

Settlement Agreement

Between The United States And

The Robertson County Schools And Board of Education

SETTLEMENT AGREEMENT

PURPOSE

1. The Robertson County Schools and its Board of Education (collectively, the “District”) agree to the terms of this Settlement Agreement (“Agreement”) to address and resolve the noncompliance raised by the United States regarding the District’s obligations to dismantle the prior system of *de jure* segregation of black and white students, including eliminating all vestiges of this system and ensuring that new school construction, additions to schools, school siting decisions, and school closures further desegregation and do not re-establish the dual system.
2. In consideration for the commitments made herein by the District, the United States agrees not to initiate judicial proceedings to enforce the District’s desegregation obligations in the areas covered by this Agreement. This commitment does not relieve the District from fulfilling any other obligations not to discriminate on the basis of race in its school operations under federal civil rights laws, including but not limited to the Equal Educational Opportunities Act of 1974, 20 U.S.C. § 1701 *et seq.* (“EEOA”), and Titles IV and VI of the Civil Rights Act of 1964, 24 U.S.C § 2000c *et seq.* (“Titles IV and VI”). The signatories undertake this Agreement as a means of alternative dispute resolution to avoid litigation and for the purposes of judicial and governmental economy.
3. This Agreement, including each provision herein, shall become effective on the date of its entry and shall remain in effect until such time as the United States informs the District that it has complied with the Agreement in good faith and for a reasonable period of time that is sufficient to ensure a durable remedy for its noncompliance. The parties anticipate that this Agreement will remain in place for five school years, beginning with the 2014-15 school

year and including all reporting required under this Agreement regarding those five school years. The date that counsel for the United States signs the Agreement shall be considered the entry date.

LEGAL STANDARDS

4. “The duty and responsibility of a school district once segregated by law is to take all steps necessary to eliminate the vestiges of the unconstitutional *de jure* system.” *Freeman v. Pitts*, 503 U.S. 467, 485 (1992). The affirmative duty to desegregate is a continuing responsibility, and “[p]art of the affirmative duty . . . is the obligation not to take any action that would impede the process of disestablishing the dual system and its effects.” *Dayton Bd. of Educ. v. Brinkman*, 443 U.S. 526, 537-38 (1979).
5. The measure of a school district’s progress toward unitary status “is the effectiveness, not the purpose,” of its actions. *Brinkman*, 443 U.S. at 537-38; *see also Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 25 (1971). A district must show both past compliance with its desegregation obligations and a commitment to the future operation of its school system in a nondiscriminatory manner. *See Dowell*, 498 U.S. 237, 247 (1991). To that end, “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 by Harris v. Crenshaw Cnty. Bd. of Educ.*, 968 F.2d 1090, 1095 (11th Cir. 1992).

STUDENT ASSIGNMENT

6. The District agrees to adopt the plan for student assignment set out in Attachment A, and to take the requisite steps to ensure that the new Crestview Elementary School, including the attendance zone lines for this school and its adjacent schools, furthers desegregation,

consistent with the District's federal obligations. The zone lines in the attached student assignment plan will take effect in the 2015-2016 school year when Crestview Elementary School is scheduled to open.

7. If at any time the District seeks to make any alteration to the student assignment plan set out in Attachment A, the District shall first notify the United States in writing. The notice shall include, where relevant: the proposed changes to attendance zone lines, if any; the proposed changes to grade configuration, if any; the District's reason(s) for adopting the proposed change(s); and the projected impact on the racial compositions of the schools. The United States shall have ninety (90) days to object or consent. No alterations to the plan in Attachment A shall take effect without a written amendment to this Agreement signed by both parties.
8. The District shall strictly enforce attendance zone lines consistent with the student assignment plan set out in Attachment A. The District shall ensure that student assignments to schools are made on the basis of residence except to provide necessary accommodations to students with disabilities as required by federal law or where the District has approved a valid transfer application according to the terms provided in the Student Transfers section of this Agreement.
9. The District shall permit a student entering the terminal grade at the previously assigned elementary, middle, or junior high school, or entering the 11th or 12th grade of high school at the time that the student assignment plan in Attachment A takes effect to complete the terminal grade at the previously assigned school if the student and/or parent or guardian so choose. Students electing to finish the terminal grade at their previously assigned school

(e.g., 5th grade in a K-5 school) or for high school students, 11th and 12th grades, will not be eligible for District-provided transportation to the previously assigned school.

