

National Headquarters
132 West 43 Street
New York, NY 10036
(212) 944 9800

Norman Dorsen
PRESIDENT

Ira Glasser
EXECUTIVE DIRECTOR

February 6, 1984

E. Richard Larson
STAFF COUNSEL

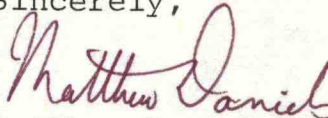
William Lamson
704 Windward Road
Jackson, MS 39206

Dear Mr. Lamson:

I'm sending you under this cover a copy of the board's answers to the pre-1951 discovery for Brown which was left out of the box of materials we sent to you earlier last week. In addition, I've enclosed copies of the summaries I've prepared of the board's answers to our second and third interrogatories. You should find copies of the answers themselves in the box with the rest of the documents.

I hope your work in Topeka is going well, and I look forward to meeting you when you come to New York this month.

Sincerely,


Matthew Daniels

MD:ln

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Norman Dorsen
PRESIDENT

Ira Glasser
EXECUTIVE DIRECTOR

M E M O R A N D U M

TO: Brown Staff Counsel

FROM: Matt Daniels

DATE: February 1, 1984

RE: Brown v. Board of Education
Summaries of Answers to Second and Third
Interrogatories

Attached are the summaries I've prepared of the Board's Answers to our Second and Third Interrogatories. With the following exceptions, the questions set forth in the Interrogatories appear to have been more or less answered:

Mr. Sebelius states that he needs clarification of questions 4 and 5 of our second Interrogatory before the Board can provide an Answer. His requests for explanation are enumerated in the summary.

Questions 1, 11-49, 60, and 61 of the third Interrogatory remain unanswered.

MD:kw

SECOND SET OF INTERROGATORIES TO THE BOARD

Document Request

Second Set of Interrogatories to the Board

Document Request:

Plaintiffs hereby request, pursuant to Rule 34 of the Federal Rules of Civil Procedure, that you produce the following:

1. (Based upon your Answer to Plaintiffs' First Set of Interrogatories-Question No. 14). All studies or reports prepared in connection with any of the following federal programs:

- a. Title II (Drop-out rates)
- b. Title III (Reading Clinics)
- c. Handicapped Planning (Needs Assessment)
- d. Special Needs (Pre-Vocational Orientation)
- e. Kansas Correctional Vocational Training
- f. Communication Skills
- g. Pre Vocational Exploratory (P.E.P.).

Summary of Answer and Documents:

The Board states that documents requested in a have been destroyed.

The Board states that studies or reports identified in b, e and g which have been retained will be made available for inspection and copying at the office of Edison, Lewis, Porter & Haynes, 1300 Merchants National Bank Building, Popeka, Kansas.

With respect to items c, d, and f, the Board states that no such studies or reports can be located. They state that for items d and f, it appears that no studies or reports were ever prepared.

Question 1

Second set of Interrogatories to the Board

Question 1:

1. State the amount of federal assistance received, and the number of student and teacher participants, for each school year (1954 to the present) by each school benefitting from programs under Title I.

Summary of Answer and Documents:

The Board provides charts showing the salaries of Title I personnel at each school for 1974 to 1981 and the number of children served through Title I at each school for 1975-1981. The Board notes that data for previous years are not available since the Board is only required to maintain its Title I records for five years.

The Board points at that it does not have data on children served at Quincy Elementary for the 1976-77 and 1977-78 years.

Question 2

Second set of Interrogatories to the Board

Question 2:

2. State the amount of federal assistance received each year (1954 to 1981) by each school benefitting from programs under Title II Elementary Guidance; Title III Reading Clinics, Centers and Services; Title IV Career Exemplary Center; 1969 Special Needs Project; Area Vocational Technical School Program; Correctional Vocational Training Center; Communication Skills; Work Study; Special Needs; PreVocational Exploratory (P.E.P.); HERO/Food Service; Follow Through; CETA; Neighborhood Youth Corps; Manpower Development Training Projects; Federal Revenue Sharing; and School Food Service Programs. Where a single program offered services to students or teachers from more than one school, state how many students from each school and how many teachers from each school participated.

Summary of Answer and Documents:

The Board provides a set of charts which treat the total annual funding information for each program individually. Some charts do include information on the schools and number of students at each school served, but most refer us to the Board's answers to questions 14 and 15 of the first interrogatories. It should be noted that the information provided in answer to questions 14 and 15 lists the schools served by each program, but not the number of students served.

