

**CONNECTICUT STATE BOARD OF EDUCATION  
Hartford**

TO: State Board of Education

FROM: Dr. Dianna R. Wentzell, Commissioner of Education

DATE: January 4, 2017

SUBJECT: Amendment to the Fairfield Board of Education’s Plan to Correct Racial Imbalance at McKinley School

**Executive Summary**

The Fairfield Board of Education (“Fairfield Board”) has submitted a proposed amendment to its plan to correct racial imbalance at McKinley Elementary School (McKinley) for the State Board of Education’s (“SBE”) consideration. As set forth in this Report, the impact of the proposed amendment is uncertain but, overall, appears unlikely to result in a sustainable solution to the long-running racial imbalance conditions at McKinley.

The SBE has three options with respect to the Fairfield Board’s proposed amendment: it may approve, conditionally approve, or disapprove the proposed amendment. If the SBE finds that the proposed amendment would be approvable with revisions, it may conditionally approve the amendment and set a deadline for the Fairfield Board to submit a proposed amendment with the required revisions. If the SBE disapproves the amendment, it must notify the Fairfield Board of the reasons for disapproval and set a deadline for submission of a new proposed amendment.

**I. Relevant Background**

To properly analyze the Fairfield Board’s current proposed amendment, it is useful first to consider the legal and factual context in which this matter arises.<sup>1</sup>

**A. Overview of Connecticut Racial Imbalance Laws**

Since 1969, Connecticut law has required every school district to take appropriate measures to prevent or eliminate racial imbalance occurring in schools under its control. Today, the racial

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<sup>1</sup> Included with this Report are the following documents: Exhibit A, the proposed amendment to the Fairfield Board’s plan; Exhibit B, the 2015 Public School Enrollment by District by Racial Imbalance Categories for Fairfield Public Schools; Exhibit C, a copy of the Regulations of Connecticut State Agencies concerning the implementation of the racial imbalance law.

imbalance requirements continue to play an important role in reducing the racial isolation that minority students and families experience in a district when the racial composition of one school is significantly different from that of the district as a whole.

Under the regulations adopted by the SBE to implement the racial imbalance laws, racial imbalance exists when the proportion of minority students for any school exceeds 25 percentage points more or less than the comparable proportion for the school district. For all grades of a given school, the total number of minority students enrolled in the same grades throughout the school district is divided by the district-wide total student enrollment in such grades, and the resulting percentage is the comparable proportion for the school district.

The responsibility for ensuring that Connecticut school districts are complying with their obligations under the racial imbalance laws rests with the SBE. In discharging this responsibility, the SBE's role is to identify districts with racial imbalance issues, ensure that a district develops a legally sound and effective plan to correct the racial imbalance and, as appropriate, provide technical assistance to districts. The racial imbalance laws give districts dealing with actual or impending racial imbalance in one or more of their schools the flexibility to select the particular approach they deem appropriate for correcting the issue – provided that the SBE finds the approach to be an acceptable corrective measure in view of the facts in the district and the applicable statutory and regulatory requirements.

When the SBE disapproves a district's proposed plan or amendment, the SBE is required to state its reasons for disapproving and direct the district to submit a new plan/amendment within a period determined by the SBE. Regs. of Conn. State Agencies § 10-226e-6(d).

## **B. Racial Imbalance at McKinley and Prior Efforts to Correct It**

McKinley was identified as racially imbalanced in April 2007, and the Fairfield Board was thus required to submit a plan to correct the imbalance to the SBE. Over the past nine years, the Fairfield Board has amended its plan several times. Despite these efforts, the racial imbalance at McKinley has persisted, and, in recent years, has increased.

In its original plan to address the racial imbalance at McKinley, the Fairfield Board proposed an opt-in/opt-out policy that gave McKinley parents the opportunity to transfer their children to one of three elementary schools identified by the Fairfield Board. However, this plan did not substantially reduce the racial imbalance, and as a result, in April 2010, former Commissioner Mark McQuillan directed the Fairfield Board to submit an amendment to its plan. In its amendment, which was approved by the SBE in February 2011, the Fairfield Board proposed to expand the pre-school program for low-income students at Burr Elementary School from twenty to thirty-six students. Second, the Fairfield Board planned to merge the McKinley pre-school program with the Early Childhood Center at Warde High School. This proposal was implemented in September 2011. The effect of these changes, however, did not substantially reduce the racial imbalance at McKinley. Therefore, former Commissioner McQuillan directed the Fairfield Board to amend its plan again in May 2012.

