

## **Exhibit 5**

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**Report for the U.S. Department of Justice  
Review and Evaluation of Chicago Public Schools' Implementation of the  
Bilingual Education Requirements of Amended Appendix C**

**United States v. Board of Education of the City of Chicago**

Submitted by Barbara Marler

To the U.S. Department of Justice – Civil Rights Division – Educational Opportunities Section  
9/6/07

### Purpose

As the contracted expert witness for the U.S. Department of Justice ("DOJ") in the case United States v. Board of Education of the City of Chicago, I am obligated: 1.) To provide assistance in evaluating whether the Board has implemented the bilingual education requirements of Amended Appendix C, 2.) To review the adequacy of the Board's services for English Language Learners ("ELLs"), 3.) To prepare a report assessing the adequacy of those services and 4.) To assist in determining what steps, if any, the Board should take to satisfy the requirements of Amended Appendix C.

### Description of Amended Appendix C

It is my understanding that the bilingual education requirements of Amended Appendix C were written to resolve situations that all parties agreed warranted further attention. The Board's expert, Beatriz Arias, and I concurred previously on many concerns and recommendations in our reports sent to the Board and the DOJ, respectively. Ms. Arias and I agreed that the *Framework for Success* (hereinafter "the *Framework*"), written and disseminated by the Office of Language and Cultural Education ("OLCE"), presented a sound theoretical base and reasonable policies and practices. Section IV of the Second Amended Consent Decree ("SACD") states that "CPS shall provide language acquisition programs to all eligible students in a timely and educationally appropriate manner, consistent with Amended Appendix C and CPS' written policies" as set forth in the *Framework*. Many of the requirements of Amended Appendix C are also consistent with state and federal legal requirements.

### Methodology

During October and November of 2006 and February, April and May of 2007, I reviewed documents and visited schools and classrooms (see Appendix). I was always in the company of an attorney representing the Board and an attorney representing the United States. Generally, individual school visits lasted for approximately two to three hours and consisted of interviews with Bilingual Lead Teachers ("BLTs") and bilingual compliance facilitators ("BCFs") as well as classroom observations. At some schools, principals and/or assistant principals (at their own choosing) participated in the interviews.

In order to collect standardized data through the interviews and classroom observations I organized my questions and my observations around the following nine sections of Amended Appendix C:

- Registration, Identification and Placement of ELLs
- Instruction of ELLs
- Resources for ELLs
- Teacher Certifications
- ELL Access to Special Programs
- Special Education
- Transitioning and Monitoring of Transitioned ELLs
- Systemic Monitoring
- Reporting

I incorporated data gathering strategies that I typically use when school districts invite me into their districts to provide them with constructive feedback on the efficiency, effectiveness and the degree of implementation of district policy. An example of such a strategy is to select random folders of sufficient number and review the contents of those selected folders, rather than reviewing every folder individually. I noticed that bilingual compliance facilitators also use many of the same strategies I use when they conduct their compliance review visits.

Applying a standard of what is reasonable, based on my twenty-seven years of experience with English as a second language ("ESL")/bilingual education programs, I looked for instances of outstanding, adequate and poor implementation. When I discovered lapses in implementation, I considered the degree of severity or pervasiveness of those lapses. In any system, there are bound to be mistakes or discrepancies occurring. I sought to determine whether such instances are occurring broadly across sites, deeply within individual sites or perpetually across/within sites in order to differentiate between which instances are systemic and therefore problematic and which instances are sporadic and examples of human error that are not indicative of any institution-wide deficiencies.

During 145 classroom observations and interviews at 32 schools, I noted many instances of good practice, even exemplary practice, as well as opportunities to view talented teachers and administrators in action and to witness children learning in exciting and dynamic ways. The purpose of this report is to evaluate CPS' compliance with Amended Appendix C. Included in this report are examples that illustrate how schools have failed to implement certain provisions of Amended Appendix C. This report communicates, in my professional judgment, the degree to which the Board has implemented that governing document and recommendations to assist the Board in meeting the requirements of Amended Appendix C.

### **Organization of the Report**

I organized the report around the nine sections of Amended Appendix C. I summarized the purpose within each of the nine sections, stated the requirements of each section, presented my findings and asserted my opinion. I based my opinions on my

educational background and experience gained over the last twenty-seven years and my understanding of the research in the field of ESL/bilingual education. I related the purpose and my opinion to the entire section of Amended Appendix C, whereas I related the requirements and findings to the subsections contained within each section of Amended Appendix C.

I based my findings on school and classroom observations, interviews with school staff and documents provided by CPS. Documents provided by CPS include reports generated at a system-wide level, compliance review reports and technical assistance forms completed by BCFs. I synthesized many of the documents provided by CPS into charts and incorporated those charts into my report. I placed the schools I visited in **bold font** in these charts. When the BCF wrote comments on either the compliance review report or the technical assistance form, I incorporated those comments onto the charts. BCFs stated during interviews that every visit they make to a school generates a report. Copies of compliance review reports and technical assistance forms served as primary indicators of whether non-compliance issues were resolved.

I cited the *Framework* frequently in this report, as its requirements were incorporated into the SACD and Amended Appendix C. I also cited the *Bilingual Program Specialists' Handbook*, provided by the OLCE to assist Bilingual Program Specialists (now known as BLTs), in implementing transitional bilingual education programs in their schools and the *CPS Bilingual Special Education Manual*, when referring to services for ELLs with a disability. I noted for information purposes where the requirements of Amended Appendix C were the same as state law.

### Summary

¶ 1.a. The Board seems to have implemented satisfactorily the administration of the Home Language Survey ("HLS") to every student upon registration and entry; however, the Board should continue to emphasize the importance of offering the HLS in the families' native language and require teachers, office staff, or the BLT to keep a copy of the HLS in every student's file. The Board needs to address 13 schools' failure to follow CPS policy in the administration of the HLS. The Board should document resolution of this problem.

¶ 1.b. The Board has ensured, for the most part, that teachers are able to assess all ELLs for possible placement in a language acquisition program in a timely fashion. The delay in assessment at five schools that BCFs noted in mid-October through mid-December and the resulting periods of missed instruction are inexcusable. The situation at Clemente, where the counselor schedules ELLs before the BLT administers the screening instrument, fails to satisfy the requirements of this section. The Board should document resolution of this problem.

¶ 1.c. The Board seems to have compiled and maintained a list of translators at every school visited. Most schools visited have recruited and hired bilingual clerical, security and counseling staff to assist in providing translation and interpretation. A failure to compile and/or post a list of translators at 14 schools remains an issue for the Board to address. The Board should document resolution of this problem.

¶ 1.d.-1. The Board has failed to ensure that ELL identification and placement in a language assistance program occurs in a timely and appropriate manner. The Board must remedy this situation, identified by BCFs in 22 instances, immediately. The Board should document resolution of this problem.

¶ 1.d.-2. The Board has implemented the parent refusal process properly at most schools. However, in schools where the number and/or percentage of parent refusals are high, it is difficult to determine whether the school has implemented the parent refusal process correctly. In some instances, the data reported by the Board are disputed at the school level and/or copies of parent refusals forms are not kept in students' files. The Board should investigate schools with a high percentage of parent refusals. The Board should document resolution of this problem.

¶ 2.a. The Board has failed to implement its ELL instruction in a manner that is consistent with the policies and guidelines established in the *Framework* and ¶ 2.a. of Amended Appendix C as required. The Board should document resolution of this problem.

¶ 2.b. The Board has failed to provide Transitional Bilingual Education ("TBE") programming when there are 20 or more ELLs of the same language background in the same school, as required in the *Framework* and in Amended Appendix C. Several schools visited and other schools noted by BCFs have failed to provide TBE programming, which by definition includes native language instruction and ESL instruction, to large numbers of eligible ELLs. The Board has failed to ensure that all schools vary the amount of instruction in the native language and English according to the level of English proficiency of the student. Additionally, the Board has failed to ensure that all schools increase the amount of English instruction over time as set forth in the *Framework*. The Board should document resolution of this problem.

¶ 2.c. The Board has failed to provide instruction pursuant to the Transitional Program of Instruction ("TPI") model provided in the *Framework*, which includes ESL instruction. Several schools visited and others noted by BCFs failed to provide ESL instruction by a certified ESL teacher, failed to group ELLs at comparable English proficiency levels, failed to provide uniform instruction within the school, and/or failed to provide instruction consistent with good pedagogy. The Board should document resolution of this problem.

¶ 2.d. The Board has failed to take reasonable steps to ensure that appropriate services become available when it learns that an ELL is not receiving the language acquisition instruction to which the student is entitled under the *Framework*. At least 2,021 ELLs were impacted by this failure during the 2006-07 school year. The number of impacted ELLs could be much higher if all schools with more than 100 ELLs had participated in a compliance review. 99 schools with more than 100 ELLs did not participate in a compliance review and of those, 29 schools had no visit whatsoever from a BCF. The extent of the Board's failure to serve ELLs may be limited by the selection of schools for compliance review. The Corrective Action Plan ("CAP") detailed

in the *Framework* seems ineffective because many failures to implement the requirements of Amended Appendix C observed and noted by BCFs had persisted for some time, yet little to no corrective action had been taken leading to resolution. The Board should document resolution of this problem.

**¶ 2.e.** The Board has continued to annually assess the academic performance and English language proficiency of each ELL enrolled in a language acquisition program, using the state-prescribed measure called Assessing Comprehension and Communication in English State-to-State for English Language Learners™ ("ACCESS for ELLs"™).

**¶ 2.f.** The Board has ensured that all schools use the results of the state-prescribed English language proficiency assessment, the WIDA ACCESS Placement Test™ ("W-APT"™) to ensure that the language acquisition placement of every ELL is appropriate, but as noted in ¶ 2.d., not all eligible ELLs are being served.

**¶ 2.g.** The Board has ensured that one language acquisition teacher is responsible for recording and timely updating data related to each ELL's progress and pertinent benchmark data. However, the accuracy of that recorded data cannot be verified, given the inconsistency between data reported by the Board and the data reported by the schools. The Board should document resolution of this problem.

**¶ 2.h.** The Board has achieved integration when the school serves ELLs in a resource or pull-out/push-in configuration. However, the Board has failed to integrate ELLs at 19 schools visited in physical education, music and art classes when those ELLs are participants in a self-contained TBE classroom. The Board should document resolution of this problem.

**¶ 3.a.** The Board has done a reasonable job ensuring that each school library has sufficient language ability appropriate literary materials in English as well as age-appropriate literary materials in the native language(s) of the ELLs at the school, with the exception of eight schools noted by BCFs. The Board should document resolution of this problem.

**¶ 3.b.** The Board has ensured that ELLs receive instruction in facilities that are comparable to the facilities used by students who are not ELLs at most schools. Five schools, however, failed to provide ELLs instruction in comparable facilities. The Board should document resolution of this problem.

**¶ 3.c.** It is difficult to determine whether the Board has allocated sufficient funds to each school to provide ELLs with educationally sound textbooks and instructional materials without the appropriate budget information. BCFs identified 21 schools as having insufficient materials; this could be a result of insufficient allocation or the result of a school's failure to purchase materials. The Board should document resolution of this problem.



¶ 3.d. The Board has ensured that ELLs in each school have meaningful access to educational programs, activities and services that are comparable to those provided to students in the same school who are not ELLs; however, the extent of their participation is unknown due to a lack of documentation.

¶ 4.a.-1. The Board has ensured, for the most part, that teachers who lack required certification for teaching ELLs consistently received adequate training and that they are working toward achieving certification in a timely manner.

¶ 4.a.-2. The Board has not ensured in all cases that vacancies for teachers in the language acquisition program are filled in a reasonable amount of time with fully certified teachers. Moreover, the data reported to the United States are inconsistent with the information provided by staff on school visits. The Board should document resolution of this problem.

¶ 4.a.-3. The Board does identify schools that have a high percentage of less than fully certified ELL teachers in the language acquisition program; however, there is a lack of documentation as to how the Board has provided assistance. The Board should document resolution of this problem.

¶ 4.b. The Board has encouraged teachers of general education classes to receive training on how to work with current and recently transitioned ELLs and how to coordinate with ESL/bilingual teachers to identify and address any language barriers that may hinder current or recently transitioned ELLs from participating in general education classes, as evidenced by staff comments on school visits. The participation rate and the efficacy of the training are unknown due to a lack of documentation.

¶ 4.c. The Board has ensured that the student/teacher ratio in classrooms serving ELLs is not substantially higher than the ratios in general education classes in the same school that serve the same grade level and teach similar subject matter. However, in some schools, the Board has failed to ensure that caseloads of TBE/TPI resource and pullout teachers are comparable to the caseloads of other resource and pullout programs in the same school that serve the same grade level and teach similar subject matter.

¶ 5.a.-1. It is difficult to determine if the Board has ensured that ELLs are provided an opportunity for assessment, as appropriate, for gifted and talented programs. While the data gathered on site visits are not enough to be conclusive, there appears to be scant evidence that ELLs are participating in assessment for gifted and talented program participation at the same rate as their general education peers. A comprehensive review and monitoring process is needed.

¶ 5.a.-2. It is difficult to determine if the Board has advised school-based administrators and BLTs in writing that ELLs who qualify for gifted and talented programs are entitled to participate in those programs while receiving appropriate language acquisition instruction. Although CPS has provided some documents dated 2/15/00 to the United States, it is unclear whether CPS has disseminated and schools have received appropriate documents during the 2006-07 school year. Staff indicated

during interviews that they seem to understand the process. Given the lack of documentation, however, it is difficult to make a finding for this section.

