

NO. 23331

Landsberg

IN THE

United States Court of Appeals

FOR THE FIFTH CIRCUIT

UNITED STATES OF AMERICA

Appellant-Intervenor,

GEORGE ROBERT BOYKINS, as next friend of
TYWANNA FAYE BOYKINS, JACKIE D. BOYKINS
AND PATRICIA ANN BOYKINS, ET AL.

vs.

FAIRFIELD BOARD OF EDUCATION

G. VIRGIL NUNN, as Superintendent of the
Fairfield Board of Education, et al.,

Appellees.

APPEAL FROM THE DISTRICT COURT OF THE
UNITED STATES NORTHERN DISTRICT
OF ALABAMA

MAURICE F. BISHOP,
Attorney at Law,
Frank Nelson Building,
Birmingham, Alabama,
Attorney for Appellees.

NICHOLAS deB. KATZENBACH,
Attorney General

JOHN DOAR,
Assistant Attorney General,
Washington, D. C.

MACON L. WEAVER,
United States Attorney

DAVID L. NORMAN,
Attorney, Department of Justice,
Washington, D. C.

BRIAN K. LANDSBERG,
Attorney, Department of Justice,
Washington, D. C.

ST. JOHN BARRETT,
Attorney, Department of Justice,
Washington, D. C.

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Appellant-Intervenor,
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vs.

FAIRFIELD BOARD OF EDUCATION
G. VIRGIL NUNN, as Superintendent of the
Fairfield Board of Education, et al.,
Appellees.

APPEAL FROM THE DISTRICT COURT OF THE
UNITED STATES NORTHERN DISTRICT
OF ALABAMA
SOUTHERN DIVISION

RECORD ON APPEAL

Received, U. S. Court of Appeals, January 19, 1966,
New Orleans, La.

Filed, U. S. Court of Appeals, Jan. 19, 1966, Edward
W. Wadsworth, Clerk.

SOUTHERN DIVISION DOCKET C.A. 65-499

TITLE OF CASE: George Robert Boykins; as next friend of Tywana Faye Boykins, Jackie D. Boykins, Lydia C. Boykins and Patricia Ann Boykins; ET AL. USA, by Nicholas deB. Katzenbach, Attorney General, Plaintiff-Intervenor, vs. Fairfield Board of Education, G. Virgil Nunn, as Superintendent of the Fairfield Board of Education, ET AL.

BASIS OF ACTION: Action for preliminary injunction enjoining Fairfield Board of Education, its Members and Superintendent from continuing their policy, practice, custom & usage of discriminating against plaintiff's and others similarly situated operating a biracial school system in violation of their Constitutional rights.

ATTORNEYS:

For Plaintiff: Orzell Billingsley, Jr., 1630 4th Ave., North, B'ham., Demetrius C. Newton, 408 North 17th St., B'ham., Norman C. Amaker and Jack Greenberg, 10 Columbus Circle, New York, N. Y. 10019.

For Defendant: Maurice Bishop, atty. for Frank B. Parsons; also, for other depts.

For Plaintiff-Intervenor: Nicholas deB. Katzenbach, Atty. Gen., John Doar, Asst. Atty. Gen., Macon L. Weaver, U. S. Attorney, David L. Norman, Atty., Dept. of Justice.

PLAINTIFF'S ACCOUNT:

July 21, 1965—Ck. Demetrius C. Newton, Received \$15.00.

July 22, 1965—Cr 102411, Disbursed \$15.00.

RECEIPTS, REMARKS, ETC.:

\$38.40, \$12.00, \$9.48—JS 6 Prepared.

FILINGS—PROCEEDINGS

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- | | |
|---------|---|
| July 21 | Complaint filed—Page ... |
| July 21 | Motion for preliminary injunction filed —
Page ... |
| July 21 | Order setting for hearing on preliminary injunction before Hon. H. H. Grooms, in the United States District Court Room, Birmingham, Alabama, on August 3rd, 1965, at 1:30 o'clock, p.m., filed and entered (Grooms)—
Page ... |
| July 21 | Summons and complaint with copies of Motion for preliminary injunction and Order for hearing on preliminary injunction, attached, issued—del. to U. S. Marshal for service. |
| July 21 | Acceptance of service on behalf of Frank B. Parsons, by his attorney, Maurice Bishop. |
| July 26 | Summons and complaint, together, with motion for preliminary injunction and order for hearing on preliminary injunction, returned, executed on G. Virgil Nunn, as Superintendent of Fairfield Board of Education, on July 22, 1965, filed. |
| July 26 | Summons and complaint, together with motion for preliminary injunction and order for hearing on preliminary injunction, returned, executed, as to William A. Whitson, as Chairman of the Fairfield Board of Education, on July 22, 1965, filed. |

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July 26 Summons and complaint, together with motion for preliminary injunction and order for hearing on preliminary injunction, returned, executed, as to C. J. Donald, as Member of the Fairfield Board of Education, on July 22, 1965, filed.

July 26 Summons and complaint, together with motion for preliminary injunction and order for hearing on preliminary injunction, returned, executed, as to Joseph C. Gandy, as Member of the Fairfield Board of Education, on July 22, 1965, filed.

July 26 Summons and complaint, together with motion for preliminary injunction and order for hearing on preliminary injunction, returned, executed, as to David J. MacKnight, as Member of the Fairfield Board of Education, on July 22, 1965, filed.

July 26 Summons and complaint, together with motion for preliminary injunction and order for hearing on preliminary injunction, returned, executed, as to Mrs. Olis B. Payne, as Member of the Fairfield Board of Education, on July 22, 1965, filed.

July 30 Motion of The United States, Applicant for Intervention in this case, for order shortening time, filed—Page ...

July 30 Order on motion of The United States shortening time so that parties may be served no

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later than July 30, 1965, filed and entered (Grooms)—Page ...

July 30 Notice of The United States of America of motion and motion to intervene as a plaintiff, filed—Page ...

July 30 Complaint of the United States of America in intervention filed—Certificate of the Attorney General of the United States attached—Page ...

July 30 Notice of the United States of America of motion and motion for preliminary injunction filed—Page ...

July 30 Memorandum of authorities in support of the motion to intervene filed—Page ...

July 30 Writ to serve certified copies of motion for order shortening time; order shortening time; notice of motion and motion to intervene as as plaintiff; complaint in intervention; notice of motion and motion for preliminary injunction and memorandum of authorities in support of motion to intervene, on Maurice H. Bishop, Attorney at Law, issued—del. to U. S. Marshall for service.

Aug. 2 Answer of defendants (except Mrs. Olis B. Payne) separately and severally, to the complaint herein, filed—copies served by counsel—Page ...

Aug. 2 Writ to serve certified copies of motion for order shortening time; order shortening time;

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notice of motion and motion to intervene as a plaintiff; complaint of intervention with certificate of the Attorney General of the United States attached; notice of motion and motion for preliminary injunction; and memorandum of authorities in support of motion to intervene, returned, executed on July 30, 1965, and filed.

- Aug. 6 Notice that plaintiff-intervenor, United States of America, by Nicholas deB. Katzenbach, Attorney General, will take the deposition of G. Virgil Nunn, Superintendent of the Fairfield Board of Education, Fairfield, Alabama, on August 12, 1965, at 9:30 A. M., in Room 267 of the United States Post Office and Federal Building, Birmingham, Alabama, filed—copies served by counsel.
- Aug. 16 Deposition of George Virgil Nunn taken at instance of plaintiff-intervenor, United States of America, with Exhibit "1" attached (Postal Map of City of Fairfield).
- Aug. 16 On hearing before the Hon. H. H. Grooms on preliminary injunction and by agreement for final injunction — Order allowing United States of America to intervene — Order to submit plan by August 20, 1965, and continued to August 20, 1965, at 9:00 A.M.
- Aug. 18 Objections of plaintiff to defendants' plan for desegregation, filed—copy served by counsel —Page ...

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- Aug. 19 Objections of United States of America, plaintiff-intervenor, to Plan for Desegregation, filed—copies served by counsel—Page ...
- Aug. 19 Plan of defendants for desegregation of Fairfield School System operating under the supervision of Board of Education of the City of Fairfield, filed—copy served by counsel—Page ...
- Aug. 19 Motion of defendants to consolidate this case "for further consideration" and hearing by the Chief Judge of this Court with the Jefferson County Board of Education and the City of Bessemer Board of Education school cases to conform fully with the mandate of the United States Court of Appeals for the Fifth Circuit rendered August 17, 1965, filed —copy served by counsel—Page ...
- Aug. 20 Hearing before Hon. H. H. Grooms on Objections to Plan for Desegregation—plaintiff's testimony — intervenor's testimony — argument of counsel—Motion of defendants to consolidate this action with Jefferson County and Bessemer school cases overruled—Order sustaining objections to certain parts of the Plan and directing defendant to submit amended Plan in accordance with Court's observations by August 23, 1965, at 10:30 a.m.
- Aug. 23 Amended Plan of defendants for desegregation of Fairfield School System Operating under

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the supervision of Board of Education of the City of Fairfield filed pursuant to Order of Court in this cause, filed—copy served by counsel—Page ...

Aug. 23 Order overruling objections of plaintiff and intervenor to the amended plan for desegregation of the Fairfield School System operating under the supervision of the Board of Education of the City of Fairfield, Alabama, and APPROVING plan for desegregation, with copy of plan attached, filed — copies mailed attorneys—copy served by counsel on U. S. Attorney—Page ...

Sept. 1 Motion of plaintiffs to require G. Virgil Nunn, Superintendent of Fairfield Public Schools to transfer or show cause why he should not accept the applications for transfer of Mr. and Mrs. Ernest McLin for their children, Edna F. McLin to grade 7, their son, Ernest McLin, to grade 10; Mr. and Mrs. John R. Cox for their son John Ricky Cox, Jr., for grade 7; Rev. and Mrs. Arthur Washington for their son, Arthur W. Washington for grade 12; Mr. and Mrs. Virgil Pearson for their child Rosemary C. Pearson, grade 12; Mr. and Mrs. Frank Phillips for their child, Brenda A. Overstreet, grade 8, and Mrs. Ida Lee Hardy for her son, Don Edward Sharpe, grade 7, and ORDER of Hon. H. H. Grooms setting for hearing on September 9, 1965,

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at 8:30 A.M., filed—copies mailed attorneys
—Page ...

Sept. 1 Writ to serve certified copy of Motion of plaintiffs to require G. Virgil Nunn, Superintendent of Fairfield Public Schools to transfer or show cause why he should not accept the applications for transfer of students from each of their schools, and ORDER setting for hearing on September 9, 1965, at 8:30 A.M., on the Board of Education of Fairfield, Alabama, and G. Virgil Nunn, Superintendent of the Board of Education of Fairfield, Alabama, issued — del. to U. S. Marshal for service.

Sept. 2 Application of United States of America, plaintiff-intervenor, for order to show cause why order should not issue (a) enjoining defendants from applying to Negro applicants for admission to formerly all white schools standards and procedures different from or more stringent than those applied to white applicants presently attending such schools, and (b) ordering the defendants to grant forthwith the applications of: Seventh Grade—Fairfield Junior High School, John Ricky Cox, Jr., Edna McLin and Don Edward Sharpe; Eighth Grade — Fairfield Junior High School, Brenda Overstreet; Tenth Grade—Fairfield Senior High School, Ernest McLin, Jr.; Twelfth Grade—Fairfield Senior High School, Rosemary Pearson and Arthur

Washington, with affidavits of Mrs. John R. Cox, Mr. Ernest McLin, and Mrs. Leola M. Pearson, attached, filed — Service accepted and further service is waived by Maurice Bishop, attorney for defendants—Page ...

- Sept. 2 Order for defendants to appear on September 9, 1965, at 8:30 A.M., to show cause why this Court should not issue an Order enjoining defendants from applying to Negro applicants for admission to formerly all white schools standards and procedures different from or more stringent than those applied to white applicants presently attending such schools, and ordering the defendants to grant forthwith the applications of: Seventh Grade —Fairfield Junior High School, John Ricky Cox, Jr., Edna McLin and Don Edward Sharpe; Eighth Grade — Fairfield Junior High School, Brenda Overstreet; Tenth Grade—Fairfield Senior High School, Ernest McLin, Jr.; Twelfth Grade—Fairfield Senior High School, Rosemary Pearson and Arthur Washington, filed and entered (Grooms)—service accepted and further service waived by Maurice Bishop, attorney for defendants —Page ...
- Sept. 7 Writ to Serve Certified copy of motion of plaintiffs to require G. Virgil Nunn, Supt. of Fairfield Public Schools to transfer students etc., and order setting for hearing Sept. 9, 1965 at 8:30 A.M., returned executed 9-3-65 and filed.
- Sept. 8 Findings of Fact and Conclusions of Law dated

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- Sept. 7, 1965, filed and entered (Grooms)—Page ...
- Sept. 8 Order Judgment pursuant to the Findings of Fact and Conclusions of Law, dated Sept. 7, 1965, restraining and enjoining the defendants, Fairfield Board of Education, a body corporate, the members of the Board, William A. Whitson, Frank B. Parson, C. J. Donald, Joseph C. Gandy, David J. MacKnight, Mrs. Olis B. Payne, and G. Virgil Nunn, Supt. of Schools of the Fairfield Board of Education, their agents, servants, employees, successors in office etc., from discriminating against the plaintiffs and those who are similarly situated, because of their race or color, in seeking assignment, transfer or admission to the public schools of Fairfield, Alabama, pursuant to and under the amended plan of desegregation approved Aug. 23, 1965, or subjecting them to criteria, requirements, and prerequisites not required of white children seeking assignment, transfer or admission to said schools, and retaining jurisdiction for such further order as may be required to effectuate the relief hereby granted, filed and entered (Grooms)—copies mailed attorneys—Page ...
- Sept. 9 Hearing before the Hon. H. H. Grooms on motion of plaintiffs in re rejected applications—introduction of plaintiffs' testimony—order to be entered requiring admission of

DATE

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Ed McLin, requiring new applications as to Rickey Cox, John Sharp, Brenda Overstreet, and Rose Mary Pearson, and sustaining Superintendent's ruling as to Ernest McLinn and Arthur Washington, and also as to non-resident deft. Cynthia Hagler.

Sept. 15 Motion of Plaintiffs to require G. Virgil Nunn, Supt. of Fairfield Schools to transfer Lorrain Jordan filed and Order thereon setting for hearing Sept. 20, 1965 at 9:00 A.M., filed (Grooms) — cert. copy del. to Marshal for service on G. Virgil Nunn — returned unexecuted by order of Judge Grooms and filed 9-21-65 — see order 9-20-65 — Page ...

Sept. 20 Order that motion of plaintiffs to require G. Virgil Nunn, Supt. of Fairfield public schools to transfer certain students, filed Sept. 1, 1965 and heard on Thursday, Sept. 9, 1965, is at present, moot as to students, John Rickey Cox, Jr., Edna McLin, Don Edward Sharpe, Brenda A. Overstreet and Rosemary C. Pearson, whose new applications have been accepted and transfers have been effected, and overruling said motion to Ernest McLin, Jr., Arthur W. Washington and Cynthia Hagler, filed and entered (Grooms) — copies mailed attorneys — Page ...

Sept. 20 Order overruling plaintiffs' motion to require G. Virgil Nunn, Supt. of Fairfield public schools to transfer the student Lorrain Jordan, the said Lorrain Jordan having been

heretofore re-admitted to Fairfield Junior High School filed and entered (Grooms) — copies mailed attorneys—Page ...

Oct. 22 Notice of Appeal by the United States of America, plaintiff-intervenor, from the order overruling objections and approving amended plan for desegregation of the Fairfield School System, entered herein on Aug. 23, 1965, filed—cert. copies mailed attorneys of record herein—Page ...

Order extending the time within which the record on appeal in this case may be filed and docketed with the U. S. Court of Appeals, Fifth Circuit, to fifty days from the 1st day of December, 1965, filed and entered (Grooms) — copies mailed attorneys — certified copy mailed Clerk, U. S. Court of Appeals, New Orleans, La.—Page ...

1966

Jan. 18 Transcript of proceedings on Aug. 16, 1965 filed by Court Reporter Meador.

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

CIVIL ACTION NO. CA 65-499

Filed in Clerk's Office, Northern District of Alabama,
July 21, 1965, William E. Davis, Clerk, U. S. District Court.
By M. Claire Parsons, Deputy Clerk.

GEORGE ROBERT BOYKINS

3710 Terrace 'G'
Fairfield, Alabama
as next friend of
Tywana Faye Boykins
Jackie D. Boykins
Lydia C. Boykins
and
Patricia Ann Boykins

FRED D. CUMMINGS

3926 Terrace 'G'
Fairfield, Alabama
as next friend of
Deborah Ann Cummings

LaFAYETTE CLARK

3931 Court 'G'
Fairfield, Alabama
as next friend of
Janice Clark
and
LaFayette Clark, Jr.

MARY JO BROWN

4000 Terrace 'G'
Fairfield, Alabama
as next friend of
Craneston Brown
and

Claudia Jean Brown

LILLIE CRAWFORD

3928 Terrace 'G'
Fairfield, Alabama
as next friend of
Helen Crawford

PERCY SCOTT

3931 Court 'G'
Fairfield, Alabama
as next friend of
Maxine Scott
Veronica Scott
Christine Marita Scott
and
Geraldine Scott

Plaintiffs,

vs.

FAIRFIELD BOARD OF EDUCATION

G. Virgil Nunn
5032 Parkway
Fairfield, Alabama
as Superintendent of the
Fairfield Board of Education

WILLIAM A. WHITSON
909 Oakland Drive
Fairfield, Alabama
as Chairman of the
Fairfield Board of Education

FRANK B. PARSON
6513 Cherokee Drive
Fairfield, Alabama

C. J. DONALD
4415 DeBardleben Avenue
Fairfield, Alabama

JOSEPH C. GANDY
312 41st Street
Fairfield, Alabama

DAVID J. MacKNIGHT
436 Hillview Drive
Fairfield, Alabama

MRS. OLIS B. PAYNE
805 Valley Road Place
Birmingham, Alabama
as Members of the
Fairfield Board of Education
Defendants.

COMPLAINT

This is a proceeding for a preliminary and permanent injunction enjoining the Fairfield Board of Education and its Members and the Superintendent of the Fairfield Board of Education from continuing their policy, practice, custom and usage of discriminating against plaintiffs and others similarly situated by operating a compulsory biracial school system in Fairfield, Alabama in violation of rights secured

to the minor plaintiffs by the Constitution and Laws of the United States of America, as hereinafter more fully appears.

I

Jurisdiction of this court is invoked pursuant to 28 U. S. C., sec. 1343 (3), this being a suit in equity authorized by law, 42 U. S. C., sec. 1983, to be commenced by any Citizen of the United States or other persons within the jurisdiction thereof, to redress deprivation, under color of State law, statute, ordinance, regulation, custom, or usage, of rights, privileges and immunities secured by the Constitution of the United States of America, specifically the Fourteenth Amendment, and by 42 U. S. C., sec. 1981 providing for the equal rights of Citizens and all persons within the jurisdiction of the United States.

Jurisdiction is further invoked under Title VI of the Civil Rights Act of 1964, 42 U. S. C., 2000d.

II

This is a class action brought by the adult plaintiffs for the minor plaintiffs pursuant to Rule 17 (c) of the Federal Rules of Civil Procedure on behalf of themselves and other adults and minors similarly situated, pursuant to the provisions of Rule 23 (a) (3) of the Federal Rules of Civil Procedure.

The members of the class are adult Negro citizens and their minor children residing in Fairfield, Alabama. The members of the class on behalf of whom plaintiffs sue are so numerous as to make it impractical to bring them all individually before this court, but there are common questions of law and fact involved, common grievances arising out of common wrongs, and common relief is sought

for the plaintiffs and each member of the class. The plaintiffs adequately represent the interests of the class.

III

The plaintiffs are: George Robert Boykins, as next friend of Tywana Faye Boykins, Jackie D. Boykins, Lydia C. Boykins and Patricia Ann Boykins; Fred D. Cummings, as next friend of Deborah Ann Cummings; LaFayette Clark, as next friend of Janice Clark and LaFayette Clark, Jr.; Mary Jo Brown, as next friend of Craneston Brown and Claudia Jean Brown; Lillie Crawford, as next friend of Helen Crawford; Percy Scott, as next friend of Maxine Scott, Veronica Scott, Christine Marita Scott, and Geraldine Scott, by their parents and next friends. The plaintiffs are members of the Negro race and are citizens of the United States residing at Fairfield, Alabama. The minor plaintiffs and other Negro citizens similarly situated are attending the public schools of Fairfield, Alabama which are under the jurisdiction, management and control of the Defendant Board.

IV

Defendant Fairfield Board of Education maintains, operates, and supervises the public schools of Fairfield, Alabama, under color of authority vested in it by the Constitution and laws of the State of Alabama. Defendant William A. Whitson is Chairman of the Fairfield, Alabama Board of Education, Defendant G. Virgil Nunn, is Superintendent of the Fairfield, Alabama Board of Education, and Defendants Frank B. Parson, C. J. Donald, Joseph Gandy, David MacKnight and Mrs. Olis B. Payne are members of the Fairfield, Alabama Board of Education. The Defendant G. Virgil Nunn, among other duties, executes the policies of the Defendant Fairfield, Alabama Board of Education.

V

The Defendant Board, acting under color of the authority vested in it by the laws of the State of Alabama, has pursued and is presently pursuing a policy, custom, practice and usage of operating a dual public school system in Fairfield, Alabama on a basis that discriminates against plaintiffs and other Negroes similarly situated because of race and color in that:

(a) one system of schools is constructed, operated and maintained exclusively for white pupils.

(b) All Negro students under the jurisdiction of the Fairfield Board are initially assigned to schools limited exclusively to Negro students—all white students under the jurisdiction of the Fairfield Board of Education, are assigned to schools limited exclusively to white students.

(c) Teachers, Principals, and other professional personnel are assigned to schools by the Defendant Board on the basis of race, with Negro personnel assigned only to Negro schools, and white personnel assigned only to White schools.

(d) A dual scheme or pattern of school zone lines or school attendance area lines based upon race and color is maintained by defendant Board.

(e) Extra-curricular school activities are limited to participation by Negro students only or by White students only.

(f) Defendant Board has in the past and is presently planning and undertaking Constitution of new school facilities, formulating a new school budget, and disbursement of school funds on a racially segregated basis with the purpose and effect of maintaining a biracial school system in Fairfield, Alabama.

VI

Acting under color of the Alabama School Placement Law, Alabama Code, Title 52, section 61 (1)-(12), defendant Board has continued to maintain and operate a system of assigning school children in Fairfield, Alabama, on the basis of race, and has used the provisions of the statute to deny admission of Negro children to schools which they would attend if they were white.

Defendant Board has not employed the Alabama School Placement Law as a means of abolishing State imposed racial distinctions, nor has it offered to the plaintiffs and other Negro children by means of the School Placement Law, a genuine method for securing attendance at non-segregated public schools.

VII

The actions of the defendants herein alleged, are in violation of the plaintiffs' rights and of the rights of other Negroes similarly situated which rights are secured by the due process and equal protection clauses of the Fourteenth Amendment to the United States Constitution, 42 U. S. C. sec. 1981, and the Civil Rights Act of 1964, 42 U. S. C. sec. 2000.

VIII

The plaintiffs, and those similarly situated, suffer and are continuing to suffer irreparable injury and occasional damage, vexation and inconvenience to the plaintiffs and those similarly situated.

Wherefore, plaintiff respectfully prays that the Court advance this cause on the docket and order a speedy hearing of this action according to law, and, after such hearing, enter a preliminary and permanent decree enjoining the

defendants, their agents, employees, successors, and all persons in active concert and participation with them:

(1) From refusing to permit plaintiffs and members of the class to transfer during the first semester of the 1965-66 school year to schools which they would attend if they were white.

(2) From operating a biracial school system in Fairfield, Alabama.

(3) From assigning student to schools of Fairfield, Alabama on a basis of race and color.

(4) From subjecting Negro children seeking assignment, transfer, or admission, to criteria, requirements and prerequisites not required of white pupils seeking assignment, transfer or admission to the schools of Fairfield, Alabama.

(5) From assigning teachers, principals, and other professional school personnel to the schools of Fairfield, Alabama on the basis of race and color.

(6) From programming and supporting extra-curricular school activities which are limited solely to members of one race or the other.

(7) From undertaking any new construction planning and approving school budgets, and disbursing funds on a racial basis.

In the alternative, plaintiffs pray that this court enter a decree directing the defendant Board to present a complete plan for the reorganization of the school system of Fairfield, Alabama into a unitary, non-racial system by the creation of non-racial geographic zone or attendance areas for all grades in the system pursuant to which children, both Negro and white, would be assigned to the school

closest to their residence as a matter of right, including a plan for the assignment of pupils on a non-racial basis, the assignment of teachers, principals, and other school personnel on a non-racial basis, and the elimination of any other discrimination in the operation of the school system based solely on race and color.

Plaintiffs pray that this court will order and decree complete desegregation of all grades in all public schools in the Fairfield, Alabama school system immediately and forthwith, including pupils, teachers, professional personnel, and all other areas of activity in the public school system of Fairfield, Alabama.

Plaintiffs pray that should this court direct the defendants to produce a plan for desegregation of the Fairfield, Alabama school system, that this court will retain jurisdiction of this case pending approval and full implementation of defendants' plan.

The Plaintiffs pray that this Court will allow them their costs herein, reasonable counsel fees, and grant such other, further, additional, or alternative relief as may appear to the court to be equitable and just.

Orzell Billingsley, Jr. [Sig.]

ORZELL BILLINGSLEY, JR.

1630 4th Avenue, North

Birmingham, Alabama

Demetrius C. Newton [Sig.]

DEMETRIUS C. NEWTON

408 North 17th Street

Birmingham, Alabama

NORMAN C. AMAKER

JACK GREENBERG

10 Columbus Circle

New York, New York 10019

July 21, 1965. As a member of the Fairfield Board of Edu., Service is accepted on behalf of Frank B. Parson of the Complaint and Motion for Preliminary Injunction and no other service required as to this defendant.

Maurice F. Bishop [Sig.]
As Attorney for said named
defendant

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

GEORGE ROBERT BOYKINS, et al.,
Plaintiffs,

vs.

THE BOARD OF EDUCATION OF
THE CITY OF FAIRFIELD, et al.,
Defendants,

UNITED STATES OF AMERICA, by
NICHOLAS deB. KATZENBACH,
Attorney General of the United States,
Applicant for Intervention.

CIVIL
ACTION
No. 65-499

NOTICE OF MOTION AND MOTION TO
INTERVENE AS A PLAINTIFF

Filed in Clerk's Office, Northern District of Alabama,
July 30, 1965. William E. Davis, Clerk, U. S. District Court.
By M. Claire Parsons, Deputy Clerk.

TO ALL PARTIES AND TO ALL ATTORNEYS
OF RECORD:

PLEASE TAKE NOTICE that on August 3, 1965
at 1:30 p.m., or as soon thereafter as counsel may be heard,
in the courtroom of the United States District Court for
the Northern District of Alabama, United States Post Office
Building, Birmingham, Alabama, the United States, pur-
suant to Section 902 of the Civil Rights Act of 1964 and
Rule 24(b) of the Federal Rules of Civil Procedure, will
move this Court to intervene as a plaintiff in this action

and to file a Complaint in Intervention which is attached
hereto.

A Certificate executed by the Attorney General of
the United States pursuant to Section 902 of the Civil
Rights Act of 1964 is also attached hereto.

Nicholas deB. Katzenbach [Sig.]

NICHOLAS deB. KATZENBACH
Attorney General

John Doar/D.L.N. [Sig.]

JOHN DOAR
Assistant Attorney General

Macon L. Weaver [Sig.]

MACON L. WEAVER

United States Attorney

David L. Norman [Sig.]

DAVID L. NORMAN

Attorney, Department of Justice

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

GEORGE ROBERT BOYKINS, et al.,
Plaintiffs,

UNITED STATES OF AMERICA, by
NICHOLAS deB. KATZENBACH,
Attorney General of the United States,
Plaintiff-Intervenor,

vs.

THE BOARD OF EDUCATION OF
THE CITY OF FAIRFIELD, et al.,
Defendants.

CIVIL
ACTION
No. 65-499

Filed in Clerk's Office, Northern District of Alabama,
July 30, 1965. William E. Davis, Clerk, U. S. District Court.
By M. Claire Parsons, Deputy Clerk.

COMPLAINT IN INTERVENTION

The United States, as intervenor, alleges as a claim
against the defendants:

1. This is a complaint in intervention filed by the
United States under Section 902 of the Civil Rights Act
of 1964 (78 Stat. 241, 266-267).

2. On July 21, 1965, the plaintiffs filed their com-
plaint in this case under 42 U.S.C. 1983 seeking injunctive
relief against alleged conduct of the defendants denying
them the equal protection of the laws on account of race
or color, in violation of the Fourteenth Amendment to
the United States Constitution and 42 U.S.C. 1981.

3. The Attorney General has certified that this case
is of general public importance and his certificate is at-
tached to this complaint in intervention.

4. The plaintiffs herein are Negro citizens of the
United States who presently reside in Fairfield, Alabama
and are presently enrolled in or eligible to attend Fairfield
public schools.

5. Defendants are the City of Fairfield Board of Edu-
cation, its members, and the Superintendent of the Fair-
field public school system. The defendants are charged by
Alabama law with the responsibility of operating the public
school system in the City of Fairfield.

6. In operating the public school system of the City
of Fairfield, the defendants maintain a dual set of schools
in which one set of schools is maintained for Negro stu-
dents and another set for white students.

7. The schools maintained by the defendants for Negro
students are staffed by teachers and administrative per-
sonnel who are Negro. The schools maintained by the
defendants for white students are staffed by teachers and
administrative personnel who are not Negro.

8. In the schools maintained for Negro students, the de-
fendants offer educational opportunities and facilities infe-
rior to those provided in the schools maintained for white
students.

WHEREFORE, the plaintiff-intervenor prays that this
court enter an order enjoining the defendants, together
with their agents, employees, successors and all those in
active concert or participation with them, from maintaining
a dual system of schools based upon race or color, from fail-
ing to offer and provide equal educational opportunities to
all students in all schools without regard to their race or

color, and from otherwise maintaining in the operation of the Fairfield schools any distinctions based upon race or color.

Plaintiff-intervenor further prays that this Court grant such additional relief as the needs of justice may require, including the costs and disbursements of this action.

Nicholas deB. Katzenbach [Sig.]
NICHOLAS deB. KATZENBACH
Attorney General

John Doar/D.L.N. [Sig.]
JOHN DOAR
Assistant Attorney General

Macon L. Weaver [Sig.]
MACON L. WEAVER
United States Attorney

David L. Norman [Sig.]
DAVID L. NORMAN
Attorney, Department of Justice

CERTIFICATE OF THE ATTORNEY GENERAL OF THE UNITED STATES

NICHOLAS deB. KATZENBACH, Attorney General of the United States, certifies that the case of *George Robert Boykins, et al., v. The Board of Education of the City of Fairfield, et al.*, Civil Action No. 65-499 which has been commenced in the United States District Court for the Northern District of Alabama, Southern Division, seeking relief from the denial of the equal protection of the laws based on race or color, is of general public importance

within the meaning of Section 902 of the Civil Rights Act of 1964.

Signed this 29 day of July, 1965.

Nicholas deB. Katzenbach [Sig.]
NICHOLAS deB. KATZENBACH
Attorney General.

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

GEORGE ROBERT BOYKINS
as next friend, etc.
et al.

Plaintiffs

vs.

FAIRFIELD BOARD OF EDUCATION
et al.

Defendants

CIVIL
ACTION
No. 65-499

Filed in Clerk's Office, Northern District of Alabama,
August 2, 1965, William E. Davis, Clerk, U. S. District
Court. By M. Claire Parsons, Deputy Clerk.

ANSWER TO COMPLAINT

Now come the defendants named in the above-entitled cause (except Mrs. Olis B. Payne who is filing a separate motion contemporaneously herewith) separately and severally, and, for answer to the complaint heretofore filed and pending in this cause, separately and severally state as follows:

1. Defendants deny that the plaintiffs are entitled to bring or prosecute this suit under the statutes cited.

2. Defendants deny that this is a proper class action, and deny that the plaintiffs are representatives of any class, and further deny that plaintiffs have sustained any grievances or violations of civil rights.

3. Defendants deny the allegations of paragraph III of the complaint.

4. Defendants admit the allegations of paragraph IV of the complaint except that William A. Whitson is not Chairman, but is a member of the Board of Education of the City of Fairfield, Alabama, and the defendant David J. MacKnight is Chairman of said Board, and Mrs. Olis B. Payne is not a member of said Board of Education and should be stricken from this action.

5. Defendants deny that there has been any discrimination against plaintiffs, and deny that plaintiffs are properly representatives of any class, and defendants further deny that there has been any discrimination against "other Negroes similarly situated because of race or color."

(a) Defendants admit the allegations of paragraph V(a).

(b) Defendants admit the allegations of paragraph V(b).

(c) Defendants deny the allegations of paragraph V(c).

(d) Defendants deny the allegations of paragraph V(d).

(e) Defendants admit the allegations of paragraph V(e).

(f) Defendants deny the allegations of paragraph V(f).

6. Defendants deny the allegations of paragraph VI and affirmatively aver that they have received no application from or on behalf of any colored student to transfer to any school the majority of the students of which are white, and that they have received no application by or on behalf of any white student to attend any school in the Fairfield School System, the majority of which students are colored. The defendants further and specifically deny all of the allegations of paragraph VI.

7. Defendants deny the allegations of paragraph VII.

8. Defendants deny the allegations of paragraph VIII.

WHEREFORE, defendants, separately and severally, move that this cause be dismissed, that the relief prayed for be denied, and that the costs incurred be taxed against the plaintiffs.

Maurice F. Bishop [Sig.]
Attorney for defendants

MAURICE F. BISHOP
327 Frank Nelson Building
Birmingham, Alabama 35203

STATE OF ALABAMA
COUNTY OF JEFFERSON

Before me, the undersigned authority in and for said State and County, personally appeared G. VIRGIL NUNN as Superintendent of the Board of Education of the City of Fairfield, Alabama, who is known to me and, being by me first duly sworn, deposes and on oath states that he is authorized to make this affidavit on behalf of each and all of the defendants, separately and severally, that he has personal knowledge of the facts set out above, and that the same are true.

G. Virgil Nunn [Sig.]

(SEAL)

Sworn and subscribed before me this 24th day of July, 1965.

Helen Scott [Sig.]
Notary Public
Jefferson County, Alabama
My Commission Expires July 3,
1966.

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the above and foregoing Answer to Complaint on attorneys for plaintiffs on this the 24th day of July, 1965.

Maurice F. Bishop [Sig.]

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the above and foregoing Answer to Complaint on the Office of the United States District Attorney on this the 30th day of July, 1965.

Maurice F. Bishop [Sig.]

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

GEORGE ROBERT BOYKINS,
as next friend of
TYWANNA FAYE BOYKINS,
et al.,

Plaintiff,

vs.

FAIRFIELD BOARD OF EDUCATION,
et al.,

Defendants.

CIVIL
ACTION
No. 65-499

Filed in Clerk's Office, Northern District of Alabama,
August 18, 1965, William E. Davis, Clerk, U. S. District
Court. By M. Claire Parsons, Deputy Clerk.

PLAINTIFF'S OBJECTION TO DEFENDANTS'
PLAN FOR DESEGREGATION

1. Defendants' plan requires Negro children and their parents or guardians to apply for transfer from "Negro" to "white" schools "in accordance with existing regulations" which place onerous and burdensome requirements on Negro children and their parents or guardians. The plan contemplates a screening process with Negro children having to "pass muster" to enter white schools from the Negro school that the dual system has put them in. Thus the duty to desegregate that is on the defendants is avoided and has instead been shifted to Negro children and their parents or guardians.

2. What the plan proposes with respect to the first grade is particularly objectionable since Negro children are first required to register at "Negro" schools and then apply to attend white schools. Hence, there is a complete absence of nondiscriminatory initial assignment which can only be accomplished by assigning children, Negro and white, to the schools nearest their homes on the basis of fairly drawn unitary nonracial geographic zones.

3. The plan does not provide for abolition of the dual system since there are no provisions for coalescence of the present dual zones based on race into single zones based only on such factors as population, capacity, geography, residence, etc.

4. The plan proposes nothing with respect to desegregation of adult teaching and supervisory personnel.

5. The plan fails to provide for the desegregation of the racially based dual system of busing Negro and white children to school nor does it take into account the effect of the transportation pattern on the system of dual zoning and does not purport to abolish either.

6. Defendants' plan, by failing to propose destruction of the dual system by coalescence of the dual zones, permits excessive overcrowding in the Negro schools as compared with the white schools to continue.

7. Defendants' plan, by failing to propose destruction of the dual system by coalescence of the dual zones, fosters continuing discrimination in regard to the proposed plans for school construction.

8. Defendants' plan, by failing to propose destruction of the dual system by the coalescence of the dual zones, continues to reflect the unnecessary financial burden borne by both

racess but which falls more heavily on Negro parents, that is the result of operating a dual system of schools.

9. Defendants do not in their plan, justify the proposed delay in completing the desegregation process.

10. Defendants' plan on its face excludes six (6) of the minor plaintiffs in the case.

11. The notice as suggested by defendants' plan is inadequate and plaintiffs suggest that individual letters be sent to parents of children covered by the plan as finally approved.

12. Defendants' plan excludes for the most part the transfer of students now attending Interurban Heights Junior High School the most appalling of all the Negro schools.

Demetrius C. Newton [Sig.]
 DEMETRIUS C. NEWTON
 408 North 17th Street
 Birmingham, Alabama

ORZELL BILLINGSLEY, JR.
 1630 4th Avenue North
 Birmingham, Alabama

NORMAN C. AMAKER
 JACK GREENBERG
 10 Columbus Circle
 New York, New York 10019
Attorneys for Plaintiffs.

CERTIFICATE OF SERVICE

This will certify that on this eighteenth (18th) day of August, 1965, I served a copy of the foregoing Plaintiffs' Objections to Defendants' Plan for Desegregation upon

Maurice F. Bishop, Esq., Bishop & Carlton, 327 Frank Nelson Building, Birmingham, Alabama 35203, attorney for the defendants, by mailing a copy to him by United States Mail, postage prepaid.

Demetrius C. Newton [Sig.]
 DEMETRIUS C. NEWTON
Attorney for Plaintiffs.

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

GEORGE ROBERT BOYKINS, et al.,
Plaintiffs,

UNITED STATES OF AMERICA, by
Nicholas deB. Katzenbach,
Attorney General,

Plaintiff-Intervenor,

v.

THE BOARD OF EDUCATION OF
THE CITY OF FAIRFIELD, et al.,
Defendants.

CIVIL
ACTION
No. 65-499

Filed in Clerk's Office, Northern District of Alabama,
August 19, 1965, William E. Davis, Clerk, U. S. District
Court. By M. Claire Parsons, Deputy Clerk.

OBJECTIONS TO PLAN FOR DESEGREGATION

The United States, plaintiff-intervenor, objects to the proposed plan for desegregation of the school system of the City of Fairfield submitted by the defendants pursuant to this Court's order of August 16, 1965, on the following grounds:

1. The proposed plan provides for an inadequate rate of desegregation.

a. The proposed plan does not provide for the desegregation of each grade in the Fairfield school system by September 1965.

b. The proposed plan fails to provide for the "feeding" of students to the next school level without regard to race.

c. The proposed plan fails to provide for initial assignment to all grades without regard to race, with respect to students newly enrolling in the school system.

d. The proposed plan fails to provide for the desegregation of the first grade of junior high school in the first year.

e. The proposed plan makes no provision for the enrollment, in schools attended by white students, of Negro students who attend schools offering inferior educational opportunities.

f. No provision is made for the enrollment of Negro students, in schools attended by white students, for the purpose of taking any course of study not offered in the school or schools attended by the Negro students.

