

NOTES

MAGNET SCHOOLS: AN ATTRACTIVE DESEGREGATION ALTERNATIVE

INTRODUCTION

In 1954, the United States Supreme Court held racially segregated school systems unconstitutional.¹ The Court required school districts to institute desegregation plans which would blend different races into a unitary system.² The Supreme Court has established few desegregation guidelines,³ however, leaving school districts and lower federal courts to their

1. *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).
2. Although the Supreme Court in *Brown* did not use the term "unitary system" when declaring that separate but equal schools were unconstitutional, later cases have adopted this terminology ("The transition to a unitary, nonracial system of public education was and is the ultimate end to be brought about" *Green v. County School Board*, 391 U.S. 430, 436 (1968)). A unitary system of education is one in which black students and white students attend the same schools. This is in contrast to the dual system of schooling, present before *Brown*, in which whites attended one set of schools and blacks attended another set of schools.
3. In deciding *Brown*, the Supreme Court laid down no guidelines for desegregation of public schools. It merely held: "We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal." 347 U.S. at 495.

In *Brown v. Board of Education (II)*, 349 U.S. 294 (1955), the Court was again vague in discussing appropriate remedies. It stated:

Full implementation of these constitutional principles may require solution of varied local school problems. School authorities have the primary responsibility for elucidating, assessing, and solving these problems; courts will have to consider whether the action of school authorities constitutes good faith implementation of the governing constitutional principles

In fashioning and effectuating the decrees, the courts will be guided by equitable principles. Traditionally, equity has been characterized by a practical flexibility in shaping its remedies and by a facility for adjusting and reconciling public and private needs.

Id. at 299-300 (footnotes omitted).

The only concrete guideline which the Court provided in its instructions to lower courts regarded the granting of time extensions to school districts requesting additional time to implement constitutionally valid desegregation plans. According to the Supreme Court:

[Lower courts] may consider problems related to administration, arising from the physical condition of the school plant, the school transportation system, personnel, revision of school districts and attendance areas into compact units to achieve a system of determining admission to the public schools on a nonracial basis, and revision of local laws and regulations which may be necessary in solving the foregoing problems.

Id. at 300-301. The Court had no words of wisdom for the school districts.

Following the two *Brown* decisions, the Court began to review various desegregation plans adopted by school districts to determine whether the plans met constitutional "guidelines." The Court initially struck down school desegregation plans without offering any suggestions. See *Griffin v. County School Board*, 377 U.S. 218 (1964) (holding that a county could not close down all its public schools and leave open only private schools for white students); *Goss v. Board of Education*, 373 U.S. 683 (1963) (holding unconstitutional a plan whereby students assigned to schools on a neutral basis were free to transfer out if they were in the racial minority at that school); *Rogers v. Paul*, 382 U.S. 198 (1965) (rejecting grade-a-year desegregation plans); *Green v. County School Board*, 391 U.S. 430, 439 (1968) (holding unconstitutional freedom-of-choice plans, operating widely in the southern states, because they failed to bring about "meaningful and immediate progress toward disestablishing state-imposed segregation.").

In 1971, in *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971), the Supreme Court acknowledged the difficulty that lower federal courts had encountered when dealing with desegregation plans. The Court attempted to "amplify guidelines, however incomplete

own devices in struggling with desegregation plans.⁴ A variety of desegregation plans have been proposed and implemented,⁵ many of which have

and imperfect, for the assistance of school authorities and courts." *Id.* at 14 (footnote omitted). After listing four main areas of concern—racial quotas, one-race schools, attendance zones, and transportation—the Court expressed its opinion as to what was required in each area. *Id.* at 22-32. Although *Swann* provided guidance to the lower courts as to what is suspect in a desegregation plan, it failed to offer useful advice to school districts. This lack of advice is apparent from the amount of litigation that has continued to this day over desegregation plans. See *Bronson v. Board of Education*, 578 F. Supp. 1091 (S.D. Ohio 1984); *Goldsboro City Board of Education v. Wayne County Board of Education*, 745 F.2d 324 (4th Cir. 1984); *Little Rock School District v. Pulaski County*, 584 F. Supp. 328 (E.D. Arkansas 1984).

The Supreme Court cannot be faulted, however, for its failure to establish specific guidelines. Local conditions vary so greatly that such a proposition is highly impractical. The judiciary is not the proper place to turn for answers to our country's desegregation problems because it is limited to examining the issue on a case-by-case basis.

4. For a history of school districts' struggles with implementing various desegregation plans, see Carter, *An Evaluation of Past and Current Legal Approaches to Vindication of the Fourteenth Amendment's Guarantee of Equal Educational Opportunity*, 1972 WASH. U.L.Q. 479; Case Note, *School Desegregation: Guidelines in Implementation*, 21 DEPAUL L. REV. 562 (1971); Dell'Ario, *Remedies for School Segregation: A Limit on the Equity Power of the Federal Courts*, 2 HASTINGS CONST. L.Q. 113 (1975); Johnson, *School Desegregation Problems in the South: An Historical Perspective*, 54 MINN. L. REV. 1157 (1970); Comment, *The Metropolitan Approach to Integration*, 17 ST. LOUIS U.L.J. 279 (1972); Note, *Race, Pupil Assignment, and School Districting in the Public Schools of New York*, 15 SYRACUSE L. REV. 728 (1964); Note, *Schools, Busing and Desegregation: The Post-Swann Era*, 46 N.Y.U.L. REV. 1078 (1971).
5. Over the past 40 years, various desegregation plans have been tried. These include: minority-majority transfer plans, feeder schools, freedom-of-choice plans, and alteration of attendance zones.

Minority-majority transfer plans allowed any student attending a school in which he was in the racial minority to transfer to a school in which he would be in the racial majority. Transfers by a majority student into a school in which he would be in the minority, however, were not allowed. As this plan allowed white students assigned to predominantly black schools to transfer out while prohibiting black students from transferring into white schools, it was held unconstitutional by the Supreme Court in *Goss v. Board of Education*, 373 U.S. 683 (1963).

In feeder school plans, which were established by several southern school districts, a predominantly white grade school is linked with a predominantly white junior high school which is in turn joined to a predominantly white high school. Students already in these schools could proceed freely from one level to the next. However, children not a part of the system (which meant almost exclusively black children) were required to take a scholastic test before being allowed into one of the schools. By setting the academic criteria high enough, these feeder schools were able to remain predominantly white. The Fourth Circuit held these desegregation plans unconstitutional in *Bradley v. School Board*, 317 F.2d 429 (4th Cir. 1963).

Freedom-of-choice plans were quite widespread before being struck down by the United States Supreme Court in *Green v. County School Board*, 391 U.S. 430 (1968). Under these plans, the public schools in a particular school district were theoretically open to each and every student; a black child could choose the school to which he wanted to go, and a white child was also free to choose the school he wished to attend. On paper, this plan appeared to meet constitutional standards as there were no restrictions on black students. However, it soon became apparent that these plans were not desegregating the school districts. White children chose to attend predominantly white schools and black children chose to go to predominantly black schools. The dual school system had been legally abolished, but in fact, remained in existence. The Supreme Court held these freedom-of-choice plans unconstitutional because they failed "to provide meaningful assurance of prompt and effective disestablishment of a dual system." 391 U.S. at 438.

Many school districts attempted to remedy their school segregation problems by altering attendance zones. These plans consisted of pairing or clustering groups of schools and drawing up attendance assignments which affirmatively transferred black students out of predominantly black schools and into white schools, while transferring white students into predominantly black schools. To achieve these transfers, school districts had to begin busing students from one part of the school district to another. The Supreme Court acknowledged the permissibility of busing in *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971). However, it did place restrictions on busing "when the time or distance of travel is so great as to either risk the health of the children or significantly impinge on the educational process." *Id.* at 30-31. Further limitations were placed on the transportation of students in *Milliken v. Bradley (II)*, 418 U.S. 717 (1974). The problem faced by the Detroit school system was not an uncommon one; white families had fled to the suburbs, leaving only black families in the city, and thus, predominantly black schools. In an

torn communities apart and have had little, if any, impact on desegregating the school district.⁶

Current desegregation plans have failed⁷ because courts and school dis-

attempt to desegregate the Detroit schools, a federal district court held that the city could involve the 53 surrounding suburban systems in its desegregation plans as a city-only desegregation plan would be ineffective. (*Bradley v. Milliken*, 338 F. Supp. 582 (E.D. Mich. 1971)). The Supreme Court reversed the *Bradley* court, holding that violations within a single school district, affecting only schools in that district, could not justify a decree forcing surrounding school districts to become part of a desegregation plan. For such an inter-district remedy to be valid, it must first be shown that "racially discriminatory acts by the state or local school districts, or of a single school district have been a substantial cause of interdistrict segregation." 418 U.S. at 744-45. For a more complete discussion of the plans described above, see Note, *Schools, Busing and Desegregation: The Post-Swann Era*, 46 N.Y.U. L. REV. 1078, 1084-90 (1971).

6. Probably every school district in the country that has implemented a desegregation plan, either voluntarily or through court order, has suffered some degree of strife and tension. Typical of the problems and crises that face a city undergoing desegregation is the case of Ferndale, Michigan.

Ferndale is a predominantly white suburb of Detroit that had managed to escape the racial tensions present in Detroit as that city struggled to come up with a viable desegregation plan. In 1968, however, Ferndale became embroiled in its own troubles as federal investigators from HEW charged the school district with racial discrimination. As the school board scrambled to put together evidence rebutting the claims of HEW, trouble began to brew in the schools themselves. In 1969, 138 black students at Ferndale High School demonstrated over the lack of black-oriented course offerings and the scarcity of black faculty and coaches. The school suspended all 138 students. In December, 1970, the previously peaceful protests became violent. Black students, protesting the denial of tenure to a black teacher, clashed with a right-wing student alliance which had been distributing hate literature urging white students to unite against black students. Over 200 students became involved in a violent outbreak in which two teachers and eleven students suffered minor injuries.

This riot at the school brought the parents of the community into the controversy. A mass assembly of 600 white and black parents confronted the school board demanding a thorough investigation of the riot and greater police protection. The board responded by firing the principal and three assistant principals.

