

December 8, 2010

Chicago Office  
Office for Civil Rights  
U.S. Department of Education  
500 W. Madison Street, Suite 1475  
Chicago, IL 60661

### **Discrimination Complaint under Title VI of the Civil Rights Act of 1964**

Filed by: Parents United for Responsible Education (PURE)  
39 S. La Salle Street, Suite 617 Chicago IL 60603  
telephone 312/491-9101 pure@pureparents.org  
on behalf of parent members of our organization

Against: the Chicago Public Schools  
125 S. Clark Street  
Chicago IL 60603  
telephone 773/553-1600.

Parents United for Responsible Education (“PURE”) is a citywide non-profit membership organization dedicated to improving the Chicago Public Schools. PURE is a resource for public school parents, providing information, support, training, & advocacy, generally without charge. While there are many groups working on school reform in Chicago, PURE has a special role in focusing on issues from the parents' point of view. PURE's membership is multiracial, multi-cultural and economically diverse.

In 1999, PURE filed a discrimination complaint against the Chicago Public Schools (“CPS”) with the U. S. Department of Education's Office for Civil Rights (OCR) (Complaint #05001012), alleging ongoing discrimination based on race, color, national origin, and sex resulting from its elementary promotion policy (“the Policy”). OCR carried out an investigation and complaint resolution process which resulted in several changes in the Policy by August of 2000. (PURE complaint. OCR resolution letters, final 2000 policy- *Attachments 1-3*).

PURE has continued to monitor the Policy over the years, and has raised fresh complaints from time to time, including one against the academic preparatory centers where CPS sent overage retained elementary school students. These segregated centers were closed soon afterwards.

Unfortunately, ten years later, CPS continues to flunk thousands of children every year using the Policy, despite the overwhelming evidence that such flunking does not work and disproportionately harms African-American and Latino students. (*Current Policy 09-1028-PO2, Attachment 4*).

Six years ago, the Consortium on Chicago School Research published the major study, *Ending Social Promotion: The Effects of Retention*.<sup>1</sup> The Consortium did an exhaustive study of the Policy, using state-of-the-art statistical methodologies. At the conclusion of this study, the Consortium recommended

that CPS stop retention immediately, stating,

**“Did retaining these low-achieving students help? *The answer to this question is decidedly no....If an expensive policy is simply not working, as concluded in this report, it would make little sense to invest more money in it rather than to redirect that money toward alternatives.*”<sup>2</sup>**

Although on notice that the Policy undermines academic achievement, increases by 26% the likelihood that a retained student will drop out by age 17<sup>3</sup>, and has a severe disparate impact against African-American and Latino students, CPS has willfully persisted, imposing this injurious, discriminatory Policy on a mass scale.

We have made every effort to work with CPS to ameliorate the bad effects of this policy, to no avail. We file this complaint today because, as parents, we can no longer stand by silently while children continue to be harmed. Furthermore, no school system should perpetuate policies that have been proven to increase and even accelerate the student drop out rate, especially at a time of national commitment to address this alarming situation. Finally, when we are experiencing a local, state and national economic emergency which has resulted in the layoff of thousands of teachers, raised class sizes, and forced cutbacks in other key school resources, there can be no excuse for a government entity to perpetuate a wasteful, extravagant program that research has shown offers no benefit to the children it purports to help. We estimate that the Policy costs CPS an average of at least ***\$100,000,000 annually***.

It is time to replace the CPS elementary promotion policy with one that works, is not harmful or discriminatory, and will actually serve to improve teaching and learning. The remedies we propose will not take CPS back to social promotion, which also did not work, but which was actually more effective than retention. We believe it's time to move forward, cognizant of the mistakes of both social promotion and retention. CPS must establish a policy that proactively addresses student's needs, instead of retroactively punishing them.

CPS falls under the jurisdiction of the Office of Civil Rights because it receives federal education funds.

### **Background of the Policy**

Since 1996, CPS has flunked more than 100,000 3<sup>rd</sup>, 6<sup>th</sup>, and 8<sup>th</sup> grade students whose standardized test scores were below a certain district-defined cut-off point on an annual, nationally-normed standardized test. During the first years of the Policy, CPS used a specific cut score on the Iowa Tests of Basic Skills as the sole pass-fail barrier for students in these grades.

In 1999, PURE filed a discrimination complaint against the Policy with the U. S. Department of Education's Office for Civil Rights (OCR). As part of a resolution agreement with OCR, CPS added an automatic review prior to summer school and a parent's right to request a review of any non-promotion decision. The single cut score was replaced by a “score band.” Based on where the students' individual

reading and math scores fell in relationship to these score bands, classroom grades and attendance were also considered as factors in the promotion decision. In subsequent years, these criteria and the way they were used changed nearly every year. The current policy (09-1028-PO2) is based on student scores on a narrow set of questions, called the SAT-10, which is embedded in the annual state reading and mathematics compliance tests given to all 3<sup>rd</sup> through 8<sup>th</sup> grade students in Illinois.

What hasn't changed is the fact that thousands of students continue to be flunked every year.

### **The Wrong**

I. PURE believes that the Policy harms and does not help students. Specifically, we believe:

- National research predicted the failure of the Policy; research in Chicago confirms the Policy's failure and the damage it causes.
- Repeating a grade does not improve student learning. In fact, it results in weaker long-term academic achievement.
- The Policy has made the dropout rate worse.
- Flunking causes emotional harm to children.

II. CPS has failed to fully implement several important agreements it made with OCR in the 1999 resolution, which has resulted in a lack of parent input into the retention decision, and a lack of accountability for the Policy's discriminatory impact.

III. The policy has a disparate impact on African-American and Latino students.

IV. The Policy violates state and national assessment standards and federal legal and civil rights principles. Rather than monitor carefully the impact of retention, as required by the Policy itself, CPS has failed to “maintain all testing data by race and ethnicity of test-takers” in order to “annually review this data...to ensure that there is no disparate impact based on race or ethnicity created by the operation of the policy.” CPS also fails to make this information available to parents, as the Policy requires.

V. The cost of this failed Policy cannot be justified, especially in these tight economic times. Wasting at least \$100,000,000 annually cannot be justified when CPS is drastically cutting critical services to students and laying off hundreds of teachers.

VI. The Policy is not justified by any compelling educational reason, and other, cost-effective alternatives are available which do not have the same discriminatory impact and are more likely to improve teaching and learning.

**THE POLICY RESULTS IN SYSTEMIC VIOLATIONS OF THE CIVIL RIGHTS OF AFRICAN AMERICAN AND LATINO STUDENTS.**

## I. The policy harms and does not help students

As a matter of common sense, it might appear that the Policy helps children, giving them needed opportunities to master material that eluded them in the regular course of study. Decades of research show that this is a dangerous fallacy. Voluminous evidence proves the Chicago retention program to have disastrous consequences. This program can easily be stopped, with immediate mitigation of the damages it inflicts, and major savings to address the urgent needs of the school system. Instead of repeating the same failed program over and over, CPS must heed the clear evidence of its need to develop strategies that effectively address the educational challenges of its most severely at-risk children.

***National research predicted the failure of the Policy:*** More than 40 years of educational research has found that flunking students is risky, can have harmful effects, and leads to higher dropout rates.

(D)ocumenting the real effects on children of retaining them a grade or more has been among the most heavily researched topics in education over the past thirty years. The collective verdict from hundreds of studies 'firmly indicates that retaining students...has negative effects on students' achievement in later grades, has negative effects on student' attitudes toward school, their self-esteem and their social adjustment; dramatically increases the likelihood that students will drop out of school; is disproportionately applied to racial and ethnic minority students; and is strongly associated with criminality and incarcerations during the students' adult years.'<sup>4</sup>

(W)hat does research from across the country say about retention? This research indicates that few practices have such negative effects. Researchers use a process called "meta-analysis" to combine data from a number of studies on a particular topic, like retention. Meta-analysis indicates that retention is either harmful or ineffective (Holmes, 1989). Students retained are a quarter of a standard deviation worse off on educational outcome measures than comparable students who are promoted. These negative effects are even stronger for academic achievement alone. When children of the same age were compared, the retained group lost .45 standard deviation in achievement on average. Evidence indicates that failing a grade is strongly tied to dropping out of school later. Being retained is as strong as low achievement in determining whether a student drops out or graduates. For example, in Austin, Texas, repeating a grade increased the chances of a white female dropping out by 17% and increased an African American male's chances of dropping out by 38% (Grissom and Shepard, 1989). This is a very powerful negative effect.<sup>5</sup>

***Research in Chicago confirms the Policy's failure and the damage it causes:*** The conclusion of the Consortium on Chicago School Research in its landmark study, *Ending Social Promotion*, could not be clearer:

Did retaining these low-achieving students help? The answer to this question is decidedly no. In the third grade, there is no evidence that retention led to greater achievement growth two years after the promotional gate, and in the sixth grade, **we find significant evidence that retention was associated with lower achievement growth.**<sup>6</sup> (*emphasis added*)

**The Policy has made the dropout rate worse:** The Consortium found that students CPS flunked were 25% more likely to drop out by age 17. A multi-year study of CPS's student promotion policy found that flunking students increased their chances of dropping out by age 17 by 25%, and the chances of their dropping out by age 19 by 29%. The study concluded that

students with very low achievement were even less likely to graduate than before the policy was implemented....Racial gaps in school completion also grew after implementation of the (promotion) gate....In addition, the very high dropout rates among students already old-for-grade who failed the eighth grade test suggest that the combined effects of the gates at third, sixth, and eighth grade may be more adverse than that of the single gate at the eighth grade. <sup>7</sup>

Recent data from the State of Illinois school report cards show that African-American CPS students are 30% more likely to drop out, and Hispanic CPS students are 35% more likely to drop out than white students (*CPS dropout rates by race, 2003-2008, Attachment 5*).

**Flunking causes emotional harm to children:** There is ample scientific evidence that flunking can increase student stress levels and lower student self-esteem and sense of efficacy as learners.

As teachers and administrators are pressured to implement policies designed to "end social promotion," students are threatened with retention if they do not meet academic standards or perform above specified percentiles on standardized tests. It is unclear if this threat is effective in motivating students to work harder. However, this pressure may be increasing children's stress levels regarding their academic achievement. Surveys of children's ratings of twenty stressful life events in the 1980s showed that, by the time they were in 6th grade, children feared retention most after the loss of a parent and going blind. When this study was replicated in 2001, **6th grade students rated grade retention as the single most stressful life event, higher than the loss of a parent or going blind** (Anderson, Jimerson, & Whipple, 2002)(*emphasis added*). This finding is likely influenced by the pressures imposed by standards-based testing programs that often rely on test scores to determine promotion and graduation.

Analysis of multiple studies of retention indicate that retained students experience lower self esteem and lower rates of school attendance, relative to promoted peers (Jimerson, 2001). Both of these factors are further predictive of dropping out of school.<sup>8</sup>

In our 1999 OCR complaint<sup>9</sup>, we included the case of an African-American student who was retained. His mother wrote that he

has experienced and sustained serious emotional distress because of these multiple retentions and the extreme stress he now feels about taking the (test). He has been made to feel inferior and as if he is a failure. He has cried, made up excuses not to go to school, felt extremely nervous, and dreaded the day of the test. He is only in fourth grade, and had the rest of his schooling ahead of him, yet I am afraid that with this test as a barrier, he has been and will continue to be denied the opportunity and support he needs to be a motivated student, to be instructed in a high-quality curriculum, and to progress towards graduation, college, and a successful career.

The parent of a Latina 14-year old CPS student wrote this:

My daughter was harmed by the district's promotion policy in several difference ways: (1) she was not able to graduate with her friends, (2) she began to believe that she did not deserve to graduate with her classmates despite her excellent grades and good attendance (3) she was deeply hurt because she was well-known and respected by teachers and students alike for her intelligence, yet her (test) score in reading meant that she would not be able to graduate from the 8<sup>th</sup> grade along with her friends, (4) she did not sign up for the summer logic and science program at Daley College which she had participated in last year because she was told she had to attend summer school to re-take the test in August, 1999. Also, the experience left her with a permanent fear of having to go through a similar experience again during her high school years. This fear was definitely a factor which played a role in (my daughter's) decision to attend (a private school) rather than a CPS high school.

In its 2004 study of principal, teacher, and student response to the retention policy, the Consortium found that “with the exception of high-risk eighth graders, there appeared to be declines in students' sense of efficacy toward their schoolwork from 1997 to 2001.”<sup>10</sup> More stories about the effects of high-stakes testing on students can be found in the chapter, “Crime and Punishment: How the Accountability Machine Hurts Schoolchildren” in Peter Sacks' book, *Standardized Minds*.