2. The scope of the proposed plan for desegregation fails to meet the requirements of a good faith start toward desegregation.

a. The proposed plan perpetuates the original racial assignment of Negro children and imposes upon their parents the burden of obtaining transfer to schools in which white children are automatically enrolled without a requirement of transfer.

b. The proposed plan fails to provide for initial non-racial assignment of all first graders who do not exercise their choice of school or who cannot be enrolled in the school of their choice because it is filled to capacity.

c. The proposed plan fails to provide for the use of non-racial criteria as a basis for assignment if the number of

students who choose to attend a school exceeds the school's capacity.

d. The proposed plan fails to provide for the abolition of the dual attendance zones based on race as to each grade to which the plan will apply, or in any way provide for the ultimate elimination of dual attendance zones.

e. The proposed plan fails to provide for the desegregation and non-discriminatory hiring, placing, and retention of teachers and administrative personnel.

3. The proposed plan is procedurally inadequate.

a. The time limit within which Negroes may apply for transfer for the school years of 1966-67 and 1967-68 is unreasonably short.

b. The proposed plan fails to fix a reasonable limit on the time within which applications for transfer must be acted upon.

c. The notice to parents required by the proposed plan does not state simply and clearly, in terms understandable by laymen, the procedures for desegregation; nor does the plan provide for each parent to be notified individually of its provisions.

d. The notice to parents required by the proposed plan fails to include an assurance that school personnel will neither favor nor penalize any pupil because of the choice he makes in the exercise of his rights under the plan.

e. The proposed plan fails to provide for notice to be given parents concerning procedures for desegregation for the school years of 1966-67 and 1967-68.

f. The proposed plan requires Negroes entering the first grade to go to Negro elementary school¹, and white chil-

dren entering the first grade to go to white elementary schools in the vicinity of their residence to make application for assignment to another school.

These objections are based upon the pleadings, papers, and other documents heretofore filed in this case, and upon the testimony and other evidence to be offered by plaintiff-intervenor at the hearing upon these objections.

Macon L. Weaver [Sig.]

MACON L. WEAVER

United States Attorney

Brian K. Landsberg [Sig.]

BRIAN K. LANDSBERG

Attorney,

Department of Justice

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

GEORGE ROBERT BOYKINS, et al.,
Plaintiffs,
UNITED STATES OF AMERICA, by
Nicholas deB. Katzenbach,
Attorney General,

Plaintiff-Intervenor,

v.

THE BOARD OF EDUCATION OF
THE CITY OF FAIRFIELD, et al.,
Defendants.

CIVIL
ACTION
No. 65-499

MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF OBJECTIONS TO PLAN
FOR DESEGREGATION

I

The plan for desegregation submitted by the defendants fails to conform with the national policy enunciated in the *General Statement of Policies Under Title VI of the Civil Rights Act of 1964 Respecting Desegregation of Elementary and Secondary Schools* of the United States Department of Health, Education and Welfare. The Court of Appeals, in *Price v. The Denison Independent School District Board of Education*, No. 21,632 (5th Cir. July 2, 1965), held that "the applicable standard is essentially the HEW standard for 1965-66. . . ." See also *Singleton v. Jackson Municipal Separate School District*, No. 22,527 (5th Cir. June 22, 1965). And in *United States v. Jefferson County Board*

of Education, No. 22,864 (5th Cir. August 17, 1965) the Court rejected a plan identical in all material respects to the proposed Fairfield plan. While the *Price* and *Singleton* opinions could have been read to apply only to the rate of desegregation, the *Jefferson County* case makes it clear that the manner of desegregation must also follow the HEW Guidelines. The proposed Fairfield plan fails to satisfy the requirements of the *Singleton*, *Price*, and *Jefferson County* cases, as elucidated by the Guidelines, in the following respects:¹

A. The proposed plan provides for the perpetuation of assignment of students according to their race (1) by requiring Negro first graders-to-be to report to Negro schools on the first day of school; (2) by requiring students who do not apply for transfer to attend the school to which they were assigned on a segregated basis. *Goss v. Board of Education of Knoxville, Tennessee*, 373 U.S. 683 (1963); *Bush v. Orleans Parish School Board*, 308 F.2d 491 (5th Cir. 1962). The burden to desegregate the school system is on the school authorities and should not be permitted to be imposed upon the class of persons against whom the school authorities have been discriminating. See *Stell v. Savannah-Chatham County Board of Education*, 333 F.2d 55 (5th Cir. 1964); *Northcross v. Board of Education of Memphis*, 302 F.2d 818 at 823 (5th Cir. 1962). The proposed plan shifts the burden on Negroes to apply for transfer to schools to which white students are assigned without being required to apply for transfer. If the school board desires to change from geographic zoning of schools to a freedom of choice plan it must permit all students to make a choice, or it must assign on a non-racial basis those students who fail to make a choice.

¹Where applicable, other cases are also cited in this Memorandum. However, the above-cited cases are relevant to each objection discussed in this section of the Memorandum.

B. The proposed plan fails to provide for non-racial initial assignment as to students entering the lowest grade of the primary, junior high school and senior high school levels and as to students who newly enroll in the Fairfield school system whether or not they enroll in a grade covered by the plan. See *Bevins v. Board of Public Education & Orphanage for Bibb County, Georgia*, 342 F.2d 229 at 231 (5th Cir. 1965).

C. The proposed plan should, but does not, provide for any pupil attending a school to which he was originally assigned on the basis of his race to enroll in another school in order to take a course of study for which he is qualified and which is not available in the school he is attending, whether or not the grade he is attending has been reached by the plan. See *Sweatt v. Painter*, 339 U.S. 629 (1950); *Missouri ex rel. Gaines v. Canada*, 305 U.S. 337 (1938); *Boyce v. County Board of Education of Humphreys County, Tennessee*, 7 R.R.L.R. 372 (M.D. Tenn. 1961).

D. The proposed plan fails to meet a basic requirement for any plan for desegregation, i.e., the abolition of dual or separate attendance zones based on race as to each grade to which the plan becomes applicable. *Bivins v. Board of Public Education & Orphanage for Bibb County, Georgia*, 342 F.2d 229 at 231 (5th Cir. 1965).

E. All desegregation plans must provide for the desegregation of faculty and staff in two respects.

1. The race or color of the pupils in a school or class should not be a factor in the assignment of a teacher to that school or class or for the assignment of administrative personnel. *Board of Public Instruction of Duval County, Florida v. Braxton*, 326 F.2d 616 (5th Cir. 1964).

2. In order to correct past practices of discriminatory hiring and placing of teachers some provision should be made to re-assign those members of faculty and staff who were originally assigned on the basis of their race or the race of the students in the school to which they were assigned. *Taylor v. Board of Education of City School District of New Rochelle*, 191 F. Supp. 181, 186 (E.D. N.Y. 1961) Aff'd F.2d 36 (2nd Cir. 1961).

The proposed plan contains no provision respecting desegregation of faculty and staff.

F. The notice to parents required by the proposed plan is in legal language which may not be readily understood by laymen. The notice should be stated in clear and simple terms so as to bring home to Negro students, notice of the rights to be accorded them. *Stell v. Savannah-Chatham County Board of Education*, *supra*.

Moreover, the notice should be sent to each parent individually in addition to its publication in newspapers of general circulation.

To fully apprise students and their parents of their freedom to exercise their rights, the notice should also include an assurance that school personnel will neither favor nor penalize any pupil because of the choice he makes in the exercise of his rights under the plan.

II

A. The proposed plan fails to provide for the desegregation of the entire Fairfield school system by September 1965.

1. Delay in desegregation must be justified by a showing by the defendants of administrative diffi-

culties. *Brown v. Board of Education of Topeka*, 349 U.S. 294 (1955); *Goss v. Board of Education of the City of Knoxville, Tennessee*, 373 U.S. 683 (1963). No such administrative difficulties are alleged by the defendants to justify the delay embodied in their plan. The plan is therefore deficient in failing to provide for the desegregation of each grade in the Fairfield school system by September 1965.

2. Plaintiff-intervenor will establish at the hearing on these objections that Negroes in Fairfield have been and are provided with educational opportunities and facilities which are inferior to those provided white students. In such circumstances the Court should require desegregation of every grade by the beginning of the next school year. *Boyce v. County Board of Education of Humphreys County, Tennessee*, 7 R.R.L.R. 372 (M.D. Tenn. 1961).

B. The time limit for transfer from the Negro to the white school system cannot differ from the time limit for transfers within each system. Plaintiff-intervenor will establish at the hearing on these objections that for the 1964-65 school year the defendants allowed transfers within the system during the spring and summer of 1964. The defendants, therefore, should not be allowed to limit applications for transfer in 1966-67 and 1967-68 to a two-week period in May of each year.

C. The proposed plan does not clearly define the time within which applications for transfer will be acted upon. The vague terms "promptly" and "in time" are not clear enough to prevent unnecessary delay.

Undue delay has been prohibited in *Armstrong v. Board of Education of Birmingham*, 333 F.2d 45 at 52 (5th Cir. 1964) where the Court said:

"Applicants will not be required to submit to undue delay in the consideration of their applications. . . ."

Macon L. Weaver [Sig.]

MACON L. WEAVER

United States Attorney

Brian K. Landsberg [Sig.]

BRIAN K. LANDSBERG

Attorney,

United States Department of Justice

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing Objections to Plan for Desegregation and Memorandum of Points and Authorities in Support of Objections to Plan for Desegregation, by personally delivering a copy of each of the above documents to the law office of Maurice F. Bishop, Bishop and Carlton, Attorneys-at-Law, 325-29 Frank Nelson Building, Birmingham, Alabama, Attorney for defendants, and Demetrius C. Newton, 408 North 17th Street, Birmingham, Alabama, attorney for plaintiffs, on this 19th day of August, 1965.

James W. Phillips [Sig.]

JAMES W. PHILLIPS

Attorney for Plaintiff-Intervenor

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

GEORGE ROBERT BOYKINS as
next friend, etc., et al.,

Plaintiffs,

v.

FAIRFIELD BOARD OF EDUCATION,
et al.,

Defendants.

CIVIL
ACTION
No. 65-499

Filed in Clerk's Office, Northern District of Alabama,
August 19, 1965, William E. Davis, Clerk, U. S. District
Court. By M. Claire Parsons, Deputy Clerk.

PLAN FOR DESEGREGATION OF
FAIRFIELD SCHOOL SYSTEM
OPERATING UNDER THE SUPERVISION OF
BOARD OF EDUCATION OF
THE CITY OF FAIRFIELD
FILED PURSUANT TO ORDER OF COURT
IN THIS CAUSE

Now come the defendants in the above-entitled cause
pursuant to order of this court entered herein to file and
submit to this Court for approval a plan for desegregation of
the Fairfield School System operating under the supervision
of the Board of Education of the City of Fairfield, Alabama.

The defendants do not consent or agree to said plan,

but submit same for approval by the Court as directed and
ordered. Said plan is attached hereto and made a part hereof.

BISHOP & CARLTON
327 Frank Nelson Building
Birmingham, Alabama 35203

Maurice F. Bishop [Sig.]
Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing plan has
been served upon counsel for the plaintiffs by first-class
mail, postage prepaid, on this, the 17th day of August, 1965.

Maurice F. Bishop [Sig.]

PLAN FOR DESEGREGATION OF THE
SCHOOL SYSTEM OPERATING UNDER THE
SUPERVISION OF THE BOARD OF EDUCATION OF
THE CITY OF FAIRFIELD, ALABAMA

The Board of Education of the City of Fairfield, Ala-
bama (City Board) proposes the following plan, pursuant to
order of Court:

1. All applications filed in accordance with existing
regulations of the Board on or before August 30, 1965, for
assignment or transfer for the 9th, 11th and 12th grades to
a school hertofore attended only by pupils of a race other
than the race of pupils in whose behalf the applications are
filed, will be processed and determined by the Board pur-
suant to its regulations as far as is practicable, so that a de-
cision may be made for either approval or rejection of such
applications for the term commencing in September, 1965,
without discrimination as to race or color.

2. Negro children entering the first grade in the system of the City Board will report on the 1st day of September, 1965, at the school named below which is in the vicinity of the child's residence at the time. Upon such registration, an application may be made by the parents for the child's assignment to any school (whether formerly attended only, or predominantly, by White children, or only by Negro children): Englewood or Robinson.

White children entering the first grade in the School System of the City Board will report on the 1st day of September, 1965 at the school named below which is in the vicinity of the child's residence at the time. Upon such registration an application may be made by the parents for the child's assignment to any school (whether formerly attended only, or predominantly, by White children, or only by Negro children): Donald, Forest Hills, and Glen Oaks.

All applications for assignment in behalf of children entering the first grade, Negro or White, will be acted upon promptly.

3. (a) Applications filed in accordance with existing regulations of the Board on or before August 30, 1965, for assignment or transfer for the 9th, 11th, and 12th grades to a school heretofore attended only by pupils of a race other than the race of the pupils in whose behalf the applications are filed, will be processed and determined by the Board pursuant to its regulations as far as is practicable, so that a decision may be made for either approval or rejection of such applications for the term commencing in September, 1965, without discrimination as to race or color.

(b) Applications filed in accordance with existing regulations of the Board without discrimination on grounds of race or color will be accepted during May 1-15, 1966 for assignment or transfer for the 2nd, 3rd, 8th and 10th grades

to a school heretofore attended only by pupils of a race other than the race of the pupils in whose behalf the applications are filed, will be processed and determined by the Board pursuant to its regulations as far as is practicable, so that a decision may be made for either approval or rejection of such application for the term commencing in September, 1966, without discrimination as to race or color.

(c) Applications filed in accordance with existing regulations of the Board without discrimination on grounds of race or color will be accepted during May 1-15, 1967 for assignment or transfer for the 4th, 5th, 6th and 7th grades to a school heretofore attended only by pupils of a race other than the race of the pupils in whose behalf the applications are filed will be processed and determined by the Board pursuant to its regulations as far as is practicable, so that a decision may be made for either approval or rejection of such application for the term commencing September, 1967, without discrimination as to race or color.

4. Subject to the provisions of paragraphs 1, 2, and 3 above, all pupils in all schools of the School System of the City Board will remain assigned to schools to which they are now assigned for the school year commencing September, 1965.

5. The City Board and Superintendent will publish an advertisement in a newspaper of general circulation in Jefferson County, on each of three days prior to August 30, 1965, such chosen days to be spaced as regularly as is practicable, the first publication to be made promptly (within a day or two) following the rendition of this court order and notice thereof, it being allowable that the last publication be made one or two days prior to August 30, 1965. The notice shall state the times, places and methods of filing application for assignment or transfer of pupils under said plan.

A copy of the form of notice prescribed to be given is hereafter set out:

TO THE STUDENTS OF THE SCHOOL SYSTEM OPERATING UNDER THE SUPERVISION OF THE BOARD OF EDUCATION OF THE CITY OF FAIRFIELD, ALABAMA, THE PARENTS OF SUCH STUDENTS, THE TEACHERS AND OTHER SCHOOL PERSONNEL:

Notice of the plan of desegregation of the Board of Education of the City of Fairfield Schools, pursuant to the order of the United States District Court dated August 16, 1965, is hereby given. The outline of such plan (as far as the year commencing in September, 1965 is concerned) implemented by Court order is as follows:

1. All applications filed at office of the Superintendent of Education (Located at 600 Valley Road in the City of Fairfield), in accordance with regulations of the Board on or before August 30 for assignment or transfer for the twelfth, eleventh and ninth grades to a school heretofore attended only (or in any case predominantly) by pupils of a race other than the race of the pupils in whose behalf the applications are filed, will be processed and determined by the Board, so that action may be taken thereon on such applications for the term commencing in September, 1965 without discrimination as to race or color.

2. Negro children entering the first grade in the School System of the City Board will report on the 1st day of September, 1965 at the school named below which is in the vicinity of the child's residence at the time. Upon such registration an application may be made by the parents for the child's assignment to any school (whether formerly attended only, or predominantly, by White children, or only by Negro children): Englewood or Robinson.

White children entering the first grade in the School System of the City Board will report on the 1st day of September, 1965 at the school named below which is in the vicinity of the child's residence at the time. Upon such registration an application may be made by the parents for the child's assignment to any school (whether formerly attended only, or predominantly, by White children, or only by Negro children): Donald, Forest Hills, and Glen Oaks.

All applications for assignment in behalf of children entering the first grade, Negro or White, will be acted upon promptly.

G. VIRGIL NUNN,
*Superintendent of the Board of
Education of the City of
Fairfield, Alabama*

PLAN FOR DESEGREGATION OF THE
SCHOOL SYSTEM OPERATING UNDER THE
SUPERVISION OF THE BOARD OF EDUCATION OF
THE CITY OF FAIRFIELD, ALABAMA

Filed in Clerk's Office, Northern District of Alabama, August 23, 1965, William E. Davis, Clerk, U. S. District Court. By M. Claire Parsons, Deputy Clerk.

The Board of Education of the City of Fairfield, Alabama (City Board) proposes the following plan, pursuant to order of Court:

1. All applications filed in accordance with existing regulations of the Board on or before August 30, 1965, for assignment or transfer for the 7th, 8th, 10th and 12th grades to a school heretofore attended only by pupils of a race other than the race of pupils in whose behalf the applications are

filed, will be processed and determined by the Board pursuant to its regulations as far as is practicable, so that a decision may be made for either approval or rejection of such applications for the term commencing in September, 1965, without discrimination as to race or color.

2. Negro children entering the first grade in the system of the City Board will report on the 1st day of September, 1965, at the school named below which is in the vicinity of the child's residence at the time. Upon such registration, an application may be made by the parents for the child's assignment to any school (whether formerly attended only, or predominantly, by White children, or only by Negro children): Englewood or Robinson.

White children entering the first grade in the School System of the City Board will report on the 1st day of September, 1965 at the school named below which is in the vicinity of the child's residence at the time. Upon such registration an application may be made by the parents for the child's assignment to any school (whether formerly attended only, or predominantly, by White children, or only by Negro children): Donald, Forest Hills and Glen Oaks.

All applications for assignment in behalf of children entering the first grade, Negro or White, will be acted upon promptly.

3. Application forms for all grades involved will be made available at the offices of the principal of each of the schools in the Fairfield System.

4. (a) Applications filed in accordance with existing regulations of the Board on or before August 30, 1965, for assignment or transfer for the 7th, 8th, 10th and 12th grades to a school heretofore attended only by pupils of a race other than the race of the pupils in whose behalf the applications

are filed, must be delivered to and filed with the Superintendent at his office at 600 Valley Road, Fairfield, and shall be processed and determined by him pursuant to regulations of the Board as far as is practicable, so that a decision may be made for either approval or rejection of such applications for the term commencing in September, 1965, without discrimination as to race or color.

(b) Applications filed in accordance with existing regulations of the Board without discrimination on grounds of race or color will be accepted during the month of May, 1966 for assignment or transfer for the 2nd, 3rd, 9th and 11th grades to a school heretofore attended only by pupils of a race other than the race of the pupils in whose behalf the applications are filed, and will be processed and determined by the Board pursuant to its regulations as far as is practicable, so that a decision may be made for either approval or rejection of such application for the term commencing in September, 1966, without discrimination as to race or color.

(c) Applications filed in accordance with existing regulations of the Board without discrimination on grounds of race or color will be accepted during the month of May, 1967 for assignment or transfer for the 4th, 5th and 6th grades to a school heretofore attended only by pupils of a race other than the race of the pupils in whose behalf the applications are filed, and will be processed and determined by the Board pursuant to its regulations as far as is practicable, so that a decision may be made for either approval or rejection of such applications for the term commencing September, 1967, without discrimination as to race or color.

(d) Notice of the grades to be desegregated during the 1966-1967 and 1967-1968 school years will be published three times in a daily newspaper of general circulation dur-

ing May of the respective years 1966 and 1967.

5. Subject to the provisions of paragraphs 1, 2, 3, and 4 above, all pupils in all schools of the School System of the City Board will remain assigned to schools to which they are now assigned for the school year commencing September, 1965.

6. Students entering the area served by the Fairfield School System for the first time, and desiring to attend a school, the majority of whose students are of a race different from the applicant, shall obtain applications from the school of their choice which shall be completed, delivered to and promptly processed by the Superintendent without regard to race or color.

7. The City Board and Superintendent will publish an advertisement in a newspaper of general circulation in Jefferson County, on each of three days prior to August 30, 1965, such chosen days to be spaced as regularly as is practicable, the first publication to be made promptly (within a day or two) following the rendition of this court order and notice thereof, it being allowable that the last publication be made one or two days prior to August 30, 1965. The notice shall state the times, places and methods of filing application for assignment or transfer of pupils under said plan. A copy of the form of notice prescribed to be given is hereafter set out:

TO THE STUDENTS OF THE SCHOOL SYSTEM
OPERATING UNDER THE SUPERVISION OF
THE BOARD OF EDUCATION OF THE CITY OF
FAIRFIELD, ALABAMA, THE PARENTS OF SUCH
STUDENTS, THE TEACHERS AND OTHER
SCHOOL PERSONNEL:

Notice of the plan of desegregation of the Board of Education of the City of Fairfield Schools, pursuant to the

orders of the United States District Court, dated August 16, 1965 and August 23, 1965, is hereby given. The outline of such plan (as far as the year commencing in September, 1965 is concerned) implemented by Court order is as follows:

1. All applications filed at office of the Superintendent of Education (Located at 600 Valley Road in the City of Fairfield), in accordance with regulations of the Board on or before August 30 for assignment or transfer for the seventh, eighth, tenth and twelfth grades to a school heretofore attended only (or in any case predominantly) by pupils of a race other than the race of the pupils in whose behalf the applications are filed, will be processed and determined by the Board, so that action may be taken thereon on such applications for the term commencing in September, 1965, without discrimination as to race or color.

2. Negro children entering the first grade in the School System of the City Board will report on the 1st day of September, 1965 at the school named below which is in the vicinity of the child's residence at the time. Upon such registration, an application may be made by the parents for the child's assignment to any school (whether formerly attended only, or predominantly by White children, or only by Negro children): Englewood or Robinson.

White children entering the first grade in the School System of the City Board will report on the 1st day of September, 1965 at the school named below which is in the vicinity of the child's residence at the time. Upon such registration an application may be made by the parents for the child's assignment to any school (whether formerly attended only, or predominantly, by White children, or only by Negro children): Donald, Forest Hills, and Glen Oaks.

All applications for assignment in behalf of children

entering the first grade, Negro or White, will be acted upon promptly.

Application forms for all grades involved will be made available at the offices of the principal of each of the schools in the Fairfield System.

G. VIRGIL NUNN,
*Superintendent of the Board of
 Education of the City of
 Fairfield, Alabama*

IN THE UNITED STATES DISTRICT COURT FOR
 THE NORTHERN DISTRICT OF ALABAMA
 SOUTHERN DIVISION

GEORGE ROBERT BOYKINS as
 next friend, etc., et al.,
Plaintiffs,

vs.

FAIRFIELD BOARD OF EDUCATION,
 et al.,
Defendants.

CIVIL
 ACTION
 No. 65-499

Filed in Clerk's Office, Northern District of Alabama,
 August 23, 1965. William E. Davis, Clerk, U. S. District
 Court. By M. Claire Parsons, Deputy Clerk.

AMENDED PLAN FOR DESEGREGATION OF
 FAIRFIELD SCHOOL SYSTEM
 OPERATING UNDER THE SUPERVISION OF
 BOARD OF EDUCATION OF THE CITY
 OF FAIRFIELD FILED PURSUANT TO
 ORDER OF COURT IN THIS CAUSE

Now come the defendants in the above-entitled cause pursuant to order of this Court entered herein to file and submit to this Court for approval an amended plan for desegregation of the Fairfield School System operating under the supervision of the Board of Education of the City of Fairfield, Alabama.

The defendants do not consent or agree to said plan, but submit same for approval by the Court as directed and ordered by the Court on August 20, 1965. Same plan is attached hereto and made a part hereof.

Bishop & Carlton
327 Frank Nelson Building
Birmingham, Alabama 35203

Maurice F. Bishop [Sig.]
Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing plan has been served upon counsel for the plaintiffs by first-class mail, postage prepaid, on this, the 23rd day of August, 1965.

Maurice F. Bishop [Sig.]

PLAN FOR DESEGREGATION OF THE SCHOOL SYSTEM OPERATING UNDER THE SUPERVISION OF THE BOARD OF EDUCATION OF THE CITY OF FAIRFIELD, ALABAMA

The Board of Education of the City of Fairfield, Alabama (City Board) proposes the following plan, pursuant to order of Court:

1. All applications filed in accordance with existing regulations of the Board on or before August 30, 1965, for assignment or transfer for the 7th, 8th, 10th and 12th grades to a school heretofore attended only by pupils of a race other than the race of pupils in whose behalf the applications are filed, will be processed and determined by the Board pursuant to its regulations as far as is practicable, so that a decision may be made for either approval or rejection of such applications for the term commencing in September, 1965, without discrimination as to race or color.

2. Negro children entering the first grade in the system of the City Board will report on the 1st day of September, 1965, at the school named below which is in the vicinity

of the child's residence at the time. Upon such registration, an application may be made by the parents for the child's assignment to any school (whether formerly attended only, or predominantly, by White children, or only by Negro children): Englewood or Robinson.

White children entering the first grade in the School System of the City Board will report on the 1st day of September, 1965 at the school named below which is in the vicinity of the child's residence at the time. Upon such registration an application may be made by the parents for the child's assignment to any school (whether formerly attended only, or predominantly, by White children, or only by Negro children): Donald, Forest Hills and Glen Oaks.

All applications for assignment in behalf of children entering the first grade, Negro or white, will be acted upon promptly. Application forms will be made available at the offices of the principal of each of the schools in the Fairfield System.

3. (a) Applications filed in accordance with existing regulations of the Board on or before August 30, 1965, for assignment or transfer for the 7th, 8th, 10th and 12th grades to a school heretofore attended only by pupils of a race other than the race of the pupils in whose behalf the applications are filed, will be delivered to and filed with the Superintendent at his office at 600 Valley Road, Fairfield, and shall be processed and determined by him pursuant to regulations of the Board as far as is practicable, so that a decision may be made for either approval or rejection of such applications for the term commencing in September, 1965, without discrimination as to race or color.

(b) Applications filed in accordance with existing regu-

lations of the Board without discrimination on grounds of race or color will be accepted during the month of May, 1966 for assignment or transfer for the 2nd, 3rd, 9th and 11th grades to a school heretofore attended only by pupils of a race other than the race of the pupils in whose behalf the applications are filed, and will be processed and determined by the Board pursuant to its regulations as far as is practicable, so that a decision may be made for either approval or rejection of such application for the term commencing in September, 1966, without discrimination as to race or color.

(c) Applications filed in accordance with existing regulations of the Board without discrimination on grounds of race or color will be accepted during the month of May, 1967 for assignment or transfer for the 4th, 5th and 6th grades to a school heretofore attended only by pupils of a race other than the race of the pupils in whose behalf the applications are filed, and will be processed and determined by the Board pursuant to its regulations as far as is practicable, so that a decision may be made for either approval or rejection of such application for the term commencing September, 1967, without discrimination as to race or color.

4. Subject to the provisions of paragraphs 1, 2, and 3 above, all pupils in all schools of the School System of the City Board will remain assigned to schools to which they are now assigned for the school year commencing September, 1965.

5. Students entering the area served by the Fairfield School System for the first time, and desiring to attend a school, the majority of whose students are of a race different from the applicant, shall obtain applications from the school of their choice which shall be completed, de-

livered to and promptly processed by the Superintendent without regard to race or color.

6. The City Board and Superintendent will publish an advertisement in a newspaper of general circulation in Jefferson County, on each of three days prior to August 30, 1965, such chosen days to be spaced as regularly as is practicable, the first publication to be made promptly (within a day or two) following the rendition of this court order and notice thereof, it being allowable that the last publication be made one or two days prior to August 30, 1965. The notice shall state the times, places and methods of filing application for assignment or transfer of pupils under said plan. A copy of the form of notice prescribed to be given is hereafter set out:

TO THE STUDENTS OF THE SCHOOL SYSTEM
OPERATING UNDER THE SUPERVISION OF
THE BOARD OF EDUCATION OF THE CITY
OF FAIRFIELD, ALABAMA, THE PARENTS
OF SUCH STUDENTS, THE TEACHERS AND
OTHER SCHOOL PERSONNEL:

Notice of the plan of desegregation of the Board of Education of the City of Fairfield Schools, pursuant to the orders of the United States District Court, dated August 16, 1965 and August 20, 1965, is hereby given. The outline of such plan (as far as the year commencing in September, 1965 is concerned) implemented by Court order is as follows:

1. All applications filed at office of the Superintendent of Education (located at 600 Valley Road in the City of Fairfield), in accordance with regulations of the Board on or before August 30 for assignment or transfer for the seventh, eighth, tenth and twelfth grades to a school heretofore attended only (or in any case predominantly) by pupils

of a race other than the race of the pupils in whose behalf the applications are filed, will be processed and determined by the Board, so that action may be taken thereon on such applications for the term commencing in September, 1965, without discrimination as to race or color.

2. Negro children entering the first grade in the School System of the City Board will report on the 1st day of September, 1965 at the school named below which is in the vicinity of the child's residence at the time. Upon such registration, an application may be made by the parents for the child's assignment to any school (whether formerly attended only, or predominantly by White children, or only by Negro children): Englewood or Robinson.

White children entering the first grade in the School System of the City Board will report on the 1st day of September, 1965 at the school named below which is in the vicinity of the child's residence at the time. Upon such registration an application may be made by the parents for the child's assignment to any school (whether formerly attended only, or predominantly, by White children, or only by Negro children): Donald, Forest Hills, and Glen Oaks.

All applications for assignment in behalf of children entering the first grade, Negro or White, will be acted upon promptly.

G. VIRGIL NUNN,
*Superintendent of the Board of
Education of the City of
Fairfield, Alabama*

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

GEORGE ROBERT BOYKINS as
next friend, etc., et al.,

Plaintiffs,

vs.

FAIRFIELD BOARD OF EDUCATION,
et al.,

Defendants.

CIVIL
ACTION
No. 65-499

Filed in Clerk's Office, Northern District of Alabama,
August 23, 1965. William E. Davis, Clerk, U. S. District
Court. By M. Claire Parsons, Deputy Clerk.

ORDER OVERRULING OBJECTIONS AND
APPROVING AMENDED PLAN FOR
DESEGREGATION OF FAIRFIELD SCHOOL
SYSTEM OPERATING UNDER THE SUPERVISION
OF THE BOARD OF EDUCATION OF THE
CITY OF FAIRFIELD, ALABAMA

THIS CAUSE, coming on to be heard and all parties being present through their attorneys of record, is submitted on the amended plan for desegregation of the Fairfield School System operating under the supervision of the Board of Education of the City of Fairfield, Alabama, filed by the defendant, Fairfield Board of Education, and on objections to said plan filed on behalf of the plaintiff and the intervenor. Testimony was taken relating to the plan, as amended, and the objections thereto. The same being considered and understood, it is the opinion of the Court

and the Court finds that the objections to the plan should be overruled and that the plan, as amended, should be approved.

Accordingly, it is ORDERED, ADJUDGED, and DECREED by the Court that:

1. The objections filed on behalf of the plaintiff and the intervenor to the amended plan for desegregation of the Fairfield School System, be and the same hereby are overruled.

2. The amended plan for desegregation of the Fairfield School System operating under the supervision of the Board of Education of the City of Fairfield, Alabama, a copy of which is attached hereto and made a part hereof, hereby is approved.

DONE and ORDERED this 23rd day of August, 1965.

H. H. GROOMS
District Judge

(Seal)

A True Copy. William E. Davis, Clerk, U. S. District Court, Northern District of Alabama. By M. Claire Parsons, Deputy Clerk.

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

GEORGE ROBERT BOYKINS as
next friend of Tywana Faye Boykins,
et al.,

Plaintiffs,

vs.

FAIRFIELD BOARD OF EDUCATION,
et al.,

Defendants.

CIVIL
ACTION
No. 65-499

Filed in Clerk's Office, Northern District of Alabama,
September 8, 1965. William E. Davis, Clerk, U. S. District
Court. By Mary L. Tortorici, Deputy Clerk.

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

All questions of fact and law having been tried before
and submitted to the Court for decision, the Court makes
the following:

FINDINGS OF FACT

1. Jurisdiction is vested in the Court by Title 28 U.S.C.A. § 1343 (3). The rights sought to be redressed are rights secured by the Due Process and Equal Protection clauses of the Fourteenth Amendment to the Constitution of the United States and by Sections 1981, 1982 and 2000d of Title 42 U.S.C.A.

2. The plaintiffs are minor Negro citizens and resi-

dents of Fairfield, Alabama, and of the United States. The suit is brought by their respective parents as next friends.

3. The suit is also brought on behalf of all other children of Fairfield, Alabama, who are similarly situated and affected by the complained of policy, practice, custom and usage therein averred. The Court finds that this suit presents a proper class action under Rule 23(a)(3) of the Federal Rules of Civil Procedure. Specifically, common questions of law and fact are involved; common grievances are asserted growing out of common wrongs; common relief is sought for each plaintiff and each member of the class, and the plaintiffs fairly and adequately represent the class in whose behalf they sue.

4. The defendants are: Fairfield Board of Education, a public body corporate; the members of the Board, William A. Whitson, Frank B. Parson, C. J. Donald, Joseph C. Gandy, David J. MacKnight, Mrs. Ollis B. Payne; and G. Virgil Nunn, Superintendent of Schools of the Fairfield Board of Education. The defendant Board of Education maintains and operates the public school system of Fairfield, Alabama, pursuant to the laws of the State of Alabama. The Superintendent of Schools is the chief administrative officer of the Board.

5. Plaintiffs pray for an injunction enjoining the defendant school authorities of Fairfield, Alabama, from continuing to pursue their policy, practice, custom and usage of operating a compulsory biracial school system. In the alternative, plaintiffs pray that the Court direct defendants to submit a plan of desegregation.

6. The public schools of Fairfield have heretofore been operated on a completely segregated basis, i.e., certain schools are maintained and operated for the exclusive attendance of Negro children, and certain schools are main-

tained and operated for the exclusive attendance of white children, the Negro schools being staffed by Negro personnel and the white schools by white personnel.

7. There were in attendance at the end of the last term 3,938 children, of whom 1,779 were white, and 2,159 were Negro. The following schools were attended by Negro students: Fairfield Industrial High, Interurban Heights Junior High, Englewood and Robinson elementary schools. The following schools were attended by white students: Fairfield High, Fairfield Junior High, Donald, Forest Hill and Glen Oaks elementary schools. Generally, the elementary grades are one through six, junior high seven through nine, and senior high ten through twelve. Englewood includes grades one through eight.

8. Defendants have heretofore maintained and operated in the City of Fairfield a racially segregated school system, and have discriminated, and were at the time of the hearing herein on August 16, 1965, so discriminating, against the minor plaintiffs and those of their class similarly situated in contravention of the Constitution and laws of the United States.

9. Until and following the hearing herein on August 16, 1965, and upon the direction of the Court on said date, the defendants had formulated no plan for the desegregation of the schools of the City of Fairfield. A plan for desegregation was filed on August 19, 1965. Upon a hearing on the objections thereto, the plan was ordered to be amended. The amended plan was filed and approved on August 23, 1965.

CONCLUSIONS OF LAW

1. The Court has jurisdiction of the subject matter and of the parties to this action.

2. The public school system of the City of Fairfield, Alabama, has heretofore been, and was at the time of the hearing herein on August 16, 1965, operated on a compulsory biracial system. Separate schools were constructed, operated, maintained and staffed by white personnel for white pupils only. Separate schools were constructed, operated, maintained and staffed by Negro personnel for Negro pupils only.

3. The operation of the schools on a biracial basis is contrary to the Constitution and laws of the United States as construed by the Supreme Court of the United States. *Brown v. Board of Education*, 347 U.S. 483, and 349 U.S. 294; and *Cooper v. Aaron*, 358 U.S. 1.

4. Plaintiffs are entitled to the relief heretofore granted in the approval of the amended plan of desegregation, and are entitled to injunctive relief as provided in the judgment this day filed.

Done and Ordered, this the 7th day of September, 1965.

H. H. GROOMS

United States District Judge

(SEAL)

A True Copy. William E. Davis, Clerk, United States District Court, Northern District of Alabama. By Mary L. Tortorici, Deputy Clerk.

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

GEORGE ROBERT BOYKINS as
next friend of Tywana Faye Boykins,
et al.,

Plaintiffs,

vs.

FAIRFIELD BOARD OF EDUCATION,
et al.,

Defendants.

CIVIL
ACTION
No. 65-499

Filed in Clerk's Office, Northern District of Alabama,
September 8, 1965. William E. Davis, Clerk, U. S. District
Court. By Mary L. Tortorici, Deputy Clerk.

JUDGMENT

Pursuant to the Findings of Fact and Conclusions of
Law filed herewith;

It is ORDERED, ADJUDGED and DECREED by
the Court:

1. That the defendants, Fairfield Board of Education, a public body corporate; the members of the Board, William A. Whitson, Frank B. Parson, C. J. Donald, Joseph C. Gandy, David J. MacKnight, Mrs. Olis B. Payne; and G. Virgil Nunn, Superintendent of Schools of the Fairfield Board of Education, and their agents, servants, employees, successors in office, and those persons in active concert or participation with them who shall receive actual notice of this order, be and they are hereby restrained and enjoined from discriminating against the plaintiffs, Tywana Faye

Boykins, Jackie D. Boykins, Lydia C. Boykins, Patricia Ann Boykins, Deborah Ann Cummings, Janice Clark, LaFayette Clark, Jr., Craneston Brown, Claudia Jean Brown, Helen Crawford, Maxine Scott, Veronica Scott, Christine Marita Scott, Geraldine Scott, and those who are similarly situated, because of their race or color, in seeking assignment, transfer or admission to the public schools of Fairfield, Alabama, pursuant to and under the amended plan of desegregation approved August 23, 1965, or subjecting them to criteria, requirements, and prerequisites not required of white children seeking assignment, transfer or admission to said schools.

2. Jurisdiction is retained for such further order as may be required to effectuate the relief hereby granted.

Done and Ordered, this the 7th day of September, 1965.

H. H. GROOMS

United States District Judge

(SEAL)

A True Copy. William E. Davis, Clerk, United States District Court, Northern District of Alabama. By Mary L. Tortorici, Deputy Clerk.

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

GEORGE ROBERT BOYKINS, et al.,
Plaintiffs,

UNITED STATES OF AMERICA, by
Nicholas deB. Katzenbach,
Attorney General,

Plaintiff-Intervenor,

vs.

THE BOARD OF EDUCATION OF
THE CITY OF FAIRFIELD, et al.,
Defendants.

CIVIL
ACTION
No. 65-499

Filed in Clerk's Office, Northern District of Alabama, October 22, 1965. William E. Davis, Clerk, U. S. District Court. By Mary L. Tortorici, Deputy Clerk.

NOTICE OF APPEAL

Notice is hereby given that the United States of America, by Nicholas deB. Katzenbach, Attorney General, Plaintiff-Intervenor above named, hereby appeals to the United States Court of Appeals for the Fifth Circuit from Order overruling objections and approving amended plan for desegregation of Fairfield School System operating under the supervision of the Board of Education of the City of Fairfield, Alabama, entered herein on August 23, 1965.

Macon L. Weaver [Sig.]

MACON L. WEAVER

United States Attorney

E. Ray Acton [Sig.]

E. RAY ACTON

Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

GEORGE ROBERT BOYKINS, et al.,
Plaintiffs,
UNITED STATES OF AMERICA, by
Nicholas deB. Katzenbach,
Attorney General,

Plaintiff-Intervenor,

vs.