Question 3

Second set of Interrogatories to the Board

Question 3:

3. Describe by year and by race participants in the CETA, Headstart, and Follow Through programs.

Summary of Answer and Documents:

Except for a 1974-75 and 1975-76 gaps in the racial breakdown of student participants, the charts the Board supplies concerning Follow-Through programs is complete.

The Board provides information on its CETA program, but states that since students were selected and assigned by the Department of Labor, specific statistics with reference to participant race and worksite are unavailable. However, the Board notes that Bill Bywater of the Department of Labor reported in previous conversations that approximately 66-75% of the student participants were minorities.

The charts which the Board provide on its Head Start program appear complete.

Questions 4 and 5

Second Set of Interrogatories to the Board

Questions 4 and 5:

4. State the number of full time classroom teachers and the total annual salaries paid to those teachers for each school in each of the last ten years

5. State the number of full time administrators and the total annual salaries paid to them for each school in each of the last ten years.

Summary of Answers and Documents:

A March 30, 1982 letter written by Mr. Sebelius states that clarification of questions 4 and 5 is needed before answers can be provided. The questions he poses are as follows:

- 1.) Do questions 4 and 5 relate only to those programs identified in question number 3?

- 2.) Is the term "full time) intended to mean full time equivalents or to specifically exclude all part time personnel from data to be provided?

- 3.) Is the request for "total annual salaries" meant to be a cumulative total for each school or the total amount paid to each teacher at each school during the relevant time period?

- 4.) Does question 5 require information regarding only those administrators who actually are assigned to individual schools or does it request information regarding administrators who have duties not relegated to only one school?

Question 6

Second Set of Interrogatories to the Board

Question 6:

6. Were there any different attendance zone configurations for elementary, Junior High, or High Schools between 1951 and 1963, other than the ones you identified in answer to the First Set of Interrogatories?

Summary of Answer and Documents:

The Board states that no attendance zone configurations for elementary, junior high or high schools other than those provided have been identified.

Questions 7 8 and 9

Second Set of Interrogatories to the Board

Questions 7 8 and 9:

7. Provide all information identifying students by race and by school of attendance from each optional attendance zone described in answer to Question No. of the First Set of Interrogatories.
8. From 1950 to the present, for all Junior High Schools please identify entering students for each year by race and by elementary school of origin.
9. From 1950 to the present, for all High Schools please identify entering students for each year by race and by Junior High School of origin.

Summary of Answers and Documents:

The Board provides a chart on pg. 7 of their answer which gives an overall picture of the information relevant to questions 7, 8, and 9 which is potentially available in U.S.D. 501 records. With reference to this chart, they then treat the above questions as follows:

Question 7:

The Board states that as shown in the chart on pg. 7, the First school year for which maps exist identifying all optional attendance areas at the elementary, junior high and high school levels is the 1963-64 school year. In Attachment I they include a study identifying the common optional attendance zones by school year from 1963 through 1974 (when optional attendance zones were discontinued on the elementary and junior high school levels -- they continued

on the high school level until 1977-78). The study also contains the number of students in each optional attendance area by race and schools attended for the 1974-75 year for both elementary and junior high schools, and 1974-75 through 1976-77 for senior high schools.

The Board states that further answers to question 7 may be derived from the business records of the school district listed as available in the chart on pg. 7.

With regard to ascertaining the race of students within optional attendance areas prior to 1974-75 when Alphabetic rosters begin to give that information, the Board states that scholarship cards, registration cards, or student cumulative folders would need to be examined. They estimate the task would take 60 person-hours, and as such, they claim it would be burdensome. Hence, they state they will make the appropriate records available for examination at their administrative offices, 624 24th Street, Topeka, Kansas.

Questions 8 and 9:

In Attachment II the Board presents data on the number of students currently enrolled in 7th or 9th grade by race who were formerly enrolled during the 1980-81 school year in 6th or 8th grade. The Board claims that since this analysis for a single year took 102 person-hours to complete, analyses for additional years would be burdensome. They state that the records for which answers to 8 and 9 may be derived for other years are listed in the chart on pg. 7 and will be made available for examination at their administrative offices.

The Board sets forth stipulations regarding the protection of information contained in records relevant to questions 7, 8 and 9 which they would require us to observe were we to inspect them.

Question 10

Second Set of Interrogatories to the Board

Question 10:

10. For each Junior High and High School in existence and for each year during the school years from 1953 to the present, state whether any standardized tests designed to measure aptitude, ability or suitability for college were administered at the school. If the answer is in the affirmative, state:

- a. The name of the test(s).
- b. A description of the test and the objectives of the test.
- c. The name and address of the author or preparer of the test.
- d. The name and address of the person or organization that scored the test.
- e. The name and official title and address of the person in the school district who had the responsibility for selecting the test to be administered at the school.
- f. The average and median test score for each grade level at the school.

