

1 STUART BIEGEL  
2 Consent Decree Monitor

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7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
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10  
11 SAN FRANCISCO NAACP, et al, )  
12 Plaintiffs, )  
13 vs. )  
14 SAN FRANCISCO UNIFIED SCHOOL )  
15 DISTRICT, et al, )  
16 Defendants )  
17 )  
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No. C-78 1445 WHA  
(Related Case: Ho v. SFUSD,  
No. C-94-2418 WHA)  
RESPONSE OF CONSENT DECREE  
MONITOR TO THE SCHOOL  
DISTRICT'S JULY 23, 2004 OFFER  
OF PROOF

On behalf of the Consent Decree Monitoring Team, and as per the request of this Court, I am hereby filing this response to the San Francisco Unified School District's July 23, 2004 Offer of Proof.

The District's July 23<sup>rd</sup> filing is a step in the right direction, particularly in the section on student assignment. We commend the District for its forthrightness in acknowledging the existence of resegregation, recognizing the parameters of resegregation's adverse effects, and beginning to move in a direction that could lead to changes in the status quo.

Less forthright, however, is the District's section on academic achievement. While acknowledging the existence of an achievement gap, the District does not appear willing to

1 confront just how bad things are, and insists – in spite of all evidence to the contrary – that the  
2 gap is narrowing. As we demonstrate below, this is simply not the case.

3  
4 Indeed, in spite of current efforts by dedicated educators of good faith and good will,  
5 resegregation continues unabated, the African American GPA over a four-year period has not  
6 improved, the balkanization of the District’s high schools is only increasing, the attendance gap  
7 on the basis of race and ethnicity has widened, the number of schools at the lowest rank of “1”  
8 on the academic performance index (API) has increased,<sup>1</sup> and SFUSD African American student  
9 performance is worse than their counterparts in other cities on three major indicators...the CAT-  
10 6, the CST, and the API base. In addition, SFUSD tests a lower percentage of its African  
11 Americans than any other of these major urban districts,<sup>2</sup> and thus the actual parameters of the  
12 achievement gap may be even worse than is reflected in current scores.

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15  
16 As we did in our March 2004 Supplemental Report, we address academic achievement  
17 issues first, because the existence of a persistent and dramatic achievement gap is the central  
18 reality confronting the entire community within the context of the Consent Decree.<sup>3</sup> We then  
19 turn to a brief analysis of the student assignment issues raised in the District’s filing.

20  
21 In our section on academic achievement, we present a brief synthesis of all relevant data  
22 regarding the achievement gap that has been presented thus far, supplemented by recent tables  
23 developed by the Monitoring Team. We find that, taken together, all the data leads inexorably to  
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25 <sup>1</sup> Since 1999, the State of California pursuant to the Public Schools Accountability Act has ranked school according  
26 to performance on a scale of 1-10, 1 being the lowest and 10 being the highest. These rankings have been posted by  
27 the California Department of Education on its Web site since 2000, and we continue to report on the figures  
28 annually. *See* Appendix 3, *infra*, containing the most recent rankings...which were released in March 2004.

<sup>2</sup> *See infra*, Appendices 1 & 2.

<sup>3</sup> As we have reported in the past, the desegregation requirements of this Decree and the academic achievement requirements of this Decree are inseparable, and designed to work in tandem.

1 the conclusion that the achievement gap is not narrowing, and that much more needs to be done  
2 before compliance can be found with the relevant Consent Decree paragraphs in this regard.

3  
4 In our section on student assignment, we find that the District in its Offer of Proof has  
5 taken three very significant steps toward complying with the Paragraph 12-13 desegregation  
6 requirements: admitting the parameters of the problem, beginning to build a case for the  
7 inclusion of race as a factor in student assignment, and providing information about its bus  
8 transportation system that was heretofore unavailable. We commend the District for moving  
9 forward in this regard, and look forward to additional steps that can and indeed must be taken  
10 before compliance with these paragraphs can be found.