In February 2013, the Fairfield Board amended its plan again by expanding the opportunities for McKinley parents to enroll their children in preschool programs at other elementary schools. The racial imbalance at McKinley nevertheless increased. Because of this increase, Commissioner Wentzell asked the Fairfield Board, in May 2015, to review and amend its plan for the SBE’s approval. In July 2015, the Fairfield Board requested and received an extension of time to engage the community in a discussion regarding a more effective solution for the racial imbalance at Mc Kinley. The Fairfield Board presented a summary of the status of its progress and proposed next steps at the SBE meeting on May 4, 2016. Thereafter, the Fairfield Board was directed to submit a proposed amendment to its plan prior to the SBE’s December 2016 meeting, and subsequently received an extension until January 2017.

The table below shows the extent by which the minority enrollment percentage at McKinley exceeded the district-wide minority enrollment percentage for elementary grades in Fairfield since 2006. As indicated, in every year but 2012 this differential exceeded the applicable 25-percentage-point threshold for determining that racial imbalance exists.

2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
28.74	27.40	25.45	28.70	25.81	26.81	24.41	26.48	28.56	27.18

## **II. The Fairfield Board’s Current Assessment of Conditions and Proposed Amendment**

### **A. Consultant’s Conclusions**

The Fairfield Board’s submission to the SBE notes that it engaged a consulting firm to study demographic patterns in the district and recommend possible courses of action to correct racial imbalance. In February 2016, the consulting firm reported its conclusions to the Fairfield Board. The Fairfield Board reports in its submission that the consulting firm concluded, among other things, that racial imbalance at McKinley and overcrowding at three other Fairfield elementary schools “cannot be solved without school construction projects.” (Exhibit A, p.1). The status of current school construction projects underway or in development in Fairfield is summarized on page 8 of the Fairfield Board’s submission, Exhibit A.

### **B. Current Proposed Amendment**

The Fairfield Board’s current proposed amendment<sup>2</sup> to its plan to correct racial imbalance at McKinley consists of the following two measures:

#### 1. Preschool Option:

At the conclusion of the 2016-17 school year, the Fairfield Board would (a) eliminate the preschool program at Dwight Elementary School, which has had lower participation rates than the preschool program at Burr, and (b) offer a preschool program at Stratfield Elementary School, giving McKinley families priority in the enrollment process.

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<sup>2</sup> The proposed amendment is discussed in greater detail in the Fairfield Board’s submission, included as Exhibit A of this Report.

For the 2018-19 school year, the Fairfield Board proposes opening a third preschool class at either Stratfield or Burr if there is sufficient demand and if there is available space. This addition would increase the capacity of the preschool program to 108 slots in the three schools. The Fairfield Board also would increase tuition by \$750.00 to \$4,250 and implement an annual increase of 3% per year but would continue to grant tuition waivers to eligible families.

The Fairfield Board believes that the foregoing steps will enable it to attract more McKinley families to send their children to other schools for pre-kindergarten and, thereafter, to keep their children enrolled at those schools. As summarized in Part I.B of this Report, the Fairfield Board has attempted to address racial imbalance at McKinley with various preschool-based strategies which, to date, have been unsuccessful. While the Fairfield Board has submitted estimates of projected enrollment of McKinley minority students in the contemplated preschool programs at other schools (Exhibit A, pp. 6-7), the impact of these proposed new preschool programs in Fairfield for purposes of correcting racial imbalance at McKinley is uncertain because the proposal relies on certain key assumptions, including: that there will be sufficient demand among minority families whose children attend or would attend McKinley such that they will decide to send their children elsewhere for preschool and not re-enroll at McKinley after completion of preschool; that the number of minority families electing to leave McKinley will be sufficient to reduce the racial imbalance differential there after taking into account projected enrollment of new minority students at McKinley; and that the Fairfield Board will add an additional preschool class in 2018-19, which is contingent on the Fairfield Board later determining that there is sufficient demand and availability of space.

## 2. Open Choice:

To increase the number of minority students in elementary schools other than McKinley – and thus reduce the differential between the proportion of minority students there and in the elementary grades district-wide – the Fairfield Board proposes to increase the total number of Open Choice students from the current level of 72 to 100 by the start of the 2018-19 school year. The Fairfield Board proposes to accomplish this by adding 36 Open Choice students to the elementary grades – 18 in fall 2017 and 18 in fall 2018 – with an emphasis on kindergarten and first grade. (The net increase of 28 Open Choice students after two years is based on an estimated attrition rate of four Open Choice students per year). The Fairfield Board reports that, because virtually all of its Open Choice students are minority students, it expects that the proposed expansion of Open Choice would increase the overall minority student population at the elementary level by ½%. (Exhibit A, p. 7).

The success of this proposal, like that of the proposal concerning preschool, is contingent on certain factors, including: whether demand for Open Choice seats at schools other than McKinley would be sufficient to meet the projections, and whether the overall ½ % increase would be offset to some extent by any increase in the minority student population at McKinley. In any event, if a ½ % increase in elementary minority enrollment district-wide were to occur, it would not by itself have a substantial effect on correcting racial imbalance at McKinley.

