

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

DEPARTMENT NO. 21

BEFORE HON. LOUIS M. WELSH, JUDGE

KARI CARLIN, et al.,

Plaintiffs,

vs.

BOARD OF EDUCATION, et al.,

Defendants.

No. 303,800

REPORTER'S TRANSCRIPT

Wednesday, October 4, 1978

Anne B. West  
Certificate No. 3744

ARMSTRONG, GOKEY & WHITE

CERTIFIED SHORTHAND REPORTERS

861 SIXTH AVENUE, SUITE 522  
SAN DIEGO, CALIFORNIA 92101  
(714) 231-1822



1 matters.

2 MR. STERN: I am not taking issue with the substance of  
3 what was provided. I am raising questions concerning procedure.  
4 It is our understanding that these things should be sent,  
5 the copies, to Chief Kolender --

6 THE COURT: Well, actually no member of the Task Force  
7 should -- and that is something I will tell them -- No member  
8 of the Task Force should ask for anything except through the  
9 Chief or Mr. Brown.

10 MR. STERN: That was the concern we had. *Jesse Colema*

11 THE COURT: If anybody gets a request from a member of  
12 the Task Force, so as not to be insulting to the member of the  
13 Task Force, respond by sending the material with a letter to  
14 the Chief and a carbon copy to the member who made the request.  
15 Just say, "So and so requested such and such, and we are happy  
16 to furnish it to you." And in this way you are not insulting  
17 the person who asked, and yet at the same time you are keeping  
18 them in the channels where they should be.

19 With 21 people these things are probably going to  
20 happen. But I should request -- I will take that up tomorrow.  
21 But after tomorrow, there are still a lot of foolish little  
22 nitpicking things that are going to come up. That's why I  
23 said to you, "Get on with it." I mean, if you can make a show  
24 of having made significant progress, a sufficient number of  
25 those members of the Task Force are going to see it and report  
26 it, and that's what's going to count. That's the bottom line  
27 on this thing.

28 MR. STERN: Your Honor, I am very reluctant to argue with



From the office of the SCHOOLS ATTORNEY

EXHIBIT "E"

SAN DIEGO CITY SCHOOLS  
MEMORANDUM

DATE: September 1, 1978

TO: Members of the Board of Education and the Superintendent

SUBJECT: Professor James Coleman's Most Recent "White Flight"  
Study

Attached for your information is a copy of Dr. James Coleman's paper entitled "School Desegregation and City-Suburban Relations" which was presented in Detroit, Michigan, in April, 1978.

As you can see, this paper is consistent with Dr. David Armor's research on "white flight" which played a major part in the District's defense of the Carlin case.

If you have any questions, please do not hesitate to contact me at your convenience.

Sincerely,

RALPH D. STERN  
Schools Attorney

RDS:jmo

Enclosure

cc: Deputy Superintendents  
Fletcher  
Regan

Jennings, Engstrand & Henrikson

AUG 28 1978

Rec'd By DR

MICHIGAN  
APRIL 1971

SCHOOL DESEGREGATION AND CITY-SUBURBAN RELATIONS

James S. Coleman  
University of Chicago

We have now come to a point at which it is possible to be sober, straightforward, and realistic about school desegregation in major metropolitan areas. In particular, there are three major beliefs about segregation and integration that have finally been shown to be incorrect. With the destruction of these beliefs, each of which, as it played a part in social policy, employed some amount of wishful thinking, it becomes possible to point to policies that are not doomed to failure from the beginning.

It is useful to indicate just what these wrong beliefs have been, and to proceed from there.

First, it was once assumed that elimination of school segregation due to official actions, whether dual school systems in the South or gerrymandering and other school district actions in the North, would eliminate all, or nearly all, racial segregation in the schools. This romanticism may have been held by some of the Supreme Court judges in the Brown decision; but whether it was held by those jurists or not, it was widely held by others, who saw the courts' elimination of de jure segregation as identical to elimination of racial segregation in the schools. In many rural and small-town districts in the South, it was fact, not fiction. But any knowledge of urban areas, and of the residential segregation that develops in urban areas along ethnic, income, and racial lines leads immediately to the recognition that most segregation, whether ethnic, or class, or race, in urban areas is due to residential patterns. The Supreme Court has now recognized this as well, in recent rulings on cases in Austin, Texas and Dayton, Ohio, in which it ruled that the remedy for unconstitutional segregating actions must be limited to the extent of the violation - that those

actions cannot be taken as cause for eliminating, as unconstitutional, all racial segregation in the city's schools.

The implication of this recognition - that urban populations are residentially separated by ethnicity, class, and race - is that eliminating unconstitutional "official" segregation through the courts will not eliminate most of the segregation that these areas exhibit. This is especially evident now, as white exodus to the suburbs has produced a situation in which most of the largest central-city school systems are majority black, while the surrounding ring remains predominantly white. Such segregation did not arise by official action (unless one wants to argue that the actions of the Courts in instituting racial balance orders which resulted in whites leaving the city are "official segregating acts"), yet this form of segregation is the most important form in most major metropolitan areas.

The further implication of recognizing the fiction as a fiction is that policies to reduce racial segregation in urban areas can no longer use what appeared to be the instant solution: immediate elimination of segregation through court order. Instead, more difficult actions, carried out through other agencies of government, and employing the active cooperation of blacks and whites, are necessary. But before discussing such policies, it is useful to turn to the second fiction.

Second, it was once assumed that integration - at least in majority middle-class white schools - would automatically improve the achievement of lower class black children. I hasten to say that it was research of my own doing that laid the basis for this assumption. That research, carried out under the Civil Rights Act of 1964 and completed

in 1966, showed that lower class black children in majority middle class white schools achieved better on standardized tests than did other children like them in all-black schools. And it showed further that there was little decrement in the achievement of whites in integrated schools. I, among others, argued that this meant integration would bring about achievement benefits. Arguments of this sort were used in a number of school desegregation cases, and such an argument helped lead Judge Roth to his decision in the Detroit case, which was later overturned by the Supreme Court.

However, it has not worked out this way in many of the school desegregation cases since that research.

A review of a large number of analyses of effects of desegregation on achievement has recently been carried out, showing no overall gains. In some cases, there seem to be slight gains, in others no effects, in still others slight losses in achievement. Some of the most carefully-studied cases, over a period of years following desegregation, such as in Pasadena and Riverside, California, show either no achievement effects, or else losses. Thus, what once appeared to be fact is now known to be fiction. It is not the case that school desegregation, as it has been carried out in American schools, generally brings achievement benefits to disadvantaged children. It is probably true that desegregation under optimal conditions will increase achievement of disadvantaged children. But that is not the point: very likely any school changes, under optimal conditions, will have this effect. What we must look for is the effect that occurs under the variety of actual conditions in which desegregation is carried out.

The implication of this recognition of the actual effects of de-

segregation on achievement is that no longer should we look solely, or even primarily, to racial balance in the schools as the solution to inequality of educational opportunity. That inequality of opportunity is not something to be easily overcome. If we are looking for policies to help bring about equality of educational opportunity, it is necessary to look more broadly. If we are looking for reasons to implement policies of racial balance in the schools, we must look further.

Third, it was once assumed that policies of radical school desegregation could be instituted, such as a bussing order to create instant racial balance, and the resulting school populations would correspond to the assignments of children to the schools - no matter how much bussing, no matter how many objections by parents to the school assignments. It is now evident, despite the unwillingness of some, researchers and others, to accept the fact, that there are extensive losses of white students from large central cities when desegregation occurs in those cities. To be sure, those losses are only extensive when the proportion of blacks in the city is high, or when there are predominantly white suburbs to flee to, or both. But again, this is not the point, for in all large American cities, one of these two conditions holds, and in most, both conditions hold.

There are several policy implications that follow from the recognition of this fact. One is something that should have been seen all along but can no longer be ignored. This is that a child's enrollment in a given public school is not determined by a government decision. It is a joint result of a government decision which makes school assignments, and parental decisions, whether to remain in the same

residential location, whether to send their child to a private school, whether to move into one school district or another if the family is moving into a metropolitan area. The fact that the child's enrollment is a result of these two decisions operating jointly means that government policies must, to be effective, anticipate parental decisions, and obtain the active cooperation of parents in implementing school policy.

A second implication is a more powerful one. It is that no school desegregation of any appreciable degree can be carried out within a major American city, ignoring the suburbs, and be expected to remain stable. School desegregation that provides an incentive for whites to go to the suburbs - as all bussing plans to achieve integration within a city do - is inherently unstable. It is most unstable when there are extensive white suburbs and a high proportion black in the central city, a condition that is true in most large American cities. And those few large American cities without a high proportion black (like Seattle, Washington, for example), also happen to be those in which the ease of movement to the suburbs with little increase of commuting is greatest.

A third implication is that no school desegregation can be carried out, whether it includes the suburbs or not, that imposes an extreme burden upon parents or children. For if it does, resourceful parents will find a way of improving their situation. They may choose to send their children to private schools, as many have done. They may choose to move beyond the reach of the policy. For example, countywide desegregation in Louisville, Kentucky has led surrounding counties to become among the fastest growing in the nation.

The implication for positive policy is that any desegregation that

is to remain stable must be a plan involving the metropolitan area as a whole, and it must be a plan in which the coercive qualities are outweighed by the attractive ones. There are many school policy makers, and many courts (still operating under the fiction that constitutionality requires racial balance) that have not recognized this, so that there are still harmful school desegregation policies being implemented in American cities. Seattle is about to engage in a plan which will almost certainly be unstable. And only last week, the Illinois Board of Education, ignoring the suburban haven altogether, and ignoring Chicago's extensive set of Catholic schools, declared Chicago's plan for voluntary student transfers inadequate because it does not meet a State requirement that all schools in a district be within 15% of the district racial composition. But the Illinois Board is only one of many such bodies still living with the romantic fiction that a government plan of student assignment will result in enrollments matching that assignment. And like many others, the Board is living in the fiction that such actions do no harm to the long-term chances for integration in the metropolitan area.

This set of three <sup>incorrect</sup> beliefs has led to harmful and destructive school desegregation policy in the past. In the absence of these beliefs, one might believe that the ground is cut out from under school desegregation policy - that these beliefs were necessary to the development of positive policy toward reducing racial segregation in the schools. Indeed, it seems clear that this is why those beliefs have been clung to so long by so many, and why there are some who still hold them despite all evidence to the contrary. Does not the exposure of these beliefs as incorrect undercut desegregation policy generally?

But there is another set of beliefs, also incorrect, which have prevented other avenues to desegregation policy. Just as the former beliefs sustained policies that have been largely harmful to desegregation - and to schooling - in large metropolitan areas, this second set of beliefs has prevented the development of policies that might be helpful to desegregation and education.

First, it has been assumed that lower class black parents, when provided with opportunity for choice in education, will not use it, and if they do, will not use it wisely. This belief is in part a conceit of the educational professionals, who believe they know better than parents or children what is good for the children. In part, it is a lack of trust by black leaders of the intelligence and interest in education of their constituents. In part, it is an arrogance of the white liberal, who believes that he knows what is best for dependent or disadvantaged populations, and that although they should be given benefits, they should never be given choice.

Black families, lower class as well as middle class, have given ample evidence that this belief is wrong. On all surveys of interest in education, interest in education is higher among blacks than it is among whites. College attendance of black and white children of parents with comparable economic and educational levels shows that the black children are more likely to attend; in fact, the proportion of all 18 and 19 year olds in school is now higher among black than whites.

The evidence of active exercise of choice by black parents was even apparent in the "freedom of choice" desegregation plans initiated for a time in the South. Although there were often roadblocks put in the way of blacks wanting to choose to attend a previously white school,

they did choose in large numbers to attend such schools where the plans were administered honestly.

The most explicit evidence of choice and interest, however, lies in the widespread use by central city black parents of Catholic schools. These parents, mostly non-Catholic, and mostly poor, have increasingly turned to the parochial schools as means of escape from the low educational standards, disorder, physical danger, and moral risk they see in the public school to which their child has been assigned. It is now the case that in many large cities, there is a substantial number of black parents who manage to save the few dollars a week necessary to send their children to a parochial school.

The implication of all this is that desegregation plans which depend on choices exercised by black parents will not founder because of the parents' failure to exercise that choice in an intelligent way. Thus, a variety of plans that depend on blacks exercising choice, which have been set aside by those who did not trust black parents to make choices, can be considered in planning school policy.

Second, there has been a belief that an all-black school is inherently bad. Thus, one criterion used by courts in determining the acceptability of desegregation plans has been whether all "racially identifiable" schools have been eliminated. Here, "racially identifiable" has always been used to mean all black schools, never all white schools.

This belief in the inherent inferiority of an all-black school has a curiously racist flavor. It originated, however, in the attempt by courts to establish a criterion for deciding whether a school district in the South that had maintained a dual system had in fact eliminated its dual system. In such a context, and in localities

where there was little residential segregation, this rule of thumb was a reasonable one; the unreason came in elevating this rule of thumb criterion to a principle for judging the quality of the school.

The incorrectness of this belief in the inherent inferiority of the all-black school is perhaps a corollary to the incorrectness of the belief in extensive achievement benefits of school integration.

When that belief was shown to be incorrect, the incorrectness of this one almost directly follows.

I believe that one source of the error was a confusion, which still persists in the minds of many, between a school that was all black because only black students had, because of the ghetto or because of a dual system, no opportunity to choose to attend another school - a confusion of such a school with a school that was all black despite the fact that its students could choose to attend other schools.

Such choice is unfortunately still rare in most cities, but a black school that thrives in its presence is obviously not an inferior school.

It is a school to which parents freely choose to send their children.

There have been, and there are, all black schools that are excellent schools by any standard. Thomas Sowell, a black economist at UCLA, has identified striking examples of black high schools that graduated men and women who went on to become outstanding in the world of public affairs, the professions, and government. As another criterion, there are numerous all black elementary schools in which achievement levels are above grade level, using national norms.

The implications of recognizing the error of the belief that all-black schools are inherently inferior are important. Perhaps the most important is the recognition that in the ethnically and culturally

pluralistic society of the United States, there will be schools of all sorts : schools which are racially integrated but also schools that are all black, just as there are schools that are all white. What is essential, as I indicated earlier, is that if a child is in an all black school, it should be because he wants to be there and his parents want him to be there, not because it is the only school that he has a reasonable chance to attend.

Third, it has been assumed that a child's rights to equal educational opportunity end at the school district boundaries. This belief is based on the long-honored practice of states in delegating to localities (cities, towns, townships, sometimes counties) the control and operation of schools in those localities. But according to the constitution of the United States, education is a responsibility of the states; and however a state has chosen to delegate that responsibility, a child in the state has a claim upon the state to provide him with educational opportunity. What this means in particular is that the educational opportunities of a child in Detroit or Chicago should not be limited by the boundaries of Detroit or Chicago. He or any child in the metropolitan area should have the right to choose to attend any school within reasonable distance - not, of course, to escape an integrated school, but to escape the constraints on his schooling that are imposed by his residence. At least one state, Wisconsin, has recognized this. As a consequence, a child in Milwaukee, for example, can choose to attend a school outside Milwaukee, so long as he does not increase racial imbalance by doing so, and the state will compensate the district into which he transfers for the extra costs of the extra pupil. This transfer plan is not the only way such an opportunity can be realized. The essential point is the recognition that

where there was little residential segregation, this rule of thumb was a reasonable one; the unreason came in elevating this rule of thumb criterion to a principle for judging the quality of the school.

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the state has the responsibility to provide its citizens educational opportunity - and that it does not do so when it allows local districts to exclude children who do not live within their boundaries. The state, of course, has the responsibility also to the locality to foot the bill for entering students, and the locality must have the right to limit the number of students entering from outside, within reason. But this does not negate the state's responsibility to the children who reside within it.

The implications of abandoning the belief that the child's educational opportunities end at school district boundaries are, of course, profound. This does not imply abandonment of local control over the content of education, as it is now practiced. Nor does it imply that the state has the right to order a family's children to attend a school in another district. It does imply, however, a limitation on the locality's control of who else may attend schools in that locality. In particular, it implies that suburbs do not have an inherent right, except as the state gives them that right, to prevent a reasonable number of children from the city, whose educational opportunity is limited by the constraints on their place of residence, from attending school in that suburb, rather than in the city. Another way of looking at the matter is that parents who can afford to do so should have the right to choose their child's school by their choice of residence, but they should not have the right to exclude others by use of the school district boundaries as barriers.

What kinds of policies are feasible and desirable, once the errors of the two sets of beliefs about school desegregation are recognized?

If we once rid ourselves of all the beliefs that I have attempted to

to show are incorrect, what then? Does this leave any possible policies for the integration of schools, or does it leave us with no feasible policies?

The answer is that it most certainly does leave feasible policies. The policies are wholly unlike the policies of racial balance being imposed through compulsory bussing in some cities, and being proposed for others. The policies would have a far higher component of parental choice than do present desegregation policies. The aims would be fundamentally different: not to "eliminate segregation", but to provide opportunity to every child, and to facilitate school integration that would have long-term stability. In the aims of the policy, there would be a recognition of the diversity of schools that would result: some black, some white, some integrated. The insurance that equal opportunity was in fact being provided would not lie in an artificial numbers game with children moved like pawns on a chessboard, but in the range of opportunities available to every child.

The possible policies are based upon the interaction between government decisions and parental decisions, and not upon the assumption that government decisions are determining. All the policies I shall describe provide a greater degree of parental choice than is presently the case in most cities, rather than less. And the government decisions, that is the policies, are designed to make those parental choices lead not to segregated schools, but to schools that show a higher degree of integration than at present.

Because the policies I shall describe do not maintain the fiction that the segregation they are attempting to reduce is unconstitutional, and because they are not coercive, they do not elevate school district

boundaries to the status of exclusion barriers. They do not, in short, treat suburbs as separate havens, protected by their boundaries, but allow parental choices to range beyond the confines imposed by their residence.

The policies I will describe are not exhaustive; rather, they illustrate how, if we abandon the fictions held for so long, a variety of policies is possible.

1. Inter-district voluntary transfers

I indicated in my earlier remarks that Wisconsin has embarked on an extraordinarily sensible policy: to allow, not require, children in a metropolitan area to transfer not merely to another school in the district, but to another school in the metropolitan area outside their district - so long as they do not, by this move, increase the racial imbalance in the school.

In general, a policy of this sort can allow families to make their choice of school independently of their choice of residence, with reasonable transportation expenses provided. State funds would necessarily follow the child, so as not to increase the financial burden upon the receiving district. And necessarily, each school should be able to limit the number of students coming in - for example, such that no transferring child need be accepted if the proportion of his or her race has reached the average of the metropolitan area as a whole, nor if the school's capacity is exceeded. But below that point, the receiving school would not have the right of rejection.

All that is necessary for such a policy is for the state legislature to decide to do so. This is not to suggest that such a policy would be easy to institute, because suburbs - and their legislators - are likely to oppose it. For them, desegregation has been a fine policy

so long as it was the other fellow's district that was being desegregated. But, as the example of Wisconsin already shows, it is not a policy impossible to pass. And as that example will show in the longer run, it is a policy that can lead to improved schools in both suburbs and city. For example, I suspect that from such a policy will emerge a set of specialized high schools in the central city, attended voluntarily by both blacks and whites, which offer technical programs, or programs in the arts, that cannot be duplicated in any suburban schools. It would be romantic to believe this could occur soon; but it would be unfair to future generations of children not to provide a structure within which such educational excellence can grow.

## 2. Vouchers for education

Perhaps the simplest, cleanest, and most straightforward way to provide equal educational opportunity, independent of race, residence, or wealth, is to give every child a voucher or entitlement, to be used in any accredited school, public or private. Such a plan, which has recently been proposed in Michigan as well as in other states, does not immediately exhibit its potential for encouragement of school integration. But that potential can be quickly realized if the vouchers are worth more in integrated schools. This means that integrated schools would have somewhat higher expenditures, a somewhat richer program, than non-integrated schools. Such a policy, of course, would be objected to by some, but it is hard to see the merit of such objections: for any child, if the parents choose, can attend an integrated school and receive the richer offerings. No one is excluded, by reason of race or any other attribute - except his preference for a segregated school. If he chooses such a school, he pays in the form of a somewhat less rich educational program.

### 3. A system of incentives combined with choice

A third variation in policy is one that focusses on direct incentives for attendance at an integrated school. The policy, which has been proposed by a Cincinnati school board member, John Rue, is to reward children and parents for the child's attendance at an integrated school. The rewards would be in the form of post-secondary tuition, so that, for example, attendance at an integrated school for twelve years would result in four years college or other postsecondary tuition - one year for each three years of attendance in an integrated school.

Again, there will be objections to such a policy. But do the objections have merit? Do we want integrated schools or not? And who is expected to be the primary beneficiaries of integrated education? Possibly the children, but just as possibly the larger society, through the increased cohesion and social integration of the society as a whole. If it is the latter, the larger society, that is the primary beneficiary, then the larger society should bear the cost of integration - a cost which is measured by the amount of benefit necessary to provide to families, white and black, in order to achieve the degree of integration desired.

There are, of course, other policies that exhibit the properties I described earlier, but these are a sample. They show that integrated education does not depend on our maintaining romantic notions that are not true. Once we shed these beliefs, the mistaken beliefs on which desegregation policy has rested in the past, and once we shed the other beliefs, the mistaken beliefs that have stifled new ideas that could aid integration, it becomes possible to take the long road toward achieving an integrated society.



CHRISTINA L. DYER, General Counsel

JOSE A. GONZALES, Assistant General Counsel  
WARREN S. KINSLER, Deputy General Counsel

CITY SCHOOLS  
Integration Services Division

SAN DIEGO CITY SCHOOLS

SUMMARY PAGE

EDUCATION CENTER

4100 Normal Street, San Diego, California 92103  
Telephone (619) 293-8450

*[Signature]*

March 22, 1984

I. Issue

The Honorable Franklin B. Orfield  
Judge of the Superior Court  
220 West Broadway, Department 24  
San Diego, CA 92101

Re: Carlin v. Board of Education  
Case No. 303800

III. Dear Judge Orfield:

Under date of March 14, 1984 I forwarded to you a revised "Proposal to Adopt Procedure for 'Classroom Ethnic Balance' and 'Justifiable Explanations for Homogeneous Grouping of Minority or Majority Students,'" which was on the agenda of the Board of Education meeting for March 20, 1984. At that meeting, the Board adopted the document, a copy of which is enclosed, with one additional change. The following sentence was added:

"This policy should in no way be construed so as to deny admission, to a particular class, to any student who needs the class to graduate."

Please let me know if I can provide any additional information.

In response to this order, district school board developed the following plan:

Sincerely,

for the 1984-85 school year shall be balanced. This recommendation would come from the school board people accountable.

*[Signature]* for  
CHRISTINA L. DYER  
General Counsel

None.

CLD:jmo

Enclosure George Tracy

cc: Veronica A. Roeser  
William F. Gavin  
Joseph Kase, Jr.  
Elmer Enstrom, Jr.  
Donald R. Lincoln

Report

OTF

3/26/84

SAN DIEGO CITY SCHOOLS  
Community Relations and Integration Services Division  
Community Relations and Integration Services Division

SUMMARY PAGE

Proposal to Adopt Procedure for "Classroom Ethnic Balance" and  
"Justifiable Explanations for Homogeneous Grouping

Each school will have to review the ethnic balance at a site. March 13, 1984 (First Reading)  
or minus 20 percent of March 20, 1984 (Revised)

I. Issue

As part of the integration program, the District is committed whenever possible to ethnically balancing each classroom in the district.

II. Recommendation

The Board adopt the attached procedure and "Justifiable Explanations for Homogeneous Grouping of Minority or Majority Students."

III. Rationale

Historically, the District has completed a classroom ethnic census for the Office for Civil Rights each fall. The Office for Civil Rights has considered a class balanced if it is  $\pm$  20% of the site ethnic census. These reports have been reviewed by the Court; and the District on an informal basis, has required sites to ethnically balance their classrooms.

In the November, 1983 Court Order in the Carlin case, the Court ordered:

"8. Defendant School District make its checks of ethnic class enrollment as early in each semester as possible, having due regard for fluctuations in class enrollment in the early weeks of the semester and submit to the Court by March 1, 1984, the criteria it will use in determining ethnic class enrollment."

In response to this order, district staff has developed the following procedure to be implemented beginning in the spring of 1984 so that classes for the 1984-85 school year shall be balanced. This recommendation would formalize the process and hold people accountable.

IV. Budget Implications

None.

Report prepared by George Frey.

GTF:kkh

3/6/84

SAN DIEGO CITY SCHOOLS  
Community Relations and Integration Services Division

Justifiable Explanations for Homogeneous  
Grouping of Minority or Majority Students

Procedure for Classroom Ethnic Balance

BASIC RULE: "In developing the school site plan, each school will strive to maintain the balance of minority and majority students in all classrooms."

1. Each school will have as its goal to have all classes reflect the ethnic balance at a site. Classrooms will be considered balanced if they are plus or minus 20 percent of the majority/minority census of a school.
2. Principals will be required to try to balance all classrooms on their campuses. Exceptions will be allowed only if a recognized justification exists. In addition to balancing classes with respect to majority and minority students, principals must make every effort to balance classes to represent the ethnic minorities enrolled in the school.
3. The recognized justifications are listed in "Justifiable Explanations for Homogeneous Grouping of Minority or Majority Students," a copy of which is enclosed as Exhibit A.
4. In the first six to eight weeks of the first semester and in the first two to four weeks of the second semester, the assistant superintendents for operations for each school will verify classes are balanced.

The time period of six to eight weeks of the first semester of the new school year allows for the enrollment of new students and the fluctuations that occur in a new school year. Only two to four weeks is needed in the second semester because student mobility is less and fewer classes are changed, mostly at the secondary level.

If the classrooms are not balanced, there is no apparent justifications, and it is too late to remedy the situation, principals will receive negative evaluations.

5. The processes and standards will be communicated to principals. This will be made a part of each school site plan for the 1984-85 school year and all future years.

This policy should in no way be construed so as to deny admission, to a particular class, to any student who needs the class to graduate.

GTF:kkh

Justifiable Explanations for  
Grouping of Minority Students  
Page 2

SAN DIEGO CITY SCHOOLS  
Community Relations and Integration Services Division

Justifiable Explanations for Homogeneous  
Grouping of Minority or Majority Students

**BASIC RULE:** "In classrooms--other than the ones listed below--the percentage of minority and majority students must not deviate more than plus or minus 20% from the minority/majority make-up of the school.

Justifiable Explanations  
for Homogeneously Grouping  
Minority or Majority Students

1. High School Diploma Program

1. Takes place beyond the regular school day and is usually site specific with respect to courses offered. Enrollment is low and highly unstable since some students may exit when contracts are complete.

2. Special education classes

2. Students are certified based on need related to the condition of handicap. Additionally, laws pertaining to providing services to students in this category are quite restrictive.

Special education classes which are 75% or more minority in a school where the total school enrollment is predominantly minority is acceptable, but not in others. No special education class should have all minority students or all one gender.

Site plans should reflect a statement regarding mainstreaming which would allow greater social contact for groups such as special day and resource specialist.

Resource: Dan Lochtefeld

Interim goals should be established for September, 1984-85 including formats which include students who meet test cut-offs with others in a cooperative learning approach.

3. Single class offered or single combination class offered, including advanced placement.

3. In schools with small enrollments, often a single class exists at one or more grade levels. Also, often at least two grades must be combined in order to establish a class grouping. It may often be impossible to insure balanced integration in such classes.

Justifiable Explanations for Homogeneous  
Grouping of Minority or Majority Students  
Page 2

3. Continued

The school must be able to demonstrate that no other alternative is available.

4. English as a Second Language (ESL), primary language and bilingual classes at designated schools.\*

4. ESL and primary language classes are enrollment restrictive with respect to core or required subjects. However, when these students take their elective courses, they should not be isolated.

Bilingual classes at schools like Sherman and Balboa may have to be homogeneous because of the minority isolated settings. However, at other schools various models could be used to integrate such classes. A team-teaching model could be used so that students could get their English instruction from an English-speaking teacher and their Spanish (or other language) instruction from a Spanish-speaking teacher. Also, a bilingual teacher could teach a combined group. Resource: Tim Allen

5. Achievement Goals Program

5. In order to meet court orders, low achieving students are programmed into specialized learning programs. Such classes may be imbalanced in order to reach the identified students.

6. Gifted Seminar Classes\*

6. These classes are listed because of the present disparity in scores between minority and majority students. Perhaps we should establish a date after which the enrollment in such classes should reflect the minority/majority make-up of the school, perhaps school year 1986-87. Interim goals should be established for September, 1984-85 including formats which include students who meet test cut-offs with others in a cooperative learning approach.

7. Individual independent study classes.

7. Students on an individual basis are cleared to contractindependent study classes.

8. Optional courses other than those that are normally taught as electives, i.e.,

8. Such courses may be interest specific. Perhaps all such courses should be approved (as pilot courses are done)

Justifiable Explanations for Homogeneous  
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Russian, Hebrew, etc.

ahead of their being listed for student enrollment.

9. Student service classes,  
i.e., monitors, library workers by period only.

9. It would be difficult to balance such classes on a period bases because of the small number of students needed.

Sites should have to show a full day minority/majority balance.

\* Although listed above, these classes should be established as goals for elimination from the list in a reasonable amount of time.

GTF:khh

12/14/83 (Rev. 3/6/84)

1 Kevin, Roeser and defendant San Diego Unified School District  
2 appearing by Christine L. Dyer, Esq.  
3 represented by Donald R. Lincoln, Esq.  
4 and by Elmer Knutson, Esq., Plaintiff  
5 review and evaluation of San Diego Unified School District  
6 Programs  
7  
F I L E D  
Robert D. Zumwalt, Clerk  
SEP 9 1983  
BY G. BERNSTEIN, Deputy

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

10  
11 KARI CARLIN, et al., ) NO. 303800  
12 Plaintiffs, ) MEMORANDUM OF INTENDED  
13 v. ) DECISION  
14 BOARD OF EDUCATION, SAN DIEGO )  
15 UNIFIED SCHOOL DISTRICT, )  
16 Defendant. )  
17 GROUNDSWELL, et al., )  
18 Intervenors, )  
19 v. )  
20 KARI CARLIN, et al., )  
21 Defendants-in- )  
22 Intervention. )

23  
24 The annual review and evaluation of San Diego Unified  
25 School District Programs came on regularly for hearing on  
26 August 18, 1983 in Department 24 of the above entitled Court,  
27 the Honorable Franklin B. Orfield, Judge Presiding; the  
28 plaintiffs appearing by Veronica Roeser, Esq. and William F.

1 Gavin, Esq. and defendant San Diego Unified School District  
2 appearing by Cristina L. Dyer, Esq. and Jennings, Engstrand &  
3 Henrikson by Donald R. Lincoln, Esq. and the intervenor appear-  
4 ing by Elmer Enstrom, Jr., Esq. The purpose of the annual  
5 review and evaluation is to determine if the San Diego Unified  
6 School District (hereinafter called the "School District")  
7 programs have produced "meaningful progress" <sup>1/</sup> toward the  
8 "elimination of segregation and the harms inflicted by such  
9 segregation".

10 The question of whether there has been "meaningful  
11 progress" must be examined from several different perspectives.

12 Of paramount importance is whether there has been  
13 meaningful progress toward the elimination of segregation. Even  
14 if there is meaningful progress, is everything being done that  
15 can be done toward the elimination of segregation.

16 Of equal importance to all of us is whether there has  
17 been meaningful progress toward improving the quality of educa-  
18 tion of children in the minority isolated schools. The  
19 elimination of segregation without improvement of the quality  
20 of education of those minority children would be a hollow  
21 victory.