The calm was not to last for long, however. The following September violence again erupted. Rioting in the school lasted for 12 hours, forcing classes to be cancelled and a curfew to be imposed. It took 50 police officers from five neighboring communities to restore calm to the high school. The school board ordered the school closed indefinitely; it was re-opened four days later.

The school board, however, continued to refuse to comply with HEW's order that it begin desegregating an all black school in the city. HEW threatened to cut federal funding to Ferndale, but the board remained adamant. It appealed to the Sixth Circuit Court of Appeals for relief from HEW's order and lost. The board then appealed to the United States Supreme Court; they were denied certiorari.

After this rejection, the board offered parents a choice of sending their children to Grant (the segregated school) or any of the nine white elementary schools. The offer had no effect. No white students volunteered to attend Grant and only two black students wished to attend white schools.

Under pressure of withdrawal of federal funding, Ferndale finally submitted four desegregation proposals to the Justice Department. All of the proposals consisted of freedom-of-choice plans which had been declared unconstitutional seven years earlier (*see supra* note 5).

In May, 1975, the Justice Department filed suit against Ferndale and the State of Michigan. The federal district court dismissed it on a technicality, and Ferndale began to make plans for busing students in and out of Grant. The Justice Department amended its complaint and appealed to the Sixth Circuit Court of Appeals. Finally, in May, 1978, the court of appeals ordered that the case be heard in district court. The court found no violation, and the Justice Department appealed. Again, they were successful. The Sixth Circuit ordered Ferndale to submit a desegregation plan that would completely eradicate any traces of segregation.

Still, the problems continued. Now, 12 years after the initial citation by HEW, Ferndale continued to drag its feet and opposed the courts at every turn. It was not until January 5, 1981, that Ferndale's schools became desegregated (based upon a plan drawn up by an experienced educator, as ordered by the federal district court). For a thorough examination of the Ferndale case, see G. METCALF, *FROM LITTLE ROCK TO BOSTON* 148-155 (1983). For an account of the problems that plagued the city of Boston in its attempts at desegregation, see E. BUELL, *SCHOOL DESEGREGATION AND DEFENDED NEIGHBORHOODS* (1982). For a description of the crises that Little Rock, Arkansas faced, see T. FREYER, *THE LITTLE ROCK CRISIS* (1984).

7. Although current desegregation plans may not have failed in terms of achieving the "proper" minority-majority ratios in each school, they *have* failed in terms of easing community tension, enhancing educational quality, and generating community support for desegregation.

tricts have implemented them without assessing whether the plan will solve the desegregation problems peculiar to each school system.⁸ The courts' and school districts' primary concern of achieving the proper ratios of majority and minority students⁹ has interfered with proper analysis of the plan's impact on the school district and the community.

School districts need a proven desegregation plan that readily adapts itself to school districts nationwide, yet still addresses local concerns. The plan should not create community conflict, but should unite the different racial factions around a common objective: quality integrated education for their children. The plan ideally should improve the quality of education for all public school students in the district, not simply shift funds from other needed programs. Most importantly, it must offer parents and students the most attractive element of any desegregation plan — freedom of choice.¹⁰

8. For example, in the Ferndale situation (*see* discussion *supra* note 6), the district court itself was finally forced to implement a plan for the city as Ferndale had failed to voluntarily implement any plan. The resulting plan, although drawn up by an educator qualified in the field of school desegregation, was still tied to notions of achieving certain ratios of blacks and whites in each school. The plan did nothing more than transfer students from one school to another, assuring that at least one-quarter of each school's population would be black. The district court applauded the plan because it placed the burden of desegregation on both black students and white students. And furthermore, it could be accomplished with "a minimum of disruption of students' lives." *United States v. School District of the City of Ferndale*, 499 F. Supp. 367, 373 (1980).

The plan did not consider the impact that this re-assignment of students would have on the students themselves or on the community as a whole. Nor did it consider how or whether the quality of education in the schools would be affected. And parents and students were given no choice in which schools they would be forced to attend.

A similar attitude and approach to desegregation was employed by the Boston public schools. Like Ferndale, Boston was having problems arriving at a feasible, constitutional solution to its school segregation problems. The matter was finally resolved in *Morgan v. Hennigan*, 379 F. Supp. 410 (1974). In this case, Judge Garrity, after an exhaustive look at the segregation problem in the Boston schools, held that school authorities were affirmatively charged with desegregating the school system:

This means that busing, the pairing of schools, redistricting with both contiguous and non-contiguous boundary lines, involuntary student and faculty assignments, and all other means, *some of which may be distasteful to both school officials and teachers and parents*, must be evaluated; and, if necessary to achieve a unitary school system, they must be implemented. The Supreme Court has recognized that "[t]he remedy for such segregation *may be administratively awkward, inconvenient, and even bizarre* in some situations and may impose burdens on some; but all awkwardness and inconvenience cannot be avoided . . . when remedial adjustments are being made to eliminate the dual school systems."

379 F. Supp. at 482-83 (citation omitted) (emphasis added).

Judge Garrity's concern with ratios is evident in his statement that: "In Boston the public school population is approximately two-thirds white and one-third black; ideally every school in the system would have the same racial proportions, although as a practical matter there is no prospect of achieving this 2:1 ratio in every school." *Id.* at 483.

9. Several experts on school desegregation have voiced their concern over the preoccupation of school board planners with achieving racial ratios at the expense of a quality integrated education. These researchers state that a desegregation plan cannot be effective if it focuses solely on the *method* of desegregation (i.e. having the right number of students in the "correct" proportions) while ignoring the *purpose* of a school in providing a quality education. *See* C. WILLIE, *SCHOOL DESEGREGATION PLANS THAT WORK* 454-57 (C. Willie ed. 1984) and Willie, *Racial Balance or Quality Education*, in *SCHOOL DESEGREGATION: SHADOW AND SUBSTANCE* 7-19 (1976).
10. Freedom of choice as discussed in the magnet schools context differs from the freedom-of-choice plans that the United States Supreme Court held unconstitutional in *Green v. County School Board*, 391 U.S. 430 (1968) (discussed *supra* note 5). In *Green*, New Kent County, Virginia had two public schools — one which prior to the *Brown* decision had been all white (New Lenox) and one which had been all black (Watkins). In an attempt to comply with a court order to desegregate its school system, the school board adopted a "freedom-of-choice" plan whereby each student could decide at the start of the new school year whether to attend New Lenox or Watkins. If the student failed to make a choice, he was assigned to the school he had attended the previous year.

A desegregation plan utilizing magnet schools¹¹ satisfies these requirements. Magnet schools are public schools established in inner cities and distinguishable from other schools by a distinctive school curriculum based upon a "central academic or vocational theme."¹² Parents in the school district are given the option of sending their children to the public school in their attendance zone or to one of the magnet schools.

Magnet schools, although originating in the late 1960's, did not become popular until the late 1970's. During the 1970's, many large urban areas adopted a magnet schools program to deal with their desegregation problems.¹³ The cities that adopted such programs had varying degrees of

Id. at 432-34. The Supreme Court struck down this plan because it failed to "effectuate a transition" to a unitary system." *Id.* at 441. The Court found that:

In three years of operation not a single white child has chosen to attend Watkins school and although 115 Negro children enrolled in New Lenox in 1967 (up from 35 in 1965 and 111 in 1966) 85% of the Negro children in the system still attend the all-Negro Watkins school. In other words, the school system remains a dual system. Rather than further the dismantling of the dual system, the plan has operated simply to burden children and their parents with a responsibility which *Brown II* placed squarely on the School Board.

Id. at 441-42.

The Court summed up a school board's responsibility as follows: "The burden on a school board today is to come forward with a plan that promises realistically to work, and promises realistically to work *now*." *Id.* at 439 (emphasis in original).

Magnet schools cannot be compared to these earlier condemned freedom-of-choice plans, because the freedom to choose aspect of a magnet schools plan is not the desegregation plan itself; it is simply one element of a more comprehensive plan. This plan requires school districts to take affirmative steps to change certain key aspects of the schools designated as magnets in order to make them attractive to a racially heterogeneous mix of students. Although magnet schools have not yet been constitutionally scrutinized by the Supreme Court, this author believes that such a desegregation plan would be found permissible. As discussed below (*infra* notes 39-50 and accompanying text), a desegregation plan utilizing magnet schools "promises realistically to work now," and thus would survive a constitutional challenge.

11. The term "magnet schools," as used in this note, refers to those schools which have been established by school districts as independent facilities as opposed to magnet *programs* which are established in regular public schools but make up only a portion of that school's content. As will be seen below (*infra* note 47), magnet schools have been proven more effective than magnet programs in desegregation.
12. Doyle and Levine, *Magnet Schools: Choice and Quality in Public Education*, 66 PHI DELTA KAPPAN 265, 266 (1984).

In discussing the magnet schools program in Philadelphia, John Vannoni distinguished magnet schools from regular public schools:

The [magnet] school offers programs in music, art, drama, dance, and creative writing. Music, art and drama are course offerings at many other high schools; however, in no case is there any attempt to provide a speciality in one of these areas while at the same time providing an interdisciplinary relationship with other cultural areas and aiming

- a. to eliminate minority-group isolation and discrimination among the students and faculty of the school;
- b. to use every possible strategy and acceptable procedure to foster interracial and intercultural activities and exposure;
- c. to provide a superior educational program to interested students of both minority and majority groups in order that students would be able to work together on an equal basis;
- d. to increase racial and ethnic awareness by curricular activities which highlight interdependence, cooperation, and group accomplishment;
- e. to document the degree of interracial and intercultural contacts, the nature of these relationships, and their impact on pupils; and
- f. to show at least one month's achievement gain for every month in the program for 75 percent of the students participating in the magnet school in reading and/or mathematics skills, with attendance a control factor.

Vannoni, *The Role of the Magnet School in Integration*, in NEW PERSPECTIVES ON SCHOOL INTEGRATION 141, 145 (1979).

13. For a discussion of the magnet schools program in Dallas, see Levine and Estes, *Desegregation and Educational Reconstruction in the Dallas Public Schools*, 59 PHI DELTA KAPPAN 163 (1977); in Philadelphia, see Franklin, *Magnet Schools Fail in Philadelphia*, INTEGRATED EDUC., Nov.-Dec.

success. Studies of these magnet schools programs were conducted on an individual city basis and were not always positive.¹⁴ Contributing to the magnet schools criticism was the lack of a national survey which could more accurately gauge the validity of using these schools as a tool for desegregation. Additionally, no network existed through which cities could exchange ideas on how to implement a successful magnet schools program. The problem has been further compounded by the federal government's inconsistent treatment of magnet schools. In 1976, Congress provided funding to school districts to implement or maintain a magnet schools program.¹⁵ In 1981, however, it withdrew this special assistance.¹⁶ Three years later, Congress reversed itself again and authorized new funding for magnet schools programs.¹⁷ This funding, however, has only been authorized for fiscal years 1984, 1985, and 1986.¹⁸ At the end of this period, presumably the debate over the validity (and continued funding) of magnet schools programs will resume.

This note examines the history of magnet schools in this country and analyzes the strengths and weaknesses of the magnet schools concept. It demonstrates the effectiveness of a magnet schools program as a tool for desegregation and highlights the elements crucial to success in this area. It also discusses the enhanced quality of education that magnet schools produce. Finally, it provides guidelines to school districts on how to implement an effective magnet schools program based upon factors that have led to success in other school districts. These guidelines will also increase a school district's chances of receiving federal funds.¹⁹ Additionally, this note proposes that the federal government establish a nationwide magnet schools network to provide technical assistance to school districts.

HISTORY OF MAGNET SCHOOLS IN THE UNITED STATES

The first magnet schools developed in large, urban areas in the late 1960's and early 1970's. They were designed to reduce racial isolation

1977, at 95; in Boston, see McMillan, *Magnet Education in Boston*, 59 PHI DELTA KAPPAN 158 (1977); in Cincinnati, see Eardley, *Cincinnati's Magnet Schools*, INTEGRATED EDUC., Sept.-Oct. 1976, at 14; in Houston, see Trombley, *Houston*, INTEGRATED EDUC., Nov.-Dec. 1977, at 92; in Milwaukee, see Bennet, *A Plan for Increasing Educational Opportunities and Improving Racial Balance in Milwaukee*, in SCHOOL DESEGREGATION PLANS THAT WORK 81 (C. Willie ed. 1984); in Los Angeles, see Orfield, *Will Voluntary Desegregation Work in Los Angeles?*, INTEGRATED EDUC., Jan.-April 1982, at 11; in St. Louis, see Trombley, *Magnet Schools Costly In St. Louis*, INTEGRATED EDUC., Nov.-Dec. 1977, at 97; in Seattle, see Maynard, *The Seattle Plan For Eliminating Racial Imbalance*, in SCHOOL DESEGREGATION PLANS THAT WORK 119 (C. Willie ed. 1984).

14. See *supra* note 13.

15. Education Amendments of 1976, Pub. L. No. 94-482, § 321, 90 Stat. 2081, 2216, *repealed by* Education Consolidation and Improvement Act of 1981, Pub. L. No. 97-35, 95 Stat. 357, 463 (1981). For further discussion of the 1976 Act, see *infra* notes 29-31.

16. Education Consolidation and Improvement Act of 1981, Pub. L. No. 97-35, Ch. 2, 95 Stat. 357, 469 (1981) (codified as amended at 20 U.S.C. § 3811 (1982)). For further discussion of this Act, see *infra* note 34 and accompanying text.

17. Education for Economic Security Act, Pub. L. No. 98-377, tit. 7, 98 Stat. 1267, 1299 (1984) (codified as amended at 20 U.S.C.A. § 4052 (West Supp. 1986)). For further discussion of this Act, see *infra* notes 36-37 and accompanying text.

18. 20 U.S.C.A. § 4051.

19. Pursuant to the 1984 Act, the Secretary of Education awards grants to school districts based upon the worthiness of their magnet schools plan. For a discussion of the rating system used by the Secretary in evaluating magnet school plans, see *infra* notes 96-108 and accompanying text.

through voluntary means rather than through mandatory methods.²⁰ Interest in magnet schools increased during this period as parents and educators grew concerned over the lack of quality education in public schools.²¹ The entry of the federal government in 1976, however, served to focus attention on the magnet schools as a tool for desegregation rather than as a means of improving public education.²²

20. U.S. DEPT. OF EDUC., OFFICE OF PLANNING, BUDGET AND EVALUATION, SURVEY OF MAGNET SCHOOLS: ANALYZING A MODEL FOR QUALITY INTEGRATED EDUC. 6 (1983)[hereinafter cited as SURVEY]. In 1981, the Department of Education commissioned James H. Lowry and Associates to conduct a survey of the magnet schools in this country. The survey defined a magnet school as follows:

1. A distinctive school curriculum based on a special theme or method of instruction,
2. A unique district role and purpose for voluntary desegregation,
3. Voluntary choice of the school by the student and the parent,
4. Open access to school enrollment beyond the regular attendance zone.

Id. at ii.

The survey was prompted by the varying local responses to magnet schools and the many conflicting reports of magnet schools' successes and failures. The Department of Education was interested in discerning the educational and desegregative impact of magnet schools, as well as analyzing the process by which magnet schools are effectively developed in urban school districts. *Id.* at 12.

The survey consisted of the systematic evaluation of a representative nationwide sample of 15 school districts (11 of which were under court order to desegregate) which operated a total of 45 magnet schools. The school districts in the survey had total student populations ranging from a minimum enrollment of 6,000 to a maximum enrollment of 111,000 for the 1982-83 school year. The mean student enrollment of the districts in the survey was 47,900. Magnet school enrollment ranged from a high of 25,013 students to a low of 125 students. The mean enrollment in magnet schools was 3,193 students. The number of magnet schools and the number of students enrolled in them, in each district corresponded to the importance of the magnet schools' role in desegregation. The total population of the cities in the survey ranged from a minimum of 30,000 to a maximum of 876,000 with the mean being 316,700. The survey found that currently there are 138 urban school districts which have magnet schools programs. These districts operate a total of 1,019 magnet schools. *Id.* at IV-5 (appendix four). The magnet schools in the survey have been in existence from 1 year to 12 years. The mean existence was 4.98 years. Of the total magnets in this country, 59% are elementary magnets, 14% middle or junior high magnets and 24% senior high magnets. *Id.* at II-3 through II-5 (appendix two).

Data was collected by a team of three senior researchers who spent a week in each district. In each district, the researchers: (a) conducted interviews with administrators, board members, principals, teachers, community leaders, parents and students; (b) collected quantified data on students, staff and school costs; and, (c) observed magnet school operatives and rated them on educational quality and racial integration. The final report was presented to the Department of Education in September, 1983. *Id.* at 17-30.

As this is the most current and comprehensive survey of magnet schools available, its results have been used extensively in this note and its findings taken as conclusive.

21. There are generally four factors which create community support and interest in a magnet schools program: 1) shifting or declining enrollment, 2) a history in the school district of desegregation issues and plans, 3) community perception of a decline in quality education, and 4) experience with alternative or special programs targeted at specific groups. *Id.* at 147.

Several trends in public education also served as an impetus to the magnet schools concept. These trends included:

1. Growth in interest in educational options and diversity, including diversity in curriculum, teaching methods and school design;
2. Renewed involvement of parents and community leaders in decisions related to public education and concern with the quality of education;
3. Greater attention on the outcomes from public education, including more career education and preparation for decisions on further education or training.

Id. at 8-9.

22. Federal support for magnet schools (*see infra* notes 29-32 and accompanying text) had two major effects on the magnet schools movement. First, because eligibility for these grants was conditioned upon a school district's having a magnet program which would reduce overall racial isolation in the district by a minimum of five percent, the magnet schools concept became closely identified with desegregation. Secondly, the funding was viewed "as part of the general federal support for desegregation under ESAA [Emergency School Aid Act]." These grants focused only limited attention on the educational objectives of magnet schools. *Id.* at 7-8.

The original magnet schools were modeled after well-known specialty schools, such as the Bronx School of Science and the Boston Latin School, and adopted themes of science, mathematics or performing arts.²³ Magnet schools today differ from these early specialty schools by offering and emphasizing voluntary choice according to one's interest, rather than selection by testing.²⁴ School districts, before commencing a magnet schools program, survey parents and students to determine what educational and/or vocational areas interest them. Districts then establish schools which reflect these interests. The themes of these schools are designed to attract a racially heterogeneous mix of students.²⁵ The premise of a magnet schools program, as part of a desegregation plan, is that parents will send their children to an inner city school provided the children receive a quality education at the end of the bus ride.²⁶ The fact that students are given the opportunity to choose a magnet school with a theme they find attractive increases their motivation.²⁷

Communities also use magnet schools to address educational problems. A recent survey conducted for the Department of Education indicated that school districts have several objectives in creating magnet schools. First, communities are looking for ways to keep students in their school districts to reduce declining enrollment. Second, school districts are interested in offering educational alternatives or options that will improve the academic quality of the public schools. Districts also continue to use magnet schools as a voluntary method of desegregation. Lastly, districts use the schools to

23. SURVEY, *supra* note 20, at 6. As interest in magnet schools has increased, the range of available themes has expanded to include career exploration, traditional academic preparation, health science, foreign language, humanities, business management, and computer science. *Id.* at 6-7.

24. *Id.* at 6. Some of the school districts surveyed still employ some method of selection to determine which students will be admitted. As will be discussed below, however, these procedures are rather informal. See *infra* notes 65-68 and accompanying text.

25. SURVEY, *supra* note 20, at 7.

26. Levine and Estes, *Desegregation and Educational Reconstruction in the Dallas Public Schools*, 59 PHI DELTA KAPPAN 163 (1977).

In his study of the magnet schools program in Boston, Charles B. McMillan identified several factors which contribute to the attractiveness of magnet schools:

1. Most magnet schools are safe and secure in safe neighborhoods. Most of them have also been free from racial incidents and tension, inside and outside of the buildings.
2. Most magnet schools provide a quality education, with an emphasis on the basic skills. . . .
3. Many magnet schools have aggressive and talented faculty and administration. . . .
4. Many magnet schools are paired with universities, cultural agencies, and/or businesses. . . .
5. Many magnet schools are in new or renovated buildings with excellent facilities. . . .
6. In some magnet schools parent involvement is encouraged. . . .
7. Magnet schools are integrated. . . .
8. Most magnet schools have attractive learning themes. . . .
9. A few magnet schools have teaching style themes. . . .

