

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

OLESS BRUMFIELD, et al.,)	
)	
Plaintiffs,)	
)	
and)	
)	
UNITED STATES OF AMERICA,)	Civ. A. No. 71-1316
)	
Plaintiff-Intervenor,)	Judge Ivan L.R. Lemelle
)	Magistrate Judge Joseph C. Wilkinson Jr.
v.)	
)	
WILLIAM J. DODD SUPERINTENDENT OF)	
PUBLIC EDUCATION, et al.,)	
)	
Defendants.)	

**UNITED STATES' MEMORANDUM IN SUPPORT OF ITS
MOTION FOR FURTHER RELIEF**

INTRODUCTION

The United States asks this Court to permanently enjoin the State of Louisiana (“State”) from awarding any school vouchers (“vouchers” or “scholarships”) to students attending school in districts operating under federal desegregation orders unless and until the State receives authorization from the appropriate federal court overseeing the applicable desegregation case. In 2012-2013, the State awarded publicly funded vouchers to nearly 600 public school students¹ residing in or attending school districts operating under federal desegregation orders, and many of those vouchers impeded the desegregation process. The State did not consult with or obtain authorization from the federal courts overseeing the applicable desegregation orders before awarding any of the vouchers. As of the date of this filing, the State has awarded vouchers for the 2013-2014 school year to students in at least 22 districts operating under federal

¹ This estimate is almost certainly low, because the data the State provided to the United States does not include 1,300 students for whom the State did not identify a sending school district, and it is likely that many of them attend a school district operating under desegregation order. *See also infra* at notes 3-4.

desegregation orders,² many of which may impede the desegregation processes in those districts, without authorization from the appropriate federal court.

At this time, the United States is not asking that this Court enjoin the State from awarding any school vouchers. With respect to students attending school districts operating under federal desegregation orders, however, the United States requests that this Court permanently enjoin the State from issuing any future voucher awards to these students unless and until it obtains authorization from the federal court overseeing the applicable desegregation case. In addition, the United States requests that this Court direct the State to analyze the voucher awards for the 2013-14 school year with respect to their impact on school desegregation in each school district operating under a federal desegregation order, and to submit those analyses to the applicable courts and parties.

BACKGROUND

I. PROCEDURAL BACKGROUND

This case involved an equal protection challenge to the State's practice of providing monies to segregated or discriminatory private schools. *Brumfield v. Dodd*, 405 F. Supp. 338 (E.D. La. 1975). The segregated private schools at issue in this case enrolled students who resided in school districts operating under federal desegregation orders, and in its decision, the Court recognized and considered the negative impact the private schools had on the public school districts' desegregation efforts. *Id.* at 342-47 (noting, for example, that over the course of two years, white student enrollments declined 46.6% in the Tensas Parish School District and 68% in the Madison Parish School District as a direct result of white students transferring to private schools in those districts). In 1975, this Court enjoined the State from providing public

² As of this filing, the State has not provided the United States with a complete list or number of scholarship awardees to date for the 2013-2014 school year. The State recently provided a partial list of school districts in which the 2013-2014 awardees (to date) reside. *See* Exhibit E.

financial support to private schools in ways that further or support discrimination or segregation. *Id.* at 349. That injunction is still in effect.

II. STATE VOUCHER LEGISLATION

In April 2012, the Louisiana Legislature passed a law creating a statewide voucher program called the Student Scholarships for Educational Excellence Program (“Program”). *See* Act No. 2 of April 18, 2012, attached as Exhibit A (“Act 2”). The Program allows Louisiana students who (a) have family incomes below 250% of the poverty line, and (b) are enrolled in a public school that received a grade of “C” or lower on the State’s accountability scale (where public schools are given grades of A, B, C, D or F) to attend a participating private school or certain high-performing public schools. Act 2 specifically states that the Program is “subject to any court-ordered desegregation plan in effect for the school system in which the public school is located,” (*id.* at 35, lines 14-15), presumably to ensure that Program does not impede desegregation in those school systems.

