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United States District Court, E.D. Missouri, Eastern  
Division.

Craton LIDDELL, et al. Plaintiffs,  
v.

The BOARD OF EDUCATION OF the CITY OF ST.  
LOUIS, et al., Defendants.

No. 72–100 C 5. | March 2, 1990.

#### Attorneys and Law Firms

William P. Russell, Joseph McDuffie, St. Louis, Mo., for  
Liddell plaintiffs.

Michael A. Middleton, Columbia, Mo., William L.  
Taylor, Washington, D.C., Wayne C. Harvey, Caldwell  
Harvey Hughes McHugh & Singleton, St. Louis, Mo., for  
Caldwell/NAACP plaintiffs.

Kenneth C. Brostron, Lashly Baer & Hamel, St. Louis,  
Mo., for City Board defendants.

Michael J. Fields, Bart A. Matanic, Assistant Missouri  
Attorney Generals, Jefferson City, Mo., John J. Lynch,  
Assistant Missouri Attorney General, St. Louis, Mo.,  
David R. Boyd, Sutherland Asbill & Brennan,  
Washington, D.C., for State of Missouri defendants.

Andrew J. Minardi, Joseph D. Ferry, St. Louis, Mo., for  
St. Louis County defendants.

Shulamith Simon, Husch Eppenberger Donohue Cornfeld  
& Jenkins, St. Louis, Mo., for Court-Appointed amicus  
curiae.

Craig M. Crenshaw, Jr., Jeremiah Glassman, US Dept of  
Justice, Civil Rights Division, Washington, D.C., for  
United States of America.

James J. Wilson, St. Louis, Mo., for City of St. Louis.

Anthony J. Sestric, Sestric & Cipolla, St. Louis, Mo., for  
St. Louis Collector of Revenue.

Charles Werner, St. Louis, Mo., for Missouri Nea.

Charles R. Oldham, St. Louis, Mo., for St. Louis Teachers  
Local Union 420.

Henry D. Menghini, Robert J. Krehbiel, Evans & Dixon,  
St. Louis, Mo., for St. Louis County School  
Districts—Afton & Lindbergh.

Darold E. Crotzer, Jr., St. Louis, Mo., for Bayless,  
Jennings, Normandy & Wellston.

Bertram W. Tremayne, Jr., Tremayne Lay Carr Bauer &  
Nouss, St. Louis, Mo., for Kirkwood & University City.

Frank Susman, Susman Schermer Rimmel & Parker, St.  
Louis, Mo., for Ferguson–Florissant.

George J. Bude, St. Louis, Mo., for Brentwood, Clayton  
& Hancock Place.

Robert P. Baine, Jr., St. Louis, Mo., for Hazelwood.

Robert G. McClintock, St. Louis, Mo., for Ladue.

Richard H. Ulrich, Summers Compton Wells & Hamburg,  
St. Louis, Mo., for Maplewood–Richmond Heights.

John Gianoulakis, Kohn Shands Elbert Gianoulkis &  
Giljum, St. Louis, Mo., for Mehlville, Pattonville &  
Ritenour.

Donald J. Stohr, James W. Erwin and R.J. Robertson,  
Thompson & Mitchell, St. Louis, Mo., for Parkway.

Edward J. Murphy, Jr., Garry K. Seltzer, St. Louis, Mo.,  
for Riverview Gardens.

Douglas A. Copeland, Robert W. Copeland, Copeland  
Gertner & Thompson, St. Louis, Mo., for Rockwood &  
Webster Groves.

Thomas E. Tueth, Audrey G. Fleissig, Ian P. Cooper,  
Peper Martin Jensen Maichel & Hetlage, St. Louis, Mo.,  
for St. Louis County Special.

Kenneth V. Byrne, Schlueter & Byrne, St. Louis, Mo., for  
Valley Park.

#### Opinion

#### MEMORANDUM

LIMBAUGH, District Judge.

\*1 This matter is before the Court on the City Board's  
motion for approval of the 1989–90 Magnet Fund Budget,  
L(2356)89, filed April 3, 1989. On November 13, 1989  
the Budget Review Committee (BRC) Chairperson filed  
the BRC Report, L(2669)89. The City Board, the State of  
Missouri and the Education Monitoring and Advisory  
Committee (EMAC) have filed responsive pleadings.  
L(2677)89, L(2680)89, L(2681)89, L(2684)89 and  
L(2685)89.

