

PRIVILEGED & CONFIDENTIAL

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

RODERICK JACKSON,)
)
)
 Plaintiff,)
)
 vs.)
)
 BIRMINGHAM BOARD OF)
 EDUCATION,)
)
)
 Defendants.)

CIVIL ACTION NO.
CV-01-BE-1866-S

CONSENT DECREE

I. INTRODUCTION

This Consent Decree ("Decree") has been voluntarily entered into between the Parties, plaintiff Roderick Jackson ("Jackson") and defendant Birmingham Board of Education (the "Board"), and has been submitted to the United States District Court for the Northern District of Alabama (Southern Division) for approval. In consideration of the Board's commitment to undertake the tasks and provide the relief specified herein, Jackson agrees that his complaint in *Jackson v. Birmingham Board of Education*, CV-01-BE-1866-S, shall be dismissed with prejudice, except as set forth in Section II(D) below. This Decree fully and finally resolves the litigation now pending between the Parties.

NOW, THEREFORE, the Court having carefully examined the terms and provisions of this Consent Decree, it is ORDERED, ADJUDGED AND DECREED THAT:

II. GENERAL PROVISIONS

- A. This Court has jurisdiction of the Parties and of the subject matter of this action under Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681 *et seq.* (Title IX), and 28 U.S.C. §1331.
- B. The Parties agree that this Decree constitutes the complete agreement between them with respect to the matters referred to herein. No waiver, modification or amendment of any provision of this Decree shall be effective unless made in writing, approved by the Parties and approved by the Court or ordered by the Court. No representations or inducements to compromise this action have been made, other than those recited or referenced in this Decree.

C. Nothing in this Decree shall be deemed to be an admission by the Board that it has violated Title IX or any other state or federal law.

D. The duration of this Decree shall be two (2) years from the date of entry of the Decree. During that time, this Court shall retain jurisdiction over this matter and the Parties for purposes of enforcing compliance with the Decree, including issuing such orders as may be required to effectuate such compliance. Prior to the expiration of two (2) years from the date of entry of this Decree, and with the recommendation of the Monitor, Jackson may petition the Court, after a face-to-face consultation with the Board, for an extension of the Decree beyond its initial two (2) year duration.

E. The Board and its officers, employees and agents are enjoined from discriminating against any individual on the basis of sex in violation of Title IX.

F. The Board and its officers, employees and agents are enjoined from retaliating against any individual for his/her participation in investigating or reporting violations or potential violations of this Decree or Title IX. The Board will ensure that its administrators and employees are informed that discrimination and retaliation are illegal and against Board policy and will take appropriate disciplinary action against any person found to be engaging in discriminatory or retaliatory conduct.

III. SPECIFIC PROVISIONS

A. Relief for Jackson

Relief for Jackson shall be set forth by a separate agreement.

B. Appointment of a Monitor

1. Appointment of an Independent Monitor and Compensation

The Parties agree to the appointment of an Independent Monitor ("Monitor") who shall have the duties described below. The Monitor shall serve *pro bono*, but the Board shall reimburse him for reasonable and customary expenses associated with his or her duties.

2. Identity of Monitor and Procedure for Appointment of Replacement

The Court approves the request of the Parties to appoint the Honorable Kenneth O. Simon, a former Circuit Judge for the State of Alabama, Tenth Judicial District, and Birmingham attorney with 30 years experience in employment and labor disputes, as the Monitor. In the event that Mr. Simon resigns or becomes incapacitated, counsel for the Parties shall confer within thirty (30) days of the date of the vacancy and attempt to agree upon a replacement to be presented to the Court for approval. In the event counsel for the Parties are unable to agree upon a recommended replacement within thirty (30) days, counsel shall each submit a list of three names along with a description of qualifications to the Court. The Court shall appoint a Monitor from the names submitted, or the Court may

select another qualified person within thirty days (30) of submission of names to the Court.

3. Duties of the Monitor

The Monitor will be responsible for evaluating, and reporting to the Court about, the Board's compliance with this Decree. As set forth below, the Board will provide to the Monitor certain reports and documents to enable the performance of the Monitor's responsibilities.

In particular, within thirty (30) days of his/her receipt of the Board's initial compliance report (described in paragraph III(C)(6) below), the Monitor shall provide to the Board and Jackson's counsel a draft report describing the Board's compliance with this Decree. The Board and Jackson's counsel shall have thirty (30) days to consult with the Monitor concerning the draft report and to provide any comments or additional information to the Monitor. Within fifteen (15) days thereafter, the Monitor shall submit a final report to the Court. Fifteen (15) days after the final report is submitted, the Board shall supply the Court with a statement contesting any findings of the Monitor and/or a statement identifying actions it intends to take to correct any deficiencies in compliance that are noted in the final report. The Monitor's report and the Board's response to the report shall be promptly posted on the Board's website.

The Monitor, the Board and Jackson's counsel will follow the same process after the Board prepares the annual compliance reports described in paragraph III (C)(7) below.

