

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION

UNITED STATES OF AMERICA )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 ABERDEEN MUNICIPAL SEPARATE )  
 SCHOOL DISTRICT, et al., )  
 )  
 Defendants. )  
\_\_\_\_\_ )

Civil Action No. EC65-64-LS

**CONSENT DECREE**

This is a desegregation case in which the United States filed a complaint on August 26, 1965, seeking to enjoin the Aberdeen Municipal Separate School District (“District”) from operating a dual school system based on race. On November 1, 1967, the Court entered a permanent injunction enjoining the defendants from discriminating on the basis of race or color and stated in its decree the affirmative action that the District would take to disestablish all school segregation in the areas of student assignment, transfers, services, facilities, activities and programs, transportation, faculty and staff, and construction of schools. Subsequent orders were entered in the case since the permanent injunction in order to further the desegregation of the District.

In April of 2001, the United States initiated a review of the District’s compliance with its desegregation orders and applicable federal law. Pursuant to that review, the United States sent out information requests to which the District responded and conducted negotiations with the District in an effort to resolve the United States’ concerns.

After reviewing the terms of this Consent Order, it is the opinion of this Court that its entry is consistent with the objectives of the Fourteenth Amendment of the Constitution of the United States of America, and that its entry will further the orderly desegregation of the Aberdeen Separate Municipal School District. It is therefore ORDERED, ADJUDGED AND DECREED as follows:

### **LEGAL STANDARDS**

A finding of unitary status requires a district court to determine: (1) whether the District has demonstrated compliance with the Constitution and with existing Court orders; (2) whether the District has shown that it has eliminated to the extent practicable, all vestiges of past discrimination; and (3) whether the District has demonstrated its good-faith commitment to the whole of the decree and to those provisions of the law and the Constitution that predicated the initial judicial intervention. Missouri v. Jenkins, 515 U.S. 70, 89 (1995); Freeman v. Pitts, 503 U.S. 467, 491 (1992); Lee v. Etowah County Bd. of Educ., 963 F.2d 1416 (11th Cir. 1992).

The United States used these standards in framing the information requests, in reviewing the data provided, and in formulating the issues. In resolution of the claims against the District in this case, the parties have entered into good faith negotiations and have voluntarily agreed, as indicated by the signatures of counsel, to the stipulation of facts and remedial provisions as set forth below.

### **STIPULATION OF FACTS**

The parties stipulate as a basis for the Consent Decree that vestiges of the prior dual system that remain, including, but not limited to, within-school student assignment, extra-curricular activities, and transportation. The United States contends that vestiges of the prior dual system remain, and specifically that students are improperly assigned by race to certain

classes, thus creating racially identifiable classrooms; bus routes are not desegregated to the extent practicable; and the District improperly uses race in the selection and election process in some of its extra-curricular activities\_

### **REMEDIAL MEASURES**

#### **A. Student Assignment**

1. The District will cease using race as a factor in assigning students to classes and will eliminate segregated classrooms by the start of the 2005-06 school year. The District will work in conjunction with the Southeastern Equity Center to develop an appropriate plan to achieve this requirement. The District will utilize a computer software program that will randomly assign students to classes regardless of race.
2. The District will conduct a thorough investigation to examine the racial differences in placement rates in the District's gifted and talented program. If the District finds that any of the selections for the gifted and talented program are race-based, it will cease such practices immediately. In addition, the District will review the work of applicants for the program in the past three (3) years to ensure that they were properly evaluated. The District will ensure that any students who were inappropriately excluded from the program due to race will be afforded the opportunity to now participate in the gifted and talented program, assuming they are still in a grade in which the program is offered. The District will inform the United States in writing of the specific steps of the investigation and review referenced in this paragraph, the results of the investigation and review, and the specific remedial measures taken, if any. The District will provide the United States with such a report prior to the end of the 2004-05 school year.
3. The District will cease using teacher-made non-validated tests for the purpose of placing students in advanced, honors, and accelerated classes. The District has developed and

will implement the following criteria for placement in such classes. Effective the 2005-06 school year, any student meeting any two of the following criteria will be eligible for the “Honors Program”, including honors, advanced, and accelerated classes:

- a. The student must have an “A” average in the subject area in the previous year;
- b. The student must be recommended by the subject area teacher from the previous year; and
- c. The student must score “Advanced” in the relevant subject areas of the Mississippi Curriculum Test (MCT).

The District will conduct a review of the grades and teachers’ recommendations for the honors, accelerated, and advanced program during the last three (3) years to determine whether there are teachers who are awarding grades and recommendations for the honors program based on race, and the District will take appropriate remedial measures in such instances. The District will provide the United States, prior to the commencement of the 2005-06 school year, with a written report describing the review undertaken, any problems uncovered, and remedial measures taken.

**B. Extra-Curricular Activities**

4. The District will immediately cease using race in the selection and election process of students in extra-curricular activities. The District will immediately amend its Student Handbook to state the following:

Aberdeen School District does not discriminate on the basis of age, gender, race, national origin or disability. Accordingly, no student shall be segregated or discriminated against on account of race in any extracurricular activity that may be conducted or sponsored by the school in which the student is enrolled. There will be three (3) female senior maids chosen to represent the senior class, regardless of race. One of the three (3) female maids will be chosen to represent the student body as Homecoming Queen, regardless of

race. There will be two (2) female maids chosen from each of the freshman, sophomore and junior classes, regardless of race. Likewise, only one (1) student from each class, regardless of race, will now be chosen to represent the student body as class beauty, Mr. AHS, Miss AHS, or any other elected or selected position. This policy applies to the entire school district--kindergarten through twelfth grade. The Aberdeen School District has amended its policy in order to comply with the legal guidelines governing primary education in the United States.

The District will immediately send a letter to students informing them of the above change in policy.

**C. Transportation**

5. The District will desegregate its bus routes to the extent practicable. To this end, the District will combine bus routes numbered 1 and 33 into one route, and bus routes numbered 28 and 37 into one route. The District will undertake a yearly review of its bus routes to ensure that they are operated in a desegregated manner.

**FINAL TERMINATION**

Continued judicial supervision of this case will be limited to two areas: to ensure that the District (1) takes all actions identified in this Consent Order; and (2) refrains from taking any actions that have the effect of reversing the progress it has made in desegregating the school system. The parties commit to negotiate in good faith any disputes that may arise, but the United States will have the right to seek judicial resolution of any noncompliance.

The District agrees that it will move for a declaration of Unitary Status at the conclusion of the 2005-06 school year, and not before then. At that time, in the absence of a pending motion by the United States for further relief, or a ruling by this Court as to the District's non-compliance with this Consent Order or federal law, the United States agrees that it will not object to the District's motion.

**EFFECT OF PRIOR ORDERS**

All requirements of prior orders in this case which are not specifically and explicitly modified by this Order will remain in full effect.

SO ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
United States District Judge

The following signatures of the counsel to the parties indicates the parties consent to the form and content of this Order.

UNITED STATES OF AMERICA

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