

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

KENNETH W. ADAMS, et al.,

Plaintiffs,

v.

RANKIN COUNTY BOARD OF
EDUCATION, et al.,

Defendants

Civil Action No. 3:67-CV-04156-
KHJ-MTP

PLAINTIFFS' PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW

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PROPOSED FINDINGS OF FACT

I. INTRODUCTION

1. Before the Court is a motion for unitary status filed by Defendant, the Rankin County School District (“RCSD” or “District”), alleging that it has eradicated the vestiges of *de jure* segregation identified by this Court in 1967. ECF 98, 99. The pending motion seeks unitary status in four remaining areas under Court supervision: student assignment, faculty and staff assignment, extracurricular activities, and quality of education in the area of discipline. Plaintiffs oppose the motion as to each area, ECF 150, and have requested the opportunity to submit a motion for further relief if the District is denied unitary status. *Id.* at 2 n.1.

2. From September 16 to 18, 2025, this Court held an evidentiary hearing on Defendant’s motion. The District was required to prove through clear and convincing evidence that it had fulfilled its affirmative desegregation obligations under the operative Court orders and consent orders in the areas of student assignment, including between-school and within-school student assignment; faculty and staff assignment; extracurricular activities; and quality of education; and that it had eradicated the vestiges of *de jure* segregation.

3. After carefully reviewing the testimonial evidence, exhibits, and briefing, and for the reasons stated herein, this Court finds that the District has failed to meet its burden.

4. The District has failed to comply with the terms of the operative Court and consent orders in this case and has, in addition to and because of this lack of compliance, failed to eradicate the persistent vestiges of *de jure* segregation. Because of the District’s failures, Black students in Rankin County schools continue to attend schools with student bodies and faculties that signal they are for one race; face barriers to participation in advanced and specialized courses and extracurricular activities; and are subject to harsher and more frequent discipline than are White students.

5. As to student assignment, multiple schools in the District continue to have racially identifiable student bodies that signal that the school is intended for one race – the race which that school served under *de jure* segregation. Where the District offers more rigorous courses, those opportunities are denied to Black students. The District has several all-White or nearly all-White advanced placement classrooms and employs a discriminatory referral process for its gifted program.

6. As to faculty and staff assignment, the District has failed to comply with provisions of the operative Court and consent orders, requiring that the proportion of Black faculty and staff in each school be substantially similar to the proportion districtwide. This is directly attributable to the District's actions. The District has repeatedly overlooked qualified Black teacher candidates in favor of White candidates that were less qualified or equally qualified, sometimes failing even to check references for top-scoring Black candidates. While the District is required to use attrition to increase the proportion of Black faculty and staff, it has routinely filled vacancies from departing Black and White teachers with only White teachers. The District has also failed to effectively seek out and recruit Black educators. As a result, multiple schools have had racially identifiable faculty and have disproportionately employed the race that they served under *de jure* segregation.

7. As to extracurricular activities, the District has several schools with no or nearly no Black representation among extracurricular faculty, sponsors, and coaches, signaling that those schools' extracurricular activities are not open to Black students. The effect is pronounced: there are dozens of activities at the District's high schools and junior high schools that have zero participation from Black students. And while the District has a policy that allows it to waive its

often-burdensome extracurricular fees, it has not used that policy to increase Black students' access to extracurricular activities.

8. The District's discipline data demonstrates alarming discrimination affecting quality of education and student assignment. Statistical analyses presented by Plaintiffs' expert show that the District disciplines Black children at higher rates, more often, and more harshly, even for comparable behavior. This pattern is the direct result of the District's policies and inaction. The District's subjective policies and lack of training invite bias and discrimination, resulting in the disparate and discriminatory discipline that continue to plague Black students.

9. Based on the Court's findings of fact and conclusions of law below, Defendant's motion for unitary status as to student assignment, including between-school and within-school assignment; faculty and staff assignment; quality of education; and extracurricular activities is therefore **DENIED**. Plaintiffs' request for leave to file a motion for further relief is **GRANTED**.

II. PROCEDURAL HISTORY

10. On August 1, 1967, Plaintiffs initiated this action on behalf of a class of Black schoolchildren, alleging that the Rankin County School District continued to operate a racially segregated school system more than thirteen years after the Supreme Court declared de jure segregation in public schools unconstitutional in *Brown v. Board of Education*. ECF 83-1. The Court swiftly and permanently enjoined the District's unconstitutional conduct, prohibiting it "from discriminating on the basis of race or color in the operation of the Rankin County School system" and ordering it to "take affirmative action to disestablish all school segregation and to eliminate the effects of the dual system." ECF 105-1 at 1 ("1967 Court Order").

A. The Operative Orders.

11. As a remedy, the Court initially adopted a freedom of choice plan. *Id.* at 1-7. In addition to allowing every student the option to attend any school of their choice, the 1967 Court

Order included requirements concerning extracurricular activities, faculty and staff, and transfers related to special needs or special classes or schools, among other obligations. *Id.* at 8-12. In 1969, the Supreme Court, decrying the delay and massive resistance to integration among school districts, held that dual school systems must immediately begin operating as unitary school systems. *Alexander v. Holmes Cnty. Bd. of Educ.*, 396 U.S. 19, 20 (1969). The Fifth Circuit subsequently found freedom of choice plans were unable to achieve *Alexander*'s directive. *Singleton v. Jackson Mun. Separate Sch. Dist.*, 419 F.2d 1211, 1220–22 (5th Cir. 1969). This Court, on Plaintiffs' motion, thus ordered RCSD to request that the U.S. Department of Health, Education, and Welfare (HEW) propose a new desegregation plan for the District to which the parties could propose modifications. Ex. D-1 at 1-2.

12. On April 3, 1970, after the parties had an opportunity to propose modifications and lodge objections to the proposed HEW plan and present evidence at a hearing, the Court entered an order ("1970 Court Order") adopting a new desegregation plan that set out several areas with specific desegregation requirements: (1) student assignment, including majority-to-minority transfer policy and student attendance outside their residential zone; (2) faculty and staff assignment and employment policies; (3) student transportation; and (4) facilities, including school construction and site selection. Ex. D-1 at 13-15. This order incorporated aspects of an earlier January 2, 1970 order, ECF 9 at 5, that covered related issues. Ex. D-1 at 1.

13. The 1970 Court Order's requirements as to student assignment include adherence to geographic attendance zones, *id.* at 2-12; adoption of majority to minority transfers, *id.* at 14; and a mandate that any student transfer request to attend a school outside the student's zone of residence must be done on a "non-discriminatory basis" and must not "reduce desegregation" or "reinforce the dual school system." *Id.* at 14.

14. The 1970 Court Order's requirements as to faculty and staff assignment include that the District assign teachers and staff such that the ratio of Black teachers and staff to White teachers and staff is "substantially the same" as the ratio in the entire school system and that staff be hired, assigned, promoted, paid, demoted, dismissed, and otherwise treated without regard to race, color, or national origin. *Id.* at 13.

15. In 1971, the Court allowed the United States to participate in the case as amicus curiae. ECF 7 at 6 (February 26, 1971 docket entry).

16. After little progress on desegregation in the District, the Fifth Circuit held that the District had failed to establish a unitary system and directed it to take additional steps to meet its obligations under the law. *Adams v. Rankin Cnty. Bd. of Educ.*, 485 F.2d 324 (5th Cir. 1973). On remand, the Court entered a new order ("1973 Consent Order") that set out specific requirements pertaining to attendance zones, in-school assignment, extracurricular activities, and monitoring and reporting.

17. The 1973 Consent Order's requirements as to student assignment, including within-school student assignment, prohibit the District from assigning students to grade sections or classrooms on the basis of sex or race. ECF 88-3 at 3, ¶ 3. The Order also mandates that "no classroom or grade section [] be identifiable as tailored for a heavy concentration of either white or black students unless there exists a comparable concentration of either white or black students in the relevant grade or course offering as a whole." *Id.*

18. The 1973 Consent Order's requirements as to extracurricular activities include a directive that each junior and senior high school in the District must "assign an integrated team of faculty sponsors" for extracurricular and social activities and events. *Id.* at 3, ¶ 4.

19. In July 1976, Pearl Public School District (“PPSD”) was established as a separate school district geographically surrounded by Rankin County. On August 18, 1978, the Court entered an additional Consent Order (“1978 Consent Order”), applying to both RCSD and PPCSD. Ex. D-3 at 5, ¶ 9.

20. The 1978 Consent Order instructed that its requirements “must be strictly adhered to and should they be violated in any manner, the burden will be upon the [District] to demonstrate the impossibility of returning to pupil assignment system which more nearly maintains a unitary pattern of pupil attendance and faculty assignment.” *Id.* at 1.

21. The 1978 Consent Order’s requirements as to student assignment include that the percentage of Black students in any given District school shall not exceed 45 percent or be below 12 percent. *Id.* at 3, ¶ 2.

22. The 1978 Consent Order’s requirements as to faculty and staff assignment include that all schools “be operated without discrimination and in the manner which assures proportionate black participation in all . . . faculty activities” and that there be proportionate Black representation on faculty committees, all professional, administrative, and non-professional employment areas, management positions in food and transportation services, and in “all other academic areas.” *Id.* at 4. The order requires that the overall principal and high school principal in a given zone and the heads of subject matter departments not all be of the same race. *Id.* at 4, ¶¶ 4-6. The order further mandates “that the district will through attrition achieve a ratio of at least 28% black staff at every level and in all categories.” *Id.* at 5, ¶ 7.

23. The 1978 Consent Order’s requirements as to extracurricular activities mandate that all schools operate “in the manner which assures proportionate black participation [in] all student and faculty activities.” *Id.* at 4, ¶ 4. Specifically, the “methods of selection of students to

participate in activities such as student council, cheer leading squads and the like, shall be altered to insure the inclusion of black students in all such activities in substantial proportion with their numbers in the school attendance zone.” *Id.* The Order further requires that the “[c]oaches of the three major sports; namely, football, basketball and baseball[,] shall not be of the same race.” *Id.* at 4, ¶ 5.

24. The 1978 Consent Order was “supplemental” to the 1970 Court Order and 1973 Consent Order, and “all matters not inconsistent with those orders remain[ed] in full force and effect.” *Id.* at 5, ¶ 8.

25. In 2012, the Court entered a Consent Order (“2012 Consent Order”) to settle a dispute between RCSD and PPSD over their attendance zone boundaries and to set forth additional requirements related to student assignment. Ex. D-4.

26. The 2012 Consent Order’s requirements as to student assignment include that “[t]he percentage of African-American students at each school within RCSD shall be within twenty percent above or twenty percent below the overall percentage of African American students attending RCSD schools. The percentage of White students at each school within RCSD shall be within twenty percent above or twenty percent below the overall percentage of White students attending RCSD schools. Ex. D-4 at 8, ¶ 7.

27. In 2019, the District filed an Unopposed Motion for Declaration of Partial Unitary Status in the areas of transportation and facilities. ECF 88. The Court granted the District’s motion, holding that the District had achieved unitary status in transportation and facilities but that the Court would “[m]aintain jurisdiction over the areas of extracurricular activities, faculty assignment, staff assignment, student assignment, and quality of education.” Ex. D-6 (“2019 Court Order”) at 13.

28. Together, the 1967 Court Order, 1970 Court Order, 1973 Consent Order, 1978 Consent Order, 2012 Consent Order, and 2019 Court Order (collectively, the “Operative Orders”) outline the District’s desegregation obligations in this case.

B. Unitary Status Hearing.

29. On August 2, 2024, the District filed a Motion for Declaration of Unitary Status, asking the Court to rule that it has achieved unitary status in all remaining areas over which the Court retains jurisdiction, dissolve all injunctions, and dismiss the case with prejudice. ECF 98. The parties then engaged in document discovery and depositions within limits set by the Magistrate Judge, *see* ECF 111, and subsequently, Plaintiffs filed their response to the District’s motion, opposing unitary status in each area, ECF 150.

i. Notice and Public Comment.

30. The Court set a hearing on the District’s motion and directed public notice of the hearing be posted in local newspapers and posted in each District school. ECF 154. The notice permitted interested persons to submit written objections or comments about the District’s motion and allowed people who submitted comments to address the Court during the hearing. *Id.*

31. The Court received comments or objections from ten individuals. Six individuals objected to the District’s motion, including parents of Black current and former students and a Black former teacher in the District. *See* attached Ex. A (Objection of Lindy Braddy); Ex. B (Objection and Comment of Lorine Stokes); Ex. C (Objection of Eric Hite); Ex. D (Objection and Comment of Alean Adams); Ex. E (Objection of Geraldine and Andrew Buckhalter). All four comments supporting the District’s motion came from administrator-level employees of the District, including two White principals and two White former superintendents.

32. On September 16 to 18, 2025, the Court held a hearing on the District’s motion for unitary status. The Court heard testimony from six witnesses, as well as three Black members of

the community—a former teacher, former student, and parent—who gave limited comments under oath.

ii. Expert Witnesses.

33. During the hearing, the Court informed the parties of its preference that expert reports come into evidence to streamline live testimony, but not in lieu of live expert testimony. Tr. 425:22–426:3. Plaintiffs also expressed their preference for the admission of expert reports not to supplant live expert testimony. Tr. 425:18–21. Ultimately, the Parties stipulated to the admission of expert reports, subject to Plaintiffs’ pending *Daubert* challenge. ECF 155.

34. After several days of hearing testimony, close review of their expert reports and visual exhibits, observation of their demeanor and tone, and considering other evidence presented, the Court makes the following findings of fact regarding the credibility and expertise of the testifying experts:

a. Dr. Frankenberg.

35. Plaintiffs presented the testimony of Dr. Erica Frankenberg. Dr. Frankenberg is a tenured professor at Pennsylvania State University in the College of Education where she teaches education demography. Ex. P-7; Tr. 530:11–531:4 (Frankenberg). She received a doctorate in educational policy from Harvard University; a master’s degree in education with a concentration in administration, planning, and social policy from Harvard University; and an undergraduate degree from Dartmouth College, where she majored in education policy and wrote her thesis on school desegregation in Mobile, Alabama. Ex. P-7; Tr. 528:7–529:16 (Frankenberg).

36. Dr. Frankenberg’s work focuses on integration and racial equality within schools, which encompasses both student and faculty assignment. Ex. P-7; Tr. 531:10–21; 532:4–22 (Frankenberg). Dr. Frankenberg has published over 50 peer-reviewed articles on school desegregation and has worked with school districts around the country regarding desegregation

plans. Ex. P-7; Tr. 534:5-15 (Frankenberg). She has experience working with school districts with voluntary integration plans and with districts under court ordered desegregation. *See* Ex. P-7 at 38-39. Dr. Frankenberg has previously been qualified as an expert and testified in other school desegregation cases. Tr. 532:1-3; 532:24–533:8 (Frankenberg).

37. Dr. Frankenberg was qualified, without objection, as an expert in between-school assignment, within-school student assignment (or “classroom assignment”), and faculty assignment for Kindergarten through 12th grade. Tr. 535:17-24 (Frankenberg).

38. Dr. Frankenberg reviewed District data and policies to examine the racial composition of the schools, classrooms, and faculty and opined on whether the District has desegregated to extent practicable in the area of between school assignment, within-school student assignment, and faculty.

39. Dr. Frankenberg concluded that multiple schools are still racially identifiable and have been persistently so over the last few years. Tr. 601:20-25 (Frankenberg).

40. With respect to within-school student assignment, Dr. Frankenberg concluded that there are patterns indicating lower enrollment for Black students in classrooms and courses that provide enhanced educational opportunities. Ex. P-8 at 18. In addition, there is disproportionate Black enrollment to the alternative school, and some evidence of racially concentrated Black self-contained special education classrooms. *Id.* at 18-19.

41. With respect to faculty assignment, Dr. Frankenberg concluded that there is persistent racial identifiability in the faculty at several schools. *Id.* at 29.

42. The Court found Dr. Frankenberg to be knowledgeable, transparent, reliable, and clear in her testimony. This Court finds Dr. Frankenberg to be a credible witness.

b. Dr. Blake.

43. Dr. Jamilia Blake testified as an expert witness for Plaintiffs. Dr. Blake is a tenured professor in the Department of Health Behavior at Texas A&M University, where she also serves as director of the Center for Health Equity and Evaluation Research. Tr. 687:19–688:5 (Blake); *see also* Ex. P-50 (c.v. of Dr. Jamilia Blake).

44. Dr. Blake is a nationally recognized expert in racial, ethnic, and gender disparities in discipline, Ex. P-49 at 1; Ex. P-50, and was qualified, without objection, as an expert in school discipline and racial disparities in school discipline, Tr. 691:8-14 (Blake).

45. Dr. Blake reviewed the District’s discipline data and policies to examine, first, whether there “are racial disparities in discipline outcomes” for the District and, second, whether its policies “were effective in addressing racial disparities as it relates to discipline.” Tr. 691:16-22, 696:21–697:8 (Blake); *see also* Ex. P-49 at 1. Dr. Blake opined that there are racial disparities in discipline in the District and the District’s policies do not appear to be effective in reducing the racial gap for discipline. *See* Tr. 727:11-18, 739:6-12 (Blake); Ex. P-49 at 14; *see also*, FOF ¶¶ 275-342.

46. The Court found Dr. Blake’s testimony to be clear and that Dr. Blake was highly knowledgeable with easy-to-follow explanations of statistical concepts. The Court finds Dr. Blake to be a credible witness.

c. Dr. Rossell.

47. The District called Dr. Christine Rossell to testify as its expert. Before the hearing, Plaintiffs filed a *Daubert* motion to exclude portions of the reports and anticipated hearing

testimony of Dr. Rossell.¹ ECF 155. The Court held over this motion until after the conclusion of the hearing.

48. During the hearing, counsel for the District did not ask Dr. Rossell any questions about her opinions or the substance of her reports on direct examination, instead submitting her reports in lieu of live testimony. Tr. 462:1–465:8 (Rossell). The Court had an opportunity to observe Dr. Rossell’s demeanor and assess her credibility during cross examination and re-direct examination. Tr. 465:15–526:15 (Rossell).

49. The Court did not qualify Dr. Rossell as an expert in any fields.²

50. Dr. Rossell’s expert reports and testimony touch on all the areas for which the District seeks unitary status. Her opinions are based primarily on comparing RCSD to school districts around the country that have been declared unitary (“comparator districts”) using metrics she identifies as “desegregation measures.” Tr. 474:13-16 (Rossell). According to Dr. Rossell, the purpose of these comparative analyses was to determine what extent of desegregation is practicable in RCSD. Tr. 474:17-20 (Rossell). In other words, she presents the comparator districts as a benchmark for what Rankin County can and should be obligated to achieve in terms of desegregation to obtain unitary status.

51. The Court has concerns about the reliability and probativeness of Dr. Rossell’s comparative analysis. The comparator districts differ significantly from RCSD, including in enrollment size and number of schools. Tr. 478:18–480:17 (Rossell). Dr. Rossell admits that

¹ Plaintiffs’ *Daubert* motion contains a detailed analysis demonstrating that Dr. Rossell’s opinions are based on unreliable methodology and insufficient facts and data. ECF 156. That analysis is bolstered by her testimony at trial, discussed herein. FOF ¶¶ 49-63.

² Having failed to tender Dr. Rossell as an expert witness during her direct examination, counsel for the District stated during redirect “Your Honor, I don’t know, procedurally, with regard to our somewhat unusual presentation of Dr. Rossell’s report, but we do want to be clear that we’re offering her as an expert in the area of desegregation.” Tr. 524:8-11 (Rossell). The Court did not respond or qualify the witness.

differences among school districts can impact each district's ability to achieve certain levels of desegregation. Tr. 481:16–482:3 (Rossell) (agreeing what is practicable for student assignment is different in a district with a single high school than in a district with multiple high schools). Yet Dr. Rossell did nothing to demonstrate that her comparisons between RCSD and other school districts were apples-to-apples comparisons. She did not control for any characteristics of the school districts: differences in population size, demographics, geographic location (rural or urban), applicable state education law, applicable federal desegregation law, conditions in the local labor markets for teachers, extracurricular offerings, or the number of schools in the district. Tr. 477:15–478:25 (Rossell).

52. Dr. Rossell did not address the standards other courts used when evaluating whether the comparator districts were unitary to determine whether they are similar to the standards this Court must apply to RCSD. Tr. 474:21–477:10 (Rossell). She testified that the analysis of the comparator school districts was contained in reports she previously submitted in other cases, but “you can assume it” in *this* case even though she did not present the information in her reports or testimony here. Tr. 476:9-14 (Rossell).

53. Further, in her comparative analyses, Dr. Rossell includes three so-called desegregation measures to compare RCSD to other school districts: the dissimilarity index, the interracial exposure index, and the relative exposure index (also called the standardized exposure index). She uses these indices throughout her analyses of student assignment, teacher assignment, and extracurricular activities. Ex. D-7; Ex. D-8. None of the Operative Orders in this case reference the index of dissimilarity, the racial exposure index, or the relative exposure index; instead, they impose a +/-20 percent deviation for student assignment, as well as qualitative measures. Exs. D-1, D-3; ECF 83-3; Tr. 487:23–488:2 (Rossell). Dr. Rossell admits that when

courts measure whether a district is unitary, they prefer a categorical measure (a +/- percentage point deviation), rather than these indices. Tr. 482:23–483:22 (Rossell).

54. To calculate the indices, Dr. Rossell groups all minority students in the District together—including Asian, Hispanic, Black, and others—to draw conclusions about Black students. Ex. D-7 at 4-5. She admits, however, that none of the Operative Orders in this case express the District’s obligations in terms of all minority students or instruct that the analysis of the District’s obligations should use all minority students. Tr. 472:8-15 (Rossell). Lumping other minority student enrollment together with Black students also increases the size of the group by more than 25 percent.³ Ex. D-8 tbl.1; Tr. 472:16–473:23 (Rossell).

55. Some of the indices Dr. Rossell calculated indicate that the District was more desegregated in 1976 than in recent years. Tr. 490:17-24 (Rossell) (“Q. And so the lower dissimilarity index in 1976 to ’77 shows that there was greater desegregation in that year compared to the higher dissimilarity index in 2023 to ’24? A. Correct”).

56. Dr. Rossell’s testimony revealed several inconsistencies between her reports, deposition testimony, and trial testimony.

57. Dr. Rossell testified inconsistently about her data sources. In her first and supplemental reports, she repeatedly states that she used data from all minority students (i.e. all non-White students) in the District to calculate the participation rates of Black students in extracurricular activities relative to their proportion of enrollment. D-7 at 10-11 (“Table 3 shows the ratio of the percentage minority participating in extracurricular activities to the percentage minority in the school . . .”) & tbl. 3 (“Ratio of % Minority of the Extracurricular Activities to the

³ Dr. Rossell claims that inflating her numbers by 25 percent by including all minority enrollment did not affect then indices, Tr. 473:21–474:10 (Rossell), but she did not provide the Court with the indices calculated solely based on Black student enrollment numbers.

% Minority of the Secondary Schools”); D-8 at 2 & tbl. 3. She confirmed this at her deposition. *See* ECF 156 at 20. During trial, however, Dr. Rossell reversed herself, testifying that she used data for only Black students in her calculation. Tr. 468:14–470:7 (Rossell). When confronted with the inconsistency, she admitted that during her deposition, she couldn’t remember. Tr. 470:1-7 (Rossell) (“If I said percentage minority, my memory was off.”).

58. The District did not affirmatively correct Dr. Rossell’s erroneous or inconsistent statements about her data sources. Dr. Rossell did not submit a corrected report and did not clarify the error during her direct examination but only revealed it under cross examination. *See* Tr. 468:14–470:7 (Rossell).

59. Dr. Rossell also testified inconsistently regarding her familiarity with studies showing that Black students face harsher punishments for the same behavior as White students. Tr. 519:24–520:10 (Rossell). At trial, she claimed no familiarity with such studies, reversing her prior deposition testimony and claiming she “may have misunderstood the question” during her deposition. Tr. 520:3-5 (Rossell).

60. Dr. Rossell’s testified inconsistently about whether she had reviewed certain District policies related to extracurricular activities before submitting her report in this case. Tr. 513:3–514:15 (Rossell). Unable to explain the inconsistency, she ultimately concluded that she “was either wrong then or wrong now.” Tr. 514:15 (Rossell).

61. At times during trial, Dr. Rossell also could not recall or did not know important details underlying her opinions. For example, in her student assignment analysis, she did not know which schools were outside the +/-20 percentage point range set by the Court in the 2012 Consent Order. Tr. 485:21–486:2 (Rossell). When questioned about these gaps in her knowledge, Dr. Rossell repeatedly testified that the information was in her reports submitted in other cases or on

her computer, none of which is before the Court. Tr. 470:11–471:1; 474:21–475:1; 476:9–14; 485:21–24 (Rossell).

62. A court has previously found Dr. Rossell’s testimony to be not credible in a desegregation case. Tr. 522:25–523:5 (Rossell); *Comfort v. Lynn Sch. Comm.*, 283 F. Supp. 2d 328, 359 (D. Mass. 2003) (“Dr. Rossell’s testimony was not credible.”).

63. In the instant case, there were several areas of Dr. Rossell’s testimony that were troubling to the Court due to their inconsistency, evasive explanations, and reliance on undisclosed expert reports from other cases. Without being presented with them, the Court cannot simply assume accuracy and reliability of undisclosed analyses that provide the yardstick by which Dr. Rossell evaluates the District in this case. This causes the Court to have reservations about the veracity of Dr. Rossell’s testimony overall. Further, Dr. Rossell’s opinions rest on analyses of shaky reliability—they draw comparisons without controlling for extraneous variables, employ indices not endorsed by the orders in this case, and frequently use data for all minorities without isolating Black student numbers. Thus, the Court does not find Dr. Rossell to be credible and accords her opinions little weight.

III. RANKIN COUNTY SCHOOL DISTRICT BACKGROUND

64. Since 1967, the District “has been under court supervision in order to eliminate the vestiges of past racial segregation policies that have negatively impacted the educational achievement in Rankin County and throughout the State of Mississippi.” Ex. D-6 at 5 (2019 Court Order).

65. Under *de jure* segregation, the following attendance zones were reserved for White students: Brandon, Florence, Pearl, Pelahatchie, Pisgah, Puckett, and Richland. ECF 176 at 1. The attendance zones reserved for Black students were McCall, Carter, Goshen-Fannin, and McLaurin. *Id.*

66. Presently, there are eight attendance zones and 28 schools in the District. The attendance zones and the specific schools in each zone include the following:

- a. Brandon Zone: Rouse Elementary, Stonebridge Elementary, Brandon Elementary, Brandon Middle, and Brandon High;
- b. Florence Zone: Steen's Creek Elementary, Florence Elementary, Florence Middle, and Florence High;
- c. McLaurin Zone: McLaurin Elementary and McLaurin High;
- d. Northwest Zone: Flowood Elementary, Northshore Elementary, Northwest Rankin Elementary, Highland Bluff Elementary, Oakdale Elementary, Northwest Rankin Middle, and Northwest Rankin High;
- e. Pelahatchie Zone: Pelahatchie Elementary and Pelahatchie High;
- f. Pisgah Zone: Pisgah Elementary and Pisgah High;
- g. Puckett Zone: Puckett Elementary and Puckett High; and
- h. Richland Zone: Richland Elementary, Richland Upper Elementary, and Richland High. Ex. D-64 at 4-8; Tr. 56:4-57:22 (Stocks).

67. The Learning Center is an alternative school and is not part of any attendance zone. Tr. 59:20-22 (Stocks).

68. Students are required to attend the schools in the geographic zone where they live unless they qualify for and are granted a transfer to another school. Ex. D-64 at 11-12.

69. With the exception of the Northwest Zone, the attendance zones that existed under *de jure* segregation, while not identical, correspond with the current attendance zones.

70. For example, the current Puckett Zone, *see* Ex. D-12, contains the geographic Puckett Attendance Zone that existed at the time of the 1970 Court Order terminating *de jure*

segregation. Ex. D-1 at 15.⁴ During *de jure* segregation, the Puckett Attendance Zone was reserved for White students. ECF 176 at 7. Within that zone, Puckett High was built in 1953 and Puckett Elementary was built in 1976. ECF 83-6 at 10.

71. During *de jure* segregation, the Pisgah Attendance Zone was located in Sand Hill. ECF 83-1 at 4. The current Pisgah Zone contains Sand Hill in its geographic area. *See* Ex. D-12. Nothing in the Operative Orders points to a change in the attendance zone boundaries for the Pisgah Zone. During *de jure* segregation, the Pisgah Attendance Zone was reserved for White students. ECF 176 at 7.

72. The current Florence Zone, *see* Ex. D-12, contains the geographic Florence Attendance Zone that existed at the time of the 1970 Court Order. Ex. D-1 at 17-18.⁵ During *de jure* segregation, the Florence Attendance Zone was reserved for White students. ECF 176 at 7. Within that zone, Florence Elementary was built in 1986, Florence High was built in 1967, and Florence Middle was built in 1997. ECF 83-6 at 7.

⁴ In 1970, the Puckett attendance zone contained the following geographic area: “Begin at intersection of Highway 18 and the North line of Beat or District 5 and run thence Southeasterly along Highway 18 (students on both sides of highway to be included) to its point of intersection with Rock Hill Road, thence Southerly along Rock Hill Road (students on both sides of said road to be included) to County Line, thence East along County Line to Southeast corner of Rankin County, thence North along County Line to North line of Beat or District 5, thence Westerly along district line to point of beginning.” Ex. D-1 at 15; *compare with* Puckett Zone in Ex. D-12.

⁵ In 1970, the Florence attendance zone contained the following geographic area: “Begin at intersection of Highway 469 and a county road extending from Thomasville to old Highway 49 and run thence Easterly along said county road to its first intersection with a county road (students on both sides of road to be included), thence turn southerly and run southerly and westerly along intersecting road to its point of intersection with Highway 469 (students on both sides of road to be included), thence continue southerly along Highway 469 (students on both sides of Highway to be included) to its intersection with a county road which extends southerly and southeasterly through Sections 22, 27, 34 and 35, through Sections 2 and 11, Township 3 North, Range 2 East, to New Highway 49 (students on both sides of said highway to be included), thence Southerly along said highway to its intersection with east line of Township 3 North, Range 2 East (students on both sides of highway to be included), thence South along East line of Township 3 North, Range 2 East to county line, thence West along county line to Pearl River, thence Northerly along Pearl River to the Southwest corner of Richland Attendance Zone, thence Easterly along south line of Richland Attendance Zone to point of beginning.” Ex. D-1 at 18; *compare with* Florence Zone in Ex. D-12.

73. The current McLaurin Zone, *see* Ex. D-12, contains the geographic McLaurin attendance zone that existed at the time of the 1970 Court Order. Ex. D-1 at 18-19.⁶ During *de jure* segregation, the McLaurin Attendance Zone was reserved for Black students. ECF 176 at 7. Within that zone, McLaurin High was built in 1959 and McLaurin Elementary was built in 1995. ECF 83-6 at 9.

74. The Learning Center is the District's alternative school and serves students districtwide who have been removed from their zoned schools due to behavioral issues.⁷ It is housed in the building that was once an all-Black high school, Carter High.⁸ Under *de jure* segregation, Carter High School served only Black students and employed only Black faculty.⁹

75. The Rankin County School District is governed by an elected school board. Tr. 60:19-21 (Stocks). The school board votes on and approves district policies and appoints the district superintendent. Tr. 60:22-25; 135:15-17 (Stocks). There are five members on the school

⁶ In 1970, the McLaurin attendance zone contained the following geographic area: "Commencing at the point of intersection of Highway 18 with Tumbaloo Creek and run thence Westerly along the meanderings of said creek and the meanderings of Richland Creek to the intersection of Richland Creek and Highway 469, thence southwesterly along said Highway 469 to its point of intersection with the Monterey-Thomasville public road, thence Southeasterly along the said public road to its intersection with a county road running in a southerly direction, thence run southerly and westerly along said county public road to its intersection with Highway 469, thence southerly along Highway 469 to its point of intersection with a public road which extends southerly and southeasterly through Sections 22, 27, 34 and 35, Township 4 North, Range 2 East, and continue southerly along said county road through Sections 2 and 11, Township 3 North, Range 2 East, thence south to county line, thence East to Rock Hill Road, thence Northerly and Northeasterly along Rock Hill Road to Highway 18, thence run Northerly along Highway 18 to the point of beginning." Ex. D-1 at 18-19; *compare with* McLaurin Zone in Ex. D-12.

⁷ *The Learning Center*, Rankin Cnty. Sch. Dist., <https://tlc.rcsd.ms/> (accessed Nov. 19, 2025).

⁸ *Compare The Learning Center, id., with Location Information* (for the Carter High School Negro), Mississippi Department of Archives and History, <https://www.apps.mdah.ms.gov/Public/prop.aspx?id=2145903295&view=facts&y=732> (accessed Nov. 19, 2025); *see also* Nell Luter Floyd, *Carter High Remembered*, Clarion Ledger (June 17, 2016), <https://www.clarionledger.com/story/news/2016/06/17/carter-high-remembered/86056746/>.

⁹ ECF 176 at 6; *see also* Nell Luter Floyd, *Carter High Remembered*, *supra* note 8; *Location Information* (for the Carter High School Negro), *supra* note 8.

board. Tr. 60:24-25 (Stocks). All five school board members are White. Tr. 197:14-16 (Stocks). According to an objection form submitted by a Black parent, the school board holds meetings in the mornings when most minority parents are working. Ex. A (Braddy Objection).

IV. STUDENT ASSIGNMENT

76. In 1978, the District entered into a consent decree where the District conceded that the Court retained jurisdiction in the area of student assignment. Ex. D-3 at 3.

77. In 2019, the District filed an Unopposed Motion for Partial Unitary Status. ECF 88. The District's motion acknowledged the Court's continuing jurisdiction in multiple areas, including student assignment. ECF 89 at 14-15. The Court entered an order granting the motion that continued to place affirmative obligations on the District in the area of student assignment. Ex. D-6 at 13.

A. Between-School Student Assignment

78. The District has never reached unitary status in the area of between-school assignment. Today, vestiges of discrimination in student assignment remain, and racially identifiable Black and White schools persist. Ex. P-8 at 11.

79. As of 2025, the District enrolls 17,941 students. Ex. D-13 at 2; Ex. P-112 at 3-4. 28.9 percent of the student population is Black; 62.6 percent is White; and 8.5 percent is categorized by the District as Other. Ex. D-13 at 2. In recent years, overall racial diversity in the District has increased. Tr. 147:18–148:7 (Stocks). The student population in 2025-26 is more diverse than in 2020-21. Tr. 148:4-7 (Stocks). Despite this, in the past five years, segregation at certain schools has *increased*. Tr. 139:16-18; 143:5-11 (Stocks).

80. The history of the District indicates that current racially identifiable schools are vestiges of *de jure* segregation.

81. Multiple schools in the Pisgah and Florence Attendance Zones remain racially identifiably White as of the 2025-26 academic school year. Ex. P-112 at 4-5.

i. The District Entrenched Existing Segregation and Failed to Desegregate Multiple Schools.

82. Pursuant to the 2012 Consent Order, “[t]he percentage of African American students at each school within RCSD shall be within twenty percent above or twenty percent below the overall percentage of African-American students attending RCSD schools [and] [t]he percentage of White students at each school within RCSD shall be within twenty percent above or twenty percent below the overall percentage of White students attending RCSD schools.” Ex. D-4 at 8-9, ¶ 7.

83. Based on the plain language of the 2012 Consent Order and Dr. Frankenberg’s credible testimony, the Court finds that the most useful starting points when measuring desegregation in each school in the District are the following: (1) the deviation of student enrollment by race from the total districtwide percentage and (2) the deviation of student enrollment by race from the districtwide percentage in the relevant grade bands. Tr. 540:11-21 (Frankenberg). Under both metrics, the number of racially identifiable schools has *increased* in recent years.

84. Plaintiffs’ expert Dr. Frankenberg analyzed how school level racial composition varies from district composition. Ex. P-8. Dr. Frankenberg analyzed student enrollment data for 2021-22 through 2025-26. Ex. P-8; Ex. P-112. Dr. Frankenberg did not analyze 2020-21 because in 2020-21, many districts had unusual enrollments due to the COVID-19 pandemic. Ex. P-8 at 5, n.17.

85. *Schools outside the +/- 20 percent deviation (districtwide):* In 2021-22, there was one school outside the +/- 20 percent deviation (Florence Elementary). Ex. D-13 at 4. This

increased to three schools in 2023-24. Tr. 486:10-13 (Rossell). As of 2025-26, there are five schools that fall outside the +/- 20 percent deviation: Florence Elementary, Florence Middle, Flowood Elementary, Pisgah Elementary, and Pisgah High School. Tr. 72:24–73:5; 143:5-11 (Stocks).

86. Four out of the five schools that are outside the +/- 20 percent deviation are racially identifiably White schools in Pisgah Attendance Zone and Florence Attendance Zone. Ex. P-112 at 4 & tbl. 2.

87. *Schools outside the +/- 20 percent deviation (by grade band):* Grade band comparison is important because students are not fungible. A student in elementary school cannot attend a high school and vice versa, which impacts the relevant pool of students that could be reassigned within the District. Ex. P-8 at 4. Thus, a comparison between the individual schools and the districtwide enrollment can be misleading or underestimate racial disparities. Moreover, secondary schools “draw from larger catchment areas” and therefore, often “have lower levels of segregation than elementary schools.” Ex. P-8 at 7; Tr. 540:11-21 (Frankenberg).

88. The number of schools outside the +/- 20 percent deviation of student enrollment by race from the districtwide percentage in the relevant grade bands has also increased in recent years. Ex. P-8 at 5-9.

89. Comparing student enrollment at the elementary school level in 2021-22 to student enrollment in 2025-26, there is no sustained improvement in desegregation. Ex. P-112 at 2. The same two elementary schools that were racially identifiable in 2021-22 (Florence Elementary and

Flowood Elementary) are racially identifiable in 2025-26, and in violation of the 2012 Consent Order. Ex. P-8 at 6; Ex. P-112 at 3 tbl. 1.¹⁰

Student Enrollment: Schools outside +/- 20 percent deviation		
	Black student enrollment %	White student enrollment %
Districtwide: 2025-26	28.9%	62.6%
Elementary schools	27.3%	63.3%
Florence Elementary	12.6%	83.8%
Flowood Elementary	39.2%	41.3%
Secondary schools	30.3%	62%
Florence High	13.8%	82.6%
Florence Middle	12.9%	84.1%
Pisgah High	12.7%	84.4%
Districtwide: 2023-24	27.8%	65%
Elementary	26%	66.1%
Flowood Elementary	36.5%	45%
Secondary schools	29.5%	64.1%
Florence Middle	12.2%	85.5%
Pisgah High	12.6%	86.3%
Districtwide: 2022-23	27.1%	66.6%
Elementary schools	25.4%	67.5%
Flowood Elementary	35.2%	46.3%
Secondary schools	28.7%	65.8%
Florence Middle	11.6%	87.1%
Learning Center	48.7%	46%
Pisgah High	13.0%	86%
Districtwide: 2021-22	25.8%	66.3%
Elementary schools	23.7%	67.3%
Florence Elementary	9.7%	87.6%

¹⁰ In 2021-22, Florence Elementary was 87.6 percent White (more than 20 percentage points above the districtwide average) and Flowood Elementary 44.6 percent White (more than 20 percentage points below the districtwide average). Ex. P-8 at 5-6. Florence Elementary is now 83.8 percent White. Ex. P-112 at 3. While overall White student enrollment at Florence Elementary has decreased, the White student enrollment districtwide has also decreased. Flowood Elementary is now 41.3 percent White. Ex. P-112 at 3 tbl. 1.

Flowood Elementary	34.5%	44.6%
Secondary schools	27.5%	65.4%

Ex. P-8, Ex. P-112, Ex. D-13.

90. Racial isolation at the secondary level has increased. In 2021-22, no secondary schools fell outside the +/- 20 percent deviation. In 2025-26, three secondary schools are racially identifiably White schools: Florence High School (82.6 percent White); Florence Middle (84.1 percent White) and Pisgah High School (84.4 percent White). Ex. P-112 at 4.

91. The total number of racially identifiable schools using the +/- 15 percent deviation by grade band has also increased. In 2021-22, ten schools were racially identifiable using the +/- 15 percent variation deviation by grade band. Ex. P-8 at 6, 8. In 2025-26, the number of schools outside the +/- 15 percent deviation increased to thirteen. Ex. P-112 at 3-4. The increase in racial isolation under both the +/- 20 percent and +/-15 percent deviation further illustrates that segregation is increasing.

92. Patterns in the District's faculty assignment reinforce the racial identifiability of each of these schools. There is persistent racial identifiability of faculty assignment in the Pisgah School Attendance Zone. *See* FOF ¶¶ 151, 156.

ii. The District Has Not Taken All Practicable Steps to Desegregate.

93. The District's actions and inactions have impeded desegregation.

94. *First*, the District is not compliant with the Operative Orders' student transfer provisions. The 1970 Court Order mandates that any student transfer request to attend a school outside a student's zone of residence must be done on a "non-discriminatory basis" and must not "reduce desegregation" or "reinforce the dual school system." Ex. D-1 at 14. The Order also permits majority-to-minority student transfers where students whose race is in the majority wish to transfer to a school where their race is in the minority ("M-to-M transfer"). *Id.*

95. District policy is also clear that intradistrict transfers are permitted only in exceptional circumstances and that transfers must “be based upon conditions which affect the education and welfare of all students.” Tr. 144:3-6 (Stocks); Ex. D-15.

96. Despite what is mandated in the 1970 Court Order and District policy, intradistrict student transfers have caused racial segregation in the District to *increase*.

97. Intradistrict student transfers into majority White schools have contributed to school racial identifiability. In 2022, 25 students (or 5.58 percent of the school’s student population) transferred into Pisgah High School through intradistrict transfers: one Black student and 24 White students. Ex. P-8 at 11; Tr. 146:12–148:13 (Stocks). White student enrollment increased from 84 percent in 2021-22 to 86.05 percent in 2022-23. Ex. D-13 at 4-5. The following year, in 2023-24, White student enrollment was more than 20 percentage points higher than the districtwide White student enrollment, in violation of the 2012 Consent Order. Tr. 149:22–150:1 (Stocks).

98. Intradistrict transfers out of certain schools also impact desegregation efforts. For example, in 2022-23, eight White students and four Black students transferred out of Flowood Elementary. Ex. P-8 at 11. Flowood Elementary has been racially identifiably Black since 2021-22. Ex. P-8 at 6-7; Ex. P-112 at 3.

99. The District has not taken any affirmative steps to ensure that the intradistrict transfers it authorizes do not have a segregative effect because the District does not believe that intradistrict transfers impact student enrollment. Tr. 640:6-9 (Frankenberg); Tr. 80:1-17 (Stocks). The District’s expert, Dr. Rossell, conceded that she did not analyze intradistrict transfers. Tr. 482:21-22 (Rossell).

100. *Second*, the District has not utilized M-to-M transfers to address schools that are growing increasingly segregated or schools that are in violation of the 2012 and 1978 Consent Orders.

101. The District contends that current student enrollment numbers do not permit M-to-M transfers and that “demographics do not create a scenario in which the majority-to-minority program is implicated.” ECF 99 at 13 n.6. However, M-to-M transfers could be implemented, for example, by permitting White students to voluntarily transfer from where they are in the majority (in 2025-26: Brandon Elementary, Florence Elementary, McLaurin Elementary, Northshore Elementary, Northwest Elementary, Oakdale Elementary, Pelahatchie Elementary, Pisgah Elementary, Richland Elementary, Steen’s Creek Elementary, and Stonebridge Elementary) to a school in which they are in the minority (Flowood Elementary). Tr. 624:7-14 (Frankenberg).

102. Intradistrict transfers suggest that the distance should not be an impediment to M-to-M transfers.

103. The District Representative, Assistant Superintendent Dr. Amanda Stocks, testified about the geographic area that RCSD covers and that depending on where you are in the District, it can take up to 30 minutes to drive from one attendance zone to another. Tr. 60:3-8 (Stocks). For example, the District testified that it could take 30 minutes to drive from Brandon Attendance Zone to Pisgah Attendance Zone. *Id.*

104. Voluntary intradistrict transfer data shows that currently, there are multiple student transfers into attendance zones at opposite ends of the District. For example, in 2021-22, there were eight intradistrict transfers from Brandon Attendance Zone schools to Pisgah Attendance Zone schools. Ex. D-18. All eight students were White. *Id.* In 2022-23, there were five intradistrict

transfers from Brandon Attendance Zone to Pisgah Attendance Zone. Ex. D-17. All five students were White. *Id.*

105. And as Dr. Frankenberg noted in her report, in the “data provided by the district, there was suggestive evidence of students transferring to other schools, including to zones beyond where it is likely their parent was employed.” Ex. P-8 at 10.

106. *Third*, the District has no affirmative plans to implement any policy changes to address persistent racially identifiability.

107. Short of redrawing District lines, there are other ways to address racial identifiability, including voluntary transfers and magnet schools. Tr. 548:20–549:1 (Frankenberg).

108. There was no evidence presented about strategies the District is employing or considering to employ to decrease segregation. For example, the District did not testify about the use of M-to-M transfers. There was no evidence that the District has or would consider magnet schools.

109. In its list of “good faith efforts,” the District does not include any examples for between-school assignment. Ex. D-63. Indeed, the District has repeatedly stated it has met its desegregation goals for between-school assignment. *See, e.g.*, ECF 99 at 10-13.

B. Within-School Student Assignment

110. The 1973 Consent Order mandates that “no classroom or grade section shall be identifiable as tailored for a heavy concentration of either white or black students unless there exists a comparable concentration of either white or black students in the relevant grade or course offering as a whole.” ECF 88-3 at 3, ¶ 3.

111. Academic research highlights the importance of integrated courses and classrooms. Tr. 554:11-17 (Frankenberg). Research shows that integration at an early age enhances learning experiences and facilitates cross-racial friendships. *Id.*

112. District enrollment data reveals that there are heavily concentrated one-race classrooms, particularly for certain courses. Ex. P-8 at 14-18. Specifically, the District's data shows that there have been multiple single-race or nearly single-race advanced placement classrooms. Racial disparities are also present in the District's gifted and talented program.

113. This Court considered witness testimony and trial exhibits when evaluating within-school assignment. The District provided data on the number of gifted students and students in advanced placement English, by race, at each school for two academic years: 2021-22 and 2022-23. Ex. P-8 at 13-15.

i. The Venture Program: Disparities in the Referral Process.

114. The District operates a gifted program called the "Venture program." The Venture program is offered to students in grades two through eight. Tr. 81:2-4 (Stocks). Students enrolled in the gifted program are in a self-contained classroom for at least five hours per week. Ex. P-8 at 12.

115. Underrepresentation of Black students in the Venture program is a product of the referral process. There are three different ways that students can be referred to the Venture program. The first way is through a universal mass screener. Ex. D-20 at 3; Tr. 82:4-9 (Stocks). All children in first and second grade take an intelligence screener and, if they score in the 90th percentile, continue on in the testing process. Ex. P-8 at 3; Tr. 83:2-7 (Stocks). The universal screener was expanded to second grade in 2021-22. Ex. D-63 at 5; Tr. 562:22–563:1 (Frankenberg).

116. The second way a student is referred is through the Special Considerations checklist. If a child scores within the 84th to 90th percentile on the mass screener, they move onto the Special Considerations checklist screening. Tr. 158:12-19 (Stocks); Ex. D-24.

117. The student must satisfy five or more of the criteria on the Special Considerations checklist in order to move on to additional testing. Tr. 158:20–159:2 (Stocks); Ex. D-24. Many of the factors listed are subjective in nature. Tr. 159:16-22 (Stocks). Categories include whether cultural values conflict with dominant culture; lack of access to cultural activities within the dominant culture; and if home or after school responsibilities interfere with a student’s learning activities. Ex. D-24.

118. While the Special Considerations checklist may be a useful tool to decrease segregation in the Venture program, it is not well utilized. In 2022-23, there were 1095 students districtwide in the Venture Program. Ex. P-8 at 14-15. Six students out of the 1095 qualified under the Special Considerations checklist; three of the six children were Black. *Id.* at 16.

119. Finally, students can be referred to the Venture program through a parent or teacher referral. Tr. 85:22-25 (Stocks); Ex. P-8 at 13. Most students are identified through teacher referrals (67 percent in 2021-22 and 60 percent in 2022-23). Ex. P-8 at 16. If referred, faculty will then conduct an assessment. Ex. P-8 at 13; Ex. D-20 at 4. This assessment contains multiple subjective factors including whether a student possesses characteristics that indicate “leadership,” “giftedness,” or “creativity.” *Id.* The District did not present any evidence with respect to how they define these terms.

120. The subjectivity of the teacher referral process and Special Considerations checklist are contributing factors to racially identifiable classrooms. The subjective nature of referrals introduces potential bias into the process. Ex. P-8 at 16.

121. Research shows that a higher proportion of Black teachers is related to identification of more Black students as gifted. *Id.* at 15.

122. Schools with especially wide disparities—or where there were no Black students identified—also have low percentages of Black teachers. For example, in 2022-23, there were no Black gifted students identified at Steen’s Creek, and only one Black teacher. *Id.* Gifted teachers train other teachers on how to identify students to refer for gifted screening. In 2023-23, the District had only one Black gifted teacher, and to the District’s best recollection, currently, in 2025-26, it still only has one Black gifted teacher. Ex. P-8 at 16; Tr. 156:19-157:5 (Stocks).

a. Disparities in the Venture Program Referral Process Have Led to Disparities in Enrollment.

123. Disparities in the referral process have unsurprisingly led to disparities in enrollment into the program. Ex. P-8 at 13. Black students are underrepresented in the program compared to their share of the overall student enrollment. Tr. 492:9-16 (Rossell). In 2021-22, two schools (Pisgah High and Puckett Elementary) had zero Black gifted students and in 2022-23, three schools (Pisgah High, Richland Elementary, and Steen’s Creek) had zero Black gifted students.¹¹ Ex. P-8 at 13.

124. Multiple elementary schools in 2022-23 had less than 2 percent of Black students identified as gifted: McLaurin Elementary (0.9 percent); Oakdale Elementary (1.3 percent); Puckett Elementary (1.4 percent); Richland Elementary (0 percent), and Steens Creek Elementary (0 percent). Ex. P-8 at 15. And at all schools but one school, the rate of White students identified for gifted was higher than the rate of Black students. Tr. 561:1-4 (Frankenberg).

¹¹ The gifted program runs through eighth grade and Pisgah High School enrolls students in grades seven through twelve. Ex. D-64 at 7.

Gifted Students: 2022-23	Percent of Black Students enrolled	Percent of White Students enrolled
Richland Elementary	0%	2.0%
Steen's Creek Elementary	0%	3.0%
McLaurin Elementary	0.9 %	4.2%
Oakdale Elementary	1.3 %	8.7%
Puckett Elementary	1.4%	7.6%

Ex. P-8 at 15.

125. The District made recent changes in the referral process for its gifted program, including expanding the universal screeners to first and second grade, and training teachers on using the Special Considerations checklist. Ex. D-63 at 5. The District did not present data or testimony demonstrating how these changes have impacted desegregative efforts at schools where there were few to zero Black students enrolled in the Venture program. Because these changes were recently implemented and because of insufficient data, the Court cannot determine whether these changes have, or will, make a difference. Tr. 563:22–564:11 (Frankenberg).

126. The District referenced its communication efforts to parents about the gifted program as evidence of their “good-faith” efforts. Tr. 84:11-22 (Stocks); Ex. D-63 at 5. Again, the District did not present data about the communications efforts, and what, if any, impact it has had on Black enrollment in the Venture program.

127. The Venture program has a parent advisory board. The parent advisory board could be a tool used by the District to come up with strategies for effective communication to families across the District. The District Representative, however, was not aware that there was a board. Tr. 157:12-14 (Stocks). The District Representative also did not know the racial makeup of the board. Tr. 157:22-24 (Stocks).

ii. Disparities in Advanced Placement Courses.

