

AGENDA
AD HOC LOCAL SCHOOL COMMITTEE
Thursday, May 10, 2018
7:00 p.m.
Burr Ridge Village Hall
Board Room

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF APRIL 19, 2018 MINUTES**
- 4. DISCUSSION OF ADMINISTRATIVE COMPLAINT FILING**
- 5. DISCUSSION OF ADVISORY REFERENDUM**
- 6. PUBLIC COMMENT**
- 7. OTHER BUSINESS**
- 8. ADJOURNMENT**

DISTRIBUTION:

Trustee Zach Mottl, Co-Chairperson
Trustee Anital Mital, co-Chairperson
Marianne Begy
Adolph Galinski
Vivek Ghai
Alan Hruby
Clair Kovar
Betsy Levy
Cindy Mottl
Paragi Patel
Becky Singh
Doug Pollock, Village Administrator
Scott Uhler, Village Attorney



VILLAGE OF BURR RIDGE

MEMORANDUM

TO: Mayor Straub and Board of Trustees
FROM: Doug Pollock, AICP, Village Administrator
DATE: May 8, 2018
RE: Staff Summary for May 10, 2018 Meeting

At the April 19 meeting, the Local School Committee directed staff to collect information from members regarding the draft administrative complaint and wording for an advisory referendum. Below are brief summaries for each.

4. Discussion of Administrative Complaint Filing: Attached is a revised draft document prepared by Village Attorney Scott Uhler after feedback from individual committee members. Two versions of the document are attached – one with red lines showing the changes and a clean, “final” copy without the red lines. Attorney Uhler will be present at Thursday’s meeting to discuss the revised draft complaint.

5. Discussion of Advisory Referendum: Several suggestions were received regarding the language for an advisory referendum that would address voters’ preference for District 86 enrollment balance policies. Some of the options include:

***From Staff:** Shall the Hinsdale Township District 86 Board of Trustees balance enrollment between Hinsdale South and Hinsdale Central High Schools before seeking any referendum for a property tax increase?*

***From the Village Attorney:** Shall the Hinsdale Township District 86 Board of Education provide equal educational opportunities to the residents of Hinsdale South and Hinsdale Central High Schools by offering the same classes and extracurricular opportunities to the students at both high schools?*

***From Trustee Mital:** Shall the Hinsdale Township District 86 Board of Trustees offer a choice to choose which High School their children can attend to all rather than some of the residents before seeking a referendum for property tax increase for all the residents?*

***From Committee Member Hruby:** Shall the Hinsdale Township District 86 Board of Trustees redistribute the high school student population between Hinsdale Central High School and Hinsdale South High School in alignment with each school’s capacity before seeking any referendum for a property tax increase?*

***From Committee Member Ghai:** (see attached).*

On both the administrative complaint and the advisory referendum, the Committee will need motions making recommendations to the Burr Ridge Board of Trustees for any further action to be taken by the Village.

MINUTES

LOCAL SCHOOL COMMITTEE MEETING

Tuesday, April 19, 2018

CALL TO ORDER

The meeting was called to order by Co-Chairpersons Anita Mital and Zach Mottl at 7:00 PM

ROLL CALL

Present: Co-Chairpersons Anita Mital and Zach Mottl, Committee Persons Marianne Begy, Adolph Galinski, Alan Hruby, Clair Kovar, Betsy Levy, Cindy Mottl, Paragi Patel, and Becky Singh. Committee Person Vivek Ghai was also present telephonically

Also Present: Village Administrator Doug Pollock and Village Attorney Scott Uhler

APPROVAL OF MINUTES

Committee Person Begy made a motion to approve the minutes of the April 3, 2018 meeting. The motion was seconded by Committee Person Mottl and unanimously approved by a voice vote of the Committee.

DICUSSION OF ADMINISTRATIVE COMPLAINT FILING

Co-Chair Mottl described the draft complaint prepared by the Village Attorney. Attorney Uhler reviewed the draft and emphasized that this was a draft based on limited information and that as additional information is provided by Committee members, he will add to the document.

Committee Member Hruby presented a graphic showing the geographic line that is equidistance from each of the two high schools. He described how some students were forced to go to one school even though they may be closer to the other school. He said that as a result of these boundaries, there is a greater racial imbalance between the schools. He concluded that this is evidence that the draft complaint has merit.

Attorney Uhler said he would need to know the exact number of students that are enrolled at Central but whose residence is closer to South.

After further discussion by the Committee, Co-Chair Mottl suggested that the Village Attorney work with the members of the Committee to further develop the draft complaint.

Committee Member Hruby presented a video that described in detail the imbalance in curriculum between the schools.

Attorney Uhler suggested that the complaint would be more effective if it contained signatures from residents including residents of Burr Ridge as well as other parts of the District. He added that he will need the facts in writing regarding proximity to schools, racial diversity, and curriculum differences.

Co-Chair Mottl summarized that each Committee member should forward their comments on the complaint to Mr. Pollock who will share those with Attorney Uhler; Mr. Uhler would then update the draft complaint document for further review by the Committee at the next meeting.

DISCUSSION OF ADVISORY REFERENDUM

Co-Chairs Mottl and Mital suggested that each member of the Committee forward their suggestions for the wording of the advisory referendum to Mr. Pollock and Committee could review the suggestions at the next meeting.

Attorney Uhler said that the state law requires that referendum questions be able to be answered with either a Yes or a No, that it be a simple sentence that is not compound, and that it not be leading the voter in any direction.

There was some discussion on how to get the referendum question on ballots throughout the district. Attorney Uhler said that if the Village sponsors the referendum, it would only be for voters in Burr Ridge. It was suggested that the committee work to get Darien to sponsor a referendum or that the Committee members get signatures to get the question on the ballot throughout the district.

PUBLIC COMMENT

There were no public comments.

OTHER BUSINESS

There was no other business.

ADJOURNMENT

There being no further business, a **motion** was made by Committee Member Singh to adjourn the meeting. The motion was **seconded** by Committee Member Mottl and **approved** by a vote of 11-0. The meeting was adjourned at 9:10 PM.

Respectively submitted,

Doug Pollock
Village Administrator

DP:bp

DRAFT

U.S. DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
CHICAGO OFFICE
500 West Madison Street, Suite 1427
Chicago, IL 60661

ADMINISTRATIVE COMPLAINT

COMPLAINANT

_____ [name(s)]
[Address(es)]

BASIS FOR COMPLAINT

The complainants are currently residents in Hinsdale Township High School District #86 55 S. Grant Street, Hinsdale, Illinois 60521 (hereinafter “District”). We reside within the attendance boundaries currently fixed for Hinsdale South High School. Complainants and their children have experienced and continue to experience unlawful discrimination based upon the fixing of unlawful attendance boundaries, the continuation and expansion of those boundaries, and the curricular disparity between Hinsdale Central High School and Hinsdale South High School, the two schools that comprise the District.

These boundaries serve to seclude a predominantly White and notably more affluent population within the Hinsdale Central attendance area. By adhering to these boundaries, the Board of Education has fostered increased demand for housing in the Hinsdale Central attendance area from more affluent homebuyers and a resulting influx of enrollment at Hinsdale Central. The Board of Education by engaging in ongoing decision-making to devote more funds and resources to Hinsdale Central High School, is now experiencing a problem of its own making, overcrowding at Hinsdale Central. The Board of Education continues to enhance the educational opportunities at Hinsdale Central High School, while diminishing those at Hinsdale South High School.

In contrast, at Hinsdale South, a school with a population of significantly lower socioeconomic means as well as a notably higher concentration of Black and Hispanic students, there is an abundance of classroom space and building capacity that is increasingly underutilized. There is also a gross disparity in resources, curricular and extra-curricular between the two high schools. The Board of Education’s refusal to adjust boundaries to solve Hinsdale Central’s overcrowding problem evidences its intent to unlawfully insulate any homes in the Hinsdale Central attendance area against being reassigned to the Hinsdale South attendance area, even when that means perpetuating and likely further exacerbating the compromised curricular offerings at Hinsdale South.

PRELIMINARY STATEMENT

1. Complainants file this Complaint pursuant to 20 U.S. Code § 1703 – “Denial of Equal Educational Opportunity Prohibited”.
2. The District has created and maintains an attendance boundary between two high schools in its jurisdiction, Hinsdale Central and Hinsdale South, and implements a student assignment policy that permits discrimination and in practice allows students to be subjected to improper and unequal treatment in violation of 20 U.S. Code § 1703. There are currently two attendance zones, frequently termed "Hard Central" and "Hard South", in which, until a Board policy revision made on June 6, 2016, student residents were previously assigned by district policy to one or the other high school. In addition, there is a third attendance zone, known as the "Buffer Zone", in which resident students have the privilege of choosing which high school to attend. The policy decision made on June 6, 2016, among other changes, conferred the privilege of school choice on students residing in "Hard Central" as well. This policy decision left students residing in "Hard South" as the only ones who are denied the privilege of school choice.
3. Over the last 12 years, successive Boards of Education of the District have watched enrollment at Hinsdale South drop from 1,920 students in 2005 to 1,507 students in 2017 as the minority imbalance between the two high schools has grown. Decision making (or lack thereof) of the past and current of the Boards of Education have established, continued, increased, and exacerbated the discriminatory effects of the attendance boundaries.
4. Residents of the Hinsdale South High School attendance area have repeatedly raised these concerns with the Board of Education of the District. Despite the objections raised by complainants and other residents, the Board of Education has continued and increased the impacts of its discriminatory policy and practices.
5. In order to address this situation, complainants request that the Chicago Office for Civil Rights (hereinafter “OCR”) investigate the Board of Education of the District and find that the Board has acted and continues to act in violation of the requirements and prohibitions of 20 U.S. Code § 1703 and take all necessary steps to remedy any unlawful conduct.

JURISDICTION

6. OCR is responsible for ensuring compliance with, among other issues related to discrimination in education under federal law, the Elementary and Secondary Education Act (hereinafter “Act”) and its implementing regulations and guidelines and its purpose of ensuring "full educational opportunity" for all students in the District. At 20 U.S. Code § 1703 it is specifically provided that the denial of equal educational opportunity by the actions or decision making of a local board of education is prohibited.
7. The complaint is timely as the Board of Education of the District continues to maintain a policy and practice that enables discrimination, and in fact proposes to take action by referendum to further increase and financially fortify its power to engage in cost-inefficient discriminatory practices.
8. The District receives federal financial assistance and is therefore prohibited from discriminating under the above cited law.

STATEMENT OF FACTS

9. The District is comprised of 2 high schools, Hinsdale Central High School and Hinsdale South High School. The attendance boundaries of the 2 high schools, as established by the formal actions of the Board of Education of the District are as shown on **Exhibit A** attached to this Complaint. There is also a “Buffer Zone” between these two attendance zones, which provides students particular attendance options. There is then an attendance zone for each high school, one known as “Hard Central” (the attendance boundary for Hinsdale Central High School) and the other known as “Hard South” (the attendance boundary for Hinsdale South High School).
10. There is however, also a third “attendance” zone in the District, known as the “Buffer Zone”. The Buffer Zone lies at the border of these two attendance zones for the two high schools, in the middle of the District between the two high schools. The District policy allows the students residing in the Buffer Zone to choose which high school they prefer to attend. That choice is overwhelmingly Hinsdale Central.
11. Until a Board policy change made on June 6, 2016, student residents were previously assigned by district policy to either Hinsdale Central or South High School based on these attendance boundaries, or they could choose where to attend from the Buffer Zone. The policy decision made on June 6, 2016, among other changes, conferred the privilege of school choice on students residing in “Hard Central” as well, i.e. they could choose to attend Hinsdale Central or Hinsdale South. It appears this may have been a policy change intended to avoid charges of discrimination against the Board of Education by adopting a “choice” policy. However, students in the Hinsdale Central attendance boundaries do not choose to attend Hinsdale South.
12. This 2016 policy decision by the Board of Education left students residing in “Hard South” as the only ones who were denied the privilege of school choice. The Hinsdale Central attendance area is colored orange, and the Hinsdale South attendance area is colored blue. See attached **Exhibit A**. There is also an area colored grey known as the “Buffer Zone” shown on the map. See attached **Exhibit A**. The Buffer Zone is an area in the District in which resident students historically had a unique power to choose to attend either Hinsdale Central or Hinsdale South as their school. The Buffer Zone has also been an area of controversy for decades insofar as it exists between the “Hard Central” and “Hard South” attendance areas and has been targeted by numerous commentators as an area suitable for reassignment to Hinsdale South to alleviate overcrowding at Central as well as to put unused capacity at Hinsdale South to use. Board meeting videos also show vigorous opposition to such an action from residents of the Buffer Zone.
13. As reported on IllinoisReportCard.com, self-described as, “...the state’s official source of information about public schools across Illinois”, the student population at Hinsdale Central during the fall, 2017 semester was 2,765 students; at Hinsdale South it was 1,507 students.
14. As shown in **Exhibit B**, enrollment at Hinsdale South has dropped by over 400 students since 2005.
15. There exists an area of substantial size and population in the District whose residents live closer to Hinsdale South yet who are allowed to enroll at Hinsdale Central (hereinafter “The Region”). That area was determined cartographically as is shown in **Exhibit C**, by (1) drawing a green straight line between Hinsdale Central and Hinsdale South, (2) determining the midpoint of that

line, and (3) drawing and extending a red perpendicular line through the aforementioned green line. This red line thus divides homes in the District between those closer to Hinsdale Central (the area northeast of the red line) and homes closer to Hinsdale South (the area southwest of the red line). The rest of the red lines circumscribing the area reflect existing boundaries between Hinsdale Central/Buffer Zone and Hinsdale South.

16. School enrollment of students living in The Region yet enrolling at Hinsdale Central is significant. **Exhibit D** is a dot plot of student addresses in The Region reflecting enrollment at Hinsdale Central and Hinsdale South extracted from the District's reply to FOIA 17-55.
17. A FOIA request 17-98 was made to the School District to obtain records to enable a tally of students in The Region enrolled at each school as well a distribution of their race and ethnicity. The response to that FOIA request yielded the following results:

	Hinsdale Central	Hinsdale South
White students	98	16
Asian students	66	1
Black students	6	1
Hispanic students	12	12
Native Hawaiian or Other Pacific Islander	2	0
Two or More Races	5	0
Grand Total	189	20

18. Data drawn directly from IllinoisReportCard.com for the District and its two schools shows the following racial segregation demographics:

	Hinsdale Central	District 86	Hinsdale South	Central/South Disparity (Basis Point)
White Population Percentage	71.4%	65.8%	55.9%	155
Non-White Population Percentage	28.6%	34.2%	44.1%	-155

If the 98 White students in The Region who are attending Hinsdale Central had been assigned to Hinsdale South, the high school closest to their homes, the resulting segregation demographics would look as follows:

	Hinsdale Central	District 86	Hinsdale South	Central/South Disparity (Basis Point)
Revised White Population Percentage	70.3%	65.8%	58.6%	118
Revised Non-White Population Percentage	29.7%	34.2%	41.4%	-118

Thus, the enrollment of these 98 White students who live closer to Hinsdale South but who are enrolled at Hinsdale Central increased segregation of minorities between the schools by 37 basis points. The derivation of the percentages in the tables is shown in **Exhibit E**.

19. A comparison of curricular opportunities appropriate for average and above average students at each school revealed 41 courses with 2,398 registrations available exclusively to Hinsdale Central students during the fall, 2017 semester. This comparison was based upon the District's response to FOIA 17-80 which requested a listing of all courses offered by the District at each school. These courses are listed in **Exhibit F**. None of these 41 courses were available to the 1,507 Hinsdale South students notwithstanding the fact that there doubtlessly were many for whom these courses would be appropriate.
20. The aforementioned comparison of curricular opportunities also revealed 11 courses with 518 registrations that were available exclusively to Hinsdale South students of average and above average ability during the fall, 2017 semester. 292 of these registrations (56% of total) were in GeoPhysics and GeoPhysics AR which are requirements for graduation at Hinsdale South. These courses are listed in **Exhibit G**. The list reflects a notable absence of higher level courses comparable to those available exclusively at Hinsdale Central.
21. The District's Attendance Policy presently offers an asymmetric opportunity for students living in the Hinsdale Central/Buffer Zone attendance area to enroll at Hinsdale South but denies the same opportunity for students who live in the Hinsdale South attendance area the opportunity to enroll at Hinsdale Central. This practice clearly denies access to equal educational opportunities for students living in the Hinsdale South attendance area. The District Attendance Policy allows any student in the Hinsdale Central attendance area to choose to attend Hinsdale South. Students residing in the Buffer Zone can elect to attend either high school. Few, if any, make that choice. Those students overwhelmingly elect to attend Hinsdale Central. The District Attendance Policy also provides that students within the Hinsdale South attendance area must attend Hinsdale South High School. See copy of Board Policy 7.31, **Exhibit H**.
22. District administrative staff members recently engaged the community to present information from the Strategic Planning process twice (February 6 and February 12, 2018). Under the watch of the Board of Education and without noticeable objection from any of its members, a series of charts and messaging showed differences in what they defined as "High School Readiness" between students entering Hinsdale Central and those entering Hinsdale South. Their charts averaged the eighth-grade scores for the students from each sender school. See **Exhibit I**. Their analysis and messaging stated that the students entering Hinsdale South were below the targeted level of reading and math, and therefore not ready for high school. The messaging included the following statement by the Principal of Hinsdale Central:

"What you are currently looking at here is the Hinsdale South Students. Eighth grade students preparing to enter in the Fall of 2017. That's our class of 2021, our current freshmen. As you can see, they are below or barely at level of reading and math from the feeder schools feeding into South. At Central, it's a little bit different story. Our students are at or above their reading and math levels as they enter our building in the fall of 2017. Again, this is our last year's eighth grade scores, our current freshman."

