

Appeal to Overturn Decision by West Allis West Milwaukee (WAWM) School Board to Deny Request to Alter School District Boundaries

Presented by New Berlin Residents

Monday, May 15, 2023

Our Request

Please overturn the decision made by 7* WAWM School Board Members denying our request to alter boundaries to allow 161 parcels in New Berlin to join the New Berlin School District. This impacts **21 current students** in the boundary area.

** Two (2) WAWM school board members not present at vote on February 27, 2023*

History

In 1954, by request of 154 New Berlin residents, the decision was made to include a small territory of New Berlin in the WAWM school district.

- The Civil Rights Act, which did not exist at the time, was passed in 1964, 10 years after the annexation.
- New Berlin's population has grown by 657% from 5,334 in 1950 to 40,375 in 2022, according to The Encyclopedia of Milwaukee.
- Three new generations have been born: Gen X, Millennials, and Gen Z.
- The world has undergone significant historical events, such as the construction and fall of the Berlin Wall, the solidification and end of the Cold War, and the first space flight.

Comparison of the Two Districts

	New Berlin School District	West Allis West Milwaukee School District
County	Waukesha County	Milwaukee County
2022-2023 Enrollment	4,186 (April 5, 2023)	7,264 (April 4, 2023)
Size Classification	Medium-Sized District	Large-Sized District
# of Schools in District 2022-2023	Total Number: 6 4 - Elementary 2- Middle / High Schools	Total Number: 19 (16 in 2023-24) 11- Elementary (2 closing) 3 - Middle (1 closing) 2- High Schools 3- Alternative
Open Enrollment Students	71 (May 4, 2023) 0 new seats opened since 20-21	616 (April 4, 2023)

Criteria 1

The geographical and topographical characteristics of the affected school districts, including the estimated travel **time** to and from school for pupils in the school districts.

Criteria 1

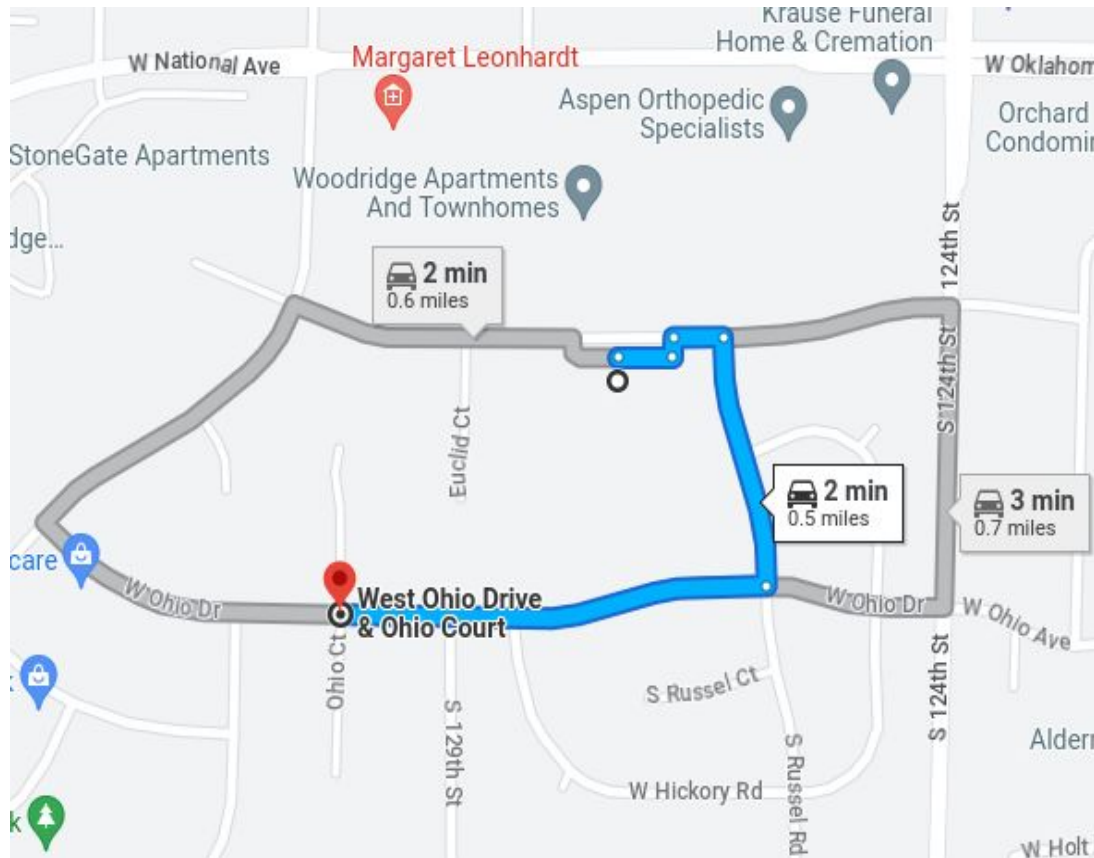
For Criteria 1 we will review:

1. Google Maps of the routes from an intersection in the small territory to assigned schools in WAWM and New Berlin School Districts
2. Study completed on travel TIME (NOT distance) per criteria 1
3. Future road construction impacts for the next 5 years
4. Disruption caused by future WAWM school consolidation and impact on travel times
5. Differences between Waukesha County (New Berlin) and Milwaukee County (West Allis)
6. Additional factors
7. WAWM's denial arguments and the petitioners' counter arguments

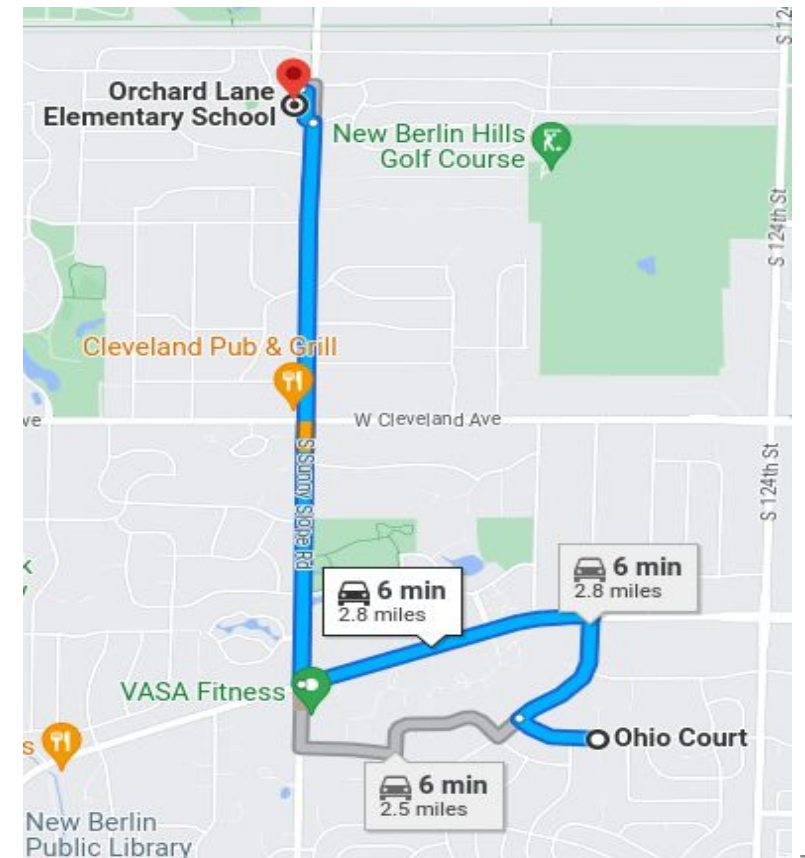
Criteria 1: Time Study

Elementary School Comparison by Shortest Distance and Time: Using Ohio Ct and Ohio Rd and the middle location point within the proposed territory.

To WAWM Hoover: 2 minutes, 0.5 miles



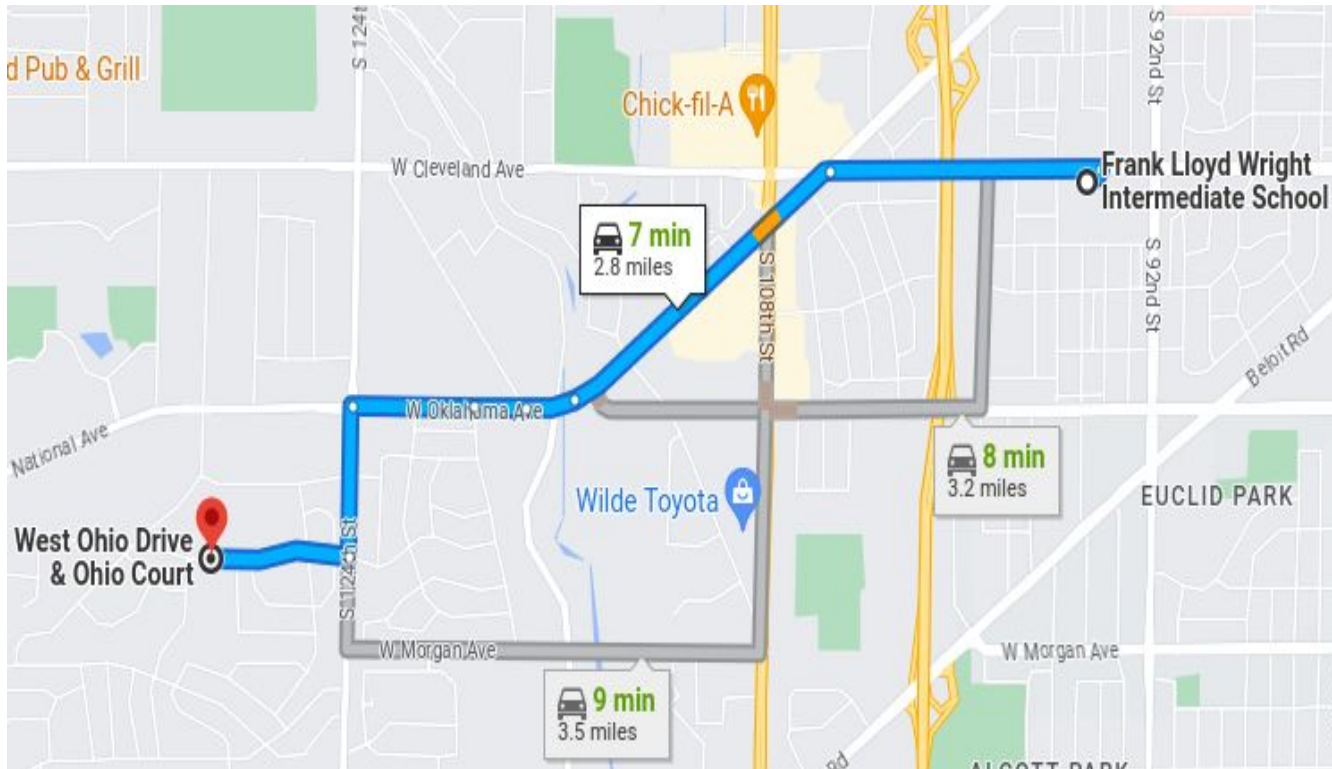
To NB Orchard Lane : 6 minutes, 2.8 miles



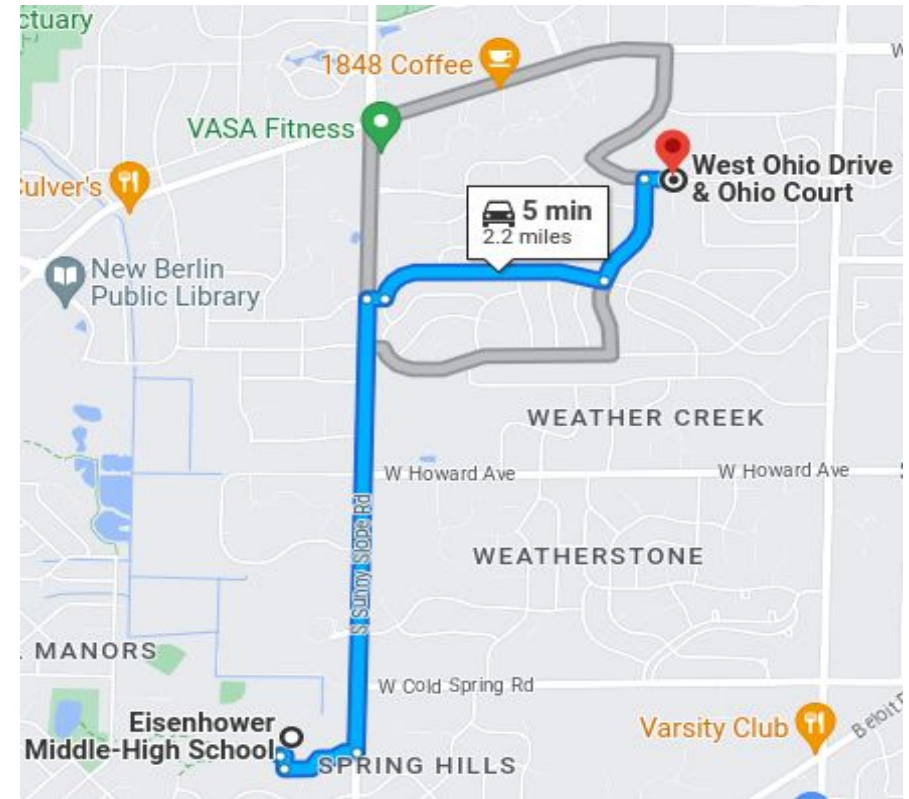
Criteria 1: Time Study

Middle School Comparison by Shortest Distance and Time: Using Ohio Ct and Ohio Rd and the middle location point within the proposed territory

To WAWM Frank Lloyd Wright: 7 minutes, 2.8 miles



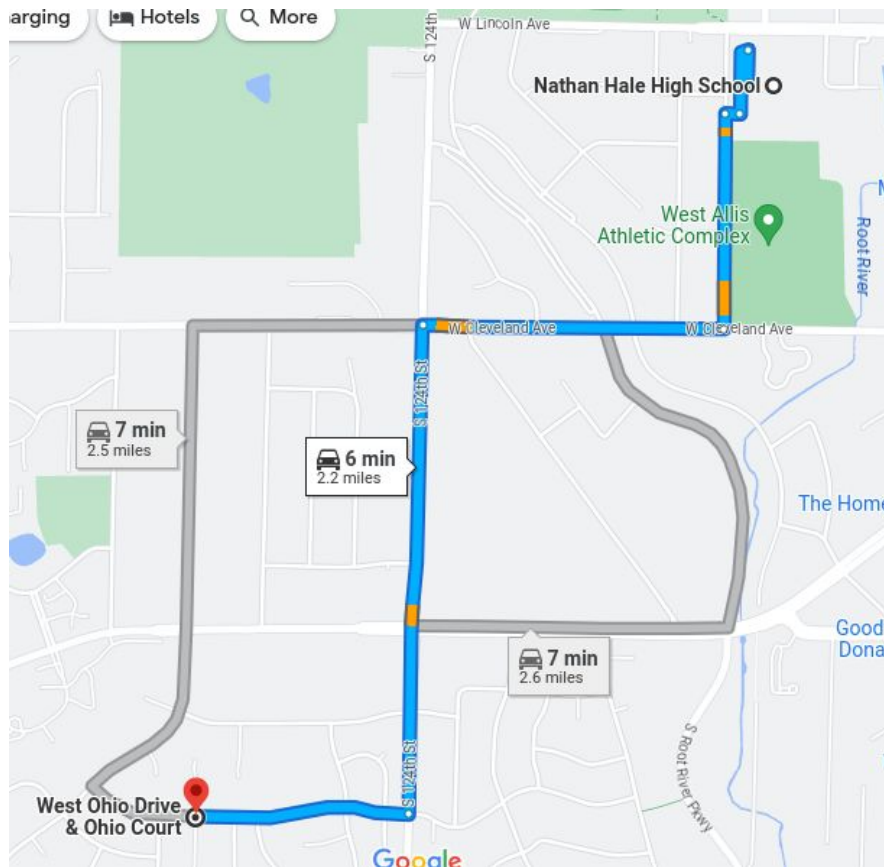
To NB Eisenhower Middle: 5 minutes, 2.2 miles



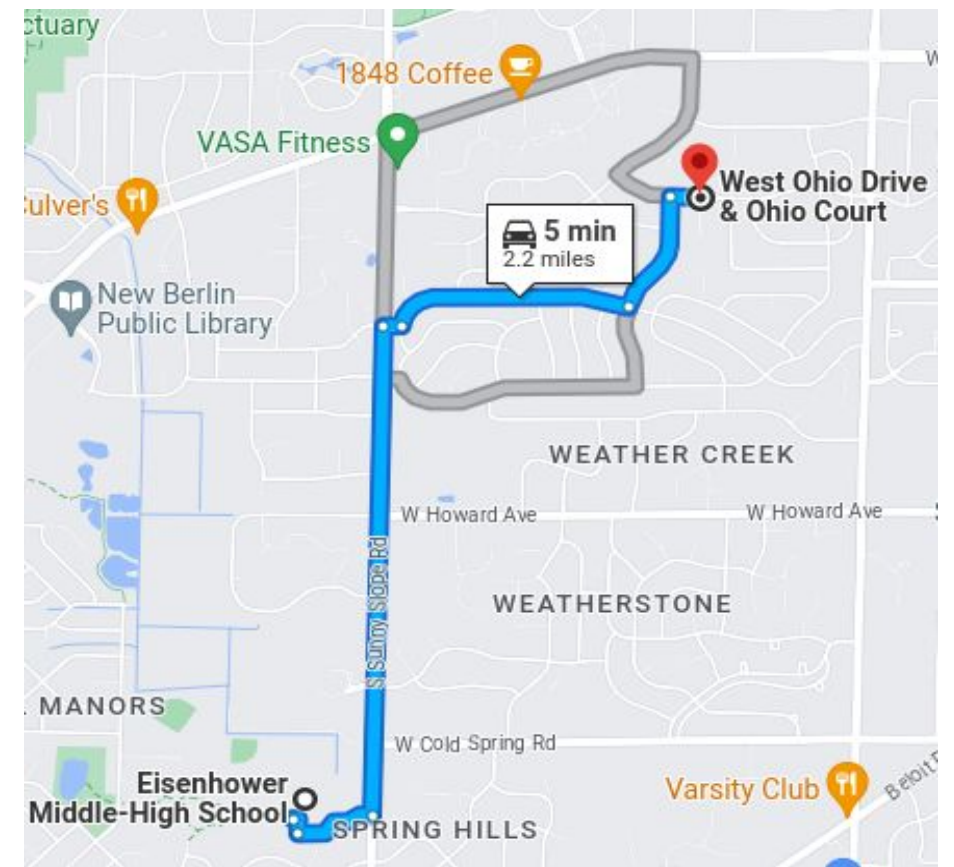
Criteria 1: Time Study

High School Comparison by Shortest Distance and Time: Using Ohio Ct and Ohio Rd and the middle location point within the proposed territory

To WAWM Nathan Hale: 6 minutes, 2.2 miles



To NB Eisenhower High: 5 minutes, 2.2 miles



Criteria 1: Time Study

Morning Time Study: Estimated Travel Times Higher for WAWM District

School	Start Time	End Time	Distance (Intersection of Ohio Ct and Ohio Dr)	7:00 AM	7:10 AM	7:20 AM	7:30 AM	7:40 AM	7:50 AM	8:00 AM	8:10 AM
New Berlin Orchard Lane Elementary	8:15 AM	3:15 PM	2.8	6	6	6	6	6	6	6	6
New Berlin Eisenhower Middle & High	7:25 AM	2:40 PM	2.2	6	6	6	6	6	6	6	6
WAWM Central High School	7:47 AM	3:00 PM	3.4	9	9	9	9	9	9	9	9
WAWM Frank Lloyd Wright	7:45 AM	3:00 PM	2.7	9	7	8	8	8	8	7	7
WAWM Lane Intermediate (Closing)	7:45 AM	3:00 PM	3.8	9	9	9	9	9	9	9	9
WAWM Nathan Hale High School	7:47 AM	3:00 PM	2.2	9	6	6	6	6	6	6	6
WAWM Hoover Elementary	8:30 AM	3:30 PM	0.3	1	1	1	1	1	1	1	1

Criteria 1: Time Study

Afternoon Time Study: Estimated Travel Times Higher for WAWM District

School	Start Time	End Time	Distance (Intersection of Ohio Ct and Ohio Dr)	2:30 PM	2:40 PM	2:50 PM	3:00 PM	3:10 PM	3:20 PM	3:30 PM
New Berlin Orchard Lane Elementary	8:15 AM	3:15 PM	2.8	6	6	6	6	6	6	6
New Berlin Eisenhower Middle & High	7:25 AM	2:40 PM	2.2	6	6	6	6	6	6	6
WAWM Central High School	7:47 AM	3:00 PM	3.4	9	9	9	9	9	9	9
WAWM Frank Lloyd Wright	7:45 AM	3:00 PM	2.7	8	8	8	9	8	8	8
WAMW Lane Intermediate (Closing)	7:45 AM	3:00 PM	3.8	9	9	9	9	9	9	9
WAWM Nathan Hale High School	7:47 AM	3:00 PM	2.2	6	6	6	6	6	6	6
WAWM Hoover Elementary	8:30 AM	3:30 PM	0.3	2	2	2	2	3	3	3

Criteria 1

5 Year Planned Road Projects in West Allis to Potentially Increase Travel Times, specifically to Frank Lloyd Wright Middle School: National Ave and Lincoln Ave



Criteria 1

Future school consolidation and disruption of WAWM Schools:

- Previous WAWM Denial Reason: In a previous denial of changing boundaries signed by the WAWM School Board on February 24, 2021, the denial stated, *“because there is no need for boundaries to be redrawn this would cause family and student disruption...”* ([Wisconsin DPI](#))
- Less than 1.5 years after that denial, in June 2022 the WAWM School Board voted to close three (3) schools and consolidate them with other WAWM schools **saving the district \$1 million** ([WISN Article](#)). Boundaries will be altered. This will cause significant disruption to families and students. These schools are:
 - Lane Intermediate to merge with Frank Lloyd Wright Intermediate
 - Longfellow Elementary to merge with Jefferson and Pershing Elementary
 - Madison Elementary to merge with Walker Elementary

Criteria 1

Future school consolidation and disruption of WAWM Schools:

- **Future Consolidations:** See following slides from consolidation workshop in April 2022 “Develop a short-term (1-4 years), mid-term (5-15 years) and long term (15-30 years) sequence of events establishing the necessary stages of design, construction, redevelopment, and/or remodeling activity”
- **Robust Transition Plans:** In an article written by WISN 12 News, Noah Leigh (WAWM School Board President) is quoted saying, "There will be robust transition plans that are put in place for our families, our students and our staff to ensure that these transitions are as painless as possible, but obviously, they cannot be 100% painless,". His comment recognizes that there is current family and student disruptions due to the redistricting of the West Allis West Milwaukee School District. [Parents concerned about West Allis-West Milwaukee school merger plan \(wisn.com\)](https://www.wisn.com/story/news/education/2022/04/28/wawm-school-merger-plan/7018232002/)
- **Ending the Era of Current Schools:** WAWM District officials said they're working with the community on the transition process, and respectfully ending the era of the current schools in the 2026-27 school year ([Channel 58 WDJT-Milwaukee](https://www.wisn.com/story/news/education/2022/04/28/wawm-school-merger-plan/7018232002/))

Criteria 1

WAWM stated that they do not plan on closing Hoover as one of the additional elementary schools, but they still have not shared which school it could be. If a school is consolidated and moved to Hoover, this will increase traffic and travel times.

Option 2 - Summary

Option 2: Consolidation of One Intermediate and Two Elementaries

- Lane Intermediate to consolidate beginning in the 2023-24 School Year
- Longfellow Elementary to consolidate beginning in the 2023-24 School Year
- *Additional Elementary to consolidate beginning in the 2024-25 School Year*



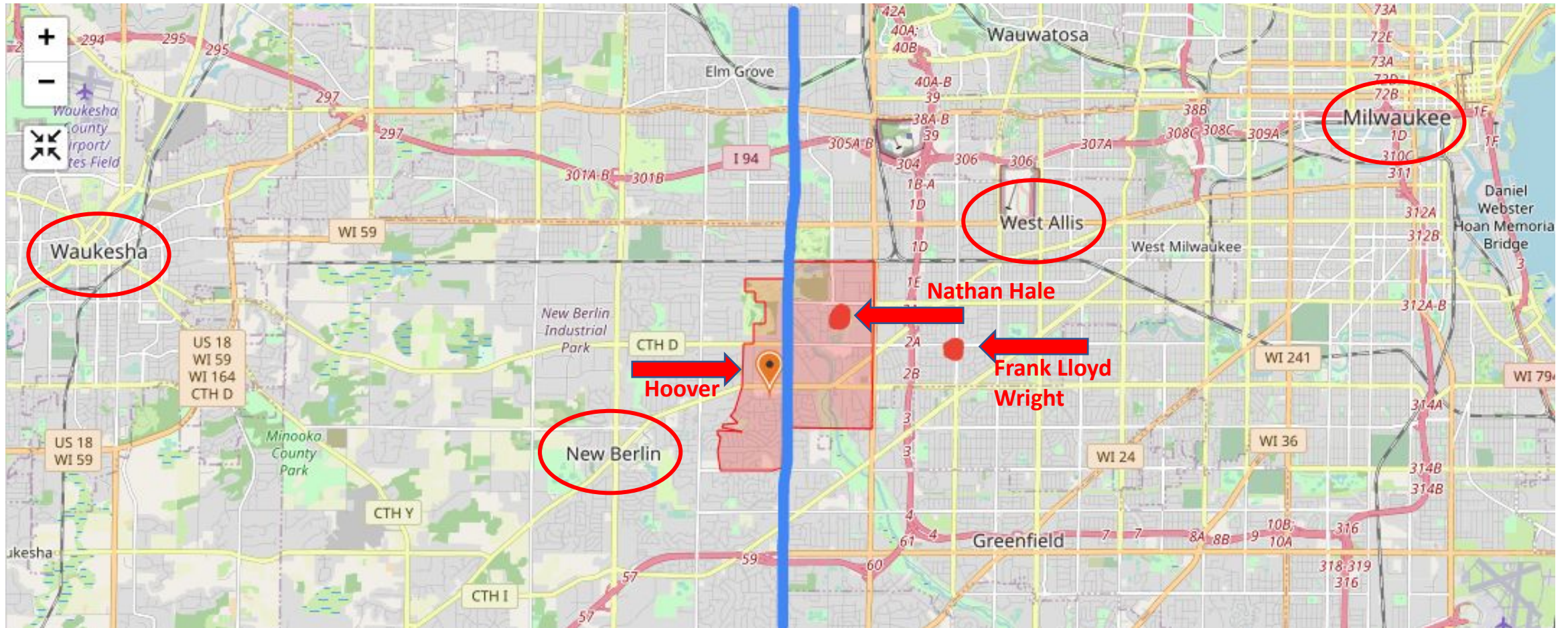
Criteria 1

Milwaukee County vs. Waukesha County

- Hoover Elementary's location in New Berlin presents several challenges as the school is the only WAWM school in **Waukesha County**. All other WAWM schools are in **Milwaukee County**. The address is 12705 W Euclid Ave, New Berlin, WI 53151.
- The decisions that WAWM makes in regards to school closures and health related concerns are all determined by Milwaukee County, which is not the county that the residents in this territory live. Examples include:
 - Snow days
 - Voting Days
 - Covid-19 for the 2020-2021 school year, WAWM remained virtual (per Milwaukee County Health Department) whereas SDNB (Waukesha Health Department) went back to in-person learning, wearing masks and following other safety protocols

Criteria 1

Waukesha County vs. Milwaukee County



Criteria 1: Waukesha County

Paul Bugenhagen Jr	WAUKESHA COUNTY CIRCUIT COURT JUDGE BRANCH 10	Waukesha County Circuit Court Judge
William Domina	WAUKESHA COUNTY CIRCUIT COURT JUDGE BRANCH 11	Waukesha County Circuit Court Judge
Laura Lau	WAUKESHA COUNTY CIRCUIT COURT JUDGE BRANCH 12	Waukesha County Circuit Court Judge
Meg Wartman	Waukesha County Clerk	Waukesha County
Pamela Reeves	Waukesha County Treasurer	Waukesha County
James R Behrend	Waukesha County Register of Deeds	Waukesha County
Vacant	Waukesha County Sheriff	Waukesha County
Vacant	Waukesha County Clerk of Circuit Court	Waukesha County
Joel R. Gaughan	Waukesha County Supervisor District 21	Waukesha County Supervisory District 21
David A. Ament	New Berlin Mayor	City of New Berlin
Joseph J. Dorlack	New Berlin Municipal Judge	City of New Berlin
Dennis Horbinski	New Berlin Alderperson District 6	New Berlin Aldermanic District 6

*Information gathered from <https://myvote.wi.gov/en-us/My-Elected-Officials>

Criteria 1

Waukesha County

Lisa S. Neubauer	COURT OF APPEALS JUDGE DISTRICT 2	Court of Appeals - District 2
Susan L. Opper	WAUKESHA COUNTY DISTRICT ATTORNEY	Waukesha County District Attorney
Michael O. Bohren	WAUKESHA COUNTY CIRCUIT COURT JUDGE BRANCH 1	Waukesha County Circuit Court Judge
Jennifer R. Dorow	WAUKESHA COUNTY CIRCUIT COURT JUDGE BRANCH 2	Waukesha County Circuit Court Judge
Ralph M. Ramirez	WAUKESHA COUNTY CIRCUIT COURT JUDGE BRANCH 3	Waukesha County Circuit Court Judge
Lloyd V. Carter	WAUKESHA COUNTY CIRCUIT COURT JUDGE BRANCH 4	Waukesha County Circuit Court Judge
Jack Melvin	WAUKESHA COUNTY CIRCUIT COURT JUDGE BRANCH 5	Waukesha County Circuit Court Judge
Brad Schimel	WAUKESHA COUNTY CIRCUIT COURT JUDGE BRANCH 6	Waukesha County Circuit Court Judge
Frederick Stampe	WAUKESHA COUNTY CIRCUIT COURT JUDGE BRANCH 7	Waukesha County Circuit Court Judge
Fred Strampe	WAUKESHA COUNTY CIRCUIT COURT JUDGE BRANCH 7	Waukesha County Circuit Court Judge
Michael P. Maxwell	WAUKESHA COUNTY CIRCUIT COURT JUDGE BRANCH 8	Waukesha County Circuit Court Judge
Michael J.	WAUKESHA COUNTY CIRCUIT COURT JUDGE BRANCH	Waukesha County Circuit Court

Milwaukee County

Jeffrey Sikich	West Allis-West Milwaukee School District School Board Member	West Allis-West Milwaukee School District
REBECCA S LEE	West Allis-West Milwaukee School District School Board Member	West Allis-West Milwaukee School District
JOE BECKER	West Allis-West Milwaukee School District School Board Member	West Allis-West Milwaukee School District
Vacant	West Allis-West Milwaukee School District School Board Member	West Allis-West Milwaukee School District
Vacant	West Allis-West Milwaukee School District School Board Member	West Allis-West Milwaukee School District
Vacant	West Allis-West Milwaukee School District School Board Member	West Allis-West Milwaukee School District
Jane Carr	West Allis-West Milwaukee School District School Board Member	West Allis-West Milwaukee School District
Amy Deal	West Allis-West Milwaukee School District School Board Member	West Allis-West Milwaukee School District
Brendan Burns	West Allis-West Milwaukee School District School Board Member	West Allis-West Milwaukee School District

*Information gathered from <https://myvote.wi.gov/en-us/My-Elected-Officials>

Criteria 1: WAWM Denial Reasoning

Waukesha County vs. Milwaukee County

Historical Background

- “West Allis officials voiced opposition to including the position of New Berlin, Waukesha County in the West Allis School System.”
- “After much discussion, the County School Committee took action. A motion was made to consolidate... and Joint School District No. 6 of the Town of Greenfield in Milwaukee County and the Town of New Berlin in Waukesha county (Parkway District) with the School District of the city of West Allis.”

(*100 Years of the West West Allis and West Milwaukee Schools*. Pages 66-70) ([HERE](#))

(October, 1985 letter and enclosures from State Superintendent Herbert J. Grover to West Allis School District, District Administrator, Sam Castagna) ([HERE](#))



Criteria 1: Petitioner Counter Argument

The WAWM school district failed to meet the criteria, as their argument focused on travel distance rather than travel time. In contrast, the petitioners' presentation included travel times to and from schools, which aligned with the criteria. It should be noted that the criteria specifically refers to travel time, rather than distance.

Wisconsin State Legislature Criteria (#1)

Distance to WAWM Schools from 12765 W. Hickory Road:

Hoover Elementary: **.4 Miles**

Frank Lloyd Wright Intermediate: **2.7 Miles**

Nathan Hale High School: **2.3 Miles**

Distance to New Berlin Schools from 12765 W. Hickory Road:

Orchard Lane Elementary: **2.8 Miles**

Eisenhower Middle School: **2.4 Miles**

Eisenhower High School: **2.4 Miles**

Wisconsin State Legislature Criteria (#1)

Annual Miles Traveled to School

Elementary Annual Travel	West Allis (171 Days)	New Berlin (176 Days)
	68.4 miles	492.8 miles
Middle School Annual Travel	West Allis (174 Days)	New Berlin (176 Days)
	469.8 miles	422.4 miles
High School Annual Travel	West Allis (174 Days)	New Berlin (176 Days)
	400.2 miles	422.4 miles



*Information gathered from WAWM Denial/Resolution letter distributed to petitioners and the denial presentation from WAWM

Criteria 2

The educational needs of all of the children residing in the affected school districts, the educational programs currently offered by each affected school district and the ability and commitment of each school district to meet those needs and continue to offer those educational programs.



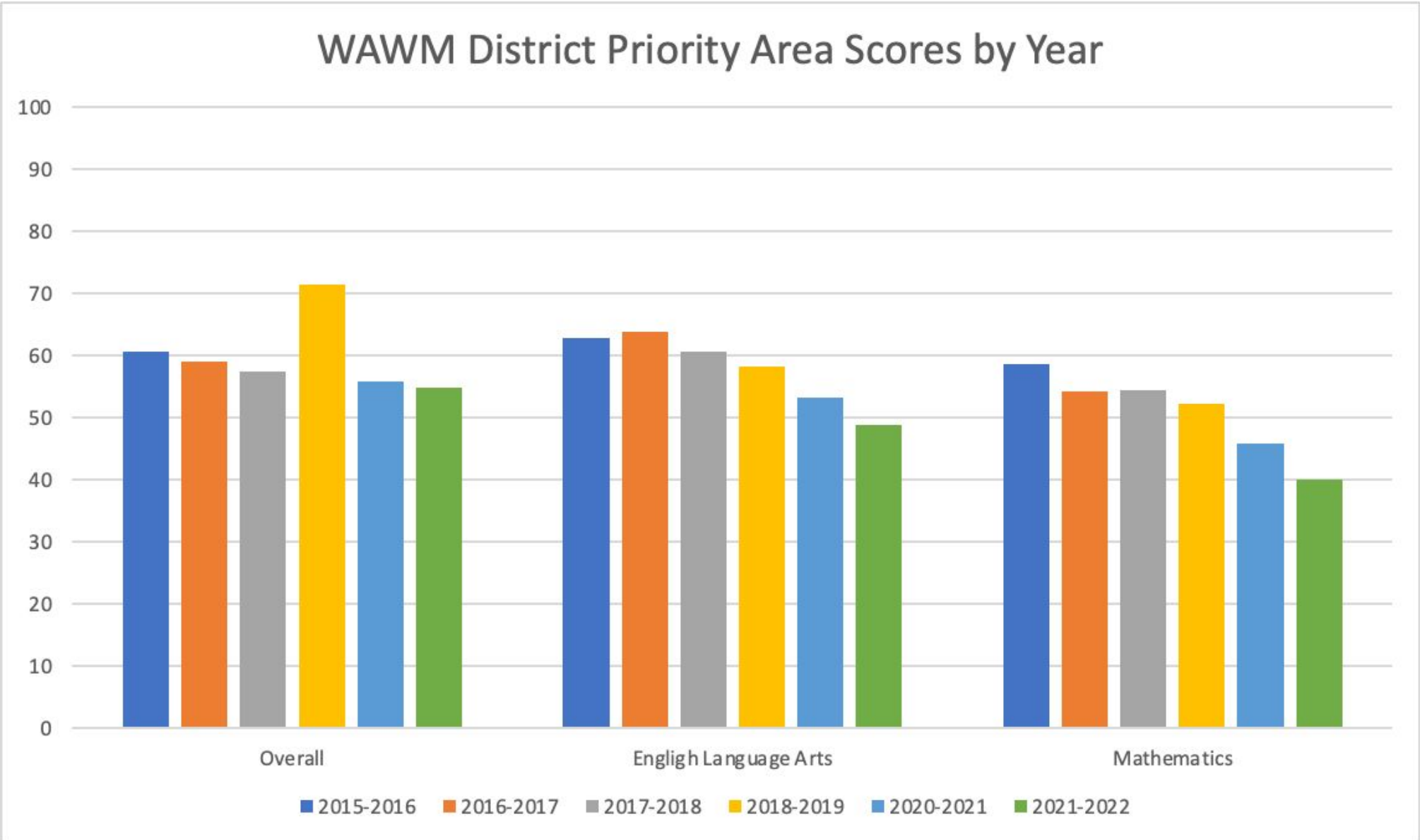
Quote during search for WAWM superintendent at listening session on February 6th, 2023

“We have a lot of work to do. Ladies and gentlemen, we have a lot of work to do. I’ve looked at the data.”

- Dr. Tarrynce Robinson, future WAWM superintendent

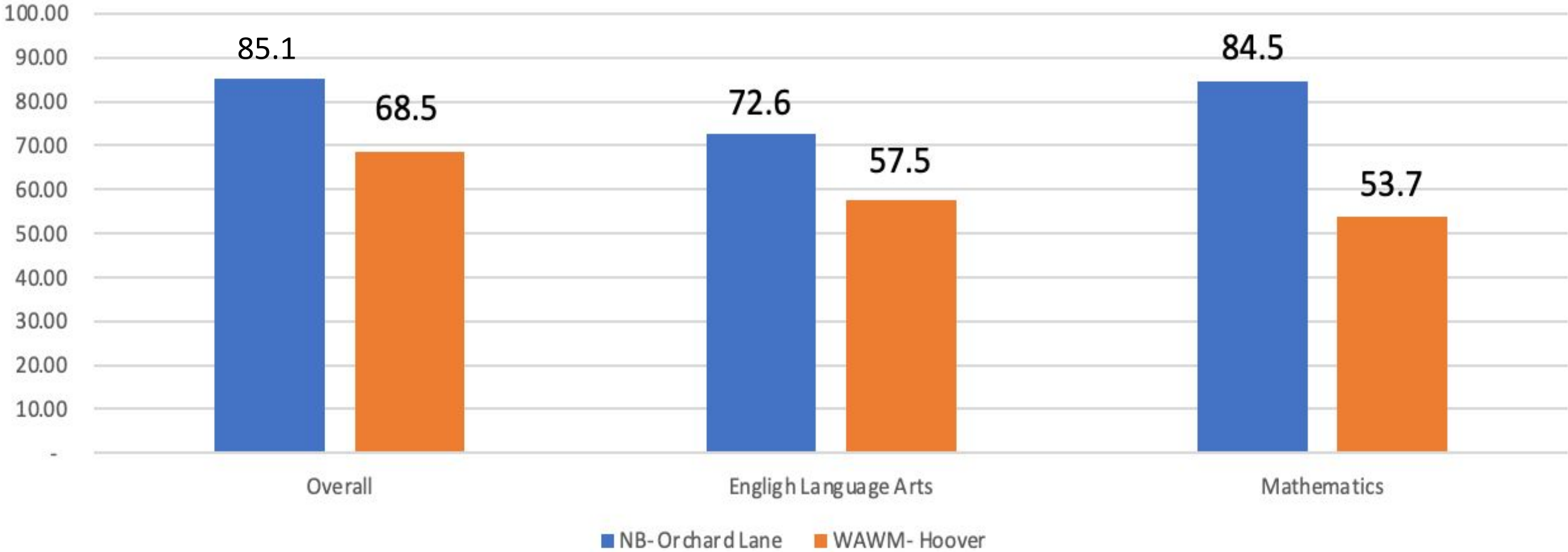


Criteria 2



Criteria 2

Elementary School Comparison- WAWM and NB 2021-2022



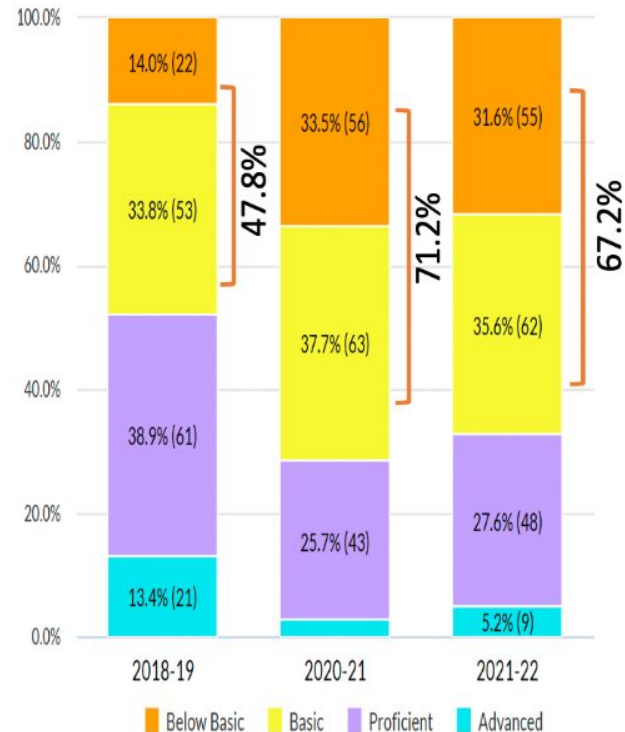
Criteria 2: Performance Levels Comparison

WAWM- Hoover

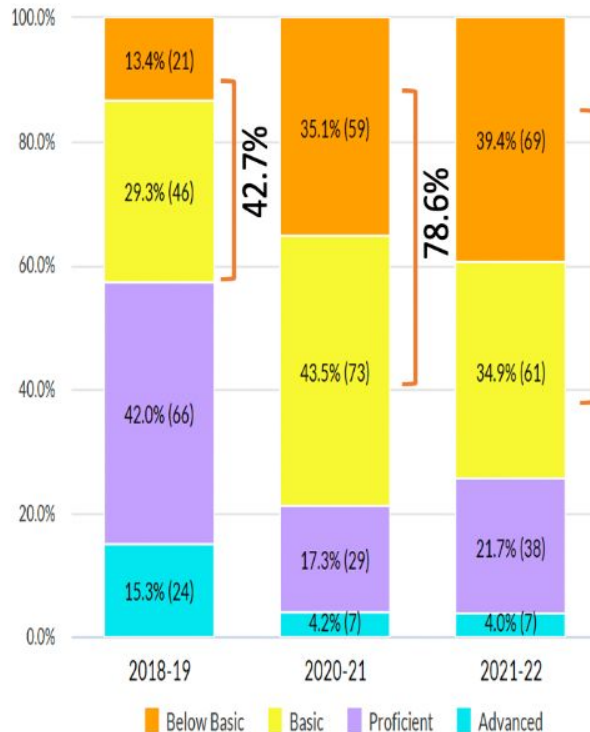
Performance Levels by Year

These graphs show school-wide percentages and group sizes of students performing at each level.

ENGLISH LANGUAGE ARTS



MATHEMATICS

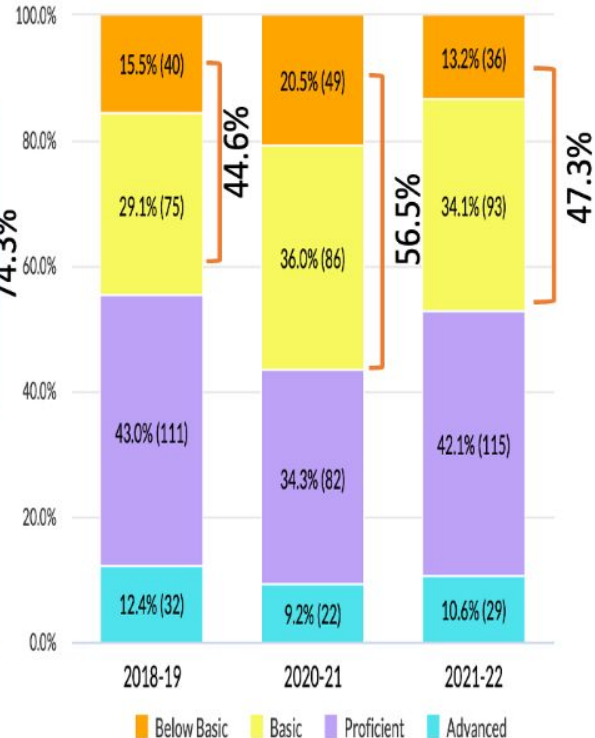


NB- Orchard Lane

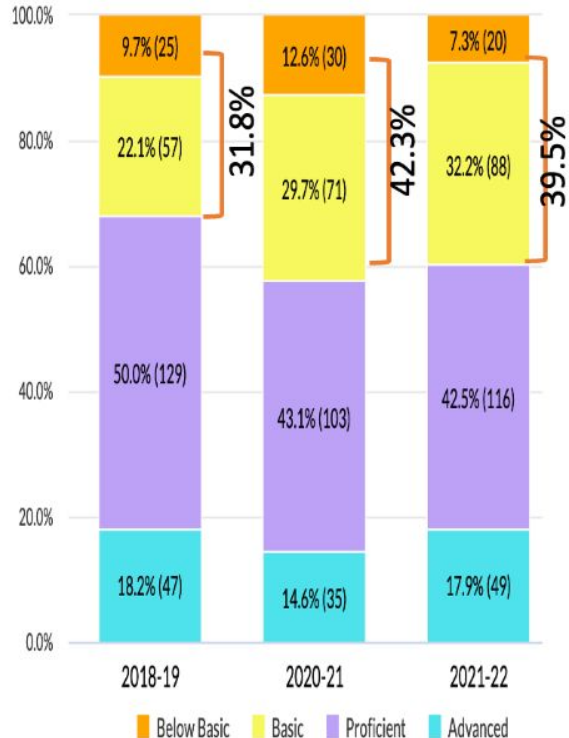
Performance Levels by Year

These graphs show school-wide percentages and group sizes of students performing at each level.

