

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

MARGARET T. ALLEN, et al., Plaintiffs, BOARD OF TRUSTEES FOR ALABAMA STATE UNIVERSITY; et al., Plaintiff-Intervenors, vs. ALABAMA STATE BOARD OF EDUCATION, et al., Defendants.	CIVIL ACTION NO. 2:81CV-697-T
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ORDER

By agreement of all parties to this action, Paragraph 31 of the Second Amended Consent Decree, which was approved and entered by separate Order of December 14, 2004, is hereby AMENDED to read as follows:

“31. Duration and Termination of Decree. The Court shall retain jurisdiction over this matter to monitor and enforce the defendants’ compliance with the terms of this Decree to the extent necessary. If defendants choose under Article Two of this decree to use subject matter tests for initial teacher certification decisions, and/or for purposes of making “highly qualified” determinations simultaneously or in conjunction with initial teacher certification, this Decree shall be extended until such time as all subject matter tests have been fully implemented, at which time this action shall be placed on the Court’s administrative inactive docket. It is anticipated that the subject matter tests will

“go live” approximately one year after the effective date of this Decree. After implementation of subject-matter tests and twenty-four months of live consequential use of the subject matter tests following the No-Fault Period, ASDE shall undertake a review of the subject matter and basic skills tests, including the following issues:

- (a) the continued appropriateness of the test content;
- (b) the continued appropriateness of the cut score;
- (c) any changes in state and federal regulations, the state teaching and student standards, student curricula, or other relevant factors in the teacher licensure context; and
- (d) candidate performance on the subject matter tests.

After undertaking such review, the Defendants shall report the results thereof to all parties and the Monitoring Committee. Thereafter, within 30 days of ASDE’s report, any party may move the Court to reinstate the action to the active docket for the resolution of relevant issues related to the matters listed in subparagraphs (a) through (d), above, with respect to either basic skills or subject matter tests. If no such motion is filed within 30 days of ASDE’s report, then (1) this action shall be dismissed with prejudice, and (2) this decree shall be terminated in its entirety, including as to both basic skills and subject matter testing. If a motion to reinstate this action to the active docket as provided for above is filed within 30 days of ASDE’s report, the following procedures and standards of review shall control:

- (a) The motion shall set forth the moving party’s specific contentions, and the legal and/or psychometric grounds therefor, in sufficient detail to enable the Monitoring Committee and ASDE to make substantive responses as provided in subparagraphs (b) and (c), below.

(b) Within 30 days of the filing of the motion, the Monitoring Committee shall prepare and file with the Court a report, formally setting forth its position on the issue.

(c) Within 30 days of the filing of the Monitoring Committee's report, ASDE, or its contractors, vendors, or technical advisors, shall prepare and file with the Court a written response to the issue.

(d) At anytime no sooner than one day after but not more than 30 days after the filing of ASDE's response with the Court, the parties shall initiate mediation proceedings, which shall be held at ASDE's expense, by filing notice of mediation with the Court. The request of any party shall be sufficient to invoke the mediation process. The parties shall jointly report to the Court within five (5) days following the mediation as to the results of the mediation.

(e) If mediation initiated under (d) is not successful in resolving the dispute(s) between the parties, any party may request a ruling from the Court. In adjudicating any motions under this Paragraph 31, the Court may take such actions and hold such proceedings as it deems appropriate, including the appointment of a Special Master to give a Report and Recommendation. In any such proceedings, the moving party shall bear the burden of showing that the Defendants' position is inconsistent with accepted psychometric and measurement principles.

(f) The Court shall enter such Orders as it deems necessary to effectuate the intent of the parties. If the Court finds in favor of the Defendants, this Decree shall terminate in its entirety. If the Court finds in favor of any objecting party, the Court may enter an Order providing such relief as it deems appropriate, including partial termination of this Decree

pursuant to Freeman v. Pitts, 503 U.S. 467 (1992), and extension of the remaining terms of this Decree as reasonably necessary for the Defendants to comply.”

SO ORDERED on this the 11th day of February, 2005.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE