

What would you do if you had to live in a shoe?

White paper on: "Why the SDUHSD's segregated ATP facility is unacceptable."

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Question:

Is the placement of the 4-year adult transition program for students with disabilities in interim portables, on a segregated location, on a middle school campus, without access to nondisabled peers, with features substandard to that of the other facilities on the same campus site, and with insufficient room for the students to learn or teachers to teach, an acceptable use of public funding?

History/Background:

Under the Individual with Disabilities Education Act, qualifying students with disabilities are eligible for instruction up to the age of 22. Our district provides this federally required instruction through its 4-year Adult Transition Program (ATP). Most students in this program have not earned their high school diploma and need further instruction to meet their vocational and academic needs (including the earning of credits towards a diploma), and to improve their independent living skills. Once a diploma is earned, or the student turns 22, the student graduates or exits from the program. A student who qualifies for disability services through the San Diego Regional Center is not able to access supports and services under the Lanterman Act (for persons with developmental disabilities) until the student exits from the district's adult transition program by aging out or graduating.

For the last two years, these adult students have been housed in 2 small interim portables on the "interim campus" for the Earl Warren Middle School. For the 2016-17 school year, there were approximately 3 teachers, 10 instructional aides and 20 students, some of which are medically fragile and in wheelchairs. Prior to being placed in the middle of the EWMS interim campus, the disabled adult students were housed in other interim portables at the back of the LCC campus (in the parking lot where buses are now located), and in rented facilities in shopping centers in Sorrento Valley or Carlsbad. The students in this program have had little consistency in programming or location.

In the fall, the middle school students will move to a new Earl Warren Middle School campus. The former EWMS interim campus will be leased and used by the Solana Beach School District (elementary school students). The ATP disabled students are moving to 2 interim housing units the district purchased in May 2017, located on the northwest end of the EWMS campus. However, the adult transition program will almost double in size, going from around 33 adults this past year, to over 60. Despite this significant increase, the district has not purchased additional classrooms or bathroom options.

The 4-year adult transition program (technically considered an extension of La Costa Canyon even though it is housed on the EWMS campus) for unknown reasons was not included in the Prop AA master plan for LCC, or for EWMS. Even though each of the master plans for these district's campuses emphasized the importance of certain features, such as the need to orient, build or upgrade buildings to optimize natural light, as well as other updated design features (e.g. LED lighting, floor to ceiling windows, etc.), these features were omitted from the interim portables purchased for the ATP. The Master Plans for LCC and EWMS are available online but neither of them show the ATP facility. The EWMS master plan actually shows that the ATP facility location was slated for more EWMS classrooms.

Throughout the 2016-2017 year, parents raised numerous concerns before the district's Special Education Forum Committee and with the special education director. These concerns included in pertinent part, but were not limited to:

- the placement of the adult transition program on the middle school campus,
- the lack of any opportunity for interaction with similarly aged nondisabled peers,
- the segregation of the adult disabled students was not meeting the “least restrictive environment” mandates of the Individuals with Disabilities Act,
- the continued placement of the disabled students in interim portables instead of classrooms,
- the lack of courses/curriculum ill equipped to train them for employment, independent living or other post-secondary pursuits,
- the dismal proficiency rates of the students with disabilities,¹ and
- the lack of any data showing that the current approach or ATP model equipped the students for a successful transition once they exited out of the program.

The committee members, and staff, were repeatedly verbally assured at these district committee meetings and through other discussions that the adult transition program would finally have a “state-of-the-art” facility customized to meet their needs. Parents asked if they could have input into the facility design or see the plans before it was built, but they were told the “walls were going up” and that they would have an opportunity for input at a later date; but, an opportunity for input never happened. All that was shared with the parents was a black and white floor plan of two classrooms, without any classroom measurements.

Families learned for the first time in May 2017, via a purchase request on the Board’s May agenda, that the transition program would not be housed in customized “state of the art” buildings but rather interim portables (again) on the EWMS campus. It is unclear why the district approved the purchase (as opposed to the leasing) of “interim house,” which by its nature is supposed to be used for temporary solutions. This new facility was not master planned or otherwise presented to the public for public input like the other campuses. The cost: \$445,822.78.

