



# Illinois State Board of Education

100 W. Randolph St., Suite 14-300 • Chicago, Illinois 60601  
www.isbe.net

James T. Meeks  
Chairman

Tony Smith, Ph.D.  
State Superintendent of Education

## APPENDIX B

### PUBLIC INQUIRY INTO SPECIAL EDUCATION POLICY AND PROCEDURES IN THE CHICAGO PUBLIC SCHOOLS

TO: Signatories to the Open Letter (Complaint);<sup>1</sup> and Dr. Elizabeth Keenan, Director of Special Education and Deputy Chief for Chicago Public Schools, District #299.

AUTHOR: Public Inquiry Team<sup>2</sup>

RE: Standard Operating Procedures for Public Inquiry

#### I. PURPOSE AND AUTHORITY

To ensure that the Public Inquiry, a matter of public concern, is conducted in a fair and transparent manner, the Public Inquiry Team (Inquiry Team) will follow the Standard Operating Procedures (SOPs) contained in this document. These procedures have been created to provide guidance and information necessary for the Public Inquiry.

It is recognized that every situation cannot be predicted or determined by these procedures, and the Inquiry Team may deviate from these procedures if facts and circumstances require. The Inquiry Team will rely on its expertise in the matters of education in choosing alternate actions that are reasonable and appropriate for the circumstances.

STATUTORY / REGULATORY AUTHORITY	CITATION
Individuals with Disabilities Education Improvement Act	20 USC 1400 et seq.
IDEA Implementing Regulations	34 CFR 300 et seq.
Article 14 of the Illinois School Code	105 ILCS 5/14 et. seq.

<sup>1</sup> On November 16, 2017, the following advocacy groups submitted an “Open Letter” at the Illinois State Board of Education’s November Board Meeting. These advocacy groups include: Access Living, Shriver Center on Poverty Law, Chicago Principals and Administrators Association, Chicago Teachers Union, Parents 4 Teachers, Ounce of Prevention Fund, Legal Council for Health Justice, Raise Your Hand for IL Public Education, Legal Assistance Foundation, Equip for Equality, Potter and Bolanos, LLC, Matt Cohen and Associates, and 19<sup>th</sup> Ward Parents for Special Education.

<sup>2</sup> Nancy Krent, Facilitator, Richard Cozzola, Representative of Advocacy Group, Rupa Ramadurai, ISBE Representative.

## **II. PROCESS TO BE FOLLOWED:**

### **A. INITIAL PROCESS**

#### **1. MEETINGS WITH EACH PARTY**

All advocacy groups listed above, who were signatories to the “Open Letter,” are together considered one Party, referred to as the “Advocacy Groups”, and CPS is the other Party involved in the Public Inquiry. Each Party is to be represented by no more than two representatives and two legal counsel at meetings with the Inquiry Team. At meetings involving Witnesses, the Witnesses shall not be counted as representatives.

#### **2. IDENTIFICATION OF ISSUES**

The Inquiry Team will publish on the ISBE website a Statement of the Issues that are subject to the Inquiry. If the facts warrant, after initial documents and information are gathered, the Inquiry Team may identify additional Issues not originally proposed in the Open Letter, and request additional information/documentation to support or refute the Issue(s).<sup>3</sup>

#### **3. GATHERING OF DOCUMENTARY TESTIMONY AND EVIDENCE**

##### **a. DOCUMENT AND INFORMATION REQUESTS BY INQUIRY TEAM**

The Inquiry Team may conduct site-visits, interviews, request data and documents, or engage in other information gathering prior to the Hearing. Individuals who are interviewed may be asked to provide an affidavit and/or called to testify. The Inquiry Team may ask the Parties to respond to information requests, and may seek information from third Parties. Parties may respond to information and document requests on an ongoing basis, but each submission should be dated and in PDF format. To the extent possible, responses to a single request should be contained in the same submission. All documents must be submitted by the due date set by the Inquiry Team, but in any event not later than twenty-one (21) days before the first Hearing date. All submissions must follow the submission procedure outlined below in Sections II. B and C.

