

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
NORTHEASTERN DIVISION

SONNIE WELLINGTON HEREFORD,	)	
IV., et al.,	)	
	)	
Plaintiffs,	)	
	)	
AND	)	CV-63-MHH-109-NE
	)	
UNITED STATES OF AMERICA,	)	
	)	
Plaintiff-Intervenor,	)	
	)	
v.	)	
	)	
HUNTSVILLE BOARD OF	)	
EDUCATION, et al.,	)	
	)	
Defendants.	)	

**NOTICE OF DEFENDANTS' FILING OF  
THIRD CONSENT ORDER REPORT**

**Introduction**

Defendant, Huntsville Board of Education (the “Board” or the “District”), files this day its third, annual Consent Order Report with the Court. As it has done in the past, the District files this Notice to help the Court, and the citizens of Huntsville, better understand the many Consent Order Reports. This Notice provides context and explains notable features of nearly every document in the Consent Order Report.

As the Court is well aware, the Consent Order (Doc. 450) requires many reports. Nearly all reports require data from the preceding school year. As such, the date range for the data in this year's reports is July 1, 2016 and June 30, 2017, and the data in most of these reports is from year 2 of the District's implementation of the Consent Order.

With this Notice, the District wants to discuss some of its present challenges. The District believes that this Notice can serve as a communication to the community and the Court. While it is appropriate to use the Notice to shed light on the information contained in the Court reports, the District also wants to use this Notice to clarify possible misconceptions about the District's implementation of the Consent Order.

### **Second Year Struggles**

The second year of implementation was affected by a significant number of changes that occurred during the 2016-17 school year. The major changes are included below:

- Dr. Casey Wardynski, who oversaw the negotiation of the Consent Order and early implementation of the Consent Order, announced his resignation early in the 2016-17 school year;
- The Board selected a former District administrator, Mr. Tom Drake, to serve as the Interim Superintendent;
- Two new Board Members joined the Board following their election in the fall of 2016;

- Edith Pickens, who served as the administrator responsible for Consent Order oversight, announced her retirement shortly after Dr. Wardynski announced his resignation;
- Dr. Barbara Cooper, under whose leadership the District began implementing most of the academic initiatives contained in the Consent Order, was selected to serve as a Deputy State Superintendent in the fall of 2016;
- The District ended its relationship with Pinnacle Schools – the contractor responsible for managing the District’s alternative school program – and the ending of this relationship resulted in litigation during the winter of 2016;
- Jason Taylor, who served as the Chief School Financial Officer under Dr. Wardynski during the negotiation and early implementation of the Consent Order, announced his resignation in the spring of 2017;
- The Board of Education interviewed five different candidates to fill the Superintendent position, and selected Dr. Matt Akin. He began serving as Superintendent in March of 2017; and
- Since Dr. Akin’s selection, the District has had many changes to its District-level administration based in large part on Dr. Akin’s realignment of central office positions.

Although there were many positives things accomplished by Dr. Wardynski as Superintendent, one issue that became apparent after his departure was the need to rebuild relationships with some groups in the community, including teachers. Dr. Akin has spent a considerable part of his first eight months as Superintendent rebuilding and repairing relationships that may have deteriorated during Dr. Wardynski’s final last years as Superintendent. The District believes that Dr. Akin’s efforts were apparent in the comments that many community members made during

the court's September 2017 public status conference. His efforts will be necessary both to unite the community and to address many of the misconceptions discussed below.

### **Clarifying Misconceptions**

Since beginning implementation of the Consent Order, the District has taken the position that the student discipline provisions of the Consent Order will be the most challenging to implement. This is due to many different reasons, including:

- The District's Behavioral Learning initiatives are considerably different from the District's pre-Consent Order discipline policies in some critical ways. Namely, the new policies focus more on helping students change their behaviors rather than on removal from the school environment, which is a change not only for the schools but also the community.
- An incredible amount of professional development and repeated practice is required to implement the policies that will help students change their behavior.
- While trying to learn this system, the District's teachers have also been working to implement the interventions necessary to close the achievement gap.
- This process requires the hard work of school personnel and the patience of the community.
- Many teachers have expressed a feeling of being overwhelmed by all of the new initiatives.

Over the last two school years, especially since the development of the Behavioral Learning Guides, when a school discipline issue – especially a social media video of a fight or a threat – is made public, a common community response

has been to blame the Behavioral Learning Guide. This misplaced blame is one of the misconceptions many have about the District's implementation of the student discipline provisions of the Consent Order. Those misconceptions include:

- Students cannot be disciplined.
- Teachers and principals have their hands tied by the Department of Justice.
- Teachers can be attacked without consequences.
- Students may disrespect all adults without consequences.

Board members, District-level administrators, and other District leaders have been asked questions about the above misconceptions over the last two years. Moreover, the local television news stations have even begun to champion these misconceptions: raising them and making them “news” stories. District-leaders, in an attempt to track these issues, regularly review student discipline data throughout the school year. That review has shown that, by and large, the District's student discipline statistics are staying stable or increasing. In other words, the data does not support the above-listed allegations. This is apparent in Report VII.I.4.

It is important to acknowledge and emphasize the errors in these misconceptions. The Superintendent and the Board are committed to safe school environments for teachers, students, and everyone who finds themselves in a District school. There are serious consequences for threatening violence or committing violent acts at school. These consequences are a critical component of the District's

approach to Behavioral Learning and must be paired with the District's efforts to change student behavior. The District wants its administrators, teachers, students, families, and the greater Huntsville community to understand that the District can **and will** work toward closing the discipline gap between Black and White students **while maintaining safe schools.**

The District remains committed to implementing all aspects of the Consent Order, including student discipline. However, in light of the recent media attention concerning student discipline, the District's focus for the remainder of the 2017-18 school year is the good faith implementation of its Behavioral Learning initiatives via support of its school-based staff. As the District's schools grow more comfortable with the **realities** of the Behavioral Learning initiatives, so too will the greater community.

