

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

LOUIS OWEN,	:	
	:	
Plaintiff,	:	
	:	
v.	:	File No. 2:00-cv-71
	:	
L'ANSE AREA SCHOOLS, et al.,	:	Hon. Gordon J. Quist
	:	U.S. District Judge
Defendants,	:	
	:	
and	:	
	:	
UNITED STATES OF AMERICA, :	:	
	:	
Plaintiff-Intervenor,	:	
	:	
v.	:	
	:	
L'ANSE AREA SCHOOLS, :	:	
	:	
Defendant.	:	
_____ :	:	

CONSENT DECREE

This action was brought by Plaintiff Louis Owen and Plaintiff-intervenor United States of America ("United States") to enforce the provisions, inter alia, of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., ("Title VII"). In his Complaint, Mr. Owen alleges that the L'Anse Area Schools, former L'Anse Area Schools superintendent Brian Jentoft, and L'Anse High School principal H. Peter Moore discriminated against him in violation of state and federal law by subjecting him to a hostile work environment and constructively discharging him on the basis of his religion and national origin (ethnicity). In its Complaint in Intervention, the United States alleges that Defendant L'Anse Area Schools has discriminated against Louis Owen because of his religion and/or national origin (ethnicity) in violation of Section 703(a) of Title VII by subjecting him to religious and/or national origin (ethnicity) harassment that adversely affected

the terms, conditions, and privileges of his employment and failing or refusing to take appropriate action to remedy the effects of the discriminatory treatment.

Defendants (hereinafter "L'Anse Area Schools") have denied that they have discriminated against Louis Owen on the basis of his religion and/or national origin (ethnicity) in violation of Title VII. Nevertheless, the parties, desiring that this action be settled by appropriate Decree and without the burden of continued protracted litigation, agree to the jurisdiction of this Court over the parties and the subject matter of this action, and hereby waive, for purposes of this Decree, hearing and findings of fact and conclusions of law on all issues, and further agree to the entry of this Decree as final and binding among themselves as to the issues raised in the Complaint and Complaint in Intervention filed in this case.

This Decree, being entered with the consent of the parties, shall in no way constitute an adjudication or finding of any wrongdoing or violation of any applicable federal or state law or regulation, or be construed as an admission by L'Anse Area Schools.

In resolution of the action, the parties hereby AGREE and the Court expressly APPROVES, ENTERS, and ORDERS the following:

I. Duration of Consent Decree and General Terms

1. This Consent Decree is effective upon its entry by the Court and shall remain in effect for three (3) years from the date of entry.

2. The Court shall retain jurisdiction of this action during the term of the Decree for the purpose of enforcing the Decree as may be necessary. Three (3) years after entry of the Decree by the Court, this matter shall be dismissed unless the United States moves, for good cause shown upon notice to L'Anse Area Schools, for its continuation to carry out the purpose or provisions of this Decree. In the event that the United States moves to extend this Decree, it shall remain in effect until the motion

is resolved.

3. The time limits set forth throughout this Decree may be expanded upon mutual consent of the parties.

4. The parties to this Decree shall endeavor in good faith to resolve informally any disputes that may occur under this Decree. If the parties are unable to reach agreement within thirty (30) days after a matter has been brought to the attention of one of the parties by another party, the issue may be submitted to the Court for resolution.

II. General Injunctive Relief

5. L'Anse Area Schools, by and through its officials, agents, employees, successors, and all persons in active concert or participation with L'Anse Area Schools in the performance of employment or personnel functions, shall not engage in any act or practice that discriminates against any employee in any term, condition or privilege of employment because of such employee's religion, ethnicity, or national origin.

6. L'Anse Area Schools shall not retaliate against or in any respect adversely affect any person because that person has opposed allegedly discriminatory policies or practices; filed a charge, either formal or informal, with the L'Anse Area Schools; filed a charge of discrimination with the Equal Employment Opportunity Commission ("EEOC") or the Michigan Department of Civil Rights; or participated or cooperated with the initiation, investigation, litigation or administration of this case or this Decree.

