

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
MONROE DIVISION**

**UNITED STATES OF AMERICA,**

*Plaintiff*

v.

**LINCOLN PARISH SCHOOL BOARD,  
LOUISIANA BOARD OF REGENTS,  
AND LOUISIANA BOARD OF  
TRUSTEES FOR THE STATE  
COLLEGES AND UNIVERSITIES,  
*et al.***

*Defendants*

**CIVIL ACTION NO. 66-12071**

**JUDGE ROBERT G. JAMES**

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**RESPONSE OF LINCOLN PARISH SCHOOL BOARD  
TO UNITED STATES' STATUS REPORT - UNITARY STATUS REVIEW**

The Lincoln Parish School Board (the "School Board" or the "District"), one of the defendants in the above-referenced action, respectfully submits its response to the unitary status review contained in United States' Status Report which was filed on May 24, 2011.

**I. PROCEDURAL BACKGROUND**

On June 8, 1966, the United States of America (the "United States") instituted this action against the Lincoln Parish School Board (the "School Board" or the "District") for the purpose of ending the historical and traditional *de jure* segregation of the Lincoln Parish Schools (the "District"). On August 5, 1970, the Court entered a Decree which set a desegregation plan intended to allow the School Board to eradicate the prior *de jure* segregation and bring the School Board into unitary status - that is, operating with none of the intentional discrimination against black students

which had previously resulted in separate white and black schools.<sup>1</sup> That Decree included specific provisions designed to achieve unitary status by obligating the School Board to take certain affirmative steps regarding each of the areas of operation, known as the “*Green factors*”<sup>2</sup>: student assignment, faculty and staff assignment, transportation, extracurricular activities, and facilities.<sup>3</sup> With the exception of an order entered in 1971 which allowed certain school consolidation and closure<sup>4</sup>, no subsequent orders affected the substantive provisions of the 1970 Decree.<sup>5</sup>

No action of any nature was entered into the record of this case affecting the obligations of the School Board under the 1970 Decree until August 14, 2008, when this Court revised the School Board’s annual reporting requirements<sup>6</sup> and, after the District filed its 2008 report, suggested that either party could move forward with an appropriate motion or other action regarding unitary status<sup>7</sup>.

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<sup>1</sup>The 1970 Decree effectively replaced the original order which was entered on August 1, 1969.

<sup>2</sup>*Green v. County School Bd. of New Kent County*, 391 U.S. 430 (1968).

<sup>3</sup>See August 1970 Decree, Prior Orders at p. 1, Exhibit A.

<sup>4</sup>See 1971 Decree, Prior Orders at p. 10, Ex. A.

<sup>5</sup>From 1970 until 1996, the School Board filed with the Court its annual reports documenting its compliance with the terms of the 1970 Decree; from 1996 forward, the annual reports were provided, by agreement, only to the United States Department of Justice (the “DOJ”). In 2008, this Court entered an order instituting new annual reporting requirements for the School Board and, since that time, the School Board has filed its annual reports with the Court. See Record Documents 3, 6, and 12.

<sup>6</sup>Memorandum Order, Rec. Doc. 2.

<sup>7</sup>Minute Entry, Rec. Doc. 4.

On December 14, 2009, the Court ordered the United States Department of Justice (the “DOJ”) to conduct a unitary status review of the School Board’s operations.<sup>8</sup>

The School Board cooperated fully with the DOJ’s investigation. The District provided voluminous document production in response to multiple information requests focused on the District’s compliance with its *Green* factor obligations as set forth in the 1970 Decree. The School Board’s administration facilitated a site visit during which the DOJ counsel toured and inspected every school campus in the District. Additionally, the School Board engaged in many discussions with the DOJ, providing full disclosure and frankly addressing all issues raised. On January 24, 2011, the DOJ made its initial report on its unitary status review<sup>9</sup> and on May 24, 2011, filed the United States Status Report which was the culmination of its investigation<sup>10</sup>. In the May 24<sup>th</sup> Status Report, the DOJ presented and analyzed what it determined to be relevant information obtained during the investigation, addressing whether the School Board exhibited compliance with the provisions of the 1970 Decree and, thus, has attained unitary status in the *Green* areas of operation. The DOJ ultimately concluded that (1) it agrees that the School Board is unitary in the areas of facilities and

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<sup>8</sup>Minutes of Status Conference, Rec. Doc. 8.

