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THE CIVIL RIGHTS PROJECT/PROYECTO DERECHOS CIVILES
GRADUATE SCHOOL OF EDUCATION & INFORMATION STUDIES
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Feb. 10, 2015

Timothy Blanchard, Director New York Regional Office
Office for Civil Rights, U. S. Department of Education
32 Old Slip, 26th Floor
New York, NY 10005-2500

OCR.NewYork@ed.gov

Dear Mr. Blanchard:

I have been working to carry out the study required by the agreement between the Buffalo Public Schools and the OCR over the fairness of the choice system for the city's Criterion schools. We have learned a great deal and will know much more after our surveys of parents and teachers are completed and our data analysis is finished. The administrative staff of the school district has been cooperating with our work. We believe that the survey of the parents in the district should be in the field in a week or two. Once we have the data from the surveys we will move as rapidly as possible to complete a report and submit it to the district and the OCR.

My practice in this study is to be open to talking with and learning from all groups in the city as our work proceeds. We have interviewed the principals of each school in depth, interviewed key administrators, had a meeting with interested school board members, visited schools, conducted focus groups and a large public meeting and have had an email account where anyone can write to us and many have. We have requested extensive data and received a good deal. We have designed surveys which will be administered soon. All of this has happened much slower than we had planned because it took a long time to come to an agreement with the school district over the contract and a long delay to circulate a request for proposals and contract for the survey implementation. Once the survey data is collected and delivered to us the process should proceed rapidly. We are analyzing data from the district, the state department of education and federal data sets. Some patterns are becoming very apparent.

One community group which had designed a possible plan for a high school facing closure or transformation under state accountability policy contacted me about their plan. I expressed no opinion about it because it is far too early in our work to make specific recommendations but said that I believed that it would be much better to delay any major decisions on disposing of major school facilities until our study is done and the board and OCR have a chance to review the recommendations. That note was distributed by someone to board members and others in the city because it could be relevant on decisions about the transfer of some buildings to charter schools in the midst of this investigation. I have done nothing more about this issue since that time although I continue to believe that this and other decisions in the midst of our work needlessly constrain

possible remedies and could make solutions less workable or more expensive, possibly undermining the agreement. It is apparent to me at this stage that our recommendations, if they are adopted, will require a considerable use of school facilities.

After my note became public I received a message from School Board chairman, Carl Palidino telling me that I have no right to express my opinion about a matter that may be critical for solving the problems since it is already obvious that Buffalo has a severe shortage of spaces in excellent schools in the criterion program. My experience and research tell me that a solution that redistributes scarce spaces will be less positive for the city than one that actually expands good choices while making the choice system more fair. A good civil rights remedy is not a zero-sum solution but one that increases opportunity while making access more equitable. I have been actively involved in creating or recommending successful new schools of choice in other cities. I replied to Mr. Palidino and told him that I would be very happy to discuss any issue with him or any other leader of the school district. He has never expressed a desire to discuss the issues with me. He wrote me back a message that included a clear effort to control my work and intimidate me with an order to "get out of the way" of the school board majority, none of whom have discussed this issue with me. Mr. Palidino appears to believe that I am working for the board and that he can order me to stop making any recommendation that he does not approve of rather than serving as an independent expert to implement an agreement under civil rights law.

I have been involved in many major civil rights issues across the country for 35 years, many much more controversial than this case and, of course, I understand that no school district likes to be investigated. Working, sometimes for years, as a court-appointed expert or special master I have, of course, been criticized or challenged on recommendations by citizens and parties to the cases and I understand that that is part of the work.

A healthy debate over the facts and plans is always useful. I have never had, however, any major public official tell me what I can or cannot do and to try to intimidate me to stop thinking or speaking about issues that may be important for a solution. I think that this shows bad faith from the leader of the district that has agreed to cooperate in seeking a voluntary solution and that it should stop now. I will carry out the assignment and deliver a report as soon as possible.

I am attaching the emails and I will ask the Interim Superintendent to distribute this letter to the board of education. It would be a shame if decisions made in the midst of this study were to limit or greatly raise the costs of providing appropriate remedies. The fact that these decisions are apparently being made by all the white members of the board voting against all of the black members of the board and that negative comments about the race of his opponents are central in both of Mr. Palidino's messages to me signify a severe level of racial polarization in this largely African American school district and city that is dangerous to the district's and the city's future and undermines the commitment the board made in the agreement with OCR. His letter shows deep disrespect for federal civil rights law. In the midst of this process it appears that the board's majority is rushing to approve the transfer of several schools to charter operators before it will have a chance to consider the solutions it promised to consider when our report is complete. I believe that Mr. Palidino's threat, and the rush to make the charter transfers a fait accompli before the report is considered raise serious civil rights issues and that an OCR intervention would be appropriate at this time clarifying the role of my work and as well as the district's duty under the agreement in order to protect the integrity and independence of my work under the agreement.

Sincerely,

Gary Onfield .

Research Professor of Education, Law, Pol.Science and Urban Planning

On Jan 20, 2015, at 3:50 PM, Carl Paladino <CPaladino@ellicottdevelopment.com> wrote:

Dr. Orfield, your credentials show that you are an informed person in education matters.

