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U.S. DISTRICT COURT
THE AUGUSTA DIV.

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION**

2005 JUL -1 PM 4: 14

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 and)
)
 CHARLES RIDLEY, et al.,)
)
 Plaintiff-Intervenor,)
)
 v.)
)
 STATE OF GEORGIA *et al.*,)
 DUBLIN CITY SCHOOL DISTRICT, and)
 LAURENS COUNTY SCHOOL DISTRICT)
)
 Defendants.)

CLERK *L. J. Sanders*
SO. DIST. OF GA.

Civil Action No. 3009

Judge Bowen

RECEIVED
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION
JUL 1 2005

CONSENT ORDER

This case was filed in the United States District Court for the Northern Division of Georgia on August 1, 1969, by the United States against the State of Georgia and various school agencies and officials of the state. United States v. State of Georgia, et al., C.A. No. 12,792. On December 17, 1969, that Court entered orders to desegregate 81 public school districts located throughout the State of Georgia (the "1969 Order"). Pursuant to the 1969 Order, the Dublin City School District ("the District") submitted a desegregation plan that was approved on April 21, 1970. That Court entered an order on July 16, 1971 Order ("1971 Order") that required, inter alia, the District to submit a new plan. On February 22, 1972, that Court entered an order approving a new student assignment plan. On September 5, 1972, that Court added each individual school district as a party defendant and transferred jurisdiction over the District to this Court. In its February 14, 1974 Order, this Court kept the District on the active docket.

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The District entered into a Consent Order with the United States, which was approved by this Court on May 19, 1978 ("1978 Order"). The 1978 Order reflected that the District had "agreed to eliminate the use of achievement tests as the sole basis for assigning students to classes by the beginning of the 1978-79 school year." 1978 Order at 2. The 1978 Order required the District to "eliminate classroom segregation in the elementary schools and in the non-elective courses taught in the junior high school" and to "assign students to classes on the basis of any racially neutral method it considers educationally sound so that each section shall be composed of from 50% to 150% of the minority quotient for that grade level." *Id.* at 3.

On April 15, 2004, the United States filed its Motion to Enforce Orders of July 16, 1971 and May 19, 1978, for Issuance of Rule to Show Cause and for Further Relief against the Dublin City School District and the Laurens County School District ("Motion to Enforce"). The Dublin City School District filed a motion for a declaration of unitary status and dismissal of the case on June 9, 2004. Both motions are pending before this Court. On June 21, 2004, the United States moved under Fed. R. Civ. P. 19(a) to join the Laurens County School District as a necessary party defendant to the desegregation case against the Dublin City School District. On July 16, 2004, pursuant to the instructions of this Court, the United States served a Supplemental Complaint on the Laurens County School District alleging that it was knowingly interfering with the 1971 Order by accepting transfers from the Dublin City School District that violated the 1971 Order.

In lieu of continuing to litigate the class assignment and other issues raised by the United States's Motion to Enforce and the Dublin City School District's motion for unitary status, the United States and the District have negotiated in good faith to resolve their differences except in the area of student transfers. As indicated by the signatures of counsel below, the United States

and the District have agreed to the terms of this Consent Order and the terms of a Settlement Agreement governing special education, gifted services, diploma tracks, and the recruitment, hiring, and transfer of administrators, faculty, and staff ("the Settlement Agreement"). On the basis of this Consent Order and the Settlement Agreement, the United States has agreed to withdraw, without prejudice, that part of its Motion to Enforce relating to the 1978 Order only, and the Dublin City School District has agreed to withdraw, without prejudice, its Motion for Declaration of Unitary Status and to Dismiss Defendant Dublin City School District for a period of three years, provided this Court approves this Consent Order. That part of the United States' Motion to Enforce relating to the Order of July 16, 1971 against the Dublin City School District and the Laurens County School District and the United States' Supplemental Complaint against the Laurens County School District are not resolved by this Consent Order and remain pending before this Court. The United States and the District believe that full and good faith compliance with the terms of this Consent Order, the Settlement Agreement, and the terms of the 1969 and 1971 Orders that are not affected by the proposed Consent Order over a three-year period will enable the District to establish the record needed for a declaration of unitary status except in the area of student transfers.

It is the opinion of the Court that the provisions of this Consent Order are fair, just, and reasonable and will satisfy the requirements of federal law. IT IS THEREFORE ORDERED that the Dublin City School District, together with its school board members, agents, officers, employees, successors, and all those in active concert or participation with them (collectively "the District"), are hereby directed to implement the provisions herein.

