

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

BENJAMIN D. FRANKLIN, et al.,)	
)	
Plaintiffs,)	
vs.)	
)	
NATIONAL EDUCATIONAL)	
ASSOCIATION, INC.,)	
)	
Plaintiff-Intervenor,)	
)	
UNITED STATES OF AMERICA,)	Case Number: 2:66cv2458-WHA
)	
Amicus Curiae,)	
)	
vs.)	
)	
BARBOUR COUNTY BOARD OF)	
EDUCATION, et al.,)	
)	
Defendants.)	

Consent Order

This case was filed in 1966 alleging that Barbour County operated a racially segregated school system. The Court ordered Barbour County to desegregate and required the District to take steps to disestablish the dual system, including limiting the number of students residing in Barbour but attending school outside of the District. According to the order, Barbour County, “shall not consent to transfers where the cumulative effect will reduce desegregation in either district or reinforce a dual system.” 7/10/1970 Order at 6.

On May 23, 1992, the Department of Education’s Office for Civil Rights (“OCR”) received complaints from parents that Barbour operated its intra- and inter-district transfer program in a manner that impeded the desegregation process. See 9/8/1997 Order at 4. On

September 8, 1997, the Court approved a consent order in which the parties acknowledged continuing problems with both inter- and intra-district transfers raised in the OCR complaint. The 1970 transfer provision was left intact and the Board was required to “strictly and affirmatively enforce its attendance zones.” 9/8/1997 Order at 4, 11. In 2000, the Court issued an order to consolidate the high schools in the Barbour County School District in furtherance of the desegregation process. See 9/8/2000 Order at 4-5 (concluding that school consolidation will further desegregation because white students residing in Barbour County will not “seek education in places outside of the public school system”).

At the Court’s request, in May 2005, the United States initiated a review of Barbour County School District’s (“Barbour” or “District”) loss of white student population through unauthorized inter-district transfers to Dale County, a school district adjacent to Barbour County. This review revealed that, for the 2004-2005 school year, approximately 168 students, of whom 78% were white, were residing in Barbour County yet attending school in Dale County, impeding Barbour’s ability to comply with this Court’s July 10, 1970 and September 8, 1997 orders and frustrating the goals of the 2000 order. In accordance with this Court’s direction, the parties engaged in good faith negotiations and voluntarily agreed, as indicated by the signatures below, to enter into this Consent Order, subject to the Court’s approval.

On May 10, 2007, this Court granted a Joint Motion to Join the Dale County Board of Education as a Defendant Under Rule 19(a) of the Federal Rules of Civil Procedure for the limited purpose of enforcing the 2007 Consent Order.

After reviewing the terms of the Consent Order, this Court concludes that the entry of the Consent Order is consistent with the Fourteenth Amendment to the Constitution of the United States of America and federal law, and that its entry will further the orderly desegregation of the

Barbour County School District and is likely to bring about the creation of a unitary school district and the termination of judicial supervision.

Therefore, it is **ORDERED, ADJUDGED** and **DECREEED** as follows:

I. DALE COUNTY SCHOOL DISTRICT

A. The Dale County School District shall not accept inter-district transfer students, defined as students who reside in Barbour County but request to attend school in Dale County, with the following exceptions:

1. Barbour residents who are currently enrolled in the 9-12 grades of school, beginning with the 2007-2008 school year. Accordingly, all such transfers should matriculate through Dale County by the end of the 2010-2011 school year. A list of students that qualify under this exception, including each student's name, race, address, and school, was provided by Dale County to the parties in a letter dated May 4, 2007.

2. Siblings of students described in Section I.A.1 may attend school in Dale County until such time as the student described in Section I.A.1 graduates. Upon the student's graduation, the sibling(s) shall leave the Dale County School District. All students who utilize this exception shall leave the Dale County School District by no later than the end of the 2010-2011 school year. A list of students that qualify under this exception, including each student's name, race, address, and school, was provided by Dale County to the parties in a letter dated May 4, 2007.

3. Children of Dale County School District employees. A Dale County School District employee is defined as: (a) anyone who works at least 20 hours a week for the Dale County School District throughout the school year and (b) all regular Dale County

School District bus drivers. This definition does not include substitute employees.

B. Beginning with the 2007-2008 school year and for each school year thereafter, all new students who are attending school for the first time in the Dale County School District shall be required to register at the school to which they wish to be assigned. Pursuant to the procedures and requirements set forth in paragraph I.C below, and delineated in Attachment A to this Order, the Dale County School Board shall verify the residency of each student.

C. The parent(s) or guardian(s) of a new student seeking to enroll in the Dale County School System for the first time must provide the school with two of the following:

1. Property tax records that indicate the location of the homestead;
2. Mortgage documents or a property deed;
3. Apartment or home lease, or rent receipt indicating the current 911 address and the persons who made and received the rent payment. If a rent receipt is submitted, the next month's rent receipt, including the required information, must be submitted within thirty (30) days;
4. Current utility bill showing residence address;
5. Voter precinct identification indicating the current 911 address; and/or
6. Driver's license.

D. In addition to meeting the residency verification requirements explained in Paragraph I.C, in the case of a student living with a legal guardian, the guardian must also provide a court decree declaring the Dale County resident to be a legal guardian of the student.

II. BARBOUR COUNTY SCHOOL DISTRICT

Barbour County School District shall not release student records for any Barbour County resident to transfer to a Dale County school, except as provided for above in Sections I.A.1 to I.A.3 of this Order.

III. REPORT TO THE COURT

On or before July 16, 2007, and on the same date of each subsequent school year until this Consent Order terminates, the Dale County School District and Barbour County School District each shall provide an annual report notifying the parties of the following:

(a) the number of students by race, grade level, and school enrolled in the district, and (b) for each student requesting an inter-district transfer, the student's grade level, race and address, the sending and receiving school, reasons for the transfer request, and whether the transfer was granted or denied.

Within twenty (20) days of receipt of any report required under this Consent Order, the parties shall make known in writing any provisions of the Consent Order with which they believe that either school district has not fully complied.

IV. JURISDICTION

All the parties hereto shall have the right to seek enforcement of the provisions of this Consent Order. This Court shall retain jurisdiction to monitor compliance with the provisions of this and other orders in this action. This Consent Order shall terminate on October 1, 2011 unless, upon objection by any party, the Court extends the life of the Consent Order.

Dated: May 10, 2007

/s/ W. Harold Albritton
United State District Judge

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PLEASE READ THIS PAGE FIRST

DALE COUNTY SCHOOL SYSTEM

The Dale County School System operates under residency guidelines established by a 2007 federal court order. The order states that the Dale County School System must verify the student address for all new students attending the Dale County School System for the first time.

All students seeking to enroll in a Dale County school for the first time shall submit the attached residency verification form. Please read the residency verification form carefully. **Please attach the required documents to the form.**

Residency forms and the required documentation must be returned to the school in the attendance zone where the student lives by **June 15, 2007.**

DALE COUNTY SCHOOL SYSTEM

Residency Form of Student Living with Parent, Legal Guardian, or Foster Care Parent

Full Legal Name of Student: _____ Age ____ Grade _____

Name of Parent/Legal Guardian*/Foster Care Parent* _____

* Legal guardians and foster care parents must provide a court decree declaring the district resident to be the legal guardian or the foster care parent of the student.

Location of Your Physical Residence (Including number and street and county– No PO Boxes)	Complete Mailing Address

Phone: Home: _____ Work: _____ Other: _____

Please check the two (2) items you will provide to verify your residence. A post office box is not acceptable as an address. Please attach the two (2) documents and return them with this form.

- 1. Property tax records that indicate the location of the homestead.
- 2. Mortgage documents or a property deed.
- 3. Apartment or home lease, or rent receipt indicating the current 911 address and the persons who made and received the rent payment. If a rent receipt is submitted, the next month's rent receipt, including the required information, must be submitted within thirty (30) days.
- 4. Current utility bill showing residence address.
- 5. Voter precinct identification indicating the current 911 address.
- 6. Driver's license.

Certification of Residency

I, (*full name*) _____, am (*check one*) the mother ____, father ____, legal guardian ____, foster care parent __ of the above-named student, and do hereby certify under penalty of perjury that the residence and domicile of myself and the above-named student are currently within the limits of Dale County School System at the 911 physical address noted above, and the information stated on this form and in the supporting documentation is true. I consent and agree that the Dale County School System will have the right to verify the information provided above and that this form and any supporting documentation may be submitted to a federal court or the U.S. Department of Justice to ensure compliance with the federal court orders. I fully understand that the execution of a false certificate will result in the immediate removal of the above-named student from school. I further agree that, if there is any change in my residence or the residence of the above-named student, I will notify the Dale County School Board in writing within fifteen (15) days of the date of such change.

Signature: Parent/Legal Guardian/Foster Parent

Date: