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Sheff vs. O'Neill Stipulation and Proposed Order (Phase II, 2008)

Connecticut Superior Court

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Trinity College
HARTFORD CONNECTICUT

HHD-X07-CV89-4026240-S

MILO SHEFF, et al.	:	
	:	SUPERIOR COURT -
Plaintiffs	:	COMPLEX LITIGATION
	:	DOCKET AT HARTFORD - X07
v.	:	
	:	
WILLIAM A. O'NEILL, et al.	:	
	:	
Defendants	:	APRIL 4, 2008

STIPULATION AND PROPOSED ORDER

WHEREAS, the above entitled action was initially filed by the Plaintiffs in 1989 against the named Defendants 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; and

WHEREAS, the Plaintiffs and Defendants entered into a Stipulation and Order dated January 22, 2003 (the Phase I Stipulation), which was approved by the General Assembly and became an Order of this Court as of March 12, 2003, and which set forth a program for voluntary interdistrict programs to lessen racial, ethnic, and economic isolation, and which expired by its terms on June 30, 2007; and

WHEREAS, the goals set forth by that Phase I Stipulation were not met as of the date of its expiration on June 30, 2007; and

WHEREAS, the City of Hartford intervened in this action on January 4, 2007; and

WHEREAS, the parties 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 reasonable progress in reducing racial, ethnic, and economic isolation in the Hartford Public Schools until June 30, 2013; and

WHEREAS, the parties are cognizant that efforts will need to continue beyond 2013 to further reduce racial, ethnic, and economic isolation in the Hartford Public Schools; and

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387.00

WHEREAS, the parties do hereby knowingly and voluntarily enter into this Stipulation and agree to be bound thereby;

NOW THEREFORE, the parties hereby stipulate and agree as follows:

I. Definitions

A. Voluntary Interdistrict Programs are the instruments employed under this Stipulation to reduce racial, ethnic, and economic isolation: namely, Interdistrict Magnet Schools (Host and Regional), State Technical Schools, Charter Schools, the Regional Vocational Agriculture Centers and Open Choice.

B. Interdistrict Magnet School refers to Hartford Host Magnet Schools, Suburban Host Magnet Schools, Regional Magnet Schools, and Incubator Magnet Schools.

1. Hartford Host Magnet Schools are those Interdistrict Magnet Schools that are governed and operated by the Hartford Public School System.

2. Suburban Host Magnet Schools are those Interdistrict Magnet Schools that are governed and operated by a school district within the Sheff Region other than Hartford, alone or with a third party.

3. Regional Magnet Schools are those host and regional Interdistrict Magnet Schools that may be operated by a third party or a consortium of school districts.

4. Incubator Magnet Schools are interdistrict programs established in temporary, transitional, start-up space to begin the operation of a new interdistrict magnet school prior to the completion of construction or renovation of the permanent facility.

5. Existing Magnet Schools are those Interdistrict Magnet Schools that are in operation during the 2008-09 school year.

C. Charter School refers to local charter schools or state charter schools, as authorized by Conn. Gen. Stat. § 10-66aa, that are specifically intended to reduce racial, ethnic, and economic isolation pursuant to Conn. Gen. Stat. § 10-66bb(c).

D. State Technical School refers to certain regional vocational-technical schools that are established and maintained by the State in accordance with Conn. Gen. Stat. § 10-95, and such programs in such schools as designated by the State Department of Education.

E. Regional Vocational Agriculture Center refers to certain regional vocational agriculture schools that are established and maintained by local or regional boards of education in accordance with Conn. Gen. Stat. § 10-64.

F. 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.

G. Interdistrict Cooperative Programs are those multi-district cooperative part-time programs established in accordance with Conn. Gen. Stat. § 10-74d that provide a diverse educational experience for Connecticut students and whose purpose is the reduction of racial, ethnic, and economic isolation.

H. 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.

I. Sheff Region: As defined in the original complaint, the Sheff 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.

J. The Desegregation Standard shall be the lesser of the Sheff Region's aggregate minority percentage enrollment plus thirty percentage points or seventy-five percent (75%). The Desegregation Standard shall be calculated for each year of the Stipulation based on that year's aggregate minority percentage enrollment figures but in no event shall it exceed seventy-five percent (75%).

