

Board of Education of the  
City of Chicago

In Re: The Matter of  
The Proposed Reconstitution of  
Theodore Herzl Elementary School

Before  
Fredrick H. Bates  
Independent Hearing Officer

**Background**

**Introduction**

On or about January 9, 2012, the undersigned was retained by the Chief Executive Officer (“CEO”) of the Chicago Public Schools (“CPS”) to serve as an Independent Hearing Officer in this matter. On Tuesday, January 31, 2012, a hearing was convened at the Board of Education of the City of Chicago, 125 South Clark Street, Chicago, Illinois. The purpose of the hearing was to enable the Hearing Officer to receive public comments from concerned persons, specifically including representatives of the CEO, members of the local school council, parents, students, members of the school’s staff, the Principal, representatives of the Chicago Teachers’ Union, and interested members of the public, concerning the CEO’s proposal to Turnaround Herzl Elementary School via Reconstitution. CPS served notice of the hearing on the parents, staff members, Principal, and members of the Local School Council via U.S. Mail, and/or personal service. 121 individuals attended the public hearing. 26 people requested to speak, and all were provided the opportunity to do so at the hearing. The record was left open for the submission of written materials, however no documentation was submitted to the hearing officer following the hearing.

Pursuant to the directives provided in the document entitled “Procedures For Public Hearings On Proposed School Closures, Consolidation, Co-Location, Phase Out, Reconstitution, Or Reassignment Boundary Change,” the undersigned summarizes below the input received at the Public Hearing.

**Relevant Statutory Provisions and Board Policies/Procedures**

The relevant statutory provisions include, but are not necessarily limited to the following, which state in pertinent part as follows:

**Sec. 34—8.3. Remediation and probation of attendance centers**

\* \* \* \*

- (d) **Schools placed on probation that, after a maximum of one year, fail to make adequate progress in correcting deficiencies are subject to the following** action by the general superintendent with the approval of the board, after opportunity for a hearing: ...

**(4) Reconstitution of the attendance center** and replacement and reassignment by the general superintendent of all employees of the attendance center. *(Emphasis added)*.

**Sec. 34-18. Powers of the board.**

The board shall exercise general supervision and jurisdiction over the public education and the public school system of the city, and, except as otherwise provided by this Article, shall have power:

\* \* \* \*

- 7. To apportion the pupils to the several schools; provided that no pupil shall be excluded from or segregated in any such school on account of his or her color, race, sex, or nationality. The board shall take into consideration the prevention of segregation and the elimination of separation of children in public schools because of color, race, sex, or nationality.

\* \* \* \*

- 24. To develop a policy, based on the current state of existing school facilities, projected enrollment and efficient utilization of available resources,

for capital improvement of schools and school buildings within the district, addressing in that policy both the relative priority for major repairs, renovations and additions to school facilities, and the advisability or necessity of building new school facilities or closing existing schools to meet current or projected demographic patterns within the district;

The Board's School Performance, Remediation and Probation Policy for the 2011-2012

School Year provides in part:

That the Chicago Board of Education adopt a School Performance, Remediation and Probation Policy for the 2011-2012 School Year.

### **I. Purpose and Goals**

This policy shall establish the standards and criteria for placing a school on Remediation or Probation for the 2011-2012 school year based on assessments administered in Spring 2011 and other performance data from prior school years. A school's accountability status from the 2010-2011 school year shall remain in effect until such time as the school is notified of their new status issued in accordance with this policy.

This policy sets out a systematic means for identifying schools in need of remedial assistance and increased oversight due to insufficient levels of achievement. Section 5/34-8.3 of the Illinois School Code provides for the remediation and probation of attendance centers and for the Chief Executive Officer to monitor the performance of each school using the criteria and rating system established by the Board to identify those schools in which: (1) there is a failure to develop, implement, or comply with the school improvement plan; (2) there is a pervasive breakdown in the educational program as indicated by various factors such as the absence of improvement in reading and math achievement scores, an increased drop-out rate, a decreased graduation rate, or a decrease in the rate of student attendance, or (3) there is a failure or refusal to comply with the provisions of the School Code, other applicable laws, collective bargaining agreements, court orders, or with applicable Board rules and policies.

The Board recognizes that an effective and fair school remediation and probation system considers student test score performance, student growth and progress trends. Therefore, this policy establishes a comprehensive system to assess school performance in order to identify, monitor and assist schools with low student test scores as well as schools with stagnant or insufficient rates of student improvement.

## **II. Scope of the Policy**

All Chicago Public Schools (“CPS”) shall be subject to this policy, except charter schools under contract with the Board. A charter school shall receive an accountability designation using the criteria hereunder for purposes of comparison to other CPS schools and public reporting. A decision to renew or revoke a school’s charter is governed by the terms of a school’s applicable performance agreement and accountability plan with the Board. Schools newly established by the Board shall receive an accountability designation after the third year of operation or at such time as adequate measures of student achievement become available.

## **III. Definitions**

**Remediation:** An accountability designation assigned to schools where the Chief Executive Officer (“CEO”) determines that a school’s budget or any amendment thereto may compromise the implementation of the school’s No Child Left Behind Act (NCLB) Corrective Action measures or Restructuring Plan.

**Probation:** An accountability designation assigned to non-performing schools where the CEO determines, utilizing the criteria set out in this policy, that a school requires remedial probation measures as described in this policy, including increased oversight, to address performance deficiencies.

**Good Standing:** An accountability designation assigned to schools where the CEO determines, based on the criteria set out in this policy, that student performance and improvement meets or exceeds district standards.

**Adequate Yearly Progress:** School rating issued by the Illinois State Board of Education that identifies if students are improving their performance based on the established annual targets.

**Achievement Level 1:** Shall mean the rating for:

- an elementary school with a total performance score of thirty (30) or above or with at least 71% of the available performance points; or
- a high school that obtains a total performance score of twenty-eight (28) or above or with at least 66.7% of the available performance points.

**Achievement Level 2:** Shall mean the rating for:

- an elementary school with a total performance score of twenty-one (21) to twenty-nine (29) or with 50%-70.9% of the available performance points; or
- a high school that obtains a total performance score of eighteen and two-thirds (18.67) to twenty-seven and two-thirds (27.67) or with 44%-66.6% of the available performance points.

Achievement Level 3: Shall mean the rating for:

- an elementary school that obtains a total performance score of twenty (20) or below or with less than 50% of the available performance points; or
- a high school that obtains a total performance score of eighteen and one-third (18.33) or below or with less than 44% of the available performance points.

Value-Added: Shall mean the metric that assesses school effects on students' academic growth, controlling for student characteristics, grade level, and prior performance through a regression methodology. Academic growth is measured by the change in scale score points on the ISAT from one year to the next.

ISAT: means the Illinois Standards Achievement Test.

ISAT Composite: means the composite score from ISAT Reading, Mathematics and Science test results.

PSAE: means the Prairie State Achievement Examination.

PSAE Composite: means the composite score from PSAE Reading, Mathematics and Science test results.

EPAS: means the series of three assessments (Explore, PLAN and ACT) that are administered to high school students in the following order: (1) Explore – administered to high school freshmen, (2) PLAN –administered to high school sophomores, and (3) ACT - administered to high school juniors.

Freshmen On Track: Shall mean the percentage of first-time freshmen students who earn five credits in their freshman year and fail no more than one semester core course (English, Mathematics, Science and Social Science).

One-Year Drop-out Rate: Shall mean the percentage of students who drop-out in a given year who have not previously dropped out.

Membership Days: Shall mean the number of days that the students on a school's enrollment register should be in attendance. Membership days will end for 8th and 12th graders on the date of graduation authorized by the Board and shall be adjusted for students with medically fragile conditions.

Attendance Rate: Shall mean the total number of actual student attendance days divided by the number of total student membership days.

Advanced Placement (AP) Class: Shall mean a college-level course approved by the College Board to be designated as AP in accordance with established requirements.

International Baccalaureate (IB) Class: Shall mean a college-level course approved by the International Baccalaureate Organization to be designated as an IB class in accordance with established requirements.

AP Exam: Shall mean the end of course exam established by the College Board that is administered upon completion of an AP Class.

IB Exam: Shall mean the end of course exam established by the International Baccalaureate Organization that is administered upon completion of an IB class.

#### **IV. PERFORMANCE EVALUATION SYSTEM**

##### **A. Calculation of Score**

Every school shall receive a performance score based upon its level of current performance, trend over time and student growth as described in Section V below. A school will be evaluated on each of the accountability indicators identified in Section V using best available data and will receive a score for each indicator as well as a total performance score that accounts for the school's overall performance on all accountability indicators. The total performance score will be used to determine whether a school qualifies for an Achievement Level 1, 2 or 3 rating. A school shall receive an accountability status hereunder whereby the school shall be identified as either on Probation, in Good Standing or in Remediation, as further described herein.

