

Los Angeles Unified School District

It Could Do More to Improve Its Handling of Child
Abuse Allegations

November 2012 Report 2012-103



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November 29, 2012

2012-103

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the California State Auditor (state auditor) presents this audit report concerning whether the Los Angeles Unified School District (district) is properly handling allegations of employee abuse against students.

This report concludes that the district often did not properly notify the Commission on Teacher Credentialing (commission) when required to do so, such as when an employee with a certificate to teach is dismissed while an allegation of misconduct is pending. Our review of the information the district provided to the commission found that the district failed to report as required at least 144 cases—including cases involving employee misconduct against students—submitted a year or more late when the district finally did report them. Of the 144 cases, 31 were more than three years late when they were reported to the commission. As a result of the delays in reporting these cases, the commission was not able to determine promptly whether it was appropriate to revoke the teachers' certificates and thus prevent the individuals from working in other school districts. Further, we found that there is no statewide mechanism to communicate to other school districts when a classified employee at any given district, such as a campus aide or food service worker, separates by dismissal, resignation, or settlement during the course of an investigation involving misconduct with students.

The district has made improvements to its policies and procedures related to reporting, investigating, and tracking suspected child abuse over time. However, although the district generally followed state law and its own policies and procedures when reporting and investigating suspected child abuse, we found that the district did not always act promptly on some allegations during the investigation, nor did it always discipline employees in a timely manner. During an investigation of employee misconduct, the district is responsible for keeping the employee away from the school site. The district's policy for addressing this responsibility is to *house* the employee—to relocate him or her away from its school sites. During this time the district continues to pay the employee's salary. We noted that the district paid \$3 million in salaries to 20 employees housed the longest for allegations of misconduct against students. Finally, the lengthy and expensive dismissal process required by state law contributes to the district's settling with employees rather than continuing with the dismissal process. However, the district does not maintain a districtwide tracking mechanism for settlements that includes the total amount paid out and descriptions of the misconduct. Such information could help the district identify and analyze patterns and trends associated with providing a settlement.

Respectfully submitted,



ELAINE M. HOWLE, CPA
State Auditor

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Contents

Summary	1
Introduction	5
Chapter 1	
The District Often Failed to Notify the Commission on Teacher Credentialing About Certain Outcomes in Child Abuse Allegations	13
Recommendations	29
Chapter 2	
The District Generally Followed Reporting Requirements, but It Could Not Explain Some Delays in Investigating and Disciplining Employees	31
Recommendation	40
Chapter 3	
The Lengthy, Expensive Dismissal Process Required by State Law Contributes to the District's Settling With Employees Rather Than Continuing With the Dismissal Process	41
Recommendation	51
Appendix	
The Dismissal Process for Certificated Employees Differs From the Process to Dismiss Classified Employees	53
Response to the Audit	
Los Angeles Unified School District	57

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Summary

Results in Brief

In terms of student enrollment, the Los Angeles Unified School District (district) is the largest school district in California. During the 2011–12 school year, it was responsible for 659,246 enrolled kindergarten through 12th-grade (K–12) students receiving educational instruction at 759 school sites and 198 charter schools. The district employed approximately 27,000 certificated K–12 classroom teachers and more than 4,600 substitute teachers. Additionally, it employed more than 5,100 teacher assistants who do not hold a certificate to teach from the Commission on Teacher Credentialing (commission). The district also employed nearly 30,400 classified employees, who are not required to have a teaching certificate, in positions such as campus aide, food service worker, and clerk. Because most students attending district schools are under the age of 18, employee misconduct against students generally entails child abuse. Examples of child abuse include physical abuse and sexual abuse or exploitation.

State law requires that school employees report suspected child abuse immediately or as soon as practically possible by calling a law enforcement entity and filing a suspected child abuse report within 36 hours. District policies have detailed reporting and investigative processes for allegations of suspected child abuse, including allegations of employee abuse against students.

Moreover, state regulations require school districts to report to the commission within 30 days cases of a certificated employee's change of employment status, such as a dismissal or other termination, as a result of an allegation of misconduct or while an allegation of misconduct is pending. Further, state law requires the commission be notified within 10 days when a certificated employee is put on a compulsory leave of absence because of charges for certain sex offenses or controlled substance crimes. However, the district often did not properly notify the commission when required to do so, such as when employees were dismissed while allegations of misconduct were pending. The district did not realize it had failed to report many of these cases until a high-profile incident that went unreported for more than six months led the district to review its past reporting practices. The commission uses these reports to review an employee's case and to suspend or revoke his or her teaching credential if necessary.

The superintendent of schools directed district officials and principals to undertake two separate projects intended to improve district reporting processes. One of the projects—the commission reporting project—led to about 600 cases being reported to the commission in

Audit Highlights . . .

Our review of the Los Angeles Unified School District's (district) handling of allegations of employee abuse against students highlighted the following:

- » *The district often did not properly notify the Commission on Teacher Credentialing (commission) when required to do so. After reviewing past practices, the district reported about 600 cases to the commission in a span of three months.*
 - *At least 144 of these cases—including cases involving employee misconduct against students—were submitted a year or more late.*
 - *Of the 144 cases, 31 were more than three years late when reported to the commission.*
- » *There is no statewide mechanism to communicate among school districts when a classified employee at any school district separates by dismissal, resignation, or settlement during the course of an investigation involving misconduct with students.*
- » *Although it appears the district generally followed state law when reporting suspected child abuse and generally followed its policies, it did not always act in a timely manner on some allegations during the investigation process—one case did not move forward for almost 14 of the more than 18 months the case was open.*
- » *The district could not adequately explain some delays in disciplining or dismissing certain employees suspected of child abuse—we noted an eight-month delay in one case between the time the district's investigations unit issued a report concerning the allegation and when the principal took action.*

continued on next page . . .

» *The district paid \$3 million in salaries to 20 employees whom the district has housed—relocated away from school sites—the longest for allegations of misconduct against students, including one employee who has been housed for 4.5 years.*

a span of three months. However, this large increase in the number of cases reported included many not requiring reporting and caused a needless increase in workload for the commission. Our review of the information the district provided to the commission found that the district failed to report as required at least 144 cases—including cases involving employee misconduct against students—and they were submitted a year or more late when the district finally did report them. Of the 144 cases, 31 were more than three years late when they were reported to the commission. This lack of reporting resulted from systematic problems within the district, such as inconsistent office processes. As a result of the delays in reporting these cases, the commission was not able to determine promptly whether it was appropriate to revoke the teachers' certificates and thus prevent the individuals from working in other school districts. The district has yet to complete the second project, which involves a review of employee files by school principals, and the district will not know the project's full effect until all files are reviewed by its central office and it determines how many cases were investigated and whether disciplinary actions were taken.

Further, California has no statewide mechanism to communicate among school districts when a classified employee at any school district separates by dismissal, resignation, or settlement during the course of an investigation involving misconduct with students. Thus, a classified employee who has separated from his or her district might be able to find employment with other school districts without those school districts knowing the circumstances under which the employee left a previous position.

The district has made improvements to its policies and procedures related to reporting, investigating, and tracking suspected child abuse over time. For example, the district implemented two tracking systems that allow improved reporting and tracking of suspected child abuse and created a unit that investigates complex cases of suspected child abuse. In addition, although independent charter schools are largely autonomous and are not required to follow the district's policies and procedures regarding child abuse reporting, the information we reviewed at two charter management organizations indicated that adequate processes are in place to report child abuse. District-required charter language also obligates charter schools to inform the district about notices of investigations by outside regulatory agencies, lawsuits, or other formal complaints within one week of the school's receipt of such notices.

Available documentation related to our review of 24 personnel files containing child abuse allegations indicate that the district generally followed state law when reporting suspected child abuse and generally followed its own policies and procedures related to investigating child abuse allegations and to removing

a suspected employee from a school site after an allegation was reported. However, we found that the district did not always act in a timely manner on some allegations during the investigation process. Although a criminal investigation conducted by law enforcement might cause the district to delay or put on hold an administrative investigation by the district, we found some delays in the investigation process that the district was unable to justify. For example, until the district's investigations unit took it, one case we reviewed did not move forward for almost 14 of the more than 18 months that it was open. The local district was unable to explain what occurred during that 14-month time period.

In addition, the district follows a progressive discipline process and state laws related to dismissing employees, both of which increase the time for the district to see a case to its conclusion. Nonetheless, for cases we reviewed, the district could not adequately explain some delays in disciplining or dismissing certain employees suspected of child abuse. For example, in one case, we noted an eight-month delay between the time that the district's investigations unit released a report concerning a child abuse allegation and the date on which the school's principal issued a memo to the employee about the incident, with no indication of anything occurring in the interim. According to district staff, the principal struggled to write the memo.

The district is responsible for keeping an employee who is being investigated for misconduct away from the school site during the investigation. The district's policy for addressing this responsibility is to *house* the employee—to relocate him or her away from its school sites. Since its creation in 2008, a database that tracks housed employees reports that the district has housed more than 700 employees for various reasons. The length of time that the employee is housed can range from a day to years, depending on the time it takes to make a determination on the case. During this time, the district continues paying the employee's salary. In fact, as of mid-September 2012, the district had paid \$3 million in salaries to 20 employees whom the district had housed the longest for allegations of misconduct against students, including one employee who has been housed for 4.5 years.

Our review found that the length of time and the expense of the process for dismissing the district's certificated employees suspected of child abuse contribute to the district's entering into settlement agreements rather than continuing with attempts to dismiss the employees. State law outlines the dismissal process that must be used for certificated and classified employees. The dismissal of classified employees and substitute teachers is effective immediately, regardless of whether the employees challenge the district's decisions. In contrast, the process for dismissing

certificated employees is more lengthy and expensive for the district. Certificated employees who appeal their dismissals are each entitled to a hearing before the Commission of Professional Competence. As a result, the district may decide to reach a settlement agreement with certificated employees rather than attempt to continue with this lengthy process. The district has made some efforts to track settlement agreements; however, none of its tracking efforts provides the total cost of the settlement or complete information on the nature of the misconduct. Having one division within the district maintain a districtwide tracking mechanism for issued settlements could ensure that the district has complete and readily accessible information. We believe this information could help the district identify and analyze patterns and trends associated with providing settlements, which could help streamline and make the process less expensive.

Recommendations

To ensure that the commission is made aware of certificated employees who need to be reviewed to determine whether the employees' teaching credentials should be suspended or revoked, the district should adhere to state requirements for reporting cases to the commission.

The Legislature should consider establishing a mechanism to monitor classified employees who have separated from a school district by dismissal, resignation, or settlement during the course of an investigation for misconduct involving students, similar to the oversight provided by the commission for certificated employees. If such a mechanism existed, school districts throughout the State could be notified before hiring these classified employees.

To ensure that investigations proceed in a timely manner and that the district disciplines employees promptly, the district should increase its oversight of open allegations of employee abuse against students.

To ensure that it does not duplicate efforts and that its information is complete, the district should identify one division to maintain a districtwide tracking mechanism for settlements that includes the total amounts paid and descriptions of the misconduct.

Agency Comments

The district agreed with our recommendations and outlined the steps it has taken or plans to take to implement the recommendations we directed to it.

Introduction

Background

In terms of student enrollment, the Los Angeles Unified School District (district) is the second-largest school district in the nation and the largest in California. It serves the city of Los Angeles and all or part of 31 smaller cities and several unincorporated areas of Los Angeles County. For the 2011–12 school year, the district had 659,246 enrolled kindergarten through 12th-grade (K–12) students receiving educational instruction at 759 school sites and 198 charter schools. The district employed approximately 27,000 certificated K–12 classroom teachers and more than 4,600 substitute teachers. Additionally, it employed more than 5,100 teacher assistants who do not hold a certificate to teach from the Commission on Teacher Credentialing (commission). The district also employed nearly 30,400 classified employees, who are not required to have a teaching certificate, in positions such as campus aide, food service worker, and clerk.

Structure of the District

The district operates under an organizational structure led by the Los Angeles Unified School District Board of Education (board) and a superintendent of schools (district superintendent). In addition to activities such as adopting a budget for each fiscal year, the board has jurisdiction over confidential legal and personnel matters. The board may dismiss, suspend, or place permanent employees on compulsory leave for various reasons, including immoral or unprofessional conduct. Upon the filing of written charges, the board must inform the employees of the statement of charges against them so that the employees will be able to prepare a defense.

Before July 2012 the district was organized into eight local districts, each with its own local superintendent who reported to the district superintendent at the district's central office. In July 2012 the district reorganized from the eight local districts to five local educational service centers (service centers) coordinated by the central office. The district has four regional service centers and one service center dedicated to serving certain schools across the entire district that need additional support. District documents indicate that given the current budget situation, the reorganization is an attempt to increase the district's instructional efficiency.¹

¹ The district's change in organization from local districts to service centers occurred in July 2012, and the allegations we reviewed were made before that time. Therefore, for purposes of consistency, we refer to *local districts* throughout the report, even when we discuss current responsibilities that now reside with the service centers.

The Legislature enacted the Charter Schools Act of 1992 (act) to authorize the establishment of charter schools. The intent of the Legislature was to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure. Charter schools are exempt from many of the laws and regulations that apply to other public schools. However, they must follow state law regarding the reporting of child abuse. We discuss this state law later in the Introduction. In addition to having broad choice in such items as curricula and instructional methods, charter schools have great control over financial and personnel decisions. Under the act, a charter school must submit for approval a charter petition to a chartering authority, which in this case is the district's board. Once approved, the charter petition becomes the governing document for the school, and the school must comply with the charter petition and the act.

The district is responsible for oversight of the 198 charter schools under its authority. Specifically, the district performs annual reviews of a charter school's compliance with its charter petition that focus on student achievement and educational performance, governance and organizational management, fiscal operations, and fulfillment of the school's educational program. The majority of district charter schools are independently run, but 19 are district-affiliated charter schools. District-affiliated charter schools are run by the district and must follow district policies and procedures and employ district personnel. Independently run charter schools have their own governing boards, follow their own policies and procedures, and hire their own personnel. A majority of independently run charter schools are part of several charter management organizations that each operates multiple charter schools. As the chartering authority, the district's board has the right to revoke a charter petition that was granted when substantial evidence exists that, among other things, the charter school committed a material violation of any conditions, standards, or procedures set forth in the charter petition or violated any provision of law.

Misconduct and Child Abuse

In responding to the audit request, which concerns employee misconduct involving students, we chose to focus our attention on cases involving suspected child abuse by district employees against students, rather than on other types of misconduct. State law or regulations require the district to report to the commission certificated employees whose change of employment status is final either through resignation, dismissal, or settlement with a school district as a result of an allegation of misconduct or while an

allegation is pending. However, the term *misconduct* applies to a wide range of unprofessional activities, including controlled substance offenses involving minors. Child abuse is the mistreatment of a person under 18 years of age. Because most students attending district schools are under the age of 18, employee misconduct against students generally entails child abuse. As the text box explains, examples of child abuse include physical abuse and sexual abuse or exploitation.

State Law and District Policy Requirements for Reporting and Investigating Suspected Child Abuse

State law requires school employees to report allegations of suspected child abuse immediately or as soon as practically possible by calling a law enforcement entity and filing a suspected child abuse report (SCAR) within 36 hours.² State law also provides that failure to make such reports is a misdemeanor.

District policies include detailed reporting requirements for suspected child abuse, including allegations of employee abuse against students, as Figure 1 on the following page shows. For example, after an employee reports the allegation to law enforcement verbally, district policy requires that the employee immediately report the inappropriate activity to his or her administrator and file a written SCAR within 36 hours. If the administrator is unable to verify that a verbal or written report was made, then the administrator must also file a SCAR. Additionally, district policy requires that the administrator inform the local district superintendent and applicable central office staff about the incident. Since April 2010 school site administrators, typically the school principals, have been required to report allegations of child abuse using what is now known as the Incident System Tracking Accountability Report (iSTAR), which automatically informs the local districts and central office of incidents that warrant a SCAR, among other things.

