



**OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS**

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ATTORNEY GENERAL

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Sent Via Email

Dr. Kurt Johansen
Superintendent
Community High School District 94

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Re: Findings in Investigation of Community High School District 94

Dear Dr. Johansen and Mr. Boyle:

The Illinois Attorney General's Office ("OAG") has concluded its investigation into allegations that West Chicago Community High School District 94 ("District 94" or "the District") has engaged in a pattern or practice of discrimination against Hispanic students and/or pregnant or postpartum students, in violation of state and federal anti-discrimination laws. OAG initiated this investigation on July 21, 2022, in collaboration with the Illinois School Board of Education ("ISBE"), which, as you know, concluded its own inquiry into the District's policies, practices, and procedures on May 3, 2023. Thank you for your cooperation during this process.

OAG concludes there is reasonable cause to believe that District 94 engaged in a pattern or practice of unlawful discrimination against pregnant and postpartum female students either by recommending that they withdraw from school or by enrolling them in the STAR/GO Credit Recovery Program without regard for their individual circumstances or preferences. Additionally, OAG concurs in ISBE's findings that the District violated the Illinois School Code, 105 ILCS 5/1-

1 *et seq.*, both by advising students of compulsory school attendance age to withdraw from high school and by requiring certain in-school suspensions to be served at home. Although the evidence is insufficient to support a finding that the District unlawfully discriminated against Hispanic students with respect to these particular withdrawal and disciplinary practices, OAG has serious concerns about the overrepresentation of Hispanic students in the District’s overall dropout rates as well as in statistics related to exclusionary discipline. This letter outlines the legal authority and background of OAG’s investigation, details our findings, and outlines remedial steps and recommendations for the District to take to ensure future compliance with the relevant anti-discrimination laws.

I. Legal Authority

The OAG has the authority to investigate whether a school or school district has violated state and federal civil rights laws.¹ Under the Illinois Human Rights Act (“IHRA”), it is a civil rights violation for public schools, which qualify as places of public accommodation, to deny full and equal enjoyment of school facilities, privileges, or services to any student because of unlawful discrimination.²

Both state and federal law prohibit schools from discriminating against students on the basis of sex, childbirth, pregnancy and related conditions, and parenting status. At the federal level, Title IX prohibits all such discrimination in schools receiving federal funding.³ In Illinois, both the IHRA and the Illinois School Code (“School Code”) prohibit discrimination based on sex and pregnancy, which is defined in the IHRA as including “pregnancy, childbirth, or medical or common conditions related to pregnancy or childbirth.”⁴ The IHRA also prohibits schools from applying rules related to parental, family, or marital status that treat students differently based on sex; because such differential treatment is itself a form of sex discrimination, it is likewise prohibited by the IHRA.⁵

The Illinois Civil Rights Act of 2003 (“ICRA”) also prohibits units of local government from discriminating based on race, color, national origin, or gender, which includes a prohibition on using criteria or methods of administration that impose a disparate impact on individuals based on those protected characteristics.⁶ A specific school policy or practice will be found to have a

¹ The Attorney General has authority under the Civil and Equal Rights Enforcement Act to investigate all violations of laws relating to civil rights and discrimination and to undertake necessary enforcement measures. 15 ILCS 210/1. Additionally, the OAG may commence a civil enforcement action under the Illinois Human Rights Act whenever it “has reasonable cause to believe that any person or group of persons is engaged in a pattern and practice of discrimination prohibited” by the Act. 775 ILCS 5/10-104(A)(1).

² 775 ILCS 5/5-102.

³ See generally 20 U.S.C. §§ 1681 – 1688; 34 C.F.R. § 106.40 (pre-2024 version).

⁴ See 775 ILCS 5/1-103(L-5), (Q); 775 ILCS 5/5-102; 105 ILCS 5/10-22.5, 5/27-1, and 5/34-18(1); 23 Ill. Adm. Code 200.50. See also Ill. Atty Gen. and Ill. Dept. of Human Rights, *Non-Regulatory Guidance: Illinois Protections Against Discrimination Based on Pregnancy, Childbirth, and Related Conditions, Including Reproductive Decision-Making* (Feb. 28, 2023) <https://illinoisattorneygeneral.gov/dA/34bd95fe6f/pressAttachment1/20230228%20OAG-IDHR%20Non-Regulatory%20Preg%20Repro%20Guidance.pdf>

⁵ 775 ILCS 5/1-103(Q); 775 ILCS 5/5-102.

⁶ 740 ILCS 23/5. ICRA applies to public school district policies and practices administered using criteria that have a discriminatory impact on students based on their race. See, e.g., *Swan v. Bd. of Educ. Of City of Chicago*, 2013 WL

disparate impact in violation of ICRA if it has “a disproportionately adverse effect” on members of a protected class and is “otherwise unjustified by a legitimate rationale.”⁷ Even if the challenged practice or policy is justified, a violation will be found if there is “a legitimate alternative that would have resulted in less discrimination.”⁸

II. History of Investigation

OAG joined ISBE in investigating District 94 in July 2022 after receiving complaints that the District was engaged in certain disciplinary and withdrawal practices that either singled out Hispanic students for disparate treatment or disproportionately impacted such students.

Following a review of data and documents provided by the District, as well as numerous interviews with District staff, former employees, students, and their parents or legal guardians, ISBE detailed the results of its inquiry in a May 2023 letter (the “May 2023 Findings Letter”).⁹ In August 2023, OAG issued additional requests for information to the District in response to new allegations of discrimination against pregnant and parenting female students. The District responded to these requests for information in September 2023.

The following findings are based on OAG’s review of pertinent materials made available by ISBE and the District, as well as interviews with District staff, former employees, community partners and stakeholders, and parents or legal guardians of current and former students.

III. Findings and Analysis

a. Withdrawal Recommendations and STAR/GO Credit Recovery Program Enrollment for Pregnant, Postpartum, and Parenting Female Students

i. Withdrawal recommendations

OAG finds reasonable cause to believe that the District engaged in a pattern or practice of unlawful discrimination by recommending on multiple occasions that pregnant, postpartum, or parenting female students withdraw from school because they were pregnant or recovering from childbirth. State and federal anti-discrimination protections prohibit school districts from excluding students from any educational program based on pregnancy or recovery from childbirth,

4401439, *19 (N.D Ill. 2013) (“ICRA prohibits any unit of government from discriminating against a person due to their race.”). “To prevail on a disparate impact claim under the ICRA, Plaintiffs are responsible for ‘isolating and identifying the specific ... practices that are allegedly responsible for any observed statistical disparities.’” *Id.* (quoting *Puffer v. Allstate Ins. Co.*, 675 F.3d 709, 717 (7th Cir. 2012)).

⁷ *Texas Dep’t of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 524–25 (2015) (citing *Ricci v. DeStefano*, 557 U.S. 557, 577 (2009)) (internal quotation marks omitted); *see also Cent. Austin Neighborhood Ass’n v. City of Chicago*, 2013 IL App (1st) 123041, ¶ 10 (in interpreting ICRA, Illinois courts look to cases interpreting analogous federal civil rights statutes).

⁸ *Ricci*, 557 U.S. at 578; *cf. Bd. of Trustees of S. Illinois Univ. v. Knight*, 163 Ill. App. 3d 289, 295 (1987) (Illinois Human Rights Act case) (“If the legitimate ends . . . can be served by a reasonably available alternative system with less discriminatory effects, then the challenged practice will be found unlawful.”).

⁹ Appendix A, May 2023 ISBE Findings Letter (hereinafter “ISBE Findings”). Several of ISBE’s findings relate to topics that fall outside the scope of the OAG’s authority and will not be discussed here. Insofar as they inform or relate to OAG’s own investigation and findings, ISBE’s findings will be referenced throughout this letter.

unless the student voluntarily requests such an exclusion.¹⁰ In interviews and public comments, OAG learned of multiple instances in which District officials encouraged students who were pregnant or who had recently given birth to withdraw from school, regardless of the student's preferences, academic status, or attendance.

Notably, during an interview conducted by ISBE and OAG, a District school counselor stated that she would recommend that a pregnant student withdraw from school. Other interviews conducted by OAG suggested that recommending withdrawal to students who were pregnant or had recently given birth was a regular practice at the District. For example, OAG interviewed several non-profit staff members who worked closely with pregnant and parenting female students at the District in their roles, and who stated they were aware of multiple female students who had been encouraged by District officials to withdraw from school following the birth of their children over the years. One interviewee reported having been present at a meeting with a District social worker who recommended that a student withdraw from school after giving birth, even though the student had previously been an honors student.

Written testimonials by current and former students, distributed at the District 94 Board of Education meeting on May 16, 2023 (“the May 2023 Board meeting”), additionally describe instances in which District employees recommended that postpartum or parenting female students withdraw from school. Public comments made by current and former District 94 students during the May 2023 Board meeting further corroborate these allegations.

OAG also requested data from the District related to withdrawals of pregnant, postpartum, and parenting students. Because the District does not specifically track the population of pregnant or postpartum students, the information provided to OAG was derived from voluntary student disclosures and may be incomplete. Out of a total of six students who voluntarily reported being pregnant, postpartum, or having given birth during the 2020-2021 school year, two withdrew either to pursue a GED or drop out (three ultimately graduated and one remained enrolled as of September 2023).¹¹ For the 2021-2022 school year, one of three pregnant or postpartum students withdrew, one student graduated, and the other student transferred.¹² Finally, for the 2022-2023 school year, although none of the seven pregnant or postpartum students withdrew to pursue a GED or drop out, one student “transferred to homeschool.”¹³ Of the other six, three students graduated and three remained enrolled in the District as of September 2023.¹⁴

ISBE's May 2023 Findings Letter and Orders for Action includes several requirements for the District to address and prevent future discrimination against pregnant, postpartum, and parenting students.¹⁵ As required by ISBE's Orders for Action, the District's New Student

¹⁰ See 775 ILCS 5/5-102(A), 5-102.2; 34 C.F.R. § 106.40(b)(1) (pre-2024 version).

¹¹ Sept. 8, 2023 District Response to OAG Requests for Information (hereinafter “District Response to OAG”) at 8.

¹² District Response to OAG at 8.

¹³ District Response to OAG at 8.

¹⁴ District Response to OAG at 8.

¹⁵ Although ISBE did not conduct a full investigation into this matter or identify any particular incidents involving pregnant students, the May 2023 Findings Letter noted, in reference to the counselor's statement that “she would advise a pregnant student to withdraw from school,” that “[t]he practice of recommending pregnant students to withdraw from school is . . . a clear violation of state and federal law.” ISBE Findings at 5. The Orders for Action

Withdrawal Procedures provide not only that “[n]o District staff member will advise or encourage a District student to drop out or withdraw voluntarily due to pregnancy [or] being a parent,” but also that “District staff shall endeavor to eliminate administrative and programmatic barriers to school attendance and school completion by pregnant students or students who are parents.”¹⁶ OAG welcomes these specific additions to the District’s Withdrawal Procedures as a first step toward preventing discrimination against pregnant and parenting female students and provides additional recommendations to this end in Section IV below.

ii. Enrollment in STAR/GO Credit Recovery Program

OAG also finds reasonable cause to believe that the District discriminated against pregnant and postpartum students by routinely dropping such students from their regular classes based on their pregnancy or recovery from childbirth and enrolling them in the STAR/GO (“Success Through Accepting Responsibility/Graduation Opportunity”) Credit Recovery Program (the “STAR program”) without explanation or apparent consideration of the students’ preferences or ability to return to the classroom.

