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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

LINDA STOUT, et al,	*	
	*	
Plaintiffs,	*	
	*	Case No. CV-65-0396-MHH-S
v.	*	
	*	11:00 a.m.
JEFFERSON COUNTY	*	
BOARD OF EDUCATION, et al.,	*	Birmingham, Alabama
	*	
Defendants.	*	February 20, 2015

TRANSCRIPT OF STATUS CONFERENCE
BEFORE THE HONORABLE MADELINE HUGHES HAIKALA
UNITED STATES DISTRICT JUDGE

Court Reporter:	Chanetta L. Sinkfield, CCR, RMR
	United States Courthouse
	1729 Fifth Avenue North
	Birmingham, AL 35203

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P R O C E E D I N G S

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4 THE COURT: Welcome, everyone. We are here in Case
5 No. 65-396. This is *Stout* versus Jefferson County Board of
6 Education.

7 Let me begin, please -- I don't know all of you, so if
8 we can go around the room, please, and have everyone introduce
9 themselves. I'm Madeline Haikala. I'll be your judge in this
10 matter. So, if I can get you all to please introduce
11 yourselves.

12 MR. FALKINBURG: Good morning, Your Honor. Tom
13 Falkinburg with the Department of Justice.

14 THE COURT: Good to see you.

15 MS. PERCIA: Veronica Percia, also with the
16 Department of Justice.

17 THE COURT: Thank you.

18 MS. SINGLETON: Good morning, Your Honor, Natane
19 Singleton with the Department of Justice.

20 MR. ROSS: Deuel Ross for the private plaintiffs.

21 MS. LIN-LUSE: Good morning, Your Honor, Monique
22 Lin-Luse for the private plaintiffs.

23 THE COURT: All right.

24 MR. COLVIN: Your Honor, Whit Colvin here for the
25 Jefferson County Board of Education.

1 MR. SWEENEY: Good morning, Judge, Donald Sweeney
2 for Hoover.

3 THE COURT: Good to see everybody. Thank you very
4 much. We had a telephone conference a couple of months ago
5 and talked about what would be the best approach to trying to
6 see where we are in the *Stout* case and where the work in the
7 *Stout* case needs to be directed. And I asked the parties to
8 please prepare a joint report based on their review of the
9 *Green* factors and to let the Court know where, in their view,
10 the parties stand on various *Green* factors.

11 You all filed your joint report on February 6th, and
12 the Court has reviewed that report. I think it makes sense
13 for us this morning just to walk through the report and talk
14 about the different *Green* factors. I am going to hand it over
15 to you all to sort of lead the discussion. And once you all
16 are done, I have some specific questions -- that if we haven't
17 covered them in the material -- the information that you want
18 to present to the Court, I will raise those with you after I
19 hear from you all.

20 So, the joint report is broken up in two sections.
21 The first section is the Jefferson County section, and the
22 second section is the City of Hoover section. I think it
23 probably makes sense for us to proceed in that manner through
24 the report.

25 Before we do that, I believe we had talked a little

1 bit about that during our telephone conference about whether
2 new private plaintiffs needed to be substituted for the
3 current private plaintiffs.

4 Ms. Lin-Luse, have you had the opportunity to
5 investigate that issue?

6 MS. LIN-LUSE: Yes, Your Honor. We have had
7 numerous meetings with parents in both systems, and also
8 community organizations and have identified some potential new
9 named private plaintiffs. However, those that are most
10 comfortable being named have high school aged students, so we
11 are looking further for the parents who would be comfortable
12 being named plaintiffs who have elementary school age students
13 that they would be able to stay engaged longer.

14 Our high school parents who we identified are
15 homeowners, long members of the community, those who still
16 have a vested interest, the grandchildren, and that kind of
17 thing. We would like to have them identify the folks who have
18 some younger students.

19 THE COURT: About how long do you think it may take
20 you to complete your investigation?

21 MS. LIN-LUSE: April of this year.

22 THE COURT: Okay. So if we set as a goal
23 substituting new named plaintiffs by April, does that sound
24 reasonable?

25 MS. LIN-LUSE: It does, yes, Your Honor.

1 THE COURT: Okay.

2 Let's then start working our way through the report,
3 please, as it pertains to the Jefferson County Board of
4 Education. Who would like to take the lead on walking us
5 through the report?

6 MR. COLVIN: Your Honor, it probably makes the most
7 sense if I do, first, since I've been in the case the longest
8 from Jefferson County.

9 THE COURT: Then you have the floor.

10 MR. COLVIN: Well, thank you very much. As we set
11 forth in the report, Your Honor, the Jefferson County school
12 district is the second largest school district in the state.
13 It serves around 36,000 kids. We've got 60-some odd schools.
14 It's a big, big school district. Jefferson County proper is
15 unique in that we have the largest number of municipal school
16 systems in a county in the state, as well. We have 13
17 different municipal school systems, and there's an ebb and
18 flow kind of way the district lines work. You have had an
19 opportunity, I feel sure, to look at the maps.

20 The most profound map, I suppose to look at, is the
21 Gresham zone where you can really see how the interplay
22 between the city systems and the county system works, where
23 you have got lots of very small pockets of students that have
24 to be served.

25 So, over the years, the factor that has been given the

1 most attention has been the student attendance factor. The
2 attendance zones have been essentially locked down since 1971.
3 They've only been modified to the extent that we've had
4 annexations, where city school districts have formed, or by
5 specific order of the Court.

6 Now, way before I was involved, Judge Pointer used to
7 actually take -- and Donald may recall this -- but Judge
8 Pointer actually used to take proposals by letter directly
9 from the school boards. And in many cases, if it was in a
10 classroom addition or a slight tweak to the attendance zone,
11 he would just write "approved" on the letter and enter it into
12 the record.

13 So, I became involved in this case around 2000. And
14 since that time, things have been conducted in a much more
15 formal matter. That's the way Judge Johnson wanted it.

16 So, with respect to the attendance zones and student
17 assignment factors, we focused on both the zones. Let me go
18 back on both the zones -- but when I became involved, the real
19 issue was whether those attendance zones were being enforced
20 properly. And then, secondary to that, whether the transfer
21 process was being followed, or whether the transfer process
22 was essentially being used as a way for folks to swap zones
23 that were not in compliance with the court order. So at that
24 time that was our focus. Our focus was to make sure that we
25 enforced attendance zone lines, and then update the transfer

1 process so that it would work as it should.

2 THE COURT: Let me interrupt for just a minute here,
3 please, and ask --

4 MR. COLVIN: Yes, ma'am.

5 THE COURT: -- for example, a number of years ago,
6 the City of Vestavia annexed Cahaba Heights.

7 MR. COLVIN: Correct.

8 THE COURT: Cahaba Heights had been in the Jefferson
9 County system, and it became part of the Vestavia municipal
10 system.

11 MR. COLVIN: Right.

12 THE COURT: When that happened, was a request made
13 to the Court to approve zone line changes that had to be made
14 as a consequence of that?

15 MS. COLVIN: You know, I must say, I can't recall.
16 And I can't recall whether that was -- I don't know about in
17 the Vestavia case, because the Vestavia case is one of the
18 lead cases. It's been severed from this case. And you know
19 Judge Bowdre, I think, now has that, or maybe Judge Hopkins.
20 Or unitary status has been granted on that one now, but I
21 can't remember who looked at it last. It may have been Judge
22 Hopkins.

23 THE COURT: One of the things that's interesting to
24 me --

25 MR. COLVIN: Yes, ma'am.

1 THE COURT: -- is did the City of Vestavia have to
2 come to the Court before making that annexation? Because that
3 has a significant impact on what the Court is doing in this
4 case, at least. And if the Court was still overseeing the
5 Vestavia system, it would have an impact on that system, as
6 well.

7 MR. COLVIN: Right.

8 THE COURT: Do you know anything about how that
9 played out?

10 MR. COLVIN: You know, I know that was early on, and
11 the only reason I remember is because I know who the
12 superintendent was at the time in Jefferson County, and I
13 can't tell you when exactly that annexation happened. Donald,
14 you may recall. I think maybe 2004. In the early 2000s. I
15 do not recall a specific request being made of Judge Johnson,
16 and I feel fairly sure that that did not happen, because I
17 don't recall going to court about it, and we would have been
18 involved in that. It may have -- they may have sought
19 permission from the judge overseeing the Vestavia Hills case
20 at that time, but I am just not certain.

21 THE COURT: Well, I am just stating generally what
22 my inclination is on that.

23 MR. COLVIN: Yes, ma'am.

24 THE COURT: Because Jefferson County, I think, is
25 fairly unique in the way it has to operate by virtue of all

1 these different municipal systems, a situation like that
2 annexation is going to have what I would characterize as a
3 fairly significant impact.

4 MR. COLVIN: Yes, ma'am, it did.

5 THE COURT: I think it is appropriate for those to
6 come before the Court, and for the Court to at least review
7 what's going on and have a chance to ask some questions about
8 it. So, I am just giving you my general sense of that.

9 MR. COLVIN: Yes, ma'am.

10 THE COURT: You all would certainly have the
11 opportunity to tell me why I am wrong about that, and I would
12 be delighted to hear from you if you disagree with that. But
13 going forward, I just think that's something that all parties
14 should be involved in that discussion, and if appropriate,
15 that should be brought to the Court's attention, as well.

16 MR. COLVIN: Yes, ma'am.

17 THE COURT: Go ahead.

18 MR. COLVIN: Okay. And so, I have to remember where
19 I was.

20 THE COURT: I'm sorry.

21 MR. COLVIN: No, that's okay.

22 I feel like I failed my first question because you
23 asked, and I didn't know whether we had a Vestavia -- but it's
24 okay.

25 THE COURT: Chanetta, do you want to go back -- can

1 you go back please and help Mr. Colvin remember -- I think
2 that the transfer system wasn't being misused --

3 MR. COLVIN: Right.

4 THE COURT: -- and that the boundary lines that had
5 been established were being respected and enforced.

6 MR. COLVIN: That's right.

7 THE COURT: Okay.

8 MR. COLVIN: In fact, at that time, and this was 15
9 years ago, so we really didn't have much technology that was
10 being utilized in that process. And part of what we proposed
11 to Judge Johnson and she approved of was that we began using
12 that technology. And that's been most helpful since that
13 time. We created the maps that you have in your packet before
14 you, we created databases, created Excel databases where you
15 could actually sort and keep up with things without having to
16 pull out and recopy an entire folder each time.

17 During the first hearing with Judge Johnson, we
18 actually -- she had stacks of transfer applications. And
19 instead of having a synopsis, she just had to go through them.
20 You know, and so, it was difficult. It was difficult for the
21 department, it was difficult for the Legal Defense Fund, and
22 it was difficult for us, as well. So that's one of our goals,
23 and one of the good things that came out of that.

24 THE COURT: That absolutely is an improvement. So
25 you are to be applauded for that work.

1 MR. COLVIN: That was truly a joint effort, and we
2 had lots of help from the department and from LDF on coming up
3 with what that structure would look like, as well. So it was
4 truly collaborative.

5 THE COURT: Great.

6 MR. COLVIN: That transfer process has been in place
7 for about the last 15 years. I think that -- I mean, it's a
8 little People-Magazinish, but we did put a chart in here that
9 just shows the way that our ethnic composition, our student
10 population has changed over the years in Jefferson County.
11 Most of that has been -- it's just been through residential
12 patterns and the way folks have moved around and who you end
13 up with at the beginning of each year. But the district has
14 changed a good bit in terms of its diversity and its profile.

15 THE COURT: But again, for instance, the Vestavia
16 annexation of Cahaba Heights has a big impact on that, right?
17 Because that's primarily a Caucasian section of the county --

18 MR. COLVIN: It was at that time.

19 THE COURT: -- that was absorbed in the Vestavia
20 municipal system. So it very much alters the overall racial
21 composition of the Jefferson County school system, right?

22 MR. COLVIN: Yes, ma'am. We've had those moments,
23 and if we tracked it month by month, for example, or you see
24 some spikes. The Trussville system was a more Caucasian
25 system. And when that system left, it obviously changed the

1 numbers some there, as well, and that was approved by Judge
2 Johnson. That was all placed before the Court. But sure,
3 absolutely. Leeds, not so much. Leeds pretty much mirrored
4 the ethnic composition of the school system at that time. So
5 it didn't have much of an impact in terms of student
6 composition on the school system. Yes, ma'am, that definitely
7 has an impact. And so that's kind of where we are on that.

8 We're in the process of working with the Department of
9 Justice and with the LDF in trading information. And
10 obviously the analysis is just beginning on that from the
11 mirror perspective and from ours, as well.

12 We have a new superintendent. There's been a renewed
13 focus to really data-driven decisions and looking at numbers
14 and where kids live and where the zone lines are and what
15 makes sense economically. And so, I think it's an exciting
16 time for all of us. We're really going to be able to get our
17 arms what the district looks like and work together to make
18 good decisions.

19 Faculty and staff is our next *Green* factor. While
20 faculty is one, and staff is one, for the purposes of the
21 report, we have combined those together because they really do
22 work together. This is one area that it's -- out of all the
23 districts that I work with, and there are several on these
24 types of issues, this is the hardest nut to crack. This is
25 the most difficult thing to deal with. In Jefferson County,

1 we really have not made the concerted effort that's going to
2 be required, the structured effort in the context of this case
3 to be ready on this *Green* factor. That road is still ahead of
4 us. We all know, I believe -- I don't want to speak for LDF
5 or for the Justice Department -- I think we all know that this
6 is an important issue for us to tackle. We have to get this
7 one done, and we have to get it done right. So I think that
8 will be at the top of all of our priority lists, and certainly
9 at the top of our priority list.

10 So except to say that we're not there yet on that
11 *Green* factor, I don't know that. I can say a little bit more
12 about it if the Court would like for me to, but suffice it to
13 say that we've got some work to do on that factor.

14 THE COURT: Okay. That's fine for right now. We'll
15 come back to that later.

16 MR. COLVIN: Yes, ma'am. As far as transportation
17 goes, obviously, the parties are still reviewing information
18 on that, as well. We did go through a review about ten, 12
19 years ago on transportation, and I was here, and we had
20 different lawyers involved. It wasn't presented to the Court
21 for partial unitary status at that time, but things looked
22 okay in that area then. We will be taking a look at new
23 routes and rosters. We've got the ability to do it. In fact,
24 that is one of the things out of the requests from Justice to
25 provide information, we have that now. So, we've got a new

1 bus routing system with the capability of producing maps of
2 the routes and very detailed information about which kids are
3 on which buses. So we feel comfortable that transportation is
4 one of those areas where there are very few problems. But if
5 there are problems, they're easily fixable, much more easily
6 than in some of these other areas. So, we don't want to be
7 presumptive about it, but we're more hopeful in the area of
8 transportation than we are perhaps in some of the other areas
9 like faculty and staff. We're very realistic about that.

10 Extracurricular activities. We feel very good about
11 extracurricular activities, too. It requires more analysis.
12 In a district like Jefferson County, it's very hard to get
13 your arms around what's going on in all 60 schools. In fact,
14 in the past, the way that that's been reviewed is by looking
15 through the yearbooks just to see who is in what club and what
16 you have available. I am sure we will be providing those
17 yearbooks. The parties are used to that level of review.

18 But just given the way the system has diversified, and
19 kind of from my experience watching, I feel good about that.
20 We have got -- they've got a good plan. You are not really
21 operating in Jefferson County as much as 25 years ago with
22 little kingdoms, sort of. That's the way things used to
23 happen in communities. They all had their own control over
24 their schools. It's much more centralized now with
25 technology. And so, we feel good about that factor, but once

1 again, it remains to be seen where we go with that. If
2 problems are identified, we'll fix them.

3 Facilities. That's one of those difficult areas.
4 Obviously, we have a number of schools. They are very new in
5 condition. Some are quite fabulous. Some are quite not.
6 While we wish there was the ability to give every single child
7 in the school system, a brand new classroom and a brand new
8 school to go to from K through 12, there's just not enough
9 money to do that.

10 A number of years ago, we were the recipient of a very
11 large sum of bond proceeds from the county commission, and the
12 district at that time, there was a major building program.
13 Part of the goal of that program was to insure that every
14 child -- although every classroom might not be brand new --
15 every child was going to have an opportunity to go to a new
16 school or a school that was almost new before he or she
17 graduated.

18 And so, it's hard, you know, it's hard when you have a
19 whole bunch of money. Every community has needs. So we had
20 to prioritize and figure out the best way to do it. We had
21 studies. We have had studies done to identify sort of some
22 needs below that line after we finish that program to see
23 what's next on the horizon. And we have attempted to follow
24 that plan the best we can. The system still has needs, great
25 needs, and will continue to. But all of that was presented to

1 the Court at the time and was approved. The decisions, they
2 may not have been all of the decisions that I would have made,
3 but they were sound decisions, and they were deemed to be
4 equitable at the time.

5 THE COURT: I think what we need now, though, is a
6 facilities update, and it sounds like you all are working on
7 that.

8 MR. COLVIN: Yes, ma'am.

9 THE COURT: I think it's important to consider under
10 that topic, just the maintenance of the schools, not only
11 where you got a brand new classroom, but how have the schools
12 been maintained over the years to make sure that to the
13 greatest extent possible there is equity across the school
14 system.

15 MR. COLVIN: No question, Your Honor. The good news
16 is the superintendent -- he and I have had these discussions.
17 I mean, he hasn't been to every school yet, he hasn't been on
18 the job long enough, but we see eye to eye. When I walk into
19 a school and I say why is the paint peeling, why are there
20 light bulbs out, why are the ceiling tiles missing? He says,
21 I don't know. Let's get it fixed. So that has not always
22 been the case. It depends on who is reporting it and who it
23 is being reported to, but there is a renewed focus on that.
24 Maintenance is something that is very important and will
25 continue to be a priority more so than it has been in the

1 past.

2 So we're in the process. Actually, private plaintiffs
3 and the Department of Justice have already visited some
4 Jefferson County schools. They were here, I think, in
5 December; is that right?

6 MS. LIN-LUSE: (Nodding head yes).

7 MR. COLVIN: They had a week each with them. The
8 site visits are not complete. It takes a long time to get
9 through that many schools. So I anticipate a good bit of
10 activity this spring, and I know they do, too. So we're
11 already in the process of trying to nail down some more dates
12 to see schools.

13 THE COURT: Have you all been assembling any sort of
14 photographic evidence as you go through the schools?

15 MS. LIN-LUSE: Yes, Your Honor.

16 THE COURT: Okay.

17 MR. FALKINBURG: Your Honor, the United States, when
18 I came down in December, I did not, but I had a checklist for
19 each of the schools I visited and made notes.

20 THE COURT: Okay. Very good. Thank you.

21 MR. COLVIN: The last factor that the Court reviews
22 in this process is the quality of education factor. As the
23 report points out, these are areas that sort of didn't fall
24 under traditional *Green* factors 40 years ago but now are
25 looked at by every court that reviews these areas.

1 Student discipline is a big one. Every district in
2 the state is working on student discipline. That's one of
3 those other areas that's very involved. It requires a good
4 bit of process, a good bit of structure, and there will be an
5 opportunity to explore that in much, much more detail, I feel
6 sure. So, we really haven't begun that dialogue yet. We've
7 talked about it. But in terms of figuring out where we're
8 going to go with that, there are -- you know, once again, the
9 district is large, which means that whatever we do, it takes a
10 while to get measures in place and make sure that they're
11 consistent throughout the school district. It takes a lot of
12 work, a lot of training, a lot of out-of-school time, a lot of
13 office time, and a lot, a lot of thought.

14 We're also dealing with a very diverse school system
15 in terms of culture at different schools, all the way from the
16 east side of Jefferson County to the west side. You know, way
17 out in the shadow or right on the banks of the Warrior River
18 to the northern most sections of the county. You have very
19 different communities and different -- there's a different
20 feel in the schools, and there's a different way to relate to
21 kids. So we've got to figure out a way to have consistent
22 expectations, consistent discipline, but yet do it in a way
23 that is effective. And to be effective, it has to take into
24 account sort of the characteristics of different schools as
25 well. We're going to be looking for ideas on that. We'll be

1 doing a whole lot of talking about it. That's down the road,
2 as well.

3 THE COURT: Do you all have an expert engaged to
4 help with that issue or with any of the educational issues?

5 MR. COLVIN: We actually have a demographer who has
6 been engaged to help with some -- not with this case, but with
7 this facilities and attendance zones and sort of best practice
8 economic issues. That will of course bleed over into this
9 case, as well. His job was not to come in necessarily and
10 look at desegregation primarily, but it was to look at student
11 populations. So, yes, we do have that. In terms of going out
12 and finding an expert to help put together an employment
13 process or discipline, at this point, we do not do that.

14 We actually -- Natane and I just negotiated a consent
15 decree in the Calhoun County school district with Judge Smith.
16 In that case, we decided to use the Southeastern Equity Center
17 and get a consultant from that group, and we've made contact.
18 And we'll see how that process goes to see if that process
19 might be effective or if we need to go in a different
20 direction there, but we're not quite there yet.

21 THE COURT: Well, I will just tell you from my
22 experience in the Huntsville case, those are very specific
23 areas that require specific expertise.

24 MR. COLVIN: Absolutely.

25 THE COURT: And they are very important areas.

1 MR. COLVIN: Yes, ma'am.

2 THE COURT: And I am not sure that without the
3 assistance of either somebody who already is specialized and
4 is a board employee or somebody independent who can really
5 examine the system as a whole, you can have enough information
6 to even know where to start in developing a plan to go
7 forward.

8 So, one of the things I want to hear from you all the
9 next time we get together is whether you all have found a way
10 to identify all the information that the parties need to be
11 able to structure a plan going forward with respect to
12 academic programs and discipline.

13 MR. COLVIN: Your Honor, we would definitely -- I
14 mean just anecdotally sitting here today, I don't know of
15 anyone at the school district at this point who could put
16 together this kind of discipline plan without help. I mean,
17 we understand that we will have to get help in some of these
18 areas and anticipate doing so.

19 THE COURT: Okay.

20 MR. COLVIN: I think that's the last *Green* factor
21 for Jefferson County at this point in the report. But, I am
22 happy to answer questions now or later, or how ever the Court
23 wants to proceed.

24 THE COURT: Let me do this, let me turn it over to
25 the private plaintiffs and hear from counsel for the private

1 plaintiffs about each of the Green factors as they pertain to
2 Jefferson County, if you have anything you want to add to what
3 Mr. Colvin has said to the Court.

4 MS. LIN-LUSE: Absolutely, Your Honor. I guess sort
5 of also by way of explanation of these collaborative or
6 putting together this report, sort of the idea and it actually
7 turned out to work --

8 THE COURT: Good.

9 MS. LIN-LUSE: -- was that the board counsel would
10 sort of lay out because they have the closest to the
11 information at this point; kind of lay out the background and
12 sort of what steps have been taken, and that we can kind of
13 work together to shape that narrative. So much of what Whit
14 said or Attorney Colvin said is what we are in agreement with
15 regard to sort of the status of things.

16 I think that going factor by factor, with regard to
17 student assignment, we are still, for all of these needing
18 some additional information. I think that where we are
19 looking to is sort of looking at the zones and where they
20 currently are, but also into other ways the student assignment
21 is addressed. So at the classroom level and kind of the next
22 sort of level of the student assignment, I think that will be
23 sort of where the conversation goes.

24 THE COURT: I think there is a lot of conversation
25 that needs to be had on that topic.

1 MS. LIN-LUSE: Yes, Your Honor. And then with
2 regard to faculty and staff assignments, we are encouraged
3 that the board is understanding of where it is at this point.
4 We do see it as a grave concern. And you know we are really
5 looking for an overhaul. As Your Honor mentioned, that will
6 require expertise and a real new approach in doing both
7 recruitment hiring, promotion, and retention for certified and
8 non-certified staff. So that's something that we will be
9 working with the board to develop. Perhaps it will come in
10 the form, as we noted in the report, of an updated consent
11 decree for what the program changes will look like.

12 With regard to -- I guess the only other thing to
13 highlight on the faculty and staff assignment is not just sort
14 of bringing new people into the district but how people are
15 distributed throughout the district. So that with regard to
16 richly identifiable schools, that the -- truly if they are a
17 geographic location that makes student assignment more
18 barriers to achieving integration on students, that faculty
19 and staff is a place that we hope that -- and believe that
20 more progress can be made towards desegregation.

21 Then on to facilities. As was highlighted, we have
22 begun the facilities review, and we'll be coming back in March
23 to review another set of schools, and it's going to take a
24 while. However, what we did notice -- and we saw the wide
25 ranges of schools that had been -- the new schools that were

1 built with the bond that was described, but also concerns
2 regarding sort of maintenance of schools that were older and
3 perhaps not involved in that initial rebuilding over the last
4 decade or so. So we are looking at what can be done to sort
5 of not at the level of creating new schools or building new
6 schools, but what can be done as far as maintenance and
7 insuring that everyone is having an equitable facilities
8 experience in their classrooms.

9 Transportation. Again, we're awaiting the information
10 about the new transportation groups, and that will give us an
11 opportunity from there to see where we stand. Extracurricular
12 is also being further reviewed. On quality of education, I
13 think that there is -- at this point, I think that there is a
14 concern not only about what discipline looks like across the
15 district. And we have engaged in an expert that we use that
16 looks at both desegregation looking at academic issues, as
17 well student assignment and facilities and those kind of
18 things. We will be working with counsel moving forward to
19 identify discipline experts that we looked at in other cases
20 to help in reviewing the data, shaping our information
21 requests, and also moving forward with whatever plans come
22 into play as far as discipline and also as far as academic
23 programs.

24 THE COURT: Okay. All right. And who would like to
25 speak for the United States. Mr. Falkinburg?

1 MR. FALKINBURG: Maybe it would be helpful just to
2 give a little background in addition to what private
3 plaintiffs and the school systems -- about what's been going
4 on in the last few years. I think I told you back in
5 December, I became involved in this case back about almost
6 four years ago now. That was at the tail end of the
7 facilities upgrade after the county had given the money to the
8 school district substantial sums. So that had been playing
9 out for a good part of the first decade of 2000. And, I
10 believe all that money has been spent now. So this might be a
11 good opportunity to see where we are, and that started with
12 the December onsite visits that I made to a good number of the
13 schools.

14 I agree that since that money now has been expended,
15 probably the appropriate focus is to look at maintenance
16 because there is a wide -- based on my personal observation, a
17 lot of differences with the schools, with the age of the
18 facilities, that type of thing. And that's certainly
19 understandable when you have a district of this size, over 60
20 schools, and tens of thousands of students. I agree there
21 were some concerns with respect to maintenance that we would
22 definitely want to get addressed.

23 The other thing that was active when I became involved
24 in the case was the student transfer issue under No Child Left
25 Behind, and that was something that was always a challenge.

1 When the system received notice of what schools were eligible
2 for transfers based on the test scores that were coming from
3 the state, and that was something that we had to always do at
4 the last minute. But I don't think that's going to be an
5 issue now that -- I believe the state has a way.

6 MR. COLVIN: Yes.

7 MR. FALKINBURG: So with respect to the student
8 assignment in general, the United States is aware, of course,
9 that the district has gone through some significant
10 transformation, demographically, over the last 20 years. I
11 think it's very obvious, you can look at those charts. But
12 there's certainly, from our perspective, we want to make sure
13 that there are now changes that can be made in zones and
14 transportation that would help alleviate some of the
15 differences that are now pretty evident at some of the
16 schools.

17 The United States also did a data request back in
18 December, just around the end of the year, asking for
19 additional data on all of the *Green* factors. We're awaiting
20 information on that. So we're in a position -- will be in a
21 position to analyze that, as well, for extracurricular
22 activities and transportation. At this point, the United
23 States really doesn't have anything more to add because we are
24 awaiting additional information on that.

25 Faculty and staff. I just would like to echo that the

1 United States agrees not only do you have to look at the macro
2 picture of the distribution of faculty and staff for the
3 district in general, but of course, staff assignment at the
4 individual schools is something that will always have to be an
5 important factor. And that is something that of course is
6 always within almost the complete control of the district
7 because these are employees.

8 So the United States is fully aware that obviously
9 attracting and hiring individuals of a diverse background is
10 something that is a challenge, because you are competing with
11 every other school district in the state in the Southeast.
12 But of course, once you have faculty and staff on your
13 payroll, where those individuals' work has -- the district has
14 a lot more control over that. So that's an important piece
15 that I think we'll need to work with the district on.

16 Discipline and access to advanced programs,
17 extracurricular activities. At this point, I don't think
18 there's much more we can add. We certainly agree that
19 discipline is a challenge. Use of experts is certainly
20 something that most school districts will have to employ, and
21 access to programs is of course something that's always a
22 challenge, but there needs to be significant progress in that
23 as well.

24 I don't have anything else to add unless you have any
25 questions specific to Jefferson at this time.

1 THE COURT: I think I am going to save my questions
2 'til the end, and we'll run through those after I hear about
3 the City of Hoover. Because maybe I can compress everything
4 that way. All right.

5 Then, Mr. Sweeney, I believe you have something.

6 MR. SWEENEY: Judge, could I just mention one matter
7 relating to Jefferson County?

8 THE COURT: Yes, sir.

9 MR. SWEENEY: It is the disposition of the
10 Gardendale school system. Gardendale has formed a school
11 system. It is in the process of review from the state
12 superintendent, who has issued a very preliminary decision.
13 The parties were given until today to make responses to that
14 preliminary decision. And Dr. Bice will issue a final
15 decision February 26th.

16 At this point, it would be premature for me to advise
17 the Court what the prospects are for that system, but I know
18 it has implications, potential implications as you review the
19 Jefferson County system. Gardendale knows that if it goes
20 forward, every aspect of its operation would have to be
21 submitted to the Court for review.

22 THE COURT: Yes, sir. That was one of the things
23 that was on my list of questions, and that absolutely is the
24 case; that if Gardendale decides it wishes to go forward, it
25 will need to present a proposal to this Court and have the

1 Court review that, you know, in a global way. So, we'll just
2 see how that develops.

3 MR. SWEENEY: Thank you, Your Honor. The other,
4 well, global question, having the Court review annexations has
5 particular significance to Hoover as a rapidly expanding
6 system. And the coordination of the municipal view on whether
7 annexation is appropriate for the health of the city might not
8 be enforced with what's in the best interest of the school
9 facilities and the school. And there's not always a good
10 coordination of those interests. But for us to come to the
11 Court to review annexations as being proposed, I think we
12 would be in a difficult situation without having the city
13 people involved, as well. That thought comes to mind as you
14 raise something that has a lot of potential to me, but it
15 seems to me that the city would have a play in those
16 determinations.

17 THE COURT: Absolutely. And that's, you know, one
18 of the things that I would have to, legally, have a better
19 understanding of, in addition to having just a practical
20 understanding of how we would go about doing that.

21 But frankly, one of the things that's extremely
22 interesting about the Jefferson County situation, but also
23 extremely challenging is -- and we'll get to this when I get
24 around to questions -- is the whole financial picture and how
25 that impacts the various issues that have to be addressed in

1 this case. When you have cities taking big chunks out of the
2 county, and potentially big chunks that happen to contribute
3 to the financial base, it obviously complicates matters. And
4 it does have a -- it does and potentially at least does have a
5 significant impact on the broad county system. So I
6 absolutely see it as relevant. I absolutely see it as a
7 concern. I don't know how at this stage of the game how to
8 resolve that, and it's something that I probably will need to
9 hear from you all on in both terms of the legal aspect of that
10 analysis and the practical way of going about approaching it.

11 But I think -- I use the Cahaba Heights situation as
12 an example, because obviously that has a big impact on the
13 racial composition of the county. But it also affects the
14 financial situation, as well. So, I appreciate your comments
15 and that's one of the things that I need to think through some
16 more and figure out when those situations arise, how we
17 address them. And it may be that Gardendale gives us an
18 opportunity to think about that a little bit more.

19 But, I don't know that the Court has been receiving
20 notice, advanced notice, necessarily of situations like Cahaba
21 Heights. And if the Court doesn't have notice, then that's a
22 challenge in and of itself. That's something that I would
23 encourage you all to make sure your communication amongst one
24 another is up to speed, because that's something that the
25 United States and the private plaintiffs should be keeping

1 their finger on the pulse and bringing those sorts of things
2 to the attention of the Court so that the Court has the
3 opportunity, where appropriate, to see whether the Court needs
4 to invite a municipality to address the Court about some plans
5 going forward.

6 MR. SWEENEY: Annexation in Hoover has just not been
7 on my radar screen in any respect. So, as you mentioned
8 something so relevant that has such a potential impact on
9 school capacities and so forth, I embrace your interest
10 because it's in the school system's best interest to know what
11 the impact is going to be. But we think about that and have
12 been informed of that.

13 THE COURT: Sure, with respect to Hoover because the
14 Court has oversight of the Hoover system, that's an easier
15 situation for all of us to monitor. The bigger challenge is
16 the other municipalities, who, from time to time, have
17 annexed, and in the future may wish to annex parts of the
18 county. So making sure that we are all trying to stay aware
19 of that and understand how that impacts this case, I think, is
20 part of the task that the parties have before them.

21 MR. FALKINBURG: Judge, another factor with respect
22 to the Gardendale separation is the facilities, because I did
23 visit the high school there that would no longer be made part
24 of the county system.

25 THE COURT: Tell me about that, please.

1 MR. FALKINBURG: That's a very, very nice, fairly
2 new facility. So, of course, if and when that is separated,
3 the whole mixture of what are equitable facilities changes the
4 little formula because you have this beautiful nice high
5 school that I spent some time at, but now that's not relevant
6 to what we have left in the county.

7 THE COURT: That is a significant challenge that we
8 have in this case that I am not sure many of these types of
9 cases have, frankly. If there are other systems that are
10 dealing with this scenario, if you all can identify them for
11 me, please, and let me know how other systems have addressed
12 this, that would be extremely helpful. Because again, I need
13 to understand what the extent of the Court's power is in
14 addressing these situations.

15 I am sympathetic to the struggle that the board has in
16 trying to deal with a system that seems to be, in the big
17 picture, relatively speaking, constantly influx. Somehow one
18 of my goals is to identify a base line so that I can measure
19 progress going forward. It's awfully hard to have -- you are
20 dealing with a moving target it seems like -- so it's awfully
21 hard to put in place data about a base line to use as a
22 measuring tool when that base line can easily change in a very
23 short period of time because of a city breaking out of the
24 system, or simply an annexation of a large section of the
25 community.

1 So, that's going to be one of the assignments I ask
2 you all to tackle going forward. Help me to understand that
3 and what tools are available so that we can try to give the
4 county the support it needs in addressing these issues.

5 MR. FALKINBURG: My experience in the last five
6 years since I have been in this position, the desegregations I
7 have been involved in, they're much more static than this;
8 where you have had districts that have always had the same
9 schools, or just a smaller number because of population
10 decline, but not through the separation and annexation
11 process.

12 THE COURT: Yes.

13 MS. LIN-LUSE: Your Honor, if I may?

14 THE COURT: Please.

15 MS. LIN-LUSE: I also toured Gardendale High. I
16 particularly toured it because we were made aware that the
17 district was moving forward, and it was because of the
18 uniqueness of it both as a relatively integrated school, and
19 also because it serves as a regional hub. I think we're
20 talking curriculum offerings that's of particular concern for
21 how it changes the entire -- because as you mentioned, it will
22 take a whole sort of pocket of students out.

23 At this point, we're still awaiting information
24 regarding the impacts, but it appears at this point that it
25 will be a burden borne on African American students who will

1 no longer be in the Gardendale system. I think there's
2 discussions about for how long they'll be grandfathered in.
3 But I think long term, and even just for those students who
4 will not be included in that system. And we have initial
5 concerns.

6 THE COURT: All right. Good to know. Who is
7 representing Gardendale in its efforts to build its school
8 system?

9 MR. SWEENEY: Donald Sweeney.

10 THE COURT: Mr. Sweeney, all right. Well, then,
11 because you are here, I would like to hear from you as soon as
12 you have a sense of what is happening with Gardendale, please.

13 MR. SWEENEY: One of my comments about Hoover was
14 going to be this, that we present a particular challenge to
15 Your Honor and to the other parties because there is a lack of
16 history and record over the years about all aspects of the
17 *Green* factors, which will necessitate considerable time and --
18 applying of the parties to make sure they understand the
19 trends and the current data and so forth. That's
20 time-consuming.

21 THE COURT: There is no misunderstanding with the
22 City of Hoover that it was still under the oversight of the
23 federal court, was there?

24 MR. SWEENEY: As I review the matter after you ask
25 that question, there is no question in my mind that we

1 continue to be under review.

2 THE COURT: Okay.

3 MR. SWEENEY: We filed the petition with Judge
4 Johnson. We've had sporadic, I think, requests for review of
5 individual matters, but it was not done systematically. The
6 reason I approach that at this point is that while my view
7 concerning what the discussion has been about Jefferson County
8 and Hoover will be time-consuming -- and I have indicated that
9 to the people in Hoover -- with regard to Gardendale, they
10 desperately want to begin their operation beginning in August
11 of 2015, 2016. They desperately want to do that. Now whether
12 that's feasible is just something that the Court and the
13 parties will have to address. But I would be remiss --

14 THE COURT: That's something that they want to be
15 able to do understanding the time pressures on the Court. It
16 would probably be in their best interest to approach the Court
17 sooner rather than later, wouldn't it?

18 MR. SWEENEY: It would be. We have had to wait for
19 the binding arbitration of the state superintendent because
20 there were fundamental issues that had to be resolved that
21 could not be resolved by the parties. So we have not been
22 able to come to the Court because we have not had that
23 determination.

24 THE COURT: Although Gardendale is currently under
25 the Court's oversight, correct?

1 MR. SWEENEY: No, ma'am.

2 THE COURT: Is it part of Jefferson County?

3 MR. SWEENEY: I guess they are, but they're not
4 operational. So to the extent that they're not operational
5 because the schools -- the state board has not issued a final
6 determination about what operational aspects they will be able
7 to undertake, I don't know that -- if your question is should
8 we have already come before the Court --

9 THE COURT: No, my question is is there an
10 opportunity for you all to be gathering all of the information
11 that you will have to present to the Court, so that when the
12 time is appropriate, you are able to come to the Court
13 quickly, as opposed to having to start the process at that
14 point and maybe come to the Court a number of months down the
15 road knowing that the system would ideally like to start
16 operating in the fall of 2015?

17 MR. SWEENEY: We'll have that information. The
18 variable that is still indeterminate is that the municipal
19 limits of Hoover, excuse me, of Gardendale include about --
20 would you say two thirds of the population of the Gardendale
21 high school, approximately that -- and one third are beyond
22 the city limits. And the question that -- one of the
23 questions that is for Tommy Bice is the extent to which
24 Gardendale will be allowed to serve those students that are
25 beyond the city limits. And so, until that determination is

1 made, a significant issue for the Court to review would not be
2 ripe to do that. We hope that will be determined when Tommy
3 Bice issues his order.

4 THE COURT: Mr. Colvin, help me understand how much
5 input does the county have into a situation like this when a
6 group wants to splinter off and start some system.

7 MR. COLVIN: In terms of input into the decision to
8 form a school board, none. The Alabama Code provides the
9 process for that. So, the county board really doesn't have a
10 say over whether a city elects to form a school board or not.
11 The way these typically happen -- and Donald, help me --
12 because I am actually on the Jefferson County side. We're
13 colleagues and friends, but also adversaries in some context,
14 right? But help me if I misspeak, please.

15 But the way these typically work is when the system
16 decides that it wants to operate, there is a -- the two school
17 systems, the separating district and the district from which
18 the separation occurs, actually attempt to negotiate an
19 agreement, a separation agreement, a divorce decree is what it
20 is. And in many cases, those are easy. I don't know if it's
21 fair to say that any of them are easy, but some are easier
22 than others. And this one, I think it's fair to say, has been
23 very difficult, mostly, because of that facility and because
24 of the number of children that reside outside the city limits
25 that go there and are allowed to enjoy it. It's about 55/45.

1 55 in Gardendale, and 45 out of Gardendale.

2 THE COURT: Are the 45 that are out of Gardendale,
3 are they primarily African American?

4 MR. COLVIN: Not primarily. There's a section, the
5 Mount Olive section is not primarily African American. It's
6 mostly Caucasian. There are a couple of pockets of areas that
7 have not been annexed into a city that are minority
8 neighborhoods that are primarily African American. You know,
9 at least one of those areas, the north Smithfield area, it's a
10 little unique. You will learn about all of this as we
11 proceed. But that's a neighborhood where the children
12 actually go to. They were zoned years ago to the Fultondale
13 schools, which was predominantly white at the time the zoning
14 decision was made. And then they matriculate on -- instead of
15 going to Fultondale High School, they actually go to
16 Gardendale for middle school and high school. The reason was,
17 I believe at the time, that those are both predominantly
18 Caucasian systems. That was a way of desegregating both of
19 those high school zones. It helped desegregate Fultondale in
20 the elementary grades, and then Gardendale in the middle and
21 high school grades. And so, those areas are predominantly
22 African American. Most of the kids, the kids that go to Mount
23 Olive, which are the vast number of the kids who live outside
24 Gardendale, or a large number of them, at least, they're
25 mostly Caucasian.

1 THE COURT: Where does the county think it would
2 reassign those students if Gardendale is allowed to begin its
3 own school system?

4 MR. COLVIN: Your Honor, that's the real question.
5 I think we are -- where we came to impasse on several issues,
6 and one of them involved that high school facility and the
7 facilities that were being given up, and the approach that we
8 took on that. Gardendale's approach was one way, and our
9 approach was another way.

10 THE COURT: Who paid for that high school?

11 MR. COLVIN: Well, the taxpayers ultimately paid for
12 it, but it came out of the --

13 THE COURT: -- county fund?

14 MR. COLVIN: County fund. Well, yes, ma'am.

15 THE COURT: Okay.

16 MR. COLVIN: Funds that were distributed to the
17 county for the county school district.

18 THE COURT: But they weren't funds that came from
19 the municipality?

20 MR. COLVIN: No, ma'am. Except to the extent that
21 their taxpayers paid for part of it, too. Is that fair to
22 say?

23 MR. SWEENEY: That's fair.

24 THE COURT: Okay. All right.

25 MR. SWEENEY: One of the issues, Judge, is that

1 Gardendale would like to grandfather the current attendance
2 zones, but there's an issue of the allocation of taxes for
3 those students. So there's several layers that the parties
4 are trying in good faith to work out but have had to submit
5 those issues to Dr. Bice under his authority.

6 THE COURT: Fascinating issues. All right. Well, I
7 guess for today's purposes, the important message to make sure
8 everybody is clear on is that if there is to be an
9 accommodation of the City of Gardendale's wish, assuming they
10 get approval to go forward with the school system, to begin
11 operating in August of 2015, the city of Gardendale is going
12 to need to approach the Court as soon as they are able,
13 because I am going to need to give the private plaintiffs and
14 the United States an opportunity to review the plan, to have
15 any investigation that they want done with respect to the
16 plan, to provide briefing to the Court. So we're talking
17 about a process that can take a considerable amount of time.
18 And I cannot guarantee the city of Gardendale that they're
19 going to have an answer from this Court by August of 2015,
20 given the fact that we are nearly to the end of February 2015
21 right now. I will certainly do my best to accommodate that
22 projected time frame, if the city gets the approval that it
23 hopes to receive, but it's a process.

24 MR. SWEENEY: I understand the complications. With
25 regard to the Hoover Board of Education, Your Honor, I feel

1 like a new patient coming to a doctor for the first
2 evaluation, and I am hesitant to say whether we're in good
3 shape or average shape or poor shape with regard to any of the
4 *Green* factors, because I don't want to take a position that
5 would be inconsistent with LDF and the Justice Department who
6 are still looking at lots of data for the first time.

7 We began submitting significant data to the parties in
8 early fall of last year with regard to transportation when the
9 board was considering discontinuing transportation. At that
10 point, significant information was submitted. There was early
11 concerns, expressed by both the parties, and Hoover eventually
12 withdrew that proposition. And we have committed in our
13 proposal to the Court that there will be no change in
14 transportation for next year. I say that because that's just
15 one aspect of the complete pie where the parties have had some
16 early information.

17 The other area was when we proposed in early fall to
18 change the student assignment zones. And when that
19 determination was made, we compiled a lot of information to
20 share with the parties about what the changes would be and so
21 forth. The parties needed additional information, which they
22 requested, in December 23rd, with the transition of the
23 holidays so that the superintendent -- they didn't get that
24 information until just a few weeks ago. So it would be
25 premature for me to say what their reaction is to the zoning

1 proposals from top to bottom or partially or what. But we did
2 have the benefit, in the last two days, where the parties
3 visited most of the schools in Hoover and then shared with us
4 their experts to look at the school zoning, their concerns,
5 which are pretty profound against the backdrop of what we were
6 initially proposing. But that's something that we do not have
7 an expert at this point, but something that we will do.

8 Approaching more systematically the *Green* factors, I
9 think overall, we believe that the data shows that we're a
10 quality school system, quality facilities, quality educational
11 program. But the allocation of those resources and the impact
12 on some aspects of the community are things that the LDF and
13 the Justice Department have shared pretty profound concerns
14 with us. That relates to both the student assignments with
15 the current zones that have pockets within zones that create
16 some issues in terms of both transportation and assignments to
17 schools. Certainly, the data shows that we're very much like
18 the Hoover school system with regard to faculty and staff. We
19 are not close to the *Singleton* ratios. We have plans, and we
20 have had plans in place to aggressively recruit additional
21 minorities, but we have, as Mr. Colvin indicated, a long way
22 to go to achieve those *Singleton* factors.

23 Facilities, I think, it will be fair to say that
24 Hoover is blessed with outstanding facilities. Since the
25 system formed in 1988, they have added a multitude of new

1 facilities that I think are excellent in condition and in
2 terms of servicing the students that attend those.

3 Extracurricular -- I think the system holds out a
4 quality education program for most of the students. If there
5 are remedial areas, those are things that the staff are trying
6 to address and will continue to address with the assistance of
7 the Court and the parties.

8 Transportation is something that will be -- we have
9 adequate transportation for all of our students, regular and
10 special ed. But the impact on certain aspects of the
11 community are particularly under their proposals that we
12 presented to the parties in late fall raise concerns about the
13 impact on minorities. And those are matters that we're in
14 dialogue about. Not to change those and until those final
15 plans come back to the Court, but those are matters that are
16 under serious discussion between Hoover and the parties.

17 Quality of education. I think Hoover is one of the --
18 based on test scores and so forth, one of the better school
19 systems in the state. They have tried to reach out to all
20 areas of their student composition, English, limited language,
21 special education. They have one of the premier special
22 education programs in the entire state. So there are aspects
23 of the quality of education that hold out that I think are a
24 source of pride. But there are areas in terms of the
25 distribution that the parties are in discussion about. We

1 have a lot of areas that I think are impressive and a lot of
2 areas where we need to make adjustments.

3 THE COURT: All right, Ms. Lin-Luse, why don't I
4 hear from the private plaintiffs with respect to the City of
5 Hoover, please.

6 MS. LIN-LUSE: Yes, Your Honor, to sort of echo what
7 Mr. Sweeney described, we have done -- made two trips to
8 Hoover and have now seen the majority of the Hoover schools.
9 And the description of the involvement of private plaintiffs
10 by focusing on the transportation issue, I guess now, is
11 almost over a year ago began looking at that and that has
12 proceeded as described by Mr. Sweeney.

13 The student assignment and the rezoning plan is one
14 that has been of great focus for private plaintiffs, and its
15 impact on African American students, and also not only sort of
16 how it impacts students in having more students moving as a
17 result of the rezoning, but also in the entire way the school
18 system is zoned with attendance zones has a very, sort of,
19 what our expert refers to as island zoning to achieving --
20 looking to sort of achieve diversity or have more optimal
21 space utilization by moving pockets of students. And many
22 times, in particularly this last proposal, will focus on
23 multi-family units. Now, that has been a burden shared
24 disproportionately by African American students and families.

25 We are looking and working the district and encouraged

1 by our conversations with our experts and district
2 administrators regarding in taking in a more holistic approach
3 to their new rezoning. It's a district that has expanded
4 greatly in its existence. It's 5,000 students. Some have
5 tripled in size over the last 20-something years. And it's
6 sort of, we believe, an opportunity now to both have a more
7 efficient student assignment, but also one that will achieve
8 diversity and integration, as well as not overburdening
9 African American students.

10 So we hope to be able to negotiate and work with the
11 school districts to achieve a zoning plan that does that. And
12 then further, looking at other desegregation tools and devices
13 besides just using attendance zones to integrate in to
14 desegregate schools.

15 THE COURT: Is there a transfer system for the City
16 of Hoover? Is there an M-to-M system, or anything along those
17 lines?

18 MR. SWEENEY: No, ma'am.

19 THE COURT: Why not?

20 MR. SWEENEY: I don't have an explanation for that,
21 Your Honor. We have tried to achieve through the type of
22 zoning that they have had to have a proper diversity in each
23 of the schools, but at a cost of some transportation impact.
24 But they have been conscious of their obligation to have
25 appropriate diversity in each of the schools.

1 THE COURT: Okay. Well, one of the things I guess
2 we can look at is whether -- as I gain a better understanding
3 of the racial composition of the schools -- I guess we should
4 investigate whether a transfer system would be appropriate to
5 help enrich the desegregation of the system.

6 MS. LIN-LUSE: Yes, Your Honor, and that is the very
7 type of tool that we have suggested to the district and will
8 get around to doing something, you know, using both control
9 choice, using m-to-m transfers, and then also using sort of
10 programmatic, whether it be through a magnet program, or other
11 types of devices that really sort of encourage integration,
12 encourage desegregation in the school districts without just
13 picking up pockets of students and moving them. We think that
14 will be a better, sort of academically, enriching experience
15 for African American students and all students, and also will
16 alleviate some of the burden that's been placed on African
17 American students and other students of color by having to be
18 transported out of sort of their community into other schools
19 and other communities, not by necessarily their choice. That
20 is sort of being -- having a potential of stigma attached to
21 that as being those students who were bussed from here to
22 there.

23 With regard to one last point on using other
24 mechanisms as far as transfers, one thing that we have not
25 discussed either between Hoover and the Jefferson County, and

1 perhaps even the Gardendale context is intra district
2 transfers, and the use of something that's given that all
3 those districts are under the Court's jurisdiction. Perhaps
4 that's something we also can think about in a more
5 comprehensive approach to addressing some of these concerns.

6 THE COURT: Is there a formal mechanism for that
7 currently? For intra district transfers?

8 MR. SWEENEY: We do have a formal process, Your
9 Honor. So it's reviewed carefully.

10 THE COURT: Is it something that's available to the
11 Court for review?

12 MR. SWEENEY: I believe.

13 THE COURT: Has it been made available to the Court
14 is the question I want to ask?

15 MR. SWEENEY: I apologize, Your Honor. I can't
16 remember if that information was provided just to the private
17 parties and/or the Court, but we have compiled that
18 information. And if it was not part of our submittal to you,
19 we can provide that expeditiously. That was an area, Your
20 Honor, that required manually for the district to go back and
21 look at each and every one. So there's some delay in
22 compiling that information, but I believe that they have done
23 that back through the year 2010.

24 THE COURT: Okay. Ms. Lin-Luse.

25 MS. LIN-LUSE: Your Honor, in the status report,

1 there is a description, and in one of the exhibits, it's
2 Exhibit G, of course, a representative of letters sent to
3 parents regarding intra district transfers. So that may give
4 some guidance, as well transfer forms, which is Exhibit H.

5 However, what I think will echo a concern that we
6 have, or highlights a concern that private plaintiffs have is
7 that the transfer system is not necessarily being used as a
8 desegregation tool that it could potentially serve as, and
9 also looking for a more systematic approach to the transfer of
10 something. Perhaps even similar to what Jefferson County
11 would -- what the parties negotiate for Jefferson County in
12 the past.

13 MR. COLVIN: So, Your Honor, if I may, I don't know
14 if the question was directed to Jefferson County, as well, but
15 we certainly do have a structure interdistrict transfer
16 process that was part of the report to the Court, and then the
17 guidelines that were approved by the Court back in 2000. And
18 interdistrict transfers are permitted as long as they are for
19 desegregative reasons. Otherwise, the only kids from outside
20 the district that are supposed to be going to school there are
21 those who attend the IB school, which is sort of a carve-out
22 exception, and then, students who have parents who teach in
23 the system.

24 THE COURT: Okay.

25 MR. COLVIN: Other than that, the only students who

1 are supposed to be -- I can't promise that among all 36,000
2 there won't be one that slipped through the cracks somewhere.
3 But in terms of the structure, only students -- the only
4 students who are permitted to apply for and be granted
5 interdistrict transfers are those who are admitted in
6 accordance with our desegregation order and will further
7 desegregation.

8 MR. SWEENEY: Judge, with regard to Hoover, we have
9 had for many years a full-time employee that has done nothing
10 but review requests for enrollment for all students, and they
11 have rigorously enforced the requirement to make sure that all
12 students, with one exception, all students who attend Hoover
13 are there because of their custodial parent or court-appointed
14 guardian, or reasons other than zone jumping, live full-time
15 in Hoover. The vast majority, I believe, are the transfers
16 both within the district and interdistrict are because of
17 children of employees.

18 THE COURT: Okay.

19 MS. LIN-LUSE: And the discussion of intra district
20 transfers begins on page 16 of our status report.

21 THE COURT: Thank you.

22 MS. LIN-LUSE: With regard -- I think I was talking
23 about faculty and staff assignments. It's a similar position
24 to that of Jefferson County in that private plaintiffs have a
25 grave concern that the faculty is not as diverse as it should

1 be and will be looking to the district to make substantial
2 changes in renewed and increased effort with regard to
3 recruitment, hiring, proportion retention, and then assignment
4 once those individuals have been brought on to the staff.

5 With regard to facilities, now having gone to a
6 majority of the schools, they are in great condition. Many of
7 them are fairly new schools. The concern, I think, moving
8 forward is going to be around space utilization, and then sort
9 of facilities as we move forward in the conversations with
10 regard to student assignment and different approaches that the
11 district may choose to take with regard to that facility. I
12 think the facility may come into play in that discussion. As
13 far as the quality of them, they are in good repair. I still
14 have another handful to see.

15 With regard to transportation, that has been -- I
16 think at this point because we have had negotiations and
17 conversations with the district with regard to its previous
18 plans to both eliminate bus service and then to have a fee for
19 bus service and raise concerns, private plaintiff does have
20 grave concerns, as well as the United States about the
21 disproportionate impact that would have on African American
22 students and their families. I think that those proposals, to
23 our understanding, have been stayed or have been tabled.
24 However, I think moving forward, we will need to see how the
25 district will deal with its transportation issues.

1 And also again going back to some of the students
2 assignment, concerning the approaches the district may take,
3 transportation will play a large role in that. So that will
4 continue to be a significant area of interest for the private
5 plaintiffs.

6 MR. SWEENEY: May I comment on that? Your Honor, I
7 have represented to the parties that I would represent to you
8 as well that there will be no changes in transportation until
9 they're approved by the Court.

10 THE COURT: Okay. Thanks.

11 MS. LIN-LUSE: With regard to extracurricular
12 activities, we are awaiting further information with regard to
13 getting annual yearbooks and also for the review of the
14 information that's been requested. With quality of education,
15 we are again awaiting additional information.

16 However, in conversations with board administrators,
17 it is apparent to private plaintiffs that the district has not
18 necessarily been considering race in its data collection with
19 regard to discipline, and that's something that the district
20 has been, through our formal conversations, has now taken the
21 approach to start to do that.

22 So I think we will have more information sort of
23 pulling backwards, but also moving forward that will help us
24 as we analyze that and the impact of the discipline with
25 disparities we may find. And then again, we're awaiting

1 additional information with regard to courses, access to other
2 academic programs, counseling, and the full range of quality
3 of education factor.

4 THE COURT: Okay. And for the United States.

5 MS. SINGLETON: Good morning, Your Honor.

6 THE COURT: Good morning.

7 MS. SINGLETON: If I may, I would just like to begin
8 by saying that the parties have really worked collaboratively
9 on this joint report, and in general, over the year and a half
10 that I have worked on Hoover, the district has been very
11 forthcoming in providing all of the data that we have
12 requested, and we appreciate that.

13 THE COURT: Terrific.

14 MS. SINGLETON: Just as far as going through the
15 various *Green* factors in with student assignments, as has been
16 discussed, it's my understanding the district does intend to
17 rezone at some point. But in light of recent growth and the
18 school utilization issues, it is still a priority for the
19 district.

20 But after -- the United States has retained a
21 geographic information systems expert that gave a presentation
22 yesterday to the district, and the district was very receptive
23 to his input about the concerns that we have with the enclaves
24 of students that currently actually exist and how those
25 boundaries are drawn. So he raised concerns about that and

1 outlined various best practices and principals that the
2 district should consider in any future student assignment
3 decision. Again, the district was very receptive to that, and
4 I am looking forward to working with the district on that
5 issue.

6 THE COURT: Who is the expert who you are going to
7 use?

8 MS. SINGLETON: Matthew Cropper.

9 THE COURT: Okay.

10 MS. SINGLETON: So, another issue under student
11 assignment would be classroom assignment, and that is
12 something that we are still looking into because it is an
13 important issue.

14 As far as the transfer policy, from what I understand,
15 from what the district has provided, it is a fairly limited
16 transfer policy. That transfer is only allowed under limited
17 circumstances. So we're less concerned about that. But I
18 would like to point out that with regard to the diversity of
19 the school district, it is quite a diverse school district.
20 On paper, virtually all the schools, I guess, district-wide,
21 about 25 percent of the students are African American, and
22 with the exception of two or three of the 16 schools, all of
23 those schools fall within 20 to 30ish percent African
24 American. So the schools actually are quite diverse on paper.

25 Classroom assignment is another issue that we need to

1 look into more, but the schools themselves are quite diverse
2 with the exception of one or two that are kind of the
3 outliers. I wanted the Court to be aware of that. We were
4 really pleased to see that when I visited the schools this
5 week.

6 Moving on to faculty and staff. As has been pointed
7 out, the district has a ways to go as far as integrating its
8 faculty; only five percent are minority. But I was encouraged
9 by the diversity of the school administrative staff, which is
10 closer to 24 percent of minority. Actually, the data that we
11 have is not broken down by African American, Hispanic, etc.,
12 but minority, the percentage was 24 percent. From what I --
13 well, actually, I didn't know all the schools, but I was
14 pleased with one school in particular of how diverse their
15 administrative staff was.

16 One challenge with integrating the faculty is the
17 decentralized hiring in the district. So, the principals
18 themselves really are in control of who they hire. That could
19 present a challenge as far as diversifying the faculty.

20 With regard to transportation, we talked a lot about
21 the past proposal facility were to charge fees. Again, we
22 have been assured that the district no longer is considering
23 that, but any assessment of transportation will be affected by
24 rezoning that might happen in the near future.

25 On extracurriculars, the United States is still

1 working with the district to obtain information.

2 On facilities, as I mentioned, I visited several
3 schools this week. And as Mr. Sweeney pointed out, the
4 buildings are fairly new, and there is no plan that we're
5 aware of to build any new schools any time soon. So we are
6 less concerned about the facility, but we're still reviewing
7 this factor.

8 The last factor, quality of education, the district
9 has provided data to the United States, and we're in the
10 process of reviewing data regarding discipline, as well as
11 advanced courses in student achievement. So that review is
12 ongoing.

13 THE COURT: Okay. Thank you.

14 MR. FALKINBURG: Your Honor, may I add one thing on
15 the Gardendale?

16 THE COURT: Yes, sir.

17 MR. FALKINBURG: You mentioned that it would
18 probably be better with the Gardendale district, assuming they
19 do exist, to come to the district -- to the Court sooner
20 rather than later. I think another component of that would be
21 for the Jefferson County school district to know where those
22 students who are now no longer eligible for Gardendale, where
23 are those students going to go, because I think that would
24 factor into this whole comparability of facilities review and
25 for potentially transportation, as well. There's more onerous

1 transportation times and things of nature.

2 THE COURT: Right. It sounds like that's part of
3 the ongoing discussion, Mr. Colvin?

4 MR. COLVIN: Yes, ma'am, it is. There is just some
5 threshold issues that until they are decided, it makes it
6 very, very difficult to do the rest of the analysis or even
7 negotiate the rest of the agreement. So, I think that's where
8 we are. We're waiting on a final ruling on those threshold
9 issues. And once we have that, we'll be in a better position
10 to figure out what's next.

11 THE COURT: Do you all have a timeline?

12 MR. COLVIN: Yes, ma'am. We are submitting
13 additional information to Dr. Bice today and are expecting to
14 hear something. I think the original deadline was February
15 23rd. I received a call asking if he could have another day
16 or two because there was so much information.

17 MR. SWEENEY: We asked permission for an extension
18 to February 26th, and we'll be happy to report that. So we
19 expect to hear from him on or before February 26th.

20 THE COURT: But on February 26th, does that mean all
21 the pieces fall into place in terms of resolving where the
22 students who would have to leave the Gardendale system would
23 be placed?

24 MR. COLVIN: Well, it depends, Your Honor, because
25 part of his preliminary ruling involved the grandfathering of

1 students, and so that would -- if that stays true, then we
2 will know where those kids will go, because they'll go where
3 he says they'll go in his ruling.

4 If he changes his course and says, okay, well, you
5 know, we're going to have a clean break, and next year your
6 kids go here and your kids go here, then we'll have some
7 scrambling to do. I don't anticipate that, but who knows.
8 Grandfathering has been -- some sort of grandfathering has
9 been a part of every school separation that I have ever been
10 involved in. And I think because they are often negotiated
11 late in this -- or in the spring before the formation
12 occurs -- in fact, Donald, you may know of one where it
13 hasn't.

14 MR. SWEENEY: I think.

15 MR. COLVIN: I think in every one there's at least a
16 year where the kids stay put. If for no other reason, you
17 have had students who tried out for cheerleading, football
18 teams, and they've registered for classes. And I can't say
19 for sure because we're not that far down the line, but I would
20 think that that would be a part of this one, too.

21 THE COURT: And forgive me, I am trying to absorb a
22 lot of information at one time, so this may be in the report,
23 and I may not remember this detail, but when you speak of
24 grandfathering, for how long a period of time, as of right
25 now, based on what you know, how long would that

1 grandfathering be in place?

2 MR. SWEENEY: That's one of the fundamental issues.

3 THE COURT: Tell me what the parties' positions are.

4 MR. SWEENEY: We have proposed that all students
5 that are now enrolled, plus I think the incoming class of
6 2015, 2016 would be allowed to remain in their current school.
7 Jefferson County's position was that if we formed a school
8 system, we should be limited to serving those students within
9 the city limits. Is that --

10 MR. COLVIN: I think, originally, we really didn't
11 get far enough down the road to talking about what an
12 appropriate grandfather period could be because the proposal
13 was from Jefferson County's perspective, we needed funds to
14 construct an additional facility. That would provide the
15 equity for those kids from Gardendale's position. They said,
16 well, we'll grandfather them in lieu of that or instead.
17 Those were alternate proposals. So we really haven't -- we
18 haven't come to a point where we don't have resolution of that
19 issue. So we haven't come to a point where we would agree on
20 what a reasonable period to grandfather kids would be. I
21 think originally we had said a year or two would be sufficient
22 for us to get the facilities in place or for us to make
23 changes so that we would have adequate places for these
24 students to go. But that was just sort of preliminary
25 discussions. And we won't know that until we have resolution

1 of those threshold issues. I know that sounds confusing, Your
2 Honor.

3 THE COURT: No, what is confusing to me is that you
4 all are making all of these decisions and having all of these
5 negotiations amongst yourselves, and none of this has been
6 presented to this point to this Court so that the Court can be
7 part of the conversation, so to speak. So the Court is left
8 in a position of getting everything from you all for the first
9 time, once a number of steps have already been taken, which
10 makes it particularly challenging for the Court.

11 It seems to me that a more productive way to have
12 approached this, so that you all could be aware of any
13 concerns that the private plaintiffs and the United States may
14 have and that the Court may have with what you all are
15 proposing, would be something that could be part of this
16 process going all the way through. Because you are putting
17 all of the other people who are involved in this case in a
18 position of having very little time to absorb a whole lot of
19 information, that, again, potentially is going to have a
20 significant impact, and perhaps even putting this Court in a
21 position of vetoing what you all have spent all this time
22 doing. I don't know where the Court is going to come up --
23 because I frankly have no information so far.

24 So, you all have created this situation because of the
25 way you have approached it, and we'll see where it leads. But

1 I think you are starting to see at least that the Court
2 anticipates there being a good number of questions about the
3 impact that the decisions you all are making are going to have
4 on this case. I don't know this for a fact, but I suspect
5 from what I have heard so far this morning that the private
6 plaintiffs and the United States are going to have a good
7 number of questions.

8 It's up to you all whether you want to dive in and try
9 to get the Court involved now. I realize that February 24th,
10 23rd, 24th is next week. So we're not talking about a great
11 deal of time here. But I wish it had been handled otherwise
12 in terms of trying to anticipate and include the
13 considerations that this Court and this case have with respect
14 to the decisions that you all are making.

15 MR. SWEENEY: If you would permit me to respond,
16 number one, I think the most appropriate thing is to say I
17 recognize that the difficulties that we're presenting or will
18 present to the Court and to the parties. I recognize that.