##### **b. ADDITIONAL SUBMISSIONS BY PARTIES**

In addition to the Documents and Information requested by the Inquiry Team, each Party may submit any documents, data, affidavits, or other information they wish the Inquiry Team to consider. All submissions from a Party should be submitted only from the individuals designated as the representatives or legal counsel for that Party. Parties may

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<sup>3</sup> The Inquiry Team will provide a reasonable, but specific period for the production of any additional documentation and/or information requested in the course of fact-finding.

submit information on an ongoing basis, but each submission should be dated and in PDF format. All documents must be submitted not later than twenty-one (21) days before the first Hearing date. All submissions must follow the submission procedure outlined below in Sections II. B and C. Each Party may also request that the Inquiry Team gather specific data or documents, or interview specific individuals.

In addition to other information, Each Party may propose a list of Witnesses to be called by the Inquiry Team at the Public Hearing. The Party proposing a Witness should identify the reasons why Oral Testimony would be beneficial. No Witness may be placed on a proposed Witness list unless an affidavit has been submitted by the Witness, or, in the case of a Witness not within the Party's control, unless the Party has previously requested that the Inquiry Team interview that person. Proposed Witness lists must be submitted not later than twenty one (21) days before the first Hearing date.

### **c. SUBMISSIONS BY THIRD PARTIES**

The Inquiry Team will invite members of the public with relevant information to submit Witness affidavits and/or documentary evidence related to the Issues of the Public Inquiry.

Third Parties may submit documents, data, affidavits, or other information for consideration by the Inquiry Team relating to the Issues of the Inquiry. These materials should be submitted via the ISBE website. Third Parties may also submit documents, data, affidavits, or other information through one of the Parties, if the Party agrees to submit such information on the Third Party's behalf. In this way, interested individuals or other third Parties who are not signatories to the Open Letter can submit their information. The Inquiry Team has established a cut-off date twenty-eight (28) days before the first Hearing date for such submissions. Beyond that date, Third Party submissions will not be accepted. All Third Party submissions must follow the submission procedure outlined below in Sections II. B and C.

### **d. ADDITIONAL COMMUNITY INPUT**

In addition to submission procedures outlined above, the Inquiry Team will also reserve a day for in-person community input regarding the four (4) issues outlined in the Statement of Issues. Third Parties who submit Written Affidavits and/or Documentary Evidence are not required to attend. The date for this community input will be February 16, 2018. On that date, the members of the Inquiry Team will meet privately with those members of the community who wish to be heard. Individuals will be limited to no more than 5 minutes for their presentation. The community input times will be: 8:30am-10:00am; 12:00pm-1:30pm; and 3:00pm-4:30pm. Individuals will be taken in the order in which they arrive. Individuals will be afforded the opportunity to prepare and submit Affidavits on that day. Affidavits submitted by these individuals will be shared with the Parties in accordance with the Standard Operating Procedures, and considered by the Inquiry Team in the same manner as other Affidavits. If individuals choose not to submit

affidavits, however, the information they provide will be considered largely for background information purposes only.

**B. PROCEDURES FOR SUBMISSION OF DOCUMENTS AND WITNESS AFFIDAVITS**

**1. SUBMISSION PROCESS**

**a. SUBMISSIONS BY PARTIES**

The Inquiry Team will accept only electronic submissions of Documentary Evidence and Witness Affidavits from Parties.

Submissions on behalf of the Parties will be sent only from the individuals identified as the Parties' legal counsel and representatives. Where a submission is responsive to a request made by the Inquiry Team, the PDF must identify the request to which it is responsive and be dated with the date of production.

To the extent that any submitted document contains confidential information,<sup>4</sup> the submitting Party must identify in the cover email that the document contains such confidential information. If a document contains confidential information that is not required for the Inquiry Team's review, the Party must remove or redact that information.

