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U.S. DISTRICT COURT
AUGUSTA DIV.

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

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UNITED STATES OF AMERICA,)

Plaintiff,)

CHARLIE RIDLEY, et al.,)

Plaintiff-Intervenors,)

v.)

STATE OF GEORGIA, et al.,)
(McDuffie County))

Defendants.)

Case Number CV 3009

CONSENT ORDER

Plaintiff United States of America ("United States") and Defendant McDuffie County School District ("McDuffie County" or the "District"), having engaged in good-faith negotiations, do voluntarily agree to the entry of this Consent Order by the Court.¹ After reviewing the terms of this Consent Order, the Court concludes that the entry of this Consent Order comports with the objectives of the Fourteenth Amendment to the Constitution of the United States of America and applicable federal law, and will further the orderly desegregation of the McDuffie County School District. The District agrees to comply with the terms of this Consent Order.

I. PROCEDURAL HISTORY

This school desegregation case was brought by the United States on August 1, 1969, in the Northern District of Georgia against the State of Georgia, 81 public school districts, and

officials of the state. *United States v. State of Georgia, et al.*, C.A. No. 12972 (N.D. Ga.). In 1972, the United States Court of Appeals for the Fifth Circuit directed the Northern District of Georgia to add as defendants each school district in the state, and to transfer to this Court's jurisdiction the 21 public school districts in the Southern District, including McDuffie County.

On February 14, 1974, the Savannah Division of the Southern District of Georgia approved a consent order ("1974 Consent Order," attached hereto as Exhibit A) which stated that several specified school districts, including the McDuffie County School District, "have for three years assigned students to the public schools in accordance with the plans approved by the Northern District and have become 'unitary' in the sense required by the Supreme Court's decisions in *Green v. County School Board*, 391 U.S. 420 (1968), and *Swann v. Board of Education*, 402 U.S. 1 (1971)." 1974 Consent Order at 2-3. In dissolving the detailed regulatory injunction issued by the Northern District, the 1974 Consent Order substituted a permanent injunction against each school district, which imposed on each district certain desegregative conduct requirements, and placed the school districts on this Court's inactive docket, "subject to being reactivated on proper application by any party, or on the Court's motion, should it appear that further proceedings are necessary." *Id.* at 5.

No litigation between the parties has occurred since that time, and, in November 2010, the United States initiated a comprehensive review of the District. To address the findings of the United States following its review of the District, the parties now approach the Court and request approval of this Consent Order.

¹ Counsel for the private plaintiffs have communicated to counsel for the United States that they do not intend to participate in the present proceedings in this case.

II. LEGAL STANDARDS

“The duty and responsibility of a school district once segregated by law is to take all steps necessary to eliminate the vestiges of the unconstitutional *de jure* system.” *Freeman v. Pitts*, 503 U.S. 467, 485 (1992). A school district under a desegregation order is obligated to (1) fully and satisfactorily comply with the court’s desegregation Orders for a reasonable period of time; (2) eliminate the vestiges of the prior *de jure* segregation to the extent practicable; and (3) demonstrate a good-faith commitment to the whole of the court’s Orders and to the applicable provisions of the law and the Constitution. *See id.* at 491-92; *Bd. of Educ. of Oklahoma City Pub. Sch., Indep. Sch. Dist. No. 89 v. Dowell*, 498 U.S. 237, 248-50 (1991); *N.A.A.C.P., Jacksonville Branch v. Duval County Sch.*, 273 F.3d 960, 966 (11th Cir. 2001); *Lockett v. Bd. of Educ. of Muscogee Cnty. Sch. Dist.*, 111 F.3d 839, 842 (11th Cir. 1997). The affirmative duty to desegregate is a continuing responsibility, and “[p]art of the affirmative duty . . . is the obligation not to take any action that would impede the process of disestablishing the dual system and its effects.” *Dayton Bd. of Educ. v. Brinkman*, 443 U.S. 526, 537-38 (1979). “Each instance of a failure or refusal to fulfill this affirmative duty continues the violation of the Fourteenth Amendment.” *Columbus Bd. of Educ. v. Penick*, 443 U.S. 449, 458-59 (1979).

The proper measure of a district’s progress toward unitary status “is the effectiveness, not the purpose,” of its actions. *Brinkman*, 443 U.S. at 537-38; *see also Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 25 (1971). A district must show both past compliance with its desegregation obligations and a commitment to the future operation of school system in a non-discriminatory manner. *See Dowell*, 498 U.S. at 247. To that end, a district must demonstrate its “affirmative commitment to comply in good faith with the entirety of a

desegregation plan,” not simply that it “had [not] acted in bad faith or engaged in further acts of discrimination since the desegregation plan went into effect.” *Freeman*, 503 U.S. at 499.

The Supreme Court has identified six areas, commonly referred to as the “*Green* factors,” to be addressed in the determination of whether a school district has fulfilled its duties and eliminated vestiges of the prior dual school system to the extent practicable. These are: (1) student assignment; (2) faculty; (3) staff; (4) transportation; (5) extracurricular activities; and (6) facilities. *Green v. Cnty. School Bd. of New Kent Cnty.*, 391 U.S. 430, 435-42 (1968); *Jenkins*, 515 U.S. at 88. The *Green* factors are not intended to be a “rigid framework,” as the Supreme Court has approved consideration of other indicia, such as “quality of education,” in determining whether a district has fulfilled its desegregation obligations. *See Freeman*, 503 U.S. at 492-93.