11  
12 It is important to emphasize at this point that *time is very much of the essence* here...both  
13 in terms of the ongoing impact that current policies are having on the lives of our young people,  
14 and in terms of the logistics surrounding any efforts to change the status quo. With the fourth  
15 year of the application process under the current student assignment plan scheduled to begin in  
16 *October 2004*,<sup>4</sup> the parties will need to move quickly and immediately if any changes to that  
17 process can take effect for the 2005-2006 academic year.<sup>5</sup>

18  
19 \*\*\*\*\*

20  
21 At the end of our analysis in this document, after addressing the District's discussion of  
22 academic achievement and student assignment, we conclude – as we did in our June 2004 filing  
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24 <sup>4</sup> The District states in its Offer of Proof, at Page 32, that the current student assignment plan with its accompanying  
25 diversity index has only been in effect for two academic years. This is terribly misleading. In actuality, three full  
26 application and enrollment cycles have been completed, a fourth is scheduled to begin in a few months, and six full  
27 application and enrollment cycles have in fact been completed since the Ho Settlement of 1999 and the emergence  
28 of a pattern of resegregation that has not abated.

<sup>5</sup> While the timetable for 05-06 enrollment has not yet been posted on the District's Web site, if a calendar similar to  
last year's is adopted, school enrollment fairs will begin in October, the Lowell applications will be due in  
December, and the Round One applications will be due in January. See  
[http://portal.sfusd.edu/template/default.cfm?page=policy\\_placement\\_keydates](http://portal.sfusd.edu/template/default.cfm?page=policy_placement_keydates) (visited July 26, 2004)

1 – that the activity that has taken place since the filing of our Supplemental Report in March  
2 continues to reflect the value and importance of judicial oversight. There has been significant  
3 movement in the right direction as a result of this Court’s directives set forth on March 18<sup>th</sup> and  
4 on July 1<sup>st</sup>. Continued movement in this direction can only serve to benefit the young people of  
5 this community. In this context, therefore, we urge the Court to maintain judicial oversight  
6 beyond the current targeted end date of December 31, 2005 to ensure that concrete change does  
7 indeed occur.

8  
9 **I. Response to the District’s Academic Achievement Section**

10  
11 The District has conceded that there is an achievement gap, but it has stated that the gap  
12 is narrowing.

13  
14 We have found, however, that this wide-ranging and multi-faceted gap of dramatic and  
15 shocking proportions is *not* narrowing.

16  
17 In the following sections, we summarize the data that the District has presented in  
18 support of its assertions, the data that the Monitoring Team has presented, and additional new  
19 findings that are relevant to this inquiry. It is clear from this summary that there has been a  
20 modicum of progress in some areas on some measures, but there is also evidence of highly  
21 troubling movement in other areas in the wrong direction. And there is much additional  
22 evidence that indicates no movement in either direction over time. Taken together, the picture is  
23 one of little or no change since the onset of resegregation in 1999.

1                   **A. The Achievement Gap Within San Francisco**

2  
3     • There is a significant achievement gap between the African American and Latino students and  
4 the overall student population – both District-wide and at numerous SFUSD schools – with  
5 regard to performance on recent standardized tests.<sup>6</sup>

6  
7     • Our updated analysis of high school Grade Point Averages has revealed that the overall African  
8 American student GPA has remained virtually unchanged over the past 4 years. In the Fall of  
9 2000, the overall African American student GPA was 1.84, and in the Spring of 2004 it was 1.86,  
10 a statistically insignificant change.<sup>7</sup>

11  
12     • Our examination of Academic Performance Index (API) trends since the API 1-10 rankings  
13 were first instituted in 2000 show that the number of SFUSD schools with a ranking of “1” (the  
14 lowest possible) has *increased* each year, going from 4 (2000) to 8 (2001) to 12 (2002) to 13  
15 (2003) to 19 (2004).<sup>8</sup> The schools that are staying at or dropping to a “1” are invariably those  
16 with large percentages of African American and Latino students.<sup>9</sup>

17  
18     • Our recent analysis of API rankings for the District’s high schools shows that there has been  
19 little or no change in the achievement gap between SFUSD high schools that we documented in  
20 Report #17, July 2000.<sup>10</sup>

21  
22     <sup>6</sup> See generally Supplemental Report of Consent Decree Monitor Regarding the Achievement Gap and Related  
23 Issues, Filed March 12, 2004 [hereinafter *March 2004 Supplemental Report*].

24     <sup>7</sup> See Amended Response of Consent Decree Monitor to the Parties’ June 17, 2004 Joint Response Regarding the  
25 March 2004 Supplemental Report, Filed June 29, 2004, at Page 9 [hereinafter *June 2004 Response to Parties’*  
26 *Response*]. This data was supplemented by information received from the District July 2, 2004 regarding the most  
27 recent high school Grade Point Averages for Spring 2004.

