

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION**

JOHN McFERREN, JR., et al.	)	
	)	
And	)	
	)	
UNITED STATES OF AMERICA,	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION No. 2:65-cv-00136-STA
v.	)	
	)	
COUNTY BOARD OF EDUCATION OF	)	
FAYETTE COUNTY, et al.,	)	
	)	
Defendants.	)	
_____	)	

**CONSENT ORDER**

Having reviewed the terms of this Consent Order and having found that its entry is consistent with the objectives of the Fourteenth Amendment of the United States Constitution and will further the desegregation of the Fayette County School District to the extent practicable, the Court approves this Consent Order, which shall serve to supersede, modify, and otherwise replace the Court’s prior Order of August 21, 2012, and directs the County Board of Education of Fayette County (“District”) to implement the following Desegregation Plan.

**INTRODUCTION**

On August 21, 2012, this Court approved a Consent Order in this case and directed the District to implement the desegregation plan contained therein. That desegregation plan was the culmination of more than two years of negotiations between the parties and was designed to remedy persistent racial disparities in the District’s elementary schools. According to the District’s 2012 Annual Report, student enrollment at the schools during the 2012-13 school year was as follows, with the red cells indicating schools that fell outside +/-15 percentage points of

the district-wide elementary enrollment percentages by race:

<i>Fayette County Student Assignment 2012 2013 (Annual Report)</i>									
	<b>Grade</b>	<b>Black</b>	<b>%</b>	<b>White</b>	<b>%</b>	<b>Other</b>	<b>%</b>	<b>Total</b>	<b>Cap.</b>
<b>Fayette-Ware</b>	<b>9-12</b>	628	69.8%	245	27.2%	27	3.0%	<b>900</b>	<b>1,300</b>
<b>HS Total</b>		628	69.8%	245	27.2%	27	3.0%	<b>900</b>	<b>1,300</b>
<b>East</b>	<b>6-8</b>	290	70.2%	100	24.2%	23	5.6%	<b>413</b>	<b>600</b>
<b>West</b>	<b>6-8</b>	189	45.2%	208	49.8%	21	5.0%	<b>418</b>	<b>500</b>
<b>MS Total</b>	<b>6-8</b>	479	57.6%	308	37.1%	44	5.3%	<b>831</b>	<b>1,100</b>
<b>Oakland</b>	<b>PK-3</b>	207	<b>32.2%</b>	373	<b>58.0%</b>	63	9.8%	<b>643</b>	<b>700</b>
<b>Southwest</b>	<b>4-5</b>	94	37.3%	141	56.0%	17	6.7%	<b>252</b>	<b>400</b>
<b>Northwest</b>	<b>PK-5</b>	96	<b>72.7%</b>	22	<b>16.7%</b>	14	10.6%	<b>132</b>	<b>300</b>
<b>Central</b>	<b>PK-5</b>	185	60.1%	106	34.4%	17	5.5%	<b>308</b>	<b>400</b>
<b>Jefferson</b>	<b>PK-5</b>	118	<b>79.2%</b>	20	<b>13.4%</b>	11	7.4%	<b>149</b>	<b>300</b>
<b>Somerville</b>	<b>PK-5</b>	110	39.4%	159	57.0%	10	3.6%	<b>279</b>	<b>350</b>
<b>LaG./Moscow</b>	<b>PK-5</b>	241	<b>77.2%</b>	54	<b>17.3%</b>	17	5.4%	<b>312</b>	<b>500</b>
<b>ES Total</b>		1051	50.7%	875	42.2%	149	7.2%	<b>2075</b>	<b>2,950</b>
<b>TOTAL</b>		<b>2158</b>	<b>56.7%</b>	<b>1428</b>	<b>37.5%</b>	<b>220</b>	<b>5.8%</b>	<b>3806</b>	

Pursuant to the 2012 Consent Order, the District was required, *inter alia*, to close Jefferson Elementary School and Somerville Elementary School, which is located 3.5 miles from Jefferson and was first ordered to be closed in 1975. The District also was required to construct a new elementary school with capacity for 600 students; adopt new residential attendance zones; implement a controlled choice program; and create a magnet program at Northwest Elementary School.

Due to changed circumstances in the District and to ensure greater certainty in desegregating its elementary school enrollments, the District began developing an alternative student assignment plan in the fall of 2012 as a replacement for the 2012 student assignment plan. On April 30, 2013, the District presented its draft plan to the other parties, who conducted independent examinations of the underlying student locator data and projected student

enrollments at the various schools, as well as burden analyses to assess the impact of the plan on the students with respect to transportation and relocation. The private Plaintiffs and the United States also evaluated alternative plans, and through negotiations the parties were able to agree on the following desegregation plan.

### **DESEGREGATION PLAN**

Consistent with its desegregation obligations, the District shall comply with the terms of this Consent Order and, unless otherwise stated below, the District shall ensure that all of the changes to its student assignment policies and practices required by this Consent Order shall take effect at the beginning of the 2014-15 school year.

A. **School Construction and Consolidation:** Pursuant to the August 21, 2012 Consent Order and consistent with the funding authorization of the Fayette County Commission, attached as Exhibit 1, the District shall construct a new elementary school (“New School”) in Somerville at a site known as “the North Campus.” The New School shall have sufficient capacity to enroll up to 900 students. The District also will cease using the Central, Jefferson, Northwest, and Somerville facilities as elementary schools.

B. **New Attendance Zones:** The District shall operate four elementary schools – the New School, LaGrange-Moscow, Oakland, and Southwest – and shall modify its residential attendance zone boundaries for these schools in accordance with the lines depicted in the maps attached as Exhibits 2 and 3. The District shall assign all students to attend the school located within their residential attendance zone (“zoned school”) with certain exceptions delineated below. Consistent with the October 4, 2010 Order, the District also shall implement the address verification provisions of District Policy 6.205, which is attached as Exhibit 4, and any modifications to Policy 6.205 must receive Court approval before they are implemented.

Using student data from the 2012-13 school year, the projected enrollments at the District’s elementary schools after they are consolidated and the new attendance zones are adopted are as follows:

<i>Fayette County Elementary Assignment Projection Based on 2013 Data</i>									
	<b>Grade</b>	<b>Black</b>	<b>%</b>	<b>White</b>	<b>%</b>	<b>Other</b>	<b>%</b>	<b>Total</b>	<b>Cap.</b>
<b>Oakland</b>	<b>PK-5</b>	221	36.0%	326	53.1%	67	10.9%	<b>614</b>	<b>700</b>
<b>Southwest</b>	<b>PK-5</b>	142	46.7%	149	49.0%	13	4.3%	<b>304</b>	<b>400</b>
<b>New School</b>	<b>PK-5</b>	326	57.8%	210	37.2%	28	5.0%	<b>564</b>	<b>900</b>
<b>LaG./Moscow</b>	<b>PK-5</b>	200	63.1%	97	30.6%	20	6.3%	<b>317</b>	<b>500</b>
<b>TOTAL</b>		<b>889</b>	<b>49.4%</b>	<b>782</b>	<b>43.5%</b>	<b>128</b>	<b>7.1%</b>	<b>1799</b>	

C. **School Pairings**: The District shall reconfigure the Oakland and Southwest elementary schools, which are currently paired, to become stand-alone pre-kindergarten through fifth-grade (PK-5) schools.

D. **Controlled Choice**: The District shall establish and operate a controlled choice program to include the modified school zones of Oakland and the New School as depicted in Exhibits 2 and 3. The District shall operate the controlled choice program pursuant to paragraphs 1 through 9 below.

1. The District shall assign all grade K-5 students who reside within this controlled region area using a random computerized program, which shall be designed and implemented by a third-party consultant retained by the District with the advance input and approval of the Private Plaintiffs and the United States, which shall not be unreasonably withheld.

2. The District’s controlled choice system shall assign students to Oakland and the New School based on their ranked preferences between the two schools provided that student racial diversity is achieved each school year and the capacity limitations of

the schools are not exceeded. As used herein, the phrase “student racial diversity” is +/- 15 percentage points of the district-wide proportion of the African-American and White elementary students based on the District’s enrollment as reported to the Court October 15 of the preceding school year.

3. In addition to students’ ranked school choices, the District may design its computerized controlled choice program to consider other weighted factors in the assignment decision, including, but not limited to, sibling preference, school proximity, socioeconomic status, and students’ individualized education plans, provided those factors have no segregating effect detrimental to the achievement of student racial diversity and do not have the effect of disproportionately burdening African-American students.

4. Once students are assigned according to the controlled choice system, they may remain in the assigned school unless or until they choose to reapply in the controlled choice process.

5. Students enrolled in pre-kindergarten are exempt from the District’s school assignment policy, and the District may consider non-discriminatory factors, such as class size and parental schedules, in assigning pre-kindergarten students to schools, although it is anticipated that pre-kindergarten students will be assigned to their zoned schools.

6. During the 2014-15 school year, students in grades four (4) and five (5) may be exempt from the controlled choice program and remain in their zoned schools at the option of the District, provided the District uniformly grants all such requests.

7. Students who (a) move into the controlled choice region after the start of

each school year or (b) who reside in the controlled choice region and either register for the first time in or otherwise return to the District shall be assigned pursuant to the controlled choice process.

8. The assignment of students pursuant to the controlled choice system shall occur annually by April 30, following any magnet school assignments and all initial intra-district transfer decisions, including majority-to-minority (“M-to-M”) transfers.

9. The District shall provide free transportation to all students who reside in the controlled choice region and are not assigned to their zoned school.

E. **Magnet School**: If the District elects to operate an elementary magnet school, the parties have agreed that it shall do so at LaGrange-Moscow, and it shall do so pursuant to paragraphs 1 through 6 below.

1. The District shall allow all students residing in the LaGrange-Moscow attendance zone to enroll in the magnet school and shall allocate all remaining capacity at the school to students applying to the magnet school from outside of the LaGrange-Moscow zone.

2. If the number of applicants for the magnet school together with the expected number of zoned students exceeds the capacity of LaGrange-Moscow, the District shall use a random lottery selection process to select applicants and achieve student racial diversity at LaGrange-Moscow. The District shall ensure that the process is conducted with fairness and integrity.

3. The District’s random lottery selection process shall provide preference for students who would otherwise qualify as M-to-M transfers and for other preferences desired by the District (*e.g.*, sibling preferences) provided those preferences help achieve

student racial diversity at LaGrange-Moscow and have no segregating effect.

4. The District will implement a systematic and intensive publicity and recruitment plan to enhance the racial diversity of student applications to the magnet school, including targeted advertisements in local media.

5. The magnet school curriculum will be fully integrated into the school so that all students, zoned or magnet, will have the opportunity to participate in the magnet.

6. The District will provide free transportation to non-zoned students from designated pick-up points that are not burdensome on such students and do not negatively affect their willingness to apply to the magnet school.

F. **School Transitions:** Prior to the start of the 2014-15 school year, the District shall host two transition programs at LaGrange-Moscow, the New School, Oakland, and Southwest for all elementary students who will be attending a new school because of the changes to student assignments required by paragraphs A through E above, although the District may use an alternative location for the New School transition programs if construction of the facility is still under way. If construction delays or prevents the orientation programs from occurring at the New School prior to the start of the 2014-15 school year, the District shall host an open house at the facility within one week of its opening for classes. The first program shall consist of a half-day welcoming class to allow the students to tour the school and meet the faculty and staff who will be working with them. The second program shall consist of a half-day orientation for both students and their parents. The District shall provide free transportation to these transition events for both students and parents. The District also shall provide written notices to all parents informing them about these events at least thirty (30) before they take place.

