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United States District Court, D. Kansas.

Oliver BROWN, et al., Plaintiffs,  
and  
Charles and Kimberly Smith, minor children, by  
their mother and next of friend, Linda Brown  
Smith, et al., Intervening Plaintiffs,  
v.  
BOARD OF EDUCATION OF TOPEKA,  
SHAWNEE COUNTY, KANSAS, et al.,  
Defendants.

No. 51-316-RDR. | March 30, 1994.

#### Attorneys and Law Firms

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Gen., Topeka, KS, for defendants.

#### Opinion

#### MEMORANDUM AND ORDER

NEWMAN, United States Magistrate Judge.

\*1 Now pending before the court are the following motions:

1. Plaintiffs' Notice of Motion to Compel Discovery and for Costs (doc. 367)
2. Plaintiffs' Notice of Motion to Compel Discovery (doc. 389)

Plaintiffs seek an order compelling defendants to respond to plaintiffs' Interrogatory Nos. 22, 23, 24, 25 and 26 of the Fifth Set of Interrogatories and plaintiffs' Sixth Set of Interrogatories. Defendants have filed their responses. Plaintiffs have filed their replies.

The court has reviewed the requests and the memoranda of the parties and is now prepared to rule.

The applicable provision relating to the scope of discovery is Fed.R.Civ.P. 26(b)(1) which provides:

Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party.... It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. (Emphasis added.)

Relevancy is to be broadly construed for discovery issues and is not limited to the precise issues set out in the pleadings. Relevancy, for purposes of discovery, has been defined by the United States Supreme Court as encompassing "any matter that could bear on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case." *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978). Discovery requests should be considered relevant if there is any possibility that the information sought is relevant to any issue in the case and should ordinarily be allowed, unless it is clear that the information sought can have no possible bearing on the subject matter of the action. See *Marker v. Union Fidelity Life Ins. Co.*, 125 F.R.D. 121 (M.D.N.C.1989); *Morse Diesel, Inc. v. Fidelity & Deposit Co. of Maryland*, 122 F.R.D. 447 (S.D.N.Y.1988). Mutual knowledge of all the relevant facts gathered by both parties is essential to proper litigation. *Hickman v. Taylor*, 329 U.S. 495, 507 (1947).

The court also considers the Memorandum and Order of December 3, 1993, wherein United States District Judge Richard D. Rogers limited the issues for determination in this case to consideration of a remedial plan addressing the vestiges of student and faculty/staff assignments. Judge Rogers specifically held that "there is no direct mandate to consider a remedy for or to seek out alleged vestiges of de jure segregation in educational performance, disciplinary outcomes or classroom assignment." Therefore, only discovery addressed to student and faculty/staff assignments is reasonably calculated to lead to the discovery of admissible evidence.

#### Fifth Set of Interrogatories Nos. 23 and 24

Plaintiffs seek information concerning the selection and racial composition of students involved in the vocational training programs administered by Unified School District No. 501. Defendants object to Interrogatory Nos. 23–24 on the grounds that the information sought is irrelevant and that the interrogatories are not limited to a specific time period.

\*2 The court finds that the information sought by Interrogatory Nos. 23 and 24(a), (b) and (c), is reasonably calculated to lead to the discovery of admissible evidence. The court, however, limits the time period to the school years from 1986–87 to the present. Defendants shall provide an answer to Interrogatory Nos. 23 and 24(a), (b) and (c), for the stated time period within 10 days of the date of the filing of this order. The court finds that the information sought in subsection (d) of Interrogatory 24 is not relevant and sustains defendants’ objection.

**Fifth Set of Interrogatories Nos. 22, 25, 26; Sixth Set of**

**Interrogatories Nos. 2–33**

The court finds that the information sought by the remaining interrogatories in issue is not reasonably calculated to lead to the discovery of admissible evidence concerning the issues in this case. Therefore, defendants’ objections as to these interrogatories are sustained.

In light of the court’s ruling herein, plaintiffs’ request for costs is denied.

In summary, Plaintiffs’ Notice of Motion to Compel Discovery and for Costs (doc. 367) is granted in part, overruled in part and Plaintiffs’ Notice of Motion to Compel Discovery (doc. 389) is overruled in its entirety.

Copies of this order shall be mailed to all counsel of record for the parties.

IT IS SO ORDERED.