U.S. Department of Justice
Civil Rights Division
Educational Opportunities Section

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DJ 169-71-29

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September 5, 2014

Via Email & U.S. Mail
Ms. Angela Sanders, Esq.
Lewis, King, Krieg & Waldrop, P.C.
424 Church Street, Suite 2500
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Nashville, TN 37219-8615

Re: Investigation of the Robertson County Schools

Dear Ms. Sanders:

The United States has completed its investigation into allegations that the Robertson County Schools ("District") and the Robertson County Board of Education ("Board") have discriminated on the basis of race through their student assignment practices, including failing to desegregate the District's schools. The United States considered these allegations in light of the District's and Board's obligations as a prior *de jure* segregated school system to dismantle and not reestablish its segregated system. These obligations include those set out in federal case law and statutes since *Brown v. Board of Education*, 347 U.S. 482 (1954), prohibiting discrimination on the basis of race and requiring equal educational opportunities in public schools. As explained in detail below, the United States has determined that the District has yet to desegregate its schools and eliminate the vestiges of its prior segregated school system.

The United States appreciates the District's cooperation throughout the investigation and proposes a voluntary resolution of the District's noncompliance out of court through the enclosed settlement agreement ("Agreement"). Please have the District review the Agreement and let us know as soon as possible if you would like to discuss any of the terms in the Agreement. We request that the District sign the Agreement no later than the first week of October and look forward to hearing from you.

I. Summary of the Investigation

The Robertson County Schools is a public school district located in northern middle Tennessee. During the 2013-2014 school year, the District had 11,588 students in nineteen schools: eleven elementary schools, three middle schools, and five high schools. The overall student enrollment in the District was 76.6% White, 11.3% Hispanic, 9.5% Black, 1.8% Multiracial, and 0.8% Other. As set forth in more detail below, the racial enrollments at thirteen of the District's nineteen schools deviate by more than ±15% of the District-wide enrollment, and the majority of the District's schools are identifiable by race.

Prior to *Brown*, the Robertson County Schools operated as a segregated system pursuant to state law. *See* Robertson Cnty. Bd. of Educ., Case No. CR-691 at 5 (Dep't of Health, Educ., & Welfare Apr. 17, 1970) ["hereinafter *HEW Decision*"]. *Brown* required such *de jure* segregated school systems to desegregate, and subsequent cases and statutes elaborated on how to fulfill this obligation. Title IV of the Civil Rights Act of 1964 ("Title IV"), 42 U.S.C. § 2000c(b), and the Equal Educational Opportunities Act (the "EEOA"), 20 U.S.C. § 1703, prohibit public schools from denying equal educational opportunities on the basis of race, color, or national origin, among other bases, and require affirmative steps to remove the vestiges of the dual system. Title VI of the Civil Rights Act of 1964 ("Title VI"), 42 U.S.C. § 2000d *et seq.*, prohibits discrimination on the basis of race, color, or national origin by recipients of federal financial assistance.

Following the passage of the 1964 Civil Rights Act, the District took measures to begin desegregation, including in 1966 filing an Assurance with the United States Department of Education that memorialized the understanding that the District's desegregation plans would be subject to review to determine their adequacy in achieving desegregation. (*HEW Decision* at 5.)

After these earlier measures failed to desegregate the system, the District entered into a Form 441-B desegregation plan ("441-B plan") with the United States Department of Education in 1970. Under that plan, the District has continuing responsibilities to further desegregation including through the selection of locations for new schools; additions made to existing schools; the assignment of students to schools and classes; and the employment and assignment of faculty and staff to schools.

The United States received complaints alleging that the District has taken actions that are inconsistent with its continuing obligations under the 441-B desegregation plan and federal law. The complaints allege that: (1) the District's student assignment policies in combination with the location of new facilities impede desegregation and create racially identifiable schools; and (2) the District discriminates in faculty and staff assignment.[1]

In response to these complaints, the United States opened an investigation that included a review of: demographic data, current and historic attendance zones, facilities conditions, historic and planned school construction, and District policies and procedures regarding intra- and inter-

[1] The enclosed Agreement would resolve both allegations.

District transfers as well as faculty hiring and assignment. In conducting this investigation, the United States reviewed hundreds of pages of documents from the District and conducted site visits to the District and the local community. These site visits entailed touring several District schools,[2] interviewing school and District staff, and attending community meetings. The United States also conducted over a dozen of interviews, including with former school and District officials, parents, teachers, and community members.

After reviewing the information gathered from District documents, site visits, and interviews, the United States has determined that the District has not met its obligations to desegregate its schools with respect to student assignment under federal law. As a once *de jure* segregated system, the District has a continuing, affirmative obligation to engage in school construction and student assignment decisions that further the desegregation of its system, and upon its desegregation, do not reestablish a dual system. *See, e.g., Swann v. Charlotte-Mecklenburg Bd. of Educ.* 402 U.S. 1 (1971). The United States concluded that the District has engaged in a longstanding pattern of decisions that have hindered, rather than furthered, the desegregation of its schools. Below is a summary of the District's actions, a discussion of the District's obligations under the 441-B plan, the applicable legal standards, the United States' detailed determinations of noncompliance, and a summary of a proposed resolution.

II. Historical Background

During state-mandated segregation in Tennessee, the Robertson County Schools operated as a segregated, dual school system, requiring separate schools for black and white students. (*See HEW Decision* at 2, 5.) After the passage of the 1964 Civil Rights Act, in July 1965, the District submitted a "Freedom of Choice" desegregation plan to the United States Department of Health, Education, and Welfare ("HEW"), which is now the Department of Education. (*Id.* at 6.) This desegregation plan allowed students and/or their parents to select the school in the District they wanted to attend. This plan was ineffective and resulted in only 2% of the District's black students transferring to formerly all-white schools. (*Id.*) Following the failure of the Freedom of Choice plan, the District began closing some of its all-white and all-black schools to promote desegregation. (*Id.* at 6-7.) On April 28, 1966, the District filed an assurance on HEW Form 441-B that, in carrying out its desegregation plan, it would abide by policies and procedures in HEW's revised guidelines for school desegregation. (*Id.* at 6.) The assurance included an understanding that the District's plan was subject to review to ensure its adequacy to accomplish desegregation. (*Id.*)

In March 1968, HEW issued amended guidelines that directed schools to abolish their dual systems of all-white and all-black schools by the beginning of the 1969-1970 school year. (*Id.* at 8.) The District submitted a plan to desegregate its schools in August 1968. (*Id.*) Upon HEW's request, the District revised this plan in July 1969 to pair schools in the City of Springfield. (*Id.* at 10.) However, before the start of the 1969-1970 school year, the District rescinded the pairing plan

[2] Representatives from the United States visited Coopertown Elementary School, Krisel Elementary School, Watauga Elementary School, Westside Elementary School, Coopertown Middle School, Greenbrier Middle School, Springfield Middle School, Jo Byrns High School, Springfield High School, and White House Heritage High School.

and returned to the Freedom of Choice plan. (*Id.* at 10-11.) Consequently, HEW initiated enforcement proceedings against the District in 1969 because it failed to desegregate its schools on or before the opening of the 1969-1970 school year. (*Id.* at 1-2, 11.) As of September 1, 1969, the District still had two schools that served only black students (Bransford Elementary and Bransford High), one school that served almost all black students (Krisle Elementary with 7 white students), two schools that served only white students (North Robertson Elementary and Watauga Elementary), and four schools that served almost all white students (Cross Plains Elementary (7 black students), Greenbrier Elementary (7 black students), Woodland Street Elementary (3 black students), and Greenbrier High (2 black students)).[3] (*Id.* at 9.) In addition to maintaining these nine single-race and virtually single-race schools, the District had a school with 22 white teachers and no black teachers (Greenbrier High). (*Id.*)

The District participated in a formal hearing before an HEW Hearing Examiner on January 21, 1970. (*Id.* at 4.) The Hearing Examiner found that the District was formerly *de jure* segregated and that the District still had four single-race schools as well as schools that "[we]re otherwise identifiable by criteria of race or color." (*Id.* at 5, 9, 17.) The Hearing Examiner further found that the Freedom of Choice desegregation plan was not effective, and that the District had not made sufficient progress to bring it into compliance with federal law. (*Id.* at 5, 15, 16-17.) In making these findings, the Hearing Examiner relied on the District's "affirmative duty to take prompt and effective action to eliminate segregation in its school system." (*Id.* at 16 (citing *Brown* and *Green v. New Kent Cnty. Bd. of Educ.*, 391 U.S. 430, 435 (1968)). Based on these findings, the Hearing Examiner ordered termination of the District's federal financial assistance by July 1, 1970, unless the District presented a new HEW-approved desegregation plan for the 1970-1971 school year. (*HEW Decision* at 17-18.)

On June 3, 1970, the District presented a new plan to HEW. This plan consolidated more schools and paired more grades than the District's prior plan. (Letter from J. Stanley Pottinger, Dir., HEW Office for Civil Rights, to J.B. Whitman, Superintendent, Robertson Cnty. Schs. (June 30, 1970)). In addition, the plan projected that the ratio of black to white teachers at each of its schools would mirror the District-wide ratio. (*Id.*) In a June 30, 1970 letter to the District, HEW explained that "all facets of the operation of the school system . . . will be conducted on a racially nondiscriminatory nonsegregated basis. This includes faculties, facilities, services, activities, programs and transportation, but is not limited thereto." (*Id.*)

HEW sent a letter to the District indicating acceptance of the District's plan and explaining the District's continuing obligations. (*See* Letter from Dewey E. Dodds, Acting Reg'l Civil Rights Dir. for Educ., to J.B. Whitman, Superintendent, Robertson Cnty. Schs. (Sept. 24, 1970).) These obligations include:

> nondiscrimination in the assignment of students to sections, classes, and for all other school purposes; assignment of classroom teachers and other staff must continue to provide that the assignment at each school approximate the racial ratio of teachers and other staff in the

[3] Bransford High, North Robertson Elementary, Cross Plains Elementary, and Woodland Street Elementary are no longer open.

> system as a whole; the recruitment and employment of staff must be on a nondiscriminatory basis; and all programs and activities in the system must be nondiscriminatory and nonracial. In addition, any new construction of buildings or additions must be such that resegregation will not occur. Where it appears there is a possibility that the location for school facilities or additions may reduce desegregation, [HEW] should be notified prior to any commitment being made for construction.

(*Id.*) The District's obligations to ensure that new construction, additions to schools, and related student assignment do not resegregate students or reduce desegregation are the focus of this letter and our proposed Agreement.

It is further important to recognize that the 441-B Plan was adopted by the District and approved by the Department of Education prior to the Supreme Court's seminal decision in *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971). *Swann* established that a formerly segregated school district must, "make every effort to achieve the greatest possible degree of actual desegregation," and provided "amplif [ied] guidelines" for schools and courts to follow. 402 U.S. 1, 14, 26 (1971). The Supreme Court explained that where school districts have yet to meet this "affirmative duty to take whatever steps might be necessary to convert to a unitary system" "judicial authority may be invoked" and "the scope of a district court's equitable powers to remedy past wrongs is broad." *Id*. at 15. This holding prompted the courts to direct many school districts to develop and implement revised desegregation plans that included the expanded remedies called for in the decision.[4] The Court, in *Swann* and subsequent cases, recognized that desegregation plans may need to be revisited and revised, and that "the measure of any desegregation plan is its effectiveness." *Davis v. Bd. of Sch. Comm'rs of Mobile Cnty.*, 402 U.S. 33, 37 (1971).

III. Legal Standards

The United States conducted this investigation in light of the District's desegregation obligations under Title VI, Title IV, the EEOA, and applicable federal case law. All three statutes prohibit public school districts from discriminating against students on the basis of race, through, among other things, segregation and failing to remove the vestiges of a dual school system. These obligations of school districts are elaborated upon in the case law, including in *Green v. County School Board of New Kent County*, 391 U.S. 430, 435 (1968), in which the Supreme Court enumerated six factors that a district must address to eliminate a dual system: student assignment, faculty assignment, staff assignment, transportation, extracurricular activities, and facilities.[5] This

[4] *See, e.g., Lee v. Tuscaloosa City Sch. Sys*., 576 F.2d 39, 40-41 (5th Cir. 1978) (requiring a new plan to address racially identifiable schools despite compliance with order); *United States v. Bd. of Educ. of Valdosta*, 576 F.2d 37, 38-39 (5th Cir. 1978) (same); *Tasby v. Estes*, 572 F.2d 1010, 1014-15 (5th Cir. 1978) (remanding a second time with instructions to devise a desegregation plan that considers the techniques outlined in *Swann*); *United States v. Desoto Parish Sch. Bd*., 574 F.2d 804, 807 (5th Cir. 1978) (remanding with instructions to replace pre-*Swann* plan); *Gaines v. Dougherty Cnty Bd. of Educ.*, 465 F.2d 363, 364 (5th Cir. 1972) (same); *Stout v. Jefferson Cnty. Bd. of Educ.*, 448 F.2d 403, 404 (5th Cir. 1971) (same).

[5] The list factors enumerated in *Green* is not exhaustive and school district may also need to address other factors that

letter memorializes the United States' determinations regarding student assignment.[6]

A. *Student Assignment*

As a former *de jure* segregated system, the District has an obligation to assign students to schools in a manner that will dismantle and not re-establish the dual system. Though this obligation has been clear since the 1954 decision in *Brown*, the Hearing Examiner found that the District was still maintaining segregated schools in 1970 and ordered it to produce an effective desegregation plan. (*HEW Decision* at 9, 15-18.) While the District adopted the 1970 plan, it proved ineffective and insufficient. Thus, the District's duty to desegregate remains and compels it "to take all steps necessary to eliminate the vestiges of the unconstitutional *de jure* system." *Freeman v. Pitts*, 503 U.S. 467, 485 (1992); *see also United States v. Fordice*, 505 U.S. 717, 728 (1992) ("Our decisions establish that a State does not discharge its constitutional obligations until it eradicates policies and practices traceable to its prior *de jure* dual system that continue to foster segregation."); *Columbus Bd. of Educ. v. Penick*, 443 U.S. 449, 458 (1979) (ruling that defendant district "has been under a continuous constitutional obligation to disestablish its dual school system and that it has failed to discharge this duty").

The degree to which schools are racially identifiable is perhaps the most fundamental inquiry when determining a district's compliance with its desegregation obligations and the effectiveness of its plan. *See Freeman*, 503 U.S. at 474; *Davis*, 402 U.S. at 37. When making this determination, courts compare the percentages of majority and minority students in individual schools with the percentages in the district as a whole. *Id.* While there is no fixed rule, courts have found that schools that deviate more than 15% from the district-wide proportions are racially identifiable.[7] Courts are also highly skeptical of predominantly one-race schools in a school district that has not fully desegregated. *See Swann*, 402 U.S. at 26; *Kelley v. Metro. Cnty. Bd. of Educ. of Nashville & Davidson Cnty., Tenn.*, 687 F.2d 814, 819 (6th Cir. 1982).

A district may employ a range of measures to desegregate its assignment of students to schools. Options include altering attendance zones, pairing or clustering schools, providing optional majority-to-minority transfer provisions that permit students to transfer from schools where their race is in the majority to schools where their race is in the minority, or implementing magnet schools and programs. Whatever the plan includes, it must be "judged by its effectiveness." *Swann*, 402 U.S. at 25.

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impact desegregation, such as quality of education and discipline. *See Freeman v. Pitts*, 503 U.S. 467, 492-93 (1992) (the *Green* factors are not a rigid framework and new and further remedies may be required to ensure full compliance with a desegregation order).

[6] While this letter focuses on student assignment, we note that student assignment is also "intertwined" with other *Green* factors, such as facilities. *See Freeman v. Pitts*, 503 U.S. 467, 497 (1992).

[7] *See, e.g., Belk v. Charlotte-Mecklenburg Bd. of Educ.*, 269 F.3d 305, 319 (4th Cir. 2001) ("[T]he plus/minus fifteen percent variance is clearly within accepted standards, and provides a reasonable starting point in the unitary status determination."); *Morgan v. Kerrigan*, 530 F.2d 401, 409 (1st Cir. 1976) (defining racially isolated schools as those with more than a 15% deviation from the overall racial composition).

B. *Site Selection & Construction*

The District's affirmative duty to desegregate includes considering desegregative objectives in school site selection and construction decisions.[8] Recognizing the central importance of school site selection in desegregation, the Supreme Court has stressed that formerly *de jure* school districts must "see to it that future school construction and abandonment are not used and do not serve to perpetuate or re-establish the dual system." *Swann*, 402 U.S. at 21. The Supreme Court further recognized that building new schools in the outer areas of a district, far away from the minority-student population, can promote segregated neighborhoods that perpetuate segregated schools. *Id.* The Court held that this pattern of site selection should be given great weight in determining whether the district is engaging in segregation. *See id*. Thus, where a school district has maintained a pattern of opening new schools in areas that lead to virtually one-race schools, the district has failed in its duty to dismantle the dual system.

The District also must ensure that building additions and the placement of portable classrooms do not perpetuate or re-establish a dual system. A district has not fulfilled its duty to desegregate where the district engages in a pattern of constructing additions or locating portable classrooms at virtually one-race schools instead of expanding more desegregated schools.[9] Moreover, "school officials are obligated not only to avoid any official action that has the effect of perpetuating or reestablishing a dual school system, but also to render decisions that further desegregation and help to eliminate the effects of the previous dual school system." *Harris v. Crenshaw Cnty. Bd. of Educ.*, 968 F.2d 1090, 1095 (11th Cir. 1992) (footnote omitted). "Thus, the duty to desegregate is violated if a school board fails to consider or include the objective of desegregation in decisions regarding the construction and abandonment of school facilities." *Id.* (footnote omitted). A school district contravenes these obligations if it places permanent or portable additions at predominantly minority schools instead reassigning students among its schools in practicable ways that would further desegregation.

IV. The District Has Yet to Meet Its Obligations to Desegregate

The District has not satisfied its legal obligations to desegregate its schools and eliminate the vestiges of the dual system in student assignment. The District has engaged in a pattern of student assignment decisions over decades that have not furthered desegregation and in many instances serve to maintain or re-establish the dual system. Specifically, the District has maintained historically white schools as virtually all white schools, constructed seven almost all-white schools, and placed new schools, building additions, and portable classrooms in locations that impede

[8] *See Dayton Bd. of Educ. v. Brinkman*, 443 U.S. 526, 529 (1979); *Swann*, 402 U.S. at 20–21; *United States v. Bd. of Pub. Instruction of Polk Cnty., Fla.*, 395 F.2d 66, 70 (5th Cir. 1968); *Kelley v. Altheimer, Ark. Pub. Sch. Dist. No. 22*, 378 F.2d 483, 496-97 (8th Cir. 1967); *Wheeler v. Durham City Bd. of Ed.*, 346 F.2d 768, 775 (4th Cir. 1965).

[9] *See Dayton*, 443 U.S. at 540 (holding that the district did not meet its duty to desegregate where 78 of 86 additions were made to schools that were 90% or more of one race); *Oliver v. Michigan St. Bd. of Educ.*, 508 F.2d 178, 184 (6th Cir. 1974) (a district may not add "portable classrooms to White schools in cases where there [is] a significant amount of space available in racially identifiable Black schools with the obviously foreseeable and actual effect of perpetuating the segregated conditions").

desegregation. The District has also considered and failed to pursue options that would have furthered the desegregation of its schools. The District must address these issues to comply with its obligations under federal law. The proposed Settlement Agreement provides a pathway toward compliance.

A. *Site Selection, Construction, and Assignment Practices*

Since the adoption of its 441-B Plan in 1970, the District has built seven new schools, all of which are over 90% white. The District rebuilt Greenbrier Elementary in 1971 and opened Greenbrier High School in 1980, East Robertson High in 1988, Robert Woodall Elementary in 1991, Coopertown Middle in 2005, Jo Byrns Elementary in 2007, and White House Heritage High in 2010. (*See* Item 3D to Dist. Resp. to U.S. Letter of September 27, 2011.) These schools are all located in the outer areas of the county, where the population is predominantly white. This pattern of opening new predominantly white schools in the outer areas of the District, away from the black student population, mirrors the scenarios before the Supreme Court in *Swann*, 402 U.S. at 21, and *Dayton*, 443 U.S. at 540. The District's site selection for these schools, coupled with its student assignment practices, resulted in the creation of new predominantly white schools, which perpetuate segregation, in violation of the District's desegregation obligations. *See Swann*, 402 U.S. at 20; *Harris*, 968 F.2d at 1095.

The District's placement of portable classrooms at schools where almost all black students are enrolled also hinders desegregation. In 2013, all of the District's majority-minority schools relied on portable classrooms to relieve overcrowding.[10] As of January 2013, Bransford Elementary had two portable classrooms, Cheatham Park had six, Krisle had ten, Westside had nine, and Springfield Middle had four. At the same time, majority white schools such as Jo Byrns Elementary (90.6% white) and Coopertown Elementary (93.0% white) were operating under capacity. Notably, Coopertown Elementary school is the only majority white elementary school in the Springfield High School feeder pattern. Despite the availability of capacity, the District did not reassign students from the Springfield area to these contiguously zoned schools.

Further, the District has relied disproportionately on portables to relieve capacity at the cluster of schools serving minority students in Springfield for several years. In the 2008-2009 school year, the Springfield cluster schools were using 12 portable classrooms while majority white schools in the White House area used a total of 8 portable classrooms. A new school opened at White House the following year, eliminating the use of portables in that cluster. In contrast, schools in the Springfield cluster have continued to expand their use of portables to relieve overcrowding. For example, Chetham Park Elementary School has operated with at least 6 portable classrooms in every year since 2009 and Krisel Elementary School has operated with at least 7 portables in every year since 2009. Collectively, the Springfield cluster of schools had 27 portables in the 2011-2012 school year, compared with 9 portables in use across all other schools in the District. The District's decisions to add portables to overcrowded schools with significant minority-student populations instead of re-zoning or adopting other measures that would further desegregation are further evidence of its failure to meet its obligations to desegregate its schools.

[10] *Katz, Binkley, Jones & Morris Architects, Inc., Robertson County Schools Planning Study* 2 (2013).

The United States appreciates that the District has more recently determined to build a new elementary school, Crestview Elementary, at a site that will permit the District to further desegregation through revised attendance zone lines for the new school and adjacent schools. As set forth in the proposed Agreement, we hope to reach a voluntary resolution with the District to ensure that the opening of the new school, related attendance zone changes, and other upcoming student assignment decisions further desegregation, consistent with the District's legal obligations.

B. *Student Assignment*

The data show that the majority of the District's schools are racially identifiable. For the 2013-2014 school year, the District's elementary enrollment was 71.1% white, 15% Hispanic, 9.6% black, 2.9% multi-racial, and 1.4% other. Middle school and high school enrollment was 81.5% white, 9.4% black, 7.7% Hispanic, 0.8% multi-racial, and 0.6% other. Thirteen of the District's nineteen schools have racial enrollments outside of the ±15% deviation of the District-wide demographics. All of the District's elementary schools are racially identifiable, and Springfield Middle and High, serving the majority of the District's black students, are also racially identifiable. While the District's remaining middle and high schools do not fall outside the +/- 15% deviation, they are all over 90% white and their enrollment demographics contrast starkly with those of Springfield Middle and High School. It is particularly problematic that a large number of schools across grade levels are almost exclusively "white" schools.

School	**White Enrollment**	**Deviation**
Bransford Elementary	21.3%	50.4
Chetham Park Elementary	35.3%	36.4
Coopertown Elementary	92.1%	20.4
East Robertson Elementary	88.3%	16.6
Greenbrier Elementary	92.2%	20.5
Jo Byrns Elementary	87.3%	15.6
Krisle Elementary	47.2%	24.5
Robert Woodall Elementary	91.4%	19.7
Watuga Elementary	91%	19.3
Westside Elementary	25.8%	45.9
White House Heritage Elementary	91.2%	19.5
Coopertown Middle	94.5%	13
Greenbrier Middle	94.2%	12.7
Springfield Middle	39.4%	42.1
East Robertson High School	93.6%	12.1
Greenbrier High School	94.1%	12.6
Jo Byrns High School	92.2%	10.7
Springfield High School	60.1%	21.4
White House Heritage High School	91.8%	10.3

Several of the schools that continue to have high percentages of white students were all-white schools under the dual system or grew out of formerly *de jure* white schools. Coopertown Elementary, Coopertown Middle,[11] Greenbrier Elementary, Greenbrier Middle,[12] Greenbrier High, Wautaga Elementary, Robert Woodall Elementary,[13] and White House Heritage Elementary were or grew out of historically all-white or virtually all-white schools. Each of these schools remains over 90% white over 50 years later; none has been effectively desegregated. The significant percentage of virtually one-race schools in the District and its failure to address the racial identifiability of those schools indicates that it has not yet eliminated the vestiges of the dual system in student assignment.

