



SD-IL-0001-0001

FINAL 7-7-80

(11)

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

PEOPLE WHO CARE, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	CIVIL ACTION NO. 89 C 20168
	)	JUDGE ROSZKOWSKI
ROCKFORD BOARD OF EDUCATION,	)	
SCHOOL DISTRICT #205, et al.,	)	
	)	
Defendants.	)	

INTERIM AGREED ORDER

This cause is before the Court on the Plaintiffs'
Motions for:

1. Preliminary Injunction
2. Discovery Matters
 - a. Motion to Compel Answers to Interrogatories;
 - b. Motion to Compel Production of Documents;
 - c. Motion to Compel Attendance at Deposition;
 - d. Motion to Compel and Bar the Testimony of Dr. William Hazard; and

3. Motion for Class Certification and Motion to Add Plaintiffs.

This cause is further before the Court on the Defendants'
Motions for:

1. Dismissal of Certain Plaintiffs due to Lack of Standing;
2. Evidentiary Hearing on Class Certification;
3. Motion to Compel Answers to Interrogatories;
4. Motion to Compel Production of Document;
5. Motion to Bar the Testimony of Dr. Ashraf Manji.

6. Motion to File Deposition Transcripts.

7. Motion for Summary Judgment.

The parties, through their respective counsel, having first participated in extensive pretrial settlement conferences, and having further represented to the Court that present matters of controversy have been temporarily settled, and compromised, IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

I. JURISDICTION

This Court has jurisdiction over the parties and the subject matter of this cause. The Court will later determine the issues of standing and class certification, and all other pending motions of Plaintiff and Defendant, (except the May 1989 Motion for Preliminary Injunction) at a date set by the Court.

II. NO FINDING OF LIABILITY; CONSENT TERMS; ORDER

As the parties have voluntarily entered into this Interim Agreed Order (subject to extension, modification and change, as specified herein), this Court finds that the parties have not compromised any of their positions as set forth in the pleadings and contained within the Record of this cause. As such the Plaintiffs maintain and will continue to maintain their position that the Defendant, Board of Education, (hereinafter referred to as "Board" or "District") has maintained a dual system of segregated schools and has intentionally acted in a manner that places disproportionate burden on minority students; the Defendants maintain and will continue to maintain that such

allegations are without merit.

However, the parties have, at the urging of the Court, agreed to certain modifications of Defendants' school closing and reorganization plan as originally adopted by the Defendant Board of Education on or about February 28, 1989, in part in order to:

1. Avoid a lengthy hearing on the aforementioned Motions and a trial, all of which would consume approximately four (4) weeks of time;
2. Avoid the costs of the same, choosing rather to spend the resources of the Defendant School District on the education of children.
3. Avoid the acrimony and the possible attendant polarization of the School District, resulting from a contested trial.

The Court acknowledges that Plaintiffs have announced their intention to file an amended Complaint alleging system-wide segregation and discrimination by the School District, subject to Defendants' right to file responsive pleadings thereto.

The Court further finds that the entry of this Order shall not be construed by the Court, nor shall the same be characterized by any of the parties, as admissions of liability, wrong-doing, or withdrawal of any of the stated positions, allegations, and defenses asserted herein, or those to be asserted at a later date. This Court reserves judgment of liability with regard to the Defendants.

This Order, therefore, is legally enforceable, and shall remain in effect until further order of the Court. Upon proper petition, notice and hearing, this Court retains jurisdiction to enforce all of the terms and conditions of this

Order. Any changes, modifications and/or additions hereto shall be determined by this Court. While this Order is entered pursuant to agreement by and between the parties, the terms of this Order represent equitable relief granted in the form of an injunction; therefore the Defendant Board of Education, its members, employees, agents, servants, attorneys and those acting through, under, and for them, are enjoined, restrained, and are directed as follows:

III. SCHOOL ALIGNMENT AND PROGRAMS, 1989-90; FURTHER PLANNING; ADMINISTRATION OF THIS ORDER

A. INTRODUCTION.

These interim provisions are for the purposes of maintaining the status quo in key respects, alleviating problems in the Reorganization Plan, initiating desegregation and supplemental education programs and allowing time for further comprehensive planning by the District and for judicial consideration of the merits of the litigation.

