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**United States Court of Appeals
For the Eighth Circuit**

No. 16-3242

E.L., a minor, by La'Sheika White
the Mother, legal guardian, and next friend of E.L.

Plaintiff - Appellant

v.

Voluntary Interdistrict Choice Corporation

Defendant - Appellee

Appeal from United States District Court
for the Eastern District of Missouri - St. Louis

Submitted: April 5, 2017

Filed: July 27, 2017

Before COLLOTON, BEAM, and BENTON, Circuit
Judges.

BENTON, Circuit Judge.

On behalf of E.L., her minor son, La'Shieka White sued the Voluntary Interdistrict Choice Corporation (VICC), alleging its race-based, school-transfer policy violates the Equal Protection Clause of the Fourteenth Amendment. The district court¹ granted VICC's motion to dismiss. Having jurisdiction under 28 U.S.C. § 1291, this court affirms.

¹ The Honorable Ronnie L. White, United States District Judge for the Eastern District of Missouri.

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I.

E.L. is an African-American boy entering fifth grade. From kindergarten through third grade, he lived in the City of St. Louis, attending Gateway Science Academy, a charter school there. During third grade, his family moved to St. Louis County, in the Pattonville School District. His mother asked Gateway to enroll him in fourth grade even though they no longer lived in the city limits. Gateway declined, providing a copy of its policy that African-American students who live outside the city are not eligible for enrollment.

E.L. sued, alleging equal protection violations. He did not name Gateway as a defendant, but sued only VICC, a non-profit corporation created by a 1999 settlement agreement in the long-standing *Liddell* litigation. The federal lawsuit, filed in 1972 by African-American parents, alleged St. Louis operated segregated schools in violation of the Equal Protection Clause. In 1983, a district court approved a desegregation settlement agreement. *See Liddell v. Board of Educ. of City of St. Louis, State of Mo.*, 567 F. Supp. 1037 (E.D. Mo. 1983), *aff'd in part, rev'd in part*, 731 F.2d 1294 (8th Cir. 1984) (en banc). The agreement—funded by the defendants (the state of Missouri and the City Board of Education)—provided capital improvements of city schools, establishment of city magnet schools, and a voluntary interdistrict transfer plan. The transfer plan, at issue here, allowed African-American students living in the city to transfer to the county, and white students living in the county to transfer to the city.

In 1996, the state of Missouri moved for a declaration that St. Louis no longer operated a

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segregated, dual public school system. The court appointed a settlement coordinator to negotiate a resolution. In 1999, the parties settled again. See *Liddell v. Board of Educ. of City of St. Louis*, 1999 WL 33314210, at *9 (E.D. Mo. Mar. 12, 1999) (approving settlement agreement). The 1999 agreement established VICC to administer the voluntary interdistrict transfer program, including: (1) arranging transportation for students in the transfer program; (2) distributing funding to participating schools; and (3) disseminating information about eligibility requirements (taken primarily from the 1983 agreement). The 1999 agreement permits only the sending and receiving districts to modify the eligibility requirements.

The district court granted VICC's motion to dismiss on four alternative grounds: (1) E.L. lacks standing; (2) he fails to state a claim; (3) the 1999 agreement precludes his claims; and (4) the 1999 agreement releases VICC from liability. E.L. appeals.

II.

This court reviews “a decision dismissing a complaint for lack of standing de novo, construing the allegations of the complaint, and the reasonable inferences drawn therefrom, most favorably to the plaintiff.” *Miller v. City of St. Paul*, 823 F.3d 503, 506 (8th Cir. 2016). “Article III standing is a threshold question in every federal court case.” *United States v. One Lincoln Navigator 1998*, 328 F.3d 1011, 1013 (8th Cir. 2003). Standing requires three elements: (1) “injury in fact”; (2) “a causal connection between the injury and the conduct complained of”; and (3) the likelihood “that the injury will be ‘redressed by a favorable decision.’” *Lujan v. Defenders of Wildlife*,

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504 U.S. 555, 560-61 (1992), *quoting Simon v. Eastern Ky. Welfare Rights Org.*, 426 U.S. 26, 38 (1976).

A.

An injury in fact requires that a plaintiff demonstrate he or she is “able and ready” to apply for an educational opportunity and “a discriminatory policy prevents [them] from doing so on an equal basis.” *Gratz v. Bollinger*, 539 U.S. 244, 262 (2003), *quoting Northeastern Fla. Chapter, Associated Gen. Contractors of Am. v. Jacksonville*, 508 U.S. 656, 666 (1993). “It is well established that intent may be relevant to standing in an equal protection challenge.” *Id.* at 261. Under *Gratz*, individuals must show that they intend to apply to a school in order to have standing to challenge a discriminatory admissions policy. *See id.* at 260-61. *See also Shea v. Kerry*, 796 F.3d 42, 50 (D.C. Cir. 2015) (“*Gratz* controls our inquiry. Like [the *Gratz* plaintiff], [the plaintiff here] alleges that he possessed an intent to apply to the position in question.”); *Carroll v. Nakatani*, 342 F.3d 934, 942 (9th Cir. 2003) (applying *Gratz* to require “a legitimate intention to apply”).

E.L. claims two injuries in fact by denials of the opportunity to attend Gateway and city magnet schools. The first—denial of the opportunity to attend Gateway—is an injury in fact. E.L. attended there for four years while living in the city. *See* § 160.410.1(1) RSMo (requiring charter schools to enroll “[a]ll pupils resident in the district in which it operates”). The complaint alleges that after moving to the county, he sought to continue his enrollment, but was denied. He is thus “able and ready” to enroll, but prohibited from doing so by an allegedly “discriminatory policy.” *Gratz*, 539 U.S. at 262.

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The second—denial of the opportunity to attend city magnet schools—is not an injury in fact. While the complaint references magnet schools and VICC’s transfer policy for them, it does not allege E.L. is interested in enrolling. To the contrary, his complaint suggests that he is interested in attending only Gateway. His motion for a preliminary injunction confirms this, seeking “to permit E.L. to continue his academic success at Gateway.” Citing *Gratz*, E.L. argues that whether he “‘actually applied’ for admission as a transfer student [to a magnet school] is not determinative of his ability to seek injunctive relief in this case.” *See id.* at 260-61. This court agrees. However, he must still show some “intent to apply.” *Id.* at 261. The mention of magnet schools and the generalized grievance about VICC’s transfer policy for them is insufficient to allege an injury in fact.

B.

“[T]here must be a causal connection between the injury and the conduct complained of—the injury has to be fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the court.” *Lujan*, 504 U.S. at 560 (alterations incorporated) (internal quotation marks omitted). “When the injury alleged is the result of actions by some third party, not the defendant, the plaintiff cannot satisfy the causation element of the standing inquiry.” *Miller v. Redwood Toxicology Lab., Inc.*, 688 F.3d 928, 935 (8th Cir. 2012).

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E.L.'s complaint alleges VICC denied him the opportunity to attend Gateway on an equal basis.² This allegation is insufficient to confer standing because it erroneously assumes VICC's policy, not Gateway's, was the reason he was denied admission. Throughout briefing and argument, E.L. states: "Because VICC's transfer policy is the only one that discriminates on the basis of race, it logically follows that VICC's policy causes E.L.'s injury—unequal treatment on the basis of race." But Gateway's policy also differentiates based on race: "If address is not found on the city site or the zip code is not listed above and the student identifies as African-American, you cannot enroll the student." And Gateway provided a copy of this policy, not VICC's, to support the denial of admission. VICC's policy—which was never cited by Gateway as a reason for denying admission—does not apply to charter schools, which are "independent public school[s]," governed by statute. *See* §§ 160.400-160.425 RSMo. Thus, VICC has no administrative or supervisory authority over them.

Still, E.L. argues VICC caused his injury because state law requires charter schools to enroll any student eligible to transfer under the voluntary transfer program. *See* § 160.410.1(2) RSMo (requiring charter schools to enroll "Nonresident pupils eligible to attend a district's school under an urban voluntary transfer program."). Stated differently, E.L. thinks § 160.410.1(2) legally imposes VICC's policy on

² E.L.'s brief states: "Gateway administrators told La'Shieka that VICC's transfer policy prevented E.L. from attending the school because of his race." This statement is not supported by the complaint. It states only that he was denied admission "because of his race" and "Gateway officials gave La'Shieka a handout explaining the enrollment requirements."

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charter schools. *See Bennett v. Spear*, 520 U.S. 154, 168-70 (1997).

Even if VICC's policy applies to charter schools under § 160.410.1(2), VICC still would not cause E.L.'s injury. VICC does not make or adopt rules or regulations for charter schools; Gateway and the state of Missouri do. The state of Missouri tells Gateway it must admit "[n]onresident pupils eligible to attend a district's school under an urban voluntary transfer program." § 160.410.1(2) RSMo. Assuming § 160.410.1(2) incorporates VICC's policy into state law governing charter schools, the state of Missouri, not VICC, causes the injury. *See Miller*, 688 F.3d at 935-36 (holding plaintiff lacked standing to sue a toxicology lab for "erroneous probation violation reports" because the State of Minnesota, not the lab, caused the injury because it "chose the particular test, ultimately established and implemented the cut-off levels for the probationers it tested, and interpreted the test results"). Similarly, Gateway, not VICC, decided to follow § 160.410.1(2) rather than § 160.410.3, which prohibits charter schools from limiting admission based on race. *See RSMo* § 60.410.3 ("A charter school shall not limit admission based on race . . ."). And Gateway, not VICC, denied E.L. admission. E.L.'s argument—that VICC's transfer policy, by operation of § 160.410.1(2), prevents charter schools from enrolling African-American county residents—is without merit. *See Bennett*, 520 U.S. at 168-69 (holding that where the injury complained of results from the "independent action of some third party not before the court," standing can still exist, but only if the injury is "produced by determinative or coercive effect" of the party sued).

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E.L.'s alleged injury is not "fairly traceable" to
VICC. *Lujan*, 504 U.S. at 560-61.

* * * * *

E.L. lacks standing. The judgment is affirmed.

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**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 16-3242

E.L., a minor, by La'Sheika White
the Mother, legal guardian, and next friend of E.L.

Plaintiff - Appellant

v.

Voluntary Interdistrict Choice Corporation

Defendant - Appellee

Appeal from U.S. District Court for the Eastern
District of Missouri - St. Louis

(4:16-cv-00629-RLW)

JUDGMENT

Before COLLOTON, BEAM and BENTON, Circuit
Judges.

This appeal from the United States District Court
was submitted on the record of the district court,
briefs of the parties and was argued by counsel.

After consideration, it is hereby ordered and
adjudged that the judgment of the district court in this
cause is affirmed in accordance with the opinion of
this Court.

July 27, 2017

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Order Entered in Accordance with Opinion:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

E.L., a minor, by LA'SHEIKA WHITE the
Mother, legal guardian, and next friend of E.L.,

Plaintiff,

vs.

VOLUNTARY INTERDISTRICT CHOICE
CORPORATION,

Defendant.

Case No. 4:16CV629 RLW

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiffs Motion for Preliminary Injunction (ECF No. 10) and Defendant Voluntary Interdistrict Choice Corporation's Motion to Dismiss (ECF No. 19). These matters are fully briefed and ready for disposition.

BACKGROUND

La'Shieka White alleges that she moved with her husband and three children from the City of St. Louis to the St. Louis County suburb of Maryland Heights because of the "rampant crime" in the City. (ECF No. 1, ¶¶1, 5). The family's St. Louis County residence is zoned for the Pattonville School District. (ECF No. 1, ¶¶5, 6). Ms. White's oldest child, E.L., is a minor and is African-American. E.L. is currently a third grade student at Gateway Science Academy ("Gateway") in the City of St. Louis. Gateway is a charter school in the City of St. Louis, not a magnet school. (ECF No. 20 at 8). Defendant Voluntary Interdistrict Choice Corporation ("VICC") is a 501(c)(3)

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non-profit corporation, organized under the laws of the State of Missouri. (ECF No. 1, ¶7). VICC is responsible for administering the St. Louis Student Transfer Program (“Transfer Program”), including the transfer of non-African-American St. Louis County students to public schools within the City of St. Louis. (ECF No. 1, ¶7).

