



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
REGION VII

FEDERAL BUILDING  
801 EAST 12TH STREET  
KANSAS CITY, MISSOURI 64106

May 5, 1977

OFFICE OF  
THE REGIONAL DIRECTOR

DRAFT

Mr. Robert Wheeler, Superintendent  
Kansas City, Missouri School District  
1211 McGee Street  
Kansas City, Missouri 64106

Dear Superintendent Wheeler:

The Office for Civil Rights has completed its review of the essential features of the Desegregation Plan developed by the School District of Kansas City, Missouri, and submitted to this Office on March 28, 1977. I regret to inform you that the Plan, taken as a whole, does not desegregate the District's schools to the extent required by current legal standards. Further, the general comments on page 5 of your Plan regarding equal educational opportunity do not address the specific findings of denial of equal services and opportunities to minority students set forth in our letter of findings of noncompliance dated April 14, 1975, and later presented at your District's Title VI administrative enforcement hearing. For these and several other reasons enumerated below involving the inclusion in your Plan of other District policies related to student assignment practices, I must advise you that the Plan does not meet the compliance requirements of Title VI of the Civil Rights Act of 1964.

A Desegregation Plan submitted by your District must meet the requirements for desegregation set forth in the Supreme Court Decision of Swann v. Charlotte Mecklenburg Board of Education, 402 U.S. 1 (1971). The starting point for rectifying unlawful segregation is reassignment of students so that each school in the system approximates the ratio of minority to nonminority students which exists in the school system as a whole. We interpret Swann to mean that schools which have a student racial enrollment characteristic in excess of plus or minus 20 percent of the District-wide average are racially suspect. In the Kansas City School District, where the assignment of students has been found illegally segregative by an administrative law judge, we believe that the continuation of enrollment characteristics which exceed that standard are impermissible so long as methods are available which can be used to further desegregate schools which have such enrollment characteristics. We have concluded that methods are available in your District to desegregate many more schools to a greater degree than that achieved under your Plan.

CLERK U.S. DISTRICT COURT

Exhibit

P **2742** D

Case No. 77-0420-CV-W-4

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One of our analyses of student assignment practices under the Plan compared the + 20 percent standard to the District's 67 percent minority enrollment to measure the effectiveness of the Plan. We found that 8,828 of the 15,567 (57 percent) minority secondary students will remain in schools 98 percent or more minority in enrollment. Of the 7,849 nonminority secondary students in the District, 5,361 (68 percent) will attend secondary schools with enrollments less than 47 percent minority. Of the 13,635 minority elementary students, 8,441 (62 percent) will remain assigned to schools over 88 percent minority in enrollment. Of the 7,133 nonminority elementary students in the District, 5,126 (72 percent) will remain assigned to schools less than 47 percent minority in enrollment.

An analysis of the effect of the Plan on the racial character of individual schools using the same + 20 percent standard reveals that prior to Plan implementation, 54 of the District's 65 elementary schools have enrollments either less than 47 percent minority or greater than 87 percent minority, and after the Plan is implemented, 49 of the 60 remaining elementary schools will have enrollments outside of the acceptable range. At the secondary level, 16 of the 19 secondary schools operating prior to implementation have enrollments either less than 47 percent minority or greater than 87 percent minority, and after Plan implementation, 15 of the 21 then operating secondary schools will have enrollments outside of the acceptable range. The following chart will serve to illustrate this point for the secondary schools:

| <u>School</u>  | <u>Pre-Plan<br/>% Minority<br/>Enrollment</u> | <u>Within<br/>+ 20%<br/>Range</u> | <u>Post-Plan<br/>% Minority<br/>Enrollment</u> | <u>Within<br/>+ 20%<br/>Range</u> |
|----------------|-----------------------------------------------|-----------------------------------|------------------------------------------------|-----------------------------------|
| Bingham Jr.    | 47                                            | X                                 | 53                                             | X                                 |
| Leeds/Dunbar   | 32                                            |                                   | Closed                                         |                                   |
| East H.S.      | 45                                            |                                   | 53                                             | X                                 |
| Southwest H.S. | 36                                            |                                   | 43                                             |                                   |
| Westport H.S.  | 69                                            | X                                 | 71                                             | X                                 |
| Northeast Jr.  | 26                                            |                                   | 41                                             |                                   |
| Nowlin Jr.     | 4                                             |                                   | 34                                             |                                   |
| Northeast H.S. | 23                                            |                                   | 44                                             |                                   |
| Van Horn H.S.  | 4                                             |                                   | 31                                             |                                   |
| Central Jr.    | 99                                            |                                   | 99                                             |                                   |
| King Jr.       | 99                                            |                                   | 99                                             |                                   |
| Lincoln Jr.    | 99                                            |                                   | 99                                             |                                   |
| Southeast Jr.  | 98                                            |                                   | 98                                             |                                   |
| Central H.S.   | 99                                            |                                   | 99                                             |                                   |
| Lincoln H.S.   | 99                                            |                                   | 99                                             |                                   |

