

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

COREY H., et al.,

Plaintiffs

VS.

**THE BOARD OF EDUCATION OF THE CITY)
OF CHICAGO and THE ILLINOIS STATE)
BOARD OF EDUCATION,)**

Defendants

No. 92 C 3409

Judge Robert Gettleman

**Final Report of the Corey H. Monitor
On the Implementation of the Settlement Agreement
Between the Corey H. Plaintiffs and the Chicago Board of Education**

Pursuant to the Agreed Order to Extend Certain Obligations Under the Board of Education of the City of Chicago's Settlement Agreement, par. 3, entered by this Court on November 18, 2010, attached is the Final Report of the Corey H. Monitor on the Implementation of the Settlement Agreement between the Corey H. Plaintiffs and the Chicago Board of Education filed today, March 1, 2013.

Respectfully submitted,

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Table of Contents

<u>Summary</u>	Page 4
I. Introduction	Page 7
II. Litigation History	Page 8
III. CPS special education students before Corey H. implementation	Page 12
IV. Settlement and Implementation Plan	Page 14
a. Settlement Agreement	Page 14
b. Development of the Implementation Plan	Page 16
c. Adoption of Targets and Benchmarks	Page 17
d. Implementation	Page 28
1. Settlement Agreement Provisions	
A. Settlement Agreement par. IV(a) (administrative structure)	Page 28
B. Settlement Agreement par. IV(l) (complaint process)	Page 29
C. Settlement Agreement par. IV(n) (OSES staff training)	Page 30
2. Implementation Plan Challenges	Page 32
A. Challenge I (testing , progress on IEP goals, increased information, revised probationary procedures)	Page 32
B. Challenge II (School Based Problem Solving)	Page 39
C. Challenge III (IEP development)	Page 42
D. Challenge IV (<i>Education Connection</i> program)	Page 51
i. Design and Purpose	Page 51
ii. Overview of <i>Education Connection</i>	Page 53
iii. Implementation of <i>Education Connection</i>	Page 55
iv. <i>Education Connection</i> compliance review	Page 62
iv. Benchmarks and LRE Indicators issues in <i>Education Connection</i> Schools	Page 72
Benchmark A	Page 73

Benchmark B	Page 77
Benchmark C	Page 79
Benchmark D	Page 80
Benchmark E	Page 82
Benchmark F	Page 83
Benchmark G	Page 83
Benchmark H	Page 84
Benchmark I	Page 85
LRE Indicator 1	Page 85
LRE Indicator 2	Page 86
LRE Indicator 3	Page 87
LRE Indicator 4	Page 87
LRE Indicator 5	Page 88
LRE Indicator 6	Page 89
LRE Indicator 7	Page 90
LRE Indicator 8	Page 90
LRE Indicator 9	Page 91
LRE Indicator 10	Page 91
LRE Indicator 11	Page 91
LRE Indicator 12	Page 91
LRE Indicator 13	Page 92
LRE Indicator 14	Page 92
Alternative Benchmarks	Page 92
E. Challenge V (Resource Catalog)	Page 93
F. Challenge VI (Access to Special Schools)	Page 94
i. Charter Schools	Page 95
ii. Optional and Gifted Programs	Page 100
iii. Magnet Programs	Page 104
iv. Vocational Programs	Page 106
vii. Pre-school Programs	Page 107
v. Special Day and Residential Programs	Page 109
G. Challenge VII (Sufficient Staffing, Funding Corey H.)	Page 111
H. Challenge VIII (Initiatives Supporting LRE)	Page 114
I. Challenge IX (Corey H. information to CPS and public)	Page 117
J. Challenge X (Data development)	Page 118
V. The successes and remaining challenges	Page 120
VI. Conclusion	Page 130

Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C 1400 *et seq.*

Summary

This report is submitted by the Corey H. Monitor pursuant to the Agreed Order entered by the Honorable Robert W. Gettleman, of the District Court of the Northern District of Illinois. Doc. 728, par. 3. The report contains a description of the Corey H. history and the accomplishments of the implementation efforts by Plaintiffs and the Chicago Board of Education.¹

In 1992, four schoolchildren with special education needs and their parents filed a lawsuit to change the manner in which the Chicago Board of Education (CBE) undertook its responsibilities to ensure that all Chicago Public Schools (CPS) students with disabilities received education in the least restrictive environment with appropriate supports and services pursuant to the requirements of the Individuals with Disabilities Education Act (IDEA). Corey H. v. Illinois State Board of Education, No. 92 C 3409 (N.D Il., May 22, 1992). Doc. 1. Rather than proceed to trial, the CBE entered into a settlement agreement with Plaintiffs to avoid the vagaries of litigation. That Settlement Agreement was approved by this Court on January 16, 1998. Doc. 127.

In the fifteen years since the Settlement Agreement was approved by this Court, the Plaintiffs and the CPS have worked to achieve the goals of that agreement. Much work has been done, yet much work remains to address the seemingly intractable problems of large achievement gaps between general education and special education students at Chicago Public Schools.

There are achievements to celebrate. More students with disabilities are receiving the supports – staff, assistive technology, accommodations and modifications – they are entitled to in an Individualized Education Plan (IEP) developed to meet their needs. More students with disabilities are included with their age appropriate peers in general education, “specials” (e.g., art, physical education), lunch, and assemblies. More students with disabilities who are placed

¹ On March 5, 2012, a Final Report by the Corey H. Monitor on the Implementation of the Settlement Agreement between the Plaintiffs and the Illinois State Board of Education (hereinafter “ISBE Final Report”) was filed with this Court. Doc. 815.

in separate classrooms for intensive education services are in classrooms near their age appropriate peers to foster more interaction between those students.

Fewer schools have disproportionate percentages of students with disabilities. Students with disabilities have opportunities to attend all types of CPS schools, although some schools with general enrollment continue to admit a smaller percentage of students with disabilities than expected. Some selective enrollment schools are welcoming students with disabilities, although some continue to resist including students with disabilities in general education classes.

Staff vacancies at Chicago Public Schools in special education positions have been reduced. More teachers, support staff and paraprofessionals have been trained on their responsibilities under the IDEA and have accepted those responsibilities. More schools have begun to adopt the practice of co-teaching, wherein special educators and general educators work together to present lessons to both special and general education students, thus increasing integrated educational opportunities for students with disabilities.

IEPs are now designed to insure that all areas of a special education student's school experience are considered, although the development of many IEPs continues to show a lack of thoughtful analysis of the student's academic and behavior strengths and weaknesses and individualized educational possibilities for students. More schools are meeting the requirement that at least 95% of all students with disabilities participate in standardized State testing. Information on the success of students at individual schools is available to CPS staff and the public on the CPS website, although the success of students with disabilities at individual schools remains difficult to ascertain due to State privacy requirements.²

Challenges remain as will be noted in this report. Some types of schools, such as charter and selective enrollment, have wide variances in percentages of students with disabilities. School success with co-teaching practices varies widely according to observations by CPS monitors. IEPs continue to provide weak justifications for placements in separate environments, leading to the conclusion that not all of the placements are justifiable. Too often staff members rely on the dropdown menus of the electronic IEPs rather than develop truly individualized supports and services, such as accommodations and modifications. Some areas of IEPs – the descriptions of current evaluations and present levels of performance of students, the development of individualized and measurable goals and supports for students in extracurricular activities – continue to need substantial improvement.

Challenges will multiply for CPS as its funding become more strained, the number of school closures increases, and more private entities seek to operate schools. It will remain

² www.CPS.edu. State regulations require schools reporting the test results of any group of fewer than 45 students to mask that information in any public report.

difficult to assure that the successes remain and the remaining challenges are resolved. In order to achieve the significant goals agreed to by the parties in the Settlement Agreement and identified by CPS in the Implementation Plan, the CBE will be required to ensure that the rights and accomplishments of students with disabilities remain a critical factor in the operation of any CPS school, and both CPS and local school administrations must be accountable. Returning to the practices in effect in the 1990s is simply not an option.

As the Corey H. Monitor for the past 9 years³, I have been assisted by an able and experienced staff of educators. Bonita Chapman, Jan Hicks and Rod Estvan were with the Corey H. Monitor's Office since the early days of implementation and assisted Judge Joseph Schneider, who was the original Monitor until his retirement from this position in December 2003.

All of the Monitor's consultants had decades of experience in special education matters. Ms. Chapman, who was primarily responsible for the review and approval of the CPS's *Education Connection* plans under the Settlement Agreement, was an educator of students with disabilities in Chicago Public Schools and suburban school districts for 19 years prior to her work with Corey H. She had hands-on experience in teaching and implementing IEPs ("Individualized Education Plans") as a teacher in separate, resource, team-teaching and general education classrooms in grades Kindergarten through 12. She has State certification in LBS I and Elementary Education and an M.S. in Curriculum and Instruction. Ms. Chapman has been with the Monitor's office for 13 ½ years. Ms. Chapman's assistance was invaluable to me during the past 9 years, including especially in the preparation of this report.

Kathleen C. Yannias, Corey H. Monitor

³ On October 15, 2003, Judge Schneider resigned as Monitor as of January 1, 2004. Judge Schneider was succeeded by Kathleen Yannias, the current Monitor, effective January 1, 2004. Doc. 292.

I. Introduction.

After describing the litigation history that resulted in a Court-approved Settlement Agreement in 1998, this report will outline the steps taken by the Plaintiffs and the CBE to develop an implementation plan and then highlight the CBE's efforts and achievements toward the goals of the Settlement Agreement and the Plaintiffs efforts in assuring that compliance. This will be followed by an analysis of results of these compliance activities. In closing, the report will discuss what challenges remain for the CBE.

This is the second report filed by the Monitor in Corey H. On March 5, 2012, the Monitor filed the "Final Report on the Implementation of the Settlement Agreement between Plaintiffs and the Illinois State Board of Education" (hereinafter "ISBE Final Report"). Doc. 815-1. This report will draw upon that document at times and utilize some of the descriptions and data from that report, revised to reflect current data where necessary.

As was noted in the ISBE Final Report, the parties to the Corey H. ISBE Settlement Agreement sought to undertake an enormous task. For the 2012-2013 school year, the Chicago Public Schools website states there are 681 public schools. This includes over 472 elementary schools, 106 high schools, 96 charter school campuses (elementary and high school), and 7 contract schools.⁴ According to the June 1, 2012, student data filed by the CBE, there are 299,868 elementary students and 109,591 high school students in Chicago Public Schools.⁵ There are 37,809 elementary students with disabilities representing 12.61%⁶ of the elementary student population, while 16,151 high school students with disabilities represent 14.74%⁷ of the total high school population. School types represented – in addition to neighborhood elementary and high schools – include selective and gifted schools, military academies, magnet schools, charter schools, special education schools and early childhood centers, among other designations. Students with disabilities are served in a range of settings: general education, co-taught classes, resource classes, separate classes and separate schools⁸. Students have a large variety of disabilities which require a range of individualized services.⁹

The Federal Court docket in this case lists over 900 documents filed with this Court; many multiples of that number of documents were filed with the Monitor's Office. The CPS's

⁴ http://www.cps.edu/About_CPS/At-a-glance/Pages/Stats_and_facts.aspx

⁵ CPS Special Education Data as of June 1, 2012/District Summary. Doc. 911.

⁶ CPS Special Education Data as of June 1, 2012/District Summary. Doc. 911.

⁷ CPS Special Education Data as of June 1, 2012/District Summary. Doc. 911.

⁸ CPS uses co-teaching and team-teaching interchangeably in some documents even though not all educators use the terms interchangeably.

⁹ CPS students ages 3-21 with cognitive disabilities constitute 10.07%⁹ of all students with disabilities; while students with specific learning disabilities ages 3-21 constitute 52.53%⁹ of the population, and students with behavior/emotional disorders make up 5.73%⁹ of the population of students with disabilities. Doc. 911.

multiple review of over 200 schools resulted in over a thousand school plans and compliance reviews alone to be reviewed by CPS and the Monitor.

Not all of the CPS reports or the activities of the Monitor's Office and the parties will be discussed here. Instead, this report will focus on what CPS school monitoring has accomplished, what policy and practice issues were resolved, what problems have been alleviated, and what remains to be accomplished.

It is important to note that data from the Chicago Public Schools, such as data on schools, students, student placement, is self reported and is not subject to review by the Monitor. In 2005, an ISBE report noted some problems with CPS data. Doc. 328, Attachment 5.¹⁰ Other data issues on the yearly June 1 data have been raised by the Plaintiffs and the Monitor. The data also depends on what date the data is collected, so that data collected in December of one year will be different from data collected in June the following year. This report will note the source of the data.

II. Litigation history.

On May 22, 1992, four schoolchildren, by their parents, filed a complaint against the Illinois State Board of Education ("ISBE") and the Chicago Board of Education ("CBE"). Doc. 1¹¹. The Corey H. school children were named class representatives when a class was certified on February 1, 1993, of all school children enrolled in Chicago Public Schools ("CPS") who were or would be classified as having a disability. Doc. 46. The school children alleged that they were subject to defendants ISBE's and CBE's "illegal practice and policy of failing to educate students with disabilities in the least restrictive environment appropriate to their needs" as mandated by the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. §1400 et seq. Doc. 1. On February 10, 1997, the plaintiffs filed an amended complaint, alleging that the ISBE violated the IDEA by its practices and policies of certifying teachers in a manner that promoted segregated placement of students with disabilities. Doc. 87.

As the Seventh Circuit Court of Appeals noted in a later appeal of the new certification program for special education teachers, despite the fact that federal special education laws had been in effect since 1975, "Chicago had done little to change the way it handled the education of affected students. Briefly put, it relied heavily on the categorization of both students and teachers, and had little flexibility for cross-categorical or individualized arrangements." Reid L., et al. v. Illinois State Board of Education, et al., 289 F.3d 1009 (7th Cir., 2002).

¹⁰ Verification of LRE Data, Report submitted to the ISBE, July 2003.

¹¹ "Doc. 'X' " refers to the federal court document number.

The CBE and the Plaintiffs – with the encouragement of this Court – decided they would work toward a settlement agreement to resolve these issues. After nearly six years of legal proceedings, CBE and the Plaintiffs entered a Settlement Agreement which was approved by this Court on January 16, 1998. Therefore, no evidentiary hearing was held regarding the CBE’s compliance with Federal and State laws, including IDEA.

Plaintiffs and ISBE were unable to reach a settlement before trial, and a bench trial was held in October 1997. On February 19, 1998, this Court issued an opinion finding that the ISBE was in violation of IDEA.¹² 995 F.Supp. 900 (N.D.Ill., 1998), Doc. 131. In that Order, this Court found:

Children with disabilities in the Chicago public schools have been and continue to be segregated into separate and unequal educational environments, contrary to established federal law

Doc. 131, p. 902.

In order to find the ISBE had violated IDEA, the Court was required to determine if ISBE had failed to ensure that the CBE (the local education agency or LRE) had complied with the requirements of IDEA. This Court’s discussion concluded the CBE had failed to comply with IDEA based on the testimony of the joint experts and the “highly credible and persuasive” testimony of Sue Gamm, then the CBE’s Chief Specialized Services Officer. 995 F. Supp. at 907. As the Court noted, the CBE “has effectively admitted” that it had failed to comply with IDEA. This Court concluded that “despite the fact that the LRE mandate has been on the books since 1975, the Chicago public schools have languished in an atmosphere of separate and unequal education for children with emotional, mental and behavior disorders.” *Id.*

The opinion finding ISBE in violation of IDEA detailed the circumstances for students with disabilities at Chicago Public Schools in 1998. In the opinion, this Court cited the report of joint experts agreed to by the parties, including the CBE. 995 F.Supp. at 903. The Court noted that the experts “conducted an extensive, scientifically sound investigation and concluded” that the CBE was “seriously out of compliance with the LRE [“Least Restrictive Environment”] requirements of the IDEA.” *Id.* The experts concluded that children were placed in “overly restrictive settings” that were “based on the category or severity of their disabilities, rather than their individual needs.” *Id.* Further the joint experts found that the CBE (and the ISBE) had failed to monitor whether children were placed in the LRE and failed to train teachers and other administrators about the principles of LRE. *Id.* This Court concluded that the testimony of plaintiffs’ witnesses “demonstrated beyond doubt that the Chicago public schools have been and

¹² IDEA was amended in 2004; none of the provisions cited herein were changed with that amendment.

continue to be saddled with archaic notions of educating children in restrictive categories placements determined more by the categories of their disability than by their individual needs, in clear violation of the IDEA.” *Id.*

Noting extensive factual support, this Court found that CPS placed in segregated schools students whose disabilities were classified as “educable mental handicapped,” “learning disabled” and other disability designations. 995 F.Supp. at 908. Further this Court concluded that the CBE rarely placed students with disabilities in general education classrooms with appropriate supports and modifications. *Id.* The CBE’s own self-monitoring reports found between one-half and two-thirds of the CPS schools were not in compliance with the LRE mandate, “as measured by such factors as adequacy of IEPs [Individualized Education Plans], lack of collaboration between general and special educators, and inadequate knowledge by general educators of curricular modifications to adapt to the needs of children with disabilities.” 995 F.Supp. at 909.

The Court noted that “historically, the [CBE] placed children according to categories, or ‘labels,’ of their disabilities; that is, a child’s program and education were determined by the type and disability the child had.” 995 F.Supp. at 908. Further, despite federal law and administration regulation that required that students with disabilities to not be removed unless there was a “sound educational reason,” this Court found that “children with disabilities in Chicago continue to be segregated with other such children throughout the system in special schools for the ‘educable mentally handicapped,’ (‘EMH’), ‘learning disabled,’ (‘LD’), and the like.” *Id.*

This Court found that it was not until 1992 (17 years after IDEA was enacted) that CPS began to utilize a “resource” model so that students with disabilities could spend part of the school day with general education peers, but even then, “CBE failed to comply with the LRE mandate due to lack of resources, inadequate training and certification of teachers, community attitudes, and State regulations and funding formulas” which encouraged further segregation of students with disabilities. *Id.*

Based on the testimony of the CBE’s Specialized Services officer and the trial experts, this Court concluded that:

*90% of CPS students with mild cognitive disabilities could be educated in the general education classroom 50% or more of the school day, but only 15-20% of CPS students with mild cognitive disabilities were in the general education classroom 50% or more of the school day.

*IEPs developed by CPS staff “typically fail to justify the segregation of children with disabilities in restrictive settings outside regular classrooms” and place students based on their disability category rather than need.¹³

*IEPs for CPS students “rarely place children with disabilities in regular classrooms with appropriate supports and adaptations” and students with disabilities were typically pulled out of general education classes for specialized services. The Court concluded this “systemic failure” was in part caused by the lack of collaboration between general and special education teachers and the poor understanding of and lack training in the meaning of LRE by general education teachers and administrators. 995 F.Supp. at 908.

Evidence of the CBE’s failure to comply with the LRE mandate of IDEA was also supplied by a 1996 OSEP report, which the Court recited in its entirety:

Placement data for Agency J [the CBE] showed that 90% of students identified as trainable mentally handicapped,¹⁴ 96% of students identified as severe/profound mentally handicapped, and 92% of students with autism were placed in a full-time segregated class, wing, annex, private day or residential school. Administrators explained that the agency has been working to ensure that the full continuum of placement options is considered by multidisciplinary committees when they determine the placement for all students with disabilities. They acknowledged, however, that children’s disability labels have historically determined their placements, and that in many instances multidisciplinary committees continued to make categorical placement decisions. Thus, for example, separate private day placements have traditionally been the only placement options for students with severe or profound disabilities, and most students with such disabilities continue to be placed – based on their category of disability – in such placements. The administrators confirmed that – as demonstrated by placement data – less restrictive options are available from the [CBE] for students with low-incidence disabilities, but that most of these students are still placed in highly restrictive placements based on their category of disability, the “culture” (i.e., historical placement practices) and lack of space in regular buildings. A teacher and an administrator in a junior high school informed OSEP that the assumption was that all of children identified as trainable

¹³ The Court’s Order noted that the experts found no students with moderate to severe cognitive disabilities being educated in a regular education classroom. Only 13% of 3355 students identified with mild cognitive disabilities were educated more than 50% of the day in the general education classroom.

¹⁴ Mentally handicapped or retarded are terms no longer used by special educators. According to the CPS website, “Under Illinois state regulations, the term “mental retardation” is not used; as such, Chicago Public Schools uses ‘cognitive impairment (mild, moderate, severe).’ On Tuesday, October 05, 2010, President Barack Obama signed into law S. 2781, the “Rosa’s Law,” which changes references in many Federal statutes that currently refer to “mental retardation” to refer, instead, to “intellectual disability.” While the federal government and the Illinois State Board of Education are in the process of implementing new regulations to reflect this change in terminology, the Chicago Public Schools will continue to use ‘cognitive impairment (mild, moderate, severe).’”

http://www.cpsspecialeducation.org/index.php?option=com_content&view=article&id=1639&Itemid=648

mentally retarded would be placed in a separate categorical program once they went onto the high school level and that this was the only real option considered.

995 F.Supp. at 909.

Finally, the Court found that students with disabilities were “educated in the general education classroom in far smaller percentages than the national average.” 995 F.Supp. at 909.

III. CPS special education students before Corey H. implementation.

In order to determine what CPS has accomplished with regard to educating students with disabilities, it is important to review the available data about students with disabilities in CPS schools prior to the full implementation of the Corey H. compliance activities. The data at trial and data in the early 2000s show that CPS had significant barriers to overcome in order to provide education in the Least Restrictive Environment for its students with disabilities.

The OSEP report included verbatim in the 1998 Order found over 90% of CPS students with autism and mild to moderate cognitive disabilities were placed in separate classrooms or schools in 1996. At trial, the CPS Specialized Services officer and the experts concluded that students with disabilities were “rarely” placed in general education settings with appropriate supports and services as required by IDEA, but instead placed without justification in segregated settings. Doc.130, p. 908.

Each year the ISBE issues an Illinois Special Education Profile.¹⁵ The earliest available profile for the CBE on the ISBE website is for 2002-2003. That document reports the percentage of students with disability by race and disability category, student participation in and performance on State standardized tests, the educational environment (i.e., where the students receive their specialized services) for all students with disabilities and by disability category, and the graduation rates of students with disabilities as compared to students without disabilities. In 2002, the following data was included in this report:

- 14.9% of all CPS students were students with disabilities (having an IEP or 504 plan¹⁶)
- 86.6% of CPS students with disabilities participated in State testing compared to 96.4% of all CPS students
- 11.8% of CPS students with disabilities met or exceeded State testing standards compared to 40.3% of all CPS students

¹⁵ <http://webprod1.isbe.net/LEAProfile/SearchCriteria1.aspx>

¹⁶ 504 plans are generally for students with only health issues and/or physical disabilities and without academic needs.

- 36.2% of CPS students with disabilities were outside general education classes less than 20% of the day or in the most inclusive learning environment, LRE 1
- 25.4% were outside general education classes between 21 and 60% of the day or in LRE 2
- 31.3% were outside of general education classes more than 60% of the day or in the most restrictive learning environment, LRE 3
- 16.2% of CPS students with emotional/behavior disorders, 2.6% with cognitive impairments and 36.9% with learning disabilities were in LRE 1 or outside general education classes less than 20% of the day.
- 16.6% of CPS students with emotional/behavior disorders, 14.5% with cognitive impairments and 37% with learning disabilities were in LRE 2 outside general education classes between 20 and 60% of the day.
- 35.2% of CPS students with emotional/behavior disorders, 67.6% with cognitive impairments and 25.5% with learning disabilities were the most restrictive learning environment LRE 3 and outside general education classes more than 60% of the day.
- 32% of CPS students with emotional/behavior disorders, 15.3% with cognitive impairments and 0.6% with learning disabilities were in separate educational facilities (schools designed only for students with disabilities).
- The graduation rate for CPS students with disabilities was 49.1%, compared to 69.8% for students without disabilities.

In addition to the ISBE Special Education Profile, the ISBE also issues an “Illinois District Report Card” each year for each Illinois school district, including CPS.¹⁷ Again the earliest available report card for CPS is from 2002. *Id.* The District Report Card breaks the performance of students with disabilities into those with IEPs and those with 504 plans, by grade, and by subject. For example, in 2002, only 4.6% of CPS students with disabilities in 11th grade were meeting or exceeding State standards in reading, only 2.3% were meeting or exceeding State standards in math, only 3.4% were meeting or exceeding State standards in writing, only 2.0% were meeting or exceeding State standards in science, and only 5.0% were meeting or exceeding State standards in social science.

This data provides some statistical bases for comparing where CPS students with disabilities were educated and the achievement of those students prior to the full implementation of Corey H. compliance activities and where those students are placed and how those students are achieving today.

¹⁷ These are called “eReport Cards” on the ISBE website. <http://webprod.isbe.net/ereportcard/publicsite/getsearchcriteria.aspx>. Data from this report was used for a statistical comparison of CPS students with and without disabilities for the ISBE Final Report and will be cited in this report. Doc. 850-2.

IV. The Corey H. Settlement Agreement and Implementation Plan.

a. The Settlement Agreement

The Settlement Agreement was entered into on January 16, 1998. Doc. 127. On March 7, 2007, this Court extended the Settlement Agreement to September 1, 2010. Doc. 488. On November 18, 2010, pursuant to agreement of the parties, this Court extended the Settlement Agreement once again to September 1, 2012, with certain exceptions. Doc. 728. One of those exceptions was that the provisions regarding School Based Problem Solving (§§23-28 of the Settlement Agreement) would no longer apply. Other exceptions include: the parties agreed that a final report would be developed, the parties would cooperate with the Monitor in the preparation of this final report, and CPS would continue to fund the Monitor's expenses for the final report. Doc. 728, §§3-5.

In the Settlement Agreement, Section III, entitled "Purpose" (Doc. 127, §13a-i), the Agreement set forth the goals to be reached by the Agreement and established that all Agreement obligations were to be interpreted consistent with stated principals, including:

a. All obligations of the Settlement Agreement were acknowledged by the parties to be mandated by Federal and State laws, including IDEA.

b. The goals of the Agreement were to:

(i) provide students, both with and without disabilities, positive school experiences, (ii) help students with disabilities attain high levels of academic achievement, (iii) enable schools to value and actively include students with disabilities in their school communities as appropriate, (iv) increase the number of students with disabilities in their school communities attending their home schools with appropriate supports, (v) increase the number of students with disabilities participating in general education settings with appropriate support, (vi) ensure that students with disabilities receive the supports for them to perform successfully in the LRE, and (vii) provide students with disabilities with the tools they will need as adults to have meaningful employment and education, to live as independently as possible, and to be integrated into their communities.

Doc. 127, par. 13(b).

c. An entire school's staff (general and special administrators, related service providers, and support personnel) was recognized as responsible for the education of students with disabilities at their school. The staff was required to work together to provide informal

assessments to suggest methods of improving or modifying instruction, behavior modification strategies, collaboration between educators, administration and parents, access to support services, and effective staff development.

d. If a student's needs were not been addressed by informal means and a disability was possible, the CBE was to conduct a case study evaluation to identify the student's learning style and teaching strategies to enable the child to be successful in school.

e. When a student's individualized needs were identified by the IEP team, the team was to consider the most appropriate setting to deliver services. General education was always to be the first consideration. The student's disability designation (e.g., autism) was never to be the sole factor in selecting an educational setting.

f. For students whose most appropriate setting was a separate setting, interaction with students without disabilities was to be provided to the maximum extent appropriate.

g. If a student with a disability was disruptive and significantly impaired the education of other students despite the provision of supports and services, full-time placement in a general education setting might not be appropriate.

h. Most students with disabilities would be able to participate in standardized tests with accommodations/adaptations as needed. For those students who could not participate, alternate assessments were to be used.

i. Plans for educating students with disabilities were to be local school-based and were to involve principals, teachers, parents and the Local School Council. Permitting local school flexibility was recognized as important to promote the goals of the Agreement.

Thus the overarching goals of the Settlement Agreement were to educate students with disabilities in the general education environment with proper supports to the greatest extent appropriate, with a trained and collaborative school staff, and with parental involvement. The Agreement then set forth measures that, upon proper implementation, the parties agreed would realize for Chicago students with disabilities the promise of those enumerated principals, all of which were based on IDEA. Doc. 127, ¶ 3.

The Settlement Agreement set forth the responsibilities of the CBE (Doc. 127, ¶¶ 14-69), the requirement that the CBE develop an Implementation Plan to be reviewed by Plaintiffs and approved by the Court Monitor and this Court (Doc. 127, ¶¶ 70-72), the appointment and responsibilities of the Court Monitor (Doc. 127, ¶¶ 73-83), and various other provisions, including a format for resolving disputes (Doc. 127, ¶90).

b. Development of the Implementation Plan.

The Implementation Plan was submitted to this Court on July 20, 1998. Doc. 143. A revised Implementation plan was submitted on August 13, 1998, with areas still to be completed during the pendency of the Settlement Agreement. Doc. 144 and Doc. 337, Exhibit 2¹⁸. The Implementation Plan was developed by the CBE, reviewed by Plaintiffs and approved by the Court Monitor and this Court. The Introduction or Part 1 set forth the overall purpose of the Implementation Plan. The “Action Plan” or Part 2 contained 10 challenges facing the Chicago Board to implement some, but not all, of the specific requirements of the Corey H. Settlement Agreement. *Id.*, Part 1. Other parts of the Implementation Plan provided background information for these two parts.¹⁹

The Introduction to the Implementation Plan again set forth the commitments of the CBE to the goals to be achieved by the Settlement Agreement:

The Board of Education of the City of Chicago (“Chicago Board”) is committed to preparing the students in the Chicago Public Schools (CPS) for the future and to increasing the academic performance of all students, to increasing the high school graduation rate, and to increasing the number of students pursuing higher education and the number [of former students] employed following graduation. The mission statement of the Office of Specialized Services, the department within CPS overseeing the education and education of students with disabilities, is to ensure that every student has equal access to all programs and activities in the CPS; improve achievement of students who are gifted, disabled and have special needs through effective and innovative service delivery models which met the needs of the individual learner; promote high standards and capitalize on the resources of families, teachers and community. The Chicago Board’s Settlement Agreement in Corey H. v. the Board of Education of the City of Chicago, et al., case no. 92 C 3409 (“Corey H.”) in concert with other initiatives, is the opportunity for the Chicago Board to progress toward the realization of this commitment for students with disabilities

At the end of the eight years covered by the Settlement Agreement, 178 schools will have administrators, teachers, staff, parents, students and LSC [“Local School Council”] members who have received intensive preparation and technical assistance to educate students with disabilities in the LRE. Students with disabilities in these 178 schools will be receiving their educational services in the LRE. Another 60 schools will be in the process of receiving thorough preparation and technical assistance regarding LRE issues.

¹⁸ This document does not contain page numbers. References will be to sections of the document.

¹⁹ Part 3 contained a summary of the duties and responsibilities of the Court Appointed Monitor. Part 4 defined the terminology used throughout the Plan. Part 5 was a list of listing of CPS policies, booklets and public documents which were available to explain existing CPS programs. Part 6 was an Appendix that was to contain documents created by CBE in furtherance of Corey H. compliance; not all of these documents were completed in 1998 nor are all filed with the Court.

Each elementary school in the district will be utilizing a curriculum-based, problem-solving assessment process for students who are at risk of academic failure or who are having behavior difficulties. Additionally, through citywide initiatives, such as internal monitoring of all schools, the Individual Education Program Workbook and training program, the Curriculum Adaptations and Modifications Handbook, positive practices regarding behavioral challenges, procedures for testing students with disabilities, training of Central Office administrators, Regional Education Officer, principals, LSC members and paraeducators, the capacity to service students with disabilities in the LRE will be enhanced throughout the district.

Doc. 337, Exhibit 2, Part 1.

The Implementation Plan's Action Plan was divided into 10 challenges. Doc. 337 (Exhibit 2, Part 2). Each of the 10 "challenges" had expected outcomes which would "result when the challenge is met," followed by "actions necessary for the Chicago Board to undertake to support the outcomes and to comply with the Settlement Agreement." *Id.*, Part 1. As CPS stated in 2005, "Compliance with the obligations established in the Settlement Agreement were to be determined by the outcomes listed in the Chicago Board's Implementation Plan." Doc. 337, p. 3.

c. Adoption of Targets and Benchmarks.

As noted above, the overarching goals of the Settlement Agreement were to educate students with disabilities in the general education environment with proper supports to the greatest extent possible, with a trained and collaborative school staff, and with parent involvement. The Implementation Plan, Challenge X, had as a goal that CPS data on the educational environments in which students with disabilities were receiving services would be more aligned with the national data.

On November 11, 1999, following the inability of the parties to agree to the targets and benchmarks that would allow assessment of whether CPS data was aligned with national data as contemplated by the Implementation Plan, the Monitor issued his decision setting forth targets and benchmarks by which to assess CPS's progress as required by Challenge X. Doc. 181. The opinion established quantitative targets to "have the effect of promoting individualized placements of CPS students who have up to now not been seriously considered eligible for services inside a regular classroom." Doc. 181, p. 22. The Plaintiffs, CBE and ISBE all filed appeals objecting to the Monitor's decision. On February 17, 2000, this Court ruled that the Monitor's decision was not an abuse of discretion and denied the parties' objections, although some language was clarified. Doc. 185.

The “targets” were district-wide goals to be met, originally by June 1, 2005. The specifics of the targets are as follows:

1. The percentage of all students with identified disabilities served in separate classes in the Chicago Public Schools will be within six percent of the national average of students aged 3-21 in the most recent Report to Congress available for the public on that date. A “separate class” is defined as students receiving special education and related services outside the regular class for more than 60 percent of the school day. This is commonly called “LRE 3.”
2. The percentage of all CPS students with identified disabilities served in separate public schools or private schools will be within three percent of the national average of students aged 3-21 in the most recent Report to Congress available for the public on that date.
3. The percentage of all students with identified disabilities served in the combined categories of regular class and resource settings in the Chicago Public Schools will be within ten percent of the national average of students aged 3-21 in the most recent Report to Congress available for the public on that date. A “regular class” is defined as students receiving special education and related services outside the regular class for no more than 20 percent of the school day; this is commonly called “LRE 1.” A “resource setting” is defined as students receiving special education and related services outside the regular class for 21 and 60 percent of the school day; this is commonly called “LRE 2.”
4. All Chicago Public Schools will have an enrollment of students with disabilities of at a minimum within five percent of the CPS’s city identified disability prevalence rate on that date, determined individually for elementary and high school categories.
5. All Chicago Public Schools elementary and high schools will have a maximum of no greater than twenty percent students with disabilities. Any school with greater than 49 percent students with disabilities was to be considered a separate public school for students with disabilities and all IEPs of students attending these schools was to reflect the separate status of the school.
6. Data will be provided that verifies that on a systemic basis Chicago teachers and administrators have been well trained about their responsibilities for implementing the LRE provisions of IDEA and have been provided the technical assistance and training to implement the provisions of IDEA or that a system is in place to provide such training and technical assistance.

Doc. 181, pages 30-32.

The data to determine whether these statistical goals were met were to be captured yearly from 2002 forward, until June 1, 2005. *Id.* The data on LRE placement of students was to be presented as follows: (1) district wide; (2) for students with learning disabilities, emotional/behavior disorders, and cognitive disabilities; and (3) by individual schools.²⁰ This data came to be known as the “June 1st data,” and was filed by the CBE each year until 2012 after the Settlement Agreement was extended.²¹ Data for training needed only to be presented district wide and not for individual schools. *Id.*, at 33.

Targets #1, #2 and #3.

In 2005, in response to a motion to extend the CBE’s settlement agreement, the Monitor issued a report that found, in part, that the CBE had not met the requirement that students in LRE 3 were within 6 percent of the national average (#1 above), had met the requirement that students in separate schools were within 3 percent of the national average (#2 above), and had met the requirement that students in LRE 1 and LRE 2 combined were within 10 percent of the national average (#3 above). Doc. 344, page 26.

However, as was noted in that report, Target #1 (LRE 1 and LRE 2 percentages combined) was met only if all three disability categories (cognitively impaired, emotional/behavior disorders, and learning disabilities) were combined. *Id.* The November 11, 1999, Monitor’s targets and benchmarks decision had established that “due consideration would be considered if the data indicates the provision of LRE is manifestly ignored for any of these three disabling conditions.” Doc. 185, page 18. In 2005, the Monitor concluded that the placement of students with emotional/behavior disorders and cognitive disabilities evidenced “serious discrepancies.” Doc. 344, page 27.

