

INDEPENDENT MONITOR REPORT

CONGRESS OF HISPANIC EDUCATORS ET AL., PETITIONERS, V.
SCHOOL DISTRICT NO. 1, DENVER, COLORADO

Submitted to

U.S. DISTRICT JUDGE RICHARD MATSCH
& ALL FORMAL PARTIES TO THE CASE

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ADVANCE SUMMARY

This is my fourth six-month report as Independent Monitor (IM) in the case *Congress of Hispanic Educators et al., Petitioners, v. School District No. 1, Denver, Colorado*. The report covers the period of January 1 - June 30, 2015.

This report is shorter in length than previous ones for several reasons. First, during the six months covered by this report, I made only two site visits to Denver. The first visit took place during April, and the second one during the last week of June. Two site visits planned to Denver prior to April were cancelled due to illness of the IM, and the second visit was cancelled due to inclement weather. I did, however, remain in frequent contact with all parties during the first four months of 2015, including participation in multiple conference calls, maintaining written correspondence, and making several requests for information or data. As always, the purpose of my onsite visits, information gathering, and data collection activities was directed at assessing to what extent the DPS continues to meet the requirements of the Consent Decree.

In February, I initiated conversations with Dr. Chris Nelson, Professor of Special Education at New Mexico Highlands University. Dr. Nelson and I worked together previously, and he has a wealth of experience in numerous areas, including program evaluation. Additionally, he had some familiarity with this case, and for several years, worked with the *Missouri v. Jenkins* Federal District Court desegregation order as a program evaluation specialist in the Kansas City, Missouri Public Schools. In March, Dr. Nelson agreed to join me on a sub-contractual basis to provide some assistance to me in my role as IM. He participated in the April meeting of the parties in Denver.

In my previous three reports, I noted that DPS continues to make progress across many of the items in the CD. That progress certainly continued to be evident throughout this reporting period. Of significance is the fact that both CHE and the DOJ have publicly acknowledged to DPS that they have seen how hard the district is working at meeting CD requirements, while also noting that there is still a great deal of work needing to be done. Conversely, DPS has expressed its appreciation for that feedback and also acknowledged that they realize that much work remains.

My third report was submitted after our April meeting of the parties in Denver. There was some discussion between the parties and the IM as to whether this fourth report should take the form of an addendum to the third report so that several significant issues that arose at the April meeting could be identified and discussed. Ultimately, I chose to prepare this report separately and although it is shorter in length, it serves as a transition of sorts. In all three previous reports submitted, I have included in the Advanced Summary, a series of findings and recommendations. For the purposes of this report, however, I am going to list six major issues that emanated from our April meeting. The narrative of this report, which follows, will center on a discussion of these six issues. While not all-inclusive, these six topics represent continued points of interest or concern moving forward.

Issues

1. A preliminary self-assessment by DPS of progress made on all items comprising the CD referenced in Finding and Recommendation 2 was not presented in the April meeting as had been intended by DPS. The District instead offered a plan for a self-assessment of CD items based on a prioritizing and sequencing of those items that aligns with the order in which DPS is addressing the actions specified in the CD. That plan, which is referred to as the CD Implementation Tracker, is under development by the District and has been the focus of discussion by the parties since DPS proposed it. The Implementation Tracker was discussed by the parties on a conference call scheduled for early June.

2. Concerns regarding the lack of appropriate Spanish language and English language development (ELD) materials.
3. Questions as to whether CD provisions regarding ISA team monitoring of students whose parents opted for no services is taking place in meaningful way.
4. Questions about how ISA teams weigh conflicting data in a student's file.
5. Announcement by DPS that it was implementing "Engage/New York" as the Common Core aligned curriculum for grades 4-6. A concern is that at present, there is no comparable Spanish curriculum.
6. Concerns regarding key features (or lack of) in the Longitudinal Study including: students in grades K-2 are not included in the study, key features such as extent of teacher training, fidelity to CD program requirements, and, while several student outcome measures are included, it is not clear how long-term EL student success compared to never-ELLs will be examined.

