

MILO SHEFF, et al.	:	
	:	
Plaintiffs	:	SUPERIOR COURT
	:	
v.	:	COMPLEX LITIGATION DOCKET
	:	
WILLIAM A. O'NEILL, et al.	:	AT HARTFORD – X07
	:	
Defendants	:	
	:	June 10 <sup>th</sup> , 2016

**STIPULATION AND 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 City of Hartford intervened in this action on January 4, 2007; and

WHEREAS, the Plaintiffs and Defendants entered into a Stipulation and Order dated January 22, 2003 (the "Phase I Stipulation") and a second Stipulation and Order dated April 4, 2008 ("Phase II Stipulation"), which set forth programs for voluntary interdistrict opportunities to lessen racial, ethnic, and economic isolation; and

WHEREAS, the parties executed a one year extension agreement, dated April 30, 2013, to continue the Phase II Stipulation, as amended, through June 30, 2014 ("Phase II Stipulation Extension") to achieve the compliance standards of the Phase II Stipulation for the 2013-14 school year; and

WHEREAS, the Plaintiffs and Defendants entered into a Stipulation dated December 13, 2013 ("Phase III Stipulation"), which set forth a one year plan for reasonable progress in reducing racial, ethnic, and economic isolation for Hartford-resident minority students through June 30, 2015; and

*filed 6/10/16 ab/co*  
*412.00*

WHEREAS, the parties executed a one year extension agreement, dated February 23, 2015, to continue the Phase III Stipulation through June 30, 2016 (“Phase III Stipulation Extension”) to continue the progress achieved in the Phase III Stipulation for another one year period; and

WHEREAS, the parties mutually desire to continue the Phase III Stipulation for an additional one year period through June 30, 2017, as a second extension of the Phase III Stipulation (“Phase III Stipulation Second Extension”); and

WHEREAS, this agreement represents reasonable measures to reduce racial, ethnic, and economic isolation in the Hartford Public Schools for the 2016-17 school year until June 30, 2017; and

WHEREAS, the parties are cognizant that efforts will need to continue beyond June 30, 2017 to further reduce racial, ethnic, and economic isolation in the Hartford Public Schools; and

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

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

## **I. EXTENSION OF STIPULATION**

- A. Pursuant to mutual agreement of the parties, the time period applicable to the Phase III Stipulation, as defined in Section I.A. of said agreement, and extended by the Phase III Stipulation Extensions shall be extended for a period of one year, until June 30, 2017, except where this Stipulation extends the period of implementation beyond June 30, 2017, such as in Sections III.A. and III.B.1. and 2 of the Phase III Stipulation Extension. If there is any direct conflict between any provision of the Phase III Stipulation, the Phase III Stipulation Extension and this second extension thereto, the language of this Phase III Stipulation Second Extension will control.

## **II. CHANGES TO SECTION II: DEFINITIONS**

- A. The following changes are made to Section II of the Phase III Stipulation:
  1. Section II.A. is amended to add the following clarification to the new expanded Voluntary Interdistrict Programs for 2016-17: “The new or expanded Voluntary Interdistrict Programs contemplated for 2016-17 are set forth in Section III of this second extension agreement.”
  2. Section II.B.5. shall provide that “Existing Magnet Schools are those Interdistrict Magnet Schools that are in operation during the 2015-16 school year.”

3. Section II.M.1. is amended to add the following clarification to the definition of a reduced-isolation setting: “A Voluntary Interdistrict Program, as identified in the Phase III Stipulation, or Hartford Public School shall be deemed to provide a reduced-isolation setting if enrollment is such that the percentage of enrolled students who are identified as any part Black/African American, or any part Hispanic, does not exceed 75% of the school’s total enrollment. A school shall be deemed to provide a reduced-isolation setting so long as it does not deviate by more than 1% from the 75% standard and, is operating pursuant to an Enrollment Management Plan (“EMP”) as set forth in Section V.A. Any such acceptable deviations shall not exceed three (3) schools for any single school year. The EMP for any such school deemed compliant as a result of the 1% allowance shall be revised jointly by the State and the school’s operator, with an opportunity for comments by the plaintiffs’ representative. The State shall provide the updated EMP to the plaintiffs’ representative within one week after approval. The State may at any time exercise its right to seek an audit of the school’s data and records pertaining to student race and ethnicity to verify the accuracy of the data. If the State determines that a school is statistically not different from or within 2% of the reduced isolation standard as of December 1, 2016, and an audit is sought, no action for material breach may be brought until the audit has been completed and the State certifies the compliance data for the school unless such audit or certification is not completed and reported to the Plaintiffs within 60 days.”

