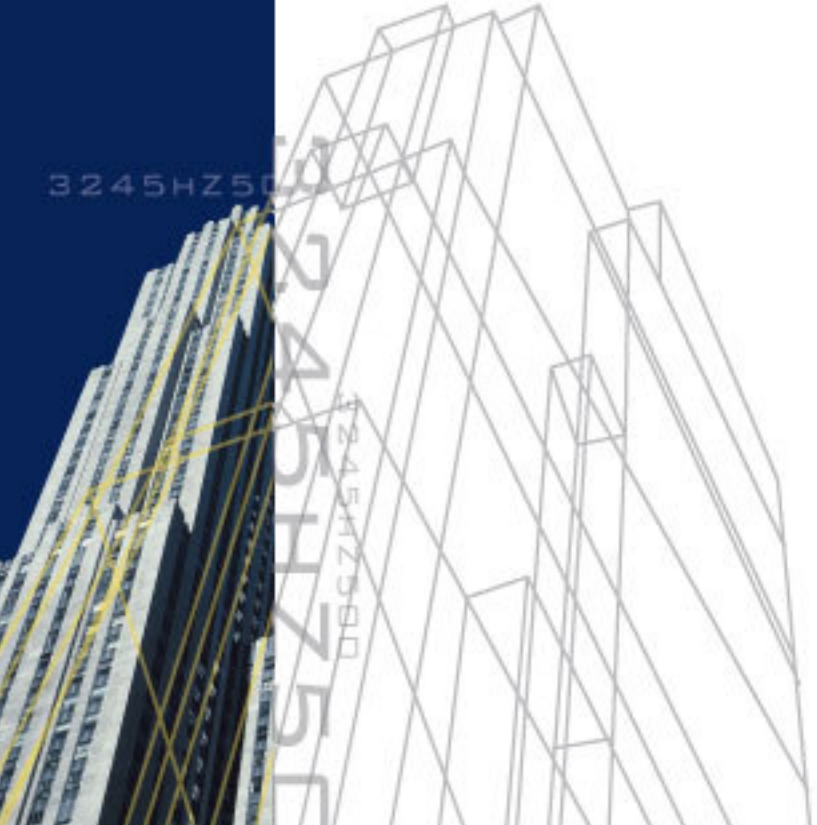


**L.V. v. D.O.E.
03 Civ. 9917 (RJH)**

**Stipulation and Agreement of Settlement
Independent Auditor's First Quarterly
Report**

January 9, 2009

FINAL



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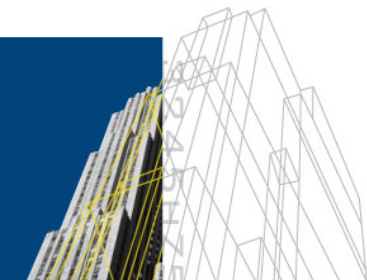
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I. Introduction

A. Overview

On December 12, 2003, Advocates for the Children of New York (“AFC”) and Milbank, Tweed, Hadley & McCloy LLP (“Milbank”) filed a class action, L.V. v. D.O.E. 03 Civ. 9917 (RJH). The class was comprised of parents of special needs children who alleged that while they had obtained a favorable order from an Impartial Hearing Officer against the New York City Department of Education (“Defendant” or “the DOE”) or stipulation of settlement placed on the record at an impartial hearing with the DOE, the DOE failed to obtain full and timely implementation of such order or settlement.

On December 11, 2007, the Corporation Counsel of the City of New York on behalf of the DOE and AFC and Milbank on behalf of Lead Plaintiffs and class¹ (“Plaintiffs”), referred to collectively herein as (“the Parties”), signed a Stipulation and Agreement of Settlement (“Stipulation”) in connection with L.V. v. D.O.E. 03 Civ. 9917 (RJH). Pursuant to the terms of the Stipulation, Daylight Forensic & Advisory LLC (“Daylight”) was appointed as Independent Auditor on March 26, 2008. On May 9, 2008, the DOE formally engaged Daylight to commence the independent audit.

¹ Pursuant to Section I,1.f of the Stipulation, “Class” is defined as the Compensatory Relief Subclass and the Injunctive Relief Subclass.

Daylight, in its capacity as Independent Auditor, is in the process of reviewing Proof of Claims submitted by Authorized Claimants² in connection with the Compensatory Relief Subclass³ as well as the DOE's implementation efforts in connection with the Injunctive Relief Subclass Orders.⁴

This report focuses on Daylight's review of Injunctive Relief Subclass Orders and summarizes our analysis of the Total Orders and Total Action Items that were part of the first Quarterly Measurement Period ("First Quarter").

The terms defined in Section I. Definitions of the Stipulation apply to the present report.

B. Injunctive Relief Subclass

On August 6, 2008, Daylight submitted its report related to Orders issued between February 1, 2008, and before the Effective Date of June 1, 2008 ("the Gap Period"). The Stipulation also requires the Independent Auditor to generate reports concerning the DOE's implementation of Orders and Action Items for all Quarterly Measurement Periods (each a "Quarterly Report") and Benchmark Measurement Periods (each a "Benchmark Report") beginning on the Effective Date of June 1, 2008, until the prospective relief provisions of the Stipulation cease to be in force (Section III. Injunctive Relief; point 16, and point 17, Rights Retained by Injunctive Relief).

² Pursuant to Section I,1.c of the Stipulation, "Authorized Claimant" is defined as a Class Member who submits a timely and valid Proof of Claim form to the Claims Administrator, as described more fully in Paragraphs 27-29 of the Stipulation.

³ Pursuant to Section I,1.j of the Stipulation, "Compensatory Relief Subclass" is defined as the class of all persons who, on or after December 13, 2000 and on or before January 31, 2008, (1) have obtained a favorable Order by an Impartial Hearing Officer against the DOE or a stipulation of settlement placed on the record at an impartial hearing with the DOE and (2) failed to obtain full and timely implementation of such Order or settlement.

⁴ Pursuant to Section I,1.r and h of the Stipulation, "Injunctive Relief Subclass" is defined as the class of all persons who, on or subsequent to the Commencement Date of December 12, 2003, (1) obtain or obtained a favorable Order by an Impartial Hearing Officer against the DOE or stipulation of settlement placed on the record at an impartial hearing with the DOE and (2) fail or failed to obtain full and timely implementation of such Order or settlement.

The first Benchmark Report will include an aggregate analysis of results from the First Quarter and second Quarterly Measurement Period (“Second Quarter”) and document whether the First Benchmark established in the Stipulation, in Section III. Injunctive Relief; point 4, has been met.

Pursuant thereto, the DOE must Timely Implement 75% of Action Items or Orders to be in compliance⁵ with the six-month First Benchmark. If the DOE Timely Implements 75% or more of Action Items within the First Benchmark Measurement Period, it must also Timely Implement 70% or more of Orders within the First Benchmark Measurement Period to be deemed in compliance, or vice versa.

The following table represents the two scenarios by which the DOE can achieve compliance with the First Benchmark:

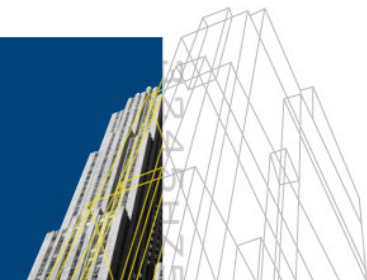
First Benchmark Period	Total Counted Orders	Total Counted Action Items
Compliance Scenario 1	75.0% Timely Implemented	70.0% Timely Implemented
Compliance Scenario 2	70.0% Timely Implemented	75.0% Timely Implemented

C. Compensatory Relief Subclass

The Stipulation, Section IV Compensatory Relief, requires the Independent Auditor to undertake certain responsibilities including:

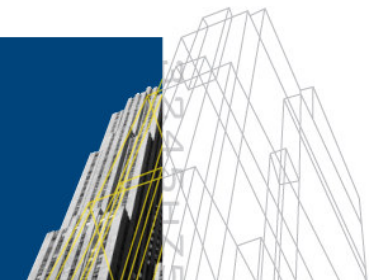
- Reviewing Proof of Claims submitted for approval;
- Determining the appropriate dollar value of Compensatory Educational Services vouchers;
- Reviewing DOE Challenges to Proof of Claims and Authorized Claimants’ supporting documentation;
- Analyzing Authorized Claimants’ requests for vouchers in excess of \$3,000 for assistive technology and,
- Reviewing Authorized Claimant’s requests for the use of a voucher at providers who have not been approved by DOE.

⁵ Pursuant to Section III.15.a. of the Stipulation, Daylight is required to measure compliance for each Quarterly or Benchmark Measurement Period, and separately calculate the percentage of Orders and Action Items that were Timely Implemented for Payment and Service Orders.



Daylight held discussions and meetings with the Parties’ to develop its Compensatory Relief Subclass methodology and distributed flowcharts reflecting its proposed analysis and methodology of Compensatory relief Proof of Claims to the Parties and the Claims Administrator, Garden City Group (“GCG”). After meeting with the Parties and GCG to solicit input related to our proposed analysis, we finalized our methodology.

Daylight’s work related to the Compensatory Relief Subclass is taking place concurrently with its work relating to the Injunctive Relief Subclass and is an ongoing process. While there is no reporting requirement identified in the Stipulation related to the Compensatory Relief Subclass, we can provide, upon request, more detail as to our progress to date.



II. Executive Summary

During the First Quarter, Daylight determined the DOE Timely Implemented 47.1% of the Total Orders and 60.6% of the Total Action Items reviewed.

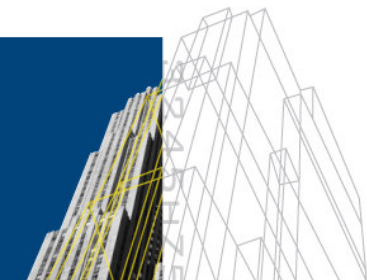
Based upon the requirements of the Stipulation, Daylight measured implementation of the First Quarter Orders and Action Items. In particular, the DOE implemented 50.0% of Service Orders; 64.0% of Service Action Items; 42.6% of Payment Orders and 49.2% of Payment Action Items during this timeframe.

The following table is a summary of the percentage of Timely Implemented First Quarter Orders and Action Items by type of relief:

Type of Relief	Timely Implemented Orders	Timely Implemented Action Items
Service	50.0%	64.0%
Payment	42.6%	49.2%

Daylight reviewed a total of 218 Orders during the First Quarter. Specifically, Daylight determined which Orders and related Action Items were in the scope of the present report or reportable in future reporting periods. In particular, Daylight determined that of the 218 Orders issued during the First Quarter, there have been:

- 155 Total Orders, including 335 Total Action Items identified during the First Quarter, subject to analysis in the present report;
- 21 Order cases comprising 30 Action Items currently pending further action, which will be reported on during later reporting periods and,
- 42 Orders that did not include Action Items, such as Orders of Dismissal and Orders where the parent’s request for relief was denied. These Orders have been retained in our case management platform for reconciliation and data control.



In addition, Daylight identified 5 conditional Action Items for which the conditional events did not occur. The aforementioned five Action Items were closed and not assessed as Uncounted/counted or for Timely Implementation.

The following sections include a summary of our analysis at the Order and Action Item levels for the First Quarter.

