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## **CHICAGO PUBLIC SCHOOLS BOARD OF EDUCATION GOVERNANCE: A HISTORY AND REVIEW OF OTHER CITIES' PRACTICES**

*An Issue Brief of the Civic Federation Task Force on the Chicago Public Schools*

**June 8, 2017**

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*The Civic Federation is an independent, non-partisan government research organization working to maximize the quality and cost-effectiveness of government services in the Chicago region and State of Illinois.*

**TABLE OF CONTENTS**

**OVERVIEW .....3**

**HISTORY OF CHICAGO PUBLIC SCHOOLS GOVERNANCE .....3**

**SCHOOL DISTRICT GOVERNANCE IN THE UNITED STATES.....5**

    ARGUMENTS FOR AND AGAINST MAYORAL CONTROL OF SCHOOL BOARDS.....7

    PROPOSALS TO CHANGE CPS GOVERNANCE .....8

    CPS GOVERNANCE OPTIONS .....10

## OVERVIEW

The Chicago Public Schools currently is controlled by the Mayor of Chicago, who appoints all members of the Board of Education. However, citizens, policymakers and the Illinois General Assembly are engaged in serious discussions about whether CPS should continue under mayoral control or if there should be an elected school board.

Both houses of the current Illinois General Assembly have passed differing versions of legislation authorizing the establishment of an elected Chicago School Board. The latest iteration (as of June 8, 2017) is Senate Amendment Committee Amendment 1 to House Bill 1774, sponsored by Senator Kwame Raoul of Chicago. The amendment proposes creation of a nonpartisan elected school board beginning in 2023. The elected Board would consist of 15 members serving four year terms. Fourteen members would be elected by district and one member would be elected at large and serve as the Board President. Board districts would be established by an independent commission, not the General Assembly. Vacancies would be filled by the Board. Members of the Board could not be CPS employees or have a contractual relationship with the school district. No former officer or member of the Board could accept employment or compensation from the District for one year after terminating service with CPS.<sup>1</sup>

The Civic Federation takes no position on whether the Chicago Board of Education should be appointed, elected or incorporated into the Chicago government as a City department. This blog post is intended to provide contextual information about this timely issue by:

- Reviewing the history of Chicago school district governance;
- Looking at school district governance in the U.S.;
- Examining arguments for and against mayoral control of school boards;
- Reviewing recent proposals to change CPS governance; and
- Presenting different possible CPS governance options.

## HISTORY OF CHICAGO PUBLIC SCHOOLS GOVERNANCE

The Illinois General Assembly established the Chicago Board of Education in 1872. The Board's membership was composed of 11 members appointed by the mayor of Chicago.<sup>2</sup> Since its establishment, the governance of the Chicago public school system has undergone several major changes, but its membership has always been appointed rather than elected.

In 1979 the Chicago school district faced a severe financial crisis.<sup>3</sup> The District lost access to credit markets when its bond ratings fell to C status, well below an investment grade ranking. As

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<sup>1</sup> See Illinois General Assembly. Senate Amendment Committee Amendment 1 to House Bill 1774 at <http://ilga.gov/legislation/fulltext.asp?DocName=10000HB1774sam001&SessionID=91&GA=100&DocTypeID=HB&DocNum=1774&print=true>.

<sup>2</sup> Illinois Revised Statutes 1981, Chapter 122, Article 34, paragraphs 1 to 29.

<sup>3</sup> The funding crisis was precipitated in part by the failure to spend existing revenues in a timely fashion, an Illinois Supreme Court ruling that the Illinois personal property tax was unconstitutional and the General Assembly's failure to approve a replacement for lost personal property tax revenues. See Case Banas, "Collapse inevitable: Bank tells why school crisis loan fell through," *Chicago Tribune*, April 27, 1980.

a result, it was unable to borrow cash to fund its operations.<sup>4</sup> In response, the General Assembly amended the Illinois School Code and adopted the School Finance Authority Act in January 1980 to establish the Chicago School Finance Authority (SFA). The mission of the SFA was to provide financial assistance and fiscal oversight to CPS. The Chicago Board of Education retained authority over educational policy and administration.<sup>5</sup>

As an oversight body, the SFA had a wide array of powers. It was authorized to issue debt for CPS and to levy a separate property tax for debt service. It was also charged with approving CPS budgets, financial plans and contracts. In 1993, as part of a deal that included a two-year \$400 million debt-financed bailout of CPS, the Illinois General Assembly expanded the Authority's powers to include independent management assessments and audits of the Board.<sup>6</sup>

The SFA was governed by a five-member Board of Directors. Two directors were appointed by the Governor with the approval of the Mayor of Chicago, two were appointed by the Mayor of Chicago with the approval of the Governor and the Chairman was appointed jointly by the Governor and the Mayor. The directors served for three-year terms.<sup>7</sup>

In 1988 the General Assembly approved the Chicago School Reform Act, which reorganized the school district's governing structure. The 11-member Board of Education was replaced first with a mayorally appointed Interim Board and then in 1989 with a 15-member Board whose members were selected from a group proposed by a 23-member School Board Nomination Commission. Members of the Commission included parents and community representatives.<sup>8</sup> In addition, the Act moved to decentralize the system by establishing Local School Councils (LSCs). The LSCs are elected local school governing bodies that include parents, community members, teachers and staff members and the school principal.<sup>9</sup>

Further governance reforms were enacted in 1995, when the General Assembly amended the Chicago School Reform Act to restore direct mayoral control of the schools. The mayor was authorized to appoint a five-member Board of Trustees and a Chief Executive Officer. The number of Board members was increased to seven in 1999 and the Board's name changed back to the Board of Education.<sup>10</sup>

After control of the Chicago schools was returned to City Hall, the role of the SFA was limited to oversight and administration of its outstanding bonds. The SFA ceased issuing new debt for

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<sup>4</sup> James O'Shea, "Bond rating hiked for city's schools," *Chicago Tribune*. February 27, 1992.

<sup>5</sup> The Civic Federation. "School Finance Authority: From Creation to Dissolution," May 19, 2010 at <https://www.civicfed.org/civic-federation/blog/school-finance-authority-creation-dissolution>.

<sup>6</sup> Don Haider. "Why the School Finance Authority Has Put Teeth in its Growl," *Chicago Tribune*, July 10, 1994.

<sup>7</sup> 105 ILCS 5/34A-201 School Finance Authority.

<sup>8</sup> Chicago Public Schools. "Local School Council Historical Background," at <http://www.cps.edu/Pages/LSCHistoricalbackground.aspx>.

<sup>9</sup> Chicago Public Schools. "What is a Local School Council?" at <http://www.cps.edu/Pages/LocalSchoolCouncils.aspx>.

<sup>10</sup> Chicago Public Schools. "About the Board of Education," at <http://www.cpsboe.org/about>.

the schools and levied its final property tax in tax year 2007, payable in 2008. The authority ceased operations on June 1, 2010.<sup>11</sup>

<b>Changes in the Selection of the Chicago Public Schools Governing Board</b>			
<b>Year</b>	<b>Event</b>	<b>Governing Board</b>	<b>Appointment Method</b>
<b>1872</b>	Chicago Board of Education established	11-member Board of Education	Mayoral Appointment
<b>1988</b>	Chicago School Reform Act	15-Member Board of Education	Mayor selected Board from names proposed by 23-Member School Nominating Commission
<b>1995</b>	Chicago School Reform Act Amended	5-Member Board of Trustees	Mayoral Appointment
<b>1999</b>	Chicago School Reform Act Amended	Size of Board increased to 7; name changed to Board of Education	Mayoral Appointment

## **SCHOOL DISTRICT GOVERNANCE IN THE UNITED STATES**

There are 14,178 school districts in the U.S.<sup>12</sup> Only a handful have governing boards that are fully or partially appointed by a mayor. Most districts are governed by elected boards.

