

***Office of the Independent Monitor***

Modified Consent Decree  
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February 4, 2009

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

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

**Re: Report on the Progress and Effectiveness of the Los Angeles Unified School District's Implementation of the Modified Consent Decree during the 2007-08 School Year – Part II**

Dear Mr. Cortines and Board of Education:

Section 13 of the Modified Consent Decree (MCD) requires the Independent Monitor (IM) to annually present a written report to the Superintendent and the Board of Education concerning the progress and effectiveness of the implementation of the terms and conditions of the MCD. This year the IM has chosen to submit the report in two parts. Part I submitted on October 1, 2008 reported on the District's performance on seven outcomes and three activities. Part II, this report, will address the status of the District's performance on the remaining three outcomes and two activities.

The outcomes of the MCD are statistically based. Each outcome has at least one data target that the District has to meet. It is the responsibility of the IM to determine if the target has been achieved. All targets within an outcome must be achieved before the IM can determine that the outcome has been met. For each target the parties agreed to the protocol that was used to analyze performance on the target. Much of the data used in the analyses are derived from District data sources. In all cases the data are validated. The appendix to this Report contains studies and other analyses the IM used to make determinations on the District's performance on the outcomes.

This Report makes determinations on the following outcomes:

- Outcome #2: Performance in the statewide assessment program
- Outcome #3: Graduation rate
- Outcome #4: Completion rate

The Report also updates the progress the District is making on Section 10 of the MCD regarding making facilities accessible to individuals with disabilities and implementation of the District's accountability plan.

In regards to Outcome 3 and the State's decision to eliminate the California High School Exit Examination (CAHSEE) exemption for students with disabilities (SWD) the IM decided to revise Outcome #3 and use the State of California methodology of

calculating the graduation rate for SWD. To determine a reasonable target percentage of students graduating with a diploma the IM considered whether to maintain a level playing field based on the District's performance in school year 2006-07. A level playing field would have resulted in a target of 37.89 %. However, since the method of calculation allows the District to improve its performance by increasing the number of students graduating and/or staying in school it was the IM's belief that a 5% increase was reasonable and within the District's reach. Therefore, a target of 39.79% is being used.

A summary of the District's performance on all eighteen outcomes is presented at the end of this report (Table 1).

**OUTCOME # 2: PERFORMANCE IN THE STATEWIDE ASSESSMENT PROGRAM**

- ◆ **Outcome:** By June 30, 2006, the percentage of students with disabilities in Grades 2-11 participating in the California Standards Test (CST) whose scores place them in the combined rankings of Basic, Proficient and Advanced will increase to at least 27.5% in English Language Arts and at least 30.2% in Mathematics.

California Standards Test (CST) Spring 2007

School Year	Proficiency Categories	# of Special Education Students	# of Special Education Students Ranked as Basic or Above	%
2007-08	English/Language Arts	51,995	13,050	25.1%
	Mathematics	49,599	12,552	25.3%
2006-07	English/Language Arts	51,904	11,531	22.2%
	Mathematics	49,639	11,242	22.7%
2005-06	English/Language Arts	53,707	10,709	19.9%
	Mathematics	50,826	10,258	20.2%
2004-05	English/Language Arts	56,926	11,596	20.4%
	Mathematics	54,784	10,605	19.4%
2003-04	English/Language Arts	57,597	10,276	17.8%
	Mathematics	54,827	10,032	18.3%

- ◆ **Data Source:** 2008 STAR testing file
  - Numerator includes SWD with performance levels of "basic," "proficient," and "advanced."
  - Denominator includes SWD with performance levels of "far below basic," "below basic," "basic," "proficient," and "advanced."

- ◆ **Discussion:** The District continues to demonstrate progress in the increase of the percentage of SWD achieving Basic and above on the CST (See Appendix A). Since the 2006-07 school year, the District has increased the percentage of SWD in the Basic or above categories by 5.2% (ELA) and 5.1% (Math). Although the District remains short of meeting these targets, if this progress continues the targets may be within reach during the 2008-09 school year.

Overall, the District has demonstrated progress in increasing the number and percentage of students with disabilities in the Basic and above performance categories. It is important to note that additional efforts such as improvements in instructional practices related to providing access to the general education setting, the implementation of supplemental instructional programs like the Voyager Passport program, and the decrease of out of school suspensions may have contributed to these gains. Furthermore, it may be reasonable to assume that continued efforts to improve student achievement will improve graduation rates and school completion.

- ◆ **Determination:** The District did not meet this outcome by June 30, 2008.

