

January 25, 2024

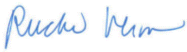
**AUTHORIZE THE COMMENCEMENT OF THE PUBLIC COMMENT PERIOD FOR POLICY ON FACILITY UTILIZATION AND ESTABLISH GOAL THAT EACH CHICAGO PUBLIC AND CHARTER SCHOOL ENROLL A NATURAL PROPORTION OF STUDENTS WITH DISABILITIES STARTING JANUARY 26, 2024**

**THE CHIEF EXECUTIVE OFFICER RECOMMENDS:**

That the Board authorize the commencement of the Public Comment Period from January 26, 2024 to February 26, 2024 for the Policy described in the disposition table below. Pursuant to Board Rule 2-6(c), the Board must authorize the commencement of the Public Comment Period.

Current Policy Section/ Current Policy Title	New Policy Section/ New Policy Title	Description of Revision/Disposition
410.3 Facility Utilization and Establish Goal That Each Chicago Public and Charter School Enroll a Natural Proportion of Students With Disabilities	N/A	<p>Rescind Policy 410.3</p> <p>The policy outlined below is outdated and should no longer be included as a district policy. There is no longer a minimum percentage of students with disabilities that schools are required to enroll in CPS schools. Additionally, space utilization is no longer an issue as all schools in the district are required to accommodate and implement special education for Diverse Learners with the exception of students that require a low incidence special education program and/or accessible building. Lastly, students with disabilities are not placed in a private facility because of a lack of classroom space, as it will violate FAPE.</p>

Approved as to Legal Form: 

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**Ruchi Verma**  
 General Counsel

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**Pedro Martinez**  
 Chief Executive Officer

**Policy/Board Rule Summary Form**

Policy/Board Rule Being Amended/Created	Policy Manager(s)
Facility Utilization and Establish Goal That Each Chicago Public and Charter School Enroll a Natural Proportion of Students With Disabilities	Office of Diverse Learners Supports and Services

1. Why is this policy/Board rule being amended, created, or rescinded now? (e.g., state legislation, compliance change, policy was out of date, biennial policy review, CEO/CEdO recommendation, etc.)

The policy outlined above is outdated and should no longer be included as a district policy. There is no longer a minimum percentage of students with disabilities that schools are required to enroll in CPS schools. Additionally, space utilization is no longer an issue as all schools in the district are required to accommodate and implement special education for Diverse Learners with the exception of students that require a low incidence special education program and/or accessible building. Lastly, students with disabilities are not placed in a private facility because of a lack of classroom space, as it will violate FAPE.

2. Please provide a high level summary of what policy/Board rule changes are being made, or created, and why.

The Office of Diverse Learners Supports and Services are asking for this policy to be rescinded as it is based on the Corey H. v. Board of Educ. of City of Chicago, 995 F. Supp. 900 (N.D. Ill. 1998). The Corey H. consent decree expired in 2012. Additionally, Corey H. is referenced in other board policies such as the Enrollment and Transfer Policy.

3. Please provide any notable feedback from internal or external stakeholders, and how you addressed it or planned to address it in your policy/Board rule draft.

ODLSS has met with the following individuals to receive feedback to consider rescinding this policy:

- School Law Team (Laura Battistoni) on Sep 27, 2023
  - Attorney Battistoni also consulted and received feedback from the special education attorney team, Attorney Melissa Crawford and Attorney Christy Michelson on October 5, 2023. No concerns were noted.
- Office of Student Health and Wellness on October 2, 2023
  - Received thoughtful feedback from Ms. Cassidy Malner, Healthy CPS Network Specialist. No concerns were noted.

4. Please provide any additional notes/considerations in the box below.

There are no additional notes or considerations.

**RESCIND BOARD REPORT 99-0526-PO1  
 FACILITY UTILIZATION AND ESTABLISH GOAL THAT EACH CHICAGO PUBLIC AND CHARTER  
 SCHOOL ENROLL A NATURAL PROPORTION OF STUDENTS WITH DISABILITIES**

**THE CHIEF EXECUTIVE OFFICER RECOMMENDS THE FOLLOWING:**

Rescind the following outdated Board Policy for the reason stated below:

<u>Board Report &amp; Policy Section Numbers</u>	<u>Policy Name</u>	<u>Reason for Rescission</u>
99-0526-PO1, Policy 410.3	Facility Utilization and Establish Goal That Each Chicago Public and Charter School Enroll a Natural Proportion of Students With Disabilities	The policy outlined below is outdated and should no longer be included as a district policy. There is no longer a minimum percentage of students with disabilities that schools are required to enroll in CPS schools. Additionally, space utilization is no longer an issue as all schools in the district are required to accommodate and implement special education for Diverse Learners with the exception of students that require a low incidence special education program and/or accessible building. Lastly, students with disabilities are not placed in a private facility because of a lack of classroom space, as it will violate FAPE.

