

EXECUTIVE SUMMARY – STUDENT ASSIGNMENT ISSUES
Paragraph 44 Independent Review (Report #20)
The SFUSD Consent Decree

The District deserves great credit for its good faith efforts to develop and implement a new student assignment plan under the terms and conditions of the Consent Decree as modified by the Settlement Agreements of 1999 and 2001.¹ In addition, the District has directly addressed procedural issues documented in Report #19, and has succeeded in implementing a much more streamlined process for the period of 11/02 through 6/03.

We have found at this point in time, however, that the post-1998 approaches to student assignment in San Francisco are not achieving key results contemplated by the terms and conditions of Consent Decree Paragraphs 12 and 13.²

It is important to note at the outset that neither this central finding nor the analysis that follows are intended as a criticism of the District. Indeed, we have often recognized the District's efforts in this context, and have referenced the difficulties inherent in attempting to fulfill a race conscious mandate without being able to use race in the placement of students.

Paragraph 12 of the decree still requires the District to "...eliminate racial/ethnic segregation or identifiability in any SFUSD school, program, or classroom and to achieve the broadest practicable distribution throughout the system of students from the racial and

¹ As we indicated in Report #18 and Report #19, the District adopted a new student assignment plan pursuant to the Settlement Agreement of 2001 for transfer students and for those entering kindergarten, sixth grade, or ninth grade. Enrollment is determined according to (1) a list of the specific schools requested and ranked by the student (up to five); (2) computerized diversity index calculations for each requested school as dictated by the applicant pool it receives; and (3) a reconciliation process that places a student who has been admitted to more than one school into his/her more highly ranked institution. *See* Attachment B, July 2001 Settlement Agreement. For a detailed overview of the new student assignment plan and its accompanying diversity index, *see* Report #19, Pages 79-83.

² The District has now gone through five years of enrollment applications and student assignment procedures during which it has been unable to use race as a factor. Over the first three years (Spring 99, 99-00, and 00-01), the District employed a "default" plan, whereby it basically kept the same procedures in place that had been in place before, but removed any caps, priorities, and goals that included race. Over the last two years (01-02 and 02-03), it has employed the new student assignment process with its accompanying diversity index, adopted pursuant to the July 2001 Settlement Agreement.

ethnic groups which comprise the enrollment.”³ As we have reported every year since 1999, however, the District began to experience severe racial and ethnic resegregation at a significant number of its schools in the aftermath of the 1999 Settlement Agreement.⁴ And our analysis in this report of final results for the first year of the new plan and its accompanying diversity index, along with our most recent findings for the second year of the plan, together reveal troubling patterns in general and a continuing slide toward additional resegregation.

Final enrollment data for the first year of the new student assignment plan show that while 26 schools were projected to be severely resegregated at one or more grade levels, the actual number turned out to be 34. And the most recent student assignment figures for Fall 2003 show that 35-38 schools are now projected to be severely resegregated (60% or higher of one race/ethnicity) at one or more grade levels. Since final resegregation figures have tended to be higher than the projected figures in recent years, there is now concern that the actual number of resegregated schools will be even higher by the fall.

Number of SFUSD Schools Severely Resegregated At One or More Grade Levels (by Race/Ethnicity)			
	For 01-02	For 02-03	For 03-04
# of Severely Resegregated Schools (Projected)	26	26	35-38*
# of Severely Resegregated Schools (Actual)	30	34*	?

* = new findings

³ In addition, Paragraph 13 requires the District to (1) avoid choosing sites for special programs, (2) avoid facility utilization policies or practices, and (3) avoid transportation policies “*that disproportionately burden any racial/ethnic group.*” (emphasis added).

In Report #14 and Report #15, we documented in great detail the picture of a District that by 1998 had become substantially desegregated school-by-school. While we also documented the work that still needed to be done to desegregate by program and classroom, we noted the great progress that the combination of a desegregation focus and an academic achievement focus had brought in so many schools and for so many students. See, e.g., *Desegregation and Educational Change in San Francisco: Findings and Recommendations on Consent Decree Implementation* (July 1992). The Committee was chaired by Professor Gary Orfield, and included Barbara L. Cohen, Gordon Foster, Robert L. Green, Paul Lawrence, David S. Tatel, and Fred Tempes.