I. Student Assignment To Classes

By the beginning of the 2005-06 school year and until further order from this Court, the

District shall assign students to classes in grades K-12 in the following manner:

A. Consistent with this Consent Order, the District shall not segregate students in classes on the basis of race.

B. K-5 Class Assignments. Consistent with the District's existing Board Policy IEA adopted on February 10, 1997, the District shall implement Parallel Block Scheduling as the instructional delivery model in grade levels Kindergarten through 5 pursuant to the terms below. The Parallel Block Scheduling model establishes base and extension classes that are not identifiable by race or academic ability and small ability grouped reading classes.

1. **Base Classes K-5.** When assigning students to classes in grades Kindergarten through 5, the District first shall assign such students to base classes that are not identifiable by race as defined in paragraph I.D below or by academic ability as defined in this paragraph. Base classes shall consist of all classes in grades K-5 except for (a) the small ability grouped reading classes defined in paragraph I.B.2 below, (b) resource and self-contained special education classes, (c) Title I classes, (d) gifted classes, and (e) in-school suspension classes. To ensure that base classes in grades 1-5 are not identifiable by academic ability, the District shall take the following three steps. First, the District shall calculate a scaled score for each student in grades 1-5 that equally weights only the following: (1) one or more standardized, nationally recognized, or Georgia-mandated test scores in reading; (2) the prior school year final average in reading; and (3) the prior school year reading teacher's recommendation of high or low. Second, the District shall list its students in grades 1-5 by their scaled score in descending order from highest to lowest and shall divide this list of students in half. The top

half shall be the higher scoring students, and the bottom half shall be the lower scoring students. Third, the District shall assign approximately equal percentages of students from the top and bottom halves of the list to each base class in grades 1-5. To ensure that Kindergarten base classes are not identifiable by academic ability, the District shall assign approximately equal percentages of students with and without Pre-Kindergarten experience to each Kindergarten base class.

2. Reading Classes K-5. In grades 1-5, the District may divide students in a given base class into a small ability grouped high class and a low reading class but only for a period not to exceed ninety (90) minutes and provided such students are assigned to such classes on the sole basis of a scaled reading score. The scaled reading score shall equally weight only the following: (1) one or more standardized, nationally recognized, or Georgia-mandated test scores in reading; (2) the prior school year final average in reading; and (3) the recommended reading level (high or low) of the prior school year reading teacher. The reading scores on the standardized or criterion-referenced tests shall be no more than one (1) year old unless a student lacks such a score in which case the District may use a reading score on one of the standardized, nationally recognized, or Georgia mandated tests that is no more than two (2) years old. In Kindergarten, the District may divide students in a given base class into a small ability grouped high class and a low reading class but only for a period not to exceed forty-five (45) minutes and provided such students are not ability grouped for the first month of school and are grouped on the basis of the GKAP-R fall baseline scores.

3. Extension Classes K-5. Extension classes in grades K-5 cover the subjects of science, social studies, and health. The District shall assign students in grades K-5 to extension classes that are not identifiable by race as defined in paragraph I.D below or by academic ability as defined in this paragraph. To ensure that extension classes are not identifiable by academic ability, each extension class shall consist of one base teacher's small low level reading section and another base teacher's small high level reading section. If a base class is permissibly racially identifiable under the terms of paragraph I.D below, the District shall ensure that students in that racially identifiable base class are assigned to their extension classes with students from a non-racially identifiable base class so as to minimize the amount of time that such students spend in racially identifiable classes. The District also shall assign such students to a recess period with base classes that are not racially identifiable as defined in paragraph I.D below.

C. Classes in Grades 6-8.

1. Paragraph I.C.2 below does not apply to the following classes in grades 6-8: (a) a math class, (b) a resource or self-contained special education class, (c) a Title I class, (d) a gifted class, or (e) an in-school suspension class.

2. When assigning students to classes in grades 6-8, the District first shall assign students to all classes other than those in paragraph I.C.1. All classes in grades 6-8 except those in paragraph I.C.1 above shall not be identifiable by race as defined in paragraph I.D below or by academic ability as defined in this paragraph. To ensure that grade 6-8 classes are not identifiable by academic ability, the District shall take the following three steps. First, the District shall

calculate a scaled score for each student in grades 6-8 that equally weights only the following: (1) one or more standardized, nationally recognized, or Georgia-mandated test scores in reading; (2) the prior school year final average in reading; and (3) the prior school year reading teacher's recommendation of high or low if the District chooses to use such recommendations. Second, the District shall list its students in grades 6-8 by their scaled scores in descending order from highest to lowest and shall divide this list of students in half. The top half shall be the higher scoring students, and the bottom half shall be the lower scoring students. Third, the District shall assign approximately equal percentages of students from the top and bottom halves of the list to each grade 6-8 class.

