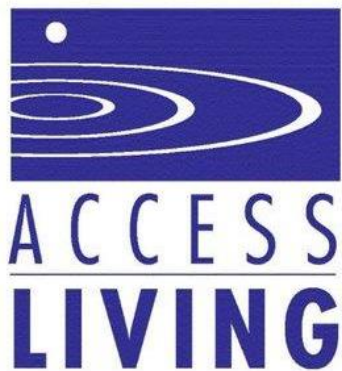




Chicago Public Schools Budget Review

FY 2019

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Executive Summary

Access Living has provided an annual review and analysis of the Chicago Public Schools' (CPS) budget as it impacts students with disabilities since 2006. Our review is provided with the aim to addressing inequality and poor outcomes for students with all kinds of disabilities, with the view that federal law governs the civil rights of these students and that states and local school districts should at least meet these civil rights standards. In addition, we believe that a review of funding issues highlights strategic concerns which need to be addressed districtwide.

The proposed CPS FY19 budget released on July 6, 2018 totals \$5.98 billion. Anticipating stronger state and local revenues in FY19, CPS increased its overall budget by approximately \$285 million in FY19 from FY18.¹ In addition, CPS budgeted approximately \$1 billion for the district's capital investments, a significant increase from \$136 million in FY18.²

The Illinois State Board of Education (ISBE)'s public inquiry into CPS' special education policies during late winter/Spring 2018 found that the district's policies, procedures, and practices, including student-based budgeting (SBB) resulted in delay and denial of services to students, and therefore violates the Individuals with Disabilities Education Act (IDEA).³ As a result, ISBE appointed a monitor on June 27, 2018 to oversee CPS' special education program for the next three years. Accordingly, in FY19, CPS changed its special education funding formula from the SBB by individual schools to position based allocation by central office.⁴ However, the district's continuous changes in the way of depicting and categorizing special education funds presented an analytical challenge in tracking the categorical program review.

In the FY19 budget, CPS made no mention of the unprecedented ISBE public inquiry findings, including ISBE's recommendations and corrective actions on its systemic violations of the IDEA, despite the fact that CPS' cost savings-driven special education policy impacted over 50,000 students with disabilities in Chicago.

In FY19, CPS' special education unit, Office of Diverse Learner Supports and Services (ODLSS), is budgeted for \$824.5 million, an increase of \$32 million from FY18.⁵ ODLSS proposed an additional 268 special education positions for this year.⁶ However, Access Living finds this ambitious proposal does not come with a thorough staffing plan considering the chronic shortage of qualified special education teachers and paraprofessionals in Illinois.

¹ CPS FY19 Proposed Budget (CPS FY19 Budget), p. 11, https://cps.edu/fy19budget/documents/FY19_BudgetBook_Proposed.pdf;

² CPS FY19 Capital Plan, <https://cps.edu/finance/Pages/financialinfo.aspx>.

³ Illinois State Board of Education (ISBE), *Corrective Action and Recommendations Stemming from the Public Inquiry into Special Education Policies at Chicago Public Schools*, May 16, 2018, available at <https://www.isbe.net/Documents/Corrective-Action-Report.pdf>.

⁴ CPS FY19 Budget, p. 71.

⁵ *Id.*

⁶ *Id.*

This report also discusses the district's \$1 billion capital investment plan, requiring \$750 million borrowing, and its prioritization of investments and lack of a well-prepared funding plan.⁷

Lastly, Access Living presents our findings from reviewing CPS' capital investment plan and its ADA Accommodation budget. The CPS FY19 Capital Plan, totaling \$989 million, only includes \$500,000 for individual accommodations and does not include any proactive ADA implementation plan for improving accessibility citywide, despite the fact that 38% of CPS schools are still inaccessible.

Access Living's recommendations, found at the end of the report, are briefly summarized as follows:

1. **Staffing:** CPS should proactively recruit and fill the promised 268 special education positions announced in July 2018 by the beginning of SY19.
2. **End use of SBB:** CPS must stop using the FY19 SBB for special education teachers assistants funded at principal discretion. Access Living strongly recommends that the ISBE Monitor investigate whether CPS' remaining SBB in special education services violates the IDEA.
3. **Equity for students with disabilities:** CPS needs to establish affirmative procedures to protect students with disabilities, similar to the recent and swift reaction to students who were sexually abused by CPS staff.
4. **Compensation for delayed or denied special education services:** Specifically, the authority of determining whether a student is eligible for compensation (financially or educationally) should not be given to the same team who previously denied services to the student. Access Living supports state legislation that would require the establishment of a compensation fund.
5. **Transparency regarding special education budgeting:** The public deserves clearer and easier access to understanding how budgeting for special education services and access is designed by CPS.
6. **Transparency regarding CPS debt:** CPS should provide transparency to the public when it plans to add significantly more debt. This is a strategic consideration that affects resolution of problems affecting students with disabilities.
7. **ADA physical compliance systemwide:** CPS should prioritize accessibility in its capital improvement plan and appropriate a substantial amount to improve accessibility citywide.

⁷ CPS FY19 Budget, p. 161; CPS FY19 Capital Plan, <https://cps.edu/fy19budget/Pages/capital.aspx>.

Introduction

“I would be telling a lie . . . if I said that we were not looking for ways to save money.”⁸

“There were some efforts that were the result, in my opinion, of attempts to save money”⁹

CPS Chief Operating Officer Janice Jackson

Background

Access Living's founding in 1980 occurred only five years after the passage of the first federal education law governing the rights of students with disabilities, the Education of All Handicapped Children Act. This Act was reauthorized and renamed by Congress as the Individuals with Disabilities Education Act (IDEA) in 1990, the same year as the passage of the landmark Americans with Disabilities Act (ADA). In a sense, Access Living's growth has run alongside the fight to realize the expansion and defense of civil rights and social access for people with disabilities, including for the very youngest in our community.

We issue this report at a moment of considerable fragility and fragmentation for the rights of students with disabilities, not only in Chicago, but nationwide. Though IDEA has been a valuable tool to fight for education outcomes for students with disabilities, it has never been fully funded, and the current U.S. Department of Education has not shown any level of commitment to enforcing student rights under IDEA or Section 504 of the Rehabilitation Act of 1973. Instead, we are faced with a context in which the Department is focused on reducing regulation and rolling back enforcement of civil rights, especially, it seems, when it comes to the civil rights of students with disabilities who are also students of color and/or low income. These students are most at risk not only for a failed education, but for being trapped in the school-to-prison pipeline. This is not acceptable.

As the third largest school district in the country, the Chicago Public Schools (CPS) serves over 50,000 identified students with disabilities. Access Living is one of the oldest Centers for Independent Living in the country, a disability-led and majority-disability staffed rights and services organization committed to building meaningful inclusion and equality for all. Together, we co-exist in a complex political and legal reality, at a time when our local and national work to reduce oppression and harm is essential.

⁸ Sarah Karp, *Chicago Schools Chief: Cost A Driver In Special Ed Overhaul*, WBEZ Radio, Jan. 19, 2018, <https://www.wbez.org/shows/wbez-news/chicago-schools-chief-cost-a-driver-in-special-ed-overhaul/925c88d9-6e30-4b24-9e22-beb60a483b8e>.

⁹ Brandis Friedman, *Advocates Respond to Special Education Investigation at CPS*, WTTW Chicago Tonight, April 19, 2018, <https://chicagotonight.wttw.com/2018/04/19/advocates-respond-special-education-investigation-cps>.

We also issue this report at a historic moment in the annals of special education in this state. Earlier this year, for the first time ever and at the urging of disability, legal and parent advocates, the Illinois State Board of Education (ISBE) conducted an inquiry into the CPS special education system, found systemic violations of IDEA, and appointed an independent monitor to oversee CPS special education. We were part of the advocates coalition that pushed for the inquiry, because after decades of effort to get CPS to address systemic failures impacting our students with disabilities and their families, it was clear that CPS could not fix its problems on its own. We are grateful for the advocates that have been part of this effort, and we look forward to engaging with the monitor over the coming years.

Nonetheless we feel continued vigilance is essential, particularly in the structure and administration of the portions of the CPS annual budget that impact students with disabilities. For us, this includes not only the funding for administration, teachers, and other staff, but the funding of supports and the dedication of a budget towards increasing accessibility at all CPS schools. Transparency, accountability and intention are key. We are not there yet, and our review of this year's budget proposal reveals some concerns that we recommend be addressed.

FY18: A Year of Turmoil

In FY18, CPS has seen a great deal of turmoil: former CEO Claypool's violation of the ethics code and resignation, school closings in the South Side neighborhood, the state's investigation of CPS' special education program, ongoing problems with filthy schools, and the district's decade long failure of protecting students from sexual abuse. These crises have deeply affected all those who live in our city. At the heart of these issues at CPS has been an ongoing, overriding concern with cutting costs, not improving education outcomes and building communities. Our goal with this report is to take a deeper look at CPS' fiscal considerations and the current ramifications for students with disabilities.

