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**“Fulfilling the Promise of Brown
And Diversity Conscious Choice-Based Assignments”**

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Although it has been sixty years since the *Brown* decision outlawed intentional racial segregation in public schools the question of how students should be assigned to desegregate public schools continues to be the most controversial and compelling legal, political and *educational* issue in the United States. And while most of this Nation’s segregated school districts were desegregated in the 1970’s and 80’s through the implementation of federal court orders and the mandatory reassignment of students, many districts voluntarily designed and implemented plans to reduce racial isolation and promote diversity without a court order and mandatory reassignments.

However the ability to *voluntarily* pursue and fulfill the promise of Brown in the 21st Century has become more problematic in light of the Supreme Court’s 2007 decision in *Parents Involved in Community Schools v. Seattle School District No.* (PICs) which set limitations on how school districts can consider the racial classification of individual students in assigning them to public schools. Although the Supreme Court’s plurality affirmed that school districts have a compelling governmental interest to pursue diversity and avoid racial isolation in K-12 education, there was widespread confusion following the PICs decision over how school districts could voluntarily design and implement constitutionally permissible race conscious student assignment plans.

This confusion was addressed on December 2, 2011, when the United States Department of Education’s Office for Civil Rights and the United States Justice Department jointly issued new guidelines that explain how public education authorities can voluntarily pursue lawful student assignment policies to achieve diversity and avoid racial isolation that do not rely on the race of individual students.

This presentation discusses the current political and logistical context of voluntary school desegregation planning and the efficacy of using race-neutral or generalized-race-based criteria in implementing *choice-based* student assignment plans to *consciously* achieve diversity and avoid racial isolation in K-12 public schools.

Post-PIC Planning and Implementation

Absent a federal court order, the future of school desegregation rests on the political will of local and state education authorities to voluntarily promote diversity and reduce racial and ethnic isolation. Experience with the Pre-PIC voluntary adoption of race conscious

desegregation plans in Massachusetts and several other States strongly indicates that the political will of local governmental authorities to voluntarily promote diversity in the Post-PICS era can be induced by federal and state governments affirming the importance of integrated public schools and providing local school districts with tangible financial incentives and resources to do so. Experience also indicates that equitable student assignment plans can also be initiated by parents, community groups, civil rights advocates and enlightened business leaders and foundations who value the importance of diversity.

However, as discussed below Post-Pic integration plans are complex and often require assistance and technical expertise that is not readily available in the local school district. Experience is now proving that the utilization of transparent and user friendly technology that gives parents access to robust information about schools and that gives administrators the ability to simulate and optimize various student assignment options that best achieve the District's desegregation goals can greatly facilitate both the planning and effective implementation of voluntarily adopted multifaceted diversity conscious choice-based student assignment plans.

Diversity Conscious Choice-Based Assignments

Although most of this Nation's students are mandatorily assigned to a public school, giving parents the opportunity to choose the public school their children can attend has become a fact of life in many school districts throughout the United States and is especially so in diverse urban and countywide school districts that provide parents and students with a variety of educational options. And, while most of these school districts that are implementing voluntary desegregation plans usually give parents a "choice" between their neighborhood school or a magnet school, a growing number of school districts have opted to adopt and implement a universal "controlled choice" student assignment plan that aims to promote diversity and avoid racial isolation by making all schools diverse and attractive schools of choice.

What is controlled choice?

Controlled Choice is a comprehensive, transparent, educationally sound and equity driven universal choice-based methodology for assigning students to public schools that consciously promotes diversity in a manner that is family friendly and fair to all students and practicable to implement.

The concept of universal controlled choice originated in Massachusetts in the early 1980's as a way for school districts to voluntarily achieve racially integrated schools and promote a more effective state role in school desegregation. (See "Cambridge Desegregation Succeeding." Michael Alves, *Integratededucation*; 1983). Over the past three decades controlled choice plans have been adopted by numerous urban and county-wide school districts throughout the United States and has proven to be a ***living*** and

equitable innovation that has adapted to the nation's changing demographic circumstances and continuous legal and political challenges to providing all students with a high quality integrated education. (See Student Diversity, Choice and School Improvement by, Charles Willie, Ralph Edwards, and Michael Alves, Greenwood Press; 2002 and Controlled Choice: A New Approach to Desegregated Education and School Improvement, Michael Alves and Charles Willie, Brown University, 1996).

While controlled choice was initiated as a way to promote voluntary racial integration, over the years controlled choice has been successfully modified to promote the voluntary integration of students from diverse racial, ethnic, social, economic and linguistic backgrounds and varying achievement levels. These kinds of *multifaceted* controlled choice plans are constitutionally permissible because such plans use race-neutral criteria such as the individual students' family income and their parents or guardian's highest educational attainment level, and other non-racial factors in allocating seats and assigning students to a school of choice (See The Future of School Integration – Socioeconomic Diversity as an Education Reform Strategy, Richard D. Kahlenberg, Editor, The Century Foundation, 2012).

Key Features

Diversity: The ultimate goal of controlled choice is to provide all students with a high quality integrated education. Therefore, under controlled choice all available seats must be *allocated* and *assigned* in way that promotes diversity and avoids racial/ethnic segregation and is fair to all diverse student population groups. . Experience with multifaceted socioeconomic controlled choice plans strongly indicates that the most effective plans ensure that all available seats are proportionately allocated to low and non-low SES students that are comprised in the District's racial and ethnic groups, English Language Learners and Special Education students.

Schools of Choice: Under controlled choice *all* schools are deemed to be a school of choice and no students are mandatorily or automatically assigned to a school based solely on their home-address. A distinguishing feature of controlled choice is that it enables *all* parents to choose the desegregating schools that they want their children to attend by their own rank-order of preference *before* their child is enrolled in the school district.

Parent Information and Engagement: Ensuring that *all* parents have equal access to the information they need in order to make an informed decision about the schools they prefer their children attend is an essential component of an effective controlled choice student assignment plan. Experience proves that this can best be facilitated by creating community-based Family Resource Centers.

Transparency: In order to implement and sustain an effective and fair controlled choice student assignment plan all aspects of the school choice application and assignment process must be transparent and understood by all parents. Transparency is especially

important when students are assigned to a rank-ordered school of choice by a computer generated student assignment lottery.

Race-Neutral Assignment Priorities: A “family friendly” controlled choice plan’s enrollment fairness guidelines routinely gives a first-choice school assignment priority to siblings and to students who reside closest to a school provided that other students who reside further away from the same first-choice school are able to attend that school and that all assignments are made in accordance with the Plan’s diversity goals.

Stability of Assignment: Prior to initiating a controlled choice student assignment plan, the students who are already enrolled in the school district are allowed to stay in their assigned school of enrollment until they complete that school’s highest grade, and once assigned through controlled choice no students are mandatorily reassigned to another school. This “grandfathering” and stability of assignment provision was pioneered by controlled choice and has proven to be a major factor in facilitating the adoption of controlled choice student assignment plans

Controlled Choice Assigned Students: After the students who are already enrolled in the District have been grandfathered into their assigned schools, controlled choice is then used to manage the assignment of those students who either need to be assigned to a school or who want to be transferred to a different school. Therefore, controlled choice is typically used to assign students at the *entry-grade* of the District’s elementary schools (kindergarten), middle schools (Grade 6), and high schools (Grade 9), and it used to assign all non-entry grade students that newly enroll in the District during the school year, and students applying for a voluntary school transfer.

Controlled Choice Assignment Lotteries and Walk-In Assignments: An effective and efficient controlled choice plan utilizes a transparent on-line “batched-application” process and computerized assignment lottery to assign a school district’s entry-grade students and voluntary transfers. Parents are usually given at least four to six weeks to submit an application and the algorithm that is programmed to process the assignments must be transparent and in accordance with the plan’s diversity goals, assignment priorities and seat control. And, all newly enrolling or “walk-in” students who are not assigned by a lottery are assigned on a first-come /first-served basis to a school of choice with available seats in accordance with plan’s diversity goals and enrollment fairness guidelines.