##### **B. Determinations**

**1. Scoring Exceptions:** Schools that do not qualify for all performance points hereunder due to the following circumstances shall have their Achievement level determinations based on the percentage of available points earned rather than the actual points earned: (a) if data for the two previous years is not available for a particular metric measuring change over time, the school will not get a score for that metric; (b) if data is available but not reliable due to no fault of the school, the CEO may remove the affected metric from consideration and the school will not get a score for that metric. ISAT and PSAT scores of students who are English Language Learners in program years 0-5 will not be factored into current status or trend scores hereunder.

**2. Accountability Status Determination:** A school with an Achievement Level 3 score hereunder shall receive Probation status. A school with an

Achievement Level 1 score or an Achievement Level 2 score hereunder shall receive Good Standing status, except for the following which shall receive Probation status hereunder:

- a. A school that has not satisfied the following minimum ISAT or PSAE composite score requirement:
  - i. Elementary school minimum 2011 ISAT Composite score - 50% meeting or exceeding state standards.
  - ii. High school minimum 2011 PSAE Composite score - 10% meeting or exceeding state standards.
- b. A school that has not satisfied all applicable sustained academic improvement requirements set out in Section VII. as follows:
  - i. A school with a prior Probation status must receive an Achievement Level 1 rating or Achievement Level 2 rating for 2 consecutive years to be removed from Probation; or
  - ii. A school where the Board has taken an action under 105 ILCS 5/34-8.3(d)(2) or (4) must remain on Probation for a minimum of 5 years or until the school has made Adequate Yearly Progress for 2 consecutive years, whichever occurs later.

Notwithstanding the foregoing, a school with Good Standing status may be placed in Remediation in accordance with Section IV.B.3.

**3. NCLB School Improvement Status:** For schools not on Probation but that have either “Corrective Action”, “Restructuring Planning” or “Restructuring Implementation” status under NCLB, the CEO reserves the right to place the school in Remediation status at any time if the CEO determines that the school’s budget or any amendment thereto may compromise the implementation of the school’s NCLB Corrective Action or Restructuring Plan.

## **V. ACCOUNTABILITY INDICATORS, STANDARDS AND SCORING**

### **A. Elementary School Indicators, Standards and Scoring**

An elementary school may receive a total performance rating score ranging from zero (0) to forty-two (42). For the 2011-2012 school year, the current status, trend and growth indicators and standards that determine an elementary school’s performance score shall be as follows:

## ***1. ISAT Mathematics – 6 possible points***

**a. Current Status** - An elementary school shall be evaluated on the percentage of students ***meeting or exceeding*** state standards as indicated by the school's ISAT mathematics results. Current status is determined by averaging the school's ISAT mathematics results from tests administered in Spring 2010 and Spring 2011. If the school does not have two years of data, one year of data will be used. A school shall receive points towards its overall performance score as follows:

80% or more meeting or exceeding = 3 points

70%-79.9% meeting or exceeding = 2 points

50%-69.9% meeting or exceeding = 1 point

Under 50% meeting or exceeding = 0 points

**b. Trend** - An elementary school shall be evaluated on improvement in the percentage of students ***meeting or exceeding*** state standards on ISAT Mathematics. Improvement trend is determined by comparing the 2011 score with the average score of the three previous years. If the school does not have three previous years of data, the previous two years will be used. A school shall receive points as follows:

- For schools with 0%-89.9% of students meeting or exceeding state standards on the 2011 ISAT mathematics assessment, points are earned as follows:

No Improvement = 0 points

Improvement of at least 0.1 but under 3.0 percentage points = 1 point

Improvement of at least 3.0 but under 6.0 percentage points = 2 points

Improvement of at least 6.0 percentage points = 3 points

- Schools with 90% or more of students meeting or exceeding state standards on the 2011 ISAT mathematics assessment automatically earn 3 points regardless of improvement.

## ***2. ISAT Reading – 6 possible points***

**a. Current Status** - An elementary school shall be evaluated on the percentage of students ***meeting or exceeding*** state standards as indicated by the school's ISAT reading results. Current status is determined by averaging the school's ISAT reading results from tests administered in Spring 2010 and Spring 2011. If the school does not have two years of data, one year of data will be used. A school shall receive points towards its overall performance score as follows:

80% or more meeting or exceeding = 3 points

70%-79.9% meeting or exceeding = 2 points  
50%-69.9% meeting or exceeding = 1 point  
Under 50% meeting or exceeding = 0 points

**b. Trend** - An elementary school shall be evaluated on improvement in the percentage of students *meeting or exceeding* state standards on ISAT reading. Improvement trend is determined by comparing the 2011 score with the average score of the three previous years. If the school does not have three previous years of data, the previous two years will be used. A school shall receive points as follows:

- For schools with 0%-89.9% of students meeting or exceeding state standards on the 2011 ISAT reading assessment, points are earned as follows:

No Improvement = 0 points  
Improvement of at least 0.1 but under 3.0 percentage points = 1 point  
Improvement of at least 3.0 but under 6.0 percentage points = 2 points  
Improvement of at least 6.0 percentage points = 3 points

- Schools with 90% or greater of students meeting or exceeding state standards on the 2011 ISAT reading assessment automatically earn 3 points regardless of improvement.

### **3. ISAT Science – 6 possible points**

**a. Current Status** - An elementary school shall be evaluated on the percentage of students *meeting or exceeding* state standards as indicated by the school's ISAT science results. Current status is determined by averaging the school's ISAT science results from tests administered in Spring 2008 and Spring 2011. If the school does not have two years of data, one year of data will be used. A school shall receive points towards its overall performance score as follows:

80% or more meeting or exceeding = 3 points  
70%-79.9% meeting or exceeding = 2 points  
50%-69.9% meeting or exceeding = 1 point  
Under 50% meeting or exceeding = 0 points

**b. Trend** - An elementary school shall be evaluated on improvement in the percentage of students *meeting or exceeding* state standards on ISAT science. Improvement trend is determined by comparing the 2011 score with the average score of the three previous years. If the school does not have three previous years of data, the previous two years will be used. A school shall receive points as follows:

- For schools with 0%-89.9% of students meeting or exceeding state standards on the 2011 ISAT science assessment, points are earned as follows:

No Improvement = 0 points

Improvement of at least 0.1 but under 3.0 percentage points = 1 point

Improvement of at least 3.0 but under 6.0 percentage points = 2 points

Improvement of at least 6.0 percentage points = 3 points

- Schools with 90% or greater of students meeting or exceeding state standards on the 2011 ISAT science assessment automatically earn 3 points regardless of improvement.

#### ***4. ISAT Composite - All Grades – 6 possible points***

**a. Current Status** - An elementary school shall be evaluated on the percentage of students in all grades who are ***exceeding*** state standards as indicated by the school's ISAT Composite. Current status is determined by averaging the school's ISAT Composite results from tests administered in Spring 2010 and Spring 2011. If the school does not have two years of data, one year of data will be used. A school shall receive points towards its overall performance score as follows:

25% or more exceeding = 3 points

15%-24.9% exceeding = 2 points

5%-14.9% exceeding = 1 point

Under 5% exceeding = 0 points

**b. Trend** - An elementary school shall be evaluated on improvement in the percentage of students in all grades who are ***exceeding*** state standards on ISAT Composite. Improvement trend is determined by comparing the 2011 score for all students with the average score of the three previous years. If the school does not have three previous years of data, the previous two years will be used. A school shall receive points as follows:

- For schools with 0%-89.9% of students in all grades exceeding state standards on the 2011 ISAT Composite, points are earned as follows:

No Improvement = 0 points

Improvement of at least 0.1 but under 3.0 percentage points = 1 point

Improvement of at least 3.0 but under 6.0 percentage points = 2 points

Improvement of at least 6.0 percentage points = 3 points

- Schools with 90% or greater of students in all grades exceeding state standards on the 2011 ISAT Composite automatically earn 3 points regardless of improvement.

**5. ISAT Composite – Highest Grade Students – 6 possible points**

**a. Current Status** - An elementary school shall be evaluated on the percentage of students in the school's highest grade level who are *exceeding* state standards as indicated by the school's ISAT Composite. Current status is determined by averaging the school's ISAT Composite results for students in the highest grade from tests administered in Spring 2010 and Spring 2011. If the school does not have two years of data, one year of data will be used. A school shall receive points towards its overall performance score as follows:

25% or more exceeding = 3 points

15%-24.9% exceeding = 2 points

5%-14.9% exceeding = 1 point

Under 5% exceeding = 0 points

**b. Trend** - An elementary school shall be evaluated on improvement in the percentage of students in the school's highest grade level who are *exceeding* state standards on ISAT Composite. Improvement trend is determined by comparing the 2011 score for students in the highest grade with the average score of the three previous years. If the school does not have three previous years of data, the previous two years will be used. A school shall receive points as follows:

- For schools with 0%-89.9% of students in the highest grade exceeding state standards on the 2011 ISAT Composite, points are earned as follows:

No Improvement = 0 points

Improvement of at least 0.1 but under 3.0 percentage points = 1 point

Improvement of at least 3.0 but under 6.0 percentage points = 2 points

Improvement of at least 6.0 percentage points = 3 points

- Schools with 90% or greater of students in the highest grade exceeding state standards on the 2011 ISAT Composite automatically earn 3 points regardless of improvement.