With respect to faculty and staff assignment, the seminal Fifth Circuit case, *Singleton v. Jackson Municipal Separate School District* held that “the principals, teachers, teacher-aides and other staff who work directly with children at a school shall be so assigned that in no case will the racial composition of a staff indicate that a school is intended for Negro students or white students.” 419 F.2d 1211, 1217-18 (5th Cir. 1969) (en banc), *rev’d in part on other grounds sub nom. Carter v. West Feliciana Parish Sch. Bd.*, 396 U.S. 290 (1970). The Court instructed that immediately, and if need be through the use of faculty reassignment, the racial composition of the faculty at each school reflect that of the district-wide faculty ratio. *See id.* at 1218. Once the faculty racial composition at the schools is substantially similar to the district-wide faculty average, “[s]taff members who work directly with children, and professional staff who work on the administrative level will be hired, assigned, promoted, paid, demoted, dismissed, and otherwise treated without regard to race, color, or national origin.” *Id.*

Subsequently, in *Fort Bend Independent School District v. City of Stafford*, the Fifth Circuit, prior to the division of the Fifth and Eleventh circuits, stated that:

The proper inquiry to be undertaken in an effort to determine whether the [school district] is now unitary is two-fold: first, the district's current employment practices must be non-discriminatory and in compliance with constitutional standards; second, the adverse effects of any earlier, unlawful employment practices must have been adequately remedied.

651 F.2d 1133, 1140 (5th Cir. 1981). To this end, one factor examined is whether the school district has made a "sustained good faith effort to recruit minority faculty members so as to remedy the effects of any past discriminatory practices." *Id.* (citing *United States v. Tex. Educ. Agency*, 467 F.2d 848 (5th Cir. 1972)); *see also N.A.A.C.P., Jacksonville Branch*, 273 F.3d at 967 (finding a school board unitary in faculty and staff assignment because the Board, *inter alia*, "aggressively recruited black faculty and staff").

This Court has determined that this Consent Order is fair, just, reasonable, and consistent with the objectives and requirements of the Fourteenth Amendment to the Constitution of the United States of America, and the extant orders in this case. The parties further agree that entry of this Consent Order, without further litigation, is in the public interest.

This Court thus **ORDERS, ADJUDGES, and DECREES** the following:

III. REMEDIAL MEASURES

A. Student Assignment

Under the 1974 Consent Order, "[t]he school district shall take no action which tends to segregate students or faculty by or within schools on the basis of race, color, or national origin." The District shall continue to follow this instruction and, in addition, shall take the following specific actions set forth herein to eliminate vestiges of the prior dual school system.

1. School Assignment

The District operates six schools and one alternative school: Dearing, Maxwell, Thomson, and Norris Elementary Schools, Thomson-McDuffie Middle School, Thomson High School, and the McDuffie Achievement Center. Overall, the District is comprised of 4,263 students, 50% of whom are black, 44% are white and 6% are other races. Dearing Elementary serves students in grades K-5 residing in and around the town of Dearing (“Dearing Zone”). Maxwell, Thomson, and Norris Elementary Schools serve students in grades K-1, 2-3, and 4-5, respectively, residing in and around the city of Thomson (“Thomson Zone”). The charts below provide student data by grade and race at each elementary school for the 2012-2013 school year.²

Thomson Zone

| Elementary Student Counts | | | | | |
|---------------------------|-------|-------|-------|-------|-------|
| School | Grade | Black | White | Other | Total |
| Maxwell | K | 190 | 86 | 9 | 285 |
| | 1 | 175 | 84 | 14 | 273 |
| Thomson | 2 | 163 | 99 | 16 | 278 |
| | 3 | 129 | 82 | 10 | 221 |
| Norris | 4 | 137 | 80 | 13 | 230 |
| | 5 | 127 | 100 | 8 | 235 |
| TOTAL | | 981 | 575 | 73 | 1629 |

| Elementary Students by Percent | | | | |
|--------------------------------|-------|-------|-------|-------|
| School | Grade | Black | White | Other |
| Maxwell | K | 67% | 30% | 3% |
| | 1 | 64% | 31% | 5% |
| Thomson | 2 | 59% | 36% | 6% |
| | 3 | 58% | 37% | 5% |
| Norris | 4 | 60% | 35% | 6% |
| | 5 | 54% | 42% | 3% |
| TOTAL | | 60% | 35% | 5% |

Dearing Zone

| Elementary Student Counts | | | | | |
|---------------------------|-------|-------|-------|-------|-------|
| School | Grade | Black | White | Other | Total |
| Dearing | K | 10 | 47 | 17 | 74 |
| | 1 | 6 | 47 | 17 | 74 |
| | 2 | 12 | 43 | 19 | 74 |
| | 3 | 10 | 41 | 16 | 67 |
| | 4 | 6 | 34 | 13 | 53 |
| | 5 | 13 | 43 | 18 | 74 |
| TOTAL | | 66 | 282 | 103 | 451 |

| Elementary Students by Percent | | | | |
|--------------------------------|-------|-------|-------|-------|
| School | Grade | Black | White | Other |
| Dearing | K | 14% | 64% | 23% |
| | 1 | 10% | 75% | 16% |
| | 2 | 16% | 58% | 26% |
| | 3 | 15% | 61% | 24% |
| | 4 | 11% | 64% | 25% |
| | 5 | 18% | 58% | 24% |
| TOTAL | | 15% | 63% | 23% |

² In this document, term “Other,” in the context of race, refers to individuals of any race other than white or black, including multi-racial individuals.

