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LATINO ACTION NETWORK; NAACP NEW JERSEY STATE CONFERENCE; LATINO COALITION; URBAN LEAGUE OF ESSEX COUNTY; THE UNITED METHODIST CHURCH OF GREATER NEW JERSEY; MACKENZIE WICKS, a minor, by her Guardian Ad Litem, COURTNEY WICKS; MAISON ANTIONE TYREL TORRES, a minor, by his Guardian Ad Litem, JENNIFER TORRES; MALI AYALA RUEL-FEDEE, a minor, by his Guardian Ad Litem, RACHEL RUEL; RA'NAYA ALSTON, a minor, by her Guardian Ad Litem, YVETTE ALSTON-JOHNSON; RA'YAHN ALSTON, a minor, by his Guardian Ad Litem, YVETTE ALSTON-JOHNSON; ALAYSA POWELL, a minor, by her Guardian Ad Litem, RASHEEDA ALSTON; DASHAWN SIMMS, a minor, by his Guardian Ad Litem, ANDREA HAYES; DANIEL R. LORENZ, a minor, by his Guardian Ad Litem, MARIA LORENZ,

Plaintiffs,

v.

THE STATE OF NEW JERSEY; NEW JERSEY STATE BOARD OF EDUCATION; and LAMONT REPOLLET, Acting Commissioner, State Department of Education,

Defendants.

SUPERIOR COURT OF NEW JERSEY LAW DIVISION:
MERCER COUNTY

DOCKET NO: MER-L-001076-18

Civil Action

**NOTICE OF MOTION FOR
PARTIAL SUMMARY
JUDGMENT**

TO: Daniel F. Dryzga
Assistant Attorney General
Department of Law and Public Safety
Division of Law
25 Market Street
P.O. Box 112
Trenton, New Jersey 08625-0112

COUNSEL:

PLEASE TAKE NOTICE that on October 25, 2019, at 9:00 a.m., or as soon thereafter as counsel may be heard, Plaintiffs Latino Action Network, *et al.*, by their attorneys Gibbons P.C. (Lawrence S. Lustberg, Esq., appearing) and Pashman Stein Walder Hayden, P.C. (Michael S. Stein, Esq., and Roger Plawker, Esq., appearing), shall move the Court (Honorable Mary C. Jacobson, A.J.S.C., presiding) for an Order Granting Partial Summary Judgment on Liability in favor of Plaintiffs on Counts One, Two, Three, Four, Five, Six, and Seven of the Amended Complaint. In support of this Motion, Plaintiffs rely on the Brief in Support of Plaintiffs' Motion for Partial Summary Judgment, Statement of Undisputed Material Facts, and Certification of Ryan W. Coughlan, filed herewith; and

PLEASE TAKE FURTHER NOTICE that a proposed form of Order is submitted herewith; and

PLEASE TAKE FURTHER NOTICE that oral argument is hereby requested.

GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102
Attorneys for Plaintiffs

By: /s/ Lawrence S. Lustberg
Lawrence S. Lustberg, Esq.

Dated: September 27, 2019

GIBBONS P.C.

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Civil Action

**ORDER GRANTING
PLAINTIFFS' MOTION FOR
PARTIAL SUMMARY
JUDGMENT**

This matter having been duly presented to the Court by Plaintiffs Latino Action Network, *et al.*, through their attorneys Gibbons P.C. (Lawrence S. Lustberg, Esq., appearing) and Pashman Stein Walder Hayden, P.C. (Michael S. Stein, Esq., and Roger Plawker, Esq., appearing), for an Order Granting Partial Summary Judgment on Liability in favor of Plaintiffs on Counts One, Two, Three, Four, Five, Six, and Seven of the Amended Complaint; and upon notice to all parties; and the Court having considered the submissions of the parties and the arguments of counsel; and for good cause shown,

IT IS on this ____ day of _____, 2019,

ORDERED that Plaintiffs' Motion for Partial Summary Judgment be and hereby is GRANTED, and it is further

ORDERED that Defendants are found liable for violations of: Article I, Paragraph 5 of the New Jersey Constitution (First Count); Article I, Paragraph 1 of the New Jersey Constitution (Second Count); Article VIII, Section 4, Paragraph 1 of the New Jersey Constitution (Third Count); Article I, Paragraph 5 of the New Jersey Constitution, Article I, Paragraph 1 of the New Jersey Constitution, and Article VIII, Section 4, Paragraph 1 of the New Jersey Constitution, interpreted collectively (Fourth Count); N.J.S.A. 18A:38-5.1 (Fifth Count); the Charter School Program Act, N.J.S.A. 18A:36A-7 (Sixth Count) and the New Jersey Civil Rights Act, N.J.S.A. 10:6-2 *et seq.* (Seventh Count).

IT IS FURTHER ORDERED that a copy of this Order be served upon all counsel by Gibbons P.C. within seven (7) days of the date of receipt.

Honorable Mary C. Jacobson
Assignment Judge of the Superior Court

THE WITHIN MATTER WAS

- OPPOSED
- UNOPPOSED

GIBBONS P.C.

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SUPERIOR COURT OF NEW JERSEY LAW DIVISION:
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Civil Action

**STATEMENT OF
UNDISPUTED MATERIAL
FACTS**

Pursuant to *New Jersey Court Rule 4:46-2(a)*, Plaintiffs state that there is no genuine issue in dispute with respect to the following material facts.

1. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, New Jersey had 674 school districts, 2,514 public schools and 1,373,267 public school students. Of those students, 622,360 were White (45.3%); 372,657 were Latino (27.1%); 213,115 were Black (15.5%); 136,466 were Asian (9.9%); 28,670 identified as Native American, Pacific Islander, or with two or more racial groups (2.1%); and 521,576 qualified for free or reduced-price lunch (38%). **Amended Complaint ¶ 23; Answer to Amended Complaint ¶ 23.**

2. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, there were 52,959 Black students in New Jersey who attended public schools that were over 99% non-White. This constitutes 24.8% of the 213,115 Black public school students statewide. A further 51,914 Black students (24.4%), attended public schools in which the percentage of non-White students was between 90% and 99%. In the aggregate, 131,419 Black students, or 61.7% attended schools that were more than 80% non-White, while the number of Black students attending schools that were more than 75% non-White was 140,679, or 66.0%. **Amended Complaint ¶ 24; Answer to Amended Complaint ¶ 24.**

3. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, of the approximately 372,657 Latino students in the New Jersey public school system, 53,354 (14.3%) attended schools that were at least 99% non-White, while 112,529 (30.2%) attended schools where the non-White enrollment was between 90% and 99%. In the aggregate, 218,194 Latino students (58.6%) attended schools that were more

than 80% non-White, and 230,564 Latino students (61.9%) attended schools that were more than 75% non-White. **Amended Complaint ¶ 25; Answer to Amended Complaint ¶ 25.**

4. According to data collected and disseminated by the New Jersey Department of Education, the number of New Jersey public school students who attend schools that are at least 99% non-White has increased from 96,188 (7.0%) in the 2010-11 school year to 107,709 (7.8%) in 2016-17. **Amended Complaint ¶ 26; Answer to Amended Complaint ¶ 26.**

5. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, of the approximately 585,000 Black and Latino public school students in New Jersey, approximately 371,243 students (about 63% of all Black and Latino students) attend schools that are more than 75% non-White. And in the aggregate, 270,755 (46.2%) of the 585,772 Black and Latino students attend schools that are more than 90% non-White. **Amended Complaint ¶ 27; Answer to Amended Complaint ¶ 27.**

6. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, of the 622,360 White students attending public school in New Jersey, 39,397 (6.3%) attended schools that were more than 90% White, 194,961 (31.3%) attended schools that were more than 80% White, and 266,251 (42.8 %) attended schools that were more than 75% White. **Amended Complaint ¶ 29; Answer to Amended Complaint ¶ 29.**

7. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, in Essex County, the student populations of at least four school districts—East Orange, Irvington, Newark and Orange—are at least 90% non-White with at least 62% in poverty. The table below sets forth the racial breakdown of students in those four districts, as well as the percentage of students from families with incomes below the poverty level.

District	Total students	%Asian	%Hispanic	%Black	%White	%Poverty ¹
East Orange	8996	0.1%	7.3%	92.0%	0.4%	62.9%
Irvington Township	6785	0.5%	17.7%	80.7%	0.3%	85.7%
Newark City	35836	0.8%	46.4%	44.3%	7.9%	79.4%
Orange City	5167	0.3%	35.0%	64.0%	0.3%	65.9%

Amended Complaint ¶ 40(A); Answer to Amended Complaint ¶ 40(A).

8. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, in Hudson County, the student populations of at least four school districts—Guttenberg, North Bergen, Union City and West New York—are at least 93% non-White with at least 81% in poverty. The table below sets forth the racial breakdown of students in those four districts, as well as the percentage of students from families with incomes below the poverty level.

District	Total students	%Asian	%Hispanic	%Black	%White	%Poverty
Guttenberg	1016	1.7%	90.9%	1.3%	6.0%	81.5%
North Bergen	7713	2.7%	86.3%	1.0%	9.6%	66.5%
Union City	12216	1.4%	96.0%	0.8%	1.8%	88.0%
West New York	7988	1.2%	91.4%	1.1%	6.2%	82.8%

Amended Complaint ¶ 40(B); Answer to Amended Complaint ¶ 40(B).

9. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, in Union County, the student populations of at least four school districts—Elizabeth, Hillside, Plainfield and Roselle—are at least 89% non-White with at

¹ Poverty, for purposes of this calculation, is defined by the percentage of students who qualify for a free or reduced-price lunch.

least 65% in poverty. The table below sets forth the racial breakdown of students in those four districts, as well as the percentage of students from families with incomes below the poverty level.

District	Total students	%Asian	%Hispanic	%Black	%White	%Poverty
Elizabeth	26491	1.7%	71.5%	18.7%	7.9%	83.5%
Hillside	3085	1.8%	22.7%	64.3%	10.3%	65.8%
Plainfield	7822	0.3%	67.3%	31.3%	0.5%	81.5%
Roselle	2802	1.2%	39.1%	56.6%	2.7%	69.5%

Amended Complaint ¶ 40(C); Answer to Amended Complaint ¶ 40(C).

10. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, in Passaic County, the student populations of at least three districts—Passaic, Paterson and Prospect Park—are at least 90% non-White with at least 62% living in poverty. The table below sets forth the racial breakdown of students in those three districts, as well as the percentage of students from families with incomes below the poverty level.

District	Total students	%Asian	%Hispanic	%Black	%White	%Poverty
Passaic	14276	1.8%	92.5%	4.6%	0.9%	99.8%
Paterson	25509	4.9%	68.2%	22.1%	4.7%	75.0%
Prospect Park Boro	923	2.5%	71.2%	15.7%	9.3%	62.6%

Amended Complaint ¶ 40(D); Answer to Amended Complaint ¶ 40(D).

11. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, in Middlesex County, the student populations of at least two large districts—New Brunswick and Perth Amboy—are at least 98% non-White with at least 59% in poverty. The table below sets forth the racial breakdown of students in those two districts, as well as the percentage of students from families with incomes below the poverty level.

District	Total students	%Asian	%Hispanic	%Black	%White	%Poverty
New Brunswick	9100	0.4%	88.8%	9.7%	0.8%	59.6%
Perth Amboy	10650	0.6%	91.8%	5.7%	1.6%	86.9%

Amended Complaint ¶ 40(E); Answer to Amended Complaint ¶ 40(E).

12. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, in Camden County, the student populations of at least three districts—Camden City, Lawnside Boro and Woodlynne Boro—are at least 93% non-white with at least 64% in poverty. The table below sets forth the racial breakdown of students in those three districts, as well as the percentage of students from families with incomes below the poverty level.

District	Total students	%Asian	%Hispanic	%Black	%White	%Poverty
Camden City	8943	1.0%	51.0%	46.3%	1.3%	64.9%
Lawnside Boro	326	1.5%	11.7%	81.3%	2.8%	66.3%
Woodlynne Boro	384	9.1%	52.9%	28.4%	6.5%	89.8%

Amended Complaint ¶ 40(F); Answer to Amended Complaint ¶ 40(F).

13. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, in Mercer County, the student population of the largest City in the County, Trenton, is at least 98% non-White with at least 89% in poverty. The table below sets forth the racial breakdown of students in that district, as well as the percentage of students from families with incomes below the poverty level.

District	Total students	%Asian	%Hispanic	%Black	%White	%Poverty
Trenton	10962	0.5%	48.7%	49.0%	1.2%	89.1%

Amended Complaint ¶ 40(G); Answer to Amended Complaint ¶ 40(G).

14. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, in Monmouth County, the student populations of at least two districts—Asbury Park and Red Bank—are 92% non-White with at least 82% in poverty. The table below sets forth the racial breakdown of students in those two districts, as well as the percentage of students from families with incomes below the poverty level.

District	Total students	%Asian	%Hispanic	%Black	%White	%Poverty
Asbury Park	2027	0.2%	40.8%	56.7%	2.0%	82.8%
Red Bank Boro	1289	0.4%	82.3%	8.2%	7.5%	88.8%

Amended Complaint ¶ 40(H); Answer to Amended Complaint ¶ 40(H).

15. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, of the State's 88 charter schools, 37 of those charter schools were educating student bodies that are 99% or more non-white, and 64 charter schools had student bodies that were more than 90% non-white. **Certification of Ryan W. Coughlan dated September 23, 2019 ¶ 21 & Exh. B.**

16. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, in 61 of the State's 88 charter schools the Black and Latino population exceeded 80%, and in 54 of those schools the Black and Latino population exceeded 90%. As a result, over 72% of the State's charter schools had fewer than 10% white students. **Certification of Ryan W. Coughlan dated September 23, 2019 ¶ 21 & Exh. B.**

17. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, in 46 of the State's charter schools, over 70% of the

student body were from families with incomes below the federal poverty level. **Certification of Ryan W. Coughlan dated September 23, 2019 ¶ 21 & Exh. B.**

18. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, in Essex County, nine districts (North Caldwell Borough, Fairfield Township, West Essex Regional, Cedar Grove Township, Essex Fells Borough, Caldwell-West Caldwell, Verona Borough, Roseland Borough, and Glen Ridge Borough) had at least 75% White students, and those districts plus two others (Millburn Township and Livingston Township) had fewer than 10% students living in poverty. **Certification of Ryan W. Coughlan dated September 23, 2019 ¶ 28 & Exh. E-F.**

19. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, in Union County, five districts (Westfield, Cranford Township, Mountainside Borough, Garwood Borough, and Clark Township) had at least 75% White students and seven districts (Westfield, Cranford Township, Mountainside Borough, Clark Township, Scotch Plains-Fanwood Regional, Berkeley Heights Township, and New Providence Borough) had fewer than 10% students living in poverty. **Certification of Ryan W. Coughlan dated September 23, 2019 ¶ 29 & Exh. E-F.**

20. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, in Passaic County, five districts (North Haledon Borough, Ringwood Borough, West Milford Township, Lakeland Regional, and Wayne Township) had at least 75% White students, and two districts (Ringwood Borough and Wayne Township) had fewer than 10% students living in poverty. **Certification of Ryan W. Coughlan dated September 23, 2019 ¶ 30 & Exh. E-F.**

21. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, in Middlesex County, Milltown Borough was more than 75% White students, and three districts (Monroe Township, Cranbury Township, and Metuchen Borough) had fewer than 10% students living in poverty. **Certification of Ryan W. Coughlan dated September 23, 2019 ¶ 31 & Exh. E-F.**

22. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, in Camden County, twelve districts (Laurel Springs Borough, Haddon Heights Borough, Gibbsboro Borough, Runnemede Borough, Oaklyn Borough, Barrington Borough, Haddon Township, Waterford Township, Berlin Borough, Mount Ephraim Borough, Audubon Borough, and Haddonfield Borough) have at least 75% White students, and two districts (Haddonfield Borough and Easter Camden County Regional) have fewer than 10% students living in poverty. **Certification of Ryan W. Coughlan dated September 23, 2019 ¶ 32 & Exh. E-F.**

23. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, in Mercer County, Hopewell Valley Regional had 76.8% White students, and three districts (Hopewell Valley, Robbinsville Township, and West Windsor-Plainsboro Regional) had 5.2% or fewer students living in poverty. **Certification of Ryan W. Coughlan dated September 23, 2019 ¶ 33 & Exh. E-F.**

24. According to data collected and disseminated by the New Jersey Department of Education, for the 2016-2017 school year, in Monmouth County, thirteen districts were at least 90% White; an additional twelve districts were between 80% and 90% White; an additional five districts were between 75% and 80% White; fifteen districts had fewer than 5% students living in

poverty; and an additional six districts had between 5% and 10% students living in poverty.

Certification of Ryan W. Coughlan dated September 23, 2019 ¶ 34 & Exh. E-F.

25. According to data from (a) the 2010 Decennial Census and (b) the New Jersey Department of Education for the 2010-2011 school year, for the twenty-three communities that are referred to in paragraph 40 of the Amended Complaint in this matter, there is an extremely high and statistically significant correlation between the racial breakdown of the 2010 student aged population of those twenty-three (23) communities and the racial breakdown of the students actually enrolled in the public school districts of those same communities. **Certification of Ryan W. Coughlan dated September 23, 2019 ¶ 40 & Exh. G.**

26. According to data from (a) the 2010 Decennial Census and (b) the New Jersey Department of Education for the 2010-2011 school year, for the twenty-three communities that are referred to in paragraph 40 of the Amended Complaint in this matter, for Black students, the largest difference between the student aged population and the actual student enrollment was 7.83 percentage points for East Orange. And, the average difference between the student aged population and the student enrollment for Black students was 3.08 percentage points. **Certification of Ryan W. Coughlan dated September 23, 2019 ¶ 40 & Exh. G.**

27. According to data from (a) the 2010 Decennial Census and (b) the New Jersey Department of Education for the 2010-2011 school year, for the twenty-three communities that are referred to in paragraph 40 of the Amended Complaint in this matter, for Hispanic students the largest difference between the student aged population and the actual student enrollment was 21.69 percentage points for Red Bank; the next largest difference was 16.6 percentage points for Passaic; and the average difference was 5.08 percentage points. **Certification of Ryan W. Coughlan dated September 23, 2019 ¶ 41 & Exh. G.**

28. According to data from (a) the 2010 Decennial Census and (b) the New Jersey Department of Education for the 2010-2011 school year, for the twenty-three communities that are referred to in paragraph 40 of the Amended Complaint in this matter, for White students, the largest difference between the student aged population and the actual student enrollment was 17.92 percentage points in Red Bank; and the average difference was 3.89 percentage points. **Certification of Ryan W. Coughlan dated September 23, 2019 ¶ 42 & Exh. G.**

29. According to data from (a) the 2010 Decennial Census and (b) the New Jersey Department of Education for the 2010-2011 school year, 99.7% of the variation in the proportion of the Black student enrollment in these districts is explained by the proportion of Black children living in the districts. Similarly, 98.5% of the variation in the proportion of the Hispanic student enrollment in these districts is explained by the proportion of Hispanic children living in the districts. **Certification of Ryan W. Coughlan dated September 23, 2019 ¶ 43 & Exh. G.**

30. According to data from (a) the 2010 Decennial Census and (b) the New Jersey Department of Education for the 2010-2011 school year, 76.2% of the variation in the proportion of the White student enrollment in these districts is explained by the proportion of White children living in the districts. This indicates that White children are much less constricted to attending traditional public schools within their district boundaries than Black and Hispanic students. **Certification of Ryan W. Coughlan dated September 23, 2019 ¶ 43 & Exh. G.**

31. According to data from the American Community Survey, the proportion of the non-Hispanic White school aged population in 2010 has an extremely strong and significant correlation with the proportion of the non-Hispanic White school aged population in 2017 for the twenty-three (23) school districts identified in paragraph 40 of the Amended Complaint. In fact, 88.6% of variation in the proportion of the non-Hispanic White school aged population in 2017 is

explained by the proportion of the non-Hispanic White School aged population in 2010. Such a correlation provides convincing evidence that the relationship between the school aged population and student enrollment in 2010 persists for all racial and ethnic categories. **Certification of Ryan W. Coughlan dated September 23, 2019 ¶ 45.**

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LAW DIVISION: MERCER COUNTY

DOCKET NO. MER-L-001076-18

Civil Action

**PLAINTIFFS' BRIEF IN SUPPORT
OF THEIR MOTION FOR PARTIAL
SUMMARY JUDGMENT**

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PRELIMINARY STATEMENT

In 1965, the New Jersey Supreme Court declared that “[o]ur own State’s policy against racial discrimination and segregation in the public schools has been long standing and vigorous.” *Booker v. Bd. of Educ. of Plainfield*, 45 N.J. 161, 173 (1965). Although that policy is embodied as a constitutional and statutory command, today - over fifty-four years after *Booker* - it remains sadly unfulfilled. Instead, New Jersey public school students attend schools that are racially and socioeconomically segregated, as shown by undisputed statistical facts that have been pled in Plaintiffs’ Amended Complaint and are now admitted by Defendants.