Under the current VICC policy, only African-American students residing within the City of St. Louis are eligible to transfer to a school district in the County of St. Louis. (ECF No. 1, ¶8). Conversely, under the current VICC policy, only white students residing in St. Louis County are eligible to transfer to a public school in the City of St. Louis. (ECF No. 1, ¶9).

Plaintiff has not alleged that she asked Gateway for a waiver for the school residency requirement as authorized by R.S. Mo. §167.020.2(2). Such a waiver may be granted on the “basis of hardship or good cause.” R.S. Mo. §167.020.3.

Plaintiff seeks injunctive relief because VICC’s “race-based transfer rules currently discriminate against Plaintiffs [sic] on the basis of race, and they will continue to do so in the foreseeable future.” (ECF No. 1, ¶38). Plaintiff also seeks declaratory relief and alleges a claim for violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. §§1981, 1983.

PRIOR LITIGATION CREATING VICC AND MAGNET SCHOOLS

The Eighth Circuit has held that race-based interdistrict transfer of black City students to the predominantly white St. Louis County school

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districts, and of white County students to magnet schools in the predominantly black City district, is an appropriate, “constitutional” and “necessary” remedy for the adjudicated unconstitutional race-based school segregation in the City. *Liddell v. State of Mo.*, 731 F.2d 1294, 1318 (8th Cir. 1984) (*Liddell VII*) (“[w]e approve . . . [t]he voluntary transfers of students between the city and suburban schools and the establishment of additional magnet schools . . . in the City School District as necessary to the successful desegregation of the city schools”); *Liddell v. Bd of Educ. of City of St. Louis*, No. 4:72CV100 SNL, 1999 WL 33314210, at *2, *9 (E.D. Mo. Mar. 12, 1999)(approving “maintaining the magnet school program” and “continuing voluntary transfer plan” as “fair, reasonable, adequate and constitutionally permissible”).

The 1999 Settlement Agreement (often called “Settlement Agreement” or “Agreement”), approved by the Honorable Stephen M. Limbaugh, Sr., provided for a continuation of the remedial efforts originally approved by the Eighth Circuit in *Liddell VII*. See *Liddell v. Bd. of Educ. of City of St. Louis*, No. 4:72CV100 SNL, 1999 WL 33314210, at *4, *9 (E.D. Mo. Mar. 12, 1999). The Settlement Agreement called for the continued funding and maintenance of magnet schools and County-to-City transfers would continue at a substantial level. Under the Agreement, VICC was established as the entity to administer the interdistrict transfer program. (ECF No. 20 at 7). VICC arranges for transportation of students participating in the City-to-County and County-to-City transfer programs authorized by the Agreement and acts as an agent for the purpose of distributing

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funding to the school districts educating those students. (ECF No. 20 at 7).

VICC notes that, as contemplated by the 1999 Settlement Agreement, the County-to-City magnet transfer program is phasing out. (ECF No. 20 at 5-6). VICC has recently promulgated a strategic plan for fully phasing out the race-based transfer program. (ECF No. 20 at 6).

DISCUSSION

I. Motion to Dismiss

A. Legal Standard

In ruling on a motion to dismiss or a motion for judgment on the pleadings, the Court must view the allegations in the complaint liberally in the light most favorable to Plaintiff. *Eckert v. Titan Tire Corp.*, 514 F.3d 801, 806 (8th Cir. 2008) (citing *Luney v. SGS Auto Servs.*, 432 F.3d 866, 867 (8th Cir. 2005)). Additionally, the Court “must accept the allegations contained in the complaint as true and draw all reasonable inferences in favor of the nonmoving party.” *Coons v. Mineta*, 410 F.3d 1036, 1039 (8th Cir. 2005) (citation omitted). To survive a motion to dismiss, a complaint must contain “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007) (abrogating the “no set of facts” standard for Fed. R. Civ. P. 12(b)(6) found in *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957)). While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff’s obligation to provide the grounds of his entitlement to relief “requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not

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do.” *Twombly*, 550 U.S. at 555; *Huang v. Gateway Hotel Holdings*, 520 F. Supp. 2d 1137, 1140 (E.D. Mo. 2007).

B. Complaint Fails to State a Claim

1. Unitary status

VICC contends that where there is a court-ordered, race-based program to remedy an adjudicated violation of the Equal Protection Clause, the program cannot be challenged on equal protection grounds unless and until there has been a declaration of unitary status. Here, VICC argues that the transfer program cannot be challenged because there has been no declaration of “unitary status” in *Liddell*. *See Bd. of Educ. of Oklahoma City Pub. Sch., Indep. Sch. Dist. No. 89, Oklahoma Cty., Oki. v. Dowell*, 498 U.S. 237, 246 (1991) (before a court-ordered school desegregation remedy may be “terminated or dissolved,” the parties are “entitled to a rather precise statement” that the district has achieved “unitary status”); *Hampton v. Jefferson County Bd. of Educ.*, 72 F. Supp. 2d 753 (W.D. Ky. 1999) (plaintiffs could not challenge remedial race-based student assignment because “Court requires proof of the Board’s good faith and of an absence of vestiges to the extent practicable”). VICC maintains that the County-to-City magnet program is a continuing remedial program for adjudicated violations of the Equal Protection Clause. (ECF No. 20 at 11). VICC asserts that unless there has been a clear finding of “unitary status,” then the transfer program should continue as a matter of settled law without risk of violating the Equal Protection Clause.

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In response, Plaintiff argues that a “unitary status” finding is not a prerequisite to challenging discriminatory terms in a settlement. (ECF No. 22 at 2). Plaintiff asserts that the Ninth, Fifth, Sixth, and Eleventh Circuits have all permitted challenges to race-based terms in a consent decree under the Equal Protection Clause. (ECF No. 22 at 2-3 (citing *Ho by Ho v. San Francisco Unified Sch. Dist.*, 147 F.3d 854, 859 (9th Cir. 1998); *Dean v. City of Shreveport*, 438 F.3d 448, 456-57 (5th Cir. 2006); *Detroit Police Officers Ass’n v. Young*, 989 F.2d 225, 227 (6th Cir. 1993); *In re Birmingham Reverse Discrimination Employment Litig.*, 20 F.3d 1525, 1544 (11th Cir. 1994)). Further, Plaintiff claims that the Court can address whether VICC’s ban on black student transfers serves to remedy past discrimination against black students without addressing whether St. Louis schools are unitary. (ECF No. 22 at 3). Plaintiff claims that the only case that supports VICC’s position mandating a finding of unitary status is one out-of-circuit district case that has not been followed. (ECF No. 22 at 4-5 (citing *Hampton*, 72 F. Supp. 2d 753)). Plaintiff states that if the Court follows *Hampton*, then the Court should invite Plaintiff to file a motion to modify the settlement, not dismiss the case. (ECF No. 22 at 5).

The Court agrees that there has never been an express declaration of unitary status in *Liddell* or any subsequent declaration. See *Bd. of Educ. of Oklahoma City Pub. Sch., Indep. Sch. Dist. No. 89, Oklahoma Cty., Oki. v. Dowell*, 498 U.S. at 246. Rather, all of the orders from courts in this district and the Eighth Circuit have discussed the need for remedial efforts to seek integration of the public school systems. See *Liddell VII*, 731 F.2d at 1318; *Liddell v. Bd. of Educ.*

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of City of St. Louis, No. 4:72CV100 SNL, 1999 WL 33314210, at *4, *9.

The Court further notes that none of the cases cited by Plaintiff support her claim that a finding of unitary status is unnecessary in a school desegregation lawsuit such as this case. See ECF No. 24 at 2-3. None of the cases cited by Plaintiff involved a challenge to a court-imposed remedy for an adjudicated violation of the Equal Protection clause in a contested *de jure* school segregation class action. Most of the cases cited by Plaintiff involve consent decrees adopted to address claims of employment discrimination that were never proven to a court. Only two cases cited by Plaintiff involve race-based student assignments in schools, but neither of those cases involved an adjudication of a violation of the Equal Protection Clause. *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701 (2007) is inapposite because the “school districts in [those] cases voluntarily adopted student assignment plans that rely upon race to determine which public schools certain children may attend.” *Id.* at 709-10. Unlike the present case, the Supreme Court noted “Seattle has never operated segregated schools-legally separate schools for students of different races-nor has it ever been subject to court-ordered desegregation. It nonetheless employs the racial tiebreaker in an attempt to address the effects of racially identifiable housing patterns on school assignments.” *Id.*, 551 U.S. at 712. Likewise, in *Ho by Ho v. San Francisco Unified Sch. Dist.*, 147 F.3d 854 (9th Cir. 1998), the parties had entered into a consent decree prior to an adjudication of a violation. See *San Francisco NAACP v. San Francisco Unified Sch. Dist.*, 413 F. Supp. 2d 1051, 1054 (N.D. Cal. 2005) (noting the parties

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entered into a consent decree prior to adjudication). Thus, unlike the cases cited by Plaintiff, in *Liddell* both the violation of the Equal Protection clause and the remedy were vigorously litigated by the parties. See *Adams v. United States*, 620 F.2d 1277, 1280 (8th Cir. 1980) (the Board of Education failed to take adequate steps “to disestablish the existing segregated school system”); *Liddell v. State of Mo.*, 731 F.2d 1294, 1308 (8th Cir. 1984) (“The violation scarred every student in St. Louis for over five generations and it gained legitimacy through the State Constitution and through the State’s preeminent role in education.”). Further, it was adjudicated that “[e]xamination of voluntary interdistrict transfers confirms that, as a remedy for an intradistrict violation, such transfers comply with constitutional standards.” *Liddell v. State of Mo.*, 731 F.2d 1294, 1305 (8th Cir. 1984). Barring any finding contrary to this, the Court holds that the remedial means are still necessary, unitary status has not been achieved, and Plaintiffs claims should be dismissed.

Finally, the Court determines that VICC is not required to prove “narrowly tailoring” to justify the race-based transfer program. (ECF No. 24 at 6). The Court has already approved the remedies imposed to address the adjudicated Equal Protection violations. See *Liddell v. Bd. of Educ. of City of St. Louis*, No. 4:72CVIOO SNL, 1999 WL 33314210, at *1 (E.D. Mo. Mar. 12, 1999) (“This remedy has been funded by the State and the City Board of Education, and has been supervised by this Court on an ongoing basis with the assistance of various Court-appointed advisors and monitors.”); *Liddell VII*, 731 F.2d at 1305 (meets constitutional standards); see also *Vaughns v. Bd. of Educ. of Prince George’s Cty.*, 742 F. Supp. 1275,

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1296-97 (D. Md. 1990)(Strict scrutiny did not apply to equal protection challenge to Board's faculty assignment policy because it was "not deal with a plan independently and voluntarily conceived and executed by a school board Rather, there exists a court-ordered plan[.]"). Therefore, the Court does not apply strict scrutiny to this case and dismisses Plaintiff's action.

2. Judgment Preclusion

VICC argues that Plaintiff's lawsuit is an improper collateral attack on Judge Limbaugh's final judgment approving the provisions of the Settlement Agreement as "constitutionally permissible." *Liddell v. Bd. of Educ. of City of St. Louis*, No. 4:72CVIOO SNL, 1999 WL 33314210, at *9 (E.D. Mo. Mar. 12, 1999). Likewise, VICC contends that this lawsuit is a "frontal assault on the Eighth Circuit's en banc holdings that the 'utility and propriety of magnets as a desegregation remedy is beyond dispute' and that the transfer program 'compl[ies] with constitutional standards.'" (ECF No. 20 at 11 (citing *Liddell VII*, 731 F.2d at 1305)). VICC argues that the "policy arguments against collateral attacks are particularly compelling" given that this is a court-approved class-action settlement in a school desegregation case. (ECF No. 20 at 12 (citing *Garcia v. Bd. of Ed., Sch. Dist. No. 1, Denver, Colo.*, 573 F.2d 676, 679 (10th Cir. 1978))).