G. **After-School Support Programs:** The District shall initiate and operate a pilot

after-school support program at Oakland and the New School designed to provide additional academic support to students who previously attended Central, Jefferson, and Northwest and were reassigned to their new schools. To assist these students with their school transition, the after-school program will include educational tutoring as well as other supportive instruction, such as conflict resolution and character education. This program will be administered through Fayette Literacy, a local non-profit, supervised by a campus liaison and staffed by volunteer tutors from the community and secondary schools. The program will be held three days a week, on Monday, Tuesday and Thursday, for one hour composed of two 30-minute sessions. Tutoring will be provided for grades 1 through 5 and engagement activities will be available for PreK and kindergarten students. The District shall provide snacks and free transportation to students who participate in the program.

H. **Junior High Schools:** The District shall continue to operate two junior high schools (“JHS”) – East and West – and shall modify its residential attendance zone boundaries and feeder patterns for these schools in accordance with the lines depicted in the maps attached as Exhibit 5, so that Oakland and Southwest feed into West JHS and the New School and LaGrange-Moscow feed into East JHS.

Using student locator and enrollment data from the 2012-13 school year, the projected enrollments at the junior high schools in the 2015-16 school year, when the current fifth-grade students matriculate to the eighth grade, are as follows:

<i>Fayette County Junior High Assignment Projection for 2015 16 Based on 2013 Data</i>									
	<b>Grade</b>	<b>Black</b>	<b>%</b>	<b>White</b>	<b>%</b>	<b>Other</b>	<b>%</b>	<b>Total</b>	<b>Cap.</b>
<b>East</b>	<b>6-8</b>	267	62.2%	145	33.8%	17	4.0%	<b>429</b>	<b>600</b>
<b>West</b>	<b>6-8</b>	166	39.3%	222	52.6%	34	8.1%	<b>422</b>	<b>500</b>
<b>TOTAL</b>		<b>433</b>	<b>50.9%</b>	<b>367</b>	<b>43.1%</b>	<b>51</b>	<b>6.0%</b>	<b>851</b>	



I. **M-to-M Transfers:**

Pursuant to the February 5, 2009 Consent Order, the District shall broadly disseminate information about the availability of M-to-M transfers and encourage and permit such transfers so that any student attending a school in which his/her race is in the majority may choose to attend another school in the District where his/her race is in the minority. Annually, by no later than February 21, the District shall mail a letter and an accompanying transfer request form to the parents or guardians of all grade K-7 students who are in the majority race at their school based on school enrollment data for January 15 of the same year. This letter shall inform the parents that they are eligible for M-to-M transfers the next school year and that the District provides free transportation for M-to-M transfers. The letter also shall inform parents that M-to-M transfer requests for the next school year must be received by the District's office no later than March 15 to be considered, and the District shall notify parents whether their transfer requests were granted by no later April 15. The District shall evaluate and grant when appropriate any M-to-M transfer request submitted by any current student who changes his/her residence or any new student who moves into the District after March 15, provided that the student submits the transfer request no later than ten (10) business days before the start of the next school year.

Once granted, M-to-M transfers shall be renewed automatically each year until the students matriculate to the next school level (*e.g.*, junior high or high school) or voluntarily return to their zoned schools. The District shall grant new M-to-M transfers prior to the assignment of students through the controlled choice program. Students who transfer from a school outside the controlled choice area to a school within the controlled choice area through an M-to-M transfer may not subsequently seek a reassignment under the controlled choice program.

J. **Intra-District Transfers:**

The District shall not permit any intra-district transfers except those authorized by the District's revised Policy 6.206 Transfers Within the System, attached as Exhibit 6, and no transfers shall have a cumulative negative impact on the desegregation of the sending or receiving schools so as to cause the sending or receiving schools to fall outside +/-15 percentage points of the district-wide elementary enrollment percentages by race. Any modifications to Policy 6.206 must receive Court approval before they are implemented.

K. **Transportation:** The District shall revise transportation routes in a non-discriminatory manner to reflect the modified attendance zones with a commitment to limit travel time for students as is reasonably practicable. As noted above, the District shall provide free transportation to all students who reside in the controlled choice region and are not assigned to their zoned school, as well as to all students who received M-to-M transfers and/or who participate in the pilot after-school program. The District shall ensure that parents are notified that transportation is available under the M-to-M transfer and controlled choice programs.

L. **School Construction and Renovations:** Before the District constructs any schools not identified in this Consent Order or renovates any school in a manner that alters the facility's capacity or otherwise impacts student assignments, the District shall first notify the other parties to this case in writing. The notice to the parties shall include, where relevant: the proposed location of the new school; a description of the proposed construction/renovation; a summary of how the proposal will impact student assignments to the schools; the projected method of assigning students, including tentative zone lines, if any; and the projected impact on the racial compositions of the schools. The District also shall file a motion for and obtain Court

approval for the proposed construction of any new school or renovations to an existing school that alters the facility's capacity or otherwise impacts student assignments, although such motions shall not be filed until private Plaintiffs and the United States have had sixty (60) days to review the above-referenced notice or consent to an earlier filing in writing. This Order shall not prohibit the District from conducting regular school maintenance or restoring without Court approval facilities that might be damaged or destroyed by a casualty or event such as fire or weather so long as the maintenance or restoration does not alter the facility's capacity or otherwise impact student assignments.

The District must provide private Plaintiffs and the United States with written notice of intent to purchase any land not adjacent to current school property and allow them a reasonable opportunity to object. The notice shall identify the property to be acquired, the property's anticipated purpose, and its probable impact, if any, on student assignments to schools. The notice also shall identify any issues that may require expedited closure on the property.

M. **Faculty and Staff Assignments:** The District shall assign teachers, administrators, professional support staff, and teacher assistants so that those assignments to each school reflect employee racial diversity. As used herein, the phrase "employee racial diversity" is +/-20 percentage points of the district-wide racial proportion of African-American and White staff for each class of employees at the relevant school levels (*e.g.*, elementary, junior high, and high school).

When there is a reduction in the number of principals, teachers, or other certified staff employed by the District that results in a dismissal or demotion of any such staff members, including any reductions in force attributable to the elementary school consolidation described above, the District must first adopt policies to ensure that the employees to be dismissed or

demoted are selected on the basis of objective and reasonable non-discriminatory criteria. Consistent with § 49-5-511 and § 49-2-301 of the Tennessee Code, any teacher or staff member who is terminated or demoted due to a reduction of force shall be considered for reemployment for any vacancy the District advertises or fills within two years of the individual's termination, so long as the individual is qualified for the vacancy based on his/her training and experience. The District shall fill any such vacancies based on non-discriminatory factors.

N. **Cultural Competency Professional Development:** Prior to the 2014-15 school year, the District shall require the teachers and staff who work closely with students at Oakland and the New School to take cultural sensitivity and competency training as part of their professional development. This training shall teach employees how to work effectively with students and parents from diverse racial, cultural, and socioeconomic backgrounds. This training shall be taught by the administrator of the after-school support programs and a staff member from each of the two schools after they have attended the "Mentoring for Equity" course offered at the University of Memphis, or, if the aforementioned course is no longer available, a comparable course. The curriculum for the training and all related materials developed within the District to facilitate the training contemplated in this Consent Order shall be provided to the private Plaintiffs and the United States at least thirty (30) days before the training of the employees. Prior to the 2015-16 school year, the District also shall require the teachers and staff who work closely with students at the remaining schools to take the cultural sensitivity and competency training as part of their professional development.

The District also shall require teachers and staff to attend a seminar on "Poverty and Education," and receive training on the District's Positive Behavior Intervention Strategies program. The District also shall confer with the Director of the Southeastern Equity Assistance

Center (“SEAC”) and request information about possible technical assistance that the SEAC can provide the District.

O. **Advanced Placement & Gifted Classes:** The District will continue Advanced Placement English and History and will implement advanced biology at Fayette-Ware High School. The District will implement advanced math at Fayette-Ware High School for the 2013-14 school year. The District will also provide identical gifted services (High Achievers Program, or HAP) at every elementary school.

### **IMPLEMENTATION AND MONITORING**

The District shall implement all components of the Desegregation Plan by no later than the beginning of the 2014-15 school year. The District may file a motion for a declaration of unitary status and dismissal of this case no earlier than the end of the 2016-17 school year, and the District must demonstrate it has eliminated the vestiges of segregation to the extent practicable through substantial good faith compliance with all components of this Consent Order and all other extant orders.

The District shall retain all documents used to prepare the reports described below, and private Plaintiffs and the United States shall have the right to inspect all records related to the District’s efforts to comply with this Consent Order and the parties will cooperate to exchange such information. The District also will file with the Court and provide to Plaintiff parties annual reports no later than October 15 of each school year until the Court enters an Order granting full unitary status to the District. Such reports will contain:

1. The total number and percentage of students, by race/ethnicity and grade level, assigned to each school operated by the District.
2. For each classroom in each school, the total enrollment in the class,

by race/ethnicity; grade served; and the subject or program of the class, specifically indicating any groupings or assignments by ability, achievement, or other basis such as advanced placement or honors classes, programs for students with intellectual or specific learning disabilities, gifted and talented programs, or limited English proficient classes.

3. The total number of students who have requested intra-district transfers, indicating for each such request the student's race/ethnicity, grade, zoned school, receiving school, reason for transfer request, and the reason for granting or denying the transfer. The District will provide the same information for inter-district transfers.

4. The total number and percentage of teachers and administrators, by race/ethnicity and position, assigned to each school operated by the District, specifically indicating all full-time teachers, part-time teachers, principals and assistant principals, and other certified personnel such as guidance counselors and librarians.

5. The total number and percentage of non-certified staff, by race/ethnicity and position, assigned to each school operated by the District.

6. If a magnet program is planned for at LaGrange-Moscow, updated information concerning decisions made and actions taken to implement the magnet program.

7. If magnet program becomes operational at LaGrange-Moscow, a report indicating the total number and percentage of students who applied for admission to the magnet program, by race/ethnicity, grade level, zoned school, and whether the students were granted or denied admission to the magnet program.

8. In addition to its annual October 15 report, the District shall provide private Plaintiffs and the United States within thirty (30) days of any reduction in force caused by the school consolidation as defined in this Consent Order, a list of employees by name, race, and

position who are terminated or demoted due to the reduction in force. The District shall include in its annual October 15 report a list of all vacancies filled with terminated or demoted employees from the reduction in force list.

**CONCLUSION**

This Consent Order shall serve to supersede, modify, and otherwise replace the Court's prior Order of August 21, 2012. All other prior orders that do not conflict with this Consent Order remain in full force and effect.

**IT IS SO ORDERED.**

**s/ S. Thomas Anderson**  
S. THOMAS ANDERSON  
UNITED STATES DISTRICT JUDGE

Date: July 12, 2013

WE SO CONSENT:

NAACP LEGAL DEFENSE & EDUC. FUND, INC.

s/ Leticia Smith-Evans  
DAMON TODD HEWITT  
LETICIA SMITH-EVANS  
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BOARD OF EDUC. OF FAYETTE COUNTY, TN.

s/ Thomas M. Minor  
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s/ Loys A. "Trey" Jordan, III  
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901-526-0606  
ATTORNEY FOR DEFENDANT



# Exhibit 1

FAYETTE COUNTY LEGISLATIVE BODY

NOVEMBER 27, 2012

**BE IT REMEMBERED** that the Fayette County Legislative Board met in regular session at the Bill G. Kelley Criminal Justice Complex in Somerville, Tennessee, on the 27<sup>th</sup> of November, 2012. Present and presiding was Chairman Rhea Taylor. Also present were the following: Sue W Culver, County Clerk; James R. "Bobby" Riles, Sheriff; and the following County Commissioners: Ed Allen, Joann Allen, Steve Anderson, Charles Brewer, Odis Cox, Lee "Sissy" Dowdle, Willie German, Ronald Harris, Reggie Howard, Judy Karcher, Bill Kelley, Terry Leggett, David Lilliard, Claude Oglesby, Steve Reeves, Ray Seals, Larry Watkins, and Myles Wilson.