McMillan, *Magnet Education in Boston*, 59 PHI DELTA KAPPAN 158, 159 (1977).

27. One commentator found that the element of choice played a major role in the magnet schools concept:

Since students *choose* to attend a magnet school, their motivation is likely to be high. Since the curriculum of a magnet school reflects a central theme, students' studies are likely to be more focused and their performance (as measured by standardized tests) will often be higher than that of their counterparts in other kinds of schools.

Doyle and Levine, *supra* note 12, at 266 (emphasis in original).

supplement existing mandatory desegregation plans.²⁸

The federal government emerged upon the magnet schools scene through a 1976 amendment²⁹ to the Emergency School Aid Act (ESAA).³⁰ This amendment provided approximately \$30 million per year for six years to school districts interested in implementing or expanding a magnet schools program.³¹ This funding led to the growth and expansion of the magnet schools concept.³² With this government aid, school districts overcame one of the main barriers to establishing a magnet schools program—high start-up costs.³³

In 1981, however, the federal government, as part of its general plan to reduce the deficit, discontinued the aid to magnet schools. The Education Consolidation and Improvement Act of 1981³⁴ changed the manner in which school districts receive funding for educational programs. Rather than submitting projects on an individual basis for approval and funding, school districts now receive a block grant at the start of each fiscal year. School districts are then free to allocate these funds among the projects as they see fit. Magnet schools thus had to compete with all other programs that the school district wished to fund; if the school district did decide to fund magnet schools, these funds had to be taken away from the other projects. Funding decreased from a high of \$398.5 million in 1979 under

28. SURVEY, *supra* note 20, at 154.

29. See *supra* note 15. The 1976 Act amended ESAA by adding, among other items, the following provision: "(9) The term 'magnet school' means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds." 90 Stat. 2217.

30. Emergency School Aid Act, Pub. L. No. 92-318, 86 Stat. 235, 354 (1972), *repealed by* Education Consolidation and Improvement Act of 1981, Pub. L. No. 97-35, 95 Stat. 357, 463 (1981).

31. SURVEY, *supra* note 20, at 8. The funding lasted from 1976 to 1981. In the first year of ESAA funding (1976), only 14 school districts applied for aid, but by 1980, over 100 districts submitted applications. Of the more than 100 districts applying, the government funded 65 programs. *Id.* at 8.

32. *Id.* at 7.

33. The most recent statistics on the cost of magnet schools as compared with non-magnet schools are from the 1980-81 and 1981-82 school years. The survey for the Department of Education found that magnet schools cost about 8% more per student, in terms of total cost, than non-magnet schools. The survey defined "cost" as including "all personnel and non-personnel resources used by schools, regardless of whether the resources were purchased with a local appropriation, state aid, or ESAA grant." The survey also attributed to the magnet schools "an equitable portion of the district's administrative overhead and other indirect costs." SURVEY, *supra* note 20, at 15.

Specifically, the survey found that the total cost per student in a magnet school in 1980-81 was \$2,652; and for a student in a non-magnet school, it was \$2,452, a difference of \$200. *Id.* at 118. Thus, if 1,000 students are enrolled in magnet schools in a particular district, it adds \$200,000 to the expenses of the district. In 1981-82, however, the difference in total cost had narrowed considerably: \$2,618 per student in a magnet school as compared with \$2,559 per student in a non-magnet school, or a difference of only \$59. *Id.* at 118. This amounts to a decrease of \$141,000 per 1,000 students. This dramatic drop can be attributed to start-up costs incurred only in the first year of operation. Once magnet schools are implemented, their costs parallel non-magnet schools.

Breaking down the cost structure a bit further, the survey found that magnet elementary schools actually cost \$5 less than non-magnet elementary schools in 1980-81 and \$93 less in 1981-82. Magnet secondary schools cost \$836 more per student in 1980-81 than non-magnet schools but only \$166 more per student in 1981-82. *Id.* at 20.

Significantly, the survey found that higher financial investments in magnet schools were associated with higher levels of integration and quality education. *Id.* at 137-38. This means that the increased (but not prohibitive) cost of magnet school is justified by the superior results they produce.

34. See *supra* note 16.

ESAA to \$25.2 million in 1982 under Chapter II block grants.³⁵

In 1984, however, Congress reinstituted funding specifically for magnet schools.³⁶ Alarmed by the negative impact that the 1981 Act had, or would have, on magnet schools, Congress appropriated \$75 million each year for fiscal years 1984, 1985, and 1986 to school districts pursuing magnet schools programs.³⁷ Congress also promulgated regulations which govern the awarding of these funds.³⁸

ANALYSIS OF THE MAGNET SCHOOLS CONCEPT

Magnet schools are coming of age. They show increasing promise as an effective and attractive method of voluntary desegregation. They have withstood charges that they are elitist and pose a threat to other public schools. In addition, the benefits that a magnet schools program can bestow upon a community and the enhanced educational opportunities they offer are becoming apparent. With the proper funding and guidance, magnet schools can become permanent fixtures in our society.

Magnet Schools and Desegregation

Magnet schools are effective tools for desegregation. This was the finding of a 1983 survey commissioned by the Department of Education.³⁹ The survey found that nearly seventy percent of the districts studied strive to make their magnet schools racially and ethnically balanced.⁴⁰ The populations of these schools are representative of the proportions of whites, blacks, and other minorities found in the district as a whole.⁴¹ The remaining districts surveyed ensured a stable and substantial mix of students, but on a lower level.⁴² The survey concluded that our country can desegregate⁴³

35. SURVEY, *supra* note 20, at 226. These figures include funding for other desegregation plans as well as magnet schools programs.

36. See *supra* note 17.

37. Education for Economic Security Act, *supra* note 17, § 701. Congress appropriated the new funds: (1) to provide financial assistance to eligible local educational agencies to enable such agencies to establish and operate magnet schools; (2) to meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools; (3) to encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students; and (4) to encourage the development of courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

Id. § 703.

38. Magnet Schools Assistance Program, 34 C.F.R. § 280.1-40 (1985). For a complete discussion of these regulations, see *infra* notes 97-108 and accompanying text.

39. SURVEY, *supra* note 20, at 79. The term "desegregation" as used in the survey refers to a school system "in which all students receive equal treatment, including equal access to educational opportunity." *Id.* at 78.

40. *Id.* at 79.

41. For example, Arts School in Old Port (all schools and cities in the survey were given code names) is 23% white, 56% black and 21% hispanic. The school system as a whole is 21% white, 60% black and 19% other minority (mostly hispanic). *Id.* at IV-20 (appendix four). Arts School stands out as being a desegregated school in an otherwise segregated district. Of the 25 elementary schools in Old Port, 11 have white enrollment of less than 7% and 8 have white enrollment of over 50%. *Id.* at IV-20 (appendix four).

42. *Id.* at 79.

comprehensively and effectively by relying heavily on magnets.⁴⁴ Furthermore, the survey found that not only are the magnet schools themselves racially integrated, they also work to desegregate the entire school *district*.⁴⁵ Cities which have a comprehensive program of magnet schools have achieved very positive results in terms of district-wide desegregation.⁴⁶ Some cities, however, have not enjoyed such success.⁴⁷ Magnet schools are able to have this district-wide effect because they pull students into schools and areas in which they might not otherwise enroll, thereby changing the composition of the school district.

For example, one city in the survey was able to desegregate almost its entire school district through heavy reliance upon magnet schools.⁴⁸ Foun-

43. The key word here is "can." The survey concluded:

In sum, our analysis of magnet schools and programs in 15 urban districts shows that there is substantial meaning in the term "quality integrated education," and that local public education leaders and educators know how to design and attain the ideal *when and where they want to do so*. Poorly integrated magnets tend to be direct results of indifference toward, or deliberate policy choices of departures from this ideal, sometimes because racial inequities are still cherished by white decision-makers and sometimes because competing ideals outweigh desegregation.

Id. at 111 (emphasis added).

44. *Id.* at 83.

45. *Id.* at 81-82.

46. *Id.* at 82-83. School districts in the survey which did not rely heavily on magnet schools for purposes of desegregation were still able to achieve high levels of desegregation, however, they had to employ other desegregative tools such as rezoning, two-way busing and mandatory assignment of students and staff. *Id.* at 82. These options may not always be feasible or desirable in all school districts, whereas magnet schools are feasible in virtually every school district in the country.

47. In 1981, a study was conducted in Los Angeles after the Los Angeles Unified School District had implemented a magnet schools plan. The study found that magnet schools in the Los Angeles school district had little impact on the overall pattern of desegregation. Some minorities moved into predominantly white schools, but very few white students transferred into minority schools. The report concluded that a significant number of white students would not move into minority schools no matter how attractive the learning experience offered by the magnet schools.

The negative results encountered by the Los Angeles school district need not be imposed on the magnet schools concept as a whole. There were several elements present in the Los Angeles project which detracted from the plan's effectiveness as a desegregative tool.

The Los Angeles Unified School District is an immense conglomeration. It encompasses 710 square miles and has a student population of 500,000. With such staggering numbers to contend with, it may be impossible to ever achieve a successful magnet schools program. The cities in the Department of Education survey, by contrast, had a mean student population of only 47,900 for the 1982-83 school year, with no school district having more than 111,000 students. (see *supra* note 20). In districts of this size, magnet schools can be effective tools for desegregation; and this would encompass all but a few of the largest school districts in our country.

Secondly, the Los Angeles study found that there is a very powerful negative stereotype in the white community about minority neighborhoods and their schools. The study found this stereotype to be "so powerful that many white parents will keep their children in the local white school even if it were inferior to a school where their children could transfer." This pervasive negative attitude could be unique to Los Angeles and thus not prove problematic to effective implementation of magnet schools in other cities.

Thirdly, the magnet schools project in Los Angeles lacked an essential factor that the Department of Education survey identified as crucial. Los Angeles implemented many magnet *programs*, which comprise only part of an already existing public school, rather than establishing magnet *schools* as individual institutions. Experience has shown that magnet *programs* are not nearly as effective as magnet *schools* in desegregating school districts, because the programs become engulfed and isolated in a segregated institution. (See generally Vannoni, *The Role of the Magnet School in Integration*, in NEW PERSPECTIVES ON SCHOOL INTEGRATION 141 (1979)). Because of the problems inherent in the magnet schools plan implemented in Los Angeles, its results should not detract from the viability of a magnet schools program for the majority of the country. For a complete discussion of the magnet schools program in Los Angeles, see Orfield, *Will Voluntary Desegregation Work in Los Angeles?*, INTEGRATED EDUC., Jan.-April 1982, at 11-16.

48. SURVEY, *supra* note 20, at 83.

dry City (a code name)⁴⁹ has a student population that is forty-seven percent black. Under court orders to desegregate, it established twenty-one magnet schools. Ten years ago, before the magnet program, sixty percent of the students in the district were racially isolated. Now, only twenty percent of the students remain in racially isolated schools.⁵⁰

Elements of a Successful Magnet Schools Program

The survey revealed that cities enjoying the most success with their magnet schools, in terms of desegregative impact, all shared common characteristics.⁵¹ These characteristics are quite basic and can easily be adopted by any school district willing to put forth the effort needed to implement a magnet schools program. Perhaps the most important characteristic of the successful programs was effective district leadership.⁵² This leadership came from either the principals of each magnet school, or from a person or board appointed to oversee the design and implementation of all the magnet schools.⁵³ One of their main responsibilities was to encourage consistent and continuous district support.⁵⁴ Successful programs were also able to achieve and maintain consensus at the district level as to the policy objectives of the magnet schools program.⁵⁵ At the district level, there was also

49. All the cities in the survey were given code names.

50. SURVEY, *supra* note 20, at 83. This tremendous improvement in the racial composition of the district's schools has satisfied the courts in that city to the point where they will take no more action in the case despite plaintiffs' continued claims for relief. *Id.* at 83.

51. *Id.* at 167-191.

52. The survey found that leadership was needed in a variety of areas surrounding the implementation and operation of a magnet schools program. These areas include: funding (both initially and on a continuing basis), theme selection for each magnet, design and planning, development of the curriculum, staff selection, and general authority over the operation of the entire program. *Id.* at 167-68.

53. Four of the districts in the survey relied upon the principals for leadership, particularly in the areas of design, staffing, curriculum, and theme. Although district leaders may have initiated the idea for magnet schools, it was the principals who carried out the idea and made any necessary improvements and changes. Six of the districts looked to district staff for leadership. This staff was usually led by an assistant superintendent or magnet school director. Two of the districts had shared leadership between a district administrator and a principal. In these districts, the administrator assumed responsibility for the initial implementation of the program and then the principal would take over. Three of the districts had unclear leadership; decisions appeared to be made on an ad hoc basis. *Id.* at 170-71.

54. The survey concluded that:

Magnet schools may be developed initially as an exciting public education innovation. Staff, students, and parents may share the high expectations for a new educational opportunity. However, if an innovative and unique program does not receive consistent district support (i.e., funds, staff, resources and attention) for its unique needs and characteristics, it either will not survive or its innovative and magnetic role will be diminished.

Id. at 175.

55. The survey found that policy consensus among the district's central leaders (i.e., school board, superintendent and top administrators) was critical to a magnet program's initiation and continued growth:

Lack of consensus can lead to risks. For instance, at the point of decision making on district strategy a lack of consensus is likely to result in some strategy aspect (e.g. school locations, themes, or student targets) continuing to be questioned as development progresses. It can delay funding, principal or staff selection, or other critical program factors. And, it can cause the magnet program to be viewed with less certainty by the public.

Id. at 159. High consensus simply means that the district's central leaders share an idea of where the program is going, what should be accomplished, and how. *Id.* at 159-60.

The survey indicated that districts with low leadership consensus had difficulty with the program's central direction, and thus, the program had minimal effect on the district's educational

an enthusiastic commitment to the implementation and support of the magnet schools program.⁵⁶ Within the magnet schools themselves, innovative principals and staff participation were key. They ensured consistency between the chosen theme of the magnet school and the curriculum, staff, and instruction methods.⁵⁷ The communities in the successful cities were also involved,⁵⁸ providing direct support to the schools or aiding in recruitment and publicity.⁵⁹

Criticisms of Magnet Schools

Even though magnet schools have been successful in desegregating school districts, critics have complained of negative side effects. One claim is that magnet schools are selective and practice elitism under the guise of a voluntary desegregation plan. A second claim is that magnet schools unfairly compete with a school district's non-magnet schools. The survey for the Department of Education specifically addressed these claims and found them lacking in merit.⁶⁰

problems. The magnet schools in these districts were viewed as individual school efforts rather than as part of an overall scheme to help desegregate the district. *Id.* at 160.

56. *Id.* at 175-79.

57. *Id.* at 173. The survey stressed the importance of an active staff and offered suggestions for involving them in the magnet school process:

Teachers, counselors, and other staff must provide the direct contact with students in magnet schools; must integrate the theme-based curriculum into their method of teaching; must relate to other staff members; and must organize information and resources for instruction. If the magnet program from the outset has the active involvement of the staff most directly affected, the chances of their willing acceptance of the innovations are increased.

Some districts and magnet schools developed *procedures to ensure active staff support and commitment* to the magnet concept following implementation. These procedures include staff selection, in-service training, and frequent magnet staff meetings. However, the degree to which a district demands program implementation with initial active staff involvement will strongly indicate what will happen after the program is operational. The initial steps in program organization also set the pattern for leadership-staff relations that typically are continued through the program.

Staff interest, commitment and involvement are critical both in producing positive student outcomes and in having the school perceived by students and parents as a unique and special program, which improves student attitude and motivation. One way to obtain committed magnet staffs is to provide them with an indication of their influence on program success.

Id. at 173-74 (emphasis in original).

58. The survey concluded that:

To the extent district leaders seek participation from principals, district and school staff, parents and community leaders, they increase the likelihood that the program will be well received and will gain support and involvement in the early stages. When board members, the superintendent, or top administrators limit magnet strategy participation, the program is perceived as appealing to narrow interests, and is not supported. The public relations (including publicity) benefits of magnet schools also are hampered by narrow strategy decisions.

Id. at 163.

59. Community involvement in publicizing, marketing, monitoring, advocating, and recruiting for the magnet schools was found in 10 of the 15 districts in the survey. *Id.* at 185. There are many other ways in which the community can become involved, including: (1) Curriculum planning groups. University officials and business leaders can act as advisors to the development of a curriculum for each school; (2) Instruction. Specialists in the community can lecture at magnet schools on a topic familiar to them (e.g., judges and lawyers can be brought in to teach the students about the judicial system). (3) Volunteer support. Parents can help with organizing field trips and special class projects, while businesses can volunteer their facilities for special events or learning experiences. *Id.* at 184-86.

60. For a discussion of the selectivity issue, see SURVEY, *supra* note 20, at 55-63. For a review of the impact of magnet schools on regular schools, see SURVEY, *supra* note 20, at 203-207.

Critics⁶¹ claim that magnet schools provide white parents with a means of escaping another, more undesirable, desegregation option.⁶² They claim that magnet schools appear to comply with desegregation guidelines by accepting applications from students of all races, however, through the use of various admissions criteria, they are able to select only those students whom they desire—namely, white, middle class children.⁶³ The survey indicated that only a few magnet schools practice selective techniques, and even then, not to the extent that they have become havens for white children.⁶⁴ Most⁶⁵ of the magnet schools were marginally to moderately selective⁶⁶ and only casually rely on some combination of grades and scores to screen applicants.⁶⁷ Most magnet schools simply require an interest in that particu-

61. The term "critics" refers to educators and experts in the desegregation field.

62. See generally Dorgan, *Integration Through Magnet Schools: Goals and Limitations*, INTEGRATED EDUC., Jan.-Aug. 1980, at 59-63.

63. One commentator (*supra* note 62) provides a scathing criticism of magnet schools. She finds them entirely unattractive for use as a desegregative tool. She claims the use of magnet schools only worsens the racial situation by taking resources away from regular schools, leading to re-segregation of the schools. White children leave predominantly black schools, thereby increasing racial isolation in these schools. Dorgan, *supra* note 62, at 61-62.

Dorgan contends that through devices such as guidance counselors, only the "better" students receive information about, and are encouraged to attend, magnet schools. These selective practices keep the schools segregated. By making information about magnet schools available in written form only, parents who cannot read do not learn of the opportunity available for their children. *Id.* at 61. This problem of not receiving information could be easily remedied. Parent groups in the community could orally spread the word about magnet schools, bilingual fliers could be distributed, and the schools could receive media attention.

Dorgan admits in her article, however, that selection processes for magnet schools are difficult to document, and none of the case studies she examined showed any hard evidence that certain classes of students were discriminated against. *Id.* at 61. She cited a few examples of selectivity abuses at a Chicago school and a Cincinnati school. The Department of Education survey considered 45 schools nationwide and found no evidence of discriminatory selection procedures.

Dorgan was also concerned about the small percentage of students in a district who can attend the limited number of magnet schools. The Department of Education survey did find that the mean percentage of students in magnet schools was only 5.2% (The range was from 1% to 31%). Unfortunately, this situation can be remedied only if Congress is willing to appropriate more funding to school districts. With additional funding, school districts could operate magnet schools on a larger scale, thereby reaching a greater number of students.

64. SURVEY, *supra* note 20, at 55-61. The survey concluded that the selectivity issue is more complex than parties on either side of the issue would claim. Magnet schools are not elitist institutions as one side claims, but nor are they open to every student desiring to attend as the other side claims. *Id.* at 55.

The survey found that there are four types of selectivity practices among magnet schools: 1) student self-selection, where students choose to attend the magnet school in their district; 2) market focus, in which how a magnet school is presented to the public determines to a large extent who will apply; 3) applicant screening, which involves both behavioral and academic standards for admission; and, 4) post-entry mechanisms, which involve transferring students who do not perform in accordance with the magnet's standards. *Id.* at 55-57.