THE BOARD OF EDUCATION OF
THE CITY OF FAIRFIELD, et al.,
Defendants.

CIVIL
ACTION
No. 65-499

Filed in Clerk's Office, Northern District of Alabama,
November 23, 1965. William E. Davis, Clerk, U. S. District
Court. By Margaret M. Hoehn, Deputy Clerk.

ORDER OF EXTENSION

Upon motion of the United States Attorney, pursuant
to Rule 73(g), Federal Rules of Civil Procedure, and for
good cause shown;

It is hereby ORDERED that the time within which
the record on appeal in this cause shall be filed with the
United States Court of Appeals for the Fifth Circuit at New
Orleans and the time within which the appeal shall be
there docketed be and the same hereby is extended fifty
days from the 1st day of December, 1965.

DONE, this the 23rd day of November, 1965.

H. H. Grooms [Sig.]
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

GEORGE ROBERT BOYKINS,
etc., et al.,
Plaintiffs,

vs.

FAIRFIELD BOARD OF
EDUCATION, G. VIRGIL NUNN,
et al.,
Defendants.

CIVIL
ACTION
No. 65-499

Birmingham, Alabama
August 16, 1965

Filed in Clerk's Office, Northern District of Alabama,
January 18, 1966. William E. Davis, Clerk, U. S. District
Court. By Mary L. Tortorici, Deputy Clerk.

BEFORE:

HON. H. H. GROOMS, Judge.

APPEARING FOR THE PLAINTIFFS:

MESSRS. DEMETRIUS C. NEWTON and ORZELL
BILLINGSLEY, JR., and CHARLES R. JONES.

APPEARING FOR THE DEFENDANTS:

MR. MAURICE F. BISHOP.

APPEARING FOR THE INTERVENOR:

MESSRS. BRIAN LANDSBERG and JAMES PHIL-
LIPS, U. S. Department of Justice.

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PROCEEDINGS

THE COURT: Gentlemen, we have set this morning a motion for preliminary injunction in the case of Boykins and others versus the Board of Education of the City of Fairfield, United States as Intervenor.

Are the Plaintiffs ready in the case?

MR. NEWTON: We are ready, Your Honor.

MR. BISHOP: The Defendants are ready, Your Honor.

THE COURT: Is the Intervenor ready?

MR. LANDSBERG: I believe, technically, we are not yet intervenors. We are movants.

THE COURT: Is there any objections to the United States intervening?

MR. BISHOP: I guess not.

Your Honor, we have previously suggested by correspondence and personal contact, this matter be submitted on application for permanent injunction and be finally submitted this morning in consideration of the Court's congested docket and time elements involved.

THE COURT: I don't see any reason why it couldn't be.

MR. BISHOP: We would be willing to submit, we have filed an answer, and we would be willing to submit on the bill, Petition for Intervention, and the Answer, and submit for a final hearing.

MR. NEWTON: And the deposition taken last week.

MR. BISHOP: Yes. We have no objection to the deposition.

MR. LANDSBERG: Your Honor, the Intervenor had planned to put on perhaps additional evidence, if, as has been done in the past, the Court orders the Defendants to submit a plan, and if we then found any plan objectionable—

THE COURT: Is there any question here, do you have any question that this is a segregated school system?

MR. BISHOP: Judge, I think as far as the operation of the school system is concerned, I will state that the Fairfield Board of Education has never had an application from a colored student to transfer to a white school. Historically they have had two sets of schools, one school has been attended by white students and the other school by colored students. Until this litigation was instigated, in whatever manner, the Fairfield Board of Education had never had an application by a colored student to attend the white schools.

THE COURT: I doubt if that is a necessary prerequisite to the filing of the plan for desegregation of the schools.

MR. BISHOP: I will state that the Fairfield Board of Education has never filed a plan for a proposed desegregation of schools insofar as those terms have been commonly used and commonly acceptable.

THE COURT: Have these plaintiffs made application?

MR. BISHOP: They have not made application.

THE COURT: They do live in the school area?

MR. NEWTON: They live in the school area, and some of the parents are among the original petitioners. Of course, also, the plaintiffs, as far as formal application on the part of a student, I think Mr. Bishop might be correct. However, we do say some applications have been made, and this is not the first time the Board has been asked to submit a plan on desegregation by parents who have children in the school. Up to this point, they have not received a plan.

THE COURT: They state that they have requested you to submit a plan and no plan has been submitted.

MR. BISHOP: The only request of the Fairfield Board of Education has been the receipt in May in 1965 of a letter request from a group designating themselves as members of the NAACP, whether that emanated from Jefferson County or Brooklyn Borough of New York, we have no way of knowing. They did request, and when I say they, I mean that group requested the Fairfield Board of Education to so-call desegregate its schools. That is the only request anybody has made of the Fairfield Board of Education until the filing of this lawsuit.

MR. NEWTON: Again we suggest that the Fairfield Board of Education was petitioned by the local branch of the NAACP, who are all citizens of the City of Fairfield, and, as a matter of fact, the Fairfield Board of Education was requested to submit a plan by this same group as early as 1954; and they were the first School System in the State of Alabama that was asked to desegregate its schools.

MR. BISHOP: The statement they requested it in 1954 is inaccurate and incorrect. They were petitioned in May, 1965, about the last of the last school term. There has been no plan for desegregating planned, filed or submitted.

THE COURT: What is to hinder us from submitting a plan now and asking the court to consider the submission of your plan?

MR. BISHOP: If this court wants a plan submitted, the Fairfield Board of Education will endeavor faithfully to comply with any order of the United States District Court. We do not think we should be required to submit any plan, because we have never been requested by anybody except these particular petitioners in this lawsuit.

THE COURT: I think a plan should be submitted. They state they asked you to submit a plan as early as May of this year, and nothing has been done about it. This thing has been coming on since May, 1954, and we might as well recognize the facts.

MR. BISHOP: With all due respect, we think it has been coming on, and we say, with all respect, it has culminated in this past week-end's instances.

MR. NEWTON: Your Honor, of course, I would have to say something on that. What happened in Los Angeles, California, has no bearing on whether these plaintiffs have a right to go to the Fairfield Public Schools.

MR. BISHOP: It is part and parcel of the whole program.

THE COURT: The Court of Appeals of the Fifth Circuit and this Court, have just recently approved a plan for one other school system. It appears to me you could

very easily evolve a plan without any delay and submit it to the court at which time we would take up the plan and the bill on the merits. I don't see any reason why it should not be done.

MR. BISHOP: If Your Honor desires, it will be promptly filed and we will comply with any directions of Your Honor.

THE COURT: Can you file a plan by Friday of this week?

MR. BISHOP: If your Honor directs it, we can have a plan ready by tomorrow.

THE COURT: I would suggest you submit a plan by Friday morning at ten o'clock, and we will continue this case until that time, and we will consider your plan and try the case on the merits, if necessary, at that time.

MR. BISHOP: As I understand then, the order of the Court would be to draw a plan to be submitted by Friday morning, and then as I understand the procedure, we will serve a copy of the plan on counsel for the plaintiff and counsel for the intervenor, and I understand the hearing on Friday would be on any objections to the plan as submitted.

THE COURT: I think you should get it to them one day prior.

MR. BISHOP: I will see that it is available to them by Wednesday of this week. That will give them plenty of time.

THE COURT: That will give them sometime to work on it. We might as well face up to eventuality and cut out everything and get down then to the crucial issue. If you will submit the plan by Wednesday, they can file

their objections by Friday and we will take the matter up Friday morning and the case will be considered on the merits at that time.

MR. LANDSBERG: The Intervenor has subpoenaed to this hearing a large number of records which we think are relevant to the issues in this case, the issues of the good faith of the board and of the administrative difficulty and the issue of disparity between white and Negro schools.

THE COURT: Don't we get around a lot of that by the Court directing them to submit a plan? Maybe the extent of the plan or the evidence might have something to do on that, but they have operated a segregated school system and there is no use of us taking the time of the Court to prove the fact that is already known to everybody.

Do you have any particular facts that would have a bearing upon a plan that might be found?

MR. LANDSBERG: Your Honor, I think that the whole question of administrative difficulty and lack of good faith and on the disparity of the schools all bear upon the adequacy of any plan that would be submitted; therefore, the intervenor would like to have the opportunity before the final hearing of examining the records subpoenaed in order to select out from them—

THE COURT: What records do you mean, the records of the Fairfield Board of Education?

MR. LANDSBERG: Yes, Your Honor.

THE COURT: It might be that the objection—that you are saying now is that these will go to the objection to the plan, probably?

MR. BISHOP: With all due respect, he doesn't know what the plan is going to be yet.

THE COURT: He doesn't. It may be if you show him what he wants, we won't have any trouble about hearing that part of it.

MR. BISHOP: Judge, unfortunately that hasn't been our experience with the Department, but we will abide by whatever your Honor directs.

MR. NEWTON: The plaintiffs have requested certain documents to be brought to this court, and, at the time of the hearing, or of the plan, we would like to have an opportunity to examine those materials prior to the hearing.

THE COURT: I would say this, that since we won't take up evidence this morning, whatever evidence will be heard will be heard on Friday morning, and you would make available to them original records they have subpoenaed.

MR. BISHOP: We have all the records requested by the Plaintiff in the case, and they will be made available, and we have substantially all the records requested by the intervenor. Now, we do not have, for example, they asked for all books of accounts showing all items of expenditures for every school in the system since 1960, and all receipts from certain funds since 1954.

THE COURT: Don't you have a ledger?

MR. BISHOP: We have a ledger, and it is at the Fairfield Board of Education, and they can comb that ledger.

THE COURT: Will that all be made available to them?

MR. BISHOP: Everything your Honor directs will be made available.

THE COURT: You have some of the stuff here, I assume?

MR. BISHOP: Yes, sir.

THE COURT: The Court requests you submit whatever materials you have available, and anything in the way of these records, make them available to them at the Board of Education in Fairfield so that they can check on these things and see where they stand.

MR. BISHOP: Could we make all of those records available at the Fairfield Board? There are several here and others at the Fairfield Board? We have working facilities available.

THE COURT: It would probably be more convenient out there.

MR. BISHOP: Yes, sir, and they have adequate working space, Your Honor, and if there are any questions, we have personnel that might be able to respond to it or get another record.

THE COURT: That would seem to be reasonable since you do have records that are probably voluminous. So, any of those records, make available to them. The records will be available to the Intervenor and to the Plaintiff at the Fairfield Board of Education.

MR. NEWTON: Your Honor, one other question, and in the event an evidentiary hearing will be necessary, we would like for your Honor to order witnesses under subpoena to reappear rather than having to serve them again.

THE COURT: The Court has a motion docket Friday afternoon. How many witnesses do you have?

MR. NEWTON: I have a total of four.

THE COURT: All right. Let all of the witnesses who have been asked to be here to testify be sworn.

(Whereupon, the witnesses were sworn.)

THE COURT: I am going to ask you to be back here at 9 o'clock instead of ten o'clock because I want to be sure to finish this matter Friday morning.

Make the records available at the Fairfield Board of Education to the Intervenor and the Plaintiffs and we will submit your plan by Wednesday to counsel for the other side, and you have your objections ready by Friday morning.

MR. BISHOP: Could we get those objections by Thursday so that we could be prepared by Friday?

THE COURT: Get the objections to him by noon on Thursday.

MR. NEWTON: If he gets it to me Tuesday, I can. If he gets it to me Wednesday afternoon, it might be a little difficult.

THE COURT: The witnesses and parties are excused until 9 o'clock Friday morning.

(Court was Adjourned.)

AUGUST 20, 1965

9:00 A.M.

THE COURT: Are the plaintiffs ready to proceed?

MR. BILLINGSLEY: Yes, sir.

THE COURT: Is the Defendant ready to proceed?

MR. BISHOP: The Defendant is ready.

(Whereupon, counsel for the respective parties ad-

ressed the Court in argument, following which the following occurred:)

MR. NEWTON: Rev. Salary.

REV. J. A. SALARY,

being duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q (BY MR. NEWTON:) State your name, please?

A John Arthur Salary.

Q What is your occupation, sir?

A Minister of the Mount Olive Baptist Church.

Q Are you a resident of the City of Fairfield?

A I am.

Q How long have you been a resident of Fairfield?

A More than forty years.

Q Rev. Salary, are you familiar with George Robert Boykins and Patricia Boykins and some of these other plaintiffs?

A I am.

Q Are you familiar with Fred Cummings and his daughter, Deborah Ann Cummings?

A Yes, sir; I am.

Q Are you familiar with Lagene Clark and his daughter and son, Jeannette Clark and Lagene Clark, Jr.?

A I am.

Q Are you familiar with Marie Brown and her son and daughter?

A Yes, sir.

Q Are you familiar with Mrs. Crawford and her daughter?

A I am.

Q Are you familiar with Percy Scott and his daughters?

A I am.

Q All of these people residents of the City of Fairfield?

A They are.

Q Are all of these people Negroes?

A They are.

MR. NEWTON: Your witness.

MR. BISHOP: No questions.

THE COURT: Call your next witness, please.

(Witness Excused.)

MR. NEWTON: Mr. Nunn.

G. VIRGIL NUNN,

being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q (BY MR. NEWTON:) Mr. Nunn, are you the Superintendent of Fairfield Public Schools?

THE COURT: State your initials?

A George Virgil Nunn.

Q Mr. Nunn, are you the Superintendent of Fairfield Public Schools?

A I am.

Q How long have you been Superintendent of the schools, sir?

A Nineteen years.

Q Mr. Nunn, will you just briefly explain your duties as Superintendent of Fairfield Public Schools?

A My duties are to carry out the policies that are established by the Fairfield Board of Education.

Q Mr. Nunn, the Fairfield School System is operated on what is commonly known as a 6-3-3 system?

A We are in the process of reorganizing our system into a 6-3-3 organization at the present time.

Q Now, by 6-3-3, what is meant by that?

A Six grades of Elementary School, three grades of Junior High School, and three grades of Senior High School.

Q How many high schools are in the Fairfield School System?

A Two.

Q And their names, sir?

A Fairfield Industrial High School and Fairfield High School.

Q How many Junior High Schools are in the system?

A One completely organized on a three year basis.

Q And the name of that school, sir?

A Fairfield Junior High School.

Q Do you have another one?

A Interurban Heights Junior High School is in the process

of organization—reorganizing at the present time, with a new building on the drawing board, and the beginning of 1966 school year, it will be a three year Junior High School.

Q It currently has how many grades?

A Two.

Q Now, how many elementary schools are in the Fairfield School System?

A Five.

Q And their names?

A Englewood, Robinson, Donald, Forest Hills, Glen Oaks.

Q Now, Mr. Nunn, prior to the Board of Education—

THE COURT: How many Senior High Schools do you have, two?

A Two.

THE COURT: And they are which?

A Fairfield Industrial High School and Fairfield High School.

THE COURT: And the Junior High School?

A Fairfield Junior High School and Interurban Heights Junior High School.

Q Now, prior to the Board of Education submitting its plan for desegregation Interurban Heights Junior High School, which you refer to as having grades seven and eight currently, was what was commonly known as a Negro Junior High School; is that right?

A Yes, sir.

Q Now, Mr. Nunn, the Donald Elementary School, the

Forest Hill Elementary School and the Glen Oaks Elementary School, are those schools, prior to the submission of your plan, what are commonly known as white schools?

Yes, sir.

The Engelwood School and Robinson Elementary School were formerly known as Negro Elementary Schools; is that correct?

Yes.

And Fairfield Industrial High School was formerly known as a Negro High School?

Yes, sir.

And the Fairfield High School formerly was known as a white high school?

Yes.

Mr. Nunn, can you tell us how many students are in the Fairfield School System?

Mr. Newton, that information is in the deposition that was taken last Thursday. I would have to estimate figures which would possibly be in contradiction to those.

All right.

MR. BISHOP: I can stipulate it into the record, if you would like.

Would it be correct to say that there are 1,779 white students in the Fairfield School System?

That sounds to be correct.

And 2,159 Negro students in the Fairfield School System?

That sounds true.

THE COURT: Which of these Junior High Schools is colored?

Is the Fairfield Junior High School the former white school?

A Yes.

Q Now, Mr. Nunn, in the area where the Fairfield High School is located, occupying the same grounds also is the Fairfield Junior High School located there?

A Yes.

Q In your judgment, how much area is occupied by these two schools?

A Thirteen acres.

Q And how many buildings?

A Four.

Q And the Fairfield Junior High School, do you offer courses in Home Economics and Industrial Arts?

A Yes, sir.

Q And at Interurban Heights Junior High School, do you offer courses in Home Economics and Industrial Arts?

A Not for the current school year.

Q Did you offer it last year?

A We did not. We plan to offer it a year from now. As a matter of fact, two teachers have already been employed to teach those subjects.

Q How much land area is occupied, sir, in your best judgment, by the Interurban Heights Junior High School?

A Eight or nine acres.

Q At the Interurban Heights Junior High School, is that a building that was once used by the National Guard as an Armory?

A At the present time it is.

Q Now, at the Fairfield Industrial High School, how much land area is occupied by that school?

A About four acres.

Q And about how many buildings is on the Fairfield Industrial High School site?

Three.

Is there room at the Fairfield Industrial High School for an outdoor play area?

Not only no room for it, no reason for it.

What do you mean by no reason?

We have a complete modern physical education plant on that campus.

Then, is it the trend not to use outdoor play areas where there are gymnasiums?

I would say it certainly decreases the necessity for outdoor play areas.

Of course, you will admit you cannot play baseball in the gym or softball in the gymnasium?

I would admit that, and, of course, at the same time I would admit, to play volleyball and basketball and many other games which, incidentally, are approved in the State curriculum of study.

Now many outdoor play area, sir, is there at the Fairfield Industrial High School?

A I have stated that there is a total of thirteen acres serving both the Junior and Senior High School. Part of that area is a football field on which we do not permit the playing of scholastic games and that sort of thing. I refer to softball or volleyball, tennis and baseball.

Q Your office, that is the office of the Fairfield Board of Education, is located in the same general vicinity as the Fairfield High School and Fairfield Junior High School; is that correct?

A It is, but I do not include that in my answer to your question in the number of school buildings on the campus.

Q Have you, on occasions, observed students at the Fairfield High School or Fairfield Junior High School using the area that is not occupied by buildings or football field for playing in that area?

A I have observed that.

Q Now, at the Engelwood School, how many, or how much land there did you say that was?

A Mr. Newton, you are asking me questions that I have already answered in deposition, and I feel I will give contradicting information if I attempt to go through these acreage questions.

Q I just have one more, just to the best of your ability.

A Five to six acres.

Q Does Engelwood School area have an outdoor play area there?

A Yes.

Q And did the State Highway Department or some other

agency recently take a portion of the lands formerly used by the Board of Education for the Engelwood School?

A Yes, a small portion, a triangle with two sides approximately 25 feet by approximately 50 to 60 feet.

Q Mr. Nunn, I show you here a document similar or identical to one prepared by the Fairfield Board of Education showing capacity and other figures. Does that, in your best judgment, represent the figures prepared by your office?

A Yes.

MR. NEWTON: If there is no objection, I would like to offer this as plaintiff's Exhibit 1.

MR. BISHOP: No objection.

(Plaintiff's Exhibit 1 received in evidence.)

Q Mr. Nunn, I would like to show you a document, aside from those items written in red, which purports to be identical to a document prepared by the Fairfield Board of Education showing expenditures in the various schools in the Fairfield System.

Q Does that adequately represent that document?

A I believe it is correct.

Q Now, sir, I would like to ask you one other question about this document.

Q I notice you have total for Negro Schools, \$941,655.00, in the document you list Interurban Heights Junior High School addition \$235,000.00. That money has not at the time been spent, is that correct?

A No, the money has not been spent, but the architect is preparing the plans for the building, and the State Department of Education has approved it.

Q Yes, sir.

But then it would not comply to the heading of the document, construction, June, '53-54 to '64-65, would it?

A No, but that document states it is a proposed construction.

MR. NEWTON: Any objection to this?

MR. BISHOP: We have no objection.

THE COURT: Do you have a typewritten copy of the one he can have?

MR. BISHOP: Yes, we do.

THE COURT: Mark this typewritten copy.

(Plaintiff's Exhibit 2 received in evidence.)

Q Mr. Nunn, taking the area that is commonly called Fairfield the Engelwood Area, where all of these plaintiffs reside, what is the closest high school to those students living in the Engelwood Area?

A Fairfield High School.

Q And by Fairfield High School, is that the school that was commonly known, prior to this plan for desegregation as a white school?

A Yes.

Q Now, Mr. Nunn, taking that same area, the Engelwood Area, what is the closest Junior High School to those students living in that area?

A Engelwood Elementary School.

Q My question is what is the closest Junior High School?

A That school contains grades 7 and 8.

Yes, sir, I understand that.

Is it not designated as a Junior High School?

MR. BISHOP: We object to that, argument. One of the difficulties that we anticipate with reference to administration and to the students transferring—

THE COURT: What is the question?

MR. NEWTON: The question was, what is the closest Junior High School.

MR. BISHOP: And it had been answered.

THE COURT: Overrule the objection.

MR. BISHOP: He said Engelwood, because it contains grades 7 through 8.

THE COURT: The 7th and 8th grades would be Junior High, then?

Yes, sir.

THE COURT: He can make the answer he chose to.

MR. BISHOP: My purpose was he had answered that Engelwood.

MR. NEWTON: Yes, sir, but what I am trying to point out is Fairfield—Engelwood School is not a Junior High School and does not have grade 9.

MR. BISHOP: That is argument.

MR. NEWTON: And in the system previously called Engelwood, there is no such thing as grade 7 and 8 in an elementary school.

THE COURT: Go ahead with your examination. I overrule the objection.

Q Mr. Nunn, what is the closest Junior High School to the—

MR. BISHOP: That question has been asked and answered, and the answer was Engelwood, grades 7 and 8, or grades one through eight.

THE COURT: Is that your answer?

A Yes, sir.

Q Well, Mr. Nunn, this question, the six-three-three system which is in operation in the white schools in Fairfield has in it grades one through six, grades seven through eight and grades nine through twelve; is that correct?

A I didn't follow you on the Junior High School.

Q Seven through nine?

A That is correct, but I would like to restate the fact that we are in the process of reorganizing, and that has only been true for two school years. Prior to that time, the white schools were organized into one through eight.

Q But since the Fall of 1963, the Fairfield Board has adopted in the white schools and have a six-three-three system; is that correct?

A Yes, and also the colored schools, and we are moving in that direction.

Q But, as of today, there is not present in the colored schools that system; is that correct?

A It has not been completed.

Q Mr. Nunn, then in the Fairfield Junior High School is there a gymnasium of any sort?

A No.

Q What facilities are in the Forest Hill Elementary School?

A Typical Elementary School classrooms, a suite of principal offices, kitchen and cafeteria, and adequate restroom facilities.

Q And in Glen Oaks, the Forest Hill and Donald Schools, do they have playground equipment such as swings, teeter-totters, merry-go-rounds, and jungle gyms?

A Yes, they do have equipment which was provided by the Parent Teachers Association.

Q Are these three schools fairly new, modern buildings?

A Yes, sir.

Q And all three of these white schools, is there a landscaped drive-way leading up to the school building itself, asphalt or paved?

A There are isolated pieces of shrubbery, but they were planted by or under the supervision of the Fairfield Board of Education.

Q What about the driveway, did the PTA furnish that?

A No.

Q Are they present at all three of those schools?

A Yes.

Q Is there a driveway leading, asphalt, leading to either Glen Oaks, Interurban Heights, Fairfield Industrial or Engelwood School?

A There is an asphalt driveway leading up to Interurban Heights Junior High School.

Q Was that driveway there at the time the Armory was built, the facilities?

A Yes, sir.

Q Other than that driveway, are there driveways at any of the previously enumerated schools?

A Yes. The Fairfield Industrial High School has a paved street in front of it, and a paved alley on the back of it.

Q On the grounds leading up to the building itself, either Englewood or Robinson, there is no such driveway?

A No.

Q Is it true that each of these schools, and when I say each of them, I refer to Forest Hill, Glen Oaks, and Donnan School, have grassed areas in and around the school itself?

A Portions of it is grassed.

Q Is there a grassed area either at Robinson or Englewood School?

A No, there is no grass at Robinson, because the school and the PTA requested that that area be graded and blacktopped, which has been done.

Q Was that done by the Board of Education?

A The Board of Education in co-operation with the Parent Teacher Association, and I might also add, Robinson Elementary School has more recreational facilities on its campus than any elementary school in the system.

Q Mr. Nunn, at the Junior High School, that is the seventh, eighth, and ninth, at the Fairfield Junior High School, do the students have one teacher all day or do they interchange and have different teachers for different subjects?

A They interchange.

Q Now, the seventh and eighth grades at Englewood

Well, tell me, do the students have one teacher all day or do they interchange?

MR. BISHOP: We object to that. We are talking about different propositions. At Fairfield it is seventh, eighth and ninth grades, and at Interurban, it is seventh and eighth.

I will withdraw the objection, go ahead.

The teachers are provided by the Board of Education for the job. The assignment of those teachers is strictly up to the principal.

You visit those schools from time to time, don't you?

Yes.

Do you know, sir, of your own knowledge, whether the seventh or eighth grades at Englewood School interchange teachers, or do they have one teacher?

MR. BISHOP: If he is talking about have the principal complained about something, the colored principals are doing what they are supposed to be doing out there.

THE COURT: Overrule the objection.

Will you restate your question.

Do the seventh and eighth grades at Englewood Schools interchange, or do they have one teacher?

MR. BISHOP: We object to it. He has already asked it. He said the assignment is up to the principal.

THE COURT: I don't know how it affects the situation we are concerned about, but I will permit him to ask the question.

To the best of my knowledge, the principal does assign, in accordance, a teacher that has a major or minor in the field of Social Studies, to teach Social Studies to seventh and

eighth grade students. The same would be said in the case of English or Mathematics.

Q Then you are saying that the teachers in the seventh and eighth grades at Engelwood School do have different teachers for a different subject?

A That is my opinion.

Q And, as a general rule, in all the school systems at this field, it becomes the principal's duty to determine whether the students will interchange grades or not; is that true?

A That is his administrative, as well as his instructional matter, that the principal always feel free to discuss with the superintendent, and we work those problems out together.

Q But, finally, sir, does the superintendent make the decision?

A Finally the superintendent takes in consideration the recommendation of the principal in arriving at a decision.

Q Do you have any such recommendations from the principal of Engelwood School?

A From the former principal, W. E. Presley, yes. The present principal just inherited and is carrying on a tradition that had been in existence.

Q In addition, the same pattern that was in existence under Mr. Presley is in existence under Mr. Bonds today?

A That is my understanding.

Q Mr. Nunn, you have at the present time, and up to now, including any such hiring that may have been done this summer—first, let me say, do you employ the teachers in the Fairfield School System?

I recommend the employment of teachers to the Board of Education. The Board employs the teachers.

Q Now, of those teachers that you have recommended and have been employed by the Fairfield Board of Education up to now and including this summer, have you assigned all of them to what was previously all Negro Schools, teachers and all whites to what has previously been an all white school?

Q Now, during the course of a school year, Mr. Nunn, do you have regular meetings?

A Teachers have meetings. The question is not clear.

Q Do teachers have meetings in the school and so forth?

A The principal of every school periodically has faculty meetings.

Q Are there meetings of teachers in the whole system or in the school?

A From the schools begins, there is meeting, or on call by the Teachers Associations, and not by the superintendent.

Q Now, sir, do you have workshops? When are your teachers meeting for duty this year?

A August 30th.

Q What will they be engaged in between August 30th and September 1st?

A Teachers meetings.

Q Where are those meetings being held?

A For the white teachers it will be held at Fairfield High

School, and for the colored teachers, it will be held at Fairfield Industrial High School.

Q In other words, Negro teachers meet one place and white teachers meet another?

A That is correct.

MR. NEWTON: I believe that is all. Your witness.

CROSS EXAMINATION

Q (BY MR. BISHOP:) Mr. Nunn, will you please, refer to what has been identified and received as Plaintiff's Exhibit 1.

As an aid to the court and in consideration of this, I believe you have previously stated that Fairfield Junior High and the Fairfield High were previously all white schools?

A Yes, sir.

Q The Fairfield Industrial High and Interurban Heights Junior High School were previously colored schools?

A Yes, sir.

Q The Donald Elementary School previously white?

A Yes.

Q Engelwood a previously colored?

A Yes.

Q Forest Hill and Glen Oaks Elementary, previously white?

A Yes.

Q And Robinson Elementary previously colored?

A Yes.

in connection with Plaintiffs' Exhibit 2 which has been introduced in evidence, I believe you stated that you had a report of construction from '53-54 School Year through '54-55 School Year; is that correct?

A Yes, sir.

Showing a total of white schools of \$784,000.00 and a total of colored schools of \$941,000.00?

A That is correct.

Now, Mr. Nunn, you were asked about recreational facilities at the previous colored high school, that is, the Fairfield Industrial High School. Does it have a stadium?

A Yes, sir.

Is it located on or contiguous to the campus or close proximity thereof?

A Close proximity.

What is the size and nature of the former colored, that is, Fairfield Industrial High School?

To the best of my knowledge, that piece of property is approximately nine acres. Of course, it has a lighted football stadium. It also has other areas for other types of recreational activity.

That land area of approximately nine acres in addition to the land area that you previously testified constitutes a part of the campus of Fairfield Industrial High School?

A Yes.

Incidentally, what is the name of that stadium?

A It is E. J. Holliman Stadium?

And for whom was it named?

A Named for the principal of Fairfield Industrial High School.

Q Is he white or colored?

A Colored.

Q You were asked about the condition or a comparison of conditions of Fairfield High School and Fairfield Industrial High School.

Do you have certain pictures you have taken showing the conditions of those schools?

A Yes, sir.

MR. BISHOP: Yes, Sir.

I show you a picture which I will ask to be marked Defendant's Exhibit 1.

(Defendant's Exhibit 1 received in evidence.)

Q Is that an accurate picture of the exterior of Fairfield High School?

A Yes, sir; it is.

Q I show you another picture which I will ask be marked as Defendant's Exhibit 2.

Is that an accurate picture of Fairfield Industrial High School?

A It is.

(Defendant's Exhibit 2 received in evidence.)

Q Now, does the Fairfield Industrial High School, which was formerly the all colored school, have a library?

A Yes.

I show you a picture which I will ask be marked as Defendant's Exhibit 3.

(Defendant's Exhibit 3 received in evidence.)

I ask you if that is an accurate picture of the interior of the library?

Do the Fairfield Senior High School have a library?

Would you compare the Fairfield Industrial High School library facilities with those of the Fairfield High School library facilities?

I would say when the Fairfield High School was constructed in 1928, it was all modern design and adequate. It compares with the modern design of the library at Fairfield Industrial High School at this time, nor will it accommodate as many students.

In your opinion, are the facilities of the library at the Fairfield Industrial High School presently superior to those at the Fairfield Senior High School?

I show you another picture which I will ask be marked as Defendant's Exhibit 4, and I will ask you if that is an interior photograph of Fairfield Industrial High School?

How do those two high schools' auditoriums compare?

They are the same size, but the seats are new and modern,

whereas, in the Fairfield High School, they are approximately forty years old.

Q I will show you another picture which I will ask marked as Defendant's Exhibit 5.

Will you please state to the court and for the record what is shown in that picture?

A This is the Foods Department or Home Making area of Fairfield Industrial High School.

Q Now, with reference to the high school facilities that are available for white and colored, or have been available for white and colored at Fairfield, do both the Fairfield Industrial High, and where I refer to that, do you recognize and state that was formerly the colored high school?

A Fairfield Industrial High; yes, sir.

Q And the Fairfield Senior High School was formerly a white school?

A Yes.

Q Are both of those schools accredited?

A Yes.

Q What do you mean by accredited?

A I mean they are both accredited by the State Department of Education and the Southern Association of Colleges and Secondary Schools.

Q Do both of those schools have summer school sessions?

A Yes.

Q Do both of those schools have library facilities that you previously have identified and described?

A Yes.

Do both of those schools have modern lunchroom facilities?

A Yes.

Do both of those schools have gymnasiums?

A Yes.

Do both of those schools have a stadium?

A Yes.

As far as the stadium at the Fairfield Industrial High School is concerned, is it equipped both for daytime and nighttime outside recreational facilities as they have been equipped?

A They have.

Do both of them have guardian counselors or advisers?

A Yes.

Do both of them have personnel whose time is spent in physical education aspects of the school?

A That is correct.

How many school personnel do you have for physical education in the Fairfield High and Fairfield Industrial High?

A One at each one.

Do both of them have Music Departments?

A Yes.

Do both of them have Band Directors?

A Yes.

When we were asked certain questions with reference to the Fairfield High School.

That was formerly the colored school?

A That is right.

Q I will show you a picture which I will ask to have marked as the Exhibit next in order.

(Defendant's Exhibit 6 received in evidence.)

Q Does that represent an accurate exterior photograph of Engelwood School?

A Yes.

Q Now, Mr. Nunn, in all frankness, I will show you another picture which I will ask be marked as Defendant's Exhibit 7.

What is that picture?

A This is a picture of the urinals in the Boys' Restroom.

Q It appears to have concrete or something poured on them; is that correct?

A Two of the three have been voided from use by the maintenance supervisor.

Q And why?

A Because the youth in the community filled the pipes with slag, and that slag cannot be removed, and cannot install new vents, so we had to take them out of use.

Q Is that due to vandalism and activity of students attending that school?

A That is correct.

MR. NEWTON: Just a moment.

May I have him on voir dire?

THE COURT: No. We will go ahead.

I will show you another picture which I will ask be marked as Defendant's Exhibit next in order.

(Defendant's Exhibit 7 and 8 received in evidence.)

What does that picture show?

This is the Girls' Restroom.

At which school?

At the Engelwood School.

Mr. Nunn, it appears that on those restroom facilities, the doors have been removed from all except one of the facilities; who did that?

This was done, I assume, by the students in the building.

MR. NEWTON: We object, if he doesn't know.

THE COURT: If you don't know who did it—

Did you have an investigation made of it?

That was at a time when there had been vandalism in the building, and when we discovered it, the doors were removed.

Does the Engelwood Colored School have, and do you have modern and adequate lunchroom facilities?

Yes, we do.

MR. BILLINGSLEY: We object to that. That is a conclusion. We can testify what type facilities they have.

MR. BISHOP: I will withdraw it.

Q Do you have lunch room facilities at the Englewood School?

A I do.

Q I will show you a picture and I will ask that it be received in evidence as Defendant's Exhibit 9.

(Defendant's Exhibit 9 received in evidence.)

Q That an accurate picture of the lunch room facilities at that school?

A That is an accurate picture of the lunch room facilities at that school.

Q Are they maintained by the County Board of Education—I mean, the Fairfield Board of Education?

A Yes.

THE COURT: Are these offered on the separate equal doctrine?

MR. BISHOP: No, sir. They are offered on the separate equal doctrine, that contrary to suggestion, actually those facilities made available to the colored are superior, so that they are not equal.

THE COURT: That doctrine was repudiated in 1954.

MR. BISHOP: We understand, but the Department of Justice, in this case, the Department of Justice, has raised the question continuously.

THE COURT: I am glad to receive evidence of the good condition of the Fairfield School System.

MR. BISHOP: We won't go into the others if you care to take them up that time.

COURT: I don't think that is material to the issue.

MR. BISHOP: Fine. We will defer to going into all the systems to show the facilities available in deference to the Court's suggestion with which we agree. We will not make that the decision.

THE COURT: Mr. Nunn, you were asked about playground facilities and I do want to refer to briefly, and I believe you have said that some of the playground facilities had been furnished by the PTA. As a matter of fact, have the various PTA's, or civic groups, made some funds available to the Fairfield School System over and above any public funds?

MR. NUNN: During the past two years, would you state—do you have a document showing the total receipts from civic groups, outside of the public school funds, and I show you a list of the names which I will ask be identified.

(Defendant's Exhibit 10 received in evidence.)

THE COURT: That document accurately show funds provided for improvements by community citizens organizations over the past two years?

MR. NUNN: Yes.

THE COURT: Showing a total of \$42,500.00 raised by the various civic groups?

MR. NUNN: That money used in the Fairfield School System?

Q Of that \$42,500.00 that was raised by citizens citizenship side of any public funds involved, what amount was contributed by the white citizen groups?

A \$40,000.00.

Q Or approximately 95%?

A Yes.

Q Now, were those the source of funds that were used for similar funds that were used to equip your playground? Or were you were asked about on direct examination?

A That would be part of the contribution from the Fairfield Teacher Association.

Q Mr. Nunn, do you have records available to the court the insured value of school property at Fairfield?

A Yes.

MR. BISHOP: Could we have this identified as defendant's Exhibit 11.

(Defendant's Exhibit 11 received in evidence.)

Q Mr. Nunn, do you have records available showing school construction improvement and acquisition since 1954?

A I believe that is on the sheet of paper that was introduced a few minutes ago.

Q Do you have one showing the insured value, the date of construction, the number of classrooms, the acreage?

A That is the one that was just introduced.

MR. BISHOP: Is that the one you last identified?

Q Do you have available documents which would show the curriculum of study offered in each school, and the grade and the amount for the school year, 1964-65?

A Yes, I do.

MR. BISHOP: Could we have that identified and received as the Defendant's next in order.

(Defendant's Exhibit 12 received in evidence.)

Q Mr. Nunn, prior to the institution and prosecution of this case, has any application been filed with the Fairfield School Board by or on behalf of any colored student for admission to a previously all white school?

Q On the same token, has there been any application or request by or on behalf of any white student to be transferred to a previously all colored school?

Q Are all of the applications that have been filed with the Fairfield School Board up until this time, been decided and determined by the Fairfield School Board, without any consideration whatsoever to race, creed or color?

Q What is the policy of the School Board?

Q Mr. Nunn, insofar as the transfers are concerned, in your opinion, you have—should transfers be permitted after the school term commences?

Q If this is an administrative problem, will you state briefly

the various reasons why, in your opinion, the transfer should not be permitted after the school term commences and by transfer, I mean where a student is enrolled in a school and seeks, during the course of that school term, to transfer over to another school?

A Because teachers have been employed on the basis of assignment to a particular school for a particular subject and a particular grade; equipment has been allocated and issued on the basis of the estimated number of students for that school, teachers, and thousands of textbooks have been assorted and issued on the basis of anticipated enrollments.

Q In connection with the textbooks, which—what is the situation now, so far as the Fairfield School System is concerned, with reference to the provision for free textbooks?

A Every youngster in the Fairfield School System is provided books without additional expense.

Q How are those books provided by the Board for the various students who attend the schools, are they handled through the separate schools themselves?

A Yes, under administrative procedure in my office, the books are assorted and issued and delivered and have already been delivered to the individual schools.

Q And are they delivered to the various schools on the basis of anticipated enrollments in the various schools?

A That is correct.

Q Are those books delivered to the students, of course, on the basis of the community or school, and on the basis of the course of study for which they have been enrolled in the various schools?

A That is correct.

Q In addition to that, do you have assigned to the various schools the teachers, or the number of teachers that would maintain the proper teacher-student ratio at the various schools?

A Yes, does the Fairfield School Board contract with the teachers to whom these assignments are made to the various schools?

A That is correct.

Q What, in your opinion, would be the further effects, in your opinion, why the students should be not permitted to transfer after the school term commences?

A In my opinion, to reassign or transfer a student for any reason after school opens will create academic and administrative problems which would throw the entire school into a state of confusion.

Q In addition to the teacher assignments, in addition to the book assignments, and in addition to equipment assigned, have desks been allocated to each school on the basis of anticipated enrollment?

A Yes, are all of your textbooks and equipment being delivered to the students?

A Yes, to be completed before this week is over.

Q What would be the effect, if you had to up the enrollment, would it substantially change the enrollment insofar as the desks are concerned, desks are concerned, other equipment facilities are concerned, and teacher personnel is concerned?

