

1992 WL 551569
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United States District Court, W.D. Missouri, Western Division.

Kalima JENKINS, et al., Plaintiffs,
v.
STATE OF MISSOURI, et al., Defendants.

No. 77-0420-CV-W-4.

|
June 17, 1992.

ORDER

RUSSELL G. CLARK, Senior District Judge.

*1 Before the Court is the KCMSD's Year VIII Desegregation Plan. The parties have stipulated to budgets for certain components and the Court heard evidence regarding the remaining disputed components on May 27-28, 1992. The Year VIII Desegregation Budget will be approved as set forth below.

The parties have stipulated to the following components and budgets:

	Stipulated Year VIII Budget	KCMSD Obligation
AAA	6,138,490	2,703,822
Reduced Class		
Size	16,988,240	16,988,240

Full Day		
Kindergarten	1,880,137	470,034
Summer School	2,334,374	583,595
Early Childhood		
Education	4,451,351	1,112,038
Interest Expense	593,500	593,500
Maintenance	4,233,527	4,233,527
	36,619,619	26,684,756

The parties dispute budgets for the following components:

Extended Day, Effective Schools, 1986–87 Magnets, District Communications, Security, Special Education Compliance and High School Prep. In addition plaintiffs have requested an Eight Period Day at Westport High School, Playground Equipment for Faxon Montessori and Team Travel/Tournament Entrance Fees for Central High School.

Extended Day—The KCMSD proposes a budget of \$453,000 to continue the extended day programs at Border Star, James, Greenwood, Rock Creek West, Scarritt and Askew. The State objects that this program is not attracting non-minority students to the District’s traditional schools. However, the KCMSD states that the program is an important factor in the decision of parents who chose these schools, particularly non-minority parents. The KCMSD also states that the program is having a significant impact on academic achievement.

Effective Schools—The KCMSD proposes a budget of \$7,250,000 to continue the effective schools program. The KCMSD has restructured the program to focus on instruction and school climate, as well as competitive grants based on school success. The State objects that the effective schools program has not been successful in improving student achievement through planning and implementation at the school level.

The KCMSD admits that the program has resulted in mixed success. The KCMSD maintains that raw test score results when compared only with test score objectives do not adequately reflect improvements in achievement. Also, several school principals testified that their programs would suffer drastically without effective schools funding. The Court will continue funding for Year VIII.

1986–87 Magnets—The KCMSD proposes a budget of \$8,001,410 to fund the 1986–87 Magnets. During 1991 the District initiated discussions with the State and the DMC Budget Subcommittee on the desirability of providing Year VIII budgets in a manner that would more clearly depict the desegregation contributions of major activities funded by the Court. The Year VIII Magnet base budget reflects transfers of appropriate positions to other budgets. Also the 1992–93 proposal delineates base and theme costs. This Court agrees with the KCMSD that these programs should remain viable with desegregation funding for Year VIII.

*2 District Communications—The KCMSD proposes a budget of \$31,125 to publish a District newspaper ten times during the 1992–93 school year. The State objects that this component should be taken over by the District and placed in its operating budget. However, the newsletter is directly related to attracting non-minority suburban students into the KCMSD.

Security—The KCMSD proposes a budget of \$1,897,037 for security. The KCMSD requests the addition of two clericals, two dispatchers, two patrol officers and an assistant to the Safety Manager. The KCMSD also requests overtime funding for approved desegregation budgets and the addition of five security vehicles. While this Court continues to believe that the primary responsibility for KCMSD security rests with the Kansas City Missouri Police Department, evidence at the hearing suggests that the KCPD is understaffed. Robert Livingston testified that personnel at the KCPD has not increased even though there has been a 300% increase in calls. Mr. Livingston concluded that the KCPD could not provide any additional help at this time.

There was substantial evidence regarding the number of calls and incidents at District schools, as well as the need for documentation and reports. The KCMSD clearly demonstrated the need for the additional security positions. The Court disagrees with the State's position that adding security makes schools less desegregatively attractive. Instead, increased security should add to the attractiveness of a school which may be perceived as unsafe.

The Court notes that the budget for the addition of security vehicles should be calculated as \$65,000 with the trade-in value of the replaced vehicles to be included in the \$65,000 budget cap.