28     <sup>8</sup> See generally California Department of Education Web site, Academic Performance Index home page,  
<http://www.cde.ca.gov/ta/ac/ap/index.asp> (visited July 27, 2004).

<sup>9</sup> See *June 2004 Response to Parties’ Response*, at Page 9.

<sup>10</sup> See *infra*, Pages 6-7.

1  
2 • In addition, we have recently found a growing *attendance* gap between African American high  
3 school students and other students in the District. While high school attendance has increased  
4 over a five-year period for just about every racial and ethnic group, the African American  
5 attendance rate is virtually identical in Spring 2004 to what it had been in Spring 2000.<sup>11</sup>

6  
7 • Finally, in related data regarding school discipline disparities received from the District this  
8 morning pursuant to the Paragraph 38 requirements of the Decree, we have found that the  
9 *suspension rate* for African American students increased over the past year to the highest point  
10 since we began monitoring in 1997. Suspensions of African American students in SFUSD  
11 increased from 1253 to 1432, rising to 53.5% of the entire student population. African  
12 Americans comprise approximately 14.5% of the student population in the District, but comprise  
13 53.5% of all the suspensions...and over 66% of all suspensions at the elementary grades.<sup>12</sup>

14  
15 \*\*\*\*\*

16  
17 The achievement gap within the District is perhaps best reflected in an analysis of  
18 performance by the major high schools on the API index over time. Addressing this issue in our  
19 July 2001 Annual Report, we wrote:

20  
21 “...SFUSD school performance continues to reflect a widening gap between the “haves”  
22 and “have-nots.” Particularly noticeable at the high school level at this point in time is a  
23 subtle but widely recognized system that has effectively sorted students into schools  
24 according to their current achievement levels. The school-by-school profile includes one  
25 exceptional high school (Lowell), four other highly successful high schools (Lincoln,  
26 SOTA, Wallenberg, & Washington), four mid-range, working high schools (Burton,  
27 Galileo, ISA, & Thurgood Marshall), and four extremely low performing high schools  
28 (Balboa, McAteer, Mission, & O’Connell)...” Report #18 at Page 1.

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<sup>11</sup> See *infra*, Appendix 4.

<sup>12</sup> Pupil Services Department, Consent Decree Annual Report (2003-2004) at Pages 4-5, Susan Wong, Executive Director (on file with the Monitoring Team).

1 Three years later, an examination of all these schools and their performance on the API rankings  
2 since the system was first implemented by the State reveals little or no progress in that regard.  
3 The high schools that were performing well five years ago continue to perform well. The high  
4 schools that were at the mid-range five years ago are still at the mid-range, and the low-  
5 performing high schools remain low-performing, with the exception of McAteer, which was  
6 closed. The balkanization described three years ago between the “haves” and the “have-nots”  
7 continues unabated, exacerbated by the resegregation and the persistent achievement gap  
8 between and among racial and ethnic groups.

**Academic Performance Index (API) Rank  
of Major SFUSD High Schools Over Time**

	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>
Lowell	10	10	10	10	10
SOTA	10	9	9	10	9
Washington	8	8	7	8	9
Lincoln	8	8	7	7	8
Wallenberg	7	7	7	8	8
Marshall	5	4	4	4	3
Burton	4	4	3	6	4
Galileo	3	4	3	3	3
ISA	3	4	3	2	3
O'Connell	2	1	2	2	1
Mission	1	1	1	1	1
Balboa	NR	1	1	1	1

**B. The Achievement Gap Between SFUSD and Other Major Urban Districts**

- On the CAT-6 test, a norm-referenced standardized test administered for the first time in 2003, African American students in San Francisco scored lower than their African American counterparts statewide overall in every grade in reading, and in every grade in math.<sup>13</sup>
- On the California Standards Test (CST), the percentage of SFUSD’s African American students scoring at proficient or above (the “No Child Left Behind” benchmark) was lower in

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<sup>13</sup> See March 2004 Supplemental Report at Page 14.