⁴ See Report #16 at Pages 52-58, Report #17 at Pages 82-91, Report #18 at Pages 154-166, Report #19 at Pages 73-93 (documenting the growing number of schools with student enrollment at or above 60% of one race/ethnicity at either the incoming grades and/or other grade levels as well).

Examining the data in greater detail, we compiled the following additional findings:

1. At the incoming class level alone (K, 6, and 9), the number of severely resegregated schools is projected to be 27, up from 20 projected and 21 actually severely resegregated at the incoming grades last year.⁵ This includes 22 elementary schools (compared with 16 projected, 17 actual last year), 4 middle schools (compared with 3 projected, 3 actual last year), and 1 high school (compared with 1 projected, 1 actual last year). In addition, 7 other schools are on the “watch list,” indicating continued resegregation and an incoming student population that is approaching 60% of one race/ethnicity.

2. Significant increases in resegregation percentages are projected for the following schools at the incoming grade level: Key - up from 55.4% Chinese Amer. to 73.7% projected, Garfield - up from 61.8% Chinese Amer. to 84.2% projected, Sanchez - up from 59.6% Latino to 72.4% projected, Lau - up from 72.7% Chinese Amer. to 83.7% projected, Parker - up from 56.9% Chinese Amer. to 69.1% projected, Chin - up from 77.4% Chinese Amer. to 87% projected, and Drew - up from 60% African Amer. to 70% projected.

3. With regard to Lowell High School, the projected lack of a critical mass of African Americans and Latinos continues to be a major issue. As of now, it is projected that the African American percentages at Lowell will be 2.3% (9th grade), 2.6% (10th grade), 1.5% (11th grade), and 0.8% (12th grade). For Latino students, the projected percentages are 5.7% (9th gr.), 4.1% (10th gr.), 4.4% (11th gr.), and 3.6% (12th gr.). It is unclear at this point whether these numbers do or do not include the special ed students.

4. In addition to the 27 schools with severely resegregated incoming classes, a review of district-wide data for Grades 1-5, and Grades 7-8 reveals 9 more schools that have resegregated at a minimum of 1 grade, and 3 others that arguably belong on the list if you factor in the large "decline to state" figures. This brings the total number of severely resegregated schools, based on this preliminary analysis, and using the same method we have used every year since 1999, to anywhere from 35-38, compared with 26 each of the past two years.⁶ As a comparison point, it is important to note that in 1998 and 1999, the last years SFUSD could use race in student assignment, virtually all District schools were either below 40-45% of any one race/ethnicity or only a few percentage points over.⁷

⁵ While we have tried to factor in the "decline to state" numbers, which are significant at 21 elementary schools, actual projected resegregation may be even more egregious than this preliminary analysis shows. The “decline to state” issue is discussed in greater detail in a special sub-section below, *infra*, Paragraph 13 portion of this report.

⁶ It is important to note that the Settlement Agreements of 1999 and 2001 map out a process whereby evidence of "identifiable racial or ethnic concentration...that...adversely affects ...educational goals or programs" can lead to adjustments in the assignment method. See modified version of Paragraph 13 (m), July 2001 Settlement Agreement, Pages 5-6.

⁷ In 1998, only four schools were more than 4.5% over the 40/45% racial caps, and none more than 6.7% over. In 1999, eight were more than 4.7% over the caps, but none more than 6.7% over. See Report #15, at 48-55, Report #16, at 41-49.

Below, in a special, expanded Paragraph 13 section, we focus in detail on these numbers, document related findings, present a detailed analysis of relevant issues that have arisen, and provide additional discussion regarding prospective implications.