The Hinsdale Central Principal's messaging continued:

“The last three years at Hinsdale Central, they are at the reading level and they are at the math level, and you can see the feeder schools, students entering Hinsdale South, are both below reading and below math, as they enter those buildings. So, recognizing this has nothing to do with the current status at South or Central, it’s how the students are coming to us.”

These statements were made at both public meetings. The use of single average scores for each sender school indicates a failure to consider the range of student performance within each sender school. Messages such as these coming from a public high school administration, without objection from the Board of Education, feed prejudice against sender schools having lower averages and foster labeling of students by where they come from. The entire presentation and messaging was made available by the District for download to the public, until it was deleted.

23. The District has exhibited a notable fluidity in its calculation of Available Capacity at Hinsdale South. As is shown on pages 108 and 109 of the District’s Cumulative Annual Financial Report (hereinafter “CAFR”), **Exhibit J**, the square footage of the Hinsdale South Buildings area remained unchanged from 2008 through 2015 and so did its available capacity (462,508 square feet and 1,875 students respectively). Then in 2016, the reported capacity increased to 1930. It is believed the change was made to conform to an Architectural Master Facilities Plan, **Exhibit K**, performed by architectural firm ARCON Associates, Inc. (hereinafter ARCON), commissioned in advance of the District’s failed April, 2017 tax referendum. The capacity calculation in the CAFR remained at 1,930 in 2017 together with a reported drop in South Building square footage to 429,815 which also tracks with the Architectural Master Facilities Plan. It is believed that the Board of Education’s proposed April, 2017 tax referendum failed in large part due to opposition from South attendance area voters to increasing the capacity of Hinsdale Central by more than 55,000 square feet to accommodate its burgeoning enrollment while capacity for 400 or more students was going unused at Hinsdale South.
24. Footnote (a) on page 108 of the CAFR reads in part, “The capacity number is calculated by taking the total teaching stations teaching stations (stet) multiplied by class size then multiplied by 80 percent efficiency rate.” The note further goes on to say that ARCON updated its capacity calculation of Hinsdale South to 1,775, reducing it from 1,930. **Exhibit L** is a screen shot from the Board’s video of their October 2, 2017 showing the architect’s derivation of the new number. The calculation aligns with the description given in the CAFR. However, there was a drop of eight Teaching Stations, from 96.5 to 88.5.
25. During the October 2, 2017 presentation, ARCON’s presenting architect explained why seven of those Teaching Stations were dropped from the count:

“We know that two of those spaces were because during the Master Planning Process there were two spaces that were identified as being available for class which in fact were actually being used as offices...the other five were spaces that represent a difference in use compared to what you were doing two to two and a half years ago, and what you are doing, how you are using those spaces today.”

The plain significance of these words is that if Hinsdale South was no longer using a particular space for classes, it was dropped from the capacity calculation. That is regardless of the reason the space was not being used for classes. It is noteworthy that if those seven spaces were added back in, capacity would increase by 140 spaces (i.e., 7 teaching stations x 25 average class size x 0.8 efficiency). Then if you add 140 to the revised capacity calculation of 1,775, you get a capacity of 1,915 which is only 15 spaces less than the 1930 reported in the CAFR for 2017. So,

if those 7 spaces were repurposed as classrooms, converted back to their likely original use, capacity would have remained almost unchanged.

26. Under the watch of the Board of Education and without noticeable objection from any of its members, District administrative staff members presented their own version of capacities at Hinsdale South and Hinsdale Central issuing a report entitled, “Building Use and Space Utilization Study” (hereinafter “Building Study”). They calculated a “Target Enrollment Cap” which was a summation of room capacities across each entire school. For Hinsdale South, they calculated the Target Enrollment Cap as 2,131 which they describe as a condition that would exist, “...such that every classroom were used every period and every class had the exact target enrollment...” As has been reported in the local press, 80% of that number, or 1,704 students, is now being touted by the Board of Education as the “ideal enrollment” for Hinsdale South. See **Exhibit M** as an example in which a reporter for the Chicago Tribune-affiliated local newspaper states, “South, which is a smaller school physically, had 1,518 enrolled as of Sept. 30, which is 186 students below what’s considered its ideal enrollment.”
27. The District’s Building Study contains floor plans of each school in which all rooms are identified as to their use. At Hinsdale Central, a school serving 2,765 students, 130 rooms are identified as classrooms and 14 rooms are identified as office/conference spaces. At Hinsdale South, a school serving 1,507 students, 93 rooms are identified as classrooms and 24 rooms are identified as office/conference spaces. So, in the aftermath of an enrollment decline of over 400 students, over 20% of the rooms at Hinsdale South are currently being classified as office/conference spaces and being removed from the school’s student capacity calculation. Aside from the question of how usable these 24 office/conference spaces would be as classrooms, according to the District’s own Room Utilization Report supplied in response to FOIA 17-80, three of these supposed offices were actually used for academic purposes during the fall, 2017 semester (Rooms 258, 309 and IMC) and yet their reported capacities of 28, 28 and 25 respectively were excluded from the calculation of the Building Study’s Target Enrollment Cap.
28. Unlike the ARCON calculation of school capacity which increased Hinsdale South capacity by 162 students due to Physical Education classes, the District’s Building Study totally ignores the impact of Physical Education upon alleviating demand for academic classroom space. It’s derivation of 2,131 as the absolute full capacity for Hinsdale South does not recognize that if the school enrollment truly was at 2,131, not all academic classroom space would be taken up during each period because 162 of those students would be in the gym, except of course during lunch hours when an even greater number would be in the cafeteria.
29. The District’s Building Study contains the following table showing that Hinsdale South has 309 gross square feet of building space per student. The study also provides comparable statistics for seven “peer institutions” as well. **Exhibit N** is an extract from that report showing these findings.

School	Gross Square Feet (GSF)	Student Enrollment	Gross Utilization GSF/ Student
Glenbard West	393,425	2,357	167
Hinsdale Central	472,524	2,799	169
Glenbard East	428,158	2,294	187
Glenbard North	424,530	2,272	187
Willowbrook	511,000	2,002	255
Addison Trail	525,000	1,970	266
Glenbard South	332,373	1,191	279

Hinsdale South	468,458	1,518	309
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If enrollment at Hinsdale South were increased to 1,704, the Board of Education's claimed "ideal" enrollment for that school, not only would enrollment still fall short of what it was in 2005 by more than 200 students, but there still would be 275 square feet of building space per student (468,458/1704) at that school, just 4 feet per student less than Glenbard South's 279 square feet per student. Context for the abundance of building space at Hinsdale South, both currently and if hypothetically enrollment there were raised to 1704 is provided on Page 29 of the District's Building Study (**Exhibit O**):

"According to the February 1, 2015 *School Planning and Management, 20th Annual School Construction Report*, the median new high school in Illinois includes approximately 198 square feet per student."

Given an enrollment boost to 1,704, Hinsdale South's 275 square feet per student would still be 77 square feet per student greater than the average new high school in Illinois.

30. The Hinsdale District 86 has a formal policy committee, which considers and discusses possible policies or changes to policies before they are considered by the full Board of Education. This Policy Committee held a meeting on May 10, 2016, in part to consider changes to School District Policy 7:31 regarding attendance areas. At the meeting, the District Superintendent read the changes to the boundaries aloud, but did not specify what changes were being made to the policy. The Policy Committee never specifically identified and shared the policy changes publicly at the meeting.
31. Following this Policy Committee meeting, at its May 16, 2016 meeting, the Board of Education was to introduce this proposed policy change with a first reading, as is the Board procedure. The Board discussed that the Policy Committee held a meeting to discuss the changes and announcing "[the Board is] not going to recite the language in the proposed policy that is very specific describing what the amended Buffer Zone is."
32. Following a first reading of a proposed policy change at a Board meeting, a policy can be acted on by the Board of Education and adopted at a subsequent meeting. This Policy amendment was then considered by the Board of Education at its next meeting, on June 6, 2016. The amended Policy was approved by the Board without being read into the record and without the details of the amendment being shared publicly at the meeting. The amended policy was simply posted on BoardDocs (www.boarddocs.com) after it was passed.
33. This amendment to Board Policy 7:31 changed the School District attendance boundaries. Notably, it did not merely expand the Buffer Zone Area as the request for amendment indicated. The new Buffer Zone boundary as amended by the Board of Education on June 6, 2016 removed an area previously in the Buffer Zone and moved it into the Hinsdale Central attendance area permanently.
34. The District thus redrew attendance boundaries to move more area and students from the Buffer Zone, an area having exposure as a possible choice for reassignment to Hinsdale South, and into the Hinsdale Central attendance area. The reading of the new policy was not made public. The area in question was one also served by Hinsdale District 181 Elementary and Middle Schools. On March 27, 2017 in response to FOIA 17-11, the District provided a reply that offered a map

recognizing both aspects of the boundary changes they made on June 6, 2016. See **Exhibit P** to see the map as extracted from their reply.

35. In a presentation to the Board of Education on January 23, 2017 discussing District science curriculums, the Chairperson of the Hinsdale Central science department made the following comment regarding Hinsdale South's Physics-Chemistry-Biology (PCB) science curriculum:
- "...So, at Central we did not have to increase our junior year enrollment. We were already up at 98%. So, we didn't have the same question being posed to Central, but (South's), if you go back to the group of slides pre-PCB, (their) enrollment in junior year was down to like 80%. Well, a lot of colleges will say, three years of science, one of which is a life science. By moving life science to junior year, you can almost guarantee that students are going to enroll in that third year. No one's going to leave high school without having taken Biology. So, it was very strategic in terms of their placement there. Did we have that need at Hinsdale Central? No, that wasn't a concern for us."*
36. Both Hinsdale Central and Hinsdale South offer Advanced Placement (AP) Biology, in which students can earn college credit through a standardized exam. Hinsdale Central does not allow students to enroll in AP Biology without having taken a high school level Biology course. Hinsdale South enrolls students in AP Biology who have not taken a life sciences course since middle school. See extracts from the Hinsdale Central and Hinsdale South Programs of Studies, **Exhibit Q**.
37. Each school's AP Biology classes use textbooks from the same publisher, however they use distinctly different textbooks. Hinsdale Central uses Campbell Biology in Focus, 2nd edition. As described by the publisher, on the publisher's website: 'In 930 text pages, the best-selling "short" textbook, Campbell Biology in Focus, emphasizes the essential content, concepts, and scientific skills needed for success in the college introductory course for biology majors.' **Exhibit R**. Hinsdale South uses Campbell Biology: Concepts & Connections, 9th edition. As described by the publisher, on the publisher's website: 'Intended for non-majors or mixed biology courses.' **Exhibit S**.
38. According to the District's response to FOIA 17-39, at Hinsdale Central in 2016 there were 69 students in their AP Biology class, 63 took the test and 60 scored a 3, 4, or 5 on the exam. 95% passed the exam. At South in 2016 there were 148 students enrolled in AP Biology, 137 took the test and 95 scored a 3, 4 or 5. 69% passed.
39. Hinsdale South offers two science tracks for average and above average freshmen, GeoPhysics and Physics Honors respectively. During fall, 2017 there were 92 students out of a class of 340 freshmen (27%) who enrolled in the higher-level course, Physics Honors. Having enrolled in this course, these 92 freshmen will now be denied access to AP Physics 1 and, as a result, AP Physics 2 (even if that course would be offered at Hinsdale South). See extract from Hinsdale South Program of Studies, **Exhibit T**. The only subsequent AP Physics Course that these 92 freshman will be able to take is AP Physics C which is a full year, Calculus-based Physics course equivalent to one offered at a fully accredited engineering school. It is notable that during the same semester only 34 students at Hinsdale Central actually enrolled in AP Physics C. That's just 5% of the 666 seniors the Hinsdale Central reported on its annual report card in contrast to the 27% of Hinsdale South freshman who have been deemed ineligible for any AP Physics course other than AP Physics C.

40. At Hinsdale Central, students are allowed to consider and elect the path to Physics Advanced Placement that they prefer *as their high school years pass*. During the Fall, 2017 semester 221 Central students realized that AP Physics 1, a full-year, Algebra-based Physics course equivalent to a one-semester course in mechanics at a non-engineering college, was a course they chose without having to meet prerequisites, to take. Unlike Hinsdale South, Hinsdale Central imposes no restriction to enrollment in this class based on a student having taken a previous science course. In contrast to the enrollment of 221 Central students in AP Physics 1, at Hinsdale South, where only the average track students who enrolled in GeoPhysics as freshmen can later enroll in AP Physics 1, there were only 24 registrations during Fall, 2017.
41. During the Fall, 2017 semester 42 students at Hinsdale Central enrolled in AP Physics 2, a full-year, Algebra-based Physics course equivalent to a one-semester course in electricity and magnetism at a non-engineering college. The course was not offered at Hinsdale South. In fact, it appears that AP Physics 2 has never been offered at Hinsdale South. The District's reply to FOIA 17-39 fails to cite even one student from Hinsdale South to have ever sat for the AP Physics 2 exam since its national inception as an AP course in the 2014-2015 school year. It is believed that the reason for the absence of an AP Physics 2 course at Hinsdale South is because its serial prerequisites would make the course virtually inaccessible. As stated in paragraph 35, AP Physics 2 is the second AP Physics course that is unavailable to students who took Physics Honors as freshmen. So, even if it were offered, it would be open only to regular track students who managed to complete four science classes in three years (GeoPhysics, Chemistry, Biology and AP Physics 1). AP Physics 2 would be their fifth science course in high school. In contrast, at Central no student is disqualified for AP Physics 2 based on prior coursework, and students can qualify with only three prerequisites (Biology, Chemistry, and either Traditional Physics or AP Physics 1).

LEGAL ALLEGATIONS

42. As outlined in the Statement of Facts above, the District has expanded the scope of the violations and continue to make decisions that are in violation of the requirements of 20 U.S. Code §1703.
43. The requirements and provisions of the Elementary and Secondary Education Act ("Act") directly apply to the violation(s) of 20 U.S. Code §1703 by the creation, implementation, and perpetuation of a policy and practice creating and expanding of an attendance area including the "Buffer Zone" in which resident students who live closer to Hinsdale South can elect to attend Hinsdale Central.
44. The provisions of subsections (c) and (e) of 20 U.S. Code § 1703 relate to and appear to directly apply to the conduct of the Board of Education here.
45. Subsection (c) has the most direct relation to the conduct of the Board of Education here regarding the establishment, continuation and increase to a special attendance zone that has resulted in many more students attending one high school than the other with the result that the racial/ethnic makeup and disproportionality at Hinsdale South High School continues to increase.

"20 U.S. Code § 1703 - Denial of Equal Educational Opportunity Prohibited § 1703.

No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools;

(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with part 4 of this subchapter, to remove the vestiges of a dual school system;

(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency providing the appropriate grade level and type of education for such student;

(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below;

(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.

46. Similarly, the calculated, knowing, ongoing decisionmaking of the Board of Education with full knowledge of its consequences to increase the segregation of students at Hinsdale South on the basis of race, color and national origin is a clear violation of subsection (e) of 20 U.S.Code §1703 and significantly limit those students' curricular and extracurricular opportunities. As noted, the establishment, continuation and increase to a special attendance zone that has resulted in many more students attending one high school than the other has the conscious and intended result that the racial/ethnic makeup and disproportionality at Hinsdale South High School continues to increase.

“20 U.S. Code § 1703 - Denial of Equal Educational Opportunity Prohibited § 1703.

