



Memorandum for Great Schools for All
Analysis of New York State Law and Other Inter-District Schools Programs Relevant to
Proposed “Breakthrough Schools”

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May 21, 2021

TABLE OF CONTENTS

I EXECUTIVE SUMMARY1

II RELEVANT NEW YORK STATE PROGRAMS18

 A. CHARTER SCHOOLS.....18

 B. THE URBAN-SUBURBAN PROGRAM.....20

 C. BOCES.....37

 D. THE SYRACUSE COMPREHENSIVE EDUCATION AND WORKFORCE TRAINING CENTER.....48

III POSSIBLE PROPOSED LEGISLATION AUTHORIZING BREAKTHROUGH SCHOOLS55

IV POTENTIAL SOURCES OF FUNDING FOR BREAKTHROUGH SCHOOLS65

 A. NEW YORK STATE PUBLIC SCHOOL FUNDING OVERVIEW65

 B. ADDITIONAL SOURCES OF FUNDING FOR BREAKTHROUGH SCHOOLS68

V SUMMARY OF OTHER INTER-DISTRICT MODELS102

 A. COMPARISON OF OTHER JURISDICTIONS’ TREATMENT OF KEY COMPONENTS102

 B. LEGISLATION UNDERLYING OTHER PROGRAMS.....107

VI OTHER ADVICE DRAWN FROM DISCUSSIONS WITH EXPERTS133

APPENDIX

- Appendix A - Tech Valley High School Act
- Appendix B - Syracuse Comprehensive Education and Workforce Training Center Act
- Appendix C - Redline of Proposed Authorizing Statute for Breakthrough Schools
- Appendix D - Analysis of Other Interdistrict Models

I EXECUTIVE SUMMARY

Great Schools for All (GS4A) engaged the law firm Orrick, Herrington & Sutcliffe to research potential legal and structural underpinnings for its plan to develop “Breakthrough Schools”—socioeconomically and racially integrated inter-district public magnet schools in Monroe County, NY, that would include students from the Rochester City School District and neighboring suburban districts. This report provides the results of Orrick’s research and analysis, which included the following:

- Analyses of New York state law and current programs to determine what legal and programmatic structures exist that could facilitate establishment of the Breakthrough Schools. This includes:
 - a detailed discussion of three existing New York state educational platforms: Urban-Suburban, Charter Schools, and BOCES (the most suitable platform), as well as certain one-off schools created by statute to provide specialized education in integrated school environments;
 - proposed legislation that could potentially become a template for the Breakthrough Schools, based upon the statute enacted to create one of the one-off schools; and
 - an inventory of available sources of federal, state and local funding for New York schools.
- A study of ten other school systems that established programs to create integrated schools—and the accompanying legislation—from across the United States to help identify the factors that have contributed to success in establishing inter-district schools in other jurisdictions throughout the country.
- Suggestions about the creation of integrated school systems from various authorities from school systems, non-profits and academia who have worked with many of the successful programs we studied.
- The report also includes recommendations as to the required steps to successfully establish Breakthrough Schools, and the political and community leaders who need to be engaged as part of the process.

Orrick is a global law firm with approximately 1,000 attorneys engaged in a broad range of litigation, corporate and transactional law. The firm is recognized for its commitment to *pro bono* representation in a wide range of areas, including education. Among other things, the firm has partnered with New York Appleseed for over ten years to work on a voluntary school desegregation initiative that is focused on community building and empowerment. We have worked to eliminate exclusionary screening practices in school districts, helped pass laws that require the New York City Department of Education to publish data on diversity in schools,

supported community advocates seeking to implement more equitable admissions plans, and helped establish a foundation to give all children the opportunity to reach their full potential.

GS4A’s Mission and Supporting Rationale

GS4A is a diverse, community-based citizens advocacy coalition of Monroe County city and suburban resident volunteers who believe that all children, regardless of where they live, should have guaranteed access to an excellent public school. Based on years of national research, the coalition believes that among the most strategic ways of achieving this goal and improving student educational outcomes is the creation of a voluntary network of socio-economically and racially diverse schools (each with roughly half low-income and half middle/upper-income students). GS4A also believes that having effective and high performing integrated public schools will enable Monroe County to comply with the state’s constitutional obligation to provide a “sound, basic education” to all its residents, and is critical to the future socio-economic health and stability of the greater Rochester area.

There are striking disparities in economic status and distribution of population across racial groups between Rochester and surrounding communities. Rochester’s population (per July 1, 2019 U.S. census data) is approximately 205,000, of which 37% is White (non-Hispanic), 40% is Black (non-Hispanic), and 19% is Hispanic. Median household income is \$35,590, with 31% of the population in poverty—and an even higher portion of children living in poverty. Rochester is the fifth poorest city in the nation, with 84% of children in city schools eligible for federal free or reduced-price meals. The Rochester City School District typically ranks near the bottom of the national rankings. The population of Monroe County, which includes Rochester, is about 742,000, of which 77% is White (non-Hispanic), 16% is Black, and 9% is Hispanic. Median household income in Monroe County is \$60,075, with 12.7% living in poverty.

Finally, the demographic breakdown of the student populations of Rochester and the surrounding suburbs reveals how starkly the county’s public schools are segregated: Monroe County school districts that surround Rochester are (collectively) 83% white (non-Hispanic), 7% Black (non-Hispanic), and 5% Hispanic, compared with 53% Black, 32.7% Hispanic and 9.6% White in the Rochester City School District.

Socio-economically diverse schools cannot be achieved in the City of Rochester if the Rochester City School District acts by itself, since 84% of its students are economically disadvantaged. Therefore, *GS4A proposes the creation of voluntary, socio-economically diverse, cross-district primary and secondary magnet schools in Monroe County, offering unique thematic programming that no single school district can afford to offer on its own, thereby benefitting both urban and suburban residents. Each of these so-called “Breakthrough Schools” would be socio-economically diverse, with no more than 50% of students who qualify for free or reduced meals attending any one school.*

GS4A’s proposals are based on decades of research that show unequivocally that socioeconomic and racial integration of schools can dramatically improve academic progress, graduation rates and readiness for college or work. All the way back in 1966, sociologist James Coleman’s

landmark report, *Equality of Educational Opportunity*, found that the best predictor of student outcomes is the composition of the student body; students are more likely to succeed in racially and socioeconomically diverse classrooms. More recent data from Raleigh/Wake County, NC—where more than 35 diverse magnet schools have been created over the years—indicate that gaps in graduation rates between white students and African-American and Latinx students were cut in half in the decade since 2009. Rates for all racial/ethnic subgroups increased during those years, and far exceed comparable rates in their Rochester counterparts.

Research is also clear that all students in such diverse schools are likely to benefit from improved problem solving, critical thinking, creativity, ability to work collaboratively with those from different backgrounds, and preparation for the 21st-century workforce.

Moreover, Rucker Johnson's recent book, *Children of the Dream*, resoundingly concludes that the school integration efforts of the 1970s and '80s led to much higher college admissions for African American students; and those exposed to court-ordered school integration for at least five years saw a 15 percent increase in lifetime earnings, an 11 percent drop in adult poverty, increased marital stability, and a 22 percent decline in the rate of incarceration.

Challenges to Establishing Breakthrough Schools

Despite the strong base of evidence in support of GS4A's proposals, there are significant historic and local challenges to the creation of diverse cross-district schools in Monroe County.

Historic Challenges to Creating Integrated Schools

The goal of integrating schools, and the benefits that result from such integration, are broadly accepted. Achieving such integration, however, has proven difficult in a variety of demographic units across the United States. Numerous efforts have been made at every level of government—federal, state and local—to encourage school integration, assisted and prodded by non-profit and advocacy organizations, academic and research institutions, and citizen groups. In many cases, integration efforts have been spurred by litigation seeking to enforce constitutional and legal imperatives for equal education.

School integration efforts have faced numerous challenges, including:

- Geographical obstacles to bringing together different racial and/or socio-economic populations, and reluctance of families to require their children to travel to attend an integrated school;
- Resistance by more affluent families to their children attending schools with inferior reputations in urban environments;
- Resistance by minority families to their children attending schools where they could be outsiders who lack sufficient voice to influence and participate in an educational environment that respects their culture and individuality. Longer-term adverse affects to

those transferred students have been studied;

- School funding formulas that require educational funds to follow students to the schools to which they transfer, thus adversely affecting the budget of the school from which the students transfer. Unsurprisingly, this impact dims the enthusiasm of many originating school districts for such programs.

Challenges Specific to Creating Integrated Inter-District Schools in Monroe County

In creating Breakthrough Schools, GS4A and other advocates also will face certain challenges unique to Monroe County, in addition to the universal challenges to creating integrated schools listed above:

- The extreme disparities discussed above between the City of Rochester and the surrounding suburbs in terms of the racial make-up of the schools and the economic status of residents;
- The generally poor reputation of a number of RCSD schools, which would continue to discourage many suburban families from sending their children to schools in the city;
- Rochester City School District's very poor financial condition combined with New York State's budgetary woes—due in part to the pandemic—which could limit the ability to fund new innovative schools;
- The difficulties of other concerned Monroe County citizens in creating similar schools; and
- The absence of a legal structure that immediately would permit the creation of such inter-district schools (as discussed below in detail).

Positive Features of the Breakthrough Schools

Trends supporting the creation of integrated schools in Monroe County

Notwithstanding the challenges discussed above, there are some current trends that would provide some tailwinds to GS4A's efforts:

- The nearly-universal identification of Rochester as a jurisdiction in desperate need, and Monroe County's schools as the most segregated in the country;
- Progressive leadership in Rochester, and new leadership in RCSD, combined with the recent election of progressive state representatives from Monroe County and a countywide electorate moving steadily to the left;

- Rochester’s strong cultural and educational institutions, and its historic identity as a center of innovation and social progress;
- New York State’s demonstrated willingness to pass legislation to adapt existing education programs to accommodate specific targeted educational innovations in certain localities—for example, the Tech Valley High School near Albany, and the Syracuse Comprehensive Education and Workforce Training Center, both discussed in this report;
- A dramatically increased awareness in the last several years of the disparate treatment of minorities in all walks of life in the United States and growing public and private commitments to undo those disparities;
- A new federal administration that is likely to support local innovations, particularly those designed to increase social mobility and equity in access to education;
- A slew of available intellectual, academic, and advocacy resources committed to educational equity and innovation;
- A recent professional survey of 300 city and 300 suburban Monroe County parents of current school children found strong support for diverse schools offering unique curricular offerings not otherwise available, and consensus about the importance of diversity in the educational process. For example, 87% of all parents indicated they would consider one or more of the proposed magnet schools described in the survey. In addition, about three-quarters indicated they would consider sending their child to a diverse magnet school outside their home district on a voluntary basis (specifically, these positive responses came from 83% of Rochester parents and 70% of suburban parents). The survey indicated strong support for voluntary diverse magnet schools across all subgroups of parents—that is, geographic, racial/ethnic, and income levels--suggesting that there is a critical mass of a new generation of parents that values such diverse expanded options for their children;
- The Rochester-Monroe County Commission on Racial and Structural Equity (RASE) report released in March 2021¹ included two recommendations consistent with GS4A proposals: (1) creation of a county-wide magnet school with a focus on multicultural and multilingual education; and (2) establishment of a County/City policy for developing inter-district, integrated magnet schools for students from the city and suburbs to help close the county-wide school integration gap;
- The unanimous declaration in 2020 by the Monroe County Council of School Superintendents against racism, pledging a number of specific actions including “creating equity in our schools” and “rebuilding our education system”;

¹ *No Time for Excuses: It’s Time for Action*, Report of the Commission on Racial and Structural Equity (RASE), March 2021.

- The preliminary development of several possible models of magnet schools in process that could serve as templates for potential pilot Breakthrough Schools; and
- The forthcoming availability of millions of dollars of federal stimulus funds available to local school districts, some of which could be allocated to provide one-shot planning and startup funding to help stimulate the creation of pilot Breakthrough Schools.

Advantages of Breakthrough Schools

GS4A is well aware of the challenges to creating the Breakthrough Schools, and of other unsuccessful similar efforts. Learning from those lessons, as well as from successful models throughout the country, the organization anticipates that some or all of these features would be incorporated into plans as they evolve:

- The schools should be located in areas that minimize serious transportation challenges for either city or suburban enrollees, and in some cases located where they might accommodate the needs of commuter parents;
- The schools will provide specialized content that would encourage participation by families across the socio-economic spectrum;
- The schools would be governed by representatives from all the districts served by the schools;
- The schools would be created with legislative support and funding sources that would mitigate potential budgetary impacts on school districts from which the participating students are drawn.

The Path to Establishing Breakthrough Schools

In the face of these opportunities and obstacles, GS4A will need to engage many others in careful planning and outreach to all relevant stakeholders. Although GS4A begins with the advantage of having a clear vision—the creation of inter-district schools designed to reduce inequities and segregation in education in Monroe County—GS4A has neither the capacity nor the authority to move this initiative forward alone. Great Schools for All can and will work with others collaboratively to create plans consistent with the articulated vision. The question is how to convert that vision into a reality. There is an abundance of organizations and people with experience and expertise offering a multitude of suggestions and recommendations; the challenge will be to channel those recommendations into a strategy that makes the most sense in present-day Monroe County.

In “The Planning Process” section that follows, we have outlined a collaborative planning process and planning group for working out the many details related to governance and financing for Breakthrough Schools, working closely with and seeking the support of the RCSD and BOCES superintendents. We believe that establishing such a group is key to moving this

initiative forward.

The Planning Process

Overcoming the obstacles to creating integrated schools requires careful planning and inclusion of all relevant stakeholders. Principal stakeholders include: the families who would participate in the program; the leadership of the school districts that would be impacted by the creation of new Breakthrough Schools; the local and state governmental authorities who would need to create enabling legislation and provide funding; and any third-party companies or institutions that might support the schools financially or programmatically. Engaging the broadest array of stakeholders at the earliest planning stages is key to the eventual success of this effort. The creation of the governance and financial structure for Breakthrough Schools must have broad ownership in the community. GS4A should participate actively in the planning process, but many other knowledgeable and committed people in the Monroe County community also should participate to ensure that the process has integrity, engagement and effectiveness.

Involving these groups presents something of a “chicken and egg” situation in several ways: without demonstrated interest from participating families, it would be difficult to obtain governmental support; without the necessary school administrative and legislative support, there would be no school program available to recruit families to participate; and, without a proposed specialized curriculum and possibly the participation of local institutions, it would be difficult to demonstrate the need for a new school and to summon local interest.

This conundrum is not insurmountable. By including local leaders and interested families in the process of obtaining executive and legislative support, interest can be created at the local level while the needs of these stakeholders can be represented in any necessary legislative enactments.

Start with obtaining RCSD’s buy-in and active participation by and leadership from the two BOCES: Whether the Breakthrough Schools involve one or several of Monroe County’s suburban districts, the one constant must be the participation of the Rochester school system. This is why it is important to begin by generating the interest of the RCSD Superintendent. We recommend that the process begin with an initial meeting with GS4A, RCSD Superintendent Myers-Small, and the two BOCES Superintendents.

Establish a Breakthrough Schools Planning Group (BSPG): In collaboration with the RCSD Superintendent and the two Monroe County BOCES Superintendents, GS4A should support the creation of a Breakthrough Schools Planning Group to oversee the process of addressing such key questions as schools governance, financing, school design, staffing, and transportation. The core composition of the Planning Group would presumably include interested district superintendents (or their designees), and would be supplemented in the planning process by parents, teachers, school support staff, administrative staff, and other community members.

Obtain early interest from state and local officials: Other successful “one-off” specialized schools in NY State—in particular, Tech Valley High School near Albany, and the Syracuse Comprehensive Education and Workforce Training Center, which was supported by Syracuse

Assemblyman Bill Magnarelli and Syracuse Mayor Ben Walsh—have succeeded in part because of powerful sponsorship on the state level. Having active support from state and local officials—even on a preliminary basis—is likely to help encourage support from other important stakeholders.

Determine themes for the magnet schools: Interest in creating new schools will be fostered by demonstrating that each one is offering something new, and that it fulfills a particular need. To determine the theme of any initial pilot schools, the Breakthrough Schools Planning Group (BSPG) should survey the target populations, early enough in the process to permit the use of the survey results to determine a school’s theme, grade levels, location, etc. Given the lead time necessary to create a school, the best populations to survey should be families who will have children in high school in two to three years, and those whose children are of pre-school age, and will be entering elementary school in two to three years. This would permit establishment of magnet high schools and elementary schools, which are probably the most attractive levels for starting a new school.

To help determine themes for a high school, the BSPG should collaborate with the local business community to conduct labor market studies, in order to identify the employment opportunities in the area for which the magnet schools can help prepare high school students. It also might help determine a good local business partner for the school, to provide funding, expertise, and other resources as applicable to the school’s theme.

One suggestion is that, to the extent that a school’s theme might involve the participation of a third-party institution, the proposed school should not commit itself to private partners too early, because that might foreclose possible options or risk failing to appeal to the families who need to be attracted to the school. It is better to first conduct the recommended family surveys and labor market studies, and then present the indicated educational focus to the potential partners.

Seek local support: We recommend that the BSPG pave the way for governmental involvement by establishing the need and demand for these schools—a process that likely will be intertwined with determination of a school theme. BSPG should engage with parents and students through meetings, as well as focus groups and surveys, efforts that we understand have already commenced.

Create a process for the design of Breakthrough Schools. Fairly early on in the process, the BSPG should create a process for developing proposals for the first pilot Breakthrough Schools. Evaluating proposals for the schools should be done by a separate action team, comprised of members such as educators, parents, students (when appropriate), and other community members. This team should be established by the BSPG and be authorized to work with groups proposing schools to ensure school designs are consistent with the Great Schools principles.

Create an operations plan for each school. An operations plan is the fundamental document for each school that describes the school’s mission, projected enrollment and diversity goals, educational philosophy, academic program and curriculum, principles of instruction, student assessment systems, facilities, how the school will serve students with special needs, theme of

the school, etc. The operations plan is a fundamental document that can drive discussion and recruitment of families and business partners and facilitate the pursuit of funding. It is particularly important to fully address staffing issues in the operations plan. Clarifying what entity will employ Breakthrough Schools staff, under what terms and conditions of work, and other “contractual” issues is essential early in the process.

Governance. To obtain the support of the local districts, the BSPG would need to determine how control of the Breakthrough Schools will be shared among the districts. The governance plan – which could be, but does not have to be, included in the operations plan, would need to provide ongoing oversight for schools, especially in the early stages. In order to convince local decision-makers to give up some level of control, it is not enough to announce that the school is being established in order to help achieve school integration. Participating districts need to understand that they are partners in operating the school.

The governance agreement would address how control is shared and discuss the sources of funds and other budgetary issues. For example, the agreement should state what the governance structure should look like, makeup of a governing board, and whether priority is given for slots at the school for students from specific districts. The governance agreement also would outline which entity—the participating districts or the Breakthrough School—employs the teachers and staff and administers their benefits.

Determine possible sources of funding and make applications. NYSED provides federal Every Student Succeeds Act (ESSA) funding specifically for desegregation. The BSPG should determine how Rochester and other localities are using those funds. In addition, U.S. Department of Education (DOE) magnet schools funding can be very helpful. DOE awards up to \$15 million for each selected district. Interestingly, the specific theme of the school does not have to be determined at the time that funds are applied for, since year one under the grant is a planning year. An applicant’s chances of success are boosted if the applicant has involved community members (*e.g.*, people from literacy advocate groups and youth services providers), conducted surveys, and identified job opportunities (*e.g.*, through a labor market study projecting needs a decade into the future). It also helps to identify a needy population. Other criteria considered in awarding these funds include student achievement, parent engagement, professional development and training, and a research component.

As referenced above, with the recently-announced substantial allocation of stimulus funds to local school districts, this may be a perfect opportunity to designate some of those funds that cannot be used on an ongoing basis to support the suggested initial planning process, perhaps including hiring a consultant to help develop the plans outlined above, and/or as one-shot startup funds to create pilot diverse magnet schools. GS4A has previously received support from local foundations in moving this vision forward, and they may also be a source of additional funding to support the planning phase.

Section IV. of this report catalogues examples of sources of government funding.

Start small: Because of the budgetary and other resource limitations, we recommend that

GS4A and interested districts begin by identifying several potential pilot schools that can be created initially as prototypes that will demonstrate the feasibility of creating Breakthrough Schools. These pilot schools would enable GS4A, interested districts, and the proposed BSPG to “put its best foot forward” by situating the schools in the areas and creating educational themes that are most likely to succeed. Identifying discrete localities and programs will also enable the BSPG to focus its efforts on generating interest on the populations and leaders in those localities. Approaching local school leaders in the affected districts—local superintendents and school boards—is particularly important to ensure their collaboration and that their concerns are addressed up front. Without a doubt, some districts will be more open to the concept than others, and creating successful programs involving the pilot districts might encourage others to join the program.

Starting with some pilot schools also would be very helpful in “testing the concept,” that is, identifying any potential obstacles and beginning to answer the practical questions that will need to be addressed, before the program is scaled up and greater budgetary demands are made. For example, the pilots will enable GS4A and the BSPG to test the ability to market such inter-district magnet schools.

The Need for a Legal Infrastructure

There currently is no New York law that permits separate school districts to jointly create and co-manage diverse public schools that would be attended by students from each of the participating districts. New York law does provide several statutory models for innovation and inter-district enrollment and collaboration in Monroe County and elsewhere in New York State that provide alternatives to traditional within-district education structures: charter schools, the Urban-Suburban Program, the original BOCES system, and statutory variations on the BOCES platform. However, none of these platforms goes sufficiently far, as currently constituted, to permit the contemplated Breakthrough Schools.

- New York State Charter School law provides an admission preference to students residing in the school district in which the charter school is located, making it difficult to admit sufficient students from outside the district to meet socio-economic diversity goals.
- Monroe County’s “Urban-Suburban” program does not support some of GS4A’s primary objectives: it applies selective criteria to acceptance of students; it saps funding from the transferring school district, typically RCSD; and it does not provide funding for transportation.
- BOCES programs are designed only to provide specialized—typically vocational—educational programs, and are prohibited from duplicating programs already provided by the student’s home school. In addition, RCSD is explicitly excluded from participating fully in BOCES. Nevertheless, the BOCES platform does have some mechanisms and features in place that could be adapted to meet GS4A objectives.
- Finally, New York has several “one-off” schools that are co-managed by a BOCES,

including the Tech Valley High School near Albany, and the Syracuse Comprehensive Education and Workforce Training Center, that provide very helpful models for creating the Breakthrough Schools. As discussed below, the specific legislation enacted to permit the creation of those schools could be revised to apply to the proposed schools.

We summarize our conclusions about each program below, and include our detailed analysis of each model—including lessons and limitations—in Chapter II.

Charter Schools

The charter school authorization is not suited to an inter-district solution to racial isolation and socioeconomic segregation in Monroe County. The New York State Charter Schools Act of 1998 mandates that charter schools provide an admission preference to students residing in the school district in which the charter school is located. It also requires charter schools to admit a proportion of students eligible for free and reduced lunch programs that is comparable to or greater than the proportion in that school district. In practice this makes it virtually impossible to create a mechanism, let alone incentives, for inter-district enrollment that would accomplish targeted socioeconomic diversity goals. As a result, new legislation that departs wholesale from the existing Charter Schools Act would be required to create Breakthrough Schools as charter schools. Accordingly, *we do not recommend that GS4A pursue the charter school route.*

Urban-Suburban Program

The Urban-Suburban Program has several advantages to recommend it over the charter model. It is by design an inter-district transfer system with the explicit goals of reducing racial isolation and deconcentrating poverty. This Monroe County-centered program is one of the longest-running integration programs in the United States, and it has had a high impact on many individual students who have participated. *However, the Urban-Suburban Program is also an unsuitable vehicle to accomplish GS4A's goals for three primary reasons—each of which correlates to one of the elements identified below as crucial to a program's efficacy.*

- 1) *Selective Enrollment.* The Urban-Suburban Program is voluntary on the part of both the students who transfer and the participating school districts that accept those students. The demanding and wholly discretionary admissions process—in contrast to a simple lottery system—creates a high risk of racial and class bias, and has the potential to alienate transferring students and their families. And because the program is effectively one-directional—almost all participating students transfer from the Rochester City School District to one of 15 suburban districts—it does little or nothing to reduce racial isolation and concentrated poverty overall within the RCSD school system.

We recommend that students be selected to participate in inter-district schools through a randomized lottery system instead of a selective admissions process such as the one used by Urban-Suburban. (Depending on program needs and goals, a sophisticated lottery system can account for factors such as sibling

preference, socioeconomic status, or neighborhood of residence.) The National Coalition on School Diversity recommends use of a lottery and placement of students for the duration of their education career (also in contrast to Urban-Suburban, where a receiving district can terminate a transfer student's acceptance at any time) as discussed in the section on the Urban Suburban program in the next chapter.

- 2) *Funding Structure.* The suburban school districts that accept transfer students from RCSD receive per-pupil funding for those transfer students based on the New York State foundation aid that would be provided to that students' home district—an amount that is two or even three times higher than it would receive for its own resident students. This funding differential, coupled with another component of the Urban-Suburban legislation that allows receiving districts to capture annual changes to foundation aid levels that they would otherwise not be eligible for, results in a “bonus payment” to suburban districts that amounts on average to \$8,800 per transfer student.

While this may serve as an incentive to suburban schools to participate in the program, it raises important questions about their reasons for doing so and whether Urban-Suburban's funding structure creates a moral hazard, especially in an environment of declining enrollment across a majority of school districts in the region. Coupled with concerns that Urban-Suburban's selective admission process siphons off the most committed and capable students (and parents) from city schools, the transfer of over \$7 million dollars in state aid from RCSD to surrounding school districts would appear to further exacerbate overall inequality between city and suburban school districts in Monroe County.

In addition, Urban-Suburban's enabling legislation does not provide for building or operational costs for separate educational facilities, as would be required to open and operate Breakthrough Schools.

- 3) *Transportation.* The responsibility for transporting students to their receiving school is borne under the Urban-Suburban Program by the student's home district—in practice, RCSD, the source of nearly all transferring students. No additional funding is allocated for this purpose, and many students endure long and even dangerous commutes in order to get to and from school (despite actual distances that are traveled much more quickly by car). This places a heavy burden on urban students and their families, and makes it more difficult for the students to fully participate in the school community (through sports and other extracurriculars).

The Urban-Suburban Program's selective admissions process results in students from all over the City of Rochester traveling to schools in 15 different suburban districts—without any grouping by neighborhood to promote efficiencies in transportation logistics. One potential way to reduce transport times for

Breakthrough Schools would be to map out residential zones and corresponding destination schools, as seen in the VICC pro-gram in St. Louis. See Part III.

BOCES

The BOCES platform is the most promising model for Breakthrough Schools. Because, as outlined below, the BOCES framework nevertheless has significant restrictions that would limit its use for the Breakthrough Schools, *legislative adaptations to the BOCES statute would be required.* Two recent New York State programs—Tech Valley High School near Albany, and the Syracuse Comprehensive Education and Workforce Training Center—provide useful models for how new enabling legislation may be coupled with the BOCES framework to allow for creation of specific educational programs leveraging the advantages of BOCES.

Boards of Cooperative Educational Services (“BOCES”) were made possible by a 1948 New York State law aimed at enabling small rural school districts to combine resources in order to allow educational programming that would otherwise be unfeasible or inefficient given their size. The statute explicitly excludes large metro areas—known as the “Big 5,” which includes the City of Rochester—from participating as members of a BOCES. The law also mandates that BOCES create efficiency gains for member districts, and bars them from replicating educational offerings that already exist at member schools. Students who participate in BOCES programming who complete the requirements for high school graduation—even those in P-TECH, an advanced program that includes college credit—receive diplomas from their original home district, not from BOCES.

Unlike the Charter School and Urban-Suburban Program laws, the BOCES statute explicitly contemplates collaboration between school districts to run standalone educational programs. As such, it provides for a governance structure that gives each member district a seat at the table and authorizes essential operational functions such as transportation and contracting. These features offer a useful model for Breakthrough Schools. However, the BOCES statute as it exists suffers from two serious limitations: (1) RCSD cannot be a member district of a BOCES, preventing this crucial stakeholder in Breakthrough Schools from participating in program governance; and (2) creation of a school with a full academic curriculum may run afoul, without legislative modifications, of the BOCES statute’s bar on programs that replicate offerings at existing member schools.

We interpret the BOCES statute as prohibiting duplication of the traditional public school curriculum already made available at member school districts. While examples of program denials or legal challenges are lacking—and so the precise boundaries of what is permitted under the statute are not well defined—a school offering a full core academic curriculum (in addition to a supplemental specialty focus such as STEM or arts) is likely outside the parameters of what BOCES was designed to allow. The intent of the statute, the statute’s provisions taken as a whole, and the array of programs that have been created pursuant to it for its seven-decade history all point to this conclusion.

This impediment has been overcome through promulgation of new authorizing legislation

several times in recent years, allowing for full, stand-alone high schools that issue their own diplomas to be created in partnership with or on the BOCES platform.² In 2005, the state passed legislation authorizing Tech Valley High School, a joint venture between two Albany-area BOCES that issues its own diplomas and is overseen by its own Board. And in 2020, a statute was passed allowing for the creation of a 21st-century tech-focused high school in the Syracuse area that will enroll a mix of students from the City of Syracuse and surrounding school districts in Central New York. Notably, the state allocated \$74 million for renovation and repurposing of an old high school in Syracuse to house the new high school along with an adult job training center that would operate out of the same facility.

The BOCES program would probably require the least amount of retrofitting to be used for operating Breakthrough Schools. Moreover, such retrofitting of a BOCES program has been done before, suggesting that there is appetite for such use. In addition, certain elements of the other programs might help facilitate the Breakthrough Schools, and it might make sense to include them in any new legislation drafted to accommodate the new schools.

Building on Existing One-off Models

We understand—and it is only reasonable to assume—that legislators are more likely to approve of a new school if they know they don't have to start from scratch but can instead build upon an existing structure. We recommend that GS4A and the planning process outlined above seriously consider crafting proposed legislation that would adapt the legislative authority behind one of the specially-created magnet schools—that is, Albany Tech Valley and Syracuse STEM schools—to the Breakthrough Schools. If the legislature has already considered and approved many of the fundamental components of creating a new magnet school, then arguably what would remain in considering a new proposed school based on the same statutory language is the stated justification for the new schools and their academic focus. Section III of this report includes a mark-up adaptation of the statute that created the Albany Tech Valley school that could potentially be used as a “point of departure” model for Breakthrough Schools.

Review of Other School Systems Nationwide

As stated, many jurisdictions across the country have initiated efforts to integrate school systems. In selecting and analyzing the ten programs we studied, we sought to understand what factors contributed to the success—or downfall—of their efforts to reduce racial isolation in public schools. In addition to our review of these programs, we also conducted a number of interviews with experts knowledgeable about these and other school integration initiatives. As indicated in our summaries of these programs and interviews, and our takeaways, included in Parts V and VI of our report, each program arose in a specific political and geographic context: some were compelled through litigation, while others were created voluntarily; some involved a number of different school districts, and others operated wholly within one district; and the programs

² A recent amendment to the BOCES statute was made to allow all school districts—including the Big 5—to participate in “recovery high schools” as an alternative for students battling substance abuse. However, like traditional BOCES programs, graduates of recovery high schools receive a diploma from their local school district.

received funding through a variety of different sources. While no single program provides a wholesale model that could be replicated in Monroe County, we identified four essential ingredients to any program aimed at school integration:

- 1) *Enrollment.* A mechanism for open enrollment and a lottery system that equitably accommodates any excess demand for attractive inter-district programs;
- 2) *Funding.* Adequate and continuous funding sources that account for startup costs associated with preparing a facility and opening a new school as well as operating costs, while creating the desired financial incentives for district participation;
- 3) *Transportation.* Transportation solutions that allow all students to fully access educational and extracurricular opportunities without placing a heavy burden on participating families; and
- 4) *Community Support.* Strong and sustained advocates for the program coupled with a breadth of support and engagement across stakeholders (families and school and community leaders both in the city and the suburbs). The design of Breakthrough Schools will also be central to this effort; educational offerings should be tailored to attract participating families from both Rochester and the suburbs, while also drawing high quality educators and ensuring an inclusive and equitable environment. In Monroe County, this may involve the development of a unique curricular theme or pedagogical model in response to unmet needs in the community.

Recommendations

In order to create successful Breakthrough Schools attended by a socioeconomically diverse mix of students from both the City of Rochester and one or more suburban school districts in Monroe County, we anticipate that GS4A—in collaboration with committed school districts and community leaders and stakeholders—will need to obtain passage of enabling legislation that provides at least the following key elements, gleaned from our study of integration programs across the United States:

- open enrollment across school districts;
- an inclusive governance structure;
- adequate funding for startup and operating costs, providing incentives for school district participation; and
- an effective system for student transportation.

Based on our study of the BOCES structure and legislation, and statutes enabling creation of Tech Valley High School and the Syracuse Comprehensive Education and Workforce Training

Center, coupled with our analyses of the other local models and programs from other jurisdictions, we recommend the following specific provisions be included in the planning process and any proposed legislation allowing for the creation of Breakthrough Schools:

- Allow for full participation by RCSD and the other participating districts in both program governance and eligibility for BOCES funding.
- Creation of a Breakthrough Schools Planning Group, as outlined above, that would be responsible for proposing the overall structure, governance, financing, operations plan, and policies within which individual Breakthrough Schools can be developed and implemented.
- Authorization to provide a full curriculum unique to each Breakthrough School—both the core academic subjects and whatever supplemental focus may be chosen for each Breakthrough School—and to issue high school diplomas linked to the school and/or to the originating school district, as ultimately determined through the planning process.
- Provide for open enrollment by students from participating districts by lottery, weighted for sibling preference and socioeconomic status (either by individual eligibility for free and reduced lunch or through creation of residential zones that account for socioeconomic distribution in Monroe County), with each school designed to have roughly a 50-50 mix of low-income and middle and upper-income students.
- Provide for student transportation to and from Breakthrough Schools, ideally including funding and/or mechanisms to promote efficiency and reasonable transit times.
 - Tech Valley and the Syracuse Workforce Training Center both place this responsibility with the originating district, as does the Urban-Suburban Program. In view of Rochester’s limited resources—and its track record of providing transportation for participating Urban-Suburban students—we believe that a push for legislation should prioritize inclusion of funding for transportation, either directly to the schools or through the collaborative governance body, for as many years as possible.
 - In the alternative, transportation costs might be minimized if some inter-district schools were located proximate to parents’ workplaces.
- Provide funding for startup costs associated with preparing a building (either by repurposing an existing facility, building a new one, or creating a “school within a school” at a building with excess capacity).
 - Tech Valley High School provides for building aid to be supplied by member schools according to the method outlined in the BOCES statute, and explicitly makes the school eligible for BOCES capital aid.

- The Syracuse Comprehensive Education and Workforce Training Center received \$74 million in state funding to repurpose an old high school into the new high school and associated adult job training center.
- Provide for operational funding through the treatment of state per pupil aid in a way that will incentivize school district participation in the creation and full implementation of Breakthrough Schools. Perhaps consider additional financial incentives for districts that opt in in the early years of the program. The best incentivizing approaches would need to be worked out via the planning process outlined above, including discussions with NY State Department of Education officials.³

The recent passage of the statute allowing for creation of the Syracuse Comprehensive Education and Workforce Training Center offers several final lessons for the effort to create Breakthrough Schools. It is tempting to hope that the enactment of legislation on this scale—most notably the large amount of state funding—bodes well for a similar package for Rochester. However, there are several distinctions between the Syracuse program and the proposed Breakthrough Schools. First, the Syracuse Center will also house an adult job training center, which likely drew additional support to the project and justified a significant portion of its funding. Second, the high school program has a complementary focus on STEAM—an idea currently enjoying strong public support (a Breakthrough School with an arts focus, for example, would be unlikely to benefit from the same level of support). Third, the Syracuse statute was largely finalized before the full fiscal impacts of COVID-19 on state and municipal budgets became widely recognized. Even with these advantages, the Syracuse program was subject to resistance focused on budgetary concerns. However, stimulus funding available to NYS and to local school districts may help offset at least some of the negative financial impacts of COVID-19.

Legislation enabling Breakthrough Schools will likely require significant political sponsorship and capital, even if it does not provide for state building aid anywhere near the scale of the Syracuse program. Building a political coalition and garnering public support will be essential to passage. And because of the political headwinds facing such an effort, we encourage GS4A to follow the steps outlined above to engage with stakeholders and invest significant energy and care into getting the details of the enabling legislation right on the first try. It also will be crucial to determine where to build in appropriate flexibility to allow for adjustments to the program over its early years versus what essential details should be spelled out in the law—and to engage in honest and difficult dialogue upfront about what those specifics should be. The enabling legislation should also provide for a long enough runway of funding that Breakthrough Schools are able to get off the ground without having to return to the political arena for more. Because funding is key to getting new schools off the ground, we also recommend that GS4A seek out all

³ One possible approach could be something similar to the Syracuse Center, which, like Urban-Suburban, considers students part of their originating district for aid purposes. This might enable the Breakthrough Schools to capture the higher funding levels allocated to RCSD students. Another possibility is to consider statutory mechanisms to offset loss of revenue to originating districts, such as “double counting” participating students (*i.e.*, sending per-pupil state aid to both the Breakthrough School and the original district, even for a limited phase-in period).

available sources of funding on the federal, state, and local levels.

Our bottom line conclusion: Breakthrough Schools that are socioeconomically and racially diverse and that offer unique educational opportunities not otherwise available to students in Monroe County school districts should be considered a realistic, feasible and viable option likely to improve educational outcomes and long-term success among all students, and particularly those in geographical areas with high concentrations of poverty. This report outlines practical proposals designed to incentivize school districts to collaborate in the creation of a structure to implement proposed pilot interdistrict magnet schools.

II RELEVANT NEW YORK STATE PROGRAMS

A. CHARTER SCHOOLS

1. Introduction and Background

Charter schools are publicly funded schools that New York Education Law⁴ authorizes as education corporations.⁵ Outside of New York City, charter schools are authorized by the New York State Board of Regents or the State University of New York Board of Trustees. Charter schools are governed by a not-for-profit board of trustees, rather than by the board of education, and have the freedom to establish their own policies, design their own educational programming, and manage their resources.

2. The NYS Charter Schools Act

The legal authorization for New York State charter schools is provided under New York State Charter Schools Act of 1998 (“The Act”), which covers formation and oversight of charter schools, admissions, funding and causes for termination or revocation of a charter. Certain aspects of the admissions and funding criteria are consistent with the goals of BT Schools, while other aspects appear to be inconsistent with the proposed mission and structure.

a. Student Body Admissions

Section 2854(2)(a) of the Act governs student admission requirements for New York State charter schools and provides that:

Admission of students shall not be limited on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry; provided, however, that nothing in

⁴ NY Educ. Law Sections 2850 – 2857. Passed in 1998, the Act was significantly amended in May 2010 in order to qualify for the U.S. federal government’s Race to the Top program, and was further amended in April 2014, June 2015, April 2016, June 2016 and April 2017, as reflected by the following excerpted redline, of the Act <https://www.nyccharterschools.org/sites/default/files/resources/NYSCharterSchoolsActof1998.pdf>

⁵ Corporate formation requirements include bylaws, articles of incorporation, code of ethics, whistleblower policy, conflict of interest policy.

this article shall be construed to prevent the establishment of a single-sex charter school or a charter school designed to provide expanded learning opportunities for students at-risk of academic failure or students with disabilities and English language learners; and provided, further, that the charter school shall demonstrate good faith efforts to attract and retain a comparable or greater enrollment of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program when compared to the enrollment figures for such students in the school district in which the charter school is located. (emphasis added)

Thus, the statute requires charter schools to admit a proportion of students eligible for free and reduced lunch programs comparable to or more than the proportion in the affected district. This would mean that a charter school located in the City of Rochester but drawing students from both RCSD and surrounding suburban districts would need to calibrate its enrollment carefully to meet the statutory minimum, and may not be able to achieve GS4A’s desired balance of socioeconomic diversity. Given demographics, this requirement is less likely to be a challenge for a charter school located in a suburban district but drawing significant numbers of students from RCSD.

The Act provides for the creation of a universal application to facilitate broad access and fairness in charter school applications⁶, but to date a statewide universal application has not been provided by the regulating body. The Rochester school district has implemented a universal online application system for charter schools within RCSD.⁷

Under Section 2854(2)(b) of the Act, if there are more applicants to a charter school or a particular grade level in that school than capacity (in the school or the grade level), the school must conduct a lottery to determine its student body, with preference given to returning students (if applicable), students residing in the school district in which the charter school is located, and siblings of pupils already enrolled, provided that preference is given in the charter school’s lottery to students at risk of academic failure (including low-income students), English-language learners, or students with disabilities. However, the capacity for boards to utilize the weighted lottery system to create more integrated schools is limited by the population and enrollment figures in the school district in which the charter school is located.

b. Charter School Funding

New York charter schools receive their funding from the districts where they reside. The district of residence must send a “proportional share” of their per-pupil funding to those charter schools.⁸ If a local school board does not provide those funds to a charter school, the New York State Comptroller is authorized to deduct that amount from the district budget and send them to the charter school directly. Because charter school funding represents a direct reduction of the funds

⁶ NY Educ. Law Section 2854(2)(b)

⁷ <https://goodschoolsroc.schoolmint.net/welcomeback>

⁸ Section 2856(1)(a) of the Act.

available for a district’s traditional schools, the Monroe County suburban districts might not support the creation of an inter-district charter. Thus, the charter school program likely would not be a source of funding for, for example, transportation to and from school.

Charter schools are treated as tax exempt entities and in many jurisdictions supplement their state funding with tax exempt bond issuances. New York state administers grants, including certain federal funds that can assist charter schools with start-up funding. However, we do not know whether this source of funding would be available to the Breakthrough Schools, or whether it would cover transportation costs.⁹

3. Possible Policy Changes

To use the charter school structure for Breakthrough Schools to enroll diverse student bodies in the manner envisioned by GS4A, at least the following changes would need to be implemented (as also recommended by the Century Foundation): revision of enrollment targets; expansion in opportunities for inter-district enrollment; providing for universal enrollment; revision of accountability metrics to reward school administrators for achievement on diversity metrics.¹⁰ *Without such changes, New York’s Charter Act— designed as it is for schools housed within a single school district, and without the goal of affirmatively increasing diversity—is a fundamental mismatch for Breakthrough Schools.*

B. THE URBAN-SUBURBAN PROGRAM

1. Overview

Established in the 1960’s, the Urban-Suburban Inter-district Transfer Program (the “Urban-Suburban Program”) is a New York program that operates exclusively in Monroe County.¹¹ The Urban-Suburban Program allows students who live in participating districts to “apply for transfer from the Rochester City School District to suburban school districts or from suburban districts to the Rochester City School District”¹² The program’s stated purpose, as adopted by the Governance Board of the Urban-Suburban Program (the “Governance Board”),

⁹ We are aware of one charter school, Blackstone Valley Prep in Rhode Island, that is inter-district. <https://www.providencejournal.com/news/20171203/blackstone-valley-preps-new-high-school-marks-milestone-for-charter> (“The biggest charter school network in Rhode Island, it now includes 1,800 students in six school buildings serving students from two economically struggling districts — Central Falls and Pawtucket — and two more middle-class communities, Lincoln and Cumberland.”). More research would be needed to determine whether its funds are drawn from state or local funds, or from an independent source. We also note that this school operates under Rhode Island law, which may differ substantially from that of New York.

¹⁰ The Century Foundation - <https://tcf.org/content/commentary/charter-schools-missing-new-york-city-school-diversity-plan/?session=1>

¹¹ Urban-Suburban Interdistrict Transfer Program, The History of Project U-S 50th Anniversary Edition (September 2015), *available at*: https://www.monroe.edu/cms/lib/NY02216770/Centricity/Domain/121/US_History_50thAnnivEdition_rev4_21_16.pdf.

¹² Monroe One, Urban-Suburban Interdistrict Transfer Program, Our Mission, *available at*: <https://www.monroe.edu/Page/933>.

but not set forth expressly in the law itself, is to “voluntarily decrease racial isolation, deconcentrate poverty and enhance opportunities for students in the Rochester City School District and in the suburban districts of the Greater Rochester Area.”¹³ The Governance Board expanded on this mission in the following statement of principles:

The Urban-Suburban Interdistrict Transfer Program, its students, parents and participating districts are dedicated to enhancing and enriching the schools and local communities by:

- Decreasing [R]acial Isolation
- Reducing Minority Group Isolation and the Segregation of Academic Opportunities
- Encouraging Intercultural Learning
- Promoting Academic Excellence
- Fostering Responsible Civic Leadership

This unique collaboration is committed to realizing the high expectations our community has for all of its children.¹⁴

Currently, sixteen Monroe County area school districts participate in the Urban-Suburban Program.¹⁵ While under the regulations the program is bidirectional, the most recent Urban-Suburban Program policy manual only discusses the “voluntary transfer of students from the Rochester City School District to participating suburban schools.”¹⁶ However, as further discussed below, our research shows that the Urban-Suburban Program has historically allowed suburban students to also transfer to urban schools.¹⁷

¹³ Urban-Suburban Interdistrict Transfer Program, Policy Manual (March 2019) (herein “*Policy Manual*”) at 4; *see also*, N.Y. Educ. Law § 3602(15) (2020) (“[a] school district which accepts pupils from another school district in accordance with a voluntary interdistrict urban-suburban transfer program designed to reduce racial isolation which is approved by the commissioner in accordance with regulations adopted by him for such purpose shall be eligible for aid...”); 8 N.Y. Comp. R. & Regs. § 175.24 (2020).

¹⁴ *Policy Manual* at 5.

¹⁵ The currently participating districts are Brighton, Brockport, East Irondequoit, East Rochester, Fairport, Hilton, Honeoye Falls-Lima, Monroe 1 BOCES, Penfield, Pittsford, Rochester City School District, Rush-Henrietta, Spencerport, Webster, West Irondequoit and Wheatland-Chili. Monroe One, Urban-Suburban Interdistrict Transfer Program, Participating School Districts, *available at*: <https://www.monroe.edu/Page/2639>.

¹⁶ 8 N.Y. Comp. R. & Regs. § 175.24(c)(1) (“the program will reduce racial isolation by transferring minority pupils, nonminority pupils or both on a voluntary basis between participating urban and suburban districts”); *cf.* *Policy Manual* at 7; *see also* Murphy, Justin, *Urban-Suburban May Admit White Students*, Democrat & Chronicle, (Mar. 19, 2015), <https://www.democratandchronicle.com/story/news/2015/03/19/urban-suburban-changes-minorities/25014423/>.

¹⁷ Lee, Jennifer, *Changes Ahead for Urban-Suburban Program*, (Nov. 25 2015), *available at*: <https://13wham.com/news/top-stories/changes-ahead-for-urban-suburban-program> (“Students from the suburbs will now also be able to transfer to four Rochester City High Schools, which include: P-Tech, Edison Career and Technology School, Young Men’s Leadership Academy and Wilson Commencement-IB Program”); *see also* Murphy, Justin, *Rochester schools to accept suburban students*, Democrat & Chronicle (Dec. 21, 2015).