Parents visited the site the next day and saw two practically windowless portables placed on concrete slabs. These relocatables each contain only a single small window in the classroom, a windowless bathroom that opens directly into the cooking area, a windowless locking “calming room” (even though the use of similar locking rooms has given rise to lawsuits against districts for using them for seclusion and restraint), fluorescent lighting (known to cause issues for students on the spectrum and with ADHD), linoleum flooring, and other features that contradict the “state-of-the-art” description previously shared through the school year and at the special education committee meetings. In sum, the placement of the transition program on the EWMS campus segregated from any typical peers was the exact opposite of the concerns and representations shared during the Special Education Committee meetings over the last year. The 630 sf classrooms appeared too small to house the student population, which as noted previously includes students in wheelchairs and with other physical and cognitive disabilities.

A site visit of the EWMS classrooms - only a few yards away - by comparison, reveal spacious, open classrooms with high ceilings, floor-to-ceiling windows with openings to encourage cross-ventilation and oriented to optimize natural light, chandelier LED lighting and other features representing current best practices and contemporary design features. (Even the EWMS Utility

¹ Per the district’s LCAP, students with disabilities at the two high schools primarily responsible for housing this subgroup (La Costa Canyon and Torrey Pines) had single digit proficiency rates in math, more than 70% were not proficient in ELA. Per the college/career readiness EAP results, **zero** percent of the students in special education at TP were college ready in math, and only 3% were “college ready” at LCC. For ELA, only 3% at TP were college ready in ELA, and only 5% were college ready at LCC. (See also Sunset High School, where only 2% of all students were college ready in math, and only 13% were college ready in ELA). Many students with severe disabilities or who have just undergone annual or triennial testing do not even take these tests, so the overall percentages may be lower.

building had more windows in its small structure than the larger ATP double-wides). It is unknown at this time why someone made the decision not to provide the ATP program with equal classrooms or with a facility with equal features such as the LED lighting, high ceilings, and the like.

Per the DSA filings, the interim portables are 36 x 40 “Interim ATP Modular Classroom Buildings”. Both are “pre-check” over the counter “TEMP” relocatables. Per a purchase order/contract, the district added interior walls to each relocatable to make a conference room and/or teacher offices, reducing the overall classroom space. The classrooms are now 630 square feet, with an additional approximately 100 feet available in the form of a kitchenette area (PC-04-113886). The CA Ed Code states that the minimum classroom size should be 960 square feet, although additional space may be required for special populations. (See “Summary of the Problems” below).

Upon learning of the district’s purchase of interim relocatables instead of the building of a “state-of-the-art” facility, parents sent letters and presented public comments to the Board urging the district to relocate the 4 year adult program to classrooms either on a high school campus (e.g. LCC, CCA or Sunset) or on the local community college campus (which is what Orange County schools do),² so that the disabled students would not be segregated once again in interim portables so far away from non-disabled peers, have more classroom space to meet the instructional needs of the anticipated 47 students, have a 3rd classroom so that the 3rd teacher had a classroom in which to teach, have greater access to bathrooms because many of the students need assistance and take longer to use the bathroom, as well as other concerns. Parents also shared how Project Frog and other builders/manufacturers could provide much better and affordable classroom housing or portables within very short turnaround times that offered a better learning environment.

Ultimately, because concerns raised over the last two years had been ignored regarding the ATP facility, as well as numerous concerns regarding the lack of career pathways, poor proficiency rates and lack of curriculum, a group of parents submitted a 50 page petition to the district outlining the concerns for the Board to learn what had been discussed over the last couple of years. The goal was to afford the district one more opportunity to address concerns before parents explored legal action against the district.

Per the Board’s agenda for the July 13, 2017 meeting, the district has no plans to secure a 3rd portable for the transition program scheduled to start August 29. Instead of leasing a 3rd portable, the district will consider the spending of approximately \$33,000 to add windows to the two double-wide portables. Unfortunately, while the windows will add much needed natural light and ventilation to the relocatables, the issues of capacity remain unaddressed.