Those statistical facts alone are sufficient for this Court to find Defendants liable for segregation in the State’s public schools. The New Jersey Supreme Court has repeatedly held that even *de facto* segregation violates the state Constitution; and such segregation violates a number of statutory provisions as well. Further, the Court has held that Defendants are responsible for ameliorating *de facto* segregation to cure these constitutional and statutory violations by taking all appropriate steps to integrate public schools.

Those steps Defendants must take are beyond the scope of this motion, as Plaintiffs do not ask this Court to enter judgment concerning what remedies should apply. Instead, Plaintiffs propose that the matter of remedy will be the subject of future

discovery and litigation (or, perhaps, the result of productive settlement negotiations, once the matter of liability has been decided). For now, though, the Court should be convinced, by the undisputed facts and clear legal principles at issue, to enter judgment against Defendants on liability.

STATEMENT OF PROCEDURAL HISTORY

Plaintiffs' Complaint

On May 17, 2018, the sixty-fourth anniversary of the landmark United States Supreme Court decision in *Brown v. Board of Education*, 347 U.S. 483 (1954), Plaintiffs - who are several non-profit organizations and nine public school students of various races/ethnicities - filed their initial Complaint in this matter. The Complaint alleges that New Jersey has implemented laws, policies, and practices that have had the effect of creating and institutionalizing segregation in public education. Compl. ¶ 1. The Complaint further presents statistical data, collected from publicly available sources maintained by Defendants, demonstrating that public schools, including charter schools, are severely segregated. *See id.* ¶¶ 22 - 34. That incontrovertible data, which form the primary basis for this motion, are described in detail below.

Supported by decades of case law and social science, the Complaint alleges that segregation harms New Jersey students - both White and non-White - by depriving them of the benefits gained

from a diverse learning environment. See *id.* ¶¶ 42 - 46. Although the remedies for this segregation are beyond the scope of this motion and will be subject to further discovery, litigation, and potential settlement discussions, the Complaint also outlines solutions that would redress segregation, such as magnet schools in or adjacent to urban districts, inter-district student transfers, and multi-district charter schools. See *id.* ¶¶ 47 - 57. The Complaint alleges that Defendants have long known about segregation in New Jersey's public schools and have failed to remedy it, despite the Commissioner of Education's constitutional obligation to do so. See *id.* ¶¶ 58 - 64.

The Complaint thus brings seven causes of action against Defendants the State of New Jersey, the New Jersey State Board of Education (State Board), and the Commissioner of Education (Commissioner): violation of the state Constitution's prohibition on segregated schools, N.J. Const. art. I, ¶ 5 (First Count); violation of the state Constitution's guarantee of Equal Protection, *id.* art. I, ¶ 1 (Second Count); violation of the state Constitution's guarantee of a thorough and efficient education, *id.* art. VIII, § 4, ¶ 1 (Third Count); violation of the state Constitution's condemnation of racial and socioeconomic segregation in the public schools as embodied by the collective interpretation of these three constitutional provisions (Fourth Count); violation of N.J.S.A. 18A:38-5.1, which prohibits racial

discrimination in the public schools (Fifth Count); violation of the Charter School Program Act, N.J.S.A. 18A:36A-7, which prohibits discrimination in admission policies and practices of charter schools (Sixth Count); and violation of the New Jersey Civil Rights Act, N.J.S.A. 10:6-2 *et seq.* (Seventh Count).

Defendants' Motion to Transfer

On June 29, 2018, Defendants moved, in lieu of an Answer, for an Order transferring the case to the Commissioner of Education for disposition. On August 9, 2018, the Court heard oral argument and issued an oral opinion denying the motion without prejudice. By written order dated August 10, 2018, the Court ordered Defendants to file an Answer by August 31, 2018.¹

Continuance of Proceedings Pending Settlement Discussions

Thereafter, the parties engaged in extensive settlement discussions. In orders dated August 30, 2018; September 13, 2018; and September 20, 2018, the Court, with consent of the parties, suspended the deadline for Defendants to answer the Complaint, and on October 26, 2018, the Court entered a consent order granting an

¹ The Court has addressed two additional motions in this matter. On September 6, 2018, the New Jersey Charter Schools Association, Inc. (NJCSA) moved, by way of Order to Show Cause, to intervene. The Court denied the request for an Order to Show Cause by Order dated September 12, 2018, and on September 28, 2018, the Court issued an oral decision (memorialized in a written order that same day) denying the Motion to Intervene without prejudice. On January 9, 2019, the New Jersey Interdistrict Public School Choice Association filed a Motion Seeking Leave to Appear as *Amicus Curiae*, which the Court granted by order dated January 25, 2019. On September 17, 2019, the NJCSA, along with an individual charter school and three individual charter school parents, filed a renewed Motion to Intervene; that motion is pending.

indefinite continuance of the proceedings, to which either party could withdraw consent on 14 days' written notice. At the Court's direction, the parties filed a January 4, 2019 joint status update indicating that they had been engaged in productive settlement discussions which were ongoing. The Court granted the parties' request for an extension of the continuance to April 8, 2019, with the parties to submit a status update by April 3, 2019.

On that date, the parties submitted separate status updates. Plaintiffs wrote to the Court to indicate that continued discussions would not be productive without a judgment on liability. Defendants, while taking the position that further negotiations could be productive, agreed that the existing negotiations had broken down. The Court held a case management conference on April 17, 2019, and subsequently entered a case management order on April 18, 2019 that required Defendants to file an Answer by May 17, 2019.

Defendants' Answer and Plaintiffs' Amended Complaint

Defendants filed their Answer on May 17, 2019. The parties subsequently corresponded about Defendants' denials with regard to the accuracy of certain statistical data cited in the Complaint. Defendants eventually responded with their position regarding the statistical data, indicating that they would agree to the accuracy of data relating to student demographics and proposing that Plaintiffs file an Amended Complaint using data provided by the

Defendants that addressed minor statistical inaccuracies in a few paragraphs of the original Complaint. On July 17, 2019, Plaintiffs filed an unopposed Motion for Leave to File an Amended Complaint. The Court granted the motion on August 2, 2019, and Plaintiffs filed their Amended Complaint that same day, correcting those inaccuracies.

Defendants filed an Amended Answer to the Amended Complaint on August 22, 2019. Plaintiffs now move for partial summary judgment on liability based on the facts alleged in the Amended Complaint and admitted in the Amended Answer, as well as additional undisputed material facts in the record.

STATEMENT OF FACTS

New Jersey's public schools are heavily segregated. The parties agree on the basic statistical facts establishing this point. See Am. Compl. ¶¶ 23 - 27, 29, 40 (A-H); Answer to Am. Compl. ¶¶ 23 - 27, 29, 40 (A-H) (for each paragraph, "Defendants admit that the cited figures are consistent with enrollment data reported to the Department of Education by school districts" or "Defendants admit that the data in the table is consistent with the Department of Education's 2016-2017 enrollment data of '% Asian', '% Hispanic', '% Black', '% White', and students who qualify for a free or reduced-price lunch, as reported to the Department of Education by the respective districts"). Those facts

show that an extreme percentage of Black and Latino public school students attend schools that are not diverse.

Thus, in the 2016-17 school year, the striking - and now undisputed - fact is that almost one-quarter (24.8%) of Black public school students in New Jersey attended schools that consisted of more than 99% non-White students. Am. Compl. ¶ 24. An additional almost one-quarter (24.4%) of Black public school students attended schools that consisted of between 90% and 99% non-White students. *Ibid.* In the aggregate, almost two-thirds (66.0%) of Black public school students attended schools that were more than 75% non-White. *Ibid.* For Latino public school students, the numbers for the 2016-17 school year are similar. About one in seven (14.3%) Latino public school students in New Jersey attended schools that were at least 99% non-White, and another three in ten (30.2%) Latino public school students attended schools that consisted of between 90% and 99% non-White students. *Id.* ¶ 25. In the aggregate, over six in ten (61.9%) Latino public school students attended schools that were more than 75% non-White. *Ibid.* Combined, about 63% of Black and Latino public school students attended schools that were more than 75% non-White, and almost half (46.2%) attended schools that were more than 90% non-White. *Id.* ¶ 27.

Conversely, White students are largely segregated into schools that consist mostly of other White students. During the

2016-17 school year, 42.8% of White New Jersey public school students attended schools that consisted of more than 75% White students, with almost one-third (31.3%) attending schools that were more than 80% White and 6.3% attending schools that were more than 90% White. *Id.* ¶ 29.

Moreover, these numbers apply to charter schools as well.² Thus, Plaintiffs' expert, Dr. Ryan W. Coughlan, has collected and analyzed publicly available data regarding the population of charter school students in order to aggregate demographic data for the state's charter schools. *See generally* Certification of Ryan W. Coughlan dated September 25, 2019 (Coughlan Cert.) (describing process for collecting and analyzing public data). Dr. Coughlan's analysis reveals that 37 of the State's 88 charter schools are educating student bodies that are 99% or more non-White, and 64 charter schools have student bodies that are more than 90% non-White. *See id.* ¶ 21. The data also demonstrate that in 61 of the State's 88 charter schools the Black and Latino population exceeds 80%, and in 54 of those schools the Black and Latino population exceeds 90%. *See ibid.* As a result, over 72% of the State's charter schools have fewer than 10% white students. *See ibid.* Moreover, in 46 of the State's charter schools over 70% of the

² Under state law, "[a] charter school shall be a public school operated under a charter granted by the [C]ommissioner, which is operated independently of a local board of education and is managed by a board of trustees." N.J.S.A. 18A:36A-3(a).

students are from families whose incomes qualify them for free or reduced lunch. *See ibid.*

District-level data - again, all admitted by Defendants - provide further, now undisputed, evidence that the public schools are segregated, as numerous districts contain virtually all non-White students. Specifically, the admitted data (again, all from the 2016-17 school year) demonstrate that in Essex County, the East Orange, Orange, and Irvington school districts' population is over 99% non-White and the Newark district's population is over 90% non-White. Am. Compl. ¶ 40A. In Hudson County, the admitted data show that the districts of Guttenberg, North Bergen, Union City, and West New York have student enrollments that are over 90% non-White. *Id.* ¶ 40B. In Union County, according to the admitted data, in the districts of Elizabeth, Hillside, Plainfield, and Roselle, the student population was over 89% non-White. *Id.* ¶ 40C. For Passaic County, the admitted data illustrate that in the districts of Passaic, Paterson, and Prospect Park, the student population was over 90% non-White. *Id.* ¶ 40D. In Middlesex County, the admitted data demonstrate that the student population of the New Brunswick and Perth Amboy districts was over 98% non-White. *Id.* ¶ 40E. For Camden County, the admitted data show that the districts of Camden, Lawnside Borough, and Woodlynne Borough have a student population that is over 93% non-White. *Id.* ¶ 40F. Concerning Mercer County, the admitted data reveal that the Trenton

district has a student population that is over 98% non-White. *Id.* ¶ 40G. Finally, for Monmouth County, according to the admitted data, the districts of Asbury Park and Red Bank have a student population that is over 92% non-White. *Id.* ¶ 40H.

The district-level data also demonstrate socioeconomic segregation in schools. Of the twenty-three districts described above, all of them have at least 59.6% of students living in poverty (as measured by students eligible for free or reduced lunch); fourteen have 75% or more of students living in poverty; and seven contain more than 85% of students living in poverty (including Passaic, where a stunning 99.8% of students are living in poverty). *See id.* ¶ 40 (A-H). By contrast, for all public school students, only 38% are living in poverty. *Id.* ¶ 23.

The racial and socioeconomic segregation in New Jersey schools is evident when comparing the school districts described above with comparable schools or school districts in the same counties that are populated by largely White, higher-income students. Plaintiffs' expert, Dr. Coughlan, conducted an analysis of 2016-17 enrollment data, which reveals the following:

- In Essex County, nine districts (North Caldwell Borough, Fairfield Township, West Essex Regional, Cedar Grove Township, Essex Fells Borough, Caldwell-West Caldwell, Verona Borough, Roseland Borough, and Glen Ridge Borough) have at least 75% White students, and those

districts plus two others (Millburn Township and Livingston Township) have fewer than 10% students living in poverty. See Coughlan Cert. ¶ 28.

- In Union County, five districts (Westfield, Cranford Township, Mountainside Borough, Garwood Borough, and Clark Township) have at least 75% White students and seven districts (Westfield, Cranford Township, Mountainside Borough, Clark Township, Scotch Plains-Fanwood Regional, Berkeley Heights Township, and New Providence Borough) have fewer than 10% students living in poverty. *Id.* ¶ 29.
- In Passaic County, five districts (North Haledon Borough, Ringwood Borough, West Milford Township, Lakeland Regional, and Wayne Township) have at least 75% White students, and two districts (Ringwood Borough and Wayne Township) have fewer than 10% students living in poverty. *Id.* ¶ 30.
- In Middlesex County, Milltown Borough is more than 75% White, and three districts (Monroe Township, Cranbury Township, and Metuchen Borough) have fewer than 10% students living in poverty. *Id.* ¶ 31.
- In Camden County, twelve districts (Haddon Heights Borough, Gibbsboro Borough, Runnemede Borough, Oaklyn Borough, Barrington Borough, Haddon Township, Waterford

Township, Berlin Borough, Mount Ephraim Borough, Audubon Borough, Haddonfield Borough, and Laurel Springs) have at least 75% White students, and two districts (Haddonfield Borough and Eastern Camden County Regional) have fewer than 10% students living in poverty. *Id.* ¶ 32.

- In Mercer County, Hopewell Valley Regional has 76.8% White students, and three districts (Hopewell Valley, Robbinsville Township, and West Windsor-Plainsboro Regional³) have 5.2% or fewer students living in poverty. *Id.* ¶ 33.
- And in Monmouth County, thirteen districts are at least 90% White; an additional twelve districts are between 80% and 90% White; an additional five districts are between 75% and 80% White; fifteen districts have fewer than 5% students living in poverty; and an additional six districts have between 5% and 10% students living in poverty. *Id.* ¶ 34.

³ While West Windsor-Plainsboro is also a majority-minority school, with only 22% White students, this is because 67% of students are Asian-American; approximately 10% of students are Black or Latino. See Jersey Promise, *A Report on the State of Asian Americans in New Jersey* 31 (May 2019), <http://jerseypromise.org/wp-content/uploads/2019/05/Jersey-Promise-Report-Final-5.5.2019.pdf> ("How we reduce the segregation in our public schools is a critical question for the future of the Asian American community and the state.").

In total, then, these counties have 63 districts that are at least 75% White, and 49 districts with fewer than 10% students living in poverty. *Id.* ¶ 35.

These data show that there is no genuine issue of fact: New Jersey's public schools are profoundly segregated by race and income. As is explained in detail below, these facts compel summary judgment on the issue of liability.

STANDARD OF REVIEW

Summary judgment should be granted if the record "show[s] that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law." R. 4:46-2(c). On a motion for summary judgment, a court must "consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party." *Brill v. Guardian Life Ins. Co. of Am.*, 142 N.J. 520, 540 (1995). Although the court should not grant summary judgment where there is a "genuine issue for trial," if an allegedly disputed issue of fact has "a single, unavoidable resolution . . . that issue should be considered insufficient to constitute a 'genuine' issue of fact." *Ibid.* (quoting *Anderson v. Liberty Lobby, Inc.*, 447 U.S. 242, 250 (1995)). Thus, "when the evidence is so one-sided that one party must prevail as a matter of law, the trial

court should not hesitate to grant summary judgment." *Ibid.* (internal citation and quotation marks omitted).

Importantly, for the purposes of this motion, New Jersey courts have long held that a factual admission in an answer or other similar pleading must be accepted as fact in future stages of the case. *See, e.g., Mechanics' Trust Co. v. Halpern*, 116 N.J.L. 374, 376 (Sup. Ct. 1936) (affirming directed verdict because plaintiff's "burden does not exist as to a factual ingredient admitted by the defendant" and "an allegation admitted need not be proved"); *Endicott-Johnson Corp. v. Binder*, 101 N.J.L. 122, 123-24 (E. & A. 1925) (rejecting defendant's attempts to contradict admissions in answer); *Bernard v. Adams*, 116 A. 792, 793 (N.J. 1921) (holding that "nonsuit was properly denied" based on admission in answer); *Hageman v. Brown*, 76 N.J. Eq. 126, 131 (Ch. 1909) ("A defendant is bound by his admissions in his answer without oath."); *see also* 2 McCormick on Evidence § 257 (Kenneth S. Broun ed., 7th ed. 2016) (Pleadings "are used as judicial and not as evidentiary admissions, and they are conclusive until withdrawn or amended."). A court can thus rely on an admission made in an answer as an undisputed fact for the purposes of summary judgment. *See, e.g., Crest Hill Land Dev. v. City of Joliet*, 396 F.3d 801, 805 (7th Cir. 2005) (finding that admission in answer "has the effect of withdrawing the question . . . from contention" on summary judgment).

Furthermore, partial summary judgment may be granted on one issue, even if genuine factual disputes remain on other issues in the action. See R. 4:46-2(c) ("A summary judgment or order, interlocutory in character, may be rendered on any issue in the action (including the issue of liability) although there is a genuine factual dispute as to any other issue (including any issue as to the amount of damages)."). Partial summary judgment promotes judicial efficiency by allowing the court "to determine those triable issues actually in dispute and to enter an order so limiting the trial." Pressler & Verniero, *Current N.J. Court Rules*, cmt. 1 on R. 4:46-3 (2019). Summary judgment also may be granted prior to discovery, unless the party opposing summary judgment can "specify what further discovery is required, rather than simply asserting a generic contention that discovery is incomplete." *Trinity Church v. Lawson-Bell*, 394 N.J. Super. 159, 166 (App. Div. 2007) (citing *Auster v. Kinoian*, 153 N.J. Super. 52, 56 (App. Div. 1977)); see also *Badiali v. N.J. Mfrs. Ins. Grp.*, 220 N.J. 544, 555 (2015) ("A motion for summary judgment is not premature merely because discovery has not been completed[.]").

ARGUMENT

The New Jersey Constitution and the statutes of this State prohibit public school segregation and compel Defendants to use their broad powers to ensure school integration. The law prohibits all segregation; it does not forgive Defendants for segregation

that occurs due to difficult or challenging circumstances, but instead requires them to proactively remedy segregation no matter the cause.

The facts are now clear and undisputed: Defendants are not fulfilling this duty. As is explained below, the uncontroverted statistical facts compel a finding that New Jersey's public school students face severe segregation, and that Defendants are liable for failing to ameliorate it. Plaintiffs thus ask the Court to enter a judgment of liability on each count of the Amended Complaint, which will permit the parties to engage in further proceedings (and potentially settlement discussions) limited to the question of remedy.

I. DEFENDANTS ARE LIABLE UNDER N.J. CONST. ART I, ¶ 5 FOR FAILING TO PREVENT *DE FACTO* SEGREGATION IN NEW JERSEY'S PUBLIC SCHOOLS (FIRST COUNT).

In the First Count of the Amended Complaint, Plaintiffs allege that Defendants are liable for maintaining *de facto* segregation in New Jersey public schools in violation of Article I, Paragraph 5 of the New Jersey Constitution. The state Supreme Court has repeatedly cited that provision both (1) to prohibit such *de facto* segregation and (2) to impose on Defendants, including the Commissioner and the State Board, the responsibility of preventing such segregation.

The New Jersey Constitution specifically prohibits racial discrimination in the public schools, providing that "[n]o person

shall be . . . segregated . . . in the public schools, because of religious principles, race, color, ancestry or national origin.”

N.J. Const. art. I, ¶ 5. And, the New Jersey Supreme Court has highlighted the specificity of this guarantee:

In 1947 the delegates to the Constitutional Convention took pains to provide, not only in general terms that no person shall be denied any civil right, but also in specific terms that no person shall be segregated in the public schools because of his “religious principles, race, color, ancestry or national origin.”

[*Jenkins v. Morris Twp. Sch. Dist.*, 58 N.J. 483, 496 (1971) (quoting N.J. Const. art. I, ¶ 5).]

The Court has repeatedly cited this command in holding that the state Constitution prohibits not just intentional, *de jure*, school segregation, but also *de facto* segregation that occurs even without intentional state action.⁴ Starting with *Booker*, the Court has recognized the value of integrated schooling and the need to fulfill that goal no matter the cause:

In a society such as ours, it is not enough that the 3 R’s are being taught properly for there are other vital considerations. The

⁴ The New Jersey Constitution thus provides greater protection than does the federal Constitution, which prohibits only *de jure* segregation. See, e.g., *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 736 (2007). That added protection, of course, is consistent with the rich history of our state Constitution providing more extensive rights and protections than its federal counterpart. See, e.g., *State v. Earls*, 214 N.J. 564 (2013) (more protections against unreasonable searches and seizures); *Planned Parenthood of Cent. N.J. v. Farmer*, 165 N.J. 609 (2000) (greater protection of woman’s right to choose); *State v. Novembrino*, 105 N.J. 95 (1987) (declining to adopt good faith exception to exclusionary rule); *Right to Choose v. Byrne*, 91 N.J. 287 (1982) (more protections for abortion funding); *State v. Deatore*, 70 N.J. 100 (1976) (broader privilege against self-incrimination).

children must learn to respect and live with one another in multiracial and multi-cultural communities and the earlier they do so the better. It is during their formative school years that firm foundations may be laid for good citizenship and broad participation in the mainstream of affairs. Recognizing this, leading educators stress the democratic and educational advantages of heterogeneous student populations and point to the disadvantages of homogeneous student populations It may well be, as has been suggested, that when current attacks against housing and economic discriminations bear fruition, strict neighborhood school districting will present no problem. *But in the meantime the states may not justly deprive the oncoming generation of the educational advantages which are its due, and indeed, as a nation, we cannot afford standing by.*

[*Booker*, 45 N.J. at 170-71 (emphasis added).]