A. Order Summary

Based on the methodology outlined in Section III., below, Daylight reviewed those Orders determined to be within the scope of the First Quarter. Of the 155 First Quarter Orders, 119 were counted Orders. Thirty-six were Uncounted⁶ Orders as follows:

- 5 Orders were timely appealed by the DOE;
- 3 timely appealed Orders for which settlements were reached prior to State Review Office determination;
- 26 Orders for which the DOE had made a substantial showing of attempts to reach the parent and attempts to obtain compliance with the parent's obligations under the Order and,
- 2 Orders that required the DOE to take action that was factually impossible to implement in a timely manner.

⁶ Pursuant to Section I.1. II of the Stipulation, Orders or Action Items are deemed "Uncounted Orders" or "Uncounted Action Items," respectively, when an Order or Action item could not be Timely Implemented because:

- i. It required the DOE to take action that would either violate applicable law or is factually impossible;
- ii. The DOE had made a substantial showing of attempts to reach the parent and attempts to obtain compliance with the parent's obligations under the Order;
- iii. It required the provision of a DOE designated shortage area service which includes, inter alia, occupational, physical and speech therapy and where the DOE made a substantial showing that it offered the parent an appropriate substitute service within 35 calendar days of the issuance of the relevant Order or Action Item and
- iv. The Order or Action item was timely appealed by the DOE

Of the 119 counted Orders, 63 (52.9%) were Unimplemented⁷ and 56 (47.1%) were Timely Implemented.⁸ In particular, 72 of the 119 counted Orders were service-related⁹ and 47 were payment-related.¹⁰ Of the 72 counted service-related Orders, 36 were Unimplemented (50.0%) and 36 were Timely Implemented (50.0%). Of the 47 counted payment-related Orders, 27 were Unimplemented (57.4%) and 20 were Timely Implemented (42.6%).

The following table is a summary of the results of our assessment of First Quarter Orders by type of relief:

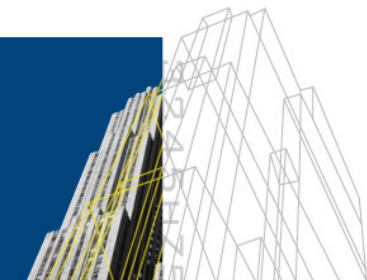
Type of Relief	Unimplemented Orders	Timely Implemented Orders	Total Orders	Percentage Unimplemented	Percentage Timely Implemented
Service	36	36	72	50.0%	50.0%
Payment	27	20	47	57.4%	42.6%
Total	63	56	119	52.9%	47.1%

⁷ Pursuant to Section I,1. mm of the Stipulation, “Unimplemented” or “Unimplemented Order” is defined as an Order or Action Item that is found by the Independent Auditor to have not been Timely Implemented. Daylight assessed Action Items as Unimplemented when 1) there was no indication that implementation occurred or 2) the analysis determined that implementation occurred after the due date. Orders were deemed Unimplemented when one or more of the Action Items associated with the Order was determined to be Unimplemented.

⁸ “Timely Implemented” is defined as an Order or Action Item that was implemented within the length of time specified in the Order or, if no such time is specified in the Order, within 35 days of issuance (of the Order itself or of the Order containing the Action Item), except that particular Orders or Action Items will also be considered to have been timely implemented for measurement purposes pursuant to the additional requirements included in Section I,1.ii of the Stipulation.

⁹ Pursuant to Section I,1.dd of the Stipulation, “Service Order” is defined as an Order, or all Action Items within an Order that requires the DOE to take any action other than make a payment directly to a parent, private service provider, or private school.

¹⁰ Pursuant to Section I,1.v of the Stipulation, “Payment Order” is defined as an Order, or all Action Items within an Order, requiring the DOE to make a direct payment to a parent, private service provider, or private school.



B. Action Item Summary

The 119 counted Orders included 259 counted Action Items. Our analysis determined that 102 of the 259 counted Action Items were Unimplemented (39.4%) and 157 were Timely Implemented (60.6%).

In particular, Daylight determined that 76 of the 335 First Quarter Action Items were Uncounted as follows:

- 5 Action Items were timely appealed by the DOE;
- 4 timely appealed Action Items for which settlements were reached prior to State Review Office determination;
- 58 Action Items for which the DOE had made a substantial showing of attempts to reach the parent and attempts to obtain compliance with the parent’s obligations under the Order;
- 4 Action Items that required the DOE to take action that was factually impossible to implement in a timely manner and,
- 5 Action Items for which the DOE was required to provide a service designated as a shortage area and instead offered an appropriate substitute service.

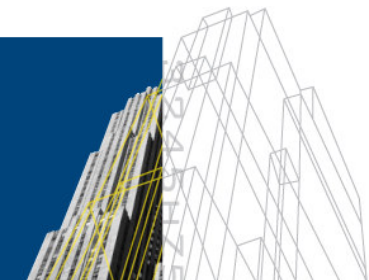
The 259 counted Action Items included 200 service-related and 59 payment-related Action Items. Of the 200 counted service-related Action Items, 72 were Unimplemented (36.0%) and 128 were Timely Implemented (64.0%). Of the 59 counted payment-related Action Items, 30 were Unimplemented (50.8%) and 29 were Timely Implemented (49.2%).

The following table is a summary of the results of our assessment of the counted First Quarter Action Items by type of relief:

Type of Relief	Unimplemented Action Items	Timely Implemented Action Items	Total Action Items	Percentage Unimplemented	Percentage Timely Implemented
Service	72	128	200	36.0%	64.0%
Payment	30	29	59	50.8%	49.2%
Total	102	157	259	39.4%	60.6%

Of the 102 Unimplemented Action Items, 47 (46.1%) of the Action Items appear to have been implemented after the final due date. Daylight also determined that 32 of these were service-related and 15 were payment-related. We could not ascertain whether 55 (53.9%) of the 102 Unimplemented Action Items were ever implemented or implemented at a later date because there was insufficient information in the record to make such a determination at the time Daylight performed its analyses. These 55 Action Items were comprised of 40 service-related items and 15 payment-related items.

