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Modified Consent Decree
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Deneen Evans Cox
Associate General Counsel 1
Los Angeles Unified School District
333 S. Beaudry Avenue, 20th Floor
Los Angeles, CA 90017

Re: ADA Site Visits – 10/13/2016 and 10/14/2016

Dear Ms. Evans Cox:

I would like to thank you for the opportunity to meet and hold joint site visits on October 13 and 14. I found these days to be productive and a step toward understanding and reaching agreement on some issues related to the District's new approach for complying with the American with Disabilities Act (ADA). This letter is intended to memorialize some of my expectations and concerns expressed during these two days, and outline next steps. It will also address some of the issues included in your September 22 letter.

At the meeting prior to our joint site visits, I conveyed some of the following expectations regarding the District's categorization approach. I am also including additional concerns and expectations to guide your next steps:

- Comprehensive surveys will be carried out at all sites (groups 1-3). These findings will be the basis for determining barrier removal prioritization.
- Any renovation and new construction must yield readily accessible conditions and meet all applicable codes. The ADA specifically states an intent not to apply lesser standards than are required under other federal, state, or local laws; therefore, the law which is the most stringent has precedence.
- Any access compliance work done previously must be surveyed to determine if it met applicable code at the time, and if not, these conditions must be corrected to meet the most current code.
- All projects must include DSA close out and certification on previously done work (if applicable).
- All projects must have DSA close out and certification to be considered complete.

Next Steps:

During the site visit, it was agreed upon that the District would revise the scopes of work (SOW) at three of the schools visited: Short Avenue Elementary, 153rd Street Elementary, and El Sereno Middle

School. The purpose of the revised SOW is to identify the category (group 2 or 3) of each site and illustrate the required work to achieve the designated group. The District is to provide the Office of the Independent Monitor (OIM) a timeframe for completing the revised scopes.

The OIM is concerned with the limited scope of the current projects at the 20 sites, as well as the succeeding projects that are in the design and survey phase. Until the criteria of the groups is established and agreed to, the OIM is concerned that these projects will lead to a piecemeal approach that will increase the costs of these projects due to multiple designs and fees. Furthermore, this might lead to situations where the SOWs result in conditions that meet different standards. For example, several areas along the accessible route may meet the 1991 standard, while the restrooms meet the 2010 standard. The OIM is also concerned that this will lead to repetitive renovations at the same building.

The path of travel (POT) is a common component of work for all groups. Given the importance of the POT, as guidance, I am including language from the 2004 San Francisco settlement agreement which defined this requirement as a “continuous unobstructed way of pedestrian passage by means of which an altered area may be approached, entered and exited, and which connects the altered area with an exterior approach (including sidewalks, streets and parking areas), an entrance to the facility, and other parts of the facility.”

The District’s September 22, 2016 letter notes that the “high-level survey of all schools, revise approach to site surveys, develop criteria for categorization, and obtain Superintendent approval of revised 10-year plan” will be completed by May 31, 2017. Although this timeframe appears reasonable, it is unclear how the District is proceeding with surveys and construction at sites prior to the completion of this effort. One of the assurances of the categorization approach is that decisions for selecting sites for barrier removal would be based on the identification of unique programs and needs across the District. While the District is encouraged to address its longstanding noncompliance with the ADA as rapidly as possible, site selection of schools for barrier removal projects prior to completion of the effort described above seems contrary to the categorization approach.

The District has noted that the Division of State Architect (DSA) allows SOW with various elements selected for renovation that may not require or trigger the renovation of related items during the barrier removal project that would be otherwise required if these areas were part of a larger or modernization effort. Although the DSA might have the authority to exempt items from a scope of work, the IM does not. The IM expects that scopes of work, whether considered “voluntary” barrier removal or not, address program accessibility as intended by the ADA. In addition, the District should provide any exemptions authorized by DSA in writing.

During the site visits, the District noted that staff parking would not be included in the surveys and barrier removal SOWs (unless a reasonable accommodation had been requested), since this was a Title I requirement. The 2013 California Building Standards, as stated in the Chapter 11B sections for scoping and technical requirements for accessible parking, have no provisions to support the District’s claim that they do not have to provide a compliant accessible faculty parking lot until an employee asks for a Title I accommodation.

Last, the OIM envisions a two phase public input process with the first phase occurring after the design of districtwide approach. Phase two would obtain public input on the actual transition plan as completed.

Additional steps:

- Please provide a flowchart of the barrier removal process from beginning to end, beginning at the selection of the site, survey to design, ending at DSA closeout.
- The process used for determining programs at a site.
- Please provide copies of surveys for all projects completed between the submittal of the 20 received, to date.
- Operationalized definition of “some” and “adequate” number of drinking fountains and bathrooms.

I look forward to the additional next steps and review of the revised scopes. I recognize the effort and quick timeframe for implementing this effort. Please feel free to contact me if I can be of any assistance.

Sincerely,



David Rostetter, Ed.D.
Independent Monitor

C: Michelle King, Robert Newman, David Holmquist, Mark Hovatter, Beth Kauffman