

**United States District Court, Northern District of Illinois**

Name of Assigned Judge or Magistrate Judge	Charles P. Kocoras	Sitting Judge If Other than Assigned Judge	
CASE NUMBER	80 C 5124	DATE	3/1/2004
CASE TITLE	USA vs. Board of Education of the City of Chicago		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

**MOTION:**

**DOCKET ENTRY:**

(1)  Filed motion of [ use listing in "Motion" box above.]

(2)  Brief in support of motion due \_\_\_\_\_.

(3)  Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.

(4)  Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.

(5)  Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.

(6)  Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.



(7)  Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.

(8)  [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.

(9)  This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  
 FRCP4(m)  Local Rule 41.1  FRCP41(a)(1)  FRCP41(a)(2).

(10)  [Other docket entry] Enter Modified Consent Decree.

(11)  [For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input checked="" type="checkbox"/> Docketing to mail notices. <input checked="" type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	SCT  courtroom deputy's initials	U.S. DISTRICT COURT CLERK MAR 2 9 48 AM '04	number of notices	Document Number 1106
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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

NOV - 5 2003

DOCKETED

MAR 2 - 2004

MICHAEL J. DOBINS  
CLERK, U.S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

v.

BOARD OF EDUCATION OF  
THE CITY OF CHICAGO,

Defendants.

No. 80 CV 5124

Judge Charles P. Kocoras

MAR 2 - 2004

MODIFIED CONSENT DECREE

The original Consent Decree in this desegregation lawsuit was entered in 1980 between the Chicago Public Schools (the "CPS") and the United States to settle a lawsuit filed in 1980 by the United States against the Board of Education of the City of Chicago. By entering into the original Consent Decree, the CPS neither admitted nor denied the allegations in the lawsuit filed by the United States. To implement the 1980 Consent Decree, the CPS developed, and the Court approved, a Desegregation Plan, which the CPS began implementing in 1982.

The complaint in the lawsuit alleged that the CPS was operating in violation of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution and Titles IV and VI of the Civil Rights Act of 1964. Complaint at ¶¶ 1, 4. The complaint also alleged that the CPS had engaged in "unlawful [ ] segreg[ation of] students on the basis of race and ethnic origin (Hispanic)" through a number of "specific practices" regarding student and faculty assignment and related educational practices. These alleged practices included: drawing attendance zone boundaries and adjusting grade structures of schools in racially and ethnically segregative ways; allowing racially segregative intradistrict transfers by white students; maintaining severely overcrowded and thereby educationally inferior schools for African American students and less crowded schools for white students; and assigning teachers and staff to schools in racially segregative ways. Complaint at ¶ 15.

*The Original Consent Decree and the Desegregation Plan.* The original Consent Decree and Desegregation Plan had two major goals. The first goal was to establish "the greatest practicable number of stably desegregated schools, considering all the circumstances in Chicago." The second goal of the Decree and Plan was to "provide educational and related programs for any Black or Hispanic

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schools remaining segregated." Today, the CPS and the United States remain fully committed to both of these goals.

With regard to the first goal, the 1980 Decree required the CPS to use various techniques to achieve the greatest number of stably desegregated schools. These included: magnet schools; majority-to-minority ("M-to-M") transfers; attendance areas; site selections and school closings. For magnet schools, the Decree required the use of racial/ethnic goals. Decree at ¶¶ 4.1, 4.2, 4.3. To prevent the resegregation of students, the Consent Decree required that the Plan include, inter alia, "provisions to ensure that site selections, construction, school closings, readjustments of attendance areas and feeder patterns, and new placement of mobile classrooms [be] accomplished so as not to cause the resegregation of schools." Decree at ¶ 10.3. In addition, the Decree required that faculty be assigned so that the racial composition, the experience, and the educational background of individual school faculties and administrative staff "more nearly approach" the city-wide proportions of minority, experienced, and more extensively trained teachers. Decree at ¶ 3.

The student assignment component of the Desegregation Plan included provisions for implementing the student assignment goal and obligations of the Consent Decree. For example, the Plan called for magnet schools to have a goal of 15% to 35% white and 65% to 85% minority enrollments and for the CPS to provide transportation for students to attend magnet schools and for students who exercise voluntary desegregation transfers. Plan at 209, 212, 133. The Plan also allowed the use of controlled enrollment to relieve overcrowding and to maintain racial and ethnic stability in schools. Plan at 85-86.

For the second goal, the 1980 Decree required the CPS to implement a plan that included "specific programs for Black and Hispanic schools remaining segregated, in the following areas among others": remedial and compensatory educational programs; improved curricula and instruction; pre-service and in-service instruction for CPS personnel; testing, counseling, guidance and student welfare; facilities, safety, and security; and supportive relationships with community and government institutions. Decree at ¶¶ 7, 7.1-7.7. The Decree also required the CPS to develop and implement a plan to ensure that English Language Learner ("ELL") students are provided the instructional services necessary to assure their effective participation in the educational programs of the CPS. Decree at ¶ III.2.

Like the student assignment component of the Desegregation Plan, the educational component of the Plan included a number of provisions and strategies to implement the second goal of the Consent Decree and the CPS' obligations regarding that goal. These provisions included one in which the CPS committed to conduct a comparative analysis of high school curricular offerings to maximize parity, program accessibility and consistency in the range of courses offered. See

Educational Components at 26. In addition, consistent with the Decree's requirement that the Plan include "provisions to ensure that discipline was administered in a non-discriminatory way," Decree at ¶ 9, the CPS agreed to systematically monitor discipline by race and ethnicity and to prepare recommendations for improvement. Educational Components at 71.

*Changes in CPS Since 1980's.* The parties acknowledge and agree that much has changed in the CPS since the entry of the 1980 Consent Decree. For example, while the total enrollment in the CPS has fluctuated since the implementation of the Consent Decree and the Desegregation Plan, the enrollment has increased over the last 10 years. For the 2003-04 school year, the CPS has an enrollment of approximately 434,000 students and operates approximately 600 schools. The CPS also has experienced significant growth in enrollment in certain geographic areas of the City and decline in other areas of the City.

Since the early 1980's, the CPS has experienced racial and ethnic demographic shifts in its enrollment. The number and percentage of Hispanic students has increased sharply, while the number and percentage of White and African American students has decreased. The number of English Language Learners who are enrolled in the CPS also has increased significantly.

Since 1980, the CPS also has experienced changes as a result of new and revised state and federal laws. At the federal level, for example, the CPS is now subject to the requirements of the *No Child Left Behind Act of 2001* ("NCLB"), which affects all aspects of the CPS, including student and faculty assignment, facilities, compensatory education and English Language Learner programs. At the state level, the legislature, in 1989, passed the Illinois School Reform Law, which significantly modified the manner in which the CPS governs and operates its schools.

*Going Forward.* In 2001, the CPS determined that it was time to conduct a comprehensive review of its implementation of, and compliance with, the original Consent Decree and the Plan. The CPS engaged desegregation experts to assist it in conducting this review. At the inception of the review, the CPS notified and held discussions with the United States regarding the review and met with community leaders and groups to determine whether they had any issues regarding the CPS' implementation of the 1980 Consent Decree and Plan that should be considered as part of the review. The United States began its own review of the CPS' implementation of, and compliance with, the Consent Decree and Plan.

The United States and the CPS have reviewed the CPS' compliance with the Decree and the Plan and have identified areas where further attention is warranted. These areas where full compliance is yet to be achieved relate to magnet schools, transfers, school openings and closings, attendance zone changes, controlled enrollment, assignment of faculty and school-based administrators, compensatory

programs and services for English Language Learner students. The parties acknowledge and agree that the CPS has met certain obligations under the 1980 Consent Decree and the 1982 Desegregation Plan, but that the remaining areas of noncompliance necessitate the remedies included in this Modified Consent Decree. Accordingly, the parties agree to enter into this Modified Consent Decree, which includes a timetable to bring this case to a just and orderly resolution. The United States and the CPS expect the goals of the original Consent Decree and Desegregation Plan will be achieved through full and good faith implementation of this Modified Consent Decree.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that:

I. Student Assignment

A. Goals

The parties recognize that, given the geographical size of the CPS and the demographics of the CPS and the City of Chicago, it is not practicable for all the CPS schools to have enrollments that are desegregated. Therefore, in assigning students to schools, the CPS shall use a variety of strategies to assign students to schools, and in implementing these strategies, the CPS shall establish and maintain as many schools with stably desegregated enrollments as practicable.