7. L'Anse Area Schools shall respond promptly and effectively to all allegations of harassment or discrimination on the basis of religion, national origin, or ethnicity against any employee or potential employee of L'Anse Area Schools in a way that provides for the prompt investigation of those allegations, remedies the effects of such conduct found to have occurred, and ensures the

prevention of similar conduct in the future.

8. L'Anse Area Schools shall take appropriate disciplinary action against: (A) employees of or students at L'Anse Area Schools who engage in acts of religious, ethnic, or national origin harassment or discrimination or who retaliate against individuals for making allegations of such harassment or discrimination; and (B) administrators of L'Anse Area Schools who engage in such conduct or who fail promptly to report such conduct or to take action to prevent such conduct from occurring against employees under their supervision.

III. Review and Revision of Policies for Preventing, Identifying and Remediating Harassment and Discrimination

9. A. Within one hundred twenty (120) days of the entry of this Decree, L'Anse Area Schools shall review its policies and procedures for identifying, preventing, and remediating harassment and discrimination on the basis of religion, national origin or ethnicity and, where appropriate, shall revise its policies to ensure that those policies (1) set forth the L'Anse Area Schools' commitment to protect staff members from harassment and discrimination and to maintain a nondiscriminatory environment; (2) state that all staff members, regardless of religion, national origin, or ethnicity, are entitled to a working environment free from harassment and discrimination; (3) affirm that the L'Anse Area Schools shall respond to oral and/or written complaints of harassment or discrimination promptly and appropriately; (4) require all employees of L'Anse Area Schools to promptly report, to the principal or a compliance coordinator (as described in Paragraph 9(I), below), harassment or discrimination that they observe, are informed of, or reasonably suspect; and (5) prohibit retaliation against employees of L'Anse Area Schools who report allegations of harassment or discrimination, or who participate in the reporting or investigation of such allegations.

B. Policies and procedures for reporting prohibited conduct. The L'Anse Area Schools' policies shall explain with specificity how to report allegations of harassment and discrimination,

and, with annual revisions (as appropriate), identify to whom at each school in the L'Anse Area Schools or, alternatively, at the L'Anse Area Schools' central office, such allegations should be reported. The L'Anse Area Schools' policies shall allow harassment and discrimination complaints to be made orally or in writing. The L'Anse Area Schools shall set forth complaint procedures within the L'Anse Area Schools and shall also inform employees of their rights to file charges or complaints with the Equal Employment Opportunity Commission and the Michigan Department of Civil Rights.

C. Policies and procedures for investigating complaints. The L'Anse Area Schools shall describe the steps it will take to respond to reported incidents of harassment or discrimination, including but not limited to taking disciplinary measures against those found to have engaged in such acts, and, where appropriate, to report violent, threatening, or otherwise criminal conduct to law enforcement authorities.

D. Policies and procedures for remediating violations. The L'Anse Area Schools shall explain the disciplinary measures available against persons who are found to have engaged in harassment or discrimination. Corrective action shall be appropriate to the severity of the harassment or discrimination; calculated to end the harassment or discrimination; and designed to ensure that the offending conduct does not limit and/or interrupt the ability of the complainant (and the victim, if different) to work for the L'Anse Area Schools or participate in the educational services, programs and/or opportunities provided by the L'Anse Area Schools.

E. Policies regarding confidentiality. The L'Anse Area Schools, consistent with its legal obligations to investigate and to take appropriate action as well as to conform with any discovery or disclosure obligations, shall respect the privacy of the complainant, the victim, individuals against whom a complaint is filed, and witnesses.

F. Posting of policies and procedures. The L'Anse Area Schools shall post, in the staff

break rooms and on the main student bulletin board in each school and in L'Anse Area Schools' administrative offices, the notice regarding its policy prohibiting harassment and discrimination that is attached hereto as Exhibit 1.