III. UNITED STATES’ MONITORING OF THIS CASE

As a party to this case and to ensure compliance with this Court’s orders, the United States monitors the actions of the State in granting, *inter alia*, funds to private schools. Pursuant to its monitoring responsibilities in this case, the United States initially sought information concerning the students awarded scholarships for the 2012-2013 school year from the State on July 20, 2012. Only after filing multiple motions in this case and receiving an order of this Court (see Record Docs. No. 190-202), did the United States finally receive, in March 2013, the information and data it requested from the State. After analyzing the data, the United States determined that the State’s voucher awards appeared to impede the desegregation progress in 34 schools in 13 school districts. On May 17, 2013, the United States sent a letter to the State (attached hereto as Exhibit B), requesting that the State cease its practice of awarding vouchers

to students attending school districts operating under federal desegregation orders unless and until it receives approval from the presiding federal court. The State has not responded to that letter and, on information and belief of the United States, has already awarded vouchers for the 2013-2014 school year to students attending school districts operating under desegregation orders.

On May 31, 2013, in continuing exercise of its responsibilities to monitor this action, the United States requested specific information concerning the State's awards of vouchers to students for the 2013-2014 school year. *See* Exhibit C. On June 28, 2013, the State responded that it had not finished awarding vouchers for the 2013-2014 school year. The United States agreed to extend the time for a response to its request for the list of student awardees and instead requested a list of school districts in which the awardees (to date) reside. *See* Exhibit D. On July 11, 2013, the State provided a list of school districts in which its 2013-2014 voucher awardees (to date) reside. The list is attached hereto as Exhibit E.

The United States is currently a party to 24 school desegregation cases in Louisiana.³ There are other cases in which school districts operate under federal desegregation orders to which the United States is not a party.⁴ To date, the State has awarded vouchers for 2013-2014 to students in 22 of the 34 school districts with pending federal desegregation orders. *See supra* at notes 3-4 and Exhibit E. Upon information and belief of the United States, the State did not seek the approval of the appropriate federal court prior to awarding the vouchers to students in

³ As the United States informed the State in its letter of May 17, 2013 (*see* Exhibit B), the 24 Louisiana school districts under federal desegregation orders to which the United States is a party are: St. John the Baptist Parish, St. Tammany Parish, Point Coupee Parish, St. James Parish, Plaquemines Parish, Bossier Parish, Caddo Parish, Jackson Parish, Claiborne Parish, Concordia Parish, Richland Parish, Lincoln Parish, Bienville Parish, LaSalle Parish, DeSoto Parish, Avoyelles Parish, Monroe City, Franklin Parish, Catahoula Parish, Sabine Parish, West Carroll Parish, St. Martin Parish, St. Helena Parish, and St. Mary Parish. In most of these cases, the State is not a party. Student assignment is no longer an open factor under the Caddo Parish desegregation order.

⁴ The following 10 Louisiana school districts may be under desegregation orders in cases where the United States is not a party: Madison Parish, Ouachita Parish, Jefferson Davis Parish, Acadia Parish, Iberia Parish, LaFourche Parish, Allen Parish, Tangipahoa Parish, Assumption Parish, and Winn Parish. This list may contain inaccurate or incomplete information, because the United States lacks full information on cases to which it is not a party.

these districts. Further, the State did not contact the parties to the federal desegregation cases prior to awarding vouchers. Upon information and belief of the United States, the State did not evaluate the impact the vouchers would have on the desegregation process in any of the school districts operating under a federal desegregation order.

IV. DESEGREGATION OF LOUISIANA SCHOOLS

For nearly 35 years, the United States has worked to desegregate Louisiana's formerly *de jure* public school systems. Approximately 34 school districts in Louisiana have yet to have received a declaration by a court as having attained unitary status, and the United States is a party to most of those cases. *See supra* at notes 4-5. All of these school districts must comply with their federal desegregation orders, nearly all of which have specific requirements regarding student assignment, including student transfers. The State's data on students who received vouchers in 2012-2013 indicate that the State issued many of its vouchers in ways that impeded the desegregation process in school districts operating under federal desegregation orders.

