

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

CIVIL ACTION NO. 1:83-CV-00293-MPM

HORACE WILLIE MONTGOMERY, ET AL. PLAINTIFFS

VS.

STARKVILLE MUNICIPAL SCHOOL DISTRICT, ET AL. DEFENDANTS

Consolidated with

WILLIAM HARRIS, ET AL. PLAINTIFFS

VS.

OKTIBBEHA COUNTY SCHOOL DISTRICT, ET AL. DEFENDANTS

**DESEGREGATION ORDER FOR THE
CONSOLIDATED SCHOOL DISTRICT**

Before the Court is the Joint Motion of the United States and the Starkville-Oktibbeha Consolidated School District (“the District”), formerly known as the Starkville Municipal School District and the Oktibbeha County School District, to approve a new desegregation order for the District to be effective as of the date of this Order.

I. Background

On February 5, 1970, and February 6, 1970, this Court entered orders requiring the Starkville Municipal Separate School District and the Oktibbeha County School District, respectively, to immediately cease operation of dual school systems and to immediately begin to operate unitary school systems as required by the Supreme Court of the United States in *Alexander v. Holmes County Board of Education*, 396 U.S. 19 (1969). These Orders required the

Districts to immediately implement non-segregative policies in the following areas of operation: student assignment; faculty and staff; facilities, and; transportation.

In the 2013 session, the Mississippi Legislature passed, and the Governor approved, House Bill 716, which mandated consolidation of the two Districts, effective July 1, 2015. House Bill 716. The legislation established a seven-member Commission on Starkville Consolidated School District Structure (the “Commission”) to review the existing structure of the two Districts and to make recommendations on future actions for the provision and transition of services of the consolidated school district in order to improve both the quality of education and the efficiency with which it is delivered.¹

On January 24, 2014, the Commission filed its Report to the Governor of Mississippi, the Mississippi Legislature, and the Mississippi Board of Education (the “Report”). The Report includes the Commission’s proposed plan for consolidation of the Districts.

In its 2014 session, the Mississippi Legislature passed, and the Governor approved, Senate Bill 2818, which, among other things, named the new consolidated school district the “Starkville-Oktibbeha Consolidated School District” and added funding options for the new consolidated district.

With respect to the Districts’ desegregation obligations, the Districts filed a Joint Motion to Consolidate Cases on November 14, 2014, followed by their Motion to Approve New

¹ The Commission held public meetings sixteen times over a period of eight months: May 15, June 6, July 16, August 22, September 5, September 18, October 3, October 22, October 29, November 6, November 7, November 21, December 23, 2013, and on January 14 and January 24, 2014. In addition, the Commission held two public forums on August 22 and September 5, 2013, to which the general public was provided notice so anyone could attend. On November 5, 2013, Parents for Public Schools held a twitter town hall regarding consolidation and a twitter student meeting on December 17, 2013. Further, on December 13, 2013, some members of the Commission met with citizens calling themselves the Education Association of East Oktibbeha County Schools to discuss the consolidation. On October 22, 2013, the Commission met in executive session with counsel for both Districts to discuss the Districts’ desegregation obligations with respect to consolidation.

Desegregation Order. [Doc. # 10] The Court granted the Motion to consolidate the two federal desegregation cases. [Doc. # 13]

On May 22, 2015, the United States filed its Response, objecting to certain provisions of the Districts' proposed plan. [Doc. # 20] On June 5, 2015, the Districts filed their Joint Reply to the Response of the United States. [Doc. #23]

Pursuant to a conference with this Court on July 1, 2015, the parties agreed to work together to finalize and submit a proposed desegregation order for the Consolidated District to be effective as of the date of this Order and to govern the Consolidated District for the 2015-16 school year.

The United States expressly reserves and does not waive any objections that it raised in its Response. [Doc. #20]

The Court, being fully advised in the premises, hereby approves this desegregation order for the Starkville-Oktibbeha Consolidated School District effective as of the date of this Order and to govern the Consolidated District for the 2015-16 school year.

II. Student Assignment

All students residing within the Starkville-Oktibbeha Consolidated School District shall be assigned to attendance centers within the Consolidated District as follows:

A. East Oktibbeha Elementary: All students in grades pre-K through 5 residing in the former Oktibbeha County School District Eastern Zone shall be assigned to East Oktibbeha Elementary.