22 Since the passage of Proposition 1, which conforms the  
23 power of state courts to order busing to that exercised by the  
24 federal courts under the Fourteenth Amendment of the Federal  
25 Constitution, mandatory assignment of pupils to eliminate  
26

27 <sup>1/</sup> All quotations are from Crawford v. Board of Education  
28 (1976) 17 Cal.3d 280, unless otherwise noted.

1 segregation will not be made absent purposeful segregation on  
2 the part of the School District. There is no showing of such  
3 purposeful segregation. On the contrary, it appears that the  
4 Board of Education and its Superintendent are dedicated to the  
5 desegregation of all schools in the School District. The thrust  
6 of the program in San Diego should continue in the direction  
7 of voluntary desegregation and the continued improvement in the  
8 quality of education of students in the minority isolated  
9 schools.

10       Although all goals and interim goals have not been met,  
11 sufficient progress has been made to conclude that there has  
12 been meaningful progress during the past year.

13       Meaningful progress has been made in the overall de-  
14 segregation effort in that the Magnet School Program continues  
15 to increase the involvement of students in the minority isolated  
16 schools and the Voluntary Ethnic Enrollment Program continues  
17 to increase in the number of participants from the minority  
18 isolated schools. Of the 19,048 minority isolated students,  
19 59% participated in either Voluntary Ethnic Enrollment Pro-  
20 grams or Magnet Programs. The remaining 41% have the option  
21 of participating in the Voluntary Ethnic Enrollment Program.

22       ORGANIZATIONAL RESTRUCTURING

23       For the past two years, this Court has indicated a deep  
24 concern about the administrative structure of the School District  
25 and that there has been an urgent need for its overhaul. Court  
26 appointed consultants made a detailed study of the administra-  
27 tive structure of the School District and made certain  
28 ----- of race/human relations instances.

1 recommendations to the Court.

2 It should be noted that the new Superintendent has made  
3 sweeping changes in the administrative structure of the School  
4 District. These changes incorporated the requirements of the  
5 Court and it appears that the new administrative structure will  
6 obviate the problems discussed in earlier decisions of this  
7 Court.

8 No further order will be made at this time relative to  
9 organizational restructuring.

10 RACE/HUMAN RELATIONS PROGRAM

11 This Court, on October 15, 1982, ordered that the School  
12 District "shall centrally produce a complete race/human relations  
13 course of classroom instruction for each of the thirteen grades  
14 and require the classroom presentation of this course to con-  
15 form to the text centrally developed in the same manner as any  
16 other basic course such as is included in the Achievement Goals  
17 Program". The order further required that the School District  
18 "centrally produce a complete Race/Human Relations Program  
19 insofar as it relates to the indoctrination of teachers and  
20 other school employees".

21 It appears that a very ambitious program has been  
22 developed by the School District. Portions of the program have  
23 been tested in various classes throughout the District and it  
24 appears that the student portion of the order will be fully  
25 implemented in the school year 1983-84. The program for  
26 teachers and other school employees is in place.

27 The orders of this Court were made because of the uneven  
28 pattern of race/human relations instruction in the school system.

1 Some schools had developed excellent programs. Other schools  
2 provided only lip service to the requirement of a Race/Human  
3 Relations Program.

4 Reaction to the new Race/Human Relations Program on the  
5 part of personnel from the individual schools ranges from warm  
6 enthusiasm to begrudging compliance. Some teachers and adminis-  
7 trators who felt they had done a commendable job in developing  
8 their own Race/Human Relations Program, resented the mandated  
9 centrally developed programs. Some teachers, who nominally  
10 complied with indoctrination sessions, either corrected papers,  
11 read books or otherwise involved themselves during training  
12 sessions.

13 It appears to this Court that a beginning point for  
14 true integration is an understanding by all students in the  
15 District and all personnel employed by the District of racial  
16 and human relations problems and finding ways for their reso-  
17 lution. Without such understanding, we could be involved in a  
18 mere mass shifting of bodies without truly accomplishing our  
19 objective to be fully integrated in the true sense of the word  
20 and not merely in the mix of persons in classrooms. It appears  
21 fundamental that a sound Race/Human Relations Program, uniformly  
22 presented, would be best for all concerned rather than uneven-  
23 ness of the program as it previously existed.

24 The Race/Human Relations Program that has been centrally  
25 devised by the School District for students and staff is a  
26 program that has obviously been well planned and is in the  
27 process of being well implemented.

28 ---- LIVING SCHOOL

1           IT IS ORDERED that the Race/Human Relations Program  
2       be implemented as heretofore ordered and all school personnel  
3       be made aware of the importance of this program and its place  
4       in the integration effort. It is the finding of the Court that  
5       the School District is complying with the order in a commend-  
6       able manner.

7           VOLUNTARY ETHNIC ENROLLMENT PROGRAM (VEEP)

8           The Voluntary Ethnic Enrollment Program (VEEP) con-  
9       tinues to be a very important part of the desegregation effort.

10          The number of students in the VEEP from minority  
11       isolated schools totalled 4,628 or almost 25% of all students  
12       in minority isolated schools, or nearly 40% of the total of the  
13       students involved in the VEEP and Magnet Programs.

14          Many of the problems involved in the VEEP Program in  
15       the past have been remedied. Substantial increases in trans-  
16       portation between the receiving school and the sending school  
17       to accommodate after school extracurricular activities have  
18       been made.

19          A number of problems however still remain. Complaints  
20       have been made that bus drivers have made racial slurs, that  
21       some classes have become resegregated and that programs for  
22       VEEP limited English proficient students are spotty and in some  
23       areas completely lacking. VEEP Programs vary substantially in  
24       quality and implementation from site to site. The School  
25       District should determine at the earliest practicable time  
26       which VEEP site plans are most successful at each grade level  
27       and replicate them at comparable grade levels at all other VEEP  
28       receiving schools.

1                   Nothing is accomplished if resegregation occurs at the  
2 receiving school and/or limited English proficient students are  
3 not adequately trained in the receiving school. It is hoped  
4 that the racial slurs will be eliminated and that recurrence of  
5 conduct of that type will be obviated by the teachings of the  
6 Race/Human Relations Programs insofar as they apply to the staff  
7 and other employees.

8                   The VEEP Program gives us an exact measurement of the  
9 effectiveness of our desegregation efforts. All students from  
10 minority isolated schools attending majority schools are clearly  
11 desegregated and with proper efforts, will be completely  
12 integrated.

13                  IT IS ORDERED that increased efforts be made to interest  
14 increased numbers of students in the VEEP Program and that  
15 adequate programs be established for limited English proficient  
16 students to proceed apace with English speaking students in the  
17 receiving schools.

18                  IT IS FURTHER ORDERED that continued efforts be made  
19 to make the students feel that they are a part of the receiving  
20 school by including them in all activities, including after  
21 school programs, and by continuing to provide bus transportation  
22 to accommodate extracurricular activities after school hours.

23                  IT IS FURTHER ORDERED that careful monitoring of  
24 classes at VEEP receiving schools take place to the end that  
25 resegregation does not occur except in cases of absolute  
26 necessity such as classes conducted in native languages.

27                  IT IS FURTHER ORDERED that the School District determine  
28 at the earliest practicable time which VEEP site plans are most

1       successful at each school level and replicate them at comparable  
2       school levels at all other VEEP receiving schools.

3                          MAGNET SCHOOLS

4       During the 1982-83 school year, 17,830 students participated  
5       in the District's Magnet Programs, representing a growth  
6       of 2,604 students. Of these students, 6,646 are from minority  
7       isolated schools, an increase of 1,126 over last year.

8       The level of the Magnet Schools has remained somewhat  
9       static during this past year, with only a Communications Magnet  
10      Program added at Knox in the elementary Magnet Program and  
11      certain expansions made at the secondary level. It is recognized  
12      that those modest expansions were necessitated this year due  
13      to economic constraints. It would be a genuine tragedy to see  
14      the Magnet School Program slow down or falter at this point.  
15      Expansion of the program must continue, financial constraints  
16      notwithstanding.

17      The options for furthering desegregation and in the end  
18      accomplishing integration are few. The two programs that offer  
19      the greatest opportunities are the VEEP Program and the Magnet  
20      School Program. The Magnet School Program must expand by at  
21      least one new such program at the elementary level and one new  
22      such program at the secondary level each school year until a  
23      Magnet School exists in each of the minority isolated schools.

24                          IT IS ORDERED that the Magnet School Program be ex-  
25                          panded to provide for one new program at the elementary level  
26                          and one new program at the secondary level each year until each  
27                          minority isolated school has a Magnet Program.

28       -----  
                        protect minority students access

1                                 BILINGUAL PROGRAMS

2                             The Bilingual Program was established to provide limited  
3 English proficient students instruction in their native language  
4 while simultaneously teaching English as a second language.

5                             The Spanish Bilingual Program has been in existence for  
6 a long time and will be with us for the foreseeable future.  
7 There continue to be numbers of problems in connection with the  
8 Spanish Bilingual Program. There is an unevenness of the program  
9 from school to school. Many teachers in the English as a second  
10 language program are not properly trained. Some administrators  
11 are not fully aware of the objects and purposes of the Bilingual  
12 Program. Many students remain in primary language classes year  
13 after year, some through the twelfth grade. There is insuffi-  
14 cient follow-up of exited students from primary language programs.  
15 All too often students are permitted to exit primary language  
16 programs in advance of their capabilities in the English language.  
17 Bilingual Programs for VEEP students remain spotty. Some  
18 administrators in receiving schools appear to be unaware of the  
19 needs of VEEP limited English proficient students.

20                             Even more complex problems are extant in the Indo-  
21 Chinese Bilingual Program. The several dialects complicate it  
22 further. The Indo-Chinese bilingual problem is extremely  
23 complex but it will be with us for only a few years. It is  
24 understandable that such programs are not clear cut, uniformly  
25 devised and implemented but it is difficult to understand why the  
26 Hispanic Bilingual Program has not been fully developed and uni-  
27 formly implemented in all of the schools where limited English  
28 proficient Hispanic students attend.

1        It is noted that the School District agrees in virtually  
2        every respect with the recommendations of the Court appointed  
3        Integration Task Force in bilingual matters.

4        IT IS ORDERED that the School District report to the  
5        Court no later than March 1, 1984 of steps taken to obviate the  
6        problems hereinabove outlined relative to the Hispanic Bilingual  
7        program.

8        TESTING RESULTS FOR MINORITY ISOLATED SCHOOLS (SPRING 1983)

9        On December 2, 1980 Judge Louis M. Welsh ordered that  
10      the School District implement a course or courses of study in  
11      all minority isolated schools which would result by specified  
12      dates in 50% of the students in the isolated schools achieving  
13      at or above the national norm on the Comprehensive Test of  
14      Basic Skills (CTBS) in reading, mathematics and language.

15      Between April 18, 1983 and May 4, 1983, approximately  
16      12,000 students who were enrolled in the court identified  
17      minority isolated schools were administered the appropriate  
18      levels of the Comprehensive Test of Basic Skills (CTBS) in the  
19      areas of reading, language and mathematics. In grades 5, 7  
20      and 9, all District students in the regular instructional  
21      program were also tested using the CTBS. In the fall and  
22      winter, grades 11 and 12 were tested District-wide as well.  
23      The type of test used in the base line year of 1980 was known  
24      as Form S tests. Since that time the testing procedure has  
25      changed to what has been designated as a Form U test. The  
26      publisher of the tests has provided the School District with a  
27      method to equate the data between the two test norms. The  
28      Court instructed the District to provide test summary information

1 using both sets of norms. Increases in the year 1983 over the  
2 year 1982 Using base line norms (Form S), the test results for the  
3 spring of 1983 indicate that 27 of the 35 interim goals were met  
4 or exceeded. Using current norms (Form U), 22 of the 35 interim  
5 goals were met or exceeded.

6 Grades 1 and 2 were scheduled to attain the Court stated  
7 requirement in the spring of 1983. Using base line norms (Form  
8 S), the standard was met at both grades in reading, language and  
9 mathematics. Using current norms (Form U), the standard was  
10 attained at both grades for mathematics but not for reading or  
11 language.

12 Of great significance is the substantial reduction of  
13 the degree of difference between the scores in minority isolated  
14 and non-minority isolated schools, especially at the elementary  
15 and junior high school levels.

16 For the first time this year test scores by ethnic sub-  
17 groups in minority isolated and non-minority isolated schools  
18 has been provided. In all cases the minority ethnic sub-groups  
19 in the non-minority isolated schools were higher than the  
20 corresponding ethnic sub-groups in the minority isolated schools.  
21 However, the "margin of advantage" over the minority isolated  
22 schools has decreased for almost every ethnic sub-group in all  
23 grade levels tested. In some instances, the minority students  
24 in the minority isolated schools are scoring higher than their  
25 ethnic counterparts in the non-minority isolated schools. In  
26 examining the test results for minority isolated schools, it  
27 appears that in reading virtually all classes from kindergarten  
28 to and including grade 10 have shown increases and in all cases

1 except one there have been increases in the year 1983 over the  
2 year 1982. The figures are disappointing in grades 11 and 12.  
3 There has been a slight increase in grade 11 over the base line  
4 but, disappointingly, a decrease below the base line in grade 12.

5 In language there has been an increase in each grade  
6 level from kindergarten through 10 over the base line and with  
7 the exception of grade 10, there has been a substantial increase  
8 of the 1983 test scores over the 1982 test scores. There has  
9 been slight progress in grades 10 and 11 and a disappointing  
10 decline in grade 12. The above outlined data is applicable  
11 whether base line norm (Form S) is used or the present norm  
12 (Form U).

13 While substantial increases have been shown in reading  
14 and language, the most dramatic increase has been in mathe-  
15 matics. Every grade from kindergarten through 11th has exceeded  
16 their interim goals under the base line (Form S) method or the  
17 current (Form U) method. Grade 12 met the interim goal as set  
18 for 1983 under the Form U method and was somewhat short under  
19 the Form S method. Outstanding work is being accomplished in  
20 all grades in the field of mathematics.

21 A. Comparison of minority isolated schools with non-  
22 minority isolated schools.

23 Although non-minority isolated schools were higher  
24 than minority isolated schools at all grade levels measured  
25 District-wide in all content areas, i.e., reading, language and  
26 math, at the time of the base line year of 1979-80 and the most  
27 recent testing of the school of 1982-83, the gap between the  
28 two has narrowed dramatically. This very substantial increase

1 in scores of students in the minority isolated schools clearly  
2 demonstrates the dedication of the personnel in these schools  
3 and the unquestioned learning abilities of their students.

4       While scores in reading, language and math in non-  
5 minority isolated schools may have remained somewhat static,  
6 increasing no more than 10 percentile points in the grades  
7 tested, students in the minority isolated schools increased  
8 their percentiles in every category from a few points to as  
9 much as 35 percentile points. The comparative statistics are  
10 extremely encouraging.

11       B. Test scores by ethnic sub-groups.

12       In almost all cases, students in minority isolated  
13 schools regardless of ethnic sub-groups, have demonstrated  
14 greater gains relative to the base line data than their ethnic  
15 counterparts in non-minority isolated schools, although in most  
16 instances the minority students in non-minority isolated schools  
17 score higher than their counterparts in minority isolated schools.  
18 The ethnic minorities in the minority isolated schools are doing  
19 so well in some areas that they have overtaken and surpassed  
20 their ethnic counterparts in non-minority isolated schools.

21       While minorities in non-minority isolated schools are  
22 in some instances making modest increases, in others barely  
23 holding their own and often going down in their percentile  
24 standing, in almost every instance the minorities in the  
25 minority isolated schools have substantially increased their  
26 percentile standing.

27       The dramatic improvement in almost every instance and  
28 the actual overtaking in a number of instances of minorities

1       in minority isolated schools over their counterparts in non-  
2       minority isolated schools is a tribute to the fine work of  
3       teachers, staff and students in the minority isolated schools.

4       IT IS ORDERED that an investigation be made into  
5       grades 10, 11 and 12 in the minority isolated schools to  
6       determine why they have not made the same relative progress  
7       that has been made in the lower grades and report to the Court  
8       its findings by March 1, 1984.

9       IT IS FURTHER ORDERED that investigation be made into  
10      the areas of the lower grades where lesser progress has been  
11      made.

12                          OTHER PROGRAMS

13       The Race/Human Relations Outdoor Education Program for  
14       6th graders will be in place for the school year 1983-84 with  
15       a strong emphasis on race/human relations training. The Balboa  
16       Park Program for 5th graders and the Old Town State Park  
17       Program for 4th graders will continue in effect, also with  
18       strong emphasis on race/human relations training. All three of  
19       these District-wide programs will provide a one week integrated  
20       program for participants, starting in the fourth grade. The  
21       same groups of students will meet and participate again in the  
22       5th grade and again in the 6th grade.

23       Thousands of children will participate in these well  
24       considered integrated programs.

25       The Learning Centers involved 5,027 students in  
26       integrated learning experiences for one day each week. Of  
27       these, 1,981 were majority students and 3,046 minority, of  
28       whom 1,944 were from minority isolated schools. This program

1       is being phased out and replaced by other programs.

2              The Extended Elementary Instructional Exchange Program  
3       continued this year on a voluntary basis by schools. It involved  
4       766 students, of which 459 were minority and 182 from minority  
5       isolated schools.

6              The Court is of the opinion that the 4th, 5th and 6th  
7       grade programs with race/human relations emphasis is an  
8       important adjunct to the integration effort and will provide  
9       a valuable integrated experience for all students in the  
10      District.

11              INTERVENORS' OBJECTIONS TO NEW RACE/HUMAN  
12       RELATIONS PROGRAM AND CLASSROOM ASSIGNMENTS

13       The intervenors object to students being assigned to  
14       particular classes and particular seats within classes solely  
15       because of race and to being required to attend a race/human  
16       relations course through their remaining school years under  
17       judicial mandate.

18       This issue has been addressed earlier in discussions of  
19       magnet school eligibility rules which take race into account  
20       when making assignments.

21              In the case of the Regents of the University of California  
22       v. Bakke (1977) U.S. 265, the court said that "government may  
23       take race into account when it acts not to demean or insult any  
24       racial group, but to remedy disadvantages cast on minorities by  
25       past racial prejudice, at least when appropriate findings have  
26       been made by judicial, legislative, or judicial bodies with  
27       competence to act in this area."

28       A fair reading of Bakke leads to the conclusion that

1 taking race into consideration, in appropriate instances to  
2 remedy past discrimination, is a valid constitutional classifica-  
3 tion.

4 This Court has earlier stated that each school board in  
5 California has the duty and obligation to take reasonably  
6 feasible steps to desegregate and to adopt and implement plans  
7 to accomplish that purpose. State courts in California have  
8 the duty, when the need arises, to order a segregated school  
9 district to use voluntary desegregation techniques. By their  
10 very nature, techniques for desegregation must in some respect  
11 consider the race of the students involved. That consideration,  
12 to alleviate segregation, as long as one race is not absolutely  
13 preferred over the other, has received the judicial approval  
14 of the United States Supreme Court.

15 IT IS ORDERED that compulsory race/human relations  
16 educational programs are not violative of the constitutional  
17 rights of any of the children. On the contrary, a program of  
18 this type, designed to make all students more aware of possible  
19 conflicts among races and peoples and ways of resolving those  
20 conflicts, particularly in a melding pot nation such as the  
21 United States, appears to be particularly appropriate.

22 IT IS FURTHER ORDERED that assignment to particular  
23 seats and to particular classes solely because of race does not  
24 violate the constitutional rights of any of the children in-  
25 volved.

26 ~~should measure up to~~ PAST ORDERS  
27 ~~supersede~~ IT IS ORDERED that orders numbered 4, 5, 7, 10, 11, 12,  
28 13 and 14 of October 15, 1982 be continued in full force and

1 effect. This Court could continue to make annual evaluations  
2 and orders. FUTURE JUDICIAL REVIEWS OF SCHOOL DISTRICT ACTIVITIES  
3 Because of the intervention of the Court, the School District, with  
4 Numbers of things have emerged since the intervention  
5 of the Court in the within case.

6 Over the years it has been necessary for the Court to  
7 make orders which have had the effect of changing the direction  
8 of education insofar as it relates to our minority children.  
9 Firm steps have been necessary on occasion to change well  
10 entrenched and seemingly unbending modes impeding desegregation  
11 and ultimately integration.

12 Changing the course of a large School District with over  
13 150 schools, the second largest in the state, is akin to chang-  
14 ing the course or turning about a large ship like the Q E II.  
15 It cannot be turned about in a short distance, but rather  
16 requires careful, deliberate and purposeful maneuvering. Such  
17 has been the case with the San Diego Unified School District.  
18 It is the perception of the undersigned that the School District  
19 is now on the proper course.

20 We have a Superintendent and Board who are dedicated,  
21 not only to desegregation but integration in the true sense of  
22 the word. Programs have been established which are bringing  
23 about integration imaginatively and as swiftly as possible,  
24 short of mandatory assignment of pupils. None of the parties  
25 to this litigation can suggest further immediate programs that  
26 would measurably accelerate the cause of integration. It  
27 appears that refining and expanding present programs are the  
28 only true remaining options.

1           This Court could continue to make annual evaluations  
2 and orders. However, it is becoming increasingly evident that  
3 because of the present direction of the School District, such  
4 annual reviews and orders would be imposing a layer of expen-  
5 sive judicial supervision which is no longer necessary.

6           Judges by training and education are not equipped to  
7 supervise School Districts and/or school programs. It has  
8 become necessary for the judiciary to become involved in edu-  
9 cational matters but only insofar as the Court's activity re-  
10 lates to desegregation, integration and the quality of education  
11 of students in minority isolated schools.

12          The judiciary should not involve itself in other  
13 educational matters and should remove itself completely in  
14 these matters when desegregation and integration matters are  
15 adequately handled by the School District.

16          This Court contemplates continuing its supervision of  
17 the desegregation and integration program of the School District  
18 until October 1, 1984. It is anticipated that a final order  
19 will be made shortly after that date incorporating all pertinent  
20 past orders of this Court and any additional orders that may  
21 be made up to that date.

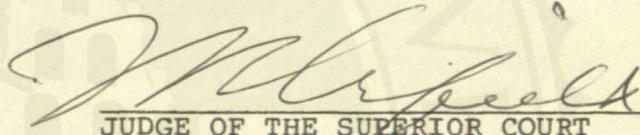
22          After October 1, 1984, no further annual reviews will  
23 be made by the Court, the Court Integration Task Force will be  
24 disbanded and any further activity in the matter will come  
25 about only by way of noticed motion based upon urgent necessity.  
26 These will be the circumstances extant as of October 1, 1984  
27 unless presently unforeseen circumstances dictate otherwise.  
28 -----

1                           CONCLUSION

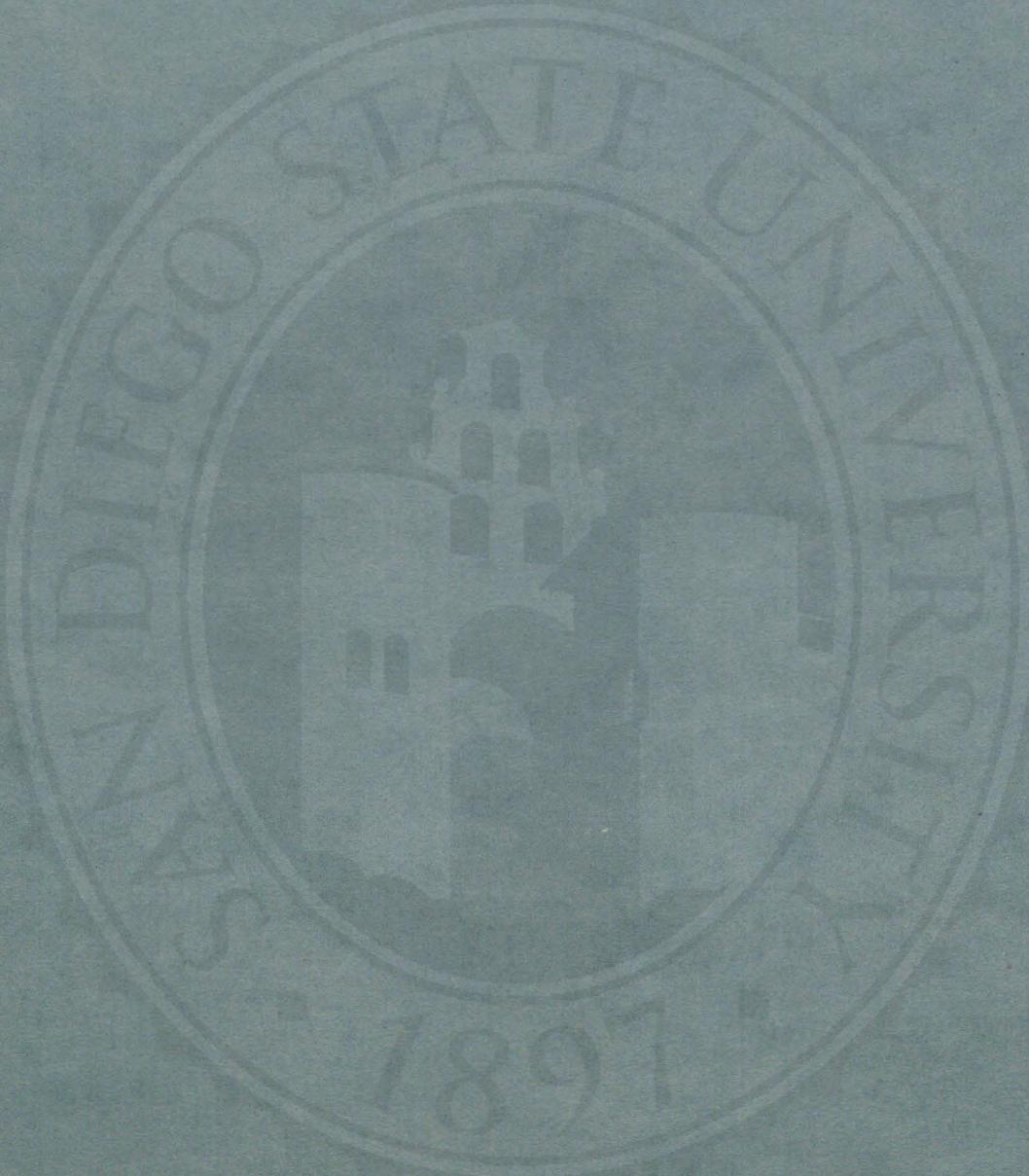
2         The Court's Integration Task Force is again to be  
3         commended for its excellent work in functioning as the eyes  
4         and ears of the Court in monitoring the progress of the integra-  
5         tion efforts in the School District. The School District and  
6         counsel on all sides of this case have been very responsive in  
7         providing data required by the Court.

8         The continuing spirit of cooperation and dedication to  
9         the cause of true integration of our schools will assure further  
10        substantial gains in the coming school year.

11        DATED: September 9, 1983.

12                             
13                           JUDGE OF THE SUPERIOR COURT

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charge 1980

F Robert D. Zumwalt, Clerk D

OCT 1 1980

BY S. TALBOTT  
DEPUTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

KARI CARLIN, et al., ) Case No. 303800

Plaintiffs, )

v. ) CHARGE TO THE  
BOARD OF EDUCATION OF THE ) INTEGRATION TASK FORCE  
SAN DIEGO UNIFIED SCHOOL ) 1980-1981 SCHOOL YEAR  
DISTRICT, )

Defendant. )

To the Chairman, Vice Chairpersons and Members of the INTEGRATION  
TASK FORCE.

GREETINGS:

The Task Force is specifically charged to:

1. Monitor, analyze and evaluate the human/race relations programs used throughout the district, with particular emphasis upon the effectiveness of such program in those schools that receive VEEP students.
2. Monitor, analyze and evaluate the Elementary and Secondary Exchange Programs and the Learning Centers to determine what progress is being made toward the

1 engage the expansion of Elementary Exchange Programs and to  
2 advisors, determine the effectiveness of all three programs.

3 the Court **Cooperate** with the school district to assist the  
4 district in its efforts to expand the Elementary  
5 Exchange Programs and to encourage more parents to  
6 voluntarily participate therein.

7 4. Monitor classroom activity to determine whether there  
8 has been a significant reduction in the interruption  
9 of instruction in classrooms, particularly in the  
10 basic skills area.

11 5. Monitor classroom activity to determine whether there  
12 is instruction in oral communication and of what  
13 such instruction consists.

14 6. Monitor classroom activity to determine whether  
15 individual classes are appropriately desegregated  
16 or whether there is a pattern of segregating races  
17 within a school.

18 7. Monitor, analyze and evaluate any other program or  
19 activity which is a portion of the desegregation  
20 plan and which, in the opinion of the Task Force  
21 requires its attention.

22 8. Evaluate the overall plan as to whether meaningful  
23 progress to alleviate segregation is being made.

24 9. Report to the Court its activities on or before  
25 May 4, 1981.

26 To carry out this charge, the Task Force is authorized to  
27 . . . .

28 . . . .

1 engage the services of monitors and necessary experts and  
2 advisors. Stipends paid to such persons must be approved by  
3 the Court.

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5 Dated: OCT 1 1980

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7 LOUIS M. WELSH

8 JUDGE OF THE SUPERIOR COURT

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

13 KARI CARLIN, et al ) No. 303 800  
14 Plaintiffs )  
15 vs. )  
16 BOARD OF EDUCATION, et al )  
17 Defendants )

**PLAINTIFFS' RESPONSE TO DEFENDANT'S EVALUATION**

OF THE SAN DIEGO PLAN FOR RACIAL INTEGRATION 1979-80

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## INTRODUCTION

3       Although the San Diego Plan for Racial Integration has been in  
4 operation for three years now,<sup>1</sup> (three fifths of its way toward being  
5 completed), it is not achieving meaningful progress toward desegre-  
6 gating the segregated schools. It continues to fall short of its  
7 goals. It has not stabilized tipping schools, and as a consequence,  
8 several are on the brink of becoming, by the Court's definition,  
9 "definitely" segregated. As a result of its inequities, some of  
10 which are inherent in a voluntary plan, increasing resentment is be-  
11 ing generated in minority schools. One of the most significant short-  
12 comings of the plan, which is not apparent when its success is meas-  
13 ured in terms of its goals, is that the goals set were not designed  
14 to desegregate the 23 segregated schools, nor to stabilize the tip-  
15 ping schools. Thus, even if the goals were to be met, most of the  
16 students in segregated schools would remain in segregated schools  
17 when the plan is completed.<sup>2</sup>

18 The number of applications received for magnet programs for next  
19 year does not augur well for the District strategy of building on its  
20 successes. Only 18% of the 1980-81 goal has been reached, just half  
21 of the 36% reached at the same time last year.

23        1/ The Integration Task Force appears to be under the misappre-  
24 hension that the plan has been in operation only two years. (See  
25 page 2, ITF Report, June 16, 1980.) Perhaps they would have expres-  
26 sed even stronger disappointment with District leadership had they  
27 know that the plan is now moving into its fourth year.

2/ See Tables 6 and 7.

1 At the same time, the District is nowhere near the limit of its  
2 ability to desegregate the 23 segregated schools, since there are  
3 still 32 elementary schools and 4 high schools over 80% majority, and  
4 43 elementary and 9 secondary schools over 75% majority.<sup>3</sup>

5 Because the evaluation completely ignores shortcomings, it is of  
6 little value in providing guidance in making constructive changes.

7 For example, there is no mention of the problem of relocating  
8 the School of Creative and Performing Arts (SCPA). The criticism by  
9 groups in the community and by the Integration Task Force of the ini-  
10 tial proposal to move it to Collier might have been avoided, if the  
11 Board and staff themselves had been more critical of the proposal.  
12 Placing the school at Collier would not have maximized the potential  
13 of this attractive program to desegregate, which is a principal pur-  
14 pose of the program.<sup>4</sup>

15 Even though consideration is now being given to locating SCPA in  
16 a segregated school, the staff proposal to take over an entire campus  
17 and relocate the resident students will still not be using the pro-  
18 gram to integrate a segregated school. And it is likely to fuel more  
19 resentment.

