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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

KALIMA JENKINS, et al.,

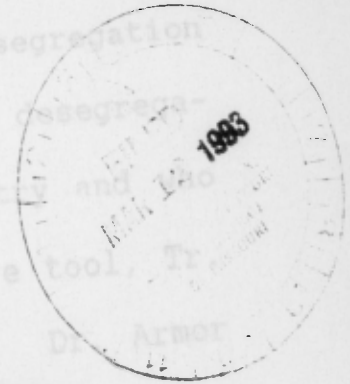
Plaintiffs,

v.

STATE OF MISSOURI, et al.,

Defendants.

No. 77-0420-CV-W-4



STATE OF MISSOURI POST-HEARING MEMORANDUM IN
OPPOSITION TO JOINT MOTION OF KCMSD AND PLAINTIFFS
FOR APPROVAL OF LONG-RANGE MAGNET RENEWAL PLAN

In 1986, the Kansas City Missouri School District ("KCMSD") and the Jenkins Plaintiffs persuaded this Court to order implementation of the original Long-Range Magnet Plan ("LRMP"). KCMSD and Plaintiffs ("Movants" here) contended at that time that implementation of such an ambitious and costly plan would radically transform the KCMSD and would achieve added desegregation by attracting significant numbers of white students from private schools in and around KCMSD and suburban schools as well. The plan was fully implemented in 1991-92¹, with much of the

¹ Distinctive magnet programs have been in place in all high schools, middle schools, and two-thirds of the elementary schools since the beginning of the 1991-92 school year. Operations at these schools are fully focused on implementation of the magnet theme(s) at each school. The central administration is clearly focused on magnet implementation, as it has been since 1986.

The contention that the magnet plan is not yet fully implemented because some grades in some schools

Indeed, the testimony of Dr. David Armor, a desegregation expert who has evaluated and designed magnet plans for desegregation purposes in many school districts in this country and who supports the magnet school concept as a desegregative tool, Tr. 3006, establishes that the LRMP is poorly designed. Dr. Armor testified that extending and expanding the LRMP as Movants propose is equally ill-conceived and would ultimately jeopardize the desegregation that has been attained in KCMSD over the past seven years, by failing to stabilize the current white population. Based on his extensive study of desegregation programs generally, and his extensive experience in evaluating and designing magnet plans, Dr. Armor concluded that the LRMP is fundamentally flawed because, among other problems, it contains "too many magnets," Tr. 3009.

This Court's Desegregation Monitoring Committee ("DMC") also had an opportunity to review the Movants' proposal. After numerous subcommittee meetings and a meeting of the full committee, at which the Movants made an extensive presentation of their case for approval, the full DMC, by unanimous vote of the 11 members present, concluded that no case for a ten-year extension or an expansion of the LRMP had been made and rejected the proposal. See, State Exhibit 56. Of particular relevance to the Court, the DMC specifically mentioned, among other things, its objections to magnetizing all the schools, the proposed ten-year term for the renewal, altering existing themes without bottom-up input and the fact that no meaningful plan was presented by which KCMSD would fund its share of the costs of a program which

explained hereafter, due to the demographic trends occurring within KCMSD, even doubling the number of transfers maintained will not prevent the continued upward climb of the minority percentage in KCMSD.

II. THE CLEAR DEMOGRAPHIC AND ENROLLMENT TRENDS IN THE KCMSD DEMONSTRATE THAT KCMSD'S WHITE POPULATION AND ENROLLMENT HAS NOT STABILIZED AND PRECLUDE THE ATTAINMENT OF THE GOALS OF A 60/40 RACIAL BALANCE OR EVEN THE NEW 65/35 GOAL TO WHICH THE KCMSD AND THE PLAINTIFFS HAVE RETREATED.

