

Dated:

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

PARENTS FOR QUALITY EDUCATION
WITH INTEGRATION, INC., ET AL.,

Plaintiffs,

v.

STATE OF INDIANA, ET AL.,

Defendants.

No. F-86-0325

**NOTICE OF THE PROPOSED SETTLEMENT OF THE
FORT WAYNE SCHOOL DESEGREGATION CASE AND OF A
HEARING ON THAT SETTLEMENT**

**TO: All Fort Wayne Community Schools (FWCS) Students and Parents
and All Children (and their Parents) Who in the Future Will Attend
the Fort Wayne Community Schools.**

Please read this notice carefully. It concerns a proposed settlement of the school desegregation case filed by certain Fort Wayne parents and PQEI (Parents for Quality Education with Integration, Inc.) in 1986. If the Court approves the proposed Settlement it will affect the rights of all members of the plaintiff class as described below. This notice provides a statement of your rights as they concern the proposed settlement. By order of this Court, under Rule 23(e) of the Federal Rules of Civil Procedure, you are hereby notified that:

The plaintiffs, Parents for Quality Education with Integration, Inc. and others, representing the certified class,* the Fort Wayne Community Schools Corporation (referred to in this Notice as FWCS), and the State of Indiana, Governor Evan Bayh, et al., (referred to in this notice as State Defendants), have reached a proposed settlement agreement (referred to in this notice as Agreement) in the above-referenced case, which resolves all issues in this action among these parties, including all issues relating to the alleged acts and practices of discrimination by the State Defendants prior to the date of the Consent Decree as well as any future effects of such acts and practices.

On February 11, 1994, the parties jointly submitted to the Court the proposed Agreement, and requested a determination that it is fair, adequate and reasonable to the plaintiff class. They also asked the Court to enter the proposed Agreement as a Consent Decree. On February 24, 1994, the Court issued an Order granting preliminary approval to the Agreement.

The complete text of the proposed Agreement is printed below. You are encouraged to examine the proposed Agreement carefully. It may affect you directly. Copies of the proposed Agreement also will be available for your inspection at the following locations:

* You are a member of the "plaintiff class" if you or your children attend one of the Fort Wayne Community Schools, or if in the future you or one of your children (e.g., a pre-school aged child) will attend an FWCS School. The class was certified by this Court on November 15, 1988, as comprised of "all children and their parents who presently reside or who in the future will reside within the boundaries of the Fort Wayne Community Schools Corporation and who presently attend or who in the future will attend the Fort Wayne Community Schools. The class consists of two subclasses: one is comprised of black children and their parents; the other is comprised of non-black children and their parents."

- ♦ The Office of the Clerk of the United States District Court, Federal Building, 1300 South Harrison, Fort Wayne, Indiana 46802, 9:00 a.m. to 4:00 p.m., Monday through Friday. (You also may inspect the pleadings and papers filed with the Court in this action at the Office of the Clerk.)
- ♦ The Fort Wayne Community Schools' Lester L. Grile Administrative Center, 1230 South Clinton Street, Fort Wayne, Indiana 46802, during regular school hours.
- ♦ The principal's office of each school operated by the Fort Wayne Community Schools Corporation, during regular school hours.
- ♦ The Old Fort YMCA , 2221 Reed Street, Fort Wayne, Indiana 46803, during regular operating hours.
- ♦ The East Wayne Street Center, 801 East Wayne Street, Fort Wayne, Indiana 46803, during regular operating hours.

Copies of the 1990 settlement between plaintiffs and local school officials (FWCS) also will be available for your inspection at the above locations. That agreement was approved by the Court in 1990 after a fairness hearing and is not the subject of the hearing described below.

The proposed Agreement will not be approved by the Court and entered as a Consent Decree until the Court has held a hearing to determine the fairness and adequacy of the Agreement and considered all oral and written statements.