B. Student Assignment Strategies

1. The CPS shall use a variety of strategies to assign students to schools and to provide students the opportunity to attend schools with desegregated enrollments. These strategies shall include:
  - a. magnet schools;
  - b. specialized schools, including selective enrollment schools, gifted centers, classical schools, scholastic academies, metropolitan high schools, program themes and other options;
  - c. other voluntary transfers; and
  - d. attendance boundaries.
2. Magnet schools and specialized schools shall be considered desegregated if they have enrollments that are 15% to 35% White and 65% to 85% minority.

C. Magnet Schools

1. The CPS shall continue to implement magnet schools throughout the CPS. Three key goals, among others, of the magnet schools in the CPS are: (1) to improve academic achievement of all students enrolled in the schools; (2) to voluntarily attract racially and ethnically diverse enrollments; and (3) to provide curricular programs that provide enriched and focused thematic learning experiences to meet the interests of students in the CPS.
2. The magnet schools are open to students from throughout the CPS, although transportation to magnet schools may be limited as set forth in the Magnet Policy. If there are more applicants than seats available, the CPS shall use a lottery process to select students. If there are fewer applicants than seats available, the CPS shall admit all applicants. The schools that are currently considered magnet schools are listed in Appendix A.
3. By the date specified in Appendix D of each school year, the CPS shall revise and update, if necessary, its magnet school recruitment guidelines and procedures to ensure that student from all races and ethnicities have equitable access to magnet schools and that a variety of strategies — at both the district and school levels — continue to be used to recruit students from all races and ethnicities to achieve a desegregated enrollment.
4. By the date specified in Appendix D, the CPS shall conduct a study of its magnet schools, which shall analyze whether, in light of the number of students who have applied for and who were not accepted into magnet schools or other quality school options due to space constraints, the CPS should establish additional magnet schools, including additional magnet schools, where appropriate, to provide continuity in magnet themes from the elementary school to the high school. In addition, as part of the study, the CPS shall review and update, if necessary, the curriculum, recruitment procedures, transportation limitations and other aspects of magnet schools to enhance their ability to attract a racially and ethnically diverse pool of applicants and to enroll desegregated student bodies. The CPS shall implement additional magnet schools and programs or other voluntary desegregative choice options, such as “small schools,” contract schools or demonstration schools, if they are recommended by the study and are practicable. By the date specified in Appendix D, the CPS shall provide a copy of this study to the United

States. By the date specified in Appendix D, the CPS shall notify the United States of any proposed material changes to the magnet schools and programs or other voluntary desegregative choice options. Nothing in the Modified Consent Decree shall preclude the United States from conducting its own magnet study and/or seeking further relief, including petitioning the Court to order the CPS to open additional magnet schools.

- D. Specialized Schools, including selective enrollment schools, gifted centers, classical schools, scholastic academies, metropolitan high schools, program themes and other options.

In addition to magnet schools, the CPS provides a number of other programmatic options for parents and students. These include selective enrollment schools, gifted centers, classical schools, scholastic academies and metropolitan high schools. By the date specified in Appendix D, the CPS shall conduct a review of the definitions, recruitment procedures, and requirements for each of these options to ensure that all options are clear to all parents and students and that all students have equitable access to these options. The CPS shall review and update, if necessary, any definitions, recruitment procedures, and admission requirements that are not clear to all parents and students or that do not provide equitable access for all students. By the date specified in Appendix D, the CPS shall provide any revisions to the United States, and shall make appropriate modifications.

- E. Other Voluntary Options

- 1. Magnet Clusters

Magnet cluster schools are open to students who live in the attendance boundary for a particular magnet cluster school. If there are seats available after the students who live in the attendance boundary for a magnet cluster school have enrolled in that school, students who live outside the attendance boundary for that magnet cluster school may apply to attend that magnet cluster school. If there are more applicants than seats available, the CPS shall use a lottery process to select students. If there are fewer applicants than seats available, the CPS shall admit all applicants.

In identifying schools to be part of a magnet cluster, the CPS identifies four to six elementary schools that are in close geographical proximity to one another. Where possible, the CPS

shall identify schools to be part of a magnet cluster that are in close geographical proximity and that may contribute to the desegregation of the schools in the cluster. Each school within a magnet cluster implements one of six academic areas of focus: Fine and Performing Arts; the International Baccalaureate Middle Years Programme; the International CPS Scholars Program; Literature and Writing; Math and Science or World Language. The schools that are currently considered magnet cluster schools are listed in Appendix B.

