



Illinois State Board of Education

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Tony Smith, Ph.D.
State Superintendent of Education

MEMORANDUM

**TO: THE ILLINOIS STATE BOARD OF EDUCATION
SUPERINTENDENT TONY SMITH, PH.D.**

**FROM: STEPHANIE JONES, GENERAL COUNSEL
HEATHER CALOMESE, EXECUTIVE DIRECTOR SPECIAL EDUCATION SERVICES**

**RE: CORRECTIVE ACTION AND RECOMMENDATIONS STEMMING FROM THE PUBLIC
INQUIRY INTO SPECIAL EDUCATION POLICIES AT CHICAGO PUBLIC SCHOOLS**

DATE: MAY 16, 2018

I. INTRODUCTION

At the Illinois State Board of Education (“ISBE”) meeting in November of 2017, a number of special education 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 School (“CPS”) System pursuant to 23 IAC 226.570. The advocates articulated a systemic complaint of noncompliance. The 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 regulations¹.

Following the November 2017 Board meeting, the ISBE directed a Public Inquiry in order 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 by General Counsel Stephanie Jones. The Public Inquiry Team issued factual findings that support that CPS engaged in policy, procedure or practice applicable to a group of children that is inconsistent with IDEA Part B and its implementing regulations. Following the report of the findings, Ms. Jones indicated that she and ISBE Executive Director for Special Education Heather Calomese would present recommendations stemming out of the Public Inquiry fact finding process at the May 16, 2018, ISBE meeting.

In the intervening time, Ms. Jones and Ms. Calomese met with and discussed the findings and a range of possible corrective action recommendations with CPS, representatives from the

¹ 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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Advocates who brought the initial complaints to ISBE's attention at the November 2017 Board meeting, representatives from the Chicago's Teacher's Union, the Assistant Secretary for the Department of Education's Office of Special Educations and Rehabilitative Services ("OSERS"), our state contact for the Department of Education's Office of Special Education Programs ("OSEP"), and our counterparts at other State Educational Agencies that have developed corrective action plans for large urban school districts. As the result of our review of the findings, thoughtful consideration of the input we received and consideration of the need to take action that can create sustained and positive change in CPS's system of special education, we have developed a series of recommendations and corrective actions for ISBE's consideration.

This recommendation does not exhaust the technical assistance ISBE may provide to CPS in order to implement the corrective action necessary to change the culture in Special Education at CPS. ISBE may provide additional training, programmatic support, grants or other technical assistance to ensure that CPS makes necessary reforms and to ensure that students, parents and families have the resources they need to guarantee they receive appropriate services and supports.

II. RECOMMENDED VIOLATIONS IDENTIFIED BY PUBLIC INQUIRY FINDINGS

Based upon their review of the factual findings made by the Public Inquiry Team, the Office of the General Counsel and the Divisions of Special Education Services recommends that the ISBE find that CPS engaged in policy, procedure and practice inconsistent with IDEA Part B and its implementing regulations. Specifically, we recommend the adoption of the following findings directly related to the four issued investigated by the Inquiry Team. The facts supporting these findings are those set forth by the Inquiry Team in its April 18th report and are incorporated herein by reference.

- A. ISBE finds that the way in which CPS used its electronic Individual Education Plan system, known as the SSM System, was not consistent with IDEA Part B and its Implementing Regulations in violation of:
- a. 34 CFR 300.101 (FAPE)
 - b. 34 CFR 300.114 (Least Restrictive Environment)
 - c. 34 CFR 300.116 (Placements)
 - d. 34 CFR 300.307 through 300.310 (Specific Learning Disabilities)
 - e. 34 CFR 300.320 (Definition of Individual Education Program)
 - f. 34 CFR 300.321 (IEP Team)
 - g. 34 CFR 300.322 (Parent Participation)
 - h. 34 CFR 300.324 (Development, Review, and Revision of IEP)
 - i. 34 CFR 300.325 (Private School Placements by Public Agencies)
 - j. 34 CFR 300.327 (Educational Placements)