State funding for the Urban-Suburban Program is directly distributed to participating school districts.¹⁸ A school district receiving a transferring student (“Receiving District”), upon meeting program requirements, will receive funding from the state of New York per the formula set forth in Education Law §3602(15).¹⁹ This formula, as described in Section b(ii), allocates funding such that a portion of funds from a student’s initial home school district (“Originating District”) follow the student to a Receiving District.²⁰ That is, the student’s Originating District will have certain funding previously allocated for a student transferred to the Receiving District along with the student.²¹ In contrast to paying tuition to attend a private school, the Urban-Suburban Program’s funding structure allows a student to transfer schools with minimal direct financial consequences to the student.²²

The Urban-Suburban Program is coordinated by Monroe One BOCES.²³ The Governance Board consists of: one representative from each participating suburban district, the Monroe One BOCES Superintendent (or designee), the Rochester City School District (“Rochester”) Superintendent (or designee), the Urban-Suburban Program Director, the Program Education Specialist, the Program Parent Advisory Council Representative, and the Program Community Liaisons. However, of these members, the Urban-Suburban Program Director, Program Community Liaisons, Program Education Specialist, and Program Parent Advisory Council Representative are non-voting members.²⁴ The Governance Board receives no public funding apart from what each school district pays to administer the program.²⁵ While the Governance Board does not determine how aid is allocated to students, it sets forth all program “policies and procedures.”²⁶ Additionally, the Governance Board has “authority over all matters relevant to the [Urban-Suburban] Program that are neither addressed nor prohibited by federal or

<https://webcache.googleusercontent.com/search?q=cache:QAIEJiQDVesJ:https://www.democratandchronicle.com/story/news/2015/12/21/rcsd-urban-suburban-wilson-edison-crane/77704004/+&cd=9&hl=en&ct=clnk&gl=us>.

¹⁸ 8 N.Y. Comp. R. & Regs. § 175.24(c).

¹⁹ *Id.*; N.Y. Educ. Law § 3602(15).

²⁰ N.Y. Educ. Law § 3602(15); *see also* Murphy, Justin, *As Enrollment in Some Suburban Districts Shrinks, Districts Draw Students and Revenue from City*, *Democrat & Chronicle*, (June 11, 2019).

<https://webcache.googleusercontent.com/search?q=cache:KzFfdqTFuBcJ:https://www.democratandchronicle.com/story/news/education/2019/06/11/urban-suburban-program-drives-funding-rochester-shrinking-suburban-schools/3741404002/+&cd=1&hl=en&ct=clnk&gl=us>.

²¹ *Id.*

²² Monroe One, Urban-Suburban Interdistrict Transfer Program, Applying to Urban-Suburban: FAQs about Applying, available at: <https://www.monroe.edu/Page/944> (“Is there a cost to participate in the program? No”).

²³ Monroe One, Urban-Suburban Interdistrict Transfer Program, Welcome, available at: <https://www.monroe.edu/Page/932>. Monroe One is one of the New York State Boards of Cooperative Educational Services (“BOCES”) programs. It is a cooperative extension of the ten Monroe County suburban school districts on the east side of Rochester and also serves 134 school districts from 12 neighboring counties in western New York. Monroe One carries out a program of shared educational services and instruction and offers more than 80 programs and services for more than 46,000 students in our ten component school districts.

²⁴ *Policy Manual* at 3; Monroe One, Urban-Suburban Interdistrict Transfer Program, Governance Board, available at: <https://www.monroe.edu/Page/935>

²⁵ Finnigan, Kara *et al.*, *Regional Educational Policy Analysis: Rochester, Omaha, and Minneapolis’ Inter-District Arrangements*, *Education Policy*, (Jan. 30, 2014),

<http://epx.sagepub.com/content/early/2014/01/31/0895904813518102> at 24.

²⁶ Monroe One, *supra* note 12.

state law, [the Commissioner of Education’s (the “Commissioner”)] regulation, or the policies and procedures of Monroe #1 BOCES.”²⁷

2. Potential Issues

Participation in the Urban-Suburban Program peaked in the early 1990s.²⁸ More recent efforts to enroll students have proven costly and only moderately successful.²⁹ Several features of the Program do not lend themselves to Breakthrough Schools; for example, Daniel White, the District Superintendent of Monroe One BOCES, told us that he would not recommend the Program for inter-district schools with shared governance, as *the program was not designed to create new schools*. In order to consider use of the Urban-Suburban Program to create Breakthrough Schools, the following program participation, funding and transportation issues will likely need to be addressed.

a. Program Participation -- The Urban-Suburban Program Is Selective

The Urban-Suburban Program is explicitly voluntary for school districts.³⁰ Under Education Law §3602(15) and §175.24 of Title 8 (Education Department) of the Rules and Regulations of the State of New York, the Commissioner cannot direct a school district to participate in the program.³¹ Space in the program for students varies from year to year, as there is “no predetermined number of spots, slots, spaces or quotas for placement. Districts must have space for the students that live in their districts, and then the program has the opportunity to fill available space.”³²

The Urban-Suburban Program is “unique in the country in operating through a selection process rather than a random lottery.”³³ Students apply to participate in the Urban-Suburban Program, not to attend a particular school or district.³⁴ The application authorizes the Urban-Suburban Program to access all the information in the applicant’s educational record.³⁵ Each

²⁷ Policy Manual at 3.

²⁸ Murphy, Justin, *Q&A: The Urban-Suburban program*, Democrat & Chronicle, (Jan. 22, 2017), <https://www.democratandchronicle.com/story/news/2015/01/17/urban-suburban-program-rochester/21921257/> (approximately 1,000 students participated in the Urban-Suburban Program in the early 1990s with participation falling below 600 in the early 2010s); see also Murphy, *supra* note 20 (807 city students participated in 2017-18).

²⁹ Bryant, Erica, *Socioeconomic integration grant founders, but hope remains for diverse schools*, Democrat & Chronicle, (Oct. 25, 2018), <https://www.democratandchronicle.com/story/local/communities/time-to-educate/stories/2018/10/25/rochester-suburban-city-integration-plan-fails-but-hope-remains-time-educate/1488136002/>.

³⁰ 8 N.Y. Comp. R. & Regs §175.24.

³¹ Appeal to the Commissioner, Decision No. 16,102 (July 27, 2010) (“Both Education Law §3602(15) and §175.24 of the Commissioner’s regulations specify that a school district’s participation in an interdistrict urban-suburban transfer program is “voluntary.” The record in this case indicates that [the Akron Central School District (“respondent”)] has not elected to participate in such voluntary program and I cannot direct respondent to do so”).

³² Monroe One, *supra* note 12.

³³ Murphy, *supra* note 20.

³⁴ Monroe One, *supra* note 12.

³⁵ Policy Manual at 7.

school district then reviews “student report cards, test scores, attendance records, and family/student interviews” to determine which transferring students they will accept.³⁶ After the records review, if a principal feels that a student is qualified, the principal may invite the student and their parents to a mandatory in person interview.³⁷ Based on the records review and interview, a student will only be accepted if the principal believes “there will be a good fit between the student and the school and that the student is likely to succeed in the school.”³⁸ A 2013 study found that approximately only 10% of applicants are accepted each year.³⁹

Concern has been expressed about whether this selection process is discriminatory or results in inequitable access to superior education for minority students. A 2009 study by the University of Rochester’s Warner School of Education, found that after the formal records review, program administrators were conducting “subjective scan[s] of the applications” in an informal pre-screening process to only recommend applications for interviews if they thought applicants would be a “good fit.”⁴⁰ Even during the formal interview process, “program administrators once again played a large role in the process and often the principals deferred to their judgment.”⁴¹

More so, during the in-person interview, school principals also determined the “risk” of a student, based in part, on whether students came from a “stable” “two-parent” family⁴² and if they had “disciplinary problems.”⁴³ Students could then still be disqualified at the interview stage for “red flags,” such as if their parents “expressed concerns about what supports would be in place for African American students at the new school.”⁴⁴ Lesli Myers-Small, the new Rochester superintendent, who was previously superintendent in Brockport, a suburban participating district,⁴⁵ has argued that interviews are important for determining which students

³⁶ Board of Cooperative Educational Services, Urban-Suburban Interdistrict Transfer Program Pupil Application Form (October 2019), available at: <https://www.monroe.edu/site/handlers/filedownload.ashx?moduleinstanceid=13565&dataid=32529&FileName=FILE%20Application%20with%20New%20Letterhead%202020-21.pdf>.

³⁷ *Policy Manual* at 7.

³⁸ *Id.*

³⁹ Finnigan, Kara and Scarbrough, Burke, *Defining (and Denying) Diversity Through Interdistrict Choice*, 7 *Journal of School Choice* (2013) at 9.

⁴⁰ Finnigan, Kara S. and Stewart, Tricia J., *Interdistrict Choice As A Policy Solution: Examining Rochester’s Urban-Suburban Interdistrict Transfer Program (USITP)*, National Center on School Choice, (Oct. 25-27, 2009), <https://files.eric.ed.gov/fulltext/ED513912.pdf> at 19 (“Many of the principals alluded to a process that occurred before they reviewed the applications and nearly all said that they were not quite sure what happened at this stage... Principals described getting a specific pile of applications that were given to them based upon the program administrators’ knowledge of their district and what would be a “good fit”); see also Brian J. Reece, *Debunking the Myth of Job Fit in Higher Education and Student Affairs* (2019). (The authors argue that the concept of “fit” is often a coded word used by school selection committees “that benefits white people and negatively impacts candidates of Color”).

⁴¹ Finnigan, *supra* note 25 at 24.

⁴² *Id.* at 21.

⁴³ *Id.* at 20.

⁴⁴ *Id.*

⁴⁵ Rochester City School District, Rochester Board of Education Names Dr. Lesli Myers-Small as Superintendent, *available at*:

will be able to succeed in their Receiving schools.⁴⁶ However, certain Urban-Suburban Program administrators themselves expressed concerns with the selection process, with one administrator noting that the process “might work better if they just admitted the students randomly.”⁴⁷ Their belief appears to be that a lottery system would minimize the impact of racial and class biases on student selection.

The National Coalition on School Diversity (the “NCSD”), similarly agrees that a lottery system is a more equitable way to admit students. After conducting a review of inter-district school programs (the “NCSD Review”), the NCSD supports randomized selection processes for interdistrict integration programs generally and notes that it is “critical that students are able to participate in a lottery and are placed for the duration of their educational career...”⁴⁸ The Urban-Suburban Program is beginning to address these issues in its selection process by using “a small, randomized stack of applications...to choose...students rather than poring through scores of students to select just one or two.”⁴⁹

b. Funding Is Subject to Meeting Certain Requirements

The Urban-Suburban Program is primarily funded through aid from the State of New York. To qualify for aid, a transfer program must meet certain requirements. First, the school districts participating in the Urban-Suburban Program must provide data, satisfactory to the Commissioner, “showing anticipated decreases in the number and percentage of minority pupils in the schools of the participating urban district and anticipated increases in the number and percentage of minority pupils in the schools of one or more participating suburban districts, that the program will reduce racial isolation by transferring minority pupils, nonminority pupils or both on a voluntary basis between participating urban and suburban districts.”⁵⁰

Second, the superintendents of schools in each participating district must provide assurances that:

1. students enrolled in nonpublic elementary and secondary schools located within the school district “will be afforded an opportunity to participate in the program on an equitable basis where their participation would assist in achieving a reduction in racial isolation in elementary or secondary schools;”

<https://www.rcsdk12.org/site/default.aspx?PageType=3&DomainID=1&ModuleInstanceID=63347&ViewID=6446EE88-D30C-497E-9316-3F8874B3E108&RenderLoc=0&FlexDataID=73679&PageID=1>.

⁴⁶ Murphy, *supra* note 20.

⁴⁷ Finnigan, *supra* note 25 at 28.

⁴⁸ Finnigan, Kara S. and Jellison Holme, Jennifer, Regional Educational Equity Policies: Learning from Inter-district Integration Programs, The National Coalition on School Diversity, (Sept. 2015), <https://school-diversity.org/pdf/DiversityResearchBriefNo9.pdf> (emphasis in source).

⁴⁹ Murphy, *supra* note 20.

⁵⁰ 8 N.Y. Comp. Codes R. & Regs. § 175.24(c)(1).

2. transferring students will not be selected solely to improve any of the Receiving District’s “programs, activities or other areas of nonacademic pursuits” such as athletic or extracurricular programs, or be selected solely because “they are pupils with handicapping conditions, are irregular in attendance, are considered to be a disciplinary problem, are pupils of low academic performance, or are pupils with other problems or conditions that the receiving district is not specifically equipped to handle;”
3. Receiving Districts will provide transferring students with “full access to, and the opportunity to participate in, all educational programs, services and school activities” available to students who are residents of the Receiving District; and
4. parents of transferring students will be able to participate in school/community activities affecting the education of transferring students.

Upon meeting these requirements, certain funding is allocated for each student and to each Receiving District per Education Law § 3602(15)’s funding formula. This formula divides funding for the Urban-Suburban Program into three components: 1) Transportation Aid; 2) Foundation Aid; and 3) Differential Aid.

Transportation Aid: Under Education Law § 3602(15)(d), transportation aid will amount to the total “approved cost of the transportation of pupils in a voluntary interdistrict transfer program approved by the [C]ommissioner.”⁵¹ While not specified in the Urban-Suburban Program’s funding statutes, transportation costs, per Rochester Board of Education policy, are currently borne by Rochester, with the Rochester Transportation Department providing all transportation for the Urban-Suburban Program’s participating students.⁵² Per Education Law § 3602(15)(d), Rochester’s transportation costs should be covered up to the cost approved by the Commissioner. Daniel White confirmed that should a suburban student transfer to Rochester, the Originating District would cover their transportation costs.

Foundation Aid: Generally, foundation aid is a largely unrestricted category of aid that supports general expenditures by school districts and is separately calculated pursuant to annually updated guidelines and formulas provided by the New York State Education Department (“NYSED”).⁵³ In the context of the Urban-Suburban Program, under Education Law § 3602(15)(c), a Receiving District “shall be eligible to receive, for each excess transfer pupil, an amount equal to the selected foundation aid for such district”⁵⁴ with aid increasing in an

⁵¹ N.Y. Educ. Law § 3602(15)(d).

⁵² Monroe One, Urban-Suburban Interdistrict Transfer Program, Transportation Overview, *available at*: <https://www.monroe.edu/Page/6615>.

⁵³ The State Education Department, Office of State Aid, 2019-20 State Aid Handbook Formulas Aids and Entitlements for Schools in New York State as Amended by Chapters of the Laws of 2019, *available at*: https://stateaid.nysed.gov/publications/handbooks/handbook_2019.pdf at 7.

⁵⁴ N.Y. Educ. Law § 3602(15)(c).

amount equal to “the product of thirty-six and one-half percent (0.365) and the positive remainder resulting when the total foundation aid base is subtracted from the current year total foundation aid”⁵⁵ with total foundation aid base being the amount a district was eligible to receive⁵⁶ for the immediately preceding school year.⁵⁷ In brief, a Receiving District’s current year foundation aid is affected by how many students transfer via the Urban-Suburban Program, as each transferring student qualifies the Receiving District for some amount of additional foundation aid. It appears that Education Law § 3602(15)(c)’s foundation aid formula is a way for school districts “to capture annual changes to foundation aid levels.”⁵⁸

However, in our discussion with Mr. White, he indicated that foundation aid is not being allocated to schools as originally intended and instead foundation aid is now “frozen” for all New York school districts. Per our conversation it appears, in practice, that allocation is not in line with Education Law § 3602(15)(c). That said, it is unclear how foundation aid is currently being allocated in the context of the Urban-Suburban Program. Our research does show that foundation aid is a highly political component of New York’s education budget, and the subject of constant proposed revisions and significant controversy in Albany.⁵⁹

Differential Aid: Under Education Law § 3602(15)(e), in addition to foundation aid, a Receiving District “shall be eligible to receive an amount equal to the per pupil aid differential multiplied by the transfer pupil count” with the per pupil aid differential being “the positive remainder resulting when the aid paid per pupil for such school district is subtracted from the aid paid per pupil for the transfer pupil’s district of residence.”⁶⁰ Thus, the Receiving District is entitled to the aid a student transferring through the Urban-Suburban Program is allocated by their Originating District, minus the aid the Receiving District would have received if that student was a resident, multiplied by the total number of Urban-Suburban Program students transferring to the Receiving District that year. The aid a student is initially allocated is determined by the state, with more aid being allocated to students that have disabilities, require additional English language support or live in poverty.⁶¹ Due to demographic factors, this means that students in urban districts, on average, have a significantly higher per pupil aid amount allocated to them. For example, in 2019, a student in Rochester was allocated “\$10,600, compared to a median of \$3,700 in the participating suburban districts.”⁶²

⁵⁵ N.Y. Educ. Law § 3602(15)(b)(2).

⁵⁶ N.Y. Educ. Law § 3602(1)(j).

⁵⁷ N.Y. Educ. Law § 3602(1)(b); *see also*, The State Education Department, [supra](#) note 47 at 40.

⁵⁸ Murphy, *supra* note 20.

⁵⁹ Williams, Zach, *Three questions that define school ‘Foundation Aid’*, City & State New York, (Oct. 22, 2019), available at: <https://www.cityandstateny.com/articles/policy/education/three-questions-define-school-foundation-aid.html> (“A legal case filed two decades ago and a complicated funding formula help make public school funding one of the most contentious issues in New York state politics to this day.... Conflicting interpretations of the [Committee for Fiscal Equity] ruling continue to divide Gov. Andrew Cuomo and state lawmakers, which in turn continues to affect funding levels for 2.6 million students across more than 700 school districts”).

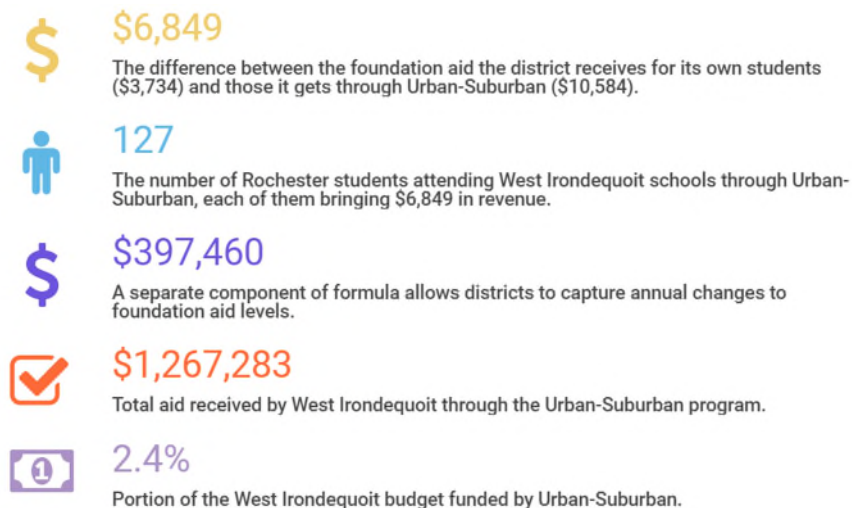
⁶⁰ N.Y. Educ. Law § 3602(15)(b)(6).

⁶¹ Murphy, *supra* note 20.

⁶² *Id.*

Theoretically, the higher per pupil aid amount for students in urban school districts is “meant to provide for the costly services” those students are more likely to require.⁶³ However, as discussed above, the selection and interview process for the Urban-Suburban Program means that mainly only high performing urban students, who generally do not need support programs, are being admitted to suburban schools, while still bringing in a higher per pupil aid amount. Hence, this funding structure often results in a “bonus payment” to the receiving district, as discussed below, because it diverts “money that otherwise would be going to the city school district” to suburban Receiving Districts, and therefore may further widen educational disparities.⁶⁴

By way of example, the following chart created by the Rochester newspaper the Democrat & Chronicle, breaks down the West Irondequoit School District’s (“West Irondequoit”) 2017-18 budget to show how much funding West Irondequoit received solely from accepting students participating in the Urban-Suburban Program:⁶⁵



Source: New York State Education Department General Formula Aid Output Report, 2017-18.

Similarly, in the 2017-2018 school year, for every Rochester student transferring to East Rochester Union Free School District, the school received an additional \$5,414 in state aid funding, collectively more than 2.5% of the Receiving District’s annual budget.⁶⁶ Together, the Monroe County participating school districts received \$7.1 million in state revenue in 2017-18, or “\$8,800 on average per student that the districts would not have received if the student were a resident.”⁶⁷ As this “extra” funding, which is derived from the difference in median per pupil aid allocation in an urban school district versus a suburban school district, follows transferring students to the Receiving District, this “becomes somewhat of a bonus payment” for suburban

⁶³ *Id.*
⁶⁴ *Id.*
⁶⁵ *Id.*
⁶⁶ *Id.*
⁶⁷ *Id.*

Receiving Districts “and in theory serves as an incentive to receive students.”⁶⁸ The Urban-Suburban Program’s current selection process also means that the “most talented, committed parents (and students) are leaving” urban districts. Unfortunately, for families remaining in an urban district, this flow of funding from urban to suburban school districts “has a ripple effect” of drawing resources away from already underserved schools.⁶⁹

Additional Funding Sources: The Urban-Suburban Program occasionally does receive limited additional funding through other sources, such as grants. For example, in 2015, Rochester received a NYSED Socioeconomic Integration Pilot Program (“SIPP”) grant.⁷⁰ The SIPP grant was offered to “support programs that will increase greater socio-economic integration” in qualifying school districts with “poverty rates of at least 60 percent.”⁷¹ In 2015, SIPP grant recipients were required to:

- Engage community and stakeholders in applying for and implementing the SIPP grant;
- Coordinate across schools within a district to ensure that increased socioeconomic integration in one school does not result in increased socioeconomic isolation in other school;
- Develop a transportation plan for transferring students between schools;
- Develop a plan for professional development to support teachers working in diverse classrooms; and
- Set school-specific diversity goals for schools with poverty rates of at least 60 percent and schools with high concentrations of low socioeconomic status students.⁷²

Rochester used the SIPP grant to encourage suburban students to voluntarily enroll in urban schools (School 12, School 50 and Edison).⁷³ However, a NYSED report evaluating the SIPP grant’s success noted that Title 1 funds “carry strict allowable cost guidelines” which did not account for suburban schools’ transportation costs.⁷⁴ NYSED further reported that Monroe

⁶⁸ Finnigan, *supra* note 25 at 24.

⁶⁹ Murphy, *supra* note 20.

⁷⁰ Bryant, *supra* note 29.

⁷¹ New York State 25available at: <http://www.nysed.gov/news/2015/nys-schools-receive-grants-promote-socioeconomic-integration>. Eligibility requirements for a SIPP grant have since been updated. To now receive a grant a district must: (1) have been identified as Title I Focus Districts; (2) have at least one Priority or Focus School; have a district poverty rate (FRPL) of at least 50%; and be ranked among the top 12 in the state on either “within district” and/or “between district” segregation metrics. New York State Education Department, *New York State Education Department Announces \$1.4 Million in Grants Available to Support School Integration Efforts*, (Jan. 10, 2018), available at: <http://www.nysed.gov/news/2018/new-york-state-education-department-announces-14-million-grants-available-support-school>.

⁷² *Id.*

⁷³ Bryant, *supra* note 29.

⁷⁴ New York State Education Department, *2015-18 Socioeconomic Integration Pilot Program (SIPP)*, available at: <https://www.regents.nysed.gov/common/regents/files/2015-18%20Socioeconomic%20Integration%20Pilot%20Program%20-%20SIPP.pdf>.

County suburban schools didn't have the funding to put "skin in the game"⁷⁵ for transporting students at the elementary level, with one school withdrawing from the partnership due to financial reasons, and flagged that maintaining momentum through leadership changes was a problem.⁷⁶

To attract suburban students Rochester spent "more than \$400,000 on an effort to draw students" to Edison, "including \$75,000 for the Advertising Council of Rochester" to create an advertising campaign.⁷⁷ Overall, the success of this grant is questionable as only ten suburban preschoolers transferred districts with "[e]fforts to enroll any suburban students at any higher grades" failing.⁷⁸ One critic further noted that the SIPP grant expenditure amounted to bribing "mainly middle and upper class white folks to send their children" to urban school districts.⁷⁹

Apart from NYSED aid, the Urban-Suburban Program is supported by smaller private funds and scholarships.⁸⁰ With limited access to supplementary funding and contentious use of grant funds, the Urban-Suburban Program is primarily bound to a funding structure that has disparate impacts on urban Originating Districts.

c. Additional Program Challenges

Parent Participation: The Urban-Suburban Program has stringent requirements for participating students' parents. These requirements may be difficult to meet for single parents, parents with irregular work schedules, parents who work multiple jobs and/or have limited access to transportation and childcare. For example, the parents of new students must attend the new student orientation and all parents are required to attend at least two parent group meetings each year.⁸¹ Parents must also attend all parent-teacher conferences in person, and "must attend other conferences called by school staff for specific purposes such as issues of academic progress, attendance, or behavior."⁸² Parents may also be required to directly coordinate with transportation officials.⁸³ Additionally, the Governance Board "expects parents to engage with as many school activities relevant to their child as time allows." Regardless of the student's performance, "[s]tudents may be withdrawn from the Urban-Suburban Program as a result of their parents' failure to meet the requirements for parental involvement."⁸⁴ While students and families may request a review of any withdrawal, the superintendent's review will be final and non-appealable.⁸⁵

⁷⁵ *Id.* at 9 (This problem was avoided at the PreK level as parents generally handled transportation).

⁷⁶ *Id.* at 8.

⁷⁷ Bryant, *supra* note 29.

⁷⁸ Murphy, *supra* note 16.

⁷⁹ *Id.*

⁸⁰ See e.g., The Community Foundation, *The Urban-Suburban Program Fund*, available at: <https://www.racf.org/fund/urban-suburban-program-fund/>.

⁸¹ *Policy Manual* at 13.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Policy Manual* at 14.

⁸⁵ *Policy Manual* at 11.

Special Needs Students: The Urban-Suburban Program’s selection process also complicates program participation for students with special needs. A University of Rochester study noted that “administrators were very clear that someone who was designated as receiving special education services was a “red flag” because of the “cost” to the district.”⁸⁶ Another administrator noted that the purpose of the screening process was partially “to avoid putting kids into your district that, and this is brutally honest, that are going to require special education services.”⁸⁷ If a student is accepted that proves too costly for the district, then the “[d]istricts can un-enroll students they believe are not a good fit.”⁸⁸ For example, in 2009 “11% [of students] were removed from the program at the district/school’s request.”⁸⁹ While it is unclear how many students were removed due to requiring special education services, nothing in the Urban-Suburban Program’s enabling legislation prevents Receiving Districts from sending students back to their Originating Districts.⁹⁰ The NCS D Review notes that it is crucial that students “are placed for the duration of their educational career.”⁹¹

Functionally One Directional: Generally, the Urban-Suburban Program contemplates allowing minority students to transfer from “predominantly minority city schools” to participating suburban schools, and non-minority students to transfer from suburban schools to city schools provided that their transfers “do not negatively affect the racial balance of the receiving school.”⁹² That said, the program is largely one directional, but “[s]uburban students in particular circumstances occasionally attend city schools — for instance, new immigrants and refugees may attend the Rochester International Academy when they first arrive. That said, it has been at least 20 years since the Urban-Suburban program was fully reciprocal.”⁹³

However, in a push “to create a suburban-to-urban component,” program administrators added in socio-economic factors alongside race as qualifying criteria for the Urban-Suburban Program in 2015.⁹⁴ The 2019 Urban-Suburban Program application notes that “[a]s one of the stated purposes of the U-S Program is to deconcentrate poverty, income verification may be required to determine eligibility for the program.”⁹⁵ The consequences of using socioeconomic status to allow previously disqualified white students to transfer from urban to suburban schools could be to include increase racial isolation of the city schools.⁹⁶

⁸⁶ Finnigan, *supra* note 25 at 23.

⁸⁷ *Id.* at 22.

⁸⁸ Murphy, *supra* note 28.

⁸⁹ Finnigan, *supra* note 25 at 28.

⁹⁰ See N.Y. Educ. Law § 3602(15); 8 N.Y. Comp. R. & Regs. § 175.24.

⁹¹ NCS D Review at 17.

⁹² *Brewer v. West Irondequoit Cent. School Dist.*, 212 F.3d 738 (2d. Cir. 2000) at 742; see also N.Y. Comp. Codes R. & Regs. § 175.24(a)(1) (A minority student is defined as a student “who is of Black or Hispanic origin or is a member of another racial minority group that historically has been the subject of discrimination”).

⁹³ Murphy, *supra* note 16.

⁹⁴ *Id.*; see also Lee, *supra* note 17.

⁹⁵ Board of Cooperative Educational Services, *supra* note 36.

⁹⁶ Murphy, *supra* note 16.

The admission of white students from Rochester to the Urban-Suburban Program was at issue in *Brewer v. West Irondequoit Central School District*.⁹⁷ In *Brewer*, a white student applied to the Urban-Suburban Program to transfer from Rochester to the suburban West Irondequoit district.⁹⁸ Her application was denied when the director of the Urban-Suburban Program discovered she was white.⁹⁹ Subsequently, the student sued for an injunction in federal court, arguing that her exclusion from the Urban-Suburban Program, due to her race, violated the Constitution’s Equal Protection Clause.¹⁰⁰ The United States Court of Appeals for the Second Circuit noted that, based on the Urban-Suburban Program’s mission statement and enabling legislation, the stated goal of the program was to reduce racial isolation.¹⁰¹ The Second Circuit held that if reducing racial isolation is a constitutionally permissible goal, then the most effective means of achieving that goal would be to make admission decisions based on race—preserving the program, but leaving open the possibility that it may be struck down in the future.¹⁰² The Appeals Court’s analysis only looked at using racial classifications as a means of reducing racial isolation (in line with the statute), and made no reference to also considering socio-economic factors which were not part of the mission statement at the time. As *Brewer* is the primary case on admission into the Urban-Suburban Program, and it only discussed the relevance of race to the admissions process (as set forth in the authorizing statute), the recent 2015 addition of socio-economic criteria may be subject to legal challenges. We are not aware of any such challenges to date.

Transportation: According to administrators, the “primary challenge” faced by students participating in the Urban-Suburban Program has been transportation.¹⁰³ There are many reports of transferring students having to “get up early, transfer in an unsafe area, miss out on after school opportunities, including clubs, sports, and meeting with teachers, and travel long rides.”¹⁰⁴ A parent noted that her daughter “has to leave the house by 6:15 a.m. to catch two city buses and arrive at Pittsford Sutherland High School by 7:30 a.m. Her [other] daughter...gets on a yellow bus at about 6:35 a.m. and arrives at Barker Road Middle School in Pittsford about an hour later.”¹⁰⁵

If transportation isn’t readily available for activities before or after school, the burden falls on parents to transport students, which may serve to limit the full access to such activities

⁹⁷ *Brewer, supra* note 92.

⁹⁸ *Id.* at 741.

⁹⁹ *Id.* at 624.

¹⁰⁰ *Id.* at 624.

¹⁰¹ *Id.* at 752 (“‘Racial isolation’ is defined by the Regulations as existing when ‘a school or school district enrollment consists of a predominant number or percentage of students of a particular racial/ethnic group.’ Accordingly, the districts that voluntarily participate in the Program must demonstrate each year that implementation of the Program ‘will reduce racial isolation by transferring minority pupils, nonminority pupils or both on a voluntary basis between participating urban and suburban districts’”) (internal citations and quotations omitted).

¹⁰² *Id.* at 752.

¹⁰³ Finnigan, *supra* note 25 at 32.

¹⁰⁴ *Id.*

¹⁰⁵ Murphy, *supra* note 20.

contemplated by the program’s regulatory requirements.¹⁰⁶ Additionally, if Rochester is unable to provide transportation due to a school closure in Rochester, and the student’s Receiving District is open, it is the parent’s responsibility to transport the student.¹⁰⁷ If the parent is unable to do so, then the student “will be considered legally absent.”¹⁰⁸ As noted above, students may also be required to take local city buses in areas where Rochester is unable to provide traditional yellow school bus service.¹⁰⁹ Transportation problems were what one administrator believed caused certain Rochester families participating in the Urban-Suburban Program to eventually move to the suburbs.¹¹⁰ To successfully keep students participating, the Urban-Suburban Program most likely will need to restructure its transportation policies.

3. Potential Options for the Proposed Inter-District Schools

To expand or amend the Urban-Suburban Program to create a Breakthrough School, as contemplated by Great Schools 4 All, legislation would need to address program participation, funding strategies, transportation, continued student support and community engagement. A 2019 poll, conducted by the Siena Research Institute shows that while 60 percent of city residents support a countywide school district, only 49 percent of suburban residents agree.”¹¹¹ Along racial lines, 78 percent of Black respondents were in favor of a countywide school district, in comparison to 47 percent of white respondents.¹¹² On the other hand, as noted earlier, about three-quarters of parents with school-aged children in Monroe County indicated they would consider sending their child to a diverse magnet school outside their home district on a voluntary basis, including large majorities of all racial groups and of both city and suburban parents.

To help understand the challenges to applying the Urban-Suburban Program to different aspects of the proposed Breakthrough Schools, this spreadsheet sets out, at a high level, certain hypothetical amendments to the Program and potential legal and other considerations relevant to their implementation. We do not recommend pursuing such wholesale changes in the current authorizing legislation given (1) the low likelihood of a change of that nature being seriously considered; and (2) the different—but complementary—means and methods of the Urban-Suburban program and Breakthrough Schools.

¹⁰⁶ Finnigan, *supra* note 25 at 32.

¹⁰⁷ *Policy Manual* at 18.

¹⁰⁸ *Id.*

¹⁰⁹ Monroe One, *supra* note 46.

¹¹⁰ Finnigan, *supra* note 25 at 33.

¹¹¹ Murphy, Justin, *Anything goes for fixing Rochester schools — except including county districts*, Democrat & Chronicle, (Mar. 5, 2019), available at:

<https://www.democratandchronicle.com/story/news/education/2019/03/05/rcsd-nothing-off-table-except-integration-roc-future/3057972002/> (The full 2019 poll data set is available at

<https://assets.documentcloud.org/documents/5782157/Rochester-Siena-Poll-Monroe-1218-Crosstabs.pdf>).

¹¹² *Id.*

| <u>Alternate Option</u> | <u>Summary</u> | <u>Potential Legal Barriers</u> | <u>Potential Additional Challenges:</u> |
|-------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Amending program participation rules | The existing Urban-Suburban program could be amended to either make participation based on a lottery system or mandatory. More suburban students will then be encouraged to participate in the program and transfer to urban school districts. If the program is to be a lottery system, then statutory program participation criteria would be further expanded to address both racial and socio-economic diversity goals. Differential aid would continue to follow the transferring students. | Existing legislation will need to be amended to make program participation functionally bidirectional, mandatory or based on a lottery system and fully inclusive of socio-economic diversity. Legislation may need to address transportation costs for a functionally bidirectional, mandatory program. | Suburban residents are reluctant to send students to urban school districts. Successfully making the program functionally bidirectional would require significant community engagement. Concerns about suburban districts losing certain funding to urban schools will also need to be addressed. In the case of a functionally bidirectional, mandatory program, Originating Districts may not be able to bear the transportation costs of increased transferring students. |
| Transferring all students in an urban school district to a suburban school district | All students, or all students from selected grades, from an urban school would be transferred to an existing suburban school. Differential aid would continue to follow the students to the existing suburban school. The student population of the merged school would then be approximately half suburban students | Current legislation does not contemplate merging school districts under the Urban-Suburban Program. Legislation may also be needed to address transportation costs. | The location of the suburban Receiving District could pose significant transportation problems for transferring urban students. Transporting large numbers of transferring students may require increased funding. Transferring students |

| <u>Alternate Option</u> | <u>Summary</u> | <u>Potential Legal Barriers</u> | <u>Potential Additional Challenges:</u> |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | and half urban students. | | may need to travel long distances to attend school. A suburban school with enough space and resources to accommodate all transferring urban students would need to be identified. If only a large portion of urban students are transferred, their urban Originating District stands to lose significant funding. |
| Transferring all students in a suburban school district to an urban school district | All students, or all students from selected grades, from a suburban school would be transferred to an existing urban school. Differential aid would continue to follow the students to the existing urban school. The student population of the merged school would then be approximately half suburban students and half urban students. | Current legislation does not contemplate merging school districts under the Urban-Suburban Program. Legislation may also be needed to address transportation costs. | Suburban residents are reluctant to send students to urban school districts, thus such a proposal would require significant community engagement. An urban school with enough space and resources to accommodate all transferring suburban students, which can be accessed without long travel times would need to be identified. |
| New BT school in a suburban district or an | A new BT school would be created in either an existing suburban or urban district that would | Current legislation does not authorize creating new schools under the Urban-Suburban | A viable location for the BT school that doesn't pose significant |

| <u>Alternate Option</u> | <u>Summary</u> | <u>Potential Legal Barriers</u> | <u>Potential Additional Challenges:</u> |
|-------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| urban district | serve both urban and suburban students with admission based on racial and socio-economic criteria with a goal of creating a diverse learning environment. A possible iteration would be first establishing a BT pre-k or elementary school in order to ensure students are placed in the new school system early on in their educational careers. | Program. Authorizing legislation would need to be passed. | transportation challenges or face opposition from suburban residents would need to be identified. Additional sources of funding would have to be identified for associated startup and overhead costs. Additionally, if the school was only for certain grades, problems may arise when students have to return to their original districts. |
| Combining urban and suburban school districts to create a new school district | Neighboring urban and suburban school districts would be merged to create a new school district that will serve both urban and suburban students in the same new school district. The new school district would receive the combined funding of the merged school districts. | Current legislation does not contemplate merging school districts under the Urban-Suburban Program. Legislation may also be needed to address transportation costs. | Viable neighboring school districts would need to be identified. Successfully creating a new school district would require significant community engagement. Additional sources of funding may need to be identified for associated startup and overhead costs. |

We conclude that the provisions of the Urban-Suburban platform and existing legislation are not a good fit for a Breakthrough Schools structure.

C. BOCES

1. Introduction and Background

Since their creation in 1948, Boards of Cooperative Educational Services (“BOCES”) have provided shared educational programs and related services to school districts within New York State. BOCES are public organizations that are created when “two or more school districts decide that they have similar needs that can be met by a shared program.”¹¹³ This emphasis on shared educational programming between school districts is not a recent development for BOCES – instead, it is at the heart of the BOCES legislation. The statute creating the BOCES program,¹¹⁴ which is part of New York’s Education Law, was intended to enable “small rural school districts to combine their resources to provide services that otherwise would have been uneconomical, inefficient, or unavailable.”¹¹⁵ Accordingly, the programs and services provided by BOCES are required to generate both cost savings for the participating school districts as well as greater opportunities for the students to earn credit for academic subjects, along with certain other criteria.¹¹⁶

BOCES programs that apparently have met these requirements are spread across New York State, with 37 separate BOCES currently partnering with nearly every school district in the state and with programs and services ranging from the well-known BOCES special education services to full-curriculum high schools focused on innovative technology or alternative education. Near the City of Rochester there are two separate BOCES, the Monroe One BOCES and the Monroe 2-Orleans BOCES, which collectively provide services to 19 school districts in Monroe County. Students can take some or all of their required coursework through BOCES and on BOCES campuses but still remain enrolled with their original school district and, upon graduation, receive their diploma from that district rather than from BOCES.¹¹⁷ *This allows school districts to encourage students to utilize BOCES without decreasing their enrollment numbers, thus avoiding any negative impact on the funding for their schools.*

The current BOCES statutory framework provides a robust and comprehensive governance and operating structure that has enabled BOCES to successfully partner with school districts around New York State for over 70 years, as indicated in GS4A’s September 21, 2016 memo. However, as currently drafted, the BOCES statute does not provide an *immediate* path forward for the proposed Breakthrough Schools. The BOCES statute includes limitations on the types of services that can be provided by a BOCES program as well as certain requirements that

¹¹³ Madison-Oneida BOCES, *BOCES Primer*, NEW YORK STATE DEPARTMENT OF EDUCATION, <http://www.p12.nysed.gov/mgtserv/boces/primer.html> (last updated April 5, 2011).

¹¹⁴ N.Y. Ed. Law § 1950.

¹¹⁵ Madison-Oneida BOCES, *BOCES Primer*, NEW YORK STATE DEPARTMENT OF EDUCATION, <http://www.p12.nysed.gov/mgtserv/boces/primer.html> (last updated April 5, 2011).

¹¹⁶ N.Y. Ed. Law § 1950(4)(bb).

¹¹⁷ *BOCES Fact Sheet*, NEW YORK STATE SCHOOL BOARDS ASSOCIATION, <https://www.nyssba.org/about-nyssba/boces-fact-sheet/> (last visited October 10, 2020) (“BOCES does not confer high school diplomas. Most Career and Technical students and some special education students graduate from their local districts with Regents diplomas.”).

would likely prevent the curriculum offered by Breakthrough Schools from closely matching the traditional courses already offered by the participating schools. Additionally, Rochester and the four other biggest cities in New York State (collectively referred to as the “Big Five” herein and in BOCES-related literature) are currently prohibited from joining BOCES as member districts, which limits their ability to formally participate in BOCES governance by not having any representatives on the BOCES board and makes them ineligible to receive state reimbursement for certain services purchased through BOCES (“BOCES Aid”).¹¹⁸ The Big Five do receive some state aid that can offset the costs of certain BOCES services (“Special Services Aid”) should they seek them;¹¹⁹ however, this funding stream may be significantly less than the amount of BOCES Aid that would have been received by a non-Big Five school.¹²⁰ Also, in recent years, Rochester has had difficulty purchasing some services from BOCES as a non-member school district due to a lack of excess capacity in the BOCES programs.¹²¹

Due to the limitations on and requirements relating to BOCES services as well as the restrictions on Rochester’s BOCES membership, eligibility for BOCES Aid and access to BOCES services, the *BOCES statute would need to be amended or certain provisions would need to be carved out before it could be used to authorize Breakthrough Schools. However, the BOCES statute can provide helpful insight into the type of legislation that would be needed to create and operate Breakthrough Schools*, which would similarly draw students and funding from multiple schools in that region. Although drafting the specific statutory amendments and carve-outs is beyond the scope of this memo, the following section describes certain aspects of the BOCES statute that are consistent with the design of the proposed Breakthrough Schools as well as certain aspects of the statute that would likely prove problematic. We also discuss Tech Valley High School in Albany, New York (“Albany”), a four-year regional public high school operated jointly between Capital Region BOCES and Questar III BOCES that was created pursuant to its own separate statute and could provide an example of a different statutory

¹¹⁸ *About BOCES*, BOCES OF NEW YORK STATE, <https://www.boces.org/about-boces/> (last visited October 10, 2020); see N.Y. Ed. Law § 1950(1)-(3) (describing the BOCES governance structure and the role of the member school districts), § 1950(5) (describing BOCES Aid), and § 1950(8-b, -c) (making the Big Five ineligible for BOCES Aid); see also *Description of 2020-21 New York State Executive Budget Recommendations for Elementary and Secondary Education*, EDUCATION UNIT – NEW YORK STATE DIVISION OF THE BUDGET, <https://www.budget.ny.gov/pubs/archive/fy21/exec/local/school/2021schoolaid.pdf> (“Districts which are components of [BOCES] are eligible to receive BOCES service and administration, capital, and rental aids with the total amount subject to a save-harmless provision.”).

¹¹⁹ *2018-19 State Aid Handbook*, THE UNIVERSITY OF THE STATE OF NEW YORK – THE STATE EDUCATION DEPARTMENT, https://stateaid.nysed.gov/publications/handbooks/handbook_2018.pdf (page 32) (“These special aids are provided to the five large city school districts (Buffalo, Rochester, Syracuse, Yonkers, and New York City), and any other school district that was not a component of a Board of Cooperative Educational Services (BOCES) in the base year, in lieu of aid payable to other school districts for career education and administrative uses of technology purchased as shared services, and aided through BOCES. A school district receiving aid under this category may not claim BOCES Aid for similar services/purchases.”).

¹²⁰ Daniel White, the District Superintendent of the Monroe One BOCES, indicated that certain BOCES have advocated doing away with the disparity in funding for BOCES services between the Big Five school districts and the other school districts throughout New York State.

¹²¹ According to Jeff Crane, the former Superintendent of the West Irondequoit Central School District, Rochester has had difficulty purchasing special education services from BOCES in recent years due a lack of available spaces in those programs for students from a non-member school district.

framework enabling the creation of Breakthrough Schools.¹²²

2. The BOCES Statute

The statutory framework for the BOCES platform, Sections 1950-51 of the New York Education Law, is comprehensive – it includes the requirements for creating a BOCES to provide shared services to multiple school districts and also covers, among other things, the governance, budgeting, planning, contracting, hiring and cost-sharing aspects of BOCES. *Many of these provisions could potentially be applied in the context of Breakthrough Schools, while some, as currently drafted, are inconsistent with the framework envisioned for Breakthrough Schools.* Due to these inconsistencies between the BOCES statute and the proposed Breakthrough Schools, certain portions of the BOCES statute would need to be overcome or modified, significantly in some instances, either through special legislation or an amendment to the BOCES statute, if used in connection with the creation and operation of Breakthrough Schools. *We believe such changes are feasible and reasonable.*

i. Aspects of the BOCES Statute That Are Consistent With Breakthrough Schools

Many aspects of the BOCES statute are consistent with the framework that would be needed to authorize and operate Breakthrough Schools, particularly those portions of the statute relating to the logistics of running, overseeing and funding the educational programs and services. The BOCES statute confers fairly broad authority on each BOCES to take the actions required to establish and operate certain educational programs and services. For instance, when requested by the member school districts, BOCES are authorized under the statute to, among other things, provide “academic and other programs and services in the school year,” including “academic course offerings” at regular BOCES centers or at leased sites; hire teachers and staff, including school nurses, psychologists, guidance counselors and art, music and physical education teachers; maintain and operate a cafeteria or restaurant service; and provide or contract for student transportation.¹²³ Except as described below, the BOCES statute does not expressly limit the type of academic instruction that can be provided and, as also described more below, some BOCES currently operate full-curriculum high schools that are focused on science, technology, engineering and math (“STEM”), and some of the high schools provide an alternative learning environment for students who may struggle in a traditional classroom setting. In addition, BOCES are permitted, subject to any required approvals, to enter into certain contracts and leases; purchase real property, furniture, equipment and supplies; allocate the costs of its services to the member school districts and receive reimbursements from public funds; and provide services to non-member school districts.¹²⁴ The BOCES statute also provides the framework for its governance and oversight by establishing governing boards, requiring that various periodic reports and budgets be prepared and filed and soliciting approval from

¹²² 2005 McKinney’s Session Law of New York, Chapter 757 (S. 5729), November 9, 2005 (attached hereto as Exhibit A).

¹²³ N.Y. Ed. Law § 1950(4)(bb), (4)(d)(1) and (4)(q).

¹²⁴ N.Y. Ed. Law § 1950(4)(h)(3), (4)(p)(a), (4)(t), (4)(u), (4)(f), (4)(r) 4(w) and (8)(c).

New York State’s Commissioner of Education (the “Commissioner”) at various times.¹²⁵

Because the BOCES statute covers so many of the elements needed to establish and operate educational programs and services and because it has been used for over 70 years (and should therefore already be somewhat familiar to policymakers and educators), there may be a benefit to using that existing platform to help create the statutory framework for Breakthrough Schools. However, as explained below, there are some significant limitations to using the current BOCES statute for Breakthrough Schools.

ii. Aspects of the BOCES Statute That Are Inconsistent With Breakthrough Schools

At its core, the BOCES statute is intended to help provide educational opportunities and services that might not otherwise exist in individual school districts due to cost limitations.¹²⁶ In connection with this objective, the statute imposes various requirements on any proposed academic program or service to ensure that cost efficiencies are attained and to prevent redundancies. Specifically, each year the Commissioner reviews the proposed programs and services to be provided by BOCES that year, which the Commissioner can approve only if all of the following are satisfied: (i) they have been requested by two or more member school districts; (ii) *they will provide additional opportunities for students*; (iii) *they are expected to result in a cost savings to the member school districts requesting them*; (iv) *they will provide greater opportunity for students, including those with handicapping conditions, to earn credit for academic subjects*; and (v) they will insure a greater or more appropriate use of facilities by BOCES (emphasis added).¹²⁷

In addition to the potential limitations relating to cost savings and redundant academic curriculums, the BOCES statute seemingly imposes a separate, yet related, limitation on the types of academic programs and services that can be offered, which could impact the ability to operate Breakthrough Schools with a full, traditional academic curriculum (i.e., a curriculum that does not have a specialty focus, such as STEM). The statute broadly authorizes BOCES to provide “academic and other programs and services in the school year,” including “academic

¹²⁵ N.Y. Ed. Law § 1950-51 (generally).