A In my opinion, it would place an intense hardship upon

both the administrative and maintenance personnel at the time of the year when the demand is heaviest on these services.

Q With reference to your lunchroom program and lunchroom services, have they been equipped, staffed, and supplied or requisitioned for them on the basis of anticipated enrollment of the school?

A Yes.

Q If you had shifts in the enrollment among the schools after the school term commenced, what would be the effect on the staffing and equipment and facilities available in the various lunchrooms?

A It seems to me we would have loss of food, have to move food from one lunchroom to another, and have to move personnel possibly from one lunchroom to another.

Q Mr. Nunn, insofar as your teacher personnel is concerned, does the Fairfield School Board enter into contracts with your teachers?

A Yes.

Q Insofar as the processing of those applications is concerned, who originally considers the application?

A They are processed through the teacher to the principal.

Q To the principal of the various schools?

A Yes.

Q And then who recommends the assignments of these teachers?

A The Board of Education has delegated that responsibility to the superintendent.

Q And upon whatwise do you act in that regard?

mean about the assignment of teacher personnel?

The first consideration is to assign a teacher to the school where I think she can do the best work, that is, the basis of my recommendation when I recommend to the Board of Education teacher assignments.

As far as teacher assignments for the coming school year, have all of your contracts been entered into with the various teachers?

A Yes.

Have all of your teachers been assigned to the respective schools to offer the course of study?

A Yes, those teachers been assigned on a balance of the teacher-student ratio?

A Yes.

Did you receive a single application, or request, on the part of a colored teacher, to teach in what was formerly a colored school?

A I haven't.

Did you receive a single application, or request, on the part of a white teacher to teach in what was formerly an all-colored school?

A No, I haven't.

In each instance, with reference to transfers, transfers of teacher personnel in your school, first, do those transfers come from the principal of the various schools affected?

A Yes, the transfer of a teacher would emanate with the principal.

Q Has any colored teacher, or any colored principal requested the County School Board to transfer them to a school that was formerly all white?

A That request has not been made of the Fairfield Board of Education.

Q In the event such transfer of teacher personnel is made, would that transfer first originate with the teacher or with the principal of the school to which they are presently assigned?

A The teacher would have to request a transfer.

Q Mr. Nunn, do you have an opinion as to whether existing personnel should be assigned to a school of another race in the Fairfield School System?

MR. NEWTON: I object to that; I don't think it makes any difference what his opinion is.

(Question read.)

THE COURT: I don't think it turns on any of that.

If it presents any obstacles, he may present those.

Q Mr. Nunn, in your opinion, are there any obvious practical administrative objection to the assignment of teachers, teacher personnel to a school of another race?

A I think so.

Q Outline some of them briefly, please, sir?

A In the first place, I think we would be involved in a legal matter by contracting for a teacher for a particular assignment at a particular school.

Q In your contract with all the various teachers, do you contract with them to teach specific subjects in particular specified grades, designated schools?

That is correct.

Q Have those contracts already been entered into between the Fairfield Board of Education and the various teachers?

Q Has there been any objection or request on the part of a teacher in the entire system to change or modify those contracts, with respect to transfer between schools?

A No request.

Q Have those assignments already been made, and the contract entered into, with reference to this school year?

A Yes, sir.

Q Have the various teachers been allocated or assigned to various schools on the basis of teacher-pupil ratio, and on the basis of their ability to teach particular subjects in particular schools?

A That is correct.

Q What are some of the other practical objections, if any?

A Well, in my opinion, there would be resentment on the part of both parents and teachers, if a teacher of one race is placed in a classroom with children of an opposite race, and you know, the child's education would be adversely affected.

Q In your opinion, what would be the situation with reference to the involvement of discipline, and I mean by that both races?

A I don't believe a white teacher could exercise control or discipline over a class of colored children, nor neither do

I believe that a colored teacher could exercise control or discipline over a class of white children.

Q What, in your opinion, would be the result of such conditions, if there were immediate transfers affected?

A I think the instructional program would be broken down.

Q As a very practical matter, Mr. Nunn, in the event of such transfer, would you have to formulate certain standards, that is, if there were consolidations and transfers, would you, of necessity, formulate certain standards or guides as to which teachers would be retained and which would be discharged?

A Yes; I think we would.

Q And as a very practical matter, if that was done, what would be the effect of a colored teacher in the Fairfield Industrial High School, based wholly and solely on present time on academic status, would it mean a reduction in personnel?

A To the best of my knowledge, it—there would be no teachers at Fairfield Industrial High School that would be released.

Q Do they have college degrees?

A No.

Q If you formulate it on a standard of academic or academic qualifications, based on that standard, would it mean the immediate dismissal of three teachers formerly taught at the Fairfield Industrial High School?

A I believe it would.

Q Do you desire to do that, or not to do it?

A I would rather not do it.

Q Now, Mr. Nunn, with reference to the salaries of these teachers, would you please state to the court the average salary you paid to Negro and White teachers in the '64-65 school year, and the salary for which they contracted in the '65-66 school year?

A The average salary a Negro school teacher earned during the '64-65 school year was \$4,706.92. For white teachers it was \$5,888.82.

Q What was the average for the contract for the '65-66 school year?

A The salaries which have been set, but which have not been in effect and won't be until the beginning of the '65-66 school year, but the basis on which I recommended to the board was based on past experience which they will apply to the average salary of school teachers for next year. For Negro teachers, \$5,179.53, and for white teachers, \$5,148.56.

Q Now, Mr. Nunn, did the Fairfield School System give mental tests to first year high school students in the 1962-63 school year, and give the identical test to Fairfield High School and Industrial High School students?

A That is correct.

Q How have the results of that?

A NEWTON: I would at this time like to interpose nothing to this document. I do not know under what circumstances it was given; we do not know by whom it was given; we do not know as of this point how to compare the results, and this was in 1962. I say it has no bearing on anything today.

A BISHOP: Judge, it would mean this, based upon

these tests, if you have wholesale transfers, it will just mean that you will have one of those inevitable consequences insofar as the Fairfield system is concerned.

MR. NEWTON: I have no knowledge that that was given fairly.

MR. BISHOP: Excuse me. Are you through?

THE COURT: Go ahead.

MR. BISHOP: I want him to get through, Judge.

THE COURT: Address your remarks to the court and make your objection.

MR. BISHOP: It would have one or two consequences.

Number one, it would mean the downgrading of students in this school in these particular grades to meet the average or mean intelligence quotient of mutual capacity ability, or it will mean wholesale dropouts or failures in a particular system.

THE COURT: I will sustain the objection. I think the Court of Appeals in a case recently decided to rule on those contentions.

MR. BISHOP: Does your Honor read the Court of Appeals decision as holding if the results of these tests were suggested in the Brown case was given, and if either a downgrading or wholesale failure would be material?

THE COURT: They brought a number of experts to show the effect it would have on children, and they went along with that theory and he was reverse.

MR. BISHOP: It deals with this particular system and the school system is not related to the

School System or Midwestern School System or any except Fairfield School System.

THE COURT: I will sustain the objection.

We will take a twenty minute recess.

(Mid-morning recess.)

G. VIRGIL NUNN,

thereupon resumed the witness stand, and testified further as follows:

CROSS EXAMINATION—continued

Q (BY MR. BISHOP:) Mr. Nunn, has the Fairfield School Board had a survey made by any independent agency during the past few years of school needs and school recommendations?

A Yes, by the University of Alabama.

Q Do you have a copy of the results of that study?

A Yes, we have a copy.

MR. BISHOP: May we have it marked as Defendant's Exhibit in order.

(Defendant's Exhibit 13 received in evidence.)

Q Were there been any other studies or surveys with reference to school needs or recommendations from any independent agency?

A Other.

Q Were all of the recommendations contained in the survey and study of the University of Alabama to the Fairfield School Board relating to both white and colored children been complied with and completed?

A That is correct.

Q You mentioned previously plans were already on drawing board for the construction of a new Junior High School in Fairfield; is that correct?

A Yes, sir.

Q Where will it be constructed, or will it be addition remodeling of the Interurban School, or new facilities?

A It will be a completely new structure making use of some portions of the existing building.

Q Do you have architect plans and specifications available for that building?

A We have the preliminary plans.

Q Has the appropriation of money been earmarked for that building?

A Yes.

Q When will it be completed?

A It will be ready for occupancy in 1966.

MR. BISHOP: That is all we have.

THE COURT: Any other questions?

MR. LANDSBERG: Yes, Your Honor.

MR. BISHOP: I thought the plaintiffs were the intervenor.

MR. LANDSBERG: I am not the plaintiff. I am the intervenor.

THE COURT: Yes, he was intervening.

You can go head, sir.

MR. LANDSBERG: I would like to have this

Intervenor's Exhibit 1.

(Intervenor's Exhibit 1 received in evidence.)

CROSS EXAMINATION

MR. LANDSBERG:) Mr. Nunn, I show you Intervenor's Exhibit 1 and ask you if you can identify that,

can identify it.

Is it?

MR. BISHOP: We object to the document that triggered the intervention, may it please the court. I don't think anything to do with the case; we object to the document triggered the intervention.

THE COURT: What is the object of this? What is the object anyhow?

MR. LANDSBERG: Your Honor, Mr. Nunn testi-

THE COURT: This is a petition for desegregation of the school system?

MR. LANDSBERG: Yes.

THE COURT: Overrule the objection.

Would you tell the court what intervenor's Exhibit 1

is a petition for desegregation of the Fairfield School

when was that petition received by the Board?

The date of transmittal is dated May 17th. I assume it was received shortly after that date.

Q And what was the Board's action in response to that petition, Mr. Nunn?

MR. BISHOP: The record would be the best evidence.

THE COURT: I will overrule the objection.

A The Board acknowledged receipt of the petition and ordered it filed.

Q Did the Board take any steps at that time to initiate desegregation of the school system?

MR. BISHOP: I object, may it please the court, it does not appear it was filed on behalf of any student and does not appear whether it emanated from Alabama, New York, Los Angeles or Chicago.

THE COURT: Overrule the objection.

Q Would you answer the question, please?

A Will you restate it.

MR. LANDSBERG: Mr. Reporter, will you read it back?

(Question read.)

A No.

MR. BISHOP: May the record show who sent it, please.

THE COURT: It was the NAACP, wasn't it?

MR. LANDSBERG: Yes, Your Honor.

THE COURT: The record will indicate that the NAACP forwarded it.

MR. NUNN: It is not true also in 1954, the Board of Education received from the NAACP, and a group of Negro parents, a petition for desegregation of Fairfield Schools and took no action on that petition also?

To the best of my knowledge, the Board of Education received a petition from the group you identified, but I have no knowledge it was for desegregation of the school system. In my opinion, it had to do with facilities.

Q What action was taken by the Board of Education on that petition?

A A lawyer was retained to advise the Board on the case. The petition was turned over to the attorney and we heard nothing else from the case.

Q The Board felt it was necessary to retain a lawyer when it received a petition relating to facilities?

MR. BISHOP: We object to that, may it please the court.

THE COURT: Sustain the objection.

Do you have a copy of the petition or paper?

MR. LANDSBERG: No, Your Honor. The Attorney to whom Mr. Nunn turned the petition over was unable to locate it.

MR. BISHOP: So the record might be abundantly clear, can it show it was not me?

I am not asking to divulge who it was, it was not myself.

MR. LANDSBERG: I would like to have this marked as Intervenor's Exhibit 2.

(Intervenor's Exhibit 2
received in evidence.)

MR. LANDSBERG: Those are the Minutes.

MR. BISHOP: We object to cluttering up the record with a copy of what appears to be sheets of Minutes of

Fairfield School Board from 1950 to 1965.

THE COURT: What are you attempting to prove by that?

MR. LANDSBERG: The Minutes of the Board of Education are interspersed with items that the Intervenor believes are relevant as to the issues of good faith of the Board; as to the issues of administrative difficulty as to the issue of disparity of schools, and rather than try to extract those and possibly present an unfair picture, we propose to submit the entire Minutes.

THE COURT: I will sustain the objection. I think we are trying a matter here—this School Board has been segregated, and there seems to be no contention about it, and the whole question, in the Court's mind, is how far the court should go in this hearing. In other words, they have had a segregated school system out there.

MR. LANDSBERG: The Intervenor believes that the three issues which we mentioned are all relevant to the question of the speed of desegregation, and also the matter of desegregation. The Minute Book also contains items concerning the transfer procedures and regulations which Negro students will be required to follow under the plan. The plan enforces the regulations of the Board.

MR. BISHOP: If the court pleases—

THE COURT: I think really we should proceed on the objections to the plan here. We can continue to hear evidence on this thing. The Court is going to enter an order in this case, it has to, under the mandate of the Appellate Court. We have very little discussion left in the matter, and they come back and say you follow these cases, and we are going to follow the cases, as far as we can, because we are required to. I think the thing gets down to the

question here of submitting a plan, and in what particular should this plan be changed, if any.

We could spend a lot of time trying these issues. Really, it seems under the decision, the question revolves itself on whether it should be extended over three years or four years. The formula set out in the opinion indicates the three year plan and they have submitted a three year plan, but the grades run in conformity with the indicated plan in the opinion.

If you have some matter you want to establish, maybe they would agree on it. I don't know what particular matter you want to present.

MR. LANDSBERG: Your Honor, in this case, the Intervenor would like to present evidence relating to the manner of desegregation; in other words, the actual operation of the transfer plan that is proposed by Mr. Nunn or by the Board, and further, the Intervenor would like to proceed with evidence relating to the disparity in the school system because it is the Intervenor's contention that as to certain schools in the system, the law requires that all students attending those schools be given an opportunity to transfer.

THE COURT: That is what we propose to give you here.

MR. LANDSBERG: The Intervenor, for example, believes all Negro students in the seventh and eighth grade should be allowed to transfer to the white Junior High School, if they wish to apply, on the grounds that the seventh and eighth grades in the Negro Schools, the students in those grades, are not offered the courses offered and are available in the white Junior High School. And the facilities that are offered them are inadequate, and in fact, one of the white—one of the Negro Junior High Schools,

the students only have two teachers, whereas, in the White Junior High School, there are fifteen teachers who are trained in specialized subjects.

THE COURT: What grades are involved there?

MR. LANDSBERG: The Seventh and Eighth, Your Honor.

THE COURT: This formula puts the Eighth Grade in the second year and the Seventh Grade in the first year.

MR. LANDSBERG: Your Honor, in the Jackson and Denison cases, there was no evidence, as far as I know, on the question of disparity among the schools, and it is the Intervenor's contention that in addition to the grades that are required to be desegregated under the Jackson and Denison cases, further grades must be desegregated when proof of disparity is presented.

THE COURT: You are talking about all the Seventh and Eighth Grades at this juncture?

MR. LANDSBERG: The Seventh and Eighth Grades.

THE COURT: Since the Seventh Grade is the first grade of Junior High, it seems that would fall in the first year, now, so we would have only the Eighth Grade in the second year.

MR. LANDSBERG: Yes, Your Honor.

THE COURT: Interrogate him about the Eighth Grade if you wish to do so.

Q Mr. Nunn, how many Junior High School Teachers are there in the Englewood School?

A I believe you just stated there were two.

Q How many are there?

A To the best of my knowledge, there are two teachers

to serve 35 to 40 students, which is a much lower average than the teachers up at Fairfield Junior High School.

Q And is it not true, Mr. Nunn, that the course of Home Economics and Industrial Arts are not offered at Englewood School, but are offered at white Junior High Schools?

A That is correct, Mr. Landsberg. We have admitted that and are in the process of doing something about it.

Q Are there any plans—I withdraw that.

A Is it not true, Mr. Nunn, you testified on the deposition there were no plans for removing the Seventh and Eighth Grade, or changing the Seventh and Eighth Grade at the Englewood School in any way?

MR. BISHOP: We object to whether he testified on deposition unless he is shown the testimony.

THE COURT: Overrule the objection.

A The fact that I testified there were no plans at present does not preclude the fact that there won't be plans in the future.

Q But there are no plans at present, are there?

A No.

Q Mr. Nunn, in the white high school, is it not true that students at that school are offered diversified education, elective education courses, rather, diversified occupational courses and a commercial course, and that none of these courses are offered at the Industrial High School?

A That statement is not true.

Q What is?

A Students at Fairfield Industrial High School are offered a commercial course, and they—

Q Is there a business machines course offered at Industrial High School?

A There is a typewriting course and shorthand course.

Q Is there a business machines course?

A No, sir; I don't believe there is.

Q Is there at Fairfield High School?

A Not labeled as such; no.

Q But there is a course in which students are taught use of business machines, is that correct, at Fairfield High School?

A Before I could answer that, you will have to be specific about what you mean by business machines?

Q Adding machines, calculating machines?

A Those two machines are available. In all fairness, I think the other part of your question should be explained. You referred to diversified occupations, too.

Q Would you explain what you mean?

A Yes; I will. At Fairfield Industrial High School, we had a course in diversified occupations and distributive occupations, but because of insufficient students to continue it, the State Department discontinued the course.

Q Were there any students who wished to continue?

A Not sufficient number to continue the course.

Q Were there any students who wished to continue?

A I suppose there might have been four or five. That is the number we had in the course when it was discontinued.

Q I show you Intervenor's Exhibit 3 and ask you to identify it?

We have a report similar to that. That seems to be one of our annual attendance reports that we are required to submit to the State Department of Education.

And for what year?

64-65.

MR. LANDSBERG: Your Honor, I offer that in evidence, Intervenor's Exhibit 3.

THE COURT: What is the object of these attendance reports?

MR. LANDSBERG: The reason for doing that, Your Honor, is that the Intervenor has attempted to summarize the documents, and Mr. Bishop has introduced into Tables, and we also wish this document as a basis for our summary.

THE COURT: There is no objection to it, I don't see.

MR. BISHOP: Yes, sir. I don't see the materiality.

THE COURT: I will overrule the objection.

(Intervenor's Exhibit 3 received in evidence.)

MR. LANDSBERG: Your Honor, I would like to offer the Court, not as an exhibit, but merely as an aid, the Tables which we have prepared, all of which are based on documents already in evidence. The first Table shows enrollment by grade, by race, at the Fairfield School, and it is taken from Intervenor's Exhibit 3.

The next Table summarizes the capacity in enrollment at the school and indicates which schools are over and under classification.

THE COURT: You are not offering these, you are

just offering the tables.

MR. LANDSBERG: Yes, Your Honor.

THE COURT: This is just for the Court's information?

MR. LANDSBERG: Yes, sir.

THE COURT: That is sort of in the state of suspended animation. It is in and it is not in.

MR. LANDSBERG: That's right, Your Honor.

The next chart shows the pupil-teacher ratio for each school system.

The next Table summarizes the insured values of the schools.

The next Table is a summary of the—

MR. BISHOP: These are not being received in evidence?

MR. LANDSBERG: That is correct.

The next Table is a summary of the elementary schools showing the enrollments, the amount over and under capacity and teacher-pupil ratio—and the last item is not yet in evidence, but we propose to present it to the Court this morning.

The last two charts are similar charts for the Junior High Schools and the High Schools.

Your Honor, I want to clear up one or two points relative to Mr. Bishop's cross-examination of Mr. Nunn.

Q Mr. Nunn, I show you Plaintiff's Exhibit 1 and ask you what is the capacity figure that is shown in that exhibit based on?

A The capacity in the elementary schools, as I recall, was figured on the basis of thirty-five per school room.

Q And in the Junior and Senior High Schools?

A I believe it was figured on thirty students per room.

Q I now show you Plaintiff's Exhibit 2 relating to the construction from the 1953-1954 School Year. You will note that the sixth item down is labeled Robinson School, four room addition. When was that addition built, Mr. Nunn?

A The Minute Book would substantiate the facts. My memory tells me about 1957.

Q Looking at Defendant's Exhibit 11, could you locate that building and tell me when it was built?

A The four room addition was an addition to the oldest of the two buildings at Robinson School. Now, you have here Robinson School original building.

Q And below that, Mr. Nunn?

A Robinson School Addition.

Q Is that the same—is that the addition that is referred to in Plaintiff's Exhibit 2?

A I am of the opinion that it is.

Q What is the date that you gave in Defendant's Exhibit 11?

A 1951. I stated a few moments ago I would have to use my memory. I can substantiate the date in the Minute Book if you care to delay the case that long.

Q Looking further at Plaintiff's Exhibit 2, Mr. Nunn, how many entries do you see for the Forest Hill Elementary School?

A One.

Q And how many entries do you see on Defendant's Exhibit 11?

A I see two.

Q And is the second entry of \$100,000.00 additional wings built in 1954-1956?

A That is the figure that is on this chart. During two or three year period, '54-56, there were two additional wings constructed to the Forest Hill Elementary School.

Q Mr. Nunn, what are the procedures for students outside Fairfield to enroll in the Fairfield Schools?

A They report to the school serving their district and then an application plan.

Q And does the Fairfield Superintendent or Board rule on those applications?

A The principal submits the application to the superintendent for a decision. The principal enrolls the student temporarily or permanently, unless the superintendent disapproves the application.

Q And what are the criteria for approval or disapproval?

A That you have to live within a certain school zone.

Q And if they live in that school zone, they will be admitted; is that correct?

A That has been the policy in the past.

Q The school board has established an attendance zone; is that correct?

A We have been operating on the basis of attendance zones.

THE COURT: Your Honor, in order to save time, I would like to have marked and offered into evidence the deposition taken by the Intervenor, along with the map which was marked in the deposition.

THE COURT: All right.

(Intervenor's Exhibit 4 received in evidence.)

THE COURT: Mr. Nunn, do you recall marking on the map which is Intervenor's Exhibit 4, areas which were predominantly white and predominately Negro?

THE COURT: Do those areas substantially correspond with the areas which the Board has adopted?

THE COURT: Do they generally correspond?

THE COURT: Mr. Nunn, for first graders entering the school in the fall, do you have a pre-registration?

THE COURT: How does a first grader enroll in school?

THE COURT: Is it the same as every other student enrolls. The only difference being normally one parent, at least, accompanies the child to school.

THE COURT: What does he do when he gets to the school?

THE COURT: Are they grouped together and taken to a room and given instructions.

THE COURT: Do they fill out any forms in the school?

THE COURT: Do you ensure they do.

THE COURT: Has the Board adopted any forms for first graders to fill out when they report to school?

A They use the same form that all other students which is an enrollment card, filled out by a parent course.

Q And does the superintendent rule on whether child should attend that school?

A The parents of that child make an application for rollment just as any other student does, and the superintendent rules on all of those application forms.

MR. LANDSBERG: I would like this marked as intervenor's Exhibit next in order.

(Intervenor's Exhibit
received in evidence)

MR. BISHOP: Can we have the initials identified and we will have no objection to it? There are some markings. It says Fairfield, Alabama, School Board, B 173155 and the initials, if we can have that identified.

MR. LANDSBERG: I couldn't tell you.

MR. BISHOP: If we have that information of surplusage on there, if we could have the identification we have no objection.

Q Did you bring with you today an application for assignment or transfer of pupils?

A I believe I have one.

MR. LANDSBERG: Your Honor, I believe it would save time if we could use Intervenor's Exhibit 5.

MR. BISHOP: We have no objection to it.

We would like to have the identification of surplus over there, if the initials and so forth could be identified.

MR. LANDSBERG: I would like to mark, please, as intervenor's Exhibit 6, this document.

MR. BISHOP: No objection.

(Intervenor's Exhibit 6
received in evidence.)

Mr. Nunn, will you tell us what Intervenor's Exhibit

Yes. This is an application for assignment or transfer of pupils for the Fairfield City Board of Education, Fairfield, Alabama.

Is that the sort of form that is used in enrolling first graders?

This is a form that all students have to fill in when coming to a school for the first time, be they first graders, fifth graders, or twelfth graders.

What is done with the form after it is filled in?

It is handled by the principal of each school. I would assume that the principal issues instructions on how to fill out these forms. The principal gets them together and brings them to my office for my action.

And all—is this done at the beginning of the school year?

This is done at any time of the school year when a child enters the school for the first time.

So, the vast majority of them would be at the beginning of the school year; is that correct?

I think that is a true statement.

When they come into your office, what sort of review do you give those forms?

A I look at each one of them myself.

Q You have processed as many as two hundred or three hundred forms in one day, isn't that right?

A I expect I have, up into the late hours at night.

Q And when you look at the forms, what are you looking for?

A The residence of the child.

Q Are you looking for anything else?

A Well, I think every item on this form is of interest to the superintendent.

Q If the form is not entirely filled out, does that make any difference?

A I should certainly think it makes a difference. The principal again it is up to the principal to process these forms. Some do a better job than others.

Q Suppose, for example, that the blank for race were left blank. Would that influence you in your decision in going over those forms?

A I don't believe it would since I have stated that I am more concerned with the address of the child than with any other item.

Q What if the names and ages of brothers and sisters were left out, that wouldn't influence you, would it?

MR. BISHOP: May it please the court, we object to that question. It is perfectly natural that a child would want to go to the school his brothers and sisters were attending, and it is perfectly natural a school board would give consideration to those factors. If you have six children in one family, and five of them were attending one school,

it is apparently natural the sixth child would want to go there.

THE COURT: What is your question?

MR. LANDSBERG: I wondered whether it would make any difference to the superintendent in reviewing the forms, whether the names and ages of brothers and sisters were left blank?

Yes. I think it would make a difference.

What would you do with the form if that question was blank?

I would assume that he had no brothers and sisters.

Then you would rule on it without further question; that correct?

MR. BISHOP: We object to that. If investigation shows he made a false entry—

THE COURT: I think we are dealing in a hypothetical matter that is not material.

I will sustain the objection.

Mr. Nunn, have you ever rejected an application for admission to the first grade?

THE COURT: Do you take applications for admission to the first grade?

Yes, sir.

THE COURT: They have to fill out a form, the forms?

Yes, sir.

THE COURT: They enroll in the first grade?

Yes, sir.

THE COURT: The first grade student is in a little different category from one in the second grade. He doesn't file for a transfer, the first grade student does not?

A My answer was when a child enters a school for the first time, he is required to enroll by this form. If a child was in the first grade last year and is going to enter the second grade this year, the State Department of Education has ruled his report card from last year is adequate evidence of his application.

THE COURT: His application for attendance to turn to the school this year?

A Yes, sir.

THE COURT: But you wouldn't process, in advance, a transfer of a first grader, one that had never entered the school system before?

A We don't normally process in advance a transfer for anyone, Your Honor.

THE COURT: Do you have any requirements with respect to time for making transfers now?

A No, sir. We have a set date for the opening of school, and, of course, at that time, the majority of the applications are filed, but if a child moves into the City of Birmingham field after the first week of school, he has to follow the same procedure that he is entering a Fairfield School for the first time.

THE COURT: The reason I asked that question was to get notice in the proposed plan you have for next year and the following year, the application for transfer will be accepted during May 1st to May 15th.

Does that requirement hold now, do you require that now from anybody, such a restrictive time as that?

No; we do not, but it is my understanding that the statement you are referring to is a guideline from some of our headquarters.

THE COURT: That is like this absentee voter law. You have to qualify the first of March to vote in November. Not many people know where they are going to be in November.

I wonder what is the necessity of having such a restricted period of time?

Your Honor, I have wondered the same thing. I noticed the Jefferson County Board of Education ran an advertisement in a newspaper setting out these times, the dates and the worth for the benefit of the public.

THE COURT: Was this incorporated in the Birmingham and County Board of Education Plans?

Yes, sir.

THE COURT: I don't know, they may have one of the Court of Appeals has left us in the dark. It may be one of the reasons why the plan was rejected.

MR. BISHOP: Your honor refers to the time of filing application to transfer?

THE COURT: For next year and the following year. To utilize this year you have got to have some lines on it because of the impending school term coming up.

MR. BISHOP: With the indulgence of the court and counsel, I can explain why it was selected.

THE COURT: All right.

MR. BISHOP: It was selected with the sincere thought to accord to everybody sufficient time after all the advertisement in the paper and other media, it afforded to all

people sufficient time within which to file application and it also was recommended so that they could be processed by some personnel before they depart for the summer recess.

Most of the teachers are gone during the summer period and a large part of the administration.

The third reason is so they could be acted on before the commencement of the next school year, so that both the student and parent would know exactly which school they were going to attend during that year, and, of course—fourthly, if there was any reason of disagreement with the determination that might be made by the administrative personnel or superintendent, or both, any difference between the applicant and the board with reference to that particular application, could be determined prior to commencement of the school year in an orderly and thorough fashion, so that the student, and, likewise, the parent, would not be discommoded in their plans with reference to the attendance of the next school term.

THE COURT: You haven't had a restriction on transfers heretofore?

MR. BISHOP: Those were the four reasons that formulated it.

With reference to transfers that have been acted on in the past, I believe the record will show with dispatch as far as the Fairfield School is concerned, and application to transfer from a Negro School to a white school, has not been made.

THE COURT: If you had a transfer from one Negro School to another, what is that?

MR. BISHOP: It will be prior to the last day of school

term then concluding.

For example, if a student wants to transfer schools before the school recess on or about June 1st, he would file his application to transfer, and that application would be acted upon during the summer months, and these other matters would be determined, and he would be ready to attend the school of his choice on September 1st.

MR. LANDSBERG: I think Mr. Nunn would state that is not entirely correct.

MR. BISHOP: Whatever the situation is, I would like for him to state it.

THE COURT: What is the situation?

Judge, I am a little bit confused in the question at issue.

THE COURT: Why has such a restrictive period of fifteen days from May 1st to 15th been required? You require that the transfer be requested within that period of time, will be accepted during May 1st to 15th?

My reaction to that point would be we are moving, it seems, from a segregated school to an integrated school system, and the rules of the game are just going to be different in the future from what they have been in the past.

MR. BISHOP: May I make one other observation, and it was my failure to recall the fifth point.

In addition, another reason for the applications being filed within that period, that is the period specified, May 1st and 15th, and acted upon, if possible, before termination of the school year, it enables the Board of Education, administratively, to determine the number of teachers they will need in the various schools, the number of textbooks under the free textbook act, and have those available for

students, in order that they can assign to the students the equipment and so forth that will be necessary; in order they can make such shifts of school population that might be necessary between schools, and make those shifts of school teacher personnel, teaching personnel and equipment, and also, specifically, assignment of desks.

THE COURT: When do you secure your teachers? What is the deadline of their contract?

A As soon as a vacancy occurs during the spring of the year, we make an effort to start filling that position.

THE COURT: The contracts you have, are they continuing contracts, or do you sign up every teacher every year?

A The new teachers coming into the system for the first time, sign a new contract. The State tenure law provides a teacher is on a continuing contract until notified to the contrary, or before the last day of school.

MR. BISHOP: In direct answer to the court's question, the Alabama Teacher Tenure Law provides that unless there is some disposition made prior to the last day of school, which we will say is on or about June 1st, that the teacher continues under the Teacher Tenure Act.

A separate contract is entered into with the teacher on each year and they are signed up on a contract on a yearly basis, and that is true with the Fairfield System, and that is another reason for that proposition.

THE COURT: We are running out of time. Go ahead.

MR. LANDSBERG: I have two more witnesses whom I wish to put on for a very short time.

THE COURT: Are you finished with Mr. Nunn?

MR. LANDSBERG: I will try to finish quickly.

Q Are you familiar with the plan for desegregation which was submitted to this Court for the Fairfield Schools?

A Yes.

Q Do you have a copy of that before you?

A I don't believe I have a copy.

Q Looking at the first paragraph, Mr. Nunn, the first sentence says all applications filed in accordance with existing regulations of the Board on or before August 30th will be processed.

Will you tell us what the existing regulations of the Board are that are referred to?

A I am looking at a copy of the existing regulations, and I have them. I have here two pages, single spaced, typewritten.

THE COURT: Do they have anything to do with the assignment of students by race?

A No, sir; I don't believe the word race appears in these regulations.

THE COURT: Does it have anything to do with transfers, as far as you know?

A Yes, sir. The Board has delegated to the superintendent full authority to supervise the enrollment and transfer of students.

THE COURT: Of course, that authority would be limited by what this court does in approving the plan?

A I understand that, sir.

THE COURT: Is there anything else in there? Do you have any particular thing?

MR. LANDSBERG: I think it is relevant to establish what the Board's practices have been in the past with respect to these regulations. For instance, regulation number six provides the superintendent may, in his discretion, require interviews with the child, the parents or guardian, and so forth.

Q Is that correct, Mr. Nunn?

A You are reading correctly from the regulations.

Q Have you ever conducted such investigations?

A I have never had an occasion to.

THE COURT: How old are these regulations?

A They were adopted March 19, 1959.

THE COURT: Anything you have in those regulations would be modified to the extent that this plan is approved.

MR. LANDSBERG: Your Honor, the plan specifically states all applications filed in accordance with existing regulations of the Board, and I think it is, therefore, important to establish what those regulations are.

THE COURT: He has indicated what some of them are.

MR. LANDSBERG: The second point, Your Honor, is I don't believe that many of the provisions of these regulations have actually been used by the Board. For instance, Mr. Nunn testified just now that he has never made such investigation, because he has never had occasion to, and it is the Intervenor's contention that the Board cannot now in the future make such investigations of Negro students

applying to white schools.

MR. BISHOP: May I respectfully inquire is it the position of the Department of Justice no inquiry could be made with reference to any proposition, that is, character, mental condition, physical condition, of any student, white or colored, that applies?

THE COURT: There must be some discretion left in the superintendent. In other words, he is just a figure head, if the doesn't have some discretion.

MR. LANDSBERG: Your Honor, the Intervenor's position is it is relevant to a—students character is irrelevant in deciding whether he is to attend Fairfield Industrial School or Fairfield High School. Both schools will presumably have the same character requirements.

THE COURT: Suppose he is an incorrigible, should he be admitted to the school?

MR. LANDSBERG: No, Your Honor. There may be occasions when investigation would be justified.

THE COURT: He says he hasn't used them, and I think this could be modified to some extent.

Q Going down paragraph one, Mr. Nunn, is the clause so that a decision may be made for either approval or rejection of such application for the term commencing in September, 1965, without discrimination as to race, or color. When will that decision be made?

A Sir, I am still looking at the rules and regulations. Are you reading from another sheet at the present time?

Q From the plan, the last clause in paragraph one of the plan?

A Will you restate your question?

Q Yes.

When will the decision be made as referred to in that clause?

A I would say immediately, as soon as practicable after the receipt of the application.

Q Will it be made immediately?

THE COURT: It would have to be. When does the school begin?

A The first day of September.

THE COURT: You have one day. August 30th, the application must be in by that time, the last application, and then you will have to decide by September 1st?

A That is correct.

THE COURT: I think we could pass on. That would seem to be with sufficient promptness.

Q Now, under paragraph two, you state an application may be made by the parents for the child's assignment to any school. Does the Board contemplate both parents must make the application?

A In accordance with present regulations.

Q Has the Board in the past accepted applications from students who—which were only requested by one parent?

A In some instances, yes. I am sure there were extenuating circumstances.

Q What are the Board's office hours, when an application may be filed?

A An application may be filed, I believe this document says, 600 Valley Road, Fairfield, Alabama.

Q What are the Board's office hours?

A From 8 o'clock in the morning until 4:30 in the afternoon, five days a week.

Q Would the Board consider it an extenuating circumstance if one parent was working five days a week?

A Are you directing your question to the signing of the application?

Q Yes, sir.

A Well, in the vast majority of cases, we have both parents' signatures. There again, a superintendent has to delegate the responsibility to see that the forms are processed properly to the principal of the school.

Q If only one parent accompanies his child to school on the first day of school, and no application is made by a Negro child to a white school, that Negro child will be enrolled in the Negro School, won't he?

A My relationship to assignment and enrollment is based on the application before me, and when he applies for application for enrollment for a certain school, I will act upon that application.

Q And if only one parent has signed, it, you will reject it unless there are extenuating circumstances?

A I don't believe I said that.

THE COURT: Suppose one parent wants to take the child one way and another another. What would you do?

A I think I would take it to the Court of Domestic Relations.

THE COURT: It may be one parent has deserted the family and gone, and you would have to consider that

and there are so many cases, I believe you will find the superintendent has to cut his pattern to suit the case and not apply the general pattern to every case.

Q It doesn't seem possible every child who enrolls in first grade is accompanied by both parents on the first day of school. If that is true, then he will be assigned to a Negro School, his application to a Negro School will be accepted or his application to a white school will be accepted?

A May I make a statement? I don't believe this form requires both parents to accompany the child to school.

THE COURT: It only requires both parents to sign. I think that is a reasonable requirement. If both parents do not sign the application, then there would be some question about whether or not the father and mother want the child to go to that school.

MR. LANDSBERG: I would think that would be true, no matter whether the child applied to a white school or Negro school.

THE COURT: You are proceeding on the assumption that they are going to decide everything again for the Negro children and decide everything for the white children, and I don't believe they are going to do that. The injunctive processes of this court.

MR. LANDSBERG: Your Honor, I am not proceeding under that assumption.

THE COURT: Give them credit for acting in good faith to some extent. It is not all going to be one way. I am sure, at least, as long as they are acting under the authority of the Court. In other words, there has got to be some discretion left in a superintendent, otherwise, he

superintendent, we might as well do away with the job and let it run of its own accord.

MR. LANDSBERG: What our contention is, merely the procedure to be applied for students applying for transfer from one racial system to another should be the same as the procedures already used for enrollment or transfer within a racial system.

THE COURT: I presume that as a general principle it would be true, but you have got, after all, we do have the question of desegregating the schools at this juncture. It presents some problems. If it didn't present any problems, we would not be concerned about this case today.

Since it does not require the parents to accompany, I do not think that is a very valid objection to this plan. I see why the father may be working and he wouldn't want to lose a day's work to take a child to school. That is required.

MR. LANDSBERG: It isn't as to students in the higher grades, but as to students in the first grade, it appears the application has to be made by the parents at the time the child tries to enroll.

MR. BISHOP: He can sign it at home or on the job.

MR. LANDSBERG: The parents are not furnished forms in advance.

THE COURT: The form will be available. I don't think the superintendent is expected to take it to the home. You give the address where the applications can be filed, and the applications filed in the office of the superintendent of education.

In this state the applications are available in the

A Yes, sir, I believe it does.

There is generally one in the school community in Fairfield, and every principal's office has a supply of application forms.

THE COURT: I think the notice should contain the statement where the applications can be found and where they can be made available.

Q Mr. Nunn, will you tell us, as to applications filed in subsequent years, will the same application, for instance, will the same application forms be used?

A Yes, I would think the Board would continue to use the same form, unless the court directs otherwise.

Q Will the school distribute to all students those forms for entering desegregated grades?

A The Board will distribute forms to the principals of all schools in Fairfield, all schools.

Q What instructions will the principals be given regarding the use of the forms?

A I think every principal in the Fairfield system has sufficient instructions already, and they know how to distribute these forms when a parent asks for them.

Q Will the Board then only distribute—the principal will only distribute the forms when they are asked for?

A I don't think the principal would issue a form to one who did not ask for it.

Q If the student does not fill out one of the forms, will he continue in the school system that he is already in?

A He will continue in the school he is already in, bringing his report card for the previous year.

Q Well, will the Board allow transfers within the Negro School System, or within the White School System, for instance, from the Glen Oaks School to the Forest Hill School?

A Each application will have to stand on its own merits. We do not discourage transfers during the school year. I have had requests for transfers from Glen Oaks to Forest Hill which have been disapproved.

Q If the student applies at the end of the school year for the coming school year, will the board approve those transfers?

A The Board will approve, in good faith, any decision of the court by this court, and carry out its instructions.

Q And in the next year, the operation of this plan, will the Board continue to require Negro first graders who wish to attend white schools to report to Negro schools?

A If that is the approved decision, yes, sir.

THE COURT: Do the proposed regulations, or the regulations of health, education, welfare department disapprove or include provisions similar to paragraph 2?

