

**Anthony T. LEE et al., Plaintiffs,  
United States of America, Plaintiff and Amicus Curiae,  
v.  
MACON COUNTY BOARD OF EDUCATION et al., Defendants.**

Civ. A. No. 604-E.

**United States District Court M. D. Alabama, E. D.**

March 11, 1966.

Fred D. Gray, Gray & Seay, Montgomery, Ala., Jack Greenberg, Norman Amaker, Charles H. Jones, Jr., New York City, for plaintiffs.

John Doar, Thomas Groark, Charles Nesson, Frank M. Dunbaugh, John M. Rosenberg, U. S. Department of Justice, Washington, D. C., Ben Hardeman, U. S. Atty., Middle District of Alabama, Montgomery, Ala., for United States, plaintiff and amicus curiae.

Richmond M. Flowers, Atty. Gen., Gordon Madison, Asst. Atty. Gen., State of Alabama, Montgomery, Ala., for defendants.

Before RIVES, Circuit Judge, and GROOMS and JOHNSON, District Judges.

PER CURIAM.

In accordance with the evidence previously presented in this matter and the consent of the parties, it is hereby

Ordered, adjudged, and decreed that the defendants, their agents, officers, employees, and successors, and all those in active concert or participation with them shall

1. Execute the Plan for Desegregation of the Public School System of Macon County, Alabama, which is attached hereto and incorporated herein.
2. Report to the Court by May 15, and each such date until further order by this Court, the anticipated student enrollment in each school by race and grade for the next school year and report, as it occurs, any subsequent substantial change in enrollment affecting desegregation.
3. Report to the Court by June 1, and each such date until further order by this Court, the planned assignments of professional staff to each school for the next school year by race and grade, or where appropriate, by subject taught or position held, and report, as it occurs, any subsequent change in planned staff assignment affecting staff desegregation.
4. Report as soon as possible after the opening of its schools but no later than September 20, and each such date until further order of this Court the actual data for the items covered in the reports ordered in Paragraphs 2 and 3.
5. The Court specifically retains jurisdiction of the parties and the cause.

**PLAN FOR DESEGREGATION OF THE PUBLIC SCHOOL SYSTEM OF  
MACON COUNTY, ALABAMA**

**I.**

## DESEGREGATION OF SCHOOL GRADES

All grades in the Macon County School System will be desegregated by the Fall of 1966, and pupils will be assigned, without regard to race or color, on a freedom of choice basis as described in this plan.

728 \*728 II.

## OPERATION OF THE FREEDOM OF CHOICE PLAN

The following requirements shall apply for all students covered by freedom of choice under this plan.

(a) *Who may Exercise Choice:* A choice of schools may be exercised by a parent or other adult person serving as the student's parent. A student may exercise his own choice if he (1) is exercising a choice for the ninth or a higher grade or (2) has reached the age of fifteen at the time of the exercise of choice. Such a choice by a student is controlling unless a different choice is exercised for him by his parent or other adult person serving as his parent during the choice period or at such later time as the student exercises a choice. Each reference in this plan to a student exercising a choice means the exercise of the choice, as appropriate, by a parent or such other adult or by the student himself.

(b) *Annual Exercise of Choice:* Each student is required to exercise a free choice of schools annually.

(c) *Choice Period:* The period for exercising choice will commence on April 1 and end on April 30, preceding the school year for which choice is to be exercised. No student or prospective student who exercises his choice within the choice period shall be given any preference because of the time within the period which such choice was exercised.

(d) *Mandatory Exercise of Choice:* A failure to exercise a choice within the choice period does not preclude any student from exercising a choice at any time before he commences school for the year with respect to which the choice applies, but such choice may be subordinated to the choices of students who exercised choice before the expiration of the choice period. Any student who has not exercised his choice of school within a week after school opens will be assigned to the school nearest his home where space is available, under standards for determining available space which will be applied uniformly throughout the system.

(e) *Distribution of Explanatory Notice and Choice Form:* On the date the choice period opens, an explanatory notice and a choice form (Appendices A and B) will be sent home with each child in the Macon County Public School System. Extra copies of the explanatory notice and the choice form will be freely available to parents, students, prospective students, and the general public at each school in the system and at the office of the Superintendent.

(f) *Return of Choice Form:* At the option of the person completing the choice form, the choice form may be returned by mail, in person or by messenger, to the principal of any school in the school system or to the office of the Superintendent.

(g) *Choices Not on Official Form:* The exercise of choice may also be made by the submission in like manner of any other writing which contains information sufficient to identify the student and indicates that he has made a choice of a school.

(h) *Choice Forms Binding:* Once a choice form has been submitted it is binding for the entire school year, and may not be changed except in cases meeting the conditions set forth in Paragraph (a) of this Plan and in cases of compelling hardship.

