UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE ACTING ASSISTANT SECRETARY

September 16, 2025

Sean B. Harden
President
[redacted]

Dear President Harden:

This letter is to notify you that the U.S. Department of Education's (Department) Office for Civil Rights (OCR) has identified civil rights compliance issues with the Board of Education, City of Chicago, and Chicago Public Schools (CPS). OCR is deeply concerned that CPS appears to be discriminating based on race in violation of Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. Section 2000d *et seq*., and its implementing regulation at 34 C.F.R. Part 100, through its exclusionary "Black Students Success Plan." This academic-achievement initiative apparently provides remedial resources only to black students, despite CPS' acknowledgment during the meeting to launch the plan that Chicago students of all races struggle academically. OCR is also concerned that CPS is engaging in or involved with other forms of racially restrictive programming.[1]

By statute, the Magnet School Assistance Program (MSAP) provides discretionary grants to local educational agencies (LEAs) or consortia of LEAs to operate magnet schools that promote desegregation in order to "increase interaction among students of different social, economic, ethnic, and racial backgrounds."[2] Prior to grant disbursement, OCR's Assistant Secretary for Civil Rights must sign an assurance that the applicant will "not engage in discrimination based on race, religion, color, national origin, sex, or disability."[3]

[1] OCR has learned that CPS allegedly has a mentorship program for self-managers that is limited to "people of color."

[2] 20 U.S.C. § 7231d(b)(1)(A).

[3] 20 U.S.C. § 7231d(b)(2)(C), stating that an applicant "will not engage in discrimination based on race, religion, color, national origin, sex, or disability in--

In *Students for Fair Admissions v. Harvard* (*SFFA*), 600 U.S. 181 (2023), the Supreme Court held that, under the Fourteenth Amendment's Equal Protection Clause and Title VI, every university applicant "must be treated based on his or her experiences as an individual—not on the basis of race." 600 U.S. 181, 231 (2023). In reaching its decision, the Court reasoned, in part, that "universities have for too long … concluded, wrongly, that the touchstone of an individual's identity is not challenges bested, skills built, or lessons learned, but the color of their skin. Our constitutional history does not tolerate that choice." *Id. SFFA* confirms what Title VI prohibits: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

The Black Students Success Plan, however, is designed for and exclusive to black students and black educators. It is not, for instance, available to white or Asian American students and educators. This is textbook racial discrimination, and no justification proffered by CPS can overcome the patent illegality of its racially exclusionary plan.[4] As Justice Clarence Thomas explained, "racial discrimination based on benign prejudice is just as noxious as discrimination inspired by malicious prejudice. In each instance, it is racial discrimination, plain and simple." *Adarand Constrs., Inc. v. Pena*, 515 U.S. 200, 241 (1995) (Thomas, J., concurring).

Additionally, CPS' *Guidelines Regarding the Support of Transgender and Gender Nonconforming Students*, are facially discriminatory on the basis of sex in violation of Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681 *et seq*., and its implementing regulation, 34 C.F.R. Part 106.1. According to this policy, students are allowed to access intimate facilities that "correspond with their gender identity" and to participate in sex-segregated sports "in accordance with their gender identity or in a manner that makes them feel safe and included." It says nothing about the feelings of safety and inclusivity of the female students who are forced to play against

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(i) the hiring, promotion, or assignment of employees of the applicant or other personnel for whom the applicant
has any administrative responsibility;
(ii) the assignment of students to schools, or to courses of instruction within the schools, of such applicant, except
to carry out the approved plan; and
(iii) designing or operating extracurricular activities for students[.]"

[4] *See SFFA*, 600 U.S. at 214 ("Racial discrimination is invidious in all contexts.") (cleaned up); *id.* at 206 ("Eliminating racial discrimination means eliminating all of it.").

males. It also states that accommodations for students on overnight trips will be "assessed on a case-by-case basis."

