



City of Chicago



O2014-3313

Office of the City Clerk

Document Tracking Sheet

Meeting Date:	4/30/2014
Sponsor(s):	Emanuel (Mayor)
Type:	Ordinance
Title:	Intergovernmental agreement with Chicago Board of Education for maintaining and promoting safety and security for children, teachers and staff
Committee(s) Assignment:	Committee on Budget and Government Operations

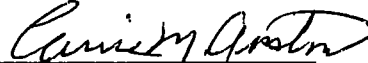
CHICAGO, May 28, 2014

To the President and Members of the City Council:

Your Committee on the Budget and Government Operations, having had under consideration an Ordinance authorizing the execution of an intergovernmental agreement between the Department of Police and the Chicago Board of Education necessary for the safety and security of our schools; and having had the same under advisement, begs leave to report and recommend that Your Honorable Body pass the Ordinance transmitted herewith.

This recommendation was concurred in by a viva voce vote of the members of the Committee.

~~1~~ members of the Committee with ~~1~~ dissenting vote(s).

(Signed) 
Carrie M. Austin
Chairman



OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

April 30, 2014

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Superintendent of Police, I transmit herewith an ordinance authorizing the execution of an intergovernmental agreement with the Board of Education.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

ORDINANCE

WHEREAS, the City of Chicago (the "City") is a municipal corporation and home rule unit of government under Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois; and

WHEREAS, the Board of Education of the City of Chicago (the "Board") is a body corporate and politic, organized under and existing pursuant to Article 34 of the School Code of the State of Illinois; and

WHEREAS, it is in the best interest the City acting through its Department of Police (the "Department") to provide police officers at the Board's schools for the purpose of maintaining and promoting the safety and security of the children, teachers and other staff of the Board; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The above recitals are incorporated here by this reference.

SECTION 2. Subject to the approval of the Corporation Counsel as to form and legality, the Superintendent of the Department or his designee (the "Superintendent") is authorized to execute an intergovernmental agreement (and such other documents as are necessary) between the City and the Board in substantially the form attached as Exhibit A (the "Agreement"), with such changes as the Superintendent deems necessary or appropriate. Funds received pursuant to the Agreement shall be subject to appropriation.

SECTION 3. To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code of Chicago, or part thereof, is in conflict with the provisions of this ordinance, the provisions of this ordinance shall control. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

SECTION 4. This ordinance takes effect upon passage and approval.

APPROVED
CITY OF CHICAGO

EXHIBIT A
(see attached)

This Agreement will be posted on the CPS Internet website.

INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF CHICAGO AND THE
BOARD OF EDUCATION OF THE CITY OF CHICAGO

This Intergovernmental Agreement (the "Agreement") is effective as of the 1st day of January, 2014 (the "Effective Date") by and between the City of Chicago (the "City"), a municipal corporation and home rule unit of local government under Article 7, Section 6(a) of the 1970 Constitution of the State of Illinois, acting through its Department of Police (the "Department" or the "CPD") and the Board of Education of the City of Chicago (the "Board" or "CPS") acting pursuant to Board Report No. 13-0123-PR12 and in exercise of powers granted to it by Illinois law, specifically 105 ILCS 5/34-1 et seq., as amended; pursuant to the 1970 Constitution of the State of Illinois, Art VII, Sec. 10, for the purpose of maintaining and promoting the safety and security of the children, teachers and other staff of the Chicago Public Schools ("CPS Schools"), which is of great importance to the City and the Board, as well as resulting in protection against liability.

1. **Term and Extension.** The term of this Agreement shall begin on the Effective Date and end on December 31, 2015 ("Term"). This Agreement has two (2) options to renew for periods of twelve (12) months each.
2. **Services.** CPD will provide police officers for each of the designated schools to ensure safety and deter crime (individually a "Designated Schools" or if referring to more than one "Designated Schools"). The Designated Schools are identified on Exhibit 1 attached hereto and made a part of this Agreement. Some CPS schools are campuses each containing one (1) or more schools. Exhibit 1 is subject to change as defined in Section 2(B) and Section 6 and shall be updated in accordance with Section 2(C). The Services are subject to the following:
 - A. Subject to Section 2(B), CPD will provide sworn full-duty police officers ("CPD Officers") at Designated Schools for full tours of duty. These services are subject to the availability of funds. Staffing should be done in a manner to avoid overtime costs to CPS.
 - B. The number of CPD Officers may vary from time to time for reasons including, but not limited to, availability of a sufficient number of CPD Officers and equipment and for reasons of public safety and convenience.
 - C. The Designated Schools for the CPD Officers as well as the number of CPO Officers shall be determined by the Superintendent of Police or his designee, in consultation with the Board's Chief Executive Officer, including any decisions regarding redeployment of CPD Officers. The Superintendent will have discretionary authority to shift resources and activity to meet the needs of the City as a whole, however, if the Superintendent exercises such authority and it results in a reduction of services to the Board, all invoices shall reflect actual services rendered. A comprehensive list shall be provided and updated at least two (2) times per year for the Term including once in September of each year and once in January of each year and provided to the Chief Officer of Safety and

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Security or his or her designee which includes the names of the police officers and their designated locations. Notwithstanding the foregoing, if the Board exercises its authority under Section 6 of this Agreement, CPD shall provide, in addition to the updates required above, an updated list to the Board's Chief Officer of Safety and Security or his/her designee within thirty (30) days of a Designated School or CPD Officer reduction/increase taking place.

D. All CPD Officers assigned under this Agreement shall have completed standard police officer training. The CPD Officers assigned under this Agreement shall have full authorization to enter into or on school facilities and property, subject to the agreement of the Board with full rights to enforce law and order and to protect all CPS Schools students, employees, guests and property. Nothing herein limits the authority of any CPD Officer to perform his/her duties, as provided by ordinance and statute.

E. CPD Officers assigned under this Agreement shall be subject to any and all applicable state statutes and municipal ordinances, the CPD rules and regulations, CPD general and special orders, directives, policies and procedures or any amendment thereto or modification thereof promulgated by the Superintendent of Police.

F. The CPD has installed computer terminals connected to the CPD network for the purpose of processing juvenile offenders apprehended in certain Chicago Public Schools where on-duty CPD police officers are assigned.

G. The Board has provided, at each school where CPD Officers are assigned, secure office space for the on-duty CPD Officer(s) to secure the CPD computer and protect the privacy rights of juvenile offenders, victims and witnesses.

H. The CPD Officers assigned under this Agreement can participate in meetings with school administration upon notification and approval of the Officer's District Commander.

I. CPD Officers assigned under this Agreement will follow the Reciprocal Records Agreement between Chicago Public Schools and the Chicago Police Department regarding any arrests made pursuant to this Agreement.

J. CPD Officers must have a working knowledge of the CPS Student Code of Conduct Manual.

3. Operations.

A. The Superintendent of Police or his/her designee, in consultation with the Board, shall establish goals and objectives for the assigned CPD Officers. These goals and objectives will take into consideration the needs of each of the Designated Schools.

This Agreement will be posted on the CPS Internet website.

B. CPD Officers assigned under this Agreement shall continue to be subject to the direction of the Superintendent of Police or his/her designee and must observe all standards of conduct required by the CPD. Furthermore, all assigned CPD Officers shall be supervised by a designee determined by the District Commander of the respective police district.

C. The Board shall monitor the performance of the CPD Officers through its designated representatives.

D. CPD shall maintain daily reports on all crimes and arrests committed at CPS Schools and CPD shall provide a monthly report detailing such incidents to the Board's Chief Officer of Safety and Security in accordance with Illinois statutes.

4. Emergencies. Nothing contained herein shall preclude the emergency deployment of CPD Officers assigned under this Agreement, in any manner, at the discretion of the Superintendent of Police.

5. Reimbursement, Payment and Documentation.

A. Compensation. The total maximum compensation payable to CPD during the Term of this Agreement for Services performed shall not to exceed Thirteen Million Dollars (\$13,000,000) a year for a total of Twenty-Six Million Dollars (\$26,000,000) ("Total Maximum Compensation"). Invoices submitted to the Board shall provide detail of the services provided to the Board pursuant to this Agreement including information by School of CPD Officer(s) name, date of service, hours being billed for the date of service, hourly rate of pay and regular hours and overtime hours. The Schools will not be billed for any time other than actual hours worked. Invoices shall be submitted by CPD to CPS twice per year, for the period from January 1 — June 30 and the period from July 1 — December 31. CPS will tender payment within thirty (30) days after receipt of invoice and may withhold payment on any part of an invoice in dispute, provided that they furnish to the CPD in lieu of payment a detailed written explanation of the reason for disputing any invoiced amount.