B. West Oktibbeha Elementary: All students in grades pre-K through 5 residing in the former Oktibbeha County School District Western Zone shall be assigned to West Oktibbeha Elementary.

C. Sudduth Elementary: All students in grades K through 2 residing in the former Starkville School District shall be assigned to Sudduth Elementary.

D. Ward-Stewart Elementary: All students in grades 3 and 4 residing in the former Starkville School District shall be assigned to Ward-Stewart Elementary.

E. Henderson Elementary: All students in grade 5 residing in the former Starkville School District shall be assigned to Henderson Elementary.

F. Armstrong Middle School: All students in grades 6 through 8 residing in the Consolidated School District shall be assigned to Armstrong Middle School.

G. Starkville High School: All students in grades 9 through 12 residing in the Consolidated District shall be assigned to Starkville High School.

The assignment of students as set forth above shall take effect and be in force for the 2015-16 school year.

The Consolidated District is enjoined and prohibited from maintaining any classrooms or sections in any school on a racially segregated basis.

III. Faculty and Other Staff

The Consolidated District shall assign faculty and other staff as follows:

A. Principals, teachers, teacher-aides and other staff who work directly with children at a school shall be so assigned that in no case will the racial composition of such staff indicate that a school is intended for black students or white students. The District shall assign the staff described above so that the ratio of black to white teachers in each school, and the ratio of other staff in each, are substantially the same as each such ratio is to the teachers and other staff, respectively, in the entire school system as provided in paragraph B below. The District shall, to

the extent necessary to carry out this desegregation plan, direct members of its staff as a condition of continued employment to accept new assignments.

B. The District shall assign certificated faculty who work directly with children such that the percentage of black faculty at each school is within +/- 15% of the systemwide percentage of black faculty. The systemwide percentage of black faculty at the elementary school and the middle/high school levels are to be calculated separately. In making assignments, the District shall consider, as appropriate, faculty seniority, areas of certification, and experience.

C. Staff members who work directly with children and professional staff who work on the administrative level will be hired, assigned, promoted, paid, demoted, dismissed, and otherwise treated without regard to race, color, or national origin.

D. The District shall hire, promote, assign, and transfer principals on a non-discriminatory basis. Principals shall not be assigned in a manner which tends to indicate that a school is or was intended for students of one race.

E. The District shall use non-discriminatory criteria for hiring, promotion, pay, assignment, and transfer of principals and faculty who work directly with children.

F. If a reduction in force is initiated, the District shall use non-racial objective criteria in selecting the staff member(s) dismissed or demoted². These criteria shall be available for public inspection and shall be retained by the District. The District shall also record and preserve the evaluation of staff members under the criteria. Such evaluation shall be made available upon request to the dismissed or demoted employee.

² "Demotion" includes any reassignment (1) under which the staff member receives less pay or has less responsibility than under the assignment held previously, (2) which requires a lesser degree of skill than did the assignment he/she held previously, or (3) under which the staff member is asked to teach a subject or grade other than one for which he/she is certified or for which he/she has had substantial experience within a reasonably current period. In general and depending upon the subject matter involved, five years is such a reasonable period.

G. For school year 2015-16, all employees of the former Oktibbeha County School District who were assigned to both West Oktibbeha Elementary and East Oktibbeha Elementary for school year 2014-15 shall be offered employment contracts with the Consolidated School District. All employees of the former Oktibbeha County School District who were assigned to the West Oktibbeha County High School (grades 7-12), and East Oktibbeha County High School (grades 7-12), and the Oktibbeha County Central Office have been non-renewed or terminated. These former county employees may apply for positions with the Consolidated School District for the 2015-16 school year. A racially diverse committee of District personnel at the middle school and high school will interview such former county employees, together with all other applicants, for openings for certified faculty, administrative, clerical and administrative staff positions. The Conservator of the former Oktibbeha County School District shall be a member of this interviewing committee for consideration of applicants for such openings for the beginning of the 2015-16 school year for grades 7-12. The principal at each school will recommend faculty and staff to the Superintendent and ultimately to the Board.

IV. School Construction and Site Selection

All school construction, school consolidation, and site selection (including the location of any temporary classrooms) in the system shall be done in a manner which will prevent the recurrence of the dual school structure.

V. Transportation

The transportation system shall be reexamined annually by the superintendent and the school board. Bus routes and the assignment of students to buses will be designed to insure the transportation of all eligible pupils on a non-segregated and otherwise non-discriminatory basis.