One of the central issues to be addressed by this Court in deciding whether the KCMSD magnet plan should be continued or expanded as proposed is whether the KCMSD magnet system will ever attain an overall goal of a 60% black/40% white enrollment, or even the 65% black/35% white goal that the KCMSD has more recently proposed. This issue can only be resolved by a critical evaluation of the underlying demography of the school district itself since it is from within the District that KCMSD will primarily draw its white enrollment. Thus, the numerical level desegregation that can be attained is necessarily dependent on the changing demography within the KCMSD. Tr. 2685 (Clark).

Understandably, the KCMSD would like to dismiss the demographic analysis of Doctors Clark and Morrison as "peripheral" to the issues before the Court. See KCMSD Post-Trial Brief at 66. In view of the failure of the LRMP to even approximate its central racial balance objectives after full implementation of the plan, the KCMSD would prefer to continue to deal with easy promises rather than concrete realities. The fact remains, however, that the demographic realities of the KCMSD impose

substantial limitations on the attainment of the racial balance objectives of the current proposal before the Court or any other. To fail to recognize that fact is both short-sighted and irresponsible.

A. The Resident White School Age Population and Enrollment Within the Borders of the KCMSD Will Continue to Decline Through the Year 2000

The State presented two expert demographers who addressed the underlying demography within the KCMSD. Dr. William Clark, a human geographer and demographer from UCLA, conducted a demographic analysis of the school-age resident population³ within the geographic boundaries⁴ of

³ Dr. Clark analyzed the census data for the entire school age population within the KCMSD. This represents a larger universe of school age children than the actual enrollment in the KCMSD public schools, and includes the private and home schooled population as well as the population enrolled in the KCMSD. It is from within this larger universe that KCMSD draws its enrollment. Thus, the underlying demography of the entire school age population will necessarily define the resident pool of potential students for the KCMSD.

Dr. Peter Morrison conducted a complementary demographic analysis which focused on the actual school age population enrolled within the KCMSD. As demonstrated by Morrison's testimony and exhibits, the trends found the enrolled population in the KCMSD correspond to the resident school age population Tr. 2771-73.

⁴ There are a small number of tracts that cross the borders of the KCMSD into surrounding school districts. Employing a standard and reasonable method of tract splitting, Dr. Clark made various assumptions about the populations in those few tracts. Contrary to KCMSD's assertions, Dr. Clark's tract splitting methodology was reasonable and further refinements such as "aerial" photographs were not necessary to more precisely determine the KCMSD population in the relative small number of tracts involved. Tr. 2689.

the KCMSD to assess the changes in the school age population from 1980 to 1990. From these historical trends, Dr. Clark forecasted the future resident school-age population for both 1995 and the year 2000. In particular, Dr. Clark focused his analysis on the historical and future trends of the resident school-age white population within KCMSD's geographic boundaries.

Utilizing 1980 and 1990 census data and the cohort retention method⁵, which is a standard demographic method of predicting populations, Dr. Clark forecasted a somewhat stable black population, but continuing white school age population loss through the 1990's and into the year 2000. Tr. 2693; State Exhibit 80 (Table 2). Dr. Clark testified that with the underlying demography--namely a declining white school age population--it will be more difficult for the KCMSD to attain its racial percentage goals, especially since the current KCMSD enrollment reflects a substantially higher percentage of black students. Tr. 2695.

⁵ The cohort retention method utilized by Dr. Clark assumes that the rates of retention within KCMSD for the school-age children from 1980 to 1990 will continue from 1990 to the year 2000. Tr. 2690-92. The methodology used in a standard method utilized by demographers to predict future populations. Tr. 2692. Contrary to KCMSD and the Plaintiffs' assertions, the white loss seen from 1980 to 1990 is likely to continue into the 90s. While the effect of the mandatory 6-C plan in the early 80s may have contributed to some portion of the trends in the 80s, so too has the implementation of the magnet plan in the latter half of the decade. That implementation and its effect, positive or negative, will have the same effect on the future trends.