### **C. Additional Steps to be Considered by the Fairfield Board**

The Fairfield Board's submission to the SBE includes discussion of additional steps that the Fairfield Board plans to consider but has not as yet adopted for inclusion in a proposed amendment to its racial imbalance plan. (Exhibit A, pp. 7-8). In particular, the Fairfield Board's submission states:

If the previous five years are a guide, we can expect the proportion of minority students at McKinley to increase at a higher rate than the proportion of minority students at the district's other ten elementary schools. Therefore, additional action will be required to address the issue of racial imbalance among our elementary schools over the long term.

(Exhibit A, p. 7).

The submission describes two steps that will be considered by the Fairfield Board. First, the Fairfield Board is considering implementing a magnet program at McKinley to attract students from other attendance zones. At this time, the school could accommodate an additional 50 students without constructing an addition to the school building.

Second, the Fairfield Board is currently engaged in an expansion project at Holland Hill School, which is scheduled to be completed by the fall of 2018. In addition, the Fairfield Board is planning an expansion project for Mill Hill School to begin between 2018 and 2020. The Fairfield Board reports in its submission that, once the school buildings have greater capacity, it would consider revising its attendance zones, which it believes would significantly reduce the racial disparity between McKinley and the other elementary schools.

### **III. SBE Action**

Consistent with the purpose of the racial imbalance laws, summarized in Part I.A above, a plan or amendment to a plan to correct racial imbalance must include "methods for eliminating the racial imbalance and for preventing its recurrence in the school district." Regs. of Conn. State Agencies § 10-226e-6(c)(4). Thus, the SBE must make a determination concerning whether the proposed amendment submitted by the Fairfield Board will correct the racial imbalance at McKinley. In making this determination, the SBE should, after review of the submitted materials and discussion with Fairfield Board representatives in the SBE meeting, carefully consider all relevant factors, including the following:

- the facts concerning racial imbalance at McKinley, and the efforts to address it, since 2007;
- the assumptions on which the Fairfield Board relied in estimating the projected impact of the proposed amendment;

- the Fairfield Board’s candid acknowledgment that additional action – beyond its current proposal – will be required to comply with the racial imbalance laws over the long term; and
- whether other potentially effective strategies to correct racial imbalance – such as grade re-configuration of elementary schools in the district, for example – have been adequately considered by the Fairfield Board.

In considering the foregoing factors, it would be reasonable for the SBE to conclude that, although some positive impact may be realized in the short term from implementation of the proposed amendment, any such impact is uncertain and the amendment appears unlikely to result in a solution that would be sustainable.

Under the applicable regulation, the SBE has three options with respect to the Fairfield Board’s proposed amendment: it may approve, conditionally approve, or disapprove the amendment. Regs. of Conn. State Agencies § 10-226e-6. A conditional approval involves approving portions of a plan or amendment and requiring revisions to other portions, while a disapproval requires the board that submitted the proposal to submit a new plan/amendment within a time period determined by the SBE. See id. §§ 10-226e-6(c), (d).

Finally, it is important to note that a board of education may request technical assistance from the Department in regard to development of a plan or amendment to a plan to correct racial imbalance and the Department stands ready to provide such assistance. The Department’s role as a resource on this issue is expressly recognized in the applicable regulation. See id. § 10-226e-(b)(2).

Section 10-226e-7 of the Regulations requires that all approved and conditionally approved plans to correct racial imbalance be subject to continuing review and evaluation by the SBE. This review will include annual monitoring to assess the Fairfield Board’s progress in its plan to eliminate racial imbalance, and such other actions as may be directed by the SBE.

Prepared by:

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Approved by:

Peter Haberlandt, Director  
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# EXHIBIT A



# Amendment to Racial Imbalance Plan

## Fairfield Public Schools

Approved by the Board of Education  
November 15, 2016

### I. Background

In May of 2015, the Connecticut State Board of Education (CSBE) notified the Fairfield Public Schools that McKinley School continued to be racially imbalanced. During the 2015-2016 school year, the Fairfield Board of Education (Board) studied the possibility of redistricting the student population to remedy this issue. The district engaged the consulting firm of Milone & MacBroom to study demographic patterns within the district and to recommend possible courses of action to reduce racial imbalance among the district's elementary schools. Milone & MacBroom presented its finding to the Fairfield Board of Education on February 16, 2016. The consultants concluded that, even with redistricting, no substantial improvement to the racial imbalance problem could occur until the renovations and additions to the Holland Hill and Mill Hill schools are complete. Specifically, the consultants stated that:

1. Racial Imbalance at McKinley and overcrowding at Holland Hill, Mill Hill and Sherman cannot be solved without school construction projects.
2. Pocket redistricting can mitigate racial imbalances at McKinley after the Holland Hill Construction Project is completed. However, it would result in Holland Hill becoming impending imbalanced (between 15% and 18% higher than district).
3. Following the completion of the Holland Hill and Mill Hill Construction Projects, the district can achieve racial imbalance objectives at McKinley.