Mayor Emanuel and CPS CEO Jackson have made many promises to rectify these issues, such as universal Pre-K for 4-year-old children, creation of a new office for student protection, and new school improvement projects. However, promises, especially in an election year, can only go so far. The public needs to see promises followed up with action.

In terms of special education issues, on November 16, 2017 Access Living and a group of special education related organizations and advocates (Advocates)¹⁰, sent an open letter to the Illinois State Board of Education (ISBE) and requested that the agency investigate the WEBZ radio's findings of CPS special education policy changes in 2016 apparently resulting in delay and

¹⁰ The special education advocacy coalition includes: Access Living; the Shriver Center on Poverty Law; Chicago Principals and Administrators Association; the Chicago Teachers Union; Parents 4 Teachers; Ounce of Prevention Fund; Legal Council for Health Justice; Raise Your Hand for IL Public Education; LAF (Legal Assistance Foundation); Equip For Equality; Potter and Bolanos, LLC; Matt Cohen and Associates; 19th Ward Parents for Special Education.

denial of special education services.¹¹ CPS CEO Jackson, who was the Chief Education Officer while the district's secret overhaul on special education occurred, admitted that saving cost was one of the goals of the highly criticized special education changes in 2016.¹² After four months of investigation, in May 2018, the ISBE found that CPS' special education policies violated the IDEA, ordered corrective actions, and announced a monitor to oversee the district's special education practice for the next three years.

For FY19, Chicago Public Schools (CPS) announced total spending of \$7.58 billion on July 6, 2018.¹³ The proposed FY19 operating budget totals \$5.98 billion, an increase of approximately \$234 million from the proposed FY18 budget of \$5.75 billion.¹⁴ On October 17, 2017 CPS amended its FY18 budget to reflect incorrect local revenue assumptions and the FY19 budget represents an increase of approximately \$285 million compared to the FY18 amended budget.¹⁵ Out of the total of \$5.98 billion budget, CPS budgeted \$3.1 billion as its school-level budget, an increase of \$60 million from the FY18 budget.¹⁶ In addition, CPS announced approximately \$1 billion FY19 capital budget.¹⁷

The most recent additional concern relating to the FY19 budget on special education is CPS' ability to actually fill the pledged addition of 268 special education positions by the beginning of SY19, with a significant shortage of qualified educators in Illinois.

In the following pages, we will analyze these developments in terms of interplay and impact on the education of CPS students with disabilities, and provide recommendations for future action.

¹¹ Special Education Advocates (Advocates), *Advocates' Open Letter to the ISBE Board*, Nov. 16, 2017, <https://www.isbe.net/Documents/Open-Letter-to-ISBE-Board.pdf>.

¹² Sarah Karp, *Chicago Schools Chief: Cost A Driver In Special Ed Overhaul*, WBEZ Radio, Jan. 19, 2018, <https://www.wbez.org/shows/wbez-news/chicago-schools-chief-cost-a-driver-in-special-ed-overhaul/925c88d9-6e30-4b24-9e22-beb60a483b8e>.

¹³ CPS FY19 Budget, p. 11, https://cps.edu/fy19budget/documents/FY19_BudgetBook_Proposed.pdf; CPS FY19 Capital Plan, <https://cps.edu/finance/Pages/financialinfo.aspx>.

¹⁴ CPS FY19 Budget, p. 11; CPS FY18 Proposed and Approved Budget, pp. 15-16, https://cps.edu/fy18budget/documents/FY18_BudgetBook_Approved.pdf.

¹⁵ *Id.*

¹⁶ *Id.* at 4.

¹⁷ CPS FY19 Capital Plan, <https://cps.edu/fy19budget/Pages/capital.aspx>.

ISBE Public Inquiry into CPS Special Education Policies

In November 2017, a group of eleven special education related organizations and advocates (Advocates)¹⁸, including Access Living, urged the Illinois State Board of Education (ISBE) to conduct a Public Inquiry into CPS' special education policies and practices by sending the Advocates' Open Letter to the ISBE.¹⁹ In the letter, the Advocates asked the ISBE to investigate the WBEZ radio report²⁰ of cost saving-driven policy changes apparently resulting in delay and denial of special education services, as well as other related issues of which the Advocates were aware. In response, in December 2017 the ISBE announced the state's first ever public inquiry into CPS' special education policies "to address the central question of whether there is a policy environment in CPS preventing students with special needs from being served."²¹

The ISBE set the following four issues²² to be examined as to CPS' alleged systemic delay or denial of special education services:

- (1) Does CPS' electronic IEP system, either alone or in conjunction with CPS' Policies and Procedures, result in an unlawful denial or delay of required services or limitations on the required continuum of services to students?
- (2) Do CPS' documentation and data collection requirements result in unlawful denial or delay in the identification of eligibility or provision of special education and related services to students?
- (3) Does CPS' budgeting system result in unlawful denial or delay in the provision of special education and related services to students?
- (4) Have CPS' policies regarding transportation resulted in an unlawful denial or delay in the provision of needed transportation services to students?²³

¹⁸ The special education advocacy coalition includes: Access Living; the Shriver Center on Poverty Law; Chicago Principals and Administrators Association; the Chicago Teachers Union; Parents 4 Teachers; Ounce of Prevention Fund; Legal Council for Health Justice; Raise Your Hand for IL Public Education; LAF (Legal Assistance Foundation); Equip For Equality; Potter and Bolanos, LLC; Matt Cohen and Associates; 19th Ward Parents for Special Education.

¹⁹ Advocates, *Advocates' Open Letter to the ISBE Board*, Nov. 16, 2017, <https://www.isbe.net/Documents/Open-Letter-to-ISBE-Board.pdf>.

²⁰ Sarah Karp, *WBEZ Investigation: CPS Secretly Overhauled Special Education At Students' Expense*, Oct. 16, 2017, <https://www.wbez.org/shows/wbez-news/wbez-investigation-cps-secretly-overhauled-special-education-at-students-expense/2f6907ea-6ad2-4557-9a03-7da60710f8f9>.

²¹ ISBE, *Letter to Advocates*, Dec. 15, 2017, <https://www.isbe.net/Documents/Letter-to-advocates-re-public-inquiry-12-15-17.pdf>; ISBE Public Inquiry Team Memorandum, *Final Report of Public Inquiry (ISBE Inquiry Final Report)*, April 18, 2018, https://www.isbe.net/Documents/Public_Inquiry_Final_Report.pdf.

²² The ISBE/Inquiry Team decided not to include two of the Advocates' original issues: (1) early childhood transportation restrictions issue and (2) alleged misuse of federal and state funds due to the SBB and CPS' consolidation of special education line items in its budget; See Open Letter.

²³ ISBE, *Public Inquiry into Special Education Policy and Procedures in the Chicago Public Schools, Areas of Inquiry - Statement of Issues and Implicated Legal Standards*, <https://www.isbe.net/Documents/StatementofIssues.pdf>.

The public inquiry process was similar to a trial, except the fact that the public inquiry team²⁴ was tasked with finding facts, not making final decisions. The Advocates submitted over 8,000 pages of documents, including 72 affidavits from parents, teachers, social workers, a psychologist, a case manager, and advocates. In March 2018, the public inquiry team conducted a three-day hearing. The public inquiry team, the Advocates, and CPS examined witnesses from both sides, including CPS officers who were involved in special education policies and budgeting from the SY 2016-2018.²⁵ The overwhelming evidence that the Advocates presented throughout the inquiry process led the Inquiry Team to find systemic problems in CPS special education programs over all of the four issues.²⁶ Specifically, the Inquiry Team concluded that CPS' Student-Based Budgeting (SBB) and budget appeal system in both SY 16-17 and SY 17-18 likely led to the delay or denial of special education teaching and paraprofessional supports for students with disabilities.²⁷ The finding was based on the number of denied appeals with missed special education services and the lack of clear follow-up and remedial action by CPS.²⁸

Meanwhile, the Advocates' Open Letter and the subsequent announcement of the state's investigation into CPS' special education policies brought public attention. In January 2018, the Chicago City Council announced a hearing on the subject matter and CPS hastily announced an additional 65 positions (56 school-based positions and nine citywide positions) to supplement its special education services hours before the hearing.²⁹ At the state education committee's hearing a week after, the new CPS CEO Dr. Jackson admitted that cost was one driver of CPS' controversial non-education consultants driven special education policy changes by saying, "We were a district in crisis . . . I would be telling a lie if I said that we were not looking for ways to save money."³⁰

As the public inquiry moved toward the end, the Advocates made recommendations to the ISBE to safeguard the rights of children with disabilities in CPS. Most importantly, the Advocates asked the ISBE to appoint an independent external monitoring team/special master for five years.

²⁴ The General Counsel of ISBE appointed a Public Inquiry Team consisting of Nancy Krent, Facilitator; Richard Cozzola, Representative of the Advocates; and Rupa Ramadurai, ISBE Representative. The Inquiry Team was charged with conducting the Inquiry, undertaking fact-finding regarding the issues, and reporting to the Superintendent and General Counsel to outline what the Team learned.