**6. Attendance – 6 possible points**

**a. Current Status** - An elementary school shall be evaluated on its average attendance rate from the two most recent school years. To determine current status, a school's average attendance rates from the 2009-2010 school year and from the 2010-2011 school year will be averaged. If two years of data are not available, one year of data will be used. A school shall receive points towards its overall performance score as follows:

95% or more attendance rate = 3 points  
93%-94.9% attendance rate = 2 points  
90%-92.9% attendance rate = 1 point  
Under 90% attendance rate = 0 points

**b. Trend** - An elementary school shall be evaluated on improvement of its average attendance rate. Improvement trend is determined by comparing the 2010-2011 attendance rate with the average rate of the three previous years. If the school does not have three previous years of data, the previous two years will be used. A school shall receive points as follows:

- For schools with a 2010-2011 attendance rate of 0%-94.9%, points are earned as follows:

No Improvement = 0 points  
Improvement of at least 0.1 but under 0.5 percentage points = 1 point  
Improvement of at least 0.5 but under 1.0 percentage points = 2 points  
Improvement of at least 1.0 percentage points = 3 points

- Schools with a 2010-2011 attendance rate of 95% or greater earn 3 points regardless of improvement.

### ***7. Value-Added – ISAT Reading – 3 possible points***

**Current Status** – An elementary school shall be evaluated on its Value-Added scale score gain for ISAT reading and shall receive points towards its overall performance score as follows:

At least one standard deviation above the district average in 2011 = 3 points

Greater than or equal to the district average, but less than one standard deviation above the district average in 2011 = 2 points

Below the district average, but by no more than one standard deviation in 2011 = 1 point

More than one standard deviation below the district average in 2011 = 0 points

### ***8. Value-Added - ISAT Mathematics – 3 possible points***

**Current Status** – An elementary school shall be evaluated on its Value-Added scale score gain for ISAT mathematics and shall receive points towards its overall performance score as follows:

At least one standard deviation above the district average in 2011 = 3 points

Greater than or equal to the district average, but less than one standard deviation above the district average in 2011 = 2 points

Below the district average, but by no more than one standard deviation in 2011 = 1 point

More than one standard deviation below the district average in 2011 = 0 points

\* \* \* \*

## **VI. SCHOOLS IDENTIFIED AS NEEDING REMEDIAL ASSISTANCE**

On a date to be determined by the CEO or his designee, after school performance data is available, schools will be notified as to their accountability designation hereunder.

### **A. Schools Placed on Remediation**

Any school that receives a Remediation status as described in Section IV.B. hereunder shall participate in a remedial program in which a Remediation Plan is developed by the CEO. A Remediation Plan may include one or more of the following components:

1. Drafting a new school improvement plan;
2. Additional training for the local school council;
3. Directing the implementation of the school improvement plan; and
4. Mediating disputes or other obstacles to reform or improvement at the school.

In creating a Remediation Plan, the CEO or designee shall monitor and give assistance to these schools to ensure that all aspects of the plan, including the school budget, address the educational deficiencies at these schools and ensure the development and full implementation of a school's NCLB Corrective Action measures and/or Restructuring plan.

For all schools placed on Remediation, the CEO or designee shall approve the final Remediation Plan, including the school budget.

### **B. Schools Placed on Probation**

1. School Improvement Plan and Budget: Each school placed on Probation shall have a school improvement plan and a school budget for correcting deficiencies identified by the Board. The CEO or designee shall develop a school improvement plan that shall contain specific steps that the local

school council and the school staff must take to correct identified deficiencies. The school budget shall include specific expenditures directly calculated to correct educational and operational deficiencies identified at the school.

In creating or updating the required plan, the CEO or designee shall give assistance to Probation schools to ensure that all aspects of the plan, including the school budget, reflect and are tailored to the individual needs of the school and that the plan addresses the educational deficiencies at these schools. For schools with a federal school improvement status for failure to make adequate yearly progress (AYP), the school improvement plan shall also include strategies and activities to achieve AYP and ensure the development and full implementation of the school's NCLB Corrective Action measures and/or Restructuring plan, as applicable.

The Board shall approve school improvement plans and budget for all schools, including schools placed on Probation, as part of the annual school fiscal year budget resolution. Any updates to such school improvement plan or school budget to address new data on the deficiencies at Probation schools and schools with a federal school improvement status shall be approved by the Board in accordance with the state's timeline for Board approval of federal school improvement plans. Thereafter, any amendments to the school improvement plan or budget shall be approved by the CEO or designee.

Except when otherwise specified by the CEO, the Chief Area Officer (CAO) and CAO designees shall serve as the probation team that will identify the educational and operational deficiencies at Probation schools in their Area to be addressed in the school improvement plan and budget presented to the Board for approval.

2. Monitoring: The CEO or designee shall monitor each Probation school's implementation of the final plan and the progress the school makes toward implementation of the plan and the correction of its educational deficiencies.

3. Additional Corrective Measures: **Schools placed on Probation that, after at least one year, fail to make adequate progress in correcting deficiencies are subject to the following actions by the approval of the Board, after an opportunity for a hearing:**

- a. Ordering new local school council elections;
- b. Removing and replacing the principal;
- c. Replacement of faculty members, subject to the provisions of Section 24A-5 of the Illinois School Code;
- d. Reconstitution of the attendance center and replacement and reassignment by the CEO of all employees of the attendance center;**

- e. Intervention under Section 34-8.4 of the Illinois School Code;
- f. Operating an attendance center as a contract turnaround school;
- g. Closing of the school; or
- h. Any other action authorized under Section 34-8.3 of the Illinois School Code

The Law Department shall develop and disseminate hearing procedures for hearings required before taking any of the corrective actions specified above. (*Emphasis added*).

\* \* \* \*

Finally, the role of the hearing officer, and manner in which he or she is to receive comments, are set forth in the “**PROCEDURES FOR PUBLIC HEARINGS ON PROPOSED SCHOOL CLOSURES, CONSOLIDATION, CO-LOCATION, PHASE OUT, RECONSTITUTION, OR REASSIGNMENT BOUNDARY CHANGE.**” Those Procedures state:

1. Upon considering to recommend to the Chicago Board of Education (“Board”) that a school be closed, consolidated with another school, co-located, phased-out, reconstituted or subject to reassignment boundary change, an independent hearing officer shall be appointed consistent with 105 ILCS 5/34-230(f) to conduct a public hearing.
  - a. The hearing will commence and conclude at the time designated in the notice of hearing;
  - b. The hearing will be transcribed;
  - c. The hearing officer will be solely responsible for conducting the hearing and will conduct the hearing in an efficient and impartial manner.
2. Chief Executive Officer’s Presentation
  - a. An attorney will present the Chief Executive Officer’s proposal by marking an opening statement and submitting evidence in support of the proposal to be considered by the hearing officer.
  - b. The attorney may also introduce witnesses, who will present statements regarding the proposal. The hearing officer may ask the witnesses questions to clarify any statements they made.
3. Public Participation

- a. The hearing officer will receive relevant statements, comments, documents or written proposals from members of the public.
  - b. All those wishing to comment on the matter being considered will be required to sign up to do so as provided in the notice of hearing.
    - i. Registration must be made in person by the individual who will be commenting on the proposal; and
    - ii. An individual may not complete a speaker registration on behalf of another person.
  - c. The hearing officer will determine the order of speakers.
  - d. When called by the hearing officer to speak, the speaker shall proceed promptly to the microphone area where s/he will have two minutes to present his/her remarks and materials to the hearing officer.
  - e. The total number of persons speaking at the hearing will be subject to the sole discretion of the hearing officer.
  - f. The hearing officer may impose any other reasonable procedures or limitations necessary to ensure that the proceedings are orderly and efficient.
  - g. Courteous, respectful and civil behavior is expected from all speakers and all persons attending a hearing, and individuals who are disruptive may be removed from the hearing.
4. Hearing Officer's Written Report
- a. Following the hearing, the hearing officer will prepare and submit to the Chief Executive Officer a written report summarizing the public comments and the documents received at the hearing.
  - b. The hearing officer's report will also determine whether the Chief Executive Officer complied with the requirements of 105 ILCS 5/34-230 and the Chief Executive Officer's Guidelines for School Actions.

**SUMMARY OF THE EVIDENCE**

**Testimony Received at the Public Hearing**

<b><u>Name</u></b>	<b><u>Affiliation</u></b>
<b>Adam Anderson</b>	<b>Officer of Portfolio Planning and Strategy, CPS</b>

Mr. Anderson testified as follows: "I am the Officer of Portfolio Planning and Strategy for Chicago Public Schools. My primary responsibility is to develop and execute the strategic plan to meet our goal of ensuring all students, in every community, have access to high quality schools. I have been designated by the Chief Executive Officer, or CEO, to discuss his proposal to reconstitute Theodore Herzl Elementary School, hereafter

referred to as Herzl. Reconstitution is commonly referred to as a turnaround. In a turnaround, students are not displaced, they remain enrolled at the same school and the Board of Education authorizes a removal and replacement of the staff at the school.