On May 4, 2016, the Superintendent of Schools and Chairman of the Fairfield Board of Education presented this information to the State Board of Education. The CSBE, while pleased with the Board's efforts to address the matter, requested that the Board present an amendment to its racial imbalance plan at its December 7, 2016 meeting.

## II. History of Racial Imbalance at McKinley

The CSBE has set a standard by which to judge whether or not a school district is in compliance with the statute. All schools must be within 25 percentage points of the district average of minority students at the same grade span. Chart 1 summarizes McKinley's data for the past six years.

*Chart 1:  
History of Racial Imbalance at McKinley*

Year	McKinley % Minority	District % Minority	Absolute Imbalance
2010-11	43.47%	17.58%	25.89%
2011-12	45.70%	18.89%	26.81%
2012-13	43.41%	19.00%	24.41%
2013-14	45.85%	19.37%	26.48%
2014-15	49.10%	20.53%	28.57%
2015-16	47.90%	20.70%	27.20%

This chart indicates that McKinley School has exceeded the 25% standard in all but one of the last six years. Therefore, the Board is required to propose revisions to the district's current Racial Imbalance Plan that will move McKinley School under the 25 percentage point differential.

### III. Current Arrangements

The following are the features of the current Plan, as approved by the CSBE in October of 2007 and amended in September of 2010:

#### 1) Opt In to McKinley:

Students from other elementary schools in Fairfield may “opt in” to attend McKinley School. Once the opt-in students complete their elementary years, they attend middle and high school based on the feeder patterns that pertain to their place of residence. Currently, 24 students from elsewhere in Fairfield attend school at McKinley under this arrangement. However, thirteen of these students are minority children. Although the Opt In program has not contributed to greater racial balance among our elementary schools, participation in the program signals the interest of these families in taking advantage of the quality instruction and the cultural diversity available at the McKinley School.

#### 2) Opt Out from McKinley:

For a few years, students who resided in the McKinley attendance zone were offered the choice of “opting out” to other Fairfield elementary schools. However, the “opt out” arrangement did not have a positive impact on racial balance and was therefore terminated following the 2012-13 academic year.

#### 3) Pre-School Options:

Students who reside in the McKinley attendance area have the option of attending pre-school at either the Burr or Dwight elementary schools. These students have the option of continuing at either Burr or Dwight for their K-5 education. Once the pre-school children reach kindergarten, their siblings are able to enroll at Burr or Dwight as well. Once they complete their elementary years, these students attend middle and high school according to the feeder patterns that pertain to their place of residence. Enrollment in the pre-school programs are as follows in 2016-17:

Chart 2:  
Pre-kindergarten Programs, 2016-17

<u>Pre-Kindergarten Program</u>	<u>Capacity</u>	<u>Enrollment</u>	<u>McKinley Minority Enrollment</u>
Burr (AM and PM)	36	30	6
Dwight (AM and PM)	36	24	1
Totals	72	54	7

- a. Tuition of \$3,500 is charged to pre-kindergarten students. However, families unable to afford the tuition have the tuition either waived or reduced to 50 percent, depending on income.
- b. Transportation is provided for families in the pre-kindergarten programs only if they qualify for the tuition waiver or the tuition reduction. Families paying full tuition must provide their own transportation for the pre-kindergartens.

As a result of the Pre-kindergarten program, 17 minority students who would otherwise have attended McKinley School are currently enrolled in grades K-5 at either Dwight School or Burr School. This includes the siblings of former McKinley preschoolers who attend Dwight or Burr as the result of the program.

4) Open Choice:

Seventy-two students who reside in Bridgeport attend the Fairfield Public Schools under the Open Choice Program, under arrangements for Cooperative Education Services (CES). Of these, 51 are minority students enrolled in grades K through 5.

## IV. Amendments

### 1) Pre-Kindergarten:

The district intends to modify the pre-kindergarten aspect of the Board's existing plan, as follows:

- a. While the pre-kindergarten programs have helped to address the racial imbalance issue, the Burr program has been the main contributor. Enrollment in the Dwight pre-kindergarten has been consistently lower than that at Burr. In addition, families electing the Dwight pre-kindergarten, and remaining there, are generally not having a positive impact on the racial imbalance issue. Thus the district will eliminate the Dwight pre-kindergarten program at the conclusion of the 2016-17 school year and instead offer a new location at Stratfield School. We believe that, with space available at nearby Stratfield School, we can attract more McKinley families to attend pre-kindergarten and remain at Stratfield.
- b. In an effort to further enhance the impact of the pre-K program on racial balance, McKinley students will be given priority in the enrollment process.
- c. The district will open a third pre-kindergarten at either Stratfield or Burr for the 2018-19 school year, if demand is demonstrated and space is available. This would raise the capacity of the pre-kindergarten programs to 108 slots.
- d. Pre-kindergarten tuition has not been increased from the \$3,500 level for the past five years. Based on a market survey of comparable programs, we recommend raising the tuition to \$4,250 per year, with an annual increase of 3 percent each year thereafter. Tuition waivers would remain in place.