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- k. 34 CFR 300.501 (Opportunity to Examine Records, Parent Participation in Meetings)
 - l. 23 IAC 226.130 (Additional Procedures for Students Suspected of Having Specific Learning Disability)
 - m. 23 IAC 226.210 (IEP Team)
 - n. 23 IAC 226.220 (Development, Review and Revision of the IEP)
 - o. 23 IAC 226.230 (Content of the IEP)
 - p. 23 IAC 226.310 (Related Services)
 - q. 23 IAC 226.530 (Parents' Participation)
- B. ISBE finds that the documentation and data collection requirements were not consistent with IDEA Part B and its Implementing Regulations, in violation of:
- a. 34 CFR 300.101 (FAPE)
 - b. 34 CFR 300.114 (Least Restrictive Environment)
 - c. 34 CFR 300.116 (Placements)
 - d. 34 CFR 300.307 through 300.310 (Specific Learning Disabilities)
 - e. 34 CFR 300.320 (Definition of Individual Education Program)
 - f. 34 CFR 300.321 (IEP Team)
 - g. 34 CFR 300.322 (Parent Participation)
 - h. 34 CFR 300.324 (Development, Review, and Revision of IEP)
 - i. 34 CFR 300.325 (Private School Placements by Public Agencies)
 - j. 34 CFR 300.327 (Educational Placements)
 - k. 34 CFR 300.501 (Opportunity to Examine Records, Parent Participation in Meetings)
 - 23 IAC 226.130 (Additional Procedures for Students Suspected of Having Specific Learning Disability)
 - l. 23 IAC 226.210 (IEP Team)
 - m. 23 IAC 226.220 (Development, Review and Revision of the IEP)
 - n. 23 IAC 226.230 (Content of the IEP)
 - o. 23 IAC 226.310 (Related Services)
 - p. 23 IAC 226.530 (Parents' Participation)
- C. ISBE finds that the budgeting and appeals process were not consistent with IDEA Part B and its implementing regulations, in violation of:
- a. 34 CFR 300.101 (FAPE)
 - b. 34 CFR 300.114 (Least Restrictive Environment)
 - c. 34 CFR 300.116 (Placements)
 - d. 34 CFR 300.322 (Parent Participation)
 - e. 34 CFR 300.324 (Development, Review, and Revision of IEP)
 - f. 34 CFR 300.325 (Private School Placements by Public Agencies)
 - g. 34 CFR 300.327 (Educational Placements)



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- h. 34 CFR 300.501 (Opportunity to Examine Records, Parent Participation in Meetings)
 - i. 23 IAC 226.220 (Development, Review and Revision of the IEP)
 - j. 23 IAC 226.230 (Content of the IEP)
 - k. 23 IAC 226.310 (Related Services)
 - l. 23 IAC 226.530 (Parents' Participation)
- D. ISBE finds that the way in which CPS managed transportation was not consistent with IDEA Part B and its implementing regulations, in violation of:
- a. 34 CFR 300.101 (FAPE)
 - b. 34 CFR 300.114 (Least Restrictive Environment)
 - c. 34 CFR 300.116 (Placements)
 - d. 34 CFR 300.321 (IEP Team)
 - e. 34 CFR 300.322 (Parent Participation)
 - f. 34 CFR 300.324 (Development, Review, and Revision of IEP)
 - g. 34 CFR 300.501 (Opportunity to Examine Records, Parent Participation in Meetings)
 - h. 23 IAC 226.130 (Additional Procedures for Students Suspected of Having Specific Learning Disability)
 - i. 23 IAC 226.210 (IEP Team)
 - j. 23 IAC 226.220 (Development, Review and Revision of the IEP)
 - k. 23 IAC 226.230 (Content of the IEP)
 - l. 23 IAC 226.310 (Related Services)
 - m. 23 IAC 226.530 (Parents' Participation)

III. CORRECTIVE ACTION AND RECOMMENDATIONS

A. ISBE Appointed Monitor

ISBE Requirement: ISBE will appoint a monitor² to implement the provisions of corrective action and recommendations adopted by ISBE. ISBE will employ and be responsible for the salary for the monitor. The monitor will serve as the liaison for special education between ISBE and CPS and will coordinate ISBE staff to support the compliance and technical assistance activities within CPS. 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.

Essential Corrective Actions:

² Until a monitor is identified, ISBE's General Counsel and ISBE's Director of Special Education will fulfill the role of the monitor and/or appoint staff to fulfill the role.



