to the Superintendent noting that the problems associated with the processes for entering and maintaining graduation and completion data impeded the completion of the MCD. The IM noted that the solution to these problems would require Districtwide leadership and that addressing them would be essential in determining if the District had systems in place to ensure substantial compliance. In 2015, Superintendent Cortines directed the MiSiS team, in collaboration with the OIM, to resolve the many issues that had plagued graduation data maintenance.

The MiSiS team created a set of audit reports that allowed proactive monitoring and validation of graduation requirements. Program changes were implemented to prevent invalid or inconsistent data entry for certain leave codes. This addressed one of the primary problems reported by the OIM—that a lack of safeguards was a main cause of inaccurate data. Furthermore, the District committed resources to address longstanding problems with the policies, procedures, accountability, and tools used to administer graduation standards, which also affected the accuracy and integrity of its graduation data.

In September 2017, the District provided a document summarizing the improvements in this area. As a result of these efforts and MiSiS implementation, schools had a better, more coherent and consistent understanding and application of graduation requirements, progress monitoring, graduation requirement validation, and accountability.

While the District had made some attempts to improve graduation and completion data in the past, it wasn't until the MiSiS team took ownership that these problems were resolved. The issues were resolved within a year. This is a good example of the need to prioritize long-term problems in a more timely manner. Although these efforts were initiated because of problems found with the accuracy of SWD records, the resulting improvements will benefit all students and schools for years to come.

### Summary

These case studies represent the District's commitment to improving data quality and ensuring a system that prevents substantial noncompliance. They also highlight the importance of having a sense of

urgency and demonstrate what can be accomplished when senior leadership elevate and prioritize problems.

The availability of quality data and sound systems to maintain such information improves capacity to identify noncompliance and programming needs. These data systems have also embedded workflow and process elements that improve staff consistency in their practices, thereby reducing potential for inequities. These systems have undoubtedly improved the District's ability to strengthen its monitoring and accountability systems. The Parent Portal has also increased communication and transparency with families, fostering engagement and accountability.

These significant improvements would not have been possible without the OIM's constant monitoring efforts and role of third-party oversight afforded by the MCD. As noted by interviewees, the MCD and OIM helped the District remain focused while operating with more transparency. Although at times, interactions between the OIM and District were contentious, the accomplishments made in these areas will benefit all students.

### *Disproportionality*

The disproportionate representation of minority students in special education is well documented and has garnered attention from federal and state agencies, including the Office of Civil Rights (OCR) and the Office of Special Education Programs (OSEP). In an effort to address this longstanding problem, the IDEA required states to monitor disproportionality and provided them with broad discretion to impose sanctions on local education agencies that did not reduce such disparities.

Several prominent theories explain the phenomenon of disproportionate representation of minority and linguistically diverse students. These include sociodemographic factors associated with poverty, inequities in educational opportunities, institutional policies and practices that contain social biases, and the special education referral, identification, and placement processes.

Concerns that minority and linguistically diverse students are inappropriately identified in special education are also well documented. OSEP notes that a child's race and ethnicity significantly influence the child's probability of being misidentified, misclassified, and inappropriately placed in special education programs.

Several eligibility categories are more vulnerable to the misidentification and misplacement of students—those with more subjective eligibility criteria such as ED and specific learning disability (SLD). Possible factors that contribute to the inappropriate identification of minority students in these subjective categories—in particular, the ED eligibility—include bias within the referral and assessment processes, eligibility determination driven by program placement (i.e., placing students in segregated SDPs or NPSs), and the subjective interpretation of ED eligibility criteria.

During the initial negotiations of the MCD, the Parties recognized the need to examine the issue of the disproportionate identification of African American students as ED. As a result of this acknowledgment, the Parties agreed to include a statement in the MCD (Section 16.G) indicating that within the first year of the consent decree, the District would provide the IM data and an analysis to determine whether African American students were disproportionately identified as ED. The statement also charged the IM with reviewing the District's data and analysis to determine whether a performance outcome should be established.

During the 2003-04 school year, the District provided the OIM with data and a formal analysis of the identification rates of African American students as ED. The OIM reviewed this data and analysis, with input from three experts in disproportionality and ED. These reviews found that African American students were 4.28 times more likely than other students to be identified as ED and 4.93 times more likely to be placed in the most segregated setting of NPS. The experts also found the District's analysis inadequate, prompting the OIM to develop a study to identify factors that may be contributing to the disproportionate identification and placement of African American students as ED.

The study focused on two likely sources of disproportionality identified by the experts: inappropriate referrals and inappropriate identification. The study had three primary goals. The first goal was to assess whether individual IEP teams had followed a required set of criteria for the ED referral and identification processes. The second was to determine whether there were any statistically significant differences across race/ethnicity in these processes that might provide evidence of bias and a possible source of disproportionality. Lastly, after examining and identifying local variables in the special education processes that might be contributing to inappropriate identifications and overrepresentation, the OIM would create specific interventions to reduce disproportionality.

The study consisted of a review of cumulative records and IEP files to determine if the identification and placement processes were consistent with District policy and IDEA and adhered to. Data were captured in four areas within these processes: pre-referral and referral interventions, provision of a multidisciplinary assessment, determination of ED eligibility, and IEP team recommendations (placement and services) upon eligibility.

Because the focus was the identification and placement processes, the study design used a cluster sampling technique, whereby initial ED data were collected at middle schools under the assumption that most students were identified prior to middle school and because these schools have a larger concentration of ED students than elementary schools. This sampling technique resulted in a sufficiently large and geographically dispersed sample of students identified in grades pre-kindergarten to 8th grade in 207 schools.

Overall, the review found few statistically significant differences between the pre-referral, referral, assessment, and IEP recommendation and placement processes of African American, Latino, and White students. However, the study found several deficiencies in the identification and placement processes for all students. For instance, there were low rates of pre-referral interventions, such as conducting a Student Study Team (SST) meeting prior to special education referral. This indicates that students were not given opportunities to address problem behaviors with general education interventions. Many students also lacked evidence of having comprehensive multidisciplinary evaluations, often missing one or more assessment areas such as a health or social/emotional. Furthermore, few students had an eligibility and/or exclusionary criteria statement as part of their IEP, making it difficult to ascertain the IEP team's justification for finding the student eligible with ED. After identification, students lacked services and supports such as counseling and behavior support plans. Despite a lack of fidelity in these processes, many students had placements in highly segregated settings, which often resulted in a change of school or enrollment in an NPS.

These shortcomings were not specific to any race or ethnicity, and the lack of adherence to the identification process appeared driven by the desire to place students in segregated settings. As a result, the Parties agreed to the following outcome: "To reduce overrepresentation of African American

students as ED, the district must demonstrate evidence that 90% of students identified as ED had a comprehensive evaluation as defined by the IM during an initial or triennial evaluation.” The goal was to ensure that the procedural due process rights of African American students were protected during the ED referral, assessment, and placement process.

Furthermore, the Parties agreed that an outcome based on improving the identification process would subsequently reduce the possibility of any unintended consequences that may be associated with a reduction-based<sup>12</sup> outcome, such as the failure to identify African American students or to increase the identification rates of students of other ethnicities as ED, in order to reduce overrepresentation. The logic behind this intervention was to improve the quality of ED identification for all students, thereby reducing inappropriate identifications, including those of African American students. In addition, clearly outlining the expectations of these processes and focusing on the concrete steps of the comprehensive evaluation would increase control in the intervention.

The OIM determined the compliance criteria for the outcome with the elements of the comprehensive evaluation placed on a checklist, which the District uploaded to the Welligent IEP system. This checklist would serve as a monitoring and verification tool as well as a record of student IEPs’ eligibility and exclusionary statements.

To demonstrate the intervention’s impact over time, Table 4 shows the number and percentage of students identified with ED between the 2003-04 and 2018-19 school years. In 2003-04, African American students made up 12% of the overall population and 36% of students with ED (n=1,477 out of 4,106). Over the past 16 years, the number of all students identified with ED has decreased by 61.8%, while African American identifications decreased by 75%. Comparatively, identifications of White students decreased by 73% while Latino students went down by 44.5%.

The consistent decrease in identifications over time, as well as the reduction noted for all racial/ethnic groups, indicates that the intervention was applied consistently across the District. This also suggests the problems associated with the inappropriate identifications of students was not primarily due to biases, but rather factors such as schools’ recommendations for placement into more segregated settings.

Placement data over time also show consistent decreases in NPS enrollments for all students. In 2003-04, 2,121 students with ED were placed in NPSs, with African American students representing 39% (n=823) of students in these segregated placements. In 2018-19, 708 students with ED were enrolled at NPSs, with African American students constituting 26.1% (n=185) of students with ED at these sites. This represents a 78% reduction in African American students placed in NPSs, and a 67% decrease overall.

---

<sup>12</sup> This avoided an outcome aimed at reducing identification rates of African American students because of the possibility of unintended consequences, such as a failure to appropriately identify students with ED.

Table 4. Students Identified with ED by Race/Ethnicity between 2003-04 and 2018-19

	2003-04		2004-05		2005-06		2006-07		2007-08		2008-09		2009-10		2010-11	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%
AA	1,477	36.0	1,312	35.0	1,129	33.0	947	33.1	840	32.2	841	32.7	868	33.3	657	31.6
White	855	20.8	747	20.0	723	21.1	635	22.2	558	21.4	558	19.7	505	19.4	406	19.5
Latino	1,666	40.6	1,589	42.4	1,489	43.5	1,218	42.6	1,135	43.5	1,135	44.5	1,172	44.9	974	46.8
Other	108	2.6	97	2.6	79	2.3	58	2.1	75	2.9	79	3.0	63	2.42	44	2.11
<i>Total</i>	<i>4,106</i>	<i>100</i>	<i>3,745</i>	<i>100</i>	<i>3,420</i>	<i>100</i>	<i>2,858</i>	<i>100</i>	<i>2,608</i>	<i>100</i>	<i>2,571</i>	<i>100</i>	<i>2,608</i>	<i>100</i>	<i>2,081</i>	<i>100</i>
	2011-12		2012-13		2013-14		2014-15		2015-16		2016-17		2017-18		2018-19	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%
AA	653	31.4	601	32.3	549	30.9	468	27.8	438	26.8	430	25.1	397	24.0	364	23.2
White	377	18.1	318	17.1	280	15.8	282	16.8	247	15.1	291	17.0	265	16.0	230	14.7
Latino	1,005	48.3	908	48.8	902	50.8	891	52.9	888	54.3	945	55.1	960	57.0	924	58.9
Other	45	2.2	35	1.9	44	2.5	42	2.5	64	3.9	49	2.86	51	3.0	51	3.3
<i>Total</i>	<i>2,080</i>	<i>100</i>	<i>1,862</i>	<i>100</i>	<i>1,775</i>	<i>100</i>	<i>1,683</i>	<i>100</i>	<i>1,637</i>	<i>100</i>	<i>1,715</i>	<i>100</i>	<i>1,673</i>	<i>100</i>	<i>1,569</i>	<i>100</i>

Three indicators were used to examine the effects of the intervention on disproportionality: the composite index, risk index, and relative risk ratio. The composite index simply compares the identification rate of a subgroup to that of the District’s overall population of that group. For instance, overrepresentation is found when the percentage of students with ED is considerably (i.e., more than 20%) higher than the subgroup’s percentage in the entire population. During the 2003-04 school year, African Americans made up 36% of students with ED, but only 12% of the overall population, indicating overrepresentation in this eligibility category.

The risk index provides the probability or odds of a student in a racial/ethnic group being in a specific disability category. It is calculated by dividing the number of students of a particular race/ethnic group in a given disability category, such as ED, by the total enrollment for the same racial/ethnic group in the population. Prior to the intervention, 1.67 out of 100 African American students had the probability of being identified ED (Table 5). As of 2018-19, African American students' risk of being identified ED decreased by 56%, so that now 0.72 out of 100 African American students are at risk for being identified ED.

To identify disproportionality, a relative risk ratio was used to compare the risk of African American students identified with ED to the risk of all other students. Monitoring agencies such as OSEP often use risk ratios to determine levels of disproportionality in states or school districts.

In 2003-04, African American students were 4.28 times more likely to be eligible with ED compared to all other students. As of June 30, 2019, this ratio had decreased to 3.31. Two factors contribute to this enduring high level of disproportionality. The first is the consistent decrease in the ED identifications for students of all race/ethnicities, thereby negating the full impact of reduced African American identifications. The second factor is the composition of the District’s population.

Because LAUSD is predominantly made up of Latino students (approximately 70% of overall student population), in order to reduce disproportionality, identification rates for Latino students would need to closely reflect the overall population (70%). This means the only way to achieve a proportionate ratio is to increase Latino identifications, while keeping African Americans' identifications closer to their overall population composition of 10%.

Although not fully reflected in risk ratio, the intervention brought identification rates closer to the population makeup for each of the three largest racial/ethnic groups. The subgroups' representations in the ED category more closely align with each group's (estimated) population composition as follows: African American (12% overall, 36% ED vs. 23.2% - 2018-19); White (10% overall, 20.8% vs. 14.7% - 2018-19); and Latino (70% overall, 40.6% vs. 58.9% - 2018-19).

Table 5. Risk and Risk Ratio of African American (AA) Students with ED between 2003-04 and 2018-19

	2003-04		2004-05		2005-06		2006-07		2007-08		2008-09		2009-10		2010-11	
	Risk	Risk Ratio														
AA	1.67	4.28	1.51	4.05	1.36	3.88	1.2	3.93	1.1	3.92	1.1	4.07	1.16	4.14	1.09	4.41
	2011-12		2012-13		2013-14		2014-15		2015-16		2016-17		2017-18		2018-19	
	Risk	Risk Ratio														
AA	1.01	4.35	0.97	4.58	0.92	4.44	0.82	4.00	0.78	3.55	0.81	3.68	0.79	3.51	0.72	3.31

Several factors contributed to the positive findings described above and serve as lessons in achieving institutional reform. This outcome is evidence that research-based solutions focused on improving local-level factors, while strengthening IDEA's procedural safeguards, are an effective approach to dealing with complex phenomena such as disproportionality that persist today.

This case study strongly suggests that the OIM studies and intervention were very effective in improving the overall quality of identifications and placements for students referred for ED, while ensuring students who need and qualify for these programs and services have access to these programs and supports. The reduction in students enrolled in NPSs has financial implications, as these private school placements are costlier than less restrictive environments at District-operated programs.

One critical aspect in ensuring the effective implementation of the intervention was the constant OIM and DSE oversight and monitoring. To ensure compliance with the elements of the checklist, the OIM reviewed all initial and triennial evaluations for African American students, while sampling students in other racial/ethnic subgroups for many years. The District also conducted compliance reviews and eventually took over monitoring duties, sharing its findings with the OIM. When the outcome was created, the District also initiated a case review process whereby school psychologists presented psychoeducational evaluation reports on students with suspected ED for peer review. This helped ensure students were afforded the elements of the comprehensive evaluation prior to their IEP meeting. This feedback loop generated monitoring and accountability mechanisms, through capacity building and staff support.

The DSE took ownership of the problem, revised the requirements of school psychologists' psychoeducational assessments, and mandated more comprehensive assessments and reports. This resulted in psychologists having a role in overseeing sites' adherence to the elements of the comprehensive evaluation, including general education interventions. This tremendously increased the validity and appropriateness of identifications—referred students exhibited much higher needs for social/emotional and academic supports, and had much more evidence of multiple general education interventions prior to referral, compared to those observed in the initial study.

Technology played a major role in the effective implementation of this intervention. Awareness of the problem of disproportionality and requirement to adhere to the identification and placement processes were strengthened by embedding the checklist in the Welligent IEP system. The checklist also guided IEP teams in their consideration of services, placements, and supports upon identification and served as the student's eligibility and exclusionary criteria statement. The presence of eligibility and exclusionary statements in the IEP and in psychoeducational evaluations gave clear rationale and justification for eligibility determinations. This alone has considerable positive impact on addressing disproportionality because eligibility criteria are the last procedural safeguards that can prevent inappropriate identification of students.

The results of this intervention also demonstrate appropriate ways to measure disproportionality and implement solutions to address overrepresentation. Despite the substantial decrease in the number of students identified with ED, disproportionality still exists in the context of the composite index and relative risk ratio for African American students. Because LAUSD is predominantly Latino, reliance on the risk index of African American students provides better insight (compared to composite and relative risk ratio) into the progress made to ensure the appropriateness of identifications, thereby addressing disproportionality.

### Summary

This case study exemplifies how the MCD and OIM have provided sound guidance and insight into the systemic problems that have limited compliance. The thoughtful approach utilizing research and examination of local-level factors has proven critical for ensuring successful reform efforts. Although the exposure of these systemic shortcomings and failures can make the District look bad, without third-party oversight, these problems would have left many students vulnerable to inappropriate referrals, identification, and placement. This case study shows how proactive measures and capacity building with internal quality assurance mechanisms can effectively create reform. The District's use of the checklist approach for ensuring compliance and adherence to processes and policies validates the OIM's decision to design an outcome aimed at improving and promoting consistent organizational behavior. This outcome has led to many positive results and changes in practice, and should be viewed a national model for addressing disproportionality.

Finally, it is important to acknowledge the District's time commitment to and treatment of this effort. After 16 years, ED identifications continue to be taken very seriously. The District has high standards for delivering student interventions in the general education setting prior to a special education referral, and for conducting assessments for students' suspected of having ED. The integration of the comprehensive evaluation into the IEP process, and the level of attention given by a multitude of professionals, clearly places the students' interests first. This was not the case when the MCD began.

### *Least Restrictive Environment*

Least Restrictive Environment (LRE) is the requirement in federal law that SWDs receive their education, to the maximum extent appropriate, with nondisabled peers. The law places onus on districts to ensure students receive supplemental aids and services in general education classrooms prior to removal from this environment. When a student's disability is so severe that participation in general education classes cannot be achieved satisfactorily, IEP teams are to recommend the most appropriate segregated placement.

LRE includes a continuum of placement options, the least restrictive being the general education instructional setting with or without special education supports and services. Restrictiveness gradually increases when students receive pullout services, such as RSP, and are moved to self-contained special education classes on a general education campus. The most restrictive settings are placements in NPSs or residential settings. Any of these settings constitutes placement in the LRE, provided the IEP team and school consider, to the maximum extent possible, the necessary supplementary aids and services and offer the most appropriate placement for that student. A large factor in successful integration of SWDs into the LRE is the planning and preparedness of general education and special education programs on regular campuses.

One of the pitfalls in exercising the best LRE option for students is the decision-making process for categorical programs. This means that a student identified with autism or ED is placed in these respective programs (i.e., Autism SDP or ED SDP) because of their eligibility, without having been fully considered for placement in less restrictive settings.

### **Relocation of SWDs from Special Education Centers**

The MCD contained three outcomes related to the LRE, with two having been modified over the course of the lawsuit. The Parties agree that special education centers are just one of the program options in a full continuum of special education and related services in the LRE. The MCD has seen tremendous growth in SWDs participating in the LRE; however, this accomplishment came with considerable challenges. This case study will highlight the factors that have impeded success in this area.

As noted in the discussions on LRE Outcomes 6 and 7 in Part One, much progress has been made in the number of SWDs receiving instruction in the general education settings on regular campuses. The number of students in SDPs has decreased considerably with 38.8% of SWDs in these classes in 2004 compared to 25.4% in 2019. In addition, more students (37.9%, 2019) with SLD/SLI participate in the general classroom than when the MCD began (11.4%). The number of special education centers has also been reduced, and the number of students enrolled in special education centers decreased by 163% (from 2,190 to 834, 2019). These efforts have undoubtedly improved a once heavy reliance on the segregation of SWDs to meet their needs.

In addition, the District continues to open new programs on general education campuses for SWDs, particularly for preschool students in Preschools for All Learners (PALs) programs. Prior to and in the early days of the MCD, many preschool students three to five years of age who were eligible for special education services were placed in special education centers (n=333, 2004 compared to n=12, 2019). For these students, beginning their educational careers at special education centers meant matriculating to elementary and then secondary classes at these segregated sites. For some students, this would greatly

reduce opportunities to have their educational needs met on a general education campus with their nondisabled peers.

In the 2011-12 school year, Outcome 7 was modified to reduce the number of students with moderate to severe disabilities attending special education centers by co-locating four centers with their adjacent general education schools. This was the beginning of a bigger initiative to move classes from centers to general education campuses.

During the 2012-13 school year, the District engaged in planning activities to prepare students, parents, and staff for the opening of the new sites in time for the 2013-14 school year. This included the creation of an integration team of eight central office staff to coordinate efforts with school staff, and holding joint staff meetings to integrate staff and provide professional development. Maintenance and operations staff from the Facilities Division conducted walks at sites to identify areas that needed renovations to provide or improve accessibility. Despite these activities, the transition of students from centers to the co-located sites and other general education campuses lacked adequate planning and readiness to ensure the health and safety of these students.