Dearing Elementary School was the *de jure* white school during the prior dual school system and its majority-white student body reflects vestiges of segregation. Moreover, the student-faculty ratios at Dearing Elementary are approximately 18:1 while the student-faculty ratios at the majority-black elementary schools in the Thomson Zone are approximately 23:1. Therefore, the parties have agreed to modify the elementary school zones in a manner that will eliminate vestiges of the prior dual school system. For the 2013-2014 school year and beyond, the District will expand the size of the Dearing Zone and shrink the size of the Thomson Zone to address these issues. See Exhibit B for a map depicting the former and new zones. Following the change in zoning, the elementary schools will have the following approximate enrollments by race and grade in 2013-2014:

Thomson Zone

| School | Grade | Black | White | Other | Total |
|---------|-------|-------|-------|-------|-------|
| Maxwell | K | 183 | 76 | 9 | 268 |
| | 1 | 164 | 79 | 11 | 254 |
| Thomson | 2 | 155 | 92 | 16 | 263 |
| | 3 | 123 | 78 | 10 | 211 |
| Norris | 4 | 128 | 73 | 12 | 213 |
| | 5 | 115 | 89 | 8 | 212 |
| TOTAL | | 927 | 527 | 69 | 1523 |

| School | Grade | Black | White | Other |
|---------|-------|-------|-------|-------|
| Maxwell | K | 58% | 39% | 3% |
| | 1 | 68% | 28% | 3% |
| Thomson | 2 | 59% | 35% | 6% |
| | 3 | 58% | 37% | 5% |
| Norris | 4 | 60% | 34% | 6% |
| | 5 | 54% | 42% | 4% |
| TOTAL | | 61% | 35% | 5% |

Dearing Zone

| School | Grade | Black | White | Other | Total |
|---------|-------|-------|-------|-------|-------|
| Dearing | K | 17 | 57 | 17 | 91 |
| | 1 | 17 | 52 | 13 | 82 |
| | 2 | 20 | 50 | 19 | 89 |
| | 3 | 16 | 45 | 16 | 77 |
| | 4 | 15 | 41 | 14 | 70 |
| | 5 | 25 | 54 | 18 | 97 |
| TOTAL | | 120 | 330 | 107 | 557 |

| School | Grade | Black | White | Other |
|---------|-------|-------|-------|-------|
| Dearing | K | 19% | 63% | 19% |
| | 1 | 21% | 63% | 16% |
| | 2 | 22% | 56% | 21% |
| | 3 | 21% | 58% | 21% |
| | 4 | 21% | 59% | 20% |
| | 5 | 26% | 56% | 19% |
| TOTAL | | 22% | 59% | 19% |

The zoning change will almost double the number of black students at Dearing Elementary and equalize the student-teacher ratios among the elementary schools in the District.

2. Student Transfers

a. *Majority-to-Minority Intradistrict Transfers*

Pursuant to the 1974 Consent Order, the District shall continue to “permit a student attending a school in which his race is in the majority to choose to attend another school where his race is in the minority. Any student transferring under this arrangement must be provided with free transportation and space must be made available in the school to which the student desires to move.” *Id.* at 5.

By April 1 of each year, the District shall publish a notice regarding its majority-to-minority (“M-to-M”) transfer opportunities in the local newspaper and on its website. The notice shall include the following:

- i. A statement that the Court’s Order permits M-to-M transfers, which allows any student attending a school at which his or her race is the majority to transfer to another school where the student’s race is in the minority and space is available;
- ii. Notification that the District provides transportation to any student who is granted an M-to-M transfer; and
- iii. Information on the process to be used to apply for an M-to-M transfer, including the deadline for doing so.

b. *Intradistrict Transfers for Special Circumstances*

The District may assign a student to a school for which they are not zoned if the student qualifies for English language services or special education services and the District locates the specific services that particular student needs at a different elementary school. The District may allow a minimal number of intradistrict transfers in extenuating circumstances when a parent or

the District demonstrates a compelling need to do so, but the District must obtain the consent of the United States, in writing, before granting such a transfer.

c. Interdistrict Transfers

Pursuant to the 1974 Consent Order, if the District grants transfers to students living in the District for their attendance at public schools outside the District, or if it permits transfers into the District, it shall do so on a nondiscriminatory basis, except that it shall not consent to transfers where the cumulative effect will reduce desegregation in either district.

3. Classroom Assignment

The District agrees to continue to assign students to classrooms in ways that do not segregate students on the basis of race, color, or national origin.

4. Gifted and Talented

The District operates a gifted program for students who demonstrate a high degree of intellectual and/or creative ability, exhibit an exceptionally high degree of motivation, and/or excel in specific academic fields, and who need special instruction and/or special ancillary services to achieve at levels commensurate with their abilities. The District currently has 183 gifted students in grades 1-12. Within the gifted program, 30 (16%) students are black, 145 students (79%) are white, and 8 (4%) are other. As the District enrollment is 50% black and 44% white, the District has a disproportionate number of white students who have been identified as gifted.

The District shall work to address racial disparities to eliminate vestiges of segregation in its gifted program through:

a. Ensuring that students, especially black students, may qualify for enrollment in the gifted program through multiple ways: (1) obtaining a qualifying score in the mental ability and achievement categories, or (2) obtaining a qualifying score in three of the following four categories: mental ability, achievement, creativity, and motivation;

b. When hosting a summer camp for gifted students and students who come close to qualifying for the gifted program to participate in enrichment opportunities, the District shall offer scholarships for students whose families cannot pay for the camp, and direct outreach and recruitment efforts in particular to high achieving black students who are not currently identified as gifted but may qualify after additional enrichment opportunities;

c. Assigning gifted certified teachers to regular education classrooms to work with students who have potential to enter the gifted program, as well as all other students, to implement gifted-specific learning strategies (e.g., higher level thinking and processing) and training regular education teachers to recognize the characteristics of English language learner and minority students who should be referred for gifted consideration;

d. Conducting outreach to parents, particularly parents of black students, of all of the actions listed in paragraphs a-c in multiple ways, including but not limited to convening open meetings at least once per year to talk with parents about gifted program opportunities and the qualification process; these meetings shall be held off school grounds (e.g., at community centers or churches) at a time convenient for working parents.

5. Discipline

The District recognizes that the percentage of black students disciplined is significantly higher than the percentage of black students in the total student population. Therefore, the

District shall work with the Southeastern Equity Center to provide technical assistance and training to remedy these disparities. With assistance from the Southeastern Equity Center, the District shall also hold annual training for all teachers, administrators, bus drivers, and other staff who come into contact with students and who may report disciplinary infractions and/or administer discipline, to ensure that discipline is imposed consistently, uniformly and in a nondiscriminatory manner.

B. Faculty and Staff

1. Faculty Assignment

Under the 1974 Consent Order, McDuffie “shall take no action which tends to segregate students or faculty by or within schools on the basis of race, color, or national origin,” and “[s]taff members who work directly with children, and professional staff who work on the administrative level will be hired, assigned, promoted, paid, demoted, dismissed, and otherwise treated without regard to race, color, or national origin.” *Id.* at 4. For the 2012-2013 school year, the District employs 267 teachers, 20% of whom are black and 79% are white. The teachers were assigned to the District’s schools as follows:

| Full-Time Teachers 2012-2013 | | | |
|-------------------------------------|-----------------------|-----------------------|--------------|
| School | White teachers | Black teachers | TOTAL |
| Thomson High School | 49 (78%) | 13 (21%) | 62 |
| Thomson Middle School | 50 (77%) | 15 (23%) | 65 |
| McDuffie Achievement Center | 2 (29%) | 5 (71%) | 7 |
| Maxwell Elementary | 38 (90%) | 4 (10%) | 42 |
| Thomson Elementary | 28 (80%) | 7 (20%) | 35 |
| Norris Elementary | 22 (79%) | 6 (21%) | 28 |
| Dearing Elementary | 23 (85%) | 4 (15%) | 27 |
| TOTAL | 212 (79%) | 54 (20%) | 266 |

In order to address the disproportions in faculty assignment by school, the District shall endeavor to assign elementary school teachers so that the racial composition of the teachers at each school reflects, as much as possible, that of the district-wide faculty ratio. The District shall further work to increase the number of white teachers at the McDuffie Achievement Center in order to eliminate vestiges of segregation consistent with *Singleton v. Jackson Municipal Separate School District*, 419 F.2d 1211, 1218 (5th Cir. 1969) (en banc). To those ends, prior to the start of the 2013-14 school year, the District shall encourage black teachers at Thomson and Norris Elementary Schools to volunteer to transfer to Maxwell or Dearing Elementary Schools, shall encourage white teachers at Maxwell and Dearing Elementary Schools to volunteer to transfer to Thomson or Norris Elementary Schools, and shall encourage white middle and high school teachers to transfer to the McDuffie Achievement Center. If the number of teachers who volunteer to transfer among the elementary schools does not result in each elementary school having an equitable number of black teachers, the District shall reassign the elementary school teachers so that the number of black teachers is equitable at each school. *See Singleton*, 419 F.2d at 1218 (requiring that the district immediately, and if need be through the use of faculty reassignment, ensure that the racial composition of the faculty at each school reflect that of the district-wide faculty ratio). If teachers' individual qualifications and training on state standards for particular grade(s) or subject(s) prevent the District from being able to reassign teachers to create an equitable number of qualified teachers, by race, at each school, the District may seek a waiver of this requirement from the United States, in writing. The United States shall have 20 days to grant or deny the waiver.

2. Faculty Hiring

When compared to the student population of the District, which is 50 percent black, the District's data reveals a very small proportion of black teachers overall. To address this issue, the District shall:

- a. Conduct on-campus recruitment and on-campus interviews at historically black colleges and universities in the region including, but not limited to Paine College in Augusta, Georgia;
- b. Post notices of vacant positions for permanent personnel at least thirty (30) calendar days before the application deadline;
- c. Send notices of all District employment vacancies to the education placement officials at each public university in Georgia and all historically black colleges and universities in Georgia (public and private), and post notices of the vacancies on the District and State Department of Education websites;
- d. Continue to ensure that its interview committees are racially diverse;
- e. Continue to encourage its black paraprofessionals to seek teacher certification and mentor those who do, including holding an annual information meeting for paraprofessionals who wish to pursue teacher certification;
- f. Modify the District's employment application(s) to include a field requesting the applicant to voluntarily identify his or her race;

g. Keep a record of the race/ethnicity (where voluntarily identified) of all applicants for employment and of all newly hired teachers, administrators, certified staff, and non-certified staff;

C. Transportation

The 1974 Consent Order required that “[b]us routes and the assignment of students to buses will be designed to insure the transportation of all eligible pupils on a non-segregated and otherwise nondiscriminatory basis, provide all eligible students with transportation on a non-segregated and otherwise non-discriminatory basis. The United States reviewed transportation data provided by the District, including pupil locator data for the 2011-2012 school year. Based on that information, the United States determined that some of the transportation routes were inefficient, and that those inefficiencies affected more black students than white students. To address these issues, the United States’ expert on global information systems and mapping advised revising certain bus routes. The United States will continue to monitor transportation following the District’s rezoning of its elementary schools, as the District will need to make significant modifications to its bus routes for the 2013-14 school year.

