



Illinois State Board of Education

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Chair of the Board

Dr. Carmen I. Ayala
State Superintendent of Education

MEMORANDUM

**TO: THE ILLINOIS STATE BOARD OF EDUCATION
DR. CARMEN I. AYALA, STATE SUPERINTENDENT OF EDUCATION**

**FROM: TRISHA OLSON, LEGAL OFFICER
LAURA BOEDEKER, ASSISTANT LEGAL OFFICER**

**RE: EXTENDED CORRECTIVE ACTION AND RECOMMENDATIONS CONCERNING THE
CHICAGO PUBLIC SCHOOLS PUBLIC INQUIRY**

DATE: MAY 19, 2021

I. THE 2017-18 PUBLIC INQUIRY AND 2018 CORRECTIVE ACTION REPORT

At the Illinois State Board of Education (ISBE) meeting in November 2017, a number of special education advocates¹ (the advocates) filed a complaint with ISBE regarding alleged systemic violations of the *Individuals with Disabilities Education Act of 2001* and its implementing regulations against the Chicago Public Schools (CPS)² special education system pursuant to 23 IAC 226.570. The advocates articulated a systemic complaint regarding CPS' noncompliance with certain special education procedures and processes. The U.S. Department of Education defines a systemic complaint of noncompliance as a complaint that alleges that a public agency has a policy, procedure, or practice applicable to a group of children that is inconsistent with IDEA Part B and its implementing regulations.³¹

Following the November 2017 Board meeting, the ISBE legal department directed a Public Inquiry to develop factual findings regarding the complaint filed by the advocates. Those factual findings were reported to the Board at the April 2018 ISBE meeting. The Public Inquiry Team issued factual findings declaring that CPS released or engaged in policies, procedures, or practices applicable to a group of children, and those actions were inconsistent with IDEA Part B and its implementing regulations. ISBE also made recommendations stemming from the Public Inquiry fact finding process at the May 16, 2018, ISBE meeting.

When developing the resulting Corrective Action Report, ISBE met with and discussed the findings and a range of possible corrective action recommendations with CPS, the advocates,

¹ The advocates presently go by the name Special Education Advocacy Coalition of Chicago (SPEACC).

² "CPS" as noted throughout this Memorandum includes the CPS Office of Diverse Learner Supports and Services (ODLSS).

³ See, OSEP Memo 13-08, July 23, 2013, Memorandum to Chief State School Officers Regarding Dispute Resolution Procedures under Part B of the Individuals with Disabilities Education Act, page 20.



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representatives from the Chicago Teachers' Union (CTU), the Assistant Secretary for the U.S. Department of Education's Office of Special Educations and Rehabilitative Services (OSERS), our State contact for the U.S. Department of Education's Office of Special Education Programs (OSEP), and our counterparts at other State Educational Agencies that developed corrective action plans for large urban school districts. Based on the totality of information, ISBE developed a series of recommendations and corrective actions in a Corrective Action Report (Corrective Action), dated May 16, 2018.

While the Corrective Action identifies specific items of reform and oversight, it also provided ISBE with the flexibility to provide additional training, programmatic support, guidance, or other technical assistance to ensure that CPS makes necessary reforms and to ensure that students, parents/guardians, and families have the resources they need to access and receive appropriate services and supports.

II. CORRECTIVE ACTION TIMELINE

The Corrective Action and the related appointment of the ISBE Monitoring Team to oversee its recommendations anticipated that "the placement of the monitor at CPS will be evaluated after three school years, at which time ISBE will determine the necessity of the monitor going forward." Currently, ISBE's CPS Monitoring Team includes an Assistant General Counsel, who is housed within the Legal Department and a Principal Consultant in the Special Education Department.

The first year of monitoring activities were reported in [the 2019 Monitor Annual Report](#) and the second year of monitoring activities were reported in [the 2020 Monitor Annual Report](#). It is important to note that the work needed to enact necessary reforms has been frustrated due to certain major developments. First, in the fall/winter of 2019, the parties agreed that CPS would provide a Universal Enrichment Remedy (UER) to students who were agreed to have been impacted by the actions described in the Inquiry findings. Although a major development towards ensuring students receive appropriate services and support, the negotiation and development of the UER was not contemplated by the original Corrective Action. Further, [a CPS strike](#) in 2019 and the emergence of COVID-19 in 2020 both had a tremendous impact on the timeline of Corrective Action and on overall Monitoring achievements. Based upon the whole of factors emerging over the past three years, there remains additional corrective action work, including monitoring projects developed in collaboration with the advocates, CPS and stakeholders. A fourth year of monitoring is needed to ensure that the provisions of corrective action and recommendations adopted by the State Board of Education are fully met.