INTRODUCTION

During the reporting period, I conducted onsite visits during April and June. Dr. Chris Nelson joined me for both visits. It is important to acknowledge, as I have done previously, that all parties continue to be cooperative with me. The parties have been generous with their time and expertise. I have begun the practice of publicly thanking DPS, in general, and individual school sites that I visit, more specifically, for the time and resources they expend in preparing for my visits to Denver. The ELA Department should also be acknowledged for their efforts in arranging school site visits, for facilitating informational meetings on various topics and issues related to the CD during each visit, and for logistical support.

During almost every visit to Denver, I have met personally with members of the Congress of Hispanic Educators (CHE), and DPS has been supportive of these meetings. These meetings with CHE members have been extremely valuable for me. I cannot stress enough the dedication, astuteness, and commitment of the members of CHE. I take their observations, insights, and recommendations quite seriously. It is my belief that mutual trust exists between CHE members and the IM, and that information shared with me, often in confidence, is maintained in that way.

As noted previously, the district continues to maintain a focused and coordinated level of effort in its attempts to meet CD requirements. Although, at times, interviews with district personnel during school site visits demonstrate varying levels of knowledge about specific CD requirements, such as the implementation of the Language Allocation Guidelines (LAGs) or English Language Development (ELD), or the role and responsibility of Parent Advisory Committees (PACs), awareness of the CD is more integrated district-wide than it had been two years ago, at least from the perspective of the IM.

During the April meeting, all representatives of the parties were apprised by Dr. Darlene LeDoux of her decision to leave her position as Executive Director of the ELA Program and accept another position with DPS as an Instructional Superintendent. Because of Dr. LeDoux's involvement with this case, almost since its inception, her announcement and the response by those attending our meeting was emotional. More importantly, it gave an opportunity for those participating in our meeting to thank her personally, to offer a favorite memory or special recollection, and collectively, to honor her for years of commitment and service. She committed to remain in the position until the district appoints her successor. There is no doubt, however, that her departure will leave a void in the ELA Program and in this case moving forward.

One observation that I made after the April meeting of the parties relates to the form and substance of communication that now frequently occurs between the DOJ and CHE with DPS. More specifically, communication in-person is more frequently of a supportive nature in terms of specific suggestions and recommendations to the district. Although disagreements still occur and frustrations are often expressed, for example, in the case of the longitudinal study being conducted by DPS, there is now a greater air of collegiality among the parties, which I did not find present at the onset. Part of this is due, I believe, to the recognition that DPS is demonstrating some serious effort in meeting CD requirements while acknowledging that substantial work and progress yet need to be made.

A second observation is based on proactive comments made to DPS by the DOJ and CHE during the April meeting and in conference calls after that site visit. CHE and the DOJ have expressed a willingness to meet with DPS and review specific items in the CD at that point when the district believes it has sufficient supporting data to demonstrate they've met a requirement. Creating systems that build capacity to accomplish the substantive requirements of the CD (e.g., proper recruitment, hiring and training of ELA teachers)—which in turn demonstrate that the CD requirements have been met?

CONTEXT AND CONTENT

In my 2 site visits to DPS, I made 9 school site visits. During June, we visited schools that were participating in the ELA Summer Academy, several of these were through unique partnerships with Boys and Girls Club and the University of Denver's Center for Multicultural Excellence. The other two summer school programs visited in June were at Swansea and Centennial Elementary. The schools visited in April were:

- Ashley Elementary
- Cheltenham Elementary
- Florida Pitt-Waller ECE-8 School
- Marrama Elementary
- Merrill Middle School

During the April school visits we joined CHE members, DOJ representatives, and staff from the BUENO Center at the University of Colorado at Boulder who participated as part of the CHE team. Dr. Nelson and I used the Classroom Teacher Observation Protocol that I've used as a tool during all other previous school visits. During the June school visits, we modified the Protocol to guide our observations because of the nature of the ELA Summer Academy.