In summer 2014, the OIM visited 11 schools (including three co-located sites) to examine the progress of renovations or proposed plans for improving program accessibility. For these sites, the District had prepared a three-year plan for the removal of barriers and renovations. At the time of the OIM's visit, the District was in the second year of its plan.

The visits found an overall lack of readiness and consideration for ensuring program access, particularly with the District's decisions regarding access to bathrooms, changing rooms, and bus drop-off zones. Changing rooms were an area of particular concern, with one school offering one such room used by three classrooms, while others were located inside classrooms that lacked running water and drainage. Decisions for the selection of bathrooms were also questioned, particularly at a school where the bathrooms to be renovated were more than 350 feet from classrooms despite other nearer bathrooms.

Furthermore, the renovation to address the lack of program access wasn't expected to begin until summer 2015. Two schools had problems with the area selected for the bus drop-off zone. One required students with visual impairments to navigate slopes and uneven steps to get to their classrooms. The other contained large barriers in the path of travel and was not a feasible option. For sites with three-year plans, barrier removal and renovations differed from the provided scopes of work. In some instances, work had not been completed or renovations were noncompliant.

The IM required the District to address issues related to bathrooms and drop-off zones by the beginning of the 2014-15 school year. While some of the primary issues were resolved before the first day of school, the readiness of these sites was lacking. The visits also revealed a lack of involvement in plan development by the ACU and school administrators or staff. Only one administrator was aware of the ongoing and future work to be done at a particular school, while the remaining principals had minimal to some knowledge of the efforts to improve program accessibility. As a result, the IM directed the District to meet with all site principals and school staff to obtain input on barriers to be removed and identify additional issues that may be impacting program accessibility.

At this time, the IM contracted two external consultants to review the integration of relocated students and their time spent in the general education instructional setting. This review included visits at both co-located and general education sites and interviews with school principals and staff.

Principals acknowledged the central office's commitment to this endeavor and various supports provided to ensure their schools had the resources to offer instructional programs for integration. The majority of these resources related to non-core curriculum programs such as arts, physical education, and gardening. At this time, the OIM pointed out the differences in programs offered at schools, with some co-located sites having more integrated programs than others.

To summarize feedback and concerns from principals and staff, there was a lack of direction in the relocation of these classes and the instructional integration of these students. One principal characterized this by stating that integrating SWDs "is something that you don't do ad hoc. You need a framework." They also wanted more administrative support and presence at the sites. Common planning time, preparation or trainings for strategies, best practices for integration, differentiating instruction, and behavior management were also noted areas of need.

Transitioning students from centers to general education campuses offered several lessons. It is important to acknowledge the District's efforts and commitment to the relocation of these classes; it took on a much bigger effort than detailed in the outcome, which required only four co-located sites.

These efforts, while well intentioned, showed a lack of capacity for developing program accessibility prior to the relocation of students from special education centers. In addition, poor planning and communication with site administrators resulted in revision and reprioritization of initial barrier removal plans. Issues related to students' health and safety, including safe drop-off zones, were basic concerns that should have been resolved prior to the transition of these students to general education campuses.

Although some positive integration practices were identified at co-located sites, the lack of a common framework made implementation of this effort idiosyncratic. Inconsistencies in the available resources for integrating students into the instructional program created inequities among sites. Despite preparation activities, schools' lack of common planning time and additional training resulted in the staff's lack of readiness to integrate SWDs. Although the District invested heavily in this initiative, it took on more than it was prepared for, and pushed forward without a consistent framework to guide reform. Third-party oversight was instrumental in pointing out the shortcomings of this effort, and in ensuring stakeholders were included in the planning and decision making required to facilitate the successful relocation of students.

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

As part of its monitoring efforts of the District's barrier removal program, the OIM observed issues with the changing areas at PALs programs at two sites (April 2016). The OIM visited an additional 11 sites with PALs programs to examine whether these concerns were systemic problems at these programs.

The review found that all 13 sites shared common problems indicative of systemic failures to ensure program accessibility and the health and safety of SWDs. These visits also demonstrated evidence of a lack of planning when selecting schools in which to place programs for preschool SWDs. To summarize, classrooms lacked the necessary equipment, including appropriate changing tables, privacy screens, ventilation, and running water. Several schools used desks as changing tables, one changed students on

a mat on the bathroom floor, and some schools had changing areas in private bathrooms that lacked the necessary clear floor space or adequate stepping stools. In all cases, bathrooms lacked basic compliant features, including acceptable heights, grab bars, toilets, dispensers, or lavatories. Many of these sites also lacked privacy screens, with staff changing students in open classrooms behind pocket charts or nothing at all. In addition, schools lacked the necessary changing supplies referred to as “universal precautions” and reported not having received these materials in a timely manner to support students.

In the majority of sites, there was a lack of program access to common areas such as auditoriums, lunch areas, and drinking fountains as well as a lack of vertical access to programs in bungalows or two-story buildings. One school’s main entrance was accessible only by stairs.

These findings raised concerns regarding the planning, readiness, and decision-making processes for placement of the PALs programs. The IM noted that the conditions observed were noncompliant with ADA and the District’s own procedures as well as existing manuals, guidance, and health and safety standards in California code and county requirements. Another concern was the limited involvement of site principals prior to opening new programs, and their general lack of knowledge of the resources available to ensure program access, particularly the Rapid Access Program (RAP) application and process. Noting that these problems were consistent with the overall poor performance for making schools accessible, the IM directed the District to submit a plan to address these deficiencies.

The District provided a plan, expressing resistance to some issues such as the ventilation needs in classrooms where students were changed. This began two years of OIM oversight at PALs programs, coincidentally at a time when the District was rapidly expanding these classes. Over the next two years, the District implemented its plan to address these issues, updating policies and procedures associated with the universal precaution supplies, installing wall-mounted changing tables in bathrooms, and providing changing tables and privacy screens.

During this same time, the OIM continued to visit PALs programs at the beginning of each school year to monitor the changes. Although progress was observed, after two years the District had yet to fully implement its plan, with sites still reporting not having the proper changing equipment and universal precaution materials. In addition, the OIM reported that some bathrooms used by PALs programs lacked necessary accessibility features like grab bars. The OIM also noted newly opened programs missing changing tables or screens, and bathrooms without the necessary access features.

The OIM’s monitoring provided valuable feedback regarding the utility of the wall-mounted tables the District installed, and the need for other materials such as stepladders to avoid lifting of students onto changing tables. Many teachers reported not using the wall-mounted tables because their students were too large for the tables, and lacking the proper stepladders to ensure employee safety. Teachers also expressed needing grab bars, since many change students standing up, and noted that students often hold on to the walls, dispensers, or a person while being changed.

In September 2019, the OIM conducted a final visit to PALs programs to determine if sites had the necessary equipment, program access features, and universal precaution supplies. These visits included 102 schools, 213 classrooms, and 208 bathrooms. All classrooms had access to changing tables and privacy screens in the classroom, self-contained or nearby restroom, and/or another location such as nurse’s office. Slightly more than eight in 10 (81.2%) teachers reported having received their universal

precaution supplies before the first day of school, while approximately half (46.2%) of the bathrooms observed contained grab bars in toilet compartments.

The District now has PALs programs in more than 200 schools. With the rapid growth of these programs, planning and the timely execution of these logistical efforts are critical for opening schools with the necessary changing equipment and supplies. While the majority of sites had the necessary changing equipment and universal precaution supplies prior to the first day of school, the District needs to continue to improve these processes and oversight to ensure 100% of sites are ready.

The District's implementation of its plan to improve the changing conditions at PALs sites over three years shows a lack of urgency for correcting noncompliance and ensuring the health and safety of students. The lack of planning and oversight of new programs was also a concern. The Districtwide implementation of small wall-mounted tables at these programs, albeit well intentioned, was not well thought out and has had limited benefit at schools. Despite having valuable feedback from teachers and staff who work with PALs programs, the central office did not seem to have taken such information into consideration when making decisions.

The District's resistance to remediating some of these elements has also limited program access. Of most concern is the District's opinion that not all bathrooms used by PALs programs require accessible features such as grab bars. While the justification for not making toilet compartments compliant for these students (toddlers ages three to five who have various abilities and disabilities) might be rationalized when looking at the District in its entirety, these postures raise questions about the sense of advocacy by senior officials with decision-making authority, particularly for a group of young students of various abilities. The District can argue whether grab bars are required by law, but it misses the mark for simply doing what is best for its students and staff.

### **Career and Transition Centers**

The reduction of SWDs attending special education centers made these sites available, and many were converted into Career and Transition Centers (CTCs). Since the 2011-12 school year, the District began pushing an initiative to develop CTCs for students aged 18 to 22. The District now has eight CTCs, with at least one located in each local district.

The development and performance of students at CTCs was not a direct focus of the MCD, but do represent efforts to ensure LRE and prepare students who are transitioning into a post-secondary school life of employment. It is important to acknowledge the work being done to develop and enhance these programs, as these are viable options for students to improve their employability and skills. CTCs provide training in areas such as culinary arts, landscaping, and auto detailing.

To learn more about these programs, the OIM held exit interviews with senior leadership from the DSE as well as all the CTC principals. Participants were enthusiastic to discuss the development of these programs and reported an increase in their awareness and demand by families. They noted that since 2014, enrollment at CTCs has doubled and has even received notice from other districts and countries.

Participants reported that programs are being developed using a common framework. The use of a framework ensures consistent and equitable programs, and standardizes the equipment and materials needed. They noted that the development of CTCs has been a collaborative effort including departments

such as facilities, and has built and/or strengthened partnerships with local businesses, regional centers, and universities.

One factor that has contributed to the successful development of CTCs was monthly meetings with all CTC administrators since the 2011-12 school year. This has helped them share successes, challenges, and ideas regarding their programs' development and implementation. Participants acknowledged the DSE's steadfast commitment to creating these programs, particularly since these schools do not generate pupil funding or average daily attendance like other schools, and thus require a financial commitment by the District.

Another factor in ensuring success has been in the recruitment of teachers and staff. Participants reported that having enthusiastic staff has helped establish a culture that values the abilities of students with moderate to severe disabilities. Building a culture that changes the mindset from the old perception of a special education center, to one of vocational training to prepare students for the workforce, has helped improve how these students are seen.

