



IN RE:)	
)	
THE PROPOSAL TO CLOSE)	HON. THOMAS RAKOWSKI (RET.)
LEIF ERICSON ELEMENTARY)	
SCHOLASTIC ACADEMY)	INDEPENDENT HEARING OFFICER
3600 WEST 5 th AVENUE)	
CHICAGO, ILLINOIS)	

HEARING OFFICER’S REPORT

THE UNDERSIGNED INDEPENDENT HEARING OFFICER, having been duly appointed to conduct a public hearing regarding the proposal to close Leif Ericson Elementary Academy; and due notice of said hearing having been given; and the hearing having commenced on April 25, 2013 at 8:00 p.m. at the Chicago Board of Education Central Office, 125 South Clark Street, Room 1550, Chicago, Illinois; and the Chicago Board of Education Law Department having presented witnesses and exhibits in support of said proposal, and the public having given testimony and presented exhibits; and the hearing having concluded on April 25, 2013 at 10:10 p.m., Finds and Reports as follows:

I. **BACKGROUND**

According to Chicago Public School’s Chief Executive Officer, Barbara Byrd-Bennett, (“CEO”), Chicago Public Schools (“CPS”), is facing a school utilization crisis. Presently, the schools have 403,000 students occupying buildings with a total

capacity for 511,000 students. Again, according to the CEO, the funding, maintenance and repair of these half-empty buildings is in part responsible for CPS's one billion dollar deficit. To address this crisis, the CEO has proposed a plan to close some of the underutilized schools, and move those students to other underutilized schools. These actions will enable CPS to maximize resources which, according to the CEO, will improve our capacity to provide all children with greater access to critical resources and supports such as libraries, technology, playgrounds, nurses and counselors.

II.

THE PROPOSAL TO CLOSE LEIF ERICSON ELEMENTARY SCHOLASTIC ACADEMY

As part of the above process, the CEO is proposing the closure of Leif Ericson Elementary Scholastic Academy ("Ericson"), located at 3600 West 5th Avenue, Chicago, Illinois, at the end of the current school year. Starting in the fall of 2013, returning Ericson students are welcomed at Charles Sumner Math and Science Community Academy Elementary School ("Sumner") located at 4320 West 5th Avenue, Chicago, Illinois

III.

APPLICABLE LAW

The State of Illinois has very specific requirements governing proposals for school actions, including closures. By November 1 of each year, the CEO shall prepare and publish guidelines for school actions. The guidelines shall outline the criteria for school action and shall be subject to a public comment period at least twenty-one days before their approval. 105 ILCS 5/34-230 (a). Regarding proposed school action for the 2012-2013 school year, the CEO shall announce and

publish notice, on or before March 31, 2013, of proposed school actions to be taken at the close of the end of the current academic year. The notice of proposed school action shall be at least fifteen calendar days in advance of a public hearing or meeting. 105 ILCS 5/34-232 (1)(2)(3).

The notices shall include a written statement of the basis for the school action, an explanation of how the school action meets the criteria set forth in the guidelines, and a draft School Transition Plan that identifies the items required in Section 34-225 of the School Code. The notice shall also include the dates, times and places of the meetings and hearings. 105 ILCS 5/34-230(c)(1).

The notices shall be provided to the principal, staff, local school council and parents and guardians of any school that is subject to the proposed action (105 ILCS 5/34-230(c)(2)), and to the State Senator, State Representative and Alderman whose districts/wards include school boundaries that are subject to the proposed school action. 105 ILCS 5/34-230(c)(3). The notices shall be published on the District's internet website. 105 ILCS 5/34-230 (c)(4). The proposed school actions and the dates, times and places of the hearings and meetings shall also be published in a newspaper of general circulation. 105 ILCS 5/34-230(d).

Also required are at least three opportunities for the public to comment on the proposed school action. At least two of the proposed meetings shall be at a location convenient to the school community subject to the proposed school action, and at least one hearing shall be at the Chicago Board of Education Central Office. 105 ILCS 5/34-230(e)(1)(2).

Finally, the Board shall not approve any proposed school action not in accord with all of the above mandates during the school year in which the school action was proposed. 105 ILCS 5/34-230(h).

As is evidenced by the above, Illinois law is very rigorous regarding proposed school action and public notification. The underlying theme is transparency and the public's right to be well informed of, and the opportunity to comment on, proposals to change their schools. Further, the requirements give the public and their elected officials an opportunity to mobilize and publicly comment before the School Board considers the proposal.

