

**BEFORE THE
BOARD OF EDUCATION OF THE CITY OF CHICAGO**

In the matter of:)	
The Hearing to take Public Comment)	
On the Proposal to)	
Co-locate Academy of Community)	Philip L. Bronstein
And Technology (ACT) Charter School¹)	Hearing Officer
With)	2012
Henry H. Nash Elementary School)	

**Hearing Officer's Report and Recommendation
To the Chief Executive Officer
Regarding the Proposal to Co-locate ACT Charter School
With Henry H. Nash Elementary School**

INTRODUCTION

On January 25, 2012, at 8:00 p.m., the undersigned, an attorney licensed to practice law in Illinois, convened as hearing officer, a public hearing at 125 South Clark Street, Chicago, Illinois to receive comment from interested persons regarding the proposed co-location of the Academy of Communications and Technology Charter School (ACT) with the Henry H. Nash Elementary School (Nash). A Certified Shorthand Reporter transcribed the hearing. A Spanish language interpreter was present. Notice of this hearing was sent to the principal, staff, local school council, parents or guardians, as well as to the State Senator, State Representative and Alderman for the school that is subject to the proposed action. A summary of the proposed school action was published in the Chicago Sun-Times, the Chicago Tribune, and Hoy. Preceding the present hearing, the CEO of the Chicago Public Schools conducted two community meetings, one on January 6, 2012, and the

¹ Academy of Community and Technology Charter School is a misnomer. The correct name is Academy of Communications and Technology Charter School. Hereinafter, all references will be to the correct designation of ACT. Moreover, when originally noticed, reference was to "Proposed" and "New" ACT Charter School. The hearing officer was informed that on January 25, 2012, the Board renewed, subject to resolving outstanding issues, the term of ACT, commencing July 1, 2012 and ending June 30, 2017. A certified copy of the Board's action, Board Report 12-0125-EX3 is included in the record.

second on January 20, 2012. Both meetings were held at Austin Polytechnical Academy, 231 North Pine Avenue, Chicago, Illinois. The public hearing was conducted pursuant to 105 ILCS 5/34-230, and Procedures for Public Hearings on Proposed School Closure, Consolidation, Co-location, Phase-out, Reconstitution or Reassignment Boundary Change. The hearing officer is charged with preparing a written report summarizing public comments and documents received at the hearing and determining whether the CEO complied with requirements of 105 ILCS 5/34-230 and the Chief Executive Officers Guidelines for School Actions.

Relevant Statutes

105 ILCS 5/34-18 (2011) ("Powers of the Board"), effective January 1, 2012

105 ILCS-200 (2011) (Defines "School Action"), effective August 22, 2011

105 ILCS 5/34-225 (2011) ("School Transition Plans")

105 ILCS 5/34-230 (2011) ("School Action Public Meetings and Hearings")

Pertinent Chicago Public Schools Policies and Procedures

Board of Education Shared Facility Policy (Policy Manual Section 410.7, Board Report 05-0126-P01)

Guidelines for School Actions, 2011-2012 School Year (Issued November 29, 2011)

Chief Executive Officers Procedures for Public Hearings on Proposed School Closure, Consolidation, Co-Location, Phase-out, Reconstitution, or Reassignment Boundary Change

Exhibits

Mr. Joe Gergeni, an attorney for the Chicago Board of Education Law Department, tendered, and the hearing officer received into the record, the CEO's compiled Exhibit 1, a binder of documents in support of the proposed school action.

A. NOTICES OF HEARING

- 1. Notice to Parents/Guardians**
 - a. Notice letter to Parents/Guardians of Students at Henry H. Nash Elementary School dated November 30, 2011**
 - b. Draft Transition Plan for the Co-Location of Proposed New Academy of Community and Technology Charter School² with Henry H. Nash Elementary School**
- 2. Notice to School Personnel, Local School Council Members, and Board Members**
 - a. Notice Letter to School Personnel and Local School Council Members at Henry H. Nash Elementary School and Chairman of the Board of the Proposed Academy of Community and Technology Charter School³ November 30, 2011**
 - b. Draft Transition Plan for the Co-Location of Proposed New Academy of Community and Technology Charter School⁴ with Henry H. Nash Elementary School**
- 3. Notice to Elected Officials, Senator Kimberly A. Lightford, Representative LaShawn K. Ford and Alderman Jason C. Ervin, Via Electronic Mail with Attached:**
 - a. Notice Letter to Senator Kimberly A. Lightford dated November 30, 2011**
 - b. Notice Letter to Representative LaShawn K. Ford dated November 30, 2011**
 - c. Notice Letter to Alderman Jason C. Ervin dated November 30, 2011**
 - d. Draft Transition Plan for the Co-Location of Proposed New Academy of Community and Technology Charter School⁵ with Henry H. Nash Elementary School**