Every Chicago public school, including charter, magnet, and vocational schools, shall take steps to ensure that it:

1. Educates each student with disabilities who would attend that school if the student was not disabled when the special education, related services, and supplementary aides and services reflected on the student's IEP are available or can be made available in the school.
2. Takes steps to reach a goal for enrolling a natural proportion of students with disabilities. For purposes of this policy, natural proportion refers to a school enrollment rate of students with disabilities that is, at a minimum, within plus or minus 5% of the Chicago Public Schools' citywide enrollment rate. This goal does not affect the continued role and existence of special schools designed for the education of students with significant disabilities.

3. The space utilization priority standard described below shall be followed to ensure that each disabled student who cannot be appropriately educated in a school (s)he would attend if not disabled has the opportunity to attend a school that is located within a reasonable distance from the student's residence and that no disabled student is placed in a private facility solely because of a lack of classroom space.

### **SPACE UTILIZATION STANDARD**

Principals will utilize school space by prioritizing classroom space for core curriculum instruction, including special education instruction. Schools that are physically accessible shall accommodate a student with a physical disability who is unable to attend his/her home or magnet school/program because it is not accessible and cannot reasonably be made accessible.

To implement this policy:

1. Every school that does not currently enroll a natural proportion of students with disabilities shall include in its School Improvement Plan strategies for meeting this goal, beginning in September 1999. High schools will begin with the September 1999 freshman class. The strategies will include a description of the technical assistance and training necessary for school staff to address the needs of students with disabilities and classroom space considerations;
2. Every school shall include in its School Improvement Plan strategies for offering a full continuum of services (regular class with supplemental aides and services; resource class; instructional class) for students with disabilities;
3. No school will cap its enrollment of students with disabilities or otherwise preclude them from attending their current or home school, or from attending a school necessary to provide a free appropriate public education in the least restrictive environment; and
4. The Region Education Officers (REOs), the Chief Specialized Services Officer (CSSO), and principals will collaboratively develop strategies and plans for reducing the number of students with disabilities enrolled in schools with disproportionately high rates.

The Region Education Officer and Chief Specialized Services Officer, or their designees, will review these School Improvement Plans to ensure their adequacy and will require changes as necessary.

To ensure the implementation of this policy, the appropriate REO and CSSO will have joint authority to require the enrollment of a student with disabilities in a specific school. The officers will take the following factors into consideration: the school has or will have appropriate special education and related services for the students to be enrolled; the student will be able to remain at the school for all grades housed by the school, except that students in preschool programs (ages three and four years old) will continue to return to their home schools at five or six years of age; the school does not have a disproportionately high number of children with disabilities, unless there is no other means for providing the students with an appropriate education in the LRE; the school shall enable the student to receive services in the LRE; and that the school selected offers the best option for implementing this policy.

Illustrative models may be used to implement this policy are attached as Appendix A. The Office of Specialized Services will provide the Chicago Reform Board of Trustees with an annual report regarding the implementation of this policy.

### **APPENDIX A - IMPLEMENTATION MODELS**

1. Elementary & High Schools:

Establish cluster classrooms for students with low incidence disabilities who require instruction, at least part of the time, in a separate classroom. Such students have disabilities that are relatively unique and complex, i.e., students with autism, multiple disabilities, hearing or vision disabilities, etc. Note the classroom space for such children is in chronic shortage. Students residing closest to school would be identified to minimize transportation distance and related service costs.

2. High Schools:

Establish informal feeder school patterns with schools that normally feed into high schools that have a high proportion of students with disabilities. Such coordination would foster a steady and predictable enrollment stream and encourage staff relationships that would support student articulation.

3. High Schools:

Recruit students with disabilities who (with curricular accommodation and modification, and supplementary aides and services) could benefit from instruction in regular classes. With appropriate staff and support, these students could benefit from access to the high school's core curriculum. Recruitment could begin with those eighth grade classes that are located closest to the high school to minimize travel time.

4. Elementary Schools:

A school with a low proportion of students with disabilities may pair with a school that has a high proportion of such students which is located within a reasonable distance. Offer parents the opportunity to send their child to the paired school through a voluntary transfer program.

Cross References: 94-0525-PO2

Legal References: Corey H vs. The Board of Education of the City of Chicago, et. al., Settlement Agreement