¹²⁶ Madison-Oneida BOCES, *BOCES Primer*, NEW YORK STATE DEPARTMENT OF EDUCATION, <http://www.p12.nysed.gov/mgtserv/boces/primer.html> (last updated April 5, 2011).

¹²⁷ N.Y. Ed. Law § 1950(4)(bb). There appears to be little information publicly available regarding the specific circumstances that would support a finding that a BOCES program or service offered either “additional opportunities for students” or a “greater opportunity for students, including those with handicapping conditions, to earn credit for academic subjects,” both of which are requirements under the BOCES statute. N.Y. Ed. Law § 1950(4)(bb)(2). There are currently 54 separate legal cases that cite to the BOCES statute but none analyze or interpret these requirements. However, presumably in connection with the cost savings requirement, a manual prepared by the New York State Education Department indicates that each proposed shared service “should be developed on the basis of effectiveness or efficiency,” which could be evidenced by one or more of the following: (i) individual component districts lack sufficient numbers of pupils eligible for and/or interested in receiving the service; (ii) the program requires high cost or specialized equipment, facilities or staff; (iii) operation of the program by the BOCES will result in a lower total cost than individual component district operation; and/or (iv) operation of the program by the BOCES will result in improved service to pupils.

course offerings” at regular BOCES centers or at leased sites during the school year or summer school periods, as requested by the member school districts.¹²⁸ Despite its vague wording, this authorization likely falls short of enabling BOCES to provide a full academic curriculum that is not specialized. Each BOCES program and service must not only “be expected to result in a cost savings to the two or more component school districts requesting the programs and services” but must also “provide additional opportunities for pupils” as well as a “greater opportunity . . . to earn credit for academic subjects.”¹²⁹ As a result, the BOCES statute might be read to limit the type of curriculum available at Breakthrough Schools by prohibiting a duplication of the traditional public school curriculum that is already available at the member school districts. This interpretation seems consistent with (i) the original intent of the BOCES statute, which was to provide academic opportunities where they otherwise wouldn’t exist due to financial constraints; (ii) the remainder of the BOCES statute, which discusses specialized program offerings, such as “career education subjects” and special education classes for students with disabilities; and (iii) the actual programs and services currently offered by BOCES in New York State, which fall into the following categories: special education, career and technical education, technology, professional development, adult education and management services.¹³⁰ *GS4A’s Breakthrough Schools proposals are designed to be unique curricular offerings that do not currently exist in any school districts in Monroe County. Nonetheless, changes in legislation likely would need to focus on broadening the types of programs and services BOCES can provide, in addition to enabling Rochester to join BOCES as a member district (see section IV below).*

3. Alternative BOCES High School Programs

Despite the BOCES statute’s restriction on duplicative academic offerings, some BOCES have developed full-curriculum high school programs, albeit ones that have a specialty focus. For instance, several BOCES currently operate Pathways in Technology Early College High Schools, a 4- to 6-year program that provides students with the opportunity to earn both a high school diploma as well as college credit (each known as “P-TECH program”).¹³¹ Unlike a traditional high school, the P-TECH programs focus on project-based learning and STEM subjects. The students in these programs graduate with a degree from their local high school but often take classes exclusively at a BOCES campus and participate in job-shadowing and internship experiences.

Additionally, several BOCES also currently provide alternative high school programs for students who might otherwise struggle in a traditional classroom setting, including the recently conceptualized and developed “recovery high school” for students battling substance abuse. Like the P-TECH programs, these alternative high schools are often located on BOCES

¹²⁸ N.Y. Ed. Law § 1950(4)(bb)(3)(b).

¹²⁹ N.Y. Ed. Law § 1950(4)(bb)(2).

¹³⁰ Madison-Oneida BOCES, *BOCES Primer*, NEW YORK STATE DEPARTMENT OF EDUCATION, <http://www.p12.nysed.gov/mgtserv/boces/primer.html> (last updated April 5, 2011); N.Y. Ed. Law § 1950(4)(d)(1); and *BOCES Fact Sheet*, NEW YORK STATE SCHOOL BOARDS ASSOCIATION, <https://www.nyssba.org/about-nyssba/boces-fact-sheet/> (last visited October 10, 2020).

¹³¹ For example, P-TECH programs are offered at Hamilton-Fulton-Montgomery BOCES, Capital Region BOCES and Erie 2-Chautauqua-Cattaraugus BOCES, among others.

campuses and provide the credits required for students to graduate from their local school district.¹³² Recovery high schools were proposed by Governor Andrew Cuomo in 2017, and one such school was launched by the Broome-Tioga BOCES in 2019.¹³³ To accommodate the creation of the recovery high schools, the BOCES statute was amended to expressly permit BOCES to enter into arrangements with non-member school districts, including the Big Five, so that they too may participate in the recovery high school programs.¹³⁴ Significantly for the Big Five schools, this amendment also specifies that for purposes of participation in the recovery high schools (and only for that purpose), all school districts are eligible for BOCES Aid, which normally the Big Five could not receive.¹³⁵

The P-TECH and alternative high school programs are apparently sufficiently different from the traditional public high school curriculum to allow BOCES to provide these services.¹³⁶ To be the subject of a comparable legislative amendment, Breakthrough Schools likely would need a curriculum that is likewise sufficiently different from the ones offered at the participating school districts in order to satisfy the statutory requirement that students be provided additional opportunities as well as a greater opportunity to earn academic credit through BOCES. Also, as discussed more below, the recent amendment to the BOCES statute relating to recovery high schools, and specifically the component of that amendment that provides BOCES Aid to both member- and non-member school districts, might indicate an acknowledgement by the New York legislators that equal access to funding for all participants is critical for a program's success.

4. Limitations on Rochester's Ability to Join BOCES

A further potential limitation on the use of the BOCES statute for Breakthrough Schools is RCSD's inability to join BOCES as a member district.¹³⁷ Rochester, along with the four other biggest cities in New York State, is currently prohibited from joining BOCES.¹³⁸ As indicated,

¹³² Examples of the alternative high schools can be found at the Broome-Tioga BOCES, the Cayuga-Onondaga BOCES, the Dutchess BOCES and the Ulster BOCES.

¹³³ *Broome-Tioga BOCES Launches New York's First Recovery High School*, NEW YORK STATE SCHOOL BOARDS ASSOCIATION, <https://www.nyssba.org/news/2019/01/10/on-board-online-january-14-2019/broome-tioga-boces-launches-new-york-s-first-recovery-high-school/> (last visited October 30, 2020).

¹³⁴ N.Y. Ed. Law § 1950(4)(oo).

¹³⁵ N.Y. Ed. Law § 1950(4)(oo) ("Costs allocated to a participating non-component school district pursuant to a memorandum of understanding shall be aidable pursuant to subdivision five of this section to the same extent and on the same basis as costs allocated to a component school district.").

¹³⁶ As described above, the BOCES statute requires that programs and services provide additional opportunities for students, are expected to generate cost savings for the participating school districts and provide greater opportunity for students, including those with handicapping conditions, to earn credit for academic subjects. N.Y. Ed. Law § 1950(4)(bb)(2).

¹³⁷ *About BOCES*, BOCES OF NEW YORK STATE, <https://www.boces.org/about-boces/> (last visited October 10, 2020) ("BOCES membership is not currently available to the 'Big Five' city school districts: New York City, Buffalo, Rochester, Yonkers, and Syracuse.").

¹³⁸ This membership ineligibility for the Big Five appears to be the result of a negative implication of language in the BOCES statute enabling cities with less than 125,000 inhabitants to join a BOCES as a member district. Specifically, section 8 of the BOCES statute provides: "Notwithstanding any other provision of this chapter, and with the consent of the commissioner, likewise, at the request of the board of education of any city school district,

the BOCES statute does permit Rochester to purchase certain services from BOCES,¹³⁹ but Rochester’s membership prohibition is significant because Rochester is ineligible to join a BOCES board and formally participate in the governance and oversight of that BOCES. The governing board of each BOCES is comprised of representatives from each member school district. Like a local school board, each BOCES board is “responsible for curricular, financial and other policy decisions,”¹⁴⁰ including, but not limited to: (i) providing shared educational services to the member school districts, (ii) conducting needs assessments and long-range planning for BOCES and the member school districts, (iii) employing teachers and support staff to carry out BOCES programs, (iv) preparing an annual BOCES budget and overseeing annual expenditures and (v) setting policies for the organization and plans for future growth and change.¹⁴¹ Rochester’s inability to join and officially participate in the governance of BOCES could prove politically or logistically problematic if that same structure were carried over and applied to Breakthrough Schools because it may leave Rochester uncertain as to whether it would have any influence over such schools.

Additionally, RCSD may be reluctant to participate in Breakthrough Schools if, as a result of the current limitations in the BOCES statute, it could not receive BOCES Aid like the other school districts and therefore may end up receiving less funding than another district for a similar level of participation in Breakthrough Schools. As described above, RCSD and the other Big Five school districts are not eligible for BOCES Aid and instead receive Special Services Aid from the state, which is a different funding stream and can result in different levels of aid. According to Daniel White, the District Superintendent of the Monroe One BOCES, bifurcated funding for Rochester and the other participants could create a disparity in the school districts’ willingness to participate in, and stay committed to, Breakthrough Schools. Accordingly, as described above, there are several aspects of the BOCES statute that would likely need to be modified if used in connection with Breakthrough Schools, including the incorporation of RCSD as a member district, as is recommended in this report.

5. A Possible Alternate Approach – Tech Valley High School

As an alternative to the BOCES platform, there is at least one other statute that could provide some insight into what legislation authorizing Breakthrough Schools could potentially look like. In 2005, New York’s legislature passed a law that established Tech Valley High School in Albany (the “Tech Valley HS Act”); a copy of the law is included as Appendix A for

having a population of less than one hundred twenty-five thousand inhabitants, such city school district may, upon the consent of the board of cooperative educational services, be included as a component district for the purpose of this section and shall have all the rights and obligations of such component districts under this section.” N.Y. Ed. Law § 1950(8) (emphasis added). Additionally, the BOCES statute further limits the ability of the Big Five to access BOCES by permitting them to only purchase information system and instructional support services. *See* N.Y. Ed. Law § 1950(8-b, -c).

¹³⁹ N.Y. Ed. Law § 1950(8-b, -c).

¹⁴⁰ *BOCES Fact Sheet*, NEW YORK STATE SCHOOL BOARDS ASSOCIATION, <https://www.nyssba.org/about-nyssba/boces-fact-sheet/> (last visited October 10, 2020).

¹⁴¹ *Board of Education*, CAPITAL REGION BOCES, <https://www.capitalregionboces.org/about-us/board-of-education/> (last visited October 10, 2020).

reference.¹⁴² Tech Valley High School was not created pursuant to the BOCES statute, even though it is a joint venture between Capital Region BOCES and Questar III BOCES; indeed, the Tech Valley HS Act includes only a few references to the more general BOCES statute. Unlike typical BOCES programs, which offer specialized educational programs and services and do not confer high school diplomas, Tech Valley High School is expressly authorized to operate a full high school curriculum focusing on the core academic subjects and technology and can issue its own diplomas.¹⁴³ Tech Valley High School has been operating since 2007 and is open to students who live in the Albany region described in the statute, regardless of whether their local school district is a member of either Capital Region BOCES and Questar III BOCES, and the admissions process does not take into account a student's intellectual ability or academic or athletic achievement.¹⁴⁴ If the number of qualified applicants in any year exceeds the available spaces at Tech Valley High School, admission is granted based on a lottery, except that a preference is given to returning students.

The Tech Valley HS Act details how the school is to be governed, operated and funded, making it a potentially useful example of alternate legislation that could be leveraged to create Breakthrough Schools. Additionally, although changes would need to be made relating to the specific purpose and details of Breakthrough Schools and addressing the specific BOCES limitations that apply to Rochester (as described in Section II.C., above), the framework and mechanics included in the Tech Valley HS Act could possibly be used in new legislation aimed at creating Breakthrough Schools.

Some key aspects of the Tech Valley HS Act are as follows:

- Tech Valley High School is subject to the oversight of New York State's Board of Regents and is directly overseen by an 11-person board comprised of members representing the boards of Capital Region BOCES and Questar III BOCES along with representatives from the local business and higher education community.¹⁴⁵
- Tech Valley High School is authorized to operate a full-time high school program that covers the core academic subjects required for a high school diploma as well as a supplemental focus on innovative technology.¹⁴⁶
- Tech Valley High School's annual budget is subject to the approval of the boards of Capital Region BOCES and Questar III BOCES.¹⁴⁷
- Each student's original school district is required to provide transportation to Tech Valley High School. Additionally, these school districts must also supply textbooks, computer

¹⁴² 2005 McKinney's Session Law of New York, Chapter 757 (S. 5729), November 9, 2005.

¹⁴³ 2005 McKinney's Session Law of New York, Chapter 757 (S. 5729), November 9, 2005 (at §§ 1, 3, 4(8)).

¹⁴⁴ 2005 McKinney's Session Law of New York, Chapter 757 (S. 5729), November 9, 2005 (at § 7).

¹⁴⁵ 2005 McKinney's Session Law of New York, Chapter 757 (S. 5729), November 9, 2005 (at §§ 3(3), 3(4)(a)).

¹⁴⁶ 2005 McKinney's Session Law of New York, Chapter 757 (S. 5729), November 9, 2005 (at § 1).

¹⁴⁷ 2005 McKinney's Session Law of New York, Chapter 757 (S. 5729), November 9, 2005 (at § 5).

software, library material and health examinations (to the extent they would be required to provide these items and services to a nonpublic school student under New York State’s Education Law).¹⁴⁸

- Each student’s original school district is also required to make payments directly to Tech Valley High School for the following costs:¹⁴⁹
 - Tech Valley High School’s operational costs, which are apportioned according to a methodology adopted by Tech Valley High School’s board.
 - The payments made to cover Tech Valley High School’s operational costs are considered aidable shared services under the BOCES statute and are eligible for BOCES Aid (discussed above in Section 1).
 - The expenses from any acquisition of land or the construction or leasing of buildings by Tech Valley High School.
 - These costs are apportioned consistent with the methodology contained in the BOCES statute and shall be eligible for BOCES capital aid under the BOCES statute.

6. Summary

The following chart summarizes considerations for GS4A to use the BOCES model or a variation on it in the creation of Breakthrough Schools.

| Alternate Option | Summary | Potential Legal Barriers | Potential Other Challenges |
|--------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|
| Using the BOCES Statute to Create Breakthrough Schools | One potential option is to have the Breakthrough Schools created through and run by the Monroe One BOCES and/or the Monroe 2-Orleans | The BOCES statute requires that all programs provide students with additional opportunities and a greater opportunity to earn credit. To satisfy these requirements, it may | To address these inconsistencies, portions of the BOCES statute would need to be modified or |

¹⁴⁸ 2005 McKinney’s Session Law of New York, Chapter 757 (S. 5729), November 9, 2005 (at § 7(4)). The language in the Tech Valley Act, Sec. 7(4), suggests that state aid might be available for these costs: “The resident public school district shall be obligated to provide transportation, without regard to any mileage limitations. Furthermore, the appropriate public school district shall provide textbooks, computer software, library material and health examinations, in a manner consistent with the provision of these items and services to nonpublic school students as required by the education law. The appropriate public school district shall be eligible for any and all state aid for which they would otherwise be eligible for the provision of such items and services required by this subdivision to a nonpublic school student, provided however, that no mileage limitations shall be applied to the transportation costs associated with the transportation of students to and from the Tech Valley high school.”

¹⁴⁹ 2005 McKinney’s Session Law of New York, Chapter 757 (S. 5729), November 9, 2005 (at § 8).

| Alternate Option | Summary | Potential Legal Barriers | Potential Other Challenges |
|------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | <p>BOCES.</p> <p>As currently drafted, there are several aspects of the BOCES statute that are consistent with the contemplated Breakthrough Schools. Broadly speaking, the BOCES statute provides a familiar, established framework that enables students and funding to flow from member school districts to BOCES, with BOCES aid also available to the districts. Also, the BOCES statute already contains the mechanics for the oversight, planning and budgeting needed to run academic programs.</p> <p>However, as described in the other columns, there are significant inconsistencies between the BOCES statute and the Breakthrough Schools. Modifications or amendments to the BOCES statute would be needed in order to provide a path forward for the Breakthrough</p> | <p>be necessary for the Breakthrough Schools to offer a specialized curriculum like the P-TECH programs or other specialized curricular offerings.</p> <p>The BOCES statute also requires that all programs be expected to generate cost savings for the participating districts. This requirement could presumably be met since the P-TECH programs have apparently been able to satisfy it. However, requirement remains a condition precedent to the needed approval from New York State’s Commissioner of Education.</p> <p>Also, Rochester is currently unable to join BOCES as a member district, which prevents it from participating in BOCES governance, receiving BOCES aid and having full, predictable access to BOCES programs and services. We recommend that this be remedied by appropriate modification of the BOCES statute.</p> | <p>amended.</p> <p>Also, there could be reluctance among legislators to modify the BOCES statute just for Rochester since the other Big Five cities may be facing similar issues in their schools.</p> <p>BOCES has traditionally been known for providing vocational and special education programs and services. An informational campaign would help educate parents and students as to the types of courses offered at the Breakthrough Schools if they are run through BOCES.</p> |

| Alternate Option | Summary | Potential Legal Barriers | Potential Other Challenges |
|----------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | schools. | | |
| Using a Statute Similar to the Tech Valley HS Act to Create Breakthrough Schools | <p>Another potential option is to have a standalone statute created that authorizes and governs the Breakthrough Schools. In 2005, New York’s legislature passed a law creating Tech Valley High School in Albany, which is run jointly between Capital Region BOCES and Questar III BOCES.</p> <p>Very few aspects of the Tech Valley HS Act appear to be specific to that individual school (i.e., they could potentially apply to different schools that were set up under a similar law). Accordingly, the Tech Valley HS Act could provide an example of, or possibly even a template for, legislation authorizing and governing the Breakthrough Schools that is separate from the BOCES statute. In that scenario, the Breakthrough Schools could potentially be run jointly between the Monroe One BOCES</p> | <p>Tech Valley High School is run by Capital Region BOCES and Questar III BOCES. Albany is not a Big Five city and is a member of Capital Region BOCES. Accordingly, the Tech Valley HS Act did not need to contemplate any additional express language that would be needed to overcome restrictions in the BOCES statute for the Big Five cities. If the Tech Valley HS Act were to be copied to use for the Breakthrough Schools, additional language would be needed to ensure that Rochester could participate despite being a Big Five city and otherwise facing limitations on its ability to utilize BOCES.</p> | <p>Passing new legislation requires political sponsorship and will.</p> <p>Additionally, if run through the Monroe One BOCES and the Monroe 2-Orleans BOCES, to counter the well-known and long-running history of BOCES providing primarily vocational and special education programs and services, an educational campaign would be needed to inform parents and students of the additional types of programs offered through Breakthrough Schools.</p> |

| Alternate Option | Summary | Potential Legal Barriers | Potential Other Challenges |
|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|----------------------------|
| | <p>and the Monroe 2-Orleans BOCES.</p> <p>However, just as with seeking an amendment to the BOCES statute, changes would be needed in the Tech Valley HS Act that would be tailored to the specific circumstances of Monroe County school districts and the proposed Breakthrough Schools.</p> | | |

We conclude that the BOCES platform and existing legislation provides the most appropriate, practical and feasible foundation upon which to build a Breakthrough Schools structure.

D. THE SYRACUSE COMPREHENSIVE EDUCATION AND WORKFORCE TRAINING CENTER

1. Summary

The Syracuse Comprehensive Education and Workforce Training Center (“the Syracuse Center”) appears to be a model that would lend itself to the establishment of inter-district magnet schools. The bill specifically allows enrollment of students residing in the City of Syracuse, a regional BOCES—OCM BOCES (for Onondaga – Cortland – Madison), and surrounding districts in Central New York. Official press releases and statutes establishing the school indicate that the school is expected to serve 1000 students with an expectation that 60% of the students will be from the City of Syracuse and 40% from surrounding counties.

- The only statutory change made by the bill is to NY Edu. C. Sec. 3206.6.a(8), codifying the building aid for the project and setting the aid level at 1000 students.
- The bill also references—but does not revise—NY Edu. C. Sec. 3206, which concerns pupil transportation and requires participating school districts to provide busing without additional state aid.

- According to the legislative history of the bill & news surrounding the bill, the project was introduced by Syracuse Mayor Ben Walsh as part of the “Syracuse Surge” initiative, which is a group of projects announced in early 2019 that have the goal of lifting up impoverished neighborhoods.
 - June 2019 - Bill containing the project was initially approved by the state senate. The bill lapsed on the Governor’s desk.
 - December 2019 - The bill was reintroduced.
 - January 2020 - Bill signed by the Governor and incorporated into NY’s state budget bill.
 - April 2020 - The State Senate approved the Governor’s budget bill.
 - May 2020 - Onondaga County legislators approved borrowing of upfront funds that will be largely reimbursed by the State.
- Construction was expected to begin late summer/fall 2020 and is expected to take 2 years.
- News surrounding the project has been largely positive except for (1) budgetary concerns and (2) safety concerns over placing a full-service high school & adult job training center in the same building.
 - Budget concerns did not stop Onondaga county from passing the budget by the 2/3 majority required.
 - Safety concerns were raised when Governor Cuomo reintroduced the project in the budget bill with the job training center. However, safety concerns have not gained widespread attention.

The funds provided by the State appear to be for renovation and equipment purposes only. Yearly operating budgets are to be provided by the Syracuse school district and through agreements between the Syracuse school district and the surrounding counties. The statute indicates that the state will not provide additional operational funding over the yearly budget amount already provided to students based on their resident district since students enrolled in the new STEAM-focused high school are still considered pupils of their resident district for purposes of educational aid.

2. Discussion

The Syracuse Center appears to be a good model for establishing an inter-district magnet high school since it is a legislative carve-out that specifically allows Syracuse to contract with surrounding school districts to provide students with a STEAM-focused curriculum. However,

adoption of that model would face several challenges. First, budgetary issues could impede adoption of that model, since its state funding is mostly limited to paying for renovation and equipment. Operational costs are to be provided by Syracuse School District and contracts it enters with participating school districts. While the project itself was popular, budgetary concerns were at the forefront of the project's approval process and almost sunk the project. Second, and relatedly, any inter-district program likely would need to have strong political sponsorship; the Syracuse project needed significant political capital in its establishment.

Established under NY S.B. 7506, the N.Y. legislature approved \$74 million in funds for the city of Syracuse to renovate and repurpose the city's old Central Tech High School into a countywide school focused on science, tech, engineering, arts, and math.¹⁵⁰ The school is expected to serve about 1,000 students, 60% of whom are expected to be from the city of Syracuse and 40% of its students are expected to come from surrounding school districts.¹⁵¹ Students from outside the city of Syracuse are expected to be from central New York and the Onondaga, Cortland and Madison BOCES program.¹⁵²

As stated above, the project was introduced by Syracuse Mayor Ben Walsh as part of his "Syracuse Surge" development plan.¹⁵³ The bill added language to NY Edu. C. § 3206 allowing for the budgeting and establishment of the Syracuse Comprehensive Education and Workforce Training Center; but did not modify any other statutes. The bill references one other section in NY Edu. C. § 3206: § 3206.7, requiring participating districts to pay for their own busing. The bill was approved by the Assembly and Senate in June 2019, but Governor Cuomo was hesitant to sign the bill due to budgetary concerns over the estimated cost of \$75 million.¹⁵⁴ The bill was again approved by the Senate in December 2019 and was finally signed by Governor Cuomo in January 2020¹⁵⁵ and introduced back into the Senate as part of the Governor's budget proposal.¹⁵⁶

¹⁵⁰ Teri Weaver, *Syracuse STEAM School Still on Track*, SYRACUSE.COM, <https://www.syracuse.com/state/2020/04/syracuse-steam-school-still-on-track-ny-budget-includes-71m-for-job-training-center.html> (April 3, 2020).

¹⁵¹ *Id.*

¹⁵² 2019 Bill Text NY S.B. 7506 (April 3, 2020).

¹⁵³ Scott Willis, *Mayor and Superintendent Tour Old Central High Building as Optimism Grows for Future STEAM School*, WAER, <https://www.waer.org/post/mayor-and-superintendent-tour-old-central-high-building-optimism-grows-future-steam-school> (Jan. 9, 2020).

¹⁵⁴ Rick Moriarty, *Cuomo praises Syracuse STEAM school but says funding is the question*, SYRACUSE.COM, <https://www.syracuse.com/news/2019/11/cuomo-praises-syracuse-steam-school-but-says-funding-a-question-mark.html> (Nov. 12, 2019); see also, Mark Weiner, *NY lawmakers approve Syracuse STEAM school, send bill to Cuomo*, <https://www.syracuse.com/politics/2019/06/ny-lawmakers-approve-syracuse-steam-school-send-bill-to-cuomo.html> (June 21, 2019) (providing initial estimate of project as \$75 million).

¹⁵⁵ Mark Weiner, *NY Senate sends bill for Syracuse STEAM high school to Cuomo's desk*, SYRACUSE.COM, <https://www.syracuse.com/news/2019/12/ny-senate-sends-bill-for-syracuse-steam-high-school-to-cuomos-desk.html> (Dec. 31, 2019).

¹⁵⁶ *Governor Cuomo Unveils 31st Proposal of 2020 State of the State*, GOVERNOR'S PRESS ROOM, <https://www.governor.ny.gov/news/governor-cuomo-unveils-31st-proposal-2020-state-state-creating-states-first-comprehensive> (Jan. 6, 2020).

While the first version of NY S.B. 7506 (re-introduced as NY A.B. 9506 in Jan. 22, 2020) faced edits relating to finances, the section pertaining to the establishment of a Syracuse STEAM focused high school was not modified from its introduction. NY S.B. 7506 was enacted on April 3, 2020 on the assembly floor based on a majority vote (76 [73D-2R]-66 [27D-39R]-4).

The school that is part of the Syracuse Center is expected to provide a grade 9-12 high school curriculum with a STEAM focus and feature training and apprenticeship programs run by State University of New York - Empire State College in partnership with other local colleges.¹⁵⁷ A ‘core’ aspect of the STEAM high school bill approved by Governor Cuomo is the inclusion of an “adult job education” program under the same roof as the STEAM Regional High School.¹⁵⁸ While placing a full curriculum high school under the same roof as an adult education program initially raised some concerns, the concerns were not deal breakers.¹⁵⁹

State level funding is earmarked (\$71.4 million) and local level funding (\$2.6 million) was approved in May 2020.¹⁶⁰ There is broad support for the STEAM school, but budgets ravaged by the COVID crisis leave some legislators worried about the investment.¹⁶¹ Under the proposed legislation, the State will reimburse Onondaga County the earmarked amount during construction, but Onondaga County will front the cost.

Governor Cuomo issued this official statement regarding the school:¹⁶²

The Governor will create the state’s first regional high school to prepare high school students in the Syracuse region for 21st century industry careers. Students will be engaged in a rigorous and skills-oriented education focused on emerging technologies, project-based learning and collaboration. The school will provide specialized educational opportunities to ninth through twelfth graders residing in the City of Syracuse, the Onondaga-Cortland-Madison Board of Cooperative Educational Services region and the rest of Central New York, and will ultimately

¹⁵⁷ 2019 NY S.B. 7506, Part B, Section 2.3 (Apr. 3, 2020); see also, *Governor Cuomo proposes new education and workforce training center in Syracuse*, NEWSCHANNEL 9, <https://www.localsyr.com/news/local-news/governor-cuomo-proposes-new-education-and-workforce-training-center-in-syracuse/> (Jan. 6, 2020).

¹⁵⁸ 2019 NY S.B. 7506, Part B, Section 2.5 (Apr. 3, 2020).

¹⁵⁹ Marnie Eisenstadt, *Adult job training, new Syracuse STEAM school under one roof. Is that wise?*, SYRACUSE.COM, <https://www.syracuse.com/news/2020/01/adult-job-training-new-syracuse-steam-school-under-one-roof-is-that-wise.html> (Jan. 10, 2020).

¹⁶⁰ Tim Knauss, *County legislators approve \$74M bond sale for Syracuse STEAM school*, SYRACUSE.COM, <https://www.syracuse.com/news/2020/05/county-legislators-approve-74m-bond-sale-for-syracuse-steam-school.html> (May 6, 2020); see also, WSTR-TV, *Legislation to create Syracuse STEAM school included in state budget*, <https://www.localsyr.com/news/local-news/legislation-to-create-syracuse-steam-school-included-in-state-budget/> (Apr. 3, 2020).

¹⁶¹ Tim Knauss, *County legislators approve \$74M bond sale for Syracuse STEAM school*, SYRACUSE.COM, <https://www.syracuse.com/news/2020/05/county-legislators-approve-74m-bond-sale-for-syracuse-steam-school.html> (May 6, 2020).

¹⁶² *Governor Cuomo Unveils 31st Proposal of 2020 State of the State*, GOVERNOR’S PRESS ROOM, <https://www.governor.ny.gov/news/governor-cuomo-unveils-31st-proposal-2020-state-state-creating-states-first-comprehensive> (Jan. 6, 2020).

serve approximately 1,000 students, with 250 students per grade. The curriculum will be developed by local colleges including Syracuse University, Le Moyne College and Onondaga Community College.

Press has been mostly positive and centered around the project's role as part of a bigger Syracuse Surge development plan proposed by Syracuse Mayor Ben Walsh to address unmet needs of local employers for tech trained employees and Governor Cuomo's approval and support for the project:

New York Charter Schools Association: *Session Update*, NEW YORK CHARTER SCHOOLS ASSOCIATION, <https://nycharters.net/session-update-2021-new-york-state-executive-budget/> (Jan. 23, 2020).

Joshua Pietzold, *Former Central Tech High School to become new education and workforce training center*, CNYCENTRAL, <https://cnycentral.com/news/local/former-central-tech-high-school-to-become-new-education-and-workforce-training-center> (Jan. 6, 2020).

Scott Willis, *Still Full-STEAM Ahead for Regional High School and Worker Training Center in Syracuse*, WAER, <https://www.waer.org/post/still-full-steam-ahead-regional-high-school-and-worker-training-center-syracuse> (May 21, 2020).

Tom Magnarelli, *With Cuomo's approval, McMahon wants STEAM school to start as soon as possible*, WRVO, <https://www.wrvo.org/post/cuomo-s-approval-mcmahon-wants-steam-school-start-soon-possible> (Jan. 8, 2020).

Tim Knauss, *Moody's loves planned Syracuse STEAM school*, SYRACUSE.COM, <https://www.syracuse.com/news/2020/01/moodys-loves-planned-syracuse-steam-school-it-could-raise-home-values-keep-folks-from-moving-away.html> (Jan. 16, 2020).

3. Relevant Statutes

The following section summarizes the salient features of the Syracuse program, raising issues that need to be addressed, with comment on its applicability to Breakthrough Schools. (The most salient portions are highlighted.) The statute itself is attached as Appendix B.

Funding

- Building Costs - Provided mostly via state funding. To acquire or renovate existing properties or build new properties for Breakthrough Schools, this likely would require state legislation that includes a budget appropriation.
 - For the purpose of computation of building aid for the renovation and equipping of the Syracuse Comprehensive Education and Workforce Training Center High School authority for operation by the Syracuse City School District the building aid units assigned to this project shall reflect a building aid enrollment of one

thousand students and multiyear cost allowances for the project shall be established and utilized two times in the first five-year period. NY Edu. C. Sec. 3206.6.a(8)

- [Ten-year restriction on further building aid] Subsequent multi-year cost allowances shall be established no sooner than ten years after establishment of the first maximum cost allowance authorized pursuant to this subparagraph. NY. Edu. C. § 3206.6(8).
- Operational Costs – NY State is not providing operational aid. School districts that wish to participate are to provide tuition payments to the Syracuse city school district pursuant to mutually agreed-upon terms. For Breakthrough Schools, this would require legislation as well as significant buy-in from participating districts, since it represents a real local budget commitment. It also would require potentially challenging negotiations between RCSD and other participating school districts as to the level of cost participation.
 - Students attending such high school shall continue to be enrolled in their school district of residence. 2019 Bill Text NY S.B. 7506 Section 2.7.
 - For purposes of all state aid calculations made pursuant to the education law, students attending such high school shall continue to be treated and counted as students of their school district of residence. 2019 Bill Text NY S.B. 7506 Section 2.8.
 - It shall be the duty of the student's district of residence to make payments as calculated in this act directly to the Syracuse school district for each student enrolled in the high school. No costs shall be apportioned to school districts that elect not to participate in such high school. 2019 Bill Text NY S.B. 7506 Section 2.10.
 - The trustees or the board of education of a school district may enter into a memorandum of understanding with the board of education of the Syracuse city school district to participate in such high school program for a period not to exceed five years upon such terms as such trustees or board of education and the board of education of the Syracuse city school district may mutually agree. 2019 Bill Text NY S.B. 7506 Section 2.11.
 - Such memorandum of understanding shall set forth a methodology for the calculation of per pupil tuition costs that shall be subject to review and approval by the commissioner of education. 2019 Bill Text NY S.B. 7506 Section 2.12.

Transportation – under the statute, the student's resident school district must provide transportation, but such costs will be reimbursed for distances up to thirty miles. Legislation creating Breakthrough Schools could adopt a similar provision.

- The **public school district of residence shall be obligated to provide transportation**, without regard to any mileage limitations, provided however, for aid reimbursements pursuant to subdivision 7 of section 3602 of the education law, expenses associated with the transportation of students to and from the high school up to a distance of thirty miles shall be included (Apportionment of Public Monies: Apportionment for pupil transportation). 2019 Bill Text NY S.B. 7506 Section 2.9.

Enrollment – in the new school is not limited as long as a student is eligible for enrollment. This seems to be an equitable way to permit participation, including using a lottery weighed in preference for returning pupils if the schools are over-subscribed.

- “**Any student** eligible for enrollment in grades nine through twelve **of a public school entering into a memorandum of understanding with the board of education of the Syracuse city school district** to enroll students in the high school **shall be eligible for admission** to the high school.” 2019 Bill Text NY S.B. 7506 Section 2.12.
- “To the extent that the number of qualified applicants may exceed the number of available spaces, the high school shall grant admission on a random selection basis, provided that an enrollment preference shall be provided to pupils returning to the high school in the second or any subsequent year. The criteria for admission shall not be limited based on intellectual ability, measures of academic achievement or aptitude, athletic aptitude, disability, race, creed, gender, national origin, religion, ancestry, or location of residence.” 2019 Bill Text NY S.B. 7506 Section 2.12.

Oversight

- Building Cost – is paid for by the state, following approval of project costs. This would be another sensible provision for Breakthrough Schools.
 - “[C]ounty of Onondaga **shall submit estimated project costs for the renovation and equipping** of the Syracuse Comprehensive Education and Workforce Training Center after the completion of schematic plans and specifications **for review by the commissioner of education.**” 2019 Bill Text NY S.B. 7506 Section 2.2.
- Governance – is lodged within the Syracuse school district. It is unclear if Breakthrough Schools could succeed without the equal participation in governance by all participating school districts.
 - “Such high school shall be governed by the **board of education of the Syracuse city school district.**” “The high school shall be subject to the oversight of the board of regents and the program shall be audited in a manner consistent with provisions of law and regulations that are applicable to other public schools.” 2019 Bill Text NY S.B. 7506 Section 2.2.

- The board of education of the Syracuse city school district shall have the responsibility for the operation, supervision and maintenance of the high school and shall be responsible for the administration of the high school, including curriculum, grading, discipline and staffing. 2019 Bill Text NY S.B. 7506 Section 2.3.
- The workforce training center shall be governed by the State University of New York Empire State College in consultation with the board of education of the Syracuse city school district. 2019 Bill Text NY S.B. 7506 Section 2.4.
- The board of education of the Syracuse city school district shall be authorized to enter into contracts as necessary or convenient to operate such high school. 2019 Bill Text NY S.B. 7506 Section 2.6.

Although this is a model that has some relevance to the Breakthrough Schools proposal, there are significant concerns about potential disincentives for district participation, questions about operational aid, governance/decision-making, and an absence of reference to socio-economic diversity among students that raise serious questions about its ultimate value as a template for the Rochester area. Limited components of the authorizing legislation could be useful, but taken as a whole, this would not appear to be the preferred model for adoption by Breakthrough Schools planners.

III POSSIBLE PROPOSED LEGISLATION AUTHORIZING BREAKTHROUGH SCHOOLS

This section presents a proposed authorizing statute for the Breakthrough Schools that was created using language from the existing Tech Valley HS Act. This discussion is meant to demonstrate the feasibility of conforming an existing statute to the purposes of the Breakthrough Schools. *It is not meant to tie the hands of the proposed Breakthrough Schools Planning Group, which will act on its judgment and experience in formulating the schools and drafting legislation, and which may well wish to alter some areas of the proposed legislation to the circumstances in Monroe County. Some of these possible alternative approaches are highlighted where appropriate.*

Where possible, the framework provided by the Tech Valley HS Act was retained in the draft because it has already been adopted by New York’s legislature and apparently has successfully enabled Tech Valley HS to operate and educate students for over a decade. However, that enacted statute is specific to Tech Valley HS, which differs from the proposed Breakthrough Schools proposal in many respects, including location, objectives, structure, governance and curriculum. As a result, the below draft reflects significant modifications to the text of the Tech Valley HS Act to accommodate the proposed framework for the Breakthrough Schools. A mark-up showing the specific changes of this draft from the Tech Valley HS Act is included as Appendix C.

The proposed authorizing statute is drafted to create one or more socioeconomically-diverse Breakthrough Schools that would provide a traditional academic curriculum supplemented with subject-focused instruction. As proposed here, the Breakthrough Schools would be governed by a Board of Directors comprised of representatives from the Rochester City School District, Monroe One BOCES and Monroe 2-Orleans BOCES, and representatives from participating suburban school districts, perhaps supplemented by other individuals, such as persons possibly appointed by the New York State Commissioner of Education. The entire structure of the Board presents a challenge, since it is likely to need representation by each participating District. Conceivably, a different Board could govern each pairing of a district with RCSD in order to make sure that the participants are equally represented; however, such a structure could require the creation of additional Boards as additional Districts pair with RCSD, contributing to a significant stress on the time and energy of RCSD and BOCES, which would have to participate in each one. This issue will require further consideration. The statute also establishes a Community Advisory Board composed of local business and community leaders to work with the Board of Directors to facilitate the creation of educational opportunities for the students.

As proposed, the statute authorizes the Breakthrough Schools to enroll eligible public school students residing within (i) the boundaries of the Rochester City School District, (ii) one or more component school districts of Monroe One BOCES and/or Monroe 2-Orleans BOCES, and/or (iii) a non-component school district within the geographic boundaries of Monroe One BOCES or Monroe 2-Orleans BOCES.¹⁶³ Unlike admission to Tech Valley High School, as proposed, a student’s local school district would not need to consent to the student enrolling in a Breakthrough School. Also, unlike the Tech Valley HS Act, the proposed statute for the Breakthrough Schools authorizes the Board of Directors to establish certain “Diversity Goals” for the student body and to implement a weighted lottery process to attain those objectives. The text of the statute includes some additional notes for consideration on this topic.

¹⁶³ While there currently are no non-component school districts within the geographic boundaries of the two Monroe County BOCES, this language provides maximum flexibility for participation in the Breakthrough Schools.

[POSSIBLE] PROPOSED AUTHORIZING STATUTE FOR BREAKTHROUGH SCHOOLS

Approved and effective _____

AN ACT to facilitate the creation of a voluntary network of socioeconomically integrated, inter-district schools in Monroe County by establishing one or more Breakthrough Schools to provide instruction to students in the City of Rochester and one or more of the geographic regions served by the Monroe One BOCES and the Monroe 2-Orleans BOCES in the core academic areas as well as the areas of [emerging technologies, artistic expression, healthcare, etc.] for students in grades [_____].

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Legislative intent.

The purpose of this Act is to establish one or more Breakthrough Schools in Monroe County. The Breakthrough Schools shall provide kindergarten, elementary school, middle school and/or high school courses of instruction to students residing in the City of Rochester as well as the geographic regions served by the Monroe One BOCES and the Monroe 2-Orleans BOCES. In addition to the core academic areas required for the issuance of high school diplomas in accordance with the rules and regulations promulgated by the Board of Regents, the Breakthrough Schools shall also provide instruction in the area(s) of [emerging technologies, artistic expression, healthcare, etc.] for students in grades [nine through twelve]. Each Breakthrough School shall maintain, to the extent practicable, a socioeconomically diverse mix of students that shall be comprised of roughly equal proportions of students from low-income households and middle- and upper-income households.

The legislature hereby finds and declares that the establishment of the Breakthrough Schools is a necessary component to the development of equitable educational opportunities across the greater Rochester area of New York state and a necessary link to fostering the development and advancement of [emerging technologies, artistic expression, healthcare- related skills, etc.]. The Breakthrough Schools will advance the interests of the greater Rochester area, Monroe County and New York state by engaging students from various communities in rigorous and enriching educational experiences in an environment that promotes socioeconomic diversity among the students and that aims to equalize the available educational opportunities to students in the greater Rochester area and Monroe County. Further, for the students in grades [nine through twelve], the Breakthrough Schools will provide expanded learning opportunities focused on [emerging technologies, artistic expression, healthcare-related skills, etc.] as well as project-based learning and collaboration. It is expressly found that the establishment and operation of said Breakthrough Schools pursuant to this Act is a public purpose. The legislature further finds that the establishment of a Community Advisory Committee (the “Committee”) that shall serve as a forum in which regional business and community leaders can work together with the Board of Directors of the Breakthrough Schools (the “Board”) and any individual Breakthrough Schools to create opportunities for students

consistent with this Act shall be deemed as a necessary feature to the successful operation of the Breakthrough Schools. The Board is directed to establish and facilitate the ongoing operation of the Committee for the specific benefit of the students attending the Breakthrough Schools. The Board shall have discretion in determining the size, composition, term limits, if any, and membership requirements for the Committee.

§ 2. Definitions.

1. “Board” shall mean, except where the context indicates otherwise, the Board of Directors of the Breakthrough Schools.

2. “BOCES” shall mean, collectively, the Monroe One BOCES and the Monroe 2-Orleans BOCES.

3. “Breakthrough Schools” shall mean one or more kindergarten, elementary school, middle school and/or high school, or any combination thereof, which may be located at more than one location within the corporate boundaries of Monroe One BOCES or Monroe 2-Orleans BOCES or within the boundaries of the City of Rochester as established by this Act. As used in this Act references shall be to the Breakthrough Schools or the schools.

4. “Commissioner of Education” shall mean the New York State Commissioner of Education.

5. “Monroe One BOCES” shall mean the Monroe One Board of Cooperative Educational Services, and any successor entity.

6. “Monroe 2-Orleans BOCES” shall mean the Monroe 2-Orleans Board of Cooperative Educational Services, and any successor entity.

7. “Rochester City School District” shall mean the Rochester City School District in the City of Rochester, New York.

§ 3. Organization and governance.¹⁶⁴

1. The Board shall obtain on behalf of the Breakthrough Schools one or more charters and registrations from the Board of Regents to operate a kindergarten, elementary school, middle school and/or high school, as applicable, before operation of any such school shall commence.¹⁶⁵ Upon being granted a charter or charters and becoming registered with the

¹⁶⁴ This section in particular may vary from the proposed language to reflect important decisions to be made by the Planning Committee, such as: (1) whether diplomas would be issued by the Breakthrough Schools, the student’s home district, or perhaps both; (2) whether the Board should obtain one charter allowing it to run multiple schools, or multiple charters specific to each Breakthrough School; and (3) the specific makeup of the Board.

¹⁶⁵ A charter from the State of New York is required for any “educational corporation”—such as a school district, a BOCES, or another entity—to operate a public school. The use of the word “charter” does not in any way suggest that Breakthrough Schools would be “charter schools” as the term is popularly used and understood.

Board of Regents, the Breakthrough School shall be operated and organized in accordance with this Act. Additionally, upon being granted a charter or charters and registered as a high school, each such Breakthrough School shall be authorized to issue diplomas. Each Breakthrough School shall be deemed a local educational agency for purposes of state and federal law.

2. The schools shall be subject to all laws, rules and regulations which are applicable to public schools providing instruction to students of comparable ages and grade levels, unless otherwise provided for in this Act.

3. The schools shall be subject to the oversight of the Board of Regents and shall obtain financial audits in a manner consistent with provisions of law and regulations that are applicable to other public schools providing instruction to students of comparable ages and grade levels.

4. (a) The Board shall be organized as follows. The Board shall consist of members appointed on the following basis: three members shall be members of the Board of Education of the Rochester City School District or their duly appointed representatives; one member shall be the Superintendent of the Rochester City School District or his or her duly appointed representative; one member shall be the district superintendent of the Monroe One BOCES; one member shall be the district superintendent of Monroe 2-Orleans BOCES; one member shall be the president of the governing board of the Monroe One BOCES; one member shall be the president of the governing board of Monroe 2-Orleans BOCES; the superintendent of each school district with at least one student attending one or more Breakthrough Schools, or his or her duly appointed representative, shall each be a member of the Board; and [two] members shall be appointed by the Commissioner of Education, who shall be representative of the greater Rochester area business community and who have an expertise in the training needs of [hi-tech and emerging industries, the arts and/or healthcare-related fields] and at least one of which shall be a representative of the institutions of higher education located within the City of Rochester or the corporate boundaries of the Monroe One BOCES or the Monroe 2-Orleans BOCES, and such higher education representative shall have a working knowledge of the [science and technology, arts and/or healthcare] curricula offerings in the region.

(b) To qualify for membership on the Board, an individual must be at least 18 years of age and be a resident of the state of New York.

(c) All appointments to the Board other than the district superintendents and the presidents of the governing boards of the Monroe One BOCES and the Monroe 2-Orleans BOCES (which shall be ex officio appointments) and the members representing a participating school district (other than the Rochester City School District) shall be for a term of [three] years and such term shall commence on the July 1st next succeeding the appointment, provided that vacancies on the Board shall be filled by an appointment made by the original appointing authority, and such appointment shall be deemed effective immediately and shall be for a period of the remaining unexpired term. Each Board member representing a participating school district (other than the Rochester City School District) shall be appointed for a term of [one] year, which

shall commence on the [July 1st] immediately preceding the school year in which such district will have at least one student attending one or more Breakthrough Schools.

(d) The provisions of section 3811 of the education law shall apply and govern the defense and indemnification of Board members, the Board, and the Breakthrough Schools; provided that section 3813 of the education law shall govern the presentation claims against the Board or any successor governing body of the Breakthrough Schools.

(e) The members of the Board shall not receive any payment for service on the Board, except for reimbursement of actual expenditures reasonably incurred during their official duties. Furthermore, the members of the Board shall be governed by all provisions of state law and regulations which govern the personal conduct of public school boards.

§ 4. Powers and duties of the Board.

The Board shall have the following powers and duties:

1. To prescribe and operate full-time courses of study meeting the applicable requirements prescribed by the Board of Regents and by which students attending any high school-level Breakthrough Schools shall become eligible to receive a high school diploma upon graduation. These courses of study shall be supplemented by such [innovative technological, artistic and/or healthcare-related] programs as may be deemed suitable by the Board to implement the purposes of this Act.

2. To enter into contracts as deemed necessary for the construction and/or lease of one or more facilities to provide the full-time courses of study and related educational activities.