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| <u>School</u>  | <u>Pre-Plan<br/>% Minority<br/>Enrollment</u> | <u>Within<br/>+ 20%<br/>Range</u> | <u>Post-Plan<br/>% Minority<br/>Enrollment</u> | <u>Within<br/>+ 20%<br/>Range</u> |
|----------------|-----------------------------------------------|-----------------------------------|------------------------------------------------|-----------------------------------|
| Manual H.S.    | 99                                            |                                   | Closed                                         |                                   |
| Paseo H.S.     | 99                                            |                                   | 99                                             |                                   |
| Southeast H.S. | 98                                            |                                   | 98                                             |                                   |
| West H.S.      | 81                                            | X                                 | 78                                             | X                                 |
| East Jr.       |                                               |                                   | 47                                             |                                   |
| Fairview 7th   |                                               |                                   | 35                                             |                                   |
| Harrison 7th   |                                               |                                   | 35                                             |                                   |
| Westport Jr.   |                                               |                                   | 69                                             | X                                 |

We have omitted the chart illustrating the change in racial character of the elementary schools because it similarly points out that a minimal number of segregated schools have been eliminated under the Plan.

We are encouraged by your choice of techniques (zone changes, pairing, clustering, and grade reorganization) employed to gain the desegregation that your Plan accomplishes; however, we believe that limitations have been imposed which have significantly curtailed the effectiveness of your efforts. For example, the attendance zone lines established along the northern and western edges of the inner city "minority corridor" in many instances continue to follow the lines of demarcation between minority and nonminority residential patterns. As a consequence, a number of virtually all minority enrolled schools will share common boundaries with schools that remain predominantly nonminority in enrollment.

The pairing of five inner city black elementary schools with predominantly nonminority enrolled schools in the northeastern and eastern extremities of the District indeed accomplishes a degree of desegregation; however, the consequences of the manner in which such pairings are accomplished renders these pairings unacceptable. Specifically, two of the five minority schools have each been paired with three nonminority schools. Three of the minority schools have each been paired with two nonminority schools. The obvious result of such "split-pairing" is to provide a pool of predominantly nonminority students in each instance, thus assuring that the enrollment of no single school will exceed 44 percent minority in this 67 percent minority District. Further, we find it particularly objectionable, that in each and every instance of these split-pairings the lower grades (one through four in most instances) are placed in the 12 former white schools, while the upper grades (five and six in most instances)

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are located in the five former black schools. The establishment of grade placements made in this manner causes, in every instance, the youngest of the children transported to be black, and the older children transported to be white.

It is the view of this Office that a District has not fulfilled its obligation to desegregate its school system where there remains a substantially large number of schools which are either racially isolated or substantially disproportionate in their racial composition and which were part of a finding by the administrative law judge of intentional segregative activity or a finding that the school is a vestige of the dual school system.

As I stated earlier, methods are available to desegregate many more schools in the District to a greater degree than that accomplished under the Plan. Some of these build upon the pairing and clustering proposed in your Plan, and include pairing of secondary schools, redrawing attendance zones, and further pairing and clustering of elementary schools. As was pointed out to you at a meeting with OCR regional officials on April 15, 1977, it appears that pairing of some secondary schools would not create unreasonable distance for secondary students to travel to school; yet such pairing could produce a virtually unitary school system at the secondary level.

As noted earlier, a number of racially isolated black elementary schools share common attendance boundaries with schools which are predominantly nonminority after implementation of your Plan. Redrawing attendance zone lines where such instances occur, and greater pairing of inner-city minority schools with nonminority schools at the east, west, and southwest edges of the District would maximize opportunities for desegregation at the elementary level.

Other District policies which have an impact on the student assignment practices in your District were discussed in an overview statement at pages 1-10 of the Plan. Our comments below address our continuing concerns in several of these areas which have not been alleviated in the Plan.

#### EQUAL EDUCATIONAL OPPORTUNITY

We find the District's position regarding the provision of equal educational opportunities expressed in the Plan to be unacceptable. The Plan fails to provide any remedial or corrective action to resolve the OCR findings of discrimination. Although the administrative law judge held that the Department's evidence failed to prove the

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contentions, we have appealed the findings regarding the quality of instructional services and educational programs offered minority students.

The Plan provides for the continued operation of the unaccredited West High School with a projected total enrollment of only 279 students, 81 percent of whom are minority. You have admitted that West will not offer an educational program comparable in scope and depth to that offered in other high schools. The Plan also does not address the issues of course offerings and quality of instructional services at the other minority secondary schools. For these reasons, we believe that the discriminatory treatment of minority students continues.

The appropriate authority for the resolution of the equal services issue rests within the administrative appeals procedure. Accordingly, we are unable to accept your offer to rely on the opinion of educational consultants to evaluate the District's educational program to determine whether it is offered free of discrimination.