128. Advanced Placement (AP) enrollment data shows that there are multiple racially identifiable classrooms. Ex. P-8 at 18.

129. In 2022-23, there were zero Black students enrolled in Advanced Placement (AP) English at Florence High School even though Black students made up 15.2 percent of student enrollment. Tr. 558:6-12 (Frankenberg); Ex. P-8 at 9. At Pisgah High School, in 2022-23, Black students made up 13 percent of student enrollment but there were zero Black students enrolled in AP English. *Id.* Notably, Pisgah High is a racially identifiable White school and Florence High School is in an attendance zone where multiple schools are consistently racially identifiably White schools. FOF ¶¶ 81, 89.

130. By the District's own account, districtwide since 2021-22, the disparities have become more pronounced. In 2021-22, Black student participation in academically rigorous courses was 23 percent, Tr. 101:17-24 (Stocks), while Black student enrollment at the secondary level (where students are eligible for AP courses) was 27.5 percent. Ex. P-8 at 8. The District testified that in 2025, for "advanced placement, honors and dual enrollment, Black student participation is at least 20 percent." Tr. 100:5-8 (Stocks). In 2025-26, enrollment of Black students at the secondary level increased and is 30.3 percent. Ex. P-112 at 4.

131. Notably, the District did not introduce enrollment data or testify about Black student enrollment in AP classes at specific schools. The District did not present any evidence with respect to changes in enrollment at the schools where in 2022-23, there were zero Black students in AP English classrooms.

132. The District's expert did not assess whether there were racially identifiable honors or advanced placement classes. Tr. 491:9-17 (Rossell).

133. The District has updated certain policies that may have a desegregative impact, but it is too soon to determine their effectiveness. Moreover, it is impossible to track progress because the District does not consistently track or review AP enrollment data. Ex. P-111 at Tr. 50:11-20 (Graham).

134. Prior to 2025, teacher recommendations were needed to enroll in certain AP Courses. Tr. 153:19-24 (Stocks). The District removed this requirement in 2025. Tr. 153:22–154:2 (Stocks). There is no data to indicate how, if at all, this has impacted racial demographics in AP courses.

135. To enroll in certain advanced courses, students must meet certain requirements. Tr. 151:18-21 (Stocks). As of 2025, if a student does not meet the requirements, a parent or guardian may submit a formal request for their child to enroll. Tr. 151:22–152:4 (Stocks). Because this policy just went into effect, it is unclear whether and to what extent it will have an impact on desegregation in classroom assignment.

136. The District points to its “standardized fee waiver system” as an example of its good faith effort to desegregate in the area of classroom assignment. Ex. D-63 at 5. There is not enough evidence in the record to support its claim that first, this is a cause of racial disparities and second, that the District’s efforts with respect to fees has reduced racial disparities in classroom assignment.

137. First, the District did not introduce any evidence or testimony that identified fees as a barrier to enrollment, nor did they present evidence to suggest that fees are a specific barrier for Black students.

138. According to the United States Census, in Rankin County, between 2019 and 2023, 26.3 percent of the Black population ages six to seventeen was below the poverty line, compared to 6.6 percent of the White population.¹²

139. The District did not cite to any data related to financial barriers for Blacks students, compared to White students, and did not explain how if, at all, this factored into its decisions on how to address disparities in the classroom.

140. Nor was there any evidence or testimony on how changes to the fee waiver policy have impacted student enrollment. The District did not provide any data with respect to the number of students or the race of students that have utilized fee waivers for AP courses or dual enrollment.

141. Second, the District has failed to adequately publicize or otherwise make available information about fee waivers to students and their families. For example, the District purported to advertise in parent newsletters, Tr. 97:6-9; 98:3-11 (Stocks), and the student handbook, Tr. 134:23–135:5 (Stocks), that AP course fees, exam fees and all fees for students that receive free or reduced lunch. However, neither the newsletter, Ex. D-27, nor the 2025-26 Student handbook, Ex. D-64, contain any information on AP fee waivers for low-income or any other students. Instead, the newsletter states, simply states that “RCSD will assist with fees for students who meet certain assistance eligibility requirements.” Ex. D-27.

¹² As of 2023, 1553 Black children (783+770) were below the poverty line, out of a total of 5906 Black children (1553+1965+2388) ages six to seventeen in Rankin County. *See* Poverty Status by Age, African American, American Community Survey, U.S. Census Bureau, <https://data.census.gov/table/ACS5Y2023.B17020B?q=poverty+status+by+age+by+race&g=050XX00US28121,28%E2%80%A6> (accessed Nov. 18, 2025). As of 2023, 1,164 White children (574+590) were below the poverty lines, out of a total 17,611 White children (1164+9097+7350) ages six through seventeen living in Rankin County. *See* Poverty Status by Age, White Alone, American Community Survey, <https://data.census.gov/table/ACS5Y2023.B17020A?q=poverty+status+by+age+by+race&g=050XX00US28121,28%E2%80%A6> (accessed Nov. 18, 2025).

142. Third, the District also asserts that it covers all dual enrollment fees for students on free or reduced lunch. Tr. 104:12-20 (Stocks). Yet the 2025-26 student handbook is silent on whether it covers fees for students receiving free or reduced lunch. Instead, it states it is the responsibility of the student to cover the costs for dual enrollment including textbooks and college courses. Tr. 154:25–155:9 (Stocks).

iii. Special Education Enrollment.

143. In her report, Dr. Frankenberg also presented evidence of disproportionate Black enrollment to the alternative school, and some evidence of racially concentrated Black self-contained special education classrooms. Ex. P-8 at 16-18. For example, in 2022-23, a special education English class at Brandon Middle was 90.9 percent Black, and a special education English class at Brandon High was 80 percent Black. *Id.* at 17. The District did not rebut this evidence.

144. Dr. Frankenberg concluded that in 2022-23, the Learning Center’s demographics were racially identifiable. *Id.* at 19. Dr. Frankenberg also cited to data from 2021-22 that showed the racial composition of students assigned to the Learning Center differed substantially from the racial composition of the student’s home school with Black students assigned at a disproportionately higher rate. *Id.* The District also did not rebut this evidence.

V. FACULTY ASSIGNMENT

A. Background.

145. As of the 2024-25 school year, the District employed 1,503 certified teachers. Ex. P-8 at 6; Ex. D-30 at 2. 235, or 15.6 percent, of those teachers are Black. *Id.* 1,251, or 83.2 percent, of those teachers are White. *Id.*

146. Research shows that students benefit from having racially diverse faculties, especially when they can see teachers of equal status from different races working together. Tr. 566:1-6 (Frankenberg); Tr. 493:12-25 (Rossell).

147. The Court also heard from an educator employed by the District for over 24 years that both teachers and students would benefit from access to more diverse faculty. Tr. 348:23–349:3 (Adams).

148. Conversely, when a faculty is not diverse, it can signal that the school is racially identifiable, or only for one race. Tr. 566:14-16 (Frankenberg).

149. That is because school districts have more control over where their teachers are assigned than where their students are assigned. Tr. 494:13-16 (Rossell).

B. The District is Not Compliant with the Operative Orders’ Faculty and Staff Goals.

i. Teacher Population

150. To understand whether the ratio of Black to White teachers is “substantially the same” as the ratio “in the entire school system,” ECF 83-2 at 13, a +/- 15 percent deviation is commonly used. Tr. 568:19–569:1 (Frankenberg); Tr. 497:20–498:12 (Rossell). That deviation asks whether the Black teacher population at a given school is within fifteen percentage points of the districtwide population of Black teachers.

151. In the past five years, five schools in the Rankin County School District had Black faculty populations that were outside of that range and therefore racially identifiable: McLaurin Elementary, the Learning Center, Pisgah High School, Puckett Elementary, and Highland Bluff Elementary.

Teacher Racial Composition by School	Black %	White %
2025-26 Districtwide	15.6%	83.2%
McLaurin Elementary	34.1%	63.6%

RCSD Learning Center	59.1%	40.9%
2023-24 Districtwide	13.2%	85.8%
McLaurin Elementary	37.8%	59.5%
Pisgah High School	0%	100%
RCSD Learning Center	50%	50%
2022-23 Districtwide	12.8%	86.5%
McLaurin Elementary	38.6%	59.1%
Pisgah High School	0%	100%
Puckett Elementary	0%	100%
RCSD Learning Center	40%	60%
2021-22 Districtwide	11.6%	87.5%
Highland Bluff Elementary	0%	92.3%
McLaurin Elementary	35.3%	58.5%
Puckett Elementary	0%	100%
RCSD Learning Center	31.8%	68.2%
2020-21 Districtwide	11.2%	87.97%
McLaurin Elementary	33.3%	61.9%
Puckett Elementary	0%	100%
RCSD Learning Center	40%	60%

Ex. D-30 at 1-2 (2025-26); Ex. P-8 at 26-29 (2020-24).

152. Under *de jure* segregation, the McLaurin attendance zone served only Black students. See ECF 176 at 6. Today, McLaurin Elementary employs a racially identifiably Black faculty.

153. McLaurin Elementary was out of range for each of the last five years. Tr. 252:12-16 (Hollis). During the 2020-21 school year, 33.3 percent of the teachers at McLaurin Elementary were Black, compared to 11.2 percent of teachers districtwide. Tr. 220:21-25 (Hollis); Ex. D-30 at 6-7. During the 2021-22 school year, 35.3 percent of the teachers at McLaurin Elementary were Black, compared to 11.6 percent of teachers districtwide. Tr. 220:23–221:8 (Hollis); Ex. D-30 at

5-6. During the 2022-23 school year, 38.64 percent of the teachers at McLaurin Elementary were Black that year, compared to 12.8 percent of teachers districtwide. Ex. D-30 at 4. During the 2023-24 school year, 35.9 percent of the teachers at McLaurin Elementary were Black, compared to 13.2 percent of teachers districtwide. Ex. D-30 at 2-3. During the 2025-26 school year, 34.1 percent of teachers at McLaurin Elementary were Black, compared to 15.6 percent districtwide. Ex. D-30 at 1-2.

154. The Learning Center is an alternative school that serves students subject to exclusionary discipline. The Learning Center's student enrollment is racially identifiably Black. FOF ¶ 144. The Learning Center's faculty has been out of range for at least five years and has increased in racial identifiability. Tr. 253:11-16 (Hollis). Between the 2020-21 and 2025-26 school years, the percent of Black teachers at the Learning Center increased steadily over time from 40 percent, compared to 11.2 percent districtwide, to 59.1 percent, compared to 15.6 districtwide. Tr. 220:12-20 (Hollis); Ex. D-30 at 1-2, 7.

155. In addition, multiple schools had either entirely White faculty populations or had zero Black faculty. Both the District's and Plaintiffs' experts agreed that these schools are outside of the +/-15 percent range, Tr. 503:19-25 (Rossell); Tr. 568:2-4 (Frankenberg). These schools are, therefore, racially identifiable. Tr. 568:2-7 (Frankenberg).

156. For example, Pisgah High School had zero Black teachers during both the 2022-23 and 2023-24 school years. Tr. 250:23–251:18 (Hollis). The number of teachers at Pisgah High increased from 38 to 39 during the 2023-24 school year. Ex. D-30 at 3-4. Still, the District did not use this growth as an opportunity to hire a Black teacher or any other teacher that was not White. Only in the last year did the District finally hire two Black teachers at Pisgah High. *Id.* at 1.

157. Similarly, Puckett Elementary had zero Black teachers for three consecutive years during the 2020-21, 2021-22, and 2022-23 school years. Tr. 251:23–252:10 (Hollis). The number of teachers at Puckett Elementary increased from 23 to 27 during the 2022-23 school year. Ex. D-30 at 4-5. The District did not hire a Black teacher for any one of those four slots. Ex. D-30 at 4. During the 2023-24 school year, the District hired one Black teacher at Puckett Elementary. Ex. D-30 at 3. As of the 2025-26 school year, Puckett Elementary still has only one Black teacher out of a total of 33 teachers. Ex. D-30 at 1.

158. During the 2020-21 school year, two of Highland Bluff Elementary’s 43 teachers were Black. Ex. D-30 at 6; Tr. 509:4-7 (Rossell). One year later, Highland Bluff Elementary had zero Black teachers, Ex. D-30 at 5; Tr. 252:13-18 (Hollis), indicating that both Black teachers left and that the District did not hire Black teachers to replace them. Tr. 509:4-7 (Rossell).

159. The racial identifiability of individual schools is part of a broader pattern by which the District fails to recruit and retain Black educators. The District’s present level of Black faculty is 15.6 percent. Tr. 254:11-14 (Hollis); Ex. D-30 at 2. This proportion is only about half of the 28 percent goal established by the 1978 Consent Order. *See* Ex. D-3 at 5.

160. The District’s present level of Black elementary teachers is even lower than the districtwide percentage of Black teachers. Tr. 259:9-16 (Hollis).

161. In Mississippi, approximately 22 to 23 percent of all teachers are Black. Tr. 591:17-19 (Frankenberg). In Rankin County, 22.4 percent of residents are Black, Tr. 260:2-5 (Hollis), and 19.5 percent of residents holding a bachelor’s degree or a higher degree are Black.¹³ These

¹³ As of 2023, 37,664 residents of Rankin County over the age of eighteen hold a bachelor's degree or a higher degree. *See* U.S. Census Bureau, 2019-2023 American Community Survey, Sex by Educational Attainment for the Population 18 Years and Over, <https://data.census.gov/table/ACSDT5Y2023.B15001?q=educational+attainment+race&g=050XX00US28121> (accessed Nov. 18, 2025). 7,362 of those individuals, or 19.5 percent, are Black. *See* U.S. Census

rates exceed the District's current level of Black faculty by approximately seven and four percentage points, respectively. The District offered no testimony or evidence that its Black applicant pool for teacher vacancies is disproportionately low.

162. The District is the largest employer in the county. Tr. 60:13 (Stocks). The applicant pools for positions sometimes include as many as 200 candidates and are often too large to interview all qualified candidates. Tr. 301:9-15 (Hollis).

163. Because of the District's large applicant pool, the State of Mississippi has not identified Rankin County as a school district that requires state-backed incentives or additional funds to recruit educators. Tr. 223:6-10 (Hollis).

ii. School Administrators

164. The District has maintained four attendance zones where all or nearly all of the principals and school administrators are of the same race: Puckett, Pisgah, Northwest, and Florence.

165. The Puckett Zone consists of Puckett Elementary and Puckett High. Ex. D-12.¹⁴

166. Every principal and assistant principal in the Puckett Zone is White. Both the Principal and Assistant Principal of Puckett Elementary are White, Tr. 281:2-4 (Hollis), as are the Principal and Assistant Principal of Puckett High. Tr. 281:5-7 (Hollis).

167. The Pisgah Zone consists of Pisgah Elementary and Pisgah High. Ex. D-12.¹⁵

Bureau, 2019-2023 American Community Survey, Educational Attainment, <https://data.census.gov/table/ACSST5Y2023.S1501?q=Rankin+County,+Mississippi&t=Educational+Attainment&moe=true> (accessed Nov. 18, 2025);

¹⁴ See also Rankin County School District, *School Zone Maps*, <https://www.rcsd.ms/resources/school-zone-maps> (last accessed Nov. 15, 2025).

¹⁵ See also *id.*

168. During the 2022-23 school year, none of the administrators at either Pisgah High or Pisgah Elementary were Black. Ex. D-8 at 13.¹⁶ During the 2023-24 school year, both the Principal and Assistant Principal of Pisgah High were White, Tr. 280:13-15 (Hollis), and half of the school administrators at Pisgah Elementary were Black. Ex. D-8 at 13.¹⁷

169. The Northwest Zone consists of Northshore Elementary, Flowood Elementary, Highland Bluff Elementary, Oakdale Elementary, Northwest Rankin Elementary, Northwest Middle, and Northwest Rankin High. Ex. D-12.¹⁸

170. During the 2023-24 school year, all but one of the six principals and all but one of the six assistant principals in the Northwest Zone were White, and only one was Black.¹⁹ Both the Principal and Assistant Principal of Northshore Elementary were White. Tr. 280:1-4 (Hollis). The Principal of Flowood Elementary was Black, while the Assistant Principal was White. Ex. P-36 at 3. Both the Principal and Assistant Principal of Highland Bluff Elementary were White. Tr. 279:22-25 (Hollis). Neither the Principal nor the Assistant Principal of Oakdale Elementary were Black, and the Principal was White. Tr. 280:8-12 (Hollis). Both the Principal and Assistant Principal of Northwest Rankin Elementary were White. Ex. P-36 at 4. Similarly, both the Principal and Assistant Principal of Northwest Middle were White. Ex. P-36 at 6.

171. The Florence Zone consists of Florence Elementary, Steen's Creek Elementary, Florence Middle, and Florence High. Ex. D-12.²⁰

¹⁶ The District did not provide data showing the race or number of all school administrators at Pisgah High and Pisgah Elementary for the 2022-23 school year.

¹⁷ The District did not provide data showing the race or number of all school administrators at Pisgah Elementary.

¹⁸ See also Rankin County School District, *School Zone Maps* supra note 14.

¹⁹ This does not include Northwest Rankin High, for which the District failed to provide the number and race of school administrators. The District did disclose, however, that 40 percent of school administrators at Northwest Rankin High were Black during the 2023-24 school year. Ex. D-8 at 13.

²⁰ See also Rankin County School District, *School Zone Maps* supra note 14.

172. During the 2023-24 school year, all three of the principals and all but one of the three assistant principals in the Florence Zone were White. *See* Ex. P-36.²¹ The Principal and both Assistant Principals at Florence Middle are White. Tr. 279:19-21 (Hollis). The Principal of Florence High was White. Ex. P-36 at 2. The Principal of Steen's Creek Elementary was also White. Ex. P-36 at 11.

173. The District did not introduce evidence showing the race of principals and assistant principals at RCSD schools during the 2024-25 or 2025-26 school years.

174. In short, during the years for which data was provided, four of the District's eight attendance zones have all or nearly all White administrators. Of those four zones, one has exclusively White principals and assistant principals.

iii. School Leadership Teams

175. One way that teachers have traditionally held leadership roles in the District's schools is by serving as a subject matter head. Tr. 282:7-19 (Hollis); ECF 99 at 18. Today, teachers in the District can also take on leadership roles by serving on school leadership teams. Tr. 282:20-25 (Hollis).

176. During the 2023-24 school year, two schools had entirely White leadership teams: Northshore Elementary School and Pisgah High School.

177. Northshore Elementary's leadership team had eleven members. Tr. 284:4-10 (Hollis). Every member of the team was White. *Id.* Northshore Elementary's Principal and Assistant Principal are also White. FOF ¶ 170.

²¹ This does not include Florence Elementary, for which the District failed to provide the number and race of school administrators. The District did disclose, however, that 50 percent of school administrators at Florence Elementary were Black during the 2023-24 school year.

178. Pisgah High's leadership team had nine members. Tr. 284:12-18 (Hollis). Every member of the team was White. Until recently, Pisgah High had zero Black teachers on its faculty. FOF ¶ 156.

179. During that same year, six other schools in the District had leadership teams with only one Black member. *See* Ex. P-36.

180. Florence Middle's leadership team had thirteen members. Tr. 283:4-10 (Hollis); Ex. P-36 at 3. Twelve of them were White. *Id.* Florence Middle's Principal and two Assistant Principals were also White. FOF ¶ 172.

181. Flowood Elementary's leadership team had thirteen members. Tr. 283:11-15 (Hollis); Ex. P-36 at 3. Twelve of them were White, and one was Black. *Id.*

182. Highland Bluff Elementary's leadership team had eleven members. Tr. 283:16-23 (Hollis); Ex. P-36 at 4. Nine of them were White, one was Hispanic, and one was Black. *Id.* In recent years, Highland Bluff Elementary experienced a reduction in Black teachers and, during the 2021-22 school year, had zero Black teachers. FOF ¶ 158.

183. Puckett Elementary's leadership team had eleven members. Tr. 284:19-23 (Hollis); Ex. P-36 at 7-8. Ten of them were White and one was Black. *Id.* Puckett Elementary had zero Black teachers until recently. FOF ¶ 157.

184. McLaurin High's leadership team had seven members. Tr. 283:24–284:3 (Hollis); Ex. P-36 at 4. Six of them were White. *Id.* Only one member of the leadership team was Black during the 2023-24 school year, even though McLaurin High had eight Black teachers that year. Tr. 285:18–286:2 (Hollis).

C. The District's Failure to Take Affirmative Steps to Ensure Diverse Faculty and Staff, Including Through Recruitment, Hiring, Retention, and Promotion, Violates the Operative Orders.

i. Recruitment.

185. The District fails to seek out Black candidates for its faculty and staff vacancies and has considered, but declined to adopt, practices that would increase recruitment of Black educators.

186. District leadership is aware that there is a perception in the community that Rankin County Schools do not hire Black teachers. Tr. 313:17-20 (Hollis).

187. The District has, for example, met with the Concerned Citizens Committee, a group of Black residents of Rankin County who shared perceptions that the District does not employ or hire minority teachers or employees. Tr. 314:19–315:6 (Hollis). During this meeting, members of the Committee shared that they learned the District claimed it had a hard time finding minority applicants. Tr. 315:7-13 (Hollis).

188. Despite these concerns, the District did not change its recruitment or outreach strategies following this meeting. Tr. 316:18–317:11 (Hollis).

189. The District could improve recruitment of Black teacher candidates by posting on diversity-focused online educator job boards. Ex. P-8 at 36.

190. But the District does not make use of such job boards. The District posts available jobs to its own portal and social media and sometimes makes use of radio spots. Tr. 224:19-20, 225:6-12 (Hollis). The District just recently began posting jobs to the Mississippi Department of Education's statewide portal, and is hoping to begin posting to the Mississippi Department of Employee Services' board as well. Tr. 224:21–225:3 (Hollis). However, none of these websites are targeted specifically at Black teachers or diverse candidates. Tr. 292:14-16 (Hollis).

191. The District does not post jobs to any websites dedicated to or targeted at Black educators. Tr. 293:11-16 (Hollis).

192. Additionally, the District has not identified any listservs specifically dedicated to Black educators that it can use to conduct outreach and recruitment. Tr. 291:14-17 (Hollis).

193. The District could also recruit more Black faculty by conducting recruitment outside of Mississippi. Ex. P-8 at 36. However, the District currently does not attend any career fairs outside of the state. *See* Ex. D-42. The District produced no evidence of other recruitment efforts outside of the state.

194. The Court heard testimony that the District conducts recruitment through partnerships with colleges and universities, including Historically Black Colleges and Universities (HBCUs). Tr. 233:6-7 (Hollis).

195. But the District is not investing the same resources into its partnerships with HBCUs and, as a result, does not see the same successful recruitment outcomes it sees with non-HBCU partnerships. For example, the District has hosted five interns from William Carey University, which is not an HBCU, in the past year alone, Tr. 298:25–299:5 (Hollis), has hosted William Carey representatives who presented about that partnership, Tr. 239:10-11 (Hollis), and has attended a conference at William Carey specifically to encourage that partnership. Tr. 299:7-9 (Hollis). By contrast, the District has hosted at most two interns from HBCU Jackson State University in the past five years, only one intern from HBCU Tougaloo College last year, and only one intern from HBCU Alcorn State University in the past five years. Tr. 294:24–295:11; 296:17–297:2; 298:2-4 (Hollis). The District has conducted no recent presentations about the partnership at Tougaloo College. Tr. 297:16-19 (Hollis). And though the District recently

conducted a presentation at Jackson State University, it did not discuss the intern partnership during that presentation. Tr. 296:9-16 (Hollis).

196. The District hopes to increase recruitment from HBCUs through proposed strategies, but has not mandated or even fully implemented those strategies.

197. For example, the District plans to have a diversity recruitment committee attend career fairs at HBCUs to ensure the District is represented by diverse staff. Tr. 234:8-10 (Hollis). But the District does not require diverse representation at career fairs. Tr. 290:13-14 (Hollis). Indeed, despite its goal, the District testified that it is not uncommon for the District to send all-White groups to career fairs. Tr. 290:24–291:1 (Hollis).

198. Similarly, the District expects that members of the diversity recruitment committee will conduct independent, individualized recruitment outreach to contacts at HBCUs. Tr. 293:20–294:6 (Hollis). But the District does not track these efforts in any way or require that they be reported. *Id.* The District also offered no evidence of whether this outreach has yielded any connections or candidates.

199. The District testified that it hopes to increase the applications it receives from career fair contacts by asking staff to reach out to candidates through postcards, emails, or calls. Tr. 289:16–290:1 (Hollis). But the District has only recently begun to implement this practice. Tr. 290:2-8 (Hollis). As such, the Court did not hear testimony on the efficacy of this practice.

200. Photos and social media posts provided by the District showed District staff interacting with potential recruits, including Black potential recruits. Tr. 225:19-25 (Hollis). But these photos, and the District's identification of various individuals in the photos as Black, does not provide a full picture of the District's recruitment efforts. Tr. 592:20-23 (Frankenberg).

Indeed, the Court heard no testimony about recruitment data or the use of that data to inform recruitment efforts or assess efficacy.

ii. Hiring.

201. When the District does receive applications from Black candidates, it routinely overlooks or passes over them, often in favor of less-qualified White candidates.

202. The District provides standard interview questions for use in the hiring process. Tr. 302:1 (Hollis). District leadership testified that these standard questions ensure candidates for the same position are scored across the same metrics, and that the candidate with the highest score should be hired. Tr. 302:2-24; 304:16-22; 309:6-8 (Hollis); Tr. 174:2-18 (Stocks).

203. But the Court heard testimony about multiple instances where the District failed to hire, or even check references or properly consider, Black candidates who scored higher than the candidate ultimately hired. Tr. 307:5-25 (Hollis); Tr. 581:3-23 (Frankenberg). In one instance, a higher-scoring Black candidate was interviewed a full two weeks before the lower-scoring White candidate who was ultimately hired, but the District never considered the Black candidate for employment. Tr. 307:18–308:3 (Hollis). Plaintiffs' expert, who conducted a review of hiring data, testified that there were 23 positions across the 2021-22 and 2022-23 school years for which a White candidate was hired over a similarly- or higher-scoring Black candidate. Tr. 661:20–662:2 (Frankenberg).