Herzl is eligible for reconstitution under the Illinois School Code, 105 ILCS 5/34-8.3, because it has been on probation for at least one year and has failed to make adequate progress to correct its academic deficiencies. In fact, Herzl has been on probation for five consecutive years. You will hear testimony this evening from Gerald Beimler, a data strategist for the Austin-North Lawndale Elementary School Network, detailing the academic performance of Herzl. You will also hear a statement from Annette Gurley, Chief of Schools for the Network, who will provide you with more information regarding the basis for the CEO's proposal and the previous supports that the District provided to Herzl in an attempt to accelerate student achievement at the school.

If this proposal is approved, the CEO is also recommending that the Academy for Urban School Leadership, or AUSL, take over operation of Herzl. You will hear testimony tonight from Angel Turner, the principal of Morton Elementary an AUSL school, who will describe the proven success of AUSL turnaround schools.

We understand that staff and families are concerned any time this kind of change is proposed. We take these decisions very seriously. When we ask the important questions around equity for all students district-wide, and around our ability to provide a better education for our students immediately, we strongly believe this reconstitution is in the best interest of our students.”

**Gerald Beimler      Network Data Strategist, Austin-North Lawndale Network**

Mr. Beimler testified: “I am currently employed by the Chicago Public Schools as the Network Data Strategist for the Austin-North Lawndale Network, which includes Herzl Elementary School.

In this capacity I conduct analysis of the data for the thirty Austin-North Lawndale Network schools, advise the Austin-North Lawndale Network Chief of Schools, and assist in the design and implementation of the network support strategies for building the capacity of principals and improving student achievement in the Austin-North Lawndale Network schools. I have been in this position since August 2011. Prior to my service as the network data strategist, I served for two years as the Area Data Analyst for the Area 3 Instructional Office. I have over 35 years of experience in education, including thirteen years teaching in public and private schools, thirteen years as an education specialist for IBM/EduQuest and Terasys Technology, Education, and Curriculum Services, and the past 10 years with the Chicago Public Schools. I have a Masters Degree in Teaching with specializations in mathematics and gifted education.

I am appearing before you today to present specific data highlighting the low academic performance of Theodore Herzl Elementary School. This data will be displayed on the PowerPoint presentation currently being shown.

The Board of Education has adopted policies setting forth the criteria for determining when a school is subject to being placed on probation and when it can be removed from that status. Specifically, the Performance Policy is the District's school accountability policy. Under this policy, each school receives an annual rating based on its performance on a variety of student outcome measures, including standardized test scores and student attendance. This rating is based on a point system. Points are received for the school's current level of performance and improvement over time on standardized tests and attendance, as well as the growth of individual students from year-to-year on the state test. There are 14 separate metrics on which schools are evaluated, each worth up to three points, for a total of 42 available points. Elementary schools that receive less than 50% of the total available points earn a rating of Level 3 and are placed on probation.

CPS began using this structure for the Performance Policy four years ago. As you can see, in all four years, Herzl has been a Level 3 school. In the 2007-2008 school year, Herzl received 42.9% of available points. In the 2008-2009 school year, it received 26.2% of available points. In the 2009-2010 school year it received 4.8% of available points. In the 2010-2011 school year, it received 14.3% of available points. Prior to four years ago, CPS still had a policy determining a school's accountability status. Herzl has been on probation for the past five consecutive school years. The notices of Herzl's Performance Policy status for the last four school years, which were sent to the Herzl principal, are included in the binder of documents that you have received.

The next slide shows the results of the Illinois Standards Achievement Test, or ISAT, for the 2010-2011 school year for Herzl, the geographic network in which Herzl is located, and the District. Herzl is located in the Austin-North Lawndale Elementary Network. The term "geographic network" refers to the schools that are currently in the Austin-North Lawndale Elementary Network, as well as elementary schools located within the community, but managed independently, such as charter schools. The reason for using geographic network in this calculation was to show how Herzl is performing compared to all other schools within its community.

As you can see, Herzl's 2010-2011 ISAT Composite meets or exceeds score, which is the combined result of the ISAT reading, mathematics, and science assessments, was 49.7%, compared to a geographic network average of 65.1% and a District average of 75.6%. In reading, the percent of Herzl students meeting or exceeding state standards was 48.3%, compared to a geographic network average of 63.5% and a District average of 72.7%. In mathematics, Herzl's performance was 53.4%, compared to a geographic network average of 68.8% and a District average of 79.4%. In science, Herzl's performance was 40.6%, compared to a geographic network average of 58.5% and a District average of 72.4%.

The next few slides show Herzl's performance over time on the metrics used in the Performance Policy. These slides demonstrate that the performance gap between Herzl and other schools in the geographic network and across the District has been persistent over time, and in recent years has been widening. Herzl's score was 2.2 percentage points

above the geographic network average in 2005-2006 and 15.4 percentage points below the geographic network average in 2010-2011. Herzl's score was 15.2 percentage points below the District average in 2005-2006 and 25.9 percentage points below the District average in 2010-2011.

In addition to measuring the percentage of student meeting state standards, CPS also measures the percentage of students exceeding state standards. In 2010-2011, Herzl's ISAT Composite Exceeds score was 3.7%, compared to a geographic network average of 9%, and a District average of 18.1%. Herzl's Composite Exceeds score was 1.7 percentage points above the geographic network average in 2005-2006 and 5.3 percentage points below the geographic network average in 2010-2011. Herzl's score was 6.1 percentage points below the District average in 2005-2006 and 14.4 percentage points below the District average in 2010-2011.

The performance gap between Herzl and the District is consistent across subjects. Herzl's ISAT Reading Meets or Exceeds score was 3.1 percentage points above the geographic network average in 2005-2006 and 15.2 percentage points below the geographic network average in 2010-2011. Herzl's Reading score was 10.4 percentage points below the District average in 2005-2006 and 24.4 percentage points below the District average in 2010-2011.

Herzl's ISAT Mathematics Meets or Exceeds score was 0.3 percentage points below the geographic network average in 2005-2006 and was 15.4 percentage points below the geographic network average in 2010-2011. Herzl's Reading score was 15.7 percentage points below the District average in 2005-2006 and 26 percentage points below the District average in 2010-2011.

Herzl's ISAT Science Meets or Exceeds score was 7.5 percentage points above the geographic network average in 2005-2006, and 17.9 percentage points below the geographic network average in 2010-2011. Herzl's Science score was 20 percentage points below the District average score in 2005-2006 and 31.8 percentage points below the District in 2010-2011.

The Value-Added metric, which is a component of the Performance Policy, compares student academic growth on the ISAT at a school with the growth of similar students across the District. This is done through a regression methodology that controls for nine student-level factors, including grade level, prior performance on the ISAT, free or reduced lunch eligibility, race or ethnicity, mobility, participation in the Students in Temporary Living Situations program, Individualized Education Program (or IEP status), English Language Learner status, and gender. Controlling for these factors allows us to see how much impact the school had on its average student over the past year. Because we control for prior performance, this metric allows us to identify schools with low test scores where growth is rapid, and schools with high test scores where growth is slow.

The Value-Added metric is a standardized measure with a mean of zero. Standardization means that the score is reported in standard deviation units, which is a measure of how

far away the school's score is from the District average. A positive number means that students at the school are growing at a faster pace than similar students in the District. For example, a positive 1 indicates that the school is one standard deviation above the mean, meaning that the school's students are growing at a faster pace than approximately 84% of schools in the District. A score near zero means that students at the school are growing at about the same pace as similar students in the District. And a negative score means that students at the school are growing at a slower pace than similar students in the District.

As you can see, Herzl's reading value-added score was -2.3 in 2010 and 0.0 in 2011. Its mathematics value-added score was -2.1 in 2010 and 0.1 in 2011. This means that, on average, students at Herzl grew at a below-average pace in reading and mathematics in 2010 and at the same pace as similar students in the district in 2011."

**Annette Gurley**

**Chief of Schools Austin-North Lawndale Network**

Ms. Gurley testified as follows: "I am employed by the Board of Education of the City of Chicago as a Chief of Schools for the Austin-North Lawndale Network, which includes Theodore Herzl Elementary School, otherwise known as Herzl. Chicago Public Schools are divided up into Networks, previously known as Areas. Network offices are run by a Chief, previously known as the Chief Area Officer, and provide support and oversight for the schools assigned to them on behalf of the CEO. Since August 2011, I have been responsible for the support and oversight of Herzl on behalf of the CEO.

Before beginning, I would like to clarify that throughout my testimony, when I refer to the 'Network,' I will be collectively referring to staff members from both the former Area and current Network.

By way of background, I have over 26 years of experience as a teacher and administrator in the Chicago Public Schools. I have two Masters Degrees; one in Administration and Supervision and the other in Reading. I taught at Michele Clark School and later became its principal for 6 years. As principal of Michele Clark, I led the school's transformation from a middle school to a magnet high school. Michele Clark was the first CPS school to offer both the International Baccalaureate Middle Years Programme and Diploma Programme. I then served as an Area Instructional Officer for Area 3 for two years and the Chief Area Officer for Area 3 for two years.

The CEO has asked me to appear at this hearing today to convey to you, and to the parents, staff members and local school council members of Herzl, as well as interested members of the public in attendance, information relevant to the proposal to reconstitute Herzl School.

Herzl is located at 3711 W. Douglas and currently serves 512 students in grades pre-kindergarten through eighth. As noted by my colleague Gerald Beimler, Herzl has been on probation for five consecutive school years for failing to meet the Chicago Public

Schools' required standards for minimum student performance. He also testified that Herzl students are not growing at a rate consistent with the other comparable schools in the district. Slide two of his PowerPoint presentation located in the binder at Tab C 11(a) shows that in the last two consecutive school years, Herzl received 4.8% and 14.3% of the policy points under the Board's Performance, Remediation and Probation Policy placing the school in Level 3. As noted in Tab C 11(b) of the binder, since 2008, the school has received annual notice of its Level 3 status, making the school eligible for further actions under Section 34-8.3 (d) of the Illinois School Code. Thus, the CEO has concluded that Herzl has made insufficient progress in improving student academic achievement.

Since August 2011, I have visited the school, gathered information from the Network and other District staff on Herzl and reviewed the School Improvement Plans, located at Tab C 12. Based on this, I am aware of how the District has supported Herzl in an attempt to correct its academic deficiencies during the last several years with programmatic, professional development and mentoring supports.

As shown in Tab C 12(c) of the binder, since 2006 the district supported the school with:

First, a partnership with Columbia University for an after school writing program for students;

Second, the 21<sup>st</sup> Century Community grant implementation of after-school supports for students;

Third, the implementation of Network support for literacy including required use of restructured days for mandated area professional development activities,

Fourth, upgraded school libraries; and

Fifth, the implementation of the Chicago Math and Science Initiative's intensive support.

In addition to these supports, the Network has provided Herzl with other resources and supports to remediate the school's performance deficiencies. These supports have included, but are not limited to, the following:

- The district has provided oversight of Herzl's discretionary budget, since the school has been on probation, to ensure funds are allocated in line with the goals for improved student outcomes. This is done through the School Improvement Plan for Advancing Academic Achievement otherwise known as SIPAAA. Copies of the SIPAAA for the last two school years are located in your binder at Tab C12 (a) and (b). The SIPAAA is created with input from data and several stakeholders to identify the key areas where the school needs improvement, plan interventions to support the school, and allocate funds accordingly. The Chief not

only provides input in the creation of the SIPAAA, but also approves the SIPAAA upon completion. The Board of Education also approves the SIPAAA. Copies of the Board Reports adopting the last two years of SIPAAAs for Herzl is located in your evidence binder are at Tab C12 (a) and (b).

- The Network provided professional development for two years on the essentials of effective instruction which included: classroom arrangement, managing student behavior, and specialized teaching strategies geared towards teaching new concepts.
- The Network provided intensive on-site coaching for Instructional Leadership Team, teacher teams, and individual teachers, as needed.
- The Network supported the burst reading intervention program which is an early intervention tool for primary literacy.
- The Network supported Achieve 3000 for literacy, a program providing web-based, individualized learning solutions to accelerate reading comprehension, vocabulary, writing proficiency and performance.
- The Network supported the Positive Behavior Intervention Systems, a behavioral management training aimed at creating a positive learning climate.
- From FY 2008 to FY 2012, Herzl received up to \$100,000 per year in grant funding for community school programs. As a community school, Herzl provided its students with after school academic enrichment programs that included reading and math tutorials aligned with grade level curriculum instruction. Students were granted opportunities to explore reading and math in greater depth both collaboratively as a class and as independent learners.

Despite these supports, student academic growth at the school has not kept pace with District averages. As Gerald Beimler testified and as shown in slides 6 and 7 of the PowerPoint, the reading and math scores have been consistently lower than the district average each year. In 2009-2010 Herzl's reading and math scores dipping to its lowest level with 40.3% and 42.6% meeting or exceeding state standards.

As shown in slide 4 of the PowerPoint presentation, since 2006, the percentage of Herzl students who have met or exceeded ISAT standards each year is below the district's average. Herzl improved its test scores in the 2010-2011 school year compared to the previous 2009-2010 test scores. However, the 2010-2011 scores are still well below district average and from the Herzl scores from three years ago.

Based on my observations and in my opinion as an educator, there is an urgent need for the performance of Herzl School to improve and to improve quickly for individual students and for the community. Accordingly, the CEO is recommending that Herzl be turned around through reconstitution.

In a reconstitution, students will not be displaced from the school. Instead, a new team of administrators, faculty and support personnel will be staffed at the school. They will undergo extensive professional development and planning before the start of the 2012-

2013 school year to develop a comprehensive plan. This comprehensive approach, if rigorously implemented, will result in accelerated student achievement at Herzl.

If the Board approves the proposed turnaround of Herzl, the CEO will recommend that the Academy for Urban School Leadership, AUSL, manage the school, and hire and train the new administration and staff. My colleague, Angel Turner, will testify next and provide you with more information about AUSL's strategies and successes.

In conclusion, there is an urgent need to accelerate student achievement at Herzl. The community and the students deserve better. Prior supports and interventions at Herzl have not produced satisfactory results. The CEO believes that a turn-around by reconstitution will accelerate student achievement and we owe it to the Herzl students to implement this strategy.”

**Angel Turner**

**Principal Morton Elementary School**

Ms. Turner's testimony was primarily for the edification of the Herzl school community, and did not bear on whether 5/34-8.3(d)(4), and the Board's Policies and Procedures applicable to the proposed school action, have been complied with. She testified as follows: “I am employed by the Board of Education of the City of Chicago as the principal of Morton Elementary School, otherwise known as Morton, one of the schools managed by the Academy of Urban School Leadership, also known as AUSL.

The Chief Executive Officer has asked me to appear at this hearing today to convey to you, and the Herzl school community, as well as interested members of the public in attendance, information on AUSL.

By way of background, I am currently the principal of Morton, a turnaround school in its fourth year. I have been a principal of Morton since the turnaround in 2008. As principal, I have seen the Morton students accomplish 33.6 point growth on ISAT resulting in a composite of 74.0 % of students meeting or exceeding state standards. Prior to my principalship at Morton, I served as an assistant principal of Collins H.S. I also was the assistant principal at the Chicago International Charter School – Basil Campus. I taught at two different CPS elementary schools. I have a Bachelor of Science degree in Elementary Education and a Masters in Education Administration.

AUSL is a non-profit agency that partners with CPS to manage schools. AUSL is a proven turnaround provider that has a great deal of experience improving student achievement at chronically underperforming Chicago Public Schools, both on the elementary level and, more recently, at the high school level. AUSL manages 19 schools, seven of which are “dual mission” CPS training academies for teachers to work in turnaround settings. The remaining 12 schools are turnarounds; 10 elementary schools and 2 high schools.

While the turnaround process is a multi-year journey, experience has shown CPS that AUSL turnaround strategies create better schools with accelerated student academic growth and other indicators of student achievement. AUSL has transformed schools with unsafe environments and persistently low student achievement into schools with school climates that are inviting and conducive to increasing student achievement and accelerated student academic growth.

The PowerPoint presentation currently being shown illustrates AUSL's multi-year journey in implementing turnaround strategies. As seen in the first slide which provides the percentages of students meeting or exceeding state standards before AUSL to the 2010-2011 year, AUSL turnarounds have produced the following:

- At Morton School, only 41 percent of students were meeting or exceeding state standards on the ISAT prior to the turnaround. At year three of the turnaround, 74.0 percent of the students are meeting or exceeding state standards.
- At Howe School of Excellence, only 42.8 percent of students were meeting or exceeding state standards on the ISAT before the turnaround. In year 3, 72.0 percent of students are meeting or exceeding state standards.
- At Harvard School of Excellence, only 31.8 percent of students were meeting or exceeding state standards on the ISAT before the turnaround. Today, in year 4, 65.5 percent of students are meeting or exceeding state standards.

The second slide compares the schools' performance growth from the 2009-2010 school year to the 2010-2011 school year. As you can see, every school demonstrated increased student achievement, and Bradwell, Curtis, and Deneen saw increased scores even in their first year. This slide also shows that AUSL schools make even further gains by year three, and one school is continuing to demonstrate growth five years after being turned around.

AUSL has developed a data driven framework that is the basis for its plan to improve academic performance outcomes at Herzl including:

1. First, the development of rigorous, transparent goals for schools, teams, and individuals, including a high expectations and no excuses climate and culture;
2. Second, the use of performance management systems with cycles of inquiry and data driven intervention;
3. Third, the inclusion of high-quality instruction through implementation of Common Core State Standards to ensure a rigorous instructional program that gives students knowledge and skills needed to be college and career ready;

4. Fourth, efforts to recruit, retain, and motivate high-quality staff to meet the needs of the school community, including educators with the appropriate bilingual language skills;
5. Fifth, intervention and tutoring services for students who need extra support in reading and math;
6. Sixth, advanced data systems and aligned assessments that allow staff to identify students who need additional assistance early and give them the help they need to stay on track;
7. Seventh, after school programs to give students access to additional instruction time to further accelerate student achievement;
8. Eighth, professional development and coaching that give teachers strategies and tools needed to address diverse needs of students in challenged urban environments; and
9. Finally, extensive curricular enhancements, including fine and performing arts and athletics, to round out the curriculum and extend the students' time at school learning.

AUSL's full school turnaround plan also includes improvements emphasizing students' social-emotional behavior, with:

- Effective recruitment, attendance and discipline policies;
- Safe and orderly school and classroom environments;
- Focus on skills related to self-management, responsible decision making, empathy toward others, establishing positive interpersonal relationships, and determining positive goals; and
- Partnerships with outside agencies that provide additional supports to students and their families.

As you can see, AUSL's full school turnaround plan is designed to be a comprehensive approach to teaching and learning. If the Board approves this proposal, AUSL would welcome the opportunity to serve the Herzl school community.”

**Elizabeth Gutierrez**

**Community Member**

She testified in support of the proposal to turnaround Herzl. She stated that the children should be given an opportunity to receive a quality education.

**Annie Harris**

**Action Now**

Ms. Harris testified that she is against the Turnaround, and that CPS has displayed a pattern of ignoring neighborhood schools by not providing resources to those schools. She also stated that “evidence gathered by the Chicago Consortium on School Research shows that school turnaround and closing fails to improve student achievement and that's the reason achievement gap has only gotten larger.

**Bernita Bogan**

**Community Resident**

She stated that Herzl is a school of honor, and that they are working diligently to improve the school. She implored CPS to provide the school with much needed additional resources, and suggested that the school should be visited by the administration.

**Natasha Edmonson**

**PAC Chairperson**

Ms Edmonson testified in relevant part as follows: “We've already had a turnaround. They brought a new principal in around a year and a half ago. Now, we understand that our scores are low, but they are going up. But how can you -- how fast can you expect them to go up when our kids don't have any supplies? The books that they do have are outdated. Nobody comes into the school to see what's going on. Nobody assists. They don't have any outlets. Gym once a week. They barely get to go to the library. You talk about all these funds that are coming in, but we don't see them. They're pulling the parents out. Once AUSL comes in we have no say. We don't get to take part in our kids' education, it's what they say and that's what goes, that's not fair.

We don't want AUSL. What we want is for the Board to step up and do what they were supposed to do five years ago when they saw that our scores were low.

**Windy Pearson**

**Herzl Volunteer**

She testified in part as follows: “If CPS wants quality, they must first give us quality from the top starting in Springfield, then at the Board level in Chicago. Understand that there are some among us that know that the Board has not met their obligations to educate our children. When they have not fulfilled their own state regulations by bringing in people that have sat in key positions as presidents and vice presidents of AUSL to run the State Board of Education as well as the finances of Chicago Public Schools tells us that this isn't about education, it's about money. When our children at Herzl don't have books and lockers to store their coats and have to worry about the small things as well as if the people they have grown to trust are going to be replaced, let alone if their parents will have a voice, a voice that has been denied by you.”

**Kim Hemphill**

**LSC Chairperson**

Ms. Hemphill's testimony was as follows: "I am a parent of four Herzl students and also the LSC Chairperson. I stand before you today urging you not to make the decision to turn Herzl into an AUSL turnaround school. As a parent I am tired of change after change with no proof that the previous change did or didn't work. Many changes like removing the contract principal came without adequate notice. Parents, myself included, felt like no one was taking our – us or our children into consideration. This is why I joined the LSC and PAC.

Dedicated parents and staff have made a push to get our school off of probation. As a result our ISAT scores has risen 10 percentage points in one year. Herzl has learned to make use of the limited resources that we have been given to teach and grow through adversity. The Herzl community is committed to keep Herzl moving forward.

While we know we're on probation, we never received one letter from CPS indicating our deficiencies nor the steps we as an LSC or PAC needed to take to get off of probation. There was never a probation that complies with Section 38-8.3 Section C, therefore, it is unlawful to put Herzl on turnaround status under Section 34-8.3 Section D. And for the record that Illinois state law 105 ILCS 5/34-38B Section C states that each school on probation shall have a school improvement plan and budget for correcting deficiencies identified by the Board. The plan shall include specific steps that the Local School Council and staff must take to correct, identify deficiencies and specific objective criteria by which the school's subsequent progress will be determined.

The school budget shall include specific expenditures directly calculated to correct educational and operational deficiencies identified at the school by the probation team. Where were the experts on school improvement? We haven't seen any at our LSC or PAC meetings. Instead there has been media coverage stating that the parents and community members who oppose actions are fighting against a better education for children. There is not one parent, staff member or community resident here who do not want to see our children succeed.

Finally, I feel like this is a done deal. This hearing will have no effect on whether we become an AUSL turnaround.<sup>1</sup> ...

---

<sup>1</sup> Ms. Hemphill testified that this was "a done deal." Tr. 54. This Hearing Officer abruptly rejected that claim. Tr. 54-55. There was no evidence adduced or proffered to support this unsubstantiated allegation. The Hearing Officer takes his role and responsibilities in these cases quite seriously, and does not serve in these hearings as a rubber stamp on the process. I carefully considered all of the evidence and comments submitted prior to making the recommendation to adopt the CEO's Proposal contained herein. There was no "deal" that was "done" that involved this Hearing Officer, and no "evidence" of any "done deal" between the Board, the ultimate decision-maker in this case, and any third party. It is not the role of Hearing Officers to substitute their judgment for that of the CEO, no matter how tempted they may be to do so. The Hearing Officer's role is to summarize the evidence for the Board and, more importantly, to ensure that all applicable laws, Policies and Procedures have been complied with. If the CEO's Proposal complies with the applicable laws and policies with regard to reconstituting a school, which is the only issue before me, then the Hearing Officer has no legal authority to reject the proposed school action. A Hearing Officer must have more than conjecture, allegations, speculations or surmise before rejecting the CEO's Proposal. Finally, there certainly have been occasions where a CPS proposed school action complied with the Illinois School Code, but was troubling to this Hearing Officer. Without substituting my judgment for that of the CEO and usurping the legal authority granted by the Illinois General Assembly to the CEO and Board, not to the Hearing Officer, I

[After] years of petitioning our bathrooms to be repaired, such as, leaking toilets, rusted seats and broken toilet seats, now they're being repaired. Second, we have been locked out of utilizing the third floor for almost two years now. Repairs to the roof are being done now. Leaking and collapsed ceilings and falling plaster are being repaired now. Finally, an elevator is being installed even though there are no students at Herzl in wheelchairs.

CPS does not deserve to make this decision. Where is the transparency? You were supposed to have an education plan, no one from Clark Street has ever come to Herzl to see the challenges our students and staff and parents have to struggle against. Herzl does not need an AUSL, we need computers, books, more funding and a chance to raise our ISAT scores 10 percent again this year. ...

There was also given to us at a meeting by the former CAO on June 3rd, 2010 ... [w]here there were some concerns of whether Herzl would be a turnaround. So someone asked her to put it in writing that it would not. She actually did and I have a copy of that letter here.<sup>2</sup> And this kind of took us by surprise even though our staff has worked through having a contracted principal removed, one administration moved out. ...”

**Joel Handley**                      **Reporter**

He was appalled at how the hearings have proceeded because of the protesters paid to support the closings and turnarounds, and how the CEO's representatives are allowed to “bleed out” the limited time for witness testimony.

**Jannine Ochoa**                      **Parent**

Ms. Ochoa supports the Turnaround proposal for Herzl. She believes the children should be afforded the opportunity to receive a better education.

**Adourthus McDowell**                      **Smith School LSC**

Mr. McDowell stated that the failure of CPS to assist the school in correcting identified deficiencies is a violation of Illinois law. He also stated that: “there are problems with the rubrics that determine why and how schools go on probation, the matrix, the political formula, the CEO's political agenda and also the atrocities that our children suffer. We must put an end to this madness now.”

**Debra Floyd**                      **Grandparent**

Ms. Floyd is against the proposed school action. She feels that taking the teachers away from the students is tantamount to taking a parent away from them.

---

have made the CEO and Board aware of my concerns in my Report & Recommendation. Such is not the case here. For the reasons stated below I believe this school should be turned-around as proposed.

<sup>2</sup> See the reference to a letter from Jennifer Cheatham, the former CPS Area 9 CAO, dated June 3, 2010, *infra* at page 32.

**LaJuan Criswell**

**Parent**

Ms. Criswell is comfortable with the existing staff at Herzl and does not want the turnaround. She has a child with a medical condition and is concerned about a new nurse, physical and occupational therapists being unfamiliar with the child's needs. She feels that parents should control their children's education, and states the parents are against the proposal.

**Leah Lossin**

**Teacher**

Ms. Lossin indicated that Herzl has programs for parents that better the community. She described charismatic school community that is making positive progress. She sites examples such as Herzl's k-readiness test over the past two years at 75%. The parents and teachers have a good working relationship, and she opposes the turnaround.

