

***Office of the Independent Monitor***  
 Modified Consent Decree  
 333 S. Beaudry Avenue, 18<sup>th</sup> Floor  
 Los Angeles, California 90017  
 Tel: (213) 241-1797  
 Fax: (213) 241-7551

DAVID ROSTETTER  
*Independent Monitor*

JAY R. ALLEMAN  
*Chief Analyst*

JAIME E. HERNANDEZ  
*Research Director*

March 22, 2016

Deneen Evans Cox  
 Associate General Counsel 1  
 Los Angeles Unified School District  
 333 S. Beaudry Avenue, 20<sup>th</sup> Floor  
 Los Angeles, CA 90017

**Re: IEP Complaint Investigation Corrective Action Feedback**

Dear Ms. Evans-Cox:

On August 5, 2015, the Independent Monitor (IM) issued a report with findings of the IEP Complaint Investigation and corrective actions to be taken by the District to cease and remedy noncompliant behavior. While the IM report directed the corrective actions to be implemented by August 31, 2016, the District's response included dates of completion for each corrective action.

This letter provides feedback on the recently submitted corrective actions 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11. Some of these items will require additional discussion and resubmittal. Some of the corrective actions and the actions to be taken by the District have been summarized.

*2. Review policies and procedures to ensure alignment with state and federal regulations and consistency between bulletins and reference guides. Clarify and emphasize the IEP teams' authority in the decision-making processes during IEP meetings.*

**Action:** The District will revise Bulletin 5901.3.

**District Timeline:** November 20, 2015

**Status:** Complete

On January 26, 2016, the District submitted a draft of Bulletin 5901.4—Determining the Appropriate Placement for Students with Disabilities in the Least Restrictive Environment (LRE). This bulletin addresses some or all of the items for corrective actions 2, 3, 4, 8, and 9.

Bulletin 5901.4 clearly emphasizes this authority. The District has stated that this bulletin will replace other related policies. In January 2016, the OIM requested a list of bulletins that would be replaced to ensure that this corrective action has been met. The District noted it would provide such a list but has yet to do.

*3. The District must develop an IEP process that ensures placement is based on IEP team consensus. This includes establishing a standard for how meetings are conducted that aligns with the Welligent IEP system, which promotes a decision-making process that establishes goals, objectives, supports, and services prior to the program placement.*

**Action:** The District will revise Bulletin 5901.3 and edit the sequence of IEP process in the Welligent system.

**District Timeline:** June 30, 2016

**Status:** Partially complete

Bulletin 5901.4 addresses the sequence of the IEP process, which ensures placement is determined after IEP teams establish goals, objectives, supports, and services. The edits to the Welligent system will be completed by June 30, 2016.

*4. The District must issue a bulletin on the use of draft IEPs, which includes a prohibition against inputting program placement information prior to an IEP meeting. The Welligent system must be revised to include a pop-up message indicating that program placement information cannot be input prior to the IEP meeting.*

**Action:** The District will revise Bulletin 5901.3 and edits the Welligent system to prevent program placement information from being selected prior to the IEP meeting.

**District Timeline:** June 30, 2016

**Status:** Partially complete

Bulletin 5901.4 clearly states that draft IEPs cannot contain program placement information; this can be determined only at the IEP meeting and after the IEP team meeting sequence listed in the bulletin. The edits to the Welligent system will be completed by June 30, 2016.

*5. The District must prepare a statement to be read and made available at every IEP meeting. The statement must be read at all meetings regardless of parent attendance. Agreement that the statement has been read must be documented via a checkbox in the Welligent system before the IEP meeting can proceed. The statement must also be posted online and included in the Parent's Guide to Special Education Services booklet.*

**Action:** The District will include the statement in the *Parent's Guide* booklet, post it on the Division of Special Education website, include it in the *Special Education Policies and Procedures Manual*, and include a checkbox in the Welligent system that must be checked after the statement is read prior to the meeting.

**District Timeline:** October 1, 2015 (post on website), April 1, 2016 (include in *Parent's Guide and Policies and Procedures* booklet), and June 30, 2016 (update Welligent)

**Status:** Partially complete

The District began requiring the reading of this statement at IEP meetings in November 2015. The statement created includes six of the seven bullets identified in the IEP Complaint Investigation report. It contends that one bullet stating that the "IEP will continue until it is

complete, unless all members agree to an extension,” potentially violates collective bargaining agreements. However, the District has addressed this concern by eliminating the practice of schools recessing IEPs and now only allows recesses to be initiated by parents or in cases of emergencies.

*6. The District must develop a comprehensive list and description of program options including delivery models for the provision of related services. It must be part of the Welligent system, posted on the District website, and made available at IEP meetings.*

**Action:** The District will develop a comprehensive list of program options and delivery models for inclusion on its website and in the *Parent’s Guide* booklet.

**District Timeline:** December 1, 2015 (post on website) and April 1, 2016 (include in *Parent’s Guide*)

**Status:** Partially complete

On January 11, 2016, the District provided the *Comprehensive List of Programs, Supports and Services* document. In a February 2016 meeting with the Office of the Independent Monitor (OIM), the District noted that the list of programs, supports, and services included those identified in the education code. Although the list covers the majority of services in the education code, the District also must include the following:

- CCR 3043—Extended School Year
- CCR 3051.17—Services for Students with Chronic Illnesses or Acute Health Problems
- CCR 3051.23—Behavioral Intervention
- EC 41850(d) —Transportation

*7. The District must address the caseload procedures to reflect workload throughout the year. In the allocation of personnel, the District shall consider the following factors for determining assignments of all providers (including resource specialist programs and related service providers, such as per diem personnel): caseload, workload, program types (preschool, elementary, and secondary schools), and service models. This includes consideration of alternative delivery models that are more efficient and equally effective.*

**Action:** The District will complete a staffing formula for each related service and RSP, taking into consideration extenuating factors that might occur for the provision of services to individual services (i.e., age of student, school configurations, etc.).