3. The District may assign students in grade 6-8 to high or low ability grouped math classes provided the students are assigned to such classes solely on the basis of a scaled score that equally weights: (1) one or more standardized, nationally recognized, or Georgia-mandated test scores in math, (2) the prior school year final average in math, and (3) the prior school year math teacher's recommendation.

D. Racially Identifiable Classes. Base classes, extension classes, and classes in grades 6-8 other than those identified in paragraph I.C.1 above are "racially identifiable" if their percentage of students in the numerical racial minority is not within plus or minus fifteen (15) percentage points of the percentage of students in the numerical racial minority for that grade level in that school. Racially identifiable base classes, extension classes, and classes in grades 6-8 other than those identified in paragraph I.C.1 above that are single race are prohibited; however, if evenly assigning the students in the numerical racial minority to the base classes in

grades K-5 and to the classes in grades 6-8 other than those identified in paragraph I.C.1 above would create one or more classes whose percentage of students in the numerical racial minority would be less than 25% in a class of fewer than 25 students or less than 20% in a class of 25 or more students, the District may have a single race base class in grades K-5 or a single race class in grades 6-8 other than those identified in paragraph I.C.1 above only to the extent necessary to have all other such classes approach but not exceed (a) 25% of the minority race [for that grade level] in a class of fewer than 25 students or (b) 20% of the minority race [for that grade level] in a class of 25 or more students. For example, if first grade has 10 base classes of 20 students each and 200 first grade students of whom 20% white, two base class could be single race provided the racial composition of the other 8 classes approached but did not exceed 25% white. Special education, Title I, gifted, or Early Intervention Program students who attend regular education classes shall be counted when determining whether a class is identifiable by race as defined herein. Students of races other than black or white shall be counted as "others," shall not be included in the number of black or white students in a given class when determining if it is identifiable by race, and shall not be considered when determining if a class is racially identifiable other than to calculate the total number of students in the class, which is a figure needed to determine the percentages of white and black students in the class.

E. Parent Requests. Parent requests may be granted only in grades K-5, only prior to the start of the school year, and only if granting such requests does not render the class at issue identifiable by race as defined by paragraph I.D above or by academic ability as defined in paragraph I.B.1.

F. Class Assignments of Students Who Lack a Scaled Score. If one or more of the factors used to calculate the scaled reading scores and scaled math scores referenced above is

unavailable for a given student, the District shall seek to obtain such factors for the student and to use as many of the factors that are available as the basis for assigning the student to a base class. The District shall complete the form in Appendix A for any 1-8 student assigned to a class on the basis of criteria other than the scaled score.

G. Class Assignments After the Start of the School Year. The principal shall assign students who enroll after the start of the school year consistent with the terms above so that the base classes in grades K-5 and the classes other than those identified in paragraph I.C.1 above in grades 6-8 to which the new student is assigned are not identifiable by race as defined in paragraph I.D above or by academic ability as defined by paragraphs I.B and I.C above. After the start of the school year, the principal may change a student's assignment to a class provided (1) the change is recommended in writing by the Student Support Team; (2) the initial class and the new class are not racially identifiable as defined in paragraph I.D above; and (3) the principal documents the basis for the change in writing and includes documentation of any such changes in each Report II, which is due July 1.

H. Assignments to Classes Exempted from Paragraph I.D Above. Race shall not be a factor in assigning students to the following classes: (a) the small ability grouped reading classes defined in paragraph I.B.2 above, (b) the ability grouped math classes defined in paragraph I.C.3 above, (d) resource and self-contained special education classes, (e) Title I classes, (f) gifted classes, and (g) in-school suspension classes.

II. Extracurricular Activities

A. The District shall not discriminate on the basis of race, color, ethnicity or national origin with respect to any student's participation in any extracurricular activity. The District shall not permit any race-based selection of students for participation or recognition in any extra-

curricular activity or school-sponsored event or media, such as a homecoming court, prom king and queen, student superlatives, student government, or school yearbook.

B. The District shall ensure that uniforms for extracurricular activities and graduation attire shall bear the official colors of the desegregated school system, which are green and gold, will not bear solely the colors of green and white, which were the official colors of the former all white school system, and will not bear solely the colors of gold and white, which were the official colors of the former all black school system.

III. Transportation

The District shall not discriminate on the basis of race, color, ethnicity, religion, sex or national origin in the provision of any transportation services. If the District contracts with a private party for the provision of transportation services, the District shall not permit the private party to discriminate on the basis of race, color, ethnicity, religion, sex, or national origin in the provision of any of the services that the private party provides.