B. SECONDARY SCHOOLS

For school year 1989-90, to keep open all options concerning the alignment in 1990-91 and thereafter of high schools and middle schools in the District:

1. For the 1989-1990 school year, the Rockford West High School building shall be used to house a middle school program as defined by the Board of Education.

2. For the 1989-1990 school year the Wilson School shall be used, as space permits, to house the following temporary, non-elementary District programs:

- a. Nursing program.
- b. Adult Education program.
- c. Special education machine shop.
- d. Drop-out Prevention program.
- e. Evening programs previously scheduled for Jefferson and East High Schools.
- f. Park district program.
- g. Rock Valley College extension program.
- h. RACC programs
- i. Such other temporary, non-elementary school program purposes as may be determined by the Board and Administration.

3. For the 1989-1990 school year the District ROTC program shall be housed at Auburn High School.

4. The use of the foregoing buildings in school year 1990-91 and thereafter shall be determined through the planning process described in Part III, Section (E) below or by further Order of the Court.

C) SOUTHWEST QUADRANT ELEMENTARY SCHOOLS

Take the following initial steps toward quality integrated elementary schools in the Southwest Quadrant, while also

pursuing the planning process described in Part III, Section (E) below. For purposes of this Order, the term "Southwest Quadrant" shall be defined as that area of the School District located south of Auburn Street and west of the Rock River, provided, however, that the Defendants have agreed to said definition solely for purposes of this Agreed Order and further reserve the right to challenge said definition in any further or future litigation which may arise in this or any similar matter.

1. For the 1989-90 school year the following elementary schools shall remain operational:

Barbour	King
Church	Lathrop
Dennis	McIntosh
Ellis	Stiles
Haskell	Washington

2. Eliminate to the greatest possible extent any split grade pairs within the Southwest Quadrant; provided that Dennis and Stiles may be paired. All other Southwest elementary schools shall be K-6 schools for that year, unless the District shows compelling need for a different arrangement at a particular school, based upon space availability and not upon financial efficiency.

3. To preserve existing desegregation, locate elementary alternative programs in Southwest Quadrant schools with high residential minority concentrations, as identified below. For the 1989-90 school year the following alternative educational

programs shall be located in schools in the Southwest Quadrant:

- a. Elementary gifted program.
- b. CASS program.
- c. GIT program.
- d. Arts alternative program.
- e. Montessori program.

The District may match programs and schools in a manner designed to serve both desegregation and space utilization objectives. Additionally, all legally permissible measures will be utilized to prevent segregation within each of the elementary schools located in the Southwest Quadrant.

4. In establishing the school boundaries, and grade configurations provided above, minimize the transportation of elementary school students, within existing guidelines for providing bus transportation, as provided in Part III, Section (D), infra. If it is necessary for movement of students to occur to match students and space, the parties shall first make every effort to elicit such movement on a voluntary basis consistent with the terms of this Order. All Southwest Quadrant elementary students who volunteer, or ultimately must be assigned, to attend a school other than their neighborhood school (including the students in the Dennis/Stiles pair), shall receive transportation if they live more than six blocks from the school they attend; provided the District has available transportation facilities, and if not, said six block distance shall be expanded.

5. Establish Washington as a full-site magnet school, without academic entrance restrictions.

- a. Provide supplemental funding in the amount of \$350 per student, including one extra teacher per 100 students.
- b. Relocate gifted alternative programs to other Southwest Quadrant elementary schools.
- c. Manage the admissions process in a manner that avoids skimming high-achieving minority students out of other Southwest Quadrant schools. The target enrollment shall be 50% minority, 50% white, with a priority among minority students for those residing in the Southwest Quadrant.
- d. The District will promptly commence a planning process to determine what particular arrangements will best serve the desegregative purpose of a Washington Magnet School. Matters addressed will include the educational focus of the school, methods of recruitment, and the timeline on which the Magnet School should be implemented. Implementation shall be substantially completed by the second semester of 1989-90, and completed not later than September 1990.
- e. All 1989-90 enrollment at Washington school shall first be on a voluntary basis, with transportation provided for those students who reside more than six blocks from the school.

6. The Board shall establish a second magnet school in the Southwest Quadrant during the 1990-91 school year, such program to be established and funded under the same guidelines found in Section C(5), above. This requirement shall be subject to alteration by agreement of the parties and by Order of the Court in the event the Planning Process described herein in Part III, Section (E), produces equally effective alternatives for achieving the desegregative purposes contemplated to be served by a magnet school.