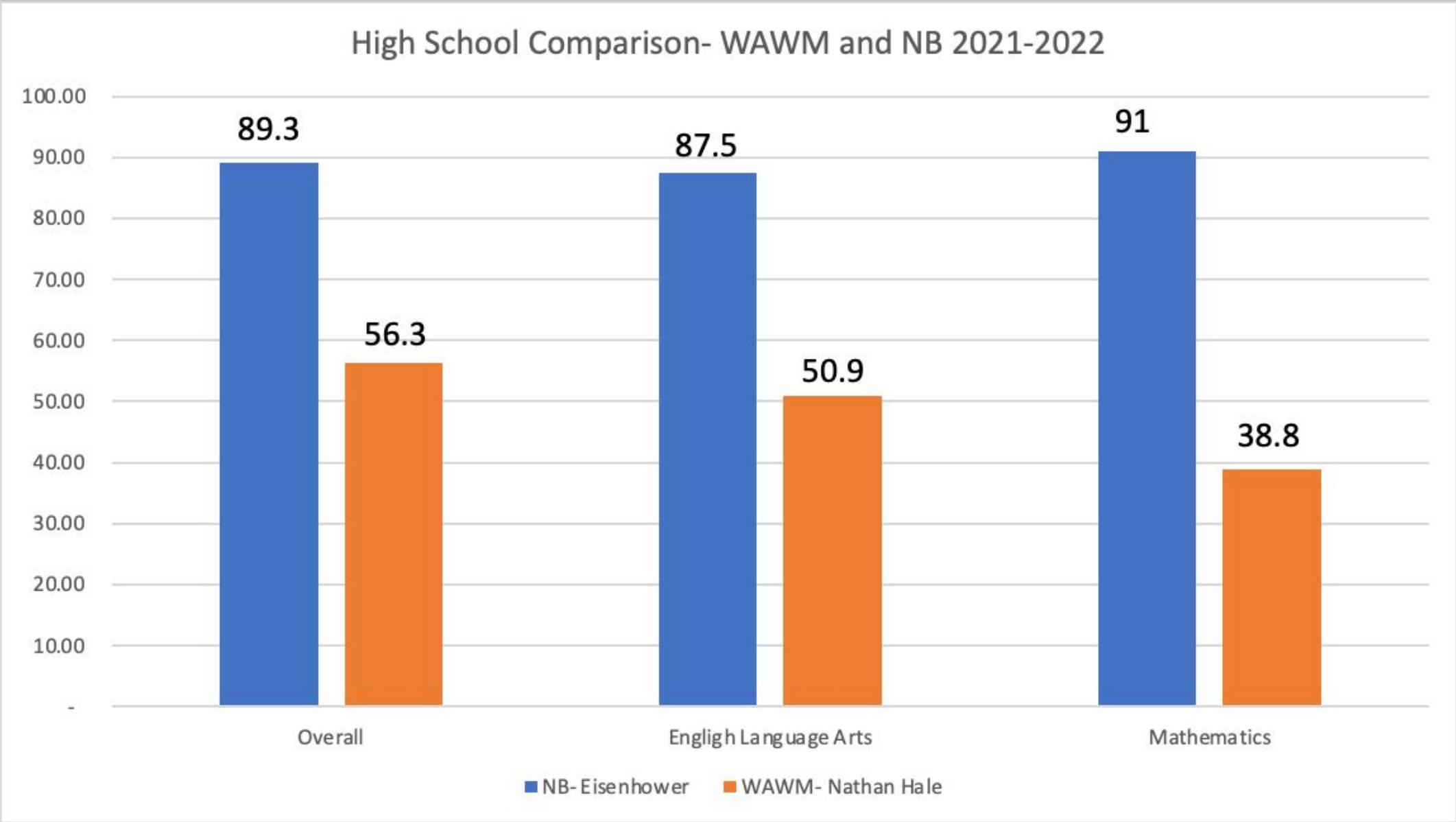
ENGLISH LANGUAGE ARTS



MATHEMATICS



Criteria 2



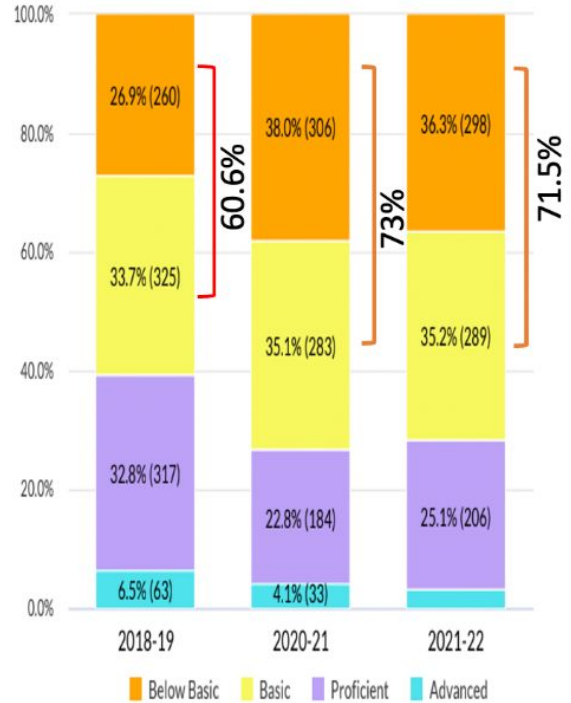
Criteria 2: Performance Levels Comparison

WAWM- Nathan Hale

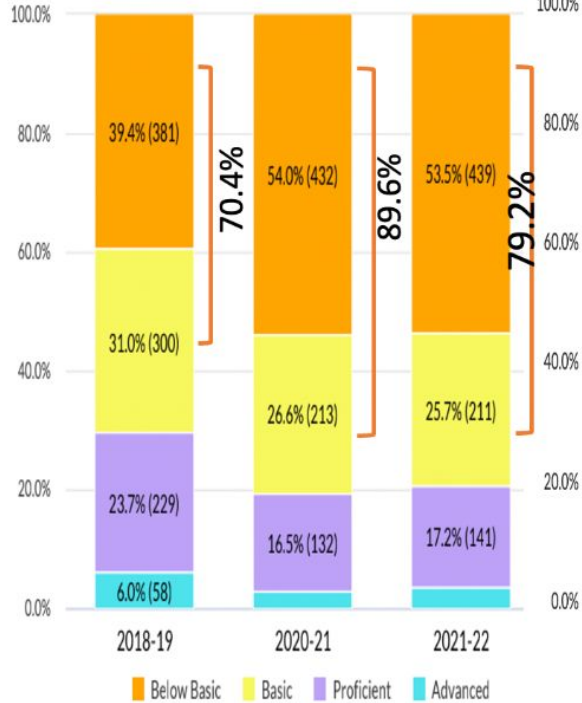
Performance Levels by Year

These graphs show school-wide percentages and group sizes of students performing at each level.

ENGLISH LANGUAGE ARTS



MATHEMATICS



NB- Eisenhower

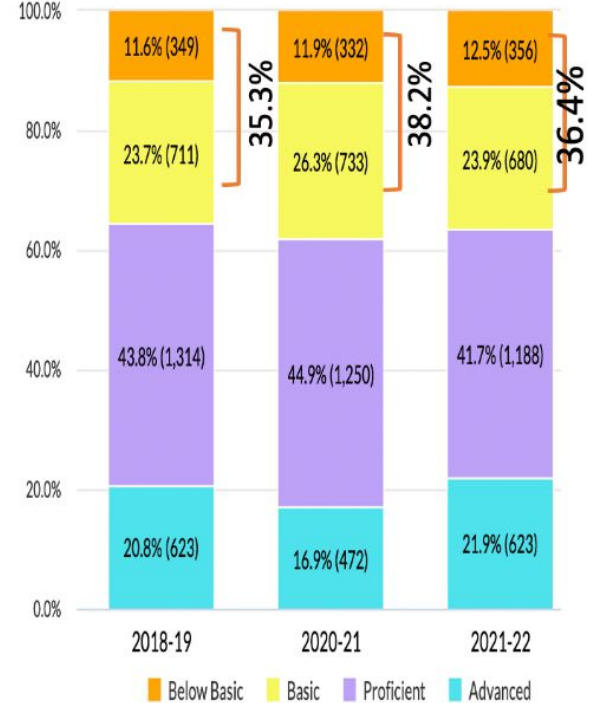
Performance Levels by Year

These graphs show district-wide percentages and group sizes of students performing at each level.

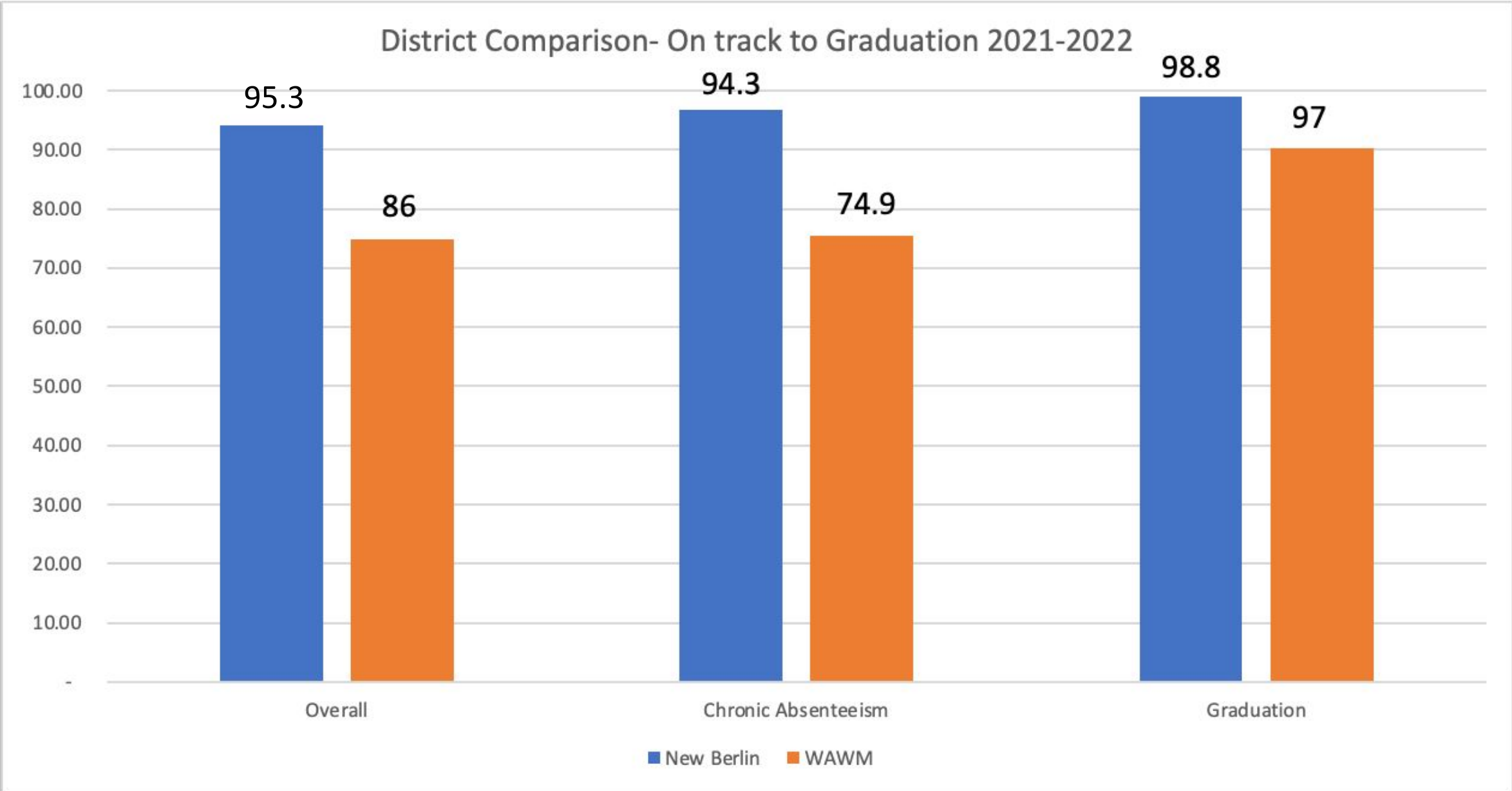
ENGLISH LANGUAGE ARTS



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Criteria 2



Criteria 2: WAWM Denial Reasoning

context of these demographic realities. While New Berlin Schools outperform our schools, high school students compare well to their New Berlin counterparts and actually outperform them. In 3rd to 5th grade math New Berlin students at Hoover outperform all Hoover students but underperform compared to New Berlin students at Orchard Lane.

Wisconsin State Legislature Criteria (#2)

Math ACT Aspire Comparison 2021-2022
9th - 10th Grade (Current 10th - 11th Grade)

School	% Below Basic	% Basic	% Proficient / Advanced
Nathan Hale High School	49.4%	24.2%	19.5%
New Berlin Students at Nathan Hale	35.7%	28.6%	35.7%
New Berlin West High	14.8%	21.7%	57.2%
New Berlin Eisenhower	8.4%	15.1%	71.5%

Wisconsin State Legislature Criteria (#2)

ELA ACT Aspire Comparison 2021-2022
9th - 10th Grade (Current 10th - 11th Grade)

School	% Below Basic	% Basic	% Proficient / Advanced
Nathan Hale High School	29.9%	34.5%	25.7%
New Berlin Students at Nathan Hale	21.4%	21.4%	57.1%
New Berlin West High	12.7	28.3%	52.4%
New Berlin Eisenhower	6.7%	17.7%	71.5%

*Information gathered from WAWM Denial/Resolution letter distributed to petitioners and the denial presentation from WAWM

Criteria 2: WAWM Denial Reasoning

Petitioners referenced high teacher turnover. The District has tracked voluntary teacher turnover and voluntary teacher turnover for 21-22 was 18.2% (about the national average) and turnover from July 2022 - December 2022 is 6.9%, which is trending downward.

	Effective Current School Year	Effect After 22-23 School Year	Termination
April Resignations	2	1	0
March Resignations	5	3	1
February Resignations	4	6	0
January Resignations	4	6	0
Total 32	15	16	1

This does not include the number of staff that is retiring, and only includes resignations that were available from posted minutes (which is not EVERY meeting)

*Information gathered from WAWM Denial/Resolution letter distributed to petitioners

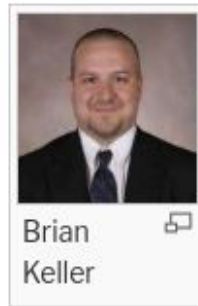
Criteria 2: Petitioner Counter Argument

High Turnover of Teachers

In a report from 2017-2018 posted on the DPI website, West Allis created a plan to address the high teacher turnover within the district, stating that it is due to “difficult climate and culture.” In return the district has noted there is a large number of 1st year teachers or staff with emergency licenses. [DPI](#)

February candidate forum

All five candidates who ran for a seat on the West Allis-West Milwaukee school board participated in a candidate forum for members of the West Allis-West Milwaukee Education Association on February 15, 2017. They discussed teacher turnover, performance pay, and the expansion of school vouchers.^[5]



Incumbent [Dan Bailey](#) told teachers in the audience, "I don't think you have the voice you need to have." Both he and challenger [Brian Keller](#) discussed the need to appreciate that teachers know how to do their jobs. Keller also said that the district needed to make a stronger effort to retain teachers.^[5]

"We need to get to the root of why teachers are leaving," Keller said. "Tackle those problems and get rid of them." He said reducing turnover would reduce costs.^[5]



West Allis-West Milwaukee School District area school district
sees 'alarming number' of teachers leaving

"We're seeing numbers that are alarming"



Updated: 12:20 PM CDT Aug 26, 2014

Criteria 2: Petitioner Counter Argument

WAWM Teacher Engagement Survey

- In a survey given to staff and posted on the WAWM SD website it state that only 59% of the staff would recommend this district to a parent. Questions 14 was placed in the five lowest item means on the survey. [WAWM EE Result Reports Fall 2021.pdf - Google Drive](#)

Table 6. Areas for Improvement: Five Lowest Item Means across All Survey Items

	Mean	Top Box
11. The superintendent manages district finances effectively.	3.28	12.45%
13. The superintendent makes decisions that are in the best interest of the school district.	3.27	13.23%
C1. My school district supports honest two-way communication between supervisors and employees.	3.12	13.02%
C3. Open and honest communication is an important part of the culture in my school district.	3.12	13.77%
14. If given a choice, I would recommend that a parent select this district for his or her child.	2.99	10.92%



Criteria 3

If territory is proposed to be detached from one school district and attached to an adjoining school district, whether **the proposed detachment will have any adverse effect on the program currently offered** by the school district from which the territory is proposed to be detached, **including both curricular and extracurricular aspects of that program.**



Criteria 3: Class sizes

“We also know that if we want to get our kids caught up and achieving at their highest potential, then we need to reduce and keep class sizes small”

- **Governor Tony Evers, State of the State Address, January 2023**



Criteria 3

New Berlin detachment will HELP WAWM due to WAWM overcrowding projections and WAWM Consolidation Master Plan

- March 2022: “WAWM School District officials said if this referendum doesn't pass, they'll have to squeeze more kids into classrooms and continue to make more repairs on buildings they say are well beyond their expiration dates” [CBS58.com](https://www.cbs58.com)
- March 2022: **Former District Operations Director Caitlin Windler** "The only way to make such large investments in our current operating budget is to cut programs and increase class sizes," said Windler [CBS58.com](https://www.cbs58.com)

Criteria 3

- In a Community Information Session presentation to the West Allis community, it was stated that if the April 2022 Referendum failed, the WAWM will not be able to offer competitive athletics, renovated spaces for CTE and performing arts, and will be educating students in old facilities compared to neighboring school districts. (*Presentation Community Information Sessions prior to April 2022 Referendum*)
- **Missed Opportunity:** Lane Middle School is closing this year. Instead of selling it to an interested buyer, the WAWM School District is leasing it to the West Allis Recreation Department. This proposal, which can be found on the WAWM school district website, still requires that the building be remodeled and rezoned, which is requiring the recreation tax levy to increase. With this increase, we do not anticipate any community recreational programs to be cut.
- WAWM denial resolution stated that: The district's school consolidations will not cause overcrowding. The schools receiving new students have had as many and even more students in the past. Overcrowding is not a projected concern for the district. **This is not what WAWM expressed prior to the referendum and prior to this petition to detach.**

Criteria 3: WAWM Denial Reasoning

Wisconsin State Legislature Criteria (#3 & 8)

WAWM Compared to New Berlin Class Size Targets

- Another slide from WAWM School Board presentation February 27, 2023.
- Provides future projections from 2017/18 school year for WAWM and NB
- Includes hyperlink to the source of data

WAWM

Grade	Planned Class Max	Fill to	92% of Class Max	Planned Stud/Sec
4K	20	92%	18.4	18
KG	22	92%	20.24	20
1	24	92%	22.08	22
2	24	92%	22.08	22
3	24	92%	22.08	22
4	27	92%	24.84	25
5	27	92%	24.84	25
Average	24			22.0

[New Berlin](#)

Grade	Planned Class Max	Fill to	92% of Class Max	Optimal Stud/Sec
4K	26	90%	23.4	23
KG	26	90%	23.4	20
1	26	90%	23.4	22
2	26	90%	23.4	22
3	30	90%	27	22
4	30	90%	27	25
5	30	90%	27	25
Average	28			22.7



*Information gathered from WAWM Denial/Resolution letter distributed to petitioners and the denial presentation from WAWM

Criteria 3: Petitioner Counter Argument

- In their denial, WAWM says target class sizes are considerably lower now than in New Berlin. **The data shows that this is not true.**
- SDNB CFO has stated that current average class size at Orchard Lane is 22 students, not 30

2017-18 Elementary Class Sizes

	KPA	Kindergarten					Total K	Gr. 1					Total 1	Gr. 2					Total 2	Gr. 3					Total 3
Current Enrollment 17/18																									
	KPA	Kindergarten					Total K	Gr. 1					Total 1	Gr. 2					Total 2	Gr. 3					Total 3
ELM		24	25	24		x	73	26	26	25		x	77	23	23	21		x	67	21	22	20	21	x	84
OL		25	23	24	x	x	72	21	21	22	x	x	64	19	20	18	x	x	57	23	23	23	x	x	69
PC		19	18	18	x	x	55	17	19	17	18	x	71	19	19	19	x	x	57	22	23	21	x	x	66
RR	13	22	21	23	21		87	19	19	20	19		77	22	21	21	22		86	21	20	22	23		86
Projected Enrollment 18/19 (current enrollment advanced 1 grade + new registrants)																									
	KPA	Kindergarten					Total K	Gr. 1					Total 1	Gr. 2					Total 2	Gr. 3					Total 3
ELM	6	29	*	*		x	29	25	25	25		x	75	26	26	26		x	78	23	23	23		x	69
OL	1	37	*	*	x	x	37	24	23	23	x	x	70	21	21	22	x	x	64	19	20	18	x	x	57
PC	4	25	*	*	x	x	25	19	19	18	x	x	56	18	19	18	19	x	74	20	19	19	x	x	58
RR	2	34	*	*	*		34	22	21	23	21		87	20	19	20	19		78	22	21	21	22		86

Criteria 3: Petitioner Counter Argument

- The claims WAWM made against New Berlin's class sizes and student teacher ratio are false
- Current average class at NB's Orchard Lane is **22** in grades K-6
- **Student to regular education staff ratio at NB Eisenhower** is approximately **18** (1,034 students to 56 regular education staff -this does not including special education staff/counselors)
- WAWM denial resolution letter it stated: "Reduce High School enrollment, making it more difficult to offer competitive athletic programs"
 - The proposed territory that we represent contains **21 students** across all grades, so under two students per grade level on average. Impact to high school enrollment will be **minimal**.

Criteria 4

The testimony of and written statements filed by the residents of the affected school districts.

Criteria 4: Testimonies

- 89% of the households and/or electors we talked to signed the petition.
- Google Forms survey of residents in affected area responded:

Question: What concerns do you have about WAWM School District?

- *“Horribly rated schools, does not offer as many resources, because of this makes new berlin home values much lower and harder to sell.”*
- *“Their ability to provide quality education that rivals or matches neighboring districts. Mismanagement of funds. Their inability to provide a safe environment for learners”*
- *“I’m concerned that my children’s long-term potential will be impacted by the decreasing investment in their educational futures by recent cuts to WAWM’s sports, arts, and core educational programming”.*
- *“If left with the choice to remain in the neighborhood we love and go through the WAWM district or move to a better district, we will move. This is a result of down-trending student test scores and unacceptable violence in WAWM schools.”*
- *From a parent of a WAWM elementary student: “Safety. It seems all administration has time to do is keep everyone safe and that’s not even working all of the time”*

Criteria 4: Testimonies (Con't.)

Question: What concerns to you have about joining the New Berlin School District?

- *“None. We live in New Berlin and should be able to leverage our cities school. This provides a sense of community and unity. “*

Other Testimony

- *“We recommend approval of the WAWM citizen petition to alter school district boundaries” SDNB board*
- *"Denying these residents the option to join the New Berlin School District is denying these residents the right to choose the best educational opportunity for their children"-
State Representative, Dave Maxey*

Criteria 5

The estimated fiscal effect of the proposed reorganization on the affected school districts, including the effect of the apportionment of assets and liabilities.

Criteria 5

Open Records Request to WAWM submitted on 2/6/2023:

- How much money does the WAWM School District receive from the households or territory listed on the petition?
- How much money does the WAWM School District receive in state aid for the 21 students attending the WAWM school district in the households or territory listed on the petition.
- What additional money does the WAWM School District receive for students living in the territory but do not attend the WAWM school district?

Teacher survey:

In the Employee Engagement Survey given in Fall 2021 posted in the WAWM SD website, question #11 scored in the lowest category which stated from teachers that “the superintendent manages district finances effectively” the 57% of staff members chose mixed feelings, disagree or strongly disagree.

Missed Opportunity for Additional Revenue and Lower Operating Costs: Selling Lane Intermediate School [JSOnline Article](#)

Mike Zarling spoke to the board during an Oct. 24 meeting about his church's offer to purchase the Lane Intermediate School building. Zarling is a West Allis resident and member of Living Hope Lutheran Church in West Allis.

Zarling said that while the church had previously submitted a private offer to the board, the church wanted to make its offer public so that all options for the school building could be considered. He said the church's previous requests to meet with the board to discuss its offer had been declined.

Zarling did not disclose the price nor the specific terms of the church's offer.

"We would like to publicly state that, among other things, our offer increases the tax rolls by returning our several properties that we have around the city, which are currently exempt from tax rolls. It is also compliant with the current zoning of the site, which I'm told that the rec center is not currently by the city of West Allis under that current zoning. And it provides more money to the school district, the physical offer that was made," Zarling said.

Criteria 5

- In the last school year, 1,353 WAWM residents chose to leave the WAWM School District and open enroll in other school districts, causing the WAWM school district to lose \$4.8 million in state aid.
- In the last school year, 748 pupils enrolled into the WAWM School District. Per each open enrollment pupil, the WAWM School District receives significantly less than the state aid given per pupil.
- Per the DPI Open Enrollment Net & Transfer report, the net pupils transferring OUT of the WAWM school district has increased over the last five years meaning the district is losing state aid.
- **Punchline: Our request impacts 21 students estimated at \$304,500 (~\$14,500/student) in state aid. Compared to the \$4.86 M lost, the removal of these 21 students would equate to 6.26% of the state aid lost. If our 21 students were included in the transferring out, that would equate to 1.5% of the total pupil transfers out.**

YEAR	DISTRICT NAME	PUPIL TRANSFERS IN	PUPIL TRANSFERS OUT	NET PUPIL TRANSFERS	NET AID TRANSFERS
2017	West Allis-West Milwaukee	1,235	840	395	\$2,963,702.00
2018	West Allis-West Milwaukee	1,030	985	45	\$547,351.00
2019	West Allis-West Milwaukee	749	1,093	-344	(\$2,287,835.00)
2020	West Allis-West Milwaukee	761	1,191	-430	(\$3,311,673.00)
2021	West Allis-West Milwaukee	737	1,322	-585	(\$4,596,673.00)
2022	West Allis-West Milwaukee	748	1,353	-605	(\$4,863,851.00)

Criteria 5: WAWM Denial Reasoning

- WAWM was focused on ALL New Berlin students, but as a reminder, we are focusing on our territory which represents 21 students

*“If all students (or parcels) were to detach from the WAWM, it would result in an increasing the Mill rate for WAWM residents and property owners. Provided all the New Berlin students were permitted to detach, this would mean the District would lose 248 resident members both in attendance and accessing open enrollment. Based on 2022-23 per pupil amounts this would mean a total of \$2.1 million in lost revenue. The total EPV for all of New Berlin residing in the WAWM School District is \$424,433,481 this represents just under 7% of the total EPV for all municipalities within the WAWM School District. **248 students is roughly 3% of student resident membership.** If the District lost 3% of its membership, but 7% of the tax base, WAWM residents could expect taxes (mill rate) to increase. Should the entire portion of New Berlin detach from the WAWM School District; it would allow our most affluent families to attend a more affluent district with a projected decrease in their mill rate. Conversely it would impact the District’s less affluent families by providing them with a 10% increase in their mill rate.”*

- WAWM claims that they’re in a better financial position than NB
- Equalized property value argument- all of NB, not our territory
 - West Allis mill rate increased in 2017 by significant 18.4%

*Cited from WAWM denial resolution and denial presentation

Criteria 5: Petitioner Counter Argument

balance alone, WAWM has a fund balance of 37.05% of its overall budget and New Berlin is at 31.66%. Inside of these numbers is another indicator of strong financial planning for the future for WAWM. Per the 2021-22 Financial Statements, New Berlin does not have a Fund 46/49 which supports capital improvements.

- NB does not have a planned deficit for the 23-24 school year
- WAWM has a projected \$1,593,146 deficit per board meeting 4/10/23
- SDNB is financially stable. They are a smaller district, and therefore should not have the same mill rate or fund balances as WAWM. Every mill rate differs between districts.
- SDNB proactively pays off debt that is within the revenue limit while proactively maintaining their facilities without referendum
- SDNB Fund 41 has a surplus of over \$3 million
- During the WAWM denial presentation, WAWM claimed that their budget is in a better position than SDNB and they've improved their credit score significantly. Therefore, the fiscal effect of proposed reorganization should be easier for them to handle. WAWM is in a position where they could absorb the detachment of our 21 students without major financial impact to the district.

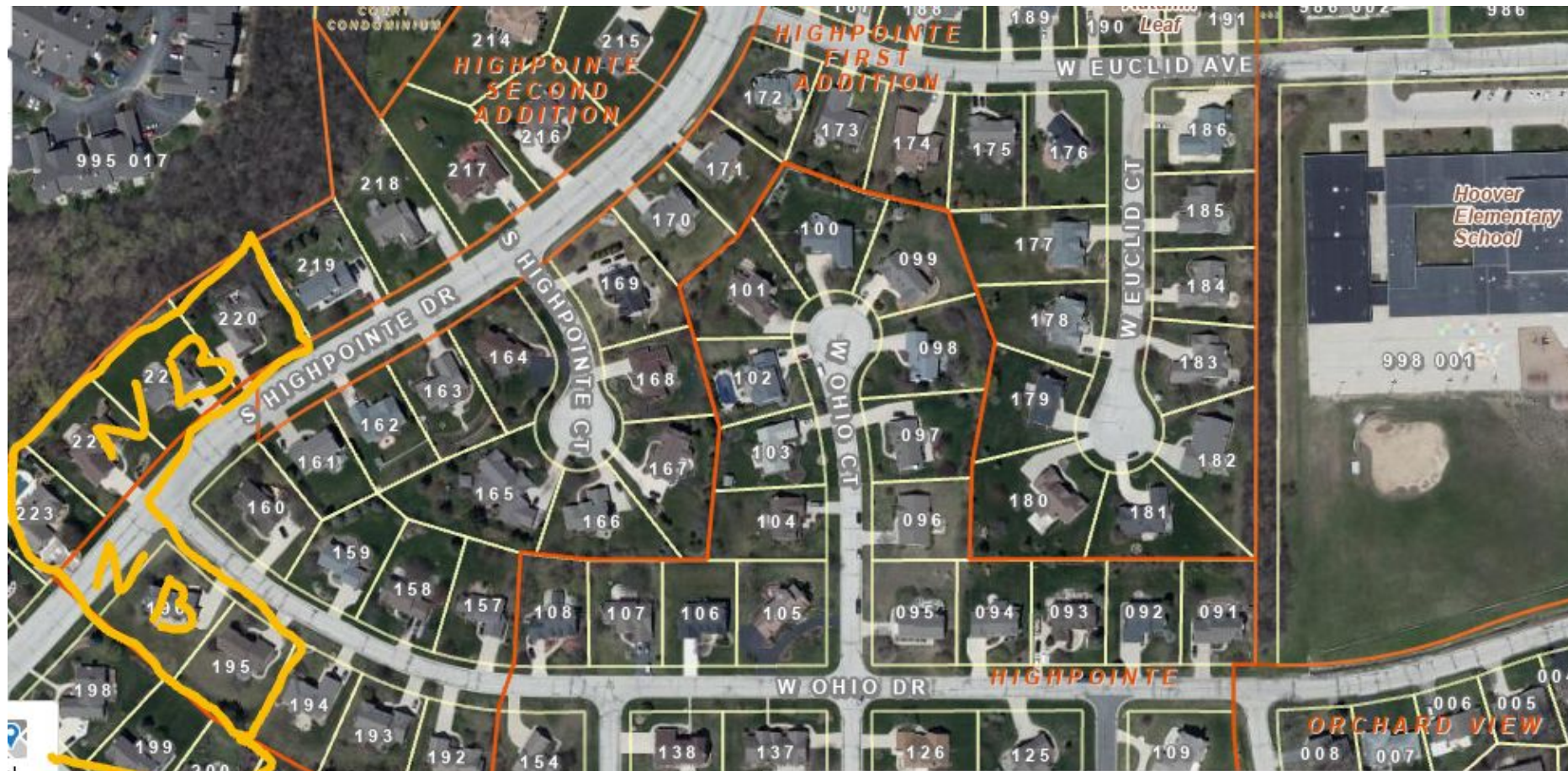
*Cited from Denial Presentation and Resolution Letter

Criteria 6

Whether the proposed reorganization will make any part of a school district's territory **noncontiguous.**

Criteria 6

- The territory is contiguous to New Berlin
- The territory abuts the New Berlin School District
- It will make our neighborhood more contiguous. Current district lines are already disjointed.



Criteria 6: WAWM Denial Reasoning

- If all the parcels within New Berlin detach, it may further complicate the boundaries of the City of New Berlin and the Elmbrook School District.
- SDNB stated that they would accept us into their school district and voted yes at their board meeting, so the WAWM boundaries argument is not valid.

Criteria 7

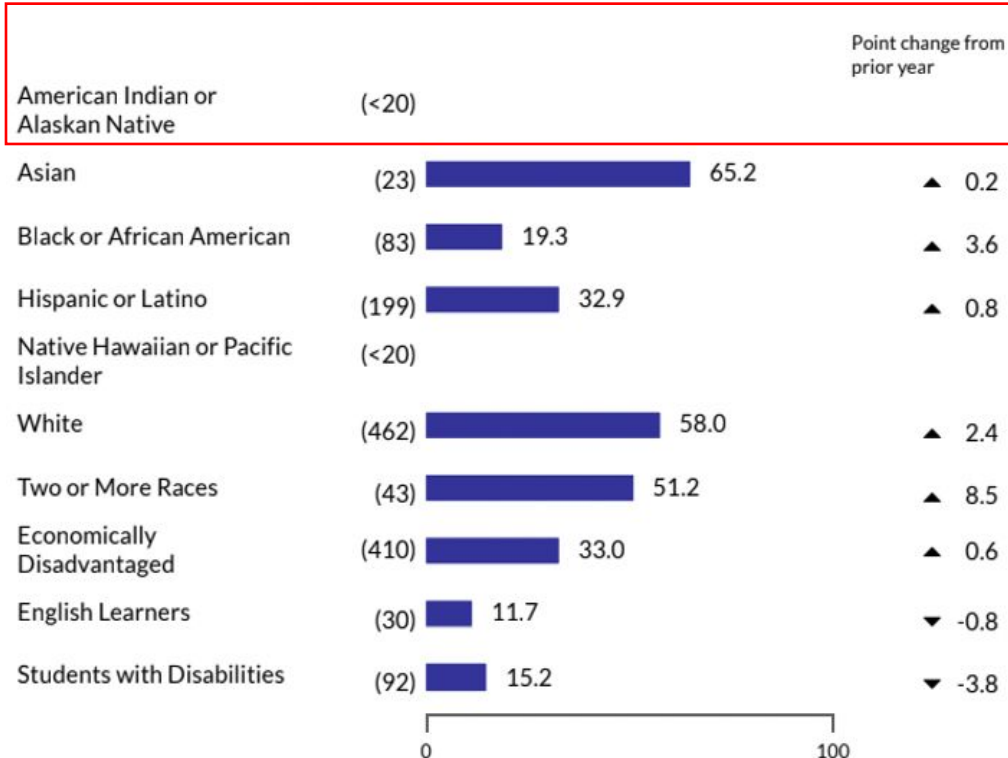
The **socioeconomic level and racial composition** of the pupils who reside or will reside in territory proposed to be detached from one school district and attached to an adjoining school district or in a school district proposed to be dissolved; the **proportion of the pupils who reside in such territory who are children at risk**, as defined under [s. 118.153 \(1\)\(a\)](#); and the effect that the pupils described in this paragraph will have on the present and future socioeconomic level and racial composition of the affected school districts and on the proportion of the affected school districts' enrollments that will be children at risk.

Criteria 7: WAWM School District

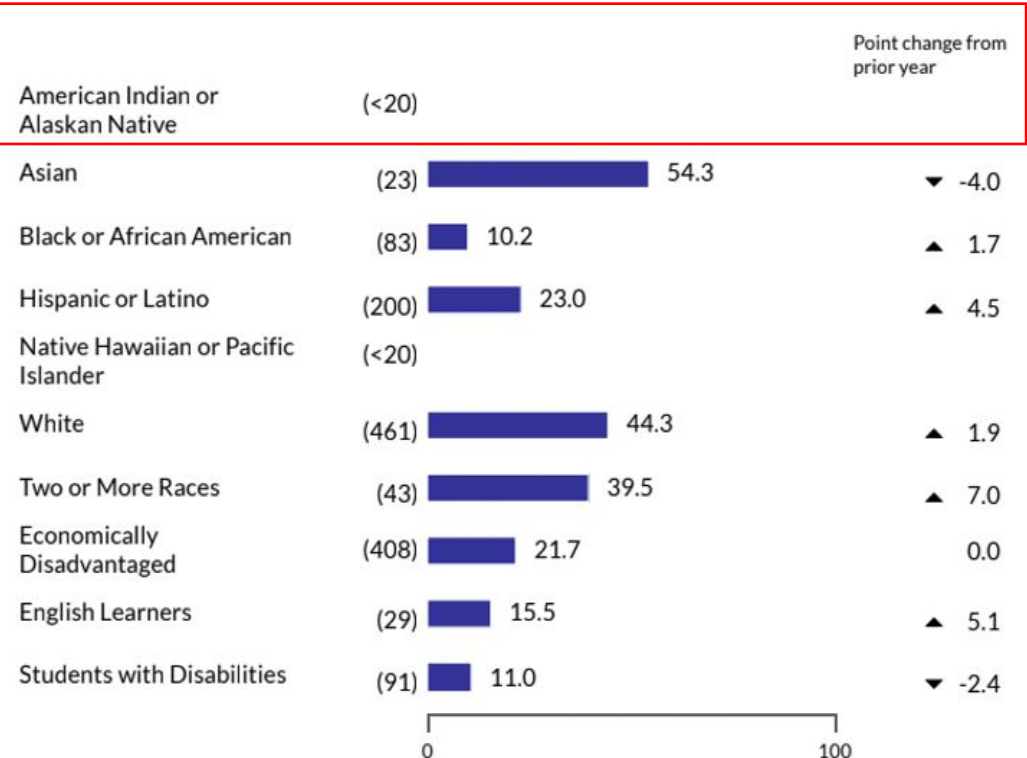
Student Group Achievement, 2021-22 (for information only)

Group size is given in parentheses. Groups with fewer than 20 students do not have a score displayed.

ENGLISH LANGUAGE ARTS



MATHEMATICS



Criteria 7: WAWM Denial Reasoning

WAWM Denial “Resolution” Letter stated:

WAWM offers a more integrated school environment than New Berlin School District. Research on the benefits of integrated schools signify students in integrated schools have higher average test scores, students in integrated schools are more likely to enroll in college, students in integrated schools are less likely to drop out, integrated schools help to reduce racial achievement gaps, and integrated classrooms encourage critical thinking, problem solving, and creativity.

*Letter written by School Board President Noah Leigh

Criteria 7: WAWM Denial Reasoning

Student Benefits of Being in Integrated Schools

The Century Foundation published research that shows the benefit of integrated schools:

The Benefits of Socioeconomically and Racially Integrated Schools and Classrooms (April 29, 2019) ([HERE](#))

Academic and cognitive benefits

- Students in integrated schools have higher average test scores.
- Students in integrated schools are more likely to enroll in college.
- Students in integrated schools are less likely to drop out.
- Integrated schools help to reduce racial achievement gaps.
- Integrated classrooms encourage critical thinking, problem solving, and creativity.

Criteria 7: Petitioner Counter Arguments

- *Student Benefits of Being in Integrated Schools:*
- *“Higher average test scores”- See criteria 2- NB outperforms WAWM*
- *“More likely to enroll in college”*

	Postsecondary Enrollment			
	West Allis-West Milwaukee		New Berlin	
	2020-2021	2019-2020	2020-2021	2019-2020
Enrolled First Fall Post Grad	35.2%	38.9%	43.7%	54.5%
Postsecondary Enrollments at a 4-Year Institution	71.8%	61.7%	80.5%	84.5%
Postsecondary Enrollments at a 2-Year Institution	27.7%	33.6%	19.5%	12.2%
Postsecondary Enrollments at Multiple Levels	0.5%	4.7%	0.0%	3.3%

- *“less likely to drop out”*

	Dropout Rate			
	West Allis-West Milwaukee		New Berlin	
	2021-2022	2020-2021	2021-2022	2020-2021
Dropout Rate Grades 7-12	2.0%	1.0%	0.1%	0.0%

Criteria 7: Petitioner Counter Arguments

- *Student Benefits of Being in Integrated Schools (Con't):*
- *“Reduce racial achievement gaps” for WAWM Mathematics*

MATHEMATICS

	2018-19					2020-21					2021-22				
	Total # Tested	Advanced	Proficient	Basic	Below Basic	Total # Tested	Advanced	Proficient	Basic	Below Basic	Total # Tested	Advanced	Proficient	Basic	Below Basic
All Students: K-12 State	573,212	9.4%	31.6%	30.8%	28.2%	493,043	7.0%	29.4%	31.6%	32.0%	542,396	9.3%	28.2%	29.1%	33.3%
All Students	5,151	6.1%	26.5%	32.8%	34.6%	4,314	2.4%	15.0%	29.6%	53.1%	4,479	3.2%	16.9%	29.1%	50.8%
American Indian or Alaskan Native	47	2.1%	14.9%	27.7%	55.3%	37	2.7%	5.4%	24.3%	67.6%	39	0.0%	15.4%	28.2%	56.4%
Asian	133	6.8%	39.1%	30.8%	23.3%	119	4.2%	26.1%	33.6%	36.1%	122	8.2%	28.7%	33.6%	29.5%
Black or African American	567	1.1%	12.5%	30.3%	56.1%	486	0.4%	5.6%	17.5%	76.5%	507	0.0%	5.9%	19.9%	74.2%
Hispanic or Latino	1,368	2.9%	20.2%	35.2%	41.6%	1,193	1.0%	9.5%	25.4%	64.1%	1,331	1.6%	10.7%	27.3%	60.4%
Native Hawaiian or Pacific Islander	<20	*	*	*	*	<20	*	*	*	*	<20	*	*	*	*
White	2,631	9.0%	33.3%	31.8%	26.0%	2,106	3.8%	20.3%	34.5%	41.4%	2,097	5.0%	22.9%	32.5%	39.6%
Two or More Races	401	5.2%	20.9%	35.9%	37.9%	368	1.4%	12.0%	30.2%	56.5%	378	1.9%	16.4%	27.5%	54.2%
Economically Disadvantaged	2,999	3.2%	19.9%	33.8%	43.0%	2,359	1.0%	8.6%	25.6%	64.8%	2,793	1.4%	11.0%	26.8%	60.7%
English Learners	255	1.6%	16.1%	32.9%	49.4%	243	0.4%	6.2%	27.6%	65.8%	279	0.7%	9.0%	25.8%	64.5%
Students with Disabilities	750	1.5%	8.4%	17.6%	72.5%	632	0.8%	5.7%	12.8%	80.7%	661	0.9%	5.3%	15.0%	78.8%

Criteria 7: WAWM Denial Reasoning

“The racial demographics of the students within the petition compared to all New Berlin students within the WAWM indicates the significant differences in the overall racial demographics of the two school districts demonstrating that WAWM is more balanced in its diversity. The student benefit perspective presents the overwhelming benefit to students of being in more integrated schools rather than less integrated schools. If all students within the City of New Berlin who attend WAWM schools were detached and moved to the New Berlin School District, it would concentrate poorer students with greater needs in one district, West Allis - West Milwaukee, and would reduce these challenges in the other, New Berlin.”

*Quoted from the denial resolution letter

Criteria 7: Petitioner Counter Arguments

During their presentation, WAWM claimed that 46.3% of their student population is white. However, open records information from the records custodian and executive assistant to the board and superintendent of WAWM Suzette Zimmerman shows that 70% of their student demographic is white.