Even though we observed multiple classrooms, at many school sites, in April and June, and gained valuable insight into the details of CD implementation at the school level, we find the data insufficient to draw any significant inferences or conclusions regarding district-wide progress toward implementing the CD. This was a consideration in the decision as to how to structure this current report. In addition, there were a number of significant issues that were either not fully addressed or required additional discussion. Six of those issues were cited in my third report and referenced once more in the Advanced Summary. Consequently, I made the decision to organize the remainder of this report around these six issues. All six issues are central to meeting the requirements of the CD and are useful in helping DPS organize many of their efforts in moving forward, particularly the Unified Checklist and Implementation Tracker.

Below are the six issues, listed and discussed separately. Although these six issues were raised in April, during and after the meeting of the parties, we used a part of the June visit to discuss them further with DPS and to hear their thinking and plans for addressing the issues as they move forward. After the discussion on Issue 6, a short summary is provided as well as a series of recommendations for DPS to consider.

ISSUE 1

A preliminary self-assessment by DPS of progress made on all items comprising the CD referenced in Finding and Recommendation 2 (Third IM Report) was not presented. Instead, the District offered a plan for a self-assessment of CD items based on a prioritizing and sequencing of those items that align with the order in which DPS is addressing the actions specified in the CD. That plan, which is referred to as the CD Implementation Tracker, is under development by the District and should prove useful as a means to document the progress that DPS is making toward meeting the CD requirements.

One of my first actions after being appointed as Independent Monitor was to create a tool that I labeled the Consent Decree Checklist. My initial intent in creating the document was to organize all of the requirements of the CD by chapter, in a checklist I could use to document progress. I shared

the CD Checklist with all parties and the Court in my first report. The Checklist is lengthy due to the number of requirements, but as a graphic organizer, it has helped me track progress in various ways. During early 2015, I recommended to DPS that they use the CD Checklist or a similar tool and conduct a careful self-assessment of its progress against as many requirements as is possible. Additionally, I offered to facilitate small working sessions of ELA program staff, a suggestion that was shortly thereafter withdrawn after I conferred with Attorney Roger Rice and ELA Director, Dr. Darlene LeDoux. They accurately pointed out that my involvement in any form of facilitation could lead to the impression of a conflict of interest; I agreed.

DPS later made the decision to create its own checklist and organize it in a way that aligned with the district's actions to address the CD requirements. I fully supported that decision since my overriding goal was for the district to create a snapshot, even if incomplete, of their progress to date across requirements of the CD. Due to the importance that I placed on this task, I requested that DPS report to the parties, in April, regarding their progress. In my third report, I identified requirements from the CD and actually used a modified form of the Checklist, reported my impressions of the progress the district had made under each requirement that I had previously identified, and listed the evidence gathered to support my assessment.

Although I was apprised that the self-assessment would be presented to the parties in April, it was not. In fact, the topics related to my request for a presentation on the status of a district self-assessment were allotted 30 minutes on the agenda, on April 30th. In fairness, it should be noted that the agenda for that day consisted of 19 separate items and this dictated the time allotted for discussion of each item. We were informed that the district had created two tools, one called the Unified School Visit Checklist (USVC) and the second tool labeled as the Implementation Tracker. In their presentation to the parties, DPS noted that their USVC provided a common metric for everyone in DPS and viewed it as a standard school review form that all parties, including the IM would use to monitor CD requirements through school-level observations. The Implementation Tracker would become a data collection schedule, thus making it easier for the district to track its progress and create a timeline by CD chapter to collect evidence. Furthermore, ELA staff described the purpose of the Implementation Tracker as "ELA's monitoring and prioritization process for ensuring all CD requirements are implemented across the District with fidelity and sustainability."

After the Denver meeting, both CHE and DOJ expressed concern that the district self-assessment I requested had not been presented. I apprised the district of my disappointment that a self-assessment had not been presented, and most especially since I had informed the ELA Program with sufficient time; it was clearly my expectation that this important task would take place. DPS' position was that rather than devote time and resources to an unfocused data collection effort, it would be better to develop a framework (the Implementation Tracker) that could be agreed on by all parties as an approach to organize the district's data collection efforts. At about this time, I began to make plans to return to Denver in June and informed the ELA Program that I anticipated a presentation from them regarding the status of their USVC and a more concise overview of the Implementation Tracker, with specific timelines for collection of evidence across all ten chapters of the CD.