Participants noted some challenges, including making sites accessible, noting that many of the centers were outdated and noncompliant. Another challenge was making sure the proper equipment was procured and installations were completed in a timely manner. This required creating infrastructure to support CTCs, which took time but has ultimately been successful.

Outreach to community partners and local feeder schools has also been a challenge; participants noted that a uniform outreach approach is needed, as each site conducts its own. Recruitment of students and families was challenging, particularly when these sites were being developed. Recruitment has improved, and now families are an important factor in raising awareness of these programs. Training of parents has also been critical to alleviate anxieties or concerns they may have regarding a multitude of issues, such as the impact of their student's employment on social services and benefits. This has required building trust and partnerships with community agencies and families.

These opportunities have led to a higher emphasis on SWD advocacy and on teaching students self-advocacy. Participants noted that one of the main concerns with sustainability is the precarious nature of funding, because these schools do not generate average daily attendance and could be impacted by budget cuts. Despite this reality, participants feel confident the District has made a serious commitment and sees value in these programs and students they serve.

### Summary

The first two discussions on students' relocation from special education centers and PALs program growth are examples of large initiatives to improve LRE and educational opportunities on general education campuses. These initiatives were launched to improve opportunities for some of the most vulnerable SWDs and required urgency and better planning.

These two examples share commonalities in reform efforts that, despite being well intentioned, fell short of meeting students' needs. A lack of a common framework to ensure consistent and equitable implementation created additional challenges for schools to build programs and ensure a smooth transition. Even though the District committed a large amount of resources, these plans did not fully realize successful implementation for years.

In both these cases, the District defended poor performances and responded with resistance to noncompliant findings. The failure to embrace these problems resulted in delays in solutions and criticism by the OIM. In addition, feedback from those in the field provided valuable information on the needs for these programs. The District must constantly seek and place value on such, prior to making determinations for solutions.

Third-party oversight was key to pushing the District's implementation efforts forward with transparency. Stronger District oversight of these initiatives was required to ensure timely remediation of noncompliant behaviors and conditions.

The District's commitment to building quality CTC programs is commendable. These programs will provide much benefit to SWDs and families as they transition into the workforce and adulthood. It is critical that the District sustain these sites and be proactive and responsive to the needs of families and site staff.

The District has several LRE initiatives to expand integration opportunities for SWDs; in particular, there are 85 schools participating in "Increasing Opportunities for Inclusion." Although this review did not examine this effort, the District would benefit from developing a framework that will guide this initiative and ensure consistent implementation to promote equitable access.

#### *Family Involvement and Participation in the IEP Decision-Making Process*

Family involvement and participation are important factors in promoting student educational growth and achievement. Families' role in the IEP decision-making process is a procedural safeguard of IDEA, intended to ensure parents are treated as equal members of the IEP team. The parent-school relationship for families of SWDs is outlined in IDEA, the foundation of this relationship being the student's IEP. Two of the law's main principles are parents' participation in decision making related to their children's education and their ability to exercise due process rights.

The MCD contains several areas that promote parent participation and involvement as well as mechanisms for parents to resolve disputes without the need for formal due process filings. This includes an outcome to increase parental attendance at IEP meetings and ensure schools make good-faith attempts to notify parents of the meeting. It also includes an outcome to ensure nonnative English speaking parents receive a translated copy of their student's IEP (if needed), and two outcomes to improve parent-school relationships when disputes arise. In addition, the MCD contains requirements to allow parents to participate on the District's internal compliance review team or District Validation Review (DVR), and have representation on the MCD's advisory board, known as the Parents' Council. Obtaining feedback from parents and the community at large is also mandated, and the IM was charged with holding annual public hearings.

Over the course of the MCD, the OIM engaged in various focus groups and surveys to gauge parental awareness of, involvement in, and satisfaction with their student's special education programs. The rationale for these activities was to gather feedback for the IM to consider in his substantial compliance determination. In 2005 and 2006, the OIM contracted SRI International to conduct focus groups and two

large-scale<sup>13</sup> telephone surveys on parental participation and involvement in and satisfaction with their student's IEP decision-making processes.

### **IEP Complaint Investigation**

In fall 2014, following the procedures set forth in MCD Section 14, the Plaintiffs' Counsel filed a complaint alleging that IEP teams lack the authority to determine services and placements during IEP meetings and that these decisions are often predetermined by school officials. The complaint emphasized that IEP teams predetermined offers of Free Appropriate Public Education (FAPE) and told parents that if they disagreed with the offer, they must pursue dispute resolution procedures. The complaint also raised concerns about the lack of knowledge related to the availability of District resources (programs and services).

As part of the OIM's investigation, it conducted a telephone survey of parents, focusing on their experience at IEP meetings. In summer 2015, the IM issued a report of the investigation's findings and a series of corrective actions. The investigation found all allegations valid and yielded information that required changes to District procedures and practices. The IM also stated that these results support more than 10 years of research, monitoring, and findings as well as parent and community input received at Parents' Council meetings and annual hearings.

Regarding allegations related to parental involvement and participation, the investigation found that:

- IEP teams do not approach the decision-making processes for determining services and placements in a manner that views parents as equal partners.
- Many IEP team members behave in ways that undermine the IEP process, for instance, presenting predetermined services and placements, with minimal opportunity for parental participation, and encouraging resolutions outside IEP meetings.
- IEP teams lack the knowledge of District resource availability and require assistance outside the IEP process.
- IEP team members recess meetings to accommodate administrative procedures associated with securing services and placement.

Based on evidence from the investigation, the IM determined that the District engaged in behaviors that contribute to systemic violations of the IDEA, and ordered the District to implement 12 corrective actions and immediately cease such behaviors. Five of the corrective actions directly addressed parental involvement:

1. 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;

---

<sup>13</sup> Approximately 2,000 families per survey.

- 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.
2. Develop a comprehensive list and descriptions of all related services and program options available. This must become part of the Welligent system and made available at IEP meetings.
  3. 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.
  4. 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.
  5. Establish professional development to address these corrective actions and improve the IEP team’s collaborative process.

Many findings from the IEP complaint investigation and survey validated systemic problems that have persisted over the course of the MCD. For years, parents informed the OIM of their experiences during IEP meetings in which school personnel were unknowledgeable and/or lacked the authority to allocate services and programs without involvement from local district or central office personnel. They also described a culture in which parents were not treated as collaborative partners at IEP meetings and were given no other option than to pursue dispute resolution procedures to resolve disagreements.

To examine if parents’ perspective on their involvement in the IEP decision-making process had changed since the previous survey (2015), the OIM repeated the telephone survey of the IEP complaint investigation (September 2019). Two items were added to gauge whether schools were opening IEP meetings with the introductory statement and whether parents perceived that IEP teams had the authority to allocate services and supports.

Overall, responses were similar to those in the prior survey. Two-thirds (66.7%) of parents felt that school officials presented a predetermined offer of FAPE, with 69% reporting that they were given an opportunity to provide input and change the content of the IEP, or agreed with the offer made. Approximately four in 10 (42.2%) parents reported that school officials told them that if they did not accept the offer of services, their only option was to pursue dispute resolution procedures.

One notable difference in responses compared to the 2015 survey was the increase in satisfaction levels of involvement in the educational decision-making process, with 36.7% (vs. 44.7%) stating they wanted to be more involved, while 62.2% (vs. 54.3%) said they were involved the right amount. Two-thirds of parents reported being both “fully” (37.8%) and “mostly” (28.9%) treated like an equal and important

member of the IEP team in the decision-making process for determining service and placements (compared to a combined 60.6% in 2015).

In the more recent study, approximately eight of 10 (78.9%) parents reported that the IEP team read aloud the introductory statement informing the IEP team of its authority and that the District considers family members as an equal partner in the educational decision-making process. About two-thirds (64.4%) believed the IEP team acted in accordance with this statement.

These findings show the need for ongoing training and efforts to improve the parent–school relationship. This feedback, coupled with trends showing yearly increases in formal due process filings, indicates that schools need to do a better job resolving disputes at, or prior to, the IEP meeting. Senior leadership needs to monitor and examine reasons school personnel make statements to encourage parents to pursue dispute resolution mechanisms rather than finding resolutions at the local level. This practice, which has endured over the course of the MCD, can be addressed with a directive prohibiting such statements. Although school officials are expected to facilitate dispute resolution procedures, encouraging these procedures without good-faith efforts to find common ground undermines the intent of the law.

The corrective actions of the IEP complaint investigation were designed to improve transparency within the IEP process—parents and staff should be aware of student and family rights and available services and programs. The District should strive to promote, through training and policy, advocacy by parents, students, and staff. It is important that the District acknowledge these problems and engage in proactive efforts to improve trust and collaboration with families.

Parent feedback is an essential source of information to evaluate a school’s compliance with law. It also provides valuable information on families’ experiences during the IEP process and can help senior leadership identify training areas to improve this relationship. The MCD and OIM provided a mechanism for seeking parent feedback, through research and annual hearings. The District would benefit from continuing and building on these efforts, with objectivity and transparency.

### **Complaint Management System**

The development of a complaint management system has been a central aspect of the MCD, and has evolved considerably after years of monitoring and two formal OIM reviews. Although progress has been made, this case serves as a good example of reform requiring continued prioritization from senior leadership and the Board to ensure an effective system. Despite various efforts to improve this system, considerable work remains to meet the intent of the MCD and substantial compliance framework. This case study is a continuation of the discussion on Outcome 11 in Part One; it includes exit interview information from DSE staff.

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. In addition, one of the corrective actions of the IEP complaint investigation was that the District “Establish an objective, neutral complaint investigation mechanism that has the authority to cease noncompliant behavior and ensure remedies.”

During the 2014-15 school year, the DSE established the School and Family Support Services (SFSS) unit, which supports and oversees the District's complaint management system. The Complaint Response Unit (CRU), established by the MCD, merged with the SFSS; the combined unit is now responsible for responding to parents' complaints and issuing a lawful response.

To examine the effectiveness of the District's complaint management system, the OIM completed two formal studies (in 2013 and 2016) that included reviews of policies, procedures, and communication related to the complaint management system and other District policies; a sample of calls to the call center (SFSS and CRU); and staff interviews.

As noted in the discussion on Outcome 11, the complaint management system's policies, procedures, and protocols provide a good foundation for a valid and credible system. The mechanisms established for processing and resolving calls are noted areas of strength and improvement. SFSS leadership appears to have a good understanding of the complaint management system's processes and direction to ensure systemic substantial compliance.

