

OCT 22 1976

CLERK, U. S. DIST. COURT  
SAN FRANCISCO

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KINNEY KINMON LAU, et al.,

Plaintiffs,

and

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

vs.

DR. EUGENE HOPP, et al.,

Defendants.

1 Civil No. C-70-627 LHB

CONSENT DECREE

On January 21, 1974 the United States Supreme Court determined that the defendants were in violation in Title VI of the Civil Rights Act of 1964, and the implementing regulations of the Department of Health, Education and Welfare, for its failure to provide special programs designed to rectify the English language deficiency of Chinese students who do not speak or understand English, or are of limited English-speaking ability, and for its failure to provide equal access of these students to the school district's instructional program. The Supreme Court remanded the case to this Court for the fashioning of appropriate relief, directing the Board of Education "to apply its expertise to the problem and rectify the situation." Lau v. Nichols, 414 U.S. 563 (1974).

On or about May 17, 1974, the Court was informed that the defendants had contracted with the Center for Applied Linguistics to provide technical assistance in the preparation of a Master Plan in response to the Supreme Court decision. At the same time, a Citizens' Task Force consisting of representatives of the San Francisco community was established by the school district to assist the Center. In May 1975, the Task Force submitted "A Master Plan for Bilingual-Bicultural Education in the San Francisco Unified School District" to the defendant Board. On March 25, 1975, the defendant Board approved this plan by a resolution which made some modifications to the Master Plan. The four volume plan and the March 25, 1975 Board Resolution were submitted to the Court by the defendants on May 30, 1975.

1 In adopting the plan, the Board Resolution directed the Superintendent  
2 provide the Board with necessary data to implement the Master Plan by September  
3 1975. On May 20, 1975, the Bilingual Department of the SFUSD submitted to the  
4 Board a "Status Report, Bilingual Master Plan Implementation for 1975-76."

5 The parties to this case, being desirous of implementing a solution to  
6 the subject matter of this action without the expense of litigation, have agreed  
7 to entry of this decree, and the Court being of the opinion that entry of this  
8 decree will effectuate the mandate of the Supreme Court in this case.

9 IT IS ORDERED, ADJUDGED AND DECREED:

10 1. The San Francisco Unified School District (hereinafter SFUSD) shall  
11 implement the Master Plan for Bilingual-Bicultural Education, as approved by  
12 the March 25, 1975 modifying Resolution of the School Board, filed with the  
13 Court on May 30, 1975 for the Chinese, Filipino and Spanish language groups of  
14 the SFUSD. The SFUSD shall implement other special programs and English as  
15 a Second Language Instruction (ESL) as defined in the reports submitted in  
16 accordance with paragraph 3(a) herein for the non and limited English speaking  
17 students of the other language groups of the SFUSD.<sup>1</sup> Wherever feasible, the  
18 other language group students shall receive the bilingual instruction. When-  
19 ever a language group may be defined as major in accordance with the formula  
20 to be reported in accordance with paragraph 3j herein, the SFUSD shall implement  
21 the bilingual program of the Master Plan for that language group.

22 2. On or before November 15, 1976, the SFUSD shall adopt and submit to  
23 the Court a report setting forth a timetable with specific dates indicating  
24 when various aspects of the plan will be fully implemented. Such a report may  
25 parallel the Timelines in the Master Plan (Vol. 3b, p. 325), but in any event  
26 should include specific dates for full implementation of each aspect of the  
27  
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29 <sup>1</sup>The SFUSD has more than 18 distinct language groups. In their 1976-77  
30 application for funds under the Emergency School Aid Act the SFUSD identified  
31 13,353 non and limited English speaking students. The Chinese language group  
32 contained 5,318 students; the Filipino language group contained 2,282 students;  
and the Spanish language group contained 3,303 students. These three language  
groups contained 10,903 students or 82% of the SFUSD's non and limited English  
speaking students; and for the purposes of interpreting the Master Plan are  
presently considered major language groups by the SFUSD.

1 plan. The report shall also include annual projections of the number, by  
2 language group, of non and limited English speaking students to be enrolled in  
3 the bilingual classes of the SFUSD who are not presently in bilingual classes  
4 and who wish to be in bilingual classes.

5 3. The progress made in implementing the plan will be reported annually  
6 by the defendants to the Court, with copies to be served on counsel for each  
7 of the parties. The first report shall be filed by November 15, 1976 and  
8 thereafter on each November 15, until further order of this Court. The defendant  
9 shall maintain records reflecting semiannual changes in the student enrollments  
10 of the programs enumerated in paragraph 1, and of the number of non and limited  
11 English speaking students in the SFUSD. The report shall contain the following  
12 information:

13 a. A detailed report on the status of the priorities  
14 and objectives for implementing the Master Plan, as outlined  
15 in the Status Report, Bilingual Master Plan Implementation  
16 for 1975-76, dated May 20, 1975.

17 b. The number of students by language group<sup>2</sup> whose  
18 primary or home language is other than English, and the  
19 number of students by language group who have been  
20 determined as non or limited English speaking, by school  
21 and by grade. An explanation of how these determinations  
22 were made shall be included.

23 c. The number of non and limited English speaking  
24 students by language group, grade and school assigned to:  
25 (1) bilingual classes; (2) other special programs designed  
26 to rectify their English language deficiency; and (3) to  
27 ESL classes. The SFUSD shall provide a detailed description  
28 of the other special programs of (2) and the ESL programs  
29 of (3).  
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31 <sup>2</sup>The term "language group" shall mean the specific language of the  
32 student, and shall not be listed in a categorical manner such as "other  
white" or "other non-white."

1 d. The number of non and limited English speaking  
2 students by language group, grade and school who are not  
3 participating in the bilingual classes or programs specified  
4 in paragraph 3(c) above.

5 e. The number of English-dominant students by race and  
6 ethnic origin that participate in each class of the bilingual  
7 classes or programs specified in paragraph 3(c) above.

8 f. A description of the manner in which non and limited  
9 English speaking students, and English dominant students, are  
10 recruited and assigned to the bilingual classes, and other  
11 programs specified in paragraph 3(c) above.

12 g. The total number of faculty and staff by language  
13 group who are bilingual, and have the ability to instruct  
14 in a language other than English; and the number of faculty  
15 and staff by language group teaching bilingual classes; and  
16 the number who are certified by the State of California to  
17 teach in bilingual programs.

18 h. The number of teacher aides by language group assigned  
19 to bilingual classes; and the number who are certified by the  
20 State of California to teach in bilingual programs.

21 i. The number of new faculty and staff hires who are  
22 bilingual and have the ability to instruct in a language  
23 other than English.

24 j. A description of the method for determining "major"  
25 and "other" language groups in the SFUSD, and an identification  
26 of which language groups have been determined "major" and  
27 "other."

28 k. Identification of the schools containing "model  
29 bilingual programs" for "major" language groups in the  
30 district, and of schools containing "satellite bilingual  
31 classes," as described in the Master Plan.

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1           4. The SFUSD shall establish a Community Council charged with the  
2 responsibility for assisting in monitoring the plan. The function of the Council  
3 shall be advisory in nature, and its members shall be appointed by the Board  
4 of Education. The Council may include parents of children in the affected  
5 programs, parents of children not in affected programs, as well as other  
6 interested members of the community. This Council shall be fully operative  
7 within sixty days of this order.

8           a. The SFUSD shall enlist the assistance of the  
9 Council in filing an annual progress report. The Council  
10 may prepare and simultaneously file a minority report  
11 discussing the progress made in implementing the Master  
12 Plan, and recommendations for any changes or modifications  
13 in implementing the Master Plan.

14           b. The SFUSD is directed to assist the Council in  
15 performing its responsibilities under this paragraph. The  
16 SFUSD will provide an appropriate location for the Council  
17 to meet on a regular basis; and will provide clerical  
18 assistance to the Council for typing the Council's annual  
19 report.

20           5. The parties to this action may file objections with this Court to  
21 the progress or manner of implementation of the Master Plan or the programs  
22 defined in paragraph 1 as reported by the SFUSD. Such objections shall state  
23 specifically the facts and reasons upon which such objections are based. The  
24 SFUSD shall have thirty days in which to respond, and if the parties are unable  
25 to resolve the matter, the Court, upon application of any party, shall hold  
26 a hearing on the objections and determine whether the SFUSD has complied with  
27 this order. The SFUSD shall make available for inspection and copying all  
28 records relating to matters covered by the Annual Report, and shall provide such  
29 other information relating to the implementation of the Master Plan as is  
30 reasonably necessary to evaluate the progress of implementation of the Master  
31 Plan.

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6. This Court retains jurisdiction of this action for all purposes,  
including the entry of such additional orders as may be necessary or proper.

So ordered this            day of            1976.

LLOYD H. BURKE

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:

JEREMIAH GLASSMAN

United States Department of Justice for Plaintiff-Intervenor United States of America

EDWARD H. STEINMAN  
KENNETH HECHT for Plaintiff  
KINNEY KINMON LAU, et al.

GEORGE E. KRUEGER for  
Defendant San Francisco Unified School District