<sup>9</sup>Status Report, Rec. Doc. 16. In addition to updating the results of its review of the School Board’s compliance with the 1970 Decree, the DOJ reported to the Court that it had concerns with the desegregation status of the La Tech and Grambling laboratory schools and questions regarding the inclusion of the universities in this action, all with reference to the 1984 Consent Decree regarding such university laboratory schools. *See* 1984 Consent Decree, Prior Decrees at p. 19, Ex. A. Thus, the DOJ undertook an investigatory review not only of the desegregation progress and status of each defendant (the School Board, Grambling, and La Tech, respectively) but also of the propriety of continuing to include the universities in this case. The School Board does not address those issues here but will do so in a separate response to be filed at a later date as ordered by the Court.

<sup>10</sup>Status Report, Rec. Doc. 25.

extracurricular activities; and (2) for specific reasons stated, it does not believe that School Board is unitary in the areas of student assignment, faculty assignment, and transportation.

Subsequent to the filing of that report, the School Board has studied and resolved the concerns raised by the United States regarding its obligations under the 1970 Consent Decree governing desegregation of the schools operated by it within the District. As fully detailed below, the School Board submits that, as to its obligations under the 1970 Consent Decree, it is continuing to work cooperatively with the DOJ to obtain a resolution of those concerns that remain and to pursue a consent decree granting full unitary status.

## **II. UNITARY STATUS REVIEW OF THE SCHOOL BOARD**

The ultimate goal in every desegregation case such as this one is to eliminate from each aspect of school operations the vestiges of past segregation to the extent practicable and, thus, achieve unitary status.<sup>11</sup> Because federal court supervision of a local school system is intended to be a temporary measure only, it is the court's duty to return control of the school system to the local authorities as soon as unitary status has been achieved.<sup>12</sup> To support a declaration of unitary status as to any one or more of the *Green* factors (as referenced above), the School Board must demonstrate, as to each specific area, that it has complied in good faith with the desegregation order and has been operating in a unitary manner for a minimum of three (3) years thereby eliminating the

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<sup>11</sup>*Freeman v. Pitts*, 503 U.S. 467, 489 (1992).

<sup>12</sup>*Freeman*, 503 U.S. at 489. The courts have long acknowledged that "local autonomy of school districts is a vital national tradition." *Id.* at 490 (quoting *Dayton Bd. of Educ. v. Brinkman*, 433 U.S. 406, 410 (1977)). Restoring local control "at the earliest practicable date is essential to restore [the local school board's] true accountability in our governmental system." *Freeman*, 503 U.S. at 490. Therefore, a federal court's supervisory authority must not extend beyond the time that unitary status has been achieved, i.e. the effects of past discrimination has been remedied.

vestiges of past discrimination to the extent practicable.<sup>13</sup> Once the court determines that the facts reveal no continued racial discrimination and the School Board's good faith to maintain such nondiscriminatory practices, the school desegregation case should be dismissed.<sup>14</sup>

It is upon these basic standards that the School Board's desegregation efforts must be evaluated. The DOJ addressed each of the *Green* factors accordingly and, while the School Board agrees that certain data was correctly cited, other information was incorrect and/or has been clarified. And, although the School Board does not necessarily agree with the legal analysis of certain issues, the School Board is committed to working toward a resolution of all concerns. Accordingly, the School Board presents the following response to the DOJ's findings, as follows.

**A. Facilities and Extracurricular Activities**

The School Board agrees wholeheartedly with the determination of the DOJ that it has, in fact, demonstrated the attainment of unitary status in the areas of facilities and extracurricular activities. The School Board is committed to continuing, in good faith, its non-discriminatory operations in those areas. The School Board submits that it will work with the DOJ toward a final adjudication of unitary status and dismissal of these aspects of the case.

**B. Student Assignment**

In accordance with the 1970 Consent Decree (and the 1971 Order which permitted certain school restructuring), the School Board operates twelve (12) schools which are divided into four (4) attendance zones. The Status Report indicated a student assignment issue only with one (1)

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<sup>13</sup>*Board of Educ. of Oklahoma City Pub. Sch. v. Dowell*, 498 U.S. 237, 249-50 (1991).

