



November 2, 2020

Sent Via Email

Trisha Olson
Legal Officer
Illinois State Board of Education
E: TOLSON@isbe.net

***Re: Special Education Services at Cook County Juvenile Temporary Detention Center /
Nancy B. Jefferson High School***

Ms. Olson:

We write to outline and share concerns about the implementation of and access to special education services at Nancy B. Jefferson High School (“Nancy B.”). Nancy B is a Chicago Public School (“CPS”) and is located at the Cook County Juvenile Temporary Detention Center (“JTDC”).

CPS has stated, through their Senior Assistant General Counsel Marlene Fuentes, as well as the assigned Office of Diverse Learners Supports and Services District Representative Hope Sharp, that youth who reside at the JTDC are only receiving academic instruction via remote learning. This is to be expected during the pandemic. However, this remote learning consists of one laptop, hooked up to a television, with a single teacher streaming lessons from home. CPS is not providing special education instruction or related services. The remote teacher is not a special education teacher. Students with and without IEPs are all receiving the same instruction, while IEPs are being disregarded. While we have not been able to access the JTDC to do a more comprehensive review, below are some examples of what we have encountered or are hearing from our clients and probation officers.

Equip for Equality (“EFE”) has found that current IEP’s are not being implemented at Nancy B. EFE is representing a student at the JTDC whose IEP dictates 100% special education instruction in a separate day school as well as social work support. Even with this requirement listed in the IEP; this student is not receiving any specialized instruction or related services at Nancy B. Instead, he receives the same instruction as the rest of the students within his pod, which consists of watching his teacher on the television.

Legal Aid Chicago has determined that IDEA-mandated evaluations are not being conducted at Nancy B. Legal Aid Chicago is representing a student who was until recently detained at the JTDC. Prior to the student’s detention, CPS agreed to complete an initial Case Study Evaluation to determine eligibility for an IEP. While the student was attending Nancy B., CPS

convened a domain meeting and the parent signed consent. After Legal Aid Chicago requested that evaluations be completed quickly due to long delays in getting to this step, CPS made clear that not only were they not agreeing to evaluate quickly, but that they had no plan for how they would evaluate our client at the JTDC within the 60 school day timeframe. We initially requested in-person evaluations for this student, since in-person evaluations yield more reliable and valid results. However, CPS refused to conduct in-person evaluations because CPS clinicians are working from home. While we would have preferred evaluations to be completed in-person, we then expressed that we were open to completing the evaluations remotely in this case. CPS then insisted that remote evaluations could not be completed either. The stated reason for this was that there is only one CPS laptop at Nancy B., and it was being used for remote learning in the classroom. Based on CPS's statements with regards to Legal Aid Chicago's client, it appears that CPS is not currently evaluating students at the JTDC.

Equip for Equality has had conversations with probation officers at the JTDC about the current educational issues. Through these conversations, EFE learned that an Educational Advocate Probation Officer also has a student residing within the JTDC who is pending an initial evaluation. This probation officer was told that Nancy B. could not conduct evaluations currently due to COVID-19. CPS indicated that the student's evaluation will be put on hold until he is released, which is mid-November at the earliest.

Many portions of IDEA evaluations, such as interviews, can be completed via phone. JTDC staff can and do schedule dates and times for students to speak with authorized persons over the phone or even over video conferencing portals. Other evaluations could be completed remotely over video conference. While not desirable, this has become common practice during the pandemic. CPS clinicians can coordinate with JTDC staff to schedule times to speak to students over the phone or over video conference to complete the evaluations. It is completely unreasonable that CPS will not provide a single additional laptop for students at Nancy B. to be evaluated. We are not suggesting that students at Nancy B. have unfettered access to a laptop and the internet. Rather, we are stating that students can use the additional CPS laptop to video conference with CPS clinicians, while supervised by JTDC staff, to complete the remote portion of evaluations.

CPS's position that IDEA evaluations are impossible is both factually and legally problematic. As explained above, a procedure could be put in place to allow CPS to evaluate students at the JTDC remotely. Even with these proposed solutions, CPS declined to give us a timeline or to agree to plan for completion for our client's evaluation. We recognize that completing evaluations at the JTDC is more complicated; but that is not a valid reason to deny those students' rights under IDEA. Similarly, youth who are in need of special education instruction or related services should have access to a CPS laptop to receive such services in a remote learning pullout setting.

All IDEA timelines and mandates have remained in effect during COVID-19 as no waivers have been issued by Congress or the Department of Education. See [Secretary DeVos reiterates Learning Must Continue for All Students, Declines to Seek Congressional Waivers to FAPE, LRE Requirements of IDEA](#), U.S. Department of Education, released April 27, 2020. The Illinois State Board of Education and the U.S. Department of Education’s Office of Special Education Programs have both released guidance stating that evaluation requirements and timelines still remain in effect. See [OSEP Q&A IDEA Part B Provisions](#), released September 28, 2020; [ISBE FAQ for Special Education During Remote Learning](#), released May 8, 2020. Students at JTDC do not have fewer rights under IDEA by virtue of their detention.

Functionally, it seems that Nancy B. Jefferson has essentially halted all special education services in this period of remote learning, leaving one of the most vulnerable populations without legally mandated interventions.

We know this population is a priority for the Illinois State Board of Education (“ISBE”). We implore ISBE to investigate this urgent matter and require Nancy B. and CPS to create and implement procedures so that students are appropriately evaluated and receive special education instruction and related services. We also request that ISBE require Nancy B. and CPS to schedule IEP meetings to discuss compensatory education for students who have not received the crucial special education instruction and related services outlined in their IEPs and to which they are legally entitled. We hope that by writing to ISBE we are able to resolve these ongoing issues at the JTDC so all youth detained there are able to receive a Free Appropriate Public Education.

Sincerely,



Legal Aid Chicago

Ashley Fretthold, Supervisory Attorney
Jaclyn Ellwein, Staff Attorney



Equip For Equality

Rachel Shapiro, Supervising Attorney
Jessica Gingold, Staff Attorney

cc: Laura Boedeker, Assistant General Counsel, ISBE Appointed Monitor for CPS, Illinois State Board of Education, via email: LBOEDEKE@isbe.net

Lisa Armonda, Assistant General Counsel, ISBE Appointed Monitor for CPS, Illinois State Board of Education, via email: LARMONDA@isbe.net