In response, Plaintiff maintains that she cannot be held to the terms of a voluntary settlement of which she was not a part. (ECF No. 22 at 5 (citing *Martin v. Wilks*, 490 U.S. 755, 109 S. Ct. 2180, 104 L. Ed. 2d 835 (1989); *Hansberry v. Lee*, 311U.S.32, 40 (1940))).

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The Court holds that Plaintiffs claims are barred by res judicata and collateral estoppel pursuant to the Eighth Circuit's rulings in *Liddell*. The Court notes that neither *Martin* nor *Hansberry*, cited by Plaintiff, was a class action involving school desegregation. *Liddell* is a class-action desegregation lawsuit and its holdings are binding on the entire class, including "those who were either not born or not yet in school at that time." *Bronson v. Bd. of Ed. of Sch. Dist. Of City of Cincinnati*, 510 F. Supp. 1251, 1272 (S.D. Ohio 1980). The Court, therefore, holds it is bound by the prior adjudications holding the desegregation programs are constitutional. The Court dismisses Plaintiffs action also on this basis.

3. 1999 Settlement Agreement

VICC contends that Plaintiffs cause of action is precluded by the express release provisions of the Agreement. VICC notes that the Agreement was adopted by this Court as a means to end litigation regarding the transfer program. (ECF No. 20 at 12). The Agreement provides that the "taking of any . . . action at any time authorized in accordance with the rights and options granting in [this Agreement] shall not serve as the basis for any claim or lawsuit against any County District or New Entity," and further provides that "the future continuation of any conduct, custom or practice permissible under the 1983 Settlement Agreement shall also not serve as the basis for any claim or lawsuit against any County District or the New Entity." (ECF No. 20 at 12). These limitations and releases were approved and incorporated by this Court's order and final judgment. (ECF No. 20 at 12 (citing *Liddell*, 1999 WL 33314210, at *9). VICC argues that this case must be dismissed

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because VICC's extensions and current continuation of the transfer program "shall not serve as the basis for any claim or lawsuit against [VICC]." (ECF No. 20 at 13 (citing the Agreement)).

In response, Plaintiff argues that VICC cannot satisfy the constitutional requirements of "strict scrutiny" to support the program that prohibits African-American children in St. Louis County from transferring to magnet schools in the City of St. Louis. (ECF No. 22 at 6-7).

As the Court previously discussed, the Court does not apply strict scrutiny to the desegregation plan at issue here because it has already been approved by the Court. *See Liddell v. Bd. of Educ. Of City of St. Louis*, No. 4:72CV100 SNL, 1999 WL 33314210, at *1 (E.D. Mo. Mar. 12, 1999); *Liddell v. State of Mo.*, 731F.2d1294, 1305 (8th Cir. 1984); *see also Vaughns*, 742 F. Supp. at 1296-97. Plaintiff has provided no basis for challenging the Settlement, other than strict scrutiny, which does not apply to a judicially-created remedial action such as this. Indeed, the Agreement approved by this Court released VICC from the type of claim alleged in this case and precludes Plaintiffs action against VICC. Accordingly, the Court dismisses Plaintiffs claim on this basis as well.

C. Plaintiff Lacks Standing

"Article III standing is a threshold question in every federal court case." *United States v. One Lincoln Navigator 1998*, 328 F.3d 1011, 1013 (8th Cir. 2003). "The exercise of judicial power under Art. III of the Constitution depends on the existence of a case or controversy." *Preiser v. Newkirk*, 422 U.S. 395, 401, 95 S.Ct. 2330, 45 L.Ed.2d 272 (1975). A central

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component of the “case or controversy” requirement is standing, “which requires a plaintiff to demonstrate the now-familiar elements of injury in fact, causation, and redressability.” *Lance v. Coffman*, 549 U.S. 437, 439, 127 S.Ct. 1194, 167 L.Ed.2d 29 (2007); *Hammer v. Sam’s E., Inc.*, 754 F.3d 492, 497 (8th Cir. 2014).

1. Injury

VICC contends that Plaintiff lacks Article III standing because E.L.’s injury is not redressable by VICC. (ECF No. 20 at 16). Redressability is the “likelihood that the requested relief will redress the alleged injury.” *Miller v. Redwood Toxicology Lab., Inc.*, 688 F.3d 928, 934 (8th Cir. 2012). VICC asserts that “as a matter of Article III jurisdiction, there is no sufficiently pled present case or controversy to litigate between plaintiff and VICC.” (ECF No. 20 at 16 (citing *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992) (“there must be a causal connection between the injury and the conduct complained of”).

Plaintiff asserts that, under VICC policy, if E.L. were any race other than African-American, he could enroll in Gateway. (ECF No. 22 at 9). Plaintiff argues that VICC’s policy denies equal protection by withholding a governmental benefit to E.L. because he is African-American. Thus, Plaintiff asserts that E.L. has suffered the injury because he is ineligible to attend Gateway or to attend a magnet school in the City of St. Louis, even though his white neighbors are given that opportunity. (ECF No. 22 at 9). Plaintiff claims that it is “of no moment that E.L. has yet to apply to a magnet school” because he is “able and ready” to apply to magnet schools. (ECF No. 22 at 9 (citing *Ne. Florida Chapter of Associated Gen. Contractors of Am. v. City of Jacksonville, Fla.*, 508

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U.S. 656, 666 (1993)). Plaintiff claims he is not required to submit an application before challenging the constitutionality of the laws governing applications. (ECF No. 22 at 9 (citing *Patsy v. Bd. of Regents of State of Fla.*, 457 U.S. 496, 516 (1982) (“exhaustion of state administrative remedies should not be required as a prerequisite to bringing an action pursuant to § 1983)).

Based upon the allegations in the Complaint, the Court holds that Plaintiff also lacks standing to bring this action. It is undisputed that VICC has no relationship with the charter schools, including Gateway. Indeed, VICC only handles certain aspects of the City’s magnet school program. Plaintiff has uniformly asserted that she wants her son to attend Gateway, not any other magnet school. See Complaint, ¶4 (“I want E.L. to remain at Gateway Science Academy and attend that school through at least the Fifth Grade.”). Although Plaintiff now states that her son is “ready and able” to attend any magnet school, this relief is not sought in the Complaint. Nowhere in her Complaint does she seek admission for her son at a magnet school. Further, there is no allegation that Plaintiff or her son has applied for admission to any magnet school. Likewise, Plaintiff has not shown that VICC can grant Plaintiff a waiver under R.S. Mo. §167.020(2), which further undercuts any claim that VICC can redress Plaintiffs injury. Therefore, the Court holds that Plaintiff lacks standing to bring an Equal Protection claim against VICC with respect to her son’s inadmissibility to Gateway.

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2. VICC does not run Gateway

VICC states that it plays no role with respect to the administration or admission at Gateway or any other charter school. (ECF No. 20 at 14). VICC's involvement with schools in the City includes only the *Liddell* magnet schools pursuant to the Agreement's County-to-City magnet transfer program. (ECF No. 20 at 14). VICC notes that charter schools are independent and make their own enrollment decisions. (ECF No. 20 at 14 (citing R.S. Mo. §§160.400.1, 160.410)). VICC notes that the Complaint does not allege that Gateway made an enrollment decision or if Plaintiff requested a waiver of the school residency requirement under R.S. Mo. § 167 .020.2(2). VICC further asserts that Gateway's alleged admission policy is contrary to its statutory obligation "not [to] limit admission based on race." (ECF No. 20 at 15 (citing R.S. Mo. § 160.410.0)). Thus, although VICC admits that there "at least appears to be an issue whether Gateway has the legal right to deny admission to plaintiff's son as a matter of Missouri statutory law," but that "is a question that is not properly presented or litigable in this case against VICC, which is not a charter school[.]" (ECF No. 20 at 15).

In response, Plaintiff claims that E.L.'s injury is a direct consequence of VICC's discriminatory policy. (ECF No. 22 at 10). Plaintiff admits that VICC's transfer policy affects "only" magnet school transfers. (ECF No. 22 at 10). However, Plaintiff asserts that state law requires charter schools to enroll any student eligible to transfer into a magnet school under VICC's discriminatory policy. (ECF No. 22 at 10

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(citing R.S. Mo. §160.410(2)).¹ Plaintiff argues that if VICC did not prohibit black students from transferring to magnet schools, Gateway would have no discretion but to enroll E.L. (ECF No. 22 at 10). Plaintiff maintains that Gateway's decision to follow VICC guidelines as a matter of state law was not an "unfettered choice." (ECF No. 22 at 11). Therefore, Plaintiff claims that she has satisfied her "relatively modest" burden of establishing that E.L. 's injury is fairly traceable to VICC's discriminatory policy. (ECF No. 22 at 11 (citing *Bennett v. Spear*, 520 U.S. 154, 171 (1997)). Further, Plaintiff contends that E.L. is not required to demonstrate that he has exhausted all possible remedies-including requesting a waiver-to establish Article III standing. (ECF No. 22 at 11-12).

As previously alluded to, the Court also holds that Plaintiff lacks standing because VICC cannot redress Plaintiffs injury. VICC was created out of the Settlement Agreement in order to administer the magnet school program. It has no involvement in the Charter schools. VICC has no ability grant Plaintiff to waiver to allow her admission to Gateway, nor can VICC comply with Gateway's statutory imperative not to base admission on race. *See* R.S. Mo. §§167.020 and 160.410. Therefore, the Court holds that VICC cannot redress the injury alleged by Plaintiff and dismisses her claim for lack of standing.

Accordingly,

IT IS HEREBY ORDERED that Defendant Voluntary Interdistrict Choice Corporation's Motion

¹ R.S. Mo. § 160.410(2) provides that "A charter school shall enroll [n]onresident pupils eligible to attend a district's school under an urban voluntary transfer program."

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to Dismiss (ECF No. 19) is GRANTED. An appropriate Judgment and Order of Dismissal is filed herewith.

IT IS FURTHER ORDERED that Plaintiffs Motion for Preliminary Injunction (ECF No. 10) is DENIED as moot.

Dated this 15th day of July, 2016.

/s/ Ronnie L. White
RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE

Appendix D-1

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

E.L., a minor, by LA'SHEIKA WHITE
the Mother, legal guardian, and next friend of E.L.,

Plaintiff,

v.

VOLUNTARY INTERDISTRICT CHOICE
CORPORATION,

Defendant.

Case No. 4:16-CV-629-RLW

JUDGMENT AND ORDER OF DISMISSAL

In accordance with the Memorandum and
Order entered this day and incorporated herein,

**IT IS HEREBY ORDERED, ADJUDGED
and DECREED** that Voluntary Interdistrict Choice
Corporation's Motion to Dismiss (ECF No. 19) is
GRANTED. Plaintiffs Complaint for Declaratory
Judgment and Injunctive Relief is **DISMISSED** with
prejudice.

Dated this 15th day of July, 2016.

/s/ Ronnie L. White
RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE

Appendix E-1

Vernon's Annotated Missouri Statutes § 160.410

160.410. Admission, preferences for admission permitted, when--documents to be made available to public--move out of school district, effect of

Effective: August 28, 2016

1. A charter school shall enroll:

(1) All pupils resident in the district in which it operates;

(2) Nonresident pupils eligible to attend a district's school under an urban voluntary transfer program;

(3) Nonresident pupils who transfer from an unaccredited district under section 167.131, provided that the charter school is an approved charter school, as defined in section 167.131, and subject to all other provisions of section 167.131;

(4) In the case of a charter school whose mission includes student drop-out prevention or recovery, any nonresident pupil from the same or an adjacent county who resides in a residential care facility, a transitional living group home, or an independent living program whose last school of enrollment is in the school district where the charter school is established, who submits a timely application; and

(5) In the case of a workplace charter school, any student eligible to attend under subdivision (1) or (2) of this subsection whose parent is employed in the business district, who submits a timely application,

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unless the number of applications exceeds the capacity of a program, class, grade level or building. The configuration of a business district shall be set forth in the charter and shall not be construed to create an undue advantage for a single employer or small number of employers.