There is no consensus in the policy literature as to whether any particular form of governance – elected school boards, mayoral control or state takeovers – improves academic achievement or administrative performance. A study evaluating mayoral governance and student achievement by Wong and Chen found that mayoral control of urban school districts has led to some improvements in academic performance.<sup>13</sup> However, a recent study of Chicago’s experiences with mayoral control reached the opposite conclusion, finding increased racial disparities in educational outcomes.<sup>14</sup> The issue with establishing a connection between governance structure and performance is that there are too many other factors such as levels of funding, demographics and administrative competence or qualifications that also have a direct impact on academic and

<sup>11</sup> Board of Education of the City of Chicago Unlimited Tax General Obligation Refunding Bond Official Statement, Series 2007A, pp. 49-50, available at <http://emma.msrb.org/MS263138-MS238446-MD465315.pdf>. See also <http://www.civicfed.org/civic-federation/blog/school-finance-authority-creation-dissolution>.

<sup>12</sup> United States Census. Public School Systems by Type of Organization and State: 2012 - United States – States: 2012 Census of Governments at <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

<sup>13</sup> Kenneth K. Wong and Francis X. Shen, “Mayoral Governance and Student Achievement: How Mayor-Led Districts are Improving School and Student Performance,” Center for American Progress, March 2013.

<sup>14</sup> Pauline Lipman, Eric Gutstein, Rhoda Rae Gutierrez and Tirzah Blanche. Collaborative for Equity and Justice in Education, University of Illinois at Chicago, “Should Chicago Have an Elected Representative School Board” A New Review of the Evidence,” February 2015.

management results to establish a conclusive correlation between type of governance and outcomes.<sup>15</sup>

The exhibit below provides information on ten major urban school districts in the U.S. where the mayor has a role in choosing school board members. They include several of the larger school districts such as New York City, Chicago, Philadelphia, Cleveland and Boston.<sup>16</sup> In four of the ten school districts, the mayor appoints all of the school board members. Appointment authority is shared in the other districts. In Baltimore and Philadelphia the mayor and governor share appointment authority; in New York City, the mayor and borough presidents share appointment authority; and in New Haven the board is partially elected and the mayor fills several seats. A few other school boards are appointed by county or city councils or state officials.<sup>17</sup>

School Districts with Full or Partial Mayoral Control		
City	Size of Board	Mayoral Appointment
Baltimore, MD	9 members	Mayor and Governor jointly appoint members from list of candidates recommended by 13-member citizens panel
Boston, MA	7 members	Mayor appoints all 7 members from list of candidates recommended by 13-member citizens panel
Chicago, IL	7 members	Mayor appoints all 7 members
Cleveland, OH	9 members	Mayor appoints all 9 members
Hartford, CT	9 members	Mayor appoints 5 members, 4 are elected
New Haven, CT	10 members	Mayor is a member of the Board, appoints 7 members; 2 are elected
New York, NY	13 members	Mayor appoints 8 members, 5 appointed by Borough Presidents
Philadelphia, PA	5 members	Mayor appoints 2 members, 3 appointed by Governor
Providence, RI	9 members	Mayor appoints all 9 members
Yonkers, NY	9 members	Mayor appoints all 9 members

**Sources:** School Board websites and Education Commission of the States. "50 State Comparison: Local School Boards," 2016 at <http://ecs.force.com/mbdata/mbquestRT?rep=K12G713>; Kenneth K. Wong and Francis X. Shen. "Mayoral Governance and Student Achievement: How Mayor-Led Districts are Improving School and Student Performance," Center for American Progress, March 2013, pp. 7-8.

<sup>15</sup> The Pew Charitable Trusts. "Governing Urban Schools in the Future: What's Facing Philadelphia and Pennsylvania," January 2016, p. 5 at <http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2016/01/governing-urban-schools-in-the-future-whats-facing-philadelphia-and-pennsylvania>.

<sup>16</sup> Until recently the Detroit Public Schools Board was appointed. However, with the recent state bailout of the system, a new district governed by a seven-member elected board was created. Ann Zaniewski. "New Detroit school board takes reins of district," Detroit Free Press, January 11, 2017 at <http://www.freep.com/story/news/education/2017/01/11/detroit-school-board/96452920/>.