### OUTCOME # 3: GRADUATION RATE

- ◆ **Outcome:** The District shall increase the number of grade 12 students with disabilities that receive diplomas to 39.79% by 6/30/2008 using the State of California methodology for calculating the graduation rate for students with disabilities. If the State's diploma requirements change, the Independent Monitor shall meet with the parties to discuss the impact of the change and may revise this outcome if appropriate.

Graduation with Diploma				
School Year	Number of Leavers for Grade 12 SWD	Number of Leavers for Grade 12 SWD Receiving a Diploma	Number of Leavers for Grade 12 SWD Passing CAHSEE	% of Leavers for Grade 12 SWD Passing CAHSEE
2007-08	2,547	1,061	1,026	41.66%
2006-07	2,518	1,720	922	36.62%*
2005-06	2,614	1,635	896	34.28%*

\*Projected Graduation Rate

- ◆ **Data Source:** SIS/Welligent/Student Roster
  - Numerator includes grade 12 SWD receiving a diploma or passing the High School Proficiency Exam/GED for the 2007-08 school year.
  - Denominator includes grade 12 SWD enrolled December 1, 2007 excluding SWD who have left LAUSD to another California public school (L<sup>3</sup>), California nonpublic school (L<sup>4</sup>) or school outside of California (L<sup>5</sup>) after December 1, 2007. This measure calculates the percentage of all *exiting* students in grade twelve, and *exiting* ungraded students eighteen and over, who graduate from high school with a regular diploma.

- ◆ **Discussion**

This outcome aims to increase the number of SWD graduating with a high school diploma to no less than 39.79%. The target for this outcome is only related to the percentage of students which graduated with a diploma based on a cohort of 12<sup>th</sup> grade students with disabilities enrolled on December 1, 2007. This cohort was tracked by a Research and Planning division which collects data from schools and provided to the Office of the Independent Monitor (OIM). The OIM verifies these data which are used to determine the actual graduation count of the 2007-08 school year. During the 2007-08 school year, 41.66 % of SWD in the cohort met the state requirements to receive a diploma.

During October 2008, the OIM conducted a study (See Attachment B) to validate the accuracy of the District's graduation data for the entire population of 12<sup>th</sup> grade students with disabilities. This validation study consists of visiting all of the District's schools that reported graduation data for SWD enrolled on December 1, 2007, and reviewing various sources of data used by schools for reporting graduation data. This includes reviewing: student transcripts in the SIS and cumulative files, various data fields within the SIS, and counselor/administrator records used for tracking student's graduation requirements and issuance of a diploma. In addition, students that continued to have discrepancies within the data (i.e., graduation was reported however leave codes may not have matched and/or were missing CAHSEE scores), follow-up phone calls and data collection were conducted. This included requests for individual CAHSEE score reports and CAHSEE waiver and exemption forms.

The graduation validation study had two primary goals. The first was to determine the actual graduation rate of SWD within the District by conducting site verification of student outcomes; the second was to identify sources of error associated with the data as reported by schools. Overall, errors continued to be observed within the data systems and graduation data as reported by schools. These errors appear to be due to the following factors: multiple codes and fields within the SIS to document graduation and leaver data; lack of edits within these fields to prevent discrepant data; variations in the understanding and accurate data entry of graduation and leaver data and codes; and, data maintenance and timeliness of data updates.

These factors that contribute to the discrepant and inaccurate graduation and leaver data observed are exacerbated by one primary variable. In the LAUSD, the school rather than the District issues the diploma. This process coupled with the various data sources and fields for capturing graduation and leaver data, exposes the District to variations for issuing diplomas, certificates of completion and recording leaver data. These weaknesses within the process have been evidenced during the OIM validation study on a year-to-year basis, where students that had met the graduation requirements did not receive one, and vice versa. It has also become apparent that the District data systems lack the necessary edits and central office oversight to prevent the erroneous granting or omission of student diplomas. Furthermore, the reliance on a process where schools are the sole and primary issuer of a diploma limits the effectiveness of even the best data system. The District should consider establishing a uniform and centralized process that effectively verifies the necessary State and District requirements students must meet prior to issuing them a diploma. This process would also enable the District to provide and implement any necessary interventions and support for students needing additional course requirements and/ or CAHSEE test preparation.

- ◆ **Determination:** The District did meet this outcome by June 30, 2008.

### OUTCOME # 4: COMPLETION RATE

- ◆ **Outcome:** The District's completion rate shall increase based on an increase in the number of students who graduate with a diploma, receive a certificate of completion, or age out, as compared to the total number of students with disabilities who graduate with a diploma, receive a certificate of completion, age out, or drop out (grades 7-12).