2. If capacity is insufficient to enroll all pupils who submit a timely application, the charter school shall have an admissions process that assures all applicants of an equal chance of gaining admission and does not discriminate based on parents' ability to pay fees or tuition except that:

(1) A charter school may establish a geographical area around the school whose residents will receive a preference for enrolling in the school, provided that such preferences do not result in the establishment of racially or socioeconomically isolated schools and provided such preferences conform to policies and guidelines established by the state board of education;

(2) A charter school may also give a preference for admission of children whose siblings attend the school or whose parents are employed at the school or in the case of a workplace charter school, a child whose parent is employed in the business district or at the business site of such school; and

(3) Charter alternative and special purpose schools may also give a preference for admission to high-risk students, as defined in subdivision (5) of subsection 2 of section 160.405, when the school targets these students through its proposed mission, curriculum, teaching methods, and services.

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3. A charter school shall not limit admission based on race, ethnicity, national origin, disability, income level, proficiency in the English language or athletic ability, but may limit admission to pupils within a given age group or grade level. Charter schools may limit admission based on gender only when the school is a single-gender school. Students of a charter school who have been enrolled for a full academic year shall be counted in the performance of the charter school on the statewide assessments in that calendar year, unless otherwise exempted as English language learners. For purposes of this subsection, “full academic year” means the last Wednesday in September through the administration of the Missouri assessment program test without transferring out of the school and re-enrolling.

4. A charter school shall make available for public inspection, and provide upon request, to the parent, guardian, or other custodian of any school-age pupil resident in the district in which the school is located the following information:

- (1) The school’s charter;
- (2) The school’s most recent annual report card published according to section 160.522;
- (3) The results of background checks on the charter school’s board members; and
- (4) If a charter school is operated by a management company, a copy of the written contract between the governing board of the charter school and the educational management organization or the charter

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management organization for services. The charter school may charge reasonable fees, not to exceed the rate specified in section 610.026 for furnishing copies of documents under this subsection.

5. When a student attending a charter school who is a resident of the school district in which the charter school is located moves out of the boundaries of such school district, the student may complete the current semester and shall be considered a resident student. The student's parent or legal guardian shall be responsible for the student's transportation to and from the charter school.

6. If a change in school district boundary lines occurs under section 162.223, 162.431, 162.441, or 162.451, or by action of the state board of education under section 162.081, including attachment of a school district's territory to another district or dissolution, such that a student attending a charter school prior to such change no longer resides in a school district in which the charter school is located, then the student may complete the current academic year at the charter school. The student shall be considered a resident student. The student's parent or legal guardian shall be responsible for the student's transportation to and from the charter school.

7. The provisions of sections 167.018 and 167.019 concerning foster children's educational rights are applicable to charter schools.

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

E.L., a minor, by LA'SHIEKA WHITE the
mother, legal guardian, and next friend of E.L.,

Plaintiff,

v.

VOLUNTARY INTERDISTRICT CHOICE
CORPORATION,

Defendant.

JURY TRIAL DEMANDED

Case No.: 4:16-cv-00629

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

INTRODUCTION

1. To escape the rampant crime in the City of St. Louis and secure a better home for her three children, La'Shieka White recently moved with her family to a modest home in the St. Louis suburbs. As a result of that move, La'Shieka's oldest son, E.L., a third-grade student at Gateway Science Academy (Gateway), will not be permitted to attend Gateway next year. The only thing preventing E.L. from enrolling at Gateway next year is his skin color. E.L. is prohibited from attending public schools in the City of St. Louis, including magnet schools and charter schools, because he is African-American. If he were white he would be eligible to attend those schools. E.L.'s mother, La'Shieka White, brings this lawsuit on his behalf, seeking to vindicate his right to be free of

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racial discrimination, as guaranteed by the United States Constitution's Equal Protection Clause.

JURISDICTION AND VENUE

2. This action arises under the Fourteenth Amendment to the United States Constitution, 42 U.S.C. §§ 1981 and 1983. The Court has jurisdiction of these federal law claims under 28 U.S.C. §§ 1331 (federal question) and 1343(a) (redress deprivation of civil rights). Declaratory relief is authorized by the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202.

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e), because Defendant resides in this district, and because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred or will occur in this district.

4. Divisional venue is proper in the Eastern Division of this Court, because the Defendant resides in this division and the claim for relief arose in this division. *See* Local R. 02-07(B)(1).

PARTIES

Plaintiffs

5. E.L. is a minor, who resides in the city of Maryland Heights in St. Louis County, Missouri. His residence is zoned for the Pattonville School District. E.L. is a third grade student at Gateway Science Academy in the City of St. Louis. He is African-American.

6. La'Shieka White is E.L.'s mother, legal guardian, and next friend. She resides in the city of Maryland Heights in St. Louis County, Missouri, with her husband and three children, including E.L. Her

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residence is zoned for the Pattonville School District. La'Shieka White is African-American.

Defendant

7. Defendant Voluntary Interdistrict Choice Corporation (VICC) is a 501(c)(3) non-profit corporation organized under the laws of the State of Missouri. VICC is governed by a board of directors comprised of superintendents of the participating St. Louis-area school districts. VICC is responsible for administering the St. Louis Student Transfer Program (transfer program), enacting policies applicable to the transfer program, and making decisions about the transfer program. Defendant is responsible for the transfer of non-African-American St. Louis County students to public schools within the City of St. Louis. Virtually all of Defendant's funding to support the transfer program is provided by the State of Missouri through its normal public school aid sources.

ALLEGATIONS

Current VICC Policy

8. Only African-American students residing in the City of St. Louis are eligible to transfer to a school district in the County of St. Louis. VICC's Board policy JCA.BP, which requires the race-based transfer restrictions is attached as Exhibit A, and its provisions are incorporated herein.

9. Per the Board's policy, only white students residing in St. Louis County are eligible to transfer to a public school in the City of St. Louis.

10. Any student who lives in the City of St. Louis and non-African-American students who

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live in the county school districts of Affton, Bayless, Brentwood, Clayton, Hancock Place, Kirkwood, Ladue, Lindbergh, Mehlville, Parkway, Pattonville, Ritenour, Rockwood, Valley Park, or Webster Groves are eligible to attend St. Louis Magnet Schools. The 2016-2017 Magnet School Guide, which includes the application for St. Louis County residents to attend magnet schools in the City of St. Louis, is attached as Exhibit B, and its provisions are incorporated herein. The race-based eligibility restrictions are found on page 4 of the Guide.

11. Although VICC's Board policy JCA.BP limits transfers to white students, the magnet school application extends eligibility to transfer into the city to any "non-African-American" student. African-American students are prohibited from transferring. See Attachment B, at 4.

The Liddell Litigation

12. In 1972, black parents filed a class action lawsuit alleging racial discrimination and segregation in St. Louis schools in violation of the Fourteenth Amendment to the United States Constitution. The Eighth Circuit ruled that St. Louis schools operated a dual-system that was segregated on the basis of race in violation of the Fourteenth Amendment. A "system-wide remedy" was needed for a "system-wide violation." *Adams v. United States*, 620 F.2d 1277, 1291 (8th Cir. 1980). The Eighth Circuit ordered St. Louis schools to integrate and instructed the district court to retain jurisdiction in order to ensure "that the plan effectively integrates the entire St. Louis school system and to ensure that the plan is, in fact, being carried out." *Id.* at 1297.

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13. On remand to the district court, the parties reached a settlement and proposed a consent decree that was approved by the district court and affirmed by the Eighth Circuit. *See Liddell v. Bd. of Educ.*, 567 F. Supp. 1037 (E.D. Mo. 1983), *aff'd*, *Liddell v. Missouri*, 731 F.2d 1294 (8th Cir. 1984). The court retained jurisdiction to enforce the consent decree and settlement. *Liddell*, 567 F. Supp. at 1058. The consent decree and settlement agreement included a comprehensive plan to improve racial integration in St. Louis schools.

14. One component of the plan included a voluntary interdistrict transfer plan. This plan, named the St. Louis Student Transfer Program (transfer program), was based on race. African-American students residing in the City of St. Louis would be permitted to transfer to school districts in St. Louis County (city-to-county). White students residing in St. Louis County would be permitted to transfer into a school located in the City of St. Louis (county-to-city). *Liddell*, 731 F.2d at 1300.

15. In order to attract white students into schools located in the City of St. Louis, the plan created additional magnet schools in the City. *Id.* These schools could only be attended by students residing in the City or white students transferring in from the county. Planning for the creation of new magnet schools was required to focus on attracting suburban white students. *Id.* at 1311-12.

16. The consent decree governed integration of St. Louis schools until 1999. In 1999, the district court approved a new settlement agreement. As a result of the new agreement, federal supervision over the racial integration of St. Louis schools ended. The

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Court dismissed the case with prejudice, dissolved all prior injunctions, and dismissed all pending motions as moot. *Liddell v. Bd. of Educ. of the City of St. Louis, Missouri*, No. 4:72CV100 SNL, 1999 WL 33314210, at *9 (E.D. Mo. Mar. 12, 1999).

The 1999 Settlement Agreement

17. The 1999 Settlement Agreement transformed the federally supervised transfer program into a voluntary program under the jurisdiction the Voluntary Interdistrict Choice Corporation. VICC is a non-profit corporation governed by a board of directors comprised of superintendents of the participating school districts and funded by public dollars.

18. The 1999 Settlement Agreement continued the race-based St. Louis Student Transfer Program. Under the terms of the 1999 Settlement Agreement, city-to-county transfers are only permitted for black students, and county-to-city transfers are only permitted for white students.

19. The 1999 Settlement Agreement continued the magnet school program, and established new race-based enrollment guidelines for magnet schools.

20. VICC is responsible for administering the transfer program, creating the policy of the transfer program, and making decisions about the transfer program.

21. The terms of the 1999 Settlement Agreement were initially required to govern for ten years, however, the Agreement also specified that the race-based transfer program could be extended to new

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students beyond the 2008-2009 ending date for new enrollments. An initial five-year extension pursuant to this provision was unanimously approved by the VICC Board in June, 2007, with a second five-year extension approved in October, 2012. As a result, new students are continuing to be accepted into the transfer program through at least the 2018-2019 school year.

22. The VICC Board is solely responsible for extending the race-based transfer program. The assent of no other entity is required. Accordingly, VICC bears full responsibility for the continuing enforcement and administration of the race-based transfer program.

Gateway Science Academy

23. Gateway Science Academy of St. Louis (Gateway) is a public charter school located in the City of St. Louis.

24. Gateway provides its students with an innovative world class education, rich in math, science, and technology and focuses on preparing students to become bold inquirers, problem solvers, and ethical leaders, who are ready for post-secondary education.

25. Gateway enrolls students who reside in the City of St. Louis. In addition, under Missouri law, charter schools must enroll “[n]onresident pupils eligible to attend a district’s school under an urban voluntary transfer program.” Mo. Ann. Stat. § 160.410.

26. Non-black students who live in the county school districts of Affton, Bayless, Brentwood,

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Clayton, Hancock Place, Kirkwood, Ladue, Lindbergh, Mehlville, Parkway, Pattonville, Ritenour, Rockwood, Valley Park, or Webster Groves are eligible to enroll at Gateway, because they could enroll in a “district’s school under an urban voluntary transfer program.” *Id.*

27. African-American students who live in St. Louis County are ineligible to be enrolled at Gateway, or any charter school located in the City of St. Louis.