Appendices A and B include lists by case number of the 119 Orders issued during the First Quarter that were Unimplemented and Timely Implemented, respectively. Appendices C and D list the 259 Unimplemented and Timely Implemented First Quarter Action Items, respectively. In addition, Appendix E lists the 36 Orders and 76 Action Items issued during the First Quarter that were considered Uncounted.



III. Daylight's Methodology

A. Introduction

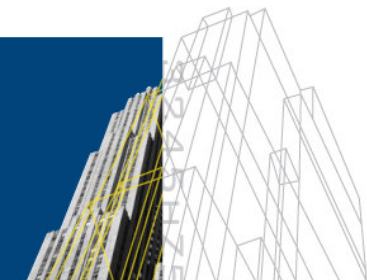
Daylight's assessment of the Total Orders and Total Action Items for the First Quarter was performed based on requirements established in the Stipulation, documentation provided by the DOE or made accessible to Daylight via access to DOE technology systems, and regular update calls with the Parties.

Daylight met individually and jointly with the Parties to discuss and clarify its responsibilities pursuant to specific provisions of the Stipulation, held meetings with DOE personnel to understand their processes and protocols, performed walkthroughs and limited testing of certain DOE processes, and obtained access to the DOE technology systems to gather supporting documentation regarding the implementation of Action Items prior to commencing our Injunctive Relief Subclass analysis. Moreover, several meetings were focused towards the customization of Daylight's case management platform and reporting technology.

The following sections describe more in detail each of the aforementioned steps undertaken by Daylight along with an overview of the processes and protocols designed to internally manage the assessment of Action Items and Orders.

B. Daylight Team

Daylight's team is composed of approximately twelve members, including Analysts, Team Leaders, Quality Assurance Reviewers, Technology & Data Specialists and Lead Engagement Executives, Ellen Zimiles, Chief Executive Officer, and Joseph A. Spinelli, Chief Operating Officer. This team utilizes Daylight's case management platform that was specifically customized to address the complexities of the independent audit. Daylight's assessment of the First Quarter Orders and Action Items was subject to at least two levels of review before the analyses were finalized.



C. Daylight’s Analysis of the Stipulation

Daylight prepared workflows illustrating its responsibilities in connection with the Compensatory and Injunctive Relief Subclasses based on analysis of the Stipulation. The workflows also included, where appropriate, additional steps that Daylight anticipated it would undertake to fulfill its responsibilities. These workflows were presented to the DOE and AFC during the meetings held with both parties on May 27, 2008, and June 10, 2008. Daylight analyzed the Parties’ feedback and revised the workflows, at its sole discretion, to include the appropriate methodology to be followed. Daylight provided revised and finalized versions of the workflows to the DOE and AFC during our meeting on June 10, 2008.

D. Meetings with the Parties and GCG

1. Kick-off Meetings

Following its appointment, and before beginning substantive work, Daylight met with the Parties separately and jointly to enable them to provide their views regarding the analyses and processes to be undertaken by Daylight, and other matters to be considered pursuant to performing the analyses outlined in the Stipulation (Section III.12.b.).

2. Regular Update Meetings with the Parties and GCG

Daylight updates the Parties on the status of its review and discusses documentation and data requests, as well as selected aspects of its methodology and process through regularly scheduled bi-weekly conference calls from Daylight’s office. Participants on these calls include Daylight personnel, the Parties and representatives from the GCG, the Claims Administrator for the Compensatory Relief task. There were seven scheduled update calls with the Parties which occurred during the First Quarter.

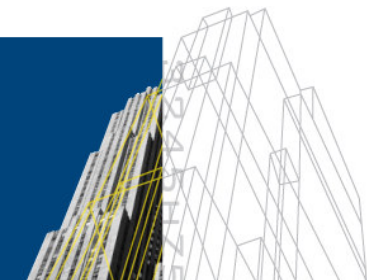
3. Other Meetings

Additionally, Daylight held other meetings with the Parties separately and together, at Daylight’s offices, at DOE’s offices, and at GCG’s facilities. The purpose of these meetings ranged from enabling Daylight personnel to understand and access the numerous DOE-controlled applications, such as Decision Action Items Tracking System (“DAITS”), Efforts to Outcome (“ETO”) and Financial Accounting Management Information System (“FAMIS”). Certain meetings pertained to the Parties expressing their concerns and opinions regarding the interpretation of “Timely Implementation,” while other meetings were designed to solicit input from the Parties relative to the workflows and processes Daylight utilized to perform its analyses and fulfill its reporting requirements. In total, approximately 14 such meetings were held for which Daylight prepared and provided detailed meeting agendas to the Parties and GCG.

The following meetings were set with DOE personnel involved in the implementation of Impartial Hearing Orders including:

- Special Education Initiatives;
- Policy and Planning;
- Impartial Hearing Office;
- Office of Legal Services;
- Bureau of Non-Public School Payables (formerly the Bureau of Contract Aid);
- Integrated Service Center (“ISC”) and
- Committees on Special Education (“CSE”) in Brooklyn and Manhattan.

Finally, Daylight maintains regular contact with the Parties outside of scheduled meetings to discuss various issues as the need arises.



