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NORTHERN DISTRICT OF TEXAS

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

FILED

DALLAS DIVISION

MAR 4 1970

JOSEPH McELROY, JR., CLERK
BY *Robert Decker*
Deputy

EDDIE MITCHELL TASBY and)
PHILIP WAYNE TASBY, by their)
parent and next friend,)
SAM TASBY, ET AL)

vs.)

CA 3-4211-C

DR. NOLAN ESTES, GENERAL)
SUPERINTENDENT, DALLAS)
INDEPENDENT SCHOOL DISTRICT,)
ET AL)

OPINION AND ORDER

The task presented to this Court is to adopt and implement

(DISD) which will finally conclude the tortured history of this

... establish a unitary, non-racial system of

City of Dallas additionally, the Metropolitan Branches of the

National Association for the Advancement of Colored People (NAACP) were granted leave to intervene on August 25, 1975; the Strom intervenors, representing a class of persons living in naturally

Oak Cliff and Pleasant Grove were

City of Dallas were given leave to intervene on

thirty leading figures in the desegregation field. Finally, on February 17, 1976, the Alliance group filed their plan for the DISD with the Court. The Court granted them the status of Amicus Curiae for the purpose of presenting their ideas and plan to the Court, and heard evidence from Dr. Paul Geisel regarding the plan.

The Court has before it several student assignment plans, offered to remedy the dual nature of the DISD. The School Board, being charged with the responsibility of devising an acceptable

Education Task Force of the Dallas Alliance met for several months considering concepts for a desegregation plan for the DISD, and filed their results with the Court on February 17, 1976. In addition, the Court received and has considered other plans and suggestions from various citizens and groups. ^{4/}

difficult if not impossible to discover hard and fast rules for

primary responsibility for elucidating, assessing, and solving these problems; courts will have to consider whether the action of the school authorities constitute good faith implementation of the governing constitutional principles. Because of their proximity to local conditions and the possible need for further hearings, the courts which originally heard these cases can best perform this judicial appraisal.

~~7. With respect to the, regarding on regard, this Court has held foremost~~

in its mind the unique characteristics of the DISD, in order to

~~1. That the Court should consider also the fact that which will real-~~

formulate a new "student assignment plan." The DISD has maintained

~~1. That the Court can consider nothing~~

possible degree of actual desegregation and will thus necessarily be concerned with the elimination

[t]he constitutional command to desegregate schools does not mean that every school in every community must always reflect the racial composition of the school system as a whole.

Ibid, at 24.

In arriving at this balance, the practicalities of the situation are to be taken into account. Davis v. School Commissioners of Mobile County, 402 U.S. 33, at 37 (1970). These practicali-

equity has been characterized by a practical flexibility in shaping its remedies and by a facility for adjusting and reconciling public and private needs.

Swann, supra at 12. Later it stated:

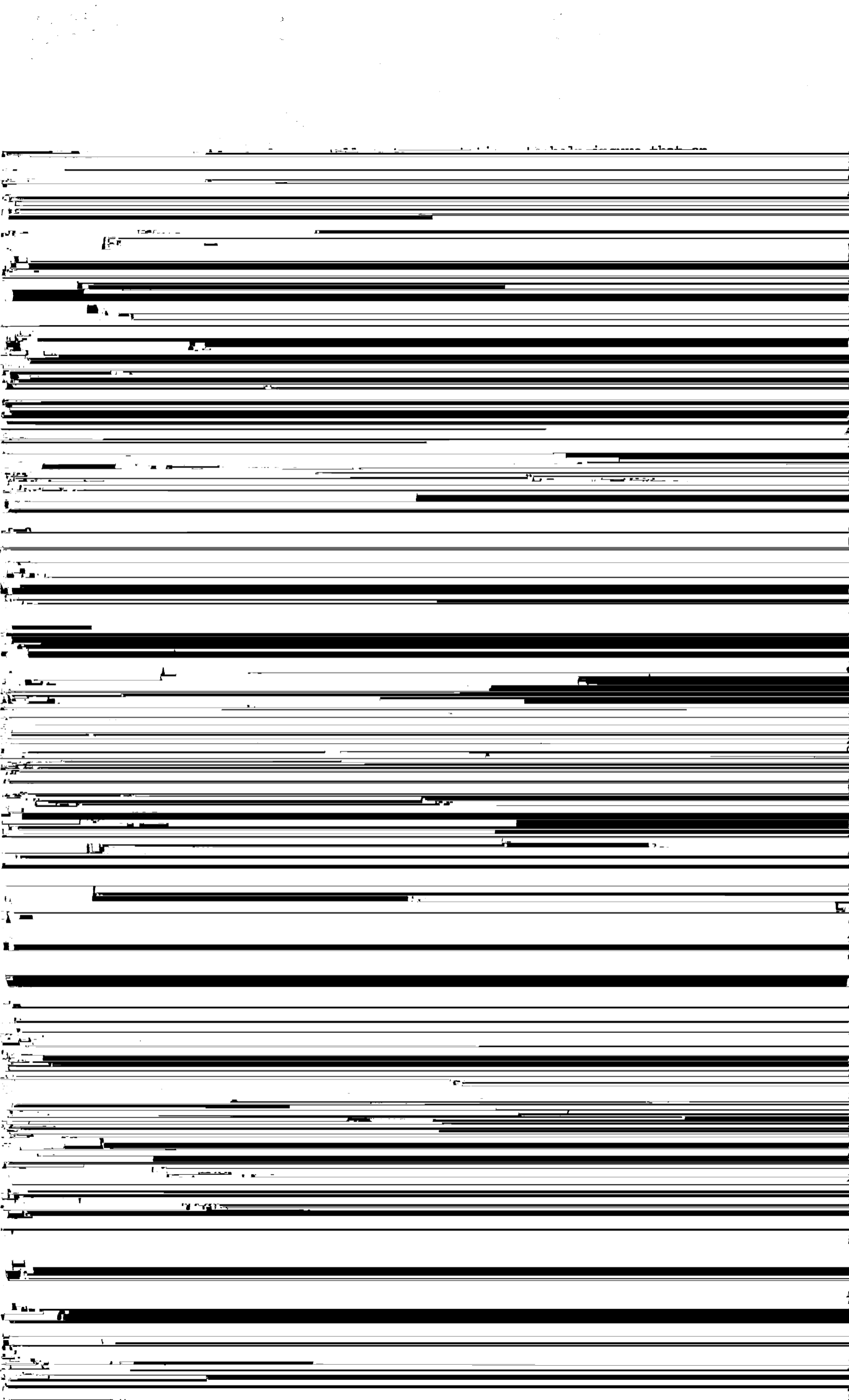
In seeking to define even in broad and general

important to remember that judicial powers may be exercised only on the basis of a constitutional

violation ... As with any equity case, the nature of the violation determines the scope of the remedy

This Court has kept in mind throughout these proceedings that its

remained in the DISD, and not that the DISD was a dual system at that time. The plan adopted now must therefore remedy these vestiges without exceeding this Court's equitable powers to balance public



1980-1981 the DCS continued to be the eighth largest

school district in the nation, covering an area of approximately
351 square miles. The 180 separate campuses house 141,122 students.

1. The commitment to, and the heavy investment of resources in, curriculum, design, development, and implementation.

2. A broadly conceived and well-staffed program of research and evaluation to define needs, inform decisions, assess the effectiveness of programs and services, and indicate deficiencies in program implementation or operation.

3. The creation of an extensive network of communications through which community organizations and large numbers of teachers, students, parents, and other citizens may learn about and participate in educational decisions and programs.

1. ~~participate~~ followed by constructive

pointing areas which needed improvement and making recommendations to that end. ^{11/} Dr. Chase testified that this study was unique in the amount of response it elicited from the School Board and the Administration; he testified that there is not one item cited that the Board and Administration have not responded to in some way. His testimony was that there can never be a perfect school system, but that at least the DISD is conscientiously on the road to providing equal educational opportunity for all.

The plan which this Court is ordering to be implemented promises to continue this trend of desegregation and will, when fully implemented, remove all vestiges of the former dual system in the DISD. The Court is convinced that this plan will, at the same time, because that state guaranteed educational opportunity is

areas, ^{14/} as desegregation has already occurred in these areas. ^{15/}

Pairing and clustering techniques, both contiguous and noncontiguous, were used to desegregate grades 4-12 ^{16/} of the predominantly Anglo

- K - 3 Elementary Schools
- 4 - 5 Intermediate Schools
- 6 - 7 Middle Schools
- 8 - 9 Junior High Schools
- 10 - 12 Senior High Schools. ^{17/}

The remaining predominantly minority areas of the districts would continue to be served by predominantly one-race minority schools. ^{18/}

In addition, the DISD proposed to set up 17 magnet schools to serve the entire district. Ten of these magnets would be for the elementary level, and would offer "fundamental" programming ^{19/} or "individually guided" programming. ^{20/} Seven of the magnets would operate on the secondary level (grades 8-12 in six of the seven cases), and would offer a variety of programs oriented toward careers, the creative and performing arts, ^{21/} transportation and technology, ^{22/} and world cultures. These programs are all in existence now in the DISD and are proving extremely successful. ^{23/}

defined by the DISD as not more than 75%

Finally, the DISD's proposal included the retention of the majority to minority transfer program presently in existence in the DISD.

The analysis showed that 13,947 students would be transported for desegregation purposes, ^{24/} and that the total cost to implement ^{25/} would be \$6,811,240, causing a 9¢ tax increase. ^{26/}

~~... laws were devised by the plaintiff~~

attorneys, using guidelines laid down by Dr. Charles Willie of Harvard.

1. Plan A

Under Plan A, the DISD would be divided into seven elementary subdistricts. An attempt was made to have each school reflect the racial composition of that subdistrict. The naturally integrated

Plaintiffs proposed the use of magnet schools constructed

in the inner city to draw Anglos into those areas. They suggested

the retention of the majority to minority program. They suggested

for faculty and staff. Finally, they proposed a system of accountability to insure that the DISD complies with this Court's order and with the goal of quality education for each student enrolled in public school.

An analysis of Plaintiffs' Plan A showed that approximately 69,000 students would be transported, and that the projected

Other features such as the majority to minority transfer program, in-service training, and a monitor or system of accountability mentioned above would also be included in Plan B.

An analysis of Plan B showed that approximately 47,000 students would be transported under this plan. The estimated cost

35/

20¢ tax increase per \$100 property value.

C. NAACP Plan

The NAACP's proposal was drawn by Dr. Charles Hunter of ~~Richman College~~. It contained a number of concepts and proposals

utilized by the DCSB in implementing the plan as well as a

rough outline of schools to be paired and clustered to achieve desegregation. The naturally integrated areas were left with their present assignment patterns, and the rest of the schools were paired and clustered so that every school would have a racial balance comparable to the racial balance in the district (with a 10%

36/

variance up or down) Innovative programs would be fostered in

D. Dr. Hall's Plan

The student assignment plan submitted to the Court by

in that it divides the district into the categories of resident-

ially integrated areas, ¹ paired and clustered areas, and pre-
dominantly minority areas. The naturally integrated areas would
retain their present assignment patterns. ^{39/} Schools in pre-
dominantly Anglo areas are paired and clustered with schools in
predominantly minority areas to the greatest degree possible. ^{40/}
The grade configuration for this category of schools is K-1 (near-
est schools). 2-5. 6-7. 8-9. and 10-12. If the time and distance

assignment patterns. ^{41/}

In addition, Dr. Hall proposed the establishment of Early
Childhood Centers in Title I ^{42/} areas. These centers would be for

Dr. Hall recommended the continuation of the DTSD Metro-

On the K-3 level, special teaching strategies and en-

... .. would emerge for students in all areas. The

Alliance plan proposes that efforts to maximize parent involvement following the Early Childhood Education model from California be

... .. 1976 and completed by September 1979.

would result in an adult-student ratio in instruction of approximately 1-10. (Adult is a teacher aide, a parent, an older student tutor, etc.)

For grades 4-8, students would only be assigned to schools within the attendance subdistrict in which they live. Areas that

institutions of higher learning, the business and the cultural communities would be encouraged with each magnet high school.

Additional magnets would be established by 1979-80. Each

magnet would accommodate a minimum of 1,000 students, and would open as rapidly as it fills. Seven magnets would be therefore considered a minimum, not a maximum number to be implemented. Until all students attend magnet high schools, grades 9-12 would

reflect the percentages of the ethnic makeup of the DISD student

American) by 1979. This transition would occur on a schedule of one-third by 9/1/77, one-third by 9/1/78, and one-third by 9/1/79.

The Alliance plan also proposes training for teachers to improve their proficiency and their ability to perform in a multicultural setting, assessment on a regular basis of the competence of personnel, and a system of internal and external accountability measures to insure that a unitary system was in fact achieved.

Although the exact numbers of students transported and the exact cost could not be determined,^{46/} it has been established by the DISD that approximately 20,000 students would be transported at a cost of \$5,830,000, necessitating a tax increase of 7.8¢. The first year the capital expenditure of \$16,500,000 for magnet schools

the first year could be accommodated by the present bond issuance, without any additional tax increase. The annual operating cost of this plan has been estimated at \$5,000,000. This plan therefore

subdistricts (each with elementary, middle, and high schools) is more effective than one large district. This will give parents and students a sense of community and control over their schools,

successful functioning of our schools.