The United States' review of information provided by the State indicates that, in the 2012-2013 school year, the State awarded scholarships to at least⁵ 570 students from 22, or nearly two-thirds, of the school districts operating under federal desegregation orders. In 13 of those school districts, State action in issuing vouchers to students caused the schoolwide racial demographics to stray further from district-wide demographic percentages and resulted in an increase in racially disproportionate representation in 34 historically segregated schools.⁶

Students leaving these schools with State-issued vouchers impeded the desegregation process by

⁵ The State did not identify the originating public school or school district of 1,316 (22.8%) of the 5,766 total students who were awarded scholarships. Therefore, it is likely that additional students reside in school districts operating under desegregation orders.

⁶ The net loss ranged up to thirteen students per school. Again, these numbers are likely larger, but the United States is unable to calculate exact numbers, due to the lack of specific data from the State, for more than one-fifth of the students who were awarded scholarships.

increasing the racial identifiability of these schools.⁷ Moreover, some of these schools had achieved or were close to achieving the desired degree of student racial diversity, and the loss of students through the voucher program reversed much of the progress made toward desegregation.⁸

In total, the State awarded vouchers to 5,766 students in the 2012-2013 school year. The State has significantly expanded its voucher program for the 2013-2014 school year, awarding nearly 8,000 students vouchers in the first round alone. *See* Press Release of May 1, 2013: <http://gov.louisiana.gov/index.cfm?md=newsroom&tmp=detail&catID=2&articleID=4021&navID=12>, attached hereto as Exhibit F. It is certain that many more Louisiana students will receive vouchers for the upcoming school year, as the State conducted three rounds of voucher awards. *See* <http://www.louisianabelieves.com/schools/louisiana-scholarship-program>, attached hereto as Exhibit G. In its first and second rounds for 2013-2014, the State awarded vouchers to students in 22 school districts operating under federal desegregation orders. *See* Exhibit E. The State has committed to renewing all vouchers issued to students in previous years as well as taking new applications each year.

The State's continued issuance of vouchers without proper regard for existing district desegregation orders or consent from appropriate federal courts impedes these school districts'

⁷ In addition, in 2012-2013, the State awarded vouchers to students in districts operating under desegregation orders to attend a different public school within that district, without authorization from the appropriate federal court, and those voucher awards may have also violated desegregation orders. For example, in Lincoln Parish, which operates under a federal desegregation order, the State awarded a voucher to a student to transfer from Simsboro to Glen View School, both of which are public schools within the parish. The desegregation order governing Lincoln Parish contains no language that would permit such action by the State.

⁸ For example, in 2011-2012, Celilia Primary School in St. Martin Parish School District enrolled a student body that was 30.1 percent black, 16.4 percentage points lower than the black composition (64.5 percent) of St. Martin Parish School District as a whole. In 2012-2013 Celilia lost six black students as a result of the voucher program, thereby increasing the difference between the school's black student percentage from the district's and reinforcing the school's racial identity as a white school in a predominantly black school district. Similarly, the Independence Elementary School in Tangipahoa Parish School District enrolled a student body that was 61.5 percent black, which was only 14 percentage points greater than that of Tangipahoa Parish School District (47.5 percent black), but it lost five white students as a result of the voucher program and, thus, increased its black student percentage away from the district-wide black student percentage, again reinforcing the racial identity of the school as a black school.

desegregation efforts, and deprives the students of their right to a desegregated educational experience. The effects will only become more pronounced if vouchers continue to be awarded in ways that are inconsistent with applicable desegregation orders and unauthorized by the federal courts.

