

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Charles P. Kocoras	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	80 C 5124	DATE	August 10, 2006
CASE TITLE	United States of America vs. Board of Education of the City of Chicago		

DOCKET ENTRY TEXT

Joint motion [1224] of United States and Board of Education of the City of Chicago for approval of Second Amended Consent Decree is granted in part and denied in part. We vacate the Modified Consent Decree and enter the consent decree set forth below.

■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

ORDER

On March 1, 2004, approximately 24 years after the Original Consent Decree in this case was entered, the United States and the Board of Education of the City of Chicago ("CPS") (collectively the United States and CPS are sometimes referred to herein as the "parties") entered into a Modified Consent Decree ("MCD"). The MCD was the result of extensive negotiations between the parties and was formed for the purpose of bringing this long-standing litigation to an orderly and just conclusion. Although the MCD embodied the central purposes of the 1980 Original Consent Decree, it also contained a number of new reporting obligations on CPS, specific limits on CPS' desegregation budget, and significant obligations with respect to CPS' programs serving English Language Learners ("ELLs"). In approving the MCD, we noted that this is a complex case requiring the parties and this court to grapple with many difficult issues, and that in the context of a district as large as CPS, the complexities and unique challenges are multiplied many times over. Mem. Op. of Mar. 1, 2004, at 3. We also recognized the labors of the parties, and particularly CPS, in pursuing the goals espoused within the Original Consent Decree. *Id.* at 3.

In 2005, we asked the parties to consider which provisions of the MCD should continue, if any, and set a hearing for May 15, 2006, to consider this question. A principal reason for the inquiry was the substantial change in the racial and ethnic demographics in the City of Chicago and the student population in the city's schools during the life of the Original and Modified Consent Decrees. The current demographic make-up of Chicago and its student population bears virtually no resemblance to that which gave rise to the litigation between the parties in the first instance. In response to our inquiry, the parties filed position papers, conducted discovery, and engaged in settlement discussions. As a result of these discussions, the parties refined their positions and have now jointly requested that we vacate the Modified Consent Decree and enter a proposed Second Amended Consent Decree.

STATEMENT

The motion is granted in part and denied in part. By this order, we vacate the Modified Consent Decree and enter the consent decree set forth below, which differs in some respects from the one proposed by the parties. In particular, Section VI of the proposed decree, which suggested an automatic expiration of the decree next June, has been removed. As we explained in our opinion addressing the entry of the Modified Consent Decree, we do not share the parties' view that the decree can expire of its own accord. If the parties intend that the decree expire in June 2007, they can seek a determination by this court regarding unitary status at that time.

Wherefore, it is ordered, adjudged, and decreed that:

I. Student Assignment

A. Goals

The parties recognize that, given the geographical size of CPS and the City of Chicago, as well as the demographic trends in the student enrollment of CPS, it is not practicable for all CPS schools to have enrollments that would traditionally be considered desegregated. Therefore, in assigning students to schools, CPS shall use a variety of strategies to assign students to schools, and in implementing these strategies, CPS shall establish and maintain as many schools with desegregated enrollments as practicable.

B. Student Assignment Strategies

1. CPS shall use a variety of strategies to assign students to schools and to provide students the opportunity to attend schools with desegregated enrollments. These strategies shall include:
 - (a) Magnet schools;
 - (b) Specialized schools, including selective enrollment high schools, gifted centers, classical schools, academic centers, IB preparatory, and other options; and
 - (c) Other voluntary options.
2. CPS shall, to the extent practicable, achieve and maintain desegregated magnet and specialized schools. These schools shall be considered desegregated if they have enrollments that are 15% to 35% white and 65% to 85% minority.

C. Magnet Schools

1. CPS shall continue to implement magnet schools throughout CPS. Three key goals, among others, of the magnet schools in CPS are: (1) to improve academic achievement of all students enrolled in the schools; (2) to voluntarily attract racially and ethnically diverse enrollments; and (3) to provide curricular programs that provide enriched and focused thematic learning experiences to meet the interests of students in CPS.
2. The magnet schools are open to students from throughout CPS, although transportation to magnet schools may be limited as set forth in the Magnet Policy. If there are more applicants than seats available, CPS shall use a lottery process to select students. If there are fewer applicants than seats available, CPS shall admit all applicants. The schools that are currently considered magnet schools are listed in Appendix A.

D. Specialized Schools and Other Options

In addition to magnet schools, CPS shall provide a number of other programmatic options for parents and students. These include selective enrollment high schools, gifted centers, classical schools, academic centers, IB preparatory, and other options.

E. Other Voluntary Options

1. Magnet Cluster Schools

Magnet cluster schools are open to students who live in the attendance boundary for a particular magnet cluster school. If there are seats available after the students who live

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in the attendance boundary for a magnet cluster school have enrolled in that school, students who live outside the attendance boundary for that magnet cluster school may apply to attend that magnet cluster school. If there are more applicants than seats available, CPS shall use a lottery process to select students. If there are fewer applicants than seats available, CPS shall admit all applicants.

In identifying schools to be part of a magnet cluster, CPS identifies four to six elementary schools that are in close geographical proximity to one another. Where possible, CPS shall identify schools to be a part of a magnet cluster that are in close geographical proximity and that may contribute to the desegregation of the schools in the cluster. Each school within a magnet cluster implements one of five (5) academic areas of focus: Fine and Performing Arts, the International Baccalaureate Middle Years Programme, Literature and Writing, Math and Science, or World Language. The schools that are currently considered magnet cluster schools are listed in Appendix B.

2. Open Enrollment Schools

Open enrollment schools shall be identified in the school opportunities publication issued annually by CPS and shall consist of all non-magnet/magnet-cluster, non-selective enrollment and neighborhood schools with attendance boundaries. CPS shall monitor out of attendance area enrollment at neighborhood schools with greater than 40% white enrollment consistent with its Enrollment and Transfer Policy of August 24, 2005.

3. Majority to Minority Transfers

CPS shall provide students the opportunity to transfer from a school where they are in the racial or ethnic majority to one where they are in the racial or ethnic minority ("M-to-M transfers") and where there is space available with transportation provided to designated schools. Subject to space availability, minority students may transfer to schools with 40% or more white enrollment, and priority shall be given to those minority students attending schools whose student population is 85% or more minority. In the 2006-07 school year, M-to-M transfer students shall have the option of using existing CPS routes or receiving Chicago Transit Authority ("CTA") bus and subway tokens. Parents or guardians of M-to-M transfer students in grades 1-8 also may receive CTA bus and subway tokens to accompany their children to school.

II. Principal Assignment

CPS shall use its best efforts to maintain a pool of qualified principal applicants who are as racially and ethnically diverse as practicable and to forward such information to local school councils.

III. Compensatory Programs

On March 28, 2006, a \$24.5 million reading grant was awarded by the United States Department of Education to CPS. The grant is designated for 32 Chicago public elementary schools, the overwhelming majority of which are racially identifiable. The grant will fund the expansion of Striving Readers, a pilot program conducted last year at 13 Chicago schools designed to raise the reading achievement levels of students in grades 6-8. During the term of this decree, CPS commits to implementing compensatory programs at racially identifiable schools, which include but are not limited to: supplemental reading programs, after-school tutoring programs, math/science initiatives, early childhood, full-day kindergarten and after-school programs, and Striving Readers at the racially identifiable schools designated in the grant.

IV. English Language Learners

A. CPS shall provide language acquisition programs to all eligible students in a timely and educationally appropriate manner, consistent with Amended Appendix C and CPS' written

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policies as set forth in its August 1999 version of the *Framework for Success*, which was amended by the Amend Board Report 98-1027-PO1 dated October 23, 2002 (hereinafter "the *Framework*"). As specifically detailed in Amended Appendix C, which is incorporated herein by reference, CPS shall continue to discharge its legal obligations to provide language acquisition to all eligible students in a manner consistent with the overall objectives of this decree. To the extent practicable, CPS shall not assign or reassign ELL students to schools in a manner that interferes with their participation in language acquisition programs and shall fulfill its obligations under Section 2.d of Amended Appendix C.

