

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION**

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 4:70-cv-01616-MP
)	Judge Mark E. Walker
JACKSON COUNTY SCHOOL BOARD, <i>et al.</i> ,)	
)	
Defendants.)	
)	
_____)	

**JOINT MOTION FOR DECLARATION OF PARTIAL UNITARY STATUS
AND FOR APPROVAL OF CONSENT ORDER REGARDING FACULTY AND STAFF
RECRUITMENT AND HIRING AND STUDENT DISCIPLINE**

Plaintiff, the United States of America (the “United States”), and Defendant, Jackson County School District (the “District”) (collectively, “the Parties”) respectfully file this Joint Motion for Declaration of Partial Unitary Status and for Approval of Consent Order Regarding Faculty and Staff Recruitment and Hiring and Student Discipline. As grounds for this motion, the Parties state the following:

PROCEDURAL BACKGROUND

1. The United States initiated this lawsuit against the District on July 9, 1970, seeking to enjoin the District and five other surrounding school districts (the Gadsden County School District, the Gulf County School District, the Jefferson County School District, the Lafayette County School District, and the Wakulla County School District)¹ in a consolidated action from operating a dual school system based on race. On July 9, 1970 the Court entered an order *pendent*

¹The Gulf, Lafayette, Wakulla and Jefferson County School Districts previously have been declared unitary by this Court.

lite, requiring that the parties collaborate in preparing plans for the immediate conversion to unitary non-discriminatory school system as required by the United States Court of Appeals for the Fifth Circuit in *Singleton v. Jackson Municipal Separate School District*, 419 F. 2d 1211 (5th Cir. 1969) (en banc). On August 12, 1970, the Court issued an order (“August 1970 Order”) adopting the United States’ plan for desegregation, with the exception of a particular aspect involving pairing of two schools, St. Paul School and Graceville School. August 1970 Order at 2-3.

2. On September 20, 1976, the Court issued a subsequent order (“September 1976 Order”) permanently enjoining the District from “operating a dual system of racially identifiable schools.” September 1976 Order at 1. The Court ordered the District to: (1) take no action which tends to segregate students or faculty by or within schools on the basis of race, color, or national origin; (2) ensure that staff and administrators are hired, assigned, promoted, paid, demoted, dismissed, and otherwise treated without regard to race, color, or national origin; (3) permit majority to minority student transfers; (4) ensure bus transportation is provided on a non-discriminatory basis; (5) ensure that all school construction, consolidation, and site selection are done to prevent the recurrence of a dual system; and (6) ensure that all inter-district transfers are permitted on a non-discriminatory basis, except that they will not be permitted “where the cumulative effect will reduce desegregation” in Jackson or the other school district. *Id.* at 1-3. The Court retained jurisdiction to enforce the permanent injunction.

3. Since 2008, the United States has actively monitored the District and issued several requests for information to the District, most recently on June 20, 2017. These requests consisted of questions targeted at gathering data and other information related to the *Green* factors, discussed below, and the District’s affirmative desegregation obligations. The District has responded to each

of the United States' requests for information, and the United States has fully and carefully reviewed and analyzed these responses.

4. Representatives from the United States visited the District in April 2013 and October 2016. During the visits, the representatives toured several elementary, middle, and high schools, and interviewed relevant school and district personnel.

5. On November 2, 2016, the District filed a motion requesting a finding of unitary status regarding facilities or, in the alternative, permission to construct a new school in Marianna. ECF No. 68. On December 15, 2016, the United States filed a response to the district's motion opposing a declaration of unitary status until it could complete a full review, but stating its lack of opposition to the construction. ECF No. 75. Thereafter, on December 29, 2016, the court denied the motion for declaration of unitary status but granted permission for construction. ECF No. 76.

LEGAL STANDARD

6. To obtain a declaration of unitary status, the District must show that its schools have: (1) fully and satisfactorily complied with the Court's decrees for a reasonable period of time; (2) eliminated the vestiges of prior *de jure* discrimination to the extent practicable; and (3) demonstrated a good-faith commitment to the whole of the Court's decrees and to those provisions of the law and the Constitution that were the predicate for judicial intervention in the first instance. *See Missouri v. Jenkins*, 515 U.S. 70, 87-89 (1995); *Freeman v. Pitts*, 503 U.S. 467, 491-92, 498 (1992); *Bd. of Educ. of Oklahoma City Pub. Sch. v. Dowell*, 498 U.S. 237, 248-50 (1991).