ARGUMENT

I. THIS COURT HAS JURISDICTION TO ISSUE THIS INJUNCTION.

This case was brought in 1975 as a challenge to the State's provision of public funds and resources to segregated private schools enrolling students leaving public school districts operating under federal desegregation orders and thereby impeding desegregation in those school districts. *Brumfield v. Dodd*, 405 F. Supp. 338 (E.D. La. 1975). In enjoining the State from using public funds and resources in this manner, the 1975 Order in this case considered the segregative effects on the public schools in Louisiana as well as the unconstitutionality of providing public funds or resources to entities that discriminate or segregate on the basis of race. *Id.* The Court has jurisdiction in this case to enjoin the state from providing public monies in the form of vouchers to a student attending a public school district operating under a federal desegregation order unless and until the State receives authorization from the appropriate federal court. The State's actions in awarding vouchers have impeded efforts to desegregate the schools in at least 14 school districts under federal desegregation orders.⁹

In the 1975 Order, this Court found that the majority of black students in Louisiana attended *de jure* segregated public schools until federal courts ordered most public school districts to integrate. *Id.* at 342. The Court found that the enrollment of students in private

⁹ At this time, the United States is asking the Court to enjoin the State from awarding vouchers only to students who attend school districts operating under federal desegregation orders unless and until the State has obtained approval from the appropriate federal court. However, it is the United States' position that this Court, through this case, also has jurisdiction over Louisiana with respect to the awarding of vouchers to students attending school districts not currently operating under desegregation orders to the extent that the State's actions are shown to support, result in, or foster segregation or discrimination.

schools receiving financial and in-kind support from the State interfered with desegregation in many parishes. *Id.* at 342–48. For example, in Madison Parish, the white enrollment in the parish schools declined from 1,220 to 391 students, or 68 percent, between 1968-1969 and 1969-1970, after the opening of segregated private schools receiving monies and in-kind support from the State. *See id.* at 346 (finding that “[t]he operation of the [private] academies has significantly interfered with the integration of the public schools of the parish.”). This Court found similar interference with desegregation in Washington, Tensas, St. Tammany, Claiborne, Jackson, and Madison Parishes (all of which were operating under federal desegregation orders) as a result of students enrolling in private schools that received financial support from the State. *Id.* at 342–347. The Court further found that “[t]he school desegregation history and related private school growth outlined for the six parishes directly involved in this suit is typical of parishes throughout this state.” *Id.* at 347.

The 1975 Order held that the State was providing financial support to “racially segregated private schools [that] serve[d] as a haven to those leaving racially integrated public schools,” in violation of the Fourteenth Amendment to the United States Constitution. *Id.* at 348. The Fifth Circuit has affirmed that “aid to [a] private racially segregated school constitutes a public encouragement of private discrimination which has the effect of diluting and frustrating our efforts to integrate [a] public school system.” *Moses v. Washington Parish Sch. Bd.*, 379 F.3d 319, 320 (5th Cir. 2004) (upholding 1974 and 2003 district court rulings enjoining Washington Parish from providing publicly supported financial or in-kind assistance to a segregated private school under the Fourteenth Amendment) (internal citations omitted).

In accordance with the 1975 Order in this case, the State cannot provide public funds to private schools in ways that frustrate and impede the desegregation process of the public schools.

II. THE UNITED STATES HAS MET THE STANDARD FOR INJUNCTIVE RELIEF.

The Court should enjoin the State from awarding vouchers to students attending schools in districts operating under an extant desegregation order without authorization from the appropriate federal courts – i.e., those that issued the applicable desegregation orders. Failure to grant this injunction will result in increased segregation of Louisiana’s public schools and districts and frustrate federal court orders and the ability of parties to comply with those orders. This threatened injury outweighs the burden on the State to seek permission from the appropriate federal court before awarding a voucher to a student in a district operating under a desegregation order. An injunction will also serve the public interest in ensuring the continued desegregation of Louisiana’s public schools and the integrity of federal court orders.

A. THIS COURT SHOULD ENJOIN THE STATE BECAUSE ITS ACTIONS ARE IMPEDING DESEGREGATION.

There is irrefutable evidence that the State’s actions in awarding vouchers to students attending school districts operating under federal desegregation orders are interfering with or frustrating the implementation of federal desegregation orders in multiple school districts. As noted above, the State awarded scholarships to nearly 600 students in 22 of the 34 school districts operating under desegregation orders in the 2012-2013 school year. The State has informed the United States that it has again awarded vouchers for the upcoming 2013-2014 school year to students in at least 22 districts operating under desegregation orders. The United States’ analysis of voucher data from 2012-2013 shows that, as a result of the program, at least 34 schools in 13 school districts operating under desegregation orders experienced a loss of students in a way which impeded the desegregation process. For example, in several districts operating under desegregation orders, the State’s issuance of vouchers increased the racial identifiability of schools because the voucher recipients were in the racial minority at the public

school they attended before receiving the voucher. Furthermore, the nearly 40 percent growth in the number of vouchers awarded by the State between 2012-2013 and 2013-2014 indicates that the negative effects on desegregation will likely be exacerbated in the upcoming school year and, if left unsupervised by the Court, the program and its harmful effects on desegregation will be compounded in coming years.

On multiple occasions, federal courts have enjoined states and other entities from improperly interfering with school desegregation orders. *See, e.g., Moore et al., v. Tangipahoa Parish Sch. Bd.*, Case No. 65-15556 (E.D. La. Nov. 28, 2012) (citing *Swann* and enjoining the State of Louisiana from operating certain aspects of its voucher program in Tangipahoa Parish after finding that the State's actions were impeding the implementation of federal desegregation orders) (unpublished decision attached hereto as Appendix 1); *Valley v. Rapides Parish Sch. Bd.*, 646 F.2d 925, 944 (5th Cir. 1981) ("state officials are bound through the supremacy clause by a federal court's desegregation order, regardless of whether they acted in good faith or pursuant to a nondiscretionary duty"); *Bullock v. United States*, 265 F.2d 683, 691 (6th Cir. 1959) (holding that the trial court had jurisdiction to enjoin private individuals from interfering with a school desegregation order); *Cleveland v. Union Parish Sch. Bd.*, 570 F. Supp. 2d 858, 867-69 (W.D. La. 2008) (denying the request of a public charter school to open because it would undermine the Court's desegregation decree and promote resegregation by drawing white students out of a racially balanced public school in the district, leaving the public school racially identifiable and creating a racially identifiable charter school).

In addition, appellate courts have emphasized the importance of the trial courts in drafting, supervising, and enforcing longstanding federal desegregation orders. In *United States v. Hall*, the Fifth Circuit found that conduct of an outside party impeding a school desegregation order "would not only jeopardize the effect of the court's judgment already entered but would

also undercut its power to enter binding desegregation orders in the future.” 472 F.2d 261, 265 (5th Cir. 1972); *see also Nehmer v. U.S. Dept. of Veterans Affairs*, 494 F.3d 846, 860 (9th Cir. 2007) (“[t]he importance of a district court’s role in interpreting a consent decree is [] evidenced by the discretion that we afford the district courts in reviewing their interpretations, particularly when the district court has overseen a remedial decree for many years.”).

In the instant case, the State’s provision of public monies for private school tuition for students leaving public school districts governed by longstanding desegregation orders without regard to the terms of the order and/or the effect on the desegregation process is frustrating the orders of the federal court and impeding desegregation and the ability of many school districts to achieve unitary status. *See, e.g., Moore* at *12 (“[a]ny frustration of this [desegregation] decree will serve to frustrate the long-awaited achievement of unitary status in Tangipahoa Parish.”).

B. FAILURE TO GRANT THE INJUNCTION WILL RESULT IN IRREPARABLE INJURY.

If the State continues to award vouchers to public school students attending school districts operating under federal desegregation orders without prior approval from the appropriate federal court, it will continue to significantly impede – and in some instances, reverse – school desegregation progress throughout Louisiana. If this Court fails to enjoin the State’s actions, many Louisiana schools will become increasingly segregated, after decades of efforts to desegregate.

Parties to school desegregation cases often spend significant time negotiating and litigating student assignment issues, including student transfers. These issues often involve complex analyses of student data and result in detailed court orders governing how and when students may be permitted to transfer to schools which they are not zoned to attend. *See, e.g.,*

United States v. Lincoln Parish Sch. Bd., et al., Case No. 66-12071 (W.D. La.).¹⁰ Federal courts evaluate desegregation plans for consistency with applicable federal law, reasonableness, equity, and consistency with public policy, and usually determine that when desegregation orders are properly implemented by school boards, districts may achieve unitary status and eliminate the need for further judicial supervision. *Moore et al., v. Tangipahoa Parish Sch. Bd.*, Case No. 65-15556 at *3 (E.D. La. Nov. 28, 2012). Many Louisiana school districts must expend significant time and effort to comply with their desegregation orders, which can entail, *inter alia*, submitting detailed reports to the parties to the case and the Court, tracking student transfers, obtaining authorization of the Court before granting certain transfers, authorizing and providing transportation to students who apply to transfer to a school within the district in which their race is in the minority from a school where their race is the majority (i.e., Majority-to-Minority transfers), and conducting investigations to ensure students are not zone-jumping (i.e., attending schools which they are not zoned to attend). *See, e.g., United States v. DeSoto Parish Sch. Bd.*, Case No. 67-12589 at *2–15 (W.D. La. Dec. 14, 2011) (attached hereto as Exhibit H) (setting forth 13 pages of extensive and detailed provisions on student assignment and transfers). Further, when examining the issue of student transfers, school districts operating under desegregation orders must consider the effects of the transfers on both the sending and receiving

¹⁰ For example, in *United States v. Lincoln Parish School Board*, the United States has engaged in several years of active negotiations and litigation to address student assignment issues in public schools in Lincoln Parish, Louisiana. Following a case review commenced in 2009, the United States determined that four elementary schools operated by the Lincoln Parish School Board, as well as public laboratory schools at Louisiana Tech University and Grambling State University, were racially identifiable in terms of student assignment. Following a number of status conferences and negotiations, the United States and Board agreed to the terms of a consent order, approved in May 2012, to address the student assignment issues in its four schools. Since then, the United States has continued to pursue relief with respect to the three formerly *de jure* black lab schools at Grambling and the formerly *de jure* white lab school at Louisiana Tech. The United States has conducted multiple site visits, engaged two expert witnesses, participated in several conferences, and, most recently, filed a motion for further relief against all defendants in May 2013. Briefing on the United States' motion is underway and a hearing is anticipated in October 2013.

school schools and districts. *Singleton v. Jackson Mun. Separate Sch. Dist.*, 419 F.2d 1211, 1218 (5th Cir. 1969).

The State's actions in using public funds to transfer students in districts operating under desegregation orders to schools which they are not zoned to attend, after specific student assignment protocols have been ordered by the federal courts, cause irreparable injury to the court-ordered desegregation process, the parties to the desegregation action, and ultimately to the students and the communities governed by the desegregation decree. Further, the State's actions in granting vouchers that interfere with student assignment and impede desegregation undercut each federal court's authority to issue future orders binding the parties in those cases because the parties have no control over the State's actions, given that the State, despite issuing vouchers to students in that district, is not a party to most of those desegregation cases.

C. THE THREATENED INJURY OUTWEIGHS ANY INCONVENIENCE THAT THE INJUNCTION MAY CAUSE THE STATE.

If this Court does not enjoin the State from awarding vouchers in districts operating under desegregation orders before obtaining permission from the appropriate federal court, its failure to act will undermine Louisiana's longstanding desegregation efforts and the implementation of federal court-ordered remedies. These harms clearly outweigh any burden that might befall the State, particularly since its own state laws require it to operate its voucher program in accordance with federal desegregation orders.

As noted above, Louisiana law already obligates the State to implement its voucher program "subject to any court-ordered desegregation plan in effect for the school system in which the public school is located" (Exhibit A at 35, lines 14-15). An injunction requiring the State to do something it is already required to do under state law creates no additional burden. To date, the State has failed to consult with the parties to the appropriate school desegregation cases prior to awarding vouchers to ascertain the effect of each voucher on the district's

desegregation process. More significantly, the State has failed to ensure that its voucher decisions are consistent with the appropriate federal courts' orders by seeking the approval of that court.

D. THE INJUNCTION SERVES THE PUBLIC INTEREST.

An injunction in this case will serve the public interest in promoting uninterrupted desegregation of Louisiana's public schools and maintaining the integrity of federal court orders. Courts have long held that limitations on student transfers in the context of school desegregation are necessary and appropriate. *See, e.g., United States v. DeSoto Parish School Board*, Case No. 67-12589 at *4-16 (W.D. La. Feb. 5, 2007) (attached hereto as Exhibit I). Just as federal courts have the authority to issue orders that deny students in existing desegregation cases the ability to transfer to different public schools when such a transfer would impede desegregation, federal courts similarly have the authority to prohibit the State from awarding vouchers to students attending schools in districts operating under desegregation orders if such vouchers impede the desegregation process.

Courts have also held that the public interest is served by the orderly desegregation of schools. *See e.g., United States v. State of Louisiana*, 527 F. Supp. 509, 512 (E.D. La. 1981) (holding, in a case involving the desegregation of Louisiana's system of higher education, that desegregation is a "special situation" in which federal court approval of settlements and continued oversight is necessary because "important public interests are implicated"). Further, the public has a strong interest in enforcement of the equal protection guarantees of the Fourteenth Amendment and the right to a desegregated education. *See generally Cooper v. Aaron*, 358 U.S. 1, 19 (1958) ("State support of segregated schools through any arrangement, management, funds, or property cannot be squared with the [Fourteenth] Amendment's command that no State shall deny to any person within its jurisdiction the equal protection of the

laws.”); *Poindexter v. Louisiana Fin. Assistance Comm’n et al.*, 275 F. Supp. 833, 856, 857 (E.D. La. 1967) (striking down a program of tuition grants to private schools as an “affirmative and purposeful means of actively fostering discrimination,” and warning that the tuition system threatens to “shatter to bits the public school system of Louisiana and kill the hope that now exists for equal educational opportunities for all our citizens, white and black.”). It is beyond peradventure that an injunction in this case will promote the public interest in supporting the guarantee of equal protection of the Fourteenth Amendment and ensuring no state monies or resources are used in ways that impede desegregation of the public schools.

CONCLUSION

The State of Louisiana’s use of public monies to award school vouchers without authorization from the appropriate federal court frustrates and impedes the desegregation process in school districts operating under federal desegregation orders and undermines those federal court orders. Accordingly, the United States asks this Court to issue a permanent injunction ordering that, beginning in the 2014-15 school year, the State may not award school vouchers to students who attend schools located in school districts operating under federal desegregation orders unless and until the State receives authorization from the appropriate federal court overseeing the desegregation case. Further, the United States asks this Court to direct the State to analyze the impact of the voucher awards for the 2013-14 school year with respect to impact on school desegregation in each school district operating under a federal desegregation order and to submit those analyses to the applicable courts and parties.

Dated: August 22, 2013

Respectfully submitted,

JOCELYN SAMUELS
Acting Assistant Attorney General
Civil Rights Division

ANURIMA BHARGAVA, Chief
FRANZ R. MARSHALL, Deputy Chief
Educational Opportunities Section

s/ Torey B. Cummings
TOREY B. CUMMINGS (Mass. Bar 664549)
Trial Attorney
United States Department of Justice
Civil Rights Division
Educational Opportunities Section
950 Pennsylvania Avenue, NW, PHB 4300
Washington, D.C. 20530
Telephone: (202) 305-4204
Fax: (202) 514-8337
torey.cummings@usdoj.gov

Attorneys for the United States of America

CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2013, a true and correct copy of the foregoing Memorandum to was served on all counsel of record in the above-captioned matter by electronic means through the Court's ECF system.

s/ Torey B. Cummings