An independent parallel analysis of the resident school age population actually enrolled in the KCMSD was conducted by the second State demographic expert, Dr. Peter Morrison. Dr. Morrison presented historical evidence of the underlying demography of the resident enrollment population. Utilizing the resident enrollment trends occurring in the previous four years and the cohort retention methodology, Dr. Morrison was able to predict the resident enrollment through 1997.

The cohort grade progression method of predicting future enrollments that Dr. Morrison employed is a traditional and accepted mode of analysis. Tr. 2764-66. Moreover, the accuracy of that method of enrollment projection in the KCMSD is confirmed by Dr. Morrison's experience, which he described. As Dr. Morrison testified, he employed the same cohort grade progression method in the fall of 1990 to predict KCMSD's fall, enrollments for the fall of 1992-93. Tr. at 2754-56; 2845-46; State's Exhibit 86. Comparison of Dr. Morrison's predicted KCMSD enrollments for the fall of 1992-93 with the actual enrollments that were later reported reveals that Dr. Morrison's projection was within 14 students of the number that actually enrolled. Tr. at 2756; State's Exhibit 92. The enrollment projections offered by the KCMSD, by contrast, were substantially in error within a matter of weeks after they were prepared. On September 4, 1992, KCMSD published a set of enrollment projections that had been prepared by its employee, Mary Esselman. See KCMSD Exhibit 30. As Dr. Morrison testified, Ms. Esselman projected an "expected" enrollment growth rate

during the first year of her forecast of 1.78%. Tr. 2761. In fact, however, the enrollment growth rate actually grew during that period by only 0.95%. See State's Exhibit 92. Thus, Ms. Esselman's projection predicted an enrollment growth rate in the first year that proved to be nearly twice the enrollment growth rate that was actually experienced. As Dr. Morrison commented, "a discrepancy this large in the first year of a multi-year forecast does not lend confidence to either the method or assumptions or both." Tr. 2761⁶.

Dr. Morrison employed the same method of analysis to project the future KCMSD enrolments through the fall of 1997 that he had used in the previous enrollment projection which had proven to be remarkably accurate. Tr. 2762-64; 2845-47. According to Dr. Morrison's expert judgment, the demonstrated accuracy of his previous KCMSD enrollment projection confirmed that the method of forecasting that he employed was appropriate to the circumstances, and that the judgments he had made in apply-

⁶ To convert Dr. Morrison's forecast to comparable forecast growth rates, Dr. Morrison forecast a growth rate of 1.07% over a two year period, and the actual growth rate experienced over that two year period was 1.09%. Ms. Esselman, by contrast, forecast a growth rate of 1.78% over a one year period and the growth rate during that one year period was only 0.95%. See State's Exhibit 92.

Although Ms. Esselman was called to testify on other issues as part of the KCMSD's rebuttal case, she offered no rebuttal to Dr. Morrison's testimony and no defense whatsoever of her enrollment projections that Dr. Morrison has explicitly criticized. By her silence on these issues, Ms. Esselman effectively conceded the validity of Dr. Morrison's analysis and his critique of her analysis.

ing that analysis were realistic when compared to the KCMSD's experience and circumstances. Tr. 2762-63. His enrollment forecast is, therefore, the best evidence of the enrollment trends of the resident KCMSD students that has been placed before the Court. Its reliability is further confirmed by the general consistency of the demographic trends that Dr. Clark predicted for the total student population within the KCMSD and the enrollment trends that Dr. Morrison predicted for that portion of the total resident population that chooses to attend school in the KCMSD public schools. Tr. at 2771-73⁷.

⁷ The KCMSD maintains that Dr. Morrison's projections are not reliable because they assertedly failed to recognize the positive effect on enrollments that the proposed revisions to the magnet plan will produce. See KCMSD Post-Trial Brief at 69. This argument illustrates the District's disposition to rely on easy promises rather than deal with reality. Indeed, Ms. Esselman's incorporation of such rosy promises for the future was what appears to have resulted in an "expected" enrollment forecast that was demonstrated to have overstated the anticipated KCMSD enrollment growth rate by 78% in the first forecast year alone. See Morrison Tr. 2761 (Morrison).