### **Description of the Reports**

This section of the Notice will list each Consent Order reporting requirement, in order, along with contextual notes, if any, as to that reporting requirement.

## **II. STUDENT ASSIGNMENT**

### **D. Majority-to-Minority Transfers**

**II.D.8.a.:** A report containing the following information for each application requesting a transfer effective for that school year: student identification number; applicant name; address; race; grade level; home/zoned school; school(s) to which transfer sought; each type of transfer requested; the outcome (including, for each transfer granted,

identification of the school to which the transfer was approved); and the basis for the denial, if any.

**Notes:**

This reporting requirement is similar to the one required by the 1970 Singleton Order. (Doc. 65). The date range for this report is October 1, 2016 to September 30, 2017 due to the nature of the transfer process.

This year's report warrants further discussion. The District has taken significant steps to support its Majority-to-Minority ("M-to-M") Transfer Program since beginning to implement the Consent Order. Each year, the number of M-to-M transfers in the system has grown, including a significant growth in the last year. The District touched on this briefly during the September 2017 public status conference, but this report should give the Court greater detail about the growth of the M-to-M program.

In fact, last year, the District reported the following:

- 162 students who were offered a M-to-M transfer accepted the offer.
- 130 students were denied a M-to-M transfer due to space.

This year, the District's report shows:

- 268 students who were offered a M-to-M transfer accepted the offer.
- 22 students were denied a M-to-M transfer due to space.

These numbers represent an increase in acceptance of over 100 M-to-M students and a decrease of similar magnitude in the number of students denied due

to space. This District believes that this increase in the number of students is largely driven by consistency in the M-to-M process – including consistent marketing – and improvements in the capacity process.

\* \* \*

**II.D.8.b.1.:** Transfer wait list information maintained pursuant to Section II.D.2.b.12., as of the expiration date of the wait list. The District may report this information separately or as part of the Excel spreadsheet described in Section II.D.8.a.

**Notes:**

The District included this information on Report II.D.8.a. Any student who sought a M-to-M Transfer but was placed on a waitlist and remained on the waitlist as of its expiration will have “Denied Due to Space” under the “Status of Transfer Request” column. The students who were placed on the waitlist initially but were later offered a transfer will show as either “Offered and Accepted” or “Offered and Declined”, depending on their circumstances.

Compared to last year, when the District had 130 students who were still on the waitlist when it expired, the District only had 22 students on that list when it expired this year. That means that fewer students were unable to attend the transfer school of their choice.

\* \* \*

**II.D.8.b.2.:** Results of M-to-M surveys conducted pursuant to Section II.D.6.b.

**Notes:**

Following the inaugural Court Report, the District made improving survey<sup>1</sup> results a prime focus of its implementation of the Consent Order. To do so, the District worked with a third-party survey organization, called Panorama, to develop procedures to improve the quality of questions asked and the participant response rates. The new processes for surveying students and parents<sup>2</sup> are described below:

**Procedures for District Student Surveys**

Students took teacher surveys, advanced courses perception surveys, and M-to-M surveys in school during class time beginning Monday, March 20 and ending Friday, March 31.

- The District supplied lists to school principals by Friday, March 10. The lists contained the following information for each student in grades 3-12: name; Student State Identification Number (“SSID”); and designated time for taking the surveys (a student’s English class is the designated class for taking surveys; if a student does not have an English class, his/her first period class will be used as the designated class).
- The District placed a link to surveys on the front page of the HCS website. Once students click on the link, they login to Panorama’s secure survey website using their SSID.
- When the student logged in, they saw a list of applicable surveys: 1) one teacher survey for each classroom teacher a student has; 2) one advanced course perception survey for each student in grades 5-12; and 3) one M-to-M survey for each student who has been identified as an M-to-M student.

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<sup>1</sup> Please note that the letters “FP” are an abbreviation for “Feeder Pattern” on these surveys.

<sup>2</sup> These processes apply to all surveys conducted by the District.

- The list of surveys was prepopulated based on the student's SSID. Identification of teachers in a student's schedule, M-to-M status, and advanced course survey eligibility had been predetermined and programmed into the survey software by Panorama.
- All surveys and responses were confidential. SSID were used by Panorama to link student information to school and demographic information, but not for any level of identifying purposes.
- **Important Notes:**
  - Final response rate on M-to-M survey was **87% (485 student responses)**
  - Final response rate on Advanced Courses survey for grade 5 was **86% (1482 student responses)**
  - Final response rate on Advanced Courses survey for students in grades 6-12 who take no advanced courses was **72% (3376 student responses)**
  - Final response rate on Advanced Courses survey for students in grades 6-12 who take Honors but not AP/IB Courses was **84% (3776 student responses)**
  - Final response rate on Advanced Courses survey for students in grades 9-12 who take AP/IB Courses was **85% (1751 student responses)**

### **Procedures for District Parent Surveys**

Parents took advanced course and M-to-M surveys beginning Friday, February 27. The advanced courses surveys closed on Tuesday, May 16, and the M-to-M surveys closed on Monday, June 5.

- Parents were notified of the District surveys via a Robocall. The Robocall informed parents that the District was requesting their participation in surveys about Huntsville City Schools and their student's experiences, the window for completing the surveys, and where to take the survey.

- All custodial guardians who have a valid email address on file with the District received an email from Panorama with a link to the surveys. A survey link was also posted on the District website.
- For M-to-M parents, a link to the survey was included in the District's Infosnap webpage, which is the webpage that all parents use to register to their children for the upcoming school-year. M-to-M parents were not required to complete the survey to register their students.
- Parents could take the surveys from any computer, tablet, or smart phone with internet access.
- During the 2015-16 school year, parents needed to use their students SSID to log into the survey website. During the 2016-17 school year, to remove any potential barriers to participation, the District did not require any access codes to take the survey.
- When the parents logged in, they saw a list of applicable surveys: 1) one parent survey for each HCS student; 2) one advanced course survey for parents of students in Grade 5-11; and 3) one M-to-M survey for parents who have a student who has been identified as an M-to-M student.
- Parent surveys were prepopulated based on their students' SSID. Identification of M-to-M status and advanced course survey eligibility had been predetermined and programmed into the survey software by Panorama.
- All surveys and responses were confidential. SSID were only used by Panorama to link parent responses to school and demographic information, and not for any level of identifying purposes.
- *These efforts appear to have helped the District in its collection of parent feedback as the response rate from M-to-M parents grew from 6% to 37% and the response rate on the advanced courses survey grew from 5% to 13%.*

- **Important Notes:**

- Final response rate on M2M survey was **37% (172 parent responses)**
- Final response rate on Advanced Courses survey was **13% (1195 parent responses)**

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**II.D.8.b.3.:** District marketing efforts regarding the M-to-M program, including examples of marketing materials.

**Notes:**

After three years of performing marketing for the M-to-M program, the District feels both comfortable and confident in its processes. This report contains a description of the steps in that process and includes example materials. The growth in M-to-M numbers reflected in Report II.D.8.a are likely driven in some part by the success of the District's marketing efforts. As such, the District has continued those efforts for 2017-18.

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**II.D.8.b.4.:** Transportation schedules, to be filed under seal.

**Notes:**

This report, although sealed for the protection of students, demonstrates that all but two of the M-to-M buses meet the District's travel time guidelines. The two buses are: 21 (both morning and afternoon routes) and 41 (morning route only). Due to the need to add another stop at Chapman P-8, bus 21 will continue to be slightly

over the 90-minute mark. Bus 41 and bus 69 had to be combined due to a shortage of bus drivers. The bus contractor will have a licensed driver by the beginning of the second semester, if not sooner. When it does so, the travel time for both buses (41 and 69) will be under 90 minutes.

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## **F. MAGNET PROGRAMS**

**II.F.1.:** For each magnet program, student applicant data for the previous school year that includes: the number of applicants, disaggregated by race; the number of students accepted, disaggregated by race; the number of students who are not accepted, disaggregated by race (including reason(s) for a student not being accepted); the number of students enrolled, disaggregated by race; and the number of students who withdrew or transferred out of the magnet program, disaggregated by race, (including the reason(s), to the extent available, for the withdrawal or transfer).

### **Notes:**

To accurately report the requested data, the reasons for a student not being accepted in his or her desired magnet program have been split into different categories: ineligibility; committee review score; and space. Each category has its own column on the report so that the data could be disaggregated by race.

As requested by the Court and the United States, the portion of the report that addresses the reasons for withdrawals or transfers, disaggregated by race and school, has been improved. This information is still on a separate table, but the District has

attempted to categorize the reasons given by families to ensure consistency across the schools. This District is hopeful that this improvement to the report will help the Court, the United States, and the community review the information.

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**II.F.2.:** A report of magnet marketing and recruitment efforts taken for the previous school year, including samples of brochures and advertisements, and where appropriate, the date and location of the marketing and recruitment.

**Notes:**

During the 2016-2017 school year, the District continued to engage in extensive marketing efforts for its magnet schools and programs. These efforts included marketing for the District's newest magnet programs: the Jemison High School College Academy and the Academy for Gifted and Talented at Williams P-8. This report contains a description of those efforts and includes example materials. Notably, the District has had no issues with generating interest in either of the two new programs.

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**II.F.3.:** A report of the magnet courses offered at each magnet school/program for the current school year.

**Notes:**

This report lists the current magnet courses offered at each magnet school/program. The former Director of Magnet Programs, who is now the Deputy

Superintendent of Instruction, and her Directors of Instruction work together to identify and protect these courses offerings. This is an ongoing process because the District always tries to improve its Magnet Programs. In fact, the District has added several improvements to its programs: Lee High School has a new guitar course and New Century Technology High School has new courses to support its three magnet strands (Biomedical, Computer Science, and Engineering).

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**II.F.4.:** The District’s efforts to review and respond to duplication of magnet courses in the District since the District’s previous annual report.

**Notes:**

This report is a narrative description of the efforts that the District is taking to protect the unique magnet course programming at the District’s magnet schools and programs.

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**II.F.5.:** A report that includes for each student enrolled in a dual enrollment course: the student's name or identification number; school attended; the magnet program attended, if any; grade; the name of each dual enrollment course; and the institution of higher education affiliated with each dual enrollment course.

**Notes:**

An accurate reading of this report requires understanding the difference between courses listed as “CTE” and “General Education” under the “Course Type”

column. Section II.D.7.h of the Consent Order (Doc. 450, pp. 33-34) requires the District to limit the number of dual enrollment courses that a student may take to one per year, unless the Superintendent approves the student taking additional courses. This limitation does not apply to career technical courses, and to identify the dual enrollment courses to which this limitation applies, the District has designated dual enrollment courses as either “General Education” or “CTE”. The dual enrollment courses that are limited by the Consent Order are identified as “General Education,” and those that are not are identified as “CTE”.

The District believes that dual enrollment courses are beneficial for both the student and the District, but the purpose of this limitation is to protect the College Academy magnet program at Jemison High School. Importantly, the District has not experienced any difficulties in generating and maintaining interest in the College Academy. Given the success of the College Academy, the District is exploring ways to expand the dual enrollment program and will, of course, work with the United States to ensure that any expansion will not hinder the District’s implementation of the Consent Order.

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### **III. EQUITABLE ACCESS TO COURSE OFFERINGS AND PROGRAMS**

**III.M.1.a.:** A list of all AP and IB diploma courses taught in each high school for the current school year and the enrollment in each AP or IB

Diploma course in each high school for the current school year, disaggregated by race.