**II. CPS has failed to fully implement several important agreements it made with OCR in the 1999 resolution**, which has resulted in a lack of parent input into the retention decision, and a lack of accountability for the policy's discriminatory impact.

***Parents' right to request a review severely limited:*** The 1999 Policy revision included a parental right to ask for a waiver of the summer school decision in June, and a review of a non-promotion decision after summer school. A letter from OCR specified that CPS must make this information “absolutely clear” to parents.

Unfortunately, this has not been the case. See the minimal information provided in the 2009-2010 School/Parent Guide to the Elementary School Promotion Policy (***Attachment 6***). Parents calling PURE's office after having received a notice of mandatory summer school or retention report that they were not aware of their right to an appeal or review, or are given conflicting information. PURE has taken the initiative to offer a guide of sorts to parents for this process on our web site ([http://pureparents.org/index.php?blog/show/Help\\_for\\_parents](http://pureparents.org/index.php?blog/show/Help_for_parents)), but we can't reach all of the affected parents.

Furthermore, even when parents learn about their right, they have a very difficult time getting anyone at CPS to listen. PURE has had to intervene for some parents just to get their telephone call returned.

Finally, even when parents are able to make contact with CPS, their input is essentially ignored. CPS staff involved in reviewing the student's records generally do not meet face-to-face with the parent and do not appear to take the parents' information into consideration (*see, for example, Attachment 7*).

***Inadequate disparate impact report:*** As part of the 1999 resolution with OCR, CPS included this clause in the Policy: “The district will maintain **all testing data** by race and ethnicity of test-takers and shall annually **review** this data in regard to students who are promoted and retained pursuant to the requirements of the policy in order **to ensure that there is no disparate impact based upon race or ethnicity** created by the operation of the policy. **All such data** shall be made available to a parent upon request.” (*emphasis added*)

On February 12, 2009, PURE sent a FOIA request for this information. CPS failed to respond to our request, despite the Policy's assurance that the report would be provided to parents upon request. We finally turned to the Attorney General for help.

After the intervention of the Attorney General PURE finally received a brief report, “Promotion and Retention Rate by Race and Year for Students Enrolled in Summer School 2002-2008” (*Attachment 8*). This report was apparently the full extent of information CPS collected in response to Section V of the Policy.

After reviewing the report, we wrote a letter to CEO Huberman, expressing the following concerns about the report:

- The report is incomplete in that it fails to include “all testing data” as required by the policy.
- The data seems very clearly to reflect a disparate impact on African-American and Latino students, whose retention rates are far higher than that of white or Asian students.
- The report includes no analysis of the data, which would seem to be essential in any effort to ensure that there is no disparate impact.

***Subsequent efforts to reach out to CPS officials fruitless:*** Mr. Huberman responded in a letter dated June 23, 2009, that he felt the Policy “significantly supports a child's ability to succeed at the next grade level” (*Attachment 9*). Mr. Huberman did invite PURE to submit any ideas for improving the policy, which we did (*Attachment 10, which incorporates all documents referenced therein*).

We had a half-hour meeting with Mr. Huberman on November 10, 2009, to present our proposal in person. He asked for more information about certain aspects of the proposal including non-graded classrooms and Chicago's Child Parent Centers. We provided this information. We made a similar, though brief (given the 2-minute rule) presentation to the Board of Education in 2009, and sent a similar letter to former Chief Education Officer Barbara Eason-Watkins, requesting a meeting with her on the subject before her retirement in June, 2010. We received no further communication from Mr. Huberman, the Board, or Dr. Eason-Watkins.

We recently received a request for a meeting with two officials in the office of P-12 Management, which oversees the Policy. We are pleased with this overture but skeptical that it will lead to timely or significant Policy changes.

### **III. The Policy has a Discriminatory impact on African-American and Latino students.**

Our data reflect that the Policy results in educational decisions that have an adverse impact on African-American and Latino students (*Charts, Attachment 11*).

According to the Chicago Public Schools report, "Promotion and Retention Rate by Race and Year for Students Enrolled in Summer School 2002-2008," African-American students were retained at a rate five times that of white students, and Latino students were retained at a rate 2.2 times higher in 2008.