2. Transfers

By the date specified in Appendix D, the CPS shall review and update, if necessary, its transfer policy to provide for open enrollment transfers, majority-to-minority transfers and NCLB transfers and to ensure that the transfer policy is consistent with this Consent Decree.

a. Open Enrollment Transfers

The CPS has permitted open enrollment to all schools subject to available space. By the date specified in Appendix D of each school year, the CPS shall monitor and report the number of open enrollment transfers by sending and receiving school, disaggregated by race and ethnicity. If open enrollment transfers are having a cumulative negative impact on desegregation in a school, the CPS shall take steps to redress this impact.

b. Majority-to-Minority Transfers

The CPS provides students the opportunity to transfer from a school where they are in the racial or ethnic majority to one where they are in the racial or ethnic minority ("M-to-M transfers") and where there is space available with transportation provided to designated schools. By the date specified in Appendix D of each school year, the CPS shall report to the United States the schools that may be available for M-to-M transfers and for which transportation may be provided. By the date specified in Appendix D of each school year, the CPS shall report to the United States the number of M-to-M transfers for the prior school year by sending and receiving school, disaggregated by race and ethnicity. The CPS shall publicize through a variety of means the availability of M-to-M transfers, including the names of the identified schools, the



racial and ethnic enrollment of these schools and the transportation available.

c. NCLB Transfers

Students attending a Title I school identified for School Improvement, Corrective Action or Restructuring pursuant to the NCLB have the opportunity to transfer to a school that is not identified for School Improvement, Corrective Action or Restructuring. For these transfers, the NCLB allows districts to identify schools to which students may transfer. Where feasible, the CPS shall identify schools to which students may transfer where the students transferring shall promote or maintain desegregated enrollments. The CPS shall document the options considered in identifying schools to which students may transfer pursuant to the NCLB and shall provide such documentation to the United States by the date specified in Appendix D of each school year. For each school considered, this documentation shall include the capacity, total enrollment, and racial and ethnic enrollment. By the date specified in Appendix D of each school year, the CPS shall report to the United States the number of NCLB transfers for the prior school year by sending and receiving school, disaggregated by race and ethnicity.

F. Attendance Boundaries

1. By the date specified in Appendix D, the CPS shall post on its website the current CPS attendance boundaries.
2. By the date specified in Appendix D, the CPS shall review and update, if necessary, and publish a policy for establishing and revising attendance boundaries. This policy shall include the process and procedures for setting these boundaries, including the public hearing requirement, which is now in effect. In addition, the policy shall include the process and information that shall be provided to the Board. The policy shall require that alternatives or options be developed for each proposed attendance boundary and that a range of factors be considered, including the capacities of each of the schools involved in the proposed boundaries, the current and projected racial and ethnic composition of the schools affected, geographic barriers and travel time. Where feasible, the CPS shall establish attendance boundaries to maintain or promote stably desegregated enrollments in each of the affected schools and to avoid the creation of one race schools. The CPS shall document its

consideration of alternatives and all of the factors listed in this provision.

3. During the term of this Consent Decree, the CPS shall provide the United States with any proposed boundary changes within the days specified in Appendix D before such boundary changes are to be considered and approved by the CPS Board of Education, and shall include documentation of its consideration of alternatives and the factors listed in paragraph I.F.2.

G. Overcrowded Schools/Controlled Enrollment

1. The CPS shall alleviate any racially and ethnically disproportionate overcrowding of school sites, to the extent practicable.
2. By the date specified in Appendix D, the CPS shall review and update, if necessary, and publish its procedures regarding overcrowded schools and controlled enrollment to include (a) a provision that the CPS shall determine whether there exists a racially or ethnically disproportionate overcrowding of schools districtwide and (b) a provision that the CPS shall consider a variety of factors when alleviating overcrowding in schools. These factors shall include maintaining or promoting stable desegregated enrollments at sending and receiving schools. By the date specified in Appendix D, the CPS shall provide these procedures to the United States.
3. By the date specified in Appendix D, the CPS shall develop and implement a plan to monitor enrollment at schools that are overcrowded and the implementation of the controlled enrollment procedures at these schools to ensure that schools do not remain part of the controlled enrollment process after such time that enrollment drops to capacity where additional students may be enrolled. The CPS shall report annually to the CPS Board and the United States the following for each school that has been identified for controlled enrollment: (1) the capacity; (2) the current enrollment, disaggregated by race and ethnicity and by those students who reside in the attendance boundary and those who attend the school, but live outside the attendance boundary; and (3) the number and race and ethnicity of the students who reside in the attendance boundary, but who are assigned other schools due to controlled enrollment, including the name of the school they attend.