As discussed above, federal and state anti-discrimination provisions prohibit excluding students from educational programs based on pregnancy and related conditions or parental status without their voluntary consent. In addition, the Illinois School Code requires any course of instruction for pregnant or postpartum¹⁷ students who are unable to attend regular classes to be “designed to offer educational experiences that are equivalent to those given to pupils at the same grade level in the district and that are designed to enable the pupil to return to the classroom.”¹⁸

In interviews, written testimonials, and public comments, OAG learned of multiple instances in which current and former students alleged that the District excluded pregnant, postpartum, or parenting female students from regular classes and enrolled them in the STAR program because of their pregnancy or parenting status, often without meaningful discussion of or regard for the students’ individual circumstances and preferences. Multiple students reported being placed in the STAR program without any explanation or notice following the birth of their children,

included in the May 2023 ISBE Findings Letter included the following requirements for the District’s new withdrawal procedure:

The procedure must prevent discrimination against pregnant and parenting students while supporting such students so that they succeed in school and must include, but not be limited to, allowing and encouraging students who are pregnant, who have been pregnant, or who have a child to attend and participate in school and extracurricular activities; offering any special services provided for temporarily disabled students to be provided for pregnant students as well; allowing separate programs for pregnant and parenting students to be completely voluntary and offering students opportunities equal to those offered for non-pregnant students; excusing absences due to pregnancy or childbirth as long as is deemed medically necessary by the student’s physician; and requiring a physician’s note for pregnant students to participate in activities only if the school requires a physician’s note from all students who have conditions that require medical care, but not otherwise.

Id. at 14-15.

¹⁶ District Response to OAG Request for Information, Exs. in Response to Items 1 and 2, at 10-11.

¹⁷ For up to three months following miscarriage or the birth of a child. 105 ILCS 5/10-22.6a.

¹⁸ 105 ILCS 5/10-22.6a.

despite a preference to continue attending their regular classes. These students described their experience with the STAR program as contributing to their sense of exclusion, isolation, and lack of support from the District following their pregnancies and the birth of their children. OAG interviews of non-profit staff members who worked closely with pregnant and parenting female students at the District in their roles also echoed these concerns, with staff reporting that many of their postpartum female students—and especially those of color¹⁹—were seemingly automatically placed in the STAR program following the birth of their children, to their detriment, without any discussion of their options, and regardless of their preference to stay enrolled in regular classes with their peers.²⁰

The District’s description of the STAR program makes clear that it does not offer an equivalent educational experience to the regular classroom. The STAR program is described on the District’s website as “an alternative education placement designed to assist students in recovering credit for a variety of reasons, including academic failure and truancy.”²¹ Because “the STAR program curriculum is generally designed to recover credit after a student has failed a class,” it does not include coursework for honors or advanced placement courses.²²

Written testimonials, public comments, and interviews echoed a common theme—that the STAR program is an insufficiently challenging and engaging educational experience that fails to meet many students’ needs. Staff and parents of former STAR program participants described the program as primarily consisting of homework packets to be completed, without adequate academic support, at home or in a classroom made up largely of students who have been placed in the program because of behavioral or truancy issues. At the May 2023 Board meeting, a student who had given birth during the 2022-2023 school year described feeling unexpectedly “set aside,” “stuck at home,” and overwhelmed with packets after enrolling in the STAR program at the recommendation of District staff. This student stated that she wanted to continue attending classes and going to school, but she “did not feel the support of anyone” at the District following her enrollment in the STAR program. She further stated that she felt as if she were being “punished” by the District for becoming a teen mom.

In response to OAG’s requests for information, the District maintained that it did not require postpartum students to enroll in the STAR program after childbirth, but instead used a probability index tool to determine consideration for enrollment in the STAR program.²³ The District’s list of factors considered by this tool include school attendance, academic achievement level, behavioral issues, and family circumstances like “[s]ignificant family problems.”²⁴ Pregnancy, childbirth, or status as a parenting student are not listed among the factors considered.²⁵

¹⁹ Because of the small number of pregnant or postpartum students, OAG did not request racial demographic data and thus does not make any findings as to whether there is reasonable cause to believe that the District’s treatment of pregnant or postpartum students was racially discriminatory.

²⁰ Over the past decade or so, the non-profit staff members interviewed could only recall one postpartum student who was given the option to take dual credit courses instead of participating in the STAR program or simply withdrawing from the District; this student was white.

²¹ <https://www.d94.org/student-services/star> (last visited Dec. 26, 2024).

²² District Response to OAG at 4.

²³ District Response to OAG at 5.

²⁴ District Response to OAG at 5.

²⁵ District Response to OAG at 5.

According to the District, prior to enrolling a student in the STAR program, a student support team that includes the student’s dean, counselor, and social worker works with the student and parents/guardians “to determine options for graduation.”²⁶ The District further identified several potential alternatives to enrollment in the STAR program, including “[m]aintaining attendance in the regular school program/repeating in-person coursework,” “[s]ummer school options,” and “[e]arly bird coursework (zero hour).”²⁷

Based on enrollment data, interviews, and testimonials from current and former students, however, OAG finds reasonable cause to believe that in practice, the District routinely pushed pregnant and postpartum students to enroll in the STAR program based on their pregnant or postpartum status. The District’s description of a STAR enrollment process that includes prior consultation with students and parents or guardians is at odds with the way current and former students describe being placed in the program without notice subsequent to the birth of their children. For example, a former student stated in a testimonial that although she attended regular Sophomore classes immediately following the birth of her child, when she entered her Junior year, she was shocked to discover that she had been placed in the STAR program. She stated that neither her school counselor nor her social worker had informed her or her mother of “this big change,” and she identified this abrupt transition as the point “when everything fell apart.” She ultimately dropped out of school after being encouraged to do so by District staff. In interviews, OAG learned of other instances in which the District allegedly enrolled postpartum or parenting female students in the STAR program without informing their parents or guardians or discussing available alternatives with the students themselves.

The District’s data also showed that over a three-year period (the 2020-2021, 2021-2022, and 2022-2023 school years), three-quarters of the District’s pregnant or postpartum students were enrolled in the STAR program, either while they were pregnant or after giving birth, compared to about 5% of non-pregnant students.²⁸ These participation rates provide additional cause to believe that the District’s enrollment of pregnant, postpartum, or parenting female students in the STAR program rose to the level of a discriminatory pattern or practice.

In accordance with ISBE’s Orders for Action, the District’s new Student Withdrawal Procedures now include reminders that “[p]regnancy or parenthood shall not be considered cause for dismissal, exclusion, or withdrawal from any program or activity” and that “[p]articipation in special programs provided for pregnant students or students who are parents shall be at the student’s option.”²⁹ Although the inclusion of these reminders in the new withdrawal procedures represents a step in the right direction, OAG recommends that the District specifically reexamine the process through which it enrolls pregnant, postpartum, or parenting students in the STAR program (and any other special program). OAG further recommends that the District take steps to

²⁶ District Response to OAG at 3.

²⁷ District Response to OAG at 3.

²⁸ For the 2020-2021 school year, five of six pregnant or postpartum students participated in the STAR program. District Response to OAG at 5. For 2021-2022, all three pregnant or postpartum students participated in the program. *Id.* And for the 2022-2023 school year, four of seven pregnant or postpartum students participated in the program. *Id.* By contrast, overall STAR program enrollment was 89 students in 2020-2021, 162 students in 2021-2022, and 61 students in 2022-2023, *id.* at 6, and overall District enrollment was just under 2,000 students during this time, *id.* at 8.

²⁹ District Response to OAG, Exs. in Response to Items 1 and 2, at 10-11.

ensure that all courses of instruction offered to pregnant or postpartum students who are unable to attend regular classes—including the STAR program—are “designed to offer educational experiences that are *equivalent* to those given to pupils at the same grade level in the district and . . . designed to enable the pupil to return to the classroom,” consistent with the requirements of the School Code³⁰ and the principle of equal access to education found in the relevant federal and state anti-discrimination laws.³¹ OAG provides additional recommendations related to pregnant, postpartum, and parenting students in Section IV below.

b. Withdrawal and Dropout Prevention Practices Affecting Hispanic Students

Because of the small number of students involved, OAG does not find reasonable cause to believe that the District discriminated against Hispanic students in its prior practice of advising certain students of compulsory school attendance age to withdraw from school. OAG notes, however, that this now-discontinued practice was unlawful under the School Code and recommends that the District take steps to address the ongoing overrepresentation of Hispanic students in the District’s dropout and GED withdrawal numbers.

In Illinois, all children between the ages of 6 and 17 who have not already graduated high school are of “compulsory school age.”³² The School Code provides that the parents or guardians of children of compulsory school age must ensure they attend school for the entire time it is in session, with very few exceptions.³³ The School Code also prohibits school officials from “advis[ing] or encourag[ing] students to drop out voluntarily due to behavioral or academic difficulties.”³⁴

OAG concurs with ISBE’s finding that the District advised or encouraged students of compulsory school age to withdraw from the District to enroll in GED programming on multiple occasions, in violation of the School Code. Among other things, this finding was based on a May 21, 2021 email from the superintendent to District staff to “discontinue the recommendation of the COD [College of DuPage] GED program for 16 yo students”;³⁵ the District’s acknowledgment that it “sometimes discussed” the option of withdrawing from school to enroll in GED preparation courses offered by a local community college with students who had “severe” attendance challenges;³⁶ and District forms showing that five students of compulsory attendance age withdrew over a two-school-year period (2020-2021 and 2021-2022) specifically in order to pursue a GED.³⁷

³⁰ 105 ILCS 5/10-22.6a (emphasis added).

³¹ See 20 U.S.C. §§ 1681 – 1688; 775 ILCS 5/1-103(Q); 775 ILCS 5/5-102; 105 ILCS 5/10-5/22.5, 5/27-1, and 5/34-18(1); 23 Ill. Adm. Code 200.50.

³² 105 ILCS 5/26-1.

³³ 105 ILCS 5/26-1.

³⁴ 105 ILCS 5/10-22.6(h).

³⁵ ISBE Findings at 5.

³⁶ *Id.* As ISBE noted in the May 2023 Findings Letter, the District “provided evidence of a good faith belief that withdrawal of students at age 16 to participate in GED was permissible based upon guidance from the DuPage County ROE [Regional Office of Education] and information published by the Illinois Community College Board.” ISBE Findings at 5.

³⁷ ISBE Findings at 5.

Due to the small number of students involved, however, OAG concurs in ISBE's determination that definitive conclusions cannot be drawn about disparate impact based upon this data alone.³⁸ OAG shares ISBE's concerns about the apparent overrepresentation of Hispanic students, relative to their share of the student population, in the District's withdrawal numbers, particularly as it relates to withdrawals coded as GED or "drop out." As ISBE observed in its May 2023 Findings Letter, during the three-school-year period from 2019-2022, all six students of compulsory school age who were described as having withdrawn to pursue a "GED or dropout" were Hispanic.³⁹ During that same time frame, almost all of the 66 students of any age who withdrew to drop out or pursue a GED were likewise Hispanic.⁴⁰ Specifically, 92% of these withdrawing students were Hispanic, even though Hispanic students made up less than 70% of the student body.⁴¹

District 94 has since discontinued the practice of recommending GED preparation coursework as an option for students of compulsory attendance age.⁴² The Student Withdrawal Procedures put forth by the District following the issuance of ISBE's May 2023 Findings Letter provide clear instructions to staff to prevent future violations, in accordance with ISBE's Orders for Action.⁴³ These procedures include instructions specifically stating that "[t]he District must not withdraw any student of compulsory attendance age for the reason of transfer to a GED program" and that "[n]o District staff member will advise or encourage a District student to drop out or withdraw voluntarily due to behavioral or academic difficulties."⁴⁴

In addition to requiring the District to adopt and train⁴⁵ staff on the Student Withdrawal Procedures now in effect, ISBE's May 2023 Findings Letter ordered the District to develop a Student Engagement Plan "to address Hispanic student withdrawal to pursue a GED or drop out."⁴⁶ Following the issuance of ISBE's May 2023 Findings Letter, the District provided a copy of the required plan to ISBE and met with ISBE twice to review student withdrawal data and records.⁴⁷ ISBE has confirmed to OAG that the District's withdrawal numbers have improved since the

³⁸ ISBE Findings at 6.