HEARING

The Court will consider the fairness and adequacy of the proposed Agreement at a hearing commencing on May 17, 1994, at 1:30 p.m. in the Main Courtroom of the U.S. Courthouse, Federal Building, 1300 South Harrison, Fort Wayne, Indiana 46802. At the hearing, you or your counsel may appear to make an oral presentation

supporting or objecting to the proposed Agreement as a fair, adequate and reasonable disposition of the claims involved in this litigation. Each person who intends to make an oral presentation must file a written statement according to the procedures described below. Any person who does not file a written statement in compliance with these procedures will not be permitted to make an oral presentation at the hearing. Oral presentations shall be limited to five minutes. However, under special circumstances and depending on time constraints, the Court may vary this time limitation.

All written statements must be filed with the Clerk of the Court, United States District Court, Federal Building, 1300 South Harrison, Room 1108, Fort Wayne, Indiana 46802.

You may file your statement in person or by mail, but the statement must be received by the Clerk's Office no later than the date and time specified below. The statement must describe the position you will advocate before the Court. Additionally, copies of any documents to which you intend to refer (other than the proposed Agreement) must be attached. The first page of the statement must include the name of the case, Parents for Quality Education with Integration, Inc., et al. v. State of Indiana, et al., and its docket number, F-86-325. You must provide four copies of your statement with attachments to the Clerk so that he may forward copies to counsel of record.

All written statements filed according to the procedures described above will be considered by the Court whether or not you make an oral presentation.

Do not write or call Judge Sharp directly.

PROPOSERS OF THE SETTLEMENT AGREEMENT

If you are satisfied that the proposed Agreement is fair, adequate and reasonable, you need not take any action. Of course, you or your counsel may file a written statement in support of the Agreement, whether or not you make an oral presentation. If you or your counsel wish to make an oral presentation in support of the Agreement, you must file a written statement with the Clerk of the Court on or before 4:00 p.m. on Monday, May 2, 1994.

OPPOSERS OF THE SETTLEMENT AGREEMENT

If you are not satisfied that the proposed Agreement is fair, adequate and reasonable and want the Court to consider your objections, you must file a written statement with the Clerk of Court before 4:00 p.m. on Monday, May 2, 1994.

If you do not intend to make an oral presentation, you must file a written statement in order to preserve your objection.

If you do intend to make an oral presentation objecting to the proposed Agreement, your written statement must be filed by the time specified above and must contain your name, the identity of any person or group you seek to represent, and a brief statement as to why you object to the proposed Agreement.

HISTORY OF THE ACTION

In September of 1986, the plaintiffs, certain black and white parents of children enrolled in the public schools of the Fort Wayne Community Schools Corporation and Parents for Quality Education with Integration, a non-profit organization dedicated to promoting quality education through integration of the Fort Wayne public schools,

filed this action. The suit was brought against the Fort Wayne Community Schools Corporation, the members of its Board of Trustees and the Superintendent (FWCS Defendants). The suit also was brought against the State of Indiana, the Governor of the State of Indiana, the Attorney General of Indiana, the State Superintendent of Public Instruction, the State Department of Education and the members of the State Board of Education (State Defendants). The complaint charged that the FWCS and State Defendants established and maintained a racially segregated public school system. The FWCS Defendants and State Defendants have denied liability.

THE 1990 SETTLEMENT WITH FORT WAYNE COMMUNITY SCHOOLS

Plaintiffs' claims against Fort Wayne Community Schools Defendants were settled by a consent decree entered by this Court on January 24, 1990. The Court's decision approving that settlement is published under the following name and location: Parents for Quality Education with Integration, Inc., et al., v. Fort Wayne Community Schools Corporation, et al., 728 F. Supp. 1373 (N.D. Ind. 1990). As part of that settlement, FWCS agreed to and has racially balanced all FWCS elementary schools within a range of 10-50% black enrollment. The settlement provided, among other things, for magnet schools and programs and for programs to improve education for at-risk students. The proposed Agreement now before the Court does not, except as set forth below, alter in any material way FWCS' obligations under the 1990 settlement.

THE PROPOSED SETTLEMENT AGREEMENT

The proposed Agreement resolves all issues in this action between the Plaintiffs and the State Defendants, including all issues relating to alleged acts and practices of discrimination by the State Defendants at any time prior to the date of the Consent Decree as well as any future effects of such acts and practices.