RESIDENCY VERIFICATION

10. The District shall verify the residency of each student enrolling in the District for the first time, reentering after an interrupted attendance, or seeking to enroll in a new school following an address change. The District shall require the parent or guardian of an enrolling student to provide at least two (2) of the items (a) through (h) below as proof of residency:

- a. Property tax records;
- b. Mortgage documents or property deed;
- c. Income tax forms;
- d. Apartment or home lease or rent receipts, including the date and amount of payment, and the names of the persons who made and received the payment;
- e. Utility bill issued within (3) months of the date of verification;
- f. State or other government issued I.D.;
- g. Voter precinct identification; and
- h. Affidavit of the parent certifying that the address provided is the student's primary residence (i.e., where the student resides Monday through Thursday and at least the majority of nights each month).

All documents must include a physical 911 address with the name of the parent or guardian and any document with a post office box as an address shall not be accepted. Parents or guardians do not need to provide such documentation where federal law otherwise provides (i.e., under the McKinney-Vento Education Assistance Improvements Act of 2001 Subtitle B §§ 721-725).

11. **Non-parental Custodian.** In addition to the terms for establishing residency set out above, a non-parental custodian of an enrolling student other than a legal guardian shall provide a notarized document stating his/her relationship to the student, that the student will reside at his/her home full time for the length of the upcoming school year, and explaining in detail the preference (other than school assignment) for this arrangement.

STUDENT TRANSFERS

12. The District shall not approve a student transfer unless the student's transfer application, including supporting documentation, establishes one of the following reasons:

a. **Child of Employee.** A student who resides with a parent or legal guardian who is actively employed as faculty or staff of the District shall be eligible to attend the school at which the employee works.

b. **Safety of the Student.** If the safety of the student is in jeopardy, or if the student is endangering the safety of other students, the District shall require a statement signed by the designated administrator(s) of the sending school setting forth the potential harm to the student or other students and describing how the transfer will alleviate the situation to verify the safety purpose of the transfer.

c. **Course of Study.** Students may request a transfer in order to pursue a high school course of study not offered at the student's school assignment based on residence. The District shall require that the principal or designated administrator(s) of the sending school submit a signed statement verifying the unavailability of the specific course(s) and the necessity of the student's transfer.

d. **Hardship Transfer.** If any parent or guardian believes that exceptional and extenuating circumstances warrant the transfer of a student, the parent or guardian may

request a hardship transfer. The hardship exception is meant to provide for transfers in unique and urgent situations, such as the incarceration or terminal illness of a parent/guardian, abuse or neglect affecting the student or parent/guardian, or natural disaster. Documentation must include: (i) a signed, dated sworn affidavit from the parent/guardian explaining the exceptional hardship and why the hardship requires a transfer to the requested school; and (ii) supporting documentation, such as signed letter(s) of support from doctors, authorities, or others who can confirm the hardship. The Director of Schools or designated administrator(s) shall review the application and supporting documentation and shall have the right to request additional supporting documentation.

13. If the District grants transfers to students living in the District for their attendance at schools outside the District, or if it permits students living outside the District to transfer to schools inside the District, it shall not consent to transfers where the cumulative effect will reduce desegregation in the sending or receiving school.

14. Annually on or before December 1, through 2019, the District shall provide the United States with a report indicating the current enrollment demographics, disaggregated by race/ethnicity, for each school in the District, and a report of all student transfer requests made over the preceding calendar year, including for each transfer request:

- a. student identification number;
- b. date of request;
- c. student's race/ethnicity;
- d. student's grade;
- e. school assigned on the basis of residency;

- f. requested school;
- g. reason for the transfer request;
- h. whether the request was granted or denied; and
- i. reason for the grant or denial of the transfer.

The United States may request reports after 2019 as necessary to monitor compliance with the terms of this Agreement, or if this Agreement has ended, to monitor compliance with the District's obligations not to discriminate on the basis of race.

OPENING OF NEW SCHOOLS, CONSTRUCTION, RENOVATION, AND CLOSURE

15. The District shall ensure that any new school opened as part of the Robertson County Schools, including any charter school, furthers desegregation and operates in compliance with this Agreement and the District's desegregation obligations.
16. Any charter school authorized to open in the District as provided by Tennessee law shall enroll a student body that reflects the student demographics of the District as a whole. If any charter application is submitted to the District or the Tennessee Board of Education, the District shall provide a copy of the application within a week of its submission to the United States and shall notify the United States of its intentions regarding approving or denying the charter application.
17. The District shall ensure that any new middle, junior high, or high school is located at a site that facilitates desegregated student enrollment through the drawing of attendance boundaries or by serving as a centrally located magnet school. Toward this end, the District shall ensure that any new secondary school has an opening enrollment of not greater than the percentage of the secondary white student enrollment for the District as a whole.

18. Before the District opens any new school, constructs any schools not identified in this Agreement, closes a school, or renovates or alters any school in a manner that changes the facility's capacity or otherwise impacts student assignments, the District shall first notify the United States in writing. The notice to the United States shall afford ninety (90) days to review, comment, and/or object to the proposal and shall include, where relevant: the proposed location of the new school; a description of the proposed facility/new construction/renovation, including a proposed time-line; a detailed explanation of how the proposal will impact student assignments to the schools, including all projected changes in the schools' enrollments disaggregated by grade and race/ethnicity; the projected method of assigning students, including proposed attendance zone lines, if any; and a description of any changes to this Agreement that would be required to permit the District's proposal to go forward. If the United States objects to the proposal, the parties shall have sixty (60) days to negotiate under the enforcement procedures set forth in paragraph 30 below.
19. This Agreement shall not prohibit the District from conducting regular school maintenance or restoring without approval facilities that might be damaged or destroyed by a casualty or event such as fire or weather so long as the maintenance or restoration does not alter the facility's capacity or otherwise impact student assignments.
20. The District shall provide the United States with written notice of its intent to purchase any land for the addition to an existing school or the building of a new school and allow the United States at least ninety (90) days to object. The notice shall identify: the property to be acquired, the property's anticipated purpose, and its probable impact, if any, on student assignment to schools, including all projected changes in the schools' enrollments disaggregated by grade and race/ethnicity. The notice also shall identify any issues that may

require expedited closure on the property. If the United States objects to the proposed purchase, the parties shall have sixty (60) days under the enforcement procedures set forth in paragraph 30 below to determine if they can agree on an alternative purchase that will further desegregation in the District or upon terms for using the proposed land that will further desegregation, such as the nature of the facility to be built on the land (e.g., a magnet school or a district-wide vocational high school), its student capacity, its student attendance zone lines and alterations to the existing lines of any other affected schools, and its projected racial enrollment and those of any other affected schools.

ADMINISTRATOR, FACULTY, AND STAFF HIRING AND ASSIGNMENT

21. The District shall continue efforts to recruit and assign a diverse administrative team, faculty, and staff to all of its schools. Toward that end, the District shall designate a central office administrator whose duties shall include responsibility for oversight of continued efforts to recruit minority personnel, including recruitment visits to historically and/or predominantly black colleges and universities.
22. All hiring and employee assignment decisions shall be conducted in a nondiscriminatory manner and consistent with the District's affirmative duty to desegregate.
23. The District shall ensure that its application forms, interview questions and hiring criteria are non-discriminatory. By August 1, 2015, the District shall provide training to all employees who have any responsibility regarding hiring or assignment on proper, fair, and nondiscriminatory interviewing and employment methods and procedures.
24. Annually on or before December 1, through 2019, the District shall provide the United States with a report including:

- a. A description, including supporting materials, of the District's continued efforts to recruit minority personnel;
- b. For all administrator and certificated staff vacancies advertised and/or filled immediately prior to and during the preceding school year, a report identifying the school at which the vacancy occurred; date of vacancy; position to be filled (e.g., high school math teacher, second grade teacher, principal, etc.); number of applicants by race/ethnicity (where given by the applicant); number of applicants interviewed by race/ethnicity (where given by applicant); date position was filled; person selected; and for any vacancy that was not filled, the reason(s) the position was not filled;
- c. For any reassignment: the administrator, faculty, or staff reassigned; race/ethnicity; position and school of previous assignment; position and school of reassignment; and reason(s) for reassignment;
- d. Copies of the District's interview instruments for each position type and scoring rubrics (if applicable); and
- e. Lists or tables of interview committee participants for each open position, by position title and school site.