Chart 4:  
Pre-kindergarten Programs, 2017-2018 through 2018-2019

<i>Proposed 2017-18</i>		
<u>Pre-K Program</u>	<u>Capacity</u>	<u>Projected McKinley Minority Enrollment</u>
Burr (AM and PM)	36	6
Stratfield (AM and PM)	<u>36</u>	<u>8</u>
Totals:	72	14

<i>Proposed 2018-19</i>		
<u>Pre-K Program</u>	<u>Capacity</u>	<u>Projected McKinley Minority Enrollment</u>
Burr (AM and PM)	36	6
Stratfield (AM and PM)	36	8
Site TBD* (AM and PM)	<u>36</u>	<u>7</u>
Totals:	108	21

*\*Based on demand, with site subject to the approval of the Board of Education. Could be added to Burr or Stratfield.*

2) Open Choice:

In an effort to increase the percentage of minority students in the elementary schools other than McKinley, we will increase the total number of Open Choice students enrolled in the Fairfield Public Schools from the current level of 72 to a total of 100 by the start of the 2018-2019 school year. This will be accomplished by adding 18 Open Choice students to the elementary grades in the fall of 2017, with an emphasis on kindergarten and grade 1. An additional 18 students will be added to the elementary grades in the fall of 2018. Assuming attrition of four Open Choice students each year, this would mean a net increase of 14 students per year, bringing the district's total Open Choice enrollment to 100 by 2018-19.

We project that 60 out of the district's 86 Open Choice students would be enrolled in the elementary grades in 2017-18, and 73 out of 100 in 2018-19. Because virtually all Open Choice students are minority students, the expansion of the Open Choice program would raise the overall minority student population at the elementary level by approximately 1/2 percent by 2018-19, thus reducing the difference between the proportion of minority students in the district and the proportion at McKinley School.

### 3) Projected Impact of Proposed Changes:

The district projects that the steps outlined above would have the following impact on racial balance among the district's elementary schools:

#### Pre-School Option:

We estimate that the number of K-5 McKinley minority students attending other schools as a result of the expanded pre-school option will increase by 25, from the current 17 to 42 (including former Pre-K students as well as siblings) by 2019-20. All else being equal, this would reduce McKinley's minority student population by about 3% below what it would otherwise be, and increase the minority proportion of the district's remaining elementary schools slightly.

#### Expanded Open Choice:

Increasing the number of K-5 Open Choice students from the current 51 to 73 is expected to increase the percentage of minority students in the district's elementary schools by approximately ½ percentage point over what it would have been by 2018-19.

## V. Additional Steps

If the previous five years are a guide, we can expect the proportion of minority students at McKinley to increase at a higher rate than the proportion of minority students at the district's other ten elementary schools. Therefore, additional action will be required to address the issue of racial imbalance among our elementary schools over the long term. The following steps will be considered in that regard:

## 1. Magnet Program at McKinley School

Creation of a “magnet” program at McKinley School that would attract students from elsewhere in the district and thereby reduce the percentage of minority students at the school. Based on the building’s current capacity, a magnet program could accommodate approximately fifty additional students without new construction. We estimate that a magnet program at McKinley would reduce the school’s minority population by two to three percentage points.

## 2. Redistricting

A \$15 million renovation and expansion project is scheduled at the Holland Hill School, with completion expected by the fall of 2018. Also, a \$15 million renovation and expansion project is proposed the Mill Hill School between 2018 and 2020. These projects will expand capacity at these schools by approximately 120 students. At that point, according to the Milone & MacBroom consultants, we will be able to revise school attendance areas to balance enrollments and to reduce significantly the extent of the minority student disparity between the McKinley School and our other elementary schools.

# EXHIBIT B

# UNAUDITED DATA FILE

## Connecticut State Department of Education

2015 Public School Enrollment By Reporting District Where School Total > 100,  
Excluding CTHSS, Magnet and Charter Schools

Imbalance is determined pursuant to CGS §10-226e-3 and §10-226e-4, comparing school proportions with the district proportions of students in the same grade.  
Note: Bold-faced fonts indicate the greater of the district or school minority percentage figures for each school.

Dist #	Schl #	REPORTING DISTRICT	SCHOOL	District % Minority	Dist. Total	School % Minority	Schl. Total	Absolute Imbalance
051		Fairfield School District						
	0510611	McKinley School		20.71%	4467	<b>47.89%</b>	426	27.18
	0510411	Holland Hill School		20.71%	4467	<b>32.84%</b>	405	12.13
	0511211	Riverfield School		20.71%	4467	12.50%	408	8.21
	0510111	Dwight Elementary School		<b>21.38%</b>	4630	14.33%	335	7.05
	0515111	Tomlinson Middle School		20.43%	2379	<b>27.15%</b>	685	6.72
	0511311	Sherman School		20.71%	4467	13.99%	479	6.72
	0511811	Osborn Hill School		20.71%	4467	<b>14.52%</b>	489	6.19
	0515311	Roger Ludlowe Middle School		<b>20.43%</b>	2379	15.34%	802	5.09
	0510711	Mill Hill School		20.71%	4467	15.71%	382	5.00
	0516211	Fairfield Ward High School		19.36%	3078	<b>24.18%</b>	1518	4.81
	0516011	Fairfield Ludlowe High School		<b>19.36%</b>	3078	14.72%	1508	4.64
	0511411	Straffield School		20.71%	4467	18.64%	440	2.07
	0510211	Burr Elementary School		<b>21.38%</b>	4630	19.86%	418	1.53
	0511711	Jennings School		20.71%	4467	20.00%	320	.71
	0515211	Fairfield Woods Middle School		<b>20.43%</b>	2379	19.98%	886	.45
	0511611	North Straffield School		20.71%	4467	20.48%	415	.23

\*The reporting district includes all students in schools, programs and out-placed facilities.

\*Diverse Schools are excluded if reporting district minority is greater than 50% and school minority is between 25% and 75%.

\*Source Data: Public School Information System October 2015 extracted on 2/2/2016

Tuesday, April 19, 2016

# EXHIBIT C

\*This document contains an excerpt from the Regulations of Connecticut State Agencies that specifically concerns the Department of Education. This document is not the official version of the regulations. The official regulations are published by the State of Connecticut, Judicial Branch, Commission on Official Legal Publications in the Connecticut Law Journal. In the event there is inconsistency between this document and the regulations as published in the Connecticut Law Journal, the Connecticut Law Journal publication shall serve as the official version.

## Regulations to Implement the Racial Imbalance Law

### Sec. 10-226e-1. Definitions

As used in sections 10-226e-1 to 10-226e-8, inclusive, of the Regulations of Connecticut State Agencies:

- (1) "Pupil" means an individual for whom instruction is provided in a public elementary and secondary school under the jurisdiction of a local or regional board of education.
- (2) "School" means any public elementary or secondary school under the jurisdiction of a local or regional board of education, excluding a unique school.
- (3) "Board of education" means the board of education of a local or regional school district.
- (4) "Grade" means that portion of a school program which represents the work of one regular school term, identified either as kindergarten, grade one, grade two, etc., or in an ungraded school program, identified on the basis of educational need.
- (5) "School district" means a school system under the jurisdiction of a local or regional board of education.
- (6) "Jurisdiction" means the authority granted local and regional boards of education by statute to exercise control and supervision of pupils, schools and school districts.
- (7) "Plan" means that document submitted by a board of education in compliance with Section 10-226c of the Connecticut General Statutes.
- (8) "Racial minorities" means those groups listed under subsection (b) of Section 10-226a of the Connecticut General Statutes.
- (9) "Diverse school" means a school, within a school district having a minority school population of fifty percent or more; which school has a minority population of at least twenty-five percent, *but less than seventy five percent*.
- (10) "Unique school" means an interdistrict or intradistrict magnet, local or state charter, lighthouse, regional vocational agriculture, regional vocational-technical, alternative, or special education school or other school designated by the Commissioner which offers specialized programs or provides for the voluntary enrollment of students.  
(Effective April 1, 1980; amended November 29, 1999)

### Sec. 10-226e-2. School reports

Each board of education shall annually submit, in such manner and at such time as specified by the Commissioner of Education, information on the racial composition of each school by grade, the racial composition of the teaching staff of each school, and the number of pupils in each elementary school who are eligible to receive free or reduced price lunches pursuant to federal law and regulation.

(Effective April 1, 1980; amended November 29, 1999)

\*This document contains an excerpt from the Regulations of Connecticut State Agencies that specifically concerns the Department of Education. This document is not the official version of the regulations. The official regulations are published by the State of Connecticut, Judicial Branch, Commission on Official Legal Publications in the Connecticut Law Journal. In the event there is inconsistency between this document and the regulations as published in the Connecticut Law Journal, the Connecticut Law Journal publication shall serve as the official version.

**Sec. 10-226e-3. Determination of racial imbalance**

(a) Reports submitted pursuant to Section 10-226e-2 of the Regulations of Connecticut State Agencies will be reviewed annually by the State Department of Education. The proportion of pupils of racial minorities in each school will be compared to the proportion of pupils of racial minorities in comparable grades in the school district as a whole, as follows:

(1) Proportion for the school. The total number of pupils of racial minorities in the school, as reported pursuant to Section 10-226e-2 of the Regulations of Connecticut State Agencies, shall be divided by the total number of pupils in the school. The resulting percentage shall be the Proportion for the School.