Summary of Answer and Documents:

The Board treats each test relevant to this question (PSAT/NMSQT, SAT, and ACT) individually. The information given is adequate for the most part, although item f is not fully answered with respect to any of the tests. The Board states that for the SAT the only score reports are sent to the individual students, and that while PSAT/NMSQT score reports are also sent to the schools which students attend as well as to the students themselves, summary data is neither

provided the schools nor periodically generated. In addition, although average ACT test scores are supplied for USD 501 as a whole, neither per school averages or medians are supplied.

Question 11

Second Set of Interrogatories to the Board

Question 11:

11. Is the four-step desegregation plan outlined in answer to the First Set of Interrogatories the only plan for desegregation proposed by, presented to, considered or implemented by the defendant Board of Education?

Summary of Answer and Documents:

The Board states that yes, the far-step plan outlined in answer to question 23 is the only such desegregation plan.

THIRD SET OF INTERROGATORIES TO THE BOARD

Questions 2 3 and 4

Third set of interrogatories to the board

Questions 2 3 and 4:

2. Are there any schools within the Unified School District No. 501 which are currently "overcrowded," according to the District's definition of "capacity."
3. If the answer to Interrogatory No. 2 is affirmative, please indicate:
 - a. The name(s) of the school(s)
 - b. Total enrollment of each school
 - c. Number of students at each school in excess of capacity.
4. On those occasions where schools within the School District were overcrowded, what guidelines were used to relieve the overcrowding? (For example, were portable classrooms constructed as a first step, or were attendance zones altered, etc.?)

Summary of Answer and Documents:

In response to question 2, the School Board states that there are currently no school buildings which are overcrowded. Portable classrooms are in use at some, but the Board states that this is not because they are needed. They were needed at some point in the past, but have not been removed simply because of the cost involved.

The Board states that question 3 is inapplicable given their answer above.

In answer to question 4, the Board states that no specific guidelines were used to relieve overcrowding in past years. As they indicated in earlier answers, many solutions were used depending upon the situation. These included the use of portable classrooms, the construction of additions (if the overcrowding appeared longterm, and the alteration of attendance boundaries.

Question 5

Third set of interrogatories to the board

Question 5

Please identify all occasions on which the School District has rented non-school district facilities for purposes of relieving overcrowding and identify the basis on which students were assigned to attend classes in the rented facility.

Summary of Answer and Documents:

The Board provides a chart in answer to question 5 with columns for the date, location, purpose, and information relative to the assignment of students. The chart appears complete, but no basis for student assignment is provided in any documented instance of non-district facility use.

Question 6

Third set of interrogatories to the board

Question 6

6. Please identify specifically and in detail how students are selected for each of the vocational training programs administered by Unified School District No. 501.

Summary of Answer and Documents:

The Board states that along with five other school districts, USD 501 formed the Kaw Area Vocational-Technical School in 1963. The other districts were: USD 336--Holton, USD 338--Valley Falls, USD 345--Seaman, USD 437--Auburn/Washburn Rural, USD 450--Shawnee Heights. USD 501 is the lead district and the employer of all employees in the school.

The Board details the following aspects of the selection process for the vocational training programs administered by the school:

1. completion of application form
2. pre-admissions test
3. interview after test results received
4. review of applications by admission committee
5. enrollment in day classes at the Kaw Area Vocational-Technical School for students who reside in one of the six participating school districts. Other students may enroll according to the following "established priorities":

a. Qualified students who are currently enrolled in a vocational-technical educational program and pursuing a vocational objective.

b. High school students from participating districts who must meet entrance requirements of the particular course in which they have applied for admission. Enrollment starts January 15.

c. Post-secondary students from participating districts who meet entrance requirements of the particular course in which they have applied for admission (not included in a. above). Enrollment starts April 1.

d. Secondary and post-secondary students from the State of Kansas who are not residents of one of the participating school districts. Enrollment starts May 15.

6. The Kaw Area Vocational-Technical School is part of the state system of area vocational-technical schools and is approved by the State Board of Ed. Student selection is non-discriminatory.
7. The date the application is received figures into the admissions decision.

Question 7

Third set of interrogatories to the board

Question 7

7. For each school which has been, or now is involved in such vocational training programs, please provide:

- a. Name of school
- b. Year(s) program provided at each school
- c. Racial composition of students enrolled in program at each school
- d. Specific trade(s) for which training offered at each school

Summary of Answer and Documents:

The Board includes charts with their answer to question 7 which are for the most part complete. In answer to 7c, however, they offer racial composition figures for students at only one Area Vocational-Technical School at 5724 Hontoon, Topeka, since 1970.

Questions 8 9 and 10

Third set of interrogatories to the board

Questions 8 9 and 10:

8. Please describe how vocational programs have been and currently are being funded.
9. With relation to instructors within such vocational programs, are said instructors employees of the Board of Education or employees of another organization? If the latter, please provide names and address of employers.
10. Are said instructors' salaries paid in full by the Board of Education or by some other organization? If they are paid by someone other than the Board of Education, please provide name and address of said organization.

Summary of Answers and Documents:

In answer to question 8, the Board again lists the other 5 districts with which it participates in the Kaw Area Vocational-Technical School. The Board states that together, the six cooperating school districts contribute all their vocational funds to the school. In addition, the school receives funding from the State for post-secondary aid and formula aid; as well as from the federal government in the form of federal formula aid monies. Finally, tuition is paid by post-secondary students.

With regard to question 9, the Board states that for administrative purposes USD 501 is the Kaw Area Vocational-Technical School employer.

In response to question 10, the Board states that salaries are paid through USD 501 using the funds described in their answer to

question 8. The Board notes that trade unions provide a portion of instructor's salaries for apprenticeship classes, and that these funds are paid by the unions directly to instructors.

Question 50

Third set of interrogatories to the board

Question 50:

50. Please provide a list of all teachers currently employed by U.S.D. 501, indicating the following:

- a. The school to which each teacher is presently assigned
- b. the year in which each teacher was assigned to such school
- c. the year in which each teacher began his or her employment with U.S.D. 501
- d. the race (black, white or other minority) of each teacher

Summary of Answer and Documents:

the Board provides a series of charts in response to question 50 which appear complete.

Question 51

Third set of interrogatories to the board

Question 51:

51. With reference to "optional attendance zones" which have been or are presently used by U.S.D. 501, please provide the following:

- a. Reason(s) for the use of such optional attendance zones;
- b. Method(s) by which optional attendance zones are evaluated to determine whether they have met the objectives set out in a. above
- c. Person(s) making such evaluation and/or determination
- d. Reason(s) for the termination of the use of an optional attendance zone.

Summary of Answer and Documents:

In answer to item a, the Board provides the following reasons for the use of optional attendance zones:

1. To permit parents of school age children to work out travel problems when travel distance was approximately equal between two schools and when the travel route was difficult or dangerous.
2. To permit student enrollment in one or more school buildings nearly equidistant from parental residence during the planning or construction of a new school building to serve a rapidly developing area. The Board states that it often did not have much time to cope with the changed educational needs of residents in an area affected by city and county governmental

actions (i.e. zoning changes, water and utility changes, etc.). Therefore, there was occasionally a need for flexibility and temporary arrangements. The Board also mentions that the annexations of the Avondale school district and portions of the Highland Park district required optional attendance area formation to adjust to attendance patterns, school capacities, and geographic barriers.

The Board provides the following information in answer to items b and c:

1. The study of the optional attendance areas was usually incorporated within the cooperative review process given to all school attendance areas. During the 1950's, the School District was under the leadership of Superintendent Wendell Godwin, who was assisted by Raymond Tilzey, Director of Census and Pupil Accounting, and Mose J. Whitson, Assistant to the Superintendent and Deputy Superintendent of Personnel, in matters regarding school facilities, staffing, and attendance areas. After basic agreement was reached within the committee mentioned above, the recommendations were presented to the Board of Education members during a regular business meeting. Patrons could attend and speak to various boundary adjustments being considered. When the Board members determined that all the important facts were in, they generally adopted the boundary lines for each school and any optional area that they desired to have shared by two or more schools according to the needs presented. Other decisions regarding capital improvements, remodeling, and staffing plans usually followed the Board's decision regarding attendance boundaries. The Board states that school buildings had an estimated lifetime of 50-75 years.

2. The Board states that beginning in 1975, it adopted a 5 year long-range plan which has been only slightly revised as it has been implemented. The Board reviews the updating of the plan on an annual basis to determine adjustments in attendance area boundaries, staffing needs, etc.

In response to item d, the Board states the following:

1. Some optional attendance areas were made obsolete because a new school building was constructed to serve the population of a developing area.