The following is a summary of key findings set forth in that section:

- There is an apparent lack of congruence between the current diversity index factors and the goals of Consent Decree Paragraphs 12 and 13. We found that for a very large percentage of the most severely resegregating incoming classes, the diversity index shows that the schools are projected to be among the most diverse, and yet the racial/ethnic enrollments show that the schools are projected to be among the least diverse with regard to race.⁸
- We continue to find that the increase in the “decline-to-state” numbers at the elementary level may in reality cause even more schools to be added to the severely resegregated list, once the actual races and ethnicities of the students can be ascertained. The ongoing issue of significant “decline to state” numbers has already impacted the ability of the monitoring team to precisely identify enrollment trends, attendance patterns, and other related issues that are central to the implementation of this Consent Decree.
- In an analysis of socioeconomic status data from diversity index tables, we found that at the elementary level, about half of the incoming classes have projected enrollments of 60% low SES⁹ or more. At the middle school level, the number of incoming classes with 60% or more low SES jumps to 18 out of 25 - 72% of the schools.¹⁰ And at the high school level, 6 out of the 13 basic high schools have projected enrollments of 60% low SES or more. But 11 out of 13 (all but Lowell and SOTA) have projected enrollments of 52% low SES or more. These findings are consistent with our earlier findings in Reports #16 and #17, that this is a relatively low SES student population across the board, with children of poverty represented everywhere in the City.

⁸ We note, in this context, that contrary to the perception of many people whom we have spoken with in the community, the computerized diversity process may not play a direct role in the final placement of students at a very substantial number of the schools. We found, for example, that over 60% of the schools were apparently able to admit all students who applied during the first round of computer runs; (b) at the end of the second round of computer runs, over half of the district’s schools ended up filled to less than 90% of capacity. Since all applicants are admitted to their schools of choice so long as the chosen school has the capacity to accommodate them, and the diversity index does not operate unless there are more applicants than designated capacity, the diversity index does not operate to determine final placements in those settings. We found, therefore, that at least 19 schools, the diversity index played no direct role in the final placement of students, and that the number was probably much higher during the first round of computerized placements.

⁹ Low SES under the diversity index is determined in one of three ways: free or reduced lunch, Calworks, or public housing. Student/family participation in any one of these three leads to a designation of “low SES” status under the current version of the student assignment plan.

¹⁰ And 14 out of 25 have projected enrollments of 70% low SES or more.

- With regard to low SES figures, an analysis of the elementary schools with the ten highest percentages of low SES incoming classes reveals that the campuses are distributed across different neighborhoods, but that all are located east of Twin Peaks. Of these ten schools, Chin scored an 8 on the Academic Performance Index (API),¹¹ Lau a 7, Parker a 5, and Tenderloin a 4. Four other schools were at 3, and three others at 2. None of the schools with a low API of 1 are on this list. Thus the lowest performing elementary schools in the District are *not* the schools with the lowest projected SES percentages.
- We have found that a significant number of schools that are resegregating at one grade level or more have either dropped in overall academic achievement since 1997 or have remained low performing, resisting a variety of reform efforts designed to improve academic achievement at those sites. We have identified a total of 24 schools in these categories, and note that three of the six Phase One Schools – Drew, Malcolm X, and Horace Mann – are among the most substantially impacted in this regard.¹²
- At a great majority (18) of the 24 schools which are resegregating and demonstrating lower academic achievement, the special education enrollment figures are higher than the district average, in some cases approaching or exceeding 1 in 5 students.¹³ We note that special education students often require additional resources, and that both classroom teachers and school site administrators are given additional responsibilities and additional tasks for every student who is identified as disabled under the IDEA. At the schools with high percentages of special education students, then, educators are often faced with additional obligations requiring additional time, energy, and commitment, even if there are additional staff to assist them in this role.¹⁴

¹¹ As reported elsewhere in this Report -- and extensively in previous reports -- at the beginning of each calendar year the state releases its Academic Performance Index (API) tables, which include comparative lists of schools based on a scale of 1-10, with 1 being the lowest possible score and 10 being the highest. This index is prepared pursuant to the California Public Schools Accountability Act. *See* California Education Code, Section 52050 et seq.