B. If CPS decides to amend the *Framework* before the termination of this decree, CPS shall provide a draft of the amended *Framework* to the United States and the amici curiae for a thirty-day period in which to comment regarding the amended *Framework*'s compliance with federal law. If the parties agree in writing that the amended *Framework* should govern CPS' provision of ELL services, all references to the *Framework* in this section and Amended Appendix C shall refer to the amended *Framework*.

V. Reporting

1. By December 1, 2006, CPS shall report to the United States and amici curiae: (a) the number and percentage of students, disaggregated by race/ethnicity, per school and in CPS as a whole; (b) the number and percentage of teachers, disaggregated by race/ethnicity, per school and in CPS as a whole; (c) the race of the principals of each school; (d) for each magnet school, the number and percentage of students, disaggregated by race/ethnicity, who applied, were accepted, enrolled, and denied admission to the school; and (e) the number of students, disaggregated by race/ethnicity who applied, were accepted, and enrolled as M-to-M transfers by sending and receiving school.
2. By December 1, 2006, CPS shall submit to the United States and amici curiae a listing of each compensatory program at each school.
3. The parties may agree to reasonable extensions of the above reporting deadlines.

Dated: August 10, 2006



CHARLES P. KOCORAS
U.S. District Court Judge

APPENDIX B

Unit	School	Area
2020	Addams Elementary School	18
2030	Agassiz Elementary School	6
2040	Alcott Elementary School	6
2710	Aldridge Elementary School	18
2060	Andersen Community Academy	6
4590	Arai Middle School	2
3640	Ariel Community Academy	15
2080	Armstrong Elementary School	2
5700	Armstrong Elementary School	3
2100	Attucks Elementary School	13
2110	Audubon Elementary School	2
2130	Avalon Park Elementary School	17
2150	Barnard Elementary School	16
6660	Beasley Academic Magnet Center	13
6540	Beethoven Elementary School	13
2260	Belding Elementary School	1
7860	Black Magnet School	17
2300	Blaine Elementary School	2
2320	Boone Elementary School	2
2430	Bouchet Elementary School	17
2340	Bradwell Elementary School	17
6600	Brennemann Elementary School	2
2370	Brentano Math and Science Academy	6
2400	Brown Elementary School	7
5040	Brown Academy	18
2550	Brunson Elementary School	3
2440	Budlong Elementary School	2
2450	Burbank Elementary School	3
2470	Burley Elementary School	6
2480	Burnham Academy	18
2530	Burr Elementary School	6
2540	Burroughs Elementary School	10
2570	Byrne Elementary School	11
2580	Caldwell Elementary School	17
6610	Calhoun North Elementary School	7
4260	Canter Middle School	15
2620	Canty Elementary School	1
2630	Carnegie Elementary School	15
2640	Carpenter Elementary School	6
2650	Carroll-Rosenwald Elementary School	16
2660	Carson Elementary School	12
2700	Carver Middle School	18
2690	Carver Primary School	18
2720	Cassell Elementary School	16
2510	Castellanos Elementary School	10
6730	Cather Elementary School	7
2740	Chalmers Elementary School	8
2750	Chappell Elementary School	2
2760	Chase Elementary School	4
5640	Chavez Elementary School	12

2770	Chopin Elementary School	4
7480	Claremont Academy	12
2230	Clark Elementary School	3
6620	Clark Middle School	3
2790	Clay Elementary School	18
2820	Clissold Elementary School	16
2830	Coles Elementary School	17
2940	Crown Community Academy	8
6560	Daley Elementary School	12
2960	Darwin Elementary School	4
7180	Davis, M. Academy	12
2980	Dawes Elementary School	11
7420	De Diego Community Academy	6
7330	De La Cruz Elementary School	10
6740	Dett Elementary School	7
3030	Dewey Elementary School	13
8000	Disney Magnet School	2
3040	Dixon Elementary School	17
3080	Dore Elementary School	11
6630	Douglass Junlor High Academy	3
3100	Drake Elementary School	9
3120	Drummond Magnet School	6
8010	Dubois Elementary School	18
6890	Dumas Elementary School	15
6050	Dunne Elementary School	16
6760	Dvorak Math/Science/Technology Academy	8
1600	Dyett Academic Center	22
7450	Earhart Elementary School	17
3140	Eberhart Elementary School	11
3150	Ebinger Elementary School	1
2220	Edison Regional Gifted Center	1
3200	Edwards Elementary School	11
3220	Ellington Elementary School	3
3230	Emmet Elementary School	3
3250	Esmond Elementary School	16
7990	Evers Elementary School	16
3330	Fernwood Elementary School	16
3350	Field Elementary School	2
3360	Fiske Elementary School	15
3400	Fort Dearborn Elementary School	16
3430	Foster Park Elementary School	16
3440	Fuller Elementary School	13
3480	Gale Community Academy	2
3490	Gallistel Language Academy	18
5420	Garvey Elementary School	16
3510	Garvy Elementary School	1
3530	Gillespie Elementary School	17
3540	Gladstone Elementary School	9
7840	Goldblatt Elementary School	7
3570	Gompers Elementary School	18
3600	Graham Elementary School	13
3620	Gray Elementary School	1