In any event, KCMSD's assertion that Dr. Morrison's enrollment forecast failed to account for the positive effects on enrollments of the magnet plan is simply mistaken. As Dr. Morrison testified, any improvement in the retention of KCMSD students resulting from the magnet plan is "embedded in the grade progression rates as they're now measured," which reflect an improved attractiveness and a continual process of phasing in the magnet system as it occurs and to the extent that those developments impact the KCMSD enrollments. Tr. 2824-25. As Dr. Morrison noted, that, the impact of the magnet plan in improving retention rates through an increased attractiveness of the school system could be expected to wane at some point in time. Tr. 2826-28.

Together, the analysis of Doctors Clark and Morrison establish the KCMSD's demographic realities that limit the District's ability to attain the promised 60/40 racial balance goal, or even its proposed relaxed goal of 65/35. As that evidence indicates, both the resident black population and the resident black enrollment will continue to increase, while both the resident white population and the resident white student enrollment will continue to decline. See Clark Tr. at 2693; and Tr. 2769-71; Morrison 2790-92; State Exhibits 89-91⁸. To date, the effect of the increasing resident minority enrollments and the declining resident non-minority enrollments have been masked somewhat by the additional non-minority enrollments entering the KCMSD from the suburbs. Tr. at 2768; 2791. Since the suburban non-minority enrollments can be expected to peak in the coming years, however, see Part II-C, infra, this masking effect cannot be expected to continue indefinitely.

B. The Overall White Population Within the KCMSD Continues to Decline and Contrary to the Unsubstantiated Assertions by Dr. Gary Orfield, the KCMSD Has Not Stabilized the White Population or Enrollments in the School District.

Contrary to the assertion made by counsel for the KCMSD during opening statement, the loss of white children from within

⁸ As Dr. Morrison summarized:

And what I see really is a set of demographic realities that makes a 60-40 or even a 65-35 racial balance unattainable because of where we are now and because of the underlying demographics and the dynamics that are operating.

the KCMSD has not been "virtually eliminated". Tr. at 25. In fact, as the hearing progressed, KCMSD and Plaintiffs' assertions of white stabilization grew even broader than KCMSD's counsel's initial unsubstantiated claim. Through their housing expert⁹, Dr. Orfield¹⁰, movants advanced bold claims that not only had the white population stabilized in general, but also that the white school age population within KCMSD had stabilized as well. Tr. 59-64. Although Dr. Orfield further hypothesized that this purported stabilization may be due to the implementation of the KCMSD magnet plan, Tr. 64, 77, 127, he admitted on cross examination that he had not done enough work on the issue to say that the magnets had in fact caused the stabilization that he claimed to exist. Tr. 118.

⁹ Dr. Orfield was generally qualified as an expert in school desegregation and housing segregation. Tr. 42. However, unlike the State's expert, Dr. William Clark, Dr. Orfield is not a demographer and his opinions regarding the demographics within the KCMSD should be given little, if any, weight.

¹⁰ While Dr. Orfield purported to be "unbiased" in his analysis of the demographic and housing trends within the KCMSD because he had not been paid for his work, he would be more aptly characterized as "uninformed". Dr. Orfield consistently testified in wholesale reliance on unverified charts and graphs that had been created by unidentified persons within the KCMSD and their attorneys. Tr. 85-90. In fact, Dr. Orfield readily admits that he had done no original or independent analysis or investigation, claiming "I don't prepare documents for parties". Tr. 86-87. This casual attitude toward the facts is in stark contrast to the State's experts, who, while paid for their efforts, did their own analyses of the data, verified their sources and accuracy of their work, and gave objective testimony relating to facts, both favorable and unfavorable.