¶ 6.a.-1. The Board has failed to ensure that the special education services at each school are sufficient to address the language acquisition and special education needs of ELL students. While the data gathered on site visits are not enough to be conclusive, there appears to be scant evidence that the IEP team selects the service model to meet the educational needs of the ELL with input from the bilingual/ESL specialist. A process for comprehensive review and monitoring is needed.

¶ 6.a.-2. The Board and schools have hired teachers who have bilingual or ESL certification and special education certification and/or train teachers and aides who lack such certification and provide special education services to ELLs, to the extent practicable, given the national shortage.

¶ 6.b. The Board has failed to ensure that the approximately 1,576 special education ELLs recorded in its database as of 3/27/06 as having an "unknown" special education model (SM#0) are receiving one of the six models approved by the Board. In fact, the situation has persisted over the years despite the explicit requirement in Amended Appendix C. The number of ELLs with an unknown special education model has grown from 1,576 in March of 2006 to 2,292 in February of 2007. A process for comprehensive review and monitoring is needed.

¶ 7.a. While the Board has satisfied the requirement to initiate TBE/TPI exits only after an ELL has scored *proficient* on the state-prescribed instrument (ACCESS FOR ELLS™) at the elementary level, the Board's progress at the high school level is less certain. The Board has eliminated discretionary exits and is adhering to the state's TBE/TPI exit criteria at the elementary level, however, the Board has not ensured that ELLs at the high school level who did not meet exit criteria but have exhausted all ESL course offerings are not effectively and/or prematurely exited from the TBE or TPI program.

¶ 7.b. The Board consistently identifies current ELLs and transitioned ("T") students on the general education class rosters.

¶ 8.a. The Board seems to be monitoring the implementation of its language acquisition program at some schools and some of the ELL-related requirements set forth in Amended Appendix C of the SACD. There is evidence that bilingual compliance facilitators have assessed some schools' compliance with the *Framework* and the terms of Amended Appendix C, and that there is an accountability mechanism in place (*i.e.*, the CAP). However, there is scant documentation that the Board has taken action to achieve compliance or has identified schools in need of technical assistance based on the BCFs' reports. Monitoring seems to stop with initial identification of a non-compliance issue by the BCF. The language used by BCFs on many follow-up reports is vague and ambiguous and therefore fails to indicate resolution of non-compliance issues. The Board has failed to keep a record of each finding of non-compliance with the terms of the *Framework* and Section IV of the SACD and has failed to document the steps taken to achieve compliance with regard to many sections of Amended Appendix



C. Additionally, the Board has not monitored the language acquisition programs and the ELL-related requirements established in Amended Appendix C at each school that reports having ELLs: at 176 schools with an ELL enrollment over 100 students, only 77 schools participated in a compliance review and 99 schools did not participate in a compliance review. Only four high schools were involved in a compliance review.

¶ 8.b. I received and reviewed the court ordered documents forwarded to the United States.

¶ 8.c. The Board has designated BCFs as appropriate personnel to fulfill these monitoring obligations to satisfy the requirements of Amended Appendix C.

¶ 8.d. The Board allowed 14 days of school visits and interviews.

¶ 9.a-f. I received and reviewed a copy of CPS' report forwarded to the United States.

## Purposes, Requirements, Findings and Opinions

### Purpose of ¶ 1 of Amended Appendix C: Registration, Identification and Placement of ELLs

The purpose of this section is to ensure that schools identify and place newly arriving ELLs in appropriate language assistance programming in a timely fashion. Additionally, this section attempts to protect instruction and planning time from translation and interpretation intrusions and to ensure compliance with CPS' policies for dealing with parent refusals of TBE and TPI services.

### Requirements of ¶ 1.a. of Amended Appendix C: Registration, Identification and Placement of ELLs

*Chicago Public Schools ("CPS") shall continue to manage and oversee school-based implementation of the Home Language Survey ("HLS") to ensure that the HLS is given to every student upon initial enrollment in CPS, in his or her primary language, where appropriate.*

### Findings Related to ¶ 1.a. of the Amended Appendix C: Registration, Identification and Placement of ELLs

► **¶ 1.a.** According to CPS-provided data, 19,144 students were new enrollees during 2006-07. 8,369 of those students responded yes to one or both of the questions on the HLS. 8,341 of those students were assessed for TBE or TPI program placement. 6,094 students met eligibility requirements and became classified as new ELLs (Appendix C – 2006-07, item – b- (i) (ii) (iii) (iv)).

► **¶ 1.a.** A review of technical assistance forms and compliance review reports completed by BCFs showed that 14 schools were cited for not administering the HLS to every student or were cited for not having a HLS on file for every student, contravening the requirements of this section of Amended Appendix C. These schools are listed in the chart below. Schools that I visited are in **bold print**. Additionally, CPS documented resolution of this problem only once. This contravenes ¶ 8.a. of Amended Appendix C which states that CPS shall keep a record of each finding of non-compliance with the terms of the *Framework* and Section IV of the SADC and shall document the steps taken to achieve compliance.

Quarter	School	Report	BCF	Date	Bates #	BCF's Comments
1st	Paderewski	compliance	Rodriquez & Wilczynski	9/21/06	0009465	HLS not given to all students.
1st	Ames	compliance	McNulty	10/20/06	0009247	HLS not on file for each student.
1st	Jackson	compliance	Rodriquez	9/26/06	0009398	HLS not on file for each student.
1st	Northwest Middle	compliance	McNulty	10/17/06	0009456	HLS not on file for each student.
1st	Davis	compliance	Wilczynski	9/14/06	0009314	HLS not on file for each student.
1st	Gary	compliance	team of BCFs	9/15/06	0009359	Some HLSs are missing.
1st	Cameron	compliance	McNulty	10/17/06	0009278	HLS not on file for each student.
1st	Sabin	compliance	Wilczynski & McNulty	9/28/06	0009484	HLS not on file for each student.
1st	Gunsaulus	compliance	Wilczynski	10/23/06	0009369	HLS not on file for each student.
2nd	Nobel	compliance	McNulty	10/10/06	0009727	HLS not given to all students. See also (CPS Bates #0009450)
2nd	Carpenter	compliance	Wilczynski	12/14/06	0009602	HLS not on file for each student.
2nd	Pulaski	compliance	Wilczynski	12/7/06	0009608	HLS not on file for each student. See also (CPS Bates #10036-39). Resolved on 2/15/07 (CPS Bates #0010034).
2nd	Young	compliance	Rodriquez	11/20/06	0009680	HLS not on file for each student.
4th	De la Cruz	compliance	Wilczynski	5/23/07	0010340	HLS not on file for each student.

► ¶ 1.a. During interviews at 32 schools in 2006 and 2007, BLTs reported that office staff was administering the HLS to every student upon registration and entry. Two concerns surfaced during the interviews and while these concerns do not contravene Amended Appendix C, they may point to potential problems in implementation of this section of Amended Appendix C.

- At Roosevelt, in October of 2006, Ms. Devine (BLT) was not aware that the HLS was available in languages other than English.
- At Disney, in November of 2006, Ms. Khan (BLT) seemed confused as to which responses triggered initial assessment. First she said she would initiate testing if either question had a "yes" response. Then she corrected herself and said she would initiate assessment if the answer to the first question was "yes." Mr. Cristobal (BCF), interjected and said that if either of the two questions had a "yes" response, Ms. Khan would initiate assessment.

**Requirements of ¶ 1.b. of Amended Appendix C: Registration, Identification and Placement of ELLs**

*All students who indicate on the HLS that they have a non-English language background (e.g., the student lives in a home where a language other than English is spoken, or the student speaks a language other than English) must be assessed for possible placement in a language acquisition program.*

**Findings Related to ¶ 1.b. of Amended Appendix C: Registration, Identification and Placement of ELLs**

► **¶ 1.b.** At most schools, the HLS triggers assessment for possible placement in either TBE or TPI. One lapse in implementation of this section of Amended Appendix C was noted during the interviews. At Clemente, Ms. Forsline (BLT) stated that if she is not free when a new student registers, the counselor may simply schedule the student. With the exception of Clemente, all 32 schools visited satisfied this section of Amended Appendix C.

► **¶ 1.b.** Review of the compliance review reports and technical assistance forms revealed five schools that had not completed assessments for possible placement at the time of review by the BCF. Cooper, Lewis, Saucedo, Blaine and Lincoln Park High showed a lapse in implementation of this section of Amended Appendix C. CPS-reported data asserts that of 116 newly enrolled students at Lincoln Park, only six responded with a "yes" on the HLS. Of those six, only four were tested and only four were identified as new ELLs. Contradicting CPS-reported data, Mr. Boni's (BCF) technical assistance form stated that 22 ELLs were newly enrolled (CPS Bates #0009533). Resolution of this situation at Blaine was noted seven months after the initial citation and resolution of this situation at Saucedo was noted two months after the initial citation. Additionally, no follow-up was noted in three instances. CPS' failure to provide a record of resolution of these three issues of non-compliance contravenes section 8.a. of the Amended Appendix C.

Quarter	School	Report	BCF	Date	Bates #	BCF's Comments
1st	Blaine	tech assist	Wilczynski	10/17/06	0009265	Testing not complete. Resolved on 5/31/07 (CPS Bates # 0010293).
1st	Cooper	compliance	Rodriguez	10/25/06	0009299	4 students not tested.
2nd	Saucedo	tech assist	Wilczynski	12/11/06	0009624	Some students need to take ELPTS. Resolved on 2/21/07 (CPS Bates #0010067).
2nd	Lewis	compliance	Rodriguez	11/16/06	0009674	There are four students that need to take test.
2nd	Lincoln Park	tech assist	Boni	10/26/06	0009533	Placement testing of 22 new students needs to be completed.

**Requirements of ¶ 1.c. of Amended Appendix C: Registration, Identification and Placement of ELLs**

*At each school, CPS shall compile and maintain a current list of personnel, including non-teaching staff, available to provide language translation assistance when necessary to serve ELLs and/or their parents and guardians. Each list shall specify the languages for which each staff or faculty member can provide translation assistance. CPS shall ensure, to the extent practicable, that English as a Second Language (ESL) and/or Bilingual teachers are not pulled away from their teaching and/or class preparation responsibilities to serve as translators.*

### Findings Related to ¶ 1.c. of Amended Appendix C: Registration, Identification and Placement of ELLs

► **¶ 1.c.** In the fall of 2006 and the winter and spring of 2007, all schools visited reported that a list of translators was posted in the office, thereby satisfying this requirement of Amended Appendix C.

► **¶ 1.c.** The compliance review reports indicate that 17 schools failed to post a list of translators when their BCF conducted a compliance review as indicated in the chart below. Cleveland had not compiled a list. Schools that I visited are in **bold print**. Staff at Tonti (on 10/18/06), Daley (on 11/29/06), and Gary (on 11/30/06) stated they had a list posted on the date of our school visit. Follow-up and resolution was noted for only three schools in any CPS-provided documents. The failure to provide a record of resolution of these issues of non-compliance contravenes section 8.a. of Amended Appendix C. The failure by 14 schools to post a list of translators contravenes this section of Amended Appendix C.

School	Report	BCF	Date	Bates #	BCF's Comments
Tonti	compliance	team	9/27/06	0009496-500	No list posted.
Daley	compliance	Rosales & McNulty	9/7/06	0009305-8 See also 0009758-61	No list posted.
Jackson	compliance	Rodriguez	9/26/06	0009398-403	No list posted.
Waters	compliance	Cristobal	9/27/06	0009505-08	No list posted.
Gary	compliance	team	9/15/06	0009356-59	No list posted. Resolved on 10/30/06 (CPS Bates #0009360).
Irving Park	compliance	Omelczuk	12/12/06	0009565-68	No list posted.
Monroe	compliance	Omelczuk	12/19/06	0009569-72	No list posted. Resolved on 1/24/07 (CPS Bates #0009957).
Cleveland	compliance	Omelczuk	11/30/06	0009637-40	The school needs to compile a list for all ELL language groups represented.
Lewis	compliance	Rodriguez	11/16/06	0009670-74	No list posted.
Moos	compliance	McNulty	10/16/06	0009709-12	No list posted.
North Grand	Letter	Boni	1/17/07	0009770	No list posted - letter sent to Ms. Pierchalski (principal). Resolved on 3/2/07 (CPS Bates #0010152).
Marshall Middle	compliance	Omelczuk	2/6/07	0010005-8	No list posted.
Ebinger	compliance	Omelczuk	2/7/07	0010009-12	No list posted.
Onahan	compliance	Omelczuk	2/8/07	0010013-16	No list posted.
Hitch	compliance	Omelczuk	3/26/07	0010084-87	No list posted.
North River	compliance	Omelczuk	4/26/07	0010191-4	No list posted.
Albany Park	compliance	Omelczuk	4/30/07	0010195-98	No list posted.

► **¶ 1.c.** Four concerns surfaced during the school interviews. These concerns indicate lapses in implementation of this section of Amended Appendix C:

- At Disney on 11/17/06, Ms. Khan (BLT) stated that there were not many staff members on the list of translators and that the list was composed mostly of



parents who were willing to translate or interpret. When asked to clarify how the school makes use of parents to translate, Ms. Kahn said that parents on the list have been told that they may need to come to school, but that such a need has not yet arisen. Ms. Thorton-Pierce (CPS attorney) interjected that school staff would call the OLCE should they need a translator.