A quorum was met with eighteen (18) Commissioners present. Commissioner Sylvester Logan was absent.

The floor was opened to the public for comments on non-agenda items. With no one coming forth the floor was closed.

Commissioner Dowdle moves that the minutes for the October 23, 2012 meeting be approved. The motion was seconded by Commissioner Brewer and passed unanimously.

Commissioner Oglesby moved that the following be approved as notaries: Chad A. Cardwell, Katie Doyle, Jamie R. Ferrel, Clara T. Harris, William A.H. Oyler, Michelle Pyron, Robin C. Rickard, Candice N. Starks, and Deborah B. Sullivan. The motion was seconded by Commissioner Watkins and passed unanimously.

Chairman Taylor stated that financial reports were sent out in Commissioner's packets, and if there were any questions, the proper official should be contacted.

Chairman Taylor reported for the County Mayor's Office, stating that the bids for the bonds for the construction of a new elementary school have been sent out, and that we received a good rate – (2.31). Also included in these funds are vehicles for the sheriff's department and county fire department. He also informed the Commissioners of a request by the City of Piperton that a satellite office for the County Clerk be established at their City hall. It looks like the City of Piperton will assist with the cost, and the Clerk will be able to do this without going over the current budget for the year. He stated that Fayette County was lucky not to be one of the 25 courthouses evacuated for bomb threats.

The meeting was then recessed for a brief attorney-client meeting.

The meeting reconvened with Commissioner Wilson reporting for the Development Committee, which did not meet.

The Health & Welfare Committee did not meet.

The Personnel Committee did not meet.

Commissioner Lillard reported for the Education Committee which met on November 13, 2012. Commissioner Lillard stated that James Teague, Superintendent of Schools, gave a presentation on increasing the size of the new elementary school in Somerville to accommodate an additional two schools (Northwest Elementary in Braden and Central Elementary south of Somerville). These would be combined with the two schools (Jefferson Elementary and Somerville Elementary) to increase the size of the building from 600 students to 900 students. The additional construction would cost \$2.3 million. The School Board wants the County to equally share the debt (approximately \$1.15 Million). The Committee approved the moving in of funds to pay for the elementary school construction and grant money for East Jr. High to be put into Federal Projects Fund 142 which they sent to the Budget Committee with recommendation for approval.

Commissioner Harris reported for the Budget Committee which met on November 13, 2012. He moved that the following amendment to the County General Fund Budget be approved. The motion was seconded by Commissioner Oglesby and passed unanimously.

10.3.6.2

**RESOLUTION**

BE IT RESOLVED, by the County Legislative Body and/or the Board of County Commissioners of Fayette County, Tennessee, in regular session on this 27<sup>th</sup> day of November, 2012, it being the fourth Tuesday of the month and the regular monthly meeting of the County Legislative Body in the Criminal Justice Center in Somerville, Tennessee.

That the General Fund #101 Budget Amendment be amended in the following words and figures, to wit:

**COUNTY GENERAL FUND  
BUDGET AMENDMENT  
F/Y 12-13  
November, 2012**

<u>Adjustment to Reserve Accounts:</u>	INCREASE	DECREASE
34540 Restricted for Agriculture and Natural Resources		<u>\$50,000.00</u>
<b>TOTAL INCREASE/DECREASE TO RESERVE ACCOUNTS:</b>		<b>\$50,000.00</b>
<u>Adjustment to Expenditure Accounts:</u>	INCREASE	DECREASE
<u>58900 Miscellaneous</u>		
599 Other Charges	<u>\$50,000.00</u>	
<b>TOTAL INCREASE/DECREASE TO EXPENDITURE ACCOUNTS:</b>	<b>\$50,000.00</b>	
 Change in Fund Balance this Amendment		 \$ 00.00

Commissioner Harris moved that the following amendment to the General fund be approved for the Office of the Register of Deeds. The motion was seconded by

Commissioner Wilson and passed unanimously.

**RESOLUTION**

BE IT RESOLVED, by the County Legislative Body and/or the Board of County Commissioners of Fayette County, Tennessee, in regular session on this 27<sup>th</sup> day of November, 2012, it being the fourth Tuesday of the month and the regular monthly meeting of the County Legislative Body in the Criminal Justice Center in Somerville, Tennessee.

That the General Fund #101 Budget Amendment be amended in the following words and figures, to wit:

**COUNTY GENERAL FUND  
BUDGET AMENDMENT  
F/Y 12-13  
November, 2012**

<u>Adjustment to Expenditure Accounts:</u>	INCREASE	DECREASE
51600 Register of Deeds		
355 Travel		\$ 600.00
435 Office Supplies	<u>\$ 600.00</u>	<u>          </u>
<b>TOTAL INCREASE/DECREASE TO EXPENDITURE ACCOUNTS:</b>	<b>\$ 600.00</b>	<b>\$ 600.00</b>
Prior Estimated Expenditures		\$1,497,156.00
Total Estimated Expenditures this Amendment		\$1,497,156.00
Projected Fund Balance before Amendment		\$2,186,670.00
Change in Fund Balance this Amendment		\$       00.00
Estimated Fund Balance as of June 30, 2013		\$2,186,670.00

Commissioner Harris moved to approve the following amendments to the School Budget, funds 177 (school construction) and 142(School Federal projects). The motion was seconded by Commissioner Dowdle and passed unanimously.

11/28/2012 16:39 901-465-5229 FAYETTE COUNTY MAYOR PAGE 01/01

*10.3.6.3.1*

FAYETTE COUNTY BOARD OF EDUCATION  
 CAPITAL PROJECTS FUND  
 FUND 177  
 NOVEMBER, 2012

		INCREASE	DECREASE
90000	CAPITAL PROJECTS		
91300	EDUCATION CAPITAL PROJECTS		
91300 104	Architects	\$188,418.16	
91300 308	Consultants	\$41,200.00	
91300 431	Legal Services	\$3,000.00	
	TOTAL:	\$232,618.16	60.00

Total Increase: \$232,618.16

Revenue:	49800 Operating Transfers	\$225,000.00
Reserve:	35110 Designated for Purpose #1	\$7,618.16
Revenue:	Prior Total Available Funds	\$7,618.16
	Total Increase This Amendment	\$232,618.16
	Total Available Funds This Amendment	\$232,618.16
Expenditures:	Prior Total Estimated Expenditures	\$0.00
	Total Increase This Amendment	\$232,618.16
	Total Estimated Expenditures This Amendment	\$232,618.16

10.3.6.3.2

FAYETTE COUNTY BOARD OF EDUCATION  
FEDERAL PROJECTS FUND  
FUND 142  
SUBFUND 110 - TITLE 1 SCHOOL IMPROVEMENT (EAST JR)  
NOVEMBER, 2012

		INCREASE	DECREASE
71000	INSTRUCTION		
71100	REGULAR INSTRUCTION PROGRAM		
71100 189	Other Salaries and Wages	\$1,500.00	
71100 201	Social Security	\$93.00	
71100 204	State Retirement	\$133.20	
71100 212	Medicare	\$21.75	
71100 299	Other Fringe Benefits	\$6.45	
71100 429	Instructional Supplies and Materials	\$900.00	
71100 499	Other Supplies and Materials	\$1,607.36	
71100 722	Regular Instruction Equipment	\$56,614.51	
	TOTAL:	\$60,876.27	\$0.00
72000	SUPPORT SERVICES		
72130	OTHER STUDENT SUPPORT		
72130 123	Guidance	\$5,418.75	
72130 201	Social Security	\$335.92	
72130 204	State Retirement	\$481.12	
72130 212	Medicare	\$78.56	
72130 299	Other Fringe Benefits	\$23.30	
72130 599	Other Charges	\$1,000.00	
	TOTAL:	\$7,337.65	\$0.00
72210	REGULAR INSTRUCTION PROGRAM		
72210 105	Supervisor/Director	\$7,065.00	
72210 163	Educational Assistants	\$5,916.00	
72210 189	Other Salaries and Wages	\$30,112.50	
72210 201	Social Security	\$2,671.80	
72210 204	State Retirement	\$3,781.15	
72210 212	Medicare	\$624.85	
72210 299	Other Fringe Benefits	\$185.30	
72210 524	Inservice Staff Development	\$5,759.66	
	TOTAL:	\$56,116.26	\$0.00
72710	TRANSPORTATION		
72710 146	Bus Drivers	\$33,495.00	
72710 201	Social Security	\$2,076.69	
72710 204	State Retirement	\$2,716.45	

72710 212	Medicare	\$485.68	
72710 299	Other Fringe Benefits	\$1,658.00	
	TOTAL:	\$40,431.82	\$0.00
	GRAND TOTAL:	\$164,762.00	\$0.00
Total Increase/Decrease: \$164,762.00			
Revenue:	47141 Title I -Grants to Local Ed. Agencies	\$164,762.00	
Revenue:	Prior Total Available Funds	\$2,739,914.30	
	Total Increase This Amendment	\$164,762.00	
	Total Available Funds This Amendment	\$2,904,676.30	
Expenditures:	Prior Total Estimated Expenditures	\$2,667,282.73	
	Total Increase This Amendment	\$164,762.00	
	Total Estimated Expenditures This Amendment	\$2,832,044.73	

Commissioner Harris stated that the next item on the agenda concerned the billing and collections for the ambulance service, but that matter is being put off and we will get back to you on that at a later date.



Commissioner Harris moved that the following "Resolution of The Fayette County Board of Education Requesting Additional School Construction Funding of \$2.3 Million" be approved. The motion was seconded by Commissioner Howard. After a great deal of discussion, Commissioner Leggett moved to table the matter until the School Board came back with a completed plan showing exactly where the money would be going and a consensual agreement from all three parties involved. Commissioner Dowdle seconded the motion to table. A roll call vote was taken with the following results:

Voting "YES": Commissioners: Jo Ann Allen, Brewer, Dowdle ,Howard,Leggett, Reeves, Wilson, And Watkins (8)

Voting "NO": Ed Allen, Anderson, Cox, German, Harris, Karcher, Lillard, Oglesby, Seals (9)

Commissioner Kelley "PASSED"

Thereupon the motion failed.

10.3.6.4

RESOLUTION OF THE FAYETTE COUNTY BOARD OF EDUCATION REQUESTING ADDITIONAL  
SCHOOL CONSTRUCTION FUNDING OF \$2.3 MILLION

WHEREAS, the Fayette County Board of Education (Board) has been ordered by the Federal District Court for the Western District of Tennessee in the desegregation case styled *McFerrin, et al. v. Fayette County Board of Education* (the Desegregation Case) to construct a new elementary school in Somerville on the site known as the North Campus to be opened at the beginning of the 2014/2015 school year to serve attendance zones currently served by Jefferson Elementary School and Somerville Elementary School, and;

WHEREAS, the most recent Consent Order entered in the Desegregation Case on August 21, 2012 allows the reassignment of the K-5 students from Central Elementary School to the new school, and;

WHEREAS, since the entry of the August 21, 2012 Consent Order, further research and analysis have revealed to the Board that the additional consolidation of Northwest Elementary School and reassignment of its K-5 students to the new school and to Oakland Elementary School will create better learning opportunities for its students, better utilization of all existing facilities, as well as guaranteeing a racially diverse student population compliant with the +/- 15% requirement of the August 21, 2012 Consent Order, and;

WHEREAS, the consolidation of 4 schools into the new school will create projected savings of more than \$500,000.00 per year which would be available to raise salaries for teachers and staff, fund educational technology and resources, and replenish the Board's fund balance, and;

WHEREAS, based upon the analysis of the Board's architect, Fleming and Associates, and its construction manager, Yates Construction Company, the projected additional cost to increase the size of the school from a current capacity of 600 students to a capacity of 900 students is \$2.3 million, and;

WHEREAS, the Board is obligated under the current funding arrangement with the Fayette County Commission (Commission) to service the debt on school construction funding up to \$2.5 million based upon a total construction debt of \$10.5 million, and;

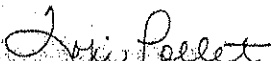
WHEREAS, the Board proposes that it service one-half of any additional debt not exceeding an additional total sum of \$2.3 million in order to increase the size and capacity of the new school from 600 to 900 students with the Commission being obligated to service the other one-half of said additional debt.