Although the District has committed significant time and resources to develop this system, several ongoing problems persist, reducing its effectiveness. Many outstanding issues relate to inconsistencies in the execution in different areas of these processes, such as quality assurance mechanisms. This includes documentation practices, with many cases missing variables of call type, call topic, and investigation (CESAR) steps.

The OIM's 2016 document review and staff interviews also found inconsistencies in the application and understanding of processes for categorizing call types (complaint, concern, inquiry), closing cases, and determining lawful response types. Discrepancies and a lack of clarity in the documentation of evidence and/or steps to remedy the complaint—in both complaint management system data and lawful response letters—led to inconsistencies in resolution types as well as fluctuations in timeliness.

One major concern is the CRU staff's and leadership's misinterpretations of the four lawful response types. Despite multiple OIM reports providing guidance and directives, the District predominantly uses only two lawful response types: one indicating that a remedy was provided, and one indicating that, after investigation, the complaint was deemed unfounded. The two seldom-used types are for referrals to outside agencies, such as regional centers, and suggested actions, such as pursuing dispute resolution procedures. As noted in both OIM reviews, these types of cases and responses were misclassified in the database and lawful response letters, respectively. Although the quality of the lawful response letters has increased, oversight of the data and letters requires additional improvement.

The system needs clear guidance and mechanisms for closing cases and ensuring that schools or support units follow through with remedies or actions to resolve a parent's concern. A credible complaint management system must be based on the execution of remedies, not assurances from schools or support units that they will occur.

A reliable complaint management system will encourage parental involvement while enabling the District to respond to complaints with transparency and accountability. In addition, information gleaned from complaints provides a basis for identifying systemic noncompliance and policies, procedures, and practices that require remediation.

The MCD provided sound guidance for establishing a credible and viable complaint mechanism. In addition, the OIM's feedback on the established system's effectiveness laid out a path for making necessary improvements. Although the District responded to most of the OIM's recommendations, persistent inconsistencies indicate a lack of prioritization to correct these processes.

As mentioned in the discussion on Outcome 11, exit interviews with the CRU director and staff noted the MCD and OIM's role in guiding improvements in this system, particularly for establishing standards and processes to conduct intakes and document calls; improvements to the database; and improvements to quality control throughout the process, including the vetting of lawful response letters. The District contends that the CRU's functions will be sustained after the MCD and views this as an important aspect of ensuring substantial compliance.

### Summary

This report has pointed out examples where the District acknowledged its systemic shortcomings and mobilized resources to fix these issues in a timely manner. This has not been the case with the complaint management system. These issues persist because senior leadership has yet to fully commit to ensuring a functioning system. Although an effective complaint management system will expose schools' and programs' noncompliance, this transparency is critical to ensure substantial compliance through enhanced accountability. This requires those responsible for the complaint management system's oversight to be objective and professionally critical of the DSE, colleagues, and school personnel. In essence, they must approach oversight like a third party—focused on establishing systems to identify and remedy noncompliance, even if this means pointing out systemic failures and violations of FAPE. Although difficult, the system's integrity will inevitably lead to its increased use, ideally reducing parents' need to pursue formal and/or informal dispute resolution procedures.

### *Making Schools Accessible*

The MCD had several requirements for making schools accessible. It required that all new District construction and renovation or repairs comply with Section 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA). The District was also to expend at least \$67.5 million on accessibility renovations or repairs to existing school sites and establish a unit to address "on-demand" accessibility requests. The MCD charged the IM to determine whether systemic problems in the District's schools prevent substantial program accessibility compliance.

The expectation for meeting these obligations included compliance with ADA requirements for transition and self-evaluation plans that identify barriers, a schedule for barrier removal at all District schools and buildings, the designation of an ADA coordinator, and the capacity to conduct consistent and comprehensive surveys. The "on-demand" program, referred to as Rapid Access Program (RAP), was a critical part of ensuring a system that can prevent substantial noncompliance, since this is a mechanism to remediate noncompliant conditions in a timely manner to ensure students have access to programs, goods, and services at their schools.

Throughout the history of the MCD, these obligations created considerable challenges due to the lack of capacity, oversight, and accountability within the Facilities Services Division (FSD). Progress was often delayed by inaction and regression, prolonging federal oversight of the MCD.

The efforts to improve program accessibility and OIM's monitoring of these obligations are comprehensively documented. At times, interactions between the OIM and the District were contentious but nonetheless led to increased capacity and transparency. This case study will highlight a few salient events to illustrate persistent challenges and lessons learned. Despite much progress in this area, making schools accessible remains one of the biggest challenges to remediate longstanding noncompliance.

The District has a long history of noncompliance with the ADA 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 and altered facilities to meet more stringent "readily accessible" standards. The District was required to create an ADA transition plan that addressed the needed structural changes to comply with the ADA's program accessibility requirements. These physical changes were to be completed by January 26, 1995.

Persistent weaknesses in the design, construction, and inspection processes in place that ensure compliant work were noted throughout the MCD, including in the last round of OIM visits in summer 2019. Some areas of noncompliance resulted from a combination of poor design, construction that did not adhere to the plans, and poor quality inspection. Shortcomings in the oversight and communication of work completed by the Maintenance and Operations Unit (M&O) have also resulted in noncompliant facilities. This case study will discuss only a few of the many instances where noncompliance was identified to highlight some leadership and systemic challenges that lie ahead as the District moves toward compliance with law.

### **ADA Self-Evaluation and Transition Plan (2017)**

Throughout the history of the MCD, the District struggled to create a functional ADA self-evaluation and transition plan and a plan to meet Section 504 requirements. After six attempts, the District completed a plan that satisfactorily met the ADA requirements. In fall 2017, 22 years after passage of the ADA, the Board approved the ADA Self-Evaluation and Transition Plan, fulfilling this obligation. The Board solidified this commitment by allocating \$600 million to Phase 1 implementation.

To determine whether the plan complied with ADA and Section 504 requirements and to ensure the District had no systemic program accessibility problems that prevented substantial compliance with the program accessibility requirements of federal special education laws and regulations, the OIM conducted a review and analysis of the plan<sup>14</sup>.

On August 31, 2017, the OIM submitted the findings of this review and feedback on the plan. Overall, the plan included an extraordinary amount of work in collecting high-level survey data at all sites and greatly improved the District's approach to addressing its longstanding noncompliance with the ADA and Section 504. The IM noted that this plan was a viable pathway to attain acceptable levels of program access while increasing transparency to keep the Parties and the public informed on the magnitude of noncompliance across the District.

---

<sup>14</sup> <http://oimla.com/pdf/20171004/responseadafinal083117.pdf>

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 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 buildings.

The plan is designed to achieve program accessibility over three phases with the first phase spanning eight to 10 years. By the end of Phase 1 (2025), the District intends to establish program accessibility with the development of approximately three feeder patterns containing one high school, one to two middle schools, and three to four elementary schools in each local district. This phase will provide betterments at 235 sites (out of 742), or one-third of District schools.

Phase 2 will begin no later than 2025 and address approximately another one-third of the schools, with the remaining sites to be addressed in Phase 3, with no projected timeline for completion of either phase.

As part of the plan's data collection effort, the District conducted high-level surveys to identify areas of noncompliance. The OIM conducted a comprehensive review of these findings and noted several significant concerns indicative of systemic program accessibility problems that prevent substantial compliance with the program accessibility requirements of federal special education laws and regulations including:

- One in five schools lack an accessible main entrance, with approximately two-thirds of these sites scheduled for betterments during Phase 2.
- One in four sites have a vertical access problems, with more than half scheduled for betterments during Phase 2.
- Almost nine out of 10 schools have pervasive problems or noncompliant passenger loading zone conditions.
- Fewer than one-third of schools have accessible restrooms on campus.

Although the plan finally guides the District with a sound approach to achieve compliance, inconsistent and poor execution of several factors has contributed and could continue to contribute to challenges. This includes a longstanding lack of capacity to complete comprehensive surveys to identify areas of noncompliance. In addition, insufficient oversight over design review to ensure that architects provide compliant plans has led to noncompliance, increasing cost and delaying program access for students.

The plan's success in ensuring a system that prevents substantial noncompliance largely relies on the implementation of operational solutions, such as the relocation of programs, and making minor betterments through the "on-demand" RAP process. However, neither the plan nor subsequent data submissions to the OIM provided details or examples of how operational solutions would be determined and implemented.

Given the current scope of noncompliance Districtwide and the proposed 10-year timeline for meeting program accessibility requirements at only one-third of schools, the District needs well-functioning systems for implementing operational solutions and RAP.

During late spring and summer 2019, the OIM conducted two final rounds of monitoring of Phase 1 sites that were completed by August 31, 2019. The walkthroughs revealed improvement in the completion of

compliant work and accurate identification of noncompliant items that required remediation prior to closeout. Other positive findings included compliant ramps that were not designed to meet bare minimum standards, which allowed for flexibility in construction due to unanticipated site conditions; more accessible seating in auditoriums; and improved compliant conditions of bathrooms, handrails, and slopes.

At this time, the OIM also discussed challenges with the ACU staff and FSD personnel responsible for overseeing the projects. Some reports were inaccurate, claiming completed and compliant work, when site visits found construction that was incomplete or not built to compliance. Reports from FSD staff indicated that some items reviewed had been redone two to three times due to noncompliant construction and design professionals' errors. In some cases, contractors built these items knowing that they were noncompliant. Challenges with oversight of various projects, which at times involved multiple contractors and design professionals, made the efforts at these initial schools disjointed. Staff also reported that M&O sometimes introduced new barriers during construction due to a lack of training on accessibility requirements.

In September 2019, the OIM held exit interviews with senior-level FSD officials, including the Chief Executive, to discuss the progress of betterments at Phase 1 schools and gain insights into lessons learned over the course of the MCD.

Interview participants acknowledged that the first round of schools did experience management challenges, particularly because many sites with Phase 1 work also had other previously defined ADA projects. This led to a lack of coordination among project managers, contractors, and oversight. Senior officials believe that newer projects will become more cohesive as all efforts will fall under one scope of work.

Another source of challenges was the volume of work and the District's limited, self-imposed timelines to meet these obligations. Participants agreed that overextended resources made managing these projects overwhelming. They noted needing to slow down to have more time to ensure designs are compliant and provide better oversight. The volume of work as well as the construction boom experienced at large has limited the availability of quality professionals and increased costs.