K. Reduced-Isolation Setting refers to an educational setting with reduced racial, ethnic, and economic isolation.

1. An Interdistrict Magnet School, State Technical School, Regional Vocational Agriculture Center, or Charter School shall be deemed to provide a reduced-isolation setting if its enrollment is such that the percentage of minority students in the school does not exceed the Desegregation Standard.

2. A school that enrolls Hartford-resident minority students through the Open Choice program shall be deemed to provide a reduced-isolation setting.

II. Goals and Performance

A. Term: The Phase II term shall be from the date of its execution to June 30, 2013. The school years covered will be 2008-09 (Year 1), 2009-10 (Year 2), 2010-11 (Year 3), and 2011-12 (Year 4), and 2012-13 (Year 5). Pursuant to Part II.C.4 of this Stipulation, the Phase II term may extend to include school year 2013-14 (Year 6).

B. Goals

1. The goal of this Stipulation is to increase the number of Hartford-resident minority students in a reduced-isolation educational setting, and to move toward meeting demand of Hartford-resident minority students seeking placement in such settings.

2. The goal of this Stipulation is attained if, by Year 5 of this Stipulation, at least 80% of the demand for a reduced-isolation setting is met.

    a. The goal of meeting 80% of the demand for a reduced-isolation setting shall be subject to the extension provision of Part II.C.4 herein and possible adjustment by mutual agreement of the parties as set forth in Part IV.B.4.

3. This goal is to be attained through implementation of the Voluntary Interdistrict Programs defined in Part I.A above.

4. The State shall provide sufficient resources to plan, develop, open, and operate the schools and programs necessary to achieve each of the interim performance benchmarks identified in Part II.C.5 below, and to implement the programs identified in Part III below.

C. Goal Measurement

1. In April of Year 3, the State shall examine the demand for seats in reduced-isolation settings by Hartford-resident minority students based on the number of Hartford-resident minority applicants for a Voluntary Interdistrict Program for the next school year. Demand, for purposes of this Stipulation, shall include only the number of those Hartford-resident minority students who apply, via an approved application form, to either (a) Open Choice, or (b) at least three placement choices in a Voluntary Interdistrict Program that meets the Desegregation Standard at the time of application.

2. In November of Year 4, the State shall evaluate the number of Hartford-resident minority students on a waitlist for a Voluntary Interdistrict Program to determine the degree to which existing programs and planned new programs meet demand for seats in reduced-isolation settings by Hartford-resident minority students. The waitlist shall reflect the aggregate number of Hartford-resident minority students who submit applications for placement in Voluntary Interdistrict Programs that meet the Desegregation Standard at the time of application but are not offered a seat in any such program for that school year.

    a. Hartford minority students shall have readily available opportunities to submit an approved application for placement in Voluntary Interdistrict Programs.

    b. If less than 65% of the demand for seats in reduced-isolation settings by Hartford-resident minority students is met then the State, in consultation with the Regional School Choice Office, shall amend the Comprehensive Management Plan, as described in Part III.B, to plan additional capacity for seats in reduced-isolation settings. "Met demand" shall be defined as one hundred minus the percentage of Hartford-resident minority students on the waitlist for a Voluntary Interdistrict Program as calculated by dividing the number of Hartford-resident minority students on the waitlist as of November 15th, by the total number of Hartford-resident minority applicants for a Voluntary Interdistrict Program for that school year who apply to either Open Choice or at least three Voluntary Interdistrict Programs that meet the Desegregation Standard.

    c. For purposes of this Stipulation, the waitlist referenced in this Part II.C shall be a comprehensive school choice waitlist which shall include only those Hartford-resident minority students who have applied for placement in either Open Choice or at least three Voluntary Interdistrict Programs that meet the Desegregation Standard but (1) are not offered a seat in any such program for that school year, and (2) meet all of the program admission requirements, and (3) have indicated their intent as part of the application process, through a means to be defined in the Comprehensive Management Plan, to be placed on a waitlist if not accepted.

