

Office of the Independent Monitor
Modified Consent Decree
333 So. Beaudry Avenue, 18th 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

September 25, 2017

Beth Kauffman
Associate Superintendent
Division of Special Education
333 S. Beaudry Avenue, 17th Floor
Los Angeles, California 90017

Re: Review of Substantial Compliance Framework Elements I and II

Dear Ms. Kauffman:

I am in receipt of the District's September 22 letter with additional clarification on the information previously submitted. My office has completed a review of the District's June 9, 2017, binder titled "Substantial Compliance Framework Elements I and II." Initially, I expressed concerns over the incompleteness of its contents for addressing the Independent Monitor's Substantial Compliance framework requirements. After a more thorough review of its contents, my office has found a considerable amount of information has been provided to establish a good foundation for meeting the requirements of Elements I and II during the 2017-2018 school year. Although some items require additional clarification to be considered complete, the contents of the binder describe the processes for the monitoring and remediation of noncompliance for most of the indicators. However, the real test will be whether the District's implementation of the monitoring procedures and corrective actions results in the mitigation and nonrecurrence of violations at schools.

I do want to acknowledge the Division of Special Education's (DSE's) effort dedicated to compiling this information, as well as the work to update many policies and procedures related to compliance, since your tenure. The following feedback is intended to raise concerns or areas of needed clarification. I am hopeful that these issues can be addressed and resolved soon.

Component 1

Component 1 contains attachments A-K, and addresses 16 of the 19 state compliance indicators. The three excluded indicators include:

- 6 - Percent of Preschool Children with IEPs who received special education and related services in settings with typically developing peers
- 7 - Percent of preschool children with IEPs who demonstrate improved:
 - a. Positive social-emotional skills (including social relationships)
 - b. Acquisition and use of knowledge and skills (including early language/communication and early literacy)

- c. Use of appropriate behaviors to meet their needs
- 12 – Percent of children referred by Part C prior to age 3, who are eligible for Part B, and who have an IEP developed and implemented by their third birthday

Attachments A-K adequately describe the majority of processes and procedures for the monitoring and correction of noncompliance for corresponding indicators. Further information is needed regarding the “actions to correct violations” and “eliminate or cure any harmful effects of the violations.” These are critical steps for ensuring substantial compliance and require more than a general statement. Although these actions will vary for indicators, it can reasonably be assumed that specific actions exist as the District has addressed past noncompliance for the majority of these indicators. Although these broad statements generally respond to the requirements of the framework, specific actions must be identified to guide corrective actions. Although all actions may not apply to each incident, a bank of actions should be available to schools and senior administrators to ensure their consistent and fair application.

Ultimately, the implementation of these processes and procedures has resulted or will result in clear examples of specific corrective actions to remediate violations and mitigate past harmful effects of noncompliance. The future incorporation of performance data on the Substantial Compliance Indicator Dashboards is promising for ensuring the timely assessment and mitigation of noncompliance.

Next Steps:

- Provide a list of specific actions for these steps for all indicators
- Provide specific examples of corrective actions carried out at schools or local districts for all indicators
- Address concerns with the “three point checks and balances” procedures for complaint management and resolution (Attachment I, p. 3) that result in the change of call or complaint cases being recategorized (inquiry, concern, complaint)

Component 2

The document adequately lists the data systems that will be utilized to monitor state compliance indicators and MCD outcomes.

Component 3

The DSE Special Education MCD Monitoring/Special Education Policies and Procedures Department and the Strategic Planning and Data Management Department are responsible for the collection of data, monitoring, and compliance at schools.

Component 4

Validation procedures are included for MCD Outcomes 3, 4, 7.2, and 18. These procedures replicate the OIM’s existing procedures and are well-established for validating accurate data.