Our pie charts show that African-Americans constitute 48% of the CPS student population in 3<sup>rd</sup>, 6<sup>th</sup> and 8<sup>th</sup> grades, but 68% of those required to attend summer school, and 74% of those retained. 40% of all CPS 3<sup>rd</sup>, 6<sup>th</sup>, and 8<sup>th</sup> grade African-American students were required to attend summer school, compared with only 7% of Asian and 12% of White students. 16% of all African-American 3<sup>rd</sup>, 6<sup>th</sup> and 8<sup>th</sup> grade students were retained, compared with only 2% of Asian students and 4% of white students.

Latino students were sent to summer school at a rate of 1.46 to 1 as compared with white students, and were retained at a rate of 1.37 to the rate of retained white students.

According to 2008 State of Illinois school report cards, African-American students in Chicago were 1.3 times more likely to drop out than white students, and Hispanic students were 1.35 times more likely to drop out.

### **IV. The Policy violates state and national assessment standards and federal legal and civil rights standards**

CPS uses student scores on the 3<sup>rd</sup>, 6<sup>th</sup>, and 8<sup>th</sup> grade reading and mathematics SAT-10 test, which is embedded in the ISAT, to determine whether or not a student will be promoted. According to the test makers themselves as well as state and federal education agencies, this practice is improper, violating professional testing standards. The policy ignores better, sounder, less discriminatory means of identifying students who need the most help.

***The SAT-10 was not designed to determine student promotion status.*** Using a test for a purpose for which it was not designed is considered an improper use by the test makers, the nationally-accepted standards for the testing profession, the state of Illinois, and the U. S, Department of Education.

The test makers, Harcourt Assessment, state in their *Guide for Organizational Planning*,

Another misuse of standardized achievement test scores is making promotion and retention decisions for individual students solely on the basis of these scores. This is an undesirable practice for a number of reasons. Perhaps the most important reason is that national standardized achievement tests are not built to serve this purpose...they cannot provide complete coverage of any local curriculum.<sup>11</sup>

*PURE OCR complaint, 12/08/10, p. 9*

In a letter written to PURE on May 11, 2009, Marcilene Dutton, Deputy General Counsel, Illinois State Board of Education, stated:

Using ISAT scores as the basis for student promotion and retention is not an ISBE policy or practice.<sup>12</sup>

A January 27, 2009 e-mail from Judith Steinhauser, representing ISBE, to parent Wade Tillett, stated:

the purpose of ISAT, its reliability and validity authenticated by a staff of psychometricians, is to calculate school accountability which is reported to the federal government as Adequate Yearly Progress. It is not the intention of the state to use the test for anything else.

The USDE manual, "Taking Responsibility for Ending Social Promotion," states:

When a statewide or districtwide test is being used to determine student promotion, the state or district must be able to provide professionally acceptable evidence that the test is valid and reliable for the purpose for which it is being used. If a state or district chooses to use a test as a principal criterion for decisions about student promotion, the test must be designed for this use and there must be evidence that it is appropriate to use the test as a sole or principal criterion.<sup>13</sup>

***CPS improperly uses the SAT-10 as a sole criterion for making promotion decisions, a practice opposed by the test maker, state officials, and national experts.***

The makers of the SAT-10 state:

Achievement test scores may certainly enter into a promotion or retention decision. However, they should be just one of the many factors considered and probably should receive less weight than factors such as teacher observation, day-to-day classroom performance, maturity level, and attitude.<sup>14</sup>

The ISAT "professional practices" manual lists under "Prohibitions: Actions that must be avoided when reporting test results":

- No person or organization shall make a decision about a student or educator on the basis of a single test.<sup>15</sup>

The National Research Council, in their major study on student assessment, states this principle clearly:

(A)n educational decision that will have a major impact on a test taker should not be made solely or automatically on the basis of a single test score. Other relevant information about the student's knowledge and skills should also be taken into account.<sup>16</sup>

Standard 13.7 of the *Standards for Psychological and Educational Testing* reads as follows:

In educational settings, a decision or characterization that will have a major impact on a student should not be made on the basis of a single test score.<sup>17</sup>

*PURE OCR complaint, 12/08/10, p. 10*

The Code of Fair Testing Practices in Education prepared by the Joint Committee on Testing Practices calls on test users to

Avoid using a single test score as the sole determinant of decisions about test takers. Interpret test scores in conjunction with other information about individuals.<sup>18</sup>

***CPS has established multiple barriers to promotion, while falsely contending that they are multiple measures.*** After PURE filed a discrimination complaint against the policy in 1999, CPS began to include classroom grades and attendance in the promotion decision. But instead of using these other criteria as true multiple measures, which testing experts recommend, the policy uses them as multiple barriers.