3. In November of the final school year of Phase II, the State shall convene a meeting with the Plaintiffs for the purpose of demonstrating its attainment of the goal of Phase II as set forth herein. At that time, the State will seek

to show that by Year 5, at least 80% of the demand for seats in reduced-isolation settings by Hartford-resident minority students is met, subject to any adjustments pursuant to Part IV.B.4. Meeting demand for seats in reduced-isolation settings by Year 5 as defined herein shall be demonstrated by a showing that less than 20% of Hartford-resident minority students who have applied for Open Choice or at least three Voluntary Interdistrict Programs that meet the Desegregation Standard are on the comprehensive school choice waitlist to participate in such programs as defined in Part II.C.2.c.

4. If in November of the final year of Phase II, the State is unable to demonstrate its attainment, through reasonable efforts, of the goal of meeting 80% of demand, the parties shall convene to revisit the Comprehensive Management Plan and to determine what steps are necessary to meet the demand standard by the following year. Any agreement that is reached through this process shall be incorporated into a one-year extension of the term of this Stipulation. Notwithstanding Part IV.C.1.c, failure to meet the 80% demand standard, subject to any adjustment pursuant to Part IV.B.4, shall not constitute a material breach if a minimum of 41% of Hartford-resident minority students are in a reduced-isolation setting by Year 5.

5. Interim Performance Benchmarks

   a. The State shall be required to attain the following annual benchmarks for the first two years of the Phase II term:

      (1) In Year 1 (2008-09), 19% of Hartford-resident minority students shall be in a reduced-isolation educational setting.

      (2) In Year 2 (2009-10), 27% of Hartford-resident minority students shall be in a reduced-isolation educational setting.

   b. Performance of each interim performance benchmark as well as the 41% minimum established in Part II.C.4 shall be calculated by dividing the number of Hartford-resident minority students in reduced-isolation settings by the total number of Hartford-resident minority students. Performance for each year shall be calculated using the October enrollment data for that year, which will be made available by the Defendants to the Plaintiffs and Hartford by November 15 of each year.

   c. Hartford-resident minority students who are enrolled in a

Voluntary Interdistrict Program that does not provide a reduced-isolation setting will be included in any interim performance benchmark calculation or goal calculation during the term of this Stipulation only if (1) the school is operating pursuant to an approved Enrollment Management Plan pursuant to Part IV.A below, and (2) the minority enrollment in such school does not exceed the Desegregation Standard by more than 5%. In no case shall any Voluntary Interdistrict Program be included within this exception for more than two of the five years of this Stipulation.

d. Hartford-resident minority students who are enrolled in an Incubator Magnet School that is in its first year of operation will be included in the Year 1 interim performance benchmark only if the minority enrollment in such school does not exceed the Desegregation Standard by more than 10%. In no case shall any Incubator Magnet School be included within this exception after Year 1 of the term of this Stipulation.

e. Any interim performance benchmark as well as the 41% minimum established in Part II.C.4 will be increased by up to three percentage points for Interdistrict Cooperative Programs, as follows: A credit of one percentage point shall be added for every 500 Hartford-resident minority students who participate in meaningful and substantial Interdistrict Cooperative Programs, up to a total of three percentage points. Such programs, to be considered meaningful and substantial, shall entail no less than 45 hours in duration, of which at least 30 hours must be face-to-face contact time. Time spent transporting students shall not be counted in the duration. A student who participates in a program of at least 90 hours in duration, of which at least 60 hours is face-to-face contact time, shall be counted as 1.5 students for the purpose of this calculation.

D. The parties acknowledge that full attainment of the goals of Phase II does not obviate the need to increase further the number of Hartford-resident minority students in reduced-isolation settings. By at least September 15, 2012, the parties to this Stipulation will meet to review the progress made under the Stipulation and to commence negotiations for a Phase III settlement, the purpose of which shall be to meet the demand for integrated education of Hartford-resident minority students.

III. Implementation

A. Phase II implementation shall be accomplished by implementation of a Comprehensive Management Plan and Regional School Choice Office, as described herein, for the purpose of providing quality design and implementation of this Stipulation in the interest of attaining the Phase II goals.

B. Comprehensive Management Plan

1. By September 30, 2008, the State, with input from the Regional School Choice Office, shall develop the major components of a Comprehensive Management Plan ("CMP") embracing the Voluntary Interdistrict Programs identified in Part I.A of this Stipulation, and designed to meet the Phase II goals within the term of this Stipulation. As detailed in Part III.B.2 below, the CMP must set out a connected series of goals, implementation methods, and measurements of success; centralize authority and accountability; ensure coordination of key facets of desegregation, including transportation, recruitment, and student support; provide strategic targets for evaluating progress; and evaluate and address educational funding needs throughout the Region. The requirements described below are minimum requirements that may be supplemented by the State provided that such supplemental content does not interfere with the tasks described herein.