³⁹ ISBE Findings at 7.

⁴⁰ ISBE Findings at 6-7.

⁴¹ ISBE Findings at 6-7. Specifically, Hispanic students accounted for 87.5% (7 of 8) of such withdrawals for the 2019-2020 school year; 86.5% (19 of 22) for the 2020-2021 school year; and 97% (35 of 36) for the 2021-2022 school year. *Id.* at 7. During these school years, Hispanic students made up 66.9%, 67.5%, and 69.7% of the student body, respectively. *Id.* at 6. The May 2023 Findings Letter additionally expressed concern about the gaps between white and Hispanic student graduation and dropout rates within the District. For the 2020-2021 school year, the District's dropout rate for Hispanic students (1.8%) was lower than the state average for Hispanic students that year (2.6%), and its Hispanic student graduation rate (86.9%) was slightly higher than the corresponding state average (83.6%). *Id.* at 13. However, when the ISBE compared District to seven similarly situated school districts for the 2020-2021 school year, the District had the most significant differences between white students and Hispanic students both with respect to graduation rates (a 13.1% difference) and dropout rates (a 1.1% difference). *Id.*

⁴² May 2022 District Response to ISBE at 2.

⁴³ District Response to OAG, Exs. in Response to Items 1 and 2, at 9-11. *See also* ISBE Findings at 14 ("The district must draft and adopt a procedure for student withdrawal by Tuesday, June 13, 2023.").

⁴⁴ District Response to OAG, Exs. in Response to Items 1 and 2, at 10.

⁴⁵ ISBE Findings at 15.

⁴⁶ ISBE Findings at 15.

⁴⁷ ISBE Findings at 15.

District began implementing the plan.⁴⁸ OAG supports the ongoing implementation of the District’s Student Engagement Plan and offers additional recommendations designed to reduce disparities in withdrawal rates of Hispanic students as compared to their non-Hispanic counterparts below in Section IV.

c. In-School Suspension Practices and Exclusionary Discipline Affecting Hispanic and Other Students of Color

Although insufficient data exists to evaluate whether the District’s in-school suspension practices imposed a disparate impact based on race, OAG remains troubled by the persistently high level of racial disproportionality in exclusionary discipline within the District.

The School Code aims to reduce overreliance on exclusionary disciplinary practices, such as out-of-school suspensions and expulsions, by setting clear standards for when schools may use such practices as a disciplinary consequence for “gross disobedience or misconduct.”⁴⁹ For example, schools in Illinois must exhaust all appropriate and available behavioral and disciplinary interventions before seeking expulsion or an out-of-school suspension of more than three days, and they must reserve such measures only for situations in which a student’s continuing presence in school would either “pose a threat to the safety of other students, staff, or members of the school community” or “substantially disrupt, impede, or interfere with the operation of the school.”⁵⁰ Schools may impose an out-of-school suspension of three days or less “only if [a] student’s continuing presence in school would pose a threat to school safety or a disruption to other students’ learning opportunities.”⁵¹ The School Code also provides a specific set of procedures that a school must follow upon making the decision to suspend a student.⁵² These procedural due process requirements include a requirement to immediately provide the student’s parent or guardian with a “full statement of the reasons for such suspension and a notice of their right to review,” as well as a requirement to provide the school board with a summary of the reasons for the suspension and the length of the suspension.⁵³

OAG concurs with ISBE’s May 2023 finding that, during the 2021-2022 school year, the District had a practice of requiring that certain in-school suspensions be served at home—effectively rendering them out-of-school suspensions—without due process, in violation of the School Code. Ultimately, ISBE found that on six occasions during the 2021-2022 school year, students served their “in-school suspensions” at home.⁵⁴ Although the District claimed that this was a mutual arrangement between the school and the students’ families, as ISBE noted in the

⁴⁸ According to the District’s Illinois Report Card for the 2022-2023 school year, the overall dropout rate for Hispanic students was 2.1%, compared with an overall dropout rate of 1.9% (for the 2021-2022 school year, those numbers were 3.8% and 2.8% respectively). Ill. State Bd. Of Ed., *Ill. Report Card 2022-2023: CHSD 94 Dropout Rate-Trends* (last visited Dec. 26, 2024), <https://www.illinoisreportcard.com/District.aspx?source=studentcharacteristics&source2=dropoutrate&Districtid=19022094016>.

⁴⁹ 105 ILCS 5/10-22.6(a), (b).

⁵⁰ 105 ILCS 5/10-22.6(b-20).

⁵¹ 105 ILCS 5/10-22.6(b-10).

⁵² 105 ILCS 5/10-22.6(b).

⁵³ 105 ILCS 5/10-22.6(b).

⁵⁴ ISBE Findings at 8.

May 2023 Findings Letter, “[t]he district provided no written notice to the parents regarding the change in discipline, did not obtain parental consent for the change in disciplinary assignment, and did not update the student’s records accordingly.”⁵⁵ ISBE further stated that five of the six incidents were “attendance-related issues” and that none of the six appeared to have involved a threat to school safety or a disruption to other students’ learning opportunities, which, as previously noted, is the “minimum standard” for imposing an out-of-school suspension under the School Code.⁵⁶

As with the District’s unlawful withdrawal practices, the small number of affected students—and a lack of data—precludes OAG from making a finding about whether this unlawful suspension practice disparately impacted students based on race. OAG is concerned, however, about District’s overall racial disproportionalities in exclusionary discipline, which are among the highest in the state of Illinois. Such disparities in exclusionary discipline cause significant harm; exclusionary discipline is correlated not only with decreased academic achievement and increased drop-out rates, but also with increased involvement with the juvenile justice system.⁵⁷

District 94 has been in the top 20% of Illinois schools for racial disproportionality in exclusionary discipline for at least six of the last nine school years (and in five of the six most recent school years for which data exists).⁵⁸ In the 2018-2019 school year, for example, students

⁵⁵ ISBE Findings at 8.

⁵⁶ ISBE Findings at 9. According to ISBE, even though “[s]everal district employees indicated in their interviews that four of the five students who serve in-school suspensions at home were insubordinate or disruptive” during an in-school suspension, in these cases, the District failed to follow the School Code’s required procedures for issuing an out-of-school suspension. *Id.*

⁵⁷ Ill. Atty Gen. and Ill. State Bd. of Ed., *Guidance to School Districts: Legal Standards and Enforcement of Civil Rights Laws Related to School Discipline in Illinois* (Dec. 17, 2021) <https://illinoisattorneygeneral.gov/Page-Attachments/2021%20OAG-ISBE%20School%20Discipline%20Guidance.pdf>. The connection between punitive and exclusionary school discipline practices and increased rates of incarceration is often referred to as the “school-to-prison pipeline.” See Kent McIntosh, et al., *Education not Incarceration: A Conceptual Model for Reducing Racial and Ethnic Disproportionality in School Discipline*, 5 J. APPLIED RSCH. ON CHILD.: INFORMING POL’Y FOR CHILD. RISK 1, 2–3 (2014) (“[T]here is no published research demonstrating that students of color—and African American students in particular—have higher base rates of problem behavior.”). See generally Kate M. Wegmann & Brittanni Smith, *Examining Racial/Ethnic Disparities in School Discipline in the Context of Student-Reported Behavior Infractions*, 103 CHILD. & YOUTH SERV.’S. REV. 18 (2019); Paul L. Morgan, et al., *Are Students With Disabilities Suspended More Frequently Than Otherwise Similar Students Without Disabilities?*, 72 J. SCH. PSYCH. 1 (2019); Russell J. Skiba, et al., *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*, 34 URB. REV. 317 (2002).

⁵⁸ See Ill. State Bd. Of Ed., *Exclusionary Discipline – Districts in the Top 20% for Three Consecutive Years: Racial Disproportionality Data* (last visited Dec. 26, 2024), <https://www.isbe.net/Pages/School-Discipline.aspx> (showing top 20% for racial disproportionality in 2018, 2019, 2020, 2023, and 2024). District 94 is identified in Column A (“School District”) as CHSD 94 and in Column B (“RCDS”) as 190220940160000. No racial disparity data is available for the District for 2021 and 2022. Although data for 2016 does not appear in the current version of the Racial Disproportionality Data downloadable from ISBE’s webpage, this information was included in a prior version of the spreadsheet available on ISBE’s webpage as recently as July 8, 2024; the District was in the top 20% for racial disproportionality in 2016. See also Ill. State Bd. Of Ed., *Exclusionary Discipline – Districts in the Top 20% for Three Consecutive Years: Calculation Business Rules* (last visited Dec. 26, 2024). <https://www.isbe.net/Documents/Exclusion-Business-Rules.pdf>; ISBE Findings at 11.

of color⁵⁹ were suspended⁶⁰ or expelled at a rate of more than 5:1 when compared to white students in the District. During the 2022-2023 school year, students of color were expelled or suspended at a rate of 3:1 when compared to their white peers.⁶¹ The most recent year for which ISBE has data—the 2023-2024 school year—saw that progress reversed: the District reported the 16th highest rate of racial disproportionality in the state, with students of color once again being expelled or suspended at a rate more than five times greater than that of white students.⁶²

CHSD 94 Disproportionality Data ⁶³	2016 ⁶⁴	2017	2018	2019	2020	2023	2024
Total White Students	615	596	562	522	451	651	411
Total Students of Color	1321	1415	1467	1471	1494	1352	1601
Total Expulsions and Suspensions White Students	14	14	7	4	5	4	4
Total Expulsions and Suspensions Students of Color	105	70	84	58	65	25	87
Racial Disproportionality Rate	3.49	2.11	4.58	5.15	3.92	3.01	5.58
Top 20% in Racial Disproportionality Rate	Yes	No	Yes	Yes	Yes	Yes	Yes
Racial Disproportionality Rate Rank	41	128	33	19	42	69	16

In addition to prohibiting the District from issuing in-school suspensions to be served at home, ISBE’s May 2023 Orders for Action directed the District to train “all staff who are involved in any capacity with student discipline” on 105 ILCS 5/10-22.6, the section of the School Code that governs suspensions and expulsion.⁶⁵ ISBE has confirmed that the District provided this required training to staff. More broadly, the District has worked with ISBE on the implementation of a Discipline Improvement Plan that is designed to address racial disparities in exclusionary discipline.⁶⁶ The District submitted its plan on January 30, 2023, as well as a progress report due

⁵⁹ Defined by ISBE as any students not identified as white, to include Black and Hispanic students. Ill. State Bd. Of Ed., *Exclusionary Discipline – Districts in the Top 20% for Three Consecutive Years: Calculation Business Rules* (last visited Dec. 26, 2024) <https://www.isbe.net/Documents/Exclusion-Business-Rules.pdf>. A majority of the District’s students of color are Hispanic. See Ill. State Bd. Of Ed., *Ill. Report Card 2022-2023: CHSD 94 Racial/Ethnic Diversity-Trends 2024* (last visited Dec. 26, 2024), <https://www.illinoisreportcard.com/District.aspx?source=studentcharacteristics&source2=studentdemographics&Districtid=19022094016> (from 2018-2024).

⁶⁰ For purposes of this discussion and the table below, the term “suspensions” refers only to out-of-school suspensions and does not include in-school suspensions unless otherwise specified.

⁶¹ See Ill. State Bd. Of Ed., *Exclusionary Discipline – Districts in the Top 20% for Three Consecutive Years: Racial Disproportionality Data* (last visited Dec. 26, 2024), <https://www.isbe.net/Pages/School-Discipline.aspx>.

⁶² See Ill. State Bd. Of Ed., *Exclusionary Discipline – Districts in the Top 20% for Three Consecutive Years: Racial Disproportionality Data* (last visited Dec. 26, 2024), <https://www.isbe.net/Pages/School-Discipline.aspx>.