## II. Faculty Assignment

### A. Goals

The parties recognize that the CPS is subject to, and operates under, the Illinois School Reform Law (the "Reform Law"). With regard to faculty assignment, the parties recognize that the goals of the original Consent Decree are not legally supplanted in any manner by the Reform Law, and agree to the benefits of a harmonious interpretation of both.

While the CPS maintains ultimate hiring authority under the Reform Law, hiring of faculty is currently based on principal recommendation for specific positions at the principal's school and principals are hired upon the recommendation of Local School Councils. Currently, there is no centralized assignment of faculty.

1. The CPS shall make every good faith effort to follow assignment and transfer practices for teachers that, when taken together as a whole on a frequently reviewed periodic basis, promote and maintain individual school full-time teaching faculties that more nearly approach the districtwide proportion of full-time minority teachers at schools serving the same grade levels. The CPS also shall make every good faith effort to make annual progress toward meeting the faculty goals of the 1980 Consent Decree at each school that has not met the goals. The goal is to have the racial and ethnic composition of full-time teachers in each school to be within plus or minus 15 percentage points of the racial and ethnic composition of full-time teachers districtwide at the schools serving the same grade levels. *See* Decree at ¶ 3.1. Finally, the CPS shall make every good faith effort to follow assignment and transfer practices for school-based administrators so that a school is not racially identifiable by student enrollment and by the teachers and school-based administrators assigned to the school.
2. The CPS shall make every good faith effort to assign full-time teachers to each school so that the certification, experience levels (to the extent practicable) and educational backgrounds of full-time teachers assigned to schools approximate the certification, experience levels and educational backgrounds of full-time teachers districtwide at schools serving the same grade levels.

3. Nothing in this Consent Decree shall require the assignment of any teacher or school-based administrator to a position in school for which he or she is not professionally qualified.
4. The CPS shall not discriminate on the basis of race or ethnicity in the hiring of teachers or school-based administrators.

B. Plan

By the date specified in Appendix D, the CPS shall review and update, if necessary, and publish a plan for making progress toward achieving the faculty and school-based administrator assignment goals outlined above, and particularly in bringing the schools that vary from the districtwide ratio the most toward the goals. This plan also shall include provisions requiring the CPS to: advertise teaching and school-based administrator vacancies to the public; engage in recruitment and outreach to attract a racially and ethnically diverse pool of applicants for all such positions; and consider racially and ethnically diverse pools for teacher and school-based administrator positions. The plan also shall include provisions for monitoring progress in achieving the faculty and school-based administrator goals. This monitoring shall include a computer database that provides information for each school on: (1) progress toward achieving the goals outlined above regarding teachers and school-based administrators; (2) the certification, experience and degree goal; and (3) teachers teaching out-of-field. By the date specified in Appendix D, the CPS shall provide a copy of the plan to the United States. By the specified date in Appendix D of each year, the CPS shall provide a districtwide analysis of the information collected in its database to the United States for its review and comment.

III. Facilities

The CPS has expended approximately \$4 billion to build new schools and to renovate and expand existing schools throughout the CPS.

- A. By the date specified in Appendix D, the CPS shall review and update, if necessary, and publish written guidelines regarding the process by which facilities are evaluated and decisions are made regarding facilities, including maintaining of existing facilities, opening new schools, closing existing schools, consolidating schools, rehabilitating existing schools, constructing additions and annexes to existing schools, utilizing portables and renting additional classroom space offsite. In addition, the guidelines shall include the factors that are used to ensure that facilities are equitable throughout the CPS and that

relevant demographics are considered in making facilities decisions, such as whether there is increasing or declining enrollment in the affected area and the racial and ethnic enrollment of the affected schools. Where feasible, the CPS shall make decisions regarding facilities that maintain or promote stably desegregated enrollments in each of the affected schools and shall avoid the creation of one-race schools. When making such decisions, the CPS shall document its consideration of the factors listed in this provision.