After reviewing regulations and judicial decisions in California and New York recognizing those states' obligations to ameliorate *de facto* segregation, *id.* at 170-73, the *Booker* Court favorably compared New Jersey's "strong policy against racial discrimination in the public schools" and cited Article I, Paragraph 5 as a source of that policy. *Id.* at 174. *Booker* thus supports Plaintiffs' position that Article I, Paragraph 5 provides a basis for prohibiting *de facto* segregation in public schools.

In *Jenkins*, decided just six years after *Booker*, the Court again relied on the constitutional prohibition on segregated schools in reaffirming that the scourge of *de facto* segregation is not immune from legal challenge merely because the State did not

intentionally cause it. The Court cited Article I, Paragraph 5 (and other provisions) for the proposition that "[t]he history and vigor of our State's policy in favor of a thorough and efficient public school system are matched in its policy against racial discrimination and segregation in the public schools." *Jenkins*, 58 N.J. at 496-97. And quoting the Commissioner's findings in that case, which in turn cited Article I, Paragraph 5's prohibition on segregated schools, the Court noted the Commissioner's recognition that "as a matter of State policy and apart from federal dictates, there is an 'obligation to take affirmative steps to eliminate racial imbalance, regardless of its causes.'" *Id.* at 506. The Court thus held, relying on *Booker*, that "[d]e facto segregation or imbalance . . . is frustrating our State constitutional goals." *Ibid.* (citing *Booker*, 45 N.J. at 178).

The Court cited *Booker* again in *In re Grant of Charter School Application of Englewood on the Palisades Charter School*, 164 N.J. 316 (2000), holding that "New Jersey's abhorrence of discrimination and segregation in the public schools is not tempered by the cause of the segregation. Whether due to an official action, or *simply segregation in fact*, our public policy applies with equal force against the continuation of segregation in our schools." *Id.* at 324 (emphasis added) (citing *Booker*, 45 N.J. 161).

Indeed, the Court has repeatedly emphasized that the Commissioner and the State Board must play a proactive role in eliminating segregation. In *Booker*, for example, the Court reversed the decision of the Commissioner of Education and the State Board permitting the Plainfield Board of Education to select a desegregation plan that achieved less integration than two other plans that had been proposed by an outside expert. See *Booker*, 45 N.J. at 163-68 (describing proposed plans and Commissioner and State Board's decisions). The Commissioner had determined that a desegregation plan was acceptable so long as it would avoid having any school that had "all or nearly all" Black students. *Id.* at 167. The Court held that this view of the Commissioner's authority, although adopted by the State Board, was "unduly restrictive" because it did not properly account for the Commissioner's "own responsibilities in the correction of substantial racial imbalance which may be educationally harmful though it has not reached the standard of 'all or nearly all [Black].'" *Id.* at 181. The Court thus remanded to the Commissioner for further consideration in light of his "broad power to deal with the subject" of school segregation, *id.* at 173-74, specifically noting his authority to "remand the matter to the local board for further action or [to] prescribe a plan of his own" if he concluded that the board's proposed segregation remedy was inadequate. *Id.* at 178.

The Court has since reaffirmed those broad powers and required the Commissioner and State Board to put them to use, holding that they are responsible for failing to prevent *de facto* discrimination in public schools. Indeed, in *Jenkins*, the Court rejected the Commissioner's refusal to block the withdrawal of Morris Township students from Morristown High School, even though he believed that the withdrawal would segregate the schools. *Jenkins*, 58 N.J. at 493. The Court emphasized that the Commissioner had "many broad supervisory powers designed to enable him, with the approval of the State Board of Education, to take necessary and appropriate steps for fulfillment of the State's educational and desegregation policies in the public schools." *Id.* at 507 (citing *Booker*, 45 N.J. at 173-81); *see also ibid.* ("In *Booker* we held that the Commissioner had the responsibility and power of correcting [*de facto*] segregation or imbalance which is frustrating our State constitutional goals." (citing *Booker*, 45 N.J. at 178)).

Significantly, the *Jenkins* Court also rejected the Commissioner's attempt to lay responsibility for rectifying school segregation with the Legislature, concluding that the Legislature had discharged its constitutional mandate by "delegating comprehensive power to the Commissioner." *Id.* at 506. The Court thus remanded to the Commissioner to exercise his "full power" to do what "he finds . . . ultimately necessary for fulfillment of

the State's educational and desegregation policies in the public schools." *Id.* at 508.

The Commissioner's powers extend to extinguishing segregation in charter schools as well. Thus, in *Englewood on the Palisades*, the Court noted that "[t]he constitutional command to prevent segregation in our public schools superimposes obligations on the Commissioner when he performs his statutory responsibilities under the Charter School Act." *Englewood on the Palisades*, 164 N.J. at 328. The Court thus held that "the Commissioner must assess the racial impact that a charter school applicant will have on the district of residence in which the charter school will operate" and "if segregation would occur [from approval of a charter school] the Commissioner must use the full panoply of his powers to avoid that result." *Id.* at 329; see also *In re Red Bank Charter Sch.*, 367 N.J. Super. 462, 482 (App. Div. 2004) (requiring Commissioner to hold a hearing regarding charter school's segregative effect and "determine whether any remedial action is warranted").

Taken together, this jurisprudence shows not only that *de facto* segregation in public schools (including charter schools) is constitutionally prohibited, but also that the Commissioner's and State Board's failure to prevent such discrimination is a violation of their constitutional duties. See *In re Petition for Auth. to Conduct a Referendum on Withdrawal of N. Haledon Sch. Dist.*, 181 N.J. 161, 181 (2004) (to prevent school segregation, "[t]he

Commissioner not only had the power, but also the duty, to act"); *Englewood on the Palisades*, 164 N.J. at 328 (holding, in the context of charter school decisions, that "[t]he constitutional command to prevent segregation in our public schools superimposes obligations on the Commissioner"); *Jenkins*, 58 N.J. at 493 (holding that "[t]he Commissioner's flat disavowal of power despite the compelling circumstances may be sharply contrasted with the sweep of our pertinent constitutional and statutory provisions and the tenor of our earlier judicial holdings" (citing N.J. Const. art. I, ¶ 5)).

In light of those rulings, the facts pled in the Amended Complaint and admitted by Defendants compel a finding that the Commissioner is not fulfilling his constitutional duty. To the contrary, New Jersey's public schools are, as the undisputed facts show, severely segregated. Black and Latino students largely attend schools filled with non-White students. See Am. Compl. ¶¶ 24-27. Conversely, White students largely attend schools with other White students. See *id.* ¶ 29. Further, the problem, already longstanding, is worsening. See Am. Compl. ¶ 26.

The state Supreme Court has noted that "it is not really possible to establish a precise point" at which segregation crosses the line into unconstitutional impermissibility. *N. Haledon*, 181 N.J. at 183; see also *Booker*, 45 N.J. at 179-80. Regardless, whatever hypothetical question might be raised about the level of

segregation that is required to trigger a constitutional duty to remediate, that issue is plainly not presented here given the severity of segregation described in the Amended Complaint.

Indeed, the segregation that currently exists, as summarized in the Amended Complaint, is worse than that which the Court has held to require remediation in other cases. Thus, in *Booker*, the Court noted that as of April 1963, Plainfield's five majority-Black elementary schools had populations of Black students ranging from 58.9% to 96.2%, while the population of Black students in the remaining schools ranged from 0.6% to 44.9%, and the Black student population in the district was 40.4%. *Booker*, 45 N.J. at 166. In rejecting the Commissioner and State Board's view that desegregation should be ordered only for a school that was "entirely or almost entirely [Black]," the Court held that while there was not a precise numerical metric that would define segregation in all circumstances, a school could certainly be considered segregated where the Black population "may be well above 50 per cent but well below the Commissioner's and State Board's 100 per cent or nearly 100 per cent." *Id.* at 178-79.

Booker also cited a New York decision, *Vetere v. Mitchell*, 251 N.Y.S.2d 480 (N.Y. App. Div. 1964), *aff'd*, 206 N.E.2d 174 (N.Y. 1965), *cert. denied*, 382 U.S. 825 (1965), in which the school district at issue had three elementary schools, one with a 75% Black student population and the others with approximately 14%

Black student populations. *Id.* at 482. The New York education commissioner ordered that the schools be integrated by sending all fourth and fifth grade students to a single school, with the kindergarten through third grade students to be divided between the other two schools. *Ibid.* The New York Appellate Division affirmed the commissioner's decision, and noted that a contrary holding would turn the state's education statute into "a segregation statute mandating continuation in schools of racial imbalance and making *de jure* that which is now merely *de facto*." *Id.* at 483. The *Booker* Court thus contrasted *Vetere*, where a 75% non-White school was found unduly segregative, with the Commissioner's view that only an almost entirely non-White school violated the state constitutional rule against *de facto* school segregation. *Booker*, 45 N.J. at 178. Relying in part on *Vetere*, the Court rejected the Commissioner's view as "too restrictive." *Id.* at 181.

Jenkins similarly required the Commissioner to prevent segregation that was less severe than the segregation that currently exists in the State's public schools. In that case, the facts demonstrated that due to the Commissioner's failure to prevent the withdrawal of Morris Township students from Morristown High School, the Morristown High School's Black student population would increase from about 14% to 56% by 1980. *Jenkins*, 58 N.J. at 488. The Court held that, in those circumstances, the Commissioner

was empowered to prevent the proposed withdrawal "if he finds such course ultimately necessary for fulfillment of the State's educational and desegregation policies in the public schools." *Id.* at 508.

Since *Booker* and *Jenkins*, other courts have found *de facto* segregation unlawful in circumstances similar to those that currently exist in New Jersey's public schools. Thus, the California Supreme Court found *de facto* segregation in the Los Angeles Unified School District where "a substantial proportion of the district's schools had student populations of either 90 percent or more minority students or 90 percent or more white students." *Crawford v. Bd. of Educ.*, 551 P.2d 28, 32 (Cal. 1976). More specifically, "of the 80 elementary schools which had enrollments of over 50 percent black students, 72 had enrollments of over 90 percent black; of the 15 junior high schools which were predominantly black, 13 had black populations of 90 percent or more; of the 9 'majority black' high schools, 7 had black student populations exceeding 90 percent." *Id.* at 32 n.2. And the Connecticut Supreme Court found unlawful segregation where the Hartford public schools consisted of over 90% minority students, even though the statewide public school population consisted of 25.7% children from minority groups. *Sheff v. O'Neill*, 678 A.2d 1267, 1287 (Conn. 1996).

In this case, the statistics cited by Plaintiffs and admitted by Defendants show that combined, about 63% of Black and Latino public school students attend schools that are more than 75% non-White. Am. Compl. ¶ 27. That is the level of segregation held to be excessive by New York in *Vetere* and by the state Supreme Court in *Booker* and *Jenkins*. Even worse, the current state of New Jersey schools arguably meets even the “entirely or almost entirely [non-White]” standard that *Booker* rejected as “too restrictive,” as almost half (46.2%) of Black and Latino public school students, totaling more than 270,000 students, attend schools that are more than 90% non-White. Am. Compl. ¶ 27; see also *Booker*, 45 N.J. at 181. That level of segregation is comparable to the level of segregation rejected by the California Supreme Court in *Crawford*, where a substantial portion of the district’s schools consisted of more than 90% Black students. *Crawford*, 551 P.2d at 32 n.2.

These admitted facts show that New Jersey’s public schools are clearly segregated and, because Article I, Paragraph 5 of the New Jersey Constitution requires Defendants to prevent such *de facto* segregation, Defendants are liable for constitutional violations alleged in the First Count of the Amended Complaint.

Accordingly, the record before the Court is not only sufficient, but it compels a finding under the First Count of the Amended Complaint that (a) New Jersey’s public schools are unconstitutionally segregated as a matter of fact; and (b)

Defendants are liable for that unconstitutional segregation as a matter of law, in violation of the New Jersey Constitution, Article I, Paragraph 5.

II. DEFENDANTS' FAILURE TO PREVENT RACIAL AND SOCIOECONOMIC SEGREGATION IN THE PUBLIC SCHOOLS VIOLATES THE GUARANTEE OF EQUAL PROTECTION (SECOND COUNT).

The "first principles" of the New Jersey Constitution are contained in Article I, Paragraph 1, which provides "that every person possesses the 'unalienable rights' to enjoy life, liberty, and property, and to pursue happiness." *Lewis v. Harris*, 188 N.J. 415, 442 (2006) (quoting N.J. Const. art. I, ¶ 1). The Court has "construed the expansive language of Article I, Paragraph 1 to embrace th[e] fundamental guarantee" of equal protection, which "'protect[s] against injustice and against the unequal treatment of those who should be treated alike.'" *Ibid.* (alteration in original) (quoting *Greenberg v. Kimmelman*, 99 N.J. 552, 568 (1985)).

Unlike the analysis conducted under the Equal Protection Clause of the federal constitution, which applies different standards of review based on the nature of the classification, the Court has applied a "flexible" test to equal protection claims. This test requires the court to "weigh[] . . . three factors: the nature of the right at stake, the extent to which the challenged statutory scheme restricts that right, and the public need for the statutory restriction." *Id.* at 443; see also *id.* at 443 n.13

(distinguishing federal equal protection analysis); *Sojourner A. v. N.J. Dep't of Human Servs.*, 177 N.J. 318, 332 (2003) (noting that Court has "rejected '[m]echanical approaches'" to the State Constitution's guarantee of equal protection (quoting *Robinson v. Cahill*, 62 N.J. 473, 491 (1973))); *cf. Planned Parenthood of Cent. N.J.*, 165 N.J. at 632 ("We have not hesitated, in an appropriate case, to read the broad language of Article I, paragraph 1, to provide greater rights than its federal counterpart."). An analysis of each of those factors shows that, in light of the undisputed facts, Defendants have violated the state constitutional guarantee of equal protection.⁵

First, the nature of the right at stake - education in a racially and socioeconomically integrated environment - is critical. Indeed, the right to attend a school that was free of segregation was the core requirement of *Brown*. 347 U.S. at 493 (holding that "segregation of children in public schools solely on the basis of race . . . deprive[s] the children . . . of equal educational opportunities"); *see also Robinson*, 62 N.J. at 495

⁵ On the other side of the constitutional coin, New Jersey courts have explicitly rejected claims that actions designed to prevent racial segregation in schools violate the guarantee of equal protection. *See Morean v. Bd. of Educ. of Montclair*, 42 N.J. 237, 241-42 (1964) (rejecting equal protection clause claim where "Montclair's plan was intended to and would inevitably lead toward integration rather than segregation"); *Bd. of Educ. of Englewood Cliffs v. Bd. of Educ. of Englewood*, 257 N.J. Super. 413, 473 (App. Div. 1992) (rejecting equal protection challenge to plan "specifically addressed to remedying the educationally pernicious evils of white flight, racial imbalance, and *de facto* desegregation in the schools" because such a challenge "turns that constitutional provision 'on its head'"), *aff'd*, 132 N.J. 327 (1993).

(noting that "*Brown* turned upon the invidious classification on the basis of race"). New Jersey recognized this right back in 1881 - 70 years before the decision in *Brown* - when it statutorily banned segregation in schools. See *L. 1881, c. 149* ("[N]o child between the age of five and eighteen years of age shall be excluded from any public school in this state on account of her religion, nationality or color."). Although *Brown* held unconstitutional segregation on the basis of an individual student's race, state constitutional law in New Jersey sweeps more broadly, banning not only *de jure* but also *de facto* segregation. In addition, as noted above, school segregation is subject to a specific constitutional prohibition. See N.J. Const. art. I, ¶ 5. Its importance in banning *de facto*, as well as *de jure*, segregation has been repeatedly emphasized by the New Jersey courts. See, e.g., *N. Haledon*, 181 N.J. at 178 ("Students attending racially imbalanced schools are denied the benefits that come from learning and associating with students from different backgrounds, races, and cultures." (citing *Jenkins*, 58 N.J. at 499, and *Booker*, 45 N.J. at 170-71)). Indeed, in their Amended Answer, "Defendants acknowledge the benefits that stem from a diverse and inclusive educational environment." Ans. to Am. Compl. ¶ 43; accord *id.* ¶ 46.

The right at stake also includes freedom from segregation on the basis of socioeconomic class. No New Jersey Court has

considered the question of whether socioeconomic segregation in education violates equal protection. *Cf. Robinson*, 62 N.J. at 500-01 (declining to find equal protection violation based on school funding disparities). However, in other contexts, federal and state courts have ruled that different treatment based on wealth violates the norms of equal protection. *See, e.g., Bearden v. Georgia*, 461 U.S. 660, 672-73 (1983) (ruling in favor of equal protection challenge to probation revocation based on failure to pay fine, because "to deprive the probationer of his conditional freedom simply because, through no fault of his own, he cannot pay the fine . . . would be contrary to the fundamental fairness required by the Fourteenth Amendment"); *State v. Joe*, 228 N.J. 125, 131 (2017) (noting that "[j]ail credits [for time spent in pre-trial custody] promote equal protection and fundamental fairness," because "[w]ithout jail credits, defendants who could not make bail would effectively serve more time in custody than those with the financial means to afford bail" (citing *State v. Rawls*, 219 N.J. 185, 193 (2014))).

The socioeconomic segregation that currently exists in New Jersey's public school system similarly denies students an integrated education environment solely because of their financial means, in violation of the principles of equal protection. That segregation is apparent at a district-based level. *Compare* Am. Compl. ¶ 40 (A-H), *with* Coughlan Cert. ¶¶ 28-35. For example, in

Passaic County, the Passaic and Patterson schools contain 99.8% and 75%, respectively, students living in poverty, while Ringwood Borough and Wayne Township have fewer than 10% students living in poverty. In Camden County, the Woodlynne Borough schools have 89.8% students living in poverty, while the Haddonfield Borough schools have 1.6% students living in poverty. In Mercer County, Trenton has 89.1% students living in poverty, while three districts (Hopewell Valley, Robbinsville Township, and West Windsor-Plainsboro Regional) have 5.2% or fewer students living in poverty. And in Monmouth County, the Red Bank Borough and Asbury Park schools contain 88.8% and 82.8%, respectfully, of students living in poverty, while fifteen districts in that county have fewer than 5% students living in poverty. That data show that New Jersey public school students are placed in segregated schools based on their wealth, thus denying students from both impoverished and wealthy backgrounds the opportunity to be educated together, with the recognized educational benefits that result therefrom.

Turning to the second factor in the equal protection analysis, the current state statutory scheme for public schooling severely impairs the right to integrated schooling for public school students. State law generally requires students to attend public schools based on their residency. See N.J.S.A. 18A:38-1.⁶ As

⁶ This provision is even subject to criminal enforcement, as it is a disorderly persons offense to falsely represent that a child resides in a district for the

Plaintiffs pleaded, and Defendants have admitted, school segregation occurs at a district level. See Am. Compl. ¶ 40 (A-H) (describing district-level data showing school segregation). The certification of Dr. Ryan Coughlan, submitted in support of this motion, demonstrates how the residency requirement and district-level segregation are connected. Dr. Coughlan's analysis uses data from the 2010 United States Census to compare the racial breakdown of school-age students residing in the 23 communities referred to in Paragraph 40 of the Amended Complaint with the racial breakdown of students actually attending public schools in those 23 communities for the same year, and shows an extremely close correlation between those two numbers. See Coughlan Cert. ¶ 40. Specifically, the average difference between student-aged population and student enrollment for Black students was 3.08%, and the average difference between student-aged population and student enrollment for Hispanic students was 5.08%. See *id.* ¶¶ 40-41. Thus, if a public school student resides in a racially segregated community, then that student almost inevitably will have to attend a racially segregated school. See *Sheff*, 678 A.2d at 1289 (relying on trial court's finding that state's school residency statute was "[t]he single most important factor that contribute[s] to the present concentration of racial and ethnic

purpose of attending the public schools in that district. See N.J.S.A. 18A:38-1(c).

minorities in Hartford" and holding school residency statute unconstitutional as applied).

Importantly, a showing of discrimination in violation of the state Constitution's equal protection guarantee - unlike its federal counterpart - can be satisfied by statistical data alone. See *State v. Marshall*, 130 N.J. 109, 209 (1992) (rejecting *McCleskey v. Kemp*, 481 U.S. 279 (1987)). Thus, where "the statistical evidence is so deviant as to compel a conclusion of substantial significance," and the data are not otherwise biased, those statistics alone can give rise to equal protection violations. See *id.* at 212; *cf. id.* at 213 (rejecting equal protection challenge to death sentence only because "we do not yet confront a record in which '[t]he statistical evidence . . . relentlessly documents the risk that [Marshall's] sentence was influenced by racial considerations.'" (alterations in original) (quoting *McCleskey*, 481 U.S. at 328 (Brennan, J., dissenting))). Here, the data are compelling: the statutorily mandated residency-based assignment of schools creates, for example, at least twenty-three districts in which the school population is over 89% non-White. See Am. Compl. ¶ 40 (A-H). Those districts are also significantly segregated by wealth, with each of them containing at least 59.6% students living in poverty (as measured by students eligible for free or reduced lunch); fourteen with 75% or more students living in poverty; and seven with more than 85% students

living in poverty. See *ibid.* And as described above, many school districts in those same counties face the opposite demographics: no fewer than 63 districts in those counties have student populations that are at least 75% White, and 49 districts in those counties contain fewer than 10% students living in poverty. See Coughlan Cert. ¶ 35.

Third, there is no public need for the statutory mandate that students attend schools only in the district of their residence. Indeed, the general rule is not absolute; rather, it is subject to a number of statutory exceptions. See, e.g., N.J.S.A. 18A:38-1.1 (permitting child to remain in school district after moving out of district "as a result of domestic violence, sexual abuse or other family crises"); N.J.S.A. 18A:38-2 (permitting nonresident child to attend district schools when placed in housing within district by court order); N.J.S.A. 18A:38-3(b), -3.1 (permitting child to remain in school district if moved out of district due to parent or guardian's military service). The Appellate Division has similarly observed that in interpreting the statute, "fairness dictates" that the interpretation of a child's domicile may depend on case-specific factors. See *Somerville Bd. of Educ. v. Manville Bd. of Educ.*, 332 N.J. Super. 6, 17 (App. Div. 2000) (holding that where child's parents lived in separate districts and shared custody "fairness dictates that both school districts bear equally the costs of the child's special education"). Here, that fairness

dictates that N.J.S.A. 18A:38-1 give way to the Constitution's principles of equal protection where, as is clear, that statutory provision is, as a matter of law an indisputable fact, a primary cause of the State's severe *de facto* public school segregation. *See Sheff*, 678 A.2d at 1289 (finding that Connecticut's enforcement of its similar school residency statute violated state constitution because it caused segregation in the Hartford public schools); *Vetere*, 251 N.Y.S.2d at 563-64 (noting that improper enforcement of statute to require school admission based solely on geography would create "a segregation statute mandating continuation in schools of racial imbalance and making *de jure* that which is now merely *de facto*").

In sum, in allowing the separation of students in the public schools based on race and socioeconomic status, Defendants are permitting and perpetuating "the unequal treatment of those who should be treated alike." *Lewis*, 188 N.J. at 442 (internal quotation marks omitted). For those reasons, Defendants, by maintaining a statutory scheme that creates *de facto* racial and socioeconomic segregation in public schools without sufficient justification, are liable for violations of the state Constitution's guarantee of equal protection as well.

III. DEFENDANTS ARE LIABLE FOR VIOLATING THE THOROUGH AND EFFICIENT CLAUSE BY FAILING TO INTEGRATE THE PUBLIC SCHOOLS (THIRD COUNT).

The Third Count of the Amended Complaint alleges that Defendants are liable for violations of the Thorough and Efficient Clause ("T&E Clause") of the New Jersey Constitution. The T&E Clause states, "[t]he Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of five and eighteen years." N.J. Const. art. VIII, § 4, ¶ 1. Applied to this case, the T&E Clause prohibits the *de facto* segregation that currently exists in the state's public schools.

That is because, though analysis under the T&E Clause may sometimes seem complicated, see *Abbott v. Burke* (*Abbott XXI*), 206 N.J. 332, 347 (2011) (noting Court's "acute awareness of the long duration of" litigation regarding educational funding required by T&E Clause), as a matter of law, racial integration is a necessary part of a thorough and efficient education in any event. As the Supreme Court has made clear, "[s]tudents attending racially imbalanced schools are denied the benefits that come from learning and associating with students from different backgrounds, races, and cultures." *N. Haledon*, 181 N.J. at 178. Accordingly, the state Supreme Court "consistently ha[s] held that racial imbalance resulting from *de facto* segregation is inimical to the

constitutional guarantee of a thorough and efficient education." *Id.* at 177 (citing N.J. Const. art. VIII, § 4, ¶ 1; *Jenkins*, 58 N.J. at 499; *Booker*, 45 N.J. at 171; *Morean*, 42 N.J. at 242-43; *Bd. of Educ. of Englewood Cliffs*, 257 N.J. Super. at 464-65); see also *Bd. of Educ. of Englewood Cliffs*, 257 N.J. Super. at 471 (noting the "longstanding state policies in favor of racial balance as a function of a thorough and efficient educational system"). The Court has also made clear that it is these Defendants who are responsible for fulfilling the constitutional obligations of the T&E Clause. See, e.g., *Abbott v. Burke (Abbott II)*, 119 N.J. 287, 385 (1990) (requiring Legislature, State Board, and Commissioner to remedy violation of T&E Clause for funding of urban school districts); *Robinson*, 62 N.J. at 508-09 ("It is also plain that the ultimate responsibility for a thorough and efficient education was imposed upon the State. This has never been doubted."); *id.* at 509 n.9 (noting Commissioner's role, based on statutory authority, to fulfil State's constitutional obligations regarding education).

As described above, Plaintiffs have proven, based on statistical facts admitted by Defendants, that the public schools are subject to *de facto* segregation, which Defendants, including the Commissioner, are obligated to remedy. Thus, based upon the now undisputed data, it cannot be doubted that the schools are "racially imbalanced," and that students are not "learning and

associating with students from different backgrounds, races, and cultures." *N. Haledon*, 181 N.J. at 178. Instead, Defendants maintain "apartheid schools" that are over 99% non-White for almost 8% of public school students, Am. Compl. ¶ 26, while over 270,000 Black and Latino students attend schools that are more than 75% non-White, *id.* ¶ 27.

Notably, this segregation is dramatically worse than was the case in *North Haledon*. In that case, the North Haledon school district sought to withdraw its students from the Manchester Regional district. The withdrawal would have resulted in a reduction in the percent of White students in the regional schools; although the parties' experts disagreed slightly, the decrease would have been either by 9% or 9.4% (from an initial number of 53.7%). *N. Haledon*, 181 N.J. at 170-71. On those facts, the Court found that "withdrawal by North Haledon will deny the benefits of the educational opportunity offered by a diverse student body to both the students remaining at Manchester Regional and to the students from North Haledon." *Id.* at 184.⁷ The Court thus reversed the decision of the Board of Review, consisting of the Commissioner, a member of the State Board, and two other government

⁷ The Court reached this conclusion notwithstanding the fact that North Haledon's desire to withdraw was not motivated by racial animus, but rather financial strain. See *N. Haledon*, 181 N.J. at 185. The Court did order the Commissioner "to develop, in consultation with the constituent municipalities, an equitable cost apportionment scheme for the Regional District." *Id.* at 186.

officials,⁸ permitting North Haledon to hold a referendum on the question of withdrawal. *Ibid.* Here, the undisputed statistical facts pled in the Amended Complaint and admitted in Defendants' Amended Answer demonstrate segregation that is far worse than the segregation rejected in *North Haledon*, and Plaintiffs have thus proven violations of the T&E Clause's prohibition on racially imbalanced schools, for which Defendants are liable.

For these reasons, judgment should be entered holding Defendants liable on the Third Count of the Amended Complaint alleging a clear and undeniable violation of the T&E Clause, N.J. Const. art. VIII, § 4, ¶ 1.

IV. THE COLLECTIVE INTERPRETATION OF THE CONSTITUTION'S PROVISIONS REGARDING SEGREGATED SCHOOLS PROVIDES AN INDEPENDENT BASIS FOR HOLDING DEFENDANTS LIABLE FOR *DE FACTO* SCHOOL SEGREGATION (FOURTH COUNT).

As described above, Defendants are liable for violating each of the three constitutional provisions identified in the first three counts of the Amended Complaint. In the Fourth Count of the Amended Complaint, Plaintiffs ask this Court to read those provisions "together and collectively" as an independent basis for holding Defendants liable for the *de facto* segregation in New Jersey's public schools. Am. Compl. ¶ 72.

⁸ A subsequent amendment to the relevant statute abolished the Board of Review and gave its powers directly to the Commissioner. See L. 2015, c. 95 (amending N.J.S.A. 18A:13-56).

In numerous cases, the United States Supreme Court has read constitutional provisions together in order to create greater rights than exist under individual constitutional provisions. See, e.g., *Obergefell v. Hodges*, 135 S. Ct. 2584, 2603 (2015) (noting that federal Due Process and Equal Protection Clauses “may rest on different precepts and are not always co-extensive, yet in some instances each may be instructive as to the meaning and reach of the other”); *Emp’t Div., Dep’t of Human Res. of Or. v. Smith*, 492 U.S. 872, 881 (1990) (citing cases where “the Free Exercise Clause in conjunction with other constitutional protections” led to invalidation of statutes); *Bearden v. Georgia*, 461 U.S. 660, 665 (1983) (in context of denial of bail based on wealth, noting that “[d]ue process and equal protection principles converge in . . . the analysis”); *Stanley v. Georgia*, 394 U.S. 557, 564 (1969) (finding that First Amendment right to free expression “takes on an added dimension” in context of intrusion into privacy of individual’s home); *Griswold v. Connecticut*, 318 U.S. 479, 484 (1965) (holding that “[v]arious guarantees” of the federal Bill of Rights “create zones of privacy”). See generally Michael Coenen, *Combining Constitutional Clauses*, 164 U. Penn. L. Rev. 1067, 1130 (2016) (“Some constitutional cases really do implicate the protections of multiple clauses at the same time. The resolution of those cases . . . often benefits from a decisional approach that accords significance to that fact.”). State courts have

applied the same method of reading constitutional provisions together when doing so would provide greater protections. See Robert F. Williams, *The Law of American State Constitutions* 354 (2009) ("In a variety of circumstances, state courts have interpreted a state constitutional clause in light of, or together with, another provision."); see also *State v. Gibson*, 267 P.3d 645, 659 (Alaska 2012) (construing state constitutional right to privacy and protection against unreasonable searches and seizures together); *State v. \$129,970*, 161 P.3d 816, 821 (Mont. 2007) ("The right to privacy in Article II, Section 10 of the Montana Constitution augments the protection against unreasonable searches and seizures.").

Specifically in the education context, both the Connecticut Supreme Court and the Supreme Court of Appeals of West Virginia have held that state constitutional provisions guaranteeing equal protection and the right to education should be read in tandem. See *Sheff*, 678 A.2d at 1281-82 (holding that "the scope of the state's constitutional obligation to provide a substantially equal educational opportunity is informed and amplified by the highly unusual provision" prohibiting segregation based on race or ancestry (footnote omitted)); *id.* at 1281 n.29 (comparing Connecticut constitutional prohibition on segregation to Article I, Paragraph 5 of the New Jersey Constitution); *Bd. of Educ. of Kanawha v. W.V. Bd. of Educ.*, 639 S.E.2d 893, 899 (W.V. 2006)

(holding that state constitutional guarantee of thorough and efficient education mandates strict scrutiny analysis under state equal protection clause). The New Jersey Supreme Court's cases rejecting segregated schools also have relied on multiple constitutional provisions. See *N. Haledon*, 181 N.J. at 177 & n. 5 (citing both the T&E Clause and Article I, Paragraph 5); *Jenkins*, 58 N.J. at 494-96 (same).

In this case, this Court similarly should read the state constitutional provisions that prohibit segregation in public schools, provide for equal protection under the law, and mandate a thorough and efficient education as establishing, collectively, a prohibition of the *de facto* segregation that currently exists in New Jersey's public schools. Cf. *In re Petition for Referendum on City of Trenton Ordinance 09-02*, 201 N.J. 349, 359 (2010) (requiring, in context of statutory interpretation, that separate enactments on the same subject matter be construed together). That prohibition is clearly violated by the current state of the public school system, in which the vast majority of Black and Latino students attend high poverty schools that consist mostly of non-White students, and many White students attend higher-income schools that consist mostly of other White students. See Am. Compl. ¶¶ 27, 29. The Court should thus find Defendants liable under the Fourth Count of the Amended Complaint.

V. DEFENDANTS ARE LIABLE UNDER N.J.S.A. 18A:38-5.1, WHICH HAS PROHIBITED RACIAL DISCRIMINATION IN PUBLIC SCHOOLS FOR THE PAST 138 YEARS (FIFTH COUNT).

As noted above, New Jersey has long prohibited racial discrimination in public schools by a statute enacted 138 years ago. See *L. 1881, c. 149*. That statute is now codified as N.J.S.A. 18A:38-5.1, which provides, in part, "[n]o child between the ages of four and 20 years shall be excluded from any public school on account of his race, creed, color, national origin, or ancestry." In the Fifth Count of the Amended Complaint, Plaintiffs ask the Court to find Defendants liable for violating this statute by maintaining segregated schools.

The statute has been applied regularly to prohibit discriminatory practices in public schools. See *Pierce v. Union Dist. Sch. Trs.*, 46 N.J.L. 76, 78 (Sup. Ct. 1884) (applying statute to prohibit denial of admission of biracial student into public school), *aff'd*, 47 N.J.L. 348 (E. & A. 1885); *Raison v. Bd. of Educ. of Berkley Twp.*, 103 N.J.L. 547, 548-49 (Sup. Ct. 1927) (applying statute to prohibit denial of admission of Black student into public school); *Patterson v. Bd. of Educ. of Trenton*, 11 N.J. Misc. 179, 179 (Sup. Ct. 1933) (rejecting prohibition on interracial use of public school swimming pool), *aff'd*, 112 N.J.L. 99 (E. & A. 1934); *Hedgepeth v. Bd. of Educ. of Trenton*, 131 N.J.L. 153, 154 (Sup. Ct. 1944) (prohibiting school board from failing to assign students to school nearest them because of race). The

statute has also been repeatedly cited in the Court's constitutional decisions prohibiting *de facto* school segregation. See *N. Haledon*, 181 N.J. at 177; *Englewood on the Palisades*, 164 N.J. at 324; *Jenkins*, 58 N.J. at 495-96; *Booker*, 45 N.J. at 174. The import of those decisions is that the statute prohibits *de facto* (as well as *de jure*) segregation.

For the reasons described above, the New Jersey public schools currently face significant *de facto* segregation. And Defendants, who are charged with using all of their statutory powers to prevent *de facto* segregation, are thus liable for violations of the statute. See *Jenkins*, 58 N.J. at 507 (holding that Commissioner and State Board must use statutory authority to "take necessary and appropriate steps for fulfillment of the State's educational and desegregation policies in the public schools"). Accordingly, the Court also should enter a judgment of liability against Defendants on the Fifth Count of the Amended Complaint.

VI. DE FACTO SEGREGATION IN CHARTER SCHOOLS VIOLATES THE CHARTER SCHOOL PROGRAM ACT, AND DEFENDANTS ARE LIABLE FOR THAT VIOLATION (SIXTH COUNT).

The Sixth Count of the Amended Complaint alleges violation of the Charter School Program Act and its implementing regulations. The statute mandates that "[a] charter school . . . shall not discriminate in its admission policies or practices on . . . any other basis that would be illegal if used by a school district." N.J.S.A. 18A:36A-7. The courts have noted the overlap between the

Commissioner's review and the constitutional requirement to prevent segregated public schools. See *Englewood on the Palisades*, 164 N.J. at 328 ("The constitutional command to prevent segregation in our public schools superimposes obligations on the Commissioner when he performs his statutory responsibilities under the Charter School Act."); see also *ibid.* ("The Commissioner's obligation to oversee the promotion of racial balance in our public schools to ensure that public school pupils are not subjected to segregation includes any type of school within the rubric of the public school designation."); *Red Bank*, 367 N.J. Super. at 472 ("[T]he Commissioner must ensure that the operation of a charter school does not result in district segregation."). Thus, the Commissioner has an "obligation to prevent segregation in the public schools [that] must inform his review of an application to approve a charter school, and if segregation would occur the Commissioner must use the full panoply of his powers to avoid that result." *Englewood on the Palisades*, 164 N.J. at 329.

The undisputed facts in the record show that the Commissioner has permitted charter schools to be as segregated as are the traditional public schools. Public data collected and analyzed by Plaintiffs' expert show that more than 72% of New Jersey's 88 charter schools have less than 10% White students. See Am. Compl. ¶ 31; Coughlan Cert. ¶ 21. Thirty-seven of the State's 88 charter schools have student bodies that are 99% or more non-White; in 64

charter schools, the Black and Latino population exceeds 80%; and in 54 charter schools it exceeds 90%. See Coughlan Cert. ¶ 21.⁹ Those segregated schools do not comply with the requirements that the Commissioner's approval of a charter school must be designed to ensure that "public school pupils are not subjected to segregation." *Englewood on the Palisades*, 164 N.J. at 328. Indeed, the Commissioner could implement available policies by which charter schools would better fulfill the goals of integration. See Halley Potter & Miriam Nunberg, *Scoring States on Charter School Integration* (The Century Found. 2019), <https://tcf.org/content/report/scoring-states-charter-school-integration/> (identifying charter school policies that support integration and noting that "all states have ways in which they should strengthen existing charter school laws and policies to support integration and prevent segregation in charter schools").¹⁰

⁹ Although Defendants did not admit the accuracy of Dr. Coughlan's data in their Amended Answer, there can be no genuine issue of fact regarding his analysis of data, since the data are collected from the State's own data sources. See Coughlan Cert. ¶ 20 (noting that relevant percentages "are based entirely on the DOE's 2016-2017 Enrollment Data"); see also *Cortez v. Gindhart*, 435 N.J. Super. 589, 605 (App. Div. 2014) (requiring party opposing summary judgment to "come forward with evidence that creates a genuine issue of material fact") (internal quotation marks and citations omitted). The Court also can take judicial notice of the data as "capable of immediate determination by resort to sources whose accuracy cannot reasonably be questioned." N.J.R.E. 201(b)(3); see *J.H. v. R & M Tagliareni, LLC*, --- N.J. ---, 2019 WL 3433062, at *16 n.2 (2019) (Rabner, C.J., dissenting) (noting that "[c]ourts can take judicial notice of studies and statistics from suitable sources under N.J.R.E. 201(b)(3)" and citing cases); *Sheff v. O'Neill*, 678 A.2d 1267, 1287 n.42 (Conn. 1996) (taking judicial notice of official school demographic statistics).

¹⁰ This study rated New Jersey 27th out of 42 states in state support for integration in charter schools, including tied for last in measure of actual enrollment of racially integrated charter schools.

Defendants, however, have failed to implement the Charter School Program Act in a way that prevents segregated public schools, and thus the Commissioner's approval and reauthorization of such charter schools constitutes a violation of the Charter School Program Act as informed by the state constitution. See *Englewood on the Palisades*, 164 N.J. at 329 ("We simply hold that the Commissioner's obligation to prevent segregation in the public schools must inform his review of an application to approve a charter school[.]"); see also *In re Plan for Abolition of Council on Affordable Hous.*, 214 N.J. 444, 476 (2013) (noting that scope of statute "is also informed by" relevant constitutional provisions).

The Commissioner thus has not fulfilled his statutory and regulatory duties, as informed by constitutional imperatives, to prevent *de facto* segregated charter schools. See *Englewood on the Palisades*, 164 N.J. at 328 (noting that Commissioner must take into account "the *de facto* effect of a charter school"). The Court should therefore enter judgment holding Defendants liable for violations of the Charter School Program Act and its accompanying regulations.

VII. DEFENDANTS' LIABILITY ON SEVERAL CONSTITUTIONAL AND STATUTORY GROUNDS SUBJECTS THEM TO LIABILITY UNDER THE NEW JERSEY CIVIL RIGHTS ACT (SEVENTH COUNT).

Finally, in the Seventh Count of the Amended Complaint, Plaintiffs allege a violation of the New Jersey Civil Rights Act

(NJCRA), N.J.S.A. 10:6-2. That statute provides a private cause of action for “[a]ny person who has been deprived of . . . any substantive rights, privileges or immunities secured by the Constitution or laws of this State . . . by a person acting under color of law[.]” *Id.* 10:6-2(c). The NJCRA was modeled after its federal companion statute, 42 U.S.C. § 1983, and the elements of a claim under both statutes are the same. *See Harz v. Borough of Spring Lake*, 234 N.J. 317, 330 (2018); *Filgueiras v. Newark Pub. Schs.*, 426 N.J. Super. 449, 468 (App. Div. 2012).

To establish a § 1983 claim, the first task . . . is to identify the state actor, the person acting under color of law, that has caused the alleged deprivation. The second task is to identify a right, privilege or immunity secured to the claimant by the Constitution or other federal laws of the United States.

[*Filgueiras*, 426 N.J. Super. at 468-69 (alteration in original) (internal citations and quotation marks omitted).]

Here, Defendants have acted under color of law to deprive Plaintiffs of their constitutional rights to integrated schools: they have permitted *de facto* segregation to occur, and persist, in New Jersey’s public schools. As described above, that *de facto* segregation is a violation of the state Constitution and state statutes.