Types of Child Abuse or Neglect

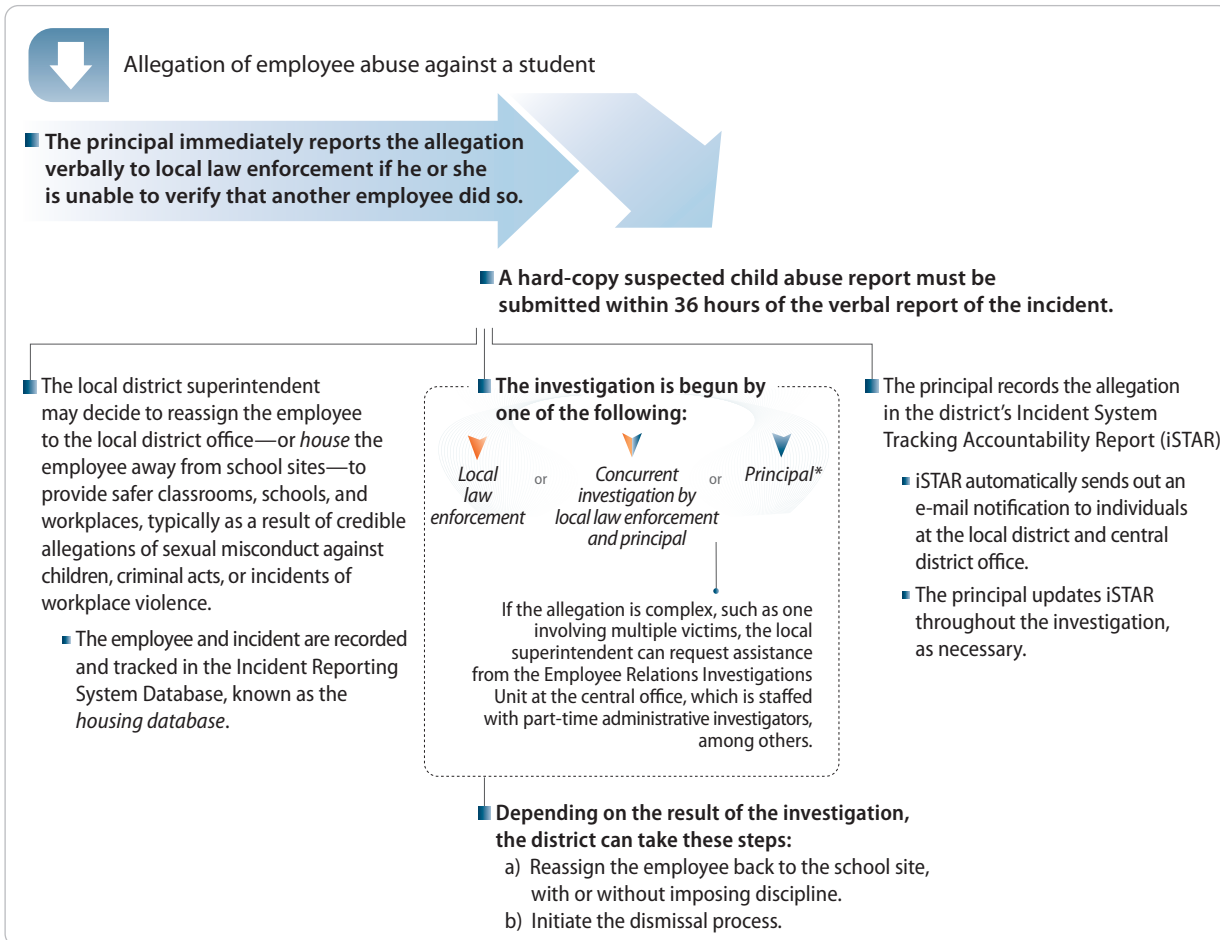
State law requires public school employees to report instances of child abuse or neglect to law enforcement. *Child abuse or neglect* is defined to include specified acts of mistreatment or harm against a person under the age of 18 and includes the following:

- **Physical abuse** means nonsexual harm to a child including willfully harming or injuring a child, willfully endangering the person or health of a child, or willfully inflicting upon a child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.
- **Sexual abuse** means sexual assault on or sexual exploitation of a child.
- **Neglect** means the negligent treatment or maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

Source: California Penal Code, sections 11165.1 through 11165.9.

² We refer to all recipients of these reports as *law enforcement*. State law requires that school employees contact and file a SCAR with the local police department, sheriff's department, the county welfare department, or in some cases the county probation department designated by the county to receive these reports when the school employees suspect child abuse is occurring. However, according to the Department of Children and Family Services, which is the county welfare department responsible for conducting SCAR investigations involving abuse by a parent, typically it would not handle cases specific to suspected employee abuse against students, and it would use an electronic referral system to forward such allegations and reports to the appropriate law enforcement entity.

Figure 1
Typical Reporting and Investigative Processes for Child Abuse Allegations at the Los Angeles Unified School District



Source: Los Angeles Unified School District policies.

* Investigations are typically conducted by the principals, with advice and support provided by the local district and the district's staff relations representatives.

According to district policy, principals are generally responsible for conducting the administrative investigations of allegations of employee abuse against students. The district's assistant chief human resources officer informed us that principals conduct the investigations because of their familiarity with the teachers and students involved and the principals' ability to respond quickly to the allegations due to their presence at the school site. During the investigations, principals should receive assistance from staff at the local districts and central office. If the allegations are complex, such as those involving multiple victims, principals or local district superintendents can request assistance from the Employee Relations Investigations Unit, established in January 2010. Depending on the

results of a particular investigation, the district can reassign the employee to the school site, with or without imposing some form of discipline, or the district can initiate the dismissal process.

Scope and Methodology

We conducted this audit at the direction of the Joint Legislative Audit Committee, which approved the audit objectives listed in Table 1. Our fieldwork included work at six school sites and four local districts, as well as at the district’s central office.

Table 1
Methods of Addressing Objectives

AUDIT OBJECTIVE	METHOD
<p>1 Review and evaluate the laws, rules, and regulations significant to the audit objectives.</p>	<ul style="list-style-type: none"> • Reviewed relevant sections of the California Education Code, the California Penal Code, and other laws and regulations. • Reviewed agreements by the Los Angeles Unified School District (district) with various employee unions.
<p>2 Determine how the district communicates its policies and procedures related to misconduct involving a student to schools within the district, and with what frequency these policies and procedures are updated and distributed.</p>	<ul style="list-style-type: none"> • Interviewed the district’s central office (central office) staff and determined how they communicate to schools within the district its policies and procedures related to child abuse. • Determined how and when the central office distributed its policies and procedures to local districts and school sites. • Reviewed how relevant policies and procedures regarding child abuse are updated. • Interviewed school principals and administrators from five noncharter schools whom we selected in Objective 4 to determine how they receive and communicate the policies and procedures from their local districts and the central office to all employees. • Interviewed staff at four local districts to determine how they communicate to schools the district’s policies and procedures related to child abuse, including any relevant local district guidance provided. • Reviewed the policies and procedures for one charter school and two charter management organizations (CMOs).
<p>3 Review and assess the type, frequency, and duration of training the district provides or requires district employees to take on the prevention, identification, and reporting of misconduct involving a student. In addition, determine the extent to which the district monitors and oversees any training requirements.</p>	<p>To address the first portion of this audit objective, we performed the following steps:</p> <ul style="list-style-type: none"> • Reviewed what expertise, guidance, and materials were used to create the central office’s training distributed to school sites. • Reviewed the training related to misconduct involving students that the district offered, and compared it to those processes outlined in state law and district policy. • Reviewed the other training that occurred during the 2011–12 school year at school sites and that related to child abuse. <p>To address the second portion of this audit objective, we performed the following steps:</p> <ul style="list-style-type: none"> • Reviewed documentation to determine if the district monitored whether its employees attended trainings related to child abuse. • Determined whether the four local districts and one of the two CMOs were monitoring the six schools we selected to ensure that training related to child abuse was conducted during the 2011–12 school year. • Reviewed training records to determine whether the six school sites we selected were monitoring to ensure that school staff attended trainings related to child abuse during the 2011–12 school year.

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AUDIT OBJECTIVE	METHOD
4 Determine if the district and a sample of six school sites within the district are following applicable laws, rules, regulations, policies and procedures, as well as best practices related to:	<ul style="list-style-type: none"> • Judgmentally selected six school sites within the district using a variety of factors. Specifically, we considered schools from different geographical locations within the district, with varying enrollment numbers, and focused on selecting two schools from each general grade level (elementary, middle, and high school). We included in our selection one school that had been the focus of public concern that led to this audit. In addition, we selected a charter school and its CMO for review based on the same criteria noted above. • Reviewed—as a result of this selection process—personnel files containing allegations of child abuse and training records from Bell High School, John Burroughs Middle School, John C. Fremont High School, Miramonte Elementary School, and Telfair Elementary School. We also reviewed personnel files at a charter school: KIPP Los Angeles College Preparatory School.
a. Handling a claim of misconduct involving a student once it is received.	<ul style="list-style-type: none"> • Examined a total of 24 personnel files with allegations of child abuse at five of the six school sites selected. The one charter school we selected had no child abuse allegations to review. We judgmentally selected five allegations from the personnel files maintained at each selected school. However, for one school, we found only four allegations of child abuse to review. We selected the allegations from incidents recorded in the Incident System Tracking Accountability Report, the notices sent to the Commission on Teacher Credentialing (commission) by the district, and the Incident Reporting System Database that tracks employees reassigned to their local districts. • Analyzed the 24 child abuse allegations to determine if the district reported allegations of child abuse in accordance with the law and its own policies and procedures. • Reviewed haphazardly selected employee files from storage areas at the six schools to determine if any additional allegations of misconduct involving students were not reported appropriately. We generally selected 20 files from each school and followed up on any allegations made on or after January 1, 2007.
b. Investigating allegations of misconduct involving a student, including the disposition of these cases.	Reviewed the 24 child abuse allegations we selected to determine whether the district followed established policies during the investigation and documented the reasons for any delays.
c. Notifying the parents or guardians, law enforcement, employee unions, and the commission that an allegation of misconduct involving a student has been made. In addition, identify the point at which these notifications are made by the district and the school sites.	<ul style="list-style-type: none"> • Reviewed the legal responsibility of the district to notify parents or guardians, local law enforcement, employee unions, and the commission about an allegation of child abuse. • Reviewed district policies and procedures for notifying parents when an allegation of child abuse is reported. • Interviewed central office staff to determine why they do not inform some entities about allegations of child abuse. • Interviewed the Los Angeles Police Department, Los Angeles County Sheriff's Department, Los Angeles Department of Children and Family Services, and Bell Police Department to obtain their perspective on the district's notification procedures. • Examined the 24 child abuse allegations we selected to determine whether the district notified law enforcement and the commission when required to do so by state law. • Reviewed the commission's initial analysis of the district's child abuse allegations reported from February to May 2012 to determine the number of cases not properly reported to the commission. We interviewed district staff to determine why these incidents were not reported to the commission. • Reviewed the district's analysis of cases reported to the commission and compared it to the commission's analysis to determine any discrepancies between the two analyses.
d. Removing offending employees from the school site.	<ul style="list-style-type: none"> • Reviewed the district's policies and procedures for relocating away from school sites—or <i>housing</i>—employees once an allegation has been reported. • Examined the 24 child abuse allegations we selected to determine whether the district followed its policies and procedures when housing the employees. • Reviewed the district's list of employees housed for various reasons and obtained salary information on 20 employees who had been housed the longest periods for allegations of misconduct against students to determine the total cost to house them.
e. Notifying other school districts about employees who have pending investigations or past substantiated allegations of misconduct involving a student when an employee separates from the district.	Interviewed central office staff to determine whether the district notifies other school districts about employees who have pending investigations or past substantiated allegations of child abuse when those employees separate from the district.

AUDIT OBJECTIVE	METHOD
f. Monitoring employees that the district has found to have engaged in misconduct to ensure that similar instances do not reoccur.	Interviewed district staff to determine how they monitor employees suspected of child abuse.
g. Tracking allegations of misconduct involving students.	Analyzed the 24 child abuse allegations we selected to determine if the principal reported the allegations to the local districts and if the allegations were consistently tracked through the investigative, disciplinary, and dismissal processes.
h. Providing resources to employees, parents and/or guardians, and students to aid them in identifying, reporting, and preventing abuse.	<ul style="list-style-type: none"> • Reviewed documentation provided to parents and students by the central office concerning child abuse. • Interviewed staff at the six school sites we selected to determine if they distributed any resources in addition to those prepared by the central office.
5 If the district and the school sites do not track allegations of misconduct involving a student and/or do not have policies and procedures in place to monitor employees found to have engaged in misconduct involving a student, obtain the reasons why.	In performing procedures related to objectives 4f and 4g, we determined that the district had policies and procedures in these areas.
6 To the extent possible, assess whether the district has entered into any settlement agreements for allegations or lawsuits filed alleging misconduct involving a student. If so, determine the disposition for each matter and the total dollar amount of these settlements over the past five years. Determine if notice about a settlement involving misconduct is required to be provided to the parent or guardian of the student and, if so, if all appropriate protocols were followed.	<ul style="list-style-type: none"> • Reviewed the dismissal and settlement processes as well as related documentation for various types of employees. • Interviewed district staff to determine why it prefers to issue settlement agreements and why it believes notifying parents and other school districts about a settlement is prohibited based on the privacy rights of the employee. • Interviewed central office staff to determine if a tracking mechanism is in place to determine the disposition and total cost of settlements for the past five years. • Reviewed a list created by the district's Office of the General Counsel on the number of certificated employees who received settlements from July 2011 to March 2012 to determine the number of misconduct cases by certificated employees who were provided settlement agreements and the total payout of the settlement agreements. • Determined the accuracy of the information provided by the district by reviewing each settlement agreement included in the information. Reviewed the completeness of the information provided by comparing it to another tracking log created by another division within the district. • Interviewed central office staff to determine the methodology used to calculate the payout of settlement agreements.
7 Determine if the district has a whistleblower protection program that complies with applicable laws. If the district has such a program, determine if it is following its procedures, including those related to allegations of misconduct involving a student.	Reviewed the structure of the district's Office of the Inspector General (OIG) that is responsible for investigating reports of retaliation under the whistleblower protection policy after an employee discloses improper governmental activities. Our review found that although the OIG is required to investigate allegations of retaliation against employees who report suspected child abuse, it does not investigate the initial action that led to the alleged retaliation. Thus, the OIG is not responsible for investigating allegations of child abuse, a task that is left to principals and local district superintendents, with assistance from the district's central office.
8 Review and assess any other issues that are significant to the district as they relate to allegations of misconduct involving a student.	Reviewed the labor agreement related to certificated employees that called for the district to separate certain predisciplinary documents from employee files. However, we did not observe any documents that were separated from the employees' files at the school sites we visited. Further, the personnel files we reviewed contained conference memos and other predisciplinary documents dating back to the 1990s.

Sources: California State Auditor's analysis of Joint Legislative Audit Committee audit request number 2012-103, planning documents, and analysis of information and documentation identified in the column titled *Method*.

Assessment of Data Reliability

In performing this audit, we relied upon various electronic data files obtained from the district. The U.S. Government Accountability Office, whose standards we follow, requires us to assess the sufficiency and appropriateness of computer-processed information. We used the district's iSTAR and the Incident Reporting System Database (housing database), among other pertinent information, to select child abuse allegations for our review. In addition, we used the housing database to determine various statistics regarding employees relocated away from school sites—or *housed*—by the district. However, we did not perform accuracy and completeness testing on the data because this audit is most likely a one-time review of a local school district that we determined did not warrant the same level of resource investment as a state agency whose systems produce data that may be used during numerous future audit engagements. As a result, we assessed that the data were of undetermined reliability.