7. For the 1989-90 school year the Board will provide sufficient classroom space in the Southwest Quadrant elementary schools to achieve the following:

- a. To establish regular elementary school class sizes no larger than the average elementary school class size found in schools outside the Southwest Quadrant, before adjustments for additional staffing which may be required for magnet and supplemental programs.
- b. To offer art and music curriculum to the same extent available in elementary schools outside the Southwest Quadrant.
- c. To conduct Chapter I programs on the same basis in terms of classroom usage as available during the 1988-89 school year, provided student enrollment in such programs is consistent with such enrollment for the 1988-89 school year.

- d. To provide the alternative educational programs described in Part III, Section C(3), above, with class sizes established at approximately 85 percent of the relevant maximum class sizes established in the collective bargaining agreement between the Board of Education and the Rockford Educational Association, 1988-89, assuming available space for such class size.
- e. To offer non self-contained special education services to the same extent available in elementary schools outside the Southwest Quadrant.

8. Provide supplemental educational programs in the Southwest Quadrant to alleviate the effects of racial concentration and economic and educational disadvantage.

- a. From unrestricted District funds and in addition to any other funds which the District is required to target upon low-income or educationally disadvantaged students, such as Federal Chapter 1 and Federal and State funds for early childhood education, the Board of Education shall fund the supplemental educational programs provided herein and in other requirements found in Sections 1.1, 1.2 and 1.3 of the Reorganization Plan adopted by the Board of Education on or about February 28, 1989. Such programs shall be funded for the 1989-90 school year at a level no less than 1.25 million dollars. Such funds shall be budgeted and expended by the

Rockford Board of Education according to said Reorganization Plan and this Agreed Order.

b. The District will immediately undertake a planning process to determine what particular programs will best serve the purposes of this subsection in 1989-90.

c. Consideration shall be given to the following supplemental programs:

1. class size reduction.
2. provision of preschool education in addition to that already funded by Federal and State funds.
3. Equipment and resources to offset the inequities created by parent gifts to schools in higher-income neighborhoods.

9. The Board shall encourage all voluntary transfers of elementary students that enhance integration by providing educational and transportation incentives for all such transfers.

a. Voluntary transfers shall be permitted, and transportation provided:

1. For any minority student from any school containing more than 28 percent (28%) minority population to any school containing less than 28 percent (28%) minority population; and
2. For any non-minority student from any school containing less than 28 percent (28%) minority population to any school containing more than 28 percent (28%) minority population.

b. As part of the above referenced voluntary transfer program, the Board shall establish priority receiving schools to accomodate the voluntary transfer of minority students out of the Southwest Quadrant to schools with relatively low minority enrollments. Availablity of space and transportation time shall also be considered, but the District shall take reasonable steps to make space available in such schools without displacing resident students.

c. The District shall establish a system to monitor such voluntary transfer requests and to prohibit any voluntary or special permit transfer that does not enhance the opportunity for school integration, except in cases of hardship.

10. Insure that Southwest Quadrant schools are of the same physical quality, including educational equipment, as other elementary schools in the District.

a. The age of school buildings is excluded from this provision, but the degree of repair, maintenance and cleanliness is included. All educational equipment is also included.

b. The District shall commence by July 20 an initial assessment, and shall obtain information from the 1988-89 principals and custodians of Southwest Quadrant school buildings, to determine what steps should be taken before the

beginning of the 1989-90 school year to make the schools clean and serviceable for that year.

- c. The District shall by December 31, 1989:
 - 1. perform a more detailed evaluation of the physical condition and educational equipment of the Southwest Quadrant elementary schools, and
 - 2. present to the Court a plan for achieving by the opening of the 1990-91 school year equity of facilities and educational equipment.
- d. The District shall take all steps necessary to achieve by the opening of the 1990-91 school year equity of physical facilities and educational equipment.
- e. This Court finds that the District has now available Fire Prevention and Life Safety funds from pre 1982 levies and other sale of bonds, which would be appropriate to spend, if necessary, and if in the judgment of the Board of Education, the funds are required to satisfy the foregoing provisions.