28. Gateway officials gave La’Shieka White a handout explaining the enrollment requirements at Gateway. A true and correct copy of that handout is attached as Exhibit C. The handout accords with the race-based restrictions in the 2016-2017 Magnet School Guide. In particular, it explains that non-African-American students residing in the Pattonville School District may be enrolled at Gateway. African-American students residing in the Pattonville School District are ineligible to be enrolled.

Facts Relating to the Plaintiffs

29. La’Shieka White and E.L. lived in the City of St. Louis when E.L. enrolled at Gateway in 2012. For the past two years, their residence was a small two-bedroom apartment with no yard. La’Shieka and E.L. lived there with La’Shieka’s husband and their two children, a 2-year old boy and an 8-month old girl.

30. At the White’s previous home in the City of St. Louis, the family car was broken into on multiple occasions, and family members regularly heard gunshots.

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31. E.L. started at Gateway Science Academy (Gateway) in the City of St. Louis in August, 2012. E.L. started there as a kindergartner and is now in the third grade.

32. E.L. has excelled at Gateway. He currently has a 3.79 GPA, and has above average testing scores in language arts, math, and science.

33. In March, 2016, the White family moved to a house in Maryland Heights, Missouri. The Whites purchased the home so that they would have more space for their growing family, including a backyard and basement. Their new home is much safer than their past residence, and the family has yet to hear a gunshot.

34. The White's new home is located in St. Louis County and is zoned for the Pattonville School District.

35. Because of E.L.'s success at Gateway, La'Shieka sought to ensure his continued enrollment at the school after the family relocated to a safer community in St. Louis County. When she inquired into enrolling E.L. at Gateway in future years, she learned that he would be unable to attend because he is African-American.

36. If E.L. were white, he could enroll at Gateway Science Academy for the 2016-2017 school year.

INJUNCTIVE RELIEF ALLEGATIONS

37. Plaintiffs incorporate by reference and reallege each and every allegation set forth in paragraphs 1 through 36 of this Complaint.

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38. Defendant adopted and implemented the race-based rules governing the St. Louis Student Transfer Program. These rules prohibit African-American students, like E.L., from transferring to schools within the City of St. Louis, including magnet schools. The race-based transfer rules prevent charter schools like Gateway Science Academy from enrolling black students who reside in St. Louis County. If Defendant is not enjoined from enforcing the race-based transfer rules, Plaintiffs will be irreparably harmed in that E.L. will be prohibited from attending Gateway Science Academy, St. Louis city magnet schools, and St. Louis city public schools. The race-based transfer rules currently discriminate against Plaintiffs on the basis of race, and they will continue to do so in the foreseeable future.

39. If not enjoined by this Court, Defendant and its agents, representatives, and employees will continue to discriminate against individuals on the basis of race, in contravention of the Equal Protection Clause of the United States Constitution.

40. Pecuniary compensation to Plaintiffs or other victims of such continuing discrimination would not afford adequate relief.

41. Injunctive relief is necessary to prevent a multiplicity of judicial proceedings on these same or similar issues.

42. Accordingly, injunctive relief is appropriate.

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DECLARATORY RELIEF ALLEGATIONS

43. Plaintiffs incorporate by reference and reallege each and every allegation set forth in paragraphs 1 through 42 of this Complaint.

44. An actual and substantial controversy exists between Plaintiffs and Defendant as to their respective legal rights and duties. Plaintiffs contend that the transfer program discriminates on the basis of race in violation of the Fourteenth Amendment to the United States Constitution. Defendant disputes that the transfer program is unconstitutional and illegal.

45. There is a present justiciable controversy between the parties regarding the constitutionality and legality of Defendant's transfer program. Plaintiffs will be directly, adversely, and irreparably harmed by Defendant's actions enforcing and administering the transfer program, and Defendant's continuing administration, implementation, reliance, and enforcement of the discriminatory transfer program now and in the future. A judicial determination of rights and responsibilities arising from this actual controversy is necessary and appropriate at this time.

CLAIM FOR RELIEF

Violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. §§ 1981, 1983

46. Plaintiffs incorporate by reference and reallege each and every allegation set forth in paragraphs 1 through 45 of this Complaint.

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47. La'Shieka White and E.L. are persons under 42 U.S.C. §§ 1981 and 1983.

48. Defendant acted under the color of state law in developing, implementing, and administering the race-based Transfer Policy.

49. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution requires that, “[n]o State shall . . . deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1. All governmental action based on race must be subjected to detailed judicial scrutiny to ensure that no person is denied equal protection of the laws.

50. Defendant VICC’s transfer program, on its face, discriminates against E.L. because of his race. In particular, he may not continue to attend Gateway Science Academy pursuant to the program because he is an African-American student residing in St. Louis County. If he were white, he would be eligible to attend any public school located in the City of St. Louis, including Gateway.

51. The Defendant’s actions in enforcing and administering the transfer program are not narrowly tailored to a compelling state interest.

52. Preventing E.L. from obtaining a quality education at Gateway Science Academy because of his race serves no compelling state interest.

53. Defendant’s racial discrimination against E.L. is not required to remedy past, intentional discrimination.

54. The Defendant’s actions in enforcing and administering the transfer program do not serve a

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compelling state interest, because the race-based restrictions on student transfers do not secure the educational benefits that flow from racial diversity in higher education.

55. The Defendant's actions in enforcing and administering the transfer program are not narrowly tailored to a compelling state interest, because Defendant has not first determined that race-based measures are necessary to achieve a compelling governmental interest.

56. The Defendant's actions in enforcing and administering the transfer program are not narrowly tailored to a compelling state interest, because Defendant cannot prove that a non-racial approach would fail to promote the government objective as well at a tolerable administrative expense.

57. The Defendant's actions in enforcing and administering the transfer program are not narrowly tailored to a compelling state interest, because Defendant failed to exhaust race-neutral alternatives before resorting to race-based classifications.

58. The Defendant's actions in enforcing and administering the transfer program are not narrowly tailored to a compelling state interest, because Defendant is using race as a categorical bar—and not merely a “plus” factor—in transfer decisions.

PRAYER FOR RELIEF

WHEREFORE, based on the allegations above, Plaintiffs respectfully request judgment as follows:

1. A declaratory judgment, pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201, from the Court that the race-based restrictions in the transfer

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program enforced by VICC, which prohibit African-Americans residing in St. Louis County from transferring to schools in the City of St. Louis, are unconstitutional, illegal, invalid, and unenforceable, because they discriminate on the basis of race and deny individuals equal protection of the laws in violation of the Fourteenth Amendment to the United States Constitution and federal civil rights statutes 42 U.S.C. §§ 1981 and 1983;

2. For a preliminary and permanent prohibitory injunction enjoining Defendant VICC and its agents, employees, officers, and representatives from adopting, enforcing, attempting, or threatening to enforce the race-based restrictions in the transfer program which prohibit African-Americans residing in St. Louis County from transferring to schools in the City of St. Louis, insofar as it discriminates on the basis of race and denies individuals equal protection of the laws in violation of the Fourteenth Amendment to the United States Constitution and federal civil rights statutes 42 U.S.C. §§ 1981 and 1983;

3. A permanent injunction prohibiting Defendant from using race in future student transfer decisions;

4. Attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and any other applicable legal authority; and

5. All other relief this Court finds appropriate and just.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure and Local Rule 2.04, Plaintiffs

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demand a trial by jury in this action of all triable issues.

DATED: May 4, 2016.

Respectfully submitted,

s/ Joshua P. Thompson

JOSHUA P. THOMPSON

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Attorneys for Plaintiff

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EXHIBIT A

JCA.BP

**VOLUNTARY INTERDISTRICT CHOICE
CORPORATION**

STUDENT ELIGIBILITY

Pursuant to the provisions of the Settlement Agreement, the following standards will be used in determining eligibility of students participating or applying to participate in the transfer program.

I. City-to-County Student Eligibility

A. 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, as defined in policy JFA.BP, to a participating district outside their attendance area) in which school and district they would be in the racial minority.

B. Kindergarten students may be limited to full-day status unless the students provide their own transportation as defined in policy JFA.BP.

C. Black students in non-public schools in an area of the City of St. Louis who meet the criteria of I.A. above are eligible.

II. County-to-City Student Eligibility

A. 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 per the Settlement Agreement the district has

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elected to no longer participate in the county-to-city transfer program.

B. White students in non-public schools in an area of St. Louis County who meet the criteria of II.A above are eligible.

III. Behavioral Standards for Eligibility

A. New Applicants

1. Applicants who have demonstrated disruptive behavior in a previously attended district may be prohibited from voluntary interdistrict transfer. Prior to the transfer of any applicant, the current district of attendance shall issue a statement that the transferring student is in good standing and has no record of recent disruptive behavior.

2. Applicants who apply for interdistrict transfer who are currently withdrawn from school will be evaluated and permitted to transfer if there is no evidence of disruptive behavior. If there is evidence of prior disruptive behavior, these students may be permitted to transfer on a provisional basis as a probationary transfer student, subject to no further disruptive behavior.

3. Administrative guidelines shall be developed to provide common standards for determining disruptive behavior which shall include, but not be limited to, criteria under the Safe Schools Act as may hereafter be amended or revised.

B. Existing Students

1. City students applying to transfer from one county district to another county district, and county students applying to transfer to another

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city magnet school, will only be required to meet criteria under the Safe Schools Act as may hereafter be amended or revised.

2. Nothing in this Section III shall prohibit a receiving district from applying to transfer students, once enrolled, the same behavioral standards it applies to resident students.

IV. Special Education Students

A. Students with disabilities may continue to participate in the voluntary pupil transfer program. Their selection shall be consistent with the procedures used to select all other students. The receiving school district shall provide students with disabilities who are selected to participate with a free appropriate public education (including receiving special education and related services consistent with their IEP).

B. If the sending district determines that the special needs of the student can be accommodated in educational programs within the sending district, then the student may be educated within the sending district at the option of the sending district.

C. Acceptance of new transfer students already receiving special education services in their district of residence shall be limited to space and program availability in the school assigned to the attendance area in which such student resides. Receiving districts will reasonably endeavor to accommodate such students subject to such limitations.

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SUPERSEDES:

POLICY ADOPTED ON: May 5, 1999

LEGAL REFERENCE: (Settlement Agreement -
Agreement Among Participating School Districts -
paragraphs 4 and 22.)

CROSS REFERENCE: Student Assignment -
JFA.BP

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EXHIBIT B

2016-17

MAGNET SCHOOL GUIDE

With 27 specialty schools to choose from, the SLPS Magnet Schools offer an **EXCITING, TUITION-FREE** alternative for students of all ages and abilities.

What is a Magnet School?

Students ordinarily go to the public school nearest them. Magnet schools are public schools without school boundaries. Each has something unique to offer that you won't find in traditional schools, whether it's a particular focus on technology, the arts, or a stimulating curriculum designed especially for gifted students.

Because of high demand in many schools and grade levels, admission is based on a lottery system.

See eligibility criteria on Page 4.

Updates to this information can be found at www.slpsmagnetschools.org or slps.org/magnets

Choose SLPS Magnet Schools

Choosing a school for your child is one of the most important decisions a parent makes. Do you have a child who doesn't necessarily "fit the mold" offered at your current school? Or are you looking for a change in direction as your child advances from one level to the next? If so, there's an exciting educational alternative you need to know about! It's the Saint Louis Public Schools Magnet School Program.

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For almost three decades, Saint Louis City and County families have experienced extraordinary educational opportunities at the Magnet Schools.

- 27 specialty schools catering to a wide range of student talents and interests
- Diverse and challenging curriculum
- Free transportation for eligible students
- Priceless partnerships with respected local and national institutions
- Simple and fair application process

Please join us at one of the following events:

MAGNET SCHOOL OPEN HOUSES at all school locations

Dates and times to be determined by individual Magnet and Choice Schools. Check www.slps.org/magnets for schedule.