No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

...

(e) the transfer by an educational agency, whether voluntary or otherwise, of a student from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

...”

47. The Board of Education just recently proposed a referendum to borrow millions of dollars in order to add on to and expand the physical facilities at Hinsdale Central, further adding to the disparity between Hinsdale South and Hinsdale Central.
48. The Board of Education has engaged and is engaging in the unlawful and discriminatory grant of preferential treatment to students residing in the Hinsdale Central/Buffer Zone attendance area,
- (a) It provides a more fulsome array of curricular support and offerings at Hinsdale Central High School in comparison to those available at Hinsdale South High School. See Paragraphs 19-20, above.
 - (b) It grants school choice privileges to students residing in the Hinsdale Central/Buffer Zone attendance area while denying them to students residing in the Hinsdale South attendance area, thus keeping those students out of Hinsdale Central. See Paragraph 21, above.
49. The Board of Education has further engaged in a deceptive pattern of conduct aimed at making prejudicial insinuations regarding the high school preparedness of Hinsdale South students as well as insulating homes in the Hinsdale Central attendance area against being reassigned to the Hinsdale South attendance area, even when that means perpetuating and likely further exacerbating the compromised curricular offerings at Hinsdale South.
- (a) Through its Administration, the Board of Education has engaged the community with presentation materials that accentuate differences between sender schools through the display of average scores on Reading and Mathematics tests. Use and continued use of single average scores for each sender school demonstrates their failure to consider the range of student performance within each sender school. This line of thinking fosters a curriculum that denies qualified Hinsdale South students equal access to academic programs aligned to their abilities. This presentation tactic also communicates a bias that tells students, parents, and the community that children feeding into Hinsdale South are lower-achievers and don't need programs equivalent to those at Hinsdale Central. Not considering the range of student performance denies qualified Hinsdale South students equal access to academic programs aligned to their abilities. See Paragraph 22, above.
 - (b) In an attempt to quell community demand to put unused facilities at Hinsdale South to use, The Board of Education is perpetuating a myth that the ideal enrollment at Hinsdale South is only 1704, a number based on an unsubstantiated need to reserve 24 rooms (more than 20% of the total) as office/conference spaces even after their architectural firm's public revelation that the District has historically repurposed rooms at South to serve nonacademic uses and thus removed them from the capacity calculation. Furthermore, the District is neglecting the beneficial impact of Physical Education classes in offsetting demand for academic classrooms. See Paragraphs 23-29, above.
 - (c) The District has engaged in the surreptitious reassignment of an area in the district into the Hinsdale Central attendance area without informing the public of the nature of its activity. See Paragraphs 30-34.
50. The Board of Education oversees an unlawful inequity in science curriculums between Hinsdale Central and Hinsdale South. See Paragraphs 35-41.

(a) The Hinsdale Central curriculum provides students with a full year of high school level Biology instruction prior to their enrollment in AP Biology and employs more rigorous study materials to instruct students. As a result, Central students score notably better on the AP Biology examination.

(b) The assignment of 27% of Hinsdale South freshmen to Physics honors deprives them of the opportunity to take and obtain college credit for AP Physics 1 and AP Physics 2. What general admission public high school in America expects that 27% of its seniors to be taking both AP Physics C and its corequisite Calculus? That's more than 5 times the percentage of Hinsdale Central students that enrolled in AP Physics C, one of the highest performing schools in the state of Illinois. Sadly, if those Hinsdale South freshmen enrolled in Physics Honors don't make it to AP Physics C as seniors, enrollment in Physics Honors will become a Trojan Horse gift, marking their one and only Physics course at Hinsdale South. Four years from now when these Hinsdale South freshmen enter college, they will notice how many of their classmates are starting out ahead of them in both AP credits and course placement, college classmates from other high schools (including Hinsdale Central) that granted them access to AP Physics 1 and AP Physics 2.

(c) The Hinsdale Central curriculum provides an accessible pathway to AP Physics 2. Students at Hinsdale Central can choose AP Physics 1 as juniors, and if successful there, can opt to take AP Physics C as seniors. On the other hand, after finishing AP Physics 1, if some students don't feel ready for AP Physics C in their senior year, they can enroll in AP Physics 2. 42 of them did in fall, 2017. At Hinsdale South there is no reasonably accessible pathway to AP Physics 2, and that explains why the course is not even offered there.

RELIEF REQUESTED

51. Complainants respectfully request that OCR take the following actions¹:

(a) Investigate to determine whether Hinsdale Township High School District #86 is in violation of the provisions and requirements under 20 U.S. Code §1703 and engaging in discrimination in its policies and practices.

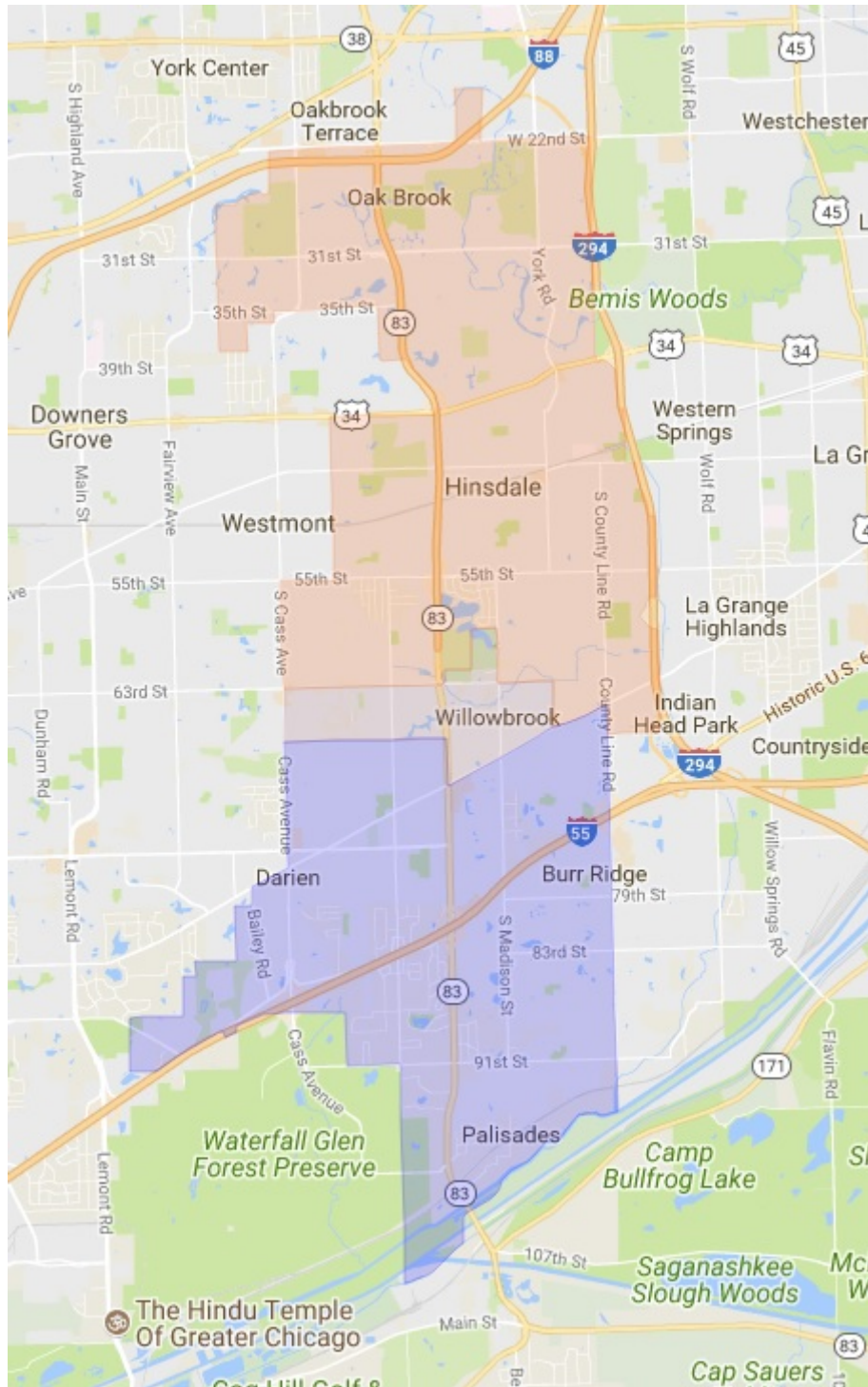
(b) Take all necessary steps to remedy any unlawful conduct identified in this investigation or otherwise on t behalf of residents and students within the Hinsdale South High School attendance area, and the District generally, as required by 20 U.S. Code §1703 and any of its implementing regulations.

¹ There have been multiple solutions to these issues and concerns before by residents of the Hinsdale South High School attendance area, which have all been rejected, including opening the boundaries equally for all students to choose which school to attend; mandating one school to be a freshman/sophomore campus, while the other one to be junior/senior campus making the student population mirror the community providing equal education for all; and revising the attendance boundary between the schools to alleviate overcrowding at Hinsdale Central and put unused capacity at Hinsdale South to use as long as doing so would assure equal curriculums, academic rigor and extra-curricular activities at both schools without violating the law.

(c) Secure an assurance of compliance with 20 U.S. Code §1703 from the Hinsdale Township High School District #86, if any violations are found, as well as full remedies for the violations found.

Respectfully submitted,

Exhibit A



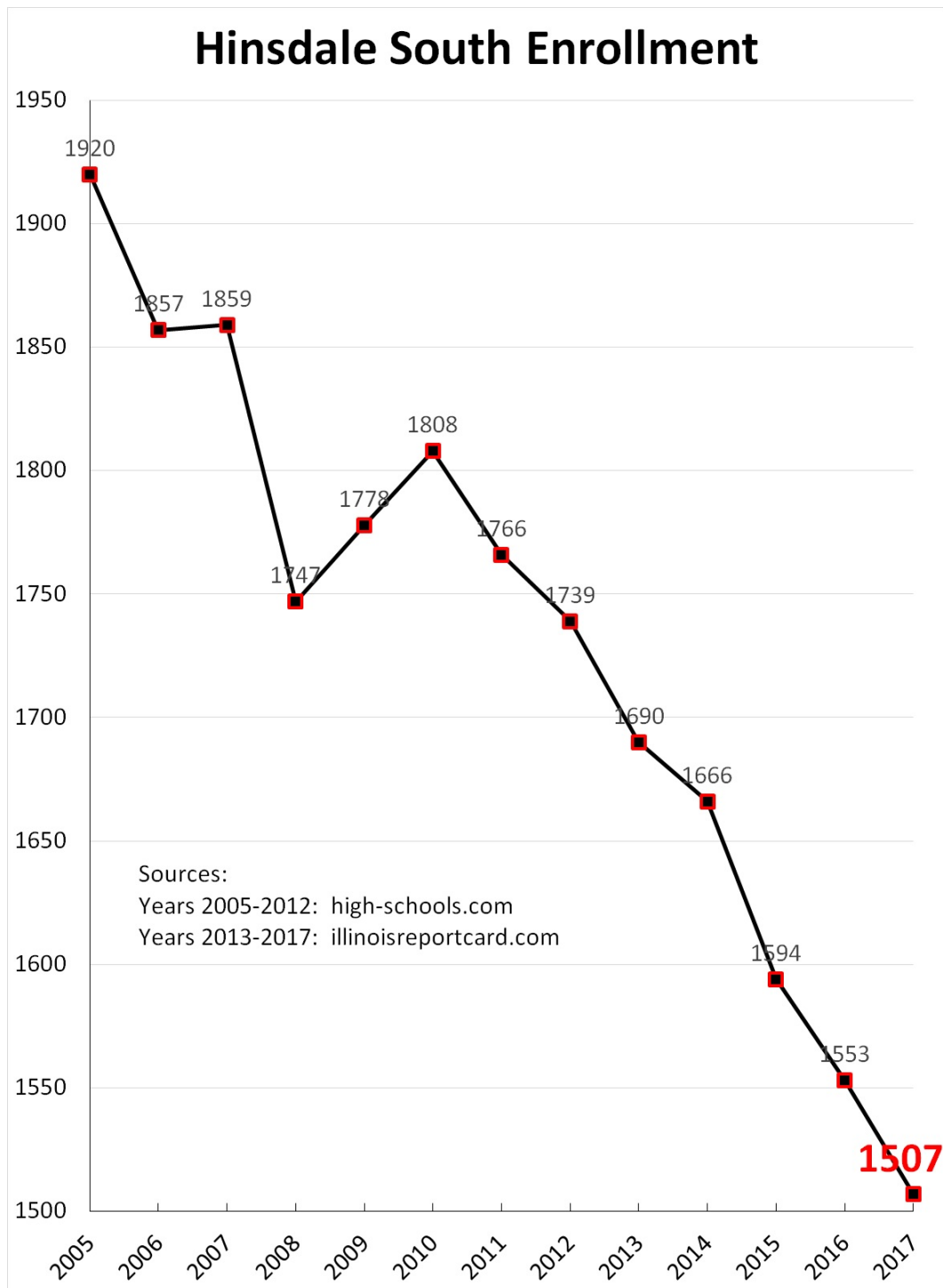


Exhibit C

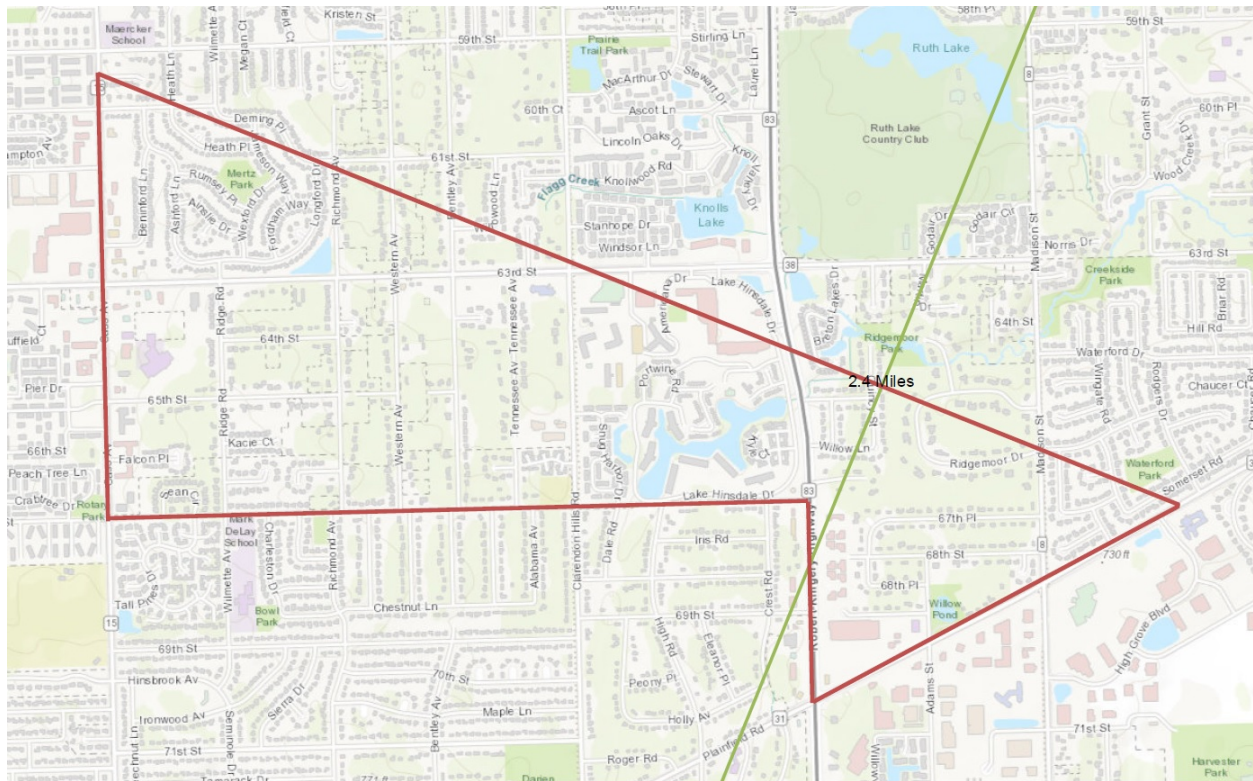
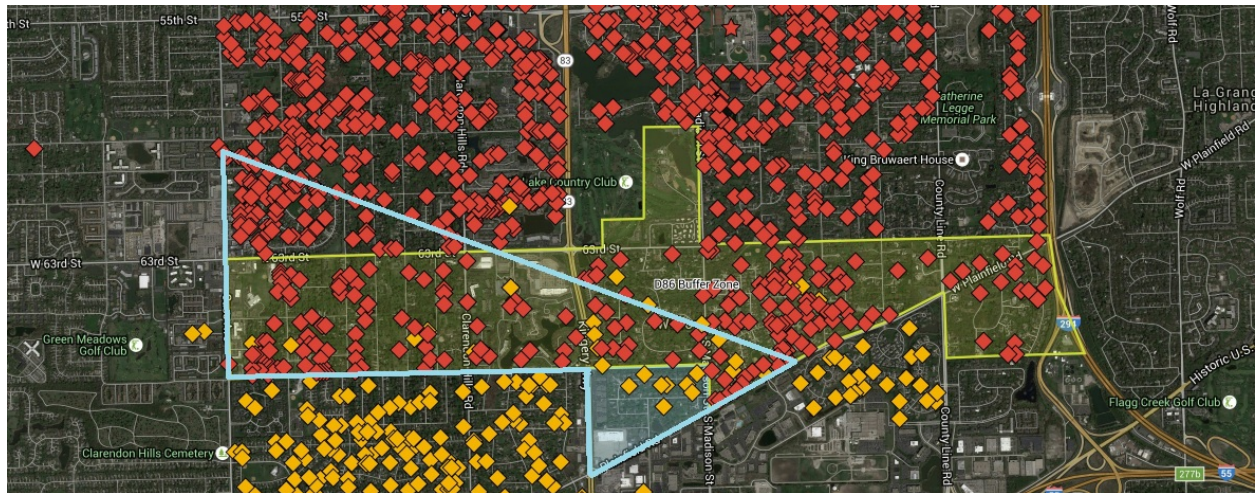