⁶³ Ill. State Bd. Of Ed., *Exclusionary Discipline – Districts in the Top 20% for Three Consecutive Years: Racial Disproportionality Data* (last visited Dec. 26, 2024) <https://www.isbe.net/Pages/School-Discipline.aspx>.

⁶⁴ As previously noted, although data for 2016 no longer appears in the current version of ISBE’s downloadable Racial Disproportionality Data, OAG obtained the 2016 information from an earlier version accessed via ISBE’s website on July 8, 2024.

⁶⁵ ISBE Findings at 15.

⁶⁶ ISBE Findings at 11. ISBE’s May 2023 Findings Letter included no additional Orders for Action related to the District’s place in the top 20% of school districts for disproportionality in exclusionary discipline because, as ISBE noted, this issue is being addressed through the separate Discipline Improvement Plan process.

on October 31, 2023.⁶⁷ As noted above, however, high rates of racial disproportionality in exclusionary discipline remain a persistent problem for the District.

As for overall exclusionary discipline numbers, the most recent data reviewed by OAG shows uneven improvement, with a notable decrease in out-of-school suspensions and expulsions for the 2022-2023 school year, but an even greater spike in those numbers for the 2023-2024 school year.⁶⁸ The District issued no expulsions and a total of 29 out-of-school suspensions during the 2022-2023 school year;⁶⁹ by contrast, during the 2023-2024 school year, there were 4 expulsions and 87 out-of-school suspensions—nearly triple the number of out-of-school suspensions compared to the prior year.⁷⁰

With respect to in-school suspensions, the District has remained more consistent over the past two school years, reporting 663 in-school suspensions during the 2022-2023 school year and 597 during the 2023-2024 school year.⁷¹ As with expulsions and out-of-school suspensions, however, the District continues to discipline Hispanic students at a significantly higher rate than their non-Hispanic counterparts: whereas Hispanic students have accounted for between 58% and 71% of the District's student population in recent years,⁷² 545 of the 597 in-school suspensions reported for the 2023-2024 school year (over 91%) were of Hispanic students.⁷³

OAG provides recommendations and resources related to best practices below in order to support the District both in reducing overall use of exclusionary discipline and in addressing

⁶⁷ District 94, *Discipline Improvement Plan Progress Report: School Year 2022-23*, available at <https://resources.finalseite.net/images/v1715873743/d94org/arwipcop7mvh5jrmn8yy/DisciplineImprovementPlanProgressReportfinal.pdf>.

⁶⁸ Ill. State Bd. Of Ed., *Exclusionary Discipline – Districts in the Top 20% for Three Consecutive Years: Racial Disproportionality Data* (last visited Dec. 26, 2024), <https://www.isbe.net/Pages/School-Discipline.aspx>.

⁶⁹ Ill. State Bd. Of Ed., *Ill. Report Card 2022-2023: CHSD 94 Student Discipline 2023* (last visited Dec. 26, 2024), <https://www.illinoisreportcard.com/District.aspx?source=studentcharacteristics&source2=studentdiscipline&Districtid=19022094016>.

⁷⁰ Ill. State Bd. Of Ed., *Ill. Report Card 2023-2024: CHSD 94 Student Discipline 2024* (last visited Dec. 26, 2024), <https://www.illinoisreportcard.com/District.aspx?source=studentcharacteristics&source2=studentdiscipline&Districtid=19022094016>.

⁷¹ Ill. State Bd. Of Ed., *Ill. Report Card 2022-2023: CHSD 94 Student Discipline 2023* (last visited Dec. 26, 2024), <https://www.illinoisreportcard.com/District.aspx?source=studentcharacteristics&source2=studentdiscipline&Districtid=19022094016>; Ill. State Bd. Of Ed., *Ill. Report Card 2023-2024: CHSD 94 Student Discipline 2024* (last visited Dec. 26, 2024), <https://www.illinoisreportcard.com/District.aspx?source=studentcharacteristics&source2=studentdiscipline&Districtid=19022094016>.

⁷² Ill. State Bd. Of Ed., *Ill. Report Card 2022-2023: CHSD 94 Racial/Ethnic Diversity-Trends 2024* (last visited Dec. 26, 2024), <https://www.illinoisreportcard.com/District.aspx?source=studentcharacteristics&source2=studentdemographics&Districtid=19022094016> (from 2018-2024).

⁷³ Ill. State Bd. Of Ed., *Ill. Report Card 2023-2024: CHSD 94 Student Discipline 2024* (last visited Dec. 26, 2024), <https://www.illinoisreportcard.com/District.aspx?source=studentcharacteristics&source2=studentdiscipline&Districtid=19022094016>. Data provided by the District to ISBE in April 2024 and later shared, in redacted form, with OAG also reflected this significant racial disproportionality in the District's rate of in-school-suspensions for the period from November 2023 through March 2024. This data showed just 6 in-school suspensions of non-Hispanic Black students, 6 in-school suspensions of non-Hispanic white students, and 1 in-school suspension of an Asian student, out of a total of 154, with more than 91% of such suspensions involving Hispanic students. The reasons given for the vast majority of these suspensions were tardiness and truancy.

ongoing concerns about disciplinary disproportionalities that cause lasting harm to Hispanic and other students of color.

IV. Conclusion and Recommendations

In sum, OAG finds reasonable cause to believe that District 94 engaged in a pattern or practice of unlawful discrimination by recommending that pregnant, postpartum, and parenting female students withdraw from school because of childbirth, pregnancy, or a related condition and by routinely enrolling them in the STAR program based on pregnancy or parenting status. Additionally, although the data is too limited to support a finding that the District discriminated against Hispanic students in unlawfully advising students of compulsory school attendance age to withdraw from high school or by requiring certain in-school suspensions to be served at home, the available evidence reveals concerning disparities between white students and Hispanic students when it comes to dropout rates and exclusionary discipline more broadly. To address these concerns and ensure District 94's future compliance with all relevant state and federal anti-discrimination laws, OAG recommends that District 94 take the following steps:

- a. *Ensure that the District explicitly prohibits unlawful discrimination against pregnant, postpartum, and parenting students through updated policies and procedures***

The District should revise or create policies and procedures to ensure that District staff and students and their parents or guardians understand the rights of pregnant, postpartum, and parenting students under state and federal law. The OAG recommends that the District:

- *Title IX Notice:*⁷⁴ Revise the Title IX notice provided in the Student Handbook to make clear that prohibited sex discrimination includes discrimination against pregnant and parenting students.
- *Necessary Revisions to Current Policies:* Revise the language in all relevant policies⁷⁵ to clarify that, in accordance with state and federal law:
 - District staff members will not advise or encourage a student to drop out or withdraw voluntarily due to pregnancy or a related condition, being a parent, or because of the student's actual or potential marital status;
 - "Pregnancy" includes related conditions, childbirth or termination of pregnancy, and recovery therefrom;
 - Students who are unable to attend school because of pregnancy or a related condition, childbirth or termination of pregnancy, or recovery therefrom, will be excused from attendance for as long as their doctor deems the absences to be

⁷⁴ Page 49 of the 2023-2024 Student Handbook.

⁷⁵ The list of relevant policies includes Policy 6:150 (Home and Hospital Instruction); Policy 7:10 (Equal Educational Opportunities); Policy 7:20 (Harassment of Students Prohibited); and Policy 7:70 (Attendance and Truancy).

- medically necessary, and they must be allowed to make up any work missed during this time period⁷⁶;
- Students who are unable to attend school because of pregnancy or a related condition, childbirth or termination of pregnancy, or recovery therefrom, are eligible for the same home or hospital instruction options offered to students who are unable to attend school due to other medical conditions or temporary disabilities⁷⁷; and
 - Pregnancy, related conditions, childbirth or termination of pregnancy, and recovery therefrom shall be treated as any other temporary disability and shall not be considered cause for dismissal, exclusion, or withdrawal from any program or activity.
- *Revision or Implementation of Policies Related to Special Programs:* Revise or implement policies related to special programs provided for pregnant, postpartum, or parenting students—to include credit recovery programs such as the STAR program—to ensure compliance with state and federal law:
 - The District shall not automatically enroll any student or require any student to participate in a given program simply because that student is pregnant, postpartum, or parenting⁷⁸; and
 - Any alternative educational programs or classes offered to pregnant, postpartum, or parenting students must present educational experiences comparable to those offered other students at the same grade level and be designed to enable return to the classroom.⁷⁹

⁷⁶ A place of public accommodation must also make accommodations upon request for a person’s pregnancy or pregnancy-related condition when failing to do so would deny that person the full and equal enjoyment of their facilities, goods, or services. See *In the Matter of: Michael S. and Andrea S., On Behalf, of P.S., A Minor, Complainants and Komarek Sch. Dist #94*, Charge No. 2015CP3418, ALS No. 16-0003, September 11, 2019, 2019 WL 7494510, at *12 (quoting *Ivanka Kojic and Gerald Haaman, et al. IHRC*, ALS No. 5999 (A), December 18, 1995) (in the context of disability, finding that the IHRA imposes the same duty on public accommodations for reasonable accommodations that exists in the context of employment, because “the term ‘discrimination’ includes the refusal to eliminate barriers to accessibility when the elimination of such barriers will not impose undue financial and administrative burdens.”). The summary should further specify that any absence of ten consecutive days or more due to pregnancy or a related condition, including recovery from childbirth, that is confirmed by medical certification to be medically necessary is eligible for homebound services and will not count against the attendance cap.

⁷⁷ Additionally, this eligibility will not automatically end three months after childbirth or other termination of pregnancy, but instead shall continue as a reasonable accommodation for as long as a doctor deems the individual student’s absence medically necessary. See *id.*

⁷⁸ In the context of the STAR program, for example, procedural safeguards to ensure participation by pregnant, postpartum, or parenting students is voluntary could include a requirement that no pregnant, postpartum, or parenting student be enrolled in the STAR program without: (1) a meeting between the student support team, the student, and the student’s parents/guardians to develop an individualized graduation plan based on the student’s goals and options for graduation; (2); a discussion of STAR program requirements and offerings, as well as an explanation of the similarities and differences between the STAR program and regular classroom instruction; (3) an individualized discussion of available alternatives to enrollment in the STAR program; and (4) an individualized discussion of possible timelines for returning to regular classes if the student so desires.

⁷⁹ Specific recommendations regarding the educational content and mode(s) of instruction of the STAR program are outside the scope of this investigation and OAG’s area of expertise. Nonetheless, in light of complaints regarding the insufficiently challenging and supportive nature of the STAR program, if the District is to continue to present the STAR program as an alternative to attending regular classes for pregnant, postpartum, or parenting students, the

Additionally, the Orders for Action in ISBE’s May 2023 Findings Letter require the District to provide training, including training on protections for pregnant and parenting students under state law, to “all staff who work in the Dean’s Office or Counseling Office, or work in any capacity with student withdrawal.”⁸⁰ The District should ensure that such training is updated to include information about related District policies and procedures in accordance with the above recommendations. This training should be provided on a regular basis to administrators and relevant staff members, including school nurses, counselors, and social workers.

b. *Ensure Robust Data Collection and Analysis*

For all students who have voluntarily disclosed that they are pregnant, postpartum, or parenting, the District should collect and periodically analyze the following information, not only to monitor for unlawful discrimination, but also to identify potential areas for improvement with respect to support for this particularly vulnerable student population:

- Any requests for reasonable accommodations and the outcomes of such requests;
- Excused and unexcused absences and related accommodations or interventions (to include enrollment in the STAR program);
- Prior to any such student’s enrollment in the STAR program, all phone calls, meetings, or correspondence related to the recommendation to enroll in the STAR program, the reasons for that recommendation, the alternatives presented to the student and the student’s parents/guardians, and the student’s stated reason for choosing to enroll in the STAR program over the available alternatives;
- Withdrawal and graduation rates of all such students, broken down by those participating in the STAR program vs. all others; and
- Feedback from the students themselves regarding existing barriers to graduation, the helpfulness of existing support services, and suggested improvements. Those students who successfully complete high school should be asked about the factors that made graduation possible for them, whereas students who decide to withdraw from school prior to graduation should be asked about the reasons for their withdrawal.