Special Education Compliance—The KCMSD proposes a budget of \$990,044 for Special Education Compliance. The KCMSD suggests that the desegregation program has brought unique burdens to the KCMSD's efforts to maintain compliance with State and Federal guidelines for providing equal educational opportunities. The State argues that this request goes beyond the parameters of a desegregation remedy. This is an issue of State and Federal compliance with which each school district in the State must comply. The Court will deny desegregation funds for Special Education Compliance because the KCMSD has not shown that the desegregation program actually has presented a greater burden to maintain special education compliance.

High School Prep—The KCMSD proposes a budget of \$323,145 for continuation of the High School Prep program which the KCMSD initiated in 1991–92 and has funded out of its operating budget. The KCMSD maintains that the High School Prep program is a desegregation component because the District needs to improve the achievement levels within the system in order to attract non-minorities outside of the system.

The High School Prep program focuses on significantly overaged middle school students who have been retained in a grade for two or more years. The voluntary program is designed to reduce the drop-out rate among high-risk students. The KCMSD states that the program makes a critical contribution to the overall success of the desegregation remedy by providing an opportunity to accelerate the educational progress of over-age students who are immediately at risk of leaving the educational system. The program allows the student to re-enter the system at an age-appropriate level, substantially increasing the likelihood that the student will continue his education and graduate. The KCMSD notes that the program has been immensely popular.

*3 While the Court agrees that this program is vital to the KCMSD and should be continued, the Court cannot justify the use of desegregation funds to help remedy a nationwide problem which the KCMSD has not specifically shown to be a vestige of segregation.

Eight Period Day at Westport High School—Plaintiffs request a budget of \$262,500 for the addition of an eight period day at Westport High School. Plaintiffs state that without an extra period students at Westport will not be able to take all of the required core curriculum courses and also be able to take two or three courses which would provide a more intense exposure to theme studies.

Playground Equipment at Faxon Montessori—Plaintiffs request a budget of \$22,500 for playground equipment at the Faxon Elementary Montessori Magnet School. The original planning budget did not provide for the purchase of any playground equipment. Plaintiffs submit that this is a problem at a Montessori school with its popular early childhood program for three and four year old children.

Team Travel/Tournament Entrance Fees for Central High School—Plaintiffs request a budget of \$45,000 for travel and tournament costs. The evidence at the hearing demonstrated that athletes in programs such as fencing and weightlifting have been so successful that the teams must travel substantial distances in order to find comparably skilled teams for meaningful competition. Steve Butler, one of the fencing coaches at Central High School, stated that the fencing team at Central High School is beginning to receive national as well as international attention. There is no doubt but that the success and notoriety of the athletic programs at Central High School will contribute to the desegregative attractiveness of the Classical Greek theme.

This Court will approve the following Year VIII budgets in addition to those components already stipulated to by the parties.

	Proposed Year VIII Budget	KCMSD Obligation
Extended Day	453,000	113,250
Effective Schools	7,250,000	1,812,500
1986–87 Magnets	8,001,410	3,745,050
District Comm.	31,125	7,781
Security	1,897,037	739,844

Playground Eqpt.	22,500	5,625
CHS Team/Travel	45,000	11,250
Westport Ext. Day	262,500	65,625
	17,962,572	6,500,925

Also before the Court is the State's motion to require the KCMSD to submit its proposal for a long-term extension of the LRMP in lieu of a proposal for a one-year extension. The KCMSD filed a motion for approval of the LRMP extension. Both parties filed responses and presented oral arguments on the issue on May 29, 1992. This Court will require the KCMSD's LRMP proposal to be filed on or before September 1, 1992. It is important for students, patrons, parties and the Court to know which programs are effective and which programs should be changed or terminated.

Accordingly, it is hereby

ORDERED that the Year VIII Desegregation Budget is as follows:

	Desegregation Budget	KCMSD Obligation
AAA	6,138,490	2,703,822
Reduced Class		
Size	16,988,240	16,988,240

Full Day		
Kindergarten	1,880,137	470,034
Summer School	2,334,374	583,595
Early Childhood		
Education	4,451,351	1,112,038
Interest Expense	593,500	593,500
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Extended Day	453,000	113,250
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District Comm.	31,125	7,781
Security	1,897,037	739,844
Playground Eqpt.	22,500	5,625
CHS Team/Travel	45,000	11,250
Westport Ext. Day	262,500	65,625
	17,962,572	6,500,925
Total Desegregation Budget	54,592,191	33,185,681

*4 and it is further ORDERED that the KCMSD submit its Long Range Magnet Plan on or before September 1, 1992.

All Citations

Not Reported in F.Supp., 1992 WL 551569

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