<sup>14</sup>*Singleton v. Jackson Mun. Sep. Sch. Dist.*, 541 F.Supp. 904, 907 (S.D.Miss.1981); *Freeman*, 503 U.S. at 490-491.

attendance zone in the District and with only three (3) of the elementary schools within that zone. As stated in the Status Report, the Ruston attendance zone includes four (4) elementary schools which all serve students from kindergarten to fifth grade: Ruston Elementary, Cypress Springs Elementary, Hillcrest Elementary, and Glen View Elementary. Using the student enrollment data for the 2010-2011 school year, the DOJ correctly reports the student demographics for those schools: a predominately black student bodies are found at Ruston Elementary (89.3%B/8.3%W) and at Cypress Springs Elementary (88.1%B/8.7%W); a predominately white student body is found at Hillcrest Elementary (26.2%B/69.4%W); and a nearly balanced black/white student body is found at Glen View Elementary (43%B/52%W). The School Board has identified personal residential choices as the primary factor affecting the student body make-up at each school, which is a factor beyond its control. But, in compliance with the 1970 Decree, the District offers majority-to-minority transfers as an incentive to draw students from a school where his race is the majority to one where his race is in the minority. The District permits other transfers based only on documented need. Nevertheless, in view of the DOJ's stated concern, the School Board is committed to work cooperatively, in good faith, with the DOJ toward a resolution of issues raised in the Status Report regarding student assignment. The District's educational professionals, including the Superintendent and his staff, have embarked on an analysis of the issues identified by the DOJ and will, without delay but with the time needed to explore, analyze, and recommend a position regarding such concerns and/or a plan addressing same, in consideration of what is both practicable and in the best interest of the District's students.

### C. Faculty

Of the twelve (12) schools in the District serving grades k-12, the DOJ raised concerns regarding only Ruston Elementary School and the alternative schools as they previously existed. First, the return of the students assigned to the alternative education programs to their home schools effectively eliminated those schools from separate consideration under this and all other factors. The only remaining concern regarding teacher assignment, therefore, is Ruston Elementary.

The Status Report surmised that the faculty assignment in Ruston Elementary “furthers the racial identifiability” of that school. In support of this conclusion, the DOJ pointed to the racial make-up of the teachers at Ruston Elementary during the 2010-2011 school year when 13 teachers at Ruston Elementary were black and 19 were white. The DOJ was correct that Ruston Elementary’s 40.6% black faculty was higher than the District-wide average of 14.3% black teachers; however, a 41%B/50%W faculty is also a diverse faculty. Nevertheless, Ruston Elementary’s faculty for the 2011-2012 school year has adjusted to 8 black and 21 white or 27.6%B/72.4%W - a full thirteen (13) percentage points closer to and only fourteen (14) percentage points (or four (4) percentage points outside the preferable +/-10) from the District-wide average.<sup>15</sup> The District continues to experience positive racial ratios at all of its schools<sup>16</sup> and is committed to continuing to assign faculty to its schools in a non-discriminatory manner. The School Board is also committed to demonstrating its

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<sup>15</sup>As previously mentioned, the alternative school programs at Lincoln Center and Lincoln Parish Academy were moved for the 2011-2012 school year to the assigned students’ respective home schools. Thus, the concern with the faculty ratios at those school sites has been resolved by this administrative decision, which was based on academic testing issues.

<sup>16</sup>Ruston Elementary School Faculty Data 2011-2012, Exhibit C.

unitary operations in the area of faculty assignment and to work with the DOJ to reach a unitary status agreement with the DOJ with regard to this factor.

**D. Transportation**

The Status Report erroneously stated that the Ruston Elementary attendance zone consisted of two (2) non-contiguous areas. The District provided the DOJ with a correct map depicting the Ruston Elementary attendance zone.<sup>17</sup> As can be seen on the attendance zone map, the subject attendance zone is not non-contiguous. This issue, therefore, has been resolved and no other transportation issue was raised in the Status Report.

**E. Other Issues**

The Status Report indicated that the DOJ was continuing to review classroom assignment and student discipline data. To date, the DOJ has not identified any additional issues, whether relative to these matters or otherwise. Upon review of the referenced data, the School Board would submit that no desegregation issues were noted. In any event, the School Board submits that, with the exception of the issues which are identified above as areas of “concern”, the data regarding classroom assignment and discipline reveal absolutely no evidence of racial discrimination.

**III. Conclusion**

The Lincoln Parish School Board, as demonstrated, has accomplished the transformation of the District from its state of segregative operation in 1966 to the unitary system of operation today. The School Board is fully committed, in good faith, to working with the United States toward a dismissal of this action and will work expeditiously but with due diligence and care to satisfy the United States and this Court of its good faith and unitary status in all areas of operation.

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<sup>17</sup>Ruston Attendance Zone Map, Exhibit C.



Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing **RESPONSE** was filed electronically with the Clerk of Court by use of the CM/ECF system, which will send a notice of electronic filing to counsel registered with the Court for receipt of pleadings by email.

BATON ROUGE, LOUISIANA this 15<sup>th</sup> day of September, 2011.

s/ Robert L. Hammonds

**ROBERT L. HAMMONDS**