Completion Rate

School Year	Number of Special Education Students Receiving Diplomas	Number of Special Education Students Receiving Certificates of Completion	Number of Special Education Students Who Aged Out	Number of Special Education Students Grade 7-12 that Dropped Out	% of Completion
2007-08	1,061	754	15	1,654	52.5%
2006-07	1,720	419	9	1,354	61.3%
2005-06	1,636	364	11	988	67.1%
2004-05	1,974*	350*	177*	778*	76.3%*
2003-04	Data not available	Data not available	Data not available	Data not available	Data not available

Source: \*District Reported

- ◆ **Data Source:** SIS/Welligent/Student Roster
  - Numerator includes SWD with diplomas (from Outcome 3) plus students with Certificates of Completion or aging out.
  - Denominator includes all SWD in the numerator plus students grades 7 through 12 dropping out the 2007-08 school year.

- ◆ **Discussion**

This outcome aims to increase the number of students with disabilities that complete high school with a diploma, receive a certificate of completion or age out. The outcome aims to reduce the number of students that drop out in grades 7-12. Since this outcome does not have a specific numeric target that the District must meet, the District's performance is measured by an increase in the rate of SWD that graduate with a diploma, receive a certificate of completion, or age out from the baseline year of 2004-05.

As noted in the table above, the District continues to demonstrate a decrease in the completion rate of students for disabilities since the 2004-05 school year. Although this may be largely attributed to the improvement in the quality of graduation and drop out data from year-to-year, it seems that the 2007-08 decrease may be a result of the impact of the full implementation of the CAHSEE. Prior to the 2007-08 school year, CAHSEE exemptions were available for students with disabilities that had taken and failed one or both portions of the exam. This exemption was no longer available for SWD that graduated after December 31, 2007.

The substantial decrease noted during the 2007-08 school year may be an indication of the challenges the District must address to maintain students with disabilities in school as well as to meet the requirement of this outcome. As the District continues to meet more outcomes of the MCD, it is imperative that it continues to expend efforts and resources to engage students and families to complete school. Lastly, it is important to note that although Outcome 3 has been met, the District will need to continue to expend all necessary efforts to maintain and increase the number of SWD that graduate with a diploma as these students will contribute to the necessary improvements required to meet this outcome.

- ◆ **Determination:** The District did not meet this outcome by June 30, 2008

## MAKING SCHOOLS ACCESSIBLE (UPDATE)

### *Introduction*

Section 10 of the MCD requires that:

- All new construction and renovation or repairs by the District shall comply with Section 504 and the American with Disabilities Act (ADA).
- The District shall enter into binding commitments to expend at least \$67.5 million dollars on accessibility renovations or repairs to existing school sites consistent with Section 504 and ADA.
- The District shall establish a unit to address “on-demand” requests related to accessibility. The District shall expend up to \$20 million dollars for task orders related to requests for program accessibility.

In the October 1, 2008 report on the progress and effectiveness of the Modified Consent Decree, a status report was included on the initial phase one schools that had been inspected as part of stipulation agreement entered by the District and plaintiffs. Since, the District completed and submitted the remaining findings of phase two and phase three schools.

To comply with the requirements of the MCD to verify the accuracy of the District’s data and to ensure that all new schools meet compliance with applicable federal and state codes, a sample of phase two and phase three schools were reviewed to determine if the inspection process appeared to be adequately identifying compliant or non-compliant work. These reviews are not considered thorough inspections, and were spot checks or walk-through to determine if the overall process was appropriately identifying non-compliant findings.

Overall, the review of the sample of schools found the independent inspections to be adequate. Consistent with the phase one school inspections reviewed, the phase two and phase three independent inspections found non-compliance in all schools surveyed. In addition, our site reviews generally agreed with the findings, and found areas of over and under identification of non-compliant findings. The inspections also found some significant non-compliant findings missed by the phase two and phase three surveys.

In the Part I Report, the IM recommended that the District develop a process to identify over-identified items and validate the survey findings prior to developing corrective action plans. Since, the District has been fully engaged in the validation of such surveys and developing processes to address the systemic weaknesses that permitted such non-compliant work at new schools. Part of these efforts have included participating in the site reviews of the sample of phase two and phase three schools with the OIM and Disability Access Consultants. These interactions have demonstrated the initiative and willingness by the District’s leadership to work collaboratively and build the District’s capacity for complying with the federal and state requirements associated with access compliance. As a result of these site reviews and various interactions with the District, the IM is encouraged by the progress and commitment to improving access compliance at new schools.