19 On the other hand, I would say that both Jefferson
20 County and Gardendale, with their different decisions, have
21 always been mindful of a desegregation obligation; and all of
22 our planning for Gardendale, whatever the determination of Dr.
23 Bice has been with the understanding that we have got to be
24 mindful of our desegregation obligation. And third, what the
25 parties have done in this case is exactly what the parties

1 have done in every other municipal withdrawal -- Leeds,
2 Trussville -- we followed the same provision. Whit, who was
3 representing Pelham and Alabaster, and I represented Shelby
4 County. So I think the thought is that before we come to the
5 Court prematurely with some vague notions about what we want
6 to do, it's been our practice to say we need and have a plan
7 that the Court can look at that has been acceptable to the
8 parties and make whatever adjustments need to be based on the
9 desegregation concerns.

10 THE COURT: It seems to me that at this point in the
11 game, there are much more than vague notions among the
12 parties. And I am just expressing my concern again with the
13 timeline that you are presenting to the Court and with the
14 fact that rather than including the Court so that you would be
15 aware of concerns that the Court may have, rather than
16 including the Court in the discussion -- and of course, I
17 wasn't around for the previous municipal departures from the
18 county. I am only involved at this point.

19 MR. SWEENEY: I did not mean to be insensitive of
20 the concerns that we're presenting you.

21 THE COURT: But, I just think that things tend to
22 move more smoothly and efficiently if you know what the
23 Court's concerns -- potential concerns are. I have no idea
24 whether I will have concerns or not. I don't think it's --
25 the private plaintiffs or the United States probably know more

1 than I do simply because of the fact that they've been
2 examining data for the county as a whole much more closely
3 than the Court has so far.

4 But, you know, sometimes you just have to deal with
5 the situation which you find yourself. I am simply suggesting
6 how I think a more efficient and productive approach would
7 have been to dealing with the situation. We will play the
8 cards we've been dealt, though, and address it when the city
9 of Gardendale is ready to approach the Court.

10 MR. SWEENEY: I hope I did not sound insensitive to
11 the difficulties, Your Honor.

12 THE COURT: No, I understand. In terms of the
13 information about quality of education, the Court has just
14 begun examining test score information that's available on the
15 state website and the Department of Education website. But I
16 just wanted to make you all aware of the fact that the Court
17 is examining that information. If you all haven't done that
18 yet yourselves, that's probably a good exercise to engage in.

19 Ms. Lin-Luse, refresh my memory, do private plaintiffs
20 have an expert on board already with respect to student
21 assignment? I think you said you have somebody who is working
22 on -- is it Hoover, or is that individual working on both
23 Hoover and Jefferson County?

24 MS. LIN-LUSE: Your Honor, the individual will be
25 working on both cases but has been primarily focused in on

1 Hoover at this point because of the rezoning student
2 assignment proposal.

3 THE COURT: Okay. That individual, though, is going
4 to start examining the data for Jefferson County, as well?

5 MS. LIN-LUSE: Yes, Your Honor.

6 THE COURT: Okay.

7 MS. LIN-LUSE: If I may, Your Honor?

8 THE COURT: Yes, ma'am.

9 MS. LIN-LUSE: Our expert did have a presentation
10 and reviewed the data involved with the student assignment
11 plan in Hoover. One of the things that he highlighted and
12 presented to the board administrators, and also, it echoed a
13 concern I had shared on a previous visit which is the impact
14 of the stigmatization because of the island zoning and the
15 enclaves. And in fact, it is further echoed on our site
16 visits to schools, because both not only people get records
17 from board meetings -- or community remembers will refer to
18 the students as apartment kids. And because of the way the
19 zoning is -- and this particular last plan was focused in on
20 multifamily homes or apartment homes.

21 But also in talking to some of the principals and
22 staff in schools, referring to some students as apartment kids
23 versus community kids, and using community kids
24 interchangeably with white children, white students, and sort
25 of -- and using apartment kids more, not necessarily

1 interchangeably with students of color, but sort of it lends
2 itself to some concerns that we have regarding not just sort
3 of the academic impact of the student assignment and zoning
4 plans as they currently are and what was proposed, and now
5 must be set aside for review, but also a need for the district
6 to have a comprehensive diversity training and cultural
7 competency concerns. We have heard from parents at the high
8 school level, middle school, and elementary regarding not just
9 their concerns about faculty and staff and lack of diversity
10 there, but also the lack of sensitivity and engagement with
11 students of color.

12 And you mentioned sort of looking at academic data,
13 and when they are broken down by race, there are concerns. I
14 have looked primarily at Hoover. We'll be looking more at
15 Jefferson County, as well. But the concerns are sort of the
16 gaps between disparities between African American students and
17 other students within the district.

18 THE COURT: That's from my initial review, there do
19 appear to be gaps, racially, in student test performance. So,
20 that's one of the things that we'll need to take a closer look
21 at going forward to see whether that's anything that requires
22 input from the parties in this case or if there is an
23 explanation for that that isn't related to this case.

24 MS. LIN-LUSE: Yes, Your Honor.

25 MR. SWEENEY: Judge, with regard to that comment,

1 let me say that Ms. Singleton raised the same issue with us.
2 And without waiting for the Court to issue final directives,
3 the staff yesterday, in listening to those concerns, because
4 those were not matters that were really part of the
5 administrative mindset, that that was of concern, are
6 immediately going to begin addressing those attitudes, which
7 would be unacceptable if they had any impact on students.

8 We appreciated their candor in pointing that out to
9 us, and we also appreciate very much the fact that they
10 brought their experts in early on to make suggestions for us
11 of the kinds of things that would be acceptable to them so
12 that we can start with that basic understanding from both of
13 their experts.

14 MS. SINGLETON: Your Honor, just with regard to the
15 comment that Ms. Lin-Luse made about speaking to
16 administrators at the schools and the administrators
17 commenting about apartment kids and community kids -- I had a
18 slightly different interpretation of at least one conversation
19 I had with an administrator in which I was asking her about
20 kids from the community, and I think that she was using that
21 term in response to my question. And I did not get the
22 impression that she was labeling community kids as white kids
23 and apartment kids --- because she actually did say some of
24 the children from apartments are white. And so I didn't take
25 it that way, but I just wanted to add that. I don't have

1 those same concerns, at least with regard to that particular
2 conversation that I was a part of.

3 I also wanted to add, that again, we had a very
4 productive conversation yesterday with our expert and the
5 district. And the district did, to be fair, express concerns
6 about the enclaves and a desire to get rid of them and a
7 desire to work with us to do that. So I actually feel
8 optimistic about the direction that we're headed in.

9 THE COURT: Well, that is great to hear, and I
10 appreciate the fact that you all are working so well together.
11 That's tremendous. And it certainly helps the process move
12 forward much more productively. So thank you for that.

13 MS. LIN-LUSE: Your Honor, if I may, I am too
14 optimistic. Our experts met with the board administrators,
15 and they were receptive to his suggestions. With the issue or
16 the comment around apartment kids is something that I have
17 heard on numerous, numerous school site visits and from
18 various administrators. I think it is not necessarily a -- I
19 cannot say for sure what is the underlying feeling or
20 motivation for those, but I think the zoning itself lends
21 itself to that sort of stigmatization. And that that is of a
22 concern given that that burden of the zoning is borne by
23 African American students.

24 So I think sort of what we are looking for the
25 district to do and what we will be beginning to raise and work

1 with our experts and work with the board is to have a real
2 culture shift to be able to deal with what they have
3 identified and what is changing demographics in the school
4 district, but to do it in a way that will have positive
5 academic outcomes for students and lead to an equitable
6 experience for all students.

7 THE COURT: Well, what I am hearing is that the
8 board is -- excuse me, the Hoover system is very receptive to
9 those conversations and is willing to be proactive in
10 addressing any issues that the parties working together
11 identify. So I think that's a terrific way to continue
12 working together.

13 Mr. Sweeney, please express the Court's thanks to the
14 administrators with whom you are working for their willingness
15 to hear constructive criticism, it sounds like, and take that
16 as an opportunity to improve the school system. So I
17 appreciate that very much.

18 I am looking at page 20 of the parties' joint report.
19 It has to do with faculty and staff in the Hoover system. It
20 mentions the system's inability to retain nonwhite faculty and
21 staff. So, is it the case, Mr. Sweeney, that part of the
22 challenge isn't simply identifying and hiring nonwhite faculty
23 and staff, but for some reason there's a higher attrition rate
24 for nonwhite faculty and staff?

25 MR. SWEENEY: That is correct. There may be

1 multiple reasons for that. But one of the reasons that the
2 parties discussed at quite some length is how beneficial it
3 will be if we continue to increase our minority representation
4 at the leadership level to make sure that, for example, more
5 assistant principals, more principals that are African
6 American, so that staff feels comfortable working in an
7 environment where there are more African Americans in those
8 important positions. The district has made significant
9 progress the last five years in that regard.

10 THE COURT: It has.

11 MR. SWEENEY: But that was one of the components
12 that both the Justice Department and the LDF indicated that
13 they thought was encouraging. But why we're losing other
14 people, we're somewhat at a loss because we didn't do exit
15 interviews on all of them. So I am not sure. But we will
16 pursue that so that we have a better feel of why we're not
17 keeping them.

18 THE COURT: Okay. Mr. Sweeney, what is the
19 Crossroads school, please?

20 MR. SWEENEY: I am sorry.

21 THE COURT: What is the Crossroads school? It's
22 mentioned on page 22 of the parties' joint report. It's an
23 alternative school.

24 MR. SWEENEY: Where is it located?

25 THE COURT: In Hoover.

1 MR. SWEENEY: Y'all visited that, and it's changed
2 its location, and it's --

3 MS. LIN-LUSE: Were you asking what the --

4 THE COURT: I just am curious what it is. Which
5 students does it serve?

6 MS. LIN-LUSE: It actually has two --

7 MR. SWEENEY: Which students rather than where.
8 There are two components to the Crossroads for alternate
9 school. One is more students that have special needs in terms
10 of counseling, structure; students that have returned to the
11 system for some reasons whether they have been assigned to
12 through DHR, through other places. They need a transition to
13 find out where they are. The other area of the alternative
14 school is for students that are assigned there in lieu of
15 suspension or expulsion for continuing education.

16 THE COURT: So it's part of the discipline process
17 per se?

18 MR. SWEENEY: One part of it is. We try not to
19 suspend students from school but to keep them in school, and
20 that's one of the remedies that allow them to do that.

21 THE COURT: Okay. For Jefferson County, to help
22 understand the facilities review, it would be helpful -- if I
23 don't have it already, and I haven't seen it, but again,
24 there's a lot I am trying to wrap my hands around right now --
25 if I can get information about the age of each of the schools

1 in the system, please, and when updates most recently were
2 made to each of the schools in the system, that would be
3 helpful. If you can share that information with the Court and
4 with all parties, that would be terrific.

5 MR. COLVIN: Absolutely. That's one of the things
6 that plaintiff parties and the Justice Department have asked
7 for, and we are in the process of compiling that information.

8 THE COURT: Great.

9 MR. COLVIN: We are happy to share everything we
10 have, including our old facilities analyses as much as you all
11 want, as much as the Court wants, and as much as the plaintiff
12 and Justice Department want, we're happy to share it.

13 THE COURT: In the report that Jefferson County
14 filed with the Court on February 11th, Exhibits 10 and 11 to
15 the report have to do with transfer requests. Exhibit 10 is a
16 description of the transfer requests that were granted, and
17 Exhibit 11 is a description of the transfer requests that were
18 denied.

19 The Court has made an initial review of those transfer
20 requests. And what the Court has learned, at least from a
21 cursory review of those two documents, is that of the 734
22 transfers that were approved for the past school year, 49 of
23 those were based on racial requests for transfers; eight of
24 those 49 requests were by Caucasian students; the rest were by
25 African American students.

1 Of the transfer requests that were denied, 105 of the
2 197 requests that were denied were requests based on racial
3 transfers. Only six of those 105 denials were by Caucasian
4 students. The rest were by African American or mixed-race
5 students. On the surface, that jumps out to the Court as
6 raising a red flag.

7 I think the Court needs to know more about those
8 transfers, and particularly, the denial of those transfers.
9 If you have any information, Mr. Colvin, that you want to
10 share today, I am delighted to hear from you. If you want
11 some time to examine that yourself and then provide
12 information to the parties and to the Court, I would be happy
13 to approach it that way.

14 MR. COLVIN: If I might just offer an observation
15 and then take that second step of providing you more
16 information, because I have not looked at it -- what I know
17 from my experience is that a good number of the racial
18 desegregation transfers we get are -- they are African
19 American students at predominantly African American schools
20 who want to go to other schools that are either majority
21 African American or whose racial compositions aren't such that
22 we could grant those transfers.

23 THE COURT: Under the transfer rules that you have.

24 MR. COLVIN: Exactly. Yes, ma'am. So for example,
25 lots of -- it's just anecdotal, and I would have to look

1 through them to see, but we see lots of transfer requests
2 from, say, Centerpoint High School, which is almost a hundred
3 percent African American to, say, Clay Chalkville or Shades
4 Valley. If you look at those, the most recent, I think,
5 evident compositions of those schools -- I have got to find it
6 first. I have it right at my fingerprints -- but Shades
7 Valley is 60 percent African American. So because the way our
8 racial desegregation transfers work, you know to be
9 desegregative, in effect, it has to actually move both schools
10 closer to the system-wide average. While in that case it
11 would move one school, Centerpoint, closer to district-wide
12 average, it would move Shades Valley farther away from it. So
13 my guess is that that accounts for the difference in denials
14 based on -- it's not based on racial categories, but that
15 result in a difference based on racial categories. I can't
16 swear to it, but that's my suspicion.

