

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

7/1/98  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION  
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UNITED STATES OF AMERICA, et al. )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
THE BOARD OF SCHOOL )  
COMMISSIONERS OF THE CITY OF )  
INDIANAPOLIS, et al. )  
 )  
Defendants, )

NO. IP68-C-225

**AGREEMENT ON THE RETURN  
OF TRANSFER AREAS TO IPS**

This Agreement, dated June 21, 1998, is by and among, the United States, the Indianapolis Public Schools ("IPS"), the Metropolitan School Districts of Lawrence, Warren, Wayne, Perry, and Decatur Townships and the Franklin Community School Corporation (collectively "the Township School Districts"), and Frank L. O'Bannon, as Governor of the State of Indiana, Jeffrey A. Modisett, as Attorney General of the State of Indiana, Suellen Reed, as Superintendent of Public Instruction of the State of Indiana, Morris Wooden, as State Auditor of the State of Indiana, Joyce Brinkman, as State Treasurer of the State of Indiana, and other officials of the State of Indiana (collectively "the State of Indiana").

**RECITALS**

The parties agree as to the following, which forms the basis for this Agreement:

- A. The parties to this Agreement are currently parties to a lawsuit commonly known as the Indianapolis school desegregation case, which is pending in the United States District Court for the Southern District of Indiana, as Cause Number IP 68-C-225 (the "Lawsuit").
- B. Pursuant to a court-approved desegregation plan in the Lawsuit, IPS transfers and the Township School Districts educate certain African-American students who reside in IPS from transfer areas inside IPS. These transfers (the "transfers") are mandatory with respect to African-American students in Grades 1-12 and are voluntary with respect to kindergarten.
- C. On October 14, 1997, the United States Court of Appeals for the Seventh Circuit entered a decision in the Lawsuit holding that the transfer of students from IPS to the Township School Districts cannot be permanent. At the present time, the Lawsuit is on remand to the United States District Court for the Southern District of Indiana for further proceedings.
- D. If a Court order is entered ending the transfers, there is a possibility for uncertainty and disruption in the education of students who have been transferred from IPS to the Township School Districts. In addition, unless appropriate provisions are made, the return of transfer students to IPS will cause financial difficulties for IPS and the Township School Districts. In an effort to address the potential problems and concerns inherent in the return of the transfer areas to IPS, various parties to the Lawsuit have discussed methods for addressing how and when to phase-out the

transfers. As a result of these discussions, the undersigned parties now agree as to how and when the transfers should be phased out.

E. IPS has assured the United States District Court that, under the student assignment plan approved by the Court, IPS intends that returning transfer students will attend IPS schools that are between 15% and 85% African-American, to the extent practicable. IPS represents to the Court that, as part of and for the duration of the transition plan approved by the Court herein, it will maintain a plan of student assignments based on boundaries and magnets and designed to achieve racial diversity in its schools that generally reflects its District-wide diversity in enrollment. IPS ~~\*~~ pledges, as part of the transition plan approved by the Court herein, that it will maintain such a student assignment plan beyond any declaration of unitary status of IPS in the lawsuit, as long as the transition of the transfer students from the Township School Districts to IPS is in progress. To the extent necessary to maintain diversity in its schools, Public Law 340, Chapter 4 concerning neighborhood schools shall not preclude IPS from having the right to implement the terms of such a student assignment plan.

F. The parties desire to enter into an agreement, subject to Court approval, setting forth the terms and conditions for the return of the transfer areas from the Township School Districts to IPS.

G. The parties to this Agreement share a mutual interest in meeting the objectives of the Court in achieving desegregation in schools within Marion County and bringing certainty to the resolution of the Lawsuit. The parties agree that assistance of the

Indianapolis Housing Agency in implementing housing initiatives will assist in meeting these ends. The United States and the State of Indiana have therefore entered into a separate agreement with the Indianapolis Housing Agency for certain housing initiatives. The United States has entered into this Agreement regarding the return of the transfer areas to IPS contingent upon acceptance of the separate agreement regarding housing initiatives, and these two agreements are to be submitted to the Court together.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, the parties agree as follows:

**1 Definitions.**

As used in this Agreement, the following terms shall have the following meaning:

A. "Transfer areas" are the geographical areas of IPS designated by the Court in its remedy order in the Lawsuit for the transfer of African-American students to the Township School Districts.