2. By November 30, 2008, the State, with input from the Regional School Choice Office, shall develop a final CMP by a process that includes involvement of key stakeholder groups in Greater Hartford.

a. The CMP shall contain a process for determining demand for each of the Voluntary Interdistrict Programs by June 30, 2009.

b. The CMP shall contain annual strategic targets of progress.

c. The CMP shall include provision for the pairing of all Hartford regular schools, i.e. non-magnet schools, with Regional Magnet Schools or with Hartford Host Magnet Schools, for the purpose of engaging all Hartford Public Schools in the Sheff remedy.

d. The CMP shall include provision for the Regional Magnet Schools or other high performing magnet schools as determined by the State to serve as training centers for teachers and administrators throughout the Sheff Region, for the purpose of making these

schools assets to all districts in the Sheff Region in the training of educational staff in methods of quality integrated education.

e. The CMP shall include provision for measuring the actual capacity available in suburban school districts receiving students through Open Choice.

f. The CMP shall contain provision for appropriate and adequate academic and social support services for students participating in interdistrict schools, thereby supporting out-of-district students' acclimation, participation, retention, and school performance.

g. The CMP shall contain provision for expansion of all-day Kindergarten and summer programs for Open Choice students as a means of strengthening their performance and increasing their interest and retention in the program.

h. The CMP shall contain provision for expanded pre-school programs that are racially integrated and include Hartford-resident minority children as a means of boosting their school performance and assisting their parents to make informed choices on integrated K-12 schooling for their children.

i. The CMP shall contain provision for review and improvement of transportation services for interdistrict students attending Voluntary Interdistrict Programs, with a view toward improving service and shortening bus travel time in the interest of properly supporting the Sheff remedy.

j. In the review of transportation services as it applies to the Open Choice program, consideration shall be given to linking geographic areas of the Hartford Public School District with specific suburban districts as a means of increasing transportation efficiency.

k. The CMP shall contain provision for a process for the identification of sites for future interdistrict magnet schools. To the extent the CMP plans new schools hosted in suburban districts, it should describe the projected number of schools, the number of students who will be served by those schools, a process for designing those schools, and a system for calculating costs and providing necessary state expenditures.

l. To the extent the State intends to utilize new programs for desegregating schools in the region, such as charter schools, technical schools, and vocational schools, the CMP shall incorporate those plans into the State's infrastructure for administering existing Voluntary Interdistrict Programs and calculate the number of students expected to benefit from these programs.

m. The CMP shall contain a process for making recommendations on the financing models and funding levels of Interdistrict Magnet Schools and Open Choice, to include operating funds, capital funds, pre-opening development funds for magnets, transportation funds, payments by local school districts to interdistrict magnets, and the allocation of State per pupil assistance to sending and receiving districts, for the purpose of providing appropriate support for the Sheff remedy.

n. The CMP shall develop a process for making routine contacts with stakeholders throughout the Region and for linking the information gained through such outreach to substantive objectives.

o. The CMP shall ensure that there are clearly defined opportunities for students to enjoy a continuous K-12 education in reduced isolation settings.

p. The CMP shall contain a process for making recommendations for State executive or legislative action as appropriate, including recommended changes in Connecticut law necessary for effective implementation of the Sheff remedy. The CMP shall also contain provisions allowing for Plaintiffs and Hartford to review and comment on all proposed changes to Connecticut law and administrative regulation designed to implement the Sheff remedy.

q. The CMP shall provide for a common application process for Hartford-resident minority students submitting applications for placement in any of the Voluntary Interdistrict Programs. It shall also establish a method for determining the number of students deemed to be on a waitlist to participate in such programs.

r. The CMP shall contain provision for the Commissioner of Education to use his best efforts to encourage suburban school districts to participate and expand their participation in the Open Choice program.

s. The CMP shall contain provision for the Commissioner of Education to conduct an independent review of space availability of the suburban district(s) to implement the Open Choice program if the Commissioner believes a district has greater capacity than reported.

t. The CMP shall contain provision for the Commissioner to periodically evaluate the progress of participation in the Open Choice program and to take steps to increase participation. Such steps may include contact with school superintendents of suburban schools and locals boards of education, improving communications with parents of public school children in Hartford and the suburbs, developing programs for educating parents about the Open Choice program and, as appropriate, proposing legislative changes to support the Sheff remedy.

u. The CMP shall provide for the establishment of an information service center, to be housed within the Regional School Choice Office, for families seeking information and advice on options for integrated education. The information service center shall maximize the distribution of such information to families in the Sheff region; market seats and recruit students with the purpose of increasing interest in integrated education; provide for a single location at which to apply for all Voluntary Interdistrict Programs; provide services in appropriate languages to reach potential applicants and their families; and disseminate information through advertising, public service announcements, publication of brochures and pamphlets, and targeted recruiting of potential applicants at schools and locations where application levels have been inordinately low.

C. Connecticut State Department of Education Sheff Office:

1. The State shall establish a Sheff Office within the State Department of Education to create, develop, and oversee implementation of the Comprehensive Management Plan. The Sheff Office shall operate under the direct supervision of the Office of the Deputy Commissioner of Education.

2. In addition to its central responsibility with respect to creating and overseeing the CMP, the Sheff Office, working with Hartford, CREC, suburban school districts, and other stakeholders, shall serve as the central

authority in the planning, development, implementation, support, evaluation, monitoring, and reporting on the progress of all programs, functions, and strategies in the Greater Hartford Region designed to reduce the racial, ethnic, and economic isolation of Hartford-resident minority students ("Sheff programming"). Those programs, functions, and strategies in the Greater Hartford Region will include:

a. Connecticut Technical High Schools: expand seats for Hartford-resident minority students.
b. Expand Early Childhood Education Programs.
c. Expand Open Choice seats (using Early Beginnings).
d. Expand Academic and Student Support for Hartford-resident minority students in host and regional magnets, and Open Choice programs.
e. Enhance Interdistrict Cooperative Grant opportunities in the Sheff Region.
f. Enrollment Management Plans (EMPs): require, review and approve (or disapprove) EMPs for non-compliant Interdistrict Magnet Schools in the Sheff region.
g. Interdistrict Magnet Schools: Evaluate the ability of existing schools to become Sheff compliant, and facilitate the planning, development, and opening of new interdistrict host and regional magnet schools.
h. Legislation and Policy Initiatives: recommend technical amendments and legislative/policy changes to implement Sheff efforts.
i. Survey Instrument: create a survey instrument to inform the CMP, and gather information from Hartford and suburban parents to gauge their willingness to participate in regional school choice options.
j. Regional School Choice Office: facilitate the planning, development and opening of said office. Oversee the administration and budget for the office.
k. Regional Vocational Agriculture Centers: expand seats for Hartford-resident minority students.
l. State Charter Schools: facilitate the planning, development and opening of such schools.
m. Transportation: facilitate the establishment of a transportation system that encourages and supports the participation of Hartford and suburban students in Sheff programming throughout the Greater Hartford Region.

D. Regional School Choice Office

1. The State shall create and fund a Regional School Choice Office to support the collaborative effort between the State and the group of stakeholders, including but not limited to CREC, that will support Sheff initiatives and programming to reduce the racial, ethnic, and economic isolation of Hartford-resident minority students. The Regional School Choice Office shall be headed by an Executive Director to be designated by that office in collaboration with the Sheff Office. The State may withhold disbursements to the Regional School Choice Office if the requirements of this paragraph are not met by May 30, 2008.

2. The Regional School Choice Office shall have responsibility for:

   a. Collaboration and planning that facilitates the development and implementation of exemplary school models, to enable Hartford Host Magnet Schools to improve educational performance and achieve the Desegregation Standard, and to serve as training centers for teachers and administrators in the Greater Hartford Region and beyond;
   b. Comprehensive marketing and recruitment of students for all Sheff programming, including the coordination of such efforts with the Connecticut Technical High Schools, Regional Vocational Agriculture Centers, and any newly created interdistrict magnet programs and state charter schools in the Greater Hartford Region;
   c. Development of a comprehensive strategy for outreach to Hartford and suburban parents to inform the development of, and participation in Sheff programming opportunities in the Greater Hartford Region;
   d. Transportation of Hartford and suburban students who participate in Sheff programs;
   e. Development and implementation of a common application process for all Interdistrict Magnet Schools in the Greater Hartford Region, and a single location to obtain applications for all other Sheff programming;
   f. Development and maintenance of statistics and data, including information regarding demand (e.g., number of applicants, demographics for applicants, program choices), enrollment, retention, and Hartford and suburban wait list data for reporting purposes; and
   g. Development and implementation of a lottery process for Sheff compliant programming in the Greater Hartford Region.

h. Starting May 30, 2008, the duties of the Joint Hartford/CREC Office, established by an agreement dated January 22, 2008, between Hartford, CREC, and the State Department of Education, will be subsumed by the Regional School Choice Office.

3. The Regional School Choice Office shall include one representative of the Plaintiffs funded by the State at an amount equal to 75% of the representative's annual salary, up to a maximum of $50,000 per year. This representative shall be involved in the planning and implementation process from the date that the office is established, and shall perform other duties as specified in the CMP, but shall not have any decision-making authority or veto power over decisions made by the Regional School Choice Office.

IV. Accountability

A. Enrollment Management Plans

1. By October 1, 2008, any Existing Magnet School that continues to exist as a magnet school on that date and that does not meet the Desegregation Standard must be operating pursuant to an Enrollment Management Plan, as approved by the State Department of Education. Notwithstanding the waiver provisions of Conn. Gen. Stat. § 10-264*l*(b), the State may continue to award operating grants to Existing Magnet Schools operated by Hartford Public Schools upon proper application for such payments in accordance with Conn. Gen. Stat. §10-264*l* through and including the 2009-2010 school year (the "Extension Period") for good cause and provided it is operating under a State approved Enrollment Management Plan that demonstrates compliance with the Desegregation Standard by the end of the Extension Period, or some lesser time period. The Extension Period may be extended for an additional two years for those Existing Magnet Schools operated by Hartford Public Schools that are under construction or renovation upon a request for such extension and approval of an appropriate Enrollment Management Plan by the State. The Enrollment Management Plans submitted pursuant to this Part IV.A shall be updated on an annual basis and subject to review and approval by the State during the term of the Extension Period.

2. A new Interdistrict Magnet School, Charter School, Regional Vocational Agriculture Center, or State Technical School opened during Phase II that does not meet the Desegregation Standard by the beginning of its second year of operation must be operating pursuant to an Enrollment Management Plan, as approved by the State Department of Education.

3. The State is responsible for overseeing the development, implementation, and effectiveness of each Enrollment Management Plan. The Enrollment Management Plan shall be directed toward compliance with the Desegregation Standard within the period specified in such Plan as approved by the State.

B. Reporting, Consulting, and Adjusting

1. The Plaintiffs shall have 30 days following receipt of the September 30, 2008 draft of the CMP to submit written objections to the State, which the parties shall meet to discuss within one week thereafter. Any unresolved objections shall be submitted to the State in writing within two weeks of that meeting. The State shall respond to this second submission by November 30, 2008. The parties may by agreement extend the deadline for completion of the CMP to accommodate responses to Plaintiffs' objections.

   a. Plaintiffs may seek judicial review of any objections that remain unresolved in the final version of the CMP developed by November 30, 2008.

   b. In the event that Plaintiffs seek judicial review pursuant to the preceding paragraph, failure to timely complete the CMP shall not constitute a material breach of this Stipulation to the extent that the delay is caused by judicial proceedings.

2. The parties agree to meet no less than four times per school year, to assess progress in the implementation of the terms of this Stipulation and the CMP.

   a. Two weeks prior to each quarterly meeting, the State will provide the parties with a written report on the progress toward implementing the terms of the Stipulation and the CMP. The written report shall include, but not be limited to, budgeting projections and updates, and a description of any obstacles the State has identified to achievement of the Phase II goals as well as steps taken to address those obstacles.

3. There shall be an annual status conference with the Court throughout the Phase II term scheduled jointly by the parties.

4. By October 1 of Year 4 of the term of this Stipulation, the parties shall meet, if necessary, to negotiate adjustments to the percent of demand that is required to be met as established in Parts II.B.2 and II.C.3.