Wisconsin State Legislature Criteria (#7)

Comparison of Racial Demographics

Category	% White	% Black	% Asian	% Hispanic	% Two or More Races	% Other
New Berlin Students attending WAWM	73.1%	10.8%	3.6%		11.3%	.5%
New Berlin Students within the petition	76.1%	14.2%	9.7%			
WAWM School District	46.3%	11.5%	2.9%	29.6%	8.9%	.9%
New Berlin School District	79.1%	1.3%	7.9%	7.7%	3.7%	.3%

*Information gathered from the denial presentation from WAWM

Criteria 7: Petitioner Counter Arguments

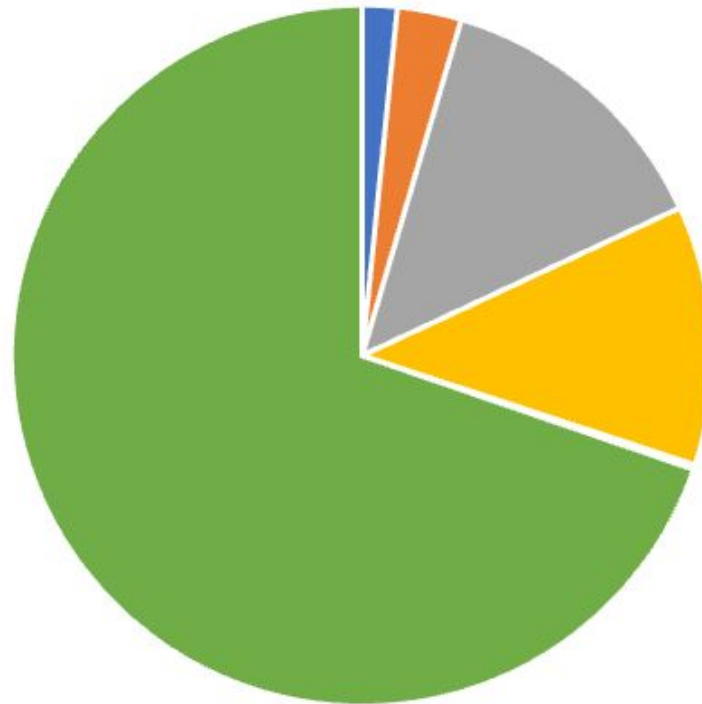
- **Request:** Open records request response from April 6th, 2023 in which we requested: “According to the 3rd Friday counts for the current 2022-2023 school year, what are the demographics (racial and socio-economic) of all students attending each elementary, middle, and high school at WAWM?”
- **Response:** “Below is a list of all students as of April 4th, 2023, their race/ethnicity and their socio-economic status. The totals in this list will differ **slightly** from the totals in question 1 because this list contains students who are in speech classes or self-contained special education programs.”

	American Indian or Alaskan Native	Asian	Black or African American	Multi Race	Native Hawaiian or Pacific Islander	White	Grand Total
Central High	22	24	175	104	1	663	989
Deeper Learning Virtual Academy	2	2	24	23		87	138
Frank Lloyd Wright Intermed	7	27	96	89	3	554	776
Franklin Elementary	2	5	22	29	1	184	243
Hoover Elementary	1	15	62	58		230	366
Horace Mann Elementary	14	10	58	65		267	414
Irving Elementary	1	30	46	54		297	428
James E Dottke	6	1	13	24	1	128	173
Jefferson Elementary	10	20	66	54	3	264	417
Lane Intermediate	3	9	44	45	1	273	375
Longfellow Elementary	4	6	21	16	1	96	144
Madison Elementary		12	9	22	1	103	147
Mitchell Elementary	3	4	24	28		207	266
Nathan Hale High	14	30	146	104	2	901	1197
Pershing Elementary	5	5	37	27		127	201
Shared Journeys Charter				1	1		2
Walker Elementary	1	2	27	35		194	259
West Milwaukee Intermediate	18	6	57	45		200	326
Wilson Elementary	4	7	54	47		291	403
Grand Total	117	215	981	870	15	5066	7264

5,066/7,264= 70%

Criteria 7: Petitioner Counter Arguments

WAWM District Student Population Racial/Ethnicity Composition



- American Indian or Alaskan
- Native Asian
- Black or African American
- Multi-race
- Native Hawaiian or Pacific Islander
- White

Criteria 8

The results of any **referendum** held under s.117.10

Criteria 8

In the April 2022 referendum a stark majority decisively rejected by the homeowners and electors in the WAWM school district:

59% NO

Big Questions

- What happens if it fails?
 - Infrastructure improvements will still need to be addressed (Hale \$25.2 million and Central \$36.7 million).
 - Updating infrastructure needs within existing budgets means **cutting programs and increasing class sizes.**
 - We will not be able to renovate spaces for modern learning or for CTE and Performing Arts
 - We will not be able to leverage MATC funding to equip and share the new workspaces
 - We will continue to struggle to offer competitive athletics
 - Our students will continue to be educated in old facilities compared to our neighbors

Criteria 8: WAWM Counter Argument

As stated in the WAWM denial resolution letter:

“Open enrollment is an option which allows students to attend nonresident school districts. A small number of open enrollment seats were available in the New Berlin School District in recent years. WAWM students who live in New Berlin do get seats in the New Berlin School District if seats are available.”

Open Enrollment is not an option at SDNB. **SDNB did not have any new open enrollment seats available this year.** And, there have been **little to no new open seats in the past several years.**

*Information gathered from WAWM Denial/Resolution letter distributed to petitioners and the denial presentation from WAWM

Criteria 8: Petitioner Counter Argument

Open Enrollment

- Increases class sizes
- Student selection is randomized by lottery
- Per Board policy, Board may require accepted nonresidents to re-apply when entering middle school
- Harder to regulate class sizes
 - School consolidation
 - Influx of students
 - City's new 10-year plan just beginning

Open Enrollment

- Open enrollment students bring approximately half the revenue of resident student
- Revenue would vary depending on number of students accepted
- Potential need for additional teachers / support aides and other factors decreases / eliminates net revenue generated from open enrollment

*Information coming from NB presentation https://www.nbexcellence.org/cms_files/resources/Present_Enrollment.pdf

Criteria 8: Petitioner Counter Argument

As verified by the CFO of the SDNB, SDNB does not rely on referendums instead they:

- Proactively update facilities before they are in a state of disrepair
- Maintain class sizes
- They paid for Ronald Reagan Elementary without a referendum
- Find creative funding sources and solutions

Other appropriate factors

Other Appropriate Factors: Safety

YRBS

- According to [JS Online](#), data from the Youth Risk Behavior Survey (YRBS) from the 2014-15 school year (with 81% of all Freshman and Sophomores responding to the survey) showed:
 - **Less than half underclassmen at both WAWM high schools felt safe**
 - **More than 28% of respondents indicated that violence is a problem at their school**
 - **14% of respondents said they had been in a physical fight at their school**
- We looked for recent YRBS data from WAWM but have not been able to locate it

WAWM Violence and Corrective Action Plan Issued by DPI:

- WAWM was in the media for two separate incidents: Violent fights during exam week at Nathan Hale and a middle schooler with disabilities being slammed to the ground at Lane Intermediate. [CBS 58](#)
- As a result of WAWM's lack of investigation to a middle school student with disabilities, a Corrective Action Plan Issued by DPI to WAWM in January 2023. The decision from DPI was in response to a school parent filing a Pupil Nondiscrimination complaint. The Corrective Action Plan which includes:
 - Train all staff on the District's discrimination and harassment policies,
 - Train compliance officers on how to conduct proper investigations into complaints of discrimination and harassment
 - Be accountable to following the policies

Other Appropriate Factors: Safety

Snapshot of
March 2023
Letter to WAWM
Parents from
WAWM
Superintendent
Marty Lexmond
and WAWM
School Board
President Noah
Leigh

As always, providing our students and staff with an environment that ensures both physical and emotional safety remains our number one priority. We have made great strides in the last year and a half, since our return to in-person learning, on teaching self-regulation skills in our schools. We are seeing fewer reported incidents of assaults, defiance, disrespect, disruption, use of inappropriate language, theft, and threatening behavior this school year. However, we are seeing an increase in major physical altercations and the use and distribution of controlled substances (typically in the form of THC vapes) in our schools.

We have taken an aggressive approach to this and have removed twenty-six students from our schools for being involved in major fights so far this school year. Also, 183 citations have been issued to students for violations of law on school grounds at our secondary schools. We will continue to remove students from their schools when they engage in aggressive fights that significantly disrupt the learning environment.

We also have students on pre-expulsion contracts for disruptions to the learning environment. These contracts give students a second opportunity to correct the behavior with swift removal from school if the contract is violated. We have also expelled students for the distribution of controlled substances.

Additionally, in partnership with our local law enforcement, we will continue our process of distributing “No Trespassing” letters to parents and members of the community who create disruptions in and around our schools. This behavior is not tolerated and we will pursue legal consequences as well.

We will be doing a thorough review of our Code of Conduct this summer with a team of principals and teachers, but are also making some immediate changes to reflect our current practice and ensure all students and families know that we take these matters very seriously.

On May 15, 2023 at 6:00 pm, you are invited to attend a Student Supports Workshop with our Board of Education to learn more about the resources available to support students at school to resolve conflict. This workshop will be held at 1205 S. 70th Street in Room 609 and is open to the public.

We also have Youth Advisors who are mentors for students in schools who do restorative work to prevent and resolve conflicts. These individuals are available to students when they have conflicts and need support.

In the next few months, the following priorities will be explored as possible additional solutions:

Other Appropriate Factors: Safety

- School safety update released in March 2023 by the WAWM Superintendent and School Board President indicated:
 - 183 citations have been issued to students for violations of law on school grounds at secondary schools
 - 26 students have been “removed” from WAWM schools for being involved in major fights this school year
- The catalyst for WAWM to make changes to safety monitoring in the district is due to DPI’s current involvement after the incident at Lane intermediate school regarding a special education student being continuously bullied and eventually physically assaulted with zero recourse until DPI was involved. See quote from JSOnline in exhibits.

Other Appropriate Factors: WAWM Suspensions

School	Suspensions: In School	Suspensions: Out of School	Student Population	% of Suspensions
West Milwaukee Intermediate	79	92	326	52%
Lane Intermediate	91	16	375	29%
Central High	77	168	989	25%
James E Dottke PBL High	N/A	34	173	20%
Nathan Hale High	44	137	1197	15%
Jefferson Elementary	28	26	413	13%
Hoover Elementary	16	25	358	11%
Franklin Elementary	15	8	233	10%
Frank Lloyd Wright Intermediate	11	58	776	9%
Pershing Elementary	7	7	196	7%
Wilson Elementary	8	13	397	5%
Walker Elementary	6	7	257	5%
Longfellow Elementary	3	4	144	5%
Irving Elementary	2	14	375	4%
Horace Mann Elementary	5	12	404	4%
Mitchell Elementary	2	2	262	2%
Madison Elementary	N/A	1	146	1%
Grand Total	394	624	7,021	14%
*N/A indicates no data provided by district				

*Information provided from WAWM open records request submitted 3/23/23

Other Appropriate Factors: SDNB Suspensions

School	Suspensions: In School	Suspensions: Out of School	Student Population	% of suspensions
Eisenhower	7	33	1034	4%
Orchard Lane	12	6	464	4%

*Information provided from SDNB Behavior/Suspension Reports through March 2023, pulled from board meeting minutes

Other Appropriate Factors: Safety

WAWM stated in their denial resolution letter: *“While all schools and school districts find challenges in student safety, the District is equally committed to ensuring safe and enjoyable environments for our students, including those 21 students who are a part of the petition.”*

Questions we have:

- Why has it taken 183 citations, removal of 26 students, and a parent filing a complaint and winning a case at the state level with DPI to see WAWM acknowledge that safety should be addressed?
- Why are brawls and fights being recorded in high schools halls during exam week and after school?
- Why was there a huge social media presence from two WAWM board member up for reelection regarding student safety, and now there has been nothing mentioned about it? Are school board members leveraging personal social media accounts in an effort to further their re-election agenda even an appropriate platform to address these major issues? See Exhibit.
- Also, the letter from the superintendent and board member president stated 26 kids have been removed, yet our open records request stated that there has only been 9 expulsions. What does removal mean? Where is WAWM moving these students, are they being moved around within the district? Is this a data integrity issue?

*All information cited here is shown in exhibits

Other Appropriate Factors: WAWM Faces Complex Challenges

- Future School Consolidations and Long Term Facilities Master Plan (April 25, 2022 Meeting at School Consolidation Workshop)
 - Short Term Plan (1-4 years): Decisions Made and Underway (2 elementary, 1 middle)
 - Mid-Term Plan (5-15 years): Not Completed
 - Long Term (15-30 years): Not Completed
- Culture of Bullying and Violence / Poor Student Behavior / Corrective Action Plan
- Poor Student Academic Performance (“We have a lot of work to do.”)
- Complex Budget / Financial Administration with Consolidations and Wisconsin State Funding
- Leadership Turnover

Other Appropriate Factors: WAWM Leadership Turnover

Superintendent Turnover:

- Superintendent **Dr. Marty Lexmond** Retiring: 8 years at WAWM
- Replacement Superintendent, from the Houston Independent School District has no previous Superintendent experience, stated during an interview on YouTube that he's only managed a \$2M budget, has no experience managing or leading high schools.

Assistant Superintendent Turnover:

- Assistant Superintendent **Deidre Roemer** Resigned: 18 years at WAWM
- Replacement not yet named

Director Finance and Operations:

- WAWM Director of Finance and Operations, **Aaron Norris**: Completing first year as Director of Finance and Operations

Other Appropriate Factors: New Berlin and Waukesha County Community

Community

- We are *New Berlin Residents* in Waukesha County hoping to join *our community's* School District.
- We live in New Berlin in Waukesha County. Many of the activities and community events we participate in are in New Berlin. There is a disconnect when we meet others at these events because we cannot attend the New Berlin School District. Our kids miss out on school and community connections.
- School is supported by its community. The majority of WAWM is in West Allis and in Milwaukee County. We have no representation or say in key contributors to the educational environment such as: police, city council, mayor, etc.

Summary

Summary: All 8 Criteria Met

Criteria	Supports Approval	Supports Denial	Indifferent
1. Location and Travel Time	X		
2. Educational Needs	X		
3. Programming	X		
4. Testimony and Statements	X		
5. Fiscal Impact	X		
6. Noncontiguous	X		
7. Socioeconomic and Racial Composition	X		
8. Results of Referendum	X		
9. Other Factors	X		

Summary: All 8 Criteria Met

Criteria 1 Travel Time

- WAWM Travel Times Higher
- WAWM Consolidation Mid and Long Term
- Waukesha County



Criteria 2 Educational Needs

- WAWM Decline of Performance Levels
- Lack of evidence WAWM is committed to improve



Criteria 3 Adverse Effect

- WAWM statements of increased class sizes and cut programs
- Future WAWM School Consolidations
- NB Small Class sizes



Criteria 4 Testimony

- 89% support from NB territory
- Public Comments from WAWM School Board Meetings
- Written Testimonials



Criteria 5 Fiscal Effect

- 21 students and 161 parcels in the proposed territory
- SDNB financially stable
- WAWM gaining ground on financial controls but not there yet



Summary: All 8 Criteria Met

Criteria 6 Noncontiguous

- Proposed Territory IS contiguous to SDNB

Criteria 7 Socioeconomic & Racial

- WAWM racial achievement gaps
- WAWM is 70% White, not 46.3% as stated in their presentation

Criteria 8 Referendum

- Failed April 2022 Referendum
- SDNB no new Open Enrollment Seats
- SDNB does not rely on referendums. They plan.

Other Appropriate Factors

- WAWM Safety
- DPI Corrective Action Plan for WAWM
- WAWM High rates of Suspensions and Expulsions
- Complex Challenges for WAWM
- WAWM Leadership Turnover
- Desire to be in the Community of New Berlin and Waukesha County

Exhibits

Criteria 1

Estimated Travel Times Between Districts: School Career Minutes Traveled to School Daily

Elementary School:	Hoover (West Allis)	Orchard Lane (New Berlin)	Difference
Morning and Afternoon Commute Totals	4 Min	12 Min	-8
Middle School:	Frank Lloyd Wright (West Allis)	Eisenhower Middle (New Berlin)	
Morning and Afternoon Commute Totals	18 Min	12 Min	+6
High School:	Nathan Hale (West Allis)	Eisenhower High (New Berlin)	
Morning and Afternoon Commute Totals	12 Min	12 Min	0

Criteria 1

School Career Minutes Traveled to School Over the Course of Academic Journey

Elementary School:	Hoover (West Allis)	Orchard Lane (New Berlin)	Difference
	4 Min x 180 school days = 720	12 Min x 180 school days = 2160	+1140
Middle School	Frank Lloyd Wright (West Allis)	Eisenhower Middle (New Berlin)	
	18 Min x 180 school days = 3240	12 Min x 180 school days = 2160	-720
High School	Nathan Hale (West Allis)	Eisenhower High (New Berlin)	
	12 Min x 180 school days = 2160	12 Min x 180 school days = 2160	0
Total Minutes Travelled	6120	6480	

Criteria 4: Testimonies (Con't.)

Partial Testimony from a parent who resides in area considered for detachment:

"I am a mom of four kids, who now range in age from 12 years old thru 18 years old. I was excited for the opportunity for my kids to attend New Berlin Eisenhower, only to quickly find out that they would be bused not only out of our city, but also our county to attend school!"

"My son who is a junior was not so lucky to get into [Muskego] school, as Muskego had no space in their junior class. I was not at all comfortable putting him in Nathan Hale after again reading reviews, so he has had to continue doing Wisconsin Virtual Academy. He is not doing well, and his dreams of attending UW Whitewater are quickly dying."

*"My youngest daughter was also denied open enrollment at Muskego, and 4 other schools due to her being on an IEP. Her academic regression was so bad, she had completely shut down. I finally gave in to sending her to Lane Intermediate, only to find out that she would not be allowed to attend, as the school would be shutting down after this year. She would have to go even further into West Allis to Frank Lloyd Wright. **After much thought, I registered her [my daughter] at Frank Lloyd Wright. She attended one day of school there. That day she came home and informed me that she was not only pushed out of her chair because a kid didn't want her sitting there, but was exposed to more profanity and vulgarity from classmates than she had been in her whole life.**"*

"She never returned to that school. I had called the school to let them know why she wouldn't be returning, and they had no words of encouragement, no one tried to convince us to stay or at least give it another try. It was like they were not shocked, almost seemed like these were daily occurrences in that environment. "

"I can not begin to express the positive impact that it would have on our family if my kids would finally have the opportunity to go to school in their city of New Berlin.

Criteria 4: Testimonies (Con't.)

4/18/2023

To whom it may concern,

I am writing this testimony in support of the detachment of our New Berlin neighborhood from the West Allis West Milwaukee (WAWM) School District. This testimony is not intended to be negative about WAWM; it is simply to describe to you what it is like to be a parent trying to find adequate education for our young children residing in this district.

My partner and I wanted to explore all options in determining which school we select for our children. Our dream would be for them to attend our home school, if we felt that the school represented our community and neighborhood. We even toured Hoover, but we both left saying the same thing- we did not feel as though we fit here; it did not represent our values of high academic expectations. We had further concerns with the consolidations of schools and increasing behavioral and academic concerns in this district.

So here we are; we felt sure in our decision that the WAWM school district was not right for our family. Where does that leave us? We decided to look to open enrollment. We were discouraged to see that both New Berlin and Elmbrook were not offering open enrollment seats for the 23-24 school year, and have not offered open enrollment seats in years. We will be trying for a spot in the Whitnall School District, however there are only a few seats available in the grades of my children. We are exploring the possibility of open enrolling them to a further away school district that has spots open and driving our children for thirty minutes each way, every day, in order for them to have a quality education. Our other option, and sadly the option we will most likely have to pursue if this detachment is denied, is private school. As a huge supporter of public education, this is devastating to me. Lastly, like so many neighbors before us, we will likely consider moving as soon as interest rates are reasonable, solely so our children can have quality education in a community that values the same things we do.

I will emphasize again, I am a supporter of public education. I would not be supporting this detachment if I felt that there were lastly negative impacts to students of WAWM. I understand that losing any territory has a financial impact on a school district, however WAWM is in a state of flux and I have confidence that they can absorb this change during this time. In addition, throughout this process I have paid closer attention to the WAWM School Board meetings. They are constantly fielding opposition from residents, and often these complaints are from members of our neighborhood. This is what happens when you take a neighborhood that does not feel like they are a part of your school community and refuse to let them go. Referendums such as the one in 2022 are not voted for and there is a lot of anger and discontent directed towards the school district. This detachment will provide some benefits to WAWM in addition to providing enormous positive benefits to the students within the proposed area.

I ask you to please take advantage of this opportunity to rectify a decision that was made long ago. There is no reason that a small pocket of New Berlin residents should continue to be in the WAWM school district. This is the time; WAWM is consolidating schools and reorganizing district borders, the New Berlin School District is ready and able to accept our neighborhood, and the children of our neighborhood are more than ready to embrace a public education system that will provide them with a quality education.

Thank you for your time and consideration in this important matter,

A concerned parent residing in the area of proposed detachment

Public Comments from WAWM School Board Meeting: January 2023 to Present

7. Public Comment(s):

Steve Broadwell, New Berlin Resident; Mr. Broadwell is upset with District leaders regarding poor academic performance and lack of student safety. He feels Dr. Lexmond school resign immediately.

Devon Ray, West Allis Resident; Ms. Ray feels the District has failed her children and DPI agrees with her. Her son was bullied and physically attacked at one of our schools. She feels Ms. Keyser, Mr. Leigh, Ms. Roemer, and Dr. Lexmond should resign.

Rhonda Noyes, West Allis Resident; Ms. Noyes is thankful for Ms. Ray who's doing what's necessary for children. DPI found our District and Board at fault, and she believes people should step down from their positions.

Kelli Mouser, West Allis Resident; Ms. Mouser is upset about what happened dating back to May 6, 2022 including a post on social media being removed as recommended by a school board member. All government business is a record even when using personal accounts and personal devices.

Tod Cwiklinski, West Allis Resident; Mr. Cwiklinski feels the District is creating illusions that everything is perfect. He spoke of the DPI case and other families with similar issues. He feels there is a lack of policy follow through and safety for students.

Jason Darling, West Allis Resident; Mr. Darling would like to see an evaluation of the current situations (academics, teacher retention, student safety, etc.) taking place in our District. People need to be held accountable for their actions.

Public Comments from WAWM School Board Meeting: January 2023 to Present

Alexander Stonehouse, West Allis Resident; Mr. Stonehouse is here because he saw the bullying story on the news. He feels Board members should lead as individuals and everyone needs to do better to protect students.

Gary Schultz, West Milwaukee Resident; Mr. Schultz spoke about bullying in our District. He indicated mistakes were made by the District with this middle school student and they are detailed in the DPI report. The School Board has a responsibility to conduct an investigation.

8. Public Comment(s):

Jack Hutter, New Berlin Resident; Jack is a graduate of Nathan Hale High School. He shared support for Board members and appreciation to Dr. Lexmond for his attendance at musical events and concerts. He spoke about the improved financial stability and credit rating of our District and he encourages all to attend future events.

Steve Broadwell; New Berlin Resident; Mr. Broadwell asked Dr. Lexmond for clarification on the false statements he made. He also commented that DPI ordered extensive training for all personnel in policies. This District doesn't take bullying and harassment seriously and we aren't being held accountable.

Public Comments from WAWM School Board Meeting: January 2023 to Present

Devon Ray, West Allis Resident; Ms. Ray received a 22 page DPI report on January 13, 2023 that orders this Board to submit a corrective action plan within 30 days. DPI gave an order and our District needs to do better for children. Also, she'd like to know what comments made on January 23, 2023 were false as stated in a letter from Dr. Lexmond and Board President Leigh.

