



**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 William J. & Charles H. Mayo Elementary School and relocate Ida B. Wells Preparatory Elementary Academy

Hearing Officer Paddy McNamara conducted a public hearing on the proposal to close William J. & Charles H. Mayo Elementary School ("Mayo") on April 22, 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 respect: the draft transition plan for the proposed closure of Mayo fails to provide information regarding staffing and space considerations for students with disabilities in order for parents to adequately address their options.

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.

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, which include "supports for students with disabilities." See 105 ILCS 5/34-230(c)(1) and 34-225(c), and Guidelines at § II.

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, Illinois School Report Cards and 2012 School Progress Reports issued for Mayo and Wells, 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 Mayo is not unique, and thus, does not comply with the Guidelines. *See id.* The Report bases this finding on a comparison of the Mayo draft transition plan to those created for other proposed school actions.¹ *See id.*

The only draft transition plan submitted to the Hearing Officer for consideration was the draft transition plan for the proposed closure of Mayo 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.

Moreover, the Report misapplies the statutory requirements for draft transition plans by finding that critical information was missing from the Mayo draft transition plan. The Report requires the draft transition plan to discuss "staffing and sufficient space" in order for parents "to adequately address their options." Report at 6. The Hearing Officer finds this "[t]he lack of information" fatal to the CEO's proposal. *See id.*

The Mayo draft transition plan dedicates the following supports for students with disabilities (see Exhibit at tab 1, page 3):

1. Providing instructional, clinical, and specialized services in accordance with students' Individualized Education Programs (IEPs) for the remainder of the 2012-2013 school year and when students transition to Ida B. Wells Preparatory Elementary Academy ("Wells");
2. Ensuring classrooms are set up to meet student needs, scheduling students in accordance with their IEPs, and ensuring adequate staff to fully implement student IEPs;

¹ 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.

3. Reviewing all IEPs with staff at Wells, providing observations of classrooms when school resumes, and training Wells staff on specialized equipment for specific student needs; and
4. Providing disability awareness training to staff at Wells, focusing on the unique population of the students in the school.

The identification of these supports fulfills the requirements of 105 ILCS 5/34-225 and the Guidelines. Additionally, CPS continues to evaluate the draft transition plan. As noted in John Price's 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 the impact of this closure on students with disabilities, 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.