Title IX's commitment to sex-separated intimate facilities and athletics is based on immutable biological differences, well-established privacy interests, and ensuring the safety of all students when in enclosed and vulnerable spaces and engaged in the competitive, physical activity of sport.[5] This is not only permissible and advisable but often necessary to ensure equal opportunities for girls and women and prevent a hostile educational environment. When recipients of Federal funding require schools to treat "trans-identifying" males as if they were "females," including in intimate traditionally sex-separate facilities, they defeat the very purpose of Title IX: to ensure equal opportunities for women while not jeopardizing their privacy, safety, or other rights. *See, e.g.*, *Tennessee v. Cardona*, 737 F. Supp. 3d 510, 559-61 (E.D. Ky. 2024). Simply put, allowing males in girls' sports, intimate facilities, or private spaces, such as with overnight sleeping accommodations or vice versa, violates Title IX by creating a hostile educational environment or denying females and males equal access to benefits of education programs or activities. The same can be said when female students are permitted to enter private spaces reserved for male students.

As a result of these findings, I will not certify CPS' grant under 20 U.S.C. § 7231d(c). Likewise, CPS' MSAP grant will be non-continued under 34 C.F.R. § 75.253(a)(5) because it is no longer in the best interest of the Federal Government.

To comply with the law, OCR requires that the Board and CPS take the following steps:

1. Abolish the Black Students Success Plan and any associated policies or practices to ensure that any remedial academic resources are provided to students based on race-neutral criteria and make clear in any public documents associated with these academic achievement initiatives and any related polices or practices that discrimination based on race violates Title VI and that all CPS policies and procedures must comply with Title VI.

[5] In *Adams v. School of St. Johns County*, the court observed that sex-separated intimate facilities "date[]back to ancient times" and serve to protect the privacy and safety interests that arise from the physical differences of the sexes. 57 F.4th 791, 805 (11th Cir. 2022) (en banc) (internal quotation marks and citations omitted).

2. Issue a public statement to parents, students, and staff notifying them of these changes to what is currently associated with the Black Students Success Plan.
3. Rescind any guidance that violates Title VI, remove or revise any internal and public-facing statements or documents that are inconsistent with Title VI, and notify all parents, students, and staff of such rescissions and revisions.
4. Adopt biology-based definitions for the words 'male' and 'female' pursuant to Title IX;
5. Issue a public statement to parents, students, and staff stating that CPS will comply with Title IX and specifying that it will not allow males to compete in female athletic programs or occupy intimate facilities designated for females;
6. Specify that CPS must provide sleeping arrangements during overnight activities and athletic trips to its students strictly separated on the basis of sex and comparably provided to each sex;
7. Specify that CPS must provide intimate facilities such as locker rooms and bathrooms accessible to its students strictly separated on the basis of sex and comparably provided to each sex;
8. Specify that Title IX forbids schools from allowing boys or men to participate in any athletic program designated for girls or women, ensuring that only female students are eligible to join, participate, or be categorized or counted as a member of Girls' Team(s)/Category(s) and that all male students are ineligible to join, participate, or be categorized or counted as a member of Girls' Team(s)/Category(s); and
9. Rescind any guidance that violates Title IX, remove or revise any internal and public-facing statements or documents that are inconsistent with Title IX, and notify all parents, students, and staff of such rescissions and revisions.

Pursuant to 34 C.F.R. § 75.253(g), you may request reconsideration of this decision. In order for this decision to be reconsidered, please notify OCR as to whether CPS will agree to take the remedial steps described above to ensure it is in compliance with Title VI and Title IX and their implementing regulations by 5 p.m. ET Friday, September 19, 2025.

Sincerely,

/s/
Craig W. Trainor
Acting Assistant Secretary for Civil Rights

CC: Macquline King, Ed.D., Interim Superintendent/CEO, Chicago Public Schools
Preston Lewis, Senior Program Manager, Magnet Schools Assistance Program