3. To establish and maintain reserve funds consistent with any reserve fund that a BOCES is authorized to establish and with section 3651 of the education law, provided no voter approval shall be required for any transaction relating to, or the creation or elimination of, such reserve funds.

4. Based upon a recommendation of the district superintendents of the Rochester City School District, the Monroe One BOCES and the Monroe 2-Orleans BOCES and upon a majority vote of the Board, to contract with and employ a chief executive officer with such qualifications and upon such terms and conditions as the Board may determine and to charge such officer with the power and duty to administer the educational programs of the Breakthrough Schools. The term of any employment contract or agreement between the Board and such chief executive officer, may provide such terms and conditions of employment as the Board deems prudent, but shall not exceed five years in duration; provided, however, any such contract shall be subject to the provisions of subdivision 4 of section 1950 of the education law.

5. Based upon a recommendation by the chief executive officer, and upon a majority vote of the Board, to contract with and employ such other administrative officers and employees as the Board may deem prudent.

6. Based upon a recommendation by the chief executive officer, and upon a majority vote of the Board, to contract with and employ administrators, teachers, staff and such other persons in furtherance of the Breakthrough Schools' educational programs.

7. To contract with and enter into cooperative arrangements with private for-profit and not-for-profit entities as the Board may deem prudent in furtherance of the Breakthrough Schools' supplemental [innovative technological, artistic or healthcare-related] activities and related educational programs to implement the purposes of this Act, provided that all components of the curriculum shall be taught or supervised by a certified teacher.

8. To grant high school diplomas to the same extent as other registered public schools consistent with the rules and regulations of the Commissioner of Education.

9. To determine the school calendar and school day schedule, which at a minimum, shall be equal to the instruction time required to be provided by other public schools providing instruction to students of comparable ages and grade levels.

10. To establish and offer voluntary remedial and/or afterschool programs for purposes of improving student achievement and/or decreasing performance gaps among students at the Breakthrough Schools, as the Board may deem prudent to implement the purposes of this Act. The Board may also design and offer extracurricular and/or athletic programs and activities to enhance students' well-being and social integration within the Breakthrough Schools. [Students at the Breakthrough Schools shall remain eligible to participate in any extracurricular and/or athletic programs and activities offered in their resident public school district.]

11. The Board may partner or enter contracts with one or more certified institutions of higher education to offer college-level academic courses that may provide college credit to participating students. The Board may also partner with one or more certified institutions of higher education to offer internships, apprenticeship training and/or other programs relating to the fields of [innovative technology, the arts and/or healthcare].

§ 5. General requirements.

The annual budget of the Breakthrough Schools shall be prepared by the Board and subject to the approval of the Board of Education of the Rochester City School District and the governing boards of the Monroe One BOCES and the Monroe 2-Orleans BOCES. The proposed budget shall be submitted to the Board of Education of the Rochester City School District and the governing boards of the Monroe One BOCES and the Monroe 2-Orleans BOCES by May 1st of the year preceding the year for which the budget shall apply. The proposed budget shall not take effect unless a majority of members of the Board of Education of the Rochester City School District each BOCES board approve the annual budget of the Breakthrough Schools. If a majority of members of the Board of Education of the Rochester City School District or either BOCES board fails to adopt resolutions approving such tentative budget, the Board shall prepare and adopt a contingency budget which shall not exceed the amount of the budget of the Breakthrough Schools for the previous school year, except to

accommodate expenditure increases attributable to supplemental retirement allowances payable pursuant to section 532 of the education law and section 78 of the retirement and social security law. The Board of Education of the Rochester City School District and the BOCES boards shall vote on approval of the proposed budget by a date determined by the Commissioner of Education. For purposes of development of a budget for the first year of operation, the Board shall present the proposed budget to the Commissioner of Education by a date the Commissioner of Education shall determine and shall submit it to the Commissioner of Education for approval. Upon approval by the Commissioner of Education, the proposed budget shall be deemed the budget of the Board for that school year.

§ 6. Employees of the Breakthrough Schools.

1. The instructional employees shall be subject to Part 30 of the Rules of the Board of Regents.

2. Except as provided in subdivision 7 of section four of this Act, persons employed in connection with the educational programs of the Breakthrough Schools shall be certified in accordance with the requirements applicable to other public schools providing instruction to students of comparable ages and grade levels.

3. Any teacher employed in the public schools of New York may make written application for a leave of absence to teach at the Breakthrough Schools. Approval of such request for a leave of absence of two years or less shall not be unreasonably withheld. If such approval is granted, the teacher may return to teach in the school district during such period of leave without the loss of any right, seniority, salary status or any other benefit provided by law or by collective bargaining agreement.¹⁶⁶

4. All persons employed by the Breakthrough Schools shall be considered public employees and shall receive all rights and privileges accorded thereto.

5. Section 3014 of the education law shall be applicable to all employees who would be governed by said section in a public school building.

§ 7. Admission to the Breakthrough Schools.

1. Any student eligible for enrollment in grades [_____] of the public schools, residing within (i) the boundaries of the Rochester City School District, (ii) a component school district of the Monroe One BOCES or the Monroe 2-Orleans BOCES or (iii) a non-component school district located within the corporate boundaries of the Monroe One BOCES or the

¹⁶⁶ Note that per Section 3005 of the NY Education Code, two years is the statutorily permitted leave of absence period during which teachers may be permitted to go and work in other districts without affecting their compensation or seniority. However, it is also possible that, given the relationship between the teacher's home district and the new inter-district school, no leave of absence will be necessary.

Monroe 2-Orleans BOCES shall be eligible to apply for admission to any grade-appropriate Breakthrough School.

2. The criteria for admission shall not be limited based on intellectual ability, measures of academic achievement or aptitude, athletic aptitude, disability, race, creed, gender, national origin, religion, ancestry, or location of residence; provided, however, that to attain the goal of a diverse student body, the Board shall establish goals for the representational composition of the student body including, but not limited to, (i) the proportion of [students eligible for free or reduced-price lunch][*Note: This is a frequently used socioeconomic metric, but other metrics could be used instead, as explained in the TCF article linked below.*] and (ii) the mix of students residing within the boundaries of (a) the Rochester City School District, (b) the component school districts of the Monroe One BOCES and the Monroe 2-Orleans BOCES and (c) any non-component school districts located within the corporate boundaries of the Monroe One BOCES or the Monroe 2-Orleans BOCES (collectively, the “Diversity Goals”). Admission to the Breakthrough Schools may be limited for any individual applicant to meet the Diversity Goals established by the Board. The Board shall have discretion to amend, modify, supplement or change any of the Diversity Goals, in accordance with applicable law, to further the purposes of this Act. [*Note: The available case law suggests that a student’s socioeconomic background may be considered as factor in his or her admission to a public school. To the extent that other factors are considered, especially any related to a student’s race, the admissions criteria should be reviewed for compliance with the current legal requirements. See the following linked article from The Century Foundation (TCF) for guidance on, and specific examples of, diversity goals in the admissions process, including the use of a weighted lottery system: <https://tcf.org/content/report/recruiting-enrolling-diverse-student-body-public-choice-schools/>].*

3. To the extent that the number of qualified applicants exceeds the number of available spaces, including any spaces specifically reserved by the Board to attain the Diversity Goals, the Breakthrough Schools shall grant admission using a weighted lottery process that provides an enrollment preference to (i) students whose enrollment would help attain one or more Diversity Goals and (ii) students returning to the Breakthrough Schools in the second or any subsequent year. The Board shall have discretion in determining the weight of any factor used in the admissions lottery to attain the Diversity Goals. The Breakthrough Schools shall determine the tentative enrollment roster, notify the parents, or those in parental relation to those students, and the resident school district by April 1st of the school year preceding the school year for which the admission is granted. To determine the enrollment roster for the first year of operation, the Breakthrough Schools shall notify the parents, or those in parental relation to those students, and the resident school district by [June 13th] of the school year preceding the school year for which the admission is granted.

4. The resident public school district shall be obligated to provide transportation to and from the Breakthrough Schools, without regard to any mileage limitations. Furthermore, the appropriate public school district shall provide textbooks, computer software, library material and health examinations, in a manner consistent with the provision of these items and services to

nonpublic school students as required by the education law. The appropriate public school district shall be eligible for any and all state aid for which they would otherwise be eligible for the provision of such items and services required by this subdivision to a nonpublic school student, provided however, that no mileage limitations shall be applied to the transportation costs associated with the transportation of students to and from the Breakthrough Schools.

§ 8. Financing of the Breakthrough Schools.

1. It shall be the duty of the student's district of residence to make payments as calculated herein directly to the Breakthrough Schools for each student enrolled in the Breakthrough Schools. The Board shall annually adopt a methodology for the apportionment of operational costs amongst (i) the Rochester City School District, (ii) the component school districts of the Monroe One BOCES and the Monroe 2-Orleans BOCES and (iii) the non-component school districts located within the corporate boundaries of either BOCES with one or more students attending the Breakthrough Schools. The Breakthrough Schools are hereby authorized to enter into one or more contracts with the Monroe One BOCES, the Monroe 2-Orleans BOCES, or both, to provide that they may act as a fiscal agent for the Breakthrough Schools to receive and hold payments made pursuant to this section on behalf of the Breakthrough Schools.

2. Payments made pursuant to subdivision one of this section to the Breakthrough Schools shall be eligible for BOCES aid as an aidable shared service pursuant to section 1950 of the education law; provided that during the first four years of operation the payments made to the Breakthrough Schools pursuant to this section shall be aidable in the year during which the payments are made; and provided further that for purposes of this section, notwithstanding any limitations in Section 1950 of the education law, all such payments made by participating school districts (including, but not limited to, the Rochester City School District) shall be eligible for BOCES aid as an aidable shared service pursuant to section 1950 of the education law. The Breakthrough Schools shall repay within thirty days after notice by the resident school district, any and all funds paid to the Breakthrough Schools for a student who is granted admission but does not attend the school.

3. Expenses arising from the acquisition of land and the construction or leasing of any building erected or used for the purposes of the Breakthrough Schools shall be apportioned among (i) the Rochester City School District, (ii) the component school districts comprising the Monroe One BOCES and the Monroe 2-Orleans BOCES, and (iii) those non-component school districts located within the corporate boundaries of either BOCES with one or more students attending the Breakthrough Schools consistent with a methodology contained in section 1950 of the education law as determined by the Board and such expenses shall be eligible for BOCES capital aid as pursuant to section 1950 of the education law; provided that for purposes of this section, notwithstanding any limitations in Section 1950 of the education law, (i) the participating school districts (including, but not limited to, the Rochester City School District) will be allocated such expenses as though they are each a BOCES component school district and (ii) all such expenses allocated to the participating school districts (including, but not limited to,

the Rochester City School District) shall be eligible for BOCES capital aid pursuant to section 1950 of the education law.

4. If educational programs operated by the Breakthrough Schools result in the creation of revenue for the Breakthrough Schools, the receipt and expenditure of such funds shall be deemed lawful, subject only to the requirement that any revenues so created shall be used for the educational betterment of the students through the advancement of the Breakthrough Schools' educational and career development activities. The Board is authorized to accept gifts, donations or grants of any kind made to the Breakthrough Schools and to expend or use such gifts, donations or grants in accordance with the conditions prescribed by the donor; provided, however, that no gift, donation or grant may be accepted if subject to a condition that is contrary to any provision of law or the educational charter. The Breakthrough Schools shall also be authorized to enter into leases, which shall not exceed thirty years in length, for the lease of one or more facilities that will assist the Breakthrough Schools in carrying out their purpose consistent with section four of this Act.

5. The Breakthrough Schools shall be deemed a special act school district only for the purposes of obtaining authorization for dormitory authority financing of capital facilities consistent with the provisions of section 407-a of the education law.

§ 9. This Act shall take effect immediately.

IV POTENTIAL SOURCES OF FUNDING FOR BREAKTHROUGH SCHOOLS

A. New York State Public School Funding Overview

Currently New York public schools are funded through a combination of local, state, and federal aid.¹⁶⁷ The most recent available average breakdown of public-school aid for year 2018-19 is: federal government aid (approximately 4 percent), state formula aids and grants (approximately 39 percent), and revenues raised locally (approximately 57 percent).¹⁶⁸ However, this breakdown fluctuates depending on the school district.¹⁶⁹ For example, Rochester City School District, with the third highest poverty rate in New York, receives a majority of its budget from state aid as local revenues are insufficient to fund schools.¹⁷⁰

¹⁶⁷ The State Education Department, Office of State Aid, 2020-21 State Aid Handbook Formulas Aids and Entitlements for Schools in New York State as Amended by Chapters of the Laws of 2019, available at: https://stateaid.nysed.gov/publications/handbooks/handbook_2019.pdf at 5.

¹⁶⁸ *Id.*

¹⁶⁹ ROC the Future, Where does Rochester City Schools District Funding Come From?, available at <https://rocthefuture.org/wp-content/uploads/2019/12/Where-does-RCSD-Funding-come-from.pdf> (“Poor cities like Rochester collect very little in taxes and need more support from the state to fund schools”)

¹⁷⁰ *Id.* (Rochester City School District's funding breakdown is: federal government aid (approximately 8 percent) state formula aids and grants (approximately 76 percent), and revenues raised locally (approximately 16 percent)).

Federal Aid: The smallest portion of public school funding comes from a combination of various federal grants as awarded by the U.S. Department of Education on a yearly basis.¹⁷¹

State Aid: State aid for public schools falls into the following main categories, each governed by its own formula or set of formulas:¹⁷²

- Foundation Aid
- Building Aid
- Reorganization Incentive Aid
- Transportation Support
- Other Special Services and School Expenditure Support

Foundation Aid: This category is “the largest unrestricted aid category supporting public school district expenditures in New York State.”¹⁷³ Foundation Aid is determined through the Foundation Aid Formula.¹⁷⁴ This formula assigns a cost to the education of a student with no special needs or services.¹⁷⁵ It then allocates additional aid to specific categories of students, for example students that require English language support.¹⁷⁶ How this baseline aid, and its additional components are calculated is highly politicized and under constant legislative review.¹⁷⁷ Understanding the intricacies of how Foundation Aid is both calculated and implemented in practice, along with any discrepancies between calculation and implementation, requires additional research and consultation with NYSED officials.

Building Aid: This category of aid is allocated for the purchase or construction of new buildings or the modernization of district-owned buildings for educational

¹⁷¹ U.S. Department of Education, Fiscal Years 2019-2021 State Tables for the U.S. Department of Education, available at <https://www2.ed.gov/about/overview/budget/statetables/index.html> (A state breakdown of federal funding is available via the linked excel spreadsheet).

¹⁷² See generally *supra* note 167.

¹⁷³ *Supra* note 167 at 7.

¹⁷⁴ *Id.*; see also NYSEL §3602 (2) and (4).

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ Stern, Gary, School districts, facing students in crisis, say they're owed billions in state aid, Iohud, (Jan 17, 2020), available at: <https://www.lohud.com/story/news/2020/01/17/westchester-school-districts-state-aid/4481678002> (“Even though New York state is facing a \$6 billion deficit, expectations are growing among school districts that the state Legislature may find a way to deliver those billions in aid. Districts are hopeful, in part, because two state Senate committees held regional meetings through the fall about foundation aid and the struggles districts face.”).

purposes.¹⁷⁸ If the Facilities Planning Unit of the State Education Department approves building plans for a project, then Building Aid will be calculated by determining a per pupil construction allowance and multiplying it by the assigned pupil capacity for the building.¹⁷⁹ Building Aid is further supplemented by specialized aid from the Dormitory Authority of the State of NY.¹⁸⁰ Understanding what projects qualify for Building Aid and who can propose them also requires additional research.

Reorganization Incentive Aid: This category offers both operating aid and building aid to “encourage school district reorganizations into more effective and efficient units.”¹⁸¹ Operating Aid is calculated by determining an operating aid per pupil amount and multiplying it by total aidable pupils.¹⁸² Building aid under this category is capped to an amount of the overall Building Aid otherwise approved for the project.¹⁸³ Understanding how districts qualify for this category of aid in practice would require further research.

Transportation Support: The State provides various types of aid to cover the transportation of students to school and to school-related activities.¹⁸⁴ The State determines what approved transportation expenditures are for purposes of Transportation Aid and then reimburses schools for approved transportation costs.¹⁸⁵ School districts may also enter into contracts with each other to provide transportation.¹⁸⁶

Other Special Services and School Expenditure Support: The State also provides various administrative support aid and technology support aid for districts.¹⁸⁷ Administrative aid is allocated differently to the “Big Five,” the five large city school districts (Buffalo, Rochester, Syracuse, Yonkers, and New York City), and any other school district that was not a component of a Board of Cooperative Educational Services (“BOCES”), since those districts are ineligible to claim any BOCES Aid for comparable services.¹⁸⁸

Local Aid: Typically, the largest portion of a public school’s budget comes from taxes levied on residential and commercial properties within the district and other local non-

¹⁷⁸ *Supra* note 167 at 18; *see also* NYSEL §3602(6) (6-a) (6-b) (6-c) (6-e) (6-f).

¹⁷⁹ *Id.*

¹⁸⁰ *Supra* note 167 at 28.

¹⁸¹ *Supra* note 167 at 29; *see also* NYSEL §3602(14).

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ *Supra* note 167 at 30; *see also* NYSEL §3602(7).

¹⁸⁵ *Supra* note 167 at 31.

¹⁸⁶ *Id.*

¹⁸⁷ *Supra* note 167 at 34-39; (Types of schools expenditures covered are various computer hardware, software, and smart school purchases).

¹⁸⁸ *Supra* note 167 at 34; *see also* NYSEL §3602(10).

property tax revenues.¹⁸⁹ Each district is required to provide a local contribution per pupil, based on the lesser of amounts calculated through two different formulas that both consider local taxes and local income levels.¹⁹⁰ The first formula determines local contribution through weighted student need calculations based on tax rates in that district.¹⁹¹ The second formula uses State determined sharing ratios, which adjust for high-need districts and account for local property wealth and income levels.¹⁹² Once the state calculates the total amount of funding necessary to educate students, it subtracts the expected local contribution, as part of Foundation Aid calculations, and provides the difference to the district.¹⁹³ However, for the Big Five cities (New York City, Rochester, Buffalo, Yonkers, and Syracuse), constitutional tax limits “require that education revenues come from the total municipal budget as opposed to taxes levied by the school system.”¹⁹⁴

B. Additional Sources of Funding for Breakthrough Schools

As previously discussed, various barriers exist to obtaining adequate funding for Breakthrough Schools if they rely solely upon state and local funds, given the particular needs of an innovative start-up school. These include:

1. **Building Costs:** The creation of Breakthrough Schools would require aid for purchasing and developing new properties or renovating and expanding current buildings. How the current funding structure awards aid for large building costs in budget appropriations will require further research. Additionally, further investigation is necessary to determine eligibility and the process for tapping into state building aid funds.
2. **Operational Costs:** Breakthrough Schools will need to cover any possible new and increased administrative and other associated costs of inter-district collaboration. While there is specific aid allocated for reorganizing districts into more efficient units, there seems to be no allocated aid for incentivizing inter-district collaborations, and current collaborations are funded through specialized authorizing legislation.¹⁹⁵
3. **Enrollment Incentives and Disincentives:** The current funding structure directly reduces funding available to traditional school districts in order to

¹⁸⁹ *Supra* note 167 at 1.

¹⁹⁰ *Supra* note 167 at 10-11.

¹⁹¹ *Id.*

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ *Supra* note 167 at 5.

¹⁹⁵ Boards of Cooperative Educational Services of New York About BOCES, BOCES OF NEW YORK STATE, <https://www.boces.org/about-boces>; see N.Y. Ed. Law § 1950(1)-(3) (describing the BOCES governance structure and the role of the member school districts), § 1950(5) (describing BOCES Aid), and § 1950(8-b,-c) (making the Big Five ineligible for BOCES Aid).

fund non-traditional schooling models, as seen in how funding for charter schools and the Urban-Suburban Program is allocated. Unless addressed equitably, this could disincentivize traditional school district buy-in for new Breakthrough Schools. Students and their communities also require incentives to enroll in Breakthrough Schools, which might require longer transportation times, additional funding for increased transportation costs, and additional resources to assist in navigating culturally unfamiliar learning environments.

With regard to the above concerns, we identified federal and state grants administered in prior years by the New York State Education Department that are indicative of the types of grants that may be available to incentivize and support the creation, planning and startup costs of Breakthrough Schools, depending on their continued availability in future funding cycles, as the application period for these grants is currently closed. The below chart summarizes the application process, eligibility requirements and funding structure of these grants:

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| <u>FEDERAL GRANT</u> | | | | |
| <p><u>Magnet Schools Assistance Program</u></p> <p>(Federal Level Grant)</p> <p>https://www.govinfo.gov/content/pkg/FR-2020-03-10/pdf/2020-04885.pdf</p> | <p>Broad grant providing funding for school districts to support “magnet” schools under an approved desegregation plan and improve student academic achievement.</p> | <p>Districts required to be under a mandatory or voluntary desegregation plan as approved by the U.S. Department of Education.</p> <p><u>Application:</u></p> <p>Link to the application information: https://www.govinfo.gov/content/pkg/FR-2020-03-10/pdf/2020-04885.pdf</p> <p>Application cycle ended June 30, 2020.</p> <p>Application required narrative on the specific desegregation plan and how grant funding will directly support it.</p> | <p>Funding of \$23,500,887 was available, with individual awards ranging from \$700,000 to \$4,000,000.</p> <p>Funds had to support an approved desegregation plan.</p> | <p>Grant funding to directly address desegregation in schools as defined by the U.S. Department of Education. The generally unrestricted funds could potentially be used to meet the overhead costs of inter-district collaborations.</p> |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| FEDERAL LEVEL GRANT WITH STATE ALLOCATION | | | | |
| <p><u>McKinney-Vento Competitive Grant Program</u></p> <p>(Federal Level Grant with State Allocation)</p> <p>http://www.p12.nysed.gov/funding/2019-2022-nysed-mckinney-vento-grant/home.html</p> | <p>Grants for both public and charter schools to provide children living in temporary housing with tutoring, support, and supplies, as well as professional development for teachers and administration officials. The grant’s purpose is to improve attendance, engagement, and academic success of students living in temporary housing.</p> | <p>Public school districts, BOCES and charter schools were eligible. Each district must have a minimum average of 100 students in temporary housing in the 2015-16, 2016-17, and 2017-18 school years to be eligible. If under that limit, districts may apply as a consortium to bring the total to 100.</p> <p><u>Application:</u></p> <p>Link to application: http://www.p12.nysed.gov/funding/2019-2022-nysed-mckinney-vento-grant/2019-2022-nysed-mckinney-vento-grant.pdf</p> <p><u>Application cycle ended</u> December 19, 2018 (for</p> | <p>Funding of approximately \$5.1 million per year was expected to be available. The grant amount varies with number of average students in temporary housing:</p> <ul style="list-style-type: none"> • 100-200 students identified – up to \$45,000 per year • 201-300 students identified – up to \$55,000 per year • 301-600 students identified – up to \$65,000 per year • 601-1000 students identified – up to \$80,000 per year • 1001-2000 | <p>Grant funds could incentivize enrollment by enhancing teacher training and improving support options for underserved populations.</p> <p>Historically reoccurring</p> |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | <p>2019-2022 period).</p> <p>Application required a narrative explaining need and how funds will be used.</p> | <p>students identified – up to \$100,000 per year</p> <ul style="list-style-type: none"> • 2001-50,000 students identified – up to \$125,000 per year • Districts/consortia with >50,000 students identified as homeless may request a maximum total award of \$2.5 million per year. <p>Funds required to be used to design and implement programs that increase attendance, engagement, and academic success for students in temporary housing. Programs and activities may be provided on school</p> | |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | | <p>grounds or at other facilities such as shelters, community organizations, or counseling/health clinics. Applicants were to include a mix of activity types, including student-facing programs (e.g., tutoring), student/family support services (e.g. supplies, personal hygiene supplies, etc.), and capacity-building activities (e.g., professional development).</p> <p>Funds may NOT be used for transportation expenses related to the regular school day.</p> | |
| <u>STATE LEVEL GRANT OF FEDERAL FUNDS</u> | | | | |
| <u>Title I School Improvement Section 1003(a)</u> | Broad grant to Title 1 schools with a high proportion of low- | Title I districts with poverty rates of at least 60% and at least ten | The maximum allocation for each school is \$1,250,000 | Grant funds were generally unrestricted and could potentially be |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| <p><u>Socioeconomic Integration Pilot Program</u></p> <p>(State Level Grant of Federal Funds)</p> <p>http://www.p12.nysed.gov/funding/2015-18-title-1-ses-integration-grant/home.html</p> | <p>income students to increase student achievement by encouraging greater socioeconomic integration in these schools.</p> | <p>(10) schools in their district are eligible.¹⁹⁶ Only Title I schools with a poverty rate of at least 70% are eligible for this program. Charter Schools, Non-Title I schools are not for eligible for this grant.</p> <p><u>Application:</u></p> <p>Link to application: http://www.p12.nysed.gov/funding/2015-18-title-1-ses-integration-grant/ses-integration-grant-application-template.pdf</p> <p>Application cycle ended July 28, 2017 (for March 1, 2015 to February 28, 2018)</p> | <p>Districts may apply for grant funds using three models:</p> <ol style="list-style-type: none"> 1. Magnet School Model - A school may apply for grant funds to “magnetize” by implementing cutting-edge academic programs in high demand by parents from a wide range of backgrounds in the district or relevant geographic area. 2. Coordinated Grants Model - Districts with 25 or more schools may coordinate two or more grant applications to “magnetize” proximate schools as part of a | <p>used to meet the overhead costs of inter-district collaborations.</p> <p>The Rochester City School District was previously awarded this grant in 2015 to help incentivize participation in its Urban-Suburban Transfer Program.¹⁹⁷</p> |

¹⁹⁶ See the following link for a list of eligible districts: <http://www.p12.nysed.gov/funding/2015-18-title-1-ses-integration-grant/home.html>

¹⁹⁷ Bryant, Erica, Socioeconomic integration grant founders, but hope remains for diverse schools, Democrat & Chronicle, (Oct. 25, 2018), <https://www.democratandchronicle.com/story/local/communities/time-to-educate/stories/2018/10/25/rochester-suburban-city-integration-plan-fails-but-hope-remains-time-educate/1488136002/>.

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | <p>period).</p> <p>Application required an extensive narrative plan of how funds will be used to promote academic goals.</p> | <p>systemic, multi-school socioeconomic integration strategy across a district or other relevant geographic area.</p> <p>3. Community Innovation Model - Districts were permitted to submit variations on Models A and B in response to unusual circumstances or special community needs as expressed through authentic, inclusive community-engagement processes. The Community Innovation Model may be either an intra-district or inter-district program.</p> | |
| <p><u>ESSA, Title IV Part B 21st Century Community Learning Centers Grant</u></p> | <p>Up to \$1,200,000 grant to establish community learning centers to help with tutoring, youth development, and</p> | <p>Any public or private organization that meets the eligibility requirements could apply for 21st CCLC</p> | <p>Total funding is \$86 million annually, subject to federal fund availability. Annual grants awards range</p> | <p>This grant might be far afield in relation to magnet schools, but it could be a source of</p> |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| <p>(State Level Grant of Federal Funds)</p> <p>http://www.nysed.gov/budget-coordination/title-iv-part-b-21st-century-community-learning-centers#:~:text=The%20purpose%20of%20this%20competitive,standards%20in%20core%20academic%20areas.</p> | <p>family support.</p> | <p>funding. This includes public school districts, BOCES, charter schools, private schools, nonprofit agencies, city or county government agencies, faith-based organizations, institutions of higher education, Indian tribes or tribal organizations, and for-profit corporations.</p> <p>All programs must be implemented through a partnership that includes at least one (1) local educational agency receiving funds under part A of title I and at least one (1) BOCES, nonprofit agency, city or county government agency, faith-based organization, institution of higher education, Indian tribe or tribal organization, or for-</p> | <p>from a minimum of \$50,000 to a maximum of \$1,200,000. Agencies applying for multiple grants will be limited to a maximum annual award of \$1,200,000 per lead applicant agency. For-profit agencies may apply for an annual grant award of up to a maximum of \$400,000. The maximum request amount per student is \$1,600.</p> <p>Funds must be used to create community learning centers that provide opportunities for academic enrichment, youth development, and family support.</p> | <p>supplemental funding.</p> |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | <p>profit corporation with a demonstrated record of success in designing and implementing before school, after school, summer learning, or expanded learning time activities.</p> <p>To be eligible for this grant, at least 2/3 of the students an applicant is proposing to serve must attend:</p> <ol style="list-style-type: none"> 1. schools eligible for schoolwide programs under Title I, Section 1114 of the Every Student Succeeds Act, and the families of these students, or 2. schools with at least 40 percent of students eligible for free or reduced priced lunch; and the families of these | | |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | <p>students.</p> <p>Note: “local educational agencies” are defined as public schools and districts, private schools, and charter schools</p> <p>Application:</p> <p>Link to application: http://www.p12.nysed.gov/funding/2017-2022-21st-cclc/home.html</p> <p>Application cycle ended November 21, 2016 for the 5 year grant period (2017 to 2022)</p> | | |
| <p><u>ESEA Title II, Part B Mathematics and Science Partnerships Grant</u></p> <p>(State Level Grant of</p> | <p>Grants for certain low-income public school districts for use in math and science teacher professional development to increase</p> | <p>High-need school districts were eligible.¹⁹⁸ Districts were required partner with an engineering, mathematics, or science</p> | <p>Funding for the 2018-19 school year was \$7,500,000. \$5,000,000 went to NYC, Buffalo, Rochester, Syracuse, and Yonkers school</p> | <p>Grant could incentivize enrollment by increasing funds for targeted STEM programs.</p> |

¹⁹⁸ See link for a list of eligible school districts: <http://www.p12.nysed.gov/funding/2018-19-mathematics-science-partnerships-program/2018-2019-msp-eligible-applicants.pdf>

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| Federal Funds) http://www.p12.nysed.gov/funding/2018-19-mathematics-science-partnerships-program/home.html | the academic achievement of students in mathematics and science. | department of an institution of higher learning that has a registered curriculum in engineering, science or mathematics. <u>Application:</u> Link to application: http://www.p12.nysed.gov/funding/2018-19-mathematics-science-partnerships-program/2018-19-mathematics-science-partnerships-program-revised.pdf Application cycle ended March 23, 2018 (for the September 1, 2018 to September 2019 period). Application required a narrative plan and budget proposal on how funds will be used to | districts, and \$2,000,000 went to the rest of the state. Funds permitted to be used to develop curriculums, improve subject matter expertise of math and science teachers, and create programs to bring together working scientists and teachers. Professional development will need to target teachers committed to participating and completing a minimum of 45 hours of professional development. | |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | further the program objectives. | | |
| <p><u>Title I School Improvement Grant 1003 (Basic)</u></p> <p>(State Level Grant of Federal Funds)</p> <p>http://www.p12.nysed.gov/funding/2020-21-title-1-sig-1003-basic/home.html</p> | <p>Up to \$200,000 per school grant for Title 1 Target Districts¹⁹⁹, CSI schools, and TSI²⁰⁰ schools in order to develop a plan to meet improvement goals detailed in the Elementary and Secondary Education Act, which include equal access to education and closing achievement gaps.</p> | <p>Title I Target Districts, CSI Schools, and TSI schools, as defined by the New York State Education Department, were eligible.</p> <p><u>Application:</u></p> <p>Application is available through the NYSED business portal, found here: https://portal.nysed.gov/abp</p> <p>Application cycle ended August 31, 2020 (for 2020-2021 school year).</p> <p>Application required a budget narrative that</p> | <p>Target District - \$50,000 per district; CSI school - \$200,000 per school; TSI school with three or more identified subgroups - \$75,000 per school; and TSI school with fewer than three identified subgroups - \$50,000 per school.</p> | <p>Grant funds seem largely unrestricted and could potentially be used to meet the overhead costs of inter-district collaborations.</p> |

¹⁹⁹ Target District: One of two categories (the other being “Good Standing”) that the New York State Education Department uses to classify school district performance. For more information, see the following link: <http://www.nysed.gov/accountability/essa-accountability-designations>

²⁰⁰ Targeted Support and Improvement Schools: Schools with one or more student subgroups performing at level 1 on a combination of ESSA indicators. For more information, see the following link: <http://www.nysed.gov/accountability/essa-accountability-designations>

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | clearly identified and aligned proposed expenses to school-level improvement activities. | | |
| <p><u>Title I School Improvement Grant 1003 ENHANCED Comprehensive Support and Improvement (CSI) Support Options</u></p> <p>(State Level Grant of Federal Funds)</p> <p>http://www.p12.nysed.gov/funding/2020-21-title-1-sig-1003-enhanced-csi/home.html</p> | <p>\$10,000 - \$125,000 grant for school districts with at least one CSI school for school specific coaching focused mainly on teacher support, school management leadership program, curriculum building and digital literacy initiatives.</p> <p>The grant allocates \$20,000 for developing “Restorative Schools” and providing social-emotional teacher training and training in restorative practices.</p> | <p>Target Districts that have at least one school identified as a CSI School and is not in the Receivership program were eligible.</p> <p><u>Application:</u></p> <p>Program application cycle ended Dec. 18, 2020 (for 2020-2021 school year).</p> <p>Link to application: http://www.p12.nysed.gov/funding/2020-21-title-1-sig-1003-enhanced-csi/2020-21-title-1-sig-1003-enhanced-csi.pdf</p> <p>Application required a budget narrative that clearly identified and</p> | <p><u>Options for Grant:</u></p> <p>1. High School Redesign (two-year program) - \$50,000/\$125,000</p> <p>Funds used to train teachers, develop curriculums, one-on-one mentorship, and community outreach.</p> <p>2. Enhancing Principal Leadership (two-year program) - \$20,000/\$35,000</p> <p>Funds used for professional development of school administration as well as management tools, school websites, and</p> | <p>Integrated schools may benefit from funds allocated for 1) training in restorative practices and 2) digital learning programs which can be used to incentivize enrollment in schools.</p> |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | aligned proposed expenses to school-level improvement activities. | <p>data analytics.</p> <p>3. Developing a Restorative School - \$20,000</p> <p>Funds used for social-emotional teacher training, teacher mentorship, behavior management, training in restorative practices, and promoting healthy relationships.</p> <p>4. Instructional Coaching Consortium (ICC) - \$10,000</p> <p>Funds used for Professional development, teacher coaching.</p> <p>5. Leveraging Digital Learning - \$10,000</p> <p>Funds for learning software in the</p> | |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | | classroom, digital social-emotional learning strategies, multilingual conversation applications, family communication software, devices and equipment. | |
| <p><u>Title I School Improvement Grant 1003 Targeted Support Grant</u></p> <p>(State Level Grant of Federal Funds)</p> <p>http://www.p12.nysed.gov/funding/2019-20-title-1-sig-1003-targeted-support/home.html</p> | <p>\$150,000 per school grant for CSI and TSI schools to help meet demonstrable improvement goals according to their individualized SCEP plan.²⁰¹</p> <p>Grant geared toward helping applicable low-performing school districts meet district improvement goals.</p> | <p>Identified CSI and TSI schools that were previously identified as priority schools from 2015 to 2018 (CSI) or 2012 to 2018 (TSI) were eligible.</p> <p><u>Application:</u></p> <p>Link to the application, which includes a list of eligible schools: http://www.p12.nysed.gov/funding/2019-20-title-1-sig-1003-targeted-support/2019-</p> | <p>\$150,000 per eligible school, and funds required to directly connect to established improvement goals of CSI schools and established SCEP goals for all eligible TSI schools. Funds may be used for staffing, provided that the staff positions directly connect to established SCEP goals. If used for staffing, must comply with federal</p> | <p>Grant funds seem largely unrestricted and could potentially be used to meet the overhead costs of inter-district collaborations.</p> |

²⁰¹ School Comprehensive Education Plan: A New York State Education Department document that identifies goals for the upcoming year for underperforming schools. For more information, see the following link: <http://www.nysed.gov/accountability/improvement-planning>

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | <p>20-title-1-sig-1003-targeted-support.pdf</p> <p>Application cycle ended February 7, 2020 (for Jan 1, 2020 to Aug 2020 time period).</p> | <p>“supplement, not supplant” guidelines and cannot be used for core instruction positions.</p> | |
| <p><u>Title I School Improvement Section 1003 New York State Integration Project – Professional Learning Community (NYSIP-PLC) Grant</u></p> <p>(State Level Grant of Federal Funds)</p> <p>http://www.p12.nysed.gov/funding/2018-title-1-nysip-plc/home.html</p> | <p>Up to \$68,000 grants for certain public school districts for use in helping teachers and staff attend professional networking sessions to share expertise and improve teacher performance.</p> | <p>NYSED has established a list of eligible districts.²⁰²</p> <p><u>Application:</u></p> <p>Link to application: http://www.p12.nysed.gov/funding/2018-title-1-nysip-plc/2018-title-1-nysip-plc.pdf</p> <p>Application cycle ended March 30, 2018 (for the September 1, 2018 to August 31, 2019 period).</p> <p>Application required an assessment describing</p> | <p>Funding for the NYSIP-PLC grant was allocated as follows:</p> <p>Up to \$50,000 per participating district with fewer than 5,000 students;</p> <p>Up to \$57,500 per participating districts with at least 5,000 but fewer than 15,000 students;</p> <p>Up to \$65,000 per participating districts with at least 15,000 students;</p> <p>Up to \$68,000 per participating district with at least</p> | <p>Grant could subsidize operational costs by increasing funds available for teacher and staff support.</p> |

²⁰² See the following link for a list of eligible school districts: <http://www.p12.nysed.gov/funding/2018-title-1-nysip-plc/home.html>

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | socioeconomic and segregation barriers, as well as a commitment narrative. | 15,000 students and located in West New York to account for increased travel expenses. Funds may be used for teachers to attend professional networking sessions, including travel, planning, and lodging costs. | |
| <u>STATE LEVEL GRANTS</u> | | | | |
| <u>Advanced Course Access (ACA) Program</u> (State Level Grant) http://www.p12.nysed.gov/funding/nysed-rfp-gc-19-015-aca-grant/home.html | Up to \$500,000 grant for BOCES and the Big Five ²⁰³ public school districts to increase access to remote Advanced Placement and International Baccalaureate courses. | BOCES-led consortiums and the Big Five public school districts were eligible. <u>Application:</u> Link to application: http://www.p12.nysed.gov/funding/nysed-rfp-gc-19-015-aca-grant/nysed-rfp-gc-19-015-aca-grant.pdf | Funding of \$1.75M is available, with a maximum individual award of \$500,000 per year for two years (from July 1, 2020 to June 30, 2022). Funds required to be used to increase access to advanced courses for students, particularly in districts with very | Grant could be used to incentivize enrollment by providing funding and administrative support for advanced course offerings. |

²⁰³ New York City, Yonkers, Syracuse, Rochester, and Buffalo school districts.

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | <p>Application cycle ended Feb 11, 2020 (for July 1, 2020 to June 30, 2022 period).</p> <p>Application required a proposal narrative explaining need, capacity to implement the program, and a proposed budget.</p> | <p>limited or no access to advanced course offerings, or to decrease financial and administrative burden on schools and districts for providing access to advanced coursework.</p> | |
| <p><u>Collegiate Science and Technology Entry Program (CSTEP)</u> (State Level Grant) http://www.p12.nysed.gov/funding/gc-20-004-cstep/home.html</p> | <p>Up to \$450,000 grant for postsecondary institutions to increase access for minority and disadvantaged students to academic programs in scientific and technical fields.</p> | <p>Degree granting postsecondary institutions or a consortium of institutions which offer approved undergraduate programs of study are eligible. For students to participate, they must be economically disadvantaged or from a minority group historically underrepresented, and they must demonstrate interest in and potential for a professional career</p> | <p>During the 2019-2020 program year, \$11,981,890 was awarded to 55 projects. The maximum award for an individual CSTEP project funded during the 20-25 cycle is to be \$450,000 per year. The maximum award for any newly funded individual CSTEP project funded is \$300,000. The maximum award for a consortium CSTEP project is \$1,000,000</p> | <p>This grant is targeted to primarily post-secondary schools.</p> |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | <p>if provided special services.</p> <p><u>Application:</u></p> <p>Link to application: http://www.p12.nysed.gov/funding/gc-20-004-cstep/nysed-rfp-cstep-2020-25.pdf</p> <p>Application cycle ended Nov 8, 2019 (for July 1, 2020 to June 30, 2025 period).</p> <p>Application required a narrative of the institution’s proposed program as well as a proposed budget.</p> | <p>per year.</p> <p>Funds may be used for academic enrichment, supplemental financial assistance, recruitment, career planning, review for licensing examination, supplies, and nominal travel assistance.</p> <p>A minimum 25% match of the grant is required.</p> <p>Funds may NOT be used for rental, office, or storage space.</p> | |
| <p><u>Learning Technology Grant</u> (State Level Grant) http://www.p12.nysed.gov/funding/2018-21-learning-technology-</p> | <p>Up to \$200,000 grant for public school districts to implement technologies that enable personalized, blended and distance learning with a focus on improving culturally</p> | <p>Public school district and consortia of districts or BOCES were eligible. Charter schools were NOT eligible.</p> | <p>Funding of \$3,285,000 is allocated annually. Funds are divided into three categories: (1) New York City, (2) Buffalo, Rochester, Syracuse, and Yonkers and (3) the rest of the</p> | <p>Grant funding supports creating culturally and linguistically-responsive learning environments.</p> |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| grant/home.html | and linguistically-responsive learning environments. | <p><u>Application:</u></p> <p>Link to application: http://www.p12.nysed.gov/funding/2018-21-learning-technology-grant/nysed-rfp-18-008-learning-technology-grant.pdf</p> <p>Application cycle ended July 3, 2018 (for September 1, 2018 to June 30, 2021 period).</p> <p>Application required a narrative plan and budget proposal on how funds will be used to further the program objectives.</p> | <p>state. Individual School districts may receive one maximum annual award of \$100,000, and consortia of two or more may receive one maximum annual award of \$200,000.</p> <p>Funding may be used for equipment and supplies up to 20% of the grant (software not included in cap).</p> | |
| <p><u>Model P-20 Partnerships for Principal Preparation Grant “Equipping School Building Leaders”</u></p> | <p>Grants for public school districts to create a program aimed at improving school principal preparation and school leadership capacity, with the goal</p> | <p>Public school districts were eligible to apply on behalf of a partnership between (1) a public school district (2) an institution of higher education and</p> | <p>Funding of \$5.8 million was available over two years: \$3.9 million is allocated in 2018-19 and \$1.9 million in 2019-20</p> <p>Funds permitted to be</p> | <p>Grant could incentivize enrollment by improving quality of school leadership and administrative staff.</p> |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| (State Level Grant) http://www.p12.nysed.gov/funding/2018-20-model-p-20-partnerships-principal-preparation/home.html | of administration officials attaining their SBL ²⁰⁴ certification. | (3) another entity with leadership development expertise. <u>Application:</u> Link to application: http://www.p12.nysed.gov/funding/2018-20-model-p-20-partnerships-principal-preparation/2018-20-model-p-20-partnerships-principal-preparation-extension.pdf Application cycle ended August 7, 2018 (for July 1, 2018 to September 30, 2020 period). Application required that eligible partnerships submit a memorandum | used for staffing costs related to the program, travel, and professional development. Funds NOT permitted to be used for construction or renovation of classroom space or for any purpose not consistent with the program purpose. | |

²⁰⁴ School Building Leader Certification: For more information, see the following link: <http://www.highered.nysed.gov/tcert/certificate/exp/leadership-school-building.html>

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | <p>of agreement signed by all partners with their application.</p> <p>Application required a detailed project design proposal, including a projected use of funds.</p> | | |
| <p><u>My Brother's Keeper Challenge Grant</u></p> <p>(State Level Grant)</p> <p>http://www.p12.nysed.gov/funding/2019-22-mbk-challenge-grant/home.html</p> | <p>Grant to eligible school districts with a focus on boys and young men of color in order to attain one of three goals:</p> <p>(1) reading at grade level, (2) ensuring high school graduation/career readiness and (3) helping students enter the school system ready to learn.</p> | <p>School districts that had one or more CSI²⁰⁵ schools in the 2018-2019 school year were eligible. Charter schools, non-public schools, and home-school groups or associations were NOT eligible.</p> <p><u>Application:</u></p> <p>Link to eligible school districts (attached to application):</p> <p>http://www.p12.nysed.gov/funding/2019-22-</p> | <p>Anticipated allocation for the first of three periods (January 13, 2020 – June 30, 2020) was \$7M. The allocations for the second and third periods (July 1, 2020 – June 30, 2021 and July 1, 2021 – June 30, 2022) were subject to the continuation of the State appropriation. The funding amount to each eligible district was calculated by formula.</p> <p>Funds permitted to be</p> | <p>Grant funds seem generally unrestricted and could potentially be used to meet the overhead costs of creating and promoting inter-district collaborations.</p> |

²⁰⁵ Comprehensive Support and Improvement School: One of three classifications the New York State Education Department uses to classify school performance. CSIs performed at level 1 on a combination of Every Student Succeeds Act (“ESSA”) indicators or schools with a graduation rate of less than 67 percent. For more information, see the following link: <http://www.nysed.gov/accountability/school-improvement>.