**Notes:**

This report lists each AP and, for Columbia High School, IB Diploma course taught at each school and the racial demographics of the students enrolled in each class. When reading the table, for each course, the number of students under the race columns represents actual students taking the listed course. However, a student may be included in multiple rows if that student is taking multiple AP or IB Diploma courses. In fact, many students are. This means that the “Total” row for each school contains students who are counted multiple times.

District-wide the number of students taking AP courses is down from 2016-17. While Columbia and New Century High School saw an increase in AP and, for Columbia, IB enrollment, other schools like, Huntsville High School, saw a decrease in AP participation. Part of the reason for this is that the District has made Honors enrollment the priority. The District wants to ensure that the students who are in AP courses have the foundation necessary for success, and Honors classes provide such a foundation. Nevertheless, the District is still focused on increasing its Honors **and** AP enrollment, and will continue to actively recruit students for those courses.

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**III.M.1.b.:** Academic proficiency of students in English and Math in the District and by school, as measured by the State assessments for the previous school year, disaggregated by race.

**Notes:**

This report includes data as to two different assessments: the ACT Aspire for grades three through eight and ten, and the ACT for eleventh grade. Both assessments contain sub-tests for math and English, and both assessments are tools for determining student proficiency in a content area. However, the meaning of proficiency differs slightly by assessment.

A student who is proficient as measured by the ACT Aspire is considered on track to benchmark on the ACT and to be college and career ready. Being proficient on the ACT demonstrates that a student is on track to be college and career ready, but proficiency on the ACT is also an indicator of future success in a college courses. More specifically, a student who benchmarks on the math or English sub-test will have a 50% chance of making a B and a 75% chance of making a C in a freshman math or English course in college.

Most of the information in the report was discussed during the Court's September 2017 public status conference. However, one issue warrants another mention: the State of Alabama has discontinued the use of the ACT Aspire examinations and replaced it with the Scantron exam. The Scantron exam is given multiple times a year, so, after the students complete the first round of exams, the

District will evaluate the results and work with the United States to determine a process for tracking academic proficiency moving forward.

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**III.M.1.c.:** A list of teachers hired or assigned by each high school to teach an AP or IB Diploma course in the current school year, the course(s) taught by each teacher, the number of sections taught by each teacher, and the credentials of each teacher.

**Notes:**

This report contains extensive information about the District's AP and IB Diploma course teachers. While the creation of this report serves as a useful tool for tracking comparability of AP and IB teachers, it has also served as a tool for tracking the retention of teachers in the District. In trying to better support Black students in AP performance, the District has made retaining AP teachers at Columbia, Jemison, and Lee high schools a priority.

Currently, AP teachers receive incentives based on the number of their students' who pass the AP exams. The schools listed above have had traditionally lower AP exam passage rates, so to ensure that these teachers are not discouraged from remaining at Columbia, Jemison, and Lee, the District created a "Retention Bonus." The District paid this bonus, which was \$2,000, to the 24 AP teachers at those three schools who decided to remain at their school from 2016-17 to 2017-18. The initiative appears to have been, at least partially, successful because the percentage of retained teachers increased.

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**III.M.1.d.:** A report for each school that includes the employee number of each teacher, his or her race, professional degrees, certifications, years of experience (3 years of less and more than years) and course or courses taught.

**Notes:**

As explained last year, the District reformatted this report to make it easier to understand. The District divided the teachers into separate spreadsheets based on their school and further divided teachers between those who teach 15 or fewer courses and those who teach more than 15, if applicable. The result of these changes is that most schools will have two applicable spreadsheets. The spreadsheets for 15 or fewer classes taught have considerably less white space than the reports from the first year of reporting.

Like last year, some teachers still occupy multiple rows on the spreadsheet. The reason for this is that these teachers have multiple certifications, and the District's tracking software for certified staff creates multiple rows for a single teacher to account for each of that teacher's certification. The rest of the information on the row should be identical to all other rows with the same teacher's name.

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**III.M.1.e.:** A list of professional development activities required by Section III conducted in the previous year, including the date, duration, subject matter, presenter, and number of individuals in attendance by group (e.g., principals, teachers, etc.).

**Notes:**

This year's report is, like last year's, extensive. Implementing the Consent Order requires extensive professional development and training for District employees. While this report is extensive, it provides the Court only the professional development required as part of Section III of the Consent Order. Professional development related to other aspects of the Consent Order are not included in this report.

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**III.M.1.f.:** A list of parent/guardian outreach activities conducted in the previous school year, including the date, duration, and approximate number of individuals in attendance, and estimate of participation levels by race.

**Notes:**

One of the key features of the Consent Order is a focus on parent/guardian and family outreach. This report demonstrates the scope of the parent/guardian outreach performed by the District pertaining to Section III of the Consent Order. For the 2016-17 school year, two areas of outreach bear specific mention: parent workshops and AP outreach.

The growth in parent workshop attendance was almost entirely driven by an increase in the participation of Black families. In last year's report, the District showed a total of 1114 participants, with 397 being Black. This year's report will show that there were 1205 participants, with 554 being Black (an increase of 157).

This increase was driven by the District's efforts to market for the meetings. The District worked with Second Mile, a community group in Huntsville, to reach out to families in the neighborhoods. Also, many families that attended one of the parent workshops went back to their neighborhoods and told others of the value of the meetings, which had the effect of increasing parent attendance.

Regarding AP outreach, the District has been experimenting with ways to reach a larger audience. In the past, the District has relied on events focused on academics, such as iRegister, but this year, the District expanded its outreach to non-academic events like sporting events. In fact, the District had an "AP table" at three different large, rivalry basketball games to try to generate more interest in the AP program. While these events certainly helped with recruitment, the District will continue to try new ways to reach out to the community.

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**III.M.1.g.:** A list of student support services offered in the previous school year pursuant to Section III.H.

