

# CHICAGO BOARD OF EDUCATION

## In Re: PROPOSAL TO CLOSE GARRETT A. MORGAN ELEMENTARY SCHOOL

Report of DAVID H. COAR, Independent Hearing Officer

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### HEARING OFFICER REPORT AND RECOMMENDATIONS

#### **Background**

The undersigned was appointed to serve as an “Independent Hearing Officer” as that term is used in 105 ILCS 5/34-230. One of the duties of that office is to conduct public hearings on proposed school actions. That hearing was convened at the Chicago Board of Education offices at 125 South Clark Street, Chicago, Illinois on Monday, April 22, 2013 at 8:00 p.m. At that hearing, presentations were made on behalf of the CEO of the Chicago Public Schools and comments were received from members of the public, including parents, teachers and students at Garrett A. Morgan Elementary School, and elected representatives.

#### **Summary of Proposed Actions**

The CEO has proposed that Garrett A. Morgan Elementary School (“Morgan”) be closed beginning with the commencement of the 2013-2014 school year. Students attending Morgan during the 2012-2013 school year will be reassigned to Ryder Elementary School (“Ryder”). The geographic attendance boundaries currently associated with Morgan will be reassigned to Ryder, Gresham Elementary (“Gresham”)

and Westcott Elementary (“Westcott”) with the result that students who reside in the current Morgan attendance zone at the beginning of the 2013-2014 school year, but who were not enrolled there for the current school year, will be assigned to either Ryder, Westcott or Gresham as determined by the new attendance maps. Children in special education programs have not been told where they will go if the proposal is approved. The grounds stated for the proposed actions are underutilization at Morgan based upon the Chief Executive Officer’s Guidelines for School Actions (Guidelines).

### **I. Legal Framework for the CPS Proposal as to Morgan**

The proposal to close Morgan is a “School Action” under Illinois law and the state legislature has established specific requirements that must be met before such actions can be taken. 105 ILCS 5/34-18 vests the general power and authority to establish and maintain schools (and school facilities) with local school boards. (Unless otherwise indicated, all statutory references are to the Illinois School Code, 105 ILCS and section references are to that chapter) On August 22, 2011, Governor Quinn signed Public Act 097-0474 amending the School Code adding requirements for School Actions including requiring CPS to publish space utilization standards by January 1, 2012. Pursuant to that law, on or about December 28, 2011, CPS adopted Space Utilization Standards for high schools and elementary schools.

The CEO also published Guidelines for School Actions for the 2012-2013 School Year (Guidelines”). This latter document provides:

*“A school may be considered for a closure, consolidation, reassignment, boundary change, or phase out if it is underutilized or overcrowded based*

*on CPS' Space Utilization Standards and enrollment numbers recorded on the 20th attendance day for the 2012-2013 school year."*

The Guidelines also place certain limitations and qualifications on school actions based on underutilization or overcrowding, but I will discuss those in more detail later.

#### **A. Procedural Requirements**

Suffice it to note at this point in the report that the procedural requirements for school closing under the Guidelines and those for School actions under the Illinois School Code are substantially similar. For purposes of this report, therefore, I will refer to the procedural requirements under the Guidelines which provide as follow:

*"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 hearings being held to elicit public comment on the proposal."*

Along with notice of the CEO's proposal, the CEO will issue a draft school transition plan dependent on the unique circumstances of the proposed school action. The draft school transition plan will include, but is not limited to the following: (1) services to support the academic, social, and emotional needs of the students; supports for students with disabilities, homeless students, and English language learners; and support 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 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.

### **B. Substantive Requirements**

As has been noted above, the Guidelines permit a school to be closed if the school facility is underutilized. Underutilization is a term of art under the Guidelines and the subject of much comment at the hearing. The starting point for understanding what the term “underutilization” means under the Guidelines starts with the CPS Space Utilization Standards published in December of 2011. To determine whether the classroom space at an elementary school is underutilized, you first must determine its ideal enrollment. That is a number based upon a calculation of an assumed number of homeroom classes in a school. To arrive at this number, you take approximately 77% of the actual classrooms in the school, assigning the balance (approximately 23%) to ancillary classrooms (e.g. science room, music/art room, technology lab, specialized education room and other specialty classrooms). You then multiply that number (77% of actual classrooms) times 30 (30 is the class size number set out in the City of Chicago Policy on Class Size (cited as 10-0615-PO1). In the case of Morgan, there are 33.5 total classrooms (I was told that the half represents a small classroom) my calculations under the formula differ from Mr. Felton’s because he rounded down to 76% while I rounded up to 77%. 77% of 33.5 is approximately 26 classrooms. Multiply 26 (25 was the number used by Mr. Felton at the hearing) and you get 780 which is the ideal enrollment.