Overall, it appears that the intent of the stipulation has resulted in an increase in the understanding and capacity of the District to identify areas of non-compliance that are barriers for students with disabilities to access programs and services within their facilities. In addition, the District has developed an accountability plan that incorporates the multiple systemic mechanisms such as design, construction, and inspections, necessary to prevent such failures in the future. Lastly, the District has been engaged in discussions with Division of State Architecture to better improve such mechanisms.

Finally, the District has not submitted any additional projects associated with the \$67.5M and \$20M obligations of the MCD. Although the District was not required to submit any projects, it is the IM’s hope and expectation that the leadership of the District’s existing schools personnel proceed with same openness and willingness that has proven effective with the new school unit.

### ACCOUNTABILITY

A primary focus of the MCD and the targeted strategy plans associated with individual outcomes are the processes in place to ensure accountability of the schools and District’s performance. This focus is consistent with the intent of the MCD which

promotes building internal organizational capacity to improve the educational programs for students with disabilities. Furthermore, as the District continues to progress toward meeting the remaining requirements of the MCD, it is essential that these accountability mechanisms not only be in place but fully functional to ensure and promote this progress beyond the days of the MCD.

Concerns over the lack of evidence of accountability necessary to promote the reform efforts of MCD have been well documented. As a result, the IM directed the District to include the outcomes of the MCD within the performance evaluations of District administrators including: the Superintendent of schools; local district superintendents; local district directors; and principals. In February, 2007, the District developed an accountability plan outlining specific action steps including the inclusion of the MCD within performance evaluations. The District has expanded these efforts to include accountability plans in the areas of facilities and the Integrated Student Information System. Although these efforts represent an initial level of progress, evidence of true accountability has been limited despite some noted improvement.

In July 2006, the OIM reviewed the performance evaluations of 445 principals completed for the 2005-06 school year, and found mention of the MCD in 33 evaluations with only 10 including a recommendation to address the outcomes of the MCD and/or special education. For the 2006-07 school year, of the 394 performance evaluations of school principals conducted, 144 (37%) included a reference to the MCD and 82 (21%) included recommendations or assistance.

During the 2007-08 school year, 387 performance evaluations of school principals were completed. Of these, 220 (57%) made reference to the MCD and/or special education and 105 (27%) included a recommendation. Of these, 22 included references of needed assistance, while 4 contained a negative/perceived negative comment of performance in the area of special education. In addition, there were 19 evaluations conducted for schools on the targeted schools list for Outcome 5: Suspension. While all included a comment that referenced this Outcome only one included a negative/perceived negative comment. In addition, 18 performance evaluations of local district directors were reviewed. Of these, five contained a reference to the MCD and/or special education, one included a recommendation, and three commended the director for improved performance in the area of the MCD.

Although there has been a considerable increase in the inclusion of the MCD within the principal and director performance evaluations, the majority included broad and vague comments and recommendations. Ultimately, it is incumbent on the District to continue to hold school personnel accountable. Despite an increase in the evidence of comments in the performance evaluations of principals reviewed, there continue to be numerous schools not meeting specific outcomes of the MCD with minimal evidence of concrete recommendations and/or consequences.

## CONCLUSION

To date the District has met a total of twelve of the eighteen outcomes. Of the remaining six (note that Outcome 7 has two distinct parts, thus there are a total of seven outcomes to yet be met) it has made significant progress on most and is close to meeting some. Outcome 4 is the only one where the District's performance continues to decline. Therefore, the MCD continues to be in force.

The District has made great progress since the inception of the MCD and is close to successfully achieving it. More importantly, the District has made systemic improvements that have benefited all students, for example suspensions are dramatically down and performance on state wide assessments and graduation rates are up. As David Riley, Director of the Urban Special Education Leadership Collaborative in a recent article about the LAUSD MCD noted "there is a way in which a class-action lawsuit may be a catalyst for positive systemic change". The IM recognizes that these are difficult times financially and appreciates the Superintendent's commitment to protect the resources necessary to ensure compliance with special education laws and the MCD. The OIM will continue to work with the District to ensure that resources are used effectively and efficiently.

Three provisions of the MCD are worth reiterating at this time:

First, for outcomes that were met by June 30, 2006, the IM is required to continue to monitor the District's performance until all outcomes are met. Thus it is expected that the District will maintain or improve its performance on these outcomes.

Second, the IM is required to issue periodic reports on progress in meeting the outcomes. As data becomes available, the IM will report on the District's performance on specific outcomes. These reports will contain, when appropriate, the schools that are not making adequate progress and the individuals responsible.

