

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.)

**REPLY OF PLAINTIFFS TO KCMSD’S
OPPOSITION TO PLAINTIFFS’ MOTION TO ENJOIN
KCMSD’S PLANNED EXPANSION OF THE AFRICAN CENTERED APPROACH**

The School District of Kansas City, Missouri (“KCMSD”) in its Opposition to the motion of Plaintiffs to enjoin the KCMSD’s expansion of the African-Centered Approach (“ACA”) makes two arguments, neither of which are material to the central objection of the plaintiffs, as Plaintiffs explain below. Further, there is an irony in the KCMSD’s opposition. It is Plaintiffs who, anxious for the KCMSD to achieve unitary status at an early date, seek to enjoin a program, that, as Plaintiffs assert, seems likely to delay unitary status, while it is the KCMSD defendants who, nominally desirous of unitary status, repeatedly take – or fail to take – actions that would advance the date of unitary status, but now seek to protect a program even at the cost of delaying unitary status. Notably, the KCMSD in its Opposition neither denies Plaintiffs’ assertion that the ACA seems to be widening the black/white achievement gap nor does the KCMSD argue that the ACA is somehow contributing to the closing of that gap. Plaintiffs’ assertion that the ACA contributes to a widening of the gap

has not been denied by the KCMSD.

Instead, the KCMSD makes two arguments that are not material to the issues raised in the motion for an injunction. First, the KCMSD maintains that Plaintiffs do not assert that expansion of the ACA materially interferes with the KCMSD's implementation of the Court-approved educational reform programs. Indeed, Plaintiffs do not maintain that. The ACA does not interfere with such implementation. The KCMSD's implementation of the educational reform plans, however, is not the KCMSD's constitutional obligation. The District's obligation is to close the black/white achievement gap. Any action that materially interferes with the attainment of that objective violates KCMSD's remedial obligation and may be, and should be, enjoined.

Second, the KCMSD argues that the essence of Plaintiffs' motion is an objection to the new location of an old program, one that was at King Middle School before it was abandoned as a failure. The ACA expansion is now proposed for another location. The objection to location – if that were the plaintiffs' objection – would be precluded by the grant of partial unitary judgment, the KCMSD argues, because program locations, *i.e.*, racial balance issues, are no longer a matter of concern in this litigation. That straw-man argument attempts to avoid the actual basis for Plaintiffs' motion: that the ACA materially interferes with attainment of the *achievement* goal – not the racial balance goal – that now is the only obstacle to unitary status.

For these reasons, the Court should permit Plaintiffs to gather ACA evidence by discovery and offer it at a hearing at which the Court considers the motion to enjoin expansion of the program.

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, by electronic mail (*), or by U.S. Mail, first class postage prepaid

(**) this 10th 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

Dr. Charles McClain
Implementation Monitor
Kansas City, Missouri School District
1211 McGee, Room 1000
Kansas City, Missouri 64106

s/ Jamie Kathryn Lansford
Attorney for Plaintiffs