**b. SUBMISSIONS BY THIRD PARTIES**

The Inquiry Team will accept submissions of documentary evidence or Witness affidavits from third Parties as follows:

- i. Submitted through the Parties as part of their submissions.
- ii. Emailed as an attachment to [publicInquiry@isbe.net](mailto:publicInquiry@isbe.net).
- iii. Delivered on a flash drive in person or mailed to the following address:

The Office of the General Counsel  
Attention: Public Inquiry Team  
100 W. Randolph St. Suite 14-300  
Chicago, IL 60601

- iv. Delivered in hard copy in person or by mail to the above address if the submission contains no more than 50 pages.

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<sup>4</sup> Information that is protected under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g), the Illinois School Student Records Act (ISSRA) (105 ILCS 10/1 et seq.) or any other privacy laws shall constitute Confidential Information. Confidential Information does not include (i) information already known or independently developed by the recipient, (ii) information in the public domain through no wrongful act of the recipient, or (iii) information received by the recipient from a third Party who was free to disclose it.

### **c. PROCESSING OF SUBMISSIONS**

All information and documents submitted by the Parties or by Third Parties will be distributed to the Parties, redacted as necessary. ISBE will be responsible for distributing all submissions and Inquiry Team requests for information to the Parties, redacted as necessary.

The Inquiry Team will utilize any information (e.g. Documentary Evidence, Written Affidavits, Interviews or other) submitted as it deems appropriate to the Inquiry. The Inquiry Team may determine that some information is not relevant or appropriate for purposes of this Public Inquiry. All submissions may be considered evidence by the Inquiry Team, regardless of whether they were explicitly referred to by a Witness in the Public Hearing. The Inquiry Team may make determinations of relevance and reliability of all submissions.

ISBE will securely maintain all submissions.

### **C. SUBMISSION FORMAT**

All submissions must be prepared in accordance with the directions provided in this document.

#### **1. WRITTEN AFFIDAVITS**

- a. Any person wishing to provide written testimony must submit that information in an Affidavit. The affidavit must utilize the form provided by the Inquiry Team, found at: [insert link].
- b. An Affidavit can cite to specific exhibits, which must be contained as attachments to the Affidavit. If an affidavit submitted by a Party that refers to exhibits already produced to the Inquiry Team, the affidavit should refer to those exhibits by citing to the prior submission rather than re-submitting the same documents.
- c. Affidavits submitted to ISBE will be shared with all Parties.
- d. Affidavits from Parties will be accepted no later than twenty-one (21) days before the first day of Hearing.
- e. Affidavits from Third Parties will be accepted no later than twenty-eight (28) days before the first day of Hearing.

#### **2. ELECTRONIC FORMATTING FOR PARTIES.**

- a. All submissions from one of the Parties must be provided as Portable Document Format (“PDF”) files that have been prepared using Adobe Acrobat software (version 8.0 or higher) and which have a .pdf extension as part of the file name.

- b. Each Party can make PDF submissions until the 21-day cutoff date. PDFs shall be dated with the date of submission, and can contain multiple parts. (See section on hyperlinks and bookmarks below.)
- c. An acceptable PDF file is one that includes the compilation of all of the materials and documents into one single file and not a series of separate files. All documents are to be submitted as **one continuous PDF document** if possible given email attachment size restrictions (35 MB per email), using the Adobe Acrobat software. Only PDF files will be accepted. The Inquiry Team will not accept files in other formats such as Microsoft Word, Excel, or PowerPoint; Word Perfect; TIFF; JPEG; etc.
- d. All PDF documents submitted may include electronic bookmarks and hyperlinks placed within the document in order to identify all of the attachments and exhibits contained within the file. Bookmarking and hyperlinking should be done in a manner that facilitates an easy and intuitive navigation and review of the file. For example:
  - i. The Party may clearly label each bookmark so the reader will easily understand to which document or exhibit the bookmark will take the reader;
  - ii. The Party may bookmark each document that has been included in the PDF; and
  - iii. The Party may bookmark and label all exhibits (e.g. Exhibit A, Exhibit B, Exhibit C, etc.) accompanying an Affidavit.
- e. A table of contents must be provided with every PDF submission.
- f. Whenever possible, the Party should directly convert documents to PDF as opposed to scanning and creating PDFs from paper documents. The direct conversion of documents to a PDF format allows for far greater readability. For example, complete the narrative response using word processing software (e.g., MS Word), convert the Word document directly to a PDF file, and then combine the converted file with other converted or scanned documents into a single PDF document.
- g. For any document submitted, the Party must disable any security features in the PDF document.
- h. Any submission from a Party, which is not submitted in accordance with these instructions will not be processed or considered by the Inquiry Team. If the Inquiry Team determines that a document is not in compliance it will notify the Party, and provide the Party 48 hours to correct the formatting or other issue.

