

**People Who Care vs.
Rockford Board of Education
Second Interim Order
April 23, 1991**



SD-IL-0001-0002

PEOPLE WHO CARE, et al.,	)	
	)	
Plaintiffs,	)	CIVIL ACTION No. 89 C 20168
	)	
v.	)	JUDGE ROSZKOWSKI
	)	
ROCKFORD BOARD OF EDUCATION	)	
SCHOOL DISTRICT #205,	)	APRIL 23, 1991
	)	
Defendant.	)	

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

PEOPLE WHO CARE, et al.,	)	
	)	
Plaintiffs,	)	CIVIL ACTION No. 89 C 20168
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v.	)	JUDGE ROSZKOWSKI
	)	
ROCKFORD BOARD OF EDUCATION	)	APRIL 23, 1991
SCHOOL DISTRICT #205,	)	
	)	
Defendant.	)	

SECOND INTERIM ORDER

The Court adopts this Order, upon the recommendations of the parties and the Court's Expert, to make interim provision for certain school arrangements which are at issue in this litigation. This Order (the "Second Interim Order" or "Second Order") shall remain in effect until further order of this Court.

A. PROCEDURAL CIRCUMSTANCES

1. Plaintiffs filed this case in May 1989, challenging a school closing and reorganization plan adopted by defendant (the "District") in February 1989. The Complaint presented allegations of disproportionate burden and segregation claims under the Equal Protection clause of the Fourteenth Amendment (Count I), and a claim under the Illinois Armstrong Act (Count II). In June 1989 the District filed its Answer, denying the principal allegations of the Complaint.

2. Plaintiffs gave notice in May 1989 that they would amend their Complaint to allege a long-term, systemwide pattern of racial discrimination and segregation on the part

of the District, and would seek a declaratory and injunctive order requiring implementation of a systemwide desegregation plan. A Second Amended Complaint containing this systemwide claim (Count III) was filed in November 1989, and in January 1990 the District filed its Answer denying the principal allegations of that claim.

3. Plaintiffs moved in May 1989 for a preliminary injunction with respect to Counts I and II, and that motion was settled in July 1989 by the Court entering, with the concurrence of the parties, an Interim Order (referred to herein as the "First Interim Order" or "First Order"). Parts III.B through III.D of that Order required the District to take certain steps with respect to secondary and elementary schools during school year 1989-90 and thereafter. Part III.E required the District to engage in a prospective Planning Process guided by certain principles and procedures.

4. There are numerous unresolved issues concerning the District's compliance with Part III.C of the First Interim Order. Some of the most significant issues include:

a. Plaintiffs contend the District has not properly carried out the \$1.25 million supplemental programming obligation of Paragraph C.8. The Defendant has denied and presently continues to deny these allegations. Some issues concerning Paragraph C.8 compliance were resolved by the Court's Memorandum Opinion and Order of June 18, 1990.

b. Plaintiffs contend that the District has not established equity of school facilities and equipment within the District, because, as Plaintiffs contend, the District's compliance with Paragraph C.10 is neither complete nor timely. The Defendant has denied and presently continues to deny these allegations.

c. **Plaintiffs contend the District has not utilized all legally permissible measures to integrate the Alternative Programs located in Southwest Quadrant elementary schools, as required by Section C.3.¹ The Defendant has denied and presently continues to deny these allegations.**

d. **Plaintiffs contend the District is in violation of Sections C.5 and C.6 because the District did not establish Washington as a full-site magnet school by September 1990, did not relocate Washington's Alternative Programs, and did not establish a second Southwest Quadrant magnet school. The Defendant has denied and presently continues to deny these allegations.**

There are numerous additional compliance issues related to the First Interim Order, such as those identified in plaintiffs' Comments and correspondence on the various Progress Reports. The District contends that its actions in all of those additional respects are proper.

5. **In December 1989 Plaintiffs requested, based on asserted compliance deficiencies, that the Court appoint a master to oversee Defendant's compliance with the First Interim Order. Defendant denied such assertions and opposed the request. In January 1990 the Court declined, at that time, to exercise its discretionary authority to appoint an expert to monitor Defendant's compliance.**

6. **On April 9, 1990, pursuant to Part III.E of the First Interim Order, Superintendent Sullivan presented to the Board of Education his Recommendations For Educational Programming And Integration ("Recommendations"). The parties concur that**

¹For purposes of this Order, the term "Southwest Quadrant" is defined as that area of the School District located south of Auburn Street and west of the Rock River.

certain items proposed therein are in the best interests of the school system, and respond to certain planning principles set forth in Part III.E. The parties also concur that if the effectuation of those items is rendered more certain and more prompt, and if the manner of implementation is delineated in more detail, the same will diminish the scope of future dispute between the parties.

7. Plaintiffs have advised the Defendant and the Court that plaintiffs believe, despite the Superintendent's Recommendations, that the District has not adequately addressed all of the issues and principles encompassed in Part III.E of the First Interim Order, and that plaintiffs believe some of those deficiencies are subject to judicial corrective action. Defendant denies that it has not adequately addressed such issues or that the same are subject to any corrective action.

8. In October 1990 Plaintiffs filed a Petition For Determination Of Default With Respect To The July 1989 Order And Petition To Hold Defendant In Contempt For Its Violation Of The July 1989 Order. In general, that pleading addressed in greater scope and detail the matters summarized in Paragraphs 4-7 above. In December 1990 Defendant filed a response to the Petition, denying all allegations of compliance deficiencies. Defendant also filed several other motions, challenging the sufficiency of the allegations in the Default/Contempt Petition, and raising issues which Defendant asserts are prerequisites to a decision on that Petition.

9. On January 14, 1991, the Court entered its Order Of Reference (the "Master Order"), appointing Dr. Eugene Eubanks as a Special Master under Rule 53 (a) to investigate and evaluate Defendant's compliance with the July 1989 Order, (b) to develop a recommended remedial plan to effectuate the 1989 Order and remedy any deficiencies

in Defendant's compliance therewith, and (c) to oversee implementation by Defendant of the Court's remedial Orders and to present reports and recommendations regarding the fulfillment of such Orders.

10. Also on January 14, 1991, the Court entered an Order (the "Expert Order") directing the parties to submit their respective proposals concerning the form of a Second Interim Order, and appointing Dr. Eubanks as the Court's Expert to recommend to the Court which of the two proposals should be entered as a Second Interim Order. The Expert was also authorized to make his own recommendations to the extent that he found either of the offers not appropriate in light of the surrounding circumstances of this case. After making extensive inquiries, the Expert on March 15, 1991, submitted his Report and Recommendations (a) recommending that "the Order which should be entered as a Second Interim Order is the offer proposed by Plaintiffs," and (b) recommending certain modifications in that Order. The provisions of Parts B-G of this Second Interim Order incorporate and correspond to the Expert's March 15 Report and Recommendations. Certain additional revisions to the Order have also been made by agreement of the parties subsequent to receipt of the Expert's Report.

11. In consideration of all of the foregoing, and of the remainder of the record in this litigation, the Court approves and enters this Order. Appropriate provisions of the First Interim Order are physically incorporated herein (primarily in Part C), so that the Second Order represents a unified statement of the District's prospective obligations, and it is not necessary to refer to the First Order for that purpose.

12. It is the intention of the parties and the Court that all pending requests for the Court to take preliminary corrective action concerning compliance with the First Interim

Order, including such requests presented in the Default/Contempt Petition, are rendered moot by the provisions of this Second Interim Order. On the other hand, neither party relinquishes its position on those compliance issues, yet unresolved, and it is the intention of the parties and the Court that this Order does not diminish the significance, if any, which defendant's asserted prior compliance deficiencies may have for purposes of plaintiffs' future enforcement of this Order or of ultimate liability and remedy determinations, nor does this Order preclude Defendant's assertion that no compliance issues should be addressed or are within the purview of this Court's jurisdiction.

13. Except as specified herein, the 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 has maintained a dual system of segregated schools and has intentionally acted in a manner that discriminates against and places disproportionate burdens on minority students; and the defendant maintains and will continue to maintain that such allegations are without merit. The entry of this Order does not affect the underlying merits litigation, which will continue.

14. 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 and remedy with regard to the defendants.

15. Every provision of this Order, in addition to being the Order of this Court, also represents an agreement between the parties, and further represents the exercise by

the Defendant District of its authority to act on behalf of and for the benefit of the school system and the students, and its authority to settle litigation against the school system. Further, the District has specifically considered, in light of recent court decisions, all provisions of this Order which require race-conscious affirmative action measures, and finds that these provisions are supported by a sufficient basis in evidence and law, that the District has a compelling interest in the adoption and implementation of such measures, and that the measures are narrowly tailored to achieve the necessary remedy.

16. The Court has reviewed the provisions of this Order in light of the claims in this case and the scope of remedies which this Court would be authorized by law to enter if there were a finding of liability on those claims, and the Court concludes that all of the provisions of this Order are within the scope of such remedies and therefore are consistent with the Constitution and laws of the United States. If any provisions were nevertheless found by a court to be outside the scope of Constitutional or statutory remedies, it is the express intention of the parties and the Court that such provisions are severable from all other provisions. Finally, the Court has considered the judicial resources that are likely to be necessary to monitor and enforce this Order, including in light of the judicial resources that might be conserved by resolving in this fashion the issues addressed herein, and the Court concludes that this Order represents an appropriate commitment of the Court's resources.

17. The Court has carefully considered the impact of this Order upon the rightful interests of third parties, and is satisfied at this time that the entry of this Order does not undermine any such rights. The Court also determines that it is important to enter this Order at the present time, so that implementation may begin immediately of the many

provisions herein which are intended to benefit students in the present school year and of the many provisions requiring advance preparations for further measures in school year 1991-92. The Court notes that the Rockford Education Association and two other unions who are collective bargaining representatives of certain of Defendant's employees have filed a Petition To Intervene with respect to certain provisions of this Order, and the Court determines that the issues presented in that Petition can be properly and timely addressed by proceedings subsequent to the entry of this Order. If any other third party chooses to present a question concerning the impact of this Order upon such third party, the Court will address the matter in an appropriate manner at that time.

18. In the event that objections or challenges are raised by any third party (e.g., through intervention or separate collateral litigation) to the lawfulness or appropriateness of (a) this Order, any provision hereof or any proceedings pursuant hereto, or (b) any aspect of the implementation of this Order, the Plaintiffs and the Defendant shall jointly defend the lawfulness and appropriateness of the matter challenged. If any such collateral lawsuit arises in state court, the parties shall seek to remove such action to the U.S. District Court.

19. This Order is legally enforceable, and shall remain in effect until further order of this Court. This Court retains jurisdiction to enforce all of the terms and conditions of this Order. The parties to this Order may apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Order, and for the enforcement of compliance with the provisions contained herein. Prior written notice of all such applications shall be given to opposing counsel, and

this Court may thereafter enter such further relief after proper hearing on the merits of said applications.

20. While Defendant has asserted and continues herein to assert that Plaintiffs are not entitled to any award of attorneys' fees, Plaintiffs have requested, and are given, leave to file an additional Interim Fee Petition at a time selected by plaintiffs. The Court shall establish a schedule and procedure for determination of such petition.

21. A Monitor Order is entered contemporaneously herewith, providing for a court-appointed Monitor to fulfill oversight responsibilities specified both in this Order and in the Monitor Order.

While this Order is entered pursuant to the recommendation of 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:

B. SYSTEMWIDE PROVISIONS

1. Within-School Integration.

a. All practicable measures will be utilized to prevent segregation within each of the District's schools. The purpose of this § B.1 is to achieve, given whatever overall minority and non-minority enrollment exists at a particular school, the greatest possible integration and constructive interaction of such students in all aspects of the school's operations and activities. The scope of this section includes not only the racial

composition of particular classrooms, but integrated participation of students to the greatest possible extent in terms of curriculum, instructional methods, extra-curricular activities, and so on.

b. At least 30 days prior to the first class day of each school year, the principal of each school shall submit a comprehensive plan setting forth steps calculated to maximize racial integration within his/her school with respect to all aspects of school operations and activities, in accordance with guidelines to be issued by the Superintendent. Each principal will submit, after determination of October 1 enrollments and on a schedule determined by the Superintendent, followup reports during the school year on the refinement and implementation of the within-school integration plan, including quantitative information on participation in various programs and extra-curricular activities. Each such report shall be reviewed by the Superintendent or the Deputy Superintendent for Educational Equity ("DSEE").² Those schools in which the within-school integration plan has not maximized racial integration shall be notified by the Superintendent that further measures shall be taken. The Superintendent and DSEE shall work with each such school to insure implementation of its integration plan and the modification thereof as necessary to maximize racial integration within the school. (The foregoing process will be implemented for the current 1990-91 school year as soon as and to the extent practicable.)

c. The plan will include provisions for, and each school will have, a single PTO encompassing the full range of racial/ethnic groups and educational programs within the school.

²The appointment of a Deputy Superintendent for Educational Equity (or comparable executive) is required by § G.1 hereof.

d. The Superintendent's guidelines will include a process for school-level personnel to identify on or about November 1 of each year, and to provide written educational justification for, any disparity exceeding plus or minus 15% in the racial composition of a classroom compared to the racial composition of the grade level or other pool of students from whom the class is drawn within the school. The guidelines will also provide for supervisory review and approval/rejection of the proffered educational justifications, and for prompt correction of unjustified disparities.

e. Subsection (d) of this section does not prohibit, as a standard pedagogical practice, ability grouping that is:

- (1) Based on nondiscriminatory, objective standards of measurement that are educationally relevant to the purposes of the grouping and which have not been identified by research as discriminating on the basis of race;
- (2) In the case of national origin minority group children other than those in groupings designed to enable them to achieve competence in the English language, based upon standards that do not essentially measure English language skills;
- (3) Determined by the nondiscriminatory application of the standards described in Subsections (1) and (2);
- (4) Maintained for only that portion of the school day classroom periods necessary to achieve the purposes of the grouping;
- (5) Designed to meet the special needs of the students in each group, and in the case of students in less academically advanced groups, to bring

their academic achievement to or above the appropriate grade level;
and

- (6) Validated by test scores or other reliable, objective evidence indicating the educational benefits of the grouping.

f. In sufficient time for September 1992 implementation, the ability grouping standards set forth in the preceding subsection shall be reviewed, and revised or augmented as appropriate, to better serve the integration purposes of this § B.1, the educational equity purposes of § B.6, and the supplemental education purposes of § C.8, and to address any inappropriate tracking or ability grouping in accordance with current educational research and remedial experience. This process shall be coordinated by District staff, with participation by the § B.6 and § C.8 consultants, the Monitor, and the parties. The ability grouping standards thus established shall be subject to continuing review for the same purposes.