<sup>17</sup> Education Commission of the States. "50 State Comparison: Local School Boards," 2016 at <http://ecs.force.com/mbdata/mbquestRT?rep=K12G713>.

## Arguments For and Against Mayoral Control of School Boards

Some of the arguments for mayoral control of school districts rather than elected school boards include:

- Mayors are best able to coordinate the administration and delivery of municipal and educational services;
- Mayoral control makes it easier to align academic achievement with school district administrative goals, curriculum and incentives for educational performance;<sup>18</sup>
- Mayors are more accountable to the public. They are much more high profile figures than school board members and the electoral base of a mayor is much wider than that of a school board members who may represent a district and/or be elected by fewer than 10% of the electorate;<sup>19</sup>
- Large urban school districts are complex operations requiring the appointment of board members with the requisite legal, educational financial and administrative skills. The members of an elected board may not be as well equipped to deal with these challenges; and
- Elected school boards are too absorbed in turf battles, political conflicts and appeasing powerful stakeholders to focus on efficient administration or implementing the core educational mission of a school system.<sup>20</sup>

Some of the arguments in opposition to mayoral control of school boards are:

- Mayoral control is anti-democratic as it limits public input from diverse viewpoints, including stakeholders most impacted by Board decisions. Most school districts in the U.S. are governed by elected boards;
- The public often opposes mayoral control of school boards. Chicago voters overwhelmingly supported an elected school board in a 2015 advisory referendum. Philadelphia voters in May 2015 overwhelmingly supported returning to an elected school board;<sup>21</sup>
- Mayoral control can lead to questionable and risky financial practices. In Chicago, the mayorally appointed board has allowed the systematic underfunding of the teacher

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<sup>18</sup> These first two arguments for mayor-appointed school boards are discussed in Pauline Lipman, Eric Gutstein, Rhoda Rae Gutierrez and Tirzah Blanche. Collaborative for Equity and Justice in Education, University of Illinois at Chicago. "Should Chicago Have an Elected Representative School Board" A New Review of the Evidence," February 2015, p. 6. The authors cite the literature on the topic, including Chubb and Mo (1990), Kist (2007), Viteritti (2009) and Wong and Shen (2003).

<sup>19</sup> Pauline Lipman, Eric Gutstein, Rhoda Rae Gutierrez and Tirzah Blanche. Collaborative for Equity and Justice in Education, University of Illinois at Chicago. "Should Chicago Have an Elected Representative School Board" A New Review of the Evidence," February 2015, p. 6 and Kenneth K. Wong and Francis X. Shen. "Mayoral Governance and Student Achievement: How Mayor-Led Districts are Improving School and Student Performance," Center for American Progress, March 2013, p. 1.

<sup>20</sup> Kenneth K. Wong and Francis X. Shen. "Mayoral Governance and Student Achievement: How Mayor-Led Districts are Improving School and Student Performance," Center for American Progress, March 2013, p. 1.

<sup>21</sup> The Pew Charitable Trusts. "Governing Urban Schools in the Future: What's Facing Philadelphia and Pennsylvania," January 2016, p. 5 at <http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2016/01/governing-urban-schools-in-the-future-whats-facing-philadelphia-and-pennsylvania>.

pension system, balanced the budget using questionable financial practices and engaged in risky financial borrowing transactions;

- Under mayoral control, schools administration may not be stable. Since 2009, there have been five CPS Chief Executive Officers.<sup>22</sup> CEO Byrd-Bennett resigned from CPS in 2015 after pleading guilty to bribery charges.<sup>23</sup> She was sentenced to 4 ½ years in federal prison in April 2017;<sup>24</sup>
- Mayoral control of school boards can lack transparency in terms of publicly available information and meeting protocols; and
- Studies have shown there is no conclusive evidence that mayoral control of school districts leads to better academic outcomes.<sup>25</sup>

### **Proposals to Change CPS Governance**

Currently there is a public debate in Chicago and Illinois over whether CPS should remain under the control of the Mayor or if the Board of Education should be elected by the voters or chosen through some other mechanism.

