

Despite Lawsuit, School Board Adopts Racial Criteria

By MATTHEW ARTZ

Amid a testy debate that unlocked the door on one of the Berkeley Unified School District's most sensitive issues—white flight—the school board Wednesday approved a plan to further integrate elementary schools despite warnings from one board member that it was picking an unnecessary legal fight.

The new plan adds socioeconomic factors—parental income and education—to race in assigning students to elementary schools at a time when California courts have ruled that race may not be taken into account under Proposition 209.

That measure, passed by voters in 1996, precludes racial preferences or discrimination in public education, employment and contracting.

Last year the conservative Pacific Legal Foundation, buoyed by a victory over a school district in Huntington Beach, sued Berkeley Unified over its school assignment plan. Though Wednesday's vote institutes a new policy, lead PLF attorney Cynthia Jameson has said she would proceed with an amended case to cover the new plan as long as Berkeley Unified insisted on using race as a factor.

The threat of a drawn-out lawsuit that could end in a legal defeat that could force the cash-strapped district to pay PLF legal fees tipped board member Shirley Issel against the plan.

"I cannot believe that any of us on this board would choose to undertake a discretionary legal battle let alone use our children's money to pay for it," she said

adding that the district's contention that the plan held no financial implications "begs incredulity and violates the public trust."

Issel, who cast the lone vote in opposition, favored an assignment policy based solely on socioeconomic factors that a citizen committee—working on a mandate from former superintendent Jack McLaughlin—presented the board in 2002. That proposal was reworked by district officials into the current plan after a board majority made clear they wanted to retain race as a factor.

Other board members took

umbrage at Issel's remarks, especially the Pandora's box she opened when she argued that by reducing the odds of parents receiving their first choice in schools, the new plan would hasten middle class flight from the district and weaken parent involvement.

"The logic of that argument would lead the district to 100 percent choice in Berkeley," said board member Terry Doran. "That would attract a higher percentage of white students, but that would occur in segregated neighborhood schools. The community said no to that and the

board is saying never again."

After Issel rejected any assertion she had a "hidden agenda" to return to segregated schools, student board representative Bradley Johnson pressed the issue further, saying his chief concern was middle class black flight which, he said, has sent most of his peers either to Catholic or other private schools.

"It is incumbent that we address this issue," said Bradley, who is African American. "We don't have a group to bridge lower class blacks and upper class whites. It costs us parent involve-

ment and academic leadership." Superintendent Michele Lawrence argued that flight from the district was tied not to school assignment but resulted from years of district mismanagement. She said that as the district continues to address a poorly defined curriculum, violence, insolvency and low academic standards, confidence and enrollment will start to rise.

Lawrence emphasized that the new school assignment plan was four years in the making and not tied to the PLF lawsuit.

The new plan retains several

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features of the former policy. Elementary schools will still be divided into the same three zones, and students will still pick their three preferred schools and have priority to attend a school that a sibling already attends or that has a language program the child needs.

But instead of placing children into elementary schools based, in part, on self-declared race, the new system will rely on assumed diversity characteristics of the planning area in which the student lives.

Each planning area—about four to eight city blocks—will be given a value for parental income and education based on 2000 census information and racial breakdown between white and non-white, and based on multi-year K-5 enrollment.

Planning areas will be assigned a value from 1 to 3—ranging from neighborhoods that tend to be more white with wealthier and highly educated parents to neighborhoods that have more minorities with poorer and less educated parents.

Forms asking for student racial information will still be collected, in part, to monitor how well the system maintains racial balance at the

district's 11 elementary schools. Models calculated by district Admissions and Attendance Manager Francisco Martinez show the new system maintaining nearly identical levels of racial diversity while improving socioeconomic diversity.

Choice could be slightly sacrificed under the new plan; Martinez estimates 67 percent of students would have received their first choice of schools this year, compared to 75 percent under the current system.

The policy would also raise the acceptable deviation of student populations from a zone's racial mix from the current five percent to a new maximum of 10 percent. Should the district opt for the 10 percent standard, more parents will get their first school choice, Martinez said.

On the opposite side of the debate from Isseel, about 30 members of the UC Berkeley group Coalition to Defend Affirmative Action By Any Means Necessary (BAMN)—mostly students with a smattering of parents—spoke out against the new policy as a capitulation to the PLF and a retreat from its past as the first district to institute voluntary school desegregation.