Finally, you add and subtract 20% of the ideal enrollment to get the enrollment efficiency range. Thus, in the case of Morgan, the efficiency range is between 936 (780 +20% of 780) and 624 (780-20% of 780). In fact, Morgan's enrollment as of the 20th day of attendance for the 2012-2013 school year was 236 and projected enrollment for 2013-2014 is 237, well below the enrollment efficiency range thus calculated.

## **II. The impact of underutilization**

As I indicated earlier, under the Guidelines, the fact that a school is underutilized does not, without more, authorize the losing of that school. The Guidelines list two "Constraining Factors". The students impacted by the school action (here, the closing of Morgan) must have the option of enrolling in a higher performing school and the resulting reassignment of students to the receiving school will not exceed the enrollment utilization range of the receiving school.

Moreover, the Guidelines list certain "Additional Factors to Consider" by the CEO in deciding whether to recommend a school closing, included, but not limited to: safety and security, school culture and climate, school leadership, quality of the school facility, school type and programming, family and community feedback received throughout the school year, independent from the process described (in the Guidelines), analysis of transition planning costs, neighborhood development plans etc.

As noted, one of the Constraining factors is that students (from Morgan) have the option to enroll at a higher performing school. CPS has determined that this factor is

satisfied because Ryder is a higher performing school. Under the Guidelines, Ryder would be a higher performing School if it had a higher level on the Performance Policy for the 2011-2012 school years. It does not because both Morgan and Ryder are at Level 3 for 2011-2012. The Guidelines describe a tiebreaker when the sending and receiving schools are at the same level: for elementary schools, a higher performing school is the one performing higher (for 2011-2012) on percentage points on the Performance Policy, ISAT composite meets or exceeds score, Value Added reading , and Value Added math. I will not take the time to explain what each of these metrics means because no one disputed that Ryder meets the criteria for the tie breaker. Rather, as we shall see later, opponents of the proposal to close Morgan argue that these metrics fail to take into account Morgan's 2012-2013 performance to date on the NEWA map.

### **III. CPS Procedural Compliance with the Guidelines**

At the public hearing, CPS staff presented affidavits and copies of notices establishing the fact that the required notices were sent out in a timely fashion to the individuals and groups required to be provided with notice under the School Code and the Guidelines. Moreover, the notices contained copies of a draft transition plan. There is a question in my mind whether the transition plan's treatment of "support to address security and safety issues" provides meaningful information to recipients of the plan as to what concrete steps will be made to ensure the safety of the Morgan students who must travel to a new school under the proposal.

It should come as no surprise that parents and students are deeply concerned about the safety of these young people who must venture into a new community to attend classes if the proposal is approved. There was testimony at the community and public hearings that Morgan and Ryder lie within depressed neighborhoods with histories of violence. There are gang lines that cross the routes that students would have to traverse in getting from their home in the current Morgan attendance zone in order to get to Ryder. Parents expressed concern about the many abandoned buildings, gangways and alleys that lined those routes. A Morgan teacher observed that the misconduct rate at Ryder was 4 times the rate at Morgan. Felecia Brown, whose daughter is a second grader at Morgan, spoke of a walking tour that she made with teachers and other parents from Morgan to see what the trip from their homes to Ryder would be like. She reported being subjected to taunts and yells from bystanders threatening harm to Morgan children if they tried to attend Ryder.

Mr. Jackson spoke of two recent incidents (one at King High School and another at Gage Park) in which students attempted to raise concerns about their safety and were rebuffed by CPS staff. In the King example, the student was later killed and in the Gage Park incident, the student was subsequently sexually assaulted. For that reason, he has no faith in the commitment of CPS to provide a safe environment for students and he denies that community members have been consulted about their safety concerns.