2. **Human Relations.** A systemwide program will be carried out on a continuing basis to address human relations attitudes and expectations throughout the school system. This will include staff development, as well as training/education programs directed to parents and other appropriate target groups. During each school year for the duration of this Order, activities will be implemented having the cost equivalent of one full day of systemwide in-service training for all staff. For 1990-91 these activities shall be implemented before June 1 and shall focus on cultural differences including culturally different learning styles and on equity in discipline, school rules and discipline procedures.

3. **Discipline.** With respect to student discipline and counseling, the District has, on its own initiative, determined that the frequency of suspensions of minority students is disproportionate to the actual number of minority students enrolled, and that the number of suspensions is unrelated to a school's enrollment level. Accordingly, the District will adopt a uniform discipline code by no later than June 1991.

a. The design, implementation and monitoring of the discipline code will focus on insuring that discipline is implemented fairly and consistently across the entire student body. In developing and implementing the new code, the District will obtain the recommendations of a qualified desegregation assistance agency or an outside consultant, chosen in accordance with § G.4, with past experience in formulating uniform discipline practices to overcome or prevent racial disparities. The responsibilities of the agency or consultant will include a written report to the Superintendent assessing existing discipline practices and problems, and explaining the basis for recommended changes. The Superintendent will submit to the Board a comprehensive written report concerning the purposes and provisions of the proposed new uniform code.

b. The District will provide for in-service training concerning equitable discipline, as soon as practical for the 1990-91 school year and in a timely manner after the new code is adopted.

c. The District will establish a data system for the prompt assembly of data and the tracking of disciplinary actions, including comparisons of disciplinary actions as between various racial/ethnic groups and as between various schools and grade levels. This system will be activated as soon as staff can develop it, during the 1990-91 school year, and will encompass data retroactive to the beginning of this school year. Reports on

discipline, including an analysis of the data and an evaluation of the equity of enforcement of discipline, shall be included in Progress Reports at four-month intervals once the data system is in place.

d. Beginning with and at a time practical during the 1990-91 school year, the District will design and pilot an in-school suspension program at selected schools. The piloting of the school suspension program should be held in abeyance at selected schools until the Monitor has met with principals and staffs of secondary schools and to provide for additional planning time for this program. This meeting involving the principals and the Monitor will occur within 30 days of the entry of this Order. Systemwide implementation of such a program shall be completed not later than September 1992.

4. Parent Choice Plan Study. The District will convene a task force of parents, citizens and staff to examine the desirability of a specifically developed Rockford Parent Choice Plan, as described on Page 4 of the Superintendent's April 1990 Recommendations. The District will provide the task force with a consultant knowledgeable and experienced with these plans. The study shall determine by December 31, 1991 whether such a plan is desirable for Rockford. A specific plan, assuming desirability, will be presented to the School Board within four (4) months thereafter, for possible implementation in the next succeeding school year.

a. If the District adopts a Parent Choice Plan, the Plan will include secondary schools as well as elementary schools.

b. Any Parent Choice Plan which is adopted by the District shall contain firm enrollment controls to insure that the enrollment at each school is integrated.

c. If a Parent Choice Plan is adopted and successfully implemented, the magnet school and Alternative Program provisions hereof shall be retained, but the voluntary transfer provisions under § C.9 will be reviewed for possible necessary modification. The provisions of § C.9 shall be modified only upon a finding under § G.7.a that the Parent Choice Plan will be more prompt and more effective in achieving integration than the methods it is proposed to replace.

d. If the task force, the Superintendent or the Board determines that a Parent Choice Plan should not be implemented in Rockford, a detailed written report will be submitted to the Court explaining the reasons for that determination.

5. Recruitment: Parent Centers. The District will conduct active and timely information and recruitment programs calculated to ensure the success of all types of voluntary integrative transfer programs. Not later than January 15 of each school year, the District will complete the process of announcing all such programs for the following year and of initiating active information and recruitment for such programs, and on that date the District will submit its overall information and recruitment plan to the Court. Applications for all such programs will be managed on a centralized basis. Acceptances and waiting lists will be on a random, public lottery basis for all magnet schools and programs and other voluntary transfer programs, in each instance within applicable racial/ethnic composition requirements. These selection procedures shall be conducted in a manner that does not invade the privacy of individual students. The District will also implement by Spring 1991 one parent center as described in the Superintendent's April 1990 recommendations, at Garrison School. A study to determine need and to plan for additional parent centers should be initiated by the Defendant, Plaintiffs and Monitor.

6. Equity of Educational Services. The District will examine all of its educational services, such as course offerings, methods of enrollment, curriculum, testing, and staff assignments, to identify any racial/ethnic patterns in the provision or utilization of such services. With respect to each educational service, the District will take all steps necessary to insure that it is provided in a manner that does not discriminate against or disadvantage students of any racial/ethnic minority group.³ The District will, in addition, take all steps necessary to insure that the utilization of each such educational service by the students or other relevant constituency does not reflect any remediable racial/ethnic pattern (as defined below).

a. The purpose of this provision is to insure that whatever type and quality of educational services the District offers to some students is equitably provided to, and utilized by, racial/ethnic minority students. In other words, this provision requires that the District's schools and programs shall not be racially identifiable, in terms of provision or utilization, in relation to the type and quality of their educational services. This provision does not require the District to offer any educational service of a type different than it now offers, nor does this provision preclude the deployment of new educational services.

- (1) A hypothetical example of a "provision" practice prohibited by this Section would be offering college preparatory courses to white students

³For purposes of this Order, the term "racial/ethnic minority group" includes the same Black, Hispanic, Asian and Native American groups included in the Fall Housing Report enrollment statistics.

while offering lower-level general education courses to minority students.

- (2) A hypothetical "utilization" example requiring corrective action by the District would be if college preparatory courses were theoretically available to all students, but in fact the students utilizing such courses were disproportionately white. Even if such disproportionate use has not been intended or caused by the District, but instead appears to arise from the educational "preferences" or previous qualifications or experiences of the students, corrective action by the District over a period of time is required.
- (3) Other, more subtle examples of circumstances within the scope of this § B.6 include patterns of lower-status instructional processes and expectations provided to minority students, which over time result in disparate levels of utilization of subsequent educational services. Hypothetically, such instructional processes may include opportunities to participate in classroom interactions with teachers (in which some students interact more frequently with teachers; are asked higher-order questions; receive more praise, encouragement, and instruction in the mastery of tasks; and are allowed more wait time for responding).
- (4) Another hypothetical example might be that curriculum and instruction for one group might have an academic focus, be oriented toward mastery, and be designed to promote personal autonomy and empowerment, whereas curriculum and instruction for another group

might tend to emphasize personal dependency, social conformity, and low-status knowledge and skills.

b. A racial/ethnic pattern in the utilization of an educational service is remediable unless the District demonstrates to the Court that all practicable efforts have been exhausted to correct the disproportionate use. Without limitation, examples of such efforts include encouraging changes in the utilization pattern; modifying the service to elicit such changes; or providing over time to minority students the prior services and experiences that will enable them to utilize the service in question to the same extent as white students.

- (1) If the District makes such a demonstration of non-remediability, the District also bears the responsibility to provide compensation (in the form of additional educational services) to the minority students for the disproportionate use, by means concurred in under § G.7.a.
- (2) In rare instances racial/ethnic patterns in the utilization of educational services may not call for remediation, if the disparity in no way constitutes or reflects educational or social segregation, discrimination or disadvantage, or if the District can justify to the satisfaction of the Monitor or the Court under § G.7.a that the disparity is in the best interest of the students affected.

c. The "educational services" encompassed by this provision include, without limitation, all aspects of the educational content and instructional delivery of the District's programs, including the content and level of curriculum; the content and level of books and other educational tools; course offerings and enrollments; types and quality of

instructional staff and their supervisors; patterns of classroom interaction of students with instructional staff; standards and procedures for placing students in all courses including special education; and participation in extracurricular activities.

(1) This provision does not prohibit differences arising from supplemental programs for disadvantaged students, such as:

- (a) programs conducted with state or federal funding earmarked for low-income, at-risk or other disadvantaged students,**
- (b) programs implemented under § C.8 of this Order, or**
- (c) special education.**

However, the programs identified in (a) and (b) shall be designed to eliminate over time the racial identifiability of such supplemental programs by eliminating the racial disproportion in the need for such programs.

(2) This provision does not encompass quantitative equity of core programs (§ C.7), or equity of physical facilities, equipment and materials (§ C.10). However, the implementation of these provisions shall be coordinated.

(3) Achievement and placement tests used by the District shall be valid and reliable and shall not be those which have been identified by reliable studies to discriminate against minority children.

d. The District shall gather data and recommendations as set forth below in order to identify educational services needing modification to comply with this provision of the Order, and to recommend the most desirable corrective actions:

- (1) The District will, in accordance with Section G.4, retain a principal consultant (reporting to the Superintendent) to make recommendations concerning the overall process, and the particular program modifications, needed for the fulfillment of this provision of the Order. The District will provide to the consultant all in-house resources and data requested by the consultant for this project.
- (2) The District and the consultant will submit to the Monitor and the Court within 90 days after entry of this Order⁴ a report on the methodology and schedule by which the consultant will conduct a comprehensive study of, and present recommendations concerning, all aspects of the District's educational services. These matters are subject to approval under § G.7.a.
- (3) The consultant will develop and propose comprehensive criteria for the evaluation of educational services required by this provision. The parties and the Monitor will discuss the proposed evaluation criteria and agree upon a final set of criteria to be used, or such criteria shall be determined under § G.7.a.
- (4) The observations and recommendations of the consultant concerning each area of educational services shall be presented to the Superintendent in a written report. Each such report, together with

⁴With respect to timelines expressed in terms of "___ days after entry of the Order", the Monitor has some flexibility under § G.1 to adjust such timelines after conferring with the parties.

the response of the Superintendent thereto, shall be filed by the District with its ensuing Progress Report.

e. Based on the data and recommendations obtained through (d), the District shall prepare, implement and continue to update an evolutionary written plan for achieving and maintaining equity in educational services, as defined in this § B.6. For each area of educational services the plan shall include:

- Min*
- (1) Effective measures and reasonable timelines for achieving the initial requirement that such services be provided in a non-discriminatory manner.
 - (2) Identification of particular educational services which in their utilization reflect an unwarranted racial/ethnic pattern.
 - (3) Delineation of effective corrective measures and reasonable timelines calculated to eliminate such conditions.
 - (4) Provision for continuing evaluation, and modification as needed, of such corrective measures and timelines.
 - (5) Provision for continued, frequent monitoring and reporting to inform the Court and the plaintiffs of the extent to which this Section has been fulfilled and of instances in which it remains unfulfilled.
 - (6) At each step of the process identified above, submission of written reports to the Court.

f. In developing the 90-day report on overall methodology and schedule, the District and the consultant will consider as one alternative the District's initial proposal

that this process should commence with a pilot study of the curricular offerings of science and math at the high schools (grades 9 - 12) as set forth in subparagraphs (1) through (9).

- (1) First measure the distribution of students, staff and supervisors by racial/ethnic proportions who are enrolled or employed in high school math and science courses;
- (2) Inventory the correlative age, quality and quantity of facilities, evaluation devices, equipment and supplies of all such courses, or use data from the study of such matters conducted under § C.10 hereof.
- (3) Attempt to explain, within the terms of this § B.6, disparities of the foregoing, if any, based on racial/ethnic impact;
- (4) If appropriate, prepare a plan to remediate the suspected causes of such disparities, including, by way of example:
 - (a) the redesign of systemwide (K-12) curriculum for such subject matter areas;
 - (b) the method of counseling students for course offerings;
 - (c) in-service training deemed necessary to obtain the behavioral adjustments of staff that will enable students to achieve the learning objectives for such curriculum;
 - (d) redesigning the method of arranging staff, facilities, equipment, materials, evaluative devices and supplies;
 - (e) developing and deploying reliable assessment devices to ensure the success of such changes.

- (5) While the foregoing pilot study will focus on high school courses, the methodology, assessment, justifications and corrective action shall be systemwide, as deemed necessary and practical.
- (6) Prior to commencement of the pilot study, the Superintendent and the principal consultant shall determine whether it is appropriate to select a recognized expert consultant specializing in this subject matter area to advise the District concerning the magnitude, scope and methodology of such study. Thereafter, based on any input from such expert, the District shall reasonably adjust the magnitude, scope and methodology of the study.
- (7) All aspects of the study shall be shared with plaintiffs' counsel.
- (8) The pilot study shall commence within 120 days after entry of this Order.
- (9) After completion of the pilot study, the District, with the assistance of its principal consultant, shall expand the similar (or revised) study to all other educational services encompassed within this § B.6.

g. In developing the 90-day report on overall methodology and schedule, the District and the consultant will also consider, as proposed by plaintiffs and as an alternative or a complement to the preceding Subsection (f), different approaches to analyzing and attaining equity in the provision and utilization of educational services. For example, it may be that rather than focusing on a longitudinal examination and rectification of one academic subject matter after another, a more holistic approach would be preferable, focusing on systemwide desegregation of curriculum and instruction in all subject matters

at once. The District shall choose the methodology, or combination of methodologies, which will be most effective in achieving the purposes of § B.6, and explain its choice to the Monitor and the Court in the 90-day report. The matter shall be considered in accordance with §§ G.3 and G.7.a.

7. Consideration Of Integration Impact Of Board Actions. Before any action is taken by the Board concerning the alignment of a school or the educational program to be offered therein, the Board and Superintendent will expressly give consideration to whether the proposed action may have an adverse impact upon integration or may discriminate against or disadvantage racial/ethnic minority students in the District, and in taking such actions the District will endeavor to preserve and promote natural residential integration of schools.

a. For purposes of this paragraph, the alignment of a school includes its opening or closing, attendance area, feeder pattern, grade structure, enrollment policy and similar matters.

8. Detachment. The Court realizes that, both prior to the institution of this litigation, and, again, most recently, under the Court's Interim Order of July 7, 1989, attempts have been made by School District residents and by others to alter School District boundaries by detachment, annexation, division, dissolution or any combination of such methods or other methods contemplated under Articles 7, 11A, 11B, 11C or 12 of the Illinois School Code (Ill.Rev.Stat., Ch. 122, 1990). The parties have represented to the Court their belief that some of such attempts at boundary change have been racially

motivated and were intended, in whole or in part, to insulate certain students from attending integrated schools.

Therefore, this Court finds that any further attempts to alter School District boundaries shall be barred for the duration of this Order because such change(s) would negatively impact the integration efforts of the District and unnecessarily drain the resources of the District which would otherwise be available for the desegregative purposes contemplated by this Order.

Any challenges to this provision of this Order by third party intervenors, or any attempt to invoke the procedures referred to above, shall require application to and approval by the Court before the filing of any petition, documents or other pleadings with the Regional Board(s) of School Trustees or other statutory bodies having jurisdiction over such requested change in boundary. Such application for permission to file the appropriate documents requesting a boundary change shall set out with specificity the basis for requesting said boundary change and shall also be served upon all parties of record in this proceeding. The Court shall set a hearing on said intervenor's application after proper petition and notice.

9. Enrollment and Resource Data. The District will develop, effective at least as of the 1991-92 school year, computerized data systems capable of reporting and analyzing the student assignment, educational and financial activities of the District in sufficient detail to depict the District's degree of compliance with the provisions of this Order and the significant factors affecting the District's level of compliance. The capacity of such data systems shall include, for example and without limitation:

- a. Breaking down any data concerning students into racial/ethnic groups.

b. Analysis of the student assignment and program participation activities at any school in terms of children who are resident and non-resident in the attendance area of that school, and in terms of the sending and receiving schools of all students.

c. With respect to any school which has an alternative or other program within the school, depiction of data separately for the program and non-program students as well as in the aggregate.

d. Transportation modeling and analysis.

e. Identification of each non-quota teacher or other supplemental resource allocated to a school, with the programmatic reason and funding source for the allocation.

f. Depiction of the budget for each school, including the sources and amounts of funds allocated to the school (showing formula and non-formula allocations), and including a breakdown of the positions and other resource categories for which each such type of funds is anticipated to be expended.



10. School Based Management. The School District is presently undertaking a process of decentralized decisionmaking denominated School Based Management. In keeping with that initiative, the Court has been advised by the parties that such a decision-making process could positively affect the educational, social and emotional needs of students including those of the Plaintiffs' class. Therefore, the following supportive actions are to be taken:

a. For the 1991-92 school year, schools may voluntarily elect and be selected to pilot certain school based management activities. The selection of the schools shall be equitable among all District schools, and shall include schools in the Southwest

Quadrant and schools with alternative and integration programs. In subsequent years, other schools may participate on an equitable basis established by the Superintendent.

b. Each participating school shall receive:

- (1) A building-based budget with an additional supplement of at least \$2,000. These monies are to be spent as determined by the principal in consultation with parents and staff. Expenditures are to be for planning or educational activities, services and materials designed to directly improve student learning.**
- (2) additional monies for school-focused staff development and capital equipment acquisition.**
- (3) school district supported training and consultative assistance in problem-solving, consensus building and relationship development.**

c. Each participating school, before the beginning of the 1991-92 school year, shall:

- (1) identify a specific design for their school's vision of excellence. This design shall include mission statement, program focus and priorities and shall be undertaken by the principal in consultation with parents and staff.**
- (2) identify three- and five-year targets for improving student achievement in reading, attendance and graduation rates.**
- (3) decide other matters related to school operation as may be determined necessary.**

d. Supplementary directives designed to more fully implement this program may be provided by the Superintendent and/or proposed by the Plaintiffs, and shall be considered through the consultation process set forth in § G.3 hereof.

e. Decisions made at any level under this School Based Management process shall not alter, be inconsistent with, or adversely affect the terms of this Order without approval of the parties or by subsequent Order of Court.

11. **Staff Assignment**

a. The District shall be responsible for the assignment of professional staff required to deliver an effective educational program consistent with the goals and intent of this Order, including:

- (1) maintaining the status quo of certain teaching assignments in programs required by the Order, the Court finding that competent staff should be stabilized in such programs, to the maximum extent possible;
- (2) initiating desegregation and supplemental educational programs; and
- (3) providing adequate time for further comprehensive actions to develop and implement strategies and programs designed to alleviate the effects of racial concentration and economic and/or educational disadvantage.

b. Given these objectives, the Court finds that the District will be required to make staff assignments in those schools housing the educational improvement programs under § C.8, the alternative programs described in § C.3 and the magnet schools described in §§ C.5, C.6 and C.6A, on a basis which may be inconsistent with otherwise applicable District policy, past practices, or the established requirements of the Professional Agreement between the Board of Education and the Rockford Education Association.

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Teaching staff for such programs shall be selected without emphasis on seniority and shall not be subject to displacement solely on the basis of seniority; rather, seniority shall be considered as one of the elements in determining qualification for selection or retention along with education, experience, attendance, prior evaluations and the staff member's ability to work successfully with parents, staff members and students. The evaluation of all such elements in relation to the position and personnel in question, and the decision in each instance as to selection or retention, shall be in the discretion and judgment of the Administration of the District. Such action by the District is necessary, for example:

- (1) In the case of § 8 supplemental education programs, to enable the District to carry out specialized staff training which is essential to the success of the programs, and to provide the related continuity of staff assignment which is essential both to the success and the efficient execution of such programs.
- (2) In the case of magnet schools and alternative programs, to insure that they have the characteristics (including staff quality, program quality, teacher integration and stability) capable of attracting sufficient student applications to achieve the required minority/white enrollment compositions, as further described in § C.5.k.
- (3) to achieve the remedial objectives of the Employment Affirmative Action Plan as set forth in Part E, infra.

c. Consequently, the Court finds that it may be necessary for the District to alter its policies, practices and/or the requirements of Article XII ("General Employment Practices") of the Professional Agreement between the District and the Rockford Education

Association, July 1, 1989 through June 30, 1991, and as such may be later modified or amended.

In particular, with respect to the alternative programs, the magnet schools, and those schools engaged in the delivery of programs selected under § C.8, the Court hereby orders the District to take all steps necessary (including without limitation as related to posting and filling of vacancies, filling summer positions, voluntary and involuntary staff assignments, staff reductions and selection of staff) for the purpose of opening positions for, selecting, training and retaining those staff who in the judgment of the Administration of the District are best trained for, and most capable of, providing the programs required herein. The Court recognizes that such action by the District may require the District to abrogate, temporarily, its previously established practice, under District policy or labor agreements; provided, however, that nothing expressed herein shall be deemed to relieve the District of any legal requirements to negotiate the impact of its actions with the Rockford Education Association. The District shall, however, be permitted to implement the requirements of this Order while engaging in the impact negotiations which may be required by law or the terms of any contractual responsibility of the District. Any remedies of the District or its employees or the Rockford Education Association shall be subject to enforcement wholly and solely by this Court, consistent with this Order.

C. ELEMENTARY SCHOOLS

The following §§ C.1 through C.11 correspond to Part III, Paragraphs C.1 through C.11 of the July 1989 First Interim Order. For each Section, *the 1989 provisions are set forth in italics for identification purposes*. The 1989 provisions are incorporated into this Order,

and are fully operative provisions of this Order, except as deletions or modifications of the 1989 language are explicitly shown herein.

1. **Elementary Facilities.** *For the duration of this Order, the following elementary schools shall remain operational, subject to the other provisions of this § C.1:*

<i>Barbour</i>	<i>King</i>
<i>Church</i>	<i>Lathrop</i>
<i>Dennis</i>	<i>McIntosh</i>
<i>Ellis</i>	<i>Stiles</i>
<i>Haskell</i>	<i>Washington</i>

a. The District will construct by September 1992 a new building to serve the Church Elementary School attendance area. The building will be planned for approximately 500 students, with a construction cost estimated as of April 1989 to be \$3.6 million. Rather than demolish the existing Church building and rebuild on the same site, a nearby location will be established by agreement of the parties or under § G.7.a, so that Church need not be closed during the construction process. During the construction process, the District will continue to maintain the existing Church building in a clean and serviceable condition. When the new building is ready, the District will either retain the old building for District use, or sell or lease it giving priority to economically feasible community-service use; provided, however, that such alternate use is at least equally beneficial to the District, considering all factors, including receipt of tax revenues for a proprietary use of said facility.

b. The Garrison school building, beginning with the 1991-92 school year, will be designated as the North area early childhood center, with a full complement of services for pre-kindergarten and kindergarten age children, including but not limited to a program for at-risk pre-school age children. Garrison will also remain the center for staff development and become the Parent Center serving the North area. When the Roosevelt School has been rehabilitated, the District may move these programs to Roosevelt and close and retain Garrison.

c. The District has considered the present and the potential utilization of elementary facilities of the District, and believes that it is possible that the elementary facilities of the Southwest Quadrant will eventually be underutilized because of:

- (1) the voluntary transfer policy of the district for integration purposes;
- (2) the location of alternative programs at various sites as integrative devices;
- (3) the creation of magnet schools in facilities previously not used by the district and the movement of neighborhood students thereto;
- (4) the building of a new Church School facility;
- (5) demographic projections of student mobility in the District.

If at some future time such underutilization has occurred and will continue, the Board of Education may undertake (subject to the provisions set forth hereinafter) to close, if necessary for considerations of fiscal necessity, underutilized elementary facilities in the District.

However, such decision shall be conditioned upon the following:

- (1) that the District, in light of underutilization of such an elementary facility and in light of the objectives of this Order, has appropriately considered such matters as:
 - (a) the relocation of alternative programs to further integrate such a school;
 - (b) other methods of integrating such a school, such as a Parent Choice Plan;
 - (c) other uses of the excess space which are consistent with this Order, such as supplemental education programs under § C.8 or facilities equalization under § C.10.1.f; and
 - (d) the effect of closing such an elementary facility upon the present and future racial concentration of other contiguous schools scheduled to remain open.
- (2) that the District has adopted and presented to the Court a comprehensive study of the foregoing factors, has considered alternatives to school closing, and has demonstrated the appropriateness of its school closing decision in light of the provisions of this Order and based on generally accepted school accounting procedures and other educational criteria.

In the event the District determines to effect such a closing, the plaintiffs may challenge such a decision to close a school by proper petition.

d. The District will, by September 1992, build ten additional classrooms onto Riverdahl School, and reopen that school. The operation of Rock River School will

be continued in order to provide additional space to accommodate program and activity components of § C.8. programs. An early childhood education program will be established in the new Riverdahl School.

e. The District will retain the Kennedy School building, which is closed, for possible future use.

f. During the implementation of this Order, the parties, the Monitor and the Court will continue to monitor the enrollment of elementary schools to identify actual or clearly foreseeable instances of persistent over-capacity enrollment in relation to the space needs of each site for all purposes including implementation of this Order. The District will evaluate alternative methods of alleviating such over-capacity enrollment, including the Magnet schools and alternative programs to be established under this Order and a systemwide choice enrollment plan. All alternatives will be evaluated in terms of how they contribute to, or potentially impede, the execution of this Order and the achievement of the objectives of this Order. The Defendant, Plaintiffs and Monitor should further examine whether there is a need for a new and/or additional school. Ultimately, if the appropriate solution cannot be determined by agreement of the parties and the Monitor, the matter may be submitted to the Court for determination under § G.7.a in accordance with the criteria articulated in this subsection.

- (1) To provide needed capacity east of the River, the District shall re-acquire and rehabilitate Marsh School, and open the school for 1991-92.

2. Grade Alignments. *The District shall avoid 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 unless the District shows compelling need for a different arrangement at a particular school, based upon space availability and not upon financial efficiency.



3 Alternative Programs and Within-School Integration. To preserve existing desegregation, the District shall locate elementary alternative programs in the Southwest Quadrant schools with high residential minority concentrations, as identified below. At least 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, unless otherwise specified in this Order. In addition, the following steps shall also be taken:

- a. Each of the alternative programs operated by the District (including GIT, CASS, Arts Alternative, CAPA, Gifted, Academics Plus, Montessori) will have from 30% to 50% minority enrollment. In programs having less than 30% minority enrollment, all available spaces will be filled with minority students until the 30% threshold is achieved. In programs having more than 50% minority enrollment, the opposite procedure will be followed. For alternative programs not within the required composition range, class sizes which are below 85% of the relevant maximum class sizes established by collective

bargaining agreement will be increased to that level to enable enrollment of additional students. When a new or expanded alternative program is established, the foregoing procedure will be followed if applicable. In alternative programs that are within the 30-50% minority enrollment range, future enrollment will be on a matched basis to insure that the program composition continues to fall in the required range.

b. For the elementary gifted program, for school year 1990-91 in lieu of the foregoing provision, the District will enroll all eligible minority applicants, will reserve for such applicants 15% of all entry level positions, and will permit all minority children in the third grade of the pilot gifted program to enroll in the fourth grade of the regular gifted program. To increase minority enrollment in the program for subsequent years, while retaining its educational character, the District will exercise its discretion under the applicable laws and regulations to devise recruitment and admission procedures and criteria which enable the District to achieve 30% minority enrollment in the program as a whole.

c. Within 30 days after entry of this Order, the District will submit to the Monitor and the Court a Plan for fulfillment of subparagraphs (a) and (b) with respect to school year 1991-92. Approval of the plan under § G.7.a is required..

d. With respect to the elementary Montessori program, in achieving the required 30% minority enrollment care will be taken by the District not to enroll children at a level which is inappropriate given the sequential nature of the Montessori curriculum.

e. Minimum academic achievement criteria will not be used for enrollment in any Alternative Program other than the Gifted Program.

f. The District will conduct an active program of recruitment to insure that there are sufficient applicants for each program for each year to enable the applicable integration requirements to be met and maintained.