HIGH SCHOOL HERE I COME NIGHT

for 7th and 8th Grade Students

Tuesday, Oct. 6, 2015 | 6:30 - 8:30 p.m.

Compton-Drew ILC Middle School

5130 Oakland Ave. 63110

Free Admission

MAGNET SCHOOL RECRUITMENT FAIR

for Elementary and Middle School Students

Monday, Oct. 12, 2015 | 6 - 8 p.m.

Saint Louis Science Center

5050 Oakland Ave. 63110

Free Admission

At a magnet school, your child can . . .

Be Creative

Their world is a stage, a canvas, bright lights and beautiful costumes. Your child thrives on creating,

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performing and entertaining. Our Visual & Performing Arts Magnet Schools provide the training, opportunities and space artistic children need to explore their creativity and develop their talents. Thanks to our visiting professional artists and partnerships with STAGES, Muny Kids, the Saint Louis Symphony, Opera Theatre of St. Louis and more, your child will be exposed to a world he or she might otherwise only dream about.

Think Deeper

Spoke French at age 2, understands $E=mc^2$, voracious reader, chess master. Sound familiar? Gifted children thrive in an environment that challenges them to the nth degree. SLPS Magnet Schools proudly offer the only FULL-time, tuition-free PS-8 gifted education in the metropolitan area. Our rigorous and challenging curricula are guaranteed to fulfill your gifted learner's needs. Saint Louis Public Schools offer free gifted screening. For information or to schedule an appointment, call 314.345.4548. (To qualify for a gifted magnet school, students must meet state-approved criteria.) More information on page 4.

Look Deeper

Digging in dirt, peering into a microscope, stargazing and encouraging you to live green. Your child will experience hands-on learning, while gaining exposure to everything from engineering to environmental science to computer technology and health fields at our schools that specialize in math, science, technology and precollege learning. Partnerships with the Missouri Botanical Garden, Saint Louis Zoo, the University of Missouri - St.

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Louis and others further enrich your child's experience.

Share Cultures

Bonjour! Guten Tag! International Studies Magnet Schools provide a wonderful and exciting "passport" to learning. Our students and staff represent more than 30 countries. Your child will learn multiple languages, traditions, customs and cultures in the classroom, in the hallways and beyond.

Explore Earlier

Young minds are inquisitive by nature. Our Early Childhood Centers tap into that natural inquisitiveness using a process-oriented approach to learning known as Project Construct. Your child will be engaged in all-day learning from preschool through fifth grade, providing a strong, solid foundation for his or her future academic success. Children needing special education services require a caring approach. Some magnet schools include self-contained special education classrooms for students whose Individual Education Programs (IEPs) call for it. Full inclusion and cross-categorical classes are also available.

Shine Brighter

Shiny shoes, crisp uniforms, brass buttons. Cadets not only dress the part, they walk and talk it. Cleveland NJROTC Military Academy builds character, inspires service and creates strong leaders today for tomorrow. Admittance and enrollment depend on students meeting the school's academic standards, and weight and uniform fit requirements. Soldan International Studies and Gateway STEM high schools offer part-time Air Force ROTC programs.

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Be Unique

It's cool to be different. Some children like traditional learning. Others excel when a teacher identifies and supports their individual learning style. Magnet schools are a great place for "break-the-mold" students. Our general academic programs are recognized for inventive teaching methods. We offer the largest tuition-free Montessori program in the metropolitan area. How successful are our students? Our Metro Academic & Classical High School is ranked in the top four in the U.S. News and World Report's list of "Missouri's Best High Schools."

What every parent should know about magnet schools

Eligibility

- 1) Any student living in the city of St. Louis
- 2) Non-African-American students living in the Affton, Bayless, Brentwood, Clayton, Hancock Place, Kirkwood, Ladue, Lindbergh, Mehlville, Parkway, Pattonville, Ritenour, Rockwood, Valley Park and Webster Groves school districts (K-12).
- 3) County residents cannot enroll in SLPS early childhood education (pre-kindergarten).
- 4) County residents are not eligible to enroll in choice high schools (Northwest, Carnahan, Clyde C. Miller)

Contact Information

City Families

www.slps.org/magnets
801 N. 11th St.
St. Louis, MO 63101
314.633.5200

County Families

www.choicecorp.org

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7425 Forsyth Blvd., Suite 110
St. Louis, MO 63105
314.721.8422 ext. 3012

Placement Procedures

Please complete only one application per child. If a second application is submitted, the lottery system used to place students into open seats at schools requested will consider only the most recent application submitted for potential placement in the Pool A and Pool B lotteries.

After the Pool A Lottery is complete, new applications with different or additional choices for consideration in the Pool B Lottery will override any previous application submitted for a student that is on a wait list from the Pool A lottery. Any application submitted for a different school than the site a student was accepted into will not be processed unless the seat offered has been declined.

Please do not submit a request for placement to a school you are not willing to have your child attend. Any child accepted to a school will not be considered for placement to other choices or remain on the wait list for other choices requested. This includes students accepted to a second choice request. Any student accepted to a requested second choice will no longer be considered for placement, nor remain on the wait list for the first choice requested.

Deadlines

The District has implemented a two-pool application, placement and notification timeline for students applying to Magnet and Choice Schools. This procedure allows for quicker notification and

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information to be provided for acceptances, as well as available openings. See below for the two pool application deadlines and notifications dates.

Pool A Application Period

Oct. 1, 2015 through Nov. 5, 2015 Placement notifications will be sent before Nov. 25, 2015 for students applying in Pool A.

Pool B Application Period

Nov. 25, 2015 through Jan. 6, 2016 (Applications submitted after the Pool A deadline but before Nov. 25, 2015 will be considered for Pool B placement.) Placement notifications will be sent prior to Jan. 27, 2016 for students applying in Pool B.

Post-Lottery Application Period

Applications received after the Jan. 6, 2016 Pool B deadline will be processed and considered for placement in the order received, after all applicants from pools A and B have been placed.

Gifted Testing and Placement

Saint Louis Public Schools students have access to two gifted elementary schools for grades PK4 - grade 5 and a gifted middle school for grades 6 - 8. Once your application has been deemed to meet first-level criteria, someone from the gifted office will contact you to schedule a testing appointment. Testing is not required for an applicant to be considered in the lottery, but gifted-eligible status is required for a student to be accepted and offered a seat. Gifted students for these age groups also have the option to apply to be part of gifted enrichment programs at other magnet schools. Your child's test must be administered by SLPS. No privately administered

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outside test scores will be accepted. If you have questions, please call the Gifted and Talented office at 314.345.2435.

Magnet High Schools

Central Visual and Performing Arts

3125 S. Kingshighway
314.771.2772

Central VPA's educational program is designed to create a nurturing environment where students receive a quality academic and artistic education that prepares them to compete successfully at the post-secondary level or perform competently in the world of work. Students learn to communicate effectively, enhance their physical and emotional wellbeing, acquire a passion for lifelong learning and demonstrate the ability to do critical thinking and be creative.

- Submit a copy of previous year's report card with a minimum cumulative GPA of 2.75
- Submit a copy of previous year's attendance. Based on 176 days of school, the student must have at least a 93 percent attendance rate
- Submit a copy of the previous year's discipline report and be in good citizenship standing (no out of school suspensions)
- Submit two letters of recommendation. Two personal recommendation letters should come from (1) an administrator and (2) an art teacher
- Once all required documentation is received, audition dates and times will be scheduled. Students who are granted auditions must attend at the

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scheduled time prepared to audition and be interviewed by the administrative staff

- CVPA only accepts 9th and 10th grade applicants
- All accepted students are required to attend CVPA's 9th grade transition program, parent orientation, pre-register and be present on the first day of school

Cleveland NJROTC

4939 Kemper Ave.
314.776.1301

Cleveland Junior Naval Academy is a military school with a strong emphasis on leadership development and academic achievement. Students have the opportunity to practice leadership through the structure embedded in the NJROTC program.

The school provides all cadets with excellent academic opportunities including Advanced Placement classes, field experiences provided by the Navy, intern experiences and opportunity for travel with academic exploration.

Eligibility criteria to Cleveland Junior Naval Academy include:

- 2.5 minimum GPA
- Grade of C or better in math and communication arts for the entire year
- Submission of a five-paragraph essay, "Why I want to be a cadet at Cleveland Naval Junior Academy"
- Interview with student and parent/guardian prior to acceptance
- Must have a good attendance record

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- Must have no significant discipline history
- Parents of accepted students are required to attend a two-hour orientation with the cadet candidates and be willing to accept the responsibility for the uniforms if they are lost or damaged

Magnet High Schools

Collegiate School of Medicine and Bioscience

1547 S. Theresa Ave.
314.696.2290

The Collegiate School of Medicine and Bioscience (CSMB) Magnet High School is a community of learners with a student body that represents more than 35 ZIP codes and county districts such as Ladue, Lindbergh, Parkway and Rockwood. The school embraces the highest of academic standards. CSMB is patterned after some of the most successful high schools across the nation, including, the distinguished Michael E. DeBakey High School for the Health Professions in Houston, Texas. CSMB offers advanced curricula, which include many honors and Advanced Placement (AP) courses. CSMB's environment and culture is one in which all of its students and staff work together toward a common goal of careers in medicine, health and biomedical research.

Designed as a rigorous four-year medical professions magnet program, the school's mission is to prepare a diverse student body to further their studies at the nation's best colleges and universities. CSMB's college prep curricula include a minimum of four mathematics and eight science courses, which will prepare students with an academic foundation

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essential for postsecondary studies. The school's unique four-year medical program provides students with projectbased learning experiences under the guidance of health science and technology professionals in the classroom and with local partners Goldfarb School of Nursing, Washington University Medical School, Saint Louis University School of Medicine and Saint Louis College of Pharmacy. All students complete an internship/practicum during their senior year.

CSMB requires a written commitment from both students and parents to follow the rigorous four year course sequence, complete a minimum of 200 hours of community service, earn First Aid and CPR certification prior to entering the 11th grade and abide by the school's Honor Code and Dress Code policies.

Admission Requirements:

- 6th and 7th grade final report card
- First grading period report card of 8th grade
- Test record (MAP or other national achievement tests)
- Excellent attendance record (documented)
- Letters of recommendation from two of the following: current teacher, counselor, principal or designated administrator
- Entrance essay
- A student and parent/guardian interview
- If accepted, attend the Medical High School's Summer Program prior to entering the 9th grade

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Gateway STEM

5101 McRee Ave.
314.776.3300

Gateway STEM (Science, Technology, Engineering, Math) High School, recognized by the United States Department of Education as a New American High School, integrates a strong academic curriculum emphasizing mathematics and science with career preparation in highly technical fields. Accelerated and advanced placement courses are available. Gateway STEM creates lifelong learners through skill building, team building, real-life applications and service to the community.

Eligibility criteria to attend Gateway STEM High School include:

- Interest in mathematics, science, engineering and/or technology
- Expectation to attend post-secondary education at a university, college, community college or technical school with the intent to attain a diploma
- Student transcripts/report cards, test scores, reflecting aptitude and success in mathematics, science and writing
- Attendance of 90% or better required (over 93% preferred) and no major discipline infractions or repeated behavioral issues
- Commitment to parental involvement, i.e., PTA, advisory committees, booster clubs, support of school, volunteering

Metro Academic and Classical

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4015 McPherson Ave.

314.534.3894

Metro provides a challenging, quality education focused on high standards and expectations in an atmosphere of unity, enthusiasm, caring and respect for self, others and the community. Service to the community is encouraged, while the school promotes learning in all areas to prepare students to become responsible members of society who can function in a technology-oriented world.