D. Facilities

The 1974 Consent Order further required that the District eliminate the vestiges of segregation in its school facilities. The United States reviewed facilities information provided by the District and conducted a site visit of all elementary school facilities in February 2012, and has determined that the District currently operates all of its school facilities in a nondiscriminatory manner in compliance with its desegregation obligations. The District agrees to continue to do so.

E. Extracurricular Activities

The United States reviewed information provided by the District concerning extracurricular activities. The District provides and agrees to continue to provide all students an opportunity to participate in extracurricular activities on a nondiscriminatory basis.

F. Miscellaneous

To facilitate implementation of this Consent Order, the District agrees to work with the Southeastern Equity Center to provide annual training and support on diversity issues to faculty, staff, and administrators in the District.

IV. DIVERSITY ADVISORY COUNCIL

The Court shall establish an independent Diversity Advisory Council ("DAC") to advise the Superintendent and Board of Education of the District on matters dealing with implementation of the desegregation orders of this Court. The DAC shall be formed by February 1, 2013.

A. Composition of the DAC

The DAC shall be a subcommittee of the Superintendent's Advisory Council and shall consist of 12 total members. DAC members shall be selected in the following manner:

1. Each School Council in the District shall nominate at least four parents or guardians of diverse races to serve on the DAC;
2. Administrators (principal and assistant principals) at each District school shall recommend two or three individuals from the School Council's nominations;
3. The Superintendent, Assistant Superintendent, Human Resources Director, and the Principal of Thomson High School shall choose 12 individuals from the lists of

recommendations provided by each school administration to serve on the DAC, ensuring that DAC members are diverse in their gender, race, and representation of schools in the District. In any event, no fewer than five of the DAC members shall be black, and no fewer than five of them shall be white.

Members shall serve two year terms. Terms shall begin on February 1, 2013 of the 2012-2013 school year and on August 1 of each year thereafter, beginning August 1, 2014. No person shall be eligible to serve on this DAC who is or has been a litigant against the District, is not a resident of the District, does not have a child attending school in the District at the time of his/her nomination, or is a member of the Board of Education of the District.

The DAC shall select a chairperson to serve a term of one year. The Chair shall not be a person of the same race in consecutive years. For example, if the Chair for one year is black, the Chair in the following year may not be black. The DAC shall maintain appropriate records and minutes of its meetings.

B. Responsibilities of the DAC

The DAC shall meet quarterly, immediately following the Superintendent's Advisory Committee meetings. The Superintendent shall attend the first meeting of each school year, and the Superintendent, Assistant Superintendent, and Human Resources Director shall be available to attend any other meeting at the request of the DAC. The DAC shall hold at least one meeting per year where parents and community members are invited to attend and participate.

The DAC's initial focus shall be providing suggestions and feedback on the planning and implementation of the changes in elementary school zones as well as the other remedies set forth in this Consent Order. In particular, the DAC shall solicit and discuss concerns of parents and

students related to zone changes, the M-to-M transfer program, efforts to address racial disparities in the gifted program, efforts to address racial disparities in discipline, faculty recruitment and assignment, transportation issues, diversity training, communication between parents and the District, and any other issue related to the desegregation of the District. The DAC shall present any concerns as well as proposed solutions to problems or issues, orally or in writing, to the Superintendent within two weeks after each quarterly meeting.

The DAC shall issue annually a written report to the District and the Court not later than May 30th of each year. Prior to filing the annual report, the DAC shall present the report to the Board of Education. The DAC's report shall include an account of recommendations or concerns brought to the attention of the Superintendent or his staff and the DAC's understanding of the actions taken thereon, if any. Prior to its submission, the report shall be approved by a majority of the DAC and signed by each of its members. The District shall supply the DAC with reasonable staff support and assistance and information as the DAC may reasonably request, including clerical assistance in the preparation of the DAC's annual reports.

V. MONITORING, REPORTING, AND MODIFICATIONS

A. Maintenance of Records

The District shall maintain records, with each such record to be maintained for a period of not less than three years, relating to the hiring or promotion of persons to all employment positions in the District, including teaching, administration, certified staff, non-certified staff,

and other paid positions (e.g., coaching and advising).³ The United States shall be permitted, without further order of the Court, to review and copy these materials, as well as any other materials related to the hiring and promotion of personnel, after giving at least two (2) weeks' notice to the District.

The District shall also maintain any and all records pertaining to the reporting requirements below.

B. Reports

On or before December 15 of each year during the term of this Consent Order, the District will file with the Court a report containing the following information:

Student Assignment

1. The total number and percentage of students, by race/ethnicity and grade level, enrolled in each school facility operated by the District, including alternative schools;
2. A list of students, by race/ethnicity, grade level, zoned school, and school attending, of students attending a school other than the one to which they are zoned and the reason for their attendance at the non-zoned school;
3. Copies of the newspaper and website notice regarding the District's M-to-M program;

³ "Records" includes the following for each open position: (1) the name of each person who applied for and/or was considered for the position; (2) each person's application for the position (including, but not limited to, application forms, teaching certificates, references, and college transcripts); (3) the race of each applicant, if provided; (4) a description of each position filled; (5) the name and race of the person selected for the position; (6) copies of any interview questions used and/or interview notes taken for each applicant; (7) copies of any oral or written examination questions administered during the selection process; (8) the written responses of each applicant who was given a written examination; (9) the name and race of each person on the oral examination and/or interview panel; (10) the name and race of each person who scored the written examination; (11) a copy of any advertisements for the position, including the date(s) of publication in the media and/or posting or publication on an Internet website; and (12) a description of all recruitment efforts used to fill the vacancy.