4. **Transportation and Voluntary Movement.** *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.*

a. For the purpose of uniform implementation, "six blocks" is hereby defined as one-half mile.

b. As soon as possible during the 1990-91 school year, the District will develop or acquire the capacity for computerized transportation planning and modeling. The District will conduct studies and implement changes designed to provide the same level of transportation to students but at reduced cost or with shorter transportation times. (This provision does not preclude the District from increasing or decreasing the amount of transportation provided to students.)

c. The District will commission a qualified transportation consultant to conduct an equity study of the District's present transportation arrangements. This study will examine whether similar transportation services are provided to students similarly situated across the District. The consultant will submit within 90 days after entry of this Order a written report of data, findings and recommendations to the Superintendent. Without limiting the generality of the study, any disparities in transportation services which

adversely affect minority students will be specified and recommendations presented for corrective action. The District will promptly implement the corrective actions recommended, or other actions having at least the same corrective effect.



5. Washington Magnet School. *The District shall 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. This amount shall be adjusted annually for cost increases subsequent to 1989-90.*

b. *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.*

c. *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.*

d. *All enrollment at Washington school shall be on a voluntary basis, with transportation provided for those students who reside more than six blocks from the school.*

e. The District has not completed, by September 1990, implementation of subparagraphs (a) - (d). Accordingly, more specific provisions are set forth below to insure that full compliance is achieved during the 1990-91 school year, and that Washington becomes by September 1991 an integrated and successful full-site magnet school.

f. The Arts Alternative program will be returned to Ellis School for the 1991-92 and subsequent school years.

g. The portion of the Gifted program presently located at Washington will be retained at Washington School.

h. Development and implementation of the full-site magnet school for Washington shall be carried forward through the following steps, which shall be executed on a schedule approved under § G.7.b:

Determine theme and program outline.

Determine program refinements and staffing needs.

Finish development of parent information and recruitment plans.

Initiate systemwide recruitment for Fall 1991 enrollment.

Assess recruitment results. Conduct supplemental recruitment as needed.

 The District will engage a magnet school consultant to assure the successful implementation of Washington and the other magnet schools provided for in this Order.

i. During school year 1990-91, the students presently enrolled in the Washington magnet program will continue to receive supplemental funding in the amount of at least \$350 per student and will receive an educational program comparable to or leading toward the educational program which will be offered in 1991 in the magnet school.

 White students in schools having less than 28% minority enrollment will be offered, commencing immediately, the opportunity to enroll in the magnet program at Washington for the balance of school year 1990-91.

k. In order to assure that the magnet school at Washington has the characteristics (including staff quality, program quality, teacher integration and stability) capable of attracting sufficient student applications to achieve a 50-50 minority/white enrollment composition, all teaching staff at Washington shall be selected in the manner provided in § B.11. This provision shall be effective immediately with respect to new appointments. After the educational and staffing aspects of the magnet school have been fully defined, the teaching positions at Washington which have not already been filled in the manner described in the first sentence shall be vacated and filled in that manner (effective September 1991).

6. Second Magnet School. *The District shall establish a second magnet school in the Southwest Quadrant during the 1991-92 school year, such program to be established and funded under the same guidelines found in Section C.5, above.*

a. The second magnet school in the Southwest Quadrant shall be established at Wilson to open in September 1992. The educational focus will be science and technology. The school will also have an extended school year of 200 school days and will require parent participation.

b. Enrollment in the Wilson Science and Technology Academy will be by citywide lottery with a required racial composition of 50% minority/white. Enrollment in the magnet school shall be not less than 600 students. Additional characteristics of the school, calculated to make it effective in both educational and integration terms, shall be established by the Superintendent.

c. During the 1991-92 school year, the program, staffing, recruitment and other implementation of Wilson Magnet School shall be carried out on a schedule

~~Washington and Wilson Magnet Schools~~ by date
~~Washington and Wilson Magnet Schools~~ improvements
~~Washington and Wilson Magnet Schools~~ I, II, and
III of the ~~Washington and Wilson Magnet Schools~~ of no less
than \$150,000. in ~~Washington and Wilson Magnet Schools~~ promptly and
assigned the responsibility for developing ~~Washington and Wilson Magnet Schools~~.

d. With respect to Wilson, for the reasons expressed in § G.5.k, teaching staff shall be selected in the manner provided in § B.11.

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e. As also addressed in § D.4 hereof, the programs presently located at Wilson will be relocated to Roosevelt prior to the beginning of the 1992-93 school year. The District will make necessary physical repairs and improvements to the Roosevelt building in such amount as is determined under § G.7.b to be necessary to render the Roosevelt building serviceable.

6A. Third Magnet School. After the Washington and Wilson Magnet Schools are fully implemented and successfully and stably integrated (to be determined as provided in subparagraph (a)), the District will establish a third magnet school under the terms and conditions set forth in subparagraphs (b) through (d).

a. The third magnet school shall be established, and commence recruitment, only after the Court receives and approves the written certification of a student assignment expert selected in accordance with § G.4 (or an equivalent recommendation of the Monitor), providing detailed assurances that the Washington and Wilson Magnet Schools have been successfully established; that integrated enrollments of 50% white/minority have been established at each school; that such integrated enrollments are

stable; and that the maintenance of such integrated enrollments at those magnet schools will not be adversely affected by the establishment of the third magnet school.

b. A third magnet school shall be developed by the District during the 1992-93 school year and opened in September 1993, subject to the provisions of subparagraph (a). The educational focus of this school is yet to be determined. Enrollment in the third magnet school will be by citywide lottery, with a required racial balance of 50% minority/white. To insure that the required composition is achieved, enrollment shall be on a matched basis (i.e., one white student may be admitted for each minority student who is admitted).

 c. The location of the third magnet school shall be at the new Church School building.

d. Teaching staff at the third magnet school, for the reasons expressed in § C.5.k, shall be selected in the manner provided in § B.11.

7. Core Program Equity. *For the duration of this Order the District 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.*

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c. To conduct Chapter I programs on the basis in terms of classroom usage as available during the 1988-89 school year, provided student enrollment in such programs in future years is consistent with such enrollment for the 1988-89 school year, and subject to § C.8.m.

d. To provide the alternative educational programs described in Part III, § 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, 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.

f. Subparagraph (d) above does not preclude the District from establishing a standard for Alternative Program class sizes different than 85% of the systemwide maximum class size, provided the District demonstrates that such modification will not have (and after implementation, has not had) any adverse impact on the integration achieved by the Alternative Programs.



8.) Supplemental Programs for Disadvantaged Minority Students. The District shall 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 I and Federal and State funds for early childhood education, the District shall fund the supplemental educational programs provided herein. Such funds shall be budgeted and expended by the District according to this Order.

b. Until otherwise agreed by the parties or ordered by the Court, the following schools are identified as Community Academies which will receive the supplemental programs under § C.8.

Barbour
Beyer
Church
Dennis
Ellis
Haskell
King
Kishwaukee
Lathrop
McIntosh
Riverdahl
Rock River
Stiles
Summerdale

The school at which the bilingual program is located.

c. The programs shall be directed to the "target" students in these Community Academies (the student enrollment of each school excluding alternative programs other than GIT and CASS). The quantity and intensity of the programs from school to school shall be strongly weighted to provide substantially higher levels of programming in schools with greater concentrations of minority enrollment, of low-income students and of low academic achievement (all of which shall be determined excluding alternative program students). The programs shall be implemented within each Community Academy for the benefit of the target students and not the alternative program students, except where the District demonstrates it is not possible to do so.

d. In 1990-91 and subsequent school years, the basic level of supplemental funding provided under this paragraph shall be an annual amount equal to \$2.0 million 1990-91 dollars adjusted for subsequent cost increases; provided, that up to \$250,000

annually of this amount may be directed toward funding of secondary programs and activities as provided in § D.6. hereof. This funding shall come from "regular District funds" (i.e., funds administered by the Board the use of which is not earmarked by state or federal law for special programs or populations such as low-income, special education, bilingual, at-risk or preschool students). Adequacy of this level of funding should be examined periodically by the parties and the Monitor.

e. To avoid future dispute, "supplemental educational programs" is hereby further defined, superseding the Court's decision of June 18, 1990, to mean programs or resources which:

- (1) are not being provided for the implementation of any other provision of this Order; and
- (2) are direct school-level instructional or staff development expenses as opposed to transportation or Central Office planning and administration.

f. In addition, to preserve the supplemental and remedial character of these § 8 funds, the District:

- (1) will be prohibited from instituting § C.8 programs outside the target group of schools without a concomitant increase in § C.8 funding within the target schools, provided that exceptions to this subparagraph (1) may be considered under § G.7.a, subject to the limitation that no such exception may diminish the supplemental nature and extent of § C.8 funding for the target schools;

- (2) will provide these § C.8 funds in addition to an equitably distributed base of regular District funds; and,
- (3) while it may respond to the needs of particular schools from time to time, will insure that the aggregate of such decisions shall be equitably distributed systemwide, and in the aggregate all elementary "regular District funds" other than expenditures required under this Order shall be allocated in approximately equal per capita amounts to elementary students across the District.

g. For school years 1991-92 through 1993-94, the amount specified above will be devoted in the Community Academies to the programs below, which have been identified from educational research as being among the most innovative and effective programs that can be found nationally for increasing the achievement of disadvantaged minority students:

- (1) Individual or small group tutoring programs, such as the Reading Recovery program.
- (2) Combining tutoring with class size reduction to approximately 15 students for just language arts/reading instruction.
- (3) Early childhood education for ages 3-4.
- (4) Full-day kindergarten.
- (5) Continuous progress programs in reading and mathematics.
- (6) Curriculum programs aimed at complex thinking skills, such as the HOTS (Higher Order Thinking Skills) program.

- (7) Cooperative learning across curriculum topics and including team-based individualization in a cooperative learning environment. This relates particularly to upper elementary grades.
- (8) Peer or volunteer tutoring.
- (9) Computer-assisted instruction.
- (10) Intensive staff development concerning all of the foregoing programs.
- (11) The Comer program of staff development for teachers.
- (12) Other programs which are recommended by the consultant discussed below or by the Monitor, and which have been shown by credible academic research to be comparably effective in increasing the achievement of disadvantaged minority students.

j. The Superintendent shall develop, with the assistance of a consultant experienced in designing and implementing the programs listed above, and within 60 days of the entry of this Order, an overall plan for implementing these programs in the Community Academy schools, and submit such plan for approval under § G.7.a. This overall plan shall provide for development of individual school plans based on a school-by-school needs assessment. Throughout the development and implementation of this and subsequent § C.8 plans and programs the District will actively work with that consultant, with the staff and parents in each school and with the plaintiffs. The District will also establish (with consultant assistance) a rigorous evaluation program and a process for continuous monitoring and updating of the implementation of these programs.

k. The programs listed above will be implemented in the Community Academies as rapidly as is consistent with good professional practice, and in any event by

the beginning of school year 1991-92, with any necessary staff development to occur before that time (during the summer of 1991 if necessary). This Order recognizes that not all of the \$2 million allocation of funds for school year 1990-91 has been spent in the current school year. The amount of such unspent funds (estimated to be at least \$750,000) will be promptly determined by counsel for the parties and such funds will be carried over and spent in the following year, in addition to the amount otherwise allocable for that year. Any unspent § C.8 funds shall also be carried over in subsequent years, and the parties will cooperate in requesting from the Court any Orders that are necessary to enable such carry-overs of unspent funds.

l. The particular uses of § C.8 supplemental funds initiated in school year 1989-90 which are continuing in school year 1990-91 but are not included in the new list of § C.8 programs (class size reduction, elimination of combination classes, teacher aides and assistant principals) will be discontinued in favor of the programs listed in subparagraph (g) above.

m. At the same time that the District is designing its implementation plan for this § C.8, the District will revise the manner in which it now uses federal ECLA Chapter 1 funds. For the 1991-92 school year and thereafter, the District will devote that portion of its Chapter 1 funds which is allocated to the Community Academy schools to the same programs being carried out under this § C.8; provided, that in making these revisions there shall be no reduction in the availability of or proportional amount of Chapter 1 funds allocated to the Community Academy schools.

9. **Voluntary Transfers.** *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 the systemwide minority proportion to any school containing less than the systemwide minority proportion; and*

(2) *For any non-minority student from any school containing less than the systemwide minority proportion to any school containing more than the systemwide minority proportion.*

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

c. *The District shall establish a system to monitor all student 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.*

d. *Consistent with § 9.b, the District will establish as priority receiving schools for the recruitment and placement of voluntary transfers all schools with less than 15% minority enrollment, with the following temporary exceptions:*

- (1) Cherry Valley/White Swan and Froberg/New Milford, which presently have inadequate space.
- (2) Bloom and Welsh, because all available spaces for minority students will be used to integrate the Academics Plus programs, rather than for regular voluntary transfers.

These exceptions shall be reviewed annually in accordance with § 9.j below.

e. In addition, consistent with subparagraph 9.b, the District will take the following steps to create additional space for integrative transfers in schools in the eastern portion of the District:

- (1) For the 1990-91 school year, complete the internal construction project at Brookview to create two or three additional rooms, at a cost of \$65,000.
- (2) Re-acquire and re-open Marsh School.

f. To serve as educational incentives for integrative voluntary transfers, establish full-day kindergarten programs as set forth below. All such programs shall have enrollment through a city-wide lottery process, and shall have compositions of approximately 50% minority/50% majority children. The estimated cost per full-day kindergarten class is approximately \$35,000.

- (1) For the 1990-91 school year, one room at Brookview and two rooms at Ellis.
- (2) For the 1991-92 school year, in addition, two rooms each at schools which are selected by the District, and approved under § G.7.a, under

the criterion that the sites selected shall be those where the programs will most effectively contribute to integration of school enrollments.

g. An additional GIT program serving Grades 4-6 shall be established at a site selected under the process set forth in the preceding subsection. These classes are to be integrated in accordance with the provisions applicable to alternative programs, with enrollment to occur through a city-wide lottery process. The estimated cost of this program is \$90,000.

h. An integrated school is defined as one in which the minority proportion is within 15% of the systemwide minority proportion, and schools which are not integrated by that standard are to receive highest priority as receiving schools for voluntary transfers.