Chapter 1

THE DISTRICT OFTEN FAILED TO NOTIFY THE COMMISSION ON TEACHER CREDENTIALING ABOUT CERTAIN OUTCOMES IN CHILD ABUSE ALLEGATIONS

Chapter Summary

The Los Angeles Unified School District (district) often did not properly notify the Commission on Teacher Credentialing (commission) when required to do so, including when employees were dismissed while an allegation of employee misconduct was pending. The district did not realize it had failed to report many cases until a high-profile incident that went unreported for more than six months led the district to review its past reporting practices. The superintendent of schools (district superintendent) subsequently directed district officials and principals to undertake two separate projects intended to improve district processes. One of the projects—the commission reporting project—led to the reporting of about 600 cases to the commission in a span of three months. This large number of cases included many not requiring reporting and caused a significant needless increase in workload for the commission. Our review of the information that the district provided to the commission found that the district previously failed to report as required at least 144 cases that were submitted a year or more late when the district finally reported them; of these cases, 31 were more than three years late. This lack of reporting occurred because of systematic problems in the district, such as inconsistent office processes. The district has yet to complete the second project, which involves a review of employee files by principals, and the district will not know the project's full effect until all files are reviewed by its central office and it determines how many cases were investigated and disciplinary action taken.

Although some might believe it would be advisable for the district to notify parents and guardians about an allegation of child abuse, the district has no legal obligation to inform any entity other than law enforcement about allegations of child abuse. Further, there is no statewide mechanism to communicate to other school districts when a classified employee at any given district separates by dismissal, resignation, or settlement during the course of an investigation involving misconduct with students. Thus, these classified employees might be able to find employment with other school districts without those districts' knowing the circumstances under which the employees left their previous employment.

Overall, the district has improved its policies and procedures related to its ability to report and track internally allegations of suspected child abuse, and it monitors whether its employees are trained in these policies and procedures. The independent charter schools in the district are largely autonomous and are not required to follow the district's policies and procedures regarding child abuse reporting, yet the information we reviewed at two charter management organizations indicated that adequate processes are in place to report such abuse.

The District Often Has Not Notified the Commission About an Employee's Change in Employment Status, as Required

State regulations require school districts to report to the commission within 30 days cases of a certificated employee's change in employment status, such as a dismissal or other termination, as a result of an allegation of misconduct or while an allegation of misconduct is pending. Further, state law requires that the district notify the commission within 10 days when a certificated employee is put on a compulsory leave of absence because of criminal charges for certain sex offenses or crimes involving a controlled substance. The commission uses these reports to review an employee's case and to suspend or revoke his or her teaching credential, as necessary. If the commission revokes an individual's credential, that individual cannot obtain a public teaching position in California. When the district fails to report to the commission as required, it precludes the commission from revoking an employee's teaching credential as needed and therefore preventing the teacher from working in other school districts.

The commission sent a letter to the district regarding its reporting responsibilities after the district reported a high-profile case to the commission more than six months after the district took final action.

In February 2012 the commission sent a letter to the district regarding its reporting responsibilities after the district reported a high-profile case to the commission more than six months after the district took final action.³ The letter reminded the district of the requirement to inform the commission within 30 days of final action taken against a certificated employee as a result of an allegation of misconduct or while an allegation is pending. An action is considered final when the employee has a change in employment status, such as the effective date of a settlement agreement or when all appeal rights have been exhausted for either a suspension or a dismissal. Further, the letter stated that according to regulations, failure to make a report to the commission constitutes unprofessional conduct, and the committee may

³ The employee resigned after reaching a settlement agreement with the district; however, the district did not report the case to the commission until the employee was arrested.

investigate any superintendent who holds a credential and who fails to file reports with the commission as required.⁴ The text box lists the State's reporting requirements.

Subsequently, the district undertook two projects to ensure that cases involving employee misconduct are properly handled and reported. On the same day the commission sent its letter, the district's superintendent sent his own directive to all principals reminding them of their obligation to provide appropriate due diligence, assistance, and guidance when addressing any allegations of employee misconduct. The superintendent's directive required principals to review current and past certificated and classified employee files to ensure that any reports of misconduct or inappropriate behavior by employees were properly handled and complied with the legal requirements concerning child abuse. Further, the directive required principals to provide to the Office of Staff Relations (staff relations) a copy of all necessary information regarding each investigation into allegations of employee misconduct. This review by principals became known as the *file review project*.

For the other project, according to the director of the Office of Employee Relations (employee relations), the district superintendent verbally instructed employee relations to review cases at the central office to determine if the district needed to submit them to the commission and to use "extra precaution" in doing so. Employee relations is responsible for coordinating the dismissal process involving the district's employees. We refer to this effort by employee relations as the *commission reporting project*. The superintendent's directive to the principals and instructions to employee relations were aimed at improving the district's process for reporting to the commission and ensuring that the district takes appropriate administrative action for employees investigated for misconduct in the past.

The commission reporting project, carried out from February to early May 2012, involved employee relations staff going through four years of case files kept at the central office to identify reportable incidents, including cases of misconduct against

Requirements for School Districts' Reporting to the Commission on Teacher Credentialing (Commission)

- School districts are required to inform the commission within 30 days when, as a result of an allegation of misconduct by a certificated employee or when an allegation of misconduct about him or her is pending, that certificated employee:
 - Is suspended or placed on unpaid administrative leave for more than 10 days.
 - Is dismissed, resigns, retires, or is otherwise terminated.
- School districts are required to report to the commission within 10 days of a certificated employee being charged with a specified sex offense or controlled substance crime involving minors, which requires a compulsory leave of absence.

Sources: California Code of Regulations, Title 5, Section 80303, and California Education Code, Section 44940.

⁴ The commission appoints the members of the Committee of Credentials (committee), which is a seven-member body that works under the supervision of the commission. The committee meets to review allegations of misconduct by certificated employees and reports its findings of probable cause and recommendations for appropriate adverse actions to the commission.

students, and to report them to the commission. This project uncovered the district's failure to report cases to the commission as required. Documentation provided by employee relations indicated that its review of files at the central office caused the district to submit about 600 cases to the commission. Of these cases, the district identified about 110 that it classified as "precautionary," meaning that the cases did not meet the commission's reporting requirements because the action taken either was not final or was not fully adjudicated. Although the district was aware that it was not required to report these cases, it submitted them anyway. In September 2012 the director of employee relations told us that the district submitted precautionary cases during that period and continues to do so with the intent of providing advance notice to the commission so as to better protect children. However, the district did not formally inform the commission of this when submitting such cases. The director did state that employee relations staff had multiple informal conversations with commission personnel throughout the reporting process of the fact that some cases were being sent on a precautionary basis.

According to its assistant chief counsel, the commission believed the notification letter sent to the district superintendent would result in the district's submission of additional cases; however, commission staff did not expect the number of cases received. In addition, the assistant chief counsel stated that although the district did inform the commission periodically about the types of cases being submitted, the district did not do so until after the commission began receiving the cases. The commission has jurisdiction to investigate when a change in employment status is considered final. For those cases that are not yet within the commission's jurisdiction, the commission sends a letter back to the district stating that it is not yet able to investigate the cases. In addition, the letter indicates that when the district takes final actions, it is required to resubmit the cases for review. The assistant chief counsel stated that it is not unusual for the commission to receive from districts cases that are not yet within its jurisdiction, and explained that although overreporting does increase the commission's workload, the commission always prefers overreporting by school districts to underreporting. We appreciate that the commission would prefer overreporting to underreporting; however, when school districts do not follow the reporting requirements, the districts create an unnecessary burden on the commission's intake system and resources. Further, the commission does not keep track of the cases that it has returned to school districts because they are not yet within the commission's jurisdiction. Thus, although a school district may think it is providing an early warning to the commission by reporting sooner than required, that is not the case.

When school districts do not follow the reporting requirements, the districts create an unnecessary burden on the commission's intake system and resources.

A review of the analysis conducted by the commission highlighted cases that the district had already submitted as well as ones that had not been submitted to the commission until employee relations' review. The commission initially began keeping track of how many of the cases reported through the district's commission reporting project had been previously reported, but it stopped those efforts in early May 2012 because the large number of cases it was receiving substantially diminished. According to the commission's last count, only about 17 percent of the cases submitted by the district had been reported previously to the commission. Further, in late June 2012 the commission's legal team was able to review 429 cases submitted by the district between February and early May 2012. Using the commission's analysis of the 429 cases, we determined that the district failed to notify the commission of at least 144 cases that were a year or more late when the district finally reported them, including 31 that were more than three years late. Of these 31 cases, 23 involved misconduct against a student. For example, the commission's analysis indicated that in one instance, a district teacher who allegedly had a sexual relationship with a student was reported to the commission in March 2012; however, the teacher's employment end date was in September 2008, at which point the district should have reported the case to the commission within 30 days. The district's lack of timely reporting meant that for 3.5 years the commission could not take any steps to determine whether it was appropriate to revoke the teacher's certificate and thus prevent the teacher from working in other school districts. Further, reports for two of the 23 most delayed cases involving misconduct against students were more than four years late. State law generally requires an allegation against a credential holder to be presented to the commission within four years of the alleged act or omission. Reporting delays may allow the statute of limitations to pass, an occurrence that precludes the commission from revoking an employee's teaching credential for that allegation.

The district's file review project is not yet complete; therefore, the district has yet to determine whether it will send any additional cases to the commission as a result of that project. This project required principals to go through 40 years of school site files to identify cases of misconduct against students and report them to staff relations. Principals submitted these files electronically to staff relations from February 2012 until the end of May 2012. According to a staff relations administrator, in mid-September 2012 the district had received from principals files containing information for approximately 3,850 employees. Further, the staff relations administrator stated that in early July 2012, staff relations began a process in which two employees separately review each file to determine whether further action is required for the case. The action taken may result in

The district failed to notify the commission of at least 144 cases that were a year or more late when the district finally reported them—31 were more than three years late and 23 of these involved misconduct against a student. Two of the 23 cases were more than four years late.

discipline against the employee, including a recommendation for dismissal. This review might also result in additional reporting to the commission.

The district stated its intent that the electronic files submitted by the principals will become part of a database that will be used as a tool to facilitate communications between school sites and staff relations. Further, the expectation is that school officials will continue to submit files of employee misconduct to the central office. With the planned steps, the project may improve the district's ability to take corrective action with employees exhibiting inappropriate behavior toward students. However, as of mid-September 2012, the district had not issued any disciplinary action as a result of the file review project, and the expected benefits remain to be seen. The district estimates that the project will be completed in December 2012. The district will not know the full effect of the file review project until all files are reviewed and it determines how many cases were investigated and whether disciplinary action was taken. Because employee relations has already submitted to the commission through its own review the cases it had at the central office, and because all files with disciplinary action should already be at the central office, the district anticipates that the number of cases that will require additional disciplinary actions via the file review project will be few, if any. If the district takes any additional disciplinary action, it will then need to determine whether it is required to submit the case to the commission.

According to the district's director of employee relations, a number of systematic problems contributed to delays in the district's reporting to the commission.

According to the district's director of employee relations, before the district superintendent's directive, a number of systematic problems contributed to delays in the district's reporting to the commission. Specifically, the district did not have a written process for reporting to the commission. In addition, the director stated that employee relations had difficulty keeping pace with the workload due to budget cuts, a lack of resources, and an increased number of employee separations. Further, the director stated that inconsistent internal office processes and a lack of protocol also contributed to inconsistent reporting to the commission. For example, the district did not have a tracking database that identified all the cases submitted to the commission. As a result, in June 2012 the district revised and documented its process for reporting to the commission in an effort to improve the previous weakness in sending notifications to the commission. In addition, the district now tracks the cases submitted to the commission by including them in its database that employee relations uses to track employees whom the district has relocated away from school sites (*housed*). The director of employee relations also commented that a component of the district's commission reporting review involved a reexamination of what is considered to be an allegation

of misconduct. As part of conducting the reexamination, the district broadened its interpretation of misconduct, thus increasing the number of cases it submitted to the commission.

Our review of the new policies indicates that they adhere adequately to the legal requirements, identifying the types of cases and when cases are to be submitted to the commission. However, it is too early to determine whether these newly adopted policies will result in the district properly reporting cases to the commission. The district has stated that it depends on the commission to investigate certificated employees who have been dismissed because of misconduct. In addition, the commission has the ability to revoke an employee's credentials, thereby ensuring that the individual is not employed at another school district in the State. However, as discussed previously, by not promptly reporting some cases to the commission, and by increasing the commission's workload by overreporting some cases, the district has hindered the commission's ability to investigate employees and to revoke their credentials as appropriate.

Finally, one might expect the requirement to report an employee's suspension within 30 days would provide an opportunity for the district to notify the commission of problems earlier rather than to wait until the employee leaves the district's employment. However, we found that not to be the case for the suspensions we reviewed. State regulations require the district to report suspensions of more than 10 days to the commission. According to the general counsel and director of the Division of Professional Practices at the commission, districts must report these suspensions within 30 days of when they become final, which is after the employee exhausts his or her appeal rights or the appeal rights have expired and the suspension is fully adjudicated. Of the 24 child abuse allegations we reviewed, 10 employees had suspensions of more than 10 days. Of these, eight resigned or the district instituted dismissal proceedings before the suspension was fully adjudicated. As of September 2012 the remaining two cases were still open and the employees had yet to exhaust their due process rights. Thus, none of the 10 suspensions were required to be reported to the commission.

There Is No State Entity for the District to Report Classified Employees That Have Settled or Resigned While Under Investigation for Suspected Child Abuse

No centralized notification system exists in California to warn other school districts when a classified employee separates from any given district by dismissal, resignation, or settlement during the course of an investigation or when cases occur in which no arrest or conviction is made.

Of the 24 child abuse allegations we reviewed, 10 employees had suspensions of more than 10 days—but because suspensions are only required to be reported to the commission within 30 days of when they become final—none had been.

Processes are in place to notify school districts attempting to hire classified and certificated employees who have been arrested or convicted. State law requires that before obtaining a position with a school or receiving a credential, applicants who are certificated or classified and some applicants who are contracted school employees must submit their fingerprints to the California Department of Justice for the purpose of generating a state and federal criminal record that includes all convictions and arrests as defined in state law and regulations. State law also provides that employers in California be notified if current employees are subsequently arrested or convicted. Thus, if any district employee is arrested or convicted of a crime, future employers would have knowledge of that employee's criminal record even if those employers were outside the district.

Further, the commission may investigate a conviction or a change in employment status that occurred during an investigation of misconduct of certificated employees, and initiate adverse action, such as suspension and revocation of a teaching credential. If the commission revokes an employee's credential, then that employee may not obtain a teaching position in California public schools. The involvement of the commission helps give assurance that these certificated employees do not find employment with another school district.

Although the commission can suspend or revoke teaching credentials, California has no statewide system or process to track classified school employees who, during the course of a misconduct investigation, receive dismissals, resign, or enter into settlement agreements but are never arrested or convicted. Moreover, we know of no legal requirement that the district notify other school districts about these employees. The district's position is that such notifications would expose the district to claims that it violated the employees' privacy rights and subject the district to lawsuits. The district's chief labor and employment counsel cites a provision of the California Constitution, statutes, and judicial decisions as bases of a district practice not to notify outside entities about employees who have left the district while under investigation for child abuse allegations. Because employees have a legally protected expectation of privacy in their personnel records, disclosure of those records is subject to a fact-specific weighing of the employees' privacy interests against the public's interest in disclosing the records. Our legal counsel has advised that such notifications by the district could, in fact, subject the district to lawsuits based upon the employees' privacy rights. Thus, classified district employees who are dismissed, resign, or enter into a settlement agreement during the course of a misconduct investigation may be able

Classified district employees who are dismissed, resign, or enter into a settlement agreement during the course of a misconduct investigation may be able to find employment with other school districts.

to find employment with other school districts without those districts knowing the circumstances under which they left their previous employment.