The District also should consider cross-checking the above information with the relevant demographic data to monitor for potential disparate impacts on Hispanic or other students of color.

District must reexamine the program to ensure that it is, in fact, designed to provide an equivalent educational experience.

⁸⁰ ISBE Findings at 15.

c. *Ensure that policies and practices are consistent with the School Code and language access laws, and clearly prohibit unlawful discrimination against Hispanic students in withdrawal practices*

The District should revise all relevant policies and procedures, including the Student Handbook, to accurately reflect legal requirements with respect to withdrawal practices. In addition, the District should continue to ensure compliance with state and federal laws relating to language access.⁸¹ Specifically:

- Policies, procedures, and the Student Handbook should be revised to ensure that all students and their parents or guardians understand that state law and District policy prohibit the District from withdrawing any student of compulsory school age in order to transfer to a GED program and from advising or encouraging students to drop out voluntarily due to behavioral or academic difficulties.
- The information about withdrawal procedures included in the Student Handbook should specify that Illinois law requires children between the ages of 6 and 17 who have not already graduated from high school to attend school, with very limited exceptions.
- The Student Handbook should further specify that the District will not withdraw any student between the ages of 6 and 17 for the reason of transfer to a GED program nor advise or encourage students to drop out voluntarily due to behavioral or academic difficulties.
- The District must continue to provide a Spanish translation of the Student Handbook for the foreseeable future, barring a significant demographic shift in the District's student population.
- The District should provide a complete copy of its current Student Withdrawal Procedures in English and Spanish to students and their parents or guardians prior to finalizing any student withdrawal.

d. *Ensure that District policies and practices prohibit unlawful discrimination against Hispanic and other students of color in exclusionary discipline practices*

The District should revise its Student Handbook to ensure that all students and their parents or guardians understand the limited circumstances under which students may be subject to exclusionary discipline, as well as the due process rights afforded to parents and students under such circumstances. Revisions should include:

- The Student Handbook should be revised to state expressly that:
 - 1) No in-school suspension may be served at home,
 - 2) Pursuant to the School Code, the District will not impose an out-of-school suspension unless the student's continuing presence in school would pose a threat to school safety or a disruption to other students' learning opportunities, and

⁸¹ ISBE found that the District failed to translate the 2022-2023 Student Handbook into Spanish, despite the fact that the District serves a majority-Hispanic student population with a high proportion of Spanish-speaking parents or guardians. ISBE Findings at 14.

- 3) The District will not impose an out-of-school suspension of more than three days or expel a student unless (1) other appropriate and available behavioral and disciplinary interventions have been exhausted, and (2) the student's continuing presence in school would either (i) pose a threat to the safety of other students, staff, or members of the school community or (ii) substantially disrupt, impede, or interfere with the operation of the school.⁸²
- Additionally, in light of potential language access issues and the current disciplinary disproportionality within the District, it is imperative that the District offer a Spanish-language version of all information related to out-of-school suspension and expulsion hearing procedures, as well as information related to in-school suspensions.

e. Consider best practices in updating District policies, trainings, and procedures

Finally, as the District continues to update its trainings, policies, and procedures in the aforementioned areas, OAG encourages the District to consider and incorporate, whenever appropriate, evidence-based best practices, such as those identified in the below resources:

- OAG and ISBE's 2021 *Guidance to School Districts: Legal Standards and Enforcement of Civil Rights Laws Related to School Discipline in Illinois*
<https://illinoisattorneygeneral.gov/Page-Attachments/2021%20OAG-ISBE%20School%20Discipline%20Guidance.pdf>
- ISBE's *School Discipline* landing page
<https://www.isbe.net/Pages/School-Discipline.aspx>
- OAG and Illinois Department of Human Rights' 2023 *Non-Regulatory Guidance: Illinois Protections Against Discrimination Based on Pregnancy, Childbirth, and Related Conditions, Including Reproductive Decision-Making*
<https://illinoisattorneygeneral.gov/dA/34bd95fe6f/pressAttachment1/20230228%20OAG-IDHR%20Non-Regulatory%20Preg%20Repro%20Guidance.pdf>

We look forward to further discussing the terms of a voluntary agreement between OAG and the District to implement the recommendations detailed above.

Respectfully,

KWAME RAOUL
Attorney General of the State of Illinois

By: /s/ Alexandra Reed

Alexandra Reed, Assistant Attorney General
Mary Grieb, Acting Bureau Chief
Civil Rights Bureau

⁸² 105 ILCS 5/10-22.6(b-15), (b-20).

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APPENDIX A



Illinois State Board of Education

Dr. Tony Sanders, State Superintendent of Education
Dr. Steven Isoye, Chair of the Board

555 W. Monroe Street, Suite 900 • Chicago, IL 60661 • isbe.net

May 3, 2023

Dr. Moses Cheng
Superintendent
Community High School District 94

Re: CHSD 94 Inquiry

Dear Dr. Cheng:

The Illinois State Board of Education (ISBE) has concluded an extended inquiry into the policies, practices, and procedures of Community High School District 94. ISBE conducted this inquiry pursuant to its authority under 105 ILCS 5/2-3.3, 5/2-3.25, 5/2-3.25b, and 23 Illinois Administrative Code (IAC) 1.20, and in response to multiple complaints submitted to ISBE between March and October 2022 by a former district employee. ISBE reviewed the following issues:

1. Whether the district advised or encouraged students of compulsory school attendance age to withdraw from the district in order to enroll in GED programming in violation of 105 ILCS 5/10-22.6(h) and 5/26-1.
2. Whether the district's withdrawal practices have a disparate impact on Hispanic students in violation of 23 IAC 1.240 and other state and federal laws prohibiting discrimination on the basis of race, color, or national origin.
3. Whether the district failed to report accurate reasons for student withdrawal to the Regional Office of Education (ROE) in violation of its reporting requirements pursuant to 105 ILCS 5/26-3a.
4. Whether the district had a practice of issuing in-school suspensions but requiring that they be served at home without appropriate due process in violation of 105 ILCS 5/10-22.6(b).
5. Whether the district reported inaccurate student attendance data in violation of its reporting requirements pursuant to 105 ILCS 5/10-17a(2)(A), the Student Success/School Quality Indicators specified in the Illinois Every Student Succeeds Act (ESSA) Plan, and various state and federal grant applications.
6. Whether the district failed to report truancies to the ROE for school year 2020-21 in violation of its reporting requirements pursuant to 105 ILCS 5/26-2a, 5/26-3, 5/26-3a, and 5/26-3d.
7. Whether the district changed attendance codes to avoid reporting truancies in violation of its reporting requirements pursuant to 105 ILCS 5/26-3, 5/26-3a, and 5/26-3d.
8. Whether the district failed to meet the requirements of the Parent Teacher Advisory Committee (PTAC) in violation of 105 ILCS 5/10-20.14.
9. As analyzed under 105 ILCS 5/2-3.160, whether the district suspended non-White students at significantly higher rates than White students in violation of 23 IAC 1.240 and other state and federal laws prohibiting discrimination on the basis of race, color, or national origin.
10. Whether the district misused Elementary and Secondary School Emergency Relief (ESSER) funds in violation of Section 18003(d) of the Coronavirus Aid, Relief, and Economic Security (CARES) Act; Section 313(d) of the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act; and Section 2001(e)(2) of the American Rescue Plan Act.
11. Whether the district failed to classify students as being eligible for McKinney-Vento services in violation of 42 U.S.C. § 11432(g)(6)(A).
12. Whether the district reported inaccurate high school graduation rates in violation of its reporting requirements pursuant to Section 1111(h)(1)(C)(iii)(II) of the Elementary and Secondary Education Act and the Academic Indicators specified in the Illinois ESSA Plan.
13. Whether the district falsely reported that its Evidence-Based Funding Spending Plan had been reviewed by its Bilingual Parent Advisory Council in advance of submitting the plan to ISBE in violation of its reporting requirements pursuant to 105 ILCS 5/18-8.15(h)(9).

14. Whether the district violated 70/30 special education class size requirements in violation of 23 IAC 226.730.

I. INQUIRY PROCESS

On April 6, 2022, ISBE held a virtual meeting that was attended by Moses Cheng, district superintendent; William Dwyer, principal of West Chicago Community High School; Kathy Doremus, CHSD 94 Board member; Jennifer Saba, ISBE's executive director for Regional Services; Jeff Aranowski, ISBE's executive director for Safe and Healthy Climate; and Derreck Langwith, ISBE's director of the ROE/ISC Department. On May 9, ISBE sent a letter to the district that memorialized the information from the April 6 meeting and requested additional information regarding the district's student withdrawal practices, the composition of its PTAC and that group's meeting schedule, and the findings of the public access counselor relative to certain allegations that the Open Meetings Act had been violated.

On May 18, the district sent a letter that addressed ISBE's requests. The letter included six appendices that contained more information on College of DuPage GED programming and related guidance provided by the ROE to the district, enrollment exit/withdrawal type codes and descriptions from the district and the ROE and a student transfer form, PTAC meeting agendas and minutes, board meeting minutes, and a determination made on March 16 by the public access counselor.

On June 20, ISBE requested the following additional documentation from the district: student withdrawal forms for all students who withdrew from the district for the 2018-19 through 2021-22 school years, excluding students who graduated or transferred to another public school; any documentation that students received from these students, their parents/guardians, or another public or private entity indicating the reason for withdrawal; all in-school suspension (ISS) and out-of-school suspension (OSS) student incident reports for SY 2021-22; individual, daily attendance records for all students who received an ISS or OSS in SY 2021-22; and information on what attendance codes the district uses for students who are serving an ISS or OSS.

Dr. Cheng and Principal Dwyer met virtually on June 29 with ISBE staff (Ms. Saba and Assistant Legal Counsel Melanie Grant) to clarify document requests. ISBE received the requested documents on July 22.

On August 11, ISBE requested interviews with district staff and contact information for 20 students who either withdrew from the district or were reported to have served an ISS at home, according to student records provided to ISBE.

ISBE interviewed the following district staff in separate interviews conducted on October 3, 12, and 13, 2022, and February 10, 2023:

- Barbara Brennan, Counselor
- Antonio Del Real, Dean of Students
- William Dwyer, Principal
- Sandra Gonzalez, Dean Specialist
- Keely Hanley-Anshel, Counseling Division Head
- Tracy Lukas (formerly Eier), Counselor
- Sandra Pampuch, Assistant Special Education Director
- Norma Silva, Attendance Clerk
- Jenna Windt, Dean of Students (former)
- Blanca Ruiz, Student Resource Center Program Assistant

The following individuals were present at these interviews:

- Lisa Armonda, Assistant Legal Counsel, ISBE

- Melanie Grant, Assistant Legal Counsel, ISBE (not present at the interview with Blanca Ruiz)
- Patricia Jjemba, Assistant Attorney General, Illinois Office of Attorney General (OAG)
- Dan Boyle, Attorney for the District
- Graeme Quinn, Attorney for the District

ISBE identified the 20 students for interviews based on certain risk factors identified in the information provided by the district. These students had either withdrawn from the district during the 2020-21 or 2021-22 school years or were reported to have served an ISS at home, according to student records provided to ISBE. All withdrawals were students of compulsory attendance age (or within 10 days of compulsory attendance age) at the date of their withdrawal and were reported as “Transfer to Home School,” “Transfer to Private School/Facility,” or “NRR* Parent Request (GED Under 17).” Students who were identified as having served ISS at home had annotations in their attendance records that the student served the suspension at home or went home during the day of the ISS.