(2) Comparable proportion for the school district. For all grades of a given school, the total number of pupils of racial minorities enrolled in the same grades throughout the school district shall be divided by the district-wide total pupil enrollment in such grades. The resulting percentage shall be the Comparable Proportion for the School District for such school.

(b) Any school in which the Proportion of the School falls outside of a range from 25 percentage points less to 25 percentage points more than the Comparable Proportion for the School District, shall be determined to be racially imbalanced.

(c) If the State Board of Education determines that one or more school in a school district is racially imbalanced, said board shall promptly notify the board of education having jurisdiction of such school or schools.

(Effective April 1, 1980; amended November 29, 1999)

**Sec. 10-226e-4. Determination of impending racial imbalance**

(a) Any school not previously cited for racial imbalance, in which the Proportion for the School falls outside a range of from 15 percentage points less to 15 percentage points more than the Comparable Proportion for the School District, shall be deemed to have impending racial imbalance.

(b) The State Board of Education shall notify, in writing, a board of education having jurisdiction of a school district which includes one or more schools with impending racial imbalance.

(c) Any board of education notified pursuant to subsection (b) of this section may be required to provide the Commissioner of Education with information concerning student building assignments, interdistrict educational activities and other evidence of addressing issues of racial, ethnic and economic isolation.

(Effective April 1, 1980; amended November 29, 1999)

**Sec. 10-226e-5. Plans**

(a) Any board of education which has received notification from the State Board of Education pursuant to Section 10-226e-3 of the Regulations of Connecticut State Agencies shall submit to the State Board of Education a plan to correct racial imbalance in the school which has been determined to be racially imbalanced. All plans shall be subject to the requirements of this section; provided, however, that any school district so

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notified, which has a minority student enrollment of fifty percent or more may, in lieu of filing a plan, demonstrate that such racially imbalanced school is a diverse school.

**(b) Preparation of the plan.**

(1) Upon notification of a determination of racial imbalance, the board of education shall prepare a policy statement addressing racial imbalance in the school district.

(2) The board of education may, in writing, request technical assistance from the Commissioner of Education for the development of a plan. The Commissioner shall, within the limits of available resources, provide such assistance.

(3) The board of education shall conduct a public hearing on its plan prior to submission to the State Board of Education. Adequate notice of the time and place of such hearing shall be published and a complete record of such hearing shall be kept.

(4) A plan shall be submitted to the State Board of Education within 120 days following receipt of notification of a determination of racial imbalance, except that a school district may request an extension of time, not to exceed ninety days, if the number of students causing said imbalance in any school is fewer than five.

**(c) Content of the plan.**

A plan shall include at least the following items:

(1) The board of education policy statement addressing racial imbalance in the school district;

(2) A description of the process the board of education undertook to prepare the plan;

(3) Presentation and analysis of relevant data, including (A) projections of the racial composition of the public schools in the school district for the subsequent five-year period under the proposed plan, (B) analysis of conditions that have caused or are contributing to racial imbalance in the school district, and (C) analysis of student achievement in the cited school as compared to other schools in the district;

(4) The proposed methods for eliminating racial imbalance and for preventing its recurrence in the school district. These methods may include voluntary interdistrict and intradistrict enrollment plans acceptable to the State Board of Education as an alternative to mandatory pupil reassignment, provided any such voluntary enrollment plan addresses methods which will be used to increase student achievement;

(5) Identification of proposed school construction and school closings, if any, and an explanation of any impact on the plan;

(6) Specific proposals for minimizing any disruptive effects of plan implementation;

(7) Provisions for monitoring plan implementation and evaluating plan effectiveness, including procedures for revising and updating the plan, if necessary.

(8) A timetable for completion of each step in the plan and for implementation of the plan as a whole;

(9) Demonstration that school district resources have been equitably allocated among all schools within the district; and

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(10) Demonstration that any disparity in student achievement levels among schools is being addressed and a description of the methods being used to decrease the disparity.

(d) **Other plan requirements.**

(1) Any inconvenience caused by implementation of the plan shall not be borne disproportionately by any single racial minority nor disproportionately by racial minorities as a whole within the school district.

(2) Implementation of the plan shall not result in segregation within schools, or among or within programs. Any substantially disproportionate racial minority representation within school classes and programs shall (A) be justified solely on the basis of educational need and (B) occur less than a majority of the time during the school day with the exception of pupils enrolled in bilingual education.

(3) A plan shall not include reassignment of pupils whose dominant language is other than English and whose proficiency in English is limited if such reassignment is a denial of existing participation in a program of bilingual education.