In the face of these serious fears, this is what the draft transition plan said about Safety and Security:

*“CPS has engaged multiple experts regarding school safety to make decisions that will ensure children have a seamless transition next year at all welcoming schools. The Office of Safety and Security (OSS), Chicago Police Department, the Department of Family and Support Services, and community and faith partner were all consulted as part of the safety planning process.”*

CPS has prepared a plan for the safety of students and staff affected by the proposed closure of Morgan. OSS will continue to partner on an on-going basis with local community groups, elected officials, sister agencies, and the Chicago Police Department to maintain a smooth and safe transition of students to a new school environment. As part of the transition process, OSS will:

- Review and update school safety audits
- Review security personnel allocations to ensure proper coverage
- Review school safety technology and enhance systems as appropriate
- Address any safety concerns raised by students and staff
- Provide Safe Passage: CPS will invest in additional Safe Passage supports to address the safety of all students and staff traveling to and from school. Safe Passage workers wear identifiable vests and stand on designated street corners to monitor student’s safety during their travel to school in the morning and home in the afternoon. Prior to the start of the 2013-2014 school year, OSS will work with the Ryder administration and the community to designate specific intersections for safe passage supports.
- As deemed necessary by OSS, in collaboration with the community, CPS will also provide a transition security officer to assist with safety and security needs.



In a supplemental submission by CPS, a document promised “a Customized safety plan at every school, including:

- Safe Passage supports to provide safe routes for students traveling to and from school
- Additional security personnel inside each school
- Additional safety technology, such as, entry screening equipment”

It is impossible to tell from the description in the transition plan or the supplement what if any planning and analysis has been done to address the security needs peculiar to Morgan and Ryder, in particular, as opposed to generalized discussions and generic proposals to deal with security in the abstract. Tellingly, the language quoted in the transition plan is apparently the same language used in the transition plans of all other schools proposed to be closed to describe the safety and security planning , the only difference being that the one reference to Morgan by name is changed to the name of some the other school proposed to be closed. The answer as to whether Morgan-Ryder specific safety planning has taken place might have been addressed at the public hearing, however no one from OSS was present to answer questions or make a presentation. In reading the transcripts of the community meetings, it appears that CPS failed to address safety and security in any meaningful way in that venue as well.

There has been no indication that CPS is aware of these facts and taken them into account in developing a safety plan. If the proposal is approved, CPS will create a final transition plan that will (presumably) contain more school specific proposals to deal with safety issues. However, it is impossible for concerned parents, students and teachers to provide meaningful in-put into the decision to close Morgan without knowing

whether the reassignment program will safeguard the children. Indeed, the law requires that, in making the decision whether to grant the proposal, the Board must pass on the adequacy of the draft transition plan and the draft must address safety and security. It simply is not possible for the Board to make that determination based on the draft plan. The message in the transition plan and at the hearing seems to be “trust us, we’ll take care of whatever safety issues arise.” That approach is at odds with the spirit of real notice and comment and the requirement of a draft transition plan that explains to interested parents, students and the Board what they should expect.

#### **IV. Underutilization at Morgan**

CPS has determined that Morgan is underutilized by rote application of the formula contained in the CPS Space Utilization Standards. It assumes a ratio of instructional classrooms to ancillary rooms of roughly 3:1 (77% to 23%). Under the Standards, a special education classroom is an ancillary room. Much discussion at the hearing focused on assumed ideal class size in the formula. It assumes an “ideal” class size of 30 students. However, in the determining the enrollment efficiency range, the ideal enrollment figure may be increased and decreased by 20%. Focusing only on the increase, the result would be classrooms populated by 36 students. Many speakers decried that number as being educationally unsound. The fact is that for underutilization purposes, the focus is on the student populations that are, on average, 20% less than 30 students per class. Whether class size should ideally be 30, 24 or some other number, that decision is left to the sound discretion of the Board and is beyond the scope of the role of the Hearing Officer.

There was discussion about whether the Space Utilization Standards penalize schools with higher than normal populations of students with disabilities. For starters, classifying special education classes as “ancillary” is unfortunate. Morgan has 6 special education programs: 2 TMH programs, primary and upper; 2 autism programs, primary and upper and 2 inclusion class resources. For many reasons special education classes must be much smaller than general education classes. Allocating space without taking this differential into account distorts the space needs of a school with larger populations of special needs students.

#### **V. Ryder as a Higher Performing School**

Applying the definition in the Guidelines, there is no question but that, for the 2011-2012 school year, Ryder scored higher on the four metrics identified: percentage points on the Performance Policy, ISAT composite meets or exceeds score, Value Added Reading and Value Added Math.