NOW THEREFORE, BE IT RESOLVED that the Board does hereby formally request from the Fayette County Commission an increase in funding for the construction of a 900 capacity elementary school on the North Campus in Somerville, Tennessee, from \$10.5 million to a maximum not to exceed sum of \$12.8 million and that the Board, in addition to its current obligation to service the debt on any sum in excess of \$8 million, be obligated to service one-half of any additional debt incurred not exceeding a total sum of \$2.3 million.

APPROVED AND ADOPTED this 12<sup>th</sup> day of November, 2012.

  
\_\_\_\_\_  
RONNIE MCCARTY, CHAIRMAN

ATTESTED BY:

  
\_\_\_\_\_  
TONI POLLET

The original motion was put back on the table. After several attempts to amend the motion, Commissioner Harris moved that the following be approved: **RESOLVED**, that if the court approves an amendment to the consent order along the general lines proposed by the School Board, as described by the School Superintendent, the Commission will borrow up to an additional \$2,300,000 in construction funding,

provided that the School Board will pay for the additional borrowing from the savings derived from the plan. The motion was seconded by Commissioner Howard and passed with the following Roll Call Vote.

Voting "YES" Commissioners: Ed Allen, Jo Ann Allen, Anderson, Brewer, Cox , Dowdle, German, Harris, Howard, Karcher, Kelley, Leggett, Lillard, Oglesby, Reeves, Seals, and Watkins (17)

Commissioner Wilson "PASSED"

Commissioner Harris moved to allow the Fire Chief Jerry Ray to purchase a vehicle on the state contract by using the same bid that Collierville just used to purchase one. This would eliminate the bid process for buying the vehicle. He could then replace a 1995 Med Squad with over 30,000 projected miles and high repair cost. There would be no change in his current budget and he would need permission to use \$9,000 from the Fire Department Revenue Account. The motion was seconded by Commissioner Leggett and passed unanimously.

Commissioner Oglesby moved that the County Mayor be authorized to act on behalf of the County at the settlement of the case with Barge Waggoner that is now pending and due to be settled sometime in January. Commissioner Dowdle seconded the motion which passed unanimously.

Commissioner Reeves moved to approve the following Resolution canceling the December 2012 County Commission meeting. The motion was seconded by Commissioner Karcher and passed unanimously.

11.1

RESOLUTION TO CANCEL DECEMBER 2012 COUNTY COMMISSION MEETING  
FOR FAYETTE COUNTY

WHEREAS, *Tennessee Code Annotated*, §§ 5-5-104, permits counties, upon a majority vote of their respective county legislative bodies, to enact a resolution stipulating the time, day and place of their county legislative body's regular meeting; and,

WHEREAS, Fayette County is required to have at least four meetings per year, and has fulfilled the requirement; and

WHEREAS, the December Fayette County Commission meeting would occur during the busy holiday season surrounding Christmas and New Year's; and

WHEREAS, there being no urgent business of the Fayette County Commission, or business that cannot be resolved by a special called meeting of the Fayette County Commission;

NOW, THEREFORE, BE IT RESOLVED by the county legislative body of Fayette County that the December 25, 2012 meeting of the Fayette County Commission is cancelled.

Adopted this 27<sup>th</sup> day of November, 2012.

APPROVED: ATTEST:

\_\_\_\_\_  
County Commission Chairman

\_\_\_\_\_  
County Clerk

Commissioner Howard moved to adopt the following Resolution. The motion was seconded by Commissioner Ed Allen. The motion failed on the following Roll Call Vote:

Voting "YES": Commissioners Ed Allen, Jo Ann Allen, Anderson, Howard, and Leggett  
(5)

Voting "NO" Commissioners Brewer, Cox, and Watkins(3)

"PASSING" Commissioners: Dowdle, German, Harris, Karcher, Kelley, Lillard,  
Oglesby, Reeves, Seals, and Watkins (10)

**RESOLUTION OF THE FAYETTE  
COUNTY BOARD OF COMMISSIONERS**

WHEREAS, the federal government has enacted the Patient Protection and Affordable Care Act (PPACA) ostensibly for the purpose of making health insurance more affordable for American citizens; and

WHEREAS, PPACA includes a provision requiring the creation of health insurance exchanges (exchanges) in each state where only health insurance policies that meet certain requirements determined by the federal government may be bought and sold; and

WHEREAS, exchanges may only be established by each state subject to approval by appointed federal officials; and

WHEREAS, if a state does not establish an exchange, appointed federal officials will establish one in that state; and

WHEREAS, state-created exchanges put states in the position of ceding their resources and sovereignty to the service of the federal government, sacrificing their ability to flexibly serve their own citizens, therefore

BE IT RESOLVED that the Fayette County Board of Commissioners believes it is not in the best interest of the state for any state official to participate in planning or establishing health insurance exchanges as provided for in the federal Patient Protection and Affordable Care Act.

\_\_\_\_\_  
Chairman, Board of Commissioners

ATTESTED:

\_\_\_\_\_  
County Court Clerk

Thereupon said motion failed for lack of a majority.

With no further business to be brought before the Board, the meeting was adjourned.