It is critical to understand the difference between multiple barriers and multiple measures. Under multiple barriers, the student must meet all of several listed criteria. Under multiple measures, also called multiples sources of evidence, the various measures are not used separately, but are combined, and a decision is based on the evidence in its totality, not used separately. True multiple measures may, for example, use a weighting system to reflect the proportionate usefulness of different assessments. Alternatively, results may be added together using a point system to come up with a total number, or one or more positive results may compensate for, or “outweigh,” a less positive outcome.

As noted above, the test makers themselves say that the test

should be just **one of the many factors** considered and **probably should receive less weight** than factors such as teacher observation, day-to-day classroom performance, maturity level, and attitude<sup>19</sup> (emphasis added)

In fact, in the CPS promotion policy, **each measure operates as a single deciding factor, each of which on its own can be used to retain the student.** In other words, CPS students must meet the cut scores on the district-wide assessment (DWA) **and** grade standards **and** attendance requirements, in order to be promoted without attending summer school (if at all).

Test scores alone are explicitly used in several of the policy's high-stakes decisions. For example, eighth-grade students are banned from graduation with their classmates if they do not meet **all** of these measures. Students whose DWA scores were below the cut off point must pass **one end-of-summer-school test** in order to be promoted to the next grade.

Other useful information such as student attendance, academic performance throughout the school year, and faculty recommendations are readily available. These factors are indeed considered when a student successfully exceeds the cut-off score, but then only in a negative sense; low attendance or a failing grade will **also** bar that student from graduation or send him or her to summer school.

*PURE OCR complaint, 12/08/10, p. 11*

Stated simply, students can be hurt by their attendance and academic performance, but these measures cannot help them. They are multiple barriers, not multiple measures, which means that **each one of the measures is a single high-stakes measure.**

*CPS does not follow its own requirements to monitor the effects of the Policy for any discriminatory impact.*

**V. The cost of this failed Policy is not justified when CPS is drastically cutting critical services to students and laying off teachers.**

Flunking students results in an additional year of schooling. At the current CPS-estimated per-pupil annual expenditure of some \$11,000, CPS spent nearly \$100 million to retain 9,000 children in 2008.

The current promotion policy generates other costs as well. Prof. House reported that “In Chicago the summer schools cost \$25 million in 1996, \$34 million in 1997, and \$42 million in 1998. Chicago's extra teachers and after-school programs for retained elementary students cost at least \$12 million.”<sup>20</sup> Of course, 10 years later, those estimates would have to be nearly doubled.

The Consortium expressed concern about this high cost:

In the end, the practice of retention is monetarily and academically costly. It involves investing in an extra year of schooling. It makes students overage for grade, and as a result, increases the risk of school dropout, an outcome with a substantial set of social costs. Instructionally, high-stakes testing leads to substantial costs in time on test preparation, and it directs resources away from early intervention. **If an expensive policy is simply not working, as concluded in this report, it would make little sense to invest more money in it rather than to redirect that money toward alternatives** (emphasis added).<sup>21</sup>

Yet, five years after this report as written, CPS continues to throw good money after bad, to the tune of over \$1 billion (\$1,000,000,000) since the program began in 1996.

***Enormous cost to society:*** The cost of failed education policies is even more mind-boggling. Cutting the dropout rate in half would yield \$45 billion annually in new federal tax revenues or cost savings, according to the Columbia University cost-benefit report. The study breaks the savings down this way:

The average lifetime benefit in terms of additional taxes paid per expected high school graduate is \$139,100.

- The average lifetime public health savings per expected high school graduate (achieved through reduction in Medicare and Medicaid costs) is \$40,500. For black females, the highest users of these programs, the figure is \$62,700.
- The average lifetime crime-related cost reduction per expected high school graduate is \$26,600.

*PURE OCR complaint, 12/08/10, p. 12*

- Being a high school graduate is associated with a 40 percent lower probability of Temporary Assistance for Needy Families (TANF); a 1 percent lower probability of receiving housing assistance; and a 19 percent lower probability of receiving food stamps. For college graduates, the probability reductions are 62 percent, 35 percent and 54 percent.<sup>22</sup>

To justify its practices under the Policy, with their severe disparate impact and their enormous costs – both immediate and long-term – CPS bears a weighty burden. Its evidence does not suffice.