PROFESSIONAL DEVELOPMENT

25. By April 1, 2015, the District shall develop a plan for providing cultural sensitivity and competency training to all teachers and staff who work directly with students. The District shall confer with the Director of the Southeastern Equity Assistance Center ("SEAC") regarding the development and implementation of this plan.
26. Prior to the 2015-16 school year, the District shall require all teachers and staff who work directly with students to participate in cultural sensitivity and competency training as part of

their professional development. This training shall teach employees how to work effectively with students and parents from diverse racial, cultural, and socioeconomic backgrounds.

This training shall be taught by administrators who have attended training conducted by the SEAC or a comparable course of training.

27. The curriculum for the training and all related materials developed within the District to facilitate the training contemplated in this Agreement shall be provided to the United States for review and comment at least thirty (30) days before the training of the employees.

ENFORCEMENT

28. The District understands and acknowledges that the United States, consistent with its responsibility to enforce federal civil rights laws governing educational institutions, retains the right to investigate and, where appropriate, initiate judicial proceedings concerning any past or future alleged violations of these laws not covered by this Agreement. This right includes speaking directly, without District counsel, with District employees who are not administrators and have questions, concerns, or other information to raise with the United States regarding the District's obligations under this Agreement and these laws. The District acknowledges that the United States, through its representatives and/or any consultant or expert it may retain, has the right to conduct an on-site review of the District's schools, with District counsel and District representatives present, to evaluate compliance with the terms of this Agreement or these laws upon giving reasonable notice and consultation with the District and District Counsel to minimize any disruption to the education process in the schools.
29. The United States and the District shall make good faith efforts to resolve any objections pertaining to this Agreement, or any breach of this Agreement by the District, and if the parties are unable to reach a resolution within sixty (60) days, the United States may initiate

judicial proceedings to enforce the terms of the Agreement or applicable federal civil rights laws.

30. The District acknowledges and understands that, in the event of a breach by the District of the Agreement (and subsequent failure of efforts to resolve such breach as provided in Paragraph 29 of this Agreement), the United States may initiate judicial proceedings to enforce the specific terms, commitments and obligations of the District under such Agreement, or any applicable federal civil rights laws.
31. The District shall maintain records of all information pertinent to compliance with the terms of this Agreement and shall provide such information to the United States upon request. The United States and the District agree that, as of the date of this Agreement, litigation is not “reasonably foreseeable” concerning the matters described herein. To the extent that the District or the United States previously implemented a litigation hold to preserve documents, electronically stored information, or things related to the matters described herein, the parties are no longer required to maintain a litigation hold. Nothing in this paragraph relieves any party of any other obligations imposed by this Agreement.
32. Upon the termination of this Agreement warranted by the District’s complete and good faith compliance with its terms, the United States anticipates that the District will have resolved the noncompliance regarding its desegregation obligations identified by the United States and will assign students to schools in a nondiscriminatory manner.
33. If any part of this Agreement is for any reason held to be invalid, unlawful, or otherwise unenforceable by a court of competent jurisdiction, such decision shall not affect the validity of any other part of the Agreement. Furthermore, the District and the United States shall

confer within thirty (30) days of any such decision to determine whether the Agreement should be revised or supplemented in response to the court's decision.

34. The following signatures indicate the consent of the parties to the terms of this Settlement Agreement.

For the United States of America:

ACTING ASSISTANT ATTORNEY GENERAL
MOLLY J. MORAN

ANURIMA BHARGAVA
EMILY H. MCCARTHY
SARAH HINGER
U.S. Department of Justice
Civil Rights Division
Educational Opportunities Section
601 D Street, N.W., Suite 4300
Washington, DC 20530

For the Robertson County Schools:

Director of Schools James M. Davis

Chairman, Robertson County Board of Education

Charles W. Cagle, Esq.
Angela C. Sanders, Esq.
Lewis, Thomason, King, Krieg & Waldrop, P.C.
424 Church Street, Suite 2500
Nashville, TN 37219