4. **Special Matters**

On occasion, Daylight has requested feedback from the Parties relating to specific issues that arose during the course of its review and discussed matters not specifically addressed in the Stipulation. As established by the Stipulation, in these instances, Daylight assessed the advice and information provided by the Parties prior to making its own determination. More specifically, Daylight’s position regarding certain matters for which the Parties had reached an agreement relating to a particular interpretive issue, was to adopt the Parties’ position where appropriate. For other matters for which the Parties did not reach an agreement, Daylight, at its sole discretion, determined the appropriate methodology to be followed after considering the Parties’ positions.¹¹ Where there were no interpretive issues, Daylight would itself identify an approach or standard to be followed. Some examples of these occasions are as follows:

a. **Action Items Spanning Multiple Time Periods**

During its initial review of the Gap Period Orders, Daylight identified Action Items requiring provision of services or payments for an extended period of time (over the course of one school year), as well as Action Items for which services or payments would continue into future time periods (covering multiple school years). After requesting the Parties’ input on the matter and reviewing and considering the Parties’ opinions, Daylight established the following protocol to assess Timely Implementation of these Action Items:

- i. If the Action Item requires services to be performed or payments to be made throughout a defined period of time not exceeding one school year, the Action Item is considered implemented when the first service was offered or the first payment made. Further, Daylight assesses the Action Item as Timely

¹¹ Pursuant to Section III.12.b. of the Stipulation, “...the Independent Auditor may request advice from representatives of Lead Plaintiffs and/or Defendants on any issues that arise in the course of the Independent Auditor’s work; the Independent Auditor shall have the sole discretion to determine whether to seek such advice and, if it does seek such advice, whether to follow any such advice it might receive.”

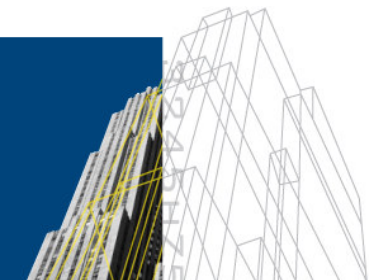
Implemented if the service offering or first payment occurs before the default 35 day due date or within the length of time specified for the Action Item in the Order.

- ii. If the Action Item requires services to be performed or payments to be made over multiple school years, Daylight creates an Action Item for each school year. The assessment due date relative to Timely Implementation of the Action Item relating to the second school year does not begin to run until the start of that school year. To be considered Timely Implemented, the Action Item needs to be implemented within 35 days of the start of the additional period if no time frame was specified in the Order or within the particular time frame articulated by the Hearing Officer.

b. Specific Terminology addressing Timeliness of the Order

Daylight identified a number of Orders and Action Items where the Hearing Officer ordered implementation to occur "immediately" or "forthwith."

Daylight requested that the Parties reach an agreement on this matter. An agreement reached by both Parties on June 25, 2008 provides that if an Action Item was required to be implemented "immediately" or "forthwith," it is to be deemed Timely Implemented if implementation occurred within seven business days of issuance of the Order, unless the DOE demonstrated to Daylight that the specific Action Item could not possibly be implemented within that time frame. Daylight adopted this standard and has incorporated it into its analysis.



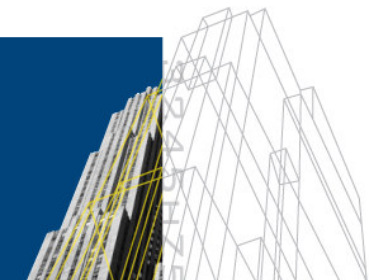
c. Review of Appealed Cases

Noting that the Stipulation was silent as to whether cases where the DOE appealed to the State Review Office (“SRO”) and the SRO dismissed the DOE’s appeal were in Daylight’s purview, Daylight specifically requested guidance from the Parties. The Parties agreed that Daylight should review these Orders in the event that the SRO dismissed the DOE’s appeal in its entirety (as opposed to where the SRO dismissed in part and sustained in part). Moreover, the Parties agreed that the time to implement the Order shall begin to run three business days after the date of the State Review Officer’s decision to allow time for mailing and is otherwise calculated based on the Stipulation.

d. Substantial Showing of Attempts to Reach Parents

During our review, Daylight noted a significant number of Orders and Action Items where parental involvement requiring outreach to the parents was needed before the DOE could implement the Order or Action Item. As outlined in the Stipulation (Section I.1.II.ii.), Orders and Action Items are to be considered Uncounted where “the DOE has made substantial showing of attempts to reach the parent and attempts to obtain compliance with the parent’s obligations under the Order.”

Daylight based its evidentiary requirements for “substantial showing of attempts to reach parents” upon a review of various items including current DOE practices relating to reaching parents via letters, emails and telephone calls, other outreach practices identified, position papers from the Parties, discussions with DOE implementation personnel and provisions of the New York City Department of Education Standard Operating Procedures Manual.



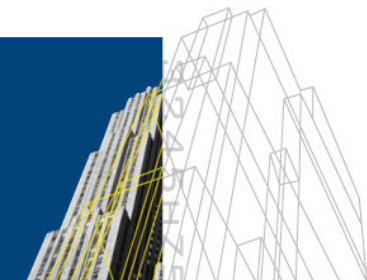
i. Payment Action Items

Daylight assesses Payment Action Items as Uncounted where the DOE made three documented attempts by at least two means to reach the parent to obtain their compliance within 35 days of the date of the Order. Daylight does not count the initial letter sent with the Order as an outreach attempt. Therefore, Daylight’s “Substantial Attempts” test for Payment Action Items can be met by any combination of three attempts consisting of the Second and/or Final Notification Letter, email(s) or phone call(s), i.e. 2 letters and 1 phone call, 1 letter and 2 e-mails, 2 e-mails and a phone call, etc.