The NJCRA also requires Plaintiffs to show deprivation “of a cognizable substantive right.” *Harz*, 234 N.J. at 329. In *Harz*,

the Court set forth a "three-step test" for determining whether a right is cognizable under the NJCRA:

a court must determine: (1) whether, by enacting the statute, the Legislature intended to confer a right on an individual; (2) whether the right is not so vague and amorphous that its enforcement would strain judicial competence; and (3) whether the statute unambiguously impose[s] a binding obligation on the [governmental entity].

[*Id.* at 331 (alterations in original) (internal citations and quotation marks omitted).]

Plaintiffs also must show that the right is "substantive," in the sense that it can be "protected or enforced by law." *Id.* at 332 (quoting *Black's Law Dictionary* 1437, 1438 (9th ed. 2009)). Although the NJCRA does not define what a substantive right is, "[b]y its very nature, the term is broad in its conception." *Tumpson v. Farina*, 218 N.J. 450, 473 (2014).

Plaintiffs' statutory and constitutional claims clearly meet that standard. First, the constitutional and statutory rights to attend integrated schools are conferred upon Plaintiffs (and others) - indeed, as shown by the cases cited above, non-profit organizations and individuals like Plaintiffs have repeatedly used the courts to enforce those provisions.¹¹ Similarly, given that

¹¹ Although the cases cited in this motion do not rely upon the NJCRA, that is because the statute was passed in 2004, after the cited cases were litigated. See *Tumpson*, 218 N.J. at 473-74. As *Tumpson* noted, "because the New Jersey Civil Rights Act is of recent vintage, we must determine whether the Legislature did not intend N.J.S.A. 10:6-2(c) to provide remedies in addition to those in previously enacted statutes or the common law." *Id.* at 477. *Tumpson* held that a defendant bears the burden of showing that the legislature "did not intend

the courts regularly have interpreted and enforced these provisions over many years, it cannot be said "that [their] enforcement would strain judicial competence." *Harz*, 234 N.J. at 331. Third, each count of the Amended Complaint involves a constitutional or statutory provision that, as interpreted by the courts, "unambiguously" requires Defendants to prevent *de facto* segregation. *Ibid.* Finally, those rights clearly are substantive - indeed, in *Harz* the Court specifically identified the rights of Article I, Paragraph 1 of the New Jersey Constitution, which are pled in Count Two of the Amended Complaint, as substantive rights. *Id.* at 332. The Court also noted that "substantive rights . . . identified in our constitutional jurisprudence" are within the scope of the NJCRA. *Ibid.* Thus, the various provisions identified in the Amended Complaint that provide a constitutional and statutory right to an integrated school environment - and, as described above, are being violated by Defendants in their maintenance of *de facto* segregated schools - certainly fall within the ambit of the NJCRA. Defendants are thus also liable, as a matter of law, for violating the NJCRA.

[the NJCRA's] remedies to apply to the right" at issue. *Id.* at 478-79. Because there is nothing in the statute or legislative history to reject application of the NJCRA to the claims in the Amended Complaint, Defendants cannot meet that burden. See *id.* at 479 ("Had the Legislature intended to carve out this statutory area, presumably the Legislature would have said so.").

CONCLUSION

For the reasons described above, Plaintiffs ask the Court to grant their motion for partial summary judgment and enter a judgment of liability against Defendants on all counts of the Amended Complaint. Although that judgment will not fully resolve the case, it will permit the parties to focus on the complicated, but vitally important, work of crafting a remedy that will desegregate the state's schools and fulfill the state Constitution's mandate that all public school students attend fully integrated schools.

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Plaintiffs,

v.

THE STATE OF NEW JERSEY; NEW JERSEY STATE BOARD OF EDUCATION; and LAMONT REPOLLET, Acting Commissioner, State Department of Education,

Defendants.

SUPERIOR COURT OF NEW JERSEY LAW DIVISION:
MERCER COUNTY

DOCKET NO: MER-L-001076-18

Civil Action

CERTIFICATION OF SERVICE

I, Michael R. Noveck, Esq., hereby certify that:

1. I am an attorney at Gibbons P.C., counsel for Plaintiffs in the above-captioned matter.

2. On September 27, 2019, Lawrence S. Lustberg, Esq., counsel of record, electronically filed Plaintiffs' Motion for Partial Summary Judgment and supporting documents.

3. On September 27, 2019, I caused a filed copy of Plaintiffs' Motion for Partial Summary Judgment and supporting documents to be sent via overnight delivery to:

Hon. Mary C. Jacobson, A.J.S.C.
Mercer County Superior Court
New Criminal Courthouse
400 S. Warren Street, 4th Floor
Trenton, New Jersey 08650

4. On September 27, 2019, I caused a filed copy of Plaintiffs' Motion for Partial Summary Judgment and supporting documents to be sent via regular mail to the following counsel of record:

Daniel Dryzga
Assistant Attorney General
Department of Law and Public Safety
Division of Law
25 Market Street
P.O. Box 112
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Paul P. Josephson
Samantha L. Haggerty
Duane Morris LLP
1940 Route 70 East, Suite 100
Cherry Hill, New Jersey 08003-2171

5. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

/s/ Michael R. Noveck, Esq.

Michael R. Noveck, Esq.

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Dated: September 27, 2019

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Plaintiffs,

v.

THE STATE OF NEW JERSEY; NEW JERSEY STATE BOARD OF EDUCATION; and LAMONT REPOLLET, Acting Commissioner, State Department of Education,

Defendants.

SUPERIOR COURT OF NEW JERSEY LAW DIVISION:
MERCER COUNTY

DOCKET NO: MER-L-001076-18

Civil Action

CERTIFICATION OF RYAN W. COUGHLAN

Ryan W. Coughlan does hereby certify as follows:

1. I am an Assistant Professor of Education in the Educational Leadership for Diverse Learning Communities doctoral program at Molloy College, Rockville Center, New York. I was formerly on the faculty at the City University of New York (“CUNY”) and taught at Guttman Community College and at the CUNY Graduate Center. My appointment at CUNY ended August 31, 2019. I have a Ph.D. in Urban Systems/Urban Education from Rutgers University, and a Master of Arts in Secondary Science Education from the City College of New York. My CV is attached as **Exhibit A** to this Certification.

2. For the past several years my research and writing has emphasized issues of public school segregation in New Jersey. In that connection, I co-authored with Professor Gary Orfield and Professor Jongyeon Ee a study published by the UCLA Civil Rights Project in 2017 entitled “*New Jersey’s Segregated Schools: Trends and Paths Forward.*”

3. In 2016, I co-authored with Professor Paul Tractenberg and Alison Roda a study entitled “*Remedying School Segregation: How New Jersey’s Morris School District Chose to Make Diversity Work.*” That study was published by The Century Foundation.

4. In 2018, I co-authored with Professor Paul Tractenberg a study entitled “*The New Promise of School Integration and the Old Problem of Extreme Segregation: An Action Plan for New Jersey to Address Both.*” That study was published by the Center for Diversity and Equality in Education.

5. I currently am working on a study with Professor Paul Tractenberg, Allison Roda, and Professor Deirdre Dougherty entitled “*A New Promise of True School Integration: Lessons*

from One Community's Journey.” That manuscript is expected to be published by the Teacher’s College Press in 2020.

6. I have also been an author and co-author of various books, journal articles, and book chapters, and have participated in numerous conference discussions concerning various issues in education reform, but with a focus on school segregation.

7. This certification is divided into three sections, each dealing with separate issues. Section One identifies the racial and socioeconomic breakdown of New Jersey charter schools. Section Two identifies those school districts that are populated with 75% or more White students within those counties identified in paragraph 40 of the Amended Complaint and those school districts that have fewer than 10% students living in poverty within those counties identified in paragraph 40 of the Amended Complaint. And, Section Three concerns a statistical comparison between the student age population and the actual student enrollment in those twenty-three (23) communities identified in paragraph 40 of the Amended Complaint.

SECTION I

Racial and Socioeconomic Breakdown of New Jersey Charter Schools

8. A substantial portion of my research in New Jersey has been based on data contained on the New Jersey Department of Education’s (“DOE”) website. That website contains detailed information about all aspects of New Jersey public school education. I have used that data extensively in connection with research and writing on the subject of New Jersey school segregation, including in the articles on that subject previously referred to.

9. In using the data contained on the DOE’s website, it is possible, using Microsoft Excel, to acquire information not specifically set forth on the website, but calculable from data

contained on the website. In that connection, I have attached as **Exhibit B** a true and accurate copy of a table I created which identifies the percent of White, Black, Latino, Asian, Other (which includes only Native Americans, Native Hawaiian/Pacific Islander, and those who are two or more races), and economically disadvantaged students (which includes only those students who qualify for free lunch or reduced-price lunch) enrolled in each respective New Jersey charter school during the 2016-2017 school year.

10. The data contained in **Exhibit B** was calculated by me using data contained in the 2016-2017 Enrollment District Reported Data (“2016-2017 Enrollment Data”) which is published and available on the DOE’s website.

11. I used Microsoft Excel to run all of the calculations that yielded the data in **Exhibit B**.

12. The 2016-2017 Enrollment Data can be downloaded from the DOE’s website through the following link: https://nj.gov/education/data/enr/enr17/stat_doc.htm.

13. The 2016-2017 Enrollment Data contains student demographic data for all New Jersey public schools, including charter schools. It identifies the number of students, as well as their race, gender, and economic status (i.e., it identifies the number of students on free or reduced lunch), in each respective school.

14. More specifically, the 2016-2017 Enrollment Data identifies, among other things, the number of students who are White, Black, Hispanic, Asian, Native American, Native Hawaiian/Pacific Islander, two or more races, receive free lunch, and receive reduced price lunch in each New Jersey public school. The racial demographic figures are set forth by gender.

15. For example, pursuant to the 2016-2017 Enrollment Data, in the 2016-2017 school year, Academy Charter High School had three (3) White males, one (1) White female, fifty-nine (59) Black males, sixty-eight (68) Black females, nineteen and a half (19.5) Hispanic males, twenty (20) Hispanic females, zero (0) Asian males, zero (0) Asian females, zero (0) Native American males, zero (0) Native American females, zero (0) Native Hawaiian/Pacific Islander males, zero (0) Native Hawaiian/Pacific Islander females, one (1) male who was two or more races, and one (1) female who was two or more races enrolled. Pursuant to the 2016-2017 Enrollment Data, Academy Charter High School had a total of one hundred seventy-two and a half (172.5) students enrolled. Of those students, one hundred forty (140) students received free lunch and nine and a half (9.5) students received reduced price lunch.

16. In addition to student demographic data relating to the total enrollment for each school, the 2016-2017 Enrollment Data further provides student demographic data for each respective grade level for each school.

17. For example, in addition to student demographic data for the total student population in Academy Charter High School, the 2016-2017 Enrollment Data provides separate student demographic data for those students enrolled in the ninth, tenth, eleventh, and twelfth grades.

18. Using the 2016-2017 Enrollment Data, which was published by the DOE, I calculated and identified the percentage of students, broken down by race and socioeconomic status, of each respective charter school. *See Exhibit B.*

19. I took the following steps to calculate and identify the student demographic data contained in **Exhibit B**:

- a. I downloaded the 2016-2017 Enrollment Data from the DOE's website;
- b. I opened the 2016-2017 Enrollment Data in Microsoft Excel ("Enrollment File Spreadsheet");
- c. I created the following relevant new fields (or "columns") in the Enrollment File Spreadsheet: (1) "Percent White Students"; (2) "Percent Black Students"; (3) "Percent Latino Students"; (4) "Percent Asian Students"; (5) "Percent Other Students"; (6) "Percent Economically Disadvantaged Students";
- d. **Exhibit C** depicts what the newly created fields would look like in the Enrollment File Spreadsheet.¹ The new fields are highlighted in yellow;
- e. To calculate the values for each of these new fields, values from preexisting fields in the Enrollment File Spreadsheet were used;
- f. "Percent White Students" was calculated by adding the WH_M column (or White males) to the WH_F column (or White females), dividing that by the ROW_TOTAL column (The "ROW_TOTAL" column identifies the total number of students in each respective row). The result of that calculation equals the percentage of White students;
- g. "Percent Black Students" was calculated by adding the BL_M column (or Black males) to the BL_F column (or Black females), dividing that by the

¹ The following fields were removed from the Enrollment File Spreadsheet in **Exhibit C** because (1) that data is irrelevant for calculating the data (percentages) contained in **Exhibit B** and (2) logistically, the Enrollment File Spreadsheet would not legibly fit, given margins, on one page: County Code, District Code, School Code, Program Code, and Migrant.

- ROW_TOTAL column. The result of that calculation equals the percentage of Black students;
- h. “Percent Latino Students” was calculated by adding the HI_M column (or Hispanic males) to the HI_F column (or Hispanic females), dividing that by the ROW_TOTAL column. The result of that calculation equals the percentage of Latino students;
 - i. “Percent Asian Students” was calculated by adding the AS_M column (or Asian males) to the AS_F column (or Asian females), dividing that by the ROW_TOTAL column. The result of that calculation equals the percentage of Asian students;
 - j. “Percent Other Students” was calculated by taking the sum of the AM_M (or Native American Male), AM_F (or Native American females), PI_M (or Native Hawaiian/Pacific Islander Male), PI_F (or Native Hawaiian/Pacific Islander Female), MU_M (or two or more races male), and MU_F (or two or more races female) columns, dividing that by the ROW_TOTAL column. The result of that calculation equals the percentage of “Other” students;
 - k. “Percent Economically Disadvantaged Students” was calculated by adding the FREE_LUNCH column to the REDUCED_PRICE_LUNCH column, dividing that by the ROW_TOTAL column. The result of that calculation equals the percentage of economically disadvantaged students;

- l. **Exhibit D** depicts what the first several rows of the Enrollment File Spreadsheet would look like after those calculations discussed in paragraphs 11(a) to 11(k) are conducted;
- m. The Enrollment File Spreadsheet contains approximately 26,467 rows of data—the overwhelming majority of this data relates to non-charter schools;
- n. **Exhibit B** contains calculations (i.e., percentages) relating to New Jersey charter schools. Therefore, data relating only to non-charter schools is irrelevant for conducting those calculations;
- o. In order to identify and isolate student demographic data for the State’s charter schools and hide irrelevant data, such as data relating to non-charter schools, the *Filter* tool in Microsoft Excel was used;
- p. The Filter tool is used to select specific data to display and other data to hide from view in a spreadsheet. When used, it hides all rows in a dataset that are not selected by the user;
- q. In order to identify and isolate student demographic data for the State’s charter schools and hide irrelevant data from view, such as data relating to non-charter schools, I used the *Filter* tool to hide all entries, with the exception of “CHARTERS,” from the “COUNTY_NAME” field.² As a

² The reason the *Filter* tool was used to hide all rows unless they contain the word “CHARTERS” in the “COUNTY_NAME” field is because the Enrollment File Spreadsheet identifies charter schools by inserting the word “CHARTERS” in the “COUNTY_NAME” field. In contrast, for traditional public schools, the Enrollment File Spreadsheet identifies the county in which the public school is located under the “COUNTY_NAME” field. By using the *Filter*

result of this step, only those rows relating to charter schools remained in the Enrollment File Spreadsheet;

- r. The student demographic data in the Enrollment File Spreadsheet is broken up by grade level for each respective charter school. More importantly, it also contains the demographic data based on the total number of students in each charter school, irrespective of grade level. For purposes of calculating those percentages contained in **Exhibit B**, only data relating to the total number of students, rather than data relating to specific grade levels, was relevant. In order to isolate and identify student demographic data for the total number of students for each respective charter school and hide demographic data that is broken up by grade level, I used the *Filter* tool to hide all entries, with the exception of “Total,” from the “GRADE_LEVEL” field. As a result of this step, only those rows relating to the demographic data of the total number of students for each respective charter school remained in the Enrollment File Spreadsheet;
- s. Because each charter school network is counted as a unique district in the State’s dataset, the spreadsheet that remains contains two entries for each charter school network—one designated by the school name and one designated as the District Total for each charter network. In order to

tool in this manner, rows are hidden unless the word “CHARTERS” appears under the “COUNTY_NAME” column. Therefore, once filtered using the word “CHARTERS”, only data relating to charter schools remain.

remove the duplicate entries, I used the *Filter* tool to remove all entries with the name “District Total” from the “SCHOOL_NAME” field;

- t. The remaining entries in the Enrollment File Spreadsheet include Student Demographic Data for each of the respective charter schools in New Jersey reflected in **Exhibit B**.

20. The purpose of this explanation is to make as clear as possible that the calculation of the racial and socioeconomic breakdown in each charter school was a nondiscretionary and relatively simple application of statistics to the DOE’s 2016-2017 Enrollment Data. I can unconditionally verify that the percentages set forth in **Exhibit B** are based entirely on the DOE’s 2016-2017 Enrollment Data.

21. Using the percentages set forth in **Exhibit B**, the percentage calculations of the racial breakdown of the State’s 88 charter schools—a matter of indisputable arithmetic—reveals that 37 of those charter schools are educating student bodies that are 99% or more non-White, and 64 charter schools have student bodies that are more than 90% non-white. The data also demonstrates that in 61 of the State’s 88 charter schools the Black and Latino population exceeds 80%, and in 54 of those schools the Black and Latino population exceeds 90%. As a result, over 72% of the State’s charter schools have fewer than 10% white students. Moreover, in 46 of the State’s charter schools, over 70% of the student body are from families that qualify for free or reduced-price lunch.

SECTION II

School Districts that are Populated with 75% or More White Students Within Those Counties Identified in Paragraph 40 of the Amended Complaint and School Districts That Have Fewer Than 10% Students Living in Poverty Within Those Counties Identified in Paragraph 40 of the Amended Complaint.

22. Next, I identify those school districts that are populated with 75% or more White students within those counties identified in paragraph 40 of the Amended Complaint, and those school districts that have fewer than 10% students living in poverty³ within those counties identified in paragraph 40 of the Amended Complaint.

23. Attached as **Exhibit E** is a chart that identifies, using 2016-17 student enrollment data published by the Department of Education, those school districts (in those counties identified in paragraph 40 of the Amended Complaint) that are populated with 75% or more White students.

24. Attached as **Exhibit F** is a chart that identifies, using 2016-17 student enrollment data published by the Department of Education, those school districts (in those counties identified in paragraph 40 of the Amended Complaint) with fewer than 10% students living in poverty.

25. In order to construct **Exhibits E-F**, I began by following the same process described in paragraphs 18-19k. I then used the Microsoft Excel *Filter* tool in a similar way as described in paragraph 19 to isolate demographic data for the school districts located in the eight counties highlighted in paragraph 40 of the Amended Complaint. Next, I used the *Filter* tool to select the districts where the proportion of the White student population was greater than or equal to 75%. The results of this step are displayed in **Exhibit E**. Returning to the Excel table with demographic data for all school districts located in the eight counties highlighted in paragraph 40 of the Amended Complaint, I used the *Filter* tool to select the districts where the

³ For the purposes of this analysis, I defined students living in poverty as those who qualify for free or reduced-price lunch.

proportion of children living in poverty was less than 10%. The results of this step are displayed in **Exhibit F**.

26. The calculation of the racial and socioeconomic breakdown in each district identified in **Exhibits E-F** was a nondiscretionary and relatively simple application of statistics to the DOE's 2016-2017 Enrollment Data. I can unconditionally verify that the percentages set forth in **Exhibits E-F** are based entirely on the DOE's 2016-2017 Enrollment Data.

27. A comparison of the high White student population and low student poverty rate in school districts located within the same county as the school districts identified in paragraph 40 of the Amended Complaint (which have low White student populations and high student poverty rates) illustrates the extremely high degree of racial and socioeconomic segregation in those districts identified in paragraph 40 of the Amended Complaint.

28. In Essex County, nine districts (North Caldwell Borough, Fairfield Township, West Essex Regional, Cedar Grove Township, Essex Fells Borough, Caldwell-West Caldwell, Verona Borough, Roseland Borough, and Glen Ridge Borough) have at least 75% White students, and those districts plus two others (Millburn Township and Livingston Township) have fewer than 10% students living in poverty. *See Exhibits E-F*.

29. In Union County, five districts (Westfield, Cranford Township, Mountainside Borough, Garwood Borough, and Clark Township) have at least 75% White students and seven districts (Westfield, Cranford Township, Mountainside Borough, Clark Township, Scotch Plains-Fanwood Regional, Berkeley Heights Township, and New Providence Borough) have fewer than 10% students living in poverty. *See Exhibits E-F*.