Upon approval of the Agreement and entry of the terms of that Agreement as a Consent Decree by the Court, the Plaintiffs' claims against State Defendants shall be dismissed with prejudice and all parties (including all members of the plaintiff class) will be bound by the terms of the Agreement. If the Agreement is not approved by the Court, all parties will be bound by the outcome of future litigation in this case.

The full text of the proposed Agreement is as follows:

["Settlement Agreement" Attached]

SETTLEMENT AGREEMENT

1. This Settlement Agreement ("Agreement") is made among the following: (1) the named plaintiffs--Parents for Quality Education with Integration, Inc.; Brandy, Mylan and Demaraus Brown by their mother and next friend, Alisha Brown; Scepter Brownlee, by his mother and next friend, Ora Brownlee; Torrey and Teresecca Cook, by their parents and next friends, Regina and Richard Cook; Phillip Harris, by his mother and next friend, Diane Harris; Jason and Shawn Hutchens, by their mother and next friend, Carolyn Hutchens; Gwenetta Lewis, by her mother and next friend, Patricia Lewis; Marco, Derrick, Shyra, Antonia and Kendice McClain, by their mother and next friend, Florence McClain; Kendrick Sanders, by his mother and next friend, Jacquelyn Sanders; Timothy J. and Brenittella Sneed, by their mother and next friend, Mary A. Sneed; Terrie Young, by her mother and next friend, Edith L. Young; Emily Fairchild, by her parents and next friends, Janice L. and David L. Fairchild; Claire and Daniel Sachs, by their parents and next friends, Barbara and Jeremy Sachs--individually and as class representatives of the certified class comprised of all children and their parents who presently reside or who in the future will reside within the boundaries of the Fort Wayne Community Schools Corporation and who presently attend or who in the future will attend the Fort Wayne Community Schools, the certified subclass comprised of such black children and their parents, and the certified subclass comprised of such non-black children and their parents (all the foregoing referred to collectively in this Agreement as "plaintiffs"); and (2) Fort Wayne Community Schools Corporation (referred to in this Agreement as "FWCS") acting through its Board of School

Trustees and Superintendent of Schools; and (3) The state of Indiana; Evan Bayh, Governor of the state of Indiana; Pamela Carter, Attorney General of the state of Indiana; Dr. Suellen Reed, State Superintendent of Public Instruction and Chair of the Indiana State Board of Education; members of the Indiana State Board of Education; and the Indiana Department of Education (referred to collectively in this Agreement as "State Defendants").

2. On September 5, 1986, plaintiffs initiated an action in the United States District Court for the Northern District of Indiana, Parents for Quality Education with Integration, Inc. v. Fort Wayne Community Schools Corporation, Civil No. 86cv0325AS, seeking relief against defendants including FWCS and State Defendants (referred to in this Agreement as "the Litigation").

3. On January 24, 1990, the Court entered a consent decree approving a settlement between plaintiffs and FWCS (and related individual defendants) and dismissing FWCS (and related individual defendants) with prejudice, Parents for Quality Education with Integration, Inc. v. Fort Wayne Community Schools Corporation, 728 F. Supp. 1373 (N.D. Ind. 1990).

4. The parties now desire to settle, compromise and release the claims plaintiffs and FWCS have asserted, or could have asserted, against State Defendants as more specifically described in this Agreement. In consideration of the promises and mutual agreements described in this Agreement, plaintiffs, FWCS and State Defendants agree to each of the following.

5. State Defendants shall make six payments to FWCS totalling \$12.9 million, one payment during each of the next six school years. The following conditions shall apply to these payments:

a. The schedule for such payments shall be as follows: \$900,000 for the school year 1994-95; \$2.4 million for the school year 1995-96; \$2.4 million for the school year 1996-97; \$2.4 million for the school year 1997-98; \$2.4 million for the school year 1998-99; and \$2.4 million for the school year 1999-2000.

b. Each such payment shall be made in quarterly installments.

c. The funds made available under this Agreement shall be used for the following purposes only: new preschool programs for 3 and 4 year-olds; additional full day kindergartens; additional initiation of reading programs in the early grades that have proved effective, such as Success For All; and the initiation of additional professional development programs designed primarily to enhance the capacity of teachers and staff to provide effective teaching for minority and low income children. The purpose of all these uses is to enhance the effectiveness of schools in ensuring equality of opportunity and in promoting higher achievement.

6. FWCS shall: (a) in accordance with section 14(b)(iii) of the Settlement Agreement between plaintiffs and FWCS (and related individual defendants), continue through the end of the 1999-2000 school year its annual contribution to the Educational Improvement Fund, from its authorized racial balance fund levy (currently yielding approximately \$450,000 per year); and (b) extend the time and functions of the monitor and

the Educational Improvement Committee established pursuant to the settlement between plaintiffs and FWCS until the end of the 1999-2000 school year.

7. With the entry of a consent decree, the claims in the Litigation against State Defendants will be dismissed with prejudice. The settlement as embodied in the consent decree shall provide that it resolves all claims in the Litigation and issues between plaintiffs and State Defendants (and each of them) based on or relating to alleged racial segregation and discrimination in the Fort Wayne Community Schools and any alleged past and future effects of alleged racial segregation and discrimination in the Fort Wayne Community Schools, whether based on action or inaction at any time prior to the date of the consent decree. For purposes of this paragraph "State Defendants" includes: all former, current and future Governors of the state of Indiana, Attorneys General of the state of Indiana, State Superintendents of Public Instruction for the state of Indiana, and members of the Indiana State Board of Education or any predecessor body; the state of Indiana; the Indiana Department of Education; the Indiana State Board of Education; all individuals or entities acting on behalf of any of the foregoing or their predecessors; and all persons and entities whose actions or inactions allegedly provide a basis for liability on the part of the state of Indiana (including its agencies, officers and representatives).

8. By the signature of this Agreement by its authorized representative, FWCS releases, acquits, and forever discharges State Defendants (and each of them) from all claims, actions, causes of action, and liabilities which might have been asserted in any fashion arising out of the Litigation, whether by action for contribution, indemnification or otherwise, based on or in any way relating to alleged racial segregation and discrimination in

the Fort Wayne Community Schools, any alleged past and future effects of alleged racial segregation and discrimination in the Fort Wayne Community Schools, whether based on action or inaction at any time prior to the date of the consent decree, and any claims based on or in any way relating to the costs incurred or actions undertaken by FWCS as a result of or in connection with the implementation of FWCS' settlements with the Office for Civil Rights of the United States Department of Education and with plaintiffs in the Litigation, any consent decrees relating to those settlements, the obligations which FWCS promises in this Agreement to perform, or any other undertaking or cost incurred to alleviate alleged racial segregation or racial imbalance in the Fort Wayne Community Schools. For purposes of this paragraph, "State Defendants" includes all former, current and future Governors of the state of Indiana, Attorneys General of the state of Indiana, State Superintendents of Public Instruction for the state of Indiana, and members of the Indiana State Board of Education or any predecessor body); the state of Indiana, the Indiana Department of Education, the Indiana State Board of Education, and all individuals or entities acting on behalf of any of the foregoing or their predecessors; and all persons and entities whose actions or inactions allegedly provide a basis for liability on the part of the state of Indiana (including its agencies, officers and representatives).

9. The consent decree to be entered in connection with this settlement shall include all terms and conditions of this Agreement.

10. To the extent that issues about the integrity, implementation, or interpretation of this Agreement arise, plaintiffs and State Defendants will seek to address

such issues jointly and in a cooperative manner. The parties will use their best efforts to assure full implementation of this Agreement.

11. Plaintiffs are eligible to apply for an award of attorneys' fees and recoverable costs, but plaintiffs agree not to seek a sum for all attorneys' fees and costs greater than \$1.1 million. State Defendants will not be liable for any further award of fees and costs, however incurred, including monitoring costs, except: (a) for fees and costs incurred in the litigation of the fee application should that become necessary; and (b) fees and costs incurred in any necessary proceeding by plaintiffs to enforce this Agreement against the State Defendants in which plaintiffs prevail.

12. The parties understand and agree that this Agreement will not in any event, in whole or in part, be construed as or deemed to be evidence of an admission of liability or wrongdoing by any party to this Agreement or their predecessors.

13. The class action settlement which this Agreement reflects is contingent upon approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure. Plaintiffs shall pursue all necessary steps to obtain the Court's approval of this class action settlement. The effective date of this Agreement is the date of such court approval.

