

No. X03-89-0492119S

11 Pages

MILO SHEFF, ET AL.	:	SUPERIOR COURT
Plaintiffs	:	
	:	COMPLEX LITIGATION
v.	:	DOCKET AT NEW BRITAIN
	:	
WILLIAM A. O'NEILL, ET AL.	:	JANUARY 22, 2003
Defendants	:	

STIPULATION AND ORDER

WHEREAS, the above entitled action was initially brought by the plaintiffs in 1989 against the named defendant and various state officials; and

WHEREAS, the Connecticut Supreme Court on July 9, 1996, held that public school students in the City of Hartford attended schools that were racially, ethnically and economically isolated in violation of the Connecticut Constitution, and urged the State to take prompt steps to seek to remedy the violation;

WHEREAS, two evidentiary hearings have been held since that date; and

WHEREAS, the plaintiffs and the defendants believe that further litigation at this juncture is not in the best interests of the plaintiffs or the defendants; and

WHEREAS, the plaintiffs and the defendants have a mutual interest in reducing the racial, ethnic and economic isolation of students in the Hartford Public Schools; and

WHEREAS, this agreement represents a timetable for planned, reasonable progress in reducing student isolation in the Hartford Public Schools until June 30, 2007; and

WHEREAS, the plaintiffs and the defendants are cognizant that efforts will need to continue beyond 2007 to further reduce student isolation in the Hartford Public Schools; and

WHEREAS, the plaintiffs and the defendants do hereby knowingly and voluntarily enter into this stipulation and agree to be bound thereby;

NOW THEREFORE, without further proceedings or adjudication of any of the pending issues of fact or law, the parties hereby stipulate and agree as follows:

SECTION I.
DEFINITIONS

1. Voluntary Interdistrict Programs are the instruments to voluntarily reduce racial, ethnic and economic isolation employed under this Stipulation: namely, 1) Interdistrict Magnet Schools (Host and Regional), 2) Open Choice, and 3) Interdistrict Cooperative Programs.

2. Interdistrict Magnet Schools, for the purposes of this agreement, are schools which enroll students who are residents of Hartford as well as students from suburban school districts in a ratio which maintains enrollment so that the percentage of minority students in any school does not exceed the Sheff region minority percentage enrollment plus 30 percent and that are calculated, by enhanced program design, to reach these goals by the third year of operation. A school may be considered an interdistrict magnet school even though it has not reached the required percentages to qualify as a magnet school, for existing schools until the 2005-2006 school year, and for new schools not later than their third year of operation.
 - a. Host Magnet Schools are those interdistrict magnet schools that are governed and operated by the Hartford Public School System.
 - b. Regional Magnet Schools are those interdistrict magnet schools which may be operated by a third party or a consortium of school districts.
3. Open Choice is a voluntary interdistrict transfer program that allows students to transfer between Hartford and the suburban school districts when such transfers contribute to the reduction of racial and ethnic isolation.
4. Interdistrict Cooperative Programs are those multi-district cooperative part-time programs which provide a diverse educational experience for Connecticut students and whose purpose is the reduction of racial, ethnic and economic isolation.
5. Minority Students – For the purposes of this Stipulation, minority students shall mean those students who are Black and/or Hispanic, Asian, Native American and Pacific Islander.
6. Sheff v. O'Neill Region – As defined in the original complaint, this region includes the school districts of Avon, Bloomfield, Canton, East Granby, East Hartford, East Windsor, Ellington, Farmington, Glastonbury, Granby, Hartford, Manchester, Newington, Rocky Hill, Simsbury, South Windsor, Suffield, Vernon, West Hartford, Wethersfield, Windsor and Windsor Locks.

SECTION II.

THE START-UP PLAN

1. Period of the Agreement – The period of this agreement shall be from the date of its execution through June 30, 2007. The school years covered will be 2003-04, 2004-05, 2005-06 and 2006-07, and these years will be used to measure the progress in the implementation of the terms of this Stipulation in providing minority public school students who reside in Hartford with educational settings that reduce racial, ethnic and economic isolation.

2. Determining Progress – For the purposes of measuring progress in the implementation of the terms of this Stipulation, the following formula shall be used:

$x/y \quad x =$

flexibility

+ fungibility of the elements

• make up differences with the other elements

- (1) Minority public school students residing in Hartford attending public schools in districts other than Hartford through the Open Choice program; and
- (2) Minority public school students residing in Hartford attending public interdistrict magnet schools in Hartford and elsewhere, and
- (3) For 2002-2003, 1.0% of y will be added to x; and for every year thereafter, for every new \$50,000 of state dollars granted specifically to the Hartford Public Schools for interdistrict cooperative grant programs, 0.1% will be added to the base of 1.0%. In no event shall this category exceed 3%.

