

Office of the Independent Monitor
Modified Consent Decree
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Beth Kauffman
Associate Superintendent
Division of Special Education
Los Angeles Unified School District
333 S. Beaudry Avenue, 17th Floor
Los Angeles, CA 90017

Re: District's Complaint Management System and CRU

Dear Ms. Kaufman:

On October 5, 2016, the Office of the Independent Monitor (OIM) submitted its report on the *Study of the District's Complaint Management System: School and Family Support Services (SFSS), and Complaint Response Unit (CRU)*. The report presented recommendations intended to guide the continued improvement of the District's Complaint Management System and CRU.

In June 2016, the District provided its first of two responses to the 2016 study. On July 14, 2017, the District provided Part II of its response. This letter addresses the most salient issues raised in both Part I and Part II. In its first response, the District noted that it will require a multiple-part response to address the "OIM's observations, findings and recommendations contained in the 2016 study." It is unknown if any additional responses are to be provided.

Overall, the District has not satisfactorily addressed the issues raised in the OIM study or presented a viable staffing plan pursuant to the Modified Consent Decree (MCD). Several issues, such as the lack of a staffing plan and problems with the implementation of processes for recording and processing complaints, have persisted over much of this MCD.

MCD Requirements

The MCD includes two requirements to address and resolve parent complaints in a timely manner and the establishment of a complaint management system. Outcome 11, Complaint Response Time, requires the District to provide a lawful response, within specific timelines, to parents who file a complaint. This outcome is the performance measure that aims to facilitate parents in resolving complaints. Section 9, CRU (paragraphs 71-75), outlines the District's requirements for the CRU's establishment and the development of its operational procedures. Some of the requirements include (section 9, paragraph 74):

- The District must establish the CRU that gives the District an opportunity to resolve parent complaints without the need for parents to resort to external complaint and due process mechanisms.
- The CRU must accurately record all parent inquiries and complaints and the District's response thereto and provide complete and accurate information to parents who contact it.

- The District must ensure that information materials inform parents of the availability of the CRU.
- The District must establish procedures and protocols for the processing of complaints, which must be approved by the IM.
- The District must establish procedures and protocols for the retention of data concerning complaint filings and dispositions, which must be approved by the IM.
- The District shall prepare a staffing plan for the Complaint Response Unit with adequate capacity to timely respond to complaints in the seven primary languages of the District. The staffing plan shall be approved by the Independent Monitor.

LAUSD Response to October 5, 2016, Office of the Independent Monitor Study of the District's Complaint Management System: School and Family Support Services (SFSS), and Complaint Response Unit (CRU) – Part I (submitted June 2016)

Part I refers and responds to recommendations to both the OIM's 2013 and 2016 studies of the CRU and District's Complaint Management System. The document includes the definition of a "complaint" as written in the MCD, which states:

"Complaint" means the allegation of a perceived violation of (1) the Individuals with Disabilities Education Act and implementing regulations; (2) the California State Education Code related to special education and implementing regulations; or (3) the District's Special Education Compliance Guide.

The District directly responded to two findings from the 2016 study as noted below.

Monitor Statement No. 1 (p. iv):

Several weaknesses were noted, primarily the two-tier process for identifying call types – one at the opening and once at the closing of a call.

SFSS's Analysis:

The District has created a two-tier process of identifying calls types – one at the intake and one at the closing of a call as a result of the 2013 (OIM) study (pp. 20-21):

1. Establish and implement a uniform intake within the database that collects pertinent information regarding a parent's inquiry, concern or complaint.
2. Establish protocols for identifying the complaint in relation to an alleged violation of special education law, education code or District policy.
3. Establish a system that categorizes and prioritizes calls in a meaningful way for all parties who receive, investigate and respond to complaint.

Monitor Statement No. 2 (p. iv)

CRU cases demonstrated higher rates of complaint calls and better identification of these calls. SFSS call center cases considerably underidentified complaints, with staff reporting recategorizing complaint calls as concerns or inquiries when resolutions were quickly applied.

SFSS Analysis:

Call center reports from July 20, 2015 to December 15, 2015 show that the CRU answered approximately 711 calls and SFSS Call Center answered 10,039 calls. CRU staff identified 323 (45%) of these calls as alleged "complaints" at the time of the intake. After Special Education Specialists (Credentialed Administrator) concluded the investigations, only 64/711 (9%) of the CRU calls were valid complaints at the closing of the call. Although

CRU inaccurately labeled 259 (36% of cases) cases, the SFSS “checks and balances,” procedures, and training provided to specialists resulted in accurate investigation and resolution of cases. As compared to the SFSS Call Center staff, 91 of the 10,039 (0.9%) of the calls were identified as complaints at the time of intake, but only 17 calls or 0.16% resulted in “valid” complaints or violation of law/mandates. It is important to note that both the CRU and Call Center staff were trained together utilizing the same training materials.

Both of the OIM statements refer to the same problem with the District’s practice of “checks and balances,” which result in the misidentification and miscategorization of calls and complaints.

