

IN THE UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

ANTHONY T. LEE, et al.,
Plaintiffs,
UNITED STATES OF AMERICA,
Plaintiff-Intervenor
and Amicus Curiae,

versus

CIVIL ACTION NO. 604-E

MACON COUNTY BOARD OF
EDUCATION, et al.,
Defendants.

APPENDIX E TO THE
BRIEF OF THE UNITED STATES

PROPOSED DECREE

1967-68 school year, all plans that have been formulated or adopted for the consolidation of any schools in their systems that had at the time of the survey, or now have, fewer students than required under the minimum-student standards of the State Department of Education.

B. The State Superintendent of Education shall continue to conduct surveys of the local school systems throughout the State, and require that those conducting the surveys shall:

1. Continue to collect and report data regarding the residence of students and the attendance at schools by race;

2. Not fail to recommend consolidation because desegregation would result;

3. Recommend, to the extent consistent with the proper operation of the school system as a whole, that consolidation shall be achieved in a manner to effect desegregation of the schools of the system.

4. Recommend, to the extent consistent with the proper operation of the school system as a whole, that the location, grades and capacity of new schools and expansions of existing school plants be such as to effect desegregation of the schools of the system.

C. Approval by the State Superintendent of Education of all sites upon which schools are to be constructed or existing facilities expanded shall not be based on any survey conducted prior to the entry of this Court's Order, or any survey that does not accord with the standards set forth above in paragraph (B).

D. Approval by the State Superintendent of Education of all sites upon which schools are to be constructed or existing facilities expanded shall be withheld, if, judged in light of the capacity of existing facilities, the residence of the students, and the alternative sites available, the construction will not, to the extent consistent with the proper operation of the school system as a whole, further the eradication of the vestiges of the dual system and the elimination of the effects of segregation.

II

Teachers

A. The State Superintendent of Education shall develop a detailed program for assisting and encouraging faculty desegregation in the local school systems throughout the State for implementation prior to the 1967-68 school year and shall submit this program to the Court and all parties within 60 days after the entry of this Court's order.

B. Any services made available by the State Superintendent of Education to assist local school boards to locate and employ suitable teachers, or to assist teachers to find suitable positions, shall be provided in a manner to effect faculty desegregation in the public schools throughout the State.

C. The State Superintendent of Education shall not give force or effect to that provision of §339 of Title 52 of the Alabama Code which requires that separate teacher institutes be held for Negro and white teachers; and he shall direct that a single, system-wide teacher institute be held in each local school system for the 1967-68 school

year, and for each school year thereafter, and that such institutes be conducted in a nondiscriminatory manner.

D. The State Superintendent of Education shall conduct all in-service training programs on a desegregated basis.

E. The State Superintendent of Education shall apply certification requirements without discrimination on the basis of race, and shall not apply certification requirements, or grant provisional certificates, in a manner to perpetuate faculty segregation or to avoid faculty desegregation.

F. The State Superintendent of Education shall inform all applicants for certification that the school systems throughout the State are obliged to desegregate their faculties, and that teachers are subject to assignment in accordance with that obligation.

III

School Transportation

A. The defendant state officials shall require all local school boards, prior to the commencement of the 1967-68 school year, to eliminate race as a basis for assigning students to school buses and to eliminate overlapping and duplicative bus routes based on race.

B. The defendant state officials shall require all local school boards, prior to the commencement of the 1967-68 school year, to establish nondiscriminatory criteria governing the availability of bus transportation to students within the school district. For school districts that have a freedom-of-choice attendance plan, and generally provide school transportation, these criteria, at a minimum, should

entitle each student to be transported to the school he attends if that school is the one nearest his residence that had traditionally been maintained for students of the opposite race and if that school is at least two miles from his residence.

C. The State Superintendent of Education shall require all local school boards to submit to him for approval within 60 days after the entry of this order their proposed bus routes and criteria governing the eligibility for bus transportation, and he shall approve only those routes and criteria that are in accord with the standards set forth in the preceding paragraphs (A) and (B) of this section.

D. The State Superintendent of Education shall require all local school boards to communicate those routes and criteria he has approved to students and parents of the school districts in a readily understandable manner and substantially before the opening of the 1967-68 school year. For school systems operating under a freedom-of-choice attendance plan, these routes and criteria shall be communicated to the parents and students prior to the choice period.

E. Whatever technical assistance is made available by the State Superintendent for assisting local school boards in meeting school transportation problems shall be provided in a manner to assist local school boards to eliminate overlapping and duplicative bus routes based on race and to formulate nondiscriminatory criteria regarding eligibility of students for transportation.

IV

Desegregation Plans For Local School Systems

The State Superintendent of Education shall notify the following school systems that they are required to adopt a desegregation plan and that if they adopt a freedom-of-choice plan it must meet the standards embodied in the proposed uniform decree announced by the Court of Appeals for the Fifth Circuit in United States v. Jefferson County Board of Education (C.A. No. 23345, December 29, 1966), and, if they adopt a plan based upon geographic attendance zones, it must meet the standards embodied in the pertinent provisions of "Revised Statements of Policies for School Desegregation Plans under Title VI of the Civil Rights Act of 1964," 45 C.F.R., Part 181:

Attalla	Elmore Co.	Morgan Co.
Baldwin Co.	Escambia Co.	Mountain Brook
Bibb Co.	Fayette Co.	Muscle Shoals
Brewton City	Geneva Co.	Opelika
Calhoun Co.	Henry Co.	Opp
Chambers Co.	Houston Co.	Pickens Co.
Chilton Co.	Jasper	Russell Co.
Clarke Co.	Lanett	Shelby Co.
Colbert Co.	Lee Co.	Talladega
Conecuh Co.	Linden	Tallapoosa Co.
Coosa Co.	Marengo Co.	Tallassee
Dallas Co.	Marion City	Tarrant City
Demopolis	Marion Co.	Thomasville
Dothan	Marshall Co.	Washington Co.

The State Superintendent of Education shall inform these local school systems that the desegregation plan should be adopted within 15 days from the entry of the Court's order, and within twenty days from the entry of this Court's Order, the State Superintendent shall submit a report to this Court and to all the parties informing them of the action taken by him to discharge this obligation and the results of that action.

V

Trade Schools and Junior Colleges

No person shall be denied admission to any trade school or junior college administered by the Alabama State Board of Education, upon the ground of race, nor shall he be subjected to racial discrimination in connection with his application for enrollment in or his attendance at any such trade school or junior college. The dual attendance zones based on race for trade schools and junior colleges shall be abolished, and the faculties of the trade schools and junior colleges shall be desegregated.

VI

Equalization of Facilities

The State Superintendent of Education shall develop, and submit to this Court and all the parties within 120 days after the entry of this Court's Order, a detailed program for bringing the quality of the physical facilities, equipment, services, courses of instruction, and instructional materials of schools previously maintained for Negro students up to the level in schools previously maintained for white students. This program shall eliminate those disparities reflected in different pupil teacher

ratios, survey classifications of buildings and sites, per pupil expenditures, valuation of school property, library books per pupil, course offerings, accreditation and transportation. Moreover, in connection with applications for teacher units for vocational teachers or teachers of exceptional children, the State Superintendent of Education shall consider and grant those applications that satisfy educational requirements and had been submitted before the entry of this Court's order on behalf of schools traditionally maintained for Negro students, prior to acting upon other applications for such units.

VII

Information and Reports

A. The State Superintendent of Education shall make, at reasonable times and places, and upon reasonable notice, the following available to all the parties:

1. All consolidation plans submitted to him by local school boards pursuant to the requirements of paragraph (A) of Section I of this Order.
2. All survey reports hereafter conducted pursuant to paragraph (B) of Section I of this Order.
3. All applications and records of action by the State Superintendent of Education regarding the approval or disapproval of school construction or expansion, together with all information relating to the sites, including the pertinent survey reports.
4. All documents relating to teacher institutes and to in-service training programs, including a report giving the number of teachers that attended each institute, the schools the teachers were from, and the race of the teachers.

5. All proposals of the local school boards relating to the routing of school buses and the criteria governing eligibility for bus transportation that are submitted to the State Superintendent for his approval under paragraph (3) of Section III of this Order, together with a report indicating which proposals have been approved and when and how students and parents in the various school systems throughout the State were informed of these routes and criteria.

6. All records pertaining to action taken by the State Superintendent of Education with respect to applications for teacher units for teachers of exceptional children and vocational education teachers.

7. Records indicating the State Superintendent's action with respect to provisional teaching certificates, and a report indicating how applicants for certification were informed of the obligation of the local systems regarding faculty desegregation.

B. The State Superintendent of Education shall submit to the Clerk of this Court and serve upon all parties:

1. Within 60 days after the entry of this Order the detailed program regarding faculty desegregation required by paragraph (A) of Section II of this Order.

2. Within 120 days after the entry of this Order the detailed program regarding school equilization required by Section VI of this Order.

3. Within 20 days after entry of this Order, a report on the action taken by the State Superintendent of Education respecting the forty-two school districts listed in Section IV of this Order, and the results of that action.

4. A report, which must be submitted by October 5 each year, setting forth the following information with respect to any school system that, at that time, is neither subject to a court order requiring desegregation nor to a voluntary desegregation plan accepted by the Office of Education of the United States Department of Health, Education and Welfare:

(a) The number of students by race, in each grade of each school for the current school year;

(b) The number of faculty members of each race assigned to each school for the current school year, together with the number of faculty vacancies or new positions, by school, that have arisen or have been filled by the school board since the last report; and

(c) The number of students that have requested to transfer from the schools they were assigned to, together with a description of the action taken by the local school board on such requests and the reasons therefor.

5. A report, which must be submitted prior to June 1 of each year, setting forth the following information with respect to any school system that, at that time, is neither subject to a court order requiring desegregation nor to a voluntary desegregation plan accepted by the Office of Education of the United States:

(a) For each school system operating under a freedom of choice attendance plan, the number of choice applications received for each grade, the number of choices granted and denied, and the reasons for all denials;

(b) For each such school system operating under an attendance plan based on geographic zones, the name and

location of each school facility planned to be used during the coming school year, the attendance zones for each school in operation during the current school year, and any changes in the attendance zones planned for the coming school year.

IX

Interference

The defendant state officials shall not interfere with, prevent or obstruct by any means, the elimination of racial discrimination by local school officials in any school system in the State of Alabama.

The costs of this action shall be taxed against the defendant state officials.

The Court further orders and directs the United States to submit to this Court within 30 days, and serve upon all parties, a report informing the Court whether any of the school systems listed in Section IV of this decree have failed, following the entry of this Court's Order, to adopt a satisfactory desegregation plan.