

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
)	CIVIL ACTION
v.)	NO. _____
)	
)	
COLUMBUS MUNICIPAL SEPARATE SCHOOL)	
DISTRICT; JOHN R. HENRY, President,)	<u>COMPLAINT</u>
and CARL McKELLAR, J. D. EDMONDSON,)	
HARRY R. OSWALD, and JAMES M. TROTTER,)	
Members of the Board of Trustees of)	
the Columbus Municipal Separate School)	
District, and JAMES E. GOOLSBY, Super-)	
intendent of Education of Columbus)	
Municipal Separate School District,)	
)	
Defendants.)	
)	

The United States, as a claim against the Columbus Municipal Separate School District, John R. Henry, Carl McKellar, J. D. Edmondson, Harry R. Oswald, James M. Trotter and James E. Goolsby, alleges:

1. This is an action for specific performance of certain written assurances made and given on behalf of the Columbus Municipal Separate School District to the plaintiff. This action is also to protect the interest of the United States that members and civilian employees of its Armed Forces and their dependents be not unconstitutionally discriminated against on account of race or color in the use and enjoyment of educational facilities which have been built or are being maintained and operated with the use of funds of the United States under the provisions

of P.L. 815 and P.L. 874, 81st Congress (Chapters 13 and 19 of Title 20 U.S.C.), with the resultant detriment to their service and morale.

2. This Court has jurisdiction of this action under Section 1345 of Title 28 United States Code.

3. The State of Mississippi maintains a state-wide system of free public schools.

4. The Board of Trustees of the Columbus Municipal Separate School District (hereafter referred to as the Board) is vested under Mississippi law with the general administration and supervision of the public schools of the City of Columbus. The Board is composed of five members. Its principal office is in Columbus, Mississippi.

5. John R. Henry is President of the Board and Carl McKellar, J. D. Edmondson, Harry R. Oswald and James M. Trotter are members of the Board. Each resides in Columbus, Mississippi.

6. James E. Goolsby is the Superintendent of Education of the Board of Trustees and, as such, is the chief executive officer of the Board. He resides in Columbus, Mississippi.

7. The plaintiff maintains Columbus Air Force Base in Lowndes County, Mississippi, as a part of its national defense establishment. Columbus Air Force Base, a Strategic Air Command installation, is the headquarters of the 454th Bombardment Wing. Its mission is to be prepared to conduct global strategic air operations on an instantaneous basis with a long-range nuclear jet striking force.

8. Columbus Air Force Base is located on property owned by the plaintiff in Lowndes County, Mississippi, approximately seven miles from Columbus, Mississippi.

9. There are approximately 3100 military personnel and approximately 400 civilians stationed or employed at Columbus Air Force Base. Of these, approximately 170 military personnel and approximately 45 civilians are Negro.

10. The plaintiff has constructed approximately 800 family housing units on Columbus Air Force Base. These units, which are owned and maintained by the plaintiff, have been constructed so that servicemen who are stationed at Columbus Air Force Base may live together with their families. The housing units are assigned to the officers and airmen stationed at the Base without regard to their race or color. At the present time there are approximately five Negro airmen residing in such housing units with their families.

11. There are no educational facilities on Columbus Air Force Base available to the school-age dependents of the members and civilian employees of the plaintiff's Armed Forces.

12. On November 4, 1956, the Lowndes County Board of Education adopted a resolution that it would be to the best interest and advantage of the Lowndes County School District, and of the pupils residing on the Columbus Air Force Base, to attend school and to receive an education in the Columbus Municipal Separate School District rather than in the Lowndes County School District. The Lowndes County Board of Education further resolved that

all pupils in grades 1 through 12 residing on the Columbus Air Force Base at any time prior to August 31, 1978, be legally transferred to and attend school in the Columbus Municipal Separate School District. In its resolution the Lowndes County Board of Education petitioned the Board of Trustees of the Columbus Municipal Separate School District to accept the transfer of the pupils. A copy of the resolution of the Lowndes County Board of Education is attached to this complaint as Appendix A.

13. On November 13, 1957, the Board of Trustees of the Columbus Municipal Separate School District adopted a resolution accepting the transfer of all pupils in grades 1 through 12 who at the time of the resolution resided or would thereafter reside at any time from the date of the resolution until August 31, 1978, in that part of the Lowndes County School District which constitutes the Columbus Air Force Base. A copy of the resolution of the Board is attached as Appendix B to this complaint.