VI. Student Transfers

A. Majority-to-Minority Transfer Policy

The District shall permit a student attending a school in which his race is in the majority to choose to attend another school, where space is available, and where his race is in the minority.

B. Inter-District Transfers

1. If the District grants transfers to students living in the District for their attendance at public schools outside the District, or if it permits transfers into the District of students who live outside the District, it shall do so on a non-discriminatory basis, except that it shall not consent to transfers where the cumulative effect will reduce desegregation in either district or reinforce the dual school system.

2. The District shall fully and timely investigate all instances where it receives information that a District resident student is enrolled in and attending public school in another school district without a lawfully granted transfer from the District. Such investigation shall involve the use of objective and reliable methods to verify a student's physical residence, including but not limited to the actions set forth below, including all sections and subsections, set forth below. All investigations shall be completed within thirty days of receipt of information by the District that a District resident student is attending public school in another school district without a lawfully granted transfer.

3. The District shall provide written notification to the parents of any student on whom it obtains information that the student is a District resident student attending public school in another school district without a lawfully granted transfer. Written notification shall be made

within the thirty (30) days for investigation as set forth above. The written notification shall state the following:

- a. The requirements of the orders of this Court, and of the laws of the State of Mississippi concerning student attendance outside school system of residence and student interdistrict transfers.
- b. That attendance by District resident students outside their school district of residence may result in violation of not only the order of a United States District Court and laws of the State of Mississippi, but also in a substantial loss of funds to the District provided by the State of Mississippi on the basis of student enrollment.
- c. That where the parent(s) of a public school student physically reside(s) within the limits of the District, the student is also considered to be a resident of the District for purposes of school enrollment and attendance unless:
 - 1) the student has been lawfully granted a transfer to another school district by the District; or
 - 2) the student physically resides full time, weekdays/nights and weekends, at a residence located within the limits of another school district.
- d. That for purposes of school enrollment and attendance the following are not sufficient to establish residence in another school district:
 - 1) For a student to physically reside part-time at a residence located within the limits of another school district; or
 - 2) For a student to be placed under the legal guardianship of a person who resides within the limits of another school district unless the student physically resides full time, weekdays/nights and weekends, with the guardian.

e. A request that the parent(s) provide the District within fourteen days of receipt of such notification, with the following:

- 1) Proof of residence of the student and their relationship to the student in the form of a sworn affidavit; and
- 2) Copies of at least two of the following items as verification of the parent(s) residence address:
 - a) Property tax records
 - b) Mortgage documents or property deed
 - c) Apartment or home lease
 - d) Utility bills
 - e) Driver's license
 - f) Voter precinct identification
 - g) Automobile registration
 - h) Sworn affidavit.

4. Where the student is subject to a legal guardianship arrangement, the District shall take the following steps in addition to the notification to parents:

a. Provide written notification to the legal guardian as set forth in ¶ 3a – d above; and

b. In this same written notification, request that the legal guardian provide the District, within fourteen days of receipt of the notification with the following:

- 1) A copy of the court decree declaring them to be the student's legal guardian;
- 2) Verification of the guardian's residence address in the same manner as is provided for in ¶ 2 e (2) (a-h), above; and
- 3) Proof of the actual residence of the student and of the guardian's relationship, if any, to the student in the form of a sworn affidavit.

5. At the beginning of each school year, the Superintendent of Education shall instruct all school employees in writing to forward to the Central Office any information or allegations concerning District resident students attending public school in other school districts without a lawfully granted transfer. This notification shall also state that the source of such information shall be kept confidential by the District.

6. Where the District does not receive adequate proof that a student who is reasonably believed to be a District resident student has either received a lawfully granted transfer from the District, or physically resides full time with a parent or legal guardian in the receiving school district, the District shall take the following action:

- a. Provide written notification to the receiving school district of the following:
 - 1) The requirements of the orders of this Court, and of the laws of the State of Mississippi concerning student attendance outside school system of residence and student interdistrict transfers.
 - 2) The District reasonably believes that the student is a District resident student attending public school in the receiving district without a lawfully granted transfer from the District, and without physically residing full time in the receiving district.
 - 3) The evidence and proof that the student is a resident of the District and not of the receiving district.
 - 4) A request that the receiving district determine whether the student is enrolled in and attending its schools and, if so, take appropriate steps to disenroll the student.
 - 5) A request that the receiving district provide a written response of its actions and proposed actions within twenty days of receipt of notification from the District.

b. Provide written notification to the parent(s), student, and/or guardian, as appropriate, that:

1) The student is reasonably believed to be a District resident and not a resident of the receiving district, for purposes of school enrollment and attendance.