Exhibit D



Per IllinoisReportCard.com:

Total Number of Students at Hinsdale Central	2765
Percentage of White Students at Hinsdale Central	71.4%
Percentage of Non-White Students at Hinsdale Central	$100\% - 71.4\% = 28.6\%$
Derived Number of White Students at Hinsdale Central	$2765 \times 71.4\% = 1974$

Total Number of Students at Hinsdale South	1507
Percentage of White Students at Hinsdale South	55.9%
Percentage of Non-White Students at Hinsdale Central	$100\% - 55.9\% = 44.1\%$
Derived Number of White Students at Hinsdale Central	$1507 \times 55.9\% = 842$

Subtract 89 White Students from Hinsdale Central and add to Hinsdale South:

Revised Total Number of Students at Hinsdale Central	$2765 - 98 = 2667$
Revised Number of White Students at Hinsdale Central	$1974 - 98 = 1876$
Revised Percentage of White Students at Hinsdale Central	$1876/2576 = 70.3\%$
Revised Percentage of Non-White Students at Hinsdale Central	$100\% - 70.3\% = 29.7\%$

Revised Total Number of Students at Hinsdale South	$1507 + 98 = 1605$
Revised Number of White Students at Hinsdale South	$842 + 98 = 940$
Revised Percentage of White Students at Hinsdale South	$940/1605 = 58.9\%$
Revised Percentage of Non-White Students at Hinsdale South	$100\% - 58.9\% = 41.1\%$

**District 86 Courses Suitable for Average and Above Average Students
Offered Exclusively at Hinsdale Central During Fall, 2017 Semester**

	Course #	Registrations	
Art			
Jewelry, Metal and Glass*	5351	22	
Advanced Jewelry, Metal and Glass Honors	5363	2	
			<hr/> 24
Business			
Accounting*	6170	56	
Accounting Honors*	6180	45	
Investment Planning*	6111	100	
Sports Marketing	6183	24	
			<hr/> 225
English			
Journalism 1	1651	11	
Newsmagazine Journalism Honors	1660	10	
Newsmagazine Online Journalism Honors	1665	20	
British Literature I	1581	60	
British Literature II	1591	40	
U.S. Literature & Composition	1300	38	
Senior Literature	1491	23	
			<hr/> 202
Family & Consumer Sciences			
Fashion Merchandising*	6571	37	
Single Survival	6441	34	
			<hr/> 71
Music			
Concert Orchestra	5680	24	
Concert Orchestra Honors	5684	26	
Symphony Orchestra	5690	9	
Symphony Orchestra Honors	5695	27	
Chamber Orchestra Honors	5700AN	18	
Orchestra Winds and Percussion	5870BN	28	
Jazz Lab Honors	5679BN	57	
Jazz Ensemble Honors	5675AN	12	
			<hr/> 201
Science			
General Biology	3700G	207	
Biology Honors	3720	204	
General Earth Science	3740G	155	
Earth Science Honors	3760	119	
Chemistry/Physics 1	3800	132	
Themed Chemistry	3810	137	
Themed Physics	3900	109	
Meteorology and Astronomy	3771	136	
AP Physics 2*	3950	42	
			<hr/> 1,241
Social Studies			
Western Civilization	2261	56	
East Asian Studies*	2241	76	
Philosophy Honors*	2393	32	

			<hr/>	164
World Languages				
Etymology*	4371	17		
French 4 Honors	4145	27		
Latin 3 – 4 Caesar/Vergil	4360	50		
AP Spanish Literature	4565	13		
Spanish 5 Honors in Latin American Studies	4550	99		
Introduction to Spanish	4505	64	<hr/>	270
			<hr/>	
			<hr/>	2,398

*Courses listed in Hinsdale South Program of Studies but not offered during fall, 2017 semester.

Exhibit G

District 86 Courses Suitable for Average and Above Average Students

Offered Exclusively at Hinsdale South During Fall, 2017 Semester

	<u>Course #</u>	<u>Registrations</u>	
Art			
Glass Workshop	5561	16	
Animation & Cartooning	5591	14	<u> </u>
			30
English/Social Studies			
Writing Workshop	1611	16	
Humanities (2 period/2 credit English/Social Studies course)	2260	28	
American Studies (2 period/2 credit English/Social Studies course)	1360	61	
Psychology RISE	2530	20	<u> </u>
			125
Music			
Varsity Bass Chorus	5860	3	
Varsity Bass Chorus Honors	5870	2	<u> </u>
			5
Science			
Concepts in Chemistry	3850A	66	
GeoPhysics	3640	197	
GeoPhysics AR	3610A	95	<u> </u>
			358
			<u> </u>
			518



Book	Board Policy Manual
Section	7 - Students
Title	Attendance: School Attendance Areas
Number	7: 31
Status	Active
Adopted	July 1, 1986
Last Revised	June 6, 2016

As authorized under the School Code, the Board shall establish attendance boundaries for each attendance center in the District and may adjust attendance boundaries as necessary. Students eligible to attend the Hinsdale High Schools shall be assigned to an attendance center on the following basis:

Hinsdale South	All students residing within the District 86 portions of Elementary Districts 61, 62, 63 and 180 shall be assigned to Hinsdale South.
Hinsdale Central	All students residing within the District 86 portions of Elementary Districts 53, 60 and 181 shall be assigned to Hinsdale Central. As a means of easing overcrowding at Hinsdale Central, effective beginning with the 2017-2018 school year, any student assigned to Hinsdale Central may elect to attend Hinsdale South. The Superintendent shall develop procedures to administer this policy.
Buffer Zone	Students who reside in an area as described below and enter a District 86 school for the first time after June 6 2016 shall have the option of attending either Hinsdale South or Hinsdale Central, starting in August 2016. Schools should be notified by December 1 of the preceding year of the student's choice. Exceptions to the deadline date may be made for transfers from other districts or late "move-ins." Once a student in the Buffer Zone has elected his/her choice of attendance center, the student may make no further changes during his/her high school years.

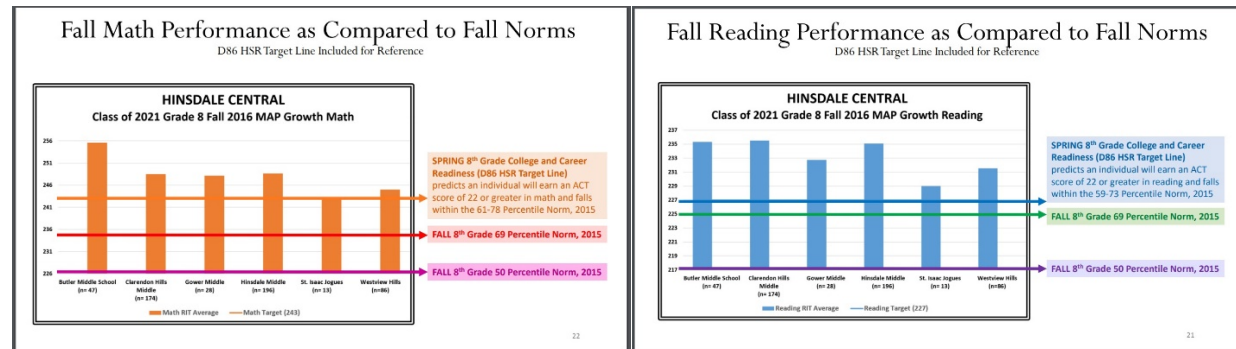
Buffer Zone: The area is bounded on the west by Cass Avenue (east side) and on the east by Garfield Street (west side). The northern boundary line extends along the south side of 63rd Street (Cass Avenue to Madison Street), with an inclusion of the area north of 63rd Street to include Godair Circle and the section of Ruth Lake Country Club that is in the Gower 62 School District. The northern boundary further extends along the line of 63rd Street (south side) between Madison and Garfield Avenue (west side). The southern boundary extends east of Cass on 67th Street (south side) to Route 83, south along the east side of Route 83 to Plainfield Road (north side), then northeast on Plainfield Road to Garfield Street.

The Superintendent shall determine the assignment of eligible students to the appropriate attendance center in accordance with this policy, other policies of the Board, and state laws and regulations. The Superintendent may, in his/her sole discretion, grant requests for student assignments or transfers to a different attendance area as authorized under Board policy 7:30 (*Student Assignment and Intra-District Transfer*)

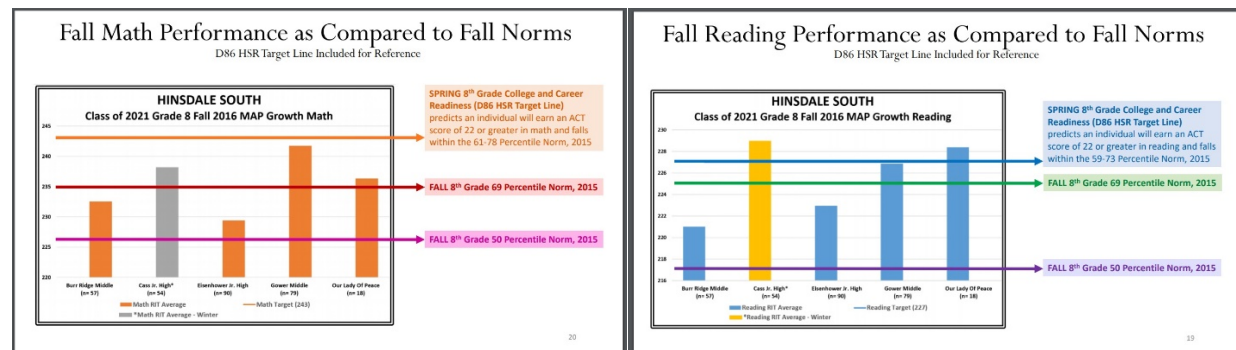
ADOPTED:	July 1, 1986
REVISED:	January 14, 1991
RENUMBERED:	February 19, 2014
REVISED:	June 6, 2016

Legal	105 ILCS 5/10-21.3, 10-21.3a, and 10-22.5
Cross References	7: 30* - Assignment and Admission: Student Assignment and Intra-District Transfer

Hinsdale Central Sender School Scores



Hinsdale South Sender School Scores



Hinsdale Township High School District No. 86
School Building Information
Last Ten Fiscal Years

	2017	2016	2015
Hinsdale Central High School (1947)			
Buildings (square feet) ^d	460,139	478,425	478,425
Available capacity (students)	2,490	2,490	2,650
Enrollment (students housed)	2,766	2,792	2,792
Hinsdale South High School (1965)			
Buildings (square feet) ^d	429,815	462,508	462,508
Available capacity (students)	1,930	1,930	1,875
Enrollment (students housed)	1,507	1,595	1,653
Hinsdale Twp HSD 86 Adult Opportunities Program ^c			
Buildings (square feet) ^{d,e}	8,700	N/A	N/A
Available capacity (students) ^f	42	N/A	N/A
Enrollment (students housed)	45	28	30

^{a, b} As of June 30 of that fiscal year

^a Student capacity was updated by ARCON Associates when the Board approved the Master Facilities Plan in January 2016. The capacity number is calculated by taking the total teaching stations multiplied by class size then multiplied by 80 percent efficiency rate. ARCON updated ARCON updated capacity calculations at the October 2, 2017 Facilities Committee meeting as follows: as follows: Hinsdale Central 2,622 and Hinsdale South 1,775.

^b Enrollment numbers have been updated to reflect the fall housing report that is compiled by the Illinois State Board of Education. The report can be found at: <https://www.isbe.net/Pages/Fall-Enrollment-Counts.aspx>.

^c The Adult Opportunities Program (aka Transition Center) was assigned its own RCDTS number for the number for the 2014-15 school year.

^d The Transition Center renovation was completed in the summer of 2016. The space was opened for opened for students in the fall of 2016. Prior to that, the program met in leased space.

^e Buildings (square feet) was updated based on the the master facility plan refresh completed by by ARCON Associates in 2016.

^f Capacity is determined by educational needs of the students. Not all students enrolled in the Adult the Adult Opportunities Program attend the Transition Center building. The District leases additional space to meet program needs.

Source of information: District building and enrollment records

Facility Committee Refined Priorities and Approach to a Master Facility Plan

Following the September 14th presentation by the Steering Committee to the Board of Education, the Board created a Superintendent's Advisory Group, giving the Group the assignment of refining the MFP and investigating options that might roughly correspond to budget targets of \$25, \$50, and \$100 million. The Advisory Group presented their investigations to the Board on October 27th. Over the next two months, the Facilities Committee then shaped the Board's priorities (refer to the appendix) grounded in the educational needs of the District, and further refined the MFP options. On January 4, 2016 the Facility Committee presented the refined version the Master Facility Plan, to the Board of Education. The Plan presented to the Board represented an evolution in the Facility Committee's approach to the MFP, acknowledging the Plan as a roadmap for the continual improvement of the HTHSD 86 facilities in support of continually evolving educational needs, not restricted by, or driven toward, preconceived budget limits.

Program Metrics

	SOUTH HS	CENTRAL HS
Student Population Fall 2015 (vs 2010)	1,618 (1,840)	2,841 (2,722)
Existing # of Teaching Stations	96.5	124.5
<i>Note: Pure accounting doesn't tell the whole story. Many of the existing teaching stations (non-typical classrooms) are severely undersized or are no longer appropriate for the programs being taught.</i>		
Target # of Teaching Stations using an average of 25 students/T.S. scheduled @ 80% efficiency:	81	144.5 (2,900 planned)
Capacity of existing buildings @ 80% efficiency:	1,930 (+ 312 vs existing)	2,490 (-410 vs existing)
2016 MFP Teaching Stations provided:	91.5 (existing)	145
Existing Building Area	429,815 sqft	460,139 sqft
Additions	11,500 sqft	138,000 sqft
Total Area	441,315 sqft	598,139 sqft
Renovations	50,000 sqft	100,000 sqft



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Capped
PE

$$96.5 \text{ T.S.} \times 25 \text{ students/TS} \times 0.80 \text{ sched. eff.}$$
$$= 1,930 \text{ students} *$$

② Tested against Sept 2017 scheduling:

Non-PE or Non-Capped
Capped
PE

$$\begin{array}{rcl} 77 & \times & 25 \text{ ave class size} \times .8 = 1,540 \\ 7 & \times & 13 \quad \quad \times .8 = 73 \\ 4.5 & \times & 45 \text{ max class size} \times .8 = 162 \end{array}$$

$$1,775 \text{ Students}$$

4/29/2018

Hinsdale District 86 School Board ready to eliminate buffer zone between high schools • The Doings Hinsdale

The school board plans to discuss the matter further and possibly vote at its May 7 meeting. Students from the buffer zone currently enrolled in South would be able to continue attending South, the board said.

Actually, the current policy allows any student living anywhere in the district to attend Hinsdale South because there is room there for more students. Families in the South attendance area, however, cannot choose Central because of a shortage of space at Central.

The buffer zone boundaries, which have changed over the years, are 63rd Street on the north, Cass Avenue on the west and Garfield Street on the east. The southern boundary is Plainfield Road east of Route 83 and 67th Street west of Route 83.