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The BRC Chairperson reports that in order to accommodate the unified funding formula ordered by the Court in the Magnet Plan, L(2090)88, the City Board set up a new Fund 52 to account for all general education and magnet specialty costs for all magnet programs. Certain budget functions were transferred to Fund 52:

1. General education costs of intradistrict magnets from the City Board's general fund accounts;
2. Magnet specialty costs of intradistrict magnets from Fund 57, and
3. General and special costs of interdistrict magnets from Fund 53.

The costs budgeted in Fund 52 are costs for continued operation of court-approved magnets. The parties agreed to submit and negotiate a separate budget for start-up costs for magnets beginning operation in the 1989–90 school year.

Dr. Brown reports that after many months of negotiations, eleven (11) budget function amounts and two (2) fund assignments remain in dispute. The Court has already resolved the matter of the fund assignments dispute per Order L(2740)90 relating to the 1989–90 Intradistrict Plan budget. This order will only address the issue of the budget function amounts disputes.

Before resolving the fiscal disputes, the Court believes that it is necessary to clarify certain significant points regarding the magnet program. Firstly, while it is true that the magnet schools are to benefit from additional perks in order to develop and implement their instructional programs, these “perks” are not without limitation. The Magnet Plan order specifically stated that “enriched resources” were additional resources (whether staff, equipment, or materials) necessitated by the particularized area of focus of each magnet. “Enriched resources” is not an acceptable excuse for simply wanting more of what is already on hand. Each and every request for additional or alternative resource needs must be tied to the specific area of focus for the program.

Secondly, the City Board is very mistaken if it believes that AAA standards are not applicable to magnets. They are very much applicable to magnets. The AAA standards provide the guidelines by which to adjudge the need for additional resources for any magnet due to its focus and/or recruitment efforts. Simply because a school is a magnet does not automatically entitle it to everything the City Board wants. In some instances, meeting AAA requirements will be sufficient, in other instances going beyond AAA requirements will be necessary. If the parties cannot agree, then the Court will be forced to make this educational decision. Even so, those decisions

already made by the Court, such as staffing formulas, shall be adhered to by the parties. Deviations had better be thoroughly documented and justified.

\*2 It was never the intent of the Court to dismantle the Honors Art and Honors Music programs by relocating them to VPA–Central. It was this Court's observation, as well as the Magnet Panel's, that these two part-time programs could benefit from the resources provided at Central. The Court contemplated a merger with the VPA program that would still provide part-time integrative opportunities to the Honors Music and Honors Art students. The problem appears to be that the City Board has not taken any steps to merge the programs as recommended by the Magnet Panel (and quoted at length by the City Board). A merger is possible which retains the specialty aspects of these two programs, but eliminates duplication of staff, equipment, materials and activities. EMAC clearly states exactly what the City Board needs to do: develop and implement a merger plan which includes recruitment and retention strategies, curriculum articulation with the VPA program, and specific programmatic elements of the Honors Art and Honors Music curriculum. L(2681)89. The Court agrees that this type of merger plan is absolutely necessary in order to properly budget for these programs. The Court advises the City Board to begin immediately developing such a plan because future FTE allocations will be based on it. Details of this merger plan will be developed by staff involved in the VPA, Honors Art and Honors Music programs.

The Court has not included the Mass Media program in its analysis because it is unsure of the present status of the program. The BRC Chairperson states that the principal at VPA–Central reports a complete merger of the Mass Media program into the VPA curricula. The parties seem to argue otherwise. If it is appropriate to do so, the Mass Media program should be made a part of the merger plan at VPA–Central.

With these pronouncements in mind, the Court has made the following determinations:

***1112 DA—Academy of Basic Instruction***

The additional televisions and VCRs which the City Board wants so as to provide “ready access” do not constitute enriched resources as contemplated by the Court. The Court approves the total budget amount of \$517,162.00.

***1112 DD—Foreign Language Experience***

Until the Court receives the City Board's report on instructional coordinators, no additional ICs will be authorized. Once the Court knows exactly what these people are doing and why, it may be inclined to authorize this staff position at Dewey. The Court approves \$190,359.00 for this function.