No single tradition in public education is more

ation of schools; local autonomy has long been thought essential both to the maintenance of community concern and support for public schools

Wright v. Council of the City of Emporia, 407 U.S. 451, at 469. Thus, in San Antonio School District v. Rodriguez, 411 U.S. 1, 50 (1973), we observed that local control over the educational process affords citizens an opportunity to participate in decision-making, permits the structuring of school programs to fit local needs, and encourages "experimentation, innovation, and a healthy competition for educational excellence."

Milliken v. Bradley, 418 U.S. 717, at 742 (1973). Moreover, it helps minimize the transportation distance and time, since this is limited to each subdistrict. ^{47/}

Each subdivision will approximate the racial makeup of the DISD as a whole, with the exception of South Oak Cliff. ^{48/} Due to the geographic layout of the DISD, and the factors of time and distance, this South Oak Cliff area was left predominantly black in every plan proposed to the Court, with the exception of Plaintiffs'

49,000 students. The Court is of the opinion that, given the practicalities of time and distance, and the fact that the DISD is minority Anglo, this subdistrict must necessarily remain pre-

However, this does not mean that

the exception of Budd and Harllee Elementary Schools and the site at Roosevelt High School, the facilities in this area can be categorized as superior. Additionally, Dr. Hall testified that the environment in which each center is located, i.e., the property immediately adjacent to the schools, as well as the residential type served by them can be classified as superior. Dr. Hall

testified that educational opportunities in terms of facilities

K-3 level. As Dr. Chase testified, the disparity, if any, is in favor of the lower socio-economic areas on the K-3 level, due to the special programs and efforts of the DISD in those areas.

Full-year in California will insure that children everywhere in

the District will be afforded equal educational opportunity and

that any remaining vestige of a dual system (if it in fact exists on the K-3 level) will be eliminated.

C. The 4-8 Central Area Concept

The concept of locating grades 4-8 close to the center of each Area or Subdistrict is based on pragmatic considerations.

Transportation distance and time will be minimized for all students

Court is convinced that the magnet school concept on the 9-12 grade level will be more effective than the assignment of students to achieve a certain percentage of each race in each high school. The Court tried this method of student assignment in 1971, and it has not proven wholly successful in achieving the goal of eliminating the vestiges of a dual system in these grades. The evidence shows that

all-black high schools under this Court's 1971 student assignment plan, fewer than 50 Anglo students attend those schools today. Whatever the cause might be for the non-attendance of Anglos in those schools today, ^{50/} this Court finds that it can in no way be attributed to official actions on the part of school authorities.

While some blacks are still transported today to previously all-Anglo schools, these students could continue to do so under the majority to minority program, or could attend any magnet high school in the district. It should also be noted that changes in demographic

patterns have resulted in the drastic reduction of predominantly
~~white high schools in the DISD~~

The most realistic, feasible, and effective method for eliminating the remaining vestiges of a dual system on the 9-12 level, and for providing equal educational opportunity without regard to race, is the institution of magnet schools throughout the DISD. In this way, students of all races will join in working in areas of their special interest. Although these magnet schools

cannot be created with the wave of a wand, they can be established at an accelerated pace with the help, financial and otherwise, of the business community of Dallas. The Court requests and sincerely believes that the business community will provide its resources and

~~the help of the business community in the Magnet School program~~

and Bell Telephone, provides an example of what can be achieved

through the cooperation of DISD administrators and educators on the

and the cooperation of educational and cultural communities

... practices of a dual system remain in these areas. The

right of educational opportunity in these areas, and, as all parties

... there would be no benefit educational or otherwise in

... residential integration

3. The number and percentage of pupils by ethnicity obtaining majority to minority transfers (including the exception for Mexican-American students).

4. The number and percentage of teachers by ethnicity
~~assigned full-time in each educational center~~

5. The number and percentage of new teachers adminis-

the DISD

7. The status of Early Childhood Education program.

8. The results of the annual standardized achievement tests program by school, grade, and ethnicity (April 15 report only).

9. Efforts made by the system to successfully implement
Recommendation of this Court in the following areas:

future. Therefore the Court will retain Dr. Josiah Hall as an advisor to the Court and may call on him to recommend revisions or to

ment.

the first step in the achievement of a unitary school

to eradicate inequality in educational opportunity which has previously existed in the DISD. Had the DISD not shown a willingness to improve the quality of education for all its students, and especially those in the minority areas which previously had been neglected, this Court might feel impelled to adopt a different remedy. However, the vestiges of a dual system remaining in the DISD can be realistically and effectively eradicated by the implementation of the plan adopted herein. This will not mean that the DISD will be perfect, for school districts are run by mere mortals, and judicial decrees can make them no more. It will mean that the