Nevertheless, the minimum-minority definition of an integrated school does not operate as a cap on minority enrollment or as a determination that the school has reached an adequate level of minority enrollment. Rather, the definition identifies the minimum level at which a school may be considered integrated, and beyond that level the District will continue its efforts to attract additional minority enrollment into the school, tending toward the systemwide minority average and consistent with stability of integration.

i. Any minority student who applies for a voluntary transfer which is in accordance with subparagraph (a) of this section shall be accommodated, according to the student's priority of school choices, and if such schools are not available for transfer the student shall be counseled concerning other transfer opportunities. The District will include in its Progress Reports an accounting of transfer applications and placements, including an analysis of how many minority transfer applicants received their first/second/third choices; the number of minority applications and acceptances/rejections at each receiving school;

and an explanation of any instances in which a minority student requested a transfer and did not receive one of his/her first three choices.

j. As soon as the official school racial composition data is available in the Fall of each year, the District will initiate a review and planning process for transfers for the next subsequent school year. This shall lead to a comprehensive report, presented in a Progress Report between November and January. (In the current school year, this report shall be presented 30 days after entry of this Order.) This report shall:

- (1) compare voluntary transfer methods and results for that school year with those for the preceding year or years;
- (2) analyze how many transfer applicants received their first/second/third choices, the application and acceptance/rejection data for each receiving school, and whether there were any minority students who requested transfers and did not obtain one of their first three choices;
- (3) analyze the student movement at each school in terms of resident/non-resident children; the sending attendance areas of the non-resident children; transfers-out of resident children from that attendance area to other schools, and similar matters. All of these analyses shall be broken down by the race of the students. (In school year 1990-91 these analyses need only be performed to the extent feasible.)
- (4) analyze transfers into and out of the school system, by sending/receiving school and by race, including transfer activity between the District and private schools located in the Rockford area. (The District shall report to the Court any instance in which a private

school fails to cooperate with the District in providing enrollment information.) (In school year 1990-91 these analyses need only be performed to the extent feasible.)

- (5) present for each school having less than 25% minority enrollment a detailed, school-specific plan for further integration, including specific steps and timelines for further integration of the school. The plan for each school shall require approval under § G.7.b.

k. In the Fall of 1991, in lieu of the preceding subparagraph, the District will prepare a special report to the Court concerning the effectiveness of the efforts since July 1989 to achieve integration by voluntary transfers. This report shall be submitted to the Court not later than December 1, 1991. This report shall:

- (1) provide the analyses and plans required annually by the preceding subparagraph.
- (2) present projections for the total enrollment and racial composition of all elementary schools for school years 1992-93 through 1994-95, taking into account the effect of the magnet schools and all other enrollment integration measures contemplated by this Order; and
- (3) be accompanied by a current systemwide demographic analysis and projection prepared by the District's demographic consultant.

l. By October 1, 1993, all elementary schools in the District shall have minority enrollment within 15 percentage points of the systemwide minority proportion, achieved by methods which comport with equitable allocation of burdens and are non-discriminatory. In addition to voluntary student assignment techniques (such as voluntary

transfers, magnet schools and alternative programs), the District may also make boundary adjustments between adjoining schools where such adjustments will achieve the required range of minority enrollment in one or more schools. In sufficient time for September 1994 implementation, the District shall make such boundary adjustments with respect to schools which have not achieved the required range of minority enrollment. However, this section shall not require mandatory assignment of students between non-adjoining schools.

m. Any proposed relocation of the bilingual program shall be reported to the Court with an analysis of how the relocation affects the execution of the provisions of this Order, and any such relocation shall require approval under § G.7.a.

n. To further implement § 9.c, the District will develop a system for reporting to the Superintendent each student transfer that does not comply with the racial/ethnic criteria established in this Order, with an individualized written hardship justification provided by the principal and the Central Office for each such transfer. A statistical accounting of such transfers shall be included in Progress Reports, including sending/receiving school, race, and a categorization of reasons. The individualized justifications shall be held in a confidential file, available for inspection by plaintiffs' counsel and/or by the Monitor.

o. Pursuant to §§ C.9 and B.1 of this Order, the District will provide such educational and social support services to minority voluntary transfer students as are necessary to insure their educational and social integration into the transfer receiving schools. However, to preserve the supplemental character of the Community Academy funding under § C.8, resources provided under this subsection shall be directed only to transfer students, and not to receiving schools as a whole, unless otherwise approved under § G.7.b.



10. Equity of Facilities, Equipment and Materials. The District shall insure that the Southwest Quadrant schools are of the same physical quality, including educational equipment, materials and supplies, 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, materials and supplies are also included.

b. 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.

c. The District shall take all steps necessary to achieve by the opening of the 1990-91 school year equity of facilities and educational equipment.

d. 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.

The foregoing provisions of § C.10 shall remain in effect until further order of Court. The deadline dates established in those 1989 Order provisions are not modified by this 1991 Order. In order for the District to fulfill its responsibility to insure that elementary schools in the Southwest Quadrant are of the same physical quality, including equipment, materials

and supplies, as other elementary schools in the District and to improve the level of compliance achieved under the previous Interim Order, the following additional steps shall be taken:

10.1. **Facilities.** The District shall take all steps necessary to insure that physical facilities are equitable across the District. This does not assume that all District schools will be brought to perfect condition, but rather that physical facilities from school to school shall not reflect any disparities which are adverse to minority students or to schools located in minority neighborhoods.

a. The District shall retain, in accordance with § G.4, an independent consultant who has expertise in evaluation of educational physical facilities.

b. The consultant will develop and propose comprehensive criteria for evaluating the physical facilities of the District's elementary schools. Reference points for such criteria include:

- (1) Illinois, North Central Association and other applicable requirements for school buildings.
- (2) Facilities standards promulgated by the Council of Educational Facilities Planners.
- (3) Criteria established by the Educational Facilities Laboratory (Dallas), and other private sector organizations.
- (4) The District's Fall 1989 Building Inspection Checklist and January 1990 list of maintenance categories. (In referencing the January 1990 list, the categories must be expanded so that each one is comprehensive instead of including only very limited current projects.)

(5) The criteria shall not be limited to maintenance but shall include educational function and general building quality and climate considerations, such as:

- (a) Instructional sq. ft. per student
- (b) Laboratories and other educational special purpose rooms
- (c) Library facilities
- (d) Auditoriums and other group activity spaces
- (e) Space for ancillary staff (e.g., counselors)
- (f) Restrooms
- (g) Lunchroom facilities
- (h) Physical education facilities (inside and out)
- (i) Furniture
- (j) Carpeting
- (k) Quantity and quality of chalkboards/tackboards
- (l) Lighting: footcandles at desktops
- (m) HVAC
- (n) Sound control
- (o) Light control (shades or blinds)
- (p) Intercommunication capability
- (q) Spaces for faculty use
- (r) Office facilities
- (s) Esthetics
- (t) External campus and landscaping

(6) In developing the criteria, while the age of a building per se will not be considered, other physical characteristics of buildings will be considered even if related to age.

c. The parties and the Monitor will consult concerning the evaluation criteria proposed by the consultant and a final set of criteria to be used will be established under § G.7.b.

d. The consultant will review all available written data on conditions of District elementary physical facilities, including without limitation:

- (1) 1988 Report of data studied by Buildings Subcommittee of Citizens Committee

- (2) April 1989 District Building Renovation Survey**
- (3) Fall 1989 Building Inspection Checklists**
- (4) January 1990 and subsequent District reports of work completed or planned**

e. Within 90 days after entry of this Order, the consulting expert shall perform an on-site physical audit of all elementary facilities, in relation to the identified criteria. The consultant will then prepare written reports as follows:

- (1) A detailed condition report on each building.**
- (2) For each building, a list of instances in which the building is deficient or contains undesirable conditions with respect to the identified criteria, prioritizing those items that are emergencies, otherwise remediable (see January 1990 Report page 3 for possible priority sub-categories), or not remediable.**
- (3) A detailed comparison of Southwest and predominantly minority schools vs. the remaining schools, in terms of conformance with the identified criteria and relative priority of non-conforming items. ("Predominantly minority" refers to any school with minority enrollment more than 15% above the systemwide average.)**

f. Within 120 days, the consulting expert (with District staff) will prepare a plan for making improvements (if any) necessary for Southwest elementary schools and predominantly minority elementary schools, to achieve equity with the remaining elementary schools. This should include review of the January 1990 Report and more recent District

activities to determine the extent to which necessary work has already been scheduled with appropriate priorities. The District will implement the Plan as follows:

- (1) Emergency items will be performed promptly in all schools.
- (2) Next, all improvements will be made in Southwest and predominantly minority elementary schools which are necessary to achieve equity as between the Southwest/predominantly minority and the remaining schools. These shall be completed before the commencement of the 1991-92 school year. This date may be extended for selected improvements which financially and/or practically cannot be completed by that date, provided with respect to such items the District will file a written explanation and plaintiffs reserve the right to object to such a deferral.
- (3) Next, any additional improvements will be made which are necessary to enable each school building to be educationally effective.
- (4) The Plan may, to the extent the District chooses, provide for subsequent further improvements the District deems desirable, consistent with equity.

g. The consulting expert (with District staff) will also prepare, and the District shall implement after approval under § G.7.b, a prospective facilities management process, and an annual physical inspection, updating and reporting process which:

- (1) Insures that school physical conditions do not reflect any pattern in terms of the race of the students or the neighborhood.

- (2) Insures that additional improvements will be made which are necessary to keep each school building educationally effective.
- (3) Provides comprehensive and detailed reports to the Court demonstrating that equity of physical facilities is being maintained among Rockford elementary schools.

h. The process reflected in (a)-(g) will be conducted for middle and high school facilities on a phased basis with the process for elementary schools, but in any event will be completed before the commencement of the 1992-93 school year. With respect to middle and high schools, the criterion shall be equity among all schools at each level, rather than equity on a Southwest/non-Southwest basis.

10.2 Equipment, Materials and Supplies. The District shall take all steps necessary to insure that all other physical resources within the elementary schools, not encompassed with § 10.1, are equitable across the District. This shall include equipment, supplies, textbooks and library books, educational materials and all similar resources. For convenience these are referred to herein as "EM&S".

a. "Equity" in this respect shall mean that (excluding supplemental programs for disadvantaged students) each Southwest elementary school, and each predominantly minority elementary school, has the same overall quantity and quality of educationally relevant EM&S as the remaining schools.

- (1) The exclusion of supplemental programs for disadvantaged students means that for purposes of this subsection C.10.2, the reckoning of equity will exclude EM&S which are available to a school as a result of:

- (a) state or federal funding earmarked for low-income, at-risk or other disadvantaged students, or
 - (b) programs implemented under § C.8 of this Order.
- (2) Quantity and quality shall be determined according to objective standards applied systemwide, rather than by whether "need" discerned at the school level has been fulfilled.
- (3) "Educationally relevant" means EM&S which are usable, actually used and educationally appropriate both to the program in the school and to the District's uniform educational objectives applicable to all students.
- (4) This provision does not require that every school should have identical EM&S. It is assumed that local variations will exist based on the particular program in a school, teaching styles, etc. However, such variations shall not result in EM&S disparities from school to school which are adverse to minority students or to schools located in minority neighborhoods.
- (5) This provision shall not be applicable to the comparative curriculum content or achievement level of EM&S in various schools, which is instead encompassed in § B.6 of this Order. However, the implementation of these two sections of the Order should be coordinated.

b. The District shall retain, in accordance with § G.4, an independent consultant who has expertise in this type of evaluation of educational equipment, materials and supplies.

c. The consultant will develop and propose comprehensive criteria for evaluating the quantity, quality and educational relevance of EM&S in the District's elementary schools. Reference points for such criteria include:

- (1) Illinois, North Central and other applicable requirements for school buildings.
- (2) Standards promulgated by relevant professional organizations.
- (3) Criteria established by any appropriate private sector organizations.
- (4) Such criteria shall include standards for comparing schools to one another. The criteria shall also include standards for comparing schools to a systemwide minimum level or other external norm.
- (5) The consultant will give consideration in formulating the criteria to depreciation based on a realistic useful life for the EM&S in the particular school, and to discounting EM&S which is not educationally relevant, or is only partially so.

d. The parties and the Monitor will consult concerning the evaluation criteria proposed by the consultant and a final set of criteria to be used will be established under § G.7.b.

e. The consultant will review all available written data on on EM&S in the District elementary schools, including without limitation:

(1) The January 1990 Report and other data on provision of supplemental EM&S during the 1989-90 school year.

(2) District allocation formulas

f. Within 90 days after entry of this Order, the consulting expert shall perform an on-site physical audit of the EM&S in all elementary schools, in relation to the identified criteria. The consultant will then prepare written reports as follows:

(1) A detailed report on the quantity, quality and educational relevance of the EM&S in each school.

(2) For each building, a list of instances in which the building is deficient or contains undesirable conditions with respect to the identified criteria, prioritizing those items on an appropriate scale.

(3) A detailed comparison of Southwest and predominantly minority schools vs. the remaining schools, in terms of conformance with the identified criteria and relative priority of non-conforming items.

g. Within 120 days, the consulting expert (with District staff) will prepare a plan for making improvements (if any) necessary for Southwest and predominantly minority elementary schools to achieve EM&S equity with the remaining schools.

(1) The plan will be implemented, and all such improvements will be completed, before the commencement of the 1991-92 school year.

(2) The Plan may, to the extent the District chooses, provide for further improvements the District deems desirable, consistent with equity.

h. The consulting expert (with District staff) will also prepare, and the District shall implement after approval under § G.7.b, a prospective allocation process, and an annual physical inspection, updating and reporting process, which will:

- (1) Insure that EM&S from school to school do not reflect any pattern in terms of the race of the students or the neighborhood.
- (2) Insure that additional improvements will be made which are necessary to keep each school building educationally effective.
- (3) Provide comprehensive and detailed reports to the Court demonstrating that equity of EM&S is being maintained among Rockford elementary schools.

i. The process reflected in (a)-(h) will be conducted for middle and high school facilities on a phased basis with the process for elementary schools, but in any event will be completed before the commencement of the 1992-93 school year. With respect to middle and high schools, the criterion shall be equity among all schools at each level, rather than equity on a Southwest/non-Southwest basis.

11. **Funding** *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 the 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 those programs specified in § C.8.

a. The District's responsibility for funding the activities required by this Order, and the District's discretion to determine what sources of funds shall be used for that purpose, as set forth in the first two sentences of § 11, relate solely to the manner of funding of the requirements of the Order. The first two sentences do not confer any substantive discretion on the District concerning the manner or extent of fulfillment of any other provision of this Order, nor provide any basis on which any obligation of the District under the Order may be altered, diminished, or excused.

b. All elementary-level funding and resources, other than (a) expenditures required under this 1991 Order and (b) earmarked federal and state grants, shall be allocated in approximately equal per capita amounts to preserve the supplemental character of the programs specified in (a) and (b).