Summary of the problem(s):

Per the State of California’s Statewide Task Force on Special Education, the U.S. Dept. of Education notified California that the schooling and services the state provides to its adults with disabilities in the area of transition services were “**inadequate.**” In an attempt to address this ongoing problem, the “**Employment First**” initiative was enacted making **integrated competitive employment the state’s highest priority for people with developmental disabilities “regardless of the severity of their disabilities.”** (Welfare and Institutions Code, § 4869(a)(1). But despite such prioritization, per the 2015 report of the CA Employment First

² See, e.g. Orange County Dept. of Ed. “Adult Transition Program,” which highlights why that Orange County’s Department of Education believes that the college environment is the most appropriate educational setting for the adult transition students. <http://www.ocde.us/SPED/Pages/Adult-Transition-Program.aspx>

Committee, **only “1.4% of persons with developmental or intellectual disabilities are in real jobs with real pay.”** In order to determine whether the district’s ATP program was equipping its disabled students for transition, the district special education committee requested information on the outcomes for the program. The committee was unanimous that there was not data to demonstrate that the program was effective.

Among other things, the committee examined “Indicator 14 data,” data which states collect from districts to learn about the percent of youth exiting the district who had IEPs who transition to higher education, competitive employment, postsecondary training or education, and other activities. As a result, the committee members requested that the district reform its special education programs to offer more onsite functional and vocational classes, create career pathways, and more career exploration among other things because the district’s CTE, ROP and other vocational related programs were not designed or did not offer subjects which meaningfully benefitted the non-diploma bound disabled students or the students unable developmentally from attending college.

Rethinking how we teach our disabled adults while they are in the district has been a critical part of these discussions because the non-college bound students with disabilities are the expected to transition directly to some form of work upon their exist from the district. The local community colleges currently do not offer special education vocational training or other classes other than basic academic skills so the district needs to recognize the importance of its ATP program and students this programs serves.

But, instead of using Prop AA funding or other funding to provide a state-of-the art facility to provide more space for instruction and vocational training, the district chose to provide cramped relocatables with only two classrooms consisting of 630 sf each for over 60 adults on a segregated middle school campus away from any non-disabled peers. Why this is so wrong....

1. **Persons with disabilities have the right to participate in an education setting (academic and nonacademic) with non-disabled students to the *maximum extent appropriate to their needs*** (Section 504 of the Rehab Act, 29 U.S.C. § 794, 34 CFR 104.34; Individual with Disabilities Education Act, 20 U.S.C. § 1412(5)(B), 34 C.F.R. § 300.550-300.556; CA Ed Code § 56364.2);
2. The governing board of each school district and the county office of education shall ensure that school facilities for pupils who are individuals with exceptional needs **are integrated with other school facilities**. CA Ed Code 17070.80(b);
3. All school facilities purchased or newly constructed for use by pupils with disabilities **shall be designed and located on the school site so as to maximize interaction between those individuals with exceptional needs and other pupils as appropriate to the needs of both**. CA Ed Code § 17070.80(a);
4. New classrooms for special education purposes shall be no more physically separated from classrooms built for their non-disabled peers than those classrooms are from each other; **preferably the classrooms are under the same roof and adjacent to classrooms of their non-disabled peers**. CA Ed Code § 14036;
5. **The CA Ed Code requires general education classrooms to have a minimum of 960 square feet, 5 CA Ed Code § 14030(g); Special education classrooms must be “at least the same size as regular classrooms” and “are properly equipped for the students who will occupy the space, for their age and type of disabling condition” (5 CA Ed. Code § 14030 (h)(3)); see also CA Ed Code § 17047 (square footage allowances**

for spec ed classrooms with 12 students begins at approximately 1080 sf; for 10 students developmentally delayed, 2000 sf.; for severely intellectually disabled, 12 students, 2150 sf.; Autistic, 6 students, 1160 sf.);