IV. THE PUBLIC HEARING

Illinois law is also specific with respect to the required public hearing, and it mandates that the hearing be conducted by an independent hearing officer chosen from a published list of independent hearing officers. The hearing officer must be an attorney, licensed to practice law in Illinois, must not be an employee of the Board, and must not have represented the Board, its employees or any labor organization representing its employees, any local school council, or any charter or contract school in any capacity within the last year. 105 ILCS 5/34-230(f)(1)(2)(3).

This public hearing regarding the proposal to close Ericson was conducted at the Chicago Board of Education Central Office, 125 South Clark Street, Room 1550, Chicago, Illinois, on April 25, 2013. The hearing officer opened the meeting at 8:00 p.m., introduced himself, and briefly explained the process to be followed. He also thanked those present for taking time from their busy lives to attend the hearing. It was explained that a Spanish interpreter was available, and a sign language

translator signed her presence. A court reporter was present to transcribe the hearing.

A. CPS's Presentation

Lisa Huge, an attorney in the Chicago Board of Education Law Department, opened the meeting for CPS. Ms. Huge explained that she is appearing in connection with the proposal of the CEO of CPS to close Ericson and welcome returning students to Sumner. She tendered a three-ring exhibit binder (Exhibit 1), a copy of which was also available at the public speaker podium for public viewing. Ms. Huge represented that the Exhibit demonstrates that the CEO's proposal complies with the requirements of the Illinois School Code and the CEO'S Guidelines for School Actions. She went through the binder, section by section, explaining the following:

Tab A includes the notice of the community meetings and public hearing published in the newspaper and affidavits attesting to the delivery of notice to parents or guardians, school staff, Local School Council Members, and elected officials. Tab A also provides that:

- The list of qualified independent hearing officers, and Draft Guidelines for School Actions for the 2012-2013 school year were published on the CPS website on October 31, 2012.
- The final Guidelines for School Actions was published on the CPS website on November 30, 2012.
- The proposals and hearing notices were mailed at least fifteen days prior to the community meetings.

- Summaries from the community meetings were mailed within five days after the meetings were conducted.

Tab B includes:

- The Illinois School Code provisions, designating the powers of the Board and outlining the process for school actions.
- CPS's policy on School Performance, Remediation and Probation for the 2011-2012 school year.
- The policy on review and establishment of school attendance boundaries.
- Chicago Public Schools Spaces Utilization Standards.
- The CEO's Guidelines for School Actions for the 2012-2013 school year.
- The CEO's Procedures for Public Hearings on Proposed School Closings.

Tab C includes written evidence and support of the CEO's proposal including summaries and transcripts of the two community meetings to elicit public comments held at a location convenient to the Ericson and Sumner school communities.

The Exhibit was admitted into the record, and Ms. Huge then introduced the CEO's representative, Patrick Payne. Mr. Payne, a portfolio manager for CPS since March 2012, manages strategic planning to improve the efficient utilization of CPS facilities. His education includes a Bachelor of Science from Drake University and a Masters of Business Administration from the University of Chicago Booth School of Business. Mr. Payne stated that according to the CEO's Guidelines for the 2012-2013 school year, the CEO may propose to close a school if it is underutilized as of the 20th attendance day for the 2012-2013 school year. The CEO may only propose

the closure if the impacted students have an option to enroll in a higher performing school, and the resulting space utilization after the closure will not exceed the facility's enrollment range as defined by the CPS Space Utilization Standards.

He explained the efficiency range is plus or minus 20% of the facility's ideal enrollment. For elementary school facilities, the ideal enrollment is defined as the number of allotted homerooms multiplied by 30. The number of allotted homeroom classrooms is approximately 76 to 77% of the total classrooms available. As an elementary school's enrollment increases above the efficiency range, a school may be considered overcrowded. As an elementary school's enrollment decreases below the efficiency range, a school may be considered underutilized as classrooms are unused or poorly programmed, making the use of limited resources less effective.

A typical elementary school facility has a total of 39 classrooms. Therefore, the number of allotted homerooms, approximately 76 to 77% of 39, is 30 classrooms. Multiplying 30 classrooms by 30 equals the ideal enrollment number of 900. Finally the enrollment efficiency range is plus or minus 20 percent of 900, which is 720 to 1080. If a school in this typical elementary school facility had an enrollment below 720, it would be considered underutilized. Alternatively, if the school's enrollment were above 1080, it would be overcrowded.