G. Dissemination of policies and procedures to students and parents. The L'Anse Area Schools shall inform students and their parents or guardians, through, at a minimum, annual meetings with all students, an annual distribution of notices to students and mailings to parents or guardians within the first month of the school year, and inclusion in student and parent or guardian handbooks, of the L'Anse Area Schools' policies prohibiting harassment and discrimination, and what steps the L'Anse Area Schools will take to investigate complaints and discipline those found to have engaged in prohibited conduct.

H. Student curriculum. As part of each school's regular curriculum, at least annually, the L'Anse Area Schools shall provide education for students (using age-appropriate materials) in grades six (6) and higher regarding tolerance, diversity, and/or respect for others. At the high school level, this shall include education about the inappropriateness of harassment and discrimination on the basis of religion, national origin, or ethnicity and the district's policies with respect to such harassment and discrimination.

I. Designation of compliance coordinators at each school in the L'Anse Area Schools. At least one compliance coordinator shall be appointed by the L'Anse Area Schools' Superintendent for each school. The Superintendent shall also be considered a compliance coordinator. A compliance coordinator will have authority to receive and investigate complaints of harassment or discrimination or retaliation, and to take such other actions as may be delineated. Complaints may be made to any compliance coordinator. No compliance coordinator shall investigate a complaint in which the compliance coordinator is the subject of the complaint. If the Superintendent is the

subject of a complaint, the Board of Education shall conduct the investigation. The L'Anse Area Schools shall ensure that appropriate time is afforded the compliance coordinators to fulfill their duties as described herein. The L'Anse Area Schools shall inform its employees, students and parents or guardians of the identities and roles of the compliance coordinators. Within two hundred ten (210) days of the entry of this Decree, the compliance coordinators will participate in appropriate training. The United States or its designee will provide such training. Such training shall, at a minimum, include: (1) how to investigate allegations of harassment, discrimination or retaliation; (2) how to document and maintain records of such investigations; and (3) how to balance the complainant's privacy and confidentiality concerns with the need to conduct an investigation. The Superintendent of the L'Anse Area Schools will meet with the compliance coordinators within the first month of each school year to review the district's policies and the responsibilities of the compliance coordinators. Appropriate training shall be provided within forty-five (45) days to any new compliance coordinators who may be designated during the pendency of a school year.

J. Record keeping. The L'Anse Area Schools shall maintain a written record ("Incident Report") of each and every allegation, whether made verbally or in writing, of harassment or discrimination. The Incident Report shall, at a minimum, include: (1) the name of the person making the allegation, and, if different, the name of the alleged victim; (2) the nature of the allegation and the date of the alleged incident(s); (3) the names of all persons alleged to have committed violations; (4) the names of all persons who may have relevant information about the incident; (5) the written statements of the complainant, the victim (if different from the complainant), the alleged perpetrator, and any witnesses; (6) the outcome of the investigation, including any findings that discrimination did or did not occur; (7) any action taken by the L'Anse Area Schools; and (8) copies of any documents supplied to the L'Anse Area Schools or created during the investigation or complaint

process. The Incident Report shall be completed no later than thirty (30) calendar days after the date on which the complaint is first made. The compliance coordinators, the school building principal, the Superintendent, and at least one designee of the Board of Education shall be supplied with a copy of each such Incident Report, and, in a space specifically designated, each shall initial the Incident Report to indicate that s/he has reviewed the Report and approves of the actions taken. Within thirty (30) days of the creation of an incident report, each incident report shall be provided to counsel for the United States.

10. Within thirty (30) days of the receipt of the L'Anse Area Schools' revised policies, the United States shall provide written comments or objections, if any, to the L'Anse Area Schools. The L'Anse Area Schools shall make a good faith effort to address the reasonable concerns of the United States, and, where appropriate, incorporate any suggestions or modifications proposed by the United States.