- At Gunsaulus on 11/29/06, Mr. Jonikaitis (principal) stated that while they have staff members that speak Spanish, no one on staff speaks any of the languages represented in the TPI program at the school. He stated that the school uses parents to translate or asks parents to bring their own translators.
- At Sauganash on 5/15/07, Ms. Kwan (BLT) said that if a parent fails to bring a translator, they will pull a student from class to translate.
- At Tonti on 10/18/06, Ms. Vallejos-Howell (principal) said that translation for Romanian and Lithuanian students and parents is provided by family members.

► ¶ 1.c. 14 of the 32 schools visited volunteered the fact that they employed bilingual clerks, secretaries, and/or counselors. Non-instructional staff available to provide translation and interpretation serves to protect teachers' instruction/planning time and more than satisfies this requirement of Amended Appendix C.

► ¶ 1.c. Three schools, Falconer, Tonti and Eberhardt, stated that all general school correspondence goes home in two languages. This practice goes beyond what is required in Amended Appendix C and communicates to ELLs' parents the value of and respect for the ELLs' native language and culture. This practice also illustrates the school seeks to inform and engage parents who do not yet speak English. More schools should replicate this practice.

► ¶ 1.c. At Davis on 11/29/06, staff mentioned that they make occasional use of AT&T's translating services for phone conversations with ELLs' parents.

**Requirements of ¶ 1.d.-1-2 of Amended Appendix C: Registration, Identification and Placement of ELLs**

*CPS shall take reasonable steps to ensure that:*

- 1) *Each ELL is identified and placed, in a timely and appropriate manner, in an English language acquisition program that is consistent with CPS' policies, including the August 1999 version of the Framework for Success which was amended by the Amend Board Report 98-1027-PO1 dated October 23, 2002 (hereinafter "the Framework"); or*
- 2) *After being notified of language acquisition program placement options, the ELL's parents have waived the ELL's right to be placed in an English language acquisition program.*

Findings Related to ¶ 1.d.-1-2 of Amended Appendix C: Registration, Identification and Placement of ELLs

► ¶ 1.d.-1 At all 32 schools visited, staff represented that ELLs had been identified and placed in TBE and/or TPI programs in a timely fashion: within four weeks during the first four weeks of the school year and within two weeks at any time during the remainder of the year, thereby satisfying this section of Amended Appendix C. Ten schools that were identified by BCFs as failing to serve ELLs (see chart below), reported that all ELLs were served as of the date of our school visit. Falconer was able to resolve their failure to serve 132 ELLs in 11 days, Reilly was able to resolve their failure to serve 62 ELLs in one day, Tonti was able to resolve their failure to serve 110 ELLs in 16 days, Eberhardt was able to resolve their failure to serve 427 ELLs in 20 days, Edwards was able to resolve their failure to serve PY5, PY6 and most ELLs in grades 6-8 in seven days, and Smyser was able to resolve their failure to serve an unspecified number of ELLs in one day. These schools' quick resolutions of their failures to serve large numbers of ELLs seem unlikely, especially if resolution included the provision of legitimate TBE/TPI services. It is worth noting that the schools noted above for speedy resolution of their failure to serve large numbers of ELLs announced resolution of their non-compliance issues on the same day as our scheduled visit.

► ¶ 1.d.-1 Data revealed in BCFs' reports (see chart below) illustrate a much different scenario than represented during school visits. In 48 instances documented in these reports, 50 schools are not identifying and placing ELLs in a timely manner into TBE and/or TPI programs. Many of these delays in placement stretch into weeks and months during the course of the year.

- While it is understandable that a school experiencing a ballooning enrollment may struggle to gather resources to provide a language assistance program to large numbers of new enrollees, many schools noted in the chart below had fewer new ELLs than the number of ELLs they failed to serve. The number of new ELLs is identified in the far right column of the chart (Appendix – C 2006-2007 Item – b – (i) (ii) (iii) (iv)). These schools include Bogan, Kanoon, Reilly, Gary, Lakeview, Schurz, Kelvyn Park, Hubbard, Foreman, and Steinmetz.
- At some high schools, the ELLs the school failed to serve had exhausted the school's course offerings. In this situation, the school would have been aware of the potential problem during the spring of the previous school year and should have created new course offerings proactively for the coming school year. The high school BCF, Mr. Boni, has expressed his concern regarding 9<sup>th</sup> grade articulation during numerous school interviews. He said that ELLs' records and recommended courses frequently do not arrive at the start of the school year from their 8<sup>th</sup> grade CPS school and therefore, current CPS ELLs in 9<sup>th</sup> grade are not scheduled into ESL and/or bilingual courses. Mr. Boni sent an email to all high school bilingual lead teachers in January of 2007 urging them to plan earlier for ELL programming in 2007-08 to ensure eligible ELLs are scheduled into appropriate TBE/TPI classes in a timely fashion (CPS Bates #0010395).
- No explanation is given for the other schools' lapses in implementation of this section of Amended Appendix C. A review of compliance review reports and

technical assistance forms from 2006-2007 reveals many schools failed to place and therefore serve significant numbers of ELLs in a timely fashion, if at all. No matter the cause, the failure to place ELLs in a timely and appropriate manner contravenes the requirements of this section of Amended Appendix C.

- The failure to serve ELLs has reoccurred over the last three years at Smyser. Smyser was cited for not serving 122 ELLs in 2004-05, was cited again for not serving 40 ELLs in 1<sup>st</sup> through and 8<sup>th</sup> grade and 41 kindergarten ELLs in November of 2005 and was cited again for not serving all eligible ELLs in November of 2006 (p. 3 of my report dated May 2006 and CPS Bates #0009626). Although this issue was reported as resolved in a technical assistance form dated 11/10/06, Ms. Omelczuk (BCF) reported on technical assistance form dated 4/16/07 that the number of ELLs not served was "TBD".
- Additionally, technical assistance forms and compliance review reports noted that only 28 schools had fully resolved their failures to serve ELLs and five schools had partially resolved their failures to serve ELLs (see notes in BCF's Comments column), while CPS-provided data offered no written evidence of resolution for 17 schools cited for their failures to serve ELLs. CPS' failure to provide a record resolving these issues of non-compliance contravenes section 8.a. of Amended Appendix C. It should be noted that of the 28 resolutions, many involve high schools that offered an after-school tutorial in lieu of a credit bearing course during the school day.

Quarter	School	Report	BCF	Date	Bates #	BCF's Comments	New ELLs
1st	North Grand	tech asst	Boni	9/15/06	0009227	11 ELLs not served. Resolved by 10/25/06 (CPS Bates #0009228).	10
1st	Prosser Career	tech asst	Boni	9/8/06	0009230	26 ELLs not served. Resolved by 10/12/06 (CPS Bates #0009231).	10
1st	Richards	tech assist	Boni	10/4/06	0009232	9 ELLs not served. Resolved by 10/27/06 (CPS Bates #0009233).	0
1st	Roosevelt	tech asst	Boni	9/1/06	0009234	43 ELLs not served. Resolved by 10/6/06 (CPS Bates #0009236).	43
1st	Senn	tech asst	Boni	9/20/06	0009237	52 ELLs not served. Resolved by 10/31/06 (CPS Bates #0009239).	38
1st	Tilden	tech asst	Boni	9/11/06	0009242	17 ELLs not served. Resolved by 10/18/06 (CPS Bates #0009243).	13
1st	Clemente	tech assist	Boni	9/20/06	0009214	9 ELLs not served. Increased to 11 ELLs not served on 3/6/07 (CPS Bates #0009955). Letter dated 3/7/07 to AIO states 11 ELLs not served (CPS Bates #0009954). Resolved by 4/15/07 (CPS Bates #0010378).	19
1st	Gage Park	tech asst	Pagan	9/15/06	0009219	17 ELLs not served.	12
1st	Curie	tech asst	Pagan	9/19/06	0009217	13 ELLs not served. Resolved by 10/13/06 (CPS Bates #0009218).	28
1st	Sullivan	tech asst	Boni	9/8/06	0009240	16 ELLs not served. Resolved by 10/24/07 (CPS Bates #0009241).	13
1st	Farragut	tech assist	Boni	9/8/06	0009550	43 ELLs not served. Reduced to 28 ELLs not served	19

						on 10/18/06 (CPS Bates #0009549). Reduced by two to 26 ELLs not served on 11/14/06 (CPS Bates #0009521). 26 ELLs not served on 1/9/07 (CPS Bates # 0009519). 26 ELLs not served; exhausted courses and offered tutorial on 3/17/07 (CPS Bates #0009951).	
1st	Bogan	tech assist	Pagan	9/15/06	0009551	28 ELLs not served. Resolved by 10/20/06 (CPS Bates #0009530).	10
1st	Taft	tech assist	Boni	9/20/06	0009557	25 ELLs not served. Decreased to 1 ELL not served by 11/2/06 (CPS Bates #0009556).	58
1st	Belmont-Cragin	compliance	McNulty	10/10/06	0009259	2 ELLs not served.	6
1st	Chase	compliance	McNulty	10/19/06	0009288	6 ELLs not served. Resolved by 3/27/07 (CPS Bates #0010108).	8
1st	Clinton	compliance	McNulty	10/30/06	0009295 See also 0009650	55 ELLs not served. See also CPS Bates #0010202. See also CPS Bates #0009647.	115
1st	Daley	compliance	McNulty & Rosales	9/7/06	0009305	60 ELLs not served. Resolved by 11/9/06 (CPS Bates #0009756).	31
1st	Hammond	compliance	Rosales & Rodriquez	9/14/06	0009379	81 ELLs not served. Resolved by 10/30/06 (CPS Bates #0009383).	50
1st	Jackson	tech assist	Rosales & Rodriquez	9/19/06	0009396	15 ELLs not served. Resolved by 10/30/06 (CPS Bates #0009402).	1
1st	Jackson	compliance	Rodriquez	9/26/06	0009398	34 ELLs not served. Resolved by 10/30/06 (CPS Bates #0009402).	1
1st	Kanoon	compliance	Wilczynski	9/18/06 & 9/27/06	0009406	63 ELLs not served. Resolved by 10/12/06 (CPS Bates #0009410).	46
1st	Reilly	compliance	Omelczuk	10/16/06	0009477	62 ELLs not served. Resolved by 10/17/06 (CPS Bates #0009481).	65
1st	Tonti	compliance	team	9/27/06	0009496	110 ELLs not served. Resolved by 10/13/06 (CPS Bates #0009501).	27
1st	Darwin	compliance	McNulty	10/13/06	0009309	6 ELLs not served.	12
1st	Davis	tech asst	Wilczynski	9/14/06	0009313	ELLs in gr. 6-8 don't receive ESL/bilingual services. Resolved by 10/26/06 (CPS Bates #0009321).	132
1st	Davis	compliance	Wilczynski	9/14/06	0009314	83 ELLs not served. Resolved by 10/26/06 (CPS Bates #0009321).	132
1st	Eberhardt	compliance	team	9/22/06	0009328	427 ELLs not served. Resolved by 10/12/06 (CPS Bates #0009333).	115
1st	Falconer	compliance	Omelczuk	9/18 and 10/6/06	0009345	132 ELLs not served. Resolved by 10/17/06 though not always served by an appropriately certified teacher (CPS Bates #0009349).	89
1st	Gary	compliance	team	9/15/06	0009356	138 ELLs not served. Resolved by 10/30/06 (CPS Bates #0009360).	22
1st	CDA Campus	tech asst	Pagan	9/27/07	0009215	21 ELLs not served. Resolved by 10/27/06 (CPS Bates #0009216).	2

