

March 3, 2021

Keith Posley, PhD, Superintendent
Milwaukee Public Schools
P.O. Box 2181
Milwaukee, WI 53201-2181

Dear Dr. Posley:

We understand the Milwaukee Board of School Directors (MBSD) at the January 28, 2021, meeting approved the provision of in-person learning for approximately 300 students who require these services in order to receive a free, appropriate public education (FAPE). This letter, along with subsequent letters, will serve as the Department of Public Instruction's (DPI) status update regarding progress in the provision of FAPE for students with disabilities by Milwaukee Public Schools (MPS).

The DPI is receiving the requested student and staff rosters from MPS on a weekly basis. The DPI has established regularly scheduled weekly meetings with Jennifer Mims-Howell, Senior Director of Specialized Services, to review the rosters and discuss progress toward the provision of FAPE. We appreciate Ms. Mims-Howell's cooperation and the time she has set aside to meet with us.

During the weekly meetings with Jennifer Mims-Howell, we learned MPS began the provision of in-person instruction and related services to approximately 23 students at three sites two times per week on February 8, 2021. MPS approximates 127 students with disabilities will receive in-person services by March 8, 2021. We were also informed that MPS is continuing to conduct individualized education program (IEP) team meetings to determine the students who require necessary in-person services.

We recognize MPS is moving forward with in-person services in a limited number of sites and offerings. However, given the number of students with disabilities enrolled in MPS, those currently served fall short of what the DPI would anticipate. MPS appears to be offering a one-size-fits-all program to students with disabilities requiring in-person services. This program is not sufficient to meet the unique needs of individual students or the provision of FAPE.

As you are aware, the Individuals with Disabilities Education Act (IDEA) and Chapter 115 of the Wisconsin Statutes remain in effect during the 2020-21 school year. School districts must continue to provide FAPE to each student with an IEP. Each IEP team must determine the frequency and amount of in-person services required based on the individualized disability-related needs of the student, and IEPs must be reasonably

Keith Posley
Page 2
March 3, 2021

calculated to allow each student to make appropriate progress both in the general education curriculum and toward their IEP goals.

It is the DPI's expectation that MPS meets its responsibility to provide FAPE to every student with a disability. In-person instruction and services must be determined and delivered to those students on an individual basis in order to receive FAPE in a manner consistent with health and safety protocols. In order to do so, MPS must provide the necessary resources, including sufficient personnel and facilities.

We have requested Ms. Mims-Howell submit a plan to the DPI by March 26, 2021, demonstrating that the amount of in-person services are individualized and not based on a set amount and frequency, that MPS is diligently and substantially increasing its capacity to serve students that require in-person services, and that MPS is providing the resources necessary to increase this capacity, including sufficient personnel and facilities to ensure the delivery of FAPE. The plan may be sent to Julia Hartwig, Director of Special Education at julia.hartwig@dpi.wi.gov. MPS' failure to meet these requirements under state and federal special education law may result in the withholding of payments, recovery of funds, and/or reduction or elimination of special education aid to MPS. (20 U.S.C. § 1416[e]; 34 C.F.R. § 300.604; Wis. Stat. § 115.90[2]).

The DPI reiterates that it is available to provide technical assistance and share practices to support MPS in the provision of FAPE. We will continue to work with Ms. Mims-Howell and will keep you informed. If you have questions regarding this letter, please contact me at barbara.vanharen@dpi.wi.gov or (608) 266-1649.

Sincerely,



Barbara Van Haren, PhD
Assistant State Superintendent
Division for Learning Support

c: Jennifer Mims Howell, Senior Director of Specialized Services, Milwaukee Public Schools
Jeremiah Holiday, Interim Chief Academic Officer, Milwaukee Public Schools
Larry Miller, Milwaukee Public Schools School Board President