On June 30th, Dr. Nelson and I met in Denver with ELA program staff, led by newly appointed Director Jorge Robles, and the presentation (or a version of it) that I had requested for the April meeting was made. We examined the prototype of the USVC available at that time with the stated goal that the checklist would be used in school visits beginning September of last year. I was aware that the current version of the USVC had been distributed to the DOJ and CHE for their review and feedback. Jorge Robles apprised us that the ELA Program was close to hiring someone who would be assigned the task of documenting district efforts, beginning with Chapter 7, Special Education, from the CD. Mr. Robles also outlined the Phase 1 Methodology and sequential plans for completing

Phases 2-4. DPS closed its presentation by detailing its next steps including an update on their planned documentation efforts during my August or September visit to the district. In my fifth report, which follows and covers the timeframe from July 1 to December 31, 2015, I'll discuss additional progress made by the district around this very important task.

Although DPS has undertaken a significant amount of work on this task and plans to hire someone to assist with collection of documentation, I am somewhat concerned that DPS has not presented more data to document CD implementation. For example, I expected the district to collect and present preliminary data as part of a pilot that would utilize the USVC. Recommendations specific to this issue will follow once all six issues have been discussed.

ISSUE 2

Concerns regarding the lack of appropriate Spanish language and English language development (ELD) materials.

During previous meetings of the parties, conference calls, and through written correspondence, concerns over the lack of quality ELD materials and appropriate Spanish language materials have been expressed to the district by CHE and the DOJ. I have seen that lack of materials first-hand during many of my school site visits and have noted this in previous reports. Those concerns became an agenda item and critical topic of conversation during the April meeting in Denver.

To be more specific, the CD requires that the District provide, wherever available, grade- and subject-appropriate Spanish-language core content materials, comparable to the English-language content materials used in *Mainstream English language classrooms*, for *ELLs* who are taught in Spanish in *ELA-S* and dual language classes. To the extent practicable, the District also shall make such materials available as instructional supports for Spanish-speaking beginning and early intermediate *ELLs* in *ELA-E* content classes.

The needs, therefore, are at two levels. There is a need for ELD materials, especially given the district's focus this school year on assuring that each *ELL* is receiving English language development instruction in every classroom. A major concern, as expressed by CHE, is that many schools either have no ELD materials or have access only to Avenues, an older set of ELD materials produced by National Geographic Learning for pre-k through grade 5. Apparently, many schools no longer have the materials to implement Avenues. DPS is partially responding to this concern by piloting a new program called E.L. Achieve in 8 schools. E.L. Achieve provides materials and support that focus on providing explicit instruction in advanced uses of English to facilitate more complex thinking. E.L. Achieve tries to accomplish this through two initiatives: Systemic ELD and Constructing Meaning. The fact that this pilot is occurring in only 8 DPS schools suggests that, until the results of the pilot are known and new materials have been distributed district-wide, far too many teachers at the other DPS schools are currently using older curricular materials or limited materials at best.

The second level of need which is concerning is the lack of Spanish language materials in *ELA-S* classrooms. My observations in numerous schools show a mixed bag of Spanish language materials. Some classrooms have adequate Spanish materials, others have fewer materials, and in some classrooms, I have seen a very limited number of materials in Spanish. It appears that some Spanish literacy programs are being considered and piloted within DPS. The Curriculum and Instruction Department has indicated previously that a Spanish literacy adoption will occur this year, however, that is a commitment that was made beginning in 2013.

This issue regarding a lack of quality ELD and Spanish language materials is concerning to me. The lack of quality materials raises the issue as to whether effective ELD and/or Spanish language

instruction is taking place. It is important to acknowledge that the lack of quality ELD and Spanish language materials is a nationwide concern. My recommendation at the end of the Issues sections will focus on the need for greater district action in order to address this problem.

ISSUE 3

Questions as to whether CD provisions regarding ISA team monitoring of students whose parents opted for no services is taking place in meaningful way.

This third issue is tied to several requirements from Chapter 3 of the CD dealing with parent communication, student screening, provisional placement, and assessments for eligible students who decline services. The nature of the questions raised by the DOJ and CHE relate to monitoring the progress of students who decline services (PPF3s) and ultimately, if parents are ever apprised of the results of that monitoring and provided with the opportunity to change the student's placement.