5. The State shall grant one expert retained by the Plaintiffs reasonable access, through requests to the Department of Education Division of Legal Affairs, to any State Department of Education staff member and to 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 Plaintiffs will monitor implementation of this Stipulation and the CMP for the purpose of contributing to the effectiveness of the State's efforts. The State shall reimburse the Plaintiffs annually for the costs of monitoring CMP implementation and compliance with this Stipulation, up to a maximum of $7,500 per year.

6. In the interest of effective monitoring, the State shall timely provide such information and data that may be requested by the Plaintiffs or Hartford, and relevant State employees shall be made available to Plaintiffs or Hartford for discussions and interviews. Plaintiffs or Hartford may request data and information, in forms and formats suitable for monitoring purposes, through the Department of Education Division of Legal Affairs.

7. Plaintiffs will provide the State and Hartford copies of Plaintiffs' monitoring findings and recommendations, and will make Plaintiffs' counsel or other representatives available to the State and Hartford to discuss such reports on request. Plaintiffs' monitoring recommendations shall be given due consideration by the State for implementation.

C. Material Breach and Enforcement

1. The following failures shall be considered matters of material breach by the State:

   a. Failure by December 31, 2008 to develop the CMP.

   b. Significant failure to meet each interim performance benchmark identified in Part II.C.5 of this Stipulation. A "significant failure" shall be deemed to have occurred for a given year if performance for that year, as calculated pursuant to Part II.C.5 of this Stipulation, falls short by more than one percentage point of the annual benchmark for that year, as identified in Part II.C.5 of this Stipulation.

c. Significant failure to meet the performance goals defined in Part II.B.2 and the requirements of Part III.B.2 of this Stipulation. A "significant failure" with respect to Part II.B.2 shall be deemed to have occurred if performance of the final goal, as calculated pursuant to Part II.C of this Stipulation, falls short by more than one percentage point of the goal for Year 5, as identified in Part II.C.3 of this Stipulation. This provision with respect to Part II.B.2 is subject to the provision of Part II.C.4. This provision with respect to Part III.B.2 is subject to the advance-notice provisions of Part IV.B.1 before Plaintiffs may seek judicial review.

d. Failure to meet the requirements of Part IV.A of this Stipulation.

e. Failure by May 30, 2008 to establish the Regional School Choice Office to meet the requirements of Part III.D of this Stipulation.

2. Each material breach listed in Part IV.C.1 of this Stipulation shall be enforceable by the Plaintiffs in court. The Plaintiffs may initiate court action on the date the material breach occurs or becomes known.

a. For a material breach as identified in Part IV.C.1.b or c, an enforcement action may proceed with no cure period on the date that October enrollment data for a given school year becomes available, which in no event shall be later than November 15 of that school year.

b. For a material breach as identified in Part IV.C.1.a, d, and e, the Defendants may without penalty seek to cure any alleged breach for a period of three months. During this three-month period, the Court shall not hold an evidentiary hearing nor enter a remedial order regarding the particular breach alleged, nor shall the Plaintiffs take depositions, demand documentation or seek other discovery beyond census information for schools and programs covered by this Stipulation, materials descriptive of such schools and programs, and any individual Enrollment Management Plans that have been implemented pursuant to Part IV.A of this Stipulation.

3. Nothing in this Stipulation shall prevent the Plaintiffs from seeking further enforcement of the Supreme Court's 1996 *Sheff v. O'Neill* decision following the expiration of this Stipulation.

V. Adoption of Phase II Stipulation and Proposed Order

A. The procedure for adoption of the Phase II Stipulation and Proposed Order shall be as follows: After the document is signed by counsel for Plaintiffs, the Attorney General shall promptly submit it to the General Assembly pursuant to Conn. Gen. Stat. § 3-125(a). Unless this Stipulation and Proposed Order is approved (or not disapproved) by the General Assembly in its entirety, without modification or addition, it shall be null and void. If this Stipulation and Proposed Order is approved or deemed approved by the General Assembly, the parties shall submit the Stipulation and Proposed Order to the Court for approval at the earliest possible time.

PLAINTIFFS
MILO SHEFF, ET AL.

By: 

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DEFENDANTS
WILLIAM A. O'NEILL, ET AL.

By: _____

Richard Blumenthal
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SO ORDERED:

_____
Superior Court Judge

DATE: 6/11/07