MR. LANDSBERG: Your Honor, I believe that the—

THE COURT: That is about requiring the students, whether white or colored, report to schools they normally report to and request the transfer at that point. Has it been disapproved anywhere?

MR. LANDSBERG: That has not, as far as I know, been disapproved.

THE COURT: I have read the regulations two or three times, and they are rather lengthy, and I don't find anything in there about that.

MR. LANDSBERG: Well, it is not something that

THE COURT: I notice it is one of the points of objection.

MR. NEWTON: Yes, sir, and in the H.E.W. Regulations, it says this, which I think is significant, the time and places, and the manner of pre-registration and enrollment, shall be fixed so that a free choice may be easily made by each person; and the plaintiffs contend sending a first grade student first to a Negro School and then has to determine whether he wants to go to a White School then it is not a free and easy choice.

THE COURT: They couldn't send him to the white school.

What are you going to do, reject him in advance?

A No, sir. The white students go to the white school first. He has never been to school anywhere. Why not let him go to the school he desires to go without having to go to the Negro school and then see if I can get him to the other school.

MR. BISHOP: This was put in with the sincere belief it was according to the Negro students the greatest consideration. Number one, they would be going to a school where the application would be sympathetically received and promptly processed.

THE COURT: That is the point I was making.

MR. NEWTON: Your Honor, of course, we have to abide by the Court's decision, and we have to see how many there will be that will apply for these applications but it seems an unusual burden on the Negro student to go to the Negro school and make sure he uses the proper language in requesting this form, make sure the

properly filled out, submit it to the superintendent, September 1st, as it relates to first grade students, wait until the Board of Education accepts or rejects it, and then request a hearing, and maybe after two or three weeks, maybe not getting his first grade studies.

THE COURT: I don't believe the processing will take that long. I imagine the application will be handed to the superintendent the same day.

It will be handled promptly.

MR. BISHOP: Suppose he went to a white school and the form wasn't properly filled out?

THE COURT: I think he would find a more sympathetic atmosphere in which to handle the thing at the colored school than he would at the white school.

MR. NEWTON: Our experience has been that he will not. These schools and regulations promulgated, and have been discussed about under the supervision of the Negro principal who is under the supervision of the white Board of Education, and they will have problems getting applications.

THE COURT: I don't think they will have problems getting applications, not as long as I have anything to do with it.

Mr. Nunn, what provision has the Board made with that provision has been made for giving notice of promulgation of the plan in subsequent years after this year?

I believe the practice has been to have an advertisement in the daily newspapers in this area.

Will that be done each year of the desegregation?

Will say a plan will be devised to give adequate notice.

I can't say to you today that it will be done five years from now.

THE COURT: I haven't seen any plan that requires republication every year after a plan of desegregation has been adopted. I think the people have some intelligence though.

MR. LANDSBERG: We think some sort of notice should be given to students. I am not thinking it has to do with publication in the newspaper.

THE COURT: I think if the time is set for the filing of applications, there should be notices posted in the schools so that the children will know when to file their applications.

Of course, we are getting ahead of the hound, so to speak.

Q Mr. Nunn, as to Negro students who move into a school district after August 30th, will they be racially assigned?

A My feeling is they would go to the school serving the area and get an application blank, and either make an application for that school or some other school.

Q May a Negro student move into the district after August 30th and make application to a white school? Will that application be given the same consideration as applications which were made before August 30th?

A Certainly, any student can do that.

THE COURT: Does this plan provide for students moving into the District?

MR. LANDSBERG: It is silent on that, and that is why I was concerned to bring it out.

THE COURT: It should provide for students moving into the District, and the formula of that is prescribed in one of the earlier opinions of the Court of Appeals. I believe it is in the Armstrong case.

Q Mr. Nunn, will the Board grant transfers to students in non-desegregated grades in order to take courses that are not available to them in the schools that are presently being attended by them?

A The Board has established no policy on that at this time. I can only say that the Board is going to carry out the order of the court, sincerely and in good faith.

Q And if the court order is silent on that, what will the Board's practice—what will your practice be in ruling on such applications?

A I don't see injected in the transfer or reassignment issue any racial considerations. If a youngster makes an application to transfer, he can't have to give us reasons.

Q If he is not in a desegregated grade—

A We will process that application as we do all others.

Q And you would reject that automatically; is that right?

A Same process and same consideration of applications on the same basis.

THE COURT: Let me ask you this, if there is a student—you have different courses in different schools?

A Yes, sir.

THE COURT: Do you permit a student in a white school to go over to another school because they have a course over there that they don't have in the school they are regularly attending?

A I don't believe we have had that occasion. We have had no such requests, your Honor, for transfer. We only have the one high school where white students have been attending, and—

THE COURT: Let's take the Junior High School. You have more than one, don't you?

A No, sir.

THE COURT: The rule wouldn't be applicable?

A In the elementary grades they all follow the same course of study.

THE COURT: The simplest way to handle that is if the grade is not taught in the school where the student would normally go is enrolled in the school where the grade is taught, provided he changes within one of the grades being desegregated?

A The student you are talking about will have the opportunity to file application on August 30th as all other students will have.

Q Are you saying all grades will be desegregated?

A I don't believe I have said that.

Q My question is, a student who is in a non-desegregated grade and attending a school, for instance, a student at Engelwood School in the eighth grade, where there are courses that are not available to him that are available at the white school, can that student make application to the Junior High School and change his—and have his application considered?

A If the 8th Grade is included in the court order, the application will be considered.

Q And if it is not included in the court order—

A It will not be considered.

MR. LANDSBERG: I have no further questions from this witness.

THE COURT: You may come down.

MR. NEWTON: May I have one question on redirect examination.

THE COURT: Yes.

REDIRECT EXAMINATION

(BY MR. NEWTON:) Mr. Nunn, you testified on cross examination from Mr. Bishop that in the event teacher personnel is shifted, you have to lose three teachers from Fairfield Industrial High School, and I believe you testified the reason for losing these three teachers would be the fact that they are non-degree teachers?

A I believe, as Mr. Bishop stated the question, he said if based it on training.

Yes, sir.

That would be a probability and I answered this in the affirmative.

And you said, I believe, that you would not like to lose them?

Yes, I said that.

You feel they are doing an adequate job in the Negro school now without the training?

Well, they are assigned to classes that are given at only one school in the system. I have no other place to use them.

And you were talking about an average teacher's salary; is it true that each of these three teachers make \$5,000.00

a year or above?

A I think your statement is correct. They are vocational teachers whose salaries are established by the State Department of Education.

Q And each of those three teachers, isn't it a fact that one of those three teachers has a junior College, and the other vocational training?

A Possibly so; I don't recall.

Q Now, you talked also, in answer to Mr. Bishop's questions, that the football stadium plant at the Fairfield High School is in close proximity. By close proximity, you mean four or five blocks?

A Four or five blocks.

Q Do you recall on tracing it in the deposition and saying it was exactly five blocks?

A And I recall answering the question four or five blocks.

Q Now, you said both schools have guidance counselors. There is no full time guidance counselor at Fairfield Industrial School, is there?

A No, and neither is there at Fairfield High School.

Q How many guidance counselors are there at Fairfield High School?

A The plans are to have a boy's adviser and girl's adviser for the coming year, and I believe the principal at Industrial will be the adviser.

Q Do your plans provide at all for the sending of personal notices to the parents or guardians of children that are affected by the desegregation of the grades?

A I believe the notice will appear in the newspaper.

MR. NEWTON: No further questions.

MR. BISHOP: No further questions.

(Witness excused.)

MR. LANDSBERG: Mr. Pate.

PAUL PATE,

being first duly sworn, testified as follows:

DIRECT EXAMINATION

Q (BY MR. LANDSBERG:) Will you please state your full name?

A Paul Pate.

Q Where do you live, Mr. Pate?

A 2329 Farley Terrace.

Q Would you describe your employment, please?

A I am employed by the Jefferson County Department of Health, Bureau of Sanitation.

Q What is your position?

A Assistant Director.

Q Does the Department of Health, from time to time, conduct inspections of school eating facilities throughout the City?

A They do.

Q Do they keep records of those inspections on standard forms?

A We do.

Q Are those records kept on scores on a basis of 100, it being a perfect score?

A Records are kept of scores as well as physical structure. Score it just one phase of the inspection program.

Q Did you receive a subpoena to bring some records here today?

A I am carrying out Dr. Chambers' subpoena.

Q Did you bring those records?

A I did.

MR. BISHOP: Judge, we haven't had an opportunity to look over these.

THE COURT: Are these the scores shown on this thing here?

MR. LANDSBERG: Yes, sir; that is not based on anything in evidence yet, and that was the purpose of me asking for these.

THE COURT: Maybe he will just agree to this.

MR. BISHOP: Judge, that is not even in evidence.

MR. LANDSBERG: I would offer that if Your Honor would prefer.

THE COURT: Those are the records to back this.

MR. LANDSBERG: Yes, Your Honor.

MR. BISHOP: We will have a few questions for reference to these.

THE COURT: That information, I believe, is shown on the summary you have here.

MR. BISHOP: Yes, sir; for example, Fairfield Industrial High shows on there as 96 out of a possible 100. That means that Fairfield Industrial High has four demerits. All four demerits are due to the factors caused by the

students or faculty at that particular school. For example, the floors were not clean and the equipment was not kept clean. All of the other matters were 100; is that right?

A Yes, sir.

MR. BISHOP: And the four demerits they were—that they received were due to students and faculty?

A Yes, sir.

THE COURT: The summary information is on these three sheets?

MR. BISHOP: I might say it appears from a hurried glance that the same situation is true at Engelwood, five demerits; at Interurban—

MR. LANDSBERG: If Mr. Bishop is going to go through those—

THE COURT: Is this the information contained by the elementary schools, or are these your seniors here?

A I would have to check them against these records.

THE COURT: Is there any question about these being the scores?

A This doesn't say what rating this is.

THE COURT: This is Donald School?

A If it is Sanitary rating, that is probably right. Fairfield Industrial High, 96.

THE COURT: Here is the Fairfield Industrial High,

A That would be correct, so I would assume the rest of them are the same. It would be the sanitary scores. Engelwood, 95.

MR. BISHOP: This appears to be wrong. Here

MR. LANDSBERG: Your Honor, perhaps Mr. Bishop could examine these during the next witness.

MR. BISHOP: I have examined one, and it shows on one and 98 on another.

THE COURT: Tell us what the rating shows?

A Fairfield High, 96, Engelwood, 95, Interurban High, 88, Fairfield Junior High, 99, Fairfield High, C. J. Donald, 97, Forest Hill, 98, Glen Oakes, 99, and son, 86.

THE COURT: They all check out on these we have here.

MR. LANDSBERG: I have no further questions.

THE COURT: All right.

CROSS EXAMINATION

Q (BY MR. BISHOP:) Mr. Pate, by way of cross-examination, did you ask you about Fairfield Industrial High, which has been previously identified as a previously all colored school?

By grade 96, you mean that school had four demerits?

A Yes, sir.

Q I will ask you if by examination of your report, it does not affirmatively appear all four demerits were due to school personnel, or personnel of the lunchroom, failing to keep a clean floor and clean utensils?

A That is correct.

Q If they had kept the floors clean and kept their lunchroom clean in that former colored school, they would have had 100, wouldn't they?

We would assume so. We don't like to give 100.

MR. LANDSBERG: Could we introduce these in evidence?

THE COURT: Yes; mark these three right here.

Now, there is another, Engelwood, I will ask you to take a look at that and tell us if all the facilities furnished in, given 100, and the demerits arise out of maintenance—specifically utensils and failure to keep it free of ants, flies and roaches?

The physical facilities were all in accordance with our regulations. The demerits were based on inadequate cleaning of the equipment within the work areas. There were insects, roaches, and I believe probably ants.

show you another dealing with—

THE COURT: I don't believe we will take any time into why they are there. I can look at them.

MR. LANDSBERG: Your Honor, I would like to have these reports marked as a group.

THE COURT: All right. Let them be marked. Any other evidence from this witness?

come down.

(Defendant's Exhibit 10
received in evidence.)
(Witness excused.)

MR. LANDSBERG: Mr. Stormer.

WILLIAM STORMER,

duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q (BY BR. LANDSBERG:) Will you state your name, please?

A William L. Stormer.

Q What is your residence, Mr. Stormer?

A Alexandria, Virginia.

Q And where are you employed?

A United States Office of Education.

Q How long have you been there?

A It has been two and a half years.

Q And in what capacity are you employed?

A Specialist in school facilities statistics.

Q What is entailed in that job, Mr. Stormer?

A Currently I am working on a study of the of public plants—public school plants in the United States.

Q Have you held prior jobs in the area of school facilities?

A I was at West Virginia Department of Education.

Q What is your educational background?

A Bachelors Degree, Youngstown University, Youngstown, Ohio, Masters Degree, University of Wisconsin, further work at Ohio State University.

Q And in what fields was your work in school facilities?

A Well, the graduate work at Ohio State University was in the area of the school plant.

Q Are you familiar with the texts and current writings in the field?

and what professional associations exist in the area of school planning?

A National Council of Schoolhouse Construction, Schoolhouse Construction, out of Louisville, Kentucky.

Are you a member?

A National Council of Schoolhouse Construction.

Are you a member of any other professional associations?

A American Association of School Administrator's, Phi Delta

What is Phi Delta Kappa?

A Phi Delta Kappa is an Educational Fraternity.

Mr. Stormer, are there systems for grading school facilities on a comparative basis?

Are you familiar with those systems?

And could you tell us what is involved in grading school facilities on a comparative basis?

A Examining the site, the building, structure, classrooms, selection features, building facilities, such as cafeteria, and so forth.

After you have made your examination, what is the next step in the process of grading?

Developing a—

THE BISHOP: Judge, we object to all of this ques-

tioning. I think it goes to the proposition that your Honor has previously held in this proceeding to be immaterial, that is comparison of the two systems. As I understand the nature of this testimony, Your Honor has ruled that out.

THE COURT: Are you going into the inadequacy of these colored schools, is that what you propose to show?

MR. LANDSBERG: Yes.

THE COURT: I ruled against him holding he was eleven years too late in the matter awhile ago, trying to show the facilities were adequate. Now, you are trying to show they were inadequate.

MR. LANDSBERG: We are trying to show as to students in certain of the Negro Schools that we feel that conditions in those schools justify an order desegregation of grades in the schools, and we base that on the proposition that the Brown decision did not—that the Brown decision which held the moratorium to be put on the Constitutional rights of Negro children, does not apply where the Negro Schools are, in fact, inferior.

MR. BISHOP: May it please the court, he has, as I understand his position—

THE COURT: Is his testimony based on the Fairfield School System or some other school system?

MR. LANDSBERG: Yes, Your Honor. This witness has inspected all the schools in the Fairfield System.

THE COURT: What is your question?

MR. LANDSBERG: Right now I am trying to establish that Mr. Stormer is an expert in the field of school plant facilities.

THE COURT: I think you have pretty well established him. Ask him what he found out about Fairfield

Q Mr. Stormer, did you examine the schools in Fairfield?

A Yes, sir; I did.

Q When did you do that?

A The last two days.

Q Did you examine all the schools in the system?

A I believe all of them, nine of them.

Q What did you look at in the schools?

A Pardon?

Q What did you look at?

A I looked at the school sites, the school building, the classrooms, the halls, and when walking into a classroom, I looked at the furniture, floor, ceiling, lights, and tried to make in most of the items which aided and assisted in carrying out an educational program.

Q And did you transcribe your findings onto a check list?

A Yes; I did.

Q And how many items were you—were on your check list?

A Approximately 180.

Q And were those items broken down into groups?

A Yes, into nineteen major groups.

Q Did you arrive at a rating of the schools, Mr. Stormer?

A I did.

Q What ratings did you arrive at?

MR. BISHOP: We object to that, if it please the court?

THE COURT: I don't know what system he bases the rating on, but to get to the meat in the coconut, I will permit him to answer.

MR. BISHOP: Then we are getting to a comparison.

THE COURT: I let you introduce your pictures to show what a fine school system you have. I think it is immaterial, so I am going to let him show what a sorry one you have because I think it is immaterial, too.

MR. BISHOP: With that feeling about it, we have no further objection.

THE COURT: What was your rating?

Have you rated each school?

A Yes.

THE COURT: Just give us the ratings.

A I rated the elementary schools, Donald Elementary 63%, Glen Oaks, 61%, Forest Hill, 57, Robinson, 47, Engelwood as 35.

For the secondary schools, Fairfield Junior High School, 49%, Fairfield Senior High School, 49, Fairfield Industrial School, 43, and Interurban Heights Junior High 33.

Q Are those scores on a scale of 100?

A Yes, sir.

THE COURT: Where is that perfect school that is 100%?

THE WITNESS: I haven't seen it, Judge.

MR. LANDSBERG: We offer these documents.

(Intervenor's Exhibits 11 through 18 received in evidence.)

Q Mr. Stormer, will you tell us what Intervenor's Exhibit 11 is?

A That is the playing field at Interurban Junior High School.

THE COURT: All right. Go on through, go right on through, please, sir.

Q Are there concrete blocks on the field?

A Yes.

Q Look at Intervenor's Exhibit 12, will you tell us what that is?

MR. BISHOP: Judge, we object to all of these photographs. We were stopped.

THE COURT: I am not going to let him offer them. You have about eight pictures, and I will let him offer nine. I believe you actually have nine.

MR. BISHOP: We have no objection to nine.

Q Looking at Intervenor's Exhibit 12, can you tell us what that is?

A This is a classroom in the Interurban Junior High School.

Q Mr. Stormer, what is on the other side of the partition?

A Another classroom.

Q And is there a hole shown in the partition between the classrooms?

A There is a tear, yes.

MR. BISHOP: Did you say somebody tore it?

A This is what it appears to be.

Q Mr. Stormer, looking at Intervenor's Exhibit 13, will you tell us what that room is?

A That is another classroom at the same Junior High School.

Q What is the area to the left of the room?

A This is a shower room, and this was a converted locker shower facility.

Q There is a half wall at the end?

A Yes, sir.

Q What is at the other end of the wall?

A (No answer heard.)

Q Would you look at Intervenor's Exhibit 14 and tell us where that picture is taken?

A The same Junior High School.

Q And what does it show?

A This is a combination auditorium-cafeteria, gymnasium and enters into the classrooms.

Q Looking at the end of that picture on the right side, there is a half wall. Will you tell us what appears there?

A The classroom is behind it on the other side.

Q Look at Intervenor's Exhibit 15, Mr. Stormer, will you tell us what that shows?

A It is Engelwood Elementary School.

Q And is that the new building of the Engelwood

A Yes.

Q Will you tell us what the blackspots on the picture indicate?

A These are where the concrete block have been punctured, it is a hole.

MR. BISHOP: Vandalism.

MR. LANDSBERG: Your Honor, Mr. Stormer looked at Plaintiff's Exhibit 16.

MR. BISHOP: We object, that is number 10, may it please the court.

Q Will you identify that, please?

MR. BISHOP: We object to that. He has gone beyond the Court's ruling.

THE COURT: I think we have heard enough of this.

MR. LANDSBERG: I have no further questions.

MR. BISHOP: No questions.

(Witness excused.)

THE COURT: Any other evidence?

MR. NEWTON: I have one witness with one question.

THE COURT: Where is he?

MR. NEWTON: He is back there.

THE COURT: Tell him to come around.

W. C. PRESLEY,

first duly sworn, testified as follows:

DIRECT EXAMINATION

Q (BY MR. NEWTON:) Are you Mr. Wilbur Presley?

A I am.

Q Are you the principal of Interurban Heights Junior High School?

A I am.

Q Were you formerly the principal of Engelwood School?

A I was.

Q At the time you were principal of Engelwood School, did you have students in grades seven and eight interchange teachers?

A There was discussion on this matter with my superintendent, and I—I have to answer it this way.

Q I just want to ask you—

A We interchanged teachers to the point we found it didn't work, and we went back to the self-contained room.

Q Now, Mr. Presley, if you will answer my question of course, you will be—he will have an opportunity to cross examine you, but did they interchange teachers in the seventh and eighth grades when you were principal?

MR. BISHOP: That question has been asked and answered.

A For one year, we did.

Q Now, Mr. Presley, at the time you were—at the time you left the Engelwood School to exercise your other responsibilities, were the students interchanged with teachers at that time?

A No.

Q Now, you volunteered some information about the school, you found it didn't work.

What was the reason for it not working?

A The corridors were too small.

Q And that had to do with the school building itself?

A I think so.

MR. NEWTON: That is all.

MR. BISHOP: No questions.

(Witness excused.)

THE FOREGOING WAS ALL THE EVIDENCE
IN THE CASE

CERTIFICATE

STATE OF ALABAMA
JEFFERSON COUNTY

I hereby certify that the foregoing transcript represents all the testimony had in the above styled cause.

Thomas P. Meador [Sig.]
Official Court Reporter

PLAINTIFFS' EXHIBIT NO. 1

			<i>Enroll- ment</i>	<i>No. Teachers</i>	<i>Pupil Teacher Ratio</i>
<i>Building</i>	<i>Capacity</i>	<i>May 1965</i>	<i>1964-65</i>	<i>1964-65</i>	
Winfield					
Winfield High School (w)	840	445	25	1-18	
Winfield Junior					
Winfield High School (w)	420	415	15	1-28	
Winfield Industrial					
Winfield High School (c)	1,020	702	34	1-20	
Winfield Suburban Heights					
Winfield Junior High					
Winfield School (c)	240	340	10	1-34	
Winfield Elementary					
Winfield School (w)	455	339	13	1-26	
Winfield Glenwood					
Winfield Elementary					
Winfield School (c)	280	184	8	1-23	
Winfield West Hills					
Winfield Elementary					
Winfield School (w)	525	289	11	1-26	
Winfield Oaks					
Winfield Elementary					
Winfield School (w)	420	291	10	1-29	
Winfield Johnson					
Winfield Elementary					
Winfield School (c)	980	972	29	1-33	

PLAINTIFFS' EXHIBIT NO. 2

Construction From 1953-54 School Year To
1964-65 School Year

Forest Hills Elementary School

+ C1956; A136
Fairfield Industrial High School (6 room addition)

Fairfield Industrial High School
(Gymnasium and remodeling of auditorium)

Englewood Addition (1953-54 school year)

Robinson School (New Building)

Robinson School (Four room addition)

Interurban Heights Junior High School

Interurban Heights Junior High School
Planned Addition Not yet completed

Glen Oaks Elementary School (Original Building)

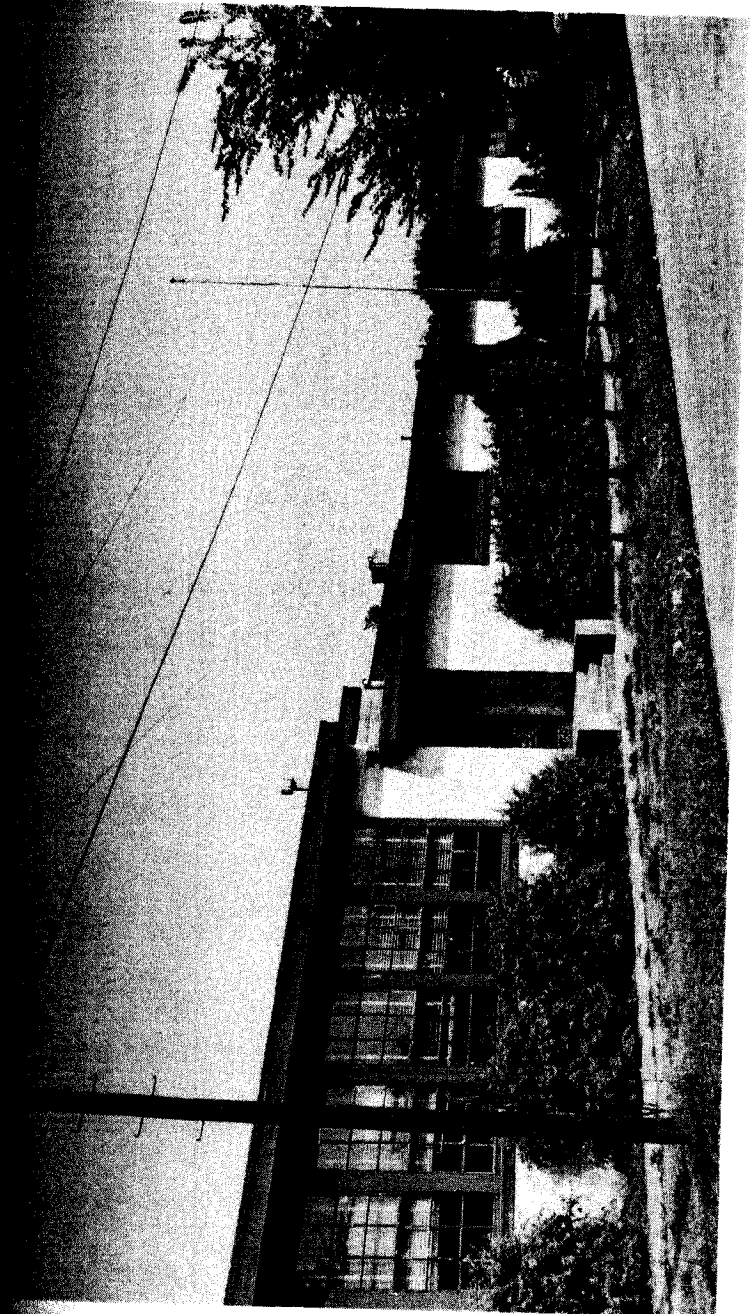
Glen Oaks Elementary School (6 room addition)

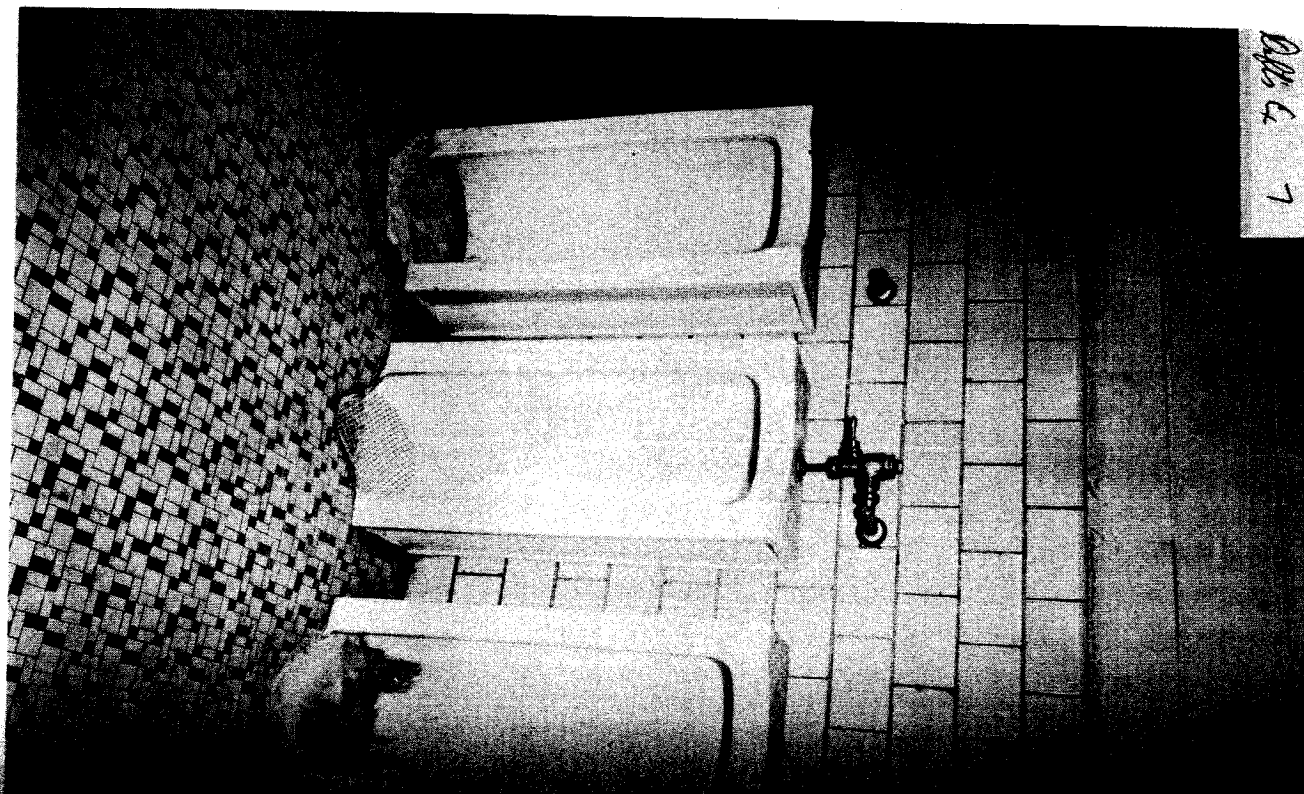
Donald Elementary School

Fairfield Junior High School

Total for White Schools

Total for Negro Schools

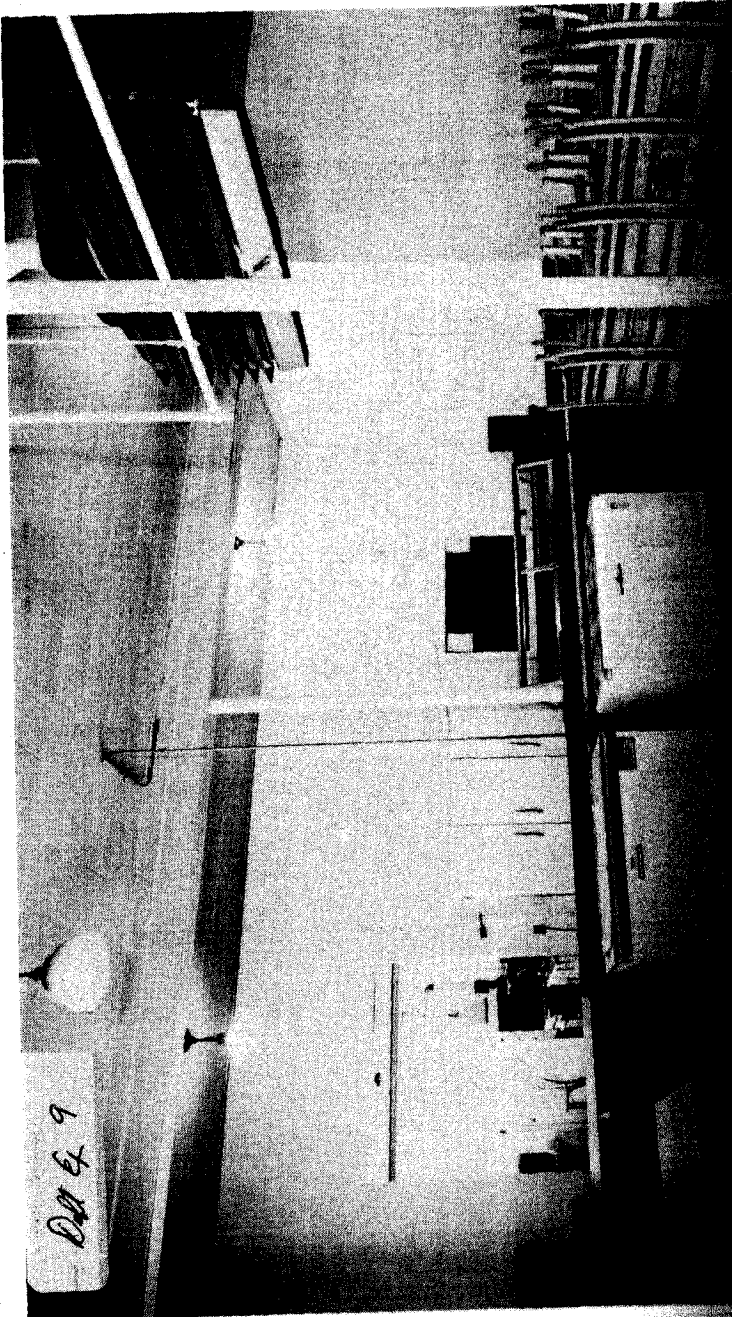




DEFENDANTS' EXHIBIT NO. 10

Funds Provided For School Improvements By Community
Citizen's Organizations For Past Two Years

Band Parents Club Fairfield High School	\$25,000
Quarterback Club Fairfield High Athletics	10,000
PTA's in White Schools	5,000
PTA's in Colored Schools	2,500



DEFENDANTS' EXHIBIT NO. 11

School	Insured Value	Cost	Date of Construction	No. of Classrooms	Acreage
Fairfield High School (orig.)	800,000	675,840	1928	28	7
Fairfield High School Gymn.	290,000	310,467	1948		
Fairfield High School Voc. Bldg.	47,500	84,443	1947		
Fairfield High School Athletic Field	11,500	60,091	1937		
Fairfield Junior High School (orig.)	300,000	361,476	1925	14	6
Fairfield Junior High School (addit.)	incl. above	50,000	1963		
F'field Industrial High School (orig.)	800,000	414,397	1940	34	12
F'field Industrial High School (Add.)	incl. above	74,621	1956		
FF Ind. High School Voc. Building	53,500	76,500	1947		
FF Ind. High School Gymnasium	251,100	264,078	1963		
FF Ind. High School Athletic Field	7,000	24,920	1955		
Interurban Hgts. Jr. High School	55,000	50,000	1952	8	9
Donald Elementary School	250,000	246,721	1963	13	7
Englewood Elem. School (orig.)	53,500	50,000	1937	8	8
Englewood Elem. School (addit.)	42,000	43,600	1953		
Forest Hills Elem. School (orig.)	265,000	215,738	1953	15	10
Forest Hills Elem. School (addit.)	incl. above	100,000	1954-56		
Glenn Oaks Elementary School (orig.)	262,200	217,627	1962	12	8
Glenn Oaks Elementary School (addit.)	incl. above	54,400	1964		
			1965	23	8

STATE OF ALABAMA
DEPARTMENT OF EDUCATION
MONTGOMERY

Annual Report—Part I

Attendance in Public Day Schools

OF

Fairfield CITY
COUNTY
FOR SCHOLASTIC YEAR ENDING JUNE 30, 19

THIS REPORT SHOULD BE MADE IN TRIPPLICATE AND TWO COPIES SHOULD BE SENT
TO THE STATE DEPARTMENT OF EDUCATION ON OR BEFORE JUNE 15, 19 65

NOTE SPECIFIC INSTRUCTIONS ON THE LAST PAGE OF THIS REPORT FORM
BEFORE BEGINNING TO MAKE THE REPORT.

AFFIDAVIT

The figures contained in this report have been checked carefully and to my best knowledge and belief they are correct.

G. Virgil Hunt
Superintendent

Subscribed and sworn to before me, this 14th day of June, 19 65

Oliver B. Payne
Notary Public

Intervenor's Exhibits No. 3

23331

SYSTEM Plainfield City WHITE ☒ NON-WHITE ☐

SYSTEM		WHITE		NON-WHITE																					
LINE NO.	NAME AND MAILING ADDRESS OF EACH SCHOOL	II TEACHING POSITIONS See Instruction 3 on back page.										III Grades Taught Low High	IV TOTAL NUMBER WITHDRAWN (Item 10 Prin. Ann. Report)			V NUMBER ON ROLL AT CLOSE OF LAST MO. (Item 11 Prin. Ann. Report)			VI TOTAL NUMBER ENROLLED (Item 13 Prin. Ann. Report)			VII NET ENROLLMENT (Item 17 Prin. Ann. Report)			
		REGULAR TEACHERS						Coun- sellers		Vocational Teachers	Elem. 1-6		Jr. Hs. 7-9	Sr. Hs. 10-12	Elem. 1-6	Jr. Hs. 7-9	Sr. Hs. 10-12	Elem. 1-6	Jr. Hs. 7-9	Sr. Hs. 10-12	Elem. 1-6	Jr. Hs. 7-9	Sr. Hs. 10-12	Total 1-12	
		Men		Wom.		Men	Wom.	Men	Wom.																
		Men	Wom.	Men	Wom.																				
1	Glenn Adams Elem. School 1201 Highland Drive		10								16	11			291			302			296			296	
2																									
3	Frank Villa 6 Gr. School 7000 Braswell Road		11								16	7			289			296			288			288	
4																									
5	Donald Elementary School 715 Valley Road		13								16	36			339			375			345			345	
6																									
7	P.A. Jr. High School 4301 Park Dr.		5	10							7	9	23		415			438			429			429	
8																									
9	Plainfield High School 600 Valley Road				8	15	1		1	11			23		445			468			464			464	
10																									
11	Total	34	5	10	8	15	1		1		54	23	23	919	415	445	973	438	468	929	429	464	1822		
12																									
13																									
14																									
15																									
16																									
17																									

Intervenor's Exhibits No. 3

LINE NO.	I NUMBER OF DAYS TAUGHT (Item 14 Prin. Ann. Report)			VIII AGGREGATE ATTENDANCE (Item 2 (a) & (3) Prin. Ann. Report)			IX AGGREGATE ABSENCE (Item 8 (a) & (3) Prin. Ann. Report)			X AVERAGE DAILY ATTENDANCE (Item 9 Prin. Ann. Report)				XI TOTAL NUMBER OF DAYS TAUGHT (Item 1 Prin. Ann. Report)		
	Elem. 1-6	Jr. Hs. 7-9	Sr. Hs. 10-12	Elem. 1-6	Jr. Hs. 7-9	Sr. Hs. 10-12	Elem. 1-6	Jr. Hs. 7-9	Sr. Hs. 10-12	Elem. 1-6	Jr. Hs. 7-9	Sr. Hs. 10-12	Total 1-12	Elem. 1-6	Jr. Hs. 7-9	Sr. Hs. 10-12
1	51756			50223			1533			285.36			285.36	176		
2																
3	50858			49611			1247			281.88			281.88	176		
4																
5	59659			56730.5			2928.5			322.3			322.3	176		
6																
7	74272			71272			3000			404.94			404.94	176		
8																
9			79705			76184.5			3520.5			432.86	432.86			176
10																
11	162273	74272	79705	156564.5	71272	76184.5	5708.5	3000	3520.5	889.54	404.94	432.86	1727.34			
12																
13	316250			304621			12229			1727.34						
14																
15																
16																
17																
18																
19																
20																

Intervenor's Exhibits No. 3

[illegible]

AVERAGE DAILY ATTENDANCE (From 9 P.m. Annual Report)										TOTAL NUMBER OF DAYS TAUGHT (From 9 P.m. Annual Report)					
Elem. 1-4	Jr. Hl. 5-9	Sp. Hl. 10-12	Total 1-12	Elem. 1-4	Jr. Hl. 5-9	Sp. Hl. 10-12	Total 1-12	Elem. 1-4	Jr. Hl. 5-9	Sp. Hl. 10-12					
1	25988	6888		25451	6713		537	175		144.6	38.14		182.74	176	176
2															
3		60423			59006				1417		335.26		335.26	176	176
4															
5	173937			168463			5474			957.17		957.17	176	176	
6															
7		35325	90264		34391	88175		934	2089		195.40	566.99	606.39	176	176
8											257.07	499.15	756.22		
9	199925	102636	90264	193914	100110	85175	6011	2526	2089	1101.77	630.47	499.15	2231.39		
10															
11		32825			382199			106.26			2231.39				

ITEM	(Do not report any person in more than one position. Report each individual where he devotes half or more than half of his time)	WHITE SCHOOLS	NON-WHITE SCHOOLS
XIII	Number of Superintendents <u>1</u> Number of Assistant Superintendents whose duties are mainly administrative _____	Elem. 1-6 Jr. Hi. 7-9 Sr. Hi. 10-12	Elem. 1-6 Jr. Hi. 7-9 Sr. Hi. 10-12
XIV	Supervisors: Those who devote at least half their time to Supervision of Instruction.		
XV	Supervising Principals: Those who devote at least half of their time to Administration and Supervision.	3	1
XVI	Average number of days schools were in session: (Divide grand total Aggregate Attendance by grand total Average Daily Attendance.)	15,656.5	71272 76184.5

ATTENDANCE DATA BY GRADES

INCLUDE EXCEPTIONAL CHILDREN TAUGHT IN ALL SPECIAL CLASSES (Educable and Trainable)

		GRADE 1	GRADE 2	GRADE 3	GRADE 4	GRADE 5	GRADE 6	TOTAL ELEMENTARY	GRADE 7	GRADE 8	GRADE 9	TOTAL JR. HI.	GRADE 10	GRADE 11	GRADE 12	TOTAL SR. HI.
NET ENROLLMENT (Sum of Item 17 on all Prin. Ann. Reports)	Boys	74	80	70	85	83	82	474	65	73	82	220	72	76	85	233
	Girls	92	83	60	79	79	62	455	75	61	73	209	70	74	87	231
	Total	166	163	130	164	162	144	929	140	134	155	429	142	150	172	464
AGGREGATE DAYS ON ROLL (Sum of Item 6 on all Prin. Ann. Reports)	Boys	12557	13880	12664	15646	14265	14624	83636	11751	12340	14142	28233	12125	13303	14778	40206
	Girls	15643	14909	10366	13918	13414	10987	79237	12791	10449	12799	36039	12618	12616	14865	39499
	Total	28200	28789	23030	29564	27679	25611	162873	24542	22789	26941	74272	24743	25919	29643	79705
AGGREGATE ATTENDANCE (Sum of Item 7 on all Prin. Ann. Reports)	Boys	12639.5	13377	12337	14652	13692	14193	80310.5	11346.5	12607	13522	36869.5	11757	12834	14791	38782
	Girls	14995.5	14367	9936.5	13485	12978.5	10637.5	76254	12257.5	9848.5	12296.5	34462.5	11463	11845.5	14694	37462.5
	Total	27635	27744	22273.5	28137	26570.5	24830.5	156564.5	23599	21955.5	25818.5	71272	23220	24679.5	29485	76184.5
NET ENROLLMENT (Sum of Item 17 on all Prin. Ann. Reports)	Boys	105	112	93	93	101	89	598	83	113	101	297	104	93	67	264
	Girls	83	97	100	99	87	95	561	84	105	103	292	103	82	76	261
	Total	188	209	193	192	188	184	1159	167	218	204	589	207	175	143	525
AGGREGATE DAYS ON ROLL (Sum of Item 6 on all Prin. Ann. Reports)	Boys	17969	19527	16826	16242	17145	15260	102963	12121	14909	17376	37152	18055	16126	11654	45835
	Girls	13976	16896	17197	16995	15564	16460	96962	14354	12554	18049	34532	17521	14059	12849	44429
	Total	31945	36423	34023	33237	32709	31720	199925	26475	37463	35425	71684	35576	30185	24503	90264
AGGREGATE ATTENDANCE (Sum of Item 7 on all Prin. Ann. Reports)	Boys	17656	18949	16297	15793	16488	14946	100139	13747	17189	16693	47552	17585	15766	11317	44602
	Girls	13744	16329	16564	16423	14863	15912	93775	14539	18525	17698	46159	17129	13797	12653	43573
	Total	31400	35278	32861	32216	31351	30858	193914	28286	35714	34391	93711	34714	29563	23970	88175

Intervenor's Exhibit No. 3

Intervenor's Exhibit No. 3

CORRECTION
FAIRFIELD CITY SCHOOLS
ATTENDANCE REPORT
1964-65

WHITE SCHOOLS:

Item	Grade 7	Grade 8	Grade 9	TOTAL
Enroll	93	113	101	297
Days	84	105	103	292
Total	167	218	204	589

Item

Enroll	Days	Total
14121	14075	28196
19709	18066	37775
17276	18049	35325
51106	51330	102436

Item

Enroll	Days	Total
13749	14037	27786
15708	14825	30533
16693	17698	34391
49650	50460	100110

Trainee to Mr. George Dayton
on July 28, 1965

ITEM

XXIII. Original Entries from Other States.

	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Total 1-6	Grade 7	Grade 8	Grade 9	Total 7-9	Grade 10	Grade 11	Grade 12	Total 10-12
WHITE	1	1	0	1	1	4	8	1	0	0	1	1	1	2	4
NON-WHITE	0	0	0	2	1	1	4	1	0	1	2	0	0	0	0
TOTAL	1	1	0	3	2	5	12	2	0	1	3	1	1	2	4

XXIV. High School Pupils Tested by Various Type Tests by Grades:

Item	Grade 7	Grade 8	Grade 9	Grade 10	Grade 11	Grade 12	Grades 7-12
A. Number tested at least once 2/		198		137	126	272	
B. Test Type:	No. 3/ Tested	No. 3/ Tested	Tested Under 4/ NDEA	No. 3/ Tested	No. 3/ Tested	Tested Under 4/ NDEA	No. 3/ Tested
a. Mental Maturity		198	198	137	126	179	461
b. Achievement Battery		198	198			114	198
c. Single Subject Achievement						15	15
d. Multi-factor (3 or more)						45	45
						210	210

2/ The number in Item A cannot exceed enrollment. 3/ A student should be included each time he takes a test of the type indicated. 4/ "Number Tested Under National Defense Education Act," can never exceed the number under "Total Number Tested." 5/ Total of all columns with footnote 3/. 6/ Total of all columns with footnote 4/.

