

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
NORTHEASTERN DIVISION

LARRY BENNETT, et al., )  
 )  
 Plaintiffs, )  
 )  
 UNITED STATES OF AMERICA, )  
 )  
 Plaintiff-Intervenor, )  
 v. )  
 )  
 MADISON COUNTY BOARD OF )  
 EDUCATION, )  
 )  
 Defendant. )

Case No. 5:63-CV-613-MHH

**CONSENT ORDER**

**I. Implementation of the Consent Order**

A. Director of Equity and Innovation

The Director of Equity and Innovation, who will report to the Deputy Superintendent, will facilitate and monitor the implementation of the District's obligations concerning this Order. The Director of Equity and Innovation shall be responsible for, among other things:

1. Collecting or overseeing the collection of the data required for the District's Annual Report in the "Monitoring and Reporting" section, *infra* Section VII, of this Order;
2. Developing, in consultation with counsel for the Madison County Board of Education, and annually providing mandatory professional development to all school administrators, certified faculty, social workers, bus drivers, and instructional aides in the District regarding cultural competency and their responsibilities under the Order; specifically:
  - i. The District shall develop such training within ninety (90) calendar days of entry of this Order. Within thirty (30) calendar days of developing the training, the District shall provide Plaintiff Parties with copies of the training materials.
  - ii. The first such training shall occur within one hundred fifty (150) calendar days of entry of this Consent Order.
3. Overseeing annual professional development workshops/trainings for current District employees interested in being promoted to administrative positions in the District. Notice of such training shall be provided to the Huntsville-Madison County Chapter of the NAACP at least fourteen (14) calendar days before each training; and
4. Ensuring that all school principals and Central Office administrators in the District are provided with the annual Racial Staffing Report or a similar Report identifying the number of faculty, staff, and administrators in the District (including Central Office), by race, gender, and position.

B. Desegregation Advisory Committee

The Board shall establish a desegregation advisory committee (DAC or Committee) representing a racial, income, and regional cross-section of the District to advise the Superintendent and seek input on the implementation of the terms of this Consent Order.

1. The Committee shall be composed of eleven individuals as follows:
  - i. One parent/guardian representative for each of the District's five school feeder patterns (*i.e.*, Buckhorn, Hazel Green, Madison County High School, New Hope, and Sparkman);

- ii. One student representative from the Superintendent's Student Advisory Group for each of the District's five school feeder patterns; and
    - iii. The Director of Equity and Innovation.
  2. The Director of Equity and Innovation shall serve on the Committee permanently. All other Committee members will apply for a one-year or two-year term.
  3. Selection of DAC Members:
    - i. The Parties will solicit applications for the inaugural DAC members. Applications for inaugural DAC members will be due by September 15, 2022.
    - ii. Beginning with the DAC selection process for the 2023-24 school year, the Parties will solicit applications from parents and students by May 15 of each year using an application that screens for possible financial or professional conflicts with the District. The District will ensure that the United States and Private Plaintiffs receive copies of all DAC applications the District receives. The Parties will independently review and rank the applicants. The Parties will then meet and confer to jointly rank the applicants and provide a brief statement of reasons why the Parties believe certain applicants should be selected. In rank ordering the applicants, the Parties will consider the demographics of the District, the applicants' relevant qualifications, and potential conflicts of interest. The applicants with the highest rank from each of the District's five (5) school feeder patterns will be asked to serve on the Committee. The Parties will complete the selection process within thirty (30) days of the application deadline.
  4. At least two (2) times per year, in meetings open to the public at a District facility, the DAC shall meet and review data and other information concerning the implementation of this Consent Order. The DAC will maintain minutes of its meetings and such minutes, together with the agenda of the meetings, shall be public information posted on the District's website;
    - i. No later than thirty (30) days, after the inaugural DAC members have been selected, the inaugural DAC will hold an initial non-public meeting to elect a chair and identify operating procedures consistent with this Consent Order. In each year following, no later than September 1, the DAC will hold an initial non-public meeting to elect a chair and review operating procedures. The Parties will ensure that the DAC receives appropriate training and technical assistance.
    - ii. The DAC's minutes will be thorough and informative, so that the public can be aware of the DAC's work. The minutes will contain, at a minimum, the following: a description of the topics discussed at the meeting; a list of names of the individuals who attended the meeting; and the conclusions, if any, that the DAC reached.

5. The DAC will meet with the Superintendent or his/her designee at least two (2) times per year to discuss the DAC's review of the data and recommendations.
6. To ensure the DAC has sufficient information to enable it to fulfill its responsibilities, the District will share all reports to the court and other appropriate information and documents requested by the DAC, provided that adequate safeguards are taken so as not to disclose confidential or personally identifiable information protected by FERPA or other applicable privacy laws. The District will respond in a timely manner to requests made by the DAC.
7. If the DAC believes that the District has unreasonably denied a request for information, the DAC will inform the Parties. Within a reasonable time after receiving this information, the Parties will confer and attempt to resolve the issue.
8. Members of the DAC will recognize and respect the need for confidentiality with respect to the DAC's private meetings. The DAC's public communication about its private conversations will consist of its published minutes and discussions in meetings established under the terms of the Consent Order. The DAC may allow non-DAC members to participate in its private meetings to provide support or information that the DAC deems necessary; however, the non-DAC member's presence will be limited to the time needed to perform the requested task, and non-DAC members who attend DAC meetings will be subject to the confidentiality requirements that govern DAC members.
9. The DAC will create multiple means of receiving feedback from stakeholders, including a dedicated DAC email address, a physical mailing address, and a locked drop box at each school. The District will work with the DAC to ensure that only the DAC has access to communications from these sources. The District will not have direct access to the feedback. The DAC will communicate feedback to the District and to stakeholders as appropriate. As part of its operating procedures, the DAC will establish a process and timetable for responding to stakeholder comments.
10. By May 1 of each year, the DAC will prepare an annual report regarding its assessments of the District's compliance with its desegregation obligations. The DAC shall submit its report to the Superintendent and the Parties. The annual report may include minority or dissenting opinions from members of the DAC on issues discussed in the report. No later than the Board's first meeting in June, the Superintendent will present the DAC's report and his or her commentary as to that report to the Board during a meeting of the Board. Thereafter, the District will promptly file the report and commentary with the Court.

## **II. Student Assignment**

### **A. Between-School Assignment**

Before the District may change zone lines or the configuration of grades in a school, the District shall provide notice to the Plaintiff Parties of the proposed change(s). Notice shall include: (1) a description of the proposed change(s); (2) a summary of the impact of the proposed change(s)

on student assignment in the District; and (3) the projected impact of the change(s) on the racial demographics of students, faculty, and administrators at each affected school.

Plaintiff Parties shall have thirty (30) calendar days to review and provide comment to the District on the proposed change(s) to school zone lines or the configuration of grades in a school. Within forty-five (45) calendar days of the end of the review-and-comment period, the District shall request Court approval of any such change(s) and shall indicate to the Court whether the private plaintiffs and/or the United States objects to the proposed change(s). If the Private Plaintiffs or the United States objects to the proposed change(s), they may present their position to the Court.

**B. Within School Assignment**

*1. Equitable Access to Course Offerings and Programs*

Students shall have access to the course offerings and academic programs the District provides without regard to race.

*i. Elementary Gifted Programming*

Within sixty (60) calendar days of entry of this order, the District shall develop a plan for its elementary gifted program that includes the following and identifies the steps necessary to ensure delivery of gifted services to students on an equitable basis:

- a. Designation of a central office administrator responsible for oversight of the program, including management and review of records of gifted identification and gifted services received; monitoring and analysis of gifted referrals and designations by race and by school; and coordination of professional development for gifted teachers and other District staff involved in the gifted identification process;
- b. Development and implementation of a uniform process to identify students who are eligible for gifted and talented services and ensure eligible students receive services on an equitable basis as follows:
  1. The District's process shall use reliable and valid instruments for identifying students for the gifted program. Consistent with Alabama State Department of Education standards for gifted identification, the District shall ensure that the abilities of students from underrepresented groups are accurately assessed by evaluating them with instruments that cover a broad range of aptitudes, such as verbal, nonverbal, and creativity;
  2. The District shall provide professional development to all faculty involved in the gifted identification process to cultivate and promote the equitable identification of gifted students;

3. If the District's identification process is implemented only in a single grade level (for example, second grade), then for a minimum of three years from the date of entry of this Order, the District shall notify those students who were tested and excluded from the District's gifted program in that year's testing period about the gifted program and the opportunity for re-testing, and re-test students who request it; and
  4. The District shall develop a communication plan to ensure that all parents/guardians are aware of the District's gifted program and the District's gifted identification process. This will include targeted outreach to parents/guardians of black students.
- c. Establishment and implementation of a plan to improve racial diversity across teams of teachers and specialists involved in gifted education at each school.

Plaintiff Parties shall have at least sixty (60) calendar days to review and comment on the District's proposed gifted plan. The Parties shall meet and confer and make a good-faith effort to resolve any concerns regarding the plan. If the Parties are unable to reach an agreement, then any party may move the Court to resolve the dispute so long as the motion is made within thirty (30) calendar days of the meet and confer.

*ii. Course and Curricular Offerings*

Beginning with the 2022-23 school year and each school year thereafter, the District shall undertake the following with respect to course and curricular offerings:

- a. Review its criteria for enrollment in College Prep ("CP") and Advanced Placement ("AP") courses to ensure that the criteria do not create barriers to the participation of black students;
- b. Work with teachers, counselors, and school administrators to identify students, particularly black students, who have the potential to succeed in CP or AP courses and encourage those students to enroll;
- c. Work with teachers, counselors, and school administrators to identify students, particularly black students, who have the potential to obtain advanced academic diplomas, if applicable, and conduct outreach to encourage those students to pursue such diplomas;
- d. Develop a program of services to support students in CP and AP courses, including students from groups historically under-represented in these classes;

- e. Prior to the course enrollment window, each high school shall conduct outreach to all students in grades six through twelve and their parents/guardians regarding the school's CP and AP courses, including the availability of financial assistance for AP exams. The District shall ensure teachers and counselors work to eliminate barriers to black student participation in CP and AP courses;
- f. The District will use a variety of methods to communicate course information to parents, including, but not limited to, mass notification calls, emails, posts on District and high school websites, posts on District social media pages, and fliers sent home with students. Printed copies of the District's Course Catalog will be available at each high school and the District's Central Office.
- g. Administer parent/guardian and student surveys to gather feedback on improving the AP experience for current and future students and evaluate the results of those surveys with a focus on improving the participation and achievement of black students. These surveys shall include both students who have and have not previously enrolled in AP courses; and
- h. Provide equitable AP offerings at high schools within the district ensuring, at a minimum, each high school offers at least one (1) AP course in each of the four (4) core content areas of math, English, science and social studies.

## 2. *Discipline*

### *i. Discipline Equity Consultant*

Within sixty (60) calendar days of entry of this Consent Order, the District shall engage a qualified third-party consultant mutually agreed upon by the District and the Plaintiff Parties to provide technical assistance related to the District's administration of student discipline. The United States shall contact the Equity Assistance Center-South on behalf of the District to inquire about the Center's availability to provide such assistance free of charge. The Discipline Equity Consultant shall collaborate with the District to conduct a comprehensive review of the District's discipline policies and procedures (including but not limited to: the District's Discipline Referral Form, the District's Code of Conduct, the disciplinary sections of individual schools' student handbooks, and the District's alternative school handbook), identify trends or racial disparities in the District's administration of student discipline, and consider underlying causes of such trends or disparities. The Discipline Equity Consultant shall also review at least three full years' worth of discipline-related data of the type referenced in the "Data Collection and Review" section, *infra* Section II.B.2.iii. In conducting this review, particular attention shall be given to the extent to which the District's policies and procedures:

- a. are uniform among the District's schools, with all students subject to the same rules regardless of the student's race or the school they attend;
- b. provide clear guidance regarding discretionary discipline, including but not limited to using concrete definitions of prohibited conduct and identifying specific, developmentally appropriate criteria for assessing and responding to infractions;
- c. ensure that disciplinary consequences minimize students' loss of instructional time and that students who do lose instructional time as a result of exclusionary discipline are provided opportunities to make up missed work;
- d. articulate specific criteria and protocols governing assignment to the District's alternative school, including clear and uniformly applied due process procedures and consistent length of placement for similar offenses;
- e. facilitate the establishment of a positive school culture by promoting constructive teaching of school rules and social-emotional skills and positive reinforcement of appropriate student behavior, including incorporating a continuum of alternatives to exclusionary discipline (such as positive behavioral intervention and supports, reflective writing assignments, conflict resolution, and restorative justice practices);
- f. provide appropriate consequences or interventions for infractions related to tardiness;
- g. emphasize early intervention for misbehavior before resorting to exclusionary discipline, except in instances where the safety of students and/or staff is threatened; and
- h. incorporate a continuum of graduated consequences for increasingly serious and continued misbehavior.