D. SECONDARY SCHOOLS

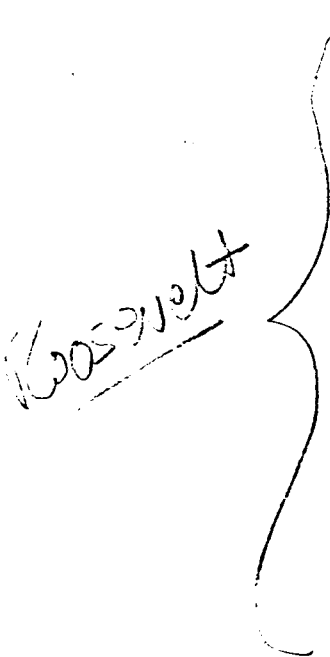
1. Secondary Schools: West School. Except as expressly provided in this Order the parties are not in agreement with respect to arrangements at the middle school and high school levels of the Rockford school system. Among other matters, Paragraph III.B.1 of the 1989 Order (permitting the West building to be a middle school for one year) expired at the end of the 1989-90 school year, and the parties are not in agreement as to the use of the West School building for school years 1990-91 and thereafter. Plaintiffs continue to maintain that West should be reopened as a high school because it was a residentially integrated school which the District should not have closed, and that the District's present

alignment of secondary schools places unwarranted disproportionate burdens upon the minority students of the District. The District continues to maintain that its present alignment of secondary schools is proper. However, judicial consideration of these issues will be governed by the duration provision of this Order (§ G.10).

2. **High School Periods.** The reduction of the high school day from seven periods to six, which began in the 1989-90 school year, has had adverse educational and integrative consequences. For example, it has diminished the effectiveness of integrative programs at Auburn High School, and created crowded conditions in the high schools. Accordingly, for 1990-91 and subsequent years students in Grades 9-11 will be required to take six course and permitted to take seven, and students in Grade 12 will be required to take five courses and permitted to take six or seven. If the enlarged number of courses is implemented through an optional extended school day, transportation will be provided to students electing the extended day, in the form of a school-to-school "activity bus".

3. **Vocational Education.** The Superintendent shall submit a report to the Court, within 120 days after entry of this Order, concerning the nature and extent of vocational education programs to be offered by the District. In that Report, and in any other consideration of vocational education by the District's Board and management staff, special consideration shall be given to the impact of vocational education programs on minority students, and the impact upon such students of any proposed modifications of vocational programs. In the Report, the impact upon minority students of the alternatives considered and the choices made will be expressly articulated.

4. Roosevelt For the duration of this Order the Roosevelt School shall be used to house the following District programs (presently located at Wilson) and such other programs as are determined under § G.7.b:

- 
- 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.

The District will make necessary physical repairs and improvements to the Roosevelt building in such amount as is determined under § G.7.b to be necessary to render the Roosevelt building serviceable.

5. ROTC For the duration of this Order the District ROTC program shall be housed at Auburn High School, unless there is a determination under § G.7.b that the program should be discontinued or relocated to an alternative location.

6. Secondary Schools Curriculum Redesign. Consistent with and in addition to its responsibilities set forth in Section B, and in order to parallel its responsibilities for Supplemental Educational Programs in § C.8 at the elementary grades, the District shall

undertake a plan to develop, implement and evaluate the effectiveness of secondary level programs which will be designed to:

- 
- (a) improve curricula to focus on multicultural aspects of learning;
- (b) improve multicultural experiences for student relationships;
- (c) provide for students:
- (1) alternative school experiences; and
 - (2) school-within-a-school opportunity; and/or,
- (d) provide tutorial support for students, based on need in reading, writing, and mathematics skills, and for assistance with acquiring admission into post secondary educational experiences.

While the planning for the above described programs shall commence by June 15, 1991, the District shall allocate annual expenditures of \$250,000.00 each year for the 1991-92, 1992-93 and 1993-94 school years. During the 1993-94 school year, the parties and the Monitor shall evaluate the effectiveness of the programs, and determine whether said funding and programs shall continue. In the event the determination is made that programs shall be discontinued, the \$250,000 plus any and all annual cost increases shall be reallocated to schools and programs as set forth under C.8.

The sources and uses of funds and the development and execution of programs under § D.6 shall be in accordance with the provisions and policies set forth in § C.6.8 (except for the list of schools in § C.8.b and the list of specific programs in § C.8.i). For example, § B.6 funds shall be drawn from the sources defined in § C.8; shall be supplemental as defined therein; shall be targeted upon minority students and low-income educationally disadvantaged students in a manner comparable to § C.8; shall be planned and

administered in the same manner provided in § C.8; and any ECIA Chapter 1 funds allocated to the secondary level shall (as in § C.8) be devoted to the § D.6 programs in addition to the regular District funds allocated to § D.6 programs.

E. EMPLOYMENT AFFIRMATIVE ACTION

On November 29, 1990, the District voluntarily adopted the Employment Affirmative Action Plan set forth below in Subsections 1-8. Prior to the District's adoption, the plan had been drafted by counsel for the parties.

In addition to the District's November 29 action, plaintiffs have contended (as set forth in the Second Amended Complaint) that an element of the long-term liability on the part of the District is its discrimination in the hiring, retention and working conditions of Black and Hispanic employees at all levels of the school system. While that contention has not yet been judicially resolved, nevertheless the adoption by the District of the plan provides a strong basis for the Court's incorporation of the plan into this interim Order as a remedial measure (without prejudice to the ultimate position of the parties on the merits of these particular issues).

In adopting the plan, the District stated that it "will adopt percentage goals which reflect the available pool of minorities qualified for such jobs in the Rockford standard metropolitan statistical area. Those percentages will be available this Spring when the area's 1990 census data is released." In this Order, as in the District's November 29 document, the specific numerical goals for various workforce categories are left blank. The parties and the Monitor shall jointly address the delineation of appropriate availability measures, and the selection of specific employment goals, and within 90 days of the entry

of this Order a recommendation shall be presented to the Court under § G.7.a as to the specific numerical goals to be inserted in § E.3, and as to whether § E.3 should provide not only for a minority goal, but also for specific Black and Hispanic goals.

In the text of this Part E, there are certain other minor changes from the language adopted by the District on November 29, 1990. These slight variations [shown in brackets in the text of Part E] are an appropriate exercise of the Court's remedial authority, but the bracketed provisions are subject to modification under § G.7.a.

In addition, this Order omits paragraphs 8 and 9 of the District's November 29, 1990 document (which state that the goals are not quotas and that the District does not admit past discriminatory employment practices), and inserts §§ E.8 (Progress Reporting) and E.9 (Annual Review). These are appropriate modifications consistent with the incorporation of the Employment Affirmative Action Plan into this Remedial Order.

1. State Law Duty. All Illinois school districts are obligated by Public Act 86-227, effective January 1, 1990, to develop and implement, by 1991, an affirmative action plan for "recruitment and hiring of minority teachers, other certificated employees and non-certificated employees, including custodians, lunchroom staff and teacher aides." Ill. Rev. Stat. ch. 122, § 10-20.7a.

2. Authority of the District. In addition, the District has the authority, under Illinois law and under the Equal Protection clause of the of the United States Constitution, to adopt, and/or to concur in the entry of this Court Order containing, employment affirmative action measures for the certificated and non-certificated positions at all levels of the school system.

a. The District has determined that it has a sufficient basis for, and a compelling interest in, the adoption and implementation of a remedial affirmative action plan concerning the employment of Blacks and Hispanics by the District at all levels of its work force.

b. The District further determines that the measures set forth below make the greatest practicable use of race-neutral methods such as general recruitment, and race-conscious, non-restrictive methods such as targeted recruitment, and that taken together the measures set forth below constitute a narrowly-tailored remedial scheme, and constitute the least restrictive methodology that has a reasonable possibility of being effective in achieving the affirmative action purposes of this Part E of the Order.

3. Goals. The following goals are adopted for the utilization of Blacks and Hispanics in the District's work force:

a. Among its administrative employees, including both managerial and non-managerial employees as well as school principals, the District has approximately 9.3% minority employees (including ____% Black and ____% Hispanic). The District's goals in this category are for ____% minority employees.

b. In the category of professional employees, the District's teachers and similar professionals are approximately 7.4% minority (including ____% Black and ____% Hispanic). The District's goal in this respect shall be that as many as possible of the teachers hired and retained by the District shall be Black or Hispanic, and that the overall teacher/professional workforce shall be at least ____% minority employees.

c. In the category of clerical support employees, the District presently has approximately 2.8% minority employees (including ____% Black and ____% Hispanic). The District's goals in this category are ____% minority employees.

d. In the category of service occupations (including aides, custodial, food services and crossing guards), the District's employees are approximately 16.0% minority (including ____% Black and ____% Hispanic). The District's goals in this category are ____% minority employees.

4. **Affirmative Action Methods.** The District will take all reasonable steps to increase its levels of minority employment as rapidly as possible to the levels set forth above. Such steps will, at a minimum, include:

a. The District will undertake, on a concerted and continuing basis, a recruitment program for minority teachers and other certificated educational personnel. This should include, without limitation, the following steps:

- (1) District staff should, if practical and within budgetary constraints, establish a personal presence on each appropriate campus at least within the State of Illinois, [or outside the state,] which has a teacher education program and is a potential source of minority employees for the District. This should include contact with placement and minority affairs personnel at those campuses; an effort to identify entry level minority teaching candidates at those institutions and to maintain contact with them throughout their educational career; and an effort to build continuing relationships with such candidates, [including

paid summer internship programs and invitations to them to conduct their student teaching in the Rockford public schools].

- (2) The recruitment plan should also include continuing contacts with teacher education organizations and minority educator organizations, to maximize the assistance which such organizations can provide in identifying and recruiting minority teacher candidates for the District.
- (3) For these purposes, the District will establish a reasonable recruitment budget that allows District personnel to engage in recruitment of teachers [throughout the country, as well as to pay prospective teachers a reimbursement for their visit to the District, if they are contemplating working for the District. The District will also establish an expedited hiring procedure, by which the recruitment personnel will have the ability to present signed contracts to appropriate candidates. Finally, the District will provide incentives such as the payment of relocation costs and the provision of opportunities to earn supplemental compensation].

b. The District will take measures to encourage minorities already in the District's employ to become teachers or otherwise to move to higher job classifications within the school system. Steps to be taken in this respect will include, without limitation, assistance to non-teaching employees in obtaining additional education and/or certifications

necessary for employment as teachers; and the use of qualifying cutoff scores for any non-teaching positions where employment is on the basis of examinations.

c. The District will also seek to establish a partnership with an appropriate college or university to establish an on-site training program for teacher personnel, aimed particularly at recruiting teacher aides from the adult minority population within the school district, and providing training and mentoring to those persons as teacher candidates, and eventually graduating and certificating those persons as teacher candidates for the school system.

d. The District will adopt programs of incentives to induce minorities employed in similar job classifications in the private sector to make lateral entries into employment by the District. This program will include measures to assist such persons in obtaining any course work or other prerequisites, and obtaining any necessary certification, for employment by the District.

e. The District will promptly commence a program to develop teachers from among its own minority students. This will include educating such students about teaching careers, providing counseling and scholarship assistance to enable such persons to obtain college degrees and fulfill other academic and certification prerequisites, and providing incentives for such persons to become employees of the District upon fulfillment of all such prerequisites.

[f. Before adopting any requirement establishing a Master's degree as a prerequisite to employment by the District in certificated positions, the District will carefully examine whether such a requirement would hinder achievement of the remedial objectives of this Plan, and if so the District will make whatever provisions are necessary to forestall such adverse impact.]

5. **Executive and Managerial Staff.** With respect to appointments of executive and managerial staff (including principals) [throughout the duration of this Order], the District [will employ] an appropriate executive or managerial search firm, will provide substantial lead time in the recruitment and selection process, [and thereby will insure that qualified Black and/or Hispanic applicants are included in the candidate pool for all such appointments].

6. **Integration of Staff Assignments.** The District will take such steps as are necessary to insure that the work force at each of the District's schools is appropriately integrated, while considering the needs of each attendance center.

7. **Layoff Criteria.** The District has repeatedly had the experience during the past years that minority persons employed in various job classifications, especially teachers, have been adversely affected by the use of seniority as a criterion for layoffs. Accordingly, until the District has achieved in the [various] job classifications the levels of minority employment set forth above, the District shall not lay off minority teachers on the basis of their having less employment seniority than other persons. To the extent required by law, the District will negotiate the impact of such layoff criteria with the appropriate bargaining units representing such employees.

8. **Progress Reporting.** At four-month intervals, in its Progress Reports, the District will provide detailed reports of its activities in the execution of this Part E, of significant developments or results concerning the employment of Blacks and Hispanics at

various levels of the District's workforce, and of the further steps contemplated by the District to fulfill the requirements of Part E, including the numerical goals set forth herein.

9. **Annual Review.** The provisions of this Plan will be reviewed on an annual basis by the parties and the Court to determine whether the need for remedial measures continues to exist and whether the measures provided herein continue to constitute a narrowly-tailored remedy.

F. **FUNDING**

1. **Deferral of Asbestos Response Expenditures.** The Court determines that the measures called for by this Order will make substantial demands upon the funds available to the District for the repair and rehabilitation of buildings and for capital improvements. The District has set aside certain funds for asbestos response activities in its Lincoln and Eisenhower Middle School facilities as identified within the budget adopted by the District for the 1990-91 school year. The District is required to respond to the presence of asbestos-containing building materials ("ACBM") within its school facilities by the federal *Asbestos Hazard Emergency Response Act of 1986* ("AHERA") (15 U.S.C. Sec. 2641, et seq.) and the *Illinois Asbestos Abatement Act* (Ill.Rev.Stat., ch. 122, par. 1401, et seq.).

Since the passage of these statutes, the scientific community has questioned whether the type of ACBM commonly found in school buildings is a threat to human health, and whether asbestos response activities actually pose a great threat to human health because they disturb previously undamaged ACBM, increasing the level of airborne asbestos within school buildings. (See, e.g., B. T. Mossman, J. Bignon, M. Corn, A. Seaton and J. B. L.