Each demographic proposition offered by the KCMSD and Plaintiffs by Dr. Orfield was thoroughly dismantled by the testimony of Dr. Clark, who personally conducted a substantial demographic review of Kansas City¹¹. As Dr. Clark demonstrated, Dr. Orfield presented an incomplete analysis of selective census tracts within the KCMSD boundaries, focusing on the rate of population loss from one decade to the next, rather than on the heart of the KCMSD demography--what the actual white loss has been and whether it is likely to continue in the future.

KCMSD's Exhibit 8 demonstrated the rate of population loss from the 1970's to the 1980's had slowed from 1980's to the 1990's. Tr. 60. From this exhibit, Dr. Orfield argued that Kansas City was somewhat interesting because the declining rate of population loss was unusual in big cities. Tr. 60-61. Dr. Clark not only challenged the rationale for using the rate of white loss from one decade to another as an indicator of school desegregation, he seriously questioned whether any inference could legitimately be drawn from such analyses. More importantly, Dr. Clark established that KCMSD reflected a substantial and consistent pattern of continued total and school age white loss

¹¹ Interestingly, there was absolutely not one shred of evidence presented by the KCMSD or Plaintiffs to establish foundation for the demographic graphs and charts presented by Dr. Orfield. He admitted on cross-examination that he had no personal knowledge of who had conducted the analysis, or whether it had been done correctly and accurately. Tr. 87. While Dr. Orfield stated that KCMSD would present foundation witnesses, Tr. 87, it never did. Thus, KCMSD Ex. 8 and Plaintiffs' Exhibits 1 and 2 should be given no weight whatsoever.

in the 1980's. Moreover, Dr. Clark demonstrated that the decline in the rate of loss in the 1980's as compared to that experienced in the 1970's was no source of comfort. As Dr. Clark noted, "If you've lost half the white population in the first decade, you got a much smaller base from which to lose the population in the next decade. If you went on losing at that rate, you'd have no one living in the city". Tr. at 2699 (Clark)¹². Further, Dr. Clark took issue with Dr. Orfield's claim that the slowed rate of loss in Kansas City was "interesting" or assertedly unusual for big cities. Dr. Clark, who monitors national trends as a demographer, testified that the Kansas City experience was not unusual at all. Tr. 2699.

Dr. Orfield testified that he further believed that KCMSD schools had played a dramatic role to the process of acceleration of racial change. Tr. 61. From an analysis of the select-

¹² Using the example presented to Dr. Clark during cross-examination by KCMSD counsel, the absurdity of Orfield's analyses and the inferences to be drawn was clearly demonstrated. KCMSD counsel gave Dr. Clark a scenario where the white population in one tract showed the white population went from 170 to 45 and then from 1980 to 1990 the population went from 45 to 36. Tr. 2736. While Dr. Clark agreed that the rate of loss obviously decreased from 1980 to 1990 compared to 1970 to 1980, he accurately pointed out that the tract continued to lose white students. Tr. 2736. It was simply impossible to lose another 170 whites in the 80s since only 45 existed! If anything, KCMSD's example demonstrates the point Dr. Clark made: in the 1970s the District lost so many whites that it was virtually impossible for the District to lose the same number and at the same rate because the District had only a small white population left by 1980. Tr. 2699.

ed inner cities tracts, he went on to argue that there was evidence of stability in the white population. Tr. 60, 61, 64, 77, 127. And finally, Dr. Orfield made the broad and admittedly unsubstantiated leap of faith that this "stability" may have been caused by the implementation of the magnet plan. Dr. Orfield admitted that he could not prove that the magnet system had any causal relationship to the alleged stability, and that a "major research project" which he had not done would be necessary to establish such causation. Tr. 60, 64, 127-129.

The so-called stabilization of the white population and Dr. Orfield's suggestion that the magnets may have played some role to play in this asserted phenomena were completely rebutted by the thorough analyses of Dr. Clark. See, State Exhibits 81, 82, 83, and 84. Analyzing the exact census tracts utilized by Dr. Orfield, Dr. Clark looked more closely at the black and white population changes from the 1970's through the 1990's and found that the white population was not stable at all¹³. Tr. 2701, 2704, 2708, 2710-14.