2nd	Lincoln Park	tech asst	Boni	10/26/07	0009533	5 ELLs not served.	4
2nd	Smyser	compliance	Omelczuk	11/9/06	0009626-29	Not all identified and placed ELLs are receiving language acquisition services. Resolved by 11/10/06 (CPS Bates #0009631). On 4/16/07, the box for students not served was marked as "TBD" (CPS Bates #0010185).	32
2nd	Clinton	compliance	Cristobal	10/30/06	0009650-53	55 ELLs not served. See also (CPS Bates #0010202).	115
2nd	Lakeview	tech asst	Boni	9/14/06	0009536	34 ELLs not served. Reduced to 6 by 1/10/07 (CPS Bates #0009518).	11
2nd	Schurz	tech asst	Boni	9/12/06	0009532	54 ELLs not served. Resolved by 10/16/06 (CPS Bates #0009531).	25
2nd	Kelvyn Park	tech asst	Boni	9/15/06	0009539	28 ELLs not served. Reduced to 26 by 10/24/06 (CPS Bates #0009538).	14
2nd	Kelly	tech assist	Boni	10/6/06	0009541	86 ELLs not served. 86 ELLs not served on 10/11/06 (CPS Bates #0009540). Reduced to 60 ELLs not served on 10/25/06 – tutoring offered (CPS Bates #0009529). Reduced to 42 ELLs not served on 11/30/06 (CPS Bates #0009523-24). 42 ELLs not served on 12/4/06 – tutoring offered (CPS Bates #0009768).	26
2nd	Hubbard	tech asst	Boni	9/1/06	0009544	29 ELLs not served. Resolved by 11/1/06 (CPS Bates #0009542).	12
2nd	Foreman	tech asst	Boni	10/20/06	0009547	25 ELLs not served. Reduced to 19 by 11/17/06 (CPS Bates #0009545).	0
2nd	Steinmetz	tech asst	Boni	9/14/06	0009558	31 ELLs not served. Resolved by 10/23/06 (CPS Bates #0009559).	30
2nd	Chase	compliance	McNulty	10/19/06	0009715	8 ELLs not served. Resolved by 3/27/07 (CPS Bates #0010108). Two different compliance reports for one school with the same date were submitted in two different quarters.	8
2nd	Darwin	compliance	McNulty	11/21/06	0009719	6 ELLs not served.	12
2nd	Shields	compliance	Rosales	11/16/06	0009764	42 ELLs not served.	80
2nd	Irving Park	compliance	Omelczuk	12/12/06	0009565	4 ELLs not served.	6
2nd	Monroe	compliance	Omelczuk	12/19/06	0009569	2 ELLs not served - 2 in 4th gr.	29
3rd	Hearst	tech asst	Rosales	1/19/07	0009995	35 ELLs not served out of 77 eligible	18
3rd	Bright	tech asst	Rosales	1/22/07	0010003	35 ELLs not served out of 50 eligible.	2
3rd	Thorp	tech asst	Rosales	1/23/07	0010004	31 ELLs not served out of 40 eligible. Resolved by 3/29/07 (CPS Bates #0010096).	3
3 <sup>rd</sup>	Amundsen	tech assist	Boni	1/29/07	0010148	16 ELLs not served. 16 ELLs not served on 4/17/07 – tutoring offered but not specific to ELLs (CPS Bates #0010379).	28
4th	Galileo	tech asst	Rodriguez	4/24/07	0010217	28 ELLs not served.	7
4th	Edwards	tech asst	Rosales	4/17/07	0010244	PY5, PY6 and most ELLs in grades 6-8 are not receiving services. Resolved by 4/24/07	102



						(CPS Bates #0010248).	
4th	Nightingale	tech assist	Rosales	4/30/07	0010251	Not all ELLs are receiving services according to state mandates. BLT serves 14 ELLs.	51
4th	Sawyer	tech assist	Rosales	5/16/07	0010369	Some ELLs in upper grades are not receiving services.	167

► ¶ 1.d.-1 At Eberhardt, an example of an inappropriate placement was revealed. Staff reported that an ELL with interrupted formal schooling can be placed back up to four grade levels. They gave an example of an 8<sup>th</sup> grade age ELL being placed back in 5<sup>th</sup> grade. This instance gives insight as to potential misunderstandings of this section of Amended Appendix C.

► ¶ 1.d.-2 In the 2006-07 school year, high percentages (ten percent or more at a building) of parent refusals were noted at the schools listed below (Appendix C 2006-07 Item –a (ii) Parent Waiver of Right of Service and Item –a (i) The Number of ELLs by School, Native Language and Program). The high percentages of parent refusals below warrants an explanation as to why parents are refusing TBE/TPI services in such large numbers at certain schools. These numbers also indicate possible flaws in policy implementation detailed in the *Framework* and therefore may contravene this section of Amended Appendix C at the school level:

School	Actual TBE/TPI Enrollment	Eligible TBE/TPI Enrollment	Parent Refusals (% and #)	
Von Steuben	12	32	62.5 %	20
Burbank	373	446	16.4 %	73
Steinmetz	154	177	13.0 %	23
Smyser	228	257	11.3 %	29
Kelly	351	397	10.8 %	43
Darwin	232	258	10.1 %	26
Taft	318	341	6.7 %	23
Sandoval	552	585	6.0 %	33
Davis	687	721	5.6 %	34

► ¶ 1.d.-2 At most schools visited, interviewed staff reported fewer than ten parent refusals (also called code-13 ELLs) during the 2006-07 school year. Percentages were calculated by comparing the staff-reported number of parent refusals to the CPS-reported number of ELLs at each school in Appendix – C 2006-07 Item – a (i) The Number of ELLs by School, Native Language and Program. Ms. Indman (BLT at Mather) was very proud that the school had zero parent refusals this year. Ms. Khan (BLT at Disney) noticed a significant drop in the school's number of parent refusals this year. The following exceptions were noted and may contravene this section of Amended Appendix C:

- Smyser staff reported between 30 and 40 parent refusals in 2006-07 during our interview on 11/10/06. A TBE/TPI enrollment of 228, plus 30 to 40 eligible TBE/TPI ELLs yields a refusal rate of 11.6% with 30 refusals and 14.9% with 40 refusals.
- Gunsaulus reported 13 parent refusals in 2006-07. A TBE/TPI enrollment of 126, plus 13 eligible TBE/TPI ELLs with 13 refusals yields a refusal rate of 9.4%.
- Kelly reported 35 parent refusals in 2006-07. A TBE/TPI enrollment of 361, plus 35 eligible TBE/TPI ELLs with 35 refusals yields a refusal rate of 8.8%.

- Durkin reported 12 parent refusals in 2006-07. A TBE/TPI enrollment of 147, plus 12 eligible TBE/TPI ELLs with 12 refusals yields a refusal rate of 7.5%.
- Reilly reported 35 parent refusals in 2006-07. A TBE/TPI enrollment of 628, plus 35 eligible TBE/TPI ELLs with 35 refusals yields a refusal rate of 5.3%.
- Edwards reported 12 parent refusals in 2006-07. A TBE/TPI enrollment of 484, plus 12 eligible TBE/TPI ELLs with 12 refusals yields a refusal rate of 2.4%.
- Davis reported 16 parent refusals in 2006-07. A TBE/TPI enrollment of 686, plus 16 eligible TBE/TPI ELLs with 16 refusals yields a refusal rate of 2.2%.

► ¶ 1.d.-2 At Smyser, a high percentage of parent refusals seems to be a persistent problem. In 2004-05, 32 parent refusals (11.5%) were documented and in 2006-07, 30 to 40 parent refusals (11.6% to 14.9%) were documented. Such percentages may indicate a problem (p. 5 of my May 2006 report).

► ¶ 1.d.-2 At some schools, staff disputed CPS-reported data in Appendix C 2006-07 Item –a (ii) Parent Waiver of Right of Service and Item –a (i) The Number of ELLs by School, Native Language and Program regarding parent refusals. These data disputes may contravene this section of Amended Appendix C:

- Hammond staff asserted they had five to six parent refusals. CPS-reported data indicated the school had 13 code-13 ELLs.
- Durkin staff asserted they had 12 parent refusals. CPS-reported data indicated the school had zero code-13 ELLs.
- Amundsen staff asserted they had eight or nine parent refusals. CPS-reported data indicated the school had one code-13 ELL.
- Nobel staff asserted they had three parent refusals. CPS-reported data indicated the school had six code-13 ELLs.
- Clemente staff asserted they had more than 13 parent refusals. CPS-reported data indicated the school had two code-13 ELLs.

► ¶ 1.d.-2 At most schools visited, it appeared as though staff are following CPS' process for dealing with parent refusals (*Bilingual Program Specialists' Handbook*, p. 8); however, BCFs identified some concerns. The following concerns point to possible flaws in policy implementation as detailed in the *Framework* and therefore possible lapses in implementation of this section of Amended Appendix C:

- On the Shubert compliance review report dated 10/11/06, Mr. McNulty (BCF) noted both the large number of parent refusals on file and that he had told the principal and the BLT that the school was not to initiate code-13 exits (CPS Bates #0009492).
- At Amundsen on 5/15/07, Mr. Muñoz (principal) said that code-13 exits were initiated by parents 90% of the time. Mr. Muñoz mentioned a table set up at parent-teacher conferences for this purpose. If the parent does not initiate the exit, it should not be coded as a parent refusal (code-13 exit). If the school initiates the exit it should not be disguised as a parent refusal.
- At Clemente, Ms. Forsline (BLT) made no mention of holding a conference with parents who wished to initiate a refusal of services. She did indicate that many parents did not return the form. She also reported that she thought there were

more than 13 code-13 ELLs at Clemente, but that they had been coded differently.

- On the Jackson compliance review report dated 9/26/06, Ms. Rodriguez (BCF) said that parent refusal forms were not on file (CPS Bates #0009399).
- On the North Grand compliance report dated 1/11/07, Mr. Boni (BCF) noted that parent refusals were not on file (CPS Bates #0009514-15).

#### Opinions Related to ¶ 1 of Amended Appendix C: Registration, Identification and Placement of ELLs

In my opinion, the process for administering the HLS seems well implemented with just a few exceptions at the schools visited. The Board should provide continued oversight to insure that all staff are using the HLSs that CPS has translated for its top language groups and the HLSs that the Illinois State Board of Education ("ISBE") has translated for lower incidence language groups. Copies of HLSs must be kept in students' files.

While all of the schools I visited had a posted list of translators, many schools were identified in the compliance review reports as failing to do so. Also, some lists of translators were comprised mainly of parents, not of staff members. The use of parents as translators for school purposes can be ineffectual: parents are not regularly and routinely in the building and parents may breach confidentiality. The Board must ensure that schools post a list of translators in order to: 1.) communicate to newly registered parents the availability of translators at the school, and 2.) have a list readily available for security personnel, police, firefighters and other outside first responders in the event of an emergency or disaster. The Board should document resolution of 13 schools' failure to administer the HLS to every student or failure to file a copy of the HLS. The Board should continue to communicate the desirability of recruiting office, security and administrative staff who are fluent in the languages of the students served in the building. Beyond posting a list of translators and employing personnel who are fluent in multiple languages, the next step would be for the BCF to work with the building principal and the BLT to craft a plan for dealing with both oral interpretation and written translation to protect teachers' instructional and planning time.

I believe the Board has more work to do in the area of timely and appropriate ELL identification and placement to satisfy the requirements of Amended Appendix C. The 48 instances where ELLs were not assessed and not placed in appropriate language assistance programs within the first four weeks of the school year or within ten days after 9/30/06 should be remedied to satisfy the requirements of this section of Amended Appendix C. Additionally, the Board must address this situation to meet the requirements of federal statutes and Article 14-C of the Illinois School Administration Code. It is inappropriate that some ELLs should go months without services to which they are entitled. The Board should implement a system that alerts BLTs the same day that ELLs register. Perhaps simply giving the BLT copies of every HLS would help to remedy the situation. School personnel must plan for the time and personnel required to complete initial screening assessments at the beginning of the school year. BLTs should be free from instructional responsibilities whenever initial testing, scheduling and

placement must be done. A roving diagnostician is another solution when instructional services cannot be stopped to complete screening assessments. The Board should document resolution of this problem as required by section 8.a. of Amended Appendix C.

There are high numbers and high percentages of parent refusals at certain schools. In some cases, this situation has persisted over several years. The Board should investigate the reasons for these high percentages. Are clerical employees, administrators or teachers in schools with high numbers/high percentages of parent refusals counseling parents to waive their child's right to a language assistance program? Are parents counseled in such a way as to relieve overcrowding? Are school personnel initiating any code-13 exits? Documentation should be kept as to the date, time and participants of the refusal conference, citing the parents' reasons for refusal of services. What research is being shared with parents at those conferences? Are those conferences conducted in the parents' native language? Does the Board have a list of benefits it believes will accrue to ELLs who participate in TBE/TPI programs?

Additionally, the Board should not only document the reasons behind individual parents' refusal, but also analyze the causes for the refusals. The database should identify ELLs whose parents have refused TBE/TPI services on the general education class rosters so that teachers may have valuable information to help guide their instruction of these students. With investigation and documentation of individual parents' refusals, the Board may learn that some particular aspect of the TBE/TPI program is not acceptable to parents. The information would be helpful in improving the TBE/TPI program.

The Board must address the numerous instances indicating a lack of follow-up or resolution of non-compliance in CPS-provided documents. BCFs stated that every visit to a school generates a report. Many times a follow-up report is generated, but the language used by the BCFs is vague and ambiguous, making it difficult to discern from their comments whether issues of non-compliance were resolved. It is impossible to know if the issues of non-compliance were ever resolved without such documentation.

#### Purpose of ¶ 2 of Amended Appendix C: Instruction of ELLs

The purpose of this section is to ensure that instruction for ELLs is consistent with CPS' policy, as represented in the *Framework*, the SACD and Amended Appendix C. Also, this section asserts that CPS is 1.) To provide TBE services when 20 or more students of the same language background attend the same school and 2.) To provide TPI services to students of less populous language groups, and 3.) If that is not possible to take reasonable steps to ensure appropriate services become available. In addition, schools should vary the amount of native language instruction according to the ELL's English language proficiency level consistent with the *Framework's* TBE guidelines (p. 9-11) and schools should group ELLs for ESL instruction according to English language proficiency levels when practicable and ensure that instruction for ELLs is uniform within each school and consistent with educationally sound practices.



Another purpose of this section is to ensure that students who have not met exit criteria and who have received more than three years of TBE/TPI services, (*i.e.*, program year four ("PY4"), program year five ("PY5"), program year six ("PY6") and above students) continue to receive language acquisition instruction, have access to language support programs and participate in assessment that measures progress in all four domains of the English language. CPS' expert witness, Ms. Arias, identified a concern in October of 2002: some ELLs were being exited after five years of TBE/TPI service without meeting exit criteria and subsequently were experiencing academic failure in the general education classes. ELLs who have not met exit criteria, regardless of the length of program services, are entitled to these services under this section of Amended Appendix C.

Another purpose of this section is to ensure the annual assessment of ELLs' academic performance and English language proficiency, using the state prescribed English language proficiency assessment, namely ACCESS for ELLs™ for annual assessment and the W-APT™ for screening and placement, including assessment in all four language domains. The results of ACCESS™ and the W-APT™ should inform placement in and transition out of CPS' language acquisition programs.

Still another purpose of this section is to ensure that teachers are collecting and using data from language proficiency tests and other sources to inform placement and other instructional decisions. Beginning in the 2006-2007 school year, CPS replaced the use of the ELL Data Folder (formerly a depository of teacher observed academic and linguistic progress and pertinent benchmark data such as native language, test scores and entry/exit dates) with the use of photocopies of the center section of CPS' report card to note academic and linguistic progress and the Bilingual SI on-line Roster to record benchmark data. The creation and implementation of the Individualized Education Instruction Plan ("IBIP") is required by the *Framework* and is designed to ensure monitoring of PY5 and PY6 students' progress and communication with their parents.

The final purpose of this section is to ensure that ELLs are fully integrated in non-language dependent, non-academic activities with their fluent English peers.

Requirements of ¶ 2.a. of Amended Appendix C: Instruction of ELLs

*CPS shall continue to implement its ELL instruction consistent with the policies and guidelines set forth in the Framework.*

Findings Related to ¶ 2.a. of Amended Appendix C: Instruction of ELLs

► **¶ 2.a.** As stated previously in this report, section IV of the SACD has incorporated the *Framework* into ¶ 2.a. of the Amended Appendix C. 31 schools listed below failed to meet the minimum standard of ELL instruction as outlined in the *Framework* as reported by BCFs on compliance review reports and technical assistance



forms. Schools that I visited are in **bold print** on the chart. There was a discrepancy between BCF-reported program models reported on compliance review reports and technical assistance forms and CPS-reported program models in Appendix – C 2006-07 Item – a – (i) The Number of ELLs by School, Native Language and Program. Such discrepancies may point to confusion within the system about the definition of TBE and TPI and the corresponding program design requirements. Additionally, all 31 schools had no evidence of follow-up or resolution on this non-compliance issue as required by ¶ 8.a. of Amended Appendix C.

CPS-Reported Model	BCF-Reported Model	School	Report	BCF	Date	Bates #	BCF's Comments
Both	Both	Belmont-Cragin	compliance	McNulty	10/10/06	0009259	Native culture and history and US history are not taught.
TBE	Both	Cameron	compliance	McNulty	10/17/06	0009278	For PY0-3 ELLs, ESL instruction is not implemented according to program design, is not reflected in lesson plans or time distribution sheets ("tds") and appropriate publisher materials aren't available.
TBE	TBE	Hammond	compliance	Rodriguez & Rosales	9/14/06	0009379	For PY0-3 ELLs, L1 instruction is not implemented according to program design, is not reflected in lesson plans or tds, and appropriate publisher materials aren't available. No L1 instruction is given.
Both	TPI	Alcott	compliance	McNulty	10/12/06	0009244	The box for <i>The school provides a TBE program for 20 or more ELLs of the same language background</i> is marked "No." The BCF counted 36 Spanish-speaking ELLs.
Both	TPI	Jackson	compliance	Rodriguez	9/26/06	0009398	The box for <i>The school provides a TBE program for 20 or more ELLs of the same language background</i> is marked "NA."
TBE	TPI	Logandale	compliance	McNulty	10/19/06	0009428	The box for <i>The school provides a TBE program for 20 or more ELLs of the same language background</i> is marked "No." The BCF counted 43 Spanish-speaking ELLs.
TBE	TBE	McAuliffe	compliance	McNulty	10/5/06	0009439-42	For PY0-PY3 ELLs appropriate publisher materials are not available. <i>Reading in Motion</i> is being used for ESL.
Both	TBE as TPI	Reilly	compliance	Omelczuk	10/16/06	0009477-80	No native language instruction. For PY0-3 ELLs, ESL instruction is not implemented according to program design, is not reflected in lesson plans or tds and appropriate publisher materials aren't available. They are using <i>Language for Learning</i> (not an ESL text) for ESL in one K and <i>Mondo's Let's Talk About It</i> (not an ESL text) in another K. These rooms have no ESL materials.
Both	TBE	Sabin	compliance	Wilczynski & McNulty	9/28/06	0009484	TBE program does not provide ESL instruction with L1 support as needed.

Both	TBE	Tonti	compliance	team	9/27/06	0009496	For PY0-3 ELLs, ESL and L1 instruction is not implemented according to program design, is not reflected in lesson plans or tds, and appropriate publisher materials aren't available. For PY4-PY6 ELLs, ESL instruction with native language support as needed is not provided. Insufficient evidence to show ELLs are being provided with services according to the state standards. Students are not receiving 40 minutes of daily ESL instruction.
Both	Both	Davis	tech assist	Wilczynski	9/19/06	0009314-18	There is no "consistence" (sic) in the time allotment for ESL and native language instruction.
Both	TBE	Eberhardt	compliance	team	9/22/06	0009328	For PY0-3 ELLs, ESL and L1 instruction is not implemented according to program design; is not reflected in lesson plans or tds and appropriate publisher materials aren't available. For PY4-PY6 ELLs, ESL instruction with native language support as needed is not provided. After a careful "revision" (sic) of the classroom documentation it was uncertain that 427 ELLs were receiving services as mandated by the state. The uncertainty stemmed from the following findings: no native language materials for K-2 ELLs in some classrooms, ESL standards were not in lesson plans, the students in general education classrooms are not currently being pulled out for services and some classrooms that were listed as either bilingual or ESL do not have the 60/40 ratio and therefore are not considered bilingual.
Both	Both	Falconer	compliance	Omelczuk	9/18/06 through 10/6/06	0009345	For PY0-3 ELLs, not all classrooms had appropriate publisher materials for ESL instruction. For PY4-PY6 ELLs, native language support as needed is not available because the language of the teacher does not match the language of the ELLs (21 Spanish-speaking ELLs served by a Polish-speaking teacher in 3rd grade, 25 Spanish-speaking ELLs served by a Polish-speaking teacher in 4th grade, and 20 Spanish-speaking ELLs served by a Polish-speaking teacher in 6th grade. The 6th grade situation was rectified by 10/17/06 by the BLT providing pull-out (CPS Bates #0009349).
TBE	TBE	Gary	compliance	team	9/15/06	0009356	The school's TBE program does not provide PY4 and PY5 ELLs with native language support.

Both	TPI	Gunsaulus	compliance	Wilczynski	10/23/06	0009369	The school does not provide a TBE program for 146 Spanish-speaking ELLs. For PY0-3 ELLs, ESL and native language instruction is not implemented according to program design, is not reflected in lesson plans or tds and appropriate publisher materials for both ESL instruction and native language instruction are not available.
TBE	TBE	North Grand	compliance	Boni	1/11/07	0009514	The school does not provide a TBE program for 20 or more ELLs of the same language background enrolled in the school. The BCF counted 55 Spanish-speaking ELLs. Neither native language instruction, nor native language support is provided. Mr. Boni sent a letter to Ms. Pierzchalski, principal at North Grand, informing her of the situation (CPS Bates #0009770).
Both	TBE	Linne	tech assist	McNulty	12/19/06	0009601	BCF urged restructuring so that every ELL would get a minimum of 40 minutes of daily ESL instruction.
Both	TBE	Peabody	tech assist	Wilczynski	12/12/06	0009607	No evidence of native language materials
Both	Both	Smyser	compliance	Omelczuk	11/9/06	0009626	The school does not provide a TBE program for 20 or more ELLs of the same language background enrolled in the school. ESL instruction is not implemented according to program design, is not reflected in lesson plans and tds. For PY0-3 ELLs, native language instruction is not implemented according to program design and is not reflected in lesson plans and tds, and appropriate publisher materials are not available. TBE program for PY4-PY6 ELLs does not include ESL instruction with native language support as needed. ELLs' native country's history and culture are not taught. Language acquisition services are being provided under the guise of <i>Open Court</i> reading instruction. Classrooms are not organized for optimal ELL instruction, e.g. Sokolowska (a Polish bilingual teacher has 12 ELLs and 8 gen. ed. students).
Both	Both	Cleveland	compliance	Omelczuk	11/30/06	0009637-40	For PY0-PY3 ELLs, ESL instruction and native language instruction is not implemented according to program design, is not reflected in lesson plans and tds and appropriate publisher materials aren't available. Native language support is given through translation. <i>Language for Learning</i> (an oral language development program) is the ESL program in grades K-3. <i>Language for Learning</i> is not an ESL text.

TBE	TBE	Von Humboldt	compliance	McNulty	11/7/06	0009697	For PY0-3 ELLs, native language instruction is not implemented according to program design and is not reflected in lesson plans or tds.
TBE	Both	Moos	compliance	McNulty	10/16/06	0009709	For PY0-3 ELLs, ESL instruction and native language instruction is not implemented according to program design, is not reflected in lesson plans or tds and appropriate publisher materials aren't available.
TBE	Both	Nobel	compliance	McNulty	10/10/06	0009727	The TBE program for PY4-6 ELLs does not include ESL instruction with native language support as needed.
Both	TBE	Durkin Park	tech assist	Rosales	11/22/06	0009752	Not all Ells are receiving services; those with most limited (proficiencies) are getting double, whereas those doing fairly well (according to the principal) are not receiving ELL services. Native language instruction is not given to all PY0-2 ELLs.
Both	Both	Thorp	compliance	Omelczuk	3/28/07	0010092	ESL is taught through the core reading program, Harcourt <i>Trophies</i> .
Both	TBE	Peabody	compliance	Wilczynski	1/12/07	0009978-81	Dr. Camacho does have a pull-out for the ELLs in rooms 306, 305, 301 and 202. However, the level and grade of the students are different and one period of ESL is not enough to service properly.
Both	Both	Oriole Park	compliance	Omelczuk	1/29/07	0009958	Not providing native language instruction for PY0-PY3 ELLs, instead native language support given as needed.
Both	TBE	Durkin Park	follow-up	Rosales	4/10/07	0010238	Native language is provided as support only.
Both	TBE	Hedges	tech assist	Rosales	4/9/07	0010253-4	I reviewed the time distribution sheets. These also have remained unchanged since the 3/30/07 visit. Many had ESL for less than 30 minutes. Some indicated both ESL and native language instruction at the same time. ESL must be offered a minimum of 40 minutes on a daily basis. This continues to be a concern.
Both	Both	De Diego	compliance	Wilczynski	4/10/07	0010206	Not all PY0-PY3 ELLs are receiving native language instruction.
Both	TBE	Sawyer	tech assist	Rosales	5/16/07	0010369	Not all PY0-PY2 ELLs are receiving native language instruction.

► ¶ 2.a. This particular issue of non-compliance has occurred persistently, without apparent resolution, over the past several years at Eberhardt, Smyser and Disney. These three schools have failed to meet the requirements of this section of Amended Appendix C, as well as the requirements of the MCD (which preceded Amended Appendix C) and the documentation requirements of ¶ 8.a. of Amended Appendix C.

- Eberhardt was cited on 3/8/04 for a failure to provide native language instruction and a failure to provide formal ESL instruction (CPS Bates #0005538). Eberhardt was cited again for a failure to provide native language instruction and a failure to follow the program design detailed in the *Framework* during their first audit on 9/14/04 (CPS Bates #0005984). Eberhardt was cited again for the same non-compliance issue during the second audit on 1/19/05, and was cited again for the same non-compliance issue on 9/22/06 (CPS Bates #0006230-46 and #0009328). I noted a lack of native language materials and inconsistent ESL materials in my report in May of 2006 (p. 24).
- Smyser was cited for a failure to provide native language instruction and a failure to follow the program design detailed in the *Framework* in November of 2005 (p. 17 of my May 2006 report). The school was cited for the same issue of non-compliance in November of 2006 (CPS Bates #0009626).
- Disney was noted as failing to provide native language instruction to 31 Spanish-speaking ELLs in grades 4 – 8 in 2005-06 in my report in May of 2006 (p. 12). The school was noted for the same issue of non-compliance during the school visit on 11/17/06.

Requirements of ¶ 2.b. of Amended Appendix C: Instruction of ELLs

*Where there are 20 or more ELLs of the same language background in a given school, ELLs of that language background shall receive instruction pursuant to the Transitional Bilingual Education ("TBE") model provided in the Framework. CPS shall take reasonable steps to ensure that the amount of instruction in the native language and English in the TBE program varies according to the ELL's English language proficiency level consistent with the Framework's TBE guidelines on pages 9-11 regarding Beginning, Intermediate and Advanced English proficiency levels.*

Findings Related to ¶ 2.b. of Amended Appendix C: Instruction of ELLs

- **¶ 2.b.** As stated previously in this report, the SACD has incorporated the *Framework* into section 2.b. of Amended Appendix C.
- **¶ 2.b.** The *Framework's* sample daily schedule for elementary school TBE programs shows 170 minutes of native language instruction for PY1 and beginning ELLs, 90 minutes of native language instruction for PY2 and intermediate ELLs and 50 minutes of native language instruction for PY3 and advanced ELLs. In the TBE program, ESL is an essential component of the daily program of instruction from the first day of enrollment. However, the student's first language is used as *the medium of instruction* to bridge academic success in the CPS core curriculum. Beginning with the second year, *some subjects* in the core curriculum are introduced in English, using sheltered English strategies. The amount of time used for instruction in the native language and English in these programs varies according to the program year and the level of English language acquisition of the student (p. 9-11).



- The recommended amount of native language instruction (referred to as language allocation in the field of ESL/bilingual education) outlined in the *Framework* is adequate and well regarded in the field of ESL/bilingual education. It is congruent with what noted researchers in the field of ESL and bilingual education have concluded leads to efficient and effective English language acquisition in a transitional bilingual program. The language allocation policy relies heavily on transfer theory (concept originated by Eleanor Thonis) which asserts that many concepts and skills learned in a first language can be transferred to concepts and skills acquired in a second language. This view of language learning and concept/skill development promotes an educational program for ELLs that teaches English while students are continuing to learn content area material in their native language. There is no need to delay or halt content area instruction until students have acquired English language proficiency if the native language is used as a vehicle for content area instruction.
- CPS has defined native language instruction as that being "where the student's first language is used as the medium of instruction" and stated that "native language support occurs where the native language is used to support instruction in English such as, for clarification of terminology, explanation of concepts, and checking for comprehension" (letter from Ms. Thorton-Pierce of Shesky and Froelich to the United States on 5/3/07). While I understand the distinction CPS is making, both the *Framework* and Amended Appendix C expressly use the term *instruction*.
- In the field of ESL/bilingual education, native language *instruction*, not support, forms a cornerstone of a TBE program, especially at the early stages of English language acquisition.
- In the field of ESL/bilingual education, sheltered English instruction is defined as an approach to teaching ESL which uses English as the medium for providing content area instruction. It serves as a bridge from the ESL class to the academic mainstream. This approach differs from what native speakers of English receive in the regular all-English program (subject matter instruction in English) in that sheltered English instruction provides content area instruction to ELLs while emphasizing development of their English language skills (Savitt 1985, Krashen 1985, Parker 1985, Guzman 1986).
- While the Illinois Administrative School Code makes no mention of native language support, it does speak of native language instruction and provides guidance in the area of specific requirements for TBE programs:

e) Specific Requirements for Transitional Bilingual Education (TBE) Programs

1) Each full-time TBE program shall consist of at least the following components (Section 14C-2 of the School Code):

A) *Instruction in subjects which are either required by law (see 23 Ill. Adm. Code 1) or by the student's school district, to be given in the student's home language and in English; core subjects such as math, science and social studies must be offered in the student's home language;*

B) *Instruction in the language arts in the student's home language and in English as a second language; and*  
 C) *Instruction in the history and culture of the country, territory, or geographic area which is the native land of the students or of their parents and in the history and culture of the United States.*

2) Programs may also include other services, modifications, or activities such as counseling, tutorial assistance, learning settings, or special instructional resources that will assist students of limited English proficiency in meeting the Illinois Learning Standards (see 23 Ill. Adm. Code 1, Appendix D).

3) Students may be placed into a part-time program, or students previously placed in a full-time program may be placed in a part-time program, if an assessment of the student's English language skills has been performed in accordance with the provisions of either Section 228.15(e) or Section 228.25(c) of this Part and the assessment results indicate that the student has sufficient proficiency in English to benefit from a part-time program. However, district staff shall consider the student's score and his or her proficiency in the home language, prior performance, if any, in coursework taught exclusively in English, current academic performance, and other relevant factors such as age, disability, and cultural background in order to determine whether a full-time or a part-time program is appropriate.

4) A part-time program shall consist of components of a full-time program that are selected for a particular student based upon an assessment of the student's educational needs. Each student's part-time program shall provide daily instruction in English and in the student's native language as determined by the student's needs.

(Source: Amended at 30 Ill. Reg. 17434, effective October 23, 2006)

- The failure to provide adequate instructional materials in the native language (see ¶ 3.c. of this report for a list of schools noted) hinders teachers' ability to provide native language instruction as outlined in the *Framework* and contradicts the third prong of *Castañeda v. Pickard* which states that a school district must provide adequate resources to ensure program design implementation.

► **¶ 2.b.** CPS schools do not always implement a TBE program (as defined by the *Framework*) when there are more than 20 ELLs of the same language background in their attendance area. When TBE is implemented, the amount of native language instruction provided may not follow the *Framework's* TBE guidelines, may be sporadic or inconsistent or may be reduced from instruction down to mere support. Sometimes staff offered only native language support, not instruction, even to the most limited English proficient ELLs or those in the early years of program participation. At other times, staff offered only native language support on an as needed basis, interpreted to mean that children must ask for help, rather than have support targeted to instruction by the teacher. At other times the amount of native language used in instruction varies from one grade to another and was often more dependent on the availability of appropriately certified bilingual teachers, their schedule within the school and their willingness to work with ELLs. At other schools, insufficient time was allocated to provide both ESL instruction and native language instruction. Several lapses in program implementation and design as detailed in the *Framework*, in addition to those identified by BCFs previously regarding this section of Amended Appendix C, surfaced during interviews and school visits. The situations below contradict the *Framework* and this section of Amended Appendix C:

- The chart under ¶ 2.a. of this report shows 24 schools where BCFs noted non-compliance issues related to TBE programming. CPS provided no evidence that TBE programming (i.e., native language instruction with sufficient native language materials) according to the TBE guidelines was provided at these 24 schools to demonstrate resolution of non-compliance as required by ¶ 8.a. of Amended Appendix C.
- Ten schools that were identified by BCFs as failing to serve ELLs (see chart in ¶ 1.d.-1), reported that all ELLs were served as of the date of our school visit. Falconer was able to resolve their failure to serve 132 ELLs in 11 days, Reilly was able to resolve their failure to serve 62 ELLs in one day, Tonti was able to

resolve their failure to serve 110 ELLs in 16 days, Eberhardt was able to resolve their failure to serve 427 ELLs in 20 days, and Smyser was able to resolve their failure to serve an unspecified number of ELLs in one day. These schools' quick resolutions of their failures to serve large numbers of ELLs seem unlikely, especially if resolution included the provision of legitimate TBE/TPI services. It is worth noting that the schools noted above for speedy resolution of their failure to serve large numbers of ELLs announced resolution of their non-compliance issues on the same day as our scheduled visit.

- At Falconer on 10/17/07, Mr. Pawlski (principal) stated that some ELLs are moved into sheltered English instruction in third grade and forego native language instruction and others remain in a self-contained TBE classroom, where native language instruction is provided. When asked why some Spanish students are served in the TPI program, Mr. Pawlski responded that some ELLs need only English support and that the numbers were high in the TBE self-contained classrooms. He also said that they were "down one staff member" and when a new staff member was hired, Spanish-speaking ELLs served via TPI would be pulled back into TBE. This programming contradicts that recommended in the *Framework* (p. 9-11) which specifies that ELLs at either the PY3 level or the advanced level of English language proficiency should continue to receive 50 minutes of native language instruction daily.
- At Reilly, Ms. Omelczuk (BCF) and Ms. Blahuta (retired BCF) conducted a compliance review at the school that was in process when we visited on 10/17/06 where she noted the following: No native language instruction. For PY0-PY3 ELLs, ESL instruction is not implemented according to program design, is not reflected in lesson plans or time distribution sheets, and appropriate publisher materials are not available. They are using *Language for Learning* (not an ESL text) for ESL in one kindergarten classroom and Mondo's *Let's Talk about It* (not an ESL text) in another kindergarten classroom. These rooms have no ESL materials (CPS Bates #0009477).
- At Tonti on 10/18/06, there was scant evidence of native language instruction, particularly at the kindergarten and first grade levels.
- At Eberhardt on 10/18/06, Ms. Salahat (BLT) stated that PY3, PY4, and PY5 ELLs do not receive any native language instruction or native language support, only ESL instruction. According to staff this decision is made based on cut-off scores on the English Language Proficiency Test Series ("ELPTS"), ACCESS™, and Illinois Measure of Annual Growth in English ("IMAGE"). When asked who makes this programming placement decision, Ms. Salahat said that she goes along with the principal and the special education teacher. Native language and ESL instruction are not implemented according to the program design specified in the *Framework* (p. 9-11).
- At Eberhardt on 10/18/06, in Ms. Vega's third grade TBE classroom, materials (both in the classroom library and instructional resources) appeared to be insufficient for native language instruction at the third grade level.
- At Eberhardt on 10/18/06, Ms. Thomas (first grade TBE teacher) said that instruction was not provided in the native language; the native language is

used only to clarify. She also said that sometimes she has students below level "B".

- At Smyser on 11/10/06, Ms. Gomez (BLT) stated that native language instruction is not provided at the kindergarten level, instead language support is provided as needed. Non-Polish speaking monolingual students (8) are mixed in with ELLs (12) in Ms. Sokolowska's first grade classroom. Ms. Sokolowska provides only native language support and Ms. Spinka (ESL teacher) pulls the children out for ESL instruction.
- At Smyser on 11/10/06, Ms. Kellyana (first grade general education teacher) reported that 15 of her 24 students are Spanish-speaking ELLs. She said the ELLs are pulled out for ESL instruction, but do not receive native language instruction. Ms. Gutierrez (second grade general education teacher) stated that no Spanish-speaking ELLs in her class receive native language instruction.
- At Smyser on 11/10/06, while observing in the resource room used by Ms. Gomez (BLT) and Ms. Spinka (ESL teacher) for pullout instruction, no native language materials were observed in either Spanish or Polish.
- At Belmont-Cragin on 11/10/06, Ms. Miles (third grade general education teacher) stated that ELLs in her class have yet to receive math instruction in the native language and that the native language is not used for either science or social studies instruction.
- At Disney on 11/17/06, staff reported that native language support is provided as needed, and native language instruction is not provided as recommended in the *Framework*. While kindergarten and first grade students do receive native language instruction in reading and language arts, ELLs in subsequent grades experience *integrated instruction* in math, science and social studies. It is improbable, given the placement of ELLs and non-ELLs in the same homerooms, that the amount of time spent in native language instruction can approximate 90 minutes, as specified in the *Framework* (p. 9-11).
- At Disney on 11/17/06, Ms. Merriman (fourth grade TBE teacher) reported that no native language instruction is provided whether through Ms. Khan (for the Urdu speakers) or through any other teacher (for the Spanish speakers).
- At Senn High School on 11/17/06, it was noted that no native language courses are provided for the 27 Urdu speaking ELLs enrolled at the school.
- At Gunsaulus on 11/29/06, Ms. Andrade (BLT) stated that native language instruction is not provided for any ELLs in any grades. Instead, native language support is provided. ELLs are pulled from their first grade general education classrooms for 75 minutes each day. ESL instruction and native language support are both provided during the 75-minute instructional period. The *Framework* requires 40 minutes of ESL instruction and 170 minutes of native language instruction for PY1 ELLs and students with a beginning level of English language proficiency (p. 9-11). Pull-out instructional time drops to 40 minutes daily for second grade ELLs. The *Framework* requires 40 minutes of ESL instruction and 90 minutes of native language instruction for PY2 ELLs and students with an intermediate level of English language proficiency (p. 9-11). Mr. Jonikaitis (principal) asserted that he was thinking of increasing TBE instruction to 80 minutes daily at the fifteenth week of school. The instructional



program for ELLs at Gunsaulus conflicts with the guidelines detailed in the *Framework* (p. 9-11).

- Also at Gunsaulus on 11/29/06, in Ms. Torres' first grade TBE/TPI classroom, materials (both in the classroom library and instructional resources) appeared to be insufficient for native language instruction at the first grade level. While copies of *Trofeos* (a Spanish reading basal series) were observed only one other book in Spanish was found in the classroom, *La Semilla de la Zanaroria* and there were no visuals whatsoever in the native language. There were leveled reading books, stacked out of the reach of children and they were only in English. The classroom word wall was only in English.
- At Holden on 11/30/06, Ms. Torres (BLT) stated that no instruction is offered in the area of literacy in the native language and native language support, not native language instruction, is offered in math, science and social studies at the kindergarten level. However, at the first and second grade level, native language instruction is provided in all subject areas. Native language instruction is not provided in any subject area in third grade. The discrepancy in native language instruction between these four primary grade levels points to a serious problem with language allocation and does not follow guidelines provided in the *Framework*.
- At Hammond on 11/30/06, Ms. Constantino (fifth grade general education teacher) reported that formal ESL instruction was not provided.
- At Hedges on 4/11/07, Ms. Radecki (BLT) said that in grades 4-8 native language instruction is not provided, even though many of the ELLs at those grade levels are PY0 through PY2. Mr. Czoski (fifth grade general education teacher) said that five of his ELLs would benefit from native language instruction or support but they are not pulled for either.
- At Kelly High School on 4/12/07, Mr. Gonzalez (BLT) acknowledged that while courses are called *bilingual* courses most of the instruction is actually approached through a sheltered English methodology and the native language is not utilized.
- At Lee on 5/16/07, Ms. Marquez (BLT) reported that beginning with second grade, ELLs only have ESL instruction (they forego native language instruction) unless they are at level one of English language proficiency. This situation contradicts the guidelines for native language instruction detailed in the *Framework*.
- At Clemente on 5/16/07, Ms. Forsline (BLT) related that the math, social science and chemistry courses that are called native language courses are in reality a combination of sheltered English methodology and translation.
- In the Davis technical assistance report dated 9/19/06, Ms. Wilczynski (BCF) wrote that there is no consistent time allotment for ESL/native language instruction (CPS Bates #0009318).
- At Healy on 4/27/07, there was scant evidence that native language instruction was being provided in Cantonese. Staff stated that native language instruction was not provided because the curriculum in Hong Kong and Taiwan was very different from that in the United States. They also reported that materials in Cantonese were difficult to find. Healy serves 227 Cantonese-speaking ELLs.



Requirements of ¶ 2.c. of Amended Appendix C: Instruction of ELLs

*Where there are 19 or fewer ELLs of the same language background in a given school, such ELLs shall receive instruction pursuant to the Transitional Program of Instruction ("TPI") model provided in the Framework, which includes ESL instruction. To the extent practicable, CPS shall provide ESL instruction to ELLs in groups of students who are at a comparable English language level. CPS shall ensure, to the extent practicable, that the amount of ESL instruction it provides to students at a given English language level is uniform within each school and consistent with educationally sound practices.*

Findings Related to ¶ 2.c. of Amended Appendix C: Instruction of ELLs

- ▶ **¶ 2.c.** As stated previously in this report, the SACD has incorporated the *Framework* into section 2.c. of the Amended Appendix C.
- ▶ **¶ 2.c.** According to the *Framework*, PY0-3 ELLs and ELLs at the beginning, intermediate and advanced levels of English language proficiency are entitled to 40 minutes of ESL instruction. Previously, Ms. Fassos (Professional Development Administrator for OLCE) stated that regardless of what an ELL's level is, each ELL should have a period of ESL instruction every day (Fassos' deposition, 4/6/06, p. 46-47). Additionally, Ms. Blahuta (retired BCF) stated that they like to provide a minimum of one classroom period per day of ESL instruction and that a classroom period is 30 minutes at the kindergarten level and 30 to 40 minutes at the first through eighth grade level (Blahuta deposition, 4/7/06, p. 21-23). The *Bilingual Program Specialist's Handbook* states that ESL instruction is to be provided from the first day of enrollment, at a minimum, of 40 minutes daily (p. 4) and PY4 and PY5 ELLs are to receive a minimum of 40 minutes of daily ESL instruction (p. 37-38). This requirement is further reiterated in the *Principal's Handbook* and is the first bullet under TBE where it states that ESL is to be provided at a minimum of 40 minutes daily (p. 6). This same information is also contained in the *CPS Study Guide for Principal Candidates*, which is designed to help principal candidates study for and pass a test on CPS policies in order to be considered as a candidate for a principal vacancy (<http://www.oppdcps.com>). Generally, 40 minutes is the equivalent to one instructional period and is typically the length of time given to instruction in the specials classes (physical education, music and art). Additionally, the *Framework* states ELLs are to receive structured English instruction from a teacher with ESL approval; students from different language groups may participate together in the same ESL class according to their age and English language level; and for low incidence languages (fewer than 20), the students' first language is used for clarification in the classroom when aides or volunteers who speak students' languages are available (p.9-11).
  - CPS has defined ESL instruction as that being "when students receive structured English instruction, using the *Illinois English Language Proficiency Standards*, from a teacher with appropriate certification. ESL support occurs when effective ESL strategies are used during instructional delivery to support the learning

environment for ELLs" (letter from Ms. Thorton-Pierce of Shefsky and Froelich to the United States on 5/3/07). While I understand the distinction CPS is making, both the *Framework* and Amended Appendix C expressly use the term *instruction*.

- While the Illinois Administrative School Code makes no mention of ESL support, it does speak of instruction and provides guidance in the area of specific requirements for TPI programs, stating:

f) Specific Requirements for Transitional Program of Instruction (TPI)

1) Program Structure – The level of a student's proficiency in English, as determined by an individual student language assessment in conjunction with other information available to the district regarding the student's level of literacy in his or her home language, will determine the structure of the student's instructional program.

2) Program Components – A transitional program of instruction must include instruction or other assistance in the student's home language to the extent necessary, as determined by the district on the basis of the student assessment required in Section 228.15(e) or Section 228.25(c) of this Part, to enable the student to keep pace with his/her age or grade peers in achievement in the core academic content areas. A transitional program of instruction may include, but is not limited to, the following components: instruction in ESL, language arts in the students' home language, and instruction in the history and culture of the country, territory, or geographic area that is the native land of the students or of their parents and in the history and culture of the United States.

(Source: Amended at 30 Ill. Reg. 17434, effective October 23, 2006)

- CPS' failure to provide adequate ESL instructional materials (see ¶ 3.c. of this report for a list of schools noted) hinders teachers' ability to provide ESL instruction as outlined in the *Framework* and contravenes the third prong of *Castañeda v. Pickard* which states a school district must provide adequate resources to ensure program design implementation.

► ¶ 2.c. As stated in Section IV of the SACD, CPS shall provide language acquisition programs to all eligible students in a timely and educationally appropriate manner, consistent with Amended Appendix C and CPS' written policies as set forth in the *Framework*. Many high school students, who did not meet exit criteria as established by the state (a composite score of 4.0 on ACCESS™), were not provided language acquisition programs because they had exhausted course offerings at the school they attended. This situation was known by staff members at the high school and elementary levels in the spring of 2006. Staff failed to plan to provide language acquisition program services for these students in the 2006-07 school year. This situation is serious and contravenes this section of Amended Appendix C. Examples of this situation are detailed below:

- This aspect of Amended Appendix C is not addressed on the Board compliance review report form. Mr. Boni (BCF responsible for all high schools) appears to be the only bilingual compliance facilitator who has addressed this issue. This issue should be a concern for the feeder schools and the BCFs that represent those schools. This issue should be a responsibility shared by the feeder schools, the receiving high schools and all BCFs.
- Data reported by Ms. Thorton-Pierce in a letter dated 3/1/07, lists 22 high schools that had PY6 and above ELLs (though Ms. Thorton-Pierce speaks only of PY6 ELLs). Ms. Thorton-Pierce's counts of ELLs in this letter always fall below the counts provided by Mr. Boni (BCF) and failed to include both Mather and

Roosevelt. Over 102 ELLs were not offered language acquisition program services, which they are entitled to receive, during the school day. Additionally, these schools failed to provide language acquisition programs in a timely and educationally appropriate manner as established in the *Framework*. This situation contravenes this section of Amended Appendix A and should be resolved immediately.

- At Amundsen, there were significant discrepancies between the data reported by Mr. Boni and that reported by Ms. Thorton-Pierce (CPS attorney) and the failure to serve ELLs during the normal school day persisted throughout the entire school year.
  - At Amundsen on 9/13/06, Mr. Boni (BCF) wrote on the technical assistance form that that 51 ELLs were not served and the purpose of his visit was to review programs for PY3, PY4, PY5 and PY6 to ensure ELLs are receiving services. Mr. Boni did not mention the need to ensure services for PY7 and PY8 ELLs (CPS Bates #0009555).
  - At Amundsen on 10/23/06, Mr. Boni (BCF) wrote on the technical assistance form that 26 ELLs were not served and the program will be adjusted per the principal (CPS Bates #0009553).
  - At Amundsen on 11/13/06, Mr. Boni (BCF) wrote on the technical assistance form that 26 ELLs were not served, only one additional student's program was changed to receive services and the report would be sent to the AIO (CPS Bates #0009553).
  - At Amundsen on 12/7/06, Mr. Boni (BCF) wrote on the compliance review form that 24 ELLs were not served (CPS Bates #0009527).
  - At Amundsen on 1/9/07, Mr. Boni (BCF) wrote on the program compliance follow-up form that 22 ELLs were not receiving services, documentation for parents refusing services is evident and an *American Literature* course will be formed for 1/29/07 (CPS Bates #0009525).
  - At Amundsen on 1/29/07, Mr. Boni (BCF) wrote on the technical assistance form that 16 ELLs were not receiving services, the *American Literature* course had been created, and documentation of students involved in the after-school tutorial does not currently exist. (CPS Bates #0010148).
  - At Amundsen, Ms. Thorton-Pierce's letter dated 3/1/07 stated that seven PY6 ELLs had exhausted all course offerings and were being served through an extended day, after school tutorial service with ESL support. She did not mention the number of PY7 or PY8 or above ELLs who had exhausted existing course offerings.
  - At Amundsen on 4/17/07, Mr. Boni (BCF) wrote on the technical assistance form that there was no tutorial section solely devoted to ELLs and those students are offered the tutorial the school has in place (CPS Bates #00010379).
  - At our visit on 5/15/07, I asked Mr. Boni (BCF) if the 16 ELLs identified as not being served on 1/29/07 were being served, Mr. Boni stated that there was no time for the students to meet in the schedule.

- Ms. Thorton-Pierce's letter dated 8/2/07 confirmed this and stated that tutorial services are open to all students, that the staff running the tutorials do not have ESL/bilingual certification and that general education content area texts are used.
- At Kennedy on 1/12/07, Mr. Boni (BCF) noted that transitioned students were not receiving tutoring and/or extended day services as needed and monitoring forms were not found. He sent a letter to Mr. Slater, (AIO for Areas 23), dated 1/16/07, informing him of the situation (CPS Bates #0009516-17). Ms. Thorton-Pierce's letter dated 3/1/07 stated that one PY6 ELL had exhausted all school course offerings and was being served through an extended day, after-school tutorial service with ESL support. She did not mention any PY7 and above ELLs who were receiving tutorial services with ESL support.
- At Farragut, there were significant discrepancies between the data reported by Mr. Boni and that reported by Ms. Thorton-Pierce (CPS attorney) and the failure to serve ELLs during the normal school day persisted throughout the entire school year.
  - At Farragut on 9/8/06, Mr. Boni (BCF) noted on a technical assistance form that 43 ELLs were not receiving services (CPS Bates #0009550).
  - At Farragut on 10/18/06, Mr. Boni noted on a technical assistance form that 28 ELLs were not receiving services, that some student programs were changed, other student programs still need to be changed and students who had exhausted the ESL sequence are offered AIM High tutorial support (CPS Bates #0009549). AIM High tutorial support is outside of the school day.
  - At Farragut on 11/14/06, Mr. Boni noted on a technical assistance form that 26 ELLs were still not receiving services, the school does not have documentation of tutorial students not in bilingual classes, two parents had refused services since the last visit, and students who have exhausted the ESL sequence will be offered AIM High tutorial support (CPS Bates #0009521).
  - At Farragut on 1/9/07, Mr. Boni noted on the technical assistance form that 26 ELLs were still not receiving services, he reviewed the list of students not receiving services on 11/14/06, the school still does not have documentation of tutorial services for students not in bilingual class and the school plans to place students who have not exhausted class offerings into the program (CPS Bates #0009519).
  - At Farragut on 3/15/07, Mr. Boni wrote in the compliance report that 26 ELLs were not served during the regular school day; they were offered an after-school tutorial and noted that there were 65 PY7 ELLs (CPS Bates 0009952).
  - On 3/17/07, Mr. Boni forwarded the compliance review report of 3/15/07, along with a letter, to Mr. Arthur Slater (AIO for Area 23) (CPS Bates #000951).
- At Senn, there were significant discrepancies between the data reported by Mr. Boni and that reported by Ms. Thorton-Pierce (CPS attorney) and the failure to



serve ELLs appeared to be resolved simply by instituting a code-13 exit and a few early exits.

- At Senn on 9/20/06, Mr. Boni (BCF) wrote on the technical assistance report that 52 ELLs were not served (CPS Bates #0009237).
- At Senn on 10/18/06, Mr. Boni (BCF) reported that 14 ELLs were not served. He did not specify the program years of the ELLs not served but stated that those still not served (one freshman, one sophomore, four juniors and eight seniors) would receive a program change (CPS Bates #0009238).
- At Senn on 10/31/06, Mr. Boni (BCF) reported that all ELLs are served and six ELLs not served previously received a program change: one parent refused services and six parents approved a transition prior to three years for students who met exit criteria (CPS Bates #0009239).
- At Senn on 11/17/06, staff stated during our visit that 15 PY6 ELLs were not receiving any language assistance services.
- Ms. Thorton-Pierce asserted in her letter dated 3/1/07, that there were 24 PY6 ELLs as of January 2007 and of those ELLs, 19 were receiving ESL or bilingual instruction during the school day, that they had not exhausted available course offerings, and that five were receiving extended day, after-school tutorial services with ESL support.
- Ms. Thorton-Pierce's letter dated 8/2/07 did not include any after-school tutorials at Senn.
- At Kelly, there were significant discrepancies between the data reported by Mr. Boni and that reported by Ms. Thorton-Pierce (CPS attorney) and the failure to serve ELLs during the normal school day persisted throughout the entire school year.
  - At Kelly on 10/4/06, Mr. Boni (BCF) wrote on a technical assistance report that 86 ELLs (29 freshmen, 18 sophomores, 11 juniors, and 28 seniors) were not served and noted that the BLT reported that tutorial services were provided to ELLs who had exhausted ESL classes (CPS Bates #0009541).
  - At Kelly on 10/11/06, Mr. Boni (BCF) wrote on a technical assistance report that 86 ELLs were still not served and noted that during his visit he emphasized the need for ELL services and met with the principal to make him aware of ELLs not being served at Kelly (CPS Bates #0009540).
  - At Kelly on 10/25/06, Mr. Boni (BCF) wrote on a technical assistance report that 60 ELLs were still not served, that the BLT said that tutorial services are provided to ELLs who have exhausted ESL classes and that 26 parents refused services for their children (CPS Bates #0009529).
  - At Kelly on 11/30/06, Mr. Boni (BCF) noted on a compliance review report that 44 ELLs are not receiving language acquisition services and are offered a tutorial service instead (CPS Bates #0009523-24).
  - On 12/4/06, Mr. Boni (BCF) forwarded the compliance review report of 11/30/06, along with a letter stating that 42 ELLs were not being served in ESL classes, to Mr. Arthur Slater (AIO for Area 23) (CPS Bates #0009768).