Gee, Asbestos: Scientific Developments and Implications for Public Policy, vol. 247, Science, pp. 294-301, January 19, 1990.) The questions raised by the scientific community have prompted the introduction of bills in both the Senate (S. 2248 introduced March 7, 1990) and the House of Representatives (H.R. 4220 introduced March 7, 1990) to repeal the AHERA. These bills are presently pending in committee.

Moreover, neither the AHERA nor the Illinois *Asbestos Abatement Act* require the District to take immediate action with regard to the presence of ACBM within the Lincoln and Eisenhower Middle School facilities.

Except in the case of an immediate threat to human health or the environment, there is no requirement that the recommended response action within the Lincoln and Eisenhower Middle School facilities be completed during the 1990-91 school year.

The Court, therefore, determines that the expenditures required by this Order have a higher relative priority for the 1990-91 school year than the funds set aside by the District for asbestos response activities in its Lincoln and Eisenhower Middle School facilities as identified within the budget adopted by the District for the 1990-91 school year. Accordingly, the Court directs the District to defer for one year the asbestos response activities at its Lincoln and Eisenhower Middle School facilities and to utilize the funds budgeted for such activities in the 1990-91 school year for implementation of this Order. The continued deferral of such funds will be reviewed by the Court in March, 1992.

2. Use of Tort Immunity Funds. The District is subject to the provisions of the *Local Governmental and Governmental Employees Tort Immunity Act of the State of Illinois*, as amended (The "Tort Immunity Act"). The Tort Immunity Act empowers and directs a local public entity such as the District to pay any liability imposed upon it for a tortious act

under Federal or State common or statutory law or to pay any tort judgment or settlement for compensatory damages based on any injury caused by an alleged negligent or alleged wrongful act or omission of the local public entity. The Board of Education of the District may, if it considers the action advisable, issue general obligation bonds without referendum to pay such liability, judgment or settlement. In addition thereto (or in the alternative), the District may pay for such recurring and continual incremental costs for such programs specified in this Order by additional levies in the District's Tort Immunity Fund. Pursuant to this Order, the District is mandated to fund the cost of the activities required herein, including, but not limited to, the capital expenses of altering, building, equipping, improving, reconstructing, renovating and repairing school buildings and facilities. This Court has considered the provisions of Article IX - Payment of Claims and Judgment - of the *Tort Immunity Act* and finds that the funding by the District of the cost of said activities constitutes and is the payment by the District of a liability, tort judgment or settlement that authorizes the issuance of the District's non-referendum general obligation bonds referred to in Section 9-105 of the *Tort Immunity Act* or the levying of an annual rate of tax in the District's annual levy for Tort Immunity purposes, to pay for annual and recurring program costs (other than the institution of capital improvements) as required by this Order.

3. Grant Applications. The parties will collaborate in the pursuit by the District of grant applications relating to provisions of this Order. However, the receipt of such funds is not a prerequisite to the District's fulfillment of any provision of the Order. Determination of whether the receipt of grant funds will satisfy a particular funding obligation of the District under the Second Interim Order will be made under § G.7.a.

4. **Funding Sources and Obligations.**

a. Consistent with § C.11, the District has the responsibility for funding the activities required by all Sections of this Order. The parties and the Court have already taken possible financial constraints into consideration, and those matters have been allowed for in formulating the particular requirements of this Order. Accordingly, the District has discretion to determine what sources of funds shall be used for that purpose, but this discretion relates solely to the manner of funding of the requirements of the Order. The District does not have discretion, based on perceived financial constraints, as to the manner or extent of fulfillment of any provision of this Order, nor may any obligation of the District under the Order be altered, diminished or excused on the basis of financial constraints. Without diminishing the force or effect of this subparagraph, the District shall if needed apply to the Court for assistance to fund all authorized costs of the Second Interim Order.

b. Within 60 days after entry of this Order, a detailed systemwide and school-level budget shall be prepared by the District showing the cost and funding for each provision of the Order for the remainder of fiscal year 1990-91 and for fiscal year 1991-92. The budget shall also demonstrate that all necessary funds have been or will be generated and made available for implementation of the Order. The budget must be approved under § G.7.a and an updated budget shall be submitted and approved at six-month intervals thereafter. The District shall also generate corresponding systemwide and school-level expenditure reports comparing actual expenditures with budget allocations for each provision of the Order.

c. Within 60 days after entry of this Order, the District shall determine the timeline and budget for capital expenditures under this Order, and for other

expenditures to be funded under § F.2 hereof, and shall submit a report and any appropriate motions to the Court concerning the fulfillment of those funding obligations. In doing so, the District shall review all previous capital expenditure estimates and update such estimates to reflect anticipated costs as of the time of construction.

5. Staff Compensation. The implementation of the supplemental programs under § C.8, and of magnet schools and alternative programs, may require that staff members in the schools housing such programs undergo in-service training or further professional preparation in order to meet the requirements for successful delivery of the identified programs. Such training and preparation may be required beyond the regular work day or work year (i.e. summer training programs). The Court finds that such training is necessary for the purpose of such programs.

The Board shall have the right to require the staff members assigned to § C.8 and other programs in the schools so affected to attend such training and preparation programs beyond the regular work day or work year. Staff members selected for participation in these training and preparation programs shall be paid at the contractual rate established in the Professional Agreement between the Board and the Rockford Education Association as follows:

a. For those staff members whose required training is scheduled by the District beyond the regular day, compensation shall be paid at the hourly rate found in "Appendix C: Extra Curricular" in said Professional Agreement. Presently this rate is \$10.50 per hour, subject to change based upon negotiations for a new collective bargaining agreement(s).

b. For those staff members whose required training is scheduled by the District beyond the regular work year, compensation shall be paid at the per diem rate found in "Article 29 - In Service Training and Summer Workshops" in said Professional Agreement. Presently this rate does not exceed \$25.00 per day, subject to change based upon negotiations for a new collective bargaining agreement(s).

To the extent required by law, the District will negotiate the impact of this provision with the appropriate bargaining units representing such employees.

G. ADMINISTRATION OF THE ORDER

1. **Initial Implementation.** To maximize the probabilities of successful implementation of this Order, following are provisions concerning initial implementation. These provisions do not supersede any timelines established in particular provisions of the Order, but rather establish an overall framework. Further, this Section is intended as a complement to, and in no way diminishes, the role and authority of the Monitor as defined elsewhere in this Order or in the Court's Monitor Order entered contemporaneously herewith.

a. **Initial Action Plan.** During the first 45 days after entry of this Order, the Superintendent will develop and adopt an action plan for the initial implementation of this Order.

- (1) Within 10 days after entry of the Order, senior staff will receive intensive in-service training concerning the provisions of the Order. The Superintendent will assign, in his discretion, implementation responsibilities to appropriate senior staff.

- (2) Within 20 days of entry of the Order, senior staff will present to the Superintendent draft action plans for the execution of their responsibilities, including both immediate steps and follow-up steps encompassing the implementation through the commencement of the 1991-92 school year.
- (3) Within 30 days after entry of the Order, the Superintendent will prepare a draft systemwide first-year implementation plan.
- (4) Within 45 days, the initial action plan will be completed, and all appropriate staff members shall be proceeding forthwith to execute their respective responsibilities.
- (5) The action plan shall be promptly filed by the District as its first Progress Report to the Court.
- (6) This schedule for development, adoption and submission of an initial implementation plan shall not, in itself, be the occasion for any delay in implementation. To the extent appropriate and feasible, District personnel will move forward with their implementation responsibilities beginning promptly after entry of the Order.

b. First-year Implementation Principles. Several provisions of the Order contemplate developmental activities during the current school year, and full-scale implementation at the commencement of the 1991-92 school year. These provisions, listed in subsection (1) below, are subject to the implementation principles set forth in subsections (2)-(5).

(1) The provisions encompassed by this subsection include:

- B.1 Within-school integration**
- B.2 Human relations**
- B.3 Discipline**
- B.5 Recruitment; Parent Centers**
- B.9 Enrollment and financial data systems**
- B.10 School-based management**
- C.3 Alternative programs enrollment**
- C.4 Transportation computer analysis**
- C.5 Washington Magnet School**
- C.8 Supplemental educational programs**
- C.9 Voluntary transfers**
- C.10 Equity of facilities, equipment, etc.**
- D.3 Vocational education**

- (2) All of these items will be fully developed and completely operational not later than the commencement of the 1991-92 school year.**
- (3) This requirement includes execution, before September 1991, of any necessary preparations, such as studies, plans, development of administrative directives or systems, staff training, etc.**
- (4) This requirement also includes timely execution of any pre-September implementation requirements, such as Spring 1991 recruitment/applications/enrollment for magnet/alternative/voluntary transfers.**

(5) All related data systems required by this Order shall be in place as necessary to capture, analyze and report all implementation activities.

c. The foregoing principles in no way diminish the immediate force and effect of this Order. Unless timelines are otherwise specified in the Order, all provisions are operative and binding as of the date on which it is entered.

Bill Bower Within 30 days after entry of this Order, a senior minority administrator will be appointed, having the title of Deputy Superintendent for Educational Equity (or other title determined by the Superintendent) and reporting directly to the Superintendent, with overall responsibility for implementation of this Order.

e. To insure that implementation activity proceeds appropriately during the Summer of 1991, the principals of the Washington Magnet School and the elementary Community Academies shall be employed on a full-time basis between the end of the 1990-91 school year and the commencement of the 1991-92 school year. In future years, the principals of these schools and the other full-site magnet schools shall be employed on a 12-month basis to facilitate implementation of this Order.

f. Several provisions hereof require initial implementation activities to be undertaken or to be completed by the District within a specified number of days after entry of this Order. Although simultaneous implementation of important matters may create some burdens, it is necessary in this instance because delays in securing entry of this Order have greatly shortened the lead time for effective implementation of remedial programs for the 1991-92 school year. Nevertheless, promptly after entry of the Order the Monitor and the parties shall confer and review the necessity and practicability of those timelines. The Monitor is given the discretion to adjust any such timeline if, in his

judgment, the adjustment strikes a better balance between quality and timeliness of implementation.

g. It is the intention of the parties, the Monitor and the Court that in the initial period of planning and implementation under this Order (approximately the first six to nine months after entry of the Order), both the Monitor and counsel for Plaintiffs will be actively and continuously involved with District staff and counsel, week to week, in implementation planning and prioritizing from the outset for all aspects of the Order. The purpose of this intensive consultation is to maximize effective implementation of the Order and minimize potential disputes.

2. Progress Reports. The District shall submit written Progress Reports to the Court concerning the implementation of this Order. Such Reports shall be submitted 45 days after entry of the Order and thereafter on the fifteenth (15th) day of alternate months. Such Reports shall present, in detail:

- a. an account of the District's past, present and proposed activities in the implementation of this Order;
- b. quantitative information and other supporting documentation to the extent available (and in any event in a form and extent sufficient to enable a thorough understanding of the nature and results of the District's implementation activities);
- c. an explanation of the reasons for the particular implementation methods chosen by the District, and in instances where there were choices among alternatives an indication of the nature of the alternatives and the reason why such alternatives were less desirable than the method chosen;

d. assessment of the results of various implementation activities, in relation to the purpose of the provision in question; and

e. assessment whether additional or alternative implementation strategies are needed to achieve the purpose of the particular provision.

3. Consultation Between the Parties; Implementation Disputes; Modification.

The provisions of this Section are intended as a complement to, and in no way diminish, the role and authority of the Monitor as provided in § G.7 or other provisions hereof, or in the Court's Monitor Order entered contemporaneously herewith.

a. After the submission of Progress Reports, and at other reasonable times and places to be agreed upon by the parties, counsel for the District together with senior staff responsible for implementation of the Order shall be available to plaintiffs' counsel to answer followup questions about Progress Reports and about implementation activities and results thereof.

b. Excepting those materials which constitute attorney work-product and confidential materials, the District will provide to plaintiffs' counsel, upon request, any data or analysis thereof which has already been compiled by the District and is relevant to any aspect of this Order. In addition, the District will comply with reasonable requests from plaintiffs' counsel for further compilation or analysis of relevant data.

c. Many provisions of this Order require the District, acting through the Superintendent, to develop implementation plans, construct methodology, establish data systems, collect and analyze data, draw conclusions, make recommendations, and monitor/assess/evaluate the results of implementation. In several instances, to provide additional resources, ideas and perspectives, the Order provides that the Superintendent will

use or work with a consultant or expert. (The manner of selection of those persons is addressed in Section G.4, below.) In a few other instances, a committee may perform preparatory work and make recommendations to the Superintendent. The following provisions provide guidelines for the interaction of the parties in these implementation-development situations:

(1) It is the responsibility of the Superintendent to provide direction (consistent with this Order) to each consultant, committee or responsible senior staff person concerning the manner in which implementation development will be carried out.



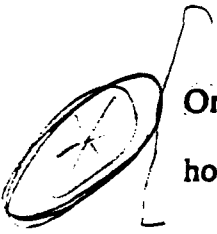
- (2) The process of implementation development, including study designs, collection of data, analysis and conclusions, shall be made reasonably available to Plaintiffs' attorney as each step occurs.
- (3) The mere fact that a consultant or committee makes a particular recommendation does not obligate the Superintendent to adopt such recommendation. The Superintendent may reject any and all analyses, recommendations, etc. or request additional information and recommendations, so long as the Superintendent articulates in writing why his action is calculated to better effectuate, and not to thwart, the provisions of this Order.
- (4) At any point while the performance of the foregoing steps is underway, Plaintiffs' attorney may raise a question or objection as to whether the District's implementation activity is consistent with the requirements

of the Order, sufficient to fulfill such requirements, and/or the best choice among alternative implementation methods.

