



City of Boston Archives and Records Management Division

## Guide to the Law Department records

### Morgan v. Hennigan and related cases files

Finding aid prepared by Kristen Swett  
This finding aid was produced using the Archivists' Toolkit

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<b>Title:</b>	Morgan et al. v. Hennigan et al. and related cases files
<b>Collection No.:</b>	0700.028
<b>Dates:</b>	1967-1979
<b>Quantity:</b>	30.0 Cubic feet

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#### Historical note

In 1965, Massachusetts passed the Racial Imbalance Act which required desegregation plans from local school committees found to be imbalanced and to withhold funds if necessary. The first racial census of Massachusetts schools detected forty-six racially imbalanced schools in Boston. As required by the Racial Imbalance Act, the Board of Education requested the School Committee in October of 1965 to submit a desegregation plan. The plan submitted by the School Committee in December of 1965 was found to be inadequate and the Board of Education voted to withhold funding in April of 1966. The School Committee filed suit to release the funds and to challenge the constitutionality of the Racial Imbalance Act. The Suffolk Superior Court found that the Board of Education had acted improperly in withholding funds but the decision was overturned on appeal by the State Superior Court

in January of 1967 and ordered the School Committee to submit an acceptable plan within 90 days. The U.S. Supreme Court refused to hear the School Committee's appeal in 1968. The Board of Education did accept the plan submitted by the School Committee hoping to continue the process towards full compliance.

In October of 1970, the Massachusetts Commission Against Discrimination (MCAD) filed suit against the Boston School Committee on behalf of the father of Christine Underwood, a black student denied entry to Roslindale High School. In June of 1971, MCAD found the School Committee guilty of discrimination in the use of the open enrollment policy and ordered the committee to eliminate racial imbalance. The School Committee ignored this ruling and in October of 1971, MCAD filed suit seeking enforcement of the order. This case was delayed for the next two years. In December of 1971, the federal Department of Health, Education and Welfare (HEW) of the Office of Civil Rights charged that the City was violating Title VI of the Civil Rights Act by tracking minority students through middle schools and white students through junior highs. In April 1974, after months of review and hearings, the HEW review board and administrative judge upheld the allegations.

Also, in 1971, the Board of Education withheld funds for Boston alleging violations of the Racial Imbalance Act subsequent to December 29, 1971. The main issue was the School Committee's practice of making it difficult for black students to use the open enrollment policy, while routinely granting transfers to white students. After months of negotiations, the School Committee agreed to conduct open enrollment to eliminate racial imbalance. The Committee's concessions included redistricting of four elementary schools in Dorchester including the brand new Lee School. The Committee reluctantly agreed to redraw district lines but due to intense protest from parents and the community reversed its decision and the Board of Education voted unanimously to withhold \$14 million in state aid and suspended approval of all new school construction. The State Superior Court ruled that the Board of Education acted arbitrarily in withholding funds and ordered the Board of Education to produce a new plan complying with the Racial Imbalance. The State Plan would eventually become Phase I in the desegregation of the Boston Public Schools.

After the School Committee reversed its decision on the Lee School, Civil Rights lawyers saw their opportunity. On March 15, 1972, the Harvard Center for Law and Education filed a class action suit on behalf of fifteen black parents and forty-three children, selecting as the lead plaintiff a twenty-four-year-old mother of three, Tallulah Morgan. The basis of the suit was the violation of the thirteenth and fourteenth amendments of the U.S. Constitution as well as the 1964 U.S. Civil Rights Act. They charged that the defendants, the School Committee, Board of Education and Education Commissioner had intentionally brought about and maintained racial segregation in the Boston Public Schools. Since James Hennigan was chair of the Boston School Committee, the case became known as Morgan v. Hennigan. The Mayor and the Public Facilities Department were added as defendants in the case. The case was randomly assigned to Judge Wendell Arthur Garrity.