¹³ Focusing on the white population changes, Dr. Clark demonstrated that significant white loss was experienced in the 1980s in the majority of tracts chosen by Dr. Orfield. Dr. Clark concluded that regardless of the rate of loss, explained by the already large losses in the 1970s, there was a consistent pattern of white loss in both the total population and the school-age population through the 1980s. Tr. 2701. In fact, in the Orfield tracts alone, from 1980 to 1990, the District lost 562 white five (5)-to-fourteen (14) year olds--at least an entire school's worth of children. Tr. 2703.

KCMSD's school age population from 1980 to 1990 than Tract 51: significant and continuing white loss. Tr. 2708¹⁵.

Dr. Clark also offered his opinion concerning the magnet plan's prospect of reversing the white loss trends experienced in KCMSD thus far. Having researched this point in other cities and written scholarly articles on this very subject, Dr. Clark concluded that desegregation plans do not cause the racial change in the area populations as Dr. Orfield espoused. Tr. 2715. Given the history of the LRMP in Kansas City thus far, it is unlikely to produce that type of effect in the future. Tr. 2715.

C. The Additional Increase in White Enrollment As A Result of Suburban Transfer Students Will Not Enable the KCMSD to Attain or Even Closely Approach the Stated Racial Balance Goals

The testimony of Doctors Clark and Morrison regarding trends in the total KCMSD population and KCMSD's resident student population establish significant limitations on what can realistically be expected to be attained in future years. That evidence, when considered with the projected peaking of the suburban white enrollments in the coming years, explain why neither an extension of the LRMP nor its proposed expansion can realistically be expected to produce the KCMSD racial composi-

¹⁵ To verify his analyses of tract 51, Dr. Clark went one step further. In State ex. 84, Dr. Clark analyzed a significant number of additional inner city tracts surrounding tract 51, including a number of the tracts contained in Dr. Orfield's analyses. Again, Dr. Clark found the same trend--significant and continuing white population loss. Tr. 2713.

tion of 60% minority and 40% non-minority that the KCMSD promised in years past, or even the 65/35 goal that it advanced at this hearing.

The survey conducted under the supervision of Doctors Clark and Armor indicates that the KCMSD magnet system, as currently implemented or as proposed for the future, offers only limited potential for attracting additional white suburban students into the KCMSD. According to Dr. Armor, a competent interpretation of the results of the telephone survey conducted under his supervision in the KCMSD and the surrounding suburban districts in December, 1992 and January, 1993 indicates that, even under optimal conditions, KCMSD's magnet system can only be expected to produce a maximum potential pool of approximately 3,300 transfer students from the suburban districts. Tr. 2921¹⁶. Dr. Armor's projected number does not suggest a potential for 3,300 additional students; rather, his projected maximum pool includes the 1,290 transfer students that KCMSD claims already are attending its schools. Tr. 2923. Thus, the additional maximum potential pool of suburban transfers is only some 2,000 students.

Dr. Armor's testimony also clearly establishes that the likelihood of KCMSD attracting the full potential 3,300 students is not substantial. As he noted, although a seemingly competent

¹⁶ As Dr. Armor indicated, this projection would apply even if the KCMSD's proposed expansion of its magnet programs were authorized. Tr. 2927-29.

survey conducted by the KCMSD in 1986¹⁷ projected that 6% of the suburban student population would enter the KCMSD to attend its magnet schools, only approximately 1.5% of the suburban student population actually entered the KCMSD public schools in the following six years. Tr. 3004-05. The KCMSD's actual experience, in contrast to the predictions of the prior survey, prompted Dr. Armor to testify that he was not optimistic that KCMSD would actually attain the full potential of suburban transfer students that his survey suggested for the coming years. Tr. 2994¹⁸. In Dr. Armor's view, the KCMSD will be fortunate to get a total number of approximately 3% of the potential transfer students, Tr. 2995, only some 1,000 more than the KCMSD claims currently attend its magnet schools.