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1. CPS will fully cooperate with the Monitor appointed by ISBE, providing the Monitor with timely notice of meetings, requested data, and other information related to the implementation of this plan or Federal and State law governing special education.
2. The ISBE Monitor will have access to the SSM system in order to independently monitor IEP's throughout the school year. CPS will provide the monitor with such access.
3. CPS will seek approval from the Monitor prior to changing or adopting policies and procedures regarding special education, including any changes to its Procedural Manual.
4. CPS will provide the Monitor with dates for all trainings related to special education and allow the Monitor or designee to attend and/or participate in the trainings.
5. CPS will invite the Monitor to all meetings of the Parent Advisory Committee.
6. CPS will invite the Monitor to all meetings with the Advocates when issues of Policy or Procedures are discussed.
7. The monitor will be accessible to CPS staff for the purpose of raising concerns or filing complaints against CPS. Staff who report concerns to the monitor shall not suffer retaliation.
8. ISBE and the Monitor will 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 change the policies, procedures and practices that are inconsistent with IDEA Part B.
9. ISBE and the Monitor will publish reports on the ISBE website on an annual basis which review the status of the Corrective Action Plan, outline activities undertaken in the previous year and set forth activities planned for the upcoming year. The reports will be published as long as the ISBE Monitor is in place.

B. IEP Meetings

ISBE Requirement: ISBE expects that the members of the IEP team required to make a decision will be present at every IEP meeting, unless parents sign an excusal for their attendance. These team members include at least one special education teacher, one general education teacher, related service providers relevant to the student's IEP, and a person with



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the authority to bind the school district (the LEA rep). If the District Representative or Principal is the LEA representative, they must be in attendance at the IEP meeting or designate another team member to serve in that role.

Essential Corrective Actions:

1. CPS will empower IEP teams to make decisions at IEP meetings. CPS will communicate this to all special education staff and parents at the start of the 2018-2019 school year. CPS will develop a communications plan for this information, which will be approved by ISBE.
2. CPS will provide a report to the ISBE monitor on a monthly basis identifying the IEP meetings that were continued and a reason for the continuance. If a meeting is continued for District Representative or Principal approval, CPS will report to the ISBE monitor the reasons why such approvals were required.
3. The Monitor or other ISBE Staff will attend IEP meetings throughout the three year implementation of this corrective action plan. The Monitor will determine which meetings ISBE Staff will attend. The Monitor and ISBE Staff will provide feedback to the IEP team and the District Representative following the meeting.
4. CPS will enable ISBE to provide training regarding drafting legally compliant Individual Education Plans.
5. CPS will enable ISBE to provide District Representatives and other select staff with training regarding facilitated IEP's.
6. CPS will use ISBE IEP meeting facilitators throughout the school year at sites identified by the ISBE Monitor.

C. Electronic IEP System Use

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

Essential Corrective Actions:

1. CPS will use the notes pages to record minutes of the IEP meeting and will include those notes pages as part of the IEP document provided to the parents following the IEP meeting.



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2. CPS will allow IEP teams to make the determination of a Separate Day Placement at the IEP meeting.
3. CPS will allow IEP teams to determine Paraprofessional support, ESY, and Transportation at the IEP meeting.
4. CPS will provide training to all staff regarding the use of the SSM system and the Procedural Guidelines and will ensure that the SSM system and the Procedural Guidelines are consistent at all times. ISBE will approve the Procedural Guidelines before adoption and be invited to the training.
5. The Monitor will review IEP's periodically to ensure teams have the ability to use the IEP system.

D. Data Collection

ISBE Requirement: ISBE expects IEP teams in CPS to use data to support decisions. CPS agrees that data should be both qualitative and quantitative, including observation of the student and input of the parents and the parents' private providers.

Essential Corrective Actions:

1. CPS and ISBE will work together to develop a data-driven approach to decision making that will allow students to receive services in a timely manner. CPS and ISBE will devise a data-driven decision making plan that will be communicated to all CPS staff and parents prior to the start of the 2018-2019 school year.
2. CPS will simplify data collections forms for the justification of paraprofessionals, transportation, extended school year, MTSS, FBA/BIPs, and any other related service that requires data collections. These forms will become part of the IEP document and copies will be provided to parents along with the final IEP.
3. CPS and ISBE will provide training to staff members regarding best practices in the data driven decision making process. Parent training also will include information regarding data driven decision making.

E. Procedural Manual and Guidance



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ISBE Requirement: By August 1, 2018, CPS will update its “Procedural Manual: Guidance on Providing Special Education and Related Services to Students with Disabilities Pursuant to the Individuals with Disabilities Education Act (IDEA).” The manual shall be publicly posted on the CPS website and a printed copy shall be provided to parents upon request. The Procedural Manual (online and print) must be made available in Spanish and translated to other native languages upon request.

