

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

CHINYERE JENKINS, et al.,)
)
 Plaintiffs,)
)
 v.) Case No. 77-0420-CV-W-1
)
 THE SCHOOL DISTRICT OF)
 KANSAS CITY, MISSOURI, et al.,)
)
 Defendants.)

**MOTION OF PLAINTIFFS TO ENJOIN
THE KCMSD DEFENDANTS' PLANNED
EXPANSION OF THE AFRICAN CENTERED APPROACH**

Plaintiffs move this Court to schedule a status conference at an early date for the purpose of setting a discovery and hearing schedule and, after affording the parties such a hearing, enjoin the Kansas City, Missouri School District (“KCMSD”) defendants from proceeding with their current plans to implement for the 2002-2003 school year the District’s African Centered Approach (“ACA”) at grade levels beyond grades in which the ACA is currently implemented, and for such other relief as may be appropriate.

SUGGESTIONS IN SUPPORT OF MOTION

Since 1991 the KCMSD has operated an “African Centered Approach” school at Chick Elementary School for kindergarten through fifth grades. Since 1996, the KCMSD has attempted to implement the same African Centered Approach at Ladd Elementary School. After a July, 1998 stipulation of the parties, the KCMSD began formally implementing the ACA at King Middle School (for grades 6-8) and Southeast High School (grades 9-12). The ACA at King was subsequently abandoned, at Chick it was expanded to include sixth grade, and at Southeast High School it has languished as the Missouri Department of Elementary and Secondary Education designated Southeast as an academically deficient school. It is reported that fewer than twenty students participate in the ACA at Southwest. On April 2, 2002, the KCMSD School Board adopted a resolution to implement for the 2002-2003 school year an expansion (the KCMSD refers to it as a “reconfiguration”) of the ACA through grade eight, to permit students in the ACA at Chick and Ladd Schools to continue in the program through middle school.

As the Court well knows, the KCMSD is required to eliminate to the extent practicable, the academic achievement vestige as required by Judge Clark’s March, 1997 Order. *Jenkins v. Missouri*, 959 F.Supp. 1151, 1165 (W.D.Mo. 1997) (specifying that the gap must be reduced by 2.6 NCEs). More specifically, to attain unitary status as to the remaining academic achievement vestige, the KCMSD must either reduce the vestige by 2.6 NCEs or must demonstrate that it has done everything practicable to reduce the gap. *See also, Jenkins v. Missouri*, No. 77-0420-CV-W-1, ORDER (W.D. Mo. June 17, 1999) at 2 (“The KCMSD must take all steps practicable to: eliminate the academic achievement gap by

2.6 NCE's . . ."); ORDER (W.D. Mo. July 6, 2000) at 9 ("Law of the case requires the KCMSD to reduce the academic achievement vestige – the portion of the gap caused by prior segregation – by 2.6 NCEs."), at 15 (" . . . the KCMSD must come forward with evidence showing that it has done everything it practicably could in an attempt to eliminate the academic achievement vestige."). This Court has observed on more than one occasion that the KCMSD's efforts should be directed at eliminating the academic achievement vestige and that delay will no longer be tolerated. ORDER (W.D. Mo. August 16, 2001) at 2 ("Whatever course of action the KCMSD chooses . . . , the KCMSD must remedy its long-running constitutional violation and progress toward closing the achievement gap *today and everyday thereafter until unitary status is demonstrated*. The KCMSD can neither afford delay nor will it be tolerated by the Court . . . too many children have been slighted by the KCMSD's delay in implementing its Court-ordered obligations . . .") (emphasis added).

Given the requirement of a plan that "promises realistically to work, and promises realistically to work now", *Freeman v. Pitts*, 503 U.S. 461, 471 (1992) (quoting *Green v. School Bd. of New Kent County*, 391 U.S. 430, 439 (1968)), and this Court's specification that the KCMSD must be working toward that goal today and everyday thereafter until unitary status is attained, efforts that do not contribute to the elimination of the academic achievement vestige and which may, in fact, delay or otherwise impede progress toward that goal cannot be countenanced.

As a result of the KCMSD School Board's action approving expansion of the ACA, Plaintiffs requested of and received from the KCMSD data concerning the efficacy of the ACA. Plaintiffs' review of that data has led to this motion.

Plaintiffs assert that these preliminary data demonstrate that the ACA as implemented in the elementary schools at Chick and Ladd does not increase overall student achievement, does not contribute to the closing of the black/white achievement gap, may in fact widen that gap, and has and will likely continue to misdirect financial resources that, better utilized, would contribute to the closing of the performance gap. Plaintiffs thus assert that the ACA, as presently implemented by the KCMSD and as will likely be expanded if not enjoined, will materially impair the District's ability to improve student achievement, close the black/white achievement gap, and delay the District's attainment of unitary status.

This Court has recognized its own "obligation to help the KCMSD progress toward the goal of unitary status." ORDER (W.D. Mo. June 19, 2001) at 1. Permitting expansion of the ACA would hinder, rather than help KCMSD toward the goal.

Accordingly, for these reasons, Plaintiffs request that this Court, after a hearing on the merits of this motion, enjoin the KCMSD defendants from implementing the planned expansion of the ACA, and for such other relief as may be appropriate.

Respectfully submitted,

ARTHUR BENSON & ASSOCIATES

By s/ Jamie Kathryn Lansford
Arthur A. Benson II #21107
Jamie Kathryn Lansford #31133
4006 Central Avenue (Zip for Courier: 64111)
P.O. Box 119007
Kansas City, Missouri 64171-9007
(816) 531-6565
(816) 531-6688 (telefacsimile)
abenson@bensonlaw.com
jlansford@bensonlaw.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was served, via the Court's electronic filing system or by electronic mail (*) this 3rd day of May, 2002, on:

Patricia A. Brannan
Kevin J. Lanigan
Hogan & Hartson, LLP
555 Thirteenth Street, N.W.
Washington, D.C. 20004
pabrannan@hhlaw.com
kylanigan@hhlaw.com

Maurice Watson
Hayley Elizabeth Hanson
Blackwell, Sanders, Peper, Martin, LLP
2300 Main Street, Suite 1000
P.O. Box 419777
Kansas City, Missouri 64141-6777
mwatson@bspmlaw.com
hhanson@bspmlaw.com

Mr. Brian Wood
Mr. Fred Wickham
Roher, Wickham, and Wood
3100 Broadway, Suite 202
Kansas City, Missouri 64111
roherandwood@kcnet.com

s/ Jamie Kathryn Lansford
Attorney for Plaintiffs