Although the district's classified employees might make up a small percentage of employees housed for misconduct, the risk to the safety of students by the district's not tracking these employees merits attention. We used the district's database of housed employees to estimate the potential workload of tracking these employees and calculated that classified employees made up 12 percent of the approximately 740 district employees recorded since the database's creation in May 2008. We discuss this housing database later in the chapter. In addition, the director of employee relations stated that this percentage of housed classified employees may underestimate the number of classified employees accused of misconduct because many classified employees are disciplined or dismissed without being housed. We spoke with commission staff who stated that they do not have the resources or the authority to handle the additional workload related to classified employees. In addition, commission staff stated that it would not be a good fit to handle issues related to classified employees because its current authority is limited to credential holders, and that these individuals are held to a higher level of professional conduct than what may be required of some classified employees. Further, commission staff stated that the question of handling classified employee reporting seems to extend past any licensing entity because some classified positions may have their own unique licensing requirements.

Nonetheless, we believe that the risk of a school district's hiring a classified employee without being made aware of any prior incidents of misconduct involving students is serious enough to warrant the Legislature's attention, whether the solution is to expand the duties of an existing oversight entity, such as the commission, or to create a new oversight body. If such a reporting entity existed, school districts throughout the State could be notified before hiring certain classified employees who had been dismissed, had resigned, or had entered into settlement agreements during the course of child abuse investigations.

The District Faces Constraints When Notifying Parents and Others Following an Allegation of Child Abuse

Although some might believe that it would be advisable for the district to notify the community, parents, and guardians about an allegation of abuse by a certificated or classified employee, there are no legal requirements that it do so. In fact, the district has no legal responsibility to inform any entity except law enforcement of an allegation of child abuse. Consistent with the district's perspective

The risk of a school district's hiring a classified employee without being made aware of any prior incidents of misconduct involving students is serious enough to warrant the Legislature's attention.

The district began requiring principals to notify parents of a sexual abuse allegation involving an employee at their child's school, unless advised otherwise by law enforcement, within 72 hours of the incident.

on not notifying other school districts, discussed previously, the district's chief labor and employment counsel stated that doing so might expose the district to claims that it violated the employee's constitutional right to privacy and expose the district to costly lawsuits. Nevertheless, in late March 2012, the district began requiring principals to notify parents of a sexual abuse allegation involving a certificated employee at their child's school, unless advised otherwise by law enforcement, within 72 hours of the incident. In October 2012 the district expanded the policy to include classified employees.

The policy includes form letters for principals to complete in instances of sexual misconduct by an employee at the school. The form letters include general information about the school where the incident occurred and the law enforcement agency involved with the allegation. Although they do not include some specific information, such as details of the incident or the identity of the victim, the letters do include the alleged type of misconduct and the suspect's name if the individual has been arrested by law enforcement. Notifications such as these may be beneficial, as they may encourage parents and guardians to talk with their children about possible abuse following an allegation at a school site. In addition, the district requires that its parent student handbook be sent home with every student at the beginning of each school year, and it includes information on child abuse reporting requirements. It encourages parents to contact the district with questions and concerns regarding the conduct or behavior of district employees toward students.

One limitation to the notification policy is that the district cannot issue a notification letter if law enforcement advises that it be withheld. The law enforcement entities we spoke with varied in their responses to the new policy. An officer from the Bell Police Department stated that as a general rule, he would not want information about an ongoing criminal investigation to be available to people outside of the investigation. An officer from the Los Angeles County Sheriff's Department stated that the department prefers to discuss each case with the district before any notification and that some cases may warrant a request to refrain from sending the letter. However, a detective with the Los Angeles Police Department stated that he could not think of any reason his unit would request that a school refrain from issuing such a notice. As of mid-August 2012 the central office estimated that it had assisted in issuing 14 notifications since the implementation of the policy in late March 2012. According to district staff, in mid-August 2012 the district began tracking and monitoring the notifications, including those that are prepared by schools without the central office's assistance.

We were also asked to review, as part of this audit's objectives, whether the district follows laws, policies, and best practices related to notifying employee unions that an allegation of misconduct involving a student has been made. Our review found no contractual or legal obligations for the district to make such notifications. Further, according to the district's chief labor and employment counsel, such notifications could violate an employee's privacy rights, as previously discussed. The district's chief labor and employment counsel also informed us that principals or district staff notify employees of their right to request union representation during the discipline process before the administration of discipline, which we saw examples of during our review.

The District Has Strengthened Its Policies and Procedures Related to Suspected Child Abuse

The district has made improvements to its policies and procedures related to reporting, investigating, and tracking child abuse over time. For example, since 2008, the district has made two major improvements in how it internally reports and tracks employees accused of suspected child abuse and created an investigations unit at the central office to assist principals with certain investigations.

In April 2010 the district implemented a tracking system, which it subsequently upgraded and now refers to it as the Incident System Tracking Accountability Report (iSTAR), intended to, among other things, improve incident response and reduce the potential for miscommunication among the school site, the local districts, and the central office. According to the district policy, the iSTAR tracking system enables the school site to immediately notify its local district and the central office of events that occur at a school site using electronic incident report forms, including incidents that warrant a suspected child abuse report. Before the implementation of iSTAR, district policy required that principals ensure that the local district or staff relations was informed about employees engaged in conduct that may be indicative of child abuse. During our review, we saw examples of principals' incident reports prepared before iSTAR was implemented. According to the coordinator of school operations, these reports were inconsistently formatted across the local districts. The new process allows the district to track allegations formally and centrally in an electronic format.

The district has also implemented a system that tracks, over a period of time, employees accused of child abuse. In May 2008 the district developed a housing database that tracks employees who are housed while being investigated for misconduct. The district houses these employees in order to provide safe classrooms,

The district has implemented a system that tracks, over a period of time, employees accused of child abuse.

The district created an investigations unit at the central office to assist principals with the investigation of complex child abuse allegations.

schools, and workplaces, typically as a result of credible allegations of sexual misconduct against children, criminal acts, or incidents of workplace violence. During our review, we found that the housing database electronically tracked employees from the time they were reassigned to the local district office until the resolution of their case.

Finally, the director of employee relations informed us that in January 2010 the district created the Employee Relations Investigations Unit (investigations unit) at the central office to assist principals with the investigation of complex child abuse allegations, such as cases involving multiple victims, multiple suspects, or senior district personnel. In addition to fully investigating complex cases, the investigations unit also offers consultative services, on-site support with interviews, and computer forensics capability. According to the director, the investigations unit employs two part-time detectives from the Los Angeles School Police Department who are on loan to work as internal administrative investigators, among other part-time personnel. The director stated that the district created the investigations unit because principals did not have the expertise to conduct complex administrative investigations, as well as to assist with a backlog of cases that were not moving forward.

We also reviewed the district's policies and procedures in effect since 2007 related to suspected child abuse and employee misconduct and found that it updated them periodically. For example, in December 2009, the district updated information and guidelines in its policy titled Child Abuse and Neglect Reporting Requirements to expand the definition of *reportable victim of suspected child abuse*. In late March 2012, in its Employee-to-Student Sexual Abuse and Related Investigation and Notification Policy, the district included instructions for issuing a parent or guardian notification about certificated employees accused of sexual abuse. In addition to issuing periodic updates, in June 2012 the district created new written procedures for reporting to the commission any certificated employee who has experienced, among other actions, a dismissal, a resignation, or a suspension of more than 10 days as a final employment action resulting from an allegation of misconduct or while an allegation of misconduct is pending.

Finally, our review found that the district communicated to its employees its policies and procedures related to employee misconduct against a student. This communication occurs through email notifications, the district's employee Web site, and trainings, as discussed in the next section. We reviewed the district's employee Web site and found that it contained its most

current policies related to reporting and investigating child abuse allegations. We interviewed four local district superintendents and five school principals who did not identify any concerns when we discussed with them the way in which the district distributes its policies and procedures.

The District Has a Process to Train Its Employees Adequately in Child Abuse Awareness and Monitors to Ensure That They Receive the Training

The district has a robust training program for child abuse awareness. According to the district's school operations coordinator (coordinator), in the beginning of the 2008–09 school year, the district posted on its Web site a child abuse awareness training video and online assessment for employees to view and complete. In October 2009 district policy began requiring that employees annually view the child abuse awareness training video and complete the online assessment, which asks the employee to answer questions about child abuse reporting requirements. The coordinator went on to state that the district then developed a child abuse awareness training kit that included the video and assessment, which it distributed to schools in the beginning of the 2009–10 school year. The training kit outlines the training session in which employees must view the training video on child abuse awareness and sign in to indicate that they have participated. We reviewed the training materials and found that the training complies with the requirements for reporting child abuse articulated in state law, and it incorporates information provided by outside experts, including the Los Angeles City Attorney's Office.

According to the coordinator, before 2008 the district required that training in preventing and reporting child abuse be handled at the individual school sites during the beginning of each school year. The coordinator stated that each employee was required to sign a form acknowledging they had attended the training; however, the district was unable to monitor whether all employees had attended the training because the forms were not forwarded to the district headquarters. Additionally, the training was not standardized. The new child abuse awareness training enables the district's central office to monitor all employees for training attendance and completion of the online assessment.

As part of the district's monitoring process, the central office sends the local districts a list of employees who have yet to complete the online assessment. According to the coordinator, local districts are required to send these lists to school sites. School site administrators then send notices to the employees who have yet to complete the assessment. The coordinator stated that these

The new child abuse awareness training enables the district's central office to monitor all employees for training attendance and completion of the online assessment.

lists are sent to the districts beginning in August of each school year with increasing frequency until the deadline every October. According to a district memorandum, by October 2012, 95 percent of the district's employees had completed the assessment for the 2011–12 school year. The coordinator stated that the remaining 5 percent consisted of employees entering and leaving active employment. Further, the memorandum indicated that the district has made consistent improvement in the total number of employees who have completed the online assessment each year, increasing from 58 percent of employees during the 2008–09 school year to 90 percent in 2009–10, and continuing to increase the percentage in the two subsequent years.

In addition to requiring child abuse awareness training, the district requires its school site administrators to certify every year that they have informed their employees about certain district policies, including sexual harassment, appropriate conduct with students, and other policy areas.⁵ The five district schools we reviewed all provided sign-in sheets indicating that their employees had received training in child abuse awareness, sexual harassment, and appropriate conduct with students during the training at the beginning of the 2011–12 school year. In addition, for the one charter school we reviewed, we found evidence that the school required staff to attend child abuse and sexual harassment training. The district also requires its school sites to send their training records to their local districts. We reviewed the training records sent by the five schools to four local districts during the 2011–12 school year and found that the local districts were monitoring to ensure that school sites were training their employees on child abuse awareness and appropriate conduct with students.

Independent Charter Schools Are Not Required to Follow the District's Policies and Procedures Regarding Child Abuse Reporting

Independent charter schools are largely autonomous and are not required to follow the district's policies and procedures regarding child abuse reporting; however, charter schools must follow state law regarding the reporting of child abuse. The two charter management organizations (CMOs) we reviewed have adequate processes in place to report child abuse. In addition, district-required charter language obligates charter schools to inform the district about notices of investigations by outside regulatory agencies, lawsuits, or other formal complaints within one week of the school's receipt of such notices.

⁵ The certifications occur once or twice a year depending on the subject area.

As the Introduction explains, the district is the chartering authority for two types of charter schools: independent and district-affiliated. The text box describes how these two types of schools differ. Independent charter schools are responsible for creating and distributing their own policies and procedures regarding child abuse. These independent charter schools do not use the iSTAR tracking system and are not part of the district's housing database. However, they receive communications via an electronic mailing list that the district uses to send key bulletins to charter school administrators. Although the district communicates its own policies and practices to independent charter schools, the charter schools are not required to follow them. Because district-affiliated charter schools are required to function similarly to other schools within the district in handling allegations of child abuse, we focused our review on independent charter schools.

Our review of two CMOs found that both were able to support that processes are in place to report child abuse. A CMO is the lead agency that administers a group of charter schools; however, each charter school must have its own charter petition approved by the district's board. One of the CMOs we reviewed provides online training in child abuse awareness to its staff. A designated employee monitors the staff to ensure that they take the training. Further, staff receive training in person at the beginning of the year on relevant school policies, including child abuse reporting. According to the CMO's management, principals are trained to report any allegations of child abuse to the school support center, specifically the designated employee who monitors training and who is also responsible for investigating the allegation. Policies on school employees' responsibility as reporters of child abuse and the rules of conduct with students are included in the staff handbook.

Similarly, the second CMO also has its own set of practices. Policies and procedures for reporting allegations of child abuse are included in the school's staff handbook that is to be reviewed at the beginning of each school year by administrators. In addition, all new employees are required to view sexual harassment training videos. Further, beginning with the 2012-13 school year, staff are required to take online training on child abuse reporting requirements. The director of operations is responsible for

Comparison of Independent and District-Affiliated Charter Schools

Independent

- Can have nonunion, contract, or at-will employees
- Housed employees not included in the district database
- Receive the district policy bulletins but have no requirement to follow the policies
- Do not have access to or make reports in the district's Incident System Tracking Accountability Report (iSTAR)
- Conduct their own training
- Handle their own discipline process
- Are not funded by the district

District Affiliated

- Are union employees, unless a waiver exists
- Housed employees included in the district database
- Receive and must follow the district bulletins and policies
- Report incidents in iSTAR
- Receive mandated district training but have full autonomy to select site-specific training as needed
- Follow the district discipline process
- Have control over budgeting and expenses, but the district retains some funds for oversight costs

Sources: Charter petitions, administrators' explanations, and a Los Angeles Unified School District policy bulletin.

monitoring the training. In addition, any allegations of employee misconduct, including misconduct against students, would be investigated by the director of human resources.

We also noted that the employees of the two CMOs are either at-will or have annual contracts that allow for a rapid dismissal process if needed. The use of at-will employment and annual contracts allows an employer to quickly dismiss an employee for misconduct at the employer's discretion. For example, a teacher in a charter school was alleged to have sent a student text messages with inappropriate content. Once the charter school was made aware of the allegation, the teacher was immediately sent home and prohibited from returning to work until further notice. The charter school contacted law enforcement, and once it was determined that the teacher had an inappropriate association with a student, the teacher was informed of the dismissal four days later. The other CMO indicated it had no reports of an allegation of employee misconduct against a student for at least the past four years, and we did not note any during our review of selected employee files. Further, the CMO's discipline policies and at-will employment model similarly allow for a speedy dismissal process if needed.

Although charter schools are largely autonomous, the district has oversight responsibilities. As discussed in the Introduction, the district's board as the chartering authority approves charter petitions, and the district performs an annual review of a charter school's compliance with its charter petition. The annual review focuses on student achievement and educational performance, governance and organizational management, fiscal operations, and fulfillment of the school's educational program. To fulfill part of its oversight responsibilities, the district requires that charter petitions include language that obligates charter schools to inform the district about notices of investigations by outside regulatory agencies, lawsuits, or other formal complaints within one week of the school's receipt of such notices. If followed, this requirement should keep the district apprised of investigations of employee misconduct against students at charter schools. The district can use this knowledge to prevent it from hiring individuals with unresolved incidents involving charter schools. The director of the district's charter schools division stated that in the past year the division was informed of at least two allegations of child abuse. The charter schools division followed up with one charter school to ensure that proper action took place and provided recommendations for the school to use in improving its child abuse reporting and investigating process. In the second instance, as of late September 2012 the charter schools division was still in the process of following up with another charter school regarding the allegation of child abuse.

Recommendations

To ensure that the commission is made aware of certificated employees who need to be reviewed to determine whether the employees' teaching credentials should be suspended or revoked, the district should adhere to state requirements for reporting cases to the commission. Further, the district should avoid reporting cases that are not yet required to be reported so that it will not overburden the commission.