204. Plaintiffs' expert testified that it is best practice to respond to such a pattern by making changes to the District's process for screening candidates and evaluating whether interview practices should be changed. Tr. 590:8-17 (Frankenberg). The Court heard no testimony that the District has made such changes.

205. Moreover, the District has no policies in place to mitigate racial discrimination or other potential biases in interviews and hiring.

206. For example, using racially diverse hiring committees can increase successful recruitment of Black faculty. Ex. P-8 at 33. But the District does not require the use of diverse hiring committees. Tr. 300:10-12 (Hollis).

207. In addition, the District has no standard set of criteria to help principals decide which applicants to interview, does not require principals or hiring managers to justify hiring a lower-scoring White candidate over a higher-scoring Black candidate, does not require racially identifiable schools to hire faculty that will reduce identifiability, and has no policy requiring principals to justify hiring choices that exacerbate identifiability. Tr. 310:5-15 (Hollis). The District also does not require hiring committees to interview every candidate that meets posting requirements, because the candidate pools for each posting are too large. Tr. 301:6-14 (Hollis).

iii. Retention.

208. The District has only recently begun to use practices geared at retaining Black teachers, and has yet to adopt others.

209. Plaintiffs' expert opined that the District could improve retention of Black educators by targeting retention efforts at teachers generally and Black teachers specifically. Tr. 588:13-18 (Frankenberg).

210. The District has, in the last year, updated its teacher and staff survey to ask about teachers' experiences with racial discrimination. Tr. 319:6-21 (Hollis). While promising, that practice has not been in place for more than a year, and the Court heard no testimony on the results or efficacy of the surveys.

211. Former District educator Ma'Kesha Adams testified that the District risks losing Black teachers who feel devalued or are shut out by White colleagues. Tr. 347:21–348:15 (Adams).

212. Ms. Adams testified to her own experience of being devalued by school leadership in the District. In 2008, despite consistent high performance and being appointed as Teacher of the Year, the principal of Pisgah High School placed Ms. Adams on a performance improvement plan. Tr. 346:21-25 (Adams). The principal claimed that Ms. Adams' students had accused her of "being a racist" but provided no supporting documentation. Tr. 346:25–347:2; 347:3-4 (Adams). Ms. Adams left Pisgah High that year and began working at Northwest Middle. She described her experience at Northwest Middle as markedly different because the principal "fostered an environment where each teacher felt valued and seen." Tr. 347:3-8 (Adams).

213. Ms. Adams shared that when Black teachers experience isolation, silence, and feelings of inferiority because they are shut out by White colleagues, school leaders in the District misunderstand and mislabel that isolation as anger or aggression. Tr. 348:12-15 (Adams). Instead, Ms. Adams testified, Black teachers need support from school and District leaders who can help them navigate challenges with White colleagues and administrators. Tr. 348:2-7 (Adams). Based on her experience working in the District for over two decades, Ms. Adams testified that the District could improve retention and address these challenges by providing training to school and District leaders about how to identify and support teachers who may be experiencing isolation or feelings of inferiority. Tr. 348:12-15 (Adams).

214. But the District provides no such training to staff or administrators about how to create inclusive climates for teachers, Ex. P-8 at 35, and provided no evidence that it intends to adopt such a training.

iv. Promotion.

215. The District has failed to promote Black teachers and staff to leadership positions.

216. Instead, when confronted with racial disparities in school leadership, the District assumes without evidence that Black educators are not interested in those opportunities. For

example, the District's Director of Human Resources testified that she was not concerned about schools where the principal and assistant principals were of the same race, because she personally did not know whether there was a better candidate for those positions than the candidates selected. Tr. 281:12–282:2 (Hollis). The District provided no evidence that Black candidates had not applied to these roles or that the District has reviewed candidates or school leadership team recruitment practices to identify disparities or obstacles to Black teachers' participation.

217. Similarly, when confronted with low Black representation among school leadership teams, the Director testified that, because the teams are voluntary, she has no reason to be concerned. Tr. 286:2-4 (Hollis). She further testified that one contributing factor may be that Black educators are not interested in serving in those roles. Tr. 286:5-11. But the Director has never surveyed educators to evaluate these assumptions, Tr. 286:23–287:4 (Hollis), and the District provided no evidence to support these assumptions. The District did not, for example, present evidence that no Black educators applied serve on these teams.

218. The District also presented no evidence of its posting, recruitment, or selection process for school leadership teams, or any evidence of steps it has taken to eradicate vestiges of segregation among Black school leadership.

v. Voluntary Transfers.

219. The District also does not have policies in place to discourage teacher transfers that exacerbate racial identifiability or to incentivize teacher transfers that would reduce racial identifiability.

220. Based upon a review of teacher transfer data, Plaintiffs' expert Dr. Frankenberg identified one teacher transfer request and two transfers that further exacerbated the racial identifiability of District schools across the 2021-22 and 2022-23 school years. Ex. P-8 at 34-35.

221. The Plaintiffs' expert recommended that the District deny transfers of this sort in the future and examine why White teachers are requesting to leave schools with racially identifiable Black faculties. *Id.* at 35.

222. The Plaintiffs' expert also recommended considering how to incentivize transfers to enhance desegregation efforts. *Id.* The District similarly recognizes that voluntary teacher transfers are one way to advance desegregation. Tr. 311:6-14 (Hollis).

223. Consistent with this recommendation, the District has considered offering incentives to encourage transfers that would reduce racial identifiability. Tr. 312:2-6 (Hollis). However, the District ultimately chose not to pursue this practice. *Id.*

224. The District defended its choice not to adopt voluntary incentives by citing its belief that incentivizing such transfers could be perceived as having a negative connotation. Tr. 312:7-12 (Hollis). The District's Director of Human Resources testified that she personally finds the idea offensive. *Id.*

225. Concerningly, however, the District has not surveyed faculty to determine whether they would find voluntary transfer incentives offensive or helpful. Tr. 312:25–313:16 (Hollis). Nor did the District provide any evidence that District faculty agree with this belief.

vi. Vacancies.

226. Because the District does not recruit Black educators and fails to hire, or sometimes even consider, the Black candidates who do apply, the District routinely fills teacher vacancies left by both Black and White departing teachers with White candidates. As a result, the District is not using attrition to increase Black faculty in its schools and reduce racial identifiability. *See* Ex. D-3 at 5 (“it is understood that the district will through attrition achieve a ratio of at least 28% black staff at every level and in all categories.”).

227. Since 2020-21, the District has increased the number of Black teachers hired districtwide from 156, or 11.2 percent, in 2020-21 to 235, or 15.6 percent, in 2024-25. Ex. D-30 at 2, 7. However, Plaintiffs' expert concluded that some schools in the District have not benefited from that improvement, Tr. 569:17-22 (Frankenberg), and have been, or continue to be, racially identifiable. Tr. 579:23–580:11 (Frankenberg).

228. That the District maintains multiple schools with as little as one or two Black teachers undermines its ability to increase the number of Black teachers in the District through attrition. Plaintiffs' expert testified to quantitative and qualitative research showing that when Black teachers are isolated on a school's faculty, Black teacher attrition increases. Tr. 587:25–588:5 (Frankenberg). She also testified that the District can retain more Black teachers by reducing teacher isolation. Tr. 588:6-8 (Frankenberg). But the District has forgone opportunities to reduce teacher isolation.

229. In recent years, District schools with no Black teachers did not replace departing teachers with Black teachers, even though doing so would have reduced the racial identifiability of those schools and increased representation of Black teachers districtwide. Ex. P-8 at 30-33; Tr. 579:23–580:11 (Frankenberg).

230. During the 2021-22 school year, Pisgah High lost four White teachers. Ex. P-8 at 31. Instead of hiring even one Black teacher to fill those roles, the school hired four White teachers. *Id.* As a result, the school continued to have an all-White faculty. Ex. D-30 at 5.

231. During the 2022-23 school year, Pisgah High had two White teachers depart. Ex. P-8 at 30. Once again, instead of hiring Black teachers to fill those roles, the school hired two White teachers. Ex. P-8 at 30. As a result, the school once again had zero Black teachers that year. Ex. D-30 at 4.

232. The District introduced no evidence to explain Pisgah High's failure to hire any Black teachers for its vacancies during the 2021-22 and 2022-23 school years.

233. During each of the 2021-22 and 2022-23 school years, Puckett Elementary lost three White teachers. Ex. P-8 at 31, 33. Instead of hiring Black teachers to fill even one of those roles, the school hired three White teachers each year. Ex. P-08 at 31, 33. As a result, the school continued to have an entirely White faculty. Ex. D-30 at 4-5. The District offered no explanation for Puckett Elementary's failure to hire Black teachers during the 2021-22 and 2022-23 school years.

234. During the 2021-22 school year, Highland Bluff Elementary, which had no Black teachers, lost two White teachers. Ex. P-8 at 30; *see* Ex. D-30 at 5. Instead of hiring Black teachers to its all-White faculty, the school hired two non-Black teachers, one of whom was White. Ex. P-8 at 30. The District offered no explanation for Highland Bluff Elementary's failure to hire Black teachers during this year.

235. This pattern continued across the District. Despite myriad opportunities to hire Black teachers to fill vacancies, District schools continued to hire White teachers. During the 2020-21 school year, Florence Elementary lost four White teachers; Highland Bluff Elementary lost two White teachers; Northshore Elementary lost two White teachers; and Pelahatchie Elementary lost four White teachers. Ex. P-8 at 30-31. With the exception of Highland Bluff Elementary and Pelahatchie Elementary, each school filled all its vacancies with White teachers. *Id.* Highland Bluff and Pelahatchie Elementary each hired non-White teachers, but neither school hired a single Black teacher that year. The District offered no explanation for these failures.

236. Similarly, during the 2022-23 school year, Florence Elementary lost one White teacher; Pelahatchie Elementary lost three White teachers; and Pelahatchie High lost five White

teachers. Ex. P-8 at 32. Each school filled all of its vacancies with White teachers. *Id.* The District provided no testimony or evidence to explain these schools' failure to hire Black teachers during the 2022-23 school year.

237. Several District schools are losing more Black teachers than they are recruiting or hiring. At these schools, the District's hiring choices not only failed to increase Black teaching staff, but actually decreased the proportion of Black faculty in the school. Florence High, for example, lost one Black teacher and four White teachers in 2022-23, but hired four White teachers to partially fill the vacancies. Ex. P-8 at 32. The same year, Florence Middle lost one Black teacher and three White teachers, but hired four White teachers to replace them. *Id.* Also in 2022-23, Flowood Elementary lost one Black teacher and five White teachers, but hired five White teachers to replace them. *Id.* Northwest Middle lost five Black teachers and two White teachers that year, but hired only four Black teachers and two White teachers to replace them. *Id.* Similarly, Northwest High lost seven Black teachers and fifteen White teachers, but replaced them with only six Black teachers and fifteen White teachers. *Id.* As a result, the proportion of Black teachers at each of these schools decreased.

238. Hiring during the 2021-22 school year followed the same pattern. Northwest High lost three Black teachers and seven White teachers but hired ten White teachers to replace them, significantly reducing the proportion of Black teachers at the school. Ex. P-8 at 31. Pisgah Elementary lost one Black teacher and three White teachers, but hired only three White teachers to fill those vacancies. *Id.* Northwest Middle lost five Black teachers and two White teachers, but filled the vacancies with four Black teachers and two White teachers. *Id.* Richland Elementary lost two Black teachers and three White teachers, but filled those vacancies with only one Black

teacher and four White teachers. *Id.* As a result, its already-low proportion of Black faculty decreased. *Compare* Ex. D-30 at 7 *with id.* at 5.

239. During the 2021-22 school year, McLaurin Elementary and the Learning Center, both of which have identifiably Black faculties, FOF ¶¶ 153, 155, hired Black teachers to replace vacancies caused by White teachers leaving. Ex. P-8 at 30. As a result, the schools became even more racially identifiable. Ex. P-8 at 30

D. The District Has Failed to Monitor its Compliance with the Requirements of the Operative Orders.

240. The District does not monitor data pertaining to certain provisions of the Operative Orders. The District did not, therefore, present evidence of its compliance with those provisions.

241. For example, the District reviews data on promotions, but does not review that data for racial disparities. Tr. 262:1-6 (Hollis).

242. The District also does not review school leadership teams for racial disparities. Tr. 288:10-21 (Hollis). Rather than reviewing that data to ensure there are no disparities, the District's Director of Human Resources testified that review is not necessary because she would have no reason to assume or speculate that there is a race disparity among the teams. *Id.*

243. The District's expert, Dr. Rossell, also did not analyze or present data related to metrics at issue in the Operative Orders. Dr. Rossell did not evaluate whether the District's schools were compliant with the 28 percent goal reflected in the 1978 Consent Order, Ex. D-3 at 5 ¶ 7, because she was not aware of the requirement. Tr. 496:22–497:3 (Rossell). Dr. Rossell also did not evaluate faculty and staff participation in workshops by race, Tr. 496:16-18 (Rossell); the race of subject matter heads, Tr. 496:19-21 (Rossell); the race of coaches across the District, Tr. 496:13-15 (Rossell); or the race of school leadership teams, Tr. 497:9-11 (Rossell). She did not review the District's hiring spreadsheets for evidence of compliance or non-compliance with the

Operative Orders, Tr. 497:12-14 (Rossell), nor did she consider the impact or efficacy of different District initiatives. Tr. 512:5-18 (Rossell).

244. In some instances, contradictions and accuracy issues in the District's data obscured testimony on compliance with the Operative Orders. For example, Plaintiffs' expert Dr. Frankenberg testified that contradictions between the District's hiring-related datasets made it difficult to analyze how the District's hiring processes affect faculty and staff racial identifiability. Tr. 586:14-20 (Frankenberg). Similarly, data quality issues in some years of the District's vacancy and replacement data precluded fulsome analysis of that data. Ex. P-8 at 29 n.70.

245. In response to these data accuracy concerns, Dr. Frankenberg opined that a school district under a desegregation order should collect more comprehensive data in order to understand the causes of racial identifiability, potential solutions, and whether the solutions being implemented are effective. Tr. 673:19-25 (Frankenberg). The District provided no testimony or evidence that it intends to improve its data practices in that way.

VI. EXTRACURRICULAR ACTIVITIES

A. The District's Obligations Related to Extracurricular Activities Under the Operative Orders.

246. The Operative Orders place obligations on the District to desegregate extracurricular activities through ensuring Black student and faculty participation and the adoption of policies that foster such inclusion.

247. Under the 1973 Consent Order, each junior and senior high school in the District must "assign an integrated team of faculty sponsors" for extracurricular and social activities and events. ECF 83-3 at 3, ¶ 4.

248. The 1978 Consent Order mandates that the "[c]oaches of the three major sports; namely, football, basketball and baseball[,] shall not be of the same race." Ex. D-3 at 4, ¶ 5.

249. The 1978 Consent Order further requires that all schools in the District be operated “in the manner which assures proportionate black participation [in] all student and faculty activities.” Ex. D-3 at 4, ¶ 4. Specifically, the “methods of selection of students to participate in activities such as student council, cheer leading squads and the like, shall be altered to insure the inclusion of black students in all such activities in substantial proportion with their numbers in the school attendance zone.” *Id.*

B. The District Has Not Fulfilled Its Obligations Related to Extracurricular Activities Under the Operative Orders.

i. Extracurricular Faculty.

250. The District introduced disaggregated data showing the racial makeup of students, coaches, and sponsors participating in extracurricular activities in RCSD schools from only a single school year, 2023-24. *See* Ex. D-36 (coaches and sponsors); D-54 (student participation in extracurricular activities).

251. Districtwide, 16 percent of coaches and sponsors of extracurricular activities were Black in 2023-23. Ex. D-36. This is lower than the Black population of Rankin County (22.4 percent) and the percentage of Black teachers in Mississippi (22 to 23 percent). FOF ¶ 161.

252. District staff testified that the last time she checked, about 20 percent of the District’s coaches were Black. Tr. 333:17-20 (Hollis). The District did not introduce data corroborating this figure or identifying the year of the data.

253. Defendant’s expert, Dr. Rossell, testified that there are benefits to having Black coaches in schools. Tr. 493:18–494:8 (Rossell).

254. However, in 2023-24, some schools in the District had little to no Black representation among extracurricular faculty. Ex. D-36.

255. In the 2023-24 school year, for example, Pisgah High School had zero Black extracurricular coaches or sponsors: all 30 coaches and sponsors were White. Ex. D-36 at 1; Tr. 183:12-16 (Stocks). That year, the coaches for football, basketball, and baseball at Pisgah High School were all the same race (White). Tr. 184:24–185:5 (Stocks).

256. In 2023-24, Puckett High School had two Black extracurricular coaches or sponsors out of 25. Ex. D-36 at 1; Tr. 183:17-21 (Stocks).

257. This current school year, 2025-26, Puckett High School has one Black coach, but not in one of the three major sports—football, basketball, and baseball. Tr. 333:21–334:2 (Hollis).

258. Representation of Black extracurricular faculty at Pisgah and Puckett High Schools is not proportionate to—and is instead far lower than—the districtwide percentage of Black extracurricular faculty.

ii. Student Participation

259. As for student participation, some sports in the District have a substantially higher percentage of White student participation. Tr. 191:11-14 (Stocks).

260. Exhibit D-54 lists the student participation in each extracurricular activity by race at each school in the District in the 2023-24 school year. Ex. D-54. For many activities, Black student participation is not proportionate to their overall numbers in the District, but instead lags far below.

261. In 2023-24, there were 38 extracurricular activities at junior high and high schools in the District with zero Black students participating:

School	Activity	Black Students	Total Students
Brandon High School	BASS Fishing	0	14
	Golf	0	25
	Swimming	0	28
Florence High School	Archery	0	6
	BASS Fishing	0	1

	Fellowship of Christian Athletes	0	20
	Golf	0	12
	Tech Team	0	1
	Varsity Dance	0	15
	Varsity Tennis	0	25
	Varsity Fast Pitch Softball	0	21
Florence Middle School	JH Soccer	0	23
	JH Tennis	0	13
	Tech Team	0	15
McLaurin High School	Golf	0	5
	JH Volleyball	0	8
	Varsity Cross Country	0	6
Northwest Rankin High School	Swimming	0	17
	Model United Nations	0	13
	Skills USA Club	0	7
Pelahatchie High School	BASS Fishing	0	10
	JH Baseball	0	13
Pisgah High School	BASS Fishing	0	14
	Bowling	0	12
	Diamond Girls	0	11
	Future Farmers of America	0	30
	Golf	0	6
	Varsity Baseball	0	20
Puckett High School	Archery	0	25
	Golf	0	5
	JH Baseball	0	23
	JH Future Farmers of America	0	36
	Tech Team	0	7
	Varsity Volleyball	0	21
	Varsity Cross Country	0	12
	Educators Rising	0	11
Richland High School	Golf	0	11
	Varsity Tennis	0	32

See Ex. D-54.

262. That year, more than 30 other extracurricular activities had only one Black student participating. Ex. D-54. For example, at Puckett High School, there was one Black student and 25 White students on the varsity baseball team. Tr. 191:4-10 (Stocks); Ex. D-54 at 8. At Pisgah

High School, there was only one Black student and 15 White students on the JH baseball team. Ex. D-54 at 7.

263. In 2023-24, multiple schools had only one Black student on their cheer teams, an activity expressly referenced in the 1978 Consent Order as an extracurricular in which the District must ensure inclusion. Ex. D-3 at 4, ¶ 4; Ex. D-54. Cheer teams with only one Black student included Florence High School's varsity cheer team, both McLaurin High School's JH and varsity cheer teams, both Pisgah High School's JH and varsity cheer teams, and Puckett High School's JH cheer team. Tr. 189:4–190:8 (Stocks); Ex. D-54 at 2, 4, 7-8.

264. In 2023-34, at Pisgah, Puckett, and Florence high schools, nearly half of the extracurricular activities had one or zero Black students participating. Ex. D-54 at 2-3, 7-8.

265. Dr. Rossell looked at student participation in extracurricular activities across several years.²² Ex. D-7 at tbl. 3; Ex. D-8 at tbl. 3. Her analysis shows that at multiple schools in the District, Black student participation in extracurriculars is far below their share of the student body. In Table 3 of her report, a ratio of 1.0 would indicate that Black student participation in extracurricular activities is in exact proportion to their share of the student body. Ex. D-7 at 11. Some schools are far below 1.0, including Brandon Middle School (0.66 in 2023-23), Florence Middle School (0.58 in 2022-23), and Puckett High School (0.39 in 2021-22 and 0.57 in 2022-23), showing that they do not have proportionate Black representation in their extracurricular activities. Ex. D-8 at tbl. 3.

266. Dr. Rossell purported to analyze racial imbalance in the District's extracurricular activities by calculating the relative exposure index to analyze whether Black students are evenly

²² The District did not introduce disaggregated data for student participation for these years (except 2023-24), and Dr. Rossell's reports contained only her ultimate calculations of ratios, but not the underlying data. Ex. D-8 at tbl. 3.

distributed across the activities in each school. Ex. D-7 at 11 & tbl. 4; Ex. D-8 at tbl. 4. She used data for all minority students to perform this analysis, instead of isolating Black students, increasing her dataset by more than 25%. Tr. 472:16–473:23 (Rossell). In table 4, the lower the relative exposure index, the more racial balance in extracurricular activities at the school, with zero being perfect racial balance. Dr. Rossell concluded that racial imbalance in activities is “quite low” across all years without stating what number or threshold on the relative exposure index she considers to be low. Ex. D-7 at 11. Her results, however, show some schools have relative exposure indexes far above zero: Pisgah High School was 0.42 in 2018-19, and 0.37 in 2021-22. Ex. D-8 at tbl. 4. Florence Middle School was 0.4, and Florence High School was 0.32 in 2023-24. *Id.*

267. The District did not introduce evidence of the selection methods and criteria for specific extracurricular activities in District schools and did not introduce evidence demonstrating how it has altered selection criteria to insure the inclusion of Black students in all activities in substantial proportion with their enrollment numbers.

268. Black students do not always feel included in extracurricular activities even when on the team. Tagirah Bush, a Black former student at Northwest Rankin Middle School and Northwest Rankin High School, was on the school cheer team during her seventh and ninth grade years. Tr. 357:11-13 (T. Bush); Tr. 354:2-8, 21-23 (N. Bush). She felt isolated and mistreated by her teammates in a way that made her wish she was a different race, and the treatment was not addressed by the team’s coaches. Tr. 357:11–359:5 (T. Bush); 350:24–352:10 (N. Bush). After practice she frequently came home crying, and the experience discouraged her from pursuing her dream of doing cheer. Tr. 357:14-19, 358:14-16 (T. Bush).

269. Objections submitted to the Court by parents also addressed extracurricular activities, noting problems with Black and White athletes not getting equal playing time, a Black girl not making the volleyball team despite being selected for a private club league, and of Black boys who play on the junior high baseball team being rejected by White coaches in favor of less skilled White players when they try out for the varsity team. Ex. A (Braddy Objection); Ex. B (Stokes Objection).

iii. Fees

270. Some sports in the District can be expensive for students to participate, and Black schoolchildren in Rankin County are more likely to live in poverty than their White peers. FOF ¶ 138. For example, the expenses for cheerleading are on average higher than other sports. Tr. 185:6-12 (Stocks). One former student, Tagirah Bush, tried out for the cheer team at Northwest Rankin Middle School in eighth grade and made the team, but she was unable to participate because her family could not afford the fees. Tr. 352:11-17 (N. Bush). The school and coaches would not help her financially or give her any leniency related to costs. Tr. 358:5-13. (T. Bush).

271. The District maintains a “Fee Policy” that was last updated in 2021. Ex. D-51. The District’s Fee Policy “authorizes principals to charge reasonable fees” for (1) supplemental instructional materials, (2) other fees related to curriculum educational objectives, and (3) extracurricular activities. *Id.* at 1.

272. Under the Fee Policy, these authorized fees may be charged “upon the condition that a financial hardship waiver may be granted upon request,” but the Fee Policy excludes fees related to extracurricular activities from this condition. *Id.*

273. The language of the Fee Policy, and the District’s understanding of the policy, is that the hardship waiver does not cover extracurricular fees. Tr. 193:4-8 (Stocks). The District has not revised the language of the Fee Policy. Ex. D-52 at 5-6. The District presented no evidence

that parents and students are widely aware of the Fee Policy or believe it can be used to defray the cost of extracurricular activities.

274. Although the District pointed to its fee waiver as an example of its good faith efforts to comply with its obligations under the Operative Orders, it did not present evidence on how the Fee Policy has fostered Black inclusion in extracurricular activities. The District maintains a document to track fee waiver requests. Ex. D-55. The tracker lists one White student at Brandon Middle School for whom the District waived \$40 for fees related to band in October 2024. Tr. 196:13–197:10 (Stocks); Ex. D-55. The District did not present evidence that any other fee waiver requests for extracurricular fees had been approved.

VII. DISCIPLINE

275. Under the 1973 Consent Order, the District “shall not assign students to . . . classrooms on the basis of sex or race; and no classroom . . . shall be identifiable as tailored for a heavy concentration of either White or black students.” ECF 83-3 at 3. The 2019 Court Order also requires the District to take “all practicable steps to eliminate the vestiges of the prior *de jure* system in the remaining areas of . . . student assignment . . . and quality of education,” with the Court retaining jurisdiction to ensure that it does so. *See* ECF 90 at 13.

276. The District is presently engaged in disparate treatment of Black and White students in school discipline in a manner that results in the assignment of students based on race, alters the racial makeup of classrooms, and disrupts learning opportunities for Black children, in violation of the Operative Orders.

277. Dr. Jamilia Blake ran multiple analyses of the District’s discipline data and observed a clear pattern of racial bias, with Black children punished more often and more severely than White children, even for the same conduct. *See* FOF ¶¶ 288-307. These results are based, in part, on analyses that hold all other variables constant, so they are explainable only by race and

not by any other school- or student-level factors. *See* FOF ¶¶ 299-307. Further, the District’s policies have not only failed to reduce these disparities, but they also appear to be contributing to them. *See* FOF ¶¶ 320-342.

A. Background on Racial Disparities in School Discipline.

278. “School discipline” refers to disciplinary sanctions that a school or a district administers to students whom they believe have violated rules. *See* Tr. 691:24–692:14 (Blake). Such sanctions can include office discipline referrals, in- or out-of-school suspensions, expulsion, or referral to law enforcement for arrest, *id.*, as well as placement in alternative schools or classrooms, Ex. P-49 at 2.

279. School discipline, primarily that resulting in removal from the classroom, can have a significant negative effect on a child’s educational trajectory. Tr. 693:14–694:6 (Blake). School suspensions have been associated with loss of instructional time; delayed academic progress, including lower grade point average and increased risk of failure on state standardized tests; disengagement from education; and increased dropout and decreased graduation rates. *Id.*; *see also* Ex. P-49 at 2. Children who are persistently suspended also face an increased likelihood of contact with the criminal or juvenile justice systems, which in turn diminishes prospects for future educational achievement and gainful employment. Tr. 693:14–694:6 (Blake); Ex. P-49 at 2.

280. In the District, Black children are disciplined at higher rates than expected given their representation in a school’s population as well as more often and more harshly than White students, even for comparable behavior. Tr. 695:3–696:8 (Blake); Ex. P-49 at 2-3.

281. This racial disparity in school discipline is predictably harmful to Black students, as it disproportionately subjects them to the negative consequences associated with school discipline discussed *supra* at FOF ¶ 279. *See* Tr. 695:3-23 (Blake).

B. Black Children in the District Are Subjected to Disparate Treatment in School Discipline and Are Disciplined More Often and Severely than their White Peers.

282. Black children in the Rankin County School District are disciplined more often and more severely than White children. Plaintiffs' expert Dr. Jamilia Blake ran three independent statistical analyses on the District's discipline data and demonstrated that there is a "clear pattern" of racial discrimination in discipline sanctions issued by the District. Ex. P-49 at 14. The District acknowledges the existence of racial disparities in discipline and submitted no credible evidence to rebut Dr. Blake's statistical conclusions.

i. Dr. Jamilia Blake's Methodology.

283. Using three different independent methodologies, Dr. Blake demonstrated that RCSD disciplines Black students more often and more severely than White students, even controlling for other school and child level variables. *See* Ex. P-49.

284. Dr. Blake reviewed the District's discipline data for school years 2019-20 through 2023-24 as well as enrollment data for the same years, with the exception of the 2020-21 school year, for which data was unavailable. *See* Ex. P-49 at 5-7.

285. In assessing racial disparities in discipline, Dr. Blake primarily limited her analysis to school suspensions, rather than other forms of discipline, because suspensions are the most common disciplinary sanction and the relevant data set is sufficiently large to allow for robust statistical analysis. Tr. 692:15–693:13 (Blake). Suspensions also cause children to lose instructional time, negatively affecting their own education and the makeup of the classrooms from which they are removed, *see* FOF ¶ 279, and present a good metric for assessing racial disparities in discipline because school officials tend to have more discretion to suspend than they do to impose more serious punishments, Tr. 692:15–693:13 (Blake).

286. In order to assess whether the District’s dataset reflected differential discipline, Dr. Blake analyzed it using three different methodologies: a descriptive analysis that served as a preliminary screening measure; a relative risk ratio (“RRR”) that provides the relative likelihood that a Black student will be disciplined compared to a White student, taking into account both groups’ enrollment in the District; and a multilevel logistic regression analysis, which measures the relative likelihood that a student of a given race will receive multiple suspensions, controlling for other potentially confounding variables. Tr. 698:2-12, 699:12-19, 700:21–701:6 (Blake); Ex. P-49 at 7-8. Dr. Blake used these three different approaches in conjunction to reach a more reliable and robust conclusion. *See, e.g.*, Tr. 698:13–699:19 (Blake) (explaining that it is “best practice to not rely on a single approach to determine the disparate impact of discipline or discipline disparities” and explaining the differences among the approaches).

287. Dr. Blake’s analyses demonstrate that Black students are suspended more often and punished more severely than White children for similar conduct and that the only explanation for this disparate treatment is race, not other factors.

ii. *Dr. Blake’s Descriptive Analysis Provides Preliminary Evidence of Racial Disparities.*

288. Dr. Blake first calculated discipline rates across the District, which compare total instances of discipline to total population of each race and could—and ultimately did—provide preliminary evidence of disparities and an indication of the need for more robust analysis.²³ *See* Tr. 699:20–700:8, 727:3-8 (Blake); Ex. P-49 at 7.

²³ Reviewing her report in anticipation of testifying, Dr. Blake realized that she included the wrong statistics in Table 1 of her report, Ex. P-49 at 10; instead of the suspension rates, she included data from a different analysis in this case, *see* Tr. 715:7–716:23, 719:24–720:9 (Blake); Tr. 680:4–17 (explanation from Plaintiffs’ attorney). On the witness stand, Dr. Blake explained and recalculated the suspension rates by race using the correct numbers for discipline by race (in her report, she did so for both race and gender, *see* Ex. P-49 at 7, 9–10). *See* Tr. 716:25–728:24.

289. Dr. Blake calculated rates for each available year²⁴ by dividing the number of discipline incidents by the number of students enrolled for each of the Black, White, and total student populations. Tr. 719:24–721:1, 721:22–722:1, 728:17-24 (Blake); Ex. P-49 at 7, 9-10. She therefore calculated three rates for each school year: an overall discipline rate, a Black discipline rate, and a White discipline rate. *See* P-49 at 7, 9-10. Across the years, discipline rates were highest for Black students, lowest for White students, with the overall rate somewhere in between. Tr. 719:24–726:18 (Blake).

290. The results of Dr. Blake’s descriptive analysis provided a preliminary indication of differential discipline based on race and suggested that additional analysis was appropriate. *See* Tr. 719:24–728:18; (Blake).

iii. *Relative Risk Ratios Demonstrate that the District is More Likely to Suspend Black Students than White.*

291. Dr. Blake next calculated relative risk ratios for the District for each year and school level. *See* Ex. P-49 at 7.

292. A relative risk ratio estimates the likelihood that a Black student will be suspended relative to a White student.²⁵ *Id.* A relative risk ratio of 1 indicates that the risk of Black students receiving school suspension is equal to that of White students, a ratio of 2 indicates that Black students are twice as likely to be suspended as White students, and a ratio of .5 indicates that Black students are half as likely to be suspended as White students. Tr. 702:9-24 (Blake); Ex. P-49 at 7-8.

²⁴ Because Dr. Blake did not have enrollment data for the 2020-21 school year, FOF ¶ 284, she was unable to calculate discipline rates (or any conduct any other analysis that considered enrollment data) for that year. *See* Ex. P-49.

²⁵ A risk ratio is calculated by first assessing a “risk index” for each group, which requires dividing the number of students in a group receiving a single suspension by the total number of enrolled students of that group. Ex. P-49 at 7–8. The relative risk ratio is the risk index for Black students divided by the risk index for White students. *Id.*

293. Dr. Blake calculated relative risk ratios for in-school and for out-of-school suspensions, each for the District as a whole and broken down by school level (i.e., at the elementary, middle, and high school levels). *See* Ex. P-49 at 11.

294. Dr. Blake did not calculate relative risk ratios for each individual campus because the data at that level was insufficient to support reliable conclusions. *See* Tr. 705:5-17 (Blake).

295. Calculating a relative risk ratio requires “unduplicated data,” so Dr. Blake considered only a child’s first suspension, whether in- or out-of-school, in this calculation. Tr. 702:25–704:12 (Blake); Ex. P-49 at 7-8. This adjustment results in a “conservative, lower-bound estimate of the relative risk ratio.” Tr. 707:7-14 (Blake) (“And so, if I perhaps had not corrected for the first offense, these rates might be higher.”); Ex. P-49 at 8 (“This approach results in a more conservative estimate of Black students’ risk for suspension with the District than would considering suspension rates generally.”), *id.* at 10 (“Given that these suspension rates reflect the first suspension that students received, they provide a conservative estimate of . . . suspension risk not clouded by . . . discipline history.”).

296. For the 2019-20 through the 2023-24 school years, the districtwide relative risk ratios ranged from a low of 1.69 in 2021-22 to a high of 1.91 in 2023-24 for out-of-school suspensions and from a low of 1.66 in 2019-20 to a high of 2.06 in 2023-24 for in-school suspensions. Ex. P-49 at 10 & tbl. 3. Tr. 706:18–707:1 (Blake).

297. These relative risk ratios indicate elevated and problematic racial disparities in discipline in the District. Tr. 707:15–708:7 (Blake); Ex. P-49 at 10-11. Indeed, at the district level, relative risk ratios range from 1.66 to more than 2, indicating that Black students are more than one-and-a-half or twice as likely to be suspended as White students. Tr. 707:15–708:7 (Blake).

298. Furthermore, while districtwide relative risk ratios rise and fall from year to year, the ratios were significantly worse for the most recent year that Dr. Blake analyzed than for the earliest: the relative risk ratio for out-of-school suspensions rose from 1.78 in 2019-20 to 1.91 in 2023-24 and rose for in-school suspensions from 1.66 in 2019-20 to 2.06 in 2023-24. *See* Ex. P-49 at 10-11 & tbl. 3. This suggests that racial disparities are not only elevated, but worsening.

iv. *Even Controlling for Other Variables, Black Students in the District Are Likely to Be Punished More Severely than White Students.*

299. Finally, a multilevel logistical regression analysis demonstrated that Black students in the RCSD are likely to receive more severe sanctions than White students, even controlling for other school- and student-level variables. Ex. P-49 at 11. This conclusion was statistically significant for all years considered. *See id.*; Tr. 714:24–715:6 (Blake).

300. A multilevel logistical regression analysis allows one to test a hypothesis—in this case that race, and not some other factor, is the reason that Black students in the RCSD are punished more often and more severely than White students—by controlling for potentially confounding variables. Tr. 708:8–709:11, 710:14–711:4, 713:9-15 (Blake); Ex. 49 at 8 (“Multilevel Logistic Regression provides a more stringent test of racial disproportionality because it can account for school- and student-level characteristics that might also explain racial differences in discipline sanctions . . .”).

301. Here, “multilevel” refers to variables at the school and individual child levels that are held constant to determine whether another variable, race, appears to explain the differences in discipline in the District. Tr. 709:23–711:4; Ex. P-49 at 8, 11.

302. Multilevel logistical regression analysis also allows for determination of “statistical significance,” which provides a level of statistical confidence that the observed outcome is

attributable to the hypothesis rather than to chance or another variable. Tr. 708:8–709:11, 712:4–17 (Blake).

303. Testing for multiple suspensions also “provide[s] additional information about the level of discipline risk that might be present” over the relative risk ratio, which considered only a student’s first suspension. Tr. 713:16–25 (Blake). The multilevel logistical regression analysis indicates whether a student is more likely to receive multiple school suspensions rather just one suspension; that is, if he or she is likely to be more “severely sanctioned” based on his or her race and/or gender. *See* Ex. P-49 at 8, 11, 14. Importantly, it holds other potential variables constant, allowing for a statistically significant conclusion that race—and not other school- or student-level factors, including severity of offense or behavioral history—explains observed statistical discrepancies. *Id.*; *see also, e.g.*, Tr. 713:9–15 (Blake).

304. Dr. Blake’s multilevel logistical regression analysis revealed that, for every year tested, Black students were indeed likely to be more severely sanctioned than non-Black students. Tr. 714:4–715:6 (Blake); Ex. P-49 at 11 (“Black students consistently had a higher likelihood of receiving multiple suspensions compared to White, Hispanic, Asian, Native American, Multiracial, and Pacific Islander students in the District across all five years examined.”).

305. The data indicate that race and gender—and not other school- or student-level variables—are “significant predictors” of whether students in the District are likely to receive multiple suspensions rather than just one. *See* Ex. P-49 at 11. Every year tested showed a statistically significant elevated risk of more severe sanctions for Black students, “even after controlling for relevant student- and school-level characteristics such as the number of nonpunitive disciplines actions students received, student grade level, the total student enrollment

size at the school level, and the percentage of Black students enrolled at the school level each year.” Ex. P-49 at 11; Tr. 714:4–715:6 (Blake).

306. In other words, for every year tested, Black students were significantly more likely to receive more severe sanctions than non-Black students for similar conduct; a difference that cannot be attributed to any school- or student-level variables in the data set other than race.

307. Considering results from all her testing, Dr. Blake concluded that there “is a clear pattern of racial bias in discipline sanctions issued by the District,” with Black students being punished more often and more severely than White students, even controlling for infraction, discipline history, and other variables. *See* Tr. 727:11-18; Ex. P-49 at 14.

v. *The District Did Not Dispute Dr. Blake’s Findings of Racial Discrimination in Discipline.*

308. The District did not challenge Dr. Blake’s conclusions regarding disparate treatment in discipline, nor did it submit contrary data or analyses. Indeed, the District acknowledges that racial disparities in discipline exist in the RCSD. *See, e.g.*, Tr. 519:6-9 (Rossell) (Q. And your analysis of out-of-school suspensions found that Black students in Rankin County are disproportionately suspended compared to other racial groups in the district? A. Correct.); ECF 151 at 10 (acknowledging that “the data examined by Dr. Blake show racial disparities in discipline in the District”).

309. The District argues that any racial disparities in discipline are attributable not to its policies, but instead to either national trends in discipline disparities or to socioeconomic differences between White and Black students. *See, e.g.*, ECF 151 at 9-10. Specifically, Dr. Rossell writes that racial disparities exist nationwide and asserts that these disparities are “because black students are generally poorer than non-black students.” Ex. D-8 at 5-6.

310. Nothing in the record supports this claim, however.

311. Dr. Blake controlled for all other available school- and student-level variables in her analysis and still found racially disparate treatment. *See* FOF ¶¶ 299-306. There is no evidence or analysis contradicting or otherwise undermining Dr. Blake’s statistical finding that the District’s racial disparities in discipline are attributable to race rather than to any other variable in the data set. And there is no statistical or other evidence to support the District’s theory that discipline disparities are in line with national trends or attributable to socioeconomic disparities, rather than to racial discrimination.

312. Plaintiffs do not dispute that Black students are overdisciplined nationally, *see, e.g.*, Ex. P-49 at 2-3, but Dr. Rossell’s appeal to national discipline data does not, first, convincingly establish the scope of the national problem or, second, establish that the local disparities are attributable (or even comparable) to national disparities.

313. To start, Dr. Rossell’s claim of national discipline disparities, based only on a claim that Black children make up 15 percent of student enrollment but 30 percent of discipline cases nationally in 2017-18, *see* Ex. D-8 at 5-6, is based on faulty and specious reasoning because it lacks a baseline against which to compare Black student discipline. Tr. 730:24–731:10 (Blake) (explaining that Dr. Rossell’s metric for calculating national disparities in discipline is “just not standard practice” because it lacks a comparator group). Unlike with a relative risk ratio, which compares the rate at which Black children are suspended relative to their population with the same rate for White children, Dr. Rossell’s statement compares only the proportion of suspensions for Black students to their proportion of the national student population, with no indication of the rates at which children from other racial groups are suspended. Tr. 731:4–733:3 (Blake).

314. It thus cannot support any conclusion about how discipline of Black students, nationally, compares to that of other racial groups.

315. Further, Dr. Rossell's assertion was based on national data from 2017-18, which is inappropriately compared to Rankin County's discipline current discipline data. Tr. 733:16–734:2 (Blake) (testifying that it does not make sense to compare current data to data from 2017-18 because “there could be historical or temporal factors that impact suspension rates,” including the intervening pandemic).

316. Moreover, even accepting Dr. Rossell's claim about the scope of national discipline disparities, her attribution of those disparities to differences in socioeconomic status is completely unsupported by any data or analysis. *See* Tr. 733:4-15 (Blake) (explaining that Dr. Blake's conclusion that national discipline disparities are “because of” socioeconomic differences is “not supported by the statistics she presented, which do not include consideration of socioeconomic disadvantage”).

317. The District also provided no support for the conclusion that national or statewide racial disparities in wealth explain discipline disparities in Rankin County Schools.²⁶ First, the few statistics that Dr. Rossell proffers in support of the claim that Black children are socioeconomically disadvantaged compared to White children are based on aggregate national or

²⁶ Dr. Scott, speculated that because “in at least one specific title school . . . the number of White kids being suspended or given ISS is actually higher than the number of African-American kids being suspended or given ISS,” socioeconomic status “definitely plays a factor.” Tr. 438:2–13 (Scott). Dr. Scott did not provide specific data to support this recollection, however, and confirmed that he was describing higher “raw numbers” of suspensions for White students than Black, not higher rates of suspensions. Tr. 439:14–439:18 (Scott). (The District has significantly more White students than Black. *See, e.g.*, FOF ¶ 89.) Dr. Scott ultimately acknowledged that he could not “draw any actual statistical conclusions” from that example and that it was merely “something that looks kind of interesting on its face” and that “may be worth more exploration.” Tr. 439:19–440:9 (Scott).

state, not County, data and, second, are not from studies or analyses relating to student discipline at all. *See* Ex. D-8 at 5-6.

318. Dr. Rossell did not herself conduct any statistical analyses to demonstrate a causal, rather than merely correlative, link between higher discipline rates and socioeconomic status at even the national level, let alone at the state level. *See id.*

319. Indeed, the District's data includes neither information about any child's socioeconomic status nor any proxy therefore, such as eligibility for free or reduced lunch. Tr. 711:19–712:3 (Blake); Tr. 437:24–438:1 (Scott) (acknowledging that “socioeconomic status is not one of the variables that [the District] track[s] for discipline”).

C. The District's Actions Contribute to Racial Discrimination in Discipline.

320. The District's decentralized and subjective system of discipline has contributed to racial discrimination. Because the District does not track data with fidelity, it is also incapable of accurately determining the scope of the problem or identifying potential solutions.

i. The District's Disciplinary Policies.

321. Dr. Undray Scott is assistant superintendent of RCSD and his responsibilities include overseeing school discipline and special education for the District and, relatedly, being “responsible for making sure that Rankin County complies with the desegregation orders in this case with respect to discipline[.]” Tr. 362:7-21, 395:19–396:12, 397:13-19 (Scott). He testified primarily about the District's discipline policies and practices.

322. Dr. Scott testified that the District's discipline policy essentially operates on two tracks: the District sets general policies that apply to every school with the expectation that each individual school will prepare a more detailed discipline plan applicable only to that campus. Tr. 392:2-8, 397:23–398:10 (Scott).

323. The policies at the District level regulating student conduct are the student and code of conduct policies. *See* Tr. 398:15-25 (Scott).

324. The District's student conduct policy is approximately 1.5 pages long and provides an overarching, generalized statement of the District's policy aims. Tr. 400:1-9 (Scott); Ex. D-64 at 103–104 (Student Conduct Policy).

325. Its "Student Conduct in School/Code of Conduct" policy is three pages long and sets the District's expectations and prescriptions for student conduct and behavior. Tr. 400:10-22; Ex. D-64 at 105-107 (Student Conduct in School/Code of Conduct). This document does not define any required or proscribed behaviors, nor does the District train teachers specifically on how to interpret or understand its provisions. Tr. 400:19–401:22 (Scott). Each person enforcing or attempting to comply with those policies must therefore attempt to interpret for themselves what they allow and prohibit. *Id.*

326. Such subjectivity contributes to differential discipline because it allows bias and differing cultural expectations to affect enforcement decisions. Tr. 743:12–745:10 (Blake). As the District recognizes, biases can affect decision making with respect to discipline and that bias could be mitigated by adoption of more objective policies and standards.²⁷ *See* Tr. 430:2–433:14 (Scott). The District also has high-level policies dictating when a child may be suspended, expelled, or transferred to the Learning Center, the District's alternative school, for disciplinary reasons. Tr. 398:15–399:3 (Scott) (acknowledging that the District has suspension and expulsion policies but that the student conduct, student discipline, and code of conduct policies address student conduct); Tr. 385:14–386:1 (Scott) (discussing infractions that make a student eligible for

²⁷ The District testified about a single training on bias that it gives to new teachers, Ex. D-62 (PowerPoint slides and sign in sheets related to bias presentation), but acknowledged that the training required only that teachers attend and sign in; there was no testing component to ensure that teachers retained or implemented what they were taught. *See* Tr. 433:15–437:5 (Scott).

transfer to the Learning Center). Such policies also include significant subjective elements. *See, e.g.,* Tr. 403:3–405:9 (Scott) (suspension policy allows discretion to suspend and many suspendable offenses are subjective and not defined).

327. The District requires that each individual school develop a behavior plan to supplement the districtwide policies. Tr. 405:17-25 (Scott). It requires only that these plans be incentive-based, meaning that they should incentivize positive behavior rather than merely punish misbehavior, and provides a list of general topics that it expects each plan to cover. Tr. 406:1-23 (Scott). It provides no substantive requirements or direction to individual schools regarding what the school-level plans will cover or how they should operate. *Id.*

328. Dr. Scott discussed two sample school behavior plans, those of McLaurin Elementary School and Florence High School. *See, e.g.,* Tr. 373:19-23, 391:16-22 (Scott). Dr. Scott acknowledged that they were examples that applied only to those schools and did not necessarily exemplify the discipline plans of any other school in the District. Tr. 391:16–392:1, 393:21–394:2 (Scott). Dr. Scott also acknowledged that each school has discretion to respond to student behavior as it deems appropriate and that, as a result, different schools may respond differently to identical behavior from students. *See* 414:8-21 (Scott).

329. Dr. Scott also testified about the District’s review of discipline data to identify and potentially respond to racial disparities in discipline. The District identifies potential disparities in discipline by assessing whether a given group is “overidentified” with respect to discipline—that is, comparing a group’s proportion of the overall population to its proportion of discipline cases. *See* Tr. 440:22–442:12, 445:3-8 (Scott). In other words, if a racial group makes up 10 percent of the student body, it is “overidentified” in discipline if children of that race make up more than 10 percent of the District’s discipline cases. *Id.*

330. The District does not employ relative risk ratios or statistics with comparators, *see* FOF ¶ 313 (discussing importance of comparators), to assess discipline disparities. It also has no objective methods or measures, statistical or otherwise, for determining how much deviation from that target it will deem acceptable. Tr. 445:10–446:1.

331. The District will also, subjectively and on an *ad hoc* basis, ignore statistics suggesting discrimination. For example, it may disregard a data set that reflects racial overidentification in discipline where it determines that there are too few instances of discipline from which to draw a conclusion or if it determines that a data set has been skewed by multiple instances of discipline for one child, but it does not have any objective criteria for determining how many such instances are sufficient to justify ignoring a data set. Tr. 447:21–451:18 (Scott).

332. According to the District, it is the responsibility of school-level officials to identify and respond to potential racial disparities in discipline, though District officials will discuss findings with school officials at regular meetings. Tr. 451:19-24 (Scott). The District does not have any standards or policies governing how a school should assess or identify sources of discipline disparities, nor does it train school-level officials on how to do so. Tr. 452:3-10 (Scott).

ii. *The District Has Failed to Address Racial Discrimination in Discipline.*

333. After determining that racial discrimination exists in discipline in the District, Dr. Blake reviewed the District’s discipline-related policies and data to determine what effect, if any, they have had on reducing the racial gap in discipline, concluding that they were not effective in reducing discipline. Tr. 734:9–735:1 (Blake), Ex. P-49 at 13-14.

334. Dr. Blake learned that the District does not track data with fidelity,²⁸ which prevented her from conducting a robust analysis of whether the District’s policies were effective in narrowing the racial gap. Tr. 735:2-25 (Blake). She therefore had to approximate the analysis by calculating the risk rate²⁹ for out-of-school suspensions for the years of data that she had available by school level and year and graphing them to visually determine if the racial gap in suspensions was narrowing over time. Tr. 736:18-25, 738:7–739:5 (Blake); Ex. P-49 at 12-13.

335. Conducting a visual trend analysis of the graphed data points, Dr. Blake concluded that, at each level of education (*e.g.*, elementary, middle, and high school) the gap in risk rate between Black students and White students increased over the years that she assessed. Tr. 739:6–741:7 (Blake); Ex. 49 at 12-13. Indeed, at some levels of schooling, not only is the racial gap not narrowing, but discipline of White students is also decreasing or holding steady while that of Black students is increasing. *Id.*

iii. *The District Has Failed to Adopt Practicable Policy Reforms to Reduce Racial Discrimination and Disparities in Discipline.*

336. The District’s discipline policies prevent it from understanding the scope of its discipline disparities or adequately responding to them and, indeed, likely invite bias and differential treatment of students.

337. First, because the District does not collect fidelity data for discipline, *see* FOF ¶ 334, it cannot adequately understand whether its discipline policies are working to reduce racial disparities in discipline. Tr. 737:1-20 (Blake). PBIS, which the RCSD purports to implement at certain schools in the District but has not adopted districtwide, Tr. 363:13–365:7 (Scott), has

²⁸ Fidelity data allows a researcher to evaluate whether a program is being implemented as designed and to, therefore, attribute observed changes to that program. *See* Tr. 735:18–736:17 (Blake).

²⁹ A risk rate “provide[s] a metric for assessing the degree of disproportionality a racial/ethnic group experiences in light of its numerical representation” in a district or school. *See* Ex. P-49 at 3–4.

several fidelity tools that the District could implement to understand the degree to which its discipline policies are narrowing the discipline gap as intended, Tr. 737:17-20 (Blake).

338. The District's approach to data reflects that it does not adequately understand the causes of its discipline disparities or how best to address them. For example, Dr. Scott suggested that the District's potential responses to discipline disparities were limited because "it's not like we're going to say, okay, since [discipline rates for Black children are higher], we're not going to discipline this kid." Tr. 445:13-22 (Scott). That approach ignores that bias and subjective standards can lead to discipline disparities, *see* FOF ¶ 326, and is inconsistent with peer-reviewed, empirical studies that demonstrate that racial disparities in discipline are not attributable to Black children misbehaving more often than White students, *see* Tr. 695:24–696:18 (Blake).

339. It also oversimplifies the options available to the District, which include implementing proactive discipline strategies that will increase objectivity and accountability in discipline. *See* Tr. 741:11–743:11 (Blake).

340. Substantively, the District lacks objective and consistent criteria for expectations of student behavior, to include "operational definitions" of operative terms, which would remove subjectivity and potential bias from enforcement. Tr. 742:13-20, 743:12–745:10 (Blake), *see also* FOF ¶ 326 (District acknowledging subjectivity in its discipline policy).

341. Implementation of multitiered systems of support with clear, objective criteria for advancement and discipline would also address the problem of subjective discipline. Tr. 742:21–743:11 (Blake). While such systems are in place at some RCSD schools, each school is different, and not all schools have such policies in place. *See* FOF ¶¶ 327-328.

342. Such changes would be most effective if adopted at the District level because it would create uniformity and accountability for all the schools in the District. *See* Tr. 745:11–

746:16 (Blake); *cf.* FOF ¶¶ 327-328 (different schools currently have discretion to punish identical behavior differently).

PROPOSED CONCLUSIONS OF LAW

343. The Court finds that the District has violated the 1967, 1970, 1973, 1978, and 2012 Orders. The District's ongoing violations of these Operative Orders preclude a finding of unitary status as to between-school and within-school student assignment, faculty assignment, extracurricular activities, and quality of education.

I. LEGAL STANDARDS

A. The District Bears the Burden of Proof.

344. Where, as here, a school district has violated the Constitution and related corrective court orders, it is not sufficient "merely to avoid intentionally unconstitutional acts and to promise compliance with prior court orders." *United States v. Lawrence Cnty. Sch. Dist.*, 799 F.2d 1031, 1043 (5th Cir. 1986).

345. Instead, the District bears the "heavy burden," *Green v. County School Board of New Kent County*, 391 U.S. 430, 439 (1968), of proving that: (1) it is in "full and satisfactory compliance" with the Operative Orders; (2) that "retention of judicial control" is not "necessary or practicable to achieve compliance" in other areas; and (3) that the District has "demonstrated, to the public and to the parents and students of the once disfavored race, its good-faith commitment to the whole of the Court's decree and to those provisions of the law and the Constitution that were the predicate for judicial intervention in the first instance." *Freeman v. Pitts*, 503 U.S.467, 491 (1992).

346. The 1978 Consent Order likewise specifies that "the safeguards enumerated herein below must be strictly adhered to and should they be violated in any manner, the burden will be upon the defendants to demonstrate the impossibility of returning to a pupil assignment system which more nearly maintains a unitary pattern of pupil attendance and faculty assignment." Ex. D-3 at 1.

347. The ultimate inquiry is twofold: [1] “whether the Board had complied in good faith with the desegregation decree since it was entered” and [2] “whether the vestiges of past discrimination had been eliminated to the extent practicable.” *Bd. Educ. of Okla. City Pub. Schs. v. Dowell*, 498 U.S. 237, 249–50 (1991). Where a district fails to satisfy one or both requirements, it has not met its burden.

B. The District Must Prove That It Complied in Good Faith With the Requirements of the Operative Orders.

348. To find that the District has not carried its burden, this Court “[does] not need to find that [the District] violated the Constitution, only that it violated the consent decree[s].” *Smith v. Sch. Bd. of Concordia Par.*, 906 F.3d 327, 335 (5th Cir. 2018).

349. Actions by the District that frustrate the Operative Orders’ goals, or fail to fulfill the Operative Orders are sufficient to demonstrate an ongoing constitutional violation that precludes a finding of unitary status, regardless of the District’s intent. *Lawrence Cnty.*, 799 F.2d at 1044; *see also Cowan v. Cleveland Sch. Dist.*, 748 F.3d 233, 238 (5th Cir. 2014). That is because the District must go beyond “present racial neutrality” and “correcting post-injunction racially segregative measures” to eradicating the effects of discrimination. *Lawrence Cnty.*, 799 F.2d at 1044. The District’s “failure sufficiently to satisfy” its clear, continuing duty to eradicate these vestiges “continues the constitutional violation.” *Id.* at 1045.

350. The Court need not find bad faith by the District to deny the motion for unitary status. *Moore v. Tangipahoa Par. Sch. Bd.*, 921 F.3d 545, 549 (5th Cir. 2019).

351. A district cannot carry its burden by making conclusory assertions or promises that echo the language of the Operative Orders. Instead, the District must show both good-faith compliance with the Operative Orders and an ongoing commitment to “the entirety of a desegregation plan.” *Freeman*, 503 U.S. at 498. “Mere protestations of an intention to comply

with the Constitution in the future will not suffice. Instead, specific policies, decisions, and courses of action that extend into the future must be examined to assess the school system's good faith." *Brown v. Board of Educ.*, 978 F.2d 585, 592 (10th Cir.1992). And the Court "need not accept at face value the profession of a school board which has intentionally discriminated that it will cease to do so in the future." *Dowell*, 498 U.S. at 249.

352. A district also cannot satisfy its burden by relying upon strategies that have not succeeded in eradicating vestiges, particularly when the district has considered, but failed to pursue, more effective practices. For example, where a school district forgoes other, "more promising courses of action" to eradicate the vestiges of segregation, *Green*, 391 U.S. at 439; has attracted few Black faculty, *Moses v. Wash. Par. Sch. Bd.*, 379 F.3d 319, 326 (5th Cir. 2004); or has attracted few minority student transfers to a historically White school, *id.*, a court may find that the district has not demonstrated a good-faith commitment.

353. It is also insufficient to simply "go[] through the motions" of the Operative Orders' requirements. *Thomas v. St. Martin Par.*, 544 F. Supp. 3d 651, 701 (W.D. La. 2021), *aff'd in part, rev'd in part and remanded sub nom., Borel ex rel. AL v. Sch. Bd. St. Martin Par.*, 44 F.4th 307, 315 (5th Cir. 2022) (affirming lower court's denial of unitary status as to faculty assignment because of the district's lack of "sustained good faith effort"). Where a district follows the letter of a consent order's requirements but does not consider whether its implementation strategies are complete or effective, that district has not shown good-faith compliance. *Id.*

354. In assessing whether RCSD has met its burden, the Court conducts a district-specific inquiry. The Fifth Circuit dictates that what is "practicable" for a district is not a matter of comparison, but a unique determination that must be made based on "all facts peculiar to the

particular system.” *Ross v. Eckels*, 434 F.2d 1140, 1147 (5th Cir. 1970) (per curiam), *cert. denied*, 402 U.S. 953 (1971). In other words, “[e]ach school case must turn on its own facts.” *Id.*

355. It is well established in the Fifth Circuit that a district must show at least three years without circumstances adverse to desegregation in order to show a reasonable period of good-faith compliance. *Dowell*, 498 U.S. at 248; *see also Flax v. Potts*, 915 F.2d 155, 158 (5th Cir. 1990); *Monteilh v. St. Landry Par. Sch. Bd.*, 848 F.2d 625, 629 (5th Cir. 1988); *Thomas*, 544 F. Supp. 3d at 663. The Fifth Circuit requires that a district court retain jurisdiction until that time “[b]ecause the potential consequences of a judicial declaration that a school system has become unitary are significant.” *Lawrence Cnty.*, 799 F.2d at 1037; *see also Flax*, 915 F.2d at 158.

356. Where the district fails to produce clear or sufficient data on a particular issue, that failure undermines its burden. A district court may find that a school district has failed to satisfy its burden to show a good-faith commitment in areas where “the record is not well developed.” *Moses*, 379 F.3d at 326.

357. This Court’s consideration of good-faith compliance must also consider past orders showing when and in which areas vestiges of discrimination have persisted. A school district’s “agreement to consent orders intended to eliminate vestiges, rather than contesting whether any vestiges exist” or “assumption of obligations under . . . consent order[s]” supports the conclusion that vestiges of segregation persist at the time of those orders. *Borel*, 44 F.4th at 313.

358. Similarly, where a past order enjoined a school district from returning to a segregated system or engaging in discriminatory acts, such language signals the district court’s conclusion that the district had not “reached unitary status in the sense of eliminating all vestiges of past discrimination.” *Thomas ex rel. DMT v. St. Martin Par.*, 756 F.3d 380, 387 (5th Cir. 2014).

C. The District Must Prove That It Has Eradicated All Vestiges of Segregation.

359. Until a school district has “eliminate[d] ‘root and branch’ the system wide effects” of *de jure* segregation, a district court must retain jurisdiction over a desegregation case “to [e]nsure that the present effects of past segregation are completely removed.” *Davis v. E. Baton Rouge Par. Sch. Bd.*, 721 F.2d 1425, 1434 (5th Cir. 1983); *see also Anderson v. Sch. Bd. of Madison Cnty.*, 517 F.3d 292, 294 (5th Cir. 2008).

360. Compliance with court orders alone is not enough to achieve unitary status. Instead, “[t]he measure of any desegregation plan is its effectiveness.” *Davis v. Bd. of Sch. Comm’rs of Mobile Cnty.*, 402 U.S. 33, 37 (1971).

361. In other words, the Court’s “power to remedy segregation is not exhausted by its issuance of a decree that promises to, but does not, work” to eradicate the vestiges of *de jure* segregation. *Lawrence Cnty.*, 799 F.2d at 1044–45.

362. Where racial disparities persist in areas of court supervision, a school district bears a heavy burden to prove “by clear and convincing evidence” that those disparities are not the result of ongoing discrimination against Black educators. *Lee v. Conecuh Cnty. Bd. of Educ.*, 634 F.2d 959, 963–64 (5th Cir. 1981). Where it cannot meet that burden, the court will conclude that vestiges of discrimination persist.

II. THE DISTRICT IS NOT UNITARY IN STUDENT ASSIGNMENT.

A. Between School Student Assignment.

- i. *The Racial Identifiability of Schools in the Pisgah Attendance Zone and the Florence Attendance Zone Are Vestiges of Segregation.*

363. The racial identifiability of schools in the Pisgah and Florence Attendance Zones (Pisgah Elementary, Pisgah High School, Florence Middle, and Florence High) are vestiges of *de jure* segregation.

364. “During the *de jure* segregation era, schools were built to accommodate students by race in areas where population was predominantly of a single race.” *Borel*, 44 F.4th at 314 (quoting *Lawrence Cnty.*, 799 F.2d at 1044). And “because persons normally gravitate toward[s] the schools that serve them, the intentional acts by a school district before desegregation could insure that the immediate communities around these schools would be of one race.” *Id.* (internal citations and quotations omitted).

365. In Rankin County, during *de jure* segregation, Florence and Pisgah schools served only White students. FOF ¶¶ 71-72. Today, schools in these attendance zones continue to serve a disproportionate percentage of White students. FOF ¶¶ 85-90.

366. It is the District’s burden to show “that any current imbalance is not traceable, in a proximate way, to the prior violation.” *Freeman*, 503 U.S. at 494.

367. The District has not come forward with any evidence to meet this burden. For example, the District has not pointed to any evidence of “immutable geographic factors” or “post-desegregation demographic changes” that are the cause of current racial imbalance in the Florence and Pisgah Attendance Zones. *Cf. Price v. Austin Indep. Sch. Dist.*, 945 F.2d 1307, 1314 (5th Cir. 1991).

368. Indeed, the only evidence presented was testimony that it can take 30 minutes to drive from one attendance zone to another at the opposite end of the District. FOF ¶ 103. The District cited the drive from Brandon Attendance Zone to Pisgah Attendance Zone as an example. FOF ¶ 102. Intradistrict transfer data however, shows that multiple students living in Brandon Attendance Zone are enrolled in Pisgah Attendance Zone schools. FOF ¶ 104.

369. Nor can the District argue now, in 2025, that any racial imbalance is not a vestige of *de jure* segregation when it previously conceded otherwise.

370. When a District enters into an agreement “to consent orders intended to eliminate vestiges, rather than contesting whether any vestiges exist,” this “leads [a court] to the conclusion that facts support the remainder of such vestiges of segregation.” *Borel*, 44 F.4th at 313. That is precisely what occurred in 2019.

371. In the 2019 Court Order, the District filed an Unopposed Motion for Declaration of Partial Unitary Status that acknowledged that (1) this “Court should maintain jurisdiction over the area of . . . student assignment, so that RCSD has additional time to take steps toward achieving compliance with the past Orders of this Court,” and (2) that “continued judicial supervision” was necessary to ensure that the District “[t]akes all practicable steps to eliminate the vestiges of the prior *de jure* system” in student assignment. FOF ¶¶ 27, 77-78. Thus, the 2019 Court Order granting the motion continued to place affirmative obligations on the District in the area of student assignment. FOF ¶¶ 27, 77-78. Such obligations “would have been anomalous if [the District Court] had found that the School Board had reached unitary status in the sense of eliminating all vestiges of past discrimination.” *Thomas ex rel. DMT*, 756 F.3d at 387.

372. Finally, “intentionally segregative school board actions in a meaningful portion of a school system . . . creates a presumption that other segregated schooling within the system is not adventitious.” *Keyes v. Sch. Dist. No. 1*, 413 U.S. 189, 208 (1973). Thus, because this Court finds that the racial identifiability of Pisgah Elementary, Pisgah High, Florence Middle, and Florence High is a vestige of segregation, this creates the presumption that the racial identifiability of Flowood Elementary is also a vestige. FOF ¶¶ 71-72, 89. The District did not introduce any evidence to suggest otherwise.

373. The District has not met its burden of showing that the current racial imbalances in Florence Attendance Zone, Pisgah Attendance Zone, and at Flowood Elementary are not traceable to segregation. *Freeman*, 503 U.S. at 494.

ii. *The District's Failure to Comply with the Operative Orders Demonstrates Bad Faith.*

374. The Court finds that the District has not complied in good faith with the whole of the Operative Orders, nor has it shown that it intends to continue to operate in a manner that maintains desegregation in attendance zones where desegregation has been obtained.

375. In the area of between-school student assignment, to determine whether the District is unitary or further relief is needed, the “critical beginning point is the degree of racial imbalance” in District schools. *Freeman*, 503 U.S. at 474.

376. Student enrollment data from 2021-22 through 2025-26 shows that the District is not in compliance with the +/- 20 percent desegregation standard set forth in the 2012 Consent Order. FOF ¶¶ 85-89. The District acknowledges that presently there are five schools outside the +/- 20 percent variance in violation of the Consent Order, but has not provided any remedial proposals to address the racially identifiable schools. FOF ¶¶ 79, 108-109. While perfection is not mandated, “school authorities should make every effort to achieve the greatest possible degree of actual desegregation.” *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 26 (1971). And racially homogenous schools are not permissible “where reasonable alternatives may be implemented.” *Valley v. Rapides Par. Sch. Bd.*, 702 F.2d 1221, 1226 (5th Cir. 1983).

377. The District is also in violation of the 1970 Court Order which states the District “shall not consent to transfers where the cumulative effect will reduce desegregation . . . or reinforce the dual system.” FOF ¶¶ 13, 94. Despite a clear directive from the 1970 Court Order, the District permits intradistrict student transfers that have a cumulative effect of impeding

desegregation efforts. FOF ¶¶ 13, 97-98. A transfer policy that “obstruct[s] the goals of desegregation” by making a “predominantly white [school that] was exclusively white before desegregation” “significantly whiter” is constitutionally impermissible. *United States v. Lowndes Cnty. Bd. Educ.*, 878 F.2d 1301, 1308 (11th Cir 1989).

378. Since 2021, the number of racially identifiable schools in the District has increased, and the District has not taken any steps to address this. FOF ¶¶ 85-89, 99. Because the District has decided to make “no effort” to further desegregate schools which “were clearly segregated in [1967] and remain segregated today,” and has made no effort to address the increased segregation, the Court denies unitary status in the area of between-school assignment. *United States v. W. Carroll Par. Sch. Dist.*, 477 F. Supp. 2d 759, 763–64 (W.D. La. 2007) (ordering the further desegregation of one-race schools in a similar situation); *United States v. Bertie Cnty. Bd. of Educ.*, No. 2:67-632, 2003 WL 27380896, at *4–5 (E.D.N.C. Apr. 22, 2003) (same); *see also Borel*, 44 F. 4th at 314–16 (affirming the grant of further relief to desegregate a one-race school).

B. Within-School Student Assignment.

i. The District is in Violation of the Operative Orders.

379. “[C]lassrooms which are segregated by race are proscribed regardless of the degree of overall schoolwide desegregation achieved.” *McNeal v. Tate Cnty. Sch. Dist.*, 508 F.2d 1017, 1019 (5th Cir. 1975); *accord Dayton Bd. of Educ. v. Brinkman*, 443 U.S. 526, 537 (1979). As the 1973 Consent Order states, “no classroom or grade section shall be identifiable as tailored for a heavy concentration of either white or black students.” FOF ¶ 17.

380. Special educational classrooms for advanced, gifted, or talented children are also subject to the prohibition on classroom segregation. *See, e.g., Borel*, 44 F.4th at 315; *Fisher v. Tucson Unified Sch. Dist.*, 652 F.3d 1131, 1143–44 (9th Cir. 2011). This was made clear in the 1967 Court Order where the Court specified that if the District “operate[s] or maintain[s] special

classes or schools for . . . gifted children, the [District] may assign children to such schools or classes on a basis related to the function of the special class In no event shall such assignment be made . . . in a manner which tends to perpetuate a dual system based on color or race.” ECF 105-1 at 8.

381. A district cannot meet its burden where it has replicated a dual system through segregated classes, including specialized classes and programs, within its schools. *See United States v. Mississippi*, No. 70 CV 4706, 2011 WL 13389133, at *7 (S.D. Miss. Dec. 22, 2011) (“Segregation within a school that is racially balanced overall may be as troubling as segregation between schools.”).

382. Classroom assignments that cause racial segregation in a district under a desegregation order are presumptively unconstitutional unless “the school district can demonstrate that its assignment method is not based on the present results of past segregation or [that it] will remedy such results through better educational opportunities.” *McNeal*, 508 F.2d at 1020; *see also Vaughns by Vaughns v. Bd. of Educ. of Prince George’s Cnty.*, 758 F.2d 983, 991 (4th Cir. 1985) (“Because the county’s school system had not attained unitary status, it is settled law that plaintiffs were entitled to a presumption that current placement disparities were causally related to prior segregation and that the burden of proving otherwise rested on defendants.”). The District has not shown that “current placement disparities” in specialized classes and in the Venture program are not “causally related to prior segregation.” *Vaughns*, 758 F. 2d at 991.

383. The Court heard evidence of racial disparities between Black and White students in the identification of and enrollment into the Venture program. FOF ¶¶ 114-127. The Court also heard evidence about the “heavy concentration” of White students in advanced placement

courses, and that as recent as 2022-23, there were classrooms that had zero Black students. FOF ¶ 129. And Plaintiffs introduced evidence of racially concentrated Black self-contained special education classrooms. FOF ¶ 143. These disparities establish a *prima facie* violation of the 1973 Consent Order. *See Borel*, 44 F. 4th at 315; *see also Little Rock Sch. Dist. v. Arkansas*, 664 F.3d 738, 753–54 (8th Cir. 2011); *Vaughns*, 758 F.2d at 991.

ii. *The District Has Not Demonstrated That Its Current Approach for Referring Students Will Remedy Results of Past Segregation.*

384. The District’s assertions of its good-faith efforts are insufficient to meet its burden “by clear and convincing evidence” to show the disparities are not the result of ongoing discrimination. *Lee v. Conecuh*, 634 F.2d at 963–64.

385. First, while the Court acknowledges that changes in Advanced Placement (AP) and honors enrollment requirements are a positive step, some of the changes just went into effect in 2025. FOF ¶¶ 133-134.

386. Thus, the District has not shown good-faith compliance for a reasonable period of time. *See Moses*, 379 F.3d at 326-27 (holding that a board lacked good faith where, despite some recent efforts, it continued to operate a historically White school that had only attracted a few minority students as transfers and had hired no Black teachers).

387. The District concedes that as of 2025, it does not even track AP enrollment data. FOF ¶¶ 132-133. It is impossible to assess the efficacy of the changes in this limited timeframe. *Id.*

388. Second, the District failed to demonstrate how, if at all, changes to the fee policy have impacted student enrollment. FOF ¶ 140. The District points to its fee waiver policy for fees related to AP and dual enrollment courses as an example of its recent good-faith efforts. But there is no evidence showing that AP and dual enrollment course fees perpetuate racially identifiable

classrooms. FOF ¶¶ 136-139. The District did not provide data regarding the number of students or racial breakdown of the students that utilize fee waivers. FOF ¶ 140. The District has thus “failed to make the most basic inquiries necessary to assess the ongoing effectiveness” of its fee waiver policy. *Fisher*, 652 F.3d at 1140.

389. Third, though the District asserts that Black students make up at least 20 percent of advanced placement, honors and dual enrollment, FOF ¶ 130, districtwide percentages do not relieve the district “of its obligation to develop specific plans for each *individual school* within the district that does not meet the standard.” *Little Rock*, 664 F.3d at 754.

390. The District did not provide standalone enrollment data for advanced placement courses and, as recently as 2022-23, there were advancement placement classrooms that had zero Black students. FOF ¶ 131.

391. Finally, Dr. Rossell’s explanations for the disparities in the gifted program should be excluded because they are not grounded in any facts or data. *See* ECF 156 at 14-16; *Cf. Holton v. City of Thomasville Sch. Dist.*, 490 F.3d 1257, 1263 (11th Cir. 2007) (holding that the presumption against the constitutionality of district’s ability grouping practices had been overcome because the school district presented evidence at trial that disparities in student ability groupings were attributable to factors other than race).

392. With respect to its within-school assignment obligations, the District has not shown good-faith compliance for a reasonable period of time. *See Moses*, 379 F.3d at 326-27 (holding that a board lacked good faith where, despite some recent efforts, it continued to operate a historically White school that had only attracted a few minority students as transfers and had hired no Black teachers).

393. The District has also “failed to make the most basic inquiries necessary to assess the ongoing effectiveness of its student assignment plans, policies, and programs.” *Fisher*, 652 F.3d at 1140.

394. It is appropriate for this Court to retain jurisdiction until the District has demonstrated at least three years of good-faith compliance to determine whether can be responsive to addressing segregation in the classroom. *See Fisher*, 652 F.3d at 1143-44 (A court must “maintain jurisdiction until it is satisfied that the School District has met its burden by demonstrating—not merely promising—its ‘good-faith compliance . . . over a reasonable period of time.’”) (quoting *Freeman*, 503 U.S. at 498).

III. THE DISTRICT IS NOT UNITARY IN FACULTY ASSIGNMENT.

395. To show sufficient and good-faith compliance with the Operative Orders’ faculty and staff assignment requirements, *see* FOF ¶¶ 14, 22, the District bears the heavy burden to prove that (1) “the racial composition of a school’s faculty does not indicate that the school is intended for either African-American or white students;” (2) its “current employment practices are non-discriminatory and in compliance with constitutional standards;” and (3) the District has eliminated the vestiges of past discrimination to the extent practicable. *United States v. Fletcher*, 805 F.3d 596, 601 (5th Cir. 2015) (cleaned up).

396. To meet this burden, the District must go beyond “present racial neutrality” and “correcting post-injunction racially segregative measures” to actually eradicate the effects of discrimination. *Lawrence Cnty.*, 799 F.2d at 1044.

397. The District has failed to meet its burden as to faculty and staff assignment.

A. The Racial Identifiability of the District Schools' Faculties Violates the Operative Orders.

398. First, the persistent racial identifiability of faculty assignment at Pisgah High School, Puckett Elementary, the Learning Center, and McLaurin Elementary, FOF ¶¶ 152-157, precludes a finding of unitary status. Racial disparities in faculty are “among the most important indicia of a segregated system,” *Swann*, 402 U.S. at 18; *see also* Tr. 566:7-16 (Frankenberg). A district’s “failure to achieve compliance with regard to faculty/staff assignment is particularly disturbing because it is the one facet within the exclusive control of local school authorities.” *Brown v. Bd. of Educ. of Topeka*, 978 F.2d 585, 589 n.5 (10th Cir. 1992). The District, like any other school district, has the authority to assign teachers to any school in the District. Tr. 494:13–495:3 (Rossell). Nevertheless, the District has continued to assign almost exclusively White teachers to Pisgah High and Puckett Elementary, schools in attendance zones that served only White students under *de jure* segregation. Similarly, the District has continued to assign a disproportionately high rate of Black teachers to McLaurin Elementary, which sits in an attendance zone that served only Black students under *de jure* segregation.

399. The disparities at these four schools establish a *prima facie* violation of the 1970 Court Order’s requirement that the District assign staff such that the ratio of Black to White teachers in each school is “substantially the same as each such ratio is to the teachers . . . in the entire school system,” ECF 83-2 at 13, and the 1978 Consent Order’s requirement that the District “through attrition achieve a ratio of at least 28% black staff at every level and in all categories.” Ex. D-3 at 5.

400. These requirements “do not establish an arbitrary racial quota,” *Anderson*, 517 F.3d at 303. The District must, however, show that the racial composition of a school’s faculty does

“not indicate that the school is intended for either African-American or white students.” *Id.* Here too, the District fails.

401. The racial identifiability of the faculty at Pisgah High School and Puckett Elementary reinforces the White racial identifiability of their student bodies and signals that these schools are intended for their overwhelmingly White student bodies. FOF ¶¶ 156-157. Similarly, the racial identifiability of the faculty at the Learning Center reinforces the Black racial identifiability of its student body and signals that the school, an alternative school for students facing discipline, is intended for its disproportionately Black students.³⁰ FOF ¶ 154. “[W]here it is possible to identify a ‘white school’ or a ‘Negro school’ simply by reference to the racial composition of teachers . . . [,] a *prima facie* violation of substantive constitutional rights under the Equal Protection Clause is shown. *Swann*,” 402 U.S. at 18.

402. While McLaurin Elementary’s student body is not racially identifiable, the racial identifiability of the school’s faculty nevertheless signals that it is intended for Black students. FOF ¶ 153. A *prima facie* violation of the Equal Protection Clause is shown where it is possible to identify a White school or Black school “simply by reference to the racial composition of teachers and staff” “[i]ndependent of student assignment.” *Swann*, 402 U.S. at 18.