¹⁷ Dr. Armor examined previous surveys conducted in 1986 and 1992. As he testified, he found the 1986 survey to be useful to measuring the perception of the potential for the KCMSD magnets at that time, although its results are too dated to serve as a significant measure of current suburban interest. Dr. Armor found the 1992 survey to be of considerably less utility, however, because it was incomplete and failed to ask critical questions that must be examined if a survey is to provide a valid basis for predicting behavior, such as whether parents would actually send their children to the magnet schools and, if so, what themes would be sufficiently attractive to prompt suburban transfers. Tr. 2860.

¹⁸ Other expressions of opinion developed through the recent survey corroborate that pessimism. For example, the level of parental satisfaction with their own public school systems is quite high in the suburban school districts. In Dr. Armor's view, this makes students less likely to transfer into the KCMSD than they would be if the suburban school systems were perceived to be unsatisfactory. Tr. 2885-86.

districts pose substantial constraints on the overall level of racial balance that can be attained in the KCMSD at any cost. As Dr. Armor summarized all of the evidence, obtaining the initial goal of a 60/40 racial balance is not attainable.

I'm not implying that if you guys just did this right, you could actually get the 60-40. I do not believe that that's in the demographics and it's in the cards, based on what we've seen here.

Tr. 2996 (Armor). If all of the potential pool of suburban transfer students entered the KCMSD and remained in its schools-- a prospect that Dr. Armor decidedly does not predict, Tr. 2911-14--the resulting racial balance that would be attained would be only 72% black and 78% white. Tr. 2926 (Armor). In fact, Dr. Armor's view is that the more likely racial balance that the KCMSD can attain even with an extension and expansion of the magnet plan is approximately 75/25. Tr. 2994.

III. THE KCMSD MAGNET SYSTEM HAS NOT PRODUCED
SIGNIFICANT ACADEMIC ACHIEVEMENT OR ENHANCED THE
DISTRICT'S ABILITY TO ATTRACT SIGNIFICANT WHITE
STUDENT POPULATIONS.

A. The State Proved Through Compelling
Statistical Analysis That the Magnet Schools,
As Implemented in the KCMSD, Have Not
Resulted in Increased Black Student
Achievement.

The State presented the testimony of Dr. John Alspaugh, Professor of Education and Statistics at the University of Missouri-Columbia, to support its position that the magnet program, as implemented in the KCMSD, has not had a significant positive effect on student achievement. Dr. Alspaugh has specialized in educational statistics and research methods for the last 28 years, Tr. 2311,

and his findings²⁰. See, generally, KCMSD Post-Trial Memorandum, at 78-90. After all, Dr. Alspaugh's conclusions are a stunning indictment of the District's ability to implement the magnet school concept in a way that improves academic achievement for the aggrieved class of students or for all students, and thus enhances the attractiveness of the KCMSD to additional non-minority students.

- a. No differences between magnet schools and non-magnet schools in terms of black student achievement.

First, Dr. Alspaugh concluded there is no consistent difference between magnet and non-magnet elementary schools in term of reading and math achievement. Tr. 2316. As support for this conclusion, Dr. Alspaugh painstakingly reviewed the data found in State Ex. 64. Tr. 2333-2335. Dr. Alspaugh explained that, even before controlling for the factors of percentage minority students, percentage of students on free lunch and percentage of students enrolled after the first month of school, there were just as many instances where non-magnet elementary schools outperformed their magnet counterparts as vice versa. Tr. 2334. Dr. Alspaugh next explained that after adjusting for the influences mentioned earlier, the same exact conclusion result-

²⁰ It is important to note here that the District's rebuttal was designed to correct deficiencies in their own data as well as to comment on early drafts of Dr. Alspaugh's work that the State never presented in its case in chief.

ed. Tr. 2334-35. This conclusion is vitally important because it shows, for the only grades where such a comparison is possible, that the KCMSD's magnet schools have not been associated with a significant increase in black reading or math grade level equivalent achievement scores.