C. General Relief

The Board agrees to take all steps necessary to ensure that the Birmingham school system is free from discrimination on the basis of sex in all of its schools and programs and is in full compliance with Title IX of the Education Amendments of 1972 and its implementing regulations, 34 C.F.R. Part 106, including:

1. Appointment of Title IX Coordinators

Within thirty (30) days of the date of this Decree, the Board will appoint Title IX Coordinators for the Birmingham school system and for each school within the school system. The Title IX Coordinators may be new or current Board employees. Each Title IX Coordinator shall be committed to girls' full participation in sports and other activities, and shall become fully familiar with the requirements of, and Coordinators' responsibilities under, Title IX and its implementing regulations. The Board will post on its website (and update as necessary) the name of and contact information for the Title IX Coordinator for the Birmingham school system, and will notify all students, parents, and employees of his or her identity and functions. Each school within the Birmingham school system will further notify all students, parents and employees of the identity and functions of its Title IX Coordinator.

2. Establishment of Anti-Discrimination Policies and Grievance Procedures

Within forty-five (45) days of the date of this Decree, the Board will post on its website (and update as necessary for the duration of this Decree) policies that bar discrimination on the basis of sex against students and employees of the Birmingham school system, as well as procedures for handling complaints of sex discrimination, including, but not limited to, denial of equal opportunity or treatment in athletics, sexual harassment and retaliation. The Board policies and procedures will comply with the provisions of the Title IX regulations at 34 C.F.R. 106.8, 106.9. In addition, the Board will provide to the Monitor, on a monthly basis, copies of all complaints filed under the complaint procedures.

3. Establishment of Policies and Procedures for Athletics Programs

Within sixty (60) days of the date of this Decree, the Board will adopt uniform policies and procedures for all schools to ensure compliance with Title IX and its implementing regulations and policies, which shall in all respects be consistent with 34 C.F.R. § 106.41. Among other matters these policies and procedures will cover: the purchase of equipment, supplies and uniforms for athletic teams; the hiring of assistant coaches; the approval of team rosters; and the use of donor gifts and admission and concession receipts. Copies of the procedures will be provided to Jackson's counsel, the Monitor, and all relevant Board employees, including, but not limited to, athletic directors, coaches and school administrators.

4. Provision of Education and Training

The Board will conduct all training necessary to ensure compliance with Title IX and this Decree, including, but not limited to, training of students, Title IX coordinators, and all relevant Board employees (including, but not limited to, athletic directors, coaches, trainers, and school administrators). By July 30 of each year, the Board will report to the Monitor on the education and training it has provided, including, but not limited to, identification of the employees who received training and the schools at which training was provided to students. The Board will also provide the Monitor with copies of all materials distributed at training sessions.

5. Conducting of an Initial Compliance Review

No later than February 1, 2007, the Board will begin conducting a review of compliance with the Title IX athletics regulations and the policies of the U.S. Department of Education in all schools and programs that are part of the Birmingham school system. The compliance review will examine whether girls are receiving an equal opportunity to participate in physical education and sports and whether girls' and boys' teams are being treated equally. The compliance review will also set forth steps to be taken and the time periods within which they will be completed to remedy any inequities that are found.

6. Submission of Report on the Initial Compliance Review

By June 1, 2007, the Board will submit to the Monitor and to Jackson's counsel, and post on its website, a report presenting the findings of its compliance review and make available for the Monitor's inspection all documents underlying the report. The report will address the Board's compliance with Title IX with regard to each subpart of 34 C.F.R. § 106.41(c) for each school and the steps that will be taken, and the time periods within which they will be completed, to remedy any inequities that are found in any area.

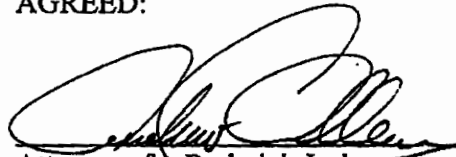
7. Preparation of Annual Compliance Reviews and Reports

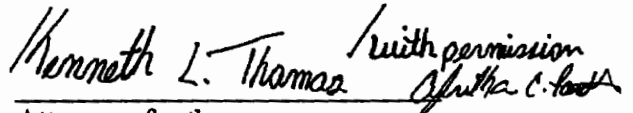
By July 30 of each year following its completion of the initial compliance review, the Board will conduct a compliance review to update its initial findings. The Board will provide to the Monitor and Jackson's counsel, and post on its website, a report that addresses the Board's compliance with Title IX with regard to each subpart of 34 C.F.R. § 106.41(c); the steps that the Board has taken since its last report to remedy any inequities that were found in any area; and the steps that will be taken, and the time periods within which they will be completed, to remedy any inequities that remain in any area.

IV. ATTORNEYS' FEES AND COSTS

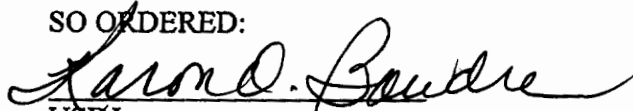
Attorneys' fees and costs shall be set forth by a separate agreement.

AGREED:


Attorneys for Roderick Jackson

with permission

Attorneys for the
Birmingham Board of
Education

SO ORDERED:


USBJ