- (5) The parties will promptly address such questions or objections; will attempt to clarify the issue and insure that all parties are working with accurate information; and will seek to agree upon, negotiate, conciliate or otherwise resolve the question or objection.
- (6) In the event that the parties cannot otherwise resolve a dispute about whether the District's implementation activities are appropriate or sufficient to fulfill its obligations under a particular provision of this Order, either party may submit the dispute to the Monitor and the Court, under § G.7 or § G.8, as appropriate.
- (7) In the event the foregoing steps make necessary a delay of a particular implementation timeline, the District will be afforded the minimum reasonable additional time that was made necessary by the consultation and dispute resolution process.
- (8) In return for the access to information and the opportunity to pose early questions and objections which is afforded by the foregoing process, Plaintiffs will not file in Court any objection to the District's implementation activity without first having presented the matter in writing to the District and sought clarification and resolution.

d. The District is prohibited from unilaterally abandoning any provision of this Order, or unilaterally adopting a course of conduct at variance with this Order. If in any instance the District believes that it is impossible to comply with the Order, or that

a different but equally effective method of compliance should be permitted, the District shall fully present the matter to plaintiffs, and if necessary to the Monitor and the Court, and obtain either the concurrence of the plaintiffs or approval under § G.7 or § G.8 before adopting such a course of conduct.



e. The parties may from time to time jointly seek amendment of this Order by presenting a proposed amendment to the Court together with an explanation of how the amendment will better or further effectuate the purposes of the Order.

f. In the Fall of 1991, the parties and the Monitor will jointly make an overall review of this Order and its implementation, and consider whether any additional provisions or modifications would be desirable to better or further effectuate the purposes of this Order.

4. Independent Expert Consultants. To the extent this Order refers to or otherwise requires the selection of consultants in order to comply with the provisions of this Order, the following procedures shall apply:

a. For each function for which consultant assistance is to be secured, the Superintendent, counsel for both parties and the Monitor will meet to discuss collectively the purpose of the provision in question, probable implementation approaches, the nature of the consultant assistance likely to be needed, the qualifications or expertise which should serve as criteria in consultant selection, and potential candidates for selection.

b. The Superintendent shall communicate, via counsel, with the Plaintiffs and the Monitor, disclosing his proposed choice of consultant, along with biographical and professional data.

c. In the event Plaintiffs or the Monitor object to the selection of such consultant(s), the parties and the Monitor shall confer to seek solution.

d. Failing accomodation, the determination whether the consultant has appropriate expertise and independence for performance of the particular consulting function in question shall be made under § G.7.a.

e. Any time deadlines provided herein for use of such consultants shall be reasonably adjusted based on the length of time any such dispute consumes.

f. The cost of the independent consultant(s) called for under §§ B.6 and C.8 (but not any related work of counsel) may be charged against the funding amount required under § C.8.

5. Disposition of Facilities *For the duration of this Order, the District shall not dispose of, or otherwise render unavailable for potential use, 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 provisions of this Order.* Plaintiffs may petition for a determination that the facility is or may be needed for implementation of the Order.

6. Evaluation *The District shall establish objective evaluation criteria for all desegregation, equity and affirmative ation activities and an evaluation function with respect to the same.* Within 120 days after entry of this Order, the District shall submit to the Court a comprehensive Evaluation Plan providing for thorough, ongoing evaluation of activities under this Order that warrant such evaluation. The Plan may rely upon in-house or external evaluation personnel, or a combination, so long as the qualifications and professional independence of the evaluators are sufficiently provided for. The Evaluation

Plan shall require approval under § G.7.a, and shall remain in effect (with appropriate updates) for the duration of this Order.

7. Process of Approval or Decision for Selected Provisions.

a. Certain sections of this Order provide for approval or decision "under Section G.7.a." With respect to those sections, which are enumerated below, the process for decision or approval shall initially be as set forth in subsection (c) hereof. The process for decision or approval shall also be subject to revision in the manner and under the circumstances set forth in subsections (d) and (e) hereof. For convenience, following is a list of such provisions:

§	Page	Item
B.4.	14	Choice Plan supplantation of § C.9 voluntary transfer provisions.
B.6.b.1.	18	Means of compensation for irremediable educational service inequities
B.6.b.2.	18	Approval of justified Educational Equity disparities.
B.6.d.2. and d.3.	20	Approval of methodology, schedule and criteria for the overall § B.6 process.
C.1.a.	31	Selection of site for new Church school.
C.1.f.	34	Determination of existence and solution to overcapacity enrollment.
C.3.c.	36	Alternative Programs integration plan.
C.8.f.1.	45	Exceptions allowing C.8 programs to be instituted in other schools.
C.8.j.	47	Approval of overall plan for implementing C.8 programs.
C.9.f.2.	50	1991 and future sites for full-day Kindergartens.
C.9.m.	54	Bilingual program location.

Part E.	69	Employment Affirmative Action goals and methods.
F.3.	78	Determination whether grants satisfy Order § obligations.
F.4.b.	79	Approval of implementation budget.
G.4.d	90	Approval of consultants.
G.6	90	Approval of Evaluation Plan.

b. Certain other sections of this Order provide for approval or decision "under § G.7.b". With respect to those sections (enumerated below), the parties shall, at the time each matter becomes ripe for decision, endeavor to negotiate an agreed disposition. If the parties are unable to do so within 14 days, then the matter shall be deemed to be a § G.7.a issue and shall be determined in accordance with § G.7.a and the decisional process to which it refers. The sections covered by this subsection are:

C.5.h	39	Washington Magnet planning schedule.
C.6.c	40	Wilson Magnet planning schedule.
C.6.e	41	Roosevelt rehabilitation budget and program identification
D.4	67	
C.9.j.5	53	Individual-school integration plans.
C.9.o	54	Exceptions to requirement that § C.9 educational support funds be expended only for transfer students.
C.10.1.c	57	Evaluation criteria for facilities equity.
C.10.1.g	59	Prospective facilities management process.
C.10.2.d	62	Evaluation criteria for EMS equity.
C.10.2.h	64	Prospective EMS allocation process.
D.5	67	Discontinuation or relocation of ROTC.

c. Decision or approval with respect to § G.7.a matters shall initially occur under the Monitor Order entered by the Court contemporaneously with this Second Interim Order, and the Master Order shall be held in abeyance. The decision/approval process shall be as follows:

- (1) The parties and the Monitor will, at the appropriate time, collectively explore in depth the provision in question, and endeavor to arrive an agreed disposition. If successful, the parties and the Monitor will present the agreed disposition to the Court and request its approval and its incorporation as a provision of this Order.
- (2) If the parties and the Monitor cannot agree on the matter in question, the Monitor will present his written tentative recommendation to the parties as to how the matter should be resolved, and attempt to mediate an agreed disposition.
- (3) If the matter is still unresolved, the parties will submit their respective positions to the Court in writing. Such submissions may include information or opinion from advisors or experts. Promptly after the submissions by the parties, the Monitor will submit his recommendation on the matter to the Court.
- (4) The Court will promptly consider and decide the matter in question, on the basis of the written submissions, oral argument, and any input from the Monitor under the terms and procedures of the Monitor Order. Formal evidentiary hearings will not be required.

d. Under the circumstances described in this subsection, the decision/approval process set forth in subsection c. shall be revised in the manner set forth in subsection e.

- (1) It shall not be the occasion for revision of the decision/approval process if in any instance the Court is called upon to render a pre-implementation decision on a disputed issue concerning the execution or implementation of this Order. Such pre-implementation disputes may arise and be resolved under §§ G.3, G.7.c, or G.8.
- (2) Consistent with Section 10 of the Monitor Order entered contemporaneously herewith, if at any time hereafter an unresolved dispute (other than a pre-implementation dispute) is presented to the Court concerning whether Defendant has failed to comply with the Second Interim Order in a particular respect, and the Court determines that a substantial instance of non-compliance has occurred, then the process of decision or approval set forth in § G.7.c shall be revised, without further objection from Defendant who has waived such objections in order to secure the entry of the Monitor Order and the agreement of the Plaintiffs to the initial use of the decision/approval process set forth in § G.7.c.

e. If at any time the condition for revision set forth in the preceding subparagraph is fulfilled, then the arrangements among the Monitor, the parties and the Court shall be revised as follows:

- (1) The Court's Order of Reference to a Special Master of January 14, 1991 (the "Master Order") shall be re-activated, and the Monitor Order shall also remain in effect.
- (2) The person serving as Monitor and Master shall be authorized to operate under either or both of the Master and Monitor Orders, and shall fulfill responsibilities and exercise authority conferred upon him by either or both of the Orders.
- (3) The Master/Monitor shall also be authorized to directly make the decisions and exercise the rights of approval encompassed in the § G.7.a provisions (subject to the continuing supervision of the Court), and the provisions of § G.7.c limiting his authority to a recommendatory role shall no longer be binding.
- (4) If and after the decision/approval process has been revised, the Master/Monitor may, in his discretion, address the § G.7.a provisions either through the consultative and recommendatory process of § G.7.c, or by making formal findings and conclusions under the Master Order which will be overturned by the Court only if clearly erroneous, or by directly making decisions and exercising rights of approval with respect to such matters (subject to the continuing supervision of the Court).
- (5) If and after the decision/approval process has been revised, the Master Order shall be in effect and shall no longer be in abeyance, for all purposes in this litigation, subject to the continuing supervision of the Court.

8. **Dispute Resolution.** In the event that the parties have a dispute about whether the District's implementation activities are sufficient to fulfill its obligations under a particular provision of this Order, and the manner of resolving the dispute is not otherwise specified, the parties shall engage in binding dispute resolution by the Monitor and the Court in the following manner:

a. The parties shall first endeavor, in the normal course of their efforts to collaborate concerning the implementation of the Order, to discuss, focus and resolve the issue.

b. Either party may invoke such dispute resolution by a written demand specifying the issue to be submitted.

c. If not otherwise resolved, the issue will be submitted to the Monitor not more than 14 days later by the submission of simultaneous written statements, with simultaneous responses five days thereafter. The Monitor shall proceed under the Monitor Order in addressing the dispute.

d. The Monitor will render a written recommendation concerning the issue in question within 14 days, unless such time is extended by the Monitor for good cause.

e. The recommendation of the Monitor shall be in writing and shall be submitted to the Court, in accordance with the provisions of the Monitor Order.

9. **Rules and Complaint Process Regarding Racial Incidents.** Within 120 days after entry of this Order, the District will establish policies and Rules concerning, and a process for receiving and acting upon complaints of, racial or ethnic discrimination, harassment or inequity. Such system shall, at minimum, have the following characteristics;

a. The District shall establish Rules for its employees and students, enforceable through discipline including discharge or expulsion, to the effect that racial discrimination or harassment by any employee or student directed against any student, parent or employee shall be grounds for discipline. Such Rules shall also provide that it is the responsibility of supervisory and management personnel to take corrective action against such discrimination or harassment when it is brought to their attention, and that the failure to do so is in itself grounds for employment discipline.

b. The District will also establish policies and Rules to the effect that no person shall be disadvantaged or treated unfairly by the District or any of its personnel or students on the basis of race, whether intentionally or otherwise, in any activity at any level of the District's operations.

c. Complaints of violation of such Rules may be made by students, parents, staff or any other person. Complaints may also be made concerning any other racial incident or inequity related to the school system, which the District has any authority or capability to remedy.

d. Comprehensive written procedures for the receipt and disposition of complaints will be established by the District.

e. The availability of the complaint process will be widely disseminated by the District.

f. Confidentiality shall be afforded to complainants upon request.

g. The District will conduct a thorough and impartial investigation of each complaint, and will notify the complainant in writing of (1) the facts determined through

the investigation and (2) whether or not any corrective action was taken by the District and the reasons therefor.

h. All documents and information relating to the complaint system shall be available for examination by plaintiff's counsel.

i. The District, and all persons employed by or associated with the District, and all persons acting in concert with the District or its agents, and all other persons who receive notice of this injunction, are enjoined and restrained from harassing, retaliating against or seeking to injure in any way, any plaintiff or member of the Plaintiff organization People Who Care in the pursuit of this litigation, or in any other endeavor on account of this litigation. The protection of this injunction shall extend as well to any other person who assists the plaintiffs or their counsel in the preparation for or pursuit of this litigation.

10. Duration of this Order: Liability Proceedings.

a. This Order, the Monitor Order, and the Master Order shall remain in effect until further Order of Court.

The Court reserves the right to modify these Orders, and to enter supplemental Orders, as may be necessary and appropriate. The Court retains plenary jurisdiction for all purposes in this case.

The entry of this Order does not affect plaintiffs' liability claims, or the continued litigation of those claims. However, the scheduling of the liability trial for January 1992 is hereby cancelled. Further proceedings concerning liability shall be as provided below and as provided by future Order of the Court.

b. Plaintiffs and Defendant may continue to take discovery concerning the merits of this case, and concerning the District's implementation of the First and Second Interim Orders. Neither the entry nor implementation of this Order shall in any way limit such discovery; provided, that such discovery shall be suspended for 90 days. Thereafter, the District may present appropriate motions for protective orders concerning the timing of discovery if it believes that the burden of responding at the time requested would impede the ability of the District to implement this Order.

c. In the Fall of 1992, the parties and the Court will address the scope and timing of a systemwide liability proceeding; provided, that if Plaintiffs believe there are substantial deficiencies in the District's implementation of and compliance with this Order which warrant earlier consideration of this matter, Plaintiffs may so petition the Court.

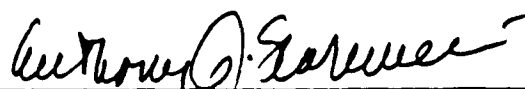
d. None of the foregoing provisions shall preclude the scheduling, at any time by agreement or on motion, of any liability proceeding which is needed to effectuate a provision of this Order.

e. The scheduling or pendency of a liability proceeding shall not relieve the District of any of its obligations under this Order.

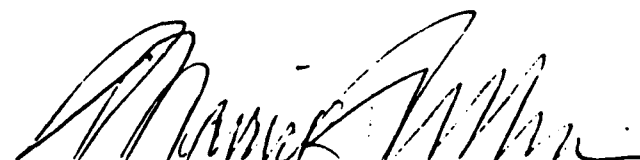
DATED: APRIL 23, 1991.

APPROVED:


Robert C. Howard
Attorney for Plaintiffs

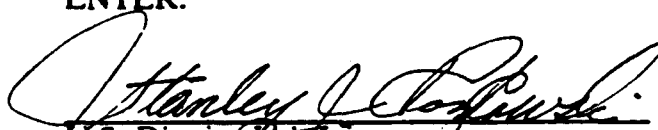

Anthony G. Scarano
Attorney for Defendant


Ed Wells, Co-Chair
People Who Care


Dr. Maurice Sullivan
Superintendent


Dr. Terry Hodges
President, Rockford Board of
Education, School District #205

ENTER:


U.S. District Judge

DATE: April 24, 1991

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