B. "Financing Order" is the Order entered by the Court in the Lawsuit on July 17, 1981, concerning the financing of the education of students transferred to the Township School Districts from IPS.

C. "Transfer tuition," "transportation costs" and "other desegregation costs" shall have the same meanings as those terms have in the Financing Order.

D. "First Year" is the earlier of the first full school year following the school year in which a Township School District's resident African-American population exceeds twenty-percent (20%) on the ADM count date or the 2004-2005 school year.

E. "Transfer student" means a student who would have been transferred to one of the townships under the remedy order in the Lawsuit.

**2. Phased Return of Students to IPS From the Township School Districts.**

A. **Status of Transfer Areas Until the First Year.** Until the First Year as defined in ¶ 1 immediately above, all transfer area students other than African-American kindergarten students shall attend their designated Township School District. Transfer area African-American kindergarten students shall continue to have the option to attend kindergarten in IPS or their designated Township School District until the First Year.

B. **Phase Out of Transfers After the First Year.** In the First Year, all students entering kindergarten from the transfer areas will attend school in IPS and all African-American students in Grades 1-12 in the transfer areas will attend school in their designated Township School Districts. In the following school year, all kindergarten and all first grade students in the transfer areas will attend school in IPS and all African-American students in Grades 2-12 in the transfer areas will attend school in their designated Township School Districts. This pattern of adding a grade per school year of transfer area enrollment returning to IPS will thereafter be modified in each subsequent school year by adding an additional grade of attendance in IPS and subtracting a grade of transfer area student attendance from the Township School District. This pattern will continue to be modified by the addition of a grade per school year until all transfer area students attend IPS.

**3. Township School District Financial Considerations.**

For the period described in ¶ 2A of this Agreement, the Township School Districts shall be paid pursuant to the Financing Order except as to Other Desegregation Costs beginning with the 1998-99 school year. For school year 1998-99, Other Desegregation Costs will be calculated by

multiplying the actual desegregation costs for the 1996-97 school year by one-hundred-six percent (106%) to arrive at a calculation base for the 1997-98 school year and then adjusting that figure for inflation by comparing the CPI-U index on July 1, 1998, with that on July 1, 1997, or four percent (4%) whichever is less. During future years prior to the First Year, the adjustment for inflation shall be calculated by adjusting the previous year's amount by comparing the CPI-U index on July 1 of that year with the CPI-U index on July 1 of the previous year or four percent (4%), whichever is less.

For the period described in ¶ 2B of this Agreement, the Township School Districts shall be paid Transportation Costs pursuant to the Financing Order. In lieu of payments for Other Desegregation Costs and Transfer Tuition, however, the amount paid shall be calculated as follows: For the First Year, the Transfer Tuition for the year immediately preceding shall be added to the amount calculated for Other Desegregation Costs for the year immediately preceding to determine a "Base Calculation." Payments the First Year shall be determined by multiplying the Base Calculation by ninety-three-and-three-quarters percent (93.75%). In each subsequent year, the amount to be paid shall be determined by reducing the prior year's amount by the quotient of the Base Calculation divided by 16. Notwithstanding the above, the State shall be excused from making any payments to a Township School District once its transfer area has been fully returned to IPS and no more transfer students attend school in that Township School District.

#### **4. IPS Financial Considerations**

To facilitate the orderly transition of transfer areas from the Township School Districts to IPS pursuant to this Agreement, the State shall pay IPS:

- A. Transportation Costs for the 1999-2000 through 2004-2005 school years to provide for the need to transport students while new facilities are being constructed or existing

facilities are being renovated. The amount of such costs shall be calculated by determining the pro-rata share attributable to the use of that transportation by the transfer students.

