

November 16, 2017

Open Letter to Illinois State Board of Education

Dr. Tony Smith
State Superintendent of Education
Illinois State Board of Education
100 N. 1st Street
Springfield, IL 62777

James T. Meeks
Chairman Illinois State Board of Education
100 N. 1st Street
Springfield, IL 62777

And the Members of the Illinois State Board of Education

We the undersigned organizations and individuals are agreed on the need for the Illinois State Board of Education (ISBE) to utilize its authority under the Illinois School Code and SEC. 616 of the Individuals with Disabilities Education Act along with its related regulations to intervene with the Chicago Public Schools (CPS) Special Education program. Specifically we ask that ISBE investigate all the findings made by a report that appeared on WBEZ radio in Chicago on its special education program.¹

Collectively we are in agreement with the findings of the WBEZ report and in fundamental disagreement with the Chicago Public School's attempted refutation of that report.² We would be happy to discuss our views on those issues with any investigator appointed by ISBE in relationship to this matter.

We the undersigned organizations and individuals are also agreed on the following points and believe they should be part of a systematic and transparent investigation of the CPS special education program by ISBE:

- CPS utilizes blocks in its electronic IEP form, which allows the District to effectively veto decisions reached by a legally constituted school based IEP team pursuant to IDEA [614(d)(1)(B)]. These blocks in the system have led to notable decreases in the provision of certain IEP services within CPS, as detailed in the WBEZ article.
- CPS policies impose overly burdensome data collection and documentation requirements on special education teachers and related service providers. These compulsory procedures lead to delays in both the initial identification of students for services and in the provision of Special

¹ <https://www.wbez.org/shows/wbez-news/wbez-investigation-cps-secretly-overhauled-special-education-at-students-expense/2f6907ea-6ad2-4557-9a03-7da60710f8f9>

² <https://www.scribd.com/document/362522838/Chicago-Public-Schools-letter-to-WBEZ-regarding-special-education-report>

Education and Related Services, we believe these requirements can amount to the systematic denial of FAPE for numerous CPS students. These paperwork requirements force teachers and service providers to focus time and resources away from teaching and learning, they are detracting from the improvement of educational and functional results for children with disabilities; and are in violation of the intent and purpose of IDEA along with Congressional guidance on paper work reduction.³

- CPS officials have lumped special education and general education services into a school-based zero-sum funding competition with one another.
- This practice has effectively discouraged CPS principals from funding special education services, and provides a further disincentive for principals to support an IEP team's decision to add a needed service to a student's IEP. An overall reduced pool of funds further exacerbates these disincentives.
- The practice also encourages local schools to transfer some supplemental general state aid (SGSA), and even some federal Title I funds for the provision of special education services schools are required to provide pursuant to IEPs.
- Since most CPS students with disabilities are educated for the majority school day in general education settings, this practices hurts those students no matter which decision the principal makes.
- CPS has consolidated numerous special education budget lines into larger buckets that obscure its allocation of special education funds.
- CPS has implemented excessive significant restrictions on transportation services that have required interventions from numerous disability rights, and early childhood education advocacy agencies including the assistance in filing due process cases and state complaints against CPS to assure the provision of FAPE for these students.
- Any investigation allow for public input via numerous forms including public hearings which are recorded and publicly available. A non-retaliation provision should be established for all CPS employees or parents who either testify or provide other information to ISBE investigators.

We believe the situation may be so egregious that ISBE may be required following an investigation to appoint an outside expert to facilitate corrective action in relationship to the CPS special education program. It should be expected that these recommendations may and most likely will include significant changes in CPS special education practices. Many of these changes will likely involve a reordering of budget priorities. Rejection of an outside expert's recommendations by CPS solely on the basis of finances should not be acceptable. All findings by any ISBE investigation should be made public.

Initial list of Endorsers Follow:

³<http://congressionalresearch.com/RL32931/document.php?study=The+Individuals+with+Disabilities+Eduction+Act+IDEA+Paperwork+Reduction+in+P.L.+108-446>

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November 22, 2017

SENT ELECTRONICALLY

Dr. Tony Smith
State Superintendent of Education
Illinois State Board of Education
100 N. First Street
Springfield, Illinois 62777

Re: Special Education Working Group

Dear Dr. Smith:

Officials at the Illinois State Board of Education (ISBE) recently received a letter (“Open Letter to Illinois State Board of Education,” Nov. 16, 2017) requesting that you review CPS’ approach to special education. We welcome this conversation.

As an advocate for education and equal rights, you play a critical leadership role for all students in Illinois, including Chicago. With the recent attention to special education, we are writing to request that ISBE convene a working group of key disability rights organizations, special education experts and leaders both inside and outside Chicago Public Schools -- along with any other experts you see fit -- to ensure that all current CPS procedures, systems and resource allocation mechanisms are consistent with both established best practice and the requirements of federal and state law.

ISBE, as the official education standards-setting body in Illinois, is well-positioned to objectively sort through the myriad of issues and help lead a process that can ultimately improve both the understanding of CPS’ reforms and the actual provision of services to special education children, including the effectiveness of those services.

From our perspective, CPS’ special education offerings have been subject to several problems over the years. We conducted a detailed analysis to understand how special education at CPS could be improved, published in the summer of 2016 and available [here](#). As detailed in our own examination, we strongly believe that the status quo of past years is unacceptable, and that

fundamental changes are necessary to ensure equity and the creation of what has been missing--a culture of accountability for the actual academic progress of children with disabilities.

Given the importance of this issue, we believe that the public should have a thorough understanding of special education, particularly CPS' reforms and how services are provided to children who have special education needs. In particular, we believe that the effectiveness of services is of critical importance.

While CPS disputes the referenced WBEZ report as both misleading and error-ridden ([link](#)), it raised legitimate questions for the public. CPS is committed to working with you to understand these issues, supporting our families and ensuring they understand the challenges and opportunities for improving outcomes for students with disabilities.

CPS' reforms were put in place to solve very real and serious problems that had taken place over decades (described more in depth below). Our effort and intention was to put in place the best possible solution to fix the problems that we found. We would ask the working group to focus its energy on whether CPS' solution to the long-standing problems in special education was sufficient. We are hopeful that this working group will focus on what we have fixed so far, what remains to be addressed, and how our approach can be adjusted to best serve our most vulnerable students. To that end, we ask that the working group begin meeting as soon as possible and provide final recommendations this spring, so that the district and principals can incorporate recommendations into staffing, planning and organizational decisions in the 2018-19 school year.

We also want to provide you with a more in-depth understanding of the problems we identified and the major efforts we undertook to solve those problems.

When this administration took over, it was clear that even against all of the challenges of being the largest district in Illinois and one of the most diverse, CPS has made great strides in almost all aspects of student achievement. National test scores, graduation rates, college graduation, and school quality ratings have all improved.

Progress, however, has not been universally realized by all students at CPS, and especially students with disabilities. As we mentioned, more than a year ago, CPS released [a white paper](#) citing the 2015 National Assessment of Educational Progress (NAEP) that revealed only 15 percent of CPS 4th grade students with disabilities were at or above the basic level of performance in reading, compared to 64 percent of their non-disabled peers. This number was also 15 percent in 2003. This means performance among students with disabilities stayed flat while achievement among students without disabilities improved significantly.

Although attainment levels have risen in the past two years on testing by the Northwest Evaluation Association (NWEA), up a full five percentage points in reading and three full percentage points in math, we have a long way to go in narrowing the achievement gap. We believe it is our responsibility to understand and address the root causes of the disparity in student progress between students with disabilities and their non-disabled peers.

To advance student achievement, CPS is committed to supporting but also holding schools accountable for the success of all their students, including those with disabilities. Thus, in the past year, CPS has worked to standardize the collection, analysis, reporting, and use of achievement and outcome data for students with disabilities, including progress monitoring, to inform teaching and learning. CPS has also committed to improving associated management processes to better align resource decisions and management incentives with student achievement and outcomes.

As importantly, the district issued a revised procedural manual in 2017 to ensure that all schools are following the same guidelines in providing services. This is a critical element to ensuring equity across the district. The CPS manual is similar in content and language as the model special education policies and procedures that has been prepared by the Illinois Association of School Boards (IASB) Council of School Attorneys' for Special Education.

