



## SA: How the Neighborhood Schools Act and the Resegregation of Schools Violates the Delaware Constitution

Available

### Project Title

How the Neighborhood Schools Act and the Resegregation of Schools Violates the Delaware Constitution

### Scope of Work

Produce a white paper.

### Timing

Due August 1, 2023

### Jurisdiction

Delaware (New Castle County)

### Contact Information

Please contact Paul Lee (plee@Steptoe.com) to claim this project as part of the 2023 Summer Associate Project Exchange.

### Description

The matter was referred by Delaware Community Legal Aid Society, Inc. (CLASI) / Potter Anderson and Corroon.


CLASI is getting near the end of our school funding lawsuit. Because the case was about funding, it did not address the resegregation of New Castle County schools since the Evans v. Buchanan order was lifted in 1995. Nevertheless, one can read an observation by Chancery Court as

recognizing that the resegregation might violate the Delaware Constitution's Education Clause. See *Delawareans for Educ. Opportunity v. Carney*, 199 A.3d 109, 167 (Del. Ch. 2018) ("The allegations of the complaint support a reasonable inference that Delaware's High-Need Schools, which are effectively segregated by race and class, do not provide an adequate education to the Disadvantaged Students who attend them.") and n. 318 ("Over the past three decades, the Supreme Court of the United States has limited the availability of desegregation remedies under the Equal Protection Clause to situations involving de jure segregation, while simultaneously restricting the remedial breadth of corrective measures to only those areas where de jure segregation existed. See generally Leland Ware & Cara Robinson, *Charters, Choice, and Resegregation*, 11 Del. L. Rev. 1, 6–7, 16 (2009). Those same limitations do not logically apply under the Education Clause, where the question is whether schools that are segregated by race and class can provide an adequate education for the students who attend them. See *Sheff v. O'Neill*, 238 Conn. 1, 678 A.2d 1267, 1280 (1996); see also John C. Brittain, *Why Sheff v. O'Neill Is a Landmark Decision*, 30 Conn. L. Rev. 211, 211–212 (1997). See generally Jim Hilbert, *Restoring the Promise of Brown: Using State Constitutional Law to Challenge School Segregation*, 46 J. L. & Educ. 1, 1–3 (2017).")

One of the causes of the resegregation is the Neighborhood Schools Act of 2000, 14 Del. C. § 220 et. seq. We'd be very interested in having some smart law students do a white paper discussing why the General Assembly ought to repeal the law and/or a memo that could be the first step toward a lawsuit asking that the statute be found to violate the Delaware Constitution.

**Subtasks (0)**

**Reminders(1)**

 1 day(s) before