11. The parties recognize and agree that the responsibility for funding all activities required by this Consent Order rests solely with the Board of Education. To this end, the Board shall determine from what sources funds shall be made available

to implement the terms and conditions of this Order. Likewise, the Board agrees that to the extent additional sources of revenue become available for the 1989-90 school year, said funds which are spent for educational programs shall be allocated equitably across the District so as to avoid a dilution of the supplemental programs required under Part III, Section C of this Order. The foregoing shall not be interpreted to mean that the Board is prohibited from spending additional funds solely on Southwest Quadrant Elementary School programs for reasons expressed in or for the type and quality of those programs specified in Section 1.1 through 1.4 of the reorganization plan.

D. IMPLEMENTATION FOR SCHOOL YEAR 1989-90

Defendants shall be liable for re-enrolling students in those schools and educational programs required by the terms and conditions of this Order, which process they shall undertake immediately, consistent with sound educational practices, and shall provide to the Plaintiffs the procedures, data, and interim progress reports concerning the same. Defendants shall attempt to minimize the enrollment/assignment of resident elementary students in said Southwest Quadrant which would require the use of transportation as may be required by law (Chapter 122, par. 29-3, Ill. Rev. Stat.).

Defendants, thereafter, shall be liable for the assignment of professional staff (and other staff to support the functions

of such education) as may be required to render functional all schools in the Rockford Public School system, for a timely and orderly commencement of the 1989-1990 school year, consistent with the calendar of school attendance previously adopted by the Defendant Board of Education.

The Court finds that in so doing, the Defendant Board of Education may be required to take steps in the re-assignment of professional staff which may necessitate the temporary suspension of Article XII of the Agreement between the Board of Education and the Rockford Education Association, IEA-NEA. Nothing, however, in this Order shall be deemed to abrogate the legal responsibility of the Board of Education to bargain with the Rockford Education Association over either impact of such assignments and the impact of implementation of this Order or the terms and conditions of a new labor agreement for the 1989-90 school year and years thereafter. However, nothing expressed herein shall be deemed to relieve the Board of Education from its required duty as expressed herein to implement this Order while it engages in such bargaining as may be required by law or by the terms of any contractual responsibility of the Board of Education. However, any remedies of the Rockford Board of Education and for its employees and the Rockford Education Association shall be subject to enforcement only by this Court, consistent with this Order.

E. FURTHER PLANNING; PROCEDURES FOR IMPLEMENTATION OF ORDER; ADMINISTRATION; OVERSIGHT

1. The Board will undertake as soon as possible a comprehensive planning process with respect to student

assignment, educational program offerings, facilities, financial conditions, and other appropriate matters. The articulation in this Section of policies and issues for the planning process does not, in itself, create or alter the District's substantive obligations and responsibilities under the law. The purposes of this planning process are as follows:

- a. To determine what school facilities, educational programs, management and personnel arrangements should be provided in the 1990-1991 school year and thereafter. However, nothing in this Section shall be deemed to interfere with the Superintendent's authority to realign administrative staff.
- b. To examine all aspects of the Districts operations from a financial perspective, including a determination as to whether there are additional and/or alternative cost reduction measures to those selected by the Board for the 1989-1990 school year.
- c. To identify and undertake practicable steps to achieve a racially integrated and unitary school system.
- d. To develop measures for achieving system-wide equity in school operations, with significant supplemental programs for economically and educationally disadvantaged students.

2. The parties recognize that it is the ultimate authority of the Board to conduct the planning process described herein and, where appropriate, to make decisions based upon said process, consistent with any Orders of this Court. Plaintiffs will be kept fully informed with respect to the planning and decisional process contemplated herein, and will have continuing and timely opportunity to make recommendations and to discuss alternatives with responsible District personnel. Without limiting the preceding sentence, Plaintiffs will have the opportunity to address significant issues before decisions are made by the Board.

3. The planning process will be guided by the following general principles:

- a. Schools in the District should be integrated.
- b. "Integrated" shall mean that the percentage of minority population of a school's student body is within plus or minus fifteen percent (15%) of the percentage of minority students attending school in the District as a whole.
- c. Voluntary methods of student assignment desegregation such as magnet schools and/or programs, are preferable to mandatory methods of student assignment.
- d. Significant supplemental resources should be provided to off-set the effects of educational and economic disadvantages and minority racial

concentration. Other resources should be allocated equitably to preserve the supplemental character of such programs.