**Notes:**

This report shows the math support services used by school leaders, teachers and other certified staff during the 2016-2017 school year. There is significant overlap at each grade band (elementary schools used similar supports, middle schools used similar supports, etc.), but each school adds its own unique flavor to student supports. Moreover, to ensure that these supports are equitably distributed,

central office staff monitors the types of supports that each school uses. This oversight and, when necessary, guidance helps to ensure that schools are providing students best practice supports. While schools continue to improve in the delivery of supports, one improvement that the District has seen this year is that schools are improving in the documentation of supports. Improved documentation is critical in helping the District identify areas of need in schools.

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**III.M.1.h.:** A report for the previous school year of the results of the survey required by Section III.I.7.<sup>3</sup> and action steps taken based on the survey results.

**Notes:**

For information about the District’s process for conducting surveys, please see the description provided for II.D.8.b.2., above. Please note that the letters “FP” are an abbreviation for “Feeder Pattern” on these surveys. The District uses these results to tailor its marketing efforts to the students. For example, across all surveys, two barriers were identified by all students: that AP/Honors courses would be too difficult or would require too much work. The District can use this information to address these concerns in the marketing for AP and Honors courses.

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<sup>3</sup> The Consent Order contains a typo in this reporting requirement. It should read “Section III.H.7.” instead of III.I.7. However, to ensure that this document matches the Consent Order, the language from the Consent Order has been used.

**III.M.2.:** The District will provide the data reviewed and the plans developed pursuant to Section III.M. to the United States. The District will provide a summary of the data reviewed and the plans developed pursuant to Section III.M. to the Court.

**Notes:**

The District will provide the data and plans developed during its self-monitoring process to the United States. Report III.M.2. is a narrative summary of the plans and data.

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#### **IV. EXTRACURRICULAR ACTIVITIES**

**IV.H.1.:** A list of extracurricular activities offered in the District, by school and core activity category where applicable.

**Notes:**

This report shows that every school is providing the core extracurricular activities required by the Consent Order.

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**IV.H.2.:** School participation rates and targets in the Elementary School Core Activity and the Middle/Junior High School Core Activities and any actions taken by the District to support schools in meeting participation targets.

**Notes:**

In working on this report, the District learned that it was inaccurately calculating the participation rates for its Elementary School and Middle/Junior High School Core Activities. For example, in the District's elementary schools, students

are not eligible to participate in math club until, at least, third grade. However, in the past, the District was treating every student at each elementary school as eligible. This artificially drove down the participation rate (determined as participants divided by eligible students) by inflating the denominator (eligible students). Correcting this issue has increased the participation rate of most, if not all, Elementary School and Middle/Junior High School Core Activities.

For two years, the District has set identical participation rate targets for grade bands (elementary and middle/junior high). Part of the District's plan to grow its extracurricular activity participation is pushing schools to set higher, more aspirational participation rate goals. For next year's report, the District will provide unique participation rates for each school. In addition to the spreadsheet responsive to this reporting requirement, this report also includes a narrative summary of the actions taken by the District to help schools meet their participation targets.

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**IV.H.3.:** A description of measures taken by the District to make students aware of academic clubs and related extracurricular opportunities.

**Notes:**

This report shows the District-wide measures for making students aware of academic clubs and related extracurricular activities. In addition to these measures, each school leader informed students about these activities with guidance from the

District. The method for informing students about the extracurricular activities varied from school to school, and included posters, school-wide announcements, and four half-days to allow students to learn about and participate in clubs.

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## **V. FACULTY**

**V.D.1.:** A list of the members of each committee involved in the recruitment, hiring, assignment, retention, or promotion of administrators, faculty, and certified staff. The list will include: name of committee; each committee member's name; his or her race; position (title and location) and date(s) on which he or she served on the committee.

### **Notes:**

This report shows the names of the individuals who served on the District's various committees used to recruit, hire, assign, retain, or promote administrators, faculty, and certified staff.

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**V.D.2.:** Documentation of any exigent circumstances pursuant to Section V.A.1.

### **Notes:**

This report shows one of the best success stories for this year's reports. The Consent Order requires the District to use selection committees composed of individuals who reflect the District-wide racial composition of certified teachers. Exceptions to this requirement have to be based on exigent circumstances. The only

committees having exigent circumstances were the Teacher Screening and AP/Principal Screening committees. During the reporting period, these committees conducted 853 interviews, and there were only 13 times that an interview committee failed to match the racial demographics of the District's certified teachers.

Last year, there were 148 meetings missed due to exigent circumstances. This means that the District reduced that number by 135. The District improved this process by ensuring that it had alternates on staff and by improving the communication process between the District and the committee members.

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**V.D.3.:** The total number of certified administrators, by race and position, in the District's central office.

**Notes:**

For purposes of this report, administrator means either a coordinator or director level position.

\* \* \*

**V.D.4.:** The total number and percentage of teachers and administrators, by race and by position, in each school facility operated in the District. For reporting purposes, principals will be identified separately from assistant principals.

**Notes:**

This report provides the required information, but there is one aspect of the report that merits additional explanation. The Consent Order requires that the report distinguish between principals and assistant principals. Many schools have only a single principal and assistant principal or Teacher on Special Assignment (“TOSA”, who operates as an assistant principal). When there is a single person filling a category, the report will always show that 100% of the individuals in that category are White, Black, or Other depending on the individual’s race.

The District continues to make the recruitment and promotion of Black administrators a priority. This report shows that the percentage of Black administrators in all capacities is higher than the percentage of Black certified teachers:

- **Certified teachers:**           26.79% Black           70.84% White           2.37% Other
- **Principals:**                   29.73% Black           62.16% White           8.11% Other
- **Asst. Principals:**           75.00% Black           25.00% White           0.00% Other
- **TOSAs:**                       59.26% Black           33.33% White           7.41% Other

\* \* \*

**V.D.5.:** A list of each certified staff member, such as administrators and faculty, transferred, including: his or her name; race; position; self-reported years of experience; school to which he or she was previously assigned; school to which he or she was transferred; effective date of the transfer; indication of whether the transfer was requested by the certified staff member or initiated by the District or both; and the reason(s) for the transfer.

**Notes:**

This report shows a variety of reasons why the Board transferred an employee or why an individual requested a transfer. One that is important to note to limit possible confusion is “Johnson Closing.” At the end of the 2015-2016 school year, the Board closed Johnson High School. Even though most of the teachers at Johnson High School continued at Jemison High School, they had to be “transferred” to the new facility under Alabama law. As such, those teachers appear as “transferred” for this report.

\* \* \*

**V.D.6.:** A description of the measures the District is taking to ensure the equitable selection of Black principals pursuant to Section V.A.2.

**Notes:**

The measures listed on this report are designed to ensure that qualified applicants are equitably selected for available principal positions. Many of the efforts are designed to give qualified teachers a chance to gain leadership experience. For example, the Board provides teachers leadership experience by having them participate on selection committees. These measures are important for ensuring equity in the selection of school leaders, and, based on reports like V.D.6, they appear to be working.

\* \* \*

**V.D.7.:** A list of all recruiting/job fairs in which the District participated, including the date and location of each such fair.

**Notes:**

This report shows the job fairs in which the Board participated along with the date and location of each fair.

\* \* \*

**V.D.8.:** A list of each central office certified administrator hired, including the administrator's name, race, position, date of hire, and starting salary (including step and grade).

**Notes:**

This report shows all individuals the Board selected to fill a central office coordinator or director position who were not previously employed at the central office. It also includes individuals who were employed by the Board – in a non-central office position – at the time they were selected for their central office coordinator or director position. While such individuals are not “hired” for the first time, they are “hired” to be central office administrators.

\* \* \*

**V.D.9.:** A list of each central office certified administrator promoted, including the administrator's name, race, prior position and salary, and new position and salary.

**Notes:**

This report shows all individuals who already worked at the central office who were promoted to a higher central office coordinator or director position. Due to

applicable reporting window, this report does not include the individuals who changed positions due to Dr. Akin's reorganization. Those changes will be reflected in next year's report.

\* \* \*

**V.D.10.:** A list of each certified staff member, such as administrators and faculty, who received incentive pay, including his or her name, race, position (title and location), salary grade and step, and incentive amount.

**Notes:**

This report shows the information required by the Consent Order. As a reminder, the letters "TS" are listed under the salary grade and step columns for teachers. This is in place of a grade and step because teachers are not on a grade and step.

\* \* \*

**V.D.11.:** A list of certified staff members, such as administrators and faculty, who were demoted, suspended, or dismissed/terminated, including each person's name, race, position/title, and date of demotion, suspension, or dismissal/termination.

**Notes:**

This report shows that most teachers who were dismissed from employment for the Board were probationary (non-tenured) teachers. As probationary teachers, these teachers have not worked for the Board for three consecutive years. On this document, these teachers have the designation of "Non-Tenured, Not Returned." As

explained in last year's report, some non-tenured teachers who were told in the spring of 2017 that they would not be returned for the 2017-2018 school year are not included on this document. The reason these teachers are not included is that these teachers were ultimately returned for the 2017-2018 school year, and suffered no interruption in the teacher tenure process.

\* \* \*

**V.D.12.:** A list containing information about each candidate submitted to a school for consideration to fill a vacant position, including: candidate's name; his or her race; an indication of whether he or she was screened at the District level; his or her certification(s), if any; his or her self-reported total years of experience; school and vacant certified position for which his or her name was submitted; date on which that submission occurred; candidate(s) selected by the principal to fill the vacant certified position; and candidate(s) placed in the position.

**Notes:**

This report contains a considerable amount of information, and for some applicants, the only information is the self-reported information. For applicants who were not recommended for a position, the District does not perform a follow-up information verification. These individuals will only have self-reported information.

\* \* \*

**V.D.13.:** A list of all candidates nominated for the TOSA program, or any similar program, and for each eligible candidate: candidate's name; his or her race; school to which he or she was assigned; grade level(s) and/or course(s) he or she taught; individual who nominated him or her; an indication whether he or she accepted any invitation to interview;

members of his or her interview committee; and an indication whether he or she was selected to participate in the TOSA program or any similar program.

**Notes:**

This report shows that the District is planning to phase out the TOSA Program.

In its place, the District intends to use assistant principals.

\* \* \*

## **VI. FACILITIES**

**VI.C.:** The District's progress on the construction of Morris Pre-K-8 School, Jemison High School, McNair Junior High School, Grissom High School, Whitesburg Pre-K-8 School, and Hereford Elementary School, and the District's progress on the renovation of AAA.

**Notes:**

This report contains the date for completion or projected completion of each of the above facilities. Each of these construction projects meets or exceeds all relevant Consent Order timelines. For the 2017-18 school year, the most notable accomplishments are the opening of the new Morris P-8 and Grissom High School. When these two schools opened in August of 2017, there were still a few outdoor components of the schools to be completed. Those outdoor components are slated to be completed by the close of the calendar year. The opening of Grissom High and Morris P-8 are the last two new constructions and renovations required by the Consent Order.

\* \* \*

**VI.C.:** The District's progress on the renovation of Martin Luther King Elementary School, Jr.

**Notes:**

As stated in last year's report, the District completed the renovations of Martin Luther King, Jr. Elementary significantly ahead of the December 2016 deadline.

\* \* \*

**VI.C.:** The District's progress towards removing remaining portable classrooms.

**Notes:**

This report shows that the District has only one portable in use during the 2017-2018 school year, and none of the portables are used by HCS students. It is located at Ridgecrest Elementary School and is for the PTA.

\* \* \*

**VI.C.:** Implementation of the District's Playground Plan.

**Notes:**

This report shows the playgrounds the District built during the reporting period. For the applicable reporting period, the only school to receive new playground equipment was Morris P-8 as part of its new construction.