65. The survey found that 60% of the magnet schools fit this category. *Id.* at 60-61.

66. The survey defined a highly selective magnet as one that:

(a) relies substantially on some combination of grades, test scores, teacher/guidance counselor recommendations, behavior assessments, and even interviews with applicants and their parents in order to screen students for admission; (b) remands or sends students back to their regular school if they fail to maintain academic performance and behavior standards while in the magnet; and (c) does *not* host students at the lower end of the special needs spectrum.

Id. at 57-58 (emphasis in original).

The survey defined a non-selective magnet school as one that: "(a) admits students on a first-come, first-served basis or by means of a lottery, with no consideration of anything but interest in the theme; (b) does not remand students for any reason; and (c) hosts lower-spectrum special needs students (e.g., learning disabled, emotionally disturbed)." *Id.* at 58.

67. Admissions criteria for these schools were basic. They required proof of academic performance at

lar school's theme to gain admission.⁶⁸

Magnet schools have also been seen as a competitive threat to non-magnet schools in the district. Critics allege that magnet schools drain the regular schools of resources,⁶⁹ skilled staff, and gifted students. There are two schools of thought as to what will result from this competition between magnet and non-magnet schools.⁷⁰ One group argues that parents and educational groups, seeing the quality of education available at magnet schools, will pressure non-magnet schools to improve their programs. The end result will be increased quality of education in all the public schools in the district.⁷¹ A second group argues that non-magnet schools will not be strong enough to survive the drain of human and non-human resources; instead of rising to the level of the magnet schools, they will rapidly deteriorate.⁷² The end result will be a decreased quality of education in all but a few of the district's schools.

The survey for the Department of Education rejects this second theory.⁷³ It found that the drain of students and teachers from non-magnet schools is minor.⁷⁴ Magnet schools have not caused the wholesale flight of the non-magnet schools' best and brightest people. Magnet schools do not

grade level and "no immediately apparent evidence of serious social or behavior problems. . . ." *Id.* at 60.

68. The survey found that while magnet schools may be screening out the most problematic students (those who are educationally disadvantaged or have serious social and behavioral problems), they do not reject the average student. Additionally, the mildly to moderately selective magnets admit special needs students. Only 13% of the magnet schools were highly selective. *Id.* at 60. The survey did not address the question of whether there is a discriminatory impact on minority groups as a result of the magnet schools' practice of not admitting those students with serious social and educational problems.

69. See Trombley, *Magnet Schools Costly in St. Louis*, INTEGRATED EDUC., Nov.-Dec. 1977, at 97. The author in his survey of the St. Louis magnet schools found that they have been successful educationally and in terms of desegregation, but have proven to be very expensive. The St. Louis school district found that at a minimum, magnet schools cost between \$50,000-\$60,000 more than regular schools (1979 figures) and ranged as high as \$250,000-\$300,000 more. *Id.* at 97-98.

70. SURVEY, *supra* note 20, at 203-04.

71. *Id.* at 203-04. The survey found that as magnet schools become well-known in the community, a competitiveness between magnet and non-magnet schools is bound to arise. This competition has several effects, one of which is to create pressure to improve educational quality in all schools, not just magnet schools. The study found that some districts had planned on this contingency and included this element of competition/pressure into its magnet schools strategy. The district planned to use the magnet schools to stimulate change in its non-magnet schools. The survey concluded that districts can use public awareness of magnet schools to their advantage in attempting to institute change in their public schools. Magnet schools can also be used to reduce the loss of students to private schools. *Id.* at 203-04.

72. McMillan, *supra* note 26, at 160-61. The author was concerned that the very existence of magnet schools and their being touted as superior in educational quality reduces the status of regular schools in the district. Adding to the attractiveness of magnets, while at the same time detracting from the non-magnets, are the factors of increased per pupil expenditure, better facilities and improved curriculum for the magnet schools. Some non-magnets may overcome the odds, but others are likely to sink even deeper. *Id.* See also Dorgan, *supra* note 62, at 62.

73. SURVEY, *supra* note 20, at 206-07.

74. For example, in seven of the 15 surveyed districts, parents, students, administrators, and board members believed that magnet schools attract the best students and staff away from the other schools in the district. In reality, the survey found that the extent of skimming was minor; some schools lost a few of the better students and teachers to magnets. *Id.* at 206. The survey concluded that: "The problem is *perception*, that is, some parents perceive that those who already are advantaged gain further advantage and those who are non-advantaged lose more ground." *Id.* at 206 (emphasis in original). The survey found that school districts add to this perception problem by poorly publicizing the accessibility of magnet schools and by inappropriately focusing on recruitment of particular students or schools. *Id.* at 206.

contribute to the deterioration of non-magnet schools, rather they show school districts the quality of education that is possible in all public schools.

Benefits of Magnet Schools

Magnet schools do more than just provide a city with an attractive plan of voluntary desegregation. They can also have a positive impact on the community by decreasing white flight and reducing conflict over desegregation.⁷⁵ Moreover, they can improve the quality of education available in the school district.⁷⁶

White flight—the movement of white families from urban centers to the suburbs—has been a major problem for cities since the late 1960's.⁷⁷ It has caused traditional desegregation plans based upon fixed ratios of majority and minority students to fail.⁷⁸ Thus, for a desegregation plan to be effective today, it must be capable of attracting a sufficient number of white students back to the urban centers.

The survey for the Department of Education found that magnet schools can help a school district reduce white flight.⁷⁹ Two cities in the survey were even able to bring white families *back* into the district by making their magnet schools competitive with the non-public and suburban schools nearby.⁸⁰ This reduction in white flight benefits not only the school district but the entire social and economic base of the city.

Magnet schools also help reduce community conflict over desegregation plans. This is often why they are implemented.⁸¹ Communities are more willing to accept a desegregation plan that offers their children choices and enhanced learning experiences than a plan that dictates where their children must go to school. Over eighty percent of the districts implementing magnet schools to reduce community conflict, have had positive results.⁸²

75. See generally SURVEY, *supra* note 20, at 95-99.

76. See generally SURVEY, *supra* note 20, at 33-48.

77. Goodman, *Some Reflections on the Supreme Court and School Desegregation*, in RACE AND SCHOOLING IN THE CITY 45 (1981). See also Rist, *Sorting Out the Issues and Trends of School Desegregation*, USA TODAY, Nov. 1978, at 45.

78. In his article on school desegregation, Goodman (*see supra* note 77) concluded:

The exodus of white families from the public school systems of the larger cities has made meaningful desegregation increasingly difficult. The school population of many cities is now heavily black, so that even if the remaining whites were spread evenly throughout the system, thereby achieving racial balance in the narrow sense, the hoped-for benefits of integration would still not be realized.

Goodman, *supra* note 77, at 71.

79. SURVEY, *supra* note 20, at 98-99. The survey found that ESAA grants were often awarded in part to school districts using magnet schools to prevent or reduce white flight. *Id.* at 98.

80. The survey found that this ability to re-attract white families was easier when the magnet schools were located in multi-ethnic rather than biracial areas. It was also easier in regions where the population is growing in tandem with economic opportunities. *Id.* at 99.

81. Specifically, the survey found that 8 of the 15 districts had implemented magnet schools programs because of high levels of conflict in the community. In 7 of these 8 districts, the magnet schools played an important role in reducing conflict. In 3 districts, magnet schools helped to head off volatile, latent conflicts. *Id.* at 96.

82. The survey illustrated how magnet schools decrease community tension:

Citizens have been subjected to thirty years of political rhetoric about "forced busing," destruction of "the neighborhood school," and coercive intrusion into local control over education, not by invisible voices but by neighbors, kin, mayors, governors, and presidents. As the imperative to desegregate takes hold in a community, therefore, residents brace for the worst to happen. The rhetoric leads voters toward the equivalent of a man-made disas-

Evidence also suggests that magnet schools can help head off conflicts where tensions have not yet surfaced.⁸³

A program of magnet schools eases community tension because it balances the burden placed upon blacks and whites to desegregate the public schools.⁸⁴ Earlier attempts at voluntary desegregation, such as freedom-of-choice plans,⁸⁵ failed to alleviate community conflict because they placed the burden of desegregation solely on black students.⁸⁶ Under a program of magnet schools, however, both blacks and whites must take the initiative if they wish to attend a quality integrated school.⁸⁷

Perhaps the most important benefit of a magnet schools program is the increased quality of education it offers. The survey for the Department of Education found that one-third of the magnet schools studied demonstrated high education quality.⁸⁸ Analysts reached this conclusion by rating each magnet school on instructional quality, curriculum, student-teacher interaction, student learning opportunities, and use of resources.⁸⁹ A majority of

ter. Against the backdrop of this vision, magnets appear to be urgently desirable. A magnet can be designed to be receptive, hospitable, safe, educative, and desegregatively lawful. It may require a longer commute, but it stands apart from the arena of conflict.

Id. at 97 (emphasis in original).

83. *Id.* at 96. The survey also found a correlation between community conflict and the percentage of other minorities enrolled in the district. The greater this percentage, the lesser the chance for community conflict. There is also a reduced chance of conflict in communities relying on magnets for overall district desegregation (as opposed to individual magnet school desegregation), and in communities putting forth a high level of effort in implementing a magnet schools program. *Id.* at 96.

84. *Id.* at 97.

85. *See supra* note 5.

86. *See supra* note 5.

87. SURVEY, *supra* note 20, at 97.

88. "Educational quality" as used in this survey refers to two facets of the educational environment:

- (1) selected educational processes that occur daily among teachers, students, and administrators in schools and are observable either directly or through the traces they leave in classrooms, hallways, cafeterias and playgrounds, and
- (2) one subset of student outcomes, specifically, reading and math achievement test scores.

Id. at 34.

Of the "educational processes that occur daily," the survey concentrated on the following:

(1) Activity Rate. This refers to the time spent by each student in hands-on activities in the classroom and throughout the school day. It also refers to the degree of teaching activity and the effort put forth by the teachers. It includes an analysis of the student's course load and difficulty, their extra-curricular activities and the availability of special events and activities to the students. It is also a measure of the proportion of faculty that spend time with the students after regular school hours.

(2) Interaction Rate. This is an "observed measure of the degree of student-student and staff-student dialogue and discussion related to educational matters." It is also a measure of the amount of daily interaction among faculty and administrators regarding educational concerns and the extent of parental involvement in daily school affairs.

(3) Sentiment Rate. This is a rating of the "availability and opportunity for students to receive help and assistance with their studies." It also measures the degree to which students' efforts and improvements are recognized and acknowledged. It also takes into account the students' own expressions about the school.

(4) Congruence of Tasks and Mission. This is an assessment of how successful the magnet school has been in meeting its stated goals and objectives.

(5) Extent of Realized Resources. This is a rating of "how well the magnet administrators and staff have utilized their unique opportunity and creativity to develop an identifiably unique program." Factors looked at by evaluators for the survey included: ingenuity in using space, effort extended in seeking resources and support from the district and the community, creation of new learning opportunities outside of the standard times and procedures, and flexibility in trying new programs. *Id.* at 36-37.

89. *Id.* at 13-14.

the other magnet schools studied exhibited some elements of quality education.⁹⁰ All of the magnet schools offered important educational options and alternatives within their respective districts.⁹¹ Furthermore, eighty percent of the magnet schools that responded⁹² reported achievement test scores higher than the district average according to grade level.⁹³ Significantly, the survey found that quality education and improved test scores in magnet schools do not require highly selective methods of student admissions. In fact, average students comprise the majority of the student body of magnet schools.⁹⁴ It is important that magnet schools are able to offer a quality education in addition to being effective tools for desegregation. Several experts believe that an integrated educational system is possible only through a plan encompassing both student body diversity and educational advancement.⁹⁵

GUIDELINES FOR SCHOOL DISTRICTS

Pursuant to the new appropriations authorized for magnet schools,⁹⁶ Congress has set forth regulations governing their receipt by school districts.⁹⁷ These regulations list the criteria which the Secretary of Education looks at in evaluating each school district's application. Each selection criterion is assigned a certain number of points (the total number of possible points being 100) and the applications are then ranked from highest quality to lowest quality according to their final score. Funds are then distributed

90. *Id.* at 14.

91. *Id.* at 14.

92. Academic achievement data were available for 32 magnet schools located in 11 districts.

93. SURVEY, *supra* note 20, at 41. Specifically, the survey found that on the reading achievement scale, over 80% of the magnets in the study equalled or exceeded their district average. Significantly, 44% exceeded their district average by 10 or more points, and seven exceeded it by at least 30 points. *Id.* at 41. The math achievement scale also indicates that magnet students typically do very well in comparison to district averages. 41% of the magnets in the survey exceeded district averages (for grade level) by 10 or more points, and six magnets exceeded the district average by 30 or more points. *Id.* at 41.

The survey did indicate, however, that a wide variation existed in the reading and mathematics scales, even though a majority of the magnet schools were above the district averages. Approximately 35% of the magnet schools were very close to district averages for achievement test scores. About 10% were below district averages. *Id.* at 45.

94. The survey found that it was not exceptional students who were improving the quality of education in magnet schools but rather: "High educational quality in a magnet school is strongly related to three factors: 1) an innovative, entrepreneurial principal; 2) a high degree of coherence of theme, curriculum, teaching methods and staff to form a strong program identity; and 3) special treatment by district administration with rules, conventions and procedures." *Id.* at 33.

95. See Willie and Fultz, *Comparative Analysis of Model School Desegregation Plans*, in SCHOOL DESEGREGATION PLANS THAT WORK 197 (C. Willie ed. 1984). The authors analyzed four model plans for desegregation adopted by one or more cities and concluded that:

[B]oth educational advancement and student body diversity are essential in an ideal plan for a unitary public school system. A plan that emphasizes one aspect of the twofold goal but ignores the other is incomplete and cannot achieve meaningful desegregation for white, black, and other minority students to the greatest extent practicable.

Id. at 197. They further stated:

Plans designed to enhance educational experiences as well as interracial contacts tend to require desegregation for majority as well as minority students. But those that focus either on student body diversity or educational opportunities but not on both tend to achieve substantially more desegregation for one racial population than for another.

Id. at 197.

96. See *supra* notes 17-18 and accompanying text.

97. See *supra* note 38.

to the school districts in order of the rank of their application.⁹⁸ The Secretary, in rating each application, looks at six criteria: plan of operation,⁹⁹ quality of key personnel,¹⁰⁰ quality of project design,¹⁰¹ budget and cost effectiveness,¹⁰² evaluation plan,¹⁰³ and adequacy of resources.¹⁰⁴ The Secretary may also give special consideration, and additional points, to school districts demonstrating a need for assistance,¹⁰⁵ substantial involvement of minority children,¹⁰⁶ a relatively short timetable for implementation,¹⁰⁷ and/or substantial likelihood of success.¹⁰⁸

The guidelines set forth below are intended to assist school districts in designing and implementing a magnet schools program. Experience has shown that school districts achieving success with their magnet schools programs have all shared common characteristics. These characteristics are embodied in the guidelines. These guidelines also take into consideration

98. 34 C.F.R. § 280.30.

99. The plan of operation criterion is worth a maximum of 20 points. The Secretary here is looking for a management plan that ensures proper and efficient administration of the project, a demonstration of how the objectives of the project correspond to the purposes of the program, the ways in which resources and personnel will be used to meet these objectives, and how the project will provide equal access and treatment for minority group students. *Id.* § 280.31(a).

100. The quality of key personnel criterion is worth a maximum of 20 points. The Secretary reviews the application to determine the qualifications of the project director and the key personnel, and the amount of time which they will be able to commit to the project. In determining the qualifications of these individuals, the Secretary looks at their experience and training in related fields. He is also interested in the extent to which the personnel are drawn from a cross-segment of the community. *Id.* § 280.31(b).

101. The quality of project design criterion is worth a maximum of 35 points. The Secretary is concerned with how and whether the project will be able to attract students of different social, economic, ethnic, and racial backgrounds. The Secretary is also concerned here with the knowledge and experience of the staff of each magnet school with curriculum development and desegregation strategies, and how each magnet school will address the educational needs of its students. How the project will encourage parental involvement is also reviewed. *Id.* § 280.31(c).

102. The budget and cost effectiveness criterion is worth a maximum of 5 points. The Secretary wants to ascertain that the budget drawn up by the school district is adequate to support the project's activities, and that the cost of the entire project is reasonable in relation to its objectives. *Id.* § 280.31(d).

103. The evaluation plan criterion is worth a maximum of 15 points. The Secretary reviews evaluation plans to determine their appropriateness and the extent to which the plans will produce objective and quantifiable data. *Id.* § 280.31(e).

104. The adequacy of resources criterion is worth a maximum of 5 points. The Secretary wants to ensure that the facilities, equipment, and supplies to be used in the project are adequate to meet its objectives. *Id.* § 280.31(f).

105. Need for assistance is based upon the "incremental expense of implementing the approved desegregation plan (expressed as a percentage increase in [the school district's] operating budget) or the difficulty of effectively carrying out the plan and the project for which assistance is sought." The maximum amount of points which can be awarded under this section is 15. *Id.* § 280.32(d)(4). (For fiscal years 1985 and 1986 only, a school district qualifies under this section if it received \$1,000,000 less under Chapter 2 of the Education Consolidation and Improvement Act in fiscal year 1982 than it received in fiscal years 1981 under ESAA. *Id.* § 280.2(a)).

106. Under this provision, the Secretary determines the percentage that represents a comparison of the number of minority group children involved in the applicant's approved desegregation plan to the number of minority group children enrolled in the applicant's schools. *Id.* § 280.32(c)(2). For each ten percentage points that the school district receives under the above formula, the Secretary awards one point. *Id.* § 280.32(c)(3).

107. School districts planning to implement their program within five years receive an additional 10 points. Plans to implement a program within 5-10 years receive 7 additional points. Plans calling for an implementation date within 10-15 years receive 4 additional points. Plans which will not be implemented within 15 years receive no additional points. *Id.* § 280.32(b).

108. A school district can receive up to 10 additional points based upon the Secretary's determination that the program promises to achieve the purposes (*see supra* note 37) of the Education For Economic Security Act. *Id.* § 280.32(e).

the selection criteria used by the Secretary of Education, and thus, by following these guidelines, school districts should be able to increase their chances of receiving funding.

1. *Establishment of an Executive Board*

The school district should establish a racially and ethnically diverse¹⁰⁹ executive board composed of educational leaders in the community. This board should identify the local problems and concerns of desegregation that the program of magnet schools will be asked to address.¹¹⁰ The key function of the board is to plan an overall strategy for the district by coordinating the efforts of the individual magnet schools. The board should also oversee the budgets of the schools and their use of resources. Most importantly, the board should strive to actively involve the community in the project and encourage a continued commitment to it.¹¹¹

2. *Survey of the School District*

The executive board should poll the district to ascertain what themes most interest parents and students.¹¹² The survey should explain the magnet schools concept to parents and point out the schools' educational benefits. The survey should present various theme ideas to parents and students, such as fine arts, science, and foreign language, to demonstrate the exciting educational alternatives available through a magnet schools program. This survey can be the first step in creating community support for the project.

3. *Selection of Principals*

Next, the executive board should select principals to head each magnet school. The selection should be representative of the racial mix of the community, and each principal should be completely dedicated to the magnet

109. One desegregation expert has criticized various school desegregation plans and deemed them ineffective because they exclude minority leaders from the planning boards. According to this expert, for the past 30 years, school desegregation plans have been created and implemented by "middle-aged, middle class, white male educational planners." These planners are removed from the real concerns of the minority population they seek to aid. Willie, *Desegregation Planning at the Local Level: Maintaining Equity in the Distribution and Use of Resources*, in *SCHOOL DESEGREGATION PLANS THAT WORK* (C. Willie ed. 1984) 41, 43-44.

Willie feels that this white domination of desegregation planning has focused attention on the assignment of pupils to achieve proper ratios and the use of strategies which satisfy majority interests rather than minority interests. Such plans have had deleterious effects upon minority students. They force the minority students to bear a disproportionate share of the burden, including longer bus rides and a disproportionate assignment of minorities to special education classes. *Id.* at 43-44. Willie argues that only a desegregation planning board composed of both majority and minority educational leaders will survive the test of time. A planning group dominated by the majority may be able to implement its plans, but the minorities will be able to disrupt its effectiveness. *Id.* at 49-50.