The June 1, 2012 data was filed by the CBE on August 31, 2012. Doc. 911. From 2005 to 2012, data from CPS shows that students in Chicago Public schools have moved toward less restrictive environments in all categories:

²⁰ The order stated that plaintiffs could select 200 schools, but that CPS had the option of providing the data for all CPS schools. CPS chose to provide the data for all schools. Doc. 181, page 32.

²¹ June 1st LRE Data was filed with the Court from 2006 to 2012: Doc. 396 (June 21, 2006), Doc. 498 (June 15, 2007), Doc. 574 (June 26, 2008), Doc. 646 (October 2, 2009), Doc. 711 (September 3, 2010), Doc. 780 (August 25, 2011) and Doc. 911 (August 31, 2012).

LRE and Disability Category For Students with Disabilities Ages <u>3-21</u>	2005 Percentage in LRE 1 and 2 Combined	2012 Percentage in LRE 1 and LRE 2 Combined
ALL students with disabilities ages 3-21 in LRE 1 and LRE 2 (removed less than 40% each day)	67.54%	80.12%
Students with LEARNING DISABILITIES ages 3-21 in LRE 1 and LRE 2 (removed less than 40% each day)	86.07%	92.39%
Students with EMOTIONAL BEHAVIOR DISABILITIES ages 3-21 in LRE 1 and LRE 2 (removed less than 40% each day)	38.07%	60.44%
Students with COGNITIVE DISABILITIES ages 3-21 in LRE 1 and LRE 2 (removed less than 40% each day)	23.41%	35.44%

Source: Doc. 328 and Doc. 344 for 2005 CPS data; Doc. 911 for 2012 CPS data

Separate School Placements For Students with Disabilities Ages <u>3-21</u>	2005 Percentage	2012 Percentage
ALL students with disabilities ages 3-21 in separate schools	5.68%	3.82%

Source: Doc. 328 and Doc. 344 for 2005 CPS data; Doc. 911 for 2012 CPS data

National data is no longer distributed for ages 3 to 21 (the age range set for comparisons in the 1999 Target and Benchmark Decision), but instead for ages 6-21; the reporting of all national data has always been delayed by one year. Comparisons for the criteria required by the Monitor's Target and Benchmark decision can be made on the last available 6-21 national data which was collected with the CPS June 1st 2011 data (includes data for the school year 2010-2011) for grades 1-12 for those targets; data from the June 1st 2012 data is included for illustrative purposes. CPS students are now within the national data targets for all categories except cognitive disabilities placed in LRE 1 and 2 combined, which still shows some discrepancy.

LRE and Disability Category For Students with Disabilities Ages 6-21 (Grades 1-12 in CPS Data)	Percentage in LRE 1 and LRE 2 Combined Nationally 2011 data	June 1, 2011 Percentage in LRE 1 and 2 Combined in Chicago Public Schools	June 1, 2012 Percentage in LRE 1 and 2 Combined in Chicago Public Schools
ALL students with disabilities ages 6-21 in LRE 1 and LRE 2 (removed less than 40% each day)	80.88%	80.21%	80.57%
Students with LEARNING DISABILITIES ages 6-21 in LRE 1 and LRE 2 (removed less than 40% each day)	91.33%	91.93%	92.44%
Students with EMOTIONAL BEHAVIOR DISABILITIES ages 6-21 in LRE 1 and LRE 2 (removed less than 40% each day)	61.16%	60.79%	60.32%
Students with COGNITIVE DISABILITIES ages 6-21 in LRE 1 and LRE 2 (removed less than 40% each day)	43.67%	36.12%	36.13%

Source: For CPS 2011, Doc. 780. For CPS 2012 data, Doc. 911. For National Data, www.ideadata.org, benvironment2011.csv file created 9/11/12, Attachment 1.

The Targets and Benchmarks decision also required a comparison of the national data versus the CPS data for students in separate classrooms for all students with disabilities; the goal was for CPS student data to be within 3% of the national data.²² For illustrative purposes, following is a comparison of all students and students in specific disability categories:

Separate School Placements For Students with Disabilities Ages 6-21 (Grades 1-12 in CPS Data)	National Percentage in 2011	2011 Percentage in Chicago Public Schools	2012 Percentage in Chicago Public Schools
ALL students with disabilities ages 6-21 in separate schools	5.08%	4.33%	4.12%
Students with LEARNING DISABILITIES ages 6-21 in separate schools	1.84%	.23%	.23%
Students with EMOTIONAL BEHAVIOR DISABILITIES ages 6-21	18.21%	23.28%	23.17%
Students with COGNITIVE DISABILITIES ages 6-21	7.56%	17.10%	16.18%

Source: For CPS 2011, Doc. 780. For CPS 2012 data, Doc. 911. For National Data, www.ideadata.org, benvironment2011.csv file created 9/11/12, Attachment 1.

²² Separate school for CPS schools includes both separate public schools and private school placements. Separate schools for national data includes separate school, residential facilities, homebound/hospital, correctional facilities and parentally placed in private schools. National data charts were prepared by Plaintiffs' counsel following the practice used for the ISBE Final Report; ISBE and Plaintiffs agreed on the content of these charts for the ISBE Report. Unlike the ISBE Final Report, CPS did not agree, but the Monitor has determined that the charts are an accurate reflection of appropriate national data.

When viewing the statistics for separate schools, the CBE currently reaches the Corey H. target for all students with disabilities and students with learning disabilities. The CPS has 27% more students with cognitive disabilities and 214% more students with behavior disabilities in separate schools than the national average.

Due the CPS's change in the calculation of minutes of the school day²³ which affects what LRE placement a student would be deemed to have, the changes from 2005 to 2012 for LRE 1 and LRE 2 placements are not as substantial as they might appear. Attachment 2, which tracks the annual LRE data from 2004 to 2012, shows that the changes in all categories changed very substantially from 2009 to 2010, the date those changes occurred. In addition, the consistent findings by the Monitor's Office and ISBE that CPS schools have not fully justified placement of students in the IEPs places some doubt on that data.²⁴

Targets #4 and #5:

In 2005, using the CPS's own data, the Monitor found that the CBE did not meet the requirement that each Chicago Public School be within 5% of the disability prevalence rate for a minimum and 20% students with disabilities as a maximum (#4 above), noting that 8 % of elementary schools and 13.9 percent of high schools exceeded that standard. Doc. 344, page 27. The ISBE could grant waivers to these targets; these were called "proportionality waivers." A procedure for granting such waivers was established in 2008.²⁵ A report on the waivers granted (including the reasons for granting the waiver) and denials was attached to the ISBE Final Report. Doc. 815-1, Attachment 12. On April 15, 2010, on the motion of the CBE after the waiver process was completed, this Court found that the CBE was in substantial compliance with the requirement that district-wide schools have proportional enrollment, i.e., that substantially as a district, CPS schools are within 5% of the disability prevalence district-wide for a minimum and schools had no more than 20% students with disabilities as a maximum. Doc. 681.

Currently, of the 681 CPS schools, 87 schools or 14.7% have a student population over 20% students with disabilities, including: 58 elementary schools or 12.29% of the 472 elementary schools, 26 or 24.53% of the 106 high schools, and 3 or 3.1% of the 96 charter

²³The CPS changed its calculation of the school day several years ago to align with the ISBE school day to include hall passing time, lunchtime, etc. The result of this change is that most students are in LRE 2 with all core courses in separate class settings.

²⁴ The ISBE's finding that CPS did not properly justify placements for students with disabilities has been a finding in each of the District-wide Findings and is further supported by data from the "Coulter Study," an independent study funded by ISBE as part of the agreed order to extend the ISBE's Settlement Agreement.

²⁵ In 2005, prior to the extension of the CBE's settlement agreement, the CBE sought 96 such waivers from both school percentages and class size percentages from the ISBE. Doc. 344, page 29. These waivers were all rejected by the ISBE due to the lack of any sufficient rationale being offered in support of the requests. The CBE subsequently appealed the imposition of a 20% enrollment cap, among other matters. Doc. 458. On March 7, 2007, this Court rejected that appeal. The CBE then appealed to the Seventh Circuit, which rejected the CBE's appeal on August 8, 2008. Doc. 587.

campuses.²⁶ Of those totals, 12 are separate schools (7 elementary and 5 high schools) (separate schools have over 50% students with disabilities).²⁷

As will be discussed more fully below in Section IV, Challenge VI, a majority of specialty schools elementary and high schools (e.g., gifted, magnet, selective enrollment, military) are below proportionality standards.

Target #6:

This compliance standard requires that “Chicago teachers and administrators have been well trained about their responsibilities for implementing the LRE provisions of IDEA.” In response to the Monitor’s request for information and in response to determinations that the Settlement Agreement implementation period should be extended, CBE counsel has provided ample evidence throughout the years that a substantial amount of district-wide training has been conducted and the OSES website has educational resources available for all staff (and the public). In addition, schools implementing *Education Connection* LRE plans had training as requested by the school.²⁸ However, as the Monitor has noted many times, the question of whether staff are well trained cannot be answered with the numbers trained, but rather with data that shows that teachers and administrators after being “well-trained” have put that training into good effect.

The continuing problems documented in reports by CPS-conducted monitoring (*see* Section IV(d)(2)(B), Challenge IV below), ISBE District-wide Findings, and ISBE school-based monitoring reports (*see*, Doc. 815-1 and attachments thereto) amply support the conclusion that CPS and individual school training should be ongoing and intensified.

Benchmarks and LRE Indicators:

In addition to setting the CPS student statistical targets for the ISBE and CBE, the November 11, 1999, Targets and Benchmark decision set for the standards with which individual schools would be monitored in the CBE (and ISBE) monitoring process. Doc. 181. These standards, labeled “Benchmarks,” were to promote education of students with disabilities in the Least Restrictive Environment in Chicago Public Schools and were to be met at an 85% compliance rate²⁹:

²⁶ Data of population of students with disabilities from Doc. 911, CBE’s June 1, 2012, LRE data. Data of total number of schools from http://www.cps.edu/About_CPS/At-a-glance/Pages/Stats_and_facts.aspx. Due to the different dates this data was collected, there may be discrepancies.

²⁷ Data of population of students with disabilities from Doc. 911, CBE’s June 1, 2012, LRE data. Data of total number of schools from http://www.cps.edu/About_CPS/At-a-glance/Pages/Stats_and_facts.aspx. Due to the different dates this data was collected, there may be discrepancies.

²⁸ Not all *Education Connection* approved professional development was completed.

²⁹ Doc. 181, p. 2.

Benchmark A: Students with disabilities have access to the general education curriculum, including all subjects covered by the Chicago Academic Standards, at age appropriate levels, and to program options available to other students, and they participate in standardized or alternate assessments of achievement used to assess overall student performance, as designed and justified in their IEPs.

Benchmark B: Interventions to address unique learning problems are provided to students with disabilities. Such interventions are provided by general and special education personnel, as appropriate.

Benchmark C: The School Improvement Plan for Academic Advancement and Achievement (SIPAAA) promotes education of students with disabilities in the LRE and contains activities that provide opportunities for the integration of students with disabilities.

Benchmark D: General and special education teachers plan curriculum and school activities in collaborative teams, where appropriate.

Benchmark E: The principal, school staff, and Local School Council conduct planning to assure that, to the maximum extent appropriate, students with disabilities are provided opportunities for integration with nondisabled peers.

Benchmark F: Related services are provided in settings that include nondisabled to the maximum extent appropriate.

Benchmark G: Parents of students with disabilities are given the same opportunity as parents of nondisabled students to collaborate with school personnel and the LSC to plan for overall school improvement.

Benchmark H: If the percentage of students with disabilities in any classroom exceeds 30%³⁰, the classroom is not teaching the general curriculum, or it is designated a remedial classroom, the time that a disabled child is spending in that classroom will be considered to be outside general education and will be appropriately indicated on the child's IEP.

Benchmark I: Consultative services are available for all students with disabilities when they are being educated in the regular classroom. Receiving Services outside the regular classroom will not exclude the ability of students to receive consultative service.

For Chicago Public Schools defined as “separate” schools (over 49% enrollment of students with disabilities), the following additional or “Alternate Benchmarks” were established to assure integrated opportunities were provided to students attending separate schools:

Alternate Benchmark A: School has established a “partnership” with a CPS elementary or high school, including magnet and special admissions schools, as appropriate, to provide integrated activities for students with disabilities.

Alternate Benchmark B: All students with disabilities who need vocational training, as determined through the IEP process, receive integrated vocational training, to the maximum extent appropriate.

³⁰ The original figure was 49%, but this was changed to 30% at the request of ISBE in August 2000 to comply with state administrative code. 23 Ill.Admin.Code Sec. 226.730.

Alternate Benchmark C: All students with disabilities 16 years of age and over are provided transition services in accordance with the student's transition plan that delineates post-graduation goals, including career/vocational goals, as appropriate.³¹

In addition to meeting the Benchmarks, the Order required CPS schools to be monitored by paragraph 19 LRE Indicators listed in the Settlement Agreement. Doc. 164. The examination of the Paragraph 19(a) and (b) indicators was to be derived from record reviews, staff interviews and classroom observations. Substantial compliance with the Paragraph 19(a) and 19(b) indicators was to be found where the school had not willfully avoided the indicator and that variance from the strict and literal performance of each indicator consisted of technical or unimportant omissions or defects. Doc. 809, p. 13. These LRE Indicators as numbered in the Order were:

- a(i):** School has demonstrated that children are being served in the LRE to the maximum extent appropriate
- a(ii):** School has demonstrated that incidents of non-compliance with the LRE mandate are isolated rather than systemic issues
- a(iii):** School personnel are well-informed about LRE and are trained to implement the LRE mandate
- a(iv):** Students are placed within the school with sufficient supports and services to benefit from education
- a(v):** School has been instructed on, and implements appropriately CPS policies that promote placement of children with disabilities in the LRE
- a(vi)(A):** Students with disabilities have access to regular education programs within the school
- a(vi)(B):** If school is a charter, vocational, magnet, alternative, or other specialty school, students with disabilities have access to the school and the necessary support services to enable them to access all programs within the school
- a(x):** School has demonstrated overall compliance with Benchmarks A through I
- b(i):** Evidence demonstrates the placement decisions are individualized and justified
- b(ii):** The school has demonstrated that IEPs account for all staff needed to make the placement effective and that the school has complied with relevant state standards
- b(iii):** IEPs provide sufficient supports to allow children to access and master the general education curriculum
- b(iv):** IEPs are being fully implemented in the school
- b(v):** IEPs specify methods to determine whether the students are making progress toward annual goals
- b(vi):** IEPs for students in more restrictive placement options document consideration of less restrictive placements and provide justification for their rejection
- b(vii):** placement decisions at the school are not based upon staff shortages or scheduling issues
- b(viii):** all students with disabilities in the school are making appropriate progress from year to year

Per the Targets and Benchmarks Order, these Benchmarks were to be met as follows:

All Chicago Public Schools will by Wednesday, June 1, 2005, meet the following targets at a level of no less than 85% success on a scale to be developed through the ISBE Continuous Improvement Monitoring Process. The assessment of the data for all Education Connection Schools will be the responsibility of the CPS and the ISBE will have the responsibility for all other CPS schools.

Doc. 164, p. 33.

³¹ The age for this requirement was subsequently reduced to 14.5 years of age to comply with state requirements.

These Benchmarks and Paragraph 19(a) and (b) were the criteria for monitoring processes at both ISBE and CPS monitored schools. Following implementation of the *Education Connection* program, 202 schools were monitored by CPS monitors for individual improvement. ISBE monitored 282 different schools³². Attachment 3, Attachment 4, and Doc. 838-1 (Attachment to ISBE Final Report). Altogether over half of the 681 CPS schools were monitored by CPS and ISBE. ISBE monitoring findings based on the Benchmarks and LRE Indicators were also the bases for many of the District-wide Findings issued annually by ISBE until 2011. *See*, Doc. 815-1.

Early in the CPS monitoring process, CBE revised the language of the Paragraph 19(a) and (b) requirements, which were then referred to as LRE Indicators 1-14; this language change was accepted by the Monitor. LRE Indicators were required to be assessed for *Education Connection* schools. This will be more fully discussed below in Section IV(d)(2)(D) Challenge IV.

As noted in the ISBE's final District-wide Finding issued in 2011, of the 37 CPS schools monitored by ISBE in the ISBE's final year of monitoring, 21 had compliance rates of less than 85% on one or more Benchmarks. Doc. 782, Exh. A, pp. 24-25. In its final District-wide Findings, ISBE reported that Benchmark compliance for schools monitored by ISBE was:

- 65% for Benchmark A (access to general education curriculum)
- 46% for Benchmark B (unique interventions provided to students)
- 97% for Benchmark C (SIPAAA promotes education of students with disabilities in the LRE)
- 78% for Benchmark D (teachers plan curriculum collaboratively)
- 95% for Benchmark E (school and LSC promote education of students with disabilities in LRE)
- 89% for Benchmark F (related services provided in general education setting as appropriate)
- 100% for Benchmark G (parents of students with disabilities given equal opportunities)
- 95% for Benchmark H (students with disabilities taught in classroom with less than 30% students with disabilities or for co-taught less than 40%)
- 86% for Benchmark I (consultative services available to students with disabilities in general education classrooms).

As noted in the ISBE's Final Report, of the 37 CPS schools monitored by ISBE in the ISBE's final year of monitoring, 21 had findings on one or more of the LRE Indicators. Doc. 782, Exh. A, pp. 26-27. 2011 LRE Indicator compliance was:

³² Of the 238 schools that participated in the Education Connection program, 13 were closed during the *Education Connection* process. Of the 282 ISBE monitored schools, 23 were closed during the monitoring process.

- 73% for 19(a)(i) (children served in LRE to maximum extent appropriate)
- 68% for 19(a)(ii) (incidents of non-compliance not systemic)
- 76% for 19(a)(iii) (school personnel well-informed and trained on LRE mandate)
- 65% for 19(a)(iv) (sufficient supports and services)
- 70% for 19(a)(v) (school instructed upon and implements CPS policies promoting LRE)
- 38% for 19(a)(vi) (students with disabilities have access to regular education programs)
- 54% for 19(b)(i) (placement decisions individualized and justified)
- 65% for 19(b)(ii) (IEPs account for all staff needed and school complies with state standard)
- 35% for 19(b)(iii) (IEPs provide for sufficient supports for students to access and master curriculum)
- 59% for 19(b)(iv) (IEPs are fully implemented at the school)
- 92% for 19(b)(v) (IEPs specify methods for determining student progress)
- 49% for 19(b)(vi) (IEPs for students in more restrictive options consider less restrictive placements and justify rejection of those options)
- 95% for 19(b)(vii) (placements decisions at school not based on staff shortages)
- 62% for 19(b)(viii) (students with disabilities at school making appropriate progress)

Over the years of Corey H. implementation, most of the ISBE findings of non-compliance were in Benchmarks A and B, which were concerned with access of students with disabilities to the general education environment and the provision of unique interventions to allow the students with disabilities to succeed in whatever environment they were placed. In the 4th District-wide Finding issued on February 5, 2004, ISBE noted that more than one-third of all findings were under Benchmark A and nearly one-third of the findings were under Benchmark B. For that school year, 100% of the 49 schools monitored had findings under Benchmark A and Benchmark B. Thus CPS has improved compliance for those critical areas in its schools, but still has much work to be done.

CPS was not required to compile an annual report of findings during the implementation of Corey H. The bulk of the compliance activities it undertook were through the *Education Connection* program at individual schools. Each *Education Connection* school received a compliance review at completion of the *Education Connection* process. The vast majority of school compliance reviews were submitted to the Monitor within the last 10 months of implementation. See Section IV(d)(2)(D), Challenge IV below. As will be noted below in Section IV, the Monitor's Office's review of CPS self-monitoring activities continued to note substantive differences with CPS monitoring reviews.

d. Implementation of the Settlement Agreement and the Implementation Plan.

The CBE responsibilities and commitments pursuant to the Settlement Agreement and the Implementation Plan are described individually below, followed by the actions taken by CPS and the demonstrable results from those actions. This Report will first address compliance factors that are only listed in the Settlement Agreement. Then this Report will address the Implementation Plans' ten "challenges," all of which are complementary to some part of the Settlement Agreement.

As in any multi-faceted Settlement Agreement implemented over a term of years, some areas of the Settlement Agreement and Implementation Plan were overtaken by a change of laws or policies, some areas were determined to be more important and received a greater level of scrutiny, and some areas were explicitly or implicitly determined by the parties to be of lesser importance and consequently received lesser scrutiny. Some of the responsibilities listed in the Settlement Agreement and Implementation Plan outcomes and actions were further explained or provided with added details by agreement of the parties, orders of the Monitor or by Orders of this Court. Some responsibilities have been changed to comply with Federal or State statutory or regulatory requirements revised during the implementation of the Settlement Agreement (e.g., changes in State teacher certification requirements and required State reporting changes).

1. Settlement Agreement compliance activities.

A. Settlement Agreement IV(a) [Administrative structure].

This provision stated that the CBE was responsible for implementing the Agreement and the Chief Specialized Services Officer would report directly to the CBE Chief Executive Officer. Doc. 127, ¶14. No Implementation Plan provision supplemented this commitment.

This commitment set forth the CBE's acknowledgement of its obligation to fulfill the responsibilities of the Settlement Agreement with funding and Central Office staffing, as is more fully discussed below. In addition, this commitment was to assure the Chief Specialized Services Officer (now called the Chief Officer of the Office of Special Education and Supports or "OSES") had a direct line of communication with the CBE Chief Executive Officer ("CEO"). During the pendency of the Settlement Agreement, there have been numerous individuals filling the role now held by the Chief Officer of OSES. Recent reports from the CEO to the CBE show that the Chief Officer of OSES now reports directly to the Chief Education Officer, not the Chief Executive Officer.³³ Previously, the Chief Officer of OSES reported directly to the Chief

³³ Presentation to the Board by Jean-Claude Brizard, formerly CEO of CPS, dated September 28, 2011, p. 12. http://www.cps.edu/About_CPS/The_Board_of_Education/Documents/Sept2011BoardMeeting.pdf

Executive Officer.³⁴ Thus while the CBE fulfilled this obligation during much of the pendency of the Settlement Agreement, it no longer meets that commitment.

B. Settlement Agreement IV(l) [Complaint process].

The CBE was required to develop a standardized process to log and follow complaints by the Specialized Services staff. Doc. 127, ¶59.

This commitment was designed to ensure that the CBE maintained information about and followed up on complaints filed with OSES. The OSES website does inform the public, in particular parents or guardians, about the process for filing an informal or formal complaint with CPS or with ISBE; this site includes links to ISBE materials for parents about the complaint process.³⁵ When asked for details about the CPS system of logging and filing complaints at a meeting with the Monitor on November 19, 2012, counsel for CPS referred the Monitor to the affidavit filed by Rebecca Clark of CPS Office of Special Education and Supports (“OSES”). In that affidavit, Ms. Clark states as follows:

OSES established an issue tracker that allows incoming calls to be routed to the appropriate OSES staff to handle. Questions that cannot be answered immediately are referred by email to the appropriate SSA if they involve a particular school. The issue tracker allows monitoring of staff’s responses to incoming calls and response time. The database allows OSES to determine whether particular issues are recurring district-wide, in a particular network or at a particular school which enables OSES to target training on particular subject or other follow-up where it is most needed.

Doc. 853-8, par. 15.

No other information (data, results, date of implementation) was offered regarding this complaint procedure. While the procedure has promise, without further details it is impossible to make a determination whether or not it fulfills the requirements of the Settlement Agreement. In order to do so, it should not only track the individual complaints, but also track to see if the complaint has been resolved and if the remedy has been fully implemented. That is not part of the process recited by Ms. Clark.

On March 29, 2010, the *Chicago Tribune* reported a series of stories about CPS special education services, concluding that “parents of children with disabilities must hire a cadre of

³⁴ See, Presentation to the Board by Jean-Claude Brizard, formerly CEO of CPS, dated July 27, 2011, p. 8.
http://www.cps.edu/About_CPS/The_Board_of_Education/Documents/DayLengthSalary.pdf

³⁵ http://www.cpsspecialeducation.org/index.php?option=com_content&view=article&id=1653&Itemid=654

medical and legal experts to have any hope of getting their child proper educational services. Disputes with the district can drain parents' resources and patience, and leave the physicians who care for their kids exasperated.”³⁶ The *Tribune* reported instances where the “federally mandated educational rights of children with disabilities were being denied or delayed. Parents of young children just entering CPS routinely struggle to get their children evaluated for special education....” *Id.* Monique Bond, spokesman for CPS, said that CPS recognized that “time was of the essence because these are students and children whose needs are at risk when we don’t address their issues in a timely manner.” According to the *Tribune*, Ms. Bond said that the district planned to implement a data-driven system that would track special education students from the moment families make contact with their local schools. *Id.* Ms. Bond also stated that communication breaks down between the district offices and the public schools, noting “There’s a point of communication breakdown where the district is not getting the information it needs from the schools.” *Id.*

Again, based on the information received from CPS, it is unclear if the process implemented would effectively solve the problem noted by the *Tribune* and acknowledged by the CPS spokesperson in 2010, that complaints are not being timely resolved.

C. Settlement Agreement IV(n) [Staff training].

The CBE was to ensure that Central Office staff members who provide any services that may impact on the education of students with disabilities have training on educating students in the LRE. Doc. 127, ¶62.

All information provided by CPS counsel with regard to staff training has been data about training for school staff (i.e., principals, case managers, and teachers). *See, e.g.,* CBE’s Response to Plaintiffs’ 2005 Motion to Extend the Settlement Agreement, Doc. 337, pp. 17-18; CBE’s Motion to Vacate the Consent Decree, Affidavit of Jean Papagianis, Doc. 853-7. No details have been provided to the Monitor regarding training of OSES central office staff or administrators assigned to smaller districts within the CPS system. These administrators have had various names throughout the course of Corey H. implementation and are currently called “Specialized Services Administrators” or “SSAs.” Doc. 853-7, par. 2.

The SSAs provide critical ongoing information and monitoring of the special education services provided in CPS schools. With the absence of data, the Monitor can offer no conclusion about whether or not SSAs have been adequately trained.

³⁶ <http://articles.chicagotribune.com/2010-03-29/news/ct-met-special-ed-0324-2-20100329>

In November 2012, CPS counsel informed the Monitor that 31 SSAs provided services to CPS schools and that no SSA was assigned to more than 29 schools, with the average being 20 schools. SSAs are responsible to ensure that every school assigned to the SSA is providing adequate special services to all students with special needs in those schools, that the school is fully staffed, and that the IEPs are properly developed, among other duties. OSES's Rebecca Clark supervises SSAs. She describes their duties as follows:

The SSAs are the “go-to” persons for the individual school’s case managers, teachers and administrators on special education issues. SSAs provide support and training for IEP development and implementation, attend IEP meetings when necessary; coach the special education teachers on instructional practices, assist with scheduling teachers, paraprofessionals and students with disabilities; and follow-up with parents. SSAs are expected to contact all of their schools every month, to address issues that arise, to determine for example if training on a particular subject is needed in a particular school. In addition, each SSA holds monthly meetings for the case managers at his/her schools, which generally involve training and professional development on various CPS initiatives and any changes with the eIEP.

Doc. 853-8, par. 8.

In addition to these tasks, the SSAs are responsible for yearly monitoring of each school with the Snapshot Tool developed by CPS. Doc. 853-8, par. 12. The Snapshot Tool is further described in Section IV(d)(2)(A) Challenge I, below. Some problems that CPS monitors have found in CPS schools during *Education Connection* monitoring indicate that the responsibilities may be overwhelming for some SSAs. For example, CPS monitors found that King Elementary had an uncertified teacher for 4 years. Attachment 5 (King Elementary). Another example would be Hearst School, where many serious problems were identified by CPS in 2008 and yet in 2010 during another compliance visit some of the same problems and additional problems were found. *Id.*

The listed responsibilities of SSAs for 20 schools are substantial and their ability to fulfill those responsibilities adequately must be a key element of continuing CPS monitoring of services provided to CPS special education students.³⁷ These individuals should be very well trained and their efforts reviewed on a regular basis to assure that their current skills and knowledge are up to these tasks and their responsibilities as the “go-to” person for CPS special education issues.

³⁷ At times during the implementation of Corey H., CPS has had a much larger cadre of special education personnel assisting CPS schools. For example, at a meeting on August 2006, Renee Grant-Mitchell, then leading OSES (which had a different name at the time) reported to the Monitor that AIO (predecessors of SSAs) would have 50 instructional coaches district wide assigned to assist them. Ms. Mitchell felt that additional hands-on experience was needed to assist with implementation of the changes required by Corey H.

2. Implementation Plan Challenges 1-X

A. Challenge I [Testing and achievement process]

The Settlement Agreement and Challenge II required the CBE to develop measures of student achievement, including learning outcomes procedures for students with disabilities, to develop testing procedures to ensure students with disabilities take standard or alternate tests as appropriate, to apply promotion policies to students with disabilities, to report standardized tests results both by school and system-wide, to develop a system of quality review for each school to assess how well students with disabilities are doing and where they are being educated, and to ensure that plans developed for nonperforming schools are consistent with the needs of students with disabilities. Settlement Agreement, Doc. 127, ¶¶17-22; Implementation Plan, Doc. 337, Exh. 2, Part 2. All of these changes were to bring the CPS testing and reporting procedures into compliance with the LRE mandate of IDEA and State regulations, and to assure that the parents, CPS and community had adequate data to assure that students with disabilities were progressing and graduating appropriately. Doc. 337, Exh. 2. In addition, any school undergoing a probation process was required to consider the LRE needs of students with disabilities in any plan development.

The CBE's "expected outcomes" of Challenge I were:

- A. With individual accommodations and modifications identified in the IEP and provided, an increase in the number of students with disabilities participating in standardized and alternate assessments.
- B. More information available to parents, teachers, school personnel and students regarding individual progress on learning outcomes reflected in IEP goals.
- C. An IEP process for promotion and graduation that is compatible with the LRE mandate of IDEA.
- D. With reporting of test results, more information presented to the community that potentially increases participation in school improvement.
- E. CPS' increased ability to obtain data to help guide decision making for individual school improvement and educating students with disabilities in the LRE.
- F. A probation process that requires schools on probation to write probation/remediation plans that comply with the LRE mandate.
- G. More information available to probation managers and external partners regarding the LRE mandate for students with disabilities and its implication for schools on probation.

Testing

The Illinois State Board of Education, pursuant to federal law, requires that 95% of all Illinois students, including students with disabilities, be tested, either by using the standardized test or, if justified, using the Illinois Alternate Assessment ("IAA") developed for students with severe disabilities. The 2010-2011 Illinois Special Education Profile for Chicago Public Schools reports that all students, including students with disabilities in the district participate in State

standardized assessments at a rate of over 99%.³⁸ Students with disabilities do show a slightly lower percentage of participation (e.g., 99.6% for all students versus 99.2% for students with disabilities in reading) in all categories.

This is a significant improvement from the data reported in the 2003 Illinois Special Education Profile for Chicago Public Schools, which reported that in 2002 students with disabilities had far lower participation rates than all students (96.3% reading participation for all students, 86.4% reading participation for students with disabilities).³⁹ Monitoring reports by both ISBE monitors (see, ISBE Final Report, Doc. 815-1) and by CPS monitors (see, Attachment 5) regularly find schools meet the required 95% testing participation rate by students with disabilities. The exceptions are usually the high schools (see, e.g., Sullivan, Clemente, and Hyde Park high school testing participation rates in *Education Connection* compliance reviews). Attachment 5. Some high schools have improved their test rates dramatically during their efforts to come into compliance with Corey H. requirements through the *Education Connection* program; Lake View High School raised its student participation rate from 68% to 91%. Attachment 5 (Lake View). As will be noted below, eIEPs now require some form of justification for the use of alternate assessments, although the quality of many of those justifications needs to be improved. See, Section IV(d)(2)(D)(iv) Benchmark A. Thus data supports the conclusion that most CPS students with disabilities are being routinely tested as required by Federal and State laws and the Corey H. Settlement Agreement, but that CPS must assure that all high schools meet that standard.

Progress on IEP goals and promotion.

The second major goal of Challenge I was to provide more information to parents and students about goals and the promotion process in the IEP to assure that students with disabilities were adequately progressing toward meeting IEP goals, promotion and ultimately graduation. As will be discussed more fully below in Section III, the eIEP has requirements, many automatic, that require the goal and promotion sections of the IEP to be more fully developed. However, achievement and graduation rates of students with disabilities remain a problem that cannot be fixed by automatic processes alone.

As was noted in the Monitor's ISBE Final Report, the ISBE's 11th District-wide Findings issued in July 2011 found several reasons to support a finding that CPS had failed to ensure that students with disabilities were making appropriate progress from year to year:

‘a lack of benchmark progress on IEP goals, a lack of progress as demonstrated through grades and progress reports, and missing information on progress from student files and

³⁸ <http://webrpt1.isbe.net/WebReports/WebReportsCR.aspx>

³⁹ http://www.isbe.net/spec-ed/pdf_reports/2003/15016299025.pdf

IEPs such as annual goals and benchmarks that have not been updated.’ *Id.*, p. 16. The failure to ensure that students are making progress thus is both a procedural matter (failure to update the progress on benchmark goals in the IEPs) and substantive (students not maintaining or improving passing grades). All of these factors impede the ability of teachers and parents to assure that the IEP is effective and that the student is achieving. This finding has been identified since the 1st District-wide Finding.

Doc. 815.-1, p. 63.

The Monitor’s ISBE Final Report also noted the importance of assuring that CPS students with disabilities stay on track as a key factor in graduation rates:

In December 2009, the Consortium on Chicago School Research (CCSR) at the University of Chicago issued “What Matters for Staying On-Track and Graduating in Chicago Public Schools: A Focus on Students with Disabilities.”⁴⁰ “On-track students” were students who failed no more than one core course and accumulated at least five full course credits during their freshman year. **The report concluded that students with disabilities who are on-track are three- to six-times more likely to graduate than their off-track counterparts, according to the report.**⁴¹ Thus keeping on track has a significant effect on the ability of students with disabilities to graduate. The graduation rate for students with disabilities is only 43%, compared to 66% for students without disabilities.⁴²

Doc. 815.-1, p. 63.

The graduation rate cited by the Consortium Report above was for the school year 2006-2007. According to the Illinois Special Education Profile prepared by the ISBE, the graduation rate in 2009 had improved to 58% for students with disabilities compared to 69.8% for students without disabilities and 2010, to 60.3% for students with disabilities compared to 71.8% for students without disabilities.⁴³

Truancy, a factor in staying on track to graduate, is a major issue for CPS students with disabilities. On November 11, 2012, the *Chicago Tribune* published an in-depth review of

⁴⁰ http://ccsr.uchicago.edu/content/publications.php?pub_id=137

⁴¹ The report built on the findings of a 2007 CCSR report, “What Matters for Staying On-Track and Graduating in Chicago Public High Schools,” which showed that students who accumulate at least five semester-long credits and fail no more than one core course during their freshman year were nearly four times as likely to graduate.

⁴² www.isbe.net/reportcards

⁴³ 2009-2010 and 2010-2011 Illinois Special Education Profile, www.isbe.net

missed school rates and the effect of those lost school days on students, including students with disabilities.⁴⁴ The *Tribune* study of CPS records found:

11.9% of CPS students grades K-8 without disabilities missed four or more weeks
15.4% of CPS students grades K-8 with learning disabilities missed four or more weeks
42.2% of CPS students grades K-8 with emotional disabilities missed four or more weeks
21.75% of CPS students grades K-8 with all other disabilities missed four or more weeks⁴⁵

Thus while information regarding progress has improved, CPS must work toward reducing truancy and assuring that students with disabilities have sufficient supports and services so they stay on track to graduate. As will be noted in the *Education Connection* discussion in Section IV(d)(2)(D), when interviewed, school staff members who reported their students are not making progress or passing grades most frequently cited truancy or missing work. Attachment 5 (Cook, Hyde Park, Lake View, Lovett, Robeson, Roosevelt). During interviews at Hyde Park High School, many responses to interview questions regarding student progress were “I don’t know.” In response to the question of whether students with disabilities were making progress from year-to-year asked of an administrator, case manager or teacher, one Hyde Park interviewee responded: “I don’t know. There is no way to track that.” *Id.*

Increased information:

Increased information, including reporting test results, was required by the Implementation Plan so that parents and students could have greater participation in school improvement processes. In addition, CPS’s increased ability to obtain individual student and school data was to help guide CPS and individual school administration in decisions about improving a school’s ability to educate students with disabilities in the Least Restrictive Environment.

