[MS-0234.002.003.006]

FILED

27 JUL 1978

BY [signature] Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

KARI CARLIN, et al., Plaintiffs,	)	No. 303800
v.	)	
BOARD OF EDUCATION, SAN DIEGO UNIFIED SCHOOL DISTRICT, Defendants.	)	FINDINGS OF FACT AND CONCLUSIONS OF LAW

In compliance with this court's Order of March 9, 1977, defendant submitted on June 13, 1977, for approval, a plan to desegregate San Diego Schools. On August 8, 1977 the court filed its "Final Order for 1977-78 School Year," reserving final determination of the overall adequacy of the desegregation plan but directing defendant to proceed forthwith to implement certain designated programs to alleviate segregation during the 1977-78 school year. On November 28, 1977 the plan as a whole was found inadequate and the Board of Education was directed to submit a revised plan. The revised "Plan for Racial Integration, 1978-82" was filed with the court on March 22, 1978.

Hearings on said revised plan were held on May 17 and 18, 1978, and the court having heard and considered the arguments of counsel and having reviewed and considered the said revised plan and being fully advised in the matter, the court hereby makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

I

The revised "Plan for Racial Integration, 1978-82" (hereinafter "Plan") was adopted by all members of the Board of Education and approved without dissent, by the reconstituted sixteen-member Citizens Advisory Commission for Racial Integration.

II

The Plan is a voluntary one that relies on magnet schools, integrated learning experiences, and various voluntary enrollment programs.

III

The Voluntary Ethnic Enrollment Program (VEEP), site and teacher integrated projects, compensatory education programs, magnet schools, learning centers and secondary exchange programs, in effect during the 1977-78 school year and before, have produced meaningful progress toward the alleviation of segregation.

IV

The Plan and its implementation have demonstrated that defendant is committed to immediately institute some reasonable and feasible steps to alleviate school segregation.

///

V

The future success or failure of the voluntary plan cannot be forecast with any reasonable degree of certainty; only time will reveal what further progress will result toward the alleviation of segregation.

VI

To evaluate the program as it is further implemented, the court requires an independent body to observe and monitor the Plan and to report directly to the court.

VII

Integrated educational experiences for isolated minority children are more likely to occur if:

1. Additional Elementary Learning Centers are planned so as to include participation therein by substantially all minority isolated children in grades 4 to 6 who are not otherwise enrolled in magnet programs or VEEP.

2. All children are included in these Elementary Learning Centers unless their parents opt out.

3. Additional Learning Centers are developed in neighborhoods not identified as either "majority" or "minority."

4. The Secondary Instructional Exchange Program is expanded and operated on an opt-out basis.

5. The voluntary pairing and clustering

proposal set forth in the board's original plan submitted on June 13, 1977 (pages 131-138) is reinstated.

6. The Secondary Bilingual Centers at Collier Junior High School and Point Loma High School are opened for the 1978-79 academic year.

7. All optional zones are eliminated by September 1979.

8. The Board of Education determines in April or May 1979 whether limited mandatory assignments of pupils will be necessary for the 1979-80 academic year.

VIII

Attorneys for plaintiff have served as private attorneys general and have achieved the enforcement of constitutional rights on behalf of a substantial number of San Diego citizens when the public Attorney General failed to pursue the matter.

CONCLUSIONS OF LAW

I

The Plan promises to achieve meaningful progress toward eliminating segregation in the San Diego schools provided that:

A. Additional Elementary Learning Centers are planned so as to include participation therein by substantially all minority isolated children in grades 4 to 6 who are not otherwise enrolled in magnet programs or VEEP,

B. All children are included in these Elementary Learning Centers unless their parents opt out.

C. Additional Learning Centers are developed in neighborhoods not identified as either "majority" or "minority."

D. The Secondary Instructional Exchange Program is expanded and operated on an opt-out basis.

E. The voluntary pairing and clustering proposal set forth in the board's original plan submitted on June 13, 1977 (pages 131-138) is reinstated.

F. The Secondary Bilingual Centers at Collier Junior High School and Point Loma High School are opened for the 1978-79 academic year.

G. All optional zones are eliminated by September 1979.

H. The Board of Education determines in April or May 1979 whether limited mandatory assignments of pupils will be necessary for the 1979-80 academic year.

II

The Plan is approved provided that the conditions enumerated in Conclusion of Law I A-H are implemented forthwith.

III

The San Diego Unified School District will cooperate with the

Integration Task Force, to be appointed by the court, to permit and assist said arm of the court to observe, monitor and evaluate the Plan in operation.

IV

The Board of Education will submit to the court on or before June 8, 1979, its determination concerning the effectiveness of the all voluntary plan; whether it has, in fact, produced meaningful progress toward the further elimination of segregation in the San Diego schools and whether limited mandatory assignments of pupils will be necessary for the 1979-80 academic year.

V

Attorneys for plaintiffs are entitled to recover fees for their services from defendant. Factors relevant to determine the amount of attorney fees include the length of trial, the complexity of the litigation, the time spent by counsel, fees customarily charged by counsel of similar capability and reputation and the size and nature of the public entity against whom fees are to be assessed. Counsel have not kept accurate time records but this court has had the case before it since September 1973 and from its experience the court can judge the amount of time reasonably required to be invested by counsel. Based upon all relevant factors, fees are awarded as follows:

///

///

///

///

William Gavin, Esq.	$30,000.00
Veronica Roeser, Esq.	$35,000.00
Nancy B. Reardan, Esq.	$20,000.00
Mary E. Harvey, Esq.	$ 4,000.00
Robert B. Wayne, Esq.	-0-
John W. Porter, Esq.	$ 1,500.00
Luther A. Goodwin, Esq.	$ 300.00
Peter B. Clarke, Esq.	$ 300.00
J. Perry Langford, Esq.	$ 1,000.00
Irwin Gostin, Esq.	$ 5,000.00
TOTAL	$97,100.00

Let judgment enter accordingly.

DATED: 27 JUL 1978.

LOUIS M. WELSH

JUDGE OF THE SUPERIOR COURT

HW/rml