

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,

Plaintiff,

v.

BOARD OF EDUCATION OF THE
CITY OF CHICAGO,

Defendant.

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CIVIL ACTION NO.

RECEIVED
COMPLAINT

SEP 24 1980

UNITED STATES DISTRICT COURT
H. STUART CUNNINGHAM, CLERK

The United States, by its attorneys, alleges:

1. This is an action brought by the Attorney General on behalf of the United States to enforce the provisions of Title IV of the Civil Rights Act of 1964, 42 U.S.C. 2000c-6; Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq.; the regulations of the United States Department of Health, Education and Welfare (now the Department of Education and hereinafter "HEW" with reference to all times before the change) which implement Title VI, 45 C.F.R. Parts 80 and 81; the Fourteenth Amendment to the United States Constitution, and the contractual assurances made by defendant Board of Education of the City of Chicago (hereinafter "Board of Education") in consideration of its continuing receipt of federal financial assistance.

2. This Court has jurisdiction of this action under 28 U.S.C. 1345, under 42 U.S.C. 2000c-6 and under 42 U.S.C. 2000d-1.

3. The Attorney General of the United States has received written complaints signed by parents of children attending schools operated by the Board of Education alleging that their minor children are members of a similarly-situated class which is being denied the equal protection of the laws by the Board of Education. The Attorney General believes these complaints to be meritorious and has certified that said parents are unable to initiate and maintain appropriate legal proceedings to afford their children and the similarly-situated class appropriate legal redress. Further, the Attorney General has certified that the institution of this action will materially further the orderly achievement of desegregation in the public schools operated by the defendant. Finally, the Attorney General has notified the Board of Education of the complaint and of his determination that the Board of Education is operating in non-compliance with the Equal Protection Clause of the Fourteenth Amendment and with Titles IV and VI of the Civil Rights Act of 1964, and he has certified that the Board of Education and its agents have had a reasonable time to adjust the conditions alleged in the complaint. The certificate of the Attorney General is attached hereto and incorporated herein.

4. The Board of Education is a public body created by the State of Illinois to administer and supervise the public schools within its statutorily-defined area and, under the laws of the State of Illinois, may sue and be sued. S.H.A., Ch. 122, §34.2. Its principal offices are at 228 North LaSalle Street, Chicago, Illinois.

5. The Board of Education is receiving and at all times material has received federal financial assistance.

6. To qualify for federal financial assistance, the Board of Education submitted Assurances of Compliance with the provisions of Title VI of the Civil Rights Act of 1964 and the HEW regulations promulgated thereunder.

7. On April 9, 1979, HEW notified the Board of Education that under 45 C.F.R. 185.43(d), it was ineligible to receive federal funds distributed under the Emergency School Aid Act, 20 U.S.C. 1601 et seq. (hereinafter "ESAA") because its racial segregation of students violated Title VI.

8. On September 17, 1979, HEW informed the Board of Education that HEW would initiate the referral of this matter to the United States Department of Justice in one month if, by then, the Board of Education had not rebutted or explained HEW's findings that the Board of Education was in violation of Title VI and had not developed a plan to remedy its unlawful discrimination.

9. On October 17, 1979, HEW received a letter from the Board of Education's General Superintendent, Dr. Joseph P. Hannon, who, writing on behalf of the Board of Education, specifically denied that it had violated the Fourteenth Amendment to the Constitution, the Civil Rights Act of 1964, as amended, or decisions of courts interpreting the same.

10. On October 18, 1979, the Director of HEW's Office for Civil Rights notified the Board of Education that HEW would refer

the case against it to the Department of Justice unless the Board of Education submitted an acceptable desegregation plan within ten (10) days.

11. The Secretary of HEW received no acceptable plan from the Board of Education by October 28, 1979, and determined that the Board of Education would not comply voluntarily with the provisions of Title VI and the Assurances referred to in paragraph 6, above.

12. On October 29, 1979, the Secretary of HEW referred this matter to the Department of Justice, requesting that the Department take appropriate legal action to secure compliance by the Board of Education with Title VI and said Assurances.

13. The Board of Education applied for ESAA funding for the 1980-81 school term. HEW again found the Board of Education ineligible for funding because the Board of Education had unlawfully segregated students on the basis of race. Following a presentation of facts by the Board of Education in defense of its actions, these HEW determinations were reaffirmed by the Department of Education on June 12, 1980.

14. Current racial segregation of students in the public schools operated by the Board of Education has been caused, in substantial part, by the actions and omissions of the defendant.

15. Specific practices of the Board of Education which have unlawfully segregated students on the basis of race and ethnic origin (Hispanic) include, but are not limited to, the following:

(a) The drawing and alteration of school attendance area boundaries in such a way as to create, maintain or increase racial or ethnic segregation of students;

(b) The adjustment of grade structures among schools so as to create or maintain racial or ethnic segregation;

(c) The maintenance of racially and ethnically segregated branches of schools;

(d) The placement of permanent and temporary facilities to relieve student overcrowding and the failure to use alternative, educationally sound measures to relieve student overcrowding so that, by action and omission, racial and ethnic segregation of students was created and maintained;

(e) The maintenance of a racially-disproportionate number of severely overcrowded and thereby educationally inferior schools in such a way as to identify, in conjunction with the practices described in the next two subparagraphs, those schools as intended for black students and less crowded schools as intended for white students;

(f) The assignment of teachers and staff to schools in such a way as to match the race of the faculties with the race of the students attending the schools;

(g) The employment of a permissive transfer policy which allowed white students to avoid attending their schools of assignment when their race was in the minority in favor of attendance at other schools where their race constituted the majority of student enrollment; and

(h) The association of segregated schools with segregated housing projects.

16. The practices listed in paragraph 15, above, occurred over a substantial period of time and in a substantial portion of the Chicago public schools, and constitute a system-wide violation of the Constitution and the laws of the United States.

17. Unless restrained by order of this Court, the Board of Education will continue to maintain and operate the Chicago public schools in violation of the Constitution and laws of the United States, resulting in immediate, severe and irreparable harm. No adequate remedy is available at law.

WHEREFORE, plaintiff, United States of America, prays that this Court enjoin defendant, its agents, employees and all persons in active concert or participation with it from discriminating against pupils on the basis of race and ethnic origin and from failing to operate said school system lawfully, by implementing such plan of desegregation as this Court may order.

Plaintiff further prays this Court to grant such additional relief as the interests of justice may require, together with the costs and disbursements of this action.



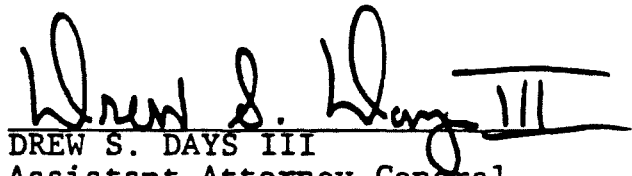
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CERTIFICATE OF THE ATTORNEY GENERAL

I, Benjamin R. Civiletti, Attorney General of the United States, hereby certify that I have received complaints in writing signed by parents of minor children in Chicago, Illinois, alleging in effect that said children are being deprived by the Board of Education of the City of Chicago of the equal protection of the laws; that I believe the complaints to be meritorious; that the signers of the complaints are unable, in my judgment, to initiate and maintain appropriate legal proceedings for relief; that the Board of Education was notified of the complaint; that I am satisfied that said Board of Education has had a reasonable time to adjust the conditions alleged in the complaint; and that in my judgment the institution of this action, United States v. Board of Education of the City of Chicago, will materially further the orderly achievement of desegregation in public education.

This certificate is made pursuant to the provisions of Section 407(a) of the Civil Rights Act of 1964, 42 U.S.C. 2000c-6, in support of the complaint to which it is attached.

Signed this 23rd day of September, 1980.


BENJAMIN R. CIVILETTI
Attorney General