

Order dated October 10, 1969

On April 23, June 20 and August 15, 1969, orders were entered directing the defendants to submit a plan and a time table for the desegregation of the Charlotte-Mecklenburg schools, to be completed by the fall of 1970. Nearly six months after the original order, faculty desegregation is well along and there have been a number of substantial improvements in the stated policies of the Board, including the stated assumption of duty by the Board to desegregate the schools "at the earliest possible date." Limited steps have been taken toward compliance with the pupil desegregation provisions of that original order. However, the major part of the job remains undone, and no plan for desegregation of the entire system has apparently been voted on by the Board.

The latest order set November 17, 1969, as the revised date for defendants to file a complete plan and time table. Defendants have now filed a 15-page motion and supporting affidavit asking the court to extend by another two and one-half months, to February 1, 1970, the time for compliance with the orders. Plaintiffs oppose the extension.

The justification advanced for this delay is that they have hired a systems analyst to re-draw attendance lines, and that the three months between August 15 and November 17 are not enough time to program a computer and prepare a plan.

It would be a happy day if the job could be turned over to a computer. A computer, if programmed objectively, could produce objective results; all could blame the machine (in addition to the court) for any unpleasant decisions. Also, the court would like to avoid unnecessary pressure on the school staff and administrators.

However, the information thus far available is inadequate to justify the extension. Computers are for *time-saving*,

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not delay. The computer work was estimated by the Board's chosen systems analyst, Mr. Weil, to require ninety man days of work. He proposes to consume ninety calendar days with this job! The Board's motion says that their decisions about construction and location of 21 building projects (involving many millions of dollars) are to be held up pending development of the plan. The school budget approaches fifty million dollars. The question fairly arises why the Board should not employ or assign more than one person at a time to feed the computer. Mr. Weil's original plan, which is in evidence, was prepared in a very few days. The court has on file also three or four other plans, including at least one which local school officials say is educationally and technically feasible, which were prepared in a few days each. The use of a computer does not appear to justify the delay.

Moreover, computers cannot make political nor legal decisions; they react to what is fed into them; and the request for postponement leaves the court to speculate over what will be fed into the computer. The motion does not say that Mr. Weil has been instructed by the Board to frame a plan to desegregate the schools; his commission, by a Board committee only, is limited to re-drawing attendance lines; the vague references in the Board's motion to his instructions as to travel limitation and specified school capacities and desirable racial balance permit the inference, in fact, that his mission could be *re-segregation* of much of the system.

The motion also contains no commitment on the part of the Board to adopt any plan that the computer may produce; it gives no information about the Board's intentions as to other desegregation methods it will use; and it promises no *result* from the delay except *consideration* by the

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Board of a computer plan for re-arranging school lines.

The motion is preoccupied with one *method*, and silent about *results*.

Before passing on the motion, the court has a duty to discover what the Board has accomplished since its July 29 promises were made, and whether the extra time will promote genuine progress toward compliance with the Constitution or whether it will just be time lost.

The Board is therefore directed to file with the court by October 29, 1969, the following information:

1. A full statistical report on the results of the closing of the inner-city schools and where the 4,200 black pupils the Board proposed on July 29 to transfer to white schools are actually going to school as of October 10, 1969.

2. The figures regarding the effect of freedom of transfer on the desegregation proposed in the July 29, 1969 plan for closing inner-city schools and transferring their students.

3. A report on freedom of choice or freedom of transfer: How many children, by school or location and race, chose to transfer out of and into the various schools for the 1969-70 year.

4. Full reports on the current numbers and races of the children and teachers in the system, school by school, with percentages of each race for each school.

5. A report on the children being provided bus transportation, school by school.

6. A description of what has been done to provide the compensatory education programs proposed in the July 29 plan and policy statement.

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7. A copy of all September and October, 1969, reports of the Board to the Department of Health, Education and Welfare.

Unless the Board has made the hard decisions needed to desegregate the schools, the time spent on a computer plan may well be just more time lost, and delaying decision may simply compress into fewer months next year the decisions that should have already been made. Therefore, in addition to the above, the Board is directed to answer by October 29, 1969, the following questions:

1. What, in verbatim detail, are the instructions that have been given to Mr. Weil?
2. What is Mr. Weil's assigned mission or goal?
3. What areas of the district is he directed to include in his program of re-drawing attendance lines?
4. What areas, if any, is he directed to exclude?
5. What schools will his program affect?
6. Will pairing, grouping or clustering of schools be used by the Board as needed to supplement the computer plan?
7. Will the Weil program of re-drawing attendance lines produce desegregation of all the schools by September, 1970?
8. If the Weil program does not produce desegregation of all the schools by September, 1970, what does the Board plan to do to produce that result?
9. Will any plan produced by the Weil method or any other re-drawing of attendance lines desegregate

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the schools if unrestricted freedom of transfer or freedom of choice is retained?

The value of the answers to these nine questions is substantially dependent on whether they are made by vote of the full Board or by non-voting representatives such as attorneys or other agents.

Pending receipt of the above information, the court will defer action on the request for time extension. Action will also be deferred for the present on the motions which have been filed by the plaintiffs which include requests for abolition of freedom of choice and appointment of an outside expert to devise a plan in default of Board action.

This the 10th day of October, 1969.

/s/ JAMES B. McMILLAN
James B. McMillan
United States District Judge