[ms-0234.002.003.010]

FILED
Robert D. Zumwalt, Clerk
DEC 28 1978
BY G. HARTLING, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

KARI CARLIN, et al., Plaintiffs, v. BOARD OF EDUCATION OF THE SAN DIEGO UNIFIED SCHOOL DISTRICT, Defendant.	)	NO. 303800 ORDER RE PROCEDURE FOR CONTACTS BETWEEN THE PARTIES AND THE INTEGRATION TASK FORCE

IT IS ORDERED:

1. Plaintiffs and defendant in the above-entitled action, their employees, counsel and those closely and continuously associated with plaintiffs and defendant shall not appear before the Integration Task Force (ITF) to argue the merits or demerits of mandatory assignments ("busing"), and no such person or entity shall discuss the work of the ITF with individual members of the Task Force except as hereinafter provided during meetings of the ITF or subcommittees thereof.

2. Except when the Task Force goes into executive session, each party may have a maximum of four observers (excluding counsel) at ITF meetings. Counsel shall not attend meetings except those which may be held in court.

3. The ITF, through its chairman or vice-chairman, may request either party for information. Insofar as possible, such requests shall be in writing and, in any event, the opposing party shall be notified of the request that has been made. Requests of defendant shall be made through Mr. Edward S. Fletcher. Requests of plaintiffs shall be made through Mrs. Melba Margolis, in care of Veronica A. Roeser, Esq., 455 Spreckels Building, San Diego, California 92101. Copies of information furnished by a party pursuant to such a request shall be forwarded to the opposing party. Such copies shall be forwarded to the respective counsel of each party.

4. Either party may voluntarily submit written material to the Task Force. Such communication shall be directed to the chairman and an original and one copy shall be forwarded to him. A copy of such information shall be served upon the opposing party. The chairman and vice-chairman of the Task Force or their designees will determine what portions of such material, if any, shall be distributed to each member of the Task Force. All such material shall be kept on file at the office of the Task Force, and it shall be available for review by any member thereof.

DATED: DEC 28 1978

LOUIS M. WELSH

JUDGE OF THE SUPERIOR COURT

LMW/gh

Superior Court of the State of California
FOR THE COUNTY OF SAN DIEGO

Case No. 303800

I HEREBY CERTIFY:

I am not a party to the cause referred to herein.

On the date as shown below, at San Diego, California, I placed a true copy of

ORDER RE PROCEDURE FOR CONTACTS BETWEEN THE PARTIES AND THE INTEGRATION TASK FORCE

the original/a copy of which is attached hereto, in a separate envelope addressed to each addressee as listed below and each envelope was then sealed and deposited in the mail with the postage fully prepaid:

Chief of Police William B. Kolender
San Diego Police Department
801 W. Market Street
San Diego, California 92101

Donald R. Lincoln, Esq.
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Veronica A. Roeser, Esq.
455 Spreckels Building
San Diego, California 92101

Dated December 29, 1978

ROBERT D. ZUMWALT, Clerk

By Gerald Hartling
Deputy
Gerald Hartling

CLERK'S CERTIFICATE OF SERVICE BY MAIL (C.C.P. 1013a(3)

Form 286 Co. Clk. (1-71)

[MS-0234.002.003.011]

FILED

28 NOV 1977

BY [illegible] Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

KARI CARLIN, et al., Plaintiffs, v. BOARD OF EDUCATION, SAN DIEGO UNIFIED SCHOOL DISTRICT, Defendant.	)	No. 303800 ORDER AND GUIDANCE MEMORANDUM

Counsel for both sides have suggested that a final decision concerning the San Diego Integration Plan should be deferred until the Spring of 1978 when the effectiveness of current programs can be evaluated. The Court agrees. However, this memorandum is issued to advise the parties concerning the adequacy of the Plan submitted and to order the Board of Education to submit a revised plan on or before May 1, 1978.

