

## **Comments on the Draft School Action Guidelines for 2015-2016**

*Submitted by:*

LAF (Legal Assistance Foundation)  
Cabrini Green Legal Aid  
Chicago Coalition for the Homeless  
Chicago Lawyers' Committee for Civil Rights Under Law  
Children's Law Group, LLC  
Equip for Equality  
Legal Council for Health Justice  
Legal Advocacy Center of the Jewish Federation of Metropolitan Chicago

Attached are the comments of the above listed organizations. Each of us works on legal issues in education, representing clients from communities across the city of Chicago.

Our submission is based on the Draft Guidelines that Chicago Public Schools (CPS) published at the beginning of October 2015. Our suggested deletions are indicated with strike out marks, and our suggested additions are indicated by underlining. All changes appear in red. The rationale for our proposed changes is included in the right margin.

**DRAFT GUIDELINES FOR SCHOOL ACTIONS**  
**2015-2016 SCHOOL YEAR**  
(Published October 1, 2015)

**I. PREAMBLE**

The Illinois School Code (105 ILCS 5/34-230) requires the Chief Executive Officer (CEO) to publish draft guidelines for school actions by October 1 of each year. These guidelines shall outline the academic and non-academic criteria for a school action, be created with the involvement of local school councils, parents, educators, and community organizations, and the draft guidelines, and each subsequent revision, are to be subject to a public comment period of at least 21 days before their approval. The Illinois School Code (105 ILCS 5/34-230) also requires that the CEO announce all proposed school actions to be taken at the close of the current academic year by December 1 of each year.

The Draft Guidelines preserve the flexibility to propose reassignment boundary changes to resolve overcrowding concerns and to propose co-locations for existing ~~or new~~ school options.

**II. CRITERIA**

If recommending any school actions (as defined by 105 ILCS 5/34-230) during the 2015-2016 school year, the CEO will consider the criteria specified below:

A. Criteria for Co-location

The CEO may propose a co-location of two or more schools within the same facility only if:

1. the combined projected enrollment is within the facility's enrollment efficiency range as defined by the CPS' Space Utilization Standards; and
2. the facility can support the academic programming of the schools being co-located together.

In determining whether to propose a potential co-location that meets the above-specified conditions, the CEO ~~may~~ shall consider other information, including, but not

**RATIONALE FOR PROPOSED CHANGES:**

*We appreciate CPS's efforts to obtain public comment (as required by 105 ILCS 5/34-230), but we note that despite significant public commentary in past years, CPS's revisions to its Guidelines have been minimal. We look forward to seeing the changes that CPS adopts after this public comment period and offer the following rationale for our proposed changes.*

**Removing "New" School Options**

Considering CPS's current budget crisis, co-locations should not be used to place new school programs inside the buildings of existing school programs. Co-locations of this kind can result in reduced resources for the existing school and other existing schools in the area.

**Statutory Definitions for School Actions**

The CEO must follow the procedures set forth in the Guidelines and in the Illinois School Code for all facility-based decisions that meet the definition of a "school action" under 105 ILCS 5/34-230. The statutory definitions for school closings, consolidations, co-locations, phase-outs, and boundary changes are legally binding regardless of how CPS characterizes a particular decision.

**Changing "May" to "Shall"**

Factors like the safety and security of students are not negotiable. These should be essential considerations in making any school action determination.

limited to: safety and security; school culture and climate; school leadership; quality of the facility; and an analysis of transition costs; the academic performance of the schools; the feasibility of impacted students accessing options that are higher performing, including the likelihood of admittance and distance of travel required; and whether there are unique utilization considerations for a particular attendance center, such as a higher than average percentage of special education students in attendance.

Constraining Factors For Co-Locations:

1. The CEO may not propose a co-location if it would require a neighborhood school to be co-located with a charter school.
2. The CEO may not propose a co-location unless he or she can demonstrate that the co-location in question will not destabilize student enrollment for either of the co-located schools.
3. The CEO may not propose a co-location if one or more of the schools subject to the co-location was a receiving school in a prior school action within the past four years.
4. The CEO may not co-locate two schools on the grounds that one or both are underutilized under the CPS Space Utilization Standards.
5. The CEO may only propose a co-location if he or she can demonstrate that no student at either co-located school will lose an opportunity for extra-curricular or co-curricular activities that he or she had prior to the co-location.
6. The CEO may only propose a co-location if no affected child must walk more than one mile to his or her new school location, and if no affected student receiving special education services must travel more than half a mile to get to the new school location.

**RATIONALE FOR PROPOSED CHANGES:**

**Factors 1-2, 4-5**

It is critical that the Guidelines prohibit co-locations that may destabilize enrollment at one or more of the co-locating schools. Like all school actions, co-locations disrupt the educational experiences of impacted students. However, co-locations also create an acute risk of decreasing or destabilizing enrollment at neighborhood schools. CPS's student-based budgeting intensifies the potential harm to affected students. Lower enrollment means a loss of much needed funding, which in turn leads to fewer resources for students. CPS needs to stop this negative cycle and not propose any co-locations that might destabilize one of the affected schools.

**Factor 3**

Research has shown that students lose educational time when they are subjected to a school action. It is unreasonable for a group of students to be affected by a school action more than once in a short period of time.

**Factor 4**

Authorizing a co-location based on utilization inevitably leads to closing of one school building, thereby violating the CPS's moratorium on closings.

**Factor 6**

Long inner-city commutes can be dangerous, contribute to absenteeism, and should be avoided to the greatest extent possible. There is already a lack of free transportation for low-income students without disabilities, which critically limits the choices that families can make and the educational options that students have. Serious consideration must be given to the travel challenges imposed on students.

**Factors 1 and 7**

Co-locations of charter and neighborhood schools create confusion for the community and rivalry between the two academic programs. Prohibiting co-locations of charters and neighborhood schools will reduce this tension. (Cont.)

7. If a co-location of two attendance centers is proposed, CPS must obtain community input (through a hearing or public meeting) regarding the physical location of each program within the co-location facility.

## B. Criteria for Reassignment Boundary Change

The CEO may ~~propose~~ **announce** a **proposed** reassignment boundary change that results in the reassignment of current students from one school to one or more other schools only if:

1. a school is overcrowded or projected to become overcrowded, as measured by the CPS Space Utilization Standards and enrollment projection methodology; and
2. the resulting space utilization for any school whose boundary is increased after the reassignment boundary change is not expected to exceed the facility's enrollment efficiency range as defined by the CPS Space Utilization Standards and enrollment projection methodology; and
3. the resulting space utilization for any school whose boundary is decreased after the reassignment boundary change is not expected to be below the facility's enrollment efficiency range, once enrollment reaches a sustained and stable pattern, as measured by CPS' Space Utilization Standards and enrollment projection methodology.

In determining whether to propose a reassignment boundary change that meets the above specified conditions, the CEO ~~may~~ **shall** consider other information, including, but not limited to: safety and security; school culture and climate; school leadership; quality of the facilities; transition costs; the academic performance of the schools; ~~and~~ the feasibility of impacted students to access options that are higher performing, including the likelihood of admittance and distance of travel required; and whether there are unique utilization considerations for a particular attendance center, such as a higher than average percentage of special education students in attendance.

### Constraining Factors For Boundary Changes:

1. The CEO may not propose a boundary change unless he or she can demonstrate that the potential boundary change will not destabilize the

## **RATIONALE FOR PROPOSED CHANGES:**

### **Factors 1 and 7 (cont.)**

Eliciting community input regarding the arrangement of each academic program within a building would help ensure that the needs of each program are met.

### **Changing "Propose" to "Announce"**

This change aims to clarify that the CEO is not the only entity that can propose a boundary change. Illinois law only requires that the CEO "announce all proposed school actions." 105 ILCS 5/34-230. It does not limit who can make this proposal. In the past, community groups have proposed plans that would involve a boundary change, and Guideline language should make clear that such a proposal does not have to come from the CEO.

### **Changing "May" to "Shall"**

As described above, the considerations listed in this section are essential issues that the CEO must consider.

### **Factors 1 and 4**

As described above, school actions and resulting decreases in student enrollment can have significant and long-lasting consequences for impacted students.

student enrollment at either affected school.

