

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

LEAGUE OF UNITED LATIN AMERICAN)	Case No.:	Case No. 90-1913-CIV-Moreno
)		
CITIZENS (LULAC); et al.,)		
)		
Plaintiff,)		
)		
vs.)		
)		
FLORIDA BOARD OF EDUCATION, ET AL.,)		
)		
Defendant)		
)		

STIPULATION MODIFYING CONSENT DECREE

On August 14, 1990, this lawsuit was settled and a Settlement Agreement was approved as an order of the Court. On January 17, 2003, Plaintiffs' moved to enforce the terms of the Consent Decree and on February 28, 2003, the Court ordered the parties to commence mediation immediately.

On April 25, 2003, the parties participated in mediation before former United States District Judge Edward B. Davis, in Miami, Florida. This is the first modification that the parties have sought of the original Consent Decree. The parties agree to modify the Consent Decree with respect to § IV (*Personnel*), as set forth herein.

1. Nothing herein is intended to diminish any option for endorsement or coverage set forth in the August 14, 1990, Decree. Rather, this stipulation sets forth an additional means by which a certified teacher may obtain ESOL subject area coverage. It also establishes training and/or educational requirement for persons holding administrative and guidance

counselor positions. All other requirements of § IV that are not inconsistent with this modification continue.

2. A certified teacher may obtain ESOL subject area coverage by virtue of passing a state approved ESOL certification examination. Any teacher who receives coverage in ESOL through this option shall be required to obtain 120 hours of in-service training or continuing education ESOL-approved courses within a three (3) year period of the date of their receipt of ESOL certification. This requirement includes those who have already been certified on the proficiency test method. Any ESOL-approved in-service hours and course work taken prior to gaining ESOL certification may be counted toward the required 120 post-certification hours.

3. Defendants shall require that school administrators and guidance counselors be required to obtain sixty (60) hours of in-service training or continuing education in ESOL-approved courses within a three (3) year period of the effective date of this Stipulation. Any school administrators and guidance counselors hired after the effective date of this Stipulation shall have three (3) years from the date of being hired to meet this requirement. Any ESOL-approved in-service hours and course work taken prior to the effective date of this Stipulation or prior to hiring may be counted toward the required sixty (60) post-certification hours.

4. The Department shall inform all districts of the terms of this modification within thirty days of court approval. It shall further require all districts to develop reasonable procedures to assure that all affected personnel are making regular progress in meeting its terms, which shall be reviewed in monitoring visits. No ESOL certificate shall be renewed for any teacher that obtained ESOL subject area coverage through the option

described in ¶2 who has not completed the requisite training three (3) years.

5. Plaintiffs' designated experts will be given secured access to review the active ESOL subject area tests and to provide meaningful input to the Department regarding changes that might be suggested regarding the test, item specifications and the skills and competencies to be tested. The process for review may involve any of the following.

- (a) Plaintiffs may designate up to five experts who will be given access to the two active ESOL subject area certification tests. As part of this review, these experts will have to travel to Tallahassee and sign the Department's standard test security agreement prior to reviewing the tests. The review will take place in the presence of a Department employee and any item specific comments or notes must be given to the Department's designee before leaving at the end of the review period. No item specific notes or documentation may be taken out of the secure test reviewing area.
- (b) Upon request of the Plaintiffs and/or their designated experts, the item specifications may be made available to the designated experts only. The experts may not copy or distribute any of the item specifications to any other individual or entity, and must return the item specifications to the Department prior to the date of the above-referenced test review.
- (c) Defendants will make available to Plaintiffs' experts as part of the access provided under ¶5(a) above, all material relied upon in the development of the tests.

(d) The date for the above-referenced test review shall be set by the parties for the month of August, 2003. It is understood that a review might take more than one day, and upon request of Plaintiffs' experts any reasonable request for more time shall be accommodated.

(e) The Department shall have ninety (90) days after the receipt of the suggestions and comments from the Plaintiffs' designated experts to review said suggestions and comments and shall thereafter have an additional sixty (60) days to respond.

6. Defendants agree to perform a substantial review of the existing ESOL certification test instrument commencing in 2004 and Plaintiffs and or their designees' input provided for as specified in ¶5 above will be considered in the review as provided for in ¶5 above. The product of this review shall provide reasonable assurance that the test adequately measures knowledge of each of the five (5) areas set forth in § IV.A.I (a) of the Consent Decree. The review will be completed no later that July 1, 2006.

7. Any decision about modification to the ESOL certification test, as well as the content and curricula of post-certification training, is solely within the discretion of the Defendants so long as the product meets professional standards and is congruent with ¶6.

8. This Stipulation shall become an addendum to § IV of the Consent Decree, and shall have the full force of the Consent Decree after approval by the Court. To the extent that anything herein is incompatible with the Decree, this Stipulation shall govern.

9. The parties agree that within twenty (days) of signing this Stipulation, they will jointly file with the Court a Motion to Approve Stipulation Modifying the Consent Decree.

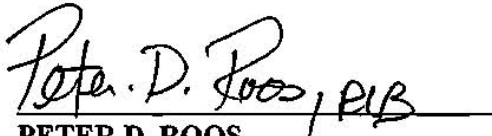
10. Plaintiffs agree that within five (5) days of the Court approving the Stipulation, they will move the Court to withdraw all pending motions regarding their efforts to enforce the Consent Decree.

11. The Defendants agree to commence rulemaking if necessary to effectuate the terms of the Stipulation within ninety (90) days of Court approval.

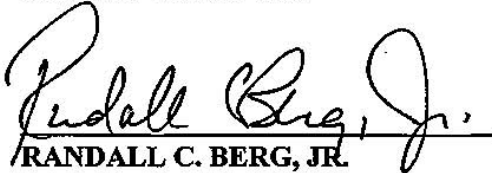
12. If the Court does not approve this Stipulation, then it shall be deemed null and void, and all parties shall be placed in the same position as if this Stipulation was never proposed or agreed to by the parties.

IN WITNESS WHEREOF, the parties to this Stipulation of Abatement have executed the same as of this 2nd day of September, 2003.

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