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | <p>mbk-challenge-grant/2019-22-nysed-mbk-challenge-grant.pdf</p> <p>Application cycle ended December 6, 2019 (for January 13, 2020 – July 1, 2022 period).</p> <p>Application required a budget narrative that clearly identifies and aligns proposed expenses to the goals of the program</p> | <p>used for educational services, academic enrichment, career-related internships, promotional activities, and schools supplies.</p> <p>Funds NOT permitted to be used for construction or renovation, equipment with a value of \$5000 or more, or office space.</p> | |
| <p><u>NYS Pathways in Technology Early College High School (NYS P-TECH) Program</u> (State Level Grant)</p> <p>http://www.p12.nysed.gov/funding/2020-2026-p-tech-cohort-5/home.html</p> | <p>Up to \$500,000 grant to public schools to create a grade “9-14” curriculum focused on skills and workplace training that results in an AAS degree.</p> | <p>Public school districts or BOCES were eligible to apply on behalf of a partnership between (1) a K-12 entity (a school district, consortium or BOCES), (2) a higher education institution (only non-profit institutions which offer an AAS degree program linked to the</p> | <p>Funding of \$24,000,000 was available to 8 partnerships over the course of the 7 year grant period. Funds were distributed based on approved program budgets. The basic award was \$500,000 per year with a bonus of \$100,000 for partnering with an in-demand</p> | <p>Grant could incentivize enrollment by creating programs for receiving college credit.</p> |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | <p>goals of the grant) and (3) a business/employer that requires highly skilled employees.</p> <p><u>Application:</u></p> <p>Link to application: http://www.p12.nysed.gov/funding/2020-2026-p-tech-cohort-5/2020-2026-p-tech-cohort-5-rfp.pdf</p> <p>Application cycle ended October 3, 2019 (for 2020-2026 period).</p> <p>Application required a narrative on how funds will be used to develop the program as well as a memorandum of understanding between all partners in the partnership.</p> | <p>industry partner.</p> <p>Funds permitted to be used for service contracts between members of the partnership, professional development, equipment (no more than 10%), workshops, curriculum development, and tuition.</p> <p>Funds NOT permitted to be used to supplant existing funding, sub-grants to members, acquisition of equipment for administrative use, rental space, food services, remodeling, promotional favors, travel outside the U.S., or tuition for remedial courses.</p> | |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| <p><u>Removing Barriers to CTE Programs for English Language Learners and Students with Disabilities Grant</u></p> <p>(State Level Grant)</p> <p>http://www.p12.nysed.gov/funding/2017-2018-cte-ell-swd/home.html</p> | <p>Up to \$200,000 grant to enhance programs and teacher training for students with disabilities and students that are multilingual learners.</p> | <p>School districts and BOCES (lead agencies) in partnership with institutions of higher education, community and business organizations were eligible.</p> <p><u>Application:</u></p> <p>Link to application: http://www.p12.nysed.gov/funding/2017-2018-cte-ell-swd/nysed-rfp-2017-2018-cte-ell-swd-revised-3-13-17.pdf</p> <p>Application cycle ended March 17, 2017 (for September 1, 2017 to August 31, 2018 period).</p> <p>Application required a narrative that addresses the current challenges of</p> | <p>Funding of \$1 million was available statewide with maximum awards of \$200,000 each.</p> <p>Funds permitted to be used for training school counselors, tuition for teachers to become certified in special education or other specialties, and promotional materials</p> | <p>Grant could incentivize enrollment by increasing funding for multilingual and special needs students.</p> |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | the district the proposed CTE program will address and a proposed budget. | | |
| <p><u>Science and Technology Entry Program</u> (State Level Grant) http://www.p12.nysed.gov/funding/gc-20-005-step/home.html</p> | Up to \$450,000 grant for postsecondary institutions to increase access for minority students to academic programs in scientific, technical, and medical fields. | New York State degree granting postsecondary institutions or consortia of such institutions with registered scientific, technical, or health related professional or pre-profession programs that lead to licensure or employment in those fields were eligible. Institutions (or, if a consortium, then at least half the institutions in the consortium) required to be located within a school district with an enrollment that is at least 20 percent Black or African American, Hispanic/Latino, or American Indian/Alaska Native, or located near such a district that is | <p>During the 2019-2020 program year, \$15,811,180 was awarded to 59 projects. The maximum award for an individual STEP project funded during the 20-25 cycle is \$450,000 per year. The maximum award for any newly funded individual STEP project is \$300,000. The maximum award for a consortium STEP project is \$1,000,000 per year. Projects that receive \$200,000 or more required to implement a summer program.</p> <p>Allowable expenses include stipends for</p> | This grant is targeted to postsecondary institutions. |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | <p>easily accessible by public transportation.</p> <p><u>Application:</u></p> <p>Link to application: http://www.p12.nysed.gov/funding/gc-20-005-step/nysed-rfp-step-2020-25.pdf</p> <p>Application cycle ended November 8, 2019 (for July 1, 2020 through June 30, 2025 period).</p> <p>Application required a narrative of the institution’s proposed program as well as a proposed budget.</p> | <p>students, program administration, field trips/conferences, standardized testing, supplies, professional development, and program brochures and promotional activities.</p> <p>A minimum 25% match of the grant was required.</p> | |
| <p><u>Smart Schools Bond Act</u> (State Level Grant) http://www.p12.nysed.gov/mgtserv/smart_school</p> | <p>Funds generated from a bond issuance in 2014 for public school districts and loans for nonpublic schools with the purpose of funding capital projects to improve broadband</p> | <p>Public school districts that received Foundation Aid were eligible. Nonpublic schools were eligible for loans through the program.</p> | <p>Aggregate funds of \$2,000,000,000. Funding for individual school districts was calculated using a school district’s formula-based school aid in the 2013-2014</p> | <p>Funds can be used for a variety of purposes and could potentially be used to meet the overhead costs of inter-district collaborations.</p> |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| ls/ | internet, acquire learning technology, construct/modernize educational facilities and increase building security. | <p><u>Application:</u></p> <p>Link to application guide: http://www.p12.nysed.gov/mgtserv/documents/SSBAGuidancerev_10_24_18_Final.pdf</p> <p>Application required the approval of a SSIP²⁰⁶, which includes a narrative on needs, stakeholder engagement and capital planning. SSIPs may be amended for unspent funds with approval from the NYSED.</p> | school year. Funding was dispersed on a reimbursement basis in accordance with a district’s SSIP. | |
| <p><u>Smart Start Program</u> (State Level Grant)</p> <p>http://www.p12.nysed.gov/funding/gc-19-010-smart-start-</p> | Up to \$500,000 grant to eligible school districts and BOCES to provide professional development to K-8 teachers and administrators in the | Public school districts, consortia of districts, and BOCES were eligible. Charter schools, religious, and independent schools | Funding of \$6,000,000 was allocated annually. Applicants were eligible for a focused grant of up to \$250,000 per year or a large scale grant of up | Grant could subsidize operational costs by increasing funds available for teacher and staff support. |

206 Smart School Investment Plan: The capital spending plan used to evaluate the use of funds dispersed through the Smart Schools Bond Act. For more information, see the application guide linked above.

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| program/home.html | subjects of computer science, engineering, and educational technology. | <p>were NOT eligible.</p> <p><u>Application:</u></p> <p>Link to Application: http://www.p12.nysed.gov/funding/gc-19-010-smart-start-program/home.html</p> <p>Application cycle ended November 19, 2019 (for July 1, 2020 to June 30, 2025 period).</p> <p>Application required narrative on how funds will be used to further the goals and purposes of the grant.</p> | <p>to \$500,000 per year.</p> <p>Funds must be used for professional development training for teachers. Professional development is defined as personal training, experiences, and/or learning that enables teachers and administrators to deepen their knowledge on the required subjects.</p> <p>No more than 20% of funds permitted to be used for purchasing equipment and supplies.</p> | |
| <p><u>Student Support and Academic Enrichment Grant</u></p> <p>(State Level Grant)</p> <p>http://www.p12.nysed.gov/funding/2018-19-student-support-</p> | <p>Broad grant for public and charter schools that receive Title 1 funding to improve educational outcomes, increase health and safety, and improve the use of technology.</p> | <p>Individual public school districts or charter schools that received Title 1 funds for the preceding fiscal year were eligible.</p> | <p>Funding of \$28,500,000 was available. Funds were divided into three categories:</p> <ul style="list-style-type: none"> • \$11,400,000 for access to a well-rounded | <p>Grant funds seem largely unrestricted and could potentially be used to meet the overhead costs of inter-district collaborations.</p> |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| academic-enrichment-grant/home.html | | <p><u>Application:</u></p> <p>Link to application: http://www.p12.nysed.gov/funding/2018-19-student-support-academic-enrichment-grant/2018-19-student-support-academic-enrichment-grant.pdf</p> <p>Application cycle ended February 16, 2018 (for July 1, 2018 to September 30, 2019 period).</p> <p>Application required narrative on needs, commitment, and proposed use of funds.</p> | <p>education</p> <ul style="list-style-type: none"> • \$5,700,000 for safe and healthy schools and • \$11,400,000 to improve the use of technology to improve academic achievement and digital literacy of all of students. <p>Each applicant could apply for a grant award in each content area with a minimum amount of \$100,000 to a cumulative maximum amount indicated in the table in the application (which depends on student enrollment).</p> <p>Funds were awarded based on the content area applications, and are scored independently from</p> | |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | | each other. | |
| <p><u>Teacher Diversity Pipeline Pilot</u> (State Level Grant)</p> <p>http://www.p12.nysed.gov/funding/2019-teacher-diversity-pipeline-pilot/home.html</p> | <p>Grants for eligible public school partnerships to create a training pipeline for teacher aides and teacher assistants.</p> | <p>Public school districts or BOCES are eligible to apply on behalf of a partnership between at least (1) a high-need public school district²⁰⁷ and (2) a New York State degree-granting institution of higher education with an undergraduate teacher preparation program that has been approved by the NYSED.</p> <p><u>Application:</u></p> <p>Link to application: http://www.p12.nysed.gov/funding/2019-teacher-diversity-pipeline-pilot/2019-teacher-diversity-pipeline-pilot-grant.pdf</p> <p>Application cycle ended</p> | <p>Funding of \$500,000 was available over 5 years.</p> <p>Funds required to be used to develop innovative and supportive pathways for training teacher aides and teacher assistants, and uses may include stipends, academic support, supplies, non-academic support (such as transportation and childcare), and recruiting.</p> | <p>Grant could incentivize enrollment by improving quality of instruction due to increased teacher aide staff and support.</p> |

²⁰⁷

See the following link for the list of eligible school districts: <http://www.p12.nysed.gov/irs/accountability/2011-12/NeedResourceCapacityIndex.pdf>

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | <p>November 26, 2018 (for period starting May 1, 2019 and running 5 years).</p> <p>Application required a memorandum of agreement signed by all partners and additionally requires a detailed project design proposal, including projected use of funds.</p> | | |
| <p><u>National School Lunch Program (NSLP) Equipment Assistance Grant for School Food Authorities (SFAs)</u> (State Level Grant) http://www.p12.nysed.gov/funding/2018-national-school-lunch-program/home.html</p> | <p>Up to \$20,000 grant to institutions participating in the National School Lunch Program to buy certain approved food-service related equipment.</p> | <p>All schools participating in the National School Lunch Program in New York State were eligible (including public school districts, non-profit nonpublic schools, charter schools and residential childcare institutions). Priority was given to institutions with 50 percent or more students eligible for free or reduced price meals and to institutions that</p> | <p>Funding of a minimum of \$2,000 up to a maximum of \$20,000 per institution. The total funding available was \$1,684,401.</p> <p>Funds required to be used to purchase certain pre-approved food service equipment.</p> | <p>Grant can subsidize the cost of per-pupil attendance through reduced price lunches.</p> |

| <u>Grant</u> | <u>Summary</u> | <u>Eligibility</u> | <u>Funding Structure</u> | <u>Comments</u> |
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| | | <p>did not receive a previous grant award through the American Recovery and Reinvestment Act Food Service Equipment Grant.</p> <p><u>Application:</u></p> <p>Link to application: http://www.p12.nysed.gov/funding/2018-national-school-lunch-program/2018-national-school-lunch-program.pdf</p> <p>Application cycle ended February 19, 2019 (for August 1, 2019 to July 7, 2020 period).</p> <p>Application required a request for eligible equipment and a narrative explaining the need for the equipment.</p> | | |

V SUMMARY OF OTHER INTER-DISTRICT MODELS

In addition to reviewing New York State law, we studied other inter-district school programs aimed at integration from various jurisdictions around the country. This section of the report first compares these programs' handling of certain key components of inter-district or other types of school plans aimed at increasing integration schools. Then, we will provide specific legislation underlying many of these programs, and highlight those aspects of those laws from which GS4A could best draw in creating the Breakthrough Schools.

A. Comparison of Other Jurisdictions' Treatment of Key Components

This selection of comparators reflects research previously done by Orrick and Appleseed as well as recommendations from various experts with whom we spoke. Our aim was to identify features of these models that GS4A should consider in formulating Breakthrough Schools. We hope that this research provides a reference tool by identifying the range of possibilities as well as possible solutions to any obstacles that GS4A might encounter.

We researched the following inter-district schools or school systems: Hartford, CT; Boston, MA (METCO); Richmond, VA (CodeRVA, a single school); Brandywine, DE; Omaha, NE; Minneapolis, MN (West Metro); Minneapolis, MN (NW Suburban); Milwaukee, WI; St. Louis, MO (VICC); and San Antonio, TX (an intra-district program). For each school or system, we looked at the following features, all of which are analyzed in greater detail program by program on the spreadsheet which is included as Appendix D:

- Overview, including a brief history, whether the system was voluntary or compelled by a court order, and an indication of how successful each program has been on various measures;
- Open-enrollment laws and other legislative adaptation (e.g., no requirement to reapply once admitted; sophisticated 'tiered' lottery system);
- Adequate funding: financial investment and coordination; broadening and/or revamping reimbursement methods;
- Transportation solutions;
- Clear admission/enrollment criteria that take into account socio-economic status;
- Accountability standards, including alternative evaluation methods;
- Post-transfer resources and support (e.g., for teachers, parents, counselors, etc.);
- Use of third-party governance structure/administrator;
- Pre-application equity and access: inclusive outreach to families/communities and follow up; application form aid;

- Any other incentives for teachers (e.g., teacher-training program, leadership pipeline) and for suburban families/sending schools (e.g., school design/themes – gifted and talented, bilingual, or advanced STEM program).

For this summary memo, we will discuss the range of options for the systems researched, and highlight the options that best seem to fit the Breakthrough Schools proposal.

Overview

The programs that appeared to be most successful benefited from continuous sources of funding and accountability, either from dedicated advocates who monitored progress at complying with court orders, or from state executive or legislative officials who continually pushed for improvement. In contrast (and not surprisingly), programs in which funding expired amid a shift in political will or government priorities have foundered or ceased operations.

Examples of relatively successful programs are:

Hartford *Sheff* schools, which were created to comply with—and ultimately benefited from—a State Supreme Court ruling that the inequality of education between Hartford and surrounding towns violated the state Constitution, and follow-up cases to enforce that decision. While the creation of inter-district schools helped those who participated in the schools, the lagging achievement of those left behind in traditional Hartford schools prompted revisions to the program to create special “Lighthouse” schools in the city to attract students from suburban districts to address remaining inequality. The noteworthy persistence of advocates to continue to push for compliance with the state’s constitutional ideals was important to the program’s success.

Boston METCO Schools, a voluntary busing program that has benefitted from private foundation and state funding.

Richmond CodeRVA School, a recently-created magnet school that benefits from federal (through the Department of Education’s Magnet School Assistance Program), state and local funding. The school, which places an emphasis on Computer Science, STEM and coding, draws students from Richmond as well as 14 partner school districts.

Omaha, NE, benefitted from tax-base sharing (a rare legal feature) and redistribution of resources, and a regional governance system for the 11 Omaha metro-area districts.

The less successful programs had unsteady state funding (such as West Metro in Minnesota and Milwaukee), substituted an Open Enrollment program not specifically targeted at addressing segregation (such as Milwaukee), or caved to political opposition to busing (such as Brandywine). Judicial invalidation further threatens any program explicitly aimed at achieving racial equity, illustrated by *Parents Involved in Community Schools v. Seattle*.

Legislative adaptation to permit creation of inter-district schools

To provide the legal support for the creation of inter-district schools, some of the programs we reviewed relied upon the state constitution, as enforced through litigation; some created open enrollment laws to permit the creation of inter-district schools; and some relied upon existing law. Open enrollment policies allow a student to transfer to a public school of choice—either intra- or inter-district—often with certain requirements or conditions that address the socioeconomic status (which has largely replaced race as an admission criterion) of students or their communities. Depending on the state, open-enrollment laws may be mandatory, voluntary or mixed. School districts might implement a lottery system when there is more demand than there are available spots in schools; districts or individual schools may also reserve a percentage of their spots for students of lower socioeconomic status.

Notably, Hartford’s *Sheff* schools resulted from litigation to enforce the equal opportunity provision of the Connecticut constitution, which led to the adoption of state law to implement “Open Choice,” an open enrollment program that originally applied race-based quotas, but which was revised in 2020 to apply a socioeconomic status quota. In contrast, Richmond CodeRVA, San Antonio, and Minneapolis’ NW Suburban programs started proactively with an intentional socioeconomic diversity focus. As a result, these latter programs serve as good examples of voluntary school integration.

Adequate Funding

The programs we reviewed derived their funding from a variety of governmental sources, and any loss of such funding typically threatened the continued existence of the programs. The most progressive funding structure, Omaha’s redistribution of property tax revenue, was—unsurprisingly—met with fierce resistance, resulting in its elimination in 2016. However, the state stepped in and increased the program’s funding by over \$13 million to reduce the gap between more and less affluent areas.

Several programs obtained significant federal funding. Minneapolis partly paid for the West Metro program using a federal funding grant called Voluntary Public School Choice. The Richmond CodeRVA school obtained initial funding from the federal Magnet School Assistance Program (“MSAP”) administered by the Department of Education, which provided \$6 million over four years. The Minnesota NW Suburban program also used some federal funding (including an award of MSAP grants) together with state and local funds.

State funding is the predominant source of funding for many of the programs we examined, including Hartford, Boston, Omaha, Milwaukee, St. Louis, and San Antonio. Given the local dynamics that influence each district’s challenges, the state funding apparatus can be effective, as it can be tailored sufficiently to address a program’s specific needs without relying on hyper-local funding sources such as increased property taxes within individual communities (a concept that remains unpopular and was ultimately not viable in Boston and Omaha).

For St. Louis VICC, the state initially provided funding to requesting school districts on an as-needed basis as part of a desegregation settlement resulting from litigation. In addition, as part of the settlement of the original lawsuit that prompted creation of the program, the state made two \$25 million payments to cover transportation costs. The ordinary state public school funds followed participating students to the receiving schools, and paid for transportation as well. As time went on, a St. Louis sales tax increase was approved to help cover transportation and tuition costs.

Transportation

The surveyed transportation solutions—key to the success of any inter-district program—are all over the map. Omaha limits coverage of transportation costs to students who qualify for free lunch. Brandywine and Delaware’s Choice programs provided no additional state money, requiring parents to provide their own transportation solutions. In Brandywine, students are allowed to take the bus at a regular stop for their school in the receiving district, but they need to have transportation to and from the stop. Hartford paid fixed grants per student that were codified in the law passed to effectuate the *Sheff* ruling. Boston METCO’s transportation amounts allocated per student varied based upon distance traveled to the receiving school. St. Louis provided transportation only for students who transfer to the school district linked to their attendance zone (the urban district was divided into four attendance zones, each of which is linked to a specific receiving suburban district).

A transportation system must necessarily be tailored to the unique programmatic needs and geographical realities of a given program, and our analysis highlights the importance of sustainable funding and providing access that does not place an undue burden on students (and their families) who travel outside their local district or school. And, as numerous authorities told us, transportation is the linchpin to a successful program.

Admission/Enrollment Criteria

The school programs that have historically aimed to enroll a fixed percentage of their student body with students of a specified race have been (or are expected to be) challenged through litigation. Following the invalidation of a Seattle program in *Parents Involved*, a landmark Supreme Court case on affirmative action in K-12 public schools, explicit racial quotas—or even racial balancing—are unlikely to withstand such challenges. As a result, programs have turned to the use of socioeconomic status to achieve diversity in schools within a choice program.

A lottery system of some sort is necessary to ensure that such a program is truly and fairly accessible to all. Programs in Richmond, San Antonio, and NW Suburban Minneapolis are using more sophisticated and weighted lottery systems that take a variety of factors into consideration to ensure opportunity for enrollment by students of targeted socioeconomic status and a more accurate representation of the demographics of surrounding communities.

Accountability Standards

Generally, officials and administrators continue to measure the success of schools—including inter-district programs designed to remedy segregation—by the traditional metrics of standardized test scores, graduation rates, and rates of return. These rating systems are often criticized as overly binary and for labeling schools—mostly those serving families of color—as “failing” without taking into account myriad challenges and incremental progress. Texas uses a more contextual “report card” rating mechanism, which goes beyond these traditional metrics to consider individual student achievement, overall school progress, and performance of different groups of students to measure gradual improvement. Even the most ostensibly objective and holistic metrics, however, may continue to fail to capture the effects of historic injustice, persistent inequality, and entrenched and concentrated poverty. Because states employ different systems for evaluating schools, it will be essential for GS4A to understand the rubric in place in New York State—both to set up Breakthrough Schools for success, and to anticipate and proactively address potential challenges these schools may face in being measured according to the system in place.

Post-transfer resources and support

Students and families who enroll in open enrollment choice programs frequently require post-transfer support in order to transition more seamlessly from their prior school. This element of a program can be difficult to capture, however. NW Suburban and Omaha—and to some degree, San Antonio—have dedicated resources to mentoring students, keeping families engaged, developing educators, and providing after-school/extended day programs. Hartford encourages and actively incentivizes sending schools to promote and facilitate transfers by allowing those schools to retain one-half head count funding for students that leave.

Use of third-party governance structure/administrator

Most of the programs we reviewed involved third party organizations for some form of oversight and administration. Depending on the state laws, their roles may be to enforce the program as prescribed, or to provide a more facilitative governance structure to work with school districts that have more autonomy.

Pre-application equity and access

While most of the programs do not actively recruit for or advertise their programs, they have been established for some time, are well-recognized, and attract applicants without effort. Richmond and San Antonio, in contrast, are in their early stages and so have invested in targeted inclusive outreach. To ensure the successful launch of an integration program, prospective students need online access to promotional and explanatory materials that is accessible by families’ and dedicated workers who connect with applicants directly to navigate the application process and help students fully consider their alternative options.

Other incentives

CodeRVA appears to be doing the most to capitalize on student interest in STEM through a specialized curriculum and partnerships with local institutions and businesses to provide opportunities for professional certifications and paid work experience.

Several open enrollment programs also aim to recruit and retain teachers by offering specialized professional training and development. For example, bolstered by a new Texas law that allocates additional funding to compensate teachers who work in rural and/or high needs areas, San Antonio’s ambitious plans to “grow-your-own” pipeline of talent by offering educators a variety of programs which cater to their long term career interests—such as becoming a department chair or a principal—could prove valuable in attracting and retaining effective educators.

B. Legislation Underlying Other Programs

This section presents selected aspects of the legislation—summaries and verbatim excerpts—underlying the programs of the jurisdictions discussed in the previous section. Certain of the programs involve charter schools, or programs similar to Urban-Suburban, and therefore have limited relevance, but provisions regarding funding, transportation, partnering with institutions, and eligibility may be useful for consideration. This section is designed to provide examples of various ways that statutes can be drafted to authorize schools and approach different issues. Given that these jurisdictions created schools with varying goals, portions of what follows may not apply directly to Breakthrough Schools, but they are included as background. Accordingly, we anticipate that readers may choose to skim this section to determine any aspects that may prove helpful in thinking about Breakthrough Schools. Additional relevant details about each of the following programs can be found in Appendix D. Aspects of the legislation that are most relevant to the proposed Breakthrough Schools are highlighted in the discussions of the following jurisdictions:

1. **Hartford, CT**
2. **Boston, MA**
3. **Richmond, VA**
4. **Brandywine, DE**
5. **Omaha, NE**
6. **Minneapolis (West Metro)**
7. **Minneapolis (Northwest Suburban)**
8. **Milwaukee, WI**
9. **St. Louis, MO**
10. **San Antonio, TX**

1. **HARTFORD, CT – Community Schools**
https://www.hartfordschools.org/files/Schools/HCS/Financing_Case_Study-Hartford_Community_Schools.pdf
Comparison of Charter, Magnet and Community Schools:

<https://www.cga.ct.gov/2014/rpt/pdf/2014-R-0218.pdf>
<https://www.cga.ct.gov/2014/rpt/pdf/2014-R-0257.pdf>

a. Community schools

i. Connecticut Education Law Sec. 10-74i. collaborate with community partner (categories defined by law)

1. (1) “Community school” means a public school that participates in a coordinated, community-based effort with community partners to provide comprehensive educational, developmental, family, health and wrap-around services to students, families and community members.
2. (2) “Community partner” means a provider of one or more of the following services to students, families or community members: (A) Primary medical or dental care, (B) mental health treatment and services, (C) academic enrichment activities, (D) programs designed to improve student attendance at school, (E) youth development programs, (F) early childhood education, (G) parental involvement programs, (H) child care services, (I) programs that provide assistance to students who are truant or who have been suspended or expelled, (J) youth and adult job training and career counseling services, (K) nutrition education, (L) adult education, (M) remedial education and enrichment activities, (N) legal services, or (O) any other appropriate services or programs.
3. (d) The board of education shall develop a community school plan for each school designated as a community school. When developing such community school plan, such board shall use the results of the community resource assessment to address the specific needs identified in the operations and instructional audit and community needs audit. Such community school plan shall coordinate, integrate and enhance services for students, families and community members at the community school to improve the academic

achievement of such students and increase family and community involvement in education.

- b. Funding (2011-2012)
 - i. City - \$108,000 (3%)
 - ii. State - \$558,275 (17%)
 - iii. Federal - \$241,150 (8%)
 - iv. CBOs - \$173,739 (5%)
 - v. Hartford Foundation - \$1,014,335 (31%)
 - vi. Other Foundation - \$282,982 (9%)
 - vii. United Way - \$153,687 (5%)
- c. Partnerships with local nonprofits; each school has nonprofit partner
- d. Transportation – eligibility for transportation depends on school grade and distance from school (e.g. grades 9-12, student lives within 2.0 mi. from enrolled school)
 - i. Transportation requirements are the same for innovation schools as district requirement and funding is the same
- e. Student Selection – students must apply for schools – apply for district schools (Hartford residents only) and magnet/open choice schools (open to Hartford and suburban residents).
- f. Limitations
 - i. Must be operated by local or regional educational board for priority school district (Sec. 10-74h. Innovation schools)
 - 1. (a) A local or regional board of education for a school district identified as a priority school district, pursuant to section 10-266p, may, through agreement with the organizations designated or elected as the exclusive representatives of the teachers' and administrators' units, as defined in section 10-153b, convert an existing public school into an innovation school or establish a new school

as an innovation school, in accordance with the provisions of this section, for purposes of improving school performance and student achievement. For purposes of this section, an innovation school is a school in which: (1) Faculty and district leadership are responsible for developing an innovation plan, as described in subsection (b) of this section, under which the school operates and the administrators of the school are responsible for meeting the terms of the innovation plan; or (2) an external partner is responsible for developing the innovation plan, as described in subsection (b) of this section, under which the school operates and the external partner is responsible for meeting the terms of the innovation plan. For purposes of this section, an external partner may include a public or private institution of higher education, nonprofit charter school operators, educational collaboratives or a consortia authorized by the Commissioner of Education that may include public or private institutions of higher education, parents, the organizations designated or elected as the exclusive representatives of the teachers' and administrators' units, as defined in said section 10-153b, superintendents or boards of education. The local or regional board of education shall decide whether the faculty and district leadership or an external partner is responsible for developing the innovation plan.

2. **BOSTON, MA (METCO)** – state funded program to eliminate “racial imbalance” (defined as a public school in which more than 50% of the students are non-white); “racial isolation” (defined as not more than 30% of students attending school that are non-white)

Source: <https://metcoinc.org/>

- a. Law

- b. MA Part I, Title XII, Ch. 17, Section 12A

- i. Section 12A. The school committee of any city or town or any regional district school committee may adopt a plan for attendance at its schools by any child who resides in another city, town, or regional school district in which racial imbalance, as defined in section thirty-seven D of chapter seventy-one, exists in a public school. Such plan

shall tend to eliminate such racial imbalance, shall be consistent with the purposes of said section thirty-seven D, and shall include an estimate of the expenses necessary to implement such plan. Such school committee or regional district school committee shall file a copy of such plan and the vote by which it was adopted with the board of education, in this section called the board. The board shall approve or disapprove such plan within ninety days after the date of such filing. If it disapproves such plan, it shall state the reasons therefor. If it approves such plan, the board, acting through the commissioner of education and on behalf of the commonwealth, shall enter into an agreement with such school committee or regional district school committee providing that such school committee or regional district school committee shall accept for attendance at its schools non-resident children as provided by such plan and that the commonwealth shall provide financial assistance to such city, town, or regional district school committee as provided by this section; provided, however, that such agreement may provide that such school committee or regional district school committee waives all or any part of such financial assistance. No such school committee or regional district school committee shall be required to implement any such plan unless and until it and the board have entered into such an agreement providing for the amount of financial assistance and the terms on which such assistance shall be provided.

- ii. Any child residing in any city, town, or regional school district and attending therein a public school in which such racial imbalance exists may attend a public school or a publicly authorized non-sectarian school in a city, town, or regional school district in which he does not reside if the school committee of such city or town or the committee of such regional school district has adopted and the board has approved, as provided by this section, a plan for the attendance of such non-resident children therein.
- iii. The commonwealth shall, subject to appropriation and upon certification by the board, provide financial assistance in accordance with such agreement. Such financial assistance shall include payments for: (i) the cost per pupil of educating each non-resident child, as approved by the board; (ii) the cost of transportation of each such child, as

approved by the board; and (iii) the cost, as approved by the board, of special education services provided to each such child determined to be in need of such services pursuant to chapter seventy-one B. The board shall, by regulation, define the special education costs eligible for such financial assistance.

- iv. The board shall provide technical and other assistance to any city, town, or regional school district in the formulation and implementation of any such plan. A school committee, regional district school committee, or the board may accept, for the purpose of implementing any such plan, gifts, grants, or contributions from any source, whether public or private. Any gift, grant, or contribution so accepted by a school committee of a city or town or a regional district school committee for such purpose shall be deposited with the treasurer of such city, town, or regional school district and held in a separate account and may be expended without further appropriation, notwithstanding the provisions of section fifty-three of chapter forty-four.
- c. Funding – mixture of state and private foundation funding: grant program funded by Commonwealth of Massachusetts; was originally funded through a grant by Carnegie Foundation and federal government
- d. Transportation – limited bus stops in Boston; each district arranges its own bus route, parents are responsible for transporting student to and from bus stop
- e. Admission
- f. Residency – student must reside in City of Boston
- g. Priority – priority given for sibling of currently enrolled student, completed application prior year and not admitted will be added to waitlist as of original application date
- h. Lottery system

3. **RICHMOND, VA (CodeRVA)** – Public Charter Magnet high school focused on computer science
 - a. Funding
 - i. Charter school funding – Va Code 22.1-212.4 - Insofar as constitutionally valid, a local school board or, in the case of a regional public charter school, the relevant school boards may establish by contract an agreement stating the conditions for funding the public charter school, including funding for the educational program to be provided by a residential charter school for at-risk students. In accordance with subsection D, the per pupil funding provided to the charter school by the local school board or, in the case of a regional public charter school, the relevant school boards, shall be negotiated in the charter agreement and shall be commensurate with the average school-based costs of educating the students in the existing schools in the division or divisions unless the cost of operating the charter school is less than that average school-based cost.
 - b. Transportation
 - i. Va. Code 22.1-176 - A. School boards may provide for the transportation of pupils, but nothing herein contained shall be construed as requiring such transportation except as provided in § 22.1-221 [*transportation of children with disabilities attending public or private special education programs*]
 - ii. Va. Code 22.1-176.1 – Local school boards may enter into agreements with nonpublic schools within the school division to provide student transportation to and from such schools and school field trips under such terms and conditions as the local school boards deem appropriate and responsible. Such terms may include arrangements relating to cost-sharing, fees, insurance, and liability.
 - iii. Va. Code 22.1-186 - The regulations of the Board of Education governing state payments for pupil transportation shall provide for payments to school divisions for pupil transportation provided by the school divisions both through systems operated by the school divisions and through contracts with public transportation facilities.

- c. Student Selection – by annual “controlled choice lottery system”; annual application for rising 9th graders only
 - i. Mission - One of CodeRVA’s goals is to address socioeconomic, gender, and racial inequities in by providing a high quality, computer science focused education to facilitate entry into IT-related career fields for all students. To this end, CodeRVA’s selection process is hosted by an independent third-party company who oversees our controlled choice lottery system.
 - ii. Student must reside in one of participating school districts in Richmond/surrounding suburbs (Chesterfield, Colonial Heights City, Cumberland, Dinwiddie, Hanover, Henrico, Hopewell City, New Kent, Petersburg City, Powhatan, Prince George, Richmond City, Sussex and Charles City)
- d. Partnerships with local institutions
 - i. Va. Code 22.1-89.4 - Each school board shall develop and implement, and may, from time to time, revise, a policy relating to commercial, promotional, and corporate partnerships and sponsorships involving the public schools within the division.

e. Governance

- i. Va. Code 22.1-199.7 – Community schools limited to certain purposes - A. In order to remove nonacademic barriers to learning as a means to enhance student academic success in public elementary and secondary schools throughout the Commonwealth, the Department of Education shall establish an interagency task force composed of state and local agencies and entities in the areas of early childhood development, health, social services, community engagement, family engagement, higher education, communities in schools, and workforce development for the purpose of (i) developing a program for the establishment of community schools whereby public elementary and secondary schools serve as centers for the provision of such community programs and services to students and their families as may be necessary on the basis of unique needs of the student population to be served and (ii) developing and providing to the Governor, the Secretary of Education, local school boards, and other

interested state, local, and private entities policy recommendations relating to the coordinated delivery of community services to students and their families and the operation of community schools throughout the Commonwealth in accordance with the Virginia Community School Framework.

ii. Charter School Legislation

1. Va Code 22.1-212.6(a) - Enrollment in a public charter school shall be open to any child who is deemed to reside within the relevant school division or, in the case of a regional public charter school, within any of the relevant school divisions, as set forth in § 22.1-3, through a lottery process on a space-available basis, except that in the case of the conversion of an existing public school, students who attend the school and the siblings of such students shall be given the opportunity to enroll in advance of the lottery process. A waiting list shall be established if adequate space is not available to accommodate all students whose parents have requested to be entered in the lottery process. Such waiting list shall also be prioritized through a lottery process and parents shall be informed of their student's position on the list.
2. Va Code 22.1-212.6(b) - A public charter school shall be administered and managed by a management committee, composed of parents of students enrolled in the school, teachers and administrators working in the school, and representatives of any community sponsors, in a manner agreed to by the public charter school applicant and the local school board. Pursuant to a charter contract, a public charter school may operate free from specified school division policies and state regulations, and, as public schools, shall be subject to the requirements of the Standards of Quality, including the Standards of Learning and the Standards of Accreditation.
3. Va Code 22.1-212.6(c) - Pursuant to a charter agreement, a public charter school shall be responsible for its own operations, including, but

not limited to, such budget preparation, contracts for services, and personnel matters as are specified in the charter agreement. A public charter school may negotiate and contract with a school division, the governing body of a public institution of higher education, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity, or undertaking which the public charter school is required to perform in order to carry out the educational program described in its charter. Any services for which a public charter school contracts with a school division shall not exceed the division's costs to provide such services.

4. Va Code 22.1-212.6(d) - As negotiated by contract, the local school board or the relevant school boards, in the case of regional public charter schools, may allow a public charter school to use vacant or unused properties or real estate owned by the school board. In no event shall a public charter school be required to pay rent for space which is deemed available, as negotiated by contract, in school division facilities. All other costs for the operation and maintenance of the facilities used by the public charter school shall be subject to negotiation between the public charter school and the school division or, in the case of a regional public charter school, between the regional public charter school and the relevant school divisions.
5. Va Code 22.1-212.11 - A. Local school boards may establish public charter schools within the school division. Priority shall be given to public charter school applications designed to increase the educational opportunities of at-risk students, and at least one-half of the public charter schools per division shall be designed for at-risk students; however, the one-half requirement shall not apply in cases in which an existing public school is converted into a public charter school that serves the same community as the existing public school, nor shall such public charter school conversions be

counted in the determination of school division compliance with the one-half requirement.

4. **BRANDYWINE, DE** (school choice)

- a. School Choice: In Delaware, the school choice program gives families the flexibility to choose the public school that best meets their child's needs, providing space exists. Delaware residents with school-age children can apply to go to any public school in the state regardless of which Delaware district they reside in, dependent upon available space in the school of choice. Only Delaware residents may apply for this program.
- b. Transportation - Transportation to and from a Choice School is up to the parent/guardian. Bus transportation will be provided from an existing Brandywine School District bus stop only if there is space on the bus. The parent/guardian is responsible for getting the student to the most convenient bus stop with space available.
 - i. 14 Del Code Sec 409 - (a) The parent of any child enrolled in a district other than the district of residence, or enrolled in a school within the district of residence other than the school in which the child would normally be enrolled based upon the residence of the child's parent or parents, shall be responsible for transporting the child without reimbursement to and from a point on a regular bus route of the receiving district.
- c. Student selection – lottery (orders of priority):
 - i. Sibling in school
 - ii. Childcare provider is in the feeder pattern of the requested choice school
 - iii. Student residing in district and attending a district school
 - iv. Student residing in district and not attending a district school
 - v. Student outside of the district
- d. Law
 - i. 14 Del. Code Sec. 403 - (a) Any parent of a school age child may apply to enroll that parent's own child in a

school or program in a receiving local education agency by submitting a written application, on a standard form provided by the Department of Education, to the Department of Education or to the receiving local education agency and to the district of residence on or after the first Monday in November and on or before the second Wednesday in January for enrollment during the following school year, except that a parent may apply to a receiving local education agency until the first day of the school year for enrollment in a kindergarten program during that school year. The Department of Education shall distribute applications to the appropriate receiving local education agency no later than 10 working days after the application deadlines set forth in this subsection. Receiving districts may require the submission of information beyond that contained in the standard form provided that it requires the submission of the same information by the parents of children residing in the attendance zone for the school. Notwithstanding the requirements of this subsection, charter schools, vocational-technical school districts, and magnet schools may accept applications submitted after the second Wednesday in January to fill remaining availability.

ii. 14 Del. Code Sec. 406 - § 406. Racial balance. - (a) If approval of all of the applications for transfer into or out of a district would result in the district being out of compliance with any applicable court-ordered desegregation plan, the district shall establish the number of majority and minority group pupils who may transfer into or out of the district.

iii. 14 Del. Code Sec. 408 (e). Funding - The district of residence shall, except as provided for in subsection (h) of this section, pay to the receiving district the lower local cost per pupil expenditure of the 2 districts, adjusted by an inflation factor specified annually in the annual appropriations act, such payment to be made by November 30 of each year. In the case of a district of residence that has a higher local cost per pupil than the receiving district, the district of residence shall pay in to a special fund to be known as the “School Choice Fund,” the difference per pupil between their local cost per pupil expenditure and that of the receiving district. The Department of Education shall establish and administer the School Choice Fund as an

appropriated special fund account. Deposits by districts of residence to this account shall also be completed by November 30 of each school year.

5. **OMAHA, NE** – “One City One School District” school choice (any Nebraska student can attend a school outside their district) tax base sharing and redistribution of resources; regional governance system
 - a. Nebraska Revised Statute 79-234: (1) An enrollment option program is hereby established to enable any kindergarten through twelfth grade Nebraska student to attend a school in a Nebraska public school district in which the student does not reside subject to the limitations prescribed in section 79-238. The option shall be available only once to each student prior to graduation, except that the option does not count toward such limitation if such option meets, or met at the time of the option, one of the following criteria: (a) The student relocates to a different resident school district, (b) the option school district merges with another district, (c) the student will have completed either the grades offered in the school building originally attended in the option school district or the grades immediately preceding the lowest grade offered in the school building for which a new option is sought, (d) the option would allow the student to continue current enrollment in a school district, (e) the option would allow the student to enroll in a school district in which the student was previously enrolled as a student, or (f) the student is an open enrollment option student. Sections 79-232 to 79-246 do not relieve a parent or guardian from the compulsory attendance requirements in section 79-201.
 - b. Nebraska Revised Statute 79-238 (Limitations): (4) Any option school district that is in a learning community shall give first priority for enrollment to siblings of option students enrolled in the option school district, second priority for enrollment to students who have previously been enrolled in the option school district as an open enrollment student, third priority for enrollment to students who reside in the learning community and who contribute to the socioeconomic diversity of enrollment at the school building to which the student will be assigned pursuant to section 79-235, and final priority for enrollment to other students who reside in the learning community. The option school district shall not be required to accept a student meeting the priority criteria in this section if the district is at capacity as determined pursuant to subsection (1) of this section except as provided in section 79-235.01 or 79-240. For purposes of the enrollment option program,

a student who contributes to the socioeconomic diversity of enrollment at a school building within a learning community means (a) a student who does not qualify for free or reduced-price lunches when, based upon the certification pursuant to section 79-2120, the school building the student will be assigned to attend either has more students qualifying for free or reduced-price lunches than the average percentage of such students in all school buildings in the learning community or provides free meals to all students pursuant to the community eligibility provision or (b) a student who qualifies for free or reduced-price lunches based on information collected voluntarily from parents and guardians pursuant to section 79-237 when, based upon the certification pursuant to section 79-2120, the school building the student will be assigned to attend has fewer students qualifying for free or reduced-price lunches than the average percentage of such students in all school buildings in the learning community and does not provide free meals to all students pursuant to the community eligibility provision.

- c. **Transportation:** generally is not covered; parents responsible – Nebraska Revised Statute 79-241: (1) Except as otherwise provided in this section, section 79-611 does not apply to the transportation of an option student. The parent or legal guardian of the option student shall be responsible for required transportation. A school district may, upon mutual agreement with the parent or legal guardian of an option student, provide transportation to the option student on the same basis as provided for resident students. The school district may charge the parents of each option student transported a fee sufficient to recover the additional costs of such transportation.
 - i. Exception for option students qualifying for free lunch - Option students who qualify for free lunches shall be eligible for either free transportation or transportation reimbursement as described in section 79-611 from the option school district pursuant to policies established by the school district in compliance with this section, except that they shall be reimbursed at the rate of one hundred forty-two and one-half percent of the mandatorily established mileage rate provided in section 81-1176 for each mile actually and necessarily traveled on each day of attendance by which the distance traveled one way from the residence of such student to the schoolhouse exceeds three miles.

- ii. Exception for students with disability - (4) For option students verified as having a disability as defined in section 79-1118.01, the transportation services set forth in section 79-1129 shall be provided by the resident school district. The State Department of Education shall reimburse the resident school district for the cost of transportation in accordance with section 79-1144.
 - d. Controversy around the program initially
 - e. In 2020, Nebraska legislature rejected a tax credit program to expand school choice
- 6. **MINNEAPOLIS, MN (West Metro) (WMEP)** – one urban and nine suburban school districts
 - a. Minnesota program result of settlement of educational adequacy lawsuit against State by Minneapolis Branch of NAACP
 - b. Minnesota Statute 124D.03 – all Minnesota public school students opportunity to attend school outside of school district where they live
 - c. Minnesota Rule 3535 – Adopted Permanent Rules Relating to Desegregation
 - d. WMEP Education Program was dissolved 7/30/18 (<https://sites.google.com/a/wmep.k12.mn.us/wmep6069/home>)
- 7. **MINNEAPOLIS, MN (NW Suburban)** – Northwest Suburban Integration School District (<http://www.nws.k12.mn.us/nwsisd-policies.html>)
 - a. Mission – “provide interracial and cross-cultural learning experiences for students”; to “further the purpose of a racially integrated metropolitan area, to equal educational opportunities for all children, and to the enhancement of educational opportunities through inter-district education in integrated settings”
 - i. Schools in the NWSISD are focused magnet programs
 - b. Governance – public corporation subject to the control of the legislature

- c. Funding – taxes, ability to issue bonds, donations/gifts
 - i. Taxes – “NWSID member school districts shall, within the limitations specified by law, provide by levy of tax necessary funds for the conduct of schools, payment of indebtedness and all proper expenses”
 - ii. May issue bonds in accordance with Minn. Stat. Ch. 475 or other applicable law
 - iii. May accept gifts or donations
- d. Transportation
 - i. Minn. Stat. § 12B.36, sub 1(10). Transportation provided free, but may charge students fees for transportation to extracurricular activities at locations other than the school where attendance is optional (but required to establish guidelines to ensure no student denied transportation for inability to pay).
 - ii. NWSISD member school district has the control and discretion over transportation of students; are to work with member school districts for transportation of students from home school buildings
- e. Student Selection
 - i. Eligibility – all students residing in the member districts are eligible to apply; all selection by lottery
 - ii. Lottery – priorities for siblings, “magnet strand” (for students who have completed magnet program in a member district school to attend similar magnet school at next school level); geographic priority (priority given to certain selected geographic areas “determined as necessary to strive for more racially balanced schools”)
- f. Coordination with Local Entities/Organizations
- g. Legal References: Minn. Const. art. 13, § 1 Minn. Stat. Ch. 123B. (School Districts, Powers and Duties) Minn. Stat. Ch. 179A (Public Employment Labor Relations) Minn. Stat. § 465.035 (Conveyance or Lease of Land) Minn. Stat. §§ 465.71; 471.345; 471.6161; 471.64 (Rights, Powers, Duties of Political Subdivisions) Minnesota Association of Public Schools v. Hanson,

287 Minn. 415, 178 N.W.2d 846 (1970) Independent School District No. 581 v. Mattheis, 275 Minn. 383, 147 N.W.2d 374 (1966) Village of Blaine v. Independent School District No. 12, 272 Minn. 343, 138 N.W.2d 32 (1965) Huffman v. School Board, 230 Minn. 289, 41 N.W.2d 455 (1950) State v. Lakeside Land Co., 71 Minn. 283, 73 N.W.970 (1898)

8. **MILWAUKEE, WI** – Public School Alternative Open Enrollment (state wide program) – allows students to attend a public school in a school district other than the one where they reside (<https://dpi.wi.gov/open-enrollment/>)

a. Funding

i. Wis. 121.78(1)(a) – Tuition payments by school districts -
The school board of the district of residence and the school board of the district of attendance may make a written agreement to permit an elementary or high school pupil to attend a public school, including an out-of-state school, outside the school district of residence. The school district of residence shall pay tuition to the school board of the district of attendance in an amount specified in the written agreement. The school district of residence shall be paid state aid for the pupil, in an amount up to the amount specified in the written agreement, as though the pupil were enrolled in the school district of residence.

ii. Wis. Stat. Sec. 121.81 – Tuition payments by parents:
Tuition payments by parents.

1. (1) General. Before the admission of a nonresident pupil to an elementary or a high school of a school district, the school board of that district shall make a written agreement with the pupil's parent or guardian for the payment of tuition except when the tuition is otherwise chargeable under this subchapter. The tuition amount shall be calculated under s. 118.51 (16) (a) 3. except as follows:

- b. (a) If the nonresident pupil attends school in the school district for less than a full school term, the tuition amount shall be prorated based on the number of days that school is in session and the nonresident pupil attends school in the school district.

- c. 121.81(1)(b)(b) If the pupil is receiving special education or related services under subch. V of ch. 115, the tuition amount shall be calculated using the daily tuition rate under s. 121.83 for children receiving such special education and related services or an amount agreed to by the school board and the pupil's parent or guardian.
 - 1. (c) The parent or legal custodian of a pupil who is enrolled under this subsection shall be responsible for the transportation of such pupil to the school in which the pupil is so enrolled. No transportation aid under subch. IV may be paid for such transportation.
 - d. Selection (Wis. Stat. Sec. 118.5193) Full-time open enrollment.)
 - i. Eligibility - Any Wisconsin resident in 4K to grade 12 may apply to attend a nonresident school district under the open enrollment program.
 - ii. Application – during regular application period or in limited circumstances, alternative application at other times (limited circumstances such as student is victim of bullying or harassment at regular school, student recently moved, custody arrangements, etc.)
 - e. Transportation (Wis. Stat. Sec. 121.54 Transportation by school districts.) - Parents are responsible to provide transportation to and from school in the nonresident school district, except that transportation required in a child's IEP must be provided by the nonresident school district. A nonresident or resident school district is permitted (but not required) to provide transportation to open enrolled pupils, however the nonresident school district is prohibited from picking up or dropping off a pupil within the boundaries of the pupil's resident school district unless the resident school district agrees. Low-income parents may apply to the DPI for reimbursement of a portion of their transportation costs.
 - i. Reimbursement available for low income families based on income guidelines for the federal school lunch program (but is a reimbursement, not a waiver)
9. **ST. LOUIS, MO (Voluntary Interdistrict Choice Corporation)** - The VICC oversees the implementation of the metropolitan area desegregation program, with responsibilities for facilitating transfers of city students to

suburban school districts and suburban students to city magnet schools.
(<https://www.choicecorp.org/>)

a. Historical Background

- i. In response to a 1972 lawsuit, the U.S. Court of Appeals ruled in 1980 that the St. Louis Public School Board of Education and the State of Missouri were responsible for maintaining a segregated school system. In 1981, the Appeals Court directed that a voluntary interdistrict plan be worked out between the city and the county schools. A pilot program with six school districts began.
- ii. In 1983, a Settlement Agreement was reached with all school districts in the metropolitan area that included multiple components, including the transfer of black city students into primarily white suburban districts and white suburban students into magnet schools in the city. Transportation and tuition costs were fully paid by the State of Missouri. The preliminary goal for suburban districts was to reach Plan Ratio (a 15 percent increase of all African-American students in the district including resident students.) The ultimate goal was for districts to achieve the Plan Goal which was a 25 percent black student population.
- iii. In 1999, the case was removed from federal supervision when a new Settlement Agreement was reached which allowed for new students to be admitted to the voluntary transfer program and the St. Louis Magnet Schools through the 2008-2009 school year. St. Louis City voters approved a 2/3-cent sales tax increase to partially compensate for state desegregation funds that were no longer forthcoming from the State under the new Settlement. In a programmatic change, four attendance zones were established in the city, each linked with specific suburban school districts. Transportation is only provided for students who comply with this attendance area structure. Students applying to attend schools outside of their residential attendance area must provide their own transportation.
- iv. Beginning with the 1999 Settlement Agreement, county districts agreed to enrollment goals that were based on the 1998-1999 transfer student enrollment. In years one through three, districts agreed collectively to maintain at

least 85 percent of the 1998-1999 enrollment. For years four through six, the target percentage was at least 70 percent. For years seven through ten (beginning with the 2005-2006 school year), no minimum enrollment is required. Each of these enrollment goals have been met by county districts.