2. The CEO may not propose a boundary change if one or more of the schools subject to the boundary change was a receiving school in a prior school action or was subject to a school turnaround within the past four years.
3. The CEO may not propose a boundary change unless the displaced students would be placed within the boundaries of a school performing at least 2 full levels above the previous school under the School Quality Rating Policy (i.e., students attending a Level 2+ school would need to be assigned to Level 1+ school).
4. The CEO may not propose a boundary change where any student who must change schools because of the boundary change loses the opportunity for co-curricular activities that she or he would have had at his former school.

#### C. Criteria for Consolidation

The CEO may announce a proposed consolidation that results in the combination of currently enrolled students from one school with currently enrolled students at another school only if the Local School Council (LSC) from each affected school has voted and approved a potential consolidation.

In determining whether to propose a consolidation that meets the above specified conditions, the CEO shall consider other information, including, but not limited to: safety and security; school culture and climate; school leadership; quality of the facilities; transition costs; the academic performance of the schools; loss of opportunities for extra-curricular or co-curricular activities; the feasibility of impacted students to access options that are higher performing, including the likelihood of admittance and distance of travel required; and whether there are unique utilization considerations for a particular attendance center, such as a higher than average percentage of special education students in attendance.

#### **RATIONALE FOR PROPOSED CHANGES:**

##### **Factor 2**

As described above, research has shown that students lose educational time when they are subjected to a school action. It is unreasonable for one group of students to be affected by school actions more than once in a short period of time.

##### **Factor 3**

The learning outcomes for students impacted by a school action depend on the characteristics of the schools to which they are subsequently assigned. Research has shown that a student's new school must be significantly higher performing in order for the student to academically benefit. This factor provides this protection.

##### **Adding Consolidations**

Since 2013, CPS has included "consolidation" in some form within the Guidelines. This year's Guidelines do not. However, school communities have already made clear that they are considering consolidation to address utilization and budgetary concerns. To the extent that students, parents, teachers, and LSC members support these efforts, proposals to consolidate should be permitted, encouraged, and included in the Guidelines.

D. Application of the CPS Space Utilization Standards in School Action Decisions

1. No room that is currently used or was primarily used during the 2014-2015 or 2015-2016 school year for Headstart, Early Intervention, Early Childhood Education, daycare, services for homeless students or a medical clinic shall be counted as an “allotted dedicated general education homeroom classroom” (“homeroom classroom”) under the Space Utilization Standards—unless that room is used as a general education classroom as of October 1, 2015.
2. No room that is currently used or was primarily used during the 2014-2015 or 2015-2016 school year as a self-contained special education classroom or to provide ancillary services or evaluations required by the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act (including, but not limited to rooms used for cluster classrooms, sensory integration, screening students, special education evaluations, counseling, physical therapy, speech therapy, or occupational therapy) shall be counted as a homeroom classroom under the Space Utilization Standards—unless that room is used as a general education classroom as of October 1, 2015.

E. Constraining Factors Applicable to All School Actions

1. No school action shall occur where the hearing officer, appointed pursuant to 105 ILCS 5/34-230, recommends that the school not be subject to the school action proposed by the CEO.

**RATIONALE FOR PROPOSED CHANGES:**

**General Concerns re Utilization Standards**

For the fourth consecutive year, CPS’s Guidelines rely on the district’s Space Utilization Standards. Those Standards fail to acknowledge or accommodate the spatial needs of students with disabilities. Similarly, they ignore Illinois regulations establishing lower room capacities for self-contained special education classrooms. As we have requested in the past, CPS’s Utilization Standards need to be revised to accommodate the unique space utilization needs of students with disabilities. Failure to include a reasonable accommodation for students with disabilities would result in a continuing violation of the Americans with Disabilities Act (ADA).

**Application of Utilization Standards**

Our proposed language sets forth one way that CPS could account for unique spatial needs of different student groups. Illinois law already limits the number of students that can be served in the rooms described in items 1-2, and continuing to calculate utilization of these spaces based on class sizes for general education classrooms is unfair and discriminatory. If CPS is going to attempt to accommodate the space utilization needs of students with disabilities and other unique student groups, it should clearly state those accommodations in its Guidelines.

**Factor I**

In 2013, certain independent hearing officers (IHOs) found that CPS did not comply with the Guidelines and recommended that the Board of Education not approve those school actions. In each case, CPS responded that the IHO had exceeded the scope of his or her authority. However, Illinois law specifically states that IHOs must summarize whether the CEO complied with the school action law and Guidelines—and if the CEO did not comply, the action should not be approved. Clarifying that IHO opinions are binding on CPS is a way to make this process more transparent and consistent with Illinois law.