Constructability reviews were also an issue; not all architects walked the sites to examine as-is conditions in relation to design. Although the District has resources to perform these reviews, there are still holes in the process. Participants acknowledged that M&O at times engaged in projects that, while well intentioned, resulted in introducing barriers or new noncompliant conditions. Staff recognized a need for continued training and improved communication among departments and the ACU.

One of the biggest challenges for completion of Phase 1 projects is funding. The Chief Executive reported needing an additional \$1 billion for improvements through 2025. Currently, there is \$200 million remaining for new contracts, with 94 ADA and 22 comprehensive modernization projects that are Board approved.

Participants reported learning several lessons since the inception of the MCD. The first was the need to build capacity via the ACU, ensuring the involvement of this group in all aspects of construction. They noted that building expertise required constant training of the ACU and other departments as well as some consultants.

Having to remediate new schools taught the FSD to evaluate failures in order to increase efficiencies. One participant noted that the construction of the last 30 new schools (out of 131) was much more efficient in that work was being done correctly the first time. In addition, this team improved mechanisms for reviewing completed work and eliminated poor-quality contractors and architects.

Taking on a more manageable workload is also a priority. Participants noted that in Phase 1, they took on more than they could handle, compromising quality and oversight. They believe these lessons have led to improved systems and policies that have now been institutionalized.

### **Remediation of Noncompliance at New Schools and Independent Charter Schools**

Prior to the approval of the ADA Self-Evaluation and Transition Plan in 2017, the OIM reported on many shortcomings in ensuring compliance in facilities processes. One example of ongoing lack of capacity and accountability in making schools accessible was the remediation of new schools constructed and opened between 2006 and 2012.

As the OIM monitored new construction, it found significant noncompliance. As a result, the Parties entered into a stipulation agreement requiring the District to address noncompliant findings at schools opened after June 30, 2006. The District also committed to surveying new, unopened schools that were not included in the previous surveys to ensure noncompliance was addressed prior to occupancy, raising the total number of new schools to be remediated to 81. This allowed the District to hold contractors and architects accountable while they remained on contract.

During the 2008-09 school year, the District committed to resurveying all of these schools to identify areas of noncompliance that were over- and underidentified, and developing corrective action plans for each site. The District improved this process by prioritizing the corrections of these deficiencies to have the greatest impact on students. This included focusing early on deficiencies that presented significant barriers to program accessibility and those considered high risk.

Remediation efforts were to occur over four phases and to be completed by December 31, 2012. In March 2011, the OIM and its consultants, Disability Access Consultants, Inc. (DAC), visited six of 13 completed schools to validate compliant work. After visiting several schools with the ACU, it was determined that progress at these schools did not match what was reported by some officials. To summarize, the visits revealed that these schools were still under construction and lacked compliant work. In addition, the remedies were based on inadequate and inconsistent surveys.

At this time, ACU officials requested the OIM discontinue its validation visits so the District could evaluate the progress of these schools. The ACU deemed the existing efforts to be inadequate and inconsistent and decided to abandon the completed surveys in favor of a more effective and consistent electronic-based survey. This resulted in the ACU's development of a new plan for surveying the 81 schools, yet the District remained committed to completing all repairs by the original date of December 31, 2012.

One positive aspect of the identification and remediation of noncompliance at new schools was the involvement and growth in capacity of the ACU, then referred to as the Existing Facilities MCD Team. The ACU identified many areas of noncompliance missed by the Inspector of Records (IOR) and external surveyors contracted by the District. Many of these findings were confirmed by the OIM and its consultants, establishing agreement on and validation of survey inaccuracies. This showed the District

had improved the internal capacity necessary to inspect new schools, which was particularly important prior to engaging in the corrective action phase of the new schools. In addition, the District was required to engage with agencies such as the Division of State of Architect (DSA) and LADBS to ensure shortcomings were collaboratively addressed.

The District also began to demonstrate improved capacity in vetting specifications of components incorrectly identified by manufacturers as ADA compliant. For example, it was noted during a school walkthrough that the District had purchased noncompliant lavatories that were advertised as ADA compliant, recognized that the lavatories were noncompliant by design, and addressed this with the manufacturer. These noncompliant lavatories were replaced with compliant ones at no cost. Another positive change was the District's switch from paper surveys by external inspectors, which were subsequently entered into a database, to an online tablet survey mechanism that guided internal inspectors through inspections and enabled inclusion of photographs of noncompliant conditions. These proactive moves were encouraging as they facilitated systemic compliance, ensuring vendor accountability and saving valuable resources by identifying and correcting errors early.

Another area of significant noncompliance was charter schools, which required surveying and remediation of noncompliance at 126 independent sites between 2011 and 2012. Although oversight of this process was primarily relegated to the LADBS, the ACU was instrumental in ensuring and increasing the LADBS's capacity for surveying sites. Although this was a positive step, the failure to identify noncompliance during the petition and approval process resulted in a high number of sites expending limited resources after assuming a site's compliance upon receipt of its certificate of occupancy. This is now proactively addressed by embedding ADA compliance requirements for new petitioners, saving operator resources by avoiding noncompliant sites and/or enabling negotiation of conditions with building owners.

### **Rapid Access Program (RAP)**

The MCD established an on-demand program to respond to site-level requests to improve program accessibility for SWDs attending these schools. This program was to provide flexibility to direct minor renovations in an expedited manner so students could participate in programs and activities. Throughout the MCD, this program suffered from mismanagement and a lack of direction for ensuring rapid program access. The OIM repeatedly pointed out inadequacies and highlighted the lack of clear leadership and competency for addressing rapid, on-demand program access. On-demand projects have taken months to years to complete, with minimal or no benefit for students requiring program access during the school year the request was made.

The past few years have seen improvements in reducing timelines for completion; however, the number of requests received annually is insignificant compared to the high number of noncompliant sites and features identified by the ADA Self-Evaluation and Transition Plan surveys and the OIM site visits. During these visits, many administrators and teachers were unaware of the RAP program despite its being available since 2004. This includes staff at many sites with PALs programs, classes that were relocated from special education centers, and newly opened for programs for students with moderate to significant disabilities.

Over the years, the District submitted revised processes for handling RAP requests and renewed timelines to ensure a request's completion with 30 days. Some of the challenges have been school

administrators' and personnel's lack of knowledge of program accessibility and/or operational solutions; these individuals may not have adequate training to fully understand the problems and solutions.

### Summary

The magnitude of effort to achieve Districtwide compliance with the ADA remains massive. Although progress was made over the course of the MCD, it has been insufficient for ensuring systemic substantial compliance and is an example of one of the least successful parts of reform. While the District is now in a much better position in terms of capacity, management, and accountability, progress was limited by setbacks for 14 years. This is evidenced by the findings of high-level surveys, and the fact that the District will need an additional \$1 billion dollars to be in compliance at one-third of its schools by 2025. It is unknown when the District will achieve compliance at all its schools and whether it will be able to obtain the necessary resources.

The establishment of the ADA Self-Evaluation and Transition Plan in 2017 was a turning point, indicating the District's wholesale and long-term commitment to making schools accessible. Albeit a positive accomplishment, it simply took too long.

The District now has good capacity within the ACU; however, at times it mismanaged staff and used its expertise ineffectively. Although the capacity to conduct consistent and comprehensive surveys has improved, concerns still exist. Overall, the District has not had a lengthy track record in making schools accessible correctly on the first attempt, shadowing optimism with doubt.

Although the ADA Self-Evaluation and Transition Plan provides a good framework, many variables can negatively impact its execution. These factors include the size and scope of this effort, which diminishes management's ability to oversee all actors involved. Without adequate oversight and systems in place to prevent noncompliance, the amount of time and cost for improving program access will increase, compromising progress. Although the OIM could not validate or obtain a good understanding of the integrity of the plan's category approach, the real test for determining compliance is whether betterments result in sites that ensure program accessibility as defined.

A big challenge in sustaining progress is the attitude toward noncompliance. Resistance to OIM findings and recommendations delayed progress and resulted in misguided approaches that increased cost and delayed compliance. The District at times withheld information and access to FSD professionals, expended energy on ways to limit its obligations that eventually required backtracking, and argued against common sense requirements that were in the best interest of students and staff. Hopefully, with the end of federal third-party oversight, the District can focus on compliance with ADA laws and regulations, apply building codes as intended without looking for ways to circumvent obligations, and make realistic promises and timelines. Compliance with ADA is a huge undertaking. Positive approaches with the best interest of students and the organization will go a long way in demonstrating credibility and transparency to the public.

Exit interviews with FSD senior leadership validated the role and impact the MCD and OIM monitoring had on progress. Participants noted that the OIM kept the District focused on meeting ADA regulations with frequent communications and meetings. Without the MCD and OIM oversight, the District would not be where it is in terms of capacity and with a sound roadmap for improving program accessibility. The MCD required the District to allocate funds and resources and prioritized program access when

planning construction projects. Although at times the OIM was demanding and contentious, third-party oversight was necessary, and served as the advocacy needed for students and staff to ensure a system that prevents substantial noncompliance.

### *Service Delivery*

In any given year, the District has more than 80,000 SWDs with IEPs. These students can receive a range of special education supports and services including pullout instructional services such as resource specialist programs (RSPs), related services such as language and speech (LAS), counseling, occupational therapy (OT), and physical therapy (PT). Service delivery is the cornerstone of special education law for ensuring students receive a free and appropriate education (FAPE). Special education instructional and related services are intended to help students access the curriculum and participate in school activities. Services are individualized and can be provided in the setting best suited for the student. Performance goals and objectives are the basis for determining the progress and effectiveness of these services.

Students are prescribed a certain amount of services using a frequency (how many sessions per time period) and duration (length of session) model. Service providers can recommend monthly, weekly, or yearly prescriptions, with varying levels of frequency and duration. Compliance with service delivery obligations is based on the duration value, meaning if an IEP calls for four 30-minute sessions in a month, the student must receive 120 minutes of that service during each month to be compliant.

Although this seems conceptually straightforward, service delivery models in educational systems compete with the dynamics of everyday school occurrences. This includes a variety of factors that might prevent providers from working with students, such as student absences, school assemblies or activities, social-emotional crises, provider attendance at IEP meetings, changes to the school schedule, and provider absences. These variables produce inconsistencies in students' availability and disruptions in students' instructional programs, which limit service providers' ability to work on caseloads on any given day. In addition, providers must be sensitive of each student's instructional program and ensure students are not removed from core instruction. This is further complicated by the itinerant nature of related service providers who might be assigned to a school only one day a week.