- v. 1999 Settlement Agreement - <https://www.choicecorp.org/SETTLEMENT%20AGREEMENT%20-%20FINAL%202-23-99.pdf>

b. Funding

- i. State funding of public schools goes to VICC program (receive the same per pupil state funding)
- ii. Additional two \$25 million payments received through the 1999 Settlement Agreement to cover transportation costs of transitioning students to program

c. Transportation – provided; state funding

- i. Provision of supplemental transportation by VICC will follow the same level of service as provided by districts to their own resident students. For example, if a district provides transportation at no cost for its resident students to a school-related function, VICC will provide the same service at no cost for student transfers. In any event, except for paragraph 2 as follows, special transportation for transfer students will not be provided for events/activities/programs/ functions where districts do not provide similar transportation to their own resident students.
- ii. VICC may provide, at its discretion, transportation to student transfers for a culminating activity such as an annual sports team or student activity banquet at the end of a season, graduation from a program, etc. Such transportation may, again at VICC's discretion, be provided both to student transfers and, if legal and possible, to their parents/guardians.

- d. Phasing out of program – 2023/2024 will be last year of new students being admitted to the program (other than siblings of current students) because its attendance metrics are based upon

race, which poses legal risks under current law; program would theoretically continue to have enrolled students through 2035/2036 (<https://www.choicecorp.org/VICCThirdExtensionFAQs.pdf>)

- i. Caps on enrollment of students reducing every year – currently can enroll 175 new students for the 2021-2022 school year (plus siblings of current students)
 - e. School board policies to govern program – not sure there is any enabling legislation (<https://www.choicecorp.org/BoardPolicies.pdf>)
10. **SAN ANTONIO, TX** – San Antonio Independent School District Choice Schools & Programs (SASID) (<https://saidschoice.com/>)
- a. Selection – lottery
 - i. **“Controlled Choice” framework** - The district utilizes a “Controlled Choice” framework to ensure equity and access for historically disadvantaged students. Families are placed into appropriate categories, then the online platform conducts the lottery according to programmed lottery parameters.
 - 1. Categories students – SASID employees; in and out of district; attendance zone; priority area (within circle radius); English; Spanish; sibling attending; sibling applying; economically disadvantaged and non economically disadvantaged; “Comprehensive and Targeted Support” as defined by Texas Education Agency
 - b. **“Diverse by Design Choice Schools and Programs”** specific percentage of seats are reserved for economically disadvantaged students and students who are not economically disadvantaged, based on federal and state guidelines. An enrollment balance of at least 50% of economically disadvantaged students, while reserving seats for non-economically disadvantaged students,
 - c. Transportation – provided at no cost to students; students are picked up at SAISD schools and transported to central location and take second bus to destination school.
 - d. Funding – Texas Education Code Sec. 29.255. STATE FUNDING. Funds shall be appropriated to implement statewide community education programs, including pilot programs to

demonstrate the effectiveness of the community education concept. The agency shall ensure that public local education agencies, public nonprofit agencies, and community-based organizations have direct and equitable access to those funds.

- e. Communities in Schools (<https://www.cissa.org/>)
 - i. Texas Administrative Code (TAC) §89.1503. Funding.
 - (a) Equitable funding formula. As authorized by the Texas Education Code (TEC), §33.156, the Texas Education Agency (TEA) shall establish the funding of local Communities In Schools (CIS) programs in accordance with this section. State and federal funds remaining after allocations described in subsection (c)(1) of this section shall be allocated to local CIS programs.
- f. Innovation Schools
 - i. TAC §102.1303. Eligibility.
 - 1. (a) A district is eligible for designation as an innovation district if the district's most recent performance rating under the Texas Education Code (TEC), §39.054, is at least acceptable performance, as indicated in the applicable year's academic accountability manual adopted under §97.1001 of this title (relating to Accountability Rating System).
 - 2. (b) A board of trustees may not vote on the final approval of the innovation plan if the district is assigned either a final or preliminary rating below acceptable performance, as indicated in the applicable year's academic accountability manual adopted under §97.1001 of this title. In the event the preliminary rating is changed, the board of trustees may then vote to become an innovation district.
 - ii. TAC §102.1311. Term – term may not exceed five calendar years and is effective upon district approval and notification of the plan to the Texas Education Agency. A district may only have one innovation plan at any given time.

- iii. TAC §105 – Foundation School Program – extended school year program
 - 1. (a) Each school district seeking funding for an optional extended year program under the Texas Education Code, §29.082, must submit an application in a format prescribed by the commissioner of education. Once funded, the program shall comply with the provisions of the Texas Education Code, §29.082.
 - 2. (b) An optional extended year program may extend the day, the week, or the year to provide additional support and instruction for eligible students. The program shall be conducted beyond the required instructional days, which may include intercessions for year-round programs.
 - 3. (c) A student is eligible for services in accordance with the Texas Education Code, §29.082(a)(1)-(2). A student who does not demonstrate proficiency in a subject area as determined by the district is also eligible for services.
 - 4. (d) School districts shall be funded annually based on the most recent district data available to the Texas Education Agency through the Public Education Information Management System (PEIMS). Funding shall be based on the following:
 - 5. (1) Eligibility. School districts in which at least 40% of the students in Kindergarten through Grade 12 are from economically disadvantaged families will be eligible for funding.
 - 6. (2) Maximum entitlement. Funding for an eligible school district under this section shall be based on the amount necessary to provide extended year instructional services to at least 5.0% of the at-risk student population in Kindergarten through Grade 12.
 - 7. (3) Per capita amount. The per capita amount will be determined by dividing the total program allocation by the sum of the maximum entitlement

populations in Kindergarten through Grade 12 in eligible school districts.

8. (4) Reallocation. Program funds not requested by eligible school districts will be reallocated to school districts identified in paragraph (1) of this subsection that requested funding.
9. (e) At a minimum, school districts will be required to provide services to the number of students identified on the school district's entitlement notice used for funding. School districts that have fewer students participating in the optional extended year program than identified for calculating the school district's maximum entitlement (including reallocation, if applicable) will have their entitlement reduced on a per-capita basis.
10. (f) A school district receiving funds under the Texas Education Code, §29.082, that is also receiving funds for an optional extended year program for students in Kindergarten through Grade 12 under the Option 4 wealth equalization agreement authorized under the Texas Education Code, Chapter 41, must adjust its Option 4 equalization agreement. The district must adjust the agreement to redirect the use of funds to a qualifying activity other than an optional extended year program for students in Kindergarten through Grade 12 to the extent necessary to avoid duplicate funding of optional extended year programs.
11. (g) A school district receiving funds for the accelerated reading instruction program authorized under the Texas Education Code, §28.006(g), is eligible to use funds authorized under the Texas Education Code, §29.082, to serve students in Kindergarten through Grade 2. Each optional extended year program must have auditable funding documentation linking direct service expenditures and optional extended year program funds used to identify eligible students.
12. (h) All costs under the optional extended year program must be necessary and reasonable for

carrying out the objectives of the program and for the proper and efficient performance and administration of the program.

13. (i) Teacher training required under the Texas Education Code, §29.082(d), shall address the provisions set forth in this subsection. Training is to occur prior to the implementation of the program. Additional training may be provided throughout the implementation of the program. The required training shall provide teachers with the following:
 14. (1) knowledge and skills needed to help students in the program meet challenging state content and student performance standards; and
 15. (2) innovative instructional practices suitable for accelerating the academic performance of at-risk students.
16. (j) A school district shall incorporate effective instructional strategies into the design of the program to ensure students are provided with the skills needed to be successful in the following school year. An extended day program must be implemented beyond the regular seven-hour day and may not include tutorials or extended in-school day-care services. A program with the basic design to complete homework is not an acceptable instructional design for the program. A tutorial program using pre- and post-testing with each student working on a sequenced and focused program over time to enable the student to attain greater academic success is acceptable.
17. (k) A school district shall submit an annual report evaluating the program in the time and format required by the commissioner. A school district shall also submit, in a manner determined by the commissioner, a complete list of students who participated in the program for at least one day.
18. (l) For audit purposes, a school district shall maintain documentation to support each of the requirements of this section.

iv. Charter School Funding

1. Texas Education Code Sec. 45.305. PRIVATE MATCHING FUNDS REQUIRED; USE OF OTHER STATE FUNDS. (a) The commissioner may not implement the program unless private funds in an amount at least equal to the amount of state funds allocated under Section 45.304 are obligated to the program for at least the first 10 years of the term of obligations for which credit enhancement is provided under the program.
2. (b) The commissioner may use state funds allocated under Section 45.304 to pay any amount due for credit enhancement under the program and, subject to the terms of the applicable private credit obligation agreement, provide for payment of private funds to the Foundation School Program in an amount equal to at least one-half of the amount of the state funds paid. The commissioner may also use any other state funds available for the purpose to make payments under this subchapter or to reimburse the Foundation School Program for payments made under this subchapter from Foundation School Program funds.

VI OTHER ADVICE DRAWN FROM DISCUSSIONS WITH EXPERTS

In the course of researching New York law and inter-district school programs from throughout the country, we spoke to a wide array of experts in the field, including heads and former heads of school districts, employees of non-profits in the field of education, and other researchers working toward creating integrated schools or increasing diversity in schools. To the extent their advice went beyond the legal issues that we address elsewhere in this memo, we felt it was worth summarizing their insights here, many of which were political or sociological rather than strictly legal.

Jeff Crane, former superintendent of West Irondequoit Central School District.

Mr. Crane suggested that Monroe County might be experiencing an increasing interest in diversity in education, pointing out that the Urban-Suburban program, which is 55 years old (and the oldest but smallest of about eight similar programs in the nation), spent many years with just 6 participating suburban districts, until the last half dozen years, when the number jumped to 13 [and it is now 14] districts. However, Jeff believes the explanation in the case of one or two of the participating districts might just as easily be their desire to fill budget gaps with the additional close to \$10,000 in funding per student participating. Jeff chaired the Urban-Suburban program for a number of years, and he said that while the program is not ideal, it does attempt to take into consideration all participants, a goal that was enhanced when parents were added to the U-S advisory group.

Jeff pointed to the separate NY State code for U-S that dictates rules about busing and resources, indicating that it might be used for GS4A concept. Under it, the school district is responsible for busing their students to the receiving districts.

Regarding the “Big Five” prohibition, Jeff indicated that the inability of the city to take advantage of BOCES has hurt RCSD. Despite the “big five” prohibition, city schools had been using BOCES for various services, in particular special ed, until the program clamped down on that about eight years ago. He said that it would be wonderful if RCSD schools could take advantage of BOCES the same way as suburbs.

He indicated that he believed that local school leadership would be on board with the concept of inter-district schools, including Superintendents. He knows RCSD Superintendent Lesli Myers-Small well, having served with her on the Board of U-S, when she was the Brockport schools Superintendent. The bad news is that there is not a lot of money, nor necessarily building space for Breakthrough schools. The problem with suburban schools is that they need to pass a budget, and additional costs will be resisted. The effort to create inter-district schools in 2008 failed because the concept would require each school district to donate teachers who would be on leave and maintain seniority. They’d have to be put back in their position. Makes it difficult to hire one-year assignments each year.

In response to questions about the best way to start creating inter-district schools, Jeff had these suggestions:

- Start with a school for the arts on the West side.
- He would recommend starting with high school and building down from there.
- The conversation has to include Lesli Myers-Small, as opposed to the RCSD Board members, who are torn between fighting for their section of the city and doing the right thing for the totality of the district.
- He said that Dan White, the superintendent of BOCES 1, is a key. In addition, Kathy Graupman, Greece Superintendent, has good experience, is open to the idea of inter-district schools, and is president of Monroe County superintendents' group.
- He said that former NYS Assemblyman Joe Morelle (now Congressman) is well aware of this concept and is positive about it, as would be his replacement Jamie Romeo. (He noted that Joe has spoken to GS4A.) [Note that Ms. Romeo resigned her NYS Assembly seat in February when she was appointed County Clerk in Monroe County. The new holder of that seat (the 136th District) is Sarah Clark, another Democrat. As examples of good BOCES-related magnet schools, he pointed us to P-Tech at Edison and New Visions high school, which offers practical experience in hospitals.

Demond Means, former Superintendent of the “turnaround plan” for Milwaukee schools

Mr. Means was involved in the Milwaukee program, which was a success for about ten years, and then died out. The magnet schools operated in the city, and there were some innovative offerings that attracted suburban students, such as university prep., dentistry, and medicine. The program got a second life when Milwaukee created alternative high schools for outcast students: gay, trans, goth. Kids from the suburbs were more comfortable going into the urban magnet schools. Some schools weren't very appealing—law enforcement, trade, tech—and didn't garner a lot of attention. Children came from enlightened families, who put them into the schools to get them ready for a diverse environment. Demond said that to see what magnet schools would be most appealing, they conducted surveys, using guidance counselors in the suburbs to engage with students. Elementary schools were successful and popular among suburban families, typically language immersion schools, K-8 French, etc. Milwaukee also offered an IB program, which was appealing to families. He said that transportation is the linchpin of a successful program.

He said that it's clear that the program was successful, but they did not keep good data on the program. The program resulted from two lawsuits, one in the late 70s just about Milwaukee, and then in the mid-80s, to include suburbs. The program was maintained through an annual agreement with sunset provisions, which led to the program's collapse. Politics entered into it; the cost of funding and transportation at the state level was its demise. No one was really willing to challenge the state legislature. Then the governor passed a budget to phase it out.

Demond advised that any program should avoid a sunset provision in the agreement between the legislature and the school. The program had made the shift from a court order to it being the right thing to do. The problem ultimately was the budget, including paying \$5 million transportation for a program.

Doreen Marvin, Magnet Schools of America

Ms. Marvin is affiliated with Magnet Schools of America and has her own consulting business. Although she lives in Florida and Connecticut, she grew up in NYC, and her husband went to RIT.

She recommended that magnet schools hew to the 5 pillars discussed on MSA's website, <https://magnet.edu/>, that is, diversity, innovative curriculum and professional development, academic excellence, high quality instructional systems, and family and community partnerships. She also recommended that GS4A join MSA, because they have great resources.

She had these additional recommendations:

Paramount to Connecticut's success was to start small. She recommends starting by combining one suburban district and one close to the center of the city with enough diversity.

Use a loosely-worded governance agreement, with enough language to give you flexibility to keep developing additional schools. The conditions should not be so tight that it gives you only a limited time to pull out. If something goes wrong, try to find a solution. Monitor the school frequently, so that the school can reach quick solutions when something goes wrong.

In NY, she says, the Governor likes to know everything. Have someone from his office involved, and local BOCES. In Connecticut, it was easy to identify an administrative organization, so that no school district felt more power.

Doreen said to look at the local *budgetary impact in CT: a student who goes to a school is counted twice -- in their town, and in the magnet school numbers, and magnets are funded by the state, so that a district is held harmless*. Many districts are already suffering and are scared to death of losing enrollment.

Doreen identified several paths to funding in addition to state and local funds. Federal funds are available for magnet schools assistance dollars. The next competition will be in May 2021, for five years of funding of a total of \$15 million, \$3 million a year, including one year of planning. It is not clear how many grants will be awarded: they can give out 7, or 27. Universities can help with evaluation; lots of support to help writing grants. An applicant has to show that after the 5 years, they'll be able to run the program for another 5 years. MSA is good for professional development arm, mission development, etc. Her company also helps. The former head of the Connecticut program is on her staff.

Congressional legislation just passed about desegregation which might provide another stream of funding in 2021 or 2022. In addition, Title 1 dollars might be available. One needs to work with financial assistance officials to see if those can be creatively repurposed and pooled for the same purpose that they're being used for now. For example, you're already spending money on professional learning. Can you donate a staff person from that program to the desegregation program.

One good example: a regional multi-cultural school in New London, CT drew from 12 towns, and all signed on to the loosely-worded governance agreement. It created educators in residence to go to experimental school, learn new teaching practices, equity, social justice, and after 2 years go back to school district. They achieved this with the union's agreement through a side letter to the union contract.

On the question where to start the program: if transportation is available, then it's fine to put it in the suburbs. But, "If no transportation, there's no choice." We could get legislation changed to include transportation costs in the magnet school funding.

Doreen recommended putting schools close to local business where workers can drop their kids off to the extent possible, to avoid inconvenience. She pointed to the Houston independent school district as an example, where they created a school near Rice University and the hospital. She also said that Miami-Dade has done a phenomenal job of locating the school in the city, despite huge politics.

If you start at the high school level, there are parents who hope for a great curriculum that will get the kids into a good college. The problem is that this might create inordinate expectations or, on the other hand, the reputation that the school is elite. She does not recommend starting at the middle school level, since suburban parents are unlikely to sign on if there is no school to move on to.

What works best is 4 year-olds, starting with pre-k or kindergarten, which provides parents with a pathway. And create the opportunity to grow to 5th grade, so that everyone will have experienced four years in the program, and have gotten language, or science, or environmental subject matters. Parents will see that the kids have embraced. This also helps with child care costs. *She said there are many models they can point us to.*

Surveys

Doreen said that what works the best are the types of surveys that families already do. You should target populations just having kids now, 2 years away from starting school. Those already in school might vote for the schools, but they won't change their behaviors and actually have their kids switch to the schools.

The best way to survey is using focus groups, which give you the most honest responses, and will get 100% to participate. She'd prefer going deeper with focus groups, versus a survey. A good representative sample might consist of 20 or 25 solid focus groups of 4th, 5th and 6th grade

students. Ask them, what they like in schools, where their friends live, etc. What do you go to the city for?

For high school students, seeking their thoughts around desegregation, etc., and what type of school they'd want for their future child. To survey students, you need to work at school level to get permissions. Or host from a community-wide perspective. Hold the focus groups around town, and ask parents to come with children.

Doreen hears that Connecticut has used new survey product around planning that is very good. We should see if it is available.

Doreen Marvin and Bill Manotta, Magnet Schools of America and former education officials

To better understand what works in the process of establishing inter-district integrated schools, on February 3, 2021, we held a second call with Doreen Marvin and Bill Magnotta, long-time directors or former staffers of Magnet Schools of America, with vast experience in establishing integrated magnet school programs. In particular, Bill is retired from the Connecticut Schools Department, where he opened 73 schools over the years. His office in the Connecticut schools also hosted the state's version of an Urban-Suburban program. He told us that over the course of those 73 schools, he and his office had seen every idea for creating schools attempted, including, of greatest relevance, passage of state legislation that would permit districts to join together to form a single school. He indicated that the creation of such inter-district schools in Connecticut was unsuccessful because the plan apparently lacked a district that would have taken charge of the program. Bill also stated that, as part of the plan, Connecticut used an outside government agency similar to NY's BOCES to run the schools. *They are both very enthusiastic about the creation of integrated magnet schools*, and I am sure will continue to be available for consultation.

We told Doreen and Bill that the purpose of our call was to obtain practical advice on the steps to be taken in setting up inter-district integrated magnet schools, including the people and institutions to speak to and in what order. To help frame the question, we articulated the “chicken and egg” question of which constituencies to contact in what order so as to best create the conditions for success of inter-district schools.

They indicated that there are three parallel tracks that need to come together:

1. Organizing and getting parents involved who would be in-terested in such schools;
2. Creating legal and governance structures; and
3. Curricular and theme attraction component.

They said that all of these things need to happen at the same time: the proponents of the schools need to engage local leadership while determining the school's theme—which is one

inducement to help engage local interest—while determining the governance structures and putting in place the legal and governance structures that will allow the schools to be created.

Magnet School Themes/Surveys: To determine the theme of a school, the proponents need to survey the right groups of people, early enough in the process to permit the use of the survey results to determine the school's theme, grade levels, location, etc. They indicated that the best populations to survey should be people who will have kids in high school two to three years from now, and those whose children are of pre-school age. This would permit establishment of magnet high schools and elementary schools, which are probably the most attractive levels for starting a new school.

To help determine themes for a high school, the proponent should also conduct labor market studies, to identify the employment opportunities in the area for which the magnet schools can help prepare high school students. It also might help determine a good local business partner for the school, to provide funding and to contribute toward teaching according to a theme.

Some attractive and uncontroversial themes include: "Leader in Me," which is supported by Franklin Covey, and is attractive to all sub-groups; and sustainability or the environment.

The process of conducting a survey also provides the opportunity to engage local interest. The proponent needs to identify someone in each district who will take the lead there, help develop the survey, and contribute to a plan of governance.

Operations Plan. Fairly early on in the process, the proponent should create a concrete proposed operations plan, which describes how the school would run. The operations plan is a fundamental document that can drive discussion, recruitment of families and business partners, and the pursuit of funding. A typical plan would include descriptions of the school's mission, educational philosophy, academic program, principles of instruction, and student assessment systems. An operations plan would also discuss the demographics of the community serviced by the school as well as the school's projected enrollment and diversity goals; the school's facilities, financial, and transportation plans; and how the school will serve students with special needs. Doreen and Bill indicated that the governance plan can either be part of the operations plan or occupy a separate document.

Governance. To obtain the support of the local districts, a planning process needs to determine how control of the schools will be shared among the districts. In order to convince local decision-makers to give up some level of control, it is not enough to announce that the school is being established in order to help achieve school integration. Districts need to understand that they will play a significant role in the schools. The idea of having a co-governance structure in place by which the districts feel like they are partners in each school is important and leads to real ownership in the school.

The schools need to have a governance agreement which provides how control is shared and discusses the sources of funds and other budgetary issues. For example, the agreement

should state how many board seats each founding district should receive, and whether priority is given for slots at the school for students from specific districts. The governance agreement also provides for who employs the teachers and takes care of their benefits; for example, is it the students' home district, or the new school? This agreement is separate from—but, as we've seen, can be part of—the operations plan.

Doreen and Bill recommend, based upon their knowledge of NY State education, that BOCES play a role in governance, and said that it's worth having a direct conversation with them about it. They recommend that Dan White, the head of the Monroe One BOCES, be involved. (It's also helpful that they believe he visited Connecticut's Marine Science Magnet High School in Groton.)

As for the legislative authority for the Breakthrough Schools, Bill and Doreen suggested either proposing an addendum to the Urban-Suburban law, or expanding on the legislative authority behind any of the "singletons," that is, Albany Tech Valley and Syracuse STEM schools. They said that most legislators are more likely to approve of a new school if they know they don't have to start from scratch but can build upon an existing structure. For example, in Milwaukee, the school district kept adding on to existing structures. (As you will see, we have extensively marked-up the statute that created the Albany Tech Valley school in order to apply it to Breakthrough Schools.)

Finance – NYSED provides Every Student Succeeds Act (ESSA) funding specifically for desegregation. We should determine how Rochester and other localities are using those funds. We should also see how other NY districts proposed to use them; Doreen and Bill are aware of applications by New York City and Newburgh, NY, among others, who planned to use their ESSA funds specifically for desegregation of schools.

U.S. Department of Education magnet schools funding can be very helpful. They award up to \$15 million for each selected district. The competition is usually in March or April, awarding funds for the next school year, October 1 through September 30. Interestingly, the specific theme of the school does not have to be determined at the time that funds are applied for, since year one under the grant is a planning year. It boosts the chances of success if an applicant has involved community members (including from groups such as literacy advocates and youth services providers), conducted surveys, and identified job opportunities (*e.g.*, through a labor market study projecting needs a decade into the future). Doreen also pointed out that identification of a needy population provides an automatic advantage – "30 points right there." Other performance measures include student achievement, parent engagement, professional development and training, and a research component.

Private institution partners. They suggested that the proponent should not commit itself to private partners too early, since that might foreclose possible options or might miss appealing to the families who need to be attracted to the school. It is better to first conduct surveys and labor market studies, and then pose the required educational focus to the potential partners.

Challenges. They discussed some of the challenges to establishing inter-district schools:

- Dealing with different districts. Some are NIMBYs, and some agree with the principals of establishing integrated schools but are unwilling to risk losing funding or control. *One potential workaround is to phase the funding structure to allow for double-counting of students (i.e., crediting them to both their home district and the Breakthrough school) for the first several years of operation.*
- Budgeting. At the time of our interview, NY’s governor was proposing significant budget cuts; however, those constraints can change with each budget season and, indeed, the education budget and foundation aid have increased more recently. In any event, Doreen and Bill indicated that there are funds available. For example, Norwich, CT got \$6 million in the first round of DOE magnet school funding and \$8 million in second. There is money floating around, but sometimes controversy exists over what to do with it.

Doreen and Bill emphasized that the biggest mistake one can make in trying to set up new schools is not identifying local interests in advance of reaching out to specific stakeholders. It helps to know what people’s interests are *before* engaging them, to the extent possible. The school should not be presented as being exclusive or exclusionary—it’s helpful to highlight that there will be no entrance exam. It’s also essential to communicate clearly that the vision for the school is still to be formulated and not all decisions have been made; this underscores that the request for input is genuine.

Matt Gonzalez, educator, an advocate, and policy analyst

Last year, Matt joined NYU Metro Center, where he is founder, and director of the Integration and Innovation Initiative (i3), a school integration center designed to support policy development and design, implementation, and advocacy for school integration. Building it out to directly support schools grappling with the policy. He provides support to schools and community advocacy groups, and advises New York City schools. Previously, he had Nyah’s position at Appleseed.

General policy advice

You need to set priorities for successful buy-in from parents of color. It’s not just about mitigating concerns of white parents. Need to ensure that you’ll create models and policies to help those directly impacted. You need to repair the harm.

Suburbs need to invest more resources. Suburban kids need to come into urban spaces. Simply giving black and brown students access to white communities isn’t the goal. Suburbs have benefitted from segregation. The burden needs to be on those who were beneficiaries. That’s a hard sell. But there are ways to use magnet programs and progressive opportunities and programs to facilitate that interest.

He said you need to design an admissions program to facilitate access. Connecticut program has amazing magnet schools, and folks from the outside come in, and unfortunately, the people in the city view them as designed for white families and thus there is less buy-in from those city families.

Surveys

These are not the best way to get feedback. He said that families that are historically marginalized aren't always going to complete the surveys. Actual public engagement is preferable, perhaps through virtual forums. For example, in NY's District 15, they held four public workshops. You can share the values with people from other communities, build bridges, and dispel mythology that white parents have about black and brown students. Sit down together and share ideas about diversity, equity.

Funding

NY-State funded integration funding -- "school turnaround dollars" -- variety of options that the government was using. Under Obama, provided more flexibility. The state still has \$21 million to hand out. Their Goal -- 7 or 8 districts get \$3 million. Rochester was involved in previous rounds. SIPP funds.

He said a program would need federal resources. He hopes that under a new administration, federal legislation would be strengthened. Biden and Harris have acknowledged need for it, and Biden has language in platform.

He indicated that Kim Wilkins in NY, the NYSED Commissioner for K-12, is very committed to this work. He said that the people at NYSED are progressive, and likely to be helpful. He said that there is a lot of flexibility, under ESSA.

Peter Piazza, education researcher, currently Director of School Quality Measures for the Massachusetts Consortium for Innovative Education Assessment

He currently works at an education research organization piloting an alternative to state standardized test. Has a PhD in education policy and research from Boston College. He also was at Penn State grad school, where they have a center on voluntary integration. He was involved in Boston Metco, and has worked for a variety of non-profits. (He suggests we contact Erika Frankenburg at Penn State, perhaps through Gina at NCSD.)

Recommendations

He indicated that research shows that starting at lower grades provides more benefits to educational outcomes.

He said that NY's 2018 education plan has an allocation to use Title 1 money to promote diversity. There is also a socio-economic integration pilot grant program; we believe he was referring to SIPP grants, which would require additional research.

As to race-based programs, he recommends that we look at Berkeley, involving transfers within district; it has withstood legal challenges from conservatives on basis of race. He believes that Metco is vulnerable to a challenge. San Antonio's program seems to show that the more byzantine you make the program, the harder it is to challenge.

One strategic idea: because New York schools were rated as underperforming (because of test scores) under ESSA (Every Student Succeeds Act), they might be able to leverage that flexibility to create an inter-district program. Title 1 flexibility.

Foreign language programs are super-interesting, depending on how it's done. He shared with me a feel-good policy brief about how language programs can be used for diversity.

For advice as to how to get white people to agree to send their kids to the city, he referred me to Integrated Schools, which is based in LA, and has 20 chapters in the country, including one in Rochester. (I spoke to one of the heads of Integrated Schools in LA, who is trying to put me in touch with the Rochester branch.)

There is a lot of research on inter-district programs such as Charlotte-Mecklenburg and Raleigh-Wake County, NC. Mandatory plans. Southern districts tended to encompass much larger portions of the metro area than in northern cities. NYC is more like Charlotte in that there are large areas. Note the *Milliken* case -- courts can't mandate inter-district.

In response to the question of what type of resistance and opposition should we anticipate to Breakthrough Schools in RCSD, Peter responded that arguments in opposition are unoriginal -- I paid to be in this area, etc. Such arguments don't really apply in NY, but they still use that argument. They think they own the school district. On Long Island, you can talk about exchange programs, but if you talk about changing boundaries or consolidating, you'll have World War III.

As to novel approaches to obtaining inter-district funding for an inter-district program, he recommends trying to hold school districts on the receiving end harmless, so that they don't incur costs.

When asked what types of incentives have worked to encourage families to participate in inter-district programs, Peter suggested magnet schools -- creating specialized programs in different schools, in the way Connecticut did. Create incentives for students as well as parents. Students might be far more receptive for ways to permeate the boundaries.

A primary driver in NY was led by a teacher who taught students about segregation and integration. Perhaps Rochester can find schools and create a curriculum that focusses on these issues. The NY model. For possible curricula that are publicly available, Peter referred us to the Schomburg Center for Research in Black Culture of the NY Public Library. Also, he said that NY State has a culturally responsible curriculum.



On the question of how to incentivize local leaders, he said that research shows the academic and emotional benefits of integration, including diverse teachers, and a commitment to wanting to foster a diverse learning environment. NYSED is supporting those types of initiatives. The problem is that local school boards are bound to serve their constituents. You need to show that the interests of their students depend on their plan. He referred us to the book, *White Flight*, by Kevin Cruz, a Princeton historian, looking at Atlanta. Suburbanization was driven by integration -- white people didn't want to give up resources. This was a way to avoid integration.

APPENDIX A – Tech Valley HS Act

EDUCATION—SCHOOLS AND SCHOOL..., 2005 Sess. Law News...

2005 Sess. Law News of N.Y. Ch. 757 (S. 5729) (McKINNEY'S)

McKINNEY'S 2005 SESSION LAW NEWS OF NEW YORK

228th Legislature

Additions are indicated by **Text**; deletions by

~~Text~~ . Changes in tables are made but not highlighted.

CHAPTER 757

S. 5729

EDUCATION—SCHOOLS AND SCHOOL DISTRICTS—TECH VALLEY HIGH SCHOOL

Approved and effective November 9, 2005

AN ACT to establish the Tech Valley high school to provide instruction to students in the Capital Region BOCES and Questar III BOCES in the areas of technology and core academic areas

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Legislative intent. The purpose of this act is to establish the Tech Valley high school. The Tech Valley high school shall provide a high school course of instruction for grades nine through twelve, dedicated to providing expanded learning opportunities to students residing in the Capital Region BOCES and Questar III BOCES, in the areas of technology as well as the core academic areas required for the issuance of high school diplomas in accordance with the rules and regulations promulgated by the Board of Regents.

The legislature hereby finds and declares that the establishment of the Tech Valley high school is a necessary component to the development of the greater capital region of New York state and a necessary link to fostering the development and advancement of emerging technologies. This school will advance the interests of the capital region and New York state by engaging students in rigorous and enriching educational experiences focused on emerging technologies, project-based learning and collaboration and by providing that experience within the context of a business and learning community for the purpose of directly connecting student learning with real world experience in advanced technical facilities. It is expressly found that the establishment and operation of said school pursuant to this act is a public purpose. The legislature further finds that the establishment of a School Business Leaders Alliance that shall serve as a forum in which regional businesses can work together with the board and school to create opportunities for students consistent with this act shall be deemed as a necessary feature to the successful operation of the Tech Valley high school. The board of directors is directed to establish and facilitate the ongoing operation of a School Business Leaders Alliance for the specific benefit of the students attending the Tech Valley high school.

§ 2. Definitions. 1. "Capital Region BOCES" shall mean the Schenectady-Albany-Schoharie-Saratoga Board of Cooperative Educational Services, and any successor entity.

2. "Questar III" shall mean the Board of Cooperative Educational Services for the counties of Rensselaer, Columbia and Greene counties, and any successor entity.

3. "Tech Valley high school" shall mean a regional high school which may be located at more than one location within the corporate boundaries of Questar III or Capital Region BOCES as established by this act. As used in this act references shall be to Tech Valley high school, or school.

4. "The Board" shall mean, except where the context indicates otherwise, the board of directors of the Tech Valley high school.

§ 3. Organization and governance. 1. The Tech Valley high school shall obtain a charter and registration from the board of regents to operate a high school before operation of the school shall commence. Upon being granted a charter and registered as a high school, the Tech Valley high school shall be authorized to issue diplomas and shall be operated and organized pursuant to this act. The school shall be deemed a local educational agency for purposes of state and federal law.

2. The school shall be subject to all laws, rules and regulations which are applicable to a public high school unless otherwise provided for in this act.

3. The school shall be subject to the oversight of the board of regents and shall obtain financial audits in a manner consistent with provisions of law and regulations that are applicable to other public schools.

4. (a) The board of directors of the Tech Valley high school, shall be organized as follows. The board shall consist of eleven members appointed on the following basis: one member shall be the district superintendent of the Capital Region BOCES; one member shall be the district superintendent of Questar III; one member shall be the president of the governing board of the Capital Region BOCES; one member shall be the president of the governing board of Questar III; one member shall be a superintendent of a component district of the Capital Region BOCES, as appointed by the governing board of the Capital Region BOCES; one member shall be a superintendent of a component district of Questar III, as appointed by the governing board of Questar III; one member shall be a member of a board of education of a public school district which is located within the corporate boundaries of Questar III, including any non-component school district, as appointed by the governing board of Questar III; one member shall be a member of a board of education of a public school district located within the corporate boundaries of the Capital Region BOCES including any non-component school district, as appointed by the governing board of the Capital Region BOCES; three members shall be appointed by the commissioner of education, who shall be representative of the greater capital region business community and who have an expertise in the training needs of hi-tech and emerging industries and at least one of which shall be a representative of the institutions of higher education located within the corporate boundaries of the Capital Region BOCES and Questar III BOCES, and such higher education representative shall have a working knowledge of the science and technology curricula offerings in the region.

(b) To qualify for membership on the board, an individual must be at least 18 years of age and be a resident of the state of New York.

(c) All appointments to the board other than the district superintendents and the presidents of the boards of education of the Capital Region BOCES and Questar III shall be for a term of three years and such term shall commence on July first next succeeding the appointment, provided that vacancies on the board shall be filled by an appointment made by the original appointing authority, and such appointment shall be deemed effective immediately and shall be for a period of the remaining unexpired term.

(d) The provisions of section 3811 of the education law shall apply and govern the defense and indemnification of board members, the board, and the Tech Valley high school; provided that section 3813 of the education law shall govern the presentation claims against the governing body of the Tech Valley high school.

(e) The members of the board shall not receive any payment for service on the board, except for reimbursement of actual expenditures reasonably incurred during their official duties. Furthermore, the members of the board shall be governed by all provisions of state law and regulations which govern the personal conduct of public school boards.

§ 4. Powers and duties of the board. The board shall have the following powers and duties:

1. To prescribe and operate a full-time course of study by which students attending the school shall become eligible to receive a high school diploma. This course of study shall be supplemented by such innovative technological and related programs as may be deemed suitable by the board to implement the purposes of this act;

2. To enter into contracts as deemed necessary for the construction and/or lease of a facility to provide the full-time course of study and related educational activities;

3. To establish and maintain reserve funds consistent with any reserve fund that a BOCES is authorized to establish and section 3651 of the education law, provided no voter approval shall be required for any transaction relating to, or the creation or elimination of, such reserve funds.

4. Based upon a joint recommendation of the district superintendents of Questar III and Capital Region BOCES and upon a majority vote of the board, to contract with and employ a chief executive officer with such qualifications and upon such terms and conditions as the board may determine and to charge such officer with the power and duty to administer the educational programs of the school. The term of any employment contract or agreement between the board and such chief executive officer, may provide such terms and conditions of employment as the board deems prudent, but shall not exceed five years in duration; provided, however, any such contract shall be subject to the provisions of subdivision 4 of section 1950 of the education law;

5. Based upon a recommendation by the chief executive officer, and upon a majority vote of the board, to contract with and employ such other administrative officers and employees as the board may be deemed prudent;

6. Based upon a recommendation by the chief executive officer, and upon a majority vote of the board, to contract with and employ teachers and such other persons in furtherance of the school's educational program;

7. To contract with and enter into cooperative arrangements with private for profit and not-for-profit entities as the board may deem prudent in furtherance of the school's supplemental innovative technological activities and related educational programs to implement the purposes of this act, provided that all components of the curriculum shall be taught or supervised by a certified teacher.

8. To grant high school diplomas to the same extent as other registered public schools consistent with the rules and regulations of the commissioner; and

9. To determine the school calendar and school day schedule, which at a minimum, shall be equal to the instruction time required to be provided by other public high schools.

§ 5. General requirements. The annual budget of the school shall be subject to the approval of the governing boards of the Capital Region BOCES and Questar III. The proposed budget shall be submitted to the boards of education of Capital Region BOCES and Questar III by May first of the year preceding the year for which the budget shall apply. The proposed budget shall not take effect unless a majority of members of each BOCES board shall approve the annual budget of the school. If a majority of either BOCES board fail to adopt resolutions approving such tentative budget, the board of directors of the Tech Valley high school shall prepare and adopt a contingency budget which shall not exceed the amount of the budget of the Tech Valley high school for the previous school year except to accommodate expenditure increases attributable to supplemental retirement allowances payable pursuant to section 532 of the education law and section 78 of the retirement and social security law. The BOCES boards shall vote on approval of the proposed budget by a date determined by the commissioner of education. For purposes of development of a budget for the first year of operation, the board of directors shall present the proposed budget to the commissioner of education by a date the commissioner of education shall determine and shall submit it to the commissioner of education for approval. Upon approval of the commissioner of education, the proposed budget shall be deemed the budget of the Tech Valley high school board for that school year.

§ 6. Employees of the school. 1. The instructional employees shall be subject to Part 30 of the Rules of the Board of Regents.

2. Except as provided in subdivision 7 of section four of this act, persons employed in connection with the educational program of the school shall be certified in accordance with the requirements applicable to other public high schools.

3. Any teacher employed in the public schools of New York may make written application for a leave of absence to teach at the school. Approval of such request for a leave of absence of two years or less shall not be unreasonably withheld. If such approval is granted, the teacher may return to teach in the school district during such period of leave without the loss of any right, seniority, salary status or any other benefit provided by law or by collective bargaining agreement.

4. All persons employed by the school shall be considered public employees and shall receive all rights and privileges accorded thereto.

5. Section 3014 of the education law shall be applicable to all employees who would be governed by said section in a public school building.

§ 7. Admission to the school. 1. Any student eligible for enrollment in grades nine through twelve of the public schools, residing within a component school district of the Capital Region BOCES or Questar III or a non-component BOCES school district located within the corporate boundaries of the Capital Region BOCES, or Questar III which enter into a memorandum of understanding with the board to enroll students in the Tech Valley high school shall be eligible to apply for admission to the Tech Valley high school.

2. The criteria for admission shall not be limited based on intellectual ability, measures of academic achievement or aptitude, athletic aptitude, disability, race, creed, gender, national origin, religion, ancestry, or location of residence.

3. To the extent that the number of qualified applicants may exceed the number of available spaces, the school shall grant admission on a random selection basis, provided that an enrollment preference shall be provided to pupils returning to the school in the second or any subsequent year. The school shall determine the tentative enrollment roster, notify the parents, or those in parental relation to those students, and the resident school district by April first of the school year preceding the school year for which the admission is granted. To determine the enrollment roster for the first year of operation, the school shall notify the parents, or those in parental relation to those students, and the resident school district by June thirtieth of the school year preceding the school year for which the admission is granted.

APPENDIX B -- Syracuse Comprehensive Education and Workforce Training Center

Note: Salient portions of the Act are highlighted.

2019 Bill Text NY S.B. 7506/A.B. 9506

Preamble:

AN ACT to amend the education law, in relation to contracts for excellence and the apportionment of public moneys; to amend the education law, in relation to the statewide universal full-day pre-kindergarten program; to amend the education law, in relation to conditions under which districts are entitled to apportionment; to amend the education law, in relation to courses of instruction in patriotism and citizenship and in certain historic documents; to amend the education law, in relation to instruction in the Holocaust in certain schools; to amend the education law, in relation to moneys apportioned to school districts for commercial gaming grants; to amend part B of chapter 57 of the laws of 2008 amending the education law relating to the universal pre-kindergarten program, in relation to the effectiveness thereof; to amend chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, in relation to reimbursements for the 2020-2021 school year; to amend chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, in relation to withholding a portion of employment preparation education aid and in relation to the effectiveness thereof; to amend chapter 169 of the laws of 1994, relating to certain provisions related to the 1994-95 state operations, aid to localities, capital projects and debt service budgets, in relation to the effectiveness thereof; to amend chapter 147 of the laws of 2001, amending the education law relating to conditional appointment of school district, charter school or BOCES employees, in relation to the effectiveness thereof; to amend chapter 425 of the laws of 2002, **amending the education law relating to the provision of supplemental educational services**, attendance at a safe public school and the suspension of pupils who bring a firearm to or possess a firearm at a school, in relation to the effectiveness thereof; to amend chapter 101 of the laws of 2003, amending the education law relating to implementation of the No Child Left Behind Act of 2001, in relation to the effectiveness thereof; to amend part C of chapter 57 of the laws of 2004, relating to the support of education, in relation to the effectiveness thereof; relates to school bus driver training; relates to special apportionment for salary expenses and public pension accruals; **relates to authorizing the city school district of the city of Rochester to purchase certain services**; relates to suballocations of appropriations; to amend chapter 121 of the laws of 1996, relating to authorizing the Roosevelt union free school district to finance deficits by the issuance of serial bonds; in relation to certain apportionments; to amend chapter 89 of the laws of 2016 relating to supplementary funding for dedicated programs for public school students in the East Ramapo central school district, in

relation to the effectiveness thereof; to amend chapter 18 of the laws of 2020, authorizing deficit financing and an advance of aid payments for the Wyandanch union free school district, in relation to the issuance of serial bonds; and relates to the support of public libraries (Part A); **to amend the education law, in relation to establishing the Syracuse Comprehensive Education and Workforce Training Center focusing on Science, Technology, Engineering, Arts, and Math to provide instruction to students in the Onondaga, Cortland and Madison county BOCES and the central New York region in the areas of science, technology, engineering, arts and mathematics (Part B);** [continued].

(Part B)

Section 1. **Legislative intent.** The purpose of this act is to establish the Syracuse Comprehensive Education and Workforce Training Center focusing on Science, Technology, Engineering, Arts, and Math. The high school within the Syracuse Comprehensive Education and Workforce Training Center shall provide a high school course of instruction for grades nine through twelve, dedicated to providing expanded learning access and career opportunities **to students residing in the Onondaga, Cortland and Madison county board of cooperative educational services region and central New York, in the areas of science, technology, engineering, arts and mathematics as well as the core academic areas required for the issuance of high school diplomas in accordance with the rules and regulations promulgated by the board of regents.** The legislature hereby finds and declares that the establishment of the Syracuse Comprehensive Education and Workforce Training Center is a necessary component to the development of the greater central New York region of New York state and a necessary link to fostering the development and advancement of the arts and emerging technologies. This high school and workforce training center will advance the interests of the central New York region and New York state by engaging students in rigorous and enriching educational experiences focused on the arts and emerging technologies, project-based learning and collaboration and by providing that experience within the context of a business and learning community for the purpose of directly connecting student learning with real world experience in the arts and advanced technical facilities. It is expressly found that the establishment and operation of the Syracuse Comprehensive Education and Workforce Training Center pursuant to this act is a public purpose.

Section 2. **Establishment of the Syracuse Comprehensive Education and Workforce Training Center high school.**

1. The Syracuse Comprehensive Education and Workforce Training Center high school may be established by the board of education of the Syracuse city school district pursuant to this section for students in grades nine through twelve.

2. Such high school shall be governed by the board of education of the Syracuse city school district. The high school shall be subject to all laws, rules and regulations which are applicable to a public high school unless otherwise provided for in this act. The high school shall be subject to the oversight of the board of regents and the program shall be audited in a manner consistent with provisions of law and regulations that are applicable to other public schools.

3. The board of education of the Syracuse city school district shall have the responsibility for the operation, supervision and maintenance of the high school and shall be responsible for the administration of the high school, including curriculum, grading, discipline and staffing. The high school may partner with a certified institution of higher education to offer an early college high school program. The high school and workforce training center may also partner with a certified institution of higher education to offer apprenticeship training and programs. The workforce training center, in collaboration with educational opportunity centers, shall provide career connection programs and opportunities including, but not limited to, workforce preparation and training, industry certifications and credentials including advanced technical certifications and high school equivalency programs, and educational opportunity center programs at the Syracuse Comprehensive Education and Workforce Training Center at night. The State University of New York Empire State College may also partner with the New York State Department of Labor. The workforce training center is also authorized to partner with other local entities including, but not limited to, businesses, non-profit organizations, educational opportunity centers, state and local governments, and other organizations focused on closing the skills gap and increasing employment opportunities through training. The workforce training center programs shall be available to students as well as members of the community.

4. Such workforce training center shall be governed by the State University of New York Empire State College in consultation with the board of education of the Syracuse city school district.

5. The Syracuse City School District shall develop a comprehensive safety policy that includes a requirement that workforce training center programs offered at the Syracuse Comprehensive Education and Workforce Training Center shall be offered at night.

6. The board of education of the Syracuse city school district shall be authorized to enter into contracts as necessary or convenient to operate such high school.

7. Students attending such high school shall continue to be enrolled in their school district of residence. The Syracuse city school district shall be responsible for the issuance of a high school diploma to students who attended the high school based on such students' successful completion of the high school's educational program.

8. For purposes of all state aid calculations made pursuant to the education law, students attending such high school shall continue to be treated and counted as students of their school district of residence.

9. The public school district of residence shall be obligated to provide transportation, without regard to any mileage limitations, provided however, for aid reimbursements pursuant to subdivision 7 of section 3602 of the education law (which is the general provision regarding transportation), expenses associated with the transportation of students to and from the high school up to a distance of thirty miles shall be included. (Apportionment of Public Monies: Apportionment for pupil transportation)

10. It shall be the duty of the student's district of residence to make payments as calculated in this act directly to the school district for each student enrolled in the high school. No costs shall be apportioned to school districts that elect not to participate in such high school.

