

M E M O R A N D U M

To: Berkeley Unified School District Controlled Choice Committee

From: Richard A. Hoyer

Subject: A Proposal for More Thorough Study of Decision to Alter Race-based Diversity Goal in Controlled Choice Program

Date: November 6, 1999

The opinion of the legal counsel to the District is that the current race-based diversity program would face a difficult legal challenge. The District anticipates that such a challenge will be made, and that such a challenge will result in costly and distracting litigation and/or the denial of federal funds essential to the Magnet School program.

At the same time, the citizens of Berkeley hold racial diversity in the schools to be a public policy of great importance. Berkeley has a thirty year history of attempting to overcome past and present racial discrimination and segregation.

Although a diversity program based on socioeconomic variables may be an effective way to preserve this policy, it may be a mistake to jettison the mechanism to achieve diversity based on race without a more thorough study of the viability of a legal defense of the existing program as well as the alternatives of open choice or choice with a socioeconomic control mechanism.

Furthermore, in recognition of the problem of underrepresentation with respect to race and socioeconomic status on this Committee, and, in recognition of the limited amount of time provided to the Committee to make this recommendation, the District should continue the work of this committee and set a realistic deadline for a recommendation on a permanent change to school selection methods. Membership on this Committee should be open to any current Committee members, but the School Board should appoint additional minority and lower socioeconomic members so as to fairly represent interested constituencies.

In recognition of the importance of this issue to the community, and the need for adequate representation of all constituencies, the District should ask survey questions on the 2000 Community Attitude Survey regarding the desirability of socioeconomic and racial diversity and parental choice in the schools. 11 ?

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In recognition of the importance of academic achievement by African-Americans, the District should form a committee to address the issue specifically. That committee, to the extent that its recommendations may impact school assignments, should meet with the Controlled Choice Committee to integrate findings and recommendations.

Please call me at work ((415) 781-6070, extension 113) or e-mail me at rah@wpglaw.com with thoughts, criticisms or suggestions. Thanks.