2730	Greeley Elementary School	2
3660	Gregory Elementary School	8
3680	Grimes Elementary School	11
3580	Grissom Elementary School	18
3700	Haines Elementary School	9
3710	Hale Elementary School	11
2360	Haley Elementary School	18
3730	Hamilton Elementary School	2
2350	Hampton Fine and Performing Arts School	11
3780	Harte Elementary School	15
3830	Hawthorne Scholastic Academy	6
3840	Hay Community Academy	3
3880	Healy Elementary School	9
3890	Hearst Elementary School	11
3900	Hedges Elementary School	12
3930	Hendricks Community Academy	13
3940	Henry Elementary School	1
3970	Herzl Elementary School	8
7210	Higgins Community Academy	18
4020	Holden Elementary School	9
4060	Howe Elementary School	3
4080	Hoyne Elementary School	17
8060	Hughes, Langston Elementary School	16
4120	Hurley Elementary School	11
4690	Jackson Language Academy	9
4170	Jahn Elementary School	2
4200	Jenner Elementary School	6
6940	Johnson Elementary School	8
2870	Jordan Elementary School	2
3370	Kanoon Magnet School	10
4960	Keller Regional Gifted Center	16
3410	Kelliman Corporate Community School	8
4240	Kellog Elementary School	16
4280	Key Elementary School	3
4300	Kilmer Elementary School	2
4330	Kinzie Elementary School	11
4350	Kipling Elementary School	17
4390	Kozminski Community Academy	15
4400	Lafayette Elementary School	4
4420	LaSalle Language Academy	6
6750	Lathrop Elementary School	8
4430	Lawndale Community Academy	8
4550	Lawrence School for Math and Science	18
7170	Lee Elementary School	11
7320	Leland Elementary School	3
4480	Lincoln Elementary School	6
4510	Locke Elementary School	3
4380	Lozano Bilingual and International Center	6
6310	Madero Middle School	10
4570	Madison Elementary School	17
4580	Manierre Elementary School	6
4610	Mann Elementary School	17

6590	Marconi Community Academy	7
4620	Marquette Elementary School	11
4630	Marsh Elementary School	18
4650	Mason Elementary School	8
4670	May Community Academy	3
4680	Mayer Elementary School	6
6820	McCorkle Elementary School	13
4720	McCormick Elementary School	10
4740	McCosh Elementary School	15
6910	McCutcheon Elementary School	2
4800	McPherson Elementary School	2
4810	Medill Elementary School	9
3190	Metcalfe Community Academy	18
5880	Mireles Academy	17
4840	Mitchell Elementary School	4
4850	Monroe Elementary School	1
4870	Moos Elementary School	4
4940	Mount Greenwood Elementary School	16
4980	Mount Vernon Elementary School	16
5020	Murphy Elementary School	1
5030	Murray Language Academy	15
5060	Neil Elementary School	17
5070	Nettelhorst Elementary School	2
7060	New Field Elementary School	2
5080	Newberry Math and Science Academy	6
2200	Nicholson Specialty School	14
3720	Ninos Heroes Academic Center	17
5120	Norwood Park Elementary School	1
5150	Ogden Elementary School	6
5180	O'Keefe Elementary School	17
5190	Onahan Elementary School	1
7610	Orozco Community Academy	9
5220	Otis Elementary School	6
3470	Owens Community Academy	18
6020	Paderewski Elementary School	8
5270	Parker Community Academy	14
5310	Pasteur Elementary School	11
5340	Peck Elementary School	11
5360	Peirce Elementary School	2
5370	Penn Elementary School	8
4210	Pilsen Community Academy	9
5440	Pirie Elementary School	17
5480	Pope Elementary School	8
5500	Prescott Elementary School	6
6810	Price Elementary School	15
6460	Pritzker Elementary School	6
5520	Pulaski Community Academy	6
3550	Randolph Magnet School	12
5560	Ray Elementary School	15
6870	Reed Elementary School	14
5610	Revere Elementary School	17
6780	Robinson Elementary School	15