This school year, 200 students who live in the buffer zone chose to attend Central and 27 chose South.

If all the students in the buffer zone were moved to South, South's enrollment would be above its ideal capacity and Central, while less crowded, still would be above its target enrollment, according to a capacity and utilization study district officials presented.

That analysis states Central, with 2,799 students enrolled as of Sept. 30, is 284 students above the ideal enrollment for its facilities. South, which is a smaller school physically, had 1,518 enrolled as of Sept. 30, which is 186 students below what's considered its ideal enrollment.

RELATED: Five things to know about the Hinsdale District 86 enrollment issue »

Board member Robin Gonzales said the board needs to move the conversation past the angst, anger and uncertainty associated with the buffer zone, and focus on the opportunity South offers to attend a great and smaller high school.

"There are volumes of educational research on the benefits of smaller learning communities," Gonzales said. "Most districts work very hard to achieve smaller learning communities."

If anyone has examples or evidence of how students at South are not receiving similar or roughly the same programs as at Central, board member Keith Chval said he wants to hear from them.

And even if enrollment were better balanced between the two schools, renovations still would be needed, involving technology, the libraries, cafeterias, fine arts rooms, pools and locker rooms, Gonzales said.

Chval believes the buffer zone question can be addressed independently of a possible bond referendum for facility improvements at both schools.

"If I had my way, it would be done and have nothing to do with the referendum," Chval said.

Facilities Summary

Hinsdale Central was constructed in 1948 and contains 472,524 gross square feet (includes all space) with 115,368 square feet of academic contact space as defined for this report. As of September 30, 2017, the enrollment at Hinsdale Central was 2,799. Hinsdale South was constructed in 1965 and contains 468,458 gross square feet (includes all space) with 87,485 square feet of academic contact space. The enrollment at Hinsdale South at the same point in time was 1,518.

The Gross Utilization per Student is defined as the Gross Square of the entire facility divided by an enrollment number. This factor can also be used to compare utilization with peer institutions.¹ Schematic floor plans are included for reference (see Appendix B).

School	Gross Square Feet (GSF)	Student Enrollment	Gross Utilization GSF/ Student
Glenbard West	393,425	2,357	167
Hinsdale Central	472,524	2,799	169
Glenbard East	428,158	2,294	187
Glenbard North	424,530	2,272	187
Willowbrook	511,000	2,002	255
Addison Trail	525,000	1,970	266
Glenbard South	332,373	1,191	279
Hinsdale South	468,458	1,518	309

¹ District 86 reached out to neighboring high schools in December, and the comparables here represent those districts that responded over the Winter Break. As more data are reported, we will update the table.

Section Five: Summary

According to the February 1, 2015 *School Planning and Management, 20th Annual School Construction Report*, the median new high school in Illinois includes approximately 198 square feet per student.

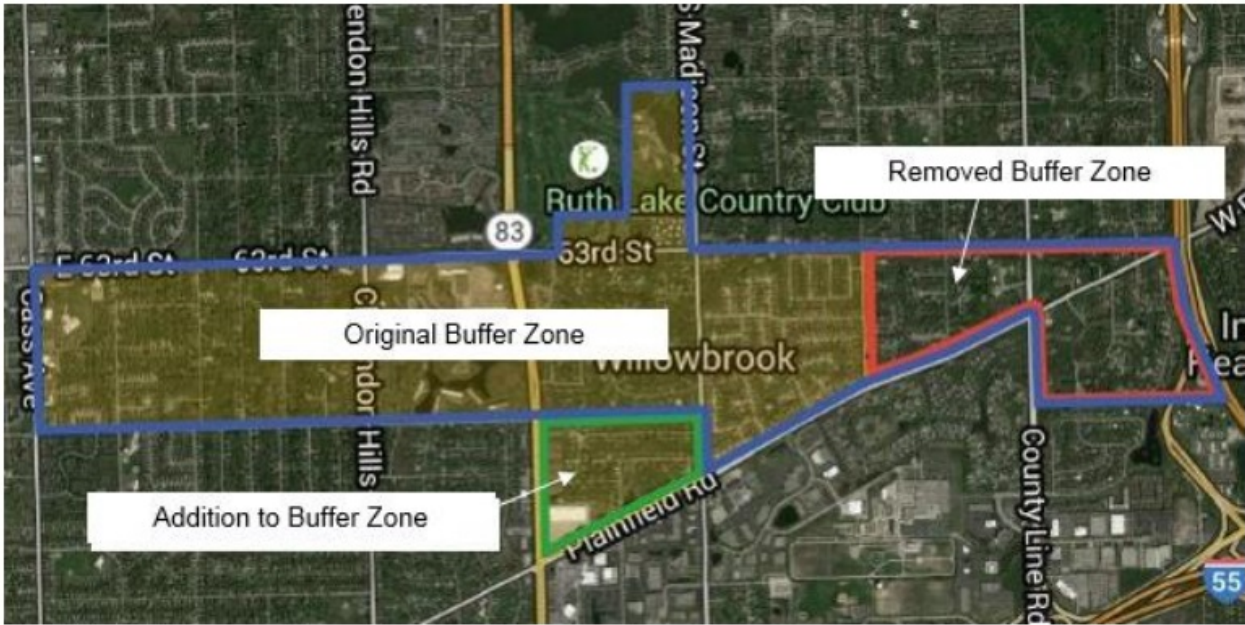
<https://webspm.com/Research/2015/02/Annual-School-Construction-Report.aspx>

Based on this figure and in comparison to peer schools, Hinsdale Central, at 169 square feet per student has a lower area per student ratio than typical and appears to be overcrowded, while Hinsdale South at 309 square feet per student is considerably above this standard.

This disparity in school density is also reflected in the Room and Seat Utilization indicators, with the overall Room Utilization at 88% and Seat Utilization at 77% for Hinsdale Central, and Room Utilization at 70% and Seat Utilization at 59% at Hinsdale South. At both schools, the Science Labs have the highest room utilization, with a 95% Room Utilization for the Labs at Hinsdale Central. This level of utilization is quite high and does not allow for any flexibility in scheduling or additional courses if required.

The purpose of this report is to document and illustrate the utilization of Hinsdale Central and Hinsdale South for instruction. Based on the demographer's enrollment projections, Hinsdale Central will continue to be overcrowded and Hinsdale South will continue to have unused capacity.

How to respond to the utilization of our high schools for instruction is beyond the scope of this report and awaits the direction of the Board of Education.



Central Program of Studies, Page 84

ADVANCED PLACEMENT BIOLOGY <i>Course#3730</i> Full year Credit: 1.0	<p>This course follows the College Board's Advanced Placement curriculum and as such is rigorous and fast paced. This course is comparable to an introductory college level course. College level materials are used. Advanced Placement Biology is a laboratory course.</p> <p>Prerequisite: Three years of science, including a year of Biology and a year of Chemistry and departmental recommendation. Concurrent enrollment in third year of science and AP Biology is permitted.</p> <p>Open to grades 11 and 12.</p> <p>Upon successful completion of this course, students are expected to take the Advanced Placement (AP) examination in early May. The 2017-2018 AP exam fee is \$93 per exam. There may be additional district fees associated with the administration of AP exams, which is allowed by College Board policy. See page 22 for more details.</p>
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Hinsdale South Program of Studies, Page 69

ADVANCED PLACEMENT BIOLOGY <i>Course # 03740</i> Prereq: Successful completion of Chemistry, Teacher recommendation. Level: 11, 12 Credit: 1.0 Supply fee: \$10	<p>Advanced Placement Biology covers two semesters of college-level biology and applies previous knowledge to topics as designated by the College Board curriculum, such as energetics, biochemistry, cellular biology, molecular biology, ecology, and population biology. This course can be taken junior year after completion of Chemistry and in place of Biology Honors as a first-year Biology course, or it can be taken senior year after Biology as a second-year Biology course.</p> <p><i>Upon the conclusion of this course, students are expected to take the AP exam (see page 94 for details).</i></p>
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Campbell Biology in Focus, 2nd Edition

Lisa A. Urry, Mills College, Oakland, CA
Michael L. Cain, Bowdoin College, Brunswick, Maine
Steven A. Wasserman, University of California, San Diego
Peter V. Minorsky, Mercy College, Dobbs Ferry, New York
Jane B. Reece, Berkeley, California

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In 930 text pages, the best-selling "short" textbook, *Campbell Biology in Focus*, emphasizes the essential content, concepts, and scientific skills needed for success in the college introductory course for biology majors.

<https://www.pearson.com/us/higher-education/program/Urry/Campbell-Biology-in-Focus-Plus-Mastering-Biology-with-e-Text-Access-Card-Package-2nd-Edition/PGM>

4/30/2018

Urly Cain, Wasserman, Minorsky & Reece, Campbell Biology in Focus, 2nd Edition | Pearson

Every unit takes an approach to streamlining the material that best fits the needs of instructors, based on surveys, curriculum initiatives, reviews, discussions with hundreds of biology professors, careful analyses of course syllabi, and the *Vision and Change in Undergraduate Biology Education* report. The Second Edition builds on the Campbell hallmark standards of accuracy, clarity, and pedagogical innovation, going beyond this foundation to help students make connections visually across chapters, interpret real data from research, and synthesize their knowledge. The accompanying digital resources include new, mobile-friendly tools that help instructors teach challenging topics better than ever before, integrate the eText with videos and animations, and allow students to test, learn, and retest until they achieve mastery of the content.

Fully integrated with the textbook, **MasteryBiology** is an online homework, tutorial, and assessment product that improves results by helping students quickly master concepts. Students benefit from self-paced tutorials that feature personalized wrong-answer feedback and hints that emulate the office-hour experience and help keep students on track. With a wide range of interactive, engaging, and assignable activities, students are encouraged to actively learn and retain tough course concepts.

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Taylor, Simon, Dickey, Hogan & Reece, Campbell Biology: Concepts & Connections, 9th Edition | Pearson

4/30/2018

A conceptual framework for understanding the world of biology

Overview

Description

Intended for non-majors or mixed biology courses.

This package includes Mastering Biology.

A conceptual framework for understanding the world of biology

Campbell Biology® Concepts & Connections continues to introduce pedagogical innovations, which motivate students not only to learn, but also engage with biology. The bestselling textbook is designed to help students stay focused with its hallmark modular organization around central concepts and engages students in connections between concepts and the world outside of the classroom with Scientific Thinking and Evolution Connection essays in every chapter. The 9th Edition offers students a framework organized around

fundamental biological themes and encourages them to analyze visual representations of data with new Visualizing the Data figures. A reorganized Chapter One emphasizes the process of science and scientific reasoning, and robust instructor resources and multimedia allow students to engage with biological concepts in a memorable way.

Unparalleled resources let instructors develop active and high interest lectures with ease.

The book and Mastering™ Biology work together to help students practice making these connections throughout their text.

Personalize learning with Mastering Biology.

Mastering™ Biology is an online homework, tutorial, and assessment product designed to improve results by helping students quickly master concepts. Students benefit from self-paced activities that feature personalized wrong-answer feedback to emulate the office-

<https://www.pearson.com/us/higher-education/program/Taylor-Campbell-Biology-Concepts-Connections-Plus-Mastering-Biology-with-Pearson-e-Text-Access-Card-P>

South Program of Studies, page 69

<u>ADVANCED PLACEMENT PHYSICS 1</u> <u>Course #03910 (11,12)</u> Prereq: Chemistry and Biology completed or concurrent; Alg II or higher completed or concurrent with strong math grades; cannot have taken Physics Honors; Teacher or Dept. Chairperson approval. Level: 11, 12 Credit: 1.0	Advanced Placement Physics 1 is equivalent to a first-semester college-level Algebra 2/Trig.-based physics course. Topics include motion, work, energy, forces, rotation, momentum, power, waves, and sound. <i>Upon the conclusion of this course, students are expected to take the AP exam (see page 94 for details).</i>
<u>ADVANCED PLACEMENT PHYSICS 2</u> <u>Course #03950</u> Prereq: AP Physics 1; Teacher recommendation Level: 12 Credit: 1.0	Advanced Placement Physics 2 is equivalent to a second-semester college-level Algebra-based physics course. Topics include fluid mechanics, thermodynamics, electricity and magnetism, optics, and atomic/nuclear physics. <i>Upon the conclusion of this course, students are expected to take the AP exam (see page 94 for details).</i>

ADVISORY REFERENDUM QUESTION

Douglas Pollock

From: Scott F. Uhler <SFUhlen@KTJLAW.com>
Sent: Thursday, April 26, 2018 8:54 AM
To: Douglas Pollock
Subject: RE: Local School Committee Follow Up

My thoughts on a possible question:

Shall the Hinsdale Township District 86 Board of Education provide equal educational opportunities to the students at Hinsdale South and Hinsdale Central High Schools by offering the same classes and extracurricular opportunities to the students at both high schools?

Scott F. Uhler | Partner | Klein, Thorpe and Jenkins, Ltd. | 20 N. Wacker Drive, Suite 1660 | Chicago, IL 60606 | Ph: 312-984-6400 | sfuhler@ktjlaw.com



From: Douglas Pollock [mailto:DPOLLOCK@BURR-RIDGE.GOV]
Sent: Friday, April 20, 2018 2:01 PM
Cc: Scott F. Uhler
Subject: Local School Committee Follow Up

Committee Members:

I thought I would take this opportunity to summarize your “homework” assignment from last night’s meeting.

- Review the draft complaint document, mark up any changes and return to me. I would like to have your changes on or before May 3 so that Scott and I can process before the May 10 meeting. I have attached a copy of the draft complaint in Word format so you can type in any notes or suggestions if you prefer.
- Forward to me your suggestions regarding the advisory referendum wording, keeping in my mind Scott’s direction that the question not be leading and may be answered with a simple yes or no. Based on that, I modified my draft question a bit would offer the following as a starting point:

Shall the Hinsdale Township District 86 Board of Trustees balance enrollment between Hinsdale South and Hinsdale Central High Schools before seeking any referendum for a property tax increase?

If you have any questions, please let me know. Our next meeting is scheduled for Thursday, May 10 at 7 pm at the Village Hall.

ADVISORY REFERENDUM QUESTION

Douglas Pollock

From: Anita Mital
Sent: Saturday, April 21, 2018 7:11 AM
To: Douglas Pollock
Subject: RE: Local School Committee Follow Up

Douglas,

Here is my wording for the advisory referendum:

Shall the Hinsdale Township District 86 Board of Trustees offer a choice to choose which High school their children can attend to all rather than some of the residents before seeking a referendum for property tax increase for all the residents.

Sent from [Mail](#) for Windows 10

From: [Douglas Pollock](#)
Sent: Friday, April 20, 2018 2:01 PM
Cc: [Scott F. Uhler \(SFUhlen@KTJLAW.com\)](mailto:SFUhlen@KTJLAW.com)
Subject: Local School Committee Follow Up

Committee Members:

I thought I would take this opportunity to summarize your “homework” assignment from last night’s meeting.

- Review the draft complaint document, mark up any changes and return to me. I would like to have your changes on or before May 3 so that Scott and I can process before the May 10 meeting. I have attached a copy of the draft complaint in Word format so you can type in any notes or suggestions if you prefer.
- Forward to me your suggestions regarding the advisory referendum wording, keeping in my mind Scott’s direction that the question not be leading and may be answered with a simple yes or no. Based on that, I modified my draft question a bit would offer the following as a starting point:

Shall the Hinsdale Township District 86 Board of Trustees balance enrollment between Hinsdale South and Hinsdale Central High Schools before seeking any referendum for a property tax increase?

If you have any questions, please let me know. Our next meeting is scheduled for Thursday, May 10 at 7 pm at the Village Hall.

Doug Pollock, AICP
Village Administrator
Village of Burr Ridge
(630) 654-8181, Ext. 2000

ADVISORY REFERENDUM QUESTION

Douglas Pollock

From: Alan Hruby <ahruby@sbcglobal.net>
Sent: Tuesday, May 1, 2018 12:50 PM
To: Douglas Pollock
Subject: Re: Local School Committee Follow Up

Suggestion on Referendum Wording:

Shall the Hinsdale Township District 86 Board of Trustees redistribute the high school student population between Hinsdale Central High School and Hinsdale South High School in alignment with each school's capacity before seeking a referendum for a property tax increase?

On 4/20/2018 2:01 PM, Douglas Pollock wrote:

Committee Members:

½

I thought I would take this opportunity to summarize your ½ homework ½ assignment from last night's meeting.

½

- Review the draft complaint document, mark up any changes and return to me. ½ I would like to have your changes on or before May 3 so that Scott and I can process before the May 10 meeting. ½ I have attached a copy of the draft complaint in Word format so you can type in any notes or suggestions if you prefer.