11. The trustees or the board of education of a school district may enter into a memorandum of understanding with the board of education of the Syracuse city school district to participate in such high school program for a period not to exceed five years upon such terms as such trustees or board of education and the board of education of the Syracuse city school district may mutually agree.

12. Such memorandum of understanding shall set forth a methodology for the calculation of per pupil tuition costs that shall be subject to review and approval by the commissioner of education.

13. Any student eligible for enrollment in grades nine through twelve of a public school entering into a memorandum of understanding with the board of education of the Syracuse city school district to enroll students in the high school shall be eligible for admission to the high school. To the extent that the number of qualified applicants may exceed the number of available spaces, the high school shall grant admission on a random selection basis, provided that an enrollment preference shall be provided to pupils returning to the high school in the second or any subsequent year. The criteria for admission shall not be limited based on intellectual ability, measures of academic achievement or aptitude, athletic aptitude, disability, race, creed, gender, national origin, religion, ancestry, or location of residence. The high school shall determine the tentative enrollment roster, notify the parents, or those in parental relations to those students, and the resident school district by April first of the school year preceding the school year for which the admission is granted.

14. Notwithstanding any other provision of law to the contrary, the Syracuse city school district is authorized to transfer ownership of the Syracuse Comprehensive Education and

Workforce Training Center facility to the county of Onondaga and the county of Onondaga is authorized to assume such ownership and to enter into a lease for such facility with the Syracuse city school district. The county of Onondaga may contract for indebtedness to renovate such facility and any related financing shall be deemed a county purpose. **The county of Onondaga shall transfer ownership of the Syracuse Comprehensive Education and Workforce Training Center facility to the city of Syracuse upon the expiration of the lease.**

15. Notwithstanding any other provision of law to the contrary, the county of Onondaga shall submit estimated project costs for the renovation and equipping of the Syracuse Comprehensive Education and Workforce Training Center after the completion of schematic plans and specifications for review by the commissioner of education. If the total project costs associated with such project exceed the approved cost allowance of such building project pursuant to section three of this act, and the county has not otherwise demonstrated to the satisfaction of the New York state education department the availability of additional local shares for such excess costs from the city of Syracuse and/or the Syracuse city school district, then the county shall not proceed with the preparation of final plans and specifications for such project until the project has been redesigned or value-engineered to reduce estimated project costs so as not to exceed the above cost limits.

16. Notwithstanding any other provision of law to the contrary, the county of Onondaga shall submit estimated project costs for the renovation and equipping of the Syracuse Comprehensive Education Workforce and Training Center after the completion of fifty percent of the final plans and specifications for review by the commissioner of education. If the total project costs associated with such project exceed the approved cost allowance of such building project pursuant to subparagraph (8) of paragraph a of subdivision 6 of section 3602 of the education law, and the county has not otherwise demonstrated to the satisfaction of the New York state education department the availability of additional local share for such excess costs from the city of Syracuse and/or the Syracuse city school district, then the county shall not proceed with the completion of the remaining fifty percent of the plans and specifications for such project until the project has been redesigned or value-engineered to reduce estimated project costs so as to not exceed the above cost limits. Section 3. Paragraph a of subdivision 6 of section 3602 of the education law is amended by adding a new subparagraph 8 to read as follows:

(8) **NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, FOR THE PURPOSE OF COMPUTATION OF BUILDING AID FOR THE RENOVATION AND EQUIPPING OF THE SYRACUSE COMPREHENSIVE EDUCATION AND WORKFORCE TRAINING CENTER HIGH SCHOOL AUTHORIZED FOR OPERATION BY THE SYRACUSE CITY SCHOOL DISTRICT THE BUILDING AID**

UNITS ASSIGNED TO THIS PROJECT SHALL REFLECT A BUILDING AID ENROLLMENT OF ONE THOUSAND STUDENTS AND MULTI-YEAR COST ALLOWANCES FOR THE PROJECT SHALL BE ESTABLISHED AND UTILIZED TWO TIMES IN THE FIRST FIVE-YEAR PERIOD. SUBSEQUENT MULTI-YEAR COST ALLOWANCES SHALL BE ESTABLISHED NO SOONER THAN TEN YEARS AFTER ESTABLISHMENT OF THE FIRST MAXIMUM COST ALLOWANCE AUTHORIZED PURSUANT TO THIS SUBPARAGRAPH.

Section 3. **This act shall take effect immediately.**

[POSSIBLE] PROPOSED AUTHORIZING STATUTE FOR BREAKTHROUGH SCHOOLS

Approved and effective _____

AN ACT to facilitate the creation of a voluntary network of socioeconomically integrated, inter-district schools in Monroe County by establishing one or more the Tech Valley high school Breakthrough Schools to provide instruction to students in the City of Rochester and one or more of the geographic regions served by the Capital Region Monroe One BOCES and the Questar III Monroe 2-Orleans BOCES in the areas of technology and core academic areas as well as the areas of [emerging technologies, artistic expression, healthcare, etc.] for students in grades [_____].

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Legislative intent.

The purpose of this aAct is to establish the Tech Valley high school one or more Breakthrough Schools in Monroe County. The the Tech Valley high school Breakthrough Schools shall provide a kindergarten, elementary school, middle school and/or high school courses of instruction for grades nine through twelve, dedicated to providing expanded learning opportunities to students residing in the Capital Region BOCES and Questar III BOCES, the City of Rochester as well as the geographic regions served by the Monroe One BOCES and the Monroe 2-Orleans BOCES. In addition to the core academic areas required for the issuance of high school diplomas in accordance with the rules and regulations promulgated by the Board of Regents, the Breakthrough Schools shall also provide instruction in the area(s) of technology [emerging technologies, artistic expression, healthcare, etc.] for students in grades [nine through twelve] as well as the core academic areas required for the issuance of high school diplomas in accordance with the rules and regulations promulgated by the Board of Regents. Each Breakthrough School shall maintain, to the extent practicable, a socioeconomically diverse mix of students that shall be comprised of roughly equal proportions of students from low-income households and middle- and upper-income households.

The legislature hereby finds and declares that the establishment of the the Tech Valley high school Breakthrough Schools is a necessary component to the development of equitable educational opportunities across the greater capital region Rochester area of New York state and a necessary link to fostering the development and advancement of [emerging technologies, artistic expression, healthcare-related skills, etc.]. Theis Breakthrough Sschools will advance the interests of the capital region the greater Rochester area, Monroe County and New York state by engaging students from various communities in rigorous and enriching educational experiences in an environment that promotes socioeconomic diversity among the students and that aims to equalize the available educational opportunities to students in the greater Rochester area and Monroe County. Further, for the students in grades [nine through twelve], the Breakthrough Schools will provide expanded learning opportunities focused on [emerging technologies, artistic expression, healthcare-related skills, etc.]; as well as project-based learning and collaboration and by providing that experience within the context of a business and learning community for the purpose of directly connecting student learning with real world experience in advanced technical facilities. It is expressly found that the establishment and operation of said Breakthrough sSchools pursuant to this aAct is a public purpose. The legislature further finds that the establishment of a School Business Leaders Alliance Community Advisory Committee (the "Committee") that shall serve as a forum in which regional businesses and community leaders can work together with the bBoard of Directors of the Breakthrough Schools (the "Board") and any individual Breakthrough Sschools to create opportunities for students consistent with this aAct shall be deemed as a necessary feature to the successful operation of the the Tech

APPENDIX C -

~~Valley high school~~Breakthrough Schools. The ~~b~~Board of directors is directed to establish and facilitate the ongoing operation of ~~the a School Business Leaders Alliance~~Committee for the specific benefit of the students attending the ~~Tech Valley high school~~Breakthrough Schools. The Board shall have discretion in determining the size, composition, term limits, if any, and membership requirements for the Committee.

§ 2. Definitions.

1. “Board” shall mean, except where the context indicates otherwise, the Board of Directors of the Breakthrough Schools.

2. “BOCES” shall mean, collectively, the Monroe One BOCES and the Monroe 2-Orleans BOCES.

3. “Tech Valley high schoolBreakthrough Schools” shall mean a regional high school one or more kindergarten, elementary school, middle school and/or high school, or any combination thereof, which may be located at more than one location within the corporate boundaries of ~~Questar III~~Monroe One BOCES or ~~Capital Region~~Monroe 2-Orleans BOCES or within the boundaries of the City of Rochester as established by this Act. As used in this Act references shall be to ~~Tech Valley high school~~the Breakthrough Schools; or the schools.

4. “Commissioner of Education” shall mean the New York State Commissioner of Education.

5. “~~Capital Region~~Monroe One BOCES” shall mean the ~~Schenectady Albany Schoharie-Saratoga~~Monroe One Board of Cooperative Educational Services, and any successor entity.

6. “~~Questar III~~Monroe 2-Orleans BOCES” shall mean the ~~Monroe 2-Orleans~~ Board of Cooperative Educational Services ~~for the counties of Rensselaer, Columbia and Greene counties~~, and any successor entity.

7. “~~The Board~~Rochester City School District” shall mean, ~~except where the context indicates otherwise, the board of directors of the Tech Valley High School~~the Rochester City School District in the City of Rochester, New York.

§ 3. Organization and governance.

1. The ~~Board~~Tech Valley high school shall obtain on behalf of the Breakthrough Schools a one or more charters and registrations from the ~~b~~Board of ~~r~~Regents to operate a kindergarten, elementary school, middle school a and/or high school, as applicable, before operation of any thesuch school shall commence. Upon being granted a charter or charters and becoming registered with the Board of Regents, the Breakthrough School shall be operated and organized in accordance with this Act. Additionally, Upon being granted a charter or charters and registered as a high school, the Tech Valley high school each such Breakthrough School shall be authorized to issue diplomas and shall be operated and organized pursuant to this act. The schoolEach Breakthrough School shall be deemed a local educational agency for purposes of state and federal law.

2. The schools shall be subject to all laws, rules and regulations which are applicable to ~~a~~ public ~~high~~ schools providing instruction to students of comparable ages and grade levels, unless otherwise provided for in this ~~a~~Act.

APPENDIX C -

3. The schools shall be subject to the oversight of the Board of Regents and shall obtain financial audits in a manner consistent with provisions of law and regulations that are applicable to other public schools providing instruction to students of comparable ages and grade levels.

4. (a) The ~~Board of directors of the Tech Valley high school,~~ shall be organized as follows. The Board shall consist of ~~eleven~~ members appointed on the following basis: three members shall be members of the Board of Education of the Rochester City School District or their duly appointed representatives; one member shall be the Superintendent of the Rochester City School District or his or her duly appointed representative; one member shall be the district superintendent of the Monroe One Capital Region BOCES; one member shall be the district superintendent of Questar III Monroe 2-Orleans BOCES; one member shall be the president of the governing board of the Monroe One Capital Region BOCES; one member shall be the president of the governing board of Monroe 2-Orleans BOCES Questar III; the superintendent of each school district with at least one student attending one or more Breakthrough Schools, or his or her duly appointed representative, shall each be a member of the Board ~~one member shall be a superintendent of a component district of the Capital Region BOCES, as appointed by the governing board of the Capital Region BOCES; one member shall be a superintendent of a component district of Questar III, as appointed by the governing board of Questar III; one member shall be a member of a board of education of a public school district which is located within the corporate boundaries of Questar III, including any non-component school district, as appointed by the governing board of Questar III; one member shall be a member of a board of education of a public school district located within the corporate boundaries of the Capital Region BOCES including any non-component school district, as appointed by the governing board of the Capital Region BOCES; three and [two]~~ members shall be appointed by the Commissioner of Education, who shall be representative of the greater ~~capital region~~ Rochester area business community and who have an expertise in the training needs of [hi-tech and emerging industries, the arts and/or healthcare-related fields] and at least one of which shall be a representative of the institutions of higher education located within the City of Rochester or the corporate boundaries of the ~~Monroe One Capital Region BOCES and or the Monroe 2-Orleans BOCES Questar III BOCES,~~ and such higher education representative shall have a working knowledge of the [science and technology, arts and/or healthcare] curricula offerings in the region.

(b) To qualify for membership on the Board, an individual must be at least 18 years of age and be a resident of the state of New York.

(c) All appointments to the Board other than the district superintendents and the presidents of the ~~governing boards of education of the Monroe One BOCES and the Monroe 2-Orleans BOCES (which shall be ex officio appointments) and the members representing a participating school district (other than the Rochester City School District) Capital Region BOCES and Questar III~~ shall be for a term of [three] years and such term shall commence on the July first-1st next succeeding the appointment, provided that vacancies on the Board shall be filled by an appointment made by the original appointing authority, and such appointment shall be deemed effective immediately and shall be for a period of the remaining unexpired term. Each Board member representing a participating school district (other than the Rochester City School District) shall be appointed for a term of [one] year, which shall commence on the [July 1st] immediately preceding the school year in which such district will have at least one student attending one or more Breakthrough Schools.

(d) The provisions of section 3811 of the education law shall apply and govern the defense and indemnification of Board members, the Board, and the ~~Tech Valley high school Breakthrough Schools;~~ provided that section 3813 of the education law shall govern the presentation claims against the ~~governing body Board or any successor governing body~~ of the ~~Tech Valley high school Breakthrough Schools.~~

APPENDIX C -

(e) The members of the ~~b~~Board shall not receive any payment for service on the ~~b~~Board, except for reimbursement of actual expenditures reasonably incurred during their official duties. Furthermore, the members of the ~~b~~Board shall be governed by all provisions of state law and regulations which govern the personal conduct of public school boards.

§ 4. Powers and duties of the ~~b~~Board.

The ~~b~~Board shall have the following powers and duties:

1. To prescribe and operate ~~a~~full-time courses of study meeting the applicable requirements prescribed by the Board of Regents and by which students attending any high school-level~~the Breakthrough s~~Schools shall become eligible to receive a high school diploma upon graduation. ~~These~~is courses of study shall be supplemented by such [innovative technological, artistic and/or healthcare-and-related] programs as may be deemed suitable by the ~~b~~Board to implement the purposes of this ~~a~~Act.;

2. To enter into contracts as deemed necessary for the construction and/or lease of ~~a~~one or more facilities~~y~~ to provide the full-time courses of study and related educational activities.;

3. To establish and maintain reserve funds consistent with any reserve fund that a BOCES is authorized to establish and with section 3651 of the education law, provided no voter approval shall be required for any transaction relating to, or the creation or elimination of, such reserve funds.

4. Based upon a ~~joint~~ recommendation of the district superintendents of the Rochester City School District, Questar III and Capital Region~~the Monroe One BOCES and the Monroe 2-Orleans~~ BOCES and upon a majority vote of the ~~b~~Board, to contract with and employ a chief executive officer with such qualifications and upon such terms and conditions as the ~~board~~Board may determine and to charge such officer with the power and duty to administer the educational programs of the Breakthrough sSchools. The term of any employment contract or agreement between the ~~b~~Board and such chief executive officer, may provide such terms and conditions of employment as the ~~b~~Board deems prudent, but shall not exceed five years in duration; provided, however, any such contract shall be subject to the provisions of subdivision 4 of section 1950 of the education law.;

5. Based upon a recommendation by the chief executive officer, and upon a majority vote of the ~~board~~Board, to contract with and employ such other administrative officers and employees as the ~~board~~Board may ~~be~~ deemed prudent.;

6. Based upon a recommendation by the chief executive officer, and upon a majority vote of the ~~board~~Board, to contract with and employ administrators, teachers, staff and such other persons in furtherance of the Breakthrough sSchools's educational programs.;

7. To contract with and enter into cooperative arrangements with private for-profit and not-for-profit entities as the ~~board~~Board may deem prudent in furtherance of the Breakthrough sSchools's supplemental [innovative technological, artistic or healthcare-related] activities and related educational programs to implement the purposes of this ~~a~~Act, provided that all components of the curriculum shall be taught or supervised by a certified teacher.

8. To grant high school diplomas to the same extent as other registered public schools consistent with the rules and regulations of the ~~e~~Commissioner of Education.;~~and~~

APPENDIX C -

9. To determine the school calendar and school day schedule, which at a minimum, shall be equal to the instruction time required to be provided by other public ~~high~~-schools providing instruction to students of comparable ages and grade levels.

10. To establish and offer voluntary remedial and/or afterschool programs for purposes of improving student achievement and/or decreasing performance gaps among students at the Breakthrough Schools, as the Board may deem prudent to implement the purposes of this Act. The Board may also design and offer extracurricular and/or athletic programs and activities to enhance students' well-being and social integration within the Breakthrough Schools. [Students at the Breakthrough Schools shall remain eligible to participate in any extracurricular and/or athletic programs and activities offered in their resident public school district.]

11. The Board may partner or enter contracts with one or more certified institutions of higher education to offer college-level academic courses that may provide college credit to participating students. The Board may also partner with one or more certified institutions of higher education to offer internships, apprenticeship training and/or other programs relating to the fields of [innovative technology, the arts and/or healthcare].

§ 5. General requirements.

The annual budget of the Breakthrough sSchools shall be prepared by the Board and subject to the approval of the Board of Education of the Rochester City School District and the governing boards of the Monroe One BOCES and the Monroe 2-Orleans BOCES~~Capital Region BOCES and Questar III~~. The proposed budget shall be submitted to the Board of Education of the Rochester City School District and the governing boards of ~~education of the Monroe One BOCES and the Monroe 2-Orleans BOCES~~ Capital Region BOCES and Questar III by May ~~first~~ 1st of the year preceding the year for which the budget shall apply. The proposed budget shall not take effect unless a majority of members of the Board of Education of the Rochester City School District each BOCES board ~~shall~~ approve the annual budget of the Breakthrough sSchools. If a majority of members of the Board of Education of the Rochester City School District or either BOCES board fails to adopt resolutions approving such tentative budget, the ~~Board of directors of the Tech Valley high school~~ shall prepare and adopt a contingency budget which shall not exceed the amount of the budget of the ~~Tech Valley high school~~Breakthrough Schools for the previous school year, except to accommodate expenditure increases attributable to supplemental retirement allowances payable pursuant to section 532 of the education law and section 78 of the retirement and social security law. The Board of Education of the Rochester City School District and the BOCES boards shall vote on approval of the proposed budget by a date determined by the ~~e~~Commissioner of ~~e~~Education. For purposes of development of a budget for the first year of operation, the ~~board of directors~~Board shall present the proposed budget to the ~~C~~ommissioner of ~~e~~Education by a date the ~~e~~Commissioner of ~~e~~Education shall determine and shall submit it to the ~~e~~Commissioner of ~~e~~Education for approval. Upon approval ~~of by~~ the ~~e~~Commissioner of ~~e~~Education, the proposed budget shall be deemed the budget of the ~~Tech Valley high school~~Board for that school year.

§ 6. Employees of the Breakthrough sSchools.

1. The instructional employees shall be subject to Part 30 of the Rules of the Board of Regents.

2. Except as provided in subdivision 7 of section four of this ~~a~~Act, persons employed in connection with the educational programs of the Breakthrough sSchools shall be certified in accordance with the

APPENDIX C -

requirements applicable to other public ~~high~~ schools providing instruction to students of comparable ages and grade levels.

3. Any teacher employed in the public schools of New York may make written application for a leave of absence to teach at the Breakthrough sSchools. Approval of such request for a leave of absence of two years or less shall not be unreasonably withheld. If such approval is granted, the teacher may return to teach in the school district during such period of leave without the loss of any right, seniority, salary status or any other benefit provided by law or by collective bargaining agreement.

4. All persons employed by the Breakthrough sSchools shall be considered public employees and shall receive all rights and privileges accorded thereto.

5. Section 3014 of the education law shall be applicable to all employees who would be governed by said section in a public school building.

§ 7. Admission to the Breakthrough sSchools.

1. Any student eligible for enrollment in grades [~~nine through twelve~~ _____] of the public schools, residing within (i) the boundaries of the Rochester City School District, (ii) a component school district of the Capital Region BOCES or Questar III Monroe One BOCES or a non-component the Monroe 2-Orleans BOCES or (iii) a non-component school district located within the corporate boundaries of the Monroe One BOCES or the Monroe 2-Orleans Capital Region BOCES, or Questar III which enter into a memorandum of understanding with the board to enroll students in the Tech Valley high school shall be eligible to apply for admission to any grade-appropriate the Tech Valley high school Breakthrough School.

2. The criteria for admission shall not be limited based on intellectual ability, measures of academic achievement or aptitude, athletic aptitude, disability, race, creed, gender, national origin, religion, ancestry, or location of residence; provided, however, that to attain the goal of a diverse student body, the Board shall establish goals for the representational composition of the student body including, but not limited to, (i) the proportion of students eligible for free or reduced-price lunch and (ii) the mix of students residing within the boundaries of (a) the Rochester City School District, (b) the component school districts of the Monroe One BOCES and the Monroe 2-Orleans BOCES and (c) any non-component school districts located within the corporate boundaries of the Monroe One BOCES or the Monroe 2-Orleans BOCES (collectively, the "Diversity Goals"). Admission to the Breakthrough Schools may be limited for any individual applicant to meet the Diversity Goals established by the Board. The Board shall have discretion to amend, modify, supplement or change any of the Diversity Goals, in accordance with applicable law, to further the purposes of this Act.

3. To the extent that the number of qualified applicants ~~may exceed~~s the number of available spaces, including any spaces specifically reserved by the Board to attain the Diversity Goals, the Breakthrough sSchools shall grant admission on a random selection basis using a weighted lottery process; provided that provides an enrollment preference shall be provided to (i) students whose enrollment would help attain one or more Diversity Goals and (ii) pupils-students returning to the Breakthrough sSchools in the second or any subsequent year. The Board shall have discretion in determining the weight of any factor used in the admissions lottery to attain the Diversity Goals. The Breakthrough sSchools shall determine the tentative enrollment roster, notify the parents, or those in parental relation to those students, and the resident school district by April ~~1st~~^{first} of the school year preceding the school year for which the admission is granted. To determine the enrollment roster for the first year of operation, the Breakthrough sSchools shall notify the parents, or those in parental relation to those students, and the resident school

APPENDIX C -

district by ~~[June thirtieth-13th]~~ of the school year preceding the school year for which the admission is granted.

4. The resident public school district shall be obligated to provide transportation to and from the Breakthrough Schools, without regard to any mileage limitations. Furthermore, the appropriate public school district shall provide textbooks, computer software, library material and health examinations, in a manner consistent with the provision of these items and services to nonpublic school students as required by the education law. The appropriate public school district shall be eligible for any and all state aid for which they would otherwise be eligible for the provision of such items and services required by this subdivision to a nonpublic school student, provided however, that no mileage limitations shall be applied to the transportation costs associated with the transportation of students to and from the ~~Tech Valley high school~~Breakthrough Schools.

§ 8. Financing of the Breakthrough sSchools.

1. It shall be the duty of the student's district of residence to make payments as calculated herein directly to the Breakthrough sSchools for each student enrolled in the Breakthrough sSchools. ~~The board of directors of the Tech Valley high school~~ shall annually adopt a methodology for the apportionment of operational costs amongst (i) the Rochester City School District, (ii) the component school districts of the Monroe One BOCES and the Monroe 2-Orleans BOCES, Capital Region BOCES and the Questar III BOCES as well as and (iii) the non-component school districts located within the corporate boundaries of either BOCES with one or more students attending the Breakthrough Schools which has entered into a memorandum of understanding with the board to enroll students in the Tech Valley high school. The Breakthrough sSchools ~~is-are~~ hereby authorized to enter into one or more contracts with the Monroe One BOCES, the Monroe 2-Orleans BOCES, Questar III or Capital Region BOCES, or both, ~~entities~~ to provide that they may act as a fiscal agent for the Breakthrough sSchools to receive and hold payments made pursuant to this section on behalf of the Breakthrough sSchools.

2. Payments made pursuant to subdivision one of this section to the Breakthrough sSchools shall be eligible for BOCES aid as an aidable shared service pursuant to section 1950 of the education law; provided that during the first four years of operation the payments made to the Breakthrough sSchools pursuant to this section shall be aidable in the year during which the payments are made; and provided further that for purposes of this section, notwithstanding any limitations in Section 1950 of the education law, all such payments made by participating school districts (including, but not limited to, the Rochester City School District) shall be eligible for BOCES aid as an aidable shared service pursuant to section 1950 of the education law. The Breakthrough sSchools shall repay within thirty days after notice by the resident school district, any and all funds paid to the Breakthrough sSchools for a student who is granted admission; but does not attend the school.

3. Expenses arising from the acquisition of land and the construction or leasing of any building erected or used for the purposes of the Breakthrough sSchools shall be apportioned among (i) the Rochester City School District, (ii) the component school districts comprising the Monroe One BOCES and the Monroe 2-Orleans BOCES, Capital Region BOCES and Questar III and (iii) those non-component school districts located within the corporate boundaries of either BOCES with one or more students attending the Breakthrough Schools which enter into a memorandum of understanding with the boards to enroll students to the Tech Valley high school consistent with a methodology contained in section 1950 of the education law as determined by the ~~board~~Board and such expenses shall be eligible for BOCES capital aid as pursuant to section 1950 of the education law; provided that for purposes of this section, notwithstanding any limitations in Section 1950 of the education law, (i) the participating school districts

APPENDIX C -

(including, but not limited to, the Rochester City School District) will be allocated such expenses as though they are each a BOCES component school district and (ii) all such expenses allocated to the participating school districts (including, but not limited to, the Rochester City School District) shall be eligible for BOCES capital aid pursuant to section 1950 of the education law.

4. If educational programs operated by the Breakthrough Schools result in the creation of revenue for the Breakthrough Schools, the receipt and expenditure of such funds shall be deemed lawful, subject only to the requirement that any revenues so created shall be used for the educational betterment of the students through the advancement of the Breakthrough Schools's educational and career development activities. The ~~Board of directors of the school~~ is authorized to accept gifts, donations or grants of any kind made to the Breakthrough Schools and to expend or use such gifts, donations or grants in accordance with the conditions prescribed by the donor; provided, however, that no gift, donation or grant may be accepted if subject to a condition that is contrary to any provision of law or the educational charter. The Breakthrough Schools shall also be authorized to enter into leases, which shall not exceed thirty years in length, for the lease of one or more facilities ~~which that~~ will assist the Breakthrough Schools to in carrying out their purpose ~~of the school~~ consistent with section four of this Act.

5. The Breakthrough Schools shall be deemed a special act school district only for the purposes of obtaining authorization for dormitory authority financing of capital facilities consistent with the provisions of section 407-a of the education law.

§ 9. This Act shall take effect immediately.

APPENDIX D

| # | Elements | OTHER INTERDISTRICT MODELS | |
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| | Overview | Hartford, CT | <p><u>History:</u> The Sheff lighthouse school program was established by court order in 1996 and renegotiated multiple times, most recently in 2020, which extended the funding for the Sheff program to 2022. The legislature enabled open enrollment and cooperative agreements between states in 1967, codifying the establishment of interdistrict school. However, efforts to desegregate and create interdistrict schools were middling until Sheff v. O’Neil, 238 Conn. 1 (1996). Sheff held that the way the Connecticut department of education ran the Hartford public school district (amongst the poorest) was in violation of equal opportunity and education rights provided under the Connecticut constitution. Legislative reform followed. Shortly after <i>Sheff</i>, laws were enacted establishing enhanced grants for schools that will help the State meet its equal opportunity obligations under <i>Sheff</i>. Schools receiving these increased grants are known as <i>Sheff</i> schools. In 2013, the <i>Sheff</i> decision was revisited in response to lagging academic achievement specifically in the Hartford district. This lag prompted the establishment of Lighthouse schools, also known as <i>Sheff</i> lighthouse schools or Hartford lighthouse schools. In 2016, 18,950 students participated in the interdistrict schooling programs in Connecticut with several thousand students participating in the Hartford specific “Open Choice” programs.¹ Grants for both <i>Sheff</i> and <i>Sheff</i> lighthouse schools have been renewed through 2021.</p> <p><u>Outcome:</u> Success story – the interdistrict schools and Sheff schools were successful in increasing the academic success of students who enrolled but the local academic success rate for public schools within the Hartford region has largely remained the same.² In fact, the Sheff schools are much more successful than other public schools in similarly disadvantaged districts, that parents sued to remove the minority student ratio quota to allow more students from disadvantaged districts into the schools.³ While Sheff schools are successful and open slots are coveted, local public schools in Hartford, one of the regions sought to be aided by these <i>Sheff</i> schools, continued to suffer poor academic results. To address the lagging performance of many Hartford public schools, the legislature established the <i>Sheff</i> Lighthouse program, which provides a separate annual grant to improve the curriculum and enhanced per pupil grants for Hartford schools that are able to attract students from the surrounding suburban districts. The <i>Sheff</i> Lighthouse program also covered a larger portion of any travel costs incurred by the school district. Students who are able to take advantage of the <i>Sheff</i> or <i>Sheff</i> Lighthouse programs are more likely to be academically successful than their peers.</p> |

¹ The National Coalition on School Diversity, *The State of Integration 2018*, 23, https://school-diversity.org/wp-content/uploads/2019/06/State-of-Integration_2018.pdf (June 2019).

² Reporting a higher average graduation rate for Hartford *Sheff* interdistrict schools than surrounding suburban public school. <https://connecticuthistory.org/sheff-v-oneill-settlements-target-educational-segregation-in-hartford/#:~:text=Give,Sheff%20v.,Target%20Educational%20Segregation%20in%20Hartford&text=In%201989%2C%20Milo%20Sheff%2C%20then,a%20lawsuit%20through%20their%20parents.&text=The%20lawsuit%20was%20to,both%20urban%20and%20suburban%20students>

³ Case started in response to “race quota” but Hartford has since changed to class “quotas” and as part of settlement agreement as agreed to enroll more minority students and students from disadvantaged classes if more affluent students fail to enroll. <https://www.the7million.org/article/libertarian-group-drops-racial-quota-suit-after-connecticut-signs-breakthrough-settlement-in-30-year-school-desegregation-battle/>.

APPENDIX D

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| | <p>Boston, MA (METCO)</p> | <p><u>History:</u> METCO is a voluntary busing program established in 1966 which was initially funded by the Carnegie Corporation. Funding has since largely been taken over by the State.⁴ METCO predates the court ordered desegregation in <i>Morgan v. Hennigan</i>⁵ and survives after the court orders have expired. Desegregation has been highly contentious in the Boston area around the time <i>Morgan</i> was decided and continued to be contentious until a court of appeals ruled that the school districts were in compliance with Civil Rights in 1987. METCO started by busing 200 students in 1966 to suburban schools who voluntarily provided space for intercity students.⁶ Currently, 3,300 students participate in the METCO program across 38 school districts.⁷</p> <p><u>Outcome:</u> Success. Pupils fortunate enough to participate in the program report 30% higher graduation rates and college attendance rates than pupils on comparable socioeconomic backgrounds.⁸ The program continues to enjoy a fair amount of political capital and its budget is advocated successfully before the state legislature each year. METCO is currently funded by a mixture of local and state level grants. However despite its success, the program has been historically unable to expand, largely due to the lagging pace of state and local funding in relation to the costs of education.⁹ A recent report suggests that while suburban schools are likely not losing money for running METCO programs, they are not keen to expend local resources to expand the METCO program because other issues are more importantly locally.¹⁰ Promisingly, in 2019, the state legislature increased funding to METCO by nearly \$1.5 million, hopefully fueling expansion of this successful program.¹¹ However, as the METCO program heavily involves busing, the current political stigma towards busing may negatively affect METCO's long-term prospects.</p> |
| | <p>Richmond, VA (CodeRVA)</p> | <p><u>History:</u> CodeRVA is a new lottery-based magnet school program created in 2017 through a blend of federal, state, and local funding. The stated goals for establishing CodeRVA are to address segregation and minority isolation in the Richmond area as well as to address gender imbalance in the</p> |

⁴ Erica Frankenberg, *Boston's METCO Program Lessons for the Hartford Area*, PROJECT CHOICE CAMPAIGN, <https://pracc.org/pdf/ProjectChoiceCampaignMETCOReport.pdf> (Sept. 2007).

⁵ *Morgan v. Hennigan*, 379 F. Supp. 410 (D. Mass. 1974). A case where the judge used the same provisions in the state statutes that established METCO to force desegregation & busing. The deciding judge effectively oversaw desegregation until 1987 where the supervised schools were deemed unitary.

⁶ *Supra*, note 3.

⁷ METCO Program, MASSACHUSETTS DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION, <http://www.doe.mass.edu/metco/> (Accessed Aug. 28, 2020).

⁸ Crystal Haynes, *Equity in Education*, <https://www.boston25news.com/news/equity-in-education-a-closer-look-at-the-metco-program/953402705/> (June 3, 2019); citing, Ann Mantil, *Evaluating the Impact of Nontraditional School Choices*, HARVARD UNIVERSITY, <https://dash.harvard.edu/bitstream/handle/1/37679891/MANTIL-DISSERTATION-2018.pdf?sequence=1&isAllowed=y> (2018).

⁹ The program has an estimated waitlist of 15,000 most of which are toddlers due to an its previous "first come, first serve" enrollment which was changed to a lottery system in 2020. James Vaznis, *Metco will move to a lottery system to choose students*, BOSTON GLOBE, <https://www.bostonglobe.com/metro/2019/05/06/state-approves-new-rules-for-metco-admissions/qNh0314pMvZ4321MMAxDM/story.html> (May 6, 2019).

¹⁰ Alana Semuels, *The Utter Inadequacy of America's Efforts to Desegregate Schools*, The Atlantic, <https://www.theatlantic.com/education/archive/2019/04/boston-metco-program-school-desegregation/584224/> (April 11, 2019). The article also suggests that while integration and "expansion of world view" that is afforded by integration is important, supporters of such expansions seem weary about the optics related to expending local money to house out of district students:

"[An expansion] will allow the town to build a school for its growing population—and if it wanted, Belmont could also fit more kids from METCO. But METCO and integration more generally were not mentioned in the run-up to the debt exclusion. The focus is, and will always be, creating more space for kids from Belmont. That's why people move to the suburbs, after all, paying millions of dollars for houses that are expensive to heat and have long driveways to shovel in winter so they can get into one of the best school districts in Massachusetts."

¹¹ The National Coalition on School Diversity, *The State of Integration 2018*, 30, https://school-diversity.org/wp-content/uploads/2019/06/State-of-Integration_2018.pdf (June 2019).

APPENDIX D

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| | <p>STEM and computer science fields.¹² The program received \$6 million in federal funding from the U.S. government under the Magnet School Assistance Program from the DOE.¹³</p> <p><u>Outcome:</u> Success. The program has expanded past its initial 12 partner school districts to encompass 14 school districts.¹⁴ Demand for entry into the program remains high.¹⁵ Initial reports suggest that the goals of racial and gender diversity are met,¹⁶ but gender weighing in the lottery system has been suspended over concerns regarding “favoring of women”.¹⁷ The program achieved positive overall academic performance but achievement gaps remains for some students.¹⁸ The program is a full curriculum high school with an emphasis in Computer Science, STEM, and coding. Currently 260 students are enrolled.¹⁹</p> |
| Brandywine, DE | <p><u>History:</u> Desegregation was achieved through busing. Judicial oversight started under <i>Brown v. Board of Education</i> for the entire Delaware state. However, local dissent delayed desegregation efforts until 1974. Court oversight was rolled back in 1995. Without oversight, Brandywine school district has been continuing interdistrict busing through local referendum.</p> <p><u>Outcome:</u> Moderate success – the Program was successful in convincing a judge that schools in the Brandywine district have reached unity. Despite the court finding that the districts sufficiently racially integrated, wide academic gaps persist between Minority/Black students and Caucasian students. Continuation of the program after judicial oversight ended was achieved through busing which continues to this day. However, political sea change over the perception of “busing” rendered the program legislatively unfavorable. Program started winding down in 2018. Local communities and existing interdistrict schools have taken over busing through grassroot efforts, mostly locally in the Brandywine school district. The future of the interdistrict school programs is unclear. The popularity of the program is evident from the local support, but any success the program had is mitigated by the questionable longevity of the program which is operated solely by local support.</p> |
| Omaha, NE | <p><u>History:</u> The so-called Raikes Plan originated in the mid-2000s at the state legislative level to connect 11 districts but relied heavily on regional governance, tax-base sharing and resource redistribution, and a diversity plan. The “Raikes Plan” established a regional governance system for the 11 Omaha metro-area districts called the Learning Community Coordinating Council (“LCCC”) and granted it authority to distribute a common levy.</p> |

¹² CodeRVA Regional High School, <https://oese.ed.gov/files/2017/11/CodeRVARegionalHighSchoolNAR.pdf>, p 3 (2017).

¹³ Kshelar525, *CodeRVA Receives \$6 Million Federal Grant*, ABC8 News, <https://www.wric.com/news/coderva-receives-6-million-federal-grant/> (Oct. 7, 2017).

¹⁴ Approval of addition of Charles City School District in January 2019 took original 12 school districts to 14. Kume Goranson, *Letter to Federal Program Officer, Tahira Rashid*, https://docs.google.com/document/d/1rvZRQV7BWxTJW_K7rl7N1csTdPIMJnns4SITPeEHTG8/edit (April 18, 2019).

¹⁵ First year lottery was 756 students for 8th and 9th grade. CodeRVA Regional High School, <https://oese.ed.gov/files/2017/11/CodeRVARegionalHighSchoolNAR.pdf>, p 75 (2017). Most recent recruitment period ended with 348 applicants. *Executive Director’s Report 6.18.20*, <https://docs.google.com/document/d/1MA8JvIqMwU9U6vC3olcNKmp6U7WlbzpdGTzWAgTe4/edit> (June 18, 2020).

¹⁶ *Executive Director’s Report – 8-15-19*, CODERVA REGIONAL HIGH SCHOOL, https://docs.google.com/document/d/1HrJQei29_cyCAuzaQQV5IK7KIFb9Tc7Y00SASiBGbZl/edit (Aug. 15, 2019).

¹⁷ *School Board Meeting Jan. 16, 2020*, CODERVA REGIONAL HIGH SCHOOL, https://docs.google.com/document/d/1vwCDUvHE2dAzilMe6ft_8iZyKbVdkmEAWjOqPpGPA9q0/edit, paragraph 10.b (accessed September 21, 2020).

¹⁸ CodeRVA’s Second Year, *Executive Summary*, CODERVA, <https://drive.google.com/file/d/16EFSnRXzzMsnvdfJp1HqP39uZLXXlMnZ/view> (Jan. 8, 2020).

¹⁹ *Executive Director’s Report 8-15-19*, CODERVA REGIONAL HIGH SCHOOL, https://docs.google.com/document/d/1HrJQei29_cyCAuzaQQV5IK7KIFb9Tc7Y00SASiBGbZl/edit (Aug. 15, 2019).

APPENDIX D

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| | | <p>The legislation also included a two-part economic “diversity plan” for the Learning Community: the LCCC was tasked with creating Elementary Learning Centers to support high-poverty districts and establishing a choice-based mobility program to deconcentrate high-poverty schools.</p> <p><u>Outcomes:</u> The initial Open Enrollment plan funded districts to establish “focus” or magnet schools along with transportation to increase diversity, enrolling thousands of students each year and demonstrating wide appeal for many parents. Three years of LCCC evaluations compared the performance of Open Enrollment students on 3rd- to 8th-grade reading and mathematics assessments to their resident counterparts. In low-poverty schools, free and reduced-price lunch-eligible Open Enrolled students scored dramatically higher than peers in high-poverty schools in both reading and mathematics in all tested grades.</p> <p>Note that while this program appears to have been successful enhancing diversity based on socioeconomic class, its focus and therefore success with regard to race has been less consistent.</p> |
| | <p>Minneapolis, MN</p> | <p><u>History:</u> The concept for the West Metro Education Program (“WMEP”) began in 1989 when Minneapolis and eight suburban districts joined forces to comply with state desegregation rules in effect at the time. The program gained muscle in the late 1990s as the Legislature appropriated money to create interdistrict schools offering programs to entice voluntary desegregation. The west metro saw the opening of the Downtown K12 School and the FAIR arts school in Crystal. In the east, Harambee Elementary and Crosswinds Arts and Science School opened. Litigation involving racial segregation at schools led to a negotiated settlement wherein The Choice Is Yours program was created in 2000. The settlement expired officially in 2005, though the program functionally existed for a few years longer.²⁰ While hundreds of students enrolled, however, tensions arose between the interdistrict schools and the member districts that contributed students and the money they bring, plus some of their state integration money. State funding also was unsteady.²¹</p> <p>This pilot desegregation program largely involved busing low-income students of color - who chose to participate in the program - from Minneapolis to eight suburban school districts: Robbinsdale, St. Louis Park, Wayzata, Edina, Hopkins, Richfield, St. Anthony and New Brighton (plus Eden Prairie, which voluntarily opted into the program). The Choice Is Yours program essentially built upon the open enrollment option, giving Minneapolis students two key advantages: priority placement in open seats along with free transportation.²²</p> <p>Although the Choice is Yours program (and the WMEP) is now defunct, some independent interdistrict coalitions still exist. According to program evaluators, the outcomes of The Choice Is Yours program were mixed. As indicated in the 2006-07 outside evaluation of the program, the return rate for Choice Is Yours students in grades 3 through 7 sat at about 50 percent from one year to the next. For all grades, during the program’s first six years, that rate was a bit higher, with about two-thirds of the Choice Is Yours students returning the following year. However, when surveyed, almost all participating parents - 96 percent - said they’d recommend the program to others.²³</p> |

²⁰ <https://www.minnpost.com/education/2018/08/desegregation-case-proceeds-here-s-look-what-became-metros-earlier-effort/>

²¹ <https://www.startribune.com/defections-shake-up-twin-cities-school-integration-programs/417875653/>

²² <https://www.minnpost.com/education/2018/08/desegregation-case-proceeds-here-s-look-what-became-metros-earlier-effort/>

²³ *Id.*

APPENDIX D

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| | Milwaukee, WI | Chapter 220 was created in 1975 to provide busing for black city students to attend suburban schools and suburban students to attend city specialty schools. The program was the result of court findings that the Milwaukee School District was intentionally segregating schools. Although there were some positive attributes, it is hard to consider Chapter 220 a success story since the legislature did not extend it and made several decisions that limited its effectiveness. Milwaukee's Open Enrollment program played a large role in Chapter 220's demise. Unlike Chapter 220, Open Enrollment does not have an integration goal and does not provide busing. Moreover, most students using Open Enrollment are white. Minority leaders advocated for Chapter 220 to remain in place, especially because most schools in Milwaukee are still relatively racially homogenous. |
| | St. Louis, MO | The VICC program was established via a series of settlement agreements. It functions through a non-profit, the Voluntary Interdistrict Choice Corporation ("VICC") which facilitates the transfer program. ²⁴ This program successfully illustrates the potential for using a third party administrative body. However, the legislature voted to wind down the program, largely because of the <i>PICS</i> decision limiting indefinite race-based integration programs. |
| | San Antonio, TX | San Antonio Independent School District ("SAISD") Choice Schools & Programs is a relatively early-stage choice program in San Antonio, Texas, focused on developing "diverse-by-design" schools for students across Bexar County. SAISD was one of the first districts to join the System of Great Schools ("SGS") networks in Texas to embrace a district operating vision, which was accompanied by incentives through state grant dollars and implementation support. ²⁵ SAISD's Office of Innovation conducts the Annual Call for Quality Schools, whereby current campus leaders have the opportunity to redesign existing schools, develop new school models, and revise existing in-district charters, and approved campuses receive increased autonomy over time, talent, and resources in return for greater accountability in the form of a performance contract. SAISD has also formed Senate Bill 1882 partnerships with nonprofits to expand options and resources provided to schools, bring in targeted expertise for innovation and support, and empower educators with greater autonomy. ²⁶ |
| | Minnesota (NW Suburban) | <p><u>History:</u> The Northwest Suburban Interdistrict School District (NWSISD) was the product of a discussion that began in the state of Minnesota during the late 1980s (similar to the WMEP in Minneapolis, described above). Changing demographics, a reimagined definition of "segregation" and other factors drove the promulgation of new state legislation.²⁷ Following enactment of the new rule, certain districts in the NW Suburban area of Minneapolis were considered "segregated".²⁸</p> <p>Seven individual districts comprise the NWSISD, which remains intact despite the challenges cited above to the WMEP. The NWSISD attempts to combat "racial isolation" among its participating schools. A school is racially isolated when its enrollment of "protected students" exceeds the</p> |

²⁴ <https://www.choicecorp.org/>

²⁵ <https://www.usnews.com/news/best-states/articles/2018-04-13/commentary-texas-has-ambitious-plans-to-transform-urban-schools> and <https://leadingchangeintx.org/#SGS>

²⁶ <https://innovatesaisd.org/> and <https://bxpartnerships.org/>

²⁷ <https://www.leg.state.mn.us/archive/sonar/sonar-02791.pdf>

²⁸ <http://www.nws.k12.mn.us/about.html>

APPENDIX D

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| | | | enrollment of protected students by more than 20% in an adjacent district. ²⁹ The NWSISD operates via a magnet school system wherein students can choose from among 3 different strands: international baccalaureate, arts and STEM. |
| 1 | Open-enrollment laws and other legislative adaptation (e.g., no requirement to reapply once admitted; sophisticated 'tiered' lottery system) | Hartford, CT | <ul style="list-style-type: none"> In 2003, the modified Sheff settlement prompted the adoption of "Open Choice". The implementation of Open Choice has increased racial diversity in participating schools and better academic outcomes for participating students from disadvantaged districts. Earlier race-based quota was revised to socioeconomic status quota in a settlement entered in 2020.³⁰ Connecticut legislature codified interdistrict schools, officially recognizing the purpose of these schools and providing funding and oversight. Suits have been successful in challenging enrollment quotas and enrollment caps, potentially providing an avenue for individual civilian monitoring of effectiveness of the interdistrict program. |
| | | Boston, MA | <ul style="list-style-type: none"> Massachusetts has general open enrollment laws³¹ and open enrollment laws specifically addressing racial disparities³². The resulting program is known as "School Choice".³³ METCO is a separate³⁴ voluntary program made possible under Massachusetts' open enrollment laws.³⁵ |
| | | Richmond, VA (CodeRVA) | <ul style="list-style-type: none"> Virginia does not have general open enrollment laws.³⁶ Instead, CodeRVA appears to be established under VA St. § 22.1-26 as a C(ii) school offering "specialized curriculum leading to a high school diploma and a post-secondary credential", e.g. industry certification (CS industry cert.), career certification, or degree (associates degree).³⁷ |
| | | Brandywine, DE | <ul style="list-style-type: none"> Open enrollment is established by law and known as the School Choice program.³⁸ |
| | | Omaha, NE | <ul style="list-style-type: none"> Established by state law, open enrollment with priority based on those who contribute socioeconomic diversity to the school.³⁹ |

²⁹ <https://www.revisor.mn.gov/rules/3535.0110/#:~:text=Racially%20isolated%20school%20district,more%20than%2020%20percentage%20points>. (see subpart No. 7)

³⁰ <https://www.nbcconnecticut.com/news/local/attorney-general-to-present-settlement-in-sheff-v-oneill/2208249/>

³¹ MA St. 76 §§ 12 & 12.B.

³² MA St. 76 § 12.A.

³³ <http://www.doe.mass.edu/finance/schoolchoice/>

³⁴ Jeffrey C. Riley, *Advisory on Inter-District School Choice Pursuant to G.L. c. 76, §12B*, MASSACHUSETTS DEPARTMENT OF EDUCATION, http://www.doe.mass.edu/lawsregs/advisory/2019-0423qlc76s12b.html#attachment_n1.

³⁵ *METCO's History*, THE METROPOLITAN COUNSEL FOR EDUCATIONAL OPPORTUNITY, <https://metcoinc.org/home/metco-history/> (accessed Aug. 31, 2020).

³⁶ Enrollment in public schools is tied to a student's or their parents' residence unless certain exceptions apply. *Enrollment in Virginia Public Schools*, VIRGINIA DEPARTMENT OF EDUCATION, http://doe.virginia.gov/families/student_enrollment.shtml (accessed September 21, 2020).

³⁷ VA St. § 22.1-26 (effective Oct. 1, 2016).

³⁸ Establishing open enrollment program. 14 Del. C. § 401.

³⁹ https://omaha.com/news/education/fewer-students-transfer-between-school-districts-under-option-enrollment-system/article_6127f998-7cdf-54bc-b198-3e9df51e1980.html

APPENDIX D

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| | Minneapolis, MN | <ul style="list-style-type: none"> • Students sued certain districts in Minneapolis/St. Paul in 2015⁴⁰ asserting that the school system had failed to provide a satisfactory education to poor and minority students. The trial court ruled that the case could proceed, which was reversed by an appellate court that held that the question was non-justiciable, reversed again by the state supreme court. The case went back down to the district court and went into mediation.⁴¹ • By Jan. 2020, calls for an amendment to the state constitution guaranteeing equality in schools received support from advocates.⁴² • Minnesota law defines segregation according to the demographic differences between districts and requires “racially isolated” school districts to have plans for working to offset the disparities.⁴³ • In the 2017-18 school year, more than 80,000 Minnesota students, or 9 percent, are open-enrolled. • State applications are used for any open enrollment situation involving two school districts in Minnesota. Once accepted for open enrollment, the student may attend the non-resident district through high school graduation. |
| | Milwaukee, WI | <ul style="list-style-type: none"> • Voluntary transfer program • Milwaukee Public Schools (“MPS”) annually enter into individual contracts with suburban school districts to allow students to transfer to schools • Children in predominantly minority MPS schools are eligible for seats in majority-white suburban school districts, and students from predominantly white suburban school districts can transfer to MPS. <ul style="list-style-type: none"> ➢ Lawsuit that started Chapter 220 settled in 1975. The settlement requires 75% of students be enrolled in racially balanced schools (25-60% black). This decree was not followed very closely (i.e., there was no enforcement mechanism for not following the percentages). |
| | St. Louis, MO | <ul style="list-style-type: none"> • The original settlement agreement created a federally supervised desegregation program in 1983. The settlement agreement was eventually revised in 1999 to change it to a voluntary transfer program.⁴⁴ |
| | San Antonio, TX | <ul style="list-style-type: none"> • SAISD Choice Schools & Programs are open to all children in the county no matter where they live.⁴⁵ • For some Choice Schools and Programs, a percentage of seats in the lottery are held for families living within a priority area of the campus, such as an attendance zone, a zip code, or a designated mile radius. If the number of applications for the priority area exceeds the number of seats, a priority lottery will be conducted. Families living in the priority area not accepted through the priority lottery will be placed in the general lottery.⁴⁶ • Because the vast majority of the district’s students are economically disadvantaged according to the Free and Reduced Price Lunch measure, SAISD calculated and utilized Socioeconomic Blocks to better understand the socioeconomic status of our students. Socioeconomic data using income, home ownership, single-parent family rates and education rates, students were placed in Blocks 1 through 4 (highest to lowest)⁴⁷. All |

⁴⁰ <https://www.aclu-mn.org/en/cases/cruz-quzman-v-state-minnesota>

⁴¹ <https://www.mprnews.org/story/2019/06/12/court-declines-to-exempt-charters-from-school-segregation-case>

⁴² <https://www.brainerddispatch.com/news/government-and-politics/4856353-Will-changing-Minnesota-Constitution-improve-achievement-gap>

⁴³ <https://www.minnpost.com/learning-curve/2015/01/west-metro-integration-district-may-reinvent-itself-spinning-2-schools-proces/>

⁴⁴ <https://www.choicecorp.org/>

⁴⁵ <https://saisdchoice.com/schools/all-choice-schools-programs-2/>

⁴⁶ <https://saisdchoice.com/faq/>

⁴⁷ https://innovatesaisd.org/wp-content/uploads/2020/08/Methodology-for-Calculating-Socioeconomic-Tiers_2019-20.pdf

APPENDIX D

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| | | | <p>Choice Schools & Programs strive to ensure that economically disadvantaged students make up at least 50% of total enrollment, with at least 25% of the economically disadvantaged students coming from the lowest socioeconomic status communities⁴⁸ (Socioeconomic Blocks Equity Audit ensures that at least 25% of students enrolled at designate “diverse by design” campuses come from Block 3 and Block 4 communities⁴⁹).</p> <ul style="list-style-type: none"> Recently passed state laws promote transparency in school quality ratings, provide flexibility for local accountability systems and solutions, and incentivize partnerships between districts and charter operators, other nonprofit organizations, and colleges and universities⁵⁰: <ul style="list-style-type: none"> Specifically, House Bill 1842 (passed in 2015) - gives districts maximum flexibility to implement a local turnaround plan (effectively exempts a district from certain sections of the Texas Education Code that inhibit the goals of the district as outlined in the locally adopted Innovation Plan⁵¹), which can incorporate the involvement of high-performing public charter networks and allows school systems to become “districts of innovation”. Also provides that if a district has a single campus that is failing for five consecutive years, the education commissioner is compelled to either order the closure of that campus or install a (new) board of managers to take over the district. |
| | | Minnesota (NW Suburban) | <ul style="list-style-type: none"> Open enrollment for all students living within the district, as identified on property tax forms, extending from pre-school through high school⁵² Each student can list two schools in order of preference As observed in some other districts, certain districts withdrew from the program or had residents petition to withdraw on the basis of property taxes paid toward schools that their children did not attend. |
| 2 | Adequate funding - financial investment and coordination; broadening and/or revamping reimbursement methods | Hartford, CT | <ul style="list-style-type: none"> Specific funding for <i>Sheff</i> schools, Hartford Lighthouse schools, and interdistrict magnet schools are provided under the same statutes based on student head count. Interdistrict schools and <i>Sheff</i> schools servicing students from school districts covered by the <i>Sheff</i> opinion get a larger grant for each of these students that reside in the <i>Sheff</i> school districts. An even greater per out-of-district student grant is available for schools participating in the Hartford lighthouse program.⁵³ A special discretionary fund is also provided for eligible schools established under <i>Sheff</i>. |
| | | Boston, MA | <ul style="list-style-type: none"> METCO gets its funding from mixture of codified state level grants⁵⁴ and funding from local school districts. METCO’s state funding totaled \$22 million in 2020.⁵⁵ |

⁴⁸ <https://saisdchoice.com/faq/>

⁴⁹ <https://saisdchoice.com/faq-items/what-are-socioeconomic-blocks-and-how-do-they-relate-to-my-application/>

⁵⁰ <https://leadingchangeintx.org/>

⁵¹ <https://tea.texas.gov/texas-schools/district-initiatives>

⁵² <http://nebula.wsimg.com/32ae30f8b72040bfdfcc2b78dea02f0?AccessKeyId=0762061660474F0AF91C&disposition=0&alloworigin=1>

⁵³ Overall grants to interdistrict school. CT. St. § 10-74d. Grants for capital expenditures (buildings). CT. St. § 10-264h. Transportation grants for interdistrict school. CT. St. § 10-264i. *Sheff* specific funding. CT. St. § 10-264o. Start-up capital for *Sheff* schools. CT. St. § 10-266dd. Grants for Hartford Lighthouse schools. CT. St. § 10-266aa.

⁵⁴ MA St. 76 § 12.A.; see also, MA St. 76 § 12B.(f), MA St. 70 §§ 3, 6 & 8.

⁵⁵ FY20 METCO Allocations, MASSACHUSETTS DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION, <http://www.doe.mass.edu/grants/2020/317/> (June 4, 2019).

APPENDIX D

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| Richmond, VA (CodeRVA) | <ul style="list-style-type: none"> • \$6 million federal Magnet School Assistance Program⁵⁶ from DOE, administered over 4 years for initial funding.⁵⁷ • Pupil tuition paid from participating school districts on per pupil basis.⁵⁸ |
| Brandywine, DE | <ul style="list-style-type: none"> • Funding is given to receiving district based on student headcount.⁵⁹ |
| Omaha, NE | <ul style="list-style-type: none"> • LCCC property tax of 1.5 cents generates \$7.5M annually • Originally, property taxes were pooled within the larger district and then distributed with weighting toward less affluent areas and those who were ESL. However, this scheme met continuous, fierce resistance and was eliminated in 2016; now, the state fills in property tax revenue to reduce the gap between more and less affluent areas and led to an increase in \$13.4M state funding |
| Minneapolis, MN | <ul style="list-style-type: none"> • The program was partly paid for using a federal funding grant called Voluntary Public School Choice. The cost was roughly \$7M/yr about a decade ago. |
| Milwaukee, WI | <ul style="list-style-type: none"> • Originally through separate sum sufficient appropriation - meaning the state would give whatever funding was asked for. • Chapter 34, Laws of 1979 provided that funding be distributed through the general school aids appropriation • A school district's general aids is dependent on the general equalization aid formula which incorporates property valuation, enrollment, and shared costs • If a school district is participating in Chapter 220 and is receiving more Chapter 220 interdistrict aid in the current school year than the prior one because of an increased number of pupils transferring to the school district, its revenue limit is increased by the amount of additional aid received (1993 WI A.B. 1204) • Chapter 220 funds originally included the following: (a) Basic Aid—This aid is paid to school districts for accepting transfer students who enhance racial balance; (b) Bonus Aid—Districts that accept transfer students equal to at least 5% of the district's total student population receive an additional 20% of the basic aid; and (c) Sender Aid—This is aid that the school district from which a student transfers receives. (Wisconsin Department of Public Instruction, 2007; Wisconsin Legislative Fiscal Bureau, 1997, 2005; Wisconsin Legislative Reference Bureau, 2011) • A school district that incurs funds in excess of the general aid formula may apply for supplemental aid. <ul style="list-style-type: none"> ➢ Originally, the program was given whatever funding was required. This likely was the result of a federal court order to desegregate Milwaukee schools in 1976 (which coincides with the beginning of the program). ➢ Funding is meant to correspond to how racially balanced a school becomes ➢ The general school aids for 2020-2021 in Wisconsin is estimated to be about \$4.9 billion (a 3.5% increase from last year). |

⁵⁶ Magnet School Assistance Program, 34 CFR § 280.1.

⁵⁷ CodeRVA Regional High School, <https://oese.ed.gov/files/2017/11/CodeRVARegionalHighSchoolNAR.pdf>, p 16.

⁵⁸ CodeRVA Regional High School, <https://oese.ed.gov/files/2017/11/CodeRVARegionalHighSchoolNAR.pdf>, p 53.

⁵⁹ Pupil counted in receiving district but not in sending district. 14 Del. C. § 408.

APPENDIX D

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| | | <ul style="list-style-type: none"> ➤ Aid cannot be used for tuition payments, but can be used for lease and loan repayments. The use of aid for lease and loan repayments may need to be checked to ensure proper expenditures. ➤ Most interdistrict transfers have been black MPS students transferring to white suburban districts. ➤ The Open Enrollment Program reimburses schools financially in the same year the schools accept students for the program, whereas the Chapter 220 Program reimburses schools the next year. ➤ Funding for the Open Enrollment Program is not as restrictive as the funding for the Chapter 220 Program. ➤ These financial incentives have led to school districts accepting significantly more Open Enrollment students than Chapter 220 students. ➤ In the 1994-1995 school year, Wisconsin ended the Bonus Aid for Chapter 220 participation. |
| | St. Louis, MO | <ul style="list-style-type: none"> • Virtually all of VICC's funding to support the transfer program is received through the State of Missouri's normal public school aid sources. These state aid payments simply follow the students to the program. No special or additional revenues are received. VICC then uses these funds to provide transportation service and to pay tuition amounts to participating school districts. • Originally, the state of Missouri paid all transportation and tuition costs. Eventually, a St. Louis sales tax was approved to help cover these costs. • The 1999 Settlement Agreement also authorized two \$25 million payments to VICC to cover the transportation costs of transitioning to a system in which city students would only have transportation provided if they attended county schools that are paired with their residential attendance area. • If full pupil cost reimbursement fails, a county district may give a one-year notice to opt out of the program and return transfer students to the sending district or students may transfer to another participating district at the end of that school year if space is available elsewhere within the student's attendance area. • Starting in 2004-2005, annual tuition payments to suburban districts were capped based on overall available funding each year. <ul style="list-style-type: none"> ➤ The reimbursement rate is listed at \$7,000 per pupil. This is likely higher than reimbursements in other school district and creates a larger incentive for school districts to participate in the program. ➤ VICC handles all the funding so school districts do not have to worry as much about cost as a barrier to accept transfers. |
| | San Antonio, TX | <ul style="list-style-type: none"> • The Texas Education Agency ("TEA") devotes the highest level of funding to those systems that undertake the most significant measures (innovation/transformation), such as replacing staff or changing the governance structure, and creating a new school model.⁶⁰ • TEA provided Transformation Zone Planning Grant (Transformation Zones group multiple campuses that are low-performing together, provide these campuses with autonomy over people, time, money, and academic programs) and School Redesign Fund (competitive grant opportunities and technical assistance for districts with comprehensive and bold school redesign plans) in recent years.⁶¹ |

⁶⁰ <https://leadingchangeintx.org/>

⁶¹ <https://tea.texas.gov/texas-schools/district-initiatives>

APPENDIX D

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| | | | <ul style="list-style-type: none"> • Texas Partnerships (SB 1882) Senate Bill 1882, signed into effect by the Texas Legislature in 2017, provides incentives for districts to contract to partner with an open-enrollment charter school, institutions of higher education, non-profits, or government entities.⁶² <ul style="list-style-type: none"> ◦ The bill provides for a possible increase in state funding for partnered campuses. If a district enters into a partnership for a particular school, that school will still be rated by the state for accountability purposes, but there will be a two-year pause, during which the state cannot intervene by ordering closure or taking over the district (as required under House Bill 1842).⁶³ • The Texas Legislature meets in regular session in odd-numbered years to approve the state budget, which includes funding for local public school districts. There are various sources of revenue from local, state and federal funds (taxes, grants, programs and allotments).⁶⁴ It is also mentioned that as neighboring districts did not have sufficient money, SAISD Superintendent reached out to civic organizations and philanthropies to contribute.⁶⁵ |
| | | Minnesota (NW Suburban) | <ul style="list-style-type: none"> • The program is funded by a combination of federal, state and local money and grants |
| 3 | Transportation solutions | Hartford, CT | <ul style="list-style-type: none"> • Transportation grants are codified.⁶⁶ • A grant of up to \$2,000⁶⁷ per student transported is available for school districts helping the State comply with the <i>Sheff</i> decision.⁶⁸ • A grant of up to \$3,250 per student transported is available for school districts participating in the Hartford Lighthouse program.⁶⁹ |
| | | Boston, MA | <ul style="list-style-type: none"> • A grant of up to \$5,042 per participating student was provided, grant amount based on distance and historically requested grant amount averaging \$1,854 per pupil.⁷⁰ |
| | | Richmond, VA (CodeRVA) | <ul style="list-style-type: none"> • \$103,590 of the MSAP grant money earmarked for transportation.⁷¹ • Program leverages participating school districts' existing bus network.⁷² |

⁶² <https://xpartnerships.org/frequently-asked-questions/>

⁶³ <https://leadingchangeinbx.org/>

⁶⁴ https://www.saisd.net/upload/page/0049/2019-20_District_Budget.pdf

⁶⁵ <https://www.the74million.org/article/78207-americas-most-radical-school-integration-experiment/>

⁶⁶ Transportation grants for *Sheff* schools. CT. St. § 10-264i.

⁶⁷ General transportation grant is up to \$1,300 per pupil transported.

⁶⁸ CT. St. § 10-264i.

⁶⁹ CT. St. § 10-266aa(f)

⁷⁰ MA St. 76 § 12.A; see also, MA St. 76 § 12B.4.i. *FY20 METCO Allocations*, MASSACHUSETTS DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION, <http://www.doe.mass.edu/grants/2020/317/> (June 4, 2019).

⁷¹ <https://oese.ed.gov/files/2017/11/CodeRVARegionalHighSchoolNAR.pdf>, p 16-17.

⁷² CodeRVA Regional High School, <https://oese.ed.gov/files/2017/11/CodeRVARegionalHighSchoolNAR.pdf>, p 18. Overview of busing network. Transportation, Maggie L. Walker Governor's School for Governmental and International Studies, <https://mlwgs.com/welcome-to-mlwgs/transportation/> (Accessed September 18, 2020); see also, *Transportation*, CODERVA, <https://coderva.org/for-parents-students/> (accessed September 21, 2020).

APPENDIX D

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| | Brandywine, DE | <ul style="list-style-type: none"> • No grants provided. School districts pay for own transportation solutions.⁷³ |
| | Omaha, NE | <ul style="list-style-type: none"> • These costs were covered for students who contribute diversity to their school, but as of 2016 this is now covered for those who qualify for a free lunch and not partial free lunch; fewer transfer applications were submitted as of 2017, perhaps as a result of the higher threshold for receiving benefits as well as a more cumbersome application process.⁷⁴ |
| | Minneapolis, MN | <ul style="list-style-type: none"> • Transportation is provided between the student's home or school and the interdistrict program or school. School districts have entered into joint powers agreements to develop desegregation/integration programs and/or schools. • This data is old, but as of 2015 nearly 5,000 students took advantage of this program in the state at an annual expense to the state of approximately \$28,000. |
| | Milwaukee, WI | <ul style="list-style-type: none"> • If either the sending or receiving school district operates an interdistrict transfer program, that school district is responsible for the cost of transportation. • Paying costs of transportation is possible by the school district contracting directly for the provision of transportation or by reimbursing another school district that provides transportation. <ul style="list-style-type: none"> ➢ Funding for having an interdistrict transfer program can go toward transportation, but this setup could create a disincentive if transportation costs exceed funding needs. ➢ In the Open Enrollment program, transportation must be provided by the parent rather than the school district. This makes it less accessible to students from lower socio-economic backgrounds. Although Open Enrollment allows low income parents to seek transportation reimbursements, this extra step is likely a hurdle that limits accessibility of the program to minority students. ➢ The legislature made a change restricting transportation in the 2001-2002 school year. Students wanting to participate in the Chapter 220 Program could only apply to suburban districts that aligned with the transportation region they resided in, significantly limiting the overall participation |
| | St. Louis, MO | <ul style="list-style-type: none"> • Four attendance zones were established in the city, each linked with specific suburban school districts. Transportation is only provided for students who comply with this attendance area structure. Students applying to attend schools outside of their residential attendance area must provide their own transportation. • VICC generally contracts with private transportation providers but can provide transportation services itself or arrange transportation via public transportation. <ul style="list-style-type: none"> ➢ Because VICC manages the transportation of students, it appears to be more streamlined than in other jurisdictions where each school district has to make independent decisions. |

⁷³ Parent is responsible for transportation without reimbursement. But annual bus passes may be bought at a discount. 14 Del. C. § 409. In practice, the parent often is allowed to use the receiving school district's existing transportation system. *Frequently Asked Questions About Riding the Bus*, BRANDYWINE SCHOOL DISTRICT, <https://www.brandywineschools.org/Page/118> (accessed Oct. 26, 2020).

⁷⁴ https://omaha.com/news/education/fewer-students-transfer-between-school-districts-under-option-enrollment-system/article_6127f998-7cdf-54bc-b198-3e9df51e1980.html

APPENDIX D

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| | | | <ul style="list-style-type: none"> ➤ Because transportation is contracted out to private companies, VICC has several guidelines in place dictating policies and procedures for transport. This is a wise move because it protects VICC from liability and helps ensure a safer environment for students. |
| | | San Antonio, TX | <ul style="list-style-type: none"> • A “hub” system, whereby students are picked up at a stop, transported to a central location where they will be transferred to a different bus that takes them to destination school.⁷⁵ |
| | | Minnesota (NW Suburban) | <ul style="list-style-type: none"> • The district coordinates with a third party transport service, Collaborative Student Transportation of Minnesota⁷⁶ to arrange for free transport throughout the district. • Also students enrolled in the NWSISD program (and living within its boundaries) are eligible for the program. • CST-MN will even pick up/drop off students from daycare, the rule being that the locations be consistent in order to best plan routes. |
| 4 | Clear admission/enrollment criteria which take into account socio-economic status | Hartford, CT | <ul style="list-style-type: none"> • Previous enrollment criteria was a minimum of 25% minority students up to maximum of 75% minority students. Race-based enrollment was challenged. Settlement in 2020 changed enrollment criteria to socioeconomic based and removed the cap on minority students for interdistrict schools, allowing enrollment of more students with lower socioeconomic status if students of higher economic status fail to enroll in sufficient numbers. • For Hartford students, the enrollment criteria is based on residence in Hartford and approved enrollment by the receiving district. |
| | | Boston, MA | <ul style="list-style-type: none"> • Only Boston residents are eligible.⁷⁷ • Originally was “first-come, first serve”. The program was recently changed to a lottery system.⁷⁸ • Application window: [Fall] Oct. 1 – Nov. 30; [Winter] Feb. 1 – Feb. 28; [Spring] Apr. 15 – May 14; [Summer] May 24 – June 24. |
| | | Richmond, VA (CodeRVA) | <ul style="list-style-type: none"> • Weighted lottery based on transparent point-based system that assigns points based on the household income and parents’ highest achieved educational degree. This race neutral lottery is believed to achieve the State’s goal for racial diversity given high degree of correlation between race and socioeconomic status.⁷⁹ • Gender weighing of lottery recently suspended and is under review.⁸⁰ • Limited to students from 14 participating school districts.⁸¹ • Application window: beginning of January to end of February each year.⁸² |

⁷⁵ https://saisdchoice.com/wp-content/uploads/2019/08/Choice-Transportation-Schedule-2019-2020_Enq-Span.pdf

⁷⁶ <https://www.cstmn.org/>

⁷⁷ Jeffrey C. Riley, *Boston METCO Admissions Policy – February 2020*, THE METROPOLITAN COUNSEL FOR EDUCATIONAL OPPORTUNITY

⁷⁸ *About MetCo*, THE METROPOLITAN COUNSEL FOR EDUCATIONAL OPPORTUNITY, <https://metcoinc.org/> (Accessed Aug. 28, 2020); see also, James Vaznis, *Metco will move to a lottery system to choose students*, BOSTON GLOBE, <https://www.bostonglobe.com/metro/2019/05/06/state-approves-new-rules-for-metco-admissions/qN0314pMvZ4i321MMAXDM/story.html> (May 6, 2019).

⁷⁹ CodeRVA Regional High School, <https://oese.ed.gov/files/2017/11/CodeRVARegionalHighSchoolNAR.pdf>, p 27-29.

⁸⁰ *School Board Meeting Jan. 16, 2020*, CODERVA REGIONAL HIGH SCHOOL, https://docs.google.com/document/d/1vwCDUvHE2dAziMe6ft_8tZyKbvdkmEAWfOqPpGPA9q0/edit, paragraph 10.b (accessed September 21, 2020).

⁸¹ CodeRVA Regional High School, <https://coderva.org/> (Accessed September 19, 2020).

⁸² *Id.*

APPENDIX D

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| Brandywine, DE | <ul style="list-style-type: none"> Districts may establish individual enrollment criteria but applications to transfer must be approved by both the sending and the receiving school districts.⁸³ |
| Omaha, NE | <ul style="list-style-type: none"> Option enrollment is available to all students K-12.⁸⁴ Transportation and other benefits were offered largely based on socioeconomic status of the applicant student relative to the school they applied to. |
| Minneapolis, MN | <ul style="list-style-type: none"> Eligibility for free lunch a key identifying feature. |
| Milwaukee, WI | <ul style="list-style-type: none"> Students must be African American, Asian, Hispanic, or Native American Students must live in the attendance area of a Milwaukee public school in which more than 30% of the students are minorities <ul style="list-style-type: none"> ➤ Contrary to PICS ruling because eligibility is race based. Would need to adapt by using socio-economic status. ➤ Race neutral solutions such as Milwaukee’s Open Enrollment program are often viewed more favorably by non-minority students’ parents and by administrators. |
| St. Louis, MO | <ul style="list-style-type: none"> Original goal was to have 25% black student population. Black students residing in the City of St. Louis shall be eligible to transfer voluntarily to a school and district in a participating district in their attendance area (or, if they provide their own transportation, to a participating district outside their attendance area) in which school and district they would be in the racial minority. White students residing in St. Louis County who are members of the racial majority at a school in a participating district which is more than 50 percent white in its enrollment shall be eligible to transfer voluntarily to the St. Louis Public Schools, unless the district has elected to no longer participate in the county-to-city transfer program. <ul style="list-style-type: none"> ➤ Criteria for admission is racially based, which largely contributed to the program winding down. Substituting socio-economic status could make this a feasible model. |
| San Antonio, TX | <ul style="list-style-type: none"> The lottery selection process is blind, randomized and conducted at the district level, and uses a “Controlled Choice” framework.⁸⁵ <ul style="list-style-type: none"> ○ Individualized lotteries for each school take into consideration many factors, including type of program, attendance zones, ensuring equity and access, prioritizing students of certain demographics (i.e., socioeconomic status, at-risk status, etc) and siblings of students,⁸⁶ as well as giving extra weight to applications from children attending Texas’s lowest-performing schools.⁸⁷ |

⁸³ School districts may set their own criteria for accepting out of district pupils, but such criteria may not vary from the criteria used to enroll pupils in its own district. 14 Del. C. § 405. Racial balancing based on court order allowed, 14 Del. C. § 406, but no such orders appear to be active.

⁸⁴ <https://district.ops.org/DEPARTMENTS/Student-and-Community-Services/Student-Placement#87221159-nebraska-option-enrollment>

⁸⁵ <https://saisdchoice.com/faq/>

⁸⁶ <https://saisdchoice.com/wp-content/uploads/2020/02/2020-21-CHOICE-SCHOOLS-PROGRAMS-OVERVIEW-OF-LOTTERY-CATEGORIES-PRIORITIES-Eng-Span-1.pdf>

⁸⁷ <https://www.the74million.org/article/the-architect-how-one-texas-innovation-officer-is-rethinking-school-integration/>

APPENDIX D

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| | | Minnesota (NW Suburban) | <ul style="list-style-type: none"> All students living within the district are eligible, but they are not guaranteed admission. Students evaluate the magnet school options and can rank two as their top preferences based on which programs most interest them. Students are chosen via computerized lottery, and factors such as extracurriculars are not included. <ul style="list-style-type: none"> Sibling priority is weighted most highly Theme consistency (e.g., Arts elementary student seeking an Arts school at the next level up) is weighted second Geographic priority is weighted third, which strives to balance racial imbalances among the schools |
| 5 | Accountability standards – alternative evaluation methods | Hartford, CT | <ul style="list-style-type: none"> Standards are based on student composition. The statute provides a grant to a receiving school district for each out-of-district student transferred. The grant is increased if the school is a <i>Sheff</i> school and if the out-of-district student contributes to the State’s obligations under <i>Sheff</i>. The grant is further increased if the out-of-district student is from Hartford or if the out-of-district student is heading to a school located in Hartford. |
| | | Boston, MA | <ul style="list-style-type: none"> No official standards. |
| | | Richmond, VA (CodeRVA) | <ul style="list-style-type: none"> Goals set to reduce minority group isolation, increase achievement in racial and ethnical minorities, increase female representation in STEM and computer science, and increase number of CodeRVA students who meet high school graduation criteria by end of federal funding.⁸⁸ Overall management through CodeRVA school board which consists of 14 board members from the 14 participating school districts. Goal and financial oversight provide through monthly meetings to the Superintendent’s Advisory Council.⁸⁹ Evaluation of goals to be completed by the evaluation team (comprising team members from Metropolitan Educational Research Consortium)⁹⁰ and jointly presented by the evaluation team and the MSAP Project Director.⁹¹ |
| | | Brandywine, DE | <ul style="list-style-type: none"> No official standards. |
| | | Omaha, NE | <ul style="list-style-type: none"> Officials monitored academic achievement based primarily on test scores. |
| | | Minneapolis, MN | <ul style="list-style-type: none"> Administrators relied on rate of return to the out-of-district school and test scores. |
| | | Milwaukee, WI | <ul style="list-style-type: none"> While the program was operational, there were racial percentage targets. The settlement required 75% of students be enrolled in racially balanced schools (25-60% black). However, this mandate was not closely followed and there was no enforcement mechanism. Students who transfer are evaluated the same way as their peers at their new school. |

⁸⁸ CodeRVA Regional High School, <https://oese.ed.gov/files/2017/11/CodeRVARegionalHighSchoolINAR.pdf>, at 64-67, 101-118.

⁸⁹ *Id.* at 68-69.

⁹⁰ *Id.* at 101.

⁹¹ *Id.* at 118. Recent evaluation: *Executive Director’s Report – 8-15-19*, CODERVA REGIONAL HIGH SCHOOL, https://docs.google.com/document/d/1HrJOei29_cvCAuzqQQV5IK7KfB9Tc7Y00SASiBgbZl/edit (Aug. 15, 2019).

APPENDIX D

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| | | St. Louis, MO | <ul style="list-style-type: none"> The program is voluntary so there are no requirements for enrollment. Students who transfer are evaluated the same way as their peers at their new school. |
| | | San Antonio, TX | <ul style="list-style-type: none"> The Texas A-F Program is the state accountability system which uses letter grades (A, B, C, D and F), as required by the House Bill 22 (passed in 2017).⁹² Student achievement, school progress (measurement of students over time and comparison to similar schools) and “Closing the Gaps” (looks at how well different groups of students are performing) determine the overall letter rating.⁹³ <ul style="list-style-type: none"> This system replaced the previous pass-fail accountability system and presumably better measures incremental improvement of schools. |
| | | Minnesota (NW Suburban) | <ul style="list-style-type: none"> The state of Minnesota issues a report card district by district for all schools that ranks factors such as test schools, college attendance rates, etc, similar to the Minneapolis program |
| 6 | Post-transfer resources and support (e.g., for teachers, parents, counselors, etc.) | Hartford, CT | <ul style="list-style-type: none"> Sending school district is incentivized to facilitate transfer because the sending school district retains one-half head count funding.⁹⁴ Grants are provided for Hartford schools providing preschool and all-day kindergarten services. Additional grants cover before or after school care and remedial services of said preschool and kindergarten kids. Continued education is provided for teachers in the form of seminars and day-long programs. |
| | | Boston, MA | <ul style="list-style-type: none"> Sending school district is reimbursed an amount equal to the loss of state aid from the transferred students if the cost of running the sending school district exceeds its annual aid.⁹⁵ |
| | | Richmond, VA (CodeRVA) | <ul style="list-style-type: none"> [Professional development] Plans to partner with industry leaders and companies to train teachers in coding and STEM.⁹⁶ Partnership with Magnet Schools of America, Intercultural Development Research Associate-Equality Assistance Center, Virginia Center for Inclusive Communities, Student Centered Learning Environment, Project Based Learning, Social Emotional Learning, and Regional Summit to bolster teaching effectiveness and provide training on issues of equity.⁹⁷ [Students] Conflict resolution presentations and planned collaborative projects to increase student integration.⁹⁸ [Parents] Periodic “Family Meetings” to keep parents apprised of school happenings and provide support.⁹⁹ Efforts being made to evaluate effectiveness of support programs and to uncover new ways of improving engagement and providing support.¹⁰⁰ |

⁹² <https://leadingchangeintx.org/>

⁹³ <https://tea.texas.gov/texas-schools/accountability/academic-accountability/a-f-resources> and <https://tea.texas.gov/texas-schools/accountability/academic-accountability/performance-reporting/2020-accountability-manual>

⁹⁴ CT. St. § 10-266aa(h). Notwithstanding any provision of this chapter, each sending district and each receiving district shall divide the number of children participating in the program who reside in such district or attend school in such district by two for purposes of the counts for subdivision (22) of section 10-262f and subdivision (2) of subsection (a) of section 10-261.

⁹⁵ MA St. 76 § 12B.(n).

⁹⁶ CodeRVA Regional High School, <https://oese.ed.gov/files/2017/11/CodeRVARegionalHighSchoolNAR.pdf>, p 36.

⁹⁷ Professional development discussed as a way to avoid falling back into ecology of traditional school districts. *Id.* 58-61.

⁹⁸ CodeRVA Regional High School, <https://oese.ed.gov/files/2017/11/CodeRVARegionalHighSchoolNAR.pdf>, p 39.

⁹⁹ Raptor Rundown, CODERVA, <https://coderva.org/news-weekly-updates/> (accessed September 19, 2020).

¹⁰⁰ CodeRVA’s *Second Year, Executive Summary_010820*, CODERVA, <https://drive.google.com/file/d/16EFSnRXzMSrwdfJp1HqP39uZLXltnZ/view> (January 8, 2020).

APPENDIX D

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| | | Brandywine, DE | <ul style="list-style-type: none"> • Almost non-existent, some standard continuing education is available. |
| | | Omaha, NE | <ul style="list-style-type: none"> • Community centers, early childhood learning, pilot programs for instructional coaching, school readiness, extended learning and admin costs all are financed by the 1.5 cent LCCC tax. |
| | | Minneapolis, MN | <ul style="list-style-type: none"> • Added support for Choice Is Yours students varied among districts. In the Robbinsdale district, Crosby said staff put a number of services in place to ensure that the students and their families “became fully engaged.” That included everything from a full week of orientation activities and extended transportation options so students could participate in after-school activities to holding off-site conferences at three community gathering locations in north Minneapolis and pairing students with cultural liaisons inside their school buildings.¹⁰¹ |
| | | Milwaukee, WI | <ul style="list-style-type: none"> • Students who are part of Chapter 220 were grandfathered in and allowed to remain at their schools even after the program was not extended. |
| | | St. Louis, MO | None known. |
| | | San Antonio, TX | <ul style="list-style-type: none"> • Extended Day programs are available at some Choice Schools and Programs. • College road trip/visits arrangement¹⁰² (unsure if this is regularly provided). |
| | | Minnesota (NW Suburban) | <ul style="list-style-type: none"> • NWSISD features a robust set of support programs: <ul style="list-style-type: none"> ○ Step-Up Mentorship (development program for young men) ○ Inter-District Partnership Meetings (learning opportunities for all staff) ○ Multicultural Resource Center (resources for educators) ○ Essence Girls Groups (development program for young women) |
| 7 | Use of third party governance structure/administrator (e.g., BOCES) | Hartford, CT | <ul style="list-style-type: none"> • All interdistrict schools are evaluated by the Connecticut Commissioner of Education annually to determine their eligibility for funding and to identify non-compliance. • Non-compliance must be rectified in 1-2 years or the school risks loss in funding and faces fines. Interdistrict schools established to assist the State in meeting its Sheff obligations are exempt from fines, but non-compliance still risks loss in funding. |
| | | Boston, MA | <ul style="list-style-type: none"> • The Board of Education has budgetary oversight.¹⁰³ • METCO is run by METCO, Inc., a non-profit organization which handles applications and placements. |
| | | Richmond, VA (CodeRVA) | <ul style="list-style-type: none"> • Co-governance with the 12 (now 14) partnering member school districts, each to individually allocate set amount of students per year to join CodeRVA’s program.¹⁰⁴ |

¹⁰¹ <https://www.minnpost.com/education/2018/08/desegregation-case-proceeds-here-s-look-what-became-metros-earlier-effort/>

¹⁰² <https://www.the74million.org/article/78207-americas-most-radical-school-integration-experiment/>

¹⁰³ MA St. 71 § 37D.

¹⁰⁴ CodeRVA Regional High School, <https://oese.ed.gov/files/2017/11/CodeRVARegionalHighSchoolNAR.pdf>, at p 52.

APPENDIX D

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| | <ul style="list-style-type: none"> Superintendent’s Advisory Council (consisting of 14 superintendents from all of the participating school districts) is to partner with CodeRVA’s executive director to determine tuition amount to be collected from each participating school district.¹⁰⁵ MSAP-Office of Civil Rights oversight for progress and MSAP grant usage.¹⁰⁶ |
| Brandywine, DE | <ul style="list-style-type: none"> Local districts have taken over oversight after courts started rolling back oversight in 1995. |
| Omaha, NE | <ul style="list-style-type: none"> The LCC (regional governing authority) administers the program as prescribed by state statute. The goal is to institute local governance to be more responsive to ever-changing needs within the program. |
| Minneapolis, MN | None known. |
| Milwaukee, WI | <ul style="list-style-type: none"> No third party governance or administrator. School districts are responsible for the costs of the program and receive funding if they achieve racial balance. <ul style="list-style-type: none"> Placing more onus on school districts may disincentivize them from putting resources toward the program. |
| St. Louis, MO | <ul style="list-style-type: none"> The Voluntary Interdistrict Coordinating Council, which oversaw implementation of the 1983 Settlement Agreement, became a non-profit corporation in 1999, and was renamed the Voluntary Interdistrict Choice Corporation (“VICC”). Each of the 16 participating districts, including the Special School District, has a vote in VICC business in proportion to the number of voluntary transfer students they serve. (Prior to 1999, each participating district had one vote.) In addition to handling recruitment, placement and transportation for the interdistrict transfer program, VICC has five counselors (3 part-time and 2 full-time) on staff to assist families and/or districts if they encounter difficulties as a result of their transfer. Board meetings are open to the public and people are encouraged to participate during citizen statement sections of meetings. <ul style="list-style-type: none"> VICC has a list of Board Policies that ensure it fulfills its goals.¹⁰⁷ Investment of excess funds is limited to certain safe investments. |
| San Antonio, TX | <ul style="list-style-type: none"> SAISD is part of a statewide initiative started by the Texas Education Agency, called the System of Great Schools (“SGS”). Instead of a traditional model involving a central administration and board of trustees, the SGS provides autonomy to school districts (local leaders, principals, community stakeholders) to operate its own schools taking into consideration the unique needs of their local community.¹⁰⁸ SGS provides technical assistance to districts and aligns state and federal resources to districts to allow for tailored diverse programs.¹⁰⁹ The SGS approach in Texas is supported by the state and funded in part through school improvement dollars from the federal government under Every Student Succeeds Act (“ESSA”). |

¹⁰⁵ *Id.* at p 53.

¹⁰⁶ CodeRVA Board Minutes: MSAP Grant Update, CodeRVA, <https://docs.google.com/document/d/1tGAqYYv0Oiu5oAc-80KqIw4ZEhHwWmMNFfdeR5xSo/edit> (Aug. 20, 2020).

¹⁰⁷ <https://www.choicecorp.org/BoardPolicies.pdf>

¹⁰⁸ <https://www.the74million.org/article/how-texas-is-shifting-the-power-to-give-some-schools-greater-autonomy-leadership-innovation/> and <https://www.systemofgreatschools.org/explore>

¹⁰⁹ <https://www.waltonfamilyfoundation.org/stories/k-12-education/improving-grades-a-texas-school-system-delivers-on-its-promise-to-students>

APPENDIX D

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| | | | > [Possible comparison of SGS and BOCES, although SGS is much newer and seems to have greater authority?] |
| | | Minnesota (NW Suburban) | None known |
| 8 | Pre-application equity and access – inclusive outreach to families/communities and follow up, application form aid | Hartford, CT | <ul style="list-style-type: none"> Application to interdistrict magnet schools and interdistrict schools is by application and lottery. Previously, quotas were set based on race, now quotas are set based on socioeconomic status. Online enrollment with computer and telephone assistance provided. The school districts do not appear to actively advertise or recruit, but enrollment notices for resident pupils in their resident school districts are mailed at the beginning of each enrollment period with links to the Open Choice program. |
| | | Boston, MA | <ul style="list-style-type: none"> The METCO program allegedly does not actively do outreach, but it is well-known and has a 15,000 pupil long waitlist.¹¹⁰ Most of the members of the waitlist are children who are not of schooling age as the METCO program only recently moved from “first come, first serve” to a lottery system. |
| | | Richmond, VA (CodeRVA) | <ul style="list-style-type: none"> Targeted outreach into minority segregated, high-poverty middle schools with promotional materials reflecting multiple ethnicities and highlighting characteristics of computer science careers that have been proven to be appealing to the female student body.¹¹¹ MSAP-funded Outreach Coordinator.¹¹² Presentations to parent groups, counselor groups, and community-based afterschool programs are to ensure the stability of the student pipeline.¹¹³ |
| | | Brandywine, DE | <ul style="list-style-type: none"> Applications are available online. Enrollment begins every year on or after the first Monday in November and ends on or before the second Wednesday of the following January.¹¹⁴ A list of contacts and applications for School Choice are online, but the state does not appear to actively recruit into the School Choice program. |
| | | Omaha, NE | <ul style="list-style-type: none"> Previously, students could apply via a quick online application process as managed by the LCC; now, they must download and print the state form to fill out, then deliver the physical copy to the destination school.¹¹⁵ |
| | | Minneapolis, MN | <ul style="list-style-type: none"> Early in the program’s history, local program administrators proactively identified students and encouraged them to sign up if they were interested. Students had the option to apply under the general enrollment program or the Choice is Yours program, providing greater clarity. |

¹¹⁰ James Vaznis, *Metco will move to a lottery system to choose students*, BOSTON GLOBE, <https://www.bostonglobe.com/metro/2019/05/06/state-approves-new-rules-for-metco-admissions/gNh0314pMvZ4321MMAXDM/story.html> (May 6, 2019).

¹¹¹ CodeRVA Regional High School, <https://oese.ed.gov/files/2017/11/CodeRVARegionalHighSchoolNAR.pdf>, p 4

¹¹² CodeRVA Regional High School, <https://oese.ed.gov/files/2017/11/CodeRVARegionalHighSchoolNAR.pdf>, p 21.

¹¹³ CodeRVA Regional High School, <https://oese.ed.gov/files/2017/11/CodeRVARegionalHighSchoolNAR.pdf>, p 34-36. See also, *CodeRVA Information Session*, Code RVA, <https://coderva.org/wp-content/uploads/2019-20-Outreach-Presentation.pptx> (accessed September 20, 2020).

¹¹⁴ 14 Del. C. § 403(a).

¹¹⁵ https://omaha.com/news/education/fewer-students-transfer-between-school-districts-under-option-enrollment-system/article_6127f998-7cdf-54bc-b198-3e9df51e1980.html

APPENDIX D

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| | | Milwaukee, WI | <ul style="list-style-type: none"> Because of the racial integration goals, this program is more accessible to minority students - the program has explicit racial percentage targets making suburban schools. <ul style="list-style-type: none"> The Open Enrollment program is more utilized by white students and is a major reason for Chapter 220 winding down. 60% of Open Enrollment participants are white while only 24% are black. (MPS Division of Student Services Open Enrollment, June 2007 and September 2011) Meanwhile 60% of students in the Chapter 220 program are black and none are white. |
| | | St. Louis, MO | <ul style="list-style-type: none"> Programs are accessible throughout St. Louis, but the available transfer schools are limited geographically. |
| | | San Antonio, TX | <ul style="list-style-type: none"> Unified enrollment process that allows students to easily apply to multiple open-enrollment schools (maximum of three schools/programs per grade).¹¹⁶ Staff to help fill out applications for families over the phone and regularly set aside time to knock on doors in the poorest neighborhoods. For families who don't win the lottery, district staff call to let them know about similar schools with open seats or new programs closer to home.¹¹⁷ It is unclear whether this is a robust practice or if it is currently being done. SAISD website and materials are available in English and Spanish. |
| | | Minnesota (NW Suburban) | <ul style="list-style-type: none"> NWSISD makes available various online resources to guide prospective applicants as they choose among the different magnet school strands. |
| 9 | Any other incentives for teachers (e.g., teacher-training program, leadership pipeline) and for suburban families (e.g., school design/themes – gifted and talented, | Hartford, CT | <ul style="list-style-type: none"> Professional development programs are offered.¹¹⁸ Individual schools offer individual programs to attract talent.¹¹⁹ |
| Boston, MA | | <ul style="list-style-type: none"> The METCO Directors Association plans and provides professional development and other training for teachers and schools involved in the METCO program.¹²⁰ | |
| Richmond, VA (CodeRVA) | | <ul style="list-style-type: none"> Program offers extensive, integrated, and advance STEM curriculum and partners with local colleges and companies to offer an associate's degree, industry certification, and paid work experience.¹²¹ | |

¹¹⁶ <https://leadingchangeintx.org/> and <https://saisdchoice.com/faq/>

¹¹⁷ <https://www.the74million.org/article/the-architect-how-one-texas-innovation-officer-is-rethinking-school-integration/>

¹¹⁸ Hartford school district. <https://www.hartfordschools.org/staff-essentials/>

¹¹⁹ Offering teachers "externships" with business partners to better bridge the academic-work place gap. <https://www.cbja.com/news/workforce-development/hartford-school-to-be-steam-powered-lighthouse-for-students-community/>

¹²⁰ Erica Frankenberg, *Boston's METCO Program Lessons for the Hartford Area*, PROJECT CHOICE CAMPAIGN, <https://prc.org/pdf/ProjectChoiceCampaignMETCORreport.pdf> (Sept. 2007).

¹²¹ CodeRVA Regional High School, <https://oese.ed.gov/files/2017/11/CodeRVARegionalHighSchoolNAR.pdf>, p 4, 47-48, 50-51; see also, *Class of 2020*, CodeRVA, https://docs.google.com/document/d/1prPH9DdDBDB2lKpzYXrzCIV05xdYxOhH9nSB3_Z0F6o/edit (accessed September 21, 2020).

APPENDIX D

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| bilingual, or advanced STEM program) | Brandywine, DE | <ul style="list-style-type: none"> Unclear whether any formal professional development is provided, but school board has committed to providing professional development over coming school year.¹²² |
| | Omaha, NE | None known. |
| | Minneapolis, MN | None known. |
| | Milwaukee, WI | <ul style="list-style-type: none"> Research has shown that racially balanced schools improve educational outcomes for both minority and white students.¹²³ <ul style="list-style-type: none"> “Graduation rates for Chapter 220 students are similar to or better than the suburban school students attend”.¹²⁴ |
| | St. Louis, MO | None known. |
| | San Antonio, TX | <ul style="list-style-type: none"> SAISD’s evolving Master Teacher Initiative (“MTI”) to develop, support, recognize, retain and reward teachers, funded via the House Bill 3 Teachers Incentive Allotment.¹²⁵ SAISD focused on “grow-your-own” talent pipeline in order to compete for teachers.¹²⁶ <ul style="list-style-type: none"> (A) Three-year professional development plan, with an emphasis on leadership pathways (to serve as lead teachers, department chairs; to pursue an advanced degree; to move into an administrative role) (B) Teaching residency program (in explore phase) - an internship program for paraprofessionals who have earned degrees but are not certified to teach. (C) Principals residency program (planned but not yet in place) – a year-long paid residency program for a small number of applicants who meet rigorous entry requirements (D) Laboratory school (planned but not yet in place?) – in partnership with a local university, teachers training program aimed at Gifted & Talented education. (E) New Teacher Initiatives – Pairing a new teacher in their first two years of teaching with an experienced teacher, mentorship, and other professional training.¹²⁷ |

¹²² <https://www.delawarepublic.org/post/brandywine-school-district-delays-start-school-year>

¹²³ Herbert, M. (2010, January). Is it segregation or fragmentation? District Administration, p. 8.

¹²⁴ Advocacy to Sustain Chapter 220 Program, n.d., p. 1

¹²⁵ <https://www.saisd.net/page/masterteacher-home>

¹²⁶ https://www.saisd.net/upload/page/0173/docs/SAISD_Blueprint2.pdf

¹²⁷ <https://saisdofficeofacademics.weebly.com/new-teacher-initiatives.html>

APPENDIX D

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| | | <ul style="list-style-type: none"> SAISD provides free meals to all students through a provision of the National School Lunch Program called Community Eligibility and a small contribution of local funds.¹²⁸ |
| | Minnesota (NW Suburban) | <ul style="list-style-type: none"> Covered above in terms of STEM and the other magnet school strands. For educators, there are field trips, workshops and diversity events. |

¹²⁸ <https://www.saisd.net/page/back-to-school-essentials>