- B. By the date specified in Appendix D, the CPS shall provide the United States with a copy of its Capital Improvement Plan. In addition, during the term of this Consent Decree, the CPS shall provide the United States with any proposed major facilities changes within the number of days specified in Appendix D before such major facilities changes are to be approved by the CPS Board of Education and shall include documentation of its consideration of the factors listed in paragraph III.A. For purposes of this provision, major changes shall include opening new schools, closing of existing schools, consolidating schools and constructing additions and annexes to existing schools. By the date specified in Appendix D of each school year, the CPS shall provide the United States with a report that lists, for each school, the number of portables and the number of classroom spaces rented offsite, noting the number of each that were added or removed.

#### IV. Transportation

The CPS shall not discriminate based on race or ethnicity in providing transportation. The CPS may limit the time or distance of transportation to ensure that no student shall be transported for a time or distance that would create a health risk or impinge on the educational process. These limitations may vary among different age and grade levels.

#### V. Equal Educational Opportunities

- A. Compensatory and Supplemental Programs, including early childhood programs, all day kindergarten, after-school programs, and research-based programs.

According to the 1982 Plan, the overriding goal of the compensatory and supplementary programs required by paragraphs 2.2 and 7 of the 1980 Decree is to address minority students' educational needs through improving achievement in all schools, with particular emphasis on those schools with the greatest needs and attended by children who have been most disadvantaged. The parties agree that this goal shall remain in effect during the implementation of this

Consent Decree and the CPS shall meet its obligations under the 1980 Decree and the 1982 Plan with respect to eligible African American and Hispanic racially-isolated schools. Compensatory and supplemental programs may include: early childhood programs; full day kindergarten; after-school programs; research-based programs in reading and math/science; part-time programs in desegregated settings; parental involvement programs and other compensatory programs that the CPS believes will improve achievement for minority students.

In recent years, the CPS has initiated programs that address the compensatory and supplementary program goal and funds such programs independent of its desegregation budget through other local, state, and federal funds. Recent examples of such programs include the CPS Reading Initiative, which, for the 2003-04 school year, provides supplemental reading resources to approximately 300 schools. The CPS also has fully implemented a math/science initiative at 84 schools and is preparing an additional 49 schools to implement the math/science initiative in the future. In addition, the CPS has expanded its early childhood, full day kindergarten, and after-school programs. During the life of this Consent Decree, the CPS shall maintain, and increase, if practicable, these programs at African American and Hispanic racially-isolated schools.

By the date specified in Appendix D of each school year, the CPS shall identify the schools that are implementing the reading initiative, the math/science initiative, early childhood education programs, full-day kindergarten programs or after-school or extended day programs. For each school where one or more of these programs are being implemented, the CPS also shall include in the school's report card which of these programs are being implemented. In addition, the CPS shall include in each school's report card any other supplementary and compensatory programs funded by or outside the desegregation budget.

#### B. Desegregation Funding

During the implementation of the original Consent Decree, the CPS has allocated significant local funds to its desegregation budget for desegregation activities. Such desegregation funds (*e.g.*, the 065, 163, and 011 funds) have supported magnet schools and programs, specialized schools, compensatory and supplemental programs, magnet clusters, transportation for desegregation, and other purposes. Obligations undertaken by the CPS with respect to the original Decree, however, are not limited to the desegregation budget.

For each year that this Modified Decree is in effect, the CPS shall maintain its desegregation budget at its current level of \$98.3 million, but may decrease it by no more than 10% from the previous year's level upon a showing by the CPS that the proposed decrease is not inconsistent with this Decree's goals. During the life of this Consent Decree, the CPS may use these funds for magnet and specialized schools, compensatory and supplementary programs, transportation and magnet cluster programs.

1. Guidelines for Allocation of Desegregation Funds

To ensure that the desegregation funds are used in a manner that is consistent with this Consent Decree, by the date specified in Appendix D, the CPS shall review and update, if necessary, and publish the guidelines for allocating desegregation funds, approving programs for which the funds are used, and monitoring how such funds are used at each school.

a. Magnet and Specialized Schools

The guidelines shall provide that the CPS allocate desegregation funds to assist magnet and specialized schools in developing and maintaining magnet themes, in attracting desegregated enrollments and in implementing any new magnet schools or improvements to existing magnet schools that result from the CPS' magnet study. The guidelines shall consider whether the funds are necessary for the success of the magnet school and whether the magnet school is meeting its goals, including whether achievement of such goals is feasible.

b. Compensatory and Supplemental Programs

The guidelines shall provide that the CPS allocate desegregation funds for compensatory and supplemental programs to African American and Hispanic racially-isolated schools and that priority be given to racially-isolated schools that do not receive funding for compensatory, supplemental or magnet programs, including clusters. In addition, the guidelines shall consider the schools with the greatest needs, taking into account factors related to particular issues in these schools, including achievement, safety and security, facilities, and counseling.

c. Transportation

The guidelines shall provide that the CPS allocate desegregation funds for transportation for magnet and specialized schools and for M-to-M transfers.

d. Magnet Clusters

The guidelines shall provide that desegregation funds may be used for magnet cluster schools and that, where such funds are allocated to magnet cluster schools, they are to be used to develop and to maintain the magnet themes at magnet cluster schools. The guidelines shall explain how existing and new magnet cluster schools may apply for desegregation funds. In addition, the guidelines shall require that desegregation funds for magnet cluster programs be allocated to African American or Hispanic racially-isolated schools or to schools that enhance the desegregation of schools within that cluster. The guidelines also shall ensure that the amount of desegregation funds allocated to magnet cluster schools each year does not exceed the amount of desegregation funds allocated to (1) magnet schools and programs and specialized schools, or (2) compensatory and supplemental programs for that year.

2. Reporting

By the date specified in Appendix D of each year, the CPS shall report to the United States the total amount of desegregation funds allocated by program and by school.

C. Discipline

The CPS shall review the implementation of its discipline policy and practices to ensure that a student's race or ethnicity is not a factor in any disciplinary action. By the date specified in Appendix D, the CPS shall provide the United States a copy of the results of this review.

D. Higher Level Course Offerings at High Schools

The CPS continues to be committed to increasing the number and percentage of African American and Hispanic students who participate in, and successfully complete, higher-level courses at the high school level, including Advanced Placement ("AP") and honors classes, and to ensuring that African American and Hispanic students are not discriminated against in gaining access and admission to these courses. By the date specified in Appendix D, the CPS shall review and update,



if necessary, its plan to increase the number of African American and Hispanic students participating in, and successfully completing, higher-level courses at the high school level by increasing their participation in existing higher-level courses offered at their schools and by increasing the number of higher-level courses offered at their schools. By the date specified in Appendix D of each school year, the CPS shall report (1) the number and percentage of students participating in, and successfully completing, higher-level courses at each school, disaggregated by race and ethnicity, and (2) the title of higher-level courses offered at each high school, indicating whether they are AP or honors classes. The CPS shall contact any school or schools reporting few or no AP or honors classes to determine the reason for this and shall assist the school or schools in establishing such classes.

E. Extracurricular Activities

By the date specified in Appendix D, the CPS shall develop an extracurricular policy that shall ensure that students are given equitable access to extracurricular activities no matter where they attend school. In addition, the policy shall include a provision for reporting participation in extracurricular activities by school, disaggregated by race and ethnicity. In particular, each school shall report annually the academic, social, sports and other activities offered at that school, disaggregated by race and ethnicity.

VI. English Language Learner Programs

The CPS continues to be committed to providing language acquisition programs to all eligible students. The CPS shall provide these programs in a timely and educationally appropriate manner, consistent with its written policies as set forth in its *Framework for Success* and any modifications thereto required by Appendix C. As specifically detailed in Appendix C, which is incorporated herein by reference, the CPS shall continue to discharge its legal obligations to provide language acquisition instruction to all eligible students in a manner consistent with the overall objectives of this Consent Decree. The CPS shall not assign or reassign ELL students to schools in a manner that interferes with their participation in language acquisition programs.

VII. Review of Existing Policies

By the date specified in Appendix D, the CPS shall review all relevant existing policies to ensure that they are consistent with this Consent Decree.

VIII. Training

By the date specified in Appendix D, the CPS shall provide training for the principals regarding the goals and requirements of this Consent Decree. By the date specified in Appendix D, each principal shall ensure that training is provided for his or her local school council regarding the goals and requirements of this Modified Consent Decree.