Several families never responded to ISBE’s multiple requests for an interview or declined to participate in an interview. ISBE completed interviews with the following students and parent/guardians:

- ██████████ (parent of ██████████) on September 26, 2022
- ██████████ (parent of ██████████) on September 28, 2022
- ██████████ (parent of ██████████) on October 7, 2022
- ██████████ (parent of ██████████) on October 7, 2022
- ██████████ (student) on October 7, 2022
- ██████████ (student), ██████████ (██████████ mother), and ██████████ (██████████ father) on October 7, 2022
- ██████████ (parent of ██████████) on October 21, 2022

Ms. Grant conducted all student/parent interviews on behalf of ISBE. The interviews were conducted in English and Spanish based on the preferred language of the individual or family participating in the interview. Ms. Armonda (ISBE) and Ms. Jjemba (OAG) also participated in the interview with Ms. Christenson.

ISBE also interviewed two former district employees:

- Cheryl Moore, director of Human Services from July 2017 – June 2021 (January 11, 2023)
- Leslie Springer, director of Special Education from July 2019 – August 2022 (January 20, 2023)

Ms. Grant, Ms. Saba, and Ms. Jjemba participated in the interview with Ms. Moore. Ms. Grant, Ms. Armonda, and Ms. Jjemba participated in the interview with Ms. Springer.

Ms. Grant also conducted interviews of the prior and current president of the district’s Bilingual Parent Advisory Council.

- Maricruz Barrios, president 2021-22 (January 20, 2023)
- Julieta Garcia, president 2022-present (January 23, 2023)

Ms. Jjemba was also present at the interview for Ms. Barrios. The interviews were conducted in Spanish.

ISBE reviewed the following records:

- District response letter from May 18, 2022
- Emails regarding College of DuPage GED Review, College of DuPage High School Equivalency Program

- Retired – Enrollment Exit/Withdrawal Type Codes
- District Quarterly Report
- Student Withdrawal From School (Inactivate) Form
- State Transfer Form
- College/Scholarship Review and Records Release
- June 15, 2021, and October 19, 2021, Board Meeting Minutes
- PTAC Meeting Agenda – May 20, 2022
- PTAC Meeting Notes – June 9, 2021
- PTAC Meeting Notes – October 6, 2021
- OAG Open Meeting Act Request for Review – March 16, 2022
- Intervention PowerSchool log for requested students with “at-home” in-school suspensions
- Student Withdrawal From School (Inactivate) Forms for all students withdrawn during SY 2018-19, SY 2019-20, SY 2020-21, SY 2021-22
- District Suspension Record SY 2021-22 of all students who received any type of suspension
- Individual Suspension Notice Forms and emails SY 2021-22
- Attendance Records for suspended students SY 2021-22
- Truancy Referrals to ROE SY 2020-21 and SY 2021-22
- Attendance and PowerSchool Records for truant students for SY 2021-22
- ESSER II Grant Information and Expenditure Information
- Student Handbook SY 2022-23
- Student Handbook Spanish SY 2021-22
- ESSER Grant Application, Plan for Funding, and ESSER Expenditure Accounting
- Dean’s Office School Safety Update PowerPoint Presentation SY 2022-23
- Various email correspondence

ISBE reviewed the following data:

- McKinney-Vento eligibility data for the district and West Chicago Elementary School District 33.
- Comparison data with seven similarly situated school districts by size, student demographics, and location to review disparate outcomes among student populations. The data reviewed were Attendance Rate, Mobility Rate, 9th Grade On-Track Rate, Academic Proficiency Rate, Graduation Rate, and Dropout Rate.
- District data from the Illinois Report Card:
 - Attendance
 - Chronic Absenteeism
 - Mobility Rate
 - Graduation Rate
 - ELA and Math Proficiency Rate
 - Assessment Proficiency Rate
 - Dropout Rate
 - Enrollment
 - Racial/Ethnic Diversity
- District data from ISBE’s Student Information System (SIS):
 - Student Attendance
 - Student Enrollment and Withdrawal
 - Student Graduation Rate
 - Student Discipline

- Chronic Absenteeism
- Chronic Truancy

II. ANALYSIS AND FINDINGS

Issue 1: Whether the district advised or encouraged students of compulsory school attendance age to withdraw from the district in order to enroll in GED programming in violation of 105 ILCS 5/10-22.6(h), and 5/26-1.

A violation is **founded** as described below.

The district confirmed this allegation in part and denied it in part. In its May 18, 2022, response letter, the district acknowledged that district staff have discussed GED options with a very small number of students who have had attendance concerns or other impediments to school. However, the district maintains that withdrawal to pursue a GED is ultimately the decision of the family and not directed by the district.

ISBE reviewed an email sent by Dr. Cheng to various district staff on May 21, 2021, under the subject of “moratorium on COD GED program.” In the email, Dr. Cheng asked staff to “[p]lease discontinue the recommendation of the COD GED program for 16 yo [sic] students as we are conducting this review.” Based upon this email, it is evident that staff at one time had a practice of recommending the GED program for students of compulsory attendance age in violation of 105 ILCS 5/10-22.6(h) and 5/26-1.

It is a violation of 105 ILCS 5/10-22.6(h) for a school official to “advise or encourage students to drop out voluntarily due to behavioral or academic difficulties.” Throughout the interviews, district staff described discussing GED programming as an option for students who would not be able to graduate within four years. Two district employees (Barbara Brennan and Antonio Del Real) stated that they recommended to some students that they pursue a GED when they were more than two years behind in credits and would not be able to graduate within four years. Additionally, Ms. Brennan stated that she would advise a pregnant student to withdraw from school. The practice of recommending pregnant students to withdraw from school is also a clear violation of state and federal law.¹ Although no incidents involving any pregnant students were identified, additional technical assistance will be provided from ISBE as described in the Orders for Action.

The district provided evidence of a good faith belief that withdrawal of students at age 16 to participate in GED programming was permissible based upon guidance from the DuPage County ROE and information published by the Illinois Community College Board. Nevertheless, it also assured in its May 18, 2022, response letter to ISBE that “the District no longer recommends the College of DuPage GED preparation coursework as an option for students who are of compulsory school attendance.”

To better determine when this practice was officially stopped, ISBE reviewed Withdrawal from School (Inactivate) Forms (hereinafter “Withdrawal Forms”) for school years 2020-21 and 2021-22. These forms showed two students for the 2020-21 school year and three students for the 2021-22 school year who were of compulsory attendance age at the time they withdrew and were coded as pursuing a GED. Thus, it appears that instances of students leaving school before the dropout age to pursue a GED continued into at least the 2021-22 school year.

¹ The recommendation for GED programming for pregnant students is a violation of 23 IAC §200.50 and Title IX § 1681-§1688. Title IX prohibits schools from assuming that pregnant students cannot attend school and requires equal access to school and extracurricular activities for students who are pregnant. The presumption must be that the students can continue their studies and activities as normal, unless the students and their physicians decide otherwise.

The parents should not have been presented with the option for students of compulsory age to withdraw and pursue education programming that did not meet the compulsory attendance requirements. Students of compulsory attendance age only can be withdrawn for truancy in extremely limited circumstances as outlined in 105 ILCS 5/26-12. The staff interviews and the documentation provided by the district did not indicate evidence of the specific supportive services and other school resources provided to each of the five students of compulsory age who were withdrawn. The district explained that two of the three students withdrawn in the 2021-22 school year attended an alternative school, and it did not have records of the interventions attempted. Even though the district obtained parental consent on the Withdrawal Forms for the three students of compulsory attendance age who withdrew during the 2021-22 school year, those students were not eligible to withdraw to pursue a GED because of their age.

Issue 2: Whether the district’s withdrawal practices have a disparate impact on Hispanic students in violation of 23 IAC 1.240 and other state and federal laws prohibiting discrimination on the basis of race, color, or national origin.

The violation could not be determined from the data as described on the next page. However, ISBE is recommending technical assistance to address this issue.

The district denies this allegation and explains that any discrepancy in student withdrawal numbers between Hispanic and non-Hispanic students is proportionate to the district’s demographics. For SY 2021-22, 55 students out of 1,982 who were enrolled (2.7%) withdrew from the district. Forty-two of the 1,382 Hispanic students who were enrolled (3%) withdrew.² Five of 417 White students who were enrolled (2%) withdrew. This indicates that a slightly higher percentage of Hispanic students withdrew from their commensurate enrollment than White students.

For SY 2020-21, 33 students out of 1,990 who were enrolled (1.6%)³ withdrew from the district. Twenty-two of the 1,343 Hispanic students who were enrolled withdrew (1.6%). One of the 454 White students who were enrolled (0.2%) withdrew.

For SY 2019-20, 26 students out of 1,954 who were enrolled (1.3%) withdrew from the district. Twenty-two of the 1,308 Hispanic students who were enrolled (1.6%) withdrew. Three of the 453 White students who were enrolled (0.6%) withdrew.

There appears to be a slight increase in student withdrawal of Hispanic students compared to overall student withdrawal. Similarly, it appears that White students are not withdrawing at the same rates as would be expected.

We noticed trends as we examined specific reasons for student withdrawal that prompted concern. Nearly all students who are withdrawn from the district to pursue a GED or for the reason of “dropout” are Hispanic or other non-White students. There was a significant spike in student dropout rates for SY 2021-22, with the majority of dropouts being Hispanic students. Further, every student of compulsory school attendance age who was withdrawn to pursue a GED was Hispanic. The number of students in these categories is very small, so we cannot make definitive conclusions based upon this data alone. However, we are concerned about the district’s programming and support for Hispanic students to prevent student withdrawal for these purposes. The review of this data is outlined below.

According to the Illinois Report Card, the district’s demographic makeup by number and percentage is as follows:

	School Year 2019-20	School Year 2020-21	School Year 2021-22
White	453 (23.2%)	454 (22.8%)	417 (21%)
Hispanic	1308 (66.9%)	1343 (67.5%)	1382 (69.7%)
Black	44 (2.3%)	45 (2.3%)	52 (2.6%)

² Please note that we are missing racial data on seven students who withdrew in SY 2021-22. All students whose racial data is missing in SIS were listed as “home school” students; it appears that they never attended schools in the district.

³ Please note that we are missing racial data on four students who withdrew in SY 2020-21. All students whose racial data is missing in SIS were listed as “home school” students; it appears that they never attended schools in the district.

Asian	77 (3.9%)	74 (3.7%)	71 (3.6%)
American Indian	3 (0.2%)	0	0
Pacific Islander	1 (0.1%)	0	0
2+ Races	68 (3.5%)	70 (3.9%)	58 (2.9%)

The demographics of the students withdrawn for any reason (home school, no new address, private school, dropout, GED) are as follows (in number and percentage):

	School Year 2019-20 – 26 students total	School Year 2020-21 – 33 students total Note that 4 students (12%) did not have SIS IDs and race could not be determined	School Year 2021-22 – 55 students total Note that 7 students (13%) did not have SIS IDs and race could not be determined
White	3 (11.5%)	1 (3%)	5 (9%)
Hispanic	21 (81%)	22 (66%)	42 (76%)
Black	1 (4%)	2 (6%)	1 (2%)
Asian	0	1 (3%)	0
American Indian	0	0	0
Pacific Islander	0	0	0
2+ Races	1 (4%)	3 (9%)	0

The number and percentage of students withdrawn that are described as pursuing a GED or dropout by race are as follows:

	School Year 2019-20	School Year 2020-21	School Year 2021-22
White	1 (12.5%)	0	0
Hispanic	7 (87.5%)	19 (86.5%)	35 (97%)
Black	0	1 (4.5%)	1 (3%)
Asian	0	1 (4.5%)	0
American Indian	0	0	0
Pacific Islander	0	0	0
2+ Races	0	1 (4.5%)	0

The number and percentage of students of compulsory attendance age described as pursuing a GED or dropout by race are as follows:

	School Year 2019-20	School Year 2020-21	School Year 2021-22
White	0	0	0
Hispanic	1 (100%)	2 (100%)	3 (100%)
Black	0	0	0
Asian	0	0	0
American Indian	0	0	0
Pacific Islander	0	0	0
2+ Races	0	0	0

The interviews did not reveal any specific incident or district practice that the district withdraws Hispanic students to pursue GED programming. However, it is concerning that the district's data presents evidence that Hispanic students are withdrawing to pursue GED programs or to drop out as compared to the withdrawal reasons for White students.

