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July 29, 2020

**By E-mail**

Austin Beutner  
Superintendent  
Los Angeles Unified School District  
333 South Beaudry Avenue  
Los Angeles, CA 90017

***Re: LAUSD's 2020-2021 School Year Distance Learning Plan***

Dear Superintendent Beutner:

The recent announcement that the Los Angeles Unified School District (“LAUSD” or “the District”) will begin the school year without physically reopening schools means that students and families face an indeterminate period of distance learning next school year. This decision to preserve physical safety unfortunately magnifies a different risk, that students will be denied their fundamental right to education. *Serrano v. Priest*, 5 Cal. 3d 584, 605–10 (1971) (“*Serrano I*”). As the District’s own publicly released analysis shows, the District’s Schoology platform, which was the District’s primary online engagement platform for these students, actively engaged only 60% of secondary students each day during the nine weeks between school facilities closures and May 22. Moreover, the District reported significant disparities in participation, with low-income students and Black and Latino students participating between 10 and 20 percent lower than white and Asian peers.

A primary cause of these outcomes is the side letter agreement between LAUSD and United Teachers Los Angeles, dated April 8, 2020, that defined the methods and conditions for distance learning, and that has, to date, received little public scrutiny. Among other things, this side letter provided that:

- Live video instruction was not mandatory (para 1);
- teachers were not required to assess student learning (para 2);

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- teachers could not be mandated to spend more than one hour per week planning, collaborating, or attending professional development meetings (paras 3, 7);
- the work day was cut in half, with teachers being required to work only 240 minutes per day, inclusive of all forms of student support, office hours, meetings, and planning (e.g., a four-hour work day) (para 5).

This side letter listed a menu of methods for distance learning, but it did not provide guardrails on the appropriate balance of these methods and it did not mandate any use of online learning and live video conferencing, the only two methods that approximate the elements of a basic education. The remaining methods—distribution of printed instructional materials and phone calls, e-mails, or text messages reminder applications—on their own do not provide an education. Because only 60% of students participated in online learning and live video conferencing, this side letter left many students without access to a basic education.

This side letter guaranteed the unconstitutional deprivation of education for countless students throughout LAUSD, but particularly among the most vulnerable populations. These deprivations are even more severe for students with special needs. The side letter ensured that there were no guardrails to protect many of the accommodations that students with disabilities rely on to access education, and whose implementation is mandated in their individualized education plans (IEP). These critical accommodations include presentation accommodations that rely on auditory and visual differentiated instructions, including oral instructions, prompting, designated note taking, scribing, and recorded lessons. By limiting the crucial interactions between students and educators, this side letter not only failed to protect these accommodations, but it also removed key supports without providing for any other services to accommodate for the lack of support.

While LAUSD invested \$100 million dollars to provide laptops and internet to families, and many teachers undoubtedly went above and beyond to support students, the side letter between LAUSD and UTLA effectively nullified that investment and codified an environment in which neither live instruction nor assessments to monitor learning were required; teachers were not required to get the training they needed to be effective during distance learning; the work day was cut in half; and administrators had virtually no authority to monitor the existence of any interactions between teachers and students.

With no safeguards to ensure consistent instruction (or any interaction with students at all), and multiple prohibitions against monitoring either teacher activity or student learning, the fact that even 60% of students participated in distance learning is a testament to the dedication to education of many individual teachers and the efforts of many families and students. However,

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this surely cannot suffice to satisfy the fundamental right of all Californians to have “equal access to a public education system that will teach them the skills they need to succeed as productive members of modern society.” *O’Connell v. Superior Court*, 141 Cal. App. 4th 1452, 1482 (2006).

With school starting in less than one month, our clients, Judith Larson, Vicenta Martinez Alma Solano, and Akela Wroten Jr., on behalf of families across Los Angeles, demand that the parties do significantly better from the outset of this upcoming school year. Indeed, the state has mandated all districts must do better, with SB 98 requiring a level of service and school connectedness comparable to what students would experience with in-person instruction. And, while we are heartened by the Superintendent’s public commitments to a “regular schedule,” with daily, live “interaction,” and standards-based assessment of student progress, both these commitments and SB 98 leave critically important decisions to be made in a bargaining process with no opportunity for participation or even visibility by the hundreds of thousands of students and families that LAUSD serves.

Several key questions that LAUSD must address are:

- What type of “interaction” will be required between educators and students?
- How much live instruction will be provided for students, and how will the district make sure that this instruction actually happens?
- Will teachers and other school staff be asked to work the full day necessary to give our students the education to which they are entitled?
- Will administrators be able to monitor instruction and evaluate teachers, to make sure students are receiving a quality education?
- Will there be arbitrary limits on the time that teachers may be asked to plan, coordinate, and learn the skills they need to support student learning remotely, or will they be allowed to engage in such activities so that they can be prepared to teach in a remote environment? How and when will this type of training and support take place?
- What safeguards will be in place to ensure all students and families (and teachers and other employees, for that matter) have access to a working laptop and the high-speed internet necessary to support video conferencing?

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- What resources will be dedicated to addressing the disparities in access to live instruction that took place for Black, Latino, and low-income students?

The answer to these questions will determine whether students' fundamental right to an equal opportunity to public education is met. Based on the side letter previously agreed to, it is not fair to ask families to trust that the next agreement will be better. Accordingly, we demand that within 5 days, LAUSD and a majority of school board members, make an agreement which includes the following safeguards:

- Teachers and administrators work a regular schedule, as set forth in agreements prior to distance learning;
- No arbitrary restrictions on training or planning time;
- No restrictions on student assessments beyond those included in agreements prior to distance learning;
- Administrators and other staff are allowed and, indeed, required to observe video instruction with no limitations to observations beyond those included in agreements prior to distance learning;
- All students and staff will be provided with laptops or other devices, as well as internet hotspots sufficient to support video conferencing and other applications needed for distance learning;
- Teachers and other staff must receive training and necessary resources to increase family and student engagement in the vulnerable populations who participated at lower rates in the spring;
- Further resources and support for schools serving a high concentration of Black Students, Latino students, English learners, low-income students, English learners, students with disabilities, and other groups denied their educational rights in the spring;
- All students receive a guaranteed number of instructional minutes per week that is sufficient to learning grade and course level standards and is appropriately balanced between distance learning methods that provide the basic elements of a standard education, which include, direct instruction from a teacher, academic interactions with classmates, independent student practice, and feedback on their work; and

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- Families are provided with regular and sufficient access to timely information about and support on their children's learning and progress.

Please confirm that you will immediately enter into an agreement that takes the necessary steps to ensure that our clients' children, and the other almost 500,000 children enrolled in LAUSD, are provided with the education that is guaranteed to them by the California Constitution, so that we need not take action to require LAUSD to provide the equal opportunity to education to which Los Angeles public school students are entitled. LAUSD has had months to figure out online and distancing learning and to comply with the California Constitution, but it has yet to do so. Given that the school year is set to begin in less than one month, time is now of the essence. We look forward to hearing from you by **August 2, 2020**.

Sincerely,



Mark Holscher

cc:

Dr. Richard Vladovic, Board President  
Ms. Jackie Goldberg, Board Vice President  
Ms. Monica Garcia  
Ms. Kelly Gonez  
Dr. George McKenna  
Mr. Scott Schmerelson  
Mr. Nick Melvoin