**Barbara Schwartz**

**Teacher**

She believes that Herzl is a warm school community with close relationships and dedicated teachers. She said they have the best Added-Value scores in the City of Chicago, and that the proposed Turnaround will destroy stable relationships. She stated: "CPS, we ask you to continue to employ and support our highly qualified, dedicated and hard working staff. CPS, we ask you to give us a building that meets rigorous health and safety standards. Please give us the necessary material resources the school so desperately needs and deserves to make greater strides in providing a quality education for our children."

**Sonya Moore**

**Parent**

Ms. Moore feels that the Turnaround is not what is needed; money and resources for the school are what is needed in her view. She urges CPS to pay the experienced teachers at Herzl.

**Student A**

**8<sup>th</sup> Grade**

She believes that it is unfair to change the staff, and denies graduates the ability to stay connected with their teachers.

**Student B**

**6<sup>th</sup> Grade**

Student B urged CPS not to fire the staff that has been there for many years.

**Marquette Criswell**

**Teacher/Grandparent**

Ms Criswell stated: “The statistics don't tell our story, but in looking at the statistics shown I saw that Herzl's achievement was very close and often better than the other schools in the geographical area. In fact, Herzl was on par with the neighboring schools until the huge dip in 2008 and 2009 when our principal of over 25 years retired and was replaced by a new administrator under whom we saw a dip two years in a row. Last year we got a new principal and our scores started to go back up. I feel that we can continue to make improvements if given the same supports it will receive as an AUSL school.”

**Brandon Johnson**

**CTU**

Mr. Johnson stated in relevant part: “You've heard from parents, you've heard from teachers who have a vested interest in this process, wouldn't it be nice if we could have a favorable ruling where the community is allowed to help develop its own education? Not in the -- not with this mere draconian process where we tell people what to do, but we empower them and able them to do what's right for their children.

And so our recommendation is that Herzl should be given the opportunity to maintain its growth, that the leadership that has been put in place from the network chief to the principal to give them the full opportunity to help develop our children.”

**Nikita Adams**

**Dr. Strawberries Girls**

Herzl has a program that sent her cousin to the Whitehouse. Her organization does violence prevention work in the Austin community and she offered to work with Herzl. She believes that if the teachers are removed it will serve to hurt the students.

**Dwayne Truss**

**PACE**

Mr. Truss opposes the Turnaround and offered the following observation: “[W]hen you're looking at this decision, there's a moral piece within this decision-making process. We all have to ask ourselves and some people brought it up about the fact that you have two former executives with AUSL, David Vitale, who is the Board President, and Tim Cawley, who is the Chief Operating Officer, I believe, who were former executives with AUSL.” He accused CPS of utilizing the “shock doctrine” which he describes as follows: “[T]hey intentionally go and destabilize ... poor communities to a point that the people are so desperate that they say please come in and help us, please come in and save us.”

**Cata Truss**

**Austin Community Resident**

She testified that the scores went down at Herzl due to a change in the school's administration and resulting staff morale problems. She wants additional resources for the school, not a turnaround. “I have a problem with the fact that the Board of Education comes in, turns these schools around without talking to the community. ... What was

noticeably missing from those statistics was some of the charter schools and other turnaround schools ... are also at a Level 3 performance.”

**Sheresse Winford**

**Parent**

She stated: “I came here tonight basically to ask you to do the right thing, make the best possible decisions based on all the information that you heard tonight. And just what if one of your children had to go to Herzl?”

**Adrian Cole**

**Former Community Resident**

Mr. Cole opposes the Turnaround proposal for Herzl School. He testified: “As a former resident of the Lawndale area I have several friends with children in Herzl. I still have relatives that go to Herzl. And I feel that this decision to turn Herzl into a turnaround school will not help. The students have grown to get used to their administrators and administrators have grown to get used to the students. They know the students' strengths and weaknesses and what they need to do to improve and what steps they need to take to help these students. Bringing in new teachers will not rectify the problem that's going on now.”

### **Summary of Documents Received**

#### **Documents Submitted By CPS**

The CEO, through the Law Department, submitted several documents to the hearing officer that were received and made a part of the record in this case. Those documents included: 1) Copies of the Notice Letters sent to the school community including the Principal, LSC, parents, and teachers and staff advising of the Public Hearing, an affidavit regarding the same, and an e-mail reminder concerning the Hearing sent to CPS School-Based Staff; 2) The Chicago Board of Education’s School Performance, Remediation and Probation Policy for the 2011-2012 School Year (Policy Manual Section 302.6A, Board Report 10-0728-PO4); 3) The Chief Executive Officer’s Procedures for Public Hearings on Proposed School Closure, Consolidation, Phase-Out, Reconstitution, or Reassignment Boundary Change; 4) A copy of the relevant statutory provisions; 5) Performance Policy Reports for Theodore Herzl Elementary School for

2010 and 2011; 6) School Improvement Planning for Advancing Academic Achievement (“SIPAAA”) for Theodore Herzl Elementary School, 2010-2012, Year 1 and accompanying Board Report, 10-1215-ED4 entitled “Approve the 2010-2012 School Improvement Plan for Schools on Probation and for Schools with School Improvement Status;” 7) SIPAAA for Theodore Herzl Elementary School, 2010-2012, Year 2, accompanying Board Report, 11-0824-ED2 entitled “Approve Updates to the 2010-2012 School Improvement Plan and Related Budgets for Schools on Probation and for Schools with School Improvement Status;” 8) Chicago Public Schools Restructuring Summary for Theodore Herzl Elementary School and accompanying Board Report, 06-0524-ED12 entitled Approve the Restructuring Plans of Schools Classified as in Need of Restructuring Under the Federal No Child Left Behind Act; and, 9) The CPS witnesses written testimony and related Power Point presentations.

### **Documents Submitted In Opposition To The Turnaround**

At the hearing three written submissions were made by speakers opposed to the Turnaround at Herzl: 1) A letter from Jennifer Cheatham, former CPS Area 9 CAO, dated June 3, 2010 that was offered because it states in relevant part that the “CEO is not contemplating taking any action to turn-around or close Herzl;” 2) A letter from former CEO Huberman dated June 2, 2010, regarding the removal of the Principal; and 3) A set of 10 pictures ostensibly showing the poor condition of the physical facility at Herzl School.

### **STATEMENT OF FINDINGS**

1. Proper notice of the Public Hearing was given as required by Illinois law, the Chicago Board of Education’s School Performance, Remediation and Probation

Policy for the 2011-2012 School Year, and the Chief Executive Officer's Procedures for Public Hearings on Proposed School Closure, Consolidation, Phase-Out, Reconstitution, or Reassignment Boundary Change. The purpose of the Public Hearing was to give representatives of the Chief Executive Officer ("CEO"), members of the local school council, parents, students, members of the school's staff, the principal, representatives of the Chicago Teachers' Union, and interested members of the public, an opportunity to comment on the CEO's proposal to Turnaround Herzl Elementary School via Reconstitution.

2. On Tuesday, January 31, 2012, a public hearing was held at the Board of Education, 125 South Clark, Chicago, Illinois. The public hearing required to be conducted prior to reconstituting a school has taken place in this case, and all of the other aspects of the applicable Board's Policies have been fully complied with.

3. Under the statutory scheme contained in Section 5/34-8.3 (d) of the Illinois School Code, the CEO and the Chicago Board of Education are granted the authority to take certain corrective measures with respect to schools with academic deficiencies. One of those measures is placing schools on probation, which allows the CEO and the Board to take additional corrective actions intended to correct the school's academic deficiencies. Any school placed on probation is subject to several courses of action by the CEO, with the approval of the Board, after an opportunity for hearing. Section 5/34-8.3 (d) (4) specifically includes "Reconstitution of the attendance center and replacement and reassignment by the general superintendent of all employees of the attendance center" as an action available to the CEO in said cases.

4. Herzl is located at 3711 W. Douglas, Chicago, Illinois 60651, and

currently serves 512 students in grades pre-kindergarten through eighth.

5. If approved by the Board of Education of the City of Chicago, the following would occur as a result of the reconstitution: All students currently enrolled at Herzl would continue as students at the school; All staff including the faculty would be removed and replaced; Herzl and its new administration and staff would be supported by the Academy for Urban School Leadership (AUSL).

6. The Chicago Board of Education's School Performance, Remediation and Probation Policy for the 2011-2012 School Year (Policy Manual Section 302.6A, Board Report 10-0728-PO4), is the CPS School Accountability Policy. Under this Policy, each school receives an annual rating based on its performance on a variety of student outcome measures, including standardized test scores and student attendance. This rating is based on a point system. Points are received for the school's current level of performance and improvement over time on standardized tests and attendance, as well as the growth of individual students from year-to-year on the state test. There are 14 separate metrics on which schools are evaluated, each worth up to three points, for a total of 42 available points. Elementary schools that receive less than 50% of the total available points earn a rating of Level 3 and are placed on probation. CPS began using this structure for the Performance Policy four years ago. In all four years, Herzl has been a Level 3 school. In the 2007-2008 school year, Herzl received 42.9% of available points. In the 2008-2009 school year, it received 26.2% of available points. In the 2009-2010 school year it received 4.8% of available points. In the 2010-2011 school year, it received 14.3% of available points. Prior to four years ago, CPS still had a policy determining a school's accountability status. Herzl has been on probation for the past five consecutive school

years.