7. The Supreme Court has identified six areas, commonly known as the "Green factors," which must be addressed as part of the determination of whether a school district has fulfilled its duties and eliminated vestiges of the prior dual system to the extent practicable: (1) student assignment; (2) faculty; (3) staff; (4) transportation; (5) extracurricular activities; and (6)

facilities. *Green v. Sch. Bd. of New Kent Cty.*, 391 U.S. 430, 435 (1968); see *Manning ex rel. Manning v. Sch. Bd. of Hillsborough Cty.*, 244 F.3d 927, 942 (11th Cir. 2001) (stating that “for a district court to determine whether the vestiges of discrimination have been eliminated to the extent practicable, it must examine . . . the *Green* factors”). The Supreme Court also has approved consideration of other indicia, such as “quality of education,” as important factors for determining whether the District has fulfilled its desegregation obligations. *Freeman*, 503 U.S. at 492-93.

8. A district court may allow partial or incremental dismissal of the desegregation case before full compliance has been achieved in every area of school operations, thereby retaining jurisdiction over those areas not yet in full compliance and terminating jurisdiction over those areas in which compliance is found. *Freeman*, 503 U.S. at 490-91.

**UNITARY STATUS WITH RESPECT TO STUDENT ASSIGNMENT,
TRANSPORTATION, EXTRACURRICULAR ACTIVITIES, AND FACILITIES**

9. During the 1968-69 school year, the District operated seventeen schools and enrolled approximately 8,527 students (62.5% white and 37.5% black). Five of the seventeen schools, Jackson County Training School, St. Paul High School, Union Grove High School, Cottondale Elementary, and Graceville Elementary, were *de jure* black schools. The following chart summarizes the enrollment at each school in Jackson County during the 1968-69 school year:

Alford Elementary	K-8	1 (0.63%)	159 (99.37%)	160
Golson Elementary	K-6	115 (14.45%)	681 (85.55%)	796
Graceville High School	K-12	12 (1.37%)	867 (98.63%)	879
Grand Ridge High School	K-12	52 (11.13%)	415 (88.87%)	467
Greenwood High School	K-12	63 (21.58%)	229 (78.42%)	292
Jackson County Training	K-12	997 (100%)	0 (0.0%)	997
Lillie Banks Elementary	K-8	131 (78.92%)	35 (21.08%)	166
Magnolia Elementary	K-8	0 (0.0%)	69 (100%)	69
Malone High School	K-12	32 (7.17%)	414 (92.83%)	446

Riverside Elementary	K-6	33 (7.47%)	409 (92.53%)	442
Union Grove High School	K-12	661 (100%)	0 (0.0%)	661
Cottdale Elementary	1-6	70 (100%)	0 (0.0%)	70
Cottdale High School	1-12	43 (6.64%)	603 (93.34%)	646
Graceville Elementary	1-6	82 (100%)	0 (0.0%)	82
St. Paul High School	1-12	691 (100%)	0 (0.0%)	691
Sneads High School	1-12	83 (14.09%)	506 (85.91%)	589
Marianna High School	7-12	130 (12.10%)	944 (87.90%)	1074
Total		3,196 (37.5%)	5,331 (62.5%)	8,527

10. For the 2014-15 school year, the Jackson County School District enrolled 6,250 students in twelve schools.² The District's overall enrollment is 59.54% white (3,721 students), 29.93% black (1,871 students), and 10.53% other (658 students). The following chart summarizes the enrollment at each school in the Jackson County System during the 2014-15 school year:

School	Grade	Black	White	Other	Total
Golson Elementary	K-2	292 (40%)	328 (44.93%)	110 (15.07%)	730
Graceville Elementary	Pk-5	154 (42.90%)	171 (47.63%)	34 (9.47%)	359
Graceville High School	6-12	142 (44.94%)	141 (44.62%)	33 (10.44%)	316
Grand Ridge HS	Pk-8	120 (19.29%)	455 (73.15%)	47 (7.56%)	622
Malone School	K-12	178 (34.43%)	272 (52.61%)	67 (12.96%)	517
Riverside Elementary	3-5	222 (34.21%)	356 (54.85%)	71 (10.94%)	649
Cottdale Elementary	Pk-5	73 (16.55%)	308 (69.84%)	60 (13.61%)	441
Cottdale High School	6-12	94 (21.96%)	286 (66.82%)	48 (11.21%)	428
Marianna Middle	6-8	203 (33.78%)	347 (57.74%)	51 (8.49%)	601
Marianna High School	9-12	242 (32.93%)	431 (58.64%)	62 (8.44%)	735
Sneads Elementary	K-5	92 (19.17%)	349 (72.71%)	39 (8.13%)	480
Sneads High School	9-12	59 (15.86%)	277 (74.46%)	36 (9.68%)	372
Total		1871 (29.93%)	3721 (59.54%)	658 (10.53%)	6250

² The district also includes five specialized schools, including early childhood and alternative, which are not included in this assessment.