The Discipline Equity Consultant shall provide the District and the Plaintiff Parties with a written summary of his/her findings and recommendations based on the comprehensive review described above. Within one hundred and eighty (180) calendar days of entry of this order, the District shall, in consultation with the Discipline Equity Consultant, revise its discipline policies and procedures, including the due process procedure for disciplinary hearings and expulsion hearings, and develop a mandatory annual training program for all faculty, instructional staff, bus drivers, and administrators that will promote an understanding and effective implementation of the revised discipline policies and procedures.

*ii. Reporting*

- a. Within sixty (60) calendar days of receipt of the Discipline Equity Consultant's written summary, the District shall provide the Plaintiff Parties with: (1) copies of the District's proposed revisions to its disciplinary policies and procedures; (2) a description of the proposed faculty and staff training program; (3) an indication of which of the Discipline Equity Consultant's recommendations the District agreed to adopt, and which recommendations the District has chosen not to adopt, if any; and (4) for each recommendation that the District decided not to adopt, an explanation of why it chose not to adopt the recommendation(s).
- b. Plaintiff Parties shall have sixty (60) calendar days to review and comment on the District's proposals before the Superintendent submits the revised policies to the Board for approval. The Parties shall make a good-faith effort to resolve any concerns regarding the proposals. If either of the Plaintiff Parties object to any of the proposals, the Parties shall meet and confer (either via telephone, video conference, or in-person) about each objection within fourteen (14) calendar days of notice of the objection. In the event that the Parties reach an impasse as to either (a) whether an objection has merit, or (b) how to remedy any concerns raised in an objection, any party may move the Court to resolve the dispute so long as the motion is made within forty-five (45) calendar days of the meet and confer.
- c. Within sixty (60) calendar days of approval of the disciplinary policies by Plaintiff Parties or the Court, the District shall: (1) provide all faculty, staff, and administrators who work with students with training on the District's disciplinary policies (such training shall be provided annually); and (2) provide parents and students with written notice of the changes to the District's disciplinary policies.

*iii. Data Collection and Review*

As part of its revision of discipline policies and procedures, the District shall develop and implement a process for collecting discipline data at both the school and District levels. The data collected shall include, but is not limited to:

- a. the number of school office referrals for discipline, disaggregated by: referred student race; referred student sex; referred student disability (if any); referred student school of attendance; referred student grade level; infraction/violation type (including Class 1 violations), including duplicated and unduplicated counts/infractions. This should also include an indication of whether other students were involved in the incident, and if so, their race and role in the incident;
- b. the specific conduct prompting each school office referral;

- c. whether the student was referred for a disciplinary or expulsion hearing, and if so, information about the name, race, and position of the hearing officer and whether the charges in the hearing were upheld or dismissed;
- d. the outcome of the referral (*i.e.*, in-class disciplinary action, in-school suspension, out-of-school suspension, expulsion, referral to law enforcement, arrest, etc.) and the reasons for that outcome;
- e. the identity of the person(s) making the school office referral and determining the sanction, including each individual's name, race and position; and
- f. all supports and corrective action attempted prior to discipline referral.

The District shall work with the Discipline Equity Consultant to determine other relevant discipline data, if any, that the District should maintain. The discipline data shall be stored in an electronic database created and maintained by the State of Alabama. The District's discipline administrator – whose District-assigned title is Supervisor of Student Services and/or the Director of Equity and Innovation or their successor(s), in consultation with the Discipline Equity Consultant – shall conduct an ongoing evaluation of the discipline data collected, giving attention to any racially disparate treatment evidenced by disciplinary referrals and/or outcomes of referrals (by school and districtwide) and take appropriate steps to address any such treatment.

