

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CASE NO. 4:70-cv-01616-MP-GRJ

JACKSON COUNTY SCHOOL DISTRICT, et al.,

Defendants.

_____ /

ORDER

This matter is before the Court on ECF No. 68, Jackson County's *Petition for Determination of Unitary Status As It Relates to Facilities, or, in the Alternative, Petition for Approval of Construction*. In the petition, Jackson County seeks approval for the construction of a new school which will combine Marianna Middle School, Golson Elementary and Riverside Elementary Schools into a new K-8 school, which will be located on the north side of Marianna. ECF No. 68 at ¶ 3. Such approval is necessary because the terms of the Desegregation Plan require the following:

All school construction, school consolidation, and site selection (including the location of any temporary classrooms) in this system shall be in a manner which will prevent the recurrence of the dual school structure once this desegregation is implemented.

Id. at ¶ 4. Also, federal law requires local districts to consider or include the objective of desegregation in decisions regarding construction and abandonment of school facilities. Harris by Harris v. Crenshaw County Bd. of Educ., 968 F.2d 1090 (11th Cir. 1992). The United States responded at ECF No. 75, indicating that it did not object to the new construction but also that it wished to reserve the right to change its position if the school board failed to enact the revised bus discipline policy described in Exhibit A to ECF No. 68.

Having considered the extensive data supplied by Jackson County and the concerns

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articulated in Harris and similar cases, the Court concludes that the new construction should be approved for the following reasons.¹ First, the risk of student flight is low because there will be no alternative available which would allow a student to choose a school based upon the racial makeup of the school. Second, the minority population would not be disproportionately burdened by the new school. In fact, the new school will typically involve shorter times on buses, safer schools and more access to extra-curricular activities and recreational activities. In response to the chief concern raised about the new school, the District has “taken steps to formalize practices to insure any bus discipline issues will be addressed taking into consideration the needs of the family and child with the goal that discipline issues will be addressed with the least practical impact on the families.” See ECF No. 68 at 16 and Attach A thereto. The cost savings of the new school -- estimated at over \$14 million over the next several years² -- will provide additional revenue to the school system to provide additional resources to teachers and students and address other facility needs located elsewhere.

Accordingly, it is hereby

ORDERED AND ADJUDGED:

The petition for declaration of unitary status contained in ECF No. 68 is denied without prejudice. The petition for approval of new construction contained in ECF No. 68 is granted, without prejudice to the United States moving to reconsider if the changes to the busing policy described in Attachment A to ECF No. 68 are not adopted as expected.

DONE AND ORDERED this 29th day of December, 2016

s/Maurice M. Paul

Maurice M. Paul, Senior District Judge

¹The Court agrees with the United States that a declaration of unitary status regarding facilities is premature at this point since the District’s motion provides an assessment for only three of its seventeen schools. ECF No. 75 at 2. Therefore, the part of the motion seeking a declaration of unitary status is denied.

² *Id.* at 7.