20 There are other important difficulties with the plan and its im-  
21 plementation which do not appear in the evaluation. An Integration  
22 Task Force survey of teachers found that "many teachers believe that  
23 the 'cream of the crop' leave the school in VEEP programs with no

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24 3/ Data from Pupil Ethinic Census, 1979-80. Also See page 3,  
25 ITF Report, June 16, 1980.

26 4/ For several years the School Board has been seeking ways to  
27 combine Collier and Dana at Dana because of the small and declining  
28 enrollment at both schools and their proximity to each other.

29

30

31

1 leaders left for other students to emulate".<sup>5</sup> This echoes a complaint  
2 made for several years by parents. Another flaw is that most of the  
3 busing in the integration program produces no integration. (See page  
4 II-5). The exchange programs and other part-time programs have  
5 defects, (class periods are too short, instruction is interrupted,  
6 buses are not on time, time on buses is wasted),<sup>6</sup> which were not men-  
7 tioned.

8 The lack of candor in the evaluation supports the recommendation  
9 of the Integration Task Force that the Task Force be reconstituted  
10 in some form next year. No problems are addressed in this document.  
11 Rather, the School District's 1980 Evaluation brings to mind a con-  
12 trivance used in the theatre long ago to orchestrate artificial app-  
13 lause. It was called a claptrap.

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<sup>5</sup> See page 2, Attachment A to ITF Report, June 16, 1980.

<sup>6</sup> See page 3, 8, and 9, ITF Report, June 16, 1980.

1      A. SEGREGATION CONTINUES TO GROW

2      In 1976-77 only the 23 court-designated segregated schools  
3 and San Diego High School were over 70% minority. Today, three  
4 years after the integration plan went into effect, there are  
5 28 schools over 70% minority, with an additional 1,857 minority  
6 students in these schools. (See Table 1). Defendant refers with  
7 pride to 1,704 "(m)inority students no longer attending schools  
8 over 80% minority".<sup>1</sup> It seems only fair to point out that 2,121  
9 minority students in Freese and Morse (78.1% and 76% minority in  
10 1976-77) are now attending schools over 80% minority. In addition,  
11 4,730 minority students in six of the 23 segregated schools  
12 (Balboa, Burbank, Logan, Sherman, Stockton, Lincoln), are now even  
13 more isolated than in 1976-77. (See Table 2).<sup>2</sup>

14     B. TIPPING SCHOOLS NOT STABILIZED

15     Contrary to the District's claim that "(t)he VEEP program  
16 continues to have an impact in assuring that current minority-  
17 imbalanced schools do not become minority isolated",<sup>3</sup> the VEEP  
18 and magnet programs have not stabilized tipping schools. Since  
19 1976-77, six more schools (Bell, Boone, Central, Keiller, Linda  
20 Vista, and Paradise Hills) have become over 70% minority. One  
21 of them, Paradise Hills, is 78.1% minority, and should be con-  
22 sidered segregated. (In 1976-77, two of the court-designated  
23 segregated schools, Morse and Freese, were 76% and 78.1% minority  
24 respectively).

---

25     <sup>1</sup> Appendix B, Evaluation of the San Diego Plan for Racial  
26     Integration 1979-80.

27     <sup>2</sup> Also see Appendix B Evaluation of the San Diego Plan for  
28     Racial Integration 1979-80.

28     <sup>3</sup> See Page 7, Evaluation of the San Diego Plan for Racial  
Integration 1979-80.

TABLE I

MINORITY STUDENTS IN SEGREGATED SCHOOLS 1976-1980<sup>1</sup>

| <u>Percent Minority</u> | <u>76-77</u>  | <u>77-78</u>  | <u>78-79</u>  | <u>79-80</u>  |
|-------------------------|---------------|---------------|---------------|---------------|
| 90-100                  | 11,169        | 10,606        | 9,850         | 8,098         |
| 80-90                   | 884           | 2,250         | 2,996         | 3,611         |
| 80-100                  | 12,053        | 12,856        | 12,846        | 11,709        |
| 70-80                   | 3,518         | 2,431         | 2,573         | 5,719         |
| 70-100                  | 15,571        | 15,287        | 15,419        | 17,428        |
| 60-70                   | 3,504         | 4,250         | 4,148         | 2,659         |
| 60-100                  | <u>19,075</u> | <u>19,537</u> | <u>19,567</u> | <u>20,087</u> |
|                         | <u>65,778</u> | <u>67,217</u> | <u>67,399</u> | <u>69,311</u> |

<sup>1</sup> Figures derived from Pupil Ethnic Censuses, 1976 to 1980.

TABLE 2

SCHOOLS LISTED BY PERCENT MINORITY 76-77 TO 79-80<sup>1</sup>

| <u>Percent Minority</u> | <u>76-77</u>   | <u>77-78</u>  | <u>78-79</u>  | <u>79-80</u>  |
|-------------------------|--|---|---|---|
| 90-100                  | Baker<br>Balboa<br>Burbank<br>Chollas<br>Emerson<br>Fulton<br>Gompers<br>Horton<br>Johnson<br>Kennedy<br>Knox<br>Lincoln<br>Logan<br>Lowell<br>Mead<br>Memorial<br>Sherman<br>Stockton<br>Valencia Park<br>Webster | Baker<br>Balboa<br>Burbank<br>Chollas<br>Emerson<br>Fulton<br>Gompers<br>Horton<br>Johnson<br>Kennedy<br>Knox<br>Lincoln<br>Logan<br>Lowell<br>Mead<br>Memorial<br>Sherman<br>Stockton<br>Valencia Park | Baker<br>Balboa<br>Burbank<br>Chollas<br>Emerson<br>Fulton<br>Horton<br>Johnson<br>Kennedy<br>Knox<br>Lincoln<br>Logan<br>Lowell<br>Mead<br>Memorial<br>Sherman<br>Stockton | Balboa*<br>Burbank*<br>Chollas<br>Emerson<br>Kennedy<br>Knox<br>Lincoln*<br>Logan*<br>Lowell<br>Mead<br>Memorial<br>Sherman*<br>Stockton* |
| 80-90                   | O'Farrell  | O'Farrell<br>San Diego  | Freese<br>Gompers<br>O'Farrell<br>San Diego   | Baker**<br>Freese*<br>Horton**<br>Morse*<br>O'Farrell   |
| 70-80                   | Freese<br>Morse<br>San Diego   | Freese<br>Morse<br>Webster  | Morse<br>Paradise Hills<br>Valencia Park  | Bell*<br>Boone*<br>Central*<br>Fulton**<br>Johnson**<br>Keiller*<br>Linda Vista*<br>Paradise Hills*<br>San Diego<br>Valencia Park**       |
| 60-70                   | Audubon<br>Bell<br>Boone<br>Encanto<br>Keiller<br>Paradise Hills   | Audubon<br>Bell<br>Boone<br>Central<br>Encanto<br>Keiller<br>Lee<br>Paradise Hills  | Audubon<br>Bell<br>Boone<br>Central<br>Encanto<br>Keiller<br>Lee<br>Linda Vista   | Audubon<br>Encanto<br>Gompers**<br>Lee*<br>Penn*<br>Washington*   |
| 50-60                   | Central<br>Lee<br>Linda Vista<br>Oak Park<br>Perry<br>Washington   | Brooklyn<br>Carson<br>Dewey<br>Linda Vista<br>Perry<br>Washington   | Brooklyn<br>Carson<br>Dewey<br>Euclid<br>Oak Park<br>Penn<br>Perry<br>Washington<br>Webster   | Beale*<br>Brooklyn*<br>Carson*<br>Dewey*<br>Euclid*<br>Marshall*<br>Oak Park<br>Perry<br>Rowan*<br>Webster**                              |

\* Becoming more segregated

\*\* Becoming less segregated

<sup>1</sup> Figures are based on Pupil Ethnic Censuses from 1976 to 1980.

1        In 1978 plaintiffs provided demographic projections which  
2 showed that Audubon, Boone, Lee, and Paradise Hills would con-  
3 tinue to tip, and would become over 80% minority by 1982.<sup>4</sup>  
4 (Objections to Defendant's Proposed Racial Integration Plan,  
5 1978-82, dated April 27, 1978, p.iv). In response to this  
6 analysis the School District said, "none of the remaining minority  
7 imbalanced schools will have a minority enrollment which exceeds  
8 80% by 1982". It also said, "(t)he District intends to make  
9 every effort to ensure that these schools do not become minority  
10 isolated".<sup>5</sup> (Defendant School District's Response to Plaintiff's  
11 Objections to the San Diego Racial Integration Plan 1978-82, May 8,  
12 1978, p. 5).

13       Good intentions notwithstanding, the District's efforts have  
14 not been effective. In fact, it appears that plaintiffs' analysis  
15 was quite conservative. Paradise Hills reached almost 80% minority  
16 last Fall. Audubon, Boone, and Lee have continued to tip as  
17 projected, and have been joined by Bell, Central, Keiller, and  
18 Linda Vista in the over 70% minority category, and by Penn and  
19 Washington in the over 60% category. (See Table 2).

20       C. MINORITY GROWTH IMPROVES INTEGRATION STATISTICS

21       The School District observed that "despite the increasing  
22 number of minority students in the total District, the number  
23 of minority students enrolled in those [segregated] schools  
24

25       <sup>4</sup> See page iv, Objections to Defendant's Proposed Racial  
26       Integration Plan 1978-82, dated April 27, 1978.

27       <sup>5</sup> See page 5, Defendant School District's Response to  
28       Plaintiff's Objections to the San Diego Racial Integra-  
tion Plan 1978-82, dated May 8, 1978.

1 decreased from 13,659 to 13,413".<sup>6</sup> It is surprising that an  
2 increase of 2,364 minority students in VEEP and magnet programs  
3 over the previous year,<sup>7</sup> minority enrollment in the 23 segregated  
4 schools fell by only 246.. However, this small number is not so  
5 startling when it becomes clear that only 420<sup>8</sup> of the 2,364  
6 minority students came from the 23 segregated schools, and that  
7 although the minority population in the District increased by  
8 1,868 students between 1978-79 and 1979-80, the minority resident  
9 population in the 23 segregated school neighborhoods increased by  
10 only 80 students. (See Table 3).<sup>9</sup> In other words, 1,788 of the  
11 new minority students in the District took up residence in  
12 neighborhoods outside of the 23 segregated schools. Thus, with-  
13 out participating in the integration plan, many of these 1,788  
14 new students integrated majority schools and improved the  
15 statistics used to measure the progress of the integration plan,  
16 including the Desegregation Index.

---

17     <sup>6</sup> See page 2, Evaluation of the San Diego Plan for Racial  
18       Integration 1979-80, dated June 1980.

19     <sup>7</sup> See page 4 and 7 and Table 3 and Table 4, Evaluation of  
the San Diego Plan for Racial Integration 1979-80, dated  
June 1980.

20     <sup>8</sup> The figure of 420 is derived by totaling the minority  
students from minority isolated schools in VEEP and the  
minority students from minority isolated schools in magnet  
programs in majority schools for each year and taking the  
difference. The data used was from Table 3 and Table 4 of  
the Evaluation of the San Diego Plan for Racial Integration  
1979-80, dated June 1980, and from the same tables in the  
June 1979 Evaluation.

21     <sup>9</sup> Since 420 minority students moved out of segregated schools  
in VEEP and magnet programs, and the residential population  
increased by 80 minority students, there should have been a  
net loss of 340 minority students, rather than 246.. The  
difference may result from small errors in the data and the  
fact that the ethnic census was taken in November and Decem-  
ber, while the magnet and VEEP data was taken in April.  
Also, the data in the Evaluation does not indicate those  
minority students from segregated schools who may be parti-  
cipating full-time in majority career centers.

TABLE 3

RESIDENT POPULATION OF SEGREGATED SCHOOLS<sup>1</sup>

| <u>School</u>                           | <u>1978-79</u>  |                 | <u>1979-80</u>  |                 |
|---|-----------------|-----------------|-----------------|-----------------|
|   | <u>Majority</u> | <u>Minority</u> | <u>Majority</u> | <u>Minority</u> |
| Baker                                   | 7               | 541             | 4               | 501             |
| Balboa                                  | 60              | 934             | 49              | 963             |
| Burbank                                 | 5               | 316             | 4               | 358             |
| Chollas                                 | 18              | 421             | 20              | 403             |
| Emerson                                 | 18              | 576             | 10              | 667             |
| Freese                                  | 140             | 636             | 90              | 644             |
| Fulton                                  | 4               | 294             | 18              | 322             |
| Horton                                  | 15              | 501             | 21              | 488             |
| Johnson                                 | 2               | 305             | 3               | 319             |
| Kennedy                                 | 11              | 733             | 10              | 719             |
| Knox                                    | 12              | 481             | 14              | 402             |
| Logan                                   | 29              | 980             | 8               | 1,037           |
| Lowell                                  | 3               | 481             | 2               | 406             |
| Mead                                    | 13              | 299             | 7               | 309             |
| Sherman                                 | 84              | 958             | 55              | 1,075           |
| Stockton                                | 20              | 584             | 12              | 626             |
| Valencia Park                           | 6               | 552             | 47              | 575             |
| Webster                                 | 26              | 291             | 15              | 268             |
| Gompers                                 | 21              | 1,002           | 33              | 1,072           |
| Memorial                                | 31              | 1,714           | 39              | 1,776           |
| O'Farrell                               | 113             | 1,286           | 108             | 1,216           |
| Lincoln                                 | 21              | 1,917           | 14              | 1,639           |
| Morse                                   | 449             | 1,888           | 345             | 1,985           |
| <b>TOTAL</b>                            | <b>1,108</b>    | <b>17,690</b>   | <b>928</b>      | <b>17,770</b>   |
| Difference Between 1978-79 and 1979-80: |                 |                 | -180            | +80             |

<sup>1</sup> The resident population was calculated by adding to or subtracting from the Pupil Ethnic Census of each school, students participating in VEEP or magnet programs, or reassigned using Special Attendance Permits. Data used were from the Pupil Ethnic Census, Students Participating in Magnet Programs, Students Participating in Voluntary Ethnic Enrollment Programs, and Special Attendance Permit data for the appropriate years.

1        Most of the minority student growth is accounted for by  
2        1,388 new Asian students. The Hispanic population grew by 680,  
3        and the Native Americans by 37. The Black enrollment declined  
4        by 221, to continue its downward trend.<sup>10</sup>

5        D. MAGNET PROGRAMS AGAIN FAIL TO MEET GOALS

6        Nine of the eleven magnet programs in segregated schools  
7        fell short of the number of non-resident majority students  
8        needed to meet their goals. These programs failed by 252 stu-  
9        dents (23.3%) to meet their goals. Only one elementary school  
10      (Johnson) and one secondary school (Gompers) met their goals.  
11      (See Table 4).

12      The two career centers located in minority isolated  
13      secondary schools (Lincoln and Morse) fell 43% short of their  
14      goals despite the fact that they were only part-time programs  
15      aimed at attracting a mere 130 majority students. (See Table 4).  
16      (Typically, students attend career school programs for only two  
17      hours a day. For example, only 57.1% of the students attending  
18      Wright Brothers Career High School attended as full-time students  
19      last year. This data is from Exhibit E, June 25, 1979 Hearings.  
20      The data this year did not show the full-time students.

21      Magnet program applications for next year indicate that  
22      these programs are likely to miss the goal even more in 1980-81  
23      than they did last year. Last June 696 applications had been  
24      received from majority students for programs in segregated  
25      schools. The total majority student goal for these segregated

26      Data from Students Participating in Magnet Programs (April 1980).

27      <sup>10</sup> Data developed from the 1978-79 and 1979-80 Pupil Ethnic  
28      Censuses.

TABLE 4

COMPARISON OF MAJORITY APPLICATIONS FOR MAGNETS IN  
SEGREGATED SCHOOLS, ENROLLMENTS, AND GOALS, 1978-79 AND 1979-80

| <u>SCHOOL</u> | <u>Applications<sup>1</sup></u> | <u>1979-80</u>                |                         |                          | <u>Difference</u> | <u>Continuing<br/>Students<sup>4</sup></u> | <u>1980-81</u>                  |                         |              |
|---------------|---------------------------------|-------------------------------|-------------------------|--------------------------|-------------------|--|---------------------------------|-------------------------|--------------|
|               |                                 | <u>Enrollment<sup>2</sup></u> | <u>Goal<sup>3</sup></u> | <u>Total<sup>4</sup></u> |                   |  | <u>Applications<sup>4</sup></u> | <u>Goal<sup>3</sup></u> |              |
| Fulton        | 107                             | 71                            | 90                      | -19                      |                   | 30   | 87                              | 117                     | 120          |
| Johnson       | 24                              | 92                            | 60                      | +32                      |                   | 46   | 24                              | 70                      | 90           |
| Lowell        | 16                              | 22                            | 80                      | -58                      |                   | 19   | 15                              | 34                      | 100          |
| Emerson       |                                 |                               |                         |                          | 0}                |  | 22                              | 153                     | 75           |
| Webster       | 75                              | 187                           | 190                     | -3                       |                   | 131)                                       |                                 |                         | 218          |
| Benchley      | 99                              | 165                           | 167                     | -2                       |                   | 133)                                       |                                 |                         | 162          |
| Fremont       | 3                               | 153                           | 149                     | +4                       |                   | 133)                                       | 30                              | 304                     | 151          |
| Sherman       | 6                               | 5                             | 55                      | -50                      |                   | 8)   |                                 |                         | 80           |
| Horton        | 16                              | 38                            | 80                      | -42                      |                   | 35)  |                                 |                         | 120          |
| Knox          | 10                              | 18                            | 60                      | -42                      |                   | 40)  |                                 |                         | 80           |
| Longfellow    | 40                              | 245                           | 173                     | +72                      |                   | 210)                                       | 53                              | 425                     | 260          |
| Oak Park      | 33                              | 76                            | 150                     | -74                      |                   | 87)  |                                 |                         | 160          |
| Baker         | 14                              | 50                            | 60                      | -10                      |                   | 46)  |                                 |                         | 90           |
| Valencia Park | 32                              | 140                           | 175                     | -35                      |                   | 71)  | 25                              | 142                     | 200          |
| Gompers       | 174                             | 187                           | 165                     | +22                      |                   | 176  | 133                             | 309                     | 200          |
| Memorial      | 14                              | 19                            | 65                      | -46                      |                   | 18   | 10                              | 28                      | 35           |
| O'Farrell     | 13                              | 18                            | 65                      | -47                      |                   | 50   | 12                              | 62                      | 130          |
| Lincoln       | 4                               | 24                            | 50                      | -26                      |                   | 0  | 19                              | 19                      | 75           |
| Morse         | 16                              | 50                            | 80                      | -30                      |                   | 5  | 22                              | 27                      | 110          |
| <b>TOTAL</b>  | <b>696</b>                      | <b>1,560</b>                  | <b>1,914</b>            |                          |                   |  | <b>452</b>                      | <b>1,690</b>            | <b>2,456</b> |

<sup>1</sup> Data from Tally of Applications - Elementary Magnet Programs (1979) and 1979-80 Applications Approved as of June 20, 1979 Secondary Schools Division.

<sup>2</sup> Data from Students Participating in Magnet Programs (April 1980)

<sup>3</sup> Data from the San Diego Plan for Racial Integration 1979-82, Revised.

<sup>4</sup> Data from comparison of 1980-81 Program Goals for Nonresident Students with Continuing Students and Applications Received for 1980-81, Elementary Schools Division, dated 6/02/80, and Comparison of 1980-81 Program Goals with Continuing Students and Accepted Applications for 1980-81, Secondary Schools Division, Revised 6/15/80.

1 schools was 1,914. This June only 452 of an expected 2,456  
2 majority students had applied for programs in minority  
3 segregated schools.<sup>11</sup> Last June 36% of the goal had been  
4 reached. This year only 18% of the goal for the Fall has  
5 been reached: exactly half of what had been reached last  
6 year at the same time.

7 E. SOME ASSIGNMENTS INCREASE SEGREGATION

8 Each year there have been both majority and minority  
9 students whose reassignment away from their neighborhood schools  
10 has increased segregation. This year 108 majority students left  
11 segregated or tipping schools to attend majority schools, either  
12 in magnet programs or using Special Attendance Permits.  
13 Majority schools sent 37 minority students to segregated or  
14 tipping schools.<sup>12</sup> Of these assignments, which increased segre-  
15 gation, ninety-five involved students who participated in magnet  
16 programs and fifty were students reassigned with Special Atten-  
17 dance Permits.<sup>12</sup>

18 F. LARGE NUMBERS PARTICIPATE: FEW DESEGREGATE

19 Only 781 (7.7%) of the 10,166 students participating in  
20 magnet programs are majority students who desegregate segregated  
21 schools. An even smaller number, 341 (3.3%) participate in  
22 programs which stabilize tipping schools.<sup>13</sup> There are 8,188 who  
23 are simply moving around in an educational version of musical  
24 chairs.<sup>13b</sup> Participants are given the opportunity to benefit from  
25 special education programs, but they do nothing for desegregation.

26 <sup>11</sup> See Table 4.

27 <sup>12</sup> See Table 5.

28 <sup>13</sup> These figures are derived from Students Participating in  
Magnet Programs (April 1980).

<sup>13b</sup> 856 minority students from segregated schools also subtracted.

TABLE 5

TRANSFERS WHICH SEGREGATE<sup>1</sup>

| <u>STUDENT ETHNICITY</u>        | <u>SENDING SCHOOL</u> | <u>PROGRAM</u> | <u>MAJORITY</u> | <u>RECEIVING SCHOOL</u> |  |
|---------------------------------|-----------------------|----------------|-----------------|-------------------------|--|
|                                 |                       |                |                 | <u>TIPPING</u>          |  |
|                                 |                       |                |                 | <u>SEGREGATED</u>       |  |
| <u>MAJORITY</u>                 | <u>TIPPING</u>        | <u>VEEP</u>    |                 | 2                       |  |
|                                 |                       | <u>MAGNET</u>  | 52              | 35                      |  |
|                                 |                       | <u>SAP</u>     | 20              |                         |  |
| <u>TOTAL</u>                    |                       |                | 72*             | 35** 37*                |  |
| <u>MAJORITY</u>                 | <u>SEGREGATED</u>     | <u>VEEP</u>    |                 |                         |  |
|                                 |                       | <u>MAGNET</u>  | 22              | 3 9                     |  |
|                                 |                       | <u>SAP</u>     | 14              | 6 1                     |  |
| <u>TOTAL</u>                    |                       |                | 36*             | 9* 10*                  |  |
| Total majority which segregate: |                       |                | 108             |                         |  |
| <u>MINORITY</u>                 | <u>MAJORITY</u>       | <u>VEEP</u>    |                 |                         |  |
|                                 |                       | <u>MAGNET</u>  |                 | 10                      |  |
|                                 |                       | <u>SAP</u>     | 11              | 2                       |  |
| <u>TOTAL</u>                    |                       |                | 11*             | 12*                     |  |
| <u>MINORITY</u>                 | <u>TIPPING</u>        | <u>VEEP</u>    |                 |                         |  |
|                                 |                       | <u>MAGNET</u>  | 1               | 11                      |  |
|                                 |                       | <u>SAP</u>     |                 | 3                       |  |
| <u>TOTAL</u>                    |                       |                | 1               | 14*                     |  |
| <u>MINORITY</u>                 | <u>SEGREGATED</u>     | <u>VEEP</u>    | 4               |                         |  |
|                                 |                       | <u>MAGNET</u>  | 7               | 37                      |  |
|                                 |                       | <u>SAP</u>     | 36              | 9                       |  |
| <u>TOTAL</u>                    |                       |                | 47**            | 46**                    |  |
| Total minority which segregate: |                       |                | 37              |                         |  |

\* Transfers which increase segregation.

\*\* Transfers which are neutral or have a mixed effect.

<sup>1</sup> Data is taken from Students Participating in Magnet Programs (April 1980), Students Participating in Voluntary Ethnic Enrollment Programs (April 1980), and Special Attendance data received on July 17, 1980.

1       The weakness of the District's integration plan is highlighted  
2 by the fact that after three years the number of majority students  
3 in segregated schools has reached only 1,727, including 909 resident  
4 students. The numbers of majority students participating in programs  
5 at Fulton, Johnson, Valencia Park, Webster, Gompers, and other seg-  
6 regated schools are grossly inadequate when compared to the 5,754  
7 majority students needed to raise the segregated schools to only 70%  
8 minority. Furthermore, none of this takes into account the six addit-  
9 ional schools which are now over 70% minority, and the several more  
10 which are approaching 70% .

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## III

INTEGRATIVE EXPERIENCES

1 "My definition of what has taken place is that we are  
2 talking about integrating experiences in an educational  
3 context which is not the same to me as an integrated  
4 education."

5 Joe O. Littlejohn, School Board Member, 6/24/80, SDUSD  
6 Board Meeting. (See Appendix B).

7 The "Integrative Experiences" hidden in the School District's  
8 verbiage call to mind, "two grains of wheat hid in two bushels  
9 of chaff; you shall seek all day ere you find them; and when you  
have them they are not worth the search.<sup>14</sup>

10 A. Elementary Extended Instructional Exchange Program

11 Through this program <sup>15</sup> (2%) of the 8,197 <sup>16</sup> elementary  
12 students attending schools over 80% minority are desegregated  
13 for 25% <sup>17</sup> of the school year.

14 B. Secondary Instructional Exchange Program

15 In this program, 203 <sup>18</sup> (4.5%) of the 4,488 secondary students  
16 attending four secondary schools (Memorial, O'Farrell, Morse and  
17 Lincoln) are desegregated for approximately two hours a day.<sup>19</sup>  
18 The 335 <sup>20</sup> minority students at Gompers, who are not in the magnet  
19 program and are still segregated, cannot participate in the

20 <sup>14</sup> Merchant of Venice, Act 1, Scene 1, Shakespeare.

21 <sup>15</sup> Evaluation of the San Diego Plan for Racial Integration,  
1979-80, p.13.

22 <sup>16</sup> Evaluation of the San Diego Plan for Racial Integration,  
1979-80, Appendix B-1.

23 <sup>17</sup> Elementary Instructional Exchange Programs, SDUSC, 11/14/79.

24 <sup>18</sup> See Table 4, Evaluation of San Diego Plan for Racial  
Integration, 1979-80.

25 <sup>19</sup> Secondary Instructional Exchange Programs, SDUSC, 11/8/79.

26 <sup>20</sup> See Table 4, Evaluation of the San Diego Plan for Racial  
Integration, 1979-80.

1 program. More than half of the exchanges are still for only one  
2 semester or less. This, in spite of repeated assertions by the  
3 District that "the long range goal of such exchanges is the full  
4 time enrollment of students in paired or clustered schools..."<sup>21</sup>

5 In the Project Lincoln survey, fewer than half of the  
6 teachers rated the exchange program as "going well" or even as  
7 "OK".<sup>22</sup>

8 C. Career Centers

9 All of the career centers continue to be listed as part of  
10 the integration plan, contrary to the Court's ruling that those  
11 in majority schools should not be included. (Order and Guidance  
12 Memorandum, 11/28/77.) Fewer than half of the Career Center  
13 students spend as much as four hours per day in the program.

14 D. Oral Communication

15 That an oral communications program is necessary in a deseg-  
16 regated school district is emphasized in educational literature  
17 and was recommended by this Court. We applaud the District's  
18 efforts but would recommend the following:

- 19 1. That all certificated personnel receive training.
- 20 2. That materials be made available in every school  
21 and every teacher be made familiar with them.
- 22 3. That future surveys be more carefully  
23 constructed.<sup>23</sup>

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24 21 Reporter's Transcript, June 26, 1979, Court's Amendments,  
25 p. 278.

26 22 See Appendix H-19, Evaluation of the San Diego Plan for  
Racial Integration, 1979-80.

27 23 See Appendix B, School Board Minutes, 6/24/80.

28 *Report's Letter to Deppen and Jensen, 6/21/80, with enclosure*

1      E. Project Lincoln: Pride in Excellence

2      Twenty seven pages of educational jargon proclaim this  
3      program a success. Yet a letter to the Court (6/09/80) from ten  
4      Lincoln High School teachers suggests that much more substantial  
5      changes at Lincoln are needed.<sup>25</sup>

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25 Court's letter to Hasper and Jensen, 6/23/80, with enclosures.

## 1 KAPLAN SURVEYS

2 Last year the Court received only four parts of the Kaplan  
3 Survey in evidence. Plaintiffs again urge that none of the  
4 surveys be received. If the Court is inclined to admit any of  
5 the surveys, Plaintiffs request the opportunity to submit evidence  
6 and argument on the surveys considered for admission.

7      //// March grant of consent can be withdrawn where discriminatory  
8      //// acts from segregated schools. SCPA is requested as a separate  
9      //// unit. It is a school-within-a-school, as I have said, and only  
10     //// the most high-magnitude participants in its classes.  
11     //// The action of the Board of Education proposed to give SCPA to  
12     //// the Negroes would have brought over the Negro teachers and  
13     //// Negro students to do discriminatory work in the schools.  
14     //// In a mile-square town only 1,425 students between them  
15     //// proposed to come to City High School. This, however, is  
16     //// 70% Negro. Indeed, in the preparation for the trial, it was argued that  
17     //// consideration be given to giving SCPA to a segregated school, where  
18     //// the existing policies for majority students could be utilized to deseg-  
19     //// erate the school. This possibility is now being examined by a  
20     //// committee of parents and school personnel.

21      //// If SOFA is moved to a segregated school, and maintained as a  
22      //// one school with resident students excluded from the magnet  
23      //// as is 100% present of assessments and other  
24      //// not associated with the magnet may be replicated  
25      //// etc. If resident students in the segregated school are moved  
26      //// to their school to accommodate SOFA, greater resentment and  
27      //// hostility, may be generated. And for no purpose. The  
28      //// segregating SOFA gone. Segregated school is to integrate the

1 SCHOOL OF CREATIVE AND PERFORMING ARTS MINIMIZES INTEGRATION AS  
2 PRESENTLY LOCATED AND ORGANIZED

3 A significant number of students, 356, participate in the  
4 School of Creative and Performing Arts (SCPA). Over 1,000 stu-  
5 dents are on the waiting list. However, only 53 of the 356  
6 participants are minority students from segregated schools; and  
7 as of March only 77 of the 1,000 on the waiting list were minority  
8 students from segregated schools.<sup>1</sup> SCPA is organized as a separate  
9 school. It is a school-within-a-school at Roosevelt, and only  
10 students in the SCPA magnet participate in its classes.

11 Last year the school administration proposed to move SCPA to  
12 Collier, where it would have taken over the whole school, and  
13 would have had room to expand. Collier and Dana Junior High  
14 Schools, just a mile apart, have only 1,425 students between them.  
15 It was proposed to move the Collier students to Dana. However, a  
16 number of groups, including the Integration Task Force, urged that  
17 consideration be given to moving SCPA to a segregated school, where  
18 its drawing power for majority students could be utilized to deseg-  
19 regate the school. This possibility is now being examined by a  
20 committee of parents and school personnel.

21 If SCPA is moved to a segregated school,<sup>2</sup> and maintained as a  
22 separate school, with resident students excluded from the magnet  
23 program, it is likely that many of the resentments and other  
24 problems associated with the Gompers magnet will be replicated.  
25 Worse yet, if resident students in the segregated school are moved  
26 out of their school to accommodate SCPA, greater resentment, and  
27 even hostility, may be generated. And for no purpose. The  
28 object of moving SCPA to a segregated school is to integrate the

<sup>1</sup>Data is from Students Participating in Magnet Programs (April 1980), and letter from Mr. Stern to Court, dated March 7, 1980.

<sup>2</sup>The District proposes that SCPA use entire school and that resident

DISTRICT COURT HONORABLE JUDGE INTEGRATION

1 students in the segregated school, not to move them out of their  
2 neighborhood. Except for the few additional minority students  
3 from segregated schools who are admitted as a result of a possible  
4 expansion of SCPA in its new location, no more integration will have  
5 been achieved than with the school in its present location.

6 While it may be tempting to compare such a move to the  
7 development of the successful career high school at Wright Brothers,  
8 there is, in fact, no similarity. In 1972-73 Wright Brothers was a  
9 minuscule continuation high school with 74 students, all Black.  
10 It was not a regular, neighborhood school with the ties, loyalties,  
11 expectations, and involvement of the community associated with a  
12 neighborhood school. The school was closed, the 74 students  
13 reassigned, and it was reopened as a career high school in the  
14 Fall of 1973 with a total of 33 students, 28 of them white.

15 Plaintiffs urge that SCPA be moved to a segregated school,  
16 and general education classes, and as many others as possible be  
17 opened to resident students. The segregated school would thus be  
18 significantly integrated. Such a move and such a reorganization  
19 would be consistent with the total school concept plaintiffs have  
20 always supported.

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students be reassigned to another school.

DISTAR CAN HINDER INTEGRATION

1 Plaintiffs have serious reservations about broadening the use  
2 of DISTAR in the district. Widespread use of DISTAR in minority  
3 schools can become an obstacle to school desegregation, and rein-  
4 force the current separate and unequal status of minority schools  
5 for the following reasons:

6 1. DISTAR will be unacceptable to many middleclass  
7 parents, because it is designed for disadvantaged children.

8 2. Adopting DISTAR as the only, or even the preferred,  
9 method of instruction in minority schools will further increase  
10 the distinctions between minority and majority schools.

11 3. Using a curriculum for minority school children which  
12 is different from that for majority children is inconsistent  
13 with the goal of bringing students together, voluntarily or  
14 involuntarily.

15 4. Behavior and adjustment problems are foreseeable when  
16 majority children are required to adjust to the strict timetable  
17 and constant repetition of DISTAR, or minority children have to  
18 cope with the openness and expectations of creativeness in the  
19 classrooms currently preferred for white students.

20 5. With different curricula in minority schools and majority  
21 schools, both majority and minority parents would tend to be  
22 discouraged from transferring a child for integration purposes  
23 when the receiving school has a different curriculum from the  
24 neighborhood school.

25 6. Well-organized integration programs still offer the best  
26 opportunity for quality education and raising achievement.

27 7. Integration provides educational and social opportunities  
28 that continue through the student's school career and beyond.

1 Without an order from the Court, the School Board:

2 1. Is free to adopt DISTAR, and has done so on a limited  
3 basis.

4 2. May extend DISTAR to other schools, if it can make a  
5 convincing case for DISTAR to parents.

6 An order from the Court to expand DISTAR in minority schools  
7 would leave parents from majority schools free to seek changes  
8 in their curricula, and the Board would have unfettered authority  
9 to respond. Parents from DISTAR schools, by contrast, would have  
10 an additional hurdle in seeking a curricular change. They would  
11 have to persuade the Board to return to the Court for a modifica-  
12 tion of the order imposing DISTAR. If the Board were unwilling  
13 to do so, perhaps for reasons unrelated to the curriculum question,  
14 the minority parents would have to sue.

15 In an excess of fairness, Plaintiffs attach as Appendix A  
16 a brief review of DISTAR literature. Although the views expressed  
17 are more positive than Plaintiffs', it should be noted that there  
18 is strong agreement that, if DISTAR is expanded, it should be done  
19 in an integrated setting, and in all schools where it is used,  
20 the District must be alert to any negative impact on integration.

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1      SCHOOL BOARD CONSIDERATION OF THE EVALUATION REPORT

2      In June of 1979, the Court wondered if the School Board gave  
3      the evaluation reports the close attention that the Court did, or  
4      relied more on the staff. (R.T. June 25, 1979, p.5). In its  
5      June 16, 1980 Report, the Integration Task Force complained about  
6      a lack of leadership and commitment by the School Board. They  
7      observed that "the Board of Education is more concerned with the  
8      integration law suit than it is with integrating the schools and  
9      providing quality education to the district students". (ITF Report,  
10     June 16, 1980, p.6).

11     The School Board discussed this year's evaluation of the  
12    integration plan and proposed amendments to the plan at a regular  
13    public meeting on June 24, 1980. Both items had been received by  
14    the Board members a few days before, and the amendments were to be  
15    submitted to the Court the next day.

16     Some Board members complained that the short lead time did  
17    not permit the evaluation to be examined adequately, nor questions  
18    to be asked of and responded to by staff. The evaluation was of  
19    little value to these Board members in acting on the proposed  
20    amendments to the plan. This portion of the Board's discussion  
21    bears on the Court's concerns expressed in June, 1979 and the  
22    Integration Task Force's serious charge voiced in its June 16,  
23    1980 Report. The transcript of the discussion concerning the  
24    evaluation is attached as Appendix B.

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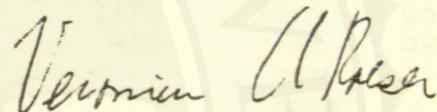
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## VIII

CONCLUSION

Defendant has not made meaningful progress toward desegregating its segregated schools. Plaintiffs believe that the Integration Task Force continues to perform a valuable service by giving critical attention to the implementation of the integration plan. The Court-appointed experts performed a similar useful function this year. However, Plaintiffs again recommend that a special master be appointed to develop a truly comprehensive integration plan.

Respectfully submitted,



VERONICA A. ROESER  
Attorney for Plaintiffs

Date: July 21, 1980

TABLE 6

PROJECTED NUMBER OF MINORITY STUDENTS IN ISOLATED  
SCHOOLS 1981-82

|  | Magnet Program |            |            | Non-Magnet Program |            |            |
|--|----------------|------------|------------|--------------------|------------|------------|
|  | Enrollment     | # Minority | % Minority | Enrollment         | # Minority | % Minority |
| Baker  | 632            | 505        | 79.9       |                    | none       |            |
| Balboa   |                | none       |            | 876                | 823        | 93.9       |
| Burbank  |                | none       |            | 276                | 272        | 98.6       |
| Chollas)   |                | none       |            | 601                | 576        | 95.8       |
| Mead )   |                |            |            |                    |            |            |
| Emerson  | 693            | 583        | 84.1       |                    | none       |            |
| Freese <sup>1</sup>  |                | none       |            | 662                | 506        | 76.4       |
| Fulton   | 356            | 187        | 52.5       | 30                 | 30         | 100.0      |
| Horton   | 240            | 77         | 32.1       | 368                | 358        | 97.3       |
| Johnson  | 327            | 205        | 62.7       |                    | none       |            |
| Kennedy  |                | none       |            | 673                | 662        | 98.4       |
| Knox   | 150            | 44         | 29.3       | 297                | 293        | 98.7       |
| Logan  |                | none       |            | 916                | 889        | 97.0       |
| Lowell   | 431            | 307        | 71.2       |                    | none       |            |
| Sherman  | 180            | 59         | 32.8       | 1178               | 1064       | 90.3       |
| Stockton   |                | none       |            | 416                | 401        | 96.4       |
| Valencia Park  | 709            | 460        | 64.9       |                    | none       |            |
| Webster  | 524            | 264        | 50.4       |                    | none       |            |
| Gompers <sup>2</sup>   | 350            | 120        | 34.3       | 240                | 233        | 97.1       |
| Memorial   | 75             | 25         | 33.3       | 912                | 864        | 94.7       |
| O'Farrell  | 450            | 150        | 33.3       | 907                | 831        | 91.6       |
| Lincoln  | 200            | 100        | 50.0       | 885                | 878        | 99.2       |
| Morse  | 300            | 100        | 33.3       | 2198               | 1721       | 78.3       |
| San Diego  | (300           | 100        | 33.3       | 1268               | 1123       | 88.6       |
|  | (200           | 80         | 40.0       |                    |            |            |
|  |                |            |            |                    | 11,524     |            |
|  |                |            |            |                    | 1,088      |            |
| TOTAL MINORITY STUDENTS WHO WILL REMAIN<br>SEGREGATED IN 1981-92 |                |            |            |                    | 12,612     |            |

Note: 1976-77 Ethnic Census shows 14,288 minority students in designated isolated schools.

Sources: Schools with magnet programs: San Diego Plan for Racial Integration, Revised June 1979, and Amendments, June 24, 1980. Schools without magnet programs: San Diego City Schools Planning and Research Department, "Elementary School Enrollments, Three-Year Projections, August 26, 1977."

<sup>1</sup>Freese data derived from San Diego Plan for Racial Integration, March 22, 1978. Where majority/minority figures were not supplied by District projections, individual school ratios from the 1978-79 Ethnic Census were applied.

<sup>2</sup>Students in the Gompers non-magnet program are scheduled with magnet students for physical education and elective classes, but not math, science, English, social studies, or computer science classes.

TABLE 7

MINORITY STUDENTS WHO WILL REMAIN SEGREGATED  
IN 1981-92

| <u>Schools</u>   | <u>Number of Students<br/>Remaining Segregated<br/>in 1981-82</u> |
|--|---|
| 1. From Segregated Schools with<br>No On-Site Full Time Program<br>1981-82                   |   |
| Balboa   | 823   |
| Burbank  | 272   |
| Chollas)   | 576   |
| Mead )   |   |
| Freese   | 506   |
| Kennedy  | 662   |
| Logan  | 889   |
| Stockton   | 401   |
|  | <u>4129</u>   |
| 2. From Segregated Schools Having<br>Separate Part School Segregated<br>Traditional Programs |   |
| Fulton   | 30  |
| Horton   | 358   |
| Knox   | 293   |
| Sherman  | 1064  |
| Gompers*   | 233   |
| Lincoln  | 878   |
| Memorial   | 864   |
| Morse  | 1721  |
| O'Farrell  | 831   |
| San Diego High School  | <u>1123</u>   |
|  | <u>7395</u>   |
| 3. Schools With Total Magnet Programs<br>that Will Be Above or Very Close to<br>80% Minority |   |
| Baker      79.9%   | 505   |
| Emerson    84.1%   | <u>583</u>  |
|  | 1088  |
| TOTAL  | 12,612  |

\*Students in the Gompers non-magnet program are scheduled with magnet students for physical education and elective classes, but not math, science, English, social studies, or computer science classes.

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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 FOR THE COUNTY OF SAN DIEGO

13 KARI CARLIN, et al ) No. 303 800  
14 Plaintiffs )  
15 vs. )  
16 BOARD OF EDUCATION, et al )  
17 Defendants )

**PLAINTIFFS' RESPONSE TO DEFENDANT'S EVALUATION**

22 OF THE SAN DIEGO PLAN FOR RACIAL INTEGRATION 1979-80

23  
24  
25 INCLUDING APPENDIX A

APPENDIX A

DISTAR

Considerable evidence supports the success of the Distar program in raising the achievement scores of "disadvantaged" children across the country. However, a comprehensive examination of available research supports the hypothesis that Distar is not always successful and that no one method is consistently better than another. It is important to keep in mind the unmeasurable factors involved in any classroom teaching method which determine the success or failure of any program. Those factors include the attitude and bias of the teacher toward a particular ethnic or socio-economic group, plus the teacher's enthusiasm and support for the instructional method being employed. It is also important to consider that no single method of learning is suitable for every child.

Favorable research on Distar suggests that the program has "achieved results superior to those of most other models," (Bruton, 1975), and that many children who have been taught by Distar are performing at and above the national norms in reading and arithmetic. The program appears to minimize individual differences and inconsistencies in teachers, and emphasizes the material which is taught. Children are encouraged through drill to speak loudly and clearly, to overcome linguistic problems associated with dialect, to express themselves in clear well-structured sentences, and to ask meaningful questions. Many teachers who have worked with Distar are pleased with the results, approve of the material, and express interest in continuing to use Distar as a major program to teach reading (EPIE Institute, 1977).

Several studies have raised questions about the merits of Distar, lending credibility to the claim it is controversial. However, some of the critics have acknowledged Distar's effectiveness in certain cases. While some of the objections appear

academic, the list of unfavorable points is a legitimate reminder that it is important to keep a sense of perspective regarding the merits of the program. The following list reflects the possible negative aspects of Distar:

1. Distar contains material which is objectionable to some educators and parents, i.e., racial bias, sexism, and anti-humanism (Gaman, 1974).
2. The highly structured method of teaching elicits responses that are "robot-like" (Gaman, 1974).
3. Fears exist that Distar will limit creative thought processes (Mayes, 1974).\*
4. Evidence suggests that the material learned is "not transferable" to other educational materials at the conclusion of the use of Distar (EPIE Institute, 1977).
5. Verbalism which takes place by rote learning neglects comprehension (EPIE Institute, 1973; Ogletree, 1975; Davis, 1971).
6. Distar is based on a misconception that language differences exist between "advantaged" and "disadvantaged" children and black dialect is regarded as no language or as inferior (Ogletree, 1975).
7. Distar's success has been distorted due to testing methods which did not take into account certain variables, i.e., a failure to pre-test for language mastery at the beginning of the use of Distar, and comparisons with conventional methods which begin reading a year later than Distar and are therefore at a disadvantage when compared according to grade level (Kaufman, 1976).
8. Very little material taught by Distar is relevant to the children's home and school environment (EPIE Institute, 1973).
9. Distar is not new but an old method which has been updated and its methods are in opposition to the beliefs of experts in early childhood education (Mayes, 1974).

10. Teachers supportive of Distar indicated the program was not useful for all children and expressed concern at the "boredom" exhibited by students who needed more intellectual stimulation (Ogletree, 1975).

11. Some teachers feel hampered by the structured material in Distar (EPIE Institute, 1973; Ogletree, 1975).

12. Even though Distar is considered "teacher-proof," the "teacher's personality more than any other criteria" is the factor responsible for success (EPIE Institute, 1973).

\* Findings of a study showed that creativity was not hampered (Ryckman, 1976).

It is our opinion that the positive and negative aspects of Distar should be carefully weighed and that an open mind be kept toward the use of the program in San Diego. The method merits being tried in some classrooms, but would not be in the best interests of all school children. The best education system offers a multi-method approach to learning. It is our recommendation that the court proceed with caution and not mandate Distar as the sole instructional method in the San Diego Unified School District. Where employed, Distar should be carefully monitored with strict evaluation procedures.

We concur with the belief of Distar's developers, Engelmann and Bereiter, that reading and arithmetic "can be taught" to every child and agree with Distar's emphasis that places responsibility on the teacher to teach (Engelmann, 1967). We further realize that while the attitudes of teachers who are insensitive to children of certain socio-economic or ethnic backgrounds are hard to change, the structured nature of programs such as Distar can minimize the effect of such attitudes. It must also be kept in mind that even the best method used in developing language and comprehension skills must take place in a multi-cultural and socio-economically mixed classroom in order for it to have a long term effect on children who have been racially or socio-economically isolated.

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Educational Psychologist

Karon J. McCann, B.A.

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**S9**

Superior Court  
Municipal Court.

Proof of Service by Mail

Ed. (10-77).

Plaintiff's Response to Evaluation  
Appendix A  
Appendix B

PROOF OF SERVICE BY MAIL

I served the within document on the party (parties) indicated below by mailing copies thereof to their attorney(s) at the addresses shown below, on the date indicated below. I am not a party to this action, and I am over the age of 18 years, and my business address is Spreckels Building, San Diego, California, 92101. I declare under the penalty of perjury that the foregoing is true and correct.

Executed at San Diego, California, on date shown below.

July 21, 1980

DATE OF SERVICE

William D. Jam

PERSON MAKING SERVICE BY MAIL

Name(s) and address(es) of persons to whom copies were mailed:

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1 TF Members: Please be prepared to discuss this at  
2 the meeting on September 22, 1980.

1  
2 Robert D. Zunewalt, Clerk  
3  
4

5 SEP 8 1980  
6 BY L. SLAUGH, Deputy  
7

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO  
9

10 KARI CARLIN, et al., )  
11 ) CASE NO. 303800  
12 Plaintiffs, )  
13 v. ) MEMORANDUM OF INTENDED  
14 ) DECISION  
15 BOARD OF EDUCATION OF THE )  
16 SAN DIEGO UNIFIED SCHOOL )  
17 DISTRICT, )  
18 Defendant. )  
19

20 I

21 At this annual review the Court finds the School  
22 District's programs together with natural demographic distribu-  
23 tion have "held the line" so that segregation has not increased  
24 - - - - -

25 1/ Plaintiffs' counsel points out "that although the minority  
26 population in the District increased by 1,868 students be-  
27 tween 1978-79 and 1979-80, the minority resident population  
28 in the 23 segregated school neighborhoods increased by only  
80 students. In other words, 1,788 of the new minority students  
in the District took up residence in neighborhoods outside of  
the 23 segregated schools." 1,419 of these students are Asian  
and Alaskan/Indian students, 687 are Hispanic. There was a  
loss of 238 Black students.

1 during the past year, but no particular progress toward further  
2 desegregation has been made.<sup>2/</sup> The prevention of further deteriora-  
3 ration in the situation is significant since there has been an  
4 exodus of white families from the district and overall percen-  
5 tages have dropped from 61.8% white in 1979 to 58.9% white in  
6 1980. It is encouraging that the Integration Task Force found  
7 ". . . that in most schools students are more aware of cultural  
8 distinctions, cultural contributions and the racial/ethnic make  
9 up of our community."

10 The Voluntary Ethnic Enrollment Program (VEEP) continues  
11 to be the only significant desegregation device for secondary  
12 students. Magnet schools have proved effective in desegregating  
13 elementary students. During the past year, two additional  
14 minority isolated elementary schools have lowered minority  
15 percentages below 80%, bringing the total number of such schools  
16 to four. Fulton, an athletic magnet, has moved from 1.2% white  
17 to 21.1% white and Johnson, an academic magnet, has moved from  
18 - - - - - ~~at forecast by Dr. David J. Smith in 1976. As~~

19 2/ Distribution of Minority Students

| 20 % Minority<br>in School                | 21 1976-77 | 22 1979-80 |
|---|------------|------------|
| 23 80-100%<br>(Isolated)                  | 24 30%     | 25 26%     |
| 26 60-79%<br>(Tipping)                    | 27 17%     | 28 18%     |
| 29 0-59%<br>(Desegregated<br>and "White") | 30 53%     | 31 56%     |
|   | 32 100%    | 33 100%    |

34 Information obtained from annual Pupil Ethnic Census.

1 0.8% white to 26.1% white. Valencia Park and Webster continued  
2 to enroll over 20% white. On the other hand, ten of the minority  
3 isolated schools had slight increases in the percentage of  
4 minorities, and tipping schools (those with fewer than 50%  
5 white) show a large loss of white students.

6 In 1978, there were 15 elementary schools and one junior  
7 high school with more than 50% minority enrollment. In 1979  
8 there were 18 elementary schools and two junior high schools in  
9 this category. Moreover minority percentages increased in all  
10 but one of the original 16 tipping schools, and one school,  
11 Paradise Hills, has slipped to 21.9% white. Comparison charts  
12 of all minority isolated schools and all tipping schools have  
13 been attached as Appendixes A and B respectively.

14 The Court adheres to its view that mandatory assignments  
15 will further speed up white departure and have the ultimate  
16 effect of creating city-wide segregation. The withdrawal of  
17 white children from the system during the last three years is  
18 greater than that forecast by Dr. David J. Armor in 1976. Ac-  
19 cording to his testimony, the District would probably become an  
20 imbalanced district in 1990. Present projections indicate this  
21 point could be reached as early as 1983. Our High Court has  
22 warned that the cry "white flight" cannot become a refuge for  
23 those who resist desegregation, but there can be no doubt that  
24 "the California Supreme Court has expressly authorized the  
25 - - - - -

26 3/ See Exhibit 4N's. Armor projected that white enrollment  
27 would be in the range of 68,000-75,000 by 1979. The  
28 actual figure is 66,000 and the loss curve, when superimposed  
on the projection (Exhibit 4N's), shows a sharp downtrend  
between 1978 and 1979.

1 consideration of resegregation patterns in designing decrees  
2 for school litigation under the State Constitution." <sup>4/</sup> The man-  
3 date of Crawford allows sufficient flexibility to trial judges  
4 to formulate remedies based upon an intelligent evaluation of  
5 all data to the end that the ultimate goal of integration shall  
6 be achieved. (Appendix C.)

7 In an effort to achieve meaningful progress toward desegre-  
8 gation and alleviate the harms of isolation without devastating  
9 side effects the Court will once more order the District to pro-  
10 ceed as the District itself had originally planned; namely, with  
11 the expansion of the elementary exchange program for both iso-  
12 lated and tipping schools. The Court will also order the Dis-  
13 trict to implement an educational program which must result in  
14 - - - - -

15  
16 4/ Estes v. Metropolitan Branches of Dallas NAACP, et al.,  
17 444 U.S. 437, 62 L.Ed.2d. 626, 100 Sup.Ct. 716 (Powell,  
18 Stewart and Rehnquist dissenting from dismissal of cert.) The  
19 wisdom of the California court's de facto rule or "no fault  
desegregation" is clearly etched against the background of the  
20 federal cases that apply the de jure rule. Once a federal court  
has determined that intentional desegregation has occurred, the  
Court is compelled to decree a remedy that will "let the punish-  
21 ment fit the crime". Federal cases require a remedy to restore  
plaintiffs to substantially the position they would have occu-  
22 pied had there been no violation. This is an absurd criterion  
since no one can possibly know where plaintiffs would have lived  
had there been no violation. However, the Federal Courts assume  
23 that without intentional segregation all races would have been  
nearly equally mixed throughout the community. Thus the only  
24 remedy available in the Federal Court is busing at any cost  
unless, of course, the community is already overwhelmingly  
25 minority, in which case it is suitable to improve the children's  
education. In California a variety of remedies can be fashioned  
26 to alleviate the harms of segregation, provide quality schools  
and equal educational opportunities before the community has be-  
come a minority community. (See Appendix C, a collection of  
27 the Crawford court's directives to trial judges in fashioning  
28 desegregation decrees.)

1 substantial improvement in the achievement of minority  
2               5/  
3 children.

4               The credibility of the District with this Court has  
5 deteriorated because of lack of candor. Statistical analyses  
6 in District evaluations are changed from report to report in  
7 order to exaggerate claimed successes and minimize failures.  
8 "Changes each year in the format of the data furnished by the  
9 school district have made comparisons between years difficult,  
10 and sometimes impossible. . . ." As a result, the Court has  
11 had to seek additional information and undertake the tedium of  
12 matching raw data in order to get a fair comparison of last  
13 year with this year.

14               Moreover, this year's report and evaluation makes no men-  
15 tion of the Race/Human Relations Program or how it has been  
16 monitored; there is nothing said about the promise to expand the  
17 elementary exchange program or the future of that program. The  
18 District advertisement "Better Education by Choice" is mis-  
19 leading. The choice is only available to those who are in the  
20 right place with the right color skin at the right time. The  
21 Court has informally urged the District to take the Court's  
22 orders as minimum requirements; the Court has stated the

23 - - - - -

24               5/ If it is not reasonable and feasible to physically desegre-  
25 gate the entire community, then one of the means available  
26 to alleviate the harms associated with racial isolation is the  
27 implementation of programs that will produce improved educational  
28 outcomes for minority children. Crawford v. Board of Education  
29 (1976) 17 Cal.3d 280, 309; Milliken v. Bradley (1976) 433 U.S.  
30 267, 275-279, 53 L.Ed.2d 745; Evans v. Buchanan (1978 C.A.3  
en banc), 582 F.2d 750, 767-774).

6/ Brief of plaintiffs filed August 18, 1980, page 6.

1 District could show its good faith by enlarging on Court direc-  
2 tives, e.g., the number of elementary exchanges, but the  
3 District has never gone beyond the Court order. And now, as  
4 will be presently explained, the Court believes it has been mis-  
5 led concerning the nature and content of the proposed Achieve-  
6 ment Goal Program.

7 The District, as a representative of the people, is not  
8 in the same position as a private litigant who may be forgiven  
9 for twisting facts to win a case. We seek a just solution for  
10 the children, their parents and all citizens, not for the mem-  
11 bers of the Board, the educational establishment or partisan  
12 groups who presume to represent minority or majority interests.

13 The District would be well advised to follow the sug-  
14 gestion of its former Schools Attorney, Thomas A. Shannon,  
15 now Executive Director, National School Boards Association who  
16 wrote in a recent issue of the Journal of Law & Education:

17 "A corollary to credibility is openness  
18 and candor in school governance matters.  
19 There really is nothing to hide in public  
20 school district operations. Acting as if  
21 there is does nothing except promote the  
22 festering of suspicion and distrust which  
23 propels employee groups to erroneous  
24 judgments that lead invariably to  
heightened tensions . . . Answering  
questions truthfully is not enough.  
School Boards must extend themselves to  
ensure that all the facts relevant to the  
district's financial plight . . . are  
made conveniently available to employees  
in a reasonably understandable form."<sup>7/</sup>

25 Mr. Shannon was speaking of credibility and candor when dealing  
26 - - - - -

27  
28 <sup>7/</sup> "How to Cope with Collective Bargaining in Times of Fiscal  
Crisis", 9 Jour. of Law & Education 243, 245-246.

1 with teachers in the adversary setting of collective bargaining.  
2 How much more important it is to be candid with the public,  
3 the children, and the Court, the forum charged with the duty of  
4 deciding what course of action will best protect the rights of  
5 all citizens.

6 If the Court shall finally conclude that the District will  
7 not boldly and vigorously pursue those desegregation techniques  
8 now available, e.g.: the voluntary pairing of schools, the  
9 replication of successful magnet programs, the effective imple-  
10 mentation of proved educational programs that raise student  
11 achievement and others, then despite the risk of resegregation,  
12 radical surgery in the form of mandatory assignments must be  
13 undertaken. When constitutional rights have been transgressed,  
14 a remedy must be prescribed; preferably, an effective one with  
15 no side-effects, but in any event, some remedy.

16

## 17 II

18

### EVALUATION OF CURRENT PROGRAMS

19

A.

20

#### VEEP

21 As stated above, VEEP continues to be the primary tool  
22 for desegregating secondary students. The program is criticized  
23 as "one way busing". In a sense, this is correct since it is  
24 used almost exclusively by the minority community. In another  
25 sense the epithet is misleading because no one is forced to  
26 participate in the program. If this Court's judgment con-  
27 cerning white flight is correct, two way busing would make  
28 San Diego a minority district like Los Angeles, Inglewood,

1 Pasadena, San Francisco and all other major cities throughout the  
2 nation.

3 The VEEP program has also been criticized because it  
4 causes a "brain drain" from minority schools -- depriving them  
5 of worthwhile role models. The criticism is well taken. Ad-  
6 ditionally, the persistent phenomenon of fewer senior high par-  
7 ticipants than junior high enrollees suggests that many of the  
8 youngsters or their parents have become disappointed in the  
9 program in the junior high school.

10 The program is far from a complete success. Nevertheless,  
11 the Court finds the operation of the VEEP program entails more  
12 plusses than minuses and encourages its use until something  
13 better comes along. This decision like most decisions in this  
14 case has been, in the words of Crawford, "an exceedingly diffi-  
15 cult, sensitive and taxing . . . [one], requiring the balancing  
16 and reconciliation of many competing values." (P. 310)

17 The Court congratulates the District on the system-wide  
18 inauguration of the "buddy" system and encourages more emphasis  
19 on promoting a loving receptive attitude from resident teachers,  
20 staff and students toward the VEEP students. It is in the im-  
21 plementation of VEEP that the Race/Human Relations plan is of  
22 the most importance and the Court will require close monitoring  
23 of the program and effective enforcement by all personnel.

24 RACE/HUMAN RELATIONS PROGRAM

25 The Court could not find this program mentioned in the  
26 District's evaluation. Early in the school year, the District  
27 forwarded to the Court a "check-list" concerning the plan to

1 monitor the program. This directive provides that everyone  
2 (hence no one) is responsible to see that effective implementa-  
3 tion is taking place throughout the District. The Task Force  
4 engaged the services of Dr. Guthrie to evaluate the program and  
5 his report was due July 28. It still has not been received.  
6 Therefore the Court is unable to evaluate the program at this  
7 time. The District is ordered to explain in detail how programs  
8 in the several schools are monitored, what is actually being  
9 done and how successes in some schools are communicated to and  
10 implemented in other schools.

11 C.

12 MAGNET SCHOOLS

13 Enrollment statistics in magnet schools support the con-  
14 clusion that magnets have been primarily useful in desegregating  
15 elementary pupils. 4,191 white children and 4,763 minority  
16 children participated in elementary magnets last year. 689  
17 white students and 462 minority students participated in  
18 secondary magnets.

19 Plaintiffs have charged that the claimed success of  
20 elementary magnets located in white neighborhoods is unwar-  
21 ranted because many of the enrolled minority students have  
22 merely transferred from other desegregated schools. After  
23 studying enrollment records, the Court finds that 75% of  
24 minority students in elementary magnets located in white resi-  
25 dential communities come from minority isolated or tipping  
26 schools (see Appendix D). It would of course be preferable to  
27 have 100% come from isolated and tipping schools, but only those  
28 who apply can be enrolled.

1 produce There are, however, some enrollment practices that need  
2 explanation. The District is ordered to submit an explanation of  
3 practices which involve the enrollment of white children from  
4 tipping and isolated schools. There are 44 white children en-  
5 rolled from such schools. (See Appendix D.)

6 Court Most magnets in majority neighborhoods succeeded in at-  
7 tracting minority youngsters. In minority neighborhoods,  
8 however, white children are primarily attracted by programs that  
9 emphasize effective teaching in basic skills (reading, language  
10 and mathematics). The one exception is Fulton where the magnet  
11 program is athletics. (See Appendix A.) Those minority iso-  
12 lated magnet schools that do not succeed in attracting a sub-  
13 stantial number of white students should either be switched to  
14 another magnet that shows promise of success or the schools should be  
15 included in the expanded elementary exchange program to be dis-  
16 cussed hereafter

17 more majority (and the school is not a total school magnet).

18 ELEMENTARY EXCHANGE PROGRAMS AND LEARNING CENTERS

19 There has been justifiable complaint that the Learning  
20 Centers produce a lot of movement but very little education.  
21 These large groups that meet only one day a week were intended  
22 as "ice breakers" to build mutual trust, break down racial  
23 barriers and dispel myths and false stereotypes produced by iso-  
24 lation. The Learning Centers fulfilled this function.

25 enough The Integration Task Force, in its June 1980 report,  
26 recommended that the Learning Centers be expanded into more com-  
27 prehensive exchange programs patterned after the existing ones.  
28 The Task Force found that the 9 week Elementary Exchange programs

1 produced meaningful integration and that few parents exercised  
2 their option to remove children from the program. In 1978 the  
3 District represented that it would indeed phase out the ~~minority~~  
4 Learning Centers and phase in paired and clustered schools. In  
5 1979 the Court reminded the District of this promise, but to the  
6 Court's knowledge, nothing further has been planned, said or done.  
7 In its 1979 order, the Court stated:

8                 ". . . the long term plan will be to  
9 increase these [elementary] ex-  
10 changes and phase out the Learning  
11 Centers. By long term, the Court en-  
visages that all exchanges will re-  
place Learning Centers by the 1983-84  
academic year."

12                 The Court now orders the District to present a plan by  
13 November 1, 1980 to accomplish this directive. The plan must  
14 pair or exchange each elementary school with 70 percent or more  
15 minority students, (where the school will not become or remain  
16 a total school magnet) with elementary schools that are 70% or  
17 more majority (and the school is not a total school magnet).  
18                 The program will be completely implemented by the 1984-1985  
19 school year and the Learning Centers will be concurrently phased  
20 out.

21                 E. ~~The Court suggests that this project has been~~ SECONDARY EXCHANGE PROGRAM ~~effect at Lincoln~~

22                 The Integration Task Force reported that the Secondary  
23 Exchange program is too small and the participants do not spend  
24 enough time together. The District states it will provide  
25

26                 -----  
27                 8/ Because nothing has been done to further this plan to date,  
28 the original target year, 1983-84, appears unrealistic.

1 greater opportunites for non-classroom activities (field trips)  
2 but the two hour class periods cannot be extended. Last year,  
3 the program involved only 550 students of whom 203 were minority  
4 isolated. The exchanges were for various durations, ranging from  
5 less than a semester to a year.

6 This program, like the magnet schools, has made no signifi-  
7 cant inroad on minority isolation in secondary schools. The  
8 District must come up with a better plan; perhaps programs pat-  
9 terned after the elementary exchanges. In the meantime, secon-  
10 dary academic programs must be revised. Among other things, the  
11 District shall cooperate with the Basic Study Skills Center at  
12 San Diego State University to develop a writing program for  
13 secondary students. The District is ordered to submit on or  
14 before December 15, 1980 a joint report with Dr. Don Basile on  
15 the progress in developing the writing program and the District  
16 will submit other suggestions concerning the manner in which  
17 secondary education can be improved and the effects of isolation  
18 in such schools can be alleviated.

19 Schools which the Court will make available for review by  
F.

20 PROJECT LINCOLN

21 Information submitted to the Court suggests that this  
22 project has had some positive and beneficial effect at Lincoln  
23 High School, but much more remains to be done. A group of  
24 Lincoln teachers claim that the school needs more "stable,  
25 seasoned, strong, academically competent teachers." Complaints  
26 have been made that at least 50% of all students in an English  
27 class are pulled out and put in Title I laboratories; it is  
28 claimed that 40% of the faculty have been there two years or

1 less. The Court will meet with the above said group of teachers,  
2 in the presence of counsel to discuss Lincoln's problems so that  
3 a suitable order may be drawn concerning this school.

4 suggestions made by the parties to the Court concerning the  
5 that the undersigned  
G.

5  
SECURITY AND ATTENDANCE

6 Information received by the Court indicates that during  
7 the 1979-80 school year there has been greater enforcement of  
8 the Discipline Code with good results. The District is ordered  
9 to continue strict enforcement of this code and to follow  
10 through on its representations to improve student attendance  
11 through various means including the immediate contact of parents  
12 whose children are absent without excuse.

13 H.

14  
LANGUAGE PROGRAM

15 The District's report on the language program is con-  
16 fusing. The Court is unable to discern whether a cohesive pro-  
17 gram or plan to teach the children standard English exists. The  
18 Court has received a syllabus for such a program from the Dallas  
19 Schools which the Court will make available for review by  
20 Counsel and the District. The District is ordered to provide  
21 clear information on the content and implementation of this  
22 program.

23

24  
III

25  
EVALUATION OF PROPOSED EDUCATION PROGRAM

26 Before the beginning of the 1979-80 school year, the Court  
27 appointed a team of three outstanding educators to examine,  
28 evaluate and report on the quality of education in San Diego's

1      isolated schools and to submit pertinent recommendations. "The  
2      Achievement Goals Program" that will be instituted in the coming  
3      school year was the District's response to criticisms and  
4      suggestions made by this team. They exposed the "undisputed fact  
5      that the academic skills . . . are grossly deficient in the  
6      minority schools in comparison with the total San Diego  
7      District . . . ." <sup>9/</sup> They pointed out that ". . . if leaders are  
8      satisfied, or blame the victim for poor achievement, then a  
9      vigorous approach to the task of improving teaching and learning  
10     will be lacking." These educators recommended central control  
11     of materials, methods of instruction, supervision and in-service  
12     training of staff. ". . . Principals and supporting leadership  
13     staff should be continuously evaluated in terms of their  
14     students' achievements." Two instructional programs they found  
15     to be "exemplary" in respect of supervision and in-service staff  
16     training were Distar and the Bilingual Demonstration Program at  
17     certain schools.

18    A.

19    PROPOSED GOALS

20    The goals proposed by the District for its Achievement  
21    Goals Program are nine percentile points on the Comprehensive  
22    -----  
23    9/ In 1978 ". . . the San Diego District had a 59th per-  
24    centile median achievement at the 6th grade level on the  
25    Comprehensive Test of Basic Skills, a national testing program,  
26    while the minority schools averaged 31st percentile with a low  
27    of 24th percentile. The District was in the 58th percentile  
28    at the 8th grade level, while the three isolated junior high  
    schools reached the 24th percentile. The District was in the  
    63rd percentile at the 10th grade level, while the isolated  
    high schools reached only the 30.3rd percentile." (Consultant's  
    report.)

1 Test of Basic Skills in reading and mathematics, Grades 3 and  
2 6, for the period 1980-83. Plaintiffs and Amicus Curiae,  
3 The Urban League, argue the goals are insufficient. The Court  
4 agrees. In order to determine what goal is reasonably attain-  
5 able, the Court has searched out and studied successful programs  
6 throughout the Country. On the basis of this study, the Court  
7 concludes that each of our minority isolated schools should have  
8 a median achievement rate for 70% of its students at the national  
9 norm of standardized achievement tests (50th percentile) in  
10 reading, mathematics, and language by 1983-1984.

11       Recent experience with schools in poor minority urban  
12 districts reveals that if the schools are properly run, virtu-  
13 ally all students, no matter how disadvantaged, can be taught  
14 to read, write and calculate at a level sufficient to function  
15 in American Society.

16       East St. Louis, Illinois began a Follow-Through Program  
17 in 1968 using Distar. By remaining with the program they have  
18 produced outstanding results. The pupils of this district,  
19 which is over 90% black, test on pre-school examinations below  
20 88% of the nation's students but by the end of the third grade,  
21 they test above 50% of the nation's students in both reading  
22 and mathematics. In South East San Diego, a far more economi-  
23 cally advantaged community, the average third grader is 19.48  
24 percent to 13.57 percent behind the District's average.

25       In the early 1970's San Diego used Distar on an experi-  
26 mental basis at Emerson Elementary School. As in most places  
27 where it has been used, it was remarkably successful. In  
28 April 1974 the Emerson principal, August Castille, hosted a

1 symposium of educators to demonstrate this success. Mr. Castille  
2 told the story of his experience with Distar, including his  
3 early rejection of the system, "My first impression was that it  
4 was chaos and was certain to be discontinued within a short  
5 period of time." Nevertheless, he stuck with the program and  
6 was eventually won over because of the results it produced.  
7 Kindergartners who had been in the Distar program were given  
8 first grade entry level tests. They had a composite score  
9 "above the District Median and at the 75 percentile," he re-  
10 ported. "The other 'mean' scores were as follows: Immediate  
11 recall near 30 percentile (low) Letter Recognition 75 percen-  
12 tile (well above District) Auditory Discrimination 85 percentile  
13 (35% units above District) Visual Discrimination 55 percentile  
14 (above District) Language Development 75 percentile (well above  
15 District). I feel quite confident," he continued, "that much of  
16 the progress and the successes that our first graders are ex-  
17periencing, at the present, is related to the fine instruction  
18 that they've received through the Distar program."<sup>10/</sup> The Court has  
19 not yet been advised why Distar was discontinued in San Diego  
20 and was not used again until 1978. But the Court is pleased  
21 that Distar is once more being used in San Diego with the same  
22 . . . . . The percentage in first grade, the children were tested  
23 at the 10th percentile in reading and 20th percentile in mathe-  
24 . . . . . There were seven classes composed in this average.  
25 The individual class averages were: 78%, 61%, 50%, 50%, 48%,  
26 . . . . 79%. The statistic from the University of Oregon in her  
27 report concerning this result stated: "This is well above the  
28 - - - - - . . . . . The average reading and mathematics scores for inner city low income first graders and well  
- - - - - comparable scores at these schools in 1971 and 1978." The  
10/ S R A Reports, May 1976.

1                   11/  
2 outstanding results. This effective program must not again be  
3 discarded before another equally effective or better one is  
4 found.

5                 Another school district that stayed with Distar was  
6 Mount Vernon, New York. Generally, Distar is considered to be  
7 a teaching method best suited for underprivileged children.  
8 Mount Vernon, however, has used the program district-wide in all  
9 its schools with success. Mount Vernon had been the district  
10 with the lowest scores in Westchester County. Now it is the  
11 district with the highest scores. After eight years its third  
12 graders who failed state competency examinations dropped from  
13 37% to 8%; for sixth graders the drop was from 46% to 28% in  
14 reading and from 53% to 24% in mathematics. Improvement in  
15 student outcomes from 1977 to 1978 was about 50% in the third  
16 grade and 30% in the sixth grade.

17                 But success with underprivileged minorities is not  
18 simply the story of Distar. Some authorities, such as Rudolf  
19 Flesch, author of Why Johnny Can't Read, contend it comes down  
20 - - - - - ~~valued by the self protective educational bureaucracy~~.

21                 11/ In the past school year, the mean reading score in Distar  
22 kindergartens was at the 72nd percentile (range from 60th  
23 to 87th percentile). For mathematics, the mean total score was  
24 at the 57th percentile. In first grade, the children were tested  
25 at the 18th percentile in reading and 20th percentile in mathe-  
26 matics at the beginning of school and they tested at the 46th  
27 percentile (average) at the end of the year in both reading and  
28 mathematics. There were seven classes combined in this average.  
The individual class averages were: 79%, 61%, 56%, 55%, 48%,  
37% and 29%. The monitor from the University of Oregon in her  
report concerning this result stated "This is well above the  
predicted scores for inner city low income first graders and well  
above comparable scores at these schools in 1977 and 1978." The  
results at the second grade level were not comparable. However,  
the success fully justifies expansion and continued use of the  
program.

1 to direct-instruction through phonics rather than "Look-And-Say".  
2 He endorses five phonics publishers, Addison-Wesley, Distar,  
3 Economy Co., J. B. Lippincott Co. and Open Court Publishing Co.  
4 The December 1979 issue of Basic Education carries an article  
5 "Beginning Reading Revisited". It states, "Open Court,  
6 Lippencott, and Distar have contributed to the outstanding  
7 achievement of students in Rochester, New York. None of these is  
8 'fail safe' or denies the influence of classroom teachers, but  
9 their underlying philosophy and structure help insure success  
10 in reading for the majority of boys and girls whose teachers use  
11 them."

12 Rochester, New York introduced its new program in 1975.  
13 At that time the district's scores were among the nation's  
14 lowest in reading and mathematics. In 1980 the children did as  
15 well or better than others in the nation in most grades on  
16 standard mathematics and reading tests. In 1971, 43% of all  
17 third graders read below grade level. In 1979 only 20% failed.  
18 For several years there had been severe resistance to the use of  
19 a phonics system by the self-protective educational bureaucracy.  
20 This resistance to change was finally broken down by insistent  
21 parents, mostly black, who deserve great credit for their ac-  
22 complishment. The Rochester system primarily relies on ma-  
23 terials published by Open Court.

24 Here in California we have a story of achievement  
25 written by an inspired and capable leader. In 1976 Jim Enochs,  
26 Assistant Superintendent for Curriculum and Instruction for  
27 the Modesto City Schools, embarked on a program designed to re-  
28 store educational standards. He instituted a complete system

1 and a coordinated program including a code of conduct that  
2 specifies the punishment for particular offenses, goals for  
3 achievement and detailed methods for attaining them. Students  
4 are not promoted until they have mastered the required skills.  
5 All personnel in the chain of command (supervisors, principal  
6 and teacher) are held accountable through effective monitoring  
7 and pupils at all levels of training, Kindergarten through 12,  
8 are tested so that responsibility for success or failure can  
9 be identified.

10 Enoch is in charge of the entire program. The result:  
11 the number of students failing competency tests each year has  
12 fallen dramatically. 70% are at or above their expected grade  
13 levels in reading and mathematics. Is there any reason  
14 San Diego should expect less?

15 Other communities such as New York and Chicago report  
16 exceptional results in certain schools with outstanding princi-  
17 pals and innovative teaching programs that are enthusiastically  
18 and properly implemented. Many of the schools discussed in  
19 this section are located in abysmal ghettos. If positive out-  
20 comes are possible there, how much easier it should be to pro-  
21 duce noteworthy results in South East San Diego -- a community  
22 of homes and open space where the physical, social and psycho-  
23 logical environment is relatively uplifting in comparison. The  
24 Court will accept no less than that which has been achieved else-  
25 where. We have the possibility to produce the best in the  
26 nation. Should not that be our goal?

27 . . . . .  
28 . . . . .

1 Learning nor do we support it. B. We said, nothing good can

2 that San Diego CAPABILITIES OF THE PROPOSED PROGRAM

3 The District's Proposed Achievement Goals Program was  
4 approved by the Court on May 22, 1980 to enable the District to  
5 proceed immediately and prepare for the coming year. The Court  
6 had been presented with a four page statement of the program and  
7 a brief oral report with no details. It was represented as an  
8 instructional program in reading and mathematics based on the  
9 principles of Mastery Learning developed at the University of  
10 Chicago and used successfully in the Chicago schools. The Court  
11 was therefore under the impression that the successful Chicago  
12 program was to be replicated here. The Court was informed that  
13 the District had sought and was receiving advice and counsel  
14 from those in charge of the Chicago program and therefore assumed  
15 that the elements of that program, namely, the materials used,  
16 uniformity of methods of instruction, supervision, continuous  
17 in-service staff training and continuous evaluation of principals  
18 and teachers would necessarily be the heart of this program.  
19 Such a program, together with the plan to continue and expand  
20 Distar would have reasonable promise for successful student  
21 outcomes. It would be a good start and a square response to the  
22 evaluation by the Court's team of consultants.

23 Then the Court received a letter from Michael Katims,  
24 Coordinator, Mastery Learning Program Development in the  
25 Chicago Public School System. Mr. Katims stated that he wished  
26 to correct any misunderstanding that Chicago's program was the  
27 one San Diego was intending to implement. ". . . we in Chicago  
28 have not contributed to San Diego's conceptualization of Mastery

1 Learning nor do we support it," he said. Katims pointed out  
2 that San Diego was developing its own materials from an existing  
3 <sup>12/</sup> Ginn text, that the materials will not have been field tested  
4 before they are put into use and that it is unlikely that the  
5 problems of an untested program can be solved while simulta-  
6 neously reaching achievement goals. In Chicago, Katims said,  
7 they use materials that have been revised and developed through  
8 five years of field testing in the classroom. Only now are  
9 they ready to put the program into system-wide use.

10 San Diego's Deputy Superintendent, Dr. Ralph V. Patrick,  
11 is reported to have responded to Katim's criticism as follows:

12 "We recognize the magnitude of this  
13 extremely complex undertaking. But  
14 we make no apologies. We know we  
15 will need one year to get feedback  
16 on the program from the teachers  
and two years to implement the re-  
visions -- and three more years  
probably before we get an initial true  
picture." <sup>13/</sup>

17 This forthright statement shows that our District now plans to  
18 start all over. Instead of adopting ready made, field tested,  
19 successful programs that are available for immediate use, the  
20 district has undertaken the tedious process of developing a  
21 totally new system of instruction in order to use books which it  
22 already has. This step will further delay improvement of  
23 learning outcomes. If our District believes it can improve on  
24 the available "ready-to-wear" merchandise with its own "tailor  
25 - - - - -

26 <sup>12/</sup> Ginn is denominated by Rudolf Flesch as one of the "Dismal  
27 Dozen" publishers because it follows a "Look-Say" rather  
than a phonics approach.

28 <sup>13/</sup> San Diego Union, August 1, 1980.

1 made" plan, why not use the tried and tested product while  
2 developing a San Diego program?

3 Upon receipt of Katim's letter, the Court forwarded it to  
4 Mrs. Yvonne Larsen, the president of the Board of Education,  
5 through counsel, with the suggestion that she select impartial  
6 educators to evaluate the planned Achievement Goal Program.  
7 She promptly did so, for which the Court is grateful. One of  
8 those selected to review the program was Dr. Sidney Estes,  
9 Superintendent of Instruction, Atlanta. In his 14 page report,  
10 dated August 18, 1980, Estes stated: ". . . much has yet to be  
11 done as the opening of the 1980-81 school year approaches.  
12 The task at hand is monumental, . . ." He referred to "the  
13 complexity and magnitude of what is proposed."

14 Dr. Estes was diplomatic but clearly critical of the  
15 absence of principal and teacher evaluation in the upcoming  
16 program.

17 ". . . the Central Administration ap-  
18 pears to believe in, and have confi-  
19 dence in the expertise and abilities  
20 of currently assigned teachers and  
21 local site administrators. . . .  
22 there is conviction that these per-  
23 sonnel presently possess most of the  
24 necessary skills and competencies to  
25 implement the program and make it  
26 fully operational. However, it is  
27 suggested that some type of assess-  
28 ment devices and mechanisms be in-  
stituted and utilized to verify or  
refute this belief. . . . ¶ . . .

25 - - - - -  
26  
27 14/ The other consultant, Herbert J. Walberg, reviewed ma-  
28 terials at his desk in Chicago, made a few telephone  
calls to personnel in San Diego and sent in a two page re-  
port with a 22 page curriculum Vita.

1                    administrators and, most definitely,  
2                    teachers, should be 'certified' that  
3                    they can do what is being expected. . . ." Court and

4                    He went on to state:

5                    "The planned in-service segment . . . appears to be brief and may be inadequate. . . . It is felt that this initial in-service needs monitoring in regard to adequacy in preparing pertinent personnel for their responsibilities."

6                    Estes continues:

7                    "The site plans reviewed begin to reflect many differences in what local sites envision as an outgrowth of their planning. . . . It would appear that inequality and inequitability could be possible without guidelines."

8                    According to Dr. Estes, the plan that is offered as a response  
9                    to the critique of the Court's consultants carries with it all  
10                  the defects discussed in that critique; namely, insufficient  
11                  training, lack of coordination, lack of central control and  
12                  insufficient monitoring.

13                  To the Court's knowledge, all programs, including  
14                  Distar and Chicago's Mastery Learning, that achieve the goals  
15                  of improving student outcomes in minority isolated schools, are  
16                  carefully monitored and controlled. The school principal and the  
17                  teacher, not the course of study, are the keys to the learning  
18                  process, "The heart of any school system is the instructional  
19                  program -- the curriculum as it is actually experienced by stu-  
20                  dents hour after hour and day after day and the learning out-  
21                  comes that students achieve." (Report of Court Appointed  
22                  Consultants.) How can the Board or the administration  
23                  know what is going on in the classrooms or how well the  
24                  principals and teachers are doing--when there is neither

1 monitoring nor accountability?

2 Systems such as Distar, Mastery Learning, Open Court and  
3 others have value only insofar as they are properly prepared, co-  
4 ordinated, implemented and monitored. The test of the District's  
5 proposed program will be in students' achievements. The Court  
6 hopes it will succeed. It can if some fundamental changes are  
7 made -- now! The program cannot be directed by a committee. The  
8 Board must require the person at the top to follow through or  
9 find someone else who will.

10 If, by the end of the current school year this Court finds  
11 the academic programs and method of implementation used by the  
12 District are not suitable to achieve the desired result, the  
13 Court will specify the programs and take such action as may be  
14 necessary to assure proper implementation of an effective program  
15 (School Desegregation and Federalism, 5 U. of Day. L.Rev. 77, 78;  
16 The Effect of the Search for Equality Upon Judicial Institutions,  
17 A. Cox 1979 Wash. U. L.Q. 795, 799-802, 805).

18 The Interpretation Task Force has recommended that the  
19 District work with the business community and universities to

20 NEED TO RE-EXAMINE ADMINISTRATION

21 From the perspective of the Court, lack of coordination,  
22 lack of communication, and the absence of clear-cut lines of  
23 responsibility are common features of the San Diego Unified  
24 School District. If there are a dozen curricular offerings in  
25 a school, there may be a dozen persons responsible for their  
26 implementation. Successful solutions to common problems in one  
27 school will be unknown to those at other schools. There ap-  
28 pears to be no solid coordination among programs. For instance

1 there is no clear explanation of how Distar and the Goals  
2 Achievement Program will mesh. In most school districts that  
3 have experienced success with minority student achievement, one  
4 person is in charge of curriculum and instruction or reading or  
5 mathematics or both for the entire district. Dr. Estes remarked  
6 that "the concepts and elements of 'Systems Planning & Manage-  
7 ment' common to business and industrial complexes need to be  
8 brought to bear on this enterprise."

9       The present management tree, organizational chart, and  
10 lines of authority must be re-examined by capable persons ap-  
11 proved by the Court and not connected with the District to  
12 determine what if any changes should be made to better serve  
13 the District's primary objective, education. The administration  
14 should be structured to make it responsive to classroom acti-  
15 vity and capable of communication that will enable quick repli-  
16 cation of outstanding programs and discontinuance of poor  
17 programs.

18       The Integration Task Force has recommended that the  
19 District work with the business community and universities who  
20 can assist in developing new programs or maintaining current  
21 ones designed for integration and producing a higher quality  
22 of education. The Court agrees. The Court will continue to  
23 seek assistance from the Integration Task Force, professional  
24 educators and others. Funds now on hand may be sufficient to  
25 meet expected expenses this year. The Court orders the District  
26 to budget \$25,000 as a contingent fund that may be drawn upon  
27 by the Court if needed.  
28 . . . .

1                   Traumatic though it may be to the community, busing  
2 is an easy way out -- temporarily. Busing can be carried out by  
3 superintendents reluctant or unwilling to do so. It is visible,  
4 easily enforced by the Court and immediately satisfying to those  
5 minorities who see it as a symbol of victory over the white  
6 community or who have been misled to believe that it will  
7 magically produce better educational results for their children.

8                   Educating children requires willing cooperation on the  
9 part of the top administrators, principals, teachers and the  
10 organizations that represent them. It requires hard work,  
11 inspiration, imagination and perseverance. It is less news-  
12 worthy and less visible, but more fulfilling. It works to  
13 lift the children out of isolation -- permanently.

14                  This is a crucial year. The choice for the future is up  
15 to the Board of Education.

16                  The Board of Education of the San Diego Unified School  
17 District will:

18                  1. Implement a course or courses of study in all minority  
19 isolated schools which will result in 70% of the students in each  
20 of such schools having a median achievement rate on the Compre-  
21 hensive Test of Basic Skills at the national norm (50th percen-  
22 tile) in reading, mathematics, and language by 1983-1984. The  
23 outcomes of children in the minority isolated schools at the end  
24 of the 1980-1981 school year must reflect significant achievement  
25 toward this goal; achievement sufficient to justify the conclu-  
26 sion that it is reasonable to expect the final goal to be accom-  
27 plished in the time designated. The Court will consider the achieve-  
28 ment significant if the test results are 25% better than current

1 ones. from the outside consultant together with the District's  
2 2. Expand the present elementary exchange programs so  
3 that each elementary school with 70% or more minority students  
4 (when the school will not become or remain a total school magnet)  
5 is paired with a majority school with 70% or more majority stu-  
6 dents (when the school will not become or remain a total school  
7 magnet) for the entire school year at or before the 1984-1985  
8 school year. At the same time the present Learning Centers will  
9 be gradually phased out.

10 3. Investigate and study a writing program for secondary  
11 students similar to that used by San Diego State University. Im-  
12 plement such a program during the second semester of the current  
13 school year (February 1981) and submit to the Court on or before  
14 December 15, 1980 a joint report with Dr. Don Basile concerning  
15 the details of the proposed program.

16 4. With the help of outside assistance from persons or  
17 organizations approved by the Court, undertake a study of the ad-  
18 ministrative structure and organization of the School District to  
19 redesign such structure so that it will be responsive to the edu-  
20 cational needs of the students, better able to detect both super-  
21 ior and inferior performance in the classroom, improve communica-  
22 tions for the purpose of replicating outstanding programs and dis-  
23 continuing ones that are not productive and for facilitating the  
24 supervision and monitoring of school principals and classroom  
25 teachers. Consideration should be given to the establishment of a  
26 Deputy Superintendent in charge of curriculum who would have  
27 authority over all teaching programs in all schools. Such study  
28 should be conducted during the 1980-1981 school year and a full

1 report from the outside consultant together with the District's  
2 evaluation and conclusion should be presented to the Court by  
3 February 15, 1981.

4       5. Continuously evaluate the effectiveness of the super-  
5 intendent, school principals, supporting leadership staff and  
6 teachers during the current school year.

7       6. Minimize fragmentation of resources and interruption  
8 of instruction in the classroom, particularly in the basic skills  
9 area (see Report of Court Appointed Consultants dated April 1,  
10 1980, Recommendation No. 4).

11      7. Place the actual interaction between a caring and  
12 competent teacher and his/her students as the central focus in  
13 the classroom (Report, Recommendation No. 5).

14      8. Provide intensive high quality focused assistance  
15 directly to classroom teachers (Report, Recommendation No. 6).

16      9. Establish full day kindergartens at each of the  
17 isolated schools where possible and report to the Court by  
18 November 15 which if any of the schools do not have full day  
19 kindergartens and why they do not have them (Report, Recommen-  
20 dation No. 7).

21      10. Disseminate the oral communications program throughout  
22 the District as quickly as possible and advise the Court by  
23 November 15 at which schools the program has been implemented,  
24 in how many classrooms and specifically of what the implementa-  
25 tion consists (Report, Recommendation No. 8).

26      11. Arrange for discussions between staff and parents  
27 concerning the value of homework and develop school-wide  
28 policies concerning homework; advise the Court by November 15

1 concerning the school-wide policy relating to homework which has  
2 been established at each of the isolated schools (Report,  
3 Recommendation No. 9).

4 12. Establish additional career center courses at Lincoln,  
5 Morse, and San Diego High Schools (Proposed by the District).

6 13. Establish an on-site opportunity school at Gompers,  
7 and an additional high school diploma program at San Diego High  
8 School (Proposed by the District).

9 14. Supervise classrooms and school facilities so as to max-  
10 imize integration within each school (Report, Recommendation No.  
11 12).

12 15. Insure that instructional materials used by all stu-  
13 dents in the exchange programs and Learning Centers are the same  
14 so that integrated instruction can be maximized (Report, Recom-  
15 mendation No. 13).

16 16. Take all necessary steps to improve the attendance of  
17 pupils in minority isolated schools with concern for those who do  
18 not attend regularly as well as for those who do. In this connec-  
19 tion, implement a program whereby the parents of each absent stu-  
20 dent will be contacted by a School District representative, either  
21 by telephone or in person, shortly after the student is found to be  
22 absent. Further, revise record keeping procedures so that it will  
23 be possible to identify patterns of attendance of individual students  
24 (e.g., those regularly absent on Monday or Friday). Prepare month-  
25 ly reports of attendance by school of the apportioned and non-  
26 apportioned absences and re-establish the Social Agency Coalition and  
27 Survey School Retention Program for Pregnant Girls. Finally, improve  
28 attendance by motivational techniques, alternative curriculum time

1 schedules, expansion of alternative schools and vocational  
2 education opportunities (Report, Recommendation No. 14 and  
3 District Proposals).

4 17. Explore with the appropriate bargaining unit the  
5 possibility of providing incentives to the staff at minority  
6 isolated schools with the goal of entering into long term con-  
7 tracts with the most able and inspiring principals and teachers  
8 (Report, Recommendation No. 15).

9 18. Cooperate with the business community and universi-  
10 ties in developing new programs or maintaining current ones  
11 designed for integration and producing a higher quality of edu-  
12 cation (Integration Task Force Report dated June 1980).

13 19. Direct staff to refuse to promote students until  
14 they have mastered the required skills for their grade level,  
15 define competencies for each level and provide for testing  
16 of students at all grade levels, Kindergarten through 12.

17 20. On or before October 15, 1980, submit to the Court  
18 a detailed explanation as to how the Race/Human Relations  
19 Program is monitored; what the program consists of and how suc-  
20 cesses in one school are communicated and replicated in others.

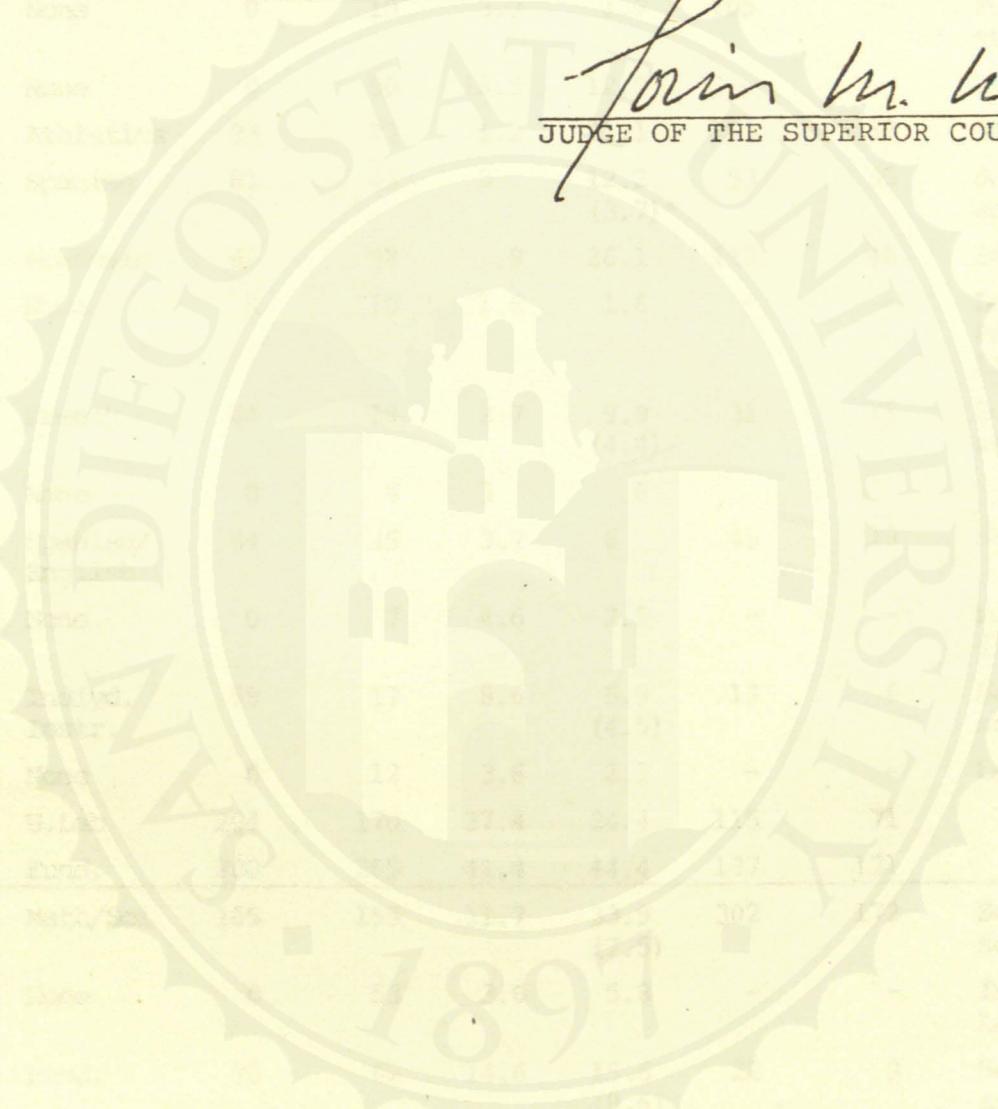
21 21. On or before October 15, 1980, explain why there are  
22 44 white children from tipping and isolated schools enrolled in  
23 magnet schools in white neighborhoods.

24 22. On or before December 15, 1980, submit a plan to re-  
25 duce minority isolation in secondary schools and improve educa-  
26 tional outcomes for students in those schools.

27 23. Continue strict enforcement of the discipline code.  
28 . . .

1           24. Budget \$25,000.00 to be available for draw by the  
2 Court if such funds shall be needed to defray necessary expenses  
3 for consultants, Integration Task Force expenses or other  
4 assistants.

5           DATED: SEP 1 1985

6             
7           Lorin M. Welsh  
8           JUDGE OF THE SUPERIOR COURT

APPENDIX A

| SCHOOL       | MAGNET                | 1979-80<br>WHITES |        | % MAJORITY |                | 1980-81**<br>WHITES |         | COMMENTS                           |
|--------------|-----------------------|-------------------|--------|------------|----------------|---------------------|---------|------------------------------------|
|              |                       | EXPECTED          | ACTUAL | 78-79      | 79-80          | EXPECTED            | RETURNS |                                    |
| Baker        | U.Lab.                | 67                | 55     | 1.4        | 10.4           | 68                  | 46      | Started 79/80 X                    |
| Balboa       | None                  | 0                 | 49     | 6.1        | 5.0            | -                   | -       | X                                  |
| Burbank      | None                  | 0                 | 4      | 1.6        | 1.2            | -                   | -       |                                    |
| Chollas      | None                  | 0                 | 18     | 4.2        | 4.7            | -                   | -       | Learning Ctr. X                    |
| Emerson      | None                  | 0                 | 10     | 3.3        | 1.7            | 105                 | -       | Fundamental to start 80/81         |
| Freese       | None                  | 0                 | 90     | 18.9       | 12.9           | -                   | -       | Learning Ctr. X                    |
| Fulton       | Athletics             | 93                | 77     | 1.2        | 21.1           | 160                 | 30      | Started 79/80                      |
| Horton       | Spanish               | 81                | 43     | 9          | 12.2<br>(3.7)* | 53                  | 35      | School w/in school 64-474*** X     |
| Johnson      | Academic              | 62                | 98     | .8         | 26.1           | 117                 | 46      | Started 79/80                      |
| Kennedy      | None                  | 0                 | 10     | 1.6        | 1.6            | -                   | -       | Learning Ctr. Paired/Curie 118-622 |
| Knox         | French                | 64                | 19     | 2.7        | 9.9<br>(4.4)   | 31                  | 15      | School w/in school 9-294 X         |
| Logan        | None                  | 0                 | 8      | 3          | .8             |                     |         | X                                  |
| Lowell       | Spanish/<br>English   | 84                | 25     | 3.7        | 6              | 45                  | 19      | Started 79/80 X                    |
| Mead         | None                  | 0                 | 7      | 4.6        | 2.5            | -                   | -       | Paired/Daillard 49-275 X           |
| Sherman      | Individ.<br>Instr.    | 58                | 17     | 8.6        | 5.9<br>(4.5)   | 13                  | 6       | School w/in school 54-963 X        |
| Stockton     | None                  | 0                 | 12     | 3.6        | 2.1            | -                   | -       | Learning Ctr. X                    |
| Valencia Pk. | U.Lab                 | 204               | 170    | 27.4       | 24.4           | 115                 | 71      |                                    |
| Webster      | Fund.                 | 200               | 205    | 41.4       | 44.4           | 137                 | 131     |                                    |
| Gompers      | Math/Sci              | 165               | 195    | 11.7       | 33.9<br>(7.5)  | 302                 | 172     | School w/in school 113-433 X       |
| Memorial     | None                  | 0                 | 53     | 3.6        | 5.8            | -                   | -       | Intercultural Lang. 80/81 X        |
| O'Farrell    | Fund.                 | 90                | 62     | 14.6       | 15.6<br>(8.6)  | 22                  | 9       | School w/in school 37-644 X        |
| Lincoln      | Ctr.<br>Medicine      | 50                | 24     | .7         | .5             | 19                  | 0       | 52-996                             |
| Morse        | Ctr, Urban<br>Studies | 100               | 53     | 21.9       | 17.9           | 11                  | 4       | 143-1486                           |
| San Diego    | Ctr/Commun.           | 50                | 53     | 19.8       | 21.8           | 11                  | 3       | 47-1205                            |

\*\* Based on district estimates in August.

\* Figures in ( ) are for school outside magnet.

\*\*\* 64-474 means 64 minority students out of 474 are included in program.

X Designated to receive Goal Achievement Program.

APPENDIX B

TIPPING SCHOOLS

| <u>ELEMENTARY<br/>SCHOOL</u>  | % Whites       |                |                    |
|-------------------------------|----------------|----------------|--------------------|
|                               | <u>1978-79</u> | <u>1979-80</u> | <u>Differences</u> |
| Audubon                       | 37             | 31.3           | - 5.6              |
| Boone                         | 30.6           | 25.7           | - 4.9              |
| Brooklyn                      | 47.8           | 44.9           | - 2.9              |
| Carson                        | 47.6           | 42.1           | - 5.5              |
| Central                       | 36             | 29.5           | - 6.5              |
| Dewey                         | 47.5           | 49.9           | + 2.4              |
| Euclid                        | 48.8           | 43.9           | - 4.9              |
| Keiller                       | 31             | 25.9           | - 5.1              |
| Lee                           | 39.3           | 36.6           | - 2.7              |
| Linda Vista                   | 33.1           | 27.8           | - 5.3              |
| Oak Park                      | 48.6           | 46.7           | - 1.9              |
| Paradise Hills                | 27.5           | 21.9           | - 5.6              |
| Penn                          | 47             | 39.8           | - 7.2              |
| Perry                         | 49.3           | 45.2           | - 4.1              |
| Washington (1)                | 43.4           | 34.3           | - 9.1              |
| Beale (2)                     | 71.5           | 49.5           | -22.0              |
| Marshall (3)                  | 52.7           | 44.5           | - 8.2              |
| Rowan                         | 50.2           | 45.7           | - 5.5              |
| <u>JUNIOR HIGH<br/>SCHOOL</u> |                |                |                    |
| Bell                          | 31.6           | 28.3           | - 3.3              |
| Montgomery                    | 51.8           | 47.4           | - 4.4              |
| <u>SENIOR HIGH<br/>SCHOOL</u> |                |                |                    |
| San Diego                     | 19.8           | 21.8           | + 2.               |

- (1) Lost 22 Whites, gained 7 Hispanics and 16 Asian & Alaskan/Indians.
- (2) Lost 31 Whites, gained 87 Asians.
- (3) Lost 32 Whites, gained 28 Asians.

APPENDIX C

ANALYSIS OF

CRAWFORD V. BOARD OF EDUCATION (1976) 17 Cal.3d 280

AS IT PERTAINS TO THE CHOICE OF REMEDIES

AVAILABLE TO CORRECT SEGREGATION

---

"The Constitutional evil inheres in the obligation of the State to provide equal educational opportunities to all children. It is the existence of segregated schools. It is the elimination of such segregation and the harms inflicted by such segregation that is the ultimate Constitutional objective." (285)

To accomplish this "ultimate Constitutional objective," the School District must undertake ". . . reasonably feasible steps to alleviate segregation and its accompanying harm . . . [t]he task of integration is an extremely complex one which entails much more than the assignment of specified percentages of pupils of different races or ethnic groups to the same school." (286)

The goal is not simply the mixing of races but the elimination of the harms to minority children which have generally flowed from the maintenance of segregated schools (e.g., 308). The Supreme Court acknowledges that the trial court's task ". . . is an exceedingly difficult, sensitive and taxing one, requiring the balancing and reconciliation of many competing values." (310) To effectively discharge this task, ". . . a trial court retains broad equitable power to order implementation of a realistic program. . . ." (286)

" . . . a trial court should take into account the long range effects of the adoption of alternative proposals; a court may reject a particular approach if it finds that its implementation is likely to result in a 'one race' or 'all minority' school district and consequently in less ultimate opportunities for the benefits of a desegregated education.

"We do not mean, of course, that the threat of 'white flight' may be used as a smoke screen to avoid the Constitutional obligations of a school district . . . [however,] a realistic evaluation of the ultimate consequences of a particular course of action cannot be ignored . . . In the end, if a Court finds that certain alternatives are not realistically available or particular goals reasonably attainable, it may require the board to take greater efforts in some other direction in attempting to alleviate the consequences of school segregation.

(c.f. Bell, Waiting on the Promise of Brown (1975) 39 Law & Contemp. Prob. 341, 354-355.)" (309)

On pages 354-355 of Bell's article, the author refers to "educationally-oriented relief". Bell observes:

" . . . Perhaps paradoxically, separate schools which, through the implementation of alternative remedies first become (in the educational sense) quality schools, may stand a better chance of eventually becoming integrated schools as well.<sup>61</sup>"  
(355)

"61. See K. Clark, A Possible Reality: A Design for the Attainment of High Academic Achievement for Inner-City Students (1972). This alternative remedy to integration for past discriminatory school policies, if vigorously enforced by the courts, might avoid the dire situation contained in Justice Douglas' warning that the court's rulings in San Antonio Independent School

Dist. and Milliken v. Bradley, will return the problems of blacks and the society to the 'separate but unequal' period. 418 U.S. at 759."

In California ". . . education has been explicitly recognized for equal protection purposes as a 'fundamental interest'. (See Serrano v. Priest, supra, 5 Cal.3d 584, 604-610 . . .) . . . the 'fundamental' nature of the right to an equal education derives in large part from the crucial role that education plays in 'preserving an individual's opportunity to compete successfully in the economic marketplace, despite a disadvantaged background . . . [t]he public schools of this state are the bright hope for entry of the poor and oppressed into the mainstream of American Society.' (5 Cal.3d at p. 609)" (297).

## APPENDIX D

ELEMENTARY MAGNETS IN WHITE SCHOOLS

| <u>SCHOOL</u> | <u>TOTAL<br/>MINORITIES</u> | <u>ISOLATED<br/>SCHOOLS</u> | <u>TIPPING<br/>SCHOOLS</u> | <u>COMMENTS</u>                                |
|---------------|-----------------------------|-----------------------------|----------------------------|--|
| Fremont       | 59                          | 31                          | 9                          | 17 whites from Brooklyn, Carson and Washington |
| Green         | 104                         | 63                          | 28                         |  |
| Lindbergh     | 133                         | 97                          | 15                         |  |
| Longfellow    | 192                         | 57                          | 48                         | 5 whites from Carson, Central and Linda Vista  |
| Rolando Park  | 129                         | 72                          | 41                         |  |
| Spreckles     | 164                         | 103                         | 42                         |  |
| Sunset View   | 71                          | 51                          | 13                         |  |
| Silver Gate   | 162                         | 120                         | 22                         |  |

CREATIVE AND PERFORMING ARTS

|            |    |    |    |   |
|------------|----|----|----|---|
| Elementary | 68 | 28 | 22 | 5 whites from Brooklyn, 1 from Oak Park                 |
| Secondary  | 49 | 25 | 5  | 3 whites from Montgomery, 1 from Bell, 1 from O'Farrell |

1  
2  
3  
F I L E D  
Robert D. Zumwalt, Clerk

4 OCT 1 1980  
5 BY S. TALBOTT  
6 DEPUTY  
7  
8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO  
9  
10  
11 KARI CARLIN, et al., )  
12 Plaintiffs, ) Case No. 303800  
13 v. ) CHARGE TO THE  
14 BOARD OF EDUCATION OF THE ) INTEGRATION TASK FORCE  
15 SAN DIEGO UNIFIED SCHOOL ) 1980-1981 SCHOOL YEAR  
16 DISTRICT, )  
17 Defendant. )  
18 To the Chairman, Vice Chairpersons and Members of the INTEGRATION  
19 TASK FORCE.  
20 GREETINGS:  
21 The Task Force is specifically charged to:  
22 1. Monitor, analyze and evaluate the human/race relations  
23 programs used throughout the district, with particular  
24 emphasis upon the effectiveness of such program in  
25 those schools that receive VEEP students.  
26 2. Monitor, analyze and evaluate the Elementary and  
27 Secondary Exchange Programs and the Learning Centers  
28 to determine what progress is being made toward the

- 1 expansion of Elementary Exchange Programs and to  
2 determine the effectiveness of all three programs.
- 3 3. Cooperate with the school district to assist the  
4 district in its efforts to expand the Elementary  
5 Exchange Programs and to encourage more parents to  
6 voluntarily participate therein.
- 7 4. Monitor classroom activity to determine whether there  
8 has been a significant reduction in the interruption  
9 of instruction in classrooms, particularly in the  
10 basic skills area.
- 11 5. Monitor classroom activity to determine whether there  
12 is instruction in oral communication and of what  
13 such instruction consists.
- 14 6. Monitor classroom activity to determine whether  
15 individual classes are appropriately desegregated  
16 or whether there is a pattern of segregating races  
17 within a school.
- 18 7. Monitor, analyze and evaluate any other program or  
19 activity which is a portion of the desegregation  
20 plan and which, in the opinion of the Task Force  
21 requires its attention.
- 22 8. Evaluate the overall plan as to whether meaningful  
23 progress to alleviate segregation is being made.
- 24 9. Report to the Court its activities on or before  
25 May 4, 1981.
- 26 To carry out this charge, the Task Force is authorized to  
27 . . . .  
28 . . . .

1 engage the services of monitors and necessary experts and  
2 advisors. Stipends paid to such persons must be approved by  
3 the Court.

4

5 Dated: OCT 1 1980

6 LOUIS M. WELSH  
7 JUDGE OF THE SUPERIOR COURT

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The Court respectfully request the following changes in the  
order of the day as follows:  
1. The trial date of the Plaintiff's Motion for Preliminary Injunction  
is hereby set for October 1, 1980.  
2. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
3. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
4. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
5. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
6. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
7. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
8. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
9. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
10. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
11. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
12. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
13. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
14. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
15. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
16. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
17. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
18. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
19. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
20. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
21. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
22. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
23. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
24. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
25. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
26. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
27. The Plaintiff's Motion for Preliminary Injunction is hereby denied.  
28. The Plaintiff's Motion for Preliminary Injunction is hereby denied.

MW/lt

1      VERONICA A. ROESER  
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Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

**FOR THE COUNTY OF SAN DIEGO**

KARI CARLIN, et al., Plaintiffs  
vs.  
BOARD OF EDUCATION, et al  
Defendants

---

GROUNDSWELL, et al., Intervenors  
vs.  
KARI CARLIN, et al., Defendants in Intervention

No. 303 800

PLAINTIFF'S OBJECTIONS TO  
THE COURT'S MEMORANDUM OF  
INTENDED DECISION

17 Plaintiffs respectfully request the following changes to the  
18 orders proposed by the Court in its MEMORANDUM OF INTENDED DECISION,  
19 dated September 9, 1983.

## RACE/HUMAN RELATIONS PROGRAM

21       IT IS ORDERED that the Race/Human Relations Program be imple-  
22        mented as heretofore ordered and all school personnel be made aware  
23        of the importance of this program and its place in the integration  
24        effort. It is the finding of the Court that the School District is  
25        complying with the order in a commendable manner.

26 / Plaintiff's additions to the Court's proposed orders are denied.  
27 /  
28 / Underlined.

1           IT IS FURTHER ORDERED that the School District meet with the  
2           ITF to explore the possibility of consolidating the monitoring of  
3           the Race/Human Relations Program.\*

4           Consolidating and coordinating the monitoring of the Race/  
5           Human Relations Program could provide a more intensive, focused  
6           examination of the program and also increase the number of commun-  
7           ity members of each monitoring team.

8           There appears to be some overlap in the monitoring done by  
9           Evaluation Services, Community Relations and Integration Services,  
10          and ITF. For example, all looked at discipline, (suspensions and  
11          expulsions), classroom segregation, racial mixing outside of class-  
12          rooms, and the quality of inter-racial interaction. The possibility  
13          of dividing areas of responsibility for monitoring should be exam-  
14          ined with the idea of coordinating activities and eliminating over-  
15          lap. While monitoring the same total area, eliminating overlap  
16          will allow each of the three groups, now monitoring independently,  
17          to cover a narrower area more intensely.

18          The Community Relations and Integration Services Division might  
19          require fewer monitoring teams to cover a narrower area. If it is  
20          possible to recruit additional community members and practicable  
21          for the ITF monitors to also participate on these teams, this  
22          could answer the ITF complaint "that there are not enough non-  
23          District members on the [Community Relations and Integration  
24          Services Division] monitoring teams. . .".

25          /

26          /

27          \* Plaintiffs additions to the Court's proposed orders are double  
28          underlined.

1 place If the Court discontinues its annual review of the integration  
2 plan and disbands the ITF this order will provide the strongest  
3 possible examination of this critical program, which is still not  
4 fully tested, to help insure that it is solidly grounded.

5 VOLUNTARY ETHNIC ENROLLMENT PROGRAM (VEEP)

6 IT IS ORDERED that increased efforts be made to interest  
7 increased numbers of students in the VEEP Program and that adequate  
8 programs be established for limited English proficient students to  
9 proceed apace with English speaking students in the receiving  
10 schools.

11 IT IS FURTHER ORDERED that continued efforts be made to make  
12 the students feel that they are a part of the receiving school by  
13 including them in all activities, including after school programs,  
14 and by continuing to provide bus transportation to accommodate  
15 extracurricular activities after school hours.

16 IT IS FURTHER ORDERED that careful monitoring of classes at  
17 VEEP receiving schools take place to the end that resegregation does  
18 not occur except in cases of absolute necessity such as classes  
19 conducted in native languages.

20 IT IS FURTHER ORDERED that the School District develop and  
21 submit to the Court by March 1, 1984, a formal policy to minimize  
22 classroom segregation and procedures to implement this policy.

23 IT IS FURTHER ORDERED that the School District determine at  
24 the earliest practicable time which VEEP site plans are most success-  
25 ful at each school level and replicate them at comparable school  
26 levels at all other VEEP receiving schools.

27 This year the Court proposes to order careful monitoring of  
28 VEEP classes to avoid resegregation. It is important to have in

1 place concrete procedures to implement the Court's order and to  
2 permit simple and objective monitoring of the implementation of  
3 this order in future years.

4 A Court order to maximize classroom integration has been in  
5 force since December 1980. However, no formal, systematic pro-  
6 cedure has been established by the School District to monitor  
7 classroom integration, and evidence of classroom segregation con-  
8 tinues to be reported.

9 This year the ITF again observed examples of classroom segre-  
10 gation. The ITF VEEP sub-committee urged that this "intolerable  
11 and unacceptable condition . . . must be addressed by the District."  
12 The School District has explained that some classes are necessarily  
13 segregated because of some students' limited ability to use  
14 English. However, the ITF bilingual sub-committee specifically  
15 criticized this practice. They acknowledged the need for LEP  
16 students to be segregated for language instruction, but observed  
17 that segregating them in regular classes "clearly violates the  
18 intent of the entire integration efforts."

19 Plaintiffs propose the following policy and procedure for  
20 consideration.

21 It shall be the policy of the district that each class  
22 should be within  $\pm$  20 percentage points of the ethnic  
23 balance of the school.

24 By the end of the third week of each semester the  
25 principal of each school shall report those classes  
26 which do not meet this criterion to the area super-  
27 intendent, giving reasons why each class does not  
28 meet the criterion. The area superintendent shall

1 review the reports and direct that appropriate  
2 adjustments be made.

3 Imbalanced classes should be permitted only when they fall  
4 within specific guidelines developed by the School District.

5 At the August 18, 1983 hearing, Dr. Payzant suggested a  
6 review of the OCR Ethnic Report in April to see that classes which  
7 may have been out of balance in the fall have been corrected.  
8 However, the review should be done as early in each semester as  
9 possible in order to maximize the amount of time students spend in  
10 integrated classes and to minimize classroom disruption caused by  
11 any rearranging of classes required to correct segregation.

12 MAGNET SCHOOLS

13 IT IS ORDERED that the Magnet School Program be expanded to  
14 provide for one new effective program at the elementary level and  
15 one new effective program at the secondary level each year until  
16 each minority isolated school and each school over 80% minority not  
17 already designated as minority isolated has a magnet program.

18 IT IS FURTHER ORDERED that programs be developed and implemen-  
19 ted by September 1, 1986, to integrate or stabilize each of the  
20 schools between 70% and 80% minority which does not have a program  
21 to integrate or stabilize it.

22 IT IS FURTHER ORDERED that the School District develop and  
23 begin implementing by July 1, 1984, a program of formal cooperation  
24 with other appropriate governmental, business and private agencies  
25 to promote integrated housing.

26 (Because several changes have been made in this section each  
27 proposed change is repeated followed by the reason for that change.)  
28 /

1        IT IS ORDERED that the Magnet School Program be expanded to  
2        provide for one new effective program at the elementary level and  
3        one new effective program at the secondary level each year until  
4        each minority isolated school and each school over 80% minority  
5        not already designated as minority isolated has a Magnet Program.

6        This change is recommended in order to require a magnet pro-  
7        gram at any school which becomes over 80% minority and thus enters  
8        the "definitely segregated" category as defined in the Court's step  
9        [FIRST] Findings of Fact and Conclusions of Law, dated July 27,  
10      1978. Linda Vista Elementary School is over 80% minority and has  
11      no program to integrate it. ~~set a precedent~~ The School District

12      This change is also recommended in order to insure that pro-  
13      grams which are ineffective are replaced. Except for Gompers and  
14      O'Farrell, each of the segregated secondary schools already has one  
15      or more magnet programs. However, these programs have not been  
16      effective. (See Attachment "A") Programs which are not effective  
17      must be replaced by new programs which are found to be effective.

18        IT IS FURTHER ORDERED that programs be developed and implemen-  
19        ted by September 1, 1986, to integrate or stabilize each of the  
20        schools between 70% and 80% minority which does not have a program  
21        to integrate or stabilize it.

22      Schools between 70% and 80% minority are in danger of becoming  
23      segregated and should be stabilized.<sup>(1)</sup> Nine of these schools have  
24      no programs to integrate or stabilize them.

25      (1) In its March 9, 1977, Memorandum Decision and Order the Court  
26      found "that all schools with an enrollment of 50% or more  
27      minority students are in danger of becoming minority isolated  
28      and that future planning must take into consideration every  
measure available to stabilize these schools." While all school  
in danger of becoming minority isolated or more imbalanced shou-  
be stabilized, in view of the change in the racial/ethnic en-  
rollment of the School District since 1977 it seems reasonable  
to make this order mandatory only for schools over 70% minority.

1           IT IS FURTHER ORDERED that the School District develop and  
2           begin implementing by July 1, 1984, a program of formal cooperation  
3           with other appropriate governmental, business, and private agencies  
4           to promote integrated housing.

5           Plaintiffs do not believe that magnet programs alone will  
6           integrate the remaining segregated schools.<sup>(2)</sup> The complex nature  
7           of the problem requires a more comprehensive plan. A program to  
8           integrate neighborhoods should be a part of such a plan. Integrated  
9           neighborhoods are the ideal solution to school segregation and  
10          should be the ultimate goal.

11          This proposal does not set a precedent. The School District  
12         already has a policy through which it works with builders and  
13         developers.<sup>(3)</sup> There are provisions in this policy designed to  
14         promote integrated neighborhoods.

15          This proposal would not put the School District in the housing  
16         business, but would provide for an expansion of, and perhaps con-  
17         solidation of, present policies. It would provide a structure  
18         within which the School District and other governmental, business,  
19         and private agencies concerned with housing could work cooperatively  
20         /

21         (2) Attachment "A" discusses some of the conditions which will  
22         probably limit the effectiveness of additional magnet programs.

23         (3) The School District already has a Policy For Determining The  
24         Availability of Schools which is designed to comply with City  
25         Council Policy 600-22, Availability of Schools. The purpose of  
26         these policies is to provide information to the City of San  
27         Diego on the availability of schools in areas of the city pro-  
28         posed for rezoning, development or redevelopment. The School  
            District policy provides for negotiations with developers to  
            provide land, facilities, or money to the School District as  
            necessary to insure availability of schools. The policy also  
            contains procedures designed to prevent segregation in housing  
            projects covered by the policy.

1 in a formal way to promote integrated neighborhoods. (4)  
2 set lower

2 TESTING RESULTS FOR MINORITY ISOLATED SCHOOLS

3 IT IS ORDERED that an investigation be made into grades 10,  
4 11 and 12 in the minority isolated schools to determine why they  
5 have not made the same relative progress that has been made in the  
6 lower grades and report to the Court its findings by March 1, 1984.

7 IT IS FURTHER ORDERED that investigation be made into the  
8 areas of the lower grades where lesser progress has been made.

9 IT IS FURTHER ORDERED that current national norms continue to  
10 be used to establish the goals of the Academic Achievement Program  
11 until these current national norms are reached. When the national  
12 norms are reached then the goals for minority students shall be  
13 further raised to the District averages.

14 IT IS FURTHER ORDERED that test results be separately provided  
15 for resident and non-resident minority students in VEEP schools at  
16 grades 5, 7 and 9.

17 (Because several changes have been made in this section each  
18 proposed change is repeated followed by the reason for that change.)

19 IT IS FURTHER ORDERED that current national norms continue to  
20 be used to establish the goals of the Academic Achievement Program  
21 until these current national norms are reached. When the national  
22 norms are reached then the goals for minority students shall be  
23 further raised to the District averages.

24 An integrated education should provide an equal goal for all  
25 students as well as an equal educational opportunity to meet the  
26 goal. The Form S and Form U norms are not equal goals. The Form S  
27 norms set lower goals for minority students than scores being  
28 745 Attachment "B" is a copy of selected portions of a similar pro-  
posal made by plaintiffs in April 1983.

1 achieved by the average student nationwide. Even the Form U norms  
2 set lower goals for San Diego minority students than the average  
3 scores being achieved by majority students in San Diego. The pro-  
4 posed order sets the same goal for all students in San Diego.

5 In the Court's December 2, 1980, Order Re Integration Plan  
6 1980-81, the School District was ordered to "Implement a course or  
7 courses of study in all minority isolated schools which will result  
8 by the dates indicated in the table below, in 50% of the students  
9 in the isolated schools achieving at or above the national norm on  
10 the Comprehensive Test of Basic Skills (CTBS) in reading, mathemat-  
11 ics and language."

12 The Court's purpose, made amply clear by the lengthy discus-  
13 sion of the proposed educational program (AGP) in its September 8,  
14 Memorandum of Intended Decision, was that minority students  
15 should receive an education at least equal to that received by the  
16 average student in this country. This was to be accomplished by  
17 raising the achievement scores of minority students until their  
18 average scores were at least equal to the national norms.

19 In 1980 the district used the available CTBS Form S. The  
20 norms for the Form S test had been established in 1973. Since 1973  
21 there had been appreciable nationwide improvement in the perform-  
22 ance of students on this test. There was a gain of about ten  
23 percentile points for the average student between 1973 and 1981.  
24 This meant that a student scoring at about the 60th percentile on  
25 Form S in 1981 was not an above average student compared with other  
26 students in 1981, but only above average compared with the per-  
27 formance of 1973 students. This 1981 student was actually only  
28 average. A student scoring at the 50th percentile on Form S in

1 1981 was not an average student, but was below average compared  
2 with contemporaries. they would not be receiving an education equal  
3

4 A new form of the CTBS, Form U, was developed, and national  
5 norms were established for it in 1981. Since the norms for the  
6 Form U are current norms, a student scoring at the 50th percentile  
7 on Form U is in fact an average student compared with other students  
today.

8 Tables are available to equate Form S with Form U scores to  
9 permit comparison. These tables show how much students' scores on  
10 CTBS have improved since 1973. For example, an average third grade  
11 student in reading in 1982, (one scoring at the 50th percentile on  
12 Form U), would score at the 66th percentile on Form S, 16 points  
13 above the average third grade student in reading in 1973.

14 The tables for comparing Form S and Form U scores make clear  
15 that the norms themselves are not equal, and, thus, not inter-  
16 changeable. In the example just cited, today's third grade student,  
17 scoring at the 50th percentile, (the norm), in reading on Form U,  
18 is not the equivalent of a third grade student scoring today at the  
19 50th percentile, (the norm), on Form S, but is equivalent to a stud-  
20 ent today who scores at the 66th percentile on Form S.

21 To emphasize that only current norms shall be used to set goals  
22 and that Form S and Form U norms are not interchangeable, plaintiffs  
23 urge the Court to reaffirm that the goal of the achievement program  
24 is to raise the scores of the average minority student to the most  
25 recently established national norms. The current norm is the Form  
26 U norm. Form S scores can be compared with Form U scores, but since  
27 the norms are not equivalent, only the Form U norms should be used  
28 to establish goals.

1        If the Form S norms were used to set achievement goals for  
2        minority students they would not be receiving an education equal to  
3        that of their contemporaries, but would be receiving a measurably  
4        inferior education.

5        Once the test scores of minority students are raised to the  
6        current national norms they should be further raised until the  
7        means of their scores are at or above the means of the district  
8        scores. Where the district means are higher than the national  
9        norms, minority students will not be receiving the same quality  
10      of education as majority students in this district as long as they  
11      are only achieving at the national norms. They will not be receiv-  
12      ing an equal education and will be at a disadvantage in competing  
13      for jobs and admission to college.

14      Studies have shown that low expectations of students contrib-  
15      ute to poor achievement, while high expectations produce above  
16      average achievement. To establish achievement goals for minority  
17      students which are below the district averages gives official  
18      sanction to lowered expectations. The effect on achievement of  
19      such an official sanction should not be underrated. Furthermore,  
20      the establishment of a lower goal for minority students is tanta-  
21      mount to establishing a dual system. This cannot be justified.  
22      The ultimate goal must be a single set of achievement standards for  
23      all students.

24      IT IS FURTHER ORDERED that test results be separately provided  
25      for resident and non-resident minority students in VEEP schools at  
26      grades 5, 7 and 9.

27      The test results as presently provided do not permit an analy-  
28      sis to determine if VEEP students are benefiting academically from

1 the program, or how much they may be benefiting. Test results  
2 show minority students in majority schools achieving higher scores  
3 than minority students in segregated schools. However, since  
4 resident and non-resident minority student scores are combined, it  
5 cannot be determined if the scores of non-resident minority (VEEP)  
6 students are actually higher, or if the higher minority scores  
7 in majority schools are a result of the non-resident minority  
8 student scores being averaged with resident minority student scores.  
9 An analysis of this would be possible if the minority test scores  
10 were provided separately for resident and non-resident minority  
11 students.

12 In an August 25, 1983, letter to the Court, Mr. Lincoln  
13 reported an estimated annual cost of \$5,000 to \$10,000 for test  
14 data for all VEEP schools separated into VEEP and non-VEEP students  
15 at grades 5, 7, and 9. In its September 8, 1983, letter to the  
16 Court, the School District provided an estimate of \$2,000 to \$3,000  
17 to retrieve this same data from the 1979-80 school year to be used  
18 as baseline data.

19 Since the purpose of separating test scores in this way is  
20 primarily to provide a comparison between VEEP and non-VEEP  
21 minority students in majority schools, plaintiffs do not believe  
22 /  
23 /  
24 /  
25 /  
26 /  
27 /  
28

1 it is necessary to retrieve baseline data. If baseline data is  
2 desirable, the 1984 data could serve this purpose in future years.  
3 The value of this information justifies the modest expenditure  
4 of between \$5,000 and \$10,000 as estimated by the School District.

5 /  
6 /  
7 /  
8 /  
9 Dated: September 19, 1983    Respectfully submitted,  
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*Veronica A. Roeser*  
VERONICA A. ROESER  
Attorney for Plaintiffs

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2. Minority schools are overcrowded. The remaining segregated  
schools whose over 50% minority and in danger of becoming seg-  
regated are often already overcrowded. The Hoover and Morse cluster  
committees studying school utilization called attention to this  
problem. Magnet programs attracting more students to these schools  
and only magnify the problem of overcrowding.

3. All segregated secondary schools already have out of date  
and programs, each with its own shortcomings.

4. O'Farrell has been successfully integrated by making it the  
School of Creative and Performing Arts, but it is now time

1        PROBLEMS WHICH MAY LIMIT THE SUCCESS OF MAGNET PROGRAMS

2        1. Minority parents object to their children being crowded  
3        out of neighborhood magnet schools. For a magnet program to deseg-  
4        regate a segregated school, first enrollment priority must be given  
5        to non-resident majority students. This necessary policy often  
6        crowds resident minority children out of their neighborhood school.  
7        Testimony by Dr. Payzant at the August 18, 1983, hearing confirmed  
8        the existence of opposition by parents in the minority community to  
9        magnet programs which prevent children from attending their neigh-  
10      borhood schools. Though the specific program discussed was the  
11      School of Creative and Performing Arts, located at O'Farrell Junior  
12      High School, this is a problem shared by other magnet schools. The  
13      more successful the program, the more attractive it is likely to be  
14      to neighborhood students, thus further compounding this problem.  
15      Because of this opposition by parents in minority neighborhoods,  
16      simply adding magnet programs may not be an acceptable or viable  
17      way to integrate the remaining segregated schools which have no  
18      integration programs.

19        2. Minority schools are overcrowded. The remaining segregated  
20      schools and those over 70% minority and in danger of becoming seg-  
21      regated are often already overcrowded. The Hoover and Morse cluster  
22      committees studying school utilization called attention to this  
23      problem. Magnet programs attracting more students to these schools  
24      would only magnify the problem of overcrowding.

25        3. All segregated secondary schools already have one or more  
26      magnet programs, each with its own shortcomings.

27        a. O'Farrell has been successfully integrated by making it the  
28              School of Creative and Performing Arts, but it is now facing

1           complaints by neighborhood parents whose children have not  
2           been able to enroll in the program.

3           b. The Gompers magnet leaves 319 resident minority students  
4           not enrolled in the magnet program still segregated, though  
5           the School District reports it is working to provide more  
6           integration of these students with the students in the mag-  
7           net program.

8           c. Memorial's two magnet programs enroll only 60 non-resident  
9           majority students. The school's total enrollment is 83 maj-  
10          ority students and 714 minority students.

11          d. Lincoln enrolled only 26 full-time, non-resident majority  
12          students and 32 part-time, non-resident majority students.

13          e. Morse enrolled only 9 full-time, non-resident majority  
14          students and 17 part-time, non-resident majority students.

15          The School District has always acknowledged that it may not be  
16          possible to integrate all segregated schools using a voluntary  
17          plan. The limited progress made since 1977 confirms this view.  
18          Because of the complex nature of the problems of a voluntary plan,  
19          some of which are cited above, a solution to one problem often  
20          aggravates another problem. A program to promote integrated  
21          neighborhoods could be a long range solution to these problems.

22

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ATTACHMENT "B"

From Plaintiffs' Objections, filed April 27, 1983

D. Order the parties to develop and engage in a housing desegregation program similar to the one ordered by the United States District Court for the Northern District of California in a Consent Decree entered on December 30, 1982, in San Francisco N.A.C.P. v. San

Selected portions from PLAINTIFFS' OBJECTIONS TO THE

DISTRICT'S PROPOSAL TO ELIMINATE LEARNING CENTERS

WITHOUT PROPOSING ALTERNATIVE PLAN FOR DESEGREGATING

SCHOOLS, filed April 27, 1983, with selected portions

from Appendix I thereto (Consent Decree in San Fran-

cisco N.A.A.C.P., et al., v. San Francisco Unified School

District, et al., dated December 30, 1982) which relate

to plaintiffs' proposal on integrated schools.

Decree is attached as Appendix I.

Rationale: Housing development and growth policies of local, state and federal government are often significant factors in school underutilization, overcrowding of schools, and in determining the racial balance of schools. In recognition of this the Hoover class committee and Board Member Filner recommended that the District work closely with appropriate government agencies on housing and other policies affecting the Hoover area. (3)

However, these policies, and associated problems, are district wide and on-going. Plaintiffs believe it is inadequate that they be handled on an ad hoc, informal basis.

A program to stabilize naturally integrated schools approved by the Board in April should also include a housing component.

Dated: April 27, 1983

Respectfully submitted,

ATTACHMENT "B"

UFM  
Attorney for Plaintiffs

From Plaintiffs' Objections, filed April 27, 1983

D. Order the parties to develop and engage in a housing desegregation program similar to the one ordered by the United States District Court for the Northern District of California in a Consent Decree entered on December 30, 1982, in San Francisco NAACP v. San Francisco Unified School District.

In brief, the Consent Decree ordered the parties to meet with housing agencies to review housing policies and "join in a planning process to devise policies and procedures to avoid segregation in subsidized housing, help integrate existing segregated neighborhoods and help stabilize existing integrated communities." An expert was to be retained to assist in the development of policies and procedures and to monitor their implementation. A copy of the Consent Decree is attached as Appendix I.

Rationale. Housing development and growth policies of local, state and federal government are often significant factors in school underutilization, overcrowding of schools, and in determining the racial balance of schools. In recognition of this the Hoover cluster committee and Board Member Filner recommended that the District work closely with appropriate government agencies on housing and other policies affecting the Hoover area. (5)

However, these policies, and associated problems, are district wide and on-going. Plaintiffs believe it is inadequate that they be handled on an ad hoc, informal basis.

A program to stabilize naturally integrated schools approved by the Board in April should also include a housing component.

Dated: April 27, 1983

Respectfully submitted,

  
VERONICA A. ROESER  
Attorney for Plaintiffs

From Plaintiffs' Objections, filed April 27, 1983

1 to academic subjects or enrichment programs. Dr. Slavin has con-  
2 sulted with the District previously concerning race/human rela-  
3 tions programs, but not on academic programs. See Appendix II for  
additional description of these teaching methods.

4 (5) The Hoover cluster committee is concerned that the Mid-City  
5 Plan, the proposed 40th Street/I-15 freeway, and a proposal to in-  
6 crease residential density in their area may result in more stu-  
dents in their already overcrowded schools and upset the natural racial  
balance in their schools.

7 The committee recommended that "the district continue vigorous  
involvement in the development of the 'Mid-City Plan,'" and take  
8 a position on the freeway development. When the recommendations  
9 of the Hoover cluster committee were acted on by the Board of Edu-  
cation on April 19, 1983, Board Member Filner commented on the ne-  
10 ed for a "cooperative effort with City staff" and the need to work wi-  
the City Planning Commission to develop a long-range solution to  
overcrowding in the mid-city area.

11 In Point Loma, where the problem is declining enrollments at  
underutilization, the staff recommended that special attention be  
12 given to encouraging the growth of the smallest elementary school.  
Last year a housing project on city-owned land in the Loma Portal  
13 Elementary School area, (the smallest school in Point Loma), first  
approved, then rejected by the City Council, could have increased  
Loma Portal's enrollment by as many as 100 students. In line with  
14 the staff recommendation, the Point Loma cluster committee and the  
District might seek reconsideration of this project. If approved  
15 it would not only keep Loma Portal open, it would also reduce  
pressures in overcrowded areas. A housing desegregation program  
16 could be supportive of such an effort.

17 There is still other city-owned land, and there are a number  
of surplus school sites owned by the District, which could offer simi-  
18 lar opportunities to promote both better utilization of schools and  
integration.

19 Some of the agencies and organization in San Diego which might  
be brought together in this program are:

20 San Diego City Planning Department

21 City Planning Commission

22 San Diego Housing Commission, which develops and administers  
affordable housing projects and has extensive knowledge  
of the opportunities for such projects

23 Community Housing Resources Board, funded by HUD to promote  
fair housing

24 Chamber of Commerce

25 Board of Realtors

26 Housing Coalition

27 Urban League

28 Chicano Federation

Union of Pan-Asian Communities

The District staff has recommended that the cluster committees con-  
tinue through the year 1983-84 to assist in the implementation of  
the plans they helped develop. Plaintiffs believe the cluster com-  
mittees also could be appropriately and effectively involved in the  
process of developing housing desegregation policies.

1 effort to encourage and improve participation of parents,  
2 students, staff, and community. Any party may submit to the  
3 Court by May 1, 1983, its recommendations for any additional  
4 steps necessary to assure adequate representation of parents,  
5 students, staff, and the community in the implementation  
6 of the desegregation goals contained in this Consent Decree.

7 undersigned or interfere with the implementation of the

IX

8 provisions of this HOUSING AND DESEGREGATION a specific recom-  
9 mendation 43. Because of the critical impact of government  
10 housing policies on school segregation, the parties shall  
11 engage in the following program, individually and jointly, to  
12 try to secure policies and actions by federal, state and local  
13 housing agencies that promote rather than impede school  
14 desegregation and integration.

15 a. Within one month of the entry of this  
16 Consent Decree the parties shall submit joint letters to the  
17 relevant local, state, and federal agencies requesting  
18 information on the location and tenancy of existing subsidized  
19 housing in the San Francisco housing market area and asking  
20 that the agencies devise policies that will support rather than  
21 undermine school desegregation and integration. The letters  
22 will request that the concerned agencies meet with the parties  
23 to review the impact of existing policies and join in a  
24 planning process to devise policies and procedures to avoid  
25 segregation in subsidized housing, help integrate existing  
26 // / shall submit to the Court and the parties a report on

1 progress in promoting and achieving policies and actions by  
1 housing entities that promote school desegregation and  
1 segregated neighborhoods, and help stabilize existing  
2 integrated communities.

3                   b. The parties shall select an expert who  
3 shall be retained for the purpose of reviewing the information  
5 obtained from the relevant agencies and prepare an analysis of  
6 the extent to which local, state or federal housing policy will  
7 undermine or interfere with the implementation of the  
8 provisions of this Consent Decree, as well as specific recom-  
9 mendations for changes in the policies and practices of the  
10 relevant agencies. Copies of the expert's analysis and  
11 recommendations shall be provided to the parties for their  
12 comments and alternative recommendations, if any. The parties  
13 shall seek to agree on a joint analysis and recommendations.

14                   c. The joint analysis and recommendations of  
15 the parties shall be submitted to the Mayor of San Francisco,  
16 the San Francisco Public Housing Authority, the San Francisco  
17 Redevelopment Agency, and concerned state and federal agencies.  
18 The responses of the agencies will be evaluated by the parties  
19 to determine their adequacy and the need for further action.  
20 The joint analysis and recommendations, the responses of the  
21 relevant agencies and the parties' plans in light of those  
22 responses shall be included in the reports to the Court  
23 required by subparagraph d below.

24                   d. No later than one year after the entry of  
25 this Consent Decree and annually thereafter, the designated  
26 expert shall submit to the Court and the parties a report on

1 progress in promoting and achieving policies and actions by  
2 housing agencies that promote school desegregation and  
3 integration. In addition, each party shall notify the Court  
4 and the other parties of housing developments or changes in  
5 housing policy that would intensify the problem of school  
6 segregation in any part of the District.

7 e. In evaluating the response of the housing  
8 agencies and preparing recommendations, the parties shall  
9 consider the following issues, among others: the impact of  
10 locating additional housing in areas of the city already  
11 racially segregated; the need for the development of tenant  
12 selection policies for subsidized family housing projects that  
13 will promote integration; the need to stabilize areas that are  
14 residentially integrated; the development of policies to  
15 maintain residential and school integration in areas undergoing  
16 "gentrification"; special counseling efforts to show families  
17 with Section 8 certificates housing outside racially isolated  
18 areas; automatic termination of involuntary transportation  
19 programs when neighborhoods become residentially integrated;  
20 and development and improvement of fair housing monitoring and  
21 training programs.

X

REPORTING AND MONITORING

24 44. The S.F.U.S.D. shall report to the Court no  
25 later than August 1, 1983, and annually thereafter for the  
26 duration of this Decree on the performance of the S.F.U.S.D.'s

CONSENT DECREE

From Consent Decree

1 to evaluate the continued effort to achieve academic excellence  
2 throughout the system.

3        G. Parent and Student Participation

4           Under the Consent Decree, the District would continue  
5 its efforts to enhance the role of students, parents, staff  
6 and community representatives in the schools. The parties  
7 would be authorized to submit further recommendations to the  
8 Court on additional steps to assure adequate representation  
9 of parents, students, staff and the community.

10       H. Housing

11           The Consent Decree would commit the parties to  
12 a joint effort to persuade federal, state and local housing  
13 agencies to develop and implement policies that will promote  
14 rather than impede school desegregation.

15       I. Reporting and Monitoring

16           Under the Consent Decree, the District Superintendent  
17 would report to the Court periodically for at least six  
18 years on compliance with the terms of the Decree and progress  
19 toward reaching its goals. The State Department of Education  
20 also independently would review the District's compliance  
21 and report to the Court annually on implementation of the  
22 Consent Decree.

23       J. State Financing

24           The relief ordered by the Consent Decree would  
25 entail additional costs for the District which qualify for  
26 reimbursement from the State as costs of complying with

1 Devlin, Esq. and defendant San Diego Unified School District  
2 appearing by Cristina L. Oyar, Esq. and by F I L E Robert D. Zehnelt, Clerk  
3 Henrikson by Donald R. Lincoln, Esq. and by

SEP 9 1983

4 by Elmer Enstrom, Jr., Esq. The purpose BY G. BERNSTEIN, Deputy by GWS  
5 review and evaluation of the programs of the San Diego Unified  
6 School District (hereinafter referred to as "School District")  
7 have produced.

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

9 "Petition".

10 The question of whether there has been a violation

11 KARI CARLIN, et al., ) NO. 303800

12 Plaintiffs, ) MEMORANDUM OF INTENDED  
13 v. ) DECISION

14 BOARD OF EDUCATION, SAN DIEGO )  
15 UNIFIED SCHOOL DISTRICT, )

16 Defendant. )

17 GROUNDSWELL, et al., )

18 Intervenors, )

19 v. )

20 KARI CARLIN, et al., )

21 Defendants-in- )  
22 Intervention. )

23 The annual review and evaluation of San Diego Unified

24 School District Programs came on regularly for hearing on

25 August 18, 1983 in Department 24 of the above entitled Court,

26 the Honorable Franklin B. Orfield, Judge Presiding; the

27 plaintiffs appearing by Veronica Roeser, Esq. and William F.

1 Gavin, Esq. and defendant San Diego Unified School District  
2 appearing by Cristina L. Dyer, Esq. and Jennings, Engstrand &  
3 Henrikson by Donald R. Lincoln, Esq. and the intervenor appear-  
4 ing by Elmer Enstrom, Jr., Esq. The purpose of the annual  
5 review and evaluation is to determine if the San Diego Unified  
6 School District (hereinafter called the "School District")  
7 programs have produced "meaningful progress" <sup>1/</sup> toward the  
8 "elimination of segregation and the harms inflicted by such  
9 segregation".

10 The question of whether there has been "meaningful  
11 progress" must be examined from several different perspectives.

12 Of paramount importance is whether there has been  
13 meaningful progress toward the elimination of segregation. Even  
14 if there is meaningful progress, is everything being done that  
15 can be done toward the elimination of segregation.

16 Of equal importance to all of us is whether there has  
17 been meaningful progress toward improving the quality of educa-  
18 tion of children in the minority isolated schools. The  
19 elimination of segregation without improvement of the quality  
20 of education of those minority children would be a hollow  
21 victory.

22 Since the passage of Proposition 1, which conforms the  
23 power of state courts to order busing to that exercised by the  
24 federal courts under the Fourteenth Amendment of the Federal  
25 Constitution, mandatory assignment of pupils to eliminate  
26 ~~associated resources made a detailed study of the administration~~

27 1/ All quotations are from Crawford v. Board of Education  
28 (1976) 17 Cal.3d 280, unless otherwise noted.

1 segregation will not be made absent purposeful segregation on  
2 the part of the School District. There is no showing of such  
3 purposeful segregation. On the contrary, it appears that the  
4 Board of Education and its Superintendent are dedicated to the  
5 desegregation of all schools in the School District. The thrust  
6 of the program in San Diego should continue in the direction  
7 of voluntary desegregation and the continued improvement in the  
8 quality of education of students in the minority isolated  
9 schools.

10       Although all goals and interim goals have not been met,  
11 sufficient progress has been made to conclude that there has  
12 been meaningful progress during the past year.

13       Meaningful progress has been made in the overall de-  
14 segregation effort in that the Magnet School Program continues  
15 to increase the involvement of students in the minority isolated  
16 schools and the Voluntary Ethnic Enrollment Program continues  
17 to increase in the number of participants from the minority  
18 isolated schools. Of the 19,048 minority isolated students,  
19 59% participated in either Voluntary Ethnic Enrollment Pro-  
20 grams or Magnet Programs. The remaining 41% have the option  
21 of participating in the Voluntary Ethnic Enrollment Program.

#### ORGANIZATIONAL RESTRUCTURING

23       For the past two years, this Court has indicated a deep  
24 concern about the administrative structure of the School District  
25 and that there has been an urgent need for its overhaul. Court  
26 appointed consultants made a detailed study of the administra-  
27 tive structure of the School District and made certain changes  
28 ----

1 recommendations to the Court. ~~select programs.~~ Other schools  
2 provided It should be noted that the new Superintendent has made  
3 sweeping changes in the administrative structure of the School  
4 District. These changes incorporated the requirements of the  
5 Court and it appears that the new administrative structure will  
6 obviate the problems discussed in earlier decisions of this  
7 Court.

8 ~~the~~ No further order will be made at this time relative to  
9 organizational restructuring.

10 RACE/HUMAN RELATIONS PROGRAM

11 This Court, on October 15, 1982, ordered that the School  
12 District "shall centrally produce a complete race/human relations  
13 course of classroom instruction for each of the thirteen grades  
14 and require the classroom presentation of this course to con-  
15 form to the text centrally developed in the same manner as any  
16 other basic course such as is included in the Achievement Goals  
17 Program". The order further required that the School District  
18 "centrally produce a complete Race/Human Relations Program  
19 insofar as it relates to the indoctrination of teachers and  
20 other school employees".

21 It appears that a very ambitious program has been  
22 developed by the School District. Portions of the program have  
23 been tested in various classes throughout the District and it  
24 appears that the student portion of the order will be fully  
25 implemented in the school year 1983-84. The program for  
26 teachers and other school employees is in place.

27 ~~process~~ The orders of this Court were made because of the uneven  
28 pattern of race/human relations instruction in the school system.

1 Some schools had developed excellent programs. Other schools  
2 provided only lip service to the requirement of a Race/Human  
3 Relations Program.

4 Reaction to the new Race/Human Relations Program on the  
5 part of personnel from the individual schools ranges from warm  
6 enthusiasm to begrudging compliance. Some teachers and adminis-  
7 trators who felt they had done a commendable job in developing  
8 their own Race/Human Relations Program, resented the mandated  
9 centrally developed programs. Some teachers, who nominally  
10 complied with indoctrination sessions, either corrected papers,  
11 read books or otherwise involved themselves during training  
12 sessions.

13 It appears to this Court that a beginning point for  
14 true integration is an understanding by all students in the  
15 District and all personnel employed by the District of racial  
16 and human relations problems and finding ways for their reso-  
17 lution. Without such understanding, we could be involved in a  
18 mere mass shifting of bodies without truly accomplishing our  
19 objective to be fully integrated in the true sense of the word  
20 and not merely in the mix of persons in classrooms. It appears  
21 fundamental that a sound Race/Human Relations Program, uniformly  
22 presented, would be best for all concerned rather than uneven-  
23 ness of the program as it previously existed.

24 The Race/Human Relations Program that has been centrally  
25 devised by the School District for students and staff is a  
26 program that has obviously been well planned and is in the  
27 process of being well implemented.

28 -----

1           IT IS ORDERED that the Race/Human Relations Program  
2        be implemented as heretofore ordered and all school personnel  
3        be made aware of the importance of this program and its place  
4        in the integration effort. It is the finding of the Court that  
5        the School District is complying with the order in a commend-  
6       able manner.

7           VOLUNTARY ETHNIC ENROLLMENT PROGRAM (VEEP)

8           The Voluntary Ethnic Enrollment Program (VEEP) con-  
9        tinues to be a very important part of the desegregation effort.

10          The number of students in the VEEP from minority  
11        isolated schools totalled 4,628 or almost 25% of all students  
12        in minority isolated schools, or nearly 40% of the total of the  
13        students involved in the VEEP and Magnet Programs.

14          Many of the problems involved in the VEEP Program in  
15        the past have been remedied. Substantial increases in trans-  
16       portation between the receiving school and the sending school  
17       to accommodate after school extracurricular activities have  
18       been made.

19          A number of problems however still remain. Complaints  
20       have been made that bus drivers have made racial slurs, that  
21       some classes have become resegregated and that programs for  
22       VEEP limited English proficient students are spotty and in some  
23       areas completely lacking. VEEP Programs vary substantially in  
24       quality and implementation from site to site. The School  
25       District should determine at the earliest practicable time  
26       which VEEP site plans are most successful at each grade level  
27       and replicate them at comparable grade levels at all other VEEP  
28       receiving schools.

1        ~~SUCCESS~~ Nothing is accomplished if resegregation occurs at the  
2 receiving school and/or limited English proficient students are  
3 not adequately trained in the receiving school. It is hoped  
4 that the racial slurs will be eliminated and that recurrence of  
5 conduct of that type will be obviated by the teachings of the  
6 Race/Human Relations Programs insofar as they apply to the staff  
7 and other employees.

8              The VEEP Program gives us an exact measurement of the  
9 effectiveness of our desegregation efforts. All students from  
10 minority isolated schools attending majority schools are clearly  
11 desegregated and with proper efforts, will be completely  
12 integrated.

13              IT IS ORDERED that increased efforts be made to interest  
14 increased numbers of students in the VEEP Program and that  
15 adequate programs be established for limited English proficient  
16 students to proceed apace with English speaking students in the  
17 receiving schools.

18              IT IS FURTHER ORDERED that continued efforts be made  
19 to make the students feel that they are a part of the receiving  
20 school by including them in all activities, including after  
21 school programs, and by continuing to provide bus transportation  
22 to accommodate extracurricular activities after school hours.

23              IT IS FURTHER ORDERED that careful monitoring of  
24 classes at VEEP receiving schools take place to the end that  
25 resegregation does not occur except in cases of absolute  
26 necessity such as classes conducted in native languages.

27              IT IS FURTHER ORDERED that the School District determine  
28 at the earliest practicable time which VEEP site plans are most

1       successful at each school level and replicate them at comparable  
2       school levels at all other VEEP receiving schools.

3                   MAGNET SCHOOLS

4       During the 1982-83 school year, 17,830 students partici-  
5       pated in the District's Magnet Programs, representing a growth  
6       of 2,604 students. Of these students, 6,646 are from minority  
7       isolated schools, an increase of 1,126 over last year.

8       The level of the Magnet Schools has remained somewhat  
9       static during this past year, with only a Communications Magnet  
10      Program added at Knox in the elementary Magnet Program and  
11      certain expansions made at the secondary level. It is recognized  
12      that those modest expansions were necessitated this year due  
13      to economic constraints. It would be a genuine tragedy to see  
14      the Magnet School Program slow down or falter at this point.  
15      Expansion of the program must continue, financial constraints  
16      notwithstanding.

17      The options for furthering desegregation and in the end  
18      accomplishing integration are few. The two programs that offer  
19      the greatest opportunities are the VEEP Program and the Magnet  
20      School Program. The Magnet School Program must expand by at  
21      least one new such program at the elementary level and one new  
22      such program at the secondary level each school year until a  
23      Magnet School exists in each of the minority isolated schools.

24                   IT IS ORDERED that the Magnet School Program be ex-  
25                   panded to provide for one new program at the elementary level  
26                   and one new program at the secondary level each year until each  
27                   minority isolated school has a Magnet Program.

28       -----

## BILINGUAL PROGRAMS

The Bilingual Program was established to provide limited English proficient students instruction in their native language while simultaneously teaching English as a second language.

The Spanish Bilingual Program has been in existence for a long time and will be with us for the foreseeable future.

There continue to be numbers of problems in connection with the Spanish Bilingual Program. There is an unevenness of the program from school to school. Many teachers in the English as a second language program are not properly trained. Some administrators are not fully aware of the objects and purposes of the Bilingual Program. Many students remain in primary language classes year after year, some through the twelfth grade. There is insufficient follow-up of exited students from primary language programs. All too often students are permitted to exit primary language programs in advance of their capabilities in the English language. Bilingual Programs for VEEP students remain spotty. Some administrators in receiving schools appear to be unaware of the needs of VEEP limited English proficient students.

Even more complex problems are extant in the Indo-Chinese Bilingual Program. The several dialects complicate it further. The Indo-Chinese bilingual problem is extremely complex but it will be with us for only a few years. It is understandable that such programs are not clear cut, uniformly devised and implemented but it is difficult to understand why the Hispanic Bilingual Program has not been fully developed and uniformly implemented in all of the schools where limited English proficient Hispanic students attend.

1 It is noted that the School District agrees in virtually  
2 every respect with the recommendations of the Court appointed  
3 Integration Task Force in bilingual matters.

4 IT IS ORDERED that the School District report to the  
5 Court no later than March 1, 1984 of steps taken to obviate the  
6 problems hereinabove outlined relative to the Hispanic Bilingual  
7 Program.

8 TESTING RESULTS FOR MINORITY ISOLATED SCHOOLS (SPRING 1983)

9 On December 2, 1980 Judge Louis M. Welsh ordered that  
10 the School District implement a course or courses of study in  
11 all minority isolated schools which would result by specified  
12 dates in 50% of the students in the isolated schools achieving  
13 at or above the national norm on the Comprehensive Test of  
14 Basic Skills (CTBS) in reading, mathematics and language.

15 Between April 18, 1983 and May 4, 1983, approximately  
16 12,000 students who were enrolled in the court identified  
17 minority isolated schools were administered the appropriate  
18 levels of the Comprehensive Test of Basic Skills (CTBS) in the  
19 areas of reading, language and mathematics. In grades 5, 7  
20 and 9, all District students in the regular instructional  
21 program were also tested using the CTBS. In the fall and  
22 winter, grades 11 and 12 were tested District-wide as well.  
23 The type of test used in the base line year of 1980 was known  
24 as Form S tests. Since that time the testing procedure has  
25 changed to what has been designated as a Form U test. The  
26 publisher of the tests has provided the School District with a  
27 method to equate the data between the two test norms. The  
28 Court instructed the District to provide test summary information

1 using both sets of norms.

2         Using base line norms (Form S), the test results for the  
3 spring of 1983 indicate that 27 of the 35 interim goals were met  
4 or exceeded. Using current norms (Form U), 22 of the 35 interim  
5 goals were met or exceeded.

6         Grades 1 and 2 were scheduled to attain the Court stated  
7 requirement in the spring of 1983. Using base line norms (Form  
8 S), the standard was met at both grades in reading, language and  
9 mathematics. Using current norms (Form U), the standard was  
10 attained at both grades for mathematics but not for reading or  
11 language.

12         Of great significance is the substantial reduction of  
13 the degree of difference between the scores in minority isolated  
14 and non-minority isolated schools, especially at the elementary  
15 and junior high school levels.

16         For the first time this year test scores by ethnic sub-  
17 groups in minority isolated and non-minority isolated schools  
18 has been provided. In all cases the minority ethnic sub-groups  
19 in the non-minority isolated schools were higher than the  
20 corresponding ethnic sub-groups in the minority isolated schools.  
21 However, the "margin of advantage" over the minority isolated  
22 schools has decreased for almost every ethnic sub-group in all  
23 grade levels tested. In some instances, the minority students  
24 in the minority isolated schools are scoring higher than their  
25 ethnic counterparts in the non-minority isolated schools. In  
26 examining the test results for minority isolated schools, it  
27 appears that in reading virtually all classes from kindergarten  
28 to and including grade 10 have shown increases and in all cases

1 except one there have been increases in the year 1983 over the  
2 year 1982. The figures are disappointing in grades 11 and 12.  
3 There has been a slight increase in grade 11 over the base line  
4 but, disappointingly, a decrease below the base line in grade 12.

5 In language there has been an increase in each grade  
6 level from kindergarten through 10 over the base line and with  
7 the exception of grade 10, there has been a substantial increase  
8 of the 1983 test scores over the 1982 test scores. There has  
9 been slight progress in grades 10 and 11 and a disappointing  
10 decline in grade 12. The above outlined data is applicable  
11 whether base line norm (Form S) is used or the present norm  
12 (Form U).

13 While substantial increases have been shown in reading  
14 and language, the most dramatic increase has been in mathe-  
15 matics. Every grade from kindergarten through 11th has exceeded  
16 their interim goals under the base line (Form S) method or the  
17 current (Form U) method. Grade 12 met the interim goal as set  
18 for 1983 under the Form U method and was somewhat short under  
19 the Form S method. Outstanding work is being accomplished in  
20 all grades in the field of mathematics.

21 A. Comparison of minority isolated schools with non-  
22 minority isolated schools.

23 Although non-minority isolated schools were higher  
24 than minority isolated schools at all grade levels measured  
25 District-wide in all content areas, i.e., reading, language and  
26 math, at the time of the base line year of 1979-80 and the most  
27 recent testing of the school of 1982-83, the gap between the  
28 two has narrowed dramatically. This very substantial increase

1       in scores of students in the minority isolated schools clearly  
2 demonstrates the dedication of the personnel in these schools  
3 and the unquestioned learning abilities of their students.

4           While scores in reading, language and math in non-  
5 minority isolated schools may have remained somewhat static,  
6 increasing no more than 10 percentile points in the grades  
7 tested, students in the minority isolated schools increased  
8 their percentiles in every category from a few points to as  
9 much as 35 percentile points. The comparative statistics are  
10 extremely encouraging.

11           B. Test scores by ethnic sub-groups.

12           In almost all cases, students in minority isolated  
13 schools regardless of ethnic sub-groups, have demonstrated  
14 greater gains relative to the base line data than their ethnic  
15 counterparts in non-minority isolated schools, although in most  
16 instances the minority students in non-minority isolated schools  
17 score higher than their counterparts in minority isolated schools.  
18 The ethnic minorities in the minority isolated schools are doing  
19 so well in some areas that they have overtaken and surpassed  
20 their ethnic counterparts in non-minority isolated schools.

21           While minorities in non-minority isolated schools are  
22 in some instances making modest increases, in others barely  
23 holding their own and often going down in their percentile  
24 standing, in almost every instance the minorities in the  
25 minority isolated schools have substantially increased their  
26 percentile standing.

27           The dramatic improvement in almost every instance and  
28 the actual overtaking in a number of instances of minorities

1 in minority isolated schools over their counterparts in non-  
2 minority isolated schools is a tribute to the fine work of  
3 teachers, staff and students in the minority isolated schools.

4 ~~706 stud~~ IT IS ORDERED that an investigation be made into  
5 grades 10, 11 and 12 in the minority isolated schools to  
6 determine why they have not made the same relative progress  
7 that has been made in the lower grades and report to the Court  
8 its findings by March 1, 1984.

9 ~~a value~~ IT IS FURTHER ORDERED that investigation be made into  
10 the areas of the lower grades where lesser progress has been  
11 made.

12 OTHER PROGRAMS

13 The Race/Human Relations Outdoor Education Program for  
14 6th graders will be in place for the school year 1983-84 with  
15 a strong emphasis on race/human relations training. The Balboa  
16 Park Program for 5th graders and the Old Town State Park  
17 Program for 4th graders will continue in effect, also with  
18 strong emphasis on race/human relations training. All three of  
19 these District-wide programs will provide a one week integrated  
20 program for participants, starting in the fourth grade. The  
21 same groups of students will meet and participate again in the  
22 5th grade and again in the 6th grade.

23 Thousands of children will participate in these well  
24 considered integrated programs.

25 ~~past tract~~ The Learning Centers involved 5,027 students in  
26 integrated learning experiences for one day each week. Of  
27 these, 1,981 were majority students and 3,046 minority, of  
28 whom 1,944 were from minority isolated schools. This program

1       is being phased out and replaced by other programs.

2              The Extended Elementary Instructional Exchange Program  
3       continued this year on a voluntary basis by schools. It involved  
4       766 students, of which 459 were minority and 182 from minority  
5       isolated schools.

6              The Court is of the opinion that the 4th, 5th and 6th  
7       grade programs with race/human relations emphasis is an  
8       important adjunct to the integration effort and will provide  
9       a valuable integrated experience for all students in the  
10      District.

11              INTERVENORS' OBJECTIONS TO NEW RACE/HUMAN  
12       RELATIONS PROGRAM AND CLASSROOM ASSIGNMENTS

13              The intervenors object to students being assigned to  
14       particular classes and particular seats within classes solely  
15       because of race and to being required to attend a race/human  
16       relations course through their remaining school years under  
17       judicial mandate.

18              This issue has been addressed earlier in discussions of  
19       magnet school eligibility rules which take race into account  
20       when making assignments.

21              In the case of the Regents of the University of California  
22       v. Bakke (1977) U.S. 265, the court said that "government may  
23       take race into account when it acts not to demean or insult any  
24       racial group, but to remedy disadvantages cast on minorities by  
25       past racial prejudice, at least when appropriate findings have  
26       been made by judicial, legislative, or judicial bodies with  
27       competence to act in this area."

28              A fair reading of Bakke leads to the conclusion that

1 taking race into consideration, in appropriate instances to  
2 remedy past discrimination, is a valid constitutional classifica-  
3 tion.

4 This Court has earlier stated that each school board in  
5 California has the duty and obligation to take reasonably  
6 feasible steps to desegregate and to adopt and implement plans  
7 to accomplish that purpose. State courts in California have  
8 the duty, when the need arises, to order a segregated school  
9 district to use voluntary desegregation techniques. By their  
10 very nature, techniques for desegregation must in some respect  
11 consider the race of the students involved. That consideration,  
12 to alleviate segregation, as long as one race is not absolutely  
13 preferred over the other, has received the judicial approval  
14 of the United States Supreme Court.

15 IT IS ORDERED that compulsory race/human relations  
16 educational programs are not violative of the constitutional  
17 rights of any of the children. On the contrary, a program of  
18 this type, designed to make all students more aware of possible  
19 conflicts among races and peoples and ways of resolving those  
20 conflicts, particularly in a melding pot nation such as the  
21 United States, appears to be particularly appropriate.

22 IT IS FURTHER ORDERED that assignment to particular  
23 seats and to particular classes solely because of race does not  
24 violate the constitutional rights of any of the children in-  
25 volved.

26 PAST ORDERS

27 IT IS ORDERED that orders numbered 4, 5, 7, 10, 11, 12,  
28 13 and 14 of October 15, 1982 be continued in full force and

1       effect. This Court could continue to make annual evaluations

2       and orders.     FUTURE JUDICIAL REVIEWS OF ~~increasingly evident~~ the  
3       SCHOOL DISTRICT ACTIVITIES

4       because of the present intervention by the Court in the School District, such

5       annual Numbers of things have emerged since the intervention  
6       of the Court in the within case.

7              Over the years it has been necessary for the Court to  
8       make orders which have had the effect of changing the direction  
9       of education insofar as it relates to our minority children.

10          Firm steps have been necessary on occasion to change well  
11       entrenched and seemingly unbending modes impeding desegregation  
12       and ultimately integration.

13          Changing the course of a large School District with over  
14       150 schools, the second largest in the state, is akin to chang-  
15       ing the course or turning about a large ship like the Q E II.  
16       It cannot be turned about in a short distance, but rather  
17       requires careful, deliberate and purposeful maneuvering. Such  
18       has been the case with the San Diego Unified School District.  
19       It is the perception of the undersigned that the School District  
20       is now on the proper course.

21          We have a Superintendent and Board who are dedicated,  
22       not only to desegregation but integration in the true sense of  
23       the word. Programs have been established which are bringing  
24       about integration imaginatively and as swiftly as possible,  
25       short of mandatory assignment of pupils. None of the parties  
26       to this litigation can suggest further immediate programs that  
27       would measurably accelerate the cause of integration. It  
28       appears that refining and expanding present programs are the  
29       only true remaining options.

1        This Court could continue to make annual evaluations  
2 and orders. However, it is becoming increasingly evident that  
3 because of the present direction of the School District, such  
4 annual reviews and orders would be imposing a layer of expen-  
5 sive judicial supervision which is no longer necessary.

6        Judges by training and education are not equipped to  
7 supervise School Districts and/or school programs. It has  
8 become necessary for the judiciary to become involved in edu-  
9 cational matters but only insofar as the Court's activity re-  
10 lates to desegregation, integration and the quality of education  
11 of students in minority isolated schools.

12       The judiciary should not involve itself in other  
13 educational matters and should remove itself completely in  
14 these matters when desegregation and integration matters are  
15 adequately handled by the School District.

16       This Court contemplates continuing its supervision of  
17 the desegregation and integration program of the School District  
18 until October 1, 1984. It is anticipated that a final order  
19 will be made shortly after that date incorporating all pertinent  
20 past orders of this Court and any additional orders that may  
21 be made up to that date.

22       After October 1, 1984, no further annual reviews will  
23 be made by the Court, the Court Integration Task Force will be  
24 disbanded and any further activity in the matter will come  
25 about only by way of noticed motion based upon urgent necessity.  
26 These will be the circumstances extant as of October 1, 1984  
27 unless presently unforeseen circumstances dictate otherwise.  
28 -----

## CONCLUSION

The Court's Integration Task Force is again to be commended for its excellent work in functioning as the eyes and ears of the Court in monitoring the progress of the integration efforts in the School District. The School District and counsel on all sides of this case have been very responsive in providing data required by the Court.

The continuing spirit of cooperation and dedication to the cause of true integration of our schools will assure further substantial gains in the coming school year.

DATED: September 9, 1983.

JUDGE OF THE SUPERIOR COURT

*F* Robert D. Zamwell, Clerk

NOV 18 1983

BY G. BERNSTEIN, Deputy

1 San Diego Unified School District came on regular  
2 on August 18, 1983 for the purpose of determining if the programs  
3 of the District have produced meaningful progress toward the  
4 elimination of segregation and the harm inflicted by such  
5 segregation. On September 9, 1983, the court issued its Intended  
6 Decision.

7 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

8 DECLARATION IN AND FOR THE COUNTY OF SAN DIEGO

9 Proposition 11 and Consent of the Plaintiff(s) No. 303800

10 KARI CARLIN, et al., and ) Intended Decision, objections to  
11 Plaintiffs, ) an 1983-84 supplemental  
12 v. ) STATEMENT OF DECISION

13 BOARD OF EDUCATION, SAN DIEGO UNIFIED SCHOOL DISTRICT,

15 Defendant.

16 GROUNDSWELL, INC., et al.,

17 Intervenors.

19 Honorable FRANKLIN B. ORFIELD, Judge Presiding, Department 24;  
20 and VERONICA ROESER, Esq., and WILLIAM F. GAVIN, Esq., for  
21 plaintiffs;

22 JENNINGS, ENGSTRAND & HENRIKSON, by DONALD R. LINCOLN, Esq.,  
23 and CHRISTINA L. DYER, General Counsel, San Diego Unified School  
24 District, for defendant;

25 ELMER ENSTROM, Esq., for intervenors.

26 The annual review and evaluation of the programs of defendant

1 San Diego Unified School District came on regularly for hearing  
2 on August 18, 1983 for the purpose of determining if the programs  
3 of the District have produced meaningful progress toward the  
4 elimination of segregation and the harms inflicted by such  
5 segregation. On September 9, 1983, the Court issued its Memorandum  
6 of Intended Decision.

7 Thereafter, plaintiffs filed a Request for Statement of  
8 Decision and Judgment and For Extension of Time for Filing  
9 Proposals for the Content of the Statement of Decision, Objections  
10 to the Court's Memorandum of Intended Decision, Objections to  
11 Proposed Order Re Integration Plan 1983-84 and Supplemental  
12 Objections to Proposed Order. Defendant filed a Response to  
13 Plaintiffs' Objections to the Court's Memorandum of Intended  
14 Decision. The Court, having treated the documents filed as  
15 plaintiffs' request for a statement of decision specifying those  
16 controverted issues as to which plaintiffs are requesting a  
17 statement of decision and as proposals for the statement of  
18 decision, and no further proposals as to the content of the  
19 statement of decision having been made within the time allowed,  
20 and having heard and considered the evidence presented, the law,  
21 the arguments of counsel, the objections of the parties, and the  
22 documents relating to the statement of decision above referenced,  
23 and being fully advised in the matter, makes this Statement of  
24 Decision:

25           ///      
26           ///

1 STATEMENT OF DECISION

2 The MEMORANDUM OF INTENDED DECISION filed September 9, 1983,  
3 shall be the Statement of Decision in this case, with the following  
4 modifications:

5 1. At page 4, following line 9 (relating to the RACE/HUMAN  
6 RELATIONS PROGRAM), add:

7 "IT IS ORDERED that the School District meet with the  
8 Integration Task Force to explore the possibility of  
9 consolidating the monitoring of the Race/Human  
10 Relations Program."

11 2. At page 8, following line 2 (relating to VOLUNTARY ETHNIC  
12 ENROLLMENT PROGRAM), add:

13 "IT IS ORDERED that the School District make  
14 its checks of ethnic class enrollment as early in each  
15 semester as possible, having due regard for fluctuations  
16 in class enrollment in the early weeks of the semester  
17 and submit to the Court by March 1, 1984, the criteria  
18 it will use in determining ethnic class enrollment."

19 3. At page 8, following the addition made by paragraph 2  
20 above, add:

21 "HOUSING

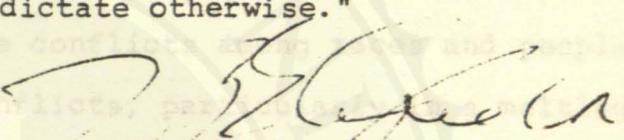
22 "IT IS ORDERED that the School District cooperate  
23 with housing authorities and take whatever steps might  
24 be appropriate to it when such moves would further  
25 the cause of integration."

26 ///

1       4. At page 18, modify lines 22 through 27 to read:

2       5. "After October 1, 1984, no further annual reviews  
3       will be made by the Court, the Court Integration Task  
4       Force will be disbanded and any further activity in  
5       the matter will come about only by way or noticed motion  
6       based upon good cause shown. These will be the circum-  
7       stances extant as of October 1, 1984 unless presently  
8       unforeseen circumstances dictate otherwise."

9       DATED: Nov 18 1983

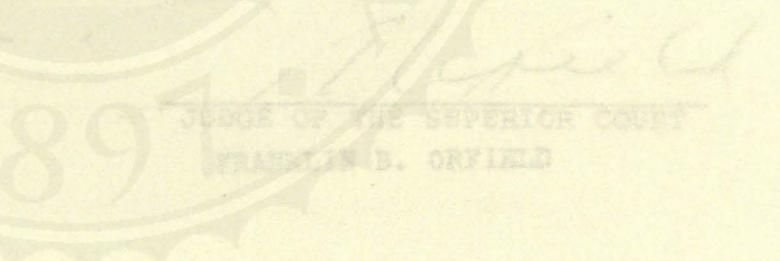
  
JUDGE OF THE SUPERIOR COURT  
FRANKLIN B. ORFIELD

10      get action such as the United States, appropriate.

11      17. Assignment to particular seats and to particular classes  
12      solely because of race does not violate the constitutional rights  
13      of any of the children involved.

14      18. All Orders numbered 4, 5, 7, 10, 11, 12, 32 and 44 of the  
15      October 18, 1982 ORDER RE INTEGRATION PLAN 1781-S1 be continued in  
16      full force and effect.

17      DATED: Nov 18 1983

  
JUDGE OF THE SUPERIOR COURT  
FRANKLIN B. ORFIELD

1       2       3       4       5       6       7       8       9       10      11      12      13      14      15      16      17      18      19      20      21      22      23      24      25      26

VERONICA A. ROESER  
WILLIAM F. GAVIN

1       15. The 4th, 5th and 6th grade one-week programs with race/  
2                  human relations emphasis is an important adjunct to the integration  
3                  effort and will provide a valuable integrated experience for all  
4                  students in the District.

5       16. Compulsory race/human relations educational programs are  
6                  not violative of the constitutional rights of any of the children.  
7                  On the contrary, a program of this type, designed to make all  
8                  students more aware of possible conflicts among races and peoples  
9                  and ways of resolving those conflicts, particularly in a melting  
10                 pot nation such as the United States, appears to be particularly  
11                 appropriate.

12       17. Assignment to particular seats and to particular classes  
13                  solely because of race does not violate the constitutional rights  
14                  of any of the children involved.

15       18. Orders numbered 4, 5, 7, 10, 11, 12, 13 and 14 of the  
16                  October 15, 1982 ORDER RE INTEGRATION PLAN 1982-83 be continued in  
17                  full force and effect.

18       DATED: NOV 18 1983

19                  Franklin B. Orfield  
20                  JUDGE OF THE SUPERIOR COURT  
21                  FRANKLIN B. ORFIELD

1           VERONICA A. ROESER  
2           WILLIAM F. GAVIN  
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Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO

KARI CARLIN, et al ) No. 303 800

**Plaintiffs**

13      

14 BOARD OF EDUCATION

15

GROUNDSWELL, et al.

#### Intervenors

18

19

20 KIRI CHIKIN, et al

## Defendants in Intervention

**PLAINTIFFS' PROPOSED ISSUES FOR FALL 1983 HEARINGS**

24 AND

**OBJECTIONS TO DEFENDANT'S EVALUATION OF THE INTEGRATION PLAN**

## 2 ISSUES PLAINTIFFS PROPOSE TO DISCUSS AT THE FALL 1983 HEARINGS

3 A. At the hearing scheduled for August 18, 1983, plaintiffs  
4 propose to discuss:5 1. The lack of meaningful progress in desegregating the  
6 segregated schools.

7 2. The Race/Human Relations Program.

8 B. At a later hearing plaintiffs propose to discuss the  
9 following issues:

10 1. Test results.

11 2. The district's policies and practices in regard to  
12 tracking.13 3. Uneven discipline as reported in the district's Report  
14 On Site Monitoring Of Integration Programs 1982-83,  
15 dated July 12, 1983, and their Report Of The Evaluation  
16 Of The Race/Human Relations Program, dated July 26, 1983.

17 4. Elimination of the San Diego High School optional zones.

18 5. The district's report of Effective Factors Of Student  
19 Achievement In Minority Isolated Schools, dated February  
20 22, 1983.

21 / / / / /

1  
2 II  
3

4 AFTER SIX YEARS OF THE SAN DIEGO PLAN FOR RACIAL  
5 INTEGRATION THERE IS STILL NO MEANINGFUL PROGRESS  
6

7 A. SCHOOLS AND STUDENTS REMAIN SEGREGATED.  
8

9 Today there are 22 schools over 75% minority, only one less  
10 than in 1977 when the plan began. (See Table 1) Nineteen of these  
11 schools are among the original 23 designated as segregated by the  
12 Court. There are still 11,048 minority students in schools over  
13 80% minority, compared to 12,079 in 1976-77. (See Table 2) Since  
14 1977 this number has been reduced by only 1,031 students, or 172  
15 students per year. At this rate it will take another 64 years to  
16 desegregate the remaining segregated students.  
17

18 B. SCHOOLS ARE NOT BEING STABILIZED.  
19

20 This year there are 31 schools over 70% minority compared to  
21 only 23 in 1977. (See Table 1) Ten of the eleven schools which  
22 have become over 70% minority since 1977 have no programs designed  
23 to stabilize them.  
24

25 C. ONLY 25 PERCENT OF MAGNET STUDENTS DESEGREGATE.  
26

27 Only 4,543 (25%) of the 17,830 students participating in  
28 magnet programs either desegregate segregated schools, desegregate  
magnet programs either desegregate segregated schools, desegregate  
segregated minority students, or stabilize imbalanced schools in  
danger of becoming segregated. (See Table 3) This year 355  
minority and majority students participating in magnet programs  
actually increased segregation or imbalance, compared to 204 last  
year—an increase of 74%.  
29  
30

1  
2      TABLE 1  
3      SCHOOLS LISTED BY PERCENT MINORITY<sup>(1)</sup>

| <u>YEAR</u>      |   |  |   |
|------------------|---|--|---|
| Percent Minority | 1976-77   | 1981-82  | 1982-83   |
| 90-100           | Baker<br>Balboa<br>Burbank<br>Chollas<br>Emerson <sup>(3)</sup><br>Fulton<br>Gompers<br>Horton <sup>(3)</sup><br>Johnson<br>Kennedy<br>Knox<br>Lincoln<br>Logan<br>Lowell<br>Mead<br>Memorial<br>Sherman<br>Stockton<br>Valencia Park <sup>(3)</sup><br>Webster | Balboa<br>Burbank <sup>(2)</sup><br>Gompers <sup>(2)</sup><br>Horton<br>Kennedy<br>Knox<br>Lincoln<br>Logan<br>Memorial<br>Sherman<br>Stockton | Balboa <sup>(2)</sup><br>Gompers <sup>(2)</sup><br>Horton<br>Kennedy*<br>Knox<br>Lincoln<br>Logan*<br>Sherman*<br>Stockton* |
| 80-90            | O'Farrell <sup>(4)</sup>  | Baker<br>Chollas<br>Emerson<br>Freese<br>Linda Vista<br>Lowell<br>Mead<br>Morse<br>Valencia Park   | Burbank<br>Emerson<br>Freese*<br>Linda Vista*<br>Memorial<br>Morse<br>Valencia Park   |
| 75-80            | Freese<br>Morse<br>San Diego <sup>(5)</sup>   | Audubon  | Baker<br>Boone*<br>Chollas<br>Lowell<br>Mead<br>Washington*   |
| 70-75            | Bell<br>Boone<br>Central<br>Euclid<br>Keiller<br>Paradise Hills<br>San Diego<br>Washington  | Audubon*<br>Brooklyn*<br>Carson*<br>Central*<br>Euclid*<br>Keiller<br>Paradise Hills<br>Perry<br>San Diego                                     |   |

Footnotes on next page.

1                   TABLE 22                   NUMBER OF MINORITY STUDENTS IN SCHOOLS  
3                   OVER 70% AND 80% MINORITY (1)

|  | <u>1976-77</u> | <u>1981-82</u> | <u>1982-83</u> (2) |
|--|----------------|----------------|--------------------|
| 5         Number in Schools<br>6         Over 70% Minority | 15,600         | 18,377         | 19,014             |
| 7         Number in Schools<br>8         Over 80% Minority | 12,079         | 12,599         | 11,048             |

9                   Footnotes for Table 2:

- 10                  (1) Data is from the Pupil Ethnic Censuses, 1976-77, 1981-82,  
11                  1982-83, and students Participating In Magnet Programs, 1982  
12                  and 1983.
- 13                  (2) The 505 minority students in the regular (non-magnet) Horton  
14                  school and the 319 minority students in the regular (non-magnet)  
15                  Gompers school are in schools over 90% minority and are in-  
16                  cluded in these totals.  
17                  -----  
18

19                   Footnotes for Table 1:

- 20                  (1) The data for this table comes from the Pupil Ethnic Censuses,  
21                  1976-77, 1981-82, 1982-83, and from the Students Participating  
22                  In Magnet Programs, April 1982 and 1983.
- 23                  (2) Only the magnet programs at Gompers and Horton are desegregated.  
24                  Since these magnets are school-within-school programs, the 319  
25                  minority students in the regular (non-magnet) Gompers school  
26                  and the 505 minority students in the regular (non-magnet)  
27                  Horton school remain in schools which are over 90% minority.
- 28                  (3) Three of the Court-designated segregated schools, (Fulton,  
29                  Johnson, and Webster), are now less than 70% minority.
- 30                  (4) In September 1981 the O'Farrell site was taken over by the  
31                  School of Creative and Performing Arts (SCPA). O'Farrell  
32                  students were reassigned. Students enrolled in SCPA are drawn  
33                  from all over the district, making it a balanced school.
- 34                  (5) San Diego High School was the only school over 70% minority  
35                  not designated as segregated by the Court. Morse was 76%  
36                  minority. San Diego was 78.4% minority. Freese was 78.5%  
37                  minority, in 1976-77.
- 38                  \* Schools which have no magnet programs.

1  
2        TABLE 3

| 3 <u>EFFECTS OF PARTICIPATION IN MAGNET PROGRAMS ON SEGREGATION</u> (1)          |                                  |                                 |
|--|----------------------------------|---------------------------------|
| 4        Transfers which desegregate segregated schools. (2)                     | 5        1,560 majority students | 6                               |
| 5        Transfers which desegregate students, but not segregated schools. (3)   | 6        2,249 minority students | 7                               |
| 6        Transfers which stabilize imbalanced schools. (4)                       | 7        734 majority students   | 8                               |
| 7        Transfers which increase segregation or imbalance. (5)                  | 8        134 minority students   | 9        221 majority students  |
| 8        Transfers which have no effect on segregated or imbalanced schools. (6) | 9        612 minority students   | 10      1,477 majority students |
| 9        Resident students participating in magnet programs. (7)                 | 10      7,474 minority students  | 11      3,369 majority students |
| 10      Totals   | 11      10,469 minority students | 12      7,361 majority students |
| 11      -----  | 12 <u>17,830</u> students        | 13                              |

16        (1) This table is based on data from Students Participating In  
17        Magnet Programs (April 1983). Segregated schools are those  
18        designated by the Court, with the exception of O'Farrell,  
19        which was replaced by the School of Creative and Performing  
20        Arts in 1981, and which is a balanced school. Imbalanced  
21        schools here means minority imbalanced schools. The district  
22        has defined a naturally integrated school as a school within  
23         $\pm 10$  percentage points of the district ethnic balance. Using  
24        this standard, plaintiffs have listed schools as minority  
25        imbalanced where the resident population is at least 10  
26        percentage points more minority than the district-wide ethnic  
27        balance for that category of school, (elementary, middle,  
28        junior high, senior high). Excluding schools already designated  
29        as segregated by the Court, the schools are: Audubon, Boone,  
30        Brooklyn, Carson, Central, Encanto, Euclid, Fremont, Jackson,  
31        Lee, Linda Vista, Marshall, Paradise Hills, Perry, Washington,  
32        Keiller, Bell, Montgomery, Hoover, Kearny, San Diego.

33        (2) Majority students transferring from majority schools to segregated schools desegregate the segregated schools.

34        // / / / /

1

(FOOTNOTES FROM PREVIOUS PAGE CONTINUED)

2

- 3       (3) Minority students transferring from segregated or imbalanced  
4       schools to majority schools are desegregated, but their trans-  
5       fer does not desegregate the schools they leave.
- 6       (4) Majority students transferring from majority schools to imbalan-  
7       ced schools help to stabilize the imbalanced schools.
- 8       (5) Transfers of minority students from majority schools to seg-  
9       regated or imbalanced schools, minority students from imbalanced  
10      schools to segregated schools, or majority students from im-  
11      balanced or segregated schools to majority schools, increase  
12      segregation or imbalance.
- 13      (6) Transfers of minority or majority students from one majority  
14      school to another, minority or majority students from one  
15      imbalanced school to another, majority students from an imbalan-  
16      ced school to a segregated school, or minority or majority stud-  
17      ents from one segregated school to another segregated or im-  
18      balanced school have no effect on segregation or imbalance.
- 19      (7) Resident students participating in magnet programs have no  
20      effect on segregated or imbalanced schools.
- 21      (8) 3,069 of these resident minority students are in Court-desig-  
22      nated segregated schools which are still over 80% minority,  
23      and thus they remain in clearly segregated schools, despite the  
24      presence of magnet programs. The schools are: Baker, Burbank,  
25      Chollas, Emerson, Lowell, Mead, and Valencia Park.

26      // / / / /

27      The data on this table is taken from Tables 10 and 11 of the  
28      Report of the San Joaquin Plan for Racial Integration 1963-64.

1  
2                   **TABLE 4**3  
4                   NON-RESIDENT MAJORITY STUDENTS ENROLLED IN MAGNET PROGRAMS  
5                   IN SEGREGATED SCHOOLS COMPARED WITH ENROLLMENT GOALS, 1982-83<sup>(1)</sup>

| School        | Goal  | Enrollment | Difference |
|---------------|-------|------------|------------|
| Baker         | 125   | 112        | -13        |
| Burbank       | 48    | 63         | +15        |
| Chollas       | 86    | 123        | +37        |
| Emerson       | 90    | 80         | -10        |
| Fulton        | 200   | 212        | +12        |
| Horton        | 125   | 76         | -49        |
| Johnson       | 140   | 131        | -9         |
| Knox          | 100   | 58         | -42        |
| Lowell        | 98    | 91         | -7         |
| Mead          | 50    | 52         | +2         |
| Valencia Park | 115   | 65         | -50        |
| Webster       | 215   | 180        | -35        |
| Gompers       | 374   | 344        | -30        |
| Memorial      | 70    | 60         | -10        |
| Lincoln       | 60    | 26         | -34        |
| Morse         | 30    | 9          | -21        |
| Total         | 1,926 | 1,682      | -244       |

1                   // / / / /

2                   Evaluation of the Racial Integration Report dated July 20, 1982,  
3                   this evaluation established baseline data against which to measure  
4                   performance. The process of future evaluations will be

5                   Only materials for which the 1982 student goals were attained  
6                   this year. In light of the shortcomings found this year, the  
7                   district's evaluation report recommended these materials for the next

8                   (1) The data in this table is taken from Tables 10 and 12 of the  
9                   Report Of The San Diego Plan For Racial Integration 1982-83,  
10                   dated June 28, 1983.

1           D. MAGNET PROGRAMS IN SEGREGATED SCHOOLS CONTINUE TO FALL  
2           SHORT OF THEIR MODEST GOALS.

3           Twelve of the 16 magnet programs in segregated schools failed  
4           to meet their majority student enrollment goals. (See Table 4)  
5           That the goals are modest can be seen by the fact that none of  
6           these 12 schools would have become less than 75% minority, even if  
7           they had met their goals. It is the desegregation of these minor-  
8           ity schools which is called for by Crawford, and thus, these  
9           enrollments are a true and appropriate measure of the lack of  
10          success of the integration plan.

11           III

12          DISTRICT AND INTEGRATION TASK FORCE EVALUATIONS OF THE RACE/HUMAN  
13          RELATIONS PROGRAM PROVIDE EXTENSIVE DETAILED FINDINGS AND  
14          SPECIFIC RECOMMENDATIONS FOR REMEDIAL ACTION

15          The new, centrally developed, sequential race/human relations  
16          program began to be implemented in a limited fashion this past  
17          year. A very detailed, factual and extensive evaluation of the  
18          race/human relations program was made by the district's Evaluation  
19          Services Department. The results are in the Report Of The  
20          Evaluation Of The Race/Human Relations Program, dated July26, 1983.  
21          This evaluation established baseline data against which to measure  
22          performance and progress in future years.

23          Only materials for two of the five concept goals were utilized  
24          this year. In light of the shortcomings found this year the  
25          district evaluation report recommended that materials for the three  
26          remaining programs be field tested and evaluated next year.

27          The May 20, 1983 Integration Task Force (ITF) Report and the  
28          district's evaluation do not contradict, but support and

1 supplement, each other. These reports provide a surfeit of excellent,  
2 explicit guidance for improvement of the race/human relations pro-  
3 ram.

4 IV

5 COMMENTS ON THE ITF REPORT AND THE DISTRICT'S RESPONSES

6 A. In most cases the district agreed with the ITF recommen-  
7 dations and proposed effective action. Plaintiffs offer comments  
8 only on the following items.

9 1. Under the topic "Integration Monitoring Process" the ITF  
10 observed "that there are not enough non-District members on the  
11 [monitoring] teams resulting in greater weight given to District  
12 members input and a tendency to mask non-District input."

13 On each monitoring team there were 4-6 district members,  
14 with most teams having 5 or more. (29 of 48 teams had 5 or more  
15 district members). About half of the teams had only one community  
16 (non-district) member, and half had two community members. (One  
17 team had three community members.)

18 Based on discussions with ITF members, plaintiffs under-  
19 stand that the ITF recommendation is that community membership on  
20 each monitoring team should be as close to 50% as possible. The  
21 problem is not so much a question of individual member input not  
22 being recorded, but rather that the input by community members  
23 might be adversely affected by the dynamics of a group in which  
24 the community member may be only one of six or seven, and might  
25 be further affected adversely by the fact that the other members  
26 are all a part of the institution being monitored.

27 We do not believe the action proposed by the district is  
28 responsive to this concern.

1           2. Under the topic of the "Volunteer Ethnic Enrollment  
2         Program" the ITF called for "ancillary services necessary to  
3         ensure the successful completion of their (VEEP student) academic  
4         program."

5           While the district shares this concern, the proposed action  
6         does not provide for any specific ancillary services to ensure  
7         the academic success of VEEP students. Plaintiffs believe specific-  
8         ic services should be proposed.

9           3. Under the topic of "Magnet Schools" the ITF recommends  
10        that "an outside agency be hired" to evaluate the magnet schools.  
11        The district reports that Abt Associates examined the San Diego  
12        schools magnet programs in February 1983, and a report will be  
13        forthcoming. Plaintiffs reserve comment on this ITF recommend-  
14        ation until this report is reviewed.

15    V

16    CONCLUSION

17           Plaintiffs maintain there has been no meaningful progress  
18         in desegregating the segregated schools.

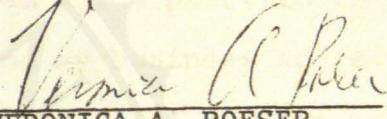
19           The ITF underscores this lack of progress by again calling  
20         attention to the five Court-designated segregated schools for  
21         which there are no specific integration plans. (ITF Report, May  
22         20, 1983, page 3). Last year the ITF recommended that the  
23         district make explicit plans for these five schools. The district  
24         responded that a study of these schools would be conducted in  
25         1982-83. However, the ITF reported this year that they have not  
26         seen such a study. They repeated their concern, asking, "1. Is  
27         something going to be done to desegregate these remaining isolated  
28         schools? 2. What is going to be done, and 3. When will it

1 happen?" The district did not answer these questions in their  
2 response this year to the ITF.

3 Plaintiffs urge the Court to order the district to provide  
4 answers to these questions for the five Court-designated segregated  
5 schools which have no desegregation programs, and for the other  
6 schools over 70% minority which have no desegregation programs or  
7 programs to stabilize them.

8 Dated: August 11, 1983

9 Respectfully submitted,

10   
11

12 VERONICA A. ROESER  
13 Attorney for Plaintiffs  
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59

Superior Court.  
Municipal Court.

Proof of Service by Mail.

Ed.(10-77).

PROOF OF SERVICE BY MAIL

I served the within document on the party (parties) indicated below by mailing copies thereof to their attorney(s) at the addresses shown below, on the date indicated below. I am not a party to this action, and I am over the age of 18 years, and my business address is Spreckels Building, San Diego, California, 92101. I declare under the penalty of perjury that the foregoing is true and correct.

Executed at San Diego, California, on date shown below.

8/11/83

DATE OF SERVICE

rs swift

PERSON MAKING SERVICE BY MAIL

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