²⁵ CPS Chief of Diverse Learner Supports and Services Dr. Elizabeth Keenan, CPS Senior Budget Manager Gregory Volan, and CPS Senior Assistant General Counsel Kathleen Gibbons.

²⁶ ISBE Public Inquiry Team, *Public Inquiry Final Report*, April 18, 2018, https://www.isbe.net/Documents/Public_Inquiry_Final_Report.pdf.

²⁷ ISBE Public Inquiry Final Report.

²⁸ *Id.*

²⁹ CPS Press Release, *CPS Announces Additional School-Based Personnel to Support Special Education*, Jan. 12, 2018.

³⁰ Sarah Karp, *Chicago Schools Chief: Cost A Driver In Special Ed Overhaul*, WBEZ Radio, Jan. 19, 2018, <https://www.wbez.org/shows/wbez-news/chicago-schools-chief-cost-a-driver-in-special-ed-overhaul/925c88d9-6e30-4b24-9e22-beb60a483b8e>.

They cited CPS' failure to fulfill its educational duties for students with disabilities for years with its own bureaucracy.

CPS openly opposed the Advocates' recommendations. CPS CEO Dr. Jackson argued that the Advocates needed to accept her intention on good faith of providing high quality education for children would be sufficient regardless.³¹ The Advocates campaigned for the need for an independent monitor's office and a \$10 million compensatory education fund for students whose services were delayed or denied by CPS.

While the state's investigation into CPS' special education policies was taking place, CPS alleged that they changed some policies and practices, including CPS Special Education Procedural Manual, that were in question. However, the Advocates' survey of 2,000 teachers, parents and staff at CPS showed that the district's violation of the federal education law was continuing in SY18 despite the ongoing investigation.³² 94% of respondents, (approximately 1,800 CPS teachers) said they never had training on the new Special Education Procedural Manual from February 2018.³³ 73% of teachers and 53% of parents responded that they had seen a denial of services in the student's IEP (Individualized Education Program) due to insufficient budgeting in SY17-18.³⁴

On May 16, 2018, the ISBE found that CPS violated the Individuals with Disabilities Education Act (IDEA) and the board unanimously voted for the findings and the agency's recommendations and corrective actions.³⁵ In addition to multiple corrective actions, ISBE accepted the Advocates' recommendation for the independent monitor and announced its plan to appoint a monitor who will oversee CPS' special education policies and practices for the next three years.³⁶

Under the ISBE monitor's oversight, CPS is required to implement policy changes recommended by the ISBE by the start of SY19. The expected changes include removal of CPS' electronic Individualized Education Program (IEP) system blocks inconsistent with the IDEA, removal of burdensome date requirements for certain services, ensuring IEP teams' authority, revision of the CPS Procedural Manual, clear and transparent position allocation formula for special education staff at schools, staff training, and student specific compensatory education guided by the

³¹ In the interview with WTTW Chicago Tonight on April 18, 2018, when asked about an independent monitor, Dr. Jackson said, "I'm not open to an independent monitor . . . I would say that I have shown good faith under my leadership that I intend to rectify all of those challenges that have been brought forward to my attention . . . I am an educator, my primary focus is providing kids with a high quality education. We don't need anyone to come in and tell us to do that, that is exactly what I intend to do," <https://chicagotonight.wttw.com/2018/04/19/advocates-respond-special-education-investigation-cps>.

³² Advocates, *Final Report on "Current CPS Special Education Issues" Survey Results*, May 9, 2018, <https://chicagotonight.wttw.com/sites/default/files/article/file-attachments/Survey%20plus%20Comments.pdf>.

³³ *Id.*

³⁴ *Id.*

³⁵ ISBE, *Memorandum: Corrective Action and Recommendations Stemming from the Public Inquiry into Special Education Policies at Chicago Public Schools*, May 16, 2018, <https://www.isbe.net/Documents/Corrective-Action-Report.pdf>

³⁶ *Id.*

ISBE.³⁷ In addition, the Advocates successfully campaigned with the Illinois General Assembly for the group's recommendations that the ISBE did not accept. Senate Bill 454 (SB454), which was originally an assistive technology bill, included the Public Inquiry related requirements, such as CPS' notification to parents prior to an IEP meeting of services requiring data collection, providing advance copy to parents of draft IEP, and notification to parents if the recommended services for a student are not implemented within 10 days.³⁸ It also allows ISBE to create a hotline for special education related complaints and prohibits CPS from using any measure that would delay or prevent an IEP team from adding a service to the student's IEP.³⁹ This bill passed both chambers of the General Assembly on June 29, 2018, and awaits signature by the Governor of Illinois.

³⁷ *Id.*

³⁸ Illinois General Assembly, Senate Bill 454, <http://www.ilga.gov/legislation/billstatus.asp?DocNum=454&GAID=14&GA=100&DocTypeID=SB&LegID=100395&SessionID=91>.

³⁹ *Id.*

CPS Funding for Special Education Services in FY19

Funding to Chicago Public Schools

In FY2019, CPS has a stronger projection of revenue after chronic underfunding by the state, in comparison to past years.

After three years of political deadlock, the Illinois General Assembly finally passed a \$38.5 billion budget that includes \$352 million for the new education funding formula for public education and a \$50 million increase for early childhood education.⁴⁰ The state's FY19 budget provides CPS an additional \$65 million based on the Evidence-Based Funding (EBF) formula, as a part of \$352 million in new education funding statewide. CPS is also budgeted to receive \$18.5 million in early childhood funding.⁴¹ The state's support for the annual cost of Chicago Teachers' Pension Fund (CTPF) is \$239 million in FY19.⁴² Local revenue budget increased \$93.6 million, mostly due to the \$75 million increase in property tax revenues.⁴³ Thus, FY19 operating revenues total \$5.92 billion and, with \$62.6 million reserves in addition, CPS' FY19 operating budget totals \$5.98 billion.⁴⁴

CPS FY19 Operating Revenues (\$ in millions)⁴⁵

	FY2018 Budget	FY2018 Estimated End of Year	Variance Estimated vs Budget	FY2019 Budget	FY2019 vs. FY2018 Budget
Property Tax	2,808.7	2,808.7	0.0	2,899.4	90.7
Replacement Tax	90.4	109.8	19.4	126.2	35.8
TIF Surplus	88.3	87.9	-0.4	22.3	-66.0
All Other Local	181.1	180.1	-1.0	214.2	33.1
Total Local	3,168.5	3,186.6	18.1	3,262.1	93.6
State	1,466.4	1,615.1	148.7	1,610.2	143.8
State Pension Support	233.0	233.0	0.0	238.9	5.9
Federal	773.0	676.8	-96.2	805.4	32.4
Investment Income	1.1	5.6	4.5	5.0	3.9
Total Revenue	5,642.0	5,717.1	75.1	5,921.6	279.6

⁴⁰ The \$352 million meets the \$350 million annual target increase of Public Act 100-465 enacted in August 2017.

⁴¹ "The early childhood block grant remains unchanged from GSA. CPS will receive a pre-defined 37 percent of total state appropriation of the grant. In FY2019, the state appropriated an added \$50 million to the statewide early childhood block grant, meaning CPS will have an extra \$18.5 million in budgeted revenue to fund its early childhood Pre-K programs." CPS FY19 Budget, *available at* <https://cps.edu/fy19budget/Pages/revenue.aspx>.

⁴² CPS FY19 Budget, p. 11.

⁴³ CPS FY19 Budget, pp. 10-11.

⁴⁴ CPS FY19 Budget, pp. 11-20.

⁴⁵ CPS FY19 Budget, p. 20.

CPS expects \$805.4 million as federal revenues for its operating budget in FY19.⁴⁶ This is an increase of \$32 million from FY18.⁴⁷ IDEA and Medicaid Reimbursement funds are also a fair chunk of CPS special education funding. In FY19, federal IDEA special education fund will total \$103 million, an increase of \$6.5 million from FY18.⁴⁸ The federal Medicaid Reimbursement fund offsets CPS' cost of providing special education and related services as delineated in the Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP).

Breaking Down the Formula for CPS Special Education Funding

Special education has had the most complex state program code funding system in CPS' interactive online budget. Not counting administrative lines or city wide program lines there have been as many as 50 different defined instructional program codes for special education in the budget. To make it even more complex, in FY17 and FY18, CPS funded special education cluster programs by a direct allocation method while allocating SBB funds to schools for non-cluster special education staff at schools. Funds for the non-cluster special education positions were not included in the ODLSS budget. Many of these program codes for FY19 confuse readers by not providing comprehensive information. For example, CPS program code P121302 for autism programs, which contained zero funding in the FY17 budget and reappeared in the FY18 budget, lists FY19 funding of \$817,059, an increase of \$201,778 from its FY18 adopted budget.⁴⁹ The school by school budget details show only eight positions with four schools are assigned to this program code for the entire school system of 646 schools and five of those positions are listed as being at Beard School, a separate CPS special education school for young children. This budgeting format does not provide much information as to the level of CPS funding for students with autism in any comprehensive manner because it does not reflect the district-wide services for students with autism.

Access Living has been opposed to CPS' student-based budgeting (SBB) for special education services. Requiring schools to fund services for their students with disabilities with merged general and special education funds and using an average cost figure for students with disabilities by their Least Restrictive Environment (LRE)⁵⁰ code, or more complex severity indexing system, is not individualized as required by federal and state law. The cost of supporting a student with a disability can vary greatly according to the unique student. Throughout the state's public inquiry

⁴⁶ CPS FY19 Budget, p. 20.

⁴⁷ *Id.*

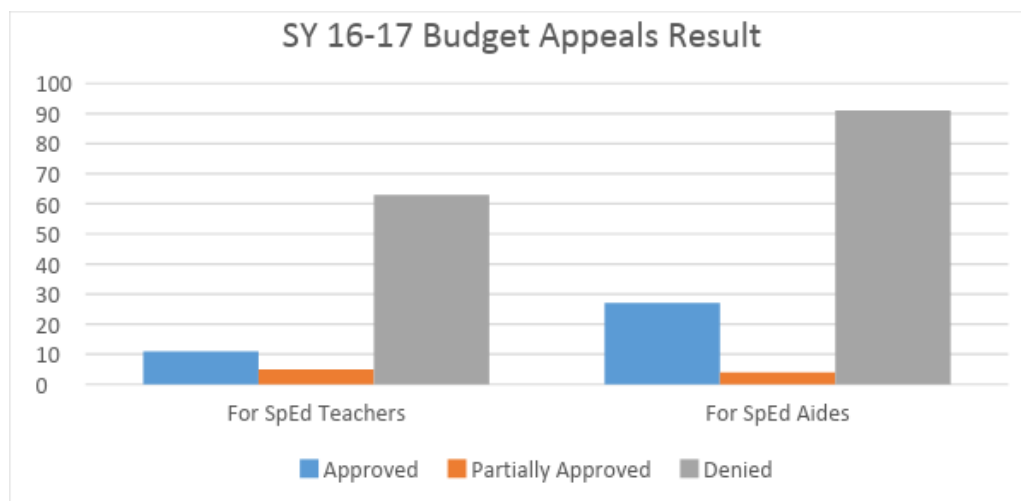
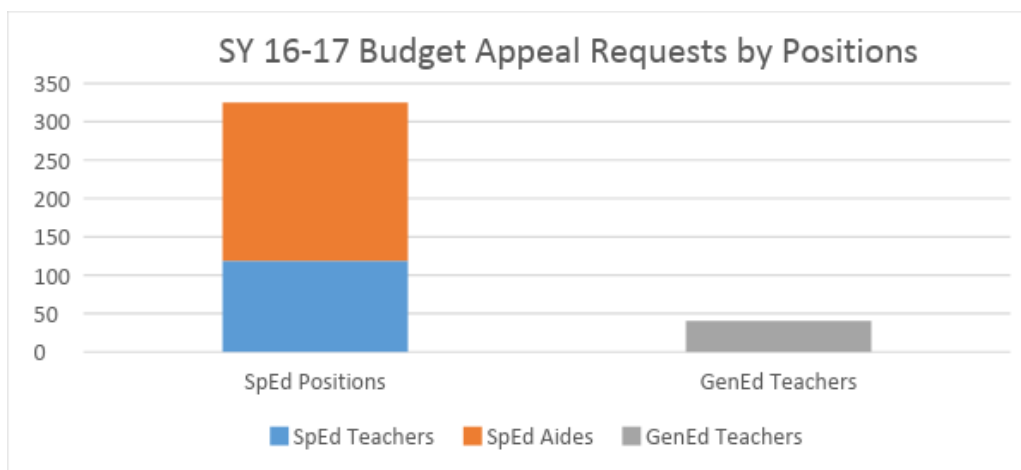
⁴⁸ CPS FY19 Budget, Interactive Report, Budget by Fund: Federal Special Education IDEA Fund (FG220), <https://biportal.cps.edu/analytics/saw.dll?Dashboard>.

⁴⁹ CPS FY19 Budget Interactive Report, Budget by Program: Autism (P121302), <https://biportal.cps.edu/analytics/saw.dll?Dashboard>.

⁵⁰ The Individuals with Disabilities Education Act (IDEA) requires that students with disabilities receive their education, to the maximum extent appropriate, with nondisabled peers and that special education students are not removed from regular classes unless, even with supplemental aids and services, education in regular classes cannot be achieved satisfactorily. 20 U.S.C. § 1412(a)(5); 34 C.F.R. § 300.114.

process, Access Living found that CPS' SBB and budget appeal system were developed to prioritize cost savings over students with disabilities' individualized education needs. CPS allocated merged special education funding with general education funding⁵¹ and allocated to schools with a 4% reduction of the total budget. By limiting schools' resources, SBB created inappropriate pressure on individual school principals to save funds by limiting special education services for children by not approving them.

Not surprisingly, in SY16-17, CPS schools appealed for approximately 325 special education positions (teachers and aides) while requesting approximately 41 general education teachers only.⁵² Then, CPS utilized its newly developed budget appeal process by the Task Force team⁵³ and denied most of the special education staffing appeals:



⁵¹ Merger of categorical district wide special education funding into Core Instructional Funding. As a result, CPS FY 17 budget did not provide an actual special education funding formula.

⁵² ISBE Public Inquiry, CPS Dashboard of Appeal Decisions and the Appeal Decision Documents of each school in SY 16-17, CPS 2840-56; CPS 2884-3081.

⁵³ The Task Force team consisted of outside consultants and CPS officers.

- In SY16-17, CPS schools made 118 appeals for paraprofessionals (some requesting more than one paraprofessional), of which approximately 27 were approved, four were partially approved, and 91 were denied. There were also 74 appeals for special education teachers, of which 11 were approved, five were partially approved, and 63 were denied.⁵⁴

Through the budget appeal system, CPS saved another \$15.6 million for FY17.⁵⁵

On April 17, 2018 CPS announced its FY19 school level budget of \$3.1 billion, including an additional \$29 million for special education and returned to the practice of providing schools with position allocations for special education.⁵⁶ However, it is not a true increase, but rather it is likely a partial restoration of previous years' budget cuts. For FY16, CPS announced a \$42.3 million budget reduction of special education services and ended up actually reducing the cost by \$38.3 million.⁵⁷ Since 2016, CPS merged fund lines and made radical changes in the category of special education funds⁵⁸ and for that reason, tracking changes in special education funds became nearly impossible for the public.

ODLSS FY19 Departmental Budget

The Office of Diverse Learner Supports and Services (ODLSS) provides special education services to students with disabilities in CPS. ODLSS works to provide instruction and related services mandated by students' IEP or 504 plans. In collaboration with the CPS Law Department, ODLSS is also responsible for the district's compliance with federal and state laws requiring a free appropriate public education, including the identification, evaluation, placement, and procedural safeguards for students with disabilities.⁵⁹ Although the ODLSS budget does not include all special education related funds in the CPS budget, still it provides a relatively good picture of CPS' budget for special education.

In FY19, the ODLSS Budget Summary and Position Summary reveals an increase of \$32 million and an additional 268 special education positions.

⁵⁴ ISBE Public Inquiry Final Report, p. 28.

⁵⁵ Affidavit of former Access Living Education Policy Analyst Rodney Estvan, ISBE Public Inquiry Advocates 30.

⁵⁶ Lauren FitzPatrick, *CPS budgeting enough money so schools can maintain current staffing levels*, Chicago Sun-Times, April 17, 2018, <https://chicago.suntimes.com/news/cps-budgeting-enough-money-so-schools-can-maintain-current-staffing-levels/>.

⁵⁷ CPS said the special education overhaul would save \$42.3 million, including \$14 million from not filling 200 vacant positions; *see also* CPS Press Release *After Springfield Inaction, CPS Reducing Expenses by \$200 Million* (July 1, 2015); CPS FY16 Budget, p. 63.

⁵⁸ CPS in FY17 moved most school based funding for special education into Core Instructional Funding, specifically CPS program code P127725 "Special Ed Instruction K-12" totaling \$455.4 million. Many of approximately 50 instructional program codes for special education for FY 17 read zero.

⁵⁹ CPS FY19 Budget, p. 69.

FY18-FY19 ODLSS Budget Summary⁶⁰

	2018 Proposed Budget*	2018 Approved Budget	2019 Proposed Budget
General Funds	\$220,527,948	\$220,527,948	\$229,263,745
Other Grant Funds	\$20,250,093	\$20,250,093	\$21,136,655
Total Department	\$240,778,042	\$240,778,041	\$250,400,400
Budgeted at Schools	\$239,168,503	\$176,308,463	\$574,128,072
SBB Funding	\$375,366,000	\$375,400,000	\$0
Grand Total w/ SBB Funding	\$855,312,545	\$792,486,504	\$824,528,472
Actual Special Education Budget increase in FY19			\$32,041,968

Source: CPS FY19 Budget, p.71; CPS FY18 Proposed Budget, p.86.