IX. Monitoring and Reporting

A. Monitoring

1. The CPS shall assign an identified department the responsibility for assisting the Chief Executive Officer in monitoring implementation of this Consent Decree.
2. The parties anticipate cooperating and therefore do not see the need for an outside monitor at this time; however, should the United States conclude otherwise, it reserves the right to petition for an independent monitor.
3. At least twice each school year, the Chief Executive Officer shall make a presentation to the CPS Board at a public board meeting regarding the progress of the CPS in implementing this Consent Decree. The CPS shall notify the United States of the dates of the presentations and shall provide a copy of each presentation to the United States.
4. The attorneys for the United States and the CPS shall meet at least twice during each school year to discuss the progress of the CPS in implementing this Consent Decree.

B. Reporting

1. By the date specified in Appendix D of each school year, the CPS shall publish for the public and shall submit to the United States a report card for the CPS and for each school regarding the implementation of this Consent Decree. Each report card shall include information regarding: (1) student racial/ethnic profiles; (2) faculty racial/ethnic profiles; (3) faculty experience/NCLB "Highly Qualified"; (4) compensatory-type programs; (5) total school budget dollars; and (6) extracurricular programs.
2. By the date specified in Appendix D of each school year, the CPS shall report:

- a. the number and percentage of students, disaggregated by race and ethnicity, enrolled in the CPS as a whole, and the number and percentage of students, disaggregated by race and ethnicity, enrolled in each school in the CPS. This data shall be provided in the binder format used by the CPS Office of Accountability;
  - b. the number and percentage of teachers, disaggregated by race and ethnicity, in the CPS districtwide at the elementary and high school levels, and the number and percentage of teachers, disaggregated by race and ethnicity, assigned to each school in the CPS. This data shall be provided in the binder format used by the CPS Office of Accountability; and
  - c. for each magnet school, the number of students, disaggregated by race and ethnicity, who: applied for admission to the school; were accepted into the school; and were denied admission to the school.
3. By the date specified in Appendix D of each school year, the United States shall review the information provided in the report cards and the reports listed in paragraph IX.B.2. and shall submit in writing to CPS any comments, recommendations and objections concerning the information contained in these annual reports.

X. Review and Termination

- A. The United States shall have the right to seek judicial resolution of any non-compliance with this Consent Decree occurring during the pendency of the Decree, by motion or other appropriate means.
- B. At all times the United States shall have the right to conduct discovery pursuant to the Federal Rules of Civil Procedure in order to assess the CPS' compliance with this Consent Decree, including the development and implementation of plans, programs and guidelines required by this Consent Decree.
- C. Upon the submission of all annual reports for the completed 2006-07 school year, the CPS shall file a motion for dismissal of this case, provided the CPS has fully and in good faith implemented the terms of this Modified Consent Decree. The CPS, however, reserves the right to move for dismissal of this case after submitting all annual reports for the completed 2005-06 school year. Should the CPS move for dismissal after the completed 2005-06 school year, it shall bear the burden of

showing full and good faith compliance with this Modified Consent Decree and why dismissal is appropriate at that time. The United States shall file any objection or objections that it may have regarding the District's motion within 60 days from the filing by CPS. The Court thereafter shall schedule any appropriate proceedings, make appropriate findings and render appropriate orders with respect to the CPS' motion for dismissal of the case in accordance with applicable law.

DATE MAR - 1 2004

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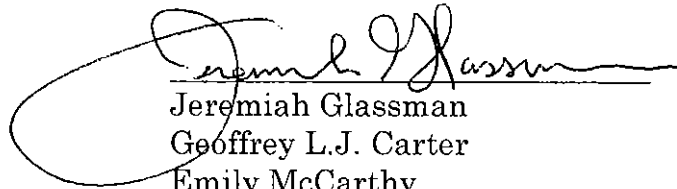
UNITED STATE DISTRICT JUDGE

THE UNDERSIGNED CONSENT TO THE ENTRY OF THIS DECREE:

Respectfully submitted,

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United States Attorney  
Joan Lasar  
Assistant U.S. Attorney  
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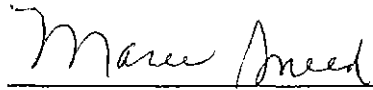
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EXHIBITS**