- B. Transition support for each transfer student returning to IPS from each of the Township School Districts for the first six (6) years after each transfer student has returned to IPS. The support for each transfer student shall be fifteen hundred dollars (\$1500) for each of the first two (2) years; one thousand dollars (\$1000) for each of years three and four; and five hundred dollars (\$500) for each of years five and six.

Moreover, to further accommodate IPS concerns over the costs of hiring additional teachers to educate transfer students, the State shall treat such teachers hired by IPS through 2010 from the pool created pursuant to ¶ 5 below as covered by the pre-1996 account of the Teachers Retirement Fund.

**5. Protection for Educators Displaced by the Return of the Transfer Areas to IPS.**

If the loss of transfer students causes a Township School District to reduce the number of teachers, any teacher who loses his or her position in a Township School District shall be placed in a pool of surplus teachers. These teachers shall remain in a pool of surplus teachers for a period of three years. In acquiring additional teaching personnel during the period effected by this Agreement, IPS is required to make offers to qualified persons from the available pool of surplus teachers before offering employment to others. The method of selection and use of the pool shall be patterned after the terms adopted by the United States District Court in the Lawsuit and applied when IPS reduced its teaching staff as IPS students were transferred into the Township School Districts.

Teachers employed from the pool are entitled to the same status as nonpermanent, semi-permanent, or permanent teachers in IPS as they would have held in the Township School Districts. [Indiana Code 20-6.1-4-14, Indiana Code 20-6.1-4-9.5, & Indiana Code 20-6.1-4-9], and are entitled to the same number of years credit toward semipermanent or permanent status in IPS as they would have had in their Township School District. Years of employment in the Township School Districts and IPS will be treated as consecutive years of employment in IPS for all purposes.

Once a teacher has been offered a teaching position in IPS and has taken or declined the position, that teacher shall no longer be a part of the available pool of surplus teachers.

**6. Voting in Township School Districts.**

When a Township School District ceases to receive transfer students, no resident of the transfer areas will continue to have a right to vote in a Township school board election. IPS expresses no view regarding governance issues addressed in this paragraph.


**7. Expiration of This Agreement.**

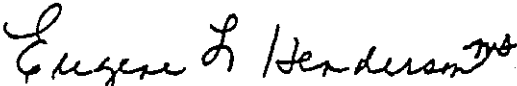
The terms of this Agreement will expire at the end of the thirteenth school year following the First Year for the last Township School District to begin to phase out transfers pursuant to ¶ 2 of this Agreement, i.e. June 30, 2017, at which time this case will be dismissed and all injunctions dissolved.



AGREED THIS 20th DAY OF JUNE 1998.

FOR IPS

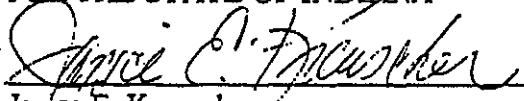
  
Maree Sneed

  
Eugene L. Henderson


FOR THE UNITED STATES

  
Pauline A. Miller

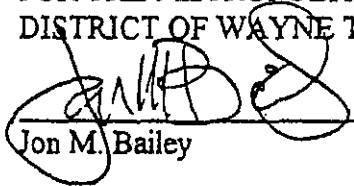
FOR THE STATE OF INDIANA

  
Janice E. Kreuzscher

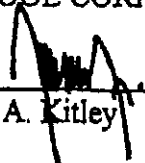
FOR THE METROPOLITAN SCHOOL  
DISTRICT OF LAWRENCE &  
WARREN TOWNSHIPS

  
David R. Day


FOR THE METROPOLITAN SCHOOL  
DISTRICT OF WAYNE TOWNSHIP

  
Jon M. Bailey

FOR THE FRANKLIN COMMUNITY  
SCHOOL CORPORATION

  
John A. Kitley

FOR THE METROPOLITAN SCHOOL  
DISTRICT OF DECATUR TOWNSHIP

  
Robert E. Cambridge

FOR THE METROPOLITAN SCHOOL  
DISTRICT OF PERRY TOWNSHIP

  
Louis H. Borgmann

## AGREEMENT

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This Agreement is entered into, by and between the United States of America ("United States"), the State of Indiana, and the Indianapolis Housing Agency ("IHA") effective as of the date of execution.