In FY19, the proposed ODLSS budget totals \$824.5 million. This is an increase of about \$32 million from the approved FY18 budget.⁶¹

Beginning in FY17, CPS excluded funding for special education teachers and paraprofessionals for non-cluster students at schools from the “Budgeted at Schools” amount and allocated those funds to individual schools through SBB.⁶² Previously, all special education teachers and paraprofessionals assigned at district-run schools were supported by the “Budgeted at Schools” funds.

In FY19, CPS is returning to the pre-FY17 practice of allocating all special education funding in the form of FTEs, apparently responding to the state’s public inquiry into its SBB for special education services. Thus, the “Budgeted at Schools” in FY19 proposed budget shows the amount comparable to the sum of the Budgeted at Schools amount and the SBB funding in FY18.

One notable point is that the previous “direct allocation of SBB funding for non-cluster special education staff in FY17 and FY18” prevented the public from finding the actual expense of the SBB funding for special education positions. The particular funds are not independently reported in the CPS budget or any format of the interactive report so it is nearly impossible to figure out if individual schools had special education teachers and paraprofessionals upon the need of students with disabilities.

Only through the Public Inquiry as discussed in the previous chapter did the public learn that the vast majority of appeals for special education positions were denied, and CPS officers never

⁶⁰ *The ODLSS FY18 proposed budget included \$63.4 million of charter tuition payments. In FY19, CPS categorized the entire tuition payments under the new Per Capital Tuition Charge (PCTC) funding model as general funds, with no portion categorized as ODLSS funding. The FY18 approved budget shows adjusted figures excluding charter tuition payments; CPS FY19 Budget, p.71; CPS FY18 Proposed Budget, p.86.

⁶¹ *Id.*

⁶² *Id.*

followed up on whether schools still provided IEP required services for students after being denied for additional funding.⁶³

FY18-FY19 ODLSS Department Position Summary

	2018 Budgeted Positions	2018 Ending Positions	2019 Proposed Positions
General Funds	1,409.5	1,424.7	1,441.2
Other Grant Funds	155.6	158.4	159.4
Total Department	1,565.1	1,583.1	1,600.6
Budgeted at Schools	2,161.9	2,266.4	7,225.9
Grand Total	3,727.0	3,849.5	8,826.5

Source: CPS FY19 Budget, p. 71.

In the table, the “Budgeted at Schools” position counts for FY2018 exclude special education teachers and paraprofessionals serving non-cluster students at district-run schools opened by schools with their SBB funds. CPS notes that “the FY2018 approved budget included 4,831.6 special education positions not included in the above table because they were funded through SBB funds. In FY2019 all special education funding for district-run schools is allocated as centrally-funded positions and included in the above table.”⁶⁴ Therefore, the total of the Budgeted at Schools positions (2,161.9) and SBB funded Special Education positions (4,831.6) in FY18 is comparable to the Budgeted at Schools positions (7,225.9) in FY19 and an increase of 268 positions in FY19 as follows:

⁶³ “In several of the denied appeals, the Principal specifically noted that the school was unable to provide for the needs of all of its special education students without the additional funds . . . Many other denied appeals also contained counts of how many minutes of special education support or services the students were actually missing. When questioned at the Public Hearing, CPS officials reported that they were aware of no specific efforts made to verify the missing minutes or to compensate for the missed minutes. They could not explain what steps, if any, were taken to ensure that there was adequate support if an appeal was denied. Mr. Volan, who served on the Budget Appeal Committee the last two years, stated that the DR might be sent to the school to help look at schedules, but he reported that the Budget Appeal Committee did not undertake any follow-up either year to ensure that the missing services were provided.” ISBE Public Inquiry Final Report, p. 29; *see also* “When questioned at the Public Hearing, Mr. Volan, Ms. Lucas, and Dr. Keenan could not adequately describe what follow-up was provided to schools identifying shortages, nor could any of them provide assurances that missed minutes had been made up.” *Id.* p. 31.

⁶⁴ CPS FY19 Budget, p. 71.

FY18-FY19 ODLSS Department Comprehensive Position Summary

	2018 Budgeted Positions	2019 Proposed Positions	Position increase in FY19 compared to FY18
General Funds	1,409.5	1,441.2	31.7
Other Grant Funds	155.6	159.4	3.8
Total Department	1,565.1	1,600.6	35.5
Budgeted at Schools	2,161.9	7,225.9	5,064.0
SBB funded Special Education Positions*	4,831.6	0.0	-4,831.6
Grand Total w/ SBB funded special education positions	8,558.6	8,826.5	267.9

*Special education teachers and paraprofessionals serving non-cluster students at district-run schools in FY18.

Source: CPS FY19 Budget, p. 71.

Key Finding: In Some Instances, CPS Did Not Discard SBB for Special Education Positions

Regarding the numbers of special education teachers and paraprofessionals, CPS notes in its FY19 Budget's Schools and Networks position table:

Note: In FY2018, funding for special education teachers and support assistants was provided through SBB. In FY2019, these personnel costs are funded centrally.

Additional positions may be funded above centrally-provided allocations at principal discretion. For comparison's sake, the above table excludes 2,687.0 special education teachers and 1,866.3 special education support assistants funded by SBB in FY2018, and **40.5 special education teachers and 20.7 special education support assistants funded by SBB in FY2019...**⁶⁵ [Bolded by the author]

What does "additional special education positions funded by SBB at principal discretion" mean? When a student has a disability, they are eligible for either an IEP or a 504 plan. When students with disabilities need special education teachers and support assistants prescribed by their IEP/504 plans, those positions must be centrally-funded by ODLSS per CPS' current position based allocation. In April 2018, CPS CEO Dr. Jackson announced CPS' return to the pre-FY17 budgeting, allocation of centrally-funded special education teachers and paraprofessionals at schools from student-based budgeting (SBB). Subsequently, the ISBE found that CPS' SBB and appeals process violated the IDEA and required that CPS' methods for determining special education staff to be "clear and transparent for schools."

40.5 special education teachers and 20.7 special education support assistants are not a small number and they are funded by individual school budgets because CPS saw them as "additional positions." But school principals see their students need special education teachers and assistants. CPS' continuing SBB with special education services warrants the ISBE Monitor's investigation in accordance with the ISBE requirements and corrective actions on CPS.

⁶⁵ CPS FY19 Budget, p. 38.

Access Living strongly recommends that the ISBE Monitor investigate whether CPS' remaining SBB in special education services violates the IDEA. In particular, we recommend examining:

- Whether the additional special education staff funded by SBB at principal discretion in FY19 are providing services to students who have IEPs or 504 plans. If so, how did CPS determine that they should be funded at individual principal's discretion?
 - If the students receiving services from the additional special education staff do not have IEPs/504 plans, the Monitor should determine if the whole IEP process, including evaluation, was appropriately administered in accordance with FAPE.
- Whether the schools receiving special education teachers and assistants at principal discretion through SBB funds made such decisions after they formally or informally appealed against the central office's position allocation determination.
 - If so, the Monitor should determine if CPS' special education staffing/allocation formula complies with the IDEA and
 - The Monitor should review the staffing appeals and subsequent decisions, and if needed, "override [CPS'] appeals decisions if evidence demonstrates that the decisions will result in the unwarranted denial of services to students."⁶⁶

Key Development: CPS' Last Minute Announcement of 254 New Social Workers and Case Managers

On July 16, 2018, less than 10 days prior to the Chicago Board of Education's vote on the FY19 budget, CPS again released a surprising plan for the upcoming school year: allocating \$26 million to fund a total of 254 positions, 160 social worker positions to support 160 schools and 94 special education case manager positions at 78 schools.⁶⁷ Adding more positions to meet students' needs is welcomed, and here CPS chose the right direction after years of service cuts. However, staffing expansion, especially on this scale, is not an easy task and simply budgeting funds does not guarantee the goal of filling those positions with qualified staff. For that reason, adding new positions requires long-term planning in advance so anyone would expect the district's budget to discuss the expansion plan. Did CPS discuss this plan in its FY19 budget? Not at all.

In the FY19 Budget, CPS states the following list as the ODLSS key budget initiatives and nowhere in the list states this huge position expansion:

- Creating a new translation unit within ODLSS to help schools build capacity to provide translation services for non-English speaking parents who are attending IEP meetings. The unit will include one manager and 9 translators.

⁶⁶ ISBE Corrective Action, p.8.

⁶⁷ CPS Press Release, *Mayor Emanuel and CPS to Hire More Than 250 Social Workers and Special Education Case Workers to Support Students in High Needs Communities*, July 16, 2018, https://cps.edu/News/Press_releases/Pages/PR1_07_16_2018.aspx.

- Providing funding for software development to create Spanish language templates for Individualized Education Programs (IEP).
- Reducing vacancies in related service provider (RSP) positions through stronger recruitment efforts.
- Increasing the number of centrally-funded itinerant teachers who serve students with disabilities in multiple schools.
- Increasing number of network-based administrative positions.
- Reorganizing existing positions to take on new functions.⁶⁸

Thus, CPS is going to present the above list of initiatives to its board members to vote on, while creating the department's biggest budget initiative outside its formal financial policy plan. In addition to this problematic practice, it is unclear how the above \$26 million is related to the funding for special education. Does the \$26 million belong to the \$32 million increase of the ODLSS FY19 budget or only a portion of the \$26 million is categorized as funds for students with disabilities? Access Living requested that CPS provide relevant information in detail on July 16th but we have not yet received any response.

