

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION**

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
TEXAS EDUCATION AGENCY )  
(Port Arthur Independent School District), )  
et al., )  
 )  
Defendants. )  
\_\_\_\_\_ )

Civil Action No. 1:70cv-06820

**CONSENT ORDER AND SETTLEMENT AGREEMENT**

This cause came before the Court on Defendant Port Arthur Independent School District's ("PAISD's" or "District's") Motion of Defendant to Declare Unitary Status and for Entry of Final Order (filed February 18, 2003) and the plaintiff United States' Objection to PAISD's Motion. The parties have engaged in good faith negotiations and voluntarily agreed, as indicated by the signatures below, to enter into this Consent Order and Settlement Agreement ("Agreement"), subject to the Court's approval, to further the goal of orderly desegregation in the District.

After reviewing the terms of this Agreement, this Court concludes that the entry of this Agreement is consistent with the Fourteenth Amendment to the Constitution of the United States of America and federal law and that the Agreement, if properly implemented, will likely further the orderly desegregation of the PAISD. Now, therefore, it is

**ORDERED, ADJUDGED AND DECREED** that Defendants are hereby directed to fully implement the provisions of the Agreement as follows:

**I. ELEMENTARY AND MIDDLE SCHOOL PLAN**

A. Beginning with the 2003-2004 school year and continuing thereafter, PAISD shall reopen Dowling Elementary School as a PreK-grade 5 school serving the former Dowling Elementary and Pease Elementary attendance zones, as they existed in the 2001-2002 school year.

B. Beginning with the 2003-2004 school year and continuing thereafter, PAISD shall relocate the Summit II magnet program (grades 6-8) from Wilson Middle to Stephen F. Austin Middle School. Free direct (no transfer points) transportation will be provided to all Summit II magnet students who are otherwise eligible under PAISD's transportation policy.

C. Currently, students graduating from Lee Elementary are assigned to either Wilson Middle or Edison Middle. Beginning with the 2003-2004 school year and continuing thereafter, PAISD shall redraw the Wilson Middle and Edison Middle attendance zones so that the entire Lee Elementary attendance zone is included within the Wilson Middle attendance zone.

D. Beginning with the 2003-2004 school year and continuing thereafter, PAISD shall redraw the attendance zones for Lee Elementary, Travis Elementary, and DeQueen Elementary to alleviate overcrowding at Lee Elementary.

E. Beginning with the 2003-2004 school year and continuing thereafter, PAISD shall adopt the attendance zones for each of the elementary schools and middle schools as described in Attachment 1. PAISD shall ensure that all PAISD students attend the school to which he or she is assigned unless he or she (1) has been granted a valid transfer under Section II of this Agreement or (2) is enrolled in a special program that is offered at another school (e.g. Summit magnet students).

F. PAISD shall take all steps necessary to ensure that the residency requirements are adhered to, including, but not limited to, the verification of residency and transfer status of *every* student enrolled in PAISD schools in the 2003-2004 school year.

## **II. TRANSFER POLICIES**

A. The District shall ascertain the race of each student requesting a transfer.

Transfers will only be granted for one of the following reasons: (1) majority-to-minority (m-to-m) transfer; (2) specialized academic, vocational or special education curriculum is not offered in the student's zone of residence; (3) the health of the student is in jeopardy; (4) the safety of the student is in jeopardy; (5) the parent/guardian is a full-time faculty member or administrator at the receiving school; or (6) exceptional hardship. The hardship exception is meant to provide for transfers in unique and urgent situations, such as incarceration of a parent/guardian, terminal illness of a parent/guardian, domestic abuse or neglect affecting the student or parent/guardian, or natural disaster. For each hardship transfer requested, the District shall determine whether the transfer, in the context of the aggregate impact of all transfers requested, will undermine the District's affirmative desegregation obligations.

B. Each transfer request shall be accompanied by a signed, dated, sworn affidavit fully explaining the reason for the transfer request and accompanied by supporting documentation, if available.

C. The District shall continue to maintain the m-to-m transfer provisions of the existing orders, whereby any student can transfer from a school where his or her race (*e.g.*, Black, White, Hispanic, Asian, Native American) is in the majority (more than 50%) to a school where

his or her race is in the minority (less than 50%). Free transportation will be provided by PAISD for all m-to-m transfer students. Such transportation must also be direct (no transfer points) for any transfers between (1) DeQueen Elementary and Tyrell Elementary; and (2) Washington Elementary and Dowling Elementary).