¹² At the beginning of the Consent Decree (1983-1985), six “Phase One” schools were originally targeted for a wide range of reforms pursuant to the decree’s mandates. The ‘Phase One’ schools included George Washington Carver, Charles Drew, and Malcolm X (formerly Sir Francis Drake) elementary schools, Martin Luther King and Horace Mann middle schools, and Phillip & Sala Burton High. King and Burton were brand-new schools, created by the Consent Decree. The other four were reconstituted. Report #19 at Page 125, note 91.

¹³ Schools with particularly high overall numbers include Starr King (22.3% special ed), Maxwell MS (21.8%), O’Connell HS (18.3%), and Mission HS (18.2%). Particularly high grade level percentages that should be noted include Starr King’s kindergarten (41.4% special ed), Maxwell’s Sixth Grade (34.1%), O’Connell’s Twelfth Grade (30.1%), Sanchez’s Fifth Grade (29.8%), and Mission HS’s Twelfth Grade (25.2%).

¹⁴ in the end, as discussed below in greater detail, it must be recognized that at schools with high numbers of students with disabilities, the existing certificated staff is required to do more in the course of any given day, as compared to schools with average to below average special ed populations. This dynamic may limit the ability of classroom teachers and school site administrators at low performing schools to focus on the range of issues required to increase academic achievement for both their program students and their general education students.

In addition to the above quantitative findings, we have assembled a substantial amount of qualitative data through school site interviews, which we document in great detail in the main section of this report. Areas of inquiry in this context include the perceived impact of the student assignment process at the school site level, relevant academic achievement patterns, research findings and basic data points regarding city geography, and perspectives on parental choice patterns. Finally, we explore the previously unexamined impact of the current SFUSD transportation system.

We now know that not only has the new plan failed to lower the resegregation percentages, but that the number of schools severely resegregated at one or more grade levels is continuing to increase...and could easily top 40 this fall. It has now been two years since the District adopted and implemented the 2001 student assignment plan, and five years since the student assignment plan that had been in place from 1983 to 1999 was modified to remove race as a factor. Given the continuing movement toward resegregation documented in these pages, a trend that appears to be accelerating significantly this year, it is clearly time to step back and reassess the range of options available to address these realities.¹⁵

We note with approval that the District, recognizing the need to move forward in this context, has reestablished the Student Assignment Taskforce. There is no question that more can and should be done to accomplish the twin Consent Decree goals of desegregation and academic achievement. The District's STAR schools program is aggressively targeting low performing schools, and we commend the District for its ongoing efforts in this regard. But the mandate of the decree has always included desegregation as a strategy for improving education quality as well as maximizing equal educational opportunity. We urge the members of this taskforce and the relevant district

¹⁵ See, e.g., *Grutter v. Bollinger*, 2003 WL 21433492, where the U.S. Supreme Court ruled that student body diversity at the higher ed level was indeed a compelling state interest under the Fourteenth Amendment that justified the use of race in the admissions process at the University of Michigan Law School, so long as such use was narrowly tailored to further this interest.

officials to develop and implement forceful, concrete steps that directly address current resegregation patterns. Indeed, we urge the taskforce to put every possible option on the table.

Whether the District ultimately chooses to stay with the current plan, modify the current plan, or seek to ascertain new directions and strategies, there are many things that can be done in this context. Possible changes in the status quo might include, but are not limited to, refinements in the school district's bus transportation system, modifications in the use and capacity of facilities, changes in programmatic offerings such as bilingual education and special education at individual school sites, adjustments in current methods of placing English Learners and students with disabilities, upgraded after-school programs, additional child care support, and continued progress toward better and more targeted recruitment and outreach.

From the beginning, the Consent Decree has contemplated a partnership between the school district and the entire San Francisco community. This partnership has been identified in original Consent Decree paragraphs, in the Special Plan for Bayview-Hunters Point, and in the 1992 Committee of Experts Report to this Court. All these documents recognize that the school district cannot by itself solve the range of problems addressed in the decree and in the monitoring team reports that have followed. We therefore urge all members of the community to engage in a reassessment of current realities at this very important point in time.