This memorandum expands the monitoring role to cover one additional full school year (2021-22), updates the original Corrective Action Report, and revises the recommendations to accurately reflect remaining corrective action work, as well as current monitoring projects developed in collaboration with the advocates, CPS, and other stakeholders.

The Monitoring Team will continue to consult with ISBE's State of Illinois Contact of the U.S.



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Department of Education's Office of Special Education Programs (OSEP) regarding the Monitoring Team's activities and vision on a monthly basis.

III. REVISED CORRECTIVE ACTION AND RECOMMENDATIONS

A. ISBE Appointed Monitoring Team

ISBE Requirements: The Monitoring Team will continue to implement the provisions of corrective action and recommendations adopted by ISBE. The Monitoring Team will continue to serve as a liaison for special education between ISBE, CPS, the advocates and other stakeholders, as well as coordinate ISBE staff to support the compliance and technical assistance activities within CPS. The Monitoring Team and the ISBE Special Education Department will continue to have the authority to provide technical assistance or additional corrective action if CPS does not fully implement this plan and take other affirmative actions to abide by the policies, procedures and practices that are consistent with IDEA Part B and Illinois Regulations regarding special education.

Essential Corrective Actions:

1. CPS will fully cooperate with the Monitoring Team, providing ISBE with timely notice of special education meetings where discussions occur regarding potential changes in policy or procedures. CPS will provide requested data within a timeframe identified by the Monitoring team and will provide any other information related to the implementation of this corrective action or Federal and State law governing special education.
2. The ISBE Monitoring Team will continue to have access to the SSM and ASPEN systems in order to independently monitor individualized education programs (IEPs), IEP meetings, and SSCA meetings and related documentation.
3. CPS will comply with all laws and regulations concerning any changes to policies and procedures, or adoption of new policies and procedures, regarding special education, including any changes to its ODLSS Procedural Manual; CPS will also seek approval from the Monitoring Team prior to making any such changes or adoptions.
4. CPS will continue to submit all training materials related to special education to the Monitoring Team for review and edits prior to finalizing the training materials. CPS will provide the Monitoring Team with dates for all trainings related to special education and invite the Monitoring Team to attend and/or participate in the trainings.
5. CPS will continue to invite the Monitoring Team to all meetings of the group currently called the ODLSS Family Advisory Board (FAB) and formerly known as the Parent Advisory



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Committee/Council; CPS will also invite the Monitoring Team to all ODLSS FAB debrief meetings.

6. The Monitoring Team will continue to facilitate and host all meetings with the advocate representatives and other stakeholders.
7. CPS staff and parents/guardians may raise concerns or file complaints regarding CPS special education with the Monitoring Team. Concerns and complaints may be reported via the Monitoring Team's dedicated email address: isbemonitor@isbe.net email. The Monitoring Team will endeavor to ensure that staff and parents/guardians who report concerns do not suffer retaliation for filing a concern or complaint.
8. The Monitoring Team will continue to publish reports on the ISBE website on an annual basis. The reports shall review the status of the Corrective Action, summarize activities undertaken in the previous school year, and set forth activities planned for the upcoming school year. The reports will be published as long as the ISBE Monitoring Team is in place.

B. IEP Meetings

ISBE Requirements: ISBE expects that the members of an IEP team required to make a decision regarding a student's educational programming will be present at every IEP meeting, unless parents agree otherwise and sign an excusal for a participant's attendance. IEP team members include at least one special education teacher, one general education teacher who is familiar with the student, a local school district representative, related service providers relevant to the student's IEP, and a person with the authority to bind the school district to certain services (the Local Education Agency's district representative). If the ODLSS District Representative or school Principal is the LEA representative, they must be in attendance at the IEP meeting or designate another appropriate team member to serve in that role.

Essential Corrective Actions:

1. CPS will provide reports to the Monitoring Team on a monthly basis, and upon request of the Monitoring Team, identifying any IEP meetings that were continued and a reason for the continuance. ODLSS and/or the ODLSS District Representatives will run these reports in SSM every month to determine if schools are properly reconvening commenced and continued meetings in the requisite time periods identified by CPS in 2018 (e.g. to collect data for paraprofessional assistance or extended school year (ESY) eligibility or to have a District Representative present when recommending a therapeutic day school placement and school assignment).
2. A member of Monitoring Team or other ISBE Staff is permitted to attend IEP meetings throughout the Corrective Action. ISBE will determine which meetings ISBE Staff will



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attend, or, when available, a member of the Monitoring Team will attend a meeting when a parent/guardian, advocate, or CPS staff member requests their attendance. If applicable, ISBE will provide feedback to the IEP team and/or the District Representative following the meeting.