The District shall determine what students are eligible for m-to-m transfers for each school in the District, and shall publish a list, by school, indicating the m-to-m opportunities available within the District. The District shall publicize the availability of free transportation for any PAISD student that is eligible for and desires an m-to-m transfer. At least once per school year, the District shall publicize the availability of m-to-m transfers in its weekly article written by the District's public affairs coordinator and published in the Port Arthur News newspaper. The District shall also consider other ways to publicize the availability of m-to-m transfers.

### **III. STAFF AND FACULTY ASSIGNMENTS**

Beginning with the 2003-2004 school year, the District shall assign faculty and staff in a manner that ensures that faculty and staff assignments do not perpetuate the historic racial identifiability of PAISD schools. In particular, beginning with the 2003-2004 school year, the District shall assign classroom teachers so that the percentage of Black and White teachers in each school are within +/- 15% of the District-wide percentages at the grade levels served by that school. Thus, PAISD shall assign its elementary school teachers so that their racial ratio at each elementary school is within +/- 15% of the district-wide ratio at the elementary school level.

PAISD shall assign its middle school teachers so that their racial ratio at each middle school is within +/- 15% of the district-wide ratio at the middle school level.

#### **IV. REPORTING**

On or before October 31 of each year following the entry of this order, the District shall file an annual report with the court and the United States. The report shall include:

- A. The total number of students enrolled in the District, by race/ethnicity;
- B. The total number of students enrolled in each school in the District, by race/ethnicity;
- C. The total number of students, by race/ethnicity, enrolled in or assigned to each special program offered by the District, including special education (indicating exceptionality and placement), AP and gifted & talented classes, bilingual, and remedial classes;
- D. The administration, faculty, and staff, by race/ethnicity and position, assigned to each school in the District;
- E. A list of transfer students, by race/ethnicity and reason for transfer;
- F. A list of the transfer requests denied, by race/ethnicity and reason for transfer request, and the reason for the denial;
- G. A list of the number and use of portable buildings at each school in the District;
- H. A copy of each written complaint or inquiry received by the District within the last year relating to the District's compliance with its desegregation obligations.

**V. WITHDRAWAL OF PAISD'S FEBRUARY 18, 2003 MOTION TO DISMISS**

Within ten (10) days of entry of this Agreement, the District shall withdraw its Motion of Defendant to Declare Unitary Status and for Entry of Final Order (filed February 18, 2003).

**VI. CONTINUING JURISDICTION AND FINAL TERMINATION OF THIS CASE**

A. Continued judicial supervision of this case shall be limited to two areas: to ensure that PAISD (1) take all actions identified in this Agreement; and (2) refrain from taking any actions which have the effect of reversing the progress it has made in desegregating the school system. The parties agree that the District has eliminated the vestiges of its prior *de jure* school system to the extent practicable, in compliance with the applicable legal standards for the determination of unitary status in the areas of transportation, facilities, and extracurricular activities.

B. In or after July 2005, if PAISD has taken all actions required by this Agreement, PAISD shall move to dismiss this case in its entirety and seek an order of complete unitary status without objection by the plaintiff United States. In responding to any motion to dismiss, the plaintiff United States shall be precluded from raising any issue not expressly provided for in this Agreement. The plaintiff United States shall have the right to seek judicial relief if PAISD does not comply with this Agreement. All prior orders not inconsistent with, or otherwise modified by, this Consent Order and Settlement Agreement remain in full force and effect.

**SO ORDERED** this \_\_\_\_ day of \_\_\_\_\_, 2003.

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THAD HEARTFIELD  
United States District Judge

Approved as to form and content:

For the United States:

Ralph F. Boyd, Jr.  
Assistant Attorney General

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JOHN MOORE  
ANDY LIU  
Attorneys for United States  
U.S. Department of Justice  
Civil Rights Division  
Educational Opportunities Section  
950 Pennsylvania Avenue, NW  
Patrick Henry Building, Suite 4300  
Washington, DC 20530  
(202) 305-3656

For Port Arthur Independent School District:

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Melody Chappell  
Attorney for PAISD  
Wells, Peyton, Greenberg & Hunt  
550 Fannin Street, 6th Floor  
Beaumont, TX 77704  
(409) 838-2644

**ATTACHMENT 1**

(Elementary and Middle School Attendance Zones)