A District-level administrator shall meet at least once per semester with administrators at each school to discuss the results of the evaluation of the school's discipline data and provide recommendations to address racially disparate treatment where appropriate.

The discipline administrator shall also serve as a direct point of contact for all student and parent/guardian complaints regarding the administration of discipline and shall work with District-level administrators and school-level personnel to resolve all such complaints and concerns. The discipline administrator's name, title, office address, e-mail address, and telephone number shall be published on the District's website and in all District publications containing discipline policies and procedures. Publication shall include language indicating that the discipline administrator is the appropriate point of contact for questions and concerns relating to the administration of student discipline.

### **III. Faculty and Administrators**

#### **A. Faculty and Administrator Assignment**

1. The District shall take reasonable steps to recruit: (1) black ACE, College Prep, and AP teachers districtwide; (2) black school principals districtwide; and (3) black certified faculty and administrators in the district's Central Office. Within sixty (60) calendar days of entry of this Consent Order, the District shall engage a qualified third-party consultant ("Faculty Equity Consultant"), mutually agreed upon by the District and the Plaintiff Parties, to provide technical assistance and training on best practices related to the recruitment, hiring, assignment, promotion, and retention of minority faculty and certified

staff. The United States shall contact the Equity Assistance Center-South on behalf of the District to inquire about its availability to provide such assistance free of charge.

2. The Faculty Equity Consultant shall collaborate with the District to complete a comprehensive review of the District's recruitment, hiring, assignment, and retention policies and procedures. In conducting this review, particular attention shall be given to the manner in which the District's policies and procedures affect:
  - a. the number of qualified black faculty and certified staff recruited, interviewed, hired, and retained by the District; and
  - b. the assignment of faculty and certified staff to schools on a non-discriminatory basis.
3. The Faculty Equity Consultant shall provide the District and the Plaintiff Parties with a written summary of his/her findings and recommendations based on the comprehensive review described in paragraph 2, *supra*. Within one hundred and eighty (180) calendar days of entry of this order, the District shall, in consultation with the Faculty Equity Consultant, revise its hiring, recruitment, assignment, and retention policies and procedures and develop mandatory annual training for all faculty, staff, and administrators involved with the recruitment, hiring, retention, and assignment of faculty, staff, and administrators, including measures to support the recruitment and retention of black teachers and administrators.
4. Within sixty (60) calendar days of receipt of the Faculty Equity Consultant's written summary, the District shall provide the Plaintiff Parties with: (1) copies of the District's proposed revisions to its recruitment, hiring, assignment and retention policies and procedures; (2) a description of the proposed training for faculty, staff, and administrators involved in the recruitment, hiring, assignment or retention of faculty, staff, and administrators; (3) an indication of which of the Faculty Equity Consultant's recommendations the District agreed to adopt, and which recommendations the District has chosen not to adopt, if any; and (4) for each recommendation that the District decided not to adopt, an explanation of why it chose not to adopt the recommendation(s).
5. Plaintiff Parties shall have sixty (60) calendar days to review and comment on the District's proposed revisions before the Superintendent submits the revised policies to the Board for approval. The Parties shall make a good-faith effort to resolve any concerns regarding the plan. If either of the Plaintiff Parties objects to any part of the plan, the Parties shall meet and confer (either via telephone, video conference, or in person) about each objection within fourteen (14) calendar days of notice of the objection. In the event that the Parties reach an impasse as to either (a) whether an objection has merit, or (b) how to remedy any concerns raised in an objection, any party may move the Court to resolve the dispute so long as the motion is made within forty-five (45) calendar days of the meet and confer.
6. Within sixty (60) calendar days of approval by Plaintiff Parties or the Court of agreed upon policies and procedures, the District, in consultation with the Faculty Equity Consultant,

shall implement the recruitment, hiring, and retention policies and implement mandatory annual training for all faculty/staff involved in the recruitment, hiring, retention, or assignment of faculty/staff. The training shall cover the following, among other things:

- a. the District's affirmative non-discrimination obligations with respect to the recruitment, hiring, retention, and assignment of faculty, staff, and administrators; and
  - b. targeted recruitment efforts and strategies designed to increase the number of qualified black faculty/staff hired by the District.
7. The District shall add the following notice, or its functional equivalent, to every description of an open position posted on the District's website or elsewhere: "Madison County School District is an Equal Opportunity Employer. We are committed to providing equal employment opportunities to you without regard to race, creed, color, religion, national origin, gender, sex, sexual orientation, pregnancy, marital status, age, veteran status, disability or genetic information."

#### **IV. Facilities**

- A. The District shall provide equitable facilities to ensure every student has equal access to a quality education regardless of the facility where the student attends school. The District shall adhere to districtwide standards when renovating or replacing existing schools, or when constructing new schools, such that after renovation or construction is complete, the new school or renovated section of the school meets the same quality standards as other schools in the District.
- B. The District shall provide notice to the Plaintiff Parties of any proposal to: (1) construct or close a school, or (2) make any renovations or additions that alter the capacity of a school. Notice to Plaintiff Parties shall include:
  1. A summary of the impact of the proposal on student assignment in the District, including any proposed changes to attendance zone lines;
  2. The projected impact on the racial demographics of students, faculty, and administrators at each affected school; and
  3. A description of the proposed construction or renovation, including the proposed location of the new school building and facilities, if applicable.
- C. Plaintiff Parties shall have sixty (60) calendar days to review and comment on a proposal for school construction, closure, renovation, or addition pursuant to this section. The Parties shall make a good-faith effort to resolve any concerns regarding such proposals. If either of the Plaintiff Parties objects, and the Parties are unable to resolve the objection, then any party may move the Court to resolve the dispute.

- D. This Order shall not prohibit the District from conducting regular school maintenance or restoration without Court approval to facilities that might be damaged or destroyed by casualty or an event such as fire or weather, as long as the maintenance or restoration does not alter the facility's capacity or have a potential segregative effect on the school or District.

**V. Extracurricular Activities**

Based on the Parties' review of current student participation by race in extracurricular activities and the District's criteria for participation in extracurricular activities, the Parties agree that the District does not need to take additional action at this time with regard to extracurricular activities. When the Board is able to make a showing of good faith, the Board may request relief from supervision of extracurricular activities.

**VI. Transportation**

The District shall provide bus transportation to all qualifying students without regard to race.

- A. By November 15, 2022, the District shall provide the Plaintiff Parties with the following information for the 2021-2022 school year:
1. Maps of all bus routes maintained by the District for transporting students within the District and, where applicable, bus routes maintained for transporting students from outside the District, indicating the ridership of each bus by race; and
  2. The ESRI Shape File (.shp, .shx, and .dbf) for each bus route the District used to transport students. The .dbf portion of each file should contain any relevant route information, including but not limited to the following attributes: route number, each school served by the route, and the start and end point for the route.

Within one hundred and twenty (120) calendar days of receipt of this information, the Plaintiff Parties will analyze the District's transportation data and provide the Court with an initial assessment of the District's status with respect to transportation.

- B. By November 15 of each successive school year until the Court finds the District has met its obligations in the area of transportation, the District shall provide the Plaintiff Parties with maps of and ESRI Shape Files for all changes to the previous school year's bus routes.

## **VII. Monitoring and Reporting**

On November 15 of each year until such time as the District is no longer under the Court's supervision, the District shall submit to the Court, and to counsel of record for Plaintiff Parties, an Annual Report pursuant to this Order. The first Annual Report is due within ninety (90) calendar days of entry of this Order. The Annual Reports shall include the following information:

### **A. Student Assignment**

1. A report detailing student enrollment districtwide in the current school year, disaggregated by school and race, as of the 20<sup>th</sup> day following Labor Day, known as the Fall ADM Report. The report shall include average daily membership and average daily attendance by school and shall be produced electronically in Microsoft Excel or similar format;<sup>1</sup>
2. An unduplicated list of all students who attended PACE Alternative School at any time during the previous school year, with each student assigned a unique numerical identifier other than the student's district-assigned identification number. The list shall include each student's race/ethnicity, grade, home school, length of placement, and the infraction leading to placement at PACE;
3. The number and percentage of students who took the SAT or the ACT, by race, school, and districtwide;
4. The number and percentage of high school graduates and dropouts using the cohort survival rate method in grades nine, ten, eleven, and twelve by students' race, school, and type of diploma granted;
5. For each school operated by the District, the total number of students, by race/ethnicity, sex, and grade level, who were: (a) referred for gifted screening, (b) actually identified as gifted, and (c) provided gifted services;
6. The number and type of college prep and AP courses by school and the percentage of students enrolled in gifted and talented programs, including ACE, College Prep, and AP courses, disaggregated by race, school, and districtwide;
7. The number and percentage of students who have taken an AP exam, by race, score (*e.g.*, 1, 2, 3, 4, 5), school, and districtwide. This breakdown should indicate the percentage of students by race who earned a "qualifying score" on an AP exam;
8. For schools that offer co-op programs/academies in the school, the number and percentage of students enrolled in such program, by race, school, and districtwide.

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<sup>1</sup> Consistent with the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g(b), counsel for private plaintiffs shall receive any documents referenced herein that contain students' personally identifiable information in redacted form.

This breakdown should indicate whether each specific co-op program/academy requires an additional fee, and if so, what the fee is for the particular program;

9. Academic proficiency of students in Reading and Math (as measured by State assessments) districtwide and by school, disaggregated by race;
10. A list of student support services offered pursuant to Section II.B.1.ii.d;
11. A list of parent/guardian outreach activities conducted pursuant to Sections II.B.1.i.b.4, II.B.1.ii.c, and II.B.1.ii.e, including the date, duration, approximate number of individuals in attendance (if applicable), and estimated participation levels by race (if applicable); and
12. Copies of the results of all surveys conducted pursuant to Section II.B.1.ii.f and a detailed description of any steps taken by the District on account of those survey results.
13. A report containing the following information for each application requesting a student transfer effective for the current school year: student identification number; address; race; grade level; home/zoned school; school(s) to which transfer was sought; the type of transfer requested; the outcome (including, for each transfer granted, identification of the school to which the transfer was approved); and the basis for the transfer decision.

14. With respect to School Discipline, the District's Annual Report shall include the following:

- a. A copy of the Code of Conduct in effect as of the reporting date and a narrative description of any edits made since the prior year's Code of Conduct;
- b. A copy of the PACE Alternative School handbook in effect as of the reporting date and a narrative description of any edits made since the prior year's handbook;
- c. The number and percentage of all students who have been disciplined in any way by the District, disaggregated by: student race; student grade level; student school (including PACE Alternative School, the Career Technical Center, and the Virtual Academy); infraction/violation type (including Class 1 violations); and disciplinary consequence (*i.e.*, expulsion, out-of-school suspension, in-school suspension, school administrative office referral, referral to law enforcement), including duplicated and unduplicated counts. If a student was referred to a disciplinary hearing, this should include information indicating whether the charges in the hearing were upheld or dismissed, and what the final disposition was (*e.g.*, the number of days of out-of-school suspension);
- d. A detailed description of any action taken during the previous school year as a result of the discipline administrator's review of the District's discipline data; and
- e. A list of all discipline-related professional development or training provided to all school administrators, certified faculty, social workers, bus drivers and instructional aides during the previous school year, including a description of the contents of the professional development or training, the manner and schedule of its delivery, and the individuals to whom it was delivered, disaggregated by (1) the individuals' titles, (2) the school to which each individual is assigned, (3) the date of the training each individual attended, (4) the length (hours) of the training each individual attended, and (5) the identity of the training leader.

B. Faculty and Administrators

1. A list of the members of each committee involved in the hiring of administrators. The list will include: the name of the committee; each committee member's name; his or her race and position (title and location); and the date(s) on which he or she served on the committee;

2. The total number of certified administrators, by race and position, in the District's Central Office;
3. A detailed summary of the District's efforts to improve the recruitment and retention of certified black faculty in the District in the previous academic year, including the steps the District plans to take to continue to improve the recruitment and retention of certified black faculty in the District;
4. A list of professional development or training provided to faculty and administrators. For training relating to this consent decree, the District shall provide the training materials, an explanation of the manner and schedule for delivery of the training, and the individuals to whom the training was delivered, disaggregated by (1) the individuals' titles, (2) the school to which each individual is assigned, (3) the date of the training each individual attended, (4) the length (hours) of the training each individual attended, and (5) the identity of the training leader;
5. A list of every District-level and school-level administrator hired in the reporting year, including each administrator's name, race, position, date of hire, and starting salary (including step and grade);
6. The number and percentage of principals, assistant principals, guidance counselors, teachers and administrative assistants, by race, position, school, and grade level;
7. The number and percentage of teachers districtwide who teach an ACE, CP, or AP course, disaggregated by: race, highest education degree attained, years of experience teaching, course(s) taught in the reporting year, and number of sections taught in the reporting year;
8. For each school in the District that does not employ any black teachers to teach ACE, College Prep, or AP courses, a narrative description of the steps the school has taken to recruit a more racially diverse gifted and talented teaching staff;
9. The number of District employees who requested a personnel transfer to a different school or reassignment within a school, disaggregated by: the employee's position at the time of the request; whether their current position is certified or classified; the employee's race; the school the employee requests a transfer from, if applicable; the school the employee requests a transfer to, if applicable; the position the employee requests reassignment to and whether it is certified or classified; whether the transfer or reassignment was approved; the number of years of experience the employee has working in the District; and the number of years of experience the employee has working in a similar position outside of the District;
10. A list of each faculty, staff, or administrator who was promoted in the reporting year, including the individual's name, race, prior position and salary, and new position and salary;

11. A list of all faculty and administrators who were demoted, suspended, non-renewed or dismissed/terminated in the reporting year, organized by each person's name, race, position/title, school assignment, grade level or subject area taught, if applicable, and date of demotion, suspension, or dismissal/termination;
12. A list of all recruiting/job fairs in which the District participated, including the date and location of each such fair and identifying the individual(s) who represented the District at each recruiting/job fairs; and
13. All documentation pertaining to any U.S. Equal Employment Opportunity Commission complaint filed against the District alleging discrimination on the basis of race in the reporting year.

C. Facilities

1. A written report detailing any current or proposed construction or expansion of facilities, and the effect of such construction on the desegregation of the school system.
2. A copy of the District's most recent Capital Plan.

**VIII. Compliance and Oversight**

As specified in this Consent Order, the District shall submit reports to the Plaintiff Parties and the Court documenting compliance with the terms of this Consent Order. The District shall produce all data and lists specified in the Monitoring and Reporting section of this Consent Order to the Plaintiff Parties electronically in Microsoft Excel format or a similar format as requested by the Plaintiff Parties.

Counsel for the District and the Plaintiff Parties shall meet periodically, no less than annually, to discuss the District's implementation of the terms of this Consent Order.

In monitoring the District's compliance with the terms of this Consent Order, the Plaintiff Parties may: conduct site visits of District schools and administrative offices, including on-site interviews of staff in the presence of District counsel; observe the District's professional development workshops and trainings; and request such additional reports or data as are reasonably necessary for monitoring compliance.

**IX. Resolution of Disputes**

The Parties will attempt to resolve any dispute informally and in good faith. Any Party may seek the assistance of the Court if the Parties are unable to resolve the dispute, including any issue(s) regarding compliance with this Consent Order, within a reasonable period of time.

**X. Termination**

Until the District demonstrates that it has eliminated the vestiges of *de jure* segregation to the extent practicable and shows good-faith commitment to the future equitable operation of the schools in the district, the Court will continue to have supervision of this case to ensure that the District undertakes in good faith its obligations in this Consent Order. The Parties may move, separately or jointly, for declaration of release from Court oversight when the District can demonstrate to the Court that it has implemented in good faith a section or sections of this Consent Order for a reasonable period of time of not less than three years or for total release from this Consent Order when the District can demonstrate to the Court that it has implemented in good faith all provisions of this Consent Order for a reasonable period of time of not less than three years. Prior to any Party filing a motion for partial or total release from Court oversight, the Parties will confer to determine whether they can agree that the District can demonstrate that it has implemented in good faith a section or sections of this Consent Order for a reasonable period of time.

**XI. Effect of Prior Orders**

- A. All recordkeeping and reporting obligations of the District to the Court and to the Plaintiff Parties are included in this Consent Order.
- B. All other prior orders are superseded where inconsistent with this Consent Order.

**DONE and ORDERED** this July 5, 2022.

  
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**MADELINE HUGHES HAIKALA**  
**UNITED STATES DISTRICT JUDGE**