

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ST. JOHNS COUNTY SCHOOL)
 DISTRICT, et al.)
)
 Defendants.)

Case No.: 3:70-cv-636-25 PDB

ORDER

This Cause is before the Court upon the Parties' Joint Motion for Declaration of Partial Unitary Status and for Approval of Stipulation regarding Faculty and Staff Recruiting (Dkt. 39). For the reasons given below, this Order grants the relief requested by the Motion and approves the Parties' Stipulation regarding Faculty and Staff Recruitment (Ex. 1 to Dkt. 39).

HISTORY

On July 10, 1970, the United States filed suit against the St. Johns County School District (District), alleging that it maintained a racially segregated school system. On August 14, 1970, the United States District Court for the Middle District of Florida, Jacksonville Division, issued an order requiring the District to adopt and implement a desegregation plan. On August 17, 1971, the Court amended its

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previous desegregation order and required the District to implement a student assignment plan in accordance with the principles established in *Swann v. Charlotte Mecklenburg Bd. of Educ.*, 402 U.S. 1 (1970), and to follow provisions regarding faculty desegregation, transportation, school construction and site selection, student transfers, and extracurricular activities. The Court removed the case from its active civil docket on May 7, 1980, but required the District to continue to abide by and comply with the 1971 Order, including filing annual reports.

On October 6, 2015, the Court issued an order (i) replacing the semi-annual reporting obligation with an annual reporting obligation and (ii) limiting the reporting requirements to focus more closely on traditional factors in school desegregation cases. On April 26, 2016, the parties filed the Joint Motion (Dkt. 39) for *inter alia*, an order declaring the District partially unitary in the areas of extracurricular activities, facilities, student assignment, including student transfers, and transportation. The parties agree that entry of this Order is in the public interest and, if fully and appropriately implemented, would both facilitate the District fulfilling its desegregation obligations in the area of faculty and staff recruitment and permit an orderly dismissal of the remainder of this case.

STANDARD

To obtain a declaration of unitary status, this Court must consider: (1) whether the school district has fully and satisfactorily complied with the Court's decrees for a reasonable period of time; (2) whether the vestiges of the prior *de jure* segregation have been eliminated to the extent practicable; and (3) whether the

district has 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. *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).

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. School Board of New Kent County*, 391 U.S. 430, 435 (1968). In addition, courts may consider other indicia, such as "the quality of education being offered to the white and black student populations," *Freeman*, 503 U.S. at 473, including discipline, see, e.g., *Lee v. Etowah City Board of Education*, 963 F.2d 1416, 1426 (11th Cir. 1992). A district court may allow partial or incremental dismissal of the desegregation case before full compliance has been achieved with respect to each of these factors and 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.

Parties in a school desegregation case should try to resolve issues through settlement "because the spirit of cooperation inherent in good faith settlement is essential to the true long-range success of any desegregation remedy." *Jones v.*

Caddo Parish, 704 F.2d 206, 221 (5th Cir. 1983) (internal quote omitted). Here, the parties have identified four *Green* factors that are partially unitary and worked in good faith, at arms-length, to negotiate the Stipulation (Ex. 1 to Dkt. 39), which addresses the two remaining *Green* factors: faculty and staff recruitment.

ANALYSIS

The District has grown dramatically over the past four decades. At the time the August 1971 Order was filed, the District operated 13 schools and had a student enrollment of approximately 6,700 students, 30% of whom were black. Today, the District operates 38 schools¹ and has a student enrollment of approximately 36,500 students, 7% of whom are Black.² During the past ten years (from the 2006–07 to the 2015–16 school years), Black students have never comprised more than 8.7% of the students in the District and never less than 7.3%, and only one school (Webster School) of the District's 34 elementary, middle, and high schools has ever exceeded the District-wide percentage of black students by more than a +/- 20 percentage point benchmark. (Ex. A to Dkt. 39.) The District has had

¹ During the 2015-16 school year, there were 5 charter schools operating in the District that enrolled approximately 250 students.

² Interdistrict and intradistrict transfers are small and do not have a negative effect on desegregation in the District. During the 2015-16 school year, there were approximately 308 interdistrict transfers; 187 students transferred into the District (160 white and 27 black) and 121 students transferred out (119 white and 2 black). In addition, there were approximately 922 intradistrict transfers (819 white and 103 black).

no schools exceed the +/- 20 percentage point threshold in the past three years. (*Id.*) Furthermore, as of the filing of the Joint Motion, there were no racially identifiable schools in the District or evidence of racially discriminatory assignments to classes.

There has been significant growth in the District since 1971 resulting in the need for additional facilities. Over the past 11 years, the District has constructed 11 new schools. Most of the new school construction occurred in the northern portion of the county and was based solely on the District's needs. The District employs a race-neutral process to evaluate the condition of facilities and equitably allocates resources for capital improvements across its schools. (Exs. D, E, F, G, H, & I to Dkt. 39.)

The District regularly reviews its transportation system. It provides transportation to all students, without regard to race or ethnicity, if that student resides two or more miles from that student's assigned school. All buses and bus routes are desegregated.

The District's extracurricular activities are available at every school on a desegregated basis. The District encourages all students to participate in extracurricular activities and routinely communicates with parents and students about sports and extracurricular activities. These extracurricular activities are open to all students regardless of race.

The District's record shows that it has complied with the 1971 Order for a reasonable period of time and eliminated the vestiges of the prior *de jure*

segregation to the extent practicable with respect to student assignment, including student transfers, facilities, transportation, and extracurricular activities.

To achieve unitary status in the areas of faculty and staff recruitment, the District agrees to take the remedial steps outlined in the Stipulation (Ex. 1 to Dkt. 39). Those steps include: continuing its Minority Recruitment Program and creating a Diversity Committee responsible for ensuring the Program's proper implementation. The parties maintain that the District's full compliance with the Stipulation should support a finding that the District has attained unitary status with respect to the *Green* factors regarding faculty and staff.


Moreover, maintenance of judicial supervision of other areas of District operations is not necessary to secure compliance with the Districts remaining desegregation obligations with respect to faculty and staff. After demonstrating two years of good faith, full compliance with the requirements in the Stipulation, the District may move for unitary status with respect to faculty and staff.

Based on the information provided in the Joint Motion and accompanying exhibits and the applicable federal law, it is **ORDERED** that:

1. The Joint Motion (Dkt. 39) is **GRANTED**;
2. The District is declared **partially unitary** with respect to student assignment, including student transfers, facilities, transportation, and extracurricular activities;
3. The Stipulation (Ex. 1 to Dkt. 39) is **APPROVED**; all prior Orders in this

case are no longer in effect.

DONE AND ORDERED this 16th day of October, 2016.


HENRY LEE ADAMS, JR.,
UNITED STATES DISTRICT JUDGE

Copies to:
Counsel of Record