14. Since the adoption of its resolution of November 13, 1957 and until the present time the Board has made the school facilities of the Columbus Municipal Separate School District available to children residing on the Columbus Air Force Base. During the 1962-63 school year approximately 890 children residing on the Base attended the schools administered by the Board. Approximately the same number of children residing on the Base have enrolled to attend the schools of the Columbus Municipal Separate School District for the fall semester of the 1963-64 school year. These children include members of both the white and Negro races.

15. Under the provisions of Chapter 13 of Title 20 of the United States Code, the Commissioner of Education has approved and the plaintiff has paid to the Board during the period from 1951 through June 30, 1963, a total of \$820,344 for the maintenance and operation of its schools. These grants were approved and the payments made on account of the Board providing public education for the dependents of the military personnel and civilian employees of the plaintiff, and the proceeds have been used by the Board to defray the general cost of maintaining and operating its public schools. A tabulation of the grants paid and the number of dependents on whose account they were paid, for each year since 1951, is set forth in Appendix C to this complaint.

16. Under the provisions of Chapter 19 of Title 20, United States Code, the United States Commissioner of Education has approved and the plaintiff has paid or agreed to pay grants in the total amount of \$939,875.87 during the period from 1950 to the present time for the construction and improvement of the schools under the operating jurisdiction of the Board. A tabulation of the funds paid or approved by the plaintiff to the Board on individual construction projects appears as Appendix D to this complaint.

17. Brandon Elementary School is located on U.S. Highway 45 approximately one and one-half miles north of Columbus and six and one-half miles south of Columbus Air Force Base. The construction of Brandon Elementary School, consisting of four self-contained classrooms, four regular classrooms, library with workroom, multi-purpose room with stage, kitchen with service

areas, one teachers' workroom, teachers' lounge, administration suite, one music room, clinic, auxiliary facilities, site work, and equipment, was completed on September 14, 1959, at a total of \$279,218.97. The plaintiff has paid to the Board the entire cost of this construction under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code. An addition to Brandon Elementary School, consisting of two self-contained classrooms, four regular classrooms, electric heating controls, drives and parking areas, auxiliary facilities and necessary equipment, was completed on February 2, 1960, at a total cost of \$52,577.07. The plaintiff has paid to the Board the entire cost of this addition under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code. A further addition to Brandon Elementary School, consisting of four regular classrooms and two self-contained classrooms, workroom, corridor, toilet facilities and equipment, was completed on September 8, 1961, at a total cost of \$55,297.79. Of this total cost of construction the plaintiff has paid \$55,283.39 to the Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

18. Cook Junior High School is located on North 7th Street in Columbus. The plaintiff has paid \$55,245.69 to the Board to purchase equipment for Cook Junior High School under a grant applied for by the Board and approved by the Commissioner of Education

pursuant to the provisions of Chapter 19 of Title 20, United States Code. The total cost of the equipment purchased by the Board, in a project completed on December 19, 1961, was \$67,855.98.

19. Barrow Elementary School is located on 6th Avenue South between 8th and 9th Streets in Columbus. An addition to Barrow Elementary School, consisting of six self-contained classrooms, covered walk and necessary equipment, was completed on September 15, 1961, at a total cost of \$60,098.93. Of this total cost of construction the plaintiff paid \$59,957.09 to the Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

20. Hughes Elementary School is located on 19th Avenue North between 23rd and 24th Streets in Columbus. An addition to Hughes Elementary School, consisting of four self-contained classrooms, two regular classrooms and equipment, was completed on September 8, 1961, at a total cost of \$51,071.32. Of this total cost of construction, the plaintiff has paid \$51,013.72 to the Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

21. Coleman Elementary School is located on 22nd Street South between 7th and 8th Avenues in Columbus. An addition to Coleman Elementary School, consisting of two self-contained and four regular classrooms, additional toilet fixtures, corridor and equipment, was completed on September 15, 1961, at a total cost of \$50,622.64. Of this total cost of construction, the plaintiff has paid

\$50,554.24 to the Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

22. Union Academy Elementary School is located on 10th Avenue North between 14th and 15th Streets North in Columbus. The construction of Union Academy Elementary School, consisting of nine self-contained and eleven regular classrooms, two music rooms, cafetorium with stage, kitchen with service areas, clinic, toilet rooms, book storage, administrative suite containing teachers' lounge, principal's office and secretary's office, lobby, corridors, storage, covered walk area and equipment, was completed on August 24, 1962, at a total cost of \$260,902.70. The plaintiff has paid to the Board the entire cost of this construction under a grant applied for by the Board and approved by the Commissioner of Education pursuant to Chapter 19 of Title 20, United States Code.

23. Mitchell Memorial School is located at 15th Street South in Columbus. An addition to Mitchell Memorial School, consisting of six classrooms, multi-purpose room with stage, kitchen, two offices, toilets, storage rooms, corridors, auxiliary facilities and site improvements, is currently under construction. The plaintiff has authorized the expenditure of \$75,123.00 of federal funds for the construction of this addition. The total cost of this addition is \$77,804.00, of which the plaintiff has paid \$67,611.00 as of June 25, 1963, to the Board under a grant applied for by the Board and approved by the Commissioner of Education pursuant to the provisions of Chapter 19 of Title 20, United States Code.

24. In connection with each of its applications for a grant under Chapter 19 of Title 20, United States Code, as referred to in paragraphs 17 through 23, the Board gave written assurance, as required by 20 U.S.C. 636, that the school facilities of the Board "will be available to the children for whose education contributions are provided . . . on the same terms, in accordance with the laws of the state in which applicant is situated, as they are available to other children in applicant's school district."

25. At all times herein mentioned it has been and is the policy and practice of the defendants, in operating the public schools under their jurisdiction, to segregate Negro students in separate schools maintained and operated solely for students who are of the Negro race. Pursuant to this policy and practice the defendants have operated Brandon, Barrow and Coleman elementary schools, Joe Cook Junior High School and Mitchell Memorial School exclusively for children of the white race, and Hughes Elementary School exclusively for Negro children.

26. Negro military personnel stationed at and residing on Columbus Air Force Base have applied to the Board for assignment, for the fall semester of the 1963-64 school year, of twelve of their children to schools previously attended solely by white children.

27. The public schools under the jurisdiction of the Board are scheduled to open for the 1963-64 school year on August 30, 1963.

28. On August 22, 1963, the Board adopted a resolution that no children living outside the Municipal Separate School District would be enrolled in the public

schools of the City of Columbus unless they qualified under State Education Finance Commission provisions made in 1956 in the reorganization of the county and city school districts. It is the purpose and effect of this resolution that school children residing on Columbus Air Force Base will be excluded from the public schools of the City of Columbus.

29. On August 22, 1963, the Board adopted a second resolution closing the Brandon Elementary School and abandoning its use for educational purposes. During the 1962-63 school year the Brandon Elementary School was attended by approximately 680 children of servicemen residing on Columbus Air Force Base.

30. The defendants have failed and are failing to make the public school facilities under their jurisdiction available to Negro dependents of military personnel and civilian employees of the plaintiff upon the same terms as such facilities are available to white children.

31. The defendants threaten, by implementation of the Board's resolutions of August 22, 1963, to make the public school facilities under their jurisdiction completely unavailable to the children of military personnel of the plaintiff residing on Columbus Air Force Base.

32. The Board has failed and is now failing and refusing to perform each of its assurances referred to and described in paragraph 24.

33. The acts and conduct of the defendants herein alleged violate the Fourteenth Amendment to the Constitution and impose an undue and unreasonable burden upon the plaintiff in the exercise of its power to raise

and support armies and to provide for the national defense.

34. The acts and conduct of the defendants cause immediate and irreparable injury to the plaintiff, consisting of the unavailability of a suitable education for the dependents of the plaintiff's personnel at Columbus Air Force Base, and the consequent impairment of the service and morale of the military and civilian personnel of the Base and the impairment of rights owing to the plaintiff under the Constitution and laws of the United States and under the written assurances given to the plaintiff as hereinabove set forth.

35. The plaintiff has no adequate remedy at law.

WHEREFORE, plaintiff prays that this Court enter an order enjoining the defendants, their successors in office, agents, employees, and all persons in active concert or participation with them, from:

- (a) failing or refusing to make the school facilities of the Board available to the children of military and civilian personnel of the plaintiff residing on Columbus Air Force Base and for whose education the plaintiff has made contributions to the Board under Chapter 19 of Title 20, United States Code, and
- (b) assigning children of military or civilian personnel of the plaintiff stationed, employed or residing at Columbus Air

Force Base to particular schools
upon the basis of their race or
color.

Plaintiff further prays that the defendants
be ordered to pay the costs of this action, and for such
other relief as the interests of justice may require.

UNITED STATES OF AMERICA,
Plaintiff,

By:

ROBERT F. KENNEDY
Attorney General

BURKE MARSHALL
Assistant Attorney General

HOSEA M. RAY
United States Attorney

ST. JOHN BARRETT
Department of Justice

VERIFICATION

CITY OF WASHINGTON
DISTRICT OF COLUMBIA, SS:

St. John Barrett, being first duly sworn, says:

I am an attorney of the Department of Justice and am one of the counsel for plaintiff in the foregoing case. I have read the allegations of the foregoing complaint and they are true to the best of my knowledge, information and belief.

ST. JOHN BARRETT

SUBSCRIBED AND SWORN to
before me this
day of August, 1963.

Notary Public
My Commission expires

APPENDIX A

RESOLUTION PETITIONING THE BOARD OF TRUSTEES OF THE COLUMBUS MUNICIPAL SEPARATE SCHOOL DISTRICT TO ACCEPT THE TRANSFER OF ALL PUPILS IN GRADES 1 THROUGH 12 THAT NOW RESIDE, OR THAT SHALL HEREAFTER RESIDE AT ANY TIME FROM THE DATE HEREOF UNTIL AUGUST 31, 1978, IN THAT PART OF THE LOWNDES COUNTY SCHOOL DISTRICT WHICH CONSTITUTES THE COLUMBUS AIR FORCE BASE

WHEREAS, the territory constituting the Columbus Air Force Base in Lowndes County, Mississippi is located within the territorial limits of the Lowndes County School District, and there are now, and will be for so long as said Columbus Air Force Base shall remain active, certain educable children residing at said base, who will be entitled to receive an education; and

WHEREAS, in the opinion of the Lowndes County Board of Education, it would be to the best interest and advantage of said Lowndes County School District, and of the pupils who now reside or who may hereafter reside on the Columbus Air Force Base, to attend school and to receive an education in the Columbus Municipal Separate School District, where the educational program provides for a nine month school term, and

WHEREAS, this Board desires that the transfer of all such pupils residing upon the Columbus Air Force Base be effective, pursuant to the requirements of Section 6248-07 of the Mississippi Code of 1942 Annotated.

NOW THEREFORE, BE IT RESOLVED by the Lowndes County Board of Education, acting as the Trustees of the Lowndes County School District, that said Board does hereby find and declare that it would be to the best interest and advantage of said Lowndes County School District, and to the best interest and advantage of the pupils involved, that all pupils in grades 1 through 12 residing at the

present time) or who shall hereafter reside at any time prior to August 31, 1978, upon the Columbus Air Force Base in Lowndes County, Mississippi, be legally transferred to, and attend school in the Columbus Municipal Separate School District.

BE IT FURTHER RESOLVED that this Board does hereby respectfully petition the Board of Trustees of the Columbus Municipal Separate School District to accept the transfer of said pupils, and to agree to educate them in the manner and form required by Section 6248-07 of the Mississippi Code of 1942 Annotated.

BE IT FURTHER RESOLVED that the Secretary of this Board be and he is hereby authorized and directed to furnish a certified copy of this resolution to the Board of Trustees of the Columbus Municipal Separate School District, and to do and perform all acts and things by and on behalf of this Board that shall be necessary or required to obtain the consent in writing of said Board of Trustees to the transfer of said pupils.

This the 4th day of November, A. D., 1957.

The foregoing resolution was offered by Mr. John B. Hardy, who moved its adoption, which motion was duly seconded by Mr. W. R. Taylor and unanimously adopted.

CERTIFICATE

I, J. M. Thatch, Executive Secretary of the Lowndes County Board of Education, do hereby certify that the above and foregoing is a true and correct copy of a resolution adopted by the Lowndes County Board of Education at the regular meeting of said Board on the 4th day of November, A. D., 1957, as the same appears of record on the minutes of said Board.

WITNESS MY SIGNATURE, this the 4th day of November,
A. D., 1957.

/s/ J. M. Thatch
Executive Secretary

APPENDIX B

RESOLUTION ACCEPTING THE TRANSFER OF ALL PUPILS IN GRADES 1 THROUGH 12 THAT NOW RESIDE, OR THAT SHALL HEREAFTER RESIDE AT ANY TIME FROM THE DATE HEREOF UNTIL AUGUST 31, 1978, IN THAT PART OF THE LOWNDES COUNTY SCHOOL DISTRICT WHICH CONSTITUTES THE COLUMBUS AIR FORCE BASE

Whereas, the Lowndes County Board of Education, heretofore, to-wit: on the 4th day of November, 1957, at a regular meeting thereof, adopted a resolution petitioning the Board of Trustees of the Columbus Municipal Separate School District of Lowndes County, Mississippi to accept the transfer of all pupils in Grades 1 through 12 that now reside, or that shall hereafter reside at any time from the date thereof until August 31, 1978, in that part of the Lowndes County School District which constitutes the Columbus Air Force Base, and