6. Per 5 CA Ed Code § 14001 (“Minimum Standards”), **educational facilities planned by school districts shall be evolved from a statement of educational program requirements which reflects the school district’s educational goals and objectives, master-planned to provide for maximum site enrollment**, located on a site which meets CA Dept of Ed standards per section 14010, **designed for the environmental comfort and work efficiency of the occupants** and designed and engineered with **flexibility to accommodate future needs**. This facility has already been outgrown.
7. Per section 14030, governing the “Standards” required for sites, plans must:
 - a. address the type, number, size, function of each space and the spatial relationships of the instructional area that are consistent with the educational program,
 - b. make sure the site layout designates areas for future permanent or temporary additions that are compatible with the existing site plans,
 - c. **ensure that the building placement has natural orientation to natural light (the ATP facility does not),**
 - d. **make sure that the classrooms have adequate space to perform the curriculum functions for the planned enrollment (the ATP facility does not),**
 - e. **make sure that the classrooms are a minimum of 960 square feet (the classroom space in the ATP interim housing is at least 200 sf below this minimum),**
 - f. ensure that conduit/cabling and outlets are available for technology in each classroom to provide network and stand alone equipment related to the planned and future potential educational functions (there are very few outlets in the facility to power the personal devices these students used for communication and other needs),
 - g. observe the the sf allowance in Ed Code 17747(a) for special day class programs is used (discussed above, the sf allowances may not have been complied with),
 - h. use a lighting design that generates an illumination level that provides comfortable and adequate visual conditions (fluorescent lighting is a well established problem for students attending the transition program with ADHD, Autism and other diagnoses),
 - i. **provide a sufficient number of restroom stalls to accommodate the maximum planned enrollment** (there have been numerous concerns raised about how two bathrooms are not sufficient for 47 disabled adults, over 10 instruction aides and the 3 teachers).
8. The implementing regulations of Section 504, found at 34 C.F.R. § 104.4, and 28 C.F.R. § 35.130, state that **a person with a qualified disability shall not be provided with an aid, benefit or service that is not as effective as that provided to others, or different or separate benefits** unless such action is necessary to provide aids, benefits or services that *are* as effective. The ATP relocatables are not “as effective” as the EWMS classrooms just yards away because they do not provide the same environmental features known to improve learning as the EWMS does. (See also the master plans for CCA, LCC, SDA and TP, emphasizing the importance of natural light, fresh air, technology rich facilities, optimized daylight access).
9. **In 2011, the Office of Civil Rights (OCR) found that a Tennessee school district violated Section 504 when it placed 14 middle school students with disabilities in a self-contained classroom housed in two portable buildings.** Marion County (TN) School District, 11 LRP 59226 (OCR May 2011). The fall ATP, by comparison, may have up to 47 *students with disabilities* in two segregated portables not even on a site with typical peers.

The OCR recognized as a basic premise that Section 504 of the Rehabilitation Act prohibits school districts from providing students with disabilities less opportunities to participate with their peers and *from denying them comparable facilities*.

The Needed Solution:

Had the plans for the ATP program been fully disclosed to the public as required by the CA Ed. Code, and offered for public input, much of the current public outcry could have been avoided. Instead, the visual comparison of the ATP facility with the EWMS classrooms has mobilized public criticism amounting to “separate but unequal” concerns, and highlighted how little consideration has been given to students with disabilities in many areas. Students with disabilities in spec ed tracks do not have courses to select from like nondisabled peers. Students with disabilities do not have after-school programs like nondisabled peers. Students in spec ed “tracks” do not have the same Aeries benefits in terms of activity entries and grades. And now, the disabled adult students once again do not have classrooms like their nondisabled peers, and have been relegated once again to portables while Prop AA funds are used to update and replace portables to build state-of-the-art facilities throughout the district for nondisabled students.