½

- Forward to me your suggestions regarding the advisory referendum wording, keeping in my mind Scott's direction that the question not be leading and may be answered with a simple yes or no. ½ Based on that, I modified my draft question a bit would offer the following as a starting point:

½

Shall the Hinsdale Township District 86 Board of Trustees balance enrollment between Hinsdale South and Hinsdale Central High Schools before seeking any referendum for a property tax increase?

½

If you have any questions, please let me know. ½ Our next meeting is scheduled for Thursday, May 10 at 7 pm at the Village Hall.

½

Doug Pollock, AICP

Village Administrator
Village of Burr Ridge
(630) 654-8181, Ext. 2000

½

ADVISORY REFERENDUM QUESTION

Douglas Pollock

From: Vivek Ghai <vicneo@gmail.com>
Sent: Tuesday, April 24, 2018 3:23 PM
To: Douglas Pollock
Cc: Scott F. Uhler (SFUhler@KTJLAW.com)
Subject: Re: Local School Committee Follow Up

Advisory referendum

Based on the following facts that are part of the public record. It is a reasonable conclusion that the District 86 School Board is systematically working to deny the right to equal education under the law to students of Hinsdale South High School. By their actions it appears that the board has created two separate but unequal high schools.

The facts are as below

	HS	HC	Ratio or
difference			
African american enrollment	20.6 %	2.6%	8 times
Hispanic enrollement	10.3 %	4.8 %	> double
Low income	32.2 %	8.1 %	4 times
empty slots	30 %	overcapacity	
course offerings	(fill in numbers)		41 more
courses offered at HC			
2016 avg ACT score	22.3	26.8	
4 yr graduation rate	88%	95 %	
Buffer zone student choice	13 %	87%	

School board actions: want more money to build new student space at HC when ample space is available at HS, if the schools are combined. The board does not even want to consider this option, despite losing a construction referendum in 2016. Why?

I agree with the motion that the actions of the school board could be construed as designed to deny civil rights to minority students residing within the boundaries of hinsdale south high school.

Yes

No

On Fri, Apr 20, 2018 at 2:01 PM, Douglas Pollock <DPOLLOCK@burr-ridge.gov> wrote:



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Chicago, Illinois 60606-2903
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15010 S. Ravinia Avenue, Ste 10
Orland Park, Illinois 60462-5353
T 708 349 3888 F 708 349 1506

DD 312 984 6421
sfuhler@ktjlaw.com

www.ktjlaw.com

CONFIDENTIAL ATTORNEY CLIENT CORRESPONDENCE

MEMORANDUM

RE: *Options-Considerations*
School Board Decision-Making

September 21, 2017

Issue

You have asked about any options the Village may have to address the propriety and fairness of the decisions of the board of education of the high school district regarding attendance boundaries and use of resources. It is clear that many Village residents are extremely frustrated with what they believe is unfair bias reflected in the actions of the board of education in allocating resources and in generally acting in favor of Hinsdale Central High School as opposed to Hinsdale South.

The basic legal principle applicable to the exercise of governmental authority in Illinois remains “Dillon’s law”, i.e. the powers of a non-home rule municipality (as well as other non-home rule public entities) are limited to those which are expressly granted by the Illinois Constitution, by Illinois statute, and those powers which are necessarily incident to or “indispensable” to accomplishing the purposes of these powers expressly granted. In this instance, there is no clear, express statutory or Constitutional grant of power which would authorize a municipality to legally challenge the decisions of its local school board, an independent unit of government like the Village, regarding resource allocation or the setting of attendance boundaries. Absent legal authority for action by the Village however, we have also attempted to identify and summarize the best available options for residents and the Village to consider hereinbelow.

“Tort” Liability for Injury

Absent such legal authority in the Constitution or any statute for a municipality, the ability to bring a successful challenge to the express statutory authority of another co-equal governmental entity, a school district, to establish its attendance boundaries or determine expenditures, is limited at best. An alternative basis for a claim, under special circumstances, can at times be asserted for “injuries” under a tort theory of liability if there is a legal duty owed (to the Village) and that duty has been breached by the school district, causing injury to the Village. However, there would be some fairly formidable obstacles faced by the Village to successfully bring such a “tort” claim against the school board. The Village would have to be able to prove that it has a legally protectable interest (that the Village has a protectable interest and can sue on behalf of specific property owners re: declining property value), that the Village has suffered a demonstrable injury to that interest (that the declining property value has adversely impacted a Village interest), that the school district had a legal duty to the Village and that the injury was caused by an

intentional or willful wrongful specific action of the school board. None of these elements fit the traditional understanding the courts would readily identify as a “tort” claim. Each elements presents fairly significant problems to establish or prove. Further, there is the separate, basic issue that while a reasonable person could disagree with the decisions being made by the current school board, there is a significant, meaningful difference between making a decision that is wrongful (breaching a legal duty to someone with reckless disregard or intent to injure or damage) and one that simply shows poor, stubborn or biased decision-making.

Limited Jurisdiction of All Public Bodies

No public body within or which includes property within the Village boundaries, whether a school district, a fire protection district, park district or library has the general legal authority (absent such authority being set forth in a statute or the Constitution) to challenge and second-guess the decisions that the Village is empowered to make regarding Village operations, whether it is to annex a certain property into the Village, zone the property R-2A or R-3, to issue a liquor license to a business or to offer a sales tax rebate to a property owner to promote development. The same basic legal doctrine would apply to the Village and its school district. You may be aware of situations involving litigation between school districts and their municipality relative to a TIF matter. The difference in that instance is that school districts (and other directly affected taxing districts) have defined legal rights created under the Tax Increment Financing Act itself, and they are presumably suing to enforce such rights (or alleging some violation of their rights as created under that Act).

Limited Jurisdiction of Municipality Over School District

In a recent zoning decision, the Illinois Supreme Court held that a school district is subject to municipal zoning regulations. See *Gurba v Community High School District 155*, 2015 IL 11832. Zoning is an express power and authority of a municipality, set forth in the Illinois Municipal Code. There are no provisions in the Illinois School Code which exempt school districts from compliance with municipal zoning regulations (in fact, the Court in *Gurba* noted there are some provisions in the School Code suggesting schools are in fact subject to municipal zoning). It is worth noting that the Court took pains to emphasize the specific and limited nature of municipal authority over a school district in the area of zoning. The *Gurba* Court was careful to emphasize the difference between a zoning dispute involving a school and municipality and a situation under which a municipality might try to regulate school district activities, expressly concluding:

“the City's regulation of school-owned property [zoning] for the benefit of the community as a whole is not equivalent to the regulation of public education activities such as school curricula, administration and staffing.” *Id.* at 11839

The Illinois Supreme Court has also previously considered certain municipal authority relative to its local school district in *School District No. 150 v City of Peoria*, 76 Ill.2d 469 (1979). In that matter, the school district filed suit against the City of Peoria challenging the legal authority of the City’s attempt to require certain collection activities by the school district in the collection and administration of certain amusement taxes imposed by the City. The Court concluded that the City’s attempt to regulate such school operations was impermissible, emphasizing the comprehensive authority of the Illinois legislature in the governance and operation of the State’s schools:

“...in *Cronin v Lindberg*, 66 Ill.2d 47 (1976), this court reaffirmed the supremacy of the legislature in regard to school and school districts under the 1970 Constitution. Pursuant to the constitutional mandate of the 1870 Constitution and of the 1970 Constitution, the legislature has enacted a comprehensive scheme

for the creation, management and operation of Illinois schools. The powers, duties and obligations of school boards are described in detail by the statutes [referencing the Illinois School Code]. Thus the legislature, pursuant to the constitutional mandate, exercises plenary power over the Illinois school system.”

Finally, relying in part on this decision of the Illinois Supreme Court, the Illinois Office of the Attorney General examined an issue similar to the issue now being discussed by the Village, whether a municipality has the authority to spend public funds to address boundary change issues involving its local school district located within the area of that municipality. The Illinois Attorney General concluded in that instance that a home rule municipality lacked the authority to spend public monies to promote or oppose boundary changes in the school district serving the area of the municipality. *Ill.Atty.Gen.Op.* 00-016 (Dec. 29, 2000) In reaching that conclusion, the Attorney General reasoned as follows, even though home rule governments may expend public funds in the exercise of any power or the performance of any function “pertaining to its government and affairs”:

“It has been held that home rule powers extend only to purely local affairs, not those involving other units of local government or the State; thus, the emphasized language of section 6(a) [of the Illinois Constitution] operates as a limitation upon home rule powers. Matters regarding the organization and boundaries of a school district simply do not pertain to the government and affairs of a municipality which is located within the district. School districts are subject to the plenary power of the General Assembly and are not subject to regulation or control by municipalities. (Citing *Board of Education v City of Peoria*, 76 Ill.2d 469 (1979)) The mere fact that the school district and the village share a common constituency which may be interested in issues affecting the educational system does not make those issues municipal issues or empower the village to become involved in matters relating to the organization of the school district.” *Ill.Atty.Gen.Op.* #016 (Dec. 29, 2000) at p. 3.

The Attorney General concluded that since a decision to change the boundaries of the local school district is not a matter pertaining to the government and affairs of the local municipality covered by the school district, the municipality would not be authorized to spend any funds “or otherwise act in support of or in opposition to the proposed changes in those boundaries.” *Ill.Atty.Gen.Op.* #016 (Dec. 29, 2000) at pp. 3-4. While an opinion of the Illinois Attorney General is not binding legal authority on the Village, the courts can consider such opinions to be “persuasive” authority on an issue.

School District Authority

A school district is an independent, sovereign public entity established by the Illinois legislature. It has been granted full authority and responsibility for the operation of its schools and all related decisions. School districts are legally authorized and charged with making decisions regarding their attendance boundaries. The School Code expressly authorizes school boards to:

“[E]stablish one or more attendance units within the district... All records pertaining to the creation, alteration or revision of attendance units shall be open to the public.” 105 ILCS 5/10- 21.3

School district discretion and authority to establish attendance boundaries is broad. The Illinois Municipal Code vests the Village Board of Trustees with jurisdiction and authority over the government and affairs of the Village as a municipality. The decisions of the Village cannot be second-guessed (legally) and are not subject to oversight or supervision by any other governmental bodies, unless expressly provided by statute. The Illinois School Code creates the same jurisdiction and authority for school districts over school governance and affairs.

POSSIBLE MEASURES TO INFLUENCE SCHOOL BOARD ACTIONS OR ADDRESS IMPROPER ACTIONS

Although there are limited means to address the current decision-making process of the school board, we set forth below a summary of the most available and meaningful measures.

Undue Influence of Board Members From One Attendance Area – Referendum/Election

To promote more balanced representation across the school district, the School Code provides for the conversion of at at-large school district election process for board members, to a system where the board members would be elected by district. A referendum to change to such a system can be proposed by the school board or by residents:

“A school board may by resolution or shall, upon the petition of the lesser of 2,500 or 5% of the district's registered voters, order submitted to the district's voters at a regular school election or at the general election, the proposition for the election of board members by school board district, and the proposition shall thereupon be certified by the board's secretary for submission. If the proposition is approved by a majority of those voting on the proposition, the board shall divide the school district into 7 school board districts, each of which must be compact and contiguous and substantially equal in population to each other district.” 105 ILCS 5/9-22

Current, existing measures also include community members organizing and working for the election of new board members if community residents are dissatisfied with the current composition of the board. Community members of the Hinsdale South attendance area could work toward greater participation in the caucus system by Hinsdale South residents or organization of a separate caucus system or simply identification of candidates to run for school board. The current caucus system has no legal status, but is an informal system for identifying and proposing candidates.

Resolution of the Village Board

The Village Board can summarize its concerns with the current status of attendance boundaries and resource allocation in the form of a resolution to be adopted by the Village Board and shared with the School Board, on behalf of Village residents.

Legislative Action

If residents in the Hinsdale South attendance area do not believe a referendum could succeed in the school district (to change to 7 subdistricts) given the current demographics of the school district which now result in a majority of board members from one area, a legislative change could be sought. If the majority of the voters in the school district are in the Hinsdale Central attendance area and would invariably support the continuation of the current system and reject a change to 7 subdistricts, legislative action may be needed to establish or create a new school board process, standards or formula which better represents the interests of all constituents in the school district. Such legislation can potentially be proposed creating such processes or standards regarding boundary setting (and student attendance), resource allocation or how to better establish equitable membership on the school board.

Discriminatory Decisions of Board

As for school board decisions that may be based on improper discrimination or cause discriminatory results, there is an option included in the School Code for addressing impermissible discriminatory decision-making by a school board. The “Armstrong Act” (under the Illinois School Code) provides that school districts are to:

“[E]stablish one or more attendance units within the district. As soon as practicable, and from time to time thereafter, the board shall change or revise existing units or create new units in a manner which

will take into consideration the prevention of segregation and the elimination of separation of children in public schools because of color, race, or nationality. All records pertaining to the creation, alteration or revision of attendance units shall be open to the public " 105 ILCS 5/10-21.3

To enforce the requirements of this Section, as well as prevent discrimination on any other impermissible basis, the School Code further provides a citizen option to file a formal complaint with the State Board of Education by at least 50 residents or at least 10% of voters (whichever is less) alleging that any pupil has been excluded from or segregated in any school on account of his or her color, race, nationality, sex, religion or religious affiliation or subjected to discrimination by reason thereof, by or on behalf of the school board of the school district. 105 ILCS 5/22-19

OCR Complaint Process

Another option for any resident, similar to Section 22-19 of the School Code, is a complaint process through the Office of Civil Rights of the U.S. Department of Education which accepts and investigates complaints from anyone alleging discrimination on the basis of race, color, and national origin (as prohibited by *Title VI of the Civil Rights Act of 1964*). Covered discrimination claims include, but are not limited to a person's limited English proficiency or English learner status, actual or perceived shared ancestry or ethnic characteristics, including membership in a religion that may be perceived to exhibit such characteristics (such as Hindu, Jewish, Muslim, Sikh, etc.) Also covered is discrimination on the basis of sex, gender identity or transgender status and discrimination against persons or students with disabilities.

ISBE Program Compliance Process

Finally, a complaint or correspondence can be addressed to the Regional Office of Education if there is an allegation that the school district has failed to meet its legal obligations. The Illinois State Board of Education and the DuPage County Regional Office of Education both routinely review school district recognition status and monitor school districts for compliance with Illinois State Board of Education and School Code operational requirements. The compliance process is standardized and includes review of a district's compliance with legal mandates and policies.

No later than September 30 of each year, each school district must apply for recognition of each school operated by the district. This application is submitted to the respective regional superintendent of schools through an electronic submission process established by the State Superintendent of Education. No later than October 15 of each year, each regional superintendent of schools shall summarize, through an electronic process established by the State Superintendent of Education, the degree to which the schools in the districts for which he or she is responsible adhere to operational compliance requirements. The regional superintendent shall recommend the assignment of recognition status as applicable considering the compliance-related information supplied. A school or district is to be placed on probation if it fails or refuses to serve students according to relevant legal and/or regulatory requirements; and/or prolongs or repeats instances of noncompliance to a degree that indicates an intention not to comply with relevant requirements.



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Phone: (630) 920-8983 Fax: (630) 214-2008

VA Office: 460 Harbor Side St.
Woodbridge, VA 22191
Phone: (571) 408-4974 Fax: (630) 214-2008

Website: www.tungollaw.com

MEMORANDUM

**To: Mayor Mickey Straub and Village Board
The Village of Burr Ridge**

**From: Kristine Tungol Cabagnot, Esq.
Tungol Law Office**

**Re: The Village of Burr Ridges Legal Standing in Responding to District 86
Enrollment and Boundary Issues**

Date: September 21, 2017

Issues Presented

The Village of Burr Ridge (hereinafter The Village) has recently voted 4-3 to have its staff research options for responding to District 86 enrollment and boundary issues, and to assess whether all residents in the school district are being treated fairly. Does The Village have the legal capacity to spend taxpayer money to carry out this task?

Furthermore, does The Village have legal standing in any other possible lawsuit or complaint against District 86 actions that might negatively impact the residents of The Village?

Rules of Law

The Election Interference Prohibition Act states: “No public funds shall be used to urge any elector to vote for or against any ... proposition, or be appropriated for political or campaign purposes to any candidate or political organization. This provision shall not prohibit the use of public funds for dissemination of factual information relative to any proposition appearing on an election ballot.” *See* 10 ILCS 5/9-25.1.