This case study will examine factors contributing to systemic problems that limited the District's ability to comply with its service delivery obligations, looking at the problem through a lens of resource constraint. A resource constraint limits what can be done to accomplish a task owing to the unavailability of a resource. In this particular case, resource refers to the trained staff necessary to provide services owed. Assuming that available resources are insufficient to meet service delivery obligations, solutions will require breaking down organizational needs in this area, identifying the dependent relationships of activities that affect and compete for resources, and effectively allocating this limited quantity of resources.

A viable solution must account for service providers' competing tasks that impede their ability to work directly with students. Which of their tasks can be limited or eliminated in order to serve students as mandated by their IEPs? A solution must also reevaluate the current service delivery model to find more effective ways to meet student needs with existing resources.

The MCD had one three-part outcome related to service delivery, which was modified in 2017. The discussion in Part One provided a status update on this outcome, noting it was met despite thousands of

students not having received the majority of their services. The challenges and efforts to remediate this noncompliance have been well researched and documented throughout the MCD. A recent collaborative effort of the OIM, American Institutes for Research (AIR), and Office of Data and Accountability (ODA) yielded valuable information and recommendations, and despite progress, there was a performance ceiling—many students were still not receiving the majority of services owed.

As of November 15, 2019, more than 10,000 services were provided for less than 70% of the specified duration in students’ IEPs (Table 6), while 3,540 services were not provided at any time since the beginning of the school year. Of those not provided, 1,127 were for speech and language. Comparisons with November 15, 2018, data show that performance on every measure was similar to this school year, with a slight increase in services provided for less than 90% duration. Attachment E includes a comprehensive list of service delivery rates by service type for both 2018 and 2019.

Table 6. Aggregate Service Delivery Rates Comparing November 15, 2019, and November 15, 2018

Total	Less than 90%		Less than 70%		Less than 50%		No Services (0%)	
<b>Nov. 15, 2019</b>	n	%	n	%	n	%	n	%
115,460*	24,686	21.38	10,214	8.85	6,239	5.40	3,540	3.07
<b>Nov. 15, 2018</b>	n	%	n	%	n	%	n	%
111,942*	19,897	17.77	9,424	8.42	5,891	5.26	3,283	2.93

\*This represents a total number of services, not students. Some students receive more than one service type.

Although the District met the three parts of Outcome 13, the above data show systemic noncompliance and validate the ongoing need for reform of the service delivery model. Over the course of the MCD, the OIM led many inquiries to better understand these systemic shortcomings, including focus groups and surveys of service providers. These efforts led to many changes and attempts to improve service delivery; however, most were directed at improving documentation and did not directly address other problem areas.

While accurate documentation of services is vital, the root causes of the systemic shortcomings have remained practically unchanged. This includes high caseloads and workloads, high volume and increase in administrative tasks, limited support staff (both clerical and administrative), high volume of assessments to conduct and IEP meetings to attend, and support of general and special education students not on caseloads. Performance will not improve until management addresses these factors, enabling providers to prioritize the delivery of quality services.

The OIM’s monitoring and research efforts yielded repeated findings that validated the impact of these factors over the course of the MCD. From September 16 to October 1, 2019, the OIM, in collaboration with the ODA, conducted an online survey of all related service providers, similar to one completed in April 2017. This survey included questions on service prescription, staff retention, and management’s effectiveness. This effort once again focused on those in the field, asking providers to identify factors that limit their ability to meet the service obligations for students on their caseloads.

The issues presented here highlight the ongoing challenges as viewed by those in the field. Providers’ ability to serve students is the ultimate goal, and their feedback on frontline constraints should be of utmost concern to managers and senior leadership. The following are select findings from the recent online survey, completed by 874 related service providers. Complete findings can be viewed in Attachment F.

## Factors Impacting Service Delivery as Reported by Staff in the Field

When asked about job factors negatively impacting service delivery, providers reported the following as moderate or major factors:

- Conducting assessments and/or writing reports - 71.7%
- Attending IEP meetings - 68.1%
- Number of students on caseloads – 63.3%
- Time spent entering Welligent documentation – 60.1%
- Completing non-Welligent paperwork – 58.3%
- Coordinating and scheduling IEP meetings – 40.3%

In addition, providers viewed caseload (71.3%) and workload (78.6%) as moderate and major factors in their ability to deliver services. When asked about school factors that limit their ability to serve students, providers reported the following as moderate to major factors:

- Inability to make up sessions due to student's schedule – 58.6%
- Inability to make up sessions due to a limited time spent at school site – 53.2%
- Providing services or consultation to students or families, not working with students on their base caseload – 34.0%

It is abundantly clear that providers have high caseloads and workloads that impede their ability to meet all of their students' service delivery obligations. The demands of the job, limitations associated with being at multiple schools, and the dynamic nature of schools not only compromise providers' ability to see students but also impact quality of services.

The survey allowed providers to write in different concerns. Providers reported that other reasons for not being able to keep up with their service obligations were

- Too many assessments to complete
- Too many IEP meetings to attend
- High frequency of student absences
- Responding to social-emotional crises at sites
- Holidays that require making up sessions for those given days
- Too many students on caseloads
- High volume of documentation required
- Competing for student's availability with other service providers
- Taking personal or illness days that require making up services

When asked about strategies for catching up when falling behind on service delivery obligations, the most common methods were

- Grouping more students into sessions – 71.7%
- Doubling up or increasing frequency of sessions – 57.2%
- Extending future sessions – 52.1%

Providers added other concerns and strategies for catching up on service delivery with the most frequently reported being completing documentation (Welligent) and writing reports at home or during

non-work hours, extending student sessions, rearranging student schedules, and providing services through a push-in model in the student's classroom.

Despite reporting overwhelming work conditions, the majority of providers (63.1%) believed they had the adequate tools to get the job done. Over the years, focus groups and site visits have found many dedicated professionals that were simply tired and frustrated. The OIM has relayed these frustrations so DSE leadership would address the factors that constrain their most valuable resource. This feedback has consistently revealed the same work conditions that impact service delivery and prevent compliance. To put it simply, when providers are overwhelmed, the service delivery system is ineffective.

The revised Outcome 13 gave allowances for crediting canceled or missed sessions when providers lacked the opportunity to serve students. This means that when a student was absent on a day they were scheduled to receive a service, this session's time would be reduced from the overall minutes owed, essentially forfeiting the provision of that session. Although conceptually this makes sense, these exceptions were one-sided and favorable to the District and vulnerable to staff manipulation to appear in compliance. A lack of limits on these exemptions also made it possible for students to receive no services for the majority of the school year, as long as cancellation codes were used. Acceptable reasons for non-delivery are only student's or parent's unavailability or refusal of the service. Provider absence or unavailability is not justification for non-delivery of services; however, there is no Welligent code to indicate provider absence as a reason for a missed session. Despite the OIM's objection to these allowances, the District and Plaintiffs' Counsel made these exemptions a part of the service delivery model.

The survey included three questions on these allowances to obtain providers' perceptions on transparency and whether the cancellation code encourages manipulation to appear more compliant. When asked if the use of the cancellation code, and its adjustment of minutes owed, accurately represented service delivery rates, 17.6% of respondents believed it was an accurate representation. With 33.1% responding it did not and almost half (49.3%) unsure whether the codes accurately represented service provision, these findings are not a ringing endorsement of transparency. Approximately one in five providers (18.1%) believed that the use of cancellation codes might encourage providers to not make up services to students who are frequently absent, with another 42.9% feeling uncertain about this behavior. When asked directly if these cancellation codes made service documentation susceptible to manipulation, 8.1% believed it did, while 50.6% were unsure. This means that only about four in 10 providers believed that these exemptions did not encourage manipulation of service delivery documentation, raising doubt over whether these allowances affected transparency.

When asked if the way services are currently prescribed is a problem for meeting service delivery obligations, 44.4% of respondents believed it was, while 34.8% were unsure. These findings again highlight concerns by those in the field that the current prescription model impedes compliance.

The OIM has consistently opined that retention of existing qualified service providers is key to maintaining adequate resources. The feedback above describes a system that overwhelms its professionals with high demands and little support for fulfilling service delivery obligations. The survey aimed to gain insights into whether retention was an issue that impacted service delivery. This was an area of concern because the District attracts new qualified providers yearly, yet continues to be unable to fulfill its compliance needs. When asked if the District has difficulty retaining service providers, 53.6% agreed or strongly agreed, with 34.6% expressing uncertainty. Only 11.9% of respondents felt this was

not an issue. In addition, over three-quarters (77.4%) of respondents reported knowing a colleague who had left the District because of caseload, workload, work conditions, morale, or management reasons.

Respondents felt positive about management's effectiveness over the service delivery mechanisms with 54.1% rating management as effective or very effective, and 32.9% providing neutral opinions. These findings indicate that the service delivery problems are bigger than what management can deal with. This sentiment has been corroborated by various focus groups and interviews that found well-intentioned management professionals making the best of an overloaded system with limited resources.

The survey validated findings of previous inquiries and reinforced the notion that the service delivery system is overtaxed. The District has demonstrated capacity for hiring new providers, yet continues to struggle to meet student needs. The rationale that national or state shortages of these professionals contribute to noncompliance is questionable when so many providers report knowing colleagues who have left the District due to overwhelming work conditions.

The OIM has been on the record stating that part of the problem and solution lies with the prescription method, whereby the system overpromises services that it is incapable of providing. This is not due to a lack of effort or good will, but rather the dynamic structure of schools, and the size and scale of the District's obligations that must be met with limited resources.

### **Problems with the Current Service Delivery Model**

The current service delivery model has changed as a result of the MCD. In particular, to better meet Outcome 13 obligations, more flexibility was given in how individual services are prescribed. The main method for increasing flexibility was to use ranges for the frequency variable while maintaining duration, for instance, IEPs prescriptions that require the student to be seen from one to five times a week. Another way providers have sought flexibility is using monthly or yearly service prescriptions. For instance, for a monthly service, if services are missed during a particular week, there are three other weeks in which to meet the prescriptions. Yearly services provide even more flexibility; depending on the number of sessions to be delivered (frequency), all services could be met all at the beginning or end of the year. This means it is possible to give a student no services for an extended period without being noncompliant.