IN WITNESS WHEREOF, the parties hereto have caused this Settlement Agreement and Release to be signed in their respective names by persons duly authorized.

ON BEHALF OF PLAINTIFFS:

Sharonne Miller
Parents for Quality Education with Integration,
Inc., Class Representative, by its
President Lavonne Miller

Dated: February 11, 1994

Clifton E. Files
William E. Taylor, Counsel for plaintiffs
and plaintiff class CLIFTON E. FILES

Dated: February 11, 1994

**ON BEHALF OF FORT WAYNE
COMMUNITY SCHOOLS CORPORATION:**

Leslye C. Mohrman
Fort Wayne Community Schools Corporation
by, Leslye E Mohrman,
the President of its Board of Trustees

Dated: February 14, 1994

Robert S. Walters
Robert S. Walters, Barrett & McNaghy
Counsel to FWCS

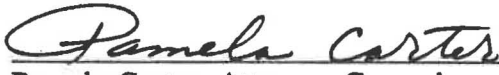
Dated: February 14, 1994

ON BEHALF OF STATE DEFENDANTS:



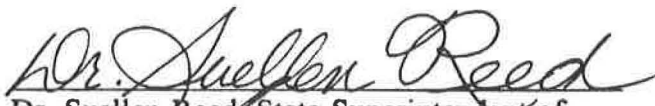
Evan Bayh, Governor of the State of Indiana

Dated: February 9, 1994



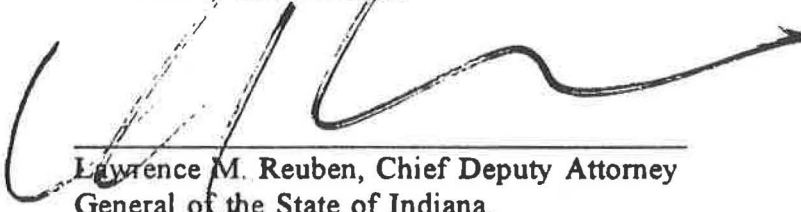
Pamela Carter, Attorney General
of the State of Indiana

Dated: February 10, 1994



Dr. Suellen Reed, State Superintendent of
Public Instruction and Chair of the Indiana
State Board of Education

Dated: February 10, 1994



Lawrence M. Reuben, Chief Deputy Attorney
General of the State of Indiana,
Counsel for State Defendants

Dated: February 10, 1994



Daniel D. Crabtree, Stinson, Mag & Fizzell
Counsel for State Defendants

Dated: February 11, 1994

ADDITIONAL INFORMATION

If you have any questions about any of the matters in this notice, you should not direct them to the court. Instead, you should refer those questions by letter to:

William L. Taylor or Dianne M. Piché
Counsel for the Plaintiff Class
2000 M Street, NW
Suite 400
Washington, DC 20036
(202) 659-5565

Clifton E. Files
Counsel for the Plaintiff Class
130 West Main Street
Suite 13
Fort Wayne, Indiana 46802
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1201 Walnut - Suite 2600
Kansas City, Missouri 64106
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Lawrence M. Reuben
Counsel for State Defendants
Chief Deputy Attorney General
Office of the Attorney General
State of Indiana
219 State House
Indianapolis, Indiana 46204
(317) 232-6201

Robert S. Walters
Counsel for Fort Wayne Community
Schools Corporation
215 E. Berry Street
P.O. Box 2263
Fort Wayne, Indiana 46801-2263
(219) 423-9551

You may, of course, seek the advice and guidance of your own attorney if you so desire. The pleadings and other records in this case may be examined and copied at any time during regular business hours at the Office of the Clerk of the Court, 102 Federal Building, 204 S. Main Street, South Bend, Indiana 46601.

REMINDER OF TIME LIMITS

If you wish to support or oppose the proposed settlement, your written statement must be received by the Clerk of the Court on or before 4:00 p.m. on Monday, May 2, 1994. You must also include any request to be heard orally at the hearing scheduled for May 17, 1994.

By: Nanda S. Young, Deputy
GERALDINE CROCKETT
CLERK, UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA