

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

PEOPLE WHO CARE, )  
an unincorporated association; )  
LARRY & CHASTY HOARDE, minors, )  
by their parent and next friend, )  
Flossie Hoarde; )  
JONATHAN HUGHES, a minor, by his )  
parents and next friends, )  
Sidella and Nathan Hughes; )  
SIDNEY & ANDRE MALONE, minors, by )  
their parent and next friend, )  
Rev. Louis E. Malone; )  
SHAHEED SALEEM, a minor, by his )  
parent and next friend, )  
Christine Saleem; )  
ANISSA TRIPPLETT, a minor, )  
by her parent and next friend, )  
Beulah Tripplett; )  
ASIA EASON, a minor, by her )  
parent and next friend, )  
Granada Williams; )  
JAMES AND KELLY CURTIN, minors, )  
by their parents and next )  
friends, Larry Curtin and )  
Sue Belvoir; )  
LEONARDO MEDRANO, by his parent )  
and next friend, Jesus Medrano; )  
each individual suing as a class )  
representative of the class )  
certified by the Court; )

Plaintiffs, )

vs. )

ROCKFORD BOARD OF EDUCATION, )  
SCHOOL DISTRICT #205, Defendant; )

and )

ROCKFORD EDUCATION ASSOCIATION, )  
ROCKFORD BUILDING MAINTENANCE )  
ASSOCIATION, and EDUCATIONAL )  
OFFICE PERSONNEL ASSOCIATION, )

Intervenor-Defendants. )

CIVIL ACTION NO. 89 C 20168

JUDGE ROSZKOWSKI

MAGISTRATE MAHONEY

THIRD AMENDED COMPLAINT



SD-IL-0001-0020

## Introductory Allegations

1. This action is brought to redress rights, privileges and immunities guaranteed by the Constitution and laws of the United States, particularly the right to equal educational opportunity free from racial discrimination and segregation.

### 1.1 The Defendant's Historical Pattern of Systemwide Segregation and Discrimination

Defendant, Rockford School District #205 (the "District") for many years has engaged in intentionally discriminatory conduct (both by action and failure to act) which has resulted in, maintained and failed to disestablish racial segregation in District schools and an inferior quality of educational opportunity for black and other minority children.

The District has for over 30 years intentionally segregated and discriminated against black and Hispanic students. This unlawful conduct has infected every aspect of the school system to a significant extent, including: student assignment, faculty and staff assignment; educational practices; educational programs; facilities; educational materials and equipment; transportation; discipline; employment practices; bilingual education; special education; vocational education; extracurricular activities; and electoral practices.

This systemwide pattern of conduct is addressed in Count II, which requests a declaratory judgment as to Defendant's liability for its segregative and discriminatory conduct; an injunction prohibiting further conduct of this nature; and an order requiring

implementation of a systemwide desegregation plan in whatever form is necessary to remedy such conduct.

### 1.2 The 1989 Reorganization Plan

Count I of the Complaint addresses a Reorganization Plan adopted by the Defendant Rockford School District #205 in January and February 1989 (the "Plan"). Adoption of the Plan is one of the most recent Constitutional violations in the District's historical pattern of segregation and discrimination, and in addition, the Plan forms part of the basis for the systemwide claim described above.

The Reorganization Plan was purportedly adopted to reduce costs in anticipation of future operating deficits. However, the Plan imposed a severe pattern of segregative and disproportionately burdensome arrangements upon the minority children of the Rockford school system. The District did so in a manner and context that made clear it acted with constitutionally-prohibited discriminatory intent.

Many of the elements of Defendant's Plan were not only acutely harmful to minority students, but also did not serve the objectives of cost reduction or effective school administration.

The most acute injury to minority students arose from the combination of dismantling the District's existing desegregation plan, and then closing totally or partially almost all of the schools in the Southwest quadrant of the district where minority children predominate. The dismantling of the elementary school desegregation plan, an action taken in the name of "neighborhood

schools," massively resegregated the District's elementary schools. Eight of the ten elementary schools in the Southwest quadrant were then closed, or partially closed through split grade structures. These actions would have been unlawful in themselves, but were magnified many times over by these related effects:

1.2.1 The total and partial closings required very extensive mandatory transportation of minority elementary children to reach the remaining schools within their own community. The concept of "neighborhood schools" was rendered a poignant illusion for minority students.

1.2.2 A series of excessively large, highly segregated and overcrowded elementary schools was established in the Southwest quadrant.

1.2.3 Alternative educational programs previously located in Southwest quadrant schools for desegregation purposes were relocated to predominantly white schools.

1.2.4 A restrictive voluntary transfer program was established which tended to preserve segregation rather than alleviate it.

1.2.5 Supplemental educational programs, including smaller class sizes offered by the Plan for "educationally and economically disadvantaged students," were not only unfunded but probably

incapable of implementation due to lack of space in the Southwest quadrant schools.

At the high school level, the Plan selected for closing West High School, the most residentially integrated high school in the district. The Plan then achieved "desegregation" of the remaining middle and high schools by carving the minority community in four pieces, sending a piece to each corner of the District, and requiring minority students to bear the greatest burden of mandatory transportation. Moreover, in closing the Rockford Area Career Center, the Plan re-allocated only 8% of its programs to the high school in the Southwest quadrant and 92% to high schools in the Northeast and Southeast quadrants.

These invidious actions are documented in detail in Count I of the Complaint, using the District's own data.

### 1.3 Prior Proceedings

The preliminary relief requested by Plaintiffs in the May 1989 First Amended Complaint for school year 1989-90, as described in Count I following Paragraph 65, was to prohibit the Defendant from implementing the aspects of its Plan which were most unambiguously segregative and burdensome. This relief would have maintained existing school arrangements in many respects. Because these invidious aspects of the Plan did not serve the purpose of cost reduction at their inception, the preliminary relief would not have reduced the cost reductions contemplated by Defendant's Plan.

1.3.1 After two months of litigation, the parties entered into an interim settlement of Plaintiffs'

May 1989 Motion for Preliminary Injunction concerning the Reorganization Plan. The settlement, embodied in an Interim Agreed Order entered by the Court on July 7, 1989, provided for certain modifications of the Reorganization Plan and for other steps to be taken by the District. The Interim Order recognized that a Second Amended Complaint would be filed, alleging systemwide segregation and discrimination by the District. This Second Amended Complaint was filed on November 9, 1989.

1.3.2 On April 24, 1991, Plaintiffs and Defendant agreed to, and the Court approved and entered, a Second Interim Order. The Second Interim Order was a more comprehensive interim desegregation Order, addressing educational, resource and student assignment aspects of the District. However, like the July 1989 Order, the Second Interim Order did not resolve the Plaintiffs' underlying liability claims, which remained pending for future trial and adjudication. Moreover, the District made no admission of liability in connection with either of these interim remedial Orders.

1.3.3 Also in April 1991, Rockford Education Association, Rockford Building Maintenance

Association and Educational Office Personnel Association intervened in the case and objected that provisions of the Second Interim Order impermissibly altered rights under their collective bargaining agreements. Ultimately, in April 1992, the court of appeals held that the contractual rights of Intervenor could not be modified unless the district court found the changes necessary to an appropriate remedy for a legal wrong and vacated the portions of the Second Interim Order in question. People Who Care v. Rockford Bd. of Educ., 961 F.2d 1335 (7th Cir. 1992). The case was remanded and set for a hearing.

1.4 The Third Amended Complaint

On May 5, 1993, the parties reached (and the Court approved) an Agreement Concerning the Liability Hearing Adjudication Process and Certain Remedial Matters. Pursuant to this Agreement, Plaintiffs were granted leave to file a Third Amended Complaint, subsequent to conclusion of the hearing, conforming the pleadings to the proof adduced against the Defendant:

1.4.1 Paragraphs 3 through 65 of the Third Amended Complaint (relating to various background facts and, in Count I, the 1989 Reorganization Plan) are identical to the corresponding paragraphs of

the Second Amended Complaint. Thus, the chronological references and verb tenses remain as they were when that Complaint was filed.

1.4.2 Count II of the Second Amended Complaint, which alleged that the District's conduct in connection with the 1989 Reorganization Plan violated the Armstrong Act, Ill. Rev. Stat. Ch. 122, Sect. 10-21.1, has been dropped.

1.4.3 Count II of the Third Amended Complaint, which alleges a systemwide pattern of segregative and discriminatory conduct, amends the allegations of the Second Amended Complaint (Count III) to conform to the proof adduced at the permanent injunction hearing.

1.4.4 Count III of the Third Amended Complaint realleges Plaintiffs' claims that Defendant violated Section 2 of the Voting Rights Act, 42 U.S.C. §1973.

1.4.5 Count IV of the Third Amended Complaint realleges Plaintiffs' claim that Defendant violated Section 9-22 of the Illinois School Code, Ill. Rev. Stat. ch. 122, §9-22, concerning board member residency requirements.

## 2. Plaintiffs

2.1 Plaintiff People Who Care, an unincorporated association, is a coalition of Rockford citizens and

organizations seeking to correct the deficiencies in District's Reorganization Plan, and the District historical pattern of systemwide segregation and discrimination. Its members include many parents whose children are being and will be adversely affected by the actions of Defendant which are the subject of this Complaint. People Who Care sues on behalf of these members and their children.

2.2 The individual Plaintiffs listed in this subparagraph are black and Hispanic public school students, who are being and will be adversely affected by the actions of Defendant which are the subject of this Complaint. They are citizens of the United States, residents of Rockford, and minors who sue through their parents as next friends. The "present school" shown below was their 1988-89 school, and the "1989-90 school" was their school of assignment under the Reorganization Plan:

2.2.1.	Children:	Larry & Chasty Hoarde
	Parent:	Flossie Hoarde
	Grade:	3, 5, respectively
	Present School:	Bloom
	1989-90 School:	Wilson
	Child:	Jonathan Hughes
	Parent:	Sidella & Nathan Hughes
	Grade:	7
	Present School:	MacIntosh
	1989-90 School:	Wilson
	Child:	Andre & Sidney Malone
	Parent:	Reverend Louis E. Malone
	Grade:	8, 3, respectively
	Present School:	Andre: Eisenhower
		Sidney: Walker
	1989-90 School:	Andre: Eisenhower

Sidney: Walker

Child: Shaheed Saleem  
Parent: Christine Saleem  
Grade: 5  
Present School: Ellis (Arts Program)  
1989-90 School: Wilson

Child: Anissa Tripplett  
Parent: Beulah Tripplett  
Grade: 3  
Present School: Vandercook  
1989-90 School: Washington

Child: Asia Eason  
Parent: Granada Williams  
Grade: Kindergarten  
Present School: Private Kindergarten  
1989-90 School: Wilson

Child: Leonardo Medrano  
Parent: Jesus Medrano  
Grade: 5  
Present School: Nashold

2.3. The individual Plaintiffs listed in this subparagraph are white public school children whose opportunity to attend integrated or desegregated schools is being and will be adversely affected by the actions of Defendant which are the subject of this Complaint. They are citizens of the United States, residents of Rockford, and minors who sue through their parents as next friends.

2.3.1. Children: James & Kelly Curtin  
Parent: Larry & Sue Curtin  
Grade: 3, 9, respectively  
Present School: James: Haight  
Kelly: West  
1989-90 School: James: Washington  
Kelly: Auburn

2.4 The individual student Plaintiffs listed in Section 2.2 sue, through their parents as next friends, on their own

behalf and on behalf of other Black and Hispanic children who are being and will be subjected to the segregative, discriminatory and disproportionately burdensome actions of the Defendant. The individual student Plaintiffs listed in paragraph 2.3 sue, through their parents as next friends, on their own behalf and on behalf of other white children whose opportunity to attend integrated or desegregated schools is being and will be adversely affected by the conduct of Defendant. Together these students comprise a class of students who are being and will be adversely affected by the segregative, discriminatory and disproportionately burdensome actions of the Defendant. The several thousand members of the class represented by these Plaintiffs are so numerous as to make it impracticable to bring them all before the Court. There are common questions of law and fact affecting the rights of these Plaintiffs and the rights of the members of the class; the claims of these Plaintiffs are typical of the claims of the class; and Plaintiffs will fairly and adequately protect the interests of the class. The parties opposing the class have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or

corresponding declaratory relief with respect to the class as a whole.

3. Defendant

Defendant Rockford Board of Education, School District # 205, is organized and operating within Winnebago County, Illinois, under the laws of the State of Illinois. It is charged with and responsible for the operation of the public schools within District # 205. The Defendant is referred to in this Complaint as the "District".

4. The subject matter jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331, 1343(a)(3) and (a)(4). This suit, for equitable relief, is authorized by 42 U.S.C. §§ 1981, 1983 and 1988 to redress the deprivation under color of law -- including the official actions, policies, practices, customs and usages of Defendant -- of rights, privileges and immunities secured by the Fourteenth Amendment to the U.S. Constitution. This action also seeks declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202.

**Background Facts**

5. The Rockford public school system, referred to herein as the "District" or "system", has the basic characteristics set forth below. (Many of the factual allegations in this Complaint are drawn from a companion set of Exhibits,<sup>1</sup> most of which are District

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<sup>1</sup>[The Exhibits to the Complaint were admitted into evidence at trial and are not appended to the Third Amended Complaint.]

documents. The Table of Contents to the Exhibits cross-references Complaint paragraphs to the particular Exhibits on which those paragraphs are based.)

5.1 In the present school year (1988-89), the total enrollment is 26,923 students.

5.2 The racial ethnic composition of the students, which is reported by the District excluding Special Education students, is as follows:

	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
White			18,212	71.7%
Black	5,430	21.4%		
Hispanic	1,004	4.0%		
Asian	706	2.8%		
Native Amer.	55	.2%		
	-----	-----		
Total Minority			7,195	28.3%
			-----	-----
TOTAL			25,407	100.0%

Most of the statistical data in this Complaint is drawn from District documents which report minority enrollment as an aggregate total. The Complaint necessarily adopts the same format.

5.3 In the current school year, the District operates 54 schools:

High schools	5
Middle schools	5
Elementary schools	39
Special facilities	5

5.4 The unrestricted operating budget of the District is \$90.2 million in the present school year. This excludes federal/state grants, food services and transportation.

6. The demographics of the City of Rockford and of the District, based on the most recent available information, are as follows:

6.1 A map of the District, showing the major streets and the location of the various schools, is Attachment 1 to this Complaint.

6.2 For purposes of evaluating the effect of Defendant's conduct on the minority students of the District, it is appropriate to divide the District into four quadrants, which are reflected on Attachment 1. Set forth below are the boundaries of these quadrants, and the approximate racial composition of their total population based on 1980 census data:

6.2.1 Northwest quadrant: North of Auburn St., West of the River, and also including the Walker School area.

More than 98% white

6.2.2 Southwest quadrant: South of Auburn St., West of the River, excluding the Walker School area.

45-50% minority

6.2.3 Southeast quadrant: South of State St., East of the River.

More than 90% white

6.2.4 Northeast quadrant: North of State St., East of the River.

More than 98% white

6.3 To evaluate Defendant's conduct, an important starting point is the racial composition of the public school students residing in each of the four quadrants. This data reflects where the students live, not where they attend school. (This is based on 1987 District data.)

6.3.1 Northwest	13% minority*
6.3.2 Southwest	73% minority
6.3.3 Southeast	13% minority
6.3.4 Northeast	3% minority

\*The minority students shown in the Northwest quadrant appear to be students actually residing in the Southwest quadrant, but within the West High School attendance area. Thus the correct minority percentage is probably lower for the Northwest quadrant, and higher for the Southwest quadrant.

6.4 In summary, most of the students residing in the Southwest quadrant are minority, and there are relatively few minority students residing elsewhere in the District.

6.5 The residence and racial composition of the seven School Board members, and of the eight senior administrators of the District, is as follows:

	<u>Board</u>	<u>Staff</u>	<u># of Min.</u>
Northwest	2	1	0
Southwest	1	0	1
Southeast	1	0	0
Northeast	3	7	0

7. In 1970, a group of individuals brought a Fourteenth Amendment desegregation suit in this Court against the Defendant District. Quality Education for All Children v. School Board of School District 205 of Winnebago County, No. 70 C 16 ("Quefac"). In 1972, the Illinois State Board of Education cited the Defendant for non-compliance with the State Board's desegregation rules under the Illinois Armstrong Act. For several years, the administrative proceedings were, in effect, meshed with the judicial proceedings.

In a published decision, Quefac, 385 F. Supp. 803 (N.D. Ill. (W.D. 1974)) then district Judge William Bauer in 1974, without making a final liability finding, made specific findings relating to the segregative conditions in the District. Those findings included (1) extensive minority isolation (Id. at 805-806, 808); (2) a disproportionately low number of minority teachers (Id. at 808); (3) crowded and inadequate minority physical facilities (Id.); and (4) lack of materials and up-to-date texts at the minority schools (Id.). Over a period of several years the Court and the State Board of Education insisted that the Defendant implement a desegregation plan. Despite substantial resistance on its part, the District eventually implemented a desegregation plan which included one-way mandatory reassignment of minority students only.

In 1981, after implementation of that plan, the administrative and judicial proceedings were terminated without prejudice.

Desegregation Status in the Current School Year

8. The status of student assignment desegregation and staff integration in the current school year, based on data reported by the District, is set forth in Par. 9-11. The Defendant's existing desegregation activities are seriously deficient in several respects, including in placing a greatly disproportionate burden of desegregation upon minority students.

9. Using a definition of a desegregated school as 15-50% minority, and looking only at the total enrollment of each school, the Rockford system in school year 1988-89 has the following distribution of elementary schools:

Segregated white (Under 15% minority)	11
Desegregated (15-50% minority)	22
Segregated minority (Over 50% minority)	6
	--
Total	39

9.1 Of the ten middle and high schools in the system, eight have enrollments between 15-50% minority and two have enrollments of approximately 11.5% minority.

9.2 In large part, this level of desegregation has been achieved through the mandatory reassignment and

transportation of approximately 2100 minority students from the Southwest quadrant to the Northwest and Northeast quadrants of the city:

Elementary	860
Middle schools	533
High schools	709
	---
Total	2102

At least 98% of the students subjected to mandatory reassignment and transportation for purposes of desegregation are minority students.

9.3 In addition, a portion of the system's desegregation has been achieved through voluntary transfers of students to special programs, called "alternative" programs by the District. These include 214 minority students transported to the Northwest and Northeast quadrants, and 1220 white students transported to the Southwest quadrant.

9.4 Thus, the burden of changing schools and being transported for desegregation has been more than five times as great on minority students as on white students:

	Minority	White
Transported for desegregation	2316	1220
	----	----
Systemwide enrollment by group	7195	18,212
Per cent transp. for desegregation	32%	6%

9.5 This disproportion is increased manifold by the fact that almost all minority movement for desegregation is

mandatory, while virtually all white movement is voluntary in response to special program offerings.

10. The apparent desegregation achieved by voluntary transfers of white students to programs in minority schools (Par 9.3) in fact is less effective than suggested by total-school enrollment data. Those programs are substantially segregated within their schools. For example:

10.1 Half of the 1220 white students in that category (610) are in four gifted programs which have an aggregate enrollment of 87% white. The non-program enrollment in the same schools is 39% white.

10.2 The remaining 608 white transfer students are in six other alternative programs which have an aggregate enrollment of 75% white, compared to a non-program enrollment in the same schools of 37% white.

10.3 This within-school segregation arises largely from the use of restrictive academic admission standards for the alternative programs.

11. Only 7% of the staff of the District is minority, about one-half of the level of minorities in Rockford's adult population.

11.1 This level of minority employment has increased by only 1% over the past sixteen years.

11.2 In 1972 the District promised the Court, in the QUEFAC litigation, that it would increase minority staff from 6% to 15% by 1978. (362 F.Supp. 985 at 993-95.) The

Defendant has failed to do so, even 11 years after the promised date.

11.3 Because the District has no affirmative action plan for the retention of minority teachers during a reduction in force, minority teachers will be disproportionately laid off in the staff reductions resulting from the actions described in this Complaint.

12. Upon information and belief, the President of the Board of the Defendant District has recently stated, with respect to events prior to 1989, that "It looks now like there was probably some discrimination, but those were different times and school leaders were driven by different needs." It was not stated to which of the past events the President was referring.

#### **The Defendant's January 1989 Reorganization Plan**

13. On January 24, 1989, Defendant promulgated a proposed plan for changes in District operations (the "Reorganization Plan" or "Plan").

13.1 With certain revisions adopted on February 14 (discussed in Pars. 23-31 below), the proposed Plan was adopted by the District on February 28 and is now being implemented for the 1989-90 school year.

14. The primary rationale for the Plan is to reduce expenditures to offset projected future-year operating deficits.

- 14.1 It appears that the District has overstated its future-year deficits by projecting expenditure increases at the rate of the past four years, but projecting no increases in General State Aid.
- 14.2 The average annual increase in State funding for elementary and secondary education over the past six years has been 6.2%:

1988-89	4.7%
1987-88	(4.0%)
1986-87	7.9%
1985-86	14.0%
1984-85	8.5%
1983-84	6.3%

An increase in State funding is advocated this year by the Governor and most legislative leaders. At minimum, some significant increase is likely to be received by the District.

- 14.3 In addition, an increase in the state income tax for education purposes has been proposed by the Governor, some leaders of the General Assembly and the State Board of Education. If the State of Illinois takes such action, it will generate very substantial new revenue for the District, which upon information and belief may be estimated on the order of \$5 million to \$10 million.
- 14.4 However, the Plan has no phase-in or reconsideration provisions that would enable some of the burdens of the Plan to be alleviated with new revenue.

15. This January version of the Plan estimated cost savings of approximately \$6.47 million, enough to offset the District's deficit projection for 1989-90. Much of the cost savings was derived from steps such as closing swimming pools and administrative-clerical staff reductions, which are not the subject of this Complaint.

16. The Plan dismantles the District's desegregation activities.

16.1 One provision of the Plan is to "draw elementary school boundaries to enable all elementary students to attend schools in the general area of their homes." (Plan Sec. 2.12) This provision terminates the mandatory reassignment system presently in effect.

16.2 The January version of the Plan (or related District actions) relocated all or most of the desegregative alternative programs from schools in the Southwest quadrant to schools in the Northeast and Southeast quadrants.

16.3 This dismantling of desegregation activities is unaccompanied by any discussion of its re-segregation effect, its adverse impact on minority children, or the legal duties of the District.

16.4 Although the purported occasion for the Reorganization Plan is the need to reduce expenditures, there is no cost savings projected by the Plan from a return to neighborhood elementary schools or the relocation of alternative programs.

17. The Plan contains a restrictive voluntary transfer program. (Plan Sec. 4.1) This program was subsequently detailed by the District in April 1989, and is described in Par. 34 below.

18. The Plan establishes attendance areas for middle and high schools that produce racial compositions almost exactly mirroring the systemwide proportion of 28%.

18.1 This is accomplished by drawing all of the boundary lines to meet in the middle of the Southwest minority community. A map of the new high school boundaries is Attachment 2 to this Complaint.

18.2 Fracturing the minority community in four parts, and assigning each part to a different school, once again imposes the burden of desegregation, and a disproportionate burden of transportation, on the District's minority students.

19. The January version of the Plan also proposed closing 9 schools.

19.1 These closings included West High School in the Northwest quadrant of the District. West is a naturally integrated school -- i.e., its regular residential attendance area produces a racial mix of students which closely approximates the systemwide racial proportions.

19.2 Six elementary schools were proposed for closing in various parts of the District (excluding the Northeast quadrant).

19.3 The 9 school closings were distributed as follows:

Northwest	3
Southwest	2
Southeast	4
Northeast	0
	--
Total	9

20. The January version of the Plan also established split grade structures at four pairs of elementary schools.

20.1 Schools sharing a split grade structure have a common, double-size attendance area, with all students in certain grades (e.g., K-2) attending one school and all students in the remaining grades attending the other school.

20.2 One effect of establishing a split grade structure is comparable to the partial closing of each school: the mandatory reassignment of about half of its students to the other school. Because of the increased distance, in a neighborhood school context this requires half of the total students, who would otherwise be able to walk to school, to be transported.

20.3 Another effect of a split grade structure is the psychological and educational burden on the students of changing schools in the middle of their elementary schooling.

20.4 Two of the split grade structures were established in the Southwest quadrant (King-Washington and Stiles-

Dennis), requiring transportation for students who would otherwise have been able to walk to school.

20.5 The two other pairs were at the Southeast edge of the District, where there is no additional burden of transportation because the sparse population already required the students to be transported to school.

21. The Plan closes the Rockford Area Career Center and distributes its vocational programs to the regular high schools. Only three of the 37 programs (8%) are allocated to Auburn, the remaining high school in the Southwest quadrant. 34 programs (92%) are allocated to the three high schools in the Northeast and Southeast quadrants, including all of the technologically-oriented programs.

22. The Plan proposes, for "elementary schools with a high incidence of educationally and economically disadvantaged students," to provide smaller class sizes and supplemental support services, and to "offset the inequities created by gifts from parent organizations." (Plan Sec. 1.1)

22.1 The Plan identifies no funding amount for this proposal.

22.2 The Plan does not specify schools or program definitions in support of this proposal.

### **The Revised February 1989 Reorganization Plan**

23. The January version of the Plan evoked very extensive public reaction, including criticism of various proposals.

24. In particular, the proposed closing of West High School aroused intense, and justified, protest from the Northwest community in which that school is located. The racial composition of the people and groups objecting to the West closing was predominantly white. Within three weeks the District rescinded the closing of the building.

25. On February 14, Defendant adopted a revised Reorganization Plan:

25.1 This version of the Plan was also adopted by a 6-1 vote, with the minority member of the Board in opposition.

26. The revisions, in order to keep the West building open, operated through a domino effect to place massive additional burdens upon the minority students in the Southwest quadrant.

26.1 The West building is to become a middle school rather than a high school. To keep the West building open, Defendant removed the middle school students from Wilson, in the Southwest quadrant.

26.2 Wilson is converted to a grades 3-6 elementary school.

26.3 Three additional elementary schools, surrounding Wilson in the Southwest quadrant, are closed (Church, Stiles and Ellis).

26.4 Two additional split grade structures (K-2) are established at McIntosh and Dennis, feeding into Wilson.

26.5 The enormous size of the resulting Wilson-McIntosh-Dennis attendance area is shown on the elementary

boundary map adopted on February 14 (Attachment 3 to this Complaint).

26.6 Wilson is projected by Defendant to have 1227 students, more than twice as large as any previous elementary school in the system, and 4 times the size of the average elementary school in the District.

26.7 Wilson, and its feeder K-2 schools, are all projected by Defendant to have 80% minority enrollment.

27. The closing of the three additional elementary schools generated only \$336,000 in savings, according to Defendant's own data. This is only 4.6% of the total savings projected by the February Plan, and only 1/3 of 1% of the District's 1989-90 budget.

27.1 In fact, even the small purported cost savings of closing the additional three elementary schools was overstated, because it did not take into consideration the offsetting new transportation cost of busing minority children, within their community.

27.2 The February Plan also contained other additional cost reductions, so that the revised total savings was \$7.34 million, \$870,000 more than the January Plan. Even without the closing of the three additional elementary schools, the February Plan would have generated \$534,000 more in cost reductions than the January Plan.

28. As a result of the February 14 actions, the entire burden of additional school closings was placed upon the students in the Southwest minority community:

	<u>2/14</u>	<u>Change from January</u>
Northwest	2	(1)
Southwest	5	+3
Southeast	4	0
Northeast	0	0
	--	--
Total	11	+2

29. As a result of the February 14 actions, Defendant projects an enrollment of 876 students for Washington Center, for which its data shows a capacity of 728, and an enrollment of 649 students for McIntosh, for which their data shows a capacity of 576. Both of these overcrowded schools are in the Southwest quadrant.

29.1 On information and belief, Defendant failed to properly consider the space needs for Special Education and Federal Chapter 1 programs in the remaining schools in the Southwest quadrant. Consequently, the educational opportunities available to minority students in the Southwest quadrant will be adversely affected due to the closing of too many schools, and insufficient space in the remaining schools.

29.2 Set forth below are the capacities and projected enrollments for 1989-90 of the Southwest quadrant elementary schools. These enrollments are excluding special education students and with no apparent provision made for the extra classrooms required by

Chapter 1 programs. There is little or no space for such special programs. There also does not appear to be any allowance for the "reduced class size" promised by the Plan for schools with "a high incidence of educationally and economically disadvantaged students." (See Par. 22, above.)

<u>School</u>	<u>Capacity</u>	<u>Enroll.</u>	<u>Avail. Capacity</u>
Dennis	480	410	70
Haskell	456	419	37
King	528	507	21
Lathrop	528	472	56
McIntosh	576	649	(73)
Washington	728	876	(148)
Wilson	1500	1227	273

30. The Plan still shifts three elementary-level desegregative alternative programs from the Southwest quadrant to schools in the Northeast and Southeast quadrants.

30.1 These include the GIT program moved from Barbour to Froberg, the CASS program moved from Haskell to Jackson, and the Arts Alternative program moved from Ellis to Rock River.

30.2 In response to public protest, the January decision to reassign middle and high school level alternative programs was reversed, and those programs were restored to West and Auburn.

31. The January Plan also reduced, and the February Plan totally eliminated, the ROTC program. This was a racially integrated program in which 20% of the minority high school students and 6% of

the white students were enrolled. The District has been uncooperative with private sector efforts to locate external funding to maintain the program at least at one high school, setting a short deadline of May 14 for such efforts to be completed.

Events Subsequent to the February 14, 1989 Plan

32. The adverse and disproportionate impact of the revised 2/14 Reorganization Plan upon the minority community evoked substantial, and justified, protest from that community. However, the Board of Education refused to modify the plan, and reaffirmed it by a 6-1 vote on February 28, 1989. (The minority member of the Board opposed the Plan.)

33. Plaintiff People Who Care requested the Community Relations Service of the U.S. Department of Justice to seek a dialogue with the District and to seek relief from the disproportionate burden and other discriminatory aspects of the Reorganization Plan. After two months of protest and mediation efforts, representatives of the District would meet with People Who Care only once, on April 10. Promptly thereafter the Board voted to refuse to reconsider its Plan. (The minority member of the Board again opposed this action.)

34. On April 14, the District announced a restrictive voluntary transfer program for minority students for the 1989-90 school year.

The program is segregative and burdensome in the following respects:

- 34.1 Transfers are available only for minority students out of segregated minority schools (those projected to be over 50% minority next year). Transfers are not available for minority students out of other schools which exceed the systemwide minority enrollment (i.e., those between 28-50% minority.)
- 34.2 Eligible students may transfer only to specified elementary schools, which generally are those at the greatest distance requiring the longest transportation.
- 34.3 There is no educational program offering support to induce or assist minority students in making such transfers.

35. On April 25, the Interim Superintendent announced that the Reorganization Plan would require the transportation of 4,000 more students next year than were transported in the current school year. This will require the purchase of 36 additional buses at a cost of \$900,000, and the overall transportation cost will rise by \$1,000,000 per year. On information and belief, the great majority of additional students who will be transported are minority students.

36. On April 25, the District voted to sell or rent 13 schools, including four of the five newly closed elementary schools in the Southwest quadrant. If the District commits these schools to non-

school use, it will render the Reorganization Plan virtually irreversible.

Re-segregative Effect of the District's Plan

37. The District's Reorganization Plan massively re-segregates the elementary schools in the Rockford school system. The change in distribution of segregated and desegregated elementary schools, using a 15-50% minority definition of a desegregated school, is as follows:

	<u>1988-89</u>	<u>1989-90</u>	<u>Change</u>
Segregated white (Under 15% minority)	11	15	+4
Desegregated (15-50% minority)	22	11	-11
Segregated minority (Over 50% minority)	6	6	0
Total	39	32	

38. The re-segregation is even more apparent in terms of the sharply increased proportion of the system's minority students who will be attending segregated rather than desegregated elementary schools:

	<u>1988-89</u> <u>% of Min.</u>	<u>1989-90</u> <u>% of Min.</u>	<u>Change</u>
Segregated white (Under 15% minority)	6%	13%	+7%
Desegregated (15-50% minority)	62%	34%	-28%

Segregated minority (Over 50% minority)	32%	52%	+20%
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39. The Plan places more than 1800 minority elementary students in three highly segregated schools (Wilson and its K-2 feeder schools, with projected 80% minority enrollments).

39.1 In the current school year only one school, with 238 minority students, has an enrollment more than two-thirds minority. Thus there is a seven-fold increase in the number of minority students subjected to a high degree of racial isolation.

39.2 There is a substantial probability that these three schools will in fact have virtually all-minority enrollments.

40. As detailed in Par. 30 above, three desegregative elementary alternative programs are relocated from Southwest predominantly minority schools to majority-white schools east of the River. The effects of this action are to increase the degree of segregation of the District's minority students and to diminish their access to special educational programs.

40.1 As detailed in Par. 21 above, Defendant also allocated the programs from the Rockford Area Career Center in a manner that was quantitatively and qualitatively adverse to minority students.

40.2 As detailed in Par. 31 above, Defendant closed the integrated ROTC program, and have been uncooperative

with private efforts to maintain at least a part of the program.

41. As detailed in Par. 34 above, the restrictive voluntary transfer program adopted by Defendant is segregative and burdensome.

42. Defendant's actions stigmatize the schools in the Southwest quadrant as racially identifiable and inferior schools.

43. The Defendant's closing of West High School, a naturally integrated school, is contrary to the axiom in desegregation planning that highest priority should be given to preservation of residentially integrated schools.

44. Defendant's actions will result in a reduction in the level of minority teachers in the District, a level which is already deficient as described in Par. 11 above.

**Disproportionate Burdens Imposed by the Reorganization Plan**

45. The Defendant's Plan imposes acutely disproportionate burdens upon the minority students in the Southwest quadrant of the District.

46. The disproportion of existing elementary schools closed by the Plan, by quadrant, is as follows:

	Schools 88-89	Closed	% Closed
Northwest	6	1	17%
Southwest	10	5	50%
Southeast	17	3	18%
Northeast	6	0	0%

47. The disproportion is even more pronounced when split grade structures, which amount to partial closings, are also considered:

	Schools 88-89	Closed or Split	% Closed
Northwest	6	1	17%
Southwest	10	8	80%
Southeast	17	7	41%
Northeast	6	0	0%

48. Under Defendant's Plan, 80% of the elementary students in the Southwest quadrant (most of whom are minority students) will be subjected to the burdens of attending schools with split grade structures (which are described in Par. 20 above).

48.1 In the three predominantly white quadrants of the District, only 13% of the students will attend schools with split grade structures. Those are children at the Southeast edge of the District who would be transported to school in any event.

49. While the Defendant purported to be establishing a neighborhood elementary school system, the total and partial school closings in the Southwest quadrant will require a large portion of the students there to be transported to the few remaining schools.

50. As described in Par. 35, the net result of Defendant's Plan is to increase the number of children requiring transportation by 4000, most of whom will be minority children.

51. Wilson (1227 students) and Washington (876 students) are excessively large schools, respectively 2.25 and 1.6 times the size of the largest predominantly white elementary school next year. This excessive size is psychologically and educationally burdensome to the students attending those schools.

52. Two predominantly minority elementary schools (Washington and McIntosh) are projected by Defendant to be overcrowded (see Par. 29 above). On information and belief, educational programs at these and other schools in the Southwest quadrant will be severely affected by lack of space resulting from the closing of too many schools.

53. The middle and high school attendance areas, by fracturing the minority community in four parts, impose the burden of desegregation, and a disproportionate burden of transportation, on the District's minority students.

**Availability of A Less Segregative and Burdensome Alternative**

54. One less segregative and burdensome alternative equally available to Defendant was to retain West as a high school and close any of the three high schools east of the River.

Essentially, this is identical to Defendant's January Plan, except for changing the identity of the high school to be closed.

54.1 This less onerous alternative would have kept open the two high schools (West and Auburn) that have a substantial degree of residential integration, and would have allocated the transportation burdens of the high school attendance areas much more equitably between minority and white children.

54.2 This alternative would have involved much less burden and disruptive change in the school system. Wilson would remain a middle school, and three Southwest quadrant elementary schools would remain open. It would eliminate a substantial portion of the split grade structures and intra-community mandatory transportation imposed on the Southwest minority community by the February Plan revisions.

54.3 This less onerous alternative would have produced the same amount of cost reduction as Defendant's January Plan. In addition, it was no less consistent with other facilities planning considerations such as capacity, transportation, utility costs, repair costs and articulation from one school level to the next.

54.4 This alternative would still have involved unlawful re-segregation and disproportionate burden, requiring judicial relief. However, the extent of relief required would have been significantly diminished.

54.5 Defendant's January and February Plans were both erroneous in closing too many Southwest quadrant elementary schools. As shown in Par. 29 above, this produces over-crowded enrollments and leaves insufficient space for special education, desegregative alternative programs and the Plan's promised class size reduction. For that reason, under any scenario it is apparently necessary to keep open a fourth (and possibly a fifth) Southwest quadrant elementary school, of the five that were closed.

COUNT I

(Fourteenth Amendment)

55. The Fourteenth Amendment to the Constitution of the United States provides in part:

"No State shall...deny to any person within its jurisdiction the equal protection of the laws."

56. Section 42 U.S.C. 1983 provides that:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

57. The effects of the Defendant's conduct described in Paragraphs 1-54 are segregative and disproportionately burdensome to the

minority students of the District, and deprive those students of equal educational opportunities, including with respect to:

- 57.1 Elementary student assignment.
- 57.2 High school student assignment.
- 57.3 The selection of schools for closing and split grade structures.
- 57.4 The placement and nature of special programs intended to promote desegregation.
- 57.5 The placement and nature of other educational programs within the District.

58. The Defendant engaged in the conduct described in Paragraphs 1 - 54 with discriminatory intent.

59. Accordingly, the conduct of the Defendant described in Paragraphs 1 - 54 and 57 - 58 violated the obligations of the Defendant and the rights of the Plaintiffs under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. 1983.

60. The circumstances described in this Complaint warrant a remedy which both maximizes desegregation of students to the greatest practicable extent, and provides a legally compensatory educational remedy to those students who may remain in predominantly minority schools.

61. Without judicial intervention, Defendant will continue to implement its Reorganization Plan, and it is imminent that

Plaintiffs will be deprived of their rights under the Fourteenth Amendment and 42 U.S.C. 1983.

62. The aspects of the Reorganization Plan described in this Complaint, and the effects upon the Plaintiffs, would be impossible or exceedingly difficult to reverse once they have occurred. In addition, during any delay Plaintiffs would be deprived of fundamental rights with respect to equal educational opportunity. Plaintiffs would have no adequate remedy at law. The injury to the Plaintiffs would therefore be irreparable.

63. Conversely, the burden upon the Defendant of the injunctive relief requested herein will be comparatively slight. With respect to several schools (West, Wilson and 3 to 5 elementary schools), the relief involves maintaining the arrangements existing in the present school year. In addition, the preliminary relief requested by Plaintiffs for school year 1989-90 will have a minimal financial impact upon the District. Keeping open the schools proposed below will achieve the same degree of cost reduction as proposed by the District in its January Plan. (The possible exception would be the need to keep open additional Southwest elementary schools to insure sufficient capacity for special education and supplemental programs.)

64. The public interest will be best served by granting the relief requested by Plaintiffs.

65. The matters stated in Paragraphs 61 - 64 are especially evident with respect to Plaintiffs' requests, set forth below, for a temporary restraining order and preliminary injunction.

WHEREFORE, it is respectfully prayed that this Court:

I. Issue a temporary restraining order, pending the determination of the request for preliminary injunctive relief, prohibiting the Defendant from selling, leasing, or otherwise rendering unavailable for school year 1989-90 any school buildings now used by the District for school purposes.

II. Issue a preliminary injunction, for the duration of school year 1989-90, providing preliminary relief to Plaintiffs in the form which the Court deems necessary and proper. Plaintiffs suggest that such an Order should prohibit the Defendant from implementing the aspects of their Plan which are most unambiguously segregative and burdensome:

A. Keep West open as a high school. The District may close, in its discretion, any of the high schools east of the River or no high school.

B. Keep Wilson open as a middle school.

C. Keep open the Stiles, Ellis and Barbour Elementary Schools. Keep open Church and/or Garrison Elementary Schools if necessary to provide sufficient capacity in the Southwest quadrant for regular programs and also for special education, Chapter 1 and "disadvantaged-schools class size reduction."

Insure that all schools kept open are in as good a condition of repair, maintenance and educational equipment as schools in the District that have predominantly white enrollments.

D. Assign students to the elementary schools in the Southwest quadrant in a manner which maximizes desegregation, and minimizes transportation within the quadrant without increasing the criteria of eligibility for transportation. Eliminate split grade structures as necessary to achieve these objectives.

E. Establish, at Washington and one other location in the Southwest quadrant, elementary magnet schools of not more than 500 students, with a program calculated to attract desegregative transfers from elsewhere in the District, but without academic admission criteria. The program in each school shall include supplemental staffing of at least five teacher positions and appropriate educational equipment and supplies.

F. Retain in the Southwest quadrant any desegregative special programs located there during the current year, and take all feasible steps to eliminate within-school segregation with respect to those programs.

G. In relocating the programs from the Rockford Area Career Center (which is being closed), allocate at least 50% of those programs to West, Auburn or other locations in the Southwest quadrant.

H. Modify the voluntary transfer program so that any minority student may transfer from a school more than 28% minority to any school with less than 28% minority. The District may recommend receiving schools that serve the following goals: desegregative effect; minimizing transportation distance; establishing a critical mass of minority students; and providing effective educational opportunities for transfer students.

I. Devote all net revenue increases from the State of Illinois to the proposed new supplemental programs designed to improve the quality of education in schools in the Southwest quadrant. Net revenue increases means new revenue remaining after the District first pays from that source the cost of implementing this Preliminary Injunction Order.

J. Submit within two weeks a planning report for the implementation of this Order, and after any Court proceedings in connection therewith, submit within two weeks a final implementation plan. Progress reports shall be submitted every 30 days thereafter. Plaintiffs may comment to Defendant or to the Court with respect to any such plans and reports. The parties are directed to cooperate to the greatest extent possible in the effectuation of this Order.

III. After further proceedings, declare the rights of the parties and afford permanent relief in such form and manner as the Court may deem necessary and proper to remedy segregative and disproportionately burdensome nature of the District's

Reorganization Plan. Among the issues that should be addressed in such proceedings is the most equitable alignment of high schools and middle schools in the District.

IV. Award Plaintiffs their costs of suit, including reasonable attorneys' fees.

## Count II

### (System-Wide Segregation and Discrimination)

66-67. Paragraph 55 (setting forth the pertinent part of the Fourteenth Amendment) and paragraph 56 (setting forth Section 42 U.S.C. 1983) are realleged and incorporated herein as paragraphs 66 and 67.

68. Section 42 U.S.C. 1981 provides that:

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses and exactions of every kind, and to no other.

69. The District has had a significant enrollment of Black and other minority students for many years.

70. The District has for over 30 years intentionally segregated and discriminated against black and Hispanic students. This unlawful conduct has infected every aspect of the school system to a significant extent, including: student assignment, faculty and

staff assignment; educational practices; educational programs; facilities; educational materials and equipment; transportation; discipline; employment practices; bilingual education; special education; vocational education; and extracurricular activities.

71. The present effects of the District's conduct described in Paragraph 70 permeate the Rockford Public School system, as well as other public and private school activities in the Rockford area.

72. The District has failed or refused to disestablish the racial segregation and discrimination alleged in Paragraph 70. The District has persisted in this failure or refusal on numerous occasions since 1954, despite many explicit efforts by aggrieved citizens and government agencies to persuade or compel the District to do otherwise.

73. The District has intentionally brought about and maintained racial segregation in the public schools through the following practices, among others:

73.1 The drawing and alteration of school attendance boundaries to create, maintain or increase racial segregation.

73.2 The manipulation of school feeder patterns to create, maintain or increase segregation.

73.3 The use of optional attendance zones to create, maintain or increase segregation.

- 73.4 The adjustment of grade structures among schools to create, maintain or increase segregation.
- 73.5 The siting of buildings so as to contribute to segregation.
- 73.6 The assignment or reassignment of students to create, maintain or increase segregation.
- 73.7 The use of building additions to perpetuate or increase segregation.
- 73.8 The use of portable classrooms to maintain or intensify segregation.
- 73.9 The closing of schools to foster segregation.
- 73.10 The manipulation of school capacity to effect segregation.
- 73.11 The use of private rental facilities to perpetuate or increase segregation.
- 73.12 The purchase of private facilities to maintain segregation.
- 73.13 The assignment of like-race faculty and staff to racially identifiable schools.
- 73.14 The assignment of like-race principals to racially identifiable schools.
- 73.15 The use of transfer policies to perpetuate school segregation.
- 73.16 The provision of inferior educational programs, facilities, faculty, staff, equipment and materials to racially identifiable black schools.

- 73.17 The tracking and steering of minority students into segregated (and inferior) academic programs.
- 73.18 The operation of segregated alternative programs within putatively integrated schools.
- 73.19 The intact busing of students, including minority students in bilingual, special education and "desegregation" transfer programs.
- 73.20 The rescission on several occasions of measures purporting to alleviate segregation because District officials were opposed to implementing measures for that purpose or having that effect.
- 73.21 The adoption of the segregative Reorganization Plan described in Count I.

74. The practices summarized in Paragraphs 70-73 occurred over a substantial period of time and in a substantial portion of the District, and constitute a system-wide violation of the Constitution and laws of the United States.

75. The acts and omissions of the District summarized in Paragraphs 70-73 also have been directed toward and have had a segregative effect upon Hispanic students.

76. In addition to its conduct causing the segregation of the District's students, the District also intentionally discriminated against minority students through a pattern of conduct which

disproportionately burdened minority students and otherwise denied to them the educational opportunities afforded to white students:

- 76.1 The District provided a teaching staff to black schools that had less professional experience and less training than the teaching staff provided to white schools.
- 76.2 The District operated black elementary schools with inferior facilities and materials, and fewer available programs than white schools.
- 76.3 The District employed tracking and steering practices that had the pervasive effects of providing an inferior education to black and Hispanic students and of stigmatizing them as inferior.
- 76.4 The District instructed minority students in a manner that was typically different, inappropriate and inferior to that provided to white students.
- 76.5 The District operated vocational programs in a discriminatory fashion: vocational programs that were well-run and of high quality had few minority participants because minority students were discouraged from taking them, while the District's vocational programs of inferior quality were made a dumping ground for disproportionate numbers of minority students.
- 76.6 The District disciplined minority students much more frequently, and more severely, than it disciplined white students who behaved similarly.

- 76.7 The District provided disparate ancillary educational services to minority students (such as counselors) and interposed barriers to the educational success of minority students.
- 76.8 The District provided disparate institutional support and resources to minority schools and operated minority schools with an educational and organizational climate that stigmatized minority students as inferior and as deserving only an inferior level of education.
- 76.9 The District failed to support or maintain its sporadic programs to improve educational opportunities for minority students.
- 76.10 The District failed to provide training for staff to facilitate successful integration or the improvement of educational opportunity for minority students.
- 76.11 The District relied on unsuccessful compensatory education programs in low-income minority schools (such as Title I) as an alternative to the educational benefits to such students from desegregation of the school system, despite notice that such compensatory programs were not effective for that purpose.
- 76.12 The District unlawfully contributed to the widespread racial identifiability of extracurricular activities at the high school level and employed policies and practices that diminished minority access to extracurricular activities.

- 76.13 The District unlawfully operated its Special Education Program in a manner that misclassified, stigmatized and disproportionately burdened minority students.
- 76.14 The District violated the rights of Hispanic students by operating a segregated, whole-day elementary bilingual program, which failed to allow for interaction between bilingual students and the rest of the school.
- 76.15 The District violated the rights of Hispanic students through the segregated intact relocation of the bilingual program, the imposition of severe transportation burdens on bilingual students and the failure to provide adequate services and resources to operate an effective program.
- 76.16 The District operated the school system in such a manner that there were pervasive, continuous and unlawful systemwide disparities in facilities, equipment, materials and supplies between black and white schools.
- 76.17 The District maintained a policy of underfunding schools with respect to allocations for equipment, materials and supplies, and then relying on parent and private gifts to particular schools to make up the underfunding, all of which had the inevitable effect of providing a lower quality and quantity of educational experience to students in minority schools.

- 76.18 The District maintained a policy of requiring the mandatory assignment of minority students to schools outside their neighborhoods for desegregation purposes, while imposing no similar burdens on white students.
- 76.19 The District discriminated against minority students with regard to the type and quality of transportation services afforded.
- 76.20 The District unlawfully failed to hire minority teachers and staff and failed to meet its own minority hiring goals and affirmative action obligations.
- 76.21 The District perpetuated the existence of a board of education whose makeup severely underrepresented minorities and was dominated by persons opposed to minority interests.
- 76.22 The District adopted the Reorganization Plan described in Count I, which imposed extreme disparate burdens and educational disadvantages upon minority students.

77. The practices summarized in Paragraph 76 occurred over a substantial period of time and in a substantial portion of the District, and constitute a systemwide violation of the Constitution and laws of the United States.

78. The acts and omissions of the District summarized in Paragraph 76 also have been directed toward and have had a discriminatory effect upon Hispanic students.

79. Subsequent to the initial filing of Plaintiffs' Complaint in this action, the District has continued to engage in a pattern of affirmative segregative and discriminatory acts and has violated remedial orders entered by this Court.

79.1 In April 1991, the District adopted an Elementary Redistricting Plan which impeded the success of three integrative magnet schools by reducing enrollments at east side schools and thereby diminishing the need for transfers.

79.2 As a result of opposition from white parents and students, the District retracted a boundary change that would have contributed to the desegregation of Church School.

79.3 In response to objections from white parents concerning a 30% minority enrollment requirement, the District unlawfully retracted a plan to create an integrated Academics Plus Program at March School.

79.4 The District unjustifiably placed the entire burden of desegregating the day care system upon minority students: minority day care students were assigned across the river to white schools without a comparable burden placed upon white students.

79.5 The District unlawfully terminated compliance with the First Interim Order after one year of implementation.

79.6 The District unlawfully failed to implement numerous remedial steps ordered in the First Interim Order.

- 79.7 The District engaged in a pattern of substantial non-compliance with the Second Interim Order and failed to demonstrate a good faith commitment to its provisions.
80. The District's unlawful intent in connection with the conduct described in Paragraphs 70 through 79 is reflected by all of the following:
- 80.1 The District engaged in "classic" segregative techniques, such as busing students on an intact basis; busing minorities to racially identifiable schools farther away than majority schools with extra capacity; employing optional or multiple attendance zones; maintaining disparities between the physical quality of black and white schools; and implementing discriminatory transfer policies.
  - 80.2 The District disproportionately assigned like-race teachers and staff to racially identifiable schools.
  - 80.3 The District disproportionately assigned like-race principals to racially identifiable schools.
  - 80.4 The District engaged in scores of actions that had the foreseeable and probable effect of increasing segregation or discriminating against minorities.
  - 80.5 The District ignored many specific warnings about the discriminatory and segregative effects of its conduct.
  - 80.6 The District maintained inferior facilities at minority schools.

- 80.7 The District engaged in a pattern of submitting to community members opposed to segregation.
- 80.8 The District made numerous discriminatory or segregative decisions for which its professed justifications were pretextual.
- 80.9 The District departed from its normal decision-making process in connection with discriminatory decisions.
- 80.10 The District ignored normal substantive considerations in connection with discriminatory decisions.
- 80.11 RBE members made contemporaneous statements reflecting the influence of racially discriminatory motives.
- 80.12 The District breached promises to improve educational opportunities for minority students and remedy the effects of segregation.
- 80.13 The District rejected numerous proposals that would have provided a measure of desegregation.
- 80.14 The District failed to comply with state law provisions requiring the District to alleviate segregation.
- 80.15 The District engaged in a pattern of half-hearted and calculatingly ineffective "desegregation programs."

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

WHEREFORE, it is respectfully prayed that this Court:

I. Declare that the policies, practices, actions and omissions of the District alleged in this Complaint are in violation of the Constitution and laws of the United States.

II. Enjoin Defendant from discriminating against students on the basis of race and ethnic origin, and from continuing to operate a racially segregated school system, and require Defendant to implement such plan of desegregation as this Court may deem necessary and proper to remedy the segregative and discriminatory conduct practiced by Defendant.

III. Afford other preliminary and permanent relief in such form and manner as the Court may deem necessary and proper to remedy the segregative and discriminatory conduct of the District.

IV. Award Plaintiffs their costs of suit, including reasonable attorneys' fees.

### COUNT III

82. Plaintiffs, Flossie Hoarde, Sidella and Nathan Hughes, Reverend Louis E. Malone, Christine Saleem, Beulah Tripplett, Granada Williams, Larry and Sue Curtin, and Jesus Medrano, as parents and next of kin to their minor wards, also Plaintiffs herein, are voters of School District 205.

83. Pursuant to state law, the Defendant is obligated to establish single-member subdistricts for school board elections in November 1991. (Ill. Rev. Stat. Ch. 122, Par. 9 -22). The obligation arose

as a result of a referendum initiated and sponsored by the Plaintiff, People Who Care, to rectify the pattern of all-white or predominantly-white membership on the Board of Education, and the underrepresentation of African-American and other minority citizens, parents, and students, which existed under the at-large election previously in effect. The referendum was adopted by a majority of the voters at the November 1989 school district election.

84. On May 21, 1991, Defendant adopted a set of subdistrict boundaries and a corresponding electoral map ("Adopted Map"). The Defendant intends to proceed with the November, 1991, school board election pursuant to the electoral boundaries established by the Adopted Map.

85. The Defendant's Adopted Map violates Section 2 of the Voting Rights Act in that the electoral subdistrict boundaries of Defendant's Adopted Map fracture the African American community and thereby operate to minimize or cancel out the ability of African American voters to elect their preferred candidates. 42 U.S.C. §1973.

85.1 The African American community in School District 205 is sufficiently large and geographically compact to constitute a majority in a single subdistrict.

85.2 Under Defendant's Adopted Map, a single subdistrict with a voting age population of 50% African American

has not been created. No subdistricts under Defendant's Adopted Map contain even an African American majority of total population. Instead, the African American population is fractured and significant groups of African American voters are separated from contiguous African American communities and assigned to white majority subdistricts. Under Defendant's Adopted Map, the African American community in the southwest quadrant is divided among three subdistricts that contain a large white majority of both total and voting age population and one subdistrict that is comprised of 47% white voting age and 39% African American voting age population.

86. The African American community in District 205 is politically cohesive. The African Americans in the school district have tended to vote as a group and to vote for African American candidates.

87. The African American community is subject to majority bloc voting against its candidates.

88. Significant additional social and historical factors interact with the Adopted Map's fracturing of the African American community to cause minority vote dilution. These additional factors include lower income levels, depressed housing conditions, and racial isolation in schools for African Americans in Rockford.

89. There exists no adequate remedy at law for Defendant's violation of Section 2 of the Voting Rights Act.

WHEREFORE, Plaintiffs respectfully request that this Court declare Defendant to be in violation of §2 of the Voting Rights Act, 42 U.S.C. §1973, enjoin Defendant from implementing its Adopted Map, and grant such other relief as this Court deems appropriate.

#### COUNT IV

90.-91. Plaintiffs' adopt and incorporate as paragraphs 90 and 91 of this Count IV, paragraphs 82 and 83 of Count III.

92. Section 9-22 of the Illinois School Code provides:

Ill. Rev. Stats., Chapter 122, Para. 9-22

##### School board Districts

A school board may, on its own motion, or shall, upon the petition of the lesser of 2,500 or 5% of the voters registered in the district, order submitted to the voters of the district a regular school election or at the general election, the proposition for the election of board members by school board district rather than at large, and such proposition shall thereupon be certified by the secretary of the board for submission. If the proposition is approved by a majority of those voting on the proposition, the board shall divide the school district into 7 school board districts, each of which must be compact and contiguous and substantially equal in population to each other district. The terms of office of the board members incumbent at the time of proposition is adopted expire on the day of the next regular school election, at which time one member shall be elected from each school board district. In districts which have 4 year terms, those

members first elected after adoption of such a proposition shall, by lot, determine 3 to serve for 2 years and 4 for 4 years; their successors shall serve for a 4 year term. In districts which have 6 year terms, those members first elected after adoption of such a proposition shall, by lot, determine 3 to serve for 2 years, 2 for 4 years and 2 for 6 years; their successors shall serve for a 6 year term. Vacancies shall be filled as provided in section 10-10.

In the year following each decennial census, the school board shall reapportion the board districts to reflect the results of such census. The districts shall be compact, contiguous and substantially equal in population, and such reapportionment plan shall be completed and formally approved by a majority of the members of the board not less than 90 days before the last date established by law for the submission of nominating petitions for the next school board election. At the same board meeting, the board shall, publicly by lot, divide the board districts as equally as possible into 2 groups. In school districts which have 4 year terms, board members or their successors from one group shall be elected for successive terms of 2 years, 4 years and 4 years; and members or their successors from the second group shall be elected for successive terms of 4 years, 4 years and 2 years. In school districts which have 6 year terms, board members or their successors from one group shall be elected for successive terms of 4 years and 6 years; and members on their successors from the second group shall be elected for successive terms of 6 years and 4 years.

93. Section 9-22 requires that school board candidates reside within the school board subdistrict from which they seek to be elected.

94. In its roles as the local election official, school district electoral board and canvassing board, Defendant is proceeding with preparations for the upcoming November 1991 election as if there is

no subdistrict residency requirement for school board member candidates.

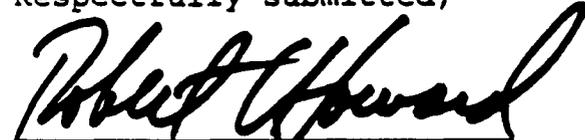
95. In proceeding without a board member residency requirement the Defendant is violating Section 9-22. By doing so, Defendant will diminish or defeat the purpose for which single-member subdistricts were authorized by the legislature and required by voter referendum -- namely, to ensure geographical representation on the Board of Education.

96. There exists no adequate remedy at law for Defendant's violation of Section 9-22.

97. This Court has pendent jurisdiction over this state law claim.

WHEREFORE, Plaintiffs respectfully request that this Court declare that Defendant is in violation of Section 9-22 of the Illinois School Code, enjoin Defendants from proceeding with election preparations as if there is no subdistrict residency requirement, and grant such further relief as this Court deems appropriate.

Respectfully submitted,



Robert C. Howard  
Attorney for Plaintiffs

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Robert C. Howard  
James G. Bradtke  
Kathleen Mangold-Spoto  
Charles J. Holley  
FUTTERMAN & HOWARD, CHTD.  
122 S. Michigan Ave.  
Suite 1850  
Chicago, IL 60603  
(312) 427-3600

Matthew J. Piers  
Jonathan Alan Rothstein  
Jennifer L. Fischer  
GESSLER, FLYNN, FLEISCHMANN  
HUGHES & SOCOL  
Three First National Plaza  
Suite 2200  
Chicago, IL 60602  
(312) 580-0100

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