403. The history of the District further indicates that the racial identifiability of these schools is a vestige of *de jure* segregation. Historically, the Puckett and Pisgah Attendance Zones in the District served only White students and employed only White teachers. ECF 83-1 at 4; ECF 176 at 5-6. Puckett Elementary and Pisgah High School’s persistent failure to employ Black teachers, FOF ¶¶ 156-157, can thus be traced back to the District’s intentional decision to exclude

³⁰ The District has produced inconsistent sets of enrollment and racial composition data for the Learning Center and failed to produce any enrollment or racial composition data for the Learning Center for the 2023-24 school year. Ex. P-8 at 8-9. However, data produced by the District shows that the Learning Center was racially identifiable in 2022-23. FOF ¶ 144.

Black students and faculty from the Puckett and Pisgah Attendance Zones during *de jure* segregation. *Borel*, 44 F.4th at 314.

404. Similarly, the McLaurin Attendance Zone served only Black students during *de jure* segregation. ECF 83-1 at 4; ECF 176 at 6. The District's persistent disproportionate employment of Black teachers at McLaurin Elementary, FOF ¶ 153, while employing disproportionately low Black teachers throughout the rest of the District, can thus be traced back to the District's intentional decision to limit Black students and faculty to the McLaurin Attendance Zone during *de jure* segregation. *Borel*, 44 F.4th at 314.

405. In addition, the Learning Center is sited in what was previously Carter High School, a school that served only Black students and employed only Black teachers under *de jure* segregation. FOF ¶ 74. The District's assignment of a disproportionate number of Black teachers to the Learning Center, while employing disproportionately low Black teachers throughout the rest of the District, can therefore also be traced to the District's decision to allow only Black students and faculty at Carter High school during *de jure* segregation. *Borel*, 44 F.4th at 314; *see also* FOF ¶ 74 n.9.

406. That the District has recently hired Black teachers at Puckett Elementary and Pisgah High does not cure the District's *prima facie* violation as to those schools. The District must show at least three years without circumstances adverse to desegregation in order to show the requisite reasonable period of good-faith compliance. *Dowell*, 498 U.S. at 248; COL ¶ 355. This showing of enduring desegregation as to faculty is especially important given the District's pattern of replacing teacher vacancies with White hires. FOF ¶¶ 226-239. But the District has not made this showing. Both McLaurin Elementary and the Learning Center persist in their racially identifiable faculty, and Puckett Elementary and Pisgah High have only had non-identifiable faculties for two

years and one year, respectively. FOF ¶¶ 152-157. Because the District has failed to meet this burden, this Court must retain jurisdiction. *See Lawrence Cnty.*, 799 F.2d at 1037. Should the District maintain this progress, however, and eradicate the vestiges of segregation that persist as to faculty at McLaurin Elementary and the Learning Center, the District may achieve unitary status.

407. Second, the District’s maintenance of four attendance zones – half of all zones in the District – where all or nearly all of the principals and school administrators are White violates the 1978 Consent Order and further demonstrates persistent vestiges in faculty and staff assignment.

408. The evidence presented by the District shows that all principals and assistant principals in the Puckett Attendance Zone are White, and that all principals in the Florence Attendance Zone are White. FOF ¶¶ 166, 172. Similarly, during the 2022-23 school year all administrators in the Pisgah zone were White, and in the subsequent year only one school in the Pisgah zone had a Black administrator. FOF ¶ 168. This represents a *prima facie* violation of the 1978 Consent Order’s mandate that “in no event, shall all principals [in a school attendance zone] be of the same race.” Ex. D-3 at 4 ¶ 5.

409. In addition, the Florence attendance zone employs nearly all White assistant principals, while the Northwest attendance zone employs nearly all White principals and assistant principals. FOF ¶¶ 170, 172. This runs afoul of the 1978 Consent Order’s mandate that the District “take affirmative steps to assure proportionate black representation in all professional, administrative, and non-professional employment areas.” Ex. D-3 at 4 ¶ 5.

410. The District’s employment of all White or nearly all White school administrators in these four attendance zones is a vestige of *de jure* segregation. The Pisgah, Puckett, and

Florence Attendance Zones served only White students under *de jure* segregation. ECF 83-1 at 4; ECF 176 at 5-6. Those zones' continuing failure to employ a single Black principal or, with the exception of the Florence Attendance Zone, assistant principal, FOF ¶¶ 165-168, 171-172, can thus be traced back to the District's intentional decision to exclude Black faculty from the Pisgah, Puckett, and Florence Attendance Zones during *de jure* segregation. *Borel*, 44 F.4th at 314. The District's failure to eradicate these vestiges raises an inference of unlawful assignment, *Davis v. Bd. of Sch. Com'rs of Mobile Cnty.*, 600 F.2d 470, 473 (5th Cir. 1979) (upholding conclusion that assignment of principals was unlawful when White principals were assigned to formerly White schools and Black principals were assigned to formerly Black schools), and ratifies the perception that Black educators are not welcome in certain Rankin County schools. FOF ¶¶ 186-187.

411. In further contravention of the 1978 Consent Order's mandate that the District "take affirmative steps to assure proportionate black representation in all professional, administrative, sand non-professional employment areas," Ex. D-3 at 4 ¶ 5, the District maintains two schools with entirely White leadership teams and at least six schools with nearly all-White leadership teams. FOF ¶¶ 175-184.

412. The persistence of entirely White and nearly all-White leadership teams also violates the 1978 Consent Order's mandate that the "heads of subject matter departments within the schools shall not be all of the same race." Ex. D-3 at 4 ¶ 6. According to the District, in the 1970s, serving as a subject matter head or department chair was the only way a teacher could have leadership or influence outside of the classroom. ECF 99 at 18. Today, one analogous way that teachers can exercise leadership or influence outside of the classroom is through the school leadership team. *Id.* But those teams remain overwhelmingly White.

413. Ultimately, “a school authority’s remedial plan or a district court’s remedial decree is to be judged by its effectiveness.” *Swann*, 402 U.S. at 25. Even if the District had shown faithful implementation of the Operative Orders—which it has not—this Court’s “power to remedy segregation is not exhausted by its issuance of a decree that promises to, but does not, work.” *Lawrence Cnty.*, 799 F.2d at 1044–45. The persistence of vestiges among the District’s faculty thus compels this Court to retain jurisdiction over the District.

B. The District Has Not Shown Good-Faith Compliance with the Faculty and Staff Assignment Requirements of the Operative Orders.

414. The District’s failure to recruit, hire, and retain significant numbers of Black faculty and staff in several schools indicates the District’s lack of “good-faith” compliance with the Operative Orders’ prohibitions against racial discrimination in hiring, promotions, retention, and other employment decisions. *Freeman*, 503 U.S. at 491; *see* ECF 83-2 at 13; *see also* Ex. D-3 at 4. And the District’s failure to encourage or incentivize desegregative faculty transfers, particularly while identifiably White and identifiably Black faculties persist in District schools, indicates the District’s lack of “good-faith” compliance with the 1978 Consent Order’s requirement that the ratio of Black to White teachers in each school be substantially the same as the ratio districtwide. ECF 83-2 at 13.

i. Racial Disparities in the District’s Faculty and Staff Assignment Are the Result of Ongoing Discrimination.

415. The District’s faculty and staff assignment practices, particularly its hiring practices, demonstrate that the District discriminates against Black candidates. In over twenty interviews, the District hired a White candidate over a similarly scoring or higher-scoring Black candidate. FOF ¶ 203. In one instance, the District hired a White candidate and failed to even check references or consider for employment any other candidates, including one top-scoring Black candidate: a practice the District describes as not uncommon. FOF ¶ 203; Tr. 307:13-17

(Hollis). The District has not presented evidence to rebut this evidence of discrimination. District staff testified to the untested assumption that candidates who were not considered or offered positions had accepted jobs somewhere else, but provided no evidence to support this assumption. Tr. 308:5–309:3 (Hollis). While the Court heard evidence that a small number of overlooked Black candidates had applied for other jobs in the District, Tr. 662:10-14 (Frankenberg), this limited evidence is insufficient to overcome the District’s pattern of hiring White candidates over equally- or more-qualified Black candidates. Further, the District’s reliance on untested assumptions to support its assertion indicates a lack of good-faith commitment to the Operative Orders.

416. The District also failed to rebut evidence of disparities and discrimination in its recruitment practices. The District does not use recruitment strategies targeted at Black educators, FOF ¶¶ 189-193, 196-198, and has conducted fewer presentations and recruited fewer interns for its partnerships with HBCUs. FOF ¶¶ 194-195. The District has not conducted a recent presentation at Tougaloo College, one of the HBCUs, and failed to mention its partnership during a presentation at Jackson State University, another HBCU. FOF ¶ 195. These disparities violate the Operative Orders’ requirement to conduct hiring without regard to race. Ex. D-1 at 13. But the District provided no explanation, much less “clear and convincing evidence” of non-discriminatory justification for its failure to provide presentations to the other HBCUs, recruit more interns, or target websites or listservs targeted at Black educators.

417. The District claims that it cannot improve its recruitment efforts because it already employs a higher rate of Black teachers than the national average of Black teachers. Tr. 244:21–245:5 (Hollis). These claims are unpersuasive. Recruiting educators is a challenging endeavor that requires robust effort. But the District’s own testimony belies its claim that it has difficulty

recruiting educators. The District's Director of Human Resources testified that the District's postings sometimes receive as many as 200 applicants, a pool so large that principals and hiring managers are unable to interview even the qualified applicants. FOF ¶ 162. The Mississippi Department of Education, which offers resources to districts struggling to maintain an adequate educator workforce, has not identified Rankin County as in need of such resources. FOF ¶ 163. On the contrary, the District is the largest employer in the County. FOF ¶ 162. Moreover, the District's proportion of Black teachers remains approximately seven percentage points below both the County's Black population (22.4 percent) and the statewide proportion of Black teachers in Mississippi (22 percent), and about four percentage points below the proportion of County residents who hold a bachelor's degree or a higher degree and are Black. FOF ¶ 161; *Lee v. Etowah Cnty. Bd. of Educ.*, 963 F.2d 1416, 1425 (11th Cir. 1992) (holding that disparities between the Black faculty and the Black general population in the county are indicative of a non-unitary system). The District's reliance on a lower national proportion of Black teachers is, therefore, unavailing.

418. The District has also failed to meet its burden to show that the lack of Black representation among school administrators, *see supra* COL ¶¶ 407-410, and leadership teams, *see supra* COL ¶¶ 411-412, particularly those reserved for White students and faculty under *de jure* segregation, *see supra* COL ¶ 410, is not the result of ongoing discrimination. Instead, the District has offered only its assumption that Black educators are not interested in serving in these roles. FOF ¶¶ 216-217. But the District has not tested this hypothesis, or even presented evidence that Black candidates did not apply for these positions. FOF ¶¶ 216-217. Unsupported assumptions do not satisfy the burdensome standard of "clear and convincing" evidence that these disparities are not caused by discrimination. *Lee v. Conecuh*, 634 F.2d at 963-64. And even if the

District could prove these assumptions, this “allegedly logical, racially neutral explanation” does not suffice to show that the District’s “past segregative acts did not create or contribute to the current segregated condition” of the schools, *Keyes*, 413 U.S. at 210-11. The District therefore falls short of its burden.

419. Plaintiffs presented evidence that the District has failed to increase Black faculty through attrition and that, as a result, disparities persist among teacher vacancies. FOF ¶¶ 226-239. The District has not rebutted this evidence of discrimination. In recent years, the District has maintained multiple schools with no Black teachers that have nevertheless failed to replace departing teachers with Black teachers. FOF ¶¶ 229-234. Similarly, schools with few Black teachers replaced vacancies, including of departing Black teachers, with White teachers, reducing the overall proportion of Black teachers at those schools. FOF ¶¶ 235-239. That the District increased Black teachers at other schools does not cure this violation; there remain schools in the District that continued to be racially identifiable yet fail to leverage vacancies to reduce identifiability, in violation of the Operative Orders’ requirements to take affirmative steps with regard to faculty. *See, e.g.*, Ex. D-1 at 13; *see also Borel*, 44 F.4th at 315 (decrease in the number of Black teachers at District schools was, with other factors, sufficient evidence of non-compliance with desegregation order). The District has offered no non-discriminatory explanation for these disparities, much less evidence to support such an explanation.

ii. *The District Has Failed to Make Reasonable Efforts to Eradicate Faculty Segregation and Has Forgone Effective Desegregation Strategies.*

420. The District is bound under the Operative Orders to make “every reasonable effort to eradicate segregation and its insidious residue.” *Fletcher*, 805 F.3d at 601 (citation omitted). As such, the District bears a “heavy burden” to make all “reasonable, feasible, and workable” efforts to desegregate. *Davis v. E. Baton Rouge*, 721 F.2d at 1432, 1434. And where a school

district forgoes “more promising courses of action” to eradicate vestiges of segregation, *Green*, 391 U.S. at 439, and instead relies upon strategies that have not worked, a district court may find that the district has not demonstrated good-faith compliance. *Davis v. Bd. of Sch. Comm’rs*, 402 U.S. at 37 (“The measure of any desegregation plan is its effectiveness”).

421. For example, the District’s granting of faculty transfers with segregative effects, FOF ¶¶ 220, and failure to encourage or incentivize desegregative transfers, FOF ¶¶ 223-225, frustrate the 1978 Consent Order’s goals. ECF 82-3 at 13; *Lawrence Cnty.*, 799 F.2d at 1044. While the District is instructed in part to achieve its faculty goals through attrition, Ex. D-3 at 5 ¶ 7, it must also work with its existing faculty and staff to achieve those goals. That is because “[a]ssignment of existing faculty need not await nondiscriminatory hiring of new teachers.” *Lawrence Cnty.*, 799 F.2d at 1041. To desegregate existing faculty, districts should consider incentives for voluntary transfers. FOF ¶ 222 (recommendation of Plaintiffs’ expert); see *Fisher v. Tucson Unified Sch. Dist.*, 329 F. Supp. 3d 883, 911 (D. Ariz. 2018) (adopting a minority teacher recruitment plan that included monetary incentives); *Lawrence Cnty.*, 799 F.2d at 1041 (holding that a district’s refusal to reassign teachers violated the desegregation order). The District’s untested assumptions that voluntary transfers would be offensive, FOF ¶¶ 224-225, is insufficient to justify its noncompliance here.

422. Plaintiffs’ expert testified to several other practices that could reduce faculty and staff segregation, some of which the District has considered, but which the District has refused to adopt or mandate. The District has not listed its teacher postings on online job boards, websites, or listservs dedicated to Black educators, FOF ¶¶ 189-191; conducted recruitment outside of Mississippi, FOF ¶ 193; mandated diverse representation at career fairs, FOF ¶ 197; adopted a system to track its diversity recruitment committee’s outreach efforts, FOF ¶ 198; mandated the

use of diverse hiring committees, FOF ¶ 206; adopted a standard set of criteria to help principals identify applicants to interview, FOF ¶ 207; adopted a policy requiring principals or hiring managers to justify hiring a lower-scoring White candidate over a higher-scoring Black candidate, to encourage racially identifiable schools to hire faculty that will reduce identifiability, or to justify hiring choices that exacerbate identifiability, FOF ¶ 207; or trained school leaders and administrators on how to create inclusive climates for teachers, including Black teachers. FOF ¶ 214.

iii. *The District's Failure to Monitor Its Own Compliance Further Evidences a Lack of Good-faith Commitment to the Operative Orders.*

423. Finally, the District's failure to track or review metrics necessary to monitor its own compliance with the Operative Orders demonstrates a lack of good faith. Where "the record is not well developed" as to a district's compliance, the district court may find that the district failed to satisfy its burden to show a good-faith commitment. *Moses*, 379 F.3d at 326. Here, the District has failed to monitor promotions or school leadership teams for racial disparities. FOF ¶¶ 241-242. In addition, the District failed to present evidence of faculty and staff participation in workshops by race, the race of subject matter heads, or any analysis of hiring data that shows compliance with the Operative Orders, despite the Operative Orders' requirements in these areas. FOF ¶ 243.

424. Because the District has failed to present "clear and convincing evidence" that its persistent disparities in faculty and staff can be attributed to non-discriminatory reasons, *Lee v. Conecuh*, 634 F.2d at 963-64, has failed to make "every reasonable effort to eradicate segregation and its insidious residue," *Fletcher*, 805 F.3d at 601 (citation omitted), has failed to justify its decision to forgo promising strategies that could advance desegregation, *Green*, 391 U.S. at 439,

and has failed to develop a clear record as to its compliance with aspects of the Operative Orders, COL ¶ 356, the Court finds that the District is not unitary as to faculty and staff assignment.

C. The District’s Racially Identifiable Faculty Reinforces Its Non-Compliance in the Areas of Student Assignment and Quality of Education.

425. In the Pisgah, Puckett, and McLaurin Attendance Zones, the *de jure* “purposeful segregation of faculty by race was inextricably tied to racially motivated student assignment practices.” *Brinkman*, 443 U.S. at 536 (quoting *Brinkman v. Gilligan*, 583 F.2d 243, 248 (6th Cir. 1978)); see also *Freeman*, 503 U.S. at 497 (“student segregation and faculty segregation are often related problems”). Pisgah High, Puckett Elementary, McLaurin Elementary, and the Learning Center’s current identifiability can be traced back to the District’s intentional decision to exclude Black students and faculty from Pisgah and Puckett schools and to allow only Black students and faculty at McLaurin and Carter schools. COL ¶¶ 403-405. Each of these schools’ racially identifiable faculties therefore has “the clear effect of earmarking schools according to their racial composition” and signaling that they are for a particular race. *Keyes*, 413 U.S. at 202.

426. It is well recognized that “the components of a school segregation plan are interdependent upon, and interact with, one another.” *Freeman*, U.S. at 497–98 (quoting *Vaughns v. Bd. of Educ. of Prince George’s Cnty.*, 742 F. Supp. 1275, 1291 (D. Md. 1990), *aff’d sub nom.*, *Stone v. Prince Goerge’s Cnty. Bd. of Educ.*, 977 F.2d 574 (4th Cir. 1992)). As such, this Court is empowered to retain jurisdiction over faculty assignment as necessary to achieve compliance with the Operative Orders’ student assignment obligations. See *Vaughns*, 742 F. Supp. at 1301 (requiring a district, which was otherwise unitary as to faculty, to affirmatively hire and reassign faculty to address racially isolated student bodies).

427. In addition, the persistent White identifiability of Pisgah High and Puckett Elementary further contributes to the District’s noncompliance with the Operative Orders’ quality

of education provisions because “[t]he integration of faculty is a means to improve the quality of education of those who have suffered the effects of racial prejudice.” *Kromnick v. Sch. Dist. of Phila.*, 739 F.2d 894, 905 (3rd Cir. 1984); *see also United States v. Yonkers Bd. of Educ.*, 123 F. Supp. 2d 694, 718–20 (S.D.N.Y. 2000) (finding that racial disparities in student educational outcomes resulted from White teachers’ low expectations for Black students).

428. This Court therefore finds it necessary to retain jurisdiction over faculty and staff assignment, including to ensure compliance with student assignment and quality of education.

IV. THE DISTRICT IS NOT UNITARY IN EXTRACURRICULAR ACTIVITIES.

A. The District Has Not Shown Good Faith Compliance with the Operative Orders.

429. “[F]ull integration of [] schools means full integration of all . . . extracurricular activities and programs.” *Plaquemines Par. Sch. Bd. v. United States*, 415 F.2d 817, 832–33 (5th Cir. 1969). A constitutional violation persists where it is “possible to identify a ‘white school’ or a ‘[Black] school’ simply by reference to . . . the organization of sports activities,” student clubs, or their faculty supervisors and coaches. *Swann*, 402 U.S. at 18.

430. In 1973, the Fifth Circuit directed the Court to “take all steps necessary to eliminate all vestiges of a dual system including both curricular and extracurricular activities, social, athletic, musical and other groups” in RCSD. *Adams*, 485 F.2d at 327–28. That directive continues to guide the Court’s assessment of the District’s desegregation of extracurricular activities.

431. To determine whether a school district has met its burden, courts consider whether a school district affirmatively encourages minority students to participate in extracurriculars, has eliminated explicit race-based criteria, and has removed facially neutral policies that foster segregation. *See Bazemore v. Friday*, 478 U.S. 385, 407–08 (1986) (White, J., concurring);

Quarles v. Oxford Mun. Separate Sch. Dist., 868 F.2d 750, 757–58 (5th Cir. 1989); *Coal. to Save Our Children v. State Bd. of Educ.*, 90 F.3d 752, 768–69 (3d Cir. 1996).

432. Most fundamentally, the Court looks to whether there is “racial diversity across the board,” *United States v. Mississippi*, 2011 WL 13389133, at *14, and whether there are any “racial barrier[s] to any student participating in any extracurricular activity,” *Singleton v. Jackson Mun. Separate Sch. Dist.*, 541 F. Supp. 904, 908 (S.D. Miss. 1981).

433. Where school activities are dominated by one race, the Court should evaluate whether the District requires all extracurriculars to be “open to all students regardless of race,” whether it “encourages teachers of both races to serve as activity sponsors,” whether these “teachers are then entrusted with enforcing the school district’s nondiscrimination policy,” and whether racial identifiability is solely the result of “the voluntary and unfettered choice of the [school’s] students.” *Quarles*, 868 F.2d at 757.

434. For activities in which participation is restricted by a tryout, audition, election, or application process, the Court must scrutinize further to look for “detailed policies that have been promulgated in an effort to encourage interracial participation.” *Id.* Such policies must be in place “for a reasonable period of time” for the District to show “that it has complied with its desegregation obligations.” *United States v. Mississippi*, 2011 WL 13389133, at *14.

435. The 1973 and 1978 Consent Orders require the District to desegregate extracurricular activities through ensuring Black student and faculty participation and adoption of policies that foster such inclusion. FOF ¶¶ 18, 23, 246-249. The District has not shown good-faith compliance for a reasonable period of time with these obligations.

436. *First*, the District’s evidence is insufficient to demonstrate its compliance and carry its burden. Where “the record is not well developed” as to a district’s compliance, the district

court may find that the district failed to satisfy its burden to show a good-faith commitment. *Moses*, 379 F.3d at 326. Here, the District introduced only one year of disaggregated data showing student participation and coach/sponsor assignments, by race, in extracurricular activities at each school. FOF ¶ 250. A single year of data is insufficient to show the requisite reasonable period of good faith compliance with the Operative Orders of at least three years. *Dowell*, 498 U.S. at 248.

437. The 1978 Consent Order requires that “methods of selection of students to participate in activities such as student council, cheer leading squads and the like, shall be altered to insure the inclusion of black students in all such activities,” FOF ¶ 249, but the District did not introduce evidence of the selection process or criteria for student council, cheer, or any other specific extracurricular activity. FOF ¶ 267. Thus, the District cannot show good faith compliance with this requirement. Nor can it demonstrate “detailed policies that have been promulgated in an effort to encourage interracial participation” to survive the additional scrutiny required for participation-restricted activities. *Quarles*, 868 F.2d at 757.

438. *Second*, in addition to being incomplete, the District’s evidence shows it has not complied with the Operative Orders related to extracurricular faculty. The proportion of Black extracurricular faculty at some schools lags far behind the districtwide percentage, and the District does not have an “integrated team” of coaches and sponsors at each school. FOF ¶¶ 251-258. The data presented to the Court shows an all-White extracurricular staff at Pisgah High School. FOF ¶ 255. Moreover, within the last three years, at least two schools, Pisgah High School and Puckett High School, have not had a Black coach for any of their three major sports. FOF ¶¶ 255, 257. This lack of Black coaches and sponsors not only violates the Operative Orders, it also signals that that these schools are intended for White students. *Swann*, 402 U.S. at 18. Indeed, Pisgah High School is racially identifiably White in its student body. FOF ¶¶ 81-90; *see Jacksonville*

Branch, NAACP v. Duval Cnty. Sch. Bd., 883 F.2d 945, 949, 953 (11th Cir. 1989) (finding the racial composition of coaching staff mirrored that of the faculties and student bodies at racially identifiable White or Black schools and reversing the district court’s declaration of unitary status).

439. *Third*, the District has not complied with the Operative Orders related to student participation in extracurricular activities. The District has failed to assure “proportionate Black participation.” Nearly 70 different extracurricular activities had zero or only one Black student participating in the single year of disaggregated data introduced by the District. FOF ¶¶ 261-262. Many of these activities are clustered at Pisgah, Florence, and Puckett high schools. FOF ¶ 264. Dr. Rossell’s own analysis shows that at several schools, Black students participate at rates lower than their share of enrollment, FOF ¶¶ 265, showing those schools do not have proportionate Black representation in their extracurricular activities. Based on this data, the Court also concludes that the District has also not eliminated the vestiges of segregation in its extracurricular activities to the extent practicable. *See United States v. Mississippi (Choctaw Cnty. Sch. Dist.)*, 725 F. Supp. 307, 311–13 (N.D. Miss. 1989) (denying unitary status to a district that had consistently failed to integrate, *inter alia*, its cheerleaders); *see also Morgan v. McDonough*, 540 F.2d 527, 531 (1st Cir. 1976) (finding that a White football coach had purposefully maintained an all-White team and affirming the district court’s receivership order).

440. Cheer is a notable example. Many courts assess the inclusion or exclusion of Black students on school cheer teams as part of their unitary status inquiry. *See, e.g., Etowah Cnty.*, 963 F.2d at 1426 (finding that a Black student’s removal from the cheer squad raised triable issues of fact precluding unitary status); *Lee v. Dothan City Bd. of Educ.*, No. 1:70-cv-1060, 2007 WL 1856928, at *2 (M.D. Ala. June 27, 2007) (granting unitary status to a school board that ensured racially diverse cheer judges and eliminated cheerleader application fees); *People Who Care v.*

Rockford Bd. of Educ., 851 F. Supp. 905, 1182 (N.D. Ill. 1994), (documenting a school district’s discrimination against Black cheerleader applicants in the selection process), *aff’d in part, rev’d in part*, 111 F.3d 528 (7th Cir. 1997); *Mississippi (Choctaw Cnty.)*, 725 F. Supp. at 311–12 (noting failure to integrate cheerleading); *Arvizu v. Waco Indep. Sch. Dist.*, 732 F. Supp. 721, 725 (W.D. Tex. 1989) (concluding that the requirement that cheerleader applicants pay hundreds of dollars in uniform and cheer camp fees was racially discriminatory).