\* \* \*

**VI.C.:** Implementation of the District's SMALLab Plans.

**Notes:**

The Consent Order requires the District to “ensure that each existing school with grades seven and eight and each school with grades seven and eight that is built as part of the District’s Construction Plan is fitted with a SMALLab and that all SMALLabs are of comparable quality.” (Doc. 450, p. 71). The District was finished with this requirement as of last year’s report; however, to be clear, the District moved the equipment from Westlawn Middle School to the new Morris P-8 to ensure that this requirement remains met.

\* \* \*

## **VII. STUDENT DISCIPLINE, POSITIVE SCHOOL CLIMATE, AND EFFECTIVE CLASSROOM MANAGEMENT**

**VII.I.1.:** The District’s Student Code of Conduct implemented after the effective date of this Consent Order or after the previous annual report.

### **Notes:**

The documents responsive to this reporting requirement are the Behavioral Learning Guide (“BLG”), the Elementary Matrix, and the Secondary Matrix. These documents are revised versions of the documents filed last year. The District believes that the guidance in these documents is easier to understand and to use when compared to last year’s documents. The feedback received thus far supports that view. Nevertheless, the District views the Behavioral Learning documents as “living” documents. This is because they can evolve and improve as the District learns from the implementation of its positive school climate plan.

\* \* \*

**VII.I.2.:** A list of professional development activities required by Section VII, including the date, duration, subject matter, presenter and number of individuals in attendance by group (e.g., principals, teachers).

**Notes:**

According to the Consent Order, “[t]he District will provide initial and annual refresher professional development, which may be online, for teachers and administrators on the revised Student Code of Conduct.” (Doc. 450, p. 77). The Consent Order also calls for two faculty meetings per semester on topics pertinent to the new Code of Student Conduct and the implementation of a positive school climate, and it calls for other staff training pertaining to the implementation of the District’s positive school climate program.

This report shows that the District has conducted extensive professional development during the 2016-17 school year. Professional development covered all aspects of Behavioral Learning from the Positive Behavioral Interventions and Supports (“PBIS”) program to the BLGs. This report shows that the District continued to provide training not only to certified employees but also to non-certified employees.

\* \* \*

**VII.I.3.:** The information provided to parents/guardians pursuant to Section VII.

**Notes:**

This report shows the District's efforts to reach out to parents/guardians during the 2016-2017 school year. The District conducted parent/guardian outreach presentations for each feeder pattern. These presentations included a detailed description of the District's Elementary and Secondary Behavioral Learning Guides and the other initiatives pertaining to the District's positive school climate program. During these presentations, audience members asked questions of the District employees who led the presentation.

\* \* \*

**VII.I.4.:** For each school, the total number and percentage of students receiving a disciplinary referral, disaggregated by race, in-school suspension, out-of-school suspension, expulsion, school referrals to law enforcement and alternative school placement and plans/strategies developed and implemented as a result of the District's review in Section VII.G.<sup>4</sup>

**Notes:**

During the 2016-17 school year, the District implemented the Elementary and Secondary Behavioral Learning Guides. As discussed in the Introduction above, the BLGs were significant changes from the District's previous discipline systems. Additionally, schools were tasked with implementing other tools such as PBIS, Restorative Practices, and BLOOM – the District's customized discipline and

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<sup>4</sup> The requirement for the District to meet and review is found in Section VII.H. (See Doc. 450, p. 83) As such, this reporting requirement should read "VII.H." instead of "VII.G."

intervention tracking software. As discussed in the Introduction, the implementation of the new Behavioral Learning initiatives has been challenging both in actual implementation and in addressing misconceptions about the District's approach to student discipline.

In last year's Notice to the Court, the District identified teacher confusion as one of the challenges. This confusion led to school personnel stating that they were reluctant to punish students. This reluctance did not appear to be present in 2016-17, and it is not reflected in the data for that school year. While there are a couple of schools whose statistics show that the discipline initiatives are working, most schools' discipline data either stayed the same or increased. The tables below reflect this, and fail to support the perception that the District cannot punish students.

Indeed, the issues present in the first two reports remain: there is a gap between the number of disciplinary consequences received by Black and White students. The District's challenge is to close this gap while correcting any misconceptions that could undermine the hard work of schools. The Superintendent is working with his leadership team to support schools in this process and to ensure that every District employee understands the importance of these efforts.

Schools	Percentage of Black Students with at Least 1 ODR <sup>5</sup>		
	2014-2015	2015-2016	2016-17
Columbia High School	32%	31%	52%
Grissom High School	27%	36%	30%
Huntsville Middle/Junior High	71%	62%	49%
Huntsville High School	38%	35%	53%
Johnson/Jemison High School	26%	47%	25%
Lee High School	32%	22%	41%
McNair Junior High	31%	35%	39%
New Century Technology High School	6%	1%	8%

Schools	Percentage of Black Students with at Least 1 ISS <sup>6</sup>		
	2014-2015	2015-2016	2016-17
Columbia High School	12%	14%	30%
Grissom High School	20%	30%	26%
Huntsville Middle/Junior High	20%	29%	30%
Huntsville High School	28%	23%	34%
Johnson/Jemison High School	10%	7%	1%
Lee High School	22%	10%	15%
McNair Junior High	5%	4%	8%
New Century Technology High School	3%	1%	2%

Schools	Percentage of Black Students with at Least 1 OSS <sup>7</sup>		
	2014-2015	2015-2016	2016-17
Columbia High School	13%	13%	13%
Grissom High School	14%	16%	16%
Huntsville Middle/Junior High	25%	40%	31%
Huntsville High School	13%	11%	13%
Johnson/Jemison High School	16%	23%	15%
Lee High School	21%	13%	26%
McNair Junior High	23%	28%	27%
New Century Technology High School	1%	1%	1%

<sup>5</sup> ODR is the abbreviation for “Office Discipline Referral.”

<sup>6</sup> ISS is the abbreviation for “In-School Suspension.”

<sup>7</sup> OSS is the abbreviation for “Out-of-School Suspension.”

