



JEA P. STREET
COUNCILMAN, TENTH DISTRICT

COUNCIL
March 11, 2008

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Ms. Margaret Spellings
Secretary of Education
400 Maryland Ave. SW
Washington, DC 20202

Ms. Wendella P. Fox, Director
Office for Civil Rights
U.S. Department of Education
The Wanamaker Building Suite 515
100 Penn Square East
Philadelphia, PA 19107

Re: Investigation and Compliance Review Request

Dear Secretary Spellings and Ms. Fox,

I am Councilman for the Tenth District of New Castle County Delaware representing approximately 40,000 people. My County Council District includes approximately one half of the city of Wilmington and a suburban portion of the Colonial School District that encompasses most of the area of the former DeLaWarr School District, which was a party to school desegregation litigation in the federal district court in Delaware. *Coalition to Save Our Children v. State Bd. of Educ.*, 90 F. 3d 752 (3rd Cir. 1996).

Over the past year, I have received complaints from parents, community residents, and Colonial School District employees regarding the policies and practices of the Colonial School District ("the District"). In that regard, I have called upon the District and the Delaware State Board of Education to address these concerns. To date, my efforts have been to no avail.

I. Neighborhood School Act

At the beginning of this school year, the District continued with implementation of its neighborhood school plan. Included in this plan, was the conversion of an elementary school into a high poverty, racially identifiable middle school. Although the District knew full well that children in high poverty schools cannot receive a proper education without additional resources,

no additional resources were provided. Worse, the District failed to provide an adequate means for some children to get to the school safely. Certain children are forced to cross a major artery without traffic controls and only limited crossing guard support. This road has been the scene of several pedestrian accidents over the last year. I know of no other similar situation within the District, or the State for that matter, where the lives of school children are placed in jeopardy on a daily basis. Finally, most concerning are the complaints from community residents about the children engaging in disruptive behavior before and after school, an inevitable result of creating a high poverty middle school without additional resources.

It is my view that the Neighborhood School Act (copy attached) violates the Equal Protection Clause of the Fourteenth Amendment because it has a segregative effect. Many neighborhoods in Wilmington and the suburban portion of my Councilmatic District (the former DeLaWarr School District area) are racially segregated. Requiring students residing in segregated communities to attend neighborhood schools has resulted in single-race student populations. Moreover, as these neighborhoods have the lowest income levels, the schools have high levels of low income students. I am particularly concerned about the Neighborhood School Act's implementation in the Colonial School District. I respectfully request that your office do a compliance review of the District in regard to creation of this racially isolated, high poverty middle school.

II. District's Disciplinary Practices

In 2005, in response to numerous concerns raised, I requested disciplinary data and information from the District (copy attached). At the time, the District through its Superintendent maintained that the data was unavailable but would be available the following school year. To date, no information has been provided. I believe that the District has good cause to hide the data. Over the last year and during this school year, I have received and made complaints to the District and the Delaware State Board of Education regarding:

1. Children being suspended without a hearing.
2. Children being told that they are not suspended but they can not come to school.
3. A special education student being placed in alternative school without special education services.

4. Children being subjected to a so-called case review, which is not included in the District's Code of Conduct, and being suspended for over thirty (30) days without services or a formal hearing.
5. A child placed in alternative school via case review without a hearing.
6. Utilization of a biased Hearing Officer that the District and the State Board know full well can never be independent of the modus operandi of the District Superintendent.
7. Excessive placement of students in alternative school.
8. Excessive numbers of expulsions (up to eight in one month).
9. Employees violating children's rights and District Policy without any consequences, including a school principal physically pushing a parent and a bus driver throwing children's belongings out of a bus window.
10. Failure to follow Procedural Due Process and District Policy as presented to the Department of Education in its Student Code.
11. Failure to place eligible students in alternative school as required by Delaware Law.

Astoundingly, the District in part justifies its non-compliance by stating that the school officials accused of violating procedures "are of the same race" as the students.

Recently the State Board of Education reviewed a case wherein the District was accused of committing sixteen violations. The State Board did address two areas of the violations (albeit erroneously), but was silent on the predominance of the allegations including: repeated denials of due process (i.e. suspension without hearing, failure to provide statements in advance of a hearing, violation of procedures mandated by State Board Rules, District Policy, or District Code (i.e. utilizing a case review process, admitted supplementation of the record, failure to provide transition services for children returning to regular school from alternative school), and failure to recognize an individual's basic constitutional rights (i.e. a hearing officer attempting to prohibit a student from remaining silent).

