

**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

v.

STARKVILLE MUNICIPAL SCHOOL DISTRICT, et al. DEFENDANTS

Consolidated with

WILLIAM HARRIS, ET AL. PLAINTIFFS

And

UNITED STATES OF AMERICA PLAINTIFF-INTERVENOR

v.

OKTIBBEHA COUNTY SCHOOL DISTRICT, et al. DEFENDANTS

**DESEGREGATION ORDER FOR THE
STARKVILLE-OKTIBBEHA CONSOLIDATED SCHOOL DISTRICT**

Before the Court is the Joint Motion of the United States and the Starkville-Oktibbeha Consolidated School District (“the Consolidated District” or “SOCSD”), formerly known as the Starkville Municipal School District and the Oktibbeha County School District (collectively, “the districts”), to approve a new desegregation order for the Consolidated 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 legislative 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 recommend “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.” *Id.*

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 included 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 provisions for the new consolidated district. Senate Bill 2818.

With respect to their desegregation obligations, the districts filed a Joint Motion to Consolidate Cases on November 14, 2014, followed by their Motion to Approve New Desegregation Order. [10]. The Court granted the Motion to consolidate the two federal desegregation cases. [13].

On May 22, 2015, the United States filed its Response, objecting to certain provisions of the districts’ proposed plan. [20]. On June 5, 2015, the districts filed their Joint Reply to the Response of the United States. [23]. Following the parties’ completion of briefing regarding the

proposed order, the Consolidated District assigned all sixth grade students in the Consolidated District to Armstrong Middle School.

During 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 govern the 2015-16 school year. That proposed order was filed on July 7, 2015. [25]. The United States expressly reserved and did not waive any objections that it raised in its Response. [20]. The Parties also agreed to negotiate in good faith with the goal of submitting, by February 15, 2016, a new proposed desegregation order to govern the Consolidated District from the 2016-17 school year until it is declared unitary by the Court. [25].

On July 13, 2015, the Court approved a desegregation order for SOCSO to govern the Consolidated District for the 2015-16 school year. [26]. Since the entry of that order, the Parties have worked in good faith to develop a desegregation plan for the Consolidated District. The United States has requested and received information from the Consolidated District, conducted two site visits, and interviewed administrators in the Consolidated District. The Court, being fully advised in the premises, approves this desegregation order for SOCSO effective as of the date of this Order.

II. Student Assignment

A. Student Assignment Plan

Beginning with the 2016-17 school year, all students residing within the Consolidated District shall be assigned to attendance centers as follows:

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

2. Sudduth Elementary (K-1): All students in grades K-1 residing in the former Sudduth or East Oktibbeha Elementary attendance zones will be assigned to Sudduth Elementary.

3. Henderson-Ward-Stewart Elementary (2-4): All students in grades 2-4 residing in the former Sudduth, Ward-Stewart, or East Oktibbeha Elementary attendance zones shall be assigned to Henderson-Ward-Stewart Elementary.

4. Overstreet School (5): All students in grade 5 residing in the former Henderson or East Oktibbeha Elementary attendance zones shall be assigned to the Overstreet School.

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

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

B. Transfers

1. Intra-District Transfers

Any student who resides in the Consolidated District may petition the Board to attend school in a zone other than the student's zone of residence as provided below:

i. Majority-to-Minority Transfer Policy: The student is attending a school in which his or her race is in the majority and wishes to attend another school where his or her race is in the minority and where space is available.

ii. Special Education Students: The student is a special education student whose Individualized Education Plan indicates the student's educational welfare is best served by a transfer to another school in the Consolidated District.

iii. SOCS D employees who reside in the Consolidated District may enroll their children in the K-5 school of their choice in the Consolidated District.

2. Inter-District Transfers

If the Consolidated District grants transfers to students living in the Consolidated District for their attendance at public schools outside the Consolidated District, or if it permits transfers into the Consolidated District of students who live outside the Consolidated 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.

i. The Consolidated District may permit transfers of students to or from other school districts in the following circumstances:

a. Students with disabilities who would benefit from programs outside the Consolidated District.

b. Children whose parent or guardian is an employee of the Consolidated District but who do not reside in the Consolidated District may attend school in the Consolidated District. Children who reside in the Consolidated District but whose parent or guardian is an employee of another school district may transfer to the school district where their parent or guardian is an employee if the board of the receiving school district approves such transfer.

ii. The Consolidated District shall fully and timely investigate all instances where it receives information that a SOCS D resident student is enrolled in and attending public school in another school district without a lawfully granted transfer from the Consolidated District. Such investigation shall involve the use of objective and reliable methods to verify a student's physical residence.

iii. 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.

iv. The Consolidated District shall keep appropriate records of all transfer requests and their disposition, and of any and all actions taken concerning SOCS D resident student enrollment and attendance in public schools outside the Consolidated 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.