2) The receiving district has been requested by the District to verify enrollment of the student, and to take appropriate steps to disenroll the student.

7. The District shall closely monitor legal guardianships, including searching official chancery court guardianship files and records at least once during each school year. Where the District reasonably believes that the student is a District resident and does not physically reside full time with the legal guardian, the District shall fully investigate and take appropriate remedial action. See ¶¶ 2 – 6 and all subsections.

8. The District shall inform the guardian-appointing court of the provisions of this order, and of the problems posed by “sham” guardianships, custody orders, and other such decrees sought for the sole purpose of school enrollment and attendance.

9. The District shall take appropriate and necessary steps to verify the actual physical full time residence of any student requesting a transfer to another school district by reason of having moving out of the District. If the student is found not to have moved, but to physically reside full time within the District, then the District shall:

a. Refuse to grant a transfer to the student.

b. Inform the receiving school district of this action and the reasons therefore, and request that the receiving district refuse to enroll the student.

10. The District may permit transfers of students to other school districts in the

following circumstances:

- a. Handicapped students who cannot obtain the needed programs from the District.
- b. Where a student has moved out of the District, and physically resides full time in the receiving school district.

11. The District shall place an advertisement in the *Starkville Daily News* to be run once in the thirty days prior to the opening date of school each year, and once again in the thirty days following such opening date each year. The District shall ensure that the advertisement is prominently placed in the *Starkville Daily News*. The advertisement shall state:

- a. The contents of sections a – d (2) of ¶ 3, as set forth above.
- b. That any persons having information concerning District resident students who are attending public school in another school district without a lawfully granted transfer from the District are encouraged to provide this information to the District, and that the identity of any persons providing such information shall be kept completely confidential by the District. A District contact person, telephone number, and address for the making of such complaints shall be listed.

12. Children whose parent or guardian is an employee of the consolidated District may attend school in the consolidated school District. Children whose parent or guardian is an employee of another school district may, upon annual notice to the Consolidated District, transfer to the school district where their parent or guardian is an employee if the board of the receiving school district approves such transfer. Children whose bus ride to or from school is in excess of 30 miles may attend school in an adjacent school district if the bus transportation route is shorter or may transfer to the consolidated school district.

13. The District shall establish and maintain procedures for obtaining and receipt of information concerning student attendance outside of school system of residence. The District shall also establish and maintain procedures for ensuring the protection of the confidentiality of the sources of such information. The District shall appoint an appropriate person from the Central Office as a contact person for such information and complaints.

14. The District shall keep appropriate records of all written notification, responses, transfer requests, and their disposition, and of any and all actions taken concerning District resident student enrollment and attendance in public schools outside the District. Except as to information protected from disclosure by this order, the records shall be made available to the parties to this matter upon demand.

VIII. Extracurricular Activities

The Consolidated District shall not effectively exclude any student from participating in any extracurricular activity on the basis of race, color, or national origin.

IX. Bi-racial Committee

The District will have a Biracial Advisory Committee, which will render counsel to the District on the desegregation plan for the District. The Committee will be composed of eight members, four black and four white. One member shall be selected by the Parent-Teacher Association of each of the seven schools in the District and one member shall be selected by the Board of the District. Each member shall be either a teacher who teaches within the District or the parent of a child who attends school in the District. The Superintendent of the District, or his delegate, will serve as the ex-officio chairman of the Committee for purposes of presiding at all meetings but will not be entitled to a vote and may, but is not required, to voice an opinion as to the suggestions or assistance that may be rendered by the Committee to the District. The

Committee shall have authority to adopt administrative rules and regulations necessary for the efficient operation of the Committee, including the authority to replace members who by reason of death or other necessity find it impossible to remain a member of the Committee. Successor members shall be selected by the Parent-Teacher Association from which the previous member was elected or by the Board of the District as the case may be.

X. Academically Gifted Students

The District shall use the Mississippi State Department of Education Guidelines for screening for the program for academically gifted students, and to use in the screening process such tests, scales, and indices that are approved and/or mandated by the Mississippi Department of Education.