- e. Burdens of desegregation should be minimized, and necessary burdens should be shared equitably.
- f. Minority staff should be recruited and retained at all levels of District operation, in ways consistent with law.
- g. School facilities and equipment should be of reasonably comparable quality across the District.

4. The Board shall select and retain appropriate independent consultants to aid in the planning process. Such consultants will be retained with respect to, at a minimum, the following disciplines:

- a. Demography.
- b. Facilities planning.
- c. Magnet Schools and other desegregative student assignment methods.
- d. Supplemental educational programming to alleviate the effects of racial concentration and economic and educational disadvantage.

Plaintiffs shall receive advance notice of the identity and qualifications of such consultants, and in the event Plaintiffs disagree with the selection of consultants by the Board, the Plaintiffs retain the right to Petition the court to make a

determination of the appropriateness of the consultants selected, provided such Petition is made after proper notice to the Board.

5. The planning process will address all alternatives concerning the appropriate number and location of high schools and middle schools to be operated by the Board during the 1990-1991 school year and thereafter, which alternatives shall include the following:

- a. The operation of five high schools and four middle schools.
- b. The "Auburnite Plan" and other proposals for operating five high schools and a reduced number of middle schools.
- c. The operation of none, one, two or more high schools west of the Rock River, and the closing of one high school previously operated by Defendants.

During the planning process there shall be no beginning presumption that the alignment of secondary schools operated by the Board during the 1989-90 school year is the most appropriate and/or not subject to alteration.

6. The planning process shall also address and answer the following concerns:

- a. Prevention of within-school segregation.
- b. Equitable course offerings, testing, class assignment and discipline.

- c. School-level staff selection by the administration as a method of enhancing the effectiveness of magnet and supplemental programs.
- d. Preservation of "natural residential integration" as related to school attendance. For purposes of this Order, said term shall refer to the public school students who reside within a reasonably compact geographic area contiguous to the school, who would attend such school.
- e. Examination of contiguous boundaries for revisions to promote school integration.
- f. Active involvement of each schools' teachers, parents and community members in school-based management.
- g. Significant involvement of the Rockford Education Association with the planning process.
- h. Board/Administration control by policy over distribution of private donations and gifts to schools.

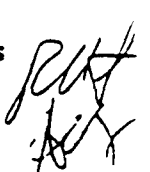
7. During the planning and decisional process outlined above, the Board shall not dispose of, or otherwise render unavailable for potential use during the 1990-1991 school year, any facility without a public determination, after at least thirty (30) days notice to Plaintiffs, that the facility has no potential use in implementation of any of the matters under consideration in the planning process.

8. The Board shall establish objective evaluation criteria for all desegregation, equity and affirmative action activities and an evaluation function with respect to the same.

9. The planning and decisional process shall include substantial and continual consultation with parent, community, staff and union representatives.

10. The establishment of School District boundaries shall be subject to approval of this Court. As a result, any proposed changes in School District boundaries by detachment, annexation, division, dissolution, or any combination of such methods or other methods of boundary change or School District creation found in Article 7, 11A, 11B, 11C or 12 of the Illinois School Code (Ill. Rev. Stat., Ch. 122, 1989), shall require approval of this Court.

11. The Board shall submit progress reports to this Court concerning the implementation of this Consent Order and the progress of the planning process. Such reports shall be made initially on August ~~15~~²¹, September ~~15~~²⁰, October ~~15~~²¹, and at ~~no less~~ ^{not less} than 60-day intervals thereafter.



IV. ATTORNEYS FEES

This Order resolves all requests for preliminary relief presented with Plaintiffs' May 1989 Motions for Temporary Restraining Order and Preliminary Injunction, and such matters are merged herein, with the exception of attorneys fees. Plaintiffs are given leave to file such a request at a time

selected by Plaintiffs, by proper petition and notice; Defendants shall respond thereto. Appropriate hearings thereon shall be scheduled by Order of this Court.

DATED: July 7, 1989

APPROVED:

Robert C. Howard
ROBERT C. HOWARD
Attorney for Plaintiffs

Anthony G. Scariano
ANTHONY G. SCARIANO
Attorney for Defendants

ENTER:

Stanley J. Lipinski
U.S. DISTRICT JUDGE

DATED: July 7, 1989