² See Footnote 1

³ See Footnote 1

⁴ See Footnote 1

⁵ See Footnote 1

4. Affidavits

- a. **Affidavit of Devin F. McFarland, Special Assistant at the Chicago Board of Education, Re: Mail and/or Personal Delivery of Notice Letters to Parents/Guardians, School Personnel and Local School Council Members of Henry H. Nash Elementary and School Personnel and Board Members of the Proposed New Academy of Community and Technology Charter School⁶ on or about November 30, 2011**
- b. **Affidavit of Maritza Rivera, Administrative Assistant in the Department of Intergovernmental Affairs at the Chicago Board of Education. Re: Electronic Mail Delivery of Notice Letters to Elected Officials on or about November 30, 2011**
- c. **Affidavit of Robert Otter, Project Manager at the Chicago Board of Education, Re: Publication of Draft Guidelines for School Actions on or about October 31, 2011, Guidelines for School Actions on or about November 21, 2011, Publication of Proposals on or about November 30, 2011, and Publication of Summaries from Community Meetings on or about January 6, 2012 and January 20, 2012**

5. **Public Notice of Hearing and Community Meeting by Newspaper Publication in the Chicago Sun-Times, the Chicago Tribune, and Hoy, beginning on or about December 29, 2011**

B. RELEVANT LEGAL AND PROCEDURAL DOCUMENTS (TABS 6-11)**C. DOCUMENTS AND WRITTEN EVIDENCE IN SUPPORT OF THE PROPOSAL**

12. **Written Statement of Adam Anderson, Officer of Portfolio Strategy and Planning for Chicago Public Schools**
13. **Written Statement of James Dispensa, Director of School Demographics and Planning, Office of Portfolio for the Chicago Public Schools**
14. **Written Statement of Patricia Taylor, Chief Operating Officer of the Chicago Public Schools**
 - a. **PowerPoint Presentation**

⁶ See Footnote 1

During the Public Comment stage of the hearing, Mr. Dwayne Truss tendered and the hearing officer received a letter with exhibits addressed by him to the Board.

SUMMARY OF THE HEARING ON THE PROPOSAL TO CO-LOCATE ACT WITH NASH

BOARD PRESENTERS

Adam Anderson

Officer of Portfolio Strategy and Planning for Chicago Public Schools

Mr. Anderson stated that on January 25, 2012, the Board voted to renew the charter agreement of ACT for an additional five-year term extending from July 1, 2012 through June 30, 2017. The Board also approved a material modification changing the configuration to grades 5 through 8 instead of the original approval for grades 6 through 12. An additional approved material modification allowed KIPP Chicago to manage the operation of ACT. ACT plans to resume operations in the fall of 2012, serving 90 students in the 5th grade. Eventually, ACT (KIPP) will serve approximately 400 students in the 5th through 8th grade.

Mr. Anderson stated that Nash has the capacity to be used as a shared facility and that ACT and Nash will operate as two independent schools within the same facility. He noted that both schools would be expected to adhere to the Board's Shared Facility Policy and that a Draft Transition Plan has been developed to effectuate a smooth transition.

James Dispensa

Director of School Demographics and Planning for the Chicago Public Schools

Mr. Dispensa, with the aid of an aerial photograph, explained that Nash is located in two separate facilities: the building commonly known as Nash Main at 4837 West Erie Street and Nash Branch or Nash Annex at 4846 West Ohio Street. Nash has a current enrollment of 392 students. Under the proposed action, ACT would occupy the 22-classroom Annex on Ohio Street and Nash would occupy a 34-classroom Main building on Erie. Mr Dispensa stated that each building has sufficient capacity for current and projected enrollment. He said that if the co-location is approved, a Memorandum of Understanding (MOU) will be drafted in accordance with the Board's 2005 Shared Facility Policy.

Patricia Taylor
Chief Operating Officer for the Chicago Public Schools

Ms. Taylor said that the Nash campus is capable of supporting academic programming of both Nash and ACT. She explained that the Nash campus is composed of three buildings. The main building was constructed in 1895. An attached addition was built in 1918. The Annex building, constructed in 1972, is located on the southeast corner of the site, just west of the main parking lot. A field house is also on the campus. The major systems of the main building and the Annex are entirely independent of each other.

The Nash Campus has sufficient space to accommodate a combined 52.5 classrooms. Considering projected enrollment, Nash needs a total of 32 classrooms and ACT needs 20-22 classrooms. Under the proposal, Nash would occupy the main building entirely and ACT would occupy the Annex entirely, allowing each school to operate in independent buildings. If the co-location is approved, a Campus Manager would be selected and would work with both schools and the Department of Operations. Their efforts would result in an MOU addressing sharing arrangements between both schools with respect to shared use of facilities such as the auditorium and parking. Building accessibility would be compliant with federal and state law. Capital improvements to both schools, including painting, flooring, lighting, emergency power generation, and environmental remediation would cost approximately \$13,000,000.00.

PUBLIC SPEAKERS

Shevonne Williams
Parent

Ms. Williams stated that she is a concerned parent and she wishes to see the schools "fixed" immediately.

Daryl Hill

Mr. Hill stated that the schools needed to be "fixed." He said, " We're tired of our kids getting third and second hand and fourth hand educations." He complained that community children were receiving subpar education, resulting in crime and a burgeoning prison population. He also expressed frustration with a lack of security for children going to and from school and a shortage of after school activities.

Amaka Unaka
KIPP Employee

Ms. Unaka has worked for KIPP in Chicago for three years. She thanked parents for supporting the Nash-KIPP co-location. She was pleased that KIPP was returning to Austin.

**Tanorviette Spruill
Parent**

Ms. Spruill has three children who attend KIPP in Lawndale. Her children must get up at 5:30 a.m. in order to take a bus and arrive at school on time. She said she has been disappointed that KIPP was not in Austin and her children were required to travel to another community to attend KIPP.

**Tanea Adams
Parent of an eighth grade student who attends KIPP Ascend**

Ms. Adams stated that KIPP is needed and would be a great asset to the Austin community. She said she was blessed to be able to send her eldest daughter to a private school. She believed that KIPP's program was as rigorous as that offered by private school, with the additional benefit of being free. She said that KIPP engages students and both prepares and inspires them to attend college.

**Sonia Garcia
Parent of 7th grader who attends KIPP Ascend**

Ms. Garcia's son has attended KIPP since 5th grade. He attends school from 8:00 until 5:00 and comes home excited and ready to do homework before going to bed. She said she had made the right choice to enroll her son at KIPP because KIPP emphasizes the importance of a college education to all students, even the very young. KIPP also involves the entire family and benefits the community. She closed by urging the School Board to permit KIPP to share the Nash facility.

**Cata Truss
Community Resident**

Ms. Truss, the proud parent of five sons, all of whom are college graduates, did not believe that the co-location of Nash and KIPP would offer true choice to Austin residents. She understood that despite KIPP's longer day, its student performance scores were no higher than those of students at Nash. In her opinion, if the Board were truly interested in educational choice for the Austin neighborhood, it would establish a magnet school.

**Dwayne Truss
Community Resident**

Mr. Truss agreed with sentiments expressed by his wife, with respect to the relative performance of KIPP and Nash. He questioned the wisdom and fairness of making a \$13,000,000.00 investment in Nash while Emmet School, a high-performing school in the community, had facilities so inadequate that gym, lunch and assembly took place in the same room. Mr. Truss also noted that wealthier communities in the University/South Loop area have six magnet schools and one regional gifted program while the Austin community has none of these choices.

Mr. Truss raised legal issues with respect to ACT and the proposed co-location. He understood that an MOU existed between KIPP and Nash that forbade parents of children attending Nash from enrolling their children in ACT. He believed that this agreement would violate the Parent Choice Provision of No Child Left Behind.

Mr. Truss also questioned the legality of reauthorization and renewal of ACT given that ACT has been "dormant" for two years. Mr. Truss wished to review ACT's application for renewal to ascertain whether ACT has complied with all legal requirements. He supplemented his remarks with a letter including exhibits dated January 25, 2012 and addressed to the Board. Among other things, he urges Board rejection of the proposed co-location. He invites a dialogue between officials of the CPS and the Austin Community Action Council for the purpose of developing a plan to establish magnet schools serving the Austin community.

**Kate Mazurek
KIPP Teacher**

Ms. Mazurek has taught at KIPP Chicago for seven years. She was the teacher of KIPP Ascend's first graduating class of 8th graders. Ninety percent of those graduating went on to enroll in a two-year or four-year college. She noted that these children attended KIPP for only three and a-half years. When they started at KIPP, most were performing below CPS averages. Upon graduation, 91% of the students met or exceeded state standards in reading and 84% met or exceeded state standards in math. These results place the graduating class in the top quartile of CPS. Ms. Mazurek also observed that KIPP has a lower mobility rate than most schools in the district. She attributes this to a team spirit, a sense of family, and commitment to serve students.

FINDINGS AND RECOMMENDATIONS

The hearing officer makes the following findings concerning the CEO's proposal to co-locate ACT Charter School with Nash Elementary School:

- 1. The CEO has satisfied the notice requirements as mandated by Board policy and Guidelines and 105 ILCS 5/34-230. Although notice contained a technical misnomer, this did not effect the adequacy of notice or create any confusion. This conclusion is apparent from public comment at community meetings and hearing. Additionally, the Draft Transition Plan, Ex.1 (A) (2) (b), correctly identifies the ACT Charter School as Academy of Communications and Technology and details its history.**
- 2. The Board's Shared Facility Policy Ex.1, (B) (9) articulates Board policy that it is in the best interest of students, the community and the Board to identify CPS buildings that are not being utilized at full capacity. One potential use of underutilized buildings is to transform them from a single school facility to a shared facility by bringing one or more additional schools into the building. I find that the CEO has in accordance with pertinent statutes, guidelines and policies, identified the Nash facility as underutilized.**

Nash is located in two separate facilities: Nash Main and Nash Annex. Nash has a current PK-8 enrollment of 392. The Main building has a classroom count of 34. Nash has a homeroom need of 14 with 5 additional classrooms for programming. Accordingly, under the proposal, Nash would be the sole occupant of the Main building.


The ACT Charter School is expected to open in Fall 2012 with 90 students in grade 5. The school is expected to add a grade level each year, reaching an enrollment of 360 students in grades 5-8, in the 2015-2016 school year. ACT has an estimated homeroom need of 17, with one additional classroom needed for special programming. The Annex building, containing 22 classrooms, is adequate to accommodate the projected needs of ACT.

- 3. The CEO's proposal to co-locate ACT with Nash is contingent upon the Board renewing ACT's charter and agreement. I find that the Board renewed ACT's charter on January 25, 2012, for a term commencing July 1, 2012 and ending June 30, 2017. A certified copy of Board approval, Board Report, 12-0125-EX-3 was tendered by the CEO to the hearing officer before 5:00 p.m. January 26, 2012, and is therefore of record in this proceeding.**
- 4. It is the express position of the CEO that should the Board approve the co-location of ACT with Nash, the enrollment of students currently attending or eligible to attend Nash will not be affected. All students currently attending Nash, together with new students accepted to attend Nash, will remain enrolled in Nash.**

5. I find that in accordance with 105 ILCS 5/34-225 and Guidelines for School Actions issued on November 29, 2011, the CEO has prepared and disseminated a good and sufficient Draft Transition Plan.
6. The CEO's proposal is that each school operate in an independent building. Should the Board approve the proposed co-location, an MOU and Sharing Agreement will be drafted, executed, and implemented in accordance with the Shared Facility Policy. Furthermore, a campus manager will be selected to facilitate the sharing of space and maintenance of agreed upon common areas.
7. The proposed co-location will include improvements to both the Main and Annex buildings. These improvements include full building accessibility, compliant with federal and state law, and revitalization of interior space. The Department of Operations anticipates that the proposed capital improvements will cost \$13,000,000.00.
8. I find that the CEO has complied with requirements of 105 ILCS 5/34-230 and the CEO's Guidelines for School Action.

For the forgoing reasons, the hearing officer finds that the CEO has followed all proper procedures and relevant mandates, and that the proposal to co-locate ACT Charter School with Nash is appropriately before the Board.

Submitted this 2nd day of February, 2012


Philip L. Bronstein
Hearing Officer