

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

UNITED STATES OF AMERICA, * **NO. 67-CV-12589**
Plaintiff, *
*
v. * **JUDGE: HICKS**
*
DESOTO PARISH SCHOOL BOARD *
Defendant, *
*

* * * * *

SUPERCEDING CONSENT DECREE GOVERNING STUDENT TRANSFERS

This matter is before the Court at the request of Plaintiff United States of America and Defendant DeSoto Parish School Board (“Board” or “District”). These parties now move the Court to modify and supercede the February 5, 2007 Consent Decree (“2007 Consent Decree”) which governs student transfers.

I. Background

The District is currently operating under a January 30, 1970 desegregation order that was last modified as to student transfers on February 5, 2007. That order provided that, if the district complied with the provisions contained therein, it would be declared unitary in the area of student transfers at the end of three (3) years. During the life of the 2007 Consent Decree, the District timely reported the transfers it approved each school year. At the request of the United States, the Court approved unopposed extensions of the 2007 Consent Decree, and the Decree was set to terminate on July 14, 2011. At that time, the United States moved to extend and modify the decree.

The United States’ position is that the 2007 Consent Decree has had little to no positive

impact on the overall number and racial composition of the transfers granted by the Board and that the District's implementation is inconsistent with paragraphs III(E-F) of the 2007 Consent Decree. The District's position is that it has properly and consistently implemented all provisions of the 2007 Consent Decree and that it has only approved those transfers that are specifically authorized by Order of this Court.

In an effort to resolve their differences on this and other issues, the United States and the District have agreed to the terms of this modification of the 2007 Consent Decree. In signing this superceding decree, the District does not admit liability for the allegations giving rise to the terms of the 2007 Consent Decree or to the allegations giving rise to the terms of this modified and superceding consent decree ("Superceding Consent Decree"). Additionally, the District accepts the definitions of "racially diverse," "racially identifiable," and "impede desegregation" as proposed by the United States and provided hereinbelow but does so only for the purposes of interpretation and implementation of this superceding decree. The parties agree that this Superceding Consent Decree will replace any and all previous orders dealing with student transfers and shall hereafter govern all student transfers in the District, as follows.

II. STUDENT TRANSFERS

The Board shall ensure that its student transfer policies and practices are consistent with applicable school desegregation law, shall operate the school district in a non-discriminatory manner, shall strictly enforce attendance zone lines, and shall follow the provisions set forth below:

- A. Beginning with the 2011-2012 school year and for each school year thereafter, all students seeking to enroll in the District shall be required to register at the school

to which they are assigned, as mandated by the prior desegregation orders entered in this cause. Pursuant to the procedures and requirements set forth in paragraph C below, the Board shall verify the residency of each student.

B. Each student entering the District for the first time (or reentering after interrupted attendance) shall be required to verify his or her residence address as part of the registration process.

C. Each student identified must establish his or her residence.

1. The parent(s) of a student seeking to enroll must provide the school with at least two (2) of the bulleted items listed below as verification of their address, except that any document with a post office box as an address shall not be accepted:

- Property tax records which indicate the location of the homestead;
- Mortgage documents or property deed;
- Apartment or home lease or notarized statement of the verified property owner identifying himself/herself as the property owner, describing the property, the term of the lease, and identifying the leaseholder;
- Current utility bill showing residence address;
- Driver's license;
- Voter precinct identification;
- Automobile registration;
- Affidavit and/or personal visit by a designated school district official;

and

In the case of a student living with a legal guardian;

- A court decree declaring the parish resident to be a legal guardian of the student.

2. Students living with custodians other than parents or legal guardians:

- The non-parental custodian claiming parish residency must meet the criteria of paragraph 1 above, required of a parent or legal guardian.
- The parish resident must provide the Board with a notarized document stating his/her relationship to the student, and that the student will be living full-time in his or her home for a period of time encompassing the entire upcoming school year, and fully explaining the reason(s) (other than school attendance zone or parish preference) for this arrangement.

D. Beginning with the 2011-12 school year and for each school year thereafter, no inter-district or intra-district transfer shall be permitted other than those approved by the Transfer Committee (composed of three members, one of whom shall be the Supervisor of Child Welfare and Attendance, the remaining two members shall be persons employed at the building principal level or above appointed by the Superintendent). The decision of the Transfer Committee shall be final and without appeal to the Board.

E. Approved Transfers. The following circumstances are approved reasons, which, if established as required hereinbelow by the student, shall be sufficient for the

Transfer Committee to approve a transfer based thereon:

1. Specialized Academic, Vocational, or Special Education Curriculum Not Offered in the School or District of Residence. For an inter-district transfer, the Superintendent of the sending district shall be required to submit to the Superintendent of the receiving district a notarized statement verifying the unavailability of the specific curriculum in the district of residence. For an intra-district transfer, the principal or designated administrator(s) of the sending school must sign a statement verifying the unavailability of the specific course(s) and the necessity of the student's transfer to take the course(s). Where the Transfer Committee determines a transfer under this provision is warranted and the academic program at issue is available at more than one school in the district, the transferring student shall be assigned in a manner that does not impede desegregation. Where the academic program at issue is available at only one school in the district and the student provides the supporting documentation, the transfer may be allowed without regard to race. Where only one school can accommodate a request (e.g. only one school offers the program at issue), the District shall explain why this is the only school that can accommodate such request when it provides its report to the United States, see *infra* paragraph (II)(G)(1).
2. Graduating Student Who Moves During the School Year of Anticipated Graduation. A graduating student may be granted a transfer to graduate

from his/her previous high school if the student moves during the school year of the targeted graduation date.

3. Health of the Student. If the health of the student is in jeopardy, a letter from a medical doctor certifying the condition of the student and describing the necessity prompting the transfer request, as well as describing how the transfer will resolve the health problem, shall be required to verify the health purpose. The Transfer Committee may require a letter/report from a second medical doctor or further verification of the need for the transfer. Where the Transfer Committee determines a transfer under this provision is warranted and the health concern at issue can be accommodated at more than one school in the district, the transferring student shall be assigned in a manner that does not impede desegregation. Where the health concern at issue can only be addressed at one school in the district and the student provides the supporting documentation (e.g. proximity of the treating physician to the requested school), the transfer may be allowed without regard to race. Where only one school can accommodate a request, the District shall explain why this is the only school that can accommodate such request when it provides its report to the United States, see *infra* paragraph (II)(G)(1).
4. Safety of the Student. If the safety of the student is in jeopardy, a statement signed by the designated administrator(s) of the sending district and school, setting forth the potential harm to the student and describing

the necessity prompting the transfer request and how the transfer will alleviate the situation, shall be required to verify the safety purpose. If the Transfer Committee approves the transfer, the designated administrator of the sending district shall be notified. Where the Transfer Committee determines a transfer under this provision is warranted and the safety concern at issue can be accommodated at more than one school in the district (e.g. the safety concern necessitates that the student leave the current school but does not require that the student attend a specific school), the transferring student shall be assigned in a manner that does not impede desegregation. Where the safety concern can be accommodated at only one school in the district and the student provides the supporting documentation, the transfer may be allowed without regard to race. Where only one school can accommodate a request, the District shall explain why this is the only school that can accommodate such request when it provides its report to the United States, see *infra* paragraph (II)(G)(1).

5. Children of Current District Employees. Children enrolled in grades K-12 of current full-time school district employees (i.e. employed at the time of entry of this superceding decree), who are verified as actually living with said employees as required by paragraph II (C)(1) of this Decree, may be granted transfers to the school campuses where their parents or legal guardians are assigned. For any full-time, instructional employees (i.e.

administrators, teachers, paraprofessionals) hired *after* entry of this superceding decree, their children may only transfer where the requirements of Paragraphs II(C)(1) & (F) are met.

6. Majority-to-Minority (“M-to-M”) Transfers. A student attending a school where his/her race is in the majority may elect to attend a school where his/her race is in the minority. A M-to-M transfer shall be effective for the student’s entire matriculation at the receiving school or until the student notifies the Transfer Committee of an intent to return to the original home school. All requests to return to the home school shall be received by the Transfer Committee, on an annual basis, on or before June 1. Students who transfer pursuant to this section shall be immediately eligible to participate on athletic teams at the schools to which they transfer. All M-to-M transfer students shall be provided free transportation by the District. The Board shall include a detailed explanation of the M-to-M transfer policy in all student handbooks including a statement that, if a student is eligible and elects for such a transfer, space shall be made available in the receiving school and free transportation shall be provided to that student. The Board shall publish and distribute to all students an addendum to the current student handbooks, which includes the revised M-to-M policy. The Board shall include the current policy in the student handbooks and all handbooks thereafter.
7. Extracurricular Activities. Transfer requests to allow participation in

extracurricular activities shall be restricted to participation in football and/or band. Transfers of white students under this provision shall be limited to attendance at Mansfield High School. Transfers of black students under this provision shall be limited to attendance at Logansport High School or North DeSoto High School.