Some calls were changed from the original designation of a “complaint” to a “concern” or “inquiry,” if the violation was quickly remedied and the case was resolved. This leads to the failure to adhere to the CRU/SFSS *Policies and Procedures Manual* for processing calls, as well as the processes pursuant to the MCD that require calls that “allege violations” of federal or state special education laws or regulations, and/or District Special Education Policy to be investigated and followed up with a lawful response.

Despite the inclusion of the correct language as written in the MCD, the District’s response shows a fundamental misunderstanding and misapplication of the “complaint” definition that clearly delineates an “alleged” violation, and not one found to be “valid.” Furthermore, it is unknown how the District still supports this position given the acknowledgment and agreement by all participants interviewed, including the SFSS Director, that this two-tiered process was incorrectly recategorizing calls.

The following excerpts from the OIM’s 2016 study highlight the causal negative effect that the practice of recategorizing calls has on ensuring calls are investigated properly and issued a corresponding lawful response.

The fundamental misunderstanding of the four lawful responses as specified in the MCD undermines the process for categorizing, investigating, and responding to parent calls. By definition, a complaint is an allegation of a perceived violation and should yield an investigation and response pursuant to the MCD. This includes providing lawful responses for perceived violations that were investigated and deemed unfounded. This misunderstanding has also led to the re-categorization of calls, which in turn reduces the number of complaints recorded, obscuring the true number of complaints received and responded to. (p. 28)

However, oversight of lawful response data and letters requires improvement. The District provided 68 letters that matched students in the sample, yet the District had 79 complaint cases identified while the OIM identified 448 complaint cases. The OIM found 118 cases that contained notes that invalidated parents’ claims of a perceived violation and coded these calls as complaints unfounded. SFSS staff (except the director) were unaware of this option, which was reflected in the lack of calls closed as a complaint unfounded and use of this corresponding lawful response type. Similarly, lawful response letters did not utilize the options of providing parents an appropriate referral or a suggested action as a method for fulfilling its legal obligation. (p. 60)

Lastly, the IM noted that the data reported by the District to determine compliance with Outcome 11 are invalid due to the underreporting of calls received by parents as complaints. The District refuted this assertion pointing out that all calls regardless of categorization (inquiry, concern, complaint)

were closed within the Outcome 11 timelines. The MCD calls for the accurate recording of parent calls and complaints, and the accurate retention of data. It is unclear why the District does not want to report on accurate data, regardless of the timelines required to resolve cases. The accurate reporting of data and resolution of cases that “allege” a violation of federal and state special education laws, and/or District policies, should be the paramount priority.

The District’s responses do not adequately address the root of the problem that the recategorization of calls at the resolution phases causes. It rather defends the practice, which is inconsistent and contrary to the District’s *Policies and Procedures Manual* for processing calls and the intent of the process established by the MCD.

LAUSD Response to October 5, 2016, Office of the Independent Monitor Study of the District’s Complaint Management System: School and Family Support Services (SFSS), and Complaint Response Unit (CRU) – Part II, Staffing Proposal for the Complaint Response Unit (CRU) 2017-2018 School Year (submitted July 14, 2017)

Part II responds to three issues; however, it is primarily a staffing proposal for the CRU. The first response addresses the OIM study’s *Additional Required Next Steps* in the Summary and Recommendations section regarding the CRU:

Full integration of the CRU must occur if the new complaint management system is to be the mechanism in place to ensure substantial compliance. This includes remedying inconsistencies in the varied inclusion and reference of the CRU as part of the SFSS call center.

The District response is to eliminate the CRU 800 hotline number, as noted below.

In order to address the OIM’s required next steps set forth in the Study, the Division of special education SFSS call center number will be used as the official telephone number for receiving all parent complaint calls related to special education. The former system – the CRU 800 hotline number will cease being used.

This recommendation or next step was in response to the varied inclusion of the CRU 800 hotline number in its materials to families and schools describing the Complaint Management System and SFSS/CRU. This comment was intended to ensure the inclusion of the CRU 800 hotline number, and not to eliminate its use. Furthermore, on September 14, 2016, the District was directed to reinstate the CRU information and phone number on various materials including the Division of Special Education website and SFSS brochure.

Part II also introduces the IDEA’s requirement (34 CFR 300.153) for state complaint systems, as the requirements for filing a complaint with the CRU. The document contends that alignment with the IDEA’s written complaint procedure will help “eliminate inconsistencies the OIM noted in the identification and documentation practices.” These inconsistencies can be simply addressed by implementing a uniform intake that guides data collection, and the cessation of the recategorization at the resolution phase. The requirements and processes for filing a complaint have been well-established in previous *Policies and Procedures Manuals* and meet the intent of the Outcome 11 of the MCD, which requires that a lawful response be provided within specific timeframes. The procedures outlined in IDEA for filing state due process complaints do not meet the intent of the MCD and are not as comprehensive as those already established. However, a change in the requirements will not alone improve consistency, as evidenced by the inconsistencies found in both

the 2013 and 2016 OIM studies. The District would be prudent to focus on improved oversight and accountability of the procedures to identify and respond to complaints.