The trends noted in withdrawal reasons are why we are recommending further technical assistance as described after the Orders for Action.

Issue 3: Whether the district failed to report accurate reasons for student withdrawal to the ROE in violation of its reporting requirements pursuant to 105 ILCS 5/26-3a.

The violation is **unfounded** as described below.

ISBE reviewed the district's Withdrawal Forms and entries into SIS that describe the reason for student withdrawal. ISBE focused its interviews on students who were withdrawn for the reasons of "Transfer to Home School," "Transfer to Private School/Facility," and "NRR* Parent Request (GED Under 17)" based on district-assigned exit codes. District staff described categorizing student withdrawal reasons based upon indications from the family, if provided. ISBE interviews with students and families that included students who were withdrawn to pursue a GED, transfer to home school, and transfer to private school did not reveal any discrepancies in the district's reported withdrawal reason and the student's or family's report of the reason for the student's withdrawal. The district's data did not present any anomalies or irregularities in withdrawal reasons that raised concern.

Issue 4: Whether the district had a practice of issuing in-school suspensions but requiring that they be served at home without appropriate due process in violation of and 5/10-22.6(b).

The violation is **founded** as described below.

The district provided documentation that showed that six students served seven in-school suspensions at home during the 2021-22 school year. One incident was incorrectly coded as an out-of-school suspension in the attendance records and was subsequently removed from this analysis as a coding error. The other six incidents were confirmed by the district as in-school suspensions served at home. Three of the family interviews included four of the incidents during which students served ISS at home. The students and parent(s)/guardian(s) confirmed that their in-school suspensions were served at home. The district claimed that the in-school suspensions served at home were a mutual arrangement with the family. The district provided no written notice to the parents regarding the change in discipline, did not obtain parental consent for the change in disciplinary assignment, and did not update the student's records accordingly.

In the interviews with families, the students and parent(s)/guardian(s) did not describe an agreed upon change in disciplinary consequence, but rather a requirement that the student serve the suspension at home or receive additional days of in-school suspension that would be more than the initial ISS consequence.

In one instance, the district issued a three-day ISS and required it to be served at home with no attempt for the student to attend an ISS. The student also was required to transfer to an alternative school. The district claimed that it could not facilitate the change in placement to the alternative program or set up student transportation if the student was issued an OSS suspension. However, the district did not provide any valid reason why those things could not take place if it had issued an OSS suspension instead. The district stated that the transfer to the alternative school could not proceed if the student was serving an OSS suspension because school staff cannot talk to or meet with the student who is serving an OSS suspension. This is incorrect. This ISS ordered to be served at home was improper. Dean of Students Antonio Del Real stated that the student was not formally expelled, but could not return to the building. The district constructively expelled the student for the remainder of the semester without providing proper due process to the student and his parents.

Districts must follow the requirements outlined in 105 ILCS 5/10-22.6 with respect to student discipline. School exclusions, such as out-of-school suspensions and expulsions, are among the most serious disciplinary interventions and

consequences available to school officials. Five of the six incidents in which students served in-school suspensions at home were attendance-related issues; the other was due to vandalism. There was no indication in any of these cases that the student's continuing presence in school posed a threat to school safety or a disruption to other students' learning opportunities, the minimum standard for imposing an OSS suspension of three days or fewer under 105 ILCS 5/10-22.6(b-15). The district explained that the student who vandalized the bathroom had done several thousand dollars' worth of damage. But it took several months for the school to identify the student, which suggests that he did not pose a threat to school safety or a disruption to learning opportunities.

Several district employees indicated in their interviews that four of the five students who served in-school suspensions at home were insubordinate or disruptive during an ISS. If a student's conduct rises to the level of gross disobedience or misconduct that merits an out-of-school suspension, the district must comply with the requirements for issuing an OSS under 105 ILCS 5/10-22.6. This includes "consider[ing] non-exclusionary discipline prior to using out-of-school suspensions or expulsions" and "mak[ing] all reasonable efforts to resolve such threats, address such disruptions, and minimize the length of suspensions to the greatest extent practicable." (105 ILCS 5/10-22.6 (b-5, b-15)) The district failed to demonstrate that it met these requirements.

Additionally, the district failed to provide proper written notice of each OSS to the parents/guardians of these five students in violation of 105 ILCS 5/10-22.6(b). Further, the written notice should have included a full statement of the reasons for such suspension and notice of their right to a review. The district failed to demonstrate that it met these requirements for the five students who experienced a total of six OSS suspensions.

Issue 5: Whether the district reported inaccurate student attendance data in violation of its reporting requirements pursuant to 105 ILCS 5/10-17a(2)(A), the Student Success/School Quality Indicators specified in the Illinois ESSA Plan, and various state and federal grant applications.

The violation is **unfounded** as described below.

The complainant provided no evidence of incorrect student attendance reporting to corroborate the allegation. Nothing in SIS or the documentation provided by the district provides any indication that student attendance records are altered or that inaccurate data had been recorded.

Issue 6: Whether the district failed to report trancies to the ROE for SY 2020-21 in violation of its reporting requirements pursuant to 105 ILCS 5/26-2a, 5/26-3, 5/26-3a, and 5/26-3d.

The violation is **founded** as described below.

In its meeting with ISBE on April 6, 2022, and its follow-up response to ISBE on May 9, the district admitted that it did not report truancy in SY 2020-21 "due to the ongoing COVID pandemic and the challenges created by remote and hybrid learning environments." ISBE provided [guidance](#) to districts that emphasized student health and safety over other typical measures of student attendance during that time; however, the guidance also stated, "it is recommended that school personnel follow the normal procedures of referring students to your school's regional truancy officer as outlined in the Illinois School Code, Section 26-2a ..."4 ISBE does recognize that the district resumed truancy referrals to the ROE in the 2021-22 school year. This was corroborated by records provided by the district and the ROE. Additional technical assistance and follow-up by ISBE will be provided as described in the Orders for Action.

Issue 7: Whether the district changed attendance codes to avoid reporting trancies in violation of its reporting requirements pursuant to 105 ILCS 5/26-3, 5/26-3a, and 5/26-3d.

⁴ [Mandatory Suspension of In-Person Instruction Guidance for Illinois Schools and School Districts](#), last updated: May 8, 2020. Point 91 on Pages 28-29.

The violation is **unfounded** as described below.

The complainant provided no evidence of incorrect student attendance reporting to corroborate the allegation. Nothing in SIS or the documentation provided by the district provides any indication that student attendance records are altered or reported incorrectly. The district's attendance records demonstrate that numerous students fall within the absence criteria for reporting truancy. The Illinois Report Card states that the district identified 424 students (20.4%) as truant for the 2021-22 school year. This is commensurate with the state average of chronically truant students of 22.1%. There is no evidence that the district is altering attendance records to avoid reporting student truancy. After reviewing truancy referral records to the ROE, the district referred 21 students to the ROE for truancy during the 2021-22 school year. The district is required to report truant students to the ROE at the beginning of the school year and throughout the school year. (105 ILCS 5/26-3) The School Code contemplates multiple interventions to address truancy prior to referring truant students to the ROE. The district has discretion in who to report as the requirement is for students "for whom supportive services and other school resources have failed to correct the truant behavior and who are not in regular attendance at the public school." (105 ILCS 5/26-3) Thus, students who are still in process of responding to supportive services and other school resources may not yet rise to the level of a referral to the ROE.

Issue 8: Whether the district failed to meet the requirements of the PTAC in violation of 105 ILCS 5/10-20.14.

The violation is **unfounded** as described below.

The first alleged violation is that the racial and ethnic diversity of PTAC members is not diverse. The second allegation is that the PTAC did not comply with the Open Meetings Act. (5 ILCS 120/3.5(e)) The next allegation is that the PTAC did not meet annually. The final allegation is that the PTAC did not have proper interaction with the local school board.

There is no specific legal requirement regarding the racial or ethnic diversity of PTAC membership. As such, there is no violation in state law or regulation. This allegation is dismissed.

The OAG already addressed the concern regarding the violation of the Open Meetings Act and determined that it was "unable to conclude that the Parent Teacher Advisory Committee (Committee) of the ... District ... violated OMA in this matter." (Appendix F) ISBE defers to the determination in the OAG's review of the issue. Therefore, ISBE dismisses this allegation.

The district provided ISBE with meeting minutes and agendas for the PTAC meetings on June 9, 2021, and October 5, 2021, and provided the meeting agenda for the meeting on May 20, 2022. The [minutes](#) for the May 20, 2022, meeting and the [agenda](#) for the October 26, 2022, meeting have been posted on the district's website. These records demonstrate that the PTAC met during the 2020-21 school year and meets more than annually.

The PTAC includes school board members Penny Munoz and Jovany Zuniga, according to PTAC meeting minutes. The district documented that Ms. Munoz attended the PTAC meetings on June 9, 2021; October 5, 2021; and May 20, 2022.

Additionally, the district's board meeting minutes from June 15, 2021, report: "The Parent Teacher Advisory group met last week and reviewed historical data regarding school and in and out of school suspensions, chronic trancies and interventions, and student dress code practices. The group will reconvene in early fall." The board meeting minutes from October 19, 2021, report: "Parent Teacher Advisory – October 5, 2021, Ms. Munoz gave an overview of the Parent Teacher Advisory meeting. Items discussed included credit recovery, post-graduation planning and the need for more Social/Emotional support. She reported there was student representation. The next meeting will be held in the spring."

Ms. Munoz's attendance at PTAC meetings and the report at district board meetings demonstrates the compliance with the local school board involvement under 105 ILCS 5/10-20.14(a).

Issue 9: As analyzed under 105 ILCS 5/2-3.160, whether the district suspended non-White students at significantly higher rates than White students in violation of 23 IAC 1.240 and other state and federal laws prohibiting discrimination on the basis of race, color, or national origin.

The district's discipline demonstrates disproportionality as described below.

The district was found to be in the Top 20% for Exclusionary Discipline for Racial Disproportionality and has met with the ISBE Student Care team to address student discipline findings as required, including creating a Discipline Improvement Plan. This finding is being addressed through the Discipline Improvement Plan process. The district submitted its Discipline Improvement Plan on January 30, 2023, and a progress report is due on October 31, 2023. No Orders for Action will be related to this finding as a separate process is already taking place.

Issue 10: Whether the district misused ESSER funds in violation of Section 18003(d) of the CARES Act, Section 313(d) of the CRRSA Act, and Section 2001(e)(2) of the American Rescue Plan Act.

The violation is **unfounded** as described below.

There were four allegations relating to the use of ESSER funds. The first was that funds were used to resurface the football field. The district used ESSER funds to resurface the football field and categorized the field as a learning space under the application for funding. The development of outdoor learning spaces to meet the requirements of Centers for Disease Control and Prevention (CDC) guidelines for social distancing was allowable under the Acts. Section 2001(e) of the American Rescue Plan specifically authorizes a Local Education Agency to use ESSER funds to develop strategies and implement public health protocols, including, to the greatest extent practicable, policies in line with guidance from the CDC for the reopening and operation of school facilities to effectively maintain the health and safety of students, educators, and other staff. ISBE made an onsite visit to West Chicago Community High School and observed classes using the resurfaced football field. The requirements for the use of ESSER funds allow for such use. No violation is founded on the use of ESSER funds for resurfacing the football field.