Regrettably, the Delaware State Board of Education and the Delaware Department of Education are failing to fulfill their responsibilities for oversight and compliance with Procedural Due Process and disciplinary practices. The State Board and the Department's silence on these most serious issues speaks volumes about its failure to assure compliance and warrants an in depth compliance review of the District's Disciplinary Practices and oversight by the State Board of Education and the Department of Education.

III. *Charter School System*

In 1995, the State of Delaware adopted the “Charter School Act of 1995” (copy attached). This act authorized the creation of independent Charter Schools. The State Board of Education approves and is responsible for oversight of these independent Charter Schools. The Charter School system has created a dual school system within the Delaware school system that has a long history of both de-jure and de-facto segregation. It is my view that the dual charter school system violates the equal protection clause of the Fourteenth Amendment.

In stark contrast to the high poverty, racially identifiable, under resourced, make-shift school facilities within the inner City, suburban school children have been provided with elite safe heavens in the form of racially identifiable white Charter Schools that operate essentially as private schools funded by public dollars.

Once a child is enrolled in a Charter School, the local District does not have to enroll the child. As an unfortunate result, some children with special needs who are enrolled in the Charter Schools are not being properly served. I have personal knowledge of a twelve year old being expelled from a Charter school without educational services for a year and two other situations where a five and six year old student were removed from school with only six hours of home bound instruction and/or counseling services per week. The Department of Education has been made aware of this problem and has failed to take any action toward resolution. In that regard, the State Board of Education and the Department of Education are derelict in their duty to assure that all children are provided with a “free and appropriate education”.

It is for these reasons that I am respectfully requesting that you investigate the State Board of Education and the Department of Education and make a determination as to whether or not the Delaware Charter School system is operating in compliance with the equal protection clause and whether or not the State Board of Education is providing appropriate oversight and protection for the students who attend those schools.

IV. *Protection from Gun Violence*

Finally, I am concerned about the failure of the State Board of Education and all of the School Districts in Northern New Castle County to ensure that children are not exposed to gun violence in the public schools. During this school year alone, there have been two shootings at bus stops within the City of Wilmington and one incident in a school bus where a student shot himself.

In the spring of 2007, I asked a State Representative to convene a special meeting with the Superintendents of the Northern New Castle County School Districts, the Speaker of the House of Representatives, and the Police Chiefs of the Departments in New Castle County. At that meeting, my suggestion for random searches and utilization of metal detectors and/or wands was flatly rejected by the Superintendent of the Colonial School District and all but one of the other Superintendents acquiesced to his position. Rejection of my suggestion without consideration or implementation of other solutions to reduce the likelihood of gun violence is of grave concern to me.

Based upon the foregoing, I am respectfully requesting that you investigate the school's policies to prevent gun violence to ensure the schools are adequately protecting the health and safety of the children in the Public Schools of New Castle County.

In conclusion, it is my view that the Northern New Castle County School system in general, and the Colonial School District in particular, are out of control and compliance. As a result, the educational plight of children in the former Wilmington and DeLaWarr School Districts cries out for relief from a higher authority. Should you determine that your office is not the appropriate Federal authority to provide this relief, then, I respectfully request that you inform me as to the appropriate Federal authority or authorities as I know full well no relief is forthcoming from school authorities in the State of Delaware.

I thank you for your time and consideration of this important matter.

Sincerely,



Jea P. Street, Councilman
Tenth District

Pc: Honorable Ruth Ann Minner, Governor
Honorable John Carney, Lieutenant Governor
Honorable Joseph R. Biden, III, Attorney General
All members of the Delaware General Assembly
Dr. Valerie Woodruff, Secretary of Education
All members of the Delaware State Board of Education
Dr. George Meney, Superintendent, Colonial School District
All members of the Colonial School District Board of Education
Dr. Lillian Lowery, Superintendent, Christina School District
Dr. Robert Anderzejewski, Superintendent, Red Clay Consolidated School District
Dr. James Scanlon, Superintendent, Brandywine School District

Dr. Steven Godowsky, Superintendent, New Castle County Vocational School District
Honorable Christopher Coons, County Executive
All members of New Castle County Council
Honorable James M. Baker, Mayor
All members of Wilmington City Council

All copied without copies of the “Neighborhood School Act,” the “Charter School Act of 1995”
and the October 28, 2005 letter to the Colonial School District.