IV. Student Assignment to Schools

Unless otherwise approved by Order of this Court, the School District will maintain the student assignment plan approved by the School Board on May 5, 2003, which assigns all pre-Kindergarten students to Hillcrest Elementary, all Kindergarten through first grade students to Susie Dasher Elementary, all second and third grade students to Saxon Heights Elementary, all fourth and fifth grade students to Moore Street Elementary, all sixth, seventh, and eighth students to the Dublin City Middle School, and all ninth, tenth, eleventh, and twelfth grade students to the Dublin City High School.

V. Reporting Requirements

The superintendent shall file with the Court with service to counsel for the United States a signed and sworn statement attesting to the completeness and accuracy of each Report I and Report II required by this Consent Order.

A. **Report I.** Within a week of the first day of school for each academic year, the District shall file with the Court with service to counsel for the United States a report based on the most current data available for that school year that includes the information for subparagraphs 1 through 8 below.

1. the number and percentage of students by race for each grade level on a day within the first week of school;
2. for each school, the number and percentage of the students by race in each non-ability grouped class in grade levels K-8, including the subject, grade level, and teacher of the class, on the same day within the first week of school provided in paragraph V.A.1 above;
3. for each school, the number and percentage of students by race in each ability grouped reading class in grades K-5 and each ability grouped math class in grades 6-8, noting the subject, level (high or low), grade level, and teacher of the class, on the same day within the first week of school provided in paragraph V.A.1 above;
4. for each school, electronic spreadsheets reflecting all grade 1-5 students' (a) names; (b) grade levels; (c) race; (d) identification numbers; (e) scaled scores in reading; (f) the levels (high or low) of reading to which the students were assigned based on their scaled scores; (g) the following factors which are to be equally weighted in the scaled reading score: (1) one or more standardized, nationally recognized, or Georgia-mandated test

scores in reading; (2) prior school year final average in reading; and (3) prior school year reading teacher's recommendation; and (h) homeroom teachers;

5. electronic spreadsheets reflecting all Kindergarten students' (a) names; (b) grade levels; (c) race; (d) identification numbers; (e) fall baseline GKAP-R scores; (f) levels (high or low) of reading to which the students were assigned based on their fall baseline GKAP-R scores; (g) homeroom teachers; and (h) pre-Kindergarten experience, if any;

6. for each school, electronic spreadsheets reflecting all grade 6-8 students' (a) names; (b) grade levels; (c) race; (d) identification numbers; (e) scaled scores in math; (f) the level (high or low) of math to which the student was assigned based on the scaled score; (g) the following factors which are to be equally weighted in the scaled math score: (1) one or more standardized, nationally recognized, or Georgia-mandated test scores in math, (2) prior school year final average in math, and (3) prior school year math teacher's recommendation (high or low); (h) scaled reading scores used to assign students to classes other than math; (i) the following factors which are to be equally weighted in the scaled reading score: (1) one or more standardized, nationally recognized, or Georgia-mandated test scores in reading, (2) prior school year final average in reading, and (3) prior school year reading teacher's recommendation (high or low) if this was used; and (j) homeroom teachers;

7. for each school, completed versions of the form in Appendix A for any 1-8 student who was assigned to a class on the basis of criteria other than the scaled score, noting the student's name, race, and grade level and the teacher, subject, and level (none, high, or low) of the class as well as all criteria used to assign the student to each class; and

8. copies of all parents' requests for a particular teacher or the assignment of their child with up to two (2) friends, noting whether each request was granted or denied; the name of the teacher to whom the child was assigned; the name of the friend(s), if any, with whom the child was assigned; and the reason for granting or denying each request.

B. Report II. By July 1 of each year, the Dublin City School District shall file a report with the Court with service to counsel for the United States that provides the following information for the prior school year based on end-of-the-school-year data. To the extent this information is contained in any other report prepared by the District, such reports may be submitted provided they include all of the information requested below or any missing information is also provided.