CPS describes the newly announced 94 additional special education case manager positions as follows:

These positions are being allocated directly to 40 elementary schools and 38 high schools based on the number of diverse learners at the school. These dedicated case managers will be solely focused on ensuring students with IEPs are getting the support they need and deserve. At many of these schools, teachers and counselors were previously provided a stipend to cover case management responsibilities due to a lack of dedicated case managers at the school. By providing schools with dedicated case managers, staff who previously had to spend time and energy managing their case management responsibilities can instead focus on their primary instructional and student support roles.⁶⁹

It appears that at least 94 new case manager positions are included in the FY19 ODLSS Position Summary with an increase of 268 positions from FY18. The ODLSS positions include special education teachers and paraprofessionals at schools, centrally-funded itinerant special education teachers and paraprofessionals, and service management and administrative staff.

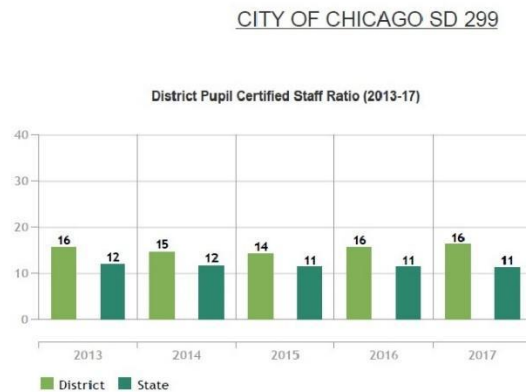
Key problem: A Severely Understaffed District with Consistent Vacancies

With CPS' well-intentioned but ambitious expansion of their plan for positions, the biggest concern is effective staffing. CPS has a long history of being severely understaffed. The data from the Illinois Report Card shows that "CPS has fewer staff members per student than all but

⁶⁸ CPS FY19 Budget, pp. 72-73.

⁶⁹ CPS Press Release, *Mayor Emanuel and CPS to Hire More Than 250 Social Workers and Special Education Case Workers to Support Students in High Needs Communities*, July 16, 2018, https://cps.edu/News/Press_releases/Pages/PR1_07_16_2018.aspx.

two of the more than 850 school districts in Illinois.”⁷⁰ In 2017, the average student-to-staff ratio for all Illinois school districts was 11-to-one.⁷¹ CPS was 16-to-one.⁷² Moreover, the 5-year trend of the below District’s student-to-staff ratio shows CPS' student-to-staff ratio actually got worse since 2015.



This information is reported at the district level. The ratio is calculated by using the fall enrollment total, divided by the number of FTE certified staff, but not including adult education personnel.

Note: FTE = Full Time Equivalent

Source: Illinois Report Card, Chicago Public Schools.

The following table shows CPS' special education staffing has been consistently under-staffed and the district is not expecting to fill in all of the budgeted and allocated special education positions in FY19.

Program	Program Name	FY 2017 Adopted Budget	FY 2017 Ending Budget	FY 2017 Expenditures	FY 2018 Adopted Budget	FY 2018 Ending Budget	FY 2018 Projected Expenditures	FY 2019 Proposed Budget
P127725	Special Education Instruction K-12	455,380,659	423,304,637	425,575,059	413,763,431	401,757,053	400,283,698	446,319,856
U11675	Vacancy Factor (diverse learner related services providers - citywide)				-8,500,000	-8,500,000	0	-5,747,051

Source: CPS FY19 Budget, Interactive Budget, Budget by Program.

⁷⁰ Kiannah Sepeda-Miller, *Is CPS the most understaffed district in Illinois?*, Politifact Illinois, June 21, 2018, <http://www.politifact.com/illinois/statements/2018/jun/21/troy-laraviere/cps-most-understaffed-district-illinois/>.

⁷¹ Illinois State Board of Education, Illinois Report Card, *available at* <https://www.illinoisreportcard.com/District.aspx?source=admin&source2=pupilcertstaffratio&Districtid=15016299025>

⁷² *Id.*

In the following table, SY18 Special Education related services provider position vacancy is a total of 137.5. That is, CPS has not been able to fill 137 full-time positions. As of February 2018, 13 social workers were still needed but vacant. In SY19, CPS pledged to add 160 social workers, approximately 50% of the SY18 total social worker positions.

RSP Discipline	SY 2015-16		SY 2016-17		SY 2017-18	
	Total Positions (Staffed and Vacant)	Staffed Positions Only	Total Positions (Staffed and Vacant)	Staffed Positions Only	Total Positions (Staffed and Vacant)	Staffed Positions Only
Psychologists	234	216	234	199	232	212
Social Workers	323	308	321	307	317	304
Speech Pathologists	367	351	366	333	367	329
Occupational Therapists	108	104	109	100	113	107
Physical Therapists	32	34	32	31	32	32
Certified School Nurses	163.5	147	162.5	136	144.5	110
Health Service Nurses	53	49	53	45	66	49
Licensed Practical Nurses	85	84	85	82	100	91
Total Related Service Providers	1365.5	1293	1362.5	1233	1371.5	1234

Position counts are shown as of November 1 of the relevant school year.

Position counts are given in full-time equivalents, or FTE's. However, all related service provider positions are 1.0 positions, except for one 0.5 certified school nurse.

Source: ISBE Public Inquiry, CPS 1419.

Therefore, Access Living asks: what is CPS' plan to fill a total of 254 positions, 160 social worker positions and 94 special education case managers, at schools by the end of August? In January 2018, CPS hastily announced an expansion of 65 new special education positions minutes before the Chicago City Council's hearing on its special education service issues.⁷³ How much progress has CPS made with the previous list of special education position openings? At the Illinois Senate and House Education Committees Joint Hearing on CPS' special education policies on May 4th, State Representative Fred Crespo asked ODLSS Chief Dr. Keenan how many positions announced in January were actually filled. Dr. Keenan admitted that the district has filled about 25 positions out of 65 openings and the rest were still vacant. At the news conference on July 16, 2018, CPS CEO Dr. Jackson did not respond to a question about the district's progress in filling the previously announced special education staff expansion of 65 positions.⁷⁴

This is a pattern that has occurred in multiple years. CPS pledges additional special education positions and does not hold itself accountable for what it promised. CPS FY19 Budget states the January expansion of special education positions as one of the ODLSS' major accomplishments, despite that fact that they never fully "accomplished" real staffing.⁷⁵ Budgeting and position

⁷³ CPS Press Release, *CPS Announces Additional School-Based Personnel to Support Special Education*, Jan. 12, 2018, https://cps.edu/News/Press_releases/Pages/PR1_1_12_2018.aspx.

⁷⁴ Juan Perez Jr, *Citing 'firmer' budget and sex abuse scandal, CPS to hire 250 social workers, case managers*, Chicago Tribune, July 16, 2018, <http://www.chicagotribune.com/news/ct-met-chicago-schools-social-workers-20180716-story.html#>.

⁷⁵ CPS FY19 Budget, pp.71-72.

openings should never be considered as accomplishments. It is another hollow plan which will more likely be buried with the above vacancy factor in its budget.

In order to fulfill the pledge of 254 new positions for the upcoming school year, CPS must establish an affirmative recruitment plan based on current educator status in Illinois, rather than passively opening special education jobs. The projection is not optimistic. The state's superintendents already shared concern for educator shortage in 2017 as follows:

Superintendents believed that bilingual teachers, Spanish teachers, special education teachers, nurses, and school psychologists were the most difficult positions to fill. When asked about the qualifications of the teachers who did apply 65% of the superintendents believe that they have received significantly fewer qualified teacher applicants than five years ago and 54% believe that availability of substitute teachers was “significantly worse” for the 2017-2018 school year than for previous years.⁷⁶

The survey revealed that approximately 1 in 5 teacher positions in Illinois remained unfilled in 2017. Specifically, Special Education (K - 12) qualified hires rate was 83% compared to the total openings.⁷⁷ Social Workers qualified hires rate was 86%, School Psychologists and Speech & Language Pathologists rate were just above 60%, and Early Childhood Special Education qualified hires rate was 65%.⁷⁸

Key Development: Planning for a Protective Procedure for Students with Disabilities, and Compensation for Delay and Denial of Services

The ISBE inquiry process also compels Access Living to look to a deeper examination of what equity really needs to look like for CPS students with disabilities.

The CPS Office of Equity explains “Equity” as a moral imperative in the CPS vision and the Office is committed to see where inequity exists – whether in resources, staffing, academic supports, social and emotional supports, or access to high quality programs – and take steps to eliminate it by developing, implementing, and executing CPS' equity plan for diversity, equity, and inclusion.⁷⁹ Ironically, the CPS FY19 budget has no mention of the (first time ever) ISBE public inquiry into CPS' special education policy and its results. A reasonable reader would expect the district affirmatively addresses the issues investigated by the state and offers its self-corrective actions. However, CPS was silent in its budget narrative, as if it had never violated students' right to education under the IDEA.