(4) Upon submission of a plan, a board of education may request exceptions to one or more of the plan requirements pursuant to this section. The State Board of Education (A) may grant such exception when said board finds such exception shall otherwise contribute to the purposes of Sections 10-226a to 10-226e, inclusive, of the Connecticut General Statutes; and (B) shall grant such exception when the plan is in compliance with a final order of a court of competent jurisdiction or federal administrative agency order which addresses the requirements of Sections 10-226a to 10-226e, inclusive, of the Connecticut General Statutes and which addresses the current condition of racial imbalance found in accordance with Section 10-226e-3 of the Regulations of the Connecticut State Agencies.

(Effective April 1, 1980; amended November 29, 1999)

**Sec. 10-226e-6. Approval of plans**

(a) Upon receipt of a plan pursuant to Section 10-226e-5 of the Regulations of Connecticut State Agencies, the State Board of Education shall determine whether the plan complies with the requirements of said section and shall (1) approve, (2) conditionally approve, or (3) disapprove such plan, within 60 days.

(b) If the State Board of Education approves the plan, said Board shall promptly notify the board of education submitting the plan, which board shall implement the plan in accordance with the timetable indicated in such plan.

(c) If the State Board of Education conditionally approves the plan, said board shall promptly give written notice to the board of education submitting the plan. Such notice shall specify the portions of the plan requiring revision and the date for submission of such revisions. Those portions of the plan which do not require revision shall be implemented by the board of education in accordance with the timetable indicated in such plan.

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(d) If the State Board of Education disapproves the plan, said board shall promptly notify the board of education submitting the plan. Such notice shall specify the reasons for disapproval and the date for resubmission of the plan.

(e) Upon receipt of a revised plan or portion thereof, the State Board of Education shall (1) approve, (2) conditionally approve, or (3) disapprove such revised plan or portion thereof in accordance with the provisions of subsections (b), (c), and (d) of this Section within 30 days following receipt of such revised plan or portion thereof.

(f) If a board of education submits a plan or a revision to such a plan which is not approved by the State Board of Education within one year of notification to the board of education of the existence of racial imbalance pursuant to Section 10-226e-3 of the Regulations of Connecticut State Agencies or a board of education fails to submit a plan or revision within the required time limits, the State Board of Education may undertake such other actions as may be authorized by law to cause the board of education to be in compliance with the provisions of Sections 10-226a to 10-226e, inclusive, of the Connecticut General Statutes and Sections 10-226e-1 to 10-226e-8 of the Regulations of Connecticut State Agencies.

(Effective April 1, 1980; amended November 29, 1999)

#### **Sec. 10-226e-7. Review of plan implementation**

(a) All approved and conditionally approved plans shall be subject to continuing review and evaluation by the State Board of Education. If the State Board of Education finds that the status of the plan is not in conformity with the timetable indicated in such plan, said board shall investigate the reasons for such discrepancy. If the State Board of Education finds that the board of education has failed to take substantial steps to implement the plan in accordance with the timetable therein, the State Board of Education shall notify the board of education of non-compliance with the provisions of Section 10-226a to 10-226e, inclusive, of the Connecticut General Statutes and Sections 10-226e-1 to 10-226e-8, inclusive, of the Regulations of Connecticut State Agencies and may undertake such other actions as may be authorized by law to cause the board of education to be in compliance.

(b) A board of education may submit proposed amendment to an approved or conditionally approved plan. Such proposed amendment shall not take effect until after review and approval by the State Board of Education. Such proposed amendment shall be accompanied by written materials documenting the reasons for the amendment.

(Effective April 1, 1980; amended November 29, 1999)

#### **Sec. 10-226e-8. Review of the decision of the State Board of Education**

(a) Upon notification of disapproval of a plan, a board of education may file written notice with the Commissioner of Education requesting a review of such disapproval. Such request shall be submitted within 30 days following receipt of notification by the State Board of Education of such disapproval.

(b) Within 30 days following receipt of a request for review, a hearing shall be held in accordance with the provisions of Chapter 54 of the General Statutes.

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(Effective April 1, 1980; amended November 29, 1999)

**Sec. 10-226c-9. Unique schools requirements**

(a) Unique schools shall provide data in the same manner as required of all other schools pursuant to Section 10-226e-2 of the Regulations of Connecticut State Agencies.

(b) Unique schools shall report to the Commissioner on all activities undertaken to provide educational opportunities for students to interact with students and teachers from other racial, ethnic and economic backgrounds.

(c) The Commissioner may require the responsible authority of any unique school to appear before him to respond to inquiries concerning the racial, ethnic or economic diversity of students or teaching staff and the educational opportunities provided for students to interact with students and teachers from other racial, ethnic and economic backgrounds.

(Effective April 1, 1980; amended November 29, 1999)

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