The June 12, 1977 Plan and the July 20th Amendment thereto (hereinafter "Plan") do not assure this Court that the Board has met the Supreme Court's requirement that all "reasonable and feasible steps to alleviate school desegregation" have been taken. (Crawford v.

Board of Education, (1976) 17 Cal.3d 280, 285.) The Plan includes programs that offer promise . . . "to achieve meaningful progress toward eliminating the segregation" (Id., at 286) but much of the Plan is vague, ambiguous and indefinite. Large portions of the Plan are repetitive or refer to programs that are totally irrelevant to desegregation and some of the specific programs are of questionable value as desegregation techniques.[1/] Each of these criticisms will be discussed in detail, but first let us examine those programs that do offer promise.

At the elementary level, the fundamental school magnets (pages 66-67)[2/] which have been started at Webster and Rolando Elementary Schools appear to be positive steps toward encouraging parents of young children to permit them to travel short distances to schools outside the immediate neighborhood. Other promising programs now in progress or to be started in the near future are: The Intercultural Language Schools (pages 68-69), now located at Longfellow and Oak Park Elementary Schools but which are to eventually serve all grades; the Bilingual School to be implemented at one of the isolated elementary schools and to be then continued into the secondary level (pages 82, 149-153); pairing and clustering; the Voluntary Ethnic Enrollment Program (pages 131-138); the Specialized Learning Centers for grades 4, 5 and 6 (Amendment,

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1/ The Court, of course, does not pass on the value of programs from an educational standpoint. The Court's focus is narrowly concerned with desegregation.

2/ Page numbers refer to the Plan unless otherwise stated.

pages 2-3); and the Oral Communication Instruction Program for all grades (Amendment, pages 8-10).

On the secondary level there are the Intercultural Language Schools (pages 68-69) and the Bilingual Program (pages 83-84, 154-157) discussed above. Also of interest are the Mathematics and Science Magnet to be implemented at O'Farrell, Gompers or Lincoln (pages 91-92); the Center for Urban Studies at Morse (pages 75-77); the Career Exploration program involving four junior high schools (pages 112-114) provided the program shall be expanded to include the entire academic year; the Basic Instructional Exchange Program (pages 115-116 -- also called the Urban Exchange Program in the Amendment at pages 6-7) and, of course, the Voluntary Ethnic Enrollment Program.

THE PLAN IS VAGUE, AMBIGUOUS AND INDEFINITE.

Scattered throughout the Plan are statements that leave the Board complete discretion to abandon many programs. For example, the Plan provides that the program "envisions"[3/] turning one segregated elementary school into a magnet school each year (page 56); certain magnet schools will be created in the future "if feasible" (pages 78-81); voluntary pairing and clustering will "continue for an indeterminate period of time" (page 137).

In their brief filed on July 6, 1977, Schools' attorneys attempt to defend the Board from the charge that the Plan is indefinite. They write: "By 1981 the program will undoubtedly include

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3/ All underlining is supplied unless otherwise indicated.

at least one magnet program in each of the five minority isolated secondary schools" (at 22). They then cite six examples referring to pages 66-69 and 71 of the Plan. But by examining the references to the Plan, one finds that only three commit the Board to put the proposed magnets in an isolated school. If all five segregated secondary schools will have magnets by 1981, then the Plan should so state unequivocally. Again, at page 22 of the brief we read: "By 1981 the program also envisions that several of the 18 minority isolated elementary schools will be involved in magnet programs." Counsel refer to five schools, but only two are definitely planned. The other three are to be started "if feasible."

IRRELEVANT OR REPETITIVE PORTIONS OF THE PLAN.

Pages 29-31 simply repeat that the staff will participate in Human Relations Programs described on pages 17-28. Pages 41-52 repeat that all schools in the District will have a multi-cultural curriculum. Pages 123-124 (Community School Recreation Service) cover a type of adult education with no desegregation component. An entire section entitled "Bilingual Education" covering pages 141-154 is either unrelated to desegregation or is repetitive of programs described at pages 82 and 154-157. Pages 165-200 appear to have nothing to do with desegregating the schools. This section covers Public Relations/Communication, State and Federal Regulations, School Enrollment Trends, Attendance Boundaries (continued study is recommended), Balanced Community Planning and Development (this concerns activities of the municipality) and Evaluation (a description of procedures used to measure racial movement).

PROGRAMS OF QUESTIONABLE VALUE.

ELEMENTARY:

1. It is proposed that the minority population at Benchley and Silvergate and the majority population at Encanto be increased (pages 61-64). This is commendable and could be of value but there is no indication of the percentage increase to be achieved or how or when this is to be accomplished.

2. The Plan "envisions" converting three elementary schools a year (one isolated, one tipping and one majority) into magnet schools (Montessori, Performing Arts Centers and Child Care Centers) if feasible (page 56). It is uncertain that these programs will be implemented, but if they are established and they prove to be successful, how many years will be required to substantially affect the segregated elementary schools (pages 78-81)?

3. The Balboa Park, Outdoor Education (camping) and Historical/Cultural (Old Town visits) programs (pages 104-111) have little or no desegregation value. In fact the camping program can prove counterproductive since it brings together in intimate living arrangements 11-13 year old youngsters of different racial, socioeconomic and cultural backgrounds who previously had been totally isolated from one another.

SECONDARY:

1. The role of the secondary magnet school is to attract white students to schools located in the minority community (e.g., Wright Brothers Career School). Therefore, those special programs

that are planned for balanced or majority imbalanced schools (Mission Bay, Crawford, Madison and Kearney(?)- pages 70, 72-74, 85-86) do not qualify as magnet programs. The cost of these programs should not be attributed to the desegregation order.

2. Year-round schools now have various racial mixtures. Their power to draw white students to minority schools may be seriously doubted (page 71).

3. The Performing Arts Center to be implemented at San Diego High[4/] in 1978-1979 will eventually accommodate approximately 800 white students and 400 minority students. It will cost $200,000.00 (pages 87-90). Since it will be a "school within a school," it will have little or no effect on the existing racial balance of San Diego High (78.4% minority). If the minority students that choose to enroll in this program are already in balanced schools, then it will have no desegregating effect whatsoever. The cost of this program should not be attributed to the desegregation order.

4. The Community/School Resources Experiences for grades 7-12 (pages 117-118) are one-week field trips. Their value is obviously limited.

5. The Summer Local Government Studies (pages 121-122) touches 200 grade 12 students for a summer. Few minority students (70) are affected.

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4/ The Plan says it will be located at a "tipping secondary school in Center City." Testimony at trial indicated it is planned for San Diego High.

6. The Fundamental School Program planned for 1978-1979, could be useful if placed in a junior high school designated as segregated. The Plan, however, does not commit the Board to implement the program in a minority school (pages 66-67).

7. Additional Integrated Learning Experiences (pages 125-126) are sporadic, infrequent, vague and offer little or no value to desegregation.

If this Court is to determine that the Board has taken all reasonable and feasible steps to desegregate the schools, then it certainly needs more than the Board's unsupported conclusion that it has done so. The Board's failure to squarely address the alternatives and to cogently explain why some techniques must be rejected leaves the Court in doubt.

The Court expects that a desegregation plan will outline in what way, to what extent and how many isolated children can be successfully desegregated. An honest and straightforward statement of what can and cannot be done and why, will enable the Court to determine if the Board is doing everything that is "reasonable and feasible." Whatever the solution may be, it will not be found in obscurity.

The Board of Education will submit a revised desegregation plan consistent with this memorandum on or before May 1, 1978.

Dated: 28 NOV 1977

Louis M. Welsh

Judge of the Superior Court

LOUIS M. WELSH

/pap