2. In a 1963 study of optional attendance areas, these basic assumptions were used in making recommendations for the reduction of optional areas:

- A. Topeka Public Schools will adhere to the neighborhood school concept.
- B. Pupils will be assigned to school without regard to race.
- C. Rising enrollments make it imperative that the number of variables (i.e., students living in optional attendance areas) should be reduced to make estimated enrollment figures more stable, thereby enabling more efficient use of building facilities.

Questions 52 and 53

Third set of interrogatories to the board

Questions 52 and 53:

52. Has there been any occasion where an optional zone was terminated and a new school constructed in the area of the optional zone?

53. If the answer to Interrogatory 52 was affirmative, please state what the new school(s) was/were and the date such school(s) opened.

Summary of Answer and Documents:

The Board provides the following list based upon examination of District maps:

1. Sheldon was constructed and received students from a large optional attendance area between Gage-Southwest (Whitson)-Randolph elementary schools. Sheldon opened in 1957-58 with 274 students.

2. Landon was constructed and received the students living in an optional attendance area between Roosevelt-Boswell (and possibly Capper) junior high schools. Landon opened in 1963-64 with 232 students.

3. French was constructed and received the students living in an optional attendance area between Capper-Landon-Jardine junior high schools. French opened in 1970-71 with 439 students.

Questions 54 55 56 and 57

Third set of interrogatories to the board

Questions 54 55 56 and 57:

54. What other devices and/or methods are available to the School District which have been used or could be used to achieve the same results as an optional attendance zone?

55. Have these devices ever been utilized by the School District?

56. If other such devices have been utilized, please state:

- a. School(s) involved
- b. Date(s) such devices used

57. If other devices have not been utilized, according to what criteria was the decision made to use an optional attendance as opposed to other available devices?

Summary of Answers and Documents:

In response to question 54, the Board provides the following list of alternatives available:

1. The School District could have elected to transport students to whatever school the District desired to assign them, which would have decreased the financial resources available for instructional programs.

2. The School District could have purchased more portable classrooms which could have been located on a temporary site for use until the new school building could be built which would accommodate the children from patrons in the rapidly developing areas.

3. The School District could have started a long-range plan for the development of a construction plan to be implemented as certain population or housing increases were anticipated. Land could have been purchased at large acreage cost, rather than lot prices. This would have required the advancement of investment capital which patrons might have been reluctant to favor as a bond issue for some future time which may not affect them due to their children's stage in the schooling process.

In answer to question 55, the Board states that it has used long range planning to anticipate population changes and modification in attendance areas made necessary by the closing of some schools and the moving of the 9th grade into senior high schools, while converting the junior high schools to a middle school program. The Board also states that since the 1965 unification of school districts, the attendance zone boundaries are not changed without its approval. The Board has made some minor changes along its common boundary with USD 436--Auburn-Washburn.

In response to question 56, the Board states that no other such devices have been used.

In answer to question 57, the Board states that its decision to sue optional attendance areas was based on a desire "not to get into the student transportation business." They point out that the expenses of portable classrooms would have been a strain on the budgetary resources available to the school "prior to state aid on a larger scale as presently known."

Question 58

Third set of interrogatories to the board

Question 58:

58. Please explain how students living in an optional attendance zone are made aware of the fact that they have the option of attending one of two schools.

Summary of Answer and Documents:

The Board states that the following sources of information were available to parents:

- a. The local newspaper usually ran a "Back to School" edition or Sunday supplement during the early part of August prior to the new school year.
- b. Attendance maps were printed on many occasions during the time the Board was considering boundary changes.
- c. News coverage in which attendance maps were used was provided by local TV stations.
- d. The District communications office summarizes Board actions affecting the community in a "report" sheet.
- e. Large prints of attendance maps are given principals to advise parents.
- f. School principals usually notify parents of changes adopted in a newsletter.
- g. The student handbook of policies affecting students was published and given to students or their parents since the 1970-71 school year. They receive the pamphlet at the beginning of the school year, or when they enter the district.

Question 59

Third set of interrogatories to the board

Question 59:

59. Please explain whether a student living in an Elementary optional attendance zone, who chooses to utilize the option, is required to attend the middle school or junior high school in the district where he or she lives or may the student attend the middle school or junior high school within the district of the optional attendance zone?

Summary of Answer and Documents:

The Board states that optional areas were eliminated at the elementary and junior high school levels at the end of the 1974-75 school year and at the senior high school level at the end of the 1975-76 school year. Prior to these dates an elementary optional area was effective for grades K-6 only; therefore, the student would have attended the junior high school in the district where he/she lived unless the junior high school attendance zone was covered under a separate optional zone.