1 both English/Language Arts and Math than their African American counterparts in every other  
2 urban district.<sup>14</sup>

3  
4 • On the Academic Performance Index (API) 2003 base (which is comprised in great part of  
5 CST scores at every level, including basic and proficient), while SFUSD overall scored the  
6 highest of all the major urban districts in the state, the SFUSD African American students in San  
7 Francisco scored the lowest when compared with their African American counterparts in these  
8 same major urban districts.<sup>15</sup> *Highest in the state overall, lowest in the state for African*  
9 *Americans on both the California Standards Test and the Academic Performance Index Base.*

10  
11 • On the CST in math, SFUSD's Asian Americans scored the highest in the state of all racial and  
12 ethnic groups. SFUSD's African Americans scored the lowest in the state of all racial and ethnic  
13 groups.<sup>16</sup>

### 14 15 **C. Evidence Presented by the District in This Regard**

16  
17 • The District has represented (Offer of Proof at Page 30) that more African American and  
18 Latino students are taking Algebra, and that therefore the respective scores of these students on  
19 the Algebra portion of the CST have increased. This is welcome news.

20  
21 • The District has documented the fact that approximately 80% of its schools met their “growth  
22 targets” (Offer of Proof at Page 31), as designated by the State pursuant to the NCLB. Since the  
23 meeting of growth targets is a minimum baseline requirement under the NCLB, and sanctions  
24 accrue if the target is *not* met two years in a row, this information is welcome news. However, it  
25 is not cause for celebration. It simply means that these schools are complying with the legal

26  
27 <sup>14</sup> See *infra*, Appendices 1 & 2.

28 <sup>15</sup> See *June 2004 Response to Parties' Response*, at Page 8.

<sup>16</sup> See *infra*, Appendix 2.

1 requirements of the NCLB.<sup>17</sup> The same percentage of schools statewide – approximately 80% --  
2 met their growth target.<sup>18</sup> And every middle school in SFUSD met its growth target, but many of  
3 those schools remain among the lowest performing in the City and the State, including Burbank,  
4 Gloria R. Davis, Franklin, Maxwell, and Everett. All these are highly troubled middle schools  
5 that either remain at a “1” on the API or have dropped to a “1” on the API this past year.  
6 Meeting their growth target has not changed these realities. And it is no indication of any  
7 progress toward closing the achievement gap.

8  
9 • The District cites to an increase in the 2002-2003 “API Growth score” for African American  
10 students (Offer of Proof at Page 29), which is of course a welcome indicator. However, it must  
11 be noted that this score was updated five months later by the 2003 “API Base,” which essentially  
12 took the same information on which the “growth score” was based but added in new California  
13 standards-based test results. As a result of this correction, the 556 score for SFUSD African  
14 Americans cited by the District, when updated with the more current data, actually dropped to  
15 542, the lowest for African Americans among major districts in the State.<sup>19</sup>

16  
17 • The District continues to present repetitive evidence in each of its filings regarding a small but  
18 incremental improvement in the number of students reaching “basic or above” (the level *below*  
19 “proficient or above”) on the 2003 CST compared to the previous year (Offer of Proof at Pages  
20 29-30). As referenced in our March 2004 Supplemental Report (at Page 12, Note 25), this data  
21 shows that for 2003 a slightly higher percentage of both African American students and Latino  
22 students reached this level in English/Language Arts compared to the District’s overall numbers  
23

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24 <sup>17</sup> See generally the “No Child Left Behind” section of the California Department of Education Web site,  
25 <http://www.cde.ca.gov/nclb/index.asp> (visited July 27, 2004).

26 <sup>18</sup> See *March 2004 Supplemental Report*, at Page 8, Note 20.

27 <sup>19</sup> The “API Growth” for 2002-2003 – cited by the District – is in fact a composite of updated test results calculated  
28 in the same manner as the 2002 “API Base.” The 2003 API Base, released five months after the API Growth, is an  
updated composite of objective indicators that also includes new California standards-based test results. See 2003  
Academic Performance Index Base Report Information Guide,  
<http://www.cde.ca.gov/ta/ac/ap/documents/infoguide03b.pdf> (visited July 27, 2004).

1 for Grades 2-11, and that a slightly higher percentage of Latino students reached this level in  
2 math compared to the District's overall numbers for Grades 2-7. Yet these numbers by  
3 themselves do not support the assertions made by the District in the recent court appearance that  
4 "significant numbers of African American and...Latino students have moved from below basic  
5 to basic."<sup>20</sup> In fact, it is clear from the District's new table (Offer of Proof at Page 30 - Top) that  
6 even by this measure the achievement gap is not closing, since in two of the three categories  
7 presented the African American student improvement percentages were actually lower than the  
8 overall District improvement percentages (0.7% improvement for African Americans on the CST  
9 ELA in 01-02, compared with a 1.4% improvement for the District as a whole; and 4.7%  
10 improvement for African Americans on the CST Math in 02-03, compared with a 5.1%  
11 improvement for the District as a whole).<sup>21</sup>

12  
13 • The District presents new evidence of a very small increase in the percentage of students  
14 scoring at "proficient or above" in each of the last two years on the CST ELA (Offer of Proof at  
15 Page 30 - Bottom). Yet in each of the categories presented the gap has actually widened. From  
16 01 to 02, the District improved by 3%, but the African Americans and Latinos each improved  
17 only 1%. From 02 to 03, the District improved 3.6%, but the African Americans only 1% and  
18 the Latinos only 3%. By the District's own evidence, the gap is widening, not narrowing. (In  
19 addition, it must be noted that these increases are so small in three of the six categories presented  
20 as to amount to virtually no change at all. 0.7%, 1.2%, and 0.3% increases at basic or above  
21

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22 <sup>20</sup> See Transcript of July 1, 2004 Proceedings at Page 45 (emphasis added).

23 <sup>21</sup> We note, as well, that no matched scores are being presented by the District in this context, and that there is  
24 therefore no evidence that that students who scored "below basic" in previous years are now scoring at "basic or  
25 above." The slight increase in percentages of students at basic compared to the previous year could reflect the  
26 performance of students who were not even in the District the year before.

27 But even if we grant the District its stated premise (without being provided with direct evidence in support of this  
28 premise) that – as mentioned on numerous instances since March 12<sup>th</sup> – they are "getting more kids to basic," it is  
the functional equivalent of saying, for example, that more fifth graders are reading at a third grade level. Even if  
that is an improvement (and it is not clear that it is), they may never get beyond that level, and may either drop out  
or graduate with deficient skills and limited opportunities. "Proficient or above" is the basic NCLB standard, and as  
we have reported in our March 2004 Supplemental Report, it means "meeting the content standards for that grade  
level." It is the functional equivalent of scoring at grade level. Basic is a level below. *March 2004 Supplemental  
Report* at P. 3, Note 9.

1 from 01 to 02 on the CST ELA, 1% increases for African Americans and Latinos at proficient or  
2 above from 01 to 02 on CST ELA, and a 1% increase for African Americans at proficient or  
3 above from 02 to 03 on the CST ELA are all statistically insignificant.)  
4

5 Overall, even adding in all of the evidence presented by the District in this area, the  
6 picture continues to be highly troubling. There is an achievement gap both within SFUSD and  
7 between SFUSD students of color and other students of color in major California urban districts,  
8 and this gap is *not* narrowing.  
9

10 Finally, we would add a cautionary note regarding any efforts to rely on the statement  
11 that “SFUSD is not alone in facing such achievement gaps” (Offer of Proof at Page 28). While it  
12 is true that achievement gaps are prevalent throughout the State and across the nation, this should  
13 not in any way serve as an explanation for lack of progress or an excuse for inaction. As we  
14 stated in our March 2004 Supplemental Report:  
15

16 “...[W]e would emphasize that it is not sufficient for any of us...to fall back on the old  
17 saw that the achievement gap is a persistent national problem, and that San Francisco is  
18 not alone. A large number of students in this City are not succeeding, their very lives are  
19 on the line, and in too many instances their schools are failing them.” Supplemental  
20 Report at Pages 20-21.  
21

22 In this great City, we can and must do better.  
23

## 24 **II. Response to the District’s Student Assignment Section**

25 As stated above, we commend the District for taking several significant steps toward  
26 complying with the Paragraph 12-13 desegregation requirements. While the District has not yet  
27 committed to any concrete change, the first step in such a process is to acknowledge the nature  
28 and extent of the problem. We have found that the District has done this for student assignment,  
documenting the parameters of the growing resegregation in a forthright manner. In addition, we  
are gratified that the District – through the work of Dr. William T. Trent – appears to have found,

1 as the Monitoring Team has found – that there is a direct connection between this resegregation  
2 and problems of academic achievement.