4. A detailed report on the District's efforts in complying with Section III.A.4 of this Consent Order in its recruitment of students to its gifted program, including the number of students, by race, newly identified as gifted in the past year and the number of students, by race and whether they received a scholarship, that attended the summer camp program, if it was held;

5. A list, by school and grade level, of the students, by race, who were disciplined, suspended or expelled, indicating the infraction(s) for which the penalty was imposed.

Faculty and Staff

6. The total number and percentage of teachers and administrators, by race/ethnicity and position, grade or subject(s) taught, in each school facility operated by the District;

7. A list of all teachers and administrators, by race/ethnicity, position, grade or subject(s) taught, and school, that the District hired in the past year;

8. A detailed report on the District's efforts to recruit more black faculty and teachers pursuant to Section III.B.2 of this Consent Order and the results of those efforts;

Facilities

9. A description of any school construction, modifications or additions done in the past year or expected in the next year, and the reason(s) for such work;

Miscellaneous

10. A detailed description of the discipline and diversity training(s) held pursuant to Sections III.A.5 and III.F of this Consent Order, including the name(s) of the trainers,

the dates of the trainings, the content of the trainings, and the attendees by position (*e.g.*, all elementary school teachers and paraprofessionals).

11. Copies and/or documentation of all complaints, written and oral, concerning desegregation obligations and/or racial discrimination that the District has received in the last year. For each complaint, please provide documentation of any response or action by the District.

C. Modifications

For any modifications to any of the terms of this Consent Order, including any zoning changes or opening/closure of school facilities, the District must seek the United States' consent and obtain approval of the Court through an appropriate motion, which may be filed with or without consent.

VI. FINAL TERMINATION

The District retains the burden of eliminating the vestiges of *de jure* segregation which may continue to exist in the areas still under this Court's supervision. The parties have agreed and the Court finds that the District will meet its desegregation obligations in the remaining areas of its operation of the District's schools if it implements the requirements set forth in this Consent Order. Therefore, upon demonstration of successful implementation of such provisions, the District may move for a declaration of unitary status no sooner than thirty (30) days after the submission of its December 15, 2015 court report. The applicable provisions of the Federal Rules of Civil Procedure and the local rules of this Court will apply to any such motion.

SO ORDERED, ADJUDGED, AND DECREED,

This 25th day of March, 20 .

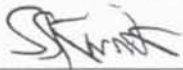


United States District Judge
Southern District of Georgia

Agreed as to Form and Content:


FOR PLAINTIFF UNITED STATES OF AMERICA:

EDWARD J. TARVER
United States Attorney
Southern District of Georgia

s/ 

Sanjay S. Karnik
Assistant United States Attorney
Louisiana Bar No. 31215
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Savannah, Georgia 31412
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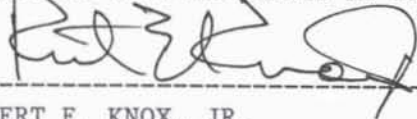
THOMAS E. PEREZ
Assistant Attorney General
Civil Rights Division

s/ 

ANURIMA BHARGAVA
FRANZ MARSHALL
TOREY B. CUMMINGS
U.S. Department of Justice
Civil Rights Division
Educational Opportunities Section
950 Pennsylvania Avenue, NW, PHB 4300
Washington, D.C. 20530
Telephone: (202) 305-4204
Fax: (202) 514-8337

FOR DEFENDANT McDUFFIE COUNTY SCHOOL DISTRICT:

KNOX AND SWAN ATTORNEYS AT LAW



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Thomson, Georgia 30824
Telephone: (706) 595-1841
Fax: (706) 595-2404

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA

SAVANNAH DIVISION

U. S. DISTRICT COURT
Southern District of Ga.
Filed in office

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
CHARLIE RIDLEY, et al.,)
)
Plaintiff-Intervenor,)
)
)
v.)
)
STATE OF GEORGIA, et al.,)
)
Defendants.)

M.
FEB 14 1974
Eloise B. Herkin
Deputy Clerk

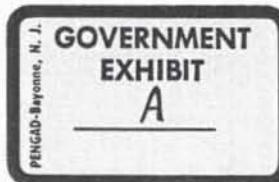
CIVIL ACTION NO. 3009

CONSENT ORDER

This case was originally filed by the United States on August 1, 1969, in the United States District Court for the Northern District of Georgia against the State of Georgia and various school agencies and officials of the state. United States v. State of Georgia, et al., C.A. No. 12,972 (N.D. Ga.). That Court entered a number of orders for the purpose of effecting desegregation of the public schools of 81 school districts^{1/} located throughout the State of Georgia, and on September 5, 1972 in compliance with the directions of the United

^{1/} The 81 Original school districts in the case were reduced to 79 by the consolidation of two city districts with their respective county counterparts.

169-20-18



States Court of Appeals for the Fifth Circuit, the Court issued an order which, inter alia added as parties defendants each individual school district and transferred to this Court's jurisdiction the 21 school districts involved in these proceedings.

On December 27, 1973, the State defendants moved this Court to dismiss the State of Georgia, the State Board of Education and the State Superintendent of Schools as parties defendant, or, in the alternative, to "enter and order -- similar to an order entered in the Northern District on June 23, 1973, placing on an inactive docket those local county and city school systems within the Southern Judicial District which by virtue of compliance with all court orders have achieved and maintained a 'unitary status' ---" The State defendants, the intervenors, and the United States have agreed that the alternative relief requested by the state would appropriately dispose of the motion.

On the basis of the record in this case, the Court has determined that the Appling County School District, the Atkinson County School District, the Bryan County School District, the Camden County School District, the Candler County School District, the Charleton County School District, the Jefferson Davis County School District, the Jenkins County School District, the McDuffie County School District, the McIntoch County School District, the Montgomery County School District, the Tatnall County School District, the Toombs County School

District, the Treutlen County School District, the Vaidalia City School District, the Warren County School District, the Wayne County School District and the Wilkes County School District have for three years assigned students to the public schools in accordance with the plans approved by the Northern District and have become "unitary" in the sense required by the Supreme Court's decisions in Green v. County School Board, 391 U.S. 430 (1968) and Swann v. Board of Education, 402 U.S. 1 (1971).

The bi-annual reports submitted by Columbia County School District and the Jefferson County School District in October, 1973, indicate that for certain schools in the systems the ratio of faculty assigned to those schools on a full-time basis deviates by more than two positions from the system-wide faculty quotient.

On February 22, 1972, the Dublin School System's desegregation plan was substantially modified in order to bring the system into compliance with the standing orders of the Court regarding student assignment. This plan was not implemented until the 1972-73 school year.

The parties to this consent order agree that the above findings accurately represent the present status of the indicated school districts as shown by the record in this case and the bi-annual reports filed by the school districts. As indicated by the signatures of counsel below, the parties have also agreed on the form of this decree, and the Court being of the opinion that the entry of this decree will effectuate federal law, now therefore:

IT IS ORDERED, ADJUDGED, AND DECREED, that:

1. The detailed regulatory injunction issued by the United States District Court for the Northern District of Georgia on December 17, 1969, as subsequently modified, is dissolved for the Appling County School District, the Atkinson County School District, the Bryan County School District, the Camden County School District, the Candler County School District, the Charleton County School District, the Jefferson Davis County School District, the Jenkins County School District, the McDuffie County School District, the McIntosh County School District, the Montgomery County School District, the Tatnall County School District, the Toombs County School District, the Treutlen County School District, the Vidalia City School District, the Warren County School District, the Wayne County School District and the Wilkes County School District and the following permanent injunction substituted for each school district:

(a) The school district shall take no action which tends to segregate students or faculty by or within schools on the basis of race, color, or national origin.

(b) Staff members who work directly with children, and professional staff who work on the administrative level will be hired, assigned, promoted, paid, demoted, dismissed, and otherwise treated without regard to race, color, or national origin.

(c) Each school district shall permit a student attending a school in which his race is in the majority to choose to attend another school where his race is in the minority. Any student transferring under this arrangement must be provided with free transportation and space must be made available in the school to which the student desires to move.

(d) Bus routes and the assignment of students to buses will be designed to insure the transportation of all eligible pupils on a non-segregated and otherwise non-discriminatory basis.

(e) All school construction, school consolidation and site selection (including the location of any temporary classrooms) in the system shall be done in a manner which will prevent the reoccurrence of the dual school structure.

(f) If the school district grants transfers to students living in the district for their attendance at public schools outside the district, or if it permits transfers into the district, it shall do so on a non-discriminatory basis, except that it shall not consent to transfers where the cumulative effect will reduce desegregation in either district.

2. Each of the school districts listed in paragraph 1 above shall be placed on this Court's inactive docket, subject to being reactivated on proper application by any party, or on the Court's motion, should it appear that further proceedings are necessary.

3. The State of Georgia, the State Board of Education, its individual members, and the State Superintendent of Schools have a continuing duty to promote compliance by the school districts in this cause with orders of this Court and shall remain as active parties to this case until all of the school districts in this cause have been placed on the inactive docket.

4. The July 16, 1971, Order in this case provides:

"The ratio of faculty and staff assigned ... [each] facility on a full-time basis [must be] ... substantially the same as the faculty quotient; system-wide personnel are to be counted in such ratio proportionately to the number of schools served; 'substantially' means as near to exact as possible and in no event to exceed over 2 positions from exact."

Since the bi-annual reports of the Columbia County School District and the Jefferson County School District show that these districts have schools, the faculties of which exceed two positions from the exact system-wide faculty ratio, they will remain on the active docket of this Court. Further special orders will subsequently issue to the school officials of the two districts concerning this matter.

5. Since the Dublin City School System's plan for desegregation has not been in effect for a three year period due to its modification in February, 1972, the Dublin City School System will remain on the active docket of this Court.

6. The State of Georgia, the State Board of Education, its individual members, the State Superintendent of Schools, the school districts which remain active parties in this cause as indicated in paragraphs 4 and 5 of this Order shall continue to comply with all of the requirements of the December 17, 1969 Order of the United States District Court for the Northern District of Georgia, as subsequently, modified, with the following exceptions:

(a) School districts remaining as active parties in this cause, in lieu of providing the information required by the December 17, 1969 Order, as subsequently modified, in their bi-annual reports may provide the information reported in the School System Summary Reports (Forms 101 & 102) which are filed with the Department of Health, Education and Welfare and the information reported in the Elementary-Secondary Staff Information (Form EEO-5) which is filed with the Equal Employment Opportunity Commission. However, all school districts which remain as active parties in this cause shall continue to file bi-annual reports to the State Board of Education and the Department of Health, Education and Welfare.