- i. Should a Party seek to amend the submission of Documentary Evidence and/or Written Affidavits already submitted, the Inquiry Team will determine whether or not such amendments will be accepted.
- j. ISBE will confirm receipt of any submission received by sending a confirming email to the sender of that document.
- k. ISBE will be responsible for final redactions of all documents and posting documents online for the public.

### **3. ELECTRONIC FORMATTING OF THIRD PARTY SUBMISSIONS**

Electronic submissions from Third Parties must comply with the above requirements.

### **D. PROCEDURES FOR PUBLIC HEARING**

The Public Hearing will serve as an opportunity for the Inquiry Team and Parties to ask questions of those individuals called to present Oral Testimony. The Public Hearing will be conducted over the following three dates: March 20, March 21, and March 27. The Inquiry Team reserves the right to cancel the Public Hearing if it is determined that it is not necessary.

1. **Notice.** The Inquiry Team will provide notice of the Public Hearing that will include:
  - a. The date, time and location of the Public Hearing;
  - b. A brief statement of its purpose;
  - c. Name and contact information for a person or office that can provide additional information about the Hearing; and
  - d. Information as to where a copy of any relevant documents can be accessed.
  - e. Points of contact for each of the parties. (“If you are interested in providing documents or information to one of the parties rather than directly to ISBE, the contact information for the Parties is as follows: \*\*\*\*\*”)

The Notice will be made available on the [Office of the General Counsel](#)'s webpage maintained by the Illinois State Board of Education. News media will be notified of the Public Hearing.

2. **Pre-Hearing Conference.** Approximately 7 days prior to the first day of Hearing, the Inquiry Team will meet jointly with the Parties to review the Witness list, times allotted for Witness examination, and any other issues the Inquiry Team or the Parties wish to discuss.
3. **Attendance.** The public and media are welcome to attend the Public Hearing, to the extent that space allows.

4. **Time of Hearing.** The Public Hearing will be conducted from 9:00am – 4:00pm each day with breaks as determined by the Facilitator. The Inquiry Team reserves the right to end any session prior to 4:00pm.
5. **Public Comment.** Public Comment will not be permitted at the Public Hearing. The presentation of evidence at Hearing will be limited to Oral Testimony by those Witnesses who have been notified in advance by the Inquiry Team that they are being called to provide Oral Testimony at the Public Hearing.
6. **Agenda.** The Inquiry Team will establish an Agenda for the Public Hearing. Copies of the agenda shall be made available to each Party and posted on the ISBE Inquiry website, and the Facilitator will announce the Agenda at the start of each day of Public Hearing, which may include, but is not limited to:
  - a. Which Issue(s) of the Public Inquiry will be explored at that day of Hearing;
  - b. Allotted time for Opening Statements to be made by either Party (first day only);
  - c. All relevant Witnesses set to present Oral Testimony, the order of their presentations and the time allotted to each Witness;
  - d. Breaks; and
  - e. Closing statements (final day only).
7. **No Testimony by Audio / Video.** Oral Testimony will not be accepted via phone, cell phone, video or audio recording. Witnesses who are notified that they will be presenting Oral Testimony (or their representatives) at Hearing must do so in person.
8. **Time Constraints.** The Facilitator reserves the right to extend or limit times as appropriate.
9. **Opening Statements.** On the first day of Hearing, each Party shall be entitled to make a brief opening statement of no longer than 15 minutes. The Parties may waive their right to present an Opening Statement. Opening Statements may not:
  - a. Present arguments;
  - b. Comment or reference documents or Witness statements that have not been submitted;
  - c. Express personal views or opinions; or
  - d. Use inflammatory language.
10. **Closing Statements.** At the conclusion of the Hearing, each Party shall be entitled to make a closing statement of no longer than 30 minutes. The Parties may waive their right to present a Closing Statement. Closing Statements may not:
  - a. Contain new information;
  - b. Use evidence that was not introduced at Public Hearing or in the Submissions; or
  - c. Use inflammatory language.
11. **Witness Testimony and Questions.** Witnesses will provide their initial statements through the affidavits submitted during the fact-finding phase of the process. Testimony