3  
4 In addition, we are very pleased to find, in the District’s July 23<sup>rd</sup> filing, extensive  
5 documentation regarding the SFUSD bus transportation system. Such information will not only  
6 help parents and students make more informed choices regarding prospective schools, but it will  
7 also facilitate an analysis of these realities that can lead to long-overdue reform in this area.

8  
9 A. Continuing Compliance Issues

10  
11 As stated in our June 2004 filing, we have found a lack of compliance with the “school-  
12 by-school desegregation” provisions of Paragraphs 12 & 13, by virtue of the fact that  
13 resegregation continues to increase dramatically, and nothing is being done to change the  
14 methodology of assigning students to the schools. All the detail set forth in the Offer of Proof  
15 regarding the District’s student assignment plan and its efforts to streamline the process reflect  
16 good faith compliance with the 1999 and 2001 Settlement Agreements. But compliance with the  
17 settlement agreements does not in and of itself constitute compliance with all the terms and  
18 conditions of the Consent Decree in this context.

19  
20 Under well-settled Fourteenth Amendment law, a District operating pursuant to a  
21 desegregation order or decree has an affirmative obligation to desegregate its schools to the  
22 extent practicable. Consistent with this obligation, Paragraph 12 articulates SFUSD’s  
23 responsibility “to achieve the broadest practicable distribution throughout the system of students  
24 from the racial and ethnic groups which comprise the enrollment.”

25  
26 Nothing has been presented in the Offer of Proof that would alter the Monitoring Team’s  
27 conclusions that there has been a lack of compliance with this provision. Indeed, many  
28 statements in this document only reinforce these conclusions. The District is not addressing

1 Consent Decree requirements to the extent practicable. It is ignoring the findings and  
2 recommendations of both the Monitoring Team and the Consent Decree Advisory Committee.

3  
4 At least three key interrelated things can and should be done in this context: adjustments  
5 in the transportation system, adjustments in student assignment plan methodology (which could  
6 include changes in the current diversity index factors or even the creation of a new system), and  
7 the use of race as a factor in a narrowly tailored fashion. By not taking *any* concrete steps to  
8 make changes such as these – and instead continuing with the status quo year-after-year, in spite  
9 of clear and consistent findings that the current student assignment plan is not working to  
10 achieve the goals of Paragraphs 12-13<sup>22</sup> – the District is not complying with the Consent Decree.

#### 11 12 B. A Note Regarding Enrollment Data

13  
14 In its July 23<sup>rd</sup> filing, the District cites recent projected enrollment patterns, and includes  
15 in the attachments projected Fall 04 enrollment data by race/ethnicity. However, the data  
16 included is from March 2004, after the “Round One” placements were made. An additional  
17 round of placements has occurred since then, other activity has taken place based on appeals, and  
18 additional students are applying to schools for the first time.<sup>23</sup> It is unclear to us why the District  
19 has neither included nor disseminated the more current data in this context.

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27  
28 <sup>22</sup> See generally Paragraph 13 Section of Report #20, July 2003. See also *March 2004 Supplemental Report*,  
Appendix 4.

<sup>23</sup> See <http://portal.sfusd.edu/template/default.cfm?page=policy.placement.keydates> (visited July 26, 2004).

1           **III. Conclusion**

2  
3           Overall, the Monitoring Team has found that – as a result of the recent procedural activity  
4 documented in our June 2004 filing and in this Response today – movement in the right direction  
5 has indeed occurred. We look forward to continued momentum in this regard. We know first-  
6 hand just how highly skilled and dedicated so many of the educators are in this City. We have  
7 seen the stellar results of their efforts at many of our school sites, and have recently reported on  
8 their successes in closing the achievement gap at these sites. These successes can and should be  
9 replicated throughout the SFUSD community.

10  
11           There are many people, heroes and heroines in their respective neighborhoods, who know  
12 what needs to be done to effect positive change. We have what it takes to move forward here.  
13 The status quo at many school sites is untenable. We urge the Court to retain jurisdiction until  
14 significant change occurs and the pressing issues that have been identified are addressed to the  
15 extent practicable.

16  
17  
18 Dated: July 28, 2004

Respectfully submitted,

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22 STUART BIEGEL  
23 Consent Decree Monitor  
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