

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF ILLINOIS**

SA'DA JOHNSON, ET AL.,                    )  
  )  
                          Plaintiffs,                    )  
  )  
                  v.    )  
  )  
  )  
BOARD OF EDUCATION CHAMPAIGN        )  
COMMUNITY UNIT SCHOOL                )  
DISTRICT #4,                                )  
  )  
  )  
                          Defendant.                    )

Case No. 00-1349

**ORDER**

Before the Court is Defendant's Motion to Amend the Consent Decree to Extend the Time to Add Two Elementary Strands in North Champaign [Doc. # 130]. In this motion, Defendant alleges that it "encountered delays beyond its control in the selection of a facilities consultant and in the completion of the facilities report, and other obstacles to adding the additional elementary strands in north Champaign by the beginning of the 2005-2006 school year." Defendant proposes a two-year extension for adding these strands (until the 2007-2008 school year). In response, Plaintiffs allege that Defendant's failure to meet this Consent Decree obligation is primarily the result of inaction in 2002 and 2003, a contention that Defendant claims is "disingenuous and offensive." Plaintiffs request, *inter alia*, that the Consent Decree duration be extended by an amount of time equivalent to the Defendant's delay in implementing this Consent Decree requirement.

In this regard, the Second Revised Consent Decree provides:

Unit 4 will complete the following steps to increase seat capacity and enhance student assignment desegregation:

. . .

(3) By the start of the 2005-2006 school year, provide additional net seating of not less than two elementary strands in north Champaign as part of a comprehensive facilities plan for the entire District. Unit 4 will make every good faith effort to find and obtain necessary funding as a condition of this commitment.

Johnson v. Bd. of Educ. Champaign Cmty. Unit Sch. Dist.#4, No. 00-1349 (C.D.I.L Jan. 29, 2002) (Second Revised Consent Decree). Apparently, Defendant cannot or has not met this obligation. In this vein, the Second Revised Consent Decree also provides:

Changes to the Consent Decree

If extenuating circumstances arise regarding any component of this Consent Decree, the parties, with the assistance of the monitor, may jointly propose appropriate changes in writing to the Court.

Id. at ¶ V. However, while Defendant claims extenuating circumstances preclude its meeting the Consent Decree obligations, Plaintiffs do not agree, and the proposed changes are therefore not being "jointly" proposed. Further, as of yet, Plaintiffs have made no formal attempt to compel implementation of the Consent Decree-- a request that would no doubt fall within this Court's jurisdiction. See id. at ¶ IV(B)("[T]his Court retains jurisdiction to inquire into and compel the implementation of the Consent Decree as it deems necessary."). Rather, what we have here is a dispute on how a breach of the Consent Decree should be handled. Not surprisingly, this eventuality was planned for in the decree as follows:

B. Mediator

Although this Court retains jurisdiction to inquire into and compel the implementation of the Consent Decree as it deems necessary, the monitor's role will also include mediating any disputes between the parties regarding any component of the Decree. The purpose of this mediation process is to promote cooperation between

the parties, encourage voluntary compliance by the District, and limit unnecessary expenditures of this Court's time and resources. In order to initiate the mediation process, disagreements regarding any component of the Controlled Choice Plan and the Education Equity Plans, must be submitted in writing by either party to this Decree to Dr. Peterkin, who will have one month to issue a decision.

C. Arbitrator

If the parties are unable to resolve the issue with the assistance of the monitor, the issue shall be resolved by binding arbitration before an arbitrator, as provided in the Controlled Choice and Educational Equity Memorandum . . . except the parties agree that there will not be a permanent arbitrator. The arbitrator for any given issue(s) will be mutually agreed upon by Plaintiff and Unit 4. In the event the parties are unable to agree on an arbitrator for any given issue(s), each party will choose an arbitrator and these individuals will choose a third person who will serve as the arbitrator. Any arbitration award rendered under the Decree shall be enforceable by this Court.

Id. at ¶¶ IV (B and C).

The Court has no information that the above dispute resolution process has been implemented. Accordingly, it finds Defendant's motion premature.

With that being said, and in view of the allegations made in the motion and response, the observations made in the Third Monitoring Report, and the short period of time that remains between now and the end of the Consent Decree, the Court is concerned about the current implementation schedule. Accordingly, the Court finds it necessary to invoke its oversight jurisdiction. In that regard, the Court directs Defendant to submit a report as to what actions are being taken to insure compliance with the Second Revised Consent Decree before its scheduled expiration in 2009.

In particular, in connection with achieving the Consent Decree

objectives within the remaining time, the Court orders Defendant to:

- (1) explicitly identify and address its final targets and the procedural steps it intends to take to reach those targets for each of the eight areas of focus identified in the Third Monitoring Report, which include: enrollment and attendance; participation in gifted and talented programs; special education assignments; disciplinary actions (including suspensions); student achievement, dropouts, and graduation rates; staffing, hiring, and recruitment results; Controlled Choice; and Information Technology.
- (2) explicitly address how the responsibilities for these targeted outcomes will be assigned within the District, and how District personnel will be held accountable for this final implementation of the Consent Decree objectives.

While Defendant is responsible for this report, it is anticipated that the "targets and the procedural steps" have been or will be developed in consultation with Plaintiffs.

IT IS THEREFORE ORDERED that Defendant's Motion to Amend the Consent Decree to Extend the Time to Add Two Elementary Strands in North Champaign [Doc. # 130] is DENIED without prejudice.

IT IS FURTHER ORDERED that Defendant submit the above described report on or before September 15, 2006. Plaintiffs may file a response on or before September 29, 2006. Defendant's submission shall not exceed 20 pages; Plaintiffs' response shall

not exceed 10.

IT IS FURTHER ORDERED that a hearing is set in this matter for October 19, 2006, at a time and location to be determined at a later date.

Entered this 31st day of July, 2006.

s/ Joe B. McDade  
JOE BILLY McDADE  
United States District Judge