17 THE COURT: Well, if you will look into that,
18 please, and let us know what you find, that would be great.

19 MR. COLVIN: Absolutely. And Your Honor, how would
20 you like that communicated to the Court as a report or a
21 letter?

22 THE COURT: Why don't you begin by conferring with
23 counsel for the private plaintiffs and the United States so
24 that if they have questions, you can go back, and you all can
25 reach a point where you feel like you are ready to report to

1 the Court. And when you are ready to report to the Court on
2 that, why don't you just file a supplement to your report that
3 addresses that topic.

4 MR. COLVIN: Okay. There may be some outliers in
5 the requests. I don't approve those. We present them as they
6 were granted to the Court and don't -- obviously don't go in
7 and revise things. So, it would not surprise me if we did see
8 one or two -- if there are some mistakes in there, it wouldn't
9 shock me.

10 THE COURT: So it is a good exercise?

11 MR. COLVIN: It is a good exercise, yes, Your Honor.

12 THE COURT: So good. Well, you know, all I can do
13 is look at the raw numbers. And so that's why I say the raw
14 numbers themselves raise a red flag, but there may be a
15 perfectly legitimate explanation for the numbers that there
16 are. It's important to make a record and make sure that we
17 can explain those. If they can't be explained, then we need
18 to address it.

19 MR. COLVIN: Yes, ma'am. If they can't be, or if
20 they are not explained adequately, then we need to fix it.

21 THE COURT: Yes. Okay. All right. So, I think the
22 bottom line of what I hear from everyone this morning is that
23 you still are in the process of doing a lot of information
24 gathering. Is that fair?

25 MS. LIN-LUSE: Yes, Your Honor.

1 MR. COLVIN: Yes, Your Honor.

2 THE COURT: Would you all tell me what your best
3 educated guess is as to when you think you will have a good
4 grasp on all of the information that you all are trying to
5 corral and review. Because I think probably the next step
6 needs to be having a hearing that needs to be open to the
7 public at which the parties review for the Court all of the
8 base line information that they have. And I need to learn
9 more from you all. There are a number of references in your
10 joint report to the possibility of a proposed consent decree
11 from the parties. My goal is to establish the base line and
12 then come up with a timeline for developing a proposed consent
13 decree. And that proposed consent decree, assuming the
14 parties are able to work together well and come up with that
15 proposal, would have built in time frames for reporting. And
16 once the record is built with showing that under each *Green*
17 factor there has been adequate compliance with the parties --
18 well, with the board's and the city's obligations, that the
19 parties would then move for unitary status on the various
20 *Green* factors as you reach a point at which you have
21 demonstrated compliance over a reasonable period of time.

22 So tell me, what do you all think about the amount of
23 time you all need to get us to a position where we can take
24 that next step?

25 MR. SWEENEY: At the risk of being presumptuous,

1 Your Honor, may I make two comments? One, the parties or at
2 least the parties have discussed with Hoover have made the
3 suggestion that we will probably be on a different time frame
4 and schedule than Jefferson County just because of the size of
5 Jefferson County. So I mentioned that, and I know the parties
6 will have comments on that, as well.

7 The other aspect that I would like for the Court to be
8 considerate of is the experts that were presented to us
9 yesterday both thought that to implement zone changes,
10 staffing, transportation, and those important matters for the
11 2016 school year, we would need to know by January what the
12 zone lines and transportation and so forth would be acceptable
13 to the Court. So, one of the discussions was we need at least
14 six months in order to make all of the adjustments in that
15 regard. So we would need to come back to the Court at least
16 by end of the December, if that's feasible.

17 THE COURT: Is that what the plaintiff anticipates?

18 MS. LIN-LUSE: I think that's a fair or an accurate
19 description of when the district would need to have a
20 finalized zoning plan in order to properly implement it. It's
21 somewhere, the same in all districts, somewhere between kind
22 of January or February -- March is too late in order to get
23 things set up for the following school year to give parents
24 enough time to notice. I think that working backwards from
25 that, however, that would require a belief -- potentially

1 looking for a comprehensive consent decree, then that would
2 also have to be in place in time -- a zoning plan would
3 perhaps be a part of that or could be because the consent
4 decree lays out the development of the zoning plan. So I
5 think there is some flexibility in there.

6 I think it's also accurate to say that Jefferson
7 County, given the size, you know, it's going to be a slightly
8 different information gathering timetable than Hoover. And
9 the other major factor, I guess, to consider is Hoover
10 currently has an interim superintendent and sort of, you know,
11 how the parties would like to move forward with what kind of
12 agreement to put in place working with an interim and having a
13 new superintendent starting over.

14 I have a lot of ideas about the factors, the timing of
15 it. I think that is a little difficult. I would think giving
16 at least, I would say, another four to five months to at least
17 four months to do information gathering in Jefferson County.
18 I think on some things, it could be done much shorter, but I
19 think particularly for the facilities review component,
20 because given the number of schools, I think that is something
21 that sort of puts us in a kind of a difficult position. So we
22 could have information gathering in a couple of months on some
23 of the other factors. But the factors that we really need to
24 be able to look at a good portion of the facilities, I think
25 will take longer.

1 THE COURT: Ms. Singleton, on the Hoover question.

2 MS. SINGLETON: Yes, Your Honor. I think the United
3 States should be able to review the data in Hoover in the next
4 couple of months. Because the district has provided most
5 everything that we have requested already, so I think we are
6 on a much shorter time at least for reviewing the factors --
7 the data and providing feedback to the Court.

8 THE COURT: All right. Mr. Sweeney, help me
9 understand a little bit better, please, the rezoning that
10 Hoover would like to do for its school system. It sounds like
11 this is fairly comprehensive rezoning; is that fair?

12 MR. SWEENEY: That is fair. I have not dialogued
13 with the board itself because we met yesterday to have the
14 benefit of their suggestions. The planning staff or rezoning
15 were all receptive to the general concepts that were
16 presented, and we'll go forward with that. The experts we're
17 going to share, particularly the -- is it Matt Cropper -- had
18 extensive data and had spent a lot of time on the information
19 that we had submitted and was willing to share all of that
20 with us, including how his comprehensive zoning would achieve
21 acceptable goals to them. He indicated that that was not a
22 final determination -- and I don't know that the Justice
23 Department has given final approval to what he was
24 submitting -- but he has advanced the discussion considerably
25 from what he presented yesterday. And I hope we will get that

1 data in the next few weeks from him and begin planning from
2 there.

3 We explained candidly with him that while we were very
4 impressed with how sensitive he was to the zones that he was
5 proposing that there were idiosyncratic aspects of it in terms
6 of geography and interstates and some of those things that
7 will require a good bit of dialogue, and that will have to
8 take place.

9 THE COURT: Help me understand, please, the
10 procedure that the school system is going to use as it
11 develops its rezoning plan. It sounds like there needs to be
12 a lot of internal conversation to come up with what the system
13 envisions as its best option for zoning. Is there then a
14 public component? Is there an opportunity for public comment?

15 MR. SWEENEY: The suggestion of Mr. Cropper
16 yesterday was that that would be beneficial. To what extent
17 we have that whether the four or five different plans be put
18 out for consideration, or one preferred plan where it matters
19 that we had considerable discussion yesterday. As you know,
20 the rezoning plans that were of debate this fall were very,
21 very divisive. And we need to make sure as we go forward with
22 plans that we try to minimize that and not close down
23 discussion but not to allow that to continue to the point that
24 it really delays implementation of a plan.

25 THE COURT: Right. It's a delicate balance, I

1 think. But an important part of the equation, if you don't
2 engage the public and understand what the public's concerns
3 are, then you risk having backlash after you put something in
4 place -- and the public may have some very legitimate
5 information to contribute to the process. But the goal is to
6 gather that information in a way that isn't divisive within
7 the city, because everybody's goal is to do what's best for
8 the children. The students are what it's all about.

9 MR. SWEENEY: We thought that the experience of Dr.
10 Stephens and Mr. Cropper, both, and Powell, they have been
11 able to achieve rezoning in the systems that they have advised
12 were very helpful. And they made suggestions of systems that
13 we should consult with that have recently gone through this
14 which we thought were excellent ideas.

15 THE COURT: And my experience has been that the
16 Department of Justice actually has a group that will
17 facilitate these discussions. I don't know whether you all
18 have talked about -- can you remind me of the name of the
19 group? They've been engaged in the Huntsville process.

20 MS. SINGLETON: I haven't worked with them. Is it
21 Community Relations?

22 THE COURT: Yes, ma'am. Yes, ma'am. And from what
23 I have gathered, they are effective and do a good job of
24 helping communities have these discussions. So that's an
25 option that the city may want to consider if the Department of

1 Justice is willing to share that resource with the city.

2 So, as of right now, it sounds like all of this is
3 still in the beginning stages of discussion. You all don't
4 really have a concrete plan yet for how you are going to work
5 through the process. Is that fair?

6 MR. SWEENEY: I think the concept that was presented
7 yesterday was pretty innovative as far as the staff were
8 concerned about the potential of what could be achieved by the
9 concept that they were suggesting, and I think that's why they
10 were so receptive to it.

11 THE COURT: So that's a starting point.

12 MR. SWEENEY: Yes, ma'am.

13 THE COURT: Help me then understand, please, what
14 sort of timeline -- what I am trying to understand is two
15 things. What sort of timeline do you need on the student
16 assignment piece, and are you talking about a timeline that
17 embraces all of the *Green* factors, or is the student
18 assignment piece something that we need to address
19 individually, just because if you want a zoning plan in place
20 for the upcoming school year, you need that answer right away,
21 and then you can go back and build in the rest of the *Green*
22 factors into a global proposal for the Court.

23 MR. SWEENEY: It might be appropriate, Your Honor,
24 for me to defer to the parties for them to share with the
25 Court how profound the challenges are that they're seeing in

1 Hoover rather than for me. At some point, we discussed -- or
2 there was a suggestion that with regard to these rezoning that
3 they hope to be in a position to work pretty definitively with
4 us by July. But that is not a conversation that is taking
5 place this week as they have come to the schools, so I don't
6 know if that's changed or not. But we're not looking at a
7 change of zoning for Hoover before the 2016, 2017 school year.
8 Not for the next school year.

9 THE COURT: Okay.

10 MS. LIN-LUSE: Your Honor, I think given -- you
11 know, we put together the joint report and kind of where we
12 felt like things were. I think we did discuss things like
13 July. I think given sort of what we have learned this week
14 and what we have heard from our experts regarding sort of a
15 much more comprehensive change to how Hoover is zoned and
16 organized, and also how connected those issues are with many
17 of the other *Green* factors including the quality of education,
18 transportation, that -- and given how new this is to sort of
19 all the parties given that we just had this conversation over
20 the past two days -- I wonder if it would be agreeable to the
21 Court if the parties conferred and put together a proposed
22 sort of timeline and submitted it to the Court within a
23 reasonable amount of time. That would give us an opportunity
24 to sort of lay out what we think might be achievable, and
25 given particularly the zoning issue and whether or not it

1 needs to be addressed separately, particularly the district
2 doesn't know how it wants to go about putting together the
3 zoning plan.

4 MR. SWEENEY: Judge, the July month --

5 THE COURT: I am going to take a timeout for just a
6 second because there's somebody very important who I have to
7 speak to.

8 Chanetta, do you need a break for a minute?

9 THE COURT REPORTER: Yes, Your Honor.

10 (Brief recess taken.)

11 (In open court.)

12 THE COURT: All right. Mr. Sweeney, you were
13 getting ready to say something when I interrupted.

14 MR. SWEENEY: The interim superintendent indicated
15 that he would be reluctant to say race definitively over any
16 plan at the end of our discussion yesterday. However, we were
17 just talking that that should not impede the process. The new
18 superintendent may not come on board until the 1st of July.
19 The parties have indicated they can present us with a schedule
20 that can accelerate the process. And I would like to hear
21 their proposal. They have done this with other systems. I
22 think we can move forward.

23 So if it is agreeable with the Court, we would like to
24 continue the dialogue and submit a proposal based on what
25 additional data and so forth; inspections, we may want to come

1 back to see additional schools and then come to the Court with
2 a proposed timeline.

3 MR. FALKINBURG: Your Honor, may I ask a question,
4 and this is in relation to the timelines?

5 THE COURT: Yes, sir.

6 MR. FALKINBURG: Do you -- I think it will apply to
7 both school districts -- do you have a notion and/or a
8 preference or a thought about what the priority is because if
9 the priority is to have say one or two, or potentially three
10 of the *Green* factors declared unitary in a separate document,
11 I think that speaks to a different timeline as opposed to a
12 more comprehensive document that would address all of them.
13 Because some of these on both of the districts are more
14 complicated and are probably going to require experts, and you
15 know, a lot of data analysis.

16 But if the Court's preference is to just narrow the
17 focus and get some of these factors done, you know, that might
18 be a shorter timeline. And if you want the parties to focus
19 on that and present partial unitary status documents on them,
20 that speaks to a little different process. Does that make
21 sense?