WHEREAS, there currently is pending a desegregation lawsuit filed by the United States as *United States et al. v. Board of School Commissioners of the City of Indianapolis, et al.*, Cause No. IP-68-C-225 (the "Desegregation Litigation");

WHEREAS, the United States and the State of Indiana are parties to the Desegregation Litigation;

WHEREAS, the IHA is not a party to the Desegregation Litigation but is interested in successful resolution and termination of that litigation;

WHEREAS, the United States has concerns about housing patterns in Marion County and within certain school systems in Marion County and both parties have an interest in achieving diversity in schooling and housing throughout Marion County;

WHEREAS, the IHA already has begun to consider and develop various housing initiatives through a Housing Task Force and has an interest in diversity in education and housing in Marion County;

**WHEREAS, the United States, the State of Indiana, and the IHA are interested in assisting in obtaining a successful resolution to the Desegregation Litigation, including an orderly process for concluding the Desegregation Litigation;**


**NOW, THEREFORE, in consideration of mutual promises and undertakings stated herein, and expressly subject to the approval of the Court of a settlement among the parties in the Desegregation Litigation, the parties hereby agree as follows:**

- 1. The IHA shall establish a Housing Counseling and Recruitment Center ("HCRC"), funding for which will be provided by the IHA for a period of five years. The IHA will evaluate, at the expiration of five years, whether there is a continuing need for such a Center. The purpose of the HCRC shall be to provide services, including Section 8 counseling, to persons of all races interested in purchasing or renting housing in areas where such persons, by their personal choice, would facilitate residential integration throughout Marion County.**
- 2. The IHA shall work to develop new sources of funding and redirection of existing funding to fund a supplemental rental voucher program.**
- 3. The IHA shall work to develop a mortgage loan assistance program with funds provided through governmental or private entities.**
- 4. The IHA shall work with the local real estate community to identify affordable single family housing opportunities throughout Marion County.**
- 5. The IHA shall work with lending and financial institutions to work to develop loan products to assist low income, minority families to obtain home ownership.**
- 6. The State of Indiana, through its applicable state agencies, will assist these efforts through education, marketing, and public relations support, such as:**
  - a. Participating in the presentation of seminars or advising about materials developed to train realtors in methods of promoting a housing market open to residents of all races;**

- b. Distribution through existing agencies of fair housing materials to those involved in financing, real estate and housing markets as well as the general public.
7. The IHA and United States agree to meet, annually, to discuss the status of the efforts described in this Agreement, and the IHA will make available information, in response to reasonable requests from the United States, concerning the status of the efforts described in this Agreement.
8. The parties agree that the terms of this Agreement are binding upon the parties hereto and that any legal action concerning this Agreement shall be brought in the United States District Court for the Southern District of Indiana. The parties further agree to submit to the jurisdiction of the United States District Court for the Southern District of Indiana in any such legal action.
9. For purposes of construction of this Agreement, all parties participated in the drafting of the Agreement and no party shall be considered the drafter of the Agreement or any particular language.
10. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof, and there are no other written or oral agreements between the parties with respect to the subject matter hereof.
11. No waiver, modification or amendment of any term, condition or provision of this Agreement shall be valid or have any force or effect unless made in writing and signed by the parties.

Dated: June 22, 1998

UNITED STATES OF AMERICA  
Bill Lann Lee  
Acting Assistant Attorney General

  
\_\_\_\_\_  
Pauline A. Miller  
Senior Trial Attorney  
Department of Justice  
Civil Rights Division  
Educational Opportunities Litigation Section

Dated: 6-22-98

STATE OF INDIANA

By: J. Modesto  
Attorney General  
(Title)

Dated: \_\_\_\_\_

INDIANAPOLIS HOUSING AGENCY

Eugene E. Jones, Jr.  
Executive Director