$y =$ All minority public school students residing in Hartford

$=$ The percentage of minority public school students residing in Hartford who experience an educational setting with reduced isolation.

3. The Goal - The parties agree that the three instruments used for the reduction of racial, ethnic and economic isolation are (1) interdistrict magnet schools. (2) the Open Choice program and (3) interdistrict cooperative programs. The parties further agree that: a) it is desirable that the State have flexibility in managing the respective size and respective implementation timing of these three instruments, and b) it is vital that each of the three instruments be developed to a meaningful level during the start-up plan so that each is in position to play a meaningful role in the final plan.

The goal of the parties is that, by the end of the term of this Stipulation, at least 30 percent of minority students residing in Hartford will have an educational experience with reduced isolation through the use of the three instruments enumerated above. (Note: The parties acknowledge that the 2002-2003 comparable percentage is approximately 10%). It is acknowledged that achievement of this goal is dependent on many factors, such as interest in the types of programs offered, parental choice, the federal No Child Left Behind Act of 2001 and others. The four year 30% goal for participation of Hartford minority students is not directly enforceable pursuant to Section V.6. However, defendants' inability to make significant progress towards this goal may be considered by the Court, as one factor, in determining what future plans or orders may be necessary to achieve future compliance pursuant to Sections V.3. or 6. after the expiration of this Stipulation and Order. The State acknowledges its leadership role in accomplishing this goal. Working with the Hartford Public Schools, suburban school boards, regional groups and others, the State shall be the convener and lead agency in the planning, design, implementation and evaluation of annual progress toward achieving the goal of the Stipulation.

4. Maintenance of Effort -During the period of this Stipulation, the State will not reduce its funding and in-kind support to Hartford interdistrict magnet schools, the Open Choice program or interdistrict cooperative programs serving minority students residing in Hartford. In addition, the State agrees to use its best efforts to assist the Hartford Public Schools in minimizing disruption for students remaining in regular Hartford public schools who are not enrolled in magnet schools or the Open Choice program.

SECTION III. IMPLEMENTATION

A. MAGNET SCHOOLS

1. The State will provide sufficient resources to plan, develop, open and operate two new host magnet schools of approximately 600 students each, for approximately 1200 students total per year, each year of the four year period of this Stipulation (or eight new magnet schools). At the State's sole discretion, one or more of these schools may be regional magnet schools. If, in any year of this Stipulation, two such host magnet schools do not open, such a failure may be deemed to be a material breach pursuant to Section V.6. of this Stipulation.
2. The State Department of Education will work with the Hartford Public Schools and others as necessary to ensure the successful planning and opening of all interdistrict magnet schools.
3. State assistance will include school construction funding of eligible costs. However, recognizing the length of time involved in the construction of new schools, the State Department of Education will work with the Hartford Public Schools to coordinate and identify existing schools which may be used to open new magnet schools. The State Department of Education will encourage the opening of these schools at facilities which have been or are scheduled to be renovated in accordance with Hartford's long-term school building program pursuant to Sec. 10-220 of the Connecticut General Statutes. The Hartford Public Schools and the City of Hartford will be required by the State Department of Education to update its long range facilities plan, including design changes to promote development of innovative magnet themes, to incorporate the increase in the number of interdistrict magnet schools in Hartford.
4. After accommodating students from member towns and Hartford students in accordance with the approved enrollment of any interdistrict magnet school, any vacant suburban seats may be open, by lottery, to any parent/student who is a resident of a Sheff region town, who shall be permitted to attend, with a requirement of local support by the sending town equal to the per pupil tuition charged to a member town. This amount may be withheld from the sending town's ECS grant and provided to the magnet school if necessary.

B. OPEN CHOICE

1. The Open Choice program, as described in Section 10-266aa of the Connecticut General Statutes, will be expanded annually to reach a capacity equal to the annual demand for seats, to a level of at least 1000 seats in year one of this Stipulation, 1200 seats in year two, 1400 seats in year three, and 1600 seats in year four for minority public school students residing in Hartford. The parties recognize that Hartford minority students in the Open Choice program also attend schools in certain towns outside of the Sheff v. O'Neill region and can be counted towards the reduction of isolation pursuant to this Stipulation
2. The Commissioner will use his best efforts to encourage suburban districts to participate in the Open Choice program as one means of complying with the requirements of Sec. 10-4a of the Connecticut General Statutes. The Commissioner will also use his best efforts to review and encourage innovative methods of transporting Choice students in order to minimize the duration of school bus rides.
3. If the Commissioner believes that a district has greater capacity than reported, the Commissioner may conduct an independent review of the space availability of the suburban districts in the Open Choice program.
4. The Commissioner will periodically evaluate the progress of participation in the Open Choice program and may take steps to increase participation. Such steps may include attempts to improve communication with parents of public school students residing in Hartford.
5. Minority students residing in Hartford will not be counted in section (1) of x of the formula in Section II of this Stipulation (Open Choice) unless they attend a school outside of Hartford which has a minority student enrollment percentage which does not exceed the Sheff region minority percentage enrollment plus 30 percent.
6. For the purposes of this agreement only, the sum of \$250,000, beyond the statutory funding formula, will be added each year (resulting in \$1,000,000 additional funding in year 2006-2007) to fund transportation costs for the Open Choice Program for Hartford students.

C. INTERDISTRICT COOPERATIVE PROGRAMS

1. The State agrees to provide increased funding for these programs which serve public school students who reside in Hartford who are not enrolled in a magnet school or Open Choice, and to give preference to program proposals that provide substantial contact between Hartford students and non-minority suburban students. These programs shall be meaningful and of high quality, and the goal must be a sustained, positive impact on the reduction of racial, ethnic and economic isolation. The State Department of Education will give preference to proposals which will encourage exposure of minority students residing in Hartford to magnet school and Open Choice programs, such as activities which will take place at a magnet school or in a suburban

school district which participates in the Open Choice program. The sum of \$250,000 will be added each year (resulting in \$1,000,000 additional funding in year four - 2006-2007) beyond the existing state appropriation, for Hartford programs to expand opportunities for Hartford students.

2. Although the plaintiffs do not concur that interdistrict cooperative programs result in reduced student isolation, the parties recognize that these part-time interdistrict cooperative grant programs provide educational benefit to their participants. The parties agree that the weighting provided for in Section II.2. of this Stipulation will be given to these programs to be used in the calculation of the reduction of isolation.

SECTION IV PLANNING

1. The State Department of Education will provide the necessary assistance and support to the Hartford Public Schools to ensure the opening of the interdistrict magnet schools called for in this Stipulation. The State Department of Education will assist the Hartford Public Schools to develop and coordinate host magnet school themes, program development and staff training, the order and location of host magnet schools to be opened, the renovation or construction of the host magnet schools, and other matters as may be necessary. The State Department of Education will also assist the Hartford Public Schools in coordinating an advertising and publicity strategy for the programs provided for in this agreement, and in developing a central location where parents can receive information and apply to the various programs.
2. The State Department of Education will also provide assistance to the Hartford Public Schools in updating the long-term plan for magnet schools in Hartford, and will coordinate regional and host magnet school staff development.
3. There is a task force which has been convened by the Governor and the General Assembly on public interdistrict magnet school opportunity which has a reporting date of January 15, 2003. Its purpose is to evaluate alternative funding methods for interdistrict magnet schools and issues of parent choice and portability of pupil funding.
4. The parties agree that certain administrative and funding issues have been identified which may impede implementation of a successful program to reduce racial, ethnic and economic isolation. These include, but are not necessarily limited to, the state and local funding for regional and host magnet schools, transportation, and the Open Choice program, including space availability in suburban schools. The parties are hopeful that some of these issues may be addressed by the recently appointed Task Force referred to in Paragraph 3 above. The parties acknowledge that the provisions of this Stipulation are in effect for the Hartford region and only for the term of this Stipulation, and do not affect the recommendations of the Task Force. Likewise, the recommendations of the Task Force shall not be deemed to modify any term of this Stipulation.