(i) *Preferences in Assignment:* In assigning students to schools, no preference will be given to any student for prior attendance at a school, and no choice will be denied for any reason other than overcrowding. In case of

overcrowding at any school, preference will be given on the basis of the proximity of the school to the homes of students choosing it, without regard to race or color.

729 (j) *Transportation*: Buses will be routed to the maximum extent feasible so as to serve each student choosing any school in the system. In any event, every student choosing the school nearest his residence will be transported to the school to which he is assigned, whether or not it is his first choice, if that school is \*729 sufficiently distant from his home to make him eligible for transportation.

(k) *Officials Not to Influence Choice*: No official, teacher, or employee of the school system shall require or request any student to submit a choice form during the choice period other than by the explanatory notice and the choice form. After the expiration of the choice period, the school system will make all reasonable efforts to obtain a completed choice form from each student who has not exercised a choice. However, at no time shall any official, teacher, or employee of the school system influence any parent, or other adult person serving as a parent, or any student, in the exercise of a choice, or favor or penalize any person because of a choice made. Information concerning individual choices made or schools to which individual students are assigned will not be made public.

### III.

## FACULTY AND STAFF

Race or color will henceforth not be a factor in the hiring, assignment, reassignment, promotion, demotion, or dismissal of teachers and other professional staff, with the exception that assignments may be made to further the process of desegregation. Teachers, principals, and staff members will be assigned to the Nichols School, which will be opened in September 1966, so that the faculty is not composed of members of one race. With respect to the remaining schools, faculty desegregation must include significant progress beyond what was accomplished for the 1965-1966 school year.

### IV.

## SERVICES, FACILITIES, ACTIVITIES, AND PROGRAMS

A student shall have full access to all services, facilities, activities, and programs (including transportation, athletics, and other extra curricular activities) that may be conducted or sponsored by or affiliated with the schools of the system. A student attending school for the first time on a desegregated basis may not be subject to any disqualification or waiting period for participation in activities and programs, including athletics, which might otherwise apply because he is a transfer student.

### V.

## ELIMINATION OF UNEQUAL FACILITIES AND THE EFFECTS THEREOF

The Oak Grove, Pine Grove, and Brownville II Elementary Schools will not be used as regular educational facilities after September 1966. The other inferior school facilities including, but not limited to, the Prairie Farms Elementary School and the Macon County Training School, will either be eliminated as regular educational facilities or improved to the extent that the facilities, equipment, and educational aids are at least equal to those available at Tuskegee and Notasulga High Schools by the Fall of 1967. The Shorter High School, located at Shorter, Alabama, will be reopened. The Macon County Board will design and provide remedial educational programs to eliminate the effects of past discrimination, particularly the results of the unequal and inferior

educational opportunities which have been offered in the past to Negro students in the Macon County School System.

## VI.

### INFORMATION FOR THE PUBLIC

Information concerning this Plan will be furnished to the public, including all television and radio stations and all newspapers serving the County. Copies of this Plan will be posted at each school in the system and at the office of the Superintendent.

### APPENDIX A

#### NOTICE

All grades in the Macon County Public School System will be desegregated next year. Any student may choose to attend any school in the Macon County Public School System, regardless of the school's former racial designation. A choice must be made for each child in the Macon County Public School System.

730 \*730 Attached to this Notice is a choice form which must be filled out on or before April 30, 1966. If a child is entering the ninth or a higher grade, or if the child is fifteen years old or older, he may make the choice himself. Otherwise a parent or other adult serving as parent must sign the choice form.

Once a choice is made and the choice period has expired, the choice is binding for the next school year.

No child will be denied his choice unless for reasons of overcrowding, in which case children nearest the school will have preference.

Transportation will be provided, if possible, no matter what school is chosen.

Choice forms may be returned by mail, in person, or by messenger to the principal of any school in the system or to the office of the Superintendent.

### APPENDIX B

#### CHOICE FORM

This form is provided for you to choose a school for your child to attend next year. You have 30 days to make your choice. It does not matter which school the child attended last year, and it does not matter whether the school was formerly a white or a Negro school. The form must either be brought to any school principal or mailed or brought to the office of the Superintendent by April 30, 1966. A choice is required for each child.

Name of child \_\_\_\_\_ Last First Middle  
 Address \_\_\_\_\_ Name of Parent or  
 other adult serving as parent \_\_\_\_\_ If child is entering first grade,  
 date of birth \_\_\_\_\_ Month Day Year Grade pupil is entering  
 \_\_\_\_\_ School last attended  
 \_\_\_\_\_ Choose one of the following schools by marking  
 an X beside the name. Name of School Grades Location \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_  
 \_\_\_\_\_

===== To be filled in by  
Superintendent: School assigned \_\_\_\_\_

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