

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**



KALIMA JENKINS, et al.,)
)
 Plaintiffs,)
)
 vs.)
)
 STATE OF MISSOURI, et al.,)
)
 Defendants.)

No. 77-0420-CV-W-4

ORDER

This matter comes before the Court on the Kansas City Missouri School District ("KCMSD") and Plaintiffs' Joint Motion for Approval of the Long Range Magnet Renewal Plan ("LRMRP") and also, Plaintiffs' Proposed Additions to the LRMRP. The State of Missouri ("State") has responded as well as the American Federation of Teachers Local 691 ("AFT"). This matter was the subject of extensive briefing before this Court. A hearing was held in two parts and the Court received evidence concerning the LRMRP. Additionally, the Court received substantial post-trial briefing from the parties. Based on the arguments presented by the parties in the above referenced pleadings and on the evidence presented during the approximately three weeks of hearings the Court will grant the KCMSD and Plaintiffs' motions in part and deny them in part as set out below.

The Court will first note that the District has been adjudged a constitutional violator in the action before this Court. It is somewhat ironic the posture that this case has taken over the many years it has been ongoing. The District, a constitutional violator, is now before this Court

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on joint motion with the plaintiff school children requesting that the Court extend for ten years a magnet program with an estimated budget, in 1992 dollars, totalling well over \$500 million. The State, also a constitutional violator, has historically opposed the implementation of any program offered to desegregate the KCMSD. The Court recognizes that the State has had to bear the brunt of the costs of desegregation due to the joint and several liability finding previously made by the Court. However, the State has never offered the Court a viable, even tenable, alternative and has been extremely antagonistic in its approach to effecting the desegregation of the KCMSD.

The Court must consider the history of this case before it can pass on the ten-year extension proposed by the District. More importantly, a ten-year extension of the Magnet Program requires that the Court carefully evaluate both its perceptions and those of the parties of what the future of this case will bring. The Court recognizes that there has been substantial activity in the Missouri Legislature which could impact significantly on the ongoing administration of the KCMSD desegregation program. Additionally, there are other components of the desegregation program already implemented by the Court which must be considered before the Court may pass on a ten-year extension of the Magnet Program component. The Magnet Program does not operate in a vacuum, therefore, any proposed extension should not be considered without full weight being given to the other aspects of the KCMSD desegregation plan.

A point of much concern to the Court, yet barely addressed by either the District or the plaintiffs, is how the KCMSD proposes to ultimately fund the school system developed under the desegregation plan. The Court finds it greatly satisfying that the District is willing to plan

and assume its desegregation obligation over the next ten years. It is without question a necessity to make sufficient plans to provide for a stable school system and to make it even more attractive to non-minority suburban and private school children and their parents. However, a glaring omission is a plan by which the District proposes to fund this wonderful school system being built.

Statement of the Case

In the Joint Pretrial Order the parties listed their different views of the issues to be presented to the Court in the LRMRP Hearing. The Court finds it is appropriate to set out each of the parties understandings as it is necessary to the ultimate resolution of these issues.

The Kansas City, Missouri School District

On September 1, 1992, the KCMSD, together with the Jenkins plaintiffs filed with this Court a Joint Motion for approval of the LRMRP. The LRMRP provides for the continuation and funding of existing magnet programs on a modified basis over the next ten years. Additionally, the LRMRP provides for the implementation of certain new magnet programs, notably at the remaining traditional elementary schools as necessary to address an accelerating trend of racial isolation in those schools. The LRMRP includes a ten-year budget (stated in 1992 dollars), to be funded by the State of Missouri and the KCMSD on a joint-and-several basis. The LRMRP is designed to enhance the KCMSD's ability to attract to its schools new students, both minority and non-minority, and thereby present the most reasonable prospect of continuing desegregative progress in Kansas City's schools. (Joint Pretrial Order at 1-2).

Plaintiffs

In addition to their role in working with the District to develop and submit to the Court the LRMRP, on November 13, 1992, plaintiffs separately filed with the Court a motion for an order approving certain additions and other changes to the proposed Renewal Plan. Plaintiffs thus seek approval by the Court of the LRMRP as modified by their subsequent proposal in 25 specified respects. While the KCMSD agrees that most if not all of plaintiffs' proposed modifications would enhance (to greater or lesser extent) the Renewal Plan, the District does not in most instances view them as absolutely necessary to the future success of the LRMRP.

The AFT

The AFT generally supports the LRMRP with certain modifications. The AFT did not take an active role in the hearing except to the extent that it elicited testimony regarding the possible effects of any changes in the LRMRP on the ultimate ability of teachers to perform their responsibilities.

The State of Missouri

On November 13, 1992, the State submitted to the Court a memorandum in opposition to plaintiffs' and the KCMSD's Joint Motion for approval of the LRMRP. Characterizing the original (and current) Long Range Magnet Plan as a failure, the State requested that this Court reject the ten-year Renewal Plan and order only a one-year extension of the existing magnet programs at current budgetary levels. Moreover, the State proposed that there occur an additional analysis during the one-year extension of the status of the magnet program as a desegregation remedy in this litigation; such analysis would identify whatever particular magnet programs or schools should be preserved from termination after the conclusion of the one-year

extension. Furthermore, the State requested a Court order that the KCMSD (beginning in 1994-95 and for a total of at least three school years) turn over to the Missouri Department of Elementary and Secondary Education three District elementary schools for implementation of an Outcome-Based Education pilot program. The State also proposed that, if the ten-year extension and expansion of the magnet plan is approved, the Court remove control of the operation of the KCMSD from the current Board and Administration. (Joint Pretrial Order at 3).

Contested Issues of Fact and Law

The parties were unable to agree on the contested issues of fact and law and submitted their own separate statements on what each thought the appropriate issues were. The District submitted the following issues. First, whether the magnet programs have contributed to improving the educational lot of the victims of unconstitutional segregation and whether approval of the LRMRP would likely result in additional educational progress. See, Jenkins v. Missouri, 855 F.2d 1295, 1302 (8th Cir. 1988), cert. denied in relevant part, 490 U.S. 1034 (1989).

The second issue was whether implementation of the magnet plan has contributed toward the Court's goal of regaining those students who earlier participated in white flight and retaining those who stayed in the KCMSD, and whether the LRMRP would result in the attraction and retention of additional non-minority students. Next was whether the magnet programs have redistributed the students within the KCMSD for maximum desegregation and whether the LRMRP would result in the stabilization and further enhancement of desegregative gains.

The fourth issue raised by the District was whether the proposed LRMRP developed by the KCMSD and plaintiffs was appropriately based upon a careful analysis of the plan's impact

upon other components of the desegregation plan, and is geared toward (a) maximizing the future achievement of desegregation with a minimum amount of resources; (b) providing long-term stability, including in terms of future financing; and (c) incorporating a carefully designed marketing program based upon clearly defined themes. Next, was whether the proposed staffing, non-salary resources, and related capital projects proposed in the LRMRP are necessary to the success of the programs and general curriculum at the magnet schools; and whether the staffing concerns raised by plaintiffs in their supplemental proposal are necessary to the success of the magnet programs. See, Liddell v. Board of Education, 967 F.2d 1241, 1245 (8th Cir. 1992).

The last issue raised by the District was whether approval by the Court of (1) the LRMRP, or (2) the one-year extension proposed by the State, including the takeover of three elementary schools for implementation of an OBE program with the express understanding that the magnet program would be partially or completely dismantled over time -- would better promote desegregation as envisioned by this Court throughout its monitoring of the present litigation.

The plaintiffs raised the issue of whether the 25 separate proposed additions were appropriately considered as a necessary part of any LRMRP to promote and sustain the desegregation of the KCMSD. Plaintiffs' next issue was whether their proposed additions were necessary to promote and achieve academic success in the KCMSD. Lastly, the plaintiffs raised the issue of whether it is necessary and appropriate to implement a ten-year LRMRP.

The State raised a series of issues as to the previous effectiveness of the magnet programs in general and specifically as to any future implementation. The State first asked whether the

current magnet program has had sufficient desegregation or academic achievement success to warrant a continuation or expansion of new, untested themes in the KCMSD. The State next presented the issue of whether the KCMSD under a new magnet program could attract sufficient additional non-minority students to attain a district-wide or school-by-school ratio of 60% minority 40% non-minority or whether the new magnet program could ever provide academic achievement to a level constitutionally required to enable the KCMSD to attain unitary status. The State raised the further issue of whether magnetizing all of the currently "traditional" elementary schools was necessary to meet the goals stated above.

The next area of interest to the State was appropriately finance. The State raised the issue of whether a long-term financing program has been developed by the District to (1) fund the District's share of the desegregation remedy beyond the current year and (2) provide a funding mechanism by which the District will continue the magnet programs after State funding is no longer required. The issue of whether the capital resources proposed for the first year of the LRMRP were justified was also raised.

The State raised the further issue of whether a one-year interim continuation of the present magnet school program would be appropriate to allow for additional study and evaluation of the magnet program. Also offered was whether the Outcome Based Education model in three of the schools might provide a better basis for education in the KCMSD. Additionally, the State raised the issue of whether the possibility of a Voluntary Interdistrict Transfer program might allow for implementation of a less costly magnet program.

Lastly, the State brought forward the issue of whether the study of demographic trends within the KCMSD and surrounding census areas and the public opinion survey of resident

parents of the school districts surrounding the KCMSD, both of which were conducted by State experts and which (as argued by the State) limited additional attractiveness to non-minorities and virtually no potential to reach 60/40, provide a basis upon which the Court should deny the extension and expansion of the magnet plan and justify a one-year evaluation period. Moreover, the State was concerned with whether the proposal for neighborhood schools warranted additional time and consideration.

With this background of the posturing of the case in mind, the Court will proceed to address the contentions it believes are necessary to the resolution of the main issue before the Court: whether the Court should order the ten-year extension and expansion of the magnet programs and hold the State financially accountable for the LRMRP throughout the entire period.

FINDINGS OF FACT

After due consideration of the evidence presented by the parties at both parts of the hearing on this matter, the Court makes the following findings of fact:

1. Since 1986 the KCMSD magnet school plan has made substantial progress toward desegregating the schools of Kansas City. It has eliminated all fifteen elementary schools that had suffered the most intense racial isolation and it has substantially improved the elementary school exposure index.

2. While several secondary magnet schools have not been in operation for more than a few years, some progress has been made in integrating those schools. Several middle and high schools have achieved high levels of integration, including King Middle School of the Arts, Lincoln Prep and Paseo Academy. Other secondary schools have programs that should, in the future, increase desegregative success.

3. The KCMSD magnet school program has had some impact upon residential choices of Kansas Citians. There is evidence that because of the magnet schools some parents of white students who would earlier have moved out of the KCMSD have stayed and enrolled their children in the magnet schools.

4. There remains a substantial pool of non-minority students, especially in surrounding Missouri school districts, who are interested in attending and may be persuaded to attend the KCMSD magnet schools.

5. A ten year extension would have a positive impact on the attractiveness of the KCMSD magnet school programs by offering stability and continuity to prospective participants. Additionally, a ten-year extension would undoubtedly be of benefit in attracting quality teachers and administrators to the magnet schools.

6. The District has gone through an extensive evaluation and planning process in its preparation of the LRMRP. However, the District has provided the Court with a plan based solely on the theory that all of the schools in the KCMSD should be magnetized.

7. The evidence supports the conclusion that there has been increased racial isolation in the traditional elementary schools since the implementation of the LRMP. Moreover, there exists some evidence which suggests that some students have responded positively with respect to academic achievement within the magnet elementary schools.

8. The evidence before the Court supports the conclusion that a substantial number of patrons of the KCMSD advocate the continuation of some form of traditional elementary school education.

9. Extending the magnet program to include all of the currently traditional

elementary schools would not, based on the current evidence, significantly impact the desegregative or achievement effort of the current magnet plan. Furthermore, based on the current sentiment testified to in the hearing, there is a significant population supporting traditional elementary school education and this population is very important to the ultimate success of the desegregation effort in the KCMSD.

10. The Montessori programs presently in the elementary schools have been an extremely popular theme. There have been long waiting lists for this theme. The evidence sufficiently supports the addition of one more Montessori elementary school.

11. The Outcome Based Education (OBE) program offered by the State has several components which are educationally attractive. However, the OBE program is an educational delivery methodology which does not rise to the level necessary to build an entire theme for a magnet school.

12. The OBE program offered by the State is not a credible alternative to the LRMP currently in effect.

13. There is an astounding lack of evidence to support the State's proposition that it should take over and operate three elementary schools within the KCMSD. The proposal by the State, through its purported experts, lacked sufficient specificity to be considered in any way credible.

14. The LRMRP, as proposed, makes significant changes to the current structure of the administration in the KCMSD. The current fiscal climate and the requirements of effective delivery of services within the magnet school program do not necessitate the extreme reorganization contemplated by the LRMRP.

15. The LRMRP, while making some very important changes in magnet themes, is too extensive a change at this time to justify its implementation.

16. There are certain theme changes that are supported by the evidence.

17. The Court finds that the evidence presented by the District with respect to achievement data to be generally credible. The Court finds that the evidence is clear that there has been a trend of improvement in academic achievement in the KCMSD. However, the Court is not satisfied that the District has reached anywhere close to its maximum potential because the District is still at or below national norms at many grade levels. Nor does the Court find that the data presented by the District is necessarily indicative of a clear trend of the magnet schools consistently outperforming the traditional schools. The Court finds that there is no way to make a competent comparison at the higher grade levels as no traditional schools exist at these grades. The Court finds that the achievement data provided by the District is reliable but is not probative to the extent which the District used to make its sweeping conclusions as to academic success. Moreover, the Court finds that the studies conducted by the State are reliable but not to the extent necessary to draw the doomsayer's conclusions reached by the State with respect to the success of the magnet program. The Court finds that the achievement success of the magnet schools has been positive overall but is not truly reflected by the conclusions asserted by either party.

18. The Court finds that the District, through the magnet program, has made positive steps towards reaching the desegregation goals of the Magnet Plan. This is evidenced by the testimony of the District's expert, Dr. Gary Orfield, showing the exposure index to have made positive changes during the course of the LRMP. However, the Court finds that the District's

overall minority/non-minority ratio of 74%/26% does not comport with the requirements previously announced by this Court for the desegregation objective of the Magnet Plan.

19. Neither the District nor the plaintiffs has offered a plan for financing the expanded magnet school program. The Court finds that it would be inappropriate to order such a long-term extension of the magnet program without a clear method of financing it other than relying on State funding through joint and several liability.

20. In order to have a clear view of the future of the magnet school program, as well as the desegregation program generally, and in light of the changes of state leadership and the activity in the Missouri Legislature, it is necessary for the Court to have before it a viable plan by which the District will fund and operate the magnet schools of the KCMSD after Court ordered funding by the State is withdrawn.

Extension of the LRMP

The Court is faced, as usual, with diametrically different proposals provided by the parties in this litigation. The Court has previously found that the desegregation program which this Court has undertaken requires a magnet component in order to succeed in reaching the goals which have been repeatedly articulated by this Court. However, neither of the proposals put forth by the parties in the LRMRP hearing phase comport with the requirements of the magnet component as envisioned by the Court. Each of the parties have submitted concepts which should definitely be included in the magnet component. However, the Court is left with the undesirable prospect of formulating, on its own, the magnet component for the desegregation plan.

In the past the Court has consistently allowed the District to indulge in speculation as to

what benefits different magnet programs will have in the KCMSD. In short, the Court has allowed the District planners to dream. The Court then has provided the mechanism for these dreams to be realized. The Court has found that many aspects of the LRMP have been completely successful. The testimony of the students, parents, and teachers as to the rejuvenated physical plant of the KCMSD stands in sharp contrast to the testimony which precipitated the Court's original formulation of the magnet school program. There is no doubt that the educational opportunities afforded in the magnet schools are better than that previously available. However, the LRMRP offered by the District and plaintiffs illustrates the District's ability to dream. The Court finds that it is time that the District be subject to a very definite reality check. The plaintiffs have recognized that in several areas the District has sought to cut the current magnet programs to justify its extravagance in the LRMRP. However, the plaintiffs are just as guilty in that they too, have included extravagant expansion of the magnet component.

In fashioning the magnet component to the desegregation remedy initially, the Court ordered the construction and implementation of certain well-defined magnets. Many of these magnet themes have been very successful in attracting and retaining non-minority students. The Paseo Academy has been successful as exhibited by the waiting lists for admission. Additionally, the Montessori programs have been quite attractive at the elementary school level. The Lincoln College Preparatory Program also has been successful in attracting non-minority students. Moreover, each of the above listed programs have impacted the achievement of both minority and non-minority students in a very positive way.

The parties agree, if but on only one thing, that some of the themes implemented in the LRMP have not been as successful as predicted when they were submitted to the Court. The

District has not appropriately identified the magnets which are unsuccessful. Rather, the District has used the LRMRP as an opportunity to again reassign responsibilities and job descriptions. There has been a very significant introduction of new themes at the elementary school level and an adjustment to feeder patterns throughout the magnet program. The Court applauds the better definition of feeder patterns by the District but finds that such accomplishments may be made without magnetizing all of the elementary schools in the district.

The Court sets the following guidelines for the District to use in the further implementation of the LRMP. The Court will first note that it is not adopting the extensive restructuring of the LRMRP. It is just as true that the Court is not adopting the one-year roll-over, for the purpose of finding the best way to dismantle the magnet program, as proposed by the State. What the Court is adopting is an extension of the magnet component of the desegregation program with certain specific additions and with the express understanding that the District may make modification to themes within the current structure and budget in order to eliminate ineffective themes and ensure that the magnet program meets the previously announced goals of desegregation and achievement.

The Court has found that the Montessori elementary education program has been a highly successful magnet theme. Therefore, the Court will order that the District establish one additional Montessori magnet theme. The District shall use the new elementary school which is to come into the school system in the 1993-94 school year for the new Montessori school. The Court will allow for the modification of this school's budget to account for the implementation of the Montessori theme. The budget offered by the District for such an additional Montessori elementary school under the LRMRP presupposed a change in personnel

and structure which the Court does not adopt. Rather, the District should use the current Montessori program budgets as the model for implementation of the new elementary school.

The six "1986-87 Magnets" -- i.e., Lincoln College Prep, the Southwest Cluster, and Swinney-Volker -- have been responsible for differing degrees of success. Nonetheless, the Court finds that they should be extended through the period contemplated by this order. These 1986-87 Magnets should be funded under the Magnet Plan as adopted by this order. However, the Court finds that the District shall continue to fund the schools represented as the 1986-87 Magnets at the same level as they currently exist with the exception of modifications made necessary at Lincoln College Prep as discussed below. The Court specifically finds that the changes to the budgets of those other 1986-87 Magnets as proposed by the District in the Renewal Plan are not to be implemented. The Court finds that it is imperative to the continued success of programs such as Swinney-Volker that the budgets be maintained at the current levels. The District should be able to continue the operation at the current levels as the Court is in essence ordering the transfer of the 1986-87 Magnet funds to be, appropriately, a component of the LRMP budget approved herein.

The Lincoln College Preparatory program has been a very successful program. The Court finds that the expansion of seats proposed by the District for this program to be an appropriate method of expanding the accessibility of this program. Moreover, the Court finds that the conversion of the Middle School facility and the integration of this program with that of the high school at Lincoln College Prep would have a beneficial effect on the ability of the District to implement this highly successful theme. The Court will order that the District implement the changes necessary to transform the Lincoln South facility into the College Prep

middle school facility. Again, the Court finds that the current budget allocated to those programs to be transformed should be adequate to fund the resulting middle/high school programs. However, should the District find that there exists a budgetary shortfall or windfall in this area, as a direct result of the conversion, the Court will entertain motions for adjustments as necessary.

The Court has considered the LRMRP's modification to the Foreign Language Immersion Program and finds that the purported benefits do not justify the significant changes to the program. This is a result of the Court's refusal to magnetize all of the elementary schools in the district. The LRMRP's adjustments to the Foreign Language Program presupposes total magnetization. The Court has not agreed that the traditional schools should take on the themes as suggested in the LRMRP. Therefore, the theme changes in the Foreign Language Program are inappropriate. The Court does find that the District is correct in its assumption that the Full Immersion programs are successful. The demonstration made by the third-grade science class, in french, at trial was very impressive. As the Court has stated on many occasions, it is not an expert on the methodology of educational instruction. Therefore, the Court will grant the District the appropriate latitude to implement full-immersion programs within the language programs available under the LRMP. The Court will deny any other modifications as they might apply to the traditional elementary schools.

The Court finds that the Lengthened School Day and Extended Year programs are both successful programs in promoting desegregation and achievement in the KCMSD. However, the changes promoted by the Renewal Plan are not going to be adopted by the Court as a part of the Renewal Plan. The Court finds that these programs should be continued as they are

currently being administered. The Court will order continued funding of these programs as done under the LRMP and under the other funding components of the desegregation program. There shall be no changes as to these two programs.

The Renewal Plan proposes significant changes in the area of staffing. This has been a primary concern to the Court throughout its evaluation of the Renewal Plan. The State is correct in its assertion that the management of the magnet program has been anything but stellar. (The Court has taken the liberty of summarizing the State's consistent position on the management of the magnet program). The Renewal Plan proposes what the Court interprets to be an entirely new level of administration for the magnet plan. If there is one thing that the KCMSD certainly has enough of it is administration. The administration of the magnet schools has, in many instances, left much to be desired. The last thing this Court is inclined to do at this point in the development of the magnet program in the KCMSD is to add another layer of administration. The Court is quite satisfied that the teachers have given their best efforts in educating the young people in the KCMSD. However, the administration, from the building supervisors up, need to work with much more industry to effectively implement the current themes offered in the district. The Court has become aware on several occasions of administrators who have not adequately sought to become certified in their respective theme. It is because of the current state of the administration in the magnet programs that the Court finds that the implementation of the changes in the Renewal Plan are wholly inappropriate.

The Renewal Plan proposes an extensive process for evaluation of the magnet plan. This process of evaluation appears to include a large amount of administration. While the Court finds that evaluation of the magnet program is desirable and necessary, the Court finds that the

program offered by the District through the Renewal Plan does not attain the goal of evaluation in the most cost effective manner. The Court will instruct the District to make arrangements to effectively evaluate the magnet programs over the extension period. The Court will view the results of the District's efforts with a very critical eye at the point in the future where the Court is called upon to determine any additional extensions.

The next item considered by the Renewal Plan is the non-salary budget. The District has made extensive analysis of the individual magnet programs and developed an estimate of what the upkeep on these programs will be over the next ten years. The Court finds that the figures presented by the District are unreliable because they are based on the primary assumption that the Renewal Plan would be adopted as proposed, including the many changes in themes. The Court does recognize that the equipment provided in the original LRMP has a finite life. The current budgeting process used by the district includes provisions for capital replacement. The District may argue that the inclusions are insufficient. The Court, at this point, will deny the extensive magnet resource component of the Renewal Plan and order the District to continue operation of the magnets within the budgets as currently set for their operation. The plaintiffs illustrated the problem of ordering a strict one-year roll-over of the budgets in that there are several items which were one-time expenses that do not need to be included in a subsequent budget. The Court has considered this fact and finds the plaintiffs' point to be well taken. However, the Court will allow the District the budgetary flexibility, subject to review by the DMC as per the past course of business, to make appropriate adjustments for the upcoming school years.

The last area of concern to the Court in the Renewal Plan is the capital facility

requirements. The Court has reviewed with severe dismay the progress of the Capital Improvement Project previously ordered by this Court. The Court is aware of significant difficulties with the Project Management Team and bringing the project in on-time and on-budget. The Court has previously denied the implementation of the many new themes requested by the District under the Renewal Plan. The prospects of a voluntary interdistrict transfer program and pending legislation in the Missouri Legislature both support the Court's decision to deny the capital improvements requested by the District in the Renewal Plan. As it has been well shown that the capital facility requirements are being met under the current plan, the Court finds that it would be inappropriate to extend that program at this point.

The Court finds that a ten-year plan by the District as to the future of the magnet plan and the desegregation program in general is a superior concept. The Court supports the District's effort in that regard. The Renewal Plan offered by the District is not supported by the evidence and for the reasons previously announced the Court will deny its adoption.

The magnet program has provided significant advantages to the students of the KCMSD. The neighborhood school options, however, are a very important aspect of the KCMSD system generally. The Court has helped the District fashion a magnet program to allow a choice to the non-minority parents and students enrolling in the KCMSD. However, the District's Renewal Plan fails to protect this same choice to those currently living in the KCMSD. The opportunities available in the traditional schools are important to a significant number of parents and students in the KCMSD. The Court is troubled by the fact that these traditional schools have maintained a pattern of racial isolation. The Court finds that this is in part due to the poor planning and administration of the KCMSD. The District should explore more carefully its options in

assigning students to reduce racial isolation. The evidence showed, on more than one occasion, that racially isolated schools (90+% minority) exist in predominately non-minority neighborhoods. This evidences to the Court either a lack of effort or an intent on the part of the District.

The Court has before it the motion for a ten-year extension of the magnet plan. It is important to the Court that the magnet plan be maintained, as is, due to its positive impact on both the desegregation effort and on achievement. However, the plan offered by the District does not accomplish the needs of the magnet plan. The Court will order a two-year extension of the current plan with the modifications as outlined above. This two-year extension is necessary to maintain the integrity of the programs currently offered and to allow the District to better measure the effectiveness of the programs.

The District has repeatedly requested that the Court provide extravagant programs based on the hopes that they will succeed in the desegregation effort. The Renewal Plan offers many of these same types of extravagances. The Court finds that the current plan has both the present and future potential to succeed in its major effort of desegregation. What the Court needs from the parties is an effective method by which the District may fund its share of the programs. The District's proposals do not include a viable method of financing any of the programs.

The Court, in giving due consideration to the viability of any future extensions of the Long Range Magnet Plan, has found that certain information would be beneficial. The economic feasibility of financing the desegregation effort in the KCMSD has not been addressed sufficiently for the Court. The Court, therefore, instructs the District to submit a financing proposal to the Court and in doing so it should follow the assumptions as set forth below.

First, the District is instructed to submit a plan reflecting the ability of the District to fund the magnet schools and the entire school district at a level commensurate with the current funding or at least at a level where the same quality of both facilities and instruction may be maintained. In formulating this plan, the District should assume that the current Court ordered funding would be withdrawn at the alternative intervals of three, five, seven, or ten years from the date of this order. Based on this assumption, the Court instructs the District to submit a plan showing what is necessary to fund the school district through the operating budget alone. The Court expects the District to provide fairly complete operating budget projections for each of the above listed scenarios.

If the current method of financing is insufficient, the District should submit the financial ramifications of at least two financing alternatives and should use the current bills pending in the State Legislature as guides. Next, the District should present the Court with its analysis with the assumption of a status quo in the Foundation Formula. If the District chooses to submit additional analyses with varying Foundation Formula funds its assumptions should be made clear to the Court. Lastly, should the District have a solid basis to include the effect of a Voluntary Interdistrict Transfer Plan the Court would be interested in having the analysis to include such an assumption. However, the Court will order that the District provide the Court with at least one analysis that includes no VIDT plan.

Second, the State is instructed that if it so chooses, it may submit plans with the similar assumptions as outlined for the District above. The Court is not ordering the State to submit such a plan but if the State finds that it has sufficient information available to make an instructive proposal then the Court will certainly be willing to evaluate such information. The

Court encourages the State to submit a financing plan.

The Court has found that the above requested information would be most helpful in analyzing the long term planning for the desegregation plan. Therefore, the Court will order the District to submit its analysis by June 30, 1993. The State will also have until September 1, 1993 to submit any analysis which it finds would be of benefit to the Court.

Accordingly, it is hereby

ORDERED that the KCMSD and plaintiffs' motion for approval of the Long-Range Magnet Renewal Plan is denied in part and granted in part consistent with this order; and it is further

ORDERED that the current LRMP is extended for a two-year period with the same budgetary levels subject to reasonable modifications with the supervision of the DMC; and it is further

ORDERED that the District is to implement a procedure to consistently measure and evaluate the effectiveness of the magnet programs and this is to be done within the current budgetary constraints of the magnet program; and it is further

ORDERED that the District is to implement a Montessori theme at the new elementary school to come on-line for the 1993-94 school year; and it is further

ORDERED that the District request to modify the themes at Lincoln College Prep and Middle School is granted; and it is further

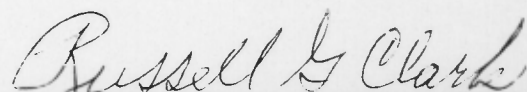
ORDERED that the State's request to operate three District schools under an OBE program is denied; and it is further

ORDERED that the District is to submit a financing proposal as outlined herein by

June 30, 1993; and it is further

ORDERED that the State may, but is not required to, submit a financing proposal by September 1, 1993; and it is further

ORDERED that the capital improvements requested by the District are granted only to the extent necessary to implement the theme additions and modifications approved by the Court herein.



RUSSELL G. CLARK, SENIOR JUDGE
UNITED STATES DISTRICT COURT

Date: April 16th, 1993