- At Kelly, Ms. Thorton-Pierce's letter dated 3/1/07 stated that seven PY6 ELLs had exhausted all course offerings and were being served through an extended day, after school tutorial service with ESL support. She did not mention the number of PY7 or PY8 or above ELLs who had exhausted existing course offerings.
- Ms. Thorton-Pierce's letter dated 8/2/07 stated that tutorial services are open to all students, that the teachers running the tutorials have ESL/bilingual certification and that general education content area texts are used.

► ¶ 2.c. Some CPS high schools chose to address this issue by designing and implementing new courses mid year to meet the needs of these students. When these courses make use of sheltered English instructional methodology, they may satisfy the requirements of this section of Amended Appendix C. These courses are offered during the normal school day and serve to fulfill graduation credit requirements. Action was taken mid-year, causing many ELLs to miss an entire semester of services to which they are entitled. However such action is preferable to doing nothing or to offering before-school and/or after-school tutorials. The schools that designed, implemented, and staffed these new courses with certified ESL teachers or teachers adequately trained in sheltered English methodology, satisfied the requirements of this section of Amended Appendix C midway through the school year.

- Schurz's technical assistance report dated 1/29/07 noted that a *Transitional Topics in Literature* course was created to serve 15 ELLs who had not been receiving services previously (CPS Bates #00010149).
- Schurz's technical assistance report dated 10/16/06 noted that a *Survey of Literature* course (for freshmen) and an *American Literature* course (for upper-classmen) would be created second semester to serve 54 ELLs who were not served previously (CPS Bates #0009531 and #0009532).
- Prosser Career Academy added an *American Literature* course as of 10/12/06 to serve ELLs who were not previously served (CPS Bates #0009231).
- Roosevelt added a *Reading in the Language Arts* course to serve ELLs who were not served previously (CPS Bates #0009236).
- Steinmetz did not create an *American Literature* course because parents and students refused the program changes (CPS Bates #009559).
- At Farragut on 4/11/07, staff stated they were planning to implement an ESL communication course and an American literature course that will be offered to PY5 and PY6 ELLs.
- At Clemente on 5/16/07, Ms. Forsline (BLT) said that an American literature class was serving those ELLs who had exhausted all ESL course offerings.

► ¶ 2.c. Other schools sought to remedy the situation by providing tutoring sessions before, during and/or after school. While there is no doubt that tutorials are beneficial to all students, including ELLs, tutorials are no substitute for actual instruction by an ESL/bilingual certificated teacher that is designed specifically to meet the needs of ELLs and provides graduation credit for time spent in school during the school day. Providing tutorials in lieu of credit-bearing courses fails to meet the requirements

detailed in the *Framework* and fails to meet the standard specified in this section of Amended Appendix C.

- At Farragut on 4/11/07, I observed the after-school tutorial program called Brain Fuse, run by Mr. Bolanos. Approximately 15 ELLs were in a small computer lab, attempting to log on to communicate with the tutors in New York City. Students wasted a great deal of instructional time waiting for their tutor to log on and/or waiting for the cyberspace connection. Some students were communicating with their tutor in English, some in Spanish. Some of the students were casually conversing with their tutor ("What is this math class?" "So you like math?" "Yes.") Mr. Bolanos reported there is no set curriculum for these students, rather the students pose questions for the tutor and/or the tutors give the students problems to solve. I saw no evidence of sheltered English instruction. Attendance is not taken and students are free to attend or not attend.
- At Kelly on 4/12/07, I observed a drop-in tutorial run by Mr. Gonzalez (BLT) with assistance provided by Mr. Torres. Students participate based on teacher recommendations. The tutorial runs before school, and in first, second, third, fourth, seventh, eighth and ninth periods during the school day. I saw no evidence of sheltered English instruction. Mr. Gonzales stated that PY5 and PY6 students are free to participate but neither he nor Mr. Torres keeps records as to which students attend which programs.

► ¶ 2.c. ESL instruction within the TBE and/or TPI program in some situations may not follow the *Framework's* ESL instruction guidelines. At some schools, insufficient time was allocated to provide both ESL instruction and native language instruction. At other schools, ELLs were grouped by grade levels, not English language proficiency levels for ESL instruction. The following situations revealed during school visits illustrate a failure to implement TPI programming according to the *Framework* and therefore contravene this section of Amended Appendix C:

- The chart under ¶ 2.a. of this report shows 19 schools where BCFs identified non-compliance issues related to ESL instruction and/or TPI programming. CPS provided no evidence of resolution of these non-compliance issues as required by ¶ 8.a. of Amended Appendix C.
- At Reilly, Ms. Omelczuk (BCF) and Ms. Blahuta (retired BCF) conducted a compliance review at the school (that was in process when we visited on 10/17/06) where she noted that there was no native language instruction. For PY0-3 ELLs, ESL instruction is not implemented according to program design, is not reflected in lesson plans or time distribution sheets and appropriate publisher materials aren't available. They are using *Language for Learning* (not an ESL text) for ESL in one kindergarten class and Mondo's *Let's Talk about It* (not an ESL text) in another kindergarten class. These rooms have no ESL materials (CPS Bates #0009477-80).
- At Tonti on 10/18/06, Ms. Alvarez (BLT) reported that ELLs are grouped by grade level for ESL instruction, not by English language proficiency level as required by the *Framework*.
- At Smyser on 11/10/06, Ms. Gomez (BLT) stated that Ms. Spinka pulls the children out for ESL instruction. ELLs in grades 4-8 are pulled out for ESL

instruction by grade level, not language proficiency level. Ms. Gomez stated that there is no clustering of ELLs into general education homerooms based on English language proficiency levels, so she must pull students out for instruction (when pullout exists) at all different English language proficiency levels. As Ms. Omelczuk noted in her compliance report dated, 11/9/06 (one day prior to our visit), classrooms are not organized for optimal ESL instruction (CPS Bates #0009626-29).

- At Smyser on 11/10/06, Ms. Gutierrez (second grade general education teacher) stated that general education phonics and decoding materials were used to teach ESL. These materials are not designed specifically for ESL instruction.
- At Belmont-Cragin on 11/10/06, Mr. Lyman (BLT) stated that ELLs were grouped for ESL instruction by program year and grade level, not by English language proficiency levels as specified in the *Framework*.
- At Disney on 11/17/06, staff reported that native language support is provided as needed, and native language instruction is not provided as recommended in the *Framework*. While kindergarten and first grade students do receive native language instruction in reading and language arts, ELLs in subsequent grades experience *integrated instruction* in math, science and social studies. It is improbable, given the placement of ELLs and non-ELLs in the same homerooms, that the amount of time spent in native language instruction can approximate 90 minutes, as specified in the *Framework* (p. 9-11).
- At Gunsaulus on 11/29/06, Ms. Andrade (BLT) stated that native language instruction is not provided for any ELLs in any grades. Instead, native language support is provided. ELLs are pulled from their first grade general education classrooms for 75 minutes each day. ESL instruction and native language support are *both* provided during the 75-minute instructional period. The *Framework* requires 40 minutes of ESL instruction and 170 minutes of native language instruction for PY1 ELLs and students with a beginning level of English language proficiency (p. 9-11). Pull-out instructional time drops to 40 minutes daily for second grade ELLs. The *Framework* requires 40 minutes of ESL instruction and 90 minutes of native language instruction for PY2 ELLs and students with an intermediate level of English language proficiency (p. 9-11). Mr. Jonikaitis (principal) asserted that he was thinking of increasing TBE instruction to 80 minutes daily at the fifteenth week of school. The instructional program for ELLs at Gunsaulus conflicts with the guidelines detailed in the *Framework* (p. 9-11).
- In the Davis technical assistance report dated 9/19/06, Ms. Wilczynski (BCF) wrote that there is no consistent time allotment for ESL/native language instruction (CPS Bates #0009318).

**Requirements of ¶ 2.d. of Amended Appendix C: Instruction of ELLs**

*If CPS learns that an ELL is not receiving the language acquisition instruction to which the student is entitled under the Framework, CPS shall take reasonable steps to ensure that appropriate services become available at the school, or if necessary, another school within a reasonable distance of the ELL's residence.*

**Findings Related to ¶ 2.d. of Amended Appendix C: Instruction of ELLs**

► **¶ 2.d.** The chart under ¶ 1.d.-1 shows that BCFs noted that over 2,021 eligible ELLs were not receiving language assistance services. Some schools rectified this situation at their building in one day, many schools took a month to provide eligible ELLs with language assistance services, and other schools required 45 to 117 days to ensure that appropriate services became available at the school. For 18 out of 48 schools, no compliance review report or technical assistance form was filed citing resolution of the failure to provide services to over 289 ELLs; therefore, it is unknown whether the situation was ever rectified during the 2006-07 school year. CPS' failure to provide language assistance for these 2,021 ELLs is a serious lapse in implementation of this section of Amended Appendix C and CPS' failure to document steps taken to rectify non-compliance issues at 18 schools contravenes ¶ 8.a. of Amended Appendix C.

► **¶ 2.d.** The number of ELLs not receiving language assistance services may be higher than 2,021 ELLs. Less than one half of the schools with ELL enrollment over 100 participated in a compliance review. Many schools with ELL enrollment below 100 did not participate in a compliance review. Only five high schools participated in a compliance review.

► **¶ 2.d.** Some schools, with persistent notations from BCFs regarding non-compliance issues, as well as those identified as failing to meet the requirements of the MCD in 2005-06, have failed to take reasonable steps to ensure that appropriate services become available to eligible and entitled ELLs in their schools. There seems to be a disconnect between principals and area instructional officers concerning the CAP at these schools. This disconnect has persisted over several years at Smyser, Falconer, Eberhardt and Disney and has been observed over the course of this year at the thirty-five schools. Resolution of the non-compliance issue of failing to serve eligible ELLs was never documented and/or communicated to the United States. Three of these schools are also Autonomous Management and Performance Schools ("AMPS"). This is a concern to the extent that the school's status as an AMPS school may possibly hinder corrective action.

- Schools who satisfy numerous criteria (none of which has any relationship to ELLs) are invited by the chief educational officer to participate in the AMPS program whereby they are given increased autonomy from the district's central



office in the following areas: budget autonomy, self-directed operations/maintenance, calendar changes, freedom from the district's new teacher induction program, freedom from the district's area structure and freedom from one of the district's benchmark assessments.

- Smyser was invited into the AMPS program for the 2007-08 school year ([http://clear.cps.k12.il.us/AboutCPS/PressReleases/March\\_2007/AMPS.htm](http://clear.cps.k12.il.us/AboutCPS/PressReleases/March_2007/AMPS.htm)).
- Falconer and Eberhardt have been classified as AMPS schools since at least the 2005-06 school year ([http://clear.cps.k12.il.us/AboutCPS/PressReleases/March\\_2007/AMPS.htm](http://clear.cps.k12.il.us/AboutCPS/PressReleases/March_2007/AMPS.htm)).

► ¶ 2.d. As discussed above, several schools visited were not providing eligible ELLs with required TBE/TPI program services. In these instances, I did not evaluate whether the district provided opportunities for such services at the child's home school or within reasonable distance of the student's home school.

Requirements of ¶ 2.e. of Amended Appendix C: Instruction of ELLs

*CPS shall continue to annually assess the academic performance and English language proficiency of each ELL enrolled in a language acquisition program. Annual testing of English language proficiency during the 2005-2006 and 2006-2007 school years shall utilize the state-prescribed English language proficiency assessment and include assessment of all four language domains.*

► ¶ 2.e. Compliance review reports and technical assistance forms completed by BCFs, as well as one interview during school visits, revealed a few lapses in implementation of this section of Amended Appendix C:

- At Tonti on 10/18/06, Ms. Alvarez (BLT) said that she did not administer the reading and writing portions of the ELPTS to newly arrived ELLs from Mexico.
- The Saucedo technical assistance form completed by Ms. Wilczynski (BCF), dated 1/31/07, stated that ACCESS™ was administered inappropriately to 30 students and therefore the scores were invalid (CPS Bates #0009994).
- The Jackson compliance review report completed by Ms. Rodriguez (BCF), dated 9/26/06, stated that all ELLs had not been given the appropriate state and CPS academic assessments and that all ELLs had not been given language assessments in all four language domains (CPS Bates #0009398-401).

► ¶ 2.e. Staff at the 32 schools visited reported annual testing through the administration of ACCESS™ and IMAGE, the state-prescribed English language proficiency assessments, thereby satisfying the requirements of this section of Amended Appendix C.