2. No school action shall occur where students are transferred to another school building that is not ADA compliant.
3. CPS must conduct an impact analysis of any proposed school action and shall not propose any school action that has a disparate negative impact on students by race, color, national origin, homeless status, or gender.
4. CPS must conduct an impact analysis of the cumulative effect of all proposed school actions and shall not approve multiple school actions that would have a disparate negative impact on students by race, color, national origin, homeless status, or gender.
5. Any meeting to discuss and/or determine the contents of the school action guidelines or whether to instigate a school action should be an open meeting consistent with the requirements of the Open Meetings Act, 5 ILCS 120/1 et seq.

### III. PROCESS FOR COMMENTING ON DRAFT GUIDELINES

The Draft Guidelines were made available on [www.cps.edu/guidelines](http://www.cps.edu/guidelines). Public comments on the Draft Guidelines may be submitted on-line, via e-mail ([CEOGuidelines@cps.edu](mailto:CEOGuidelines@cps.edu)) and websurvey at [www.cps.edu/guidelines](http://www.cps.edu/guidelines). U.S. mail is also an acceptable means of providing feedback. The mailing address is: Attn: CEO's Office re: Draft Guidelines c/o Patrick Payne, 42 W. Madison Street, 3rd Floor, Chicago, IL 60602. The public comment period closes at 5:00 p.m. on October 22, 2015.

### IV. NOTICE AND SCHOOL TRANSITION PLANS

On the day of announcement, notice of any proposed school action will be provided to the principal, staff, local school council, parents or guardians, Illinois State Senator, Illinois State Representative, and Alderman for the school or schools that are subject to the proposed school action. Notice will include the date, time, and place of public meetings being held to elicit public comment on the proposal.

#### **RATIONALE FOR PROPOSED CHANGES:**

##### **Factor 2**

In the past, CPS has transferred displaced students to schools that are not ADA compliant. This is unacceptable and should not occur in the future.

##### **Factors 3 and 4**

Past school actions have disproportionately impacted minority students and students living in poverty. Moving forward, CPS should conduct impact analyses to ensure that the disparate impact of school actions on certain students does not continue. This includes thorough consideration of the student populations affected by particular school actions—as well as consideration of the impact that the proposed actions have as a whole.

##### **Factor 5**

This suggestion aims to improve overall transparency for the school action process.

##### **Specificity of Transition Plans**

In order for transition plans to appropriately and effectively address the needs of impacted students, transition plans must be specifically drafted to address the unique needs of each affected school community. In the past, transition plans have been primarily composed of boilerplate language, which generally addressed the protections outlined in the school action law—regardless of whether or not those protections were relevant for a given attendance center. In the past, CPS's own Guidelines required that transition plans be specific to the unique needs of schools—CPS should not abandon this.

Along with notice of the CEO’s proposal, the CEO will issue a draft school transition plan dependent on the proposed school action. The draft school transition plan will include specifically address the unique needs of the school and the students enrolled in that school, including but ~~is~~ not limited to, the following: (1) services to support the academic, social, and emotional needs of students; supports for students with disabilities, students in temporary living situations, and English language learners; and supports to address security and safety issues; (2) options to enroll in higher performing schools; (3) informational briefings regarding the choice of schools that include all pertinent information to enable the parent or guardian and child to make an 3 informed choice, including the option to visit the schools of choice prior to making a decision; and (4) the provision of appropriate transportation where practicable needed.

A. All Transition Plans:

1. All transition plans must include provisions for the transfer of curricular and co-curricular activities or programs that were available to students at their previous school and at their new school following a school action. These programs may also include services provided by outside agencies such as afterschool activities, enrichment activities, activities promoting civic engagement, health services, legal services, and social services—which may occur in the school during and after attendance hours.
2. All transition plans must also include the assignment of additional counseling staff to attendance centers supporting students during any transition after a school action.