441. In the District, many schools’ cheer teams had minimal participation from Black students, and in one instance, a school’s cheer team isolated and mistreated the Black girl on the team while coaches turned a blind eye. FOF ¶¶ 263, 268; *see Knight v. Alabama*, 787 F. Supp. 1030, 1332 (N.D. Ala. 1991) (considering whether there was evidence of the school “fostering . . . a racially inhospitable climate on its campus or denying black students full participation in all campus activities”), *aff’d in part, vacated in part, rev’d in part*, 14 F.3d 1534 (11th Cir. 1994). Cheer is also one of the most expensive sports to participate in. FOF ¶ 270. Based on the high costs of cheer, racial disparities in income in the District, and the low rates of participation by Black students, FOF ¶¶ 267, 270, the Court concludes that financial barriers may hinder inclusion and are discriminatory. *Arvizu*, 732 F. Supp. at 725. Indeed, the Court heard testimony that the high fees associated with cheer have prevented at least one Black student from participating. FOF ¶ 270.

442. The District provided no evidence of its attempts to comply with the Operative Orders’ requirement to assure proportionate Black participation in extracurricular activities, FOF ¶¶ 249, 267, except for the fee waiver that the District touted as a good faith effort.

443. However, the District’s Fee Policy—by its own terms and the District’s understanding—does not provide a waiver for extracurricular fees. FOF ¶¶ 271–273. The District

has not revised the policy’s language. FOF ¶¶ 273. In terms of its implementation, the District provided evidence that an extracurricular fee waiver has been granted only once—to a White student—and did not provide records documenting other fee waivers over time. FOF ¶ 274. The District has not shown how the fee waiver has impacted Black participation in extracurricular activities, if at all. The Court finds that these anemic efforts by the District to address financial barriers that can prevent student participation in extracurricular activities fall short of establishing good-faith compliance for a reasonable period of time.

444. The District did not offer “clear and convincing evidence” to show the disparities in extracurricular faculty and student numbers are not the result of ongoing discrimination. *Lee v. Conecuh*, 634 F.2d at 963–64. Dr. Rossell did not examine the District’s policies related to extracurriculars, and the District did not introduce evidence of any efforts—beyond the fee waiver—to encourage interracial participation by faculty and students.

445. The Court therefore retains jurisdiction over extracurricular activities until the District can demonstrate, through evidence, its good-faith compliance with the Operative Orders for a reasonable period of time, and that it has desegregated extracurricular activities to the extent practicable.

V. THE DISTRICT IS NOT UNITARY IN DISCIPLINE.

446. The District administers a system of student discipline in which Black students are more likely to be punished and to be punished more severely than White students for the same conduct. *See* FOF ¶¶ 282-307. Unrebutted statistical analysis attributes these disparities to race, rather than to other variables, and Dr. Jamilia Blake determined that the District’s policies have not reduced—and, indeed, are likely contributing to—racial disparities. *See* FOF ¶¶ 320-342. This persistent (and seemingly worsening, *see* FOF ¶¶ 298, 335) discrimination in discipline precludes a finding that the District is unitary with respect to student assignment or quality of education.

A. Discrimination in Discipline is Properly Considered in Evaluating the District's Motion for Declaration of Unitary Status.

447. The RCSD's racial discipline disparities implicate two factors over which this Court has explicit jurisdiction: student assignment and quality of education. The District must therefore eliminate disparities implicating these areas to the extent practicable before it can be declared unitary. *See generally* COL ¶¶ 345, 347, 359-361.

448. Disciplinary policies and decisions can remove a student from the classroom and, thus, cause them to miss out on instruction; indeed, in some cases—including in the District, which assigns children to the Learning Center for disciplinary reasons—they directly affect a child's permanent school assignment. FOF ¶¶ 278-281, 326. Courts have therefore regularly recognized that school discipline is an aspect of both the school assignment and quality of education factors in desegregation cases. *See, e.g., Carter v. Helena Par. Sch. Bd.*, CV 52-01068, 2018 WL 1321578, at *2 (M.D. La. Mar. 14, 2018) (administration of student discipline included under “student assignment” factor); *Banks v. St. James Par. Sch. Bd.*, No. 2:65-cv-16173, 2017 WL 2554472, at *2 (E.D. La. Jan. 30, 2017) (consent order with administration of student discipline included under “student assignment” factor); *Borel*, 44 F.4th at 314–15 (discipline included in quality of education).

449. The 2019 Court Order explicitly and repeatedly affirms this Court's jurisdiction over both student assignment and quality of education. *See* ECF 90 at 1-2 (“The parties further agree that the Court should continue to exercise its jurisdiction over the areas of extracurricular activities, faculty, staff and student assignment, and quality of education.”), *id.* at 6 (noting that the Court will “maintain jurisdiction over the areas of extracurricular activities, faculty assignment, staff assignment, student assignment, and quality of education”), *id.* at 7-8 (citing both among factors districts must address in desegregation cases), *id.* at 12-13 (Court will ensure

that RCSD takes “all practicable steps to eliminate the vestiges of the prior de jure system in the remaining areas of . . . student assignment . . . and quality of education”), *id.* at 13 (Court “[m]aintains jurisdiction over the areas of . . . student assignment, and quality of education”).

450. The District’s persistent racial disparities in discipline thus directly implicate areas over which the Court retains jurisdiction in this case and the District has cannot be deemed unitary until it has taken all practicable steps to eliminate those disparities, root and branch. *See, e.g.*, COL ¶¶ 345, 347, 359-362.

451. The District implicitly and explicitly acknowledges as much. Dr. Undray Scott, for example, testified that he understood “part of his responsibilities as the head of discipline for Rankin County” to include being “responsible for making sure that Rankin County complies with the desegregation orders in this case with respect to Discipline[.]” FOF ¶ 321.

452. Similarly, in the Motion for Declaration of Unitary Status that is the subject of this hearing, the District argues that it “is unitary because each of the following areas is fully desegregated: student assignment, faculty, staff, student transportation, facilities, extracurricular activities, and *discipline*.” ECF 98 at 5-6 (emphasis added). (The accompanying memorandum did not, however, include any evidence in support of that claim for discipline. *See* ECF 99.)

453. Notwithstanding the above, the District now suggests, in its reply to Plaintiffs’ opposition to its motion, that this Court may not consider racial disparities in discipline in determining whether the District has achieved unitary status. *See* ECF 151 at 9-10. Its cursory argument appears based on the assertion that discipline pertains to an “ancillary factor,” quality of education, and is not explicitly mentioned in the orders in this case. *Id.*

454. This argument is legally and factually incorrect.

455. First, it fails on its own terms. Even if it were true that a district is required to rectify only those aspects of the “quality of education” prong that are explicitly detailed in a desegregation order, there is no allegation that such a requirement applies to “core” *Green* factors, and racial discrimination in discipline implicates student assignment as well as quality of education. *See* COL ¶¶ 447-449. Unless a district has taken all practicable steps to eliminate vestiges of segregation in student assignment, irrespective of whether those vestiges are explicitly mentioned in a court’s desegregation order, it cannot be declared unitary. *See, e.g.*, ECF 90 at 7 (“The following ‘*Green* factors’ must be addressed as part of the determination of whether a school district has fulfilled its duties and eliminated vestiges of the prior dual system to the extent practicable: (1) student assignment; (2) faculty assignment; (3) staff assignment; (4) transportation; (5) extracurricular activities; and (6) facilities.” (citing *Dowell*, 498 U.S. at 250)).

456. In any event, a school district may not be declared unitary if it is currently engaged in unconstitutional discrimination. *See Thomas*, 544 F. Supp. 3d at 724–25 (declining to grant unitary status to a school district engaged in present-day racial discrimination in discipline).

457. The District’s arguments regarding discipline take an excessively formalistic view of the *Green* factors. Even if it were not technically “part” of student assignment, student discipline undeniably affects student assignment, *see* COL ¶¶ 447-449, and a violation under one desegregation factor implicating and preventing satisfaction of another factor is reason for denying a motion for unitary status with respect to that second factor. *Cf., e.g., Freeman*, 503 U.S. at 497 (“We have long recognized that *Green* factors may be related or interdependent. Two or more *Green* factors may be intertwined or synergistic in their relation, so that a constitutional violation in one area cannot be eliminated unless the judicial remedy addresses other matters as well.”); *Thomas*, 544 F. Supp. 3d at 700 (“Additionally, retaining supervision over faculty

assignment is necessary and practicable for the District to achieve compliance in other areas, especially student discipline.”). No matter what desegregation factor discipline “technically” falls under, the Court would need to consider discipline disparities to evaluate whether the District is unitary with respect to student assignment, a “core” *Green* factor. Any arguments relying on an assumption that student discipline relates only to an “ancillary” factor are therefore inapposite.

458. In any event, it is not accurate that a school district’s obligations to desegregate are limited only to specific remedial actions explicitly numerated in a court order, even for quality of education. *See, e.g.*, COL ¶ 347 (noting that actions frustrating the goals of a desegregation order or demonstrating ongoing constitutional violations are sufficient to preclude finding that district is unitary). That is particularly so where, as here, the District has entered a voluntary consent order agreeing to limit all vestiges of segregation with respect to student assignment and quality of education, both of which are implicated by the District’s discipline practices. *See* ECF 90 at 12-13 (Court judicial supervision ordered to ensure that the District “refrains from taking any actions that reverse its progress toward desegregation” and “[t]akes all steps practicable to eliminate the vestiges of the prior de jure system in the remaining areas of . . . student assignment, . . . and quality of education”).

459. Requiring the District to discipline children in a neutral, non-discriminatory manner is well within the scope of this case and the Operative Orders, which charge the District with ensuring that it operates a school system in which discrimination and other vestiges of segregation implicating school assignment and quality of education are eliminated, root and branch. *See* COL ¶¶ 447-449, 359-362. Requiring the District to eliminate the vestiges of segregation is “comfortably” within the bounds of the Operative Orders and the case as a whole and is therefore properly considered by this Court in evaluating whether the District has complied with the

Operative Orders. *See Smith*, 906 F.3d at 335. Administering discriminatory discipline is inconsistent and constitutes a failure to comply with the dictates of the Operative Orders.

460. Having entered a consent decree to eliminate all vestiges of segregation in student assignment and quality of education, the District cannot now claim that it is obligated to eliminate only the specific vestiges for which the Operative Orders provide explicit targets and directives. *See, e.g., id.* (“[B]y entering into a consent decree, Delta vested the district court with authority to ensure Delta’s compliance.”). That is particularly inappropriate here because, if that were true, it would completely vitiate the agreement to eliminate vestiges of segregation in quality of education, as the Operative Orders do not provide specific targets for that factor like they do for the others. It is also inconsistent with the ultimate goal of this case: ensuring “a unitary public school system in which the state does not discriminate between children on the basis of race.” *Etowah Cnty.*, 963 F.2d at 1422; *see also* COL ¶ 349 (frustration of the Operative Orders’ goals precludes a finding of unitary status).

461. *Borel v. School Board of St. Martin Parish*, on which the District relies, ECF 151 at 9, does not support the claim that the District has no desegregation obligations related to discipline. The language of *Borel*, read in context, describes only the facts of that specific case, in which the requirements for discipline were contained in the superseding consent order; it does not articulate any general principles about requirements of the quality of education factor. *See Borel*, 44 F.4th at 315 (“Finally, the district court found that the School Board failed to comply with its obligations regarding two subsets of the quality of education category—graduation pathways and student discipline. Because quality of education falls under the “ancillary factor” category, it does not present specific legal requirements. Instead, the School Board’s obligations

to remove vestiges of segregation in graduation pathways and student discipline are governed by the superseding consent order.” (citing *Smith*, 906 F.3d at 334)).

462. Indeed, that portion of *Borel* cites *Smith v. School Board of Concordia Parish*, which also says nothing about general requirements for the quality of education (or any other factor; it states only that, in that case, the district court’s remedial authority derives from the consent decree, notes that consent decrees “can sweep more broadly than other forms of court-ordered relief,” and concludes that the consent decree in that case is valid because it springs from and serves to resolve “a longstanding desegregation effort in Concordia Parish properly overseen by the district court.” *Smith*, 906 F.3d at 334–35.

463. The District has an obligation to administer discipline in a non-discriminatory manner and remove all vestiges of segregation with respect to school assignment and quality of education, including racial disparities in discipline. The District cannot be declared unitary unless it has taken all steps practicable to eliminate those disparities. COL ¶¶ 345, 247, 359-361. It has not done so.

B. The District Has Not Satisfied Its Duty to Impose Discipline in a Non-Discriminatory Manner.

464. The District impermissibly disciplines Black students more often and more severely than White students. These racial discrepancies are attributable to the District’s practices and are not explainable by any variable other than race. The District’s failure to adopt meaningful measures to measure and eliminate racial discrimination in discipline is inconsistent with a declaration of unitary status with respect to student assignment or quality of education.

i. *Black Children Are Subject to Disparate Treatment Based on Race.*

465. There is uncontroverted evidence of racial disparities in discipline in the Rankin County School District in all five years for which the District produced both discipline and enrollment data. *See generally* FOF ¶¶ 282-319.

466. First, Dr. Blake’s analysis established yearly districtwide relative risk ratios ranging from 1.69 to 1.91 for out-of-school suspensions and 1.66 to 2.06 for in-school suspensions. FOF ¶¶ 291-298. In other words, even relative risk ratios, a conservative metric likely to produce results favorable to the District, demonstrate that Black students are anywhere from well over one and a half times to more than twice as likely to be suspended as White students in the District. *Id.*

467. Second, Dr. Blake determined that Black children are also more likely to be punished more severely than White children in the RCSD, even for comparable conduct. FOF ¶¶ 299-306. She ran a multilevel logistic regression that held all school- and student-level variables constant—meaning that the results were not explainable by variables other than race—and yielded statistically significant results indicating an elevated likelihood of multiple suspensions for Black students for all years considered. *Id.*

468. Dr. Blake’s statistical conclusions about racial disparities in discipline are further supported by the fact that the Learning Center—the District’s alternative school to which children are assigned for behavior problems—has a disproportionately high Black student population and is persistently identifiable as a Black school within the District. FOF ¶¶ 67, 74, 89, 144, 154, 326.

469. These disparities are inconsistent with the District’s desegregation obligations, *see* COL ¶¶ 345, 347, 349, 359-362, and are in line with what Courts have regularly considered indicia of non-compliance with a desegregation order. *See, e.g., Thomas*, 544 F. Supp. 3d at 724. Statistical analysis of data revealing that observed racial disparities are attributable to race (and

not other socioeconomic factors) can be compelling evidence of unconstitutional disparate treatment. *Id.*; see also *Jenkins by Jenkins v. Missouri*, 122 F.3d 588, 598 (8th Cir. 1997); *Hereford v. Huntsville Bd. of Educ.*, No. 5:63-CV-00109, 2015 WL 13398941, at *2–3 & n.4 (N.D. Ala. Apr. 21, 2015); *United States v. Yonkers Bd. of Educ.*, 123 F. Supp. 2d at 709; *Vaughns v. Bd. of Educ. of Prince George’s Cnty.*, 18 F. Supp. 2d 569, 591(D. Md. 1998).

ii. *The District’s Racial Discipline Disparities Are Not Consistent with Its Obligations in this Case.*

470. The District does not dispute that it subjects Black children to disproportionate discipline, generally, or Dr. Blake’s conclusions, specifically. See FOF ¶¶ 308-319. Instead, the District argues that it is not obligated, as part of this case, to eliminate racial disparities in discipline to the extent practicable because “there is no evidence they are attributable to the *de jure* system or to any acts of intentional discrimination.” See ECF 151 at 9-10.

471. The District’s argument is inconsistent with the law and with its burden in this case.

472. As an initial matter, persistent racial disparities in a formerly segregated school system are presumptively vestiges of segregation that the District is required to eliminate. *Cf.* COL ¶ 362 (a district bears heavy burden of demonstrating that ongoing disparities are not due to discrimination or vestiges of segregation). Furthermore, a school district may not be declared unitary if it is currently engaged in unconstitutional discipline discrimination. See *Thomas*, 544 F. Supp. 3d at 724–25 (declining to grant unitary status to a school district engaged in present-day racial discrimination in discipline). Because there is evidence that the District’s discrimination in discipline is attributable to its policies and practices, it must therefore take all practicable steps to eliminate such racial disparities.

473. Dr. Blake’s regression analysis demonstrated that the District’s disparities are attributable to race, not any other factor or variable. See FOF ¶¶ 299-306. Such regression

analyses have been accepted as evidence that “the disparities are a product of racial discrimination, not other social ills or variables” and, indeed, have regularly been used to “support an inference of motive for disparate treatment” in other areas of law. *Thomas*, 544 F.Supp.3d at 724 (citing cases accepting regression analyses to support proof of age and sex discrimination to support similar finding with respect to discipline); *see also Lee v. Etowah Cty. Bd. of Educ.*, 963 F.2d 1416, 1424–26 (11th Cir. 1992) (reversing district court grant of unitary status because, among other things, statistics showing racial disparities in suspension raised a genuine issue of material fact as to whether the district was presently discriminating in discipline).

474. The District’s speculative assertions that the disparities it oversees are attributable to other causes are supported by flimsy (if any) evidence—and, in some cases, are based in stereotype—and can rebut neither the presumption that the observed racial disparities are vestiges of segregation nor evidence that they are attributable to the District. *See* FOF ¶¶ 308-319; *see also, e.g., COL* ¶ 351 (conclusory assertions insufficient to satisfy district’s burden); *id.* at 356 (failure to produce sufficient data inconsistent with burden).

475. First, the argument that the RCSD’s discipline disparities reflect national disparities, not local discrimination, appears to rest on one sentence from Dr. Rossell’s supplemental report that does not provide a metric to compare discipline of Black students to other racial groups on a nationwide basis. *See* FOF ¶ 313.

476. By contrast, relative risk ratios, which Dr. Blake calculated using District data, provide a baseline comparator for discipline rates. *Id.* Here, Dr. Blake calculated relative risk ratios that established such a baseline and concluded that Black students are 1.66 to 2.06 times more likely to be suspended than are White students. FOF ¶¶ 291-298, 313. The District did not provide any analysis of its own data to rebut this finding. *See* FOF ¶¶ 308-319.

477. Furthermore, even accepting Dr. Rossell's statement on its own terms, it asserts only that Black children are disproportionately disciplined across the country, which Plaintiffs do not dispute. *See* FOF ¶ 314. Pointing to that data does not begin to undermine Plaintiffs' claim, let alone affirmatively establish that the District's discipline disparities are attributable to national trends rather than the District's own practices. *See* FOF ¶¶ 311-316. Such a showing would at minimum require, first, demonstrating the scope of national disparities by calculating a national relative risk ratio (or a similar statistic) for a given year and, second, establishing that the District's equivalent ratio is so similar that the national numbers explain the District's discrepancies. The District has not attempted to satisfy its burden of establishing a causal relationship between national trends and the District's disparities.

478. Second, the District's assertion that socioeconomic status, and not race, explains the District's disparities in discipline is also flawed. Indeed, it is based more on stereotype than on statistics. Dr. Rossell claims that national disparities in discipline exist "because black students are generally poorer than non-black students," before referencing general statistics about racial wealth disparities. FOF ¶¶ 315-319. The District, however, has not presented any evidence of a causal connection between socioeconomic status and racial disparities in Rankin County (or anywhere else). *Id.*

479. As Dr. Blake explained, Dr. Rossell's claim that national discipline disparities are "because of" socioeconomic differences is not supported (or supportable) by the data presented, which contains no information about the socioeconomic status of disciplined children or any link between discipline and wealth at all. *See id.* At best, it presents a correlation between generally elevated discipline rates for Black students and a general wealth gap between Black and White

people; it does not, and cannot, establish any causal relationship between those variables, even at the national level. *Id.*

480. It says even less about whether racial differences in wealth or socioeconomic status explain racial discipline disparities *in the District*, because national aggregate data about wealth disparities do not necessarily reflect the socioeconomic status of Rankin County residents or, more specifically, of the children who are (or are not) suspended in Rankin County schools. *Id.*

481. Indeed, the District’s discipline data does not track socioeconomic status at all, so any claims attempting to link discipline and socioeconomic status in Rankin County are necessarily speculative. *See* FOF ¶ 319; *see also* FOF ¶ 317, n.26.

482. The District—which has the burden in this case—could have sought to establish that socioeconomic status, not race, explains discipline disparities by running a regression analysis like that conducted by Dr. Blake and controlling for variables other than socioeconomic status (or by conducting any other statistical analysis to support the conclusion it advances). *See* FOF ¶¶ 315-319. It did not attempt to do so. *Id.*

483. The District cannot, and has not meaningfully attempted to, establish that its discipline disparities do not result from the District’s racial discrimination, and it therefore cannot meet its burden to show that it has achieved unitary status in the area of student discipline. COL ¶ 351 (conclusory assertions insufficient to satisfy burden); *id.* ¶ 356 (failure to produce data or develop record inconsistent with burden)

iii. *The District’s Policies Have Resulted in Racial Discrimination and the District Has Not Adopted Practicable Ameliorative Policies.*

484. The District must “eliminate the effects of prior de jure segregation, ‘root and branch,’ by coming forward with a plan that promises realistically to work and promises realistically to work now.” Thomas, 544 F. Supp. 3d at 691–92; *see also* COL ¶¶ 347, 349, 352,

359-362. The District’s decentralized, subjective, and *ad hoc* approach to discipline has not reduced racial disparities—indeed, by some measures, discipline disparities have increased over the years reviewed by Dr. Blake, FOF ¶¶ 298, 335—and, in light of the availability of easily administrable alternatives, is insufficient to demonstrate that it has made “every reasonable” effort to eliminate the vestiges of segregation with respect to student discipline. *See Thomas*, 544 F. Supp. 3d at 663.

485. As Dr. Blake testified, the District’s policies and efforts have not reduced discipline disparities in the RCSD. FOF ¶¶ 320-342. A review of those policies illustrates various practices that appear to explain the District’s continued disparities.

486. As an initial matter, the District lacks standards for even determining whether disparities in discipline exist. *See* FOF ¶¶ 329-334, 337-339. It assesses its data for discrimination using a metric—comparing discipline rates to enrollment rates, without comparison to a baseline, FOF ¶ 329 (discussing when the District considers a group “overidentified” in discipline)—that is “not standard” and cannot be used to assess the degree to which Black children are disciplined relative to other children, *cf.* FOF ¶ 313 (explaining Dr. Rossell’s appeal to national discipline trends cannot adequately capture the scope of racial disparities in part because she did not consider discipline rates of any comparator group).

487. Furthermore, the District does not have objective standards for determining how much of a deviation from its target indicates elevated discipline disparities or even for when apparently problematic data can be disregarded altogether because of a claim that the sample size is too small or repeated instances of discipline have skewed the dataset. FOF ¶¶ 329-332.

488. Similarly, because it does not track data with fidelity, it cannot know or test whether or how its efforts are affecting student discipline. FOF ¶¶ 334, 337-338.

489. These failures to adequately track and measure disparities and the efficacy of its policies are inconsistent with a good-faith effort to reduce racial disparities in discipline. *Cf. Thomas*, 544 F. Supp. 3d at 701 (“The Court struggles to comprehend how one can reasonably expect to achieve a goal without even knowing what the goal is or where efforts need to be focused. [District staff’s] testimony not only failed to show a good-faith effort to meet the goals, but no real effort at all.”); *id.* at 723 (“The District’s lack of a tracking or monitoring mechanism shows a lack of commitment to using non-exclusionary discipline.”).

490. Substantively, the District employs subjective discipline policies with undefined terms and does not train its employees in how to interpret or implement those policies. FOF ¶¶ 325-326. District employees and students must therefore attempt to figure out for themselves what a given provision means and when it has been violated, which invites bias in enforcement and potential disparate discipline. *Id.*; FOF ¶ 340; *cf. Berry v. Sch. Dist. Of City of Benton Harbor*, 515 F. Supp. 344, 379 (W.D. Mich. 1981) (“It is the hope and expectation of the court . . . that the existence of clear, unambiguous and uniform standard of conduct and procedures for discipline will eliminate the interjection of personal bias and subjective enforcement that may be exacerbated by negative racial attitudes.”), *aff’d and remanded*, 698 F.2d 813 (6th Cir. 1983); *Sherpell v. Humnoke Sch. Dist. No. 5*, 619 F. Supp. 670, 677 (E.D. Ark. 1985) (“The Court is persuaded that defendants should be required to revise their assertive discipline procedure to the end that all subjective criteria be removed; and that uniform and objective guidelines be established to eliminate the opportunity to administer discipline on an uneven handed basis.”).

491. The District also tasks school level staff with interpreting discipline data and crafting solutions to perceived problems but does not train or provide objective guidance to each school for how the District wants it to do so. FOF ¶ 332.

492. By implementing a decentralized, subjective system of discipline that even it acknowledges can invite racial bias, *see* FOF ¶ 326, and failing to track or measure the scope of its discipline disparities in a way that suggests even that it takes the issue seriously, let alone that it is doing all that it can to eliminate such disparities, the District has simply not come close to demonstrating the good-faith compliance necessary to carry its burden of demonstrating that it is unitary with respect to discipline. *See* COL ¶¶ 345, 347, 349, 352, 359-362; *see also* *Thomas*, 544 F. Supp. 3d at 663 (“Good faith requires showing both past good-faith compliance and an ongoing commitment to integration.” (citing *Freeman*, 503 U.S. at 498–99)).

CONCLUSION

In accordance with the Court’s findings of fact and conclusions of law, the District’s motion for unitary status is **DENIED**. Plaintiffs’ request for leave to file a motion for further relief is **GRANTED**.

Respectfully submitted this 19th day of November 2025.

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