CPS has developed its website to include individual school information for each CPS school that includes, *inter alia*, the percentage of students with disabilities, sometimes programs for students with disabilities (e.g., that the school has programs for early childhood special education or autism), and, where allowed, the achievement of students with disabilities on

⁴⁴ “An Empty Desk Epidemic,” *Chicago Tribune*, November 11, 2012, page 1. According to the report, the *Tribune* investigation was “based on internal attendance data on about 247,000 elementary school students from 2010-2011, the most recent [school] year available. To assess the total number of missed classroom days, the Tribune analyzed both excused and unexcused absences, as well as gaps in enrollment for students who stayed in the district.” All student records were provided by CPS to the *Tribune*, with student identifying information stripped from the records.

⁴⁵ In response to the article, Chicago CPS CEO Barbara Byrd-Bennett said that “we absolutely have to take a look at this.” www.chicagotribune.com/news/local/breaking/chi-watchdog-update-20121119 Ms. Byrd-Bennett noted that CPS did not have this data, but she had asked her staff to review the problem after she was appointed CEO.

standardized tests.⁴⁶ While limited, this information gives some data for parents about the overall success of the school, including AYP status, which will assist a parent in deciding – along with the child’s individual progress as determined by grades, standardized scores, and IEP progress – whether or not the school can meet the needs of a student. Individual school websites are also often listed on the CPS site. Some of these school websites are welcoming to students with disabilities, such as the website for Jones College Prep.⁴⁷ Most, however, do not mention services for students with disabilities or otherwise feature students with disabilities in their websites unless the school is listed by CPS as a “special education” school.

The *Education Connection* process, described below in Section IV (d)(2)(D) Challenge IV, required educating students in the Least Restrictive Environment to be the subject of regular reports to the Local School Council (“LSC”). According to CPS monitoring reports reviewed by the Monitor, LSC minutes began to routinely reflect discussions of educating students in the LRE in the last years of Corey H. implementation. *See*, Attachment 5.

During the implementation of Corey H., CPS instituted data collecting systems to address the need to gather data to help guide an individual school’s ability to assure the school was educating students in the Least Restrictive Environment; the current system is called IMPACT (Instructional Management Program and Academic Communications Tool). The CPS IMPACT website describes the system as follows:

IMPACT is a web-based solution that has four components to meet the District’s needs for storing and tracing student data; monitoring students, including students with special needs; and providing business tools and infrastructure necessary to support District teachers, administrators, staff and parents. The four components are:

- Student Information Management (SIM)
- Curriculum and Instructional Management (CIM)
- Student Services Management (SSM)
- Gradebook (including Parent and Student Portals)

Impact is used regularly by teachers, administrators, support staff and Central Office staff. The Gradebook component includes a Parent Portal that provides parents with the ability to view their student’s information.⁴⁸

The SIM system collects student data, including:

- registration and enrollment information

⁴⁶http://www.cps.edu/Schools/Find_a_school/Pages/findaschool.aspx When the number of students with disabilities taking the test is limited, the results are deleted to protect student privacy per ISBE rule.

⁴⁷ <http://www.jonescollegeprep.org/>

⁴⁸ <http://impact.cps.k12.il.us/faq.shtml>

- attendance
- high school, middle school and elementary scheduling information and assistance
- information on truancy and student behavior (including interventions and progress)
- student support services (e.g., health, free-lunch, grading)
- alternative programs (e.g., after school tutoring, early childhood education, summer school, services for English Language Learners)⁴⁹

The SSM system collects information about students with special needs, including the provision of health services (e.g., in-school therapist, nursing), clinical assessments and the Electronic IEPs of students with disabilities. The SSM system “automates many manual, paper-based tasks. IMPACT SSM streamlines special education case management and clinical service record keeping.”⁵⁰ This is the only part of the IMPACT system specifically geared to students with special needs. There is no parent access to the SSM system.

The CIM system offers the CPS administration and staff “the ability to create and share learning materials online. In addition, teachers and staff can easily align State and Federal standards to their lesson objectives.” In addition, CPS administration and staff can access standardized test results for students.⁵¹

The Gradebook system collects information on attendance and grading; based on this information, administrators can run reports on school progress. After securing a password, parents can have access to grades and attendance reports of their students.⁵² The IMPACT website also notes that an additional system – VERIFY – collects data including student discipline violations.⁵³

The IMPACT system collects an abundance of raw data that can and should be analyzed for trends throughout the district (such as 42% of students with emotional disorders missing 4 weeks of school as noted above). This analysis in turn could be used to develop appropriate responses to problems, either on the district-wide or individual school level.

The CPS OSES has also developed a “new self-monitoring program [for SSAs] to monitor the development and implementation of IEPs and best instructional practices” at CPS schools.” Doc. 853-8, par. 9 (Affidavit of Rebecca Clark). The instrument used in this self-

⁴⁹ <http://impact.cps.k12.il.us/faq.shtml>

⁵⁰ <http://impact.cps.k12.il.us/faq.shtml>

⁵¹ <http://impact.cps.k12.il.us/faq.shtml>

⁵² <http://impact.cps.k12.il.us/faq.shtml>

⁵³ <http://impact.cps.k12.il.us/faq.shtml>

monitoring is called the “Snapshot Tool.”⁵⁴ SSAs implement this program and are “expected to complete at least one snapshot for each of his/her [assigned] schools during the school year.” *Id.* Each visit is to take one 1 day; during that day the SSA is to review three randomly selected IEPs and observes four classrooms. According to Ms. Clark, the “purpose of the Snapshot is to identify any ‘red flags’ that indicate the need for training or professional development at the school.” *Id.* In view of the limited amount of time that is allotted for this review indicates that SSAs will be pressed to even identify “red flags.”

A copy of the Snapshot Tool was provided to the Monitor. The Snapshot Tool Definitions of findings of “evident”, “partially evident”, and “not evident” show the review elements are very similar to the Corey H. review elements: overall school review (students with disabilities in school activities, staff collaborating, universal screening, progress monitoring of students with disabilities, IEPs support access), IEP reviews and classroom observations. Attachment 6. SSAs conduct an overall school review, review 3 IEPs and 4 classroom observations. It is encouraging that these plans exist; CPS counsel has stated that the SSA reviews are ongoing. Information from these reviews may be useful for OSES to assure that the gains from Corey H. are maintained and the remaining issues are addressed. However, the time allotted for these reviews – only 1 day – appears to be extremely limited given the number of documents to be reviewed (class rosters, bus schedules, grade level meetings sign-in sheets, etc.), the requirement of 4 classroom observations, and a full school walk-through. Similar reviews have taken both CPS and ISBE monitors several days, were required to reveal all of the issues at the schools in the *Education Connection* and ISBE monitoring programs. In addition, reviewing only 3 IEPs will not allow the SSAs to obtain a full understanding of the staff’s ability to develop appropriate IEPs across the range of disabilities present at any school; in *Education Connection* and ISBE monitoring visits 10 IEPs were reviewed for elementary schools and 15 for high schools.

Revised probationary processes:

Revised processes for probationary schools were to include consideration of the LRE needs of students with disabilities in any plan development. At a meeting with the Monitor on November 19, 2012, CPS counsel informed the Monitor that the probation process was no longer used; now schools are subject to “school actions” which could include closing the school, consolidating the school into another school, phasing the school out, or engaging in a turn-around/reconstitution process at the school. Transition plans for schools in “school actions” are listed on the CPS website.⁵⁵

⁵⁴ Principals and administrators are provided with information about the monitoring process at the OSES website. http://www.cpsspecialeducation.org/index.php?option=com_content&view=article&id=1626&Itemid=687

⁵⁵ http://www.cps.edu/About_CPS/Policies_and_guidelines/Pages/2011TransitionPlans.aspx

The transition plan template contains information under a heading of “Students with Disabilities.” Each school’s plan commits to continuing to provide instructional support and all specialized services to the students at the current school and, if students are to go to a new school, at the new school in accordance with the IEP. In addition, the plans commit to revise IEPs “as necessary to address any additional support needed throughout and beyond the transition.”⁵⁶ CPS also commits to assuring that OSES SSAs review IEPs at the school to assure that proper teaching, clinical and related services are allocated to meet the needs of all students who are changing schools. *Id.*

B. Challenge II [Development of a school based intervention process]

The Settlement Agreement and Challenge II required the CBE to develop and implement a school-based intervention process that was to be utilized by every CPS school by 2004; this became to be known as School Based Problem Solving or “SBPS.” Settlement Agreement, Doc. 127, ¶¶23-28; Implementation Plan, Doc. 337, Exh. 2, Part 2. The process was to be a curriculum-based, informal, problem-solving assessment process for students who were at risk for failure due to academic or behavioral issues. Staff was to utilize these informal strategies prior to proceeding to a case study evaluation for special education needs. The process was optional and no student was required to go through this process before a case study evaluation. The primary goal of this Challenge was the reduction of unnecessary referrals and involvement in the special education process for students without disabilities or for students whose minor disabilities could be addressed in the general education setting.

The CBE’s expected outcomes of Challenge II were:

- A. A stable or reduction in referrals for initial special education eligibility case study evaluations for students at risk of academic failure or behavioral difficulties.
- B. Increased supports in the general education environment to assist with the learning and behavior problems of an increasingly diverse population of students.
- C. At least 50 additional elementary schools trained and utilizing the school-based problem solving process yearly.
- D. More information available to parents, teachers, school personnel and students regarding learning and behavior progress.
- E. Office of Specialized Services’ increased ability to quantify the use of school-based problem solving prior to a case study referral under the IDEA.
- F. More information available to parents regarding the differences between school-based problem solving and the comprehensive case study evaluation under IDEA.

As we noted in our 2005 Report to the Court, less than one-half of the schools monitored by CPS utilized the SBPS system by that date. Doc. 328, p. 32. ISBE found similar non-compliance. *Id.* In fact, the ISBE issued District-wide findings that CPS schools did not consistently use any kind of appropriate pre-referral service until the 7th District-wide Findings

⁵⁶ *Id.*

were issued for the 2006-2007 school year. Doc. 800, p. 66. While ISBE acknowledged in District-wide Findings that CPS had provided training to school staff, ISBE stated that CPS had itself acknowledged the ineffectiveness of the SBPS process and recognized it needed to be significantly revised. Doc. 328, p. 33. ISBE also found that CPS had instituted a computer referral block on new referrals for evaluations, a violation of IDEA and the Corey H. requirement that SBPS was to be strictly optional. As the 2005 Report to the Court noted, CPS's End of Year Report for 2004 included a list of schools implementing SBPS who still had what CPS called "over-referrals," meaning more than a 5% referral rate.

Corey H. *Education Connection* monitoring history showed that sometimes use of the SBPS system was documented, but sometimes the school had no documentation of SBPS history, such as number of students in SBPS, the percentage of that number that went on for a full evaluation, and number of students who after a full evaluation received special educational services. Attachment 5. The numbers from individual schools varied widely, indicating a lack of knowledge and/or commitment at the school level about how the program was to be implemented.

For example, in a report from CPS monitors on Pulaski Elementary School, CPS monitors reported SBPS data was not available from 2007-2009 due to "staff turnover." During the school year 2009-2010, Pulaski transitioned to a school-wide intervention program providing interventions to all students who were not meeting State standards, CPS benchmark tests, fluency and comprehension tests or DIBELS. In 2009-2010, 114 Pulaski students (out of a school population of 807) were participating in that intervention program and 3 had been found eligible. Group Attachment 7 (Pulaski, Nightingale, Mays, Dvorak, Lowell schools)

Other schools showed wide variations. Nightingale Elementary School showed 2 years of SBPS data: in 2008-2009, 23 students participated in the program and 22 were found eligible; in 2009-2010, 21 students participated in the program and 21 were found eligible for special education services. At Mays Elementary School, a school with 318 students, in 2007-2008, 2 students participated in the program and 2 were found eligible; in 2008-2009, 4 students participated in the program and 3 were found eligible; in 2009-2010, 5 students participated in the program and 4 were found eligible. At Lowell Elementary School, a school with 620 students, in 2007-2008, 45 students participated in the program and 8 were found eligible; in 2008-2009, 68 students participated in the program and 9 were found eligible; in 2009-2010, 56 students participated in the program and 8 were found eligible. Attachment 7.

In 2010, CPS monitors found that Pickard Elementary School had never implemented SBPS. Attachment 5 (Pickard).

In 2004, changes in IDEA and its implementing regulations required a review by CPS of the processes it used for pre-intervention referrals. In 2006, in a letter requested by the Monitor regarding CPS's outstanding obligations, CPS counsel stated as follows:

As the parties are aware, the reauthorization of IDEA in 2004 required that the Chicago Board revamp its SBPS initiative in order to comply with the new requirement for response to intervention (RTI)...**Going forward, the Chicago Board will be following IDEA 2004 and implementing a RTI methodology for pre-referral interventions.**

IDEA 2004 requires the consideration of how students respond to general education instruction and intervention prior to making an eligibility determination of a suspected learning disability. This change in federal legislation recognizes the advances in research surrounding learning disabilities (LD). Experts in the field of LD have been reconsidering the discrepancy model, which was traditionally used to determine the presence of an LD in an individual. By doing so special education professionals are now recognizing the importance of robust general education and how the quality of instruction impacts on a student's ability to learn....

SBPS was not designed for the general education instruction, but rather to provide individualized support for a set period of time for the needs of one student. As the Chicago Board moves forward in adopting the tenets of RTI, we recognize that it must be a joint effort between special and general education...RTI will be implemented by CPS general education and the SBPS system will continue to be used for a transition period to assure appropriate documentation of interventions for students suspected of having a learning disability.⁵⁷

What followed this change was some confusion in CPS *Education Connection* schools about what system they were to implement. CPS counsel consistently stated that RTI was only required for students with suspected learning disabilities, but no other system was developed for all other disabilities to replace the SBPS when RTI was implemented in the schools. In 2010 CPS monitors began to note in compliance reports that schools no longer implemented SBPS because the school was "following the ISBE mandated Response to Intervention (RTI) model," similar to the statement by CPS counsel in 2006 highlighted above. Attachment 7 (Dvorak). However, CPS counsel as recently as November 20, 2012, told the Monitor that RTI was required for students suspected of having learning disabilities only, although the process could be beneficial to students with other disabilities. This leaves the question of what early intervention processes are in place for students with disabilities other than learning disabilities. The CPS OSES website merely states:

Both the Chicago Board's and Illinois State Board of Education's *Corey H.* settlement agreements have been extended. The Chicago Board's settlement agreement has been extended until September 1, 2012. The extension order, however, does not apply to the Chicago Public School's obligation to implement School-Based Problem Solving. As of September 1, 2010, the Chicago Public Schools are no longer required to

⁵⁷ Letter to Kathleen C. Yannias, Corey H. Monitor, from Kathleen M. Gibbons, CPS Senior Assistant General Counsel, dated September 12, 2006. Attachment 8 (without attachments) hereto.

implement School-Based Problem Solving. Accordingly, School-Based Problem Solving is no longer a viable program and cannot be used as a pre-referral intervention strategy.⁵⁸

While the Settlement Agreement requirement for SBPS remained in effect, there was little consistency of implementation at the local school level and the information generated by CPS regarding RTI for students with learning disabilities caused confusion for local school administrators. No data has been provided by CPS since 2006 showing the reduction of initial referrals; the 2006 data was rejected by the Monitor because it was without source documentation. The RTI Toolkit on the CPS OSES website states on the title page that RTI is a “[d]ata-driven, assessment-based process to identify students who are suspected of having a learning disability and may require special education services” but also notes that RTI “benefits all students.”⁵⁹

In the Agreed Order extending the Settlement Agreement between the Plaintiffs and CBE, the parties agreed that the Settlement Agreement provisions regarding a school-based intervention system would no longer be enforced as of September 1, 2010. Doc. 728, par. 2.

C. Challenge III [Development of IEP consistent with IDEA]

The Settlement Agreement and Challenge III required the CBE to develop a new Individualized Education Plan (“IEP”) consistent with the LRE mandate of IDEA and including, at a minimum, information about the student’s current achievement in relation to the general education curriculum, a description of special education services necessary for a student to participate in academic, non-academic and extracurricular activities, a statement of annual goals and benchmarks measuring the student’s ability to master general education goals, justification of placement if not in general education, and statements as to whether a student should take standardized testing or not and what accommodations and modifications should be provided for testing. Settlement Agreement, Doc. 127, ¶29; Implementation Plan, Doc. 337, Exh. 2, Part 2.

Further, the CBE was required to ensure that general educators participated in the development of IEPs, an IEP report card was to be developed showing progress toward annual goals, and CPS was to track the delivery of special education services to assure the services were delivered. Settlement Agreement, Doc. 127, ¶¶30-32; Implementation Plan, Doc. 337, Exh. 2, Part 2.

The CBE’s expected outcomes were:

- A. An increased number of students in less restrictive settings with the appropriate supports and services.

⁵⁸ <http://www.cpsspecialeducation.org/>

⁵⁹

http://www.cpsspecialeducation.org/index.php?searchword=RTI&ordering=&searchphrase=all&option=com_search

- B. Through electronic monitoring system, a method will be developed to establish whether students with disabilities receive related services for which they are eligible.
- C. More adequate reflection of individual students with disabilities related services provision.
- D. IEP procedures and practices that comply with the LRE mandate of IDEA 1997.
- E. Principal, case manager, and one special and one regular educator from all 559 CPS schools trained on the new IEP form and procedures.
- F. More information available to parents, teachers and school personnel regarding accommodations and modifications.
- G. More information available to parents, teachers and school personnel regarding their role and responsibilities in the IEP process.
- H. More information available to general educators regarding their role and responsibilities in the IEP process.
- I. More information available to parents, teachers and school personnel regarding the student's progress toward IEP goals and objectives.
- J. More information available to parents regarding the IEP process.
- K. Office of Specialized Services' increased ability to obtain data to help monitor that students with disabilities are educated in the LRE.
- L. More information available to the Regional Education Officers ("REOs")⁶⁰ and their offices to increase their capacity to provide support to the Office of Specialized Services in achieving and stabilizing LRE placements in their regions.

The IEP is to be the roadmap of the unique educational services for each individual student and acts as a commitment between the school system and the student. The IEP must describe what services are required (staffing, interventions, accommodations and modifications, etc.), in what settings those services are to be provided (general education classroom co-taught or regular, pull-out services, or separate classrooms), and how the student's progress is to be judged (testing services, goals and benchmarks, grading, and promotion). Each of these factors is to be based on the individual educational and behavior needs of the student and the services must be unique and individualized based on those needs. Both the educational administration and the parents (or guardian or student if of age) must agree and sign off of the IEP decisions. IDEA, 20 U.S.C. 1414 et seq.

The revision of IEP process and practices, as required by both the Settlement Agreement and IDEA, was one of the key factors in assuring that CPS students with disabilities were placed in the Least Restrictive Environment in accordance with their needs. In addition, the required participation of general educators in the IEP process assured that all educators played a role in IEP development. The requirement of an IEP report card and progress reporting meant that CPS administration, teachers, parents and students could determine if a student was progressing. Tracking services required by the IEP would allow CPS administration to confirm those service were delivered.

⁶⁰ Now SSAs.

During the implementation of the Corey H. CPS Settlement Agreement, CPS has used several versions of revised IEPs; on paper, most versions complied with relevant IDEA requirements. However, the development of the IEPs at local schools often fell short in practice.

Early versions of the IEPs were filled out by hand and both CPS and ISBE monitors found substantial problems with both the completion of the documents and the clarity of the documents at the local schools. Often the handwriting was indecipherable. Sections were not filled out, were inconsistent with one another, or were not understandable given the student's disability.⁶¹ Attached to this report is a paper IEP as completed by Hyde Park High School. Attachment 9. Even schools well reviewed by CPS monitors, such as Dirksen Elementary in 2009, had many issues noted in the IEP review; all Dirksen IEPs reviewed in 2009 were paper IEPs. By 2011, with the implementation of eIEPs, few problems with IEPs at Reilly School were noted by CPS monitors or the Monitor. Attachment 5 (Reilly Elementary).

The ISBE consistently noted problems with IEP completion and development in District-wide Findings; some of those problems continued to be found in the ISBE's last District-wide Findings issued.⁶² The problems with the completion and development of IEPs impacted heavily on the ability of *Education Connection* schools to be found in compliance with Benchmarks and LRE Indicators. See, Section IV(d)(2)(D), Attachment 5.

Beginning in 2006, CPS counsel informed the Monitor that an electronic version of the IEP, called an eIEP, would be developed for CPS schools. A trial rollout of the new eIEP began in 2009. During the rollout, both CPS monitors and the Monitor noted some "glitches" with the eIEP; according to CPS counsel, those glitches have been fixed. Full implementation of the eIEP for all CPS schools began in 2010. ISBE had announced that it was developing an electronic IEP for use in the State as well, but CPS determined that it would develop its own version.

⁶¹ Some schools, such as Reilly Elementary, were able to achieve high scores using paper IEPs correctly. Attachment 5 (Reilly).

⁶² ISBE issued District-wide Findings as follows: #1 May 19, 2001; #2 February 11, 2002; #3 December 17, 2002; #4 February 5, 2004; #5 March 9, 2005; #6 May 27, 2006; #7 October 22, 2007; #8 July 23, 2008; #9 July 31, 2009; #10 January 4, 2011; and #11 July 20, 2011. All District-wide Findings reports were issued to the Chicago Board of Education with copies to the parties and the Monitor and were not filed with this Court at that time. Some District-wide Findings reports were filed as attachments to documents filed with this Court. See Doc. 62, Exh. 3 (District-wide Findings #8 attached to the Monitor's Status Report); Doc. 672, Exh. 1 (District-wide Findings #9 attached to the Monitor's Recommendation on the CBE appeal of the 9th District-wide Findings); Doc. 769, Exh. A (District-wide Findings #10 attached to the CBE appeal of the 10th District-wide Findings); and Doc. 782, Exh. A (District-wide Findings #11 attached to the CBE appeal of the 11th District-wide Findings). At the request of the Monitor, District-wide Findings 1-7 were filed by the ISBE on February 27-28, 2012: Doc. 795 (DWF#1), Doc. 796 (DWF#2), Doc. 808 (DWF#3), Doc. 797 (DWF#4), Doc. 798 (DWF#5), Doc. 799 (DWF#6), and Doc. 800 (DWF#7). In addition, the Amendment to the 8th District-wide Findings (Doc. 801) and the Supplement to the 9th District-wide Findings (Doc. 802) were also filed on February 27, 2012.

The eIEP as finally adopted solved some problems. See, Doc. 853-8 (eIEP format). In particular, the eIEP resolved the problems of schools leaving blanks or failing to complete many IEP sections because the IEP team was forced electronically to complete those sections before the IEP team could move to the next section. However, not all issues were resolved with the development of the IEP as noted below.

Data from all eIEPs are uploaded on the IMPACT system as described in Section IV, Challenge I, above. According to CPS counsel, information downloaded from eIEPs on IMPACT allows CPS to track the IEP to assure that all services are provided to the student (including service providers such as teachers, paraprofessionals, clinical personnel, and interventions such as adaptive equipment) and that the student is receiving services by qualified personnel in the placements specified in the IEP.

CPS OSES has developed a website instruction manual with step-by-step development of its eIEP.⁶³ Doc. 918-1. The eIEP instruction manual has an overview of the required information to be included in the eIEP (present levels of academic achievement and functional performance, statements of measurable annual goals and benchmarks, descriptions of how a student's progress toward meeting those annual goals will be measured, a description of special education services and supplementary aids and services, program modifications and support to be provided to assist the student meet the annual goals, an explanation of why the student will not participate in general education classrooms, and a description of accommodations required.) Following that general overview is a listing of the specific requirements for each eIEP section. This information is extensive and available to anyone viewing the CPS OSES website including administrators, educators, parents, students and community members. When the eIEP was rolled out, CPS counsel informed the Monitor that all school administrators were given the opportunity to attend training on the eIEP process.

One of the expected outcomes of this Implementation Plan section was that general educators would be more understanding of their role in the IEP process. The general education teacher's role was to ensure that the IEP documented that the student was receiving academic services meeting the State mandated curriculum standards regardless of the educational setting in which the student was placed (general, co-teaching or separate). The OSES eIEP website manual notes that the eIEP specifically requires that a general education teacher be part of the IEP team and sign in at IEP meetings in Section 4 ("IEP Team – participants as appropriate") of the eIEP. The IEP requires all parties present, including parents, guardians or students over 14½, to sign a written copy of the IEP. Doc. 918-1.⁶⁴

⁶³ http://www.cpsspecialeducation.org/index.php?option=com_content&view=article&id=1926&Itemid=770

⁶⁴ The overwhelming majority (perhaps as much as 85%) of IEPs reviewed by the Monitor's office for school compliance with Corey H. did not have a signed signature page included for the review. Therefore, the Monitor has no opinion on whether or not this requirement has been met.

As noted, the eIEP has resolved some significant issues because it requires that many required sections be filled in before the next section IEP can be completed. For example, if certain subject areas are checked as requiring services (goals or accommodations/modifications) in Section 9 (“Areas of Need”), then these areas will appear as blanks and must be filled out in Section 10(b) (“Accommodations and Modifications general) and/or Section 11 (“Specialized Instruction” for goals and benchmarks) prior to the eIEP being filed. This has solved the previously persistent problems of services being checked in the IEPs as needed, but the IEP not including any or all of the services noted as being required and accommodations and modifications not being specific to the subject.

Unfortunately, the eIEP cannot resolve the issues caused by failure to properly develop the narrative portions of the document. For example, Section 7 (“General Considerations in the Development of the IEP”) should contain full descriptions of the student’s strengths (e.g., eager to learn, grades, musical talents, likes to read, gets along well with classmates), academic, developmental and functional needs (e.g., needs phonemic assistance, reads fluently, cannot read at grade level, math skills are two years behind, good calculation skills, problems with word problems in math, standardized test scores if available, unable to focus, unable to communicate verbally or in writing, problems with self-control that affect learning), relevant transition information (ability to transfer between subjects in class, between classrooms and into a more inclusive setting at school), language and cultural concerns (need for foreign language instruction) and parents’ concerns. Excellent IEPs have all of these areas fully completed with a complete story of the student’s abilities and needs, which then provides support for the services provided and placement decisions made in the IEP.

As the OSES IEP manual states: “Section 7 is the foundation upon which the IEP is developed. All concerns that impact learning listed under Section 7 must be addressed in the body of the IEP through accommodations, modifications, behavior plans, goals, assistive technology, consult services, and/or paraprofessional support as appropriate.”⁶⁵ If Section 7 is inadequate, all of the student’s needs will not be addressed or the services and placements justified in the remainder of the IEP. The Monitor’s review of IEPs for the *Education Connection* program found that for some schools Section 7 was incomplete, vague or even inconsistent with the remainder of the IEP. For example, an IEP might only state the student is a “nice boy” and “needs help with math,” without explaining at what level he is currently functioning or what type of assistance the student needs. Grades or test scores are missing. Relevant transition information would not address all three areas: from subject to subject, around the school, or what was needed for the student to move into a more inclusive LRE.

Another area requiring narratives that sometimes lack the detail required is Section 11 “Specialized Instruction” which sets the goals to be achieved in specific subjects. The first part

⁶⁵ <http://www.cpsspecialeducation.org>

of Section 11 must provide additional subject-specific information about the student's ability in the particular subject or behavior area. This information is called "Present Levels of Academic Achievement and Functional Performance" or PLAAFPs. Many schools merely cut and paste information from Section 7 and use the same PLAAFP for all subjects, contrary to the requirements of the OSES IEP manual. This cut and paste approach may not give any detail about the student's abilities and needs in certain subjects, such as math or science.

The Section 11 goal statements are to relate to State required standards called Illinois Learning Standards or "ILS" during the implementation of the Settlement Agreement.⁶⁶ Goals developed were to be unique to the student, and not repetitions of the Illinois standards. Good IEPs recognize this and have as a goal specific to the accomplishments of the student. Quarterly benchmarks must be developed based on the goal; each in turn is to be uniquely designed for the student. The Monitor's review of eIEPs for the *Education Connection* program found many schools would repeat the Illinois standard as the goal and the benchmarks despite the fact that the CSP OSES manual states that the "goal must **not** be a repeat of the Illinois Learning Standard."⁶⁷ For example, the Illinois standard would be: "Demonstrate decision-making skills and responsible behaviors in personal and school contexts." The goal, instead of being unique to the student, might say: "[Student] will demonstrate decision-making skills and responsible behaviors in personal, school and community contexts." Compare that repetitive goal to the following. The Illinois standard is: "Locate, describe and explain regions and features on the Earth." The goal statement is: "Using multiple presentations and visual and verbal prompts, [student] will be able to locate a map legend, point to N, S, W and E. She will be able to locate a river, a city and a road with 70% accuracy."

Section 10(b) "Accommodations and Modifications General" is to provide interventions unique to the student and unique to each subject. The eIEP has a dropdown menu listing general accommodations and modifications. Although the dropdown menu does not have to be used, it is in almost all eIEPs reviewed by the Monitor; many IEPs have the same accommodations and modifications for all academic courses. The eIEP also allows for the insertion of "other" accommodations and modifications; the Monitor's Office review of eIEPs for the *Education Connection* program found this provision is rarely used. When the "other" accommodations option is used, it was a valuable tool for providing unique interventions; some unique interventions seen in the Monitor's reviews include specific software programs, stress balls, or 5 minute naps when a student becomes overwhelmed.

⁶⁶ In all of the IEPs the Monitor's Office reviewed, these were called Illinois Learning Standards. Illinois Learning Standards have been replaced by the "New Illinois State Learning Standards Incorporating the Common Core" or the Common Core Standards. http://www.isbe.net/common_core/default.htm During the entire Corey H. *Education Connection* implementation process the standards have been called the Illinois Learning Standards or ILS and will be referenced as the ILS or Illinois Learning Standards in the final report of the Monitor.

⁶⁷ <http://www.cpsspecialeducation.org>

Section 10(a) requires a listing of all assistive technology. Reviews by the Monitor's office find that the assistive technology provided generally consists of basic supports (computer, highlighter, books on tape, calculator, computer, headphones, printer, tape recorder, CD player and visual prompts), rather than assistive technology uniquely designed for the student's needs, such as Braille materials, electronic text, enlarged text or audio; text-to-speech programs, alternative keyboards, on screen keyboards, screen readers, switches to independent student access to computers provided specifically for the student, digital spell checker, voice amplifiers, magnifiers, and laptops.

Some problems developed with the introduction of the eIEP. In the paper IEP, whether the student was in a co-taught class or in regular general education setting with accommodations and modifications was required to be stated. In the eIEP, the student's educational setting is listed in the Section 12 "Justification of Placement" section as the standard education setting whether the student is in a general education setting or a co-taught setting. Doc. 853-8, Section 12. There is no indication that the general education is co-taught or regular. *Id.* The Section 11 specialized instruction Section should reflect two teachers, one a special education teacher, if the services are being provided in a co-taught class (as either "provider" or "other provider"), but often that section remains unfilled; it is not required to be filled out before the eIEP is completed. If it is blank, it usually is not possible to determine absolutely that co-taught services are being provided even if the narratives of Section 7 or Section 11 note that these services are required.

Another area in which the eIEP format created problems is justification of placement. Justification of placement (general education or separate setting) must be specified in Section 12. Doc. 853-8, Section 12. The eIEP provides a dropdown menu for this section; almost all schools use the dropdown menu. *Id.*⁶⁸ Most often eIEPs reviewed by the Monitor's office used the following dropdown statements: "option was determined not to meet academic needs" or "option was determined not to meet behavioral/emotional needs" or "option was determined appropriate to meet student needs." *Id.* Although that may indeed be the right conclusion, that statement by itself is not enlightening. CPS instructs its monitors to review the entire eIEP for justification, which is appropriate, but CPS monitors experienced practitioners in the field of special education. School administrators, parents, guardians, and students themselves if they are over age 14.5 are also reviewing these documents and may not be able to comprehend what factors resulted in a decision to place a student in a certain educational environment and would have basis for confidence that the placement is justified.⁶⁹ If the student transfers to another school or out of the district, failure to clearly document the rationale for placement may cause further problems for the receiving school or the student. Earlier paper IEPs required a narrative statement. Unfortunately that statement was often inadequate as well, but it was sometimes

⁶⁸ The eIEP also has the ability to provide an individualized statement of justification, but the Monitor's Office has encountered fewer than 10 eIEPs with such statements in the thousands of eIEPs reviewed.

⁶⁹ See also description of the "Coulter Study" findings that placements were not justified by CPS eIEPs, Illinois Final Report, Doc. 815-1, p. 60.

individualized and enlightening. Reviewing entire IEPs, the ISBE found that CPS school “IEP teams do not make individualized and justified placement decisions in the LRE” from the first District-wide Findings issued in 2001 to the last District-wide Findings issued in 2011. Doc. 815-1, p. 59.

The only indication of whether a student is participating in some courses and non-academic or extracurricular activities in the eIEP is when accommodations/modifications or paraprofessional support are required in Section 9 and 10(a). If the boxes in Section 9 are not checked, no areas for accommodations or modifications are automatically provided. Section 10(a) must specify all areas of paraprofessional need. This absence of information does not allow a reviewer or a parent to be sure that the student is participating in these critical areas. Often when reviewing IEPs, CPS reviewers and the Monitor found that IEP teams had not fully considered the need for interventions – a need for support evident in the student’s description in Section 7 and in the descriptions provided in Section 11 – to allow students with disabilities to fully participate in the school community, particularly in the areas of non-academic, specials and extracurricular activities. *See* Section IV(d)(2)(D) below and Attachment 5; *see also*, Attachment 18.

The eIEP has substantially improved the IEP process for CPS, but there are remaining issues. Some are inherent to the eIEP format as noted above. Many of the remaining problems are with the school personnel crafting the eIEP, including the lack of development of unique educational services and the failure to adequately justify those services in the IEP. For example, for the Manley High School review in 2010, CPS monitors reviewed both paper IEPs and eIEPs. Many of the same problems were evident in both types of IEPs: FA/BIPs without positive interventions, goals that were not measurable, and placements not justified due to insufficient general and goal descriptions of students. Attachment 5 (Manley). When CPS monitors reviewed Hearst Elementary IEPs in 2008, the paper IEPs had many findings; when the CPS monitors returned in 2010, many of the same findings were noted in the eIEPs. Attachment 5 (Hearst).

In the 11th District-wide Findings issued on July 20, 2011, ISBE concluded that the following IEP-related issues had not been resolved:

- IEP teams do not make individualized and justified placements in the Least Restrictive Environment
- CPS has failed to provide adequate academic interventions to students with disabilities
- CPS has failed to adequately staff schools and appropriately allocate staff [in part due to inadequately documenting staff on IEPs]
- Present levels of performance are not adequately developed and documents on IEPs

- Annual goals are not appropriate or are not adequately aligned with Illinois Learning Standards on IEPs
- CPS has failed to conduct adequate LRE transition planning for students with disabilities [IEPs for students in more restrictive settings did not contain adequate individualized transition plans to facilitate movement to less restrictive settings]
- CPS has failed to ensure that students with disabilities are making appropriate progress from year-to-year [including Section 11 benchmark progress was not updated and missing information on IEPs]
- CPS has failed to adhere to required procedural safeguards [including lack of documentation of IEP conference notifications and recommendations]⁷⁰

One of Challenge III's expected outcomes is a larger percentage of students with disabilities in more inclusive placements and implementation of electronic monitoring of placements and services of students with disabilities. The data indicates that both of these goals appear to have been achieved.

The Monitor's office has noted, however, that most of the increased inclusion in general education settings has been in the areas of non-academic and social science and science. Some schools put none of their students with disabilities in separate settings for social science and science; rather the students are placed in general education classes, sometimes with accommodations and modifications although sometimes without any supports. Attachment 5 (G. Armstrong, L. Armstrong, Eli Whitney elementary schools).

In addition, it is important to note that electronic monitoring of student placement and services does not always mean that what is reflected in the CPS's electronic record is taking place in the school. One of the ISBE's 11th District-wide Findings was that "CPS failed to ensure that IEPs of students with disabilities are fully implemented in the schools."⁷¹ The ISBE stated in support of that finding: "In many cases, documentation showed that students were not receiving the correct amount or type of services as stated in their IEPs, and/or were not observed to be in the settings and receiving the services specified in their IEPs."⁷² The ISBE monitors noted at Carnegie Elementary School – a school that has been in the ISBE process for 10 years without being found in compliance – special education services were being delivered by uncertified substitutes, teachers were using draft IEPs or had no copies of student IEPs, the teacher for hearing impaired students was not properly certified, and student schedules were not delivered to ISBE by the case manager despite requests for those documents. Doc. 782, Exh. A.

⁷⁰ Doc. 782, Exhibit A, pp. 7-9, 14-17. See also, Illinois Final Report, Doc. 815-1, pp. 59-64.

⁷¹ Illinois Final Report, Doc. 815-1, p. 64.

⁷² Doc. 782, Exhibit A, p. 17.

At Taft High School in 2010, CPS monitors found that 71 of 126 classes designated as co-taught did not have special education teachers assigned.⁷³ Attachment 5 (Taft). At a meeting at CSP about the Taft report on November 15, 2010, CPS counsel noted that IEPs do not have to specify co-teaching, but just minutes of special education services in Section 12. According to CPS counsel, the failure to implement co-teaching in 71 classes as required by student IEPs was discovered by CPS monitors reviewing documents, not by staff reporting the failure in interviews.

Continuing training of school personnel on the eIEP requirements and substantive on-site monitoring by CPS personnel of IEPs and their implementation are required. All school personnel should be alerted to the CPS OSES website and its many tools. Section IV(d)(2)(A) (Challenge I) above discusses the CPS current school monitoring by SSAs and the use of the Snapshot Tool, which will monitor only three IEPs at each school. As was stated earlier, based on the experience of both CPS and ISBE monitoring for *Education Connection*, reviewing only three IEPs will not allow the monitors to determine the breadth of IEP issues at a school.

D. Challenge IV: Settlement Agreement IV(f) [School-based LRE plan system]

The Settlement Agreement and Challenge IV required the CBE to develop a program to provide for a school-based Least Restrictive Environment (“LRE”) plan approved by the principal and the Local School Council of a school to improve the education of students with disabilities at individual schools. This came to be called the *Education Connection* program.

i. Design and purpose of the *Education Connection* Program

The CBE was to select at least 30 schools from applicants for the program each year. Once chosen for the *Education Connection* program, a school had an initial year, known as the Design Grant year, in which the chosen school developed a plan that was to include self analysis, vision building, identifying goals and objectives, technical assistance and staff development. Settlement Agreement, Doc. 127, ¶¶33-44; Implementation Plan, Doc. 337, Exh. 2, Part 2. The LRE plan was then to be implemented at the school for two years (Phase I and Phase II), with submissions to the Monitor for approval of activities and funding for both years. The Monitor was required to approve all yearly *Education Connection* submissions after the Design Grant year. *Id.*

The *Education Connection* program’s expected outcomes were:

⁷³ In the required subsequent compliance review, the Monitor required a review of staffing of co-taught classes. The report of that subsequent compliance visit received on May 27, 2012, had no such review.

- A. An increased number of students in less restrictive settings.
- B. An increased number of young students in early childhood programs who transition to neighborhood schools or schools of choice.
- C. An increased number of students with disabilities attending the school that they would attend if they were not disabled.
- D. An increased number of students with disabilities participating in extracurricular activities.
- E. An increased number of students with disabilities included in all aspects of school life.
- F. An increased capacity of the individual school to educate students with disabilities in the LRE.
- G. More information available to parents, teachers and school personnel regarding students with disabilities participation in on-academic and extra-curricular activities.
- H. More information available to parents, teachers and school personnel regarding students with disabilities residing in their attendance area who do not attend the school.
- I. An increased capacity of the principal to include students with disabilities in all aspects of school life.
- J. An increased number of CPS model programs and school to assist the other schools with implementation of the LRE mandate.
- K. An increase in the number of CPS principals, teachers, staff and parents visiting model schools and programs to interact and learn from others in parallel programs.
- L. 30 additional schools selected yearly for participation in the *Education Connection*.
- M. More information available to LSC members regarding the LRE mandate of IDEA and their responsibilities regarding this mandate.
- N. Regional LRE teams to assist schools and provide technical assistance with implementing the LRE mandate of IDEA and to approve the Design Grants and LRE plans and monitor implementation.
- O. Each Regional Office will have the capacity to address LRE problems at all schools within the region.
- P. Increased technical assistance and staff development to the *Education Connection* Schools to increase their capacity to educate students with disabilities in the LRE.
- Q. Consistency in technical assistance in the planning year and first year of implementation of the LRE plan at the *Education Connection*.
- R. An increased number of School Improvement Plans and probation plans that address the educational issues of students with disabilities.
- S. CPS' increased ability to obtain data to help guide decision making for individual school improvement and educating students with disabilities in the LRE.

A key provision of the Implementation Plan was the recognition that local school change would only succeed if everyone at the school understood what was required to educate students with disabilities. As the Implementation Plan stated, "Each school's entire staff – general and special educators, administrators, related service providers, and support personnel – is responsible for the education of all the school's students." Doc. 337, Introduction, unnumbered page. The local school was to develop the plan to assure that school's administration and staff identified issues that created barriers to educating students with disabilities in the Least Restrictive Environment and proposed training and activities to overcome those barriers. Neither the Monitor's Office nor CPS OSES was to require a school to include specific activities.⁷⁴

⁷⁴ Initially both CPS and the Monitor's Office suggested that all staff (including security and custodial staff, paraprofessionals, and members of the Local School Council and the community at large) receive LRE training. After the initial training in the early years of *Education Connection* implementation, inclusion of the entire school community was not perceived as a priority by the schools or CPS.

In order to assure that schools completing the *Education Connection* program achieved demonstrable improvements in providing education to students with disabilities in the Least Restrictive Environment, at the end of the Phase II implementation phase, schools were to receive a review to determine whether the schools were in compliance with Benchmarks and LRE Indicators developed by the Monitor in the Targets and Benchmark Decision. *See* Doc. 127, par. 76(d), Doc. 181, pp. 33-36 (filed February 2, 2000), as approved by this Court, Doc. 185 (February 17, 2000). As this Court later noted:

The court reaffirms the Monitor's authority to review reports that have been submitted by the schools and reviewed by CPS and found to be in compliance. The court notes that CPS has agreed that compliance for the Education Connection schools consists of meeting 85% of the goals of the nine benchmarks and substantial compliance with the ten LRE indicators as set forth in the monitor's decision of November 1999. In addition, the Monitor has the authority under the settlement agreement with CPS to require supplemental information and compliance activities.

Doc. 488, par. 5 (March 7, 2007).

In 2008, this Court asked that the Monitor and the parties to file a stipulation of the *Education Connection* process as it had developed through 10 years of implementation of the Settlement Agreement. Part I of that stipulation was filed on July 3, 2008; this stipulation set forth an overview of the process, the Design Grant, Phase I-LRE Plan, and Phase II Yearly LRE Plan Report through the approval status. Doc. 575. Efforts to reach a stipulated agreement on the requirements for completion of Phase II implementation, Phase III requirements, and compliance activities could not be reached and were ultimately abandoned.

ii. Overview of the *Education Connection* Plan Process as Implemented

Participation in *Education Connection* by individual schools was completely voluntary. Schools applied to be part of the *Education Connection* program; CPS established all *Education Connection* selection criteria. Doc. 575, p. 3. The application, which was required to be signed by the school's LSC, asked about the current configuration of services for students with disabilities, what direction the school would like to pursue, and any major barriers to educating students with disabilities identified by the school.

If the school's application was selected by CPS, the school had a year, called the Design Grant year, to develop an LRE plan for Phase I implementation. The *Education Connection* program allotted up to \$10,000 per school to assist in creating the LRE plan. The Phase I LRE plan was to contain a vision statement, an analysis of current conditions, a plan for creating an effective service delivery system to educate students with disabilities in the Least Restrictive

Environment, and a budget for expenses (the Settlement Agreement required expenses to be necessary to developing the ability of staff at schools to provide education to students with disabilities in the Least Restrictive Environment). Doc. 127, par. 42. This initial process was organized and monitored by CPS OSES. Doc. 575.

Once completed, all Phase I LRE Plans were then submitted for review. The plans were first reviewed by CPS OSES central office staff and then sent to the Monitor for final review.⁷⁵ Pursuant to the Settlement Agreement, all *Education Connection* plans had to be approved by the Monitor prior to the disbursement of funds or implementation. Doc. 127, par. 76(d), Doc. 575. Schools could receive up to \$50,000 for the implementation of Phase I activities. Once approved, schools could begin implementation.

Schools in the *Education Connection* program were eligible to move on to Phase II once they had been implementing the Phase I for one calendar year. After some schools appeared not to have completed many of their Phase I activities, in 2008 the parties agreed that in addition to a year of implementation, the school was required to demonstrate to CPS and the Monitor that 75% of its Phase I approved activities had been completed. Doc. 575, p. 9.

For the Phase II LRE plan, the school was to provide quantitative data regarding movement of students with disabilities to less restrictive settings during Phase I and updates all data provided in the Phase I Plan (LRE data, classroom percentages, State test participation by students with disabilities, participation in non-academic and extracurricular activities by students with disabilities, teaching models used by the school, and school-based interventions). The school was to assess whether an activity was completed and provide documentary evidence of completion. The school was allowed to revise goals at this point. Consultant activity (external private consultants or staff from OSES) were described so that CPS OSES and the Monitor's Office could assure the proposed activity was aligned with *Education Connection* purposes as defined by the Settlement Agreement. Documentation for proposed activities and expenditures was to be supplied (e.g., brochures and budgets for conferences, agendas for workshops, contracts or statements of work for consultants). A budget was required to show all expenses (e.g., consultant fees, copying, materials, staff expenditures such as after-school stipends, books for a LRE library). A budget for up to \$50,000 to complete the Phase II plans was allowed; if the school had not expended its full budget in Phase I, any remainder could be rolled over into the Phase II budget. Again the LSC was required to approve and sign the Phase II plan.

Once a school had completed a year of implementation of its Phase II plan and could document that it completed 85% of the activities of the plan, the school was required to submit a

⁷⁵ Early in the process, special education support service personnel (called SSAs today) reviewed school plans prior to the plan's submission to the Monitor. Subsequent to a request from CPS OSES, this review process was conducted by the CPS OSES central office staff.

Phase III report to the Monitor. In this report, to be signed by the Principal, the school was to analyze what Phase II activities had been completed by the school, whether the activities had been successful, and whether the consultants used were helpful. A budget report was required to note what expenditures had been made and which had not and the reason for the failure to spend the money.

Following the Monitor's receipt of the Phase III report, compliance reviews could begin at the school. Compliance reviews have had various names throughout the *Education Connection* history (exits, compliance reports, Program Completion Reviews or "PCRs", and Benchmark Indicator Compliance reviews "BIC"). All had the essential function of determining compliance with the Corey H. compliance factors and will be called compliance reviews in this report.

The *Education Connection* program began in January 1998 with 28 schools that had already been in a State program for regular education initiatives; these schools also received *Education Connection* funding. An additional 30 schools were selected by CPS in May 1998 and every year thereafter until 238 schools had been selected. By May 2004, 238 schools had been selected for the Education Connection Program and were in some stage of completion.⁷⁶

iii. Implementation of the Education Connection Program

While description of the *Education Connection* process above appears fairly straightforward, the reality was not so simple.

The Implementation Plan called for resources to be developed by CPS to assist *Education Connection* schools, including mentoring and networking with *Education Connection* schools already in the process and a website established for *Education Connection* schools to share successes and information about consultants and programs.⁷⁷ As was noted in the 2005 Report, conversations between school personnel and the Monitor's consultants in visits to schools revealed that the monitoring and networking had not been done. The *Education Connection* website was never established. The Professional Development Academy, cited by CPS as a resource for *Education Connection* assistance, was unknown to most of the school staff that Monitor's consultants spoke with in 2005.⁷⁸

⁷⁶ Some schools selected for the *Education Connection* program closed prior to completing the program, some closed shortly after completing the program, some have changed to charter schools and some are in the process of a turnaround. One school, Julian High School, was transferred to the Illinois State Board of Education Corey H. monitoring program. Doc. 575, p. 2. See also, Doc. 851, p. 51.

⁷⁷ Implementation Plan, Doc. 127, Actions 4, 5, 6, 20, 21, 36.

⁷⁸ Doc. 328, p. 40.

A Resource Catalog for Educating Students with Disabilities in the Least Restrictive Environment (“LRE Resource Catalog”) was also to be developed; it was first available in 2000. The LRE Resource Catalog was to contain the names of private consultants (approved by both CPS and Plaintiffs’ counsel) and OSES staff available to assist the *Education Connection* schools on LRE related issues. Information included conferences and books and videos about educating students with disabilities in the LRE, model schools and programs for school staff to visit, and a listing of all schools in the *Education Connection* program. OSES and Corey H. staff contact information was provided. In 2008 CPS last updated the approved consultants list and sent it to the Monitor’s Office; the Monitor has not knowledge of whether this updated version was sent to the *Education Connection* schools. The 2008 information soon became outdated and counterproductive to effective plan development.

As was noted in the 2005 Report of the Corey H. Monitor on the Compliance Status of the Chicago Board of Education and every status report thereafter,⁷⁹ almost all Phase I and Phase II plans were submitted to the Monitor’s Office for review with errors and omissions even after the plans were reviewed by CPS central office. This caused delays in approval because revisions to the reports were required in order for the reports to comply with the requirements of the Settlement Agreement and the Implementation Plan. In the Monitor’s status report filed on January 29, 2010, the Monitor noted:

In general, the revisions the Monitor’s consultants have been required to request have continued to be very straightforward, such as:

- *required signatures of the principal and Local School Counsel;
- *clarifications of activities where duplicate activities are presented, the consultant is not named, or the consultant does not appear on the [CPS] approved-consultant list;
- *budgetary changes, many required by CPS OSS guidelines (e.g., no payment allowed for paraprofessional substitutes; materials required by individual student IEPs were not to be paid with EC funds; attendance at conferences were only to be paid for the closest conference to reduce costs; more than one hour for prep time for consultants presenting workshops previously developed for other schools must be justified by noting modifications for a new school; individual teacher professional memberships were not allowable) or because the numbers throughout the plan did not add up to the amount requested in the final budget; or
- *substitution of conferences for conferences whose dates have passed prior to the date the Monitor’s Office received the plan.

Doc. 660.

Some schools waited lengthy time periods to submit their Phase II plans for approval after they had been implementing their Phase I plans for the requisite year or to submit needed

⁷⁹ The following status reports were filed, in addition to the 2005 Report of the Monitor: Doc. 503 (July 20, 2007), Doc. 557 (May 1, 2008), Doc. 607 (February 2, 2009), Doc. 621 (June 30, 2009), Doc. 660 (January 29, 2010), Doc. 687 (June 7, 2010), and Doc. 779 (June 30, 2011). Each report notes the name of every school in the *Education Connection* program and the school’s status as of the date of the report.

revisions to their plans. *See*, e.g., Attachment 10 and Attachment 11 (*see*, e.g., Jones High School, 8 years; Steinmetz High School, 7 years; King, Manley, and Robeson high schools, 5 years; Clemente, Crane, and Gage Park high schools, 3 years). Sometimes these delays were because the schools had not completed their Phase I activities, sometimes because the school administration and/or the LRE facilitator had changed and the new administration or LRE facilitator was unaware of the *Education Connection* plan, sometimes because the school wanted to wait for new consultants to be approved, and sometimes for reasons unknown to the Monitor. Other delays were caused by miscommunication between CPS OSES and schools (e.g., CPS delays in sending schools needed information or assisting schools as requested by the Monitor, CPS delays in plan reviews due to OSES staffing issues, or CPS disputes with schools about plan changes not accepted by schools) or lack of commitment by schools to the *Education Connection* process or to educating students in the LRE. *Id.* In addition, in some instances *Education Connection* budgets were not promptly loaded by CPS so that schools could begin implementation, requiring some schools to seek interventions by the Monitor's consultants with CPS. *See*, e.g., Doc. 328, p. 40.

Attachments 10 and 11 provide detailed histories of the participation of 30 elementary schools and 30 high schools in the *Education Connection* program from the Design Grant year. The elementary schools are the first 30 *Education Connection* schools in alphabetical order; the 30 high schools represent all high schools in the *Education Connection* program were deemed compliant, found compliant by Monitor, transferred or changed status, sometimes several times (turnaround, phase out or became a charter school).

The necessity of reviewing plans submitted to the Monitor with great care also became clear in the early 2000s when the Monitor encountered violations of the use of *Education Connection* funding. The Monitor was required by the Settlement Agreement to approve funds only for LRE training and professional development of staff, LSC members and other members of the school community, for technical assistance to aid in implementing the plan, and for consultants to assist and advise teachers in the classroom. Doc. 127, par. 42. The Monitor's office did not know whether the school was expending *Education Connection* funds as approved until a school submitted a Phase II or Phase III report. It was at that point that CPS and the Monitor would discover that some schools spent the funds correctly and some schools did not spend funds for all approved expenditures. It was also at that point that CPS and/or the Monitor's office determined that some funds were spent for unapproved professional development, consultants, supplies or general school expenses not aligned with the goal of educating students with disabilities in the Least Restrictive Environment. Often the school's expenditures would contradict CPS records. Monitor and CPS reviews found funds used for redecorating offices, attending conferences that were not LRE-related, attempts to use funds for school equipment such as copiers, purchasing unapproved materials (one school purchased over 72 items of equipment and supplies that were not approved in plan), overpayments to consultants

and other non-approvable expenditures. Doc. 328, p. 41. (See, e.g., Attachments 10 and 11, Bennett Elementary School and Phillips High School.) Following such findings, all initial plans were carefully scrutinized for any such unacceptable expenditures and all Phase II and Phase III plans were reviewed to assure that expenses were spent as approved.⁸⁰

The submission of many of the Phase I (and then Phase II) plans with these serious errors and omissions revealed a lack of understanding by some of the principals about the goals of *Education Connection* program. Although yearly meetings (conducted by CPS OSES central office and attended by the Monitor's consultants) were held beginning in the 1999-2000 school year to discuss the *Education Connection* process with principals and other administrative staff, plans that could not be approved continued to be submitted to the Monitor.

In the final years of *Education Connection*, many schools did not use all of their available funding. Attachment 12 is a listing from CPS of the *Education Connection* expenditures by year by schools which shows the significant reduction in individual school expenses over the years. Very few schools used all of the maximum \$110,000 for the Design Grant, Phase I and Phase II years; even schools that budgeted the entire \$50,000 did not expend the funds. Some schools used SSAs to provide training and professional development rather than using *Education Connection* approved external consultants who worked with individual teachers.⁸¹ Fewer schools scheduled off-site retreats with staff and retreats with parents with outside consultants or sent teachers and staff to conventions. Few schools that submitted Phase II plans or revisions to Phase I in the final years of *Education Connection* budgeted for the entire \$50,000 maximum budget. Many plans budgeted only for extended day funds to allow OSES training, professional libraries and supplies; few plans proposed workshops, conferences or approved external consultants.

Beginning in 2006, the Monitor's Office and the parties worked toward developing an LRE plan submission template (beginning with Phase II, but this template was to be modified for Phase I and Phase III submissions) that would more clearly alert the principals and other school administrative staff about the requirements for plan submissions and the requirements for eventual compliance with Corey H. The first *Education Connection* Phase II template was approved by the Monitor in 2006. The first school-developed plans using the new template were

⁸⁰Following a review of Bennett Elementary School by outside auditors in April 2000, the outside audit recommended that a review process be implemented at the school level to ensure sufficient documentation is maintained to support expenditures, that OSS implement a standard monitoring process for schools receiving EC funds to ensure funds are being spent appropriately in accordance with the Corey H. Settlement (suggesting requiring periodic status reports, detailed expenditure reports, and budget to actual reports), and encouraging CPS management to establish a formal process to monitor school level budget to actual data (the process was to incorporate an understanding of the specific requirements of Corey H.).

⁸¹Banneker Elementary School reported SSAs presented professional development that completed 4 of Banneker's Phase II *Education Connection* activities in 3 hours in the last month of Phase II implementation at the school.

submitted in December 2006; some parts of the approved template had not been included and the plans were withdrawn by CPS upon realizing the error. At that point, all parties agreed some additional information was needed and this was added to the template. In August 2007, CPS suggested another format for the template which would contain information about activities tied to individual Benchmarks and LRE Indicators. The Monitor applauded this change, noting that this was a format she had suggested a year previously and had been rejected by CPS.⁸² In October 2007 CPS again asked to revise the template; the revision was received on March 6, 2008, and approved on March 13, 2008. CPS has filed examples of a Phase I and a Phase II plan. Doc. 877, Exhibits I and L.

At a meeting with the parties on January 11, 2007, the Monitor and CPS OSES agreed that schools would no longer be allowed to ask for revisions or transfers of funds on approved plans; these requests for changes were frequent and caused significant delays. Both the Monitor and CPS had allowed schools to change their plans during implementation, such as training for different school staff, substitution or addition of consultants after the school determined another consultant would address needed issues, addition of conferences that benefitted a different school population (students or staff), and addition of staff (and resulting fees and expenses) to conferences, among other reasons. Allowing frequent requests had resulted in delays in approval of all plans, as CPS and the Monitor's consultants were conducting repeated reviews on the same plans. After January 11, 2007, approved plans could be changed only if: a consultant could no longer fulfill his/her contract, a school was unable to attend an approved conference or wished to change conferences, the school had a major change in population or grades or focus (e.g., from a neighborhood school to a regional gifted center), or the school's approved Phase I or II plan had been approved for 2-3 years without significant implementation.

Over the 14 year history of the *Education Connection* program, the Monitor's consultants reviewed approximately 6,000 plans, plan revisions, and plan change requests. Most of these reviews took place within the 21 business day time period for review agreed to by the parties.⁸³ See Attachments 10 and 11. In many instances, the Monitor's consultants had conversations with the school administration to assist the principal or LRE facilitator, case manager, and special education staff or with CPS OSES staff to develop a plan that would meet with approval. Schools would ask the Monitor's consultants about LRE consultants, conferences, and whether activities or expenses were approvable; for assistance in getting their *Education Connection* budget loaded or their *Education Connection* plan approved by CPS OSES; how to involve parents and the community; and how to implement teaching practices, develop IEPs, obtain

⁸² Throughout this time, Phase II plans were being submitted in the various formats and approved by the Monitor's consultants with much effort.

⁸³ Sometimes the Monitor's consultants were not able to respond in a timely fashion and would notify CPS of that fact as agreed. Usually this would occur when numerous Phase I or Phase II plans were submitted for review at the same time or the consultants were working with the Monitor to complete status reports or other reports requested by the Court or the parties had agreed to new procedures that were being developed.

services, and other issues. As CPS counsel informed the current Monitor in 2004, the ability of schools to contact the Monitor's consultants allowed schools to move the approval process along.

The Status Reports noted in footnote 62 above contain a timeline of every school involved in the *Education Connection* process. The Monitor began providing status reports on each school in order to demonstrate to the Court and the parties that the ability of CPS to reach the Settlement Agreement number of 178 schools in compliance rested upon the will and effort of the individual schools and the CPS's ability to assure that schools were engaging in the process.⁸⁴ Some schools rapidly moved through the various Plan stages, while other schools waited years between Phase I and Phase II. Attachments 10 and 11.

In order to move the process along so that compliance reviews could begin at the remaining *Education Connection* schools, in 2006 the Monitor began discussions with the parties about schools for which the agreed *Education Connection* deadlines to submit Phase I and Phase II had passed. The parties met at the Monitor's Office and reviewed each and every school on the list of schools that had not completed their *Education Connection* process and/or received a compliance visit. On September 29, 2006, after discussion with the parties, the Monitor issued an agreed list of schools that explained how long they would have to complete their *Education Connection* plans prior to a compliance visit. Attachment 13. Most schools did not complete their *Education Connection* responsibilities by the dates established by agreement of the parties.

Some examples of the process will demonstrate that both the will of schools and the review by CPS were essential elements to a school completing the *Education Connection* program in a timely fashion; as noted above, despite a limited staff, the Monitor's Office responded timely in almost all cases when reports were submitted. However, as the following examples show, often the schools delayed submissions.

Boone Elementary School's Phase I was received by the Monitor on October 4, 2002; the Monitor's reply requesting revisions within 30 days was sent to the school and copies to CPS OSES on November 21, 2002. The revised Phase I plan was received by the Monitor on January 6, 2004; the Monitor's reply noted the revised plan was received over a year later and that certain plan proposals needed to be discussed with CPS OSES prior to proceeding. Boone School replied on March 3, 2004, asking why the Monitor had not received the plan shortly after October 31, 2003, when the plan was sent to OSES for approval prior to being sent to the Monitor's office. Attachment 10. The Monitor's consultant told the school that CPS had not

⁸⁴ At a meeting with the Monitor on August 14, 2007, the Monitor asked CPS why a school would be attempting to move on to Phase II when the school had completed virtually none of its Phase I activities. CPS counsel responded that the school must be held accountable. The Monitor noted that holding a school accountable was CPS's responsibility, not the Monitor's responsibility. The Monitor's responsibility was to ensure CBE was implementing the Settlement Agreement, not the individual schools.

submitted the plan to the Monitor until January 6, 2004. The Monitor's consultant required revisions to the plan. After 4 more submissions from the school from July 2005 to September 2006, a plan was submitted responding to all of the requested revisions. The final plan submission was received November 11, 2008, and approved November 21, 2008.

Carroll-Rosenwald Elementary School's proposed Phase II was received by the Monitor on May 9, 2002; the Monitor replied with requested revisions on July 30, 2002. Five years later, on July 27, 2007, CPS OSES forwarded Carroll-Rosenwald's proposed revised plan to the Monitor. The Monitor discussed some issues with the proposed Phase II plan with OSES, noting that the proposed plan had arrived with no required consultant signatures, 12 goals had not been completed in Phase I, the material supplies list included a request for a site license (not allowed by CPS, and required data charts were not completed. Carroll-Rosenwald sent the proposed Phase II plan with those revisions to the Monitor on December 26, 2008. The Monitor noted that this submission had added commendable community involvement, but that some identified problems had not been addressed in the revision. The Monitor sent a request for those final revisions (after noting a small extension would be required) to the school on February 23, 2009. The school's final proposed plan was received on April 6, 2009; the Monitor approved the plan on April 8, 2009. Attachment 10.

Once a school completed at least 85% of the activities in the Phase II plan, the principal of the school was required to submit a Phase II Recap—Phase III report to the Monitor. This document was to update the school profile if necessary (programs at the school, description of changes); provide statistics on the number of students with disabilities in the school and in each Least Restrictive Environment setting noting any changes during the *Education Connection* process; provide information on staffing, nonacademic and extracurricular programs; recap what activities the school completed during the Phase II process to come into compliance with each Benchmark and LRE Indicator; critique the consultants used; list expenditures; conduct a self-assessment on whether the school has met the Benchmarks and LRE Indicators and the basis for the conclusions; and allow the principal to reflect on the successes and challenges of the *Education Connection* program.

Unfortunately, most of the completed Phase III documents received by the Monitor only contained some basic statistics and the information establishing that the school had completed 85% of its activities; all of that information was entered into the Phase III template by CPS OSES. The only input by the principal on most Phase III documents received by the Monitor was the principal's signature; the remainder of the document was generally blank spaces. The proof that 85% of the activities were completed and the principal's signature were the Monitor's only requirements before allowing the school to begin a compliance review; however, some schools used this instrument to reflect on their progress and provide valuable information to the Monitor and CPS about the *Education Connection* process and the school's progress.

iv. Education Connection Compliance reviews.

Once the Phase III had been submitted – regardless of how incomplete it was – CPS was allowed to conduct a compliance review at the school. CPS generally hired outside personnel for compliance reviews, usually former teachers or administrators who had worked at CPS. CPS counsel assured the Monitor that no compliance reviews were completed by anyone who had worked at the school in question or had any responsibility for the school’s performance. During the *Education Connection* process, CPS monitors conducted compliance reviews at 202 schools (176 elementary and 26 high schools); some *Education Connection* schools did not have compliance reviews because they did not complete the Phase I and Phase II process despite the fact that all schools had been selected for *Education Connection* by 2004.⁸⁵

It is important to note that being in compliance with the Corey H. Benchmarks and LRE Indicators does not necessarily mean that the school is providing adequate special education services designed for the student’s unique strengths and needs to all of its students with disabilities. As the Monitor has said in numerous ways and in various settings, it is not the job of Corey H. or the Monitor to determine placements or the adequacy of the education provided. Rather Corey H. monitored whether or not CPS had the important processes in place and sufficient staff to foster the provision of adequate special education services designed for the student’s unique strengths and needs, including IEPs in alignment with IDEA and properly developed to assure access to the general education and school community in the Least Restrictive Environment, sufficient certified staff to implement the IEPs, trained staff, input from the community, trained parents, IEPs that were implemented, and an intervention process to assure the identification of students with special needs. This does not mean that the process steps were not important, because without those processes, no adequate education could ever be provided to students with disabilities overall in the school system. These were the first steps and required by the 1998 findings of this Court.

Compliance reviews began to be received in 2002. In May 2006, the Monitor determined that 37 schools reviewed before October 2005 would be “deemed compliant” either because the Monitor had agreed schools were in compliance or because CSP had submitted the school reviews years before without the Monitor finding the reviews were incomplete or the Plaintiffs raising concerns with the Monitor. A list of the “deemed compliant” schools was attached to the 2005 Status Report. Doc. 328; Attachment 7. As that report noted, CPS did not find the school

⁸⁵ 16 or nearly 10% of all elementary schools in Education Connection did not have a compliance review. They included: Addams (entered EC 2002), Attucks (entered EC 2004), Bennett (entered EC 1998), Bradwell (entered EC 1999), Harvard (entered EC 2005), Hoyne (entered EC 2005), Johnson (entered EC 2005), Mireles (entered EC 2004), Near North Special (entered EC 2003), Neil (entered EC 2004), Nicholson (entered EC 2005), Ross (entered EC 2001), Spencer (entered EC 2000), New Sullivan (entered EC 2000), Wentworth (entered EC 2004), and Ella Flagg Young (entered EC 2002).

on the “deemed compliant” list were in compliance with all of the Benchmarks and did not review LRE Indicator compliance at the school. None of the schools “deemed compliant” met the Corey H. compliance obligations.⁸⁶ Not only was compliance with the LRE Indicators not reviewed at any of the schools, but also the information provided was insufficient to support findings of compliance on the Benchmarks. *Id.* Each “deemed compliant” school’s “exit report” had recommendations from CPS for further actions and professional development. Much of the professional development was to be through the CPS Professional Development Academy. In 2005, the Monitor’s consultants visited some of the “deemed compliant” schools to review whether the CPS recommendations had been carried out and found that most of the recommendations had not been completed. Indeed many of the “deemed compliant” schools had never received the CPS monitors’ “exit” reports and many principals said they had received little or no guidance from CPS. *See*, Attachment 4.

In 2005, the Monitor began meeting with the parties to determine how to conduct compliance reviews both for schools that had compliance reviews after October 2005 and for upcoming compliance reviews. The Monitor determined that the CPS compliance review process was incomplete and insufficient. On May 23, 2006, CPS agreed that *Education Connection* schools were required to meet the Benchmarks at an 85% rate to be in compliance with Corey H.; the 85% compliance standard adopted by the Monitor (and affirmed by this Court on February 28, 2006) was defined as “85% of the questions, file reviews and observations, etc., developed in an accepted protocol have been found to be in compliance.” Doc. 388, Attachment 14. In addition, this Court affirmed that the Monitor’s clarification was also correct: the “85% standard is not necessarily met if 85 of 100 children meet a certain Benchmark.” Doc. 388.

In 2006, CPS continued to argue that compliance with the LRE Indicators were not required for *Education Connection* schools, despite a ruling to that effect by the Monitor in 2002. On May 23, 2006, the Monitor determined that LRE Indicators (as described in the Targets and Benchmarks Decision, Doc. 181) were an essential part of Corey H. compliance for *Education Connection* schools. Attachment 14. On September 29, 2006, the Monitor again stated that LRE Indicators would be considered in the compliance determination for *Education Connection* schools and noted that CPS counsel had agreed by that time that *Education Connection* schools must meet the LRE Indicators. Attachment 13. As the Court noted on March 7, 2007, CPS had agreed that LRE Indicators would be part of the Corey H. compliance review for *Education Connection* schools. Doc. 488.

On September 29, 2006, the Monitor noted that “the Monitor has the responsibility and authority to review Compliance Reviews of EC schools and to request further information or

⁸⁶ Plaintiffs’ counsel objected to the Monitor’s determination that these schools would be deemed compliant. This Court affirmed the Monitor’s decision on these schools on March 7, 2007. Doc. 488.

compliance activities as needed. *See* Settlement Agreement, ¶76(b) and (f).” On the same day, the Monitor also determined that participation in State testing, proportionality (total percentage of students with disabilities in the school compared to all CPS schools), and classroom with greater than 30% students with disabilities must factor in to the determination of whether a school met Benchmark A. Attachments 13 and 14. CPS appealed these findings to the Court. In this Court’s March 7, 2007, order, the Court reaffirmed “the Monitor’s authority to review reports that had been submitted by the schools and reviewed by CPS and found to be in compliance.” Doc. 488. Further, the Court found that “the Monitor has the authority under the settlement agreement with CPS to require supplemental information and compliance activities.” *Id.*

CPS counsel has repeatedly said that the Monitor should not be “substituting” her judgment for the judgment of CPS monitors. First, the staff of the Monitor’s Office has decades of special education teaching experience upon which to draw. Second, as the Monitor’s compliance review letters repeatedly said, IEP reviews were not substituting judgment but rather noting what parts of the IEP were not completed, contradictory, or did not follow ISBE’s and CPS’s own guidelines.⁸⁷ The Monitor’s Office staff could not conduct independent reviews at every *Education Connection* school. The Monitor had to rely on CPS monitors for observations and interviews, but could and did question the conclusions of a few of those observations and ask for additional information. Support for conclusions was especially important when judgments from different CPS monitors varied so widely and changed over the course of the reviews. Also when a question asks for certain data (for example, whether accommodations and modifications were properly listed in IEPs) and no accommodations or modifications were listed, the Monitor would question when CPS monitors did not score that probe “unacceptable.” *See, e.g.,* Attachment 5 (Morrill School: student participation rated “good” when student with disabilities was sleeping in class).

On May 23, 2006, in order to move the process forward, the Monitor also agreed to allow revisions to CPS reports previously done with limited requirements for certain schools. These were reports from compliance reviews CPS monitors had conducted after October 2005; the CPS monitors had found the schools were in compliance with Benchmarks (and had some information about LRE Indicators). The Monitor needed specific, limited additional data to determine whether she agreed with the CPS finding of compliance. All of the compliance reports for these schools were received after October 2005 and were not on the “deemed compliant” list. These “Revised Reports” were required for 18 schools.

⁸⁷ From the Monitor’s review letter dated June 26, 2012, for Amundsen High School: “I often conclude that the IEPs submitted by CPS with the school’s PCR review do not adequately justify placement. This does not mean that I question the placement itself; that is not within my role and should be left for others to review. Rather, the justification as listed in the IEPs does not adequately tell the reasons for the placement. Justifications for placement decisions must follow from the description of the student’s strengths and challenges in the IEP and must be carefully documented; in most of the Amundsen IEPs I reviewed, I found the justification was not supported by the limited descriptions in the IEPs.” Attachment 15.

CPS had also completed compliance schools for an additional 10 schools after October 2005 but found the schools were not in compliance. For those schools, the Monitor required additional compliance activities and required “Supplemental Compliance Reports.” Attachment 14.

One school monitored by CPS after October 2005 was found in compliance based on the report submitted and materials reviewed by the Monitor. *Id.*

CPS did not submit these Revised and Supplemental Compliance reports and instead unilaterally decided to use the review criteria established for all remaining *Education Connection* schools for those schools described below.

In May 2007, CPS began conducting compliance reviews using a proposed instrument modeled on the ISBE compliance review instrument. CPS counsel said that completed reviews were to be sent to the Monitor and Plaintiffs’ counsel by November 2007; two reviews were sent on December 6, 2007, for Telpochcalli and South Loop schools. See Doc. 904-1, Exhibit 9. The January 2008 meeting to review the reports of these schools served to strengthen and improve the compliance instrument and showed CPS the information, documentary support and analysis the Monitor expected in the reports in order to complete her review responsibilities. The Monitor asked for IEPs reviewed with names redacted, interview and observation notes (this information were subsequently included in the Excel spreadsheets attached to the reviews according to CPS counsel), a copy of the SIPAAA (these subsequently became available on line), a list of documents reviewed, and a list of documents in the *Education Connection* binder.