Mr. Tillman and Mr. Rook objected to using data from 2011-2012 to compare Morgan and Ryder in determining whether Ryder is a higher performing school. Mr. Rook believes that on the NEWA map for 2012-2013, Morgan students have outperformed Ryder students.

#### **VI. Other Considerations**

As noted previously, the Guidelines provide that the CEO may consider other information. I will not address all the non-exclusive factors, but some were the subject of a great deal of discussion at the public hearing and should be considered. It should

be noted that none of these factors were discussed by representatives of CPS at the hearing, so it is unclear whether the CEO considered any of them and, if so, what informed her decision to continue with the proposal to close Morgan in spite of strong considerations to the contrary.

### **A. School Safety**

I have previously discussed the lack of Morgan/Ryder specific information in the transition plan and in the CPS presentation at the hearing.

### **B. School Culture and Climate**

There was substantial time devoted to the culture at Morgan. Crystal Stovall said that the neighborhood around Morgan is bleak and looks like a dumping ground but Morgan is the pride of the community. It provides the only building in the community where children may gather for activities (before and after school) in a safe, loving environment. She is worried that if Morgan closes, the community will die. Ms. Rias-Winstead addressed the same concern, observing that many of the schools closed 4 years ago are sitting there abandoned. People break into the buildings and they become eyesores and havens for criminal activity; further testimony of a community on life support.

Ms. Brown said that her daughter is doing very well at Morgan and she is pleased with the staff. Latausha Campbell has a son who attended Ryder, but who is now at Morgan. She was very dissatisfied with Ryder, calling her son's reception there "horrible and hostile". Mr. Tillman noted that Morgan is a vibrant learning environment

and a safe place for children. Ms. Reed spoke about fostering a positive attitude at Morgan and the positive interactions between the children.

Mr. Kaffer spoke of the fact that there is a cooperative arrangement between Morgan and the Chicago Park District. Whether that affects space utilization is unclear from the presentations at the hearing. What is clear is that Morgan is one of the few schools that has a dedicated gym and separate cafeteria. It has green field for outdoor activities.

### **C. Quality of the School Facility and Transition Costs**

Mr. Estvan is an education policy analyst with Access Living in Chicago, a disability rights organization. He noted that the Morgan building was constructed in (in 1972) in compliance with section 504 of the Rehabilitation Act. It is ADA compliant. Morgan has a functioning elevator, so all floors may be accessed by disabled students. Ryder was built in 1913 with an annex built in 1968. Neither was constructed with disability access in mind. Access Living has been told that the 1st floor of Ryder will be made accessible, but that promise does not appear in writing in the transition plan or anywhere else. Nor is the cost of that conversion reflected in any documents that I have seen. Mr. Estvan expressed doubt that the 2nd floor will ever be made accessible given the age of the building and costs of upper floor conversions that has seen in the past, in excess of \$1,000,000.00.

## **VII. CONCLUSION**

Every speaker at the public hearing opposed the closing of Garrett Morgan Elementary School. That is neither surprising nor determinative of the conclusions reached herein.

I find the following:

1. Morgan is underutilized under the existing CPS Space Utilization Standards;
2. Ryder is a higher performing school under the Guidelines;
3. Assigning Morgan's students to Ryder will not result in overutilization at Ryder;
4. Notices of the proposed school action were timely sent to all persons required to receive notice under the Guidelines;
5. Attached to the notices were copies of a draft transition plan;
6. The draft transition plan is deficient in failing to contain the information reasonably necessary to allow parents, students and the Board of the safety issues specific to the proposed transfer and how those issues would be addressed; and
7. The draft transition plan also fails to address where special education students from Morgan will be assigned and whether the receiving school could address their needs.

For those reasons, it is my conclusion that the CEO has not met the requirements of the Guidelines and the proposal should be denied.

I reach that conclusion reluctantly. There is no question that Morgan is underutilized. However, the safety of the youngest and most vulnerable children in the school system is a very serious thing, not to be addressed with generalities and vague promises. Violence is a fact in the City of Chicago and in the neighborhoods involved in this school action in particular.

Date: May 5, 2013

Respectfully submitted,

A handwritten signature in black ink that reads "David H. Coar". The signature is written in a cursive style with a large, stylized "D" and "C".

Hon. David H Coar (Ret.)  
Independent Hearing Officer