Christine Gosch, West Allis Administrator; Ms. Gosch is a proud District staff member since 1989. She's hopeful that the OPEB plan will pass and our staff members will see an improvement to their salaries in the future. She also thanked Board members for all they do.

Kelly Taylor-Schaus, West Allis Parent; She's concerned about phones being taken away as listed in the proposed safety resolution. Her son has an ADD diagnosis and music in his ears helps him focus. She's concerned about an across the Board elimination of phones.

Glen Perry, West Allis Teacher; He's seen a lot of people come and go and the staff turnover rate is hard on everyone. He's in favor of the OPEB plan.

Steve Broadwell, New Berlin Resident; Mr. Broadwell attended the School Board Candidate Forum where students asked some good questions. He spoke of our District's poor DPI scores and our low rating relative to 14 other Districts. He feels people coming out as transgender is a fad and a social contagion.

Public Comments from WAWM School Board Meeting: January 2023 to Present

Devon Ray, West Allis Resident; Ms. Ray feels our Board shouldn't have discussed a safety resolution in a closed session meeting. She's unhappy that our Administrators aren't following District Policy and that they're not being held accountable.

Amanda Hanson, West Allis Resident; Ms. Hanson feels her family is being targeted and mistreated. She feels restorative practices do nothing to improve student behavior. Her family doesn't want to be in our District.

Chuck Kornowski; West Allis Resident; Mr. Kornowski represents "We the People." He spoke of today's school shooting in Tennessee. He's hopeful that our District can look at our security issues and do more to protect our students and staff.

Heather Bain; West Allis Teacher; Ms. Bain's been a teacher in our District for 27 years. She supports the OPEB plan and she's hopeful that the District will continue to look at ways to do better for staff members.

Amanda Hanson, West Allis Parent; Ms. Hanson believes Mr. Leigh violated Mr. Broadwell's first amendment right on March 27, 2023 and that he deserves an apology. Also, she spoke unfavorably about the educational experience her children are receiving in our District.

Rhonda Noyes, West Allis Parent; Ms. Noyes read an apology letter that she feels would be an appropriate response from our School Board to Mr. Broadwell. The Board shouldn't silence people just because they don't believe in what they're saying.

Richard Gross, West Allis Resident; Mr. Gross stayed for the entire Board meeting on Monday, March 27, 2023. He's troubled by the way Mr. Broadwell was treated and he would have liked to see other Board Members speak up. He feels this is a clear violation of his first amendment rights. Board President Leigh indicated that he follows our "Public Comment at Board Meetings" policy which states that the only person who can respond during public comment is the presiding officer.

Public Comments from WAWM School Board Meeting: January 2023 to Present

Chuck Kornowski, West Allis Resident; Mr. Kornowski expressed concern about the safety of our staff and students. He's happy to see the ban on cell phones in our schools. He'd like to see veterans and retired police officers helping out in our schools.

Devon Ray, West Allis Resident; Ms. Ray feels the Board continues to do nothing. She read a letter from WILL about Mr. Leigh's conduct towards Mr. Broadwell at the last School Board Meeting on March 27, 2023.

Carolina Dietrich, West Allis Parent; Ms. Dietrich feels Mr. Broadwell should have been allowed to continue with his comments on March 27, 2023. Community members should be able to share their viewpoints.

Amanda Hanson, West Allis Parent; Ms. Hanson believes Mr. Leigh violated Mr. Broadwell's first amendment right on March 27, 2023 and that he deserves an apology. Also, she spoke unfavorably about the educational experience her children are receiving in our District.

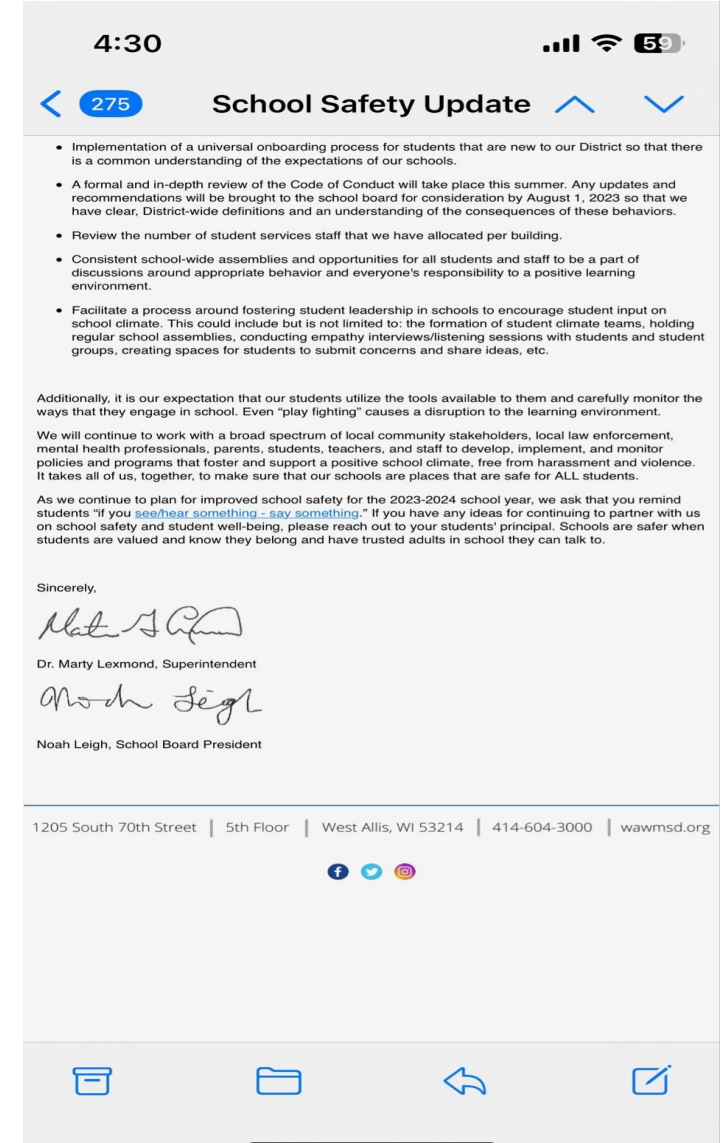
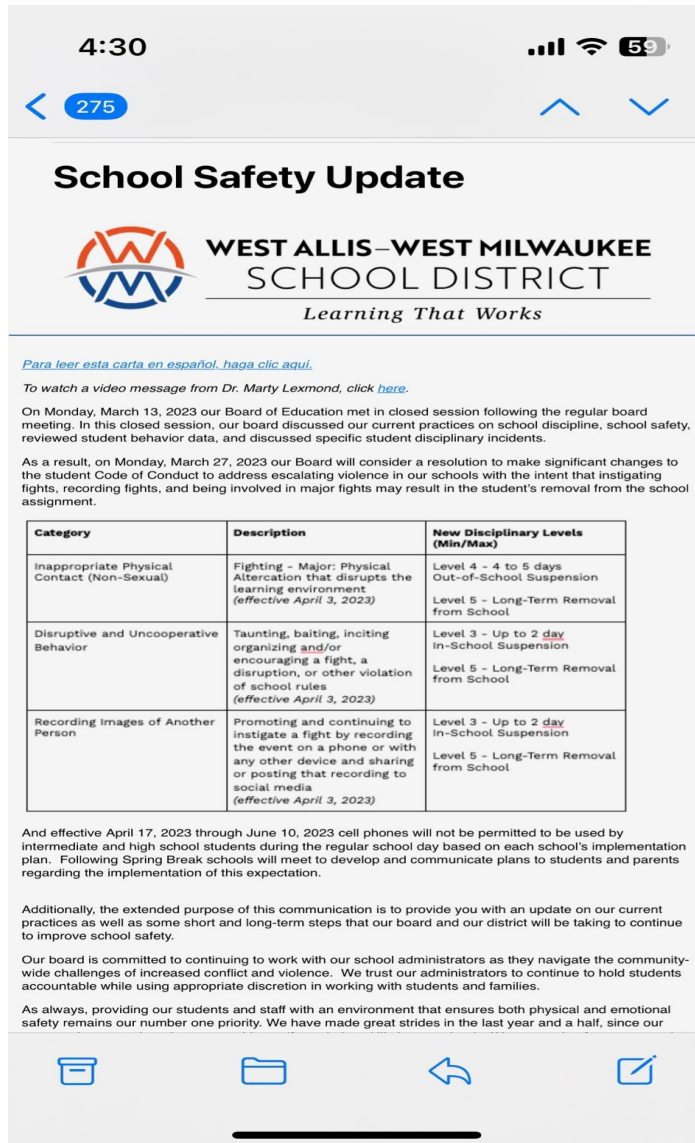
Rhonda Noyes, West Allis Parent; Ms. Noyes read an apology letter that she feels would be an appropriate response from our School Board to Mr. Broadwell. The Board shouldn't silence people just because they don't believe in what they're saying.

Criteria 1: Bus Routes

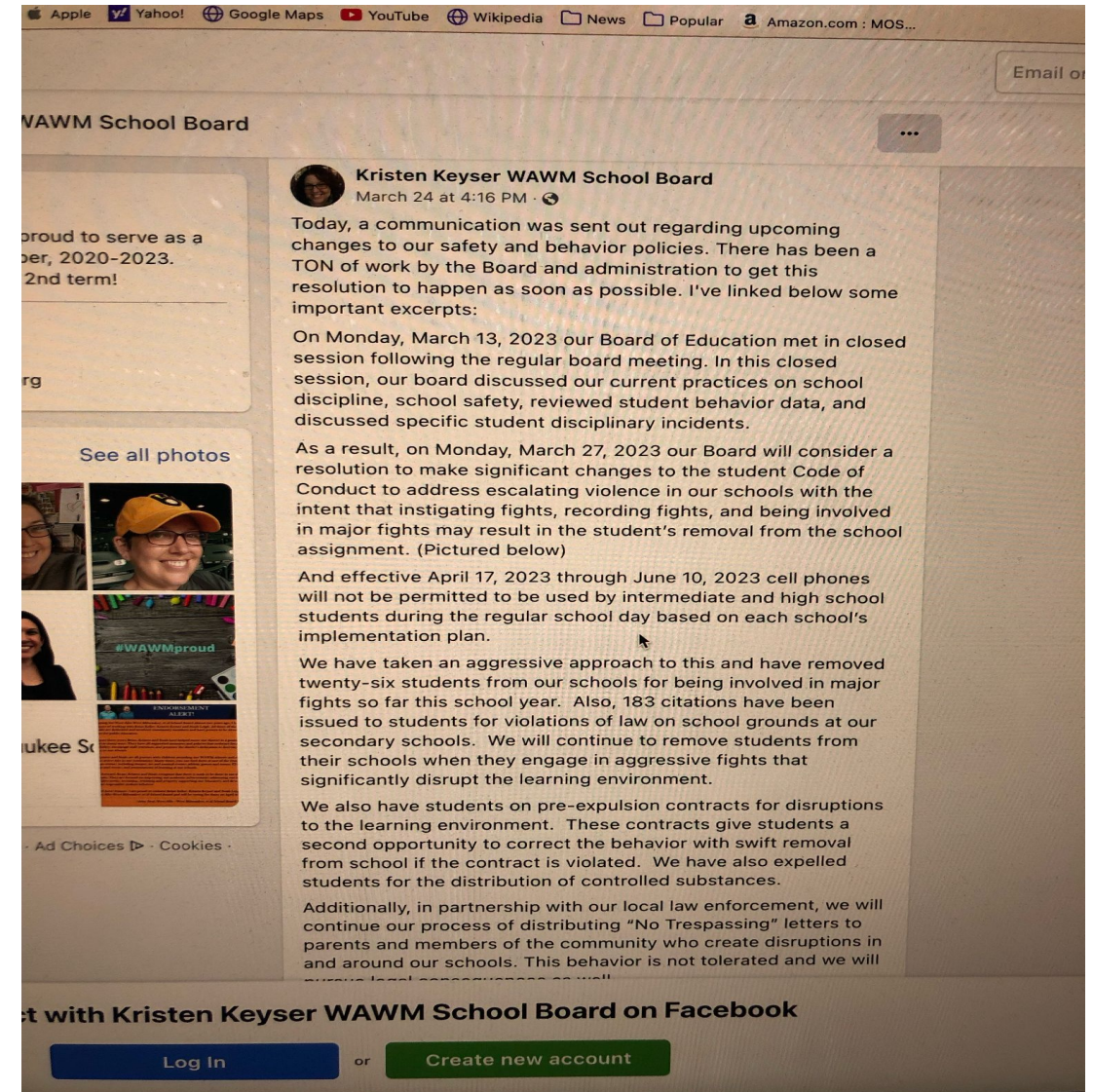
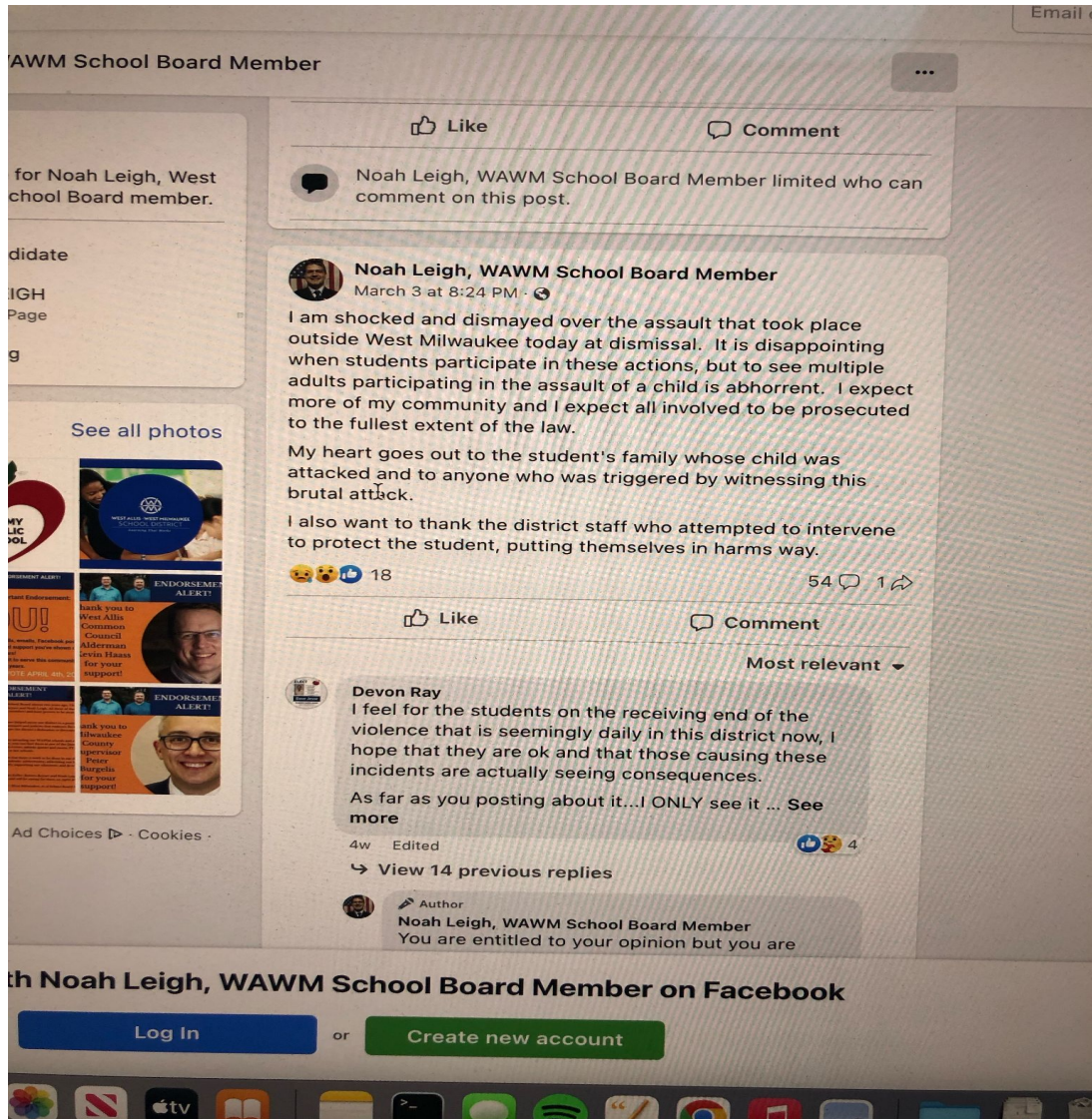
WAWM School	Average of Length of Time on bus before school	Average of Length of Time on bus after school
FRANK LLOYD WRIGHT	29.00	30.20
HOOVER ELEMENTARY	8.01	19.19
LANE INTERMEDIATE SCHOOL	28.26	13.47
NATHAN HALE HIGH	32.00	20.01
Grand Total	21.63	18.61

- For families where drop off and pick up daily isn't an option, we evaluated all New Berlin resident students currently attending WAWM district and their busing option
- The average time spent on a bus each morning before school for NB resident students is almost 22 minutes and average time home is nearly 19 minutes
- Also, important to note, in some instances especially in high school, students are spending over 30 minutes on the bus in the morning and 20 minutes after school. This means they are spending nearly 1 hour on the bus each day. This begs the question, is WAWM really a better location for our NB residents?

Letter to Parents from WAWM District



WAWM School Board Social Media Posts



Press Release from State Representative Dave Maxey



DAVE MAXEY

STATE REPRESENTATIVE • 15TH ASSEMBLY DISTRICT

FOR IMMEDIATE RELEASE

April 20th, 2023

Contact: Rep. Dave Maxey

(608) 237-9115

New Berlin, Wisconsin - Representative Dave Maxey is calling on the State Superintendent of Schools to allow homes in the city of New Berlin, whose residency is currently in the West Allis School District, to be allowed to join the New Berlin School District. "These residents' requests have been denied at varying levels of the application process in the past."

"The residents of New Berlin have made many attempts to leave the West Allis School District in recent years and deserve the opportunity to join our top-rated school district," said Representative Maxey. "New Berlin is renowned for its excellent schools and we are committed to providing our students with the best possible education. It is only fair that these residents be given the option to join the New Berlin School District and benefit from the exceptional education that our schools provide."

"Denying these residents the option to join the New Berlin School District is denying these residents the right to choose the best educational opportunity for their children," said Representative Maxey. "While West Allis is a good school district, these homes should be allowed to make the switch and benefit from the outstanding education that New Berlin schools provide."

Representative Maxey is committed to advocating for the residents of New Berlin and ensuring that they have access to the best possible education. He will continue to work with the State Superintendent of Schools and other officials to ensure that the residents have the option to join the New Berlin School District.

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Article on DPI findings in bullying case

EDUCATION

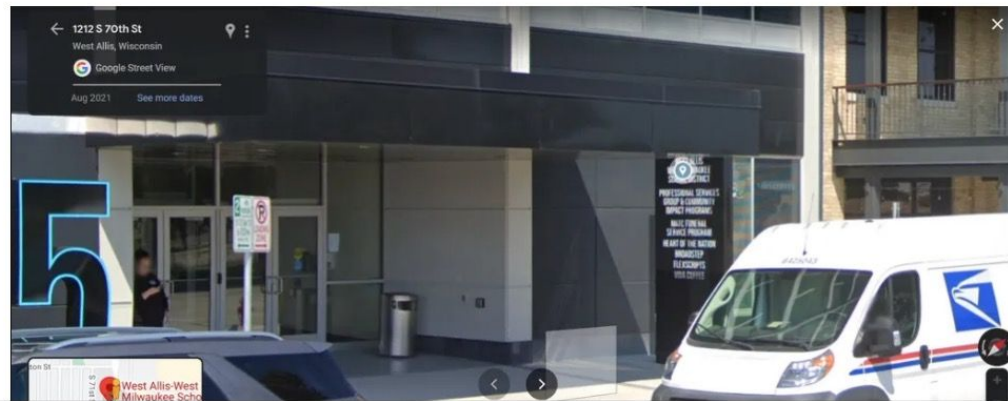
DPI rules West Allis-West Milwaukee violated its own bullying and harassment policies



Alec Johnson

Milwaukee Journal Sentinel

Published 10:09 a.m. CT Feb. 15, 2023 | Updated 10:56 a.m. CT Feb. 15, 2023



DPI: WAWM vs. Devon Ray Decision and Order Result of Bullying Negligence Case

The screenshot shows a PDF document viewer with a toolbar at the top. The document is titled "22-PDA-07 Decisi..." and is on page 2 of 22. The document content is as follows:

THE STATE OF WISCONSIN
BEFORE
THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Pupil Discrimination Appeal: Devon Ray v. West Allis – West Milwaukee School District	DECISION AND ORDER DPI Case No. 22-PDA-07
--	--

On August 16, 2022, Devon Ray (Appellant), on behalf of her son, appealed a pupil discrimination complaint determination by the West Allis – West Milwaukee School District (WAWM). Appellant's son (hereinafter referred to as "Student") was a sixth-grade student at all times relevant to this matter. The complaint identified that Student had been physically attacked by classmates at school on May 4, 2022, and that, when Student returned to school on May 6, 2022, he was bullied and subjected to retaliation for reporting his attackers. The complaint specifically identified that Appellant believed the attackers chose Student based on his physical disabilities and that Student had been bullied "all year". Following an investigation into Appellant's complaint, WAWM concluded that Student had been subjected to bullying but that "there is no evidence the students who engaged in the conduct did so based on [Appellant's] son's disability or characteristic in any other protected class." The record indicates that WAWM failed to comply with its policies and procedures in investigating Appellant's discrimination complaint and DPI is unable to find adequate evidence in the record to support WAWM's ultimate conclusions. Therefore, this appeal is granted.

LEGAL STANDARD

Wis. Stat. § 118.13 provides that no person may be denied participation in, be denied the benefits of, or be discriminated against in any curricular or other program or activity because of a disability. Wis. Admin. Code § PI 9.02(5) defines "discrimination" to include any action, policy,

or practice which is detrimental to a person and differentiates or distinguishes among persons, or which limits or denies them opportunities, privileges, roles, or rewards based, in whole or in part, on physical, mental, emotional or learning disability.

The Department of Public Instruction (DPI) reviews pupil discrimination appeals pursuant to Wis. Stat. § 118.13(3)(a)1. and Wis. Admin. Code § PI 9.08(1)(a). DPI's review of a district's determination under Wis. Stat. § 118.13 is informed by guidance promulgated by the United States Department of Education Office for Civil Rights (OCR), which provides an investigative approach and standards for determining whether discrimination occurred based on analogous federal law. See generally *Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance*, 59 Fed. Reg. 11448-54 (Mar. 10, 1994). While this guidance is specific to racial harassment, its general provisions regarding an investigation approach are applicable to investigations involving other protected classes. Unlike OCR, however, DPI does not itself investigate discrimination complaints but, instead, relies on the district to perform an appropriate investigation sufficient to comply with the district's obligations under Wis. Stat. § 118.13 and Wis. Admin. Code ch. PI 9.