B. CPS shall have the right to audit the records of CPD to verify the time billed and other records for which CPS receives a charge and CPD shall cooperate with such request and make records available for inspection at a location mutually agreed to by the parties. Such audits may be conducted up to two (2) times per year. In the event that CPS identifies any overcharges, CPD will reimburse CPS for such amounts *within thirty (30) days* of receipt of such request for repayment.

6. Board Authority to Change Number of CPD Officers and Designated Schools.

The Board shall have the right, upon thirty (30) days written notice as provided in Section 17, unilaterally to reduce services which may include the number of CPS Schools receiving services from CPD; the number of CPD Officers at a specific CPS School.

The Board may upon written notice as provided in Section 17 request an increase in services which may include the number of CPS Schools receiving services from CPD and/or the

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number of officers at a specific CPS School. All increases in services are subject to the discretionary authority of the Superintendent to shift police resources to meet the needs of the City as a whole

All invoice amounts shall reflect said change in services.

7. Termination of Funding. Except as to services already rendered prior to the date of notification to the City, obligations of payment hereunder shall cease immediately, without penalty, upon written notice by the Board to the City, at any time if there are not sufficient appropriated funds lawfully available to the Board to meet such obligations.

8. Confidential Information. In the performance of its obligations under the Agreement, the Department may have access to certain student information and other Board Information that is not generally known to others ("Board Confidential Information"). The Department agrees not to use or disclose to any third party, except in the performance of its obligations hereunder, any Board Confidential Information or any records, reports or documents prepared or generated as a result of this Agreement without the prior written consent of the Board. The Department shall not disseminate any information regarding this Agreement, except as required by law, without the prior written consent of the Board. The Department agrees to cause its personnel, staff and/or subcontractors, if any, to undertake the same obligations of confidentiality agreed to by the Department under this Agreement.

9. Freedom of Information Act: CPD acknowledges that this Agreement and all documents submitted to the Board related to this Agreement are a matter of public record and are subject to the Illinois Freedom of Information Act (5 ILCS 140/1) and any other comparable state and federal laws and that this Agreement is subject to reporting requirements under 105 ILCS 5/10-20.44. Vendor further acknowledges that this Agreement shall be posted on the Board's Internet website at <http://www.cps.edu>.

10. Default and Remedies.

A. If the Department defaults by failing to perform any material obligations under this Agreement and does not cure such material default, then the Board may terminate this Agreement and/or take any other action at law the Board deems appropriate. For the purposes of this Agreement, a "material default" by the Department will be any default that would reasonably be construed as material by the Board and that the Board identifies as being grounds for terminating the Agreement. It is understood and agreed that the Board will give the Department prompt written notice of any obligations that the Board deems to be material, *pursuant* to the terms of this Agreement.

B. In the event of any material default by the Department, the Board will give the Department thirty (30) days advance written notice of its intent to terminate stating the nature of the material default. If the Department does not cure the default within the 30-day notice period, the termination will become effective at the end of the period. Notwithstanding the foregoing, with respect to those defaults that are not capable of being cured within the 30-day period, the Department will not be deemed to be in default if, in the opinion of the Board, using a reasonable standard, the Department has begun to cure the default within the 30-day period and, in the reasonable opinion of the Board, thereafter diligently and continuously prosecutes the cure of the default until cured.

C. In addition to the above, in the event of any uncured material default, the Board may, in any court of competent jurisdiction, by any proceeding at law or in equity, seek the specific performance of the agreements contained in this Agreement, or damages for failure of performance, or both.

11. Labor Guidelines. The Board shall not be considered a party to the collective bargaining agreement between the City of Chicago and the Fraternal Order of Police. The City remains the sole employer of any CPD Officer assigned under this Agreement and has exclusive authority to direct the duties of such officers.

12. No Waivers. It is understood and agreed that nothing contained herein is intended or should be construed as in any way affecting the status of the Board and/or the City as separate, independent and distinct entities under Illinois or any other law. It is further understood and agreed that the entry into this Agreement by the City and the Board shall not operate or be construed as a waiver of any rights, claims or actions they may have against the other, including, but not limited to any claims resulting from the providing of CPD Officers to the Board pursuant to this Agreement.

13. No Partnership or Joint Venture Created. It is understood and agreed that nothing herein contained is intended or should be construed as in any way creating or establishing the relationship of co-partners or joint venturers between the parties hereto, or as constituting the Board or the City as representatives of each other for any purpose.

14. General Provisions. Any headings of this Agreement are for convenience or reference only and do not define or limit the provisions thereof. Words of any gender shall be deemed and construed to include correlative words of the other gender. Words importing the singular number shall include the plural number and vice versa, unless the context shall otherwise indicate. All references to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties and obligations of such person or entity in accordance with the terms of this Agreement

15. Severability. If any provision of this Agreement shall be held or deemed to be or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all cases because it conflicts with any other provision or provisions hereof or any constitution, statute, ordinance, rule of law, or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable. The invalidity of any one or more phrases, sentences, clauses, or sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part hereof.

16. Termination. It is the intent of the parties to this Agreement that its commitments made hereunder are conditioned upon satisfactory performance of the commitments made by the other party hereto. Each party shall have the right to terminate this Agreement if the other fails or refuses to honor any of its commitments under this Agreement. Otherwise, this Agreement may be terminated by either party upon the giving of sixty (60) days prior written notice. Upon termination of this Agreement, the City shall have no obligation to continue to

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provide officers for CPS schools other than the usual and customary obligations charged to sworn police officers of the City.

17. Notices. Unless otherwise specified, any notice, demand or request required under this Agreement must be given in writing at the addresses set forth below, by any of the following means: (a) personal service, (b) overnight courier or (c) first class mail.

IF TO THE DEPARTMENT:

Chicago Police Department
3510 South Michigan Ave., 5th Floor
Chicago, Illinois 60653
Attention: Superintendent of Police
Fax: 312-745-6963

WITH COPIES TO:

City of Chicago
Department of Law
121 North LaSalle Street, Room 600
Chicago, Illinois 60602
Attention: Finance and Economic Development
Division
Fax: 312-744-8538

and

Chicago Police Department
3510 South Michigan Avenue, 5th Floor
Chicago, IL 60653
Attention: General Counsel
Fax: 312-745-6115

and

City of Chicago
Office of Budget and Management
121 North LaSalle Street, Room 604
Chicago, Illinois 60602
Attention: Budget Director
Fax: 312-744-3618

and

City of Chicago
Office of the Chief Financial Officer
121 North LaSalle Street, Room 700
Chicago, Illinois 60602
Attention: Chief Financial Officer
Fax: 312-744-0014

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and

City of Chicago
Department of Finance
121 North LaSalle Street, Room 700
Chicago, Illinois 60602
Attention: City Comptroller
Fax: 312-744-0014

IF TO THE BOARD:

Office of Safety & Security
The Board of Education of City of Chicago
125 South Clark Street, 16th Floor
Chicago, Illinois 60603
Attention: Jadine Chou
Fax: 773-553-3090

WITH COPY TO:

The Board of Education of City of Chicago
125 South Clark Street, 7th Floor
Chicago, Illinois 60603
Attention: General Counsel
Fax: 773-553-1702

These addresses may be changed by notice to the other party given in the same manner provided above. Any notice, demand or request given by personal service or overnight courier is considered received when delivered, and if given by first class mail is considered received two business days following deposit in the mail with sufficient first class postage affixed. Refusal of delivery has the same effect as receipt.

18. Parties Responsibilities. Neither party to this Agreement shall be liable for any negligent or wrongful act chargeable to the other unless such liability is imposed by a court of competent jurisdiction. This Agreement shall not be construed as seeking to either enlarge or diminish any obligation or duty owed by one party against the other or against third parties. In the event of a claim for any wrongful or negligent act, each party shall bear the cost of its own defense. Each party agrees that no Board or City Council member, trustee, employee, agent, officer or official of either party shall be personally charged by the other with any liability or expense or be held personally liable to the other under this Agreement.

19. Conflict of Interest. This Agreement is not legally binding on the Board if entered into in violation of the provisions of 105 ILCS 5/34-21.3, which restricts the employment of, or the letting of contracts to, former Board members within a one year period following expiration or other termination of their office.