11. Although the District has experienced changing demographic characteristics since the inception of this case, the District maintains a desegregated student enrollment between schools that reflect the current overall racial composition of the District. Specifically, during the 2014-15 school year, all elementary, middle, and high schools fell within +/- 15% of the District wide average based on the percentage of black and white students enrolled in Jackson County School District.

12. The District has granted and denied student transfers in compliance with the District's transfer policy and this Court's order without discriminating on the basis of race. These transfers do not have a negative effect on desegregation in the District's schools.

13. The District maintains non-discriminatory policies and practices with respect to transportation and provides transportation to students in a non-segregated manner. The District's 2014-15 school year data indicate disparities among black and white students with respect to discipline of students for behavior on schools buses, including potential disproportionate bus suspensions and expulsion of black students. To address this issue, the District adopted a new bus disciplinary policy in January 2017 to ensure fair and equitable treatment of students on school buses.

14. The District has not constructed or consolidated schools in a manner that would interfere with its desegregation obligations. The construction of the new facility is consistent with this Court's order not to engage in construction that would interfere with the desegregation of the school district.

15. The District offers a wide variety of student activities, and race is not a consideration for participation in those activities. Student participation in sports, student

government, clubs, and extracurricular and co-curricular activities reflects that activities are available to all students in the District regardless of race.

16. For the reasons stated above, the Parties believe the District has eliminated the vestiges of the prior *de jure* segregation to the extent practicable and achieved unitary status in the areas of: (1) student assignment (between schools); (2) transportation; (3) extracurricular activities; and (4) facilities.

17. For the reasons described above, the Parties agree that the District has satisfied the related requirements in the permanent injunction in the January 1975 Order. Specifically, the District has not taken action “which tends to segregate students” by school “on the basis of race, color, or national origin;” has assigned bus routes and students to buses in a non-segregated and non-discriminatory manner; has performed school construction, consolidation, and site selection in a manner that will prevent the recurrence of a dual school structure; and has permitted transfers on a non-discriminatory basis and in a manner that does not cumulatively reduce desegregation in the affected districts.

18. Accordingly, the Parties request that the Court withdraw its supervision and dissolve the permanent injunction by granting the Declaration of Partial Unitary Status in respect to the four aforementioned areas in Paragraph 16.

**PLAN TO ACHIEVE UNITARY STATUS IN THE AREA OF FACULTY AND STAFF
RECRUITING AND HIRING**

19. In *Singleton v. Jackson Municipal Separate School District*, the Court mandated that “principals, teachers, teacher-aides and other staff who work directly with children at a school shall be so assigned that in no case will the racial composition of a staff indicate that a school is intended for Negro students or white students.” 419 F.2d 1211, 1217-18 (5th Cir. 1969) (en banc),

rev'd in part on other grounds sub nom. Carter v. West Feliciana Parish Sch. Bd., 396 U.S. 290 (1970).

20. During the 1968-69 school year, the District employed 375 full time teachers, including 116 (30.1%) black teachers. Of the black teachers, 93 (82.30%) were assigned to the *de jure* black schools.

21. During the 2014-15 school year, the District employed 39 (9.7%) black full time teachers and 355 (88.3%) white full-time teachers. Black teachers generally were assigned to schools throughout the district, except that one school – Sneads Elementary – had no black teachers, and two – Sneads and Graceville High Schools – employed only one black teacher each. Black employees only comprised three (18.75%) of the District's 16 principals and two (18.18%) of the District's assistant principals; with one school, Marianna Middle School, assigned both a black principal and assistant principal. As a result, only four of the District's 12 general education schools have any black administrators. Further, the District employs only one black certified education specialists out of 52, and one black non-school administrator out of fourteen.

22. The District has been taking steps to recruit more black administrators, instructional staff, and non-instructional staff. However, Parties agree that more progress can be made in the area of minority recruitment, hiring and promotion. The District has agreed to develop and implement the Minority Recruiting, and Minority Hiring and Promotion Plans contained in the Consent Order. The Parties request that the Court approve the Consent Order, which will govern the District's faculty and staff recruitment through the 2018-19 school year.

**PLAN TO ACHIEVE UNITARY STATUS IN THE AREA OF STUDENT ASSIGNMENT
(WITHIN SCHOOL SEGREGATION) - DISCIPLINE**

23. The raw data supplied by the District covering the 2014-15 school year noted disparities at several schools suggesting that black students were being punished at

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on February 21, 2018, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following email addresses:

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Dated: February 21, 2018

/s/ Colleen Phillips
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