at the Public Hearing will be limited to those matters that the Inquiry Team believes require further clarification. The affidavit previously submitted by the Witness will be considered part of the testimony of that Witness, and Parties may question the Witness about those matters during their examination time.

A member of the Inquiry Team will introduce each Witness. The Witness will be sworn in under oath for the purpose of answering questions from the Inquiry Team and from the Parties as outlined below. Only the Inquiry Team and Parties shall have the opportunity to examine or cross-examine any Witness. Witnesses shall answer to the best of their knowledge.

- a. The Inquiry Team will begin the questioning of each Witness, for such time as needed. Following questioning by the Inquiry Team, questioning of the Witness by the Parties will proceed as follows:
  - i. If a Witness is not supporting either Party, the Inquiry Team may allow both Parties to question the Witness, setting a time limit for the questioning by the Parties and providing equal time to each of the Parties.
  - ii. If a Witness is supporting one of the Parties, following questioning by the Inquiry Team, the Party whose position is contrary to the one supported by the Witness may be allowed to cross-examine the Witness. The scope of questioning will be limited in nature to the evidence was presented in direct testimony and the subjects raised in the Witness's affidavit(s). The Party with whom the Witness is identified may be allowed a period of not more than 15 minutes for re-direct questioning. Failure of a Party to comply with time limits may result in the Party being denied questioning time with future Witnesses.

12. **Objections.** The Federal and Illinois Rules of Evidence do not strictly apply in this proceeding. However, Parties may object to questioning by the other Party if that questioning constitutes a significant departure from those Rules. The Facilitator may either:

- a. sustain or deny the objection, or
- b. take the objection under advisement and make no ruling and let questioning continue.

13. **Documentary Evidence.** No documents can be introduced for the first time at Public Hearing. Any document referenced must have been submitted during the period of time for submissions. All documentary submissions obtained by the Inquiry Team prior to the twenty one (21) day cutoff will be considered as part of the record. Documents do not need to be discussed by a Witness at the Hearing to be considered by the Inquiry Team. The Inquiry Team can make determinations of documents' relevance and reliability.

14. **Termination of Testimony.** The Inquiry Team reserves the right to terminate the testimony of any Witness, and/or to disregard testimony given by that Witness, if the Witness fails to respect the established time limit or otherwise violates the norms established.

15. **Recording.** All Public Hearings will be recorded and live streamed on the ISBE Inquiry website. A recording will be made available after the conclusion of the Public Hearing.
16. **Deliberations.** The Inquiry Team will deliberate after the conclusion of the Public Hearing. The deliberations will result in a Final Report that will be presented to the ISBE General Counsel for approval in April, prior to the April Board Meeting, and then presented at the April 18, 2018, Board Meeting to the Illinois State Board of Education Board Members. If during the course of deliberations there is disagreement among the Inquiry Team members, those areas of disagreement will be noted in the Final Report.
17. **News Media.** Members of the news media who wish to use video or audio equipment must check in at the registration desk so they can be directed to a designated press area if one has been established.

The Inquiry Team may modify these rules as necessary to ensure the smooth flow of the Public Hearing.

## **E. PREPARATION AND SUBMISSION OF FINAL REPORT**

The Final Report will be developed by the Inquiry Team and will include the following:

1. A summary of the Documentary Evidence, Written Affidavits, Interviews, and Oral Testimony received, reviewed, and considered by the Inquiry Team in the course of their determination;
2. A summary of any activities conducted during on-site visits, if applicable; and
3. Findings of fact and conclusions of the Inquiry Team relative to the compliance status of each identified Issue with accompanying state and/or federal statutory or regulatory provisions.

Following receipt of the Report, the General Counsel's office may identify specific corrective actions or technical support to be undertaken, and timelines for such action and/or support.

Upon completion and receipt of the Final Report, ISBE will:

1. Provide a copy of the Report to each Party;
2. Present the Report at the April 18, 2018, Board Meeting to the Illinois State Board of Education Board Members;
3. Provide any needed resources and/or training, and make them available to the District for supporting remediation of findings of noncompliance;
4. Implement recommendations for technical assistance, resources, trainings for remediation with a specific timeframe for completion; and
5. Monitor the completion of any corrective action requirements and verify full compliance via the submission of the specific documents and materials requested.

If no violation of federal or state statutory or regulatory provisions is identified, the Final Report will also reflect this conclusion.

## **F. NO RETALIATION**

All Parties involved in this proceeding are reminded that no person may discharge, intimidate, retaliate, threaten, coerce, or otherwise take adverse action against any person because such person has filed a complaint, testified, furnished information, assisted or participated in any manner in a meeting, hearing, review, investigation, or other activity related to the administration of, exercise of authority under, or right secured by the Individuals with Disabilities Education Act (IDEA), P.L. 108-446. Issues involving harassment, discrimination and/or retaliation may be addressed through the Office for Civil Rights at 312/730-1560.

## **III. KEY DATES**

- **Week of January 29<sup>th</sup> 2018:**
  - Inquiry Team will meet with each Party.
  - Inquiry Team will issue initial information requests to Parties.
  - Inquiry Team will publish on the ISBE website the following information:
    - Statement of Issues;
    - Standard Operating Procedures;
    - Notice to the public inviting submissions; and
    - Dates, times, and locations of the Public Hearing.
- **February 2018:**
  - Inquiry Team will conduct fact – finding.
  - **February 16, 2018:** Community Input Day (Thompson Center)
  - **February 21, 2018:** Community Input Day (Center for Conflict Resolution)
  - **February 26, 2018:** Community Input Day (Pui Tak Center)
  - **February 27, 2018:** Community Input Day (Salem Baptist Church)
  - **February 28, 2018:** Community Input Day (National Museum for Mexican Art)
  - **February 28, 2018:** Last day for all Third Party and Parties' submissions.
- **March 2018:**
  - Inquiry Team will prepare for and conduct the Public Hearing.
  - ISBE will make all Documentary Evidence, Data, and Written Affidavits submitted available to the public once redacted to ensure confidentiality of student information.
  - **March 5, 2018**
    - Inquiry Team will provide the Parties with the Witness List for the Public Hearing. The Witness list shall identify the issue(s) and subject matter on which each person will testify.
  - **March 7, 2018**
    - Deadline for Parties to request additional Witnesses.
  - **March 13, 2018**
    - Pre-Hearing Conference with Inquiry Team and Parties.
  - **March 20, 2018**
    - Day 1 Public Hearing

- Time: 9am – 4pm
    - Location: Chicago Kent College of Law
  - **March 21, 2018**
    - Day 2 Public Hearing
      - Time: 9am – 4pm
      - Location: Chicago Kent College of Law
  - **March 27, 2018**
    - Day 3 Public Hearing
      - Time: 9am - 4pm
      - Location: Chicago Kent College of Law
- **April 2018**
  - Inquiry Team will draft and finalize the Final Report.
  - ISBE General Counsel will approve the Final Report prior to submission to ISBE Board Members.
- **April 18, 2018**
  - Inquiry Team will present Final Report at the Board Meeting.
- **April 2018**
  - Final Report will be sent to both Parties.
  - ISBE will post the Final Report on the Inquiry website for the public.