There are 35 total classrooms within the Ericson facility. Approximately 76 - 77% of this number is 26, the number of allotted homerooms. This number multiplied by 30 yields the ideal enrollment of the facility, which is 780. As such, the enrollment efficient range of the Ericson facility is between 624-936 students. The enrollment of Ericson as of the 20th attendance day for the 2012-2013 school year is

510. This number is below the enrollment efficiency range and thus, the school is underutilized.

Ericson students will be welcomed at Sumner, and according to Mr. Payne the resulting space utilization will not exceed Sumner's enrollment efficiency range. Sumner has 57.5 total classrooms. He noted that 0.5 indicates the presence of one or more small classrooms. Approximately 76 – 77% of this number is 44, the number of allotted homerooms. This number multiplied by 30 yields the ideal enrollment of the facility, which is 1320. As such the enrollment efficiency range of Sumner is between 1056 - 1584 students. Currently, Sumner has 375 students enrolled. Ericson's current enrollment of 510 students and Sumner's current enrollment of 375 students totals 885 students, which is below Sumner's enrollment efficiency range of 1056 - 1584 students. Further, the projected enrollment of both schools for 2013-2014 combines to a total of 858 students, which is also below Sumner's enrollment efficiency range. A copy of Mr. Payne's complete statement is contained at Tab 20 of Exhibit 1.

Ms. Hugu next introduced Wanda Washington, Chief of Schools for the Chicago Public Schools Garfield Humboldt Elementary Network, the network that includes Ericson. Ms. Washington has worked as a teacher, assistant principal, director and Deputy Chief of the Garfield Humboldt Network. She holds a Bachelor's degree in mass communications from Illinois State University and a Master's degree in educational leadership from Concordia University.

According to Ms. Washington, when Ericson students are welcomed by the Sumner administration, staff and students, they will be attending a higher

performing school based on the CEO's Guidelines for School Actions. She referred the Hearing Officer to the Chicago Public School's Policy Manual Section on School Performance, Remediation and Probation Policy that explains how annual school ratings are determined. District-wide, schools designated Level 1 are the highest performing, and schools designated Level 3 are the lowest performing. While Ericson received a Level 3 rating based on its performance during the 2011-2012 school year, Sumner received a Level 2 rating.

Ms. Washington also explained that if the proposal is approved, Ericson students will receive additional supports during the remainder of this school year and at Sumner the following year, and CPS will provide assistance to ease the transition process. Also, CPS has developed a plan dedicating additional resources to address any safety concerns and to fulfill students' academic, social, emotional and other individual needs. The draft transition plan explaining these additional resources has been sent to all families affected by this proposal.

The CPS Office of Safety and Security ("OSS") has worked with the Chicago Police Department, Department of Family Support Services, local community groups and faith partners, elected officials, and other sister agencies to develop the following plan for the safe transition of students:

- OSS will review and update school safety audits, security personnel allocations and school safety technology systems and make enhancements as appropriate.
- OSS will be available to address specific safety concerns raised by students and staff.

- OSS will provide Safe Passage workers for students and staff traveling to and from school. The workers wear identifiable vests and are available on designated street corners to monitor students' safety during their travel to school in the morning and home in the afternoon.
- CPS will provide transportation in the form of shuttle busses for all returning Ericson students who are being assigned to Sumner. The shuttle busses will provide transportation to and from Ericson and Sumner school locations until all current Ericson students graduate from Sumner. For current Ericson students receiving transportation in accordance with the Board's admission policy for magnet, selective enrollment and other options for knowledge, schools and programs, which is in policy section 602.2, Board Report 11-0827-P02, this transportation will continue when they were welcomed at Sumner School.

Additionally, students will receive academic supports as they transition, including the following:

- A Principal Transition Coordinator (PTC") will be assigned to help the principal of Ericson maintain academic rigor for the remainder of the school year and insure a smooth transition to Sumner. PTCs are former principals or other administrators with significant experience, who will be a resource for the administration.

- The Sumner administration will receive comprehensive, student specific data on all transitioning students to allow staff to proactively identify individual student needs, and prepare to meet those needs.
- Ms. Washington stated she will set aside dedicated time to hold office hours and will welcome families and students affected by this action to discuss concerns and educational options at 2908 West Washington Street, Chicago, from 1:00 to 3:00 p.m. on May 1, 8 and 15.
- Principals will receive discretionary resources to provide direct academic support to students. For example, these funds may be used to provide an instructional coach, teacher leader or to obtain an academic tutoring position or program for students in reading and math.

Students will also receive social and emotional supports to help them adjust to a new student environment, including the following:

- CPS will help school staff members facilitate intervention groups or peace circles aimed at helping students work through concerns associated with the transition.
- CPS will help staff members implement restorative practices, such as peer circles and peer juries, to encourage peer-to-peer problem solving and resolution.
- Students in need of more individualized attention will be provided with access to highly structured interventions.
- To foster an environment that is both supportive and inclusive for all students, CPS will provide resources to Sumner leadership to implement

culture-building activities such as staff luncheons and trust building activities. Resources will also be provided to sponsor activities such as school visits for families, coffee chats with the principal, picnics, field trips and parent meetings to help transitioning families get to know their new school.

Finally, additional transition supports will be provided to insure that Ericson students with unique needs or circumstances are adequately supported in this transition, including students with diverse learning needs, students in temporary living situations, English language learners and early childhood participants. A complete copy of Ms. Washington's statement is available at Tab 22 of Exhibit 1.

B. Public Commentary

The floor was then opened to the public for comment. The Hearing Officer again thanked those present for taking time from their busy schedules to participate in the hearing. It was again stated that a Spanish language interpreter was present, and a sign language interpreter signaled her presence.

One hundred sixty-one public participants attended the hearing, and thirty-five elected to speak. The speakers included Alderman Jason Ervin of the 28th Ward, Ericson's Principal, Leavelle Abram, four teachers, fifteen students, nine parents of students, two volunteer parents, a Local School Council member, a member of the Chicago Teachers Union, and an afterschool program partner. While the classifications for several of the above speakers overlapped, they have been only counted once.

Those attending the meeting but not speaking included a reading specialist, teachers, substitute teachers and teacher assistants, a Local School Council co-chair and former Local School Council member, students, parents and grandparents, Ericson's assistant principal, food service personnel, and afterschool program partners.

The tenor of the public comment was consistent – all opposed to the proposed closing. And, while their opposition was strong, the participants were orderly at all times. The speakers' comments were similar to the comments raised at the two previous public meetings.

Alderman Ervin was one of the first to speak. He said while Ericson is a magnet school it functions as a neighborhood school, and 60% of the students live within six blocks of the school. The change to Sumner would move students at least ten blocks, from East Garfield Park to West Garfield Park. The children would have to pass through the attendance boundaries of three schools (Faraday, Delano and Melody) to get to Sumner. They will have to cross Interstate 290, several gang territories and three - five major streets. Alderman Ervin said he would not walk from Ericson to Sumner or vice versa.

He also mentioned that Ericson's attendance has improved, SAT scores are up, enrollment is increasing and misconduct suspensions have decreased by 46%. Ericson is on the rise, and now has partnerships with Malcolm X College, Trio Program, Junior Achievement, Rush Hospital, BUILD, and the West Side Afro-American Police Association. A copy of Alderman Ervin's complete statement is included in the Exhibits.

Leavelle Abram, Ericson's principal, also spoke stressing how Ericson has improved. Disciplinary infractions are down, test scores are increasing, and a new reading program is in place. The principal also mentioned how students now stay after school as a result of an instructional change. Kids get there at 8:00 and some do not leave until 5:45. "Sometimes I have to push them out." In sum, the climate is changing at Ericson. It just needs a little more time.

Other speakers raised the following points:

- The school is an anchor for the community. Ericson is a family, and it is safe.
- Attendance and test scores are improving, and in fact Ericson has a waiting list of students who want to enroll.
- Ericson has had a high principal turnover, and CPS should now give it an opportunity to improve.
- It will be hard for Sumner to welcome Ericson students when they will double the school's enrollment.
- Although Ericson and Sumner are both on 5th Avenue, it is not a straight shot. There is no safe or easy way for many Ericson students to get to Sumner. They will have to walk past crack houses, abandoned buildings, whore houses, and pass through gang territories just to get to school.
- CPS is wrong when it says Ericson has insufficient computer and science labs.
- A teacher criticized CPS's formula for rating Ericson as Level 3 and Sumner as Level 2. A one-year drop in ISAT scores is an unfair measurement.