The CD requires that schools in DPS monitor twice a year, both the English language proficiency and academic progress of PPF3 students, essentially those who declined services. Furthermore, if students are struggling academically, DPS is required to inform the parents that they have the opportunity to have their students placed in the ELA program. Per the CD, ISA Teams are required to use a standard form for monitoring PPF3 students, and DPS is supposed to provide to them a list of PPF3s, along with ELP and content assessment data for each student.

Based on site visits to schools in Denver and interviews with CHE, DOJ, and the IM with ISA Team members, it was determined that monitoring, as identified in the CD, was not occurring twice a year and no instrument for the purpose of doing that monitoring existed. Additionally, ISA Team members noted during interviews that they weren't receiving lists of PPF3s from the ELA Department on a regular basis. Ultimately, the district corrected this problem when CHE and the DOJ brought it to their attention, and evidence of the generation of the lists of PPF3s was documented.

What is at issue presently, however, is the nature of the monitoring that currently exists and the lack of a standard for judging student performance. A review of data presented by DPS in its July reports shows that many PPF3 students at the secondary level are not proficient in English in reading and writing. However, based on the ISA team monitoring that took place, students were determined to be doing "well enough." Further, ISA teams reported that they based their determination of students doing well enough on conversations with classroom teachers of the PPF3 students rather than on objective assessments used by DPS. According to CHE and the DOJ, some schools that were visited appeared not to be aware of, or were not acting upon, the CD definition that former ELLs should be able to perform to the standards of statewide, never ELL students. An accurate determination regarding performance of PPF3 students as compared to never ELs depends on the use of valid and reliable assessments as the basis for the comparison, and should not be based on subjective judgment.

A review of several DPS reports suggests that very few PPF3s re-enter the ELA program, and those same students lag behind other students in terms of graduation rates. Requirement B, from Chapter 3, of the CD, notes that ISA team members should confer with PPF3 students' teachers periodically, and if one or more of those teachers recommend that a student be enrolled in the ELA Program, that information should be communicated in person to the parents of the student. While DPS reports that this currently occurring. There is no evidence that this was occurring during the

timeframe covered by this report. There is also a lack of documentation of discussions with and decisions by parents.

Attorney Roger Rice informed me that to the district's credit, Susana Cordova and Darlene LeDoux "made a major push a number of years ago to reduce the number of new PPF3s" through provision by DPS of effective ELA instruction. The concerns that frame this issue, however, bring into question the status of potentially thousands of legacy PPF3s. In short, have those students succeeded academically, mastered content, and gained proficiency or are these students failing and moving closer to becoming long term and permanent ELLs, at risk of dropping out with longer-term consequences into adulthood?

ISSUE 4

Questions were also raised about how ISA teams weigh conflicting data in a student's file.

During all of the school visits that I have made to Denver, I have interviewed ISA team members. In all of the meetings of the parties that I have participated in previously, ISA team members have also been interviewed. As a matter of practice, I will typically ask ISA teams to provide me with their records and a sample of student files during our interviews. In the case of the meetings of the parties, both CHE and the DOJ review ISA team files in a more comprehensive manner prior to the interviews with team members, a practice that is usually quite thorough.

The Colorado Department of Education (CDE) has issued guidance on redesignation and exit for ELLs during the 2015-2016 school year. DPS follows this guidance and continues its practice of compiling for each student a body of evidence to confirm proficiency in English and grade level reading, writing, and other content area proficiencies. It is precisely those bodies of evidence that are reviewed by the IM, CHE and DOJ, as noted above. The CDE Guidance specifies: "a body of evidence should represent local data that is used to define academic growth and grade level proficiency as well as the student's linguistic growth and English language proficiency."

In DPS, it is the primary responsibility of the ISA teams at each school to compile the body of evidence for students. Further, as outlined in Chapter 2 of the CD, the ISA team makes recommendations to the ELA Program based on that body of evidence, "regarding Program entry, redesignation, exit or reentry, and changes in services." What is at issue here however, is how ISA teams weigh conflicting data in some student files that have been reviewed.