Short term solution:

- **Provide the ATP program with a 3rd portable with a bathroom.** This will enable all three teachers to have a classroom in which to teach, and provide an additional bathroom for the program to use. Right now there are 3 teachers and only 2 classrooms. A third portable will also ensure that all students can be taught on campus at the same time, which is especially important in the event of rain, emergency situations or other situations. This current ratio forces the 3rd teacher out into the community for numerous hours because there is not enough space in the two existing portables for the students’ instructional needs to be met.
- Update the ATP relocatables to include benefits equal to the EWMS a few yards away. Add windows to optimize natural light and provide for cross-ventilation, integrate outlets into the floors and/or walls so that these students, who rely upon personal tech devices to communicate and perform other functions, can charge these devices and possibly use computers or other appliances on desks or tables to work on their vocational and functional skills; and replace the fluorescent lighting with LED lighting,
- Assign each portable a “subject” or theme so that the classrooms can be tailored to maximize instructional focus, reach and use [e.g. One for IL (cooking, home cleaning, laundry, folding, etc.) one for vocational/tech (a vocational exploration wheel, on-site training with cash registers, code scanners, an onsite store to buy food from, etc., with vocational tracks that lead to a vocational certificate in 4 years, identification of AT and creation of an AT plan for home and work), and the third portable for academics/non IL functional skills (e.g. AVID, SEEDs, PEER, Behavioral support and other skills)]. This would help students feel like they have courses to go to just like in community college and high school instead of being stuck in a single room. That way curriculum/subject related appropriately themed posters and materials can remain in one room, students will have the benefit of customized classrooms and feel like they are going to an actual class.
- Work towards the creation of an MOU with the teaching program at CSU San Marcos, the SDSU Autism Program and social work programs to bring in typical peers from the local college or even NPA’s to work with the ATP students as appropriate to support classrooms and provide typical peer interaction. (Similar to reverse mainstreaming). This would lead to an interactive teaching model that would benefit our teachers and students as well as those of the off-site programs. This would help provide additional assistance to support our students, enable teaching staff and visitors to share the most up to date interventions they’ve learned from school, and help build special education teachers to fill the often difficult to fill positions for our district.

Long term solution:

San Dieguito is part of the **Coastal North County Adult Education Consortium** (Adult Ed Consortium). The consortium is supposed to develop and implement a comprehensive plan to better serve the educational needs of adults in our district through the CA Adult Education Block Grant (AB 86 Implementation Grant). The goal of the consortium, in part, is to create programs to help adults enter the workforce, and to provide more educational options to serve the needs of adult with disabilities ("AwD"). Per the Consortium's study, **AwD are "woefully unserved" in north county.** "Clearly, there is evidence to support the need for a comprehensive postsecondary program for Adults with Disabilities." **AwD are the number one underserved subgroup with only 1.2% of the population having their needs met through the community college.**

The report further noted that the "consortium has the opportunity to be the first in north county San Diego to offer AwD students an entry level support support program and a C2C-like, comprehensive, 3 year postsecondary education program with support services to better prepare them and to answer the call of their future employers." As noted by the block grant, the funding used by the community colleges "must be used" for programs for adults with disabilities. And yet, the invitation to create some form of a campus collaboration for AwD does not appear to have been fully answered beyond its offering of basic academic courses.

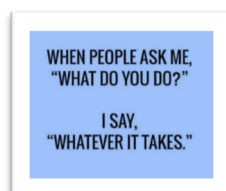
We ask that the district aggressively undertake steps with local community college(s) to ultimately move the entire ATP program to a community college campus like what Orange County has done for its adult transition programs Gold West College ATP and Saddleback Community College ATP. As noted by those programs, having the district's ATP program on a community college site:

- Maximizes opportunities for students to regularly interface with the public and age-appropriate peers.
- Maintains natural proportions allowing students to integrate into the community setting without impacting the immediate environment.
- Affords a stabilized natural environment without the potential hazards, essentially offering a small community setting;
- Provides a variety of recreational and leisure activities, such as gym, track, social and cultural events, art exhibits and other events.
- Individualizes work training because of the availability of a wide variety of work training sites on campus and in the community such as retail, food services, maintenance and clerical jobs.

Source:

<http://www.ocde.us/SPED/Documents/OCDE%20Adult%20Transition%20Program%20Brochure.pdf>

So, what would you do if you lived in a shoe? You'd find parents like us to help you know what to do!



EARL WARREN Middle School – 2 years



ATP – 4 years – Adults with disabilities







“Separate and Unequal?”