8. Hardship Transfers. There are some situations which do not fall within any of the student transfer provisions mentioned above, but where the parent(s) or guardian(s) of a student feel that there are extenuating circumstances warranting the transfer of that student. The parent(s) or guardian(s) can request such a transfer when (1) their child is subjected to the hardship (not the hardship of the parent(s) or guardian(s)) and (2) the hardship is not a mere inconvenience to the student or the student's parent(s) or guardian(s). The Transfer Committee shall review the request and any supporting documentation, and the Transfer Committee has the right to request additional documentation relative to the need for the transfer. This provision shall apply only to intra-district transfers; however, an inter-district hardship transfer may be requested under exceptional circumstance but will not be approved without prior consent of the United States or approval of the Court. Where the Transfer Committee determines a transfer under this provision is warranted and the hardship can be accommodated at more than one school in the district (e.g. the hardship necessitates that the student leave the current school but does

not require that the student attend a specific school), the transferring student shall be assigned in a manner that does not impede desegregation. Where the hardship at issue can only be accommodated at one school in the district and the student provides the supporting documentation, the transfer may be allowed without regard to race. Where only one school can accommodate a request, the District shall explain why this is the only school that can accommodate such request when it provides its report to the United States, see *infra* paragraph (II)(G)(1).

- F. Other Transfers. A request for a transfer that does not come within one (1) of the eight (8) circumstances stated above shall not be approved unless the Transfer Committee has evaluated the impact of the proposed transfer on the sending and receiving schools and determined that the transfer does not impede desegregation at either school and/or reinforce a perception that a particular school is intended for white or black students.
1. For purposes of this superceding decree, a transfer has the potential to “impede desegregation” where (1) it allows a student to transfer out of a racially identifiable school where he/she is in the racial minority and into a racially identifiable school where his or her race is the racial majority, or (2) it allows a student to transfer out of a school that is racially diverse and into a racially identifiable school where his/her race is in the majority.
 2. In the event a transfer request affected by this provision “impedes desegregation” as defined above, the Transfer Committee must either (1)

deny the request if it determines that the transfer will impede desegregation or (2) prior to any approval and/or implementation of the request, provide an explanation for why it proposes to approve the request in its report to the United States, see *infra* ¶II(G)(2).

3. The following definitions are applicable to this provision:
 - a. “Racially diverse” shall refer to any school where the enrollment demographics are within 20 percentage points from the District-wide enrollment demographics.
 - b. “Racially identifiable” shall refer to any school where the enrollment demographics vary more than 20 percentage points from the District-wide enrollment demographics.
4. Transfers affected by this provision and approved by the Transfer Committee shall not become effective until the District receives consent from the United States or approval by this Court, see *infra* ¶II(G)(2).

G. During the term of this Superceding Consent Decree, the District shall have the following reporting requirements with regard to student transfers:

1. Transfers under II (E)(1) through (8).
 - a. By June 30th each year, the District shall electronically submit a list of the students tentatively approved for transfers under paragraph II (E)(1) through (8) above. The list will include the name, race, and grade of each student granted a transfer, the basis for the transfer, and the names of the sending and receiving schools.

- b. Within twenty (20) days of receipt thereof, the United States must make objections in writing.
- c. If the United States does not make such objection to any of the transfers granted pursuant to sub-section II (E)(1) through (8) above within twenty (20) days of receipt, then any and all objections to such transfers shall be deemed waived for that school year and the District shall have the authority to give final approval to such transfers and shall be deemed to be in compliance with this provision for the subject school year.
- d. If the United States timely objects to one (1) or more of the transfers tentatively approved by the District, then the parties shall attempt to resolve such objections but the District shall have the authority to give final approval to those transfers to which objections are not made. If the parties cannot amicably resolve their differences on a transfer request within twenty (20) days of the date that the United States notifies the District of its objection, then the District may seek Court approval of such transfer request. In this situation, such request cannot be finally approved by the District until the transfer has been approved by the Court.