The revisions to the CPS manual were built off the 2012 version of the manual, which was previously approved by the *Corey H.* court monitor. In revising the guidelines, CPS consulted with internal experts, along with outside attorney Teri Engler, Esq. of Engler, Callaway, Baasten & Sraga law group and a special education law expert, to craft a manual that would be easy for school personnel and for parents to understand and implement with fidelity across the district. We have and will continue to update the manual, we welcome further input, and we expect to publish an update in the coming months.

CPS acknowledges that with changes, there are challenges. However, CPS is committed to making sure the changes are meaningful and sustainable.

CPS continues to maintain all of the expectations and requirements of ISBE. CPS has successfully completed its most recent special education-focused monitoring audit by ISBE. The most recent special education financial audit was completed in the fall of 2017. Not only has CPS consistently complied with the federal “maintenance of effort” funding requirement for special education, but the special education budget for the current school year increased by \$19 million.

We have attached an appendix with a response to the bulleted points in the open letter for your review and understanding.

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Going forward, we know that CPS must be more inclusive and open to ongoing feedback. We welcome the opportunity to roll up our sleeves and work alongside those leaders and experts of goodwill who can help us achieve our common goal: to give all children, regardless of their needs, the opportunity to achieve their full potential in school and in life.

Sincerely,

Forrest Claypool,
Chief Executive Officer

Janice Jackson
Chief Education Officer

Elizabeth Keenan
Chief, Diverse Learner Supports and Services

Cc: James T. Meeks, Chairman, ISBE
Members of the ISBE
Stephanie Jones, Chief Legal Counsel, ISBE
Luiz Rodriguez, Executive Director, Procedures and Standards, ODLSS, CPS
Kathleen Gibbons, Senior Assistant General Counsel, CPS

APPENDIX

Response to all bullet-pointed allegations in the open letter:

- The CPS electronic IEP *does* include a system of reminders to ensure that staff have collected and shared all relevant data with each child’s IEP team to make informed decisions. The letter does not identify, and our data does not support, the broad allegation that this has resulted in “notable decreases in certain IEP services within CPS.”
- We vehemently disagree that expecting CPS staff and administrators to do their jobs by collecting relevant data to support informed decision-making for students with disabilities—as we do for our students who do not have disabilities—is burdensome, much less overly burdensome, or otherwise inappropriate. Initial paperwork requirements, moreover, were lessened significantly following feedback from stakeholders, including a standing CTU review committee that meets regularly with the chief of diverse learner services. Similarly, there is no data to support the speculative statement that these procedures “lead to delays” in the identification of students who are eligible to receive special education and related services or the provision of same. Nonetheless, CPS welcomes the opportunity to work with advocates and ISBE to ensure that these recent changes, critical to ensuring correct diagnoses and proper academic supports for all students, do not materially slow any provision of services.
- We heard loud and clear the objections to the funding distribution process utilized in 2016-2017 and eliminated this funding distribution process in the most recently adopted CPS budget. CPS also changed the process by which principals can request and receive additional funds to support students with disabilities.
- CPS has not and does not encourage local schools to improperly allocate General State Aid or Title I funds to support students with disabilities.
- The allegation regarding “most” CPS students with disabilities being “hurt” because they are educated in general education settings “for the majority of the school day” is as inaccurate as it is ironic. In fact, current data reflects that 49% of CPS students with disabilities are served in LRE Code 1 and 2 settings—i.e., in general education settings for 40-100% of the school day. This is lower than the State and national average. The “least restrictive environment” is the legal standard and educationally best for students; this means, more often than not, that students should be supported in the general education classroom.

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- We disagree with the characterization of CPS consolidating multiple special education funding lines into “larger buckets.” It appears that the writer arrived at this conclusion by looking at the budget summary that appears on the CPS website. More importantly, it is another example of how the content of the letter conflates budget/funding decisions made by CPS with which the authors disagree and our special education procedures and practices addressed in the 2017 guidelines and Procedural Manual.
 - We not only disagree with the sweeping allegation regarding “excessive significant restrictions on transportation services,” but note that in many instances CPS has actually provided more extensive transportation services than it is legally required to do in response to concerns previously raised by some of the co-authors of the letter, which they unfortunately failed to mention. For example, although CPS would be within its rights to establish a neutral policy limiting transportation of students with disabilities to/from home and school, we have not done so and actually transport such students to/from other locations such as daycare programs and other sites.