### III. CHANGES TO GOALS AND PERFORMANCE:

#### A. The following changes are made to Section III of the Phase III Stipulation:

1. Section III.A.2. is amended to add the goal for the 2016-17 school year as follows: “The goal of the Phase III Stipulation Second Extension is attained if the percentage of Hartford-resident minority students in a reduced-isolation educational setting, as defined in Section II.M., is equal to or greater than 47.5 representing a 2% increase over the 2015-16 school year. Pursuant to the state’s efforts to meet the goal set forth herein, the state shall fund the approved increases in enrollment for planned new grades for the 2016-17 in accordance with Section III.B.1.a. of this Phase III Stipulation Second Extension irrespective of whether such growth increases the percentage of Hartford-resident minority students in reduced isolation settings over 47.5%.
2. Section III.A.3. is revised to read: “The goal of the Phase III Stipulation Second Extension for the percentage of Hartford resident minority students in reduced isolation settings in any public school is to be attained primarily through implementation of the Voluntary Interdistrict Programs defined in Section II.A. of the Phase III Stipulation

3. Section III.A.4. is revised to add the following clarification: "Defendants shall use available resources to plan, develop, open, and operate the schools and programs necessary to achieve the 47.5% goal benchmark set forth in Section III.A.1. of this Phase III Stipulation Second Extension within the one year extension period. Deviation from any provision(s) of this extension with respect to schools, grades, magnet seats offered or filled, Open Choice seats offered or filled, Interdistrict Cooperative programs offered or filled, or legislation proposed or passed into law, shall not be a material breach so long as at least the 47.5% goal of this extension agreement is met, subject to Section V.D.1.a. of the Phase III Stipulation."
4. Section III.A.5. is revised to add the following clarification: "Performance of the 2016-17 goal 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."
5. Section III.A.6. is revised to add the following clarification: "Notwithstanding the Phase III Second Extension Term specified in Section I.A., the grace periods for inclusion of certain schools in the performance benchmark calculation as set forth in Section III.A.7.b.-d. of the Phase III Stipulation, as amended by this second extension and the Phase III Stipulation Extension, and in Section IV.A. herein, shall survive the expiration of this Phase III Second Extension Agreement."
6. The enrollment data used to calculate goal compliance, as referenced in Section III.A.7.a., shall be based on the October enrollment data for 2016-17 for purposes of calculating performance of the 2016-17 goal, and will be made available to the Plaintiffs and the City of Hartford on or before December 1, 2016; provided, however, that all operators of Sheff-related programs have submitted data that is free of material discrepancies and meets the requirements set forth in the "Timely and Accurate Data" section of the Connecticut State Department of Education Data Collections Guide for Schools and Districts, 2015-16, on or before October 30, 2016. In the event transmission of the goal calculation is delayed because said data is not received by October 30, the state shall provide the data to the Plaintiffs and the City of Hartford as soon as reasonably practicable but in no event later than 30 days after the December 1, 2016 deadline.
7. Section III.A.7.c. is revised to read: "All Hartford-resident minority students enrolled in the Hartford Journalism and Media Academy, and, the greater of, 250 Hartford-resident minority students or half of the total school enrollment at Rawson Lighthouse School, will continue to be included in the performance benchmark calculation in 2015-16, 2016-17 and 2017-18, and all Hartford-resident minority students enrolled in Capital Preparatory Magnet School (lower school and upper school), Classical Magnet School, and Capital Community College Magnet Academy shall be included in the 2016-17 and 2017-18 performance benchmark calculation, so long as each such school is operating

pursuant to an approved Enrollment Management Plan as set forth in Section V.A. The state shall collaborate with Hartford Public Schools to develop school-specific strategies in order to achieve compliance at the aforementioned schools within the waiver period.”