Outreach attempts conducted via email to the parent or the parent's attorney must specifically address the Action Item under review. In addition, when outreach to the parent or parent’s attorney is conducted over the telephone, documented comments made in DAITS or in phone logs should reference the date of the call, the number dialed, who the DOE spoke to or left a message with, and if possible, the time the call was placed.

ii. Service Action Items

Any three attempts by at least two means made within 35 days of the date of the Order will meet Daylight’s “Substantial Attempts” test for Service Action Items. The attempts must specifically address the parent's obligations towards implementing the Action Item. The specific content requirements for e-mails and phone calls are the same as articulated in Section III.D.4.d.i., above.



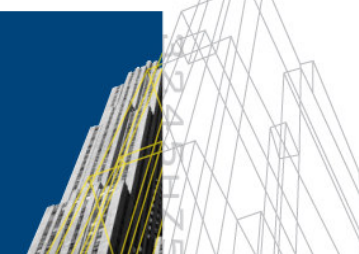
e. Analysis of Prospective Pay Orders

Daylight’s general rule for analysis of both Prospective and Reimbursement Payment Action Items as Timely Implemented is to require the posting of a voucher date in the DAITS financial transaction section before the final due date for the Action Item. Once the DOE posts the voucher, they have completed the last step before the Office of the Comptroller issues a check (e.g. the invoice has been entered into the City’s payment system). If no voucher date is posted, the Action Item is assessed as Unimplemented unless the DOE meets Daylight’s “Substantial Attempts” test as articulated in Section III.D.4.d, above.

In the case of Prospective Payment Orders and Action Items, the DOE is often waiting on receipt of invoices from a third party provider and cannot move forward with processing the payment. Therefore, Daylight’s methodology for analyzing Prospective Payments considers the Timely Implemented exception pursuant Paragraph I1(ii)(ii) of the Stipulation.¹² For this exception to be invoked, Daylight requires actual outreach to a third party, i.e. a provider with whom the DOE does not have a contract, to permit the DOE to claim inaction of a third party.

When Daylight determines that inaction of a third party provider is the reason for DOE non-performance, Daylight will deem the Order or Action Item Timely Implemented where there is at least one documented outreach attempt to the third party provider that specifically references the provision of invoices as required to process payments. In addition, such attempt shall be considered one of the three

¹² Stipulation paragraph I1(ii)(ii) states that "particular Orders or Action Items will also be considered to have been Timely Implemented for measurement purposes if: the DOE has demonstrated that it has taken all steps necessary to implement the Order or Action Item, but could not Timely Implement the Order or Action Item because implementation was dependent upon further steps that, in the determination of the independent auditor, could not be completed because of the action or inaction of a third party. Service providers with whom the Defendants have contracts to provide services shall not be deemed "third parties" for purposes of this decision."



attempts by two means necessary to satisfy Daylight's "Substantial Attempts" test. Where the DOE has met Daylight's "Substantial Attempts" test with outreach only to the parent or the parent's attorney and no direct outreach to the provider, the Action Item is assessed as Uncounted.

E. Access to DOE Systems

Daylight obtained access to the following DOE systems:

- "Old" DAITS (utilized by the DOE through May 31, 2008);
- "New" DAITS (implemented by the DOE from June 1, 2008);
- ETO;
- FAMIS;
- Student Information System ("SIS");
- Special Education Component ("SEC") and
- Impartial Hearing System ("IHS").

Daylight uses selected information captured from these systems to determine whether Action Items and Orders were Timely Implemented and to assess and document its analysis.

Daylight also verified that all First Quarter Orders issued by the Impartial Hearing Office and present in the IHS were included as part of the First Quarter assessment.

F. Walkthroughs and Limited Testing of DOE Processes

Daylight performed walkthroughs and limited testing of selected DOE processes related to the generation of supporting documentation utilized to assess Timely Implementation of Orders and Action Items. In particular, Daylight performed walkthroughs of the Related Service Authorization ("RSA")¹³ form mailing process at the Brooklyn Integrated Services Center, tested a sample of checks issued by New York City Comptroller's Office in connection with the payment-related Action Items and reviewed a sample of

¹³ When The New York City Department of Education does not currently have staff available to provide a service that has been recommended for a child, the parents may receive a RSA for this service. The RSA allows the parent to obtain this service from an independent non-Board of Education provider of their choice at no cost to them. Source: <http://schools.nyc.gov/Offices/District75/default.htm>.

invoices maintained by the Bureau of Non-Public School Payables and the Impartial Hearing Office in connection with prospective payments and reimbursements.

G. Other Documentation

In addition to the documentation accessible through the DOE systems, Daylight included as part of its First Quarter analyses documentation provided by the DOE in response to a document request submitted on September 10, 2008. Similar requests will augment Daylight’s analysis during the Second Quarter and will be discontinued for the remainder of the Injunctive Relief Subclass analysis.

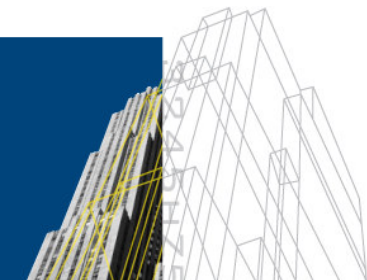
H. Overview of Daylight’s Analysis of Orders and Action Items

Daylight’s assessment of Orders and Action Items is driven by requirements established in the Stipulation. Our analysis is designed to be transparent and as such includes an articulation of how we arrived at our conclusion for each Action Item, which is accompanied by supporting documentation to the extent it was available. The documentation utilized is based on Daylight’s access to DOE systems, and our case management platform allows Analysts to attach documents and/or “screenshots” from the various applications. Daylight’s analysis is subject to quality assurance reviews before conclusions related to Orders and Action Items are finalized. A brief description of the various team-member roles is as follows:

1. Analysts

Analysts are responsible for:

- Reviewing the Orders and identifying and articulating the Action Items in each Order;
- Characterizing of Action Items relative to “payment” or “service” orientation;
- Determining the due dates for each Action Item or
- Determining whether the Order or any Action Items should be “Uncounted.”