Although some of the MCD outcomes do not require validation efforts, such as Outcome 1 - Participation in Statewide Assessments, others do require the ability to validate data. Below are MCD outcomes that should and have had such procedures in place carried out by the OIM over the course of the MCD. This includes:

- Outcome 5 – Suspensions
- Outcome 6 – Placement of SWD with Specific Learning Disabilities and Speech and Language Impairments in the Least Restrictive Environments (LRE)
- Outcome 9 – Individual Transition Plan (ITP)
- Outcome 10 – Timely Completion of Evaluations
- Outcome 11 – Complaint Response Time
- Outcome 12 – Informal Dispute Resolution
- Outcome 13 – Delivery of Services
- Outcome 14 – Increased Parent Participation
- Outcome 15 – Timely Completion of IEP Translations
- Outcome 17 – IEP Team Consideration of Special Factors – Behavioral Interventions, Strategies and Supports

Some of the validation procedures might serve as basic confirmation of accurate data; these checks will also ensure that certain elements of IEPs are in student files, such as for Outcome 9 - ITP and Outcome 17 – Behavioral Supports. Procedures exist for this validation as part of the District Validation Review (DVR) process, which provides a viable way for ensuring accurate data for MCD outcomes and indicators such as (not limited to):

- Outcome 9 – ITP
- Outcome 10 – Timely Completion of Evaluations
- State indicator 12 – Percent of children referred by Part C prior to age 3, who are eligible for Part B, and who have an IEP developed and implemented by their third birthday

Some outcomes will require more in-depth validation procedures, or modifications to those developed by the OIM over the course of the MCD, for MCD outcomes such as (not limited to):

- Outcome 5 – Suspensions
- Outcome 11 – Complaint Response Time
- Outcome 13 – Delivery of Services

The OIM has worked with DSE staff to validate the replication of the report on the 18 MCD Outcomes (Attachment T) and found acceptable correspondence with 17 of the 18 outcomes, and continues to discuss and work out discrepancies with the outstanding outcome (8 – Home School). The OIM is also working on the DSE’s methods for measuring performance with the timely completion of three-year reevaluations. These issues should be resolved within the near future with ongoing collaborative discussions.

The binder included DVR reports with findings for the past three consecutive school years. The *Student Record Review Findings* show compliance percentages for corresponding local districts reviewed. These findings demonstrate areas of noncompliance that can be considered systemic. For example, the report for Local District Central points out that 79% of the IEPs reviewed showed evidence of (DVR #116) *The Student’s Placement and Services are Provided in Accordance with the IEP*. The report for Local Districts 3 and 8 show that 83% of initial evaluations had an IEP held within the required 60-day timeline (DVR #103).

These two examples show both existing data validation procedures and findings that should have triggered corrective actions to remediate noncompliance at the student, school, local, and central district levels. These examples of existing efforts and processes in place are clear evidence that viable procedures exist. While the effectiveness of these procedures for mitigating the recurrence

of and curing harmful effects is unknown, it does provide a sound approach for the development and/or modification of these efforts to ensure substantial compliance.

Next Steps:

- Provide validation procedures for outstanding outcomes and state indicators
- Provide evidence of corrective actions and mitigation of noncompliance at the student, school, and local district level
- Provide evidence of DVR findings (or other compliance reviews) that led to a review and/or change to existing policies to address systemic noncompliance

I am optimistic that, working collaboratively, the requirements of Elements I and II can be resolved in the near future. I want to thank you again for the good work and considerable effort taken to compile this information and the policy updates for ensuring systemic compliance, including the new expectation for requiring nonpublic schools to participate in the Self-Review Checklist. I appreciate the thoroughness with which this task is being addressed.

I would like to propose meeting the week of October 23 to hopefully wrap up these two elements of the framework. In the meantime, my staff is available to assist or answer any questions regarding the next steps or framework. Lastly, to facilitate the approval of these efforts, I recommend the District meet with my office to discuss those items identified in the next steps prior to its submission.

Sincerely,



David J. Rostetter

c: Deneen Evans Cox, Veronica Smith, Marian Mason