The Local Governmental Employees Political Rights Act (PRA) states: “No employee of a unit of local government or school district may (i) use his or her official position of employment to coerce or inhibit others in the free exercise of their political rights or (ii) engage in political activities while at work or on duty.” *See* 50 ILCS135/10.

Memorandum

Re: The Village of Burr Ridge's Legal Standing in Responding to District 86 Enrollment and Boundary Issues

Illinois State Officials and Employees Ethics Act Sec. 5-15. Prohibited political activities states:

- a) State employees shall not intentionally perform any prohibited political activity during any compensated time (other than vacation, personal, or compensatory time off). State employees shall not intentionally misappropriate any State property or resources by engaging in any prohibited political activity for the benefit of any campaign for elective office or any political organization.
- b) At no time shall any executive or legislative branch constitutional officer or any official, director, supervisor, or State employee intentionally misappropriate the services of any State employee by requiring that State employee to perform any prohibited political activity (i) as part of that employee's State duties, (ii) as a condition of State employment, or (iii) during any time off that is compensated by the State (such as vacation, personal, or compensatory time off).

Prohibited political activity means: (including, but not limited to, the following pertinent actions)

(1) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.

(3) Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.

(4) Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

(5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

(8) Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.

(11) Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.

(12) Campaigning for any elective office or for or against any referendum question.

See 5 ILCS 430/5-15.

In *Gladstone, Realtors v. Village of Bellwood*, 441 U.S. 91 (1979), the U.S. Supreme Court ruled that a Village has standing as a party to a lawsuit. In that case, a Village has been allowed to sue on the theory that it had, "[L]ost tax revenue and had the racial balance of its community undermined by racial-steering practices."

In *Bank of America Corp. et al v. City of Miami, Florida*, 581 U.S. ____ (2017), the U.S. Supreme Court ruled that the City of Miami has standing to sue as an aggrieved person two banks for predatory lending under the Fair Housing Act of 1968. Furthermore, Justice Stephen G. Breyer opined that the banks' actions in these cases had reduced property values, diminishing the city's property tax revenue and increasing demand for municipal services.

The U.S. Department of Education's Office for Civil Rights (OCR) enforces several federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the Department of Education (ED):

Memorandum

Re: The Village of Burr Ridge's Legal Standing in Responding to District 86 Enrollment and Boundary Issues

- a) Discrimination on the basis of race, color, and national origin is prohibited by Title VI of the Civil Rights Act of 1964;
- b) Sex discrimination is prohibited by Title IX of the Education Amendments of 1972;
- c) Discrimination on the basis of disability is prohibited by Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 (Title II prohibits discrimination on the basis of disability by public entities, whether or not they receive federal financial assistance); and
- d) Age discrimination is prohibited by the Age Discrimination Act of 1975.

Amendment to the Illinois Educational Labor Relation Act. School District Boundaries states:

"[I]n the instance of a change of boundaries through detachment, (1) when considering the effect the detachment will have on the direct educational welfare of the pupils, the regional board or regional boards shall consider a comparison of the school report cards for the schools of the affected districts and the school district report cards for the affected districts only if there is no more than a 3% difference in the minority, low socio-economic, and non-English speaking student populations of the relevant schools of the districts; (2) the community of interest of the petitioners and their children and the effect detachment will have on the whole child may be considered only if the regional board or regional boards first determine that there would be a significant direct educational benefit to the petitioners children if the change in boundaries were allowed; (3) the regional board or regional boards may consider the difference in the distances from the petitioning area to the current schools and the petitioned-for schools only if the difference is no less than 10 miles shorter to one of the petitioned-for corresponding current grade centers than it is to the corresponding current grade center; (4) the regional board or regional boards may not grant a petition if doing so will increase the percentage of minority, low socio-economic, or non-English speaking students at the school or the district from which the petitioning territory will be detached and will decrease the percentage of those students at the school or district to which the territory will be annexed; and (5) the regional board or regional boards may not consider whether changing the boundaries will increase the property values of the petitioners property." See SB 224/PA 99-0475.

Analysis

- I. *The Village is within its lawful scope to research and investigate options for responding to District 86 enrollment and boundary issues.*
 - a. The Election Interference Prohibition Act does not prohibit use of public funds for dissemination of factual information relative to any proposition appearing on an election ballot. Hence, if the purpose of this research is to disseminate factual and helpful information to the residents regarding District 86 issues, then The Village is within its right to carry out such task.
 - b. Furthermore, The Village does not violate any of the Illinois State Officials and Employees Ethics Act regulations regarding prohibited political activities. The research is conducted during a time period when there is no election, nor is there currently any referendum going into an election ballot for an upcoming election.

Memorandum

Re: The Village of Burr Ridge's Legal Standing in Responding to District 86 Enrollment and Boundary Issues

II. *The Village may have legal standing in any other possible lawsuit or complaint against District 86 actions that might negatively impact its residents.*

a. Property Value-Based Approach:

Just like the above-mentioned U.S. Supreme Court cases, The Village can take pointers from the City of Miami to file a lawsuit under The Fair Housing Act of 1968.

The National Fair Housing Alliance (NFHA) conducts mystery shopper sales tests, sending out people of various backgrounds to pose as house hunters and determine whether they hear different messages. "It is evident from the investigation that schools have become a proxy for the racial or ethnic composition of neighborhoods," the report said. (*See* enclosed "Race, School, Ratings And Real Estate: A Legal Gray Area" by K. Yoshinaga and A. Kamenetz, NPR).

As with the above-mentioned article, there is much evidence that school districts have become intertwined with the real estate market. As realtors within The Village have shared during open forums, buyers specifically ask to see houses that are within the Hinsdale Central attendance area. As a result, those houses falling outside the Hinsdale Central attendance area that are usually comparable in pricing and specifications may be on the market for a longer period of time. Hence, the original listing price may decrease in the interest of selling the house. This would lead to depreciation in value of said house along with the neighboring properties nearby. This would also negatively impact future real property developments within the area, as those real properties will be assessed at a lower amount than their actual potential.

Further research can shed light on whether District 86 itself can become a named party defendant in this lawsuit; if real properties, especially within the Buffer Zone, can show drastic differences in sale prices, length of time in the market, and appreciation for those within Hinsdale Central vs. Hinsdale South attendance areas.

b. Discrimination:

As per the OCR regulation above, a school district can be sued on the basis of race, color, and national origin (Title VI of the Civil Rights Act of 1964). While The Village may file a complaint on behalf of its residents, The Village itself might even have standing as an aggrieved party just as in the Property Value-Based Approach above.

Once again, this boils down to numbers: total number of nonwhite students living within The Village; total number of these nonwhite students going to South vs. going to Central; total amount of money residents of The Village contribute to District 86.

It would also be important to take a look at where the total nonwhites attending Hinsdale South live. If there is a direct correlation to which school they attend (Hinsdale South) and the lower property value of their real properties, this would eventually negatively impact The Village. For these other villages and The Village fall within the same demarcation line that determine which students attend Hinsdale South vs. those who attend Hinsdale Central.

Memorandum

Re: The Village of Burr Ridge's Legal Standing in Responding to District 86 Enrollment and Boundary Issues

c. Filing Complaints Against District 86 to Higher Authority:

- i. Any complaints against District 86, such as inappropriate conduct by a Board Member violating Board policy, may be addressed to the IL Department of Education.
- ii. Issues about fraud, waste or abuse of federal funds, or any other civil rights violations may be addressed to the Office of the Inspector General or Office for Civil Rights.
 1. Possible SB 224/PA 99-0475 boundary issues: District 86 School Board approved in June, 2016 extending the district's buffer zone to include the Willowbrook homes northeast of Route 83 and Plainfield Road. Board member Claudia Manley was the only one who voted against this change, and is opposed to the Buffer Zone in general.

The 2014-15 school report card shows Hinsdale South has 56 percent white students, 21 percent black, 10 percent Hispanic and 10 percent Asian. In comparison, Hinsdale Central has 75 percent white students, 3 percent are black, 5 percent Hispanic and 15 percent Asian.

What begs further investigation is why the policy the board was adopting allows everyone in Hinsdale Central's attendance boundaries the option of attending Hinsdale South, but not the reverse. Manlay said this policy "is based upon red-lining and economic and racial gerrymandering by those who fear." See "Hinsdale District 86 board member walks out after buffer zone vote" by K. Fornek, *The Doings Weekly*.

2. Possible issues of waste or abuse of federal funds: Further research into budget allotted for Hinsdale Central vs. Hinsdale South, and determine if there is inequality in budget allotment currently and in years past.

Also obtain information on the specific expenditures each high school has incurred through the years to determine if there are any issues of waste or abuse of federal funds.

Conclusion

Based on the rules of law and analysis of the above-situation, The Village is acting within its scope to research and investigate options in responding to District 86 enrollment and boundary issues.

Furthermore, The Village may have legal standing in other possible lawsuits as an aggrieved party, should it consider taking that avenue in the foreseeable future.

Finally, there is ample evidence that District 86 Board members may have acted outside their scope and violated several regulations. It would be in The Village's best interest to further investigate these potential grievances and file a complaint to the pertinent higher authority.



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I. Issues

- Does The Village of Burr Ridge have standing on potential lawsuit against Hinsdale District 86? If so, on what grounds?
- Does any resident in The Village of Burr Ridge have standing on potential lawsuit against Hinsdale District 86? If so, on what grounds?

II. Pertinent Rules of Law and Regulations

1. Standing: Lack of standing is an affirmative defense in Illinois (*Greer v. Illinois Housing Development Authority*, 122 Ill. 2d 462, 494, 524 N.E.2d 561 (1988)) and may appropriately be raised by way of a motion for involuntary dismissal under section 2-619 (*In re Custody of McCarthy*, 157 Ill. App. 3d 377, 380, 510 N.E.2d 555 (1987)). When lack of standing is raised by way of a section 2-619 motion, all well-pled facts in the plaintiff's complaint must be taken as true for purposes of ruling on the motion. See *Mayfield v. Acme Barrel Co.*, 258 Ill. App. 3d 32, 34, 629 N.E.2d 690 (1994).

As the Illinois Supreme Court held in *Greer*:

"[S]tanding in Illinois requires only some injury in fact to a legally cognizable interest. More precisely, the claimed injury, whether 'actual or threatened' must be: (1) 'distinct and palpable'; (2) 'fairly traceable' to the defendant's actions; and (3) substantially likely to be prevented or redressed by the grant of the requested relief. In the context of an action for declaratory relief, there must be an actual controversy between adverse parties, with the party requesting the declaration possessing some personal claim, status, or right which is capable of being affected by the grant of such relief. [Citation.]" *Greer*, 122 Ill. 2d at 492-93.

2. Zoning: Generally, zoning is primarily a legislative function (*Cosmopolitan National Bank v. County of Cook*, 103 Ill.2d 302, 313, 82 Ill.Dec. 649, 469 N.E.2d 183 (1984)), and therefore it is subject to court review only for purpose of determining whether exercise of zoning powers involves undue invasion of private constitutional rights without reasonable justification with respect to public welfare (*Kleidon v. City of Hickory Hills*, 120 Ill.App.3d 1043, 1046, 76 Ill.Dec. 277, 458 N.E.2d 931 (1983)).

A zoning ordinance is presumed valid, and a party challenging its validity must show by clear and convincing evidence that application of the ordinance is arbitrary and unreasonable and bears no substantial relation to public health, safety, or welfare. (*Racich v. County of Boone*, 254 Ill.App.3d 311, 314, 192 Ill.Dec. 940, 625 N.E.2d 1095 (1993); see also *La Salle National Bank v. County of Cook*, 12 Ill.2d 40, 46, 145 N.E.2d 65 (1957))

3. In *Brown v. Board of Education of Topeka*, 347 U.S. 48 (1954), the U.S. Supreme Court held in this landmark decision that state laws establishing separate public schools for African American and

Caucasian students to be unconstitutional. The decision effectively overturned the *Plessy v. Ferguson* decision of 1896, which allowed state-sponsored segregation, insofar as it applied to public education. Handed down on May 17, 1954, the Warren Court's unanimous (9-0) decision stated that "separate educational facilities are inherently unequal." As a result, de jure racial segregation was ruled a violation of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution. This ruling paved the way for integration and was a major victory of the Civil Rights Movement, and a model for many future impact litigation cases. However, the decision's fourteen pages did not spell out any sort of method for ending racial segregation in schools, and the Court's second decision in *Brown v. Board of Education of Topeka*, 349 U.S. 294 (1955) (also known as *Brown II*) only ordered states to desegregate "with all deliberate speed".

4. In *Gladstone, Realtors v. Village of Bellwood*, 441 U.S. 91 (1979), the U.S. Supreme Court ruled that a Village has standing as a party to a lawsuit. In that case, a Village has been allowed to sue on the theory that it had, "[L]ost tax revenue and had the racial balance of its community undermined by racial-steering practices."

5. In *Bank of America Corp. et al v. City of Miami, Florida*, 137 S.Ct. 1296 581 U.S. ____ (2017), the U.S. Supreme Court ruled that the City of Miami had standing to sue as an aggrieved person two banks for predatory lending under the Fair Housing Act of 1968. Furthermore, Justice Stephen G. Breyer opined that the banks actions in these cases had reduced property values, diminishing the city's property tax revenue and increasing demand for municipal services.

6. In *Chicago Urban League et al. v. State of Illinois and Illinois State Board of Education ("ISBE")*, the State announced in Feb., 2017, it has finally reached a tentative settlement after years of legal battle. The State agreed to revise the way it handles general state aid cuts and says it will cover the Plaintiff's \$12,000.00 litigation costs.

In its 2008 suit, the Urban League claimed the state's funding model has a "demonstrable, disparate and adverse impact" on minority students, violating the Illinois Civil Rights Act. The suit also claims the method in which schools are funded violates the state constitution's Equal Protection Clause with respect to African American and Hispanic students.

The Urban League has since moved for a partial summary judgment on a single issue in the case – proration. Specifically, the plaintiffs have asked a judge to rule whether or not the district's practice of splitting district funding equally, regardless of its size or student population, discriminates against students based on race.

In the agreement, ISBE agreed not to use proration unless it has "sufficient appropriation" – meaning 95 percent or more of submitted general state aid claims are funded. If that number falls below 95 percent – defined as "insufficient appropriation" – the board will either cap per pupil cuts or use another methodology to distribute GSA "based on the needs of each school district and its students." In the event of insufficient appropriation, ISBE would determine its methodology following a series of public hearings.

The State acknowledged its education funding formula is dysfunctional, and convened a 25-member commission to look at possible reforms to that system last summer. That commission issued a list of recommendations in February, 2017, but any substantive changes have yet to be seen.

7. *Gurba v. Community High School District 155*, 2014 Ill App 2 d 140098 (Ill.App. 2nd Dist., 9-3-2014).

The Illinois Appellate Court decided that school districts are subject to cities' zoning powers. The case arose when a high school planned to renovate the bleachers in the football stadium. The neighbors objected to the new bleachers which would be adjacent to the residential property next to the school. The neighbors sued the School District seeking to privately enforce the city's zoning ordinances. The city issued a stop-order against the School Board prohibiting the continuation of the work on the bleachers. The court considered the School Board's arguments supporting its position that the city may not restrict a school district's land use. The court disagreed and relied on a provision in Section 10-22.13a of the School Code expressly allowing School Boards with the authority to seek "zoning changes, variations, or special new uses for property held or controlled by the school district." The court reasoned that this provision demonstrates that the legislature intended to subject the local school board to the municipality's zoning regulations.

8. In *Carr v. Koch*, 212 IL 113414, the Supreme Court of Illinois affirmed the appellate court judgement's dismissal of the suit for lack of standing where the school districts themselves have discretion in setting tax rates. In this case, Plaintiff complained that property tax rates were higher in some school districts than in others, and alleged a denial of equal protection in the statutory school funding system implemented by defendant state officials.

9. The history of Illinois Supreme Court decisions have been favorable toward ISBE and school districts. However, in recent court decisions (i.e., *Chicago Urban League* and *Gurba*), the Court has held ISBE more accountable for its actions.

a. In 1973, in *Blase v. State*, the Illinois Supreme Court held that the constitution's education provision merely expressed a goal and did not impose an obligation on the General Assembly.

b. In 1996, in *Committee for Educational Rights v. Edgar*, the State Supreme Court held that it did not have "judicially manageable standards" by which to determine whether the State was providing the education required by the Illinois Constitution.

c. In 1999, in *Lewis E. v. Spagnolo*, the same Court rejected plaintiffs' attempt to distinguish their adequacy claim cases from *Edgar* and characterized the current case as "once again" asking the Court to "enter the arena of Illinois public school policy."