  
Sue W. Culver, County Clerk



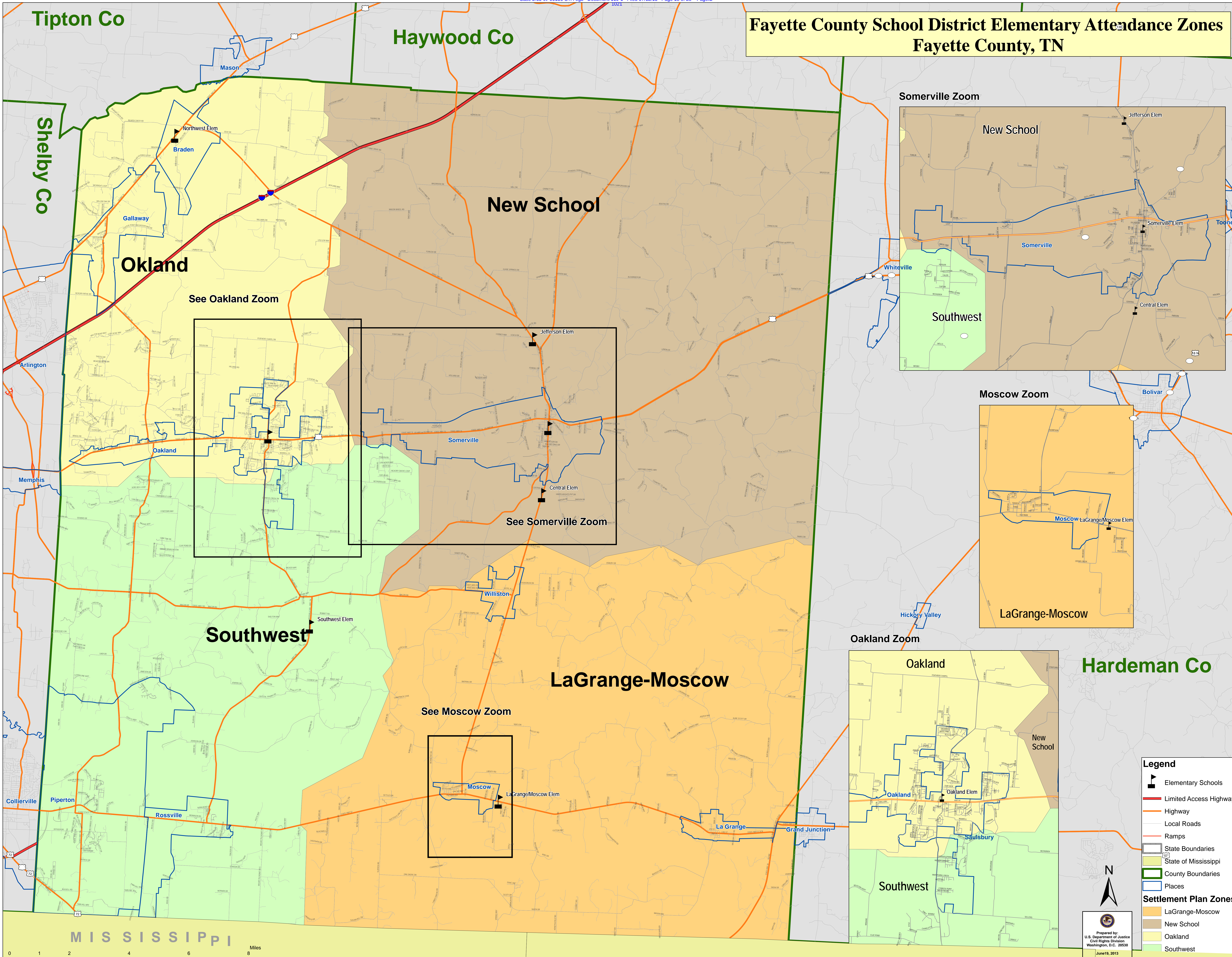
# Exhibit 2

Tipton Co

Haywood Co

# Fayette County School District Elementary Attendance Zones Fayette County, TN

Shelby Co



**Oakland**

**New School**

See Oakland Zoom

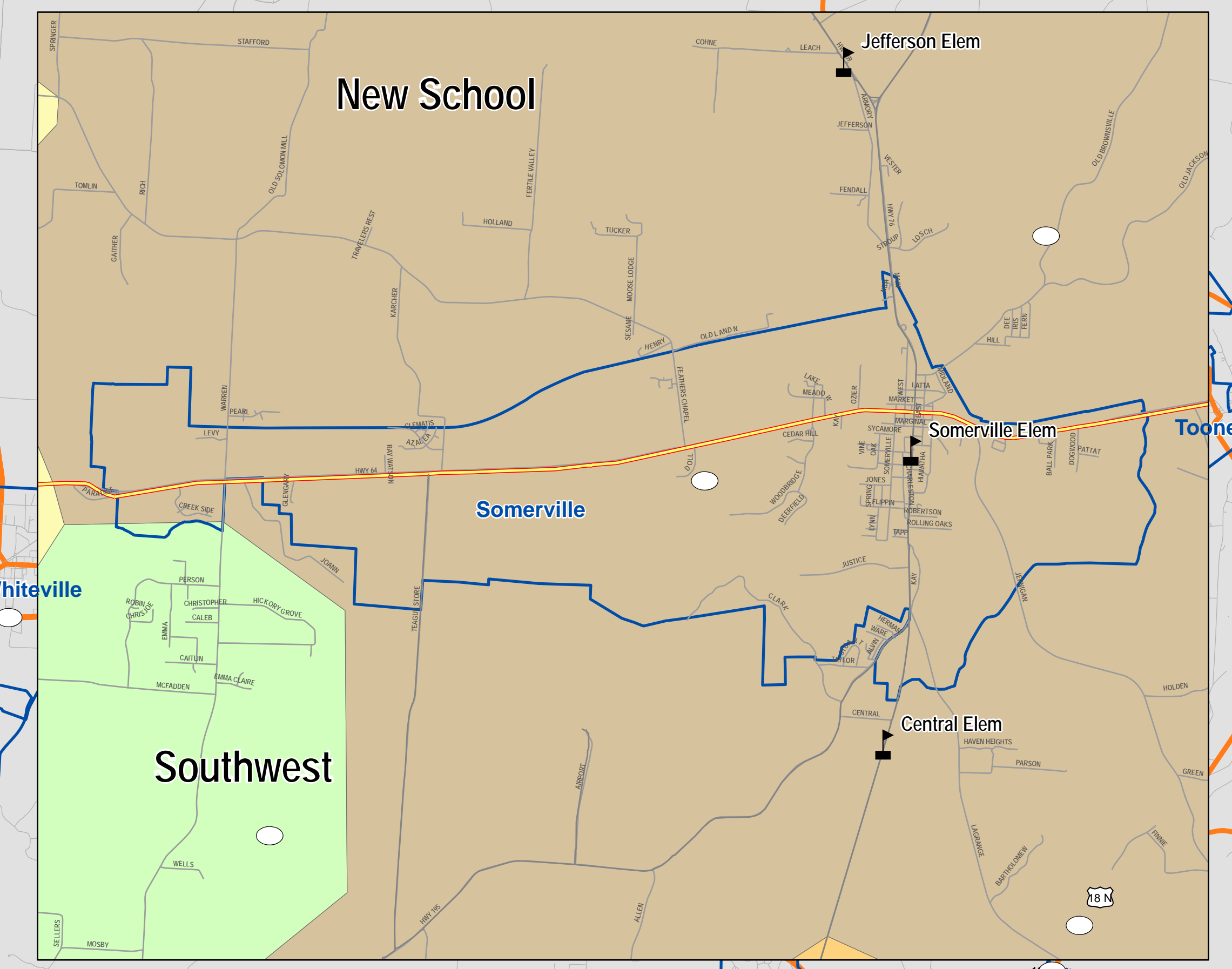
See Somerville Zoom

**Southwest**

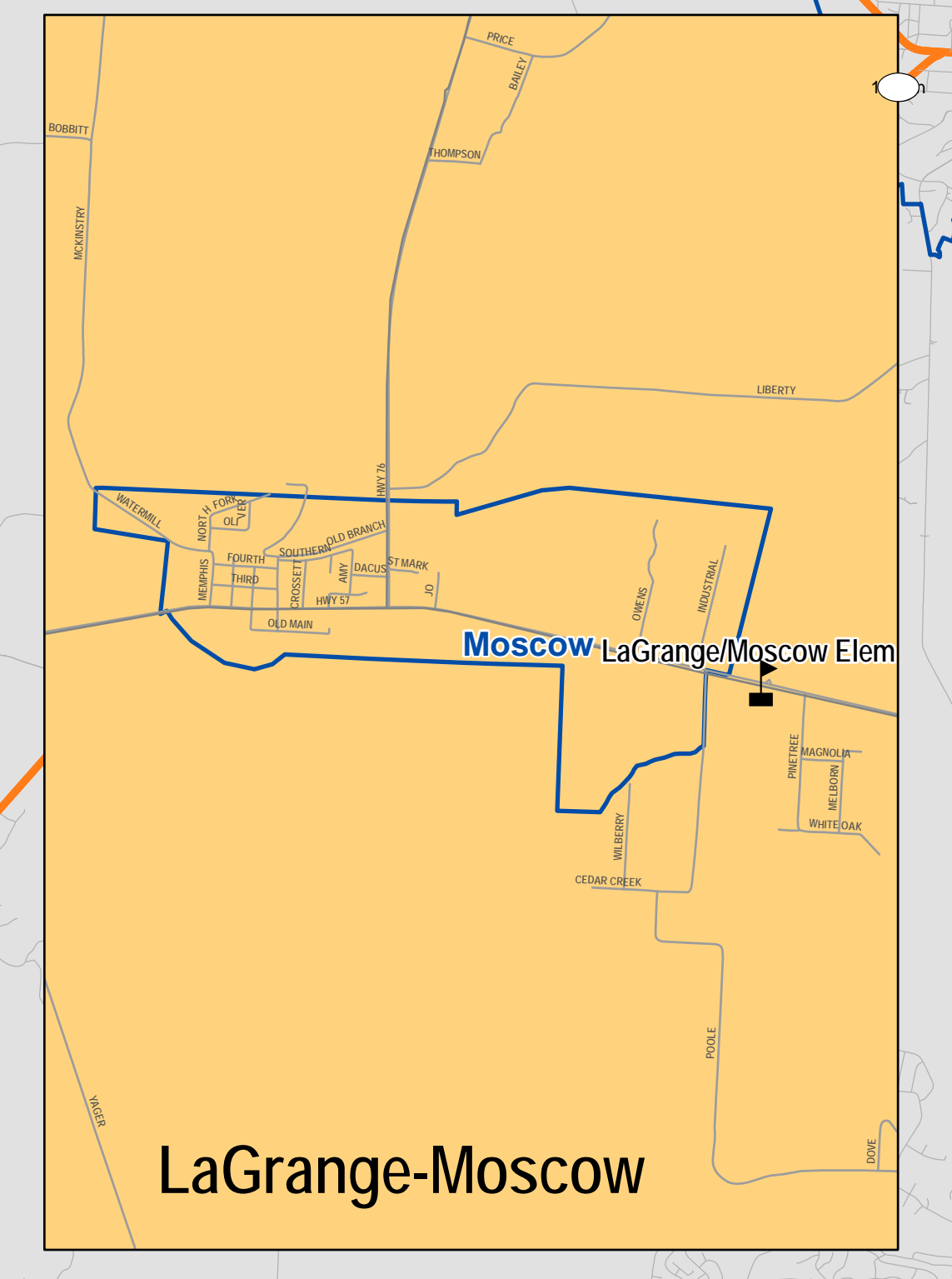
**LaGrange-Moscow**

See Moscow Zoom

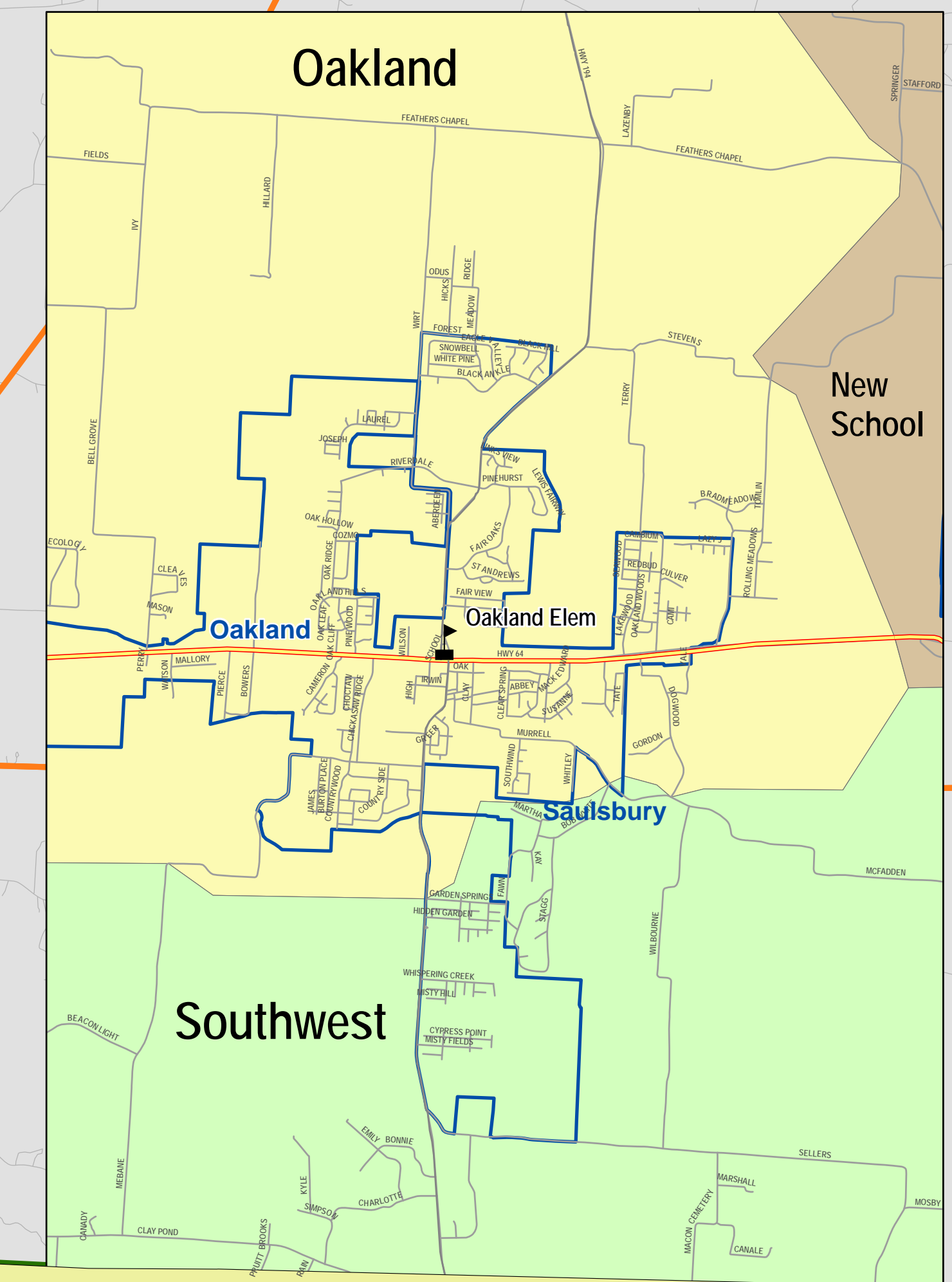
**Somerville Zoom**



**Moscow Zoom**



**Oakland Zoom**



Hardeman Co

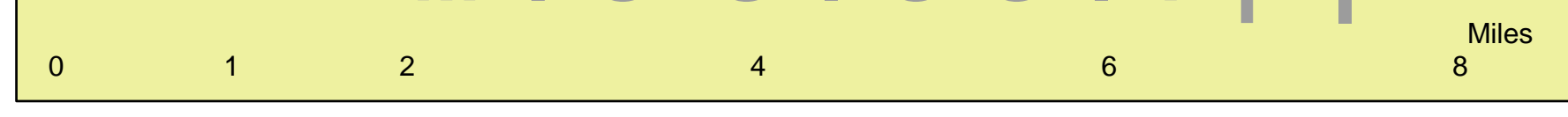
### Legend

- Elementary Schools
- Limited Access Highway
- Highway
- Local Roads
- Ramps
- State Boundaries
- State of Mississippi
- County Boundaries
- Places
- Settlement Plan Zones**
- LaGrange-Moscow
- New School
- Oakland
- Southwest