30. In Passaic County, five districts (North Haledon Borough, Ringwood Borough, West Milford Township, Lakeland Regional, and Wayne Township) have at least 75% White students, and two districts (Ringwood Borough and Wayne Township) have fewer than 10% students living in poverty. *See Exhibits E-F.*

31. In Middlesex County, Milltown Borough is more than 75% White students, and three districts (Monroe Township, Cranbury Township, and Metuchen Borough) have fewer than 10% students living in poverty. *See Exhibits E-F.*

32. In Camden County, twelve districts (Laurel Springs Borough, Haddon Heights Borough, Gibbsboro Borough, Runnemede Borough, Oaklyn Borough, Barrington Borough, Haddon Township, Waterford Township, Berlin Borough, Mount Ephraim Borough, Audubon Borough, and Haddonfield Borough) have at least 75% White students, and two districts (Haddonfield Borough and Easter Camden County Regional) have fewer than 10% students living in poverty. *See Exhibits E-F.*

33. In Mercer County, Hopewell Valley Regional has 76.8% White students, and three districts (Hopewell Valley, Robbinsville Township, and West Windsor-Plainsboro Regional) have 5.2% or fewer students living in poverty. *See Exhibits E-F.*

34. And in Monmouth County, thirteen districts are at least 90% White; an additional twelve districts are between 80% and 90% White; an additional five districts are between 75% and 80% White; fifteen districts have fewer than 5% students living in poverty; and an additional six districts have between 5% and 10% students living in poverty. *See Exhibits E-F.*

35. In total, then, these counties have 63 districts that are at least 75% White, and 49 districts with fewer than 10% students living in poverty.

SECTION III

Statistical Comparison Between the Racial Breakdown of the Student Age Population and the Racial Breakdown of Actual Student Enrollment in Those Twenty-Three (23) Communities Identified in Paragraph 40 of the Amended Complaint, to Illustrate Impact of Attendance Statute on School Segregation.

36. Next, by comparing 2010 Decennial Census Data to New Jersey Department of Education's 2010-2011 enrollment data, I identify an extremely high correlation between the racial breakdown of the student aged population and the racial breakdown of actual student enrollment during the 2010-2011 school year in those twenty-three (23) communities identified in paragraph 40 of the Amended Complaint.

37. Attached as **Exhibit G** are six (6) charts. The first, using publicly available data from the 2010 Decennial Census, identifies the racial breakdown (in percentages) of the 2010 Student Aged Population⁴ in the twenty-three (23) New Jersey communities that are referenced in paragraph 40 of the Amended Complaint. The second, using publicly available student enrollment data for 2010-2011 published by the New Jersey Department of Education, identifies the racial breakdown (in percentages) of those students actually enrolled in those twenty-three (23) public school districts. The third identifies the difference between the racial breakdown of the student aged population and the racial breakdown of those students actually attending public school. For example, the 2010 student aged population was 87.77% Black in East Orange (first chart); during the 2010-11 school year, 95.61% of the students enrolled in the East Orange public school district were Black (second chart); when comparing the two percentages, there was a difference of 7.83 percentage points (third chart).

⁴ For the purposes of this analysis, I defined student-aged as children from five through seventeen years of age.

38. The fourth chart identifies (in numerical figures) the 2010 Student Aged Population in twenty-three (23) New Jersey communities that are referred to in paragraph 40 of the Amended Complaint. The fifth, again using publicly available school enrollment data published by the Department of Education for 2010-2011, identifies the racial breakdown (in numerical figures) of those students actually enrolled in those twenty-three (23) public school districts. The sixth identifies the numerical difference between the racial breakdown of the student aged population and the racial breakdown of those students actually attending public school. For example, in 2010, there were 10,396 Black school aged children in East Orange (fourth chart); during the 2010-11 school year, 9,507 Black students were enrolled in the East Orange public school (fifth chart); when comparing the two figures, there were approximately 889 fewer Black students, when compared to the Black student aged population, enrolled in the East Orange public school district (sixth chart).

39. The calculation of the relationship between the racial breakdown of the student aged population and the racial breakdown of actual student enrollment during the 2010-2011 school year in each district identified in **Exhibit G** was a nondiscretionary and relatively simple application of statistics to the 2010 Decennial Census Data and the New Jersey Department of Education's 2010-2011 enrollment data. I can unconditionally verify that the calculations set forth in **Exhibit G** is based entirely on the 2010 Decennial Census Data and the New Jersey Department of Education's 2010-2011 enrollment data.

40. As demonstrated by the data contained in the six charts attached as **Exhibit G**, there is an extremely high and statistically significant correlation between the racial breakdown of the 2010 student aged population of those twenty-three (23) communities and the racial

breakdown of the students actually enrolled in the public school districts of those same communities. For Black students, the largest difference between the student aged population and the actual student enrollment was 7.83 percentage points for East Orange. *See Exhibit G (chart number three)*. And, the average difference between the student aged population and the student enrollment for Black students was 3.08 percentage points.

41. For Hispanic students the largest difference between the student aged population and the actual student enrollment was 21.69 percentage points for Red Bank; the next largest difference was 16.6 percentage points for Passaic; and the average difference was 5.08 percentage points. *See Exhibit G (chart 3)*.

42. Similarly, for White students, the largest difference between the student aged population and the actual student enrollment was 17.92 percentage points in Red Bank; and the average difference was 3.89 percentage points. *See Exhibit G (chart 3)*.

43. After using standard statistical tools to measure significance and correlation, I am able to assert that the data in **Exhibit G** demonstrates an extremely high and significant correlation between the racial breakdown of the student aged population and actual student enrollment in the twenty-three (23) districts referenced in paragraph 40 of the Amended Complaint. In fact, 99.7% of the variation in the proportion of the Black student enrollment in these districts is explained by the proportion of Black children living in the districts. Similarly, 98.5% of the variation in the proportion of the Hispanic student enrollment in these districts is explained by the proportion of Hispanic children living in the districts. That high correlation persuasively demonstrates that the New Jersey statute that provides free education only for students that attend the school district in which they reside has a substantial causal effect on the

existing racial breakdown in the twenty-three (23) school districts identified in paragraph 40 of the Amended Complaint at the time of the decennial census. It is worth noting that while there is an extremely high and significant correlation between the proportion of the White student enrollment and the proportion of White children living in these districts, much less of the variation in White student enrollment is explained by the proportion of White children living in these districts than for the Black and Hispanic populations. 76.2% of the variation in the proportion of the White student enrollment in these districts is explained by the proportion of White children living in the districts. This indicates that White children are much less constricted to attending traditional public schools within their district boundaries than Black and Hispanic students.

44. The reason I use 2010 data to conduct this analysis instead of the 2016-2017 data used in the Amended Complaint is that the U.S. Census Bureau only conducts a full population count every ten years. While the U.S. Census Bureau does release annual data through the American Community Survey, these data include information about a sample of the full population and are not able to capture details such as the school aged population by race and Hispanic origin.

45. In anticipation of any concern about whether the clear patterns that existed in 2010 persist, I conducted a standard statistical test and confirmed that they do. The only school aged population data by race and ethnicity that is reported in both the Decennial Census and the American Community Survey is for the non-Hispanic White population. I found that the proportion of the non-Hispanic White school aged population in 2010 has an extremely strong and significant correlation with the proportion of the non-Hispanic White school aged population

in 2017 for the twenty-three (23) school districts identified in paragraph 40 of the Amended Complaint. In fact, 88.6% of variation in the proportion of the non-Hispanic White school aged population in 2017 is explained by the proportion of the non-Hispanic White School aged population in 2010. Such a correlation provides convincing evidence that the relationship between the school aged population and student enrollment in 2010 persists for all racial and ethnic categories.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date: 9/25/2019

By:

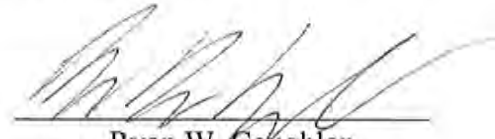

Ryan W. Coughlan

Exhibit A

Ryan William Coughlan

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EDUCATION

Doctor of Philosophy, Urban Systems – Urban Education 2017
Rutgers University | Newark, NJ
Advisor: Alan Sadovnik

Dissertation: *Schools Un/Bounded: The Utility of School Zone Boundaries*
Committee: Alan Sadovnik (chair), Aaron Pallas, Lyna Wiggins, and Rula Btoush

Master of Arts, Secondary Science Education 2010
The City College of New York | New York, NY

Bachelor of Arts, Environmental Policy Studies (Spanish language citation) 2006
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ACADEMIC APPOINTMENTS

Assistant Professor, Education 2019- present
Molloy College, | Rockville Center, NY
Educational Leadership for Diverse Learning Communities Ed.D. Program

Assistant Professor, Sociology 2016-2019
Guttman Community College, CUNY | New York, NY

PUBLICATIONS

SCHOLARLY BOOKS

Sadovnik, Alan R.; Semel, Susan F.; **Coughlan**, Ryan W.; & Cookson, Peter W. (2017).
Exploring Education: An introduction to the foundations of education (5th ed.). New York: Routledge.

Sadovnik, Alan R. & **Coughlan**, Ryan W. (Eds.). (2016). *Leaders in the Sociology of Education: Intellectual Self-Portraits*. Rotterdam: Sense.

Semel, Susan F.; Sadovnik, Alan R.; & **Coughlan**, Ryan W. (Eds.). (2016) “*Schools of Tomorrow*,” *Schools of Today: Progressive Education in the 21st Century* (Vol. 2). New York: Peter Lang

Sadovnik, Alan R. & **Coughlan**, Ryan W. (Eds.). (2015). *Sociology of Education: A Critical Reader* (3rd ed.). New York, Routledge.

PEER-REVIEWED JOURNAL ARTICLES

Coughlan, Ryan W. (2018). "Divergent Trends in Neighborhood and School Segregation in the Age of School Choice." *Peabody Journal of Education* Volume 93 Number 4, p. 349-366.

Coughlan, Ryan W.; Makris, Molly; & Roda, Allison (2018) "Tensions Between School Choice and Neighborhood Schools." *Peabody Journal of Education* Volume 93 Number 4, p. 345-348.

Sadovnik, Alan R.; Semel, Susan F.; **Coughlan**, Ryan W.; Kanze, Bruce; & Tyner-Mullings, Alia R. (2017). "Progressive Education in the 21st Century: The Enduring Influence of John Dewey." *Journal of the Gilded Age and the Progressive Era* Volume 16 Number 4, p. 515-530.

Coughlan, Ryan W.; Sadovnik, Alan R.; & Semel, Susan F. (2014). "A History of Informal Out of School Education." *Teachers College Record* Volume 116 Number 14, p. 359-382.

BOOK CHAPTERS

Sadovnik, Alan R. & **Coughlan**, Ryan W. (2016). "Leaders in the Sociology of Education: Lessons Learned," In Sadovnik, Alan R. & **Coughlan**, Ryan W. (Eds.) *Leaders in the Sociology of Education: Intellectual Self-Portraits*. Rotterdam: Sense.

Semel, Susan F.; Sadovnik, Alan R.; & **Coughlan**, Ryan W. (2016) "Progressive Education: Lessons from the Past and the Present." In Semel, Susan F.; Sadovnik, Alan R.; & **Coughlan**, Ryan W. (Eds.) "*Schools of Tomorrow*," *Schools of Today: What Happened to Progressive Education* (Vol. 2). New York: Peter Lang

Sadovnik, Alan R. & **Coughlan**, Ryan W. (2015). "Urban Education" In George Ritzer (Ed.), *Blackwell Encyclopedia of Sociology* (2nd ed.). New York: Wiley.

REPORTS

Tractenberg, Paul & **Coughlan**, Ryan W. (2018). "The New Promise of School Integration and the Old Problem of Extreme Segregation: An Action Plan

for New Jersey to Address Both.” *Center for Diversity and Equality in Education*.

Orfield, Gary; Ee, Jongyeon; **Coughlan**, Ryan W. (2017). “New Jersey’s Segregated Schools: Trends and Paths Forward.” UCLA Civil Rights Project.

Tractenberg, Paul; Roda, Allison; **Coughlan**, Ryan W. (2016). “Remedying School Segregation: How New Jersey’s Morris School District Chose to Make Diversity Work.” *The Century Foundation*.

Backstrand, Jeffrey; Makris, Molly V.; **Coughlan**, Ryan W.; Gutwein, Claire; & Torres, Mellie (2015). “Newark Fairmount Promise Neighborhood Needs Assessment and Segmentation Analysis.” *Newark Schools Research Collaborative*.

Backstrand, Jeffrey; Roda, Allison; Cohen, Laurie; **Coughlan**, Ryan W.; Ferguson, Camille; Keeton, Andre; Kronen, Cara; and Rosenblum, Emma (2014). “Post-Secondary Outcomes of Newark Public School Graduates (2004-2011).” *Newark Schools Research Collaborative*.

MANUSCRIPTS IN PREPARATION

Tractenberg, Paul; Roda, Allison; **Coughlan**, Ryan W.; Dougherty, Deirdre (2019). *A New Promise of True School Integration: Lessons from One Community’s Journey*. New York: Teachers College Press.

Sadovnik, Alan R. & **Coughlan**, Ryan W. (Eds.). (2021). *Sociology of Education: A Critical Reader* (4th ed.). New York, Routledge.

CONFERENCE PRESENTATIONS

Coughlan, Ryan W. (2019). “Diversity, Integration, and Equity in New Jersey’s Schools: Trends and Paths Forward.” *Social Equity Leadership Conference*, Rutgers University, Newark, NJ.

Coughlan, Ryan W. (2018). “The New Promise of School Integration and the Old Problem of Extreme Segregation: An Action Plan for New Jersey to Address Both.” *Beyond Desegregation Conference*, Harvard University Graduate School of Education, Cambridge, MA.

Coughlan, Ryan W. (2018). “White Isolation in Our Public Schools,” *Education Reform, Communities, and Social Justice Research Conference*, Rutgers University, New Brunswick, NJ.

- Coughlan, Ryan W. (2018). "A Geospatial Analysis of Shifts in School and Neighborhood Demographics." *American Educational Research Association*, Annual Meeting, New York, NY.
- Coughlan, Ryan W. (Chair) (2018). "(In)Equity in School Choice: Concerns and Considerations." *American Educational Research Association*, Annual Meeting, New York, NY.
- Coughlan, Ryan W. (Chair) (2018). Learning from Desegregation, Magnet Schools, and Equity-Oriented Choices." *American Educational Research Association*, Annual Meeting, New York, NY.
- Coughlan, Ryan; Roda, Allison; & Bodie, Elise (2017). "If You Build it They Will Come: Crossing District Boundaries to Achieve School Diversity in a Segregated County." *American Educational Research Association*, Annual Meeting, San Antonio, TX.
- Coughlan, Ryan (Chair), (2017). "What is Enough? Social Capital and Equality of Educational Opportunities." *American Educational Research Association*, Annual Meeting, San Antonio, TX.
- Coughlan, Ryan (2016). "Teaching and Learning in the Community College: Lessons and Opportunities." *American Educational Studies Association*, Annual Meeting, Seattle, WA.
- Coughlan, Ryan (2016) "Altering the Relationship Between Neighborhoods and Schools to Improve Life Chances," *Education Reform, Communities and Social Justice: Exploring the Intersections*, Rutgers University, New Brunswick, NJ.
- Coughlan, Ryan (2016) "Schools Un/Bounded: An Analysis of the Bonds Between Schools and Neighborhoods," *American Educational Research Association*, Annual Meeting, Washington, DC.
- Coughlan, Ryan (2016). "Schools of Tomorrow, Schools of Today Revisited: Lessons from Five Historically Progressive Schools," *American Educational Research Association*, Annual Meeting, Washington, DC.
- Coughlan, Ryan (Discussant), (2016). "Urban Education Initiatives Across Settings and Contexts," *American Educational Research Association*, Annual Meeting, Washington, DC.
- Coughlan, Ryan (2015) "Schools Un/Bounded: Neighborhood Collective Efficacy and Educational Outcomes," *American Educational Research Association*, Annual Meeting, San Antonio, TX.

- Coughlan, Ryan (2015) “A Geospatial Analysis of the Bonds Between Neighborhoods and Their Schools,” *American Educational Research Association*, Annual Meeting, Chicago, IL.
- Coughlan, Ryan (Chair). (2015) “Gendered and LGBTQ Experiences: Critical Reflections on School-Based Equity,” *American Educational Research Association*, Annual Meeting, Chicago, IL.
- Coughlan, Ryan (2015) “A Geospatial Analysis of New York City Elementary School Zones,” *Urban Affairs Association*, Annual Meeting, Miami, FL.
- Coughlan, Ryan (2014) “Now More than Ever? Foundations of education and why it matters for teacher preparation,” *American Educational Studies Association*, Annual Meeting, Toronto, Canada.
- Coughlan, Ryan (2014) “Connecting Education Reform to Neighborhood Context: Identifying Community Needs and Assets as First Step to Developing Programs to Improve Outcomes.” *Urban Affairs Association*, Annual Meeting, San Antonio, TX.
- Coughlan, Ryan (Chair). (2014) “Issues in Urban Teacher Education.” *American Educational Research Association*, Annual Meeting, Philadelphia, PA.
- Coughlan, Ryan (Chair). (2014) “Partnerships and Capacity Building for Out-of-School Time Programs,” *American Educational Research Association*, Annual Meeting, Philadelphia, PA.
- Coughlan, Ryan (2013) “Disrupting Poverty and Educational Inequality.” *American Educational Research Association*, Annual Meeting, San Francisco, CA.
- Coughlan, Ryan (Discussant). (2013) “The Power of Student-Centered Reform,” *American Educational Research Association*, Annual Meeting, San Francisco, CA.

INVITED LECTURES

- Coughlan, Ryan (2018), “The New Promise of School Integration.” Invited lecture by Sadovnik, Alan. *Urban Education Policy*. Rutgers University, Newark, NJ.
- Coughlan, Ryan (2018), “Current Trends of School Segregation in New Jersey.” Invited lecture by Rubin, Julia. *Education Policy*. Rutgers University, New Brunswick, NJ.

- Coughlan, Ryan W. (2017). “Balancing Neighborhood Schools and Desegregation Efforts in the Age of School Choice.” Invited lecture by Nelson, Joseph, *Introduction to the Sociology of Education*. Teachers College, Columbia University.
- Coughlan, Ryan (2017), “School Segregation in New Jersey.” Invited lecture by Rubin, Julia. *Education Policy*. Rutgers University, New Brunswick, NJ.
- Coughlan, Ryan (2016), “Remedying Segregation.” Invited lecture by Nelson, Joseph. *Introduction to the Sociology of Education*. Teachers College, Columbia University.
- Coughlan, Ryan (2016). “Using Research in Urban Education in Public Administration and Policy.” Invited lecture at *39th Annual Teaching Public Administration Conference*, Rutgers-Newark, NJ.
- Coughlan, Ryan (2015) “Building a Controlled Inter-district Choice Model for Essex County, NJ.” *The Center on Law in Metropolitan Equity*, Rutgers-Newark, NJ.
- Coughlan, Ryan (2015) “Educational Equity in Essex County, NJ.” *The Joseph C. Cornwall Center for Metropolitan Studies*, Rutgers-Newark, NJ.
- Coughlan, Ryan (2014) “Poverty, Neighborhood Context, and Education Reform.” *Teach for America*, New York, NY.
- Makris, Molly and **Coughlan**, Ryan (2014). “Newark Fairmount Promise Neighborhood Needs Assessment and Segmentation Analysis.” *The Joseph C. Cornwall Center for Metropolitan Studies*, Rutgers-Newark, NJ.