The Legislature should consider establishing a mechanism to monitor classified employees who have separated from a school district by dismissal, resignation, or settlement during the course of an investigation for misconduct involving students, similar to the oversight provided by the commission for certificated employees. If such a mechanism existed, school districts throughout the State could be notified before hiring these classified employees.

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Chapter 2

THE DISTRICT GENERALLY FOLLOWED REPORTING REQUIREMENTS, BUT IT COULD NOT EXPLAIN SOME DELAYS IN INVESTIGATING AND DISCIPLINING EMPLOYEES

Chapter Summary

Available documents indicate that the Los Angeles Unified School District (district) generally followed state law when reporting suspected child abuse. Additionally, it generally followed its own policies and procedures related to investigating child abuse allegations and removing suspected employees from a school site after an allegation was reported. However, we found that the district did not always act promptly on some allegations during the investigation, nor did it always discipline employees in a timely manner. Although a criminal investigation conducted by law enforcement might cause the district to delay or put on hold an administrative investigation, we found that the district was unable to justify some delays in the investigation process.

Further, the district follows a progressive discipline process as well as state laws related to dismissing employees, both of which increase the time for the district to see a case to its conclusion. Nonetheless, the district could not explain certain delays in the disciplinary process for some cases we reviewed.

Although the District Generally Followed State Law When Reporting Allegations of Child Abuse, We Found One Significant Instance in Which It Did Not Follow Its Policies

Available documents indicate that the district generally followed state law when reporting allegations of suspected child abuse to law enforcement; however, our review was limited in this area by statutory provisions that prohibit the district from requiring employees to identify themselves when reporting suspected child abuse. State law and district policy require that school employees report suspected child abuse immediately or as soon as practically possible to law enforcement or to the Department of Children and Family Services and file a written suspected child abuse report (SCAR) within 36 hours.⁶

⁶ As discussed in the Introduction, we refer to all recipients of these reports as *law enforcement*.

In one instance, we were unable to determine whether a district employee appropriately called law enforcement after receiving an allegation of child abuse.

We reviewed 24 personnel files containing child abuse allegations from five schools and found evidence that district employees verbally reported allegations of suspected child abuse the same day in 18 instances and the next day in one instance. Individuals other than district employees had already reported to law enforcement four of the remaining five allegations. However, in one instance, we were unable to determine whether a district employee appropriately called law enforcement after receiving an allegation of child abuse. In fact, the documentation obtained from the district indicated that the central office and local district were unaware of the incident until a reporter inquired about its status two weeks later. Although the district moved quickly to dismiss the classified substitute employee, we saw no evidence that anyone at the district informed law enforcement once it became aware of the situation.

We also found evidence that for 10 of the 24 allegations, district employees filed written SCARs within the 36-hour time frame.⁷ In four of the 24 instances, someone other than a district employee submitted the SCAR. For the remaining 10 allegations, we could not conclude whether the district properly reported the instances of suspected child abuse because the district was unable to provide evidence that someone submitted a SCAR within 36 hours of receiving the information concerning the incidents. In general, the district stated that it was unable to provide this evidence as it did not have copies of the SCARs because of certain provisions in state law. These provisions prohibit an employer, such as the district, from establishing procedures that require an employee to disclose his or her identity to the employer when reporting suspected child abuse. In addition, district policy states that no employee is required to submit, maintain, or distribute copies or logs of suspected child abuse reports and prohibits an employee from discussing the details of a particular SCAR with anyone other than a child protective agency representative unless the employee waives his or her right of confidentiality. However, some of the schools we visited retained copies of SCARs their staff had filed and chose to provide to their principals.

We found no evidence from further testing we performed that the schools we reviewed were failing to report allegations of child abuse. In addition to the 24 allegations of child abuse we followed up on, we generally selected 20 employee files from each of the six schools we visited to determine whether principals were properly reporting all allegations of child abuse, and we found that the six schools had followed their child abuse reporting policies for the files we reviewed.

⁷ In one of the 10 instances, the principal filed a SCAR with law enforcement after reviewing past incidents in an employee's file as part of the file review project discussed in Chapter 1. According to the principal, nothing in the file indicated that these instances were reported as suspected child abuse at the time they occurred.

Moreover, our review found that the district generally adhered to its policies when following up on child abuse allegations. District policies require principals to follow up with law enforcement after a child abuse allegation has been reported to monitor the status of the investigation. The district also requires principals to inform the local district of the allegation immediately after a child abuse allegation has been reported and to begin an administrative investigation as soon as given clearance by law enforcement.⁸ In 15 of the 16 cases we reviewed in which a criminal investigation was conducted, we found evidence that principals followed up with law enforcement regarding the status of the criminal investigation. In the one remaining case, we were unable to determine whether law enforcement had ever been notified or subsequently contacted. In addition, we found that in 20 of 24 cases, the district began an administrative investigation promptly once cleared to do so by law enforcement. However, in one case we noted that the district did not begin investigating the allegation until three weeks after law enforcement cleared it to do so. In the remaining three cases, either law enforcement did not allow the district to conduct an administrative investigation or we were unable to determine whether law enforcement was ever contacted, but found evidence that the principal did conduct some investigation into the incident.

In 22 of the 24 cases, we found that the principal informed the local district shortly after receiving the allegation. In one of the two remaining cases, we were unable to find any evidence that the local district was informed about the allegation until a reporter contacted the central district office and inquired about the incident two weeks later, as discussed previously. Local district staff stated that the school should have informed the local district at the time the allegation was recorded and indicated that not doing so was an extremely poor decision. In the other instance, the principal notified the local district a week after reporting the allegation.

Finally, the district generally followed its policy of removing employees from a school site after an allegation involving sexual abuse, although we noted one significant exception. Before August 2012 district policy strongly recommended that the local district superintendent *house*, or relocate from school sites and reassign to his or her local district office, those employees facing allegations that involve touching students in certain private areas and sexual misconduct (sexual contact). For six of the seven allegations of sexual contact we reviewed involving a housed employee, we found that the local district superintendent followed district policy by housing the employees within one day of receiving the allegations.

In one case, we were unable to find any evidence that the local district was informed about the allegation until a reporter contacted the central office two weeks later.

⁸ District policy requires site administrators or supervisors to be responsible for this process and other functions. We observed that school principals typically directed many of these efforts. Therefore, we refer to site administrators as *principals*.

The local district superintendent waited 45 days before housing, or relocating from the school site, an employee facing allegations that involve sexual abuse.

In the one remaining instance, the local district superintendent waited 45 days before housing an employee. According to the employee's file, law enforcement had approved an administrative investigation. The principal stated that he recommended the employee be housed, but the local district did not remove the employee until law enforcement began a criminal investigation. According to the local district, it initially chose not to house the employee because there was no law enforcement investigation, and the dispatched officer did not believe that the incident rose to the level of a crime. However, district policy states that in all instances, the safety of students will be the primary criterion for any relocation decision. This employee was subsequently arrested and convicted of multiple counts of child molestation.

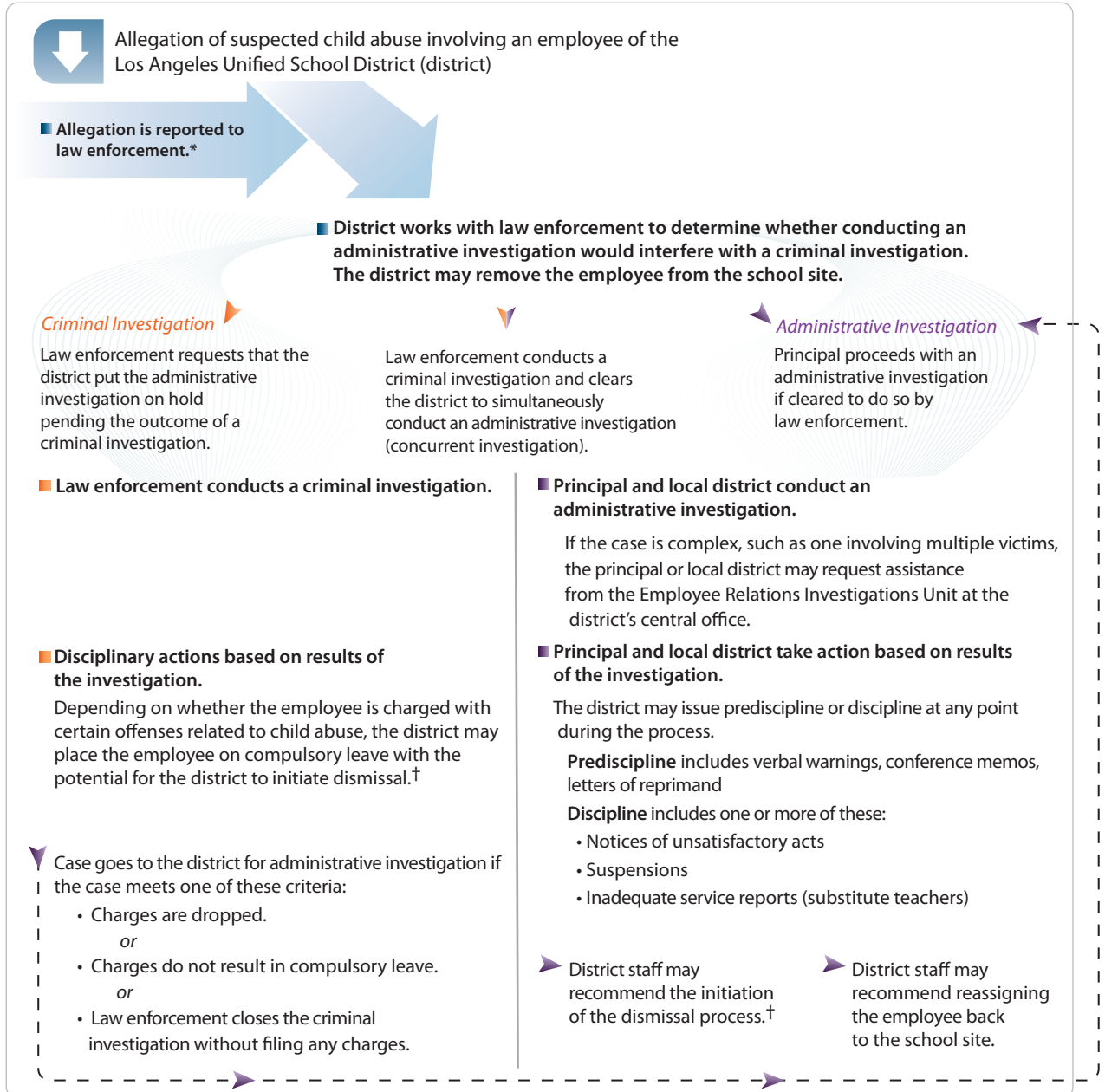
We also found that the district generally followed its policies for housing employees for child abuse that did not involve sexual contact with students. Prior to August 2012 the district policy advised local district superintendents to consider housing employees for other types of allegations, such as harassment or physical abuse. For five of the 10 allegations we reviewed involving housed employees suspected of this type of inappropriate conduct, the local superintendents housed the employees within one school day, and for three additional allegations the employees were housed shortly after the incidents were reported. For one of the remaining two allegations, a SCAR was filed that, according to the school's principal, referred to past incidents in the employee's file to show what was believed to be a pattern of the employee inflicting emotional distress on students over the years. However, the employee was not housed until a law enforcement investigation began 2.5 months later. In the final instance, an employee was pulled from the classroom shortly after the allegation was reported, but the employee remained on campus and was not housed at the local district office until 10 days later. In August 2012 the district revised its policy for housing, requiring that employees be housed when a credible allegation of employee misconduct indicates a clear risk to students, staff, or other employees.

Although Some Investigative Delays Are Unavoidable, the District Could Not Explain Adequately Why Some Actions Took Months to Complete

In addition to reviewing the district's compliance with promptly reporting suspected child abuse, we examined its timeliness in investigating these allegations. As seen in Figure 2, multiple components are involved in the process of investigating allegations of suspected child abuse and issuing discipline to employees related to these allegations, which could potentially extend the amount of time it takes to close a case.⁹ Although there were some justifiable postponements when investigating an allegation, such as for an ongoing criminal investigation by law enforcement, we found some instances of delays that were within the district's control, and staff were unable to explain these delays.

⁹ We discuss delays related to the disciplinary process in the next section.

Figure 2
Typical Investigation and Disciplinary Processes Involving Child Abuse Allegations for Employees Reassigned to the Local District Office



Sources: District policies and procedures and the California Education Code.

Note: Because the district's change in organization from local districts to service centers occurred in July 2012, and because our review focused on practices occurring before that time, for purposes of consistency we discuss local districts throughout the report.

* We refer to all recipients of these reports as *law enforcement*. State law requires that school employees contact and file a suspected child abuse report (SCAR) with the local police department, sheriff's department, the county welfare department, or in some cases the county probation department designated by the county to receive these reports when school employees suspect child abuse is occurring. However, according to the Department of Children and Family Services, which is the county welfare department responsible for conducting SCAR investigations involving abuse by a parent, it typically would not handle cases specific to suspected employee abuse against students and would use an electronic referral system to forward such allegations and reports to the appropriate law enforcement entity.

† See Figure 3 on page 47 for the dismissal process.

Our review of 24 personnel files containing allegations of child abuse found that law enforcement's criminal investigations affect the amount of time it takes the district to complete its own investigation. Specifically, in 14 of the 24 cases we reviewed, the district delayed an administrative investigation because of a law enforcement criminal investigation. In fact, three law enforcement entities with whom we spoke expect that the district will refrain from conducting an administrative investigation during an ongoing criminal investigation. Additionally, we found that law enforcement sometimes closes an investigation and reopens it at a later date, which could cause further delays in the district's administrative investigation. Although the amount of time varied, each separate criminal investigation we reviewed caused the district to postpone its investigation for an average of three months, with postponements ranging from five days to 15 months. If the district is not given clearance to interview witnesses or speak with the suspected employee due to an ongoing law enforcement investigation, the ultimate resolution of an administrative investigation will likely be delayed.

Once law enforcement cleared the district to conduct an administrative investigation, the district's investigation time varied depending on the complexity of the case. Until August 2012, district policy required principals and local districts to complete investigations of child abuse for housed employees within 30 days of being cleared by law enforcement to proceed, unless they were granted an extension. In addition, the policy required the central district's Employee Relations Investigations Unit (investigations unit) to complete its assistance with investigations for housed employees within 30 days of accepting the assignment. The investigations unit assists principals and local districts in investigating complex child abuse allegations, such as allegations involving multiple victims. For 16 of the 24 allegations we reviewed, the district conducted an administrative investigation and housed the employee. In five instances, the principal and local district completed the investigation within one month, and two cases were completed in between two and five months. In another allegation, the case was still open as of the time of our review in September 2012, at which time, the district had been investigating for more than three months. For the eight complex cases we reviewed that involved the investigations unit, district staff took between four and 18 months to fully investigate them. The unit issued reports on the eight cases in two and a half months to seven months; however, we observed delays throughout the process.

Although it was able to explain some of the significant delays, the district was at times unable to give reasonable responses for instances when an investigation would stall for months at a time.

Although the district was able to explain some of the significant delays we followed up on during our review of allegations, the district was at times unable to give reasonable responses for instances when an investigation would stall for months at a time.

For example, one case did not move forward for almost 14 of the more than 18 months that it was open, until being taken over by the investigations unit. The local district was unable to explain what exactly occurred during that time, but the director of the district's Office of Employee Relations (employee relations) identified it as an example of one of the backlogged cases that prompted the district to create the investigations unit.