One example that I have frequently seen is the case where a student file is reviewed and the corresponding body of evidence confirms that the student scored a 5 overall (i.e. proficient) on the ACCESS, which is the state's mandated English language proficiency assessment. However, further review of additional assessment data, in the body of evidence for that student, might show scores that demonstrate lower than grade level proficiency in reading or writing. When ISA team members are interviewed and asked how that student was recommended for redesignation from the program, inconsistencies in responses are often evident. Some ISA teams have suggested that more weight was given to ACCESS scores in each language domain, or writing samples from student journals, or perhaps observation protocols. This variance in responses suggests a need to develop clear criteria and guidance on the weight that specific data in a body of evidence should carry. These criteria and guidance should then be explicitly stated in writing, communicated to all ISA team members, and incorporated into the training that the ELA Department provides every school year.

ISSUE 5

Announcement by DPS that it was implementing "Engage/New York" as the Common Core aligned curriculum for grades 4-6. At present, there is no comparable Spanish curriculum.

From the outset of my involvement in this case, issues regarding curricular materials aligned to the Common Core State Standards (CCSS) have been discussed in different forums. During the April meeting of the parties, rather heated discussion took place regarding the lack of a Spanish curriculum that is aligned to the CCSS. In numerous conversations and meetings with DPS staff over time, the district has maintained the position that after a substantive review of textbooks and other resource materials aligned to the common core for ELLs, none of the materials were of high enough quality to justify the millions of dollars that it would cost to adopt and purchase them. The lack of a comparable Spanish curriculum has frustrated teachers, principals, and DPS central office staff as well as representatives of the parties.

What brought this issue to the forefront in April was the announcement by DPS that it was implementing a grades 4-8 language arts curriculum called Engage/New York. The concerns expressed primarily by members of CHE were twofold. First, Engage/New York is an English only curriculum. Second, DPS apprised the parties that teachers were going to be asked to develop their own lessons in Spanish for this curriculum. Engage/New York has book sets that accompany each module that comprises the curriculum; however, they are available only in English. Many teachers of ELL students have strongly opposed the adoption of Engage/New York as being unsuited to the needs of ELL students. To address this issue, the district announced it planned to conduct a weeklong professional development session in July on Engage/New York with training for paired literacy modules in Spanish.

Subsequent to the discussions that took place during the April meeting, DPS contacted the BUENO Center at the University of Colorado and asked them to retrofit the Engage/New York curriculum into Spanish in five days. Completing the task was a near impossibility and the BUENO Center was able to complete one module for fourth grade and one for fifth grade in a week. It should be noted that there are six modules for each grade level. DPS undertook the development of additional modules based on the models developed by the BUENO Center.

The BUENO Center was able to identify texts in Spanish that were readily available and recommended that DPS purchase them. After my September visit to the district, I learned that DPS held a half-day professional development session focused on Spanish language materials during July, suggesting to me that this is not nearly enough time for teachers to acquire the type and level of PD they need. Also during my September visit, personnel informed me at several schools I visited that they had not yet received any of the Spanish materials they had ordered. I don't have a clear idea of how many actual Spanish books were purchased, but this issue of no comparable Spanish curriculum is a significant curricular and instruction concern and a major equity issue and therefore, at this time there are open questions about DPS's implementation of provisions of the CD that relate to *Program* materials.

ISSUE 6

Concerns regarding key features (or lack of) in the Longitudinal Study including: students in grades K-2 are not included in the study, key features such as extent of teacher training, fidelity to CD program requirements, and eventual student success are not examined due in part to data limitations (i.e. some historical data are not available)

Chapter 9 of the Consent Decree, which addresses Accountability, directs the District to conduct a longitudinal study of a cohort of ELLs to assess whether they are “overcoming language barriers within a reasonable period of time and *participating meaningfully and equally* in educational programs when *exited* from *Program* services” (Part D). Part E of Chapter 9 directs that the District “shall use the results of current and future longitudinal studies to inform *Program* decisions and improve *Program* effectiveness.” DPS completed its first longitudinal study at the end of the 2011-2012 school year and, based on feedback received from CHE and DOJ is redesigning a second longitudinal study required by the CD.