The compliance instrument used by CPS monitors included an IEP review, an interview review, an observation review, and a document review. Additional data was gathered on students with disabilities at the school, staffing documents, classroom rosters, and staff certifications. The information from these reviews was inserted into an Excel spreadsheet and numbers were assigned to the findings by the CPS monitors. These percentages were then used to determine if Benchmarks and LRE Indicators were met; the analysis was included in a report developed for each school. Although the document changed in style from 2008 to 2012, the basic elements remained the same for the final years of compliance review. A review conducted in 2012 at Chicago Vocational Career Academy (CVCA) is an example of the form. Doc. 877-5 and 877-6.

In all, CPS monitors conducted compliance reviews at 164 CPS schools from 2006 on using the new format.⁸⁸ Of the 164, 21 or 13% were high schools. Of the high schools, 3 were

⁸⁸ In the fall of 2008, CPS proposed a new compliance review program (called a “pilot project”) which would replace the compliance review templates developed through *Education Connection*; all reviews, including those previously completed, would be held to the compliance criteria devised by CPS OSES. The first reviews by CPS OSES using the proposed Pilot Program began in January 2009. After much discussion and review by the Monitor

schools with selective criteria, 1 was a military academy, 1 was a magnet school, and 2 were career academies. Of the elementary schools, 11 were magnet schools, 3 were a regional gifted centers and 2 were charter schools. Attachment 3.

Early reviews (2007 through 2009) by the CPS monitors showed that while some schools were found in compliance, CPS found that many schools reviewed did not meet all of the Corey H. compliance factors. CPS monitors found issues that required addressing immediately with the principals and other school administration. A list describing the compliance review history of each of the 164 schools (dates and findings of both CPS monitors and the Monitor) is attached to this report. *See* Attachment 3.

Even schools found in *Education Connection* compliance by CPS monitors could have significant issues. Sumner Elementary, reviewed in 2012, was found in compliance but CPS monitors noted many areas needing improvement. CPS monitors found: IEPs with serious issues (e.g., one IEP did not address a student's hearing impairment, an FA/BIP was deemed "unacceptable," one IEP did not have accommodations and modifications for core subjects), no co-teaching, none of the students in separate classrooms were in homerooms with non-disabled peers, students with disabilities did not attend specials with age-appropriate peers, 4 of 6 file reviews for students with disabilities showed that IEP goal progress was not updated from year to year and 5 of 6 SWD file reviews showed that students were not maintaining grades from year to year (2 were rated poor, 2 fair and 1 good). . Attachment 5 (Sumner).

Most of the initial compliance reviews for CPS *Education Connection* schools – 124 of 164 reviews – were received by the Monitor during the final three years of implementation: 13 were received in 2008, 26 were received in 2009, 41 were received in 2010, 38 were received in 2011 and 45 were received in 2012.⁸⁹ The overwhelming majority of initial compliance reviews submitted to the Monitor in 2011 were received in November or December of 2011; the overwhelming majority of compliance reviews submitted to the Monitor in 2012 were received in May or June of 2012.⁹⁰ Attachment 3. By agreement of the parties, *Education Connection* was to end on September 1, 2012. Thus nearly 50 percent of all initial compliance reviews were received by the Monitor in the last 10 months of the Settlement Agreement.

Despite the staffing limitations imposed by the limited budget for the Corey H. Monitor's office, the Monitor and her consultants attempted to review all of the compliance reviews

and the parties, Plaintiffs continued to object to the Pilot Program. At a settlement conference, this Court declined to order the new plan to be implemented, finding that it would be a change in the Settlement Agreement. *See*, Doc. 621.

⁸⁹ Noble Charter Elementary School was also on the list; the Monitor found the school in compliance in 2006.

⁹⁰ From December 2011 to March 5, 2012, the Monitor was preparing the ISBE Final Report and devoted her time almost exclusively to that effort. The Monitor had alerted the parties, including CPS, about her limited time during this period of time.

submitted by September 1, 2012, so that each could be returned to the school to assist the school complete its efforts to assure that students with disabilities were being educated in the Least Restrictive Environment. In late 2011, the CPS counsel informed the Monitor that copies of the CPS monitors' review were not shared with the schools at the time of the review. The position at CPS was that the CPS report, which might be in conflict with the Monitor's report, would "confuse" principals. At a meeting with CPS on December 30, 2011, the Monitor stated CPS compliance reports should go to the schools from CPS and then the Monitor's reports would follow by email. On December 30, 2011, the Monitor sent a list of 11 schools that should receive CPS compliance reports in January 2012; they were sent by CPS counsel in March 2012 after a reminder from the Monitor.

On March 26, 2012, CPS was told by the Monitor to release compliance reviews for an additional 6 schools by April 2, 2012; all of the reports required only a cover letter and the previously existing report from CPS along with the email to the principals. On April 4, 2012, the Monitor reminded CPS to send those compliance reports to the principals; the compliance reviews were sent to the schools on May 1, 2012. On April 4, 2012, the Monitor listed another 11 schools that should receive compliance reviews by April 28, 2012; the compliance reviews were also sent to the schools on May 1, 2012, with the exception of 1 school that was sent on May 8, 2012. On May 7, 2012, CPS was told by the Monitor to release compliance reviews for an additional 14 schools; CPS sent the compliance reviews to the schools on June 20, 2012.

On June 26, 2012, the Monitor sent CPS counsel a list of 21 schools that should receive compliance reviews by August 10, 2012. On August 17, 2012, outside counsel for CPS committed via email that CPS "would endeavor to make significant progress to complete production [of sending the CPS reports to the schools] by August 24." Attachment 16. All of reports of the schools in question had been previously submitted to the Monitor; CPS needed only to prepare its standard cover letter to send the report to the school's principal via email. Despite that commitment by counsel for CPS, none of the 21 compliance reports were sent to the schools by CPS.

On August 9, 2012, the Monitor had reviewed the remaining CPS compliance reviews and told CPS to release those completed CPS compliance reports to the school; CPS counsel refused. On August 22, 2012, the Monitor sought the Court's order to require CPS to send out the remaining compliance reports; this Court declined to issue that order due to the imminent termination of the Settlement Agreement. Doc. 908.

Most of the *Education Connection* schools have not received a copy of their CPS compliance review or comments by the Monitor.

By 2010, when the parties agreed to the extension, it appeared impossible that CPS would meet the goal of finding 178 schools in compliance as determined by the Monitor. At the end of 2010, in addition to the 39 schools found or deemed in compliance prior to 2007, only compliance reviews from 39 additional schools had been sent to the Monitor. Few of those additional schools were determined to be in full compliance by CPS monitors or the Monitor. When the number of compliance reviews received from CPS changed from a trickle to a flood in November 2011, the Monitor decided that going through the laborious and extremely time-consuming task of scoring all of the benchmarks and LRE Indicators to determine compliance was counterproductive. Rather, the Monitor's reviews focused on issues to add to the CPS monitors' findings to alert the schools where best practices had not been followed.⁹¹

The Monitor makes no determination that 178 CPS schools have met or have been deemed to have met the Core H. compliance standards. The ultimate test of the *Education Connection* program – and this Settlement Agreement – is whether the schools have improved with regard to the issues that were to be addressed by the Benchmarks and LRE Indicators. And it is important to note some examples of real success.

CPS schools had much to improve from the beginning of the *Education Connection* program. As the Monitor's ISBE Final Report noted, in ISBE school-monitoring reports reviewed by the Monitor in 2004:

... it was not unusual to find reports of uncertified teachers teaching special education students, students with disabilities or their teachers without textbooks, or separate classes located in rooms not designed as classrooms and away from the students' peers. Individualized Education Plans (IEPs) were often incomplete, inadequate, and lacking in individualization. Students with disabilities were not full and equal participants in the Chicago Public Schools educational system. The ISBE concluded in its 4th District-wide Findings that "CPS noncompliance with the LRE mandate is substantial and pervasive." Doc. 797, p. 1. In 2006, in the 6th District-wide Findings, the ISBE school monitors noted that students with disabilities were sometimes moved as a group into general education placements "without regard to their unique educational needs and without the benefit of the IEP process." Doc. 799, p.24. The ISBE monitors concluded "such unilateral changes in placement are unjustified in that they lack individualization and are apparently made for the purpose of increasing the number of students in the inclusion setting." *Id.*

⁹¹ CPS monitors were the only monitors on site for the compliance reviews from 2006 forward except in a small number of schools. The Monitor, Plaintiffs' counsel and CPS counsel were required to rely on the CPS monitors' expertise to note problems in observations and interviews; descriptions of the bases for findings in the observations and interviews varied from school to school from fairly descriptive to minimally descriptive. The Monitor, Plaintiffs' counsel and CPS counsel were able to review those descriptions to determine if the descriptions supported the scoring assigned by CPS monitors and whether the descriptions were inconsistent or raised questions that had to be answered. The Monitor, Plaintiffs' counsel and CPS counsel independently reviewed IEPs and the SIPAAA for content.

Doc. 815-1, p. 52

Many CPS initial monitoring reviews until 2010 reported significant issues, including: few opportunities for collaboration between general and special education teachers were provided, separate classrooms were isolated and not comparable to general education classrooms, special education teachers and students did not have textbooks or comparable materials, IEPs were incomplete and did not address all the students' needs, general education classrooms were over the maximum percentage of students with disabilities, separate classrooms exceeded the State class size maximum, students were not placed in the Least Restrictive Environment, teachers were not properly certified and so forth. *See, e.g.,* Attachment 5 (George Armstrong Elementary, Gage Park High School, Morrill Elementary). Per the reports of the CPS monitors in the past few years, findings for many of these issues have been reduced.

Many *Education Connection* schools have improved. Indeed, some schools have reported that participation in *Education Connection* has changed the mindset of administration and staff.

One interviewee at Boone Elementary School told CPS monitors in 2012: "Boone's involvement in the *Education Connection* Program and understanding of the LRE mandate has really helped us to change how we as a staff think about what is the best education setting for kids to learn. It showed us that even though students [with disabilities] are getting the general education curriculum when they are pulled out for subjects, the general education classroom provides a more robust and richer delivery of that content." Attachment 5.

Many schools have begun to develop co-teaching classes to more fully embrace inclusive environments for students with disabilities. As CPS monitors noted in the Volta Elementary School report, submitted in 2011, the school had increased the percentage of students with disabilities in LRE 1 from 37% in 2004 to 75% in 2010. The principal attributed this change to a "paradigm shift" brought about by working with outside special education consultants funded by the *Education Connection* program which pushed the school to "true collaboration and co-teaching." In 2004, the school had no co-teaching; by 2011, the school had co-teaching for every grade. Attachment 5 (Volta Elementary).

In 2004, Gray Elementary School was found not in compliance with Corey H. requirements. By 2011, Gray Elementary had 35 co-taught classes. In the CPS monitors' report, the principal lauded the use of co-teaching, saying that co-teaching promoted academic growth in students with disabilities. CPS monitors reported the principal said: "Most students with disabilities should be included in general education as much as possible." Attachment 5 (Gray Elementary). In 2012, the subset of students with disabilities at Gray School made AYP, with

50% of students with disabilities meeting or exceeding the State standards in reading and 57.3% of students with disabilities meeting or exceeding State standards in math.⁹²

In 2008, CPS monitors reported that the Hitch Elementary administration said that due to increased access to general education curriculum, students with disabilities were making significant academic progress. Staff and administration believed that better access to general education resulted in better students with disabilities having increased success on standardized tests and more opportunities in school in general. Hitch was an early adopter of collaboration and co-teaching using relying on the teaming model where both special and general education teachers are equally responsible for presenting the lessons and assisting special education students. Attachment 5 (Hitch).

As the analysis below of each Benchmark and LRE Indicator compared with the findings of CPS monitors and the Monitor demonstrates, many of the problems that the Benchmarks and LRE Indicators were designed to address and which were endemic to Chicago Public Schools as the Court's findings and early compliance reviews showed, no longer appear to be endemic. Some discrete problems remain fairly widespread and point to areas that CPS must address to assure that supports for the education of students with disabilities in the Least Restrictive Environment are in place. Fewer schools continue to have overall serious problems that must be addressed, including attitudinal problems where staff members dismiss the school's responsibilities to educate students with disabilities in the Least Restrictive Environment and do not include students with disabilities as important members of the school's community. Other schools appear to understand their obligations toward students with disabilities but seem not to have the skills, personnel or tools to provide quality education for students with disabilities in the Least Restrictive Environment.

Examples from two *Education Connection* schools monitored by CPS monitors show what improvement was possible.

George Armstrong Elementary School entered into the Education Connection program in 2004 and had its first monitoring visit in 2009. Major problems CPS monitors found included students who could benefit from co-taught classes had to wait until 7th grade because the school did not offer co-taught classes until that grade, accommodations and modifications were not provided to students, teachers said accommodations and modifications were not always provided and that general education staff did not understand that they should provide accommodations and modifications, teachers reported that students with disabilities were not using comparable books and materials, and a teacher said special education teachers did not have textbooks and relied on "hand-me-downs." Attachment 5 (G. Armstrong). Student IEP progress was not being updated

⁹² http://schoolreports.cps.edu/AYP_2012/2012_ayp_schoolid609949.pdf

and students with disabilities were not making passing grades as reported in files and by teachers. *Id.* IEP issues included 6 of 10 IEPs did not justify placement, 9 of 10 IEPs did not address all of the identified needs in the IEP. *Id.* The SIPAAA did not have any plans to support education in the Least Restrictive Environment and none of the LSC agendas referenced Least Restrictive Environment or students with disabilities. *Id.*

The next compliance review was conducted at George Armstrong Elementary School by CPS monitors in 2011 after the school had completed activities to bring the school into compliance. *Id.* On June 25, 2012, CPS sent a compliance review to the Monitor. CPS found the school in compliance. CPS monitors found that co-taught classes were offered in every grade except the 4th grade, students were making IEP and grade progress, teachers were properly certified, IEP issues were generally resolved, the SIPAAA now contained plans for educating students in the Least Restrictive Environment, LSC agendas referenced Least Restrictive Environment or students with disabilities, and consultative services were properly documented. *Id.* The other substantial issues found in 2009 had been resolved. In a letter to the school, the Monitor noted that the use of “other accommodations” in addition to the pull-down menu demonstrated both the uniqueness of the accommodations and that the staff put considerable thought into the IEP development. *Id.* The Monitor also noted that some IEP issues needed to be resolved (no academic interventions for students years behind grade level, IEP goals were repetitions of Illinois Learning Standards, and no accommodations or modifications were provided for specials, non-academic and extracurricular activities in any IEPs).

Funston Elementary School entered the EC program in 2001 and had its first compliance review in 2009. Attachment 5 (Funston). CPS monitors noted that no co-teaching was provided although co-teaching was required by some students’ IEPs. The school held no IEP meetings or asked for parental permission before the staff put the students with disabilities in separate classrooms; instead the special education staff had “unilaterally” decided to change the students’ educational settings from co-taught to separate classrooms. In response to questions about this illegal change of settings, the principal said s/he was “unaware there were no co-teaching classes.” CPS monitors reviewed IEPs and found that only 9.76% of the IEPs were implemented as listed. CPS monitors found that only 1 of 50 collaborative team meetings documented the presence of special education staff. The separate classroom was isolated on the 3rd floor with no other classrooms. CPS monitors found that placement data was not reported correctly and that IEPs had myriad serious problems. CPS monitors concluded that the school was not in compliance with 5 of 9 Benchmarks and 12 of 14 LRE Indicators. A substantial compliance plan was developed for the school.

In October 2010, CPS conducted a follow-up visit at the school. *Id.* In the 2011 report submitted to the Monitor, CPS found Funston school in compliance. CPS monitors found that: the school had co-taught classrooms, LRE statistics were now aligned with actual IEPs and were

based on student need rather than administrative convenience, and all separate classrooms were located near age appropriate peers. IEPs still showed some significant problems but were improved. CPS monitors observed that accommodations and modifications were not provided in one observed classroom. One interviewee reported that not all special education teachers attended collaborative grade meetings; contrary to the direction of the Monitor, CPS monitors review of collaborative team meeting sign-in sheets did not specify how often special education teachers were present. The Monitor reviewed that report and noted that some of the most serious issues were corrected, but the school must direct its attention to IEP development and the progress of students with disabilities (only 2 of 5 students with disabilities whose files were reviewed were able to maintain their grades from year to year). *Id.*

Some schools did not show this kind of improvement after years in the *Education Connection* program. At a review in 2010 at Byrne Elementary, which entered into *Education Connection* in 2002, CPS monitors found some serious issues: none of the separate classrooms were located near age-appropriate peers, the separate classrooms were in mobile classrooms with no general education classrooms, and one separate classroom had a kindergarten-6th grade range in violation of State rules. Few lesson plans contained accommodations and modifications. Students did not have art, computer or library with their non-disabled peers. IEP issues included insufficient information in Section 7 and in PLAAFPs, Illinois Learning Standards were omitted, accommodations and modifications were the same for all subjects, no interventions for identified needs were listed, grading standards and goals were not measurable, and service providers were not listed. Despite these problems CPS monitors found the school in compliance. Attachment 5 (Byrne). Similarly, at Gage Park High School, many of the problems found by the CPS monitors in 2009, when CPS found the school not in compliance, were found again in 2011 after the school had engaged in compliance activities. Attachment 5 (Gage Park).

v. Benchmark and LRE Indicator issues in Education Connection schools.

Certain problems continued to be found by CPS monitors and the Monitor on a persistent basis even in schools which CPS monitors find in compliance, such as failure to provide accommodations and modifications in settings other than core academic courses which will allow students with disabilities to participate with their non-disabled peers. Following is a listing of all of the Benchmarks and LRE Indicators with the Monitor's analysis of what, if any, continuing issues have been found in compliance reviews, as indicated in the attached description of all compliance review findings. This analysis is based on the Monitor's review of nearly all of the CPS compliance reviews, attached charts with CPS monitors' notations about the review, and IEPs for each review.

Two attachments to this report detail the findings of the CPS monitors and the Monitor. The first, Attachment 5, is a narrative description of the compliance history of each Education

Connection school that has had a compliance review. The second, Attachment 18, is a chart showing the prevalence of issues found by the CPS monitors and the Corey H. Monitor at all of the *Education Connection* schools. These reports are not an exhaustive analysis of each and every issue (good or bad) found by CPS monitors or the Monitor, but rather discussion of what issues continue to appear to be pervasive and/or persistent.

The extension of the Settlement Agreement in 2010 sent a firm date for the end of CPS's commitments; as noted above, to conduct the analysis necessary to determine whether CPS met the requirement of 178 schools in compliance with Corey H. was deemed by the Monitor not to be a useful exercise.⁹³ What follows is an analysis of what the 164 Education Connection schools' compliance history tells about each Benchmark and LRE Indicator. These are general statements of where CPS monitors and the Monitor found some continuing areas for CPS to work on to assure that CPS students with disabilities are educated in the LRE with proper supports and services.

Benchmark A: Students with disabilities have access to the general education curriculum, including all subjects covered by the Illinois Learning Standards at age appropriate levels, and program options available to other students and participate in standardized or alternate assessments of achievement used to assess overall school performance, as designed and justified in their IEPs. Alternate assessments will be selected from an established list of CPS approved alternate assessments and such assessments will be provided to local schools at the cost of the school district.

IEP review probes looked at whether students with disabilities were in the same curriculum as their age appropriate peers established by the Illinois Learning Standards, whether the IEP goals were aligned with Illinois Learning Standards, age appropriate and linked to evaluation information and present levels of performance, whether the IEP documented participation with supports if necessary in all curricular, nonacademic and extracurricular areas available in the school, whether students with disabilities were administered standard or justified alternate assessments, and whether individualized and age-appropriate modifications and accommodations are provided that are sufficient for the student to access the general curriculum.

IEP reviews by the Monitor and CPS monitors from 2010 forward after the adoption of the eIEP found that students with disabilities were provided the same curriculum as their age appropriate peers, but often found the IEPs did not provide the evaluation information and present levels of performance to support goals or that the goals were not aligned with Illinois Learning Standards. A student with an IEP might indeed be assigned to all the same core

⁹³ The Monitor notified both CPS and Plaintiffs' counsel that she would not be completing a statistical compliance analysis at each school in each letter commenting on submitted compliance reviews beginning in the summer of 2011; no appeal from that decision was taken by either CPS or the Plaintiffs.

curricular courses as his contemporaries, but the PLAAFP (“Present Level of Academic Achievement and Functional Performance”) might not be sufficient to support the IEP goals or might not even relate to the goal; often the goal was a repetition of the Illinois Learning Standard and thus not uniquely developed for the student. Of the schools reviewed, 21.2% were found to have issues with justifying placement in the IEPs, 32% were found to have inadequate PLAAFP statements and 38.1% had goals that did not align or were repetitions of the Illinois Learning Standards. Attachment 18. Due to insufficient descriptions of student evaluations and present levels of performance, both the CPS monitors and the Monitor found that IEPs did not always justify goals; the Monitor noted this also meant that placements were not justified in the IEPs.⁹⁴ In only 5.4% of school reviews were related services placements found not to be justified in the IEPs. *Id.*

While academic courses regularly had age-appropriate modifications and accommodations or other interventions (e.g., paraprofessional support, assistive technology, nursing services) sufficient for the student to access academic courses, often non-academic and extracurricular courses often would not be addressed even if a student had serious academic, behavior or health issues. Of the schools reviewed, 47.2% were found to have issues regarding appropriate accommodations and modifications for non-academic and extracurricular activities. Without needed accommodations and modifications, many students with disabilities would not be able to participate in these critical school community activities. For example, a student called a “runner” at Hitch Elementary, a student with asthma at Jenner Elementary, a student with “explosive outbursts” at Reavis Elementary, and a student with continuous occupational therapy needs at Scammon Elementary could not safely attend or participate with fellow students without some assistance or support. Attachment 5 (Hitch, Jenner, Reavis and Scammon elementary schools).

IEP reviews in 6% of the schools reviewed found issues relating to goals that referenced a grade lower than the student’s grade level, thus not providing an age-appropriate goal and assuring that the student was receiving his grade-level curriculum. Attachment 18. Few IEPs required the use of the Illinois Alternate Assessment, but in 26 *Education Connection* schools CPS monitors and the Monitor found the use was not justified in IEPs which specified IAAs.⁹⁵ See, e.g. Attachment 5.

Classroom observation probes looked at whether teachers had copies of IEPs for students in the class, whether teachers have textbooks, whether teachers were providing services as identified in

⁹⁴ In written reviews of IEPs for compliance reviews sent to CPS or schools, the Monitor noted that the placements of students were not being questioned; rather, the question was whether the IEP itself documented and justified the goals and placements.

⁹⁵ Bogan, Brunson, Burnside, Chavez, G.R.Clark, Cook, CVCA, DeDominguez, Dore, Finkl, Haugan, Hyde Park, King High School, King, Lee, Little Village. Lozano, Marsh, Morgan, Peterson, Reavis, Roosevelt, Ruiz, Whistler, Whitney, Whitney Young,

the IEPs (goals, accommodations and modifications), whether students are being taught the general education curriculum, whether students have comparable classroom materials and classrooms, whether students with disabilities are participating in class, whether the paraprofessional (if present) is supporting the activities of the student, and whether in team taught classrooms both the general and special educators share responsibilities.

CPS monitors' observations⁹⁶ noted that generally special education teachers have copies of IEPs, although in 11.5% of the school reviews textbooks for either teachers or students were missing in observed classrooms. Attachment 18. CPS monitors usually found that were in classrooms that were comparable and conducive to educational activities, although there were a few instances where classrooms were considered by CPS monitors to be small, dark or comparable to a "storage room." *See, e.g.,* Attachment 5 (Roosevelt High School and Carroll-Rosenwald and Scammon elementary schools). In 10.9% of the schools reviewed, CPS monitors found special education teachers were not being properly certified (regular education certification only, certification lapsed, uncertified substitutes) or that the school had insufficient special education staff. Attachment 18. In 21% of the schools reviewed, CPS monitors observed that paraprofessionals were not providing services as required by the IEPs (absent, inactive, or used for other purposes) or that IEPs did not properly document paraprofessionals. *Id.*

In 7.2% of schools reviewed, CPS monitors found issues with team teaching, either the special educator not sharing the responsibilities in the classroom (e.g., having a very limited role or only working with students with disabilities) or students with disabilities being isolated with other students with disabilities in the classroom (grouped together, seated in a corner). Attachment 18. CPS monitors also found instances where the special education teacher was not present in the team taught classroom and found students with disabilities were not getting services as required by their IEPs. *See, e.g.,* Attachment 5 (Taft High School).

Interview probes asked whether students with disabilities had access to the general education curriculum, whether special education teachers understood that curriculum, whether students with disabilities used the same or comparable classroom materials, whether IEPs linked to the general education curriculum and goals were linked to current evaluation information and/or present levels of performance, whether IEP accommodations and modifications were implemented in the classroom, whether students with disabilities participate in all curricular areas (academic, special, non-academic) and have the opportunity to participate in extracurricular activities, whether appropriate supports were provided in all curricular areas and extracurricular areas, whether students participate in standard or alternate assessments with accommodations and modifications as necessary, whether all students use the same curricular framework, whether the entire faculty recognized their responsibilities to use accommodations,

⁹⁶ Due to a limited staff, neither the Monitor nor her staff conducted independent observations during the last 5 years of Corey H. implementation.

whether it is fair to modify grades per a student's IEP, whether students with disabilities access social environments, and whether general education students are sensitized to students with disabilities.

CPS monitors found almost all interviewees scored 100% on these probes.⁹⁷ Some interviewees, usually in high schools, occasionally noted that not all special education teachers were familiar with the entire curriculum. Either through interviewees or observations, CPS monitors noted that teachers or students with disabilities did not have textbooks or comparable materials 11.5% of the time. Attachment 18. In 3.6% of schools reviewed interviewees noted that accommodations and modifications were not always used by staff as required by the IEPs, some saying that general education staff did not understand it was their responsibility to do so, in 1.8% of schools reviewed interviewees reported interventions in general were not provided, and in 6% of schools reviewed, interviewees reported assistive technology is not always implemented or used. *Id.* Occasionally interviewees said that students with disabilities did not have an equal opportunity to participate in extracurricular activities due to the lack of support staff (e.g., Attachment 5, staff reported that support staff was not required to stay for extracurricular activities and students were "on their own" at Robeson High School) or lack of specialized busing for students who wished to stay late who had busing provided in their IEPs due to safety or physical disability needs. Attachment 5 (Chavez, DeDominguez, Morgan and Solomon elementary schools, Von Steuben High School). A few interviewees persisted in saying it was not fair to modify grades in IEPs.

Document reviews were to determine whether separate classroom were located near age-appropriate peers and whether students with disabilities participate in extra-curricular activities.

CPS reviewers found in 9% of schools reviewed separate classrooms were not located near age-appropriate peers. Attachment 18. *See, e.g.,* Attachment 5 (Barnard, Sheridan, West Park and Eli Whitney elementary schools.) Some schools attempted to justify locations due to administrative convenience and sometimes safety concerns. In most of subsequent compliance reviews at the same schools, the classrooms were relocated to be near age-appropriate peers. *Id.* (*See, e.g.,* Whitney Young High School). Document reviews also revealed that in some schools students with disabilities were not in homerooms with their non-disabled peers. Attachment 5. *See, e.g.,* Ashe, Sumner and Spry elementary schools. Most CPS monitors' reviews of extracurricular rosters found that students with disabilities were participating in some of the activities.

⁹⁷ Due to a limited staff, neither the Monitor nor her staff conducted independent interviews during the last 5 years of Corey H. implementation.

Benchmark B: Interventions to address unique learning problems are provided to students with disabilities. Such interventions are provided by general and special education personnel as appropriate.

IEP probes reviewed whether interventions (specialized instruction strategies, modifications and accommodations and/or materials) were documented in IEPs and were appropriate to meet the unique learning problems of the student, whether IEPs link interventions to current evaluation information and/or present levels of functional performance, whether IEPs document whether special or general education personnel provide the services, whether Functional Behavioral Assessment and Behavior Interventions Plans (“FA/BIP”) document positive behavioral interventions, and whether assistive technology was considered and documented.

IEP reviews by the Monitor and CPS monitors from 2010 forward after the adoption of the eIEP found that generally IEPs documented goals, accommodations and modifications and materials appropriately, meaning if goals or accommodation and/or modification were checked as needed in Section 9, Section 10(b) and Section 11 would provide for those interventions. However, as noted above in the discussion of Benchmark A, both the Monitor and CPS monitors found that often the PLAAFPs did not support goals because they were too generalized, insufficient or did not align with the Illinois Learning Standards.

Most IEPs utilized the drop-down menu leading to the same accommodations across courses (leading to anomalies such as calculators listed for language arts) and occasionally the same accommodations and modifications were used for all IEPs in a school. Both the Monitor and CPS monitors found IEPs in nearly 5% of the schools reviewed had academic, social or behavior issues discussed in Section 7 that were not addressed in the remainder of the IEP. Attachment 18. Few schools used the “other” option in the drop-down menu, but schools that did often provided very individualized accommodations or modifications (e.g., allow student to carry teddy bear, student may use stress ball when necessary, student allowed to nap when overwhelmed). *See, e.g.,* Attachment 5 (George Armstrong, Chase, Dunne and Fiske elementary schools). In 12% of the schools reviewed, the schools had IEPs with FA/BIPs (the plan to address behaviors that interfere with student academic and social success) that were not provided, did not contain interventions the student thought of as positive, or did include any positive interventions at all. Attachment 18.

Paraprofessionals described as necessary in Section 7 or in PLAAFPs were often not documented in Section 10(a)(g); that documentation was the basis for requests from OSES for additional paraprofessional staff. *Education Connection* compliance reviews found that 21% of the schools reviewed failed to properly document paraprofessionals in IEPs or did not provide paraprofessionals as required by the IEPs. Attachment 18. One common problem found in 37% of schools reviewed was that “other providers” were not listed in IEPs; these could be special

education staff providing services in general education classes, general education teachers for co-taught classes and paraprofessionals. *Id.*

IEP services are to be provided to allow students to access all classes, but services for science and social sciences were not consistently as thorough as for language arts and math, especially in elementary schools. For example, in their 2012 review of Monroe Elementary CPS monitors found that IEP ratings were impacted by one IEP that did not include accommodations and modifications for science and social science even though Section 7 indicated the student was approximately 2 grade levels below in reading comprehension, written expression, letter-word recognition and spelling. Attachment 5 (Monroe; *See also*, Cather, Carroll-Rosenwald, Ebinger, Lovett and Lowell elementary schools).

From 2007 to the final District-wide Findings issued in July 2011, the ISBE found that CPS failed to provide adequate academic interventions to students with disabilities, citing specifically the absence of scientific research-based interventions designed to assist a student reach grade potential. Doc. 815-1, p. 61. These are for students with disabilities who are two or more grades behind their grade level in academic achievement. Without these interventions, students with disabilities will likely continue to fall behind their grade level peers. In 37% of the CPS compliance reviews, the Monitor noted the lack of such interventions. Attachment 18.

Classroom observation probes looked at whether teachers used differentiated instruction and multiple modalities and curricular modifications and accommodations for all students, whether interventions in the IEP were provided by the service provider in the IEP, whether the teacher uses positive behavioral interventions consistently, whether staff uses assistive technology, whether teacher directions are clear and explicit and understood by the students, whether the teacher uses flexible grouping and a variety of input modalities, and whether the learning environment is conducive to the unique learning styles of the students.

CPS monitors' observations found that generally teachers were found to be employing differentiated instruction and multiple modalities (print, oral, overheads, etc.). Attachment 5. Occasionally the service provider(s) on the IEP were not providing instruction, i.e., the student was in the wrong type of class (general as opposed to separate or vice versa), the class was supposed to be co-taught but only a special or general education teacher was present, or that a paraprofessional was not present although identified in the IEP. *Id.* Some teachers were found not to be using accommodations and modifications or available assistive technology that CPS monitors said would enhance the lessons. CPS monitors found some teachers needed to be clearer about their expectations for the lessons so that students would have a clear understanding of what was expected of them. Grouping was sometimes used appropriately, although a few teachers used grouping to isolate students with disabilities. Occasionally CPS monitors found the classroom not conducive to the unique learning needs of the student (e.g., too messy, too

noisy, lack of classroom management, lack of visual, no classroom rules or expectations posted). CPS monitors cited failure to employ positive interventions in quite a few observations, including comments about raised voices and one instance where a teacher used sarcasm and kicked a student's chair to get the student's attention. *Id.* (Logandale Elementary School).

Interview probes asked whether interventions were appropriate to meet the needs of students with disabilities, whether staff understood testing accommodations, whether staff used differentiated instruction and multiple modalities, whether interventions are being provided by the service provider per the IEP, for definitions of assistive technology and positive behavior interventions, and whether staff had been trained on and received information about the use of SBPS and had their schedule adjusted to implement SBPS.

CPS monitors scored the interview probes regarding interventions, testing accommodations and differentiated instruction and multiple modalities at 100%. In a few schools, interviewees noted that not all students received services from the proper service provider, noting uncertified teachers, lack of teachers, lack of paraprofessionals, and uncertified substitutes. SBPS was implemented in most schools in the early 2000s; by the time these interviews took place, many school staff members were not trained (because the training took place before they joined the school). CPS monitors also heard complaints that schedules were not in place to adequately address SBPS. Attachment 5.

In interview probes, questions asking for a definition as opposed to an opinion were often scored lower. Definitions of assistive technology and positive behavior interventions were sometimes incomplete because the definitions given did not link either assistive technology or positive behavior interventions to IEPs or to the result sought to be achieved. Attachment 5.

There were no document probes for Benchmark B.

Benchmark C: The School Improvement Plan for Academic Advancement and Achievement promotes education of students with disabilities in the LRE and contains activities that provide opportunities for the integration of students with disabilities.

Document review probes asked whether the SIPAAA promoted education in the LRE, contained activities that provide for opportunities for integration for students with disabilities, contained a defined plan or process for supporting staff in the implementation of [education] in the Least Restrictive Environment, e.g. common planning time, staff development, and special education is part of the reform/restructuring efforts of the school.

CPS monitors, like ISBE monitors, found that most SIPAAAs in the early years of monitoring did not address all of these issues, but by the end of the compliance monitors, almost

all schools received 100% scores on these document scores.⁹⁸ In those early years a few schools were very explicit about their plans for special education for teachers and students. Beginning in the 2010-2012 SIPAAA, the template asked specific questions about staff (“Describe how the school will develop the capacity of both general and special education teachers to implement inclusive practices (i.e. common planning time, joint professional development etc...)”) and students (“Please identify any instructional practices or strategies that you are utilizing to close the achievement gap between student with and without disabilities (i.e. differentiating instruction to meet the needs of students with disabilities, collaborative teaching models, implementation of academic interventions, etc...)”).⁹⁹ With the inclusion of these and other template prompts, most schools were found by CPS monitors to have met all Benchmark C document probes at 100%.

Interview probes asked whether, during the SIPAAA development, staff and administration discussed the impact the goals and activities of the SIPAAA would have on educating students with disabilities in the Least Restrictive Environment, whether staff development outlined in the SIPAAA was actually provided, and whether the staff had access to the SIPAAA.

CPS monitors found that almost all probes scored 100%. Sometimes new staff could not remember staff development which affected the scores because the training had been completed years earlier. Almost all staff noted they received a copy of the SIPAAA when it was developed in 2010. All current SIPAAAs were developed for use in 2010-2012; the CPS website does not show new SIPAAA to date.¹⁰⁰ All staff members always have access to the SIPAAA through the CPS website.¹⁰¹

Benchmark D: General and special education teachers plan curriculum and school activities in a collaborative manner.