In a second investigation, we found that the principal took five months to inform the district's central office about the status of an investigation after notifying the local district, and there was no indication of any investigatory action occurring during those five months. The investigations unit took over this case, but due to its workload was unable to begin its investigation until about two months after the principal informed the central office. According to an Office of Staff Relations' field director for the district, the investigations unit was just getting launched and had many cases to investigate, and as a result was not able to begin investigating until two months later. Further, we noted an example in which the investigations unit took much longer to complete its investigation than the 30-day policy that was in place. Specifically, the investigations unit took more than seven months to complete its investigation and provide the investigation report to the school principal.

Some district officials cited resource constraints as a reason for some investigations taking an extended period of time. For example, according to the district's director of employee relations, the investigations unit has an extensive backlog and does not have the resources to pursue all of its investigations simultaneously. The director stated that investigations in this unit may take four to six months to complete, which could extend the time it takes the district to fully resolve an allegation of child abuse. Principals and local districts wait for reports produced by this unit before progressing with discipline, recommending the initiation of the dismissal process, or recommending the reassignment of an employee back to the school site. According to the director, there is general agreement that more resources are needed, and there have been meetings regarding the resources allocated for investigations. The director also stated that although obtaining resources is always difficult in tough economic times, he believes a decision about where resources should be deployed for maximum benefit to the district will be forthcoming.

The district recently revised its policy that addresses investigation timelines to more accurately reflect the amount of time it takes to finish an investigation. The new policy for housed employees, effective August 2012, allows principals and local districts to take up to 30 working days (rather than simply 30 days) to complete

In one investigation, we found that the principal took five months to inform the district's central office about the status of an investigation after notifying the local district, and there was no indication of any investigatory action occurring during those five months.

noncomplex investigations and gives the investigations unit 120 working days (about six months) from the date the case was opened to complete its full investigation. Additionally, according to the director of employee relations, the district created a new coordinator position in November 2011 to meet with local districts to offer continued support and help process cases to keep them moving forward because cases were not being actively investigated at the local level. However, the extent to which the coordinator will reduce the types of investigative delays we noted is not yet known. Although the district recently updated its policies to more accurately reflect the amount of time it takes to complete an investigation and added a new position, without increased oversight of open cases, the district may continue to experience delays in conducting investigations, extending the time it takes to resolve allegations of child abuse.

The Disciplinary Process Increases the Time Required to Resolve Cases of Suspected Child Abuse

For cases that do not lead to the immediate dismissal of an employee, progressive discipline requirements contribute to the amount of time it takes to resolve cases of suspected child abuse. Labor agreements for district certificated employees and the district's Personnel Commission rules for classified employees provide for progressive discipline except in cases in which it may be unnecessary. Progressive discipline may be unnecessary in certain circumstances, such as when employees are charged with specific sex offenses. In these instances, the Los Angeles Unified School District Board of Education (board) may place the employee on a compulsory leave of absence immediately and later dismiss him or her. For example, in two of the 24 allegations we reviewed, the district moved to dismiss an employee without issuing any progressive discipline following an arrest for crimes related to child abuse.

According to the assistant chief human resources officer (assistant chief), in cases in which it is appropriate, progressive discipline allows the district to monitor an employee's behavior over time and observe whether the employee has improved. Consequently, the district administers predisciplinary and disciplinary actions, which the text box describes, when attempting to improve an employee's behavior. Labor agreements and information from the Personnel Commission indicate that progressive discipline begins with verbal or written warnings, which the district typically formalizes in the form of a conference memo and at times as a letter of reprimand. Formal discipline includes a notice of unsatisfactory act, which may be accompanied by a suspension. Suspensions can generally last for up to 30 days for classified employees or for up to 15 days for certificated employees.

The district applied progressive discipline in the cases we reviewed to some employees, including employees investigated for suspected child abuse, before it initiated dismissal proceedings. For example, of the seven employees we reviewed that were dismissed or that are currently involved in the dismissal process, four were first issued conference memos, and in three of those four cases the district followed up by issuing a total of four notices of unsatisfactory acts and four suspensions before the board moved to separate them from the district. According to the assistant chief, in cases where it is appropriate to follow the steps of progressive discipline, the process, including the appropriate contractual due process steps, takes time, as the employee is provided the opportunity to correct the behavior. Progressive discipline requirements contribute to the time it takes to dismiss some district employees, even those employees suspected of child abuse.

State law also affects the amount of time it takes to resolve a case of suspected child abuse by imposing various requirements on the steps in administering suspensions and initiating dismissals for certificated employees. For example, the board may not give a notice of dismissal or suspension between May 15 and September 15 for certain charges. The law hinders the district's ability to dismiss employees during the summer months. A legislative committee analysis indicated that concerns about the difficulty in notifying certificated employees during the summer break and the reduced availability of witnesses led to the original adoption of this prohibition. In one of the cases we reviewed, on August 25 of a particular year, district staff indicated that a case involving suspected child abuse would be sent to the board for the purpose of initiating dismissal. On September 22 district staff recommended that the board initiate dismissal, which it did on October 5. According to state law, the board could not have initiated the dismissal process when district staff made the initial decision on August 25 to recommend that the board proceed with dismissal, because that action would not have been in compliance with the law.

A bill was recently introduced that sought to, among other things, remove the May 15 through September 15 restriction on when a governing board of a district could give notice of dismissal or

Steps in Progressive Discipline As Applied to an Employee Alleged to Have Engaged in Misconduct Against Students

Predisciplinary Actions

- **Verbal correction:** The supervisor issues verbal warning, counseling, or coaching to correct minor problems or to request behavior adjustments.
- **Conference memo:** The supervisor holds a conference with the employee about the behavior and issues a written summary of the conference. A conference memo may include directives the employee must follow, and it is designed to provide structured feedback on employee conduct.
- **Letter of reprimand:** The employee receives this evaluative tool typically containing directives the employee must follow to correct a behavior. This letter is intended to send a stronger message of disapproval than does a conference memo.

Formal Discipline

- **Notice of unsatisfactory act:** This notice is often administered based on a discrete act of misconduct, but it may also include multiple causes and charges.
- **Inadequate service report:** This document is administered to a substitute with a recommendation that the specific substitute not be returned to the issuing school, that the substitute be released entirely from the district, or both.
- **Suspension:** The maximum suspension can range from 15 days to 30 days depending on whether the employee is classified or certificated.
- **Dismissal:** Staff recommend dismissal to the Los Angeles Unified School District Board of Education.

Sources: Los Angeles Unified School District (district) staff, the district's Personnel Commission, and the labor agreement for certificated employees who are teachers.

In one case we reviewed, the principal took nearly five months to issue a conference memo. The district issued a suspension two months later, but it took the superintendent another five months to request that the district pursue settlement and dismissal options.

suspension for charges involving specified offenses, but the bill did not pass. Specifically, this bill would have amended the law to provide that a district may give a notice of suspension or dismissal related to an employee's serious or egregious unprofessional conduct at any time during the calendar year. Another recent bill sought to remove the restriction entirely; however, this bill also did not pass.

Our review of 24 child abuse allegations found that the disciplinary process was sometimes delayed for months at a time. We investigated the circumstances surrounding some of these delays and found that the district was unable to justify some time gaps in the disciplinary process. For example, in one of the cases we reviewed, the principal took nearly five months to issue a conference memo. Although the district issued a suspension two months later, it took an additional five months for the superintendent to request that the district pursue settlement and dismissal options. Central office staff acknowledged that this was one of the cases that stalled during this time and further stated that staff had difficulty obtaining information and getting responses from the school's administration. In another example, we noted an eight-month delay between the date when the investigations unit issued its report and the time that the principal issued a conference memo to the employee about the incident, with no indication of anything occurring in between. Central district staff stated the reason was that the principal struggled to write the conference memo.

In a third example, a local district took more than six months to decide whether to reassign an employee back to the classroom after the completion of the investigation. According to the local district's former operations coordinator, the local district was understaffed and was pursuing other priorities; in addition, its staff relations representative was a retired annuitant who worked only one day a week. According to the assistant chief, the district has increased the number of field directors and other representatives for the 2012–13 school year. When the district does not discipline employees promptly, it prolongs the amount of time that an employee who has been removed from the school receives compensation.

Recommendation

To ensure that investigations proceed in a timely manner and that the district disciplines employees promptly, the district should increase its oversight of open allegations of employee abuse against students.

Chapter 3

THE LENGTHY, EXPENSIVE DISMISSAL PROCESS REQUIRED BY STATE LAW CONTRIBUTES TO THE DISTRICT'S SETTling WITH EMPLOYEES RATHER THAN CONTINUING WITH THE DISMISSAL PROCESS

Chapter Summary

During an investigation of employee misconduct, the Los Angeles Unified School District (district) is responsible for keeping away from the school site the employee being investigated for misconduct. The district's policy for addressing this responsibility is to *house* the employee—to relocate him or her away from its school sites. The length of time the employee is housed can range from a day to years, depending on the time it takes to make a determination on the case. During this time, the district continues paying the employee's salary.

State law outlines the dismissal process that must be used for certificated and classified employees. The process for dismissing a certificated employee is more lengthy and expensive for the district compared to the process used to dismiss classified employees and substitute teachers (substitutes). If a certificated employee requests a hearing, the employee is not dismissed until a decision has been reached by the Commission of Professional Competence (CPC), a state body that hears cases involving certificated employees. In contrast, the dismissal of classified employees and substitutes is effective immediately, regardless of whether the employee challenges the district's decision. Because of the greater length and cost of the dismissal process for certificated employees, the district often enters into settlement agreements with those employees. However, the district does not have a tracking mechanism in place that provides the total cost of each settlement and a description of the misconduct. We believe this information could help the district identify and analyze patterns and trends associated with providing a settlement, which could help streamline and make the process less expensive.

The Lengths of Time Certain District Employees Are Housed Are Significant

District policy addresses the practice of housing an employee during the investigation process. The district houses these employees in order to provide safe classrooms, schools, and workplaces—typically as a result of credible allegations of sexual misconduct, criminal acts, or incidents of workplace violence. The district has policies in place to assist schools in identifying when an

employee is to be removed from the school site after an allegation of misconduct. However, the length of time an employee is housed varies depending on the circumstances of the case and the time it takes to make a determination on the case. For example, the delays in the investigation and disciplinary processes that we discuss in Chapter 2 contribute to the length of time that an employee is housed.

When an employee is housed, he or she is typically required to report to the local district office during work hours. The length of time a district employee is housed can span from a day to years. The local district office informs the employee of what he or she can and cannot do while housed. In addition, the local district office monitors the employee by requiring him or her to sign in and out every day. Further, in some instances employees are housed at home because of issues such as space constraints at the local district office or because law enforcement requested that they stay at home. When the district issued a comprehensive policy on housing in July 2010, it included a provision stating that matters involving housed employees must be completed within 120 days. As discussed in Chapter 1, the district developed a housing database that tracks employees from the moment they are housed until the resolution of their case. Since its creation in May 2008, the housing database has recorded that nearly 650 certificated employees and about 90 classified employees have been housed for various reasons.¹⁰ Using the district's housing database, we determined that employees housed during 2011 were housed for a total of 211 days on average. We also determined that of the 121 employees housed during 2011, 88 exceeded the district's 120-day requirement. Further, for the 24 allegations we reviewed, 17 employees were housed, but only one of the employees was housed for less than the 120 days maximum called for in the district's policy at that time.

For the 24 allegations we reviewed, 17 employees were housed, but only one of the employees was housed for less than the 120 days maximum called for in the district's policy at that time.

In August 2012 the district revised its policy to no longer include the 120-day requirement; instead, the policy only sets time frames for investigating the cases, as discussed in Chapter 2. The director of the Office of Employee Relations (employee relations) stated that it is difficult to make universal rules in a policy because each case is different. The director added that the district is trying to find a way to streamline the amount of time it takes to process cases for employees who are housed by looking separately at each stage in the housing timeline to determine where the process can be shortened. Further, the director cited limited resources as a reason that timelines are sometimes extended.

¹⁰ These numbers include 55 certificated and eight classified employees who were already being housed at the time the housing database was created in May 2008.

While waiting for their cases to be investigated, the district continues to pay housed employees. Until the resolution of a charge for which an employee may be dismissed or suspended without pay, the district is obliged to continue to pay the employee's salary. The district houses an employee until a final action on the investigation is taken, such as initiating the dismissal process through a recommendation to dismiss to the Los Angeles Unified School District Board of Education (board), or negotiating a settlement with the employee resulting in a resignation. However, in some cases the district is able to stop paying the employees. In our review of 24 cases, we identified seven instances when an employee was put on unpaid status. Specifically, five were housed and later placed on unpaid status once the board issued a notice of intention to dismiss. The two remaining employees were placed on compulsory unpaid leave once criminal charges were filed against them. One of the two employees was placed on compulsory unpaid leave before being housed. Once employees are put on unpaid status, they are no longer housed nor do they report to the district. The district has not calculated the cost of housing employees. Instead, it has used estimates, including employee salaries, to approximate housing costs. The director of employee relations stated that there have been some efforts to track housing costs in the past, but the director was unable to provide a current estimate.

However, using the housing database as of early May 2012, we determined that 111 certificated employees were housed for various reasons during 2011. Further, we determined that these employees were housed on average for more than 200 days. Using the average annual salary for certificated employees that the district provided, we calculated that, over the time they were housed, the district paid them more than \$4.2 million in salaries. We also used the database to select 20 employees who had been housed the longest for allegations of misconduct against students. As of mid-September 2012, the district had paid \$3 million in salaries to house these 20 employees since placing them in that status. We also found that as of mid-September 2012, one of the 20 employees had been housed for about 4.5 years, and six other employees had been housed for more than two years. According to district staff, allegations regarding the employee who has been housed for about 4.5 years surfaced 15 years after the alleged incident occurred. Staff commented that as a result, it was difficult for the district and law enforcement to obtain enough evidence to dismiss or charge the employee with child abuse. Despite the lack of evidence, the district did not feel comfortable allowing the employee to go back to the classroom. According to district staff, a settlement was recently reached in this case and the employee agreed to resign from the district at an agreed-upon future date.

Of the 111 certificated employees that were housed for various reasons during 2011, we calculated that, over time, the district paid them more than \$4.2 million in salaries and these employees were housed on average more than 200 days.

When Dismissing a Certificated Employee, the District Must Comply With a Lengthy Dismissal Process As Outlined in State Law

The dismissal process for certificated employees, which is outlined in state law and described in greater detail in the Appendix, can be lengthy and expensive for the district. Further, when an employee appeals the dismissal and a hearing is held, the district is required to pay some or all of the associated costs of the hearing, depending on whether the employee is ultimately dismissed.

Typically, the dismissal process begins when a final action on an investigation is taken and the district issues a notice of unsatisfactory act with a recommendation to dismiss to an employee. The appropriate district committee will then review the recommendation and determine whether or not to proceed with a dismissal. However, the superintendent or his designee has the final say on whether the employee will be recommended for dismissal. When district staff concludes that a certificated employee should be dismissed, the district will submit a statement of charges to the board and recommend that employee's dismissal. If the board agrees with district staff's recommendation, it will issue a notice of its intention to dismiss the employee. At that point, the employee has 30 days to request an appeal of the intention to dismiss notice; otherwise the dismissal takes effect. Of the 19 cases we reviewed involving certificated employees, none had been dismissed as of September 2012; however, five were in the dismissal process. For two of the five employees, it took more than one year from the conclusion of the investigation before the board approved district staff's recommendation to initiate dismissal proceedings.

For two of five certificated employees who were in the dismissal process, it took more than one year from the conclusion of the investigation before the board approved district staff's recommendation to initiate dismissal proceedings.

If a certificated employee appeals his or her dismissal by the board, the CPC is required to hear the case within 60 days of the employee's appeal request; however, according to the district's chief labor and employment counsel, extensions are typically granted. Once the CPC conducts a hearing, it decides on the dismissal by a majority vote. Either party may appeal the CPC's decision to the courts. Table 2 includes the current status of the certificated employees we reviewed. According to the chief labor and employment counsel, there is usually a long delay from the time the board approves the dismissal and the employee requests a hearing to the time the CPC reaches a decision. Of the five cases we reviewed that were still in the dismissal process, four of the employees requested and received CPC hearing dates. However, according to information the district provided, the CPC set the initial hearing dates for each of the four employees six months to nine and a half months from the date the employee requested a hearing. An attorney involved in one of the cases stated that hearings are scheduled far in the future because of the CPC's busy calendar.