8. Section III.A.7.d. is amended to extend the grace period for another year to include 2016-17 Hartford-resident minority student enrollment at Breakthrough II Magnet School.
9. Section III.A.7.e. is amended to revise the Open Choice target to at least 300 additional seats for 2016-17 beyond the total number of Open Choice seats in 2015-16, including new seats, replacements for graduated student seats and for seats left vacant by student attrition or disqualification for the Open Choice program.

**B. Choice Programming Plans:** Section III..B.1. from the Phase III Stipulation Extension under the heading “Choice Programming Plans” is continued as part of the Phase III Stipulation Second Extension as if fully set forth here, and shall survive the expiration of this second extension agreement. The remaining Section III.B. is continued through June 30, 2017 as part of this Phase III Stipulation Second Extension with the following revisions to the introductory section under III.B. and to section III.B.2. of the Phase III Stipulation Extension as set forth below: “B. Choice Programming Plans: Section III.B. of the Phase III Stipulation Extension and this Section III.B. herein describe choice programming plans for the second extension of the Phase III Stipulation. Deviation from any provision(s) of this second extension agreement with respect to schools, grades, magnet seats offered or filled, Open Choice seats offered or filled, Interdistrict Cooperative programs offered or filled, or legislation proposed or passed into law, shall not be a material breach so long as at least the 47.5% goal of this second extension agreement is met, subject to Section V.D.1.a. of the Phase III Stipulation.”

1. **Capacity For Hartford-Resident Students At Existing Magnet Schools:** Section III.B.2. of the Phase III Stipulation Extension under “Capacity for Hartford-Resident Students At Existing Magnet Schools,” shall remain in effect for fiscal year 2016 as set forth in the Phase III Extension and is replaced with the following in this Phase III Stipulation Extension for fiscal year 2017:
  - a. For fiscal year 2017, subject to adequate funding appropriated by the General Assembly for this purpose, the SDE shall provide funding to support payment to Sheff magnet operators of the interdistrict magnet operating grant set forth in C.G.S. §10-264f in an amount equal to the grant that such magnet school operator was eligible to receive based on the enrollment level of the interdistrict magnet school program on October 1,

2013, or October 1, 2015, whichever is lower, plus any planned and approved increases in enrollment based on (i) adding planned new grades for the 2016-17 school year; (ii) adding planned new grades for school year 2014-15 and/or 2015-16 which were funded during the fiscal year ending June 30, 2015 or fiscal year ending June 30, 2016; and (iii) meeting the reduced isolation standard set forth in the Phase III Stipulation. To the extent funding appropriated for such purposes is less than the amount authorized by Section 10-264(c) of the Connecticut General Statutes, the SDE shall allocate any funds remaining in the Sheff settlement account on June 30, 2016 and June 30, 2017 respectively on the following basis to interdistrict magnet operators within the Sheff Region: 60% distributed proportionately among Hartford Public Schools, East Hartford Public Schools and Bloomfield Public School; and 40% distributed proportionately among the Capitol Region Education Council and Goodwin College.

