

FILED

JUN 25 2002

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

DAVID M. H. ALLEN, JR.
CLERK
U.S. DISTRICT COURT
FBI

Civil Action No. 1796

HAROLD DOUGLAS COPPEDGE, et al.,)
Plaintiff,)

UNITED STATES OF AMERICA,)
Plaintiff Intervenor)

v.)

THE FRANKLIN COUNTY BOARD OF)
EDUCATION,)
Defendant.)

ORDER

This matter is before the court upon motion by Defendant Franklin County Board of Education (the "Board") to dismiss court supervision of its desegregation efforts. On April 17, 2000, the Board filed a 5-page memorandum in support of dismissal, to which the plaintiff and the Government responded, and the matter is now ripe for disposition.¹

This long-lived desegregation action was initiated by the plaintiffs on December 8, 1965. Beginning in August 1967, the court issued a series of orders requiring the Board to submit annual reports and data regarding, among other things, teacher hiring, nonrenewal recommendations, course offerings, faculty assignment, and student assignment. In 1996, the Government intervened in this case, visited Franklin County School District (the "District"), and concluded that the District was in noncompliance with several aspects of the court's orders. As a result of the District's alleged noncompliance, a consent order was entered by the undersigned on June 14, 1996. In that order, the Board agreed to take the following steps to address areas of

¹ The Board did not file a reply memorandum.

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noncompliance: (1) maintain July 1995 student assignment zones for the 1996-97 school year; (2) maintain 1995-96 minority enrollment rates for the 1996-97 school year; (3) revise the student assignment plan for new middle schools, Bunn and Franklinton; (4) maintain enrollments in the two new middle schools within $\pm 15\%$ of the overall student population; (5) desegregate elementary schools to the extent practicable; (6) make the renovation or relocation of Louisburg Elementary School the first priority after new middle school construction; (7) ensure implementation and publication of majority-to-minority transfer policy, including provision of transportation; (8) ensure that certified and non-certified staff assigned to each school do not contribute to the racial identifiability of any school; (9) ensure that schools have an equitable distribution of experienced staff; and (10) maintain the number of African-American certified and non-certified personnel at $\pm 10\%$ of the district-wide averages within each school level for black personnel. *See* June 14, 1996, Consent Order.

The Board now contends that court supervision of its desegregation efforts should be dismissed because the District has achieved unitary status. Having carefully considered each party's brief, the court is persuaded by the Government's reasoning and, except as specifically noted below, ADOPTS and INCORPORATES the same herein as the predicate for this order. Based on that reasoning, the court finds that the District has achieved unitary status in the following areas: (1) school transportation; (2) extracurricular activities; (3) school construction and facilities; (4) student transfers; and (5) faculty desegregation. Accordingly, the Board's motion to dismiss is ALLOWED as it relates to these five areas.

With respect to the other areas, the court finds that, as explained by the Government, the District has not achieved unitary status in terms of quality of education or desegregation of staff.

In addition, unlike the Government, the court is unable to conclude at this time that unitary status has been achieved in the area of student assignments. The court is particularly troubled by the fact that the proportion of African-American students in three out of the six elementary schools is not within $\pm 15\%$ of the District-wide proportion of African-American students.² Accordingly, the Board's motion to dismiss is DENIED as it relates to these three areas.

Finally, the court adopts the Government's proposed schedule to address the remaining areas of concern. Specifically, the parties are now DIRECTED to adhere to the following schedule:

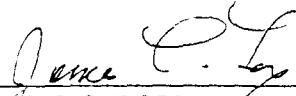
1. The Board shall have forty-five (45) days from the date of this order to develop proposals to remedy the aforementioned areas of noncompliance and communicate the same to the plaintiff and the Government.
2. The plaintiff and the Government shall have forty-five (45) days to respond to the Board's remedy proposals.
3. After both the plaintiff and Government have responded, the parties shall have thirty (30) days to negotiate and attempt to resolve all remaining issues.
4. At the end of that 30-day period, the parties shall apprise the court of their progress and submit to the court either (1) a proposed consent decree or (2) a statement of unresolved issues and a request for a hearing.

For the foregoing reasons, the Board's motion to dismiss is ALLOWED IN PART and DENIED IN PART.

² Although the court recognizes that the 1996 consent order required only that the District's elementary schools become desegregated to the extent practicable, the Board has given no explanation for why three of the six elementary schools remain racially identifiable.

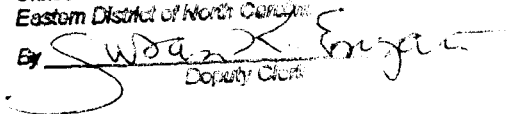
SO ORDERED.

⁴
This the 2nd day of June, 2002.



JAMES C. FOX
Senior United States District Judge

I certify the foregoing to be a true and correct
copy of the original.
David W. Dunkel, Clerk
United States District Court
Eastern District of North Carolina

By 

Deputy Clerk