- Applicant must score at or above the Third Achievement level on all of the most recent MAP/EOC tests or be at the 50 percentile level or more on a standardized test, in all sub-areas of the test.
- Applicant must score at or above the 50 percentile level on Acuity tests, if available, throughout the school year of application.
- Applicant must score at or above the Third Achievement Level on all MAP/EOC exams taken in the eighth grade after the application was submitted and acceptance was made. Continued achievement is expected.
- Applicant must have good attendance with no more than five absences per semester except in cases of physician-documented illness/hospitalization and documented family emergencies, i.e., deaths, fires, accidents.
- Eighth grade applicants must submit a copy of the most recent report card and their last report card of their eighth grade year to validate classroom academic achievement and attendance. This report

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card must reflect a C or better in all subjects with the exception of Physical Education, Art, Music, and Practical Arts. One D will be acceptable in any one of these four subjects. No D in a core subject is acceptable.

- Applicant must have excellent or good evaluations on each item on the Official Recommendation Checklist Form. Recommendations must be submitted by two of the following: applicant's teacher, counselor, principal or designated administrator.
- Students applying for 10th grade must submit a transcript reflecting all semesters enrolled, including the last completed semester and a report card from the most recent grading period. The applicants must have a minimum GPA of 2.3 and no Ds or Fs on their transcripts. Transcript should also validate attendance and grade level. EOC tests scores apply as mentioned above.

McKinley Classical Leadership Academy

2156 Russell Blvd.
314.773.0027

McKinley CLA provides a challenging educational experience for students that is accelerated and enriched beyond the normal mandated curriculum. It provides a culturally diverse educational program for all students in an atmosphere for students to grow intellectually and personally. The McKinley student-schoolparent support system improves and strengthens cooperation between families and the school.

- Completed application

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- Copy of most recent report card
- Discipline and behavioral record
- Attendance history report
- MAP scores
- Individual Education Plan (IEP) record, if applicable
- Documentation to verify gifted standing
- Prospective students are required to write and submit a brief essay “I am excited about McKinley Classical Leadership Academy because . . .” The essay should highlight the student’s reasons for wanting to attend McKinley CLA and clarify which Leadership Pathway sparked the student’s interest. Students are also encouraged to incorporate their ideas for school leadership and community service in their essay.

Soldan International Studies High School

918 Union Ave.
314.367.9222

Soldan ISHS is a nationally accredited high school that prepares students for colleges and 21st century careers in the medical field, biomedical sciences, business, management, law and leadership. Students attending Soldan take part in a global studies curriculum, preparing them for further education and careers in an ever changing and diverse society.

Soldan’s rigorous curriculum focuses on international studies, career preparation and the use of technology. Students have honors and Advanced Placement classes offered in all major content areas, and a technology-embedded curriculum complete

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with Promethean Boards, Smart Boards, laptops, videoconferencing and digital literacy. Soldan's premier technology capabilities include a state-of-the-art biomedical sciences lab, veneer probes, digital literacy, videoconferencing and Skype. Students have opportunities to connect with other students around the world.

Students at Soldan are prepared for careers in the 21st century through Soldan's community partnerships. The Project Lead the Way (PLTW) Biomedical Sciences Pathway partners with Washington University Medical School, Barnes Jewish Hospital, and Saint Louis University Hospital, designed for students interested in becoming scientists, engineers, researchers, crime scene investigation (CSI) or entering the medical field. The Law Pathway partners with the Washington University School of Law and the Mound City Bar Association. Qualified seniors complete an internship in their career choice.

Additionally, Soldan offers a rich variety of fine arts and sports activities for students, including band, choir, basketball, football, baseball, softball, tennis, wrestling, soccer, track, and cross country. Enrichment and remedial services are available. Students can enroll in the A+ program.

It is recommended that students have a:

- 2.5 GPA or higher
- 90 percent or higher attendance
- Good citizenship

Soldan concentrates on preparing students for college and 21st century careers in a global,

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technological world. It is recommended that students:

- Study a foreign language - Offerings are in Arabic, Chinese and German.
- Select a Career Pathway - International Business, Business Management, PLTW Biomedical Sciences careers in engineering or medicine; and the leadership and law with Washington University Law School.

How do I know which magnet school is the best fit for my child?

Only you can decide. Consider your child's interests and abilities, and learn about the school options available to you. Go to www.slpsmagnetschools.org for information regarding scheduling of school-based open house events. If you wish, contact the school for a personal tour; the school staff will be happy to answer questions you might have about their programs.

The High School Here I Come night for current 7th and 8th grade students will be held from 6:30 to 8:30 p.m. Tuesday, Oct. 6, 2015, at Compton-Drew Investigative Learning Center Middle School at 5130 Oakland Ave.

SLPS high school representatives will make presentations and answer questions to interested students and their parents. The Elementary and Middle Magnet Schools Recruitment Fair will be from 6 to 8 p.m. Monday, Oct. 12, 2015 at the Saint Louis Science Center at 5050 Oakland Ave.

I don't see my child's grade as an option when applying for my school choice. What do I do?

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If you don't see the school or grade desired when applying for a specific program, this means that there are currently no open seats remaining for this grade level at this school, and the wait list is lengthy. Please consider applying to other schools with openings. If you have questions, please call 314.633.5200.

Must I list more than one school choice on my application?

No. You can list up to two schools, but you are not required to. If there is only one school that interests you and your child, you can limit your application to that school. Please do not apply for a school you are not willing to send your child to attend. Students accepted to any school choice requested will no longer be considered for placement to the other school requested on the submitted application.

How will I know you received my application?

We will email or mail you a receipt verifying that we have received your application. Please review it carefully to ensure all information is correct. If you do not receive a receipt within 10 days of submitting your application, city families should contact the Student Recruitment and Placement office at 314.633.5200. St. Louis County resident families should call the VICC office at 314.721.8422, ext. 3012.

What are my child's chances of being accepted to a magnet school?

Applying within the lottery period deadlines will greatly increase the chances of a child receiving an acceptance offer. Please note, do not apply for a

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school you are not willing to send your child to attend. Students accepted to any school choice requested will no longer be considered for placement to the other school requested on the submitted application. Acceptance rates vary from year to year depending on the number of seats available for a school/grade level.

When is the Magnet School Lottery?

The two Pool lotteries for the 2016-17 school year will be held:

Pool A - Thursday, Nov. 19, 2015

Pool B - Wednesday, Jan. 20, 2016

How will I find out if my child is accepted?

Placement Notifications will be emailed or mailed by:

Pool A - Wednesday, Nov. 25, 2015

Pool B - Wednesday, Jan. 27, 2016

The Application and Placement program and websites used allow parents to access and view their student's application information, if they have applied online and set up an account. Families also can learn the results by calling the Student Recruitment and Placement Office at 314.633.5200 or by emailing a request to slpsmagnetschools@slps.org. St. Louis County resident families can call the VICC office at 314.721.8422, ext. 3012, or email lmerlo@choicecorp.org.

What do I do after my child is accepted?

If your child is accepted, this will be considered as the school for assignment unless you refuse the seat

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in writing or via the email notification system. The school your child is accepted to will contact you about an open house for newly accepted students that will be held before the end of the 2015-16 school year. Check www.slps.org/magnetschools for details.

What if I change my mind after my child is accepted?

St. Louis City resident families should inform the Student Recruitment and Placement Office in writing, or log in to their personal account to decline the seat, or send an email to slpsmagnetschools@slps.org. Please include your child's name, birthdate, the school and grade where a seat was offered, and the reason for declining the seat. For SLPS students, if the seat offered is declined, the child's school assignment will default to their previously attended Saint Louis Public School. St. Louis County resident families should notify the VICC office in writing, or send an email to lmerlo@choicecorp.org.

What if my child is not chosen through the lottery?

Your child's name will be placed on a wait list. If additional spaces for the school year applied for become available, you will be notified via email or letter. If your child is not accepted, you would need to reapply for the next school year, if desired. If your child has not been accepted to a school requested and you wish to apply for a different school, or a school where openings exist, the previous application submitted and wait list spot held by that application will be deleted to accommodate the new placement request.

What if my child is not accepted to his or her first choice?

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If you listed more than one choice on your application, and your child is accepted to his or her second choice, that school is the school he or she will be eligible to attend for the 2016-17 school year. His or her name will NOT automatically go on a wait list for the first choice, and the other choice requested will be deleted from the applications database. If you are still interested in being considered for your first-choice school, you must refuse the seat to the school requested and where the seat was offered, and resubmit a new application to go on the desired school's wait list. The placement on that school's wait list will be determined by lottery placement if submitted for Pool B consideration, or added first come first served for applications submitted after the Pool B Lottery deadline.

Once my child is accepted, do I need to reapply each year?

No. Once your child is accepted, enrolled and attending a Magnet/Choice School you do not have to reapply each year, presuming he or she will finish each school year at the same Magnet/Choice School and continues to meet eligibility criteria. Specific 2nd-to-3rd, and 5th-to-6th grade students advancing to the next school level will automatically be assigned to the continuity school for the program they are attending. Go to www.slps.org/magnetschools for the Magnet/ Choice Schools feeder pattern. IMPORTANT! All 8th to 9th grade students must apply to be considered for placement to a Magnet or Choice High School. All criteria must be met to be eligible for placement. Eighth grade Magnet Middle School graduates are not guaranteed placement into the continuing

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themed Magnet or Choice High School if the eligibility criteria for that school is not met.

My child attends a magnet school but wants to transfer to a different magnet school next year. What do I do?

You must submit a new application and be accepted through the lottery. Your child will keep a spot in his or her current school until (1) he or she is accepted into the new school and (2) you've completed the enrollment paperwork at the new school. Currently enrolled Magnet and Choice schools students are the last group considered for placement into other Magnet and Choice Schools. SLPS Magnet and Choice Schools enrollment does not allow for open transfer from one Magnet or Choice School to another.

What is the application process?

Gifted

- Submit applications for up to 2 schools
- Application will be screened by the Gifted and Talented office
- If you meet the criteria, testing appointment will be scheduled and you will move forward to the lottery*
- If you do not meet the criteria, you will not move forward to the lottery

Elementary/Middle

- Submit applications for up to 2 schools

High School

- Submit applications for up to 2 schools
- Application will be screened by the schools

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- If you meet the criteria, you will move forward to the lottery*
- If you do not meet the criteria, you will not move forward to the lottery

LOTTERY

Accepted

Notifications sent: If you are accepted, your seat at a school is guaranteed

Waitlisted

Notifications sent: Waitlisted students are first in line to receive seats that become available in magnet and choice schools. You are encouraged to check your personal account on the magnet website or call to monitor your application status

*Your spot in a school is dependent on you meeting and maintaining eligibility

Have a question you need answered?

City families can email slpsmagnetschools@slps.org or call Student Recruitment and Placement at 314.633.5200

County families can email lmerlo@choicecorp.org or call Voluntary Interdistrict Choice Corp. (VICC) at 314.721.8422, ext. 3012.

For school-related questions, please call the Magnet School directly.

The Lottery

Because the number of applicants requesting placement often exceeds the number of open/available seats, applications received within the stated deadlines and dates are entered into a lottery

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to place students. Two lotteries are scheduled for placement of applicants submitting requests within two distinct time periods, or pools. The lotteries are used to assure an equal chance for all students applying to Magnet/Choice Schools, within the pool application periods and within placement priority categories. When you enter your application using the online entry system, or when it is entered manually for paper submitted applications, the request will be assigned to its appropriate priority category. The computer program then randomly selects an applicant and attempts to place the student in the choice(s) selected, beginning with the first-choice school. If this choice is not open, the applicant's second choice is considered, presuming an additional choice is listed. The Pool lotteries for the 2016-17 school year will be held by:

Pool A - Thursday, Nov. 19, 2015

Pool B - Wednesday, Jan. 20, 2016

What priorities affect the lottery process?

The SLPS Magnet Schools participate in the area-wide desegregation program and have a goal of being racially integrated. Through the lottery system, all applications have equal weight within various categories required to maintain racially integrated schools. They are:

1ST PRIORITY

Continuity — Students currently enrolled in Magnet Schools who are graduating to the next school level (such as elementary school to middle school) are guaranteed a seat in a Magnet/Choice School where open seats exist/remain. Students matriculating

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from middle school to high school must meet school eligibility criteria to be considered for placement in the Magnet/Choice High School requested.