XI. Reporting

The Consolidated District shall file a mid-year report with the United States and the Court on or before January 15, 2016. Subsequently, the Consolidated District shall file its annual reports to the Court and the United States on or before June 30 of each year. The reports shall provide the information required by and be in the format set out in Appendix A to this Order.

So Ordered, this the 13th day of July, 2015.

/s/ MICHAEL P. MILLS
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF MISSISSIPPI

Submitted by:

STARKVILLE SCHOOL DISTRICT

/s/ Holmes S. Adams

Holmes S. Adams (MS Bar No. 1126)
John S. Hooks (MS Bar No. 99175)
Lindsey Oswalt Watson (MS Bar No. 103329)
Adams and Reese LLP
1018 Highland Colony Parkway, Suite 800
Ridgeland, Mississippi 39157
T: 601.353.3234
F: 601.355.9708
holmes.adams@arlaw.com
john.hooks@arlaw.com
lindsey.watson@arlaw.com

OKTIBBEHA COUNTY SCHOOL DISTRICT

/s/ Bennie L. Jones, Jr.

Bennie L. Jones, Jr. (MSB No. 3185)
Law Offices of Bennie L. Jones, Jr. & Associates
P.O. Box 357
West Point, Mississippi 39773
T: 662.494.0643
bjonesjr111@aol.com

UNITED STATES OF AMERICA

VANITA GUPTA
Principal Deputy Assistant Attorney General

/s/ Victoria McNamee

ANURIMA BHARGAVA
WHITNEY M. PELLEGRINO
VICTORIA MCNAMEE (DC Bar. No. 1008599)
United States Department of Justice
Civil Rights Division
Educational Opportunities Section
950 Pennsylvania Avenue, NW, PHB 4300
Washington, DC 20530
Telephone: (202) 514-4092
Fax: (202) 514-8337
victoria.mcnamee@usdoj

FELICIA C. ADAMS
United States Attorney
Northern District of Mississippi
900 Jefferson Avenue
Oxford, MS 38655-3608
Telephone: (662) 234-3351
Fax: (662) 234-3318

APPENDIX A

The Consolidated District shall file a mid-year report with the United States and the Court on or before January 15, 2016. Subsequently, the Consolidated District shall file its annual reports to the Court and the United States on or before June 30 of each year. The reports shall provide the following information for all public schools operated by the District:

1. The total number and percentage of students, by race/ethnicity and grade level, assigned to each school.

2. For each classroom in each school, the total enrollment in the class, by race/ethnicity, the grade served, and the subject or program of the class, specifically indicating any groupings or assignments by ability, achievement, or other basis such as advanced placement or honors classes, special education programs for students with disabilities, gifted and talented programs, and classes for limited English proficient students.

3. The total number of students who have requested intra-district transfers, indicating for each such request: the student's race/ethnicity, grade, sending school (school the student is zoned to attend), receiving school (school to which transfer is sought), reason for the transfer request, whether the District granted or denied the transfer, and the reason for granting or denying the transfer. The District shall provide the same information for inter-district transfers to and from other school districts.

4. The total number and percentage of teachers and administrators, by race/ethnicity and position, assigned to each school, specifically indicating all full-time teachers, part-time teachers, principals and assistant principals, and other certified personnel, such as guidance counselors and librarians.

5. The total number and percentage of non-certified staff, by race/ethnicity and position, assigned to each school.
6. For administrator, faculty, staff, and central office hiring, the vacancy filled (e.g., school and position), the date of the hiring decision, and the race of the individual hired.
7. A brief description of any present or proposed plan to site or construct new facilities or expand existing facilities and the projected racial impact of the proposal.
8. State whether the transportation system in the District is desegregated to the extent that black and white students are transported daily on the same buses.
9. Copies of yearbooks for each school in the District that produces one (filed with the United States only).
10. State whether there is a Biracial Committee, whether the Biracial Committee has submitted recommendations to the Board of Education, and, if so, provide copies of such recommendations and the Board's responses, if any.
11. Names and races of all members of the Biracial Committee, whether they were formerly affiliated with the Oktibbeha or Starkville Districts, and their current role in the District (e.g., parent, teacher).
12. Meeting dates of the Biracial Committee and documentation of attendance of its members.