- A member of the Chicago Teachers Union questioned the premise that CPS will save money by closing schools. He also said the City has siphoned \$250 million through TIF Programs.
- Students said the closing will break up the student community, and that many of their friends will not attend Sumner.
- Given its ranking in the Garfield Humboldt Network Ericson should never have been placed on the closure list.

By the conclusion of the hearing everybody in the room was given an opportunity to speak, including those who had not signed up to do so. Seven public participant exhibits were admitted into the record. Finally, it was explained that the hearing would remain open until 5:00 p.m. the following day in the event anyone had anything to add. Written statements and exhibits could be emailed to qualityschools@cps.edu or dropped off here at the 7th floor Law Department at 125 South Clark Street. Indeed, one of the aforementioned exhibits was dropped off the following day.

V. FINDINGS

With respect to proposed school closures, the Hearing Officer's function is somewhat limited. The Hearing Officer does not decide whether the proposed closure is prudent or reasonable. Nor does the Hearing Officer determine if the CEO's proposal is in accord with the manifest weight of the evidence. Rather, the School Code instructs the Hearing Officer to:

issue a written report that summarizes the hearing and determines whether the chief executive complied with the requirements of this Section and the guidelines.

105 ILCS 5/34-230(f)(4).

Thus, the proper function of the hearing officer here is to conduct a public hearing that allows CPS an opportunity to present its rationale for the proposed closure, and gives those affected by the closure, and their public officials, an opportunity to present testimony, offer exhibits, and express their positions. The hearing officer's task then is to issue a report, summarizing the hearing, and determining whether the CEO followed the very specific mandates of the School Code. If it is determined the CEO did not comply with the School Code, the Board shall not approve the school closure. However, if the CEO has fully complied with Illinois law and CPS's policies and guidelines, the ultimate decision to close is within the sound discretion of the School Board.

The Hearing Officer has carefully examined the record and concludes that the CEO has complied with all of the requirements of the School Code:

- The list of independent hearing officers and Draft Guidelines for School Actions for the 2012-2013 school year were published on the CPS website on October 31, 2012.
- The Final Guidelines for School Actions were published on the CPS website on November 30, 2012.
- The CEO timely announced the proposed closure of Ericson.
- The CEO timely published notice of the proposed closure, including a written statement of the basis of the school action, an explanation of how the school

actions meet the criteria set forth in the guidelines, and a draft School Transition Plan identifying the items required in Section 34-225 of the Code for all schools affected by the Plan.

- The notices set forth the date, time and place of the public meetings and hearing and were provided to the principal, staff, local school council and parents or guardians of children subject to the proposed closure.
- Written notice was also provided to Senator Patricia Van Pelt of the 5th District of the Illinois Legislature, Representative Derrick Smith of the 10th District of the Illinois Legislature, Alderman Jason C. Ervin of the 28th Ward of the Chicago City Council, and Alderman Michael Chandler of the 24th Ward of the Chicago City Council.
- Notice of the proposed closure was timely published on the District's website.
- Two public meetings were noticed and conducted at Manley Career Academy High School, 2935 West Polk Street, on Saturday April 6, 2013 at 12:30 p.m. and Friday April 12, 2013 at 7:30 p.m. The transcripts and the summaries of these public meetings are contained in Exhibit 1, Tab C, 16-19.

Exhibit 1, Tab A 1-6 contains the aforementioned notices along with affidavits reflecting compliance with mailing and publication requirements. Indeed, no questions regarding compliance with Section 34-230 were ever raised at the public meetings or hearing.

Mr. Payne's testimony clearly explains why Ericson, with a 510 student enrollment, and Sumner, with a 375 student enrollment, are underutilized. He also

explained why the combined enrollment of Ericson and Sumner of 885 students is below Sumner's enrollment efficiency range.

Ms. Washington's testimony explains why Sumner, at level two, is a higher performing school than Ericson, at level 3. Her testimony also mentions the CPS Office of Safety and Security plan for a safe transition of students and academic and social supports the students will receive.

Based on the foregoing the Hearing Officer finds that the CEO has fully complied with all applicable Illinois laws and CPS's policies, guidelines and procedures which must be met prior to the Board's consideration of the proposal for the closing of Ericson and welcoming returning students at Sumner.

Dated: May 4, 2013

A handwritten signature in black ink, appearing to read "Tom Rakowski", written over a horizontal line.

**Hon. Thomas Rakowski (Ret.)
Independent Hearing Officer**