The Consent Order requires that the District report “plans/strategies developed and implemented as a result of the District’s review in Section VII.[H].” (Doc. 450, p. 85). This reporting requirement references the District’s obligation to work:

with the individual schools, [to] collect and review discipline data for each school, including any alternative school, on at least a semester basis to: identify changes in rates of office referrals and discipline consequences issued (e.g., in-school suspension, out-of-school suspension) and changes in racial disparities, if any; and to monitor for appropriate implementation of the Code of Conduct and effectiveness of student plans developed by PSTs. Based on this review, **the District will develop and implement strategies to address issues regarding implementation of the Student Code of Conduct or other school-level and District-level issues identified for improvement, such as racial disparities.**

(Doc. 450, p. 83) (emphasis added). In addition to the spreadsheet included in response to this reporting requirement, there is a written description of the plans and strategies the District has developed for use in the 2017-18 school year.

\* \* \*

## **X. MONITORING, REPORTING, AND OVERSIGHT**

**X.A.:** The District will provide the United States a copy of its student enrollment database electronically in Microsoft Excel or similar format and will file with the Court a report of its student enrollment, disaggregated by school and race.

### **Notes:**

This report shows the student enrollment disaggregated by race and school as of October 9, 2017.

\* \* \*

**X.G.:** The District will provide the United States and the Court with its annual budget and a list of District expenditures related to the implementation of the Consent Order for the previous school year.

**Notes:**

This report contains the District's annual budget for the 2017 fiscal year. This report also contains a list of some of the expenditures related to the implementation of the Consent Order. As explained last year, there is almost no aspect of the District's budget that does not, in some part, touch on the implementation of the Consent Order. Nevertheless, to be as informative to the Court as possible, the District has tried to highlight the largest parts of the Consent Order and included those in the list of expenditures.

\* \* \*

WHEREFORE, and in consideration of the foregoing, the Board submits the following Evidentiary Submission of the Third Consent Order Report:

EXHIBIT II.D.8.a.: Documents responsive to § II.D.8.a. of the Consent Order

EXHIBIT II.D.8.b.1.: Documents responsive to § II.D.8.b.1. of the Consent Order

EXHIBIT II.D.8.b.2.: Documents responsive to § II.D.8.b.2. of the Consent Order

EXHIBIT II.D.8.b.3.: Documents responsive to § II.D.8.b.3. of the Consent Order

EXHIBIT II.F.1.: Documents responsive to § II.F.1. of the Consent Order

EXHIBIT II.F.2.: Documents responsive to § II.F.2. of the Consent Order

EXHIBIT II.F.3.: Documents responsive to § II.F.3. of the Consent Order

EXHIBIT II.F.4.: Documents responsive to § II.F.4. of the Consent Order

EXHIBIT II.F.5.: Documents responsive to § II.F.5. of the Consent Order

EXHIBIT III.M.1.a.: Documents responsive to § III.M.1.a. of the Consent Order

EXHIBIT III.M.1.b.: Documents responsive to § III.M.1.b. of the Consent Order

EXHIBIT III.M.1.c.: Documents responsive to § III.M.1.c. of the Consent Order

EXHIBIT III.M.1.d.: Documents responsive to § III.M.1.d. of the Consent Order

EXHIBIT III.M.1.e.: Documents responsive to § III.M.1.e. of the Consent Order

EXHIBIT III.M.1.f.: Documents responsive to § III.M.1.f. of the Consent Order

EXHIBIT III.M.1.g.: Documents responsive to § III.M.1.g. of the Consent Order

EXHIBIT III.M.1.h.: Documents responsive to § III.M.1.h. of the Consent Order

EXHIBIT III.M.2.: Documents responsive to § III.M.2. of the Consent Order

EXHIBIT IV.H.1.: Documents responsive to § IV.H.1. of the Consent Order

EXHIBIT IV.H.2.: Documents responsive to § IV.H.2. of the Consent Order

EXHIBIT IV.H.3.: Documents responsive to § IV.H.3. of the Consent Order

EXHIBIT V.D.1.: Documents responsive to § V.D.1. of the Consent Order

EXHIBIT V.D.2.: Documents responsive to § V.D.2. of the Consent Order

EXHIBIT V.D.3.: Documents responsive to § V.D.3. of the Consent Order

EXHIBIT V.D.4.: Documents responsive to § V.D.4. of the Consent Order

EXHIBIT V.D.5.: Documents responsive to § V.D.5. of the Consent Order

EXHIBIT V.D.6.: Documents responsive to § V.D.6. of the Consent Order

EXHIBIT V.D.7.: Documents responsive to § V.D.7. of the Consent Order

EXHIBIT V.D.8.: Documents responsive to § V.D.8. of the Consent Order

EXHIBIT V.D.9.: Documents responsive to § V.D.9. of the Consent Order

EXHIBIT V.D.10.: Documents responsive to § V.D.10. of the Consent Order

EXHIBIT V.D.11.: Documents responsive to § V.D.11. of the Consent Order

EXHIBIT V.D.12.: Documents responsive to § V.D.12. of the Consent Order

EXHIBIT V.D.13.: Documents responsive to § V.D.13. of the Consent Order

EXHIBIT VI.C.: Documents responsive to § VI.C. of the Consent Order

EXHIBIT VII.I.1.: Documents responsive to § VII.I.1. of the Consent Order

EXHIBIT VII.I.2.: Documents responsive to § VII.I.2. of the Consent Order

EXHIBIT VII.I.3.: Documents responsive to § VII.I.3. of the Consent Order

EXHIBIT VII.I.4.: Documents responsive to § VII.I.4. of the Consent Order

EXHIBIT X.A.: Documents responsive to § X.A. of the Consent Order

EXHIBIT X.G.: Documents responsive to § X.G. of the Consent Order

RESPECTFULLY SUBMITTED this 15<sup>th</sup> day of November.

/s/ J.R. Brooks

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 15, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following counsel for the parties in this case:

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/s/ J. R. Brooks

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J. R. Brooks