- b. In accordance with the stated goal of the Phase III Stipulation, this second extension agreement seeks to expand reduced isolation opportunities for Hartford-resident students in existing Sheff magnet schools, as defined herein, by achieving a minimum of 50% Hartford-resident student enrollment out of the total school enrollment in said schools. Pursuant to this goal, existing Sheff full-time magnet schools, as defined herein, operating pursuant to Section 10-264(c)(3)(D) of the Connecticut General Statutes, shall manage their capacity for 2016-17 within the funding appropriated by the General Assembly for fiscal year 2017, to enroll a minimum of at least 50% Hartford-resident students among incoming students for 2016-17 subject to the following:
  - i. Subject to subsections b.ii.-iv. herein, any such interdistrict magnet school that fails to meet the minimum 50% Hartford-resident student enrollment of the total student enrollment for incoming students in any grade for 2016-17, using the October enrollment data for 2016-17 shall be ineligible for the grant amount set forth in Conn. Gen. Stat. §10-264(c)(3)(D) for one-half of the total number of non-Hartford resident students enrolled in the school over 50% of the total school enrollment but shall receive a grant amount for each such student at the applicable non-resident interdistrict magnet rate authorized by Section 10-264(c)(3)(A) to the extent otherwise eligible for a grant award under applicable laws. To the extent otherwise eligible under applicable laws, all existing Sheff full-time magnet schools subject to this paragraph shall be eligible to receive the per pupil rate authorized under Section 10-264(c)(3)(D) for all Hartford resident students enrolled in the school, and such schools that enroll at least 50% Hartford-

resident students among the incoming students in any grade for 2016-17 shall be eligible for said grant for all non-Hartford residents enrolled in the school.

- ii. "Incoming students" shall include students enrolled through the Regional School Choice Office ("RSCO") Lottery for 2016-17 in any grade served by the school. Town of residence for purposes of this Section shall be determined at the time the applicant accepts the placement through the RSCO Lottery.
  - iii. Upon written request and justification from an interdistrict magnet school operator, the SDE may authorize a waiver from the enrollment percentages stipulated in this Section III.B.1.b. to accommodate current written partnership agreements, copies of which shall be provided to the SDE, or compliance concerns at a specific magnet program. In the event of a waiver application, the interdistrict magnet operator must demonstrate efforts to maximize enrollment of Hartford-resident students and the SDE will limit the extent of any resulting waiver to address the specific compliance concern or seat requirements of verified current partnership agreements, including but not limited to, restricting the school operator from offering seats at the respective school to students outside the partnering towns except in the case of siblings. In no event shall an interdistrict operator that receives a waiver based on partnership agreements enroll students from partnering towns, other than Hartford, beyond the partnering town's documented allocation of seats in the school, and any such allocated seats that are not filled by students from the applicable partnering town shall be made available to Hartford resident students through the Regional School Choice Lottery until the school reaches the 50% enrollment requirement. The SDE shall provide the plaintiffs' representative with copies of all waiver requests, all approved waivers and all waiver denials.
  - iv. A school shall be deemed to meet the 50% minimum Hartford-resident enrollment requirement set forth in this Section II.B.(1)(b) for 2016-17 so long as it does not deviate by more than 1% from the 50% minimum.
- c. The state will propose legislation for 2016-17 which will allow all magnet school operators in the state of Connecticut to receive and administer their magnet operating grant as an aggregate magnet budget rather than a school specific allocation in order to provide operators with funding flexibility to operate magnet systems within their districts. The magnet grant would

continue to be calculated on a per pupil basis as authorized by statute and this second extension for operation of magnet programs.

#### IV. CHANGES TO SECTION IV: ACCOUNTABILITY

A. **Enrollment Management Plans:** Section IV.A. of the Phase III Stipulation Extension is replaced with the following:

1. By December 1, 2016, any Voluntary Interdistrict Program in which more than 75% of its student enrollment has identified itself as any part Black/African American, or any part Hispanic, must be operating pursuant to an Enrollment Management Plan, as approved by the State Department of Education. In accordance with the waiver provisions of Conn. Gen. Stat. § 10-264(b) and specifically incorporating Part IV of the 2008 Sheff v. O'Neill Phase II Stipulation and Order as if fully set forth here, the State may continue to award operating grants to such programs that contribute to the goals set forth in this Stipulation upon proper application, for good cause, and provided the school at issue is operating under a State approved Enrollment Management Plan that demonstrates compliance with the reduced isolation standard set forth herein within an agreed upon compliance period. The Enrollment Management Plans submitted pursuant to this Section IV.A shall be updated on an annual basis and subject to review and approval by the RSCO Director during the term of the waiver period.
2. Based on preliminary analyses of October 1 enrollment data, Enrollment Management Plans ("EMP") for those schools that SDE anticipates may be in non-compliance with the desegregation standard for the 2016-17 school year shall be submitted to SDE no later than October 15, 2016.
3. On or before October 25, 2016, the SDE shall provide the plaintiffs' representative with copies of the EMP for those schools that SDE anticipates may be in non-compliance with the desegregation standard for the 2016-17 school year. The plaintiffs' representative may provide written, non-binding comments within 5 business days of receipt of the EMP document and prior to SDE approval.
4. Prior to April 1, 2016, the RSCO Director organized an initial collaboration between Sheff staff from the Connecticut State Department of Education and the plaintiffs' representative to assess the effectiveness of the EMP relative to improving compliance at schools that are not compliant with the reduced isolation standard. Prior to June 1, 2016, the RSCO Director shall convene a working group, composed of the initial collaboration team as well as RSCO partners, and additional Sheff staff from the Connecticut State Department of Education to review the current EMP template and the recommendations of the initial