⁹⁸CPS monitors also began to infer information from their reading of the SIPAAAs. A case in point was the Reavis CPS review. In 2011, CPS monitors reviewed the Reavis School 2010-2012 SIPAAA and found it did meet Corey H. requirements. The Monitor disagreed and noted that the 2010 determination that the SIPAAA did not meet Corey H. requirements made by the CPS monitors was correct. In the 2011 report, CPS monitors inserted “[students with disabilities]” in parts of the SIPAAA inferring that the school meant to include this group of students. The Monitor could find only two direct references to students with disabilities in the 36-page plan. The first, on page 11, was a direct response to a question about the plans to close the learning gap for students with and without disabilities. The response is a general statement that teachers “co-plan lessons by grade level clusters with special education teachers to provide differentiated instruction for all students.” The second reference, on page 13, was in response to a question about the learning environment; the response is that students with special needs and general education students will attend morning meetings. The Monitor determined that neither of those comments adequately promoted the education of students with disabilities in the LRE nor documented that Reavis was working toward that goal.

⁹⁹ The SIPAAA is provided at the CPS find a school website for every school.

http://www.cps.edu/Schools/Find_a_school/Pages/findaschool.aspx

¹⁰⁰ See, e.g., the Bogan High School website which references the 2010-2012 SIPAAA.

<http://www.cps.edu/Schools/Pages/school.aspx?id=609698>

¹⁰¹ http://www.cps.edu/Schools/Find_a_school/Pages/findaschool.aspx

Document review probes ask whether for students with disabilities in special education if lesson plans reflect collaboration between the general and special education teachers and whether collaborative team meetings reflected the inclusion of special education staff.

CPS monitors found that most lesson plans indicated some collaboration between general education and special education teachers for students in general education. At 20 of the 164 CPS school compliance reviews¹⁰², not all lesson plans listed accommodations and modifications necessary to assure that students with disabilities have access. Those schools that had a template for all lesson plans which required that collaboration with the special education teacher were to be noted and that accommodations and modifications from IEPs were to be listed often had 100% scoring for these probes. *See* Attachment 5 (Cooper, Lowell, and Ruiz elementary schools; Robeson High School). CPS monitors noted schools that allowed the teachers to devise a lesson plan without a template often did not include those essential elements.

CPS monitors determined some schools scheduled team meetings between general and special education teachers to assure regular attendance by all teachers. Attachment 5 (*See*, for example, Telpochcalli and Westcott elementary schools). After CPS monitors suggested such a schedule and that schools should document attendance, CPS monitors found educators did attend such meetings regularly. *Id.*, (Field and Henry elementary schools, Whitney Young High School). Most schools that fell short in this area did not schedule team meetings when special education teachers could attend or simply scheduled no team meetings. *Id.* (Walsh and Eli Whitney elementary schools). Special and general education teachers in many schools would attempt to collaborate before or after school or between classes; CPS monitors determined that none of these *ad hoc* meetings provided sufficient opportunities for collaboration scored accordingly.

Interview review probes asked for definitions of collaboration, consultation, and team teaching, whether general and special educators plan curriculum and school activities in collaborative teams, whether the administrator ensure sufficient time for collaboration, whether grade level teams included special educators, whether general and special educators and related services providers communicated regularly to review progress and collaborate on curriculum, whether teachers' and related services providers' schedules support education of students with disabilities in the Least Restrictive Environment, whether general and special educators in team-taught classrooms share responsibilities, and whether general and special education teachers are knowledgeable about their students' IEPs.

CPS monitors found that interviewees at 14% of the schools reviewed could not fully describe collaboration, 24% could not fully describe consultation, and 10% could not fully

¹⁰² Byrne, Brownell, Caldwell, Carver Primary, Dore, Finkl, Haugan, Henson, Herbert, Hinton, Hubbard, Hyde Park, Jones, Little Village, Melody, Morgan, Reavis, Von Steuben, H. Washington, and Westcott. Attachment XXXK

describe team teaching. Attachment 18. The interviewees often confused collaboration (special and general education teachers meeting to plan lessons and to discuss curriculum student performance, strategies and accommodations and modifications) with consultation (expert advice – by special or general educators – regarding the academic, social and/or emotional well-being of a student documented in the IEP). Team teaching was often not fully described in schools where team teaching was not practiced or was not practiced well, with interviewees failing to include that general and special educators teaching in the same classroom and sharing responsibility for all students and planning. CPS monitors reported that some interviewees described team teaching as the special educator providing services to special education students in the general classroom or assisting the general educator with the special education students, rather than describing both educators having equal responsibility for educating students. Attachment 5.

Where collaboration was not documented by regularly scheduled team meetings, interviewees sometimes said that the administrator did not ensure time for collaboration and that special and general educators did not regularly communicate to discuss students with disabilities.

Benchmark E: The principal, school staff and LSC conduct planning to assure that, to the maximum extent appropriate, students with disabilities are provided opportunities for integration with non-disabled peers.

The document review probe asked whether there was documentation that administration, staff and the LSC (local school council) planned activities to ensure students with disabilities have opportunities for integration with nondisabled peers.

CPS monitors reviewed LSC agendas and minutes to determine if the subject of special education was discussed. Early in the compliance review process, little documentation was found, although CPS monitors would note if the SIPAAA (which must be approved by the LSC) discussed special education and integration. In more recent years, most LSC meetings have some mention of students with disabilities and only 3.6% of the schools reviewed did not. Attachments 5 and 18. CPS monitors did not state what was discussed other than general statements and did not provide any changes made as a result of those discussions.

Interview review probes asked whether the principal, staff and LSC implement activities that enable students with disabilities to interact with non-disabled peers, whether programs are designed to fit the needs of students rather than forcing students into existing programs, and whether there are procedures for evaluating the effectiveness of service delivery models in place.

CPS monitors were told of many school activities which allowed students with disabilities to interact with their non-disabled peers, including after-school activities, Peer Buddies, school fests and the like. Most staff responded that students were not forced into pre-

existing programs, but at schools where co-teaching was not provided, staff often stated that more students could be in general education if the co-teaching model was implemented at the school. Often staffing shortages were blamed for the lack of co-teaching. *See, e.g., Attachment 5 (Corkery Elementary School).*

Benchmark F: Related services are provided in settings that include non-disabled peers, to the maximum extent possible.

IEP review probes asked whether IEPs documented that the IEP team discussed providing related services in settings with non-disable peers and whether the IEPs justify the setting/model for related service delivery.

Unlike the justification for all academic settings which can be selected from a drop-down menu on the eIEP, the justification for related services settings must be developed individually for the student. As a result, both the CPS monitors and the Monitor found in only 5% of the schools reviewed were the related services placements not justified in IEP reviews, especially from 2010 forward after the adoption of the eIEP. Attachment 18. IEPs stated justifications such as: “[Student] in a large group setting can lose focus. He works well and with fewer distractions in one-on-one settings. He really needs an adult nearby to keep him on track.” This justification for social work services in a separate setting, along with other information in the IEP, was found by CPS monitors to provide sufficient justification for a separate setting. CPS monitors also noted more instances of related services being provided in the general education classroom toward the end of *Education Connection* implementation.

Interview review probes asked whether the IEP discussed providing services with non-disabled peers, whether staff could describe an alternative to “pull-out” (separate) settings for related services, whether related services were provided according to student need and not administrative convenience, and whether related services were provided in the general education classroom when appropriate.

CPS monitors reported that sometimes staff reported other staff could not identify other than “pull-out” models for service delivery and that some staff did not remember any discussion of services in the general education classroom. Some staff gave examples of related services in the general education classroom.

Benchmark G: Parents of students with disabilities are given the same opportunities as parents of non-disabled students to collaborate with school personnel and the LSC to plan for overall school improvement.

Document review probes asked whether there was documentation that parents of students with disabilities collaborate with school personnel and the LSC, are afforded the same opportunities as parents with non-disabled students to participate in school improvement activities, and receive the same communications from staff as parents of non-disabled students.

CPS monitors reviewed sign-in sheets of school meetings and information sent to parents from the school and teachers, including school newsletters and meeting notices. In almost every instance CPS monitors concluded that parents of students with disabilities are afforded the same opportunity as parents of non-disabled students to participate in school activities and work on school committees.

Interview review probes asked whether parents of students with disabilities have the same opportunities as parents of non-disabled students to participate in school improvement organizations, whether parents of students with disabilities receive the same communications from staff as parents of non-disabled students, and whether the school provides parents of students with disabilities training opportunities regarding the Least Restrictive Environment and the continuum of services available.

CPS monitors noted the overwhelming response from interviewees was that parents of students with disabilities received the same communication and had the same opportunities to participate as parents of non-disabled students. However, some interviewees could not remember any training made available to parents of students with disabilities. CPS monitors noted most training of this sort was provided early in the Education Connection process; failure to remember such training indicated that it has not been an on-going part of the process. Often CPS monitors noted that parents of students with disabilities served on Local School Councils.

Benchmark H: If on June 1, 2005, the percentage of students with disabilities in any classroom exceeds 30%, or the classroom is not teaching the general curriculum or the class is designated as a remedial classroom, the time that a student with disabilities is in that classroom will be considered to be outside general education and will be appropriately indicated on IEPs.

Document review probes reviewed whether classrooms contained less than 30% students with disabilities (co-teaching classrooms could have 40%), whether the classroom was teaching the general education curriculum, and whether a classroom was designated as a remedial class.

CPS monitors found that 3.6% of schools had general education classes with over 30% students with disabilities and 9% of schools had co-taught classes over 40% students with disabilities. Attachment 18.

CPS monitors found many schools had slight variations from the 30% maximum (40% for co-taught classes). Sometimes this was caused by a school having only one grade per class so the students enrolled resulted in greater than 30% in any classroom. Sometimes it was caused by including students with disabilities in the only special class with their age-appropriate peers. If the excess was caused by those factors, the CPS monitors rightfully suggested a school seek a waiver from ISBE.¹⁰³

In other instances, CPS monitors informed the principal that classes needed to be changed. These circumstances included where all students with disabilities were grouped in one general education classroom but the school had other classrooms with the same grade or subject.

CPS monitors did not find any classrooms designated as remedial or not teaching the general education curriculum compliance reviews conducted in the last five years.

Benchmark I: Consultative services are available for all students with disabilities when they are being educated in regular classes. Receiving services outside the regular classroom will not exclude the ability of students to receive consultative service for the time they are being educated in the regular class.

The IEP review probe asked whether consultative services were documented in the IEP for students in general education through collaboration and/or modifications and accommodations.

IEP reviews by the Monitor and CPS monitors from 2010 forward after the adoption of the eIEP found that consultative services were more often documented in the IEPs and few gaps remained. The services were generally described by the provider, the place the services would be provided, who would receive the consultation, and how many minutes per week or month would be provided. The description of what services were generally very terse (“will collaborate with special education teacher weekly”) and often did not describe what the consultation would be about.

LRE Indicator 1: IEP decisions regarding LRE are individualized and justified.

IEP review probes asked whether the IEP decision was based on the student’s individual needs and not on the student’s disabling condition and whether the IEP educational decision was educationally justified.

IEP reviews by CPS monitors from 2010 forward after the adoption of the eIEP found that IEPs were justified and did not use the disabling condition as a justification. eIEPs had a drop-down menu of standards justification statements. Although there was the possibility of

¹⁰³ ISBE requires the 30% maximum but may grant a waiver for certain circumstances such as these.

using an “other” option and describing the individualized basis for that decision, the Monitor has seen fewer than 5 eIEPs use that option out of the literally thousands of IEPs reviewed.

CPS has strongly defended their position that the entire IEP can justify the placement. Using that analysis, the individual goal placements must be justified. As CPS monitors have found, often the description of the student in Section 7 or the PLAAFPs did not support the goal. See description of Benchmark A above in this Section. In addition, again as CPS monitors found, many PLAAFPs used the student’s disabling condition as justification for the goal and placement. As the chart of PCR compliance review findings shows, the Monitor concluded that placements were not justified by the IEPs much more frequently than CPS monitors. Attachment 5. The ISBE in all of its District-wide Findings found that CPS was not justifying placement decisions in its IEPs. Doc. 815-1, p. 59. The Monitor agreed with the ISBE’s findings and continues to find that placements are not justified in the IEPs.

Interview review probes asked whether the IEP decision was based on the student’s individual needs and not on the student’s disabling condition and whether the IEP educational decision was educationally justified.

In virtually every compliance review, CPS monitors scored LRE Indicator 1 interviews as 100%.

LRE Indicator 2: IEPs of students in more restrictive settings document consideration of less restrictive options and justify the rejection of those options.

IEP review probes asked whether the IEPs document that the team discussed placement in the general education setting as the first option and whether the rejection of that option was justified.

IEP reviews by CPS monitors from 2010 forward after the adoption of the eIEP found that virtually all of the IEPs documented that general education was discussed and the IEP justified the rejection of that option. Before the eIEP was adopted, IEPs were required to list all of the options and reject each individually. The eIEPs automatically list all options and require a justification to be selected from the drop-down menu before the IEP development can go further. For the reasons stated in LRE 1 analysis above, the Monitor has concluded that CPS IEPs continue to not justify placements.

Interview review probes asked whether the IEPs document that the team discussed placement in the general education setting as the first option, whether the reasons for removal were not based on available programs or for the student’s need for curricular modification.

In almost every compliance review, CPS monitors scored LRE Indicator 2 interviews as 100%.

LRE Indicator 3: IEPs in appropriate cases, provides for the child to have access to, and the supports necessary to, master the regular education curriculum.

IEP review probes asked whether the IEP documents necessary support services and assistive/instructional technology to facilitate access to and progress in the general curriculum and whether the IEP documented how the student would be graded and/or promoted.

CPS monitors found that 4.2% of the schools monitored had some issues with goals or assistive technology not addressing all of the needs identified in the IEPs (in Section 7 or the PLAAFPs). Attachment 18. Inappropriate grading and promotion criteria in IEPs were persistent and pervasive problems, identified by CPS monitors and the Monitor in 50% of the schools monitored.¹⁰⁴

Interview review probes asked whether IEP teams discussed necessary supports and assistive technology and curricular modifications needed to provide access to general education for the student and whether the IEP specified methods for grading, promotion and student progress from year to year.

In almost every compliance review, CPS monitors scored LRE Indicator 3 interviews as 100%, although these scores would contradict in many cases the findings regarding IEP grading, promotion and IEP progress criteria.

LRE Indicator 4: IEP specifies the method by which progress toward meeting the annual goals will be monitored and assessed.

The IEP review probe asked whether the IEP specified a method for assessing and monitoring progress toward meeting goals (e.g., will be able to read 100 sight words accurately 8 of 10 times). CPS monitors often found IEPs did not provide a measurable standard; the Monitor found even more instances where the goals were not measurable. Goals not measurable or progress on those goals not updated were found in 57% of all schools monitored. Attachment 18.

¹⁰⁴ 82 of the 164 schools reviewed had one or more (usually multiple) problems with grading at the last review conducted. The schools were: Armour, Banneker, Barnard, Beard, Bogan, Bridge, Brown, Brunson, Burnside, Byrne, Caldwell, Carver Primary, Cather, G.R. Clark, Clemente, Coles, Cook, Cuffe, CVCA, deDominguez, Dett, Disney, Dore, Ebinger, Edwards, Finkl, Fulton, Funston, Gage Park, Galileo, Gray, Haugan, Healy, Hearst, Hedges, Henry, Henson, Herbert, Hiinton, Hubbard, Jahn, Jenner, Jones, Juarez, Jungman, King Elementary, Lake View, Little Village, Locke, Logandale, Madero, Mays, McAuliffe, McKay, Mollison, Morgan, Morrill, Mt. Vernon, Nash, Newberry, Orozco, Peirce, Pershing, Pulaski, Randolph, Reavis, Robinson, Roosevelt, Ruiz, Ryder, Scammon, Sexton, Sheridan, Spry, Sullivan, Turner-Drew, Twain, Walsh, Webster, Westcott, West Park, and W. Young.

Interview review probes asked whether the IEP specified a method for assessing and monitoring progress toward meeting goals and whether student performance data was available and reviewed annually to determine the progress of students with disabilities.

In almost every compliance review, CPS monitors scored LRE Indicator 4 interviews as 100%, although these scores would contradict in many cases the findings regarding IEPs.

LRE Indicator 5: IEP LRE decision provides for sufficient staff and support to allow the child to benefit, noting that, as a general rule, compliance with state standards will be sufficient for demonstrating staffing and support.

The IEP review probe asked whether the IEP documented sufficient and appropriate staff to implement LRE decisions. This was one area that the eIEP implementation did not completely eliminate the IEP errors. While the eIEP required some staff to be included in Section 11 (specialized services or goals), it did not require that the “other providers” be included prior to moving forward with IEP development. CPS monitors and the Monitor found in 37% of the schools reviewed some failure to include “other providers” (teachers and paraprofessionals) where appropriate. Attachment 18

The interview review probe also asked whether the IEP documented sufficient and appropriate staff to implement LRE decisions. In almost every compliance review, CPS monitors scored LRE Indicator 5 interviews as 100%, although these scores would contradict in many cases the findings regarding IEP.

The document review probe again asked whether special education class sizes (separate classes) comply with state staffing regulations. State regulations require that separate classes have a smaller class size than general education classes and a maximum number of students; classes can be somewhat larger if a paraprofessional is assigned to the class. In nearly 11% of the school reviews, CPS monitors somewhat found classes that did not meet those requirements. Attachment 18. CPS monitors also reviewed whether students with disabilities in separate classrooms have homerooms and specials with their non-disabled peers.

Failure to properly staff separate classes was more prevalent in high schools than in elementary schools; lack of adequate staffing compromises educational opportunities for students with disabilities. In 2010 in a compliance review at Taft High School CPS monitors found that 35 of 58 separate class rosters reviewed did not meet the State class size student/teacher ratio. (There were 88 separate classes in total at the school; not all were reviewed.) The case manager claimed she had not received a copy of new regulations; CPS monitors noted that the new

regulations had been distributed at meetings for principals and case managers.¹⁰⁵ When CPS monitors returned to the school in March 2012 (less than 3 months from the end of the school year), the monitors found 18 of 60 separate classes reviewed still exceeded the State regulations. CPS monitors told Taft High School administration to request additional staff. Attachment 18.

CPS monitors found that sometimes students in separate classrooms did not attend homeroom or specials with their peers; in those instances, CPS monitors informed the school and asked the administration to revise the schedule to allow students with disabilities to have opportunities for interacting with their non-disabled peers. Attachment 18 (Ashe, Spry and West Park elementary schools).

LRE Indicator 6: Students in various educational environments are making appropriate progress from year to year.

IEP review probes asked three questions. All required a review of files for students whose IEPs had been reviewed; the Monitor did not receive these documents for review. All reviews for this probe were to be for only students with 3 years of IEPs at the school.

The first probe asked whether the annual goals are meeting the changing needs of the student, i.e., have been changed from year to year. With the adoption of the eIEP in 2010, CPS monitors reported all IEP goals were changed from year to year; prior to the eIEP, this was a persistent problem.

The second probe asked whether the student was making progress from year to year, i.e., whether the student's progress on his IEP goals was documented in his student file. CPS counsel assured the Monitor that with the adoption of the eIEP in 2010 this issue would be resolved and all student files would document progress on goals. CPS monitors also noted this was occurring in the school year 2009-2010 and beyond; prior to the adoption of the eIEP this was a persistent problem (CPS monitors found goals were not measurable or goal progress was not updated in 57.6% of school reviews). Attachment 18.

The third probe asked whether the student's report card/cumulative card indicated students with disabilities were making progress (for elementary schools, maintaining or increasing grades from year to year; for high schools, earning a certain number of credits from year to year). Unfortunately, as CPS monitors reported, nearly a third of the schools reviewed had 1 or more students with disabilities whose files did not meet the definition of progress. Attachment 18.

¹⁰⁵ The regulation is also available on the CPS OSES website:
http://www.cpsspecialeducation.org/index.php?option=com_docman&Itemid=809

Interview review probes asked whether students with disabilities in teacher's classroom were making progress or making passing grades based on their IEPs from year to year. Regularly one or more interviewees would tell CPS monitors not all their students were making progress or passing grades, usually citing truancy or missing work. Attachment 18. (See, e.g., Steinmetz High School).

LRE Indicator 7: IEPs are actually implemented (e.g. services are actually delivered in the LRE by qualified personnel).

Observation review probes asked whether IEP accommodations and modifications, goals, testing accommodations, grading accommodations and behavior plans were implemented as written. CPS monitors rarely reported on testing and grading accommodations in their observations. CPS monitors reported that accommodations and modifications, goals, and behavior plans were usually implemented in the classes they observed.

Interview review probes asked whether IEPs were implemented by qualified personnel and whether teachers had IEPs of students in their classes. CPS monitors reported that teachers would report staff vacancies and note where teachers were uncertified if they knew; this occurred intermittently and would result in further research by the CPS monitors at the school. Most teachers said they had copies of IEPs; all teachers could retrieve the IEPs of students in their classes using classroom computers.

The document review probe asked whether personnel implementing the IEPs were properly certified. CPS monitors documented repeated instances of the use of an uncertified substitute or a teacher who was not certified, but the numbers of such instances have been reduced significantly from the early years of *Education Connection* implementation. In the final CPS school reviews submitted, 10.9% of all schools had an issue of uncertified or insufficient staff. Attachment 18.

LRE Indicator 8: Lack of personnel or administrative convenience does not bar students from less restrictive options.

This indicator was based solely on responses to one interview review probe asking whether lack of personnel or administrative convenience barred students from less restrictive options. CPS monitors reported that instances of less than 100% scoring were most often at schools where no co-teaching was implemented. Interviewees reported that students with disabilities could be in more inclusive environments if team teaching was provided, but the lack of staff prevented this. Attachment 5 (e.g., Corkery and Eli Whitney elementary schools).

LRE Indicator 9: School personnel are well informed about and trained to carry out the LRE mandate.

This indicator was based solely on responses to interview review probes. All asked whether *Education Connection* staff development resulted in staff developing an understanding of accommodations and modification, positive behavior interventions, team building, cooperative training and team teaching, the LRE mandate, and best practices for educating students with disabilities in the Least Restrictive Environment. Virtually all interviewees said yes, except for new teachers who were not part of the *Education Connection* staff development.

LRE Indicator 10: Students with disabilities are being placed in educational environments with sufficient supports and services to benefit.

Observation review probes asked whether students with disabilities were provided the supports, services and assistive technology provided in their IEPs and whether students with disabilities used those supports identified in their IEPs. CPS monitors in most classroom observations found students were being provided the supports, services and assistive technology, but noted that not all students used those supports.

Interview review probes asked whether students with disabilities were provided the supports, services and assistive technology provided in their IEPs and whether students with disabilities used those supports identified in their IEPs. CPS monitors reported that interviewees routinely said supports, services and assistive technology were provided, however many interviewees said that students did not use the services all the time, especially in upper primary grades and high school, because the students did not wish to be singled out.

LRE Indicator 11: School policies having an impact on the education of students with disabilities in the LRE support the education of students with disabilities in the LRE.

CPS monitors asked administration whether they were aware of and been trained on CPS policies (OSS bulletins, OSES Procedural Manual) that support the education of students in the LRE and whether those policies have been shared with the school staff. CPS monitors reported that virtually all responses were in the affirmative.

LRE Indicator 12: For charter, selective enrollment, magnet, gifted, vocational and other specialty schools, students have access to all programs in the school and are provided with necessary support services.

For the relevant schools, CPS monitors asked whether asked whether students with disabilities were provided the supports, services and assistive technology provided in their IEPs and whether

students with disabilities used those supports identified in their IEPs. CPS monitors reported that virtually all responses were in the affirmative.

LRE Indicator 13: School has demonstrated that incidents of noncompliance with the LRE mandate are isolated rather than systemic issues.

This indicator was initially determined by CPS monitors at the school. If the school met the compliance factors at the required rate, CPS monitors would find the school complied with this LRE Indicator in almost all cases. *But see* Whitney Young, Attachment 5.

LRE Indicator 14: School is in compliance with LRE mandate of IDEA.

This indicator was initially determined by CPS monitors at the school. If the school met the compliance factors at the required rate, CPS monitors found the school complied with this LRE Indicator in almost all cases. *But see* Whitney Young High School, Attachment 5.

Alternate Benchmarks

In addition to the above Benchmarks and LRE Indicators which applied to all schools, Alternate Benchmarks applied to schools defined as “separate” schools (over 49% enrollment of students with disabilities) in the Monitor’s decision on targets and benchmarks. Doc. 181. These were: Alternate Benchmark A (school has established a “partnership” with a CPS elementary or high school, including magnet and special admissions schools, as appropriate, to provide integrated activities for students with disabilities), Alternate Benchmark B (all students with disabilities who need vocational training, as determined through the IEP process, receive integrated vocational training, to the maximum extent appropriate) and Alternate Benchmark C (all students with disabilities 16 years of age and over are provided transition services in accordance with the student’s transition plan that delineates post-graduation goals, including career/vocational goals, as appropriate).

None of the separate elementary schools met the Corey H. standards for meeting the Benchmark A requirement of establishing partnerships with general education schools. *See* Attachment 5 (Beard, Buckingham and Christopher elementary schools). A CPS compliance review was not submitted for Near North Elementary School. The separate high schools that participated in the *Education Connection* program were Ray Graham Training Center, Vaughn Occupational and Nancy B. Jefferson Alternative School. Vaughn was “deemed compliant” by the Monitor in 2006. CPS did not submit a compliance review for Nancy B. Jefferson. Ray Graham ended its *Education Connection* participation in 2003 and was “deemed compliant” by the Monitor in 2006. Letters from the principal at Ray Graham were attached to the Monitor’s 2005 report to the Court. The principal reported the effects of the CPS cutting from her staff 3 teacher positions and 5 classroom aides. Doc. 328, Exhibit 8. The principal wrote in 2005 that

she was “sadden[ed] to inform [the Monitor] that Ray Graham will no longer be able to continue its Education Connection program at Dunbar High School next year due to the aforementioned proposed cuts.” *Id.* Surprisingly the Ray Graham website still lists as one of its student programs “Dunbar High School – Education Connection” even though the school has not received any funding or participated in *Education Connection* since fiscal year 2003.¹⁰⁶ Attachment 12.

E. Challenge V [Resource catalog].

The Settlement Agreement and Challenge V required the CBE to develop a resource catalog listing people both within CPS and in the general public who were knowledgeable about LRE issues and who could assist schools on LRE-related issues. In addition, the catalog was to list model schools both within and outside of the CPS system. Settlement Agreement, Doc. 127, ¶¶45-49; Implementation Plan, Doc. 337, Exh. 2, Part 2.

The CBE’s expected outcomes were:

- A. An LRE Resource Catalog listing qualified external and internal consultants who are knowledgeable about LRE and related areas and model schools and programs.
- B. An LRE Resource Catalog distributed to the principals and LSCs of the *Education Connection* schools.
- C. An increased number of qualified consultants who are knowledgeable about LRE and related areas to assist the schools with technical assistance and staff development.
- D. An increased number of CPS staff and teachers who are knowledgeable about LRE and related areas to assist schools with technical assistance and staff development.
- E. An increased number of CPS model schools and programs to visit and learn how to implement the LRE mandate.

This Challenge required CPS to develop a catalog of resources, including consultants, for *Education Connection* schools to utilize in developing LRE plans. *See* discussion, Section IV(d)(2)(D)(iii) in this report. All consultants listed were to be reviewed by Plaintiffs’ counsel prior to inclusion in the catalog. CPS first published the catalog in 2000. The Monitor received the last listing of approved consultants in 2008, but does not know if that revision was available to schools in the *Education Connection* program. *Education Connection* schools have relied on the Corey H. monitor’s consultants and OSES staff for suggestions for consultants because the information in 2008 listing soon became outdated.

The Monitor was not aware of any written or website listing of consultants available after the 2008 revision; some administrative staff from *Education Connection* schools told the Monitor’s consultants they had not received any updates from the 2003 catalog. New *Education*

¹⁰⁶ http://www.raygrahamtrainingcenterhs.com/apps/pages/index.jsp?uREC_ID=169055&type=d

Connection consultants were approved by the Board from time to time, an action listed among many actions in Board reports and not clearly designated as related to *Education Connection*. Sometimes consultants approved by the Board were not submitted to Plaintiffs' counsel for review as required. Monitor's consultants developed a list of consultants based on the Board reports and assured that Plaintiffs' counsel reviewed those consultants prior to approving *Education Connection* plans. This allowed the Monitor's office to confirm that outside consultants included in *Education Connection* plans were approved by both CPS and the Plaintiffs' counsel.

During the middle years of the *Education Connection* implementation, there were delays in LRE plan implementation caused by the lack of current external consultant information available to *Education Connection* schools, including plans that included consultants who were deceased or no longer approved by the CBE, external consultants accepting too many responsibilities leading to missed opportunities, delays waiting for CBE approval for consultants selected by schools with the approval of CPS staff, and consultants who were on ISBE LRE list who had not been approved by CPS and the Plaintiffs for *Education Connection* purposes. See Attachment 10 and Attachment 11.

In the final years of *Education Connection* implementation, most of the resources utilized at the schools were SSAs and other CPS staff, who provided training sessions rather than substantial on-site review and consultation. Schools that used external resources found the on-site review of teaching methods and consultation with individual teachers and staff exceptionally rewarding.

F. Challenge VI [Equal access to all types of schools; services in LRE for pre-school and special school students].

The Settlement Agreement and Challenge VI required the CBE to develop strategies for ensuring that students with disabilities had equal opportunity to apply to, be selected for and be educated in magnet, optional, charter, vocational, and gifted programs. The CBE was required to ensure CPS was providing educational services in the least restrictive environment to pre-school students and students in special day and residential schools were offered increased opportunities to transition to their neighborhood schools and participate in academic and other school activities with their general education peers.

The CBE's expected outcomes were:

- A. Students with disabilities have equal opportunity to apply to, be selected for and be educated in magnet, optional, charter, vocational and gifted programs.

- B. An increased number of students with disabilities in magnet, optional, charter, vocational and gifted programs.
- C. An increased number of young students with disabilities receiving preschool services with peers who are not disabled.
- D. An increased number of preschool settings for young students with disabilities to be educated with their peers who are not disabled.
- E. An increased number of students with disabilities attending special day or residential schools transitioning to their neighborhood schools.
- F. An increased number of students with disabilities who attend special day schools participating with peers who are not disabled.
- G. An increased number of magnet, optional, charter, vocational and gifted programs with the capacity to serve students with disabilities in the LRE.
- H. More information available to principals, teachers and school personnel at magnet, optional, charter, vocational, gifted and special day schools regarding testing accommodations.
- I. More information available to principals, teachers and school personnel at magnet, optional, charter, vocational, gifted and special day schools regarding awareness of IDEA and the LRE mandate.
- J. Expansion of vocational program options available to students with disabilities.
- K. CPS' increased ability to obtain data to ensure that recruiting methods, testing methods and admission criteria do not discriminate.
- L. Procedures to monitor, develop, and implement corrective action plans for magnet, vocational, charter and gifted schools.
- M. More information available to principals, teachers, school personnel and parents regarding educating young students with disabilities in the LRE.
- N. [Development of a brochure] describing collaborations and advising schools how to recruit agencies for collaboration.
- O. An improved collaborative working relationship between CPS and social service/child welfare agencies.
- P. Potential increase in the number of collaborative partnerships between schools and social service/child welfare agencies.

One goal of this part of the Settlement Agreement was “an increased number of students with disabilities in magnet, optional, charter, vocational and gifted programs.” Each of these types of schools is discussed below.

i. Charter Schools

As the Illinois School Code states, charter schools are allowed great flexibility, such as in the terms of governance and qualifications of teachers, in order to allow educators to “offer flexible and innovative educational techniques and programs....” 105 ILCS 5/27/A-2(a)(2). Charter schools in Chicago are operated by private entities pursuant to contract with the Chicago Board of Education.¹⁰⁷ As public schools, however, they are subject to most of the requirements with regard to students with disabilities in the School Code of the State of Illinois and IDEA with

¹⁰⁷ “A charter school shall be a public, nonsectarian, nonreligious, non-home based, and non-profit school. A charter school shall be organized and operated as a nonprofit corporation or other discrete, legal, nonprofit entity authorized under the laws of the State of Illinois.” 105 ILCS 5/27A-5 (a)

few exceptions.¹⁰⁸ Charter schools, as public schools, also must be open to any student who applies; if there are more applicants than spaces, a lottery system must be used to determine who will be enrolled. 105 ILCS 5/27A-4(d).

Charters are granted by the CBE to “charter schools.” If the charters were granted prior to 2003, the charters can then operate in a number of locations and provide services to a wide variety of students; charters granted after that date in Chicago only can no longer create multiple campuses.¹⁰⁹ There are 13 charter schools in Chicago that have the ability to provide services at multiple campuses. For example, UNO Charter School has grown to 12 different locations, and has announced plans to open additional locations. Attachment 19. Aspira Charter School provides services for elementary and high school students in two different locations.¹¹⁰ *Id.* Chicago International Charter Schools (“CICS”) provide services for students in grades 6-12 in one location. *Id.*

When the Settlement Agreement and Implementation Plan were developed, the number of CPS charter schools was small; that number has increased dramatically over the years. Nine Chicago Public Schools charter schools were operating in 1998-1999 school year in 9 locations, compared to 42 schools operating in 95 locations in the 2012-2013 school year. Doc. 819-1, page 2; Attachment 19. Two charter schools participated in the *Education Connection* program: Noble Charter School and Locke Charter School.

The Illinois School Code states a maximum of 70 charters may be established in Chicago.¹¹¹ CPS has indicated that it is planning to expand the number of charters from its current number of 42 in the years to come. According to a December 7, 2012, press release by CPS administration, CPS administration plans to recommend to the CBE that four additional charters be approved.¹¹² Charter schools are already a critical component of the provision of services to CPS students, and it appears that the CBE and political supporters are moving to increase charters rapidly. Currently, 11.34% of all CPS students – with and without disabilities – attend charter schools. Attachment 19.

While no data is available regarding the percentage and number of students with disabilities in charter schools in 1998, with the increased number of charters and campuses, there

¹⁰⁸“A charter school shall comply with all provisions of this Article [School Code], the Illinois Educational Labor Relations Act, and its charter. A charter school is exempt from all other State laws and regulations in the School Code governing public schools and local school board policies....” 105 ILCS 5/27A-5(g)

¹⁰⁹ See, the Illinois State Board of Education 2009-2010 and 2010-2011 Illinois Charter School Biennial Report (hereinafter “ISBE Charter Biennial Report”), pg. 4, at www.isbe.net/charter/pdf/biennial_rpt_09-10_10-11.pdf

¹¹⁰ The CEO of CPS recommended on February 21, 2013, that Aspira and Betty Shabazz Charter schools should be closed due to poor performance. http://www.cps.edu/News/Press_releases/Pages/PR1_2_21_2013.aspx

¹¹¹ 105 ILCS 5/27A-3(b).

¹¹² www.cps.edu/News/Press_releases/

can be no doubt there are “more” CPS students with disabilities in these learning environments as there are “more” students without disabilities in these environments. There are legitimate questions that can be raised, however, about the ability of all children with disabilities to access all of these learning environments and whether, once enrolled, the students have access to the full continuum of placement possibilities.

In November 2011, Maureen Komperda, Director of Special Education for CPS Charter Schools, presented comments at a symposium on charter schools and special education at Loyola University School of Law. In her printed presentation, she included data from CPS charter schools from data captured on October 24, 2011. Doc. 824-1, p.6. That data revealed that no or few children with certain disabilities were even listed as receiving services in CPS charters. In addition, there were disparities in the percentage of students with certain types of disabilities who did receive services as noted below:

Disability Category	% in CPS Schools	% in CPS Charter Schools
Aut (autism)	6.6%	3.4%
DD (developmental disability)	7.1%	2.4%
DF (deaf)	.5%	0.0%
EBD (emotional/behavioral disability)	6.8%	6.2%
EMH (mild cognitive)	5.5%	4.4%
HI (hearing impaired)	6.0%	0.5%
LD (learning disability)	52.2%	69.2%
OHI (other health impairment)	3.6%	4.2%
PHY (physical disability)	0.7%	0.3%
SPL (speech/language)	11.4%	8.0%
TBI (traumatic brain injury)	0.3%	0.3%
TMH (moderate cognitive)	3.6%	0.3%
VI (visual impairment)	0.4%	0.3%

Thus a far higher percentage of students with learning disabilities were enrolled in CPS charter schools than in all CPS schools, while a far lower percentage of students with some low incidence disabilities (e.g., autism, developmental disabilities, hearing impaired) were enrolled in CPS charters than in all CPS schools.

There is also the issue of the placements of students with disabilities. An analysis of Ms. Komperda’s figures shows that 2011 placements in all CPS schools compared to CPS charter schools were as follows:

Type of School	LRE 1 Placement Removed from General Education 20% or less of the school day	LRE 2 Placement Removed from General Education 21% to 60% of the school day	LRE 3 Placement Removed from General Education 61% or more of the school day	Separate School
All CPS Schools	49.8%	29.7%	17.6%	2.8%
CPS Charter Schools	72.28%	24.08%	0.5%	.09%

This data shows that 50% more students with disabilities are in LRE 1 in charter schools than in all CPS schools. While an inclusive environment is the goal for many students, the student's educational environment must meet the unique needs of the student. As the ISBE Final Report noted, the Coulter Study found that IEPs for CPS public charter schools participating in the study did show evidence of providing education in the full continuum of special education services. However, the report noted the same schools' IEPs did not provide evidence of "justification for individualized decisions for locating services [to students with disabilities] in the least restrictive environment." Doc. 828-1, p. 3.

Ms. Komperda's charts noted that students with learning disabilities in particular were placed as follows:

Type of School	LRE 1 Placement Removed from General Education 20% or less of the school day	LRE 2 Placement Removed from General Education 21% to 60% of the school day	LRE 3 Placement Removed from General Education 61% or more of the school day	Separate School
Students with learning disabilities in all CPS Schools	13,968 52.52%	10481 39.41%	2108 7.92%	38 0.14%
Students with learning disabilities in CPS Charter Schools	2667 72.79%	907 24.75%	90 2.46%	0 0.0%

Again there is a significant disparity between placements of students with learning disabilities in all CPS schools and CPS charter schools. Fifty percent more students with learning disabilities are placed in LRE 1 in CPS charter schools, resulting in nearly two-thirds fewer students with learning disabilities in LRE 2 and over two-thirds fewer students with learning disabilities in LRE 3.

Data also shows that students with emotional and behavior disabilities are represented in approximately the same percentage in both CPS charter schools and in all CPS schools. Attachment 19. However, students with cognitive disabilities are represented far less in CPS charter schools than in all CPS schools. *Id.* Students with cognitive disabilities represent 10.07% of the total population of students with disabilities at CPS schools, but the percentage of students with cognitive disabilities represents only 4.85% of the CPS charter high school population, only 7.9% of the CPS charter combined high and elementary school population, and only 2.98% of the CPS charter elementary population. *Id.*

In addition, there is the issue of whether all CPS charter schools are welcoming to students with disabilities. The June 1, 2012, data shows that the percentage of elementary students with disabilities in CPS charter schools is less than the percentage of elementary students with disabilities in all CPS schools: 9.76% of all CPS elementary students are students with a disability while only 5.89% of CPS charter school elementary students are students with a disability.¹¹³ Doc. 911, Attachment 19. High school students with disabilities are in both CPS charter schools and all CPS schools in relatively the same percentage. *Id.*

Individual charter school data shows wide disparities in the percentage of students with disabilities attending. Of the CPS charter elementary schools reporting data, the percentage of students with disabilities ranges from 5.31% to 14.72%. Attachment 19. Of the CPS charter high schools reporting data, the percentage of students with disabilities ranges from 6.53% to 22.45%. *Id.* As each charter school promotes itself as a unique learning environment, these significant differences in the percentages of students with disabilities attending individual charters are troubling.¹¹⁴

These disparities cannot be explained by selective standards, as charter schools are forbidden by the State School Code from having any minimum academic standards or testing requirements. As stated above, charter schools, must be open to any student who applies; if there are more applicants than spaces, a blind lottery system must be used to determine who will be enrolled. 105 ILCS 5/27A-4(d).

In her November 2011, presentation, Ms. Komperda of CPS stated that CPS recognized that charter schools might be “counseling out” students with disabilities; she stated that CPS was working with schools with low percentages of students with disabilities to reach out to those students. Doc. 815-1, p. 25.

¹¹³ There is some difficulty comparing the data as some CPS charter schools have both elementary and high school students and their data does not disaggregate the two types of students.

¹¹⁴ Attachment 19 also notes the achievement levels of all students and, where reported, of students with disabilities. Most students in charter schools are not meeting or exceeding State standards in reading and math; some charter schools have extremely low percentages of all students who meet or exceed State standards.

Charter schools had been a subject of ISBE review. In the 2011 extension to the Settlement Agreement, the ISBE and the Plaintiffs agreed that the ISBE would fund a study by independent education consultants; this study is known as the “Coulter Study.” One of the questions addressed by the study was: “Do IEPs provide adequate specificity of a student’s needs for special education services and are the supports and staffing described [in the IEP] sufficient to meet those needs in the Chicago Public Schools?” Doc. 828-1, p. 1. The Coulter study documented the same “absence of unique content describing individualized student need” for 69% of IEPs reviewed for CPS charter, military and academically selective schools. *Id.*, at p. 3.

The Monitor’s ISBE Final Report also noted that ISBE had continued to issue findings of noncompliance for Youth Connections Charter School, a charter school with 22 locations. Youth Connections provides services for at-risk and drop-out students with disabilities. ISBE had found significant problems continuing year after year at Youth Connections, including that the school failed to provide a full continuum of special education services and failed to properly implement IEPs as developed. Youth Connections Charter School serves 481 students of the 1,911 students with disabilities in CPS charter schools with only high school students, or over 25% of all students with disabilities in those charter high schools. The 2011 AYP report noted that only 1.9% of Youth Charters’ students with disabilities met the ISBE standards for reading and math. Doc. 815-1, p. 23.

ii. Optional and Gifted Programs.

CPS offers gifted programs or optional programs requiring certain ISBE state test stanine achievement and/or testing at the school, under a variety of names. For high schools, these schools include selective enrollment, some military academies, some magnet schools and some career academy schools. Attachment 20. For elementary schools, the schools include gifted schools and classical schools. Attachment 20. Academic centers for 7th and 8th grade students located in high schools and international gifted programs for 7th and 8th grade students are included in this category. Attachment 20. These programs have some admission criteria other than being in a certain neighborhood or by being picked by lottery.

Similar to charter schools, there are undoubtedly more students with disabilities in these programs than there were in 1998 because the number of schools offering these types of programs has increased substantially since that date. A review of the data for these schools is required to determine if the schools are admitting students with disabilities and granting them access to the elite programs the school provides. Data from academic gifted and international

gifted programs cannot be reviewed because data from students these programs are not reported independently from the school's general high school student data.¹¹⁵

One of the first selective enrollment schools to participate in the *Education Connection* program Whitney Young High School, a selective school. The issue of the school's failure to revise its admission criteria was raised by the Monitor on June 12, 2001, and October 16, 2001. Doc. 868-1. Nothing was done to revise the admission criteria to encourage more students with disabilities to apply as a result of the Monitor's directive. On September 25, 2002, as a result of the failure of the school to revise its criteria, the Monitor issued a report of a monitoring visit completed by his consultants and concluded that due to the school's failure to address these concerns, the school would be dropped from the *Education Connection* program. (The school was subsequently reinstated at the request of CPS counsel.) *Id.*

On January 28, 2004, in response to a directive from the Corey H. Monitor, the CBE adopted a "Selective Enrollment High School Admissions Policy for Students with Disabilities."¹¹⁶ Chicago Public Schools Policy, Sec. 702.7, Board Report 04-0128-PO2. The goal of that policy was to "establish a uniform and equitable admissions policy" so that "students with disabilities have the opportunity to apply for and, if appropriate, gain admission into and enroll in" CPS selective high schools" to ensure the CBE's commitment "that a natural proportion of students with disabilities attend these schools." *Id.* The "natural proportion" is defined as "within five percent of the CPS citywide high school enrollment rate." *Id.* See also Chicago Public Schools Policy 602.2 (Board Report 11-0824-PO2) and 602.2A (Board Report 10-1117-PO1).

To implement this policy, the CBE committed as follows:

1. Students with disabilities would not need to have a stanine [test score] of 5 in each of the reading and math on standardized tests; rather, a combined score of 10 (7 for reading combined with 3 for math, for example) would suffice.

2. The CPS Office of Academic Enhancement (OAE), in consultation with the Office of Specialized Services (OSS)¹¹⁷, would send letters to each student with a disability who me the

¹¹⁵ Per the CPS website: "Academic Centers offer an accelerated program for students in grades seven and eight. The programs are housed in seven high schools: (Harlan High School, Kenwood Academy, Lane Tech High School, Lindblom Math and Science Academy, Morgan Park High School, Taft High School and Whitney Young Magnet High School). Admissions testing is required."

http://www.cps.edu/Programs/Academic_and_enrichment/SelectiveEnrollment/Pages/Academiccenters.aspx

The Morgan Park High School website notes that admission into the program also requires a stanine of 6 on both Illinois State reading and math tests; the application on the website does not note that students with IEPs may have other qualifications.

¹¹⁶ All CBE policies are listed at:

http://www.cps.edu/About_CPS/The_Board_of_Education/Pages/TheChicagoBoardofEducation.aspx

¹¹⁷ The Office of Specialized Services is now called the Office of Special Education and Supports or OSES.

stanine requirement encouraging those students to apply to selective schools. Selective schools were document efforts to encourage students identified by OAE to apply to the schools.

3. Any student who takes an admission test was to receive all accommodations listed on his IEP during the testing procedure.

4. A selective school may be designated a site for a program for students with low incidence disabilities (“cluster site”) by the OSS.

5. Selective enrollment high schools may be required to participate in additional admissions process if the school did not meet natural proportions or if the school had not made good faith efforts to enroll students with disabilities.

On August 24, 2011, the CBE adopted an admissions policy for magnet, selective enrollment and other Options for Knowledge schools and programs. Chicago Public Schools Policy Manual, Sec. 602.2, Board Report 11-0824-PO2.¹¹⁸ This policy continued previously existing enrollment policies for these schools. *Id.* In that policy, the CBE once again stated: “Magnet and selective enrollment schools and programs shall strive to meet the minimum enrollment targets of students with disabilities established by the Corey H. court monitor.” The CBE stated that if that proportion was not met, programs for students with low incidence disabilities may be placed in the school.

Selective schools are the elite of CPS public schools. Most are making AYP; students are meeting Illinois State standards with percentages near or at 100%. Attachment 20. Even those who do not make AYP are very close to reaching the 85% standard for both reading and math. No one disputes that these schools take the best and brightest students and gives them an extraordinary educational experience.

The low percentages of students with disabilities other than those in cluster programs – including the extraordinarily low 1.5% at DeVry Advantage – indicates that CPS should review what the schools are doing to recruit students with disabilities into these programs. The CBE policy recognized noted above that recruitment was critical to encouraging students with disabilities to consider and apply for these special schools, but, when asked by the Monitor about the implementation of this policy, CPS counsel did not respond with any details about the recruitment process.

One school does appear to reach out to students with disabilities. Jones College Prep’s website embraces its population of students with disabilities.¹¹⁹ The website’s opening page has student pictures including students with disabilities. Jones College Prep’s website has a page titled “Welcome to Individualized Education Services.” That website highlights the programs

¹¹⁸ http://www.cps.edu/About_CPS/The_Board_of_Education/Pages/TheChicagoBoardofEducation.aspx

¹¹⁹ <http://www.jonescollegeprep.org>

the school offers students with disabilities both in the gifted program and in the separate cluster program located at the school. A dropdown menu on that page highlights that students with disabilities can and should apply to Jones College Prep:

Students with IEPs - who have taken the ISAT in 7th Grade

Students with special needs and/or disabilities are encouraged to apply to the Selective Enrollment High Schools. Certain students in these categories are eligible with reading and mathematics stanines that total 10, such as a 3 and 7, or 6 and 4. Contact your school counselor or principal for details.

Jones College Prep has a student population of 11.82% students with disabilities. Attachment 20. This is 40-50% higher than any other CPS selective high school. The Monitor's review of other websites for selective enrollment schools did not reveal another site that was as encouraging to students with disabilities. Most did not even mention that students with disabilities did not have to meet the requirement of achieving at 5 stanine in both reading and math in order to apply. While students with disabilities or their parents would discover this information should they look at the standard CPS application form, failure to address that issue in the website at the very least does not meet the spirit of the Public Policy adopted by the CBE nine years ago.

Currently, students with disabilities comprise 14.90% of all high school students. Doc. 911, June 1, 2012, data. Of the selective enrollment high schools, only one, Jones College Prep, approaches the same percentage at 11.82%. Attachment 20. All of the selective enrollment schools have large numbers of students with cognitive disabilities; these students are in cluster programs and are not admitted into the gifted programs. *Id.* Without those students, the percentages of students with disabilities in the selective enrollment high schools would be 50% less or more in each high school. *Id.* For example, Brooks High School, which has 6.21% students with disabilities, would be 2.72% disabilities without the program for students with cognitive disabilities.

There are 6 military academies. Attachment 20. All have the same admission criteria that include State standardized testing. In the six schools, there are 11 students with emotional/behavior disabilities and 1 with cognitive disabilities. The percentage of students with disabilities ranges from 5.74% to 10.36%. None of the schools are making AYP; in fact, only 1 school, Phoenix Military Academy, has 50% of students meeting or exceeding the State standards and only in reading.

Two of the four career academies, Prosser and Simeon high schools, have academic requirements. Their stanine standards are the same as the special enrollment schools. Neither high school has more than 10% students with disabilities nor do they have cluster programs. Attachment 20.

Students with disabilities comprise 10.29% of all elementary school students. There are 5 CPS classical schools for elementary students. All students applying to these schools must meet academic standards.¹²⁰ Attachment 20. Of the 5 schools, only one – Skinner at 9.52% – approximates the percentage of all CPS elementary students with disabilities. The remaining schools range in percentages of students with disabilities from 2.60% to 5.59%.

There are 10 CPS regional gifted centers for elementary students; all of these centers share space with neighborhood schools. Attachment 20. For example, Beasley Elementary School is a regional gifted center, but from its website appears to have only one gifted classroom.¹²¹ Therefore many of the students are neighborhood students, admitted without any academic admission standards. Yet of the 10 schools, only 4 approximate the percentage of students with disabilities in elementary schools of all CPS schools and the rest range from 3.22% to 6.39% students with disabilities. These are schools with enviable academic achievement. All of these schools have met AYP standards or have more than 80% of their student body meeting or exceeding state standards.

iii. Magnet Programs.

There are 7 high school magnet schools and 29 elementary magnet schools. Attachment CPS describes a magnet school as schools with no neighborhood boundaries which select students by random lottery among applicants. The schools have no academic admissions standards. www.cps.edu The CPS website also lists 9 additional schools as magnet schools, but the websites for these schools state they are neighborhood schools and thus open to any student who lives in that neighborhood. These 9 schools are not included in the discussion of magnet schools below. Attachment 21.

Random lottery is the only admission standard for elementary magnet schools, yet the percentage of students with disabilities – and the percentage of students with some types of disabilities – for some schools (e.g., Inter-American, A. Jackson, S.T.E.M. Magnet) is far below the average at neighborhood schools. Attachment 21. Magnet high schools have some application criteria listed on the schools' CPS websites; nothing on the websites state that these application criteria (e.g., stanine of 5, GPA 2.5/4.00), would be altered to provide students with disabilities an opportunity to apply to the school.¹²² Despite this, the percentage of students with

¹²⁰ The academic standards are sometimes linked to State standardized testing, sometimes to grades, and sometimes to entrance tests.

¹²¹ <http://www.beasleyac.org/apps/departments/>

¹²²

http://www.cps.edu/Schools/Find_a_school/Pages/SchoolSearchResults.aspx?Type=1&Filter=CPSSchoolGrade=High%20school;CPSSchoolType=Magnet

disabilities at the 7 high school magnet schools ranges from 17.55% at Chicago High School of Agricultural Sciences (“Chicago Ag”) to 1.5% at DeVry Advantage, which has only 3 students with disabilities out of 199 students. Attachment 21. Thirteen of the 29 elementary magnet schools have no students with an emotional or behavior disability and 12 of the 29 elementary magnet schools have no students with cognitive impairments. Attachment 21.

Thus while students with disabilities are included in most of these very special schools, the percentages of students with disabilities or the types of disabilities seen at the schools – even for schools for which a random lottery is the only standard – creates an impression that something is discouraging students with disabilities from applying or that those students are somehow not passing the application process. The CBE recognized that this could be an issue when it adopted its policy on selective enrollment for high schools and put in place a process for reviewing schools whose percentages did not meet the natural proportion of students with disabilities. As CPS counsel has reported, CPS does place programs for low incidence disabilities in schools with a low percentage of students with disabilities. However, the data shows that students with disabilities who are in the low incidence programs are a small percentage of students with disabilities in most of these schools. Attachment 21.

The Disney Magnet Elementary School has only 8.76% students with disabilities; of the 75 students with disabilities, 74 are listed as having learning disabilities and none have emotional/behavior disabilities. Attachment 21. The Disney website highlights its special education department:

Disney School has an excellent Special Education department. The Special Education team consists of two case managers, a speech pathologist, a support teacher for the physically handicapped, a social worker, a psychologist, five resource/inclusion teachers, and two self-contained teachers. This cohesive team strives to meet the individual needs of Disney's diverse learning needs. In collaboration with the Regular Education teachers, students are placed in the Least Restrictive Environment (LRE). The Special Education team lends support in accommodations and modifications of the curriculum, in accordance with the Illinois State Standards and CPS goals/objectives. Disney School is the recipient of the Education Connection Grant, which supports the collaboration of Regular Education and Special Education teachers in order to provide a quality Special Education program.¹²³

Per the website, Disney Magnet Elementary also has a Gifted Program which has admission criteria. Those criteria are: 1) ISAT scores in both Reading and Mathematics, 2) Student's academic performance and 3) Teacher recommendation and/or observations. There is

¹²³ <http://www.disney.cps.k12.il.us/sped.html>

no indication on the website that ISAT scores or other criteria may be modified for students with disabilities.

iv. Vocational Programs.

In 2001, in its policy review of school-to-work (STW), the ISBE noted that over 12% of Chicago's students with disabilities participated in STW programs compared favorably to the nearly 16% incidence of students with disabilities in all Chicago Public Schools.¹²⁴ In addition, the ISBE found that the graduation rate from these programs by students with disabilities (85%) compared favorably to students without disabilities (89%).

The Chicago Public Schools currently has a program titled CTE (Career and Technical Education) which in the past was called STW or education to career (ETC). Doc. 853-1, p. 31. About 40 different CTE programs are offered. These courses are:

... a series of classes focused on high-demand industries. Courses incorporate rigorous classroom instruction, hands-on training, real work experience and extra student supports into a college-preparatory curriculum to prepare students for postsecondary success. CTE is beneficial for all high school students because it not only provides a wide range of technical skills and chances to receive industry recognized certifications, but it also equips them with a solid foundation of academic knowledge and engages students in the curriculum through relevant applications of core subjects.¹²⁵

Academies at one or more Chicago Public high school offer the following programs: auto, broadcast and digital media, business and finance, construction and architecture, cosmetology, culinary and hospitality, design, education and teaching, health science, information technology, law and public safety, logistics, manufacturing and auto technology and pre-engineering. City-wide programs listed are Chicago Police and Firefighter training academy, advanced arts, and practical nursing; these services are offered both in school and during after-school hours.¹²⁶

Because the students in these programs are part of the overall student population at Chicago Public schools, the Monitor had no independent method (for example, LRE data review) of ensuring that the programs are accessible to students with disabilities. In its Motion to Vacate, CPS concluded that the number of students with disabilities had increased, referring to an exhibit attached to the Motion. *Id.* Unfortunately, the exhibit is just a one-page bar chart indicating the overall percentages of students with disabilities in CTE programs. This does not provide any

¹²⁴ Doc. 815-1, Attachment 1.

¹²⁵ http://www.cps.edu/Programs/Pathways_to_success/CollegeCareer/CTE/Pages/CTE.aspx

¹²⁶ <http://www.chooseyourfuture.org/college-and-career-academies>

information on what programs students with disabilities are participating in and at what schools. The statistics include students in separate schools who need assistance with basic employment (travel training, job coaches, etc.); the information provided does not clarify how much of the increase in students in CTW programs is related to the increase of the programs in the separate schools. Doc. 853-1, pp. 31-32. CPS counsel told the Monitor that CTW data is gathered through the CPS IMPACT data gathering system discussed in Section IV(d)(ii) Challenge I; that system could provide a program-by-program analysis of the percentages of students with disabilities.

It is disappointing to note that CPS schools providing specialized opportunities (military academies, selective enrollment geared to college-bound students, for example), have among the lowest percentage enrollment of students with disabilities.

On February 28, 2012, the CPS announced that it would partner with high-tech firms to offer a six-year program in 5 CPS high schools that will focus on technology and career skills. Students will graduate with a high school diploma and an associate degree from City Colleges of Chicago.¹²⁷ The ability of many students with disabilities to obtain employment upon graduation would benefit from this kind of curriculum, which would be accessible to students with disabilities with accommodations and modifications.¹²⁸ CPS must ensure that high schools offering these high-tech programs are open to qualified students with disabilities.

v. Pre-school programs.

In its Motion to Vacate, CPS reported that since 1999, CPS has added increased opportunities for students with disabilities in early childhood education programs. Doc. 853-7, par. 20. According to the Deputy Chief of Instruction for CPS OSES, CPS “modified its early childhood program for children with disabilities ... Since 1999, CPS has added 45 ‘blended’ programs for preschoolers for disabilities ... A ‘blended’ program allows a student with disabilities to be integrated with non-disabled peers.” *Id.*

The CBE does not list students in its annual LRE data by preschool alone; rather it has a category including both pre-kindergarten and kindergarten students attending Chicago Public Schools. Doc. 911. There were 7,182 students in that category. The June 1st data notes that 66% of students in both pre-kindergarten and kindergarten are in LRE 1 (less than 20% outside of the regular classroom), 11% were in LRE 2 (between 20% and 60% outside of the regular classroom) and 20% were in LRE 3 (more than 60% outside of the regular classroom).

¹²⁷ <http://www.chicagotribune.com/news/local/ct-met-emanuel-tech-plan-0229-20120229,0,976014.story>

¹²⁸ http://www.washington.edu/doit/Brochures/Careers/careers_project.html.

CPS has shown a slight increase in pre-kindergarten and kindergarten students in LRE 1 from 2006; however, the percentage of students with disabilities in LRE 3 (separate classes) had increased until the last school year reported:

Percentage of Students with Disabilities in LRE 1, 2 and 3

LRE Data Year	LRE 1	LRE 2	LRE 3
2006 ¹²⁹	61%	13%	21%
2008 ¹³⁰	63%	10%	25%
2010 ¹³¹	65%	7%	33%
2012 ¹³²	66%	11%	20%

None of the data reported above definitely answers the question of to what extent pre-school children have increased opportunities to be educated with their non-disabled peers. The issue of pre-school students in integrated settings was also discussed in the ISBE Final and is referenced here; as noted in the ISBE Final Report, definitive data was not available to answer the question of whether pre-school students with disabilities were given an opportunity to be educated with their non-disabled peers.

As part of the ISBE's settlement agreement, in September 2005, the ISBE issued the "Early Childhood Special Education Least Restrictive Environment (LRE) Guidance Paper." The Guidance describes the importance of LRE in early childhood and states as follows:

The Illinois State Board of Education and the public schools of Illinois are responsible for implementing the provisions of the IDEA. At the preschool level, "least restrictive environments" include all environments that are available to children without disabilities. For young children with disabilities, intervention services provided, irrespective of setting, are individualized services that directly address the child's individual developmental and learning goals. *It is the mandated responsibility of each child's local public school to ensure that options for the location of services represent the full range of options available to all children, and that individualized services are provided within those settings.*¹³³

In the 2011 extension to the ISBE Settlement Agreement, the parties agreed that the ISBE would fund a study by independent education experts; this study was titled the "Corey H. Independent Consultant Analysis," but the parties called it the "Coulter Study" after its lead investigator. A copy of the study's report was attached to the ISBE Final Report. Doc. 815-1.

¹²⁹ Doc. 396

¹³⁰ Doc. 574

¹³¹ Doc. 711

¹³² Doc. 911

¹³³ http://www.isbe.net/earlychi/pdf/ECSE_LRE_guidance.pdf. (Emphasis in original.)

The Plaintiffs and the ISBE agreed that four questions would be addressed in the study by a random review of data, interviews, and observations. *Id.*, pp. 6-8.

One of those four questions was: "Are preschool children, ages 3 and 4, with disabilities educated to the maximum extent appropriate with non-disabled peers?" This question was designed by ISBE and the Plaintiffs to investigate whether preschool children with disabilities in Chicago Public schools have access to general education programs and whether placements for these children are justified. *Id.*, pp. 3-4. The data obtained by the independent data collectors through interviews, observations and document reviews of representative and randomly selected sample schools revealed the following: pre-school programs are accessible to students with disabilities aged 3-4 only 58% of the time and IEPs adequately justify placement decisions only 7% of the time. However, when teachers were asked in interviews if services were being provided as indicated on the IEP, 96% responded yes, thus evidencing a disparity between what staff believed was being accomplished and what was actually being accomplished.¹³⁴

vi. Special Day and Residential.

In the earliest data available for students with disabilities in separate schools, the Illinois Special Education Profile for 2002-2003 reported that 6.6% of all students with disabilities were in separate educational facilities (schools designed only for students with disabilities). In addition, the Profile reported that 32% of CPS students with emotional/behavior disabilities, 15.3% with cognitive disabilities and 0.6% with learning disabilities.¹³⁵

In its annual June 1 LRE Data reports from 2006 forward, CPS has reported students with disabilities in special tuition settings; special tuition settings are defined by CPS as a separate special education facility whether a CPS school ("separate") or nonpublic facility ("tuition").

¹³⁴ One difficulty developed as the parties worked with the Coulter Study consultants to develop the list of schools from which to randomly select schools with pre-school programs to be reviewed. Although the CBE could provide a list of schools with preschool programs and could identify what programs were available in each school, neither the ISBE nor the CBE could provide the LRE placements of students with disabilities within the school. In contrast, in 2005 when the ISBE preschool policy review was completed, that data was available from the CBE. This lack of LRE data could not be resolved prior to the study's commencement despite efforts by the ISBE staff to find reliable sources for the data. The evidence gathered by the Coulter Study supports the conclusion that the failure of the IEPs to justify placements means that there is no reliable way of knowing if pre-school students are being educated in the LRE in Chicago Public Schools.

¹³⁵ Illinois Special Education Profile 2002-2003. <http://webprod1.isbe.net/LEAProfile/SearchCriteria1.aspx>

Students with Disabilities in Special Tuition Settings

Year	% (All)	% Cog	% EBD	%LD	Number of Students
2006 ¹³⁶	5.88%	n/a	n/a	n/a	3412
2008 ¹³⁷	4.71%	12.22%	0%	0%	2521
2010 ¹³⁸	5.17%	20.22%	14.58%	1.50%	2747
2012 ¹³⁹	3.82%	20.20%	14.58%	1.50%	2060

The CPS June 1 data shows that although the percentage of all students with disabilities in separate schools decreased from 2006, the percentages of students with cognitive, emotional/behavior and learning disabilities in separate schools actually increased from 2006.¹⁴⁰

Some individual schools which met the criteria of Corey H. separate schools (more than 50% students with disability population) have seen substantial change in that population. Some would no longer qualify as a Corey H. separate school, while some have seen a large increase in the population of students with disabilities at the school:

School Name	2005	2012
Beard	52%	86.05%
Blair	100%	99.38%
Buckingham	100%	100%
Davis Developmental	76%	No current listing
Christopher	70%	67.52%
Graham Training Center	100%	100%
Las Casas	100%	No current listing
Montefiore	100%	100%
Near North Special Ed. Ctr.	100%	99.11%
Neil	50%	37.65% (no longer Corey H. separate school)
Northside Center	100%	100%
Rudolph	74%	91.89%
Southside Academy	100%	100%
Stock	66%	45.65% (no longer Corey H. separate school)
Vaughn	100%	99.51%
Vick (Barbara)	52%	35.06%

Data source for 2005 statistics: Doc. 328. Data source for 2012 statistics: Doc. 911

¹³⁶ Doc. 396

¹³⁷ Doc. 574

¹³⁸ Doc. 711

¹³⁹ Doc. 911

¹⁴⁰ The percentages for students with these disabilities in 2007 demonstrate that the percentages from 2008 are not an anomaly. In the June 1 2007 LRE data, CPS reported that 0% of students with emotional/behavior disabilities and .62% of students with learning disabilities were placed in separate schools. Doc. 498.

G. Challenge VII [Funding for *Education Connection* and sufficient staffing for schools].

The Settlement Agreement and Challenge VII required the CBE to provide funding to schools for the *Education Connection* program. Settlement Agreement, Doc. 127, ¶55; Implementation Plan, Doc. 337, Exh. 2, Part 2.

In addition, Challenge VII required the CBE to fund staffing for special education services at schools in accordance with a process that considered the number of students, the types of disabilities provided and the IEP needs, among other factors. In addition, among other responsibilities, the CBE was to ensure that schools had the flexibility to determine where students with disabilities were to be educated and that schools had sufficient staff to implement those IEP decisions. The CBE was not to use the process of allocating staff in a manner that provided a disincentive for educating students in the LRE or the funding of the *Education Connection* to impact a school's ability to apply for other grants. Settlement Agreement, Doc. 127, ¶¶56-57; Implementation Plan, Doc. 337, Exh. 2, Part 2.

If the CBE could not provide sufficient staff due to areas of chronic staff shortages, the Settlement Agreement recognized CBE would not be out of compliance if it had made reasonable recruiting efforts. Settlement Agreement, Doc. 127, ¶60; Implementation Plan, Doc. 337, Exh. 2, Part 2.

Finally, the CBE was required to develop a process that allowed it to respond to requests by schools for related services staff within 30 days, either approving the requests or providing an explanation for a refusal of the requests. Settlement Agreement, Doc. 127, ¶61; Implementation Plan, Doc. 337, Exh. 2, Part 2.

The CBE's expected outcomes were:

- A. Schools with an increased capacity to service students with disabilities in the LRE through an increased flexibility of staff utilization and increased planning.
- B. *Education Connection* schools will receive a total of \$110,000 over a three year period.
- C. Through electronic monitoring of teacher/student ratios, school audits and school appeals, the Office of Specialized Services will have an increased capacity to assess whether or not each school has sufficient staff to educate students with disabilities in the LRE and provide the services required by the IEPs.
- D. [Development of a system]of incentives to recruit teachers for special education certification where chronic staff shortages exist.
- E. An increased number of qualified staff to provide services required by the IEPs, to conduct assessments, and to educate students with disabilities in the LRE.
- F. Each school will have special education staff, paraeducators and related service providers sufficient to provide students with disabilities an education in the LRE. (The Board will be considered in compliance with this outcome even if all schools do not have sufficient special education staff, paraeducators and related service providers if the Board has made reasonable efforts to hire or contract staff but was unable to hire or contract the requisite personnel because of chronic staff shortages ...)

G. Increased number of special education staff participating in the development of school wide planning activities related to the education of students.

The first issue to address is whether CPS funded *Education Connection* plans as required by the Settlement Agreement and Implementation Plan. The plan was that each school was to have up to \$110,000 to implement the plans (\$10,000 for the Design Grant Year and \$50,000 each for Phase I and Phase II). As Attachment 12 demonstrates, few schools came close to this number. The average amount per school was around \$63,000 for all three phases of *Education Connection* expenses (\$15,038.896 total expenditures reported by CPS divided by the 238 *Education Connection* schools). The expenditures varied widely. At the high end at \$190,711 was Collins High School, a school that changed dramatically from the beginning of its *Education Connection* participation from a neighborhood high school to a small school and charter school; no compliance report was ever submitted Collins. At the low end of schools that participated in *Education Connection* (discounting the closed schools) was Mireles Elementary, which only spent \$910 in total despite being chosen for the *Education Connection* program years earlier and having a Phase 1 plan approved as of October 2010.¹⁴¹ Most schools spent far less than the \$110,000 total.

As the discussion of the *Education Connection* program above notes, the reasons that schools did not expend the full amount were varied, from finding less expensive alternatives, failure by many schools to complete all of their LRE plan activities particularly as the Settlement Agreement came closer to the end, and failure to complete most of the LRE plan activities on the part of some schools. See Section IV(d)(ii) Challenge IV above; see also Attachment 12 (EC expend).

The second part of this Challenge related to correcting the problems of special education staffing shortages at CPS schools through electronic monitoring of teacher/student ratios, school audits and school appeals, and incentives to recruit teachers for special education. This was to result in schools having sufficient certified special education staff, paraeducators and related service providers to implement the IEPs of students with disabilities. In addition, an increased number of special education staff members were to participate in the development of school wide planning activities.

Electronic monitoring today is provided with the IMPACT system, which began implementation in 2008. See Section IV(d)(2)(A) Challenge I. Using the current IMPACT system, which has the information from the input of all eIEPs and the number of teaching,

¹⁴¹ Mireles Elementary submitted a Phase I plan to the Monitor in 2007; on February 19, 2007, the Monitor's consultant sent the school a letter requesting revisions. Doc. 557. The school did not respond (despite notice to CPS OSES in the Monitor's status reports and requests to the school) until March 3, 2010, which did not respond to all of the Monitor's data requests. On April 14, 2010, the Monitor sent a letter to Mireles, noting the requests from the 2007 letter. After Mireles responded to that request, the Monitor's consultant approved Mireles' plan on October 30, 2010.

related service and paraprofessional staff at each school among other data, CPS OSES has reported it is able to determine and monitor the staffing needs for each school. In addition, CPS OSES adopted a staff request system called PARF (Positional Analysis Request Form) system for principals to use to request additional special education staff; OSES uses the information on the PARF request and in IMPACT to determine if such requests should be granted.

CPS counsel has reported to the Monitor that as of May 4, 2012, CPS staff shortages had been reduced to 96.5 special education vacancies. This is a substantial reduction from special education vacancies of 249 vacancies reported in the Reply to the 2005 Report of the Monitor. Doc. 346, p. 22. CPS counsel has reported to the Monitor that CPS personnel office works tirelessly to recruit special education personnel and will routinely waive the obligation that CPS teachers reside in Chicago for special education teachers.

Unfortunately, even with the CPS OSES systems in place staffing remains an issue as seen from the compliance reports conducted by CPS monitors. Schools were found to have uncertified staff, insufficient staff and no special education staffing in co-taught rooms. Attachment 5 (Taft High School); Attachment 18. These serious staffing shortages in *Education Connection* schools existed despite monitoring by CPS OSES SSAs at the school and despite the fact the school knew that CPS *Education Connection* monitors would be reviewing the school's staffing.

ISBE monitoring had disclosed similar serious shortages in the final year of its Corey H. monitoring. The final ISBE District-wide Findings submitted to the Monitor also continued to have findings in Finding #3 ("CPS has failed to adequately staff schools and appropriately allocate staff"):

Staff vacancies (classroom teachers and paraprofessionals), the use of uncertified special educators, scheduling constraints, or staff (including paraprofessionals) not performing their required and assigned support for students with disabilities was a finding identified in 15 schools or 32% of the 47 schools monitored for this finding in 2010-11.

Doc. 782, Exh. A.

Finally this Challenge required that an increased number of special education staff members participated in the development of school wide planning activities. CPS monitors reported in *Education Connection* compliance reviews that special education teachers regularly participated in the development of the SIPAAA, in which a school develops its plan for school-wide reform and change efforts. The Monitor's review of hundreds of SIPAAAs would support the conclusion that special education staff is regularly represented on the committees to develop SIPAAAs.

H. Challenge VIII [Policies and initiatives to support education in the LRE].

The Settlement Agreement and Challenge VII required CBE to develop policies and initiatives promoting and supporting the education of students with disabilities in the LRE. Settlement Agreement, Doc. 127, ¶¶15-16; Implementation Plan, Doc. 337, Exh. 2, Part 2. In addition, any

The CBE's expected outcomes of these provisions were:

- A. Students with disabilities [will] receive services in the LRE in compliance with the IDEA.
- B. An increased number of students with disabilities [will be educated] in less restrictive settings.
- C. An understanding and support of the Chicago Board members, Chief Executive Officer and all CPS officers and directors regarding educating students with disabilities in the LRE.
- D. All policies and procedures of the Chicago Board shall promote the education of students with disabilities in the LRE.
- E. Increased collaboration between the Office of Specialized Services and external social service agencies.
- F. More information available to the school community regarding how students with disabilities receive special education and related services in each school.
- G. More information available to Central Office staff providing monitoring, direct services or training that has a direct impact on the education of students with disabilities regarding the LRE mandate of IDEA.
- H. More information available to REOs ["regional educational officers"] and principals regarding the LRE provision of IDEA.
- I. More information available to teachers and related service providers regarding the LRE mandate of IDEA.
- J. More information available to LSC members regarding the LRE mandate of IDEA.
- K. An increased number of non-*Education Connection* schools requesting and receiving professional development on LRE issues.
- L. An increased involvement of the parents, teachers, staff and LSC members in reforming LRE issues at their school.
- M. An increased number of school improvement plans that address LRE issues.
- N. A reduction in the time within which resolution is achieved for students and parents regarding LRE issues.

Many of the results from this Challenge were requirements of *Education Connection* and ISBE monitoring compliance. Combining the number of schools who received either *Education Connection* or ISBE monitoring, almost all CPS schools (with the notable exception of new schools, including charter schools) received some funds to improve education in the Least Restrictive Environment for their students and to educate staff, family members and the community about educating students with disabilities in the Least Restrictive Environment. Students with disabilities, parents and guardians, CPS staff and the general public are provided with a wealth of information on the CPS OSES website¹⁴² about the rights of students with

¹⁴² <http://www.cpsspecialeducation.org>

disabilities and on the CPS general website¹⁴³ about how services are provided in individual schools. CPS learned a great deal about its schools from individual school monitoring, which could help CPS identify which schools need assistance in providing inclusive educational opportunities for its students with disabilities.

The CPS OSES website is now the source of access to much of the policy information needed by CPS administration and staff, parents and guardians, students and the community. The CPS OSES site has information about the IEP, the full individual evaluation to determine if special education services are needed, the roles and responsibilities of staff (principal, case manager, special education teacher, related services provider, paraprofessionals, parents/guardians and students), the IDEA timeline and referral process.¹⁴⁴ The CPS Procedural Manual for Educating Students with Disabilities, a requirement of the Implementation Plan, has been in the process of being updated for years and is “pending approval” according to the CPS OSES website; the website contains much of the information that previously was contained in the Manual.

CPS OSES also revised or enacted 28 bulletins to advise CPS staff about department policies during the implementation of Corey H; these policies are available for review on CPS OSES website to the public as well. The Bulletins, which are accessible on the CPS OSES website under the Supports and Services drop-down menu at the top of the website, describe practices and procedures regarding special education issues which are to be followed by CPS staff.¹⁴⁵ Examples of policies and procedures include: Bulletin 1: Disciplinary Removal of Students with Disabilities, Bulletin 7: Grading, Promotion and Graduation Requirements of Students with Disabilities, Bulletin 10: Students with Disabilities Participation in State and District Standardized Tests, Bulletin 14: Targets for Educating Students with Disabilities in the LRE, Bulletin 21: Appropriate Procedure for Determining Placement in the LRE, and Bulletin 33: Guidelines for Special Education Class Size for the 2009-2010 School Year and Beyond.

During the Corey H. Settlement Agreement implementation, the CBE Board enacted a number of policies referencing students with disabilities and their right to an integrated experience at CPS schools.¹⁴⁶

Board Policy #702.7 was adopted January 28, 2004, in response to a directive from the Corey H. Monitor following a review of the Whitney Young High School. The Board Policy requires selective enrollment schools to modify selection criteria, as follows:

¹⁴³ <http://www.cps.edu/Pages/home.aspx>

¹⁴⁴ <http://www.cpsspecialeducation.org/>

¹⁴⁵ http://www.cpsspecialeducation.org/index.php?option=com_docman&Itemid=809

¹⁴⁶ <http://policy.cps.k12.il.us/Policies.aspx>

Students with disabilities who have a combination stanine score of ten or higher in reading and mathematics on a nationally-normed achievement test, such as the Iowa Test of Basic Skills ("ITBS"), will be eligible for consideration in the admissions process for CPS selective enrollment high schools.

CPS will send the parents or guardian of all students who meet the eligibility standards a letter notifying them of this possibility and send a letter to the students' 8th grade school so that the school can encourage those student to apply.

If a school does not meet the natural proportion benchmark after being designated as a site for low incidence students, school administrators may be required to meet with officials from the Office of the Chief Education Officer, OSS, OAE and the Law Department to review and admit students from the pool of remaining qualified students with disabilities.

Board Policy #602.2 was adopted August 24, 2011. This Board policy requires magnet and selective enrollment schools and programs to "strive to meet" minimum enrollment targets as follows:

Magnet and selective enrollment schools and programs shall strive to meet the minimum enrollment targets of students with disabilities established by the *Corey H.* court monitor. If a school is below the minimum enrollment target, the school and the Office of Special Education and Supports (OSSES) shall determine whether the placement of a program for students with low incidence disabilities is appropriate to assist the school in meeting the minimum enrollment target. In cases where the IEP of students with physical impairments requires that the children attend school in an accessible building and a magnet school constitutes the closest accessible building that can implement the IEP, such admissions decisions shall be made independent of the aforementioned process by the CEO or designee.

Board Policy #602.2 was preceded by a memorandum from Arne Duncan, then Chief Executive Officer of CPS, now Secretary of the United States Department of Education. This memorandum applied to all CPS high schools, whether selective or not. In that memorandum, Mr. Duncan said:

As we continue to address the various issues impacting our students, one key area is the equitable distribution of students with disabilities entering high schools. Across the city, enrollment rates for the entering 9th grade class range from 3.8% to 32.8%, with a citywide enrollment rate of 19%. Disproportionately high enrollment rates have a significant impact on the education of all students.

To address this situation, high school principals must take appropriate steps to assure that the September, 2002 entering 9th grade class has an enrollment of at least 14% (with 5% of the citywide average of students with disabilities). To meet this goal, school counselors may meet with elementary school counselors to develop and implement strategies that would encourage students with disabilities to apply to high school and take entrance tests when they are required for all students.....

Doc. 346, Attachment 26.¹⁴⁷

¹⁴⁷ Currently 29 high schools have more than 20% students which is more than 5% of the district wide percentage of 14.8%. Currently 22 high schools have less than 9% students with disabilities which is more than 5% less than the district wide percentage of 14.8%. Data of population of students with disabilities is from Doc. 911, CBE's June 1, 2012, LRE data. The CPS website states that the district has 106 high schools so nearly 50% do not meet the goal set by Mr. Duncan over a decade ago. http://www.cps.edu/About_CPS/At-a-glance/Pages/Stats_and_facts.aspx

Board Policy # 410.3 was adopted in 1999. The Board Policy states all schools, including charters, should educate students with disabilities within their boundaries and reach a natural proportion of students with disabilities (enrollment of students with disabilities district-wide plus or minus 5%).

Policy #605.2 was adopted in 2004. The Board Policy requires equitable access to extracurricular activities for students with disabilities and other groups of students.¹⁴⁸

The challenge to the Board will be to continue to address the needs of students with disabilities to assure that all students have opportunities to access all types of CPS schools and all academic and non-academic opportunities provided by those schools.

CPS was also to increase collaboration between the Office of Specialized Services and external social service agencies. This was an area that was not a focus of the Monitor or the parties during the Corey H. implementation. When the Monitor asked CPS in late 2012 about actions taken in response to this provision of the Settlement Agreement, CPS counsel sent a list of names of vendors CPS uses and referred the parties to the OSES website (“parent resources” and “school health services”)¹⁴⁹. Under “parent resources,” the website lists “community support” and offers a variety of community groups offering counseling, mental health services, and care coordination. Under “school health services,” the website lists physical and behavioral health resources. In its Motion to Vacate, CPS also filed affidavits noting a “newly established relationships” with the Illinois Department of Human Services and Easter Seals; both of those new relationships are to support students with disabilities in their post-secondary success. Doc. 853-7, par. 17. No further information was available from CPS about the nature of the collaboration, the numbers of students who benefit and when the collaboration began. Thus there is no data on which to support any conclusion about whether or not CPS met this responsibility.

Finally, the complaint system was to be revised to assure a reduction in time for students and parents raising Least Restrictive Environment issues. As noted above in Section IV(d)(1)(B), there is no data that indicates whether or not CPS met that responsibility.

I. Challenge IX [Corey H. information to CPS and the public].

The Settlement Agreement and Challenge IX required the CBE to ensure that information about the Corey H. Settlement Agreement was disseminated to parents, staff, principals and LSC

¹⁴⁸ Additional policies list students with disabilities as one of the groups protected from bullying and having a right to busing, for example.

¹⁴⁹ <http://www.cpsspecialeducation.org/>

members. Settlement Agreement, Doc. 127, ¶¶64-68; Implementation Plan, Doc. 337, Exh. 2, Part 2.

The CBE's expected outcomes of these provisions were:

- A. More information available to parents, staff, principals and LSC members regarding the terms of the Settlement Agreement and the LRE mandate of IDEA.
- B. A letter sent to parents of students with disabilities explaining the terms of the Settlement Agreement sent to all 559 CPS schools instructing principals to send home [the letter] with the students.
- C. An article appearing in the *Chicago Educator* explaining the terms of the Settlement Agreement.
- D. A letter to be sent to every LSC member explaining the terms of the Settlement Agreement.
- E. Four public meetings to be held to explain the terms of the Settlement Agreement and to answer any questions.

Shortly after the approval of the Settlement Agreement, CPS sent information about the Corey H. settlement to all school administrators, parents and LSC members; public meetings were also held. More recently, the CSP OSES website has included Corey H. updates to alert CPS staff and the general community that Corey H. has been extended and that cooperation with the Corey H. Monitor's Office must be continued. The OSES website continues to indicate that schools are expected to continue implementing any outstanding Phase I and Phase II plans, but are no longer required to implement School Based Problem Solving.¹⁵⁰ Unfortunately, many schools did not understand that Corey H. remained in effect during the last few years, as noted in conversations with Corey H. Monitor's consultants during follow-up calls regarding Phase I and II plans in 2011 and 2012.

J. Challenge X [Data available to public and for CPS to use to assess LRE status].

The Settlement Agreement required the CBE to develop an annual LRE report card which provided demographic information regarding students with disabilities at each CPS school, including students who reside in the attendance area but do not attend the school, students who attend but do not reside in the attendance area, LRE configuration of services, graduation rates, student performance on standardized tests, attendance rates and suspension/expulsion rates. Settlement Agreement, Doc. 127, ¶58.

Challenge X required the CBE to conduct a program of inquiry that will assess the status and direction of change within the CPS to educate students with disabilities in the LRE. Implementation Plan, Doc. 337, Exh. 2, Part 2. This Challenge required the CBE to conduct necessary inquiries to assess the status and direction of the change within CPS regarding

¹⁵⁰ http://www.cpsspecialeducation.org/index.php?option=com_content&view=article&id=1574:corey-h-update&catid=314:tabs, January 6, 2013.

educating students with disabilities in the LRE. Accordingly, Challenge X applies to all paragraphs and sections of the Settlement Agreement. *Id.*

Expected outcomes:

- A. A baseline status of students with disabilities in the LRE within CPS.
- B. A data system that allows for the determination of the benchmarks.
- C. CPS' increased capacity to analyze baseline and benchmark data to form conclusions regarding students with disabilities in the LRE.
- D. A larger and more cohesive information data set to query regarding any subset of the population of students with disabilities regarding educating students with disabilities in the LRE.
- E. Monitoring system within CPS to assess the status and direction of change within the *Education Connection* schools regarding educating students with disabilities in the LRE.
- F. Monitoring system within CPS to assess the status and direction of change within the non-*Education Connection* schools regarding educating students with disabilities in the LRE.
- G. A system to gather and provide information to the Court appointed Monitor to enable him to assess the status and direction of change within CPS regarding educating students with disabilities in the LRE.
- H. CPS' data regarding serving students with disabilities will be more aligned with the national data.

The goals of this Challenge were to establish benchmarks and targets for determining whether CPS had met the goal of providing more services to students with disabilities in the Least Restrictive Environment. In order to ascertain whether the goal had been met, CPS was required to develop baseline data so that any improvement could be measured. Finally, CPS was required to measure compliance with the targets and benchmarks district wide.

The first task toward meeting this Challenge was the development of the targets and benchmarks by the Monitor, as approved by this Court, as described above. Section IV(c). The next task was the creation of a data report by CPS; this data was to be reviewed in 2005 to determine if CPS had met the statistical "benchmarks" established by the Monitor in the Targets and Benchmark decision. The first data reports were received by the Monitor in 2002 and 2004. In the 2005 Report of the Monitor after which this Court extended the Settlement to 2010, the Monitor noted that CPS had met some, but not all, of the "benchmarks". Doc. 328, pp. 7-14; Doc. 346, pp. 25-30. The data, which the parties have called the "June 1 LRE data," has been submitted each year since 2005 and again was used in this Report to determine whether CPS has met the "benchmarks" that CPS is serving students with disabilities in LRE settings more aligned with the national data. *See* Section IV(c).

CPS was also to develop a system of monitoring non-*Education Connection* schools and reporting whether those schools were in compliance with the Corey H. compliance factors. After the ISBE trial and subsequent settlement agreement, it became evident that most schools would be receiving a monitoring visit either through the Education Connection program or by ISBE in furtherance of its own settlement agreement requirements. No information of independent

monitoring was provided by CPS¹⁵¹ for all non-*Education Connection* schools. CPS counsel has reported that non-*Education Connection* schools are receiving monitoring visits by SSAs using the Snapshot tool¹⁵², but CPS has not sent any reports of that activity for the Monitor's review.

Section V. The successes and remaining challenges.

In the 1998 opinion, this Court listed some basic data about CPS as evidence of its failure to provide education for students with disabilities in the Least Restrictive Environment. Doc. 130. A comparison of those statistics from 1998 to the same data today indicates that much has been changed.

The 1998 opinion reported only 15-20% of CPS students with mild cognitive disabilities were in the general education classroom 50% or more of the school day. Doc. 130. In the 2012 June 1, 2012 LRE data, CPS reports that 6.35% of all students with cognitive disabilities were in LRE 1 and 29.64% of all students with cognitive disabilities were in LRE 2 for a total of 35.99% of all students with cognitive disabilities in LRE 1 and 2 or in general education classes for 60% or more of the school day. This data includes students with mild, moderate and profound cognitive disabilities. This data does not allow an “apples to apples” comparison, but it does indicate progress may have been made in educating CPS students with mild cognitive impairments in less restrictive environments.

The 1998 opinion reported that IEPs developed by CPS staff “typically fail to justify the segregation of children with disabilities in restrictive settings outside regular classrooms” and place students based on their disability category rather than need.¹⁵³ Reviews by the Monitor indicate with the advent of new eIEPs, IEP placement is no longer justified outwardly by disability, but justification of placements remains an issue. Attachment 18; Doc. 782, Exh. A. In addition, more schools are open to including students with disabilities in general education settings, which can be judged both anecdotally and by movement of the June 1st data over the years. Attachment 5; Docs. 396, 498, 574, 646, 711, 780 and 911 (June 1 data from 2006 to 2012).

¹⁵¹ CPS counsel did send the Monitor reports from a few schools after 2010; the Monitor responded that she would not review those schools until after they had finished their *Education Connection* program. All the reports sent by CPS counsel were for schools that were required to complete their *Education Connection* plan prior to review by the Monitor.

¹⁵² Discussed above at Section IV(d)(ii) Challenge I.

¹⁵³ The Court's Order noted that the experts found no students with moderate to severe cognitive disabilities being educated in a regular education classroom. Only 13% of 3355 students identified with mild cognitive disabilities were educated more than 50% of the day in the general education classroom.

Earlier in this report, data from the ISBE 2002 Special Education Profile was listed as an indication of the situation of CPS special education in the early days of Corey H. implementation. Section III. Comparing the data from that report to the most-comparable present day data indicates progress has been made:

- In 2002, 14.9% of all CPS students were students with disabilities (having an IEP or 504 plan¹⁵⁴).
According to the June 1, 2012, LRE data, that figure is now 13.17% .
- In 2002, 86.6% of CPS students with disabilities participated in State testing compared to 96.4% of all CPS students.
According to the 2012 Illinois State Report card for CPS, that figure is now 99.5% for all CPS students and 98.8% for all CPS students with disabilities.¹⁵⁵
- In 2002, 11.8% of CPS students with disabilities met or exceeded State testing standards compared to 40.3% of all CPS students.
According to the 2012 Illinois State Report card for CPS, 26.6% of CPS students with disabilities met the reading standard and 40.7% of CPS students with disabilities met the math standard compared to 65.9% of all students met the reading standard and 74% met the math standard.¹⁵⁶
- In 2002, 36.2% of CPS students with disabilities were outside general education classes less than 20% of the day or in the most inclusive learning environment, LRE 1.
According to the June 1, 2012, data 50.32% of CPS students with disabilities were in LRE 1.
- In 2002, 25.4% of CPS students with disabilities were outside general education classes between 21 and 60% of the day or in LRE 2.
According to the June 1, 2012, data 29.80% of all CPS students with disabilities were in LRE 2.
- In 2002, 31.3% of CPS students with disabilities were outside of general education classes more than 60% of the day or in the most restrictive learning environment, LRE 3.
According to the June 1, 2012, data 15.36% of CPS students with disabilities were in LRE 3.

¹⁵⁴ 504 plans are generally for students with only physical disabilities and without academic needs.

¹⁵⁵ http://webprod.isbe.net/ereportcard/publicsite/getReport.aspx?year=2012&code=150162990_e.pdf

¹⁵⁶ http://webprod.isbe.net/ereportcard/publicsite/getReport.aspx?year=2012&code=150162990_e.pdf

- In 2002, 16.2% of CPS students with emotional/behavior disorders, 2.6% with cognitive impairments and 36.9% with learning disabilities were in LRE 1 or outside general education classes less than 20% of the day or in LRE 1.
According to the June 1, 2012, data 34.28% of CPS students with emotional/behavior disabilities, 6.35% of CPS students with cognitive disabilities, and 53.47% of CPS students with learning disabilities were placed in LRE 1.
- In 2002, 16.6% of CPS students with emotional/behavior disorders, 14.5% with cognitive impairments and 37% with learning disabilities were in LRE 2 outside general education classes between 20 and 60% of the day.
According to the June 1, 2012, data 26.16% of CPS students with emotional/behavior disabilities, 29.09% of CPS students with cognitive disabilities, and 38.92% of CPS students with learning disabilities were in LRE 2.
- In 2002, 35.2% of CPS students with emotional/behavior disorders, 67.6% with cognitive impairments and 25.5% with learning disabilities were the most restrictive learning environment LRE 3 and outside general education classes more than 60% of the day.
According to the June 1, 2012, data 14.90% of CPS students with emotional/behavior disabilities, 47.09% of CPS students with cognitive disabilities, and 7.02% of CPS students with learning disabilities were in LRE 3.
- In 2002, 32% of CPS students with emotional/behavior disorders, 15.3% with cognitive impairments and 0.6% with learning disabilities were in separate educational facilities (schools designed only for students with disabilities)
According to the June 1, 2012, data 22.90% of CPS students with emotional/behavior disabilities, 16.11% of CPS students with cognitive disabilities, and .24% of CPS students with learning disabilities were in separate educational facilities.
- In 2002, the graduation rate for CPS students with disabilities was 49.1%, compared to 69.8% for students without disabilities
According to the 2012 Illinois State Report card for CPS, the 4-year graduation rate for CPS students with disabilities was 55% compared to 68.5% for all CPS students and the 5-year graduation rate for CPS students with disabilities was 62.2% compared to 75.6% for all CPS students.

This data suffers from some non-comparability issues because percentages for LRE 2 and 3 have been changed due to a change in calculation of what a school day includes so that more students will be listed in LRE 2 despite having the same number of minutes as in 2005. In fact, students with disabilities can be in all core academic courses and still be considered in LRE 2. The data is self-reported by CPS so there has also been no independent review of the data.

Despite those problems, the data supports the conclusion that more students with disabilities are in more inclusive settings.

But problems remain. A review of academic discrepancies of 11th grade students with and without IEPs taking the PS AE (Prairie State Achievement Exam) demonstrates that students with all disabilities continue to lag significantly behind their peers:

11th Grade CPS Students Taking PS AE	Met or Exceeded Reading Standard	Met or Exceeded Math Standards	Met or Exceeded Science Standards
Students with IEPs 2002 Report Card	4.6%	2.3%	2.0%
Students w/o IEPs 2002 Report Card	40.2%	29.1%	24.7%
Students with IEPs 2012 Report Card	7.1%	6%	5.6%
Students w/o IEPs 2012 Report Card	35.1%	35.8%	32.1%

Source: ISBE 2002 and 2012 Chicago District Report Cards

As the ISBE Final Report also noted, significant academic discrepancies continue to exist between students with IEPs and students without IEPs. Doc. 815-1, pp. 87-90. See Attachment 22. The gaps exist from the earliest years in school and persist and increase over the years as the following charts demonstrate.

For CPS students taking the State math test:

Grade/Subject	IEP Below Standards/ Academic Warning 2010	Non-IEP Below Standards/ Academic Warning 2010	IEP Meets or Exceeds Standards 2010	Non-IEP Meets or Exceeds Standards 2010
3 Math	51.0	21.3	49.1	78.7 (29.6% greater for non-IEP meeting or exceeding)
4 Math	60.1	18.7	39.9	81.3 (41.4% greater for non-IEP meeting or exceeding)
5 Math	65.0	23.2	35	76.9 (41.9% greater for non-IEP meeting or exceeding)
6 Math	66.7	19.5	33.2	80.5 (47.3% greater for non-IEP meeting or exceeding)
7 Math	67.0	17.2	32.9	82.8 (49.9% greater for non-IEP meeting or exceeding)
8 Math	66.4	16.6	33.6	83.4 (49.8% greater for non-IEP meeting or exceeding)

Doc. 815-1, p. 88.

For CPS students taking the reading test:

Grade/subject	IEP Below Standards/ Academic Warning 2010	Non-IEP Below Standards/ Academic Warning 2010	IEP Meets or Exceeds Standards 2010	Non-IEP Meets or Exceeds Standards 2010
3 Reading	77.4	38.5	20.7	61.5 (40.8% greater for non-IEP meeting or exceeding)
4 Reading	80.8	35.3	19.1	64.7 (45.6% greater for non-IEP meeting or exceeding)
5 Reading	82.2	34.3	17.8	65.6 (47.8 greater for non-IEP meeting or exceeding)
6 Reading	74.8	23.1	25.2	77.0 (51.8% greater for non-IEP meeting or exceeding)
7 Reading	77.7	25.2	22.4	74.9 (52.5% greater for non-IEP meeting or exceeding)
8 Reading	66.2	14.7	33.8	85.4 (51.6% greater for non-IEP meeting or exceeding)

Doc. 815-1, p. 89.

Thus while students with disabilities may be educated in more inclusive settings, academic achievement still eludes the majority of students with disabilities. Students with disabilities also continue to lag behind students without disabilities in graduation rates as well. Attachment 22.

CPS monitors have noted in *Education Connection* compliance reviews that at some schools students with disabilities have failed to progress from year to year; they make this determination by reviewing the files of a small number of students with disabilities at each school. In Clemente High School's *Education Connection* compliance review in 2012, CPS monitors PCR found that 6 of 8 students with disabilities whose files were reviewed failed to maintain all grades; 3 of the 8, or nearly 40% were rated as unacceptable with failing grades. Attachment 5 (Clemente High School). Failure at this level (although only 8 IEPs were reviewed, this random pick of IEPs was accepted by the parties as a reasonable method of measuring this issue) is a serious matter and must be addressed. As CPS monitors have stated in reviews, IEPs for students who do not progress (defined for high school students as not earning a certain percentage of credits attempted) should have their IEPs reviewed to determine what

revisions are necessary to achieve progress. CPS's failure to ensure that students with disabilities are making appropriate progress was a finding by the ISBE for every District-wide Findings issued, including the last one issued on July 20, 2011. Doc. 815-1, p. 63 ff. Only 7.6% of Clemente's students with disabilities meet or exceed State standards in reading; only 10.6% of Clemente's students with disabilities meet or exceed State standards in math.¹⁵⁷

In addition to moving students with disabilities to more inclusive environments, demonstrable Corey H. successes would include the ability of CPS to monitor IEPs and student placement through the IMPACT system and the development of an electronic IEP that requires local school IEP teams to fill in most of the required fields. See Section IV(d)(2)(A) and (C) Challenge I and Challenge III. However, as noted above, schools vary widely in the ability to complete any IEP area that requires narratives statements or to develop unique and individualized interventions, including goals, accommodations and modifications, assistive technology, and academic interventions.

Documented collaboration between general and special education teachers is also a success of the *Education Connection* program. According to CPS monitors compliance reports on Benchmark D, most schools now regularly schedule team meetings so that special education teachers can regularly attend. See Section IV(d)(2)(D) Challenge IV. ISBE also found that in 2007 CPS had remediated the finding that schools did not allocate common planning time for general and special educators. Doc. 815-1, p. 66. This change is not just a scheduling issue: Regularly scheduled planning time allows for general and special educators to plan curriculum, strategies, and interventions together so that all students – with and without disabilities – can succeed.

There are individual school successes through the *Education Connection* program of special note. Neil School has long been a physically accessible school that had programs for students with academic and physical disabilities and also had a large population of non-disabled students. When Neil was awarded an *Education Connection* grant, the plan it submitted revealed that students with disabilities were in integrated environments up to 6th grade. However, at 7th grade, students without physical disabilities would leave Neil School to attend a middle school that was not-accessible. Doc. 346, Exhibit 30. Students with disabilities 7th and 8th grade who needed an accessible environment were thus left in a totally segregated environment until they graduated 8th grade and attended an accessible high school. On February 17, 2005, the Monitor and her consultant met with CPS OSES staff at Neil School to discuss this situation; Neil School staff members informed the Monitor that they would prefer to have classes through 8th grade so that students with physical disabilities would no longer have segregated classes for 7th and 8th grades. As a result of that discussion, Neil School was changed to a kindergarten through 8th

¹⁵⁷ <http://www.cps.edu/Schools/Pages/school.aspx?id=609759>

grade school, thus allowing for an integrated educational opportunity for all students with disabilities through 8th grade. *Id.* Neil School's website currently notes:

Presently the general education and special needs students participate in an integrated program which is all inclusive academically, as well as many extra-curricular activities and programs: i.e., physical education, library, Neil Book Club, assemblies, field trips, special school activities, lunch, and after-school programs. Both programs serve students from Kindergarten to 8th grade.¹⁵⁸

Neil School also reports on its website that "Neil has been awarded an Educational Connection Grant. This grant affords us a greater opportunity to foster an inclusive environment and provide a Buddy Living Skills Center." Neil currently has a school population of 37% students with disabilities and is not considered a separate school under the Corey H. definition.

Inclusive educational opportunities have brought the promise of both integrated and better education for students with disabilities according to some CPS monitors' school reports. Disney Elementary School's Principal credited co-teaching for increasing the reading scores of Disney's students with disabilities and thus bringing the school into AYP. Ebinger Elementary is an example of school at which most students with disabilities are in LRE 1 and where students with disabilities met or exceeded State standards at over 50%. Attachment 5 (Disney and Ebinger elementary schools).

Newberry Magnet Elementary is a school that has 17.30% students with disabilities; all students apply to Newberry through a random lottery. Doc. 911. Nearly 78% of Newberry's students with disabilities are placed in LRE 1. *Id.* Newberry has 97 co-teaching classes, which is a very large number for a school with 21 general education classrooms. Attachment 5 (Newberry). Both CPS monitors and the Monitor found the IEPs were generally excellent. Students at Newberry are meeting or exceeding State standards at nearly 50% in reading and 60% in math.¹⁵⁹

Gray School, a neighborhood school, has embraced co-teaching, offering that model in 35 classrooms. Attachment 5 (Gray Elementary School). The school's population has 12.33% students with disabilities; 89% of those students were placed in LRE 1 according to the June 1, 2012 report. Doc. 911. Gray School students with disabilities met or exceeded State standards in 2012 at 50% in reading and 66.8% in math.¹⁶⁰ In the CPS monitors' 2011 compliance report, the principal supported co-teaching as the best educational choice:

¹⁵⁸ <http://www.neil.cps.k12.il.us/programs.htm>

¹⁵⁹ <http://www.cps.edu/Schools/Pages/school.aspx?id=610095>

¹⁶⁰ http://schoolreports.cps.edu/AYP_2012/2012_ayp_schoolid609949.pdf

Co-teaching is my favorite. It took quite a while for teachers to really plan together and understand that both teachers have the same responsibility regarding instructing the whole class and responding to student needs. For the most part, when students with disabilities are in separate classrooms, they miss modeling and are not able to hear rich discussions on the lesson being taught. Even if they are not at the level of the other kids in the [general education] class, they are at least a part of the discussion with their peers and experience what is going on. Most students with disabilities should be included in the general education classes as much as possible. It is our experience that students with disabilities do not show as much growth when they are segregated most of the time, but these same students do show growth when they are placed in the general education classrooms.

Attachment 23.

Ryerson Elementary School has also embraced co-teaching. Ryerson is a school with 97% students of low income families, 13% of whom are special education students. All students with disabilities are in general education homerooms and specials. Ryerson has increased its percentage of students with disabilities in LRE 1 from 33% in 2008 to 43% in 2012.¹⁶¹ One interviewee said when asked if students with disabilities were progressing: “I see my students progressing in two ways. One is academic progress as they have access to the general education curriculum and learning opportunities they get from their peers and general education teacher. Second is social growth because of increased time in setting with their non-disabled peers.” Ryerson has 9 co-taught classes and 11 separate class periods during the day. Attachment 5 (Ryerson).

There are on-going concerns. CPS is undergoing substantial change with the school turnarounds and closures. The needs of students with disabilities must be taken into account in all of these decisions.

Proportional enrollment, especially in high schools and selective enrollment high schools and classical and regional gifted elementary schools, continues to be a problem. The solution to these problems cannot merely be installing a program for low incidence students with disabilities at those schools. Rather, recruitment, testing and enrollment practices must be reviewed to assure that students with disabilities who could meet the criteria for enrollment with accommodations and modifications are given a realistic chance to participate in these elite schools. The Board has stated that this is the policy of the Chicago Board of Education CPS schools and the Board should assure that this policy is put into practice. *See* Section VI(d)(2)(H).

¹⁶¹ Doc. 574 for 2008 data; Doc. 911 for 2012 data.

IEPs must be implemented with co-teaching where required, certified and sufficient staff, and accommodations and modifications as listed. As this Report has shown, these are issues that must be monitored on the local school level. When Taft High School is found to have 71 of 126 co-taught classes with no special education staff, someone must ask the question of whether the CPS OSES local school monitor, the SSA, was doing his or her job. When Barnard Elementary School is found to have one separate classroom on the third floor with no other classrooms, much less classrooms of age-appropriate peers, it points again to the need for consistent and thorough CPS monitoring of schools on a local level. When the second *Education Connection* CPS monitoring visit at Hearst Elementary found that students in six grades at the school did not attend specials with their peers, the school did not have sufficient staff, and teachers and students did not have textbooks, one is saddened that significant issues continue to plague this school. Attachment 5 (Taft, Barnard, and Hearst).

When Whitney Young High School continued until 2012 to isolate students with disabilities in the lower level of the school – an environment CPS monitors noted was recognized as segregated by teachers, staff and students – someone must question whether why the CPS OSES administration and Whitney Young administration could not resolve this issue. It is good to hear that more students with disabilities are now integrated with their peers, but sad to realize it took so very long to get done. Attachment 5 (W. Young).

Truancy is often cited in the CPS monitors' *Education Connection* compliance reports as the reason students are failing to make progress, especially in high school settings. The seriousness of that problem has been discussed in the press. *See* Section IV(d)(2)(A) Challenge I. CPS monitors' stated in Robeson High School's *Education Connection* compliance report that the failure of the school to meet State guidelines for separate class sizes was not really an issue because the school had such high truancy the classes rarely exceeded the guidelines. Attachment 5 (Robeson). In the Sullivan High School compliance report, CPS monitors noted that not only is truancy a problem that impacts students with disabilities making progress, but also affects the ability of the school to get sufficient numbers of students with disabilities to meet the 95% minimum testing target for State standardized tests. Attachment 5 (Robeson, Hyde Park, Manley and Sullivan high schools). Truancy – and the failure of students with disabilities to progress that it fosters – must be addressed.

Finally, the gap between students with and without disabilities in promotion and graduation must be addressed. *See* Attachment 22.

VI. Conclusion

Fifteen years ago CPS and the Plaintiffs agreed to a consent decree; both parties thought that working toward remedying issues addressed in that decree was in the best interests of CPS students with disabilities. The past 15 years has not been a model of cooperation; often CPS resisted implementing the consent decree it had agreed to which caused significant delays in moving forward. Despite those delays, much has been changed for CPS students with disabilities and their educators, as noted above.

As noted above, Corey H. monitored whether or not CPS had the important processes in place and available and trained staff to foster the provision of adequate special education services designed for the student's unique strengths and needs. The goals included IEPs in alignment with IDEA and properly developed to assure access to the general education and school community in the Least Restrictive Environment, sufficient certified staff to implement the IEPs, trained staff, input from the community, trained parents, IEPs that were implemented, and an intervention process to assure the identification of students with special needs. Without these processes in place, no adequate education could ever be provided to students with disabilities overall in the school system. These were the first steps and required by the 1998 findings of this Court.

It is hoped that CPS will now assure that real progress is possible for students with disabilities and that, with many of the processes in place, real progress will come. The time has come to move on from just assuring the process (proper IEPs, e.g.) is available. CPS will need to assure students with disabilities are making and maintaining academic progress, teachers are utilizing differentiated instruction for all students, IEPs are being developed that provide unique services and interventions for students with disabilities in the Least Restrictive Environment, IEPs are being fully implemented, and sufficient certified special education staff is in place. Students with disabilities must be fully included in all areas of the school community: lunch, homerooms, P.E., field trips, extracurricular activities, and school improvement committees and activities. In 2011, ISBE committed to using a focused monitoring technique and that it will hold school staff accountable for failing students with disabilities. CPS must hold OSES and local school staff accountable as well.

Both CPS and advocates must continue to be vigilant to assure that improvements to CPS special education services are maintained and the remaining issues are resolved so that students with disabilities receive their rights to a free appropriate public education that will ensure equality of opportunity, full participation, independent living, and economic self-sufficiency for all students with disabilities.

Respectfully submitted,

s/Kathleen C. Yannias

Corey H. Monitor

**Final Report of the Corey H. Monitor
On the Implementation of the Settlement Agreement
Between the Corey H. Plaintiffs and the Chicago Board of Education**

List of Attachments

1. National Data for Students with Disabilities, www.ideadata.org, September 11, 2012
2. Chart of CPS Annual LRE Data, 2004-2012
3. Timeline of *Education Connection* Compliance Reviews Received by the Monitor
4. Education Connection “Deemed Compliant” School Charts
5. Chart of *Education Connection* Schools Compliance Review Activities
6. CPS OSES “Snapshot Definitions”
7. SBPS Data from Dvorak, Lowell, Mays, Nightingale and Pulaski Compliance Reviews
8. Letter from Kathleen Gibbons, CPS, September 12, 2006 (without attachments)
9. IEP (paper) from Hyde Park High School
10. *Education Connection* File Review – Elementary Schools
11. *Education Connection* File Review – High Schools
12. *Education Connection* – Spending by Unit as of 6/30/2012. Prepared by CPS.
13. Letter from Kathleen Yannias, Monitor, to CPS and Plaintiffs, dated September 29, 2006
14. Letter from Kathleen Yannias, Monitor, to CPS and Plaintiffs, dated May 23, 2006
15. Letter from Kathleen Yannias, Monitor to Amundsen High School, dated June 26, 2012
16. Email from Sherri Thornton-Pierce, Shesky and Froelich, dated August 17, 2012.
17. Excerpt from Boone Elementary School’s Compliance Review, dated May 31, 2012

18. List of Compliance Report Issues for *Education Connection* Schools
19. CPS Elementary and High School Students with Disabilities in CPS Charter Schools
20. CPS Elementary and High School Students with Disabilities in CPS Selective Enrollment, Career Academy, Military Academy, Regional Gifted Centers, and Classical schools
21. CPS Elementary and High School Students with Disabilities in CPS Magnet Schools
22. Achievement and Graduation Rates for CPS Students with Disabilities
23. Excerpt from Gray Elementary School's Compliance Review, dated September 30, 2011