B. Within-School Assignment

The Consolidated District shall not maintain any classrooms or sections in any school in a racially discriminatory manner or on a racially segregated basis.

1. Gifted and Talented Programs. For the programs for gifted students, the Consolidated District will continue to screen students using the Mississippi State Department of Education Guidelines, and will use in the screening process such tests, scales, and indices that are approved and/or mandated by the Mississippi Department of Education.

i. The Consolidated District's gifted programs shall be promoted through:

a. written notice (e.g., brochures) to parents and students at the beginning of the school year and prior to any universal screening test; such notice will include information on the gifted referral process (e.g., which grades will receive universal screening, guidance on initiating an individual referral; alternative screening measures); and

b. updated and accurate gifted program information on the Consolidated District's website.

2. Advanced Program Policy

i. The Consolidated District will review and, where appropriate, update its policy governing advanced course offerings at the middle school and high school levels, including, but not limited to: Honors, pre-Advanced Placement, Advanced Placement, and advanced elective courses ("advanced programs policy"). In developing its updated advanced programs policy, the Consolidated District will review prerequisites for all advanced and honors courses and ensure that they accurately reflect the preparation required for success in such courses.

ii. The Consolidated District will provide a copy of its updated advanced programs policy to the United States within thirty (30) days of the entry of this Order and shall adopt the policy in time for the 2016-17 school year. The updated advanced programs policy will provide the following:

a. A school-level counselor at each Consolidated District middle and high school shall oversee implementation of the advanced programs policy at his/her building. The school-level counselor shall participate in professional development annually with regard to the advanced programs policy.

b. All teachers at Consolidated District middle and high schools shall receive annual professional development programming on the advanced programs policy and course offerings, including the appropriate factors to consider when selecting students to recommend for enrollment in advanced courses.

c. The advanced and honors curriculum and the advanced programs policy shall be promoted to students and parents through:

1) written notice (e.g., brochures) to parents and students at the beginning of each school year and prior to course registration for the following year; such notice shall include information on how to enroll in such courses and academic prerequisites, and alternatives to academic prerequisites, where available;

2) updated and accurate information on the SOCS D website; and

3) annual meetings, to be held prior to course registration and during any new student orientation programs, to provide parents and students in grades 5-12 information on the advanced and honors program, academic prerequisites and alternatives to academic prerequisites, where available; opportunities for students to transition into advanced and honors courses; and the educational benefits of the advanced and honors program, including potential academic credits for higher education.

d. Upon the request of a student or his or her parent or guardian, the Consolidated District will consider whether other relevant factors can serve as alternatives to academic prerequisites.

iii. The Assistant Superintendents for Curriculum and Instruction shall oversee the Consolidated District's compliance with this Section.

IV. Extracurricular Offerings

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

V. Faculty and Staff

A. The Consolidated District shall hire, promote, pay, demote, discipline, non-renew, and dismiss employees without regard to race, color, or national origin.

B. The Consolidated District shall assign administrators, faculty, and staff such that no school in the district could be considered a “white school” or “black school” by virtue of its administrator, faculty, or staff assignments. The Consolidated District shall, to the extent necessary to carry out this desegregation plan, direct its employees, as a condition of continued employment, to accept new assignments.

C. The Consolidated District shall assign faculty such that the percentage of black faculty at each school is within +/- 15 percentage points of the system-wide percentage of black faculty. The system-wide percentage of black faculty at the elementary school and the middle/high school levels are to be calculated separately. In making assignments, the Consolidated District shall consider, as appropriate, faculty seniority, areas of certification, and experience.

D. All principals in the Consolidated District shall convene a racially diverse committee to assist with interviewing applicants for school-based positions. The principal at each school will recommend faculty and staff to the Superintendent and ultimately to the Board.

E. If a reduction in force is initiated, the Consolidated District shall use non-racial objective criteria in selecting the employee(s) dismissed or demoted.¹ These criteria shall be available for public inspection and shall be retained by the Consolidated District. The Consolidated District shall also record and preserve the evaluation of employees under the

¹ “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.

criteria. A dismissed or demoted employee shall, upon request, have access to his or her evaluation.