TEACHING EXPERIENCE

Assistant Professor, Education 2019- present
 Molloy College, | Rockville Center, NY
 Educational Leadership for Diverse Learning Communities Ed.D. Program

Introduction to Educational Research
 Quantitative Research

Colloquial Professor, Urban Education 1/2019-6/2019
 The Graduate Center, CUNY | New York, NY

Schools in the Neighborhood Context (PhD)

Assistant Professor, Sociology 9/2016-present
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Introduction to Sociology
Ethnographies of Work
History of Urban Life

Adjunct Instructor, Educational Leadership and Special Education 1/2014-5/2016
The City College of New York, CUNY | New York, NY

Urban Schools in a Diverse American Society (M.S.Ed)
Urban Schools in a Diverse American Society (BA/BS)

Teaching Assistant, Urban Systems 9/2014-5/2016
Rutgers University | Newark, NJ

Urban Educational Policy (PhD)
Research Methods (MPA)

Secondary School Teacher, Science 9/2008-6/2011
New York City Department of Education | New York, NY

FELLOWSHIPS, GRANTS, AND AWARDS

Presidential Fellowship | \$70,000 2011-2013
Rutgers University | New Brunswick, NJ

Graduate Assistantship | \$85,000 2013-2016
Rutgers University | Newark, NJ

Education Pioneers Fellowship | \$7,000 2014
Teach for American | New York, NY

Graduate Student Research Award | \$500 2015
Rutgers University | Newark, NJ

Graduate Student Professional Development Fund Award | \$3,000 2015
Rutgers University | New Brunswick, NJ

Graduate Student Professional Development Fund Award | \$750 2016
Rutgers University | New Brunswick, NJ

Graduate Student Research Award | \$500 2016

Rutgers University | Newark, NJ

Graduate Student Research Award | \$500 2016
American Educational Research Association, Sociology of Education SIG

Diversity Projects Development Fund | \$4,000 2016
CUNY Advisory Council on Diversity | New York, NY

SERVICE TO INSTITUTION

Tenure Track Social Sciences Position Search Committee, Chair 2018-2019
Stella and Charles Guttman Community College

Curriculum Committee, Member 2018-2019
Stella and Charles Guttman Community College

Ethnographies of Work Taskforce, Member 2018-2019
Stella and Charles Guttman Community College

Professional Development Taskforce, Member 2017-2018
Stella and Charles Guttman Community College

Task Force on Diversity, Equity, and Inclusion, Member 2017-2019
Stella and Charles Guttman Community College

Tenure Track Human Services Position Search Committee 2017-2018
Stella and Charles Guttman Community College

Inaugural Safe Zone Initiative, Grantee and Member 2016-2019
Stella and Charles Guttman Community College

Urban Studies PPR Committee, Member 2016-2019
Stella and Charles Guttman Community College

Tenure Track Information Technology Position Search Committee 2016-2017
Stella and Charles Guttman Community College

Faculty Sponsor and Chaperone for Student Conference Travel 2016
American Educational Studies Association | Seattle, WA

SERVICE TO PROFESSION

Journal of Economics, Race, and Policy Reviewer	2019-present
Journal of Urban Affairs Reviewer	2019-present
American Educational Research Association Reviewer for Annual Meeting Proposals	2014-present
American Educational Studies Association Reviewer for Annual Meeting Proposals	2015-present
American Educational Studies Association Program Committee Member	2015-2016
South African Journal of Education Reviewer	2015-2017

PROFESSIONAL ASSOCIATIONS

American Association of Geographers
 American Educational Research Association
 American Educational Studies Association
 American Sociological Association
 Urban Affairs Association

Exhibit B

LEA_NAME	PERCENT WHITE STUDENTS	PERCENT BLACK STUDENTS	PERCENT LATINO STUDENTS	PERCENT ASIAN STUDENTS	PERCENT OTHER STUDENTS	PERCENT ECONOMICALLY DISADVANTAGED STUDENTS
ACADEMY CHARTER HIGH SCHOOL	2.3%	73.6%	22.9%	0.0%	1.2%	86.7%
ACADEMY FOR URBAN LEADERSHIP CHARTER SCHOOL	0.4%	6.2%	93.0%	0.4%	0.0%	81.9%
ATLANTIC CITY COMMUNITY CHARTER SCHOOL	1.6%	88.9%	8.5%	0.7%	0.3%	98.0%
BELOVED COMMUNITY CHARTER SCHOOL	12.4%	33.5%	27.4%	20.8%	6.0%	68.2%
BENJAMIN BANNEKER PREP CS	0.0%	89.2%	10.8%	0.0%	0.0%	63.6%
BERGEN ARTS AND SCIENCES CHARTER SCHOOL	35.3%	11.4%	43.8%	8.5%	1.0%	46.4%
BRIDGETON PUBLIC CHARTER SCHOOL	3.7%	57.4%	30.1%	2.2%	6.6%	55.9%
BURCH CHARTER SCHOOL OF EXCELLENCE	0.0%	98.3%	1.4%	0.3%	0.0%	95.4%
CAMDEN COMMUNITY CHARTER SCHOOL	0.7%	44.3%	54.1%	0.1%	0.8%	92.8%
CAMDENS PROMISE CHARTER SCHOOL	0.0%	22.1%	77.3%	0.4%	0.2%	90.2%
CENTRAL JERSEY COLLEGE PREP CHARTER SCHOOL	13.0%	27.7%	17.9%	37.8%	3.6%	23.7%
CHARTER~TECH HIGH SCHOOL	29.2%	38.3%	28.3%	1.2%	3.0%	65.0%
CLASSICAL ACADEMY CHARTER SCHOOL	28.0%	6.8%	43.2%	22.0%	0.0%	0.0%
COLLEGE ACHIEVE CENTRAL CHARTER SCHOOL	1.0%	28.8%	68.9%	0.5%	0.8%	48.8%
COMMUNITY CHARTER SCHOOL OF PATERSO	1.3%	34.0%	63.3%	1.1%	0.2%	86.8%
COMPASS ACADEMY CS	32.6%	16.6%	47.2%	0.0%	3.6%	49.2%
CRESTHAVEN ACADEMY CHARTER SCHOOL	2.7%	20.0%	77.3%	0.0%	0.0%	89.3%
DISCOVERY CS	1.0%	91.0%	5.0%	2.0%	1.0%	91.0%
DR LENA EDWARDS ACADEMIC CHARTER SCHOOL	0.5%	89.4%	8.8%	0.5%	0.8%	89.4%

LEA_NAME	PERCENT WHITE STUDENTS	PERCENT BLACK STUDENTS	PERCENT LATINO STUDENTS	PERCENT ASIAN STUDENTS	PERCENT OTHER STUDENTS	PERCENT ECONOMICALLY DISADVANTAGED STUDENTS
EAST ORANGE COMMUNITY CS	0.0%	94.9%	4.7%	0.2%	0.2%	64.2%
ELYSIAN CS OF HOBOKEN	66.6%	6.2%	15.9%	10.0%	1.4%	12.8%
EMPOWERMENT ACADEMY CHARTER SCHOOL	11.1%	34.8%	23.7%	24.9%	5.4%	60.1%
ENGLEWOOD ON THE PALISADES CHARTER SCHOOL	2.4%	41.7%	48.0%	6.0%	2.0%	55.6%
ENVIRONMENT COMMUNITY CS	0.0%	64.0%	36.0%	0.0%	0.0%	81.3%
FOUNDATION ACADEMY CS	1.0%	54.5%	43.6%	0.5%	0.4%	85.1%
FREEDOM PREP CHARTER SCHOOL	2.0%	50.4%	43.3%	0.0%	4.3%	90.8%
GRAY CS	6.1%	40.6%	49.0%	3.5%	0.9%	65.4%
GREAT FUTURES CHARTER SCHOOL	6.3%	64.6%	21.5%	4.9%	2.8%	66.7%
GREAT OAKS LEGACY CHARTER SCHOOL	0.4%	88.1%	10.7%	0.2%	0.7%	87.7%
GREATER BRUNSWICK CS	4.1%	11.0%	82.7%	2.0%	0.3%	86.7%
HATIKVAH INTERNATIONAL CS	69.1%	6.7%	8.3%	13.1%	2.9%	5.1%
HOBOKEN CS	45.0%	13.8%	28.9%	5.4%	7.0%	28.9%
HOLA HOBOKEN DUAL LANG CS	56.4%	3.0%	31.2%	4.7%	4.7%	11.2%
HOPE ACADEMY CS	2.4%	45.1%	49.5%	0.0%	2.9%	93.2%
HOPE COMMUNITY CS	0.0%	52.3%	47.2%	0.0%	0.5%	64.2%
HUDSON ARTS AND SCIENCE CHARTER SCHOOL	25.1%	4.8%	65.4%	4.2%	0.6%	58.0%
INTERNATIONAL ACADEMY OF ATLANTIC CITY CHARTER SCHOOL	0.6%	59.5%	39.9%	0.0%	0.0%	100.0%
INTERNATIONAL ACADEMY OF TRENTON CHARTER SCHOOL	0.0%	71.7%	28.0%	0.2%	0.2%	100.0%
INTERNATIONAL CHARTER SCHOOL	0.0%	20.9%	79.1%	0.0%	0.0%	93.4%
JERSEY CITY COMM. CS	3.4%	67.9%	25.5%	2.9%	0.4%	81.3%
JERSEY CITY GLOBAL CS	5.7%	11.6%	38.3%	43.9%	0.5%	22.4%

LEA_NAME	PERCENT WHITE STUDENTS	PERCENT BLACK STUDENTS	PERCENT LATINO STUDENTS	PERCENT ASIAN STUDENTS	PERCENT OTHER STUDENTS	PERCENT ECONOMICALLY DISADVANTAGED STUDENTS
JERSEY CITY GOLDEN DOOR CHARTER SCHOOL	8.9%	25.8%	27.6%	36.5%	1.1%	60.4%
JOHN P HOLLAND CHARTER SCHOOL	0.5%	32.4%	66.7%	0.5%	0.0%	90.8%
KINGDOM CS OF LEADERSHIP	8.1%	77.0%	10.0%	2.4%	2.4%	56.9%
LADY LIBERTY ACADEMY CS	0.0%	92.8%	6.7%	0.0%	0.4%	32.4%
LEAP ACADEMY UNIVERSITY CS	0.2%	44.0%	54.2%	1.3%	0.3%	7.8%
LEARNING COMMUNITY CS	29.8%	17.5%	19.7%	25.2%	7.9%	33.6%
LINK COMMUNITY CHARTER SCHOOL	0.0%	94.4%	4.6%	0.4%	0.7%	74.7%
M E T S CHARTER SCHOOL	7.2%	34.8%	47.9%	9.1%	1.0%	72.4%
MARIA L. VARISCO-ROGERS CS	0.6%	8.7%	87.3%	3.3%	0.2%	70.5%
MARION P. THOMAS CS	0.1%	94.0%	5.8%	0.0%	0.1%	89.6%
MERIT PREP CS OF NEWARK	0.0%	93.7%	5.9%	0.0%	0.4%	34.8%
MILLVILLE PUBLIC CHARTER SCHOOL	31.0%	42.8%	22.9%	2.3%	1.0%	39.9%
NEW HORIZONS COMM. CS	0.2%	89.0%	10.8%	0.0%	0.0%	97.7%
NEWARK EDUCATORS COMMUNITY CHARTER SCHOOL	1.7%	79.1%	17.9%	0.3%	1.0%	84.1%
NEWARK PREP CHARTER SCHOOL	0.2%	76.9%	19.8%	0.2%	2.8%	100.0%
NORTH STAR ACADEMY CHARTER SCHOOL	1.7%	86.3%	10.2%	1.3%	0.4%	86.9%
PACE CS OF HAMILTON	5.2%	30.1%	61.8%	2.4%	0.4%	77.9%
PASSAIC ARTS AND SCIENCE CHARTER SCHOOL	2.2%	10.8%	83.7%	3.0%	0.3%	81.0%
PATERSON ARTS AND SCIENCE CHARTER SCHOOL	2.7%	33.9%	61.5%	1.8%	0.2%	73.1%
PATERSON CS FOR SCI/TECH	3.8%	35.3%	60.2%	0.3%	0.4%	85.2%
PAUL ROBESON HUMANITIES CHARTER SCHOOL	0.8%	33.9%	64.2%	1.1%	0.0%	94.5%
PAULO FREIRE CHARTER SCHOOL	0.0%	86.5%	13.1%	0.0%	0.4%	54.3%

LEA_NAME	PERCENT WHITE STUDENTS	PERCENT BLACK STUDENTS	PERCENT LATINO STUDENTS	PERCENT ASIAN STUDENTS	PERCENT OTHER STUDENTS	PERCENT ECONOMICALLY DISADVANTAGED STUDENTS
PEOPLES PREPARATORY CHARTER SCHOOL	0.3%	87.2%	12.0%	0.0%	0.5%	98.4%
PHILIP'S CHARTER SCHOOL OF PATERSON	0.0%	25.4%	72.9%	0.0%	1.7%	89.8%
PHILLIP'S ACADEMY CHARTER SCHOOL	1.6%	85.1%	9.3%	0.5%	3.5%	43.1%
PRIDE ACADEMY CHARTER SCHOOL	0.0%	96.5%	3.5%	0.0%	0.0%	83.0%
PRINCETON CS	54.0%	2.9%	3.1%	32.6%	7.4%	1.4%
QUEEN CITY ACADEMY CS	0.3%	43.2%	56.2%	0.0%	0.3%	82.7%
RIDGE AND VALLEY CS	94.4%	0.8%	1.6%	0.8%	2.4%	0.0%
RIVERBANK CHARTER SCHOOL OF EXCELLE	62.7%	21.1%	4.2%	11.3%	0.7%	9.2%
ROBERT TREAT ACADEMY CS	3.8%	34.4%	60.4%	1.0%	0.4%	74.3%
ROSEVILLE COMMUNITY CS	0.6%	43.0%	53.8%	2.2%	0.3%	97.8%
SOARING HEIGHTS CS	5.5%	25.7%	18.6%	50.2%	0.0%	48.1%
SUSSEX COUNTY TECHNOLOGY CHARTER SCHOOL	80.9%	2.8%	12.6%	0.9%	2.8%	0.0%
TEAM ACADEMY CHARTER SCHOOL	0.9%	90.2%	8.2%	0.2%	0.5%	88.1%
TEANECK COMMUNITY CS	22.5%	31.9%	29.7%	10.3%	5.6%	13.4%
THE BARACK OBAMA GREEN CHARTER HIGH SCHOOL	0.9%	36.6%	60.3%	1.8%	0.4%	86.6%
THE ETHICAL COMMUNITY CHARTER SCHOOL	25.5%	11.1%	29.5%	26.8%	7.0%	43.4%
THE RED BANK CS	42.5%	12.0%	43.5%	2.0%	0.0%	42.0%
THOMAS EDISON ENERGYSMART CHARTER SCHOOL	14.5%	15.0%	4.5%	62.9%	3.1%	11.6%
TRENTON STEM-TO-CIVICS CS	0.3%	64.7%	34.7%	0.3%	0.0%	88.7%
UNION COUNTY TEAMS CS	0.5%	64.7%	34.3%	0.0%	0.5%	61.1%
UNITY CS	62.0%	15.0%	9.4%	7.3%	6.4%	14.1%
UNIVERSITY ACADEMY CS	3.3%	54.4%	31.1%	11.2%	0.0%	72.9%
UNIVERSITY HEIGHTS CS	0.0%	87.4%	12.1%	0.1%	0.4%	79.3%

LEA_NAME	PERCENT WHITE STUDENTS	PERCENT BLACK STUDENTS	PERCENT LATINO STUDENTS	PERCENT ASIAN STUDENTS	PERCENT OTHER STUDENTS	PERCENT ECONOMICALLY DISADVANTAGED STUDENTS
VILLAGE CS	1.7%	93.9%	4.2%	0.0%	0.3%	82.5%
VINELAND PUBLIC CHARTER SCHOOL	25.9%	19.2%	50.5%	1.2%	3.2%	37.3%

Exhibit C

Exhibit D

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z	AA			
COUNTY_NAME	LEA_NAME	SCHOOL_NAME	GRADE_LEVEL	VH	VM	VL	BL	FL	HL	IL	AL	ML	AM	PL	PM	PL	MU	MU	MU	PROV	TOTAL	FREE_LUNCH	REDUCED_PRICE_LUNCH	Percent White Students	Percent Black Students	Percent Latino Students	Percent Asian Students	Percent Other Students	Percent Economically Disadvantaged Students
1	ATLANTIC	ABSECON CTT Emma C Atriales	05	31	20	3	11	1	10	1	0	0	0	0	0	0	5	4	86			53.30%	16.28%	12.73%	1.18%	10.47%	0.00%		
2	ATLANTIC	ABSECON CTT Emma C Atriales	06	35	25	10	5	2	2	1	0	0	0	0	0	0	2	2	84			71.43%	17.86%	4.76%	1.19%	4.76%	0.00%		
3	ATLANTIC	ABSECON CTT Emma C Atriales	07	37	33	8	7	5	6	0	0	0	0	0	0	0	6	3	105			66.67%	14.29%	10.48%	0.00%	8.57%	0.00%		
4	ATLANTIC	ABSECON CTT Emma C Atriales	08	23	25	3	6	3	4	1	0	0	0	0	0	0	4	6	75			64.00%	12.00%	9.33%	1.33%	13.33%	0.00%		
5	ATLANTIC	ABSECON CTT Emma C Atriales	UG	1	0	3	1	0	0	0	0	0	0	0	0	0	0	0	5			20.00%	80.00%	0.00%	0.00%	0.00%	0.00%		
6	ATLANTIC	ABSECON CTT Emma C Atriales	TOTAL	127	103	27	30	11	22	3	0	0	0	0	0	0	17	15	355		23	64.79%	16.06%	9.30%	0.85%	9.01%	40.56%		
7	ATLANTIC	ABSECON CTT H Ashkon Marsh	PK	4	2	6	4	3	12	5	3	5	0	0	0	0	1	1	84			32.00%	32.00%	4.00%	32.00%	0.00%	0.00%		
8	ATLANTIC	ABSECON CTT H Ashkon Marsh	KG	25	26	4	3	6	12	5	3	5	0	0	0	1	1	76			68.42%	10.53%	10.53%	9.21%	1.32%	0.00%	0.00%		
9	ATLANTIC	ABSECON CTT H Ashkon Marsh	01	21	31	2	6	3	5	4	3	0	0	0	0	1	0	74			63.04%	9.46%	14.86%	1.09%	4.35%	0.00%	0.00%		
10	ATLANTIC	ABSECON CTT H Ashkon Marsh	02	30	17	5	2	4	7	0	5	0	0	0	0	2	1	74			63.04%	9.46%	14.86%	1.09%	4.35%	0.00%	0.00%		
11	ATLANTIC	ABSECON CTT H Ashkon Marsh	03	26	32	9	8	6	6	0	1	0	0	0	0	2	2	74			63.04%	9.46%	14.86%	1.09%	4.35%	0.00%	0.00%		
12	ATLANTIC	ABSECON CTT H Ashkon Marsh	04	27	28	6	12	6	2	0	5	0	0	0	0	3	3	92			59.78%	19.57%	13.04%	1.09%	4.35%	0.00%	0.00%		
13	ATLANTIC	ABSECON CTT H Ashkon Marsh	05	31	20	3	11	1	10	1	0	0	0	0	0	0	5	4	86			59.30%	16.28%	12.73%	1.18%	10.47%	0.00%	0.00%	
14	ATLANTIC	ABSECON CTT H Ashkon Marsh	06	35	25	10	5	2	2	1	0	0	0	0	0	0	2	2	84			71.43%	17.86%	4.76%	1.19%	4.76%	0.00%	0.00%	
15	ATLANTIC	ABSECON CTT H Ashkon Marsh	07	37	33	8	7	5	6	0	0	0	0	0	0	0	6	3	105			66.67%	14.29%	10.48%	0.00%	8.57%	0.00%	0.00%	
16	ATLANTIC	ABSECON CTT H Ashkon Marsh	08	23	25	3	6	3	4	1	0	0	0	0	0	0	4	6	75			64.00%	12.00%	9.33%	1.33%	13.33%	0.00%	0.00%	
17	ATLANTIC	ABSECON CTT District Total	TOTAL	263	243	57	63	45	48	15	21	0	0	0	0	2	0	26	22	817		305	62.67%	15.42%	11.36%	4.41%	6.12%	43.57%	

Exhibit E

COUNTY	DISTRICT	TOTAL STUDENTS	% WHITE	% BLACK	% HISPANIC	% ASIAN	% OTHER	% FRPL
CAMDEN	AUDUBON BORO	1553	86.1%	3.2%	7.5%	1.7%	1.5%	24.3%
CAMDEN	BARRINGTON BORO	613	80.8%	6.0%	5.7%	3.1%	4.4%	25.8%
CAMDEN	BERLIN BORO	815	84.5%	4.5%	5.0%	3.1%	2.8%	18.5%
CAMDEN	GIBBSBORO BORO	255	78.8%	3.1%	11.0%	3.9%	3.1%	15.3%
CAMDEN	HADDON HEIGHTS BORO	1329	78.3%	12.2%	5.6%	1.4%	2.5%	15.8%
CAMDEN	HADDON TWP	2047	83.0%	1.9%	8.5%	3.3%	3.3%	17.3%
CAMDEN	HADDONFIELD BORO	2692	88.3%	1.2%	3.3%	3.6%	3.6%	1.6%
CAMDEN	LAUREL SPRINGS BORO	200	75.0%	9.5%	10.0%	2.0%	3.5%	36.5%
CAMDEN	MOUNT EPHRAIM BORO	428	85.7%	3.0%	7.2%	1.9%	2.1%	33.9%
CAMDEN	OAKLYN BORO	363	80.2%	4.4%	9.9%	4.1%	1.4%	33.3%
CAMDEN	RUNNEMEDE BORO	854	79.9%	3.2%	10.4%	3.0%	3.5%	37.7%
CAMDEN	WATERFORD TWP	812	83.4%	2.7%	8.3%	0.4%	5.3%	23.0%
ESSEX	CALDWELL-WEST CALDWELL	2605	81.6%	1.6%	11.5%	4.8%	0.5%	7.6%
ESSEX	CEDAR GROVE TWP	1598	84.5%	1.8%	5.9%	6.4%	1.4%	2.4%
ESSEX	ESSEX FELS BORO	223	81.6%	2.7%	5.8%	4.9%	4.9%	0.0%
ESSEX	FAIRFIELD TWP	659	86.3%	0.0%	10.5%	2.1%	1.1%	2.7%
ESSEX	GLEN RIDGE BORO	1895.5	75.3%	4.7%	6.8%	7.3%	6.0%	0.1%
ESSEX	NORTH CALDWELL BORO	690	90.3%	1.0%	4.1%	4.5%	0.1%	0.0%
ESSEX	ROSELAND BORO	461	77.0%	3.3%	8.7%	8.7%	2.4%	2.6%
ESSEX	VERONA BORO	2185.5	79.8%	2.3%	10.7%	4.7%	2.5%	0.0%
ESSEX	WEST ESSEX REGIONAL	1689.5	86.2%	1.3%	7.1%	4.0%	1.5%	3.6%
MERCER	HOPEWELL VALLEY REGIONAL	3616.5	76.8%	2.9%	3.9%	12.2%	4.2%	4.3%
MIDDLESEX	MILLTOWN BORO	727	81.8%	3.0%	11.3%	1.8%	2.1%	10.6%
MONMOUTH	ATLANTIC HIGHLANDS BORO	335	88.7%	1.5%	6.3%	2.4%	1.2%	7.8%
MONMOUTH	AVON BORO	146	90.4%	0.0%	9.6%	0.0%	0.0%	11.6%
MONMOUTH	BRIELLE BORO	542	92.4%	0.6%	4.6%	0.7%	1.7%	4.2%
MONMOUTH	COLTS NECK TWP	942	91.9%	1.4%	3.2%	3.2%	0.3%	2.2%
MONMOUTH	DEAL BORO	165	75.2%	12.1%	10.9%	1.2%	0.6%	10.9%
MONMOUTH	FAIR HAVEN BORO	1022	93.2%	0.4%	3.1%	1.5%	1.8%	0.4%
MONMOUTH	FREEHOLD REGIONAL	10813	76.5%	4.0%	9.5%	9.0%	1.1%	10.1%
MONMOUTH	FREEHOLD TWP	3791	75.6%	4.1%	10.2%	7.9%	2.2%	12.5%
MONMOUTH	HAZLET TWP	2946.5	82.9%	1.6%	11.1%	2.6%	1.8%	17.9%
MONMOUTH	HENRY HUDSON REGIONAL	307	83.6%	4.6%	7.7%	2.0%	2.3%	27.7%
MONMOUTH	HIGHLANDS BORO	190	82.6%	5.8%	9.5%	1.6%	0.5%	53.2%
MONMOUTH	HOWELL TWP	5906	75.3%	3.8%	13.4%	5.0%	2.5%	17.1%
MONMOUTH	LITTLE SILVER BORO	849	91.0%	0.7%	3.9%	3.7%	0.7%	1.4%