Essential Corrective Actions:

1. CPS and ISBE shall seek stakeholder input during the revision process of the Procedural Manual.
2. The ISBE Monitor must review and approve all Procedural Manual Changes prior to implementation.
3. CPS and ISBE will determine how frequently the Procedural Manual is updated and updates will coincide with updates to the IMPACT-SSM system. Updates to the Procedural Manual and SSM system should only happen during the school year in response to a legal change that necessitates an update. In the unlikely event this happens, the updated Procedural Manual and information regarding SSM changes must be broadly disseminated to staff and parents.

F. Budgeting

ISBE Requirement: ISBE will review CPS’ budget plan for FY 2019. Specifically, ISBE will review CPS’ special education staffing/allocation formula. ISBE expects that CPS’ methods for determining special education staff is clear and transparent for schools.

Essential Corrective Actions:

1. CPS will provide ISBE with the allocation/staffing formula used for the 2018-2019 school year.
2. CPS will establish a an appeals process that will include the following:
 - a. Documentation required from schools; and
 - b. Timelines of expected response.



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3. The ISBE monitor will review all staffing appeals and subsequent decisions and will have the authority to override appeals decisions if evidence demonstrates that the decisions will result in the unwarranted denial of services to students.

G. Stakeholder Involvement

ISBE Requirements: ISBE expects that CPS will engage with various stakeholder groups at regular intervals throughout the school year. The meetings will be structured so that CPS provides opportunities for groups to obtain updates and provide feedback for various topics.

Essential Corrective Actions:

1. ISBE expects that CPS will continue to host monthly ODLSS Parent Advisory Committee meetings, in which the ISBE monitor or other ISBE representative will be in attendance. CPS will provide ISBE with written agendas, meeting notes, and any relevant documentation before, during, and after the meeting.
2. ISBE expects CPS to meet with the ISBE Monitor on a weekly basis, unless an alternate schedule is agreed upon between CPS and the ISBE Monitor.
3. ISBE expects CPS to meet with representatives from Advocate groups on a monthly basis to provide relevant updates regarding CPS's special education system. The ISBE Monitor will be in attendance at these meetings.
4. ISBE expects that CPS will involve stakeholders in the review of the CPS Procedural Manual prior to the start of SY 2018-2019.
5. ISBE will provide CPS with specific notices to parents that CPS must share with parents throughout the school year, including but not limited to the ISBE Parent's Guide, Procedural Safeguards, and a list of low cost and free legal services available in the area. ISBE will provide these documents in English and Spanish and other languages upon request.
6. ISBE will provide training to parents regarding parents' rights. Such training will take place within the first semester of the 2018-2019 school year. One training will take place in each network. CPS will assist ISBE by providing space for these trainings and by broadly advertising the trainings once scheduled.

H. Additional Training Plan



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ISBE Expectation: ISBE expects CPS to initiate a robust and transformative plan for training staff regarding Federal and State Special Education Laws. The Plan will outline the training CPS will provide to staff regarding special education over the next three years.

Essential Corrective Actions:

1. CPS will work with the ISBE Monitor to develop a training plan prior to the beginning of the 2018-2019 School Year. The plan shall be for three years.
2. The Monitor shall be invited to participate in every training under the plan.
3. The Monitor shall approve any changes to the Plan throughout the three year implementation period.

G. Student Specific Corrective Action

ISBE Expectation: The Public Inquiry Team found several instances where CPS practices may have delayed or denied services to individual students. It is ISBE's expectation that the students whose services were delayed or denied as a result of the practices that were inconsistent with IDEA Part B must be identified and that opportunities to remedy the delay or denial must be offered when appropriate.

Essential Corrective Actions:

1. ISBE and CPS will to devise a plan to identify students whose services were delayed or denied. Subject to the approval of the U.S. Department of Education's Office of Special Education Programs, the plan will include at least the following:
 - a. A process for IEP teams to follow to examine the delay or denial of services and determine remedial opportunities;
 - b. A process that will allow ISBE to choose a sampling of IEPs from the schools it identifies as most affected by CPS's policies and procedures and initiating a review of the delay or denial of services and remedial opportunities; and
 - c. An expedited Complaint procedure through ISBE for individual parents and families.
2. The ISBE Monitor will have full oversight of the Student Specific Corrective Action, including the right to overturn IEP team decisions granting or denying remedial opportunities.



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3. CPS will assist ISBE in notifying all parents and families of the Student Specific Corrective Action process in order to ensure that all parents and families, including those who do not currently receive special education and related services, have the opportunity to pursue corrective action if eligible.