5630	Rogers Elementary School	2
7510	Roque de Duprey Elementary School	4
5390	Ruiz Elementary School	10
5670	Ryder Math/Science Speicalty School	17
5680	Ryerson Elementary School	7
7790	Sabin Magnet School	6
5720	Sayre Language Academy	3
5760	Schiller Elementary School	6
5820	Seward Elementary School	12
5920	Shoosmith Elementary School	15
5930	Shoop Elementary School	18
5970	Smyth Elementary School	9
5980	Solomon Elementary School	1
3960	South Loop Elementary School	9
6000	Spencer Math and Science Academy	3
6010	Spry Elementary School	10
6030	Stevenson Elementary School	11
6040	Stewart Elementary School	2
6060	Stockton Elementary School	2
6080	Stowe Fine and Performing Arts Academy	4
6100	Sullivan Elementary School	17
6110	Sumner Mathematics and Science Community Aca	7
6120	Sutherland Elementary School	16
6130	Swift Specialty School	2
6140	Talcott Fine Arts and Museum Academy	6
6150	Taylor Elementary School	18
3380	Telpochcalli Elementary School	10
6190	Thorp, O.A. Scholastic Academy	1
6210	Tilton Elementary School	7
6230	Trumbull Elementary School	2
3110	Turner-Drew Language Academy	17
6250	Vanderpoel Magnet School for the Humanities	16
8030	Wacker Elementary School	16
6300	Wadsworth Elementary School	15
6320	Walsh Elementary	9
6330	Ward, J Elementary School	9
6350	Warren Elementary School	17
5380	Washington H. Elementary School	17
6360	Washington, G. Elementary School	18
6370	Waters Elementary School	2
6400	West Pullman Elementary School	18
6420	Whistler Elementary School	18
7440	White Elementary School	18
6450	Whittier Elemetnary	9
6470	Wildwood Elementary School	1
7080	Woods Community Academy	14

AMENDED APPENDIX C

1. Registration, Identification and Placement of ELLs
 - a. The Chicago Public Schools ("CPS") shall continue to manage and oversee school-based implementation of the Home Language Survey ("HLS") to ensure that the HLS is given to every student upon initial enrollment in the CPS, in his or her primary language, where appropriate.
 - b. All students who indicate on the HLS that they have a non-English language background (*e.g.*, the student lives in a home where a language other than English is spoken, or the student speaks a language other than English) must be assessed for possible placement in a language acquisition program.
 - c. At each school, CPS shall compile and maintain a current list of personnel, including non-teaching staff, available to provide language translation assistance when necessary to serve English Language Learners ("ELLs") and/or their parents and guardians. Each list shall specify the languages for which each staff or faculty member can provide translation assistance. CPS shall ensure, to the extent practicable, that English as a Second Language ("ESL") and/or Bilingual teachers are not pulled away from their teaching and/or class preparation responsibilities to serve as translators.
 - d. CPS shall take reasonable steps to ensure that:
 - 1) Each ELL is identified and placed, in a timely and appropriate manner, in an English language acquisition program that is consistent with CPS' policies, including the August 1999 version of the *Framework for Success*, which was amended by the Amend Board Report 98-1027-PO1 dated October 23, 2002 (hereinafter "the *Framework*"); or
 - 2) After being notified of language acquisition program placement options, the ELL's parents have waived the ELL's right to be placed in an English language acquisition program.
2. Instruction of ELLs
 - a. CPS shall continue to implement its ELL instruction consistent with the policies and guidelines set forth in the *Framework*.
 - b. Where there are 20 or more ELLs of the same language background in a given school, ELLs of that language background shall receive instruction pursuant to the Transitional Bilingual Education ("TBE") model provided in the *Framework*. CPS shall take reasonable steps to ensure that the

amount of instruction in the native language and English in the TBE program varies according to the ELL's English language proficiency level consistent with the *Framework's* TBE guidelines on pages 9-11 regarding Beginning, Intermediate, and Advanced English proficiency levels.