- b. After controlling for the disparate socioeconomic backgrounds of students at magnet versus non-magnet schools, non-magnet students perform better academically.

Dr. Alspaugh's second conclusion was in two parts. He found that there is a marked difference between the socioeconomic backgrounds of students assigned to magnet versus non-magnet schools and that, if one statistically removes the influence of socioeconomic factors on student achievement²¹, then students assigned to non-magnet schools tend to have higher achievement than students in magnet schools. Tr. 2316. As support for this conclusion, Dr. Alspaugh very carefully described the statistics portrayed in State Ex. 66. Tr. 2337. State's Ex. 66 revealed that non-magnet KCMSD elementary schools have a significantly higher percentage of minority enrollment as well as a higher percentage of black students tested as a percentage of the total number of students tested. Non-magnet schools also

²¹ A statistical process which will be explained, intra. Generally, however, the process used by Dr. Alspaugh is one called statistical regression which is a standard methodology employed by educational statisticians to assess the impact of certain variables on learning.

have quite significantly higher numbers of students receiving free lunch as well as a greater number of students who enroll after the first month of school. See State Ex. 66.

To illustrate the conclusions Dr. Alspaugh reached from the tables on State Ex. 66, he prepared the graphs found on State Ex. 61 (graphs 3-6). At the bottom of each of those graphs, Dr. Alspaugh has indicated that non-magnet schools consistently have higher percentages of students whose socioeconomic factors are likely to have an adverse effect on student achievement. Tr. 2338-39. Further, State Ex. 67 shows that if one controls for the percentage of students at each type of school who receive free lunch, students in non-magnet schools tend to have higher achievement than students in magnet schools²².

²² In criticizing Dr. Alspaugh's use of percentage black students tested, percent minority enrollment, percent free lunch and percent late enrollment, the District makes baseless arguments. Specifically, the District criticizes Dr. Alspaugh for not controlling for such factors as teacher training and experience, status of capital renovation, class size, school size, or the level of educational attainment of the parents of the students who were tested in March, 1992. See KCMSD Post-Trial Brief at 82. The State never disputed that the District's "preferred factors" are quantifiable; rather the State's experts merely maintain that the socioeconomic factors controlled for are the ones most likely to affect student achievement. The District has presented not one scintilla of evidence to refute the position taken by the State experts that the major effects of student achievement are related to the socioeconomic factors for which Dr. Alspaugh controlled in his analysis.

More specifically, Dr. Alspaugh even addressed the issue of
(Footnote Continued)

- c. Magnet schools, as implemented in the KCMSD are associated with lower black student achievement and lower overall student achievement in the District.

Dr. Alspaugh's third conclusion is that the implementation of magnet schools to increase the relative percentage of white students in the elementary schools is associated with lower black student achievement and lower overall student achievement. Tr. 2316. Specifically, Dr. Alspaugh explained very systematically his conclusions drawn from the data set forth in State Ex. 70. Tr. 2360-65. According to Dr. Alspaugh, this exhibit shows that black student achievement has been declining in KCMSD elementary and middle schools. Tr. 2360. Even in those few instances where black student achievement seems nominally to have increased, Dr. Alspaugh testified that one cannot know for sure whether these few increases shown for some of the high school cohorts in that exhibit were actually improvements at all because, in each case, fewer than 50% of the original students remained in the cohort. Tr. 2364-65. This is likely

(Footnote Continued)

teacher training and experience when he testified that, based on his research, "years of experience of teachers doesn't relate directly to achievement". Tr. 2448.

Moreover, Dr. Walberg, testified similarly, confirming "a long record of research which I would hold to now...many studies have shown an absence of relationship of the number of years of the teachers' experience, and even advanced degree levels, to how much their children learn...that is certainly consistent with my present views". Tr. 2609-2610.