collaboration team. The working group will make recommendations for revisions for 2017-18 to the RSCO Director, as appropriate. Any resulting revisions to the EMP template shall be at the sole discretion of the RSCO Director.

**B. Material Breach and Enforcement:** The following changes are made to Section IV.B. of the Phase III Stipulation Extension:

1. Section IV.B.1. is revised to add the following clarification: "It shall not constitute a material breach of this second extension of the Phase III Stipulation if any of the new programs or program expansions set forth in Section III.B. herein or Section III.B. of the Stipulation Extension are not implemented in 2016-17 due to the failure to enact any necessary legislation, or any other reason, provided the performance goal set forth in Section III.A.2., as amended, is attained, subject to Section V.D.1.a. of the Phase III Stipulation, and provided the SDE and the administration have made a good faith effort to obtain the necessary legislative approvals on a timely basis."
2. Section IV.D.2. is updated to reflect the earliest date by which October enrollment data will be made available for 2016-17 as December 1, 2016.

3.

**C. Mediation:** The following changes are made to Section IV.C. of the Phase III Stipulation Extension:

1. The parties agree to schedule mediation with a mutually agreed upon mediator, to facilitate negotiations for a Phase IV Stipulation, no later than June 15, 2016. The parties acknowledge and agree that a goal of the mediation shall include clearly articulated benchmarks that, if achieved, would result in an end to court jurisdiction. Such benchmarks may include reasonably attainable levels of participation in reduced isolation settings, reflective of the values and goals of the Supreme Court decision in *Sheff v. O'Neill*, and may include one or more measures of sustainability. The parties agree to hold regular mediation sessions for the purpose of completing negotiations no later than September 15, 2016, unless extended by mutual agreement of the parties.
2. The mediation shall be conducted by a mediator mutually agreed upon by the Plaintiffs, the Connecticut State Department of Education, and the City of Hartford (the "parties"). The mediation process and all communications made within the mediation structure between the parties, the mediator, experts or consultants retained by the parties, and/or any other participants shall be confidential. No party shall request that the mediator testify at any subsequent legal, legislative, or other public proceedings. The parties will request that the mediator will not have contact with the judge assigned to this case.

3. In the event the parties are unable to reach agreement on a Phase IV Stipulation by October 15, 2016, unless extended by mutual agreement, or in the event the parties reach an impasse during mediation, Plaintiffs reserve the right to seek judicial relief to enforce the mandates of the Supreme Court decision for the period subsequent to the period covered by this Phase III Stipulation Second Extension.