F. For the 2016-17 school year, the Consolidated District shall offer open faculty and staff positions to qualified personnel who were employed at East Oktibbeha Elementary School in the 2015-16 school year, including the reassignment of the East Oktibbeha Elementary School principal as an assistant principal in another school in the Consolidated District.

VI. Facilities

A. 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.

B. As of the 2016-17 school year, the Consolidated District will discontinue operation of the metal outbuilding to the north of the main structure at the former East Oktibbeha Elementary site. The Consolidated District shall not use the classroom buildings to the south of the main structure for core curriculum instruction; it shall only use the south classroom buildings to the extent that space is not available in the main structure.

VII. Transportation

A. Prior to developing transportation for the 2016-17 school year, the Consolidated District shall review transportation routes and will, where practicable, modify routes to minimize transportation burdens and duration.

B. The Superintendent and the Director of Transportation shall annually reexamine the transportation system. Bus routes and the assignment of students to buses will be designed to ensure that all eligible students receive transportation on a non-segregated and otherwise non-discriminatory basis.

VIII. Biracial Advisory Committee

The Consolidated District will continue to have a Biracial Advisory Committee, which will render counsel to the Consolidated District on the desegregation plan for the Consolidated 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 six schools in the Consolidated District, with the exception of Henderson-Ward-Stewart which shall appoint two members, and one member shall be selected by the Board of the Consolidated District. Each representative shall either be a teacher who teaches within the Consolidated District or the parent of a child who attends school in the Consolidated District. The Superintendent of the Consolidated District, or his or her 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 Consolidated District. The Committee shall have authority to adopt administrative rules and regulations necessary for its efficient operation, 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 Consolidated District as the case may be.

IX. Reporting

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. The District acknowledges that the United States, through its representatives and/or any consultant or expert it may retain, may conduct on-

site reviews of the District's schools to evaluate compliance with the terms of this Order upon giving reasonable notice and consultation with the District to minimize any disruption to the educational process in the schools.

X. Resolution of Disputes

The Parties will attempt to resolve any dispute regarding the Consolidated District's implementation of and compliance with this Order informally and in good faith. Either Party may seek the assistance of the Court if the Parties are unable to resolve the dispute within a reasonable period of time.

XI. Termination

Until the Consolidated District achieves unitary status, the Court will continue to have supervision of this case to ensure that SOCSO undertakes in good faith its obligations in this Consent Order. Prior to any motion for partial or total unitary status, the Parties will confer to determine whether they can agree that the Consolidated District can demonstrate that it has implemented in good faith a section or sections of this Consent Order for a reasonable period of time.

So Ordered, this the 3rd day of March, 2016.

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

Submitted by:

**STARKVILLE OKTIBBEHA
CONSOLIDATED SCHOOL DISTRICT**

/s/ John S. Hooks

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

UNITED STATES OF AMERICA

VANITA GUPTA
Principal Deputy Assistant Attorney General

/s/ Ceala Breen-Portnoy

SHAHEENA SIMONS, Acting Chief
WHITNEY M. PELLEGRINO
(DC Bar No. 490972)
CEALA BREEN-PORTNOY (MD)
ANDREW K. JONDAHL (NY Bar No.
5395926)
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
Ceala.Breen-Portnoy@usdoj.gov

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 an annual report with the United States and the Court 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, teacher assistants, 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. The total number and percentage of employees, by race/ethnicity and position, assigned to the central office.

7. For all hiring: the vacancy filled (i.e., position, school), the date of the hiring decision, and the race of the individual hired.

8. 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.

9. State whether the transportation system in the Consolidated District is desegregated to the extent that black and white students are transported daily on the same buses.

10. Copies of yearbooks for each school in the District that produces one (filed with the United States only).

11. State whether there is a Biracial Advisory Committee, and provide the following information:

i. For each member of the Committee: Name, Address, Race, School, and Affiliation (e.g., parent, teacher);

ii. The dates on which the Committee met during that school year, along with a copy of the attendance sheet, agenda, and minutes for each meeting; and

iii. A copy of any recommendations submitted to the Board and the Board's response, if any.

12. For the June 30, 2016 report only, a list of all administrators, faculty, and staff employed at East Oktibbeha Elementary in the 2015-16 school year (i.e., name, race, and position), and their assignment for the 2016-17 school year (i.e., school and position). If not retained, include reason (e.g., reduction in force, dismissal, resignation). To the extent that assignment decisions have not been made by the June 30, 2016, annual report deadline, the

Consolidated District agrees to provide any supplemental assignment information to the United States no later than September 1, 2016.