**District Timeline:** February 19, 2016

**Status:** Partially complete

On February 19, 2016, the District provided an email with two documents with staffing formulas for psychological service and related service providers. The email contained an explanation of the staffing information for determining RSP caseloads.

The documents contain information on the activities required to meet the needs of schools and students, apply a unit of work to each activity, and define the length of time required to complete (hours, weeks per year, and cumulative hours per year).

The documents begin to present a picture of the District's needs, such as identifying the number of full-time equivalent (FTE) positions needed, and what appears to be an average number of students on a provider's caseload; however, they lack necessary information on the District's current staffing levels.

This corrective action, as well as directives in past annual reports, aimed at having the District conduct a comprehensive analysis of its caseload and workload demands and current staffing levels and practices. The documents provided appear to contain some workload factors for the overall District, but they do not sufficiently examine the problem. For example, for Speech and Language providers, the document identifies 522.842 FTE needed to meet the total hours to complete all service-related tasks, but it does not contain information on the total number of FTEs employed and those on leave, or the number of District personnel compared to per diems. An effective analysis should contain median and mode information, particularly by local district and for District and per diem providers. It should similarly examine the number of schools assigned to providers.

*8. The District must eliminate barriers and obstacles for the IEP team's placement determination. When considering NPS placement, the District must first conduct any necessary evaluations prior to the IEP meeting. The IEP team must determine that the child's identified needs can be met by a District service or whether another placement is required. If NPS placement is supported by such evaluation, then the placement must be implemented, and no further evaluation should be required.*

**Action:** The District will revise Bulletin 5901.3 to notify IEP teams that necessary evaluations must be conducted prior to IEP meetings when considering NPS placement.

**District Timeline:** None provided

**Status:** Complete

Bulletin 5901.4 clearly states that if NPS placement is to be considered, the placement determination must be supported by the necessary evaluations that must occur prior to the IEP meeting.

*9. The District must 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.*

**Action:** The District will revise Bulletin 5901.3 to clarify the procedures for recessing IEP meetings.

**District Timeline:** None provided

**Status:** Complete

Bulletin 5901.4 clarifies procedures for recessing IEP meetings, limiting the reasons for recessing meetings to those initiated by parents and in case of an emergency, such as a school lockdown.

*10. The District must ensure that whenever it initiates or refuses an evaluation, change in placement, or provision of FAPE, it must provide notice to the parent. Whenever the operations unit receives notice to look for a change in placement, parents must be notified.*

**Action:** The District will revise applicable bulletins.

**District Timeline:** November 20, 2015

**Status:** Not complete

The District has not provided any evidence of these revised bulletins. Bulletin 5901.4 does not address this corrective action.

*11. The District must conduct an analysis to examine how the social–emotional needs of students with intellectual disabilities (ID) are being supported. This must include a review of data, policies, procedures, and practices for the provision of behavior supports, counseling, and other related supports.*

**Action:** The District will conduct a comprehensive review of all items noted above and will report its findings and make any necessary changes to its policies, procedures, and practices for supporting students with ID.

**District Timeline:** January 15, 2016

**Status:** Not complete

On February 19, 2016, the District provided a brief email explanation of its review of documents that did not discover any specific eligibility required for receipt of ERICS or counseling services. Also attached were data tables with information of students' receiving these services by eligibility.

This response does not constitute a comprehensive review of all items the District agreed to include in its analysis. Furthermore, its sole finding was clearly noted in the original OIM IEP Complaint Investigation report, which stated that policies do not prohibit students with specific eligibilities from receiving these services.

The IEP Complaint Investigation report highlighted the misperceptions and lack of knowledge of the school psychologist and administrative designee regarding the provision of counseling services to students with ID. The corrective action required the District to examine whether certain practices contribute to the low rate of students with ID receiving these services. A comprehensive review should include a review of a sample of student IEPs with and without behavioral support, sample of staff interviews, to see whether teams are adequately meeting these students' needs.

### Summary

This letter summarizes the District's efforts to comply with 10 of the 12 corrective actions of the August 5, 2015, IEP Complaint Investigation report. The District provided several documents on separate occasions regarding corrective action 1. However, feedback will not be provided on this corrective action until the completion of the OIM's study of the complaint management process

to be conducted this spring. The last corrective action addresses professional development for which the District requested an extension through August 31, 2016. This request was granted, and feedback will be provided upon receipt and review of related materials by the OIM.

The District has made some progress on the 12 corrective actions associated with the IEP complaint investigation. It must address the areas of concerns highlighted in this letter. It is the IM's expectation that the District complete comprehensive reviews of the areas it identified and communicate with the OIM on anticipated timelines for completion.

Sincerely,

A handwritten signature in black ink, appearing to read "David Rostetter". The signature is fluid and cursive, with a prominent loop at the end.

David Rostetter, Ed.D.  
Independent Monitor

C: Sharyn Howell, Michelle King, David Holmquist, Beth Kauffman, Veronica Smith