***1152 DY—Honors Art***

The Court will approve the City Board's budget request; however, this approval does not in any way guarantee continued support for past levels of staffing, equipment and/or supplies. A merger plan will be developed in order to efficiently budget this program for next year. As far as the Court can determine, the staffing formula appears appropriate; however, EMAC's concerns regarding the application of the staffing formula to this program (and Honors Music) should be considered and modifications made, if necessary. The total budget amount approved for Function 1152 DY is \$335,981.00.

***1152 DZ—Honors Music***

\*3 The Court's comments regarding Honors Art are applicable to this function also. The total budget amount approved for Function 1152 DZ is \$333,414.00.

***1152 DG—VPA High School***

The Court will approve the City Board's budget request. Just as with Honors Art and Honors Music, this approval is not a guarantee for continued support of past levels of staffing, equipment and supplies. The BRC Chairperson shall investigate the actual status of this program and ascertain whether or not it needs to be made a part of the merger plan. The total approved budget amount for Function 1152 DG is \$659,503.00.

***1152 DQ—Classical Senior Academy***

After reviewing the 1986–87 Evaluation Report on the CSA, it appears to this Court that the CSA is a full-time magnet program. Although it is being phased out, the Court agrees that staffing levels for the remaining grade levels should remain constant. However, since it is a full-time program, its staffing requirements must adhere to the same formula as the other full-time programs. The

Court agrees with the BRC Chairperson's analysis. The total approved budget for the CSA is \$205,832.00.

***2122—Counseling Services***

The Court agrees with the BRC Chairperson and State that AAA standards are sufficient for the provision of counseling services. It is certainly acceptable if the City Board's own policy is to provide only full-time counselors at the high schools, but the State will not pay for the excess staff mandated by a local school board decision. The Court approves a total budget of \$736,045.00 for this function.

***2226—Library Media Center***

The City Board has amended its budget request from \$1,322,199.00 to \$1,314,889.00. It revises its calculation by using November 1989 enrollment figures and foregoing its initial request for extra-service payments and repair costs. It still requests 26 FTEs (which includes 2 FTE librarians at VPA–Central) and replacement costs for equipment at Lyons. The State argues that AAA standards only require 2 FTE librarians at Central and that the State should not pay for stolen equipment (because the City Board's insurance should cover replacement costs).

The Court accepts the BRC Chairperson's recommended amount of \$1,290,596.00 for 26 FTEs and library maintenance costs. The Court is not going to allow the City Board to benefit by revised budget figures due to protracted delays in budget negotiations caused in part by the City Board's own lack of diligence. As to the issue of librarians, the Court accepts the need of two librarians at Central. It is reasonable to believe that the visual and performing arts focus would create a large demand for use of library materials. Finally, the Court does not believe that desegregation funds are to be used to replace stolen equipment when such costs should already be covered by the City Board's insurance.

The total approved amount for this function is \$1,290,596.00.

***2411—Office of the Principal***

\*4 The City Board believes that simply because a school is a magnet school, it is automatically entitled to staffing beyond AAA requirements. This is not the case. The Court will allow for additional staffing in magnets in

order to insure that a particular magnet program is implemented in accordance with the program requirements.

In the instant case, the City Board wants across-the-board additional staffing at all magnet high schools. The premise being that for magnet high schools to be comparable to county schools, staff help above AAA requirements is needed. The City Board fails to disclose why additional staff is needed at any particular magnet or why additional staff is required in order to be comparable to county schools, especially since the State avers that most county districts staff their schools at AAA levels. It provides job descriptions for the additional staff positions but still circumvents the issue as to how these staff positions fit the needs of any individual magnet high school.

The BRC Chairperson and the State argue that the City Board's deployment of high school administrators and staff exceed AAA requirements and contravene this Court's explicit orders to downsize its administrative staff. They are correct on both points. However, because the issue concerns staffing at magnets, some leeway must be considered.

The Court is going to allow the additional staffing for the 1989-90 school year. Beginning with the 1990-91 budget, AAA staffing levels will be the standard staffing level for magnets. Requests for additional staff must be detailed and specifically tied to the needs of the particular magnet. The Court expects both the State and the City Board to be flexible in this matter.

The Court approves the total budget amount of \$3,184,898.00 for this function.

***2551—Contracted Transportation***

***2558—Non-Allowable Transportation***

It appears from the pleadings and the BRC Chairperson's report that the issue of magnet transportation costs requires further analysis. The Court feels that the parties (with the BRC Chairperson's assistance) can develop a funding formula for these functions. Consequently, the Court will hold in abeyance its decision regarding Functions 2551 and 2558 for 30 days to allow the parties time to agree on a funding formula.

Finally, the Court wishes to remind the parties that although it understands the frustrations in negotiating budgets, the Court will not tolerate unprofessional

conduct by counsel. The Court was amazed by the insulting language City Board's counsel chose to use in its response, L(2680)89, such as referring to the staff from the Department of Elementary and Secondary Education (DESE) as "bean counters" and implying that the staffing and funding formulas developed by Dr. Brown *and approved by this Court* are nothing more than "simplistic mindless mathematical computation[s]." L(2680)89, pages 1 and 11. Such attacks on the integrity of the Court, the Court's Financial Advisor and the DESE are hardly persuasive argument. All counsel are forewarned that personal attacks and insulting language are sanctionable. Counsel will stick to facts and legal argument in their pleadings, or suffer the consequences.

\*5 The Court approves all remaining amounts agreed upon or not disputed by either paying party. This non-disputed amount in Fund 52 totals \$31,120,689.00.

At this time, the Court approves a 1989-90 Magnet Plan Budget totalling \$38,574,479.00. The Court authorizes subsequent amendments to salary accounts and for Functions 2551 and 2558. The coordinated payment schedule for the Settlement Plan and Intradistrict Plan budgets will be applicable to the Magnet Plan.

***ORDER***

In accordance with the memorandum filed herein this date,

IT IS HEREBY ORDERED that City Board's motion, L(2356)89, be and the same is approved in part and denied in part, so that the budget for the 1989-90 implementation of the Magnet Plan be and the same is approved in the total amount of \$38,574,479.00 with certain amendments forthcoming.

IT IS FURTHER ORDERED that pursuant to the order L(2090)88, the State of Missouri shall pay one-half of the cost of the desegregation budget approved herein, subject to such adjustments as the Court may deem necessary or proper. In accordance with the coordinated payment schedule previously agreed to by the State and City Board and approved by this Court, *see* H(1910)82, the Department of Elementary and Secondary Education shall certify to the Commissioner of Administration of the State of Missouri (Commissioner) the amount of each payment and to whom it is to be paid.

The Commissioner shall sign and issue at least four warrants, each payable to the Board of Education of the City of St. Louis. The first two payments of \$4,714,237.20 each shall be made no later than March 16, 1990. The third payment of \$4,714,237.20 shall be made

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no later than April 12, 1990. The fourth payment shall be made no later than June 12, 1990 and shall be for \$3,771,389.80 which equals one-fourth of the amount due from the State, less a deduction of five percent of the State's share of the approved budget. The amount constituting the five percent deduction, or a total of \$942,847.45 shall be withheld by the State until payment, if any, is necessary as a result of the final settlement.

The Treasurer of the State of Missouri, upon receipt of each warrant, shall timely sign and issue a state check for the same amount as is provided in the warrant.

IT IS FURTHER ORDERED that final settlement and reconciliation of the fiscal year expenditures shall be consummated within fifteen days after the outside auditors' report is submitted to the State. At the time of reconciliation, the City Board will refund any overpayment to the State or the State will reimburse the City Board for any approved expenditures that exceed the

total amount previously paid by the State. Furthermore, reconciliation of reimbursements or overpayments from this fiscal year will not be applicable to payments due in subsequent fiscal years.

IT IS FURTHER ORDERED that payment by the State to the City Board for the State's share of the budget approved for 1989-90 implementation of the Magnet Plan shall be in addition to any sums City Board would have received absent this order.

\*6 IT IS FURTHER ORDERED that the Budget Review Committee (BRC) Chairperson shall file a report within thirty (30) days of the date of this order informing the Court as to the status of funding for magnet transportation costs (i.e. Functions 2551 and 2558).