#### INTEGRATION OF FACULTY AND ADMINISTRATION

The Plan correctly reports that "... the District took steps to reassign teachers in such a manner as to racially balance the teaching staff in each school of the District" in 1973. That reassignment was effected to correct the past discriminatory assignment of faculty to schools in a manner which supported the racial identifiability of the schools based on the student enrollment. At that time, faculty was reassigned to schools to establish a pattern in each school which generally represented the District-wide racial composition of elementary and secondary teachers. (Specifically, the assignment met the ESAA Regulation waiver requirement that each school would contain between 75 and 125 percent of the District-wide ratio of minority or nonminority teachers.)

Since you indicated in your Plan that you will continue to assign teachers as you have in the past, we have reviewed the current teacher assignment patterns by educational level and we find that faculty assignments in the current school year have reverted (through attrition and new assignments) to a point at which these schools may once again be identified as intended for students of one race or another. In each of the District's 18 senior and junior high schools, the representation of minority faculty has changed since the 1973/74 school year to more closely represent the racial character of the student body. The chart below illustrates this point with regard to seven of these schools.

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| <u>School</u>    | <u>1976/77<br/>% Minority<br/>Students</u> | <u>1972/73<br/>% Minority<br/>Faculty</u> | <u>1973/74<br/>% Minority<br/>Faculty</u> | <u>1976/77<br/>% Minority<br/>Faculty</u> |
|------------------|--------------------------------------------|-------------------------------------------|-------------------------------------------|-------------------------------------------|
| Central H.S.     | 99                                         | 70                                        | 45                                        | 67                                        |
| Manual H.S.      | 99                                         | 68                                        | 42                                        | 65                                        |
| Central J.H.S.   | 99                                         | 74                                        | 46                                        | 70                                        |
| M.L. King J.H.S. | 99                                         | 63                                        | 42                                        | 84                                        |
| Lincoln J.H.S.   | 99                                         | 71                                        | 45                                        | 63                                        |
| Van Horn H.S.    | 4                                          | 6                                         | 33                                        | 22                                        |
| Northeast H.S.   | 23                                         | 10                                        | 33                                        | 23                                        |

Because the District has violated the policy it adopted in 1973 to assure that faculty assignment would no longer be discriminatorily based on race, and again appears to be improperly considering the race of a teacher as a factor in assignment, your commitment to continue this practice is unacceptable.

#### OPTIONAL ZONES

The policy statement in the Plan's introductory material abolishing all optional attendance zones - a device found by the administrative law judge to maintain segregated schools—does not identify which zones are being abolished, how parents and students will be informed, and how you will enforce the policy. These matters are significant because many "unofficial optional zones" have existed in the recent past, and at the Title VI administrative hearing District witnesses could not identify all optional zones which had existed.

Furthermore, the Plan itself creates an optional zone for students in the Twain attendance area at the secondary level. Those students, who are nearly all black, will be transported under your Plan to three white elementary schools in the Van Horn High School attendance area. But at the secondary level, those students are given the option of attending the Van Horn secondary schools or returning to the all-black Southeast High School. It seems unlikely, as your desegregation advisor, Dr. Holmes, agreed, that your Plan's projection that 50 percent of the Twain students will attend the Van Horn secondary schools is reasonable in the first few years after implementation.

In summary, the policy statement lacks necessary detail about how options will be abolished and the Twain option created under the Plan appears unworkable for the purpose intended.

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TRANSFER POLICY

The Plan provides that the present policy which prohibits all transfers which impede desegregation, except for exceptional circumstances, will be continued. In an effort to determine the acceptability of this feature of your Plan, OCR requested statistical data relating to the approximately 5,000 students who have transferred away from their neighborhood schools during the 1976-77 school year. Although we have not reviewed the individual files of transferred students, we have determined that in practice, the District has violated the policy developed in 1973. Further, the policy has been unofficially amended to include categories of transfers such as "continuation transfers" and "adjustment transfers" (other than those previously defined) under which approximately 2,000 students attend non-resident schools. If the District is not implementing its previous agreement with the Department about student transfers, a policy which promises to continue current practices must be unacceptable.

Furthermore, your comments on statistical projections in the Plan estimate minority enrollments based upon resident students in each attendance area. The fact that approximately 10 percent of the District's students do not attend their resident school because they are transferred to another school, must surely affect the validity of the statistical projections for individual school enrollment.

For the reasons stated, I have determined that your Plan does not satisfactorily remedy your noncompliance with Title VI. Despite this conclusion, I am convinced that your District can develop an acceptable Desegregation Plan. I trust that this explanation of the unacceptability of specific features of your Plan will be useful for you considering its modification. As always, my staff and I remain available to assist you in formulating a Plan which will satisfy your District's obligations under the law.

Sincerely,