**VI. The Policy is not justified by any compelling educational reason, and cost-effective, less discriminatory alternatives are available.**

Some assert that standardized tests scores are the only “objective” measures of student progress, and so are educationally necessary. Education experts disagree. In 2004, the Joint Organizational Statement on NCLB was developed which is currently supported by 151 education, civil rights, and civic organizations across the nation. The Joint Statement calls for the use of multiple measures which could include classroom, school, district and state tests; extended writing samples; tasks, projects, performances, and exhibitions; and selected samples of student classroom work, such as portfolios. Gathering this rich information would enable states, communities, schools, parents, teachers and students to know more about student learning and better improve schools. In addition, using such high-quality information could allow states to test less frequently, as many states did before NLCB.<sup>23</sup>

***Student learning deficiencies are not identified or addressed soon enough; current interventions are not effective.***

Our children need more from CPS. Chicago's results on the National Assessment of Educational Progress (NAEP) have been mixed at best, and show that our schools are not doing enough, even in comparison to other large urban school districts. The Consortium reports that many CPS students are so far behind by the third grade that it is a huge task to help them catch up. They state that the average low performing CPS student

started substantially behind the average CPS student in first grade, and the achievement gap for these groups widened most significantly between first and third grade, before CPS's promotional policy took effect. Waiting until third or sixth grade to identify these students and intervene seems a nonjudicious use of resources.<sup>24</sup>

They further recommend:

school systems must invest in developing effective early assessment, instruction, and intervention approaches that identify students who are not moving forward and provide appropriate supports.<sup>25</sup>

***In addition to improved assessment practices, other sound, effective alternatives to flunking and high-stakes testing exist and could be implemented using the savings from ending retention.***

There are many sound, research-based strategies for addressing our children's critical educational needs. A good summary of these ideas can be found in the report, "North Carolina Early Grade Retention in the Age of Accountability," based on a review of research and of successful practices of North Carolina schools with good records of low retention rates and high achievement levels:

- Start early.
- Implement interventions in the context of the regular classroom setting.
- Coordinate and communicate with teachers and staff.
- Involve parents.
- Provide after school support.
- Offer enriched summer activities, presenting review material in new ways.
- Emphasize literacy.
- Provide high-quality professional development to all staff on working with at-risk students.
- Connect with community resources.
- Provide "can-do" leadership.<sup>26</sup>

A similar set of alternative strategies is offered by the Columbia University's Center for Benefit-Cost Studies of Education at Teachers College:

In general, the study's authors identify several features that characterize effective school interventions: small-size schools; personalization; high academic expectations; strong counseling; parental engagement; extended time; and competent and appropriate personnel. They note that one of the interventions, First Things First, has the largest economic benefits relative to costs and combines all these features. Other interventions ...include Perry Preschool Project, Chicago Parent-Center Program, class size reduction, and increasing teacher salaries.<sup>27</sup>

Unfortunately, despite the opposition of PURE and others over the years, CPS phased out the Child Parent Centers, which had a strong track record of success giving low-income children of color a great foundation for their education that persisted over time.<sup>28</sup>

## **Remedies we request**

**1. Because retention has not worked in the Chicago Public Schools (CPS), and has harmed children, PURE recommends that CPS stop flunking students.**

**2. Because single high-stakes test scores are not good indicators of student progress, PURE recommends that CPS implement an accurate, sound assessment system** using high quality formative and summative assessments in all subjects, as well as other indicators to provide evidence of improved student learning and school quality. These assessments must be based on state standards and the local curriculum, assess higher-order thinking and other 21st century skills, and provide multiple opportunities and approaches for students to demonstrate their learning. The primary use of these assessments should be to improve instruction and enable teachers to better address each student's strengths and needs.

**3. Because too many children are not receiving the help they need, PURE recommends that schools create a personal learning plan (PLP)** for any child determined to be behind or at risk of falling behind academically. CPS's role would be to assure that schools have adequate resources to implement each PLP, that PLPs are being implemented, and that they are effective. Parents would be involved in both the development of the PLP and its implementation. PLPs would be monitored at least quarterly and adjusted as needed.