Table 2
Status of 24 Selected Cases as of September 2012

DISPOSITION OF CASES	EMPLOYEE CATEGORY		TOTAL NUMBER OF CASES
	CERTIFICATED	CLASSIFIED	
Board has initiated dismissal proceedings	5	0	5
Closed*	4	1	5
Resigned	3	1	4
Settled†	4	0	4
Open‡	3	1	4
Dismissed	0	2	2
Totals	19	5	24

Sources: Los Angeles Unified School District (district) personnel records.

* The allegation was investigated and progressive discipline was administered.

† When employees settle with the district, they agree to resign their employment at an agreed-upon effective date. Consequently, the settlements listed here resulted in resignations.

‡ No final action has been taken to resolve the case.

The dismissal process for certificated employees can be expensive for the district. If an employee requests a hearing, the employee is not dismissed from the district until the CPC makes a determination on the case. According to state law, if the CPC determines that the employee should be dismissed, the district and the employee are required to share equally in the expenses for the hearing. Alternatively, if the CPC determines that the employee should not be dismissed, the district is required to pay all the expenses of the hearing. The district does not track the cost of dismissing employees; however, according to the district, the average cost of the CPC hearing for a dismissal case is estimated to range from \$285,000 to \$382,000. The estimate includes one year of a certificated employee’s annual salary with benefits, at \$85,000, and either in-house attorney fees of \$22,000 or nearly \$120,000 if the district retains outside counsel. Additional costs include fees for the court reporter, administrative law judge, one panelist, and time for district staff to prepare for the hearing. Moreover, the estimate includes an amount to be paid if the employee prevails and the district must pay the employee’s attorney fees. However, the chief labor and employment counsel stated that not many cases go to a CPC hearing because the process is expensive, labor-intensive, and time-consuming. The chief labor and employment counsel stated that since 2006 employees have won only three out of 12 teacher dismissal cases that have gone to a hearing.

In an effort to reduce the cost of the certificated employee dismissal process, the district supported recent legislation to help speed up the process for dismissing employees. However, as discussed in Chapter 2, neither of the two bills was approved by the Legislature.

Once the district decides to dismiss a classified employee or substitute, the dismissal is effective immediately.

In the meantime, as we discuss later in this chapter, the district considers settlement agreements to be a much more efficient and less costly means of separating an employee from the district.

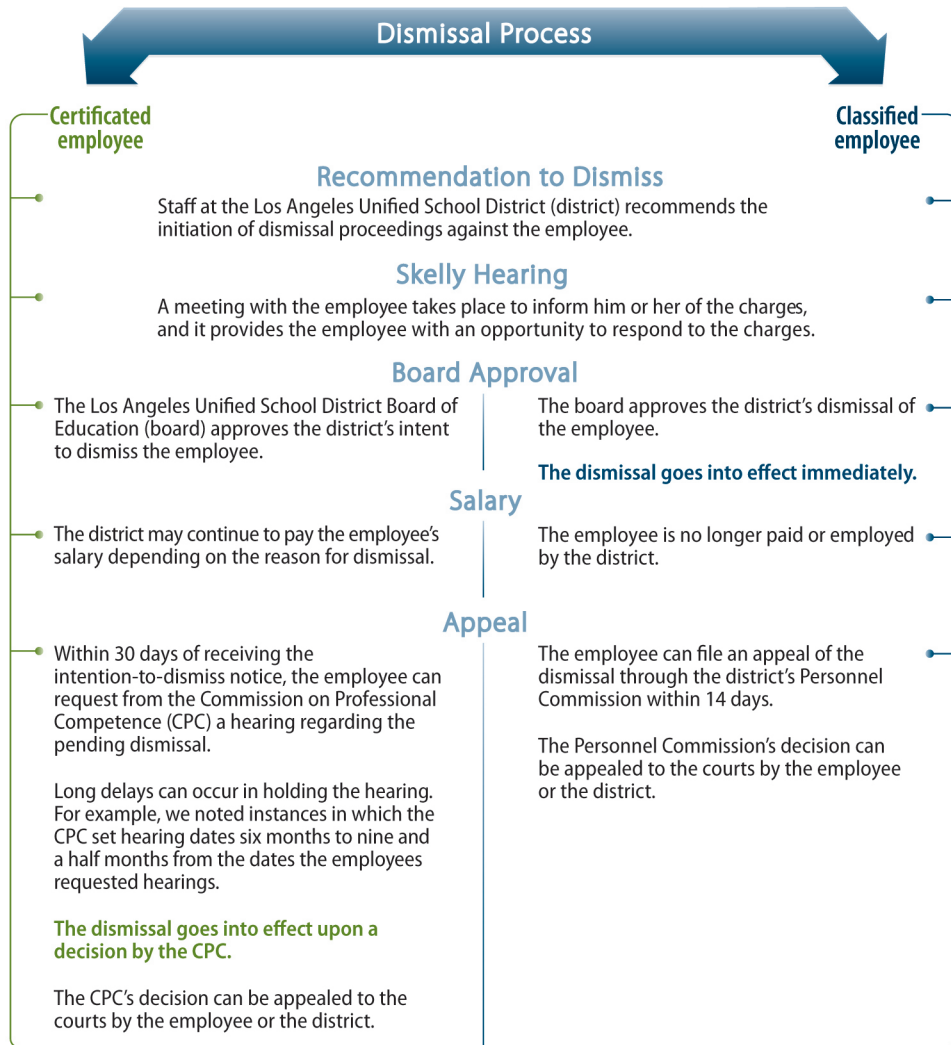
The Dismissal Process That the District Must Follow for Classified Employees and Substitute Teachers Is Shorter Than the Process for Certificated Employees

Classified employees and substitutes are both subject to less lengthy dismissal processes than that for certificated employees. See Figure 3 for a comparison of these processes. Once the district decides to dismiss a classified employee or substitute, the dismissal is effective immediately. Further, the district is not required to pay the employee once the action is taken. However, both classified employees and substitutes may appeal a dismissal. For classified employees, the dismissal and appeal process is outlined in state law, while substitutes depend on the district's internal review process and do not have any legally protected expectation of continued employment. Consequently, the district can dismiss classified employees and substitutes more quickly and at less cost.

According to the district's director of employee relations, for classified employees, the time frame from the beginning of the dismissal process to the end is typically four months. If the employee appeals the board's decision, he or she must do so within 14 days through the district's Personnel Commission, as discussed in the Appendix. The district does not pay the employee's salary during the appeal process.

Substitutes are at-will employees and do not have any legally protected expectation of continued employment. Thus, substitutes may be terminated at the pleasure of the district. Substitutes do not have dismissal appeal rights under law, as do certificated and classified employees; however, the district voluntarily established a committee to receive and review substitutes' appeals. According to the director of employee relations, the membership of the committee is composed of district personnel, including retired employees, employee relations staff, or other senior management-level employees, and varies based on availability. When a complaint or an allegation is made against a substitute, the substitute's supervisor (typically the principal at the school where he or she is teaching) is responsible for filing an inadequate service report (ISR). The principal then has a conference with the substitute to discuss the ISR, and the principal sends the ISR to the substitute unit, which forwards it to employee relations. Employee relations is then responsible for deciding the substitute's employment status. The director stated that this decision can range from no action, to a warning letter, to a separation from employment.

Figure 3
Comparison of the Dismissal Processes for Certificated and Classified Employees



Sources: State law and district personnel.

According to the assistant director of the substitute unit, there is no defined number of ISRs that would result in the termination of a substitute. In our review of school files, we saw an instance in which the substitute was dismissed after one ISR and another in which the substitute was dismissed after receiving five ISRs. These instances demonstrate the discretion the district is able to exercise in each case. If the substitute does not agree with employee relations' decision, he or she is provided an opportunity to appeal. Substitutes are only paid for their service and thus are not paid during the appeal process. The committee that reviews the appeal has the power to overrule the original decision. In the case where the substitute received five ISRs mentioned previously, the

substitute appealed the dismissal to the committee. The committee reviewed the appeal and provided the substitute with its decision to dismiss in eight days. This internal review provides a means of reviewing substitute dismissals; however, it is considerably quicker to navigate than the due process required for certificated and classified employees.

Although the District Has Made Certain Efforts to Track Settlement Agreements, None Provides Complete Information on Cost

The district can enter into settlement agreements with employees at any time during the investigation or dismissal process, including cases involving misconduct. The district has made some efforts to track settlement agreements; however, none of its tracking efforts provides the total payout provided once the cases have been settled nor complete information on the nature of the misconduct. Having one division within the district maintain a districtwide tracking mechanism for issued settlements could ensure that the district has complete and readily accessible information regarding settlements. This information could help the district identify and analyze patterns and trends associated with providing a settlement, which could help it streamline the process and make it less expensive.

The district may take months to negotiate a settlement agreement—the general counsel handles the majority of the settlement agreements involving certificated employees and has the express delegated authority to approve settlements with a monetary value up to \$250,000.

The district may take months to negotiate a settlement agreement. According to the district's chief education and litigation counsel, the majority of settlement negotiations begin after the district completes its investigation and the employee requests a CPC hearing and before the hearing starts. Further, the chief education and litigation counsel stated that the Office of General Counsel (general counsel) handles the majority of settlement cases involving certificated employees in consultation with human resources. The general counsel works with employee relations, the Office of Staff Relations, the employee, and the employee's representative to reach a settlement amount after considering all the merits of the case.

Board approval is not always needed in order to reach a settlement. The general counsel has the express delegated authority to approve settlements with a monetary value up to \$250,000. The chief education and litigation counsel noted that the general counsel takes multiple factors specific to each case into consideration, such as the associated prospective costs and the strength of the case against the employee to determine if a settlement should be made. In addition, there is no specific formula to determine the monetary compensation amount agreed upon in each settlement. The chief education and litigation counsel stated that it would typically decide to settle cases in which the evidence against the employee does not appear strong enough to result in the employee's dismissal, because the district's top priority is to keep students safe and get suspected

employees out of the district. The counsel stated that settling a case is the only way the district can guarantee this result. Further, the counsel explained that settlements are the most efficient and least costly means to separate an employee from the district. Included in the template used for settlements is language stating that the employee will resign from the district and will not seek employment from the district in the future.

In April 2012, in response to our inquiries, the general counsel created a log that identified 61 certificated employee dismissal settlements awarded between July 2011 and March 2012. The chief education and litigation counsel stated that identifying settlements before this time frame would require extensive staff resources. As a result, we focused on this nine-month period. The log included information on the lump-sum payment made and whether any back pay was awarded to the employee associated with each settlement. However, the log did not include any additional salary paid to each employee, and thus did not reflect the total amount paid as part of the settlement. Additional salary may include compensation from a prior pay period that the district did not previously pay because the employee was on unpaid status. It may also include salary from a future pay period for which the district agreed to compensate the employee as part of the settlement agreement. For example, after the execution of a settlement agreement, the district may retain the employee in paid status until an agreed-upon future date.

For the 61 settlements the general counsel identified in the log, we reviewed other documentation and found 47 settlements related to inappropriate employee conduct involving a student. Using the log and salary information we subsequently obtained from the district, we calculated the total settlement payouts for these 47 cases. The payouts totaled more than \$2 million and ranged from \$2,000 to \$100,000, with 60 percent amounting to \$45,000 or less.¹¹

The chief education and litigation counsel stated that the general counsel uses a litigation database to track settlements. The counsel noted that the general counsel tracks all open litigation processed through its office, using reports generated monthly from its litigation database. These reports include information on the current status of the cases; the lump-sum payments; and relevant dates such as the open, close, and appeal hearing dates. However, these reports do not include the amounts of any additional salary paid to employees. Thus, for employees whose settlements included additional salary, the reports do not reflect information on the total amounts paid to the employee.

For the 61 settlements identified by the general counsel as awarded between July 2011 and March 2012, we reviewed other documentation and found 47 settlements related to inappropriate employee conduct involving a student and calculated that the payouts totaled more than \$2 million.

¹¹ In two instances, the employees received no monetary compensation as a result of their settlement agreements.

According to the chief education and litigation counsel, the general counsel typically is involved only in determining the date ranges of the payouts and does not have direct access to information regarding employees' salaries. As a result, it is difficult for the general counsel to track total payouts. Also, the chief education and litigation counsel stated that the litigation database includes notes available to the general counsel's entire staff on each settlement, including a description of the misconduct; however, they are not always printed out with the reports.

In January 2012, before the preparation of the general counsel's log, employee relations began its own tracking project, primarily using the district's housed database. On its spreadsheet, employee relations identified employees who received a settlement agreement between September 2006 and January 2012. Employee relations also included a description of the misconduct and in some cases, the total associated payout. Employee relations put a hold on its tracking project during February 2012 due to workload constraints, leaving the spreadsheet incomplete, with several missing fields. Unlike the general counsel's list, the employee relations tracking spreadsheet includes classified employees. The spreadsheet included two classified employees, only one of whom received monetary compensation as part of the settlement. The director of employee relations stated that it created the spreadsheet with the hope that using the data it generated on past settlements could help improve the district's approach to future settlements and make them more systematic. The director also stated that by using the data, the district would be able to formulate more consistent offers to employees.

Having two divisions within the district attempt to track the cost of settlements is inefficient, especially when neither division was able to provide complete information that includes the total cost of each settlement and a description of the misconduct.

The director's comments acknowledge the benefit that tracking the cost of settlements would provide the district. However, having two divisions within the district attempt to track the cost of settlements is inefficient, especially when neither division was able to provide complete information that includes the total cost of each settlement and a description of the misconduct. A description of the misconduct for each settlement can assist the district in determining the amount to include in future settlements. Assigning one division the responsibility of tracking settlement information, including the total cost and description of the misconduct, can enable the district to identify and analyze patterns and trends associated with providing a settlement, which could help streamline and make the process less expensive.

Recommendation

To ensure that it does not duplicate efforts and that its information is complete, the district should identify one division to maintain a districtwide tracking mechanism for settlements that includes the total amounts paid and descriptions of the misconduct.

We conducted this audit under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives specified in the scope section of the report. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,



ELAINE M. HOWLE, CPA
State Auditor

Date: November 29, 2012

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For questions regarding the contents of this report, please contact Margarita Fernández, Chief of Public Affairs, at 916.445.0255.

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Appendix

THE DISMISSAL PROCESS FOR CERTIFICATED EMPLOYEES DIFFERS FROM THE PROCESS TO DISMISS CLASSIFIED EMPLOYEES

The Los Angeles Unified School District (district) is required to follow certain steps during the disciplinary process and when dismissing an employee. If an employee is accused of misconduct against a student, the district will apply progressive discipline that may lead to dismissal, depending on the severity of the misconduct. Typically, for either a certificated or classified employee, the dismissal process begins once a notice of an unsatisfactory act with a recommendation to dismiss is issued as part of his or her progressive discipline.¹² However, once this notice is provided, the processes used by the district to dismiss certificated employees and classified employees are significantly different. All permanent employees who receive discipline, including when they are recommended for dismissal, are entitled to a Skelly hearing to provide an opportunity to hear the charges made against them and respond to those charges. As civil service employees, their jobs are a protected property right; therefore, the employees must be provided reasonable due process when receiving discipline, including recommendations for dismissal.

Dismissal Process for Certificated Employees

After the district issues a notice of unsatisfactory act with a recommendation to dismiss a certificated employee, the recommendation passes through one of two district committees—depending on whether the employee is *housed*, or relocated away from school sites—before reaching the Los Angeles Unified School District Board of Education (board). Before August 2012 the recommendation to dismiss a housed employee may have needed to pass through both of the committees. Currently, a recommendation to dismiss a housed employee is reviewed only by the housed employee review committee (housing committee). According to the director of the Office of Employee Relations (employee relations), the housing committee is composed of representatives from across the district, such as the Office of Staff Relations (staff relations), employee relations, the Office of the General Counsel (general counsel), and classified employee departments. The director stated that the second committee, the dismissal case review committee (review committee), works on recommendations of

¹² Although a notice of unsatisfactory service can also lead to dismissal, employees for the cases we reviewed received only notices of unsatisfactory acts. Therefore, we will refer only to notices of unsatisfactory acts.

dismissal for employees who are not housed. According to the chief labor and employment counsel, the review committee consists of staff from the general counsel and staff relations as well as the employee's school administrator and field director.

If the decision of either committee is to recommend dismissal, that committee forwards the recommendation to pertinent district staff for review. If the recommendation is adopted, the case is passed on to the general counsel, who prepares and sends a statement of charges and a recommendation that the board initiate dismissal action to employee relations. Employee relations and the chief human resources officer review these documents. Once the chief human resources officer approves both documents, employee relations submits the documents to the board for review and approval. If the board approves the recommendation, it will issue a notice of intention to dismiss and a copy of the statement of charges to the employee; however, according to state law, the board cannot issue the notice between May 15 and September 15 for certain charges. Before the board approves the recommendation, the district is required to provide the employee with an opportunity to have a Skelly hearing. During the hearing, the employee is given a chance to hear and respond to the charges against him or her.

Once the board issues the notice of intention to dismiss, the employee has 30 days to request a hearing. If the employee does not request a hearing, he or she will be dismissed after 30 days. Otherwise, the Commission of Professional Competence (CPC) hears the case. The CPC is a three-member panel consisting of an administrative law judge of the State's Office of Administrative Hearings, a representative selected by the board, and a representative selected by the employee. State law requires that every case be heard within 60 days of the employee's requesting a hearing; however, according to the district's chief labor and employment counsel, extensions are often granted. The counsel further stated that the CPC could take up to 18 months to hold a hearing and that the hearing may be held on various dates that are not always consecutive. Once the CPC conducts the hearing, it makes a decision by majority vote regarding the dismissal. Either party can then appeal this decision to the courts. The employee is not dismissed from the district until a decision is made by the CPC or by one of the courts if the employee has appealed the CPC's decision.

Dismissal Process for Classified Employees

The dismissal and appeal process for classified employees is outlined in state law. The district's Personnel Commission rules provide additional guidance. The district has deadlines it must

follow when dismissing a classified employee. Specifically, in cases involving a permanent classified employee, the district must wait 14 days between the issuance of the notice of unsatisfactory act with a recommendation to dismiss and the effective date of dismissal, which is approved by the board. In addition, the district has at most 126 days (about four months) from the date the notice is issued to the date of the dismissal.

During this period, permanent classified employees are given the opportunity to have a Skelly hearing. According to the director of employee relations, it is not uncommon during these Skelly hearings for the proposed discipline to decrease as a result of an agreement made between the employee and the district. The district may agree to lessen the discipline taken against the employee in exchange for the employee's agreeing to follow a specific list of directives and waive his or her right to a hearing by the Personnel Commission (discussed below). If the decision is to move forward with the dismissal, employee relations works closely with labor and human resources representatives to draft a statement of charges for the dismissal of the employee. Employee relations then submits the statement of charges to the board, which makes the final decision on whether or not to approve the dismissal.

If the board approves the dismissal, the employee is immediately terminated, and he or she no longer receives a salary from the district. The employee has 14 days to appeal the dismissal to the district's Personnel Commission. If the employee appeals, a hearing officer hears the case. Personnel Commission staff, who are district employees providing support services to the Personnel Commission, randomly select three individuals from a pool of hearing officers. Then the district and the employee each may reject one hearing officer. A hearing officer is then assigned to hear the case. After hearing the case, the hearing officer must memorialize his or her findings and recommendation and submit them to the Personnel Commission. The Personnel Commission consists of three commissioners who are not district employees and who do not report to the board. The commissioners must then accept, reject, or amend the hearing officer's recommendation. According to the personnel director for the Personnel Commission, the hearing officer's recommendation is usually adopted. The losing party may appeal to the courts the Personnel Commission's decision.

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(Agency comments provided as text only.)

Los Angeles Unified School District
333 South Beaudry Avenue, 24th Floor
Los Angeles, California 90017

November 1, 2012

Elaine M. Howle, CPA
California State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Re: Response to Draft Audit Report

Dear Ms. Howle:

I write to provide the Los Angeles Unified School District's ("LAUSD" or "District") response to the Bureau of State Audits draft report titled "Los Angeles Unified School District: It Could Do More to Improve Its Handling of Child Abuse Allegations." The District would like to thank the Joint Legislative Audit Committee for ordering the audit and the team of auditors that invested months reviewing documents and interviewing District personnel to develop the audit and recommendations. I have stated publicly on many occasions, we welcome all partners who would help us improve safety for our students.

We gladly and respectfully accept all of the recommendations presented in this audit, and we welcome the opportunity to continue working with the Bureau, CTC, Department of Justice, local law enforcement, local and state leaders, teachers, parents and the community to implement them. The recommendations received in the audit will allow us to better serve our students and the entire community. I would like to express my appreciation for the extent to which the audit recognizes and supports the District's intense sense of urgency to secure the safety of our students and the significant and immediate steps taken before the audit to improve systems, structures and protocols.

Over the past year, we have made policy and structural changes that are helping to ensure maximum accountability and efficiency. As a matter of policy, we also updated the way in which parents and the community are notified about alleged incidents of misconduct at a school site. There is now a mandatory District-wide 72-hour notification guideline, which requires parental notification of alleged misconduct within that time. This policy has already been effectively used to notify and inform parents.

In February 2012, before the audit began, the District conducted a mandatory District wide professional conduct training during which employees were re-trained on how best to commit themselves individually and collectively to the District priority of keeping students safe.

In July 2012, we underwent a major reorganization as part of ongoing efforts to create a better District. This reorganization allowed for a realignment of services to ensure that, there are separate and distinct organizational structures called Educational Service Centers (ESCs) with clear lines of accountability to provide strong support in the areas of student safety and school operations.

California State Auditor
Response to Draft Audit Report
November 1, 2012
Page 2 of 5

Additionally, we launched a performance management process to move the District from a 'compliance culture' to a 'performance culture' focusing every employee's work on utilizing data to meet accountability measures that will drive continuous improvement in supporting safe and nurturing learning conditions in all of our schools. As part of this effort, with the launch of the District's 2012-2015 strategic plan, we determined that providing a safe, caring, and nurturing environment for all youth, as one of the five Key Strategies District wide. By identifying this as a Key Strategy of the District, our senior leadership and I committed to not only ensure that it was in compliance with all local, state, and federal laws and regulations with regard to student safety, but also insure that top decision-makers are engaged in a cycle of regularly reviewing performance data, holding robust performance dialogues, and making appropriate adjustments at regular intervals throughout the year.

The reorganization of Local Districts to Educational Service Centers, reallocation of resources, and increased staffing levels of the Operations, Staff Relations, and Employee Relations units will increase the level of support to principals and ESCs completing investigations and any necessary disciplinary actions needed as the result of a completed investigation. Closer coordination between support staff, Principals, and Directors conducting investigations and issuing any warranted discipline will occur in the most timely manner possible. I now turn to a more in-depth response to the recommendations.

Recommendation 1: To ensure that the commission is made aware of certificated employees who need to be reviewed to determine if the employee's teaching credential should be suspended or revoked, the district should adhere to state requirements for reporting cases to the commission. Further, the district should avoid reporting cases that are not yet required to be reported so that it will not overburden the commission.

We agree with the recommendation to adhere to state requirements for reporting changes in an employee's employment status "as a result of an allegation of misconduct or while an allegation of misconduct is pending" (Title 5, Section 80303) as well as reporting any credentialed employee who is placed on a mandatory leave of absence (Education Code 44940).

Because the District considers student safety to be its highest priority, even before the audit began, the District conducted a comprehensive review of all aspects of the reporting process in order to analyze strengths and weaknesses and make any necessary improvements. This review began in February 2012 and was completed in May 2012. The review resulted in the development of a reporting system that incorporates a team approach, detailed internal protocols with built-in redundancy, and an enhanced database to track and monitor all aspects of CTC reporting.

Our goal for an enhanced reporting system is to insure that 100% of required cases are reported in a timely and accurate manner. The District has put in place a CTC reporting team composed of senior administrators, human resources professionals, information technology consultants, technicians, and clerical support. The team has developed detailed internal protocols and procedures that identify reportable cases and the specific responsibilities of each team member. Each case is reviewed by at least two team members. Regular monitoring is conducted by additional team members.

California State Auditor
Response to Draft Audit Report
November 1, 2012
Page 3 of 5

In order to ensure that cases are effectively reported and tracked, a new CTC reporting component was created within the Employee Relations misconduct database in March 2012, before the audit commenced. This component tracks initial reports to CTC, follow-up correspondence between the District and CTC related to the initial report, and statutory notification to employees.

The District's Human Resources Division will conduct internal audits of the reporting process and procedures and make improvements as warranted in order to ensure student safety.

Additionally, we look forward to continuing an ongoing relationship with the Commission on Teacher Credentialing, the California Department of Justice, local law enforcement agencies, and other relevant agencies in order to ensure the safety of all students in our state.

Recommendation 2: The Legislature should consider establishing a mechanism to monitor classified employees who have separated from a school district by dismissal, resignation, or settlement during the course of an investigation for misconduct involving students, similar to the oversight provided by the commission for certificated employees. If such a mechanism existed, school districts throughout the State could be notified before hiring these classified employees.

We fully support the legislative recommendations made to the California Legislature. The District agrees that the Legislature should consider establishing a mechanism to monitor classified employees who have separated from a school district by dismissal, resignation, or settlement during the course of an investigation. If such a mechanism existed, school districts throughout the State could be notified before hiring those classified employees.

We also agree with the audit's assessment that the lengthy and expensive dismissal process required by state law often causes delays and contributes to the District settling with some employees rather than continuing with the termination process. In 2009 and 2012, the District's Board of Education approved resolutions calling on the California Legislature to make numerous changes to the certificated employee dismissal process. Among the recommended changes, the District called for a removal of the summer moratorium on dismissal filings; a streamlined composition of the Commission on Professional Competence; and better alignment of the disciplinary process for certificated and classified employees. As noted in the report, the District supported several measures in the California legislature in 2012 that sought to make many of the proposed changes to state law. To date, the California legislature has failed to approve any bills that would improve the current statutory process. The LAUSD will continue its commitment to seek the necessary changes to California law.

Recommendation 3: To ensure that investigations proceed in a timely manner and that the district disciplines employees promptly, the district should increase its oversight of open allegations.

The District agrees with the recommendation to increase oversight of open allegations. As part of the District's goal to have an effective teacher in every classroom, we have undergone a reorganization that has assigned dedicated personnel to focus on operational matters such as supporting schools in completing

California State Auditor
Response to Draft Audit Report
November 1, 2012
Page 4 of 5

investigations related to employee misconduct. The District now has five Educational Service Centers (ESCs) with each center having approximately six operations coordinators and administrators.

As an additional component of the District's reorganization, the Human Resources Division has augmented support for investigations and any resulting discipline by assigning additional Staff Relations personnel to ESCs, creating a Certificated Performance Evaluation Support Unit, and more strategically utilizing the previously created Central Investigations Unit. These units have collaborated in designing and conducting intensive training on conducting investigations for school site administrators and Operations personnel.

The Human Resources Division, the Office of School Operations, the Office of the Inspector General, the Los Angeles School Police Department and the Office of General Counsel are actively collaborating in creating guidelines for administrative investigations of allegations of employee misconduct as well as providing appropriate assistance in conducting investigations related to the allegations.

The District's Investigations Unit has created a tiered model of support for investigations. For simple investigations, consultative support is provided consisting of telephonic assistance with information on how to conduct a non-complex administrative investigation. If additional investigative support is requested, an Employee Relations investigator will be available to provide on-site support with interviews. For complex investigations (e.g. multiple victims, multiple sites, cold cases), the investigations unit may take over the entire investigation and allocate specialized personnel to successfully conclude the investigation. Support may include technical areas such as forensic computer analysis.

By reorganizing to more effectively target resources, augment personnel strategically, intensify training and provide central support where needed, we have increased our oversight of allegations and expedited the discipline of employees.

Recommendation 4: To ensure that it is not duplicating efforts and that its information is complete, the district should identify one division to maintain a districtwide tracking mechanism for settlements that includes the total amount paid out and a description of the misconduct.

We agree with the recommendation that the District identify and designate one division or department to maintain a district-wide tracking mechanism or integrated database for settlements that includes a description of the misconduct alleged against a District employee and the total settlement amount paid to resolve employee dismissal actions.

The District will work diligently and take all necessary steps to establish a confidential integrated settlement database as soon as possible so as to address the concerns outlined in the recent audit. Namely, the District will assemble a team, consisting of representatives from various departments, including the Office of the General Counsel, the Information Technology Division, the Department of Finance and the Human Resources Division. This team will be responsible for evaluating the audit findings, determining whether District licensed computer programs can be utilized to establish the necessary confidential tracking database or if new programming is required. The team will work towards establishing a process and

California State Auditor
Response to Draft Audit Report
November 1, 2012
Page 5 of 5

procedure that is streamlined and efficient, and provides the District with the means of tracking the total cost of the settlements in employee dismissal actions and a description of the misconduct for which dismissal is sought.

The Office of the General Counsel will maintain the district-wide confidential settlement tracking database.

In closing, I note that to ensure we are successfully implementing the strategy of ensuring a safe, caring, and nurturing environment for all youth, the District has committed to dedicated work streams and supporting projects that will enable it to meet specific targets to improve school safety, which are reflected in metrics referred to as Key Performance Indicators.

Two of the most significant targets with regards to ensuring a safe, caring, and nurturing environment for all youth that the District will achieve through the completion of these work streams and projects are making certain that 100% of mandated reports are filed in a timely and effective manner with the CTC, and achieving a substantial reduction in the median time that employees are 'housed' by committing that investigations proceed in a timely manner. Further, employee discipline is rendered promptly. Projects that have been undertaken relative to these targets include updating the Employee Relations database to track employee misconduct cases and required reporting to the CTC, and the creation of a data informed Human Capital Management System (data warehouse).

In addition, the District has initiated a review of all phases of the investigative process to foster alignment between Educational Service Centers (formerly local districts) and relevant Central Office Divisions, and ensure appropriate oversight and timely disposition of investigations. The Division of Certificated Human Resources has augmented current staffing levels in the Office of Staff Relations to meet this objective. For the 2012-2013 school year, the Office of Staff Relations is providing two (2) certificated Field Directors and one (1) Labor Relations Representative/Human Resources Representative to each of the five (5) Educational Service Centers. Field Directors are staffed at the highest level since 2008-2009 and Labor Relations Representatives/Human Resources Representatives are now staffed at their highest levels in over a decade. The increase in District resources to Office of Staff Relations positions will help ensure that adequate and timely responses for assistance, guidance, investigations, and/or discipline are provided. This process is being monitored on a monthly basis by the Superintendent of Schools, the Senior Leadership Team, and the Chief Human Resources Officer.

I would like to again thank the Bureau team for its work and recommendations. The thoughtful insights will benefit our students, staff and community.

Cordially,

(Signed by: Dr. John E. Deasy)

Dr. John E. Deasy
Superintendent

cc: Members of the Legislature
Office of the Lieutenant Governor
Little Hoover Commission
Department of Finance
Attorney General
State Controller
State Treasurer
Legislative Analyst
Senate Office of Research
California Research Bureau
Capitol Press