1. the number and percentage of students by race for each grade level on the last day of school;
2. for each school, the number and percentage of the K-8 students by race assigned to each homeroom class on the last day of the school, including the subject, grade, and teacher of each homeroom class;
3. for each school, the number and percentage of students by race assigned to each ability grouped reading class in grades K-5 and each ability grouped math class in grades 6-8 on the last day of school, noting the subject, level (high or low), grade level, and teacher of the class;
4. for each school, completed versions of the form in Appendix A for any 1-8 student who was assigned to a class on the basis of criteria other than the scaled score, noting the student's name, race, and grade level and the teacher, subject, and level (none, high, or low) of the class as well as all criteria used to assign the student to each class;

5. for each school, the number of students by race who moved during the school year from the level initially assigned to a new level, noting the prior level, the new level, the date of movement, and the basis for the change in ability level; documentation of any changes in assignments to non-ability grouped classes also should be included, as required by paragraph I.G above;
6. a copy of each school's yearbook, which will be returned to the District at a later date;
7. the name, race, and title (e.g., homecoming queen) of each student elected to the homecoming court, and a copy of the ballot used for the homecoming elections;
8. the name and race of each student who (a) tried out for a cheerleading team and (b) made the team, and the results of the judges for the cheerleading tryouts;
9. the number of students by race who participated in each extracurricular activity in the prior school year, and the name and race of the coach or sponsor of each activity;
10. the number of students by race assigned to each school bus for the regular school day and for after-school activities; and
11. the number of students by race, grade level, and sending school who transferred into the District, and the number of students by grade, grade level, and receiving school who transferred out of the District.

VI. Retention of Records

The District shall retain all records required by this Consent Order and the Settlement Agreement and all records that establish the information reported under this Consent Order and the Settlement Agreement regarding the following areas of operations until the particular area has been dismissed from this case: student assignments to classes, student assignments to schools, interdistrict transfers, transfers of student records, intradistrict transfers, extracurricular

activities, facilities, transportation, special education services, gifted services, advanced courses and diploma tracks, discipline, and the assignment, recruitment, hiring, and transfer of administrators, faculty, and staff. By the beginning of each school year, the District shall notify all of its employees in writing of the record retention requirement stated in this paragraph.

VII. Dismissal of Motions

That part of the United States's Motion to Enforce Orders of July 16, 1971 and May 19, 1978, for Issuance of Rule to Show Cause and for Further Relief relating to the 1978 Order only is hereby DISMISSED WITHOUT PREJUDICE. The Defendant's Motion for Declaration of Unitary Status and to Dismiss Defendant Dublin City School District is also DISMISSED WITHOUT PREJUDICE. That part of the United States' Motion to Enforce Orders of July 16, 1971 and May 19, 1978, for Issuance of Rule to Show Cause and for Further Relief against both the Dublin City School District and the Laurens County School District relating to the interdistrict transfer provision of the July 16, 1971 Order, and the United States' Supplemental Complaint against the Laurens County School District filed on July 16, 2004, are not resolved by this Consent Order and shall remain pending before this Court.

VIII. Review and Termination

A. The United States shall have the right to seek judicial resolution of any non-compliance with this Consent Order and any other of the District's desegregation obligations in this case, by motion or other appropriate means.

B. Upon the submission of all Reports I and II for the completed 2005-06, 2006-07, and 2007-08 school years required by this Consent Order and all of the reports required by the Settlement Agreement between the United States and the District, the parties expect that the District will file a motion for a declaration of unitary status and dismissal of this case, provided

the District has fully and in good faith implemented all of the terms of this Consent Order, the Settlement Agreement, and all of the other orders in this case at that time. If the District has not submitted all of the reports required by this Consent Order and the Settlement Agreement in a complete and timely manner, the United States shall have six months of discovery regarding the District's motion for unitary status and shall file any objection or objections that it may have regarding the District's motion within 60 days after the close of discovery. If the District has submitted all reports required by this Consent Order and the Settlement Agreement in a complete and timely manner, the United States shall have: (1) 60 days to file any objection or objections that it may have regarding the District's motion for unitary status in the areas covered by this Consent Order and the Settlement Agreement; and (2) at least three months of discovery regarding student transfers and 30 days to file any objection or objections that it may have regarding student transfers after the close of discovery. The Court thereafter shall schedule any appropriate proceedings, make appropriate findings, and render appropriate orders with respect to the District's motion for unitary status in accordance with applicable law.

IX. Prior Orders

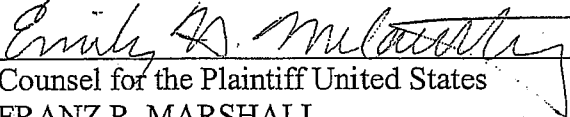
This Consent Order supersedes the obligations of the Dublin City School District imposed by the Order of May 19, 1978. All other orders in this case remain in full force and effect.

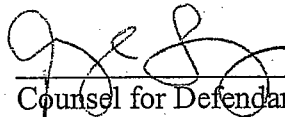
SO ORDERED, this 1st day of July, 2005.


UNITED STATES DISTRICT COURT JUDGE

Signatures of Counsel on Following Page

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