**4. Because we are wasting between \$100 and \$200 million annually on flunking students, PURE recommends that CPS redirect those resources** toward:

- implementing high-quality early childhood education programs such as the now-defunct Child Parent Centers,
- strengthening parent involvement,
- creating student Personal Learning Plans,
- implementing appropriate evaluations for special education services and increasing high-quality special education services,
- expanding the use of teacher aides, augmenting supports for English language learners (CPS has curtailed instruction for bilingual students),
- redesigning summer school programs so that they better meet students' needs,
- reducing class sizes in the most at-risk schools, retaining experienced teachers with demonstrated ability to serve high-risk students, and
- replicating other proven programs and practices.

- 1 Nagaoka, Jenny, and Melisa Roderick. 2004. *Ending Social Promotion: The Effects of Retention*. Chicago: The Consortium on Chicago School Research.
- 2 Nagaoka, pp. 52,53
- 3 Allensworth, Elaine. 2004. *Ending Social Promotion: Dropout Rates in Chicago after Implementation of the Eighth-Grade Promotion Gate*. Chicago: The Consortium on Chicago School Research, p. 17.
- 4 Sacks, Peter. 1999. *Standardized Minds*. Perseus Books, Cambridge, MA 1999. p. 104, citing Jaeger affidavit in Eric V. et al v. Johnson County Board of Education (filed 1997).
- 5 House, Ernest R. 1998. *The Predictable Failure of Chicago's Student Retention Program*. Presentation at "Rethinking Retention" conference, November 1998. Published by Designs for Change. pp. 17-18.
- 6 Nagaoka,
- 7 Allensworth, Elaine. 2004. *Ending Social Promotion: Dropout Rates in Chicago after Implementation of the Eighth-Grade Promotion Gate*. Chicago: The Consortium on Chicago School Research.

8 Anderson, Gabrielle., Angela D. Whipple, & Shane R. Jimerson. *Grade Retention: Achievement and Mental Health Outcomes*. National Association for School Psychologists

- 9 PURE complaint to the U. S. Department of Education's Office for Civil Rights. October 21, 1999.
- 10 Jacobs, Robin Tepper, Susan Stoner, Melissa Roderick. 2004. *Ending Social Promotion: The Response of Teachers and Students*. Chicago: The Consortium on Chicago School Research. p. 76.
- 11 *Stanford Achievement Test Series, Ninth Edition: Guide for Organizational Planning* Harcourt Brace Educational Measurement. 1997. Pp. 43-44.
- 12 Letter of May 11, 2009, to PURE executive director Julie Woestehoff from Marcilene Dutton, Deputy General Counsel, Illinois State Board of Education.
- 13 U. S. Department of Education, "Taking Responsibility for Ending Social Promotion." 1999. p. 19
- 14 *Stanford*.

- 16 National Research Council, *High Stakes: Testing for Tracking, Promotion, and Graduation*, 1999. Washington, D.C.: National Academy Press. p. 3.
- 17 *Standards for Psychological and Educational Testing*. 1999. American Psychological Association, Association for Educational Research and Assessment, National Council on Measurement in Education
- 18 *Code of Fair Testing Practices in Education*. (2004). Washington, DC: Joint Committee on Testing Practices. (Mailing Address: Joint Committee on Testing Practices, Science Directorate, American Psychological Association, 750 First Street, NE, Washington, DC 20002-4242; p.9.
- 19 Stanford.
- 20 House, p. 17.
- 21 Nagaoka, p. 53.
- 22 Levin, Henry, Teachers College, Columbia University, and Clive Belfield, Queens College, City University of New York; Peter Muennig, M.D., Columbia University's Mailman School of Public Health; and Cecilia Rouse, Princeton University. 2007. "The Costs and Benefits of an Excellent Education for America's Children." New York: Teachers College Press.
- 23 *Joint Organizational Statement on No Child Left Behind (NCLB) Act*. October 21, 2004.
- 24 Nagaoka, p. 53.
- 25 Ibid.
- 26 Early, Diane et al. *North Carolina Early Grade Retention in the Age of Accountability*. A report by the Kindergarten readiness Issues Group of the Partners in Research Forum.
- 27 Levin.
- 28 Reynolds, A. J. *Success in Early Intervention: The Chicago Child-Parent Centers*. 2000. Lincoln, NE: University of Nebraska Press.