Article X of the Illinois Constitution mandates that the State establish a public education system and creates the Illinois State Board of Education (ISBE). ISBE is responsible for establishing state school policies for all Illinois schools, including both public and private schools. It regularly evaluates the needs and requirements of Illinois' schools and recommends legislation to the legislature and Governor. ISBE is governed by a nine-member Board appointed by the Governor and confirmed by the Senate. Board members serve a four-year term with the possibility of re-appointment for a second term. The Board appoints a superintendent as the Board's chief executive officer.<sup>26</sup>

Article VII, Section 8 of the state constitution designates school districts as non-home rule units of local government. Non home-rule units can only exercise those powers expressly granted in law.<sup>27</sup> The Illinois School Code provides that school districts with fewer than 1,000 residents are usually governed by boards of three directors, while other school districts elect seven-member

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<sup>22</sup> Jason Meisner and Juan; Perez Jr., "Ex-CPS chief Barbara Byrd-Bennett pleads guilty, tearfully apologizes to students," *Chicago Tribune*. October 13, 2015. The CEOs since 2009 have been Huberman 2009-2010; Mazany 2011; Brizzard 2011-2012, Byrd-Bennett 2012-2015; Claypool 2015- present.

<sup>23</sup> Jason Meisner and Juan; Perez Jr., "Ex-CPS chief Barbara Byrd-Bennett pleads guilty, tearfully apologizes to students," *Chicago Tribune*. October 13, 2015.

<sup>24</sup> Jason Meisner and Juan Perez Jr., "Byrd-Bennett sobs while trying to explain corruption, gets 4 1/2 years in prison," *Chicago Tribune*. April 28, 2017.

<sup>25</sup> The Pew Charitable Trusts. "Governing Urban Schools in the Future: What's Facing Philadelphia and Pennsylvania," January 2016, p. 2 at <http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2016/01/governing-urban-schools-in-the-future-whats-facing-philadelphia-and-pennsylvania>.

<sup>26</sup> See Illinois Constitution, Article X - Education and Illinois State Board of Education, "State Board of Education," at <http://www.isbe.state.il.us/board/default.htm>

<sup>27</sup> Illinois Constitution, Article VII, section 8 – Powers and Officers of Schools, Districts and Units of Local Government other than Counties and Municipalities.

boards.<sup>28</sup> The Chicago school district is the only one in Illinois that does not now and has never had an elected school board.<sup>29</sup>

Several proposals to elect the Chicago Board of Education have been discussed over the last 30 years, including:

- A 1985 proposal to elect a 15-member Board by district. That proposal was opposed by the Chicago Urban League, the Chicago Parent Teachers Association and the League of Women Voters. These organizations argued that the likely racial and ethnic makeup of the Board would be seven white seats, seven Blacks and one Latino, effectively over representing the white population and underrepresenting the Latino population of school age children and the general City population;<sup>30</sup>
- A proposal to radically decentralize CPS and establish 20 Chicago school districts with elected boards. This concept passed the Illinois Senate in 1985.<sup>31</sup> That legislation was amended by Illinois House Speaker Madigan to provide for retention of the appointed Board;<sup>32</sup>
- A Chicago school reform plan that included several elected local boards for elementary schools and one elected board for high schools was proposed in 1988 by Ted Sanders, the State Superintendent of Education;<sup>33</sup>
- In 1988, Republican legislators unsuccessfully pushed for 20-member elected Board;<sup>34</sup>
- Chicago voters in 327 precincts voted by a 87% affirmative margin in favor of an elected School Board in a 2012 advisory referendum;<sup>35</sup>
- In 2013 Illinois State Representative Robert Martwick filed legislation to provide for an elected school board with 13 members. The District would be divided into regions: Southeast Side, Southwest Side, West/Central and North. The first three regions would be allocated three seats and the North region would receive four seats;<sup>36</sup>
- The Chicago Teachers Union and some community organizations have proposed a 13-member elected board. Of those seats, seven would be reserved for parents and community members from different parts of the city, two seats would be filled by teachers and one each by an administrator, an education researcher, a paraprofessional and a business person;<sup>37</sup>

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<sup>28</sup> 105 ILCS 5/10-1, section 10-1. Board of school directors.