22 THE COURT: It does, but let me ask you this
23 question, I need to know what you think -- *Green* factors that
24 take in isolation -- and isolation may seem close to unitary
25 status, may actually play a role in advancing some other *Green*

1 factors.

2 So, for example, transportation may be something that
3 if you examine it by itself, it may seem like transportation
4 is well on its way and is something that the parties could
5 present to the Court for declaration of unitary status.

6 However, if transportation potentially could play a
7 role in assisting in addressing racial inequities in student
8 assignment, and you want to make sure that you have the
9 ability to include transportation in that discussion, is that
10 something that you want to have released from Court oversight?
11 That's a question for you.

12 MR. FALKINBURG: Right, and I am thinking in
13 connection for potentially Gardendale because that would be
14 something -- as mentioned earlier about onerous travel times
15 for the students are no longer in the city system. Sure,
16 obviously all of them bleed into one another. There is
17 potential overlap.

18 THE COURT: So what I am wondering is to formulate a
19 plan going forward, does it make sense to look -- to keep all
20 of the factors on the plate initially so that you can come up
21 with the plan. And then once the plan is in place, it may be
22 that we can start addressing certain factors and going ahead
23 with a declaration of unitary status on those factors. But I
24 think your question to me was do I want to see, right away,
25 Green factors on which the parties right now believe they can

1 request a declaration of unitary status? Just thinking
2 through these next few months and the work that you all are
3 going to be doing, one option is just keeping everything on
4 the table for purposes of discussion and planning. Let us
5 come up with -- let you all come up with and propose to the
6 Court a proposed consent decree, or how ever you want to
7 present to the Court, the plan that the parties are able to
8 develop, and then we'll see from there how we address
9 individual *Green* factors. That's just a thought, though. And
10 I am happy to hear from you all on what you think is most
11 appropriate.

12 MS. LIN-LUSE: Your Honor, private plaintiffs would
13 prefer a more comprehensive approach in keeping all the *Green*
14 factors on the table, particularly, because of how integrated
15 they are with each other and also because in Jefferson County
16 there's the Gardendale question, and that will have a lot of
17 impact on a variety of other -- just the status of the county.
18 And then as well with Hoover going through a very
19 comprehensive rezoning plan right now, and both of those
20 things, you know, really cover a lot of *Green* factors that we
21 want to come up with a timeline or approach that keeps
22 everything on the table.

23 THE COURT: And it may be, thinking through this
24 just from a very practical perspective, that what the parties
25 need to focus on and tackle initially is the Gardendale

1 situation. And to the extent that Hoover needs to have a
2 conversation with the parties about rezoning, that may need
3 immediate attention, and then it may be that if you all are
4 directing the majority of your resources to those two
5 hot-button issues, that once you have the opportunity to
6 examine whatever information is presented on those issues,
7 that you would then be able to come up with a global plan for
8 all of the *Green* factors in a potential consent decree, or
9 whatever proposal the parties want to make to the Court. It
10 almost seems premature with respect to the county to come up
11 with a global plan until everyone knows what's going to happen
12 with Gardendale because of the impact that that may have on
13 the racial composition of the county and the student
14 population of the county.

15 So, how many students are we talking about being
16 withdrawn from the county if the Gardendale proposal goes
17 forward?

18 MR. COLVIN: I think it's about 1400. 1200?

19 MR. SWEENEY: A little more than 2000.

20 MR. COLVIN: It's about four percent, I think, of
21 the student population.

22 THE COURT: Okay.

23 MR. COLVIN: Your Honor, I may complicate things a
24 little more in just a moment.

25 THE COURT: Please.

1 MR. COLVIN: Why not, right? And my new
2 superintendent, Dr. Craig Pouncey, he has actually talked to
3 the parties about this. We kind of alluded to it. But the
4 Jefferson County board, they've been great stewards of the
5 public's money. They have saved lots of money. But they're
6 in a situation because of the economy and other factors where
7 there's about a ten-million dollar cash burn every year. This
8 is a system with a 300-million dollar budget, so that's a lot
9 of money. Fortunately, they had about 80 million dollars
10 saved up.

11 But at some point the new superintendent came in, and
12 he said it's fine that we did that for a while, hoping things
13 would turn around, but we're going to have to look at any and
14 all measures to get back to even. You know, we're not
15 spending more than we're taking in in each year.

16 And while I don't have any specific proposals today, I
17 just did want the Court to be aware that he is a doer. I
18 mean, he gets down to business and gets a plan, and everything
19 is on the table. I don't think that we'll be able to cut ten
20 million dollars a year with very simple cuts. So, he is
21 looking at economy's a scale of deficiencies, and those sort
22 of things; the things that may have an impact on this case
23 like grade reconfiguration and possible school zone
24 modifications, or even closing schools possibly that have
25 really, really low numbers of children. We haven't talked

1 about these sorts of things with the parties. And Monique is
2 looking at me like -- I am sorry, Ms. Lin-Luse is looking at
3 me like, why are you dropping this right now?

4 We are not asking for any sort of permission, but I
5 just wanted that to be on your radar, as well, so you would
6 know amidst the rest of these complexities that that may be in
7 the mix at some point, too. As with everything that I do in
8 this case -- and I know Donald does as well -- we would
9 certainly coordinate that -- collaborate all of those sorts of
10 things with our colleagues across the hour before we would
11 bring anything to the Court. But that may be out there, too.
12 So that could sort of jump to the front of the line depending
13 on how important those things become.

14 THE COURT: Okay.

15 MR. COLVIN: I am sorry in advance.

16 THE COURT: Please don't apologize. If there's
17 anything else along those lines, it's great to hear about that
18 now so that I have a better sense of what may be coming down
19 the road.

20 MR. FALKINBURG: Judge, I just want to make it
21 clear, my statements were not to convey that the United States
22 had a preference. What I was trying to see was if the Court
23 had any preference so that, if, in a couple of months you
24 didn't have partial unitary status, and then you said, well, I
25 thought everyone was in agreement on this factor, why don't I

1 see it in front of me, that you were not under any
2 misapprehension or anticipation of a particular process. But
3 I don't have a preference one way or the other. I was trying
4 to see if the Court did.

5 THE COURT: Let me suggest this -- and you all tell
6 me what your reaction is to this. It sounds like by the
7 middle of next week, everybody will have a better sense of
8 what the situation is with Gardendale. So maybe it is a good
9 idea for the parties to confer with each other toward the end
10 of next week and try to understand what the outcome of the
11 Gardendale situation means for this case and what steps need
12 to be taken in this case.

13 And you all have a telephone conference with each
14 other, and come back to the Court with a report about the next
15 steps and a timeline for the next steps. Those next steps may
16 be a report that you all want to tackle Gardendale and then
17 take on some of the *Green* factors. It may be we think we can
18 do all this at once, and so here is how we would like to
19 proceed. I have no idea, and I would leave that up to you all
20 because you all know much better than I do what work you need
21 to do and how much time you think that's going to take. But
22 let me hear from you all.

23 Does that sound like a logical way to go forward? And
24 if not, what would you propose as an alternative?

25 MR. COLVIN: That sounds great to me, Your Honor.

1 That sounds like a great way to proceed.

2 THE COURT: Okay. Mr. Sweeney, that gives you a
3 week or so to be consulting, wearing your Hoover hat with the
4 administrators in Hoover to try to understand what their
5 preferences would be with respect to do we tackle zoning by
6 itself, or do we want to go ahead and have a conversation with
7 the parties on all topics and try to come up with a global
8 plan? I understand your point, and it's well taken that the
9 timeline for Hoover and for the Jefferson County board, in all
10 likelihood, is going to be different. And I think it makes
11 sense to separate them out for purposes of coming up with
12 proposed consent decrees and for setting hearings and those
13 sorts of things.

14 My goal in this exercise was just to help us all
15 understand where we are and what we need to do to get moving
16 forward in an efficient manner. Does that make sense for your
17 purposes?

18 MR. SWEENEY: It does, Your Honor, but let me share
19 my bias in that regard.

20 THE COURT: Okay.

21 MR. SWEENEY: Based on the discussion that we've had
22 this last week with the parties, I think the *Green* factors, as
23 they apply to Hoover, are intra-related and will have to be
24 blended in a way that moves all of the *Green* factors forward
25 as you were suggesting earlier. I think that's what we're

1 going to have to do.

2 THE COURT: Okay. Fair enough. And I will tell you
3 my bias, Mr. Sweeney, on an item that you just mentioned --
4 and I appreciate your willingness to try to advance a plan for
5 the Hoover system as quickly as possible. I would be
6 reluctant to reach any sort of final plan for going forward
7 without having the new superintendent have the opportunity to
8 review that. I think just in terms of how you help somebody
9 get on board and begin tackling whatever challenges and
10 opportunities that individual may face, because it's something
11 that is going to play a role in so many -- as you point out,
12 so many different facets of the system's operation.

13 While you all can certainly do a lot of work and have
14 a game plan ready to go, I would be reluctant to present that
15 for final approval of the Court -- just a game plan, not any
16 declaration of unitary status -- without having the new
17 superintendent have an opportunity to examine it and maybe
18 have some discussion about it.

19 MR. SWEENEY: I appreciate so much your empathy and
20 respect for that process. I do think that's important. And
21 thank you for understanding that better than I did when I
22 commented earlier.

23 THE COURT: No, no, no, and you know school systems
24 better than I do, so if you disagree with me, I am happy to
25 hear that. But that just seems to me -- I think if anybody

1 who is taking on that level of responsibility, you need to do
2 as much as you can to help make the transition as smooth as
3 possible.

4 MR. SWEENEY: We just are committed to the parties
5 to move forward to the full extent possible. But that doesn't
6 require a final decision until someone comes on. But they
7 have just been -- they're so vitally aware of the needs of the
8 system and that adjustments right now, we want to capitalize
9 on that.

10 THE COURT: Sure. And if the parties have a concern
11 about what -- I mean, if the plaintiffs have a concern about
12 what the Court just said, please let me know in terms of
13 timing.

14 MS. LIN-LUSE: Your Honor, I think that in the
15 discussion that Mr. Sweeney and I had during the break, I
16 think the idea was that we didn't want to push pause until the
17 new superintendent came in.

18 THE COURT: Right.

19 MS. LIN-LUSE: But we wanted to keep moving in the
20 conversations. And in a lot of the review, I think both
21 internally, and sort of, you know, the folks that are -- the
22 school board and the district employees that are already going
23 to need to be doing a lot of -- coming up with a lot of ideas
24 and plans and those things should and could -- should be
25 happening and can happen.

1 THE COURT: Right.

2 MS. LIN-LUSE: So we want to continue with those
3 conversations. And so then when the new superintendent comes
4 in, there is some outlines of what can be done is on the
5 table. So that's no final decision, but sort of a narrowing
6 and moving things forward.

7 THE COURT: Okay. Katie -- or Tammi, can you give
8 me the date that is two weeks from next Friday, please?

9 THE COURTROOM DEPUTY: Yes, ma'am, just one second.

10 THE COURT: Sure.

11 THE COURTROOM DEPUTY: March the 13th. It's on a
12 Friday.

13 THE COURT: By March 13th, why don't you all give us
14 an update, please, on where you are in your discussions about
15 scheduling. If you don't have a schedule ready yet, why don't
16 you just do that by e-mail to Katie Gibson. Make sure,
17 please, that you copy everybody on your e-mails when you are
18 sending those so that we don't have any ex parte
19 communications.

20 With respect to the city of Gardendale, it may be that
21 you all need to approach the Court before March 13th. I will
22 leave that up to counsel to decide how we're going to approach
23 that situation. But at least in the bigger picture, in terms
24 of the schedules that we've been talking about, if you all can
25 give us an update on March 13th, please.

1 What we'll do is once you all have a final plan in
2 place, I will probably set up a telephone conference so that
3 we can just talk about it a little bit, and then you all can
4 continue on your work, and we'll see what we need to do in
5 terms of setting any hearings, and that sort of thing.

6 I appreciate all the hard work you have put in so far.
7 It is terrific to hear about the collaboration that's going
8 on. So, please, convey to everybody involved how grateful the
9 Court is for the work that you are doing and the efforts that
10 you have made to work with one another to come up with some
11 good resolutions of the issues that the parties have to try to
12 tackle and resolve in this case.

13 Before we break, do you all have any questions?

14 MR. SWEENEY: Not a question, but just in reaction,
15 Judge. You have been patient with us to provide additional
16 information. It's obvious to me that you and your staff have
17 already reviewed that information and are putting an enormous
18 amount of time and consideration into these important issues.
19 And I am sure I speak for all the parties how grateful we are
20 for what you are doing.

21 THE COURT: Well, it's always a privilege to work --
22 it's a privilege to work on any case. But cases like this,
23 like I said, they're all about the students and the community
24 and trying to make sure that they receive from the Court the
25 attention that cases like this require. And so, it's a

1 pleasure and a privilege.

2 So, I enjoy working with you all and look forward to
3 hearing from you all again in the case. So safe travels back
4 to D.C. -- and Ms. Lin-Luse, you all are in D.C., too?

5 MS. LIN-LUSE: New York.

6 THE COURT: Well, travel safely, and let us know if
7 you all need anything from us. A quick e-mail or a telephone
8 call to Katie, we can set up a telephone conference if
9 anything should come up and you want to talk to us about it.
10 Okay?

11 ALL COUNSEL: Thank you, Your Honor.

12 THE COURT: Have a good day. Take care.

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