- c. Where there are 19 or fewer ELLs of the same language background in a given school, such ELLs shall receive instruction pursuant to the Transitional Program of Instruction ("TPI") model provided in the *Framework*, which includes ESL instruction. To the extent practicable, CPS shall provide ESL instruction to ELLs in groups of students who are at a comparable English language level. CPS shall ensure, to the extent practicable, that the amount of ESL instruction it provides to students at a given English language level is uniform within each school and consistent with educationally sound practices.
- d. If CPS learns that an ELL is not receiving the language acquisition instruction to which the student is entitled under the *Framework*, CPS shall take reasonable steps to ensure that appropriate services become available at the school, or if necessary, another school within a reasonable distance of the ELL's residence.
- e. CPS shall continue to annually assess the academic performance and English language proficiency of each ELL enrolled in a language acquisition program. Annual testing of English language proficiency during the 2005-2006 and 2006-2007 school years shall utilize the state-prescribed English language proficiency assessment and include assessment of all four language domains.
- f. CPS shall ensure that all schools use the results of the state-prescribed English language proficiency assessment to ensure that the language acquisition placement of every ELL is appropriate.
- g. CPS shall take reasonable steps to ensure that at least one language acquisition teacher, or such other teacher or administrator as CPS may designate at schools with no state-designated ESL position, of each ELL shall be responsible for recording and timely updating the ELL's language, program entry and exit dates, annual English proficiency test scores, acquisition of certain language skills, and other relevant information on each ELL's English Language Learner Data Folder, or in any updated electronic student information database that may become operational while this SACD is in effect.
- h. To the extent practicable, CPS shall integrate ELLs with non-ELL general education students in appropriate classes and activities, including art, music, lunch, recess, physical education, and extracurricular activities. To the extent practicable, CPS shall integrate ELLs with non-ELL general education students in school functions and co-curricular activities.

3. Resources for ELLs

CPS shall take reasonable steps to ensure that:

- a. Each school and/or class library has sufficient language-ability appropriate literary materials in English, as well as age-appropriate literary materials in the native language(s) of the ELLs at the school. Such materials may include those accessible to ELLs on the internet;
- b. ELLs in each school receive all instruction (*e.g.*, in-classroom, pullout, other) in facilities that are comparable to the facilities used by students who are not ELLs;
- c. Sufficient funds are allocated to each school to provide ELLs with educationally sound textbooks and instructional materials; and
- d. ELLs in each school have meaningful access to educational programs, activities and services (*e.g.*, kindergarten, tutoring, after-school programming and magnet schools and programs) that are comparable to the educational programs, activities and services provided to students in the same school who are not ELLs.

4. Teacher certifications

a. CPS shall ensure, to the extent practicable, that:

- 1) Those teachers who lack appropriate certification receive adequate training in working with ELLs and are working towards achieving full certification in a timely manner;
- 2) Vacancies for teachers in the language acquisition program are filled in a reasonable amount of time with fully certified teachers (*i.e.*, teachers who have a standard certification plus either an ESL or bilingual certification); and
- 3) Schools that have a high percentage of less than fully certified ELL teachers in the language acquisition program are identified and provided assistance in securing certified staff.

b. CPS shall encourage all teachers of general education classes (*i.e.*, teachers of classes that are not specifically a part of a language acquisition program) to receive training regarding working with current and recently transitioned ELLs and coordinating with ESL and Bilingual teachers to identify and address any language barriers that may hinder current or recently transitioned ELLs from participating in general education classes.

c. CPS shall ensure, to the extent practicable, that the student/teacher and student/staff ratios in classrooms serving ELLs are not substantially higher

than the student/teacher and student/staff ratios in general education classes in the same school that serve the same grade level and teach similar subject matter.

