

Comments from David Fisher, President of the Sacramento City Teachers Association to the Sacramento City Unified School District, February 18, 2021. It also combines the time for comments with Nikki Milevsky, school psychologist and Monica Harvey, language, speech and hearing specialist.

Agenda Item # 7.5 District-Wide and Special Education Assessments.

Last Thursday, our bargaining team met for the second time last week in an effort to reach an agreement that would enable educators to move forward with one-on-one in-person assessments for special education students. There were more than 75 teachers on our team, including dozens who provide services to special education students including special day class teachers, resource teachers, program specialists, behavioral intervention specialists, school psychologists, school nurses, language speech and hearing specialists, and also general education teachers.

The major stumbling block is Superintendent Aguilar's refusal to provide the appropriate mitigation measures, specifically regarding the District's ventilation and filtration system.

Following the advice of the leading ventilation and filtration experts in the state, we proposed ([you can view our proposal here](#)) that we could immediately begin in-person special education assessments in those classrooms or work areas that meet the following conditions:

1. Currently equipped with a centralized HVAC system that provides air filtration with a minimum efficiency reporting value (MERV) of 13 or better; or
2. Currently equipped with a centralized HVAC system that provides air filtration with a minimum efficiency reporting value (MERV) of 8, AND portable air filtration units with a clean air delivery rate (CADR) of 250 or greater per 1000 square feet of floor area.

Additionally, all classrooms would have to be equipped with CO2 monitors.

Based on the cost of approved portable air filters that would need to be used in the majority of classrooms that are not currently equipped with MERV 13 filters, **we estimated that every classroom could be furnished with portable filters and CO2 monitors for under \$2 million, which can be paid for with the \$128 million SCUSD has received in COVID relief funding.** We also provided the District with a list of recommended portable air filters ([which you can view here](#)).

To our surprise and disappointment, the District rejected our proposal and responded with a counterproposal ([that you can view here](#)) that subcontracts the work out to more expensive agencies that may or may not be available, but would still require students to participate in classrooms with inadequate ventilation.

We concluded the bargaining session with several special education and general education teachers and professional support staff expressing their profound disappointment in the District's leadership and its willingness to subject students to unnecessary and entirely avoidable health risks.

The District committed to providing a new response to us at a date that has not yet been determined. And here we are, one week later and the District still has not asked to reconvene.

The District is under some pressure to reach an agreement after the CDE issued a finding against SCUSD on January 19, 2021 regarding the District's failure to provide special education assessments. A complaint was filed on November 20, 2020. The District provided its official response to the complaint on December 24, 2020. Superintendent Aguilar did not mention the complaint when we met with him on January 20, and did not provide any details about it to us until January 27, 2021 when we were in a caucus just minutes before we began bargaining with the District. [You can view the District's February 5, 2021 response to the CDE by clicking here.](#)

Our proposal, which is substantially the same proposal we first made to the District back in November 2020, would enable staff to immediately commence one-on-one in-person assessments. It would also provide more resources for staff to conduct assessment that can be undertaken virtually. Despite our repeated requests, the District has made little or no effort to provide additional resources to educators that would enable them to increase their capacity to do assessments virtually. For over one month, Superintendent Aguilar has told us he is looking into it.

To this date, the District has been unable to provide full and accurate numbers of the overdue special education assessments to the CDE, and cannot provide any details regarding which portion of those assessments can occur in a virtual setting, and which need to take place in-person. Despite our repeated request, the new director of special education has not been part of our discussions.

As we concluded with the District one week ago, the major impediment to reaching an agreement is Superintendent Aguilar's refusal to spend a small portion of the \$128 million in COVID-relief dollars to provide a safe and healthy learning environment for students and staff. Superintendent Aguilar has shown he is willing to spend COVID dollars on a number of different things—a new pickup truck, a new cargo van, hundreds of thousands of dollars to an outside labor attorney and consultants. But apparently not students with special needs. This is indefensible.

From: Lauren Lystrup <
Sent: Wednesday, February 17, 2021 5:35 PM
To: SCUSD Public Comment
Subject: Public Comment 2/18/21 Board Meeting

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Public Comment Agenda Item 7.5 : District Assessments

Submitted on behalf of: Disability Rights California, Equal Justice Society, National Center for Youth Law, and Western Center on Law and Poverty

On February 25 at 6:00pm Disability Rights California, Equal Justice Society, National Center for Youth Law, and Western Center on Law and Poverty will co-host a virtual information session on the District's Duty to Complete Special Education Assessments During COVID-19. You can learn more about this event and register for this event by visiting DisabilityRightsCA.org/Events.

On January 19, 2021, the California Department of Education ("CDE") issued a decision in favor of students with disabilities within the District. The CDE found the District violated special education laws by failing to complete hundreds of special education assessments since March 2020. The CDE ordered several corrective actions against the District. One of the corrective actions is that the District has to develop a plan to complete outstanding special education assessments.

The February 25 information session will provide families with information and advocacy tips, including:

- Students' Rights to Special Education Assessments During COVID-19
- An Overview of CDE's January 19, 2021 Decision including corrective actions Against SCUSD
- Any Known Information Regarding SCUSD's Plan to Complete Outstanding Special Education Assessments; and
- How to Request Compensatory Education if Your Child's Assessment Has Been Delayed

This information session is free and open to the public.

Lauren Lystrup
Staff Attorney
Disability Rights California

Tel: _____ | Fax: _____

Email: _____

Intake Line: _____

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Comments on Item # 7.5 Update on Assessments (Christine Baeta and Raoul Bozio)

1. Assessment for Special Education

The District was found to be out of compliance by CDE for not providing students with assessments in the legally mandated time frame. CDE gave the district a list of items to be fixed and deadlines. So far, it appears the district has not met the timelines to put together a schedule to meet student needs and submit it to CDE, nor have they trained relevant staff as required. It also appears they haven't informed parents of affected students of the timeline or their rights to compensatory education. What HAVE they done to respond in a timely manner to meet CDE deadlines? It is an abdication of responsibility to continue to fail students because SCTA refuses to do the work AND is attempting to keep the district from hiring outside providers to service students instead. They shouldn't be allowed to stand in the way of the district meeting their legal obligations to serve students. The Coalition has been advocating on this issue since October. We are also concerned that the district did not consult the CAC, the mandated advisory body for special education, on this issue and insists they air this issue at a board meeting first. This violates the legislative intent purpose of the CAC that exists to advise the governing board. How can the CAC advise the board in this manner?

2. Common Assessments

The presentation is frustrating -- these two items deserve their own time and space for discussion and public comment. The data presented don't tell us how many students who were assessed met or exceeded expectations -- "answers correct" is not an adequate replacement. It's clear that yet again, common assessments are not common enough to be useful for our BIPOC students. While the arbitrator ruled that SCUSD must bargain this issue with SCTA, SCTA is yet again refusing to meet, thus standing in the way of adequately serving students.

Signed,

Angel Garcia,

Angie Sutherland,

Grace Trujillo, and

Renee Webster Hawkins