Third, the MCD authorizes the IM to increase the outcome measure in the event that an outcome is not achieved by June 30, 2006 and that its achievement will be delayed by more than six months. The District should be aware of this possibility.

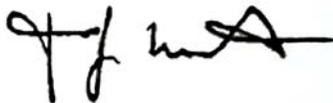
#### ACKNOWLEDGEMENTS

The IM commends both the District and Plaintiffs for the constructive and positive manner in which they have worked together in the process of implementing the MCD. It is not to be expected in an undertaking so broad and significant that there is always agreement. However the parties have consistently demonstrated both the desire and ability to reach appropriate resolutions.

While all outcomes have not been met, the IM wishes to commend the many individuals in the District who worked diligently to achieve the outcomes that have been met and the progress that has been made in others.

Recognition must also be given to the staff of the OIM, the graduate assistants, consultants and researchers who diligently gather and analyze data and review documents to ensure the validity of our determinations. Their professionalism and dedication is greatly appreciated.

Sincerely,



Frederick J. Weintraub

c: Hon. Judge Ronald Lew, Robert Myers, Catherine Blakemore, Roberta Fesler,  
Donnalyn Jaque-Antón, Diane Pappas, Deneen Cox, Brigitte Ammons, Thomas Hehir

## Summary of Final Determination of the Modified Consent Decree Outcomes

#	Outcome	Status	Outcome Target	Outcome Met	
1	Participation in the (STAR) Statewide Assessment Program (without modifications)	ELA/Math	85.2%	75%	Yes 6/30/06
		Comparable to Non-Disabled	95.0%	95%	
2	Performance in the (STAR) Statewide Assessment Program (at basic or above)	ELA	25.1%	27.5%	No
		Math	25.3%	30.2%	
3	Increase Graduation Rate	41.66%	39.79%	Yes 6/30/08	
4	Increase Completion Rate/Reduce Drop Out	52.5%	76.3%	No	
5	Reduce Suspensions of Student with Disabilities	8.93%	8.6	No	
6	Increase Placement of Students with Specific Learning Disabilities (SLD) and Speech and Language Impairment (SLI) in the Least Restrictive Environment	73.7%	73%	Yes 6/30/06	
7A	Increase Placement of Students with All Other Disabilities in the Least Restrictive Environment	46.96%	51%	No	
7B	Increase Placement of Students with the Disability of MDO in the Least Restrictive Environment	10.30%	23%	No	
8a	Increase Home School Placement: SLI/SLD	92.7%	92.9%	Yes By Stipulation of the Parties 9/16/08	
8b	Increase Home School Placement: All Other Disabilities	Grade K	59.1%		65%
		Grade 6	65.0%		65%
		Grade 9	60.0%		60%
8c	Increase Home School Placement: All Other Disabilities	Grades 1-5	58.8%		62.0%
		Grades 7-8	60.3%		55.2%
		Grades 10-PG	41.4%	36.4%	
9	Individual Transition Plan in IEP (14 years and above)	99.8%	98%	Yes 6/30/06	
10	Timely Completion of Initial Special Education Evaluations	60 Days	90%	90%	Yes 6/30/08
		75 Days	96%	95%	
		90 Days	98%	98%	
11	Response Time to Parent Complaints	5 Days	54%	25%	Yes 6/30/06
		10 Days	82%	50%	
		20 Days	97%	75%	
		30 Days	99.9%	90%	
12	Informal Dispute Resolution Prior to Formal Due Process (within 20 days)	77%	60%	Yes 6/30/06	

Summary of Final Determination of the Modified Consent Decree Outcomes

#	Outcome		Status	Outcome Target	Outcome Met
13a	Delivery of Special Education Services	SLD Only	93%	93%	No
		Other Disabilities	92%	93%	
13b	Delivery of Special Education Services	Frequency (# of times)	76%	85%	
		Duration (length)	72%	85%	
14a	Increased Parent Participation (Attendance at IEP Meetings)	Attendance	82%	75%	Yes 2/1/08
14b	Increased Parent Participation (Attempts to convince parent to attend IEP)	Sufficient Attempts	96%	95%	
15	Timely Completion of IEP Translations	30 Days	96%	85%	Yes 6/30/07
		45 Days	99%	95%	
		60 Days	99%	98%	
16	Increase in Qualified Special Education		87.9%	88%	Yes 7/15/08 Not disengaged
17	IEP Team Consideration of Behavior Support Plans for Autistic and Emotionally Disturbed Students	Autism	61%	40%	Yes 6/30/06
		ED	97%	72%	
18	Comprehensive Evaluation of African American Students Identified as Emotionally Disturbed	% Meeting Criteria	70%	90%	No