In accordance with Wis. Admin. Code § PI 1.04(9), DPI's decision is based on a review of the record developed by WAWM during its investigation into the underlying complaint.¹

DISTRICT POLICIES

WAWM has adopted and maintains several policies which are relevant to this appeal. Policy 5517 – Student Anti-Harassment prohibits harassment on the basis of any Protected Class, including a "physical, mental, emotional, or learning disability." This policy specifically provides, with respect to disability harassment:

¹ For reasons that will be explained later in this Decision, certain documents outside of the record offered by WAWM have been considered on this appeal.

DPI: WAWM vs. Devon Ray Decision and Order Result of Bullying Negligence Case

Home Tools 22-PDA-07 Decisi... x

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Show next page (→)

[p]rohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's physical, mental, emotional or learning disability and when the conduct has the purpose or effect of: interfering with the individual's educational performance; creating an intimidating, hostile, or offensive learning environment; or interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disability, such as negative comments about speech patterns, movement, physical impairments or defects/appearances, or the like.

Policy 5517 identifies compliance officers and a detailed reporting and complaint procedure with specific steps that must occur upon receipt of a complaint of harassment and during the ensuing investigation. At the conclusion of the investigation, the compliance officer:

- shall prepare and deliver a written report to the Superintendent which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of harassment as provided in Board policy and State and Federal law as to whether the Respondent engaged in harassment/retaliation of the Complainant.

Upon receipt of this written report from the compliance officer, the Superintendent must issue a final written decision on the complaint.

With respect to bullying, Policy 5517 defines it as:

- deliberate or intentional behavior using words or actions, intended to cause fear, intimidation, or harm. Bullying may be a repeated behavior and involves an imbalance of power. Furthermore, it may be serious enough to negatively impact a student's educational, physical, or emotional well-being. Bullying need not be based on any Protected Class. Bullying behavior rises to the level of harassment when the prohibited conduct is based upon [a Protected Class].

A separate policy, Policy 5517.01 – Bullying, sets forth specific complaint procedures that requires “[a]ll complaints about behavior that may violate this policy shall be investigated promptly by the building principal.” Of note, Policy 5517.01 requires that:

- [i]f, during an investigation of a reported act of bullying in accordance with this Policy, the principal determines that the reported misconduct may have created a hostile learning environment and may have constituted harassment based on sex (transgender status, change of sex, or gender identity), race, color, national origin, religion, creed, ancestry, marital or parental status, sexual orientation or physical,

mental, emotional or learning disability, or any other characteristic protected by Federal or State civil rights laws, the principal will report the act of bullying to one of the Compliance Officers who shall assume responsibility to investigate the allegation in accordance with Policy 5517 – Student Anti- Harassment.

A similar obligation to report any suspected harassment based on a Protected Class to a compliance officer is imposed on other district staff by Policy 5517: “[t]eachers, administrators, and other school officials who have the knowledge or received notice that a student has or may have been the victim of harassment prohibited under this policy shall immediately report the alleged harassment to the Compliance Officer and the building principal or Superintendent.” District staff also must report any “complaint” of harassment to a compliance officer within two days.

Finally, WAWM maintains Policy 2260 – Nondiscrimination and Access to Equal Educational Opportunity, which generally prohibits harassment towards students on the basis of any Protected Class and specifically identifies “prohibition of harassment towards students” as a nondiscriminatory practice the policy is intended to promote. This policy has similar reporting and complaint procedures to Policy 5517 and also imposes obligations on district staff to pass any complaints to the Compliance Officer: “[i]f a Complainant informs a teacher, principal, or other District official at the student’s school, the [Compliance Officer], or other District employee, either orally or in writing, about any complaint of harassment, that employee must report such information to the [Compliance Officer] within two (2) days.”

All of these policies prohibit retaliation against a person that makes a report or files a complaint alleging violations of the policies. Policies 2260 and 5517 specifically provide:

- [n]either the Board nor any other person may intimidate, threaten, coerce or interfere with any individual because the person opposed any act or practice made by [sic] any Federal or State civil rights law, or because that individual made a report, formal complaint, testified, assisted or participated or refused to participate in any manner in an investigation, proceeding, or hearing under those laws and/or this policy, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those

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DPI: WAWM vs. Devon Ray Decision and Order Result of Bullying Negligence Case

laws and/or this policy.

Retaliation against a person for making a report of discrimination, filing a formal complaint, or participating in an investigation or meeting is a serious violation of this policy that can result in imposition of disciplinary sanctions/consequences and/or other appropriate remedies.

PROCEDURAL HISTORY

Prior to May 2022, Appellant made at least four email reports to the principal of Student's school (hereinafter referred to as "Principal") of inappropriate behavior towards Student by various classmates. As described by Appellant, Student's disabilities include: walking with a limp and unsteady gait; and holding his arm in a claw like position. Student's physical disabilities apparently stem from a brain disorder and Student suffers from epilepsy. According to Appellant, Student is visibly different and his conditions are physically obvious to outsiders. Student also has an Individualized Education Plan (IEP) and receives special education services. Appellant's email reports to Principal did not explicitly reference Student's disabilities but provided facts that may have been related to those disabilities. On October 14, 2021, Appellant reported that a classmate took Student's water bottle and squirted Student with it every day. Appellant identified that she could not get Student a water bottle that opened and closed (to prevent such squirting) because Student was unable to use such a bottle with one hand. On February 28, 2022, Appellant reported that Student had been called names for dropping crackers and later in the day that same classmate had grabbed Student's chest and said he had "man boobs". Other incidents described in these reports include classmates telling Student to stick something metal in his penis "to make it bigger" or shove something "up his ass". Principal responded to Appellant regarding several of these reports, stating that the incidents were investigated and steps were taken to address Appellant's concerns, including consequences for the classmates involved. On April 29, 2022, Appellant's report to Principal explicitly stated that a certain classmate had been "bullying" Student and that

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this classmate choked Student in the hallway. With respect to her previous reports, Appellant noted "[e]ach time [Student] was told it would be handled and yet again bullying has lead [sic] to physical assault. Please follow up so that I can assure him there will be consequences for people who continually bully him." Principal responded to this report that classmates were disciplined and encouraged Student to report any further events to the main office in the future.

On Wednesday, May 4, 2022, several classmates physically attacked Student as he was leaving school. Student hit his head on the pavement during this event. One of the classmates that attacked Student had been specifically identified in three of Appellant's previous reports to Principal as one of Student's bullies. When Student arrived home that afternoon, Appellant reported the physical attack to Principal via phone and later followed up via email, stating she was concerned about sending Student back to school based on comments the attackers made after the event. Appellant also stated: "I want reports made because enough is enough and this may need to go above you. He has a brain disorder and epilepsy and these kids beat his head off the pavement!" In a subsequent phone conversation, Principal advised Appellant he would not commence an investigation until the following day and that, if she wanted an investigation to commence immediately, she should contact police. Appellant did contact police, who apparently commenced an investigation that evening. WAWM's School Resource Officer (SRO) conducted that investigation and the record indicates the SRO interviewed all students involved over the next several days.

There is no specific evidence in the record about what steps WAWM took next regarding the physical attack. The attackers were disciplined, but it is not clear for how long. Principal did not widely communicate anything regarding the physical attack to school staff members or schedule a meeting to discuss how to handle Student's return to school. Student returned to school

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on Friday, May 6th and was approached by an unnamed staff member as Student arrived. This staff member apparently asked Student if he wanted to talk and Student declined. At 10:40 a.m. on May 6th, Appellant emailed Principal inquiring about WAWM's policies and how the attack would be handled. Appellant noted in this email that Student had been bullied numerous times during the year and stated "I view this as a hate crime against a disabled child. He has one working arm and was jumped by 3 boys that are much bigger than him." That same day at 11:26 a.m., Appellant emailed WAWM's Superintendent (hereinafter referred to as "Superintendent") and WAWM's Board of Education with information on the attack. Appellant identified that her son was physically disabled, had been bullied by many classmates during the year and said "I would like to know what the policy is for punishing kids for hate crimes against a disabled child".

During the school day on May 6th, a friend of the attackers used the name "Free [classmate name] and [classmate name]" as her screen name in a class electronic quiz and made comments about Student being a "baby" that had gone to his "mommy". The classmate names referenced in the screen name were two of Student's attackers. Student was not present when this occurred, but this friend later, in a class she shared with Student, loudly talked about her screen name and repeated her comments about Student. Student requested an appointment with his school counselor to discuss this incident; the request said "everyone is mad because I called the cops." During his meeting with the counselor, Student identified his main concern as the screen name and statements made by the friend. The counselor asked Student if he wanted to do a mediation and Student declined. The counselor told Student he would speak to the friend and Student returned to class. The counselor later did speak with the friend and told her to "leave the situation alone" or she would be referred to administration. This did not deter the friend. Later in the day she made a

comment to Student about Student reporting her to the counselor.²

Appellant apparently learned of these events when Student returned home from school that day. At 3:31 p.m., Appellant emailed Principal, Superintendent and the Board, identifying that friends of the attackers had bullied Student all day. She alleged that teachers failed to stop it and that the counselor was not helpful either. Specifically, Appellant asked "why are there no adults checking in with him and standing up for him after he was physically attacked?" Appellant asked for a response as to what WAWM was going to do by the end of the day. The record does not reflect a written response to Appellant's request, but Appellant was apparently advised that WAWM was developing an action plan for Student to safely complete the school year.

On Monday, May 9th, Appellant emailed Principal and Superintendent stating that Student would not be in school that day because no action plan had been communicated. In this email, Appellant states "[t]his is a hate crime on a protected class." Superintendent responded that follow-up on the safety plan was coming. Superintendent also stated:

[w]ith regards to the matter of a hate crime, that is the jurisdiction of law enforcement and I am aware that they have also been involved. That being said, we do have internal policy and processes related to student anti-harassment and discrimination and the opportunity to formalize a complaint. You can read the related school board policy and complaint process [HERE](#). I encourage you to participate in the meeting(s) with Lane staff to put a safety plan in place as we have had success with this and other approaches in similar matters. And if needed formalize a student anti-harassment complaint.

Principal also later responded specifically to Appellant's assertions about a hate crime by stating:

[a]s a school district we are governed by district and board policy. We do not determine criminal charges such as a hate crime. Under our policy we do have protection for discrimination and harassment. That falls under Title 9 protections. You can fill out a Title 9 complaint to have this further investigated. Here is the link to the district Title 9 information.

The record does not reflect that Superintendent or Principal took any further action regarding

² The friend was interviewed by the SRO the following week and was issued a ticket for disorderly conduct.

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Appellant's continued assertions regarding a "hate crime" against her son.³

Student did not return to school the week of May 9th. Appellant emailed district staff daily advising that Student was not attending school because a safety plan had not been developed. Appellant also daily requested guidance from WAWM on what Student could be working on at home so that Student could keep up academically. While WAWM offered Appellant times to meet to discuss a safety plan during this week, Appellant identified that she was scheduled to have surgery on Friday, May 13th, was unable to meet in person and was also unable to commit to a meeting date until after her surgery.⁴

On Saturday, May 14th, Appellant emailed the District's Compliance Officer.⁵ Appellant set forth information about the physical attack on May 4th and that, on May 6th, Student was bullied and threatened because his report got the attackers in trouble. Appellant alleged that teachers had done nothing in response to the bullying and that the counselor also did nothing. Appellant identified her son was "physically disabled due to a brain disorder and also suffers from epilepsy" and her belief that the attackers "picked a disabled kid that they figured could not fight back, so I guess that means picking a child who only has one arm that works due to a brain disorder." Appellant stated, again, that she believed the attack was a "hate crime". Appellant ended the email with "[p]lease let me know if there is anything you can address here as to how my son

³ Title IX is a law prohibiting sex-based harassment and has no relevance to Appellant's assertions about disability-based harassment.
⁴ On May 13th, Superintendent sent Appellant a letter stating that, because of her lack of engagement with WAWM on a safety plan, Student would be marked truant starting on that date. On July 5, 2022, Superintendent sent an apology letter to Appellant, indicating it was in response "to the outcome of a complete investigation into the matter concerning the attack on your son" and that his May 13th letter was "based on incomplete and/or inaccurate information." Superintendent also stated "[w]hat you and your son experienced with us did not meet our fundamental commitment to ensure your son and all students are safe at school." WAWM did not include this letter in its record; it was provided by Appellant.
⁵ WAWM's policies name two different Compliance Officers. It's unclear from the record whether Appellant emailed one or both, but all references to Compliance Officer herein are to WAWM's Director of Human Resources, who handled the subsequent investigation.

and I have been treated." Student did not return to school the week of Monday, May 16th. Appellant continued to email district staff daily advising that Student was not attending school because a safety plan had not been developed and requesting academic guidance.

Compliance Officer was apparently out of the office in the business days that followed Appellant's May 14th email. During this time, Compliance Officer forwarded Appellant's email to another district staff member (not the other named compliance officer in WAWM's policies) who contacted Appellant. Appellant declined to speak with this staff member, indicating she wanted her email addressed by one of the compliance officers identified in WAWM's policies. Compliance Officer responded to Appellant on Thursday, May 18th, stating "I was unclear that you were requesting a harassment investigation" but indicating that such an investigation would commence at that time. In a responsive email, Appellant asserted that, pursuant to WAWM's policies, a discrimination investigation should have been commenced by Principal within two days of the May 4th incident.

Also on May 18th, Appellant met with WAWM staff to discuss a safety plan for Student's return to school. Appellant was not satisfied with the options offered, including that Student would change his schedule to leave classes early in order to walk the halls alone and to speak to his counselor when needed. Appellant identified in a subsequent email that she believed the safety plan punished Student instead of the attackers and that, essentially, she did not have faith in the ability of the counselor to help Student based on the counselor's response to the retaliation incident on May 6th. Later on May 18th, WAWM's Director of Leadership and Learning contacted Appellant to schedule an IEP meeting "to discuss [Student's] current education services under this temporary plan." That IEP meeting took place on Monday, May 23rd. Student completed the 21 – 22 school year virtually and has not returned to WAWM for the 22 – 23 school year.

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According to the record, Compliance Officer did conduct an investigation which included: at least one interview with Appellant; soliciting notes and email correspondence from various WAWM staff; and an interview with Principal. On July 21, 2022, Compliance Officer issued a letter to Appellant; it stated “[t]he purpose of this communication is to provide you with the findings and conclusions of the investigation conducted regarding [Student].” The letter stated that Superintendent had adopted those findings and conclusions, which amounted to the following:

I do find that “Bullying” occurred, as it is defined in the Student Anti-Harassment policy, but there is no evidence that the students who engaged in the conduct did so based on your son’s disability or characteristic in any other protected class. As such, I have found no violation of “Harassment” as it is defined in the Student Anti-Harassment policy. While I have found a violation of the Student Anti-Harassment policy, the District, due to State and Federal law, cannot disclose any type of disciplinary action that may have occurred with any specific individual(s).

On August 16, 2022, Appellant appealed WAWM’s determination to DPI.

DISCUSSION

I. DPI’s Review is Confined to Whether WAWM Correctly Concluded That Discrimination Did Not Occur.

There are several issues raised in Appellant’s appeal and written submission which are simply outside of the scope of DPI’s review on this appeal. DPI’s authority under Wis. Stat. 118.13(3)(a)1. and Wis. Admin. Code § PI 9.08(1)(a) is limited to whether WAWM’s determination that the bullying was not based on Student’s disability or characteristic in any other protected class was correct and, therefore, there was no discrimination or harassment. This review includes whether WAWM complied with its own policies and procedures in handling the discrimination complaint.

A. DPI has No Authority to Address Allegations Related to WAWM’s Compliance with Wisconsin’s Public Records Law.

In her written submission, Appellant identifies she submitted one or more public records requests to WAWM requesting records related to Student and the May 4th attack. After review of

the record submitted by WAWM on this appeal, Appellant believes that WAWM has not been fully responsive to her public records requests and that pertinent documents are missing from the record on this appeal. As noted above, DPI’s decision on a discrimination appeal is based on a review of the record developed by the district during its investigation into the underlying complaint and DPI generally considers only information contained in the record offered by the district. It is not necessarily true that every document maintained by WAWM related to Student and/or the May 4th attack would have been considered by Compliance Officer in her discrimination investigation; therefore, the documents produced by WAWM in response to Appellant’s public records request would not necessarily mirror the record produced on WAWM on this appeal.

However, DPI does understand Appellant’s confusion when her public records request is intertwined with the present appeal. DPI’s opinions on the sufficiency of WAWM’s record in this matter will be discussed below. However, DPI’s opinions regarding documents which are not present in the record and that potentially should have been considered by Compliance Officer in her investigation should not be read as any opinion on WAWM’s compliance with public records law. WAWM has correctly identified in its written submission that this distinct issue – whether it has properly responded to Appellant’s public records requests – is not within the scope of this appeal and DPI has no oversight over public records law and a school district’s compliance therewith. That falls to local district attorneys and the State Department of Justice through its Office of Open Government.

B. DPI Does Not Have Authority, in the Context of this Appeal, to Address Allegations Related to the Provision of a Free and Appropriate Public Education.

Appellant also alleges in her written submission a variety of failures by WAWM with respect to development and implementation of Student’s IEP, including the IEP meeting that took place on May 23, 2022. Appellant believes that WAWM has not met its obligation, under federal

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and Wisconsin law, to provide a free and appropriate public education to Student. DPI does not have jurisdiction, under Wis. Stat. § 118.13 or Wis. Admin. Code ch. PI 9, to review complaints regarding the provision of free and appropriate public education to children with disabilities. Wis. Admin. Code § PI 9.04(2) specifically provides that “appeals under 20 USC 1415 and ch. 115, Stats., relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education of a child with an exceptional educational need shall be resolved through the procedures authorized by ch. 115, subch. V, Stats.” For that reason, DPI is unable to resolve, through this appeal, any of Appellant’s concerns regarding WAWM’s provision of FAPE.⁶

II. WAWM Failed to Comply with Its Policies in Handling Appellant’s Complaints.

Wis. Admin. Code § PI 9.04 requires that districts craft discrimination policies and procedures to meet the brief requirements of that rule, but largely leaves districts wide discretion to craft those policies on their own. Once a district adopts its own specific discrimination policies and procedures, it must then actually follow those policies and procedures when complaints are actually made. A review of the record on this appeal identifies that WAWM failed to comply with its relevant policies in a number of different ways, both in response to Appellant’s complaints about the treatment of Student by classmates prior to May 14, 2022, and following the “formal” complaint filed by Appellant with Compliance Officer on May 14th.

A. WAWM Staff Failed to Comply with Its Policies Mandating Reporting of Complaints to the Compliance Officer.

As detailed above, WAWM’s policies impose an obligation on WAWM employees to report complaints involving alleged discrimination or harassment to one of the district’s

Compliance Officers. Discrimination or harassment, as defined in Wisconsin law – and as incorporated in these policies – is necessarily based on the victim’s membership in a protected class. Specifically, WAWM’s policy on nondiscrimination (2260) provides that “[a]ll members of the District community must report incidents of discrimination/retaliation that are reported to them to the [Compliance Officer] within two (2) days of learning of the incident/conduct.” WAWM’s policy on student anti-harassment (5517) echoes this requirement regarding complaints and also requires immediate notification in the case of any knowledge of potential harassment: “[t]eachers, administrators, and other school officials who have the knowledge or received notice that a student has or may have been the victim of harassment prohibited under this policy shall immediately report the alleged harassment to the Compliance Officer and the building principal or Superintendent.”

As early as May 6, 2022, in emails to Principal, Superintendent and WAWM’s Board, Appellant was stating that she believed Student’s classmates had perpetrated a hate crime against a disabled student. While Appellant did not use the words “discrimination” or “harassment” in these emails, any reasonable person would understand that Appellant was asserting Student was attacked because of his disabilities. Further, on May 9th, Appellant specifically used the words protected class: “[t]his is a hate crime on a protected class.” Such allegations clearly fall under the definitions of discrimination and harassment in WAWM’s policies, and each WAWM school official that received them had a duty under policies 2260 and 5517 to report them to a compliance officer.

The record further reflects that WAWM staff did, in fact, understand that Appellant was making allegations of discrimination and harassment. In his May 9th responsive email to Appellant, Superintendent advised her that the district had policies to address such allegations, but

⁶ DPI is aware that the parties, at one point, had mediation scheduled through the Wisconsin Special Education Mediation System. DPI encourages both parties to continue to pursue such resolution.

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sought to impose an obligation on Appellant to “formalize” her complaint. WAWM’s policies do not require such action on the part of a complainant. Again, its policies very clearly identify that “all members of the school community” are obligated to take any report of harassment and/or discrimination to a compliance officer, even oral or informal complaints. The compliance officer is then directed to contact the complainant to determine whether to proceed with an “informal” or “formal” complaint process. Additionally, WAWM’s policies clearly identify that complaints of alleged retaliation (for reporting discrimination and/or harassment) should be handled in the same manner. Therefore, Appellant’s reports regarding the behavior of Student’s classmates on May 6th triggered the same obligation.⁷ The record reflects that no one with whom Appellant communicated reported Appellant’s complaints to a compliance officer and WAWM did not commence an investigation until Appellant made a complaint directly to Compliance Officer on May 14th.

B. Compliance Officer Failed to Comply with WAWM’s Policies in the Course of the Investigation.

WAWM has elected to adopt policies which contain very detailed investigation and complaint procedures with numerous required actions. WAWM’s compliance officers, therefore, must take each of these required actions when investigating complaints. The record reflects a number of ways in which Compliance Officer failed to comply with WAWM’s policies during the course of the actual investigation into Appellant’s complaints, beginning with the failure to recognize Appellant’s May 14th email as a complaint and process it promptly. There is also no evidence in the record that Compliance Officer conducted required interviews with the “respondents”, which would be, at least, the classmates that attacked Student and the classmate

⁷ The record does not contain sufficient facts about the events of May 6th to make a definitive determination, but it’s possible that other WAWM staff, including Student’s teachers and counselor, had an obligation to report to a compliance officer as well based on their observation of the events or Student’s reports to them.

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that retaliated against Student when he returned to school. There is also no written report authored by Compliance Officer summarizing the evidence and providing recommendations. Such written report is required to be delivered to the Superintendent, who then issues a final written decision. The only document in the record reflecting any findings by Compliance Officer or any decision by Superintendent is the July 21, 2022, letter, which states a summary conclusion without providing any insight into how that conclusion was reached.

III. The Record Does Not Support Compliance Officer’s Conclusion that Student Was Not Bullied or Harassed Based on a Disability.

Wisconsin law does not require a school district to perform the same level of investigation that OCR might perform. Wis. Stat. § 118.13 and Wis. Admin. Code ch. PI 9 do not require an exhaustive investigation. A district satisfies the provisions of Wisconsin law when it meaningfully complies with its adopted policies and performs an investigation that is reasonably calculated to determine whether the allegations of discrimination in a complaint are true. In this matter, such an investigation would be designed to explore both whether the conduct as alleged occurred and, if so, whether the conduct was based on Student’s disabilities. As noted above, Compliance Officer did not meaningfully comply with WAWM’s policies in performing this investigation. As a result, Compliance Officer failed to develop sufficient evidence to support her ultimate conclusion that the bullying of Student was not based on his disabilities.