Once this work has been reviewed by Team Leaders, the Analysts preliminarily analyze the various documents and data sources at their disposal to ascertain whether or to what extent, the Action Items had been Timely Implemented.

2. Team Leaders

Team Leaders fulfill the most varied role on this project and are responsible for a range of functions including:

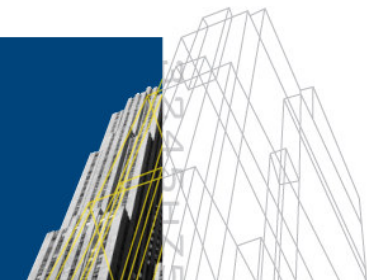
- Overseeing and assigning work to Analysts;
- Reviewing, remediating and or demoting Analyst work for additional analysis;
- Overseeing demotions or remediation suggested by the Quality Assurance Reviewers and,
- Working with DOE and GCG relating to matters having to do with access to their systems and reconciling in scope/out of scope data and other day to day operational matters.

With respect to the Action Item analysis in particular, Team Leaders review the Analysts' Action Items, due dates, and source documents utilized to support their positions. Team Leaders can return the analysis to the Analyst for more work, modify the existing analysis or promote the Analyst's work product.

3. Quality Assurance Reviewers

Quality Assurance Reviewers serve functional roles when reviewing the analyses of Action Items and Orders and provide engagement leadership roles when leading Injunctive, Compensatory and overall engagement management.

With respect to Action Item Quality Assurance reviews, this layer of review focuses on the Executive Summary's articulation of the reasons and documentation provided to articulate whether an Action Item was Timely Implemented. Because an Order is not considered Timely Implemented unless all of its underlying Action Items are Timely Implemented, a separate Order based quality assurance exercise is undertaken. Quality Assurance reviews Orders to ascertain



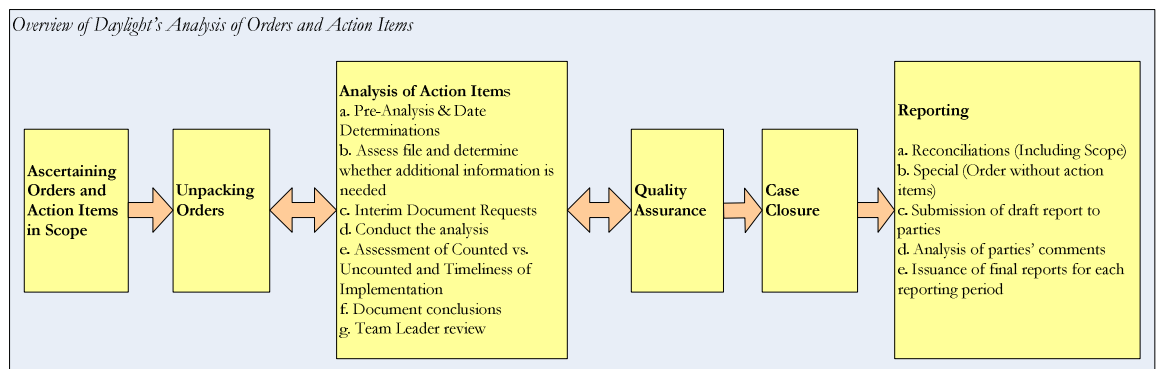
the appropriate status, i.e. Timely Implemented Order vs. Unimplemented Order, based upon the status of related Action Items.

4. Information Technology & Data Specialists

Information Technology & Data Specialists assisted with organizing the data provided by DOE and working through systems access issues. Most importantly, they prepared a customized Order and Action Item Analysis platform that permitted Daylight to “unpack Orders” and disaggregate the Action Items in each Order for independent analysis and re-aggregate them later to determine Order status and to allow for bifurcated (Order vs. Action Item) reporting pursuant to the Stipulation.

Additionally, the IT Technology & Data Specialists provide technology support, maintaining Daylight’s case management platform. This group also manages the development and implementation of enhancements and performs specific customized data analyses.

The following is a high-level overview of Daylight’s Analysis of Orders and Action Items:



I. Identification of Reportable Orders and Action Items by Reporting Period

Pursuant to Stipulation Section II.16.b,¹⁴ Daylight established rules to determine which Orders and Action Items should be reported on during each reporting period.

The first step in this process was to identify the relevant calendar quarters (e.g. 2nd calendar quarter = September 1, 2008 to November 30, 2008) and corresponding quarterly reportable timeframes (e.g. 2nd reportable quarter = July 26, 2008 to October 26, 2008). Daylight's Information Technology specialists then applied logic to our case management system based upon those timeframes and the following rules to determine which Orders and Action Items should be included in each Quarterly Report.

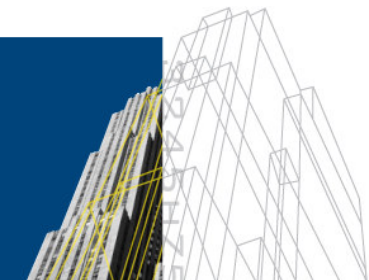
1. For Orders:
 - a. All counted Orders issued during the current quarterly reportable timeframe and with a final due date on or before the last day of the current calendar quarter and
 - b. All counted Orders issued before the quarterly reportable timeframe, except those issued during the Gap Period, with a due date on or before the last day of the current calendar quarter (e.g. those Orders issued during prior reporting quarters which included Action Items that could not be resolved until the current quarter).

