

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

ROBERT L. ADAMS, JR., and YVONNE ADAMS, )  
Minors, by and through their father, )  
ROBERT L. ADAMS, SR., as next friend, and )  
THOMAS LIASE, A Minor, by and through his )  
stepfather, HARDIE O. JOHNSON, as next friend, )

Plaintiffs, )

CIVIL ACTION No. 6:04-cv-291-LED

UNITED STATES OF AMERICA, )

Plaintiff-Intervenor, )

v. )

CHARLES F. MATHEWS, Superintendent of the )  
LONGVIEW INDEPENDENT SCHOOL DISTRICT, )  
LONGVIEW INDEPENDENT SCHOOL DISTRICT, )  
NORMAN P. TAYLOR, O. L. KIMBROUGH, )  
R. J. SCHRADER, TOM W. LANDERS, )  
C. B. MASON, LANDON A. COLQUITT, and )  
J. MERTON YOUNG, Members of the Board of )  
Trustees of the LONGVIEW INDEPENDENT )  
SCHOOL DISTRICT, )

Defendants. )

**CONSENT ORDER**

This is a desegregation case filed to enjoin the Defendant Longview Independent School District (“District”) from operating a dual system based on race. On January 20, 1970, the Court entered an Order approving the District’s Plan of Desegregation, which states, *inter alia*, that “[a]ll future school construction, consolidation, site selection, including the location of any temporary class rooms, will be done in a manner which shall prevent the reoccurrence of the dual school structure.” See Order (01/06/70). On July 15, 2004, the Court authorized the District to implement a magnet

school program, but reiterated that “[a]ll provisions of prior orders of this Court not in conflict with this Order [establishing the magnet schools] remain in full force and effect.” See Order (07/15/04).

On July 9, 2008, during the parties’ telephonic Status Conference with the Court, the District proffered a verbal motion to close Pinewood Park Elementary School (“PWP”). The United States requested an expedited schedule to obtain information about the District’s proposal, which the Court granted. See Order (07/11/08). Pursuant to the Court’s Order, the United States served an Information Request on the District on July 15, 2008, the District provided its response on July 28, 2008, and the parties engaged in negotiations to prepare a joint proposal for the closure of PWP.

After reviewing the terms of this Consent Order, it is the opinion of this Court that its entry is consistent with the objectives of the Fourteenth Amendment of the Constitution of the United States of America. It is therefore ORDERED, ADJUDGED, AND DECREED as follows:

**I. Background**

On May 10, 2008, the District obtained funding from a bond referendum for the construction of five new elementary schools and three new middle schools, as well as the renovation of two existing elementary schools and the District’s high school. The District has assured the Court that it will work closely with the United States to determine appropriate site selections for the new schools and for re-drawing the District’s attendance zones in a manner that will further the orderly desegregation of the District. Under the District’s preliminary reconstruction plan, PWP was initially slated to be closed at the conclusion of the 2009-10 school year, and the PWP students were to be assigned to one of the new elementary schools. However, the District’s Board of Education voted on July 14, 2008, to close the school before the 2008-09 school year, pending approval from the Texas Education Agency and the Court.

The District has presented the following reasons for closing PWP now: (1) the school has performed poorly based on State and federal school assessments; (2) staff turnover at the school has been prodigious and there are presently 8 classroom vacancies at the school; (3) closing the school is estimated to save the District \$1.5 million; and (4) the school facilities are deficient, which is the reason it was slated to be closed and replaced with a new elementary school.

**II. Student Assignment**

**A. 2007-2008 Enrollment**

PWP and J. L. Everhart Elementary (“Everhart”) are two of the District’s magnet (International Baccalaureate) schools, which enroll students in grades 1-3. Both of the schools are located in the central region of Longview, adjacent to Ware Elementary and South Ward Elementary (grades PK-5). During the 2007-08 school year, the District had a total enrollment of 4,390 elementary level students. Approximately 46 percent of the elementary level students were African-American and 22 percent of the students were white. PWP’s enrollment for last year was 47 percent African-American and 9 percent white, and Everhart’s enrollment was comparable. The specific enrollment and system configuration for the 2007-08 school year are shown below:

**Longview 2007-2008 Elementary School Enrollment**

	Grade	Black	%	White	%	Hisp.	%	Other	%	Total
<b>Bramlette</b>	PK-5	351	70.9	84	17.0	49	9.9	11	2.2	<b>495</b>
<b>ValleyView</b>	PK-5	163	31.1	40	7.6	321	61.1	1	.2	<b>525</b>
<b>Ware</b>	PK-5	259	65.4	31	7.8	105	26.5	1	.3	<b>396</b>
<b>McQueen</b>	PK-2	129	29.2	270	61.1	35	7.9	8	1.8	<b>442</b>
<b>S. Ward</b>	K-5	194	39.3	10	2.0	288	58.3	2	.4	<b>494</b>
<b>Hudson</b>	1-5	80	20.1	280	70.4	22	5.5	16	4.0	<b>398</b>

<b>Mozelle</b>	3-5	119	35.4	169	50.3	41	12.2	7	2.1	<b>336</b>
<b>McClure</b>	4-5	180	55.7	15	4.7	128	39.6	0	0	<b>323</b>
<b>Everhart</b>	1-3	156	56.9	13	4.8	103	37.6	2	.7	<b>274</b>
<b>PWP</b>	1-3	131	47.3	26	9.4	118	42.6	2	.7	<b>277</b>
<b>Foster</b>	PK-K	260	60.5	26	6.0	143	33.3	1	0.2	<b>430</b>
<b>ES Total</b>		<b>2022</b>	<b>46.1</b>	<b>964</b>	<b>22.0</b>	<b>1353</b>	<b>30.8</b>	<b>51</b>	<b>1.1</b>	<b>4390</b>

Other than Hudson PEP Elementary, which the District uses for the students it identifies as gifted and talented, the schools with enrollments that are furthest from the District’s overall elementary level enrollment figures are Doris McQueen Primary (“McQueen”) (PK-2), which feeds into Mozelle Johnston Elementary (“Mozelle”) (3-5), and Bramlette Elementary (PK-5).

**B. Closure of Pinewood Park**

The District’s 2008-09 school year begins on August 25, 2008. Beginning with the 2008-09 school year, any 2nd and 3rd grade student currently zoned to attend PWP pursuant to the Court-approved elementary school boundaries will be assigned to Everhart. Likewise, any 1st grade student currently zoned to attend PWP will be assigned to Everhart, capacity permitting, or to Ware in the alternative.

In order to reassign PWP students to Everhart and Ware in compliance with the schools’ capacity limits, the District will permit any PWP student to voluntarily transfer into either McQueen or Mozelle, with transportation provided by the District. Furthermore, any student accepting this voluntary transfer will be permitted to continue attending McQueen and Mozelle through Mozelle’s terminal grade, the 5th grade, with transportation provided by the District. After the District-wide construction and re-zoning occurs, these students will be given the opportunity to return to their new zoned schools, with transportation provided by the District, if appropriate, or remain at McQueen

and Mozelle, with transportation provided by the District.

By no later than August 6, 2008, the District will mail a letter entitled *Closure of Pinewood Park Elementary School* to every parent of a student currently enrolled at or projected to be enrolled at PWP during the 2008-09 school year. These letters, which will be tailored to address each student's grade level, shall notify the parents that PWP is to be closed and inform them that their children will be rezoned to either Everhart or Ware unless they elect to transfer their children to McQueen or Mozelle. They shall also state that the PWP students must notify the District if they wish to transfer to McQueen or Mozelle by no later than August 20, 2008. The District will also post a similar notice on its website and prominently display it at PWP. The District shall provide a copy of the proposed letters and the notice to the United States for its review and approval by 10:00 a.m. August 5, 2008.

By no later than August 6, 2008, the District will also mail a letter entitled *Majority to Minority Transfers* to every parent of a student currently enrolled at or projected to be enrolled at PWP, Everhart, and Ware during the 2008-09 school year. Consistent with the Court's 1970 Order, these letters, which will be tailored to address each student's race and grade level, shall notify these parents that any student attending a school in which his or her race is in the majority may choose to attend any other school where space is available<sup>1</sup> and where his or her race is in the minority. The District shall provide transportation to these "M-to-M" transfer students. These letters will also inform the parents that any student who chooses to transfer under the M-to-M transfer program must notify the District that they wish to do so by no later than August 20, 2008. A similar notice will be

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<sup>1</sup> For purposes of determining if space is available, intra-district M-to-M transfers shall have priority over all other transfers, including priority over inter-district transfers.

prominently posted on the District’s website and displayed at PWP, Everhart, and Ware. The District shall provide a copy of the proposed letters and notice to the United States for its review and approval by 10:00 a.m. August 5, 2008.

C. Projected 2008-2009 Enrollment

The District does not presently know how many new Kindergarten students will enroll in the District, or the race of these students, although it estimates the number to be approximately 440. The District also does not know how many of the students will choose to use one of the transfer options set forth above. Finally, on July 14, 2008, the District’s Board of Education granted approval for 70 non-resident K-5 grade students to attend District schools, but the District has not yet assigned these students to specific schools. Nevertheless, based on current data, the District’s enrollment projections for the 2008-09 school year are shown below:

**Longview 2008-2009 Projected Elementary School Enrollment**

	Grade	Black	%	White	%	Hisp.	%	Other	%	Total
<b>Bramlette</b>	PK-5	301	70.49	72	16.86	44	10.30	10	2.34	<b>427</b>
<b>ValleyView</b>	PK-5	139	29.64	39	8.32	288	61.41	3	0.64	<b>469</b>
<b>Ware</b>	PK-5	295	60.70	37	7.61	151	31.07	3	0.62	<b>486</b>
<b>McQueen</b>	PK-2	97	30.99	180	57.51	31	9.90	5	1.60	<b>313</b>
<b>S. Ward</b>	K-5	189	37.57	11	2.19	301	59.84	2	0.40	<b>503</b>
<b>Hudson</b>	1-5	71	18.78	262	69.31	26	6.88	19	5.03	<b>378</b>
<b>Mozelle</b>	3-5	122	36.86	172	51.96	29	8.76	8	2.41	<b>331</b>
<b>McClure</b>	4-5	170	50.90	24	7.19	138	41.32	2	0.60	<b>334</b>
<b>Everhart</b>	1-3	230	50.88	37	8.19	183	40.49	2	0.44	<b>452</b>
<b>Foster</b>	PK-K	133	52.99	11	4.38	106	42.23	1	0.40	<b>251</b>
<b>ES Total</b>		<b>1747</b>	<b>44.30</b>	<b>845</b>	<b>21.24</b>	<b>1297</b>	<b>32.89</b>	<b>55</b>	<b>1.39</b>	<b>3944</b>

These estimates presume that no PWP student chooses to transfer to McQueen or Mozelle, that all PWP 2nd and 3rd grade PWP students will be reassigned to Everhart, and that all 1st grade PWP students will be reassigned to Ware. These projected enrollment figures demonstrate that the closing PWP will not hinder the District's desegregation efforts.

D. Alternatives to Assure Compliance with Capacity Limits

The parties believe the closure of PWP as set forth above can be achieved in compliance with the schools' capacity limits. However, in the event that actual student enrollments exceed the schools' capacity limits, the District will take the following actions, in order, until it complies with the capacity limits at each of the schools:

1. Deny and/or revoke inter-District transfers into Everhart, Ware, McQueen, and/or Mozelle if they do not meet capacity requirements; and
2. Move one or more of the District's portable buildings to different schools, as needed, to meet capacity.

If the actual student enrollments continue to exceed the schools' capacity limits after the District takes these actions, the District will notify the United States and the parties will attempt to negotiate a joint proposal for modification of this Order.

E. Transfer of Students

The Court's 1970 Order established the District's school boundaries for the purpose of student assignments. Although the Court modified its Order in 2004 to exempt the District's magnet schools from the prior boundaries, the Court's orders authorize the District to transfers students under only two limited circumstances: (1) to grant intra-District M-to-M transfers; and (2) to grant inter-District transfers "except that it shall not consent to transfers where the accumulative effect will

reduce desegregation ... or re-enforce the dual school system.” See Order (01/06/70).

During the 2007-08 school year, the District transferred 419 students based on 30 different reasons. Only 22 of the those transfers were classified as M-to-M transfers. The transfers also had a negative impact on the racial composition of the District’s schools. For example, the District transferred 80 African-American students into Bramlette while simultaneously transferring 29 white students out of the school. Accordingly, the United States notified the District that its transfer practices did not comply with the Court’s Order and the parties have entered into negotiations in an effort to prepare a joint request for modification of the Court’s Order regarding transfers.

The parties discussions on this issue are ongoing. However, the District has agreed not to grant any new transfers in the future, other than M-to-M transfers and inter-District transfers that comply with the Court’s previous orders. The parties have agreed, and the Court orders, that students previously granted transfers in violation of the Court’s orders will be permitted to continue to attend the school in which they are enrolled through the terminal grade of such school. At that time, all such students will return to the school to which they are zoned. Furthermore, the parties shall continue their discussions in an effort to prepare a joint proposal for modification of the Court’s orders with respect to the transfer of students. Finally, the parties will file, jointly or separately, their proposed modifications with the Court by no later than November 3, 2008.

### **III. Staff and Faculty Assignment**

Approximately 30 percent of the District’s elementary level teachers and certified staff are African-American and 58 percent are white. The specific employment figures for the 2007-08 school year are shown below:



**Longview 2007-2008 Elementary School Faculty & Certified Staff Assignments**

<b>School</b>	<b>Black</b>	<b>%</b>	<b>White</b>	<b>%</b>	<b>Other</b>	<b>%</b>	<b>Total</b>
<b>Bramlette ES</b>	19	47.50	21	52.50	0	0	<b>40</b>
<b>Valley View ES</b>	7	19.44	20	55.56	9	25.00	<b>36</b>
<b>Ware ES</b>	5	14.29	26	74.28	4	11.43	<b>35</b>
<b>McQueen Prim.</b>	6	17.14	29	82.86	0	0	<b>35</b>
<b>S. Ward ES</b>	14	36.84	15	39.47	9	23.69	<b>38</b>
<b>Hudson PEP ES</b>	1	3.85	25	96.15	0	0	<b>26</b>
<b>Mozelle ES</b>	7	22.58	23	74.19	1	3.23	<b>31</b>
<b>McClure ES</b>	12	48.00	10	40.00	3	12.00	<b>25</b>
<b>Everhart Prim.</b>	15	57.69	6	23.08	5	19.23	<b>26</b>
<b>Pinewood Park</b>	6	25.00	13	54.17	5	20.83	<b>24</b>
<b>Foster Prim</b>	12	46.15	9	34.62	5	19.23	<b>26</b>
<b>ES Total</b>	<b>104</b>	<b>30.41</b>	<b>197</b>	<b>57.60</b>	<b>41</b>	<b>11.99</b>	<b>342</b>

During the 2007-08 school year, the District employed 24 teachers and certified staff at PWP. According to the District, 8 PWP teachers resigned and/or retired during the 2007-08 school year. In addition, 3 other certified staff have resigned. Currently, the District employs only 6 classroom teachers at PWP. For the 2008-09 school year, the District will re-assign all 6 of these teachers as classroom teachers to District schools in a non-discriminatory manner. The District will also assign all part-time teachers, principals and assistant principals, and other certified and non-certified personnel from PWP to other schools based on the individual school needs, and in a non-discriminatory manner.

**IV. Reporting Requirements**

By no later than October 15, 2008, the District shall provide to the United States and file with

the Court the following information:

1. The total number and percentage of students, by race/ethnicity and grade level, assigned to each school operated by the District.

2. The total number of students who have requested intra-district transfers, indicating for each such request: the student's race/ethnicity; grade; sending school (school the student is zoned to attend); receiving school (school to which transfer is sought); reason for the transfer request; whether the District granted or denied the transfer; and the reason for granting or denying the transfer. The District shall provide the same information for inter-district transfers.

3. The total number and percentage of teachers and administrators, by race/ethnicity and position, assigned to each school operated by the District, specifically indicating all full-time teachers, part-time teachers, principals and assistant principals, and other certified personnel, such as guidance counselors and librarians. The District must also specifically identify all former PWP teachers and administrators.

4. The total number and percentage of non-certified staff, by race/ethnicity and position, assigned to each school operated by the District, specifically indicating all former PWP employees.

5. The location of any portable buildings used by the District and a description of how the portable building is being utilized.

**D. Conclusion**

All prior orders that do not conflict with this Consent Order remain in full force and effect.

IT IS SO ORDERED, this 4 day August



UNITED STATES DISTRICT JUDGE

WE SO CONSENT:

GRACE CHUNG BECKER  
Acting Assistant Attorney General

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