Without a written investigation report summarizing the evidence gathered during the investigation, DPI is left to speculate as to how Compliance Officer reached her ultimate conclusion. Compliance Officer did not interview any of the respondents – Student’s classmates accused of discrimination and/or harassment – and had no firsthand information about what motivated their behavior towards Student. Instead, it appears that Compliance Officer relied on various WAWM staff’s parroting of information supposedly gleaned from the classmates during

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their police interviews. In fact, in its written submission on appeal, WAWM is only able to point to one place in the record as support for Compliance Officer's final conclusion: notes made by WAWM's Director Leadership and Learning regarding a phone call she had with the SRO who had interviewed the classmates. Even these notes themselves are unclear as to what the SRO actually represented regarding the SRO's conclusions on the students' motivations. The Director of Leadership and Learning wrote:

I asked [the SRO] if she believed, based on her investigation, that she did not believe the three students specifically targeted [Student] because he was a person with a disability, but that she does believe they planned this which is why the charge was Battery and not Disorderly conduct.

Compliance Officer apparently interpreted this garbled phrase to mean that the SRO did not believe Student was attacked because of his disabilities. However, there is no evidence in the record that Compliance Officer interviewed the SRO directly, reviewed any police reports or transcripts of the students' interviews⁸, or otherwise independently developed her own evidence regarding the students' motivations. It was not reasonable for Compliance Officer to base her ultimate finding on this one secondhand, conclusory and ambiguous statement by the SRO.

In fact, it appears there was further evidence available to Compliance Officer which would have provided additional insight into at least one of these students' motivations: the three email complaints from Appellant to Principal from October 2021 to February 2022 which detailed specific incidents of inappropriate behavior by one of the classmates that would go on to attack Student on May 4th. These emails were not contained in the record offered by WAWM on appeal but rather were provided by Appellant with her written submission; as such, presumably they were not considered by Compliance Officer in her investigation. DPI has considered these additional

⁸ An Assistant Principal from Student's school sat in on a police interview of one of the attackers. The Assistant Principal's notes are contained in the record but do not reflect any questioning on what motivated the attackers.

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emails provided by Appellant in this review because a reasonable investigator should have discovered and considered them in the course of the investigation. Both Appellant's "informal" complaints prior to May 14th and her "formal" complaint on that date reference a history of bullying of Student that should have been the subject of investigation; further, a reasonable investigation should have been designed to explore if and how that previous conduct related to the May 4th attack. Compliance Officer did consider previous complaints by Appellant relevant to her investigation; she specifically asked Principal to provide her with "the dates that you received any concerns from [Appellant] PRIOR to May 4th? Please provide any responses and notes." In response to the Compliance Officer's request, Principal provided only the April 29, 2022, email from Appellant which referenced bullying by a classmate not otherwise involved in this matter. While normally DPI would not expect an investigator to second-guess a staff member's representations, there is abundant evidence in the record that WAWM's investigation uncovered that the accounts of Principal should not be taken at face value.⁹

Nonetheless, Compliance Officer did not conduct an independent search to locate additional email complaints from Appellant after Principal provided only one from the week prior to the attack. DPI is not making any conclusions based on these email complaints, but they are illustrative of a pattern of behavior against Student that may have been related to his disabilities.¹⁰ The February 28, 2022, email indicates that Student was called names for dropping crackers; this may have been associated with Student's physical disabilities related to his arm. The email complaints also reveal a theme of teasing based on Student's body in a variety of ways that could

⁹ In fact, it is clear from the record that at some point, Compliance Officer's investigation into this complaint converged with an investigation into Principal's particular misconduct. Compliance Investigator's notes from her June 3, 2022, investigation interview with Principal indicate he was suspended at the end of that meeting.

¹⁰ The record does not reflect what specific conclusions Principal reached about these classmates' motivations in the prior incidents, but if he believed this bullying was based on Student's disabilities, he had an obligation to report that to a compliance officer.

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have been related to his physical differences from his classmates. Again, one of the classmates that ultimately attacked Student on May 4th was named in three of these email complaints. A reasonable investigation should have explored whether his previous behavior was based on Student's disabilities and whether he had a similar motivation for the May 4th attack.

Ultimately, the record reflects that Compliance Officer did not meaningfully explore whether the actions of Student's classmates were motivated by Student's disabilities. There is insufficient evidence in this record to support Compliance Officer's conclusion that Student was not bullied on the basis of his disabilities.

IV. DPI's Authority is Limited to Ordering Corrective Action.

In her written submission, Appellant requests that DPI order WAWM to pay the cost of Student's education outside of the district. DPI's only authority upon finding that a district violated Wis. Stat. § 118.13 or Wis. Admin. Code ch. PI 9 is to "issue an order to comply which includes a requirement that the board submit a corrective action plan, including a schedule." Wis. Admin. Code § PI 9.08(1)(a)4. It is clear from the record in this matter that, regardless of the ultimate conclusions in this particular complaint, WAWM needs extensive training for all of its staff with respect to recognizing and preventing discrimination and harassment and their obligations under WAWM's adopted discrimination and harassment policies. Numerous failures of staff to comply with those policies are noted throughout this Decision: perhaps the most glaring, besides the inability of any WAWM staff to refer Appellant's complaints to a compliance officer, was Principal's belief that Title IX – which covers sex-based harassment – was the "general" policy on discrimination that applied to WAWM. Specific training is also needed for its compliance officers on how to recognize discrimination or harassment complaints and how to comply with WAWM in investigating such complaints. It's concerning that one of the two designated compliance

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officers for WAWM was unable to recognize Appellant's May 14th email as a discrimination and/or harassment complaint. Besides the clarity of the allegations contained therein, there would seemingly be no other reason for a parent to reach out to WAWM's Director of Human Resources for assistance with a student matter other than in her role as one of the district's named compliance officers. The duties of a compliance officer are significant and all districts should be mindful to ensure appropriate, properly-trained staff are named in their policies and ready to respond to discrimination and harassment complaints.

Turning to the specific conclusion reached in this matter, DPI is unable, based on the record developed by WAWM, to determine whether Student was bullied on the basis of his disabilities. DPI is able to conclude that the investigation of Compliance Officer was not reasonable and, therefore, should be reopened in order to sufficiently develop evidence to support a conclusion on the motivations of the classmates involved in bullying Student. Such investigation should comply fully with WAWM's adopted policies. The record also reflects several concerning ways in which WAWM handled the May 4th attack on the whole, Student's return to school thereafter, communication with Appellant, and Appellant's efforts to bring awareness to the incident on social media. DPI would encourage WAWM, given the length of time that has already passed while this matter has been pending, to consider whether a resolution with Appellant short of a reopened investigation is appropriate so that both parties can move on from this unfortunate incident.

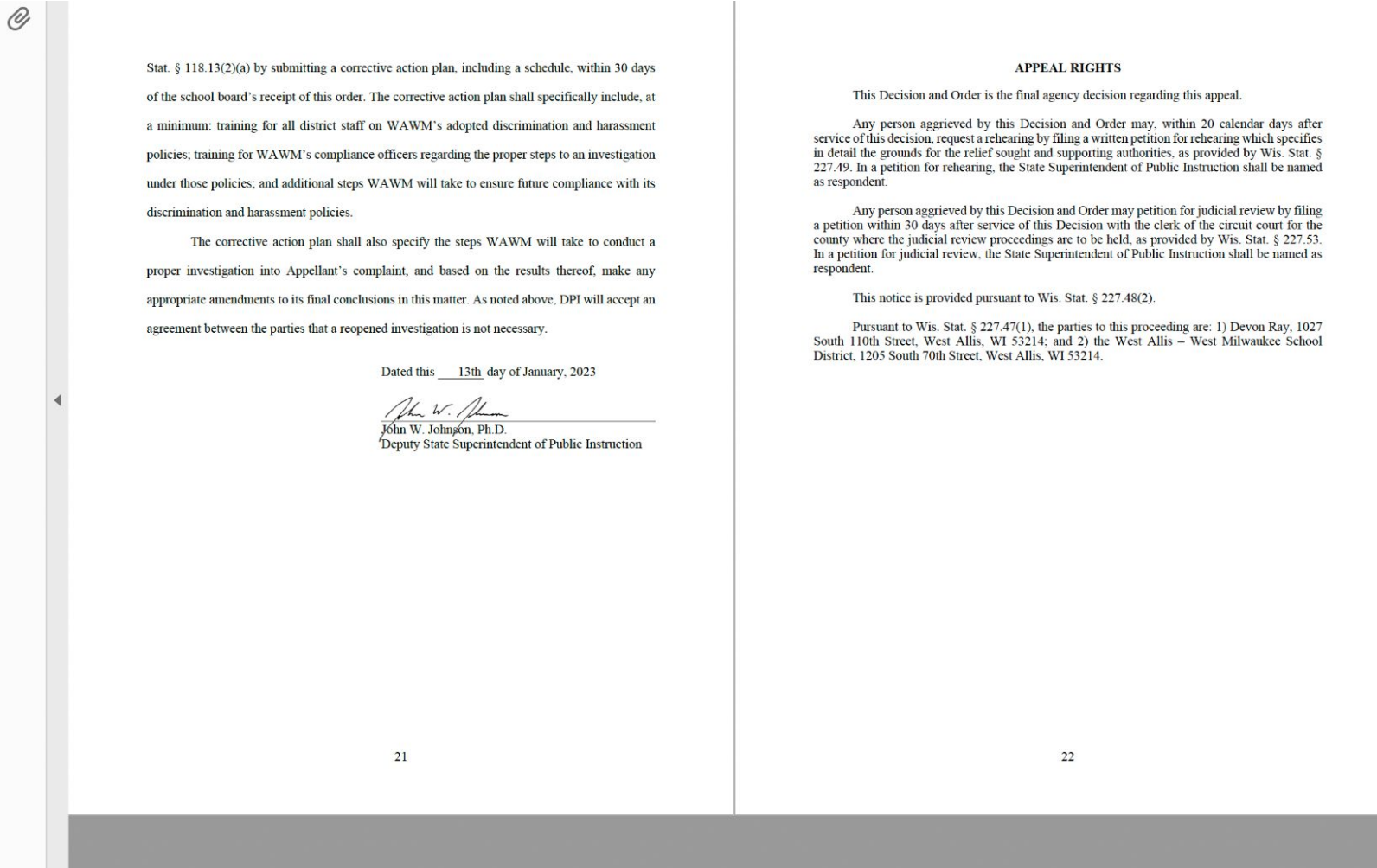
ORDER

DPI finds that WAWM failed to comply with its own policies in handling Appellant's complaint regarding discrimination and/or harassment of Student. WAWM failed to develop sufficient facts necessary for DPI to make any further findings regarding the alleged discrimination and/or harassment. Therefore, this appeal is **GRANTED**.

Pursuant to Wis. Admin. Code § PI 9.08(1)(a)4, the School Board shall comply with Wis.

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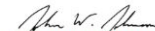
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Stat. § 118.13(2)(a) by submitting a corrective action plan, including a schedule, within 30 days of the school board's receipt of this order. The corrective action plan shall specifically include, at a minimum: training for all district staff on WAWM's adopted discrimination and harassment policies; training for WAWM's compliance officers regarding the proper steps to an investigation under those policies; and additional steps WAWM will take to ensure future compliance with its discrimination and harassment policies.

The corrective action plan shall also specify the steps WAWM will take to conduct a proper investigation into Appellant's complaint, and based on the results thereof, make any appropriate amendments to its final conclusions in this matter. As noted above, DPI will accept an agreement between the parties that a reopened investigation is not necessary.

Dated this 13th day of January, 2023


John W. Johnson, Ph.D.
Deputy State Superintendent of Public Instruction

APPEAL RIGHTS

This Decision and Order is the final agency decision regarding this appeal.

Any person aggrieved by this Decision and Order may, within 20 calendar days after service of this decision, request a rehearing by filing a written petition for rehearing which specifies in detail the grounds for the relief sought and supporting authorities, as provided by Wis. Stat. § 227.49. In a petition for rehearing, the State Superintendent of Public Instruction shall be named as respondent.

Any person aggrieved by this Decision and Order may petition for judicial review by filing a petition within 30 days after service of this Decision with the clerk of the circuit court for the county where the judicial review proceedings are to be held, as provided by Wis. Stat. § 227.53. In a petition for judicial review, the State Superintendent of Public Instruction shall be named as respondent.

This notice is provided pursuant to Wis. Stat. § 227.48(2).

Pursuant to Wis. Stat. § 227.47(1), the parties to this proceeding are: 1) Devon Ray, 1027 South 110th Street, West Allis, WI 53214; and 2) the West Allis – West Milwaukee School District, 1205 South 70th Street, West Allis, WI 53214.

DPI Scorecards

	New Berlin	WAWM
2021-22	Report Cards - 2021-22 - New Berlin (wi.gov) Overall Score: 85.2 Significantly Exceeds Expectations	Report Cards - 2021-22 - West Allis-West Milwaukee (wi.gov) Overall Score: 54.9 Meets Few Expectations
2020-21	Report Cards - 2020-21 - New Berlin (wi.gov) Overall Score: 84.2 Significantly Exceeds Expectations	Report Cards - 2020-21 - West Allis-West Milwaukee (wi.gov) Overall Score: 55.9 Meets Few Expectations
2019-20	None were Produced	None were Produced

Criteria 1

Five (5) Lowest (+/-Net) For Elementary Schools

Any one, or two, of the circled schools could be consolidated, moving students into Hoover in the next year or so. This would increase potential travel times, traffic, and bussing.

	Criteria																										
School	Site Traffic Safe Routes Parking	Site Site Better Field Geograph Area	Security Supervision	ADA Accessibility	Administration Home Student Support Spaces	CAREERS Learning Center	SPE Hearing Collaboration Areas	Restroom Student & Staff	Support Spaces (Locker, Book Room, Storage, Recycling, etc.)	Circularity Wayfinding	Community Space	Building Architecture (Interiors Exterior)	Classroom Quality Size Suitability	Science STEM Classroom	Music Art Performance Space	Flexible Learning Spaces Student Project Breakout Spaces	Modern space (Lab Career Tech. Ed. Special)	Phys. Ed. Athletics Space	Library Media Center Learning Environment	Special Education Spaces	Facility Condition (Age PEQ)	Indirectly for Separates Reopening	Site vs. Replacement Cost	Minimal Construction	Original Building Age		
Franklin		+	+			-	-	-	-				-	+	+		+									-	
Jefferson		+	+			-	-						+				-	-									-
Longfellow	-	-	-		+										+												-
Madison		+				-	-					+		+													+
Wilson	-	-				-	-							+			+	+									+

WAWM Maintenance Budget

School by School Results

West Allis
West Milwaukee
SCHOOL DISTRICT

DRAFT

West Allis-West Milwaukee SD
2020 Capital Improvement Plan

 **CGSchmidt**

Summary		January 29, 2021
#	Building	2020 CIP Projection
ELEMENTARY SCHOOLS BUILDINGS		\$ 114,264,756
1	Franklin Elementary	\$ 8,886,518
2	Hoover Elementary	\$ 14,852,996
3	Horace Mann Elementary	\$ 13,773,139
4	Irving Elementary	\$ 14,643,033
5	Jefferson Elementary	\$ 10,892,659
6	Longfellow Elementary	\$ 8,307,923
7	Madison Elementary	\$ 6,516,953
8	General Mitchell Elementary	\$ 7,153,798
9	Pershing Elementary	\$ 5,562,523
10	Walker Elementary	\$ 10,779,164
11	Wilson Elementary	\$ 12,896,050
INTERMEDIATE SCHOOL BUILDINGS		\$ 49,172,676
12	Frank Lloyd Wright Intermediate	\$ 20,442,804
13	Lane Intermediate	\$ 19,342,716
14	West Milwaukee Intermediate	\$ 9,387,156
HIGH SCHOOLS BUILDINGS		\$ 72,311,589
15	West Allis Central High School	\$ 36,674,009
16	James E. Dottke High School	\$ 10,433,727
17	Nathan Hale High School	\$ 25,203,854
SUPPLEMENTARY BUILDINGS		\$ 11,842,778
18	9333 Building	\$ 3,413,867
19	Franklin Field House	\$ 1,449,536
20	Jefferson Field House	\$ 981,664
21	Parkway Center-CESA #1	\$ 3,919,548
22	Recreation Department	\$ 635,285
23	WAAC Field House	\$ 1,442,879
TOTAL		\$ 247,591,800



WAWM Denial Resolution Letter



**WEST ALLIS–WEST MILWAUKEE
SCHOOL DISTRICT**

Learning That Works

Attachment to Resolution
February 28, 2023

The Board of Education for the School District of West Allis-West Milwaukee, et al. has voted to adopt a Resolution denying the Petition from Patty Fortune and Campbell Czajka (“Petitioners”) to alter school boundaries, by requesting to detach approximately 161 parcels in New Berlin from the School District of West Allis-West Milwaukee, et al. (“WAWM”) and attach the property into the New Berlin School District. The Board heard testimony from the petitioners on Monday, February 13, 2023. After the discussion at the Board meeting on Monday, February 27, 2023, the Board adopted a Resolution denying the Petition based on the criteria for school reorganizations as they affect the educational welfare of all the children residing in the affected school districts pursuant to Wisconsin Statute section 117.15. Specifically, the Board has voted to deny the Petition based on the following reasons:

- Petitioners were concerned that school consolidation would eliminate Hoover Elementary. In the District’s Facility Master Plan and the District’s school consolidation decision making matrices, the District included the criteria that it will continue to operate the schools in the communities it serves outside of the City of West Allis. This means Hoover is not being considered for consolidation. The petitioners also cited added costs and environmental impact of the additional miles traveled to some of the schools in the examples they provided but when the miles are annualized, the totality of miles driven has a much higher environmental impact and costs if detachment took place; meaning, travel distances in terms of annual miles and school career miles are longer for WAWM students in New Berlin if they were to attend New Berlin schools.
- There is a significant difference in the economic realities of the families served in the West Allis-West Milwaukee School District compared to the New Berlin School District. Only 13.7% of New Berlin students qualify as economically disadvantaged while 63.2% of West Allis - West Milwaukee students do in the 2021-2022 school year. For comparison over time the New Berlin rate in 2015-2016 was almost the same at 13.4% while our rate increased by more than 3 percentage points from 59.3%. The differences in performance of the District’s schools and school districts must be considered within the context of these demographic realities. While New Berlin Schools outperform our schools, high school students compare well to their New Berlin counterparts and actually outperform them. In 3rd to 5th grade math New Berlin students at Hoover outperform all Hoover students but underperform compared to New Berlin students at Orchard Lane.
- Petitioners referenced high teacher turnover. The District has tracked voluntary teacher turnover and voluntary teacher turnover for 21-22 was 18.2% (about the national average) and turnover from July 2022 - December 2022 is 6.9%, which is trending downward.

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- Petitioners mentioned detachment will have a positive effect on overcrowding projects. The District's school consolidations will not cause overcrowding. The schools receiving new students have had as many and even more students in the past. Overcrowding is not a projected concern for the District.
- The petitioner's believed that as a result of the 2022 failed referendum, the District would increase class sizes and cut programs, including athletic programs. Neither of these have occurred. The School Board has not changed class sizes and staffing targets and has not cut programs or athletic budgets. The School Board is slowly increasing the budget for Capital Improvement Projects and maintaining class size and program budgets. Detachment would reduce high school enrollment making it more difficult to offer competitive athletic programs. Further, WAWM target class sizes are considerably lower now than in New Berlin. The District has continued its commitment to smaller class sizes in spite of the failed referendum.
- If all students (or parcels) were to detach from the WAWM, it would result in an increase in the Mill rate for WAWM residents and property owners.
- The District is committed to addressing academic achievement, especially in the context of realities working with many more families in poverty than the New Berlin School District. While all schools and school districts find challenges in student safety, the District is equally committed to ensuring safe and enjoyable environments for our students, including those 21 students who are a part of the petition.
- Provided all the New Berlin students were permitted to detach, this would mean the District would lose 248 resident members both in attendance and accessing open enrollment. Based on 2022-23 per pupil amounts this would mean a total of \$2.1 million in lost revenue. The total EPV for all of New Berlin residing in the WAWM School District is \$424,433,481 this represents just under 7% of the total EPV for all municipalities within the WAWM School District. 248 students is roughly 3% of student resident membership. If the District lost 3% of its membership, but 7% of the tax base, WAWM residents could expect taxes (mill rate) to increase.
- Should the entire portion of New Berlin detach from the WAWM School District; it would allow our most affluent families to attend a more affluent district with a projected decrease in their mill rate. Conversely it would impact the District's less affluent families by providing them with a 10% increase in their mill rate.
- If all the parcels within New Berlin detach, it may further complicate the boundaries of the City of New Berlin and the Elmbrook School District.
- The basic demographic facts of the impact of the proposed detachment and the likelihood of this creating a snowball effect, shows that the detachment is inherently unfair to the students and teachers of the WAWM School District.
- The difference between the socio-economic status of the New Berlin students in the petition and New Berlin students attending the WAWM School District overall is that they are in more affluent households. In addition, there is a stark difference in the percent of economically disadvantaged families in the WAWM School District compared to New Berlin overall. WAWM also serves a higher percentage of students with disabilities.
- The racial demographics of the students within the petition compared to all New Berlin students within the WAWM indicates the significant differences in the overall racial demographics of the two school districts demonstrating that WAWM is more balanced in its diversity. The student benefit perspective presents the overwhelming benefit to students of being in more integrated schools rather than less integrated schools. If all students within the City of New Berlin who attend WAWM schools were detached and moved to the New Berlin School District, it would concentrate poorer students with greater needs in one district, West Allis - West Milwaukee, and would reduce these challenges in the other, New Berlin.

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- WAWM offers a more integrated school environment than New Berlin School District. Research on the benefits of integrated schools signify students in integrated schools have higher average test scores, students in integrated schools are more likely to enroll in college, students in integrated schools are less likely to drop out, integrated schools help to reduce racial achievement gaps, and integrated classrooms encourage critical thinking, problem solving, and creativity.
- Since the failure of the 2022 referendum, the administration and school board decided that the District would not reduce or cut programming and have remained committed to class size targets. At no time, post referendum, have these things changed. The class size targets continue to be lower than the New Berlin School District
- WAWM School District is in a much healthier financial position. Just comparing fund balance alone, WAWM has a fund balance of 37.05% of its overall budget and New Berlin is at 31.66%. Inside of these numbers is another indicator of strong financial planning for the future for WAWM. Per the 2021-22 Financial Statements, New Berlin does not have a Fund 46/49 which supports capital improvements.
- Open enrollment is an option which allows students to attend nonresident school districts. A small number of open enrollment seats were available in the New Berlin School District in recent years. WAWM students who live in New Berlin do get seats in the New Berlin School District if seats are available.



Noah Leigh
Board President
School District of West Allis-West Milwaukee, et al.

February 28, 2023

Dated