2. Other Transfers Under II(F).

- a. By June 30 of each year, the District shall submit to the United States a list of the transfer requests affected by paragraph II (F)

which have been received and evaluated by the Transfer Committee, together with its analysis of the proposed transfer's effect on desegregation.

b. Within twenty (20) days of its receipt from the District of such list of transfer requests pursuant to paragraph II (F), the United States shall provide the District with its written evaluation of those transfer requests to which it objects.

1) If the United States does not raise objections to one (1) or more of the subject transfer requests within the 20-day review period, such objections shall be deemed waived and the District may grant such transfers and shall be deemed to be in compliance with this provision for the subject school year.

2) If the United States raises an objection or questions one (1) or more of the subject transfer requests within the twenty (20) day review period, the District shall respond to the United States within twenty (20) days of notification of such objection(s)/question(s) and the parties shall attempt to resolve any remaining disputes but the District shall have the authority to give final approval to those transfers to which objections are not made. If the parties cannot amicably resolve a dispute within twenty (20) days of the

date the United States notified the Board of its objections, the Board must withhold approval of the subject transfer request(s) until approved by this Court.

- H. The Board may provide transportation only to those intra-district transfer students who have been verified as being properly enrolled in the school district. With regard to students granted transfers, the Board is required to provide transportation only to students granted M-to-M transfers.
- I. If any student is found to be enrolled in a school or the District contrary to the provisions set forth herein, the Board shall immediately notify the student and his/her parent(s) or legal guardian(s). Notification shall state that the student or his/her parent(s) or guardian(s) shall have a period of ten (10) days from the date of the notice to provide verification of residency or reasonable basis as set forth herein. If the required verification is not provided to the Superintendent within such period, the Board shall immediately withdraw the student and notify his/her parent(s) or guardian(s) that the student is being denied enrollment pursuant to this Superceding Consent Decree.
- J. All intra- and inter-district transfers, except M-to-M transfers, shall be effective for one (1) year only and must be reconsidered and approved by the Transfer Committee for each succeeding year. All transfer requests must be received by the Transfer Committee on or before June 1 to be eligible for consideration. Pursuant to exigent circumstances, the Transfer Committee may suspend the June 1 filing deadline.

- K. The Board, its Superintendent, and each school principal shall have a continuing obligation to monitor student enrollment and to ensure that no unlawful intra- or inter-district transfers are permitted and that all attendance zones are enforced.
- L. The parties recognize that no school is currently in corrective action or subject to the school choice transfer option under the “No Child Left Behind Act” (“NCLB”). However, should any school become subject to the NCLB school choice transfer provision during the duration of this Superceding Consent Decree, the parties agree that, because of the constitutional basis for the extant desegregation orders, any NCLB-related transfer request shall be considered an intra-district transfer request subject to paragraph F above.

III. Scope and Duration of Superceding Consent Decree

This Superceding Consent Decree shall remain in full force and effect for the 2011-2012, 2012-2013, and 2013–14 school years. On July 1, 2014, this Superceding Consent Decree shall expire and the Board shall be deemed to be in partial unitary status in the area of student transfers. Prior to the expiration of that term, the United States may move the Court to extend the duration of this decree for good cause, including on the basis that the Board failed during said term to comply with a provision thereof.

IV. Conclusion

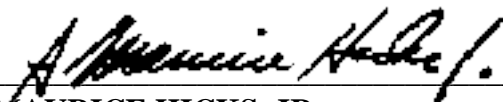
It is the determination of this Court that the provisions embodied in this Superceding Consent Decree: (1) comport with the Fourteenth Amendment to the Constitution of the United States of America and applicable federal law; (2) are reasonable, equitable, and appropriate to ensure that the practices and policies of the District comply with applicable federal law and the

desegregation orders issued in this case; and (3) are designed to further the orderly desegregation of the schools operated by the Board.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the student transfer plan set forth above be entered, announced, and implemented as an appropriate step for attaining compliance with the applicable federal law.

All parties will have the right to seek enforcement of the provisions of this Superseding Consent Decree. This Court will retain jurisdiction to monitor compliance with the provisions of this and other Orders in this action. All previous Orders and Decrees entered in this case relative to student transfers are withdrawn and replaced by this Superseding Consent Decree Governing Student Transfers. All previous Orders and Decrees entered in this case relative to other issues that are not inconsistent with this Superseding Consent Decree remain in full force and effect.

SO ORDERED, this the 14th day of December, 2011.



S. MAURICE HICKS, JR.
UNITED STATES DISTRICT COURT JUDGE

BY CONSENT:

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