7. ISAT performance is used as a part of the elementary school scoring in the CPS Performance Policy. Herzl's 2010-2011 ISAT Composite meets or exceeds score, which is the combined result of the ISAT reading, mathematics, and science assessments, was 49.7%, compared to a geographic network average of 65.1% and a District average of 75.6%. In reading, the percent of Herzl students meeting or exceeding state standards was 48.3%, compared to a geographic network average of 63.5% and a District average of 72.7%. In mathematics, Herzl's performance was 53.4%, compared to a geographic network average of 68.8% and a District average of 79.4%. In science, Herzl's performance was 40.6%, compared to a geographic network average of 58.5% and a District average of 72.4%.<sup>3</sup>

8. The performance gap between Herzl and other schools in the geographic network and across the District has been persistent over time, and in recent years has been widening. Herzl's score was 2.2 percentage points above the geographic network average in 2005-2006 and 15.4 percentage points below the geographic network average in 2010-2011. Herzl's score was 15.2 percentage points below the District average in 2005-2006 and 25.9 percentage points below the District average in 2010-2011.

9. In addition to measuring the percentage of students meeting state standards, CPS also measures the percentage of students exceeding state standards. In 2010-2011, Herzl's ISAT Composite Exceeds score was 3.7%, compared to a geographic network average of 9%, and a District average of 18.1%. Herzl's Composite Exceeds

---

<sup>3</sup> The term "geographic network" refers to the schools that are currently in the Austin-North Lawndale Elementary Network, as well as elementary schools located within the community, but managed independently, such as charter schools. The reason for using geographic network in this calculation was to show how Herzl is performing compared to all other schools within its community.

score was 1.7 percentage points above the geographic network average in 2005-2006 and 5.3 percentage points below the geographic network average in 2010-2011. Herzl's score was 6.1 percentage points below the District average in 2005-2006 and 14.4 percentage points below the District average in 2010-2011.

10. The performance gap between Herzl and the District is consistent across subjects. Herzl's ISAT Reading Meets or Exceeds score was 3.1 percentage points above the geographic network average in 2005-2006 and 15.2 percentage points below the geographic network average in 2010-2011. Herzl's Reading score was 10.4 percentage points below the District average in 2005-2006 and 24.4 percentage points below the District average in 2010-2011.

11. Herzl's ISAT Mathematics Meets or Exceeds score was 0.3 percentage points below the geographic network average in 2005-2006 and was 15.4 percentage points below the geographic network average in 2010-2011. Herzl's Reading score was 15.7 percentage points below the District average in 2005-2006 and 26 percentage points below the District average in 2010-2011.

12. Herzl's ISAT Science Meets or Exceeds score was 7.5 percentage points above the geographic network average in 2005-2006, and 17.9 percentage points below the geographic network average in 2010-2011. Herzl's Science score was 20 percentage points below the District average score in 2005-2006 and 31.8 percentage points below the District in 2010-2011.

13. The Value-Added metric, which is a component of the Performance Policy, compares student academic growth on the ISAT at a school with the growth of similar students across the District. This is done through a regression methodology that

controls for nine student-level factors, including grade level, prior performance on the ISAT, free or reduced lunch eligibility, race/ethnicity, mobility, participation in the Students in Temporary Living Situations program, Individualized Education Program (or IEP), English Language Learner status, and gender. The Value-Added metric is a standardized measure with a mean of zero. Standardization means that the score is reported in standard deviation units, which is a measure of how far away the school's score is from the District average. A positive number means that students at the school are growing at a faster pace than similar students in the District. A score near zero means that students at the school are growing at about the same pace as similar students in the District. And a negative score means that students at the school are growing at a slower pace than similar students in the District. Herzl's reading value-added score was -2.3 in 2010 and 0.0 in 2011. Its mathematics value-added score was -2.1 in 2010 and 0.1 in 2011. This means that, on average, students at Herzl grew at a below-average pace in reading and mathematics in 2010 and at the same pace as similar students in the District in 2011.

14. This low performance has taken place at despite efforts by CPS to provide the school with assistance, strategies and training. The District has supported Herzl in an attempt to correct its deficiencies during the last several years with programmatic, professional development and mentoring supports. Since 2006, the Board provided the follow:

First, a partnership with Columbia University for an after school writing program for students;

Second, the 21<sup>st</sup> Century Community grant implementation of after-school supports for students;

Third, the implementation of Network support for literacy including required use of restructured days for mandated area professional development activities;

Fourth, upgraded school libraries; and

Fifth, the implementation of the Chicago Math and Science Initiative's intensive support.ing supports:

16. More recently, the Network has provided Herzl with the following supports in an effort to improve student achievement and remediate the school's performance deficiencies:

- The District has provided oversight of its discretionary budget to ensure funds are allocated in line with the goals for improved student outcomes. This is done through the School Improvement Plan for Advancing Academic Achievement, ("SIPAAA"). The Network Chief not only provides input in the creation of the SIPAAA, but also approves the SIPAAA upon completion. The Board of Education also approves the SIPAAA.
- The Network provided professional development for two years on the essentials of effective instruction which included: classroom arrangement, managing student behavior, and specialized teaching strategies geared towards teaching new concepts.
- The Network also provided intensive on-site coaching for Instructional Leadership Team, teacher teams, and individual teachers, as needed; supported the burst reading intervention program which is an early intervention tool for primary literacy; and supported Achieve 3000 for literacy, a program providing web-based, individualized learning solutions to accelerate reading comprehension, vocabulary, writing proficiency and performance.
- The Network supported the Positive Behavior Intervention Systems, a behavioral management training aimed at creating a positive learning climate.
- From 2008 to 2012, Herzl received up to \$100,000 per year in grant funding for community school programs. As a community school, Herzl provided its students with after school academic enrichment programs that included reading and math tutorials aligned with grade level curriculum instruction. Students were granted opportunities to explore reading and math in greater depth both collaboratively as a class and as independent learners.

Despite all of these supports, student academic growth at the school has not kept pace with CPS District averages.<sup>4</sup>

17. In conclusion, it is clear from the totality of the evidence presented that Herzl students are not growing at a rate consistent with the other comparable schools in the district. In the past two consecutive school years, Herzl received 4.8% and 14.3% of the policy points under the Board's Performance, Remediation and Probation Policy placing the school in Level 3. Since 2008, the school has received annual notice of its Level 3 status, making the school eligible for further actions under Section 34-8.3 (d) of the Illinois School Code. Thus, the CEO has concluded that Herzl has made insufficient progress in improving student academic achievement, and this hearing officer concurs with that determination.

18. Illinois law, and all the Chicago Public School Policies and Procedures applicable to the CEO's proposed action in this case have been complied with in their entirety, specifically including, but not limited to 105 ILCS Section 5/34-8.3(d)(4) of the Illinois School Code, the School Performance Policy for the 2011-2012 school year, and the CEO's Procedures governing the Public Hearing.<sup>5</sup>

### **Recommendation**

The Hearing Officer hereby recommends that the Board approve the CEO's

---

<sup>4</sup> It is noteworthy that Herzl did improve its test scores in the 2010-2011 school year, as compared to the 2009-2010 test scores. However, the 2010-2011 scores are still well below CPS District average, and even from the Herzl scores from three years ago.

<sup>5</sup> The fact that there are other under-performing schools in the network that are not being reconstituted at this time may seem unfair to the school community, but nothing in the Illinois School Code requires CPS to take action on under-performing schools beginning with the lowest performing school in a Network first. Moreover, the CEO's Guidelines for School Actions are inapplicable to this case. The definitions pertaining to 105 ILCS 5/34-230, found in 105 ILCS 5/34-200, define school action as "any school closing; school consolidation; co-location; boundary change that requires the reassignment of students, unless the reassignment is to a new school with an attendance area boundary and is made to relieve overcrowding; or phase-out." The definition does not include reconstitutions under 105 ILCS Section 5/34-8.3(d)(4) of the Illinois School Code. The CEO's Guidelines for School Actions were drafted pursuant to 105 ILCS 5/34-230, and since the definition of "school action" does not include reconstitutions, the CEO Guidelines are not applicable to reconstitution hearings.

proposal to Reconstitute Herzl Elementary School. Herzl is eligible for reconstitution under the Illinois School Code, 105 ILCS Section 5/34-8.3(d)(4) because it has been on probation for at least one year and has failed to make adequate progress to correct its academic deficiencies. In fact Herzl Elementary School has been on probation for five consecutive school years for failing to meet the Chicago Public Schools' required standards for minimum student performance.

FURTHER THE HEARING OFFICER SAYETH NOT.

Respectfully submitted,  
*Fredrick H. Bates*/s/  
Fredrick H. Bates  
Hearing Officer

February 5, 2012