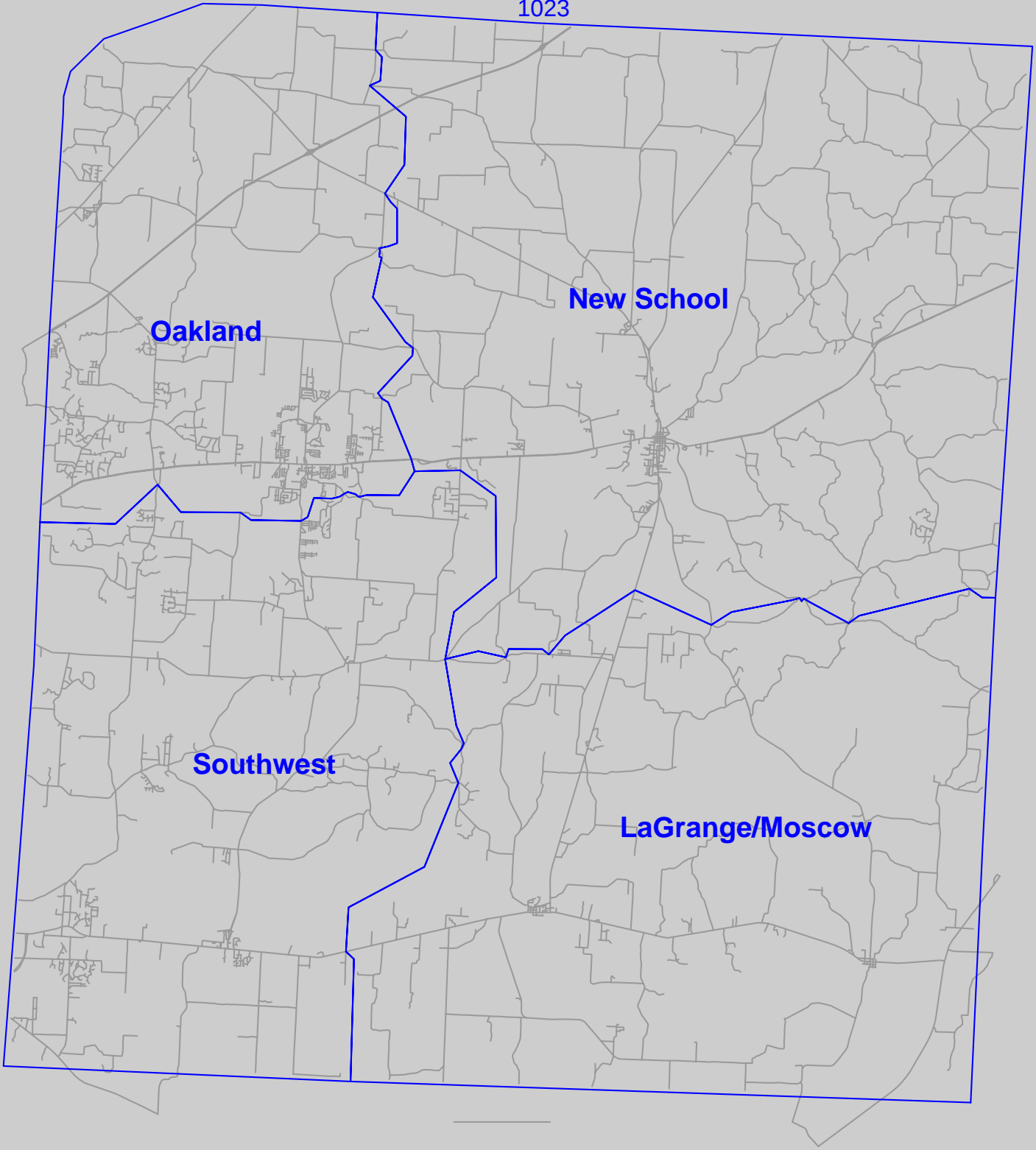


Prepared by:  
U.S. Department of Justice  
Civil Rights Division  
Washington, D.C. 20530  
June 19, 2013

M I S S I S S I P P I



# Exhibit 3



# Alternative Plan

July 2, 2013

# Exhibit 4

**Policy 6.205 Student Assignment to Schools**

Students, including those in kindergarten, by and through their parents/guardians, shall be required on an annual basis to register at and attend the school to which they are assigned (zoned school) by virtue of their residence unless their parent/guardian has made proper application and the student has been approved to attend an out-of-zone school which is a school other than their in-zone school or the student resides in the controlled choice region and was not assigned to their zoned school.<sup>1</sup> Homeless students will be handled on a case by case basis, and documentation reflecting the process by which homeless students are assigned to particular schools will be kept on file by the Board of Education.

As part of the registration process, each student seeking enrollment into the Fayette County school system will be required to complete and submit an application for enrollment which shall be accompanied by a residency affidavit signed by the parent/guardian and supported by original documents verifying said residency. The documents used in support of the residency affidavit shall include at least one (1) of the following: deed or property tax statement, mortgage statement, rental agreement/lease or notarized statement from the landlord. At least two (2) of the following additional forms of documentation also shall be submitted at the time of registration: utility bill, phone bill, cable bill, bank statement, insurance statement or government issued documents that contain the same address (e.g. public assistance documentation such as for food stamps, W-2 form, drivers license, passport, voters registration). These forms of documentation shall be current and statements and bills must have been issued within the last sixty (60) days.

No parent/guardian will be permitted to register a student without providing the required residency affidavit and accompanying forms of proof.

If a student's residence changes during the school year, the school must be notified and a new residency affidavit accompanied by new proof of residency documentation must be submitted within ten (10) business days of the change. If the student moves outside the assigned school zone after the first month of school, an out-of-zone transfer request must be submitted to the District office and approved by the Director of Schools in order for the student to continue to attend the out-of-zone school for the remainder of the school year.

In order to register a student in Fayette County Schools when the parent, guardian, foster parent and/or student are under the mandates of a court order relating to custody of or visitation rights with the student, a certified copy of the court order and any related documents awarding custody and visitation, as well as documents establishing, when applicable, a legal guardianship or foster care arrangement with the student, must be provided at the time of registration. A copy of these documents shall be provided to the student's school and kept in the student's permanent cumulative file. The parent or guardian is responsible for notifying the school of any custody or visitation changes to the court order immediately, and no more than ten (10) business days after the modified or new order is issued.

If a student resides with a person who is not the student's parent/guardian, such non-parent must provide the admitting school with a signed, dated, notarized affidavit stating his/her relationship with the student and that the student will be living in his/her home for a period of time encompassing the entire upcoming school year and fully explaining the reasons for this arrangement. Changing school attendance zones or school district preference will not be a justifiable reason for such a living arrangement. Situations such as an unavoidable or emergency situation or family condition, such as a broken home, abused children or extreme poverty, may, for example, be acceptable reasons for a student to reside with an adult other than a parent, legal guardian, or foster parent, if specifically approved by the admitting principal. The principal will make a good faith inquiry into the merits of the reason(s) to determine if they are "justifiable" and will require supporting documentation from the non-parent to the extent it is available (e.g., a copy of a police report or court order in domestic abuse cases), and such documentation and a record of the request (including requests denied by the principal) will be kept on file.

The legal residence of the student must be in the Fayette County school district. Legal residence is

defined as the primary residence of the student's custodial parent/guardian. A student's "primary residence" must be within the attendance zone as defined by an intent to remain in the domicile and/or a pattern of staying at the residence at least three (3) school nights per week.

Written notification must be provided to the school by the custodial parent/guardian whenever there is any change of address or change of parental custody/guardian status, including but not limited to death, divorce, legal separation and court orders.

### **Monitoring of Enrollment**

The Director of Schools or his designee shall be responsible for verifying that all students are residing in their residence of record when the student registers as well as periodically throughout the year. A formal monitoring process comparing the District's student attendance file to its transportation/zone map shall be performed five times during the school year as follows: the week after Labor Day, the week preceding October 15th, the first week of December, the second week of January, and the last week in March. If any improper enrollments are detected during the monitoring process, the Director of Schools shall immediately investigate and correct any improper enrollments. After each monitoring process the Director of Schools shall report to the Board at its next regular meeting the improper enrollments discovered during the process and shall provide to the Board a written report detailing each improper enrollment detected and its resolution. When the October and January monitoring processes are performed, the district-wide elementary enrollment percentages by race and the racial diversity at each elementary school shall also be calculated and reported for use in determining school assignments for the District's Majority to Minority program and Controlled Choice program.

Every principal shall have the authority to investigate any enrollment that may be improper and shall also be required to investigate any allegation of improper enrollment. This notwithstanding, all principals, teachers and support staff members shall have the responsibility of ensuring that every student is properly and correctly enrolled.

In the event it is determined that a student is improperly enrolled in a school or the district, the parent/guardian shall be notified orally if possible and in writing that the student will be removed from the out-of-zone school or the district in five (5) school days and directed to enroll in the student's assigned school or school district.

On or before the last day of the preceding school term, parents will be notified in writing of the date of registration and enrollment for the next school year. At least (30) days before registration is held for the upcoming school term, the Board shall broadly and adequately disseminate information sufficient to inform parents/guardians concerning the documentation they will need in order to register their children and to verify their residency. At a minimum, such information and notices will be published in a local weekly newspaper for three (3) consecutive weeks and published on the District's web site and physically posted at each school and at the Board's central office beginning at least thirty (30) days prior to the day of registration for the upcoming school year.

The attendance supervisor and transportation supervisor shall conduct random on-site visits to the home addresses provided in students' enrollment applications, and shall prepare and maintain adequate records related to such site visits. The Board will maintain records related to students' address verification and such records shall be subject to lawful inspection.

The Director of Schools shall designate a person(s) who shall be responsible for assisting the parent/guardian with student registration. The person(s) responsible for this task shall be knowledgeable about the Board's obligations under the Orders of the Court in *McFerren, et al v. County Board of Education of Fayette County, Tennessee, et al.* to properly and adequately respond to any questions or to direct them to someone capable of answering related questions.

#### Legal References:

1. TCA 49-6-3102 through 3103

# Exhibit 5

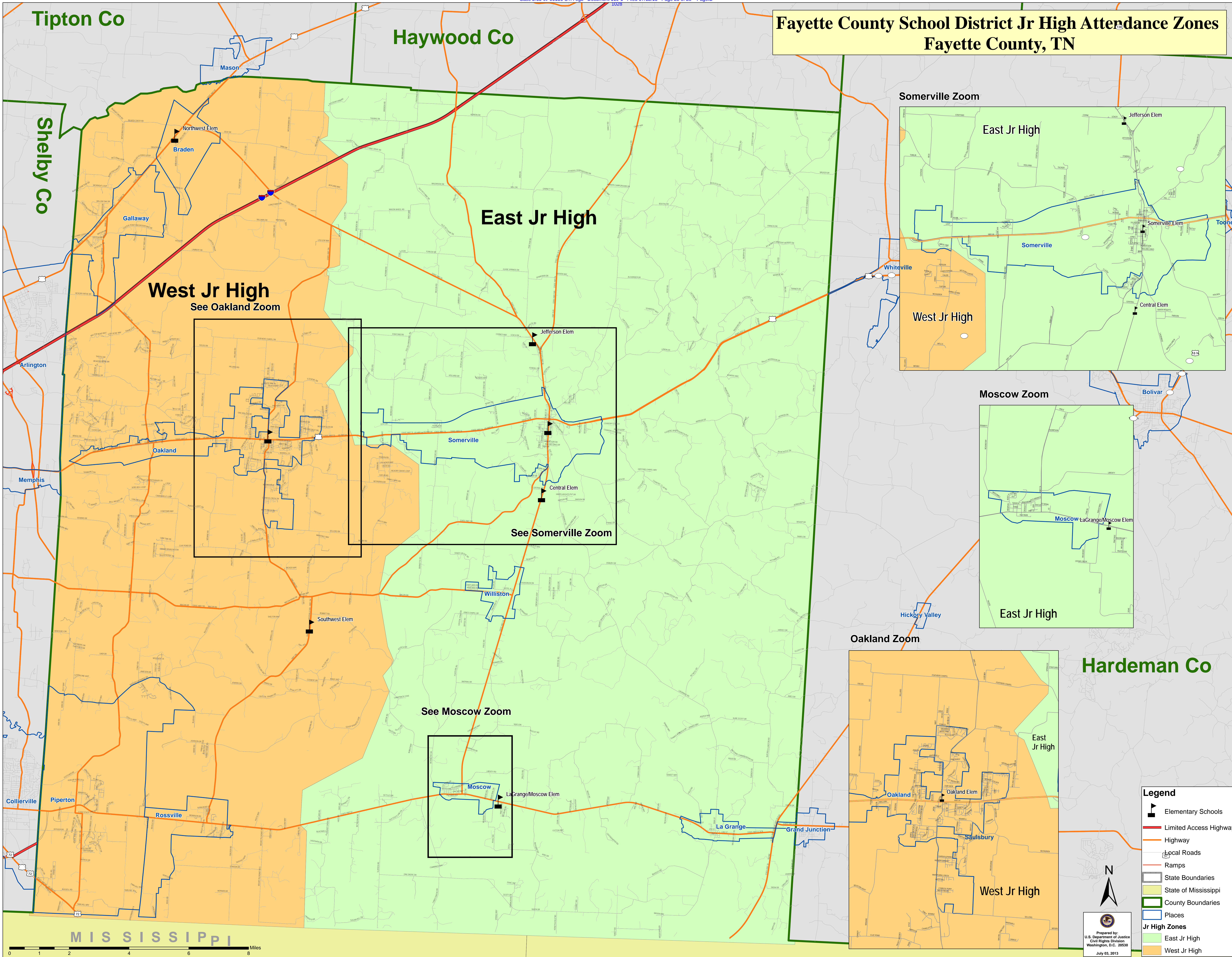


Tipton Co

Haywood Co

# Fayette County School District Jr High Attendance Zones Fayette County, TN

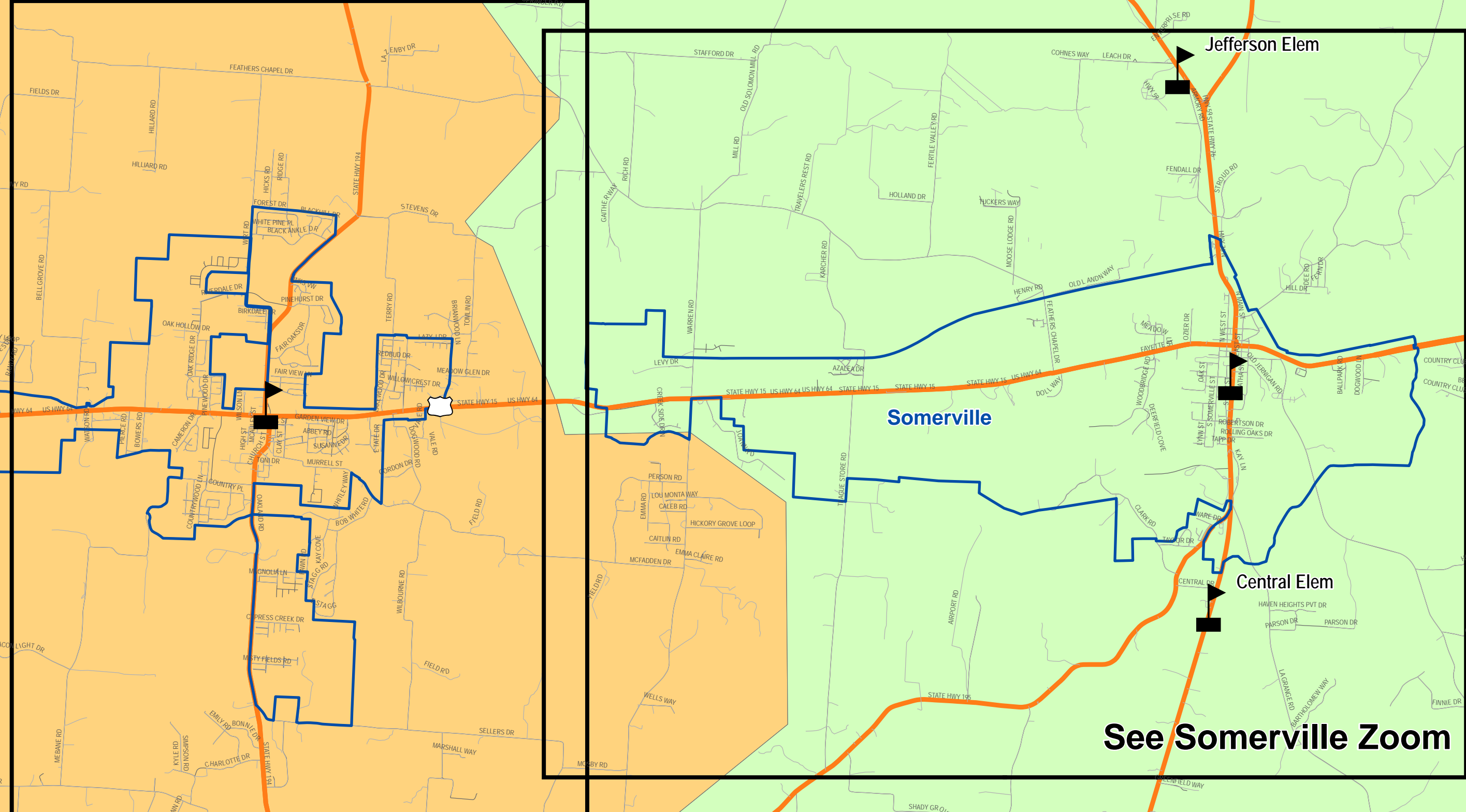
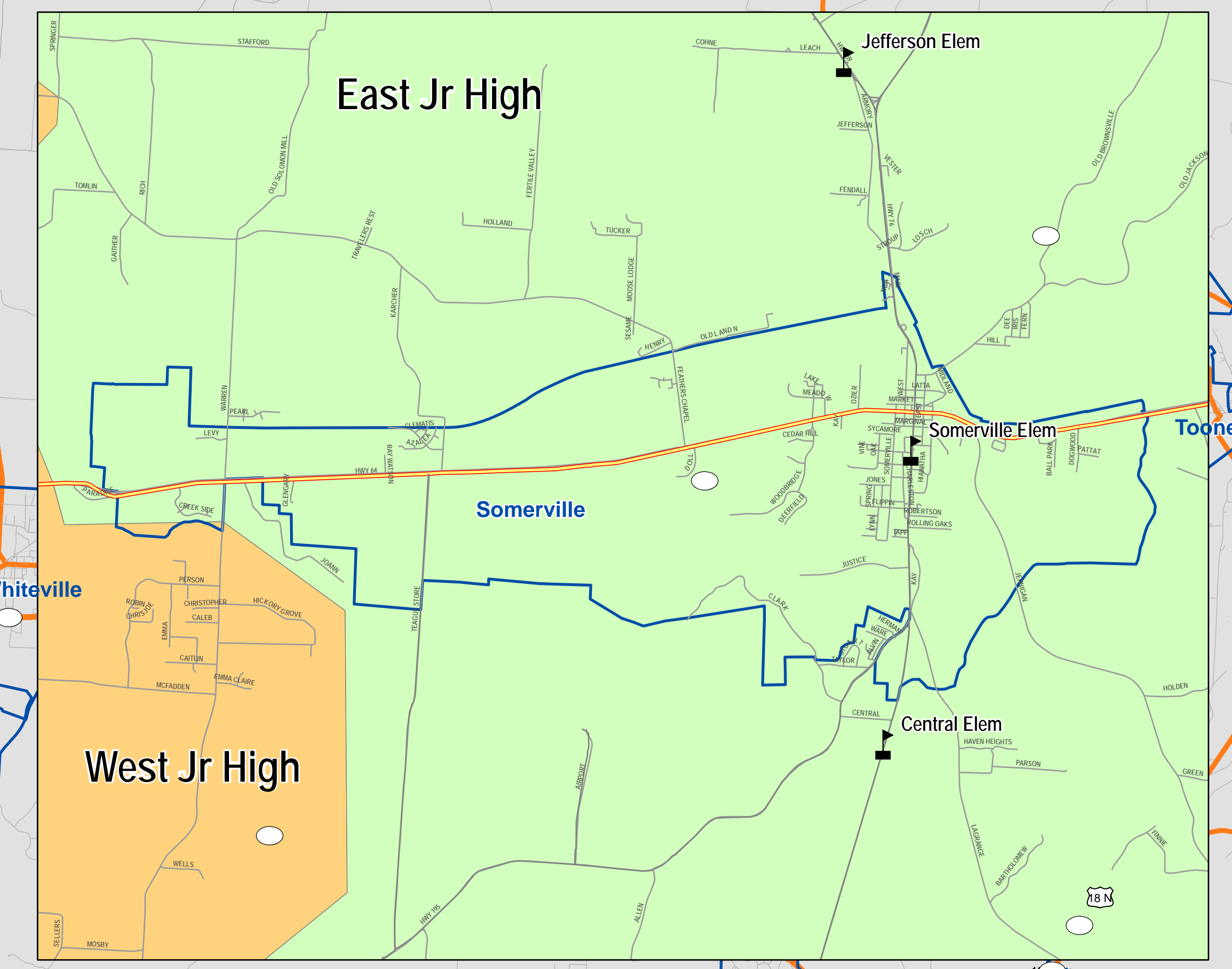
Shelby Co