Note: Tests given under NDEA must also be listed under 3/ for Grades 8 and 11. NDEA tests are given only in Grades 8 and 11 and the types are Mental Maturity (a) and Achievement Battery (b).

- XXV. Number of Clerical Assistants Employed In: Superintendent's Office 3; Principals' Offices 5.
- XXVI. Number of Attendance Workers: Full-time 0; Part-time 2; Total 2.
- XXVII. Number of Janitors and Maids: Full-time 19; Part-time 0; Total 19.
- XXVIII. Number High School Graduates: White, Boys 79; Non-White, Boys 60; Total, Boys 139.
 Girls 52; Girls 69; Girls 151.
 Total 161; Total 129; Total 290.

INSTRUCTIONS

1. a. Beginning on line 1 of page 2, list alphabetically name and address of each approved class or group of exceptional white pupils. Circle line number of each such class or group. Enter total for this group in all columns, except those under Items I, III, and XII.
- b. Skip one line and list alphabetically name and address of each white one-teacher school. Enter total for this group in all columns, except those under Items I, III, and XII.
- c. Skip one line and list alphabetically name and address of each white two-teacher school. Enter total for this group in all columns, except those under Items I, III, and XII.
- Continue this plan, listing three-teacher, four-teacher, five-teacher, and six-or-more-teacher schools in separate groups according to number of teachers.
- d. Including totals for exceptional white pupils, find grand total for each column, except those under Items I, III, and XII.
- e. Begin on next page and repeat the above procedures for non-white schools.
2. LINE SCHOOLS: Do not report any school jointly maintained by two counties ("line school") unless the administration and supervision thereof are under your Board of Education as provided by Section 77 of Title 52 of the Code of Alabama 1940.
3. TEACHING POSITIONS-ITEM II:
 - a. Only those positions in which a person teacher more than half time in day schools should be reported in this item.
 - b. Do not report in Item II principals who teach half or less than half time. Report them in item XV.
 - c. No individual should be reported in more than one position. If two or more teachers were employed at different times during the year to teach the same grade or group of grades, only one teaching position should be reported.
 - d. No teachers of adult and evening classes should be reported in this item.
 - e. Classify as elementary school teachers all who teach more than half time in grades 1-6. (See i below.)
 - f. Classify as junior high school teachers all who teach more than half time in grades 7-9. (See i below.)

3. TEACHING POSITIONS-ITEM II (continued)

- g. Classify as senior high school teachers all who teach more than half time in grades 10-12. (See i below.)
- h. Classify as counselors all who spend more than half time counseling. (See i below.)
- i. In case a teacher devoted exactly half time to instruction in each of two of the above mentioned grade groups, classify her in the higher grade group.
4. a. Calculate average daily attendance to three decimal places and round off to two decimal places.
- b. If a grade or school was taught for fewer number of days than the length of the school term, report correct data for the time taught. In such cases, give the reason for the short term and the name of the school to which pupils and teachers were transferred.
5. Before preparing final copy of report, check items listed below:
 - a. Horizontal and Vertical Totals of columns under item VI must equal sum of corresponding Horizontal and Vertical columns under Items IV and V.
 - b. Horizontal and Vertical Totals of columns under item VIII must equal the sum of corresponding Horizontal and Vertical Totals of columns under Items IX and X.
 - c. Vertical Totals of columns under item VII for white schools must equal corresponding Horizontal Totals of columns under item XVII.
 - d. Vertical Totals of columns under item VIII for white schools must equal corresponding Horizontal Totals of columns under item XVIII.
 - e. Vertical Totals of columns under item IX for white schools must equal corresponding Horizontal Totals of columns under item XIX.
 - f. Vertical Totals of columns under item VII for non-white schools must equal corresponding Horizontal Totals of columns under item XX.
 - g. Vertical Totals of columns under item VIII for non-white schools must equal corresponding Horizontal Totals of columns under item XXI.
 - h. Vertical Totals of columns under item IX for non-white schools must equal corresponding Horizontal Totals of columns under item XXII.

STATE OF ALABAMA
DEPARTMENT OF EDUCATION
MONTGOMERY

Annual Report—Part I

Attendance in Public Day Schools

OF

FAIRFIELD CITY
COUNTY
FOR SCHOLASTIC YEAR ENDING JUNE 30, 1964

THIS REPORT SHOULD BE MADE IN TRIPPLICATE AND TWO COPIES SHOULD BE SENT
TO THE STATE DEPARTMENT OF EDUCATION ON OR BEFORE JUNE 15, 1964

NOTE SPECIFIC INSTRUCTIONS ON THE LAST PAGE OF THIS REPORT FORM
BEFORE BEGINNING TO MAKE THE REPORT.

AFFIDAVIT

The figures contained in this report have been checked carefully and to my best knowledge and
belief they are correct.

E. Virgil Nune
Superintendent

Subscribed and sworn to before me, this 10th day of June, 1964

W. H. Hargis

Intervenor's Exhibits No. 3

LINE NO.	NAME AND ADDRESS OF EACH SCHOOL	TEACHING POSITIONS See Instructions 1 on back page.										TOTAL NUMBER WITHDRAWN (From 10 Pub. Ann. Report)			NUMBER ON ROLL AT CLOSE OF LAST MO. (From 11 Pub. Ann. Report)			TOTAL NUMBER ENROLLED (From 12 Pub. Ann. Report)			NET ENROLLMENT (From 17 Pub. Ann. Report)				
		REGULAR TEACHERS						Coun- sellers		Vocational Teachers		ELEM. 1-6	JR. HS. 7-9	SR. HS. 10-12	ELEM. 1-6	JR. HS. 7-9	SR. HS. 10-12	ELEM. 1-6	JR. HS. 7-9	SR. HS. 10-12	Total 1-12				
		ELEM. 1-6	JR. HS. 7-9	SR. HS. 10-12	Men	Wom.	Men	Wom.	Men	Wom.															
1	C. J. Donald	0	13								16	44			332			376			354		354		
2	715 Valley Road																								
3	Forest Hills	0	13									16	11			311			322			311		311	
4	7000 Grasselli Road																								
5	Glen Oaks	0	9									16	21			261			282			271		271	
6	1200 Highland Drive																								
7	Fairfield Junior High			3	12							79	18			413			431			421		421	
8	4301 Avenue F																								
9	Fairfield High					7	16	1	0	1	1	0	10	12		16			431			447		438	
10	610 Valley Road																								
11																									
12	Totals	0	35	3	12	7	16	1	0	1	0	1	12	76	18	16	904	413	431	980	431	447	936	421	438
13																									
14						75								110			1748			1858			1795		
15																									
16																									
17																									
18																									
19																									
20																									

Intervenor's Exhibits No. 3

[illegible][illegible]

LINE NO.	VIII AGGREGATE DAYS ON ROLL (Item 6 Prim. Ann. Report)			IX AGGREGATE ATTENDANCE (Item 7 (c & f) Prim. Ann. Report)			X AGGREGATE ABSENCE (Item 8 (c & f) Prim. Ann. Report)			XI AVERAGE DAILY ATTENDANCE (Item 9 Prim. Ann. Report)				XII TOTAL NUMBER OF DAYS TAUGHT (Item 1 Prim. Ann. Report)		
	Elem. 1-6	Jr. Hi. 7-9	Sr. Hi. 10-12	Elem. 1-6	Jr. Hi. 7-9	Sr. Hi. 10-12	Elem. 1-6	Jr. Hi. 7-9	Sr. Hi. 10-12	Elem. 1-6	Jr. Hi. 7-9	Sr. Hi. 10-12	Total 1-12	Elem. 1-6	Jr. Hi. 7-9	Sr. Hi. 10-12
1	32,934	9,958		32,232	9,740		702	218		183.126	55.347		238.473	176	176	
2																
3	175,332	20,756		169,493	20,049		5,839	707		963.029	113.917		1076.946	176	176	
4																
5		44,512			43,281			1231			245.917		245.917		176	
6																
7		38,543	76,913		37,269	74,618		1274	2295		211.756	423.925	635.781	176	176	
8																
9																
10	208,266	113,769	76,913	201,725	110,339	74,618	6,541	3,430	2,295	1146.165	626.927	423.925	2197.017	176	176	176
11																
12		98,948			386,682			12,266			2197.057				176	
13																
14																
15																
16																
17																

Intervenor's Exhibit No. 3

ITEM	Do not report any person in more than one position. Report each individual where he devotes half or more than half of his time.	ALL SCHOOLS ALL GRADES	WHITE SCHOOLS			NEGRO SCHOOLS		
			Elem. 1-6	Jr. Hi. 7-9	Sr. Hi. 10-12	Elem. 1-6	Jr. Hi. 7-9	Sr. Hi. 10-12
XIII	Superintendents and Assistant Superintendents whose duties are mainly administrative.	1	0	0	0	0	0	0
XIV	Supervisors: Those who devote at least half their time to Supervision of Instruction.		1	0	1	0	0	0
XV	Supervising Principals: Those who devote at least half of their time to Administration and Supervision.		3	1	1	1	1	1
XVI	Average number of days schools were in session: (Divide grand total Aggregate Attendance by grand total Average Daily Attendance.)		176	176	176	176	176	176

ATTENDANCE DATA BY GRADES

INCLUDE EXCEPTIONAL CHILDREN TAUGHT IN ALL SPECIAL CLASSES (Educable and Trainable)

Item		GRADE 1	GRADE 2	GRADE 3	GRADE 4	GRADE 5	GRADE 6	TOTAL ELEMENTARY	GRADE 7	GRADE 8	GRADE 9	TOTAL JR. HI.	GRADE 10	GRADE 11	GRADE 12	TOTAL SR. HI.
I WHITE SCHOOLS	NET ENROLLMENT (Sum of Item 17 on all Prim. Ann. Reports)	Boys 86	77	91	87	79	74	494	77	67	78	222	72	85	53	210
	Girls	79	58	86	84	64	71	442	65	62	72	199	79	91	58	228
	Total	165	135	177	171	143	145	936	142	129	150	421	151	176	111	438
II WHITE SCHOOLS	AGGREGATE DAYS ON ROLL (Sum of Item 6 on all Prim. Ann. Reports)	Boys 14,745	13,023	15,416	14,809	13,849	12,951	84,793	13,703	11,849	13,263	38,815	13,005	14,747	8,770	36,522
	Girls	11,120	9,849	11,268	13,972	11,004	12,470	75,683	11,328	10,758	12,207	34,293	14,039	16,018	9,557	39,994
	Total	28,865	22,872	29,684	28,781	24,853	25,421	160,476	25,031	22,607	25,470	73,108	27,044	30,765	18,707	76,516
III WHITE SCHOOLS	AGGREGATE ATTENDANCE (Sum of Item 7 on all Prim. Ann. Reports)	Boys 511,065.5	12,636.5	11,938.5	14,280	13,496	12,567.6	81,983.5	13,367.5	11,62.5	12,859	37,689	12,557	11,179.5	8330.5	35,067
	Girls	713,490.5	9,374.5	13,616.0	13,437	10,724	11,988.5	72,630.5	10,843.5	10368.	11,875	33,086.5	13,282	15351.	9454.	38,087
	Total	1,227,556.0	22,011	28,554.5	27,717	24,220	24,555.5	154,614.0	24,211.	21830.5	24,734	70,775.5	25,839	29530.5	17784.5	73,154
IV WHITE SCHOOLS	NET ENROLLMENT (Sum of Item 17 on all Prim. Ann. Reports)	Boys 115	109	98	106	94	90	612	118	97	117	332	97	71	56	224
	Girls	101	108	104	91	97	90	591	110	106	107	323	87	82	53	222
	Total	216	217	202	197	191	180	1203	228	203	224	655	184	153	109	446
V WHITE SCHOOLS	AGGREGATE DAYS ON ROLL (Sum of Item 6 on all Prim. Ann. Reports)	Boys 19,524	18,915	17,145	18,318	15,571	15,463	104,936	20,827	15,865	19,760	57,452	16,830	12,469	9,353	38,652
	Girls	17,552	18,691	18,104	16,105	17,132	15,746	103,330	19,171	18,363	18,783	56,317	15,150	11,100	9,011	38,261
	Total	37,076	37,606	35,249	34,423	32,703	31,209	208,266	39,998	35,228	38,543	113,769	31,980	26,569	18,364	76,913
VI WHITE SCHOOLS	AGGREGATE ATTENDANCE (Sum of Item 7 on all Prim. Ann. Reports)	Boys 519,180	18,398	16,531	17,639	15,117	101,785	19,989	15,548	18,846	55,383	16,114	12,059	9,067	37,270	
	Girls	17,218	18,125	17,467	15,387	16,443	15,300	99,940	18,561	17,972	18,423	54,956	14,801	13,703	8,844	37,348
	Total	536,398	36,523	33,998	33,026	31,363	30,417	201,725	38,550	34,520	37,269	110,339	30,915	25,792	17,911	74,618

Intervenor's Exhibit No. 3

ITEM

XXIII. Original Entries from Other States by Grades and Race.

	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Total 1-6	Grade 7	Grade 8	Grade 9	Total 7-9	Grade 10	Grade 11	Grade 12	Total 10-12
WHITE	8	3	2	2	5	4	24	1	1	2	4	0	2	0	2
NEGRO	4	1	1	0	1	1	8	2	3	1	6	0	1	0	1
TOTAL	12	4	3	2	6	5	32	3	4	3	10	0	3	0	3

XXIV. High School Pupils Tested by Various Type Tests by Grades:

Item	Grade 7	Grade 8	Grade 9	Grade 10	Grade 11	Grade 12	Grades 7-12
A. Number tested at least once 2/		317		221	168	152	79
B. Test Type:	No. 3/ Tested	No. 3/ Tested	Tested Under 4/ NDEA	No. 3/ Tested	No. 3/ Tested	Tested Under 4/ NDEA	No. 3/ Tested
a. Mental Maturity			317		221	168	389
b. Achievement Battery			173		168	152	469
c. Single Subject Achievement				221		152	221
d. Multi-factor (3 or more)							221

2/ The number in Item A cannot exceed enrollment. 3/A student should be included each time he takes a test of the type indicated. 4/"Number Tested Under National Defense Education Act," can never exceed the number under "Total Number Tested." 5/ Total of all columns with footnote 3/. 6/ Total of all columns with footnote 4/.

Note: Tests given under NDEA must also be listed under 3/ for Grades 8 and 11. NDEA tests are given only in Grades 8 and 11 and the types are Mental Maturity (a) and Achievement Battery (b).

XXV. Number of Clerical Assistants Employed In: Superintendent's Office 3; Principals' Offices 5.

XXVI. Number of Attendance Workers: Full-time 0; Part-time 2; Total 2.

XXVII. Number of Janitors and Builders: Full-time 22; Part-time 0; Total 22.

XXVIII. Number of Pupils: Total, Boys 51; Total, Girls 52; Total, Boys 103.

INSTRUCTIONS

1. a. Beginning on line 1 of page 2, list alphabetically name and address of each approved class or group of exceptional white pupils. Circle line number of each such class or group. Enter total for this group in all columns, except those under Items I, III, and XII.
- b. Skip one line and list alphabetically name and address of each white one-teacher school. Enter total for this group in all columns, except those under Items I, III, and XII.
- c. Skip one line and list alphabetically name and address of each white two-teacher school. Enter total for this group in all columns, except those under Items I, III, and XII.
- Continue this plan, listing three-teacher, four-teacher, five-teacher, and six-or-more-teacher schools in separate groups according to number of teachers.
- d. Including totals for exceptional white pupils, find grand total for each column, except those under Items I, III, and XII.
- e. Begin on next page and repeat the above procedures for Negro schools. Indicate race in space provided at top of pages.

2. LINE SCHOOLS. Do not report any school jointly maintained by two counties ("line school") unless the administration and supervision thereof are under your Board of Education as provided by Section 77 of Title 52 of the Code of Alabama 1940.

3. TEACHING POSITIONS—ITEM II:

- a. Only those positions in which a person teaches more than half time in day schools should be reported in this item.
- b. Do not report in Item II principals who teach half or less than half time. Report them in Item XV.
- c. No individual should be reported in more than one position. If two or more teachers were employed at different times during the year to teach the same grade or group of grades, only one teaching position should be reported.
- d. No teachers of adult and evening classes should be reported in this item.
- e. Classify as elementary school teachers all who teach more than half time in grades (See i below.)
- f. Classify as junior high school teachers all who teach more than half time in grades (See i below.)

3. TEACHING POSITIONS—ITEM II (continued)

- a. Classify as senior high school teachers all who teach more than half time in grades 10-12. (See i below.)
- b. Classify as counselors all who spend more than half time counseling. (See i below.)
- i. In case a teacher devoted exactly half time to instruction in each of two of the above-mentioned grade groups, classify her in the higher grade group.
4. a. Calculate average daily attendance to three decimal places and round off to two decimal places.
- b. If a grade or school was taught for fewer number of days than the length of the school term, report correct data for the time taught. In such cases, give the reason for the short term and the name of the school to which pupils and teachers were transferred.
5. Before preparing final copy of report, check items listed below:

- a. Horizontal and Vertical Totals of columns under Item VI must equal sum of corresponding Horizontal and Vertical columns under Items IV and V.
- b. Horizontal and Vertical Totals of columns under Item VIII must equal the sum of corresponding Horizontal and Vertical Totals of columns under Items IX and X.
- c. Vertical Totals of columns under Item VII for white schools must equal corresponding Horizontal Totals of columns under Item XVII.
- d. Vertical Totals of columns under Item VIII for white schools must equal corresponding Horizontal Totals of columns under Item XVIII.
- e. Vertical Totals of columns under Item IX for white schools must equal corresponding Horizontal Totals of columns under Item XIX.
- f. Vertical Totals of columns under Item VII for Negro schools must equal corresponding Horizontal Totals of columns under Item XX.
- Vertical Totals of columns under Item VIII for Negro schools must equal corresponding Horizontal Totals of columns under Item XXI.
- Vertical Totals of columns under Item IX for Negro schools must equal corresponding Horizontal Totals of columns under Item XXII.

JUN 11 1963

STATE OF ALABAMA
DEPARTMENT OF EDUCATION
MONTGOMERY

Annual Report—Part I
Attendance in Public Day Schools
OF

PAIRFIELD CITY
FOR SCHOLASTIC YEAR ENDING JUNE 30, 1963

THIS REPORT SHOULD BE MADE IN TRIPLICATE AND TWO COPIES SHOULD BE SENT
TO THE STATE DEPARTMENT OF EDUCATION ON OR BEFORE JUNE 15, 1963
NOTE SPECIFIC INSTRUCTIONS ON THE LAST PAGE OF THIS REPORT FORM
BEFORE BEGINNING TO MAKE THE REPORT.

5
AFFIDAVIT

The figures contained in this report have been checked carefully and to my best knowledge and belief they are correct.

G. Virgil Gunn
Superintendent.

Subscribed and sworn to before me, this 7th day of June, 1963

Virginia H. Gregory
Notary Public.

Intervenor's Exhibits No. 3

SYSTEM Fairfield City RACE White

LINE NO.	NAME AND ADDRESS OF EACH SCHOOL	I TEACHING POSITIONS See Instruction 3 on back page.										III Code Teach.	IV TOTAL NUMBER WITHDRAWN (Item 10 Prim. Ann. Report)			V NUMBER ON ROLL AT CLOSE OF LAST MO. (Item 11 Prim. Ann. Report)			VI TOTAL NUMBER ENROLLED (Item 13 Prim. Ann. Report)			VII NET ENROLLMENT (Item 17 Prim. Ann. Report)			
		REGULAR TEACHERS						VOC. TEACHERS					Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Total 1-12			
		Elem. 1-6		Jr. Hl. 7-9		Sr. Hl. 10-12		Jr. Hl. 7-9		Sr. Hl. 10-12															
		Men	Wom.	Men	Wom.	Men	Wom.	Men	Wom.	Men	Wom.														
1	Forest Hills	0	12								1	6	22				317			339			320	329	
2	7000 Grassell Road																								
3	Glen Oaks	1	8								1	6	9				226			235			233		
4	1200 Highland Drive																								
5	Underwood	0	11								1	5	31				304			335			313		
6	4301 Avenue F																								
7	Baker	0	2	1	9						6	8	7	16			68	272		75	288		72	280	
8	5301 Court Road																								
9	Fairfield High			4	1	8	14			1	9	12		13	24		141	382		154	406		153	403	55
10																									
11	Totals	1	34	5	10	8	14			1	12	69	29	24		915	413	382	984	442	406	938	433	403	1774
12			35			37																			
13					73									122			1710			1832			1774		
14																									
15																									
16																									
17																									
18																									
19																									
20																									

Intervenor's Exhibits No. 3

LINE NO.	VIII			IX			X			XI				XII		
	AGGREGATE DAYS ON ROLL (Item 6 Prim. Ann. Report)			AGGREGATE ATTENDANCE (Item 7 (c + f) Prim. Ann. Report)			AGGREGATE ABSENCE (Item 8 (c + f) Prim. Ann. Report)			AVERAGE DAILY ATTENDANCE (Item 9 Prim. Ann. Report)				TOTAL NUMBER OF DAYS TAUGHT (Item 1 Prim. Ann. Report)		
	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Total 1-12	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12
1	33,800	12,295		33,030	11,963		770	332		188.74	68.36		257.10	175	175	175
2																
3	171,062	62,535		163,773	60,232		7289	2,303		935.85	344.18		1280.03	175	175	175
4																
5		32,548	71,818		30,711	68,233		1,837	3,585		175.49	389.90	565.39		175	175
6																
7	204,862	107,378	71,818	196,803	102,906	68,233	8,059	4,472	3,585	1124.59	588.03	389.90	2102.52	175	175	175
8																
9		384,058			367,942			16,116			2102.52					
10																
11																
12																
13																
14																
15																
16																
17																
18																
19																
20																

Intervenor's Exhibits No. 3

ITEM	Do not report any person in more than one position. Report each individual where he devotes half or more than half of his time.	ALL SCHOOLS ALL GRADES	WHITE SCHOOLS			NEGRO SCHOOLS		
			Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12
XIII	Superintendents and Assistant Superintendents whose duties are mainly administrative.	1	0	0	0	0	0	0
XIV	Supervisors: Those who devote at least half their time to Supervision of instruction.		1	0	1	0	0	0
XV	Supervising Principals: Those who devote at least half of their time to Administration and Supervision.		2	1	1	2	0	1
XVI	Counselors: (Should be included in Item II, Regular High School teachers.)		0	0	1	0	0	0
XVII	Number of different individuals employed on teachers, full time, part time, substitute, special, etc. Include principals who teach more than half time. (This should not be less than teaching positions reported in Item II of this report.)	MEN	1	5	12	1	1	10
		WOMEN	40	16	16	37	22	21
XVIII	Average number of days schools were in session: (Divide grand total Aggregate Attendance by grand total Average Daily Attendance.)	175	175	175		175	175	175

ATTENDANCE DATA BY GRADES

(INCLUDE EXCEPTIONAL CHILDREN TAUGHT IN SPECIAL CLASSES)

ITEM	NET ENROLLMENT (Sum of Item 17 on all Prim. Ann. Reports)	Boys	GRADE 1	GRADE 2	GRADE 3	GRADE 4	GRADE 5	GRADE 6	TOTAL ELEMENTARY	GRADE 7	GRADE 8	GRADE 9	TOTAL JR. HL.	GRADE 10	GRADE 11	GRADE 12	TOTAL SR. HL.
WHITE SCHOOLS	NET ENROLLMENT	Boys	80	86	92	84	73	75	490	65	72	75	212	81	52	44	290
		Girls	63	85	89	66	74	71	448	73	70	78	221	94	70	49	213
	AGGREGATE DAYS ON ROLL (Sum of Item 6 on all Prim. Ann. Reports)	Boys	143	171	181	150	147	146	938	138	142	153	433	178	132	93	1003
		Girls	11,829	14,909	15,545	14,521	12,701	12,915	84,420	11,129	12,940	12,355	36,424	14,776	10,148	7,144	32,568
BLACK SCHOOLS	NET ENROLLMENT	Boys	11,197	14,740	14,789	11,121	13,082	11,904	76,803	12,438	11,875	13,175	37,488	15,977	11,749	8,493	36,219
		Girls	25,026	29,619	30,334	25,642	25,783	24,819	151,223	23,567	24,815	25,530	73,912	30,753	21,897	15,637	68,287
	AGGREGATE ATTENDANCE (Sum of Item 7 on all Prim. Ann. Reports)	Boys	13,244	14,444	14,906	14,012	12,299	12,595	81,500	10,726	12,443	11,930	35,099	14,194	9,653	6,846	30,693
		Girls	10,483	14,166	14,129	10,778	12,619	11,446	73,621	11,935	11,410	12,615	36,010	15,264	11,103	8,202	34,568
TOTAL SCHOOLS	NET ENROLLMENT	Boys	23,727	28,610	29,035	24,790	24,918	24,011	155,121	22,711	23,853	24,545	72,109	29,458	20,755	15,047	65,261
		Girls	101	99	95	91	85	112	583	100	116	108	319	87	58	71	216
	AGGREGATE DAYS ON ROLL	Boys	206	199	186	188	174	221	1,174	210	228	190	628	159	125	128	422
		Girls	17,393	17,634	16,633	16,173	15,138	19,262	102,233	16,861	19,981	17,855	54,697	14,634	10,035	12,073	36,793
TOTAL SCHOOLS	AGGREGATE ATTENDANCE	Boys	18,153	17,271	15,999	16,740	15,454	19,012	102,629	19,034	28,954	14,693	52,682	13,956	11,344	9,785	35,025
		Girls	35,546	34,905	32,632	32,913	30,592	38,274	204,862	35,895	38,935	32,548	107,378	28,580	21,380	21,858	71,213
	AGGREGATE ATTENDANCE	Boys	16,863	16,854	16,039	15,431	14,429	13,612	98,228	15,123	19,306	16,599	52,328	13,774	9,335	11,557	31,666
		Girls	17,583	16,702	15,224	15,852	14,685	13,528	98,575	18,264	18,502	14,112	52,873	13,470	10,670	9,407	33,567
TOTAL SCHOOLS	AGGREGATE ATTENDANCE	Boys	34,446	33,556	31,263	31,283	29,115	37,140	196,803	34,387	37,808	30,711	102,906	27,244	20,005	20,964	63,233
		Girls															
	AGGREGATE ATTENDANCE	Boys															
		Girls															

Intervenor's Exhibits No. 3

ITEM

XXV. Original Entries from Other States by Grades and Race.

	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Total 1-6	Grade 7	Grade 8	Grade 9	Total 7-9	Grade 10	Grade 11	Grade 12	Total 10-12
WHITE	4	4	3	2	2	3	18	2	1	2	5	1	1	0	2
NEGRO	0	1	1	0	0	1	3	1	0	0	1	0	1	0	1
TOTAL	4	5	4	2	2	4	21	3	1	2	6	1	2	0	3

XXVI. High School Pupils Tested by Various Type Tests by Grades:

Item	Grade 7	Grade 8	Grade 9	Grade 10	Grade 11	Grade 12	Grades 7-12
A. Number tested at least once 2/	29	336	159	257	245	78	
B. Test Type:	No. 3/ Tested	No. 3/ Tested	Tested Under 4/ NDEA	No. 3/ Tested	No. 3/ Tested	No. 3/ Tested	Tested Under 6/ NDEA
a. Mental Maturity	29	336	150	257	232	78	
b. Achievement Battery	29				245		
c. Single Subject Achievement				182			
d. Multi-factor (3 or more)							

2/ The number in Item A cannot exceed enrollment. 3/ A student should be included each time he takes a test of the type indicated. 4/ "Number Tested Under National Defense Education Act," can never exceed the number under "Total Number Tested." 5/ Total of all columns with footnote 3/. 6/ Total of all columns with footnote 4/.

- XXVII. Number of Clerical Assistants Employed In: Superintendent's Office 3; Principals' Offices 7.
- XXVIII. Number of Attendance Workers: Full-time 0; Part-time 2; Total 2.
- XXIX. Number of Janitors and Maids: Full-time 22; Part-time 1; Total 23.
- XXX. Number High School Graduates: White 87; Negro 123; Total 210.

INSTRUCTIONS

- Beginning on line 1 of page 7, list alphabetically name and address of each approved class or group of exceptional white pupils. Circle line number of each such class or group. Enter total for this group in all columns, except those under Items I, III, and XII.
 - Skip one line and list alphabetically name and address of each white one-teacher school. Enter total for this group in all columns, except those under Items I, III, and XII.
 - Skip one line and list alphabetically name and address of each white two-teacher school. Enter total for this group in all columns, except those under Items I, III, and XII.

Continue this plan, listing three-teacher, four-teacher, five-teacher, and six-or-more-teacher schools in separate groups according to number of teachers.

 - Including totals for exceptional white pupils, find grand total for each column, except those under Items I, III, and XII.
 - Begin on next page and repeat the above procedures for Negro schools. Indicate race in space provided at top of pages.
- LINE SCHOOLS. Do not report any school jointly maintained by two counties ("line school") unless the administration and supervision thereof are under your Board of Education as provided by Section 77 of Title 52 of the Code of Alabama 1940.
- TEACHING POSITIONS—ITEM II:
 - Only those positions in which a person teaches more than half time in day schools should be reported in this item.
 - Do not report in Item II principals who teach half or less than half time. Report them in Item XV.
 - No individual should be reported in more than one position. If two or more teachers were employed at different times during the year to teach the same grade or group of grades, only one teaching position should be reported.
 - No teachers of adult and evening classes should be reported in this item.
 - Classify as elementary school teachers all who teach more than half time in grades 1-6. (See i below.)
 - Classify as junior high school teachers all who teach more than half time in grades 7-9. (See i below.)
- TEACHING POSITIONS—ITEM II (continued)
 - Classify as senior high school teachers all who teach more than half time in grades 10-12. (See i below.)
 - Include Counselors with Regular High School teachers.
 - In case a teacher devoted exactly half time to instruction in each of two of the above-mentioned grade groups, classify her in the higher grade group.
 - Calculate average daily attendance to three decimal places and round off to two decimal places.
 - If a grade or school was taught for fewer number of days than the length of the school term, report correct data for the time taught. In such cases, give the reason for the short term and the name of the school to which pupils were transferred.
 - Before preparing final copy of report, check items listed below:
 - Horizontal and Vertical Totals of columns under Item VI must equal sum of corresponding Horizontal and Vertical totals of columns under Items IV and V.
 - Horizontal and Vertical Totals of columns under Item VIII must equal the sum of corresponding Horizontal and Vertical Totals of columns under Items IX and X.
 - Vertical Totals of columns under Item VII for white schools must equal corresponding Horizontal Totals of columns under Item XIX.
 - Vertical Totals of columns under Item VIII for white schools must equal corresponding Horizontal Totals of columns under Item XX.
 - Vertical Totals of columns under Item IX for white schools must equal corresponding Horizontal Totals of columns under Item XXI.
 - Vertical Totals of columns under Item VII for Negro schools must equal corresponding Horizontal totals of columns under Item XXII.
 - Vertical Totals of columns under Item VIII for Negro schools must equal corresponding Horizontal Totals of columns under Item XXIII.
 - Vertical Totals of columns under Item IX for Negro schools must equal corresponding Horizontal Totals of columns under Item XXIV.

984
JUN 15 1962

STATE OF ALABAMA
DEPARTMENT OF EDUCATION
MONTGOMERY

Annual Report—Part I
Attendance in Public Day Schools

OF

FAIRFIELD CITY
FOR SCHOLASTIC YEAR ENDING JUNE 30, 1962

THIS REPORT SHOULD BE MADE IN TRIPPLICATE AND TWO COPIES SHOULD BE SENT
TO THE STATE DEPARTMENT OF EDUCATION ON OR BEFORE JUNE 15, 1962

NOTE SPECIFIC INSTRUCTIONS ON THE LAST PAGE OF THIS REPORT FORM
BEFORE BEGINNING TO MAKE THE REPORT.

AFFIDAVIT

The figures contained in this report have been checked carefully and to my best knowledge and
belief they are correct.

G. Thurgil Nunn
Superintendent

Subscribed and sworn to before me, this 11th day of June, 1962

Virginia H. Gregory
Notary Public

Intervenor's Exhibits No. 3

SYSTEM Fairfield City RACE White

LINE NO.	I NAME AND ADDRESS OF EACH SCHOOL	II TEACHING POSITIONS See Instruction 3 on back page.										III Students Taught Low High	IV TOTAL NUMBER WITHDRAWN (Item 10 Prior Ann. Report)			V NUMBER ON ROLL AT CLOSE OF LAST MO. (Item 11 Prior Ann. Report)			VI TOTAL NUMBER ENROLLED (Item 13 Prior Ann. Report)			VII NET ENROLLMENT (Item 17 Prior Ann. Report)					
		REGULAR TEACHERS					VOC. TEACHERS						Elem. 1-6	Jr. Hs. 7-9	Sr. Hs. 10-12	Elem. 1-6	Jr. Hs. 7-9	Sr. Hs. 10-12	Elem. 1-6	Jr. Hs. 7-9	Sr. Hs. 10-12	Elem. 1-6	Jr. Hs. 7-9	Sr. Hs. 10-12	Total 1-12		
		Elem. 1-6	Jr. Hs. 7-9	Sr. Hs. 10-12	Elem. 1-6	Jr. Hs. 7-9	Sr. Hs. 10-12																				
								Men	Wom.	Men	Wom.															Men	Wom.
1	Forest Hills	0	16									1	6	32				509			541			505			505
2	7000 Grasselli Rd.																										
3	Underwood Elem.	0	12									1	5	57				351			408			377			377
4	4301 Avenue F																										
5	Baker	0	2	1	10							6	8	10	17			54	289		64	306		59	295		354
6	5301 Avenue B																										
7	Fairfield High School			3	3	5	15	0	0	3	0	9	12		10	36		179	297		189	333		184	327		511
8	610 Valley Road																										
9	Totals	0	30	4	13	5	15	0	0	3	0	1	12	99	27	36	914	468	297	1013	495	333	941	479	327	1747	
10																											
11						70									162			1679			1841			1747			
12																											
13																											
14																											
15																											
16																											
17																											
18																											
19																											
20																											

Intervenor's Exhibits No. 3

LINE NO.	VIII AGGREGATE DAYS ON ROLL (Item 6 Prim. Ann. Report)			IX AGGREGATE ATTENDANCE (Item 7 (a & b) Prim. Ann. Report)			X AGGREGATE ABSENCE (Item 8 (a & b) Prim. Ann. Report)			XI AVERAGE DAILY ATTENDANCE (Item 9 Prim. Ann. Report)				XII TOTAL NUMBER OF DAYS TAUGHT (Item 1 Prim. Ann. Report)		
	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Total 1-12	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12
1	89,104			85,614			3,490			489.22			489.22	175		
2																
3	63,528			60,259			3,269			344.34			344.34	175		
4																
5	9,752	51,470		9,431	49,633		321	1,837		53.89	283.62		337.50	175	175	
6																
7		31,777	54,406		30,861	51,567		916	2,839		176.35	294.67	471.02	175	175	
8																
9	162,384	83,247	54,406	155,304	80,494	51,567	7,080	2,753	2,839	887.45	459.96	294.67	1642.08	175	175	175
10																
11		300,037			287,365			12,672			1642.08					
12																
13																
14																
15																
16																
17																
18																
19																
20																

Intervenor's Exhibits No. 3

SYSTEM Fairfield City RACE Negro

LINE NO.	NAME AND ADDRESS OF EACH SCHOOL	I TEACHING POSITIONS See Instruction 3 on back page.										III Days Taught	IV TOTAL NUMBER WITHDRAWN (Item 10 Prim. Ann. Report)			V NUMBER ON ROLL AT CLOSE OF LAST MO. (Item 11 Prim. Ann. Report)			VI TOTAL NUMBER ENROLLED (Item 13 Prim. Ann. Report)			VII NET ENROLLMENT (Item 17 Prim. Ann. Report)				
		REGULAR TEACHERS					VOC. TEACHERS						Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Total 1-12				
		Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Jr. Hl. 7-9	Sr. Hl. 10-12	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12																	
										Men	Wom.												Men	Wom.	Men	Wom.
1	Exceptional Class	0	1									15	0			13			13				13			
2	61st Street and Ave. D	D																								
3	Englewood Elem.	1	6	0	2							18	24	8		239	72		263	80		259	75			334
4	38th St. & Terrace C																									
5	Robinson Elem.	0	24	1	6							18	33	11		910	313		943	324		920	319			1,239
6	61st St. & Ave. D																									
7	Fairfield Ind. High			0	5	5	15	0	0	5	3	912		8	20		179	352		187	372		182	370		552
8	435 - 59th Street																									
9	Totals	1	31	1	13	5	15	0	0	5	3	112	57	27	20	1162	564	352	1219	591	372	1192	576	370		2,138
10																										
11							74							104			2078			2182			2138			
12																										
13																										
14																										
15																										
16																										
17																										
18																										
19																										
20																										

Intervenor's Exhibits No. 3

LINE NO.	VIII			IX			X			XI				XII		
	AGGREGATE DAYS ON ROLL (Item 6 Prin. Ann. Report)			AGGREGATE ATTENDANCE (Item 7 (a + f) Prin. Ann. Report)			AGGREGATE ABSENCE (Item 8 (a + f) Prin. Ann. Report)			AVERAGE DAILY ATTENDANCE (Item 9 Prin. Ann. Report)				TOTAL NUMBER OF DAYS TAUGHT (Item 1 Prin. Ann. Report)		
	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12	Total 1-12	Elem. 1-6	Jr. Hl. 7-9	Sr. Hl. 10-12
1	2,275			2,256			25			12.86			12.86	175		
2																
3	42,894	12,690		41,840	12,285		1,054	405		239.08	70.20		309.28	175	175	
4																
5	158,840	54,896		154,592	53,415		4,248	1,481		883.38	305.23		1188.61	175	175	
6																
7		31,775	62,952		30,768	60,960		1,007	1,992		175.82	348.34	524.16	175	175	175
8																
9	204,009	99,361	62,952	198,682	96,468	60,960	5,327	2,893	1,992	1135.32	551.25	348.34	2034.92	175	175	175
10																
11		366,322			356,110			10,212				2034.92				
12																
13																
14																
15																
16																
17																
18																
19																
20																

Intervenor's Exhibits No. 3

ITEM	Do not report any person in more than one position. Report each individual where he devotes half or more than half of his time.	ALL SCHOOLS	WHITE SCHOOLS			NEGRO SCHOOLS		
		ALL GRADES	Elem. 1-6	Jr. Hi. 7-9	Sr. Hi. 10-12	Elem. 1-6	Jr. Hi. 7-9	Sr. Hi. 10-12
XIII	Superintendents and Assistant Superintendents whose duties are mainly administrative.	1	0	0	0	0	0	0
XIV	Supervisors: Those who devote at least half of their time to Supervision of Instruction. Serve White and Negro Schools		1	0	1	0	0	0
XV	Supervising Principals: Those who devote at least half of their time to Administration and Supervision. (This should correspond to payment for principals in your part II Financial Report.)	3	3	0	1	2	0	1
XVI	Number of different individuals employed as teachers, full time, part time, substitute, special, etc. Include principals who teach more than half time. (This should not be less than teaching positions reported in item II of this report.)	Men	0	4	9	1	1	11
		Women	37	17	20	36	15	21
XVII	Average number of days schools were in session: (Divide grand total Aggregate Attendance by grand total Average Daily Attendance.)		175	175	175	175	175	175

ATTENDANCE DATA BY GRADES
(INCLUDE EXCEPTIONAL CHILDREN TAUGHT IN SPECIAL CLASSES)

Item		GRADE 1	GRADE 2	GRADE 3	GRADE 4	GRADE 5	GRADE 6	TOTAL ELEMENTARY	GRADE 7	GRADE 8	GRADE 9	TOTAL JR. HI.	GRADE 10	GRADE 11	GRADE 12	TOTAL SR. HI.
VIII	NET ENROLLMENT (Sum of Item 17 on all Prin. Ann. Reports)	Boys 61	87	91	76	78	61	474	80	68	84	232	58	52	52	162
		Girls 83	83	74	76	78	73	467	74	73	100	247	68	57	40	165
	Total	164	170	165	152	156	134	941	154	141	184	479	126	109	92	327
IX	AGGREGATE DAYS ON ROLL (Sum of Item 6 on all Prin. Ann. Reports)	Boys 11,701	15,289	15,465	12,532	13,284	10,212	80,483	13,994	11,590	14,604	40,188	9,931	8,377	8,422	26,730
		Girls 14,533	14,597	12,535	13,632	14,013	12,591	81,901	13,111	12,775	17,173	43,059	11,613	9,717	6,346	27,676
	Total	28,234	29,886	28,000	26,164	27,297	22,803	162,384	27,105	24,365	31,777	83,247	21,544	18,094	14,768	54,406
X	AGGREGATE ATTENDANCE (Sum of Item 7 on all Prin. Ann. Reports)	Boys 13,064	14,533	14,872	11,894	12,883	9,908	77,154	13,439	11,212	14,231	38,882	9,621	7,986	7,834	25,441
		Girls 13,822	13,825	12,006	12,998	13,384	12,115	78,150	12,657	12,325	16,637	41,612	11,085	9,226	5,815	26,126
	Total	26,886	28,358	26,878	24,892	26,267	22,023	155,304	26,096	23,537	30,868	80,494	20,706	17,212	13,649	51,567
XI	NET ENROLLMENT (Sum of Item 17 on all Prin. Ann. Reports)	Boys 105	98	102	82	113	92	592	107	92	99	298	65	71	55	191
		Girls 102	87	103	89	110	109	600	113	82	83	278	72	65	42	179
	Total	207	185	205	171	223	201	1192	220	174	182	576	137	136	97	370
XII	AGGREGATE DAYS ON ROLL (Sum of Item 6 on all Prin. Ann. Reports)	Boys 17,469	17,136	17,483	14,174	19,272	15,893	101,427	18,614	15,503	17,224	51,341	10,887	12,195	9,377	32,459
		Girls 17,277	14,890	17,236	15,396	18,839	18,944	102,582	19,865	13,604	14,551	48,020	12,320	10,823	7,350	30,493
	Total	34,746	32,026	34,719	29,570	38,111	34,837	204,009	38,479	29,107	31,775	99,361	23,207	23,018	16,727	62,952
XIII	AGGREGATE ATTENDANCE (Sum of Item 7 on all Prin. Ann. Reports)	Boys 17,100	16,497	17,054	13,762	18,748	15,577	98,738	18,144	14,971	16,458	49,573	10,379	11,725	9,038	31,242
		Girls 16,944	14,433	16,649	14,992	18,338	18,588	99,944	19,265	13,320	14,370	46,895	12,017	10,603	7,198	29,818
	Total	34,044	30,930	33,703	28,754	37,086	34,165	198,682	37,409	28,291	30,764	96,468	22,396	22,328	16,236	60,960

Intervenor's Exhibits No. 3

ITEM

XXIV. Original Entries from Other States by Grades and Race.

	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Total 1-6	Grade 7	Grade 8	Grade 9	Total 7-9	Grade 10	Grade 11	Grade 12	Total 10-12
WHITE	4	3	2	2	0	2	13	0	0	0	0	1	1	1	3
NEGRO	3	1	1	0	3	1	9	1	1	0	2	0	0	0	0
TOTAL	7	4	3	2	3	3	22	1	1	0	2	1	1	1	3

XXV. High School Pupils Tested by Various Type Tests by Grades:

Item	Grade 7	Grade 8	Grade 9	Grade 10	Grade 11	Grade 12	Grades 7-12	
A. Number tested at least once 2/		288	263	0	102	161	0	814
B. Test Type:	No. 3/ Tested	No. 3/ Tested	Tested Under NDEA 4/	No. 3/ Tested	No. 3/ Tested	No. 3/ Tested	No. 3/ Tested	Tested Under 6/ NDEA
a. Mental Maturity		288	263	0	168	200	182	200
b. Achievement Battery		288				92	182	92
c. Single Subject Achievement								
d. Multi-factor (3 or more)								

2/ The number in Item A cannot exceed enrollment. 3/ A student should be included each time he takes a test of the type indicated. 4/ "Number Tested Under National Defense Education Act," can never exceed the number under "Total Number Tested." 5/ Total of all columns with footnote 3/. 6/ Total of all columns with footnote 4/.

- XXVI. Number of Clerical Assistants Employed In: Superintendent's Office 3; Principals' Offices 6.
- XXVII. Number of Attendance Workers: Full-time 1; Part-time 1; Total 2.
- XXVIII. Number of Janitors and Maids: Full-time 21; Part-time 1; Total 22.
- XXIX. Number High School Graduates: White 87; Negro 89; Total 176.

INSTRUCTIONS

- Beginning on line 1 of page 2, list alphabetically name and address of each approved class or group of exceptional white pupils. Circle line number of each such class or group. Enter total for this group in all columns, except those under Items I, III, and XII.
 - Skip one line and list alphabetically name and address of each white one-teacher school. Enter total for this group in all columns, except those under Items I, III, and XII.
 - Skip one line and list alphabetically name and address of each white two-teacher school. Enter total for this group in all columns, except those under Items I, III, and XII.

Continue this plan, listing three-teacher, four-teacher, five-teacher, and six-or-more-teacher schools in separate groups according to number of teachers.

 - Including totals for exceptional white pupils, find grand total for each column, except those under Items I, III, and XII.
 - Begin on next page and repeat the above procedures for Negro schools. Indicate race in space provided at top of pages.
- LINE SCHOOLS. Do not report any school jointly maintained by two counties ("line school") unless the administration and supervision thereof are under your Board of Education as provided by Section 77 of Title 52 of the Code of Alabama 1940.
- TEACHING POSITIONS-ITEM II:
 - Only those positions in which a person teaches more than half time in day schools should be reported in this item.
 - Do not report in Item II principals who teach half or less than half time. Report them in Item XV.
 - No individual should be reported in more than one position. If two or more teachers were employed at different times during the year to teach the same grade or group of grades, only one teaching position should be reported.
 - No teachers of adult and evening classes should be reported in this item.
 - Classify as elementary school teachers all who teach more than half time in grades 1-6. (See h. below.)
 - Classify as junior high school teachers all who teach more than half time in grades 7-9. (See h. below.)
- TEACHING POSITIONS-ITEM II (continued)
 - Classify as senior high school teachers all who teach more than half time in grades 10-12. (See h. below.)
 - In case a teacher devoted exactly half time to instruction in each of two of the above-mentioned grade groups, classify her in the higher grade group.
- Calculate average daily attendance to three decimal places and round off to two decimal places.
 - If a grade or school was taught for fewer number of days than the length of the school term, report correct data for the time taught. In such cases, give the reason for the short term and the name of the school to which pupils were transferred.
- Before preparing final copy of report, check items listed below:
 - Horizontal and Vertical Totals of columns under Item VI must equal sum of corresponding Horizontal and Vertical columns under Items IV and V.
 - Horizontal and Vertical Totals of columns under Item VIII must equal the sum of corresponding Horizontal and Vertical Totals of columns under Items IX and X.
 - Vertical Totals of columns under Item VII for white schools must equal corresponding Horizontal Totals of columns under Item XVIII.
 - Vertical Totals of columns under Item VIII for white schools must equal corresponding Horizontal Totals of columns under Item XIX.
 - Vertical Totals of columns under Item IX for white schools must equal corresponding Horizontal Totals of columns under Item XX.
 - Vertical Totals of columns under Item VII for Negro schools must equal corresponding Horizontal totals of columns under Item XXI.
 - Vertical Totals of columns under Item VIII for Negro schools must equal corresponding Horizontal Totals of columns under Item XXII.
 - Vertical Totals of columns under Item IX for Negro schools must equal corresponding Horizontal Totals of columns under Item XXIII.

INTERVENOR'S EXHIBIT 4
IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

GEORGE ROBERT BOYKINS, as next
friend of TYWANNA FAYE BOYKINS,
et al.,

Plaintiff,

vs.

FAIRFIELD BOARD OF
EDUCATION, et al.,

Defendants.

CIVIL
ACTION
65-499

Filed in Clerk's Office, Northern District of Alabama,
Aug. 16, 1965, William E. Davis, Clerk, U. S. District Court.
By M. Claire Parsons, Deputy Clerk.

STIPULATION

IT IS STIPULATED AND AGREED by and between the parties through their respective counsel that the deposition of Mr. George Virgil Nunn, may be taken before Carmen Zegarelli, Commissioner, at the Federal Building, Birmingham, Alabama, on the 12th day of August, 1965.

IT IS FURTHER STIPULATED AND AGREED that it shall not be necessary for any objections to be made by counsel to any questions, except as to form or leading questions, and that counsel for the parties may make objections and assign grounds at the time of trial or at the time said deposition is offered in evidence, or prior thereto.

IT IS FURTHER STIPULATED AND AGREED that notice of filing of the deposition by the Commissioner is waived.

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

GEORGE ROBERT BOYKINS, as next
friend of TYWANNA FAYE BOYKINS,
et al.,

Plaintiff,

vs.

FAIRFIELD BOARD OF
EDUCATION, et al.,

Defendants.

August 12, 1965

Birmingham, Alabama

CIVIL
ACTION
65-499

BEFORE:

CARMEN ZEGARELLI, Commissioner

APPEARANCES:

MR. DEMETRIUS C. NEWTON, Masonic Temple
Building, Birmingham, Alabama, appearing for the Plain-
tiff; MR. ORZELL BILLINGSLEY, JR., Masonic Temple
Building, Birmingham, Alabama, appearing for the Plain-
tiff

MR. BRIAN LANDSBERG and MR. JAMES W.
PHILLIPS, Civil Rights Division, Washington, D. C., ap-
pearing as Intervenors on behalf of the Government.

MR. MAURICE BISHOP, Frank Nelson Building,
Birmingham, Alabama, appearing for the Defendants.

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Witness

George Virgil Nunn

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I, Carmen Zegarelli, Official Court Reporter and No-
tary Public, State of Alabama at Large, hereby certify that
as provided by the Federal Rules of Civil Procedure of the
United States District Court and the foregoing stipulation
of counsel, there came before me at the Federal Building,
Birmingham, Alabama, beginning at 9:45 a.m., Mr. George
Virgil Nunn, witness in the above cause, for oral examina-
tion, whereupon the following proceedings were had:

GEORGE VIRGIL NUNN,

being first duly sworn, was examined and testified as fol-
lows:

EXAMINATION BY MR. LANDSBERG:

Q Would you please state your full name?

A George Virgil Nunn.

Q What is your address, Mr. Nunn?

A Residence?

Q Yes, sir.

A 5032 Parkway, Fairfield, Alabama.

Q Are you the superintendent of schools for Fairfield,
Alabama?

A Yes.

Q How long have you held that position?

A Nineteen years.

Q So, that would mean you started in 1946?

A Correct.

Q How long have you lived in Fairfield?

A 31 years.

Q Could you describe your educational background for us?

A I have a Bachelor of Science degree from Auburn University, Master of Science Degree from Auburn University, additional graduate work at Columbia University.

Q Have you held any other positions with the Fairfield Board of Education?

A Yes.

Q And what are those?

A Teacher, principal and superintendent.

Q And has your career then covered 31 years in the Fairfield School System?

A Yes. May I restate that? My career in the Fairfield School System cover 31 years; I have other experience.

Q And what was that, Mr. Nunn?

A Two years in Pickens County, Alabama.

Q As a teacher?

A As a teacher.

Q In your capacity as principal and as teacher and then as superintendent in Fairfield, have you visited all of the schools in the system?

A Yes.

Q And do you regularly visit all of the schools each year?

A Yes, I do.

Q And you attend graduation of the schools?

A Yes, sir.

Q And you attend P.T.A. Meetings?

A I have attended P.T.A. Meetings at all schools.

Q And have you talked with teachers and principals and parents of children and with children from all of the schools?

A Yes.

Q Could you state what the respective duties are of the superintendent of education and of the Board of Education?

A Yes, sir.

Q In Fairfield?

A The duty of the Board of Education is to establish policy. The functions of the superintendent is to carry out the policies established by the Board of Education.

Q Mr. Nunn, I would like to show you a map which I would like marked as Plaintiff's Intervenor's Number 1.
(Exhibit marked.)

Q Looking at Plaintiff's Intervenor's Number 1, does that appear to be a fair representation of Fairfield, Alabama?

A Yes, I believe so.

Q And you will note that there are red squares on places on the map.

Do those squares appear to indicate where the white schools in Fairfield are located?

A Yes.

Q And do the green squares appear to indicate where the Negro Schools are located?

A Yes, sir.

Q And over on the lefthand margin is a legend giving the name of each school by a number which appears also in each square.

Do those numbers appear to correspond correctly?

A That's correct.

Q And by the name of each school in the legend numbers appear indicating the grade covered by those schools; are those numbers correct?

A Yes, sir.

Q Now, Mr. Nunn, I would like if you could, for you to indicate on this map the areas which are predominately white and the areas which are predominately Negro; would that be possible?

A In general terms it would be possible. I don't know that I could trace street lines.

Q Well, would it be true that—

MR. BISHOP: Excuse me.

May we inquire as to whether you are inquiring as to the residence locations of the predominately white or colored?

MR. LANDSBERG: Yes, sir.

MR. BISHOP: All right.

Q Would it be true that extending approximately up 51st Place, the area to the right is predominately white, and the area to the left is predominately Negro, up until Wiebel Drive?

A Up until Flint Ridge Road, I would say, which is this road going right along here (indicating).

Q All right.

If I draw a line up 51st and across Court B, and then up 55th Street, would that be an accurate demarcation line?

A You are not speaking now of predominately—of predominate areas, you are speaking of specific areas; is that correct?

Q Yes.

A I believe we have been asked to prepare a document to present in court from which would show those lines.

MR. BISHOP: Frankly, I am a little bit confused because I don't understand what you mean by predominately. I think there would be certain residences in that area where you have white or colored. Predominately, you mean more than fifty percent of the residents?

MR. NEWTON: More than ninety percent in the area that he refers to.

MR. BISHOP: Can we have an indication of whatever you mean by your term?

Q All right.

Would you say in the area that I just indicated that it is over ninety percent Negro?

A In my opinion, that would be correct.

MR. BISHOP: Have you made any check of that, any physical inspection?

A No.

Q And then up Court B, would that be correct?

A What is your question?

Q Would that be a correct line, to cut off a white area from Negro area?

A Still speaking in terms of predominance, yes, sir.

Q All right.

And then turning right at 55th Place up to Flint Ridge Road?

A That would fall within the same category.

Q And then following along this line here; is that right (indicating)?

A Yes, sir.

Q And then just continuing over to Wiebel Drive; is that right?

A No; there are no residences in this area (indicating).

Q So, if I draw a line over to Wiebel Drive—

A To be more accurate, I believe, would be to come down and include this housing project (indicating).

Q That is the next thing I want to do.

MR. BISHOP: May the record show the witness did not identify the extension of the line across the unoccupied property to the south of the general offices of the United States Steel Corporation.

Q If I draw a line along this area, would that be an accurate cut-off between the white and Negro area? (Indicating)

A Yes, I believe it would.

Q And, now, if I draw a line up Wiebel Drive, will that be an accurate dividing line?

A Well, it is not the dividing line that the Board of Education uses.

But, as far as the racial composition of the neighborhood, would that be accurate?

I think so.

Q Now, extending down Avenue H, would it be accurate to draw a line down Avenue H up to the area where Block 11 is located here (indicating)?

A Yes; where you are pointing would be.

Q And then to draw the line in this manner (indicating)?

A Yes, sir.

Q Now, if I put a number one in this area, would it be true that this area with the Number One would be an area that is ninety percent or more Negro (indicating)?

A In my opinion, it would.

Q And would it be true that the entire area to the south of area one and to the west of area one would be predominately white?

A Yes. Predominately white if you are speaking of west of Wiebel Drive. I shall not speak of the south, because you are coming into the City of Midfield.

Q If we draw a line along the site of Fairfield Boundaries here and label that number two, would that be a white

Yes.

Q And over and around the Englewood School is again a predominately Negro section?

A Yes, sir, predominately so.

Q And where would that line extend?

A 37th Street.

Q How far up 37th?

A All the way to—well, that is Gary Avenue, I believe.

Q Gary Avenue comes in Parkway?

A Up to Avenue F (indicating).

Q Up to Avenue F?

A As designated on this map.

Q Extending down Avenue F to about 39th Street?

A Yes.

Q And then, back down 39th Street?

A Yes.

Q And would I want to turn right here (indicating)?

A Yes.

Q And go down to 40th Street or down to 40th Place?

A 40th Street.

Q Like that (indicating)?

A Yes, sir.

Q Is that correct, along the City Limits?

A Yes.

Q So, if I labeled this area number three, this would be predominately Negro area?

A Yes.

Q And would it be fair to say that the rest of the City is predominately white?

A I think that would be a fair statement.

Q Thank you.

MR. NEWTON: Could I ask one question about the area?

Mr. Nunn, in this area that has been labeled number three, would you say that with the exception of some whites running businesses in that area, there are no white residences in that area?

To the best of my knowledge, there are no white residences in that area.

Mr. Nunn, during the time that you have lived in Fairfield, have there been annexations to the City?

Yes.

Would you tell us when those annexations were made and what areas?

You have asked me two questions. I cannot give you the dates of the annexations, I can give you the areas.

Fine.

The area we described as the Forest Hills Area has been annexed. The large portion of it has been annexed since I have been superintendent of schools. The area we described as the Glen Oaks area has been annexed since I have been superintendent. The area described as the Belle Wood Area has been annexed since I have been superintendent of schools.

Is the Belle Wood area contiguous to the Glen Oaks area?

No.

So.

Where is it?

Contiguous to the Forest Hills Area.

Is it correct that a new subdivision is presently being

built in the area between Forest Hills and Glen Oaks?

A I do not know the answer to that question.

Q Mr. Nunn, can you give us an approximation of the number of students in the parochial school system?

A Approximately 4,000.

Q Would you be able to break those down by race?

A Yes.

Q What would the racial breakdown be?

A As of the close of school last May, 1779 white students, 2159 Negro students.

Q Of that number, would you be able to say how many students were non-residents of Fairfield?

A I cannot say at the moment how many are non-residents. I could provide that information for you at the hearing, if you so desire.

Q Well, would it be a substantial number, say over a hundred?

A If you are speaking for the entire system, there would be over a hundred.

Q In the white schools in Fairfield, you use what is commonly referred to as the six-three-three system; is that correct?

A That's correct. We have just begun that system, only been in operation two years.

Q Could you describe what a six-three-three system is?

A Yes, I can describe it.

Q Would you, please?

A Grades one through six are designated as elementary grades; grades seven, eight and nine are designated as Junior High School; grades ten, eleven and twelve are designated as Senior High School grades.

Q When did the Board of Education decide to change from the previous system to the six-three-three system?

A 1963.

Q And when was the change made?

A At the opening of the 1963-64 School Year.

Q What system existed before that time?

A I would describe it as an eight-four organization.

Q In making the change, were there any problems involved of renovation of the schools or of shifting of the school population?

A Yes, there were some problems.

Q Could you tell us what those problems were?

A One problem, of course, was gaining community acceptance of a change in the organization of the school system. Another problem was the allocation of space. Another problem was securing of funds to carry this new organization through to completion, which we are involved in at the present time.

Q What did the Board of Education do to meet these problems?

A We—

Q Taking first the problem of community acceptance?

A The superintendent met with various community groups, usually upon request; use of the daily newspaper

published in Birmingham, and by personal contact with citizens.

Q And the second problem was allocation of space.
What steps did the Board take to meet that problem?

A The Board followed the recommendations of the University of Alabama Survey Team.

As a matter of fact, it was out of that Survey that this re-organization was started and we had carried out, to the best of our ability, and we think have complied with each recommendation that was made in that survey.

Q What were those recommendations?

A To abandon Baker School.

Q Is Baker School a school that is now—the area that is now occupied by the City Jail?

A Yes.

Q All right.

A To build a new elementary school on what was known at that time as the American Legion Property Site, and to convert what was known at that time as Underwood School into a Junior High School.

Q What grades had previously been covered by Underwood School?

A Grades one through six.

Q And after finishing the sixth grade, where did the students then go?

A To Baker School.

Q Where they completed the seventh and eighth grade?

A Correct.

Q And then did they go to Fairfield High School?

A Yes.

Q Was the site that you described as the American Legion site is that now referred to as the C. J. Donald School?

A That's correct.

Q What was the reasons for changing from an eight-four to a three-three system?

A We think it is better to keep children of the same age group together for social reasons, because it is during the important adolescent period of their young lives, and it is that their needs can be best administered to under such organization.

Q Does the six-three-three organization provide for the Junior School Students a greater diversity of course offering than formerly?

A Certainly is possible to provide for such a diversity.

Q However, we did not change our course of offering when we went into the new organization.

Q Prior to the re-organization, did seventh and eighth graders have the same teachers for all classes except maybe Music?

A No.

Q And they always had a different teacher for different subject matters?

A We tried our best to assign teachers on the basis of their major or minor field of preparation.

Q All right.

Q In the Negro School System at present, is it true that as

to students in the Englewood Area, there is an eight-four system, and as to students in the Robinson Elementary area, there is a six-two-four system?

A That is correct at present. I would like to include in my answer that we are going through a transition period at the present time, working towards a complete six-three-three organization and plans have been made, and the architect is working on plans for a new building for the Inter-Urban Heights Junior High School.

Q And when that building is completed, what changes will take place in the structure of the Negro School System?

A The Inter-Urban Heights area where the Robinson and Industrial High School is located, as well as Inter-Urban Heights Junior High School, at that time, all children in the seventh, eighth and ninth grade will go to Inter-Urban Heights School.

Q Will any change be affected as to the students attending the Englewood School?

A We have no definite plans for that at this time.

Q When the city annexed the Glen Oaks and Belle Wood and Forest Hills areas, did those areas at that time have schools?

A No.

Q And what did the City do to provide schooling for the children in those areas?

A Provided funds for the construction of buildings.

Q And which buildings were constructed in those areas?

A Forest Hills Elementary School and Glen Oaks Elementary School. The City only provided part of the money, the State of Alabama provided the remainder.

Q When the Baker School was destroyed and moved to the American Legion Site, what were the considerations underlying that move?

A The survey team from the University of Alabama reported to the Board of Education that in their opinion Baker School was an obsolete building for educational purposes. The Board accepted that recommendation, agreed with it, and set out to purchase the property owned by the American Legion.

Q Well, would it have been necessary—was it merely the building that was inadequate, or was the site also inadequate?

A We only considered the inadequacy of the building.

Q But, the Board—did the Board consider rebuilding on the same site?

A No.

Q What was the reason for that?

A One of the reasons was the fact that the City of Fairfield wanted the property for a Fire Station and Jail.

Q Were there any other reasons?

A I don't think so; you understand, of course, that the Board of Education is an arm of the City government and therefore, we try as best we can to co-operate with them and at the same time to provide adequate educational facilities.

Q Was the Baker School site an adequate site for a school?

A Well, much was to be desired in the amount of area for physical education and recreation.

Q What are the considerations that the Board has in mind when it goes about choosing a site for a school?

A Well, of course, in an urban area, the availability of property is the primary factor. The desires have to come secondary.

Q What would the desires be in choosing a site?

A Well, I would say a minimum of ten acre site would be the desirable consideration.

MR. BISHOP: Is that without recreation facilities?

A Well, for an elementary school, I think that would be sufficient, including recreational facilities.

Q Other than the change that you described of Inter-Urban Heights, does the Board have any other plans for changes in the school system at present?

A Not at present.

Q Were any plans for any additional buildings other than the Inter-Urban Heights building made?

A Well, we are constantly planning, of course, as funds become available. We don't have any funds in sight that we know about that we will have—that will permit any new construction other than the Inter-Urban Heights High School.

Q How long has the Inter-Urban Heights School been in existence?

A Two years.

Q What was the system prior to the construction of the Inter-Urban Heights School in the Negro System?

A An eight-four organization, same as it was in the white system.

Q At that time, was the Robinson School extremely overcrowded?

A Yes.

Q And were there children going to classes on off site classrooms?

A Yes, for short periods of times.

Q Where were those classrooms located?

A One was located in a church building across the street, another was located in an auditorium building of a business firm across the street from the campus.

Q Has the Fairfield School System received Federal Funds in the past?

A Yes.

Q And under what programs has it received those funds?

A The lunchroom program, the National Defense Education Act, and for vocational education.

Q Under the National Defense Education Act, would that be Titles 3 and 5 of that Act?

A Yes.

Q And is the Board currently receiving funds from those Federal Programs?

A We did up through June 30th.

Q Has—

A I cannot answer the question as to what the present status is.

Q Does the Board plan to receive Federal Funds in the future?

A Yes, we plan to.

Q Has the Fairfield Board of Education submitted a desegregation plan to the Office of Education of the Department of Health, Education and Welfare?

A No.

Q Does the Fairfield School System operate bus routes for its students?

A No.

Q Does it have any arrangements with private bus companies to bus students?

A The Board of Education has no such arrangements. However, private transit lines are transporting students to school, but it is of their own development.

Q And which schools, or to which school, and from which areas are the students being bused?

MR. BISHOP: Well, I don't believe that would be a matter that would be under the full control of the Fairfield Board of Education, it is operated without any contributions and arrangements or suggestions of the Fairfield Board.

Q You don't have bus service?

MR. BISHOP: We object to it.

MR. BILLINGSLEY: He is only laying a predicate to bring out other points.

MR. BISHOP: I can't see any possible relevancy of a person that catches a bus direct or indirect on the part of Fairfield Educational System.

Q Mr. Nunn, is it correct to say that the Negro students

who live in the Englewood Area of town travel approximately one and a half miles to Fairfield Industrial High School?

A I think it is fair to say that.

Q And would it be fair to say that those students live approximately a quarter of a mile from Fairfield High School?

A Well, I would think that the distance is further than a quarter of a mile.

Q A third of a mile?

A Possibly.

Q And would it be fair to say that the students, the white students who live in the Glen Oaks area, Forest Hills Area, travel on a route that takes them past the Fairfield Industrial High School on their way to Fairfield High School?

A I don't think it is fair to say that.

Q Is the distance to Fairfield Industrial High School substantially less from those areas than the distance to Fairfield High School?

A As the bus has to travel, or automobile has to travel, in my opinion, it is not substantially different.

Q Mr. Nunn, when is school opening planned for 1965-66 School Term?

A For students or teachers?

Q For students?

A September 1.

Q For teachers?

A August 30th.

Q Mr. Nunn, could you tell us the year of construction of Fairfield High School?

A 1928.

Q And since that time, have any additions been made to the High School?

A No.

Q Is the gymnasium the original gymnasium at Fairfield High School?

A Yes, it is the only gymnasium that it has had.

Q That was built at the same time of the school?

A No.

Q When was it built?

A 1949.

Q Could you tell us in general what special facilities the Fairfield High School has, does it have an auditorium?

A Yes.

Q Does it have a gymnasium?

A Yes.

Q Does it have a lunchroom?

A Yes.

Q Does it have shops?

A Yes.

Q How many classrooms does Fairfield High School have?

A Sir, I can provide that information at the hearing, but I do not have that information at my fingertips.

How many acres is the Fairfield High School site?

Seven.

And are—is there an additional six acres that is occupied by the Fairfield Junior High School?

Yes, sir; and in answering your question, I was considering that half was occupied by Junior High School and by the Senior High School.

Is the acreage shared by the two schools?

Yes, sir.

So, between the two schools, there are thirteen acres; that correct?

Yes, sir.

Is there a large, grass, play area in back of the Fairfield High School?

I wouldn't describe it as such. There is a large football field back of the Fairfield High School, but it is not used for physical education, for play purposes.

What facilities are used for physical education and play purposes?

There is a grassed area for small games, such as volleyball, badminton, horseshoes, even softball.

Is it correct that last year that per pupil financial report for Fairfield High School was approximately \$290.00?

I don't feel that I could answer that question today. I could have the information for the hearing, if it is desired.

That would be requested in the accreditation document submitted by the school; is that correct?

A I would like to say that it would be reflected in the annual school audit, is where I would go to get the answer to that question.

Q Does Fairfield High School offer a distributive education course?

A Yes, sir.

Q Would you tell us what distributive education course consist of?

A Distributive education is the opportunity for Junior and Senior High School students to receive training in the work-a-day world as relates to sales experiences.

Q Does Fairfield High School have a full time guidance counselor?

A Yes.

Q And does Fairfield High School offer two languages to its students, French and Latin?

A It did during the past year, it will not during the coming school year.

Q What languages will be offered next school year?

A Not any on a first year basis.

Q What is the reason for that?

A Because of decrease in the request for foreign languages.

Q When was Fairfield Industrial High School built?

A 1940.

Q Since then, have any additions been built?

A Yes.

Q What were those?

A A six room addition, six classroom addition was built in the mid-50's. That information will show on the information that you have asked for for the hearing.

Q We should also consider the new gymnasium at the new Industrial High School that was built in 1962 or '63.

MR. BISHOP: Describe the lunchroom and auditorium facilities at the Fairfield High School?

A They are both modern, up-to-date, adequate facilities.

Q Is that also true at Fairfield High School?

A Considering the time in which the building was constructed, yes. The Fairfield High School Auditorium was built in the mid-30's. It is not equipped with modern, up-to-date seats as the Fairfield Industrial High School is.

Q How large a site is Fairfield Industrial High School located on?

A In my opinion, it would be about four acres where the Industrial High School and Gymnasium is located. The school uses and operates an athletic field some four or five blocks removed from the High School.

Q However, there are no physical education facilities outdoors at the Industrial High School; is that right?

A Well, possibly volleyball and badminton.

Q Where on the Fairfield Industrial High School Site could volleyball and badminton be played?

A In the area between the gymnasium and Industrial High School Building.

Q Mr. Nunn—

MR. BISHOP: Did you give us the comparative area

of the Fairfield Industrial High and the Fairfield High School? I believe you stated that Fairfield High School and Junior High School occupied an area of seven acres. What is the land area of Fairfield Industrial High?

MR. NEWTON: Thirteen acres, I believe he said.

THE WITNESS: The Industrial High School is located on a piece of property, in my opinion, of about four acres, but a few blocks removed from that site is a recreational area of approximately eight acres.

MR. BISHOP: And what is the land area of the Inter Urban Heights School?

THE WITNESS: About eight acres.

MR. NEWTON: May I ask one question to clear this up? Fairfield Industrial High School Area, does that in fact cover two blocks from Avenue E and 59th Street to Avenue D and 59th Street and the school property extending from street to alley and those lots being 150 feet deep?

THE WITNESS: I wouldn't want to answer that question, Mr. Newton, without looking at the Board of Education map of the property. I think you are generally correct, however, that it does extend from street to alley for the length of one block.

MR. NEWTON: And that's from the corner of Avenue E and 59th Street to the corner of Avenue D and 59th Street?

THE WITNESS: That's correct.

MR. NEWTON: One other question, Mr. Nunn.

In the area between the Fairfield Industrial High School and the Fairfield Industrial High School Gymnasium, the Fairfield Industrial High School Gymnasium

houses a public library, is that correct, the building?

Well, it houses a library that is used by the public in addition to being used by the school.

MR. NEWTON: In designation as opposed to—does it not bear a sign saying Public Library, City of Fairfield?

THE WITNESS: Yes. That sign was put there for the benefit of the public.

MR. NEWTON: Yes, sir.

Now, isn't there also a covered walkway between the main building, the building that was built in 1940, known as the Fairfield Industrial High School and the Gymnasium and Public Library?

THE WITNESS: Yes.

MR. NEWTON: So, then, in between the school it would take some area, play area away in that covered walkway which would divide the area there that is between the high school and the gymnasium building?

THE WITNESS: I think you are correct, Mr. Newton, but since you are a graduate of that high school, you realize there is a cut-off area in the rear which is ample for volleyball courts?

MR. NEWTON: Yes, sir.

Q Does Fairfield Industrial High School offer a distributive Education course?

A At one time it did, does not at the present.

MR. BISHOP: Would I interrupt your chain of thought if we completed the development of this one area

that we are on here. I won't interrupt you if you prefer to finish?

MR. LANDSBERG: Well, I don't want to turn this into a debate back and forth, because we could start going over the relative adequacy of each point.

MR. BISHOP: I thought it might be of benefit to all parties, but we will conclude that matter after you finish.

Q All right.

Isn't it true there is no fulltime guidance counselor at the Fairfield Industrial High School?

A I would prefer to answer your question by saying that there are two people devoting half time which amounts to a full time guidance employee.

Q What are their names?

A Well, those people are designated by the principal of the school.

Q Do you know their names?

A I don't know that I could give you the accurate names, so I would rather not guess.

Q What is the name of the guidance counselor at Fairfield High School?

A There again, Fairfield High School has two people serving in a half time capacity.

Q Isn't it true that one of those people is serving on a fulltime capacity and did not teach any courses last year?

A That is correct, for last year. That will not be correct for the coming year.

Q When was Fairfield Junior High School built?

A The building housing the Fairfield Junior High School was built in 1925.

Q And was it renovated or remodeled when it was changed from the Underwood School to the Junior High School?

A Some improvements have been made.

Q Any other additions been made?

A No.

Q Is there a shop building in the back of the Fairfield—Fairfield Junior High complex?

A Yes. Used jointly by the Junior and Senior High School.

Q When was that built?

A I believe in 1947. May I make this statement, that this information about dates and buildings has been asked for and will be available at the hearing.

Q Fairfield Junior High School have a Library?

A No.

Q Are Home Economics and Industrial Art Courses offered at the Fairfield Junior High School?

A Yes, sir.

Q Does Fairfield Junior High School provide different teachers for different subjects?

A Yes.

Q All right.

A And the same can be said for the Inter-Urban Heights

Junior High School, they provide different teachers for different subjects also.

Q What facilities are located at Fairfield Junior High School?

A Only a classroom building approximately fourteen classrooms, lunchroom, restrooms and a heating plant which serves both the Junior and Senior High Schools.

Q Is that heating plant adequate?

A Yes.

The shop building which you made reference to serves both the Junior and Senior High School. The gymnasium which has been referred to, serves both the Junior and Senior High Schools. The band and choir rooms serve both the Junior and Senior High Schools.

Q As presently constituted, would you agree that the Inter-Urban Heights School is located in an inadequate school plant?

A As it is presently constituted, yes, I think it is inadequate.

Q It is inadequate—it is located in an old armory, isn't that right?

A Yes.

Q And the doors of the classrooms open onto the main armory room; is that correct?

A I am not sure what you mean by the main armory room.

Q The room that is now used as an auditorium, gymnasium, and lunchroom?

A Yes.

Q And the heating facilities in the Inter-Urban High School, would you describe those?

A They are gas operated blower type fans overhead.

Q Are there any heaters in the individual classrooms?

A Yes.

Q In which classrooms, in all of them?

A I think so.

Q Are there partitions between some of the classrooms?

A Yes.

Q Movable partitions?

A No.

Q There are no vinyl type movable partitions between classrooms?

A I believe between two classrooms there is a folding partition.

Q And—pardon me.

A Which can be opened or closed and we found it is just as sound proof as a wall.

Q Does that partition touch the floor?

A Practically so. Of course, it doesn't drag the floor when it is open.

Q When was the last time that you visited that classroom, Mr. Nunn?

A In May.

Q And at that time did you observe the large hole in the partition?

A No, I didn't.

Q Is there a band room at Inter-Urban Heights School?

A There is a room which is used for that purpose, it is not built for a bandroom. I would like for the record to show that the Fairfield Board of Education has recognized the facilities at the Inter-Urban Heights High School are inadequate and that plans are now under way for the construction of a new building there.

Q Does one classroom in the rear of the Inter-Urban Heights High School, the wall reach only halfway to the ceiling?

A I would like to answer that by saying that there is one wall that doesn't reach all the way to the ceiling.

Q So that the ceiling of that room is the common ceiling with the auditorium and lunchroom; is that correct?

A I believe that is correct.

Q Does Inter-Urban Heights High School, Junior High School, have a Registrar?

A It does not.

Q Are there any other schools in the system that do not have a Registrar?

A Yes, the Englewood School does not have a Registrar.

Q And all the other schools do; is that correct?

A Yes.

Q Would it be appropriate to state the reason it does not?

MR. BISHOP: Certainly.

A Because of the small enrollment. The Englewood

School community, of course, has decreased in enrollment, the Inter-Urban Heights School is just beginning and by the time the new building is put in operation Inter-Urban Heights Junior High School will have a Registrar.

Q The yard of the Inter-Urban Heights High School has no grass; is that correct?

A Portions of it have no grass.

Q Well, the vast majority of it has no grass; is that correct?

A I think that would be correct.

Q And there are concrete slabs sticking out of the ground in the play area, is there not?

A Not to my knowledge, not in the play area.

Q Is the play area the area that is enclosed by a cyclone fence with barbed wire on top?

A I would consider that a play area.

Q Is there any playground equipment in that area?

A There is space for softball; of course, no equipment is needed for that other than individual equipment. There are no basketball goals or tennis posts or nets, if that is what you are referring to.

Q And the softball diamond would be a gravelled field; is that correct?

A Yes, as far as I know, just as all other softball fields are in Fairfield.

MR. BISHOP: That's the field that produced Willie Mays?

THE WITNESS: No, sir, but Willie Mays was produced under similar conditions.

MR. BISHOP: Let the record show that we recommend that type of field.

MR. BILLINGSLEY: Providing he plays in New York.

THE WITNESS: It has done pretty well by Mr. Newton, I might add.

Q What facilities are located at Donald Elementary School?

A May I ask for clarification of your question?

Q Such as lunchroom and auditorium and special facilities other than classrooms and offices?

A We have a room referred to as a cafeteria which is a combination cafeteria and auditorium.

Q And in the rear of the school is the grassy playing area; is that correct?

A A portion is grassy, but the portion which is used for softball, as you referred to a few moments ago, is not a grassy area.

Q Then, in front of the school is a landscape driveway, is that correct, leading to a covered walkway?

A Yes.

Q Crossing the road—

MR. BISHOP: Excuse me. These questions relate to the Inter-Urban Heights School?

MR. LANDSBERG: No. We are talking about the Donald School.

MR. BISHOP: All right.

Q Crossing the road between the Fairfield High School

and Donald High School, there is a pedestrian overpass; is that correct?

A Yes.

Q Could you tell us who paid for that bridge?

A Well, of course, it was paid for out of the same source of funds that paid for the building, which was a combination of State and Local.

Q It was a school board project, in other words?

A The school board will assume full responsibility for it being there.

Q Does Donald Elementary School have hot water in its restrooms?

A I don't think so.

Q What facilities are located at the Forest Hills School?

A Similar to what we have just described for Donald School.

Q And in back of the Forest Hills School is a ball field, a community ball field; is that correct?

A Yes.

Q Is that used by the children, the Forest Hills children?

A It is available to them, but it is quite a distance removed from the building.

Q And what facilities are located at the Glen Oaks School?

A The same as at Donald and Forest Hills School.

Q And again has a community ball field in back of the school; is that correct?

A Yes, operated by the municipality of Fairfield.

Q And all three schools have playground equipment such as swings and teeter-totters and merry-go-rounds and jungle gyms; is that correct?

A They have some of the types of equipment which you just mentioned.

Q Would it be fair to say that all three schools are housed in attractive buildings?

A Yes. That would be true.

Q And that they are located on a tract near wooded sites?

A Yes; I think the record should show that any Board of Education building a school in the present day would build a modern attractive building.

Q Each of the white elementary schools has a paved landscaped driveway leading to a covered walkway?

A No, that is not true.

Q Which ones do not have that?

A Forest Hills.

Q When were Forest Hills and Glen Oaks Schools built?

A To the best of my memory, Forest Hills was built in 1953, Glen Oaks in 1962.

Q Have any additions been made to those schools since that time?

A Yes.

Q What were the additions?

A Forest Hills School, we have built two additional wings; at the Glen Oaks School, we have built one additional wing.

Q What years were those wings added?

A I can't give you the exact date, Mr. Landsberg, but it will be in the material available at the hearing.

Q What were the reasons for building the new wings?

A Because of increase in enrollment of students. In 1953, when the Forest Hills School was built, it also had to serve the students and families living in the Glen Oaks area. Of course, when the Glen Oaks School was constructed, those people transferred from Forest Hills to the Glen Oaks School.

Q Now, when was the Robinson School built?

A To the best of my memory, the original building, we referred to it as the original, it is the oldest of the two buildings, it was built in the late 30's.

Q And when was the addition built?

A The new building was built in 1952. I am quoting dates to the best of my memory; do you understand that, I am sure.

Q Certainly.

A That information can be documented at the hearing.

Q The Robinson School has a very large enrollment, doesn't it?

A Approximately 950.

Q And how many acres is the Robinson School Site?

A Eight or nine acres.

Q Is it an adequate site for the number of students there?

A Yes. I think it is. If we were constructing a new elementary school, we would ask for ten acres.

Q Doesn't the size of the site depend in part on the size of the projected enrollment?

A Certainly should. Ten acres is considered as a satisfactory minimum.

Q For 900 students?

A It would be nice to have more, but certainly you could construct an adequate plant and have adequate recreational facilities with eight or nine acres.

Q When was the Englewood School built?

A The oldest of the present two buildings in the late 30's, the newest of the two buildings in the mid-50's.

Q What facilities exist at the Englewood School?

A A lunchroom which is modern and up to date in every respect, adequate toilet areas, tile floors, has the same lighting as other schools, fluorescent lighting.

Q Isn't it true that the fluorescent lights at the Englewood School are not shaded in the same manner as the fluorescent lights in the other schools?

A As far as I know, they are the same type lights.

Q Do they have the egg crate shading?

A I don't think so, but not all the classrooms in the system have that type fixture, either. The more modern schools would more possibly have that type.

Q Are home economics and industrial arts taught at Englewood School?

A They are not.

Q Do the 7th and 8th grade students at the Englewood School change teachers for different courses?

A On the Junior High School level, teachers teach according to subjects. In grades one through six, they teach according to grades.

Q How many Junior High School teachers are there at Englewood School?

A I believe there are two teachers designated as Junior High School teachers.

Q Does Englewood School have a music teacher?

A Yes, sir.

Q And is that a fulltime music teacher?

A No, it sure is not.

Q Does Englewood share its teacher with Robinson?

A Yes.

Q Is that the only music teacher for the two schools combined?

A Yes.

Q Does Englewood School have an auditorium?

A Englewood School has two large rooms with a folding partition separating them, which is used for auditorium purposes.

Q Will those rooms accommodate the entire enrollment of the school?

A I don't think all students could be seated, but the trend today is not to build auditorium facilities or provide auditorium facilities to seat an entire student body for very obvious reasons; of course, it is tremendously expensive, and the types of program which you would present to primary children are entirely different from the programs that

would be presented to upper elementary or junior high school children.

Q Does Englewood School have a fulltime principal?

A Englewood School has a teaching principal.

Q And he has a full teaching load; is that correct?

A Yes.

Q Englewood School is of cinder block construction; isn't that correct?

A We refer to it as concrete block construction.

Q And there are numerous holes in the concrete block from the exterior; is that right?

A Yes, which the people in the community have brought about.

Q And the windows and the doors of the school are boarded up with plywood; is that correct?

A They have been for the summer, because people living in the community are very destructive to school property.

Q When was the last time the Englewood School was painted on the exterior?

A It was painted two years ago.

Q It is true, is it not, that the ceilings in the Englewood School in many places are buckled?

A No more so than any other schools where we have leaks in the roof.

Q And immediately adjacent to the Englewood School is an open deep drainage ditch; is that correct?

A Yes.

Q Would you consider that a hazard to elementary school children?

A Well, the Health Department doesn't seem to think so; they keep it under observation and keep it sprayed with chemicals.

Q And isn't it true that the Health Department has found rodents in the lunchroom at the Englewood School?

A It hasn't been brought to my attention. I wouldn't be surprised, but what you would find rodents in the lunchroom of any school. I think the record should show here that we have a contract with Orkin Company which visits kitchen and lunchroom areas approximately once a month to guard against such things.

Q Does the Englewood School have a lawn, does it have grass?

A It has grass in spots.

Q Mr. Nunn, I believe that there is an Interstate Highway under construction near the Englewood Site; is that correct?

A I believe it is.

Q Will the construction of that highway infringe at all upon the school site at Englewood?

A Only to a very small degree. The Highway Department has purchased a very small strip of land from the end of the property in the shape of a triangle. I don't think the recreational facilities will be any worse now than they were before the property was sold.

Q At one time, I believe that the Englewood School had an offsite classroom also; is that correct?

A Yes, sir.

Q And where was that located?

A In a building across the street from the school.

MR. BISHOP: How long are we talking about?

A Three years ago.

Q And since then, the enrollment has declined substantially; is that correct?

A Since then the enrollment has declined.

Q Part of the Englewood area has been torn down, as I understand it, for the Interstate Highway; is that correct?

A I think so.

Q Do the students from the Annisburg area transfer to—

A Yes.

Q How do you spell that Annisburg?

A A-N-N-I-S-B-U-R-G.

Q And that area—when was that area demolished?

A I do not know.

Q Where did the children from Englewood go to school before it was built?

A City of Birmingham.

Q Mr. Nunn, does the Fairfield School System provide a Kindergarten?

A No.

Q Who is Mrs. Hugh Bowen?

A Mrs. Hugh Bowen is a resident of Fairfield and operates a private kindergarten.

Q That is not under the auspices of the Fairfield Board of Education?

A No, it isn't.

Q Is it correct to say that there are in the Fairfield School System two white supervisors in addition to the principals?

A To answer that question, I think, would take an explanation. One of the supervisors you refer to is our lunchroom supervisor, who is a white person, but she supervises all lunchrooms in both white and colored schools.

Q Who is the other supervisor?

A The elementary supervisor is a white person who has similar responsibilities.

Q Mr. Nunn, during your tenure as superintendent, has the Fairfield Board of Education received any petitions from any groups in Fairfield asking that the school system be desegregated?

A Yes.

Q Can you tell us when the first of those petitions was presented?

A I believe it was in April of this year, 1965.

Q Did you receive a petition in August, 1954?

A Are you still speaking of desegregation?

Q Yes, sir.

A I don't recall it.

Q And what was the response of the Board to the 1965 petition?

A The Board ordered the acknowledged receipt of the petition, and ordered it filed.

Q Did the Board initiate any steps to comply with the request?

A No, it didn't.

Q Isn't it true that one of the signers of the petition is the parent of a child currently in attendance at the Fairfield School System?

A Which one are you referring to?

Q Was the—was one of the signers named Jimmy Lee Williams?

A I am not sure, Mr. Landsberg, but that petition will be presented Monday at the hearing in accordance with your request.

Q Besides the 1965 petition, have there been any other attempts by individuals or organizations to desegregate the Fairfield School System?

A None to me.

Q Do you remember last year a Negro High School student attempting to enroll at the Fairfield High School?

A I have no record of that.

Q Do you have any recollection of that, or was that brought to your attention at the time it occurred?

MR. BISHOP: You mean application or just somebody walking into the school, intruding into the school?

MR. LANDSBERG: A Negro high school student attempting to enroll at the Fairfield High School?

A I don't have any knowledge of that, Mr. Landsberg. You understand, I am sure, that the parents make applications for enrollment of their children.

Q Well, did the Fairfield High School principal report to you that incident?

A No.

Q And nobody from the Fairfield High School or anywhere else reported that incident to you?

A Nobody from the Fairfield High School reported that incident to me.

MR. BISHOP: May I be informed as to the incident. You mean an application being filed in an orderly and due process, or do you mean just somebody intruding themselves physically into the school property?

MR. LANDSBERG: I mean a Negro student that wished to attend the high school.

MR. BISHOP: Do you mean by application or intrusion?

MR. LANDSBERG: I don't mean intrusion. I don't think we should get tied up in a semantics argument.

MR. BISHOP: I don't think so either.

MR. LANDSBERG: I would like to know if there was an attempt, and if it is considered intrusion by the Board and application by other people, that's beside the point.

MR. BISHOP: I meant the difference between an application as an orderly and due process, or a physical presentation intrusion without any such application or notice.

MR. LANDSBERG: I don't know what you mean.

MR. BISHOP: I know what you meant.

Q I mean an attempt to register and enroll at a white high school by a Negro student; could you answer that?

A I have no knowledge of a Negro student having made an effort to enroll at the Fairfield High School.

Q Have you heard any reports of a Negro student in any way making an attempt to attend the Fairfield High School?

A I haven't heard any reports about it.

Q Mr. Nunn, is it true that all of the teachers and administrative personnel in the white schools are white persons?

A Yes, that is correct.

Q And that all but one of the teachers and personnel at the Negro schools are Negroes?

A Did you say all but one?

Q Or are all of them?

A Yes, they are all Negro.

Q Do the teachers hold staff meeting? Does the Board hold staff meetings for the teachers systemwise?

A Before the opening of school, we have teachers' meetings, systemwise.

Q They are separate meetings for the Negro teachers and the white teachers?

A Yes.

Q And are there, during the course of the year, meetings amongst the faculties of the various schools?

A Yes, under the auspices of the Teachers Association.

Q And are those all Negro and all white meetings?

A Yes.

Q What is the procedure for hiring of teachers? To whom does the teacher apply for a job?

A To the superintendent of schools.

Q And who makes the decision as to whether to hire the person?

A The superintendent recommends it to the Board of Education.

Q Is there a form that the teacher fills out and presents to the superintendent?

A Yes.

Q Is the applicant hired for a particular position or is he hired and then assigned to a position once he has been hired?

A I interview teachers for a particular position at a particular school.

Q What qualifications do you expect a teacher to meet in order to be hired?

A We would like to have a teacher who has graduated from a four year teacher training institution as a minimum.

Q Do you have any other requirements?

A Well, yes; some requirements are more desirable, perhaps, than others. We require teachers to be in good health, to be neat in appearance, and as attractive as nature can possibly do.

Q Do you interview the applicant for teacher's positions?

A Yes, I do.

Q And do you attempt to make any judgment as to their competency?

A Well, I rely generally on the advice of my principals

and almost without exception, when a vacancy occurs at a school, I will ask the principal for a recommendation.

Q In your judgment, are the principals of the various schools able to pick the best qualified teachers?

A I think the principals of each school are very well qualified to know who will fit into that faculty and possibly over a period of time, association and experience would know whether or not a person would develop into a satisfactory teacher.

Q Well, do you have the same qualifications, the same requirements for white and Negro teachers alike?

A Yes.

Q Do all of the teachers that are hired meet those qualifications?

A As nearly as is possible to do so. I haven't employed a non-degree teacher in quite a number of years.

Q Is the system currently hiring teachers for the coming school year?

A Well, as of today that process has been completed.

Q How many vacancies have you filled for the coming school year?

MR. BISHOP: I believe there were no vacancies; that had been completed.

A No vacancies at this time.

Q How many have you filled for the coming school year?

A I would have to estimate twelve to fifteen.

Q And how many of those would be Negroes?

A I don't have that information in front of me, Mr. Lands-

berg, but I believe it is fair to say I have employed more Negro teachers this summer than I have white teachers.

Q And the Negro teachers whom you have employed are assigned to Negro schools?

A Yes.

Q And the white teachers you have employed were assigned to white schools?

A Yes.

MR. LANDSBERG: I have no further questions right now.

EXAMINATION BY MR. BISHOP:

Q Mr. Nunn, prior to the time this suit was filed, had you as superintendent of the Fairfield School Board had any application filed by or on behalf of any colored student to attend a white school, a previously white school?

A No.

Q By the same token, have you had any application filed by or on behalf of any white student to attend a previously predominately colored school?

A No.

Q It is completely accurate and fair to state until this suit was filed that you had never had any application filed by or on behalf of any colored students to attend what prior to this time had been a white school?

A That is correct.

Q Now, will you please take the Fairfield High School and the Fairfield Industrial School and compare those two schools first as to the period of time in which the physical facilities were constructed?

A Well, the Fairfield High School is an older building than the Fairfield Industrial High School, having been built in 1928 as compared to 1940 for the Fairfield Industrial High School.

Q Is the Fairfield Industrial High School then, insofar as physical facilities are concerned, a more modern and a better constructed plant?

A In my opinion, the two buildings are similarly constructed and of similar design, and are equal in the ability to do the job called for by the course of study serving that school.

Q Now, will you compare the two schools as to area?

A Well, the Fairfield—you speaking in terms of square feet of space?

Q Speaking of acres available?

A Acreage?

Q Yes.

A Well, at the Fairfield Industrial High School, it stands on a piece of property, in my opinion, about four acres with its play facilities, outdoor play facilities and recreational facilities are removed by several blocks, four or five, I would say.

Q Anything unusual about that in an urban area?

A No.

Q And what is the area of the recreational facilities?

A I would estimate eight or nine acres.

Q Making a total of twelve or thirteen acres?

A Yes.

Q What is the area of the Fairfield High School?

A The combined area of the Fairfield Junior and Senior High Schools on the same property, thirteen acres.

Q Both the Fairfield High School and Fairfield Industrial High School have gymnasiums?

A Yes, sir.

Q Both have auditoriums?

A Yes.

Q Both have lunchrooms?

A Yes, sir.

Q Both have library facilities?

A Yes.

Q And how do they compare?

A Well, of course, the Fairfield Industrial High School has a new gymnasium, just finished, which incorporates all the known modern facilities and recreational facilities. The same can be said for the library which is housed in the same building. The Fairfield High School, the library is in a building built in 1928, it has no modern designs or innovations. By the same token, the gymnasium was modern in the day in which it was built, in the late 40's. The lunchrooms in both schools are of modern design and modern equipment. Both have asphalt tile floors, fluorescent lighting, same type tables and chairs, same type of serving area, staffed by a similar number of persons and meets all the standards as set up by the Jefferson County Department of Health.

Q As a matter of fact, are all of the white and colored schools of the Fairfield System accredited?

A Yes, sir.

Q Now, do you have courses of study at the Fairfield Industrial High School that are not available at the Fairfield High School?

A That is correct.

Q Do you have more courses of study in the Fairfield Industrial High than you have in the Fairfield High School?

A Yes, in my opinion we do.

Q Would you take, please, Mr. Nunn, the Fairfield Junior High and compare that with Inter-Urban Heights High School as to physical plant, area, courses of study and facilities?

A The Fairfield Junior High School is the oldest building in the system, dated back to 1925. It is of frame construction. It has a small auditorium which can only seat about half of the student body; it has the lunchroom which is—which meets the needs, but it is unsatisfactory because it is too small. The course of study, I would say the conventional type course of study with the fundamental subjects, and in addition to Industrial Arts and Homemaking, music is available. Now, at the Inter-Urban Heights Junior High School, presently, of course, we are operating under cramped conditions. We would like to have more course options there than we have at the present time, and they will be provided at the beginning of the school term in September, 1966.

Q And would additional school facilities be provided at that time?

A Yes, we plan to build a new fourteen classroom building at the Inter-Urban Heights High School.

Q Now, at that time, that is, upon the completion of those facilities, will you have more courses of study at the Inter-Urban Heights High School and more and better facilities than are available at the Fairfield Junior High?

A I would say we will have the same number and kind of facilities, but they would be more modern and better facilities.

Q Please take the Donald Elementary, Forest Hills Elementary, Glen Oaks Elementary, and compare those with the Englewood and Robinson Elementary Schools?

A As far as course of study that is available to students are concerned, they are all the same; all schools in the State of Alabama, follow the State course of study in grades one through six, with no choice of varying from those subjects.

Q How do the facilities compare?

A Of course, the Robinson Elementary School is of more recent design than is the Englewood School, but they both have adequate lunchroom facilities, they have the same type of food preparing equipment, they both are adequately staffed with dietician and assistant. They have the same type of lighting as the Donald, Forest Hills and Glen Oaks Schools; that is fluorescent lighting. And the Robinson and Englewood School, I would say they have better eating facilities. I mean by that that they have tables for four students with chairs, whereas at Donald, Forest Hills and Glen Oaks, they have the folding type of tables that folds into the wall and the children have to eat off benches, they have no back support; that is purely an economic move but satisfactorily does the job.

Q Mr. Nunn, I believe you testified that prior to this time that Fairfield had participated in Federal Funds under

the lunchroom program and under Title 3 and 5 under the National Defense and Education Act; is that correct, sir?

A Yes, sir.

Q And up until this time, you have not received any allocation of funds or any approval from H. E. W. or Federal Funds for the coming school year?

A No, sir.

Q And, as a matter of fact, that would apply to all the students at Fairfield, wouldn't it?

A Yes, sir.

Q The majority of which are colored or Negro?

A Yes, sir.

Q And I believe you stated there were 2159 Negro students that would be without these Federal funds?

A Yes, sir.

Q And 1779 white students that would be without these funds?

A Yes, sir.

Q In the absence of approval?

A Yes, sir.

Q Are the same courses of study substantially offered and available at all of the previously colored schools that have been available at the white schools?

A Yes, sir; there is one exception, of course. In the Junior High School level, because of inadequate facilities, we have been unable to provide industrial arts and homemaking, but those facilities will be in the course of study a year from now.

Q Mr. Nunn, you were asked one other question on direct examination and that was, during the summer period, I believe you stated there were some boards put up at the Englewood School and also some evidence of physical destruction of some of the school plant. Is that in each of the Englewood locations insofar as the Fairfield System is concerned?

A I would say it is possibly more pronounced in the Englewood community than it is in any other section of town.

Q Described, briefly, what has taken place in that community and the source of the difficulty?

A It has been my experience that the school reflects the people which it serves. It reflects their desires and aspirations and in the Englewood Community, we have more vandalism and damage to the school property than we have in any other section of Fairfield. Presently there are actually concrete blocks which have been pried loose, holes dug into the blocks and we have boarded up the doors and some of the windows.

Q Has the boarding up then of those doors and windows in the summer months been made necessary by reason of breakage and vandalism where the school is situated?

A That is the answer, yes.

MR. BISHOP: I believe that's all.

EXAMINATION BY MR. NEWTON:

Q I have one or two questions, Mr. Nunn. You were referring to the play area being removed from the Fairfield Industrial High School.

To briefly trace a route for you, we are both familiar

with this, from the Fairfield Industrial High School, I take it that the shortest route would be from 59th Street progressing down Avenue E to 60th to 61st, to 62nd, to 63rd, and turning on 63rd to Court F, and you would arrive at this play area now called Oliver Stadium; is that correct, sir?

A Yes.

Q That would be a distance of five blocks; is that correct?

A I believe that is what I said, four or five blocks.

Q Now, Mr. Nunn, is that generally used for other things other than football games and special days?

A Yes. I am sure it is used a lot of times unbeknownst to me. The principal has supervision of that field; as a matter of fact, it bears his name, and I would like to put into the record here when a school has an adequate modern, up-to-date physical education plant as we have at the Fairfield Industrial High School, there is actually no need for outside play area and even though we have some space at the Fairfield High School, that is very rarely used. Most of their physical education activities are confined to the interior of the building and seem to be very happy over that arrangement.

Q And the Oliver Stadium, as it is called, is a lighter football field for the most part; is that right?

A Yes.

Q Now, Mr. Nunn, one other question which was brought out on direct, and I believe your answer was simply that by automobile or bus it would not be closest to Fairfield Industrial High School than to Fairfield High School for people who lived in other areas.

Now, take for a moment, sir, the Belle Wood area; could not one proceed by automobile to Wiebel Drive and then to Avenue H and then to Avenue D which would be a closer route than proceeding by Wiebel Drive and Valley Road and so forth to the Fairfield High School?

A I think so, but when that subject was under discussion, I was asked about the Forest Hills and Glen Oaks area. I said the distance to the Industrial High School and Fairfield High School was substantially the same from those two communities?

MR. NEWTON: I believe that's all I have.

MR. BISHOP: That's all.

MR. LANDSBERG: I think I have one or two points I want to clear up.

RE-EXAMINATION BY MR. LANDSBERG:

Q You stated, I believe, that all schools in Fairfield are accredited.

Would you explain that?

A I believe the question as asked was the High Schools in Fairfield.

Q I wasn't sure.

A That's the way I understood the question.

Q All right.

A Both high schools are accredited, not only by the State Department of Education, but by the Southern Association of Colleges and Secondary Schools.

Q You also stated that more courses are available at the Industrial High School than at Fairfield High School, I believe?

A I think that statement is correct.

Q Would that be academic courses or vocational courses?

A I think the difference in offering the field of trade and industrial education would bring about the difference.

Q You stated the Fairfield Junior High was of frame construction; it has a brick veneer, does it not?

A It is a brick veneer building.

MR. LANDSBERG: I have no further questions.

MR. BISHOP: That's all.

MR. LANDSBERG: Do you want to waive signature?

MR. BISHOP: No.

FURTHER DEPONENT SAITH NOT

G. Virgil Nunn [Sig.]
Signature of Deponent

CERTIFICATE

STATE OF ALABAMA
JEFFERSON COUNTY

I, Carmen Zegarelli, Official Court Reporter and Notary Public, State of Alabama at Large, acting as Commissioner, certify that I correctly reported in shorthand the foregoing deposition at the time and place stated in the caption hereof; that I later reduced my shorthand notes into typewriting, or under my supervision; that the foregoing pages numbered five through seventy-six, both inclusive, contain a full, true and correct transcript of proceedings had in said cause.

I further certify that I am neither of counsel nor of kin to the parties to the cause, nor in any manner interested in the results of said cause.

Carmen Zegarelli [Sig.]
Commissioner - Notary Public

INTERVENOR'S EXHIBIT NO. 4

FAIRFIELD SCHOOL SYSTEM

Pupil-Teacher Ratios*

<u>School</u>	<u>Pupil-Teacher Ratio</u>
<u>WHITE</u>	
Fairfield High (10-12)	18
Fairfield Jr. High (7-9)	28
Donald Elementary (1-6)	26
Forest Hill Elem. (1-6)	26
Glen Oaks Elementary (1-6)	29
Average	24**
 <u>NEGRO</u>	
Fairfield Industrial (9-12)	20
Inter-Urban Jr. (7-8)	34
Englewood Elementary (1-8)	23
Robinson Elementary (1-6)	33
Average	27**

*Information obtained from Items II and V, Teaching Positions and Number on Roll at Close of Last Mo., Annual Report—Part I, Attendance in Public Day Schools, State Department of Education.

**Averages are based on total number of students of each race in the system.

INTERVENOR'S EXHIBIT NO. 4 (Continued)

FAIRFIELD SCHOOL SYSTEM

Insured Values of Schools*

<u>School</u>	<u>Value</u>
<u>WHITE</u>	
Fairfield High School	\$1,149,000.00
Fairfield Junior High	300,000.00
Donald Elementary	250,000.00
Forest Hill Elementary	265,000.00
Glen Oaks Elementary	262,200.00
Total	\$2,226,200.00
Value Per Pupil	\$ 1,251.00
<u>NEGRO</u>	
Fairfield Industrial High	\$1,111,600.00
Inter-Urban Hgts. Junior	55,000.00
Englewood Elementary	95,500.00
Robinson Elementary	520,000.00
Total	\$1,782,100.00
Value Per Pupil	\$ 810.00

*Information obtained from summary sheet prepared in response to subpoena request #12 of plaintiff-intervenor.

INTERVENOR'S EXHIBIT NO. 4 (Continued)

FAIRFIELD SCHOOL SYSTEM

Enrollment by Grade, by Race*

<u>Grade</u>	<u>White</u>	<u>Non-White</u>	<u>Total</u>
1	166	188	354
2	163	209	372
3	130	198	328
4	164	192	356
5	162	188	350
6	144	184	328
Total—			
Elementary	929	1,159	2,088
7	140	167	307
8	134	218	352
9	155	204	359
Total—			
Junior High	429	589	1,018
10	142	207	349
11	150	175	325
12	172	143	315
Total—			
Senior High	464	525	989
Grand Totals	1,822	2,273	4,095

*Information from Net Enrollment, Items XVII and XX, Annual Report—Part I, Attendance in Public Day Schools. State of Alabama, Department of Education.

INTERVENOR'S EXHIBIT NO. 4 (Continued)

FAIRFIELD SCHOOL SYSTEM

Capacity and Enrollment Summary*

<u>School</u>	<u>Capacity</u>	<u>Enroll- ment</u>	<u>Number of Students</u>	
			<u>Under Capacity</u>	<u>Over Capacity</u>
WHITE				
Fairfield High	840	445	395	—
Fairfield Jr. High	420	415	5	—
Donald Elementary	455	339	116	—
Forest Hills Elem.	525	289	236	—
Glen Oaks Elem.	420	291	129	—
Total	2,660	1,779	881	000

Net Available Places in White Schools—881

NEGRO

Fairfield

Industrial	1,020	702	318	—
Inter-Urban				
Hgts. Jr.	240	340	—	100
Englewood				
Elementary	280	184	96	—
Robinson				
Elementary	980	972	8	—
Total	2,520	2,198	422	100

Net Available Places in Negro Schools—322

Net Available Places in Entire School System—1,203

*Information from Item V, Number on Roll at Close of Last Mo., Annual Report—Part I, Attendance in Public Day Schools. State of Alabama, Department of Education; and summary sheet prepared in response to Subpoena Item #16 of Plaintiff-Intervenor.

Attorney's 6

23331

FAIRFIELD CITY BOARD OF EDUCATION-FAIRFIELD, ALABAMA

Application for Assignment or Transfer of Pupils

A separate application must be filled in completely and legibly in ink or typewriter and signed by both parents (if living) or the legal guardian of each pupil for whom assignment or transfer is requested. It must be delivered to the school principal for transmittal to the Superintendent of Schools.

Application for enrollment at _____ School

Date _____ Present Grade _____

Name of Child _____ Age _____ Sex _____

Date of Birth _____ Race _____

Home Address _____ Telephone _____

Mother's Name _____

Father's Name _____

(First) (Middle) (Last)

(Both parents must sign if living together.)

Child lives with: Mother _____ Father _____

Other (Explain) _____

Guardian's Name _____

Occupation of Mother _____

Name of Employer _____

Occupation of Father _____

Name of Employer _____

Schools Attended (in order of attendance) _____

Date & Place Child First Entered School _____

Last School Attended _____ Last Grade Attended _____

Names & Ages of Brothers & Sisters _____

Mother's Signature

Father's Signature

or Guardian's Signature

Applications Will Be Determined By The Superintendent Of Schools In The First Instance.

Applicants dissatisfied with the Superintendent's decision may request a hearing before the Board of Education within fifteen days of the Superintendent's decision.

Intervenor's Ex 7 00001

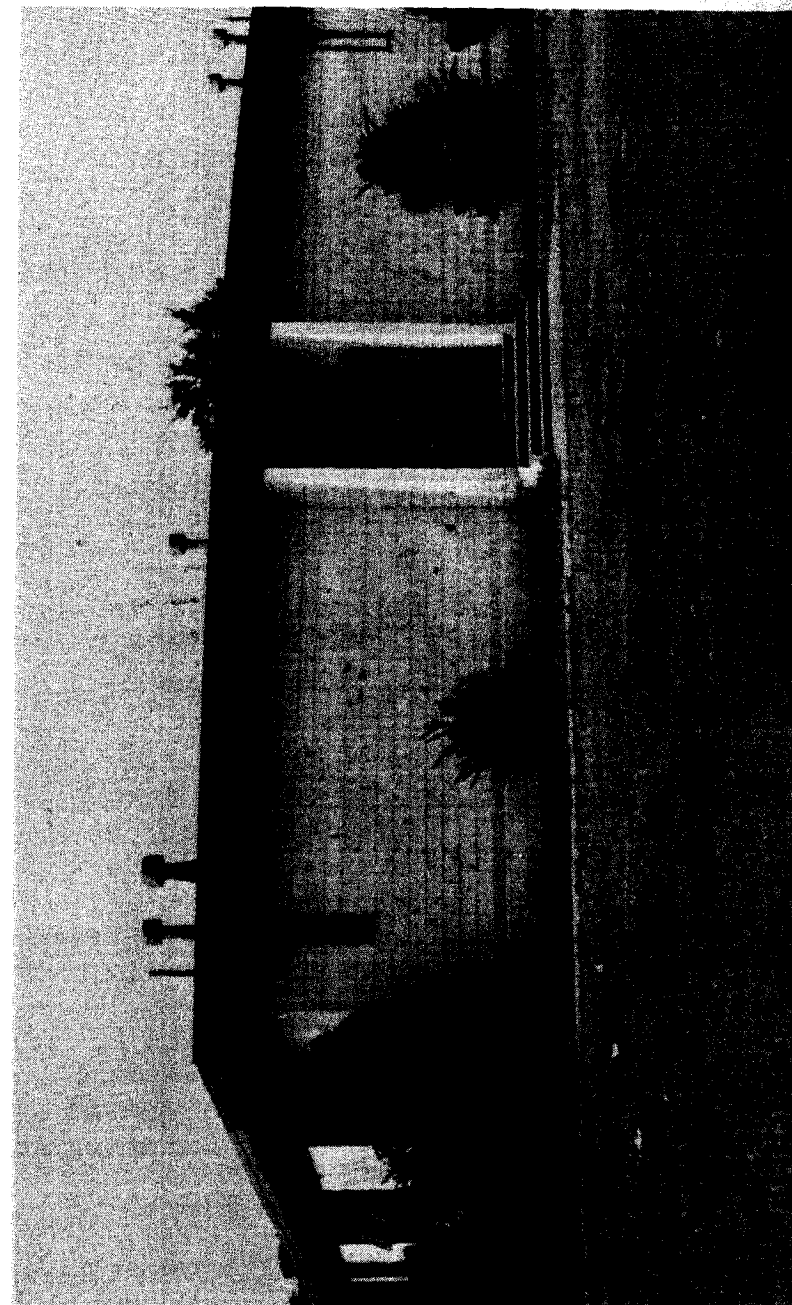
FAIRFIELD SCHOOL SYSTEM

Statistical Summary^{o/}

	Fairfield High School	Fairfield Industrial High School
Enrollment	445	702
Amount Under or Over Cap.	-395	-318
Pupil-Teacher Ratio	1-18	1-20
Insured Valuation	\$1,149,000	\$1,111,600
Pupil-Classroom Ratio	16	21
Pupil-Acreage Ratio	66	58
Date of Construction(orig)	1928	1940
Health Inspection Rating	96	96

^{o/} Information compiled from Items II and V, Annual Report - Part I, Attendance in Public Day Schools; summary sheets prepared in response to subpoena requests of plaintiff-intervenor; Rating Sheet of Jefferson County Health Inspector.

INTERVENOR'S EXHIBIT NO. 15



IN THE
United States Court of Appeals
FOR THE FIFTH CIRCUIT

No. 23,331

UNITED STATES OF AMERICA,
Appellant-Intervenor

GEORGE ROBERT BOYKINS, as next friend of
TYWANNA FAYE BOYKINS, JACKIE D. BOYKINS
and PATRICIA ANN BOYKINS, et al.,

vs.

FAIRFIELD BOARD OF EDUCATION,
G. VIRGIL NUNN, as Superintendent of the
Fairfield Board of Education, et al.,
Appellees.

Filed, U. S. Court of Appeals, January 31, 1966. Edward W. Wadsworth, Clerk.

APPELLANT-INTERVENOR'S DESIGNATION OF
PORTIONS OF RECORD TO BE PRINTED
ON APPEAL

Pursuant to Rule 23(a) of the Rules of this Court, the following portions of the record on appeal are hereby designated by appellant for printing:

1. Complaint, filed July 21, 1965.
2. Notice of United States of America of Motion and Motion to Intervene as a Plaintiff, filed July 30, 1965.

3. Complaint in Intervention, filed July 30, 1965.
4. Answer of defendants to complaint, filed August 2, 1965.
5. Objections of plaintiff to defendants' plan for desegregation, filed August 18, 1965.
6. Objections of plaintiff-intervenor, United States of America, to plan for Desegregation, with Memorandum of Points and Authorities in support of objections to plan attached, filed August 19, 1965.
7. Plan of defendants for desegregation of Fairfield School System operating under the supervision of Board of Education of the City of Fairfield, filed August 19, 1965.
8. Plan for desegregation of the School System operating under the supervision of the Board of Education of the City of Fairfield, Alabama, filed August 23, 1965.
9. Amended plan of defendants for desegregation of Fairfield School System operating under the supervision of Board of Education of the City of Fairfield, Alabama, filed August 23, 1965.
10. Order overruling objections of plaintiff and intervenor to the amended plan for desegregation of the Fairfield School System, and approving Plan, filed August 23, 1965.
11. Findings of Fact and Conclusions of Law, filed September 8, 1965.
12. Judgment pursuant to the Findings of Fact and Conclusions of Law, filed September 8, 1965.
13. Notice of Appeal by United States of America, plaintiff-intervenor, from the order overruling objections

and approving plan for desegregation of the Fairfield School System, filed October 22, 1965.

14. Order extending the time within which the record on appeal may be filed and docketed with the U. S. Court of Appeals, Fifth Circuit, filed November 23, 1965.
15. Transcript of Proceedings, filed January 18, 1966.
16. Plaintiffs' exhibits 1, 2.
17. Defendants' exhibits 6, 7, 8, 9, 10, 11.
18. Plaintiff-intervenor's exhibits 3, 4, 6, 7, 15.
19. This Designation of Portions of Record To Be Printed On Appeal.

Respectfully submitted,

John Doar [Sig.]
JOHN DOAR,
Assistant Attorney General

David L. Norman [Sig.]
DAVID L. NORMAN,

Joel M. Finkelstein [Sig.]
JOEL M. FINKELSTEIN,

*Attorneys,
Department of Justice,
Washington, D. C. 20530.*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Appellant-Intervenor's Designation of Portions of Record to be Printed on Appeal has been served by official United States mail to the attorneys for the appellants and appellees addressed as follows:

Mr. Demetrius C. Newton
408 North 17th Street
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Mr. Orzell Billingsley, Jr.
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Birmingham, Alabama

Dated: January 28, 1966.

Joel M. Finkelstein [Sig.]
JOEL M. FINKELSTEIN,
Attorney,
Department of Justice,
Washington, D. C. 20530.