The District has had opportunities to re-draw zone lines, construct new schools, or make other changes to student assignment that would further desegregation. The District, however, has not pursued, and has often rejected, those opportunities. For example, in June 2011, the Mayor of Springfield suggested that the District move students from Springfield schools to alter the racial and socioeconomic demographics of the schools and potentially relieve overcrowding in Springfield schools. The plan would have moved 30 fourth and fifth graders from Westside Elementary and 43 students from Springfield Middle to Coopertown Middle. According to the District, most of the students who would have moved to Coopertown Middle would have been minority students, and thus, the plan would have furthered desegregation. The District decided not to move the students and offered the following reasons: the move would not eliminate the need for a portable classroom at Springfield Middle School, the plan would necessitate purchasing a new bus, and the District did not believe the students would gain any academic benefit by moving because the student-teacher ratios and teacher quality at the schools were similar. In making this decision not to re-zone, the District rejected an opportunity to further desegregation.

After rejecting the measure to move 73 students from Springfield schools to Coopertown Middle School, the District began to consider other options for improving the Springfield schools serving minority students. The School Board created a committee of school administrators, teachers, local politicians, parents, and business leaders to develop another plan for the Springfield schools. In November 2011, the Committee presented the following five plans to the School Board: develop uniform learning pathways for all students; provide more pre-Kindergarten classes; explore

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[11] In 1968, Coopertown Elementary had students in grades 1-8. In 2005, the District moved the 4th through 8th graders in Coopertown to a new, separate building to create Coopertown Middle. Although Coopertown Middle is a new school, Coopertown's 4th through 8th graders attended predominantly white schools in 1968. Thus, Coopertown Middle can be traced back to the dual system as a white school.

[12] In 1968, Greenbrier Elementary had students in grades 1-7, and Greenbrier High had students in grades 8-12. Greenbrier Junior High School (now Greenbrier Middle School) opened in 1972 and originally served grades 7-8. Thus, Greenbrier Middle can be traced back to the dual system as a white school.

[13] In 1968, White House Heritage Elementary had students in grades 1-6; students in grades 7-12 attended school in the neighboring district. Robert Woodall Elementary currently has students in grades K-2. These grades were formerly housed at the White House School in 1968. Thus, Robert Woodall Elementary can be traced back to the dual system as a white school.

an internal and external marketing plan to improve the current perception of Springfield schools; temporarily adjust the Springfield zone lines; and continue to seek funding for an elementary school in south Springfield. In presenting the recommendations to change the zone lines and build a new school, the Committee noted that the plans would provide an opportunity for the District to create more "equitable demographics" in the schools. The School Board approved a resolution to purchase property to build a new elementary school in Springfield and agreed to alter the District's zone lines with the new school, but in May 2013, the District did not receive the necessary funding from the County Commission. This denial of funding further delayed and jeopardized the District's ability to desegregate.

The District has since secured funding for the new elementary school, Crestview Elementary, which is planned to open for the 2015-2016 school year. Fortunately, the District decided to open this new school at a site that will enable the District to assign students to this school and adjacent schools in a manner that furthers desegregation . The opening of Crestview Elementary presents an opportunity to remedy the effects of prior school construction and student assignment decisions that have hindered desegregation in the District.

Proposed Resolution

We appreciate the District's cooperation throughout the United States' investigation and recognize the District's recent effort over the past year to account for its desegregation obligations in the opening of its new elementary school. To resolve the concerns identified in this letter and avoid the expenses of litigation for both parties, the United States proposes that the District voluntary enter into the enclosed Settlement Agreement. The Agreement incorporates a specific plan for student assignment in Attachment A that would ensure the new elementary school and the required attendance zone line changes for this school and adjacent schools further desegregation; includes cultural competency training of teachers and staff to facilitate a smooth transition of reassigned students; and requires that future construction and rezoning decisions over the next five school years, including anticipated changes at the secondary school level, comport with the District's desegregation obligations. In addition, the Agreement ensures that any assignment, hiring, or recruitment of faculty, administrators, and staff associated with the new elementary school and any other future school changes are consistent with these obligations.

We look forward to hearing from you regarding the enclosed Agreement and hope to be able to resolve this matter cooperatively, consistent with our interactions throughout this investigation.

Sincerely,

/s/Sarah Hinger

Sarah Hinger
Trial Attorney