3. CPS will use ISBE IEP Meeting Facilitators throughout the school year at specific schools or meetings identified by the Monitoring Team.

C. Electronic IEP System Use

ISBE Requirements: CPS will continue to allow IEP teams full access to the SSM electronic IEP system during an IEP meeting in order to enter decisions and information discussed by the IEP team.

Essential Corrective Actions:

1. CPS will use the IEP Notes section to capture and describe conversations and other important details of the IEP meeting that are not, or cannot be, included in other IEP sections. The IEP Notes section are always a part of the IEP document and must be provided to the parents with the IEP and all IEP related documentation following the IEP meeting.
2. CPS will allow IEP teams to determine the provision of paraprofessional support, ESY, and transportation at the IEP meeting when supported by appropriate qualitative and quantitative data.
3. The Monitoring Team will review IEPs periodically to ensure teams have appropriate access to the electronic IEP system (SSM) and all sections of the IEP document.

D. Data Collection

ISBE Requirements: ISBE continues to expect CPS' IEP teams to use qualitative and quantitative data to support their decisions. This includes observations of the student, input from all team members, input of the parents, and input from the parents' private providers when applicable.

E. Procedural Manual and Guidance

ISBE Requirements:

1. CPS shall continue to comply with law and seek stakeholder input during any revision process of the ODLSS Procedural Manual.



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2. CPS must provide the Monitoring Team all proposed revisions to the ODLSS Procedural Manual prior to its publication on the CPS website for the required 45-day public comment period per the *Illinois School Code*. The Monitoring Team must review and approve all proposed revisions.
3. When the 45-day comment period ends and after edits are finalized per the public comments, the ODLSS Procedural Manual shall be broadly disseminated to CPS staff and parents.

F. Budgeting

ISBE Requirements: ISBE continues to expect that CPS' methods and allocation formulas for determining and funding special education staff is legally compliant, clear and transparent for schools.

Essential Corrective Actions:

1. CPS will provide ISBE with the allocation/staffing formula used for each school year.
2. CPS will establish clear position request and appeals processes that will include the following:
 - a. Specific documentation required from schools.
 - b. Timelines of an expected response to schools regarding new position requests and appeals.
3. CPS will continue to provide the Monitoring Team access to all documented staffing requests and appeals (*i.e.* Google Sheets) and related materials. CPS will continue to include the relevant Monitoring Team member on all email communication to Principals regarding budgeting decisions and discussions regarding staffing requests and appeals. The relevant Monitoring Team member maintains the authority to override position request and appeals decisions if evidence demonstrates that the decisions would result in the unwarranted denial of services to students.

G. Stakeholder Involvement

ISBE Requirements: ISBE expects that CPS will continue to engage with stakeholder groups at regularly scheduled meetings throughout the school year. CPS will continue to provide communication and documents to these groups to obtain feedback and suggestions for various topics, including certain training materials and communications to CPS parents.



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Essential Corrective Actions:

1. ISBE expects that CPS will continue to host monthly ODLSS FAB meetings, unless otherwise agreed upon by ODLSS and the FAB. The Monitoring Team or other ISBE representative will continue to attend these meetings and the debrief meetings that follow. CPS will continue to provide parents with written agendas, meeting notes, and any relevant documentation before, during, and after the meetings.
2. ISBE expects CPS to continue to meet with the Monitoring Team on a weekly basis for regular “check-in” meetings.
3. ISBE expects CPS to continue to meet with representatives from the advocate groups and the Chicago Teachers’ Union to provide updates and revisions to CPS’s electronic IEP system (SSM). The Monitoring Team will be in attendance at these meetings.
4. CPS and the ODLSS Parent Involvement Specialists will continue to invite the Monitoring Team to all Parent University training sessions and request participation when desired or needed.

H. Additional Training Plan

ISBE Requirements: ISBE expects CPS to continue implementation of a robust and transformative plan for training staff regarding federal and State special education laws. CPS will continue to consult with the Monitoring Team to identify areas of need in training and how to best implement optional and mandatory training sessions for CPS staff, including ODLSS staff and school-based personnel. The Monitoring Team will be invited to all training planning sessions.

I. Student Specific Corrective Action (SSCA)

ISBE Requirements: ISBE expects that SSCA will be utilized to identify and provide a remedy for students with disabilities who were negatively impacted by a policy, procedure, or practice applicable to a group of children that was inconsistent with IDEA Part B and its implementing regulations. CPS will provide SSCA to relevant students by providing a Universal Enrichment Remedy (UER) or by convening a SSCA meeting to identify, generally, whether the student was denied/delayed services in line with the findings of the Public Inquiry and whether the student made expected progress during the relevant time.

Essential Corrective Actions:



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1. CPS will share training materials concerning UER and SSCA with the Monitoring Team. CPS will continue to provide ongoing training to ODLSS teams concerning UER and SSCA. The Monitoring Team may attend trainings.
2. CPS will continue to provide ongoing SSCA training sessions for parents/guardians and students. The Monitoring Team may attend trainings.
3. CPS will continue to notify parents/guardians via U.S. Postal Mail, email and/or telephone concerning ongoing SSCA and UER.
4. Where applicable, CPS will continue to provide a menu of appropriate options for in-person, remote and virtual remedies to parents/guardians for an impacted student. CPS will offer a variety of service providers to parents/guardians. CPS will permit parents/guardians to submit the name of additional providers that may be approved to provide services through the CPS Vendor Application process. CPS will also permit parents/guardians to receive reimbursement by submitting documentation of expenses incurred and payments made in connection to services provided to students during the 2016-17 and/or 2017-18 school years. On a monthly basis, if applicable, CPS will send to the Monitoring Team any denial of parents/guardians' provider or reimbursement and the detailed rationale for the denial.
5. CPS will continue to provide a parent/guardian the opportunity to request a SSCA meeting in the event the parent/guardian is not in agreement with the UER offered or if the student was not identified to receive an automatic SSCA meeting.
6. For all SSCA meetings, the CPS team will review qualitative and quantitative data to determine whether a delay/denial occurred and whether a student made expected progress. CPS will consider relevant data provided from the parents/guardians, contained in its data systems – including but not limited to ASPEN and SSM, included in the student's school record, or gathered from the student's school.
7. The Monitoring Team may attend UER Calls and SSCA Meetings to provide support, guidance and oversight of the meeting processes and best practices.
8. The Monitoring Team may review UER Call and SSCA Meeting documentation to gather data, provide feedback, and develop further training when necessary. Upon review, the Monitoring Team may refer cases back to CPS for reconsideration or correction.
9. CPS will provide weekly information to the Monitoring Team concerning:



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- a. **UER** - The number of: calls/notices of conferences (calls scheduled, pending meeting), calls in process (*e.g.* action is required such as a parent signature), calls completed (*i.e.* remedy is settled or opt-out received), remedies agreed on, parent opt-outs, no response, and SSCA meetings requested.
 - b. **SSCA** – The number of: notices of conferences sent, meetings in process, meetings held, remedies offered, meetings resulting in a determination that a student was not eligible for a remedy, remedies declined or meeting opt-out received, and compensatory education referrals.
10. CPS will continue to ensure parents/guardians who disagree with a CPS SSCA decision are informed of the opportunity to, where applicable, submit an ISBE State Complaint, request State-sponsored mediation, request an impartial due process hearing, or request an appeal directly to the Monitoring Team.

IV. 2020-21 NOVEL MONITORING

As described in the 2020 ISBE Monitoring Annual Report, the monitoring activities stemming from the Public Inquiry revealed novel monitoring projects that are tangential to the original corrective action but nonetheless address assurances that CPS policies, procedures, or practices applicable to a group of children is consistent with the IDEA Part B. Through collaboration with the advocates, CPS and stakeholders, the Monitoring Team identified the following monitoring projects for inclusion in the Extended Corrective Action and Recommendations:

Special Education Teacher Vacancies

Through its monitoring responsibilities, the Monitoring Team learned of sustained or recurring special education teacher position vacancies, including positions that have been allocated to schools but remain unfilled for six months or more. The Monitoring Team acknowledges that a component of the ISBE Strategic Plan focuses on unfilled positions, including those in the area of special education. Stated another way, the Monitoring Team acknowledges a larger Statewide challenge in the hiring and retention of qualified special educators. However, the Monitoring Team will focus on CPS' vacancies to confirm that CPS is addressing appropriate special education services to students despite vacancies. CPS will collaborate with the Monitoring team to identify any problems of practice and coordinate school-specific coaching and professional development that may be necessary to ensure appropriate delivery of services, progress monitoring, and/or compensatory services when applicable.