A big concern with the current delivery model is that it contains policy limitations that can work both favorably and unfavorably for students and providers. One limitation includes the allowance of missed sessions due to student absence, students refusing a service or not showing up for their session, parents refusing the session, statewide assessments, or certain school closures. These exceptions are unfavorable for students because they reduce the number of minutes owed. This means that if a student is absent, and the provider attempts to see the student and notates them absent on Welligent Service logs, the number of minutes for that session is nullified, which increases the overall delivery rate. The system becomes vulnerable to manipulation and is misleading when reporting service delivery rate to parents. The lack of a cancellation code that specifies provider absence is another problem, as this code would identify these lost minutes as owed and allow for an accurate representation of why a service was missed. The lack of a provider absence code reduces transparency and calls into question the District's commitment to providing all services. Cancellation codes cannot favor only the District by lowering its service obligations to students.

One of the biggest failures of the MCD has been the emphasis on the documentation of services, which has overshadowed the intent of the law to ensure students receive quality services that result in educational benefit and access to the LRE. Substantial compliance will be achieved only when the system can provide quality services that benefit students while holding the District accountable to these obligations. Unfortunately, the MCD reduced this accountability with the revision of Outcome 13.

For years, the OIM has argued that the current service delivery model overpromises what it is capable of delivering. The service prescription method can be reconfigured to better meet the resources available while accounting for legitimate competing factors that increase the likelihood of noncompliance. For instance, the District could consider a model for service delivery whereby a certain number of missed sessions is accounted for, allowing for student or family unavailability. This concept aligns with the yearly model for prescribing services, where an individual student is offered a certain number of minutes (duration) over the year, and allows for making up sessions due to external factors and events over the course of the year. For example, if the school year consists of 180 days or 38 weeks, it is reasonable to anticipate two to four weeks where competing factors, such as statewide testing, holiday activities, and beginning-of-year logistical challenges will make servicing students difficult. Therefore, prescriptions should account for these and offer an amount of services that can be realistically met by providers and schools. This flexibility will have an exponential effect on reducing workload. For example, if a student typically received one 30-minute session per week, and was offered 34 sessions for a year, the reduction of four sessions over the year for a speech therapist who has 55 students with similar durations on their caseload, results in 220 fewer sessions promised. This should provide the necessary flexibility to meet other workload factors, while allowing for normal circumstances like student and provider illness. This would also relieve the anxiety providers have expressed about feeling punished when taking illness days for themselves or to care for family.

This type of model should be considered only if the intention is improving the quality of services provided. This means that student grouping must decrease to manageable and effective levels, and providers must be held accountable for the delivery of all sessions. Another consideration is the even distribution of these services over the school year, so that the model does not allow providers to complete all sessions during one or two months of the year.

The above descriptions of the model is intended to be general; the District must be thoughtful and weigh any potential unintended consequences and vulnerabilities. It must also develop a plan for informing schools and parents of how this model will result in improved service quality.

Management and senior leadership must deal with the systemic problems in the current service delivery system. Although management is also limited by constraints, executive decisions could reduce providers' workload by removing unnecessary bureaucratic tasks. Management must also develop viable policies to deal with students not receiving services because their school lacks a service provider. The issue of uncovered schools has been addressed by inadequate policies that accept noncompliance with little regard for students and families. The current policy requires only that schools or providers inform parents that a provider is not available due to national shortages or a leave of absence, and that services will be made up when a provider becomes available and/or an offer of compensatory services will be made at the student's next IEP meeting. The lack of coverage could last months, resulting in denial of FAPE and limiting the student's access to the curriculum and school activities. This passive approach to compliance shows a lack of awareness of or disregard for the impact of students' loss of learning

opportunities. Compensatory services cannot always make up for these lost sessions. The lack of coverage at some schools is an issue of equity, and it is well within management's control to implement a more proactive and responsive policy.

### Summary

The current model places a high value on compliance and quantity of services; this needs to shift to emphasize service quality and educational benefit. The provision of more or longer sessions with larger groups of students might help providers become more compliant but will not benefit most students. When compliance compromises quality, there are no winners.

These resource constraint problems are not unique to LAUSD. The model for service delivery used in the majority of districts is flawed and archaic. The District is in a position to be a leader in this area, but it will require outside-the-box thinking and courage.

This case study also shows a failure to embrace systemic shortcomings but rather focusing on solutions to excuse noncompliance. The creation of exemptions is a prime example of creating policy to justify noncompliance rather than remediate it. The lack of a code for missed services due to provider absences is a direct abdication of responsibility. Students and families are not the problem, and a service delivery system cannot be structured to view them as such. Transparency must be at the forefront of reform, as parents are entitled to an accurate representation of the services provided to their student.

Resources are limited and constrained. It is vital for leadership to acknowledge that these constraints will not be remediated with exemptions. The reality is clear. Leadership and management must make working conditions viable in order to meet compliance. The District's endeavors must not compromise the well-being and retention of its most valuable resource, and disconnect between management and providers must be eliminated.

As has been observed in other areas, the District is capable of meeting the most difficult challenges. Too many students are being denied FAPE, compromising systemic compliance. As court oversight ends, the District must now employ what it has learned to reform these challenging systemic problems.

## SUMMARY AND RECOMMENDATIONS

After 16 years of third-party federal court oversight, the District is in a much better position to identify and remediate noncompliance with special education laws and regulations. This report has highlighted many successes, challenges, and areas that require continued improvement and offered some lessons learned. The District has shown it is capable of reform and must continue and enhance its commitment to compliance.

The MCD, OIM, and Plaintiffs' Counsel were instrumental in improving the systemic capacity and accountability necessary to ensure substantial compliance. It is important to reflect on the role of the MCD, third-party oversight, and the Plaintiffs' Counsel as components that guide public school officials and hold them accountable. These entities have served as a vehicle for advocacy, invested only in seeing the LAUSD improve as an organization to better serve students and families. Their role is never personal, and while it entails criticism of school officials and departments, this impartiality is necessary when an organization lacks the capacity to hold itself accountable. This role requires objectivity and courage, and now lies solely with District officials. Maintaining progress and moving the organization forward will require such courage in the face of contention and reprisals. It is unknown whether the District can carry out these duties while remaining objective and transparent, and hold colleagues accountable for noncompliant behavior.

Third-party oversight was even more challenging due to the bureaucratic nature of a public organization of this size and scope. Many reform efforts required examination and changes of policies, procedures, and practices that at times had led to noncompliance and institutionalized in the system. The MCD and OIM's sound approach to monitoring through conducting research and obtaining feedback from the field has been instrumental in creating sustainable systemic change. Well-functioning new systems that did not exist previously are now in place, best practices have been developed and institutionalized, and promotion of SWD interests has become part of the culture in many departments.

Some of the best examples of the District's progress had a few things in common: Systemic problems and noncompliance were acknowledged and embraced by senior leadership, and remediation and solutions were prioritized at the highest levels of the organization. Actors addressed these issues with thoughtful and comprehensive remediation approaches, a sense of urgency, and proactive measures to prevent recurrence. Areas with minimal success were those that took too long to address and those met with resistance or denial. These efforts were often reactive and focused on fixing parts rather than the whole, which delayed solutions.

Technology such as Wellgent, MiSiS, and the Parent Portal provide tools to leverage transparency and accountability. These mechanisms are critical and should be valued, sustained, and continually improved. The use of these systems to guide and promote consistent and equitable practices must continue in order to ensure compliant organizational behavior.

Transparency, accountability, and relationships with families are key for progress. Advocacy is also a critical component to reform. Too few instances of advocacy by school officials were noted over the course of the MCD, and interviewed staff described a fear of reprisals for doing or recommending what is right. The DSE needs to lead by example and promote advocacy at all levels, as its primary goal is to ensure SWDs' needs are met. In addition, improved relationships with parents and families at IEP meetings is critical. The District's practice of suggesting parents use due process mechanisms to resolve

disputes is both counterproductive and costly. The District settles the majority of due process cases, whereby parents are granted the services and supports they believe are needed for their student. This only results in hostility and increased costs, and can be avoided.

The District must better manage resources by thoroughly examining systems and existing capacity. A system this large cannot do everything and must evaluate its priorities, placing the student and family needs first. Improvement in staff management is critical for retaining key staff members and preventing burnout. District solutions for remediating noncompliance often added to staff workloads. Staff, like the system as a whole, can only do so much. It must work smarter, establish systems to improve efficiencies, and identify non-priorities that can be eliminated in order to focus on meeting student needs.

Substantial compliance is largely a result of functional accountability systems. The District has struggled in this area; hence third-party oversight was mandated for 16 years. Accountability does not solely mean disciplining staff but also creating clear expectations of organizational behaviors, mechanisms for feedback and oversight, and training and capacity building. In such a large organization, success depends on approaches to problems that are proactive, healthy, aligned with policy and law, and always in the best interest of students. Substantial compliance is not a destination; it must be viewed as an ongoing requirement that must always be prioritized.

#### *Recommendations*

The following general recommendations are intended to help guide the District in sustaining and furthering progress.

1. Eliminate Outcome 13 exceptions that reduce IEP obligations for service delivery.
2. Examine the service delivery system and how services are prescribed. Focus on a model that can deliver what it promises—with transparency.
3. Continue service delivery reporting to parents of students who receive less than 70% of their prescribed services, via letters mailed home and on the Parent Portal.
4. Continue reporting service delivery rates to all parents via the Parent Portal.
5. Prohibit IEP teams from giving parents ultimatums when disputes arise.
6. Develop policy and training to improve SWD advocacy, including student self-advocacy.
7. Establish forums where parents can provide feedback and complaints on noncompliance without fear of reprisals, such as annual hearings and online or telephone surveys.
8. Develop an LRE framework to ensure equitable and consistent implementation of practices and supports.
9. Examine retention data of qualified special education teachers and related service providers to identify organizational issues that contribute to staff leaving the District.
10. Engage in thoughtful planning and readiness prior to opening or relocating programs. This should include instructional, health and safety, and program access needs.
11. Continue improving the complaint management system mechanisms for parents. Ensure lawful responses are based on the implementation of remedies, not assurances.
12. Ensure PALs programs and classes for students with moderate to severe disabilities have the proper changing tables, equipment, and supplies, including accessibility features such as grab bars in all bathrooms used by these classrooms.
13. Establish outreach mechanisms for the RAP program. This should occur at least twice a year, and through multiple modes of communications.

14. Continue to fund and ensure consistent implementation of CTC programs.
15. Continue to fund and sustain data systems including MiSiS, Welligent, and Parent Portal.
16. Continue to fund the implementation of the ADA Self-Evaluation and Transition Plan to reach full compliance.
17. Develop a public relations plan for sharing successes, as well as underutilized programmatic opportunities for SWDs, for the public and parents.