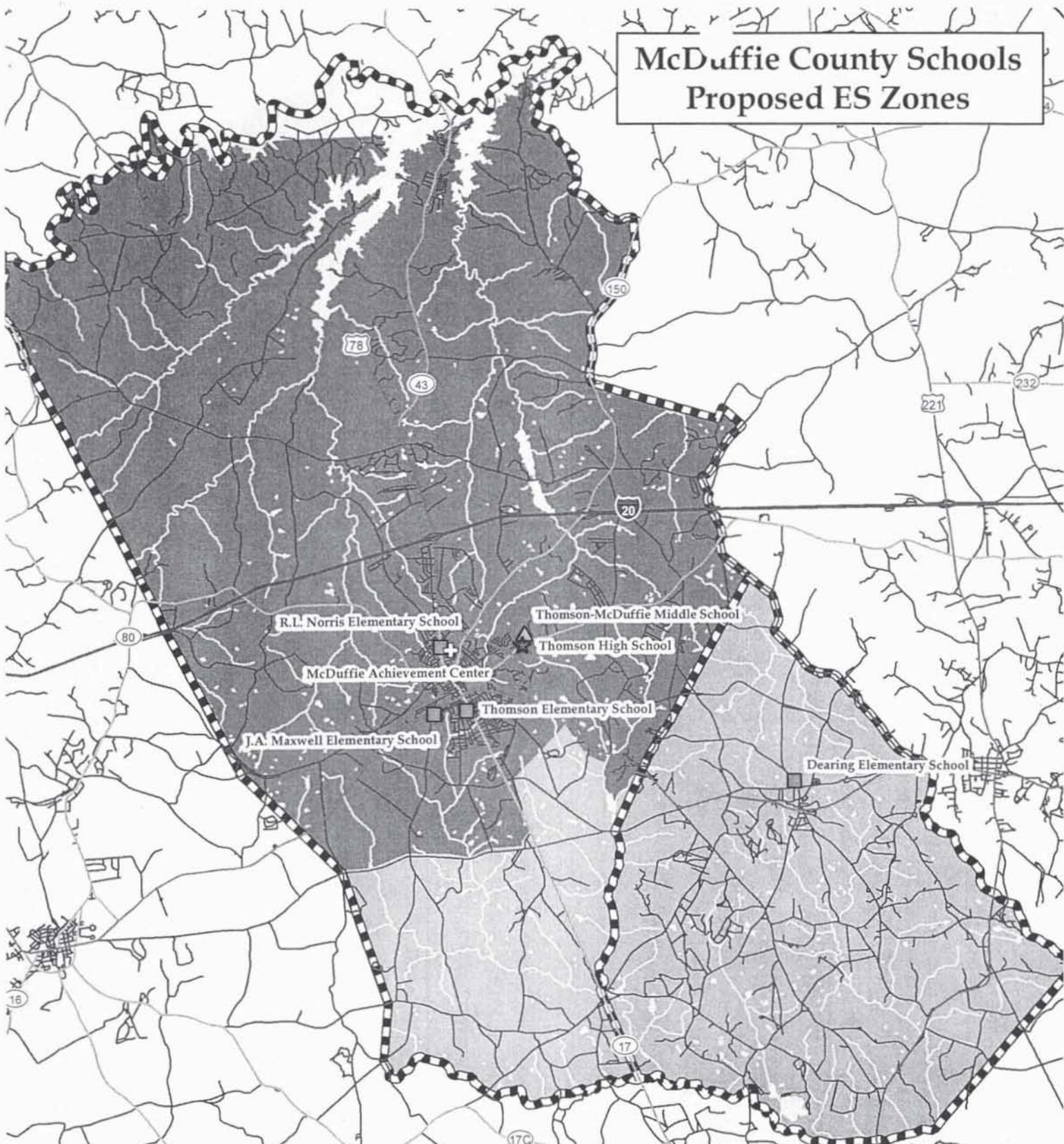
(b) The provisions of the detailed regulatory injunction of December 17, 1969, issued by the United States District Court for the Northern District of Georgia, as subsequently modified, specifying the duties of the State defendants in this cause, shall automatically be dissolved as they pertain to each school district which

this Court has placed on the inactive docket and the following permanent injunction substituted:

The State of Georgia; the State Board of Education, its individual members and the State Superintendent of Schools (a) shall not take any action which may result in the reestablishment of the former dual school system in any of said school districts; (b) shall not permit any action by any of said school districts which would violate the terms of the permanent injunction provided for in paragraph 4 of this order; (c) shall not provide any state funds to any of said school districts which has been found in violation of the terms of the permanent injunction provided for in paragraph 4 of this order; and (d) shall make appropriate inquiries whenever the State Department of Education receives information or complaints reflecting possible violation by any of said schools districts of the terms of the permanent injunction provided for in paragraph 4 of this order.

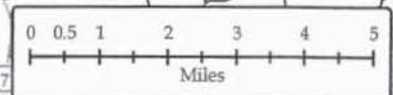
8. The Clerk is directed to send a copy of this Order to all attorneys who have entered an appearance on behalf of any of the individual school districts named herein, and in the event that no attorney has appeared on behalf of an individual school district, a copy of this Order shall be mailed to the school superintendent of that district. Any individual school district that objects to any of the provisions of this Order must file notice of the objection with this Court within ten (10) days from the date of this Order, which shall become final and conclusive as to each school district which does not object within that time. If objections are filed, a hearing will be set on the objections at a subsequent date.

McDuffie County Schools Proposed ES Zones



Legend

- McDuffie Schools
- Elementary Schools
- ⊕ McDuffie Achievement Center
- ★ Thomson High School
- ▲ Thomson-McDuffie Middle School
- ⊞ Current Boundaries
- Proposed Boundaries
- Dearing Elementary
- Thomson Area Schools



**GOVERNMENT
EXHIBIT**
 B

CrepperGIS

Data Sources: McDuffie County Schools
Map Created: June 2012 by JEG

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of March, 2013, I served a copy of the foregoing

Consent Order to:

Robert Knox, Jr. Esq.
Knox and Swan
P.O. Box 539
Thomson, GA 30824



SANJAY S. KARNIK
Assistant United States Attorney