B. Co-Location Transition Plans:

If the CEO proposes a co-location of two or more academic programs, the corresponding transition plan for the co-located schools shall include specific information and strategies that will be used to preserve the separate identities of the co-located programs. Such information must include which portion of the facility and which facility-related expenses will be assigned to each co-located academic program. Transition information should also

**RATIONALE FOR PROPOSED CHANGES:**

**Specificity of Transition Plans (cont.)**

Transition plans should be tailored to address the unique educational and safety needs of affected school communities. In addition, implementation of those plans must include ensuring that enrollment, transportation, educational programming, and services are planned in advance and are in place at the beginning of the school year.

**Transition Plans & Student Programming**

All students benefit from continuity and consistency in their school environments and opportunities to participate in co-curricular activities. Programming beyond the traditional academic curriculum often contributes significantly to encouraging student attendance and participation in school and to reinforcing other healthy life choices. The Guidelines should address how these opportunities will be preserved for impacted students.

**Transition Plans & Counseling**

Illinois law specifically requires that transition plans include services to support the social and emotional needs of students attending a school that is the subject of a school action. School counseling is very important way that CPS can provide this support.

**Co-Location Transition Plans**

Maintaining the identity of each academic program that is subjected to a co-location is one of the primary challenges once separate programs are transitioned into the same building. Additionally, there needs to be a clear understanding between CPS and both co-located programs regarding which portions of the building and which expenses will be assigned to each academic program.

include: (1) where each program will be located within the co-location site; (2) entry and exit procedures for each program (i.e., will there be separate entrances, main offices, etc. for each program); (3) which spaces within the co-location site will be shared and how students will transition to and from these spaces; (4) plans for explaining the new building organization to students and their families; and (5) programming and/or strategies that will be used to encourage cooperation and support between the co-located student communities.

## V. DEFINITIONS

“Co-curricular activities” include, but are not limited to, specialized activities that take place during the school day such as visual and performing arts, band, orchestra, cheerleading, gymnastics, music, sports, academic clubs, chess clubs, etc.

“Co-location” means two or more separate, independent schools with their own school leader(s) co-existing within a Chicago Public School facility.

“Extra-curricular activities” include, but are not limited to, specialized activities that occur primarily outside of regular school hours such as team sports or cheerleading, after or before school clubs, music, etc.

“Reassignment boundary change” means an attendance area boundary change that involves the reassignment of currently enrolled students.

“Safety and security” includes, but is not limited to, consideration of specific incidents of violence in a particular community, parent and student concerns about future harm, concerns from affected community members (especially where a facility will be closed in their area), etc.

“School action” means any school closing; school consolidation; co-location; boundary change that requires reassignment of students, unless the reassignment is to a new school with an attendance area boundary and is made to relieve overcrowding; or phase-out.

## **RATIONALE FOR PROPOSED CHANGES:**

### **Co-Location Transition Plans (cont.)**

The purpose of transition planning is to enable students to safely and efficiently transition into their new learning environments after a school action, and the added language aims to improve the quality and effectiveness of co-location transition plans.

### **Definitions Generally**

Where possible any definition in this section should be identical to the definition of that term in the Agreement between the Board of Education of the City of Chicago and the Chicago Teacher’s Union Local 1 (AFLCIO).

### **Safety and Security**

This term should be defined and interpreted broadly. As CPS has acknowledged in the past, many CPS students have already been exposed to significant trauma. Fear itself can be as traumatizing as violence. Safety concerns from parents and students should be considered and weighted heavily when proposing any type of school action.

### **“School Action”**

All facility-based decisions must be classified based on the definitions set forth in 105 ILCS 5/34-230 for school closings, consolidations, co-locations, phase-outs, and boundary changes—regardless of how CPS internally characterizes these decisions. If a facility-based decision meets the statutory definition for a particular action, then the procedures set forth in the Illinois School Code must be followed. This clarification is requested based on CPS’s decisions to close Montefiore and Marine Math & Science without following any of the procedures required for a school closing under 105 ILCS 5/34-230.

“Space Utilization Standards” mean the Chicago Public Schools’ Space Utilization Standards, found at:

[http://www.cps.edu/About\\_CPS/Policies\\_and\\_guidelines/Documents/SpaceUtilizationStandards.pdf](http://www.cps.edu/About_CPS/Policies_and_guidelines/Documents/SpaceUtilizationStandards.pdf), establishing standards for determining enrollment efficiency, overcrowding, and underutilization.

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**RATIONALE FOR PROPOSED CHANGES:**