**West Jr High**  
See Oakland Zoom

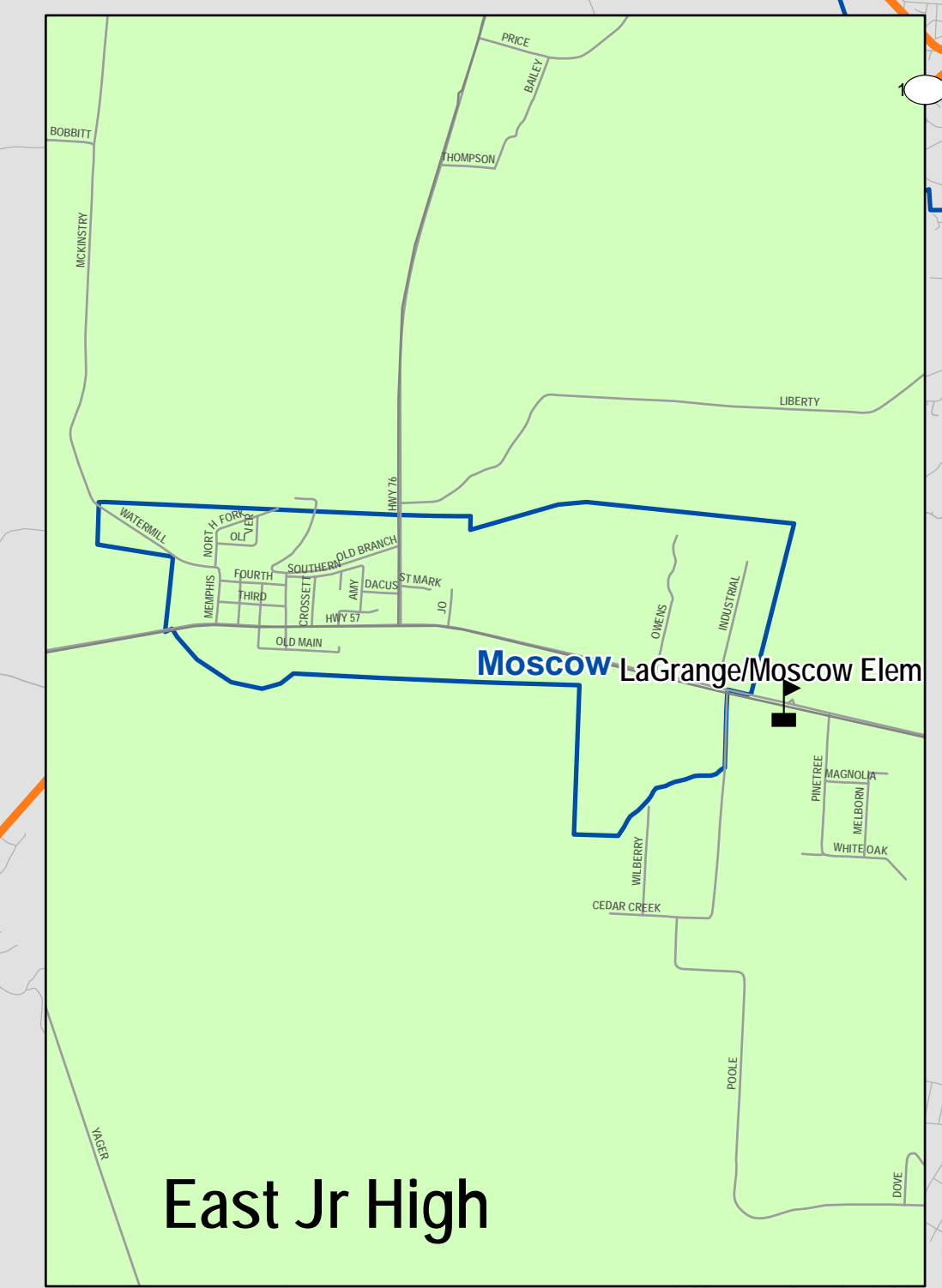
**East Jr High**

**Somerville Zoom**



See Somerville Zoom

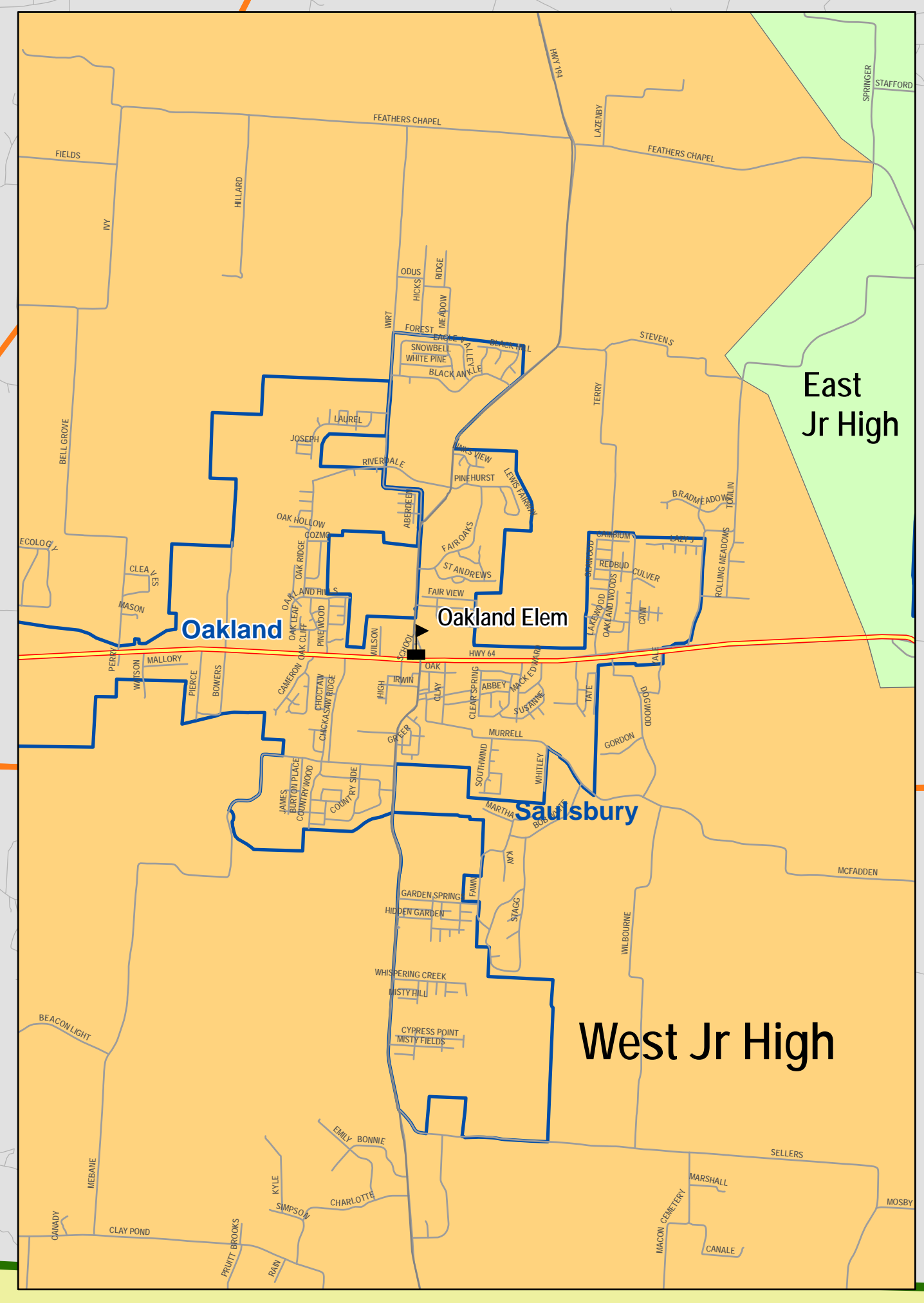
**Moscow Zoom**



See Moscow Zoom



**Oakland Zoom**



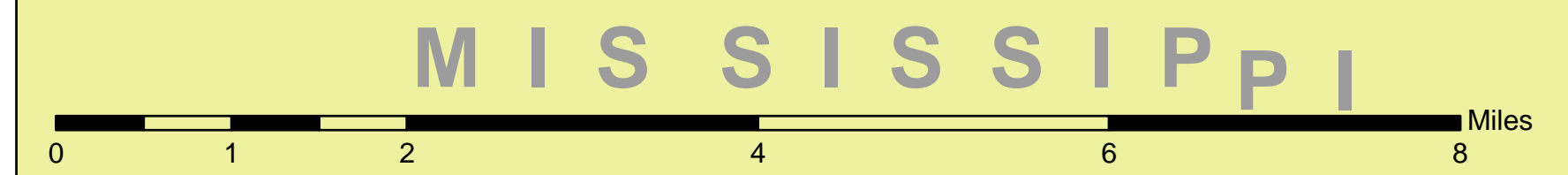
Hardeman Co

### Legend

- Elementary Schools
- Limited Access Highway
- Highway
- Local Roads
- Ramps
- State Boundaries
- State of Mississippi
- County Boundaries
- Places
- Jr High Zones**
- East Jr High
- West Jr High



Prepared by:  
U.S. Department of Justice  
Civil Rights Division  
Washington, D.C. 20530  
July 03, 2013



# Exhibit 6

## **Policy 6.206 Transfers Within the System**

Students will attend the school assigned to serve the attendance zone in which they reside unless they reside in the controlled choice region and are not assigned to their zoned school or they have applied and been approved for one of the transfers provided for in this policy. Homeless students will be handled on a case by case basis, and documentation reflecting the process by which homeless students are assigned to particular schools will be kept on file by the Board of Education.

All transfer requests and transfer renewal requests shall be submitted and approved (or denied) for each school year and will not carry forward from a prior year, with the exception of Majority to Minority, Special Education, and Public School Choice transfers under No Child Left Behind. All transfer requests and transfer renewal requests for a school year shall be filed together at the District office along with copies of any Majority to Minority (M-to-M), Public School Choice, and Special Education transfers applicable to the school year. This policy will ensure that documentation on all transfers for a given school year can be readily retrieved and are available in order to substantiate legitimate out-of- zone transfers when monitoring enrollment.

### **Transportation**

The Fayette County Board of Education will provide free transportation to any student attending the school assigned to serve the attendance zone in which the student legally resides with his/her parent/guardian, as well as all controlled choice school assignments and M-to-M transfers as authorized by the order of the Court in *McFerren, et al v. County Board of Education of Fayette County, Tennessee, et al.* Transportation to any school outside a student's attendance zone (out-of-zone school) or to the Alternative School will be the responsibility of the student's parent/guardian, except as indicated for controlled choice school assignments and for M-to-M, Public School Choice, and Special Education transfers. With the approval of the Director of Schools after reviewing the availability of space on the bus, transportation to and from a regularly scheduled bus stop for an out-of-zone school may be provided, provided however, that transportation must be provided a student who is attending an out-of-zone school pursuant to an M-to-M transfer.

### **Majority to Minority (M-to-M)**

An M-to-M transfer is defined as a transfer of a child from a school wherein the numerical majority of the students are of the same race as said child to a school where the child's race is in the minority. In such instances, said child shall have an automatic right to transfer. Transportation to the chosen school will be provided to the child by the District.

On an annual basis, the Director of Schools or his designee will mail a letter and M-to-M transfer request form by February 21st to the parent(s) or guardian of all majority race students enrolled in grades K through 7 and zoned to attend schools with applicable racial majorities for the following school year. All new M-to-M transfer requests to be considered for the following school year must be received by the District's office no later than March 15<sup>th</sup> to be considered. The District will evaluate and grant when appropriate any M-to-M transfer request submitted by any current student who changes his/her residence or any new student who moves into the District after March 15, provided that the student submits the transfer request no later than ten (10) business days before the start of the next school year.

Once granted, an M-to-M transfer will be permitted to continue from year to year through the terminal grade of the receiving school without a yearly application. The rules of all schools shall be applied uniformly to M-to-M students and students zoned to the school such that violation of a rule may not be the basis for removing a M-to-M student from the school if the violation would not result in the removal of a non- M-to-M student.

### **Special Education**

Placement in an out-of-zone school may be approved through the I.E.P.-Team process as defined by the Individuals with Disabilities Education Act. An out-of-zone transfer request accompanied by the student's I.E.P.-Team out-of-zone placement directive must be filed with the District office each school year prior to the student attending the out-of-zone school.

### **Dependent of Resident District Employee**

Except where such transfers have a cumulative negative impact on the desegregation of the sending and receiving schools so as to cause the sending or receiving schools to fall outside +/-15 percentage points of the district-wide elementary enrollment percentages by race, the dependent of a resident district employee may be enrolled in the school where the parent or guardian is employed while the dependent is within the grade level specific to said school.<sup>1</sup> If the parent/guardian's school of employment is out-of-zone, an out-of-zone transfer request for the dependent verifying the parent/guardian's school of employment and position must be received by the District office at least ten (10) business days before the first day of school for each applicable school year. In the event a resident district employee is hired or re-assigned less than ten (10) business days prior to the first day of school, an out-of-zone transfer request must be received by the District office prior to the child attending the out-of-zone school.

### **Public School Choice under No Child Left Behind**

In the event a school is identified for school improvement, corrective action, or restructuring under *No Child Left Behind*, Public School Choice transfers will be offered to students of the school in accordance with the District's implementation plan except where such transfers have a cumulative negative impact on the desegregation of the sending and receiving schools. A Public School Choice transfer will remain in effect until the student either completes the highest grade offered at the chosen school or voluntarily returns to their school of origin. Transportation to the chosen school will be provided to the student until such time as the student's school of origin is no longer identified as high priority.

### **Parent/Guardian Moves Out of Assigned Zone**

If a student's parent(s) or guardian moves outside the assigned school zone after the first month of school, an out-of-zone transfer request must be submitted to the District office and approved by the Director of Schools in order for the student to continue to attend the out-of-zone school for the remainder of the school year. No transfer request will be approved if the move occurs during the first month of school.

There shall be no other transfers authorized other than those listed herein; without proper petition to and approval by the Court in *McFerren, et al v. County Board of Education of Fayette County, Tennessee, et al.*

Legal Reference:

1. TCA 49.6.3113(b)(l)

Cross Reference:

Student Assignment to Schools 6.205