Judge Garrity hears the case in 1972 and 1973. He delays his decision waiting for the results of two cases before the Supreme Court. On June 21, 1974, Judge Garrity issues his opinion. He finds that the defendants had engaged in de facto segregation (segregation as a result of action). As a preliminary measure, the Judge orders the School Committee to implement the Board of Education's plan in September of 1974 (Phase I) until the Committee could produce a plan of their own. This plan called for redistricting and busing. This plan was met with protests and violence in the fall of 1974. After the School Committee, repeatedly failed to submit an acceptable plan, Judge Garrity appointed four court masters and two desegregation experts to draw up a new plan. The Masters' Plan is initially rejected by Judge Garrity who then orders the Court Experts to further modify the plan. The revised Masters' Plan is released in a comprehensive desegregation order on May 10, 1975. This plan becomes known as Phase II. This plan created a citywide magnet district open to all students, created college/university pairings to help improve the quality of education, closed numerous schools, and required the busing of 24,000 students. This plan was met with less resistance and violence.

Judge Garrity initiates Phase III in 1977 calling for the establishment of conditions to allow the court to terminate its jurisdiction. It orders the creation of a permanent Department of Implementation to carry out desegregation and a long-range plan for the construction and repairs of facilities. In December of 1982, Judge Garrity turns over monitoring of desegregation to the Board of Education and issues his final orders in 1985. In 1994, the United States Federal District Court issues its final judgment in Morgan v. Hennigan permanently barring the School

Committee from practicing racial discrimination in the Boston Public Schools.

Source: Boston Against Busing by Ronald P. Formisano

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## Scope and Contents note

This collection consists of records of the City's Law Department concerning the "School Cases" relating to desegregation in the late 1960s-1970s. The major case represented in this collection is Tallulah Morgan et al. v. James Hennigan et al. (later known as Morgan v. Kerrigan, Morgan v. McDonough, Morgan v. Sullivan, etc. due to the changes in the School Committee presidency). Also included in this collection are files of the following two cases: Boston School Committee v. Board of Education and Massachusetts Commission Against Discrimination v. Boston School Committee. Attorneys who worked on the cases included outside counsel, members of the School Department's Office of General Counsel and attorneys in the City's Law Department. Attorneys in the Law Department who worked on the various cases include Corporation Counsel Herbert Gleason, Assistant Corporation Counsel (ACC) Edith Fine, ACC Marilyn Sticklor, ACC Michael Betcher, ACC Kevin Moloney and several others.

The records have been arranged by case though some materials may overlap the related cases. The Law Department's records had been stored in the Boston Public Library at some time in the 1980s and remained largely untouched though some box descriptions had been mixed up or lost. The records were transferred to the City of Boston Archives in early 2013. The boxes relating to the desegregation cases were identified and the original order was maintained as much as possible. Folder titles were retained when they were available but a large amount of material were not arranged in folders. Folder titles for these records were provided by the Archivist. For ease of use, some materials were filed under M for Morgan case within the Morgan v. Hennigan series. These records include such items as the original complaint, Judge Garrity's opinion, student desegregation plans, as well as, many miscellaneous orders and filings. The files also include issues that came before the city's Law Department as part of and as a result of the desegregation cases such as the use of the National Guard, the opening of school in 1974, condition of school buildings, vocational education, bilingual education, discipline, desegregation of faculty and administrators, etc. The files also include court filings submitted on behalf of the City, correspondence and memoranda between attorneys, daily logs during the initial phases of desegregation, appeals filed and legal research. Some court hearing transcripts are included and are often annotated.

The Law Department records on the "School Cases" document the work of the city from 1967 to 1979, constituting the day-to-day activities engaged in by the Law Department on the Morgan case, as well as, the other school-related cases the City was involved in during this time period. The series provides researchers with a behind-the-scenes perspective of the City's response to the court rulings that cannot be found in the official court record.

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## Related Material

Related materials can be found in the Boston School Committee records and the School Department Desegregation-Era Collection including Office of General Counsel records, Department of Implementation records, and Citywide Parents Council records. The School Department Office of General Counsel records include more of the court hearing transcripts for the Morgan case.

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