COUNTY	DISTRICT	TOTAL STUDENTS	% WHITE	% BLACK	% HISPANIC	% ASIAN	% OTHER	% FRPL
MONMOUTH	MANALAPAN-ENGLISHTOWN REG	4987	76.8%	1.6%	8.7%	10.3%	2.7%	9.4%
MONMOUTH	MANASQUAN BORO	1560.5	86.8%	1.5%	9.8%	1.7%	0.2%	13.6%
MONMOUTH	MIDDLETOWN TWP	9564	87.7%	1.5%	6.4%	2.4%	2.0%	12.5%
MONMOUTH	MILLSTONE TWP	1137	86.1%	2.4%	5.4%	5.2%	1.0%	4.7%
MONMOUTH	MONMOUTH BEACH BORO	240	97.1%	0.0%	0.4%	2.1%	0.4%	0.0%
MONMOUTH	OCEANPORT BORO	603	90.0%	0.3%	8.0%	0.5%	1.2%	7.0%
MONMOUTH	RUMSON BORO	982	95.5%	0.3%	1.7%	1.4%	1.0%	0.0%
MONMOUTH	RUMSON-FAIR HAVEN REG	980	94.0%	1.0%	3.2%	0.7%	1.1%	0.4%
MONMOUTH	SEA GIRT BORO	145	95.9%	2.1%	1.4%	0.7%	0.0%	0.0%
MONMOUTH	SHORE REGIONAL	621	89.5%	1.1%	5.2%	2.1%	2.1%	6.2%
MONMOUTH	SHREWSBURY BORO	486	94.9%	0.4%	2.7%	1.2%	0.8%	1.4%
MONMOUTH	SPRING LAKE BORO	197	95.9%	1.5%	1.5%	1.0%	0.0%	0.0%
MONMOUTH	SPRING LAKE HEIGHTS BORO	340	92.1%	1.8%	2.9%	1.8%	1.5%	5.3%
MONMOUTH	UNION BEACH	596	81.4%	4.9%	11.4%	2.2%	0.2%	33.7%
MONMOUTH	UPPER FREEHOLD REGIONAL	2263.5	85.6%	4.2%	5.4%	3.4%	1.4%	8.9%
MONMOUTH	WALL TWP	3497.5	85.8%	2.8%	7.5%	1.6%	2.3%	12.9%
MONMOUTH	WEST LONG BRANCH BORO	553	80.8%	2.2%	11.8%	1.6%	3.6%	13.2%
PASSAIC	LAKELAND REGIONAL	930.5	78.1%	2.1%	12.7%	4.5%	2.6%	12.5%
PASSAIC	NORTH HALEDON BORO	645	80.9%	2.9%	13.3%	1.9%	0.9%	17.4%
PASSAIC	RINGWOOD BORO	1227	86.6%	0.8%	7.2%	0.9%	4.5%	7.7%
PASSAIC	WAYNE TWP	7982	76.7%	1.4%	10.2%	10.6%	1.1%	9.3%
PASSAIC	WEST MILFORD TWP	3379	90.3%	1.1%	6.3%	1.3%	1.0%	15.4%
UNION	CLARK TWP	2270.5	86.0%	1.1%	9.3%	3.2%	0.4%	6.5%
UNION	CRANFORD TWP	3900.5	83.2%	3.6%	7.5%	4.2%	1.6%	3.7%
UNION	GARWOOD BORO	380	79.2%	0.8%	17.6%	0.3%	2.1%	17.6%
UNION	MOUNTAINSIDE BORO	716	83.4%	1.1%	6.6%	7.7%	1.3%	2.5%
UNION	WESTFIELD TOWN	6320.5	81.8%	2.4%	5.5%	8.6%	1.7%	2.2%

Exhibit F

COUNTY	DISTRICT	TOTAL STUDENTS	% WHITE	% BLACK	% HISPANIC	% ASIAN	% OTHER	% FRPL
CAMDEN	EASTERN CAMDEN COUNTY REG	2016	64.8%	9.1%	7.0%	15.3%	3.7%	9.5%
CAMDEN	HADDONFIELD BORO	2692	88.3%	1.2%	3.3%	3.6%	3.6%	1.6%
ESSEX	CALDWELL-WEST CALDWELL	2605	81.6%	1.6%	11.5%	4.8%	0.5%	7.6%
ESSEX	CEDAR GROVE TWP	1598	84.5%	1.8%	5.9%	6.4%	1.4%	2.4%
ESSEX	ESSEX FELS BORO	223	81.6%	2.7%	5.8%	4.9%	4.9%	0.0%
ESSEX	FAIRFIELD TWP	659	86.3%	0.0%	10.5%	2.1%	1.1%	2.7%
ESSEX	GLEN RIDGE BORO	1895.5	75.3%	4.7%	6.8%	7.3%	6.0%	0.1%
ESSEX	LIVINGSTON TWP	5923	61.6%	3.1%	4.3%	28.1%	2.9%	1.6%
ESSEX	MILLBURN TWP	4880.5	58.8%	1.4%	4.9%	30.0%	4.9%	1.2%
ESSEX	NORTH CALDWELL BORO	690	90.3%	1.0%	4.1%	4.5%	0.1%	0.0%
ESSEX	ROSELAND BORO	461	77.0%	3.3%	8.7%	8.7%	2.4%	2.6%
ESSEX	VERONA BORO	2185.5	79.8%	2.3%	10.7%	4.7%	2.5%	0.0%
ESSEX	WEST ESSEX REGIONAL	1689.5	86.2%	1.3%	7.1%	4.0%	1.5%	3.6%
MERCER	HOPEWELL VALLEY REGIONAL	3616.5	76.8%	2.9%	3.9%	12.2%	4.2%	4.3%
MERCER	ROBBINSVILLE TWP	3063.5	65.2%	2.3%	4.3%	26.6%	1.6%	3.7%
MERCER	W WINDSOR-PLAINSBORO REG	9654.5	22.0%	5.0%	4.5%	67.1%	1.4%	5.2%
MIDDLESEX	CRANBURY TWP	466	68.9%	1.9%	5.6%	18.5%	5.2%	4.3%
MIDDLESEX	METUCHEN BORO	2233.5	59.0%	4.4%	11.1%	21.5%	3.9%	8.6%
MIDDLESEX	MONROE TWP	6646	51.6%	3.8%	6.3%	37.0%	1.2%	8.5%
MONMOUTH	ATLANTIC HIGHLANDS BORO	335	88.7%	1.5%	6.3%	2.4%	1.2%	7.8%
MONMOUTH	BRIELLE BORO	542	92.4%	0.6%	4.6%	0.7%	1.7%	4.2%
MONMOUTH	COLTS NECK TWP	942	91.9%	1.4%	3.2%	3.2%	0.3%	2.2%
MONMOUTH	FAIR HAVEN BORO	1022	93.2%	0.4%	3.1%	1.5%	1.8%	0.4%
MONMOUTH	FARMINGDALE BORO	161	73.9%	10.6%	11.8%	1.2%	2.5%	0.0%
MONMOUTH	HOLMDEL TWP	3003.5	71.8%	1.2%	3.7%	17.9%	5.4%	3.4%
MONMOUTH	LITTLE SILVER BORO	849	91.0%	0.7%	3.9%	3.7%	0.7%	1.4%
MONMOUTH	MANALAPAN-ENGLISHTOWN REG	4987	76.8%	1.6%	8.7%	10.3%	2.7%	9.4%
MONMOUTH	MARLBORO TWP	4873	64.3%	1.3%	6.1%	26.0%	2.3%	3.4%
MONMOUTH	MILLSTONE TWP	1137	86.1%	2.4%	5.4%	5.2%	1.0%	4.7%
MONMOUTH	MONMOUTH BEACH BORO	240	97.1%	0.0%	0.4%	2.1%	0.4%	0.0%
MONMOUTH	OCEANPORT BORO	603	90.0%	0.3%	8.0%	0.5%	1.2%	7.0%
MONMOUTH	ROOSEVELT BORO	88	68.2%	3.4%	18.2%	2.3%	8.0%	0.0%
MONMOUTH	RUMSON BORO	982	95.5%	0.3%	1.7%	1.4%	1.0%	0.0%
MONMOUTH	RUMSON-FAIR HAVEN REG	980	94.0%	1.0%	3.2%	0.7%	1.1%	0.4%
MONMOUTH	SEA GIRT BORO	145	95.9%	2.1%	1.4%	0.7%	0.0%	0.0%

COUNTY	DISTRICT	TOTAL STUDENTS	% WHITE	% BLACK	% HISPANIC	% ASIAN	% OTHER	% FRPL
MONMOUTH	SHORE REGIONAL	621	89.5%	1.1%	5.2%	2.1%	2.1%	6.2%
MONMOUTH	SHREWSBURY BORO	486	94.9%	0.4%	2.7%	1.2%	0.8%	1.4%
MONMOUTH	SPRING LAKE BORO	197	95.9%	1.5%	1.5%	1.0%	0.0%	0.0%
MONMOUTH	SPRING LAKE HEIGHTS BORO	340	92.1%	1.8%	2.9%	1.8%	1.5%	5.3%
MONMOUTH	UPPER FREEHOLD REGIONAL	2263.5	85.6%	4.2%	5.4%	3.4%	1.4%	8.9%
PASSAIC	RINGWOOD BORO	1227	86.6%	0.8%	7.2%	0.9%	4.5%	7.7%
PASSAIC	WAYNE TWP	7982	76.7%	1.4%	10.2%	10.6%	1.1%	9.3%
UNION	BERKELEY HEIGHTS TWP	2693.5	70.9%	1.2%	10.0%	13.3%	4.7%	1.9%
UNION	CLARK TWP	2270.5	86.0%	1.1%	9.3%	3.2%	0.4%	6.5%
UNION	CRANFORD TWP	3900.5	83.2%	3.6%	7.5%	4.2%	1.6%	3.7%
UNION	MOUNTAINSIDE BORO	716	83.4%	1.1%	6.6%	7.7%	1.3%	2.5%
UNION	NEW PROVIDENCE BORO	2380	71.1%	1.8%	8.5%	17.6%	1.0%	4.4%
UNION	SCOTCH PLAINS-FANWOOD REG	5451.5	69.9%	7.8%	9.3%	9.1%	3.8%	6.0%
UNION	WESTFIELD TOWN	6320.5	81.8%	2.4%	5.5%	8.6%	1.7%	2.2%

Exhibit G

2010 Census Based Comparison of Racial Breakdown of School-age Population with Racial Breakdown of Pupils Attending School in 23 Communities During the 2010-11 School Year

2010 Student Aged Population - Ages 5-17 (source: 2010 Decennial Census, Sex by Age Tables) ("First Chart")										2010-11 DOE School Enrollment Data (Source Department of Education's Website) ("Second Chart")					Percent Deviation, By Race, Between Total Student Aged Population and Those Actually Attending Public School ("Third Chart")				
Total	% Asian	% Black	% Hispanic	% Other	% White	Total	% Asian	% Black	% Hispanic	% Other	% White	Total	% Asian	% Black	% Hispanic	% Other	% White		
11844	0.25%	87.77%	8.65%	2.64%	0.68%	9944	0.06%	95.61%	4.31%	0.01%	0.01%	-1900	-0.19%	7.83%	-4.33%	-2.63%	-0.67%		
Irvington Township	9451	0.49%	85.90%	10.76%	2.24%	7168	0.35%	90.71%	8.50%	0.39%	0.06%	-2283	-0.14%	4.81%	-2.26%	-1.85%	-0.56%		
Newark City	49663	0.96%	54.29%	36.00%	2.51%	33279	0.83%	52.81%	38.35%	0.15%	7.85%	-16684	-0.13%	-1.48%	2.36%	-2.36%	1.61%		
Orange City	5183	1.02%	73.82%	21.03%	2.60%	4408	0.20%	78.77%	20.55%	0.11%	0.36%	-775	-0.82%	4.95%	-0.48%	-2.49%	-1.16%		
Guttenberg Town	1574	3.56%	1.65%	76.81%	2.29%	1023	4.59%	1.66%	84.56%	0.68%	8.50%	-551	1.04%	0.01%	7.74%	-1.60%	-7.19%		
North Bergen	9240	4.30%	1.63%	76.10%	2.16%	8032	4.06%	1.13%	82.28%	0.37%	12.15%	-1208	-0.24%	-0.50%	6.18%	-1.79%	-3.65%		
Union City	10918	1.23%	1.22%	88.19%	1.22%	10600	1.27%	0.99%	95.17%	0.10%	2.46%	-318	0.05%	-0.23%	6.98%	-1.11%	-5.88%		
West New York Town	6750	2.27%	1.05%	88.06%	1.35%	7578	0.83%	0.70%	94.68%	0.05%	3.73%	828	-1.44%	-0.35%	6.62%	-1.30%	-3.54%		
Elizabeth	22097	1.76%	20.73%	62.37%	2.28%	22743	1.93%	22.35%	67.14%	0.14%	8.45%	646	0.17%	1.62%	4.76%	-2.41%	-4.41%		
Hillside	3725	1.66%	59.11%	18.58%	2.63%	3078	1.85%	66.85%	20.89%	0.06%	10.35%	-647	0.19%	7.73%	2.31%	-2.57%	-7.67%		
Plainfield	8710	0.51%	51.22%	41.39%	2.89%	6414.5	0.30%	48.48%	50.14%	0.36%	0.72%	-2295.5	-0.21%	-2.73%	8.75%	-2.53%	-3.27%		
Roselle	3569	1.57%	58.56%	31.10%	2.77%	2803	1.53%	65.95%	30.32%	0.32%	2.25%	-766	-0.03%	-0.03%	-1.15%	-3.75%	-3.75%		
Passaic	15068	2.20%	5.90%	73.25%	1.12%	13289	2.30%	6.62%	89.85%	0.20%	1.03%	-1779	0.09%	0.72%	16.60%	-0.92%	-16.50%		
Paterson	29094	3.92%	27.64%	60.39%	2.15%	24394	3.58%	29.65%	61.27%	0.18%	5.32%	-4700	-0.34%	2.01%	0.87%	-1.97%	-0.57%		
Prospect Park Boro	1240	3.55%	19.92%	60.40%	3.23%	858	1.52%	18.41%	65.15%	2.10%	12.82%	-382	-2.03%	-1.50%	4.75%	-1.13%	-0.08%		
New Brunswick	7667	1.23%	16.45%	75.73%	1.71%	7422	0.85%	15.12%	82.63%	0.22%	1.49%	-245	-0.38%	-1.33%	6.91%	-1.49%	-3.71%		
Perth Amboy	9866	0.98%	6.69%	86.15%	1.10%	10473.5	0.54%	7.13%	89.40%	0.14%	2.78%	607.5	-0.44%	0.44%	3.25%	-0.96%	-2.29%		
Camden City	16864	1.57%	44.37%	50.43%	1.96%	13799	1.06%	49.78%	48.45%	0.08%	0.63%	-3065	-0.51%	5.41%	-1.98%	-1.88%	-1.05%		
Lawnside Boro	536	1.87%	33.77%	6.34%	5.60%	250	2.80%	90.00%	3.20%	1.20%	6.65%	-286	0.93%	6.23%	-3.14%	-4.40%	0.37%		
Woodlynne Boro	675	8.00%	32.15%	47.26%	5.63%	421	8.55%	36.34%	47.03%	1.43%	6.65%	-254	0.55%	4.19%	-0.23%	-4.20%	-0.31%		
Trenton	14528	1.33%	55.50%	36.14%	2.42%	8730	1.57%	57.70%	38.28%	0.37%	2.08%	-5798	0.24%	2.20%	2.14%	-2.05%	-2.53%		
Ashbury Park	2589	0.23%	61.95%	29.43%	4.48%	1889.5	0.21%	68.83%	28.05%	0.00%	2.91%	-699.5	-0.02%	6.87%	-1.38%	-4.48%	-0.99%		
Red Bank Boro	1604	1.37%	15.59%	49.00%	3.43%	993	0.50%	15.81%	70.69%	0.30%	12.69%	-611	-0.87%	0.22%	21.69%	-3.13%	-17.92%		

2010 Student Aged Population ("Fourth Chart")										2010-11 DOE School Enrollment Data ("Fifth Chart")					Numerical Deviation, By Race, Between Total Student Aged Population and Those Actually Attending Public School ("Sixth Chart")				
Total	% Asian	% Black	% Hispanic	% Other	% White	Total	% Asian	% Black	% Hispanic	% Other	% White	Total	% Asian	% Black	% Hispanic	% Other	% White		
11844	30	10396	1024	313	81	9944	6	9507	429	1	1	-1900	-24	-889	-595	-312	-80		
Irvington Township	9451	46	8118	1017	212	7168	25	6502	609	28	4	-2283	-21	-1616	-408	-184	-54		
Newark City	49663	481	27124	17985	1252	33279	277	17575	12764	49	2614	-16684	-204	-9549	-5221	-4203	-507		
Orange City	5183	53	3826	1090	135	4408	9	3472	906	5	16	-775	-44	-354	-184	-130	-63		
Guttenberg Town	1574	56	26	1209	36	1023	47	17	865	7	87	-551	-9	-9	-344	-29	-160		
North Bergen	9240	397	151	7032	200	8032	326	91	6609	30	976	-1208	-71	-60	-423	-170	-484		
Union City	10918	134	133	9629	133	10600	135	105	10088	11	261	-318	1	-28	459	-122	-628		
West New York Town	6750	153	71	5944	91	7578	63	53	7175	4	283	828	-90	-18	1231	-87	-208		
Elizabeth	22097	388	4580	13783	504	22743	439	5082	15269	31	1922	646	51	502	1486	-473	-920		
Hillside	3725	62	2202	692	98	3078	57	2057.5	643	2	318.5	-647	-5	-144.5	-49	-96	-322.5		
Plainfield	8710	44	4461	3605	252	6414.5	19	3110	3216	23	46.5	-2295.5	-25	-1351	-389	-229	-301.5		
Roselle	3569	56	2090	1110	99	2803	43	1848.5	839.5	9	63	-766	-13	-241.5	-270.5	-90	-151		
Passaic	15068	332	889	11037	169	13289	305	880	11940	27	137	-1779	-27	-9	903	-142	-2504		
Paterson	29094	1140	8042	17571	626	24394	874	7232	14945	45	1298	-4700	-266	-810	-2626	-581	-417		
Prospect Park Boro	1240	44	247	749	40	858	13	158	559	18	110	-382	-31	-89	-190	-22	-50		
New Brunswick	7667	94	1261	5806	131	7422	63	1122	6133	16	88	-245	-31	-139	327	-115	-287		
Perth Amboy	9866	97	660	8500	109	10473.5	57	747	9363.5	15	291	607.5	-40	87	863.5	-94	-209		
Camden City	16864	264	7482	8505	330	13799	146	6869	6686	11	87	-3065	-118	-613	-1819	-319	-196		
Lawnside Boro	536	10	449	34	30	250	7	225	8	3	7	-286	-3	-224	-26	-27	-6		
Woodlynne Boro	675	54	217	319	38	421	36	153	198	6	28	-254	-18	-64	-121	-32	-19		
Trenton	14528	193	8063	5251	670	8730	137	5037	3342	32	182	-5798	-56	-3026	-1909	-319	-488		
Ashbury Park	2589	6	1604	762	116	1889.5	4	1300.5	530	0	55	-699.5	-2	-303.5	-232	-116	-46		
Red Bank Boro	1604	22	250	786	55	993	5	157	702	3	126	-611	-17	-93	-84	-52	-365		