



**Board of Education of the City of Chicago
Law Department**

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MEMORANDUM

Date: May 6, 2013

From: James L. Bebley, General Counsel

Re: Response to the report from the hearing to elicit public comment on the proposal to close George Manierre Elementary School

Hearing Officer Paddy McNamara conducted a public hearing on the proposal to close George Manierre Elementary School ("Manierre") on April 30, 2013. The Hearing Officer issued a report ("Report"), received on May 3, 2013. The Report includes a determination that the Chief Executive Officer ("CEO") did not comply with the *Guidelines for School Actions, School Year 2012-2013* ("Guidelines") in the following respects:

1. The Board¹ has violated the Guidelines for School Actions by failing to consider the unique circumstances of Manierre School; and
2. When space utilization, academic progress and performance, and safety are taken into account, the CEO's documentation has failed to support the proposal to close Manierre.

After reviewing the Report and the materials submitted during the hearing, I respectfully disagree with the Hearing Officer's determination, and conclude that the Hearing Officer exceeded the scope of her authority by failing to apply the law and Guidelines as promulgated.

¹ The Report improperly attributes the action taken thus far to "the Board." It is important to note that the proposal to close Manierre has been made by the Chief Executive Officer and the Chicago Board of Education has not yet taken any action on this proposal.

The stated purpose of the public hearing is “to elicit public comment . . . on a proposed school action” 105 ILCS 5/34-230(e). The Hearing Officer’s role is to issue a report “that summarizes the hearing and determines whether the chief executive officer complied with the requirements of [105 ILCS 5/34-230] and the guidelines.” *Id.* at (f)(4). As part of the notice process, CPS must publish a draft transition plan identifying the items required in Section 34-225. *See* 105 ILCS 5/34-230(c)(1) and 34-225(c), and Guidelines at § II.

First, the Hearing Officer’s finding that the proposal does not comply with the Guidelines improperly considers information outside of the record. The Report identifies the documents reviewed by the Hearing Officer, including the evidentiary binder presented by the CEO at the public hearing, the transcript from the public hearing regarding the CEO’s proposal, the relevant Illinois School Code provisions, and the Guidelines. *See* Report at 1. However, the Report discusses the transition plans sent “to all parents in all 50 plus schools subject to closure.” *See id.* at 2. The Hearing Officer implies that the draft transition plan for the proposed closure of Manierre is not unique, and thus, does not comply with the Guidelines. *See id.* The Report bases this finding on a comparison of the Manierre draft transition plan to those created for other proposed school actions.² *See id.*

The only draft transition plan submitted to the Hearing Officer for consideration was the draft transition plan for the proposed closure of Manierre contained in the CEO’s Compiled Exhibit 1 (“Exhibit”) at tabs 1 and 2. The Report does not identify any other draft transition plans submitted for consideration. Because the law limits the scope of the Report to a summary of the hearing (*see* 105 ILCS 5/34-230(f)(4)), the Hearing Officer’s finding based on information collected outside of the hearing record exceeds the scope of her review.

Second, the Report incorrectly finds that the CEO’s documentation has failed to support the proposal to close Manierre, taking into account space utilization, academic progress and performance, and safety. The CEO’s Exhibit, submitted at the public hearing and reviewed by the Hearing Officer, provides the following evidence in support of the CEO’s proposal:

1. The statement of Patrick Payne demonstrates that the enrollment efficiency range of the Manierre facility is between 768 and 1,152 students and that the enrollment of Manierre, as of the 20th day of attendance for the 2012-2013 school year, is 351. *See* Exhibit at tab 21. Thus, the school is underutilized. *Id.*

² The Hearing Officer noted that all draft transition plans created for the CEO’s proposed school actions were the same and states that “only a computerized change of school names differentiates the letters.” Report at 2. Although outside the bounds of the Hearing Officer’s purview, it is important to clarify that this statement is inaccurate. A detailed review of all transition plans would highlight variances unrecognized by the Report.

2. The statement of Lynda Williams demonstrates that Edward Jenner Elementary Academy of the Arts (“Jenner”) is a higher performing school based on the Guidelines because Jenner performed higher on the majority of four performance metrics. *See* Exhibit at tabs 24 and 25 (summarized below).
 - Points received on the Performance Policy:
 - o Jenner received 38.1% of available points.
 - o Manierre received 9.5% of available points.
 - ISAT Meets or Exceeds Composite Score:
 - o Jenner’s score was 53.4%.
 - o Manierre’s score was 54.3%.
 - Value-Added Score in Reading:
 - o Jenner’s score was 0.4.
 - o Manierre’s score was -1.3.
 - Value-Added Score in Math:
 - o Jenner’s score was -0.4.
 - o Manierre’s score was -1.8.
3. The statement of Patrick Payne demonstrates that the resulting space utilization after Manierre’s closure will not exceed the Jenner facility’s enrollment efficiency range. *See* Exhibit at tab 21. The Jenner facility’s enrollment efficiency range is between 552 and 828 students. *Id.* The combined projected enrollment of Manierre students and Jenner students for the 2013-2014 school year is 636 students, which is within the Jenner facility’s enrollment efficiency range. *Id.*
4. The Draft Transition Plan for the proposal includes specific supports to address security and safety issues. *See* Exhibit at tabs 1 and 2. Specifically, the draft transition plan states that the CPS Office of Safety and Security has consulted and will continue to partner with local community groups, elected officials, sister agencies, and the Chicago Police Department to maintain a safe transition for students to a new school environment. *Id.* The Office of Safety and Security also commits to reviewing and updating school safety audits, reviewing security personnel allocations, reviewing school safety technology and enhancing systems as appropriate, addressing safety concerns raised by students and staff, providing Safe Passage program supports, and providing a transition security officer as deemed necessary. *Id.*

The identification of these supports fulfills the requirements of Section 34-225 and the Guidelines. The Hearing Officer’s conclusion is based on an opinion regarding the sufficiency of supports, which is outside the scope of her review and expertise.

Additionally, CPS continues to evaluate the draft transition plan. As noted in Lynda Williams' statement, final transition plans will be issued if the Board approves this proposal, which will incorporate feedback from community meetings, the hearing, and additional input received. *See Exhibit at tab 24.* Thus, the draft transition plan may be amended to include the feedback received regarding student safety and security, should the Board approve this proposal.

It is my view that the Hearing Officer's reported conclusion is incorrect. However, Chicago Public Schools will consider the Hearing Officer's views along with other information in the Report.