110. One of the most attractive characteristics of a program of magnet schools is its flexibility. They can be adapted to serve the needs of almost every community. For a discussion of the importance of policy consensus and commitment at the executive board level, see *supra* notes 52-56.

111. See *supra* notes 58-59 for a discussion of the importance of community involvement and commitment.

112. In Boston and several other cities, the school board initially conducted a survey of parents and students, soliciting their interests in particular themes. These cities appeared to have great success in implementing their selected themes. See McMillan, *supra* note 26.

schools concept.¹¹³ The principals should then work closely with the executive board in implementing the remaining steps.

4. *Creation of Individual Magnet Schools*

The executive board, along with the principals, should establish the programs for each magnet school. The initial parent-student survey would dictate the themes to be implemented. Each school should have a definite, distinctive curriculum¹¹⁴ capable of attracting a racially heterogeneous mix of students.

5. *Selection of Staff*

The executive board and principals should select a staff dedicated to the idea of an integrated education.¹¹⁵ The staff, if possible, should have field experience in the theme of the magnet school in which they will be teaching. They should be included in the planning and implementation of the project to ensure their commitment. The staff also should be representative of the racial mix of the community.¹¹⁶

6. *Selection of Locations*

The site location for each magnet school should lend itself well to the speciality of the school.¹¹⁷ Each school should be accessible by public transportation, and be located in an area desirable enough to attract a racially heterogeneous mix of students.¹¹⁸

113. For a discussion of the role played by principals in a magnet schools program, see *supra* note 57.

114. The key words here are "distinctive" and "definite." The essence of a magnet school is its distinctiveness; this element sets it apart from the regular schools. This uniqueness attracts students from the community who would not normally attend such a school. Thus, a magnet school must not only begin with a distinctive mission, but maintain the distinction. The Department of Education survey defined "definiteness" as follows:

A magnet school's "definiteness" refers to the cohesiveness, coherence, internal coordination, and viability of the magnet program and curriculum. A magnet with high definiteness is one that has a strong identity, with the theme, curriculum, teaching methods, goals, activities, and staff effectively "meshed" to form a coherent whole. The magnet definiteness is really the process of putting all the individual elements together to form a highly identifiable and reputable program that students, parents and other educators in a district and community know to be a "good school," but also a unique and effective magnet school.

SURVEY supra note 20, at 65.

115. The staff play a pivotal role in determining the success of magnet schools as a tool for desegregation. One researcher on magnet schools found that: "The importance of staff development cannot be overemphasized. Precisely because integrated education is new, it requires personnel capable of doing new things in new ways. Consequently, adequate preparation should include programs to retrain or supplement training of teachers and principals." Maynard, *The Seattle Plan for Eliminating Racial Imbalance*, in *SCHOOL DESEGREGATION PLANS THAT WORK* 119, 125-26 (C. Willie ed. 1984).

In his study, Maynard found that the U.S. Commission on Civil Rights, the Seattle ESAA Advisory Committee and a subcommittee of Seattle school principals had all rated staff development in desegregation techniques as the crucial element in ensuring proper school desegregation. *Id.* at 126. See also *supra* note 57.

116. See *supra* note 109.

117. Vannoni, *supra* note 12, at 145-46. See also Doyle and Levine, *supra* note 12 at 267. For example, the New York High School of the Performing Arts is located close to the theater district, and its new campus is situated across the street from Juilliard and the New York Library of Music and just behind Lincoln Center. *Id.* at 267.

118. The Department of Education survey found that magnet schools can be located anywhere and achieve desegregation of each individual school; however, in order to achieve district-wide desegre-

7. *Transportation Plans*

The executive board should draw up plans for transporting students to the magnet schools.¹¹⁹ In most cases, a school district should be able to maintain its current bus routes. It may have to extend them or restructure them, however, as admittance to magnet schools is not based upon the regular attendance zones. A school district should not make the bus ride prohibitively long, however, as this would diminish the attractiveness of the magnet schools.¹²⁰

8. *Approximation of Racial Proportions*

The executive board should indicate the proposed racial proportions they would like to have in each magnet school. Ideally each school should have a minority population of at least twenty percent; however, the minority population should not exceed fifty percent.¹²¹

9. *Establishment of Supervisory Mechanisms*

The executive board should design a system for keeping the magnet schools on track. There should be a method of review to determine whether the objectives of the magnet schools program are being met. Periodic review should also be made of each individual magnet school to ensure that

gation, the magnet schools must be placed in racially and socioeconomically segregative locations. Specifically, the survey found that:

[I]f districts put magnets in racially and socioeconomically neutral or mixed sites that foster magnet desegregative success, this action can detract from districtwide desegregation of schools. This happens when magnets draw students away from segregated schools in ways that increase racial isolation, and when system leaders do not make comprehensive planning efforts.

SURVEY, *supra* note 20, at 88.

This finding of the Department of Education conflicts with an earlier study of the magnet schools program in Philadelphia. That study found that to be effective in desegregation, magnet schools had to be placed in racially and ethnically neutral territory. See Vannoni, *supra* note 12, at 145. The reason for this conflict is not immediately apparent. It could be that Philadelphia represents a unique city in which location of the magnet schools would not work other than in neutral areas. It also was not clear from the Philadelphia study whether they were interested in desegregating only the magnet schools themselves, or the entire school district. Because of the conflicting reports, the location of the magnet schools should be given particular attention by the executive board. The proposed national network would also be able to provide assistance on this matter.

119. Transportation costs contribute to the increased expense of magnet schools. For the 1980-81 and 1981-82 school years, magnet schools had 27% higher transportation costs than non-magnets. This difference in cost is attributable to the fact that magnet schools draw students from throughout the district rather than according to attendance zones. SURVEY, *supra* note 20, at 131.

120. Unfortunately, the 1984 Act strictly prohibits use of magnet school funds for transportation costs. 34 C.F.R. § 280.40(b). Congress needs to reconsider its decision in this area. It is detrimental to the implementation and effect of a magnet schools program to deny funding to such a key component as transportation. The appeal of magnet schools is that they are not tied to the regular attendance zones, and are thus accessible by all students. Congress, through its prohibition, is discriminating against those students (usually minorities) who cannot afford transportation to the magnet school of their choice.

121. These figures are the guidelines that were originally established by the government in extending grants under ESAA. Most education and desegregation experts would also agree with these figures. All experts agree that there is a "critical mass," a definite proportion of students that must be present (whether majority or minority) to achieve a quality integrated education. The researchers disagree, however, on what that exact percentage should be. See Willie, *supra* note 109, at 50 for a discussion of the critical mass theory.

its theme is being effectively carried out.¹²²

10. Establishment of a Community Support System

The executive board should establish a panel of parents to act as an advisory board to the executive board. Involving parents in the decision-making process increases their commitment to the project, and keeps the executive board in touch with the realities of each magnet school. A plan should also be developed which pairs local businesses, universities, and cultural institutions with each magnet school.¹²³ Under such a plan, the entire community can become involved in, and dedicated to, the magnet schools project.

The guidelines set forth above can assist school districts in implementing a program of magnet schools, but guidelines alone are not sufficient. Districts seeking to establish magnet schools need to communicate with other school districts. To this end, Congress should create a nationwide communications network. This network could provide technical assistance and support, and could link school districts with established and successful magnet schools programs with school districts interested in beginning such a program.¹²⁴

122. The establishment of effective supervisory mechanisms is one of the key criterion reviewed by the Secretary of Education. See *supra* note 103.

123. In his study of the magnet schools in Seattle, Maynard (*supra* note 115) found that:

[I]n desegregation planning, community knowledge and involvement cannot be over emphasized. In a major social and emotional change such as this, both district personnel and community people need to know what is happening and need to be involved as much as possible in determining the outcome. A continuous flow of information is a necessity.

None of this can be accomplished without a high degree of cooperation among administrators and staff throughout the district.

Maynard, *supra* note 115, at 147-48.

Community involvement can take a variety of forms. In Milwaukee, for instance, the superintendent of schools organized the entire community into 18 planning leagues or associations. Each league or association was racially diversified and consisted of people from areas of the inner city and surrounding neighborhoods. The superintendent encouraged these groups to assist the school system in planning for enhanced quality in desegregated schools. This community involvement in Milwaukee resulted in enthusiastic support for the magnet schools. Willie and Fultz, *supra* note 95, at 207-08. In Boston, the community became involved by pairing each magnet school with a local business, university, or cultural agency. The talent and resources provided by these institutions leads to enhanced educational experiences and gives magnet schools the necessary element of distinction. McMillan, *supra* note 26, at 162. See also *supra* notes 58-59.

124. This suggestion of a national network was proposed by the Department of Education survey. They found that the districts in their sample had reached out to existing magnet programs for information and advice. The survey suggested that technical assistance could be provided through dissemination networks already in operation (such as the National Diffusion Network and the National Institute of Education's Research and Development Exchange). SURVEY, *supra* note 20, at 232.

The survey found that school districts seeking to implement a magnet schools program want advice concerning identification and selection of magnet themes, magnet staff selection, identification and use of part-time staff, student selection, marketing of magnets and recruitment of students, and increasing magnet accountability. *Id.* at 233-34. The survey concluded that:

For very little additional cost, these organizations could assist with magnet development by conducting regional/state workshops and conferences, developing materials to aid magnet planning, and performing linking activities to place districts interested in magnets in touch with those that already have them.

Id. at 232.

CONCLUSION

Magnet schools are finally beginning to receive the attention and funding they need and deserve. A program of magnet schools provides school districts with an effective, attractive means of voluntary desegregation. Most importantly, magnet schools provide additional benefits—such as reduced community conflict and improved educational quality—lacking in other desegregation plans. Congress, in its treatment of magnet schools, is headed in the right direction, but it has not completed its journey. Every school district wishing to implement a magnet schools program should be given the opportunity. School districts should not have to compete with one another for funding, nor be expected to hold their breath at the start of each year waiting to see if Congress will appropriate more funds. Congress has a responsibility, in light of the continuing importance of school desegregation to the public, to facilitate the implementation and growth of effective desegregation plans.

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