Whereas, the Board of Trustees of the Columbus Municipal Separate School District, after mature deliberation, and in view of the desirability of undertaking the instruction of said pupils of the Columbus Air Force Base within the framework of the Columbus Municipal Separate School District in view of the longer school term to be afforded said pupils, and other considerations,

THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE COLUMBUS MUNICIPAL SEPARATE SCHOOL DISTRICT That all pupils in Grades 1 through 12 that now reside, or shall hereafter reside at any time from the date hereof until August 31, 1978 in that part of the Lowndes County School District which constitutes the Columbus Air Force Base be accepted by transfer from the Lowndes County School District in accordance with the laws of the State of Mississippi, as the school facilities are available to other children in the Columbus Municipal Separate School District; provided, however, that the Columbus Municipal Separate School District receives sufficient funds from the federal government with which to construct a building for said purpose.

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I, Thomas L. Hayslett, Secretary of the Board of Trustees of Columbus Municipal Separate School District, do hereby certify that the above and foregoing constitutes a true and correct copy of a resolution adopted by the Board of Trustees of the Columbus Municipal Separate School District at a regular meeting of said Board held on the 12th day of November, 1957, and as the same appears of record in the minutes of said Board of Trustees.

Given under my hand this the 13th day of November, 1957.

/s/ Thomas L. Hayslett
Secretary

APPENDIX C

FEDERAL PAYMENTS MADE TO COLUMBUS MUNICIPAL SEPARATE SCHOOL DISTRICT, COLUMBUS, MISSISSIPPI, FOR CURRENT OPERATING EXPENSES OF SCHOOLS UNDER PUBLIC LAW 874 AND THE NUMBER OF FEDERALLY CONNECTED CHILDREN BY CATEGORY COUNTED FOR PAYMENT FOR FISCAL YEARS 1951 THROUGH 1963

Number of Children Counted for Payment				
Fiscal Year	"A" Category <u>1/</u>	"B" Category <u>2/</u>	"B" Category <u>3/</u>	Federal Payment
(1)	(2)	(3)	(4)	(5)
1954	--	235	155	\$12,792
1955	--	235	--	9,928
1956	--	142	--	5,772
1957 <u>4/</u>	--	--	--	--
1958	--	306	--	21,488
1959	418	292	--	84,243
1960	583	407	--	124,106
1961	621	505	--	148,311
1962	877	471	--	199,396
1963 (est.)	891	498	--	214,298
Total	3,390	3,091	155	\$820,334

1/ Children who live on Federal property with a parent employed on Federal property.

2/ Children who live on Federal property or with a parent employed on Federal property, but not both.

3/ Children for whom 3(b) entitlement was increased by the amount of State aid for which the school district was not yet eligible (State aid lag). This provision was eliminated by Public Law 248, effective July 1, 1954.

4/ No application.

APPENDIX

SCHOOL CONSTRUCTION PROJECTS APPROVED UNDER PUBLIC LAW 815 FOR COLUMBUS MUNICIPAL SEPARATE SCHOOL DISTRICT, LOWHDES COUNTY, MISSISSIPPI, INCLUDING APPLICATION PERIODS, PROJECT NUMBERS, DATES OF PROJECT APPROVAL, FEDERAL AND LOCAL FUNDS EXPENDED AND TOTAL PROJECT COSTS FOR FISCAL 1951 THROUGH 1963

Application Period	Project Number	Date Project Approved	Federal Funds	Local Funds	Total Cost
(1)	(2)	(3)	(4)	(5)	(6)
1956-58	58-C-601A8	March 21, 1958	\$279,218.97	\$ --	\$279,218.97
1958-60	60-C-601A10	June 15, 1959	52,577.07	--	52,577.07
1959-61	61-C-601A11	January 25, 1961	55,245.69	12,610.29	67,855.98
1959-61	61-C-601B11	January 25, 1961	55,283.39	14.40	55,297.79
1959-61	61-C-601C11	January 25, 1961	59,957.09	141.84	60,098.93
1959-61	61-C-601D11	January 25, 1961	51,013.72	57.60	51,071.32
1959-61	61-C-601E11	January 25, 1961	50,554.24	68.40	50,622.64
1960-62	62-C-601A12	May 19, 1961	260,902.70	--	260,902.70
1960-62	* 62-C-601B12	October 9, 1962	75,123.00	2,681.00	77,804.00
Total			\$939,875.87	\$15,573.53	\$955,449.40

* Under construction.