2ND PRIORITY

Sibling — Brothers and sisters of Magnet/Choice School students who live at the same address and share at least one biological or legal parent have priority placement in the same Magnet/Choice School building as their sibling. There is no guarantee, however, that siblings will be placed together. Applications for Sibling Priority consideration received in Pool B periods will be considered for placement after all Pool A applicants of all priorities are considered. No applicants will be assigned Sibling Priority status after the Pool B application period closes.

3RD PRIORITY

Neighborhood — City students living within the “walk-to-school” boundaries set by the District transportation department can apply for Neighborhood Priority placement. There is no guarantee that all Neighborhood Priority eligible applicants will be placed. Applications for Neighborhood Priority consideration received in Pool B periods will be considered for placement after all Pool A applicants of all priorities are considered. No applicants will be assigned Neighborhood Priority status after the Pool B application period closes.

REMAINING PRIORITIES

St. Louis City and St. Louis County applicants — These students are placed in Magnet Schools through the Pool A and Pool B lotteries after the

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Name of Sibling _____

Magnet School Sibling Attends _____

Siblings are defined as children who have one biological or adoptive parent in common and reside in the same household. To receive sibling consideration for one child, the other child must be enrolled in the school of choice and be scheduled to continue in that school for the coming year, and that school must be listed as the first choice on this application form. Sibling consideration extended to one school only. No sibling applicants will be considered for priority placement after the Pool B application period closes.

Check here if you wish twins to be treated as one placement at the same school. Separate applications are required.

SAFE SCHOOLS: Has your child been expelled from any school or school district violation of school board policies relating to weapons, alcohol, drugs or for willful infliction of injury to another person? Yes No

SPECIAL EDUCATION: Is your child in the First Steps Program? (preschool only) Yes No

Has your child been referred for a special education evaluation or evaluated by the current or previous school district? Yes No

Does your child receive special education services and/or related services? Yes No

Does your child receive special education services outside the regular class for more than 60 percent of the time? Yes No

ESL: Does student use a language other than English? Yes No Please specify: _____

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Is a language other than English used at student's home? Yes No Please specify: _____

Please Indicate Applicant's Race:
SELECT ONLY ONE CODE

- B Black/African American*
- W White/Caucasian
- H Hispanic/Latino
- A Asian or Pacific Islander
- I Native American or Alaskan
- Biracial - Black*
- Biracial - Non-Black

*County Residents of these races are not eligible

Future grade in Sept. 2016 _____

Requirements must be met to be eligible for admission to a special education classroom. Placement is contingent upon the Individual Education Program (IEP) specifying placement.

YOU DO NOT NEED TO LIST TWO CHOICES,
ONLY SELECT CHOICES YOU WILL ACCEPT.

School Desired _____
First choice

or _____
Second choice

Magnet Elementary Schools

K=Kindergarten

P3=Preschool Age 3

P4=Preschool Age 4

(K-8) Lyon Academy at Blow 518

(P4-5) #Mallinckrodt Acad. of Gifted Instrn. 524

(P4-5) #Kennard Classical Jr. Academy (CJA) 503

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(P3-2)	▪ Stix Early Childhood	593
(K-1)	▪ Stix Early Childhood Gifted Clsrm.	594
(P3-2)	▪ Wilkinson Early Childhood at Roe	603
(3-5)	Humboldt Academy of Higher Learning	496
(P4-5)	Gateway Elementary	473
(P4-5)	Dewey International Studies	447
(P3-5)	Mullanphy Investigative Learning	559
(P3-5)	▪ Washington Montessori	601
(P4-5)	Ames Visual & Performing Arts	425
(P4-5)	Shaw Visual & Performing Arts	578

Magnet Middle Schools (6-8)

Busch School of Character		305
#McKinley Classic Junior Academy		313
Gateway Math & Science Prep		323
Compton-Drew Investigative Learning		339
Cart Lane Visual & Performing Arts		307

Magnet High Schools (9-12)

#Gateway STEM		111
#Soldan International Studies		173
#Metro Acad. & Classical (9-10 apps)		156
Δ#Cleveland Naval Jr. ROTC @Sw (9-10 apps)		144
#Central Visual & Performing Arts (9-10 apps)		186
#McKinley Classical Leadership Academy		157
#Collegiate Sch. of Medicine & Bioscience (9-11)		100
#Carnahan School of the Future		193
#Clyde C. Miller Academy		117
#Northwest Law Academy		194

*Age eligibility before August 1 for preschool and kindergarten entry must be met. See eligibility requirements on page 4. #Requiring must be met to be eligible for admission. ▪Bus transportation is not available for three-year-old accepted students. ΔSchool standards must be met to remain in this school. Students must meet weight and uniform-fit

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requirements for entry. The maximum waist size is 42 inches. Applicants for the 11th and 12th grade at Cleveland must have previous ROTC experience to qualify for placement. Note: Preschool programs are available to St. Louis City students. St. Louis County residents are eligible to attend kindergarten through Grade 12.

Mother's Name _____

Work/Cell # _____

Father's Name _____

Work/Cell # _____

Mother's Email _____

Father's Email _____

I give permission to the current school my child is attending to release any information needed to complete the processing of this application. I do understand that once enrolled, student records will be sent to the new school district. I understand that submitting false residence information is a Class A misdemeanor, and that I may be required to pay the cost of educating my child if I provide false residency information. I understand that providing false disciplinary information on this application is a Class B misdemeanor. I also give permission for my child to be tested in order to determine eligibility for the gifted programs. I understand that Saint Louis Public Schools is not responsible for errors made by me on this application (such as grade, birth date, schools selected and/or incorrect school year application.)

Parent Signature _____

Date _____

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City families return to: Saint Louis Public Schools,
Students Recruitment & Placement Office, 801 N.
11th St., St. Louis, MO 63101 (314.633.5200, Fax:
314.633.5230)

Saint Louis Public Schools
801 N. 11th Street
St. Louis, MO 63101

Magnet Early Childhood and Elementary Schools

(Grades PS-5 Except as Noted)

Ames Visual and Performing Arts
2900 Hadley Ave. 63107 • 314.241.7165
Visual and Performing Arts
Gifted Enrichment Available

Dewey International Studies
6746 Clayton Ave. 63139 • 314.645.4845
International Studies
Gifted Enrichment Available

Gateway Elementary
#4 Gateway Drive 63106 • 314.241.8255
Math-Science-Technology

Humboldt Academy of Higher Learning (3-5)
2516 S. 9th St. 63104 • 314.932.5720
Early Childhood Education
Gifted Enrichment Available

Kennard Classical Junior Academy
5031 Potomac Ave. 63139 • 314.353.8875
Gifted Education

Lyon Academy at Blow
516 Loughborough Ave. 63111 • 314.353.1349
General Academics

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Mallinckrodt Academy of Gifted Instruction
6020 Pernod Ave. 63139 • 314.352.9212
Gifted PS-4
General Academics grade 5

Mullanphy Investigative Learning Center
4221 Shaw Blvd. 63110 • 314.772.0994
Math-Science-Technology

Shaw Visual and Performing Arts
5329 Columbia Ave. 63139 • 314.776.5091
Visual and Performing Arts
Gifted Enrichment Available

Stix Early Childhood Center (PS-2)
647 Tower Grove Ave. 63110 • 314.533.0874
Early Childhood Education
Gifted Enrichment Available

Washington Montessori
1130 N. Euclid 63113 • 314.361.0432
General Academics
Gifted Enrichment Available

Wilkinson Early Childhood Center@ Roe (PS-2)
1921 Prather 63139 • 314.645.1202
Early Childhood Education
Gifted Enrichment Available

Note: Preschool programs are only available to
St. Louis City students. St. Louis County students
are eligible to attend kindergarten through grade 12.

Magnet Middle School

(Grades 6-8)

Busch Middle School of Character
5910 Clifton Ave. 63109 • 314.352.1043
General Academics

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Carr Lane Visual and Performing Arts
1004 N. Jefferson Ave. 63106 • 314.231.0413
Visual and Performing Arts
Gifted Enrichment Available

Compton-Drew Investigative Learning Center
5130 Oakland Ave. 63110 • 314.652.9282
Math-Science-Technology

Gateway Math & Science Prep
1200 N. Jefferson Ave. 63106 • 314.241.2295
Math-Science-Technology

McKinley Classical Junior Academy
2156 Russell Blvd. 63104 • 314.773.0027
Gifted Education

Magnet High Schools

(Grades 9-12)

Central Visual and Performing Arts
3125 S. Kingshighway Blvd. 63139 • 314.771.2772
Visual and Performing Arts

Cleveland Naval Junior ROTC @ Southwest
4939 Kemper 63139 • 314.776.1301
Military

Collegiate School of Medicine and Bioscience
1547 S. Theresa Ave. 63104 • 314.696.2290
Pre-College Curricula

Gateway STEM
5101 McRee Ave. 63110 • 314.776.3300
Math-Science-Technology

McKinley Classical Leadership Academy
2156 Russell Blvd. 63104 • 314.773.0027
Accelerated Education

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Metro Academic and Classical High School
4015 McPherson Ave. 63108 • 314.534.3894
General Academics

Soldan International Studies
918 Union Ave. 63108 • 314.367.9222
International Studies

Questions?

If you have additional questions about the application and placement process, city families should call the Student Recruitment and Placement Office at 314.633.5200. County families should call the Voluntary Interdistrict Choice Corp. (VICC) at 314.721.8422, ext. 3012.

For school-related questions, please call the Magnet School directly.

City families can email slpsmagnetschools@slps.org.

County families can email lmerlo@choicecorp.org.

Important Dates and Deadlines

Magnet Recruitment Fairs

HIGH SCHOOL HERE I COME NIGHT

for 7th and 8th Grade Students

Tuesday, Oct. 6, 2015 6:30 - 8:30 p.m.

Compton/Drew Investigative Learning Center

5130 Oakland Ave. 63110

MAGNET SCHOOL RECRUITMENT FAIR

for Elementary and Middle School Students

Monday, Oct. 12, 2015 6 - 8 p.m.

Saint Louis Science Center

5050 Oakland Ave. 63110

Free Admission

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Pool A Application Period

Oct. 1, 2015 - Nov. 5, 2015

Placement notifications will be sent before
Nov. 25, 2015.

Pool B Application Period

Nov. 25, 2015 - Jan. 6, 2016

Placement notifications will be sent prior to
Jan. 27, 2016.

Open house for prospective students and families

Dates and hours to be determined by individual
Magnet and Choice Schools.

Check www.slpsmagnetschools.org for details.

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EXHIBIT C

In order to ensure that we will receive payment from the school for students we need to adhere to the following guidelines when enrolling new students.

ENROLLMENT GUIDELINES

Check the zip code of the students resident

if zip Is 63101

63102

63103

63104

63106

63107

63108

63109

63111

63112

63113

63116

63116

63118

63120

63139 enroll student -- they live in the city

if zip is 63110

63117

63123

63136

63137

63143

63147 go to <https://www.stlouis-mo.gov/data/address-search/> type in the address, with out directionals and st, ave, etc. if address is found enroll the student -- they live in the city. If address is not found proceed to next step:

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If address is not found on the city site or the zip code is not listed above and the student identifies as African- American, you cannot enroll the student.

If address is not found on the city site or the zip code is not listed above and the student identifies as any other race, go to <http://www.schooldistrictfinder.com> and enter the students address with zip. This will tell you what school district the student resides in. If the student resides in the following school districts:

Affton

Bayless

Brentwood

Clayton

Hancock Place

Kirkwood

Ladue

Lindbergh

Mehlville

Parkway

Pattonville

Ritenour

Rockwood

Valley Park

Webster Groves you can enroll the student.

If they reside in any other school district, you cannot enroll the student