IV. Mandatory Training Program

11. No later than two hundred ten (210) days from the entry of this Consent Decree, all employees and members of the Board of Education of the L'Anse Area Schools shall be provided with training on the law of equal employment opportunity, including the L'Anse Area Schools' policy on discrimination and harassment based on religion, national origin and ethnicity. The United States shall review and approve a training program proposed to be provided by the L'Anse Area Schools prior to its administration. At the request of the L'Anse Area Schools, this training will be provided by the United States or its designee. Non-instructional employees, which the L'Anse Area Schools has indicated represents a total of 17-18 employees, shall be provided with two and one-half (2 ½) hours of training. All other employees and the members of the Board of Education shall be provided with four (4) hours of training. Compliance coordinators shall be provided with an additional four (4) hours of training pursuant to Section III(9)(I), above. Within ten (10) days after

the training is provided, the L'Anse Area Schools shall provide to the United States with written confirmation that all employees and members of the Board of Education of L'Anse Area Schools attended this training and include copies of sign-in sheets indicating attendance.

12. The L'Anse Area Schools shall review its policies with respect to identifying, preventing, and remedying harassment and discrimination on the basis of religion, national origin, and ethnicity with all employees within thirty (30) days of the start of each school year during the pendency of this Decree. In addition, new members of the Board of Education and employees of the L'Anse Area Schools shall participate in a comparable policy review session within sixty (60) days from the start of their affiliation with, or employment in, the L'Anse Area Schools. The L'Anse Area Schools shall maintain a record of these policy review sessions.

V. Reports to the United States and Record Keeping Requirement

13. On or before December 15th of each year for duration of this Decree, the L'Anse Area Schools shall deliver to counsel for the United States a detailed report covering the preceding reporting period containing information about the L'Anse Area Schools' compliance efforts with this Decree, including but not limited to:

A. Copies of any modifications or revisions to the L'Anse Area Schools' policies and procedures for identifying, preventing, and responding to harassment and discrimination on the basis of religion, national origin, or ethnicity;

B. Copies of notices and other materials provided to employees, students and parents or guardians of the L'Anse Area Schools' policies and procedures for identifying, reporting, responding to and preventing harassment and discrimination on the basis of religion, national origin, or ethnicity, and a description of how and when these notices and materials were distributed;

C. A list of compliance coordinators by job title and school;

D. Copies of all posters or notices regarding harassment and discrimination, and a description of when they were posted and where;

E. Copies of all Incident Reports, as described in Paragraph 9 (I) above.

14. The L'Anse Area Schools shall retain during the term of this Decree all records necessary to document the implementation of the Decree. The L'Anse Area Schools shall make these records and all other documents relevant to the compliance with and implementation of this Decree available for production within thirty (30) days of any written request from the Department of Justice to the L'Anse Area Schools' attorneys. The L'Anse Area Schools shall similarly furnish information or reports on matters relevant to compliance with and implementation of the Decree to the Department of Justice within thirty (30) days of any written request to the L'Anse Area Schools' attorney.

15. All documents required to be delivered under this Decree to the United States shall be sent to the following address: Aaron Schuham/Ross Wiener, Civil Rights Division, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Patrick Henry Building Room 4036, Washington, D.C. 20035. The United States can change the address or the attorneys to whom documents shall be addressed by providing written notice to the L'Anse Area Schools with thirty (30) days' notice.

VI. Monetary Relief

16. Individual monetary relief for Plaintiff Louis Owen is set forth in a separate document, attached hereto as Exhibit 2, and incorporated hereto by reference.

17. This Decree shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors, and assigns.

SO ORDERED, this ____ day of _____, 2002.

GORDON J. QUIST
UNITED STATES DISTRICT JUDGE

By their signatures on this page, the undersigned counsel agree to, and request the entry of, this Consent Decree:

Counsel for Plaintiff Louis Owen:

Counsel for L'Anse Area Schools,
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