Available Seats and Efficient Utilization of Schools: Under controlled choice no schools are allowed to become overcrowded while other schools remain under-utilized.: Although controlled choice gives parents the opportunity to choose the schools they want their children to attend by their own rank-order of preference, the actual number of students that can be admitted to a particular school of choice will depend upon the number of available or unused seats that a school has at an applicant’s grade-level. The number of seats that are available for choice-applicants is based on a school’s enrollment capacity and its student enrollment at each grade. Therefore, establishing maximum enrollment capacities at each grade and program in every school and maintaining an

accurate and real-time seat control is an essential component of an effective controlled choice student assignment plan.

Student Transportation: Providing efficient and cost effective transportation services is an essential component of an effective and equitable universal controlled choice student assignment plan. Since controlled choice usually gives an assignment priority to students who reside within the “walk-zone” or within close proximity to a particular school transportation services are provided to only those students that need such services. Controlled choice transportation costs can also be contained in geographically large urban or countywide school districts by creating clusters or school choice attendance zones. Another approach which was recently initiated in the Wake County Public Schools in North Carolina is to create a residential-base “zone-less” controlled choice plan that generates a list of equivalent school choices for each student that includes the five schools that are closest to the student’s home and several other schools for purposes of educational equity that would require transportation.

School Improvement: An equitable and effective controlled choice plan enables school district’s to identify the school’s that are most and least in need of improvement based on parental choice. Experience has shown that the schools that are *over-chosen* by parents from all racial, ethnic and socioeconomic groups are schools that are meeting the educational needs of its diverse students and are schools that should be replicated. Controlled choice also identifies the schools that are least chosen or under-subscribed by parents from particular racial, ethnic and socioeconomic groups and with controlled choice, these under-selected schools can and should be targeted for school improvement measures that will increase the supply of high quality integrated schools.

Magnet Schools: Magnet schools have played a key role in the inspiration, development and implementation of controlled choice student assignment plans since controlled choice was first initiated in Massachusetts in the early 1980’s. Experience has shown that prior to a school district implementing a universal controlled choice student assignment plan its magnet schools are often the only diversity conscious public schools that parents can choose to have their children attend. Therefore, a school district that already has successful magnet schools and is contemplating making all of its schools - *schools of choice*- needs to ensure that its existing magnet schools will continue to offer students a distinctive and attractive educational experience once controlled choice is implemented. And, the district must also develop a planning process for *replicating* its successful magnet schools and for developing additional or new magnet programs that can be initiated in those schools that are having difficulty in voluntarily attracting a diverse student enrollment under controlled choice. While numerous kinds of magnet schools and programs have been developed under the *magnet multiplier* component of controlled choice, Dual Language and Montessori magnets have proven to be particularly effective in attracting and meeting the educational needs of diverse student population groups.

Student Achievement: Controlled choice provides school districts with the opportunity to implement an *achievement-focused* student assignment plan. Experience has shown that it is highly unlikely that a school will attract parents unless it can demonstrate that it

can provide their children with an instructionally effective educational experience. And, it is highly unlikely that truly informed parents will select a school that they believe will not meet the educational needs of their children. Therefore, under controlled choice a school district needs to ensure that each of its schools is meeting the educational needs of its diverse learners and especially its most “at risk” students from single parent household whose family income is below the poverty-line and their parent’s highest educational attainment level is less than or at best a high school diploma or GED.

Multifaceted socioeconomic controlled choice also provides the opportunity for school districts to promote achievement diversity by identifying its most and least “at risk” students and by taking into account a student’s socioeconomic status and achievement level when it assigns students to classrooms within the school. Under a “multifaceted socioeconomic and achievement conscious” controlled choice plan each school should have a diverse student enrollment with a similar range of socioeconomic and achievement levels. (See Carol Ashley, “Socioeconomic Student Assignment Plans: Opportunities for Low-Income Families and Racial Diversity in K-12 Public Schools”, Sargent Shriver National Center on Poverty Law, 2014)