¹⁴ Section II.16.b., states "In preparing its reports for each measurement period, the Independent Auditor shall consider Orders, except Uncounted Orders, that were issued at least 35 calendar days before the end of each Quarterly or Benchmark Measurement Period, that require the DOE to take action, and that the DOE has not timely appealed. Where the Independent Auditor determines that a particular Order requires the DOE to take multiple actions that are dependent upon one another, and that the DOE cannot complete all such actions within 35 days, the Independent Auditor shall consider that Order and/or those Action Items during the Quarterly or Benchmark Measurement period during which implementation should have been completed under the terms of the Order."

2. For Action Items:
 - a. All counted Action Items associated with the Orders issued during the current quarterly reportable timeframe and with a final due date on or before the last day of the current calendar quarter and
 - b. All counted Action Items associated with the Orders issued before the quarterly reportable timeframe, except those issued during the Gap Period, with a due date on or before the last day of the current calendar quarter (e.g. those Action Items which were part of Orders issued during prior reporting quarters that could not be resolved until the current quarter).

These rules exclude Action Items related to Orders issued just after the quarterly reportable timeframe that have due dates before the end of the relevant calendar quarter, as these Action Items are reported on in the following Quarterly Report. Also excluded are Orders and their respective Action Items issued during the calendar quarter that are not required to be implemented before the end of the calendar quarter, e.g. they have later due dates and will be reported on during the quarterly reportable timeframe in which they are due.

Moreover, Orders and Action Items implemented by the DOE during a reporting period earlier than the due date will be reported on during the calendar quarter in which they are due.

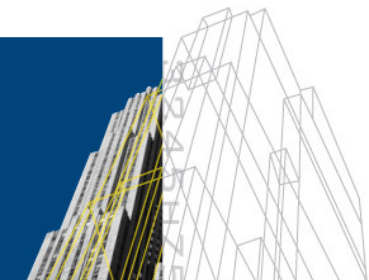


IV. Detailed Findings and Observations

A. Implementation of Action Items by Category

In an effort to identify the predominant categories of Action Items, Daylight conducted a review of the 259 counted Action Items and noted that the top three most frequently identified categories of Action Items were Speech and Language Therapy (32 Action Items or 12.4%), followed by Occupational Therapy (28 Action Items or 10.8%) and Tuition Reimbursement (23 Action Items or 8.9%).

The categories with the highest percentage of Unimplemented Action Items with respect to the total number of counted Action Items within the category were SEIT (88.9%), IEP Modification (77.8%) and SETSS (70.0%).



The following table sets forth the top 15 Action Item categories based on the number of counted Action Items:

Action Item Category		Total Counted Action Items	% Total Counted Action Items	# Timely Implemented by Category	% Timely Implemented by Category	# Unimplemented by Category	% Unimplemented by Category
1	Speech and Language Therapy	32	12.4%	20	62.5%	12	37.5%
2	Occupational Therapy	28	10.8%	20	71.4%	8	28.6%
3	Tuition Reimbursement	23	8.9%	18	78.3%	5	21.7%
4	Reconvene Hearing or Meeting	19	7.3%	13	68.4%	6	31.6%
5	Transportation	14	5.4%	11	78.6%	3	21.4%
6	Physical Therapy	14	5.4%	9	64.3%	5	35.7%
7	Offer Placement	13	5.0%	10	76.9%	3	23.1%
8	Tutoring	12	4.6%	7	58.3%	5	41.7%
9	Other	11	4.2%	5	45.5%	6	54.5%
10	Special Ed. Teacher Support Services (SETSS)	10	3.9%	3	30.0%	7	70.0%
11	SEIT	9	3.5%	1	11.1%	8	88.9%
12	CSE Evaluation	9	3.5%	5	55.6%	4	44.4%
13	IEP Modification	9	3.5%	2	22.2%	7	77.8%
14	Counseling	7	2.7%	4	57.1%	3	42.9%
15	ABA Services	6	2.3%	3	50.0%	3	50.0%
	Remaining Categories with Less than 6 Action Items each	43	16.6%	26	60.5%	17	39.5%
	TOTAL	259	100%	157	60.6%	102	39.4%

B. Implementation Statistics by Borough

Daylight analyzed the 259 Total counted Action Items to determine which Boroughs had the highest percentage of Unimplemented and Timely Implemented Action Items. Staten Island and Brooklyn had the highest percentages of Unimplemented Action Items, with 59.4% and 50.0%, respectively, while Manhattan had the highest percentage of Timely Implemented Action Items with 75.3%.

The following table identifies the number of Action Items by Borough, listed by the percentage of Unimplemented Action Items:

Borough	Total Counted Action Items	Timely Implemented Action Items	% Timely Implemented	Unimplemented Action Items	% Unimplemented	Unimplemented - Completed After Final Due Date	Unimplemented - Not Implemented
Staten Island	64	26	40.6%	38	59.4%	17	21
Brooklyn	8	4	50.0%	4	50.0%	1	3
Bronx	63	35	55.6%	28	44.4%	16	12
Queens	27	19	70.4%	8	29.6%	5	3
Manhattan	97	73	75.3%	24	24.7%	8	16
TOTAL	259	157	60.6%	102	39.4%	47	55

V. Limitations

The conclusions, observations and assessments detailed in this report are based on Daylight's methodology and the procedures performed. Had Daylight performed additional procedures or testing, it is possible that our conclusions, observations and assessments could be different. Daylight also relied on information provided by the DOE and AFC during the course of its work.

VI. Conclusion

Daylight will continue with its analysis of the Injunctive Relief Subclass Orders for the second Quarterly Report and First Benchmark Report. A draft of the second Quarterly Report and First Benchmark Report will be provided to the Parties no later than February 6, 2009, as agreed upon by the Parties.