## V. OTHER PROVISIONS

- A. Section V.A. of the Phase III Stipulation Extension is replaced with the following: “The Phase III Stipulation Second Extension and Proposed Order shall be adopted upon execution by counsel for all parties and, thereafter, submitted to the Court for entry as a court order at the earliest possible time.
- B. Section V.B. of the Phase III Stipulation Extension is replaced with the following: “In the event the Connecticut General Assembly does not: (1) approve the currently anticipated Sheff-related funding as needed to implement the plan set forth in the Phase III Stipulation Second Extension, and SDE cannot make up the shortfall with other funding; or (2) approve Sheff-related legislation recommended for adoption by SDE or submitted by administration to the Appropriations and Bonding Committees, which in SDE’s assessment (which assessment must be reasonable), to be reflected in a timely communication to plaintiffs, will substantially impair SDE’s ability to comply with the Phase III Stipulation Second Extension, plaintiffs reserve the right to seek further relief from the Court upon receipt of such information.”
- C. Section V.C. of the Phase III Stipulation Extension is updated to describe planned revisions to the Regional School Choice Lottery for the 2016-17 or 2017-18 application cycle, as set forth below:
  1. Section V.C.1. of the Phase III Stipulation Extension is updated to reflect October 15, 2016 as the goal date for the launch of the uniform application and lottery materials for the 2017-18 RSCO lottery in order to implement an early marketing and recruitment schedule for Sheff-related opportunities and maximize information distribution to families in the Greater Hartford Region.
  2. Section V.C.3. of the Phase III Stipulation Extension is updated to continue efforts by the SDE, RSCO partners and Plaintiffs’ Representative to plan the lottery process and choice programming to increase clearly defined opportunities for students to enjoy a continuous K-12 education in reduced isolation settings for 2016-17 and 2017-18.

3. Section V.C.4. of the Phase III Stipulation Extension is updated to continue efforts by the SDE and RSCO Partners to collect data and review proposals to change the lottery process for 2017-18 to achieve the following outcomes:
  - i. Reduce the disparities in the number of students in ELL programs in the Hartford neighborhood schools and Sheff magnet schools;
  - ii. Reduce the disparities in the number of students requiring special education services in the Hartford neighborhood schools and Sheff magnet schools;
  - iii. Provide recognition for families that participate in RSCO lotteries over several years without obtaining an offer.
  
4. The RSCO Director will continue to collaborate with RSCO partners, Sheff staff from the Connecticut State Department of Education, and the plaintiffs' representative, to review lottery and school choice procedures for purposes of formulating revisions to the RSCO lottery and/or school choice process for 2016-17 or a later lottery cycle, as appropriate, to stream-line the lottery process, implement parent-friendly reforms, improve communications to families, avoid duplication, encourage cooperation among the partners, implement additional recruitment efforts for non-compliant schools, and enroll students consistent with the terms of the Phase III Stipulation, as extended. Any resulting revisions to the lottery and school choice procedures shall be at the sole discretion of the RSCO Director.

PLAINTIFFS  
MILO SHEFF, ET AL.

By: Martha Stone Date: 6/10/16  
Martha Stone  
Center for Children's Advocacy  
University of Connecticut School of Law  
65 Elizabeth Street, Hartford, CT 06105

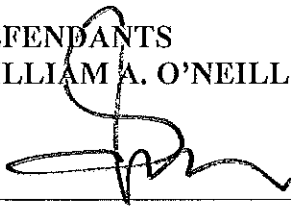
Wesley W. Horton Date: 6/10/16  
Wesley W. Horton  
Horton, Shields & Knox, P.C.  
90 Gillett Street, Hartford, CT 06105

Dennis Parker Date: 6/10/16  
Dennis D. Parker  
American Civil Liberties Union  
125 Broad Street, New York, NY 10004

Duell Ross Date: 6/10/16  
Duell Ross  
NAACP Legal Defense & Educational Fund, Inc.  
40 Rector Street, Fifth Floor  
New York, NY 10006

DEFENDANTS  
WILLIAM A. O'NEILL, ET AL.

By:



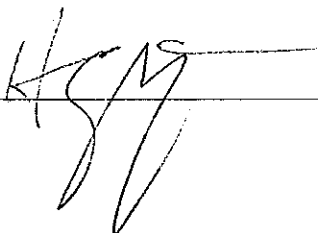
George Jepsen, Attorney General  
State of Connecticut  
55 Elm Street, Hartford, CT 06106

Date:

6/9/16

INTERVENORS  
CITY OF HARTFORD


By:



Date:

6/10/16

**SO ORDERED:**

  
\_\_\_\_\_  
Superior Court Judge

DATE:

6/10/16