The document proposes a staffing plan that relies on an external staffing agency to fill the CRU positions. Below are two excerpts that outline the rationale for outsourcing the CRU (pp. 3-4).

In order to appropriately staff the CRU in alignment with the MCD requirements and ensure the District remains in touch with communities within its jurisdiction, the District proposes utilizing a staffing agency to staff the CRU with adequate capacity to timely respond to complaints in the seven primary languages of the District.

Utilizing a staffing agency to staff the CRU with the qualifications outlined above will be done on an annual basis to also address issues that have existed in the past with CRU staff perceiving their role as “advocate” for parents which at times did not fulfill the intent of the CRU which is to ‘give the District an opportunity to resolve parent complaints without the need for parents to resort to external complaint and due process mechanisms.’ The limited term employment of CRU staff employed through a staffing agency will assist in limiting the likelihood of this continuing as a recurring issue and will assist with maintaining fresh perspectives from parents of students with disabilities within the LAUSD. This process is in alignment with how parents are chosen to be members of the District’s Validation Review [DVR] teams.

On its face, this staffing proposal lacks credibility and is outright rejected. An ad hoc complaint response unit contradicts the rationale above, that temporary staff will be in touch with the LAUSD community and provide “fresh perspectives.” Both studies have pointed out the importance and challenge of having well-trained staff to ensure consistency in processing and resolving calls and complaints. These individuals need to be versed in federal and state special education laws and regulations, as well as District policies, resources, and offices. “Fresh perspectives” will mean constant training and retraining and more oversight to ensure consistency and quality controls.

The attempt to justify limited tenures for CRU staff on a short-term annual basis like the DVR parents indicates a lack of understanding of the function of the CRU compared to the DVR, and the value of an effective Complaint Management System. DVR teams consist of many members, with the parent members supporting District staff in conducting compliance reviews. In addition, although DVR parent members are selected annually, they are always District employees.

The issue of previous CRU staff perceiving their role as “advocate” for parents will not be eliminated through the use of a staffing agency. This issue persisted due to the management failures that did not address alleged inappropriate behaviors of CRU staff and hold individuals accountable. The use of a staffing agency further reduces any notion of accountability intended to ensure complaints are processed consistently and parents receive a lawful response.

The staffing proposal is a complete departure from the intent of the MCD’s requirements and the IM’s Substantial Compliance framework, which requires that the District has a process for receiving and resolving complaints. In addition, the proposal clearly delineates the District’s intent to eliminate the CRU upon completion of the MCD. Although the District might be able to discontinue the CRU upon disengagement, a viable complaint management system must be in operation, and remain in place in order to ensure systemic substantial compliance.

The District’s responses in Parts I and II are inadequate and/or do not address the problems and recommendations stated in the OIM’s 2016 study. As noted earlier, it is unclear when or how many additional responses are forthcoming. The problems with the CRU and Complaint Management System must be addressed as soon as possible. It has been almost one year since the release of the OIM’s 2016 study, and over this past year, the District continually used personnel issues as a means for not discussing the CRU with the Parties. These issues have now been resolved.

The District is ordered to:

- Respond to the findings, recommendations, and next steps of the 2016 study within 30 days.
- Must continue to use the established definition of a complaint and procedures for processing and resolving complaints.
- Provide a staffing plan that aligns with the intent of the MCD and ensures capacity for receiving and resolving complaints pursuant to the IM’s Substantial Compliance framework.

Again the MCD clearly delineates that one of the primary goals of the CRU is to provide the District the opportunity to resolve parent complaints without the need for parents to resort to external complaint and due process mechanisms. Table 1 shows the continued increase of formal due process filings by year, which is evidence that the Complaint Management System and CRU are not effectively reducing reliance on these processes.

Table 1. Formal Due Process Filings by Year

Year	16-17	15-16	14-15	13-14	12-13	11-12	10-11	09-10	08-09
Due Process Requests	1,744	1,656	1,598	1,539	1,338	1,300	1,178	1,012	1,003

An effective Complaint Management System and CRU should be the basis for the next response and staffing plan. The District has long undermined the role of the CRU, and this should be viewed an opportunity to focus on reducing costly due process filings and ensuring a viable system for receiving and resolving complaints. The OIM’s 2016 study highlighted many positives with the procedures and staff performance of the SFSS and CRU. The District was encouraged to continue improving these processes and systems. An effective complaint management system is in the District’s best interest for both promoting and fostering better relationships with families and reducing due process cost.

As I have noted previously, the CRU is a creature of the MCD. The definition of a “complaint” and process for ensuring a lawful response were created by the Parties. The District can exercise its option to work directly with the Plaintiff’s Counsel to make changes with any MCD requirements.

Sincerely,



David Rostetter, Ed.D.
Independent Monitor

C: Robert Myers, Catherine Blakemore, Deneen Evans Cox, Brigitte Ammons, Veronica Smith