In the April 2015 meeting, DPS gave a PowerPoint presentation overviewing this second longitudinal study. DPS proposed a study that asked two primary research questions: 1. How do students progress over time and What are the characteristics of students who are consistently on- or off-track? (What program factors contribute to and hinder this development?); and 2. How do redesignated or exited ELs compare with their non-EL peers on measures of student engagement, and What are the characteristics of EL students, and program factors, for those who exceed and fall below typical areas of engagement?

To answer Question 1, DPS proposed tracking three cohorts (3rd through 5th grade, 6th through 8th grade, and 9th through 11th grade) of non-exited ELs over a three-year study period (2012-2013, 2013-2014, and 2014-2015). To answer Question 2, DPS proposed focusing on cohorts of exited ELs and non-ELs from the same three grade level ranges (3rd – 5th, 6th-8th, 9th-11th) over the three-year study period. Subsequent to the April meeting, CHE and DOJ provided feedback on the proposed longitudinal study. CHE suggested several modifications to the study: 1. Consider adding grades K through 3, since approximately one-half of DPS ELs are in those grade levels; 2. The study should include, minimally, metrics based on levels of teacher qualifications - Fully Qualified, On Track Year One, On Track Year Two and Not on Track – and should compare the performance of students of Fully Qualified teachers who have taught for at least five years versus those who have taught for fewer years; 3. Include an analysis based on ELA qualifications and experience of school principals; 4. Include a measure of adherence to the language allocation guidelines; 5. Add graduation and dropout rate to measures of student engagement; 6. Clarify the use of the terms “non-ELL” and “never-ELL” – making the point that State and District “never-ELL” students should serve as the comparison group; 7. Examine exited EL performance beyond a three-year timeframe as previous DPS data suggested a decline in exited EL performance after two or three years; and 8. Clarify what is meant by a reference in the proposed study to language no longer being a “major barrier” to academic achievement – pointing out that no agreement had been reached among the parties regarding use of the concept of “major barrier.”

DOJ provided feedback that centered on three primary issues: 1. The scope of the study. Essentially, DOJ questioned whether three years was a long enough period of time to adequately judge the performance of exited EL students and EL students being monitored for staying on-track according to their ACCESS scores; 2. EL cohorts. Echoing the CHE feedback, DOJ questioned the failure to include EL students in grades k through 2 in the study, and also questioned the exclusion of 12th grade students. Additional issues raised included how to track students in and out of cohorts (e.g., retention, withdrawal, redesignation), and definitions of “dropout” and “non-ELL” versus

“never-ELL;” 3. Data Collection. DOJ recommended including data on language instruction, dosage of language, teacher experience and training, and special education status. DOJ also asked how the longitudinal study would account for program implementation, whether the program adheres to language allocation guidelines and provides Spanish language materials, whether teacher qualifications affect student performance, and whether EL performance could be tracked on specialized testing and milestones such as the 8th grade Accelerated Opportunities exams, or 9th grade Algebra and Geometry enrollment.

DPS addressed the feedback in a September 2015 document in which the District identified 18 longitudinal study elements that the District either modified in response to the feedback or felt they had already addressed but needed to clarify. DPS agreed to: 1. extend the study timeframe to a six-year period, and to include students in grades k through 2; 2. use comparative analyses only on groups with adequate sample sizes; 3. examine transitions (elementary to middle school, middle school to high school); 4. Include information on teacher and principal qualifications and their experience; 5. add graduation and dropout metrics for cohorts, where those data are available; and 6. to the extent possible, include information on implementation. DPS also included clarification of how it plans to monitor student “movement” throughout the study’s duration (including redesignation), that they meant “never-ELL” in referring to “non-ELL” in the description of the comparison group, and that they had misused the term “major” in reference to the issue raised by CHE regarding barriers to academic achievement.

In that same document, DPS identified issues raised by CHE and DOJ that the District indicated could not be added to the longitudinal study: 1. Standardization and determination of equivalency across different assessments used during the study’s timeframe (e.g., ACCESS/CELA); and 2. Fidelity of implementation other than broad measures like the use of ELD block scheduling.