SECTION V.
REPORTING, CONSULTING, ADJUSTING

1. The Commissioner and staff of the State Department of Education will regularly monitor the programs called for in Section III of this Stipulation in accordance with the present statutory reporting duties of local school districts and the State Department of Education.
2. On an annual basis, the defendants will share with the plaintiffs the data upon which the calculation in Section II of this Stipulation is made by supplying it to the plaintiffs' designated representative. Plaintiffs may request additional data concerning any program which comprises a part of this Stipulation, and the defendants will provide such data if it is available. If it is not available, the defendants will consider whether the collection of the requested data would be unduly burdensome, and, if not, will seek to comply with the request.
3. The parties acknowledge that full attainment of the goals of this Stipulation may not obviate the need for further efforts at reducing student isolation. At least six months before the end date of this Stipulation, the parties will meet to review the progress made during the prior four years and to discuss possible future actions. The parties will make every effort to come to an agreement as to what progress has been made and what future actions might be warranted; however, in the event that the parties cannot come to such an agreement, each may submit its own assessment to the Court on these issues.
4. The parties agree to meet no less than twice each year, on or before April 1 and November 1, to assess progress in the implementation of the terms of this Stipulation and to discuss possible barriers to their successful implementation.
5. Plaintiffs may, at any meetings or any other time, offer suggestions as to how any component of any program in the plan might be improved. The State Department of Education shall reasonably consider any such suggestions, and in its discretion implement any such suggestions. The State Department of Education will solicit comments and suggestions from plaintiffs for inclusion in any reports required to be filed by the Commissioner with the General Assembly or Governor, including the State Board of Education's biennial report on statewide efforts to reduce student isolation and recommendations for further progress (next due on February 1, 2003) and the State Board of Education's biennial budget request. In addition, defendants shall grant one expert retained by plaintiffs reasonable access to any State Department of Education staff member, or non-privileged documents, and agree to make available information about students whose assignments are as a result of this Stipulation, provided such information does not violate any privacy right of any such student. The State agrees to pay up to \$500.00 per day to one expert designated by the Plaintiffs, not to exceed \$6,000 per calendar year and an additional \$6,000 in year four, for a total of \$30,000 over the four year period.
6. The plaintiffs agree to initiate no further litigation during the term of this Stipulation except as set forth in this paragraph. If plaintiffs believe that defendants may have

materially failed to implement one or more specific terms of this Stipulation, the parties will meet in an attempt to resolve the issue. If the issue cannot be resolved, the plaintiffs may seek a determination from the Court limited to the question of whether a material breach has occurred. On a finding that a material breach has occurred, the Plaintiffs may seek appropriate relief. Nothing in this agreement shall prevent the plaintiffs from seeking further enforcement of the Sheff v. O'Neill 1996 decision following the expiration of this Stipulation and Order on June 30, 2007.

7. Notwithstanding the provisions concerning sharing of data and input from the plaintiffs pursuant to Section V, nothing in this Stipulation shall be construed to empower or authorize the plaintiffs to participate in the oversight or operation of the Hartford Public Schools, in the efforts to reduce student isolation throughout Connecticut, or in the policy decisions and day-to-day administration of any of the programs called for in this Stipulation.
8. This Stipulation constitutes the sole and complete agreement of the parties to the exclusion of any other promises, understandings or agreements previously made, whether oral or written and is null and void until authorized by the General Assembly, and duly executed by all parties and ordered by the Court.
9. The procedure for adoption of this Stipulation and Order shall be as follows: after the document is signed by counsel for the plaintiffs and by the Attorney General, it will be submitted to the General Assembly, pursuant to Section 3-125a of the Connecticut General Statutes, for approval or disapproval, at the earliest possible date, but not later than February 13, 2003. If this Stipulation and Order is not approved or deemed approved by the General Assembly in its entirety, without modification or addition, it shall be null and void. If legislative approval is granted, the parties shall submit the Stipulation and Order to the Court for approval at the earliest possible time.
10. The parties intend that this Stipulation and Order will be submitted to the Court for entry as an order of the Court, after it is duly executed by counsel for the plaintiffs and by the Attorney General, and after legislative approval is granted.

PLAINTIFFS
MILO SHEFF, ET AL.

By: 

Wesley W. Horton
Daniel J. Krisch
Horton, Shields & Cormier, P.C.
90 Gillett Street
Hartford, CT 06105
Juris No. 38478

By: Philip D. Tegeler
Philip D. Tegeler
CT Civil Liberties Union Foundation
32 Grand Street
Hartford, CT 06106
Juris No. 102537

By: Martha Stone
Martha Stone
Center for Children's Advocacy
65 Elizabeth Street
Hartford, CT 06105
Juris No. 61506

By: Wilfred Rodriguez (ddp)
Wilfred Rodriguez
Greater Hartford Legal Assistance
80 Jefferson Street
Hartford, CT 06106
Juris No. 302827

Elaine Jones
Director Counsel

By: Dennis D. Parker
Dennis D. Parker
NAACP Legal Defense and Educational Fund, Inc.
99 Hudson Street, Suite 1600
New York, NY 10013

By: Sandra del Valle (ddp)
Sandra Del Valle
Juan Figueroa
Puerto Rican Legal Defense Fund
99 Hudson Street
New York, NY 10013

By: Christopher A. Hansen (d.d.p.)
Christopher A. Hansen
American Civil Liberties Union
125 Broad Street
New York, NY 10004

DEFENDANTS
WILLIAM A. O'NEILL, ET AL.