To address equity, we believe that CPS should set up a protective procedure for students with disabilities as the district's own corrective action for students' rights. The ISBE Public Inquiry found the district's special education policies harmed students with disabilities and their families by not providing legally required free appropriate public education services. If CPS holds itself accountable for its own wrongdoings, the district must establish a procedure and an independent

⁷⁶ Advance Illinois, Illinois Education Shortage Crisis: Survey Conducted by IARSS, Dec. 2017, <http://www.advanceillinois.org/wp-content/uploads/2017/12/IARSS-Illinois-Educator-Shortage-2017.pdf>.

⁷⁷ *Id.*, p.7.

⁷⁸ *Id.*

⁷⁹ CPS FY19 Budget, p. 81.

team, as it responded to the sexual abuse issues through the creation of the Office of Student Protections. CPS CEO Jackson said,

“Chicago’s students deserve a school district that will fully protect them and advocate for their best interest at all times, which is why we are creating a robust new team to support students that is more comprehensive than anything else in the country,”⁸⁰

Thus, the newly launched Office of Student Protections should also have a mandate to advocate for students with disabilities, as well.

Lastly, CPS should bring equity to their inequitable actions in the past. For the delayed or denied services, CPS should voluntarily establish and fund a minimum \$10 million compensatory education fund for students to whom they harmed and defer the fund management to the ISBE/Monitor. Monetary compensation is appropriate for certain service delay or denial, such as transportation because a denied service can be easily assessed in monetary form. CPS should not use due process procedure as a shield for not affirmatively offering remedies because parents should not be burdened with taking action for the district’s wrongdoings.

CPS' Billion Dollar Capital Investment Plan

In FY19, CPS budgeted \$989 million for capital investments, a significant increase of \$853 million from \$136 million capital investments made in FY18.⁸¹ This is not the first time that CPS set a capital plan of near \$1 billion. In FY17, CPS made capital investments of \$945 million by increasing \$607 million funded by additional bonds.⁸² CPS' capital budget aims to make improvements in five areas: critical facility needs; overcrowding relief; educational programs; site improvements; and IT & security upgrades. In FY19, it means a new Near West high school and new school buildings and renovations, state-of-art science labs, new computer equipment and technology update, advanced college prep programs, expansion for the universal pre-K programs, and building repairs.⁸³ The below table shows a summary of the estimated uses:

⁸⁰ CPS Press Release, *CPS to Launch Office of Student Protections and Title IX to Better Safeguard and Advocate for Students*, June 27, 2018, https://cps.edu/News/Press_releases/Pages/PR1_06_27_2018.aspx.

⁸¹ CPS FY19 Capital Plan; CPS FY19 Budget, p. 11.

⁸² CPS FY17 Capital Plan, <https://cps.edu/fy17budget/Pages/capital.aspx>.

⁸³ CPS FY19 Capital Plan, <https://cps.edu/CapitalPlanFY19/Documents/FY19CapitalPlan.pdf>.

Estimated Uses

Educational Programming	\$339,200
Facility Needs	\$335,650
Overcrowding Relief	\$138,000
IT, Security, & Building System Investments	\$88,000
Site Improvements	\$45,700
Capital Project Support Services	\$25,250
Potential Land Acquisitions	\$16,000
Potential Externally Funded Projects	\$1,200
Total FY2019 Capital Budget Uses	\$989,000

Source: CPS FY19 Capital Budget.

Facing \$1 billion capital investment plan in a single year, Chicago taxpayers should ask two questions: whether (1) the FY19 capital plan meets the district's priorities and (2) CPS has a reasonable plan to manage the debt.

One of CPS' top priorities should be completion of \$1.9 billion of critical repairs.⁸⁴ Academic program improvement is important, too. However, when it becomes a matter of proposing new schools out of the blue, the plan does not meet the district's priorities. The FY19 Capital Plan does not provide sufficient funds for schools in dire need of repairs. In 2015, CPS assessed that \$3.4 billion of repairs are needed for its schools, of which \$1.8 billion was considered to be "critical needs."⁸⁵ In June 2018, the critical need of repair was \$1.9 billion according to CPS COO Rivera.

"The issue we have dealt with over the last few years is our capital budgets, due to the financial situation we have been in, are pretty barebones . . . We have \$1.9 billion of critical need. When you are only doing \$100 or \$150 [million] annually, then you are only really getting to the worst of the worst."⁸⁶

Notwithstanding, the district only budgeted \$336 million to make those repairs in FY19.⁸⁷ For years, CPS has been prioritizing new buildings and facilities over the critical repairs for their old buildings that students are currently using. Since Mayor Emanuel was elected in 2011, approximately 60% of the \$3.4 billion budgeted for school facilities was spent for flashy new

⁸⁴ Sarah Karp, *Chicago Schools Need \$3 Billion In Repairs, Yet CPS Spends Big On New Construction*, WBEZ Radio, June 11, 2018, <https://www.wbez.org/shows/wbez-news/chicago-schools-need-3-billion-in-repairs-yet-cps-spends-big-on-new-construction/c51a1753-f751-4484-b8e0-b87289f10bc6>.

⁸⁵ CPS Education Facilities Master Plan 2018, p. 20, https://schoolreports.cps.edu/EFMP/EducationalFacilitiesMasterPlan_2018.pdf.

⁸⁶ Sarah Karp, *Chicago Schools Need \$3 Billion In Repairs, Yet CPS Spends Big On New Construction*, WBEZ Radio, June 11, 2018.

⁸⁷ CPS FY19 Capital Plan, <https://cps.edu/CapitalPlanFY19/Documents/FY19CapitalPlan.pdf>.

building projects, technology improvement, and school expansion for new programs,⁸⁸ rather than providing dire repairs for hundreds of schools. The FY19 Capital Plan is repeating the same path despite the COO's acknowledgement of repair priority. Moreover, the new building projects are mostly on the north side or central area of the city. CPS also revealed no details about its plan of building a new "Near West Side" high school. In February 2018, CPS decided to close four schools in the South Side neighborhood against the community's opposition and within 6 months the district is pledging new schools in the upcoming school year.⁸⁹

CPS needs to make capital investments for the district's infrastructure to continuously improve its education services. However, CPS' funding plan for the \$989 million is problematic for relying on \$750 million of borrowing, approximately 76% of the FY19 capital budget.⁹⁰ CPS states that the FY19 capital budget will be funded by (1) proceeds from remaining prior year bond issuances backed by the Capital Improvement Tax (CIT) and state revenues, (2) upcoming bond issuances, and (3) potential outside resources.⁹¹

Estimated Sources

Anticipated Bond Offerings and Other Capital Funds ¹	\$749,900
Prior Year Bond Proceeds	\$189,100
Other Potential Outside Funding	\$43,000
Federal E-Rate Funding	\$7,000
Total FY2019 Capital Budget Sources	\$989,000

Source: CPS FY19 Budget, pp. 161-162.

CPS is currently responsible for \$8.8 billion of debt: \$8.2 billion of outstanding long-term debt and \$600 million of outstanding short-term debt.⁹² The FY19 budget appropriates approximately \$607 million as debt budget.⁹³ Then what is CPS' plan to pay for the \$1 billion proposal? Is the district in strong enough financial condition to add an additional \$750 million on top of the existing \$8.8 billion debt? At least not all projects require FY19 appropriations,⁹⁴ so CPS should have revealed a thorough plan with detailed borrowing/cash-flow estimates to the public. Nonetheless, CPS did not release how the district will finance the proposal with detailed information of proposed bond issuance, such as expected rates and terms.

⁸⁸ Sarah Karp, *Chicago Schools Need \$3 Billion In Repairs, Yet CPS Spends Big On New Construction*, WBEZ Radio, June 11, 2018.

⁸⁹ Matt Masterson, *CPS Board Votes Unanimously to Close 4 Englewood High Schools*, WTTW Chicago Tonight, Feb. 28, 2018, <https://chicagotonight.wttw.com/2018/02/28/cps-board-votes-unanimously-close-4-englewood-high-schools>.

⁹⁰ CPS FY19 Budget, pp. 161-62.

⁹¹ CPS FY19 Budget, p. 12.

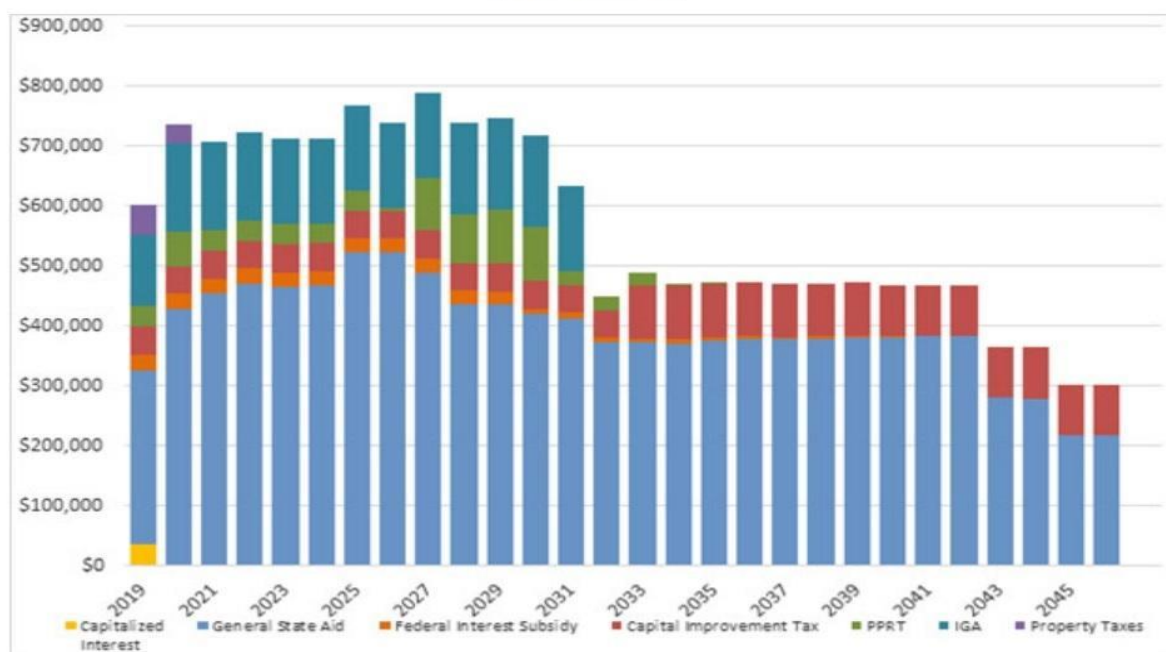
⁹² CPS FY19 Budget, p. 167.

⁹³ CPS FY19 Budget, pp. 170-71.

⁹⁴ CPS FY19 Capital Plan.

CPS also needs to establish an affirmative back-up funding plan for the \$1 billion investment, rather than simply estimating state aid in the future. The following table shows that CPS' debt payment source is mainly general state aid.

Chart 2: CPS Debt Service Funding Schedule
(as of June 30, 2018)
(in Thousands)



*Does not include future long-term bond financings or current and future short-term financings.
Source: CPS FY19 Budget, p. 172.

In FY19, almost 40% of CPS' debt service (\$328 million) is funded by the state's evidence-based funds.⁹⁵ Does CPS have any back-up plan in case the state fails to fulfill its promised funding to CPS? CPS will not be able to use its reserve (general operating fund balance – unassigned) for emergencies because it was already \$354.9 million in deficit by the end of FY17.⁹⁶ Although the FY19 budget states that the FY18 end-of-year surplus will be approximately \$232 million and “it will improve the district’s financial position by reducing the need for short-term borrowing,”⁹⁷ this surplus is mostly due to the “Contingencies” accounts of which spending should rarely take place from.

⁹⁵ CPS FY19 Budget, p. 171.

⁹⁶ CPS FY17 Comprehensive Annual Financial Report, p. 40,
https://cps.edu/About_CPS/Financial_information/Documents/FY17_CAFR.pdf.

⁹⁷ CPS FY 19 Budget, p. 12-14.

CPS' Lack of Intent to Improve Accessibility

The Americans with Disabilities Act (ADA) requires school programs to be accessible for people with disabilities, including students. CPS used to have a proactive ADA accessibility implementation plan. During the Modern Schools Across Chicago program under the former Mayor Daley, the City and CPS agreed to devote nearly \$140 million over 5 years toward expanding accessibility at neighborhood schools, using CPS capital dollars and TIF funding.⁹⁸ As of April 2018, only 53% of CPS schools are fully accessible, with an additional 9% of the schools only first-floor accessible.⁹⁹ Still, 38% of CPS schools are completely inaccessible for students with disabilities because they lack key accessibility elements, such as site arrival point, accessible parking, accessible route to the entry, or accessible first floor toilets.¹⁰⁰

In 2013, CPS assessed that \$700 million is required to make its schools relatively accessible.

- ADA accessibility (note: the following is the cost associated with accessibility requirements triggered under the Chicago Building Code for all capital improvements, not the figure to make all of our buildings fully ADA accessible): \$0.70B (\$700 million).¹⁰¹

However, CPS' FY19 Capital Plan, totaling \$989 million, does not include any ADA implementation plan for improving accessibility despite the fact that 38% of its schools are still inaccessible. The \$500,000 ADA Accommodations Budget is solely for individual accommodation requests. Access Living strongly recommends that CPS prioritize ADA implementation in its capital plan and appropriate a substantial amount for the accessibility improvement projects citywide.

⁹⁸ Access Living CPS Budget Review FY2016, p.19.

⁹⁹ "As of April 2018, "[t]here are currently 277 campuses classified as Usable, 50 classified as First Floor Usable, and 199 classified as Not Accessible," 2018 CPS Educational Facilities Master Plan, p.25, https://schoolreports.cps.edu/EFMP/EducationalFacilitiesMasterPlan_2018.pdf.

¹⁰⁰ *Id.*

¹⁰¹ CPS Educational Facilities Master Plan (Draft), p. 41, Sept. 23, 2013.

Access Living Recommendations

1. **Staffing:** CPS should equitably provide educational services to students with disabilities by filling the promised educator positions by the beginning of SY19. The 2016 overhaul of special education policy changes for cost saving at the expense of students deeply harmed students with disabilities in CPS by delaying or denying services they deserved. Simply appropriating more budget/positions is not a solution. To accomplish its FY19 budget pledge of 268 additional special education positions, CPS should establish an affirmative recruitment plan based on current educator status in Illinois, rather than passively opening special education jobs.
2. **End use of SBB:** CPS must stop the FY19 SBB for special education teachers and assistants funded at principal discretion. The FY19 Budget states that “40.5 special education teachers and 20.7 special education support assistants funded by SBB in FY2019” as additional positions at principal discretion. The ISBE found that SBB in special education resulted in delay or denial of services required by students’ IEPs. **Access Living strongly recommends that the ISBE Monitor investigate if CPS’ remaining SBB in special education services violates the IDEA.** When a student has a disability, she is eligible for either IEP or 504 plan. When students with disabilities need special education teachers and support assistants prescribed by their IEP/504 plans, those positions must be centrally-funded by ODLSS as per CPS’ current position based allocation.
3. **Equity for students with disabilities:** CPS should set up a protective procedure for students with disabilities as the district’s own corrective action for students’ rights. The ISBE Public Inquiry found the district’s special education policies harmed students with disabilities and their families by not providing legally required free appropriate public education services. As a result of this violation of the federal education law, IDEA, the state’s Monitor will oversee the district for the next three years. If CPS holds itself accountable for its own wrongdoings, the district must establish a procedure and an independent team, as it did due to the district’s failure to protect students from sexual abuse. The newly launched Office of Student Protections should also have a mandate to advocate for students with disabilities, as well.
4. **Compensation for delayed or denied special education services:** CPS should voluntarily establish and fund a minimum \$10 million compensatory education fund for students to whom it delayed or denied special education services and the authority to manage the fund should be deferred to the ISBE/Monitor. For the delayed or denied services, parents of students with disabilities should have an option to choose monetary compensation, in addition to the remedies ordered by the ISBE. Monetary compensation is appropriate for certain service delay or denial, such as transportation because unequitable harm can be easily assessed in monetary form. CPS should not use due process procedure as a shield for not affirmatively offering remedies because parents should not be burdened with taking action for the district’s wrongdoings. Specifically, the authority of determining whether a student is eligible for compensation (financially or educationally) should not be given to the same team who previously denied services to the student. Access Living supports state legislation that would require the establishment of a compensation fund.

5. **Transparency regarding special education budgeting:** CPS should produce an analytical report on its special education program annually and make it publicly available. The report should include quantitative data on students with disabilities in CPS: the school district's special education funding programs by category and each special education fund following those program categories, total number of students with an individualized education program, total number of students with a federal Section 504 plan, and the aggregate service minutes for the individualized education programs of that school district, segregated by type of service. Again, this is a strategic consideration that affects resolution of problems impacting students with disabilities.

6. **Transparency regarding CPS debt:** CPS should provide transparency to the public when it decides a massive amount of capital investment with anticipated borrowings like FY19. The taxpayers have a right to know if CPS' educational infrastructure investment is equitably prioritized and will be conducted with a well-prepared funding plan. In FY19, CPS proposed \$1 billion capital investment plan out of the blue without various stakeholders' input in advance. As a public entity supported by Chicago taxpayers, CPS is responsible to inform the public about its plan to add significantly more debt.

7. **Prioritize ADA Implementation in its capital plan.** As of 2018, 38% of CPS schools are still inaccessible and the district's \$1 billion Capital Plan has no proactive plan to improve accessibility. CPS should appropriate a substantial amount for the accessibility improvement projects citywide.

Access Living looks forward to dialogue with the community on our recommendations.

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