

Judge Says District Has Failed to Meet Service Deadlines

By Bill Turque
Washington Post Staff Writer
Thursday, September 4, 2008; B04

A federal judge criticized District officials yesterday for their failure to meet the terms of a 2006 court order to eliminate a backlog of D.C. schoolchildren awaiting special education services.

"This is a binding obligation, and it is not being met," said U.S. District Judge Paul L. Friedman, who signed the consent decree settling *Blackman v. District of Columbia*, a class-action lawsuit brought by parents protesting the public school system's delay in providing services to children with learning disabilities and physical or behavioral challenges.

Friedman was responding to a new report by court monitors showing that hundreds of hearing officer decisions and settlement agreements have yet to be implemented within the timeframe required by the court order.

The order also called for the District to reduce the population of 2,359 special education students in private schools at a cost of \$200 million a year because the D.C. schools can't meet their needs.

With [D.C. Schools Chancellor Michelle A. Rhee](#) and State Schools Superintendent [Deborah A. Gist](#) listening from the defendants' table, Friedman said they had failed in the basic task of establishing who in their organizations was responsible for carrying out the mandates of *Blackman*.

"I've read in the papers about all of Ms. Rhee's grand plans," said Friedman, who praised the chancellor for her reform efforts. But he added that the overarching theme in her initiatives was one of accountability.

"My fundamental problem here is the lack of accountability, lack of coordination, lack of oversight, a lack of specific people who are rolling up their sleeves to get the job done," he said.

Acting Attorney General [Peter Nickles](#) offered no defense for the lack of results.

"Are you frustrated? I'm frustrated," said Nickles, who pledged that his office would become more involved in seeing that the school system complied with the order.

"Are we making progress? I like to believe we are. Is success in sight? No," he said.

The report, written by court monitors Amy Totenberg and Clarence J. Sundram, described a fragmented internal effort to address the problem. After Rhee assumed her post in mid-2007, she replaced Marla Oakes, executive director of special education under Superintendent [Clifford Janey](#), and named Phyllis Harris deputy chancellor for special education. Despite Harris's title, much of the critical work on compliance with *Blackman* was led by another top Rhee lieutenant, Richard Nyankori. For many months, their staffs worked as separate entities, the report noted.

Friedman said he was particularly concerned with the monitors' finding that nine school officials responsible for working through the case backlog were reassigned in June 2007. He also criticized the city's reliance on outside contractors, including a Pennsylvania firm, Columbus Educational Services, hired to help with psychological and educational assessments of students. Columbus failed to bring adequate staffing to the project, had its \$2.3 million contract terminated before the end of the school year and left 632 assessments incomplete, according to the report.

Neither Rhee nor Gist spoke in court. Friedman said he would soon issue an order with questions he would like them both to answer at a future hearing.

Afterward, Rhee said she didn't agree with the analysis of Friedman and the monitors that the system lacked accountability, but she declined to elaborate.

"We'll make that all clear when we come back," Rhee said.

Friedman also had critical words for plaintiffs attorney Ira Burnim. He said Burnim had devoted too much energy to the broader problems of the special education system and not enough to forcing the District to follow the core mandate of *Blackman*, which is to get timely help to children who need it.

Burnim said he wanted to give Rhee and [Mayor Adrian M. Fenty](#), who made school reform a top priority when he became mayor last year, a chance to respond.

Friedman scoffed at Burnim's suggestion that he would be open to filing a motion that the District be held in contempt of court if the judge thought it was warranted.

"It's not for me to tell you whether to file a motion for contempt," Friedman said.