The IM’s expectation is that DPS will carry out and report the results of a longitudinal study that incorporates the feedback provided by CHE and DOJ.

SUMMARY

This report is organized around six key issues that were prominent in the dialogue among the parties during the reporting timeframe. Originally, it was anticipated that this report would include a quantitative summary of DPS progress toward CD implementation based on the checklist I originally proposed. However, the DPS proposal for the use of the Implementation Tracker that reflects the sequence of CD implementation makes sense and provides a blueprint for moving forward with the spot audits of CD implementation in future reports.

This report reflects the dialogue among the parties regarding these six issues identified during the April 2015 meeting of the parties in Denver. Five of the issues are directly linked to chapters and therefore requirements, of the CD. The issue concerning the district self-assessment is intended to serve as a means of helping create a baseline of data that could then be reviewed and audited in a more quantifiable manner. It is important to note that none of the six issues are being disregarded by DPS. They have all been addressed at varying levels or continue to be addressed as part of the district’s response to meeting the requirements of the CD.

Following is a series of recommendations related directly to the discussion of the six issues presented. Some of the recommendations are already works-in-progress, either prior to this report or during the reporting period that ended in December of 2015. The recommendations serve as a reminder to the district to perhaps give greater attention to certain processes, look for new

collective ways to address an ongoing issue, or make necessary mid-course corrections to provide greater focus or clarity on respective items in the CD.

The fifth IM report for the period covering July 1-December 31, 2015, is currently underway. If there is progress made on any of the six items addressed in this document, it will be reported. My plan is to submit the fifth report by early March 2016, which, at that time, will reflect three weeklong site visits to Denver, including the November 2015 meeting of the parties. At that meeting DPS announced that it was not going to move for dismissal in the spring of 2016. Additionally, the fifth report will include information about a pilot test of the spot audit plan conducted by the IM and Dr. Nelson using actual special education documents at two schools, without giving the district or any of the parties any notice. This pilot test went well, and based on that, we plan to pursue our spot audits using the CD and DPS's Implementation Tracker as organizing frameworks to sequence our efforts and to identify observable indicators of CD implementation.

RECOMMENDATIONS

1. DPS should convene a small working group of staff and develop a series of questions that yield the type of information requested by items in the Unified School Visit Checklist (USVC). For example, the USVC identifies the CD requirement regarding monitoring of PPF3 students. What question/s could be developed to ascertain if this is occurring, and further, if communication with parents is taking place? By creating uniformity in the questions to be asked, it will be easier to aggregate data, leave less room for multiple interpretations, and help DPS and others determine whether the respective requirements of the CD are being met.
2. The district, perhaps in coordination with its ELA Partners, should create an inventory that clearly identifies whether program schools have sufficient ELD materials and the schools where materials are lacking. This lack of materials is a systemic issue and it needs to be addressed as soon as possible.
3. DPS should develop a form for use by ISA teams that requires, and provides for, the entry of PPF3 monitoring data twice a year as required by the CD.
4. DPS should develop guidelines for ISA teams to follow when faced with contradictory assessment evidence regarding redesignation decisions. As noted in the discussion of Issue 4 above, when one piece of evidence indicates adequate English proficiency for redesignation, yet other evidence indicates the need for continuing ELA support, it would be helpful for ISA teams to have additional guidance in weighing evidence from the different assessments so that the parties have confidence that there is some uniformity across school sites in making this important decision. The expectation should be that a student deemed eligible (or not eligible) for redesignation by an ISA team at one school site would be evaluated in the same manner at another school site. This is an issue of the reliability of redesignation decisions across school sites.
5. Based on recommendations made by the BUENO Center regarding available Spanish language texts and materials, the district should compile a short report that very clearly delineates the schools who have ordered Spanish materials, whether they have received them, and if they have not yet received them, the reasons why and anticipated date for correcting this.
6. DPS has acknowledged and attempted to address, in its September 2015 response, the longitudinal study concerns raised by CHE and DOJ. It is recommended that DPS incorporate into

the study design as many of the suggestions and concerns of the parties as possible, as the District moves forward with the study.