5. ELL Access to Special Programs

- a. CPS acknowledges that ELLs are entitled to services that shall enable them to participate meaningfully in all CPS educational programs, services and activities for which they are eligible.
 - 1) CPS shall ensure that ELLs are provided an opportunity for assessment, as appropriate, for CPS' gifted and talented programs, which are conducted in English and certain foreign languages.
 - 2) CPS shall advise all school-based administrators and BLTs in writing that ELLs who qualify for gifted programs are entitled to participate in those programs while also receiving appropriate language acquisition instruction.

6. Special Education

- a. CPS shall take reasonable steps to ensure that:
 - 1) Special education services at each school are sufficient to address the language acquisition and special education needs of ELLs; and
 - 2) To the extent practicable, schools with special education ELLs hire teachers who have Bilingual or ESL certification and special education certification and/or adequately train teachers and aides who lack such certification and provide special education services to ELLs.
- b. CPS shall take reasonable steps to ensure that the approximately 1,576 special education ELLs who had no special education model recorded in CPS' student information system as of March 27, 2006, are receiving one of the six models approved by CPS and shall update its student information system to reflect the model number for all ELLs.

7. Transitioning and Monitoring Transitioned ELLs

- a. CPS shall ensure that ELLs are not exited from the TBE or TPI program during the 2005-06 and 2006-2007 school years until their score is "proficient" on the annual state-prescribed English language proficiency assessment, which evaluates all four language domains.
- b. CPS shall identify current ELLs and transitioned ("T") students on the rosters for general education classes so that general education teachers are aware of such students.

8. Systemic Monitoring

- a. At least once each school year, CPS shall monitor the implementation of its language acquisition programs and the ELL-related requirements set forth in this Amended Appendix C at each school that reports having ELLs for that school year to assess each school's compliance with the *Framework* and the terms of Section IV of the Second Amended Consent Decree. Consistent with the *Framework*, CPS also shall identify schools for technical assistance visits and shall conduct compliance review visits for schools that fail to implement technical assistance recommendations. CPS shall keep a record of each finding of non-compliance with the terms of the *Framework* and Section IV of the Second Amended Consent Decree and shall document the steps taken to achieve compliance. Such records and documentation shall be made available for review by the United States, upon request.
- b. CPS shall provide to the United States on a quarterly basis a copy of all technical assistance, compliance review, and monitoring reports prepared during that quarter. The first set of reports shall be provided by November 15, the second set by February 1, the third set by April 15, and the fourth set at least one week prior to the last day of school.
- c. CPS shall designate appropriate personnel to fulfill these monitoring obligations.
- d. CPS shall permit the United States (10) days of site visits per semester to monitor schools' compliance with Amended Appendix C.

9. Reporting

CPS shall provide a report to the United States by March 1 of each year that includes the following:

- a. The number of ELLs, by school, grade and native language, who:
 - (i) participated in a language acquisition program (e.g., Transitional Bilingual Education, Transitional Program of Instruction, Dual Language, or other), specifying the type of program;
 - (ii) waived their right to be served in a language acquisition program; and
 - (iii) did not waive their right to be served in a language acquisition program, but were not served in such a program;
- b. The number of students, by school and native language, who:
 - (i) completed an HLS in connection with registering for the school year preceding the annual report;
 - (ii) indicated on their HLSs that they speak a language other than English or that a language other than English is spoken in the home; and
 - (iii) based on their responses on the HLSs, were

assessed for possible placement in a language acquisition program; and (iv) after being assessed, were identified as ELLs;

- c. For each school offering either a TBE or a TPI program, the number of teachers assigned to the program, broken down by type of certification held (*e.g.*, Bilingual, English as a Second Language, Type 29);
- d. A list of schools that had vacant teaching positions in the language acquisition program that remained vacant for more than thirty (30) days, specifying the number of such vacancies;
- e. For each school, the number of students who were re-entered into one of CPS' language acquisition programs, broken down by grade, native language, language acquisition program and number of years in the language acquisition program; and
- f. For each school, the number of ELLs who (i) were referred for special education assessment, and (ii) are eligible for and receiving special education services, specifying the model or models by which those ELLs are receiving special education services.

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