20. Ethics. No officer, agent or employee of the Board is or shall be employed by the City or has or shall have a financial interest, directly, or indirectly, in this Agreement or the compensation to be paid hereunder except as may be permitted in writing by the Board's Ethics Policy adopted May 25, 2011 (11-0525-P02), as amended from time to time, which policy is hereby incorporated by reference into and made a part of this Agreement as fully set forth herein.

This Agreement will be posted on the CPS Internet website.

21. Shakman Accord Provisions.

(i) The City is subject to the May 31, 2007 Order entitled "Agreed Settlement Order and Accord" (the "Shakman Accord") and the August 16, 2007 "City of Chicago Hiring Plan" (the "City Hiring Plan") entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United States District Court for the Northern District of Illinois). Among other things, the Shakman Accord and the City Hiring Plan prohibit the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

(ii) The Chicago Board of Education is aware that City policy prohibits City employees from directing any individual to apply for a position with the CPS, either as an employee or as a subcontractor, and from directing the CPS to hire an individual as an employee or as a subcontractor. Accordingly, the CPS must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel provided by the CPS under this Agreement are employees or subcontractors of the CPS, not employees of the City of Chicago. This Agreement is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by the CPS.

(iii) The CPS will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel provided under this Agreement, or offer employment to any individual to provide services under this Agreement, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Agreement, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.

In the event of any communication to the CPS by a City employee or City official in violation of this Section 21(ii), or advocating a violation of Section 21(iii), the CPS will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General ("IGO Hiring Oversight"), and also to the head of the relevant City Department utilizing services provided under this Agreement.

22. Inspector General. Each party to this Agreement hereby acknowledges that in accordance with 105 ILCS 5/34-13.1, the Inspector General of the Board of Education of the City of Chicago has the authority to conduct certain investigations and that the Inspector General shall have access to all information and personnel necessary to conduct those investigations.

23. Non-Liability of Officials. The Board and its subcontractors, consultants, successors and assignees will not charge any official, employee or agent of the Department personally with any liability or expenses of defense or seek to hold him or her personally liable under any term

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or provision of this Agreement or because of his or her execution or attempted execution of this Agreement or because of any of it. The Department and its subcontractors, consultants, successors and assignees will not charge any official, employee or agent of the Board personally with any liability or expenses of defense or seek to hold him or her personally liable under any term or provision of this Agreement or because of his or her execution or attempted execution of this Agreement or because of any of it.

24. Entire Agreement and Amendment: This Agreement, including all exhibits attached to it and incorporated into it, constitutes the entire agreement of the parties with respect to the matters contained herein. All attached exhibits are incorporated into and made a part of this Agreement. No modification of or amendment to this Agreement shall be effective unless such modification or amendment is in writing and signed by both parties hereto. Any prior agreements or representations, either written or oral, relating to the subject matter of this Agreement are of no force or effect.

25. Ordinance. Execution of this Agreement by the City of Chicago is authorized by virtue of an ordinance passed by the City Council of the City of Chicago on _____, 2014.

This Agreement will be posted on the CPS Internet website.

IN WITNESS WHEREOF, the City of Chicago and the Board of Education of the City of Chicago have caused this Agreement to be duly executed and delivered as of the Effective Date.

CITY OF CHICAGO, ILLINOIS

By: _____
Superintendent
Department of Police

Date: _____

THE BOARD OF EDUCATION
OF THE CITY OF CHICAGO

By: _____
President

Date: _____

Attest: By: _____
Secretary

Board Report No.: 13-0123-PR112

Approved as to legal form:

General Counsel

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Exhibit 1
(not attached for purposes of ordinance)

ORDINANCE

WHEREAS, the City of Chicago (the "City") is a municipal corporation and home rule unit of government under Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois; and

WHEREAS, the Board of Education of the City of Chicago (the "Board") is a body corporate and politic, organized under and existing pursuant to Article 34 of the School Code of the State of Illinois; and

WHEREAS, it is in the best interest the City acting through its Department of Police (the "Department") to provide police officers at the Board's schools for the purpose of maintaining and promoting the safety and security of the children, teachers and other staff of the Board; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

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SECTION 4. This ordinance takes effect upon passage and approval.

APPROVED
Stephen N. Potts
CORPORATION COUNSEL

APPROVED
Robin E. Evans
6/15/14
Mayor