The second allegation was that the ESSER funds were used to replace the track. ISBE denied the district's request for funds for this purpose, and no funds were dispersed related to the replacement of the track. This allegation is unfounded.

The third allegation was that two program assistant positions were listed in the district's budget in its grant application, but the positions were never posted or filled. If a district does not fill the positions, it will amend the grant and reallocate the amount for other allowable expenses. The ESSER funds are dispersed on a reimbursement model, so the district would be required to submit an expenditure report for reimbursement of expenses to have access to these funds. The budgeted allocation for funds that are never requested for reimbursement and never subsequently dispersed to the district cannot be considered a violation of Section 18003(d) of the CARES Act, Section 313(d) of the CRRSA Act, or Section 2001(e)(2) of the American Rescue Plan Act. This allegation is unfounded.

The fourth allegation was that the district spent over \$500,000 in ESSER funds on a gym roof/pool ventilation project. The district's application included a request for ESSER funding to replace four air handlers above the gymnasium area for improved air quality and circulation and to install new duct work equipment and connect it to existing stems, including replacement of originally installed large purge fan equipment. This was focused on adjustment of the current air flow system to increase air quality and air circulation around the pool area. Both were allowable expenditures. This allegation is unfounded.

Issue 11: Whether the district failed to classify students as being eligible for McKinney-Vento services in violation of 42 U.S.C. § 11432(g)(6)(A).

The violation could not be determined from the data as described below. However, ISBE is recommending technical assistance to address this issue.

ISBE reviewed McKinney-Vento enrollment data for West Chicago Elementary School District 33, which feeds into CHSD 94. Approximately 13% of the student population of District 33 is eligible for McKinney-Vento services. Approximately 4% of the population of District 94 is eligible for such services. There is a significantly lower population of students eligible for McKinney-Vento services among the high school students, but it is unclear what is the ultimate cause of this discrepancy. The data suggests that an expected number of ninth grade students are eligible for McKinney-Vento services and such students are dropping off in the upper grades. It does not appear that the students eligible for McKinney-Vento services are not making the transition to ninth grade from the elementary school district to the high school district.

CHSD 94 - West Chicago	
Grade 9	58
Grade 10	12
Grade 11	10
Grade 12	8
Total	88
West Chicago ESD 33	
Pre-K	62
K	50
Grade 1	52
Grade 2	33
Grade 3	46
Grade 4	34
Grade 5	72
Grade 6	34
Grade 7	35
Grade 8	33
Total	451

Based upon the data reviewed and the overall lower percentage of students eligible for McKinney-Vento services, we are recommending technical assistance as described below.

Issue 12: Whether the district reported inaccurate high school graduation rates in violation of its reporting requirements pursuant to Section 1111(h)(1)(C)(iii)(II) of the Elementary and Secondary Education Act and the Academic Indicators specified in the Illinois ESSA Plan.

The violation is **unfounded** as described below.

The allegations are a result of student attrition data and how such attrition impacts the district’s graduation rate. The allegation misunderstands ISBE’s business rules on how to calculate a district's graduation rate. The business rules for calculating the graduation rate are on page 135 of the [Public Business Rules 2022 Report Card Metrics](#) document. Further, there is confusion regarding the separate calculation of special education students in one chart presented to ISBE. Review of student enrollment in the district revealed that there were no irregularities regarding the enrollment of special education students and their subsequent inclusion into student cohorts to calculate graduation rate.

To calculate a district’s graduation rate, students are removed from the cohort and are not counted in the graduation rate calculation when students leave a school district for the following reasons:

- Transfer to home school

- Transfer to private school
- Death
- Moved out of United States
- Transfer to another public school district outside of Illinois
- Transfer to another public school district inside of Illinois

Students are calculated as part of a district's graduation rate for the following reasons:

- Promotion
- Graduation
- Expulsion
- Dropped out
- Transfer to GED program
- Retained
- Aged out
- Certificate of Completion
- Victim of violent crime
- Moved, not known to be continuing
- Change in serving school or full-time equivalent

ISBE's communication with individual students and families from the district revealed no discrepancies regarding the district-reported withdrawal reason for students (e.g., transfer to home school, transfer to private school, dropped out, transfer to GED program).

ISBE reviewed the district's graduation and dropout rate as compared to seven similarly situated school districts for the 2020-21 school year. The district had a higher four-year graduation rate (90.1%) than the state average of 86.8%. Additionally, Hispanic students had a slightly higher graduation rate (86.9%) than the state average for Hispanic students (83.6%).

Within ISBE's review of the district with the seven other similarly situated school districts, ISBE found that both White students (0.7%) and Hispanic/Latino students (1.8%) in CHSD 94 had lower dropout rates than the state average for the 2020-21 school year (2.1% and 2.6%, respectively). The students who have been removed from the cohort appear to have been removed according to ISBE business rules and found to be an accurate representation of withdrawal reasons. The district's student attrition was not found to be unusual or irregular. However, ISBE did notice some trends that are of concern regarding the gap between White students and Hispanic students in graduation rates (13.1% difference) and dropout rates (1.1% difference). These differences were found to be the largest differences among the seven school districts reviewed. The district was found to have higher graduation rates than the state average and lower dropout rates than the state average based upon the review that was completed, but no violations regarding the calculation of the district's graduation rate have been founded.

Issue 13: Whether the district falsely reported that its EBF Spending Plan had been reviewed by its Bilingual Parent Advisory Council (BPAC) in advance of submitting the plan to ISBE in violation of 105 ILCS 5/18-8.15(h)(9).

The violation is **unfounded** as described below.

CHSD 94 requested that ISBE reopen its application for edits prior to the October 31, 2022, filing deadline.

The district was alerted to its failure to ensure that the BPAC reviewed the district's EBF Spending Plan. Accordingly, the district withdrew its submission prior to the October 31, 2022, deadline and resubmitted its Spending Plan on October 26, 2022. With its resubmission, the District assured that it had met the BPAC review requirement because the BPAC and its chair, Veronica Jimenez Winton, reviewed the plan on September 13, 2022. Both the current and former presidents of the BPAC indicated when they were interviewed that they were provided documents in English. Although neither recalled any discussion or approval process of the Spending Plan, the assurance meets the requirement under 105 ILCS 5/18-8.15(h)(9).

Issue 14: Whether the district violated 70/30 special education requirements in violation of 23 IAC 226.730.

ISBE has established a state complaint process to investigate specific special education violations as required under the Individuals with Disabilities Education Act and 23 IAC 226.570. If there are special education concerns, they should be submitted through ISBE's state complaint process, which can be found on the [ISBE Complaint Investigation Process webpage](#).

Language Access Issues:

In review of the specific issues listed thus far, ISBE has **found an additional violation** regarding language access for limited English proficient parents/guardians. The district failed to translate the current school year Student Handbook into Spanish. The Student Handbook outlines practices and policies regarding student attendance, withdrawal, and discipline, among other policies. The 2022-23 Student Handbook is still not translated into Spanish as of this writing. The district acknowledged that its student population is primarily Hispanic and that a large proportion of parent(s)/guardian(s) primarily speak Spanish. However, the district has not provided this key document in Spanish to students and families.

Federal law provides that "Information regarding student interpretive, descriptive, and diagnostic reports, plans, policy, compact, parent meetings, and other required correspondence must be given in an understandable and uniform format, and to the extent practicable, in a language that parents can understand." (ESSA Sections 1112 (e)(4), 1114 (b)(4), 1116 (e)(5), and 1116 (f))

In [*Schools' Civil Rights Obligations to English Learner Students and Limited English Proficient Parent*](#), the U.S. Department of Education Office for Civil Rights wrote: "The obligation not to discriminate based on race, color, or national origin requires public schools to take affirmative steps to ensure that limited English proficient (LEP) students, now more commonly known as English Learner students or English Language Learners, can meaningfully participate in educational programs and services, and to communicate information to LEP parents in a language they can understand."

The district's failure to translate the Student Handbook into Spanish is a violation of 23 IAC 1.240; ESSA Sections 1112 (e)(4), 1114 (b)(4), 1116 (e)(5), and 1116 (f); and the district's obligation to take affirmative steps to ensure LEP students and their parents/guardians receive information in a language they can understand.

Orders for Action

Based upon the findings previously listed, ISBE issues the following Orders for Action:

1. The district must draft and adopt a procedure for student withdrawal by Tuesday, June 13, 2023.
2. The student withdrawal procedure must include specific information related to pregnant students under 23 IAC 200.50 and Title IX of the Education Amendments Act of 1972. The procedure must prevent discrimination against pregnant and parenting students while supporting such students so that they succeed in school and must include, but not be limited to, allowing and encouraging students who are pregnant, who have been pregnant, or who have a child to attend and participate in school and extracurricular activities; offering any special services provided for temporarily disabled students to be provided for pregnant students as well; allowing separate programs for pregnant and parenting students to be completely voluntary and offering such

students opportunities equal to those offered for non-pregnant students; excusing absences due to pregnancy or childbirth as long as is deemed medically necessary by the student's physician; and requiring a physician's note for pregnant students to participate in activities only if the school requires a physician's note from all students who have conditions that require medical care, but not otherwise.

3. The district must train all staff who work in the Dean's Office or Counseling Office, or work in any capacity with student withdrawal on the withdrawal procedure. The training must include a section on 23 IAC §200.50, including a section on subpart (e) and Diversity, Equity, and Inclusion. The district must submit the training documentation; date of training; and personnel (including their titles) in attendance at the training to ISBE by September 29, 2023.
4. The district must not withdraw any student of compulsory attendance age for the reason of transfer to a GED program and provide a statement of assurance to ISBE.
5. The district must not issue any in-school suspension to be served at home and provide a statement of assurance to ISBE.
6. The district must remove the withdrawal code 10/10-03 "NRR* Parent Request (GED under 17)" from its Withdrawal (Inactivate) Form and provide a copy of the updated form to ISBE.
7. The district must train all staff who are involved in any capacity with student discipline on 105 ILCS 5/10-22.6 by September 22, 2023. The district must submit the training documentation; date of training; and personnel (including their titles) in attendance at the training to ISBE by September 29, 2023.
8. The district must submit a copy to ISBE of the 2023-24 Student Handbook translated into Spanish by the first day of student attendance for the 2023-24 school year. The district must demonstrate that it provided the translated Student Handbook to its student population and their parents.
9. The district must meet with ISBE in May 2023, November 2023, and April 2024 to review student withdrawal and suspension data and records.
10. The district must submit all required documentation by September 29, 2023.

If the district fails to comply with these Orders for Action, ISBE may initiate progressive enforcement procedures under 23 IAC 1.20, including changing the district's recognition status to "On Probation."

Technical Assistance:

1. ISBE will provide technical assistance to the district on developing a Student Engagement Plan to address Hispanic student withdrawal to pursue a GED or drop out. ISBE requests that the district provide a copy of the Student Engagement Plan to ISBE by the first day of student attendance for the 2023-24 school year.
2. ISBE will provide technical assistance to the district regarding eligibility for McKinney-Vento services. ISBE recommends that the district schedule a targeted training for its McKinney-Vento liaison with the lead area liaison to address the significant drop off of students who are eligible for McKinney-Vento services in upper grades. ISBE requests that the district provide the training date to ISBE by the first day of student attendance for the 2023-24 school year.

If you have any questions regarding these orders, please contact Jennifer Saba at jsaba@isbe.net.

Sincerely,



Dr. Tony Sanders

State Superintendent of Education

cc: Daniel Boyle, District Attorney

Jeremy Duffy, ISBE Legal Officer
Melanie Grant, ISBE Assistant Legal Counsel
Jennifer Saba, Executive Director of Regional Services