By: Richard Blumenthal
RICHARD BLUMENTHAL
ATTORNEY GENERAL
STATE OF CONNECTICUT
55 Elm Street, P.O. Box 120
Hartford, CT 06141-0120

Theodore S. Sergi
THEODORE S. SERGI
COMMISSIONER OF EDUCATION
165 Capitol Avenue
Hartford, CT 06106

SO ORDERED:

Superior Court Judge

DATE: _____

ESTIMATES* OF ANNUAL COSTS** TO IMPLEMENT THE STIPULATION AND ORDER

	2003-2004	2004-2005	2005-2006	2006-2007
1. Interdistrict Magnet Schools	3,180,000	6,360,000	9,540,000	12,720,000
2. Open Choice	820,000	1,640,000	2,480,000	3,360,000
Open Choice--	250,000	500,000	750,000	1,000,000
Transportation Supplement				
3. Supplemental Interdistrict Cooperative Programs for Hartford	250,000	500,000	750,000	1,000,000
4. Plaintiffs' Expert Fees	6,000	6,000	6,000	12,000
TOTAL	4,506,000	9,006,000	13,526,000	18,092,000

* - All of the estimates in Items #1 and #2 are based on projected numbers of students participating, and therefore, must not be viewed as certain.

** - Not including capital costs of school renovation, reconstruction or construction, as necessary and governed by state law and funding of interdistrict magnet schools. Some Hartford magnets have already been constructed, others are underway (already approved), but none of these eight new host magnets are yet on the state list for construction (at 95% state cost).



STATE OF CONNECTICUT

STATE BOARD OF EDUCATION



February 10, 2003

To Members of the General Assembly

All parties to the Sheff v. O'Neill Stipulation and Order, dated January 22, 2003, agree that the final sentence of Section III.A.1 should be interpreted to mean that only two interdistrict magnet schools must be opened in each year of the Stipulation, whether such schools be host or regional magnet schools.

Plaintiffs, Milo Sheff, et al.

By Dennis D. Parker
Dennis D. Parker
NAACP Legal Defense and Educational
Fund, Inc.

Defendants, William A. O'Neill, et al.
Richard Blumenthal
Attorney General

By Ralph E. Urban
Ralph E. Urban
Assistant Attorney General

Theodore S. Sergi
Theodore S. Sergi
Commissioner of Education

CERTIFICATION

I hereby certify that a copy of the foregoing was mailed to the following counsel of record by first class mail, postage prepaid, on March 5, 2003:

Philip Tegeler, Esq.
CCLU
32 Grand Street
Hartford, CT 06106

Dennis D. Parker, Esq.
Derek Douglas, Esq.
NAACP LEGAL DEFENSE FUND
99 Hudson Street
New York, NY 10013

Professor John C. Brittain
Thurgood Marshall School of Law
Texas Southern University
3300 Cleburne Avenue
Houston, TX 77004

Martha Stone, Esq.
CENTER FOR CHILDREN'S
ADVOCACY
65 Elizabeth Street
Hartford, CT 06105

Wilfred Rodriguez, Esq.
Greater Hartford Legal Assistance
999 Asylum Avenue
Hartford, CT 06105


Sandra DelValle, Esq.
PUERTO RICAN LEGAL DEFENSE
FUND
99 Hudson Street
New York, NY 10013

Christopher Hansen, Esq.
ACLU
125 Broad Street
New York, NY 10004

Ralph Urban, Esq.
Holly Bray
Office of the Attorney General
55 Elm Street
P.O. Box 120
Hartford, CT 06141-0120

Derek L. Shaffer, Esq.
COOPER & KIRK
Suite 200
1500 K Street, NW
Washington, D.C. 20005

Mark D. Nielsen, Esq.
183 Middle River Road
Danbury, CT 06811


Wesley W. Horton