Mrs. Nevergold is a member and former President of the Buffalo Board of Education (BOE.) By the way, as President of the BOE, she served on the Joint Schools Construction Board (JSCB) overseeing a ten year \$1.4 billion school reconstruction program. Recent revelations show that in the best case she was incompetent to serve in that position insofar the JSCB allowed the contractor to take over \$400 million in profits on the \$1.4 billion contract.

Also on her watch the Buffalo Public Schools (BPS) sank into the abyss at the hand of an incompetent African American superintendent with no experience as a superintendent. She was hired by an African American majority of the BOE at the time who were more interested in having a superintendent they could control and protecting their power over jobs and monies than they were concerned with the education of 34,000 kids. The Superintendent was so inept that they found it necessary to hire a \$450,000/yr consultant to guide her. That BOE majority wanted her to get on the job training showing no concern for the suffering of 34,000 children in a dysfunctional system which had a 9% proficiency in math and 11% proficiency In English with an actual graduation rate under 50% including many students pushed through to raise the numbers.

In May, 2014 the people of the City spoke and elected a new majority which had pledged to do whatever was necessary to turn a dysfunctional school system around. The superintendent was bought out of the last year of her contract. The BOE immediately appointed as interim Don Olgovie who had 30 years of prior experience as a superintendent and had institutional knowledge of the BPS. The new majority is now in the midst of making necessary changes to be effective for the 2015-16 school year. The children deserve much better than having 46 out of 57 BPS schools in a state of failure as defined NY New York State. 27,000 students in failing schools are entitled under "no child left behind" to be transferred to performing schools.

The BOE minority is seeking to use you and OCR as an excuse to slow down and or stop any progress. The BOE majority has no intention of slowing the process of ridding the system of dysfunction. We will consider how to handle your proposed solutions, if any, when they are rendered.

On Jan 21, 2015, at 4:24 PM, Gary Orfield <orfield@gmail.com> wrote:

Dear Mr. Palidino,

I appreciate your note. I was very sorry that you could not make it to the session where I met with interested board members. I am always happy to talk with you or anyone on the board, or to receive memos, and to listen to your concerns. Although I have received many notes and comments from various people in Buffalo about the politics of school policy there I have no intent at all to get involved in any of that. I have seen too many school systems pulled apart destructively. I have absolutely no interest in getting drawn into old wars, personal issues, or to contribute in any way to what is obviously serious racial polarization in the city. My hope is to present options that will have broad appeal across old lines of division and to resolve the civil rights issue while making educational gains. We will do the best job we can in continuing to analyze the criterion schools and the choice system in the city and making recommendations for improving them. It is already obvious that there are a number of possible improvements and our goal is to deliver to the board a plan for making this a stronger and more fair system. I would hope that at least major elements will appeal to all.

My concern with the move to change many schools in the middle of this brief study is that it will seriously limit the options we can consider for the future since the solution should not be to reallocate a scarcity of good choices or to threaten the quality of good schools but to make access fair and to increase the supply of excellent options. As a businessman interested in markets, my guess is that you would agree that when there is excessive demand it is very important to improve the quality and increase the supply to build the enterprise. Though the district has serious problems it has a number of strong educators with positive ideas that can be developed.

It seems to me that hurrying major changes in the midst of a serious civil rights investigation needlessly risks more civil rights complaints because it limits future options and limits the work. I have a great deal of experience in civil rights and educational reform research and policy implementation and have found that it is much better to work things out professionally than to get involved in escalating investigations and possible enforcement or litigation that could risk federal funds and put great stress on the district and its leaders. While the next step rests with the board and I my only authority is to conduct a study I believe that action to immediately change a number of schools under these circumstances could create further legal problems for the board and limit positive options for the district's future.

I am sure that with good faith substantial progress can be achieved. Whatever the board decides we will continue our work and, as soon as we have a report ready I will be out to discuss it with interested board members and staff before it becomes public. You are welcome to share this note with any other board members or administrators if you wish. I would be happy to discuss this with you on the phone.

Gary Orfield

Distinguished Research Professor of Education, Law, Pol.Sci.& Urban Planning
Co-Director, Civil Rights Project
Univ. of California, Los Angeles



Thu, Jan 22, 2015 at 2:51 PM

Carl Paladino

<CPaladino@ellicottdevelopment.com>

To: Gary Orfield <orfield@gmail.com>

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Thank you for your response Dr. Orfield.' Im sorry if I wasn't clear. You were retained to advise on one issue. Now in your own smug way you seek to control the future action of the BOE, obviously after being brainwashed by members of the BOE minority.

Other majority members of the BOE and I have spent a great deal of time and resource planning changes to the dynamic of the dysfunctional BPS. The opposition wants to preserve the status quo and to do so they seek to co-opt your effort and delay our action. That will not happen. You say you don't want to get involved in the local dispute but you side with the opposition with your demand for a standstill.

Your civil rights issue has nothing to do with our intended changes and we will not be intimidated nor will we slow our speed in implementing policy or other changes directed at educating our children while you and OCR deliberate. Our mandate from the citizens of Buffalo is to face down and destroy the obstacles to providing an education for 34,000 kids.

Your effort to control our mission is exactly the type of impediment that has historically frustrated any effort to change the status quo. The nonsense of allowing you or the Justice Department to interfere and slow our process of change is the reason good people with common sense refuse to get involved and the reason that our urban systems are operated by idiot less than competent leadership intent on self empowerment with no regard for breaking down the cycle of poverty in our urban centers.

Stay out of our way Dr.