<sup>29</sup> 105 ILCS 5/Article 34. Cities Of Over 500,000 Inhabitants - Board Of Education.

<sup>30</sup> Casey Banas. "Elected City School Board Called Divisive," *Chicago Tribune*. February 13, 1985.

<sup>31</sup> John Schrag and Tim Franklin, "Elected School Boards Win Vote," *Chicago Tribune*, May 24, 1985.

<sup>32</sup> Tim Franklin and Jean Latz Griffin. "City School Board Bill Gets the Ax," *Chicago Tribune*, June 25, 1985.

<sup>33</sup> Casey Banas. "City School Reform Plan Offered," *Chicago Tribune*, Dec 11, 1987.

<sup>34</sup> Daniel Egler. "GOP Offers Reforms For City Schools," *Chicago Tribune*, May 19, 1988.

<sup>35</sup> Chicago Board of Elections, 2012, cited in Pauline Lipman, Eric Gutstein, Rhoda Rae Gutierrez and Tirzah Blanche. Collaborative for Equity and Justice in Education, University of Illinois at Chicago, "Should Chicago Have an Elected Representative School Board: A New Review of the Evidence," February 2015.

<sup>36</sup> Progress Illinois. "State Bill Introduced for an Elected Chicago School Board," August 10, 2015 at <http://www.progressillinois.com/news/content/2015/08/10/state-bill-introduced-elected-chicago-school-board>.

<sup>37</sup> Chicago Tribune Editorial Board. "Elect the Chicago school board?" January 29, 2015.

- Some aldermanic candidates in 2015 called for a hybrid board in which some members would be appointed by the mayor and some would be elected by voters;<sup>38</sup>
- In the February 2015 municipal election, voters in 37 wards overwhelmingly endorsed an elected Board of Education in non-binding referenda. The vote margins in these wards ranged from a low of 82.9% approval in the 32nd Ward to a high of 93.3% in the 24th Ward;<sup>39</sup> and
- Legislation pending in the current General Assembly as amended currently proposes a 15-member elected School Board (see discussion at the beginning of this blog post).<sup>40</sup>

### **CPS Governance Options**

Stakeholders could consider several governance models for reforming CPS governance. All of these proposals except the first would require legislative approval. These include:

- Maintaining mayoral control, with the Mayor appointing all Board of Education members;
- Maintaining mayoral control, with the Mayor appointing all Board of Education members but the members being recommended in full or in part by a School Nominating Commission that represented school district stakeholders. This would return to the structure in place for Board appointment in 1989 and is used in certain urban school districts such as Baltimore. The model maintains mayoral control but ensures some public participation in governance;
- Creating an elected Board of Education. The structure of an elected Chicago Board of Education could mirror the structure of other Illinois school boards or another model. This would ensure representation by the general electorate of the City of Chicago, not just certain stakeholder groups;
- Establishing a Board of Education that is partially elected and partially appointed by the Mayor. The inclusion of elected members would provide broad public representation in the decision-making process; or
- Dissolving the school district and merging CPS into the Chicago municipal government as an Education Department. This is the model used in New York City. The Mayor would be directly accountable for school performance and administration. There could still be an appointed Board and Superintendent to govern the department on a day to day basis. As the City of Chicago is a home rule unit of government, state property tax extension limitations would no longer apply. However, the City's own self-imposed property tax limits would apply if extended to school funding.

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<sup>38</sup> Chicago Tribune Editorial Board. "Elect the Chicago school board?" January 29, 2015.

<sup>39</sup> Jen Sabella and Ted Cox. DNAInfo, "Chicago REALLY Wants An Elected School Board, Ballot Results Show," February 24, 2015 at <https://www.dnainfo.com/chicago/20150224/downtown/chicago-really-wants-elected-school-board-ballot-results-show>.

<sup>40</sup> See Illinois General Assembly. Senate Amendment Committee Amendment 1 to House Bill 1774 at <http://ilga.gov/legislation/fulltext.asp?DocName=10000HB1774sam001&SessionID=91&GA=100&DocTypeID=HB&DocNum=1774&print=true>.