10. The U.S. Department of Education's Office for Civil Rights (OCR) enforces several federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the Department of Education (ED):

- a) Discrimination on the basis of race, color, and national origin is prohibited by Title VI of the Civil Rights Act of 1964;
- b) Sex discrimination is prohibited by Title IX of the Education Amendments of 1972;
- c) Discrimination on the basis of disability is prohibited by Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 (Title II prohibits discrimination on the basis of disability by public entities, whether or not they receive federal financial assistance); and
- d) Age discrimination is prohibited by the Age Discrimination Act of 1975.

11. Amendment to the *Illinois Educational Labor Relation Act*, SB 224/PA 99-0475. School District Boundaries states:

“[I]n the instance of a change of boundaries through detachment, (1) when considering the effect the detachment will have on the direct educational welfare of the pupils, the regional board or regional boards shall consider a comparison of the school report cards for the schools of the affected districts and the school district report cards for the affected districts only if there is no more than a 3% difference in the minority, low socio-economic, and non-English speaking student populations of the relevant schools of the districts; (2) the community of interest of the petitioners and their children and the effect detachment will have on the whole child may be considered only if the regional board or regional boards first determine that there would be a significant direct educational benefit to the petitioners children if the change in boundaries were allowed; (3) the regional board(s) may consider the difference in the distances from the petitioning area to the current schools and the petitioned-for schools only if the difference is no less than 10 miles shorter to one of the petitioned-for corresponding current grade centers than it is to the corresponding current grade center; (4) the regional board or regional boards may not grant a petition if doing so will increase the percentage of minority, low socio-economic, or non-English speaking students at the school or the district from which the petitioning territory will be detached and will decrease the percentage of those students at the school or district to which the territory will be annexed; and (5) the regional board or regional boards may not consider whether changing the boundaries will increase the property values of the petitioners property.” See SB 224/PA 99-0475.

12. *Realtors Code of Ethics and Regulations*.

The *Fair Housing Act* protects against discrimination in housing based on race, color, national origin, religion, sex, disability or even family status. This law recognizes that Realtors can potentially steer prospective homebuyers or renters toward or away from a community based on class, gender, or ethnicity; religion; socio-economic status; criminal statistics; or environmental concerns.

There are legitimate exceptions to these Fair Housing laws. For example, a realtor must disclose information that pertains to a specific property, *i.e.*, if a house is in a floodplain, a murder occurred at the property, or if there are materials considered hazardous that were grandfathered it.

III. Analysis

As the Illinois Supreme Court held in *Greer*:

“[S]tanding in Illinois requires only some injury in fact to a legally cognizable interest. More precisely, the claimed injury, whether ‘actual or threatened’ must be: (1) ‘distinct and palpable’; (2) ‘fairly traceable’ to the defendant’s actions; and (3) substantially likely to be prevented or redressed by the grant of the requested relief.

A. The Village of Burr Ridge: Standing

The Village of Burr Ridge (hereinafter “The Village”) may have standing to sue local relators who use some form of “steering” toward potential buyers. In *Gladstone, Realtors v. Village of Bellwood*, 441 U.S. 91 (1979), the U.S. Supreme Court ruled that a Village has standing as a party to a lawsuit. In that

case, a Village has been allowed to sue on the theory that it had, “[L]ost tax revenue and had the racial balance of its community undermined by racial-steering practices.”

Furthermore, as per the *Realtors Code of Ethics and Regulations*, realtors may not even give ratings or statistics on schools. If this is information relevant to the client’s search, realtors may direct them to resources. A County Line Properties local newspaper advertising claims in bold letters, “Hinsdale Central Proud!” (See attached advertising). Furthermore it states that this realtor company is “Representing the better area real estate for over 20 years!” This ad may contain several regulations, and may violate the Fair Housing Act.

Attached also is an example of comparison of the property value of a four-bedroom and five-bathroom house in Burr Ridge and Hinsdale. Coincidentally, the Burr Ridge house belongs to the Hinsdale South boundary, while the Hinsdale house belongs to the Hinsdale Central boundary. There is more than \$500,000 difference in the two houses. Attached also are two PDF files that show a current listing of houses for sale in both Burr Ridge and Hinsdale, which show significant differences in property value and property tax history, with the houses in Hinsdale being significantly higher than the houses in Burr Ridge.

Taking these facts altogether, The Village may have strong Standing, if its property tax revenues are significantly lower compared to The Village of Hinsdale.

The Village may also have standing to sue Hinsdale District 86. While zoning laws have been established for land use, city planners have added the word “buffer” in an attempt to solve issues regarding incompatible land uses. In this case, the buffer zone is the area surrounding the neighborhood school district that serves both Hinsdale Central and Hinsdale South. The buffer zone was designed to keep class sizes small by allowing the students who reside in the buffer zone area the option of attending either Hinsdale South or Hinsdale Central. In this case, the buffer zone was implemented in August 1991 (See “Board Policy Manual”, Hinsdale Township High School District 86, DuPage County, p. 205). In general, the northern boundary line extended to 63rd St., the southern boundary line extending to 67th St., while the western boundary extending from Cass Avenue to the eastern boundary of I-294. At some point the boundary extended south on Madison to Plainfield, and east to County Line, where it continued along to 67th St. and on to I-294.

La Salle National Bank v. County of Cook also listed the following factors that courts examine in evaluating the validity of zoning ordinance: (1) existing uses and zoning of nearby property; (2) extent to which particular zoning restrictions diminish property values; (3) extent to which diminishing plaintiff’s property values promotes public health, safety, or general welfare; (4) relative gain to public as compared to hardship imposed upon individual property owner; (5) suitability of subject property for zoned purposes; (6) length of time the subject property has been vacant as zoned, in context of land development in vicinity; (7) whether there is comprehensive zoning plan for land use and development; and (8) evidence of community need for proposed use. (*La Salle National Bank*, 12 Ill.2d at 46-47, 145 N.E.2d 65; *Sinclair Pipe Line Co.*, 19 Ill.2d at 378, 167 N.E.2d 406.

Existing uses and zoning of nearby property

With respect to the first factor, the existing uses and boundary lines of the buffer zone has changed with great frequency that the disparity in enrollment between Hinsdale Central and Hinsdale South is clearly unreasonable. Historically, the changes in the buffer zone boundaries occurred almost

biennially. The lasting trend is to demark the boundary lines favoring Hinsdale Central. In this case, it appears race may be a significant factor in demarking the boundary lines.

Extent to which particular zoning restrictions diminish property values

By frequently changing the buffer zone to benefit Hinsdale, the change has certainly diminished property and tax values in Burr Ridge as compared to Hinsdale. The buffer zone, “cannot effect an arbitrary discrimination against the class on which it operates by omitting from its coverage persons and objects similarly situated. Statutory classifications can only be sustained where there are real differences between the classes, and where the selection of the particular class, as distinguished from others, is reasonably related to the evils to be remedied by the statute or ordinance.” (*Ronda Realty Corp. v. Lawton*, 414 Ill. 313, 111 N.E.2d 310, 312.)

Extent to which diminishing plaintiff’s property values promotes public health, safety, or general welfare, and Relative gain to public as compared to hardship imposed upon individual property owner

The courts typically consider the third and fourth factors together. In this case, while Hinsdale Central and Hinsdale South are located within the same school district, the enrollment in Hinsdale Central is greatly higher than the enrollment in Hinsdale South.

The 2017 Illinois School Report Card for both Hinsdale Central and Hinsdale South are now available. Hinsdale Central’s total enrollment was 2,765. The breakdown of racial/ethnic background are:

White: 71.4%
Black: 2.1%
Hispanic: 6.0%
Asian: 17.0%
Native Hawaiian/Pacific Islander: 0.1%
American Indian: 0.1%
Two or More Races: 3.3%

Hinsdale South’s total enrollment was 1,507. The breakdown of racial/ethnic background are:

White: 55.9%
Black: 20.2%
Hispanic: 11.5%
Asian: 9.6%
Native Hawaiian/Pacific Islander: 0.2%
American Indian: 0.1%
Two or More Races: 2.5%

However, the District has refused to maintain relative class sizes, causing a disparity of the allocation of school funds. The disparity does not promote the public health, safety or general welfare, nor does it cause a relative gain for the common good of the public residing within the area because the students in Hinsdale South are negatively impacted as they have received less funding. This School Board has historically approved unnecessary improvements to Hinsdale Central while ignoring Hinsdale South,

when the School Board should have maintained equal enrollments in both schools and distributed funding for improvements equally and fairly between Hinsdale Central and Hinsdale South.

Suitability of subject property for zoned purposes

There is no dispute of the suitability of the subject property for zoned purposes. Rather the dispute lies within the demarcation of the zoned area which further benefits Hinsdale Central High School.

Length of time the subject property has been vacant as zoned, in context of land development in vicinity

This factor is not at issue and therefore will not be addressed.

Whether there is comprehensive zoning plan for land use and development

We do not have enough factual information to discuss this factor.

Evidence of community need for proposed use

The buffer zone has been a contentious topic for many years. The District's referendum to issue \$76 million in bonds to pay for improvements was soundly rejected in March, 2017, with 74 percent of residents voting "no" (See Fornek, K. "Voters reject Hinsdale District 86 bond referendum," *The Doings Hinsdale* (Apr. 5, 2017)).

However, the District has not budged on its most recent extension of the buffer zone to include the Willowbrook homes northeast of Route 83 and Plainfield Road, with almost a unanimous vote in the affirmative in June, 2016 (See Fornek, K. "Hinsdale District 86 board member walks out after buffer zone vote," *The Doings Weekly* (June 7, 2016)). District Board member Claudia Manley was the sole vote against the buffer zone extension, and quoted the dictionary definition of "buffer" is a person or thing that shields and protects against annoyance, harm, or hostile forces. "So what kind of annoyance, harm, or hostile force is Hinsdale Central being protected from?" Manley asked. She concluded that it was the diversity of the students who attend Hinsdale South.

B. Burr Ridge Resident: Standing

A Burr Ridge resident who owns property that has a significantly lower property value than a house in Hinsdale with the same specifications, and whose child is enrolled in Hinsdale South, may have Standing to sue both the local realtors and Hinsdale District 86.

Realty search engines like Zillow, Homes.com and Redfin link to local school ratings prominently on every listing. The actual racial and ethnic composition of each school is a click or two away. On all three sites these ratings are color-coded: green, yellow or red. When we pulled for-sale listings in both Burr Ridge and Hinsdale, the school rating has its own tab and visible for everyone to see. Hinsdale Central is rated "10" while Hinsdale South is rated "9." Thus, might school ratings on real estate sites constitute a new form of "racial steering"?

According to Professor Michael P. Seng, director of the Fair Housing Program at John Marshall Law School in Chicago, this is a gray area. Providing school ratings oversteps the bounds of what a real

estate service should be doing. But to bring an actual court case, Professor Seng explains, a plaintiff would need to prove that the school ratings steer people out of communities on the basis of race. "It would take a lot of statistical studies, but I think it's possible," says Seng.

There are already landmark and precedent cases that show a School District may be successfully sued, starting with *Brown v. Board of Education of Topeka*, 347 U.S. 48 (1954). In Illinois, the courts have historically been quite "hands-off" when it comes to the State's handling of school matters. However, of note are two particular cases where, in one, the court ruled against a school district, and in the other, the State and the State Board of Education have had to settle after years of court battle.

In *Gurba v. Community High School District 155*, 2014 Ill App 2 d 140098 (Ill.App. 2nd Dist., 9-3-2014), The Illinois Appellate Court decided that school districts are subject to cities' zoning powers. The court relied on a provision in Section 10-22.13a of the *School Code* expressly allowing School Boards with the authority to seek "zoning changes, variations, or special new uses for property held or controlled by the school district." The court reasoned that this provision demonstrates that the legislature intended to subject the local school board to the municipality's zoning regulations.

In *Chicago Urban League et al. v. State of Illinois and Illinois State Board of Education* ("ISBE"), the State announced in Feb., 2017, it has finally reached a tentative settlement after years of legal battle. The State agrees to revise the way it handles general state aid cuts and says it will cover the Plaintiff's \$12,000.00 litigation costs. But Plaintiff's complaint against the state has been dismissed with prejudice. The State has acknowledged its education funding formula is broken, and convened a 25-member commission to look at possible reforms to that system last summer. That commission issued a list of recommendations in February, 2017. But it remains to be seen when any substantive changes will actually be made.

These two cases are significant because they signal a change in Illinois' court system, holding school district leaders accountable for their actions.

On December 18, 2017, Hinsdale District 86 Board unanimously approved an \$82.5 million property tax levy for 2018, which is a 3.2 percent increase from the previous year's property tax levy. The state's tax cap law limits the increase in property taxes from one year to the consumer price index, which was 2.1 percent (see attached article, "Hinsdale District 86 Board Approves \$83 Million Property Tax Levy"). The district's budget projection for the next two years estimates deficits of \$316,000 for the 2018-19 school year. They determined the district cannot afford to reduce its revenue as it implements a 1:1 student to Chromebrook program, and \$24 million in maintenance projects and upgrades.

In June 2014, Hinsdale District 86 hired Sikich, LLP to provide expert and independent opinion to explore certain issues related to the District's financial and human resources operations (see attached "Sikich Audit Final Report 2014"). The investigation did not find any fraud, but had a "serious ongoing concern of ease for fraud to occur." For example, on p. 31, paragraph 2, there is a payment made to an individual for \$23,000.00 with the description, "TUITION PRIVATE FAC DIS WIDE SPEC." No employee record exists for the individual. What, exactly, is the nature of the service for this payment?

Another example is found on p. 49, under "G Fund Reporting and Review," the District maintains a miscellaneous exchange" account for Hinsdale South and Hinsdale Central. As of March 31, 2014,

there were accumulated balances of \$7,401.96 in the Hinsdale Central account and \$950.82 in the South account. These balances have slowly accumulated for more than 18 years. What is the purpose of these accounts, and why is Central's balance much higher than Hinsdale South's?

Furthermore, the District attempted to focus on the enrollment imbalance between South and Central in 2017. It even had a flier ready to mail out to residents with information about the enrollment at each school, their ideal capacity, and projected enrollment. However, it will not mail the flier, nor proceed with surveying the residents on their opinions about the enrollment imbalance. This is because the district's architects, Arcon Associates, admitted in making a mistake in assessing classrooms availabilities in Hinsdale South. Arcon stated two rooms assessed as a classroom were, in fact, used as offices. Because of this, Arcon raised Central's ideal enrollment from 2,490 to 2,622, and lowered South's ideal enrollment from 1,930 to 1,775. If the District Board accepts these revised targets, Central would be less overcrowded than perceived, and South would not have as much extra space as they believed. The District Board is now questioning the validity of the enrollment numbers that Arcon provided in January, 2016, that set each school's ideal enrollment based on 80 percent use of educational spaces.

Hence, while Hinsdale District 86 Board Members unanimously voted for a significant hike in property tax levy with seemingly reasonable justifications, are they, in fact, reasonable? Upon a closer look, is there waste or abuse, or at the very least a mismanagement of funds that could result in a person's injury, whether 'actual or threatened' that is (1) 'distinct and palpable'; (2) 'fairly traceable' to the defendant's actions; and (3) substantially likely to be prevented or redressed by the grant of the requested relief?

The property tax and sale charts show much lower property and tax values in Burr Ridge than Hinsdale. The 2017 School Report Cards show that there are more students in Hinsdale Central than Hinsdale South, while there are significantly more minorities in Hinsdale South. Considering that the school budget is per child, Hinsdale Central is getting more funding, since it has a higher student population. And while there was an attempt by the District to address the enrollment imbalance of Hinsdale and Central, this agenda was dropped when Arcon Associates made enrollment assessment mistakes. The District cannot even answer one question that has been asked time and again: Why spend for Central's overcrowding, when there is plenty of room at South? Instead, the District voted to expand the buffer zone, with more students opting to go to Hinsdale Central. These actions are in violation of the Illinois Civil Rights Act based on race, similar to *Chicago Urban League et al. v. State of Illinois and Illinois State Board of Education* ("ISBE").

Considering the above facts, a Burr Ridge resident, who owns his or her home, and has a child enrolled at Hinsdale South, has standing to sue the local realtors, as well as Hinsdale District 86.

IV. Conclusion

The Village may have standing to sue local realtors in violation of the Fair Housing Act, and may have standing against Hinsdale District 86 for zoning violations of its perpetual extension and changes of the buffer zone.

A Burr Ridge resident who owns his or her property, which is listed significantly lower than the same property in Hinsdale, and who has a child enrolled in Hinsdale South, may have standing to sue local realtors and Hinsdale District 86 based on Fair Housing Act, Civil Rights Act, and zoning violations.